

**MINUTES OF VIRTUAL MEETING  
BOARD OF ZONING APPEALS  
CITY OF INDEPENDENCE  
June 18, 2020**

**AGENDA:**

**Old Business:**

**Approval of Minutes of Regular Board of Zoning Appeals Meeting held on May 21, 2020.**

**New Business:**

- 1. Daisy Blvd. & Aster Drive, Daisy May LLC & Timothy Lee, Phase 1** – Requesting a variance to 1163.03 of 57 feet for Sublot 1 to permit the average total lot width abutting the dedicated street to be less than 60% (82 feet permitted, 25 feet requested) and a variance of 188 feet for Sublot 2 (218 feet permitted, 30 feet requested).
- 2. Daisy Blvd. & Aster Drive, Daisy May LLC & Timothy Lee, Phase 2** – Requesting the following variances:
  - A. A variance to 1163.03 of 24 feet for Sublot 7 to permit the minimum lot width to be 76 feet (100 feet permitted, 76 feet requested);
  - B. A variance to 1163.04 for Sublots 5,6,8 and 9 of 10 feet to permit the building setback to be 65 feet (75 feet permitted, 65 feet requested);
  - C. A variance to 1163.03 of 57 feet for Sublot 1C to permit the average total lot width abutting the dedicated street to be less than 60% (82 feet permitted, 25 feet requested); a variance of 15 feet for Sublot 8 (45 feet permitted, 30 feet requested); a variance of 16 feet for Sublot 9 (81 feet permitted, 65 feet requested);
  - D. A variance to 1165.02 of 15 feet for Sublot 5 to permit the minimum rear yard width to be 40 feet (55 feet required, 40 feet request); a variance of 18 feet for Sublot 6 (58 feet required, 40 feet requested); and 50 feet for Sublot 7 (90 feet required, 40 feet requested).
- 3. 6575 Bexley Court, Gerald & Irene Burma** – Requesting a variance to 1143.02(b)(2)B of 144 sq. ft. to permit an accessory building to be 288 sq. ft. in size (144 sq. ft. permitted, 288 sq. ft. requested).
- 4. 7304 Brookside Road, Donna Johnson** – Requesting a variance to 1143.02(b)(2)B of 16 sq. ft. to permit an accessory building to be 160 sq. ft. in size (144 sq. ft. permitted, 160 sq. ft. requested).

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5. **7048 Twin Creeks Court, Dan & Mary Herbert** – Requesting a variance to 1165.02 to allow a deck to extend past the rear building line into the required rear yard (not permitted).

The virtual 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**  
                          **Chris Walchanowicz, Councilperson**  
                          **Charles Bredt**  
                          **Carol Fortlage**  
                          **Pasquale Monteleone, Jr.**

**ALSO**  
**PRESENT:**           **Gregory J. O’Brien, Law Director**  
                          **Michael Gero, Building Official**  
                          **Don Ramm, City Engineer**

Chairman Moreal stated that at this time he would like to ask the Board if there were any corrections, changes or additions to the May 21, 2020 Meeting Minutes.

Mrs. Fortlage stated that she had some corrections on Page 7 and made some scratches about things that were relatively minor. She asked the Secretary if she got the corrections. She stated that with the minor changes, she would be fine with the Minutes.

**A motion was made by Chairman Moreal, seconded by Councilperson Walchanowicz, to approve the Minutes of the May 21, 2020 Board of Zoning Appeals meeting as amended.**

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

Chairman Moreal stated that before they got started, he would like to read the Board of Zoning Appeals Opening Statement.

The BZA 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 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

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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 unnecessary 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 were approved. 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.

**Daisy Blvd. & Aster Drive, Daisy May LLC & Timothy Lee, Phase 1** – Todd Sciano and Christine Komer from Donald J. Bohning & Associates were in attendance and sworn in.

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

Mr. Todd Sciano stated that Christine Komer was also present via Zoom. He stated that Mr. Lee was not present. He stated that Ms. Komer had access to her computer and could share her screen. She will be speaking.

Ms. Komer stated that for Phase 1 on Daisy Blvd. the two variances requested; the first one would be for the remainder of Parcel 1. She stated that currently the original Parcel 1 had frontage on Daisy Blvd. She stated that was a flag lot that went to the back. She stated that the proposed split would meet that flag parcel onto Daisy leaving only 25 feet abutment to the dedicated street.

She stated that the second variance was for the remainder of Parcel 2 which currently has as it sits today a 30 foot frontage on Aster Drive. So, there would be no change from that. It would remain the same. She stated that it was existing and non-conforming.

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Chairman Moreal stated that Sublot 2 or the original parcel, they would be losing the frontage. He asked if it would be correct?

Ms. Komer replied correct.

The Chairman asked where was the frontage on Sublot 2.

Ms. Komer stated that it was the 30 foot on Aster Drive. She stated that there was a parcel line that went from the center line of Aster Drive going back, and that was the 30 foot frontage of that parcel.

Law Director O'Brien asked Ms. Komer why would they need that one. He asked if it was part of the second application request?

Ms. Komer stated that part of the first Phase 1, Parcel 2 was split to create the two parcels on Daisy Blvd. So, with the new split of Parcel 2, it was showing non-conforming existing frontage. She stated that Parcel 2 was being part of the easterly side that was being split to be included into the parcels on Daisy Blvd.

The Law Director stated that but for Parcel 2, they would form two new parcels that are adjacent to Daisy, wouldn't Parcel 2 be in the next application to follow to be subdivided?

Ms. Komer stated that it was, but that was part of Phase 1. It was the first split. Part of Phase 2, it would be a separate request because then there would be the cul-de-sac coming off of Aster Drive. It would be a separate variance request.

Law Director O'Brien replied okay.

Mr. Sciano stated that Parcel 2 in split one would just be the remainder land left over. So, the original parcel on Phase 1 started at Aster Drive, and it went almost to the frontage of Daisy; but it was stopped short. So, the Parcel 2 that was being created in Phase 1 would be the remainder of what was left over.

The Chairman stated that maybe he was confused, but they were talking Parcel 1 and 2. He was looking at Sublot 1 and 2. Were they talking about the two lots up in the upper right hand corner on Number 1? He stated that there was a 30 foot frontage off of Sublot 1 at the end of Daisy, and the 25 foot frontage on Sublot 2.

Ms. Komer stated Parcel 1 was the parcel 562-18-047, Mr. Lee's parcel; and then Parcel 2 was the remainder of parcel 562-18-001. She stated that current frontage was off of Aster Drive south.

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Mrs. Fortlage stated that she had some questions. One was if anybody was double connected to the call because there was a bad echo. No one was double connected.

Councilperson Walchanowicz asked if Todd and Christine were in the same room.

They stated that they were not.

Mrs. Fortlage asked if Ms. Komer was part of Bohning.

Ms. Komer stated that she was part of Bohning.

Mrs. Fortlage stated that the Board has a pretty significant aversion to flag lots, and there were two there.

Ms. Komer stated that it would just be the one, Mr. Lee's existing property.

Mrs. Fortlage stated that was a 25 foot, there were two. She asked if she was missing something.

Ms. Komer stated that the second variance was for Parcel 2 which it was just the remainder of a split that was already done. She stated that the existing frontage was on Aster Drive, and there was no change from that.

Law Director O'Brien asked Ms. Komer to put her cursor on Mr. Lee's current property where his house was located. He stated that it was an existing parcel, and it was a flag lot that was approved and was existing. He stated that was not before the Board.

He asked Ms. Komer to put her cursor to the two lots that were existing to the east of Mr. Lee's lot. He stated that those were existing lots. Those were previously approved. That was not before the Board.

Mrs. Fortlage asked to be shown the 25 and 30 foot.

Ms. Komer stated that the 25 foot was where the cursor sits on Daisy Blvd., just south of the second flag lot. She stated that the first two in the upper right corner; those were two existing lots, one of which was a flag lot. She stated that the one just south of that was Mr. Lee's property which was also an existing flag lot; however, the frontage continues down Daisy Blvd. today. She stated that the new proposed frontage would extend that line to Daisy Blvd., and the frontage that would sit there today would only be minimized down to 25 foot.

Law Director O'Brien asked Ms. Komer to go back to the green chart. He stated to Mrs. Fortlage that Mr. Lee's lot actually goes like an "S".

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Mrs. Fortlage stated that she saw that.

The Law Director stated that he understood now.

Mr. Monteleone thanked everyone for doing that. He stated that he just had one question. He asked if there was a house on the lot that was off of Aster?

Mr. Sciano stated that there was a house there.

City Engineer Ramm stated that the drive actually comes out to Daisy.

Mr. Monteleone stated that he just wanted to make sure.

Chairman Moreal stated that Mr. Sciano was before the Board last year, and the Board approved everything. It has now changed. The Chairman wanted Mr. Sciano to tell the Board why it was changed or what happened. He thought that Mr. Sciano lost some lots.

Mr. Sciano stated that they ended up losing one lot. He stated that physically and financially they couldn't make the economics work. He stated Tim Lee ran economics on the subdivision plan that was approved; and they came back in front of the Planning Commission and asked to reduce the lots for a second time to try to make the retention pond work a little bit better. He stated that they put it out to bid, tried to get numbers and just couldn't make it work. He stated that they came back with this alternate plan which was something that they had talked about in the early 1990's to basically get close to the same amount of lots without having to economically burden them with a road going past the side of his existing house. He stated that it was a clearer plan, less intrusive and financially would make more sense.

Mrs. Fortlage stated that she had a question for the Law Director. She asked if he could help her see the practical difficulty here.

Law Director O'Brien asked Mrs. Fortlage what she meant with the practical difficulty.

Mrs. Fortlage stated that she didn't know if an economic argument would qualify as a practical difficulty.

The Law Director stated that economics come into the fact of a practical difficulty. On the other hand, the counter weight to that would be is the property owner benefitting from the use of their property? He stated that if her question was do they have to maximize, would the law be that you have to maximize a property and develop it out to the fullest? No, that would not be the law. He stated that if someone would have a large piece of property, if they were to say they wouldn't give any variances for that large swath of property, then they could come back and would have a fairly arguable reason to say with minimal changes to the code, why wouldn't you let them

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subdivide it. It was just how much that subdivision goes to the point where it would be more maximizing profit versus being able to do it.

What the Law Director was hearing the developer state was that they can't make it work financially, so that would be a reason to come back and ask for a change in the plan. The Board's job would be to figure out if this plan would be sufficient based on practical difficulty.

Mrs. Fortlage stated that it was convoluted to her with the long leg leading to various lots.

Mr. Sciano wanted to go back to the green screen one more time. He stated to Mrs. Fortlage that if she would look at the existing lot for 047, the property that Mr. Lee's house sits on, his existing house was a flag lot right now with a skinny driveway strip. He stated that the only difference was that the flag that goes down Daisy to the south blocks frontage for parcel 562-18-001. He stated that the parcel that was created previously only has frontage on Aster Drive of 30 feet. He stated that there were presumably two lots that could be added that would be code compliant against Daisy Blvd. as they show there with no real change to the original plan that was submitted. He stated that Mr. Lee's lot still has non-conforming access. It had non-conforming access before; and the remainder parcel that was left over on Aster is non-conforming also existing.

He stated that in general it was pretty much consistent with the original plan at least for that portion of it.

Mr. Bredt stated that in looking at the green again, the portion of the parcel that was currently adjacent to 001 along Daisy Blvd., he asked if that would get split off with this application and then added to 001?

Mr. Sciano stated that a portion of that strip along Daisy would be what will be used to create the two lots.

Mr. Bredt stated that was going to be part of the lot consolidation.

Mr. Sciano stated that it would be a split consolidation.

Mr. Bredt thanked Mr. Sciano.

The Law Director asked if the two lots they were creating along Daisy, would they otherwise be conforming lots.

Ms. Komer stated that they would be. There would be no variances requested for those two lots.

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Mr. Sciano stated that they consider Phase 1 more of a cleanup of the historic. You have the two conforming lots. The existing Tim Lee house still has a non-conforming frontage. He stated that they don't touch the two previously created sublots, and Parcel 2 still has the same frontage on Aster that it did before.

Chairman Moreal stated that when the Board goes to the next one, it will all come into play when they see the next drawing. It was a little confusing until Mr. Sciano showed it to them. He stated that it answered a lot of questions.

Mr. Sciano stated that it was difficult for their office equally to try to make sense of the history.

Mr. Monteleone wanted Mr. Sciano to go back one slide. He stated that if everyone sees the black lines that goes above 562-18-001; he asked if that would all get pushed out to match or will there be a change in the property line there? Will that go all the way to the road, all the way down? Will that property line go into Mr. Lee's or will it stop for the two lots that they would be creating along that road?

Ms. Komer stated that the line will not change as part of Phase 1 except that it will continue on to Daisy Blvd.

Mr. Monteleone stated that it would bump out right around the driveway entrance.

Ms. Komer stated that the line would extend over to Daisy Blvd. as if there were no private piece coming down Daisy Blvd.

Chairman Moreal asked the Law Director if they should read Number 2 and work the variances together.

Law Director O'Brien stated that they were separate applications. They went through that in the Planning Commission. He stated that one was a minor subdivision, one was a major.

The Chairman asked Mr. Monteleone if he was making a motion.

**A motion was made by Pasquale Monteleone, seconded by Charles Bredt, to approve the variance requests as submitted in the first application.**

**ROLL CALL:           Yeas: Monteleone, Bredt, Moreal, Walchanowicz  
                              Nays: Fortlage  
                              MOTION CARRIED**



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**Daisy Blvd. & Aster Drive, Daisy May LLC & Timothy Lee, Phase 2** – Todd Sciano and Christine Komer of Donald J. Bohning & Associates were both in attendance.

Chairman Moreal asked Law Director O'Brien if he had to swear in the two applicants again.

Law Director O'Brien stated that they did not have to be sworn in again, but they should go over each one and if the Board has questions, answer those on each one so they don't get too far ahead.

Mr. Bredt asked if they become sublots after this would be approved as to opposed to being called parcels; or are they interchangeable?

Mr. Sciano stated that it was dictated by the County when they reviewed the plats. He stated that they were pretty much interchangeable with respect to Mr. Bredt's question.

Mr. Bredt stated that he was just curious because the two that weren't part of the application, in the upper right hand corner, those were labeled sublots; and everything else was parcels. He was just curious.

Chairman Moreal asked Mr. Sciano if he wanted to touch on the first variance letter A.

Ms. Komer stated that Sublot 7, or Parcel 7 on the screen was in the far upper left hand corner. She stated that as the Board could see there was a cul-de-sac that was created coming off of Aster Drive. She stated that from that there were five parcels that would have frontage on that cul-de-sac. Parcel 7 would have frontage on that cul-de-sac.

Mr. Bredt asked that the application was based on the assumption that the cul-de-sac will be built as drawn.

Ms. Komer agreed.

Mr. Bredt asked if the City Engineer approved that diameter, etc.

City Engineer Ramm replied yes. He stated that they took a look at it and were in favor of it.

Mr. Bredt stated that safety equipment, issues relative to water lines and everything, there would be no problem with that indicated drawing.

City Engineer Ramm stated that the actual pavement width and diameter would meet the residential code requirement. He stated that the radius needed a 5 foot variance. He believes that 65 feet would be required by code, and he believed that there was a 60 foot diameter; so it needed a 5 foot variance on the diameter for the right-of-way on the cul-de-sac.

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Mr. Bredt asked if that would be addressed tonight, or had it already been addressed.

City Engineer Ramm stated that it was addressed at the Planning Commission level for design standards.

Ms. Komer stated that the minimum width at the building line required 100 feet. She stated that the building line which was the 75 foot building line does not give you 100 feet based on how the split was coming off of the cul-de-sac. She stated that the particular one has a narrow offset from the cul-de-sac and would open up into the back. She stated that the building line setback would require a 24 foot variance from the 100 feet.

The Chairman stated that the lot width would be 76 feet instead of 100 feet at the building line.

Ms. Komer agreed.

Chairman Moreal asked if there were any questions from the Board on that?

Mr. Bredt asked why was that the only parcel that puts it with a 75 foot building line?

Ms. Komer stated that the other parcels to maximize some of the area for building, for the parcels 8 and 9 to the right of the screen; there are existing towers that run through there. They tried to minimize the required 75 foot setback to 65 foot to give a little bit more of a buildable space outside of those towers. She stated with that particular one on Parcel7, they made it to the required 75 foot setback line just because it opens up a little bit more once you get beyond that line.

Mr. Bredt stated that was part of the application labeled B. He got it now.

The Chairman wanted to move on to variance B. He thinks that Ms. Komer answered Mr. Bredt's question there.

Ms. Komer stated that for Parcels 5,6, 8 and 9, they would be requesting a 65 foot setback instead of the 75 foot. It would be a 10 foot variance for the four parcels.

Mr. Monteleone stated that ones on the right don't have (inaudible).

Ms. Komer stated to maximize the buildable space in those areas as well.

The Chairman stated that it would make them all look the same. It was like one cul-de-sac at 65 feet; you would not affect anybody else.

Mr. Monteleone stated that he would rather keep those houses away from those wires.

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The Chairman stated that if there were no more questions on B, he wanted to move on to C.

Ms. Komer stated that for Sublot 1C, it was Mr. Lee's property. She stated that part of the split also splits his property towards the right hand. She stated that the existing parcel would give some of the parcel to Parcel 7. She stated that because of that, the same request from Phase 1 for a 25 foot frontage on Daisy Blvd. It would be the same request as Phase 1. She stated that it was re-requested because Mr. Lee's lot was being split was being split. She stated that was Parcel 1C.

She stated that there would be a variance of 15 feet for Sublot 8. It would be the frontage on this one was very similar because it requires a 45 foot abutment to a dedicated street; however, because of the split of Parcel 8, it would minimize that frontage so they would request a 15 foot variance on that frontage. She stated that then similarly for Parcel 7 because it would be split with the parcel. It would have a minimum frontage until it would open up into the back there.

Chairman Moreal stated that they were talking about 8 and 9.

Ms. Komer stated that she believed that they were 7 and 8.

The Chairman stated that they show 8 and 9 in the drawing he thinks.

Ms. Komer stated that she thought it was a typo. She stated that it would actually be Parcel 7 and 8 that they were requesting those for, not for 8 and 9. She stated that Parcel 9 actually would be the one farthest to the south; that one wouldn't need a variance. She stated that it would be the two parcels north of that one.

Mrs. Fortlage asked if the first one was still 8 and the second one was 7?

Ms. Komer stated that 7 was the one at the very top, and 8 was the one just below it. She stated that if they look at the first one on the cul-de-sac, those two parcels split to give access to the parcels on the cul-de-sac. She stated that Parcel 7 takes away that portion of 8 to give access to

the back part of the property; and then Parcel 8 would also lose some of that frontage to give it to Parcel 7.

Mr. Bredt stated that he follows what she was doing, but could she explain what split area 1B or 10 was right north and slightly to the west of the cul-de-sac, halfway between Parcel 7 and Parcel 1C, 22,000 sq. ft.

Ms. Komer stated that the original parcel that was existing right now was an existing parcel line and would run from the center line of Aster Drive at an angle up towards the end of Mr. Lee's property. She stated that a portion of that existing parcel was being split, validated with proposed Parcel 7. She stated that it was a lot split and consolidation.

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Mr. Bredt asked if it was defined anywhere on the application or was it already addressed?

Ms. Komer stated that it was addressed at the Planning Commission. She stated that first it would be split and then once split it was consolidated. It was one combined lot split and consolidation.

Mr. Bredt asked City Engineer Ramm if that was correct.

City Engineer Ramm stated that it was correct, and it was important to the phasing he believed in that order.

Mr. Bredt asked if they had any potential purchasers for any of the parcels or sublots at this point.

Ms. Komer stated that she did not know that answer.

Mr. Bredt stated that the entire proposal was recognizing the difficulty they had from the proposal a year ago; and could the Board have some assurance that the Aster Drive cul-de-sac will be built?

Ms. Komer replied yes. She stated with the new proposed plan, now without a street going through from Aster Drive to Daisy Blvd., it would eliminate a lot of extra pavement. She stated that it would also eliminate a lot of extra storm sewers and things to drain the houses and everything else. She stated that there was a certainty that it would be built.

Mr. Bredt stated that he was sure Ms. Komer understood, but just to get it on the record, an application for a variance has a defined amount of time associated with it.

Ms. Komer replied yes.

Mr. Bredt stated that they could go back to last year's application where it would have probably been running out right about now.

Ms. Komer stated that Mr. Sciano mentioned a little earlier that the original plan hadn't been put out to bid and when the numbers came back, that was where they ran into some of the numbers that they couldn't make work.

Chairman Moreal stated that he didn't want to rehash anything, but he knows that she said 8 and 9 was really supposed to be 7 and 8. He understood that, but could she on Sublot 8 show him the 45 foot permitted 30 foot requested. He was a little lost on that one.

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Ms. Komer stated that was Parcel 7. She stated that right where the cursor was currently, the frontage there right now on the dedicated street as it was shown there would only be 30 feet. She stated that the code was for 45 feet. That was where the 15 foot variance would be.

The Chairman stated that he got it.

Ms. Komer stated that it would be Parcel 8.

The Chairman stated and it would be 65 feet.

Mr. Monteleone asked if the house that exists on Parcel 5 get removed.

Ms. Komer stated that it will remain until that house will need to be transferred.

Councilperson Walchanowicz asked how many acres are there in that whole plot. Does anyone know?

Chairman Moreal stated that he didn't know.

Councilperson Walchanowicz stated like all of Mr. Lee's property, does anyone know how much acreage that was.

The Chairman stated that he could look at the variance chart at the top. He stated that he thought there was the square footage of the lots that could be added up.

Ms. Komer stated that if you could see the total, she didn't have off the top of her head; but all the acreage would be for each parcel that would be split was listed on there.

Mr. Bredt stated that Mr. Lee's lot was just shy of 2 acres, 1.996 acres.

The Chairman stated that Parcel 7 was 2.2 acres. He stated that it had to be about 10 acres.

Councilperson Walchanowicz stated that it just seemed like a lot to jam 9 houses in there. He stated that was a whole lot of stuff to jam in 9 houses.

The Chairman stated that there was one more last year Chris, and they got rid of one.

Councilperson Walchanowicz stated that was one more too many than 9.

Ms. Komer stated that actually the top two off of Daisy Blvd. were existing lots.

Councilperson Walchanowicz stated that he understood that.

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City Engineer Ramm stated that as a point of information, something that would be beneficial to know or understand that even when this plan was approved by Planning Commission, it initially came in for 12 lots and then was reduced to 11 lots. Even when the 11 sublots were approved, it came with 5 or 6 of the lots which had very similar variance requests even under the plan that was already approved. He stated that they recognized that relief was needed even on the plan that was previously approved.

Councilperson Walchanowicz stated that was the plan previous to the cul-de-sac on Aster.

City Engineer Ramm replied correct.

Councilperson Walchanowicz stated that it seems to make more sense on the old one with no cul-de-sac. He stated that they were doing flags and they were doing this and that just to get the properties frontage.

Ms. Komer stated that the idea of the cul-de-sac was also a less intrusive without having traffic on Daisy Blvd. and Aster Drive and having a through street. She stated that it left it less intrusive, and that was part of the idea.

Councilperson Walchanowicz asked that the two last houses, have they heard anything from any of those residents on Aster, those last two houses on Aster, the Shadrachs and Franklin? He stated that they have lived there all this time, and now they will have a ton of traffic through there.

Chairman Moreal asked the Secretary if they were notified.

The Secretary stated that they have been notified multiple times between Planning Commission and Zoning.

Mr. Monteleone stated that a nice cul-de-sac was better than a dead-end street.

Councilperson Walchanowicz agreed.

Councilperson Walchanowicz stated that it would just bring more traffic.

Chairman Moreal asked Ms. Komer if she wanted to move to B.

Ms. Komer stated that for Sublot 5 the minimum rear yard width was to be 40 feet.

Chairman Moreal stated that it showed a rear yard of 55 feet required, 40 requested. He stated that the variance would be for 15 feet.

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Ms. Komer stated that they were requesting the 40 feet instead of the 55 feet to maximize the buildable space in those areas. It would be similarly for Parcel 6 to keep it in the same line with Parcel 5. She stated that the request would be (inaudible), they were looking to do 40 feet which would be an 18 foot variance, and similarly then for Sublot 7, 90 feet was required; the rear lot again to keep it away from the towers and those lines, they pushed it to a 40 foot from the back line.

Chairman Moreal asked Law Director O'Brien or the City Engineer to answer the question. He stated that he thought the building lines were 40 feet to begin with. He asked if that was just determined with the development. He asked if the rear building line was always 40 feet.

City Engineer Ramm stated that was the minimum.

Building Official Gero stated to the Chairman that the rear building line was 20% of the depth of the lot with a 40 foot minimum.

Ms. Komer stated that they requested the 40 foot minimum; however, the actual 20% of the lots, that would be that 55 feet, 58 and 90 feet.

Law Director O'Brien asked if all the requests were to get away from the electrical lines?

Ms. Komer stated that the ones for Sublot 7, yes; and then the other two parcels 5 and 6 they wanted to just maximize the building space.

Mrs. Fortlage stated that the conversation about D has been about width of the backyard, and then it morphed into building line. She wanted help understanding what was going on there.

Ms. Komer stated that the variance request was for the minimum rear yard which was the offset on how much (inaudible) property line to what the setback was, not the actual width of the property. She stated that it was the distance from the rear parcel line to the rear building line.

Chairman Moreal stated that he thought it was worded wrong.

Mrs. Fortlage stated that she would say it was. She stated that they were really clumsy.

The Chairman stated that it had to be a typo. It was the rear building line, not minimum rear yard width.

City Engineer Ramm stated rear yard dimension maybe, rear yard setback dimension.

The Chairman stated it was the rear yard building line he believed which was always 40 feet or 20%. He stated that he thought it was worded wrong.

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Mr. Bredt asked that on Parcel 5 and 6, wouldn't the setback building line rear dimension be more appropriately dealt with when there was an actual building being proposed on that parcel?

Ms. Komer stated that it would give them the opportunity for the buildable space to be a little bit wider, not just the rear line but also from the front building line.

Mr. Bredt stated that he wanted to keep his comments and his thoughts specific to 5 and 6. He stated that the rear of the lot however it would be determined, then the side line would be an access point; and he didn't want to send a message that the biggest most giant house in the world could sit on there with pre-approval without knowing how it would be situated.

He stated that then if he did digress from his first comment and look at Parcel 7, which was the back line of that parcel? He asked how they would determine that. He stated that he would personally rather look at these issues specific to the back line of the parcel to a future application.

Mr. Sciano stated that he wanted to address that. He stated that on Parcels 8 and 9, that same building footprint was outlined on the subdivision plat previously submitted to the Board; and those lots would be consistent with that similar format where on the up front plat request you outline the buildable envelope. He stated that it better defines the feel for the subdivision overall. He stated that they know at 8 and 9 they were locked in with the towers. They were locked in before, and it was kind of the same footprint; but it better identifies getting the houses far enough away from the cul-de-sac; but also then identifying the maximum rear impact. He stated that when you look at Parcel 7, you have the same kind of feel, they shaved off a portion of Mr. Lee's lot to create a buildable envelope there; but you would still be locked out by the high tension towers. He stated that the original Parcels 1 and 2, that exact same variance request was in front of the Board previously for the rear building line.

Mr. Bredt stated that in the original one they had a street that defined the property. Parcel 7 that they were considering strongly an application for a variance based on the frontage; and they will come in and definitely respect the power lines, but if somebody were to turn their house much

like Mr. Lee's was, depending on where the front door was, there were some variables there. He stated that he would like to personally look at what's being promoted to be put on those parcels individually. He stated that he totally buys into what they are saying with the power lines side; but 7 and 8 will affect 9 when that gets built or what was now listed as 4 and 3.

Chairman Moreal stated to Mr. Bredt that he thought when that time comes for Parcel 7, he would think that the Building Department and the City Engineer would have some say in how the house would sit. He stated that it was a big enough piece of land, but getting back to 5 and 6, he knows what Mr. Bredt was trying to say. He stated that you have to take into consideration the size of the houses that might be built on there because at 40 foot requested, you would not want to overstuff an oversized house and then you would still have a rear patio and rear deck to



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deal with. He stated that they have to take into consideration the size of those lots. They were shorter from the building line as opposed to 8 and 9. He asked if that was correct.

Mr. Sciano stated that he could not zoom in big enough.

The Chairman stated that they have a smaller area to work with from the front building line to the rear building line. He stated that he thought the owner or the builder, someone would need to take into consideration because Mr. Bredt's question was he didn't see what kind of house would sit on there. It would be tight up against Parcel 4 and 3 off of Daisy.

Mr. Bredt stated that it was tight to the south against existing residents. He stated that the whole situation of what would get built to the east of the cul-de-sac.

The Chairman stated that they would have to meet the side yards on that.

Mr. Bredt stated that they would also come back and ask for a side yard variance.

Building Official Gero stated that those lots, 5 and 6, were much deeper than the standard minimum building lot of 100' x 200'. He stated that the line that they share was 260 feet, and the City Engineer could correct him if he was wrong; and with only a 65 foot setback. He stated that a 65 foot front setback, that was the point at which the house would have to touch the building line and start from there and go back. He stated that the 260 feet was much deeper than the standard minimum lot.

Chairman Moreal stated that the Building Official was right, it was a 260 foot lot. He stated that they would have enough room.

Mrs. Fortlage asked if it was a 260 foot lot that was 40 feet wide?

Mr. Sciano replied no.

The Chairman stated that they were 110 foot wide.

Mrs. Fortlage stated that all the words that had width in the application.

The Chairman stated it was wrong. He stated that the lots were at the furthest point on Number 6 would be 320' x 110'.

Mr. Sciano agreed.

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The Chairman stated that the other one was about the same at 290' x 110'. He stated that he believes the Minutes will reflect the Board's concerns; but he didn't know if the concerns, looking at the size of the lots, they would be big enough. They were more than the City's standard.

Mrs. Fortlage stated that she would agree with Mr. Bredt.

Several people began speaking at once.

Mrs. Fortlage stated that she was not comfortable about it.

Chairman Moreal stated that at 110' x 300' and 290' with the shorter building line in the front, like the Building Official stated, it would give you a lot of room to build a house. So, he was comfortable now knowing that the lot was bigger than he looked it. He stated that looking at it on paper, it looked smaller, but it was not. He stated that 8 and 9 were bigger yet.

Mr. Bredt stated that again back to 5 and 6. He stated that if the front of the house would have to be at the building line, and they were asked to reduce the requirement for the back of the lot line, that would mean that they could put a 100' deep house on that piece of property. He stated that he didn't see the necessity of talking about the back building line unless he was totally confused. He stated that the Board didn't really need to deal with that.

Chairman Moreal stated that they could deal with it when the house comes in front of the Board.

Mr. Bredt stated that was what he was saying.

The Chairman stated that it would be just on those two.

Mr. Sciano stated that he thought that would be fine.

Mr. Bredt stated that he was just trying to protect the ability to recognize that you have existing lots with existing people living in them who are going to want to be great neighbors; but might find themselves looking at a monster next to them. He stated that he didn't want to send the wrong impression to the developers in general terms about a huge rectangular house on the two parcels.

Law Director O'Brien stated to Mr. Bredt that he thought Mr. Sciano agreed with him. He stated that the Board would only be dealing with the 50 foot for Sublot 7 to get them away from the electrical lines.

The Chairman stated that he wanted to take all the variances by themselves.

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Mr. Monteleone stated that he just had two quick questions. He asked if the power lines live or dead?

City Engineer Ramm stated that they believe they were live.

Mr. Monteleone stated that the last lot that was existing on Aster Drive, the setback of Sublot 9 or Parcel 9, comparing that lot to the existing house that sits there today on Aster Drive, was there a setback that was comparable? He stated that it sure looked like it in that picture.

City Engineer Ramm replied yes.

Mr. Monteleone stated that obviously that was designed probably to continue at some certain time because that looked pretty comparable to him as long as everyone was in agreement that the existing lot and the new lot, the house would go in on that lot, they were pretty much in line. That was all he had.

Chairman Moreal stated that if there were no more questions, he would like to move for approval on Variance A for Sublot 7.

**A motion was made by Chairman Moreal, seconded by Charles Bredd, to approve Variance A as presented.**

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

**A motion was made by Chairman Moreal, seconded by Pasquale Monteleone, to approve Variance B for Sublots 5, 6, 8 and 9 as presented.**

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

Chairman Moreal stated that the Board would need to amend Sublot 8 and make it Sublot 7 and Sublot 9 would be Sublot 8. He stated that he would like to amend those changes to the Sublots. That was in Variance C.

**A motion was made by Chairman Moreal, seconded by Charles Bredd, to amend the variance above.**

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

**A motion was made by Chairman Moreal, seconded by Pasquale Monteleone, to approve Variance C for Sublot 1C, Sublot 7 and Sublot 8 as presented.**

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

Mrs. Fortlage asked if the Chairman was going to cut the next variance in half.

Law Director O'Brien stated that he thought Mr. Sciano removed Sublot 5 and 6, the variance request. They only wanted the variance for Sublot 7, and they were going to tackle Sublot 5 and 6 when they had a home to put on the lots.

Mr. Bredt stated that Mr. Sciano had basically withdrawn that application.

The Chairman stated that he didn't hear that.

Law Director O'Brien stated that the variance request was for 50 feet for Sublot 7.

The Chairman stated that he didn't hear that before.

Mrs. Fortlage stated that there should be an amendment.

**A motion was made by Chairman Moreal, seconded by Pasquale Monteleone, to remove Sublots 5 and 6 from Variance D.**

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

**A motion was made by Chairman Moreal, seconded by Charles Bredt, to approve the request for Sublot 7 in Variance D.**

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

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**6575 Bexley Court, Gerald & Irene Burma** – Frank Rini of Rinello Builders was in attendance and sworn in.

Chairman Moreal asked if there were any neighbors present. There were none present via Zoom.

Chairman Moreal asked Mr. Rini for his reason for the request.

Mr. Rini stated that they need the size to accommodate the bathroom for the pool house, a changing room and then during the off season, it will be for pool furniture storage.

The Chairman asked if the neighbors had been notified.

The Secretary stated that the neighbors had been notified.

The Chairman stated that he did try stopping at the neighbors, the Bibbos next door; and they were home. He was told that they were great neighbors, and they knew what was going on, and they were all for it.

Mr. Monteleone asked if the pool was going in soon.

Mr. Rini stated that it would be going in soon.

Mrs. Fortlage stated that the pool was finished today.

Mr. Rini stated that the pool was done.

Mr. Monteleone stated that he saw the stake in the ground.

Mr. Rini stated that the pool house would be located to the east of the pool.

The Chairman stated that he stopped there the other night, and nobody was home. He went around the right side and peeked a little bit. He didn't want to go back there, and he saw the lay of the land. He stated that it looked like a tough piece of land for him. He stated that the way it opened up, it was pretty nice.

Mr. Bredt stated that he didn't have any problem with the application, but he was curious on the front elevation for the pool house. He stated that he had casements drawn on the little pass thru. He was just curious why he didn't draw a slider.

Mr. Rini stated that was a folding window that would fall all the way back.

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**A motion was made by Charles Bredt, seconded by Carol Fortlage, to approve the variance as presented.**

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

**7304 Brookside Road, Donna Johnson** – Homeowner Donna Johnson was in attendance and sworn in.

Chairman Moreal asked if there were any neighbors present. There were none present via Zoom. The Chairman asked if the neighbors were notified. The Secretary stated that the neighbors were notified.

Chairman Moreal stated that he stopped the other day, and he asked her for the record to state why she needed the extra size for the accessory building.

Ms. Johnson stated that they have a two car garage. They currently have two vehicles parked in it and a motorcycle. They would like additional storage for a generator, patio furniture, pressure washer and just various outdoor items.

The Chairman stated that he saw that she would be 25 feet off the side and 44 feet off the rear. She was 80 feet from the back of the garage. He stated that he didn't see any issue with it.

Mrs. Fortlage asked if there would be electricity in the accessory building.

Ms. Johnson stated that there would not be electricity.

Mr. Monteleone asked if there was an existing accessory building there. He stated that it looked like there was something dug up or that something was there prior.

Ms. Johnson stated that would be the base for the accessory building.

Mr. Monteleone stated that it was well covered from the neighbors with trees.

Ms. Johnson stated that there were a lot of tall pine trees back there.

**A motion was made by Carol Fortlage, seconded by Councilperson Walchanowicz, to approve the variance as presented.**

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

**7048 Twin Creeks Court, Dan & Mary Herbert** – Jeremy Martin of the Roof & Deck Company was in attendance and sworn in.

Chairman Moreal asked Mr. Martin his need for the request.

Mr. Martin stated that the homeowners have an existing deck that was the exact same layout right now. He stated that they purchased the home from the builder. The builder must have put the deck on either unaware or just put it on and didn't realize the setbacks and where everything was at.

Mr. Martin stated that the homeowners were wanting to build the exact same deck. It would fit their needs very well.

Chairman Moreal asked if the National Park was located behind the property.

Mr. Martin agreed.

The Chairman asked if they were replacing the deck because it was deteriorating.

Mr. Martin agreed.

Mr. Monteleone stated that he was there, and he thought it would be best if they replaced it. He stated that either the homeowner did it. He stated that it didn't look like a normal deck to him. He stated that replacing it was probably a better option.

Mrs. Fortlage stated that the Board doesn't normally vote on the variances without quantification. She stated that there were no quantifications here about how much it would be off the setback. If the Board would approve it as stated, it could go to the back line.

The Chairman asked the Law Director if the Board could do it subject to the Building Department or someone checking it out. If they would be replacing what was there and nothing was changed, he would guess somebody would need to include some measurements.

Law Director O'Brien stated that he was going to ask a question to the Building Official. He asked him if he was comfortable with if the Board would move approval for a variance to replace the current deck to go into the current footprint. He asked the Building Official if he would be fine with that.

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Building Official Gero stated that the application stated that it would be 21 feet away from the rear building line; and the site plan also had that noted. He stated that based on the site plan, he was comfortable with what they were presenting there as far as a variance goes to approve as presented.

Mrs. Fortlage asked if they needed to be specific in the motion.

Chairman Moreal stated that they could do it subject to the drawing because the applicant had the dimensions on the drawing. It was just not in the application on the request.

Building Official Gero stated that it was on the application.

Law Director O'Brien stated that he would just move to approve per the dimensions set forth in the application.

**A motion was made by Chairman Moreal, seconded by Pasquale Monteleone, to approve the variance per the dimensions set forth in the application.**

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

**There being no further business, the Board of Zoning Appeals meeting of June 18, 2020 was adjourned at 6:50 p.m.**

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**Chairman Mark Moreal**

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**Debi Beal, Secretary**  
Minutes Unapproved at Time of Release 06/23/20



