

The Board of Zoning Appeals of the City of North Royalton met on **September 26, 2011** to hold a Public Hearing in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 7:35 p.m.

Present: Chairman Neil Price, John Ranucci, Diane Mastronicolas, Robert Jankovsky, Dan Kasaris, Prosecutor Donna Vozar, Building Commissioner Rito Alvarez, Secretary Lynn Brinkman.

Public Hearing

(BZA11-13) Lori and Kevin Krug request a variance to Chapter 1270 “Residential Districts”, Section 1270.02 “Schedule of Permitted Buildings and Uses”, paragraph (a), of the City of North Royalton Zoning Code, for relief from the Code relating to buildings and land in Residential Districts which requires that in order to have an accessory building erected on such a parcel that parcel must have a main building or use, such as a single-family dwelling. This particular parcel of land is zoned R1-A. The parcel is landlocked. The applicants are requesting to construct an accessory building / greenhouse on this landlocked parcel known as PPN: 482-10-013.

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.

Mr. Price: Is the applicant here? (The applicant approached the microphone.) Would you please raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Krug: I do. My name is Lori Krug and I live at 7192 Tilby Road. We are here to request a variance because we would like to build a greenhouse. We own two separate parcels. We live on Permanent Parcel No. 482-10-009. We own an adjacent parcel known as PPN: 481-10-013, which is landlocked. Since our home is on PPN: 482-10-009 we cannot have an accessory building on a different lot. The property known as PPN: 481-10-013 is landlocked so, according to the Code, we cannot build back there. There is no street frontage for this lot. There is no access to this lot from the street. When we purchased our house in 2002 we had to take both lots. They were bound together. We had no choice at that time to separate the lots. We were also unaware at that time that the two lots were not the same zoning. We did not even know what the zoning was. We later found that PPN: 482-10-009 is zoned Local Business and PPN: 481-10-013 is zoned R1-A or residential, single-family. We use this second parcel as a back yard. We maintain it as we do our entire property. We do not consider it a vacant lot and leave it unattended. I am an avid gardener and have propagated over two hundred (200) hosta plants on our property. I also use the property at PPN: 481-10-013 for natural composting. I would like to expand my hobby with a small 10' x 12' greenhouse for vegetable and seed plantings. As our petition states, the fact that our parcels are zoned differently was not something that was created by us but it has created a hardship for us due to the fact that we are not able to use our property as we would like to. Thank you.

Mr. Price: Anybody else? Would you please raise your right hand. In the testimony that you are about to give do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Ms. Pompignano: I do. My name is Jeanette Pompignano and I live at 7214 Tilby Road. We live right next door to the Krug Family. I have no objection to them building the greenhouse. Many of the neighbors have greenhouses and I do not think that it would change the character of the neighborhood at all. That is it.

Mr. Price: Thank you. Would you raise your right hand please. Do you swear that the testimony that you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

Ms. Gajewski: I do. My name is Beth Gajewski and my address is 7270 Tilby Road. Their parcel kind of abuts the back of our yard. They have a kind of "L" shaped lot. The Krug's are meticulous about keeping their yard nice and very aesthetically pleasing. I am sure that the greenhouse would be a focal point rather than anything else. I think that it would be a good thing. Lori and Kevin both enjoy gardening. I think that it would bring a lot of pleasure to them and I see no reason why it should not be allowed. Thank you.

Mr. Price: Thank you. Would you raise your right hand please. Do you swear that the testimony that you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

Mr. Pompignano: Yes, I do. Guy Pompignano, 7214 Tilby Road. I live next door to the Krug Family. This is probably something that we have talked about for years. I have lived there for over 20 years. She does a lot of planting. We swap plants back and forth. I will give saplings and plum trees to them and they will give me hostas. This is something that has been going on for years. This is just something that they want to do to expand their year a little longer. I can hopefully benefit from this so that I can get some of the flowers started for around our deck. I see no problem with anything. By the time there are a few bushes planted around it and another tree it is just another nice building to look at. A 10' x 12' building is not much. I have no objection to this.

Mr. Price: Thank you. Would you raise your right hand please. Do you swear that the testimony that you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

Mr. Krug: I do. My name is Kevin Krug and I live at 7192 Tilby Road. I am Lori's husband. I just wanted to say that the area where we propose to locate this greenhouse is tucked away and it is not going to be an obtrusive structure. It will be incorporated into our landscape. One of the main reasons for this is to extend the season and, of course, to protect our vegetables and our plants from the deer, which are a yearly struggle. That is really all I have to say.

Mr. Price: Thank you. Anybody else? May I have a motion to move BZA11-13 to the Open Meeting?

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **move BZA11-13 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).

(BZA11-14) Ellet Sign Company / Charter One Bank request a variance to Chapter 1284 "Signs", Section 1284.05 "Design Standards", paragraph (n) "Style and Color", of the City of North Royalton Zoning Code, for relief from the requirement which states that the colors of signs shall be compatible with the color of the building façade and other existing and proposed signs, for three wall signs for the Charter One Bank located in Plaza DiAngelo, 5700 Wallings Road, also known as PPN: 489-11-015.

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.

Mr. Price: Would you raise your right hand please. Do you swear that the testimony that you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

Mr. Frezel: I do. My name is Joel Frezel and I am with Ellet Sign Company, 3041 East Waterloo Road, Akron, Ohio. We are asking that a variance be granted to allow us to have green signs on our building. Green is the corporate color for Charter One and all of the other banks that are a part of the Royal Bank of Scotland. The signs are currently red in color. (Continued ...)

Mr. Frezel: We feel that the Code presents a hardship and a practical difficulty by not allowing us to display our color as it is the corporate logo and trademark.

Mr. Price: Anyone else? Would you raise your right hand please. Do you swear that the testimony that you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

Ms. Plants: I do. My name is Jennifer Plants and I work for Charter One located at 1215 Superior Avenue, Cleveland, Ohio. I am the Project Manager for the bank so I am here on behalf of the bank to request that we change our signage there to our green logo. I am just here to support that effort. Thank you.

Mr. Price: Anyone else? Mr. Willey. As you have been sworn in before that will stand.

Mr. Willey: I am the Councilman for the ward where the plaza is located. I support this request. It is the corporate signature. It will allow them, if you come from the east, to visually see the signage better. I do not believe that it is in great contrast with the current red which is in the plaza. I very much support this request. There was a question in caucus about a white sign that was on one of their buildings elsewhere. I asked them that question. The reason for this was due to the dark background of that building and they needed to use the white color to contrast against the dark color. Thank you.

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

Mr. Colozza: I do. My name is John Colozza and I live at 5690 Goodman Drive in North Royalton. I am the owner of the plaza. It is okay with me if the bank would like to change the color of their signs.

Mr. Price: Thank you. Anything else? May I have a motion to move BZA11-14 to the Open Meeting.

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **move BZA11-14 to the Open Meeting.**

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).

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

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

Mr. Price: Call the roll.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

Public Hearing adjourned at 7:49 p.m.

The **Board of Zoning Appeals** of the City of North Royalton met on **September 26, 2011** to hold an **Open Meeting** in the Council Chambers at City Hall, 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 7:49 p.m.

Present: Chairman Neil Price, John Ranucci, Diane Mastronicolas, Robert Jankovsky, Dan Kasaris, Prosecutor Donna Vozar, Building Commissioner Rito Alvarez, Secretary Lynn Brinkman.

Mr. Price: May I have a motion to excuse John Ranucci for cause from voting on the Minutes for July 25, 2011.

Moved by Mr. Kasaris, seconded by Ms. Mastronicolas to **excuse Mr. Ranucci for cause.**

Mr. Price: Call the roll.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Ayes – all. Nays – none.

Motion carried (4-0).

Mr. Price: May I have a motion to approve the Minutes for July 25, 2011.

Moved by Mr. Kasaris, seconded by Ms. Mastronicolas to **approve the Minutes for July 25, 2011.**

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

Old Business:

(BZA11-12) Zillich Interiors request a variance to **Chapter 1270 “Residential Districts”, Section 1270.33 “Single-Family Cluster Developments”, paragraphs (d)(4)(A), (d)(4)(B), (d)(4)(C)(1)(b), (d)(4)(C)(1)(c), (d)(4)(C)(1)(d), (d)(4)(C)(2), (d)(4)(D) and Section 1270.05 “Schedule of Area, Yard and Height Regulations”, for relief from the Code requirements, as attached, with regard to this proposed single-family cluster development to be known as Quarry Park Subdivision, located off of State Road, involving the following Permanent Parcel Numbers: 488-09-002, 488-09-012, 488-09-044 and 488-09-003.**

Mr. Price: This item had been tabled so could I please have a motion to remove this item from the table.

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **remove BZA11-12 from the table.**

Mr. Price: The applicant has requested that BZA11-12 be withdrawn. He submitted the following notice to the Building Department on September 9, 2011, which had been dated August 7, 2011.

To the City of North Royalton,

I am withdrawing my application for the board of zoning appeals for Quarry Park.

This application is therefore **withdrawn** from the agenda.

New Business:

(BZA11-13) Lori and Kevin Krug request a variance to Chapter 1270 “Residential Districts”, Section 1270.02 “Schedule of Permitted Buildings and Uses”, paragraph (a), for relief from the Code relating to buildings and land in Residential Districts which requires that in order to have an accessory building erected on such a parcel that parcel must have a main building or use, such as a single-family dwelling. This particular parcel of land is zoned R1-A. The parcel is landlocked. The applicants are requesting to construct an accessory building / greenhouse on this landlocked parcel known as PPN: 482-10-013.

Moved by Mr. Ranucci, seconded by Mr. Kasaris to **grant a variance from Section 1270.02 (a) of the Zoning Code so as to allow the applicants to construct an accessory structure / greenhouse on this landlocked, vacant parcel of land which does not have a main building (or dwelling) located on it.**

Mr. Price: Any discussion?

Mr. Kasaris: I have a question for the Building Commissioner. Could a residential structure be constructed on PPN: 482-10-13 as the lot is currently configured? Could a home be constructed on this lot as it currently stands?

Mr. Alvarez: No.

Mr. Kasaris: Why is that?

Mr. Alvarez: The parcel is landlocked. For a home to be constructed on a parcel that parcel would need to have frontage on a dedicated street. It does not. The owners would otherwise need an easement to have a driveway to the street and the whole thing gets very complicated. It would probably also require variances just to place a house on that parcel.

Mr. Kasaris: Mr. Chairman. As you know “use variances” are very difficult to come by, in fact, in the three and one half years that I have been on this Board we have never granted one. I have gone out to the area. I have listened to the applicants. I asked the one question that I had which was directed to the Building Commissioner. The way that I see it is that if we literally interpret this Code an undue hardship is, in fact, created. We have an ordinance which requires that a residential structure or house be built on a parcel of land prior to an accessory structure being built. We cannot build a residential structure on this parcel of land because it is landlocked. This was not a condition that the applicant’s created. As I see it this is a condition that is unique to this property. It does not apply to others. There is not going to be any material detriment to the public welfare. I do not think that this is contrary to the general purpose or intent of the Zoning Code. I think that it is a minimal request which would afford relief to the applicants. They are not asking to construct a house on the parcel or anything large. Although “use variances” are very difficult to obtain I do feel that the applicants would suffer an unnecessary hardship if strict compliance with the Code is followed; therefore, I will support the granting of this variance.

Mr. Price: Thank you. Anyone else?

Mr. Ranucci: Mr. Chairman. I feel that Dan has basically covered it all. A hardship does exist. It is a strange situation where you have a parcel that had been split off from another which then resulted in the creation of a landlocked piece of property. I do not know if we ever had that kind of situation before. A hardship does exist so I will be approving this variance request.

Ms. Mastronicolas: Mr. Chairman. I will also support this variance. I visited the property and it is pretty apparent that you do have a passion for growing plants and vegetation. I also think that it speaks volumes that many of your neighbors have come to support you on this. I think that you have a nice situation there with your neighbors and I wish you luck. It sounds like it is something that you really like to do and you are probably very excited to get going. It sounds like your neighbors have some claim on some of it. Good luck to you. I will be voting in favor of this variance.

Mr. Jankovsky: Mr. Chairman. I will also be supporting this variance request. It sounds like a good plan to me. I also think that it is great that all of the neighbors support it. I will be voting for it.

Mr. Price: I agree with everything that has been said and I think that it has been very well covered. The property is in part bordered by R1-A lots. It has been used as a residential backyard. It is landlocked. No dwelling can be constructed on it. There were no objections by any of the neighbors, in fact, the neighbors have spoken favorably about this request. The variance is minimal. It is not going to affect the delivery of governmental services. The essential character of the neighborhood is not going to be changed. I am for it.

Ms. Vozar: Mr. Chairman. The proposed findings of fact and conclusions of law are submitted as follows. The applicants, Lori and Kevin Krug, appeared before the Board and offered testimony regarding their variance request from Section 1270.02 (a) of the Zoning Code to allow an accessory structure on a vacant lot. There were no objections by any neighbors present tonight and, in fact, there were three neighbors who spoke in favor of the granting of this variance. The Board is making its determination based on the factors under Section 1264.08 (e)(2) for a **use variance**. A use variance is required and a standard of unnecessary hardship is to be established. The Board finds the following based on the testimony offered. When the property owners purchased the property they purchased both parcels, one which was zoned for Local Business and the other parcel zoned as R1-A. The two adjoining parcels have been used as one contiguous property; however, the properties have not been consolidated. The property has a unique factor in that there is a dual zoning on the lots, which has been indicated. A re-zoning of one of the lots would create spot zoning and with the dual zoning it would be difficult for the consolidation of the two lots. The Board finds that unnecessary hardship has been established pursuant to Section 1464.08 (e)(2). The liberal application of the Zoning Code would result in no viable use of the property due to the fact that the property is landlocked and there is a dual zoning issue. The Board further finds that they are requesting a minimal variance in that it is an accessory structure rather than a main use. The Board also finds that there are exceptional circumstances that exist and are unique to this property, specifically that there are two parcels that were not consolidated and there is an issue of dual zoning on the two parcels owned by this property owner. It will not be materially detrimental to the neighborhood. The granting of the variance will not be contrary to the general purpose, intent and objectives of this Zoning Code and the Master Plan. Is there anything else that the Board wants to add?

Mr. Price: Any additions? Call the roll.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Ayes – five. Nays – none.

Variance granted (5-0).

(BZA11-14) Ellet Sign Company / Charter One Bank request a variance to Chapter 1284 “Signs”, Section 1284.05 “Design Standards”, paragraph (n) “Style and Color”, for relief from the requirement which states that the colors of signs shall be compatible with the color of the building facade and other existing and proposed signs, for three wall signs for the Charter One Bank located in Plaza DiAngelo, 5700 Wallings Road, also known as PPN: 489-11-015.

Moved by Mr. Ranucci, seconded by Mr. Kasaris to **approve a variance from Section 1284.05 (n) of the Zoning Code so as to allow the applicants relief from the requirement that states that the colors of signs shall be compatible with the color of the building facade and other existing and proposed signs and to allow the Charter One Bank signs (3) to be green.**

Mr. Price: The word “compatible” has several different definitions. Basically it means to get along together or work well together. The fact that the applicants are requesting that the signs be green – in my opinion they would be compatible with the facade. Green, brown or reddish-brown go together perfectly well. I would say that the color green is compatible with the existing facade. The property owner has not objected to this sign. Businesses which have a wide range of clientele need to have the recognition of logos either through color and design or letter standards and design. They need to get the recognition for their business. For North Royalton to prohibit them from using their company logo, which are sometimes international in scope but most probably national or statewide, would be doing them a disservice as well as the business community in the town. I am in favor of these green signs. (Continued ...)

Mr. Price: It is not a generic business but is a business that is well recognized. When you have a local "mom and pop" store or that of a strictly local business nature then you can go with the colors required. I am in favor of this request.

Mr. Jankovsky: Mr. Chairman. If I could I would like to address a question to the lady or gentleman who spoke previously regarding this application. Let me state first of all that I agree with everything that Mr. Price had said regarding this. I put a lot of credence in what is stated in the application and I am a little concerned about it. Mr. Willey explained the fact that all of your locations are **not** green. He spoke about one in Westlake that had a contrasting color. So what you actually stated in your application is not correct. There could be other colors. The other thing that I would like to know is how long has this bank been at this location?

Ms. Plant: It has been there for about 3 – 5 years.

Mr. Jankovsky: How has this coloring recently presented a hardship to the business? This is stated in your application.

Ms. Plant: As far as I know we have had conversations with the landlord since we went in because the whole strip was red. We were purchased by Citizens Bank about three years ago and we cannot take the name here because of naming rights. There is currently a Citizens Bank which has red lettering. Anywhere we go we try to go with our standard colors to brand ourselves. We are in some other locations where we have not been allowed to switch out the color. I am not sure about the Westlake location and if it is a different color. I cannot really speak to that.

Mr. Jankovsky: Has there been any noticeable detriment to your business here in North Royalton because of the red letters?

Ms. Plant: I do not know that we do the best business there. It is hard to see us. It is the only location that we have in North Royalton.

Mr. Jankovsky: I do not want to push this because I think that we all have the answer. I do not have a problem with the color being requested but I would just like the application to be a little more genuine in the responses given.

Ms. Plant: Thank you.

Mr. Kasaris: Mr. Chairman. A couple of years ago, and I think that it was this Board but I may be mistaken, refused to permit Morgan's Kentucky Fried Chicken from putting Colonel Sanders on the building. I thought that that was a disservice to the community and to that establishment. In Youngstown it was Morgan's but it is still Kentucky Fried Chicken. For the reasons that you had indicated Mr. Chairman, I fully support this variance request. It is for the color of a sign. I think that it is compatible with the area. Thank you.

Mr. Ranucci: Mr. Chairman. For all of the reasons stated I would be in agreement with this request. The color scheme is still intact. It is on the corner of this strip center. It is the color of the company logo. I do sometimes think that we stray to far from the consistent plan which is stated in our Code but in this particular case, considering there is a company logo, I will also be approving this request for a variance.

Ms. Mastronicolas: Mr. Chairman. The only question that I had was the same as that of my colleague, Mr. Jankovsky, which questions what research you have to support any claim that the color of this sign would have an affect on your business. With all of that aside, it is a corporate business and I understand the need for continuity and consistency with corporations. McDonald's has their golden arches and we could go on and on. Mr. Kasaris eluded to that as well. I can understand that but I also struggled with the question of what is the hardship and how long had the sign been that way. With all of that having been said, I do support the color change and hopefully it will impact and help business. Thank you.

Ms. Vozar: Mr. Chairman. The following findings of fact and conclusions of law are submitted for the Board's review. The applicant, Charter One Bank, and the sign company were present here today and offered testimony regarding the need for branding of the company logo on the signage on this tenant space. The request is for a variance from Section 1284.05 (n) of the Zoning Code and the color conformity with the building. (Continued ...)

Ms. Vozar: The Board finds that, while they acknowledge the need for color continuity and cohesiveness in signage throughout the City and in locations such as this, there is a unique situation in that the applicant has established practical difficulty regarding branding of their Charter One Bank and the color requirement and the need for the company color logo. The Board also found that, because this is a branding issue, practical difficulty has been established. There were no neighbors here objecting to this request. The property or plaza owner appeared and also granted his permission for the color change. The Councilperson for this ward, Mr. Willey, also indicated that he believed that the practical difficulty was established. Is there anything else?

Mr. Price: Any additions? Call the roll.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Ayes – five. Nays – none.

Variance granted (5-0).

Mr. Price: May I have a motion to adjourn.

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **adjourn the B.Z.A. meeting for September 26, 2011.**

Mr. Price: Call the roll.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

The Board of Zoning Appeals Meeting **adjourned** at 8:13 p.m.

Approved: Neil E. Price
Chairman

Date: Oct 24, 2011

Attest: Lynn M. Briskman
B.Z.A. Secretary