

**NORTH RIDGEVILLE BOARD OF ZONING & BUILDING APPEALS
MINUTES FOR THE REGULAR MEETING HELD OCTOBER 27, 2016**

TO ORDER: The meeting was called to order at 7:00 P.M. with the Pledge of Allegiance.

ROLL CALL: Present were members Mario Cipriano, Martin Devries, Planning Commission Alternate Liaison Jennifer Swallow, Vice Chairperson Linda Masterson and Chairperson Shawn Kimble.
Also present were Assistant Law Director Toni Morgan, Chief Building Official Guy Fursdon and Deputy Clerk Donna Tjotjos.

MINUTES:

Chairperson Kimble asked if there were any corrections to the regular meeting minutes dated September 22, 2016. Hearing none, she entertained a motion.

It was moved by Masterson and seconded by Cipriano to approve the minutes dated September 22, 2016.

Chairperson Kimble asked the Clerk to call the roll.

Yes, 2 No, 0 Abstention, 3 (Kimble, Swallow, DeVries)

Motion was denied with a vote of two yes and three abstentions. The minutes will need to be placed back on the agenda for the next meeting.

REPORTS:

Chairperson Kimble asked if there were any reports from Planning Commission.

Member Swallow responded no report.

Chairperson Kimble asked if there were any reports from Board of Flood and Drainage.

Member Cipriano responded that he will have a written report for the Board for the next regular meeting.

Chairperson Kimble moved the meeting on to other reports and correspondence. He explained that there has been an appeal presented under correspondence regarding a lien.

OTHER REPORTS AND CORRESPONDENCE:

APPLICANT: Michael D. Doyle, Attorney at Law, 124 Middle Avenue, Suite 300, Elyria, OH 44035

OWNER: Lolita Tajz, 6873 Root Road

REQUEST: Consideration of an appeal received regarding a notice of intent to lien property

LOCATION: 6873 Root Road in an R-1 District
Permanent Parcel No. 07-00-021-119-157

Chairperson Kimble asked if there was a representative and if they could step up to the podium and give their name and address in order that he be sworn in.

Michael Doyle, Attorney representing Lolita Tajz, 124 Middle Avenue, Suite 300, Elyria, Ohio was sworn in.

Chairperson Kimble asked if the representative could provide an explanation of his appeal.

Michael Doyle explained that his client received a lien against her property that was improperly presented. The city was to provide a list of items that were to be removed from the premise along with pictures and neither were provided to his client prior to the city hiring a landscaping company to remove and haul away items from the property. The amount charged for those services was \$6700.00 which he felt was outrageous, excessive and was questionable and which his client had no knowledge of or any say to. He questioned the expertise of a landscaping company being hired to remove and haul away the items from the premise; noting the ad the landscaping company has for their business relating to mowing grass. He stated that his client did not have a say in the dollar amount being charged nor did she receive an itemized bill or list of items. He believed that this was handled improperly and should not have been allowed.

Assistant Law Director Toni Morgan prefaced by stating that the city's goal in this case was and has always been compliance. She provided a working knowledge of the progress of the case and why this is being presented to the Board this evening. Documents were provided as part of Exhibit A attached. She provided dates of when the case was originally filed with Elyria Municipal court with original charges being debris and rubbish on the property and fences being in violation along with dates throughout 2014, 2015 up to the present day. The case settled in court with an order signed by Ms. Tajz, stating that she is to allow the city to abate the nuisance conditions by hiring a contractor to remove the nuisance conditions and that the city did so under the authority and procedure as outlined in the North Ridgeville codified ordinances as well as state law. She provided both in document form which is also under Exhibit A. She also explained that under State Law there are different lien processes. She made it clear that this is not a mechanics lien which requires more detail than this type of lien. Also included in Exhibit A is Ohio Revised Code sections which describe the differences in the liens. She then addressed the Chairman and asked that Mr. Fursdon be sworn in for questions she needed to ask of him.

Guy Fursdon of 7307 Avon Belden Road was sworn in.

Assistant Law Director Morgan asked Mr. Fursdon to state his name, his title and asked how long he was employed by the city.

Mr. Fursdon responded.

Assistant Law Director Morgan asked if he went to the property in question 6873 Root Road on August 1, 2016. She asked if pictures were taken by him or at his direction.

Mr. Fursdon responded yes he was there on that date and the pictures were taken by Paul Blanchette, at his direction. He stated Paul Blanchette is his Zoning Inspector and is employed by the Building Department.

Assistant Law Director Morgan asked if the pictures that were provided to the Board and are about to be shown were an accurate representation of that property on August 1, 2016

Mr. Fursdon responded yes.

She then asked the Secretary to show the slides of the pictures that were taken on August 1, 2016 of Ms. Tajz property. She noted that these pictures were taken by the Building Department under the direction of the Chief Building Official, which also shows Ms. Tajz in one of them; noting she was present when the pictures were being taken. Copies of these pictures were made part of Exhibit A. She explained that it was this excessive debris which generated complaints to the Building Department with which persisted to get it cleaned up which was remedied by the city. She noted again that this is not a mechanics lien and itemization is not required. The services did not have to go out for bid either, because the amount did not exceed \$50,000. She addressed Chief Building Official Fursdon and stated that the notice of intent to lien was provided to the Board. She asked if that was a true and accurate copy of the lien and if that was sent to Ms. Tajz by certified mail and if so what happened.

Chief Building Official Fursdon stated he sent it certified. Ms. Tajz refused the certified letter and it was sent back to the office.

Assistant Law Director Morgan asked if any other attempt was made to notify her of the notice of lien.

Chief Building Official Fursdon stated that they sent it regular mail.

Mr. Doyle stated he was not disputing the service. He was disputing the fact that his client had no say in what was being removed nor did she have any say in the amount charged. He then addressed Chief Building Official Fursdon and asked if he provided copies of the pictures or an itemized list of items that were to be removed to his client's property.

Mr. Fursdon stated no, that it would have taken his department a month to compile a complete list of items that were being removed.

Mr. Doyle stated that it was an inconvenience then to provide this information. He then asked if Mr. Fursdon felt hiring a landscaping company would be the best choice to provide the removal of these items and to haul away items. He asked if this landscaping company has provided similar services in the past.

Chief Building Official Fursdon responded that Loparo Landscaping is hired to cut down obnoxious weeds and to mow lawns as well as remove debris from properties who have violated that ordinance section and not complied.

Mr. Doyle asked if Mr. Fursdon had any knowledge that Mike's Hauling Services was hired by the landscaping company to assist in removing the items from this property and does the landscaping company always provide a set fee for their service and an itemized quoted fee.

Chief Building Official Fursdon stated that they may have because of the amount that had to be cleared away and yes, they typically provide a set fee for each property they service.

Assistant Law Director addressed Chief Building Official Fursdon and asked if this landscaping company that was hired to remove debris from this property have been hired in the past.

Chief Building Official Fursdon responded that they are a current city contractor for various tasks, yes.

Assistant Law Director Morgan asked if he was satisfied with their past work and pricing. She asked how Loparo Landscaping came about the charges of this service.

Chief Building Official Fursdon responded yes he was satisfied with both their work performance and pricing. He stated that they took the landscaping company out on site and showed them what needed to be removed in order for the landscaping company to provide a price quote. He stated that the Building Department then prepared a purchase order prior to the work being done; using the price that was quoted. Once the purchase order was signed, Loparo Landscaping went out and began the work. He explained that the work involved getting to the back yard and since there was no way of getting equipment back there, it had to be hauled away by hand.

Assistant Law Director stated that the bottom line is that the pictures show the scope of the work and with what has been presented; she asked that the Board deny this appeal. She went on to explain that the city followed the journal entry based on the Elyria Municipal Court's order. They did take pictures and not providing copies of the pictures may have been an oversight, but they did hire a contractor and they did provide the services to bring this property into compliance.

Mr. Doyle asked Chief Building Official Fursdon if he was there when Mikes Hauling Services

was there on site. He asked if Loparo Landscaping had given him an estimate of time as to how long it would take to perform the services. He asked if he kept track of the days it took to perform the services and if he knew that Mike's Hauling Services used his client's burn pit to burn the items instead of hauling them away. He asked if he knew of the items that were being removed had any value.

Chief Building Official Fursdon indicated that he wasn't given a time frame but because of the sheer volume of items to be removed that it would take some time, which is why he believed Mike's Hauling Services was subcontracted by Loparo Landscaping. He wasn't there daily and did not aware if anything being burned on the property. He stated he couldn't address whether or not the items had value.

Chairman Kimble explained that he would be abstaining from any decision on this matter due to a conflict of interest.

Mr. Doyle asked if he could question his client.

Chairman Kimble responded yes, of course. He then swore in Lolita Tajz of 6873 Root Road.

Mr. Doyle asked if Ms. Tajz ever received copies of photos taken of her property. He asked if she was present when the photos were taken. He asked if she knew what items were being removed.

Ms. Tajz stated no she did not receive copies of the photos and she wasn't present when those pictures were taken. She didn't know what items were being removed. She explained that most of the items were building materials and that she was building a place for her grandchildren to play and didn't get it finished. She stated that most of the items were new but because she didn't have time to build the things she wanted to build most of the items got wet from being outside. She could have received a refund from home depot for some of the items.

Mr. Doyle asked if she was present when the items were being removed and asked how long she thought it took for the items to be removed and how many man were there working.

Ms. Tajz stated that it took about eight or nine days. There was one man on most days, but no more than two men showed up and spent about one, two, possibly four hours each day. They brought in a truck and a u-haul van. They took down a brand new deck. They burned items in my burn pit instead of hauling it away. She stated the second week they took some of her items to their home and used it for themselves.

Mr. Doyle provided a copy of the picture of the burning coals that remained in the burn pit. This is attached as Exhibit B.

Ms. Tajz continued on to state that they took hand carved legs to a table she had that were

priceless and could never be replaced. She stated that a lot of what was removed was antique.

Assistant Law Director Morgan stated that she didn't have any questions for Ms. Tajz but stated that there is no one here to collaborate what was burned in that fire pit. The Board is to acknowledge that the lien was appropriately submitted as court ordered. The issue here is the lien itself.

Mr. Doyle addressed the Chairman and asked that Ms. Morgan be sworn in.

Chairman Kimble stated that he has been here for 12 years and has never sworn in the Assistant Law Director.

Mr. Doyle stated that as a lawyer representing clients, he has never been sworn in until this evening.

Chairman Kimble opened the floor for questions from the Board.

Member Cipriano addressed Ms. Tajz and asked how much time elapsed since the first violation until the removal of the items.

Ms. Tajz stated that she has severe rheumatoid arthritis and it is hard for her to do much.

Member Cipriano asked Ms. Tajz if it was fair to say that this violation began back in early 2014.

Ms. Tajz stated yes.

Member Swallow addressed Chief Building Official Fursdon and asked when was the initial date the resident was notified of the violation.

Chief Building Official Fursdon stated 2014. 2016 was when he received the order from the court to hire the contractor to remove the debris.

Mr. Doyle concluded by stating that the city did not provide copies of the photographs, nor did the city provide his client with an itemized list of items that were being removed to his client. The contractor Loparo Landscaping was to remove the items and haul them away. They burned items in his client's burn pit. He believes that the fees charged on the lien of \$6700.00 were excessive. His client had no opportunity to dispute items or object to the items being removed.

Assistant Law Director Morgan stated the city stands.

Chairperson Kimble advised that the Board has heard the testimony of Mr. Doyle, Assistant Law Director Morgan, Lolita Tajz, Chief Building Official Fursdon. All of which will be taken under

advisement and the Board will deliberate to provide a decision. He then asked the Clerk to assign a date and time for the deliberations regarding this case.

Deputy Clerk Tjotjos stated Case number BA2016-310, Lolita Tajz, represented by Attorney Michael Doyle appealing the notice of lien will commence deliberations this evening immediately following this meeting's adjournment.

Chairman Kimble stated that the Board will deliberate and will present their decision to you in writing.

PUBLIC HEARING:

APPLICANT: Lynn Stern, Scissor Wizards Mobile Dog Grooming, 5401 Manning Street
OWNER: Same
REQUEST: Approval to park a mobile dog grooming recreational vehicle on property to be used for home occupation in an R-1 District.
LOCATION: 5401 Manning in an R-1 District
Permanent Parcel No. 07-00-019-000-208
(Postponed during the regular meeting September 22, 2016)

Application was read along with comments received from Chief Building Official Guy Fursdon.

Chairperson Kimble asked if there was a representative present and if so, could they step to the podium and give their name and address in order to be sworn in.

Barbara Aquilla Butler, Attorney representing the applicant, located at 7064 Avon Belden Road was sworn in. Lynn Stern of 5401 Manning Street was sworn in.

Chairman Kimble explained this application was before the Board a few months ago. The result was a denial based on conditions of the property as well as health concerns of the neighborhood. He asked the applicant to explain what items have changed in order to bring this application to compliance.

Barbara Aquilla Butler provided pictures of what the applicant has done to her property, the location of where the vehicle would be parked, and the vehicle itself. Pictures noted as Exhibit A. She explained that her client has placed gravel down, restored the grass where ruts were and showed the signage was removed from the vehicle. At this point, the RV has been brought into compliance in order to be stored/parked on the property in a residential development. She explained that her applicant is self-employed and needs this RV to maintain income. She cannot store the RV off site because it needs electricity while not mobile. Her applicant's customers are mostly elderly who cannot or is very difficult to take their pets to get groomed and so, she provides grooming services to these pets by driving the RV to their homes.

Chairman Kimble stated one of the concerns brought up during the last meeting this was discussed was the displacement of the waste water being dumped into the storm sewers. He asked how this will be handled now.

Lynn Sterns explained that she hooks up a hose to drain the waste water down the toilet located in her basement.

Member Swallow asked for clarification on the variance being used in conjunction with a home occupation permit as the business is actually be conducted off site of the home.

Chief Building Official clarified that she applied for a home occupation permit in order to receive the variance to park the vehicle in the driveway. It is unique as the business is actually not being conducted on site.

Member Cipriano stated that there were other concerns during the last meeting that he recalled and they were the ruts in the grass being made by the RV as it is driven in and out of the property, the vehicle having the advertisement and of course the waste water being dumped down the storm sewer.

Chairman Kimble stated that if the variance is approved. The applicant will need to ensure that when the tanks are emptied, they are done so in the manner regulated in the codified ordinances as it is a health concern.

Chief Building Official Fursdon stated that it is the Administration's request that the Board of Zoning and Building Appeals postpone this case until the Building Department has gone out to inspect the conditions of the property and to verify these items are taken care of. It appears from the photos that they are, but the Administration would still like to see an inspection.

Chairman Kimble agreed.

It was moved by Kimble and seconded by Masterson to postpone action on this case until the next regular meeting in order to provide the Building Department time to inspect the property.

Chairman Kimble asked the Clerk to call the roll.

Yes, 5 No, 0

The motion to postpone has been approved by a vote of five to zero.

APPLICANT: Paul E. Judy, 9140 Root Road

OWNER: Same

REQUEST: A 168 square foot lot coverage variance to allow the addition of a proposed outbuilding and overhang to cause lot coverage to be more than the required ten percent.

LOCATION: 9140 Root Road in an R-1 District
Permanent Parcel No. 07-00-012-103-035

Application was read along with comments received from Chief Building Official Guy Fursdon.

Chairperson Kimble asked if there was a representative present and if so, could they step to the podium and give their name and address in order to be sworn in.

Paul Judy of 9140 Root Road was sworn in.

Chairman Kimble asked him to provide a brief explanation.

Paul Judy stated that they plan on building an addition and without the overhang, he wouldn't need to be here, but the overhang itself is causing more lot coverage.

Chairman Kimble believes it is a great plan and if he owned that property, he would be doing something very similar. The lot coverage would not be noticeable and nor does it cause any health or safety issues for the neighborhood.

Member Masterson agreed and stated that the size of the homes in that area are small, which this would give a little more usable living space. The practical difficulty is being shown in living space.

It was moved by DeVries seconded by Cipriano to approve a 168 square foot lot coverage variance to allow the addition of a proposed outbuilding and overhang to cause lot coverage to be more than the required ten percent.

Chairman Kimble asked the Clerk to call the roll.

Yes, 5 No, 0

The motion has been approved by a vote of five to zero.

APPLICANT: Joe Lull, Joyce Factory Direct, 1125 Berea Industrial Parkway, Berea, OH 44017

OWNER: Bob Hawkins, 7394 Chennault Drive

REQUEST: A five foot side yard setback variance in order to construct a 12 x 16 addition.

LOCATION: 7394 Chennault Drive in an R-1 District
Permanent Parcel No. 07-00-015-108-028

Application was read along with comments received from Chief Building Official Guy Fursdon.

Chairperson Kimble asked if there was a representative present and if so, could they step to the podium and give their name and address in order to be sworn in.

Joe Lull of Factory Direct located at 1125 Berea Industrial Parkway, Berea, Ohio was sworn in.

Chairperson Kimble asked if he could give a brief explanation of the application.

Joe Lull stated that his client does already have a concrete pad in the location they plan to enclose. They have been using the patio for many years and now they want to enclose it to give a little more privacy. The concrete pad is located five feet off the property line and complies as it isn't considered an addition. However, once you enclose it, it becomes an addition and so, now a variance is required.

Chairman Kimble stated that he has been by the property and he finds no safety or health concerns with granting this variance. The practical difficulty is the uniqueness of the property and being able to use the property as living space.

Member Swallow asked if the neighbors had any objection to this addition. She stated that they were sent a notice, but asked if the applicant had any conversations with them.

Joe Lull stated they didn't have conversations with the neighbors but his client may have.

Member DeVries stated that this would actually give them more of a buffer for privacy between the houses. It could be utilized more frequently than just the summer months.

Chairman Kimble asked if there was anyone from the Administration that would like to comment. Hearing none, he opened the floor to the audience and asked if anyone would like to speak on behalf of this application. Hearing none, he entertained a motion.

It was moved by Masterson seconded by DeVries to approve a five foot side yard setback variance in order to construct a 12 x 16 addition.

Chairman Kimble asked the Clerk to call the roll.

Yes, 5 No, 0

The motion has been approved by a vote of five to zero.

APPLICANT: Eric Draper, 8031 Lexington Way

OWNER: Same

REQUEST: A 2,613 square foot lot coverage variance to allow the addition of a 40 x 30 proposed outbuilding to cause lot coverage to be more than the required ten percent.

LOCATION: 8031 Lexington Way in an R-1 District
Permanent Parcel No. 07-00-035-102-066

Application was read along with comments received from Chief Building Official Guy Fursdon.

Deputy Clerk noted the error in the request stating that it was not a 2,613 square foot variance that it was only 193 square foot variance.

Chairperson Kimble asked if there was a representative present and if so, could they step to the podium and give their name and address in order to be sworn in.

Eric Draper of 8031 Lexington Way was sworn in. He explained that he has a boat that he needs to store without having to move it around every time someone needed to pull in and out of the driveway. The building's use would be primarily to store the boat. The size of the outbuilding is the size he needs to fit his boat. He stated he did talk to his neighbors about his plans and they did not have a problem with it.

Chairman Kimble stated that with the buffer he has, this building will not be an eyesore and esthetics would not be a problem, nor would safety or health of any concern for the neighbors.

Member Masterson stated she would rather see one building there instead of two.

Member Swallow addressed the ordinance in terms of allowing one 26 by 26 building on the property. This building seems to be bigger than allowed.

Chief Building Official Fursdon pointed out 1294.03 (e) (3 and 4) where it talks about the property being more than a half acre and size and amount of outbuildings are not regulated.

Chairman Kimble asked if there were any questions from the Administration. Hearing none, he opened the floor to the audience for questions.

James Miller of 37707 Sugar Ridge was sworn in. He stated that his concern is the noise of the vehicles he has parked there for his landscaping business and if this outbuilding would be there to store that equipment. He stated there seems to be a number of vehicles parked on the road at all times because of his landscaping equipment.

Eric Draper stated that he does have lawn equipment and didn't think that they were that loud and felt that they were within the city's ordinance regarding noise, but yes he would store some of his equipment in the outbuilding so that he is not parking on the street.

It was moved by Swallow seconded by Cipriano to approve a 193 square foot lot coverage variance to allow the addition of a 40 x 30 proposed outbuilding to cause lot coverage to be more than the required ten percent.

Chairman Kimble asked the Clerk to call the roll.

Yes, 5 No, 0

The motion has been approved by a vote of five to zero.

APPLICANT: Nicholas Sabo, 9269 Katherine Street

OWNER: Same

REQUEST: A two and a half foot height variance and 100 percent closed variance to construct a six foot privacy fence on a corner lot

LOCATION: 9269 Katherine Street in an R-1 District
Permanent Parcel No. 07-00-012-101-049

Application was read along with comments received from Chief Building Official Guy Fursdon.

Chairperson Kimble asked if there was a representative present and if so, could they step to the podium and give their name and address in order to be sworn in.

Nicholas Sabo of 9269 Katherine Street was sworn in. He explained that a number of people in this room know why I am asking for the fence, but it's main purpose is to keep his dogs within his yard. He stated that an invisible fence isn't allowed in this city. He stated he is asking for the same six foot fence that is across the street from him. He couldn't go with the regulated 3 ½ foot fence because his dogs would jump it.

Chairperson Kimble noted that he seems to be 23 feet off the sidewalk and sight and safety isn't a concern at that corner. He did agree that there is the same size fence located across the street.

Member Masterson agreed and stated that it does seem to be a well thought out plan and the application does explain it thoroughly.

Chairman Kimble asked if there was anyone from the Administration that would like to comment. Hearing none, he opened the floor to the audience and asked if anyone would like to speak on behalf of this application. Hearing none, he entertained a motion.

It was moved by Masterson seconded by Cipriano to approve a two and a half foot height variance and 100 percent closed variance to construct a six foot privacy fence on a corner lot.

Chairman Kimble asked the Clerk to call the roll.

Yes, 5 No, 0

The motion has been approved by a vote of five to zero.

OTHER BUSINESS:

ADJOURNMENT:

Chairperson Kimble announced since there was no other business to be brought before this Board, he adjourned the meeting.

Chairperson Kimble stated that the Board members will need to stay to go into deliberations.

Meeting was adjourned at 8:42 P.M.



Vice Chairman Linda Masterson



Secretary Donna Totjos

November 17, 2016