

**NORTH RIDGEVILLE BOARD OF ZONING AND BUILDING APPEALS
MINUTES OF
REGULAR MEETING – THURSDAY, JULY 22, 2021**

TO ORDER:

Chairman Kimble called the meeting to order with the Pledge of Allegiance at 7:00 PM.

ROLL CALL:

Present were members James Cain, Neil Thibodeaux, Jim Smolik, Linda Masterson, Clifford Winkel and Chairman Shawn Kimble.

Also present were Chief Building Official Guy Fursdon, Assistant Law Director Toni Morgan, and Assistant Clerk of Council Shari Ma.

MINUTES:

Chairman Kimble asked if there were any corrections to the minutes of the regular meeting on Thursday, June 24, 2021. Hearing none, the minutes stand as presented.

PLANNING COMMISSION REPORT(S):

None

OTHER REPORTS OR CORRESPONDENCE:

None

PUBLIC HEARINGS:

APPLICANT: Thomas F. Palcie, 9181 Root Road, North Ridgeville, Ohio 44039
OWNER: Same
REQUEST: Requesting a variance to N.R.C.O. §1294.03(d)(2) for a detached garage with total lot coverage of 4,212 square foot requiring a 1,308 square foot variance.
LOCATION: 9181 Root Road, in an R-1 District
Permanent Parcel No. 07-00-012-102-069 **CASE NO.: PPZ2021-0073**

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

Chairman Kimble asked if there was a representative present.

Thomas Palcie, 9181 Root Road, North Ridgeville, OH 44039, was sworn in.

Mr. Palcie advised that he wants to add on to his existing pole barn. He would like additional car storage. He stated he put in a driveway in order to make every attempt to comply with City.

Chairman Kimble advised the applicant has an existing pole barn and is simply adding to the

existing structure. Therefore, there would be no difference in the view of the structure from the street.

Mr. Palcie explained there is an existing hill between him and his neighbor behind him. Therefore, the neighbor's view would not be impacted by the variance.

Chairman Kimble asked for questions and comments.

Member Smolik asked applicant if the structure on a neighboring parcel is connected to a structure on the applicant's parcel.

Mr. Palcie explained the original owner built and owned several houses on the street. At one time, the structure in question was used but now it has a different owner.

Member Smolik asked if the applicant is currently using the structure as his own.

Mr. Palcie stated no.

Member Smolik asked if the applicant uses the connecting driveway and if not, are there currently plans to separate the driveway.

Mr. Palcie stated that at one time it was a circular driveway and the previous owner used it for various purposes. It is no longer being used for those purposes.

Member Smolik explained that he was having a hard time seeing the applicant's practical difficulty. He stated there are already numerous vehicles on the property for an R-1 and he was concerned adding an additional pole barn would increase the square footage. He then questioned the applicant's intent.

Mr. Palcie asked Member Smolik if he was concerned about it being a business.

Member Smolik stated that is a concern and that the neighbors would be worried about that as well.

Mr. Palcie advised that he inherited the house from his father, who already had vehicles there. When he moved in he brought his own personal cars with him. He further explained it would cost more for him to store the vehicles than to purchase the additional storage.

Chairman Kimble asked for additional questions or comments.

Member Masterson stated that she visited the property and as far as practical difficulty, she understands Mr. Smolik's concern; however, she noted the applicant is asking for a four percent variance which is a very small variance.

**BOARD OF ZONING AND BUILDING APPEALS
REGULAR MEETING – THURSDAY, JULY 22, 2021**

PAGE 3

Mr. Palcie stated that was correct.

Member Masterson stated when a structure is purchased, they're generally standard sizes. 40x36 is probably the size of a standard building package.

Mr. Palcie stated that he believed there is reasonable difficulty. There was eight feet between the poles when the model was drawn.

Member Masterson stated in regard to concerns of running a business, there are avenues to address it through the zoning code and the Board can't vote against something because of what somebody might do. She stated she did look up the property on the county website. The property is 233.07 deep and 90 feet wide and the two buildings together are 80 feet. It was very common for someone to own multiple pieces of property and then subdivide them.

Mr. Palcie replied he believed the previous owner divided the property. There are three houses there.

Chairman Kimble asked for questions and comments from the Board. He then asked if anyone would like to speak on behalf of this matter. He asked for any questions or comments from the administration.

Councilman Winkle stated he personally knows the applicant and attested that he is a hobbyist. He does not run a business and he just really loves cars.

Moved by Member Masterson and seconded by Cain to approve the variance.

A voice vote was taken and the motion carried.

Yes – 5 No – 0

APPLICANT: Vickie Jenkins, 7595 Maddock Road, North Ridgeville, Ohio 44039
OWNER: Same
REQUEST: Requesting a variance to N.R.C.O. §1250.04(b)(1) for a 29 foot front yard requiring a 21 foot variance.
LOCATION: 7595 Maddock Road, in an R-1 District
Permanent Parcel No. 07-00-027-101-011

CASE NO.: PPZ2021-0075

Application was read along with comments from Chief Building Official Fursdon. Chairman Kimble asked if there was a representative present.

Vickie Jenkins, 7595 Maddock Road, North Ridgeville, Ohio 44039, was sworn in.

Ms. Jenkins stated that her home at 7595 Maddock Road is in an unusual spot due to an access

road. She would like to put a two car garage onto the front which would make the house an “L” shape. It would put the house 29 feet from the gravel of the access road but technically 90 feet from Maddock Road. She stated the reason for this is the home does have a one car garage but the house was listed as a 3 bedroom home but in reality it’s a two bedroom home. They called the 8x12 room in the back a bedroom. Using the attached garage they could make it a proper three bedroom home and bring the home into the 21st century. The addition can’t be added to the rear because of the location of the septic. Ms. Jenkins stated that she noted that on the drawing with an asterisk.

Chairman Kimble advised that he has been by the property and stated that this is an example of why the BZBA exists. Ms. Jenkins’ situation is unique and it doesn’t exist in many other places in the city. The gravel access road is a necessity because the way Maddock comes down from the Turnpike. There really is no way that a driveway would ever go up through there but he further explained; hypothetically if the three houses there did decide to do that, somehow the gravel access road would be eliminated and it would be code compliant. He stated he would only assume that there’s very little traffic down the access road other than Ms. Jenkins and the neighbors. He stated the addition on the front of the house requiring the variance would seem unique in a lot of other situations but it seems to make sense for Ms. Jenkins’ property. Due to the septic tank in the rear of the home, the addition can’t go there, so the design that Ms. Jenkins proposed seems to make a lot of sense.

Chairman Kimble asked for questions and comments from the board.

Member Smolik advised that he looked into all the hypotheticals and one of the hypotheticals was moving the septic tank. He stated he called around to a few contractors and was shocked to hear some of the difficulty when moving a septic tank. It would cost the homeowner about \$15,000. The second is leech fields. Once the leech field is used it can’t be used again, so the septic tank would have to be relocated to another portion of the yard. This is a unique situation with the access road and the location of the septic tank which makes this project an extreme difficulty for Ms. Jenkins.

Member Cain stated that often with septic tanks, homeowners are not permitted to put septic tanks in back of the home. Septic tanks are now located in the front of the home so that if the sewer ever came through that location, it could automatically be connected. By disturbing that septic now, Ms. Jenkins might not be able to put a garage in anywhere.

Chairman Kimble asked for any other questions or comments.

Member Masterson stated that Council had already addressed the septic and the leech field. The homeowner doesn’t have the width. She stated she thought the house was so small to begin with and stated this makes sense. Ms. Jenkins is going to renovate the garage into living space. That makes much more sense.

Ms. Jenkins stated the land was surveyed.

Ms. Jenkins stated they asked their neighbors to the south and they stated they would approve of the plan.

Member Masterson stated that it seems like a very nice road.

Chairman Kimble asked for questions and comments from the board. He asked if there was anyone in the audience who would like to speak on behalf of this matter.

Moved by Masterson and seconded by Smolik to approve the variance.

A voice vote was taken and the motion carried.

Yes – 5 No – 0

APPLICANT: Robert M. Studd, 36666 Sugar Ridge Rd, North Ridgeville, Ohio 44039
OWNER: Same
REQUEST: Requesting a variance to N.R.C.O. §1294.02(b)(5) for storage of multiple recreational campers on residential premises, rear yard.
LOCATION: 36666 Sugar Ridge Rd, in an I-2 District
Permanent Parcel No. 07-00-026-101-003

CASE NO.: PPZ2021-0077

Application was read along with comments.

Chairman Kimble asked if there was a representative present.

Assistant Law Director Morgan stated her understanding was this application was an appeal of a decision of the CBO. She asked if the members received the email correspondence.

Chairman Kimble stated that he did get the email and the board did as well.

Assistant Law Director stated that the main difference between that is the mindset. Instead of determining what or how much of something you're going to give to a resident, in this case it's an appeal. The board's determination is whether you will accept or are going to overturn the ruling of the Chief Building Official.

Chairman Kimble replied thank you very much for clarification.

Robert M Studd, 36666 Sugar Ridge Rd, North Ridgeville, Ohio 44039, was sworn in.

Chairman Kimble asked Mr. Studd if he received a citation from the Building Department.

Mr. Studd stated yes.

Chairman Kimble asked if he was here hoping to appeal the decision.

Mr. Studd stated yes.

Chairman Kimble explained that he had been by the property and noticed that there are a number of different RV and trailer types on the premises. He asked Mr. Studd what the purpose was of having numerous campers on the property. He then asked if people were living in the trailers.

Mr. Studd stated nobody is living in them and added they were his personal campers. He further added they were vintage and two are completely restored. Mr. Studd stated he purchases campers to restore them.

Chairman Kimble asked if Mr. Studd had looked into alternative storing options.

Mr. Studd stated that they have. The cheapest option was \$50 a month for each camper. The storage would be on an open lot and not really secured. It would cost approximately \$120 for security cameras to make sure nothing happens to them. According to different vintage camper groups, there have been numerous accounts of people posting on the pages about stolen campers from the storage facility. He further explained the locks for hitches or the tongues can easily be broken apart with a hammer and there's no real way to secure the campers. Mr. Studd felt that with the campers on his he had more control.

Chairman Kimble stated that Mr. Studd's comments were understandable.

Mr. Studd explained that he felt his situation is a unique situation with just under six acres. He further explained he had commercial buildings on either side of his property as well as railroad tracks to the rear. In Mr. Studd's conversation with the CBO, CBO Fursdon explained somebody called and complained and said it was an eyesore. Mr. Studd advised he asked if he could confront the accuser that was saying it was an eyesore. He questioned whether it was somebody that was driving down the street or if it was somebody who lives in North Ridgeville. He explained he was told by the prosecutor at his first hearing that there is no other accuser except for the City of North Ridgeville. Mr. Studd explained he was appealing the city code for only one recreational vehicle on your property.

Chairman Kimble asked for questions and comments from the board members.

Member Smolik asked Mr. Studd if his request was for multiple campers rather than a fixed number of campers.

Mr. Studd explained that he has four right now on his property.

Member Smolik asked if he restores them and then sells them.

Mr. Studd answered that he didn't say anything about selling them.

Member Smolik questioned if Mr. Studd just restores them.

Mr. Studd replied that he does. He finds them and restores them because that's what he and his wife like to do. He stated he purchases some and one was given to him from a friend. Two of them have been completely restored. He indicated he was beginning to restore a third one. Mr. Studd stated he isn't running a business but rather a personal hobby he does outside of work.

Chairman Kimble stated it was essentially a hobby.

Mr. Studd replied that it was pretty much. He added he takes the campers to vintage car shows. Mr. Studd added they are trying to get into the Drag way 42 weekend in two weeks for their nostalgic weekend but they were already booked up.

Member Masterson stated that they are looking for practical difficulty. Practical difficulty for the Board does not account for monetary concerns. Member Masterson asked CBO Fursdon if code permits for one motor vehicle per property.

Chief Building Official Fursdon replied one recreational vehicle.

Member Masterson advised that is what the rules are. She asked what the practical difficulty was and why he couldn't build a storage facility.

Mr. Studd stated he spoke with Guy and originally told him that was his plan because they don't want them out in the weather. He stated one camper had a branch fall on it from one of the trees and it ripped through the top and tore the side off.

Member Masterson mentioned that if he had the building he wouldn't even be here.

Mr. Studd explained that that was correct. He stated that he wants to build something but the cost for lumber alone is astronomical right now. For a 24x40 pole barn it was about \$30,000 for a complete kit. He stated recently he called for the pricing and it came down by half.

Member Masterson asked Assistant Law Director Morgan what the Board was voting on.

Assistant Law Director Morgan explained that this is one of the times that this board is truly quasi-judicial. The board is not here to interpret what would be appropriate for him. For example, if the applicant would want a setback variance or a fence opened or closed, that's not what the applicant is asking for. Here a decision has already been made to the point that the applicant has already been cited on it. This is just an interpretation of what the ordinance says. Assistant Law Director Morgan stated the question is whether the Chief Building Official made an accurate interpretation.

Member Masterson advised that she knew she was asking a question that didn't pertain to this.

She further explained that since this is a quasi-judicial board, any decision made is setting precedent.

Assistant Law Director Morgan advised that's why the board is quasi-judicial because every property is unique. In this case the board is limited to the language in the ordinance. Where the relief would come from would actually be council who makes the ordinance. When there's an appeal before the board, the board needs to act like a judge and the question is has the decision made by the CBO been incorrectly interpreted.

Member Masterson asked if the property was deemed commercial.

Chief Building Official Fursdon answered that it was zoned I-2. By definition it is a residential district.

Member Masterson asked if the board was only looking at this piece of property in their determination.

Chief Building Official Fursdon stated yes.

Member Masterson explained that this is a residential structure.

Chief Building Official Fursdon stated yes.

Member Smolik asked Mr. Studd if he resided in the house.

Mr. Studd stated yes for the past fourteen years.

Member Smolik asked that since the citation was in Mayor's court if there was a time frame on this. He added it sounded as though the applicant might be willing to build some type of a storage facility but with the price of wood he asked if there could be an extension or tabled until Mr. Studd had a better understanding of if he could actually afford such a structure to hide the units.

Assistant Law Director Morgan advised that a court will give someone up to six months to give someone the opportunity to continue their case to come into compliance. That is a potential avenue.

Member Masterson asked if the case was still open in Mayor's Court.

Mr. Studd stated that it was.

Member Masterson advised that what they were doing was determining whether the Chief Building Official made the correct determination. If the board upholds the CBO decision, it would kick back into Mayor's Court, which could possibly give Mr. Studd a six month time

frame in order to build the building.

Mr. Studd stated that during first meeting with the prosecutor, he advised, along with Guy, to file a variance with the zoning board of appeals to see if he could get grandfathered in because of how long he has resided on the property. He explained this is why he is before the board right now.

Chairman Kimble explained that he thought it was possible for him to do that but explained these were two different scenarios. The only thing being discussed is if the Chief Building Official made the proper determination per the ordinances on the citing. Chairman Kimble stated an extension from Mayor's Court is out of the board's hands. He didn't think it would prohibit him from coming back to the board and asking for a variance. Chairman Kimble stated even though Mr. Studd paid \$86 to be here, the issue before the board is the appeal.

Mr. Studd stated he was told by Guy and the prosecutor that he could come in front of this board to try and get it overturned because of the size of his yard and its location.

Chairman Kimble explained to Mr. Studd that he applied for an appeal not a variance.

Mr. Studd stated that it's a variance and added no one explained to him it was an appeal.

Chairman Kimble stated he is unaware of what was told to Mr. Studd.

Chief Building Official Fursdon stated what was told to him was his right to appeal his decision and that's what he chose to do this evening. The board will make a decision regarding the appeal this evening.

Mr. Studd explained that he understood that but that's not what was explained to him. It was explained that he could file a variance because the size of his lot and its location. He further stated when he received the letter; he explained that the cost of materials was too much. He stated he would have never paid the \$86 to try and have an ordinance overruled. He asked if he could be fined every single day for the campers on the property.

Chairman Kimble answered yes.

Assistant Law Director Morgan advised that the goal when someone gets to the point where they do get cited into Mayor's Court for these things is compliance.

Chief Building Official Fursdon stated they just can't be outside.

Assistant Law Director Morgan stated what the board is looking at this evening is the appeal of the CBO's decision. It is limited in scope.

Chairman Kimble stated cannot give a variance on a hypothetical. There are no drawings,

schematics or setbacks. He could build a barn, in theory, and be completely legal and not need a variance. There's no possible way for the board to issue a variance this evening for an exterior structure when there is nothing shown what is going to be built. One has to be done before the other.

Mr. Studd explained if he knew that he would have never appealed. He stated he would have just paid his fines and court costs. He isn't even certain he would need a variance for a pole barn.

Chairman Kimble stated that with having six acres he wouldn't assume so.

Mr. Studd stated that is what is so frustrating for him. He didn't realize he was in violation of code having the campers on the property.

Chairman Kimble stated this board is only looking at what is delivered to them.

Mr. Studd stated he was hoping the CBO would be here this evening because when he received the letter, he called him instantly to talk to him. He told him what his plans were to do and he replied that it would be visited in six months due to Covid. He stated he never heard anything else. He never received any more letters. Two months ago a police officer showed up at his front door on a Thursday evening and issues him a citation for the campers. He replied that this was why he was at the board meeting right now.

Chief Building Official Fursdon stated that he didn't remember verbatim what the applicant was told but if the board upholds his decision they may consider refunding his application fee.

Assistant Law Director Morgan replied that she had an idea to present to the board as a possibility. The amounts that the city charges could be differentiated between someone who is coming in to get a variance as opposed to someone who has an appeal before the board. She stated that it is a distinction that they would be free to make if they chose to. She stated she would talk to the prosecutor as he is probably not as familiar with the BZBA. She stated she would explain the situation and that it could be continued to Mayor's Court and they are generally looking for compliance. Once they get compliance, they usually dismiss the case. The outcome could still be good.

Mr. Studd replied that if someone had pointed him in the right direction instead of wasting a bunch of peoples' time trying to figure this out, to him it doesn't make sense.

Chairman Kimble stated that he agreed with what Mr. Fursdon stated about refunding the \$86 fee. Especially the Assistant Law Director admitted that they aren't familiar with the practices and standards of the zoning board and potentially gave Mr. Studd erroneous information that wasn't his fault.

Member Cain stated he had a question for the Assistant Law Director and for the Chairman. In looking at the form as an appeal, it states that it is an application for a variance. He asked where

it stated that it was an appeal other than the email. He stated that he was confused. He asked where it showed it was an appeal. Nowhere on this form does it show him applying for an appeal. This shows a variance.

Chairman Kimble asked the Assistant Law Director to elaborate on the issue.

Assistant Law Director Morgan stated that was the reason she sent the email. She stated she saw that it could be confusing and changing the form and to be clearer about it being an appeal. Once the building official has issued a ruling and once someone has been cited to court, what they're doing is appealing a decision that's already been made. Legally, variances usually are a deviation from something that is given. Generally, although there is always a gray area, but generally that is what differentiates an appeal. The fact that it says you can't do this or you can only do that and there's no variance from it, in addition to the fact that this has already been ruled upon by the Chief Building Official.

Chairman Kimble explained that because a citation was issued it changes things dramatically.

Member Masterson explained that Mr. Studd must understand that the city ordinance only allows one recreational vehicle on the property. They will have to be moved off or put into a building.

Mr. Studd stated he understood.

Member Masterson inquired as to how Mr. Studd could be refunded.

Chairman Kimble stated that it wouldn't require an action from the board.

Building Official Fursdon explained that it did not. It would be a recommendation from the board.

Chairman Kimble asked for other questions and comments.

Moved by Smolik and seconded by Masterson to uphold the Chief Building Official's ruling.

Chairman Kimble asked the clerk to take roll.

A voice vote was taken and the motion carried.

Yes – 5 No – 0

Moved by Chairman Kimble and seconded by Smolik to refund the application fee to the applicant.

**BOARD OF ZONING AND BUILDING APPEALS
REGULAR MEETING – THURSDAY, JULY 22, 2021**

PAGE 12

Chairman Kimble asked the clerk to take roll.

A voice vote was taken and the motion carried.

Yes – 5 No – 0

OTHER BUSINESS:

ADJOURNMENT:

The meeting was adjourned at 8:16 PM.

Shawn Kimble
Chairman

Tina Wieber
*Recording Secretary/Deputy Clerk of
Council*

Thursday, August 26, 2021
Date Approved