

MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
FEBRUARY 13, 2025

Members Present: Farrell, Wright, Wolf, Harpster, Martinez

Presence Noted: Michael O'Boyle, City Councilman
Steven Dever, Assistant Law Director
Jeanne Gallagher, City Councilwoman
Ray Reich, Building Commissioner

Mr. Farrell opened the February 13th meeting of the Board of Zoning and Building Appeals at 7:00 p.m. He explained the meeting protocol and said that the Board has had the opportunity to visit the sites and review the applications. He said that anyone who is present and interested in any of the agenda items should come forward when the item is called so they can be sworn in if they wish to speak.

Mr. Wright moved to approve the Board of Zoning and Building Appeals meeting minutes from January 9, 2025, as presented. Mr. Farrell seconded.

4 Ayes – 1 Abstain (Wolf)
Passed

1. DAN BROGAN – 19550 Beach Cliff Blvd. – PUBLIC HEARING – Variance to install a generator 2' from the neighbor vs. the 10' that is permitted. Per Section: 1153.15 (k)(2)

Mr. Wright introduced the variance request, and Mr. Farrell swore in Phil Paulhaber of Stack Heating, who was presenting on behalf of Mr. Brogan. Mr. Paulhaber states that there is no good place to put the generator, it's a large house on a small lot and the property owner wants it somewhere that's not visible to him while on his back porch. The neighbor has a generator encroaching on the property line as well, however, it is on the rear of the house and there are no setback requirements for generators on the rear of the home according to the ordinance. Mr. Farrell is wondering why the generator cannot be put at the rear corner of the house. Mr. Paulhaber explains that the property owner did not want it in his backyard, right in his little sitting area. There would be extra costs associated with that as well since stone and landscaping would have to be removed to install the generator in that location. The generator would be very close to neighbors and the exhaust would be facing towards the street to mitigate the noise issue. Mr. Harpster questioned what the distance is from the front of the fence to the rear of the house, Mr. Paulhaber estimated about 20 feet. The Board is having a difficult time since the site plans are somewhat unclear, lacking measurements and a proper aerial. Mr. Harpster is concerned that the placement of the generator pushes it closer to the neighbor's patio space, it should be more towards the rear; Mr. Paulhaber reiterates that the farther the generator is pushed back the louder it will be for the neighbor. The Board wants to know how often the generators are tested, Mr. Paulhaber says it varies from once a week or every two weeks and usually runs for about 10 minutes, we could even try to sync it up with the neighbor's generator, Mr. Paulhaber said they set up the testing schedule for middle of the day during the work week. Mr. Wolf wants to know if there is a sound damping component to add to the generator, Mr. Paulhaber ensures that there is. The Board wonders if they should require that when they are this close to other properties. Mr. Reich tells the board that decibel

readings are taken at the property line during inspection, per the code, and the Board can put in their motion a stipulation on decibels. Mr. Farrell wants to know what data Mr. Paulhaber has on what sound damping does to the decibel levels, however, Mr. Paulhaber did not have the answer to that. Mr. Wolf thinks there needs to be a standard in the ordinance when generators and air conditioners are this close to the property line, what decibel levels and should they have sound damping. Mr. Reich stated that there are two ordinances, one for 65 decibels and another for 70 decibels. He reiterates that the Building Department has a decibel meter, and the Board can put in their motion what decibel reading they want at the property line and the Building Department can make sure that the requirement is met.

Mr. Harpster moved to close the public hearing. Mr. Wright seconded.

5 Ayes -0 Nays
Passed

Mr. Wright read the practical difficulties factors aloud. Whether special conditions or circumstances exist which are peculiar to the land or structure involved, the applicant has indicated that this is the location that best fits their needs as it could have an adverse effect on landscaping. Regarding whether the property in question will yield a reasonable return, he does not believe that applies in this case. The variance is not substantial and is the minimum necessary. He does not think that the essential character of the neighborhood will be substantially altered and will not negatively affect the adjacent property owner. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that applies. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament can be obviated by some method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he does not believe that it's applicable. The other Board members agreed with Mr. Wright's assessment.

Mr. Harpster moved to grant a variance to Dan Brogan, 19550 Beach Cliff Blvd. to install a generator 2' from the neighbor with the condition that the exhaust end of the generator be in-line with the latus fence that is already there as shown. Also, that the proper insulation be installed if, at the property line, the decibel level is higher than what is permitted in the ordinance. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

2. THE BANK – 20000 Detroit Rd. – PUBLIC HEARING – Variance to install signage 2 ½' from the right of way vs. the 5' that is permitted. Per Schedule: 1193.07 (e)(1)(b).

Mr. Wright introduced the variance request, and Mr. Farrell swore in the applicant, Haley Delzani. The Board brings up the letter of concern from Mr. Mylett, an owner of 5 parcels that are neighbors to The Bank. Most of his concerns were about the use of the property, while the variance is for the setback of the sign. The use of the building does not affect the need for a variance. The Board also addresses previous Planning Commission meetings where The Bank has been reviewed, with little certainty about where the Commission stands. Mrs. Delzani states that the Planning Commission told her to talk to Safety Services, then to apply for a variance. If the variance is approved, she can then go back to the Planning Commission for final review. Mr. Farrell wonders about placing the sign in line with the tree but North of it so it is visible still from East or West. Mrs. Delzani questioned whether that may be too far from the actual building itself and whether you would be able to see it or not. Mr. Farrell feels that the sign would direct people to that driveway. Mrs. Delzani states if you're coming from the East the tree would interrupt the sign. Mr. Wolf agrees that the sign could be placed behind the tree. Mrs. Delzani raises the fact that the Planning Commission did agree that the location would not be ideal for the sign. Mr. Harpster clarifies the precise location of the tree, it is in the middle of the bricks, the bricks are 6' wide so there is, give or take, 3' on either side of the tree. Mrs. Delzani states that her property line ends at the brick, she wants to put the sign 6'4" from where the brick starts. The post is 4" and the sign is 24" she states that she would only need a 14" variance. Mr. Harpster wonders if the sign will hang over the brick at all, no it won't but it does hang in the 5' setback from right of way required in the code. Mr. Wolf says that the photo simulation and site plan have different measurements so there is some confusion. Mr. Wolf says that the survey map shows the property line ends in the garden bed, not at the bricks, so that is why there could be some confusion regarding the measurements. Mrs. Delzani clarified that when she had the survey done and they came to the property to do it, her property line was the edge of the bricks. Mrs. Delzani also said that the Planning Commission told her to get in contact with Rich Synder, with Safety Services at the City, to discuss adding benches or some sort of brick work near the sign. However, she was told that the city plans to rip the bricks out anyways. Mr. Reich clarifies that the city is wanting to move the sidewalk along Detroit Rd away from traffic, removing the bricks and adding more greenery. Mr. Farrell thinks low landscaping should be added to the garden bed so there is some sort of buffer and visual cue to people cycling or walking. Mr. Farrell does want to note that the CVS plaza next door has a monument sign in the same setback as Mrs. Delzani's proposed location, and her sign is much more modest and less of a barrier.

Mr. Wright moved to close the public hearing. Mr. Harpster seconded.

5 Ayes – 0 Nays
Passed

Mr. Wright read the practical difficulties factors aloud. Whether special conditions or circumstances exist which are peculiar to the land or structure involved, the applicant has indicated to adhere to the setback the sign would have to be placed in dedicated parking spaces. Regarding whether the property in question will yield a reasonable return, the

applicant has identified two alternative locations for the sign, however, there are difficulties with that. The variance is not substantial and is the minimum necessary. He does not think that the essential character of the neighborhood will be substantially altered and will not negatively affect the adjacent property owner. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that applies. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament feasibly can be obviated by some method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, the applicant explained her position. The other Board members agreed with Mr. Wright's assessment.

Mr. Wright moved to grant a variance to The Bank, 20000 Detroit Rd. to install signage 2'6" from the right of way with the condition that some sort of landscaping taller than grass be added to act as a buffer or visual cue to pedestrians. Mr. Harpster seconded.

5 Ayes – 0 Nays
APPROVED

**3. TOM AND PAM SCHLOSSER – 1960 Wynwood Dr. – PUBLIC HEARING –
Variance to install a pool equipment pad 6' from the property line vs. the 8' that is
permitted. Per Section 1153.15 (h)(2)**

Mr. Wright introduced the variance request, and Mr. Farrell swore the property owner and the applicant in, Tom Schlosser and Tom Bivens from High-Tech Pools, INC. Mr. Farrell wonders if they have spoken to the neighbor about it. Yes, they have, in fact, the neighbor wrote a letter. Mr. Bivens distributed it to the board and then read aloud, the neighbor gave their consent. Mr. Farrell raises the concern of decibel levels. Mr. Bivens says that they have been researching this to maintain the spirit of the development code. The pool pump will be a variable speed pump and will have a 45-decibel level. Variable speed pump means it works at different speeds depending on the circumstances and conditions of the pool. Mr. Farrell is wondering if that means sometimes it could be louder than 45 or quieter than 45, depending on what is needed. Mr. Bivens was not sure if that 45-decibel level is an average figure or the maximum. The property owner wants to add fencing or some sort of landscaping around the pool equipment to not only maintain noise level but to also increase the curb appeal. Mr. Schlosser also stated that their air conditioning condenser is on the same side as the proposed pool equipment pad and is at a 74-decibel level. The neighbor to the south has their air conditioning condenser on the north side of their home but was unsure of their decibel level. Mr. Farrell wants to clarify if pool pumps run more frequently than air conditioners. Mr. Bivens says it's possible but since the pool has an automatic cover it will be protected from environmental factors that may cause a pool pump to run more frequently. Mr. Farrell is concerned that if it is running continually, it could become a nuisance to other neighbors, even at 45 decibels. He thinks there should be some sort of sound damping box to put over it. Mr.

Bivens said that is the reason for the vegetation or fencing. Mr. Wolf said vegetation doesn't work, you would need hundreds of feet to truly dampen the sound. The Board is curious how far the pool equipment pad is from the house, they estimate about 20' of so.

Mr. Harpster moved to close the public hearing. Mrs. Martinez seconded.

5 Ayes – 0 Nays
Passed

Mr. Wright read the practical difficulties factors aloud. Whether special conditions or circumstances exist which are peculiar to the land or structure involved, the applicant has indicated on the application what these are. Regarding whether the property in question will yield a reasonable return, the applicant has indicated on submittal. The variance is not substantial and is the minimum necessary. He does not think that the essential character of the neighborhood will be substantially altered and will not negatively affect the adjacent property owner. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that applies. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament feasibly can be obviated by some method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he does not believe that applies. The other Board members agreed with Mr. Wright's assessment.

Mr. Harpster moved to grant a variance to Tom and Pam Schlosser, 1960 Wynwood Dr. to install a pool equipment pad 6' from the property line with the condition that that the proper sound dampening be installed if, at the property line, the decibel level is higher than what is permitted in the ordinance. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

4. JEFF AND KATHERINE LEHTINEN – 21565 Aberdeen Rd – PUBLIC HEARING – Variance to construct an attached deck 4.12' from property line vs. the 8' that is permitted. Per Section: 1153.07 (f)

Mr. Wright introduced the variance request, and Mr. Farrell swore the applicant in, Steven Good of Brady 3 Custom Homes and Remodeling. Mr. Good is currently doing a kitchen addition on that property, which is where the old deck used to be, which was off their old kitchen. The property owners would like to add another deck off the new kitchen. The property is unique, it sits far back, the garage is behind the house, and on the right side of the house is all driveway. This area is their only outdoor space besides the massive front yard. It will be raised 3' off the ground, with railings, and no covering. Mr. Harpster wants to make

sure that there is enough space between the deck and the property line to get from front to back, Mr. Good ensures that there is enough space.

Mrs. Martinez moved to close the public hearing. Mr. Harpster seconded.

5 Ayes – 0 Nays
Passed

Mr. Wright read the practical difficulties factors aloud. Whether special conditions or circumstances exist which are peculiar to the land or structure involved, the applicant indicated they are building an addition on the house, and this is the only land available to do the deck. Regarding whether the property in question will yield a reasonable return, need variance to construct their deck. The variance is not substantial and is the minimum necessary. He does not think that the essential character of the neighborhood will be substantially altered and will not negatively affect the adjacent property owner. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that applies. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament feasibly can be obviated by some method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he does not believe that applies. The other Board members agreed with Mr. Wright's assessment.

Mr. Wolf moved to grant a variance to Jeff and Katherine Lehtinen to construct a deck 4.12' from the property line versus the 8' that is permitted. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

5. MITCH AND BETH BIHUNIAK – 181 Buckingham Rd. – PUBLIC HEARING – Variance to rebuild existing garage with a front setback of 24'3" vs. the 30' required front setback as shown on the setback map, City of Rocky River, May 12, 1975. Per Section: 1153.07 (a)

Mr. Wright introduced the variance request, and Mr. Farrell swore the applicant in, Jill Brandt of Brandt Architecture. The existing garage that is 20' by 19' feet, it is setback 1' from the face of the house and is 29'3" from the property line. Inside the existing garage there is a mudroom that makes parking family-sized vehicles impossible. The property owners want to extend the garage 5' forward to make enough space for their vehicles. They can't build backwards because they want to keep the mudroom intact, and the back yard is extremely tight and is their only outdoor space. Mrs. Brandt also mentioned they will be adding a second floor above the garage for more living space, including a master closet and bathroom. Mrs. Brandt says this plan is the least amount of change to the building while still achieving the

same good. Mr. Farrell wants to make sure that there is still enough space to park on the driveway, Mrs. Brandt ensures that there is. Mr. Harpster says that the garage may be a little tight width wise, suggest adding a few feet to the plans. That suggestion will not affect the variance she is applying for today. Mrs. Martinez wants to make sure the second story is in line with the garage, it is. Mr. Wolf wants to make sure that the neighbors were aware and in support of. Mr. Bihuniak says he has spoken with the neighbor to the south and his neighbor to the east was there in attendance, they were aware and had no concerns.

Mr. Wright moved to close the public hearing. Mr. Harpster seconded.


5 Ayes – 0 Nays
Passed

Mr. Wright read the practical difficulties factors aloud. Whether special conditions or circumstances exist which are peculiar to the land or structure involved, it is a corner lot. Regarding whether the property in question will yield a reasonable return, the applicant has indicated the existing garage is not a sufficient dept for the current size of automobiles. The variance is not substantial and is the minimum necessary. He does not think that the essential character of the neighborhood will be substantially altered and will not negatively affect the adjacent property owner. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, the property owners indicated on application that they did not. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament feasibly can be obviated by some method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, yes it would deny them the opportunity of having a usable two-car garage. The other Board members agreed with Mr. Wright's assessment.

Mr. Wolf moved to grant a variance to Mitch and Beth Bihuniak, 181 Buckingham Rd. to rebuild existing garage with a front setback of 24'3" versus the 30' required front setback. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

This meeting was adjourned at 8:48 pm.


Patrick Farrell, Chairman


Craig Wright, Acting Secretary

Date: _____

