

**MINUTES OF BOARD OF ZONING APPEALS
COUNCIL CHAMBERS & VIA ZOOM
CITY OF INDEPENDENCE
July 20, 2023**

New Business:

- 1. Dalebrook Rd., Dave Terrano** – Requesting a variance to 1165.01 of 10 ft. to permit a new garage to be 5 ft. from the side yard (15 ft. permitted, 5 ft. requested).
- 2. 6955 Acres Drive, Terri & Terry Campbell** – Requesting a variance to section 1165.02 to allow a 7' rear yard setback (40 ft. required, 33' requested).

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

ALSO

PRESENT: **Michael Gero, Building Official**

Chairman Moreal stated good evening and welcome to this evening's meeting of the Independence Board of Zoning of Appeals on July 20, 2023.

At this time, I'd like to ask the Board if there are any corrections to the June 15, 2023, meeting?

Mrs. Fortlage stated no, nobody's here to fix what I saw.

A motion was made by Charles Bredt, seconded by Pasquale Monteleone Jr. to approve the minutes of the Board of Zoning Appeals meeting on June 15, 2023.

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

Chairman Moreal stated before we get started, I'd like 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 based upon the facts which are presented, and the rules as set forth in the Zoning Code principles of Ohio law.

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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 concern 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.

Chairman Moreal stated okay, item number 1 has been pulled from tonight's agenda, so we will proceed to number 2.

6955 Acres Drive, Terri & Terry Campbell – Terri and Terry Campbell, the owners, and Michael Bovenzi, from Dream Builders were in attendance and sworn in.

Chairman Moreal stated I see both of you here. Would you come forward, so the recording can hear you better? Do you wish to speak? I can swear you in or are you going to let him do it.

Mr. Bovenzi stated you can swear me in just in case they need me.

Chairman Moreal asked Mike, do you want to, for the record, explain to us what you're doing?

Mr. Bovenzi stated yeah, so the Campbells are requesting a, they've asked us to do an addition for them. It's going to be an extension off of their kitchen, which will be a larger eating area, along with an outdoor living space. Both fall within their rear property line, except for the 7' we're asking on this variance, which would allow them to have a little bit of a walkway that

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would connect the outdoor living with their existing patio, and then the steps that would ultimately take them down to ground level. So, the actual building portion of it, the architect thought the building itself was within 40 ft., and it might be off by very little.

Chairman Moreal stated he shows 39 ft.

Mr. Bovenzi stated right, but we can adjust that. It was really just the steps and the back, which is just connecting the existing patio to the new outdoor living space, and then the steps that would go down.

Building Official Gero stated I'm the Building Commissioner. The deck is going to be attached to the house, right?

Mr. Bovenzi stated it's going to be attached to the new addition, yes.

Building Official Gero stated so, that actually becomes a part of the structure.

Mr. Bovenzi stated yes.

Building Official Gero stated so, with the 33.6 ft., that's the ask of the variance, and that's why you're here.

Mr. Bovenzi stated that's why we're here.

Building Official Gero stated I just wanted to clarify that to make sure everyone understood that portion.

Mr. Bovenzi stated the building itself, we tried to keep it within the 40 ft., and then when the engineer actually did this, we found out that it was a little shy, which could've been adjusted with the architect, but we would never be able to accommodate what their requests are without having at least a little bit of a walkway. So, might as well propose it the way it is now.

Chairman Moreal asked I see the side yard is at 15.8 ft., so that stands? So, you're good on the sideyard. Were the neighbors notified?

The Secretary stated yes.

Mr. Bredt asked are there any neighbors online?

The Secretary stated no.

Mr. Monteleone stated it's pretty private in the back too, from what I saw.

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Mrs. Fortlage stated yeah.

Chairman Moreal stated yeah, I was back there yesterday.

Mrs. Fortlage stated I looked at it, and it seems to me, between the topography and the landscaping, this one is not an issue that should create any problems for any of the adjoining properties.

A motion was made by Pasquale Monteleone, Jr., seconded by Charles Bredt, to allow a 7 ft. rear yard setback.

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

A motion was made by Charles Bredt, seconded by Pasquale Monteleone, Jr., to adjourn the Board of Zoning of Appeals meeting of July 20, 2023. Voice vote: 5 yes/0 no; motion carried.

There being no further business, the July 20, 2023, meeting of the Board of Zoning Appeals was adjourned at 5:38 p.m.

Chairman Mark Moreal

Amanda Sharrer, Secretary
Minutes Unapproved at Time of Release 07/27/2023