

**MINUTES OF VIRTUAL MEETING
BOARD OF ZONING APPEALS
CITY OF INDEPENDENCE
July 15, 2021**

New Business:

**Approval of Minutes of Regular Board of Zoning Appeals Meeting held on
June 17, 2021.**

- 1. 7628 Hemlock Road, Jim & Candace Hatton** - Requesting a variance to 1163.04 of 38.4 ft. to permit the front setback for a new dwelling to be 36.6 ft. (36.6 ft. requested, 75 ft. permitted).
- 2. 6869 Linden Lane, Pulte Homes** - Requesting a variance to 1165.02 to permit a deck to extend 5' into the rear building setback (not permitted).
- 3. Rockside Woods Blvd., PPN 561-25-017, Rockside Woods Visibility, LLC** – Requesting a variance to 1161.01(b) of 15 ft. to permit a building to be 75 ft. in height (60 ft. permitted, 75 ft. requested).

The virtual meeting was called to order by Acting Chairperson Carol Fortlage at 5:41 p.m. and the following responded to Roll Call:

PRESENT: **Chris Walchanowicz, Councilperson (arrived 5:46 p.m.)**
Charles Bredt
Carol Fortlage
Pasquale Monteleone, Jr.

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

ABSENT: **Mark Moreal, Chairman**

Acting Chairperson Fortlage stated that before they would start, she would like to read the opening statement of the Board of Zoning Appeals.

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

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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 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 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.

Acting Chairperson Fortlage stated that here they are with the opportunity to approve last month's meeting minutes, and she will state that they will have a revision of the order of the three entries that are on the agenda.

Acting Chairperson Fortlage stated that at this time he would like to ask the Board if there were any corrections, changes or additions to the June 17, 2021 meeting minutes.

Acting Chairperson Fortlage stated that she had a couple of adjustments to the minutes. She asked if there was anybody else who did. She stated that on Page 7, the last paragraph, third last line, the shed is not caddy but catty. On Page 8, paragraph 3, there was a repetition there: Mrs. Mutryn stated that her dad built, and it should be taken out, that her dad built. She stated that those were the two suggestions that she was making. She asked if anybody else had any. There were none.

A motion was made by Councilperson Walchanowicz, seconded by Pasquale Monteleone, to approve the Minutes of June 17, 2021 as amended.

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

Acting Chairperson Fortlage stated that she will take the items out of order by taking the third item and putting it first, and then they will go to the first item and then the second item.

Rockside Woods Blvd., PPN 561-25-017, Rockside Woods Visibility, LLC – Architect Michael Christoff of Vocon, Denver Booker of Vocon and Tom Charek of Rockside Woods Visibility, LLC were all in attendance and sworn in.

Acting Chairperson Fortlage asked the applicants to state the request so that it would be read into the record, even though the Board had it in front of them.

Mr. Charek stated that their request was for a variance from the current 60 foot maximum building height to a 75 foot maximum building height.

Acting Chairperson Fortlage stated that it was requesting a variance to 1161.01(b) of 15 feet to permit the building to be 75 feet in height, 60 feet permitted and 75 feet requested. She stated that they were in agreement on that.

Mr. Charek stated that they were going to share their screen.

Mr. Christoff asked if the Board could see what was being shared.

Mr. Booker stated that their proposal was to build a five-story office building on the site. He stated that it would be surrounded by a parking lot to the north, east and south. There would be access off of Rockside Woods Blvd. to the north and the far south. He stated that the blue odd shaped spaces were stormwater management allocations from the site.

He stated that speaking to the variance, he will show the Board the renderings of the new building. He stated that the current maximum zoning height for an office building would be a four-story building. He stated that in terms of the program required for this building. He stated that they would need five floors to make it viable, and the site will support the parking required to make the building useful. He stated that if they were to make the building larger, it would not be conducive to most office tenants. The offices will be roughly between 25,000 and 27,000 square feet. He stated that would be an ideal optimal floor plate size for a new office building. He stated that bigger than that to accomplish the same square footage would lead to planning issues, proximity to windows; and it would take up the site they would need for parking.

Mr. Booker proceeded to show the Board the first floor of the building. It would show the ground floor with indoor parking spaces, a through lobby, balanced north and south entrance. The blue would represent the leasable square footage. The yellow would represent the core

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building service elements. He stated that the floors above that would follow the same footprint, and they were full office floors all the way up the building.

Mr. Booker showed the Board a view of the building from the north, also the ground floor north entrance. He stated that on the fifth floor there will be a rooftop terrace associated with the primary tenant, CBIZ. He stated that it will be a very forward looking building, modern, it will take advantage of the views to the north; and again speaking directly to the height variance, they need the five floors of the building. He stated that 60 feet cannot accommodate the floor to floor heights for a five-story building to accomplish the building area needed.

Mr. Booker showed the Board a view from the south. He stated that there will be a south entrance and a similar architectural vocabulary of what the Board saw on the front. He stated that also he wanted to point out that any buildings in that area were all over four stories high; so it is not like what they were requesting would be out of context.

Mr. Booker showed the Board the current conceptual building section. He wanted to point out that they were still in the schematic design phase of this project. He stated that they established the floor to floors at 13.4. He stated that as it continues to evolve and they work with their engineering consultants, they may have some flexibility (inaudible).

Mr. Booker stated that he would answer any questions the Board may have about the variance request.

Mr. Bredt stated that he had one question. He asked topographically, was the surface very flat that the building would be built on?

Mr. Booker stated that it was not. He stated that there was a combination of topography to consider for the sighting and the planning of this. He stated that the north parking lot was elevated approximately 10 to 12 feet above the area of the site that was there. He stated that portion of the site where they located the building, was slightly elevated from Rockside Road at that point. He stated that beyond the limits that they have rendered on the site plan, the site would drop off significantly. He stated that they were working with the development and construction team. They have identified that as the most buildable area of the site, accounting for existing topography. He stated that what they were doing even within that was that they were working in the shaping of that portion of the site which was actually a landfill and re-shaping the south half of it so that they can transition to the building pad. He stated that there was a knoll over where the east parking lot would be. It will also have to be re-shaped to allow parking.

Mr. Bredt replied thank you.

Mr. Monteleone stated that it was a beautiful building, and he thanked them for choosing Independence.

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Acting Chairperson Fortlage asked if they had tenants for the rest of the space.

Mr. Charek stated that they currently were just starting to talk with potential tenants for the rest of the space. They have had great interest and not able to name specific tenants at this time.

Acting Chairperson Fortlage stated that she hoped they would not be giving any promises about signage since it appears that they want CBIZ to be the name on the building.

Mr. Charek stated that they will be coming in for signage approval. CBIZ will have the name at the top of the building.

Acting Chairperson Fortlage asked if City Engineer Don Ramm was in attendance at the meeting. She asked if he had any helpful comments about the engineering aspects of what was going on there.

City Engineer Ramm stated that other than to say that they have been heavily coordinating and will continue to do so as the plan gets developed and elevations are finalized and determined.

A motion was made by Councilperson Walchanowicz, seconded by Pasquale Monteleone, to approve the requested variance.

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

6869 Linden Lane, Pulte Homes - Jason Herb from Klassic Decks was in attendance and sworn in along with homeowner Mr. Pristas.

Acting Chairperson Fortlage asked if there were any neighbors present. There were no neighbors in attendance.

Mr. Herb stated that the deck would be sold through the mortgage so technically the owners would be Pulte Homes; but the future owners will be Patrick & Noelle Pristas. He stated that they have hired Klassic Decks to build a deck on their new home. He stated that when they designed the deck at the 12 foot depth which would be in his opinion the minimum depth of the deck that would make it functional; it would stick into the 25 foot rear yard setback by 5 feet. So, he was requesting a 5 foot variance to permit them to build the deck; and the proposed deck would be right on the edge of the storm sewer easement so that it would not protrude into that easement. He stated that they were limited on the location of the deck based on the location of the sliding glass door. He stated that the deck would be elevated. It would be approximately 12 feet above grade.

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Mr. Bredt asked how far from the easement will the posts for the deck be on the outer edge of the deck.

Mr. Herb stated that the deck was designed with the posts right at the front edge of the deck, so they will not be recessed or cantilevered like they would be in a lot of scenarios. He stated that was because the future property owners plan on putting a finished ceiling on the underside of the deck that would make it water resistant; and to do that it would work out cleaner to have the beams and the posts all the way at the front edge of the deck, leaving the space underneath the deck unobstructed.

Mr. Bredt asked if Mr. Herb was stating that right at the edge, the footers for the posts will they be touching that easement?

Mr. Herb stated that it looked like they would literally be right on the edge of the easement. He stated that it was hard to tell when you were scaling on a small site plan.

Law Director O'Brien stated that he will need to make sure the pins were out there. The Building Official or the City will allow a structure to be put in there. He stated that when they were building the deck, they are notice to make sure that they definitively know where the edge of the easement was, and they would be on the other side of it.

Mr. Herb agreed.

Mr. Monteleone stated that his only worry would be if they did have some excess dirt or something going into that easement, please make sure to clean up after themselves.

Mr. Herb agreed.

Acting Chairperson Fortlage asked if there were other questions. There were none.

A motion was made by Charles Bredt, seconded by Councilperson Walchanowicz, to approve the requested variance.

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

7628 Hemlock Road, Jim & Candace Hatton – Robert Marek of Marek Builders was in attendance and sworn in.

Acting Chairperson Fortlage asked Mr. Marek to state the reason for his request.

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Mr. Marek stated that they wanted to keep the house in line with the other houses on the street. He stated that he had built a home next door to that one approximately 7 years ago, and that was the setback on that home. They wanted to keep the new one in line with the other existing homes.

Acting Chairperson Fortlage stated that the Board can see on the screen the site plan showing the houses.

The Secretary stated that the neighbor did call her today, Mr. Tom Clark, and he had no issues with the variance request.

Acting Chairperson Fortlage thanked the Secretary for telling her. She asked if there were any other questions for the applicant. There were none. She stated that it seemed to her that it was a perfectly appropriate thing to do in the neighborhood.

A motion was made by Councilperson Walchanowicz, seconded by Pasquale Monteleone, to approve the requested variance.

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

There being no further business, the Board of Zoning Appeals meeting of July 15, 2021 was adjourned at 6:07 p.m.

Acting Chairperson Carol Fortlage

Debi Beal, Secretary
Minutes Unapproved at Time of Release 07/20/21

