

**NORTH RIDGEVILLE BOARD OF ZONING AND BUILDING APPEALS
MINUTES OF
REGULAR MEETING – THURSDAY, JULY 27, 2023**

CALL TO ORDER:

Chairwoman Masterson called the meeting to order with the Pledge of Allegiance at 7:00 PM.

ROLL CALL:

Present were members Shawn Kimble, Vice-Chairman Neil Thibodeaux and Chairwoman Linda Masterson.

Members James Cain and Steve Ali were excused.

Also present were Council Liaison Winkel, Assistant Law Director Morgan, Chief Building Official Fursdon, Planning Director Kimberly Lieber and Deputy Clerk of Council Tina Wieber.

MINUTES:

Chairwoman Masterson asked if there were any corrections to the minutes of the regular meeting on Thursday, June 22, 2023. Hearing none, the minutes stand as presented.

CORRESPONDENCE:

Master Plan Update

Co-Chairman Thibodeaux stated that the Steering Committee had a Pop-up Party on July 20th at the Senior Center and it was a great success. He commented that he would let Director Lieber discuss the August meeting date.

Director Lieber explained that there wasn't a date set yet for the next Committee meeting but they were still synthesizing all of the input they received. She stated that they had hundreds of people attend the pop-up party and that it was great.

Zoning Code Amendments

Chapter 1286 Signs

Chapter 1292 Nonconforming Structures and Uses

Director Lieber stated that City Council had recently adopted two updates to the zoning code that were pretty significant. She discussed that there would be a new sign code in effect by the mid to end of August. She added that the Structures and Non-Conforming Uses Chapter had been updated and she wanted to reserve some time on the August agenda to go over what those changes were and how that might impact some of the Commission's future reviews.

PUBLIC HEARINGS:

PPZ2023-0199: Thomas Holzaepfel, 5122 Stoney Ridge Rd, PPN: 07-00-031-000-004

Applicant: Thomas Holzaepfel, 5122 Stoney Ridge Rd, North Ridgeville, OH 44039.

Proposal consists of constructing a detached garage. Property is zoned R-1 Residence District. Requests:

1. A 1.5-foot height variance for a detached private garage; code permits 15 feet, applicant shows 16.5 feet, Section 1294.03(d)(1).
2. A 2.2% variance for lot coverage of a residential lot with a detached garage; code permits 10%, applicant shows 12.2%, Section 1294.03(d)(2).

Application was read.

Chairwoman Masterson asked if there was a representative present.

Thomas Holzaepfel, 5122 Stoney Ridge Rd, North Ridgeville, OH 44039, was sworn in.

Mr. Holzaepfel commented that the Board should have received an updated survey with the stamp from the surveyor, to definitively plot where the house actually was and that it wasn't over the lot line. He stated that the surveyor did find the pins and did mark out the house on it as it laid, which was discussed previously. He mentioned that the house itself, was close to the lot line, was built in 1940 and had been there a very long time. He stated that the addition that was done by the previous owner, was much farther away from the lot line as shown in the drawing. He added that the location of the detached garage would be in compliance with the code as far as off of the lot line. He mentioned that he thought he had it set at five and a half feet. He discussed that he also had spoken with the Building Department about the space between the home and the neighbor, which was his daughter, and that the amount of space there was actually thirteen and a half feet and they stated he was allowed to pave up to his home and up to the property line. He explained that there wasn't any issue at all as far as clearance for a driveway, from what he was told. He stated that he walked the actual space with Joe Lenahan and showed him where the property line was and he put eyes on it. He mentioned that there was a second survey done by the neighbor, which actually verified that lot line. He stated that a surveyor came out and verified what his surveyor had and came to the same conclusion and marked it and both surveyors were in agreement. He added that the last thing he wanted to mention was that Stoney Ridge Road was a very busy road and people didn't walk up and down that road because of the heavy traffic. He stated that all of the lots surrounding his home were large lots. He commented that the smallest lots were catty corner across the street and were .93 acres and that directly across the street, the lot was 4.5 acres and next to him was his daughter whose lot was 1.5 acres. He stated that the next lot over was two acres and the next lot over was 5.7 acres and were all really big lots and had a real rural feel to where that part of the town was. He mentioned that where the garage would be constructed, it would be virtually out of sight from the road. He stated that it would be a very nice-looking structure but it wouldn't be very visible.

Chairwoman Masterson stated that he did give the Board a picture of the driveway and that the driveway did show the pin and that the driveway was on the other property, just a corner of it.

Mr. Holzaepfel stated that with the new survey it was even wider there than they had originally thought.

Chairwoman Masterson show Mr. Holzaepfel a photo of pins on the driveway.

Mr. Holzaepfel stated that that was done by the previous owner and not him. He commented that he didn't have anything to do with that.

Chairwoman Masterson asked Chief Building Official Fursdon about the applicant being allowed to put a driveway next to the house and asked if that was correct.

Chief Building Official Fursdon stated that was correct, that it could go right up against the house.

Chairwoman Masterson explained that his structure was before the Board previously and because of the unique character of that property they had granted a carport. She mentioned that the Law Department determined that the Board wasn't clear in their determination of a carport so they allowed him to enclose that. She commented that the Board granted the variance due to the inability to put a barn behind the house.

Mr. Holzaepfel stated that was correct.

Chairwoman Masterson remarked that he would need to give very good reasons as to why he needed additional variances for the garage and asked if he had tried any other alternatives to make the structure smaller.

Mr. Holzaepfel commented that he could make the garage smaller and comply but his appeal was that everyone around him had large lots with many large structures on the properties. He explained that in his mind he was going to build something nice that would increase property taxes, which cities liked. He stated that it would help him put undercover things like vehicles and mowers and all that. He added that nobody liked to drive by homes and see a lot of stuff sitting around buildings. He stated that it would just give him a greater capacity to put things undercover and keep the property neat and tidy.

Chairwoman Masterson stated that the Board looked at each individual application and was looking for hardship.

Mr. Holzaepfel stated that it would be a nice structure on an acre property and he didn't think a little bit bigger garage was a big ask. He mentioned that he had three vehicles and a trailer and mowers, and if he didn't have a larger garage, he would obviously have to set some of those things outside the building and most people would prefer to have those things out of sight.

Chairwoman Masterson asked if anyone from the Board had any questions or concerns.

Co-Chairman Thibodeaux stated that he appreciated the applicant getting the additional surveys since the last meeting. He commented that he stated that his neighbor did as well just to make sure it was verified and he appreciated that.

Member Kimble stated that he had a question for the Law Department and asked how the determination was made that he was allowed to enclose the carport that the previous property owner went before the Board for.

Assistant Law Director Morgan stated that she didn't have any recollection of that and would need to look at it again.

Director Lieber stated that she had a little bit more of a recollection of it because there was an application made last summer and it was on the Board's agenda and then it was withdrawn. She mentioned that she believed the advice at the time was because the motion of the Board didn't specifically limit that variance to a carport. She added that there was some discussion in the meeting but it wasn't clear in the motion that it was simply being granted for a carport and not a garage.

Member Kimble asked who made that determination.

Assistant Law Director Morgan stated that she didn't know and would have to look it up. She mentioned that they recently had an issue regarding a carport and they still didn't have good language in the ordinance making a difference between the two. She stated that they were often treated as the same thing and that might have been the basis of it but she would have to look at it. She added that she didn't have any recollection at all but she could get that information for them.

Chairwoman Masterson stated that she would like that just because they also did have that carport that was before the Board a couple meetings ago.

Assistant Law Director Morgan stated that it would be back.

Chairman Masterson stated that she had spoken to Chief Building Official Fursdon regarding that and had asked specifically why something the Board approved as a carport was suddenly enclosed as a garage and was told that it was determined by the Law Department and the Planner Director was stating that as well.

Assistant Law Director Morgan asked if that would be determinative for the Board regarding the current application before them now.

Chairwoman Masterson stated that it was for her because the hardship was originally that they couldn't put a garage behind that structure due to the size of the lot. She discussed that they came and asked for the ability to put a carport in the front of the house because they were unable to put a garage behind the house. She asked if she was correct.

Assistant Law Director Morgan stated that she would have to look at it.

Chief Building Official Fursdon stated that he didn't remember that language. He commented that with that size of a lot there was plenty of room to put a garage behind the house and didn't know why they would have said that.

Member Kimble stated that his recollection wasn't so much that they could not but that whoever made the application specifically said that they had no intention of building a garage behind the house and that was why they wanted the carport. He added the either himself or Chairwoman Masterson or both of them, pointed out that with the carport there wasn't a visible obstruction by building in front towards the road. He discussed that they were specifically asking for a carport and it felt like there was some deception there and didn't know how they had gotten to that point currently from where they were just a couple years ago. Mr. Kimble added that it had zero bearing on his decision regarding the current request as they were two different cases.

Assistant Law Director Morgan asked if they knew when it was enclosed and if the Board approved it a year ago.

Member Kimble commented that he would guess it was approved two to three years ago specifically as a carport not as a garage.

Assistant Law Director Morgan asked if they knew when it became a garage.

Chairwoman Masterson asked the applicant if he knew when he pulled the building permit to build the garage.

Mr. Holzaepfel stated that he thought it was somewhere around a year ago but didn't have that in front of him. He mentioned that the carport predated him as the owner as well as the structure and everything.

Chairwoman Masterson stated that he was the one that enclosed it into a garage.

Mr. Holzaepfel stated that was correct. He discussed that he started to and then he was notified that he couldn't do that and needed to make application, which he did. He stated that he stopped as he had only done the beginning on the enclosure and then made the appeal and the appeal was approved.

Chairwoman Masterson commented that it was through the Law Department because it had been pulled.

Mr. Holzaepfel stated that he wanted to mention that it was a 3,500 square foot home with a one car garage. He added that it was a pretty strange situation as far as a home with just one little garage in the front. He commented that there was thirteen and a half feet to get around the house so there was plenty of room for a driveway past a home.

Member Kimble asked if he was the gentleman who came in front of the Board years ago specifically for the carport.

Mr. Holzaepfel stated that he was not.

Member Kimble asked if that was someone else.

Mr. Holzaepfel stated that was correct.

Member Kimble asked if that was before he was even part of the picture.

Mr. Holzaepfel stated that was correct.

Director Lieber stated that she could shed some light with the minutes of February 2020 that were included, if not in the current packet, the last packet. She read that there was discussion that the applicant at the time was John Faile and the architect and the owner were present as well. She read that Mr. Cutura stated that they would ideally like to build a garage and he explained their decision to construct a carport was because the architect said there was no way a garage would be approved since it would come too close to the street and that there was no place for a garage unless it was built in the back. She read that he indicated that it was not financially possible at that time. She read that Vice-Chairwoman Masterson spoke about the house that was being built next door and she felt Mr. Cutura would have difficulty putting in a driveway to lead to a garage at the back of the property. She continued that the applicant stated that he wouldn't be able to do any kind of concrete driveway because of the eleven and a half feet on the one side, which would be pretty tight. He stated that he didn't know if he would ever be able to have a garage in the back, which was his reason for requesting a carport, to provide coverage for at least one of the cars. She stated that there was some discussion that the Board had at the time and she didn't know that it was directly stated by the applicant that they couldn't get a garage in the back, but that it didn't seem financially feasible at the time to do so.

Co-Chairman Thibodeaux stated that to be clear, that was a different applicant.

Chairwoman Masterson stated that was correct.

Director Lieber stated that it was a different owner but same property.

Chairwoman Masterson stated that the variance went with the property.

Director Lieber stated that was correct. She discussed that the request was for front yard setback but there was no language in the motion or in the request that it was limited to a carport. She stated that it was just a front setback and once the front setback variance was granted, whatever portion of that structure would be built, would be within that variance. She added that that was why specificity was important.

Assistant Law Director Morgan stated that if the other determination was going to make a difference on how they viewed the current one, she would request the time to look at it on their behalf. She added that if not, they could go forward with the current one.

Chairwoman Masterson stated that Director Lieber did a good job explaining and that was what she was looking for. She then told Mr. Holzaepfel that she was looking for hardship.

Mr. Holzaepfel stated that his appeal was that he was trying to build a very nice home in North Ridgeville that was a five-bedroom home and to have a one car garage on a five-bedroom home would be highly unusual and not highly conducive to the home. He mentioned that a lot of homes had larger garages to accommodate the size of the structure and the size of the home and his appeal was that he was just trying to build a nice garage facility.

Chairwoman Masterson remarked that the garage he was talking about building was 1,800 square feet approximately.

Mr. Holzaepfel stated that was correct.

Chairwoman Masterson asked if he had looked at a smaller structure. She mentioned that he was not giving them a practical difficulty.

Mr. Holzaepfel stated that he had a large pick-up truck, a large trailer, another car and he had two riding mowers and other things that a garage size that was permitted, they wouldn't be inside. He explained that he couldn't get all of that in.

Chairwoman Masterson stated that his garage had an overhang in the back.

Mr. Holzaepfel stated that was correct and that it was part of that 1,800 square feet. He mentioned that it was just a roof and not part of the enclosed structure.

Chairwoman Masterson asked him why it needed to be so tall.

Mr. Holzaepfel stated that if shorter helped he would do shorter. He commented that it was just less pitch on a roof. He added that roofs tended to wear out more if they were a lower pitch but if that was the

determining factor, he would be happy to do the compliance on the height.

Chairwoman Masterson asked Assistant Law Director Morgan since he was asking for two variances, would they split the variances and vote on them individually.

Assistant Law Director Morgan stated that she was always in favor of that. She added that it would give them the opportunity to vote yes on one and no on the other if that's how they viewed it. She said she would prefer that.

Chairwoman Masterson stated that a 2.2% variance for lot coverage wasn't a lot and was reasonable. She commented that he hadn't provided her with enough practical difficulty. She asked if any members of the Board had any questions or comments.

None were given.

Chairwoman Masterson asked if anyone in the audience wanted to speak on the matter.

John Eavenson, 39093 Case Rd, Avon, OH 44011, was sworn in.

Mr. Eavenson stated that he owned the 1.3-acre property to the north of that property. He stated that his only concern was not really dedicated to the variances requested but that the property line seemed to be this demarcation line that shouldn't be crossed over or affected by, but it seemed like that was where they were at currently. He discussed that he noticed on the drawing it showed 2.7 feet to the property line and he didn't know that there was any regulation in the City of North Ridgeville that allowed for that separation. He stated that he was the one that provided the survey prior to the meeting. He added that what he was concerned about was that at some point in time he intended on building on the property to the north. He stated that the survey drawing on the screen was not indicative to what was on the field. He commented that something wasn't right. He stated that if they looked at the overhang on what he provided, it looked like the current structure's overhang was already over the property line, which was a concern for him. He explained that if they went out to the site, the whole area on the north side of the driveway had already been cleared.

Chairwoman Masterson stated that that was what she had asked about. She stated that the driveway was on the pin.

Mr. Eavenson stated that was correct, that was the pin and pointed to the picture.

Chairwoman Masterson stated that she was told that that property to the north had a conservancy.

Mr. Eavenson stated that it did not. He commented that the 1.13 acres was uplands. He remarked that he owned all the other land.

Chairwoman Masterson asked if the front parcel was a conservancy.

Mr. Eavenson stated that it was not. He said that none of that 1.13 was but everything behind it was. He stated that he basically lost forty some acres to the Army Corps but he did preserve that piece to the north to build on.

Chairwoman Masterson asked if the house was encroaching on buildable property.

Mr. Eavenson commented absolutely. He stated that at least now from the drawing but he would have to have that surveyed to facilitate that answer to be 100%. He added that he was concerned that they respect the property lines that they had to work within and the applicant's property line seemed to be, whoever decided to cross it, that they could. He stated that there was garbage in there now and stuff had been thrown in there. He remarked that they wanted to avoid that kind of thing as well.

Chairwoman Masterson asked if he had someone clearing their property out.

Mr. Eavenson stated that he wanted to clear his property and he thought he would just go ahead and clear it. He added that it had been cleared by people since but that it wasn't him. He mentioned that he didn't want to give anyone a hard time and that people should be able to do what they wanted to do on their property but he wanted to be able to do what he wanted to do on his property as well. He remarked that it was a little inconvenient to be in that situation.

Chairwoman Masterson stated that he did have some very valid concerns and was part of the reason they did ask the applicant to come back. She mentioned that Director Lieber was concerned because of the aerial photos and it showed that the house was encroaching.

Mr. Eavenson stated that he would agree that the survey that he had done definitely showed that the home wasn't over the property line other than the overhang but the house was very close to that property line.

Chairwoman Masterson stated that the driveway was on his property.

Mr. Eavenson stated that it was in the right-of-way, which was in front of the house and it was normally the responsibility of the homeowner to maintain that type of thing.

Chairwoman Masterson asked if anyone else wanted to speak on the matter.

Assistant Law Director Morgan stated that just to be clear when the Board made their deliberations and voted, they were only looking at what was in front of them at that time and not past issues.

Chairwoman Masterson stated that she understood. She commented that they would be voting on the variances separately. She stated that the first would be the variance request for the height.

Moved by Thibodeaux and seconded by Kimble to approve the 1.5-foot height variance for the detached private garage.

A roll call vote was taken and the motion failed.

Yes – 2 No – 1

Clerk's Note: When only three members are present, the decision must be unanimous to carry.

Moved by Thibodeaux and seconded by Kimble to approve the 2.2% variance for lot coverage of a residential lot with a detached garage.

A roll call vote was taken and the motion carried.

Yes – 3 No – 0

PPZ2023-0203: North Ridgeville Family Dentistry, Ankur A Gupta, DDS, 34100 Center Ridge Rd, PPN: 07-00-017-129-071

Property Owner: Ankur A Gupta, DDS, 35201 Emory Drive, Avon, OH 44011.

Proposal consists of adding signage to the back of the building. Property is zoned B-3 Highway

Commercial Requests:

1. A 52.5 square foot variance for building signs; applicant shows 212.5 square feet, code allows 160 square feet, Section 1286.05(c)(2). Note: building width is 80 feet.

Ankur Gupta, 35201 Emory Drive, Avon, OH 44011, was sworn in.

Mr. Gupta stated that on Center Ridge Road at 34100, he and the State Farm Insurance Agent co-owned the property. He discussed that in the front of the building they would see a sign for State Farm Insurance, Christina Estes, and she had frontage and visibility. He stated that his dental office was easily the most high-trafficked entity in that building but in the front of the building there wasn't any evidence that that was where a dental office existed. He stated that that was fine because his entrance was through the back of the building. He added that they actually asked patients not to park in front but to go around to the back of the building and that would be where they would enter the dental office. He discussed that when people come to the back of the building, it looked very much like the back of a building. He stated that he was currently in the process with Director Lieber to do upgrades to the back of the building but that was his front entrance. He stated that he had been a dentist in the area for 18 years and even though they had developed a really nice reputation and had good patient flow, they did have on a regular basis, probably daily, instances where patients had no idea where they were. He mentioned that they would drive around, come in and they would be full of anxiety because they would be late to their appointment. He stated that they would love to have the ability to put a large sign on the back of the building, however, that would infringe upon the maximum allowable frontage for signs, which was why he was currently asking for a variance.

Chairwoman Masterson asked if anyone from the Administration had any questions or comments.

Director Lieber stated that while the amount of square footage seemed significant to the permitted amount of square footage, it was a unique situation where there was access to both the front and back of the building. She added that they would never see all the signs at the same time and she felt it was reasonable for what the business was trying to achieve to ensure that their patients knew where they were going for wayfinding.

Chairwoman Masterson stated that when she was looking at the properties, it took her a really long time to find his location. She mentioned that his hardship was that he was extremely difficult to find and his entrance was off of Emerald Street and that his entrance was a very long driveway. She asked if once the variance was approved if the temporary sign would come down.

Mr. Gupta showed on the photograph that the temporary sign on the side of the building was within the variance limitations and so they threw it up but that the sign would come down.

Chairwoman Masterson asked if anyone from the Board had any questions or comments.

Co-Chairman Thibodeaux commented that there were other businesses in that building that also brought in some traffic, so labeling his business as a dental office would greatly improve where people needed to go.

Mr. Gupta remarked that it would. He added that they did have other tenants but as the building owner, it would be nice to have a little bit more prominence for his office. He stated that recently they had a high school group, Label Not Able, which was a wonderful organization, but while he wasn't asking for a larger sign for them, it would make it easier for people to find it because they would say, "Look for the big dental office".

Chairwoman Masterson asked if anyone in the audience had any comments or questions.

None were given.

Moved by Masterson and seconded by Thibodeaux to approve the 52.5 square foot variance for building signs.

A roll call vote was taken and the motion carried.

Yes – 3 No – 0

PPZ2023-0206: ARE Properties 100, LLC, Joe Spooner, 5531 Wallace Blvd, PPN: 07-00-018-105-041, 07-00-018-105-123, 07-00-018-105-042

Applicant: A.J. Home Upgrades, LLC, 5380 Oberlin Ave, Lorain, OH 44053.

Proposal consists of a home addition. Property is zoned RS-1 Special Residence District #1. Requests:

1. A 1 ft. 9 in. variance for separation of a detached private garage with other buildings locate on the same lot; code requires 10 feet, applicant shows 8 ft. 3 in., Section 1294.03(a).

Jason Bass, 5380 Oberlin Ave, Lorain, OH 44053, was sworn in.

Mr. Bass stated that he was the owner and operator of AJ Home Upgrades. He stated that in partnership with Joe Spooner, who had been picking up some properties in neighborhoods and trying to fix them up, came across this one. He stated that he had owned it for a while and no one wanted to touch it, so he went to take a look at it and he came up with an idea that they could make it worthwhile for everyone if they not only remodeled the home but added an addition onto it. He stated that they contacted a local resident, Mr. Michael Yates, who did the architectural design and set it up. He commented that unbeknownst to him, there was a ten-foot requirement between the structures. He discussed that before they knew about that, they submitted everything and Mr. Spooner got approved from his loan company for the amount that they said this would be worth. He stated that in his personal opinion, for the residents around there, he thought it was more that they had this house that was literally falling apart and he was doing everything in his power to hold it up and keep it together. He remarked that the hardship was that it would cost a lot of time and money to go and redo this over one foot seven inches or whatever the difference was. He stated that it wasn't obstructing anything and wasn't stopping anybody from getting in anywhere. He commented that a riding mower could ride right through it. He stated that it would cost time and money and maybe the quality of the structure that was already falling apart while they were waiting to get in there and get started.

Chairwoman Masterson asked Chief Building Official Fursdon about the property having a condemned

sign on it and asked if it was condemned.

Chief Building Official Fursdon stated that the Building Department didn't want anyone to occupy it until it was restored.

Chairwoman Masterson stated that she did walk inside of it and it was awful and so was the garage. She commented that it didn't look to her that there was enough there to save or salvage.

Chief Building Official Fursdon commented that it was their decision and their cost factor.

Mr. Bass stated that he did speak with Joe maybe just knocking it down and rebuilding but the cost difference of what they were able to do because they had already put some money into shoring up the foundation previous to his company coming along. He stated he didn't really know a lot about that and he just came up with the proposal. He stated that they had to take some of it down and were keeping a very minimal portion. He added that the whole roof was coming off but there was some good structure on the north wall and the west wall and there wasn't any reason to take it down. He stated that they were just keeping what was good and going from there to try to keep some of the cost down for him as well as just not having a house that's disgusting and falling apart sitting there.

Chairwoman Masterson stated that she didn't understand what the hardship was regarding 8 feet 3 inches versus 10 feet.

Mr. Bass remarked that at that point in time with the owner already having taken the loan out and they would have to have an architect come in and redo all of the drawings for them to be able to use them to resubmit for a permit, the length of time and that cost that would be to the customer while the house continued to send the property falling apart, he felt was really substantial compared to shortening the distance one foot seven inches that they didn't know existed.

Chairwoman Masterson explained that one of the things the Board wasn't allowed to consider was monetary issues.

Mr. Bass stated that it was the length of time while the structure sat and they couldn't do anything with it because they would be waiting for the permits to get approved. He added that the longer that the structure sat there without him getting in there to reinforce it, there would be potential for things to fall apart. He mentioned that kids played in that neighborhood and that he has had to tell numerous kids to stay away from the property and that it wasn't safe.

Chairwoman Masterson asked Chief Building Official Fursdon if the building permit was being held up by the zoning request.

Chief Building Official Fursdon stated that it was.

Mr. Bass commented that all they wanted to do was to get in there and take care of the property.

Chairwoman Masterson stated that it was his responsibility to make the property safe.

Mr. Bass stated that it was.

Chairwoman Masterson asked if anyone else had any questions or concerns.

Member Kimble stated that clearly everything on that property needed a lot of work there and he had full confidence that he had the ability to do that and make it safe. He remarked that the garage was what was really in question and that if the garage wasn't there, he wouldn't even need to be at that meeting. He stated that in his opinion, he didn't think the garage would be there for decades to come and asked the Administration if it would be possible to have something in place where if that garage was torn down and rebuilt, that it would have to be built two feet further back to be code compliant.

Assistant Law Director Morgan stated that she didn't think it was an unreasonable condition. She asked if the garage was in better shape than the house and wasn't falling down.

Mr. Bass stated that it was. He explained that it needed a new garage door and probably a roof.

Chairwoman Masterson commented that the floor of the garage was lower than the driveway.

Member Kimble stated that even if the garage stayed for another 20 years, at some point the garage would either be torn down to have an attached garage built onto the house or a larger garage was going to be built in its place, at that point in time, they would have to be code compliant and build it ten feet off of the structure, and asked if that was correct. He added that if they granted the variance at that meeting, could they still rebuild eight feet off.

Assistant Law Director Morgas remarked that if they rebuilt it, but wasn't sure if they just expanded it.

Chief Building Official Fursdon stated that he was thinking if they demoed the existing garage and they built new, he would suspect that someone in the future would enforce that it had to meet that separation unless the ordinance had changed.

Director Lieber stated that if the Board made an explicit condition within their motion, if they were potentially approving a variance, if they were to make such a motion, that the variance was approved but only for the existing structures on the property and that if the garage were to be demolished in the future, any new garage would have to meet whatever spacing would be required by the code. She stated that if that was documented in their motion, it would turn up attached to the address at a future date if and when a permit gets pulled. She remarked that she would suggest that approach if that was the pleasure of the Board.

Chairwoman Masterson asked Chief Building Official Fursdon if the Board approved the variance as is and the garage fell down and he had to build a new one, would he have to make it ten feet off or would he be allowed to build it where it was or would they have to relocate it.

Chief Building Official Fursdon stated that at the present location he would have to defer to the Law Department but he would want them to set it at the required ten feet.

Assistant Law Director Morgan stated that definitively if the structure were demolished it would have to follow the ordinance when it was rebuilt.

Chief Building Official Fursdon stated that once it was demolished, the variance would go away.

Assistant Law Director Morgan stated that the variance didn't go away when it's demolished. She discussed

that if they were granted the variance for one foot nine inches, it would be from the existing structure, the existing garage but if the existing garage was demolished and went away, to rebuild they would have to follow the ordinances at the time.

Chairwoman Masterson asked Director Lieber if she agreed or had concerns as she did.

Director Lieber stated that if the Board would incorporate some language in their motion, she would just feel better that their future selves would be less confused about what the intent of the Board was.

Chairwoman Masterson asked Chief Building Official Fursdon if he had any further comments.

Chief Building Official Fursdon commented that either way, when that garage came down, he doubted very much that he would be with the City, but hopefully his predecessor would feel the same way and put it at the 10 feet. He added that if they clearly put the language in their motion and is noted in the records as a future reference, and then there wouldn't be any question that it would be built 10 feet away from the house.

Chairwoman Masterson asked Mr. Bass if he had any problem with them adding a condition to the variance.

Mr. Bass stated that he would not. He commented that it made sense that if that structure ever did come down, that a new one would have to follow the ordinance. He stated that they were getting a variance just because they were doing a change currently.

Assistant Law Director Morgan stated that the condition could only solidify and wouldn't do any harm if it was there.

Chairwoman Masterson asked if anyone in the audience had any comments or questions.

None were given.

Moved by Kimble that any future structure change to the existing garage would have to be compliant with the ordinances at the time.

Chief Building Official Fursdon asked that they check the language on that because Mr. Kimble said structure and didn't say remove the garage. He added that the motion should say, "if the garage is demolished and a new one is built", because what if they wanted to do some modification to the garage now and the Board told them they couldn't. He stated that he would feel better if he would make it clear that it was demolished and that when it was rebuilt, it would have to comply with that setback requirement.

Member Kimble stated that hypothetically, if a tornado came through and the barn was in Avon but the foundation was still there and then they put it back up, if they wanted to make it into a two-car garage and at that point they would be adding more foundation and changing things a lot. He stated that at that point, if they were doing anything to the structure, from a building standpoint, not roofing, not siding, but actually changing the structure of the garage, at that point, it should be code compliant.

Chief Building Official Fursdon asked if they had a termite infestation and then had to replace the garage

door header, they wouldn't be allowed to do that.

Member Kimble commented that that was a good point.

Council Liaison Winkel stated that perhaps they could put language in the motion to state “any changes to the footprint of the garage” and maybe that would solve the problem.

Chairwoman Masterson commented that that was a great idea.

Moved by Kimble and Seconded by Masterson to amend the motion approving the variance but with the stipulation that if any footprint of the garage is altered, at that point, they would have to be compliant with the City's ordinances.

A roll call vote was taken and the motion carried.

Yes – 3 No – 0

PPZ2023-0208: Joseph Buescher, 7319 Maddock Rd, PPN: 07-00-027-101-002

Proposal consists of extending existing fence. Property is zoned R-1 Residence District. Requests:

1. A 1.5-foot variance for height of a fence in a residential district; code permits 6 feet, applicant shows 7.5 feet, Section 1294.01(h)(2)(A).

Joseph Buescher, 7319 Maddock Rd, North Ridgeville, OH 44039, was sworn in.

Mr. Buescher stated that he added 18 inches of decorative lattice to 64 feet of his fence. He commented that he was under the understanding that if he was in a light industrial district, that he could have an 8-foot fence. He added that the work had already been done and he wasn't aware until the City came and knocked on his door and said he wasn't supposed to or needed to apply for a variance.

Chairwoman Masterson asked why he needed an 8-foot fence on the side of his property.

Mr. Buescher explained that the next-door neighbor had a driveway that ran the full length of the property to the back of the barn and he was going to put an 8-foot fence up to keep dust and traffic noise down but the cost at the time of an 8-foot fence was extremely high. He stated that he thought over time he could add more to the fence. He added that he was never told that it was a residential area. He said that the fence company said that they were going to apply for an 8-foot fence for him until they decided the cost was too high for the 8-foot.

Chairwoman Masterson asked if anyone from the Administration had any comments or questions and asked if the property was zoned light industrial.

Director Lieber stated that she believed it was R-1 Residence District and that there were some properties elsewhere on Maddock that were zoned nonresidential but his property was residential.

Chief Building Official Fursdon stated that even if the property were zoned industrial, because there was a residential use on it, it was still considered a residential district in the eyes of the City's zoning code.

Chairwoman Masterson asked if any of the Board members had any questions or comments.

Member Kimble asked if he had a fence contractor come in and perform the work. Mr. Buescher stated that was correct.

Member Kimble stated that he believed they had a homeowner that was doing his best to try and fulfill what was allowed in the City versus what wasn't and probably had a contractor lead him the wrong way, which would be no fault of his own. He discussed that if they looked at the house to the south, there was a large structure in the very rear with a driveway going right next to Mr. Buescher's fence and could see why there would be a need for a little additional fence height. He stated that it was pretty extreme that it went the entire length of his property line, so he could see why he would want to do something like that.

Co-Chairman Thibodeaux stated that he walked the property and it was a unique property. He stated that at the back of the residence, the way it was built it was all glass and he could see that they would be able to see lights and things from the driveway to the south coming, in as well as some of the dust and things like that. He added that regarding the house to the south, the way it was set up was that their porch on the back was set up pretty high and that the porch was almost the height of the original 6-foot fence.

Chairwoman Masterson asked if there was anyone in the audience that wanted to speak on behalf of the matter.

Robert A. Teitenberg, 7341 Maddock Rd, North Ridgeville, OH 44039, was sworn in.

Mr. Teitenberg stated that the 6-foot fence rule was always there for residential and when they put in the 6-foot fence he lost a lot of the fields that they could see and that it was the only fence in that entire neighborhood and he had been there since 2008. He mentioned that he brought pictures on his phone but unfortunately couldn't print them out. He stated that it wasn't a gravel driveway that created dust migration but was mostly grass and was very light use that they went to the back. He stated that he had a golf cart and he traveled back and forth on that. He commented that for the most part they parked up front on the main driveway. He stated that the lattice work wasn't done by a professional. He added that it was an addition of 64 feet of a 350-foot-long fence. He stated that it was just a tiny addition and he didn't know if he was going to extend that the entire length. He remarked that there weren't any traffic lights there at night. He stated that he was in construction and was up at 4:30 in the morning and he wasn't trying to drive back there late at night but maybe on weekends. He stated that they tried to be courteous to all of the neighbors. He said that regarding his back porch deck, it was 32 inches above grade and he did that years ago. He said it wasn't at a six-foot height but if they added the see-through railing maybe. He stated that he still couldn't see onto Joe's property and there wasn't any intrusion onto it. He said that he could maybe see the top of the car. He mentioned that the second structure that Mr. Buescher built, a shade structure or something near the garden, that was over the fence as well. He stated that he had pictures downloaded but he didn't know how to get it to them. He discussed that the hardship that was there, that he didn't have much relations with the neighbors but he didn't see a practical hardship. He stated that it wasn't an attractive addition and the lattice was on the wrong side as well. He added that the decorative side should be facing him.

Chairwoman Masterson asked Chief Building Official if the Board did allow the decorative lattice on top of 6-foot fence, it did have to meet building code requirements and asked if that was correct.

Chief Building Official Fursdon stated that there weren't any building code requirements as long as it was structurally sound and it wouldn't blow off in high wind. He commented that they didn't want it to

fall over but that was the extent of what the code would regulate on the fence.

Chairwoman Masterson asked if decorative side of the lattice had to face the neighbors.

Chief Building Official stated that was correct.

Chairwoman Masterson asked Co-Chairman Thibodeaux if he walked the whole property and stated that she just pulled up in front on their house.

Co-Chairman Thibodeaux stated that he did. He mentioned that they said the deck was 32 inches above grade and the railing was another 3-foot, so if someone was standing there, they would be as tall as the fence.

Mr. Teitenberg stated that he was 6'4" and if they stood on his deck, the distance between where his deck was and the fence, they couldn't see over that.

Co-Chairman Thibodeaux commented that that wasn't the hardship that he was talking about, he was just clarifying because he questioned what he said and if he was standing on his deck he would be as tall as the fence.

Mr. Buescher stated that on the application it said it was 6 feet above grade but the deck wasn't 6 feet above grade it was 32 inches above ground.

Chairwoman Masterson stated that it was perspective and that he said he could no longer see the fields due to the fence and their perspective was what could be seen from the deck. She discussed that that wasn't anything that the Board could consider. She stated that what they could consider was practical difficulty. She asked Mr. Buescher if he planned on adding the decorative lattice to the entire structure.

Mr. Buescher stated he did not.

Chairwoman Masterson asked if he was just looking to build it for a specific portion.

Mr. Buescher said it was just the back section between the back of his house and not even going the full length to the barn, which was 80 feet. He said it had already been added and it was a 64-foot section.

Chairwoman Masterson asked if he understood that the decorative side had to face the neighbors.

Mr. Buescher said he did.

Chairwoman Masterson commented that he wasn't asking for a variance for the entire length, but was just asking for a variance between the rear of the house to the front of the garage.

Mr. Buescher said that was correct.

Chairwoman Masterson asked if anyone else in the audience wanted to speak on the matter.

Mr. Teitenberg asked if the variance was requesting a height of the fence, he didn't see where they got into the specifics like they did with the first case. He said that they were only adding 64 feet and not the

entire length of the fence and it wasn't being done by a professional. He commented that it should have been an 8-foot fence if that was allowed, that would have been the variance. He said they weren't asking for a variance for the entire length of the fence but was asking for a little tiny DIY lattice work that he did.

Christine Pogan, 7319 Maddock Rd, North Ridgeville, OH 44039, was sworn in.

Ms. Pogan stated that they most certainly had no privacy in the back yard without that little bit on top. She stated that they did put the good side on theirs and it was very well built with a lot of screws holding it in very securely to the top of the fence.

Chairwoman Masterson stated that they were looking more at practical difficulty and while she understood neighbors not getting along was never a comfortable situation, that wasn't the first time the Board had large fences between two neighbors. She asked why they needed that between those two structures.

Ms. Pogan stated that she had no privacy and what they were saying that their deck was 34 inches tall was a lie because they stood there and looked right over the top of the fence at her. She said she would be training her puppy to go potty and she had them looking right at her all the time. She said she would go out in her pajamas sometimes with the puppy. She discussed that she didn't want them looking at her and that she already had their big bright light shining right on her and that would at least give her a little privacy in her backyard. She said she was asking for it due to the dust, the light and some privacy.

Chairwoman Masterson asked the Administration if they had any further questions or comments.

Council Liaison Winkel stated that over the years that he had been on Council, he had different neighbor relation questions and issues and he had always just said, what did the ordinance say and let's enforce what it said. He commented that that was always the best way to go about it and whatever the Board's interpretation of that was, was what he would recommend.

Member Kimble stated that if anyone had been on any Board for any length of time neighbor relations had always come up. He mentioned that there was a saying that said fences make for good neighbors. He said it was pretty obvious that they weren't sitting next to each other and smiling together so it was clear that there was something there and he understood that. He stated that the fence was built by a contractor to begin with but there wasn't anything that stated they couldn't do work on their own fence. He stated that having a driveway that went the whole length was something much more to consider than privacy, but the deck could be part of their consideration even though there was a question regarding the height. He discussed that Mr. Buescher did state he was just looking specifically for the 64 feet that was already completed and not looking to go the entire distance. He added that maybe the 64 feet would make for good neighbors.

Moved by Masterson and seconded by Kimble to approve the 18-inch decorative lattice between the house and the garage.

A roll call vote was taken and the motion carried.

Yes – 3 No – 0

ADJOURNMENT:

The meeting was adjourned at 8:15 PM.



Linda Masterson
Chairwoman



Tina Wieber
Recording Secretary/Deputy Clerk of Council

Thursday, August 24, 2023

Date Approved