

**Board of Zoning Appeals Public Hearing  
April 25, 2016  
Minutes**

Chairman Paul Stanard called the Board of Zoning Appeals Meeting to order at 6:02 pm.

PRESENT AT ROLL CALL: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard  
Absent: Mr. Bolek

OTHERS PRESENT: Filarski, Village Engineer; Aimee Lane, Law Director; Richard Kawalek, Village Architect; Theresa Dean, Assistant Clerk.

Mr. Fritz made a motion seconded by Mayor Renda to approve the minutes from the Board of Zoning Appeals Meeting held on March 28, 2016.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mayor Renda, Mr. Stanard

NAYS: None

ABSTENTIONS: Mr. Pogatschnik

MOTION CARRIED

At this time, Mrs. Lane administered the oath to those who wished to speak at this evening's public hearing. Mr. Stanard declared the public hearing open at 6:03 p.m.

**Entrance Tower - Area Variance**

34300 Chagrin Boulevard

CRU Restaurant

Richard Kawalek, the design architect of the CRU restaurant owned by McDonald Properties, LLC, was present. An area variance in the form of a three (3) foot height variance is being requested for the center tower of the building, specifically the upper roof structure over the entrance. Twenty-five (25) feet is the allowable height per the Zoning Code; a height of twenty-eight (28) feet is requested. Mr. Kawalek and the owners feel they would be at a substantial disadvantage by adhering to the lower height requirement and cited that neighboring businesses have buildings much taller than twenty-five (25) feet. Additionally, the restaurant

will be set further back from the road to allow for landscaping, and a higher entrance tower will allow for more visibility.

Mr. Stanard asked if anyone in the audience wished to comment on the requested variance. As there were no comments, Mr. Stanard declared the public hearing closed at 6:05 p.m.

Mr. Stanard asked Mr. Loconti about the height of the tallest neighboring building; Mr. Loconti stated that he did not have the actual measurements available but confirmed that neighboring buildings are substantially taller than twenty-five feet.

Mr. Fritz commented that, having reviewed the elevations and application and taking into consideration the neighboring structures, he felt the variance was appropriate and that the restaurant would be a beautiful addition to the intersection.

Mayor Renda pointed out that the height allowance in the retail business district is actually lower than allowed in the residential district. This will be considered for modification by the Village's legal counsel going forward.

At this time, Mrs. Lane read the Finding of Facts into the record:

1. 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. Specifically, adjacent retail and office buildings are taller than twenty-five feet either at their entrance structures or at the masonry walls screening roof equipment.
2. The property in question will yield a reasonable return, and there can be a beneficial use of the property without the variance.
3. The variance is not substantial and, at three (3) feet for the roof structure at the entrance tower element, is the minimum necessary to make possible the reasonable use of the land or structures.
4. The essential character of the neighborhood would not be substantially altered, and adjoining properties would not suffer substantial detriment as a result of the variance.
5. The variance would not adversely affect the delivery of governmental services.
6. The property owner did purchase the property with the knowledge of the zoning restrictions.
7. Special conditions or circumstances do not exist as a result of the actions of the owner.
8. The property owner's predicament cannot feasibly be obviated through some method other than the variance.
9. The spirit and intent behind the zoning requirement will be observed and substantial justice done by granting the variance.

10. The granting of the variance requested would not confer on the applicant any special privilege that is denied to others in this zoning district. A literal interpretation of the provision of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code; again, adjacent retail and office buildings exceed twenty-five (25) feet in height.

Mrs. Cooper made a motion seconded by Mr. Fritz to accept the finding of facts.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS:

MOTION CARRIED

Mr. Stanard made a motion seconded by Mayor Renda to grant the three (3) foot height variance at 34300 Chagrin Boulevard.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS:

MOTION CARRIED

**Garage Addition - Area Variance**

195 Meadowhill Lane  
Prendergast Residence

Hanna Cohan with Sixmo, Inc., architect, was in attendance on behalf of the property owners.

Mr. Stanard declared the public hearing open at 6:12 p.m.

Ms. Cohan stated that the intent of the project is to add a single-car garage to the existing two-car garage. The geometry of the house and location of the current garage make it difficult to place the addition within the required front-yard set back. Therefore, the applicant is seeking an eleven (11) foot, three (3) inch variance to the required seventy (70) foot front set back. As proposed, sixty-five (65) percent of the addition will be within the required set back. Ms. Cohan stated that the architects and owners have studied other design options and believe this is the only way to get an attached single-car garage into the available space.

Mr. Stanard asked if there were any comments from the audience. As there were none, the public hearing was closed at 6:13 p.m.

Mr. Fritz asked if there would be a hardship by placing the addition within the acceptable set-back requirement, for example, by pivoting the addition around toward the back of the property. Ms. Cohan replied that the traffic pattern to access the garage would be awkward and not allow easy access or a good flow from the garage to the front of the house. Mr. Fritz asked about the configuration and grade of the land. Ms. Cohan stated that the area is relatively flat but that pushing the garage further back would make the turn from the driveway into the garage a difficult one.

Mr. Stanard asked to see current site photos, which were reviewed. He also stated that the drawings have been reviewed and approved as submitted by the Village Architect.

Mrs. Cooper commented that there appeared to be a slight drop off at the proposed site of the garage, which Ms. Cohan confirmed but stated was small. Mrs. Cooper also observed that photos show the site is fairly wooded and that there is wide side yard.

Mr. Stanard stated that he visited the site and that the proposed location seems logical; he confirmed with Ms. Cohan that sixty-five (65) percent of the area of the building would be compliant with existing zoning. He also noted the thorough, diligent preparation of the zoning application.

Mrs. Lane recommended that the Finding of Facts be accepted with the suggestion that the wording under item number three be modified to read "sixty-five (65) percent of the addition complies with the set-back requirement, with thirty-five (35) encroaching into the set back." Therefore, the finding of facts are as follows:

1. Special conditions and circumstances exist which are peculiar to the land or structure involved - the location of the house on the property and the angle of the existing garage do not allow for the placement of an attached garage within the required zoning set backs.
2. The property in question will yield a reasonable return and there can be a beneficial use of the property without the variance.
3. The variance is not substantial. Sixty-five (65) percent of the proposed garage addition complies with the set back requirement, with thirty-five (35) percent encroaching into the set back. The size of the addition is the minimum possible to add an attached single-car garage. The interior dimensions are sixteen (16) feet by twenty-two (22) feet.
4. The essential character of the neighborhood would not be substantially altered, and adjoining properties would not suffer any substantial detriment as a result of the requested variance.

5. The variance would not adversely affect the delivery of governmental services such as water, sewer, or trash pickup.
6. The property owner did purchase the property with the knowledge of the zoning restrictions.
7. Special conditions or circumstances do not exist as a result of the actions of the owner.
8. The property owner's predicament cannot feasibly be obviated through some method other than a variance. The property owners cannot add an attached garage with any method other than a variance. There is no other feasible location to place an attached garage.
9. The spirit and intent behind the zoning requirement will be observed and substantial justice done by granting a variance. The variance does not adversely affect any neighboring properties, and the proposed addition increases the value of the home.
10. The granting of the variance requested would not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
11. A literal interpretation of the provision of this Code would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

Mr. Stanard made a motion seconded by Mr. Pogatschnik to accept the finding of facts.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mr. Stanard

NAYS:

ABSTENTIONS: Mayor Renda

MOTION CARRIED

Mr. Stanard reminded the applicant that, should the variance request be denied by the Board of Zoning Appeals, the same application cannot be brought forth again. The applicant wished to proceed with the vote.

Mr. Stanard made a motion seconded by Mrs. Cooper to approve the eleven (11) foot, three (3) inch area variance for the single-car garage addition to the existing two-car garage at 195 Meadowhill Lane.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mr. Stanard

NAYS:

ABSTENTIONS: Mayor Renda

MOTION CARRIED

**Decorative Patio Wall – Area Variance**

195 Sterncrest  
Goss Residence

Timothy Roach of Blackstone Property Maintenance, the designer and builder, was present to represent the project on behalf of the property owners. As Mr. Roach was not present for the previous swearing in, Mrs. Lane administered the oath at this time, and Mr. Stanard declared the public meeting open at 6:22 p.m.

Mr. Roach stated that the proposed patio will be constructed of bluestone with a flagstone walkway leading to the tennis court. The patio will include an outdoor kitchen, fire pit, and a decorative retaining wall. The applicant is asking for an eight (8) inch variance to raise the height of the wall to twenty-six (inches) from the eighteen (18) inches currently allowed in the Zoning Code.

Mrs. Cooper asked if the purpose of the variance is to allow for a more comfortable height for seating on the wall, and Mr. Roach confirmed that it is.

Mr. Stanard asked for comments, if any, from the audience. As there were none, the public hearing was closed at 6:24 p.m.

Mr. Stanard asked if twenty-six (26) inches is the standard height for bench seating, and Mr. Roach said that it is closer to a standard seating height than the allowable eighteen (18) inches. Mr. Stanard also commented that the wall in question is more a patio component than a retaining wall as defined in the Zoning Code. Mayor Renda added that distinguishing this type of decorative patio wall to be used as seating versus an actual retaining wall is also an issue to be revisited by the Village's legal counsel

Mr. Fritz asked the Building Commissioner if safety railings are required on this project. Mr. Loconti stated that no railings are required, as the proposed patio is at grade. Mr. Roach also confirmed to Mr. Fritz that the entire patio is at grade.

Mrs. Cooper commented that she also sees the need to differentiate between a retaining wall and a patio seating wall in the Code going forward.

Mrs. Lane read the finding of facts:

1. Special conditions and circumstances do not 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.

2. The property in question will yield a reasonable return and there can be a beneficial use of the property without the variance.
3. The variance is not substantial and is the minimum necessary to make possible the reasonable use of the land or structures.
4. The essential character of the neighborhood would not be substantially altered, and adjoining properties would not suffer substantial detriment as a result of the variance.
5. The variance would not adversely affect the delivery of governmental services such as water, sewer, or trash pickup.
6. The property owner did purchase the property with the knowledge of the zoning restrictions.
7. Special conditions or circumstances do not exist as a result of the actions of the owner.
8. The property owner's predicament cannot feasibly be obviated through some method other than a variance.
9. The spirit and intent behind the zoning requirement will be observed and substantial justice done by granting a variance. The variance being sought is a minor deviation from the current Code.
10. The granting of the variance requested would not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
11. A literal interpretation of the provision of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

Mayor Renda made a motion seconded by Mr. Fritz to accept the finding of facts.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS:

MOTION CARRIED

Mr. Stanard made a motion seconded by Mrs. Cooper to approve the eight (8) inch height variance for the patio wall height at 195 Sterncrest.

ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS:

MOTION CARRIED

Mayor Renda made a motion seconded by Mr. Pogatschnik to adjourn the meeting at 6:30 p.m.

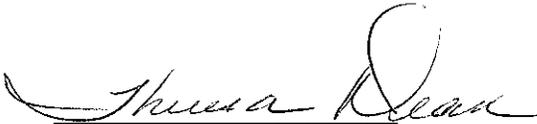
ROLL CALL:

AYES: Mrs. Cooper, Mr. Fritz, Mr. Pogatschnik, Mayor Renda, Mr. Stanard

NAYS:

MOTION CARRIED

Respectfully submitted:

A handwritten signature in cursive script that reads "Theresa Dean". The signature is written in black ink and is positioned above the printed name.

Theresa Dean, Assistant Clerk