The Board of Zoning Appeals of the City of North Royalton
met on **May 27, 2014** to hold a Public Hearing in
the Council Chambers at 13834 Ridge Road.

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

Present: Chairman Dan Kasaris, Robert Jankovsky, Victor Bull, Dale Gauman, Anthony Rohloff, Law Director Tom Kelly, Building Commissioner Dan Kulchytsky, Secretary Diane Veverka.

Moved and seconded **to approve the Minutes from April 22, 2014 as submitted.**
Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Gauman, Mr. Rohloff).
Nays: None. Minutes approved.

Public Hearing / Open Meeting

Old Business:

(BZA14-03) Robert V. Puleo requests a variance to **Chapter 1270 "Residential Districts", Section 1270.05 "Schedule of Area, Yard and Height Regulations"** and **1270.19 "Dwelling Unit Area Requirements"**, **Section 1270.19 (d) "Area of Garage"**, to allow for relief from the minimum side yard setback requirement for their garage addition and relief from the maximum total allowable square footage for their garage addition that is proposed at **14137 Kimrose Lane**, in a R1-A zoning district, also known as **PPN:487-12-015**.

Mr. Kasaris stated that the applicant wishes to amend his request as it relates to the square footage. The original plan of 372 square feet was 13 over the maximum square feet allowance for the size of the existing structure. The new plan which has been approved by the HOA reduces the square footage to 360 sq. feet. The reduction of square feet is only one foot over the requirement. Mr. Kasaris asked Mr. Puleo if that is the amendment that he is requesting us to consider. Mr. Puleo stated that is correct.

Moved by Mr. Rohloff, seconded by Mr. Jankovsky **to amend Variance #1 for BZA14-03 amending the square footage from 372 sq. feet to 360 sq. feet**. Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Rohloff, Mr. Bull, Mr. Gauman). **Nays: None. Motion carried.**

Mr. Kulchytsky said he had an opportunity to visit the site to specifically look at the spacing of the homes in the neighborhood and to observe the actual drop and lay of the land related to the swale in the back of the property. He said the swale in question is located at the further point of the lot and the majority of the lot beyond that swale is flat and indeed buildable. The spacing of the home in that area is rather generous and seems to be consistent for the whole development. He also stated that we received from their HOA Architectural Review Board an approval for this particular 3-bay garage facing toward the street. Mr. Kasaris asked Mr. Kulchytsky if this garage addition could be built without these two variances based on his visit to the site. Mr. Kulchytsky said with some difficulty it would be possible to do a third bay to this garage without the variance. It would require some structural remediation of the existing garage, such as omitting one of the 2 ft portions on the side of the garage door, and slide the door over toward the existing structure; it could be done without a variance. However, they would have to open up the wall between the new garage and the existing garage. Therefore that structural wall would have to be remediated. Mr. Puleo said a portion of the wall is going to be removed but not the whole length. Mr. Rohloff asked the applicant if a reduction in the size of the garage could be done so a variance would not be required. Mr. Puleo stated that to go to 10 feet he would have to do a major reconstruction of the front corner of the existing garage because it is a load bearing wall. Mr. Kulchytsky explained that the wall between the existing garage and the new garage bears the weight of the roof. In order to open it up to make this two car garage a three car garage and have no variances, they would have to shore up the wall, open it up and put in a new beam/header to carry the load to the edges. It would involve an LVL, which is an engineered piece of lumber. This is not uncommon to do in remodeling. Mr. Rohloff asked Mr. Puleo if he needed this 2 foot variance to maintain the ascetic appearance so it is complimentary to the existing roof line, as well as the issue of the load bearing wall. Mr. Puleo stated the load bearing wall is an issue and also the HOA's requirement that the addition be set back two feet from the front of the house so the three car garage goes straight across the front.

David Arend, 14117 Kimrose Lane, said he was concerned that it was setting a less-than-positive precedence for the neighborhood. He said the separation of the houses was a key factor when he purchased his home as well it is key to his property value. He was told by the HOA President that the approval letter only addresses the actual house itself and since

there is no language to the setbacks and the square footage in the bi-laws for the HOA, the letter does not pertain to those two issues and they were not able to make a ruling on those two issues and it was left up to the city to make that ruling. Mr. Rohloff asked for clarification to Mr. Arend's statement regarding the HOA leaving something up to the city. Mr. Kelly explained that what Mr. Arend is referring to is simply an acknowledgement on behalf of the HOA that they have their jurisdiction and you have yours. So nothing that they do by way of giving permission is to encroach upon your discretion as to whether you grant or deny the variance. Mr. Arend went on to say that the final determination was based on the esthetics of the house itself and that the placement on the lot was not a factor in that decision because they don't have the authority in the bi-laws to make that determination. Mr. Kasaris read the approval letter from the HOA. Mr. Arend said this proposed garage addition seems disproportionate to the size of the house. He submitted a DVD (entered into record as **Exhibit A)** and showed images of the neighborhood and general spacing of the houses from Google maps. The second image, using computer software, showed a rendering of the house with the garage addition. He stated these pictures are based on the architectural drawing submitted. Mr. Puleo stated there will not be a sidewalk or flower bed on the side of the house. He said he will put something there so it will not be bare. (Entered into record as **Exhibit B** – photo taken from Mr. Arend's back yard showing the rear yards facing south.) Mr. Arend said the last file on the DVD relates to the questioned of forward facing three car garages and the HOA bi-laws. Mr. Kelly stated that the issue of the covenant and restrictions of the HOA are not before us. Mr. Kasaris agreed that issue has been decided as far as we are concerned. Mr. Arend state that he did not agree with several issues mentioned at the previous meeting including that this variance was a request because of uniqueness.

Tom Harrington,14127 Kimrose Lane, earlier submitted a letter dated 5/27/14 which has been added to Mr. Puleo's PC file. He stated that he is the person directly affected by this addition that Mr. Puleo wants to build. He said how Mr. Puleo had approached him approximately 6 months ago to inform him that he was thinking of putting an addition on the side of the garage mainly for storage of equipment that he uses for his job. He added that they were not talking about a full third car garage. After receiving a letter from the city regarding the building of a third car garage, he approached Mr. Puleo and expressed his concern. Mr. Harrington said they moved into this neighborhood because they did want the space. He said this reduced setback is his main issue with the proposed addition. He said a shed can be built in the upper level of the yards. There are other properties in the subdivision that have sheds and they are approved by the HOA. He stated that a shed can be built in the upper level of the yard. A shed would enable him to reduce the size of his addition. He questioned the size of the soffit/gutter of the addition. He stated this addition would be 8 feet from his property line. When you allow people from going past these property setbacks, you can hinder the property owner in the future from building onto their home since the space is limited because of this allowance. Mr. Puleo said he does not understand how the rules for the HOA can be changed without asking the homeowners. Mr. Kasaris explained how the HOA bi-laws are governed. He said the covenants and restrictions are governed by the people who live in Ashley Woods. Mr. Kulchytsky explained the document of the detailed wall section and showed how it could be misread but it is actually one foot with an arrow on both sides of it (not four feet). This document has been entered into record as **Exhibit C**.

Mr. Puleo said his intent was not to cause problems to his neighbors. He said he is trying to obtain the space that he feels he needs that he can build onto his house. He does not feel it is a substantial detriment to the community and he believes it will increase property values in the neighborhood. Mr. Rohloff asked Mr. Puleo to restate his hardship. Mr. Puleo said not having the space to build a shed in the back yard is a hardship. And this will be used as a shared space that will be used for storage of his lawn and garden equipment and a place to park a third a car. When he spoke with builders regarding a 10 foot garage, they suggested a 12 foot would be better. He said he would build an 11 foot garage if he had to. Mr. Kulchytsky said he would still need a variance of one foot.

Yan Glickberg,14147 Kimrose Lane, clarified that this is a balancing test and that everyone's property and everyone's hardship is different. He said Mr. Puleo is here to speak on his specific situation and so you are balancing his factors not someone else's factors. The statements regarding how this affects property value is based on speculation and he does not see how two feet would be an actual substantial detriment.

Mr. Jankovsky asked the applicant if he has any inclination to use this garage for anything other than his own personal property and vehicles. Mr. Puleo said that is correct and that he does not plan on renting out his garage.

Mr. Kasaris mentioned that we have had a lot of testimonies both ways. He asked the applicant about the water drainage in his backyard. The applicant said it drains pretty well, but if he were to put something down there, it would impede the flow of water. Mr. Kulchytsky said the distance from the back of the house to the 25 foot flow way easement is approximately 60 feet. Mr. Rohloff asked if the applicant is willing to reduce the size of his garage, is a variance still necessary. Mr. Kulchytsky said if they reduce the width of the garage from 12 ft to 11 ft. only one variance would be necessary and that would be a variance for one foot of encroachment into the side yard. Mr. Kasaris asked the applicant if he wishes to amend the variance by reducing it down to 11 feet. The applicant said if the Board is going to deny his two foot variance, he would like to reduce it down to one foot. Mr. Kulchytsky said if he is going for the two foot variance, they are both interlinked. Mr. Rohloff asked for clarification as to whether the vote is on Variance #1 as it stands. Mr. Puleo said yes. Mr. Kasaris added that the variance request is minimal; it is not substantial. He said it is the minimum necessary to make possible reasonable use of the land. The applicant was asked what size the structure would be if he were to build it within the code. The applicant responded it would be 10 ft wide by 30 ft deep; 60 sq. ft less.

BZA14-03 Variance #1 – Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance of 1 square foot more than the maximum allowed for area of garage as per Section 1270.19 (d) of the zoning code**. Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Rohloff, Mr. Bull, Mr. Gauman). **Nays: None. Variance #1 granted.**

BZA14-03 Variance #2 -- Moved by Mr. Jankovsky, seconded by Mr. Bull **to grant a variance of 2 ft less than the required side yard setback as per Section 1270.05 of the zoning code.** Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Rohloff, Mr. Bull, Mr. Gauman). **Nays: None. Variance #2 granted.**

New Business:

(BZA14-04) Charles & Jocelyn Stella requests a variance to **Chapter 1270 "Residential Districts", Section 1270.05 "Schedule of Area, Yard and Height Regulations"** to allow for relief from the minimum rear yard setback requirement for an addition that is proposed at **5021 Brookhaven Drive**, in a R1-A zoning district, **also known as PPN:486-24-029.**

Charles Stella, 5021 Brookhaven Dr., stated that he wants to add an addition off of his son's bedroom to offer him more space for his caregivers and for himself to grow into. He explained due to his son's medical condition he requires 24 hour custodial care, 7 days a week. His night-time caregivers need to be in close proximity to him and this extra space would help eliminate the problem of interrupted sleep for his son.

Mr. Kulchytsky explained that the HOA is still in the hands of the developer and said the standard architectural approval document was submitted. He also stated that he has worked with the applicant previously and has inspected work that he has done at his house to modify the residence for his son. This is just a continued step in the modification of his home to accommodate his son.

BZA14-04 Variance #1 – Moved by Mr. Jankovsky, seconded by Mr. Rohloff to **grant a variance of 10 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 addition from the rear property line. Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Rohloff, Mr. Bull, Mr. Gauman). **Nays: None. Variance #1 granted.**

Adjournment:

Moved by Mr. Jankovsky, seconded by Mr. Bull to **adjourn the BZA meeting for May 27, 2014** Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Rohloff, Mr. Jankovsky, Mr. Bull, Mr. Gauman). **Nays: None. Motion carried.**

Meeting adjourned at 8:13 p.m.

APPROVED: /s/ Dan Kasaris
Chairman

DATE APPROVED: May 27, 2014

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