

The Board of Zoning Appeals of the City of North Royalton
met on **November 25, 2014** to hold a Public Hearing in
the Council Chambers at 14600 State Road.

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

Present: Chairman Dan Kasaris, Robert Jankovsky, Dale Gauman, Anthony Rohloff, Victor Bull, Assistant Law Director Donna Vozar, Secretary Diane Veverka.

Moved and seconded **to approve the Minutes from September 23, 2014 and October 28, 2014 as submitted.** Roll call: **Yeas: Four** (Mr. Kasaris, Mr. Jankovsky, Mr. Gauman, Mr. Rohloff). **Nays: None.** Mr. Bull Abstained. **Minutes approved.**

Public Hearing / Open Meeting

New Business:

(BZA14-27) Norman DuVall is requesting a variance to **Chapter 1270 “Residential Districts”, Section 1270.04 “Area, Yard and Height Regulations”, Paragraph (g)**, of the City of North Royalton Zoning Code to allow for **relief from the maximum 15 foot height restriction for an accessory building at 8566 Tilby Road**, in a R1-A district, also known as **PPN:482-05-058**.

Mr. Kasaris read the Building Commissioner’s Commentary regarding recommendations of stipulations to be placed on the variance if granted:

1. Add an additional 4 evergreens to north side of the property, two at each side of the existing evergreens that screen the property from the neighbor. Proposed evergreens should be a minimum height of 10 feet.
2. Removal of the dilapidated gazebo as it is a secondary accessory structure.
3. Continue the siding to grade wherever the concrete masonry is exposed on the structure being built.
4. Add a 36 inch diameter louvered vent above the rear overhead doors to break-up the façade.

He added that per the Building Commissioner’s report, the site work and the associated storm water drains associated with this structure have been reviewed by the Engineering Department. The resulting reviews and the associated modifications to the storm water management plan have been completed to the Engineering Department’s satisfaction.

After being sworn in, the applicant, Norman DuVall, explained the need for the height variance stating that on the advice from a professional carpenter, a change was made on the roof plans which would allow for a higher pitch. He said he is the general contractor doing the work and therefore submitted the change to the Building Department. He said he was not aware he needed a variance. He stated the height meets code on the front side but due to the terrain of his property, the back side of the accessory structure does not meet code.

Mr. Jankovsky reiterated that the applicant performed the work prior to receiving approval on the change from the Building Department. Ms. Vozar stated that when it was discovered that

the building was not in compliance with the City's ordinance, the applicant resubmitted new revised plans. The applicant, however, did not wait for an approval.

Mr. Kasaris asked the applicant if he had any problems with the recommendations submitted from the Building Commissioner. The applicant stated he would prefer not to take down the Gazebo. Mr. Kasaris reiterated that the Gazebo was not shown on the original site plan; it is a secondary structure and requires a variance to be maintained.

Ms. Vozar stated that the ordinance permits only one accessory structure and a gazebo is considered an accessory structure. As such the applicant would not be permitted to have both on his property. She went on to say that the applicant is here before the Board and as a condition of granting this variance the Building Commissioner is requiring the applicant to agree to the removal of the gazebo as a condition to approving this variance. Ms. Vozar addressed the Applicant and asked if he agrees to that condition. She restated her question and added that the Applicant also agree to that he has no intention to come back before the Board of Zoning Appeals to ask for a request to keep the gazebo. The Applicant stated that he does not agree with the Building Commissioner and does not want to remove the gazebo. Ms. Vozar explained that whatever stipulations the Board imposes to the variance, the Building Commissioner would not be authorized to issue the permit to allow the variance unless the gazebo was taken down; it is part of the requirement. She then added that the Applicant cannot be mandated to do something he has already stated that he is not willing to do. He is showing an unwillingness to accept the conditions; as such these are four stipulations or requirements that he has requested the Board to impose. Mr. Rohloff addressed the Applicant and stated that when taking on the role as General Contractor that as such, he has taken on the burden of responsibility of being familiar with the codes, rules and ordinances of the City. After further discussion the Applicant suggested he would be willing to agree to remove the gazebo from his property. Mr. Kasaris asked the Applicant, for the record, if he is now stating that he would agree to remove the gazebo from his property. **The Applicant said yes he would remove the gazebo.** Mr. Gauman asked if the variance is denied what happens. Mr. Kasaris said that in the Building Commissioner's comments, it notes that the trusses could be removed and a flat roof would be installed; if this were to occur, it would significantly detract from the structures appearance. Ms. Vozar stated that the Applicant would be sited for having a second accessory building if the gazebo were not removed. Mr. Jankovsky questioned the significance of the appearance of the building, since the Applicant's paperwork states that the site is in a remote area on a 1 ½ acre piece of property visible from only one side.

Rosemary Harmath, 8478 Royalhaven Drive, expressed her approval of the variance of the building and added that the Gazebo cannot be seen from the neighboring property.

John Nickell, Ward 1 Councilman, spoke on behalf of Joan Donnelly, 8451 Valley Trail. He stated some of the concerns she had shared with him: The structure is 4 feet higher than the approved height, the two garage doors face her yard, concerns with a race-type vehicle and the noise, the existing pine trees as well as additional screening to soften the view, drainage, outside finishes of the building, deer resistant plants, and that the walkway along the structure be completed. Joan Donnelly, 8451 Valley Trail, also spoke. She reiterated her concerns about the size of the barn as well as the garage doors facing her yard. She also questioned the time frame for the planting of the pine trees. Ms. Vozar stated that weather permitting he would need to plant the trees when possible. Mr. Kasaris stated that we are here on the matter of a height variance; not on which way the garage doors face or the size of the structure. Mr. Jankovsky asked Ms. Donnelly if she would be in favor of the variance if

the four conditions were enforced and leaving the building as it is which is four foot more than it should have been in height. She said she was.

The Applicant stated he plans on using the structure as a pool house and storage of mower, equipment, supplies, and pool heating system. He added that it will not be used for automotive use or commercial purposes.

Mr. Kasaris summarized for the Board that the variance is not substantial, it is the minimum necessary to make use of the land, it will not affect the delivery of Governmental services, the condition according to the Building Commissioner cannot be obviated by any other reasonable manner; a flat roof would not be architecturally pleasing and the Board also finds support of the conditions the Building Commissioner recommends as amended by placing a time frame on which the applicant shall plant the evergreens, and in the event that if the evergreens should not catch or die, at a later time they will need to be replaced.

Moved by Mr. Jankovsky, seconded by Mr. Bull to approve a variance of 4 ft. more than the maximum height allowed for an accessory structure as per Section 1270.04 (g) of the Zoning Code be approved. In coordination with his motion to approve this variance he moved to add the four conditions as recommended by the Building Commissioner:

1. Add an additional 4 evergreens to north side of the property, two at each side of the existing evergreens that screen the property from the neighbor. Proposed evergreens should be a minimum height of 10 feet. Trees should be planted and if necessary replaced or replenished no later than May 1, 2015.
2. Removal of the dilapidated gazebo as it is a secondary accessory structure.
3. Continue the siding to grade wherever the concrete masonry is exposed on the structure being built.
4. Add a 36 inch diameter louvered vent above the rear overhead doors to break-up the façade.

Roll call: **Yeas: Five.** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Rohloff, Mr. Gauman).
Nays: None. Variance granted.

(BZA14-28)

Variance #1 Susan Caggiano is requesting 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 to allow for **relief from the minimum 10 ft. side yard setback requirement, a variance of 7 feet.** The applicant would like to construct an **accessory building** on her property located at **10649 Devonshire Drive**, also known as **PPN:489-11-067** in a R1-A zoning district.

Mr. Kasaris read the Building Commissioner’s Commentary regarding recommendations of stipulations to be placed on the variance if granted:

- The accessory structure be limited to 200 square feet or less due to the Residential Code of Ohio. An accessory structure over 200 square feet requires a 5 foot setback from property lines.

After being sworn in, the applicant, Susan Caggiano, requested relief from the 10 ft. side yard setback requirement for placement of an accessory structure to the south east side of her back yard. She added that her back yard is very shallow and has a mature tree that would have to be moved or removed in order to place the shed within the current set variances in the rear part of the yard. She added that there are similar structures around her property and that the rear of her property line faces a commercial property.

Mr. Kasaris stated for the Board the following findings on Variance #1 and Variance #2: there is no evidence that there would be any adverse effect on governmental services, the character of the neighborhood would not be altered, variance #1 is not substantial, and there are similar structures in the area; he supported the variance request.

Moved by Mr. Jankovsky, seconded by Mr. Bull to approve variance #1 with regard to a variance of 7 feet less than the minimum side yard requirement for an accessory structure as per Section 1270.05 of the Zoning Code be approved on the condition that the accessory structure be limited to 200 square feet or less due to the Residential Code of Ohio.

Roll call: **Yeas: Five.** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Rohloff, Mr. Gauman).
Nays: None. Variance #1 granted.

Variance #2 Susan Caggiano is requesting a variance to Section 1270.12 “Yards for Accessory Buildings and Uses”, Paragraph (b) “Accessory Building Locations” of the city of North Royalton Zoning Code to allow for relief from the minimum 10 ft. rear yard setback requirement, a variance of 7 feet.

Moved by Mr. Jankovsky, seconded by Mr. Bull to approve variance #2 with regard to a variance of 7 feet less than the minimum rear yard requirement for an accessory structure as per Section 1270.12 (b) of the Zoning Code be approved on the condition that the accessory structure be limited to 200 square feet or less due to the Residential Code of Ohio.

Roll call: **Yeas: Five.** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Rohloff, Mr. Gauman).
Nays: None. Variance #2 granted.

(BZA14-29) Joseph Freytag is requesting a variance to Section 1270.05 “Schedule of Area, Yard and Height Regulations” of the City of North Royalton Zoning Code to allow for relief from the minimum 10 ft. side yard setback, a variance of 5 feet. The applicant would like to construct a **dwelling** on his property located at **4259 Sprague Road**, also known as **PPN:489-14-005**, in a R1-A zoning district.

Mr. Kasaris read the Building Commissioner’s Commentary regarding recommendations of stipulations to be placed on the variance if granted:

- The variance shall not be required if the proposed residence would be located 10 feet from the property line; however, this would necessitate the reworking of an existing newly paved drive.

After being sworn in, the applicant, Joseph Freytag, explained his reason for the request for the 5 foot side yard variance. He stated the current building is approximately 624 sq. ft. with no basement. The 1920’s structure is not adequate to support a second story. They would like to build a cabin approximately 1,600 sq. ft. which would include a basement. Since the lot is narrow, he said they would need a variance of 5 ft. for the side yard setback.

Mr. Rohloff questioned the construction of a newly paved driveway which limits the location of the proposed house. Mr. Freytag said his driveway is approximately 13 ft. from property line. Exhibit A shows a gravel driveway which since has been paved.

Mr. Jankovsky said even though he supports the variance request, he wanted to point out that the applicant's response to section G of the application suggesting that the predicament cannot be feasibly obviated through some method other than an variance is incorrect. He added that there is another option and that would include altering the driveway and therefore eliminating the need for a variance. Mr. Rohloff suggested the planting of trees or shrubs next to the driveway to filter the view from the neighbor. Mr. Kasaris stated that looking at the factors which were presented he feels that the essential character of the neighborhood would not be substantially altered and neighboring property owners will not suffer a detriment, there is no evidence it will affect governmental services. He added that the Applicant does have another way to achieve what he wants to do without the need for a variance however it is not practical. The variance is not substantial and is the minimum necessary to make possible reasonable use of the land and there are some practical difficulties regarding the length of the driveway. This proposed structure will also improve the area. Mr. Kasaris stated he supports the variance.

Moved by Mr. Jankovsky, seconded by Mr. Bull **to approve a variance of 5 ft. less than the minimum side yard requirement for a dwelling** as per Section 1270.05 of the Zoning Code.

Roll call: **Yeas: Five.** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Rohloff, Mr. Gauman).

Nays: None. Variance granted.

Adjournment:

Moved by Mr. Bull, seconded by Mr. Rohloff **to adjourn the BZA meeting for November 25, 2014.** Roll call: **Yeas: Five** (Mr. Kasaris, Mr. Jankovsky, Mr. Bull, Mr. Rohloff, Mr. Gauman).
Nays: None. Motion carried.

Meeting adjourned at 8:10 p.m.

APPROVED: /s/ Dan Kasaris
Chairman

DATE APPROVED: February 25, 2015

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