

**The Board of Zoning Appeals of the City of North Royalton
met on September 23, 2015 to hold a Public Hearing in
the Council Chambers at 14600 State Road.**

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

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

Moved and seconded to excuse Janice Sadowski for cause. **Motion unanimously carried.**

Moved and seconded to **approve the June 24, 2015 and July 29, 2015 meeting minutes as submitted.** Roll call: Yeas: Four. Nays: None. **Minutes approved.**

Public Hearing / Open Meeting

The clerk stated the Public Hearing Legal notices were sent out as required for the applications before the Board.

Old Business:

1. **BZA15-16 – E.S.Sign Group** is seeking BZA approval on behalf of **Sal Consiglio, CPA**, for a variance allowing for relief from the signage requirements relative to the installation of a proposed sign at **14129 State Road**, also known as PPN: 487-10-006, in a TCD-2 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.

The Clerk noted that this item was continued at the last BZA meeting on July 29, 2015.

Chris Serafino, owner of the E.S.Sign Group was present to represent Sal Consiglio, owner of the business acquiring the sign. Mr. Kulchytsky stated that the outstanding item from the previous meeting was the location of the monument sign in a TCD District in relations to the street and the exit path from the Consiglio office building drive. He went on to say that the Engineering Department and the Building Department went out to the site to review the site lines heading southbound on State Road. The placement of the sign being placed 5 ft. 6 in. from the sidewalk in front of the structure and 10 ft from the entry drive was assessed; it was determined that visibility down the street heading south on State will not be obstructed by the sign. He added that the first obstruction that occurs is a telephone pole. He said this measurement will suffice for both the Engineering Department and Building Department.

The Chair stated that we have approved a number of requests of this type because of our TCD zoning restrictions. There are many signs of this type which already exists; therefore, this decision will not alter the character of the neighborhood. The placement of the sign will not adversely affect delivery of Governmental services. The City has made sure the placement of the sign will not create a safety issue. He said he is in support the variance request. Mr. Rohloff stated that he also is in support of the variance. Mr. Kulchytsky added that we have previously requested that signs in the TCD District be of a smaller size; this one is in conformance with other free standing monument signs. The Chair said he would adopt the findings of the Board with regards to the uniformity of the sign as it relates to similar signs in the TCD Zoning District.

Moved by Mr. Bull, seconded by Ms. Ragone to approve the variance to allow for relief from the signage requirements relative to the installation of a monument ground sign to be placed 5 ft. 6 in. from the sidewalk in front of the structure and 10 ft from the entry drive in a TCD-2 zoning district. Roll call: Yeas: Four. (Mr. Rohloff, Mr. Kasaris, Ms. Ragone, Mr. Bull). Nays: None. **Variance approved.**

2. **BZA15-14 – Richard & Susan Kozimor** are requesting a variance to Chapter 1270 "Residential Districts" of the City of North Royalton Zoning Code for a proposed accessory building at **3605 West Sprague Road**, also known as PPN: 489-26-001, in a R1-A District. The variance being requested is as follows:

Variance: Codified Ordinance Section 1270.04 (g) "Area, Yard and Height Regulations". Request is for a variance of 3 ft. more than the maximum 15 ft. height restriction for a proposed accessory building. The applicant is proposing to erect a two story 960 sq.ft. accessory structure with an 18 ft. roof line.

The Chair explained that this variance request was heard at the July 29, 2015 BZA meeting and was "continued". Mr. Kulchytsky stated that a number of comments and questions came up at the previous meeting which was the reason for the continuance. He stated that the Applicant was required to secure an additional variance for a second accessory structure. There was also the question of the lighting at the site at the existing permitted pool. The first BZA meeting was to discuss the Applicant's desire to increase the height of their existing accessory structure which is the red barn. They wish to take down the barn, and would like to rebuild it higher than what is permitted by our code so they will have attic storage. The pool house refers to BZA15-20. Mr. Kulchytsky stated that the only variance that was secured for this property, prior to the variances which they are currently requesting, was a waiver to put in a sidewalk on the Sprague Road line. Such a waiver is available to citizens building new homes on streets such as Sprague where there are no sidewalks at adjacent properties. He stated that since the last meeting the pool house has remained unchanged. We had visited the site and looked at the inside of the pool house to check if it is indeed to house the pool equipment. The pool house contains the pumps, the electrical panels and has very little room for storage. **See Exhibit A photos of pool house.** Furthermore the footer foundation depth was inspected and is adequate and the Engineering Department reviewed this site regarding drainage issues. The Chair asked Mr. Kulchytsky what his position on the variance regarding the barn. Mr. Kulchytsky responded that they are not asking for an increase in the amount of structure they want, they are asking for a variance to the height of the structure, an additional three feet. They have provided us with a recent document stating what their reasoning is which list that the roof line would be more esthetically pleasing. One of the documents provided showed how the structure would look without the variance, having a squat roofline. The structure with the 3 ft. variance looks more like a proportional gable style barn. He said the new barn will be in the same location as the existing barn so they would have to tear down the existing barn to put up the new barn.

The Applicant, Richard Kozimor, stated that the barn is full and they plan to bring in a storage pod for storage during the construction of the barn. Mr. Kulchytsky stated we have no problem with a temporary storage pod. Mr. Kozimor stated that they plan to store the additional patio furniture in the new barn as well. Mr. Kulchytsky stated that fencing was put up around the pool as was required by the pool and the elevation of pool was in code. At the last meeting there were concerns from residents regarding drainage issues. The Engineering Department surveyed the site regarding drainage issues. He said the property is located at the high point of the street; therefore, the property naturally slopes away from the high point and the waters natural flow is away from that high point. The soil that was taken from the pool was redistributed either at low spots on the site and to fill in around the perimeter to raise the pool area. The recommendations from the Engineering Department are to build up a drainage swale on the east side of the property (close to where the pine trees are located) to direct the water to the south in the natural direction of flow. Also that the drainage from the accessory structure be hooked up in an appropriate fashion using pop-up emitters or securing a two-way storm water system. The second item suggested by the Engineering Department is to install the appropriate gutters and drainage for the accessory structure housing the pool equipment. The Chair asked the Applicant if he understands the recommendations from the City Engineer and does he agree to abide by those recommendations. The Applicant responded yes to both questions.

Linda Lingler, speaking on her mother's behalf, said her home is on the east border of the Applicant's property. Ms. Lingler expressed her disappointment with the work that has taken place on that property without the Building Departments knowledge: the buildings, the structures that have been installed on the neighboring property, including the six foot brick walled structure with a large pool that drains onto her property, the parking lot in the front yard. She said she is also concerned about where the structures will drain.

Mr. Kulchytsky clarified that the old barn will be raised. The new structure will be larger but still in compliance with our city ordinances in terms of square footage. The Applicant is requesting a variance of three feet for the height.

George Stybel, 3551 Sprague Road, spoke about the building of a non-permitted structure. Mr. Kasaris explained that once the Building Department was informed of the building of the structure, a stop-work order was put in place. Mr. Kasaris explained at that point it is necessary to go through the proper process to acquire a permit in order to finish the

building. Mr. Kulchytsky explained that at the time the permit was issued two accessory structures were permitted. We have recently changed our zoning ordinances that now allow for only one accessory structure. He added that yes, the Applicant should have made us aware of a second accessory structure. Since the stop-work order has been in place, the Applicant has been in compliant with the request to stop work. Mr. Stybel questioned the need for such a large building. Ms. Vozar explained to Mr. Stybel that the law is very clear. It tells the property owner what they are permitted to have. But they also have the right to seek a variance to ask the BZA Board to extend their rights to allow them to have a second accessory structure. She said there are certain requirements they have to meet and laws that they have to comply with. This is a Public Hearing on the matter for all parties to be heard. The Board will hear and weigh the evidence before them of certain factors, including if practical difficulty has been established and whether or not he is entitle to have that second structure. As the Chairman indicated, the way the Board speaks is by what they discuss here and reasons of why they have made a decision. Mr. Stybel asked about the lights shining on his property. Ms. Vozar explained that the issue regarding lighting will be handled internally with the Building Department and that it is not relevant on the variances being requested.

The Chair stated that he has considered the testimony of the neighbors and the Applicant. He said he has viewed the site and has considered the documents regarding the variance. There are other similar structures in the neighborhood, and the size of the building itself is compliant with our code and will look better with the three foot height variance, which is not a substantial request for a structure of that size. He said it would not alter the character of the neighborhood. The new barn will not cause any property owner to suffer substantial detriment or affect the delivery of Government services. For those reasons he stated that he supports the variance. Mr. Rohloff agreed that the 3 ft. variance for the gable roof will be more ethically pleasing and he said he is in support of the request.

Moved by Mr. Bull, seconded by Ms. Ragone to **approve a variance of 3 ft. more than the maximum 15 ft. height restriction for a proposed accessory building.** The applicant is proposing to erect a two story 960 sq.ft. accessory structure with an 18 ft. roof line. Roll call: Yeas: Four. (Mr. Rohloff, Mr. Kasaris, Ms. Ragone, Mr. Bull). Nays: None. **Motion approved.**

New Business

1. **BZA15-18 – Jarosz, Edward and Kathryn.** The applicant is requesting two variances to Chapter 1270 “Residential Districts”, of the city of North Royalton Zoning Code for a proposed accessory structure addition located at **4800 Wiltshire Road**, also known at PPN: 486-24-002, in a RR-Z district. The variances being requested are as follows:

Variance #1: Codified Ordinance Section 1270.05 “Area, Yard and Height Regulations”. Request is for a variance of 6 ft. 4 in. less than the minimum 10 ft. side yard setback requirement for an addition to an existing accessory structure.

Variance #2: Codified Ordinance Section 1270.12(a)(1)B. – a variance of 1,073 sq. ft. more than the maximum permitted for accessory structure on a lot greater than one acre.

The Applicant, Ed and Kathryn Jarosz were present to speak. Mr. Jarosz stated that they are requesting two variances to house their boat, trailer and vehicle. They have a 100 foot wide lot and this would keep the yard neater by having the vehicles out of sight. The Applicant said they would like to put an addition on that is 15 feet wide and 52 feet deep with a 12 foot door. Ms. Jarosz stated the building addition will have a gravel floor and will not have plumbing or electrical. Mr. Kulchytsky stated that anything they do within that structure, outside of any variance request that they are asking for, would have to comply with the Ohio Residential Building Code for construction. A hard surface material will be required with drainage either to the front door or to a drain within the floor. Ms. Jarosz stated that many of the neighbors have similar structures. Mr. Rohloff asked who owns of the fence shown in the pictures and will the addition create any drainage issues. Ms. Jarosz stated it is on the property line but Mr. Jarosz stated it is the neighbor’s fence. Mr. Kulchytsky stated that the Engineering Department would, in the permitting procedure, require that the storm water drainage go to a storm sewer or to a location that does not cause undue hardship to a neighbor. The Applicant stated that the existing addition on the garage was there when they purchased the property. Mr. Kulchytsky responded to a question by Mr. Bull regarding the proximity of the building to the property line. He stated that the current Residential Code of Ohio requires a five foot setback from a property line with an unrated wall. Anything closer

than five feet is required to have a noncombustible material on the surface of the wall that is close to the property line therefore increasing the fire rating of that wall. The code was three feet and recently has been increased to five feet. They would be required to fire rate that particular wall. Mr. Rohloff asked the Applicant to confirm if this addition is for their own personal use for the watercraft vehicle. The Applicant responded yes. Mr. Rohloff asked what the minimum amount necessary is to house the boat. Mr. Kulchytsky said ultimately, the variance could be reduced at a greater cost to the applicant by the removal of a load bearing wall between the existing garage and the proposed garage. The Applicant stated that they do not plan on removing the wall between the existing structure and the proposed structure. Bill Mantle, 4701 Wiltshire Road, spoke in favor of the variance. Notarized letters in support of the variance from the following neighboring properties were read into the record: Ronald Greene, 4750 Wiltshire; Harry & Martha Zwingelberg, 4812 Wiltshire; and Michael Greer, 4689 Wiltshire Road.

The Chair stated that being familiar with the neighborhood, he said the character of the neighborhood will not be substantially altered with the structure, adjoining property owners will not suffer detriment, the variance will not affect the delivery of Governmental services, and the property owner's predicament can't be obviated through some other means than a variance. Therefore he supports the variance request. Mr. Rohloff stated he agrees with the findings of the Chair. The Chair adopted the findings of fact as findings for the Board for Variance #1 and Variance #2.

Moved by Mr. Bull, seconded by Ms. Ragone to **approve variance #1 to Section 1270.05 for a variance of 6 ft. 4 in. less than the minimum 10 ft. side yard setback requirement for an addition to an existing accessory structure.** Roll call: Yeas: Four. (Mr. Rohloff, Mr. Kasaris, Ms. Ragone, Mr. Bull). Nays: None. **Variance granted.**

Moved by Mr. Bull, seconded by Ms. Ragone to **approve variance #2 to Section 1260.12(a)(1)B. for a variance of 1,073 sq. ft. more than the maximum permitted for an accessory structure** on a lot greater than one acre. Roll call: Yeas: Four. (Mr. Rohloff, Mr. Kasaris, Ms. Ragone, Mr. Bull). Nays: None. **Variance granted.**

2. **BZA15-19 – Cervenka, Roger and Christine.** The applicant is requesting two variances to Chapter 1270 "Residential Districts", of the City of North Royalton Zoning Code for a proposed accessory structure ~~addition~~ located at **10416 Bentley Dr.** also known as PPN: 481-29-050, in a R1-B district. The variances being requested are as follows:

Variance #1: Codified Ordinance Section 1270.05 "Area, Yard and Height Regulations". Request is for a variance of 4 ft. 6 in. less than the minimum 8 ft. side yard setback requirement for an accessory structure.

Variance #2: Codified Ordinance Section 1270.12(b) – "Yards for Accessory Buildings and Uses" request is for a variance of 6 ft. 6 in. less than the minimum 10 ft. rear yard setback requirement for an accessory structure.

The Applicant, Roger Cervenka, stated that his backyard is small in square footage. He would like to put the structure in the corner closer to the property line to maximize the amount of open space he has towards the middle of the yard. He added that there is a pond in the back and no flooding issues exist on his property. Exhibit 1 is a letter from The Villas at Worthington HOA dated 8-25-15. Ms. Vozar questioned the Applicant if the HOA is aware of the fact that it is not in compliance with our setback. The Applicant responded yes, they are. He added that his email to them specifically stated that he was requesting a variance. Mr. Kulchytsky suggested that we handle administratively the clarification of the HOA approval by making it contingent upon further submittal from the HOA. Ms. Vozar agreed that the motion be amended so that it is contingent upon a letter from the HOA clarifying their approval of the location and that it doesn't violate any of their requirements. Mr. Kulchytsky stated the sites in this subdivision are smaller (75' x 124') than what we normally see in the city of North Royalton. Placing a shed that far into the property would make a substantially greater impact on the site. The Building Department is not against the consideration of granting of this variance. Mr. Langshaw, Ward 3 Councilman, spoke in favor of the variance request.

The Chair stated that the character of the neighborhood will not be substantially altered; it will not affect the delivery of Governmental services, and special conditions or circumstances exist which are peculiar to this property because of its size. Based upon those factors he is in favor of Variance #1 and Variance #2 and adopts his findings as the findings of the Board.

Moved by Mr. Bull, seconded by Ms. Ragone to **approve variance #1 to Section 1270.05 for a variance of 4 ft. 6 in. less than the minimum 8 ft. side yard setback requirement for an accessory structure. Contingent on the written approval from the HOA.** Roll call: Yeas: Four. (Mr. Rohloff, Mr. Kasaris, Ms. Ragone, Mr. Bull). Nays: None. **Variance granted.**

Moved by Mr. Bull, seconded by Ms. Ragone to **approve variance #2 to Section 1270.12(b) for a variance of 6 ft. 6 in. less than the minimum 10 ft. rear yard setback requirement for an accessory structure. Contingent upon HOA written approval.** Roll call: Yeas: Four. (Mr. Rohloff, Mr. Kasaris, Ms. Ragone, Mr. Bull). Nays: None. **Variance granted.**

3. **BZA15-20 – Richard & Susan Kozimor.** The applicant is requesting a variance to Chapter 1270 “Residential Districts” of the City of North Royalton Zoning Code for a 2nd accessory building at **3605 West Sprague Road**, also known as PPN: 489-26-001, in a R1-A District. The variance being requested is as follows:

Variance #1: Codified Ordinance Section 1270.12(a) “Yards for Accessory buildings and Uses”. Request is for a variance to allow for a 2nd Accessory Building (14 ft x 14 ft). This structure was built to house pool equipment and supplies.

Mr. Kasaris asked the Applicant if he was aware of the North Royalton Ordinances pertaining to two accessory structures. He said at the time he constructed the pool house he was not aware that he needed a variance to construct it. He said that when he originally planned to build the pool, he took a permit out for the pool deck itself. The plans showed an extension of the pool deck with concrete and pavers with a fence. He stated that prior to starting the project, when the pool equipment, filters, heaters, pumps and an electrical panel that has to be mounted to some type of wall, he decided to do it. He said everyone was there to start the construction and he had to make a decision, he said that going through a variance process would have been 30 to 60 days and would have been the proper thing to do, but it created a timing issue. He said at that time he didn't know a variance was needed. Mr. Kasaris asked the Applicant when he became aware that he would need a variance. The Applicant responded when he came to the Building Department regarding getting a permit for the height variance is when he learned of the ordinance regarding a 2nd accessory building. The structure was already in the phase it is now. Mr. Kasaris asked the Applicant was he aware he needed a variance to construct the pool house. The Applicant responded no, not for a second accessory structure.

Mr. Kulchytsky stated the Building Division has the following comments: should the Board consider this variance, that the Engineering Department's recommendations are complied with by the Applicant, that additional permits for the 2nd accessory structure are secured from the Building Division; those permits would carry a fine associated with completing construction without permits. The Applicant stated he would be willing to pay the necessary fees. Mr. Kulchytsky spoke regarding the property maintenance item regarding lighting which was discussed earlier, even though it has no bearing on the variance before us tonight. He said he visited the site at night regarding the lighting conditions at the site. He said the Applicant has made some effort to shield the lights and is willing to work with his neighbor to make sure that the neighbors' property is adequately shielded from the balance of the lights. The Applicant said he was not aware of the issue and wants to work with his neighbors to correct the issue, possibly using frosted bulbs if necessary. Linda Lingler spoke regarding the strobe and laser lights that are in the pool in addition to the tall fancy parking lights each with six lights. She said any light dimming would be appreciated. Mr. Kulchytsky added that if this issue is not corrected, property maintenance shall handle it through the Building Division.

Mr. Bull asked Ms. Vozar regarding the change in the Ordinance pertaining to a 2nd accessory structure; does this bear on the variance before us. Ms. Vozar responded that it doesn't because at the time the 2nd building was erected, the code prohibited two accessory structures. At one time there was confusion in the code, and to clarify and to correct what the intent of the code was, language was changed to make sure it was clear that only one accessory structure was permitted unless you come to BZA and request a variance as the process permits. She added that the confusion does not exist in this particular case. Mr. Kasaris asked the applicant if the pool house wasn't built where you would put everything that was currently stored in the pool house. The Applicant responded that he would have to build a wall structure with weather protection for the electrical circuitry panel. Mr. Rohloff

stated you don't need a building to house these electrical panels; there are weather proof boxes that can mount on poles which would be less obtrusive.

The Chair stated that unfortunately, we have numerous times, situations where a building is constructed without a permit. He said that the Applicant has stated under oath that he was unaware of the requirement. The Chair stated the variance will not adversely affect the delivery of Governmental services. The adjoining property owners are not going to suffer substantial detriment as a result of this variance. The Engineering Department looked at the property and made recommendations with regards to drainage issues. He said the variance is not substantial; it is not a large structure. It allows the Applicant to make reasonable use of his property. He stated he supports the variance request. Mr. Rohloff said if this request were done in the proper order, he would have supported it and he plans on supporting it tonight. With no further discussion, the Chair said he adopts his findings as findings for the Board.

Moved by Mr. Bull, seconded by Ms. Ragone **to approve a variance to allow for a 2nd Accessory Building (14 ft x 14 ft) to house pool equipment and supplies. This would be on the condition that the Applicant adheres to the Building Divisions requirement regarding the permits and the Engineering Department's recommendations.** Roll call: Yeas: Four. (Mr. Rohloff, Mr. Kasaris, Ms. Ragone, Mr. Bull). Nays: None. **Motion approved.**

Adjournment:

Moved by Mr. Bull, seconded by Ms. Ragone **to adjourn the BZA meeting for September 23, 2015. Motion carried.**

Meeting adjourned at 8:25 p.m.

APPROVED: /s/ Dan Kasaris
Chairman

DATE APPROVED: October 28, 2015

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