

The Board of Zoning Appeals of the City of North Royalton met on September 27, 2010, to hold a Public Hearing in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 7:30 P.M.

Present: Chairman Neil Price, John Ranucci, Diane Mastronicolas, Bob Jankovsky, Dan Kasaris, Law Director Thomas Kelly, Building Commissioner Rito Alvarez, Secretary Lynn Brinkman.

PUBLIC HEARING

(BZA10-10) Felix L. Theys / May Properties, Ltd. request a variance to **Chapter 1278 “Industrial Districts”, Section 1278.05 “Lot Area and Width Regulations”, paragraph (a) and Section 1278.06 “Yard Regulations”,** of the City of North Royalton Zoning Code, for relief from the **minimum lot area** requirement and relief from the **setback for this proposed newly created drive from the rear lot line**, for this **proposed lot split** on this property zoned as **General Industrial** located at **9941 York Theta Drive, also known as PPN: 483-12-011.**

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

The Chairman recognized anyone wishing to be heard.

Allen Hodge, representing Felix Theys and the adjoining property owner (May Properties, Ltd.), came to the microphone.

Mr. Price: Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Hodge: I do.

Mr. Price: Just tell us why you are requesting these variances.

Mr. Hodge: We have recently put up a building for May Industries on York Theta Drive and there is a piece of property, which is owned by Mr. Theys, which is actually between the two buildings where May Industries conducts business. Right now there is a deep ravine behind the property. We are looking to purchase a piece of that property to be able to have a connection, a corridor if you may or an access point, so that we would not have to go out onto the road to connect activities in the back. We would have liked to have kept the property of Mr. Theys at one acre but due to the ravine in the back, which drops off very steeply, for us to have a minimal amount for a drive through there it had to reduce the one acre for Mr. Theys' property and therefore requires us to have a variance. Reading the response, one of the comments was that a drive in an area zoned as General Industrial has to maintain a 5 foot setback from the rear lot line of a lot adjoining a nonresidential district. We are completely fine with shrinking that access corridor. Right now that access corridor is showing 25 feet but we could shrink that down to 20 feet and allow for the rear setback of that adjoining property. So I think that the only variance we would be looking for is to reduce the acreage from one acre to .866 acres. There is nothing that can be built behind there. There is a ravine and there is a riparian setback. It is a flood plain. There would be no harm in placing a drive there because it would not affect anyone who wants to build back there in the future because you can't build back there as it is.

Mr. Price: Thank you. Anybody else? Can I have a motion to move BZA10-10 to the open meeting.

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **move BZA10-10 to the open meeting.**

Mr. Price: Call the roll.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

(BZA10-11) Paul Beegan / Beegan Architectural Design / North Royalton Animal Hospital request a variance to Chapter 1276 "Business Districts", Section 1276.09 "Yard Regulations", paragraph (a) and Chapter 1284 "Signs", Section 1284.10 "Location and Supplementary Area Regulations for Signs in Business Districts", paragraph (d) and Chapter 1282 "Off-Street Parking and Loading", Section 1282.05 "Schedule of Parking Requirements", paragraph (b)(5)C, of the City of North Royalton Zoning Code, for relief from the **side yard setback** requirement along the south property line which abuts a residential district; for relief from the requirement relative to **parking areas and drives** which abut a residential district; relief from the **side yard setback** requirement relative to **drives** which abut a nonresidential district; relief from the **minimum setback** requirement for a **sign** from the edge of the street pavement; and relief from the **minimum number of parking spaces** required, for this **proposed addition / parking area / driveway / sign** they wish to construct on this property zoned for **Local Business** located at **9027 Ridge Road, also known as PPN: 489-04-006**.

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

Ms. Brinkman: Before the Chairman recognizes anyone wishing to be heard I would like to state for the record that we received a total of five (5) DVD discs from Scott and Sheila Sopata who reside at 9039 Ridge Road. They will be kept as part of the record and placed in the applicant's file. We also received a letter from Scott and Sheila Sopata and it reads as follows.

"My name is Scott Sopata, my family and I live at 9039 Ridge Road, which is the house next door and south of the North Royalton Animal Hospital. Our issue is primarily the noise that comes from the kennel. The dogs are so loud that they can be heard inside our home even with the windows and doors closed. This creates a financial burden and forces us to keep our windows and doors closed year round. We have measured noise from the kennels' dogs barking inside our home as loud as 79 decibels, which is comparable to a riding mower from 5 feet away..."

Mr. Kasaris: Mr. Chairman, may I briefly interject. The document that we have is not notarized so it is not an affidavit.

Ms. Brinkman: But it has been notarized and has the notary seal.

Mr. Kasaris: I apologize.

Ms. Brinkman: Continued reading the Sopata letter...

"We are unable to use our yard when the dogs are out due to the loud barking. I have personally been to the doctor on several occasions to deal with the stress from the barking dogs next door.

It is my understanding that the property located at 9027 Ridge Road is zoned Local Business, but "veterinarian's offices, animal hospitals and kennels" are not permitted in local business districts. The animal hospital was around before the ordinance and this makes it a non-conforming use for its current zoning. According to the ordinances a "non-conforming use may not be extended within a building, enlarged or added to in any manner". If any modifications are made this would mean that the animal hospital could no longer operate on this property and would lose its non-conforming status.

Ref: Chapter 1278 "Industrial Districts" – Section 1278.03, Item A, 7
Chapter 1286 "Nonconforming Uses" – Section 1286.01, Item A and
Section 1286.06, Item B

Who would approve a variance to put a 10,000 square foot dog kennel 15 feet away from a resident's home? Especially when that resident has complained numerous times about the noise and has exposed medical issues associated to noise? The current plan show 9027 Ridge Road as non-conforming and current ordinances restrict growth of a non-conforming use. Allowing this type of business to expand is not safe or healthy and will deteriorate human health and the value of all property around it.

Questions:

Will there be a change of non-conforming use at the property located at 9027 Ridge Road? If so, what will the new conforming use be?

If the property at 9027 Ridge Road is zoned Local Business why are you building areas for exterior use if the zoning for local business defines "services conducted wholly within enclosed buildings"?...

Sopata letter continued...

Ref: Chapter 1276 "Business Districts"- Section 1276.03, Item A, 2

How do you plan to comply with the noise ordinance and the barking and howling ordinance by increasing the outdoor space when the existing outdoor space does not comply?

*Ref: Chapter 618 "Animals" – Section 618.07
Chapter 634 "Noise Control" – Section 634.05*

With the requested variance for the parking area, how do you plan to keep the noise from cars, people and animals out of my home? This would put cars, people and animals approximately 10 feet away from my living room. We are zoned residential.

What measures will be put in place to keep my family safe from escaped animals? In both the front and back yards?

If there were a fire, is 15 feet enough of a barrier to keep the fire from spreading to my home? Where do you plan to put the snow from your 3,000 square foot parking lot in the front yard?"

Mr. Kelly: Mr. Chairman, may I ask the Secretary if I could just look at that document for a moment.

Mr. Kelly: Mr. Chairman, the document that the Secretary just read into the record has a seal affixed to it as if by a notary. It is unfortunately, however, not a notarized document. That does not mean, however, that you ought not consider the content. It so happens, from my experience with Planning Commission the other night, that I know that Mr. and Mrs. Sopata are in the audience tonight. If it please the Chair and the Board what you may want to do is have them come up and swear under oath to the content of this correspondence and thereby repair that which is created by the lack of an appropriate notarization. Mr. Chairman, with your permission.

Mr. Price: Yes.

Mr. Kelly: Mr. and Mrs. Sopata, would you please come up to the microphone. With them, Mr. Chairman and members of the Board, is Mr. Robert Lynch who is their attorney and who we met the other night at the Planning Commission meeting. Mr. and Mrs. Sopata, would you raise your right hand please. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. and Mrs. Sopata: Yes.

Mr. Kelly: This letter that Ms. Brinkman just read into the record, did the two of you write this letter?

Mr. Sopata: Yes, we did.

Mr. Kelly: Do you swear that the content of this letter is true and accurate to the best of your knowledge, information and belief?

Mr. Sopata: Yes, we do.

Mr. Kelly: Thank you.

Mr. Price: Thank you, Mr. Kelly. Ms. Brinkman, would you please number the DVD's submitted as Exhibits 1 thru 5.

Ms. Brinkman: Yes.

Mr. Price: Thank you. Is there anyone who wishes to speak?

Mr. Robert Sindyla: My office is located at 7425 Royalton Road, in North Royalton. I represent the North Royalton Animal Hospital. I have just been retained late this afternoon for this case. I have had an opportunity to do some initial investigation. I would ask this body to at least table this matter until the last meeting in October so that we can determine what our course of action can be and how the requests that my client is asking for can or cannot fall within the current zoning. I do not believe that there would be any hardship other than a hardship on my client by not proceeding to go sooner. We have no comments at this point as to whatever comments were made or rebuttal comments. We would like to reserve that for a later time. Thank you.

Mr. Kelly: Mr. Chairman, it would be my advice to the Chair and to the Board that you continue on with the Public Hearing portion and then in the main portion of the meeting, if you are persuaded to table it, table it at that time.

Mr. Price: Is there anyone else who would like to speak?

Mr. Robert Lynch: I represent Scott and Sheila Sopata. I understand what the Board has indicated. We are prepared to put forth evidence on what we think is necessary for the Board to consider in denying this request for a variance. In light of Mr. Sindyla's recent representation, I have spoken to my clients and we are fine with the Board allowing a continuance on this matter. I obviously do not represent these other good folks here so I do not know their position but I think that having an opportunity to present their case and an opportunity to present our case, instead of doing it multiple times, would save a great deal of time for everyone. Otherwise we can present our case today as well as come back on October 25th, the date of the next meeting.

Mr. Kelly: Mr. Chairman, as efficient as it might be to handle it that way Mr. Lynch, the problem that we have is that the Public Hearing is advertised for tonight.; therefore, anyone who has the opportunity and desire to speak to the Board on the issues is given that opportunity here tonight. It is not customary for the Board to re-advertise for a Public Hearing at the next meeting. If it were tabled people would still be able to come back and here the Boards' discussion but they would not necessarily be given the opportunity to be heard. The opportunity for the public to be heard on this application is tonight.

Mr. Lynch: Mr. Chairman and Mr. Kelly, I appreciate that. That is fine. We will put on our case.

Mr. Kelly: Before you do, I was not going to do this but maybe I should read into the record the opinion that I gave the Chair. On September 23rd I sent a letter to Mr. Alvarez, the Building Commissioner, with regard to this matter. Copies were sent to Mr. Sandora, the Chairman of the Planning Commission; Mr. Price, Chairman of the Board of Zoning Appeals; the Mayor; and to Mr. Jordan, the Community Development Director. The letter reads as follows.

"Mr. Alvarez,

Following last night's Planning Commission meeting I endeavored to do some appropriate legal research into the question of the status of the North Royalton Animal Hospital on the property on which it exists and which is currently and has for many years been zoned local business district. Thanks to your staff for their efforts to provide me with some appropriate history on the property as well as the history of the zoning on the property.

Unless further information is developed that persuades me to the contrary, I am of the view and it is my opinion that the North Royalton Animal Hospital is a non-conforming use on the lot on which it presently exists. (I will provide you with a copy of this Mr. Lynch.)

The original building permit was issued in 1963. The property at that time was zoned "commercial". Subsequently, the parcel was rezoned to local business district in the year 1970. (Based on information provided to me by the Building Department staff.)

Our zoning code at Section 1278.03 provides for use regulations in commercial service districts. Subsection (a)(7) provides "veterinarians office, animal hospitals and kennels; ..."

The North Royalton Animal Hospital is a veterinarian's office and serves as an animal hospital and also affords kenneling service. As such, it is a permitted use only in a commercial service district. As the property on which it sits is zoned for local business, it is, unfortunately, a non-conforming use.

Our code, North Royalton Codified Ordinance 1286.06 (b) provides "a non-conforming use may not be extended within a building, enlarged or added to in any manner".

While I recognize that a very broad interpretation of permitted uses under local business might allow for the inclusion of an animal hospital under the heading of "medical" use, in this instance plainly the commercial service district uses specifically limit the animal hospital to that setting and to that zoning and, therefore, preclude it from all other districts as the rule of law and rule of interpretation is that the general is subservient to the specific, therefore the effort made to authorize an application for modification of the structure was improvidently allowed and must be withdrawn and the application dismissed.

While we might wish to liberally construe the code in order to afford as many opportunities as possible for improvement, in this instance that is plainly not possible. I do, however, recommend that the fees paid by the applicant for the opportunity to be heard in this matter be refunded to them.

Should you have any questions, please call me directly."

Mr. Kelly: That is my advice to the Board. On the other hand, the applicant still has a pending application that has to be dealt with tonight. Having heard my opinion you may still feel the need to present a great deal of evidence and certainly that is your right to do so subject to the discretion of the Chair.

Mr. Lynch: I appreciate that. I have not had a chance to read the opinion but I think that I understand it. What I would like to do is just have some questions to ensure that the evidence that my clients presented is incorporated into this appeal and is part of the record for this particular zoning variance request. If I can I would just like to ask my client some questions to develop that and authenticate the DVD's and make sure that that evidence is in. I think that that will be sufficient.

Mr. Price: If that is your desire.

Mr. Lynch: Okay. Scott, what is your address?

Mr. Sopata: 9039 Ridge Road.

Mr. Lynch: How long have you lived there?

Mr. Sopata: Since August of 2003.

Mr. Lynch: Who else lives there with you?

Mr. Sopata: My wife and three children.

Mr. Lynch: What is your wife's name?

Mr. Sopata: Sheila.

Mr. Lynch: When you moved in at 9039 Ridge Road in 2003, when did you start to have problems with noise from the Animal Hospital? When did that begin?

Mr. Sopata: It started in late June or early July of 2006.

Mr. Lynch: What did you do when the noise issue started from the Animal Hospital?

Mr. Sopata: I contacted people on staff at the North Royalton Animal Hospital. I spoke to Dr. Hechko. I talked to the police. I talked to the animal warden. I had mediation with the council person, Mr. Hechko and Donna Vozar.

Mr. Lynch: During the years 2006, 2007, 2008, 2009 and 2010, did you keep track of instances where the noise was loud or there was an issue with the noise coming on to your property?

Mr. Sopata: I believe that sometime after early 2007 we stopped when the City stopped taking complaints. We did not take it up again until September of 2010 when we were informed by the Mayor of the plans.

Mr. Lynch: The DVD's that you submitted to the Board of Zoning Appeals, I believe they were marked as Exhibits 1 thru 5 – what is on those DVD's?

Mr. Sopata: One is a compilation of things from 4 years ago as well as up to this month.

Mr. Lynch: When you say "things", what do you mean?

Mr. Sopata: Barking instances. A decibel meter being videotaped inside of my house. A decibel meter being videotaped in my back yard.

Mr. Lynch: What is a decibel meter?

Mr. Sopata: A tool to measure sound.

Mr. Lynch: This is a video recording showing you measuring the sound that is coming on your property from the barking dogs.

Mr. Sopata: Correct. Also clips from September 11th and September 13th of 2010 which shows noise from just the side door when the Animal Hospital was open.

Mr. Lynch: Did you prepare these DVD's?

Mr. Sopata: Yes, I did.

Mr. Lynch: The one you described as a compilation. What about the other four?

Mr. Sopata: The other four which were handed in in paper sleeves were all taken, I believe, on 9-11, 9-13 and on 9-25-10. They were three different instances.

Mr. Lynch: What years were those taken?

Mr. Sopata: 2010.

Mr. Lynch: The letter that was read earlier by the Secretary, that letter is true and accurate?

Mr. Sopata: Correct.

Mr. Lynch: The DVD's that you submitted to the Board, are those true and accurate copies of the video recordings that you made?

Mr. Sopata: Correct.

Mr. Lynch: In those instances where you recorded it, using the decibel reader, are the actual readings of the decibel reader shown on the DVD's?

Mr. Sopata: Yes, it is a recording of the meter with the dogs in the background. In the cases of the house and the side yard the reader is pointing at the side of the fence with the roof line of the building next door in the back. There is a 6 foot fence that separates my property from the kennels and the outdoor runs.

Mr. Lynch: You made these recordings yourself?

Mr. Sopata: Correct.

Mr. Lynch: Is there anything else you would like to add Scott?

Mr. Sopata: That is it.

Mr. Lynch: Did you seek any medical treatment?

Mr. Sopata: Yes, stress from dealing with the dogs. I went to my family doctor who referred me to another doctor. I do not remember how many instances I had. My medical records – I can't find my health plan to be able to go back that far but I could probably get that information from my medical company. I had somewhere between 8 and 12 sessions dealing with counseling for stress.

Mr. Lynch: Anything else that you would like to add Scott?

Mr. Sopata: I do not think so.

Mr. Lynch: I thank you Mr. Chairman and members of the Board. Our request is that the Board deny the request for a variance. It sounds like Mr. Kelly and I are on the same page as far as the history and what the law would apply to this situation. We would ask the Board to deny this request for a variance. Thank you.

Mr. Price: Thank you. Anyone else?

Mr. Sindyla: The doctor has people here who would like to make comments. In light of what the Law Director had said – anyone who wishes to speak...

Mr. Price: This is the time.

A woman approached the microphone.

Mr. Price: Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Bryck: Yes. My name is Jacqueline Bryck and I live at 6715 Bunker Road in North Royalton. I live on the property that is directly behind the Animal Hospital. I have lived there since January of this year. I am a mother myself and have a 19-month old son. I just wanted to say that I personally have not had problems with the dogs. I have not had an instance where I would have had to call and, again, I am an adjoining landowner. There are no problems with waking up my child or anything of the like. I just have not had an issue. Now in the interest of full disclosure I do know the Hechko's and I have found them to be very respectful to the fact that I live on the adjoining property. I have full confidence that any issue that I might have with them would be dealt with appropriately and would be treated with respect. Thank you.

Ms. Stetz approached the microphone.

Mr. Price: Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Stetz: My name is Kathy Stetz and my address is 8124 York Road in North Royalton. I just came back from a dog training so I am sorry that I was late. I am actually a Master Dog Behavioral Therapist with Bark Busters Home Dog Training. I have been in a relationship with Dr. Hechko since the day that he opened his Animal Hospital. I have receipts at home that I can show you that we actually came in and worked with all of his staff to teach them how to work with dogs to keep them from barking from stress related instances. I am actually currently an employee with Dr. Hechko, working with him on a day to day basis. I work with his staff, teaching them how to work with dogs and how to stop barking dogs. I felt a need to tell you that he has always come to me to work as a behavioral therapist to help make any type of barking limited. You cannot stop every dog from barking all of the time but you can stop a bulk of the barking, and that is what he has tried to do. It is pretty quiet every day when I go in there. I am not sure at what hours all of this barking is going on but his staff has been trained, by me, to work with barking dogs and with various other behavioral issues. Thank you.

Mr. Hocevar approached the microphone.

Mr. Price: Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Hocevar: I do. My name is Chuck Hocevar and I reside at 7964 Ridgedale Road. I am a client and have taken numerous pets that I have to Dr. Hechko. I have known Dr. Hechko since he opened. I visit there probably once a month because of medications and food or a medical visit for one of my pets. He is in a brick building all of the way around. When I am there I generally hear very little noise. I have gone there early in the morning and I have been there in the afternoon. I would say that if we were building a Wal-Mart with 500 cars next door but when I buy a house and see an animal hospital next door I would expect some barking. When you buy a house next to an animal hospital you should expect some barking. Thank you.

Mr. Price: Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. McCoy: Yes, I do. Christine McCoy, 11124 Ridge Road. I have lived in North Royalton, off and on, for nearly 40 years. I also own The Natural Pet which is at 8715 Ridge Road. I have owned this for 2 ½ years. I have a very good relationship with Dr. Hechko with both my business and him taking care of my pets. I have been at his hospital several times. I have never been witness to an incident where there was unreasonable barking. Many of my customers, as well, visit his animal hospital. In speaking to them they have never expressed a concern with noise at any time. I really feel that he is an asset to our community. My family has owned a home here since 1972. I own one of the oldest homes in North Royalton so I take a lot of pride in it. The fact that we have a young man who returned to his community and wants to build his animal hospital up from where his father-in-law's legacy is – I think that is admirable and is an asset to our community. Being a fellow business owner in the community we would like to see that area of Ridge Road improved which has long since taken a dull turn. We are trying to revitalize it with my business at the corner of Bunker and Ridge Road. (Continued on next page...)

Ms. McCoy: It is kind of in a sore spot with all of the bars around there. We would like to see the area improve. We have Romano's Market there now. Having this beautiful hospital built would be such an asset to our community. I think that the noise level that is being presented is just outrageous. I am out and about at my business at all hours. I never hear anything. I visited that area several times and I never had a concern or have ever heard of any concerns. I just want to say that, as a fellow business owner and resident of North Royalton, I really think that it would be a disservice not to re-zone this property to give it the proper zoning for his business. I think that it would be an asset to the community to move forward with this. Thank you.

Mr. Price: Next.

Mr. Sindyla: Robert Sindyla, attorney for the doctor. It has been brought to my attention, and I want to make it clear to this Board, that we will be presenting to the Animal Warden in the City of North Royalton and the Building Department evidence that Mr. Sopata is running what they call "Tail's Pet Sitting", which he advertises on the internet. He has his own little business. He advertises that he houses dogs in his basement, in his house, which is next door to the animal hospital. When you go online it shows the Tail's Pet Sitting schedule of services and an application. It is a little bit ironic that he (Mr. Sopata) is complaining about dog noises. There will be sufficiently more evidence to show that, at least from my client's point of view, it is a legal non-conforming use. I understand that, so what he is doing is legal. What he is trying to do is improve the services to the citizens of North Royalton while trying to increase the value of the property and also the income for the City of North Royalton. The person who is barking the loudest seems to have some violations on his own property whereby he is acting inappropriately. I wanted to share that with you and let you know that that will be presented at the next meeting if we proceed to move forward or if we honor the Law Director's legal opinion. Thank you.

Mr. Price: Anybody else? This is the time for public comments. Raise your hand please. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Petkovich: Yes, I do. Barbara Petkovich, 10631 Sherwood Trail, North Royalton. My cats are loyal patients of Dr. Hechko. He has done wonders for our little family. I have been there at all times of the day and it has always been quiet. I really have not heard much barking going on there. The house is quite a bit ahead of the hospital. There is a lot of room between the house and the animal hospital. I want to also second what he said – if you buy a house next to a Wal-Mart you can't complain about the noise. I had hoped somebody would say that because I kind of did not want to be the first one to point out the obvious. Thank you.

Mr. Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Pavlovich: I do. Liz Pavlovich, 6723 Drawbridge Circle. I have had dogs all of my life and I have experienced many veterinarians and their offices and their staffs in several different cities; consequently, I tend to be very critical. My dogs are very important to me. As we all know, the most expensive of something is not necessarily the best. It is very reassuring to have Dr. Hechko as my veterinarian for my dogs. He gives his patients, large and small, such a personal touch. Aside from his academic achievements in veterinary school, he and his staff bring an energy and enthusiasm to his clients that I have yet to see surpassed. He introduced the first North Royalton Pet Carnival on his office grounds which was supported and graciously assisted by Carrie Cerino's by donating parking space. Response was so overwhelming that he moved this to a now annual event at the Town Square, thereby attracting local and neighboring citizens. It is an enjoyable and safe family event day. As a result of his efforts he has helped find homes for shelter animals that were present during the carnival. Again, lots of energy and enthusiasm. Dr. Hechko and his staff also provide special services for his clients who have lost a beloved pet. This is very important to these people. I am one of them. He has donated a mask to the North Royalton Fire Department to assist giving oxygen to pets who have suffered from smoke inhalation. We have several other veterinary practices in North Royalton but no one has stepped up to the plate to help out the way that he has. He has filled a void in North Royalton with his energy and enthusiasm. I support Dr. Hechko's appeal to expand his practice. It was established many years ago. It would be a shame for North Royalton to not support their North Royalton Animal Hospital. There is so much potential for Dr. Hechko and his staff to build on, especially with all of their energy and enthusiasm. As far as decibel levels go, it involves a lot more than a plain number. It is not based on a scale of 100 such as a perfect spelling test.
(Continued on next page ...)

Ms. Pavlovich: My research, which surprised even me, shows that normal conversation registers at 60 – 70 decibels and a telephone dial tone at 80 decibels. Dr. Hechko has given North Royalton so much that I think that we should be able to give a little bit back to him to improve our community. Thank you.

Mr. Price: Thank you. Can I ask one question. The decibel reading - at what distance?

Ms. Pavlovich: It depends on what source you use.

Mr. Price: What about the telephone ringing.

Ms. Pavlovich: I do not have that specifically in front of me. There is deviation when you look at certain instances. There is no ironclad number.

Mr. Price: Thank you. Anybody else? Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Hocesvar: Laura Hocesvar, 7964 Ridgedale Drive, North Royalton. I am not an attorney so I do not know anything about codes and ordinances. Are we not trying to bring businesses and employment to the North Royalton area? Dr. Hechko has built his practice and would now like to expand it. He has grown out of it. I would hate to see him leave because we do not give him the variance that he is asking for - because if I were him I would not stay around. The hospital is right on Ridge Road, which is a very busy street, so car noises and people pulling in and out of there would probably not make any difference. From what I understand, the kennel is going to be built towards the back of the lot which would place it further away from the house of the neighbor. Every time I go in there I never hear any dogs barking and I go in there a lot. I have 7 cats and I have stray cats. He takes care of my stray cats – he de-claws them and neuters them and he does not charge as much money as he would for your regular pets. I think that it would be a great loss to the community if he would have to leave. That is all I have to say.

Mr. Price: Thank you. Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Bryck: Yes. My name is Mary Bryck and I live on Homestead Creek Drive in Broadview Heights. I am the general partner of Bryck Enterprises which owns the property that the animal hospital is based on. In 2003, after my husband's death, I leased the hospital to a young veterinarian, a woman, and she was there for 3 years or until 2006. She ran the practice until Dr. Hechko took over. I understand that Mr. Sopata moved there in August of 2003. In those 3 years I do not believe that there were any complaints about noise. I am sure that Dr. Smith, the woman who was there, would have told me had there been complaints. So for 3 years he did not have a problem. When Dr. Hechko moved in he went over to introduce himself and Mr. Sopata was not extremely friendly. The problem started almost immediately after that. Since Dr. Hechko inherited Dr. Smith's client base there could not have been that many more dogs boarding than when she was there. I am then questioning why, all of a sudden, Mr. Sopata is concerned about the noise when he was not for the 3 years prior to that. Dr. Smith boarded dogs too. I think that part of the problem is that Mr. Sopata had tried to sell his house and he was not able to do it. I am not sure for what reason but I could speculate. So I think that there are a lot of ulterior motives on Mr. Sopata's part for causing these problems and trying to get Dr. Hechko, basically, run out of North Royalton. I would hope that you would find a way to let him continue his practice and continue the legacy of the North Royalton Animal Hospital, which has to be one of the longest running businesses in North Royalton – 53 years. I do not know if you have seen the plans for the hospital but they are absolutely gorgeous. It would be such an asset to the community to have this facility there. He has bent over backwards to try to decrease any noise and trying to appease Mr. Sopata but Mr. Sopata does not want to have any part of it. He wants what he wants, for whatever reasons he wants it. I think that it would be a terrible loss to the community if Dr. Hechko was forced to leave because he cannot continue practicing in the building that he is currently in, the way it is now. It is an old building and it is not up to any standards of modern veterinary care. He is doing everything that he can to keep the noise level down, including having Kathy, from Bark Busters, come in and train the girls on how to do this. I think that he is being done a terrible disservice by Mr. Sopata, someone who is a relative newcomer to North Royalton. I would hope that you would be able to work with us, Bryck Enterprises, and Dr. Hechko of the North Royalton Animal Hospital, to get this done in a way that is legal and satisfactory to everyone who is concerned.

Mr. Price: Next. Please raise your right hand please. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Pellow: Yes. My name is Diane Pellow, 9520 Cedarwood Drive, North Royalton. I am also a client of Dr. Hechko. There was a period of seven months when my pet Molly, who now represents Molly's Mission at the Pet Carnival every year, was his patient. In those seven months there were weeks when Molly was hospitalized at the facility. I was allowed to visit her and take her out where we would sit on the grass in the front of his facility. The only dog that I ever heard barking belonged to the neighbors. Their dog was on the back porch barking consistently. I would then have to take Molly back into the facility and I would leave. In those seven months that I was there, and I was in there 2 – 3 times a week for those seven months, I never realized that he had that many dogs in the boarding facility. It was quiet. My dog did not even bark for some reason. I think that these dogs think of this as home because they are comfortable there. They are cared for. That is one aspect. The other aspect is, in an economy that is suffering, you are getting city taxes for well over 20 staff members from this business. He is bringing jobs to North Royalton. My fear is that you are going to force him to leave. I do not think that that part of Ridge Road, which is starting to look pretty shabby, can afford to have another boarded up building. You have Schukert's, who knows what is going on with Carrie Cerino's, you have the bars – it looks pretty bad. Let's not even go into Timber Ridge. I am a North Royalton resident of 25 years and I am very disappointed in how zoning is working and disappointed in what is happening to the city. I would like to see him (Mr. Hechko) stay in the city. I think that we all need him. Thank you.

Mr. Price: Anyone else? Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Pavlovich: Yes, I do. My name is Carl Pavlovich and I live at 6723 Drawbridge Circle in North Royalton. I just wanted to point out that my wife was up here earlier. She took a lot of my thunder. I think that when I saw Dr. Hechko, and I was in business for a number of years and called on a lot of businesses, one of the chief characteristics of a good business owner is the consistency of his staff. Ever since we have taken our dogs to Dr. Hechko he has had the same staff members. The same people who are knowledgeable about the industry and take care of our pets. I think that that speaks volumes of a small business owner. The same people have been on staff for a number of years. Secondly, he could have called this Dr. Hechko's Hospital but he called it North Royalton Animal Hospital in keeping with the legacy. When he started his pet carnival people from other communities came. I have had friends come from Hinckley, Brunswick and Strongsville. What do they do? They are able to go on our city green and see how our community is responsive in terms of our pet owners and, more importantly, what it brings to our people. I think that this gentleman's energy as an entrepreneur should not be contained but rather developed, as he wants to. He should be embraced by our city and by our Planning Commission. These are the people we want to bring to our city. This type of energy, enthusiasm and support for our community is what we want. This is someone who will bring more to our tax revenues and such a tremendous amount of goodwill. The people who I have spoken to, who have been to the Pet Carnival - because of this one individual's drive and desire to make a better place for all of us. I really hope that we can look past this pettiness and move forward and look to what we need to do as a city to support people like this. I hope that you feel the same way. Thank you.

Mr. Price: Thank you. Anybody else? Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Haley: My name is Debra Haley and I live at 11179 Hempstead Road in North Royalton. I have lived there for 18 years. I have known Dr. Hechko for a number of years but what concerns me, and what I do not understand but maybe you could explain it to me, is the people who reside on the right side of the hospital looking at the hospital, if they are boarding dogs in their basement will not those dogs bark sometimes too. I know Dr. Hechko. I take my animal there. I have watched him make miracles with animals. These animals are like children to their owners. It is very important to them. They depend on him for good care. I just do not get it Mr. Kelly. Why are you so against this? How could they possibly be boarding in their basement and yet the gentleman has problems with dogs barking. I just can't get that. Please consider to have another meeting about this. You just can't throw your backs against him and say that this can't be done. It is North Royalton. We want this place to be good. Thank you.

Mr. Price: Anybody else? Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. O'Brien: Yes. My name is Kathy O'Brien and I live at 7569 Hidden Valley Lane in Parma. I have worked for Dr. Hechko for a couple of years. I work in the back in a little office in the kennel. I conduct business back there all day long. I talk on the phone all day long. I do not have any problem with decibel levels at all. Everyone can hear me on the phone. I do not have to block out an ear so that I can hear someone talking on the phone. I am in the kennel all day, 8 hours a day. Thank you.

Mr. Price: Anyone else? Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Kljun: Yes, I do. My name is LouAnn Kljun, 10084 Delsy Drive in North Royalton. I am a proud employee of Dr. Hechko. I just wanted to say that he has a wonderful staff. I have had, as he knows, a lot of different positions in my life and this is one of the very few positions that I have held where the entire staff gets along. We are all very happy working for him. He is a great employer in addition to a great veterinarian. I just want to say that both my job and my life are dependent upon my job with him. My husband is also dependent upon my job because he works in construction and he gets laid off here and there. My main question is for anyone who would be concerned about the decibel level is that you should not buy a home on a main road such as Ridge Road. Thank you.

Mr. Price: Next. Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Sledz: Yes, I do. My name is Suzette Molitoris-Sledz, 9996 Gabriella Drive, North Royalton. A quick question. Are any of you a life long resident of North Royalton?

Mr. Price: The time for questions ...

Ms. Sledz: What I am getting at is that I graduated from Ernest E. Root High School. That does not even exist anymore. North Royalton High School exists. There was a house on the corner of Ridge and Rt. 82 - it does not exist anymore. There was a pink bar on the corner of York Road and Sprague Road called Peyton Place. It does not exist anymore. They have made North Royalton a better place. We need places like Dr. Hechko to make the businesses that already exist a better place instead of bringing in the Acme's and Topp's that don't stay or the Traitor Joe's that might not stay. You drive by intersections that are zoned commercial, you wipe out the land and the housing market takes a dump and then the land is gone and is barren. I use to love to live in North Royalton. I loved to be a resident. I am not so sure that I love it anymore. I just wanted to say that. I am not so sure that the panel can say that they have lived in North Royalton all of their life, but I have. Thank you.

Mr. Price: Thank you. Please raise your right hand sir. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Hechko: I live at 16541 South Boone Road, Columbia Station. I am the father of the doctor. The reason that I am actually up here is that my background is electronics. To accurately get a decibel level without having the equipment calibrated and certified could be way off. That is inaccurate unless you actually have somebody, a professional who has been certified and who has equipment that is certified, who can give an accurate reading. I actually do the maintenance over at the hospital and I have seen his dogs (Mr. Sopata's) bark more than the dogs out back. The only other thing that I would like to say, and then I will be done, is that the only time the dogs are really out, at least when I have been there, is in the morning so that the dogs can go out and go to the bathroom. In the evening, after they have just fed them, they take them back out to go to the bathroom. That is basically the only time that I have seen dogs out for any period of time. That is all that I want to say. Thank you for your time.

Ms. Kljun: I am a receptionist there at the clinic. Just after I started last December I had someone walk in the door to make a boarding reservation. I explained to her the requirements for the boarding reservations, one of which is a fairly new requirement. She was very upset and said that she did not vaccinate her dog against canine influenza and such. She said that she would then not be able to board with us but would go next door. So evidently their requirements are not safe next door for pets which shocked me because I had not been aware that there was a boarding facility next door. Thank you.

Mr. Price: Anyone else? Can I have a motion to move BZA10-11 to the regular order of business.

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **move BZA10-11 to the regular order of business.**

Mr. Price: Call the roll.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

Mr. Price: I need a motion to adjourn the Public Hearing.

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **adjourn the Public Hearing.**

Mr. Price: Call the roll.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

Public Hearing adjourned at 8:30 p.m.

Mr. Price: Would anyone like to take a brief recess?

The Board agreed to do so.

Mr. Price: We will take a five minute recess and then begin the open meeting.

The **Board of Zoning Appeals** of the City of North Royalton met on **September 27, 2010** to hold an Open Meeting in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 8:35 p.m.

Present: Chairman Neil Price, John Ranucci, Diane Mastronicolas, Robert Jankovsky, Dan Kasaris, Law Director Thomas Kelly, Building Commissioner Rito Alvarez, Secretary Lynn Brinkman.

Mr. Price: I need a motion to excuse Mr. Ranucci for cause regarding the approval of the Minutes for the July 26, 2010 meeting.

Moved by Mr. Kasaris, seconded by Ms. Mastronicolas to **excuse Mr. Ranucci for cause regarding the approval of the Minutes for the July 26, 2010 meeting.**

Mr. Price: Call the roll.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Ms. Mastronicolas: Yes.

Ayes – all. Nays – none.

Motion carried (4-0).

Minutes approved.

OPEN MEETING

Mr. Price: Due to the comments that were made a little earlier I am going to switch the order of BZA10-10 and BZA10-11. I am going to ask for a motion to table BZA10-11 until the next meeting in October.

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **table BZA10-11 until the next meeting in October.**

Mr. Price: Any discussion from the Board?

Mr. Kasaris: The only thing that I would add is that apparently the discs came in today. For the record, I think that each member should have a disc so that they would have an opportunity to view it if it is necessary.

Mr. Price: I think that Lynn can arrange that. Please call the roll for tabling this item.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

Item tabled.

(BZA10-10) Felix L. Theys / May Properties, Ltd. request a variance to Chapter 1278 “Industrial Districts”, Section 1278.05 “Lot Area and Width Regulations”, paragraph (a) and Section 1278.06 “Yard Regulations”, for relief from the minimum lot area requirement and relief from the setback for this proposed newly created drive from the rear lot line, for this proposed lot split on this property zoned as General Industrial located at 9941 York Theta Drive, also known as PPN: 483-12-011.

Moved by Mr. Ranucci, seconded by Mr. Kasaris to **approve a variance of 0.1886 acres less than required per Section 1278.05 (a) of the Zoning Code with regard to the minimum lot area required for a property in a General Industrial zoned area.**

Mr. Price: Would the applicant please come forward. I have no objection to this variance request; however, I would like to make a condition that the lot split, consolidation and the platting take place before any of the work on the driveway. Would that be acceptable to you?

Mr. Hodge: Yes. We have no immediate plans for the driveway right now and that would actually be a separate application to the Building Department for that driveway. It would be at that time that the setback would be addressed. That would be fine.

Mr. Price: So you would have no problem then, should it be approved, to take care of the platting first.

Mr. Hodge: Yes. That is already complete and ready for submittal.

Mr. Price: To the Board, I would like to make that in the form of a motion.

Amended Motion / Condition:

Moved by Mr. Price, seconded by Mr. Kasaris to **add a condition to the original motion to ensure that the lot split, consolidation and platting take place prior to the variance with regard to the driveway being approved.**

Mr. Price: Discussion? Call the roll.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Ayes – all. Nays – none.

Motion amended with condition (5-0).

Mr. Price: As far as the next request, I have no objection to it. I will be voting for it. It will not be a distraction to the neighborhood. No government services will be impaired. You will be cutting down on traffic from the main road as far as the transportation of materials between the two buildings.

Ms. Mastronicolas: I too will support this. The day that I visited the site it was almost a stand-off between a tow motor and myself so I think that this will make the operation more efficient. I will also support this.

Mr. Kasaris: I will also support this variance request for the reasons already given.

Mr. Ranucci: The same goes for me. It is creating a non-conforming lot but, since the lot has already been built on, I am assuming that Mr. Theys realizes that should he wish to expand or anything in the future he would then have to come back to the Board for any variances necessary. I do not think that that is an issue at this time. I will also be voting for this variance.

Mr. Jankovsky: I concur with the comments previously rendered by my colleagues. I do not see any conflict with any of the criteria that we look for. I am glad to do this for May Properties who I think are one of the long time anchors and proud businesses that we have in this community.

Mr. Kelly: In summary, if I understand the Board correctly, the applicant's request is in keeping with the intention of the Code and in keeping with the spirit of the Board of Zoning Appeals' regulations and rules. There is no opposition to it. It will increase the efficiency of the Mays Company to perform their functions. It will preserve the safety of the community and it will cut down on traffic on the roadway, all of which argue in favor of your consideration.

Mr. Price: Any additions? Call the roll.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

