

The **Board of Zoning Appeals** of the City of North Royalton met on **October 24, 2012** to hold a Public Hearing in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Dan Kasaris at 7:30 p.m.

Present: Chairman Dan Kasaris, Vice-Chairman Robert Jankovsky, Victor Bull, Dale Gauman, Prosecutor Donna Vozar, Building Commissioner Dan Kulchytsky, Secretary Lynn Brinkman.

Mr. Kasaris: May I have a motion to excuse Mr. Rohloff for cause from both the Public Hearing and the Open Meeting part of the agenda for tonight?

Moved by Mr. Bull, seconded by Mr. Jankovsky to **excuse Mr. Rohloff for cause.**

Mr. Kasaris: Call the roll.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Ayes – four. Nays – none.

**Motion carried (4-0).** Mr. Rohloff is excused.

Mr. Kasaris: Before we begin our meeting tonight I would like to mention just a couple of things. Normally we have five (5) Board members present. It takes three (3) votes for an item to successfully pass or a variance request to successfully pass. With one less member here a vote of 2-2 would prevent your variance request from being granted. The two items tonight are requests for area variances which we see frequently. It has been a tradition of the Board that if you should want to wait for all five Board members to be present you could come back in November. If you would prefer to move forward tonight that would also be acceptable. I just wanted to give you that option. I would also like to welcome our new Building Commissioner. If you would please state your name for the record.

Mr. Kulchytsky: Dan Kulchytsky, City of North Royalton Building Commissioner.

Mr. Kasaris: Thank you and welcome aboard.

**(BZA12-15) George Soto** requests 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, for relief from the **maximum height** requirement for an **accessory structure**, which is already under construction under a permit which had been issued in 2008, that he wishes to complete on his property located at **5591 Wallings Road, also known as PPN: 488-03-002.**

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. Kasaris: Is the applicant here? Would you please come up to the microphone. Would you raise your right hand please. Do you solemnly swear that the testimony that you are about to give tonight is the truth, the whole truth and nothing but the truth, so help you God? Please state your name.

Mr. Soto: I do. My name is George Soto and I live at 5591 Wallings Road.

Mr. Kasaris: Why do you want the variance?

Mr. Soto: I am over the 15 foot height limitation. My building is at a height of 16 feet – 9 inches.

Mr. Kasaris: For the record, what are you seeking to do?

Mr. Soto: I would like to finish the building. I would to be able to finish it legally. I would want it to be on my survey as a legal building and an insurable building.

Mr. Kasaris: Why did you not finish it before – once you had started it?

Mr. Soto: I lost my job.

Mr. Kasaris: Did you have a permit to start the job?

Mr. Soto: Yes, I did.

Mr. Kasaris: Did that permit expire or is it still valid?

Mr. Soto: It has expired.

Mr. Kasaris: Have you acquired a new permit?

Mr. Soto: I believe that I will need to do so since the old one has expired.

Mr. Kasaris: Do you have anything else to say with regard to your application?

Mr. Soto: I had submitted some pictures of the building. It is exactly what you see. I do not have any intentions of overwhelming my yard. I could have built something bigger but I did not want anything bigger. I would like to keep my home exactly that – a residential place. I do not want clutter. I do not want things to be stored outside. I am a mechanic by trade. I have been a mechanic for almost 30 years. I enjoy classic cars. This would give me an opportunity to kind of meet my passion. I would have room to work inside of the building and store my personal vehicle inside. I do not do any work on the side – it is all for my own personal use. I do not have any other intentions for the use of this building.

Mr. Kasaris: How long has this been sitting unfinished?

Mr. Soto: Since I first acquired my permit up until right now.

Mr. Kasaris: How long has that been?

Mr. Soto: It has been close to 4 years. The permit was issued in 2008 and I started construction immediately. I did not work very fast because I had not received any construction loans. Any work that I did was with money that I had and as I saved it I bought things through auctions and good deals that I came across so the building did not go up immediately. When I lost my job I had to sell a few personal vehicles which were a reason that I was constructing the building. I am now gainfully employed at a great company so I have managed to save up some money. I have created a budget to do this. I have received some quotes or estimates for concrete work. I do not want to have any problems or issues down the line. I want to keep it legal. I want to be able to insure it and finish it.

Mr. Kasaris: Is it built on a concrete slab?

Mr. Soto: No, there is no concrete there right now. There was an existing building there which I had torn down. It was smaller, approximately 17' x 24', whereas this building is 24' x 24'.

Mr. Kasaris: These are the pictures that you provided?

Mr. Soto: Yes.

Mr. Kasaris: These four pictures.

Mr. Soto: Yes. That is the one that I tore down.

Mr. Kasaris: You took these pictures? I will enter these as Exhibit A and as part of the record. (Addressing the Building Commissioner) Is he required to have a concrete slab?

Mr. Kulchytsky: Yes. He would be required to have a concrete slab. Since his permit has expired he would be required to pull a new permit. The unfinished portions of the work would have to comply with current State laws which would require a concrete slab for a building which is meant for the storage of vehicles.

Mr. Kasaris: Thank you. Do you have anything else to add?

Mr. Soto: I do not think so.

Mr. Jankovsky: I just had one question. I am assuming that you are building this yourself – you do not have a contractor.

Mr. Soto: I am doing all that I can by myself. I did have a contractor come in and put rafters on the part that went up because I was a little nervous going up there. I would have a contractor come in to pour the concrete.

Mr. Jankovsky: For the record though, you would be the contractor. I am asking this because had you had a contractor he would probably have advised you that you were over the Code.

Mr. Soto: I have only had one person out to the house which was a while back and he did not indicate that the height was too great -- he just came in to put the rafters in for me. He knew that I had a permit. I guess he did not concern himself with the height requirement issue.

Mr. Kasaris: Anyone else?

Mr. Bull: When did you realize that you needed a variance? It has been a period of time since you started construction.

Mr. Soto: When I bought this it was a kit. It did not have any lumber. It is a little more unusual than the typical pole building since there are no trusses. I looked around quite a while before I found the company that sells this kit. They could not give me a definitive answer on the height. I believe that you have a copy of the plans. It is kind of a universal kit where you could build it at any width or height that you wanted. I believe that most people go with 10, 12 or 14 foot walls. With this particular kit I went with 8 foot walls. I would have never believed that the height would have exceeded 15 feet. I tried to do the math. I laid it out on the ground and when I put it up I did not think that it looked too high. Things then happened with my job and I stopped everything.

Mr. Kulchytsky: Mr. Soto, are you intending to put a second floor on this?

Mr. Soto: No.

Mr. Kulchytsky: To the Board, I would request a stipulation that should this variance be granted no second floor would be installed as it affects Ohio Building Code for the types of footers. (Addressing the applicant) What are the depths of the footers?

Mr. Soto: They were inspected before I poured them and they were at least 3 feet. I still have the green sticker that the inspector gave me once the footers had been inspected.

Mr. Kulchytsky: Mr. Chairman, what Mr. Soto is saying is accurate. The socket systems and the drawings that were submitted give only a maximum height and they are rather ambiguous as to where the peak height would be. They do not clearly state the height of the building in the form that they sent him. It is a pre-fabricated kit.

Mr. Kasaris: Is that a problem?

Mr. Kulchytsky: I would not think so. They give the maximum height to make sure that you are structurally sound. They just try to tell you what the maximum height can be.

Mr. Kasaris: Thank you. Is there anybody else who has any questions? Can I have a motion to move BZA12-15 from the public hearing portion of the meeting to the open meeting.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **move BZA12-15 to the Open Meeting.**

Mr. Kasaris: Please call the roll.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Ayes – four. Nays – none.

**Motion carried (4-0).**

**(BZA12-16) Paul Blair** requests 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, for relief from the **minimum side yard setback** requirement for an attached 2-car garage he wishes to construct on his property located at **8410 Ridgedale Drive, also known as PPN: 489-01-025.**

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. Blair: I am Paul Blair and I live at 8410 Ridgedale Drive.

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

Mr. Blair: Yes, I do.

Mr. Kasaris: Thank you. Please state your reasons why the Board should grant you this variance request.

Mr. Blair: I have lived at this residence since 2002. When I moved into this house it was a small house and was located only 3 feet from the existing property line on the north side. I was before this Board back in 2004-2005 to get a variance to construct an addition on the front of the house. In 2008 I received a variance to construct a 36' x 36' addition on the back of the house. My existing lot is only 65 feet wide by 672 feet deep. I tore down a detached garage which was only 3-4 feet from the existing property line. The roof had been leaking for years and the pad on the inside was completely shattered. I tore that down with the hope that I could get a permit to construct an attached garage on my existing structure. I would like to locate this proposed attached garage 3 feet from the property line on the south side of my property.

Mr. Kasaris: We received something tonight during caucus. It appeared to be some kind of amendment to the original request. So we have your original request which was received some time ago and we received a memo dated October 23, 2012 from Becky Kohout, home designer, which was reportedly submitted on your behalf. Which request would you like us to consider?

Mr. Blair: I would like to go with 3 feet from the property line.

Mr. Kasaris: That would be your original submittal. You would then be withdrawing the second request.

Mr. Blair: Correct.

Mr. Kasaris: Are you then going to be constructing the garage where the original garage was?

Mr. Blair: I am moving it up closer to the street - about 20 feet or so. I will be attaching this garage to the house. My wife would prefer to walk into the house from the garage.

Mr. Kasaris: It would still be 3 feet from the property line.

Mr. Blair: That is correct.

Mr. Kasaris: The side setback would be the same.

Mr. Blair: Yes.

Mr. Kasaris: You will be moving it farther away from the house behind you.

Mr. Blair: That is correct.

Mr. Kasaris: Does anyone have any questions for Mr. Blair?

Mr. Jankovsky: I know the answer to what I am about to ask you but for the record I want to clarify it. I went to your property two times and I could not see an existing garage. The existing garage that you referred to in your application, and the one that was referred to in the letter submitted by Becky Kohout yesterday, does not exist anymore. Is that correct?

Mr. Blair: That is correct.

Mr. Jankovsky: When was that removed?

Mr. Blair: I removed that about a month ago.

Mr. Jankovsky: Okay. So there is no existing garage. We are looking at replacing a structure that was once there at approximately the same distance from the south boundary line.

Mr. Blair: Right.

Mr. Jankovsky: Thank you.

Mr. Kasaris: Did you get a permit to remove the existing garage?

Mr. Blair: I did not.

Mr. Kasaris: Does anyone else have any questions for this applicant? (No response.) Thank you. Can I have a motion to move BZA12-16 from the public hearing portion of the meeting to the open meeting.

Moved by Mr. Bull, seconded by Mr. Jankovsky to **move BZA12-16 to the Open Meeting.**

Mr. Kasaris: Please call the roll.

Mr. Kasaris: Yes.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Ayes – four. Nays – none.

**Motion carried (4-0).**

Mr. Kasaris: Can I have a motion to adjourn the Public Hearing?

Moved by Mr. Bull, seconded by Mr. Jankovsky to **adjourn the Public Hearing.**

Mr. Kasaris: Call the roll.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Ayes – four. Nays – none.

**Motion carried (4-0).**

**Public Hearing adjourned at 7:50 p.m.**

The **Board of Zoning Appeals** of the City of North Royalton met on **October 24, 2012** to hold an **Open Meeting** in the Council Chambers at City Hall, 13834 Ridge Road. The meeting was called to order by Chairman Dan Kasaris at 7:50 p.m.

Present: Chairman Dan Kasaris, Vice-Chairman Robert Jankovsky, Victor Bull, Dale Gauman,  
Prosecutor Donna Vozar, Building Commissioner Dan Kulchytsky,  
Secretary Lynn Brinkman.

Mr. Kasaris: May I have a motion to excuse Mr. Tony Rohloff for cause from attending the Open Meeting and from voting on the Minutes tonight.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **excuse Mr. Rohloff for cause.**

Mr. Kasaris: It has been moved and seconded to excuse Mr. Rohloff from tonight's meeting as well as from voting on the Minutes for July 18, 2012 and September 26, 2012. Any discussion? Clerk, please call the roll.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Ayes – four. Nays – none.

**Motion carried (4-0). Mr. Rohloff is excused.**

Mr. Kasaris: May I have a motion to approve the July 18<sup>th</sup> and the September 26<sup>th</sup>, 2012 Minutes?

Moved by Mr. Jankovsky, seconded by Mr. Bull to **approve the Minutes for July 18<sup>th</sup> and September 26<sup>th</sup>, 2012.**

Mr. Kasaris: Any discussion? (Addressing the Secretary) How will the Minutes be done in the future – has it changed at all?

Ms. Brinkman: As of right now I believe that I will be transcribing this meeting tonight. As far as the future – I am not sure how we will be proceeding.

Mr. Kasaris: I know that for the committee meetings we have retained someone to take notes and create the minutes for the committee meetings. As it stands right now you will be doing the minutes for at least one more month.

Ms. Brinkman: Yes, as far as I know.

Mr. Kasaris: Thank you. Clerk, please call the roll.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Jankovsky: Yes.

Ayes – four. Nays – none.

**Motion carried (4-0). Minutes are approved.**

## **OPEN MEETING**

### **New Business:**

**(BZA12-15) George Soto** requests a variance to **Chapter 1270 “Residential Districts”, Section 1270.04 “Area, Yard and Height Regulations”, paragraph (g)**, for relief from the **maximum height** requirement for an **accessory structure**, which is already under construction under a permit which had been issued in 2008, that he wishes to complete on his property located at **5591 Wallings Road, also known as PPN: 488-03-002.**

Mr. Kasaris: The Building Commissioner has suggested an amendment to this variance request. Can I have a motion to amend the variance to prohibit the construction of a second floor of this structure.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **amend the proposed variance request by prohibiting the construction of a second floor on this structure.**

Mr. Kasaris: Please call the roll.

Mr. Gauman: Yes.

Mr. Kasaris: Yes.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Ayes – four. Nays – none.

**Motion carried (4-0). Stipulation approved.**

Mr. Kasaris: May I then have a motion with regard to BZA12-15.

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance of 1 foot – 9 inches more than the maximum height allowed per Section 1270.04 (g) of the Zoning Code with regard to the height of this proposed accessory structure, including the proposed amendment which would not allow the construction of a second floor on this structure.**

Mr. Kasaris: Does anyone have any questions for the applicant or any comments or concerns. I find, based on Mr. Soto's comments and the evidence he provided with the pictures, the fact that he tore down a dilapidated structure and is trying to improve his property and the neighborhood, that the variance is not outside of the character of the neighborhood. It will not substantially alter the character of the neighborhood. No adjoining property owners will suffer any substantial detriment due to the granting of this variance. I think that the variance is minimal. It will not affect the delivery of any governmental services. For those reasons I will be supporting the request.

Mr. Jankovsky: Mr. Chairman, I concur with your comments. I feel that it falls well within the criteria we look at and it will be a vast improvement over what existed previously. I will also be voting in favor of his request for a variance.

Mr. Kasaris: Anyone else? Based on the packet of information provided to us and the testimony of the applicant I believe that the Board has found that the character of the neighborhood would not be altered and that this structure would be an improvement to the applicant's property and neighborhood. The comments made by Mr. Jankovsky and myself are included with the findings of facts. Will the clerk then please call the roll.

Mr. Kasaris: Yes.

Mr. Jankovsky: Yes.

Mr. Bull: Yes.

Mr. Gauman: Yes.

Ayes – four. Nays – none.

**Variance granted, with stipulation (4-0).**

Ms. Brinkman: George, I just want to remind you to come down to the Building Department to fill out another application so that we can re-new your permit.

**(BZA12-16) Paul Blair requests a variance to Chapter 1270 "Residential Districts", Section 1270.05 "Schedule of Area, Yard and Height Regulations", for relief from the minimum side yard setback requirement for an attached 2-car garage he wishes to construct on his property located at 8410 Ridgedale Drive, also known as PPN: 489-01-025.**

Moved by Mr. Jankovsky, seconded by Mr. Bull to **grant a variance of 7 feet less than the required side yard setback as prescribed in Section 1270.05 of the Zoning Code with regard to the location of this proposed attached garage from the side property line to the south.**

Mr. Kasaris: Does anyone have any comments, questions or concerns? I just have one. Mr. Blair, will you be back? Do you foresee any more issues that would require a variance? Could you please approach the microphone.

Mr. Blair: I might eventually want to install a pool. I do not know if I would need a variance for that.

Mr. Kasaris: Your lot goes back 672 feet. There should be a way to figure out the placement without requiring a variance. Thank you. Anyone else have any questions, comments or concerns?

Mr. Commissioner?

Mr. Kulchytsky: No comments.

Mr. Kasaris: In considering the evidence and considering where the structure is going to be placed I find that the proposed structure is not going to affect the character of the neighborhood. There is not going to be any substantial detriment to the neighborhood should this be granted. It will not have any affect on governmental services. The variance, while it is 7 feet, will allow the garage to be placed at about the same setback distance as the prior garage was located. The parcel is an odd lot – it is only 65 feet wide. The homeowner did not have anything to do with the creation of this lot. I will therefore be supporting this variance request.

Mr. Jankovsky: Mr. Chairman, I once again agree with your summation of the situation. I feel that it falls within the criteria of what we look for to approve a request. One of my main concerns on a variance like this has to do with the safety factor. When you are putting a structure, especially a garage which might contain some flammable materials such as gasoline or propane, at a location less than the zoning requires, placing it possibly closer to another home, I get concerned. I did ask the Fire Chief for some input but he did not give me anything other than referring me back to the original code which takes us back to the original request for a variance on this property. A big thing in my mind is that we did not receive any objection from the property owner to the south whose home it would be closest to. I will therefore be approving this request.

Mr. Kulchytsky: Mr. Chairman, as clarification with regard to the required setbacks from property lines, the 3 foot setback would require that the wall have additional measures in place to prevent the spread of fire to the next property. They are required to have a one-hour rated wall when they are that close. There are already measures within the Residential Code of Ohio.

Mr. Kasaris: What does that mean?

Mr. Kulchytsky: It means that it would require more sound construction - thicker drywall on both the inside and an exterior sheathing material.

Mr. Kasaris: So it is like a firewall?

Mr. Kulchytsky: Essentially, yes. It allows for a longer burn time should a fire occur.

Mr. Kasaris: Would that be a normal fire – even if there is oil or gas inside of the garage?

Mr. Kulchytsky: That is correct. It would at least delay the spread of any fire.

Mr. Kasaris: Does anyone have any questions, comments or concerns based on any of that?

Mr. Bull: (To the applicant) Is your architect aware of that?

Mr. Blair: Yes, she is.

Mr. Bull: Thank you.

Mr. Kasaris: Let the record reflect that the applicant indicated that the architect is aware of this additional fire protection that must be installed in his garage. Anything else? I would state that the Board would find that, as in the prior application, the standard of practical difficulty has been established. The homeowner has a lot that is dimensionally odd. The essential character of the neighborhood would not be substantially altered. The adjoining properties would not suffer a detriment. The fire codes that are in place would protect the property to the south. The variance, a request of 7 feet from the 10 feet required which amounts to a 70% variance request, is a relatively large amount but it will be in about the same setback location as the prior detached garage. The variance request would not affect the delivery of governmental services. Does anybody else have anything else to add? No. Clerk, please call the roll.

Mr. Jankovsky: Yes.  
Mr. Bull: Yes.  
Mr. Gauman: Yes.  
Mr. Kasaris: Yes.

Ayes – four. Nays – none.  
**Variance granted (4-0).**

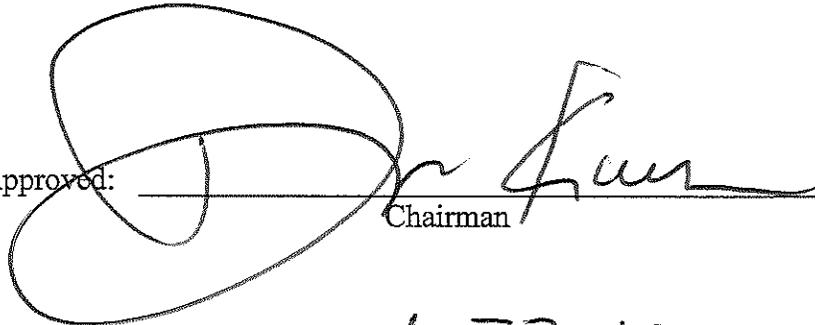
Mr. Kasaris: Anything else? May I have a motion to adjourn.

Moved by Mr. Bull, seconded by Mr. Jankovsky to **adjourn the B.Z.A. meeting of October 24, 2012.**

Mr. Kasaris: Clerk, please call the roll.

Mr. Bull: Yes.  
Mr. Gauman: Yes.  
Mr. Kasaris: Yes.  
Mr. Jankovsky: Yes.

Ayes – four. Nays – none.  
**Motion carried (4-0).**  
The Board of Zoning Appeals Meeting adjourned at 8:00 p.m.

Approved:  \_\_\_\_\_  
Chairman

Date: 1-23-13

Attest:  \_\_\_\_\_  
B.Z.A. Secretary