

**MINUTES OF REGULAR MEETING  
BOARD OF ZONING APPEALS  
CITY OF INDEPENDENCE  
October 17, 2019**

**AGENDA:**

**Old Business:**

**Approval of Minutes of Regular Board of Zoning Appeals Meeting held on September 19, 2019.**

**New Business:**

- 1. 6800 Bradford Circle, John & Kate Goebel -** Requesting a variance to 1363.01(a) to permit a fence to be erected in front of the building (not permitted).
- 2. 7373 Brookside Road, Matthew & Megan Baker –** Requesting a variance to 1143.02(a)(2) to permit an additional accessory building to be located on the property (not permitted), a variance to 1143.02(b)(2) of 1 ft. to permit the height of an accessory building to be 13 ft. (12 ft. permitted, 13 ft. requested) and a variance to 1143.02(b)(2)(B) of 144 sq. ft. to permit an accessory building to be 288 sq. ft. (144 sq. ft. permitted, 288 sq. ft. requested).
- 3. 6200 Oak Tree Blvd., JDI Oak Tree Holdings, LLC –** Represented by MC Group and requesting a variance to 1151.09(c)(2) to permit an additional wall sign to be located on the building (not permitted) and a variance of 36.7 sq. ft. to permit a wall sign to be 66.7 sq. ft. (30 sq. ft. permitted, 66.7 sq. ft. requested).

The meeting was called to order by Chairman Mark Moreal at 5:02 p.m. and the following responded to Roll Call:

**PRESENT:**           **Mark Moreal, Chairman  
Carl Asseff, Councilperson  
Charles Bredt  
Carol Fortlage  
Judy Smith**

**ALSO  
PRESENT:**           **Gregory J. O'Brien, Law Director**

**ABSENT:**           **Michael Gero, Building Official**

Chairman Moreal stated that he would ask the Board if there were any corrections, changes or additions to the September 19, 2019 meeting.

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**A motion was made by Carol Fortlage, seconded by Councilperson Asseff, to approve the September 19, 2019 Minutes.**

**ROLL CALL: Yeas: Fortlage, Asseff, Smith, Moreal, Bredt  
Nays: None  
MOTION CARRIED**

**6800 Bradford Circle, John & Kate Goebel** – Homeowners John and Kate Goebel were in attendance and sworn in. Chairman Moreal asked if there were any neighbors present. There were no neighbors in attendance.

Chairman Moreal stated that he thought all of the Board took a drive by their home. He asked Mr. & Mrs. Goebel to tell the Board why they would need the request.

Mrs. Goebel stated that because they have the cliff on the side of the house. She stated that when they initially bought the house, they did not realize that the front door faces the cliff. It was supposed to face the cul-de-sac. She stated that Pulte messed up. She stated that it was basically a drop off. She has two young children, and it makes her very nervous if someone was coming to the front door and just sliding off the driveway down into the cliff.

Chairman Moreal stated that he saw on the drawing that they show the extension of the fence. He asked in relation to their clean out, he looked at it today to get an idea where they would like to come to with the fence. Mr. Goebel stated that he would like to go all the way basically as far as they could. He stated that the reason was that it still slopes all the way, and it continues to drop down. They wanted to run the fence all the way to the front because if the kids were in their yard, they would have to go all the way around.

Mrs. Goebel stated that there were a ton of little kids in the neighborhood. She stated that she knows that the boy next door was 10, and the other kids down the street were 8 and 10. She stated that there were a lot of young kids, and they are very adventurous. They were playing in the Pulte houses, they were on roofs. She stated that she didn't want anybody to be liable, and she did not want anything to happen to anyone.

Chairman Moreal stated that the lot next to them has nothing on it. He didn't see the sign, so he was assuming that there was no lot there. Mrs. Goebel stated that there was not anyone until after the grass on the other side. She stated that it was very far. They have no neighbors. The Chairman stated that their house was turned. He did notice that.

The Chairman asked if the fence would be black wrought iron. Mr. Goebel agreed.

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Mrs. Goebel stated that she included a picture of the fence with their application. She stated that if the Board would need a different kind of fence, she wouldn't care what kind of fence they wanted.

The Chairman stated that he was familiar with those fences, and he thought it was a nice fence.

Several people began speaking at once.

Mr. Goebel stated that they wanted to put the fence as far down as they could. He stated that he thought they had to stop 2 foot from the sidewalk. He stated that the property continues to drop off, and they would want a fence there. Mr. Bredt stated that he thought the fence had to stop 4 foot from the sidewalk.

Chairman Moreal stated that he physically walked out there today to see the drop off. He stated that they have 72 written there. He asked if it was 72 foot of fence. Mr. Goebel stated that it would be 72 foot of fence from the point, from the corner all the way to the additional section right there.

Mrs. Fortlage stated that she thought the site visit was especially useful for this question because the need was pretty obvious to her. She stated that it was the uniqueness of the property and the fact that the fence will not bother anyone. She stated that having been a child herself, she stated that the children will be in the creek all the time.

Several people began speaking at once again.

Mrs. Goebel stated that right where the ravine was it was a little bit easier, and they might make some stairs. She stated that then there would be a safe way to get down there. She knows the Homeowners' Association President came out and looked at it all and agreed with them that something needed to be done from a safety aspect.

Law Director O'Brien stated that unfortunately, the City like most cities, have a riparian setback; and they would have to be careful. They could not build steps in there. They would have to come back before the Board and get a variance. He stated that he understood the utility for it; and maybe this would be one of those unique things, but going in there, there would be fines and everything.

Mrs. Fortlage asked the Law Director if he saw any need for the riparian issues being discussed for the fence itself.

Law Director O'Brien stated that it would be in the right-of-way. It was definitely a 25 foot.

Mrs. Fortlage asked if the Board would need to do a further variance?

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Law Director O'Brien stated that the Board could amend it to put it as allowing the fence within a riparian setback; and the reason why, it would not impede any water flow. He stated that if it was a solid fence, they may have an issue; but it would not be a solid fence.

Councilperson Asseff stated that the riparian setback was designed to protect the trees, and the fence would not hurt the trees.

Law Director O'Brien stated that it was also designed so the houses wouldn't be built right on the edge, so flooding comes in. It was all based upon the flood zone; and most of it is 25, but there are some areas in the City where the riparian setback is 50 or 75 feet. This area wouldn't be it.

**A motion was made by Carol Fortlage, seconded by Charles Bredd, to approve the variance to 1363.01(a) allowing for the fence to be erected in the front of the building and a variance to 1380 of the Codified Ordinances allowing a fence within a riparian setback.**

**ROLL CALL:        Yeas: Fortlage, Bredd, Moreal, Asseff, Smith  
                      Nays: None  
                      MOTION CARRIED**

Mrs. Fortlage stated to the applicants to be cognizant of the riparian setback because it could get them. If they think of doing anything differently, they should come back.

Several people began speaking at once again.

Law Director O'Brien stated that there was a master Settlement Agreement for the entire area, and all those subdivisions were listed; and it gives the dimensions of where the houses could be built. He assumed that everyone was following that, but he doesn't go out and check. He stated that the Building Department, Building Official and City Engineer would check. He stated that he was sure the applicants were okay.

Mrs. Fortlage stated that the riparian setback meant that they were very limited as to what they might consider doing within 25 feet.

Law Director O'Brien stated that what people do, they get themselves into trouble, especially where they were built, they would start putting in landscaping; and then the City comes by and looks at it. Not only would they have to tear the landscaping out; but the setbacks were imposed upon the City by the Ohio EPA, every community, just not Independence. He stated that people put decks in, and they have to rip them out.

Mrs. Goebel stated that she appreciated the Board coming out and looking at it because it was a lot different when you see it.

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**7373 Brookside Road, Matthew & Megan Baker** – Homeowner Megan Baker was in attendance and sworn in. The Chairman asked if there were any neighbors present. There were no neighbors in attendance.

Chairman Moreal stated that Mrs. Baker was looking to put a structure for their boat. He asked her why she would need it.

Mrs. Baker stated that they would need it to protect the boat. She stated that over the winter they had it next to their shed on a gravel pad the last two winters; and every spring they open it up and there is water that has seeped in and frozen in the little cracks. She stated that it was a sound boat cover, but the amount of snow that collects over the winter; it just seeps through. She stated that it was something they needed to do. She stated that they did like a tent last year, and it didn't work.

The Chairman asked if that was what was there now.

Mrs. Baker stated that what was there now was what they were proposing. She stated that they didn't know they needed a permit for it.

Chairman Moreal stated that maybe he was missing it, but he asked how many sides were open.

Mrs. Baker stated that currently all four sides were open. The Chairman asked if it would be that way. Mrs. Baker stated that her husband wanted to put something along the long edges to keep the blowing snow off as well. She stated that he wanted to match what the existing shed had, that kind of siding. She stated that he thought that he would go from 6 feet and up; but whatever the Board would think would be appropriate.

The Secretary stated that Mrs. Baker was approved for 3 feet. She had gone to ABR and got approval. Mrs. Baker stated that it would be along the 2 sides to keep the blowing snow out of there as well.

Chairman Moreal asked if the front would be open. Mrs. Baker stated that the front would be open.

Mr. Bredt asked if the 3 feet and up to the 24 foot direction. Mrs. Baker agreed. He asked if it would be adjacent to the existing shed. She stated that it would be. Mr. Bredt stated that the wall of the shed would be one of the walls of the enclosure. Mrs. Baker stated that technically no because they do have enough room because of the overhang of the shed. She stated that it would be a foot at least, so they can secure it to the post.

Mrs. Smith asked if Mrs. Baker was saying it would go all the way up the sides. Mrs. Baker stated that it would.

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Mrs. Fortlage asked what was the distance between the shed and the structure. Mrs. Baker stated that it was probably 2 feet, including the overhang. Mrs. Fortlage asked if it the 2 feet was under the overhang of the shed. Mrs. Baker stated that it was probably a foot if they were excluding the overhang. She stated that from the end of the overhang to where the post started, it would be about a foot.

Chairman Moreal stated that Mrs. Baker was not building it off the shed. Mrs. Baker stated that it would not be connected to the shed at all.

Mrs. Smith asked if the front would be open. Mrs. Baker stated that it would be open.

The Chairman asked if there were any neighbors in attendance. There were none.

Mrs. Fortlage stated that Mrs. Baker was before the Board a year or 2 ago looking for something, and she believed the Board denied it. Mrs. Baker stated that they had 2 variances; the one was the size of the shed that they built which was approved. She stated that the other one was the proximity to the property line, which they just moved it over. Mrs. Baker stated that they hadn't anticipated at that time anything with the boat. They just thought they would keep it next to the shed; but when they saw the damage that was done, they decided they needed to do something about it.

Mr. Bredt asked if Mrs. Baker hauls the boat back and forth every weekend. Mrs. Baker stated that they did.

The Chairman asked how it was getting in and out back there. Mrs. Baker stated that there was plenty of room, and they didn't have to touch anyone else's property. They just go in and out. In the early spring it does get soggy back there, but they don't take the boat out at that time.

Mrs. Smith asked if the posts were 38 inches deep. Mrs. Baker stated that they were. Mrs. Smith stated that she thought it was supposed to be 42 inches deep.

Law Director O'Brien stated that the Building Official would not let the applicants build it before it was inspected.

Mrs. Smith stated that it was already built.

Chairman Moreal stated that he thought they changed the frost line to 32 inches. Mr. Bredt agreed. The Chairman stated that it used to have to be 4 feet, and they changed it. Mr. Bredt stated that the Building Department would deal with that. It was not part of the Zoning Board.

Mrs. Smith stated that she was just saying.

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The Chairman asked Mr. Bredt was saying. Mr. Bredt stated it was 32 inches.

Mrs. Smith stated that she thought it was supposed to be 42 inches.

Chairman Moreal asked if anyone had any questions. No one had any questions.

**A motion was made by Charles Bredt, seconded by Councilperson Asseff, to approve the variances.**

**ROLL CALL: Yeas: Bredt, Asseff, Fortlage, Smith, Moreal  
Nays: None  
MOTION CARRIED**

**6200 Oak Tree Blvd., JDI Oak Tree Holdings, LLC** – Lou Belknap and Cione Belknap from Agile Sign were in attendance and sworn in. Applicant Lori Watkins from MC Group was unable to be in attendance. A letter was provided. Both Lou Belknap and Cione Belknap were sworn in.

Mr. Bredt asked if the building was the old First Energy Building. Jeff of iHeart Media stated that it was.

The Chairman asked about the reason for the request.

Mr. Belknap stated that they were asking for 2 variances; one for an additional sign, and one for additional square footage. He stated that the reason was there were no other signs as they know as a sign on the building. The address, they call it the 6200 Building.

Chairman Moreal stated that he drove around the building twice looking for the sign.

Mr. Belknap stated that he told the Building Official if it was called the 6200 Building, where was the Bldg; so to him it was an address, it was not the identification of a building. He stated that was what they look at. Mr. Belknap stated that the Building Official told him he should have no issues with the variances; but they have to identify it as a sign. He stated that it would be the one and only true sign that would be on the building. They were asking for it to be at the top ridge of the building as shown in the drawing; and they need that size sign to have it do any kind of good up there. He stated that it was such a massive area, a lot of glass and a lot of dark areas. They need to have something that would be readable. He stated that the building was set back quite a distance from the street.

Mr. Bredt asked the representatives from iHeart Media how much of the building do they occupy. Jeff stated that they occupy 50,000 square feet on the fourth floor. He stated that

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currently they were the only tenant on the fourth floor. He stated that there were plans to move in some additional tenants on the fourth floor as well.

Mr. Bredt asked who would represent the owner of the building for the discussion. Mr. Belknap stated that he didn't represent the owner of the building, but he represented the sign company; but they do have a letter from the owner.

Mr. Bredt stated that the only reason he brings it up was that if additional tenants come in and some additional tenant wants an additional sign; they would have a tougher road.

Jeff stated that it was placed in their lease, the exclusivity of only one sign for the building for them.

Several people began speaking at once.

Jeff stated that they only have one, and it would be exclusive to them.

Mr. Bredt stated that when he drove around that area, he noticed that quite a few of those buildings have a number over the front door and most of the buildings have a sign in the upper corner, closer to the road.

Law Director O'Brien stated that 20 years ago, most of the buildings in that area, that was their wall sign; they were known as whatever the address was.

Several people began speaking at once again.

Law Director O'Brien stated that the owner would know that it would be extremely difficult if another tenant came and asked for another sign.

Mr. Belknap stated that he was quite aware of that. He stated that they did have the exclusive right to have that sign on the building.

Mr. Bredt asked if the sign would be illuminated at night.

Mr. Belknap stated that it would be.

Mr. Bredt asked if it would be 24 hours.

Mr. Belknap stated that it was not 24 hours. He didn't know what their plan was.

Jeff stated that they wanted the sign to be illuminated at night; and he and Andy have worked with the electrician to where the control would be inside of their suite. He stated that it would

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occupy part of the façade above, the space that they occupy in the building. The electrical run would be within their suite; so they could adjust the timing of the light with daylight savings time. During the day it would not be illuminated; it would be the 3 colors of their company, red, with black lettering and gray lettering for iHeart and then media. During the day you would see that. At night when it would illuminate, the heart would be illuminated red, and then the wording iHeart Media would be illuminated all in white.

Several people began speaking at once again.

Mr. Belknap stated that the sign would be on a timer, and it would not be on 24/7.

Chairman Moreal stated that there were no neighbors in the area that it would affect.

Mr. Bredt stated that it would be facing a parking lot basically, or a street.

Mrs. Fortlage asked them to talk about the size being more than twice as much as was permitted.

Mr. Belknap stated that they have to have something that was up there that would be legible. He stated that if he put up the allowable square footage, no one would see it.

Councilperson Asseff stated that hopefully people will be able to see this sign because in relation to the size of the building, the sign was small.

Mr. Belknap stated that there was a lot of dark area on that building, and they were hoping that it would function well. He stated that they designed something that would be ballasted in the space that was there. He stated that he couldn't go bigger because then they would not have a balance of positioning on top and bottom. He stated that they were stuck with a size based on the parapet.

Chairman Moreal asked if that was the main entrance there.

Jeff stated that it was a corner that faces the road. He stated that a lot of times their guests, visitors, artists and celebrities, clients, contest winners would be coming to the building. He figured it was placed in a good spot on the building where it would be seen from Oak Tree Blvd.

Mrs. Smith asked if the sign would be all on one raceway.

Jeff stated that his understanding was the raceway for the words (inaudible).

Mr. Belknap stated that the heart, the iHeart and then Media will be on different raceways. The sign was LED, so it would be low voltage, low energy.

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Mr. Bredt stated that the electrical feeds for each of the raceways, he asked if those would come through the building behind the sign or would they loop over the top.

Andy stated that they would be coming from behind. They will not be visible.

**A motion was made by Councilperson Asseff, seconded by Judy Smith, to approve the variances.**

**ROLL CALL:           Yeas: Asseff, Smith, Moreal, Bredt, Fortlage  
                              Nays: None  
                              MOTION CARRIED**

**There being no further business, the Board of Zoning Appeals meeting of October 17, 2019 was adjourned at 5:34 p.m.**

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**Chairman Mark Moreal**

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**Debi Beal, Secretary**  
Minutes Unapproved at Time of Release 10/30/19