

**NORTH RIDGEVILLE BOARD OF ZONING AND BUILDING APPEALS
MINUTES OF
REGULAR MEETING – THURSDAY, JUNE 23, 2022**

CALL 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, Planning Commission Liaison Steve Ali, Neil Thibodeaux, Chairman Kimble and Council Liaison Clifford Winkle.

Vice-Chairwoman Linda Masterson was absent.

Also present were Chief Building Official Guy Fursdon, Assistant Law Director Toni Morgan, Planning and Economic Development Director Kimberly Lieber and Deputy Clerk of Council Tina Wieber.

MINUTES:

Chairman Kimble asked if there were any corrections to the minutes of the regular meeting on Thursday, May 26, 2022. Hearing none, the minutes stand as presented.

PLANNING COMMISSION REPORT(S):

None

OTHER REPORTS OR CORRESPONDENCE:

ORDINANCE NO. 5957-2022 AN ORDINANCE REPEALING *SECTION 660.12 FENCES* OF THE NORTH RIDGEVILLE GENERAL OFFENSES CODE.

ORDINANCE NO. 5958-2022 AN ORDINANCE AMENDING VARIOUS SECTIONS OF *CHAPTER 1294 SUPPLEMENTARY REGULATIONS* OF THE NORTH RIDGEVILLE ZONING CODE IN ORDER TO UPDATE THE CITY'S FENCE REGULATIONS.

Chairman Kimble explained that there were two ordinances that they had the opportunity to review. He then asked Councilman Winkel when the ordinances would go into effect.

Councilman Winkel advised that he would let Director Lieber speak regarding the ordinances since she was the one who had done the work on them.

Director Lieber stated that the ordinances would go into effect July 7th. She explained that in the meantime, applicants have been advised that if they were making an application for a fence due to the City's current height requirement and if it would fall within the future ordinance taking effect, that they would be advised to hold onto that application until that time. She indicated that there had been quite a few applicants had opted to wait.

Chairman Kimble remarked that it was because the next BZBA meeting was after the July 7th effective date.

Director Lieber stated that was correct.

Chairman Kimble mentioned that it was going to be a good change.

PUBLIC HEARINGS:

**PPZ2022-0123: Colin Henderson & Morgan Green, 36593 Annie Lane, PPN
07-00-028-103-210**

Applicant: Same

The applicant proposes building a 6-foot high 100% closed fence on a corner lot. Property is zoned

R-1 District. Requests:

1. A 2.5 foot variance for height of a fence located in the front yard. Applicant shows 6 feet, code allows 3.5 feet, Section 1294.01(h)(1)(A).
2. A variance for a 100% solid fence. Applicant shows solid fence, code requires fence to be at least 50% open when located between the building and street line, Section 1294.01(h)(3).

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

Chairman Kimble asked if there was a representative present.

Colin Henderson, 36593 Annie Lane, North Ridgeville, OH 44039, was sworn in.

Chairman Kimble asked Mr. Henderson to explain the application.

Mr. Henderson stated that his application had changed. He explained that his HOA only allowed the aluminum fences so the 6-foot fence would now be a 4-foot request from the 3.5 foot allowance and it wouldn't be a 100% solid fence but would change to 50% open.

Chairman Kimble asked if the fence would now be 50% open and 4-foot in height.

Mr. Henderson stated that was correct.

Chairman Kimble explained that the City's current ordinance stated that the height of a fence needed to be 3.5 feet high but starting July 7th the new ordinance would go into effect changing the height to 4 feet. He stated that the major concern for corner lots even though they have a side yard, which was technically a second front yard, was visibility of traffic going down the road, someone coming down the sidewalk or any sort of visual obstruction that would be created by having a tall fence. He added that the way it was designed, being far away from the corner, he didn't see any safety issues. He asked Assistant Law Director Morgan if the Board needed to make a motion to change the requested variances.

Law Director Morgan stated that the requested changes were not on the application before them but that if Mr. Henderson stated that he wanted to make the changes from 6 to 4-foot high fence he could.

Mr. Henderson remarked that was correct from 6 to 4.

Chairman Kimble asked if there were any questions or comments from the Board.

None were given.

Chairman Kimble asked if there was anyone from the public who wanted to speak on the matter.

Marilyn Zahniser, 36581 Annie Lane, North Ridgeville, OH 44039, was sworn in.

Ms. Zahniser discussed that the original request was for a 6 foot privacy fence and she couldn't quite hear what was said. She stated that she wanted to understand and asked if it was changed to meet the standards of the neighborhood to a 4-foot

powdered aluminum fence.

Chairman Kimble remarked that that was what it sounded like.

Ms. Zahniser explained that that was all she had to ask.

Roger Noblit, 7369 Greenlawn Dr, North Ridgeville, OH 44039, was sworn in.

Mr. Noblit asked what the proper procedure was when a resident of an HOA wanted to put up a fence. He asked if someone should go to the City first or to the HOA. He then asked what the proper procedure was.

Chairman Kimble stated that as far as the Board was concerned, they didn't take into consideration at all what any HOA would accept. He explained that if someone got approval from BZBA and then went to their HOA and got denied, they couldn't proceed with the project. He advised that as far as the Board of Zoning in the City of North Ridgeville was concerned, HOA's didn't concern them. He stated that they were two separate bodies and they didn't work together. He remarked that in his 18 years on the Board he had never contacted an HOA and asked them what their opinion was.

Mr. Noblit stated that he was somewhat confused. He asked if the regulations of the HOA had no impact on whether he put a fence up or not.

Chairman Kimble explained that the HOA 100% did have impact with respect to whether someone put a fence up but it didn't have an effect on how the Board voted and what they consider when making a decision or not.

Chief Building Official advised that the North Ridgeville Zoning Board could only enforce North Ridgeville's ordinances not HOA regulations. He stated that the HOA had to enforce its' own regulations.

Chairman Kimble asked if anyone from the Board had any questions or comments.

None were given.

Chairman Kimble asked if anyone from the Administration had any questions or

comments.

None were given.

Chairman Kimble asked if anyone from the public had any questions or comments.

None were given.

Moved by Cain and seconded by Ali to approve the amended request for a 0.5 foot variance for height of a fence in a front yard for a 4 foot fence with 50% closed.

A roll call vote was taken and the motion carried.

Yes – 4 No – 0

PPZ2022-0122: John & Jennifer Minkiewicz, 9065 Longbrook Drive, PPN 07-00-001-000-376

Applicant: Dominic Vullo, Artisan Landscape and Designs, 23670 Redfern Road, Columbia Station, OH 44028

The applicant proposes building a free standing screened in pavilion. Property is zoned R-1 District. Requests:

1. A 25 foot variance for rear yard setback of a dwelling. Applicant shows 5 feet, code requires 30 feet, Section 1282.11(c)(5).

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

Chairman Kimble asked if there was a representative present.

Dominic Vullo, Artisan Landscape and Designs, 23670 Redfern Road, Columbia Station, OH 44028, was sworn in.

Chairman Kimble asked Mr. Vullo to explain the application.

Mr. Vullo explained that the customers were putting in a pool and wanted a covered area as well and wanted to add an open pavilion that was screened in and had a fire place. He stated that they wanted to have it butt up to the house. He said that he

had talked to Guy a couple times and originally thought it had to be 5 feet set back from the property line but that if it was attached to the house it had to be 30 feet, as the Chairman stated. He advised that he was looking for a way to get it set up the way he had it drawn up for the Board.

Chairman Kimble asked what the reasoning was for making the project as large as they did.

Mr. Vullo advised that they had a very large family and they wanted it to be as big as possible and it was what they had requested. He stated that it wasn't very wide, just deep and not completely enclosed. He stated that in talking to Guy, he stated it was more of an aesthetic thing. He explained that it was open and there were no neighbors behind them as there was a common area or pond back there. He mentioned that the HOA did approve the drawing as it was presented but that he understood it had no reflection on what the Board decided.

Chairman Kimble replied that in looking at the aerial he noticed that there was a drainage pond behind them so it wasn't as if there was a residence that they would be abutting.

Mr. Vullo stated that if they would have had it detached from the house it could be 5 feet off of the property line. He mentioned that he thought it was 10 feet off the house. He advised that they were really just adding 10 feet and putting it up against the house. He explained that if it was detached, a free standing structure, that it wouldn't even be a problem. He added that the extra 10 feet would be wasted space if it wasn't connected.

Chairman Kimble mentioned that if it wasn't attached to the house and 10 feet off they still could build 5 foot off of the property line and it was just a matter of connecting it.

Mr. Vullo explained that it would be self-supporting and that they wouldn't be putting in any ledger board or anything up against the house because there were windows and he believed it would be butting up to a bathroom. He stated that there would be posts around the entire perimeter.

Chairman Kimble asked if it was essentially a pole barn style.

Mr. Vullo stated that it was very similar except no walls and it wouldn't be an obstructed view for anyone. He explained that the neighbor on the side of where it would be built had a tall fence there already.

Chairman Kimble asked for questions or comments from the Board members.

Member Thibodeaux asked about the yard behind the property and the yard to the side.

Mr. Vullo stated that they were actually 10 feet off the side and 5 feet off the rear of the property which butted up to a common area or a pond.

Chairman Kimble asked if there were any questions or comments from the public.

Bernadette Jaenke, 9073 Longbrook Dr, North Ridgeville, OH 44039, was sworn in.

Ms. Jaenke stated that her neighbors had never discussed the project with her and that she only received notice of the hearing in the mail. She explained that she understood they had a large family but was concerned about noise because they had parties previously until two in the morning. She further explained that she was concerned about the view and she moved to Ridgefield for the view. She stated that she understood that there will be a pond. She discussed that the neighbors on the other side had a fence that was only 4-foot and they put it in because John and Jennifer were putting in a pool. She stated that she was concerned about the look. She indicated that when she thinks of a pavilion she thinks of a pavilion at a park or at a pool. She explained that she thought it would take away from the Bob Schmidt development. She mentioned that there was a fence on the other side that looked like a pole barn and that her view was terrible. She discussed that when she sits in her living room, she looks at a fence on one side and then there would be another fence and a pavilion that would be taller than maybe the house that would extend out. She stated that she didn't understand why they would need something so big. She indicated that she wished that they would have discussed it with her and that she didn't like having to attend the hearing and didn't want to cause trouble or go behind their back but she would have liked to have seen the design and discussed it with the family.

Chairman Kimble asked if she was the adjacent neighbor next door.

Ms. Jaenke stated that she was. She remarked that she was on the opposite side at 9073. She explained that she didn't know what was going to be on her side but if she looked out her windows and she turned to the left now she would see a big tall pavilion even though it would be free standing plus they would have a fence because they had an in-ground pool. She stated that she didn't understand why the HOA didn't come to them or the neighbors on the other side. She remarked that she was concerned about the noise, the view, what it would do to the neighborhood. She mentioned that she thought Bob Schmidt would be rolling over in his grave.

Chairman Kimble stated that as far as the Board was concerned regarding the noise, they couldn't really get into that and she would need to contact the police department or her HOA. He explained that they were looking at the structure and the pool that was there in the drawings.

Ms. Jaenke stated that she had never seen the drawings.

Mr. Vullo handed Ms. Jaenke a copy of the drawings.

Ms. Jaenke remarked that if they wanted something that big it should have been built out in the country. She stated that it was huge. She said that the City would do what it wanted to do but the HOA would allow it because it would up the property tax and it would look better for everybody. She mentioned that she thought it was ridiculous in a development like that and that Bob Schmidt never intended it to be like that. She stated that she was just there to state her opinion and her view.

Chairman Kimble asked if there were any other questions or comments from the Administration.

Director Lieber stated that she wanted to point something out. She said that she was aware that there was discussion of a freestanding building but what they were really talking about was a home addition per the code because it was attached to the dwelling and had the same roof line and it functioned as an addition. She explained that if BZBA were to approve this variance that if the applicant wanted to enclose the space at a future time and turn it into a dwelling area they would

have already gotten the variance for building the addition being five feet off the property line. She further explained that currently the variance was for the pavilion but the approval was really for a home addition and that she thought they should think down the road.

Member Cain remarked that he thought previously the Board discussed that they couldn't assume what someone would do in the future.

Chairman Kimble explained that it wasn't so much that they would assume but it was the fact that the approval would give them the full ability to do that.

Director Lieber replied without them having to come back to the Board.

Chairman Kimble stated that even though they had talked about an open air pavilion, if they approved what was on the drawings they could just build an addition all the way out.

Member Cain stated not if it was a pole barn structure.

Chairman Kimble explained that they could change the way they built. He discussed that he talked about the pole barn structure but that had nothing to do with the variance. He asked if there were any other questions or comments from anyone in the audience.

Mr. Vullo asked if the homeowners would write a letter saying that they would never utilize that space as a dwelling or enclose the space, if that would make a difference.

Assistant Law Director Morgan asked Chief Building Official Fursdon regarding the structure as it was presented to them, could it be turned into an enclosed structure or would that be a major building project that would have to go to Planning Commission.

Chief Building Official Fursdon stated that they wouldn't have to go to Planning Commission and they could enclose a pole barn structure if it's below the cross line and they were attaching below the cross line that was permitted.

Assistant Law Director Morgan stated that she wanted to point out that the variance was an 83% variance request and that instead of being a variance from the code, when it gets up to those numbers it completely goes against the rule or almost makes a new rule.

Chief Building Official Fursdon explained that if it was done as a deed restriction just because the current home owner said they wouldn't do that, how would that carry over to the next homeowner or the one after that. He asked that if it was done as a deed restriction, who would be responsible to enforce that. He stated that it wasn't something the City would enforce. He commented that the HOA didn't seem to have any objections to the project but it was up to the Board regarding the variance.

Chairman Kimble added that regardless of what the Board decided they could potentially build ten feet off the house.

Chief Building Official Fursdon stated that Ridgefield didn't allow any outbuildings on their property. He explained that when people go to build sheds they had to attach it to the back of the house. He remarked that the HOA didn't allow outbuildings detached from the house.

Chairman Kimble replied, regarding the Board's perspective.

Chief Building Official Fursdon explained that from the Board's perspective, yes.

Chairman Kimble stated that since the HOA didn't allow outbuildings it would likely be an attachment at some point.

Chief Building Official Fursdon replied that he couldn't speak to that.

Mr. Vullo mentioned that he didn't know the answer to that as he wasn't that familiar with HOA codes with that development. He stated that he hadn't heard anything about restricting a pavilion or that it had to be attached. He asked Chief Building Official Fursdon if he was saying that was for that particular development.

Chief Building Official Fursdon stated that was an HOA regulation.

Mr. Vullo asked if they would have to go to the HOA to get approval.

Chief Building Official replied for ten feet off the house, they would.

Chairman Kimble asked if there were any other questions or comments.

None were given.

Moved by Thibodeaux and seconded by Ali to deny the 25-foot variance for rear yard setback of a dwelling.

A roll call vote was taken and the motion carried.

Yes – 4 No – 0

OTHER BUSINESS:

No other business.

ADJOURNMENT:

The meeting was adjourned at 7:29 PM.

Shawn Kimble
Chairman

Thursday, August 25, 2022

Date Approved

Tina Wieber
*Recording Secretary/Deputy Clerk of
Council*