

The Board of Zoning Appeals of the City of North Royalton met on July 26, 2010, to hold a Public Hearing in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 7:30 P.M.

Present: Chairman Neil Price, Diane Mastronicolas, Dan Kasaris,
Prosecutor Donna Vozar, Bob Jankovsky,
City Engineer Mark Schmitzer, Acting Secretary Julie Broestl.

Chairman Price: Can I have a motion to excuse John Ranucci for cause.

Moved by Mr. Kasaris, seconded by Ms. Mastronicolas to **excuse Mr. Ranucci for cause.**

Mr. Price: Call the roll.

Mr. Jankovsky: Yes.

Mr. Price: Yes.

Ms. Mastronicolas: Yes.

Mr. Kasaris: Yes.

PUBLIC HEARING

(BZA10-08) **James Funderwhite** requests a variance to **Chapter 1270 “Residential Districts”, Section 1270.05 “Schedule of Area, Yard and Height Regulations” and Section 1270.08 “Front Yards of Developed Blocks”**, of the City of North Royalton Zoning Code, for relief from the **side yard setback** requirement and relief from the requirement that **in developed blocks a new building or addition to an existing building shall be setback the average setback distance of existing buildings located within 100-feet on either side of a given lot** for this **proposed two-car garage** he wishes to construct on his property located at **9757 Abbey Road, also known as PPN: 481-13-023.**

Ms. Broestl: 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 recognized anyone wishing to be heard.

Mr. Funderwhite, the applicant, approached the microphone.

Mr. Price: Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Funderwhite: I do.

Mr. Price: Please state your name and address.

Mr. Funderwhite: Jim Funderwhite, 9757 Abbey Road.

Mr. Price: You are asking for a variance because...?

Mr. Funderwhite: The reason that I am asking for this variance is because I currently have a detached, two-car garage that sits 3.1 feet from the side property line. I am looking to construct a new attached garage at the same setback so that it adjoins and lines up with my existing driveway and my existing detached garage, which I would then basically use as an accessory building. Right now my driveway sits about 3 feet from the property line and it runs parallel with the property line. In short, I would basically have to put in a whole new driveway and come up with some other plan, and I have no idea as to what that would be, should this variance be denied. That is pretty much my case.

Mr. Price: There are two variances that you are asking for. Would you like to present something now pertaining to the second variance being requested?

(BZA10-08) James Funderwhite continued...

Mr. Funderwhite: What I am looking to do, for aesthetic purposes, is to have the attached garage sit about 13'-2" in front of the house, which would also enable me to line up my front porch with the garage as well. It is really for aesthetic purposes and for the positioning of the driveway. The setback for the garage would be 80'-1" so I would meet the 50 foot front yard setback requirement.

Mr. Price: Anybody else?

Ms. Broestl: Yes. There were two letters submitted and notarized. They read as follows.

"We, the undersigned, are the property owners of 9727 Abbey Road, North Royalton, Ohio, 44133, which adjoins 9757 Abbey Road, North Royalton, Ohio, 44133. We have no objection to a requested variance to construct an attached 25'-4" x 28' garage 3 feet from the side boundary line and setback 80 feet from the front boundary line."

This submittal was signed by Raymond and Patricia Skutnik.

"We, the undersigned, are the property owners of 9791 Abbey Road, North Royalton, Ohio, 44133, which adjoins 9757 Abbey Road, North Royalton, Ohio, 44133. We have no objection to a requested variance to construct an attached 25'-4" x 28' garage 3 feet from the side boundary line and setback 80 feet from the front boundary line."

This submittal was signed by Scott and Kim Shaffer.

Mr. Price: Thank you. Anything else? Can I have a motion to move BZA10-08 to the open meeting.

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **move BZA10-08 to the open meeting.**

Mr. Price: Call the roll.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Ayes – all. Nays – none.

Motion carried (4-0).

(BZA10-09) **Grace Brothers Nursery & Supply** request a variance to **Chapter 1284 "Signs", Section 1284.05 "Design Standards", paragraph (k) "Changeable Copy" and Section 1284.07 "Signs in Residential Districts" and Chapter 1286 "Nonconforming Uses", Section 1286.02 "Lawful Nonconformance"**, of the City of North Royalton Zoning Code, to **allow this legally nonconforming business, located in a residential district, to exceed the maximum amount of manual changeable copy permitted for a ground sign** located on their property at **12905 Ridge Road, also known as PPN: 488-04-001.**

Ms. Broestl: 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 recognized anyone wishing to be heard.

Kevin Grace, the applicant, approached the microphone.

Mr. Price: Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Grace: I do.

Mr. Price: Please state your name and address.

(BZA10-09) Grace Brothers Nursery & Supply continued...

Mr. Grace: Kevin Grace, 12905 Ridge Road, Grace Brothers Nursery & Supply. I am just asking to put a 32 sq. ft. changeable letter sign – 75 percent of the sign would be changeable copy and 25 percent would be permanent sign. This will allow us to make seasonal changes to our sign. The location would remain the same as the existing sign. It would be the same height. That is pretty much it.

Mr. Price: Okay. Thank you. Anybody else?

Dee Pliska, resident of 6501 Royalwood Road, came to the microphone.

Mr. Price: Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Pliska: I do. My property backs up to the Grace Brothers property. I have no objections to this sign at all. I do not think that any of my immediate neighbors do and we all received the letter. I do not think that you could ask for a better business. They are great for this community. I am just here to support him. I think that he has a good idea.

Mr. Price: Thank you. Anybody else?

Paul Marnecheck, resident of 13811 Oakbrook Drive, Apartment 312, approached the microphone. I am Councilman of Ward 4 where Grace Brothers is currently located, and I just quickly wanted to urge this Board to approve these variances. I have spoken to Mr. Grace a number of times about this. This sign will not be any bigger than the current sign. It is not going to be illuminated. It will just simply give him more flexibility to get more road traffic. He has expressed to me that he needs this, and as Commissioner Alvarez will agree, there are less home starts so he needs more of his business to come from road traffic since landscapers and developers are not buying in the quantities that they have in the past. So hopefully this Board will see fit to grant this. Thank you.

Mr. Price: Thank you. Anybody else? Can I have a motion to move BZA10-09 to the open meeting?

Moved by Mr. Jankovsky, seconded by Mr. Kasaris to **move BZA10-09 to the open meeting.**

Mr. Price: Call the roll.

Mr. Kasaris: Yes.

Mr. Jankovsky: Yes.

Mr. Price: Yes.

Ms. Mastronicolas: Yes.

Ayes – all. Nays – none.

Motion carried (4-0).

Mr. Price: I need a motion to adjourn the Public Hearing.

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **adjourn the Public Hearing.**

Mr. Price: Call the roll.

Ms. Mastronicolas: Yes.

Mr. Price: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Ayes – all. Nays – none.

Motion carried (4-0).

Public Hearing adjourned at 7:42 p.m.

The **Board of Zoning Appeals** of the City of North Royalton met on **July 26, 2010** to hold an Open Meeting in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 7:42 p.m.

Present: Chairman Neil Price, Diane Mastronicolas, Robert Jankovsky, Dan Kasaris, Prosecutor Donna Vozar, City Engineer Mark Schmitzer, Acting Secretary Julie Broestl.

Mr. Price: I need a motion to excuse Mr. Ranucci for cause.

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **excuse Mr. Ranucci from the Open Meeting of July 26, 2010 for cause.**

Mr. Price: Call the roll.

Mr. Price: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Ms. Mastronicolas: Yes.

Ayes – all. Nays – none.

Motion carried (4-0).

Mr. Price: I need a motion to approve the Minutes of June 28, 2010.

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **approve the Minutes of June 28, 2010.**

Mr. Price: Call the roll.

Ms. Mastronicolas: Yes.

Mr. Price: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Ayes – all. Nays – none.

Motion carried (4-0).

Minutes approved.

OPEN MEETING

(BZA10-08) **James Funderwhite** requests a variance to **Chapter 1270 “Residential Districts”, Section 1270.05 “Schedule of Area, Yard and Height Regulations” and Section 1270.08 “Front Yards of Developed Blocks”**, for relief from the **side yard setback** requirement and relief from the requirement that **in developed blocks a new building or addition to an existing building shall be setback the average setback distance of existing buildings located within 100 feet on either side of a given lot** for this **proposed two-car garage** he wishes to construct on his property located at **9757 Abbey Road, also known as PPN: 481-13-023.**

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **grant a variance of 6’-9” less than required per Section 1270.05 of the Zoning Code with regard to the side yard setback for this proposed attached garage.**

Mr. Price: Discussion? I, for one, have no objection. This is not going to change the appearance of the neighborhood. Nobody in the neighborhood has objected and the councilman in that ward has not objected to it. The variance is minimal and is in accordance with the other residents in the area. They have attached garages. The essential character of the neighborhood is not going to be substantially altered. Public services will not be affected. The spirit and intent of the Zoning Code will be observed; therefore, I will be voting in favor of this variance.

Mr. Kasaris: I will also be voting in favor of this variance for the very same reasons that you have indicated.

Mr. Jankovsky: I will also be voting in favor of this variance request. I want to congratulate the applicant on his efficiency in applying for this variance, including getting the approval of his immediate neighbors in advance, which is always an important thing for me.

Ms. Mastronicolas: I second my colleague's comments. You have a friendly neighborhood in that your neighbors took the time to send in their comments on your behalf. Mr. Chairman, I will be voting in favor of this variance as well.

Ms. Vozar: In regards to the first requested variance for BZA10-08, the findings of fact and conclusions of law are as follows. The applicant was present here tonight and testified as to the grounds and reasons establishing practical difficulty pursuant to the North Royalton Zoning Code. He is seeking a variance to Section 1270.05 for a side yard setback of 6'-9". No neighbors appeared or objected to the variance request. The Board finds that this is a minimal variance as required by the Code. It will have no affect on the neighborhood. It is in substantial compliance with the goals and interest of the Code. Is there anything else that the Board wishes to add?

Mr. Price: Any additions? (No response.) Call the roll.

Mr. Kasaris: Yes.

Mr. Jankovsky: Yes.

Ms. Mastronicolas: Yes.

Mr. Price: Yes.

Ayes – all. Nays – none.

Variance #1 granted (4-0).

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **grant a variance to allow this proposed covered porch and attached garage to extend approximately 13'-2" in front of the average setback line as prescribed under Section 1270.08.**

Mr. Price: Discussion?

Mr. Jankovsky: I believe that this variance falls well within the compliance of the criteria that we need to consider for such approval so I will be voting in favor of this variance.

Mr. Kasaris: I concur with my colleague.

Ms. Mastronicolas: I will also be voting in favor of this variance.

Mr. Price: The variance being requested is minimal. The essential character of the neighborhood is not going to suffer. It will not affect the delivery of governmental services. I think that the desirability of the property will be improved; therefore, I will be voting for this variance request.

Ms. Vozar: The findings of fact and conclusions of law regarding this second variance being requested are as follows. The Board finds that practical difficulties have been established. Again, the applicant testified regarding the grounds for the variance request. No neighbor objected to this variance request regarding the covered porch and attached garage extending approximately 13'-2" in front of the average setback line as required under Section 1270.08. The Board finds that this will have no affect on neighboring residents. It is a minimal variance. Essential services will not be affected. Furthermore, the applicant testified regarding the aesthetics of the property. The Board finds that practical difficulties have been established.

Mr. Price: Any additions? Call the roll.

Mr. Price: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

(BZA10-08) James Funderwhite continued...

Ayes – all. Nays – none.

Variance #2 granted (4-0).

(BZA10-09) **Grace Brothers Nursery & Supply** request a variance to **Chapter 1284 “Signs”, Section 1284.05 “Design Standards”, paragraph (k) “Changeable Copy” and Section 1284.07 “Signs in Residential Districts” and Chapter 1286 “Nonconforming Uses”, Section 1286.02 “Lawful Nonconformance”, to allow this legally nonconforming business, located in a residential district, to exceed the maximum amount of manual changeable copy permitted for a ground sign located on their property at 12905 Ridge Road, also known as PPN: 488-04-001.**

Moved by Dan Kasaris, seconded by Ms. Mastronicolas to **grant a variance Sections 1284.05 (k), 1284.07 and 1284.02 of the Zoning Code which would grant a variance of 16 square feet more than the maximum amount of manual changeable copy permitted for this ground sign for Grace Brothers Nursery & Supply which is located in this R1-A District.**

Mr. Price: Discussion? Donna, would you be able to give us a brief legal explanation of what is required in this variance?

Ms. Vozar: Absolutely. I would first draw the Boards’ attention to Section 1284.05 entitled **“Design Standards”**. As the Board knows the City has a comprehensive sign ordinance and in Section 1284.05 it states that **“signs, as permitted in the various zoning districts, shall be designed so as to be similar in character with regard to material, color and size to signs designed or located on the same building and on adjoining buildings in order to equalize the attention they are meant to attract and to produce an overall unified effect and in accordance with the following standards...”** It then goes on to discuss the various aspects and elements of our design standards. It should be noted though, in this case, that this is a nonconforming use of a business in a residential district. It has been as such for quite some time. As such, by law, the applicant is permitted to continue to use this nonconforming use and, in this case, the applicant is coming forward and requesting to use the same sign, in the same location, but is merely seeking to expand the use of changeable copy. The Code, under **“Changeable Copy”**, permits generally in a business district not in a residential district, but again, we have to look at the use of this property which is a business use, and in a business district the permitted changeable copy is limited to not more than 25% of the area of a permitted ground sign. In this case the applicant has indicated, based on the specific use of his property as it is located in a residential district, that he is requesting a variance from that requirement. We are, again, looking at a business use in a residential area. It is a nonconforming use. Does that help?

Mr. Price: Yes. Anybody else?

Mr. Jankovsky: I am certainly for this variance. I just wanted to tell the applicant that, besides the fact that I will be voting for it, I admire his optimism and the reasons that he submitted as far as requesting this variance. He states in his submittal that *“it is our belief that displaying our specials would generate more business and allow us to employ a larger staff”*. I certainly hope that his optimism is correct.

Mr. Kasaris: I believe that the standards for granting an area variance have been met and I will be supporting this request for a variance.

Ms. Mastronicolas: I will also be voting in favor of this variance.

Mr. Price: I will be making this unanimous then. None of the neighbors have objected. The sign has been there for a long time and there have been no complaints. It is not going to increase in size. The character of the neighborhood will not be changed just because of this changeable copy. No governmental services will be affected. I think that it will be a good move for them in these times. I will be voting for it.

Ms. Vozar: The findings of fact and conclusions of law on this variance for Grace Brothers Nursery are as follows. The applicant has appeared tonight and has testified on behalf of his variance request. In addition, a neighbor appeared and testified in support of the applicant’s request for a variance. The Councilman of Ward 4 also testified in favor of this variance and urged the Board to grant approval. Under Section 1284.05, paragraph (k) of the Zoning Code, “**Changeable Copy**”, the applicants are then requesting that 75% of the sign be changeable copy. The Board finds that practical difficulties have been established for this area variance. No governmental services will be affected. The Board finds that the applicant has established sufficient grounds, specifically the need for flexibility to attract customers due to its location in a residential district, while carrying on a nonconforming business. Is there anything else that the Board wants to add?

Mr. Price: Anything else? (No response.) Call the roll.

Mr. Kasaris: Yes.
Mr. Jankovsky: Yes.
Ms. Mastronicolas: Yes.
Mr. Price: Yes.

Ayes – all. Nays – none.
Variance granted (4-0).

Miscellaneous

Mr. Price: We are going to be off next month. There will be no B.Z.A. meeting. There has been a suggestion to change the caucus time and shorten it a little bit. Do we need a motion to do so? If anyone would care to make a motion to decrease the caucus time.

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **reduce the caucus time 15 minutes thereby changing the caucus time so that the caucus begins at 7:15 and ends at 7:30 p.m.**

Mr. Price: Any discussion? Call the roll.

Ms. Mastronicolas: Yes.
Mr. Price: Yes.
Mr. Kasaris: Yes.
Mr. Jankovsky: Yes.

Ayes – all. Nays – none.
Caucus will now begin at 7:15 and adjourn at 7:30 p.m.

Mr. Price: Anything else? (No response.) Is there a motion to adjourn?

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **adjourn the B.Z.A. meeting of July 26, 2010.**

Ayes – all. Nays – none.
Motion carried.
The Board of Zoning Appeals Meeting adjourned at 7:59 p.m.

Approved: _____
Chairman

Date: _____

Attest: _____
B.Z.A. Secretary