

**NORTH RIDGEVILLE BOARD OF ZONING & BUILDING APPEALS
MINUTES FOR THE REGULAR MEETING HELD JULY 26, 2018**

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, Neil Thibodeaux, Planning Commission Liaison Jim Smolik, and Vice Chairperson Linda Masterson

Absent was Chairperson Shawn Kimble.

Also present was Chief Building Official Guy Fursdon, Assistant Law Director Toni Morgan, Council Liaison Michelle Hung and Deputy Clerk of Council Donna Tjotjos.

MINUTES:

Vice Chairperson Masterson asked if there were any comments or corrections regarding the regular meeting minutes dated June 28, 2018. Hearing none, she entertained a motion.

It was moved by Cipriano and seconded by Smolik to approve the minutes dated June 28, 2018

Yes, 4 No, 0

Deputy Clerk Tjotjos announced the minutes were approved by a vote of four yes and zero no.

PLANNING COMMISSION REPORT(S):

Vice Chairperson Masterson addressed Planning Commission Liaison Jim Smolik and asked if there were any reports from Planning Commission.

Member Smolik responded no report at this time.

OTHER REPORTS OR CORRESPONDENCE:

Vice Chairperson Masterson stated that on the agenda tonight is a By-Law amendment to Number 3; Section 3.5 to amend by removing Chapter 1107, which no longer exists and replacing it with Chapter 1240. She asked if there were any questions or comments. Hearing none she entertained a motion.

It was moved by Cipriano and seconded by Thibodeaux to approve the By-Law Amendment as presented.

Yes, 3 Abstain, 1 (Smolik) No, 0

Deputy Clerk Tjotjos announced the By-Law amendment has been approved by a vote of three yes, one abstention and zero no.

Vice Chairperson Masterson asked the Clerk to read the first application.

PUBLIC HEARINGS:

APPLICANT: Carl J. Buchwald, 37078 Chaddwyk Lane
OWNER: Same
REQUEST: A 0.5 foot height variance to construct a four foot fence from front line of building to street on a corner lot.
LOCATION: 37078 Chaddwyk Lane in a Planned Community Development District
Permanent Parcel No. 07-00-036-000-290

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

Vice Chairperson Masterson asked if there was a representative and if so, could they please step to the mic and state their name and address.

Carl Buchwald of 37078 Chaddwyk Lane was sworn in.

Vice Chairperson Masterson asked the representative to give a brief explanation of his request.

Carl Buchwald stated that he and his wife moved to this area two and a half months ago. They have a two and a half year old daughter. They moved into a corner lot which they like to call a street-de-sac. They front on two streets that are in a low traffic area. They designed it so that the front line of the fence would actually be far enough toward the back of the house off a quarter of the way down toward the front of the street. They feel as though it would be far enough set back so it did not impede the sight line of traffic around that corner. In addition they plan to have an ornamental style fence which should be greater than fifty percent open. The other issue they have is with their Homeowner's Association in Waterbury; with the current way the zoning code is set up it would require half the fence to be three and a half feet and the other four feet. They are not sure the Homeowner's Association would approve that just from an esthetics point of view. On top of that issue, three and a half foot height on a fence does not come standard through their contractor and that would need to be a special order, which would cost an additional 1,000 dollars to add on.

Vice Chairperson Masterson explained this Board sees numerous applications like this. The reason this code is in place is to ensure there is a sight line and one of the reasons this Board is here is for this very situation. The situation is that by installing this fence, the practical difficulty is that they have two front yards, but they really don't. What the applicant is asking for is not unreasonable and if this were the house next door, it would be perfectly allowable. She didn't know that they sold a three and a half foot high fence. She asked if it was custom made.

Carl Buchwald responded yes.

Vice Chairman Masterson asked if there were any questions or comments from the Board. Hearing none, she asked if the Administration had any comments.

Council Liaison Hung stated that she lives on Chaddwyk. She didn't understand the comment about the HOA. She stated that there are other fences on the street that are four feet. She asked what the problem was.

Carl Buchwald stated that the fence would actually be coming out from the back corner of the house and that is considered the front yard. In order to go out to the back of the house, they would have to have three and a half feet, while the rest of the fence is four feet.

Council Liaison Hung stated she is looking at a fence across the street and she didn't see where this application would be obstructing a view.

Vice Chairman Masterson asked if there was anyone in the audience that would like to speak on behalf of this matter. Hearing none, she entertained a motion.

It was moved by Cipriano and seconded by Smolik to approve the variance as requested.
Yes, 4 No, 0

Deputy Clerk announced the motion was approved by a vote of four yes and zero no.

APPLICANT: William Mercier, 35118 Spruce Street
OWNER: Same
REQUEST: Approval to project awning three feet beyond building line.
LOCATION: 35118 Spruce Street in an RS-2 District
Permanent Parcel No. 07-00-020-119-052

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

Vice Chairperson Masterson asked if there was a representative and if so, could they please state their name and address and she would swear them in.

William Mercier of 35118 Spruce Street was sworn in.

Vice Chairperson Masterson asked the representative to give a brief explanation of his request.

William Mercier stated it has been said he was three feet beyond the allowable setback. His belief is it is measured from the road to the foundation of the house. He explained that where he wants to build this, there is currently a two foot overhang on the house. In essence, he is only asking for maybe eight feet instead of the ten feet, with the existing overhang and so, technically, he would only be asking a variance of one foot.

Vice Chairperson Masterson asked if he would be asking for a one foot variance instead of three feet.

William Mercier stated his understanding is the measurement is from the road to the foundation of the house and the house already has a two foot overhang. It is a reverse split level, which has a twenty-four inch overhang. His original drawing showed that it was ten feet he wanted to construct, but with that overhang already in place, he is really only asking for eight feet.

Vice Chairperson Masterson addressed the Chief Building Official and asked if he was asking for less than, so, the Board doesn't have to repost.

Chief Building Official stated the Board needs to go with the specified variance requested. Overhangs are treated differently than awnings and projections from the house. Go with the three feet from the front line of building. Esthetically, visually and structurally it should not be a problem.

Vice Chairperson Masterson addressed the applicant and explained she asked that question to make sure that Board didn't have to repost this. She stated that she was by the house and the homes there are very close.

William Mercier stated it isn't going to cause any hazard or be in the way of anything.

Vice Chairperson Masterson stated that the applicant doesn't have a lot of options. The applicant does not have a lot of yard and by having this awning, it would provide shade. She asked if the Board had any questions.

Member Smolik asked if the application is just for an awning and not concrete or flat work underneath.

William Mercier stated it is just an a-frame gable ended awning.

Member Smolik stated that this is actually a structure and not a fabric.

William Mercier stated it is a construction project.

Member Smolik asked how far it projects from the house.

William Mercier stated it was a total of ten feet.

Member Smolik stated then it goes three feet beyond the setback. So it is ten feet wide.

William Mercier stated yes.

Member Cipriano asked if it was a free standing structure.

William Mercier stated it will be attached to the existing gable end of the house. It is kind of like a half truss type structure.

Vice Chairperson Masterson stated that there aren't any drawings attached to this. She addressed the applicant and asked if he had brought any drawings with him.

William Mercier stated that the City kept them. He stated when he applied and completed the application, they kept his drawings.

Vice Chairperson Masterson stated that he is just basically building the overhang.

William Mercier stated yes, once he is done building this, he wanted to get a permit to roof the whole house including the awning in order that it all runs together.

Vice Chairperson Masterson asked if the Chief Building Official Fursdon had anything he wanted to add. Hearing none she asked if the Administration had anything they would like add. Hearing none, she asked if there was anyone in the audience that wanted to make comments on this application. Hearing none, she entertained a motion.

It was moved by Thibodeaux and seconded by Cipriano to approve the variance.

Yes, 4 No, 0

Deputy Clerk Tjotjos announced the motion was approved by a vote of four yes and zero no.

APPLICANT: Jason Eyman, 33175 Bagley Road
OWNER: Jason and Brandy Eyman, 33175 Bagley Road
REQUEST: Approval to allow home occupation permit to include customizing and selling golf carts.
LOCATION: 33175 Bagley Road in an R-1 District
Permanent Parcel No. 07-00-011-103-185

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

Vice Chairperson Masterson asked if there was a representative and if so, could they please state their name and address and she would swear them in.

Jason Eyman of 33175 Bagley Road was sworn in.

Vice Chairperson Masterson asked the representative to give a brief explanation of his request.

Jason Eyman stated that he didn't hear the reason for the turned-down permit. He asked if that

could be read again.

Vice Chairman Masterson asked the Clerk to read the comments made by Chief Building Official Fursdon.

Deputy Clerk Tjotjos read the comments provided on the application from the Chief Building Official.

Jason Eyman stated that first and foremost he is here in front of the Board asking for a home occupancy permit to customize and sell some golf carts. He does have a full time position of work and so this is not a primary business. This is something he and his sons do at home and on the side and the weekends at night. It is very low key with no noise disturbance of any kind to any neighbors as part of this project. These carts are not street legal and there are no titles attached to these like a car or other sort of VIN number that would be associated to a vehicle. They are low speed anywhere from five to ten miles an hour. They are used for golf courses, camp grounds, and home use. They are great for around the yard for larger sized properties. He explained that someone who is elderly or someone who just had an operation and wants to get around and have some independence back, they can have a golf cart to drive around on. They are mostly electric so there is no noise associated with it, but it really gives someone some independence back. These are not titled vehicles of any kind. They are no different than a riding lawn mower; where he sees folks have them for sale in different areas. They just have a serial number and are sold on bill of sale. He gave a history of how they started this and that it started from their campground they belong to in Berlin Heights. They have been there for about ten years. Someone there would ask for a backseat or a light kit and they started doing it. He stated that kids today stay on computers and cell phones a little too long. He found that this hobby has their kids putting those things down and getting involved working on these things. They have learned mechanical, electrical and different items while working on these. His son and he were working on one and he was taking pictures with his phone. He told him he was snapchatting with his friends sending pictures of what he was doing. He was proud at what he was doing and he was sending it to his friends. Maybe not now, but in five or ten years his son will be able to say that he knows how to do this because his dad taught him. One of the concerns that people may have is what this will do to his house or his home because he understands that they are in a residential area and he respects that. He has been a citizen here for forty years and he is proud of the community. They are proud of the home, the landscaping and the overall esthetics of their home and property and that will not change. They plan on keeping everything the same. He drives through the city and sees many properties that are not kept up to the standards that they should be and then he sees those that are just absolutely stunning. He is part of that absolute stunning side and that is what they are proud of and want to keep. He is asking for the opportunity to do this on the side and the allowance from the city to do this. This is just them having fun and having a little business on the side. One item that did come up he wanted to acknowledge was motor vehicles. When the decline first came in of his application he asked why was it declined. He stated the only reason he got was well, they are considered a motor

vehicle. He asked how they determined that reasoning. They said they looked in the dictionary. He then quoted the definition of a motor vehicle taken from the Ohio Revised Code. Basically, he stated it is anything that is considered other than a muscular driven item with wheels except for and does not include vehicles defined in division under this section; under speed vehicles as defined in section XX. He went to section XX of the Ohio Revised Code, under speed vehicles include the under speed vehicle commonly known as a golf cart. It clearly states in the Ohio Revised Code that it is not a motorized vehicle. He made copies of that for everyone. He doesn't plan on working with anything that has titles or low speed vehicles that are driven on the road that require license plates. He hopes that the Board can see this for what it is and they ask for approval. He stated one concern also is the area they are in and he drives that every day. He does live close to that bend of the road and he can appreciate that but he has had no issues. They are always conscious of who is outside, what cars are going by and if anyone is leaving or exiting their driveway. This is not hundreds of people driving in and out by any means. This is one or two here and there in the evening.

Vice Chairperson Masterson stated she had a couple statements. She stated that she is the person that has concerns and stated she made that clear in the beginning of the meeting. She drives by that home each and every day and lives in the subdivision behind the applicant. She stated she used to live across the street. She lived in the old white two story farm house. She asked if someone explained to him what a home occupation was. She proceeded to explain that it is basically someone who wants to do something out of their home that they are going to eventually take it and put it somewhere else. She stated if he was a house cleaner, he would be using twenty percent of his home to run that business with no visible signs from the outside. She stated that there are a couple of areas of concern that she has as the Chairperson. First off, this request would be changing the zoning. That is changing it from being a residential area into having sales. She understands that a golf cart is something that is street legal. It is along the lines of a very large bicycle because even bicycles now have motors and so, her area of concern is that a home occupation is clearly stated in the code and it does give the Board options to grant variances and her area of concern is that it will show a visible sign of running a business from it. It is not the same as a home occupation.

Assistant Law Director Morgan stated she didn't know if everyone from the BZA received her email she issued but because as the applicant indicated, he has already been turned down. Our Chief Building Official has denied the permit and so, the Board needs to put on their appeal hats. Whatever the Board decides once they have all the information you want, the motion will be to either affirm the denial or to reverse the denial. This is the nature of an appeal, it is not really a regular application so, just keep that in mind.

Vice Chairperson Masterson addressed the applicant and asked if he understood what her concerns are in regard to this.

Jason Eyman stated absolutely. He would have concerns too and obviously being a parent here

in North Ridgeville; he would have the same concerns and would work with everyone to make everyone happy as far as everyone is concerned.

Vice Chairperson Masterson asked the applicant if he was planning on selling these from the house.

Jason Eyman stated yes. They would come to his home to buy it.

Vice Chairperson Masterson stated that her other area of concern is that she lived on that corner. She used to have a fire hydrant in that yard and her fire hydrant got hit five times to the point where she had to have that fire hydrant vacated and people have died on that corner.

Jason Eyman stated he understands that sometimes we can't choose where we live. That might be something for the....

Vice Chairperson Masterson interrupted and stated that for this appeal, these are the reasons why she has some issues. Her issues are that it is a dangerous corner. There are visible signs of a business. She stated that the applicant has done a beautiful job as the house is lovely, the fence is lovely and the yard is gorgeous. It is a beautiful home. She asked if any of the Board members had any questions or comments.

Member Smolik asked how he would be selling and if he would be using Craig's list.

Jason Eyman stated facebook marketing and stuff like that.

Member Smolik asked if he was in the phone book under golf cart sales where people will come. He asked if everything was digital.

Jason Eyman stated one-hundred percent online.

Member Smolik asked if the transaction would be done at his home.

Jason Eyman stated yes.

Member Smolik asked where they would be repaired.

Jason Eyman stated that he currently is using his two car garage. He does have plans however not necessarily for this per say, but they always did this at the campgrounds and they have since sold the camper because they moved to the home. They would do a lot of stuff out there and they were very helpful in letting him do different things in different areas. His plan was to put a barn on the backside. It wasn't for this; it was actually to be built so that his son could play basketball inside. It would be nothing more than what would be allowed on the lot itself. There

would be nothing outside. There would be no reason to keep them outside as most of the dealings would be through the internet. Some people don't come, they may ask for him to bring it to their home.

Member Cipriano asked if these would be displayed on his front lawn.

Jason Eyman stated they would not be. He would not do that. In reading the code, it wouldn't be an allowed item. Some people have mowers and signs outside and he didn't know if they were allowed or not, but whatever the city said at that point in time, he would respect that wish and go from there. If they said no, then he would go from there. If they said he was allowed a sign, then that is great, but whatever the recommendation is, he would follow that.

Member Cipriano stated that these are for resale. In some way the applicant would modify them and then resell them.

Jason Eyman stated yes.

Member Cipriano stated then it is a business.

Jason Eyman stated yes; a small business.

Vice Chairperson Masterson asked if anyone else had anything to add.

Assistant Law Director Morgan reminded the Board that this is an appeal. The Board is either going to affirm the decision of the CBO or the Board will reverse it.

Vice Chairperson Masterson asked if anyone in the audience wanted to speak on behalf of this application.

Charles Stella of 31740 Cook Road was sworn in. He stated that this applicant is a local guy who does a little bit of business on the side. He is definitely a North Ridgeville citizen. He didn't know the property very well because he doesn't live there so, he didn't know if he should be speaking if it means anything, but he does a lot with his kids and educates and his wife works locally and her tax dollars stay here. They are good citizens and they do a good job. They won't despair the community with what they are requesting.

Vice Chairperson Masterson stated just to make clear what her position is, is that with a home occupation, the point is you are supposed to use the home and not have outward appearances of a business. She has driven by and like she said the yard is neat and clean, but she doesn't know how many vehicles you are allowed to park. She asked the applicant if he had a brown temporary structure.

Jason Eyman stated he does because he needs to get the barn built to put that outside to get that out of there. He hates it and it won't stay.

Vice Chairperson Masterson stated her area of concern is that it is spot zoning and it isn't what the intent of the home occupation is. There are lots of buildings in town and she is familiar with Mr. Stella and there are areas he can go and do this. She hates to ever tell anybody no. That is not something she is really good at saying, she just has some really strong concerns.

It was moved by Masterson and seconded by Cipriano to affirm the Chief Building Officials decision on this.

Vice Chairperson Masterson asked for clarification from the Assistant Law Director stating that by affirming this, the Board is upholding his denial.

Assistant Law Director Morgan stated yes.

Yes, 4 No, 0

Deputy Clerk Tjotjos announced the motion was approved by a vote of four yes and zero no.

APPLICANT: Chris Brown, K. Hovnanian Homes, 3296 Columbia Road, Richfield, OH 44286

OWNER: K. Hovnanian Homes, 3296 Columbia Road, Richfield, OH 44286

REQUEST: The following variances to install Waterbury Boulevard in Waterbury PCD:

1). Approval to not provide a required 20 foot radius on the right-of-way intersection on Shady Drive as Shady Drive is already installed.
2). Approval to install sidewalk on only one side of Waterbury Blvd.
LOCATION: Shady Drive North and north of Terrell Drive in a PCD District
Permanent Parcel Nos. 07-00-035-102-128; 07-00-035-900-003; and 07-00-035-102-024

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

Vice Chairperson Masterson asked if there was a representative and if so, could they please state their name and address and she would swear them in.

Chris Brown of K. Hovnanian Homes, 3296 Columbia Road, Richfield, OH was sworn in.

Vice Chairperson Masterson asked the representative to give a brief explanation of his request.

Chris Brown stated they have been going through the approval process for quite some time for the extension of Waterbury Boulevard up to Sugar Ridge, which will involve the construction of

Waterbury Subdivision, Phase Nine. The requirement per city code on any street is four foot sidewalks to be located on each side of the street. In their subdivision, Waterbury Phase Nine, where they are building the residential homes, that will be the case. They will have individual four foot sidewalks on each side of the street. However, Waterbury Boulevard will not have any homes or driveways located off of it. He showed phase nine of the residential subdivision on the smart board. Sidewalks will be established on both sides of the street within the residential community. He showed where the new Waterbury Boulevard would be which will extend all the way down and connect to Terrell Drive at some point in time. The city does require four foot sidewalks on both sides of the street and what they had proposed from the very beginning was to create an eight foot wide multipurpose trail. This is something they have done before in other subdivisions and it was very well received. A lot of people walk with their strollers and their dogs and it is very hard to do when you have four foot sidewalks to be able to pass or to walk side by side. With this being park district land and not knowing what the city will be doing with it yet, they thought it would be a nice compliment to construct an eight foot wide multipurpose trail that would extend all the way up to Sugar Ridge.

Vice Chairperson Masterson stated that it would only be on one side of the road.

Chris Brown stated yes.

Vice Chairperson Masterson asked if the new Waterbury Boulevard will be going somewhere else.

Chris Brown stated that Waterbury Boulevard will terminate at the connection of Terrell Drive.

Vice Chairperson Masterson stated according to the drawing it looks like there is future expansion.

Chris Brown showed where it will connect to Sugar Ridge and where it will terminate at Terrell Drive.

Vice Chairperson Masterson stated that it looks like the road will continue on further.

Chris Brown explained where the road will stub and stated that is the property that they own.

Vice Chairperson Masterson asked if they then owned that property and if it stops at that point.

Chris Brown stated correct. The square Ms. Masterson referred to on the drawing is designating the sheet number.

Vice Chairperson Masterson asked what other subdivisions have they done that are similar to this.

Chris Brown noted they have done Meadow Lakes Subdivision. Very much like Waterbury, they came in and started in phase seven building homes and much like that, they came in Meadow Lakes in phase ten. Along Meadow Lakes Boulevard all the way through the community, there is just an eight foot wide asphalt trail on the east side of the street and as much as he drives through there, there is always people walking and jogging, walking with strollers and it is really nice and well received being utilized by the residents.

Vice Chairperson Masterson stated she saw that about a month ago going through.

Council Liaison Hung stated she really wished City Engineer Rodriguez was here as this is not a street like Meadow Lakes Boulevard. This eventually is going to go up to Chestnut and will be a truck route that connects for people getting off of Route 10 to drive their truck up and hit Sugar Ridge and take a left to go up Race. That is the fact of what this is. This isn't like Meadow Lakes Boulevard.

Assistant Law Director Morgan addressed Vice Chairperson Masterson and stated if Councilwoman Hung would like to testify, we need her sworn in.

Council Liaison Hung stated she was just saying that she wished Engineer Rodriguez was here to explain what this road was going to be.

Vice Chairperson Masterson asked if she could address the question to the Building Official on behalf of Councilmember Hung. She addressed Chief Building Official Fursdon and stated that the applicant is asking for a variance. There is a letter that was included in the application which was addressed from the Engineering Department to the applicant's Engineer Donald Bowing and Associates.

Chris Brown stated they go through a review process where they turn in their plans to Engineering. They review the plans and any questions or comments or issues, they put in a list and send to them to address.

Vice Chairperson Masterson asked if the street was going to be accepted by the city as a street.

Chief Building Official Fursdon stated yes.

Vice Chairperson Masterson asked how long does it usually take for a street to be accepted into the city.

Chief Building Official Fursdon stated that it has to go to Planning Commission and then City Council.

Vice Chairperson Masterson stated that it usually isn't within the first year or five years after it has been installed as it takes a while before it is turned over to the city.

Chief Building Official Fursdon stated what the Chairperson was referring to was the maintenance responsibility and that is theirs for three years.

Vice Chairperson Masterson stated that as far as the construction of the street, that is a Planning Commission and Engineering responsibility.

Chief Building Official Fursdon stated they have to conform to the City Engineer's standards that we have adopted in the city of North Ridgeville.

Vice Chairperson Masterson asked if it has gone to Planning Commission.

Chief Building Official Fursdon stated it doesn't matter which one comes first and he didn't think this phase went to Planning Commission. Actually, he stated, it did go to Planning Commission he guessed about ten years ago. Because of the time frame, it has to go back to Planning Commission because of the economic downturn and everything got stalled out.

Vice Chairperson Masterson stated then it hasn't been back to Planning Commission.

Chief Building Official Fursdon stated it hasn't been back to Planning Commission to be affirmed.

Planning Commission Liaison Smolik stated that the renaming of the street has and he was almost sure the phase also has been to Planning Commission. He remembered that there was some discussion regarding retention in that phase.

Vice Chairperson Masterson asked if the Commission can take a recess to get that information for her.

Chief Building Official Fursdon asked what difference it would make if it was approved or not.

Vice Chairperson Masterson stated she wanted to get that information for Councilperson Hung on whether or not it has already been approved. The Deputy Clerk will proceed in looking that up.

Meeting recessed at 7:50 P.M.

Meeting reconvened at 7:57 P.M.

Vice Chairperson Masterson addressed Deputy Clerk and asked what the findings were.

Deputy Clerk Tjotjos stated that the final plat approval for Waterbury Phase Nine was approved February 13th and City Council approved Planning Commission's action the week thereafter.

Vice Chairperson Masterson addressed the Assistant Law Director and asked if she had anything she wanted to add.

Assistant Law Director Morgan stated there has been quite a bit of discussion on this subject. She stated she would give a lot of weight to the fact that the Engineer thinks it is important that this has a sidewalk on both sides of the street. They are paid professionals and she respects their opinion. She pointed out that 1024.05, sidewalk ordinance states that all dwellings constructed in the City shall be provided with sidewalks in front. They indicated that they are going to do that but it mentions in front. This proposal is actually behind buildings and on one side she has been given to understand that there are no buildings at all there. It is not going to be on anyone's property as it will be within the common ground, such as common area, open space. That is something the Board may consider as well. She stated she is providing a little information as this may seem a little in the gray area than what the Board has seen in the past.

Vice Chairperson Masterson addressed the Chief Building Official and asked if he had anything to add.

Chief Building Official Fursdon addressed the applicant and asked what the property is beyond the right-of-way. He asked if it was common area, open space or someone's lot.

Chris Brown stated that it is going to be either city owned property to the east and open space to their development.

Chief Building Official Fursdon asked if there were going to be any dwellings facing the right-of-way.

Chris Brown stated no, sir.

Chief Building Official Fursdon asked how many lanes is Waterbury Boulevard going to be.

Chris Brown stated that he believes that the standard width in this city is 26 feet and this street will be 28 feet.

Chief Building Official Fursdon asked if it was intended to have any kind of a center turning lane.

Chris Brown stated no.

Chief Building Official Fursdon addressed Councilperson Hung and asked if that answers her

question. There is no turn lane on this street.

Council Liaison Hung asked if it was going to be a two lane road.

Chief Building Official Fursdon stated it is a two lane road.

Chris Brown agreed.

Council Liaison Hung stated that her concern is that the Mayor has indicated this will be a connector route to Chestnut.

Chief Building Official Fursdon stated that is true. The city has always wanted this street when it gets to the end of their property to extend over to the Route 10 interchange street that doesn't really have a name, but is where the Route 10 interchange is and this has always been intended to go that way. That is correct. What kind of traffic it is intended to hold he can't answer that. He stated that many years ago, when these two subdivisions were proposed, they were very big in bike paths and walking trails and several engineers were involved in walking paths, much like we have over here by the library. This was part of that walking path design and much like Meadow Lakes was and that is why in Meadow Lakes everything from Sandy Ridge north only has the walking trail on one side. At one time, they intended all this traffic to go up through Meadow Lakes but Meadow Lakes was modified somewhere along the line and didn't go out to Case Road as it was originally intended to do. He stated that is a little bit of history from what he remembers. He believes that the former administration negotiated this deal with Forest City and FJD Properties.

Chris Brown stated that is correct. They are basically following the agreement that the city had signed formally.

Chief Building Official Fursdon asked if there was anything mentioned in the agreement that Forest City had signed with the city regarding this.

Chris Brown stated there was nothing in the agreement to his knowledge that dealt with putting a multipurpose trail in.

Chief Building Official Fursdon stated he believes the Engineering Department is reviewing this from the standpoint of what the city ordinance is requiring. He knows that there was a lot of discussion when Meadow Lakes was being installed but he just didn't remember whether they had to receive a variance or how it was ruled eighteen years ago. He does know that there are sidewalks on the south end where they put houses so that you could get from one house to the other without having to go over the driveway to the walking trail, but with no houses there, you would get over to the walking trail as you come to the streets and you would have cross walks there. Depending upon the city's desire, they may want to put stop signs there to slow people

down to help people cross. He can't answer that question.

Council Liaison Hung addressed the Chair and asked if she could ask Mr. Brown a question. She asked the applicant if they would be opposed to installing sidewalks on the west side of the street.

Chris Brown clarified and asked if she meant that they conform to the city's typical sidewalk.

Council Liaison Hung asked if he would be willing to do that for the health, safety and welfare of the citizens of North Ridgeville.

Chris Brown stated he would be forced to. This was an alternative to the existing Waterbury Subdivision and the new Waterbury Subdivision to have a multipurpose trail to get better access to the park, which is the Shady Baseball complex. He showed that area on the drawing and stated that the park district owns this property.

Vice Chairperson Masterson asked which park district.

Chief Building Official Fursdon stated the baseball complex.

Vice Chairperson Masterson stated it is all city owned.

Chief Building Official Fursdon stated yes.

Chris Brown stated that is why they came up with this proposal for a multipurpose trail because when the city does do something, it will give better access. There will be crosswalks also and he showed those areas on the drawing.

Vice Chairperson Masterson asked if there was a possibility that this was a PCD when it was approved.

Chief Building Official Fursdon stated absolutely. It is still a PCD. Just because we no longer have it as an ordinance, they are grandfathered in to develop the rest of their subdivision as a PCD.

Vice Chairperson Masterson asked if it was possible that Engineer Becker may have forgotten that this may have been part of the original PCD agreement and not looked at it.

Chief Building Official Fursdon stated he didn't believe that Engineer Becker was here with the city when all of these subdivisions started. He can't remember if it was Engineer Beetler or Engineer Lovece, but this was eighteen years ago, back in 2000.

Vice Chairperson Masterson asked if it was possible that this was in the original plans.

Chief Building Official Fursdon asked if she was referring to the walking path and not the sidewalks. He doubted that as they didn't get quite that detailed.

Vice Chairperson Masterson stated that she has gone through Meadow Lakes on a Sunday and it seems like it is very well used. She stated that in the development she lives in, it is difficult to walk your dogs and ride bikes.

Chief Building Official Fursdon stated that the question isn't the walking path they are putting in. The question is, do we need another sidewalk on the opposite side of the street.

Vice Chairperson Masterson addressed the applicant and asked if they would put the walking path in and the sidewalk.

Chris Brown stated that this was supposed to take the place of the sidewalk on the opposite side of the street. If they were forced to put sidewalks on both sides of the street, they would go back to the typical section and put four foot sidewalks on each side.

Member Cipriano stated he lives in Waterbury and there are all kinds of walking paths. Generally, walking paths meander around and go through the woods. This location is where a sidewalk would ordinarily be. He has also been in Meadow Lakes. He asked what the speed limit is to be for this road.

Chief Building Official Fursdon stated he is guessing 25 but he could be wrong and it could be 35.

Member Cipriano stated he is concerned about people crossing the street and having access to the other side of the road and it is a safety concern from his prospective. There are people coming out of the new area and are going to go across the crosswalk and it seems to him that it should be uniform and have a sidewalk on each side. The trail is great, but if there are going to be trucks buzzing down there going 25 to 35 miles per hour, it isn't exactly conducive to take your child out for a stroll. They are more likely to take the trail off the beaten path.

Chief Building Official Fursdon stated that is true, but they are going to have to cross the street to use that walking path and trail, which does get a lot of use in Meadow Lakes. The applicant makes a valid point that if someone is going down there with a stroller, there is not a lot of room on a four foot sidewalk, for a bicycle, stroller and dogs. They get a lot of use in Meadow Lakes and that is the intent and purpose of this one. The people are going to have to cross the street regardless to get to that walking path. The only time you would use the sidewalk on that side is to go from Terrell up to Sugar Ridge Road. He could see possibly some foot traffic going up through there but he sees more use on this multipurpose path personally.

Member Cipriano agreed and stated only because they put it there. People will use it because that is where it is at. If there is one on each side they would use the side that was convenient.

Chief Building Official Fursdon stated they could take that walking path out and just put a four foot sidewalk on either side.

Member Cipriano stated he wondered how many folks will be leisurely walking down that street with the kind of traffic that will be on that street.

Chief Building Official Fursdon stated if he knew the answer to that, he would be a millionaire.

Member Thibodeaux stated being a resident in Meadow Lakes; those paths are an asset to the community. They are used every single day. Meadow Lakes Boulevard is kind of a speed zone and that is something that has to be dealt with but they have had zero issues with people wanting to use both sides of the road. The eight foot width is tremendous for bicycles, running, jogging and it is a huge asset to the community. It goes through the entire community of Meadow Lakes and it is very beneficial.

Member Cipriano addressed the applicant and asked if he could help him understand the practical difficulty or the hardship.

Chris Brown asked if he was asking what the practical difficulty would be to not install a four foot sidewalk on each side of the street. He stated that this was proposed to the community as an enhancement for the community. He stated that the practical difficulty would be to say it will be safer than having sidewalks on both sides of the street and children jetting out from one side of the street to get over to the park property. At the end of Terrell Drive there are foot trails that go over to the park now and so obviously people are crossing the street regardless of where the sidewalks are.

Member Smolik stated that this really can't be compared to Meadow Lakes Boulevard because this is going to be a connector street with a lot of truck traffic on it and now knowing what exactly these intersections are going to be doing in terms of stop signs, it is dangerous to assume at this point in time over the safety issue. The safest way for the residents at this point in time is sidewalks on both sides of the street. Unless there is more clarification to these intersections, mid-block crossings are the number one dangerous spot for pedestrians getting hit by vehicles.

Member Cipriano stated that everything that is being looked at, it is as if the Board has seen it for the first time. It is interesting to talk about Meadow Lakes, but it is irrelevant. Everything is DE novo and so, he is looking for a practical difficulty or hardship or something that will help him understand why this variance needs to be made. Being a benefit to the people or the city is great, but unfortunately, that is not a consideration for them. The applicant can say he will donate a

million dollars to the city, it is not supposed to affect their decision.

Vice Chairperson Masterson stated that this road is not connecting.

Chief Building Official Fursdon stated not at the present time.

Chris Brown stated that everyone is saying this will be a connector street. They are just presenting the plan that was presented back eighteen to twenty years ago and they have done nothing to enhance this other than reconfiguring some of the roadways. He showed the area with a lot of open space and stated that is designated wetlands, which they do want to stay away from. They would be a lot closer to those wetlands if they had to put in a full typical section street. He showed the areas on the drawings. If he had to clear the entire right-of-way to put in a concrete sidewalk on both sides, he will be right up against those wetlands.

Vice Chairperson Masterson asked if the applicant would show her where the future extension would be if the roadway was stubbed.

Chris Brown showed her the area of where Waterbury Boulevard will be located and where Shady Drive Complex is located for reference.

Vice Chairperson Masterson noted a wet area in the parking lot of Shady Drive Complex and asked if that was wetlands. She asked if wetlands matter on a city property and if the city would have to designate them on a city property.

Chief Building Official Fursdon stated that wetlands only dictate how you can use the land; even the city.

Vice Chairperson Masterson stated that the city couldn't build anything there either.

Chief Building Official Fursdon stated if it is wetlands, no.

Vice Chairperson Masterson stated they can just use it as a park.

Chief Building Official Fursdon stated he didn't even think they could put a park.

Vice Chairperson Masterson agreed and stated that wetlands have to stay in its existing status. She pointed to the drawings and asked if wetlands were located there.

Chief Building Official Fursdon stated that is Wheaton Place. That is an existing street over there and Terrell Drive is existing there.

Council Liaison Hung stated she wanted to connect a few of the dots here. There was a

competitor builder that wanted last fall to come up from Chestnut and do another leg of this and so, there is a middle leg. That builder was denied because they asked for too many cluster lots. They will be back and so, Mr. Brown is with K.Hovnanian and his builder is developing this portion.

Chief Building Official Fursdon asked the Board to be aware that the city and the Mayor specifically have been after this street for many years and was adamant they were going to put this street in. They weren't going to leave it out. The intent was for this street to connect up with the street, which is on the Route 10 interchange. He didn't see the city approving anything that doesn't connect that to the Route 10 interchange. Eventually, it will get there. Their property doesn't go that far. Their property goes just beyond Terrell Drive and he can't speak for the Administration or the Engineer, but he can't believe that they are not asking for that portion of that street being installed and then picked up by the next property owner and extended. That is the intention of the city to run this over to the Route 10 interchange street. There could be a lot of truck traffic on this street and maybe it is best that they don't put the walking trail and put a sidewalk on each side. It is hard to say.

Vice Chairperson Masterson addressed the Assistant Law Director.

Assistant Law Director Morgan stated when the Board has established all the information to their satisfaction that they keep in mind that they are a four member Board tonight. She is looking at the by-laws and this requires a majority vote.

Council Liaison Hung addressed the applicant and again asked if there was any way they could have a walking trail on the east and a sidewalk on the west. She asked if they could have both and if there was any way they would be willing to do that.

Chris Brown stated that is the main reason why they have been working with the Mayor and the staff here. It has always been planned instead of doing sidewalks on both sides to do a walking multipurpose trail on the park side of the street.

Vice Chairperson Masterson stated she would personally like to table this and would like the Mayor to be at the next meeting as well as the City Engineer to answer some questions. She doesn't feel that voting on this tonight would be fair and she kind of has a feeling she knew how it would go and she would prefer to table it. She asked if there was anyone in the audience that would like to speak on this matter.

Timothy Kessler of 8817 Wheaton Place was sworn in. He showed where his property is located on the drawing. He stated that putting the sidewalk in would put somewhat of a buffer between his backyard and the road as opposed to butting up to a road. He spoke regarding the speed of the roadway. He expressed his concern on why they would put the walking trail on the east side as opposed to the west side as the east side is up against the park.

Vice Chairperson Masterson asked if there was anyone else that would like to speak.

It was moved by Masterson and seconded by Cipriano to table the application until the next meeting in August and ask that the Mayor and City Engineer be present for this application at the next meeting.

Chief Building Official Fursdon called a point of order and asked the Board if they wanted to consider the second portion of this request before they table the entire application.

Member Cipriano clarified the 20 foot radius request.

Chief Building Official Fursdon stated yes.

Member Cipriano asked the applicant to come up and explain that part of his request.

Chris Brown explained that the second page of their variance has to deal with where the existing Shady Drive will be connected to the new Waterbury Boulevard. He showed the area that they own. He showed the existing pavement. There is already a curve and according to the codified ordinance and the design criteria, all intersections have to have a minimum of a 20 foot radius. In this particular case, they can't have a radius of 20 feet because the actual property goes into where the right-of-way would be and so, the actual right-of-way would be on the next person's property, which is property they don't own. The right-of-way would get cut a little shorter in that particular area. Just because the right-of-way gets shortened up a little bit, it doesn't affect the pavement as far as the turning radius and width of the pavement. The right-of-way on the inside of the road will be closer to the actual pavement.

Chief Building Official Fursdon stated that the Board needs to realize that this is an existing right-of-way that has been in the city for many, many years. It is nothing they created, but the Assistant Engineer has taken it upon them self to make them get a variance for this and the hardship is that they didn't cause this problem.

Chris Brown showed the development and stated this was here and created when this was put in.

Member Cipriano stated that is what he calls a practical difficulty.

Member Smolik stated instead of actually not requiring a right-of-way, what about just a highway easement. Then it gives the city the ability to do infrastructure and utilities in there. It would be similar to a right-of-way.

Chris Brown asked if he was talking about utilities for the residents there.

Member Smolik stated he was concerned as the right-of-way is not just the road it is the utilities as well, which would give the city the permission to work on those utilities. With a highway easement, you aren't actually purchasing the property, but yet they are giving all the easement rights to the city. He asked if that was considered.

Chris Brown stated it wasn't considered because they don't own the property.

Member Smolik stated they are developing the property and they could try and secure an easement for it.

Chief Building Official Fursdon stated that they are making the applicant pay for a mistake that the city made years ago. He asked if this was so important than why didn't the city have the radius 20, 30, 40 years ago. They don't take water lines and put them on a radius and they don't put sewer lines on a radius.

Member Smolik asked where the new roadway was going in.

Chris Brown showed on the drawing where it was going in. They are doing nothing here other than tying in the existing Shady Drive to the new street.

Chief Building Official Fursdon stated if he wasn't mistaken, they are going to make the existing portion of Shady Drive, the east/west, a sixty foot right-of-way to match the rest of Shady Drive that was platted many years after. They are giving us additional right-of-way up there.

Chris Brown stated he didn't remember what that agreement was.

Chief Building Official Fursdon stated he is pretty sure because the right-of-way on Shady Drive, the east/west portion, is very narrow.

Chris Brown showed the area of city property and explained their plans.

Vice Chairperson Masterson stated that they can't grant a right-of-way to property they don't own.

Chris Brown stated correct.

Vice Chairperson Masterson stated that is a hardship that the City Engineer imposed upon them as they aren't redoing the road; they are just trying to give an easement.

Chris Brown showed the area on the drawing where they were able to comply.

Vice Chairperson Masterson asked if there were any questions from the Board.

Member Smolik stated that if there isn't enough room there now, then to put a future sidewalk there would be in jeopardy.

Chris Brown showed the existing pavement and where the eight foot sidewalk would tie into.

Vice Chairperson Masterson addressed the Assistant Law Director and asked if the Board could table the first part of the application and vote on the second.

Assistant Law Director Morgan stated the Board can treat them separately.

Vice Chairperson Masterson asked if there is an open motion on the floor.

Member Cipriano stated that there is an open motion on the floor and asked that it be rescinded and begin again.

It was moved by Masterson and seconded by Cipriano to withdraw the motion to table the application.

Yes, 4 No, 0

Deputy Clerk announced the motion carried with a vote of four yes and zero no.

It was moved by Masterson and seconded by Cipriano to table the request to install the sidewalk on only one side of the right of way.

Yes, 4 No, 0

It was moved by Masterson and seconded by Cipriano to approve the 20 foot radius variance.

Yes, 4 No, 0

Deputy Clerk announced the motion carried with a vote of four yes and zero no.

APPLICANT: Anthony Valore and Gayle Fischbach, Valore Properties, 23550 Center Ridge Road, Westlake, OH 44145
OWNER: Valore Properties, 23550 Center Ridge Road, Westlake, OH 44145
REQUEST: Determination of the same character use as the permitted uses to operate 0-Zone Hookah Lounge – tobacco use in a B-3 District.
LOCATION: 34161 Center Ridge Road in a B-3 District.
Permanent Parcel No. 07-00-016-112-045

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

Vice Chairperson Masterson asked if there was a representative and if so, could they please state their name and address and she would swear them in.

Gayle Fischbach of Valore Properties, 23550 Center Ridge Road, Westlake and Jesse Fischbach of 31001 Hilliard Boulevard, Westlake were sworn in.

Vice Chairperson Masterson asked who would like to speak on this application.

Jesse Fischbach stated he would go first. He explained the definition of a hookah lounge stating that it is a social environment, card games, board games with televisions for sporting events and things of that nature along with music. It is very similar to a cigar lounge. It is a social aspect. There are a couple of these in the area. He has been to Westlake, Parma, and North Royalton and all the way to Alaska. He enjoyed them. A lot of them have a different feel. There are snacks and drinks and it is a fun environment and he has always wanted to open one of his own. This is his chance now.

Vice Chairperson Masterson asked if they would be using tobacco in this.

Jesse Fischbach stated yes.

Vice Chairperson Masterson addressed the Assistant Law Director and referred to the subject matter of tobacco use.

Assistant Law Director Morgan stated what is in front of the Board this evening is whether the Board thinks this sort of establishment is like other things in the B-3. So, it is a rather separate question from whether or not they have a viable business plan. Obviously, everything is smoke free in Ohio. So there can be no public area where there is smoking going on. There are exceptions if the applicant intends for this to be a private club, members only and there are exceptions in the law but basically, there is no smoking allowed in any public place. But, that doesn't mean this wouldn't be a like use and that is entirely the discretion of the BZA to decide. They are actually two different questions. She understands the hesitation and the BZA can always ask questions.

Vice Chairperson Masterson addressed the applicant and explained that the Board received an email and some of the questions were submitted by the Assistant Law Director. She began to read the email stating that no proprietor of a public place shall permit smoking. However, a private club is exempt if all of the following applies. The club has no employees. It is organized for nonprofit entity. Only members are present in its building. No persons under 18 are present. The structure needs to be a free standing structure occupied solely by the club. Smoke does not migrate to any smoking prohibited area. If it serves alcohol, it must have a D4 liquor permit.

Assistant Law Director Morgan stated that she is aware that there are cities that appear to have clubs. She doesn't know though what they are doing to get around the smoke-free law.

Member Cipriano asked if this is a private nonprofit club.

Jesse Fischbach stated no it is not.

Member Cipriano asked if it was a free standing structure or is it a part of an existing structure.

Gayle Fischbach stated it would be located in Providence Square Plaza, which they have a huge investment in. Major anchors of theirs is Sherwin Williams, Citizens Bank and so, after evaluating this, they certainly wouldn't let any type of business go in there that would jeopardize their other tenants. This would be the third place from the very far end. The same end as All Fired Up and next to them will be East of Chicago Pizza and this operation would be right next to that.

Vice Chairperson Masterson addressed the Chief Building Official and asked if he had any questions.

Chief Building Official Fursdon addressed the Assistant Law Director and asked if the existing smoking provisions in Ohio are enforced by the Health Department.

Assistant Law Director Morgan stated she believed so.

Chief Building Official Fursdon asked if they would need to apply to the Health Department if they are serving food and drinks and the Health Department would regulate whether or not smoking can occur on this property.

Assistant Law Director Morgan stated they would be the enforcement entity yes.

Chief Building Official Fursdon asked if they have spoken to the Health Department.

Gayle Fischbach stated no. She asked if the Health Department was brought up because of them selling snacks and beverages.

Chief Building Official Fursdon stated they regulate the food service end of it. He would hate to see them come to the Board and the Board says yes, they think it is a like use and the applicant comes to the Building Department for a permit and they give the permit and then the Health Department says no because they are going to allow smoking in there.

Vice Chairperson Masterson addressed the applicant and asked if they would like the Board to

table this for a month in order for them to do more research.

Gayle Fischbach apologized and stated she wasn't aware of that and had she known, she would have had that done prior to this.

Vice Chairperson Masterson stated that she is only asking to give the applicant the option to do a little more research and to come a little bit more prepared. It isn't like the applicant wasn't prepared, but it wasn't something they knew they had to do. She asked if there were any other questions from the Board. Hearing none, she asked if there was any one in the audience that would like to speak on behalf of this.

Charlotte Corridoni of 34056 Gina Drive was sworn in. She stated that it is a proven fact, being an RN, Board Certified in Operating Room Nursing, Specializing in Thoracic Surgery that we all know the CDC has made it clear and the Surgeon General has made it clear tobacco is a hazard to your health. Right outside when you come into the door of Chambers, there is a sign that states working to make North Ridgeville a healthier place to live. She didn't see how allowing smoking or setting up a place where smoking is to be allowed is making North Ridgeville healthier. That is why the City of North Ridgeville made all of its properties nonsmoking areas. Hospitals are nonsmoking areas including the parking lots. She believes allowing this to go in is going against what the city has told us it wants to do. She stated that was her personal opinion.

Vice Chairperson Masterson addressed the applicant and asked if they had any questions.

Jesse Fischbach asked if the Board could table this for a month that would be great.

It was moved by Masterson and seconded by Smolik to postpone the application until the next meeting in August.

Yes, 4 No, 0

Deputy Clerk Tjotjos announced the motion carried with a vote of four yes and zero no.

Chief Building Official Fursdon apologized to the applicant and stated that it just occurred to him that if the Board said yes tonight, who would be enforcing whether or not they could smoke or not smoke and he believes it is the Health Department. The Law Department confirmed that it was the Health Department. Otherwise if he had thought of that sooner, he would have mentioned that to them.

ADJOURNMENT:

Vice Chairperson Masterson stated there is no other business. She then adjourned the meeting.

**BOARD OF ZONING AND BUILDING APPEALS
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The meeting adjourned at 8:47 p.m.



Chairman



Secretary Donna Tjotjós

August 23, 2018