

**The Board of Zoning Appeals of the City of North Royalton
met on March 24, 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 Kulchysky, Assistant Law Director Donna Vozar.

Moved and seconded to **approve the February 25, 2016 meeting minutes as submitted.** Roll call: Yeas: Four. (Ragone, Bull, Kasaris, Sadowski). Nays: None. Mr. Rohloff was excused from voting on the minutes. **Motion carried.**

PUBLIC HEARING/ OPEN MEETING

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. **BZA16-10** – **Bradley and Kelly Baumann** are requesting two variances to Chapter 1270 “Residential Districts” of the City of North Royalton Zoning Code for a proposed porch addition located at **11537 Worthington Way** also known as PPN: 481-27-026, in a R1-B district. The variance being requested are as follows:

Variance #1: Codified Ordinance 1270.04 (d) “Area, Yard and Height Regulations”. Request is to allow for relief from the minimum 50 ft. front yard setback for a variance of 8 feet. The applicant would like to put a porch addition 42 ft. from the right-of-way.

Variance #2: Codified Ordinance 1270.13(2) “Projections into Yards”. Request is to allow for relief from the maximum 6 ft. of which a porch may extend into a front yard.

Bradley Baumann stated that they would like to add an 8 ft. deep front porch; it would go into the 50 foot front yard setback. The Applicant said he gave the HOA a set of the plans and the HOA approved the construction of the porch setback at 42 feet 9 inches. The Building Commissioner stated that our code currently permits for porches and aesthetic extensions to the house to extend 6 feet beyond the front setback line. He continued, they are essentially asking for a variance of 2 feet. He said there are houses with front porches on the street; however, they were built at the time of the new construction within the 50 foot setback. He said the Building Division feels it is a minor variance request and it would fit within the character of the neighborhood. It would provide them with an opportunity of the use of their front yard. Mr. Langshaw, Ward 3 City Councilman, spoke in favor of the variance request.

The Chair stated the HOA approved the request. In so doing they recognized that the essential character of the neighborhood would not be substantially altered and adjoining property owners would not suffer substantial detriment. This is a minimum variance. The Chair stated that for the Board he adopts his findings of fact and supports the variance request.

Moved by Mr. Bull, seconded by Ms. Ragone to **approve a Variance to C.O. Section 1270.04 (d) for 8 feet less than the minimum 50 ft. front yard setback requirement to allow for the addition of a front porch.** Roll call: Yeas: Five. (Rohloff, Ragone, Bull, Kasaris, Sadowski). Nays: None. **Variance granted.**

Moved by Mr. Bull, seconded by Ms. Ragone to **approve a Variance to C.O. Section 1270.13 (2) for 2 ft. more than the maximum 6 ft. allowed for a front porch to extend into a front yard.** Roll call: Yeas: Five. (Rohloff, Ragone, Bull, Kasaris, Sadowski). Nays: None. **Variance granted.**

- B. **BZA16-11** – **Kent and Helene Sewell** are requesting a variance to Chapter 1286 “Nonconforming Uses”, of the City of North Royalton Zoning Code for a proposed accessory building located at **16208 York Road**, also known as PPN: 485-03-016, in a Local Business district. The variance being requested is as follows:

Variance: Codified Ordinance Section 1286.06 (b) "Extension Prohibited". The applicant is proposing to erect a 140 square foot structure 11 foot high 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 Local Business district.

The Chair explained that this request is for a use variance which is different from an area variance. He reviewed what the standard 5 factors are for deciding a use variance.

Kent Sewell stated that the main purpose is to replace an existing metal shed that is located 2 ft. from the property line is beyond its use. The plan for the new structure is to be located within the setback in accordance with the C.O. The shed will be located approximately 14 feet from the southern side of the property. He stated there are two other existing accessory buildings on the parcel; one is a small building approximately 8' x 10' with an awning. We spend a lot of time outside. The second shed is 12' x 20' and is used for storage and a workshop. The Building Commissioner stated that the property to the south is Suburban Maintenance; it is also zoned local business. The Applicant stated that he has acquired letters of approval from both of the neighboring properties. He added that this property has been in his wife's family for 30 years and was zoned residential back then; it is now zoned local business. He stated that the proposed structure is 10 ft. x 14 ft.; the current structure is 10 ft. x 12 ft. which is a two foot difference in building depth. He added that the only thing he was able to find that was the exact size was another metal building. He said he would prefer a wood building which would conform to the home and the other structures in the neighborhood. The Building Commissioner asked if he has received an offer by Suburban Maintenance to expand their business into your property. The Applicant replied, it was discussed but he never received an offer. The Building Commissioner said this is a unique situation; it is an expansion of a non-conforming use. The residential rules do not technically apply. It is up to the Boards' decision as to the stipulations. Because the Applicant has received no offers from the Southern neighbor they are not able to use the land for anything else but residential. He is in favor of the Applicant being able to replace the dilapidated shed with a new structure. The Board recessed for 5 minutes. An affidavit was received and read into the record from both neighboring properties; Brian Stucky, property owner of 16330 York Road, and from Melvin Morgan, property owner of 16154 York Road, stating that they have no objection to the construction of the replacement shed as describe in the documents.

The Chair stated that the variance of 2 feet is minimum. Granting the variance is not going to be contrary to the purpose, intent or objectives of the zoning code. It will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood. The Applicant is actually seeking to improve the neighborhood by removing the dilapidated shed and constructing something nicer and locating it in center of property where it can't be seen from the street. There are exceptional circumstances or conditions which are unique to the property involved and do not apply to other properties within the same zone. The Applicant stated he is not aware of when the zoning code was changed and if the shed was installed prior to that time. The Chair stated the literal application of the provisions of this Zoning Code would result in no economically viable use of the property for any purpose. He continued, the testimony we have had today is that the property is zoned commercial, but no one wants it. Given his recitation of the five factors as they apply to the Applicant, he stated he is in favor of granting the variance request. Mr. Rohloff stated he agrees with the comments and added that there are standards in the shed construction industry and a shed the same size as his current shed would require a custom built rather than a prefab construction. Mr. Kulchytsky spoke regarding the criteria regarding economic viability. He said the property is configured in such a fashion that it is not optimal for commercial development. The Chair adopted the findings for the Board.

Moved by Mr. Bull, seconded by Ms. Ragone to **approve a Variance to C.O. Section 1286.06 (b) for a variance for relief from the prohibition of an expansion to a nonconforming residential use in a local business district at 16208 York Road by erecting a structure that is 10 ft. x 14 ft. with a 11 ft. roof line.** Roll call: Yeas: Five (Ragone, Bull, Rohloff, Kasaris, Sadowski). Nays: None. **Variance granted.**

- C. **BZA16-12** – **Joseph and Diane Freytag** are requesting a variance to **Chapter 1270 "Residential Districts"**, of the City of North Royalton Zoning Code for a proposed dwelling at **4259 Sprague Road**, also known as PPN:489-14-005, in a R1-A zoning district. The variance being requested is as follows:

Variance: Codified Ordinance 1270.05 "Schedule of Area, Yard and Height Regulations". Request is to allow for relief from the minimum 10 ft. side

yard setback requirement for a variance of 5 feet. The applicant is proposing to construct a dwelling.

Joseph Freytag stated they are looking to build a log cabin on the property. It is approximately 36 ft. wide. In order to fit on the property, they would have to cut into the drive. The current structure is currently six to seven feet from the opposing east side property. We are asking for a couple feet more than where the existing structure is. He said the existing structure is too small to live in, approximately 700 sq. ft. with no basement; the building was originally a hunting cabin. The Building Commissioner stated that the Applicant has appeared previously and requested a similar variance of five feet which was approved. That variance has expired. The property is narrow, approximately 65 ft. He added that 5 ft. does comply with state laws for fire distance requirements to adjoining property. He also said that they have an existing garage that they want to maintain and not have torn down. Given the condition of the existing dwelling, he said he would recommend approval of the variance. It would benefit the neighborhood. The current dwelling is more of a shed than a residence. Anna Paliwoda, 4267 Sprague Road, stated she thought the variance request was originally for the west side and it is now on the east side of the property. The Building Commissioner stated that it is the same variance request as the previous variance request; the location of the existing dwelling and the new dwelling are in the same location. The Applicant confirmed yes that is correct. The Building Commissioner asked the Applicant what are his intention for the side property area with the variance request, such as landscaping. He added that 5 ft. is a limited area for planting trees. The Applicant stated there are trees there and his plans are to leave it the way it is now. The Chair stated that the parcel is narrow and is in favor of the variance request. With no additional discussion, he stated that he adopts his findings of fact as that of the Board.

Moved by Mr. Bull, seconded by Ms. Ragone to **approve a Variance to C.O. Section 1270.05 for a variance of 5 less than the minimum 10 ft. side yard setback requirement for construction of a dwelling.** Roll call: Yeas: Five (Ragone, Bull, Rohloff, Kasaris, Sadowski). Nays: None. **Variance granted.**

Adjournment:

Moved by Mr. Bull, seconded by Mr. Kasaris to **adjourn the BZA meeting of March 24, 2016.**
Motion carried.

Meeting adjourned at 7:53 p.m.

APPROVED: /s/ Dan Kasaris
Chairman

DATE APPROVED: 4/28/16

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