

The **Board of Zoning Appeals** of the City of North Royalton met on **September 25, 2013** to hold a Public Hearing in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Dan Kasaris at 7:33 p.m.

Present: Chairman Dan Kasaris, Anthony Rohloff, Robert Jankovsky, Victor Bull, Dale Gauman, Assistant Law Director Donna Vozar, Building Commissioner Dan Kulchysky, Secretary Lynn Brinkman.

Mr. Kasaris: May we have a motion to approve the July 24, 2013 Minutes as submitted.

Moved by Mr. Bull, seconded by Mr. Jankovsky to **approve the Minutes from July 24, 2013.**

Mr. Kasaris: Will the clerk please call the roll.

Mr. Rohloff: Yes.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Ayes – all. Nays – none.

Motion carried (5-0). Minutes approved.

Public Hearing / Open Meeting

NOTE: Due to technical difficulty with the recording equipment the first portion of the B.Z.A. meeting for September 25, 2013 was not recorded. The following transcription is a compilation of notes taken by the Secretary during the course of the meeting and the Building Commissioner and Board Members recollection.

Old Business:

(BZA13-10) Joseph and Judy Vitello request a variance to **Chapter 1270 “Residential Districts”, Section 1270.12 “Yards for Accessory Buildings and Uses”, paragraphs (a)(1)B and (b)**, of the City of North Royalton Zoning Code, to allow relief from the **maximum square footage** requirement and relief from the **minimum rear yard setback** requirement for an **addition that was constructed onto an existing accessory building** on this property located at **8112 Edgerton Road, also known as PPN: 485-06-007.**

Mr. Kasaris: This item had been tabled in July so we need a motion to remove this item from the table.

Moved by Mr. Bull, seconded by Mr. Jankovsky to **remove this item from the table.**

Mr. Kasaris: Will the clerk please call the roll.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Rohloff: Yes.

Ayes – all. Nays – none.

Motion carried (5-0). Item removed from table.

Variance #1:

Moved by Mr. Jankovsky, seconded by Mr. Rohloff to **grant a variance of 550 square feet more than the maximum square footage allowed as prescribed in Section 1270.12 (a)(1)B of the Zoning Code with regard to the size of this accessory structure, including the addition / overhang, which has already been constructed.**

Mr. Kulchytsky: Dan read a memo that had been provided to him by Daniel Collins, the Assistant Engineer for the City of North Royalton, dated September 24, 2013. The memo was in regard to accessory structure downspout discharge locations at 8112 Edgerton Road. It read as follows.

The following are comments that need to be addressed by the resident of 8112 Edgerton Road:

1) REDIRECTION OF STORM WATER DISCHARGE

For both “day-lighted” downspout drain pipes, the discharge direction shall be to the North. This will prevent the point discharge being directly onto the property to the West while allowing the storm water from the roof to flow to the North (downhill) as it always did before the barn and overhang were built.

2) STORM OUTLET PROTECTION

The downspout discharges (storm outlets) shall have “Storm Outlet Rock Protection” per the attached Detail. This will help prevent scouring and future erosion of the existing grade while acting as a “calming” of flow velocity out of the pipes. The rock protection shall be installed on 8112 Edgerton Road staying at least ten (10) to fifteen (15) feet away from the North property line. It is recommended that minimal amount of tree rooting systems be disturbed when installing the outlet protection.

Attachments are included within the file.

Mr. Kulchytsky: Dan then relayed another memo provided to him by Daniel Collins dated September 25, 2013. The content of this memo was for clarification purposes and further insight regarding the previous memorandum pertaining to this variance request. It read as follows.

- 1. Since the existing barn’s overhang encroaches on the rear ten (10) feet setback requirement for accessory buildings, the storm outlet rock protection will be required to be installed at the base where the elbow discharges. A one (1) foot pipe extension shall be installed from the elbow (in the North direction) with the storm outlet rock protection being installed at the end of the pipe. The extents of the 4’ wide by 5’ long rock outlet protection will then be located approximately one (1) foot from the rear property line.*
- 2. To reiterate, it is the Engineering Department’s policy that day-lighted downspout drains be located up to twenty (20) feet away from a property **IF THERE IS A DWELLING OR BUILDING ON THE ADJACENT PROPERTY THAT IS “NEARBY”**. This helps minimizing the impact of the storm water flow by creating a sheet flow affect for ground infiltration. This policy is looked at on a case-by-case basis with sound engineering practice and principals governing the final decision.*
- 3. With Number 1 being adhered to, storm water runoff from the barn roof will have no impact on any adjacent dwellings or buildings. The flow will continue in the direction it has ALWAYS gone.*

Mr. Kasaris: Asked that the contents of these two memorandums be entered into the record.

Mr. Hurley: Roy C. Hurley, resident at 16233 Bennett Road. He had not been able to attend the previous meeting in July so he was sworn-in by Chairman Kasaris. He commented that it had cost him \$1,500.00 to have his property surveyed. He had concerns regarding the direction of the downspouts and ensuing water run-off onto his property from the Vitello’s accessory structure. He was concerned that the water run-off was too close to his property and would eventually erode his property.

Mr. Kasaris: Acknowledged Mr. Robert Sambor, resident at 16219 Bennett Road.

Mr. Sambor: Robert Sambor had not been sworn-in at the previous meeting in July so he was sworn-in by Charirman Kasaris. He stated that they wanted the water to run toward the Vitello house – not away from it. He commented that the original gutter drained towards Edgerton Road. He said that the applicant's would now be diverting this water run-off north towards the neighboring property belonging to Mr. and Mrs. Hurley. He questioned the comments that had been made by the Assistant City Engineer in his memos to the Building Commissioner. He questioned what the end result would be regarding the proposed "day-lighted downspout drains". He also felt that the water run-off would help erode the neighboring property to the north owned by the Hurley's.

Mr. Kulchytsky: Stated that he was in favor of the recommendations proposed by the Assistant City Engineer. He noted that gutters had been attached to the accessory structure, at his request, since the last meeting in July.

Mr. Sambor: Asked what would happen next should this plan fail to work out.

Mr. Kasaris: Based on these concerns he asked for a motion to amend the motion provided as Variance #1.

Amended Motion – Variance #1:

Moved by Mr. Bull, seconded by Mr. Jankovsky to **grant a variance of 550 square feet more than the maximum square footage allowed as prescribed in Section 1270.12 (a)(1)B of the Zoning Code with regard to the size of this accessory structure, including the addition / overhang, which has already been constructed. The granting of this variance is to be contingent upon the applicants following all recommendations and conditions imposed by the Engineering Department and the Building Commissioner with regard to storm water run-off. This motion to extend to all recommendations, present and future.**

Mr. Kasaris: Asked for the clerk to call the roll.

Mr. Bull: Yes.
Mr. Gauman: Yes.
Mr. Kasaris: Yes.
Mr. Rohloff: Yes.
Mr. Jankovsky: Yes.

Ayes – five. Nays – none.

Motion carried. Motion for Variance #1 amended.

Mr. Kasaris: Delivered the findings of fact. He then asked the clerk to call the roll.

Mr. Gauman: Yes.
Mr. Kasaris: Yes.
Mr. Rohloff: Yes.
Mr. Jankovsky: Yes.
Mr. Bull: Yes.

Ayes – five. Nays – none.

Variance #1 granted with conditions (5-0).

Variance #2:

Moved by Mr. Jankovsky, seconded by Mr. Rohloff to **grant a variance of 3 feet less than the required rear yard setback as prescribed in Section 1270.12 (b) of the Zoning Code with regard to the location of this accessory structure / overhang which has already been constructed. The granting of this variance is to be contingent upon the applicants following all recommendations and conditions imposed by the Engineering Department and the Building Commissioner with regard to storm water run-off, both present and future.**

Mr. Kasaris: Same findings of fact as stated for Variance #1. He then asked the clerk to call the roll.

Mr. Kasaris: Yes.

Mr. Rohloff: No.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Ayes – four. Nays – one.

Variance #2 granted with conditions (4-1).

NOTE: At this point the tape began to record the proceedings.

(BZA13-13) Laura and Michael Tworzydlo request a variance to **Chapter 1270 “Residential Districts”, Section 1270.04 “Area, Yard and Height Regulations”, paragraph (g)**, of the City of North Royalton Zoning Code, to allow relief from the **maximum height** requirement for an **accessory building** they wish to construct on their property located at **4100 Wallings Road, also known as PPN: 489-20-011.**

Ms. Brinkman: Public Hearing Notices were sent to property owners within 500 feet of the property in question and posted for the required period of time. The Chairman will recognize anyone in the audience wishing to be heard.

Mr. Kasaris: Since you are standing before us could you please raise your right hand. Do you swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth?

Mrs. Tworzydlo: Yes. My name is Laura Tworzydlo. We would like to increase the height of our proposed detached garage. The application that I provided shows the reasons why we would like this increased height. We own two (2) acres of land which requires maintenance. We have children. We would like to have nine (9) foot walls so that we can hang items on the walls.

Mr. Kasaris: What happened to the original garage?

Mrs. Tworzydlo: It is still there. We have an attached garage. We currently have a shed that we will remove from the property so that we can construct the new garage. Within my submittal I provided an aerial that shows that the new building would be about 400 feet away from the street. The house sits back about 300 feet. There are other larger accessory buildings in the area.

Mr. Kasaris: In the photograph there is an arrow pointing to a structure. Is that the structure that you are going to remove?

Mrs. Tworzydlo: That is correct.

Mr. Kasaris: There is also a rectangle in the picture to the north of that arrow. Is that where the accessory structure is to be located?

Mrs. Tworzydlo: Yes.

Mr. Kasaris: You need the extra two feet because...?

Mrs. Tworzydlo: It is an attic. We want to have a pull-down staircase to store additional items.

Mr. Kasaris: Are there any structures similar to this in the area?

Mrs. Tworzydlo: Yes, next door to us. It fits within the character of the neighborhood. The houses in the neighborhood are older and it will fit right in.

Mr. Kasaris: Does anyone else have a question for the applicant?

Mr. Jankovsky: Do you know if those structures by you are over 15 feet in height?

Mrs. Tworzydlo: I do not believe that they are.

Mr. Jankovsky: So they are probably constructed within the Code.

Mrs. Tworzydlo: They may be. I do not really know.

Mr. Rohloff: Would you be able to build the structure within the Code?

Mrs. Tworzydlo: Yes. We could build a larger building if we wanted to due to the acreage but we do not wish to build anything larger than what we need.

Mr. Kasaris: You could actually build a structure with a larger square footage.

Mrs. Tworzydlo: Yes.

Ms. Brinkman: If I may, properties over an acre are permitted to have an accessory structure that does not exceed fifty percent of the main use structure foundation inclusive of an attached garage. In other words, add the foundation size of the house plus the attached garage and then divide that sum by two. That is how to figure out the allowable size of an accessory building on a property over one acre.

Mrs. Tworzydlo: Thank you.

Mr. Rohloff: So you could probably construct an accessory building at a square footage over one thousand square feet.

Mrs. Tworzydlo: Easily. I think that we could construct a building around 1,600 square feet.

Mr. Kasaris: So your proposed structure is about half of the size that you could actually build.

Mrs. Tworzydlo: That is correct.

Mr. Kasaris: Does anyone else have any other comments or questions? May I then have a motion with regard to this item.

Moved by Mr. Jankovsky, seconded by Mr. Rohloff to **grant a variance of 2 feet more than the maximum height allowed for an accessory structure as per Section 1270.04 (g) of the Zoning Code.**

Mr. Kasaris: Any further discussion? I find that the variance request is not substantial. It is for only 2 feet. It will not affect the delivery of governmental services. I do not see any problems with it.

Mr. Rohloff: I agree with you Mr. Chairman.

Mr. Jankovsky: I concur.

Mr. Kasaris: The findings of fact are as follows. The Board finds that the variance is not substantial. It is only for a variance of 2 feet. It will not adversely affect the delivery of governmental services. You will be removing a structure that is currently there and replacing it with a structure that is better for the neighborhood. Anyone else have anything to add? (No response.) Will the clerk then please call the roll.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Rohloff: Yes.

Ayes – five. Nays – none.

Variance granted.

Mrs. Tworzydlo: Thank you.

Ms. Brinkman: Laura, remember that you now have to submit an application for a building permit through the Building Department.

Mrs. Tworzydlo: Thank you.

(BZA13-14) David Quigley requests a variance to **Chapter 1270 “Residential Districts”, Section 1270.12 “Yards for Accessory Buildings and Uses”, paragraph (a)(1)B and paragraph (b) and Section 1270.04 “Area, Yard and Height Regulations”, paragraph (g),** of the City of North Royalton Zoning Code, to allow relief from the **maximum square footage** requirement, relief from the requirement **so as to allow this proposed accessory building to be located in the side yard** and relief from the **maximum height** requirement for a **detached garage / accessory structure** he wishes to construct on his property located at **16174 Louis Drive, also known as PPN: 485-03-034.**

Ms. Brinkman: Public Hearing Notices were sent to property owners within 500 feet of the property in question and posted for the required period of time. The Chairman will recognize anyone in the audience wishing to be heard.

Mr. Kasaris: We have four variance requests with this application. We have a square footage request, a height request, a side yard request and a request to allow the applicant to construct this proposed structure closer to his dwelling than is allowed by Code. Would the applicant please come up to the microphone. Could you please raise your right hand. Do you swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth?

Mr. Quigley: Yes.

Mr. Kasaris: Would you please state your name and address.

Mr. Quigley: David Quigley. I live at 16174 Louis Drive.

Mr. Kasaris: Would you please state your cause.

Mr. Quigley: I have a few more pictures that I would like to provide to you if that would be alright.

Mr. Kasaris: Sure. If the clerk would please enter these into the record as Exhibit A.

Mr. Quigley: I just wanted to build a detached garage that was essentially in the same location as my original garage but just a larger version. The setback from the house itself, the 14 foot setback which I am requesting, is because there is a rainwater recovery system, a cistern, on the north side of my house. So it would be very difficult to actually attach a garage to the house itself. That is why I would like to construct it essentially where the other garage was. It is just a larger version of the original garage.

Mr. Kasaris: How much larger is it?

Mr. Quigley: I believe that the new structure would be about 800 square feet larger than the original garage. I would like to construct a 28' x 38' detached garage.

Mr. Kasaris: (Addressing the Building Commissioner) Do you have any comments with regard to this proposal?

Mr. Kulchytsky: Yes. I first would like to ask the applicant a few questions. Given the variances that we have before us I notice that there is a 9 foot height variance that is being requested. Do you have any intentions of adding a second floor to this structure?

Mr. Quigley: What I wanted to do is to have a second floor in the back third of the garage for storage.

Mr. Kulchytsky: Okay. I just wanted that for clarification for the Building Department. Is this structure to be used as part of a business?

Mr. Quigley: No.

Mr. Kulchytsky: This would be purely for the storage of your own vehicles and materials.

Mr. Quigley: Correct. My house was built in the early 1940's. The house is 25 feet tall. It looks like a tall house but it is really only a cape cod style of house. The first floor is 5 feet off of the ground so it is a story and a half house that appears enormous. It is actually only a one bedroom house with an attic. That bedroom has one closet. I have been living in this house for almost twenty years with only one closet and a basement.

Mr. Kasaris: Who else lives in the house?

Mr. Quigley: I live alone. There is just no space in the house. It is an older home but it is a nice house. I have re-done the outside of it and I think that it looks nice. There is just no storage inside. I re-store old stuff as a hobby – cars, furniture, antiques and things like that. My basement is a walk-out basement. I could actually turn it into a nice room if I could remove some of the stuff that I work on out of it. This is why I want to build a garage that is larger than the original one that I had.

Mr. Kulchytsky: Would the proposed garage have a walk-out basement?

Mr. Quigley: No.

Mr. Kulchytsky: It would have soil below it and a concrete slab.

Mr. Quigley: Correct.

Mr. Kulchytsky: Mr. Chairman, my only concern about this is with the location of the garage being set forward, placing it in front of the house. My concern is that the accessory structure have a similar appearance to the residential structure adjacent to it. That the roof line, in essence, mimic the house so that it does not look like a barn that is constructed and projects so far in front of the house. That is truly one of my concerns. We have a very high barn that will be partly located in front of the house.

Mr. Quigley: The garage will extend 14 feet in front of the house. If you would look at the documents that I just submitted, specifically the second page, that is looking north. You can see the dormer that was added to the house. You can see the 14 foot line which denotes how far out it would be. The thought behind that was to give it a kind of court yard affect. This is not a very good picture but there is a stone patio there. If you then look at the last page you cannot really see how the building is set forward but you can see that I would have the building constructed with the same structural shape as the dormers that are already on the house.

Mr. Kulchytsky: Mr. Chairman, I am sorry but I did not see the packet or addendum that the applicant had submitted to you. I guess that my only recommendation to this is that the eve line of the garage be no higher than the eve line of the house. That is my only comment.

Mr. Kasaris: The eve line?

Mr. Kulchytsky: The eve – the gutter line.

Mr. Jankovsky: Mr. Quigley, do you know what the footprint of your home is?

Mr. Quigley: I am not quite sure.

Ms. Brinkman: If I may. It is approximately 1,116 square feet. He had previously had an attached garage which was damaged by fire. He had to take it down several months ago.

Mr. Quigley: Correct. It was razed.

Mr. Jankovsky: I am sorry Lynn, what was the footprint?

Ms. Brinkman: The footprint is approximately 1,116 square feet.

Mr. Jankovsky: So this new garage would be close to the same size as the house. Why do you need something that large?

Mr. Quigley: There are a couple of reasons. As I mentioned earlier there is no storage in the house whatsoever. The entire upstairs is the attic which was kind of turned into a bedroom. There is a first floor bedroom. There is actually only one closet in the entire house. When the house was constructed, even though the first floor sits almost 5 feet off of the ground, the basement is not even quite 7 feet tall. It is not a full basement.

Mr. Jankovsky: How many vehicles will this garage accommodate?

Mr. Quigley: I have 4 vehicles and a motorcycle. These are things that I have restored.

Mr. Jankovsky: Are they stored outside now?

Mr. Quigley: Yes. As I mentioned before I fix and restore a lot of stuff. That is kind of my hobby. It would be nice to have a work space out in the garage as well as have some additional storage above.

Mr. Jankovsky: This does not have any direct relation to this variance request but do you ever intend to put in a driveway?

Mr. Quigley: Concrete?

Mr. Jankovsky: Yes.

Mr. Quigley: I was actually thinking of an asphalt driveway but not concrete. My street has various types of homes on it. Some of the homes are as old as mine. Some of the homes are brand new. I believe that about half of the homes on my street have either an asphalt or gravel driveway. I was leaning towards an asphalt drive.

Mr. Rohloff: Is there a reason that you cannot locate this structure in a way that it would not extend beyond the front of your house?

Mr. Quigley: In the original submittal I could not provide any topography map to you because there was none available for this property. There is a huge drop-off behind the house. There are 8 houses on the west side of Louis Drive where there is a big valley behind the whole neighborhood on that side. The drop-off is almost 16 feet. My house was originally built sort of stuck on the side of the hill. I would have ideally preferred to have it set back but it would make the garage almost unusable. Even if I could negotiate the curb and the slope to get into it – it would make it ridiculous walking up to the house. It would almost be unsafe.

Mr. Rohloff: So how much square footage would you lose if you had to set this structure back, even with the front of the house?

Mr. Quigley: About a third of it. I am asking for 14 feet in front of the house. The other thing that I should probably add is that the house is so old that originally the driveway went all the way south to Edgerton Road. When you look at the picture of the house that I submitted tonight you are actually looking at the side of the house. The people who originally owned this house developed the neighborhood. When they cut the street in for Louis Drive they ran the new driveway out to Louis Drive. The old driveway actually went out to Edgerton Road. I am not sure if I am saying this right but that then is technically the back of the house. I have tried to make the house look like it is not a sideways house sitting on a lot and I think that this addition to the property will make the house look nice.

Mr. Kasaris: (Addressing the Assistant Law Director) Donna, I am looking at Section 1270.12 entitled “**Yards for Accessory Buildings and Uses**”, paragraph (a)(1), which deals with acreage. It states that if you have between three quarters of an acre and an acre you would be allowed to build an accessory structure totaling 800 square feet. Under Section 1270.12 (a)(1)B it states that “**for all lots containing one acre or more, all accessory structures shall not exceed fifty percent of the main use structure foundation inclusive of attached garage**”. So for this applicant, due to the size of his house which sits on over 2 acres, he is only permitted to have a detached garage totaling 558 square feet. If his acreage was actually less than one acre he would be permitted to build a structure up to 800 square feet. Is that correct?

Ms. Vozar: Correct.

Mr. Kulchytsky: Yes.

Mr. Kasaris: That does not make any sense. I understand why it was written that way – having to do with the size of his house. If his property was between three quarters of an acre and one acre he would only require a variance of about 250 square feet as opposed to the 506 square feet that is currently before us.

Mr. Kulchytsky: If that were the case he would need a variance of 264 square feet. Our Code has a unique quirk to it. If the applicant would choose to parcel off one acre he would need less of a variance.

Mr. Kasaris: That had been brought to my attention by the clerk so I wanted to bring that to the attention of the Board.

Ms. Vozar: The obvious purpose of this Code is because you do not want garages that are the same size as the home.

Mr. Kasaris: I understand. Anybody else have any questions or comments for the applicant?

Mr. Gauman: You said that you would lose about one third of the space should you locate the garage even with the house. You are saying that you would lose about one third of that structure should this detached garage **not** be permitted to extend 14 feet in front of the house. The dimensions of this proposed structure amount to a 28' x 38' building.

Mr. Quigley: I think that it might even be more than one third. If I set it back even with the front of the house I would lose 14 feet and I am asking for 38 feet.

Mr. Kulchytsky: He would be losing 14 feet off of the 38 feet so he would be losing more than one third of his garage. He would then be requesting to construct a 28' x 24' detached garage.

Mr. Rohloff: He would then be constructing a garage totaling 672 square feet versus the size of building that he is currently requesting to build which totals 1,064 square feet.

Mr. Gauman: So you could set it back even with the house and go with the 24 feet.

Mr. Quigley: Due to the hill behind my house it would be very difficult to set it back.

Mr. Rohloff: I think that he is saying that if you would chop off the front of the structure to keep it even with the front of the house, and keep the back as requested, you would be losing quite a bit. You would be reducing the size of the structure from 1,064 square feet to 672 square feet. That is a lot. I think that would probably be around the size of a three-car garage. Would you be able to store your vehicles and your motorcycle within a 672 square foot structure?

Mr. Quigley: No.

Mr. Rohloff: So they would then be parked outside.

Mr. Quigley: Correct.

Mr. Rohloff: What would be the minimal size that you would need to store your vehicles and your motorcycle?

Mr. Quigley: I honestly did not look into that. One of the cars that I own is a 1958 Ford which is close to 20 feet long. I honestly do not know what the answer to that is.

Mr. Rohloff: Fair enough.

Mr. Quigley: In my defense I really believe that this will look good. I have done a lot of work to the existing front of the house. It would create a kind of L-shaped court yard. No one will see this structure. My neighbors and friends are here who live adjacent to me. (Continued on next page...)

Mr. Quigley: If you look at the one site plan that I had originally submitted which depicts “Frank’s Barn” – this is Frank. My structure will be a little larger than his. They are the only neighbors who are remotely close to where I am at. Again, I want this to look nice but I also want to pick up the additional space.

Mr. Kasaris: Any additional questions? I will then entertain a motion with regard to Variance #1.

Variance #1:

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance of 506 square feet more than the maximum square footage allowed as prescribed in Section 1270.12 (a)(1)B of the Zoning Code with regard to the size of this detached garage / accessory building.**

Mr. Kasaris: Any further discussion? Any thoughts with respect to this variance request?

Mr. Jankovsky: I more or less agree with the applicant as far as where this building is to be located. You cannot see anything from the street. Anybody who went out there would know what I am talking about. You can drive by there and not even know that there is a house back there. I do think that all of these requests are excessive under normal conditions but, based on this particular property involved, I will be supporting these variance requests.

Mr. Kasaris: Let the record reflect that the neighbor, Frank, was nodding his head in agreement.

Mr. Rohloff: I agree with the comments just made by Mr. Jankovsky. I will support this though I do have a concern that the garage is close to the size of the house. I think that it would be preferable to have his vehicles stored inside a structure rather than being kept stored outside in the elements. I think that it would be beneficial for the community. I will be supporting this.

Mr. Bull: I concur with all of the comments made.

Mr. Kasaris: Anyone else? (No response.) I will then make the following findings of fact. This is a rather large variance request but the character of the neighborhood would not be altered. There are some issues with regard to the terrain of the property. The fact that the storage space in the house is inadequate, through no fault of the applicant, there is a need for additional storage space. We have heard no evidence that the granting of this variance would adversely affect the delivery of governmental services. I do not think that his predicament can feasibly be obviated by any other means except to maybe construct a larger house, which would create more of a burden on the applicant. Does anyone have any additions or subtractions to the findings? (No response.) Will the clerk then please call the roll.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Rohloff: Yes.

Ayes – five. Nays – none.

Variance #1 granted (5-0).

Mr. Kasaris: Will the clerk please read the nature of the second variance.

Ms. Brinkman: The Code requires that the height of an accessory building not exceed 15 feet or the height of the main building per Section 1270.04 (g) of the Zoning Code. The proposed size of this structure is 28’ x 38’ or 1,064 square feet. The applicant wishes to construct this accessory building at a height of 24 feet; therefore, a variance of 9 feet is being requested.

Variance #2:

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance of 9 feet more than the maximum height allowed for an accessory structure as per Section 1270.04 (g) of the Zoning Code.**

Mr. Kasaris: Any discussion?

Mr. Rohloff: Is this an engineering variance or is this just something you desire to have a higher roof line? Do you require a higher roof line or pitch for drainage or any engineering issues?

Mr. Kulchytsky: There are no engineering issues. The higher roof line affords him the opportunity to use the back third portion with a second floor for storage space.

Mr. Rohloff: Thank you.

Mr. Kasaris: Anybody else? I will adopt the findings of fact applied to Variance #1 to Variance #2. Will the clerk please call the roll.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Rohloff: Yes.

Mr. Jankovsky: Yes.

Ayes – all. Nays – none.

Variance #2 granted (5-0).

Mr. Kasaris: Will the clerk please read the request for Variance #3.

Variance #3:

Ms. Brinkman: The Code places restrictions with regard to the location of accessory structures. The Code states that ***“no such building or garage shall project into a front or into a side yard”***, per Section 1270.12 (b) of the Zoning Code. The applicant’s property is zoned R1-A. The applicant’s house is set back approximately 180 feet from the street. The applicant is requesting to locate this proposed 1,064 square foot accessory structure in the side yard of his property. It would extend approximately 16 feet in front of the house.

Mr. Kasaris: I will now entertain a motion with respect to Variance #3.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance from Section 1270.12 (b) of the Zoning Code so as to allow the applicant to construct this proposed detached garage / accessory structure in the side yard of his property. This would result in an encroachment fully into the side yard and an encroachment of 16 feet into the front yard.**

Mr. Kasaris: Any discussion? I will then adopt the same findings of fact as I did with regard to Variance #1 to Variance #3. Will the clerk please call the roll.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Rohloff: Yes.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Ayes – all. Nays – none.

Variance #3 granted (5-0).

Will the clerk please read the request for Variance #4.

Ms. Brinkman: Per Section 1270.12 (b) of the Zoning Code, the Code places restrictions with regard to the location of accessory structures. The Code stipulates that ***“no accessory building or detached private garage shall be located less than twenty feet from any dwelling...”*** The applicant wishes to locate his detached garage / accessory building 14 feet from his residence. The Code requires that the structure be located a minimum of 20 feet from the dwelling; therefore, a variance of 6 feet is being requested.

Variance #4:

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance from Section 1270.12 (b) of the Zoning Code so as to allow the applicant to construct this proposed detached garage / accessory structure 6 feet from his dwelling which is less than the minimum distance required.**

Mr. Kasaris: Any discussion?

Mr. Bull: I have a question for the Building Commissioner. Is this a fire issue?

Mr. Kulchytsky: No. This distance exceeds any kind of rating requirements that the Ohio Building Code would place on a building.

Mr. Bull: Thank you.

Mr. Kasaris: Then I will adopt the same findings of fact that I adopted with regard to Variance #1. Will the clerk please call the roll.

Mr. Kasaris: Yes.

Mr. Rohloff: Yes.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Ayes – all. Nays – none.

Variance #4 granted (5-0).

Mr. Quigley: Thank you.

Ms. Brinkman: You know that you now have to go to the Building Department to submit an application for a building permit.

Mr. Quigley: Yes. Thank you.

(BZA13-15) Philip and Daneen Purpura request a variance to **Chapter 1270 “Residential Districts”, Section 1270.12 “Yards for Accessory Buildings and Uses”, paragraph (b) and Section 1270.05 “Schedule of Area, Yard and Height Regulations”,** of the City of North Royalton Zoning Code, to allow relief from the **minimum side yard setback** requirement for an **accessory building** they wish to construct on their property located at **4228 Royalwood Road, also known as PPN: 488-14-006.**

Ms. Brinkman: Public Hearing Notices were sent to property owners within 500 feet of the property in question and posted for the required period of time. The Chairman will recognize anyone in the audience wishing to be heard.

Mr. Kasaris: Would you please raise your right hand. Do you solemnly swear that the testimony that you offer here tonight is the truth, the whole truth and nothing but the truth?

Mr. Purpura: I do.

Mr. Kasaris: Please state your name and address for the record.

Mr. Purpura: Philip Purpura. I live at 4228 Royalwood Road.

Mr. Kasaris: Please state your cause.

Mr. Purpura: I would like to construct an outbuilding that would be 5 feet from the property line rather than the 10 feet that is required. This would allow me to match my neighbor to the west who has a shed that was constructed a long time ago only 5 feet from the property line. The neighbor to the east of me also has a garage that is only 5 feet from the property line. If I would construct the building the required 10 feet over – when I look out of the back of my house it would be right there.
(Continued on next page...)

Mr. Purpura: Instead of seeing the woods in the back I would be seeing this structure directly behind my sliding door. If I could move over that 5 feet it would stay in line with the neighbors and would look a lot nicer.

Mr. Kasaris: Anyone have any questions for the applicant?

Mr. Bull: In your submittal you reference a letter from your neighbor. I did not see it in here.

Mr. Purpura: I had a letter signed by the neighbor but it had not been notarized so I did not include it.

Mr. Kasaris: Did your neighbor object or not?

Mr. Purpura: He had no problem with it. His shed is also only 5 feet from the property line.

Mr. Kasaris: There would be three sheds only 5 feet off of the property line in the same area.

Mr. Purpura: Yes. The one would be opposite mine and the other is set back about 400 feet from the street.

Mr. Jankovsky: I have a problem with this particular request. I have always viewed variance requests as a matter of need rather than just simply desire. The Code is apparently written with some reason in mind for the ordinances to read as they do. The neighbor's shed directly to the west of the applicant is a lot smaller than this requested building. I think that the Board needs to realize that this particular building could be constructed without any variance if it would be located just 5 feet further to the east of this side property line. It would then comply with the Code. I am just not sure what the practical difficulty is here other than a request, by the applicant, to have it 5 feet closer than what the Code calls for. I am not sure what the necessity is. I do not think that a variance is designed for this type of request. That is my opinion. There is plenty of space on the other side of the building – at least 60 feet. The applicant could then comply with the Code.

Mr. Kasaris: (Addressing the Building Commissioner) Do we know why there are a couple of other structures in that area that are not in compliance with the Code?

Mr. Kulchytsky: In all likelihood it would have been prior to the modification of this particular Code.

Mr. Kasaris: What is the purpose, for the record, of this setback being 10 feet from the side property line as opposed to 5 feet?

Mr. Kulchytsky: I do not know what the original intent was behind this Code requirement. It might be to give a feeling of more openness and so that structures are not bunched up against one another. This lot is 100 feet wide.

Mr. Rohloff: Why would it be so bad to comply with the Code and situate this structure 10 feet from the property line?

Mr. Purpura: These lots are only 100 feet wide. It would keep it in line with the one neighbor. If we would move it over the 10 feet, as required, it would obstruct more of our view from the house. It is personal. If I could move the building over 5 feet it would leave it a little more open to see things.

Mr. Jankovsky: I have one more comment. Based on what the Building Commissioner has said and what the applicant is also saying – I think that the Code may have to be reviewed and possibly altered. If a lot that is 100 feet wide does not justify a 10 foot offset then maybe the Code needs to be changed.

Mr. Kulchytsky: I would agree with that statement. Our Codes should have a thorough review in the future.

Mr. Kasaris: Is this something that you should look into and bring to the attention of the Building and Building Codes Committee of City Council?

Mr. Kulchytsky: After the peak summer and fall rush for the Building Department is over then it might be something that we should consider.

Mr. Kasaris: Possibly sometime in January?

Mr. Kulchytsky: February would be lovely.

Mr. Kasaris: Based on what you and Mr. Jankovsky have said I think that it might be wise to discuss this with the Building and Building Codes Committee. Thank you.

Mr. Rohloff: I do not feel that this is an extreme request. It is just for 5 feet. On the other hand, it is not this Board's responsibility to write or re-write the Code. That is the job of City Council. I feel conflicted here. If the Code needs to be reviewed by Council then it should be done but until then should we keep granting variances to it when there does not seem to be any practical difficulty involved? It is not our job to write the Code.

Mr. Kasaris: Is there any other place to locate this structure in your back yard?

Mr. Purpura: I already have a driveway along the side of the attached garage on that side of the property. I would have to install a new driveway on the other side.

Mr. Kasaris: Again, is this the only side of the property that this structure could be located?

Mr. Purpura: Yes, without having to spend a lot of money to put a driveway back to it.

Mr. Kasaris: I will then make the following findings of fact. We have not heard any evidence that this would affect the delivery of governmental services. One member of the Board indicated that he thought that this variance was minimal; however, the need for the variance has been created by the property owner and is not related to any problem with the land or any engineering or building issue. The reason for the variance request is of an aesthetic nature for the property owner. Does anyone have any additions or subtractions? Will the clerk then please call the roll.

Mr. Rohloff: Yes.

Mr. Jankovsky: No.

Mr. Bull: Yes.

Mr. Gauman: No.

Mr. Kasaris: No.

Ayes – two. Nays – three.

Variance denied.

Ms. Vozar: Mr. Chairman, if I could add something prior to calling for the next applicant. During the recess I spoke to the Building Commissioner and he assured me that he has reviewed our Code looking for the language that I believed had been in there. I believe that we have had numerous variances with that language over the years. It is possible that the Code has been modified since the last one. I will ask the Secretary to review all of the variances over the years, looking for that specific language so that we can take it to Building and Building Codes and have the language put back into our Code.

Mr. Kasaris: I cannot believe that the language that you have suggested is not in our Code some place.

Ms. Vozar: I believe that it is but I have spent the better part looking for it and have not been able to find it. Due to the fact that I cannot find anything we will have to abide with Section 1270.12 which is what they are currently seeking a variance for. The Building Commissioner and the Secretary told me that they have searched for the other Code but had found that this was the only Code that currently exists and applies. So based on that the laws that are in front of us at this time are the ones that we must observe. Obviously, if for whatever reason we find that there is a Code that requires another variance, then the applicants would need to come forward at the next meeting and seek a variance to that. We can at least move forward tonight on what is before us.

Mr. Kasaris: Could we do this – listen to what the applicant has to say which seems only fair due to the fact that they are here. We could then give you a more time to look at what we have or do not have as opposed to having you search for the information during the meeting. We could then table this item tonight, give you time to finish your research, and have the applicant come back for the next meeting in October. At that time we should know if there is another Code section to be considered as well as another variance to be requested.

Ms. Vozar: The problem with that is that you then delay the resident from moving forward tonight and actually being able to move forward on the project for another month. Again, since the Building Commissioner, and I have the highest regard for him, has spent much time looking at this as well as the Secretary, and they have not been able to locate any other Codes relative to this matter... The Code may have been changed, unfortunately, and parts may have been withdrawn. I have searched various sections of the Code and I have not been able to find the ordinance which does not permit two accessory buildings to be constructed when the owner of the property already has an attached garage. Since both the Building Commissioner and the Secretary were aware of this issue during the course of their review, as was the applicant, I think that they have then done their due diligence and we should therefore move forward. Again, should they get the variance that is currently before us and if, for whatever reason, it was determined that another variance was needed, their project would then be put on hold and they would need to come before this Board again. I think that is the fair resolution for today. The Board, however, could obviously decide that they would rather table this item. The law is the law. I am looking at Section 1270.12 of the Zoning Code and the language that it states today being that ***“only one accessory building shall be permitted in addition to a private detached garage”***. The only issue at this time has to deal with the square footage measurements of each structure and their combined total square footage. Is an *“attached garage”* considered to be an accessory structure because it is not a part of the main use? How is an *“attached garage”* defined? Is it to be considered an accessory structure along with a detached garage and a “shed”? If that be the case then the combined total square footage of these three structures would be substantial.

Mr. Kasaris: In my opinion we have some unanswered questions that need to be resolved. I have no problem with the applicant moving forward but I would prefer that these questions be answered before I vote on this issue. How do the rest of you feel?

Mr. Bull: I concur.

Mr. Rohloff: I agree with you.

Mr. Kasaris: Mr. Jones, would you please approach the microphone. Could you please raise your right hand. Do you solemnly swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth?

Mr. Jones: I do.

Mr. Kasaris: (Addressing the contractor who had also approached the microphone) Could you please raise your right hand. Do you solemnly swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth?

Mr. Dyson: I do. My name is Dan Dyson from Dyson Construction. I am missing the whole concept of using the square footage of an *“attached garage”* when the Code specifically states ***“private detached garage”***. Those are two separate words. I am not understanding the concept of trying to combine the square footage of both an attached and a detached garage. Another issue that we run into is a timing thing. If we wait another month – my breaking point for pouring concrete or footers is typically around Halloween. If we wait another month Mr. Jones will have to certainly wait until Spring to construct this detached garage. This has been going on for around three months - around April. I do not understand why this is such an issue. I think that we can move forward and vote on the square footage issue. I am missing this other part. I do not understand.

Ms. Vozar: The intent of our Code has always been to allow one accessory structure - whether it was a detached garage or an accessory structure. The issue has become the language of the Code. I believe that there had been a provision in our Code where it stated that if you have one *“attached garage”* then you would be entitled to have one *“accessory structure”*. The way that it now appears the Code would allow, as in your case, for one to have an attached garage, a detached garage and an accessory structure. (Continued on next page...)

Ms. Vozar: That is **not** what the intent was. The intent, for as long as I have been here, has been to allow only one accessory structure. You want to limit the number of structures around the property. I believe that there was an ordinance that covered that issue. When these issues come before us they come before us based on the Code. Again, one accessory structure in addition to one attached garage is the norm. So now we have a situation where we are going to have two garages and an accessory structure which, I believe, flies in the face of what planning is all about. The Building Commissioner and I have searched the Code to find evidence of this. We have been unable to find it. I am now recommending that we move forward with what we have before us; however, tomorrow we will have the Secretary do a search on that. Should she find that Code in another area you will have to come back next month to request a variance to another provision of the Code. I am just putting you on notice.

Mr. Dyson: I agree with that. That makes sense. To automatically wait one month does not make any sense to me. We would prefer to move forward. If the Board decides to grant a variance for the 240 square feet that is currently being requested – that is great. We are still giving you the ability to do your due diligence. You are otherwise delaying this project until Spring. I do not want to tear up any more of his property than I have to. I am trying to do the right thing here. That is my point.

Ms. Vozar: That is what my recommendation was – to allow this item to move forward. I just want you to acknowledge and understand that should you be granted a variance for square footage tonight you still will not be able to proceed until we get this issue resolved. The Board always has the authority to table a matter. My recommendation to the Board is that this item **not** be tabled tonight.

Mr. Kasaris: (Addressing the Building Commissioner) Are there any issues relating to the proposed 16 foot concrete driveway coming off of State Road? There is one driveway on Lisa Lane. Is there a problem with having another driveway on State Road?

Mr. Kulchytsky: I spoke to Engineering about this and they have no issue with this, nor do I. His address would remain unchanged. It would be something like having a turn-around or a U-shaped driveway. The only issue with the driveway is that there is a light pole and some sort of box on the property. Am I to understand that the driveway is going to be directly north of that light pole?

Ms. Vozar: Mr. Chairman. There has not been a motion made with regard to this item as of yet.

Mr. Kasaris: We are just questioning the applicants. Please continue Dan.

Mr. Kulchytsky: You will be putting in the driveway directly north of the light pole?

Mr. Jones: I think the plan was to put the driveway in between the pole and the box.

Mr. Kulchytsky: Okay.

Mr. Jones: That would maybe cut it down to 12 feet so that we would have a lot more room on the sides.

Mr. Kulchytsky: Alright – right now I cannot see, from what I have in front of me, that there is going to be enough distance between the pole and what appears to be a telephone box.

Mr. Jones: I thought that it was 18 feet.

Mr. Kulchytsky: I do not have a dimension but just wanted to raise the concern that the Engineering Department may want to reduce the width of your driveway.

Mr. Jones: It would be reduced down to 12 feet.

Mr. Kulchytsky: There may be some further research as to the stop-off pad for servicing the phone box.

Mr. Jones: That is another thing. If we need to we could actually go north of the pole. It would be a lot more concrete though.

Mr. Kulchytsky: We will work through that with the Engineering Department. To the Board, Mr. Chairman, this does not have a bearing on the actual variance before us but it is rather a clarification for us and the applicant in that Engineering requirements shall have to be complied with. They may require that the driveway be located to the north or a narrower driveway between the pole and the telephone accessory box.

Mr. Kasaris: That is a given with anything that we do.

Mr. Kulchytsky: Correct. I just want to make sure that it is very clear to the applicant.

Mr. Kasaris: That is why I raised the issue when I saw the driveway placed there. Mr. Jones, if you could please state the reasons why you are asking for this variance.

Mr. Jones: I have an old antique car. My friend has an old antique car. I would like to store them and it costs quite a bit every year to store them. If I could build a garage to store them in it would save me money in the long run.

Mr. Kasaris: What is currently stored in your existing shed?

Mr. Jones: Tractors, lawn mowers, yard materials – it is full.

Mr. Kasaris: Your intent would be to keep the existing shed?

Mr. Jones: Yes. If I had to I guess that I could tear it down but I do not know what I would do with all of that stuff. Maybe my neighbor would let me use his.

Mr. Kasaris: Are there any other properties in the neighborhood that have two structures such as you are proposing - an attached garage, a detached garage and a shed?

Mr. Jones: I really can't say because I have not paid attention to that.

Mr. Kasaris: Thank you. Anyone else have any questions of the applicant?

Mr. Jankovsky: How long have you owned this house?

Mr. Jones: For twenty years.

Mr. Jankovsky: Did you have those antique vehicles back when you moved in?

Mr. Jones: Yes, but they were not finished.

Mr. Jankovsky: Where did you keep them then?

Mr. Jones: I kept them in the garage but I had to park my car outside. I would also like to have a larger garage because I work on cars. It is my hobby.

Mr. Dyson: It is his hobby. It is not a business.

Mr. Jones: I work on cars a lot. My friend who was here before has a GTO that we plan to park in there too over the winter months. He is also paying to store his vehicle during the winter months.

Mr. Rohloff: You said that you store these cars somewhere else during the winter months. Where do you park these cars during the rest of the year? Are they parked in your driveway?

Mr. Jones: They are in my attached garage.

Mr. Rohloff: They are in your attached garage all year round?

Mr. Jones: Yes.

Mr. Dyson: His personal cars are parked outside.

Mr. Rohloff: Okay. Thank you.

Mr. Kasaris: (Addressing the Assistant Law Director) Are there any issues with storing the neighbor's car in his garage?

Ms. Vozar: If you look at the definition of "*accessory*" it means accessory to the main use. The main use is your residence. That does not include storing it for neighbors or friends or anyone else. That falls outside of the purpose for an accessory structure.

Mr. Kasaris: Thank you.

Mr. Jones: To be honest with you it will be mainly for working on cars.

Mr. Kasaris: Does anyone else have any questions for the applicant?

Mr. Rohloff: You will not be collecting any rent for this storage?

Mr. Jones: No.

Mr. Jankovsky: I do not have any other questions but I do have a comment. A half an acre lot is a relatively small lot. It is probably the average size of lot in the denser areas of North Royalton. In the application submitted by Mr. Jones he states that he believes that the approval of this variance would be within the spirit and intent behind the zoning requirement. I do not see that, especially on a very high profile lot right on the corner of a main street. It would make it very obvious to people that you could own a small lot and have several buildings located on it. That is a big concern to me. I do not believe that it is within the spirit of the Zoning Code. This does concern me.

Mr. Kasaris: Can I have a motion with regard to BZA13-12.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance of 240 square feet more than the maximum square footage allowed as prescribed in Section 1270.12 (a)(1) and (a) (1)A of the Zoning Code with regard to the combined total square footage of this proposed detached garage and the existing accessory structure (shed).**

Mr. Kasaris: Mr. Jankovsky has already offered comments with regard to the application. Anybody else?

Mr. Rohloff: I agree with Mr. Jankovsky.

Mr. Jankovsky: I would like to make one additional comment. The maximum allowable size for an accessory structure on a property of this size is 600 square feet. Your proposed new structure itself would be 672 square feet which in itself is 72 square feet over the allowable size per this section of the Code. I would be more receptive to that if the other structure was not there. I think that a variance of 240 square feet on that particular lot, at that particular location and with that kind of visibility, is excessive. I will not be able to support this.

Mr. Bull: Mr. Chairman, I am concerned with the definition of an "*accessory building*" and the use that this building will have.

Mr. Kasaris: What are your concerns?

Mr. Bull: The storage of items other than his own personal property.

Mr. Kasaris: I will make the following findings of fact for the Board. There is no evidence that this variance would affect the delivery of governmental services. Members of the Board have stated that the variance is substantial. The character of the neighborhood would be altered. The special circumstances or conditions that exist here are the result of the actions of the owner. The spirit and intent behind the zoning requirement would not be observed. Will the clerk then please call the roll.

