

**The Board of Zoning Appeals of the City of North Royalton  
met on September 29, 2016 to hold a Public Hearing in  
the Council Chambers at 14600 State Road.**

The meeting was called to order by Chair Dan Kasaris at 7:00 p.m.

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

**Minutes:** Moved and seconded to approve the May 26, 2016 meeting minutes as submitted. Motion carried.

Moved and seconded to approve the July 28, 2016 meeting minutes as submitted. Motion carried.

### **PUBLIC HEARING/ OPEN MEETING**

For the benefit of those in the audience, Mr. Kasaris provided an overview of the Board of Zoning Appeals Committee and BZA meeting process.

### **NEW BUSINESS:**

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

- A. **BZA16-27** – **Daniel Taylor** is requesting two variances to Chapter 1270 “Residential Districts”, of the City of North Royalton Zoning Code for a proposed accessory building (hoop house) at **8193 Abbey Road**, also known as PPN:481-07-015/PPN:481-07-019, in a R1-A district. The variances being requested are as follows:

**Variance #1:** Codified Ordinance **Section 1270.12 (a) “Yards for Accessory Buildings and Uses”**. Request is for a variance to allow for a 2<sup>nd</sup> accessory structure (high tunnel hoop house) in addition to the existing accessory structure.

**Variance #2:** Codified Ordinance **Section 1270.12(a)(1)B. “Yards for Accessory Buildings and Uses”**. Request is for a variance of 1,960 sq. ft. to allow for relief from the 905 sq. ft. maximum permitted for an accessory structure. (The total sq. footage of both structures goes over the permitted square footage allowed.)

The Building Commissioner stated that the hoop house is considered an accessory structure; it is a seasonal greenhouse which is kept up year round. Agnes Taylor spoke on behalf of Daniel Taylor. She stated that the temporary seasonal high tunnel exceeds the allowable square footage permitted. She said the property is approximately 6 acres with an 1800 sq. ft. main house and a barn which is 700 sq. ft. The seasonal high tunnel was purchased through a grant from the U.S. Dept. of Agricultural Natural Resources Conservation Service for a high tunnel measuring 2,160 sq. ft. They are seeking a variance of 1,960 sq. ft. to allow for relief from the 905 sq. ft. maximum permitted. She stated the reasons they wanted a high tunnel. The food grown would be for their three families and would not be sold. She stated the high tunnel’s life expectancy is four years. She added that the property is surrounded by woods and bushes in every direction and borders the North Royalton Water Treatment facility on one side. The Applicant stated she understands the stipulation regarding the variance lapsing after 4 years and need for the structure to come down after that time.

The Chair stated that granting variance #1 and #2 will not adversely affect the delivery of governmental services; it borders a commercial property; it will not be out of character for the neighborhood; no adjoining property owners will suffer any substantial detriment. In conclusion he stated he supports the variance. With no further discussion the Chair adopted his findings for that of the Board.

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve Variance #1 to C.O. Section 1270.12 (a) to allow for a 2<sup>nd</sup> accessory structure (high tunnel hoop house). The variance will lapse in 4 years and the building will then need to be removed or the Applicant can reapply at that time.** Roll call: Yeas: Five. (Ragone, Bull, Kasaris, Sadowski, Rohloff). Nays: None. **Variance granted.**

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve Variance #2 to C.O. Section 1270.12 (a) (1) B. for a variance of 1,960 sq. ft.** to allow for relief from the 905 sq. ft. maximum permitted for an accessory structure. The total sq. footage of both structures goes over the permitted square footage allowed. **This variance for a high tunnel hoop house will lapse in 4 years; the building will then be removed or the Applicant can reapply.** Roll call: Yeas: Five. (Ragone, Bull, Kasaris, Sadowski, Rohloff). Nays: None. **Variance granted.**

- B. **BZA16-28 – Ed Steimle** is requesting two variances to Chapter 1270 “Residential Districts”, of the City of North Royalton Zoning Code for a proposed 800 sq. ft. accessory building (pavilion) at **18801 State Road**, also known as PPN: 486-24-012, in a RRZ district. The variances being requested are as follows:

**Variance #1:** Codified Ordinance **Section 1270.12 (a) “Yards for Accessory Buildings and Uses”**. Request is for a variance to allow for a 2<sup>nd</sup> accessory structure (pavilion) in addition to an existing accessory structure.

**Variance #2:** Codified Ordinance **Section 1270.12 (a) (1) B. “Yards for Accessory Buildings and Uses”**. Request is for a variance of 845 sq. ft. to allow for relief from the 1,752 sq. ft. maximum permitted for an accessory structure. (The total sq. footage of both structures goes over the permitted square footage allowed.)

Edward Steimle stated he is requesting a variance for a 260 sq. ft. pavilion accessory structure that will be used for recreational use and entertainment use to go along with their existing built-in swimming pool. He said his lot sits back approximately 2,300 feet off the road. It is surrounded by woods; the nearest neighbor is approximately 1,500 ft. away. The Building Commissioner stated that the pavilion is clearly designed for entertainment purposes; it follows the intent and spirit of the code.

The Chair stated based upon the evidence submitted and the testimony of the homeowner, the essential character of the neighborhood will not be substantially altered and since this is a wooded lot, the adjoining property owners will not suffer a substantial detriment by granting of this variance. It will not affect the delivery of Governmental services and the spirit and intent of the zoning code will not be violated by granting both variance requests. With no further discussion, the Chair adopted his findings for that of the Board.

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve Variance #1 to C.O. Section 1270.12 (a) to allow for a 2<sup>nd</sup> accessory structure (pavilion).** Roll call: Yeas: Five. (Ragone, Bull, Kasaris, Sadowski, Rohloff). Nays: None. **Variance granted.**

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve Variance #2 to C.O. Section 1270.12 (a) (1) B. for a variance of 845 sq. ft.** to allow for relief from the 1,752 sq. ft. maximum permitted for an accessory structure (pavilion). The total sq. footage of both structures goes over the permitted square footage allowed. Roll call: Yeas: Five. (Ragone, Bull, Kasaris, Sadowski, Rohloff). Nays: None. **Variance granted.**

- C. **BZA16-29 – Robert Leimkuehler on behalf of Leim LLC** is requesting a variance to Chapter 1286 “Nonconforming Uses”, of the City of North Royalton Zoning Code for a proposed detached garage at **6478/6466 Royalton Road**, also known as PPN: 488-06-028, in a TCD district. The variance being requested is as follows:

**Variance:** Codified Ordinance **Section 1286.06 (b) “Extension Prohibited”**. The applicant is proposing to erect a 720 square foot detached garage with a 16 foot roof line thereby expanding the residential non-conforming use of this property. The request is for **relief from the prohibition of an expansion to a non-conforming residential use in a TCD district.**

The Building Commissioner stated this property has an existing non-conforming structure which is the residence; we currently do not have a series of rules and regulations within the TCD-1 District that would regulate it. The Board should therefore take the application on its merits and determine if it is a reasonable expansion of a non-conforming use. He added that a 16 ft. roof line and the size of the attached garage are in character of the area and not an unreasonable size. Bob Leimkuehler stated he is seeking a variance to build a two-car garage behind his rental house for parking of the resident’s cars. He said a commercial building is located in the front which has been used for business purposes for the past 20

years. A house is located behind that building. He wants to build a garage behind the existing house approximately 300 feet back from the street. He added that the radio towers are located behind this parcel. The Assistant Law Director stated that in the TCD zone, mixed use is permitted. She clarified that this is not an expansion of the main use; it is an expansion of an accessory use.

The Chair stated that the Applicant is adding something to the property that will enhance its value. He added that City Council is in the process of adopting legislation that would relax the very stringent standards for "use" variance for situations like this one. He said the granting of this variance is not going to be a detriment to the public welfare; it will not affect the neighboring properties; it is not contrary to the objectives of the code or of the Master Plan. The variance request is reasonable for the area. He said for those reasons he supports the variance request and adopts his findings for that of the Board.

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve the variance to C.O. Section 1286.06 (b) for relief from the prohibition of an expansion to a non-conforming residential use of the property in a TCD district in order to erect a 720 square foot detached garage with a 16 foot roof line thereby expanding the residential non-conforming use of this property.** Roll call: Yeas: Five. (Ragone, Bull, Kasaris, Sadowski, Rohloff). Nays: None. **Variance granted.**

- D. **BZA16-30** – **Ryan Knotek of Imperial Landscape on behalf of Jacqueline Zanotti (Olszewski)** is requesting a variance to Chapter 1270 "Residential Districts", of the City of North Royalton Zoning Code for a proposed detached garage at **7468 Wallings Road**, also known as PPN: 482-22-013, in a R1-A district. The variance being requested is as follows:

**Variance:** Codified Ordinance **Section 1270.12 "Yards for Accessory Buildings and Uses", Paragraph (b) "Accessory Building Locations in R1-A district."** Request is to allow for relief from the 20 foot distance to a dwelling requirement for the proposed detached garage.

Ryan Knotek spoke on behalf of Jacqueline Zanotti (Olszewski). He stated that the current garage is 11 feet from the corner of the house. The garage is dilapidated and sits next to a storm water way that runs from Ridge Road through the back of the property and exits on Wallings Road. The water runs through a swale which washed away the foundation of the garage. He said they would like to build a new garage forward 8 feet; which would be 6 feet away from the waterway. Exhibit A showed the dilapidated garage leaning and sunken in the corner. The Applicant stated jacks have been added to help support the garage. The Building Commissioner stated that moving the garage forward would alleviate the erosion issues on the foundation of the structure. Mr. Rohloff questioned if they are moving it forward enough. Dan Langshaw, Ward 3 Councilman, stated it is a positive improvement of the property and he is in favor of the variance request however he would ask that the Engineering Department look at the plans to be sure there are no future issues with potential flooding either down or up stream. The Assistant Law Director stated that it is the Applicant and their builder's responsibility to make sure it is done correctly. We make sure they comply with City code requirements including storm water issues. She added, the Applicant can reach out to the Engineering Department but we cannot design their project or tell them where to put it. The Engineering Department will review the permit if it interferes with our storm sewers and will check if it is in compliance with our codes.

The Chair stated the variance is not substantial and is the minimum necessary to make reasonable use of the land; the character of the neighborhood will not be substantially altered; adjoining properties owners will not suffer a substantial detriment; the variance will not affect delivery of Governmental services; special conditions exists because of the storm water and the predicament cannot be obviated through other means. He said the spirit and intent behind the zoning code will not be violated; the garage is dilapidated and needs to be taken down. The Chair adopted his findings for that of the Board.

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve the variance to C.O. Section 1270.12(b) to allow for relief from the 20 ft. distance to a dwelling requirement for the proposed detached garage.** The garage will be located 11 feet from corner of garage. Roll call: Yeas: Five. (Ragone, Bull, Kasaris, Sadowski, Rohloff). Nays: None. **Variance granted.**

- E. **BZA16-31** – **Mark and Sarah Vittardi on behalf of property owner Crystal Creek LLP** is requesting a variance to Chapter 1270 "Residential Districts", of the City of North Royalton Zoning Code for a proposed dwelling on **8300 Crystal Creek Drive S/L 9**, also known as PPN: 481-01-029 in a R1-A district. The variance being requested is as follows:

**Variance:** Codified Ordinance **Section 1270.05 “Schedule of area, yard and height regulations”**. Request is for a variance of 10 ft. to allow for relief from the minimum 50 ft. rear yard setback in order to construct a dwelling.

Mark Vittardi stated his architect Ted Macosko, can speak on his behalf. Mr. Macosko stated some of the lots in the subdivision have a drainage ravine which cuts across from west to east. The developer created an easement across the front of their property to access the property to the west. The lot is challenged with easements. A variance is needed in order to build a home comparable to the neighboring homes. Dan Gibson stated he lives 8377 West 130<sup>th</sup>; he expressed his concern regarding past flooding issues in the back of the properties.

The Chair stated based upon the testimony, there cannot be beneficial use of the property without a variance because there are special conditions that exist due to the easements on the lot. The variance is not substantial; it is the minimum necessary to make reasonable use of the land; it will not alter the essential character of the neighborhood; it will not adversely affect the delivery of governmental services; the owners predicament cannot be obviated through any other means other than a variance. The spirit and intent behind the zoning code would be observed by granting the variance request. For those reasons, he said he supports the variance request and adopts his findings for that of the Board.

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve a 10 ft. Variance to C.O. Section 1270.05 to allow for relief from the 50 ft. rear yard setback in order to construct a dwelling.** Roll call: Yeas: Five. (Ragone, Bull, Kasaris, Sadowski, Rohloff). Nays: None. **Variance granted.**

- F. **BZA16-32 – Frank Puliafico** is requesting a variance to Chapter 1270 “Residential Districts”, of the City of North Royalton Zoning Code for an accessory building at **20912 Fawnhaven Drive**, also known as PPN: 485-21-023, in a R1-A district. The variance being requested is as follows:

**Variance:** Codified Ordinance **Section 1270.12 (b) – “Yards for Accessory Buildings and Uses”** request is for a variance of 8 ft. less than the minimum 10 ft. rear yard setback requirement for an accessory structure.

The Building Commissioner stated that the structure was erected without permits. Frank Puliafico stated that it was not his intent to have the structure go in the way it went in. He said he came to the Bldg. Department in February or March to find out what the requirements were. He then checked with his HOA to see if he would be able to get their approval. He contacted CEI after discovering he had a CEI easement in his back yard. After several attempts, he was put in contact with the CEI Real Estate Department; he did not hear back from them. He also contacted AT&T and was told that it was an easement rented/leased to CEI. In August, he had a contractor hired to clean out his downspouts. He was not aware they did not pull permits to do the work in the front of his home. He went ahead and used the same contractor to put the footers in for the shed even though he did not yet hear back from CEI or AT&T regarding the easement. He stated he needs the shed because he only has a two car garage which stores their lawn tractor and he needs additional room for storage. Ms. Vozar stated that the easement for CEI and AT&T were shown on the documents submitted with his application.

William Dlugos was concerned about the use of the elaborately designed storage shed. Mr. Puliafico responded he wanted to build something that was appealing to look at. Ken Springer, Treasurer of the North Boston HOA, stated their property abuts the Applicant's property. In 2014 he had discussion with the Applicant regarding Mr. Puliafico's request that the HOA cut the grass on the hillside that holds the retention basin in. After discussions with the Building Commissioner, Mr. Springer informed the Applicant that the HOA would cut the basin but would not be cutting the grass; they would be allowing it to grow naturally as permitted. In 2015 the Cuyahoga Soil & Water Conservation District (SWCD) contacted the HOA; they are now on a five year plan to redo the entire retention basin. Recently, without the HOA knowing it, someone installed a drain and drain tile at the base of the detention basin behind Mr. Puliafico's property. Mr. Springer said they do not want to give approval until they know what needs to be done on the retention basin; this added drain could create changes to what the SWCD had proposed. He was concerned that if it wasn't tied in correctly, what could be happening underneath; possibly washing away the area which is on the HOA's property. He added that all of the North Boston HOA residents that butt up against the retention basin have followed the appropriate City Code. He questioned if permits were pulled for the drainage work on the Applicant's property which included work being done with a bulldozer. The Chair asked the Applicant if permits were pulled for the drain work done on the property. The Building Commissioner stated that a permit would need to be pulled through

the Engineering Department for any change of grade within the City. The Applicant responded that a permit was issued for the downspouts on the front of the house. He added that he still has to put rocks down at the end of pipe. He is awaiting final approval. He said no drain tiles were put in the back yard. He said the excess dirt from the front was put in the back yard to fill in erosion and then he seeded it. He is not aware of who put the catch basin in but he said it was after he moved in. The back area would hold a lot of water so he had someone fix the problem. He said he couldn't remember the names of who put the catch basin in. Mrs. Vozar stated that if Mr. Springer believes the drain catch basins are on the HOA property, they should contact the City Engineer and they can investigate the matter with the adjoining property owner. Mr. Rohloff asked Mr. Springer if the shed affects the retention basin. Mr. Springer responded it does not. Mr. Kulchytsky referred to a memorandum from the City Engineering. The memorandum stated in brief that typically, an easement given to a public utility restricts the placement of permanent structures within said easement to allow future access for maintenance of their facilities. With that said if this application had come before the City administration to construct the accessory structure the current location would have not been allowed. It would have been placed with the proper setbacks per the zoning and located outside of the easement. He continued, the memo states that the Engineering Department cannot support the granting of a variance for this applicant for the reasons stated in the memorandum. The Chair asked if there are other areas on the parcel where the shed could be built. Mr. Kulchytsky responded yes.

The Chair stated that the City Engineer has recommended denying the variance request. The Applicant was aware of the AT&T/CEI easement and chose to construct over the easement and also chose to knowingly construct without a building permit. The Applicant's predicament can be obviated through means other than a variance. The Building Commissioner has stated that there are other places on the property where the shed could be built. The Applicant's conduct caused a number of the problems. There seems to be a pattern of the Applicant not following City codes and City procedures. The spirit and intent behind the zoning code would not be observed if the variance was granted. The Chair stated he does not support the variance request.

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve a variance of 8 ft. less than the minimum 10 ft. rear yard setback requirement for an accessory structure.** Roll call: Yeas: None. Nays: Five (Rohloff, Ragone, Bull, Kasaris, Sadowski). **Variance denied.**

- G. **BZA16-33 – James Quinn of Quinn Management Group** on behalf of **My Pizzetta and B&D Towing** is requesting a variance to Chapter 1284 "Signs", of the City of North Royalton Zoning Code to allow for relief from the signage requirements relative to the installation of a proposed sign located at **14290 State Road**, PPN: 487-06-016, in a Traditional Town Center District. The variance being requested is as follows:

**Variance:** Codified Ordinance **Section 1284.10 (d)** "Location and Supplementary Area Regulations for Signs in Business Districts." Request is to allow for relief from the signage requirements relative to the installation of a ground sign in a TCD-2 zoning district.

James Quinn, owner of the property, is requesting a sign for the tenants. Mr. Quinn stated he is requesting an illuminated business sign to be placed in front of the building to make the business more visible from the street. He said the sign would enhance the viewing for the establishment for the traffic. He added that several other business in the area have monument signs. The Building Commissioner stated that currently monument signage is not permitted in a TCD area; however, we have been in the process of revising the C.O. to allow for monument signs in a TCD district. He stated that he would move for approval of this variance request.

The Chair stated these signs were prohibited when TCD went into effect. Since then we have approved multiple requests for monuments signs. We are now changing our zoning code to permit monument signs and also regulate them. With B&D Towing being located in the back of the building, this will allow people to know where they are located. He said the character of the neighborhood will not be altered; it will not affect delivery of governmental services; the predicament cannot be done by any other means. He stated he supports the variance request. With no additional discussion, he adopted his findings for that of the Board.

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve the variance to allow relief from the signage requirements relative to installation of a ground sign in a TCD-2 zoning district.** Roll call: Yeas: Five. (Ragone, Rohloff, Bull, Kasaris, Sadowski). Nays: None. **Variance granted.**

**ADJOURNMENT:**

**Moved** by Mr. Bull, seconded by Ms. Ragone to **adjourn the BZA meeting of September 29, 2016.**  
**Motion carried.**

**Meeting adjourned at 8:35 p.m.**

APPROVED: /s/ Dan Kasaris  
Chairman

DATE APPROVED: November 29, 2016

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