

The **Board of Zoning Appeals** of the City of North Royalton met on **January 23, 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 7:30 p.m.

Present: Chairman Dan Kasaris, Vice-Chairman Robert Jankovsky, Victor Bull, Anthony Rohloff, Dale Gauman, Prosecutor Donna Vozar, Building Commissioner Dan Kulchytsky, Secretary Lynn Brinkman.

Public Hearing

(BZA13-01) Kensington Homes, Inc. / Pine Hill Development request a variance to **Chapter 1270 "Residential Districts", Section 1270.05 "Schedule of Area, Yard and Height Regulations"**, of the City of North Royalton Zoning Code, for relief from the **minimum rear yard setback** requirement for a **new home** they wish to construct on this property located at **5020 Brookhaven Drive**, in a R1-A zoning district, also known as **PPN: 486-24-016**.

Public Hearing Notices were sent to property owners within 500 feet of the property in question and posted for the required period of time.

Ms. Brinkman: Before we move on I would like to read a letter that we received from an adjacent property owner on the subject of this request. It was submitted on January 17, 2013 by Frank D. Brook, P.E., resident of 18435 State Road, and it states as follows.

"Subject: Request for relief from the minimum yard setback for 5020 Brookhaven Drive.

Approximately 5 years ago a request for a variance was made by Mr. & Mrs. Minisal at 5180 Brookhaven, the house being built by Mr. Minisal. Mr. Minisal told us that the request was denied.

Since the Zoning Code was written with good reason and the last (known to us) request was denied, we oppose any variance or relief from the Code.

We own the property adjacent to this parcel on the north side and thus are the ones to be most affected by this variance or relief, if approved."

The Chairman recognized anyone wishing to be heard.

Mr. Kasaris: Are the applicants here? If you could please approach the microphone. Would you both raise your right hand please. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God? Would you both state your name and address.

Mr. Goldberg: Yes. Scott Goldberg, 5866 Broadview Road, Cleveland.

Ms. Sorensen: Yes. Michelle Sorensen, 31150 Emery Road, Orange Village.

Mr. Kasaris: Mr. Goldberg, you may proceed.

Mr. Goldberg: I am here as the developer with Pine Hill Development Company Limited, which developed Pine Hill Subdivision and in particular Sublot 12, which is one of the 41 lots in the first phase of Pine Hill Subdivision. When completed Pine Hill will have 72 developed lots. At this point there are 41 lots. The typical lot in Pine Hill has a buildable depth of 44 feet, which is somewhat shallow but the homes in there have been able to be built with that depth, and rather nicely. This lot, Sublot 12, is .4596 acres which is a little over 20,000 square feet. The westerly property line is 135.57 feet in depth. The easterly property line is only 114.72 feet in depth. I would note that the front yard setback is at 45 feet and the required rear yard setback is at 50 feet. What that means is that the buildable depth of this subplot, allowing for a side entry garage which is typical in this subdivision and required by the covenants and deed restrictions, where the footprint of the buildable part of the house is approximately 35 – 36 feet in depth, ends up being about 8 feet less than the typical lot in this subdivision. In fact, Sublot 12 is the only lot in the subdivision quite like this – it has a very shallow buildable depth. As you move further east on the lot, due to the curvature of the street, the buildable depth starts narrowing to about 20 feet or so. (Continued on next page...)

Mr. Goldberg: As the developer we have been marketing this lot. We have had two builders who have built other houses in this subdivision who have passed on this lot because they could not develop a layout that would be comparable to the other homes that they had built in the subdivision and the other homes that have been built by other contractors in this subdivision. They had both passed on this lot. They had told us that they could not build anything without obtaining a variance on this lot and they had not wanted to take the time to do so. In discussing this with my sister, Michelle Sorensen who is president of Kensington Homes, we started looking at the lot to try to figure out what would be buildable within the footprint. She came up with many different designs and layouts but we kept hitting that rear yard setback issue. She was hugging that front yard setback pretty closely. We then concluded that we could not construct a home that would be comparable in size with regard to the square footage of the home or one that would be similar in layout to the homes that currently exist in the subdivision. The typical home in the subdivision is built with a 44 foot buildable depth and is upwards of 3,900 square feet. We have some that are at the lower end being about 2,400 – 2,700 square feet. Most of the homes there are large homes. It would really be impossible to get a layout with such a shallow depth. So in seeking to design something comparable to what currently exists in Pine Hill right now we ended up designing a layout that has approximately 44 feet in depth. I might also add that this parcel of land is sort of pan-handled shaped and the street itself is more or less a straight street except in the one spot where this subplot is located. When we were going before the City for approvals some year ago, the City Planner at that time asked us to avoid the “drag strip” or “landing strip” type of appearance for the street and maybe curve it. This was the only place to do it because adjacent to Sublot 12 there is an open space which you can see on the layout that had been provided to you. There is a stream here which is buffered and protected. The street actually curves into that which makes Sublot 12 the way that it is today. It solved one problem but created another in that it made the overall appearance of the street look better for the subdivision but also pushed into Sublot 12 to make it shallower. The variance would allow a buildable depth which would virtually be identical to the other lots in the subdivision. To my knowledge, and I was not familiar with the variance that had been sought by Mr. Minisal, all of the other homes that have been built in there have been built without having to obtain a variance due to the fact that they did have a buildable depth of 44 feet. When we received our approvals for the overall subdivision from the City we did so without asking for any variances. This is our first opportunity, given the unusual circumstances on this subplot, to seek a variance here tonight. We would like to build a home on this lot and not have it vacant any longer. I ask for your favorable consideration of the application that is submitted before you tonight.

Mr. Kasaris: What is the difference between buildable depth and frontage?

Mr. Goldberg: The frontage of this lot is somewhat irregular because of ...

Mr. Kasaris: I am sorry – I meant to say “setback”.

Mr. Goldberg: Let’s say, for instance, that on the east side of the lot the depth of the lot is 114.72 feet. The rear yard setback is 50 feet and the front yard setback is 45 feet, which comes to a total of 95 feet. That is 95 feet which is off limits as far as building anything.

Mr. Kasaris: That is due to the setbacks.

Mr. Goldberg: Correct. So if you subtract 95 feet from 114 feet, which is the depth of the property, it leaves approximately 19.72 feet where you could actually build something within it. This is exceptionally shallow.

Mr. Kasaris: So it would allow a house about 20 foot wide.

Mr. Goldberg: Yes. That would be the case on the east side of the lot. On the west side of the lot the depth is a little more – roughly 135.6 feet. So if you would subtract 95 feet from that you would have approximately 40 feet and that would be at the property line. This house has a side entry garage though as set by our covenants and deed restrictions; therefore, you end up with a driveway apron of about 25 feet away from the property line where the garage would start. Where the livable portion of the house would be it would be approximately just under 36 feet. That is where we get the 8 feet that we are off.

Mr. Kasaris: What kind of house could you build there without a variance?

Mr. Goldberg: We could come up with a plan that would be a substandard house and possibly an eyesore for this development. We could not lay out a floor plan that would be marketable, in our opinion.

Mr. Kasaris: The subdivision regulations provide for a certain square footage and also require a side entry garage?

Mr. Goldberg: That is correct. The minimum square footage for a ranch-style home is 2,300 square feet and for a two-story house is 2,700 square feet. What has happened, in actuality, is that there are maybe one or two houses that are near that. Most of the houses are much, much larger.

Mr. Kasaris: Can you get a ranch on this property without a variance?

Mr. Goldberg: No. Any of the ranch homes that have been constructed have been right at the building lines of a "normal" lot which would have 44 feet of buildable depth.

Mr. Kasaris: The plat that the City approved included this particular parcel of land which is kind of unique.

Mr. Goldberg: That is correct.

Mr. Kasaris: Anyone else have any questions?

Mr. Rohloff: Mr. Chairman, I do. Could you go into a little more detail regarding the curve in the road. How did that curve in the road come to be?

Mr. Goldberg: I believe that the original plan that our engineer had designed showed a straight shot down the road. It is not quite a rectangle – the property actually narrows a little bit before it gets to what will eventually be the next phase. I have a copy of the plat here but basically the issue there was that when the engineer originally designed it he wanted to keep an equal amount of depth for each side of the street. To avoid that straight stretch of street which the City did not really want, the engineer looked for some opportunity to curve the street in some way. This sort of was that opportunity. It would do the least amount of damage to the lots. In fact, this lot was the only one that was impacted in that way.

Mr. Rohloff: If I am hearing you correctly the City actually asked you to change this lot dimension or did they simply ask you to place a curve on the street?

Mr. Goldberg: The issue was to propose a street that was not configured as a straight line. They preferred to have a curve in the street if at all possible. When we did that we were not sure what the subdivision would ultimately look like - what would get built in there. Now that you can see what was built on what I would call the "choice" lots, the bread and butter lots, it has sort of set a standard for that subdivision. It turns out, at least for this lot, that it would not allow for a house of that caliber to be built.

Mr. Rohloff: So the City suggested that you **not** make it like a bowling alley or runway.

Mr. Goldberg: Correct.

Mr. Rohloff: You then took it upon yourself to survey the area to see where the least amount of impact would be?

Mr. Goldberg: Yes. We went to our engineer and told him what the City would like to see so he could determine if it would be possible. That is how we ended up with the street as you see it today.

Mr. Kasaris: Any further questions?

Mr. Bull: Will that 8 foot reduction effect, in any way, the ability to sell that house and property once it has been constructed?

Mr. Goldberg: By the granting of the variance – is that what you are asking?

Mr. Bull: Yes. If you reduce the rear yard setback by 8 feet will that make the property less desirable and more difficult to sell?

Mr. Goldberg: By having a 42 foot rear yard setback? No.

Mr. Bull: Not that you end up having an empty house that you cannot sell sitting there.

Mr. Goldberg: I might also add, with regard to Mr. Brook's letter, that the distance from the closest corner of the property on Sublot 12 to his home is approximately 770 feet. So we are not directly on top of him with this lot. The lot that is directly in front of him does have a home built on it and it was constructed without a variance. That is Sublot 6. We are then 6 sublots away which is approximately 700 feet. The area behind this particular lot is all wooded. He has an exceptionally long lot that is wooded at that point. We would certainly not ask for a variance of this kind if we were right on top of him. In that case it probably would affect the marketability of that lot. We are far enough away from him that I would hope that he would not be impacted. One additional item. The home that my sister designed for this lot is approximately 3,200 square feet. It ends up being, for a home of that square footage, maybe a little below what is in the subdivision but certainly close enough to fit in. The house itself is 108 feet in width - from the left corner of the garage to the right corner. It will be an impressive looking home. She has the plans with her which show the elevations. She stretched it as much as she could while trying to minimize the impact on the rear yard. The 8 foot variance being requested is the minimum that we would need and is comparable, again, to the other lots in the subdivision.

Mr. Rohloff: What is the minimum depth for a lot? Do you need 144 feet?

Mr. Goldberg: It depends. The front yard setback is allowed to vary, by Code, between 45 – 55 feet. It has to average 50 feet. Most of the lots in this subdivision are from 45 – 55 feet, with an average of 50 feet.

Mr. Rohloff: You said that the one side property line was about 114.72 feet and the opposite side property line about 135.57 feet. What about the lot next to this – Sublot 11? That has a side property line of 135.57 feet and the lot is kind of square. That lot would probably not qualify for the proper depth either – is that correct?

Mr. Goldberg: It would actually have about 40 feet and as you move further west, towards State Road, it actually gets a little deeper. For instance, Sublot 1, which is the closest lot to State Road, the depth of the lot is 155.81 feet. So as you move west on the street the depth of the lots actually increase a little bit. Sublot 11 is a corner lot, would have a side entry garage and the driveway would be on the street stub; therefore, you would not have the problem that you have on Sublot 12 where if you put in a driveway and an apron it pushes the house further away from the property line and into an even shallower buildable depth.

Mr. Rohloff: I see the error in my math there. I was not thinking about the turn and the apron.

Mr. Goldberg: That makes a big difference for Sublot 12.

Mr. Kasaris: Any further questions? Mr. Building Commissioner?

Mr. Kulchytsky: No.

Mr. Kasaris: If there is no one else who wishes to speak I will then entertain a motion to move BZA13-01 to the open meeting portion of our agenda.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **move BZA13-01 to the Open Meeting.**

Mr. Kasaris: Please call the roll.

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

Ayes – five. Nays – none.
Motion carried (5-0).

(BZA13-02) Brilliant Electric Sign Co. / Dr. Manbir Pannu request a variance to **Chapter 1284 “Signs”, Section 1284.10 “Location and Supplementary Area Regulations for Signs in Business Districts”, paragraph (d)**, of the City of North Royalton Zoning Code, for relief from the **signage** requirement relative to the **minimum street frontage** required for a **ground sign** they wish to install on this property located at **8523 Ridge Road**, zoned for Local Business, **also known as PPN: 489-01-009**.

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. Kasaris: Is the applicant here? Please approach the microphone. Would you raise your right hand please. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Harrison: I do.

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

Mr. Harrison: My name is Major Harrison. I am with Brilliant Electric Sign Co. located at 4811 Van Epps Road, Cleveland, Ohio. The property in question is a medical office. The frontage of the lot is 67 feet. We are seeking a ground sign for this location. It is an obvious business and any identification for signage is paramount for any business which seeks to operate anywhere, especially in this economy. There is a very evident hardship in this case. In this type of situation a ground sign is necessary. At this time there is no sign to identify the building. This is a multiple practice medical facility and signage is necessary for identification purposes. I hope that the Board recognizes the obvious hardship here. I will gladly answer any questions that the Board might have.

Mr. Kasaris: Why can't the Code be followed, as it is written, as far as the placement of this sign.

Mr. Harrison: The lot does not have the required minimum street frontage of 75 feet. Your Zoning Code requires that one ground sign can be located on a parcel provided that it is on a lot with a minimum street frontage of 75 feet. This is a multiple practice medical facility so identification for signage is very necessary.

Mr. Kasaris: We have a sign ordinance which requires a certain street frontage. Why can't that be met with regard to this sign?

Mr. Harrison: The property was purchased without knowledge of the zoning resolution limiting the business to virtually no identification for the business via a ground sign.

Mr. Kasaris: Can the sign be erected on the property in compliance with the Zoning Code? That is the question that I have.

Mr. Kulchytsky: Mr. Chairman, if I may. The issue at hand is that the existing parcel is 67 feet in width. This prohibits the owners of the parcel from erecting a ground sign on the front parcel. The setbacks can be complied with. They have an existing condition in that the parcel is only 67 feet wide while our ordinance requires that any parcel that is commercial in nature have a width of 75 feet to even be allowed to have a monument sign.

Mr. Kasaris: So no sign can be erected on this parcel at all without first obtaining a variance.

Mr. Kulchytsky: Not on the front portion. You could have signage at the building which has a rather far setback from the street and would reduce visibility.

Mr. Kasaris: How far is the building set back from the street?

Mr. Harrison: I do not have the measurement but I would say that it would be roughly in the range of 50 feet or so. The sign, as proposed, would be setback 25 feet from the right-of-way. It is right before an indentation of two parking areas. The building is set back even further so I would say at least 50 feet and probably more in the range of close to 75 feet. So in this case a wall sign would do the business no justice because you would not be able to see it clearly. Vehicular traffic would not be able to identify the tenants of the building in a timely fashion and be able to navigate within the parking area and to their destination.

Mr. Kasaris: So if I were driving down Ridge Road and looking for the business it is quite conceivable that I might miss the business if the sign was only located on the wall of the building.

Mr. Harrison: That would be very conceivable. You would probably pass the building.

Mr. Bull: Mr. Harrison, would you care to modify your response to letter "G" referencing the items relative to area variances?

Mr. Harrison: I would. I can do this verbally. The item reads: **"Whether the property owners' predicament feasibly can be obviated through some other method other than a variance"**. In this case, Mr. Bull, it cannot. The ground sign is very paramount to this business for identification purposes. A wall sign would not meet the needs of the property owner for the reasons that I have stated before.

Mr. Bull: Would you be able to modify your response and hand it in to the secretary at some point in the future so that we do not think that we are running a church out of this building.

Mr. Harrison: Yes sir.

Mr. Bull: Thank you.

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

Mr. Kulchytsky: No comments.

Mr. Kasaris: Thank you. Can I then have a motion to move this item to the open meeting.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **move BZA13-02 to the Open Meeting.**

Mr. Kasaris: Please call the roll.

Mr. Bull: Yes.

Mr. Rohloff: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Jankovsky: Yes.

Ayes – five. Nays – none

Motion carried (5-0).

Mr. Kasaris: May I have a motion to adjourn the Public Hearing?

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

Mr. Kasaris: Please call the roll.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Rohloff: Yes.

Ayes – five. Nays – none.

Motion carried (5-0).

Public Hearing adjourned at 8:00 p.m.

The **Board of Zoning Appeals** of the City of North Royalton met on **January 23, 2013** to hold an **Open Meeting** in the Council Chambers at City Hall, 13834 Ridge Road. The meeting was called to order by Chairman Dan Kasaris at 8:00 p.m.

Present: Chairman Dan Kasaris, Vice-Chairman Robert Jankovsky, Victor Bull, Anthony Rohloff, Dale Gauman, Prosecutor Donna Vozar, Building Commissioner Dan Kulchytsky, Secretary Lynn Brinkman.

Mr. Kasaris: May I have a motion to excuse Mr. Rohloff for cause from voting on the Minutes from the October 24th, 2012 meeting.

Moved by Mr. Bull, seconded by Mr. Jankovsky to **excuse Mr. Rohloff for cause.**

Mr. Kasaris: Please call the roll.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Ayes – four. Nays – none.

Motion carried (4-0). Mr. Rohloff is excused from voting.

Mr. Kasaris: May I have a motion to approve the October 24th, 2012 Minutes?

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

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

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Jankovsky: Yes.

Ayes – four. Nays – none.

Motion carried (4-0). Minutes are approved.

Open Meeting

New Business:

(BZA13-01) Kensington Homes, Inc. / Pine Hill Development request a variance to **Chapter 1270 “Residential Districts”, Section 1270.05 “Schedule of Area, Yard and Height Regulations”,** for relief from the **minimum rear yard setback** requirement for a **new home** they wish to construct on this property located at **5020 Brookhaven Drive**, in a R1-A zoning district, **also known as PPN: 486-24-016.**

Mr. Kasaris: Does anyone have anything to add with regard to this application?

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance of 8 feet less than the required rear yard setback as prescribed in Section 1270.05 of the Zoning Code with regard to the location of this proposed new home from the rear property line.**

Mr. Kasaris: Any discussion?

Mr. Jankovsky: Mr. Chairman, I believe that the practical difficulty has been demonstrated quite clearly by the applicant. In this particular case the prior requirement of the City to curve the road has obviously contributed to the situation that they now face. I think that the applicant has probably covered all of the bases. (Continued on next page...)

Mr. Jankovsky: They have described the property behind them and the fact that they would not be directly impacted by the granting of this 8 foot variance relative to a rear yard setback since there is no home directly behind this lot. I will be supporting this request for a variance.

Mr. Kasaris: Anyone else? After listening to the evidence and having reviewed the packet in front of us – I find that the variance request is not substantial. This will not change the character of the neighborhood. It will not have an adverse effect on governmental services. This is one of the first times since I have been with the Board of Zoning Appeals that this one condition has been met – that being that special conditions exist which are peculiar to this property and are not generally applicable to other lands. This problem cannot be obviated by any other method. The plat that the City approved, in effect, contributed to this odd shaped lot. I therefore support this request for a variance and would incorporate those reasons as the “findings of fact” for this Board. Anybody else have anything to add? Will the clerk please call the roll.

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

Ayes – five. Nays – none.
Variance granted (5-0).

(BZA13-02) Brilliant Electric Sign Co. / Dr. Manbir Pannu request a variance to **Chapter 1284 “Signs”, Section 1284.10 “Location and Supplementary Area Regulations for Signs in Business Districts”, paragraph (d)**, for relief from the **signage** requirement relative to the **minimum street frontage** required for a **ground sign** they wish to install on this property located at **8523 Ridge Road**, zoned for Local Business, also known as PPN: 489-01-009.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant relief from Section 1284.10 (d) of the Zoning Code so as to allow a variance of 8 feet less street frontage than required for a ground sign to be installed on this parcel.**

Mr. Kasaris: Any discussion or comments to be made?

Mr. Jankovsky: Mr. Chairman, I believe that this variance request is totally within the bounds of what we look for in approving a variance. I am a firm believer that our sign code should be as friendly as possible to the business community. This is an established business which has been there for some years. The request is not unreasonable. I will be supporting the approval of this variance request.

Mr. Kasaris: Anyone else? After listening to the evidence and reviewing the packet I find that we have a business on a lot which, under the current Zoning Code, does not allow a ground sign due to the fact that the lot does not have sufficient street frontage. I do not think that it would have a negative impact on the neighborhood. It actually affects traffic because you need to be able to easily locate the business as you go by. I find that the variance is not substantial and will not alter the character of the neighborhood. It is not going to affect governmental services. I think that it will actually make is safer for vehicular traffic on the street. I believe that practical difficulties have been met. Anyone else have anything to add? If not, clerk, please call the roll.

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

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

Mr. Kasaris: Anyone have anything for miscellaneous? If not, may I have a motion to adjourn.

Moved by Mr. Bull, seconded by Mr. Jankovsky to **adjourn the B.Z.A. meeting for January 9, 2013.**

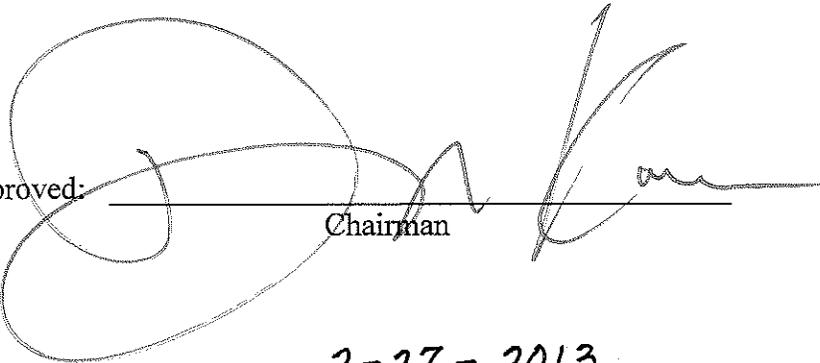
Mr. Kasaris: Clerk, please call the roll.

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

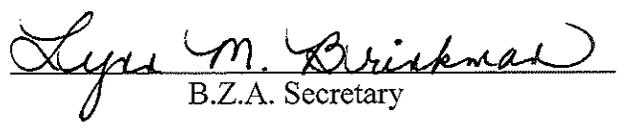
Ayes – four. Nays – none.

Motion carried (5-0).

The Board of Zoning Appeals Meeting adjourned at 8:09 p.m.

Approved: 
Chairman

Date: 2-27-2013

Attest: 
B.Z.A. Secretary