

**MINUTES OF BOARD OF ZONING APPEALS
CAUCUS ROOM & VIA ZOOM
CITY OF INDEPENDENCE
January 19, 2023**

New Business:

- 1. Kingscote Park, PPN # 563-26-001, Khaled Tabbaa** – Requesting a variance to 1165.01 of 10 ft. to permit a new dwelling to be 5 ft. from the side yard. (15 ft. permitted, 5 ft. requested).

The meeting was called to order by Chairman Mark Moreal at 5:33 p.m. and the following responded to Roll Call:

PRESENT: **Mark Moreal, Chairman**
 Councilperson Chris Walchanowicz
 Pasquale Monteleone, Jr.
 Carol Fortlage
 Charles Bredt

ALSO

PRESENT: **William Doyle, Assistant Law Director**
 Anne Lynch, City Planner
 Michael Gero, Building Official

Chairman Moreal stated that at this time he would like to ask the Board if there were any corrections, changes or additions to the December 15, 2022, meeting.

Mrs. Fortlage asked may I ask that we do that after we consider the issue because I have quite a few things to mention about the minutes, and I'm not even sure we can approve them.

Chairman Moreal stated okay. First, on tonight's agenda, the only thing on tonight's agenda is number one Kingscote permanent parcel number 563-26-001, Khaled Tabbaa. Before I go on, I need to read the BZA opening statement.

The Board of Zoning Appeals is a quasi-judicial body and, as such, its role is similar to a judge in a court case. The Board will hear evidence and testimony that is factual and will make decisions based upon the facts which are presented, and the rules as set forth in the Zoning Code principles of Ohio law.

The City of Independence has adopted a Zoning Code and, per the City's Charter, has appointed a five-member Board of Zoning Appeals. This Board is empowered to hear and decide appeals and to authorize variances from the strict terms of the Zoning Code where the variance will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the

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Zoning Code will result in practical difficulty or undue hardship, depending on the type of variance requested.

With this being stated, the Board's proceedings are relatively informal; but, in order to conduct an orderly meeting and allow all parties of interest, mainly contiguous property owners (or their legal representatives), the opportunity to present the evidence, certain procedures need to be followed:

All interested parties must be sworn in. The applicant will be asked to present evidence to support the requested appeal, the Board will ask questions, and then all interested parties (contiguous property owners) may present evidence concerning the appeal and ask questions regarding previously presented evidence. Any party may ask questions to another party.

It is the applicant's burden to produce evidence to support the application. The Board will not make the applicant's case for them. In order to prepare appropriate meeting minutes, each person who speaks will need to state, for the record, his or her full name and address. The meeting may be continued by either the applicant or the Board. The Board must base their decision upon facts and not on expressions of concerns or non-factual matters. The action of the BZA does not become final until 30 days after the date of the meeting that the minutes are approved by the BZA. Any appeal may be made to the Cuyahoga County Court of Common Pleas by an interested party within 30 days of the date the minutes are approved.

Kingscote Park, PPN # 563-26-001, Khaled Tabbaa – Khaled Tabbaa was in attendance and sworn in.

Chairman Moreal asked Debi, is anyone online, any neighbors?

She stated no, nobody's online.

Chairman Moreal asked, and all neighbors were notified?

She stated yes, they were.

Mr. Tabbaa stated I can explain my hardship on the board if that picture (inaudible).

Chairman Moreal stated practical difficulty, okay sure.

Mr. Tabbaa stated the driveway with the pad on the east side of the house, the pad is 25' plus the 5' if I am granted the 10' variance. It wouldn't look as bad as taking 5' on each side because this way I'm maintaining 30' from each house as a distance.

The hardship that I have is they couldn't get a side load for the garage on the west side because the elevation is about 6' higher than the rest of the lot so it would have been very difficult. So, I had a side load from the front of the house, and when we were drawing the house, it would have

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been so difficult to make that turn into that first garage, the first section.

Mrs. Fortlage asked are these all the same?

Mr. Tabbaa stated no, (inaudible). So, right here I have two columns that hold a roof, the line which is this one here, and I only have 15' to turn in the first bay. Why I asked for the 10' is to shift the house over so this way I have enough turn to pull in and out.

Mr. Bredt asked it's a three-car garage?

Mr. Tabbaa stated it's a three-car garage, so there's one door here, one door here, and one door here and the house looks almost like that. It's so close to these two pillars that turn into this garage, and the elevation on this side is 6' higher than the rest of this because it slopes down, so I couldn't get a side load from this side.

Mr. Bredt asked did you bring a topo?

Mr. Tabbaa stated I did not bring a topo. Just to show the elevation?

Mr. Bredt stated yeah, that 6'.

Mr. Tabbaa stated I did not, but it's a fact and I can prove it and show it and bring a copy.

Chairman Moreal stated Mr. Khaled, I don't see; nothing's changing. You're talking about being able to turn into the garage. The driveway is not the issue, the house is sitting 5' from the side yard. Right there.

Mr. Tabbaa stated yeah, because I shifted it. It was directly behind the house, the garage. So, when I shifted the 10' then I had enough turn.

Mrs. Fortlage asked why don't you use a front load garage?

Mr. Tabbaa asked a front load? They don't allow it in that development.

Mrs. Fortlage asked that's a deed restriction?

Chairman Moreal stated I believe it is.

Mr. Tabbaa stated (inaudible) side load, and then I tried to get it from this side.

Chairman Moreal asked how wide is your lot?

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Mr. Tabbaa stated it's 105', so, I have 15' on each side. When I came in for the first zoning everything was okay, but we're trying to make that turn. When you pull in it's fine, but when you pull out you can't. It's not enough.

Chairman Moreal stated okay, right there. What did you change?

Mr. Bredt stated he moved it over, so that 15' becomes a 5'.

Chairman Moreal stated no, no, no, but right there it fits in there. What am I missing here?

Mr. Tabbaa stated you're missing the pillars pulling out.

Several people began speaking at once.

Mr. Bredt stated you made the house a little wider.

Mr. Tabbaa stated I didn't make the house wider. I just shifted the house away from the garage. If you see those rooms directly behind the garage, but when I shifted it, I had shifted the whole house over.

Chairman Moreal stated when you went to go switch the garage you had to shift the house.

Mr. Tabbaa stated correct because it's 6' higher, I couldn't move the garage. I could have asked for 5' on each side, but it would not work.

Mrs. Fortlage stated so, you did not move the garage even though it's outlined in red.

Mr. Tabbaa stated the garage is staying where it's at. I just shifted the whole house.

Mr. Bredt stated in this drawing if I were to transpose it on this one, you would come down where your pad is, then you extend this out a little bit before you come down according to this drawing and this becomes wider (inaudible).

Mr. Tabbaa stated yeah, but the drawing (inaudible).

Mr. Bredt stated so, the house is bigger.

Mr. Tabbaa stated no, the house is the same size. What I did, I'll show you. What I did is I shifted; this is the garage, so I moved this whole house 10' over and left the garage where it's at so I have enough (inaudible) in front of the house.

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Mr. Bredt stated but, if you moved it over the 15' to your left would become a greater distance from your May 19th drawing.

Chairman Moreal stated (inaudible).

Building Official Gero stated the garage is staying in the same place, Charlie. He's moving the house.

Mr. Bredt stated okay, the house itself not the whole footprint.

Mr. Tabbaa stated so, I just opened the...

Chairman Moreal stated you gained some footage on the house by rights, right?

Mr. Tabbaa stated no.

Mrs. Fortlage stated he's saying that this area here now is empty space because the whole house moved over.

Several people began speaking at once.

Mr. Tabbaa stated nothing comes behind the house. Let's think of them as two separate buildings. The garage stayed where it's at, and this whole house moved from here to here.

Building Official Gero stated that's the new drawing.

Mr. Tabbaa stated this is the new drawing, and it's the same square feet.

Chairman Moreal stated go back to the other one please.

Mr. Monteleone asked are you worried about this 5' with this guy's driveway right here?

Mr. Tabbaa stated actually, no. Technically I am 30' away from him; his pad is 25' plus my 5' that's 30'.

Mr. Monteleone stated (inaudible) someone parking here.

Mr. Tabbaa stated I'm not really concerned, but I mean if 10' on one side is not good for you guys, I can do two 5'.

Chairman Moreal asked did you talk to your neighbor?

Mr. Tabbaa stated yeah.

Chairman Moreal asked you talked to this guy?

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Mr. Tabbaa stated yeah, the neighbor is fine.

Chairman Moreal asked what do you mean you could do two 5s?

Mr. Tabbaa stated instead of 10', I can take 5' off here, so I'll be 10'.

Chairman Moreal asked if you move over this way, what does that do to your building line and the riparian?

Mrs. Fortlage asked what are you guys talking about? We can't see the drawing that you're pointing at. We're talking about moving 10', so there's no drawings.

Mr. Bredt stated so, this becomes 10' here, and this becomes 10' here. Is that what you're saying?

Mr. Tabbaa stated correct.

Mr. Bredt stated then the corner becomes part of the issue into the riparian.

Building Official Gero stated let me interject here if I could. The riparian line that he has on there is not the accurate riparian setback. In May Don explained that process that that measurement was taken from the center of the stream as opposed to the edge of the stream, and a variance was granted from him to encroach into the riparian for the whole house, for whatever portion of the house. Not the whole house in the riparian, but you can encroach.

Chairman Moreal stated he's okay with it.

Building Official Gero stated the variance was granted.

Chairman Moreal stated with that being said, could you move it 5'?

Mr. Tabbaa stated I could do 5' on each side, that's the same thing. It would be 10' away from the driveway.

Chairman Moreal stated it would be 10' and 10'.

Mr. Monteleone stated it would be 10' and 10' instead of 15' and 5'.

Mr. Tabbaa stated either or. I would like to have 10', so if you give me 10' on one side or if you give me 5' on each side that's a total of 10'. It would be the same opening.

Mrs. Fortlage stated I am very uncomfortable with 5'.

Mr. Bredt stated yeah, so am I. This elevation over here, are there windows at grade?

Mr. Tabbaa stated no.

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Mr. Bredt stated because when this gentleman plows, he's going to throw snow over his property line onto your property line.

Mr. Tabbaa stated correct.

Mr. Bredt stated, and I don't want to find out that there's a complaint based on the snow hitting the side of your house.

Mr. Tabbaa stated I don't have a basement.

Mr. Bredt stated good answer.

Mr. Monteleone stated I was worried about that 6' difference on that side with the 15'. Mike, that 15' on the west side, that 6' drop or whatever you were saying; you move that house over and that could be even more of an issue than just granting it like this and having him have the 5'.

Building Official Gero stated I guess he moved the house portion. In the plan can the house be moved back towards the west and leave the garage where it's at?

Mr. Tabbaa stated well, I'm trying to gain 10' not 5'. Now if you tell me to move just the house 5', I'm only gaining 5'. Do you follow what I'm saying? If I leave the garage where it's at and move the house over 5' that means I'm only granted 5'.

Building Official Gero stated you're granted a 5' variance on one side.

Mr. Tabbaa stated yes, but not on the other.

Building Official Gero stated on your lot the code requires a 15' side yard.

Mr. Tabbaa stated I am asking for 5' on each side or 10' on one side.

Building Official Gero stated I heard 10' and 10'.

Mr. Tabbaa stated yeah 10' and 10' or 5' and 15'.

Mr. Monteleone stated (inaudible), but then you got that 6' drop. Then you have to put up some sort of retaining wall.

Mr. Tabbaa stated well, you have to do that.

Mr. Monteleone stated you're going to be limited to 10', that's tough.

Mr. Tabbaa stated correct, that's why I kept the 15'.

Mr. Monteleone stated you're better off having one problem instead two.

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Mr. Tabbaa stated and there are so many houses that are less than 30' if you drive down the whole development. So many houses that are closer than 30'.

Mrs. Fortlage stated that's not how it counts. It counts from the property line.

Building Official Gero stated yeah, it's a side yard requirement regardless of what the distance between the houses are. The side yard is from the property line to the building.

Mr. Tabbaa stated but, if you are less than 30' between two houses then you're not even meeting the side yard.

Mr. Bredt stated it goes to the property line, not to the other house.

Mr. Tabbaa stated the other house should be 15' away from the property line. So, I'm 30' away.

Mrs. Fortlage stated if your neighbor chose to give himself a bigger cushion that doesn't grant you the right to use the bigger cushion. It's from the property line.

Mr. Tabbaa stated I'm just asking for it. If I get it, I get it.

Chairman Moreal asked could you make the house fit the lot? Have you thought about redoing the house?

Mr. Tabbaa stated I'm not redoing (inaudible).

Chairman Moreal stated without any variance you'd have to fit an 85' wide house in a 105' lot.

Several people began speaking at once.

Mr. Tabbaa stated right now I have 75.

Mr. Bredt stated 85'.

Several people began speaking at once.

Chairman Moreal stated the side in question right now at 5', knock it down to 10' and make it fit. I don't know how big the house is.

Mr. Tabbaa stated so, you would feel more comfortable with 5' versus 10'? Is that what you're saying?

Mrs. Fortlage stated let's understand what you even mean. You mean leaving it 10' from your property line instead of 15'?

Mr. Tabbaa stated yes. Do you feel more comfortable with 10'?

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Mrs. Fortlage stated I'd have a better chance of approving it at 10'. I'm really not too keen on approving a 5'.

Councilperson Walchanowicz stated me either.

Chairman Moreal stated (inaudible) you're not on a skinny lot.

Several people began speaking at once.

Mr. Tabbaa stated again, I can build a smaller house, but it doesn't fit the neighborhood, and this is a place where I want to move.

Mrs. Fortlage stated you can take out the pillars.

Several people began laughing.

Mrs. Fortlage stated I'm not kidding, you said that's the problem with the fitting into the garage. We aren't supposed to be solving your problem.

Mr. Tabbaa stated if you want to do 5', I should be okay with it. 5'-6' I'll be very happy. 10' if it's hard I understand it.

Mrs. Fortlage stated well, it seems to me that if you want to revise your request, we need to see the information in order to actually vote to approve it. Is that right?

Chairman Moreal stated I think we can approve a variance for whatever he builds. That's got to go to the next step anyways, ARB, but we would stay at 15', as is. Now, if we change that side, we'd have to re-notify the neighbors then we couldn't vote on it tonight.

Mr. Tabbaa stated but, it would be tough though on that side, the west side because of the elevation.

Chairman Moreal stated right now the west side stands at 15'.

Mr. Monteleone stated tell us the numbers you're talking about on the east side.

Mr. Tabbaa stated 10'.

Mr. Monteleone stated you wanted 10', so you're only going to grant...

Chairman Moreal stated no, a 5' variance, 10' requested. That's what kind of jumped out at me.

Mr. Tabbaa stated I think that's a lot better than nothing, I guess. I'll have 5 extra feet, so I'll have 20' between the garage door and the pillar. I can try to move the pillar away from, take it away.

Mr. Monteleone stated I'm just worried about that driveway so close to the edge.

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Chairman Moreal stated and like he said too with pushing snow. I know you don't have a basement, but...

Mr. Bredt stated (inaudible) up against your house.

Mr. Monteleone stated you know, it could be an issue. It could be.

Mr. Bredt stated I only looked at the floor plan very briefly, and the elevation and it's a very handsome house. The cost per square foot of building any house anymore is getting to be so ridiculous. However, I think personally my suggestion would be to come back with a new drawing showing 10' on the one side, which unfortunately requires the neighbor being notified and 10' on the existing side or on the east side. I don't want to see you make the house smaller if what you've drawn is your dream house, but we do have to have the other neighbor notified.

Chairman Moreal stated I see what you're saying.

Mr. Tabbaa stated when you say other neighbors, on the west side or east side?

Mr. Bredt stated that would be the west side because we would be; I would be inclined to go 10' here and 10' here, but to make that under the 15' that neighbor has to be then identified.

Mr. Tabbaa stated that's if you want to grant me, but I don't want to move on that side. If I get the 10' on this side (inaudible).

Mr. Bredt asked so, you'd rather make the house smaller?

Mr. Tabbaa stated no, I'd rather get the 5' and not move this because of the way that...

Chairman Moreal stated but doing that you'll have to make the house smaller.

Mrs. Fortlage stated no he doesn't.

Several people began speaking at once.

Mr. Tabbaa stated let me tell you one thing. The square foot of the house is the same, I'm not making it bigger. I'm only shifting it, so the square foot is 3,000 sq. ft. downstairs, this is 3,000 sq. ft. and I'm shifting it over. So, I'm just leaving this here and I'm moving it from here to here with the same layout. I'm not gaining or losing any square footage.

Chairman Moreal stated if you maintain 10' on that east side, what are you doing to the house?

Mr. Tabbaa stated it's the same house nothing changed.

Mrs. Fortlage stated what he's doing is he's taking this line and moving it 5'.

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Chairman Moreal stated 5' that way, correct? Is that what you're going to do?

Mr. Monteleone asked the same 10'?

Mr. Bredt stated the house itself.

Several people began speaking at once.

Mr. Tabbaa stated if you want to give me 10' then yeah I'll just shift this over a little bit.

Mr. Bredt stated oh okay, now we're on the same page.

Chairman Moreal stated okay, he wasn't saying it that way. He's not going to change the size; he just wants to move it over and then you enter the riparian a little bit more.

Mr. Tabbaa stated correct, which is already approved.

Chairman Moreal stated which is okay.

Mr. Monteleone stated I say you just give him the 10' instead of 15'.

Mr. Bredt stated we'll give him a 5' variance which nets out at 10' from the sideline.

Mr. Monteleone stated the only reason I tried to throw that 6' on the other side (inaudible).

Mr. Bredt stated I get it, but I have lots of mason friends.

Several people began speaking at once.

Mrs. Fortlage stated (inaudible), so if he takes this much and moves it so that the line is here this becomes 10'. That neighbors already been notified, and this is going to be (inaudible), but this neighbor's unaffected because that's according to code and he would stay within it.

So, in order to have that happen does the applicant have to revise his request first? What's the steps?

Assistant Law Director Doyle stated I actually don't know that that would need to be; are the drawings the same? This is going from 5' to 10', right?

Chairman Moreal stated 5' to 10'.

Building Official Gero stated so, Will what they've done before in the situations where the variance requested has been discussed and a lesser variance has been requested the applicant has modified the variance and then the board will vote on it.

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Assistant Law Director Doyle stated because it's not implicating any other requirements.

Building Official Ger stated because it's not any greater, it's lesser than what was published and requested originally.

Assistant Law Director Doyle stated okay, that's my reflection of that. No one else's rights are affected on that.

Building Official Gero stated right, exactly.

Mr. Monteleone asked Carol, do you want to start that off?

Chairman Moreal asked we amend the request, right?

Assistant Law Director Doyle stated yes.

Mr. Bredt asked do we need to make a motion to amend?

Chairman Moreal asked Will, can you make a motion?

Assistant Law Director Doyle stated yes.

Mr. Bredt stated I'll make a motion to amend the applicants request and take the 5' desired setback to a 10' setback.

Building Official Gero stated Charlie, make the request that the applicant is requesting a 5' variance to the 15' required side yard to be 10'.

Mr. Bredt stated what he just said I said. That was well stated.

Assistant Law Director Doyle stated I think you need to move first to agree to allow the amendment, then vote on the...

Several people began speaking at once.

Mr. Bredt stated I'll make a motion to allow the applicant to amend his request.

Mrs. Fortlage stated second.

A motion was made by Charles Bredt, seconded by Carol Fortlage, to allow the applicant to amend his request.

**ROLL CALL: Yeas: Bredt, Fortlage, Monteleone, Walchanowicz, Moreal
Nays: None
MOTION CARRIED**

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Mr. Bredt asked do you want to state for the record what you want to do?

Mr. Tabbaa stated I would like to withdraw my request for the 10' to a 5' variance on the side yard.

Mr. Bredt stated I'll make a motion to accept that.

Mrs. Fortlage asked should we have Mike name the motion? He did it well before.

Building Official Gero stated the variance request is for a variance of 5' to allow a 10' side yard on the east side of the home, the lot.

Mr. Bredt stated that's what I said.

Mrs. Fortlage stated second.

A motion was made by Charles Bredt, seconded by Carol Fortlage, to approve the variance of 5' to allow a 10' side yard on the east side of the lot.

**ROLL CALL: Yeas: Bredt, Fortlage, Monteleone, Walchanowicz, Moreal
 Nays: None
 MOTION CARRIED**

Chairman Moreal stated congratulations.

Mr. Tabbaa stated thank you. So, do I need to do anything else?

Building Official Gero stated the next step would be the revised drawings, get with Don as far as (inaudible).

Mrs. Fortlage stated we have minute things to bring up.

Mr. Monteleone stated let's do these minutes, Carol.

Mrs. Fortlage stated a new year, a new view, I don't know. I already mentioned to Amanda and to Debi that we didn't have a virtual meeting, there's a different way that this needs to be said in the header. It's a hybrid or however they want to say it and I'm requesting that we show who's in person and who's attending electronically, that's one.

In these particular minutes on page 2 at the bottom, I gave Mark a heads up about this, but the very last line says "Chairman Moreal asked the existing ?". I can't tell what that means, and Mark isn't sure either, so we may have to leave it alone. There was just a big blank on the notes in the recording?

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Chairman Moreal stated I think I brought up existing signs.

Building Official Gero stated when I made a statement, he asked the existing and the tone reflection wasn't there, but he worded it in the form of a question.

Mrs. Fortlage stated okay, so we can't do anything about that.

Mr. Monteleone stated well, I think it was like an existing something in the past (inaudible).

Mrs. Fortlage stated just for your information, another thing I requested is that Amanda try an approach that writes these as if it's a play. Bredt, there's all the words. Fortlage, there's all the words. Rather than saying stated and then the pronouns get mixed up in these paragraphs, so that's the thing I'm asking for going forward.

Then, the big one is on page 9. (Inaudible) as I can tell, we goofed this up. It's the reconsideration in the bottom third of the page. We talked about what to do and we did a reconsider. We agreed, no we were trying to agree to reconsider which we did not then do, but we all said nope we're not reconsidering it because we voted backwards from the intention that I recall of the meeting. All we were trying to do is vacate the 26'x26' approval so that we can substitute a 28'x28' approval.

So, I asked Will about that when we got here, and I am now asking Will to chime in and tell us how you think we can fix this.

Assistant Law Director Doyle stated so, I believe that this can be fixed. Could you probably do a shorter motion route, yes, but might as well do it the lengthier motion route and just do it right. We're going to now have 4 separate motions and I've kind of written them up. Whoever wants to review them, then say them, or however you want to do it.

Mrs. Fortlage stated well, why don't you tell us.

Assistant Law Director Doyle stated alright so the first motion would be to rescind the December 15, 2022 motion to reconsider the size variance of 26'x26' that was previously granted.

Mrs. Fortlage stated it wasn't granted, we said no.

Assistant Law Director Doyle stated I'm just wording it how this; we're rescinding this motion.

Mrs. Fortlage stated even though (inaudible).

Assistant Law Director Doyle stated correct and the vote on that. Vote on all 4 of these motions and actually this fix (inaudible).

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Then, this is the step where you may not need to rescind this, but I think to make this as clean as possible we just rescind it. We rescind the thing on the bottom of page 9, top of page 10. Then, correct this vote through basically rebringing the motion now that it's been rescinded and everyone voting the proper way they need to vote.

Mrs. Fortlage asked why would you say reconsider instead of rescind? We just want to get rid of the 26'x26'.

Assistant Law Director Doyle stated sorry yes, I was reading a lot of reconsidering. Then, you're rescinding...

Mrs. Fortlage stated that was approved in August.

Assistant Law Director Doyle stated in August.

Building Official Gero stated you reconsider a motion that was previously granted, the variance that was previously granted. You make a motion to reconsider it. What's missing is there was another vote in there to approve the motion. There was a vote to reconsider, there was a vote to approve the 26'x26', which everybody said no and then you went with the motion for the 28'x28'.

Assistant Law Director Doyle stated right.

Building Official Gero stated there's a motion, in these minutes there's something missing.

Mrs. Fortlage stated well, I don't know how there could be she listens to the recording.

Building Official Gero stated I'm just saying there was a motion to reconsider, then it was reconsidered, and then...

Mrs. Fortlage stated according to these minutes it wasn't.

Building Official Gero stated Carol, I was there at the meeting, I know how it worked.

Mr. Bredt stated Carol, this is the watergate (inaudible).

Mrs. Fortlage stated okay.

Several people began speaking at once.

Mrs. Fortlage stated so, we made a motion.

Mr. Bredt stated so, we have to put that missing motion into the middle of the minutes.

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Mrs. Fortlage stated well, I'd say maybe we need to have Amanda go back and listen again.

Mr. Bredt stated and just clean it up now (inaudible).

Mrs. Fortlage stated if that really happened because the statement right before it "Gero stated yeah, you'll reconsider the one you made in August and vote it down and negate it. Then, you can consider the new variance." But we didn't, all we said was reconsider it, should we reconsider it, and the answer was no. We voted 5 no's on reconsidering.

I remember saying which way do we vote on this because I thought we should vote yes. I don't think it's in the tape, but we cannot do these minutes until we find out.

Chairman Moreal stated (inaudible) until next time.

Mr. Bredt stated, "a motion was made to reconsider" and because of the way it was written we said no we're not reconsidering it. I gotcha now.

Mrs. Fortlage stated and the paragraph before was Mike telling us how to do it, so we tried to do it, but we didn't do the second half.

Mr. Bredt stated now, obviously transcribing stuff, if you took the two letters "re" in reconsider and just make it consider that would make it all work.

Mrs. Fortlage stated well, these are technical terms in Robert's Rules. Reconsider, rescind, etc.

Mr. Bredt stated I understand that, but I also know when you're trying to transcribe things, a lot of times it's hard to understand. How many times in the minutes have we heard everyone's started talking at once.

Mrs. Fortlage stated quite a few.

Assistant Law Director Doyle stated this originally should've been a motion to rescind.

Mr. Bredt stated yes.

Mrs. Fortlage stated, and it wasn't.

Mr. Bredt stated, and we used the word reconsider.

Assistant Law Director Doyle stated yeah. You theoretically could have done a motion to reconsider it if everyone voted yes.

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Mr. Bredt stated gotcha. Now we've made it a double negative.

Building Official Gero stated there's still a step missing. In this process there's a step missing. Whether it's the motion to reconsider or, whether it was the vote to reconsider, or whether it was the vote to approve the 26'x26' which would be the middle step, and then the vote to approve the 28'x28'.

Assistant Law Director Doyle stated you lost me there Mike, could you say that again?

Building Official Gero stated there had to be a motion to reconsider the variance from August.

Assistant Law Director Doyle stated yes.

Building Official Gero stated then, that would have been voted upon. It should have all been yes, right?

Assistant Law Director Doyle stated yes.

Building Official Gero stated then, there would be a motion to...

Chairman Moreal stated rescind.

Building Official Gero stated no. It would have been a motion to grant a variance for 26'x26' which would have been voted no.

Mr. Monteleone stated I remember saying we all have to vote no if that's the case. I remember that part.

Building Official Gero stated you have to vote it no, and then there was the third motion that would have been for the 28'x28'.

Mr. Monteleone stated, and then we all either said yes or no, right?

Mr. Bredt stated I think we all said yes.

Mrs. Fortlage stated we didn't.

Assistant Law Director Doyle stated I'm not sure why you'd have to (inaudible) vote no on that second motion if you've already rescinded the August motion.

Building Official Gero stated you didn't rescind it, you reconsidered it.

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Mrs. Fortlage stated why, we should have just simply rescinded it.

Assistant Law Director Doyle stated you could've just moved and rescinded it is what we're saying.

Chairman Moreal stated rescind it right off the bat. That takes it down.

Building Official Gero stated that's not the way it's been done before. That's the only reason I had (inaudible).

Mr. Bredt stated reconsider and rescind.

Mr. Monteleone stated her opening statement was it's a new year, so she's trying to clean up some messes.

Mrs. Fortlage stated yeah.

Assistant Law Director Doyle stated you can rescind.

Mrs. Fortlage asked without reconsidering, you just straight in rescind?

Assistant Law Director Doyle stated correct.

Mr. Monteleone stated they almost sound the same. What's the difference in the words?

Mr. Bredt stated you can reconsider it and then you could state you know what I'm reconsidering it, but I still want it the way I said it.

Assistant Law Director Doyle stated reconsider is usually reserved for "nothing's changed", it's the same issue, something circumstantially may have changed.

Mr. Monteleone stated you're reconsidering. You're not for sure how to really do it.

Mrs. Fortlage stated and there's a technicality. Somebody who's on the winning side of the vote has to make that motion and we've got a vote here which is all negatives. I wonder what we have to do now with this.

Assistant Law Director Doyle stated well, now you can rescind. That's why I had that one rescinded.

Mrs. Fortlage stated okay, even on rescind it doesn't have to be somebody who's on the favorable side? It was the winning side not the favorable side.

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Assistant Law Director Doyle stated I don't think so.

Mrs. Fortlage stated I know it's crazy.

Several people began speaking at once.

Chairman Moreal asked so, do we want to wait until next month? What do you think?

Mrs. Fortlage stated I think we need to clean this before we do that. What do you think?

Assistant Law Director Doyle stated the only thing that worried me was that there was a possibility that there was some other motion that was made that was not recorded.

Chairman Moreal asked Amanda, could you look into this?

The Secretary stated yes.

Chairman Moreal then, we'll do it next month.

Mr. Monteleone stated you have to listen to it one more time.

Assistant Law Director Doyle stated yeah, if this covers all the, without that seeding kernel of doubt, I would say that these fix what's on the page right now.

Mrs. Fortlage stated what I remember about that meeting was my own view of (inaudible).

Assistant Law Director Doyle stated can I tell you what I remember about that meeting is everyone started voting no on it, and I was like that doesn't seem right, but I felt like the room was very confident about it and (inaudible).

Mr. Monteleone stated I was dead.

Chairman Moreal stated reconsider is basically (inaudible).

Mrs. Fortlage stated we can do this better next time, but how do we dig out?

Assistant Law Director Doyle stated assuming there's nothing on the recording of any other motions, then (inaudible).

Mrs. Fortlage stated (inaudible).

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Assistant Law Director Doyle stated no, because I have this doubt now or some people in this room have a doubt there's a motion missing from the audio that's not in the written minutes. If we go back and listen and confirm that's not the case and the page reflects all the motions that were made at that meeting, then we put this in play. If not, we have to hear whatever it was that was missed and (inaudible).

Mrs. Fortlage stated welcome to being the secretary, we didn't do this to Debi.

Mr. Monteleone stated it's a new year though. We're trying to clean up our act.

Assistant Law Director Doyle stated Robert's Rules are great.

Chairman Moreal stated we'll table the minutes and handle our minutes next month.

Mr. Monteleone asked do we make a motion?

Chairman Moreal stated I don't think so.

Mr. Bredt stated technical question, there was more than one applicant; the permit process starts 30 days after the minutes are approved officially. Can we approve all the parts of the minutes other than that one applicant?

Mrs. Fortlage stated no, that's not the case. The minutes are not official until 30 days after approval. Is that the way it works? It's about the minutes not whether they get their permit.

Chairman Moreal stated motion to adjourn.

Councilperson Walchanowicz stated second.

There being no further business, the January 19, 2023, meeting of the Board of Zoning Appeals was adjourned at 6:08 p.m.

Chairman Mark Moreal

Amanda Sharrer, Secretary
Minutes Unapproved at Time of Release 1/24/2022