NORTH RIDGEVILLE BOARD OF ZONING AND BUILDING APPEALS
MINUTES OF
REGULAR MEETING – THURSDAY, NOVEMBER 16, 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 James Cain, Shawn Kimble, Planning Commission Liaison Paul Graupmann, and Chairwoman Linda Masterson.

Vice-Chairman Neil Thibodeaux was excused.

Also present were Chief Building Official Guy Fursdon, Planning Director Kimberly Lieber, Assistant Law Director Toni Morgan 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, October 26, 2023. Hearing none, the minutes stand as presented.

PLANNING COMMISSION REPORT

OTHER REPORTS OR CORRESPONDENCE

Master Plan Update

PUBLIC HEARINGS:

PPZ2023-0220: Gregory Shupp, 7118 Wil-Lou Lane, PPN 07-00-016-110-030
Proposal consists of constructing a 1,120 square foot outbuilding. Property zoned R-1 Residence District. Requests:

1. A 444-square foot variance for size of an outbuilding; code permits 676 square feet, applicant shows 1,120 square feet, Section 1294.03(e)(2). Note: Outbuilding is 40 ft. by 28 ft., which is also in excess of the allowable 26 ft. by 26 ft. dimensions.

(Variance denied by BZBA on 9.28.2023, Reconsideration granted by BZBA on 10.26.2023)

Application was read.

Chairwoman Masterson asked if there was a representative present.

Gregory Shupp, 7118 Wil-Lou Lane, North Ridgeville, OH 44039, was sworn in.

Mr. Shupp stated that the two matters that he wanted to address were first that the Board was concerned that a second building would be approved on the lot. He added that that would be if the building was to be approved, which would have to be approved by the Board and obviously wouldn't happen. He stated that that concern was null and void. He discussed that the second matter was that the Board was concerned that he would sell the property and another tenant would try to build another building. He mentioned that he bought the property for a very specific reason because it was right next door to his parents. He stated that the property would be in his family for years to come and probably for years after that. He commented that he didn’t see a concern in that matter either. He stated that he only wanted one building and didn’t want two. He remarked that he would sign anything that the Board agreed upon that there would be no other buildings built on the property. He stated that the one building was smaller than the allowable two combined.

Chairwoman Masterson asked Chief Building Official Fursdon what was the size of the two buildings that he was allowed to build and how much bigger or smaller would the structure that he was proposing to build be versus the two allowed structures.

Chief Building Official Fursdon stated that the application stated 1,120 square feet.

Chairwoman Masterson stated that she was concerned that if he built that one building that he was asking for with the variance, would he be allowed to build another 26 by 26 square foot building if, by chance, the Board agreed and approved the current application.

Chief Building Official stated that he would not issue another permit down there without sending him to the Zoning Board because he got a variance for that size building.

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

Assistant Law Director Morgan stated that she had put together some information for the Board.
She discussed that she had a couple of concerns, which were that she wasn’t hearing new information that would make a rehearing under the rules of the BZA possible. She stated that she didn’t know what the new information was and that was part of a hearing because otherwise they had already decided this. She explained that her second concern was that it appeared that he was asking for exactly the same thing he asked for the last time under the hearing rule. She stated that it had to be something different because the Board had already decided what he was asking for.

Member Kimble stated that he wanted some clarification regarding the gentleman being there two months ago and at that time there were only three Board members present for that meeting, regarding the issues that he brought to light after the meeting. He mentioned that they had chatted about how it wasn't fair for that gentleman that there was a five-member board and that only three people were present for it. He commented that it was brought to his attention that with the new updated bylaws, it needed a unanimous vote. He stated that in reading through the new bylaws, and that was the clarification he was looking for, that in reading through the new bylaws, it specifically said, “shall require a vote of three members to adopt any action”. He remarked that there were three members that voted and that it didn’t specifically say, “a unanimous decision”. He stated that it was a decision of two to one in his favor and that he didn’t understand how it wasn't approved that evening.

Assistant Law Director Morgan stated that when the bylaws were adopted, they didn't want just two people to decide the direction.

Member Kimble asked if that would be two people with someone abstaining, because that would be a two-person vote and they had three votes that night.

Assistant Law Director Morgan stated that it wouldn't be “not present”, because then they wouldn't have a quorum. She explained that only two people couldn’t make the decision, so when there were three people present, if they didn’t all agree, it failed.

Chairwoman Masterson asked where that was stated in the rules.

Assistant Law Director Morgan asked what number they were looking at.

Member Kimble stated that it was 9.

Assistant Law Director Morgan read, "Three members of the Board shall constitute a forum and it shall require a vote of three members to adopt any action".

Chairwoman Masterson said that it didn't state that it had to be unanimous.

Member Kimble stated that there were three votes.

Assistant Law Director Morgan stated that everyone would have to vote for it, and that was a positive vote.

Chairwoman Masterson asked if it was in Robert's Rules of Order. She said that it didn't say that it had to be unanimous, it just stated that three people had to vote.

Assistant Law Director Morgan stated to adopt, which would mean unanimous. She explained that if someone voted against it, they were voting not to adopt it and to the contrary. She added that it didn't say unanimous but it had to be three to adopt. She stated that the legal interpretation would be that three people would have to vote in favor to adopt.

Member Kimble thanked her for the clarification. He mentioned that in going back to that evening, it was not that gentleman's fault that only three Board Members were at the meeting and now that they had more members at the current meeting, that the city was kind of saying, well, he hasn't changed his design, so they really shouldn't reconsider it. He commented that even though he was the one that voted against the application, and still had concerns with it, that he was the one that got the ball rolling and really brought it up after the meeting that it wasn't fair to the applicant that only three members showed up that night. He stated that they were now making the gentleman jump through hoops and thought that was wrong.

Assistant Law Director Morgan suggested that there was more than one way that things could be reheard. She stated that they had Rule 14. She explained that it was slated as a re-hearing or a reconsideration and re-hearing and that a re-hearing under the rules, had certain requirements. She stated that one of them was new information. She commented that as she had indicated to the Board, under Robert's Rules, there was a motion to reconsider and was a motion that the Board, itself, did. She stated that if the member who voted contrary, which would be Mr. Kimble, wanted the Board to consider a motion to reconsider the application, that that was a motion for the Board to bring and that it could be reconsidered at the same hearing or lots of boards adopted a rule. She stated that it could also be considered either at the same or subsequent hearing, the next hearing, but in a normal case, it was re-heard at the hearing where it was made. She added that it was an avenue, if she was sensing the way the board was leaning, that it was an avenue for them to consider a motion. She explained that it had to be made by the party on the prevailing side, which in that case was a negative vote.

Member Kimble asked if anyone could second it, if they chose to, and then vote on it.

Assistant Law Director Morgan stated that was correct and if it passed then they could reconsider the same application.

Member Kimble asked what they had voted on last month.

Assistant Law Director Morgan stated that they voted on whether or not they wanted to rehear it under Rule 14.

Member Kimble asked if he could make a motion to rehear the application or reconsider the exact same application.

Assistant Law Director Morgan stated that it would be to reconsider it as originally presented. That it was the exact same application. She explained that a rehearing was for the applicant to ask for because they had new information or they had changed their application in some way and they came to the board. She discussed that reconsideration was a motion that the board made to be read there to reconsider the exact same application.

Member Kimble stated that that wasn't presented to them last month.

Assistant Law Director Morgan stated that she had put it in writing.

Chairwoman Masterson stated that even at the hearing where they did do the vote, she stated that she read it and interpreted it a different way. She stated that she thought that three people being there would be enough. She commented that she had indicated to the administration how upset she had been for the last year through no fault of the staff, as to how few of the Board Members attended meetings.

Moved by Kimble and seconded by Cain to reconsider Mr. Shupp's original application.

A roll call vote was taken and the motion carried.

Yes – 4 No – 0

Assistant Law Director Morgan stated that now they would be hearing the application as if they had never heard it before.

Chairwoman Masterson asked the applicant to explain his application.

Mr. Shupp stated that he was allowed two buildings but just wanted to build one larger building that would be smaller than the allowable total square footage of the two buildings. He stated that he didn't want two buildings and would sign anything that was required to state that he wouldn't build another building the property. He discussed that the property would not be sold anytime soon. He added that he just wanted one building that would be smaller than the two allowed.

Chairwoman Masterson stated that she and Mr. Kimble had been on the Board for over 20 years and they had had numerous people before them telling the same or similar story and that they had thought they were very clear in what they had approved and what they hadn't approved, but it had come back to sadly bite them. She asked if any of the members of the Board had any questions or concerns.

Member Cain commented that they had seen that time and time again and maybe it was time to talk to the zoning officials about some kind of amendment to that. He remarked that regarding one or two buildings, what looked better on a property, one nice building or two run down little ones. He added that if he had a 26 by 20 garage and he was allowed a 26 by 20 shed, it didn't make sense. He stated that it should be two or a certain size, so that they didn't have to deal with that anymore.

Assistant Law Director Morgan stated that every now and then they had a work session where they could make those suggestions and now that they had a Development Director, she could put together an ordinance, if necessary. She stated that she would indicate that the condition for no other buildings he agreed to was fine, but she wouldn't indicate however, that he couldn't sell it because the court would frown on impairing his right to buy or sell the property.

Mr. Shupp stated that he wasn't saying they were impairing that but that if he was to sell it, that another building would not be built on that property, according to whatever he would sign.

Chairwoman Masterson explained that it would be determined and he wouldn't have to sign anything. She asked Chief Building Official Fursdon about the clarification that he had left to go get.

Chief Building Official Fursdon stated that in the public hearing notice, there was a note at the end that said, "which is also in excess of the allowable 26 by 26 feet, and the ordinance states 676 or 26 by 26". He commented that the equivalent didn't have to necessarily be 26 by 26 but could also be 676 square feet, which could be 24 by 28. He explained that it was just the area they were worried about in that case, not the actual dimension of the size.

Chairwoman Masterson asked that if he built the structure that he wanted to and they granted the variance to build one building instead of two, and that one building was a smaller square footage than if he had built two separate structures, would he not be allowed to build another.

Chief Building Official Fursdon stated he wouldn't under his administration because the variance was granted.

Member Cain commented that it was not just his administration, but if he came to pull the permit, wasn't it standard in the City currently, that once they issued a variance, they couldn't pull another one to build on it, so wouldn't matter if Mr. Fursdon was here or not.

Chief Building Official Fursdon commented that there was nothing that really stated that he was given the variance based on the fact that he wasn't going to build two, only one. He stated that they would try and put a note in the file to help that stand out for future use.

Chairwoman Masterson asked that about the neighborhood that he was living in and if there was a total square footage that they weren't allowed to have, like in some areas and asked if he was hitting that.

Chief Building Official stated that what she was describing only applied to lots that were over a half-acre. He stated that lots that were under a half-acre, they gave a specific size of 26 by 26 or 676 square feet for a detached garage and for an outbuilding, so they could have one of each for a total of over 1,300 square feet on a lot less than a half-acre.

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

matter.
George Shupp, 7100 Wil-Lou Lane, North Ridgeville, OH 44039, was sworn in.

Mr. Shupp stated that the applicant was building 2 to 300 square feet less than he was allowed total for two buildings but would be one building. He commented that it would be one building to maintain, not two. He added that he was more than happy to sign whatever they needed or whatever they could put into the plans to state that there would be no other buildings built there and that if he sold it, that it would be part of the sale agreement, that they could build no other structures, so that he could help guarantee that, if he ever did sell it.

Chairwoman Masterson stated that they weren't asking him to do that and that she could do that with the variance.

> Moved by Masterson and seconded by Graupmann to grant the 444-square foot variance for size of an outbuilding with the condition that no other structures be built on that property.

A roll call vote was taken and the motion carried.

> Yes – 3 No – 1

PPZ2023-0230: Michael McCartney, 36480 Chestnut Ridge Rd, PPN 07-00-025-101-010
Proposal consists of existing structures resulting in excessive lot coverage. Property zoned R-1 District.
Requests:
1. A 7% variance for excessive lot coverage; code allows up to 10% for lots greater than one-half acre, applicant shows 17%, Section 1294.03(e)(4).

Application was read.

Chairwoman Masterson asked if there was a representative present.

Michael McCartney, 36480 Chestnut Ridge Rd, North Ridgeville, OH 44039, was sworn in.

Mr. McCartney stated that he had gotten the shed two years ago and that his wife came down to get a permit and they told her not to, to go ahead and put it in and they'll worry about it later. He stated that that was what they told him and that they had sent him two letters twice. He stated that twice he had called and went down there, and nobody bothered to get back to him until the last one when he said that he finally got a hold of somebody and talked to somebody downstairs and he told him that he had to come before the Board. He stated that that was basically where he was at.

Chairwoman Masterson asked Chief Building Official Fursdon to explain.

Chief Building Official Fursdon stated that to the best of his recollection, a storage building appeared on the site during the winter months, when it was cold but the ground wasn't quite frozen yet. He commented that he believed that the building got stuck between two lots and that was when it was brought to his attention. He stated that they determined that there wasn't a permit and that they tried to notify the owner that he needed a permit. He stated that he needed time to get the equipment in there to get it off of the neighbor's lot and entirely onto their lot, which eventually they did do. He added that for whatever reason, no permit was ever applied for but when they did the review when application was finally made, they determined that it exceeded the 10% lot coverage and he needed a variance. He mentioned that he didn't do the review on it personally, one of his staff did, but according to the numbers there, it was a 7% variance. He stated that he had 17% lot coverage, not 10%.

Chairwoman Masterson stated that it appeared that there had been quite a few violations on that property.

Chief Building Official Fursdon stated that notice of violation had been sent out to clean up some of the junk and debris. He mentioned that not everything on the lot was considered that. He stated that there was a lot of yard ornaments on that property but there was some junk and debris and they had asked the home owner to address that and clean that up. He commented that to the best of his knowledge, it hadn't been done yet and that notice expired November 13th. He said that someone should have it scheduled to go back there and look at it.

Assistant Law Director Morgan stated that her concern was about the numerous violations over time. She explained that one of the Duncan Factors that they considered was how it impacted the neighborhood, the neighbors and their enjoyment of their properties as well. She stated that in looking at the last violation it stated, "Building permit required, there was junk and debris accumulation" and it also mentioned detached private garages but she didn't know what that was in reference to. She stated that her concern was the impact that it would be allowed to continually increase. She stated that she believed there were slides over the years and the amount of visible property that was taken up had increased over the years pretty dramatically. She discussed that the picture that was up on the screen had a lot of green space compared to what it was currently. She stated that she wanted the Board to take that particular Duncan Factor, with that particular request, into consideration.

Mr. McCartney said that he wanted them to know that what they called junk and debris was stuff he had collected over the past 30 years. He stated that hopefully when he got to retirement, it was stuff that he wanted to be able to build. He commented that he had a whole bunch of steel wagon wheels, piles of old barn lumber underneath the tarps and stuff that he saved actually from a farm that just got tore down a couple of years ago right down the street.

Chairwoman Masterson stated that she had driven by the property.

Mr. McCartney stated that she had probably seen the bench he had sitting out right at the end of his driveway that was made out of truck doors.

Chairwoman Masterson stated that normally she had the ability to pull off the road and look at someone's house but in that case, she didn't.

Mr. McCartney stated that she could pull into his driveway and that he didn't care. He said that he had truck grills, car grills and doors that he wanted to make benches and stuff out of.

Chairwoman Masterson stated that she was looking at a series of pictures of his property over the years from 2005 until 2023.

Mr. McCartney stated that he had been there since 1987.

Chairwoman Masterson asked him what his hardship was.

Mr. McCartney stated that he had a son in a wheelchair and a wife that was on disability and it was just something that kept him from going crazy. He mentioned that his house wouldn't be sold to anyone because it was 100% handicapped inside and out. He added that his yard was as well and that he built everything through his backyard to his shed and everything so that his son's wheelchair could go anywhere in the yard without getting stuck and that it wasn't easy.

Chairwoman Masterson asked if there were any Board members that had any questions.

Member Kimble asked why he needed the additional structures in his yard.

Mr. McCartney commented that the one structure that they were dealing with currently was basically his workshop. He stated that his son could go right out there with him when he retired. He added that his son was 25 years old and had been in a wheelchair his whole life. He said it was just a place for him to go with him when he retired.

Member Kimble stated that he was allowed 10% lot coverage but currently he was at 17%.

Mr. McCartney stated that he didn't know what the square footage was. He commented that he had three quarters of an acre but he didn't know what it was.

Member Kimble stated that he had a daughter in a wheelchair as well and could relate to what he went through on a daily basis but his question was why he needed the additional 7%.

Mr. McCartney stated that it was a 12 by 40-foot shed.

Member Kimble asked if that 12 by 40 was the 7%.

Mr. McCartney stated that the 12 by 40 probably put it over. He commented that it was 12 by 40 and was trucked in, free standing on the ground.

Member Kimble stated that that was 480 square feet. He remarked that the shed he was referring to was not the only reason. He explained that he was allowed to have a total of 2,975 square feet of coverage and currently he had 4,926. He stated that even taking the 480 off of the last shed that the request was regarding, he was over.

Mr. McCartney asked how many square feet he said he was over.

Member Kimble commented 4,926 was what the paperwork showed.

Mr. McCartney asked what they were measuring. He stated that he didn't have that much square footage.

Member Kimble said it was his house, garage and all the outbuildings.

Mr. McCartney asked if they were counting his porch.

Member Kimble explained that he didn't do the math.

Mr. McCartney stated that they were welcome to go out and take measurements because he thought the measurements were way off.

Chief Building Official Fursdon stated that they calculated their numbers off of what the County provided. He stated that typically, an open porch wasn't considered part of the lot coverage, but a covered porch was. He stated that there were different parameters that they used but that they got their information from the County's website, whatever square footage they provided.

Member Kimble stated that he had just gone online and scaled everything out from the online aerial views and he came up with actually 160 square feet more than what the City had calculated. He added that they were both within a very close range, what the City came up with and what he found himself. He asked why he needed so many of the structures and commented that that was the big question of what they were looking to vote on.

Mr. McCartney stated that he didn't need so many structures and that the other ones were all small. He remarked that they had stuff in them that he collected and when he retired, he would build stuff and sell it. He stated that he just didn't have time currently. He said that he was working two jobs because he lost his job when yellow closed after 18 years and that was his retirement. He said that he was working two jobs making half of what he did before.

Member Kimble asked if it would be possible for him to condense some of the buildings and remove some.

Mr. McCartney stated not at that time because they had stuff in them.

Member Kimble asked if they were all completely full.

Mr. McCartney stated that they were all full. He commented that it was 30 years of collecting stuff. He said that he bought it when he could get it cheap, where he could get it cheap and what he liked. He stated that he had a lot of car parts and a lot of farm stuff. He remarked that he didn't have junk cars.

Chairwoman Masterson stated that they were trying to see some give and take on his part. She added that she understood what he was telling them and the reasons why he thought he needed them but were looking for more substantial reasons in order to grant the variance. She asked if any of the Board members had any questions.

None were given.

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

Bruce Abens, 9373 Kenmore Way, North Ridgeville, OH 44039, was sworn in.

Mr. Abens stated that he was also the Ward 3 Councilman and had been for almost 8 years with four additional years coming up. He explained that he received calls on a regular basis pertaining to that property and that they weren't compliments. He said that they complained about the appearance. He mentioned that another thing that should be considered with that property was that he did have a temporary tent housing a car or whatever, in front of his house.

Mr. McCartney said that it was a 1972 Pinto.

Mr. Abens said that that was additional and didn't think it showed up on the County's website. He said that the next-door neighbor complained that he regularly used his driveway to access his backyard. He said that he currently had one of his cars that had been there for a while, that was partially on the neighbor's property. He stated that unfortunately the neighbor was disabled and wanted to attend the meeting but he didn't have a way. He said that regarding that property, there were building materials next to his house, on the west side of his house which made for poor aesthetics. He stated that regarding the backyard, if they went to take a look at the backyard, they couldn't walk around because of all of the junk that was there. He mentioned that from time to time he was burning trash and it wasn't just a recreational fire because neighbors had complained about it and said that it smelled like a plastic smell. He added that he received a lot of complaints about that property.

Chairwoman Masterson commented that Mr. Abens discussed a temporary structure or a car that was under a tent or canopy and asked Chief Building Official Fursdon how long a temporary structure was allowed to be up.

Chief Building Official Fursdon stated that there were no provisions in the ordinance for that. He said that he wasn't aware of it. He explained that they received a number of complaints and applications and that he couldn't inspect all of them and could only go by what his staff reported back to him. He added that he wasn't aware of the tent or temporary structure.

Chairwoman Masterson asked if that would be included in the figures as well.

Chief Building Official Fursdon he said that it wouldn't be allowed because a temporary structure had to comply with the residential code of Ohio as an accessory structure.

Chairwoman Masterson asked the applicant if he anything else he wanted to say.

Mr. McCartney stated that he did not. He commented that everyone had their opinions about his property. He said that he didn't know what they wanted him to do.

Chairwoman Masterson explained that she was asking if there was any other way that he could be compliant to take down any of his structures.

Mr. McCartney said he might in the future but he couldn't right now.

> Moved by Masterson and seconded by Graupmann to deny the 7% variance for excessive lot coverage.

A roll call vote was taken and the motion carried.

> Yes – 4 No – 0

ADJOURNMENT:

The meeting was adjourned at 7:44 PM.

Linda Masterson
Chairwoman

Tina Wieber
Recording Secretary/Deputy Clerk of Council

Thursday, January 25, 2024
Date Approved