

**NORTH RIDGEVILLE BOARD OF ZONING AND BUILDING APPEALS
MINUTES OF
REGULAR MEETING – THURSDAY, NOVEMBER 21, 2024**

CALL TO ORDER:

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

ROLL CALL:

Present were members James Cain, Paul Graupmann, Planning Commission Liaison Frank Toth, Vice-Chairman Shawn Kimble and Chairwoman Linda Masterson.

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

Council Liaison Winkel was excused.

MINUTES:

Chairwoman Masterson asked if there were any corrections to the minutes of the regular meeting on Thursday, October 24, 2024.

None were given.

Minutes were approved as submitted.

PLANNING COMMISSION REPORT

Planning Commission Liaison Frank Toth stated the North Ridgeville Planning Commission acted on one item at its regular meeting Tuesday, November 12th, 2024. He stated that considered was an application by HSB Architects to construct a 4,000 square foot urgent care facility located at 34548 Center Ridge Road, which would be operated by University Hospitals Urgent Care. He mentioned that it would be situated between Blue Falls Car Wash and the vacated Scooters Coffee Building, and the application was approved by a unanimous 4 to 0 vote. He said that Director Lieber updated the Commission on two administrative approvals for zoning compliance certificates with the first being Sido's Restaurant, a proposed Lebanese cuisine eatery located at 34259 Center Ridge Road situated in the Giant Eagle Shopping Plaza. He discussed that the second certificate was awarded was to Italian Coffee, a proposed coffee shop located at 34960 Center Ridge Road situated in the Northview 24 LLC building in the space formerly occupied by Charm Boutique. He added that Director Lieber also gave an update for the zoning code review with the diagnosis stage being complete and would be the subject of a joint presentation to the City Council and Planning Commission on Monday, December 2nd. He stated that the second was the Active Transportation Plan and that plan was complete as well and was anticipated to be presented to the Commission for review at their December meeting. He mentioned that components of the plan were already being utilized in attempts to secure funding sources for a sidewalk improvement project on Bagley Road, traffic studies, the Lorain and Lear Road was being refined with additional data and analysis and that the Bainbridge and State Route 83 study had been completed and the administration was currently working with a consultant to prepare a safety application for a future roundabout located at the intersection of Root and Bainbridge roads, along with other traffic pattern improvements under review for possible implementation in that area.

OTHER REPORTS OR CORRESPONDENCE

None

PUBLIC HEARINGS:

PPZ2024-0305: Phillip Herron, 38527 Chandler Way, PPN 07-00-047-000-135

Proposal consists of installing a fence on a corner lot. Property is zoned R-1 Residence District. Requests:

1. A 2-foot height variance for a fence in the front yard. Applicant shows 6 feet, code allows 4 feet, Section 1294.01(h)(2)(A).
2. A variance for opacity of a fence located in the front yard. Applicant shows 0% open, code requires 50% open, Section 1294.01(h)(2)(A).

Application was read.

Chairwoman Masterson asked Director Lieber to read her notes.

Director Lieber stated that the applicant was requesting a variance for the height and opacity of a fence located in the front yard of the residential corner lot, so both Chandler Way and Cora Court were front yards per the zoning code. She explained that it was one of the new residential subdivisions, Eagle Meadow, which was currently under construction. She discussed that the applicant was proposing a six-foot-high white vinyl fence, and they indicated that the setback would be approximately 12 feet from the sidewalk along Cora. She stated that as the Board was aware, any portion of fence between the house and the front lot line, whether it was primary frontage or the side street, and that the fence must be no greater than four feet high and no less than 50% open, so two variances were requested.

Assistant Law Director Morgan stated that since there were two separate variances, she requested that they voted on each of them independent of the other.

Chairwoman Masterson asked if there was a representative for the application.

Phillip Herron, 38527 Chandler Way, North Ridgeville, OH 44039, was sworn in.

Chairwoman Masterson asked the applicant to present their application.

Mr. Herron stated that he purchased this property from Ryan Homes back in May and the house was constructed and completed in August and they moved in in September. He stated that he was told originally by one of the members of Ryan Holmes that the fence could be constructed. He discussed that he was a retired police officer and did have a canine on his property. He added that he had his daughter's dog that stayed with them, and she was a rescue. He said that his dog was not aggressive, but her dog had been abused and was a little aggressive, so they wanted to construct a fence. He stated that he did not realize it was a violation of any ordinance in the city. He explained that they would be coming out from the house a little bit going towards Core Court only because he wanted to utilize the size of the property, and it was quite a large lot that they had paid extra for. He said that he was never told he could not construct the fence that he wanted to construct but was told that it had to be within five feet of the sidewalk. He stated that when the contractor filed for the permit, he was told that there was a utility easement there that was 13 feet back from the sidewalk. He mentioned that he did have a conversation with his neighbor on Cora that sat right behind him and wanted to make sure that she could see what she needed to see when she backed out of her driveway. He stated that she said she was going to come to the

meeting but didn't know why she wasn't there. He said that she had no objection to the fence being put where it was going to be put. He stated that the fence guy redid the whole thing and went back 13 feet from the sidewalk and filed for the permit. He stated that he was then told that he had a corner lot and couldn't do that and that he had to go basically from the side of the house and would be losing quite a bit of that side lot. He commented that it was not a front yard, it was a side lot and that was why he wanted it to come out. He stated that if he abided by that he would have more unprotected land than he would protected land. He discussed that the fence would essentially be 59 by 59 feet and was a \$17,000 fence that was going to look kind of strange to have the fence basically restricted to the back part of the house only, so he was just asking for relief to construct that that fence. He mentioned that he had grandchildren that would come over and he wanted privacy for them. He stated that regarding Cora Court, he had never seen as much traffic on the street as he has on Cora Court. He discussed that the other day he was cutting the grass and 27 cars in an hour going up and down the street and now it was a safety issue for him. He said that he watched the stop sign that was at the corner of the street and no one stopped for that stop sign, so it was a safety issue for him as well and for the dogs. He said that the neighbor behind him had a dog, and they weren't aggressive, but one did go after the other one the other day, so they were just trying to keep the dogs separated. He discussed that he paid a half of a million dollars for his home, and he wanted to just want to have enough yard for his grandkids to play in and maybe put a pool in just so there was enough area. He stated that he didn't want anybody on that street to be able to look in his backyard and see what was going on with his grandkids.

Chairwoman Masterson stated that he had what was considered a very unique property as he had a house that faced two streets which was considered two front yards. She explained that the Board of Zoning and Appeals existed for a specific reason and that was when a house had a situation that didn't meet the regular building codes, they would come before the Board. She stated that that was a variance that they had seen in other areas and that his hardship was that he had this property and had dogs and had safety concerns. She stated that the Board was looking at the safety issue and mentioned that she did drive past the house and noticed that nobody stopped at the stop sign and that she almost got hit a couple times just by people cutting the corner or the stop sign and that she would be concerned about the safety of dogs and kids if there weren't a fence and she understand the need for a fence and privacy for children. She commented that having the fence going out farther than the edge of the garage, she could understand that need being 12 foot off of where the sidewalk was that would give him more than enough clearance to be able to be seen, but there were two different variances that he was asking for. She explained that he was asking for a side yard variance and a two-foot height variance, and the fence that he wanted was a six-foot fence rather than a four-foot fence.

Mr. Herron stated that was correct. He discussed that the HOA offered two fences, the six foot privacy fence, which was the white vinyl or a five foot black wrought iron, which did nothing for privacy and nothing for safety because even at 58 years old, he could leap that thing and go over and grab something and leap back across, so a dog could definitely put his head through there to bite somebody if somebody were walking down or a child was on a bike and he thought the wrought iron fence was a little more dangerous than the vinyl fence.

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

None were given.

Chairwoman Masterson read through the Duncan Factors, "Will this property yield a reasonable return without the variance?" and commented that yes, the property would. She read "Is the variance

substantial?” and stated that the fence was 50% greater, so that was subjective. She read, “Will the essential character of the neighborhood be altered?” and stated that it was a brand-new neighborhood, so it was too early to tell. She stated that according to what Miss Lieber wrote, it clearly says the zoning code had set specific standards for height and opacity of fences in front yards and clearly established that corner lots had two front yards. She mentioned that the codes existed to preserve views for traffic and safety abutting on side streets. She discussed that the fence encroaching the front lot yard along Cora could pose visual obstacles to the neighbor to the South when exiting and entering the property. She read, “Will the variance adversely affect the delivery of governmental services such as water, sewer, garbage?” and stated, no. She read, “Did the property owner purchase the property with knowledge of the zoning restrictions?” and stated that those zoning requirements had been in place prior to the construction of the house. She read, “Can the property's owners’ predicament be precluded through some other method other than the variance?” and stated that a four-foot-high fence with a 50% open fence could be installed and landscaping could be used to enhance the screening and privacy. She read, “Would the spirit and intent behind the zoning requirement be observed and substantial justice done by granting the variance?” and read Director Lieber’s comment “The zoning code specifically indicated those lots that had frontage on two intersecting streets must contain the required front yards on both streets. There are many corner lots within the City of North Ridgeville, so that was not an unusual lot configuration. Evidence was not presented to show that there was a practical difficulty in complying with the code. Rather, it would seem the homeowner’s preference to maximize the fenced area of the yard.” She then asked if there was anyone in the audience that wanted to speak on behalf of the matter.

No one came forward.

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

None were given.

Moved by Masterson and seconded by Cain to approve 2-foot height variance request.

A roll call vote was taken and the motion carried.

Yes – 3 No – 2 (Kimble, Toth)

Moved by Masterson and seconded by Kimble to approve the variance for opacity of a fence located in the front yard.

A roll call vote was taken and the motion carried.

Yes – 3 No – 2 (Kimble, Toth)

PPZ2024-0310 Casey O'Connor, 35836 Center Ridge Rd, PPN 07-00-021-101-062

Applicant: Mark Hannah, L3 Sign & Image, 212 Warden Ave, Elyria, OH 44035. Proposal consists of constructing a new monument sign. Property is zoned B-3 Highway Commercial District. Request:

1. A 16.5 foot variance for setback of sign from a side lot line. Applicant shows 16.5 feet, code requires 20 feet, Section 1286.11(c)(3).
2. A variance for monument sign base composition. Applicant shows single pole, code requires the base of any monument sign shall be composed of stone, brick or other decorative material

complementary to the building material used for the principal structure, Section 1286.11(c)(4). See also 1286.03(j)(10): MONUMENT SIGN means a freestanding sign that contains a support structure that is a solid-appearing base constructed of permanent material.

Application was read.

Chairwoman Masterson asked if there were representatives for the application.

Mark Hannah, 212 Warren Ave, Elyria, OH 44035, was sworn in

Chairwoman Masterson asked Director Lieber to give her review of the application.

Director Lieber stated that in advance of the meeting, it was clarified with the applicant that there was a little discrepancy in the drawing submitted that showed two different heights of the sign and that it was a 120-inch-high sign, 10 feet. She commented that that part of her report was not relevant anymore. She explained that the applicant was requesting a variance for side setback of the proposed freestanding sign and the code required monument signs to be set back 20 feet from the side lot lines. She mentioned that due to that limited area between the driveway and the side lot line, the applicant was proposing to install the sign about 3 1/2 feet from the side lot line and that additionally, as they looked at the requirements for monument signs and the definition of monument sign, code did allow one monument sign to be accessory to this commercial use. She stated that that definition said that it should contain a support structure that was a solid appearing base constructed of permanent material. She said that further in the ordinance it talked about being comprised of stone, brick or other decorative material, so the single pole configuration in her opinion, would not fall under that category of monument and so the base would need to be reconfigured, otherwise a variance would be required. She added that if the applicant could reconfigure the base, they could potentially eliminate that second variance.

Chairwoman Masterson asked if Assistant Law Director Morgan had any comments.

Assistant Law Director Morgan commented that she just wanted to indicate that they should vote separately on the variance requests.

Mr. Hannah stated that for clarification, the permit was for a pole sign and not a monument sign, even though the pole sign as he read it, depending on what code and how one read the code, was not allowed there, but he stated that it was submitted as a pole sign and the design was a pole sign. He discussed that in looking at the vision triangle, it was outside that vision triangle, but the 20 foot setback for the property line wasn't necessarily understood or known when they measured for that vision triangle and that was why it was 3 1/2 feet from the property line because it was really the only place he had to go all the way down the property line. He stated that Dr. Casey did want him to make sure they knew that he would have had a little more room before the road was widened, so that caused it to be a little closer as well. He commented that he would argue the fact that perhaps because of the location and because of how close it was to the driveway pulling out, a monument sign would actually impede vision more than a pole sign.

Chairwoman Masterson indicated to Mr. Fursdon that she thought they weren't allowed to have pole signs anymore and asked if she was incorrect.

Chief Building Official Fursdon stated that they didn't call it a pole sign, the applicant did.

Mr. Hannah stated that that was what it said on the application, correct.

Chief Building Official Fursdon stated that it met the height requirement of a monument sign.

Chairwoman Masterson asked if it was a monument sign or a pole sign.

Mr. Fursdon stated that they were categorizing it as a monument sign, but the applicant was calling it a pole sign.

Mr. Hannah stated that if they looked at their code of 2023 that mentioned that the base of the pole sign needed to be 8 feet from the ground, and that was not, it was six feet from the ground, so if you used that criteria as it was only six feet from the ground, so it couldn't be a pole sign, it would have to be categorized as a monument sign. He mentioned that when they were out there and measured the vision triangle, they thought it was outside of the vision triangle, and it would be approved.

Director Lieber stated that the code allowed a monument sign, one monument sign per non-residential property, unless they had more than like 500 linear feet of frontage, for example. She discussed that the applicant was permitted to have a monument sign and then read the definition of what a monument sign was, which said a freestanding sign that contained a support structure that was a solid appearing base constructed of permanent material and then furthermore, in the same section that talked about setbacks, that was where the code stated that the base of any monument sign shall be composed of stone, brick or other decorative material complementary to the building material used for the principal structure. She said that whether or not they were calling it one thing or another, the requirement was that it be a monument sign, that it be solid, and then it have materials complementary to the primary structure.

Mr. Fursdon stated that they had called it a monument sign for the Board's clarification and the applicant's, but pole signs were no longer permitted in the City of North Ridgeville. He mentioned that they didn't want to call it a pole sign because that was specifically prohibited.

Mr. Hannah stated that after he applied, that was when he met Mr. Fursdon out there and measured the triangle and everything and said that was where it could go and thought they were good to go. He stated that they weren't sure of that and he just took his word for it and he said go ahead and that it was just a just a matter of paperwork now and they could go ahead and build the sign.

Chief Building Official Fursdon stated that they did meet and discuss that triangle and that what he wasn't familiar with in the new ordinance was the new requirement for the 20-foot setback off the sideline. He mentioned that it was a very unique piece of property with very little frontage on Center Ridge Road and he didn't know where they could put that to meet the 20 foot and everything else.

Mr. Hannah stated that he had built a lot of monument signs and because of how close it was to the driveway, that would impede traffic much more, the vision much more looking right than a pole sign would be.

Chairwoman Masterson asked if any Board member had any questions.

None were given.

Chairwoman Masterson stated that that one was an unusual one just because of the configuration of the property.

Mr. Hannah remarked that there was nowhere on that property that they could get 20 feet from the property line unless they were going to go in the middle of the parking lot.

Chairwoman Masterson commented that due to the road widening that was even less. She asked if there was anyone in the audience that wanted to speak on the matter.

No one came forward.

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

Assistant Law Director Morgan asked how big the variance was now for the setback and if that changed.

Director Lieber stated that it did not.

Assistant Law Director Morgan asked if it was still 16 ½ feet.

Director Lieber stated that it was.

Moved by Masterson and seconded by Graupmann to approve the first variance request.

A roll call vote was taken and the motion carried.

Yes – 5 No – 0

Moved by Masterson and seconded by Cain to approve second variance request.

A roll call vote was taken and the motion carried.

Yes – 4 No – 1 (Toth)

PPZ2024-0306 Rick Fraley, 33681 Browning Dr, PPN 07-00-009-120-161

Proposal consists of installing a fence in the side yard. Property is zoned R-1 Residence District. Request: A 2-foot height variance for a segment of privacy fence in the side yard (east property line). Applicant shows 8 feet, code allows 6 feet, Section 1294.01(h)(2)(A). Note: Request is limited to a 16-foot-long section of fence.

Application was read.

Chairwoman Masterson asked if there was a representative in the audience to come forward.

Dawn Fraley, 33681 Browning, Dr, North Ridgeville, OH 44039, was sworn in.

Chairwoman Masterson asked her to discuss her application.

Ms. Fraley stated that the yard sloped down for drainage purposed between their houses and that the house to the right of them where the fence was at, they had a basement, so the house was raised up higher where one would come out on her and it was lower than theirs and that was where they wanted to put the two foot lattice there just for a little privacy, so when they were on their deck eating or when she worked from home in the summertime out there to kind of would hide the noise and they wouldn't hear her talking out there. She stated that a young couple just moved in, and the old neighbor just moved out, so they are still fixing the house up and hadn't moved in yet. She mentioned that she had a dog that she let out multiple times at nighttime with a light on and it would help to not have the light shine on their deck. She mentioned that it was for privacy for them as well when they would be out and the neighbors would be out too, so that they could just have their dinners and just a little privacy. She added that she had elderly parents that came over and they liked to go out on the deck, but if it were open, they wouldn't go out there. She stated that it was just the middle of the fence where two sections were, where the decks went together and then it was open on each side.

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

None were given.

Chairwoman Masterson asked Director Lieber to read her report.

Director Lieber stated that the Board understood what the request was and that it appeared from the pictures that the fence was already installed. She discussed that the applicant mentioned that there wasn't a great significant grade difference, but the applicant had indicated the kind of arrangements of the house and the lot that that might be a situation in this case. She stated that her only advice to the Board if they would be so inclined to grant it was to limit the height to that portion of fence, otherwise if they just granted the two-foot height variance, it would be for the whole lot. She mentioned that if the object would be to create one area of screening, then that should be specific. She commented that she was also just curious if the applicant could say in the pictures which side was facing which property. She added that she didn't quite have spatial orientation as to whether the nice side was facing the neighbor or the applicants.

Ms. Fraley stated that the lattice was on the neighbor's side so that it looked nicer on their side.

Chairwoman Masterson asked if they could make the variance for just that section and have it removed.

Director Lieber stated that if the Board were so inclined to approve a variance, they could limit it to that 16-foot section of fence, so that in the future the full lot did not have the variance.

Chairwoman Masterson asked if the fence came down, would they have to come back for a new one.

Director Lieber stated that typically if a variance was granted, it would run with the land, so they would be able to pull a new permit to install another fence in that section that would be that height. She stated that it wouldn't have to come back to the Board.

Chairwoman Masterson commented that they could only put it back in that section.

Director Lieber stated that was correct, only in that section.

Assistant Law Director Morgan stated that that seemed to be really all that they were requesting.

Ms. Fraley stated that they were requesting two sections of the fence only and that it was 16 and 8 feet for each section of the fence just to block where the doors and the window were.

Chairwoman Masterson asked if Assistant Law Director Morgan wanted to add anything.

Assistant Law Director Morgan stated that they were just discussing that the application was only for that section so that if the Board granted what they asked for that was all they would be granted but if they wanted to make that absolutely clear that it was only for the 16-foot section if they planned to approve it, that would be fine.

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

No one came forward.

Moved by Masterson and seconded by Graupmann to grant the variance to accept the variance for the 16-foot section and 8-foot height.

A roll call vote was taken and the motion carried.

Yes – 2 No – 3 (Cain, Kimble, Toth)

Ms. Fraley asked what they needed to do now.

Chairwoman Masterson stated that it had to come down.

Ms. Fraley asked if there was anything else that they could do for privacy.

Chairwoman Masterson stated that they could do some landscaping.

Assistant Law Director Morgan stated that mature evergreens would be nice.

Chairwoman Masterson explained that she would need to check with the Building Department regarding what would be acceptable.

ADJOURNMENT:

The meeting was adjourned at 7:41 PM.



Linda Masterson



Tina Wieber

**BOARD OF ZONING AND BUILDING APPEALS
REGULAR MEETING–THURSDAY, NOVEMBER 21, 2024**

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Chairwoman

Recording Secretary/Deputy Clerk of Council

Thursday, December 19, 2024

Date Approved