The Board of Zoning Appeals of the City of North Royalton met on November 19, 2015 to hold a Public Hearing in the Council Chambers at 14600 State Road.

The meeting was called to order by Vice Chair Mr. Rohloff at 7:00 p.m.

Present: Board Members: Vice-Chair Anthony Rohloff, Victor Bull, Christine Ragone, Janice Sadowski, Secretary Diane Veverka. Administration**:** Building Commissioner Dan Kulchytsky, Assistant Law Director Donna Vozar.

Moved and seconded to excuse Chair Dan Kasaris for cause. Motion carried.

Moved and seconded to **approve the October 28, 2015 meeting minutes as submitted.** Roll call: Yeas: Four. Nays: None. **Minutes approved**.

Public Hearing / Open Meeting

Old Business:

A. **BZA15-24** – **Michael & Annette Carrieri.** The applicant is requesting three variances to Chapter 1270 "Residential Districts", of the City of North Royalton Zoning Code for an accessory building at **11133 West Sprague Road,** also known as PPN: 481-08-019, in a R1-A district. The variance being requested is as follows:

Variance #1: Codified Ordinance **Section 1270.12 (a) "Yards for Accessory Buildings and Uses".** Request is for a variance to allow for a 2nd accessory structure in addition to the existing accessory structure to house personal belongings.

Variance#2: Codified Ordinance **Section 1270.12 (a) (1) B.** – Request is for a variance of 415 sq. ft. to allow for relief from the 2,385 sq. ft. maximum permitted for an accessory structure on a lot greater than one acre. The applicant is proposing to construct a 2,400 sq. ft. accessory structure. (The 415 sq. ft. includes the sq. footage of his first accessory structure because he goes over the permitted square footage of accessory structures.)

Variance #3: Codified Ordinance **Section 1270.04 "Area, Yard and Height Regulations, Paragraph (g).** Request is for a variance of (7) seven feet to allow for relief from the maximum 15 foot height restriction for a proposed accessory building. The applicant is proposing to erect a single story 2,400 sq. ft. accessory structure with a 22 ft. roof line.

Michael and Annette Carrieri were granted a continuance at the October 28, 2015 BZA meeting. The continuance was granted because concerns were raised regarding the nature of business activity on their property which is in a R1-A district.

Both Mike and Annette Carrieri were present along with their attorney Andrew Crites who represented the Carrieri's. Mr. Crites stated that since the October meeting, the Applicant reassessed his intentions and his goals, looked at pursuing other alternatives, and sought legal counsel. Mr. Crites added that his client has had an opportunity to speak with the Building Commissioner and they having taken steps at their own expense which has caused their request before the Board to be much more palatable and legally technically to reserve the character of the Residential District. He said the Applicant has removed all of the equipment, including trucks, from his property. He has made a security deposit and a down payment for the first three months to lease a 21 ft. x 45 ft. storage area at Southwest Industrial Storage. He will store and operate his business from that storage unit. Mr. Carrieri stated that he has signed the necessary paperwork however the unit is not finished yet. He added that he has already removed his equipment off his residential property. The one remaining older box truck, which is inoperable, will be removed from the premises by the end of November. Mr. Crites stated that Mr. Carrieri's goal is to beautify his property by storing his building materials and his company owned vehicle, the one he uses for personal transportation to and from the work site, in a building.

Mr. Kulchytsky stated that we can make a condition of the issuance of the permit subject to the submission of the lease through the Building Department. Mr. Rohloff asked the Building Commissioner if the three variances are all contingent on each other. Mr. Kulchytsky responded no they are not; the Applicant can still build an accessory structure per our city

ordinances up to 2,400 sq. ft. with a maximum 15 ft. roof height regardless of Variance #2 and #3 being granted. They can be viewed individually. Variance #1 is being requested because they already have an existing accessory structure which is a gazebo. The square footage being requested in Variance #2 is a total garage of the accessory structure and the gazebo. Variance #3 is a variance for a roof line height to accommodate a 12 ft. x 12 ft. garage door on the gable end of the structure facing Sprague Road. Mr. Kulchytsky presented a quickly drawn diagram of the garage (Exhibit 1). The plan shows the 2 cupolas on the roof, the pitch of the roof and proposed sidewall height. Mr. Carrieri stated to the Board that he needs these variances is to house his 2012 utility master box truck which is 10 ft. 6 in. tall and 10 ft. wide. This is the truck that he uses for transportation back and forth to work and it contains his tools. He said he would like to put this truck in a garage out of view from the neighbors; also because of an ongoing request by his wife. He said this would secure his tools in a protected building. He added that no hazardous materials will be stored in the building. Ms Ragone asked the Applicant if the building can be altered and made smaller. Mr. Carrieri responded that he plans on reducing the height of the sidewalls to 10 foot instead of 14 foot. This would drop the roof line to 18 feet. The Applicant has also agreed to change the metal exterior to a vinyl siding that matches the exterior of his house. Mr. Kulchytsky stated that the change was not on the documentation submitted. He said the reduction of the sidewall height reduces the amount of usable space for vehicles and equipment within the space. Mr. Kulchytsky said concerns were raised by the neighbors on several counts: there is a business being run from this location, the structure was not in character with the residential neighborhood. The end results of the discussions with Mr. Carrieri and the neighbors are as follows: To minimize the sidewall while maintaining a minimum 4:12 roof pitch which affords the applicant the desired 12 ft. x 12 ft. garage door for access to the garage at the gable end, as well as 2 cupolas to give it a rural barn character, dimensional asphalt shingles and vinyl siding to match the residence siding. Furthermore the issuance of a permit shall be subject to submission of a lease to the Building Division for his commercial equipment to be stored off site and the removal of all unused equipment. Mr. Kulchytsky reiterated that the variances being requested remain the same.

Timothy Graydon, 11181 Sprague Road, read into the record a letter he submitted into testimony regarding the three zoning variances being requested. Mr. Graydon expressed his concerns regarding the size of the building and the trash and building materials laying around on the property. He stated he is more comfortable with the plans as they are now. He still has concerns regarding future use of the building and if the Applicant brings his equipment back. Jerry Brasty, 10371 Sprague Road, expressed his concerns regarding the commercial aspect of other large buildings on properties in the area and how they continue to operate without recourse. He added that he feels there are no checks and balances to make sure the buildings will not be used for commercial use. He was speaking about a property down from him; not the Applicant's property. Mr. Kulchytsky responded that Mr. Brasty is speaking about the Applicant which was before the Board last month. We have pursued this issue for a long period of time and have expended significant city resources to have him come into compliance. They have since secured the appropriate permits and have come into compliance with all of our ordinances. Mr. Kulchytsky also responded to the concern regarding the drainage issue from the roof line. He stated that as standard practice, all structures both accessory and primary within the City of North Royalton are subject to the drainage requirements set forth by the Engineering Department. Prior to a construction permit being issued, a thorough review of the site's drainage will be conducted by the Engineering Department. Mr. Kulchytsky responded to the concern regarding lighting, stating that we have lighting ordinances that are in place. He also stated that the City has a junk vehicles ordinance in place should they not comply with the removing of the non-operable vehicle. Ms. Vozar stated that a deadline is not necessary for removal of the vehicle since the permit for the building will not be issued until compliance with all of the conditions have been met.

Ms. Vozar proposed the findings of fact and conclusions of law with all of the following conditions: The Board has imposed numerous conditions which the Applicant has agreed to. There are three variances; the conditions apply to all three variances. The Applicant has presented testimony that he is seeking to store his 2012 utility master vehicle on his property. He has also testified that he has removed all the other commercial vehicles and equipment from his property and will be storing them offsite. He will not be operating his business out of his home. He has further agreed to the following conditions: to minimize the sidewall while maintaining a minimum 4:12 roof pitch while affording the Applicant the desired 12 foot by 12 foot garage door for access to the garage at the gable end, as well as 2 cupolas, dimensional asphalt shingles and vinyl siding to match the residence for a single story accessory structure. Furthermore, the issuance of a permit shall be subject to submission of a lease to the Building Division for his commercial equipment offsite, and removal of all unused equipment and the broken down vehicle that is on the property. Ms. Vozar stated that

pursuant to 1264.08 (g) the Board is authorized to prescribe any conditions, stipulations, safeguards and limitations on the variance. All of what Ms. Vozar has read into the record including the diagram marked as Exhibit 1 are incorporated into the conditions of the finding of fact subject to the approval of the Building Commissioner on these and deviations that may arise. She continued we have had testimony by several neighbors. One initially issued a letter in objection to the variances. He appeared here before the Board today and offered testimony that he no longer objects to the building of the structure; he is comfortable with the revised plan and all the conditions that have been imposed. He obviously still has concerns about the future use of the building. However, as previously indicated from the testimony, the Applicant understands that he is prohibited from using it for commercial purposes and the storage of anything except for the 2012 utility master vehicle. The Board finds that practical difficulties have been established pursuant to 1264.08 (e) (1) and as such an area variance is warranted on all three variances. The Board finds the following based on the factors, that while there can be beneficial use of the property without the variance, the variances are minimal and necessary for the reasonable use of the property. The essential character of the neighborhood will not be substantially altered, in fact it will be improved by the removal of these vehicles and the design of this structure is harmonious with the neighborhood. The variance will not affect the delivery of Governmental services. There are special conditions and circumstances that are peculiar to the land in as much as it is a long and deep parcel of land. It is in compliance with the spirit and intent of the code. This is submitted for the Board's consideration.

Moved by Mr. Bull, seconded by Ms. Ragone to **approve Variance #1 to Section 1270.12 (a) to allow for a 2nd accessory structure in addition to the existing accessory structure to house personal belongings and to adopt the Board's findings of fact and conclusions of law for the property located at 11133 West Sprague Road, PPN: 481-08-019, in a R1-A district.** Roll call: Yeas: Four. (Rohloff, Ragone, Bull, Sadowski). Nays: None. **Variance approved.**

Moved by Mr. Bull, seconded by Ms. Ragone to **approve Variance #2 to Section 1270.12 (a) (1) B. for a variance of 415 sq. ft. to allow for relief from the 2,385 sq. ft. maximum permitted for an accessory structure on a lot greater than one acre and to adopt the Board's findings of fact and conclusions of law. The applicant is proposing to construct a 2,400 sq. ft. accessory structure on the property located at 11133 West Sprague Road, PPN: 481-08-019, in a R1-A district.** Roll call: Yeas: Four. (Rohloff, Ragone, Bull, Sadowski). Nays: None. **Variance approved.**

Moved by Mr. Bull, seconded by Ms. Ragone to **approve Variance #3 to Section 1270.04 Paragraph (g) for a variance of (7) seven feet to allow for relief from the maximum 15 foot height restriction for a proposed accessory structure and to adopt the Board's findings of fact and conclusions of law. The Applicant is proposing to erect a one story accessory structure with a 22 ft. roof line on the property located at 11133 West Sprague Road, PPN: 481-08-019, in a R1-A district.** Roll call: Yeas: Four. (Rohloff, Ragone, Bull, Sadowski). Nays: None. **Variance approved.**

Adjournment:

Moved by Mr. Bull, seconded by Ms. Ragone to **adjourn the BZA meeting for November 19, 2015. Motion carried.**

Meeting adjourned at 8:12 p.m.

APPROVED: /s/ Anthony Rohloff DATE APPROVED: 1/28/16
Vice Chairman

ATTEST: /s/ Diane Veverka
B.Z.A. Secretary