

**NORTH RIDGEVILLE BOARD OF ZONING & BUILDING APPEALS
MINUTES FOR THE
REGULAR MEETING – THURSDAY, MAY 23, 2019**

**DUE TO EQUIPMENT MALFUNCTION, THE MINUTES WERE
PREPARED WITHOUT THE USE OF AUDIO RECORDING.**

TO ORDER:

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

ROLL CALL:

Present were members Mario Cipriano, Planning Commission Liaison James Smolik, Neil Thibodeaux and Chairman Shawn Kimble.

Also present was Assistant Law Director Toni Morgan, Council Liaison Michelle Hung and Deputy Clerk of Council Michelle Owens.

Excused was Vice-Chairwoman Linda Masterson.

MINUTES:

Chairman Kimble stated that there were no minutes to approve due to the previous meeting date after cloture.

PLANNING COMMISSION REPORT(S):

None

OTHER REPORTS OR CORRESPONDENCE:

Chairman Kimble noted correspondence received after cloture from Michael P. Shmitt of Bob Shmitt Homes, Inc., regarding the request of applicant David N. Burkhard.

PUBLIC HEARINGS:

APPLICANT: David N. Burkhard
9049 Longbrook Dr, North Ridgeville, OH 44039

OWNER: Same

REQUEST: Requesting a privacy fence height of 7'4", a variance to N.R.C.O.
§1294.01(h)(1)(B) of 1'4".

§1294.01(h)(1)(B) Along the rear lot line of the property and to the front line of the building located nearest to such street, no fence shall exceed six feet in height.

LOCATION: 9049 Longbrook Drive, in an R-1 zoning district.
Permanent Parcel No. 07-00-001-000-374

CASE NO.: BA2019-0393

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

Chairman Kimble asked if a representative was present. He directed them to the podium to state their name and address for the record, sign in and explain their request.

David Burkhard, 9049 Longbrook Dr, North Ridgeville, OH 44039, stated that he built his home in August 2018; at the time, there was no home on the adjacent lot. He spoke about the floor plan of the neighboring home. He stated that it has a bathroom window facing his dining room, and that people are clearly visible through the window.

Chairman Kimble stated that he had visited the property and it appears that something, possibly a trellis, had already been installed.

Mr. Burkhard stated that it was an attachment.

Chairman Kimble stated that anyone can seek a variance. He explained that, to grant a variance, there must be some practical difficulty or hardship as to why it is needed. He stated that there seem to exist other ways for Mr. Burkhard to accomplish his goal, such as landscaping.

Mr. Burkhard stated that arbor vitae were not recommended, and that he had been told the least invasive option was a fence.

Chairman Kimble discussed the Mr. Burkhard had provided to the Board. He asked if the tree shown in the picture blooms.

Mr. Burkhard responded that it is a lilac tree that does not bloom in the winter. He explained that the picture is his view from the patio door. He stated that the fence had only been installed a month ago.

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

Planning Commission Liaison Smolik spoke about the elevation of Mr. Burkhard's house. He commented that the finished floor elevation was approximately eight inches higher than planned. He stated it could have exacerbated the situation, but that he did not have the elevation of the neighbor's property. He indicated that Mr. Burkhard's situation was not unusual. He then remarked that windows look into windows all the time.

Chairman Kimble spoke about the various reasons floor elevation can be adjusted. When he had visited the property, he observed that most of the homes in the neighborhood had side windows. He stated that he was unable to see the hardship to be able to grant the variance.

Mr. Burkhard mentioned that he had looked into alternative solutions. He stated that a garden trellis would be cheaper but a sore thumb.

Chairman Kimble stated that simply having to see his neighbor is not a hardship.

Mr. Burkhard explained his hardship is seeing a man that you know is nude while trying to eat dinner.

Chairman Kimble understood but believed there to be other ways to solve the issue.

Member Cipriano commented that could not find the hardship or practical difficulty, and suggested a pine tree to block his view of the window. He stated that there is no reason to grant the variance.

Mr. Burkhard stated that landscaping would be a cheaper solution than having Columbia Fence take out and install a taller fence.

Stephanie Burkhard, 9049 Longbrook Dr, North Ridgeville, OH 44039, was sworn in. She stated that she understood there is no hardship, but wanted to clarify. She responded to the alternative solutions that had been suggested. She stated that the fence would be more aesthetically pleasing. She spoke about the picture provided to the Board. She indicated that the lilac tree in the picture is approximately 5'11" and she will not move it. She stated that the window shown is not a full window; and she was unaware of whether the neighbor had looked into getting blinds for it.

Planning Commission Liaison Smolik asked Mrs. Burkhard to describe the window. He asked if it was located within the shower enclosure.

Mrs. Burkhard responded that it was.

Council Liaison suggested that the neighbor look into a window with glazed glass.

Mrs. Burkhard stated that they would not be able to open the window.

Chairman Kimble responded that the glass would not prevent the window from opening.

Mr. Burkhard spoke about an incident concerning the homeowners' association. He stated that someone from the association – possibly a member of the Architectural Board – had visited his home at around 8:00 PM when he was not there. He spoke about video footage of the incident, which had been recorded with his surveillance camera. He believed the footage showed the man, as he was leaving, directing obscenities at him.

Chairman Kimble stated that the Board does not take the homeowners' association into consideration.

Mr. Burkhard mentioned that the concern in the neighborhood is that, if the variance was approved, he would essentially be opening the floodgates.

Chairman Kimble asked if there were any questions or comments from Board members. No discussion was offered. He asked if there were any audience members who would like to speak on the matter.

Bill Corner, President of Mill Ridge Homeowners' Association, 33068 Pebblebrook Dr, North Ridgeville, OH 44039, was sworn in. He spoke about the HOA rules and regulations, and stated that it does not allow for a fence taller than six feet. He stated that he also has a side window on his home but has three arbor vitae. He commented that it would be unrealistic to build a home and not expect a home would be built on the neighboring property.

Chairman Kimble asked if there were any audience members who would like to speak on the matter. No discussion was offered. He asked if there were any questions or comments from the Administration.

Assistant Law Director Morgan stated that, even if the Board granted the variance, Mr. Burkhard would still be required to obtain approval from his HOA.

Chairman Kimble asked if there were any questions or comments from the Administration. No discussion was offered.

It was moved by Cipriano and seconded by Smolik to deny the request as presented.

A voice vote was taken and the motion carried.

Yes – 3 No – 1

APPLICANT: Gary Smitek; North Ridge Pointe, LLC
36715 Avalon Ct, Avon, OH 44011

OWNER: Same

REQUEST: Requesting a 10-foot fence height for tennis courts, a 4-foot variance to N.R.C.O. §1294.01(h)(1)(B).
§1294.01(h)(1)(B) **Along the rear lot line of the property and to the front line of the building located nearest to such street, no fence shall exceed six feet in height.**

LOCATION: Recreation complex within North Ridge Pointe, Subdivision Phase No. 4; in an R-1 zoning district.
Permanent Parcel No. 07-00-030-000-277

CASE NO.: BA2019-0394

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

Chairman Kimble asked if a representative was present. He directed them to the podium to state their name and address for the record, sign in and explain their request.

Gary Smitek, managing member of North Ridge Pointe, Ltd., 36715 Avalon Ct, Avon, OH 44011, was sworn in. He spoke about the preliminary plan of the recreation plan proposed for North Ridge Pointe. He stated his request was for a 10-foot fence height for the two tennis courts, which would be a vinyl-coated, chain-link fence. He commented that he was surprised that tennis court fences had not been addressed in the city ordinances; that tennis balls would undoubtedly bounce over a 6-foot fence.

Chairman Kimble remarked that it seemed to be missing from the city ordinances. He stated that North Ridgeville did not have a need to address tennis courts in their ordinances; that most neighborhoods did not have clubhouses or tennis courts.

There was discussion amongst Board members surrounding N.R.C.O. §1294.01(h). It was proposed that N.R.C.O. be amended to address the allowable fence height for tennis courts.

Chairman Kimble asked for any other questions or comments from Board members. No discussion was offered. He asked if there were any audience members who would like to speak on the matter. No discussion was offered.

It was moved by Cipriano and seconded by Smolik to approve the application as requested.

A voice vote was taken and the motion carried.

Yes – 4 No – 0

OTHER BUSINESS:

None

ADJOURNMENT:

The meeting adjourned at 7:51 PM.

Shawn Kimble
Chairman

Michelle A. Owens
Deputy Clerk of Council, Secretary

Thursday, June 27, 2019
Date Approved