

**NORTH RIDGEVILLE BOARD OF ZONING AND BUILDING APPEALS
MINUTES OF
REGULAR MEETING – THURSDAY, OCTOBER 22, 2020**

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, Jim Smolik, Neil Thibodeaux, Vice-Chairwoman Linda Masterson, and Chairman Shawn Kimble.

Also present were Chief Building Official Guy Fursdon, Assistant Law Director Toni Morgan, Assistant Clerk of Council Tara Peet, and Deputy Clerk of Council Lisa Ciofani.

Council Liaison Clifford Winkel was excused.

MINUTES:

Chairman Kimble asked if there were any corrections to the minutes of the regular meeting on Thursday, September 24, 2020. Hearing none, the minutes stand as presented.

PLANNING COMMISSION REPORT(S):

None

OTHER REPORTS OR CORRESPONDENCE:

None

PUBLIC HEARINGS:

APPLICANT: Danyelle Sahlica, Columbia Fence

33549 E Royalton Rd, Unit #1, Columbia Station, OH 44028

OWNER: Gary & Angela McClure, 32018 Lilac Lane, North Ridgeville, OH 44039

REQUEST: Requesting a variance to N.R.C.O. §1294.01(h)(1)A and §1294.01(h)(3) for 6 foot high and 100% closed fence requiring a 2 ½ foot height variance and 100% closed variance

LOCATION: 32018 Lilac Lane, in a R-1 Residence District
Permanent Parcel No. 07-00-002-102-231

CASE NO.: PPZ2020-0032

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

Chairman Kimble asked if there was a representative present.

Brian Lanckiewicz, Columbia Fence, 33549 E Royalton Rd, Columbia Station, was sworn in.

Chairman Kimble asked Mr. Lanckiewicz to explain the application.

Mr. Lanckiewicz advised he is aware of the corner lot law. He said when he was doing the job for the owner, he ran a string line and the neighbor behind them had a fence that is 5-5 ½ feet tall which went out further. He advised the owner doesn't have that big of a yard and the owner asked him if the fence could go out to there. Mr. Lanckiewicz advised the owner he wasn't supposed to but he would ask the building inspector. He stated Chief Building Official Fursdon came to the residence to look at it and they decided it wasn't an unreasonable request but Chief Building Official Fursdon advised him that he would need to file for a variance. Mr. Lanckiewicz stated they were already working and couldn't wait for it and he wasn't trying to be vindictive but he advised sometimes you have situations where you need to make a decision right then and there. He said the owner has a dog and she doesn't want it running in the road and the neighbor behind the owner has a fence 5 feet tall that you can't see through. Mr. Lanckiewicz advised he spoke with Guy and it's not blocking any view from traffic so they decided they would do it and apply for the variance. He said he's hoping they will grant the variance for it because it isn't hurting anything and from this point on, anytime he runs into this situation, he will tell the owner they have to wait and apply for the variance.

Chairman Kimble asked Chief Building Official Fursdon if that is an accurate account of what happened that day.

Chief Building Official Fursdon confirmed it is an accurate account and Columbia Fence was aware if they couldn't get the variance they had to move the fence back to be compliant.

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

Vice-Chairwoman Masterson advised at the last meeting she asked Law Director Brian Moriarty if the City had any pending litigation with Columbia Fence and she was told Columbia Fence is in jeopardy of losing its contractor's license because they didn't pull permits and didn't call for inspections.

Mr. Lanckiewicz advised that is not true and they did pull permits for every single job they have done.

Vice-Chairwoman Masterson advised this isn't the first time Columbia Fence has been in front of the Board and this seems to be reoccurring. She stated she appreciates Mr. Lanckiewicz attending this meeting to clarify everything. Vice-Chairwoman Masterson advised Mr. Lanckiewicz when he is selling the job, he should know prior to installation and that should be part of the conversation.

Mr. Lanckiewicz stated he does not do every estimate and even though he owns the company he can't be everywhere at once. He said he has done about 3,500 jobs in North Ridgeville and they have had maybe 4 or 5 situations they have run into but some of them were done years ago.

Vice-Chairwoman Masterson asked Mr. Lanckiewicz if he is aware he was taken to court for not pulling permits and not calling inspections.

Mr. Lanckiewicz advised he was taken to court for not calling inspections and he has never done a job without a permit.

Vice-Chairwoman Masterson asked Mr. Lanckiewicz what is the reason he wasn't calling inspections and had to be taken to court.

Mr. Lanckiewicz said after the situation with the inspection, he sat down with Chief Building Official Fursdon and since then he's called inspections on everything but once in a while one will slip through the cracks. He advised they try to do everything right and get a permit for everything and they have been calling inspections in and they will continue to do so. Mr. Lanckiewicz advised any time he runs into a situation like this with a corner lot now, he will make sure he takes care of it the right way. He stated sometimes you have owners with dogs and in the event he doesn't put the fence up and the dog gets hit by a car, he doesn't want that on his conscience. Mr. Lanckiewicz said they do over 1,500 jobs a year and sometimes there are situations he has to deal with.

Vice-Chairwoman Masterson advised rarely contractors are taken to court in North Ridgeville. She asked Chief Building Official Fursdon if he would like to elaborate on why he took Mr. Lanckiewicz to court.

Chief Building Official Fursdon advised they repeatedly told Mr. Lanckiewicz he had to call for inspections and he wasn't listening so they had to cite him to court to get his attention. He advised since then, Mr. Lanckiewicz has complied with the ordinance.

Vice-Chairwoman Masterson asked Mr. Lanckiewicz in the future if this will happen again.

Mr. Lanckiewicz advised no. He stated with the last situation he called Guy to talk to him about it and get his opinion on what to do.

Vice-Chairwoman Masterson asked Mr. Lanckiewicz how many variances he has applied for this year.

Mr. Lanckiewicz advised 5 or 6 but some of the variances are from jobs from years ago and this didn't all just happen.

Vice-Chairwoman Masterson advised Mr. Lanckiewicz he is supposed to come there and prove practical difficulty and she wants to know what that practical difficulty is.

Mr. Lanckiewicz stated for this application, he advised the owner they have to go straight from her house to her neighbor's house so there is nothing sticking out and it can only be 42" high and 50% open and the owner said the neighbor has a fence and asked can't they butt up to their fence. Mr. Lanckiewicz said he called the inspector and the inspector showed up and said he

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couldn't make that call so Mr. Lanckiewicz called Chief Building Official Fursdon. He said Chief Building Official Fursdon came to meet him at the property and they made the decision together that it would be a good variance request.

Vice-Chairwoman Masterson asked Mr. Lanckiewicz if Chief Building Official Fursdon told him he might not be approved.

Mr. Lanckiewicz confirmed it was a possibility they talked about. He advised the hardship the owner has is the corner lot has a very small yard and they only went over 4 feet in the back corner but it gave them a lot of extra room for the owner and their dog. Mr. Lanckiewicz stated in the event it would block the view of any cars pulling out he would have said absolutely not. He added aesthetically it would have looked very strange to go 4 feet from the back fence and have it jog out.

Vice-Chairwoman Masterson asked Mr. Lanckiewicz if he understands he's setting precedent to other contractors that follow the rules.

Mr. Lanckiewicz advised he follows rules and in the future he will make sure he doesn't have this issue and from this point on he will call Chief Building Official Fursdon personally. He stated if a salesman sells the job that he didn't see initially and then he gets there to install it, he will make sure that he tells the homeowner they have to do this or they have to get a variance ahead of time.

Chairman Kimble asked Mr. Lanckiewicz approximately how far the fence is off of the sidewalk.

Mr. Lanckiewicz advised approximately 16-18 feet. He stated that is at the front and at the back it is more. He stated originally it was close to 20 feet and now they are at about 16 feet.

Chairman Kimble asked Mr. Lanckiewicz if they were meeting prior to construction, what is the reasoning as to why he absolutely needs this and what is the hardship or practical difficulty and what is unique about the property.

Mr. Lanckiewicz advised the yard is very small and the way the angle of the road goes, how they did the fence actually follows the road and it looks better and it gives them a little more space in the backyard because it cuts a lot of land off being a corner lot. He stated it's also not a 90 degree corner and veers off to the right a little bit and it gave them a little more space so they aren't so closed-in in the backyard because they have a deck. He advised it's for protection, for keeping their dog in, and privacy.

Chairman Kimble advised he recollects the owners of the house directly behind came to the Board and asked for approval for 6 foot tall 50% open fence.

Mr. Lanckiewicz advised it is not 50% open.

Chairman Kimble said he googled the property and it is far more than an inch and he would bet 3-4 inch gaps between the boards.

Mr. Lanckiewicz stated it is between 1-2 inches and he went and looked at it and it's definitely tighter than 3-4 inches. He advised he is concerned that the Board is making him out to look like a criminal when they do a great job and he puts a lot of effort into his jobs.

Chairman Kimble advised that would have no impact on voting and the Board did him a favor by tabling everything to have him here tonight and to hear the application again. He advised the Board is there to help and the fact that they are here this evening shows that.

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

Member Smolik asked if the owner was there to hear from the owner's perspective.

Angela McClure, 32018 Lilac Lane, North Ridgeville was sworn in.

Member Smolik asked Ms. McClure what is the hardship as to why the fence is installed as it is.

Ms. McClure advised when they started installing she realized how ridiculous the fence looked in the back not lined up to the other fence. She advised her front yard is diagonal so the front yard is further out than the back yard and the fence would start straight and then narrow in to the left where there was 4 feet of fence from her backyard neighbor's still sticking out. She advised Mr. Lanckiewicz said he had to check with the inspector and then he contacted Chief Building Official Fursdon and she spoke with both the inspector and Chief Building Official Fursdon and they agreed it made sense as well and told her she had to apply for a variance. Ms. McClure stated it was her fault for applying for the variance late because they are out of town often and she didn't understand that something might have to be pulled out because Mr. Lanckiewicz would not do it until they came out. She advised there really is no hardship but it gave them extra room in their backyard and aesthetically it looks much better being lined up than having 4 inches of her neighbor's fence sticking out. Ms. McClure said there are other fences on that street that are corner lots that are 6 foot wooden fences and she didn't feel like it would be a problem.

Member Smolik thanked Ms. McClure and said the hardship would be the unique configuration of her lot.

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

Vice-Chairwoman Masterson asked why the fence is 100% closed and what the practical difficulty was.

Mr. Lanckiewicz advised that is the fence they were originally doing for privacy because they are on a corner lot and anyone who walks by can look into the yard. He said it's a vinyl fence so

anything other than that would be a special order and it's more expensive and they stock the solid vinyl because that's the main fence they do for privacy.

Ms. McClure advised they need privacy because they are gone often and the neighbor that lives behind them is a convicted felon with warrants so for their safety they needed the privacy and their neighbor was the main reason for them getting the fence.

Chairman Kimble asked if there were any other questions or comments from Board members or administration. No discussion was offered.

Chairman Kimble asked if there were any other questions or comments from YouTube live or in the Zoom forum.

Deputy Clerk of Council Ciofani advised no discussion was offered.

It was moved by Smolik and seconded by Thibodeaux to approve the variance.

A voice vote was taken and the motion carried.

Yes – 3 No – 2 (Masterson, Kimble)

APPLICANT: Danyelle Sahlica, Columbia Fence
33549 E Royalton Rd, Unit #31, Columbia Station, OH 44028
OWNER: Erica Dennis, 31972 Rustic Ridge, North Ridgeville, OH 44039
REQUEST: Requesting a variance to N.R.C.O. §1294.01(h)(1)A and §1294.01(h)(3) for a 6 foot high and 100% closed fence requiring a 2 ½ foot height variance and 100% closed variance
LOCATION: 31972 Rustic Ridge, in a R-1 Residence District
Permanent Parcel No. 07-00-002-106-002

CASE NO.: PPZ2020-0033

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

Chairman Kimble asked if there was a representative present.

Brian Lanckiewicz, Columbia Fence, 33549 E Royalton Rd, Columbia Station, was sworn in.

Chairman Kimble asked Mr. Lanckiewicz to explain the application.

Mr. Lanckiewicz advised when he went to install the fence to go straight off the house the owner had several trees, landscaping, and a stamped concrete patio right in the way. He explained to the owner they would have to tear everything out. He advised there was a part of the owner's house that is the fireplace that stuck out so he told the owner that they might have to come out a little further to go past it because they can't go through it. Mr. Lanckiewicz said they came out about 4 feet so it's about 2 feet out further than what the furthest part of the house would be. He advised he was there and it was during the winter and the owner's dog had almost gotten hit by a

car and he had to make a call right then. He said they have about 16-18 feet from the sidewalk and it's not blocking any traffic and he didn't think it would be an issue with the fireplace coming out so much so realistically they are 2 feet past what the ordinance allows. Mr. Lanckiewicz advised to move it now would be catastrophic due to the amount that would have to be done with trees and landscaping being pulled out. He advised he does not want the homeowner to be punished because of him. He said the hardship is having to move stamped concrete patio and landscaping.

Chairman Kimble advised this application is right around the corner from the last application.

Erica Dennis, 31972 Rustic Ridge, North Ridgeville was sworn in.

Vice-Chairwoman Masterson asked if when the job was quoted the landscaping and the patio were in place.

Ms. Dennis confirmed the landscaping and patio were there when the job was quoted. She advised Vice-Chairwoman Masterson that she finds her assertiveness offensive as well as how she is behaving. She stated the people who had the house prior to her had tons of landscaping and never wanted to have a fence but she decided to breed Goldendoodles so she needed a privacy fence. Ms. Dennis explained she needs the privacy due to a convicted felon that lives in between her and the other owner and in addition to the convicted felon there is also a drug dealer that lives there so Mr. Lanckiewicz came out in February to install the fence. She said she signed a contract for the Goldendoodle and if the Goldendoodle were to get hit, she is responsible for a \$12,000 fee. Ms. Dennis said Mr. Lanckiewicz told her this variance may end up happening but they can't cut into her landscaping in the middle of a blizzard in February. She apologized if something fell through the cracks on her part but she finds all of this strange and extremely offensive.

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

Member Cain advised the variance needed is 100% closed requiring 2 ½ foot height variance so the landscaping and everything else isn't really an issue and the issue is the height and closing. He asked why the landscaping keeps coming up when the issue is the height and openness and asked Chairman Kimble if he is correct in asking that question.

Chairman Kimble confirmed Member Cain is correct.

Mr. Lanckiewicz advised to comply with the laws, you would have to go straight back from the house with the privacy fence that they were already there to install. He said to do that, all the landscaping and stamped concrete patio are in the way and he had to bump it out a couple feet to go by where they could and enclose the backyard.

Member Cain advised it says height enclosed and it doesn't say anything about Mr. Lanckiewicz moving it.

Mr. Lanckiewicz stated where they originally drew it on the paperwork. If you go straight back from the house it could be 6 feet tall and 100% privacy and for him to bump it out a couple feet it would have to go down to 42" tall and 50% open. He said there is a stick-out on the house so really the fence is about 2 feet past that.

Danyelle Sahlica advised the variance for the height and the closed hardship would be to make the fence match the rest of the fence to make it aesthetically pleasing and it would be an entirely different fence on that one side.

Vice-Chairwoman Masterson apologized to Ms. Dennis and explained this is the 6th variance in front of the Board. She advised the reason why she asked if the landscaping was in place was because when the job was quoted it should have been noted that a variance was needed. She is concerned as a contractor Mr. Lanckiewicz isn't following the rules and that is setting a horrible precedent to other homeowners. Vice-Chairwoman Masterson asked if it's possible to make this fence more open.

Ms. Dennis advised no. She has a signed contract with a Goldendoodle breeder and she has to have a completely private fence. She said she has never heard of such a thing as a homeowner that she is not allowed to have a private fence.

Chairman Kimble advised the meeting will be conducted in a mannerly fashion. He advised the Board conducts themselves by the ordinances of the City of North Ridgeville and he advised Ms. Dennis she is permitted to have a privacy fence however, it has to be by certain guidelines that her contractor did not follow which is why everyone is here tonight.

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

Member Smolik asked if the stamped patio actually sits beyond the side of the house.

Mr. Lanckiewicz advised they would have had to break through the patio as well as tear out several trees and landscaping.

Member Smolik asked Mr. Lanckiewicz if he had put it at the direct back of the house if stamped concrete would need to be cut.

Mr. Lanckiewicz confirmed yes.

Member Smolik asked if this sits a couple feet off the stamped concrete or is it right up against it.

Mr. Lanckiewicz advised from the furthest point of the house, which is the fireplace, it is about 2 feet off of that.

Chairman Kimble stated based on the view of the topography, the fireplace is cantilevered off the side of the foundation. It looks to be about 2 or 2.5 feet. Per ordinance, you are not permitted to

put the 6 foot privacy fence off of the cantilevered portion of the home and it would be off the foundation.

Mr. Lanckiewicz advised he thought it was part of the house and he didn't know that rule.

Chairman Kimble asked Mr. Lanckiewicz if the permit he submitted to the City showed the 6 foot privacy fence coming off the corner of the house.

Mr. Lanckiewicz advised no, that it showed it going straight back.

Chairman Kimble asked if it was straight back off the corner of the house.

Mr. Lanckiewicz stated he didn't see the landscaping until he went to install the fence.

Chairman Kimble asked Mr. Lanckiewicz if the permit that he submitted to the City went off the corner of the house straight back for the 6' 100% closed fence.

Mr. Lanckiewicz advised yes.

Chairman Kimble asked Mr. Lanckiewicz if someone had already been out there to provide an estimate onsite.

Mr. Lanckiewicz advised yes.

Chairman Kimble asked Mr. Lanckiewicz to confirm that it was not him.

Mr. Lanckiewicz confirmed it was not him and he believes it was his father.

Chairman Kimble asked Mr. Lanckiewicz on the day of construction when they showed up if that is when the decision was made.

Mr. Lanckiewicz confirmed yes.

Chairman Kimble asked Mr. Lanckiewicz how long ago he built this fence.

Mr. Lanckiewicz advised February. He stated it was a unique situation and he has done 3,500+ jobs. He stated 6 jobs out of that is very minute number and things are going to happen when you have that many jobs. Mr. Lanckiewicz advised he feels like he has been treated like a criminal by Vice-Chairwoman Masterson.

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

Member Smolik asked in regards to the building setback, hypothetically if an addition was built on the house, it would technically go where this fence is.

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Chief Building Official Fursdon advised he believes that is correct and it could go out to that setback line. He advised the fence ordinance is not set up that way and the fence ordinance is set up that it can't go past the building line which is the existing structure, not the proposed setback line.

Chairman Kimble asked if there were any other questions or comments from Board members. No discussion was offered.

Chairman Kimble asked if there were any other questions or comments from the administration or anyone on YouTube Live or in the Zoom forum.

Deputy Clerk of Council Ciofani advised no discussion was offered.

It was moved by Thibodeaux and seconded by Smolik to approve the variance.

A voice vote was taken and the motion carried.

Yes – 3 No – 2 (Masterson, Kimble)

OTHER BUSINESS:

None

ADJOURNMENT:

The meeting was adjourned at 8:11 PM.

Shawn Kimble
Chairman

Lisa M. Ciofani
*Recording Secretary/Deputy Clerk of
Council*

Thursday, November 19, 2020
Date Approved