

**MINUTES OF VIRTUAL MEETING  
BOARD OF ZONING APPEALS  
CITY OF INDEPENDENCE  
April 21, 2022**

**New Business:**

**Approval of Minutes of Regular Board of Zoning Appeals Meeting held on March 24, 2022.**

- 1. 7829 Dalebrook Road, Maciej Boc** - Requesting a variance to 1143.02(a)(2) to permit an additional accessory structure (not permitted), and a variance to 1143.02(b)(1)(A) of 2 ft. to permit the height of the structure to be 17 ft. (15 ft. required, 17 ft. requested).
- 2. 6913 Daisy Avenue, Kent Gamble** – Requesting a variance to 1143.02(b)(1)(B) of 4 ft. to permit a four-car garage to be 52' x 24' (48' x 24' permitted).

The meeting was called to order by Chairman Mark Moreal at 5:31 p.m. and the following responded to Roll Call:

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

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

Chairman Moreal stated that at this time he would like to ask the Board if there were any corrections, changes or additions to the March 24, 2022 meeting.

**A motion was made by Councilperson Walchanowicz, seconded by Charles Bredt, to approve the Minutes of March 24, 2022.**

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

Chairman Moreal then proceeded to read the Board of Zoning Appeals 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

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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

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.

**7829 Dalebrook Road, Maciej Boc** – Homeowner Maciej Boc was in attendance and sworn in.

Chairman Moreal asked the Secretary if there were any neighbors present. There were no neighbors in attendance.

The Chairman asked Mr. Boc to explain to the Board why he would need the variance requests.

Mr. Boc stated that he would like to build a garage, 24' x 36' in the back. He stated that he currently had one structure. It was an open pavilion, and he stated that this would be another structure so he would need the variance. He stated that the other variance, he would like two more feet just to equal with the house. He stated that the house was currently 17 feet tall, so he would like to match the garage to the height of the house.

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Chairman Moreal stated to Mr. Boc where he had his proposed structure located, he asked if Mr. Boc was looking to go further back or was that where Mr. Boc wanted to locate it.

Mr. Boc stated that was where he wanted it. He didn't want to go back just for the compromise of too much concrete.

The Chairman asked Mr. Boc if he was putting a driveway to the garage.

Mr. Boc replied yes.

Chairman Moreal asked Mr. Boc what was the intended use for the garage.

Mr. Boc stated that most of it would be for work space and for his tractor, and just different things that he would need to store back there. He stated that most of it was residential property. He stated that he just needed the extra space. He didn't have any space to park in his own garage.

Chairman Moreal stated that he believed he saw a truck and trailer in his yard. He asked Mr. Boc if that was his.

Mr. Boc replied yes.

The Chairman asked if they would both be going in the garage.

Mr. Boc replied no. He stated that whenever he was doing the pavilion, that was why it was there.

The Chairman asked if that was Mr. Boc's everyday vehicle and it would be located at his house.

Mr. Boc stated that it was not. He stated that whenever he was building the pavilion last year, it was there because he needed it just for equipment.

The Chairman asked what was all the stuff in the picture. He asked if that would all go in the garage.

Mr. Boc replied no. He stated that it was just the pavilion. He stated that there was a lawn sprayer. All of it was lawn equipment. There was wood back there also, but he just needed to cut it up.

Chairman Moreal stated that when he first looked at it he was surprised how Mr. Boc was facing the garage. He asked Mr. Boc if he had a Homeowners Association.

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Mr. Boc stated that they did not.

Assistant Law Director Doyle stated that there was a restrictive covenant on the deed.

The Chairman stated that the Board was understanding that there was some form of a Homeowners Association.

Mr. Boc stated that there was none in his neighborhood. He stated that the only thought would be, he thought what he would want to do was he would want to place the garage the other way so 24 feet towards the street and probably move the door. He stated that he was thinking because there was going to be one 16 foot door in the front. He stated that instead of having two doors on the side, it would just be facing towards the street.

The Chairman stated that it would not represent what Mr. Boc was showing on the drawing. He asked Mr. Boc if he was changing the garage door?

Mr. Boc stated that he might be, to the front. He stated that in his neighborhood, whenever they were building all the houses, all the garages had to face either towards the side.

The Chairman stated that was what he was getting at with the Homeowners. He asked if they were not allowed to face the street with the garage door. He asked if that was true.

Mr. Boc stated that he thought with the Homeowners Association before it was true, but there was no more Homeowners Association that was there. There is no Association present at all.

Assistant Law Director Doyle stated that even if there were no prohibition on this body approving the request. He stated that Mr. Boc would need to be aware of the risk he would run. He could get the Board's approval, but then he would go to his Homeowners' Association and not.

Building Official Gero stated that the City does not enforce Homeowners' Association rules and regulations. So, there would be no City ordinance that would prohibit a front facing garage door. He would be in compliance. He stated that whatever Mr. Boc was planning to do would need to be submitted exactly for the permit. He stated that was the only caveat he would say.

Mr. Boc stated that was understandable for him.

Chairman Moreal stated that the Board would want to know the same thing, which way would it be.

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Mrs. Fortlage asked the Building Official if he would comment about the number of parking spaces and the size of the lot.

Building Official Gero stated that Mr. Boc's lot, he didn't know the size of the lot offhand, but he would assume in that neighborhood it was over 100' x 200'. Mr. Boc would be allowed to have five parking spaces which would be three in the proposed garage, and a two-car attached garage.

Mrs. Fortlage thanked the Building Official. She asked Mr. Boc if he had a two-car attached garage.

Mr. Boc stated that it was a two-car attached garage, and the size of his lot was 100' x 300'.

Mr. Bredt stated that he had two comments and one question. He stated that the application for the height of the proposed building to match the front building, he does not see the argument there in that because it was the same height. He stated that he was more concerned with the practical difficulty of having that height if the second building would be approved. He stated that his rationale was you would not see the building either way from the street, and yet the neighbor would see the top of that building looking through the fence that they put up. He stated that the extra height would make it more obvious to the neighbors looking across the backyards.

He stated that Mr. Boc does not have to discuss that issue, even though it was part of his application, unless he could demonstrate to the Board what the practical difficulty would be of having the building at all in that he already has a second structure which by the way looks really nice. He stated that it just didn't seem to fit into the neighborhood from his perspective.

Mr. Bredt stated that he was falling back on the age old question of what was the practical difficulty that suggests the Board should pass the variance request.

Mr. Boc asked if Mr. Bredt was referring to the height.

Mr. Bredt stated that he was referring to both the height and the building itself. He stated that they kind of go together.

Mr. Boc stated that first of all he needs storage. As Mr. Bredt would see, Mr. Boc does not want to store anything outside because it would look ridiculous. He stated that he just needed more storage. He stated that he cannot park both of his cars in his garage because he has a tractor in there, bikes. He stated that he didn't want to store anything outside because it would look really bad. He stated that he would need storage for that.

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He stated that as far as for the height, he really to match the house, and he was also thinking about building a four foot walkway similar to his house for extra storage for Christmas decorations and different things. He stated that you always need storage space, and that was what he really wanted. That was why the extra height was there too.

Chairman Moreal asked Mr. Boc if he was building the garage from scratch or was it a kit.

Mr. Boc stated that it would be built from scratch, just regular four footers down. He stated that he was thinking most of it would be masonry just like the house. He stated that he was going to try to match up the brick and everything and then a regular roof like the house. He stated that it would look close to whatever the house looks like now.

Mr. Monteleone asked if Mr. Boc would have electrical, plumbing, and heat at all in the space.

Mr. Boc stated that the only thought would be just to have downspouts connected to the downspouts going down for the water. He stated that he would have electrical probably. He stated that no more than a 50 over there.

Mr. Monteleone asked if there would be hot and cold water.

Mr. Boc replied no water, and then no cleanout in the middle either. He stated that everything would be pitched away. He would put electrical in just for a garage door.

Chairman Moreal asked Mrs. Fortlage if she had anything.

Mrs. Fortlage stated that she hasn't heard a practical difficulty that would fit the criteria that the Board was supposed to go by, and she was concerned about it being a rather large thing planted in the backyard. She stated that she thinks there is a reason for not having two structures added. She stated that she was no convinced for the need for this or the appropriateness of approving the variance for this building.

Mr. Boc stated that he just knows that there is probably a couple of properties that do have garages. He stated that he built last year, whenever he was building the pavilion last year, he talked to the City and was told he had to go through Zoning. He stated that the pavilion is open so it doesn't really look an additional structure. He stated that it was an open structure. He stated that a lot of people in the neighborhood were happy with it. He stated that he just needs the storage, that was all.

Councilperson Walchanowicz stated that he has a lot of the same issues that Mrs. Fortlage has with the height, size. He stated that it seems like there are a lot of people that want to do these

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big garages because they have way too much stuff. He stated that it seems to be becoming a trend.

Mr. Boc stated to him the thing was he did a 24' x 36' because it would be allowed by the City to have five parking spaces total, and he knows that is what the City allows. He stated that was what he would like to do. He stated that he knows it would be a bigger structure, but he knows that it would be something that would be allowed per the City. He stated that he just doesn't see if something was allowed, he does have the space. He stated that his backyard was pretty big, and there would still be a lot of area back there. He doesn't think the building would be too big for the property that he has.

Mrs. Fortlage stated that it was the number of buildings. She stated that Mr. Boc sounded like maybe he would not have realized that even a children's playset would count as an additional structure outside.

Mr. Boc stated that he did not know that.

Mrs. Fortlage stated that they were not supposed to have two extra buildings on the property, and building would be loosely defined, but definitely the pavilion would count.

Chairman Moreal stated that he will say that when he went to the property, when he heard a second accessory building, he was thinking it was two sheds. So, he stated that he has a better comfort level with the pavilion, but if Mr. Boc remembers, he asked him earlier if it would be put where it was shown or further back on the property. He stated that he thinks it would fit better at the back of the property, being that it would be larger than the normal shed, and it would be further away from the pavilion, which was very nice.

He stated that he had a little issue with the height being as close as it would be to the house.

Mr. Boc stated that he was open to moving it backwards. He stated that right now it was at 20 feet from the driveway how it ends. He stated that he thought originally he was planning, if he would move it back, then he will probably flip it to have the two doors, the 16' and 8' towards the house. He stated that he put it that way just because he put it 24' x 36' the way it was right now because it was a little too close. He stated that he didn't have enough room to build 36 feet 20 feet away. He stated that he could probably move it back to 40, another 20 or 25 feet if that would work. He stated that his only thought would be is that he would like to place it in the other direction.

Mrs. Fortlage stated that just now Mr. Boc stated that he wanted the two doors, the 16' and the 8', but before he stated only a 16'. She asked if it would depend on the direction of the building.

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Mr. Boc stated that it would because if he would place the 24', he would just have one door in the front. He stated that swinging around would be an impossibility. He would have to put it somewhere in the middle to park anything from the side.

Chairman Moreal stated to Mr. Boc that the Board could talk about the matter the rest of the night. He stated that the Board could table the matter, and Mr. Boc would come back based on everything that was discussed, the height, location and put together what he would really want. He stated like Mrs. Fortlage stated, Mr. Boc mentioned a couple of times he doesn't want the two side doors, he would like to twist one door, and now he wanted to turn it. He stated that everyone could think about everything that was discussed and table the matter until next month.

Mr. Boc stated that the only thing was not that he was pressing the matter, but it will take a while for him to build it. He stated that was why he was trying to get it done. He stated that if he would move it back and leave it at the 24' garage basically in the front, leave it the same way but move it back another 30 feet, if that would satisfy the Board, then he would just like to do it that way and not flip it or anything. He stated that the only change would be to move it back another 30 feet.

Mr. Monteleone stated that it should be considered if Mr. Boc would push it farther back, more people will notice the big structure that the Board was talking about. He stated that right now it was tucked away, and once he would push it back there were two neighbors to the right and maybe some people behind. It will be way out in the middle of nowhere.

Chairman Moreal stated that if the Board would let Mr. Boc push it back tonight, now the neighbors that were notified, they were notified of being where it would be located now, and it would change. He stated that personally he would think the Board should table it or vote on it as is, and that would be up to Mr. Boc. He stated that his bet would be to come back with a new proposed plan and not change that, stay with what he has.

Mr. Monteleone asked if someone could explain to Mr. Boc if the matter gets tabled so that he would know.

Several people began speaking at once.

Assistant Law Director Doyle stated that right now if the Board made some of those changes that were talked about out loud, they really can't have a vote on that because it was not the application that was in front of the Board right now. He stated that they couldn't do it on the fly at this meeting. The application presented would not be reflected properly in the public record. He stated that from where he sits, if the Board would proceed with the vote, it would seem clear where the vote might head, or the applicant could submit a new application superseding the



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current application, and then you have the proper time to discuss some of the Board's concerns in front of the group properly prepared for a vote.

Mr. Boc stated that he wanted to ask one question. He stated that he was fine with it. He stated that the only question would be, if he would move the garage back, he didn't want to have another 7 people against him because the building might be too far back.

Chairman Moreal asked Mr. Boc if he was talking about the Board or the neighbors.

Mr. Boc stated that he was talking about the Chairman because he had stated that he would like to see it moved back, and some other members were stating that it should stay where it was. He stated that if he moved it back, would it be more toward his advantage because he would like it where it was. He stated that he was not trying to enforce a vote or try to get a yes or no from anybody. He stated that if he would move it back now, he may get seven people saying that it was too far and everyone could see.

Chairman Moreal stated that maybe after the meeting Mr. Boc could contact each of the members to get a feel for it, but they were not going to talk on the record now about it.

Mr. Boc stated that he would want the matter tabled, and he will talk to each of the Board members to get their opinion to see where they would like it to be.

**A motion was made by Councilperson Walchanowicz, seconded by Charles Bredt, to table the matter.**

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

**6913 Daisy Avenue, Kent Gamble** – Homeowners Lenore Fritz and Kent Gamble were in attendance and sworn in.

Chairman Moreal asked if there were any neighbors were present. The Secretary stated that she believed there was one neighbor on the line, but she did not know if they wanted to speak or not.

The Chairman asked Mr. Gamble to explain to the Board why he needed the variance.

Mr. Gamble stated that mostly it was due to the 125 year-old property which has no basement almost; they do have some basement. He stated it was 90% storage with furniture, etc., two cars, and they need space.

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Chairman Moreal stated that before they go on, he was looking at two separate properties.

Mr. Gamble agreed.

The Chairman asked Mr. Gamble if he was in the works to consolidate the properties.

Mr. Gamble stated that he was. He stated that he was not aware that needed to happen until last week when he put the application in.

Chairman Moreal stated with regard to Mr. Gamble's existing garage that he wanted to add on to, was he before the Board a few years ago.

Mr. Gamble stated that it had to be in 1999 or something. He stated that the original barn from the property they tore it down and built a garage.

Chairman Moreal asked if the neighbor's garage was on Mr. Gamble's property along with the driveway.

Ms. Fritz stated it was close.

Mr. Gamble stated it was very close. He stated that there might be six feet between them now. He stated that the address was on Brecksville Road, and there were two properties over there also.

Building Official Gero stated that for the record, the lines on the image were not necessarily exactly where they were. They were appearing that the lines were shifted a little to the right. He stated that the line does probably run right down the center between the two structures. He stated that if they would move the whole scheme over that way a little bit to get a better idea where the true line may lie.

Chairman Moreal stated that Mr. Gamble will get his lot consolidated for sure, so they have that.

Assistant Law Director Doyle asked the Chairman if they were going to make it one lot.

The Chairman stated that it would be 100' x 150'.

Mr. Gamble agreed. It would be close.

Building Official Gero stated that Mr. Gamble would need to consolidate because a garage structure is not permitted to be on a lot that does not include a dwelling. He stated that Mr.

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Gamble would need to consolidate the lots so he would be compliant. He stated that if he doesn't do that, the garage would be in violation of another section of the ordinance.

Mrs. Fortlage asked how about the number of parking spaces permitted.

Building Official Gero stated that Mr. Gamble could go up to five spaces, indoor and outdoor. The garage would be a four-car garage, and he also has a car port which would be considered an outdoor parking space, so he would be right at five.

Chairman Moreal stated that Mr. Gamble would be allowed 48' x 24', and he would be looking for 52' by 24'. He asked Mr. Gamble if that was correct.

Mr. Gamble agreed.

Chairman Moreal stated that it would be 96 square feet extra.

Building Official Gero stated to the Chairman that he was confused on where square foot was listed in the ordinance.

The Chairman stated it was just for him. He was talking out loud.

Mrs. Fortlage stated that was how she always did it too.

Mr. Monteleone stated that he was just looking at adding on.

Building Official Gero stated that he was adding that into one building. He would be creating a larger building. He stated that the existing was 30', and he would want to add another 22' on to create a 52' x 24'.

Mr. Bredt stated that the elevation that was being displayed on the screen right now, and it was just for clarification. He asked if the garage door elevation gable lower than the existing garage. He asked Mr. Gamble if that was what he was trying to reflect.

Mr. Gamble agreed.

Mr. Bredt stated that the addition will be shorter in height than the existing garage.

Mr. Gamble stated that it would be.

Mr. Bredt asked what was the overall height of it, would it be under 15 feet.

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Mr. Gamble stated that it would be. He stated that he believed there was another elevation that was showing that.

Mr. Bredt replied thank you.

Mr. Gamble stated that they were basically doing that because they have some trees there and not trying to have to hack out the trees and make them look like heck.

Chairman Moreal stated that the lot would have to be consolidated first. He stated that he didn't have any issues with the request. He stated that Mr. Gamble would be allowed to go 48', and he was going an extra 4'. He doesn't think it would hurt anything back there. That was his take.

Mrs. Fortlage stated that the size of the variance was about an 8% greater than what was already permitted in the code. She stated that was not terribly big. She stated that she thinks she could see her way to supporting it.

**A motion was made by Pasquale Monteleone, seconded by Carol Fortlage, to approve the variance to 1143.02(b)(1)(B) of 4' to permit a four-car garage to be 52' x 24', subject to the consolidation of the properties.**

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

Chairman Moreal asked for a motion to adjourn.

**A motion was made by Carol Fortlage, seconded by Councilperson Walchanowicz, to adjourn the April 21, 2022 Board of Zoning Appeals meeting. Voice Vote: 5 yes/0 no; motion carried.**

There being no further business, the April 21, 2022 meeting of the Board of Zoning Appeals was adjourned at 6:06 p.m.

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**Chairman Mark Moreal**

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**Debi Beal, Secretary**

Minutes Unapproved at Time of Release 04/22/22