

**NORTH RIDGEVILLE BOARD OF ZONING & BUILDING APPEALS
MINUTES FOR THE REGULAR MEETING HELD JULY 28, 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, and Chairman Shawn Kimble.
Absent were Vice Chairperson Linda Masterson and Member Tim Anderson.
Also present were Assistant Law Director Toni Morgan and Deputy Clerk Donna Tjotjos.

MINUTES:

Chairman Kimble asked if there were any corrections to the regular meeting minutes dated June 23, 2016. Hearing none, he entertained a motion.

It was moved by DeVries and seconded by Cipriano to approve the minutes dated June 23, 2016.

Chairman Kimble asked the Clerk to call the roll.

Yes, 2 No, 0 Abstain, 1 (Kimble)

Motion was approved by a vote of two yes, zero no and one abstention.

REPORTS:

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

Member Cipriano stated that the Board did have a meeting and they were pleased to have received one million dollars from the State of Ohio for what was to be a four million dollar project, but they were happy to receive the one million to continue to mitigate any flood issues in the city of North Ridgeville. They also received a very lengthy report from the Federal Government Regulatory entity that tests the infiltration of sanitary sewer into the storm sewers. It is a mild 57 pages long and he hadn't had a chance to read all of it. This report is given after they test certain places throughout the city where the water is tested to see if there is any bacterium and will show where the sanitary if any may be leaking into the storm water system.

Chairman Kimble stated if there were no other reports the meeting will move on to the public hearing. He asked the Clerk to read the application.

OTHER REPORTS AND CORRESPONDENCE: None

PUBLIC HEARING:

OTHER BUSINESS:

APPLICANT: Renee M. Davis, 4750 James Road
OWNER: Same
REQUEST: A 36 foot rear yard variance to construct a deck four feet from rear lot line.
LOCATION: 4750 James Road in an R-1 District
Permanent Parcel No. 07-00-017-108-022
(APPLICATION POSTPONED DURING THE JUNE 23, 2016 MEETING TO OBTAIN MORE INFORMATION.)

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

Chairman Kimble asked if there was a representative and if they could step to the podium and give their name and address so that they can be sworn in.

Renee Davis of 4750 James Road and Brian Todd Davis of 4750 James Road were sworn in.

Chairman Kimble stated that he is aware this application was before the Board last month and asked if the representative would explain to the Board what they are looking to do. He understood that the deck is already built. He asked if they could explain why they had to build the deck and why it is where it is currently located.

Brian Todd Davis stated that they added onto the deck. They have custody of four of their grandkids and the deck that was existing there when they bought the house was too small. It was like sitting in a bus stop. They were going to proceed in going through the proper channels but an innocent bystander called and they started where they started. They also planned on putting a roof over the back part of the deck to block the sun to be able to sit out there and enjoy the little part of the backyard that they have. The reason that the deck was designed the way it was designed was that in the future, they plan on putting in a pool for the family and move the garage over on another part of the property in order to utilize all of the property because the grandkids are getting older and they are going to need a few extra parking spots and that was the plan. They are trying to improve the value of the home by updating it with what they need and not with what somebody would want and then just buying it.

Chairman Kimble stated that when he spoke with Guy, one point that he did bring up was the fact that this home was built before our current ordinances are in place and so, for this house to be built today, it wouldn't be built the way it is. This is predating the ordinances that this Board needs to enforce. It creates a unique situation for the Board to begin with. He fully understood why the applicant wants more deck and a good point that was brought up was that a detached garage could be built five feet off the property line and this deck looked as though it was intended to be five feet off the property line but somehow the measurements got a little bit off with it now being approximately four feet off on the one corner. It is only in one spot and then

as the deck goes out and the property line goes the other way, it grows into a distance. He asked if the other two members would like to speak since they were here for the whole last meeting.

Member DeVries addressed the Chair and stated that he did want to make a statement. As he stated during the prior meeting, he is familiar with both parties and he has lived across the street from Mr. Whitesell growing up on Denise Drive and the house that he has now; on Paula, is right next to the applicants and their children play together. So, because of those reasons he will be abstaining. He stated that this is a matter of conflict and he didn't want to be caught in the middle of the two neighbors fighting. It is also a matter of credibility and so that is the point that he tried to make clear during the last meeting in which he announced that he would be abstaining. He continued to address the applicant and stated, however, with that said, any attempts to contact him or his family verbally, by mail or by electronic mail is unacceptable and that will not be tolerated. He announced his abstention.

Member Cipriano stated that as he is looking at the drawing it looks like the deck encroaches into a utilities easement.

Chairman Kimble read the note on the drawing that stated per Lucy in Engineering, no pipe in easement as of 5/16/16.

Member Cipriano stated that this is definitely a unique piece of property. One of his concerns is how close that deck is to the standing fence. A deck like this would be required to have a railing, he assumed.

Chairman Kimble stated that it would require a railing.

Member Cipriano stated his concern would be that someone could fall off the deck and be impaled on the fence. There would need to be an adequate railing to prevent someone from falling off the edge and into the fence.

Chairman Kimble asked how far along the applicant is in building that deck. He asked if it was completed and if there is a railing up yet.

Brian Davis stated that the deck and a 42 inch handrail are installed. He stained the deck because the wood was starting to weather and he had to stop because he needed to get this approved by the Board. He still needs to install the spindles. There is a 42 inch handrail all the way around and the only thing that needs to be done to complete the deck is to add the spindles. He has the stone underneath with plastic to keep the weeds and grass from growing.

Renee Davis explained that Guy was out to measure and they did find the property posts and discovered the fence was not encroaching onto their property. They also found that the deck was four foot two inches from the fence and that was measured from the one corner.

Chairman Kimble stated that the variance was changed from what was a 35 foot variance to install the deck five feet away from the fence versus what it is now being a 36 foot variance to install the deck four feet away from the fence. It makes no difference whether it is four feet or five feet as a variance would still need to be approved.

Member Cipriano stated after reading the Building Inspector's comments, the applicant is requesting a deck be four feet from rear lot line requiring a 36 foot variance. It is 36 feet closer to the property line than what the ordinance states.

Chairman Kimble stated that reading it from that standpoint sounds like a lot without knowing anything about the property. He reaffirmed that the house isn't even code compliant with the current code. He stated the house is not the issue. The deck is and that is what the Board is looking at. There is an existing deck. Who knows when that was built and more than likely the owners at that time didn't come before this Board to get a variance for it. The Board needs to deem this viable or what is or isn't.

Member Cipriano asked that if the house was built before these current ordinances were established, would that mean the house sits further back on the property.

Chairman Kimble stated it isn't so much the front yard setback as it looks as though all the homes sit back the same distance. However, the code clearly did not have the same rear yard setback requirements as we do now. He asked if there were any other questions or comments. Hearing none he addressed the applicants and asked if they had anything else they would like to add. Hearing none, he addressed Assistant Law Director Morgan and asked if she had any questions.

Assistant Law Director Morgan stated that it is her understanding that the house and part of the deck already existed and possibly built pre current code. Really the variance has to do with additional encroachment.

Chairman Kimble stated that if there were no other questions or comments and since no one is present in the audience to speak, he entertained a motion.

It was moved by Cipriano and seconded by Kimble to approve the 36 foot rear yard variance to construct a deck four feet from rear lot line.

Chairman Kimble asked the Clerk to call the roll.

Yes, 2 No, 0 Abstain, 1 (DeVries)

Motion was approved by a vote of two yes, zero no and one abstention.

ADJOURNMENT:

Chairman Kimble announced since there was no other business, this meeting was adjourned.

The meeting was adjourned at 7:20 P.M.



Chairman, Shawn Kimble



Secretary Donna Tjotjos

August 25, 2016