

**The Board of Zoning Appeals of the City of North Royalton
met on February 25, 2016 to hold a Public Hearing in
the Council Chambers at 14600 State Road.**

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

Present: Board Members: Chair Dan Kasaris, Victor Bull, Christine Ragone, Janice Sadowski, Secretary Diane Veverka. Administration: Building Commissioner Dan Kulchytsky, Assistant Law Director Donna Vozar.

Moved and seconded to **excuse Anthony Rohloff for cause. Motion carried.**

Moved and seconded to **approve the January 28, 2016 meeting minutes as submitted. Motion carried.**

PUBLIC HEARING/ OPEN MEETING

OLD BUSINESS:

- A. **BZA16-04 – United Homes Inc. on behalf of Ken Koehler** is requesting a variance to Chapter 1270 “Residential Districts” of the City of North Royalton Zoning Code for a proposed attached garage addition at **10344 York Road**, also known as PPN: 481-24-003 in a R1-A district. The variance being requested is as follows:

Variance: C.O. Section 1270.05 “Schedule of area, yard and height regulations”. Request is to allow for relief from the minimum 10 ft. side yard setback for a variance of 1 ft. in order to construct an attached garage addition. The Applicant would like to amend his variance request. He is now seeking a variance of 3 feet from the minimum 10 ft. side yard setback.

Sean Kramp with United Homes Inc. spoke on behalf of the property owner, Ken Koehler. He said the homeowner will eventually have to put a wheelchair lift in the garage he is constructing. He would like the extra three feet in order to pull his car in and have room to have accessibility for a wheelchair lift and the ability to maneuver to the ramp. Mr. Kasaris asked the Applicant if the garage addition is overly large for the neighborhood. The Applicant responded this is a standard size garage he is proposing to build.

The Chair stated the variance is minimal, it will not adversely affect the delivery of governmental services, it will not change the essential character of the neighborhood. He is in support of the variance request. No other conversation ensued. The Chair therefore adopted his findings as the finding for the Board.

Moved by Mr. Bull, seconded by Ms. Ragone to **approve a Variance to C.O. Section 1274.05 for a variance of 3 ft. from the minimum 10 ft. side yard setback for an attached garage.** Roll call: Yeas: Four. (Ragone, Bull, Kasaris, Sadowski). Nays: None. **Variance granted.**

NEW BUSINESS:

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

- A. **BZA16-05 – Glenn Jackson** is requesting a variance to Chapter 1270 “Residential Districts” of the City of North Royalton Zoning Code for an attached garage addition located at **8360 Hunting Drive** also known as PPN: 489-28-035, in a R1-A district. The variance being requested is as follows:

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

The Building Commissioner stated that this Applicant appeared before us previously requesting a variance of 12 feet; that variance was denied. He has since modified his variance request. He has waited six months to reappear before the BZA as required per our code 1264.09(b).

Glenn Jackson stated he wants to extend his garage to allow for more storage room and a work area. He said it is the most economical way to do it with his house design. The Chair asked if there are structures with similar setbacks in the neighborhood. The Applicant responded that he is not aware of any. The Building Commissioner stated that both sides of this street have a 50 ft. setback across the front. All of the residents on the east side of the street where this house is located strictly comply with the 50 ft. setback. The street is rather straight in nature. Admitted into evidence is a sworn testimony dated February 22, 2016 from James Moran, 8340 Hunting Drive, stating his disapproval of the variance request. The Applicant stated that a shed of 12' x 14' would be necessary to equal the same square footage of the proposed addition. The barn would need to be located in the rear corner of the back yard, but would take a large amount of excavation for the foundation and at much more cost, and it would be visible from adjacent neighbors. He added that it will not have the same usefulness because it will not be easily accessible and because it will not be easily usable during the winter season as would an attached addition. The Chair asked the Building Commissioner for his comments regarding the suggestion of an accessory building in the back yard. The Building Commissioner stated it is possible for him to construct a shed in the backyard within compliance of our zoning ordinance. Ms. Vozar addressed the Applicant and stated that the Board weighs the factors relative to area variances as required under the code but the BZA does not legislate. City Council sets the standards. The BZA hears the evidence and uses that evidence and it applies it to the factors that the code has established. The Building Commissioner showed an aerial view (Exhibit #1) of the street in question showing the houses on both sides of the street and their setbacks showing consistency down the street.

The Chair stated that there can be beneficial use of the property without the variance. He said the character of the neighborhood is very well depicted on the screen; this request is for a setback that is out of line with the character of the neighborhood. The variance request is inconsistent with the intent behind the zoning requirement and there are other ways to achieve what the property owner desires to do. He said for those reasons he is not in favor of the variance request. With no further discussion the Chair adopted his statements as the findings for the Board.

Moved by Mr. Bull, seconded by Ms. Ragone to **approve a Variance to C.O. Section 1270.04 (d) for a variance of 8 ft. from the minimum 50 ft. front yard setback for a garage addition 42 ft. from the right-of-way.** Roll call: Yeas: None. Nays: Four (Ragone, Bull, Kasaris, Sadowski). **Variance denied.**

- B. **BZA16-06** – **James and Debra Beal** are requesting a variance to Chapter 1270 "Residential Districts", of the City of North Royalton Zoning Code for an accessory building (pavilion) located at **7161 Albion Road**, also known as PPN: 482-18-011, in a R1-A district. The variance being requested is as follows:

Variance: Codified Ordinance Section 1270.12 (a) "Yards for Accessory Buildings and Uses". Request is for a variance to allow for a 2nd accessory structure (pavilion) in addition to the existing accessory structure.

Debra Beal stated that they have 1 ½ acres with an existing accessory structure located on it. She said they would like to have a pavilion with a fireplace in the backyard half way back. The Applicant stated there are other accessory structures in the neighborhood. The Building Commissioner stated at one time there was a grey area in our ordinance as to the number of accessory structures and the way it read. It allowed for more than one accessory structure, however, it counted things like decks, gazebos and sheds; people would end up with a number of accessory structures. That ordinance was modified to allow for all residence to have a garage and an accessory structure. It was changed to prevent multiple storage structures. In this particular instance it is a gazebo. We will be issuing a permit, should the Board approve it, as a gazebo.

The Chair stated after considering the evidence and the testimony, there are other parcels in the neighborhood that have more than one accessory structure, this will not alter the character of the neighborhood, it will not adversely affect governmental services and the variance is not substantial. For these reasons, he said he would support the variance request. After no further discussion, the Chair stated that he adopts his state of findings as the findings for the Board.

Moved by Mr. Bull, seconded by Ms. Ragone to **approve a Variance to C.O. Section 1270.12 (a) to allow for a 2nd accessory structure (pavilion).** Roll call: Yeas: Four. (Ragone, Bull, Kasaris, Sadowski). Nays: Four. **Variance granted.**

- C. **BZA16-07 – Tom and Karen Kolar** are requesting a variance to Chapter 1270 “Residential Districts”, of the City of North Royalton Zoning Code for a proposed swimming pool at **4411 Sir John Avenue**, also known as PPN: 488-21-040, in a R1-A district. The variance being requested is as follows:

Variance: Codified Ordinance Section 1270.27(b)(1)(E) “Swimming Pools”. Request is for a variance of 5 feet less than the minimum 15-ft rear yard setback requirement for an in-ground pool.

Tom Kolar stated they are asking for a variance due to the shape of the property and the way the house sits on the property. He explained that on the property to the east of them, the house sits more forward so they have more room in the back of the yard. He said his house sits deeper in the lot giving them less room in the backyard. He said that the house two doors to the west also has a swimming pool. The Applicant stated they have reduced the size of their pool to 16’ x 40’ from the average size pool being 20’ x 40’. The Building Commissioner stated that both the Building Department and the Engineering Department reviewed the variance request and they see no issues regarding the set back or possible drainage problems with this configuration.

The Chair stated that the character of the neighborhood will not be substantially altered. Adjoining property owners will not suffer substantial detriment as a result of the variance and it will not affect the delivery of governmental services. Special conditions do exist in that the house is farther back from the street than most of the houses in the neighborhood. With no further discussion, the Chair stated for those reasons he adopts his finding of that of the Board.

Moved by Mr. Bull, seconded by Ms. Ragone to **approve a variance to C.O. 1270.27(b)(1)(E) for 5 feet less than the minimum 15 ft. rear yard setback requirement for an in-ground pool.** Roll call: Yeas: Four. (Ragone, Bull, Kasaris, Sadowski). Nays: None. **Variance granted.**

- D. **BZA16-09** – Request is being made by **Edward Kisiel of Panorama Homes, Inc. on behalf of Pine Hill Development** for a variance to Chapter 1270 “Residential Districts”, of the City of North Royalton Zoning Code for a proposed dwelling on **S/L 11 Brookhaven Drive**, also known as PPN: 486-24-015 in a R1-A district. The variances being requested are as follows:

Variance: Codified Ordinance Section 1270.05 “Schedule of area, yard and height regulations”. The Applicant is requesting approval of one of the following two options:

Option 1: Request is allow for relief from the minimum 50 ft. rear yard setback and relief from the 45 ft. front yard setback for a variance of 10 ft. for the rear yard setback and a variance of 5 ft. for the front yard setback in order to construct a dwelling.

Option 2: Request is to allow for relief from the minimum 50 ft. rear yard setback for a variance of 15 ft. in order to construct a dwelling.

The Chair asked the Assistant Law Director if option #1 is a request for two variances. Ms. Vozar said yes, they are seeking a front and rear setback. The Building Commissioner stated it would be two variances off of one table in the C.O. There is no way to distinguish it because it is a table in Section 1270.05. Ms. Vozar explained that we did not want to get into the situation where the Applicant came in and requested a variance and the Board during the discussion said what about if we do this; then we would need to re-notice everyone. The Applicant wanted the option of having it resolved today and wanted to bring alternative options before the Board for a variance. When the Applicant comes forward and makes their presentation, during the discussion with the Applicant, based on questions from the Board, and based on the Board’s reactions, the Applicant will at that time choose one of the two options and move forward on that variance request.

Edward Kisiel of Panorama Homes, Inc. spoke on behalf of Pine Hill Development. He stated he is working with a client who is looking to build on that site. The home plans conflicts with the building setbacks; therefore, the variance request is so he can fit the home on the site. The client would prefer option #1. It is a corner lot and some of the front setbacks vary throughout the development. It is a tighter building footprint than most developments in North Royalton. The Building Commissioner displayed Exhibit #2 which is an aerial view of Brookhaven Drive. The street has curvature to it to give it some variety; it is not a straight run street. The exhibit shows the variance setbacks on both sides of the street. Additionally the

parcels are unique to the city of North Royalton, they are wider and shallower than what you would typically see; not giving much play to front and rear yard setbacks. A number of these parcels, including the adjacent parcel, have appeared before BZA requesting variances in order to construct the structures in this particular development. All of these houses also have unique features which require they go for a variance because of the design itself. He added that the front yard setback complies with our code but is rather shallow for our city. He added that option #1 would probably not affect the neighborhood. On this option he would have a setback of 45 ft.; an ornamental tower and a small corner of the building would stick out. There is no relationship with the neighboring lot because it is also unique in shape as well. This option is desired by the Applicant due to the fact it gives them more back yard. Option #2 moves the building back 5 ft. and they would then be losing an additional 5 ft. to their back yard. Neither option lines up with the neighbor because it is a corner lot and because the unique configuration of the corner house. Mr. Bull asked if there is a safety issue with the line of site being a corner lot. The Building Commissioner responded that there is no safety issue; they still meet their side yard setback for a corner lot. Ms. Vozar stated that if the Applicant would like at this point to make a decision and move forward on Option #1 as their variance, the Board can move forward on that.

The Chair stated that one of the issues here with the neighborhood is the curvature of the street. The variance is not substantial, it will not alter the essential character of the neighborhood, and it will not adversely affect the delivery of governmental services. He added that he supports the variance request. With no further discussion, he stated that he adopts his findings as findings for the board.

Moved by Mr. Bull, seconded by Ms. Ragone to **approve Variance of Option #1 to C.O. Section 1270.05 for relief from the minimum 50 ft. rear yard setback and relief from the 45 ft. front yard setback for a variance of a variance of 10 ft. for the rear yard setback and a variance of 5 ft. for the front yard setback in order to construct a dwelling.**
Roll call: Yeas: Four. (Ragone, Bull, Kasaris, Sadowski). Nays: None. **Variance granted.**

Adjournment:

Moved by Mr. Bull, seconded by Ms. Ragone to **adjourn the BZA meeting of February 25, 2016.**
Motion carried.

Meeting adjourned at 7:52 p.m.

APPROVED: /s/ Dan Kasaris
Chairman

DATE APPROVED: 3/24/16

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