

**DRAFT**  
**Board of Zoning Appeals Public Hearing**  
**July 2, 2018**

Chairman Stanard called the Board of Zoning Appeals Public Hearing to order at 6:00 pm.

ROLL CALL: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard

PRESENT:

ABSENT: Mr. Bolek

Mr. Buczek made a motion seconded by Mayor Renda to approve the minutes from the June 4, 2018 Regular Board of Zoning Appeals Meeting.

AYES: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard

NAYES: None

MOTION CARRIED

Mr. Buczek made a motion seconded by Mayor Renda to approve the minutes from the Special Board of Zoning Appeals Meeting, held June 18, 2018, with one correction.

AYES: Mr. Buczek, Mr. Janke, Mayor Renda, Mr. Stanard

NAYES: None

ABSTENTIONS: Mrs. Cooper

MOTION CARRIED

Mr. Stanard took a moment to thank the members of the Board for their dedication to service, particularly for the lengthy proceedings which took place at the June 18 Special Public Hearing.

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**Leska Residence – Area Varlance, Rear and Side Yard Privacy Fence (Continued from June 4, 2018)**

3870 Wiltshire

Variance requests regarding height and percent open requirements for a proposed fence in the rear and side yards at 3870 Wiltshire were heard at the June 4 meeting; the matter was continued. No additional materials have been received, and the assistant clerk indicated she had spoken with the applicant's contractor and was told that they will be appearing at a later date.

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Mrs. Cooper made a motion seconded by Mr. Buczek to table the matter of the fence at 3870 Wiltshire for future consideration.

AYES: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard

NAYES: None

MOTION CARRIED

**Gile Residence - Area Variance, Accessory Structure**  
40 Addison Lane

The applicants are seeking a variance from Section 1151.13 (b)(1) to allow construction of a detached garage in the side yard.

Mrs. Lane administered the Oath to those wishing to speak on this matter, and Mr. Stanard opened the public hearing at 6:04 pm.

Richard Cissell of Clemens Pantuso Architecture was in attendance to present the variance request. Mr. Cissell explained that the garage is for a new home to be constructed on a previously unbuilt lot in the Chagrin Bluffs development. A site plan was displayed along with elevations of the proposed garage. Mr. Cissell pointed out location of home and drive on Addison Lane as well as the hillside protection zone that exists at the back of the lot. Several factors were taken into consideration when deciding upon placement, the most important being to stay out of the hillside in the rear yard as much as possible. The garage is also positioned in relation to an attached garage that is part of the home.

An alternative placement was considered which would have moved the detached garage further back on the lot, although a portion would still be in the side yard and front-facing doors would be needed. Mr. Cissell said that another advantage to the proposed placements is that it minimizes the amount of pavement needed. The garage itself will be approximately 23 feet by 26 feet and is designed to match the house.

As there was no one else in attendance who wished to comment on the variance application, Mr. Stanard closed the Public Hearing at 6:07 pm.

Mr. Stanard noted that the site map indicates the slope setback line at a 1.5 factor of safety and asked Mr. Filarski if this is a calculation he typically requires. Mr. Filarski said the line he considers is the hillside protection line, which is further from the house. The calculation is an approximation that was done by a geotechnical engineer when the subdivision was designed. Mr. Filarski does not require that measurement, as the plan conforms to the Village's requirements regarding the hillside protection zone. Neither Mr. Filarski nor Mr. Kowalczyk had any questions or concerns regarding the proposed placement of the garage.

Mr. Stanard noted that the plans for the new home at 40 Addison Lane, which were approved at the June 4 meeting, showed a wall attached to the garage. He asked if that wall required a specific approval with regard to its height. Mrs. Cooper said that the Planning Commission had not yet approved the wall.

Mr. Cissell added that it was his understanding he would come back for final approval, as the wall's final design is yet to be determined.

Mr. Buczek felt the alternate location as described would not be preferred; what is being proposed will be a better overall design. Mr. Janke commented that the proposed arrangement of the garage doors will minimize the effect of headlights on surrounding neighbors, and Mrs. Cooper said she also preferred this plan.

Mrs. Lane reviewed the Findings of Fact: Property owners Matt and Amber Gile are requesting a variance from Section 1151.13 (b)(1) to locate an accessory structure in the side yard rather than the rear yard, as required by the Code. In determining practical difficulty, Mrs. Lane recommended incorporating by reference the applicant's responses to the eleven questions asked on the variance application (Appendix A), with the following modifications:

- Question 2, "Will the property in question yield a reasonable return or can there be any beneficial use of the property without the variance? The applicants answered no, but Mrs. Lane feels the answer is yes, as the lot will be improved with the construction of a single-family home. However, she would not that the location of the detached garage in the side yard is reasonable due to the topography of the lot as well as the location of the attached garage.
- Question 4, "Would the essential character of the neighborhood be substantially altered or would adjoining properties suffer substantial detriment as a result of the variance? The applicants answered no, and Mrs. Lane would add there were no residents in attendance who spoke in opposition to the variance request.
- Question 6, "Did the property owners purchase the property with knowledge of the zoning restrictions?" Mrs. Lane said she would preference the owner's answers by answering yes, as constructive knowledge of the zoning requirements is assumed when someone purchases a lot.

Mrs. Cooper made a motion seconded by Mayor Renda to accept the Findings of Fact.

AYES: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard

NAYES: NONE

MOTION CARRIED

Mrs. Cooper made a motion seconded by Mr. Buczek to approve the area variance at 40 Addison Lane to allow construction of a detached garage in the side yard.

AYES: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard

NAYES: None

MOTION CARRIED

As there were no other items for discussion, Mr., Buczek made a motion seconded by Mayor Renda to adjourn the Board of Zoning Appeals Meeting at 6:15 pm.

AYES: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard  
NAYES: None  
MOTION CARRIED

Respectfully submitted,

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Theresa Dean, Assistant Clerk

Appendix A

Board of Zoning Appeals  
Area Variance Application Supplemental Information

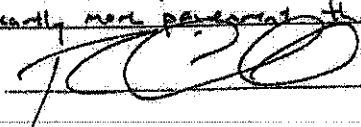
Application for property located at: 40 Addison Lane

Variations from the terms of the Code shall not be granted by the Board of Zoning Appeals unless the "evidence demonstrates that the literal enforcement of this Planning and Zoning Code will result in practical difficulty."

In determining "practical difficulty", the Board of Zoning Appeals will consider the following factors:

1. Do special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district? There is a steep, large hillside at the rear of the property. We are attempting to keep the accessory structure away from the hillside, as well as limit the amount of pavement required.
2. Will the property in question yield a reasonable return or can there be any beneficial use of the property without the variance? No.
3. Is the variance substantial and is it the minimum necessary to make possible the reasonable use of the land or structures? The variance is not substantial. The accessory structure is still behind the front face of the house. We have also kept it as close to the house as functionally possible to keep the maximum distance from any future neighbor.
4. Would the essential character of the neighborhood be substantially altered or would adjoining properties suffer substantial detriment as a result of the variance? No.
5. Would the variance adversely affect the delivery of governmental services, such as water, sewer, or trash pickup? No.
6. Did the property owner purchase the property with knowledge of the zoning restrictions? The owner purchased an empty lot and did not have a home designed yet which would make any restrictions clear.
7. Do special conditions or circumstances exist as a result of the actions of the owner? No.
8. Can the property owner's predicament feasibly be obviated through some method other than a variance? No.
9. Would the spirit and intent behind the zoning requirement be observed and substantial justice done by granting a variance? Yes.
10. Will the granting of the variance requested confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district? No.
11. Would a literal interpretation of the provision of this Code deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code? A literal interpretation would force the accessory structure into an undesirable location and would require significantly more pavement than would be typical.

Signature



Date 6/8/2018

**DRAFT**  
**Planning Commission Meeting**  
July 2, 2018

Chairman Stanard called the Planning Commission Meeting to order at 6:17 pm.

ROLL CALL:

PRESENT: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard

ABSENT: Mr. Bolek

Mayor Renda made a motion seconded by Mr. Buczek to approve the minutes from the Regular Planning Commission Meeting on June 4, 2018

AYES: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard

NAYES: None

MOTION CARRIED

**Greenblatt Residence - Lot Consolidation**

3991 Ellendale Road

Property owner Ilene Greenblatt was in attendance and seeking to consolidate parcels 912-24-045/046, 912-24-047, 912-25-006. Ms. Greenblatt said the consolidation is needed to allow for installation of a new septic system.

Mr. Filarski said he will need the final plat and legal descriptions as soon as they are available.

Mr. Buczek made a motion seconded by Mayor Renda to approve the lot consolidation at 3991 Ellendale Road.

AYES: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard

NAYES: None

MOTION CARRIED

**Greenblatt Residence - Public Hearing, Conditional Use for Streambank Restoration and Reinforcement**  
3830 Falls Road

Mrs. Lane administered the oath to those wishing to speak, and Mr. Stanard opened the Public Hearing at 6:21 pm.

Ilene Greenblatt was in attendance with Rob DeRue, who will be working on the project. Mr. DeRue said the bank has eroded roughly nine feet in the last few years, placing a power pole on the property in jeopardy, as it is now only seven feet from the bank. There is an existing gabion stone wall which Mr. DeRue feels should be extended approximately 60 feet to protect the power pole and property. Ms. Greenblatt told the Commission that this is her primary residence.

Mr. Stanard reviewed Mr. Filarski's report to the Commission, which noted the following:

- A Conditional Use Certificate is required from the Village
- The proposed work is above the ordinary high water mark of the Chagrin River and, based on the current site preparation that has occurred, a permit is not required from the Army Corp of Engineers or the Ohio EPA. If the work extends below the ordinary high water mark, those permits would be required.
- The proposed wall is a continuation of an existing wall on the property.
- A flood hazard development permit is required, which would be issued by Mr. Filarski.

Mr. Filarski recommends approval of the project contingent upon these items being addressed.

Site photos showing the property, existing wall, and electrical pole were displayed. Mr. Stanard clarified with Mr. DeRue that the wall would be lengthened but that no height would be added.

There were no concerns or questions from Mr. Kowalczyk.

Mr. Stanard closed the Public Hearing at 6:24 pm.

Mr. Buczek made a motion seconded by Mayor Renda to recommend to Council approval of the Conditional Use Certificate to allow streambank restoration and reinforcement in a riparian area at 3830 Falls Road, contingent upon final review and approval by the Village Engineer.

AYES: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard  
NAYES: None  
MOTION CARRIED

**Luna Bakery - Public Hearing, Conditional Use Certificate, Restaurant Outdoor Seating**

34105 Chagrin Boulevard, Suite E

Jerry Severin, owner of Moreland Hills Towne Centre LLC., was in attendance with Luna Bakery owner Bridget Tibeault.

Prior to the Public Hearing being opened, Mr. Severin asked if the Conditional Use Certificate was truly necessary and if the seating could be considered common seating for the entire complex rather than specifically for the bakery. He said the Towne Centre was originally conceived as a gathering place for residents to dine and shop, and this seating can be used by anyone who wishes to take a cup of coffee and sit outside. He feels the bakery is not the same as a restaurant, and the seating will not be specific to just the bakery.

Mrs. Lane reviewed several sections of the Zoning Code and noted that the definition of "restaurant" is broadly worded. She felt the proposed seating needs to be specific to the bakery, as there is criteria regarding outdoor dining and hours of operation which must be consistent with the hours the bakery is open. She added that a conditional use for outdoor restaurant seating takes into consideration seating both with and without servers.

Mrs. Lane administered the oath to all those wishing to speak. Mr. Stanard opened the Public Hearing at 6:32 pm.

A drawing showing the proposed placement of the tables and chairs as well as an added trash receptacle was displayed, and Ms. Tibeault showed the Commission a photo of the chairs and tables in place. She reiterated that there will not be table service; customers will order inside and can take their food out to the tables if they wish. The tables extend in front of the tenants on either side of the bakery; Ms. Tibeault said the other tenants have asked that seating be provided.

Resident Ilene Greenblatt said she thinks this will be a fabulous addition to the Towne Centre.

As there were no other comments from the audience, Mr. Stanard closed the Public Hearing at 6:34 pm.

Mr. Stanard noted that this would not be year-round seating due to the weather in the area. He asked Ms. Tibeault what the bakery's hours would be and what would happen to the tables and chairs when the bakery was closed. She replied that the bakery is open from 7 am to 5pm and that the umbrellas would be closed and chairs pushed in after hours. Ms. Tibeault confirmed to Mr. Stanard that the seating extends in front of the tenants on either side, but that they spoke with those tenants prior to signing a lease, who were in agreement with the proposal. Mr. Severin added that this will be a good location for residents to gather.

Mr. Janke asked if there will be enough clearance for walking and safety access and if the tables and chairs being proposed are the ones already in place. Mr. Severin answered that there was adequate clearance and that yes, he had told Ms. Tibeault to put the seating in place already.

Neither the Building Commissioner nor the Village Engineer had any comments.



Mr. Stanard asked if any additional lighting was planned; Mr. Severin replied there was not.

Mrs. Cooper said she feels this is a good idea and does not think there will be a problem with parking, as the other restaurants in the Centre do not open until later.

Mr. Buczek asked where the tables and chairs would be stored during the winter months. Ms. Tibeault said they had not discussed this, and Mr. Severin said they could be stored in a hallway between the two buildings at the site.

A discussion followed concerning the actual placement of the tables as has been observed at the site versus what is shown on the drawing. Mayor Renda said the tables are more widely placed than what is illustrated. Mr. Severin said the tables were utilized during a recent special event at the Towne Centre. Mayor Renda said her concern was that the tables not be too closely spaced. Ms. Tibeault replied that the number of tables shown on the drawing is accurate but that they will be spread out a bit further toward Fringe.

Mr. Buczek asked if the area where the tables are placed is part of the bakery or part of the common area; Mr. Severin replied it is part of the common area.

Mr. Buczek made a motion seconded by Mayor Renda to recommend to Council approval of a Conditional Use Certificate to allow outdoor seating at Luna Bakery, 34105 Chagrin Boulevard Suite E.

AYES: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard

NAYES: None

MOTION CARRIED

**Robbins Residence - Pool Decking**  
**32155 Jackson Road**

Michael Jerman was in attendance with David Robbins to present the proposal, and site plans and photos were displayed. Mr. Jerman explained that this will be a two-part project, with a pool and ground-level decking to be installed now and an addition with contemporary decking to be added next year. The ground-level decks will connect to the later phase of construction and will serve as seating pods for loungers; they will also hide rollers and mechanical equipment for an auto-cover to be installed as part of the pool.

Mr. Robbins said that the pool is 75-feet long, which results in the surrounding decking being above the square footage limit that can be approved administratively.

Mr. Kowalczyk confirmed that he has approved the pool but, because the deck area being replaced is more than 20 percent larger than what is already there, the Code requires Planning Commission approval. Mr. Kowalczyk added that a fence would be installed around the yard, which will satisfy the requirements for pool fencing. Mr. Kowalczyk added that the plans were viewed by the Village Architect, who had no concerns. Mr. Filarski had no concerns or comments.

Mr. Buczek made a motion seconded by Mrs. Cooper to approve the pool decking at 32155 Jackson Road.

AYES: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard  
NAYES: None  
MOTION CARRIED

#### Discussion

A discussion followed regarding another appeal that has been made to the Board of Zoning Appeals, in this case, an appeal of the denial of a rental application that would allow resident Peter Hardin-Levine to rent cottages on his property. Mrs. Lane said the issues to be reviewed will be similar to those reviewed at the June 18 Special Public Hearing, and she anticipates several neighbors will wish to speak. Therefore, this may be another long meeting.

The applicants have requested to be on the August 27 agenda. However, there will be no way to know how heavy the agendas for the regular BZA and Planning Commission meetings scheduled for that evening will be until after the August 6 submittal deadline.

Mrs. Lane said she would contact the attorney for Mr. Hardin-Levine about the possibility that a special meeting date might be set but that no decision can be made until August 6.

As there were no further items for discussion, Mr. Buczek made a motion seconded by Mayor Renda to adjourn the Planning Commission Meeting at 7:05 pm.

AYES: Mr. Buczek, Mrs. Cooper, Mr. Janke, Mayor Renda, Mr. Stanard  
NAYES: None  
MOTION CARRIED

Respectfully submitted,

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Theresa Dean, Assistant Clerk