

**MINUTES OF VIRTUAL MEETING
BOARD OF ZONING APPEALS
CITY OF INDEPENDENCE
November 18, 2021**

- 1. 6434 Pebble Creek Drive, Chris Swansiger** - Requesting a variance to 1165.01 of 5' to permit an accessory structure to be 10' from the side lot line (10' requested, 15' required).
- 2. 5108 West Ash Road, Luke Patacca** - Requesting a variance to 1363.01(c) to permit a fence to extend approximately 53 ft. past the front building line of the adjacent property (not permitted).
- 3. 8211 Brookside Road, John May** - Requesting a variance to 1165.01 of 3'5" to permit a proposed addition to be built 11'7" from the side lot line (11'7" requested, 15' required).
- 4. 5299 Brookside Road, Jason Zimmerman** – Requesting a variance to 1165.01 of 3' to permit a garage to be built 12' from the side lot line; a variance to 1143.02(b)(1)(B) to permit a three car garage to be 32' x 40' (36' x 24' permitted), a variance to 1143.02(b)(1)(C) of 1 parking space (6 requested, 5 permitted) and a variance to 1143.02(b)(1)(A) of 2' to permit a three car garage to be 17' in height (15' permitted, 17' requested).
- 5. 7800 Brookside Road, St. Maron's Church** – Requesting a variance to 1151.10 for the installation of a double-sided illuminated monument sign to be located within the 35' triangle in a U-1 residential district (not permitted).

The virtual meeting was called to order by Chairman Mark Moreal at 5:32 p.m. and the following responded to Roll Call:

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

ALSO
PRESENT: **Will Doyle, Assistant Law Director**
 Michael Gero, Building Official

ABSENT: **Gregory J. O'Brien, Law Director**

**MINUTES OF A REGULAR MEETING OF THE BOARD OF ZONING APPEALS
CITY OF INDEPENDENCE, OHIO
November 18, 2021**

Chairman Moreal stated that at this time he would like to ask the Board if there were any corrections, changes or additions to the October 21, 2021 Minutes.

A motion was made by Charles Bredt, seconded by Pasquale Monteleone, to approve the Minutes of the Board of Zoning Appeals Meeting of October 21, 2021.

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

Chairman Moreal then proceeded to read the Board of Zoning Appeals opening statement.

The Board of Zoning Appeals is a quasi-judicial body and, as such, its role is similar to a judge in a court case. The Board will hear evidence and testimony that is factual and will make decisions based upon the facts which are presented and the rules as set forth in the Zoning Code principles of Ohio law.

The City of Independence has adopted a Zoning Code and, per the City's Charter, has appointed a five-member Board of Zoning Appeals. This Board is empowered to hear and decide appeals and to authorize variances from the strict terms of the Zoning Code where the variance will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the Zoning Code will result in practical difficulty or undue hardship, depending on the type of variance requested.

With this being stated, the Board's proceedings are relatively informal; but, in order to conduct an orderly meeting and allow all parties of interest, mainly contiguous property owners (or their legal representatives), the opportunity to present the evidence, certain procedures need to be followed:

All interested parties must be sworn in. The applicant will be asked to present evidence to support the requested appeal, the Board will ask questions, and then all interested parties (contiguous property owners) may present evidence concerning the appeal and ask questions regarding previously presented evidence. Any party may ask questions to another party.

It is the applicant's burden to produce evidence to support the application. The Board will not make the applicant's case for them. In order to prepare appropriate meeting minutes, each person who speaks will need to state, for the record, his or her full name and address. The meeting may be continued by either the applicant or the Board. The Board must base their decision upon facts and not on expressions of concerns or non-factual matters. The action of the BZA does not become final until 30 days after the date of the meeting that the minutes are approved by the BZA. Any appeal may be made to the Cuyahoga County Court of Common Pleas by an interested party within 30 days of the date the minutes are approved.

**MINUTES OF A REGULAR MEETING OF THE BOARD OF ZONING APPEALS
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6434 Pebble Creek Drive, Chris Swansiger – Homeowner Chris Swansiger was in attendance and sworn in.

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

The Chairman asked Mr. Swansiger to state for the record his request and the need for the variance.

Mr. Swansiger stated that he had an existing shed on the property that was there when he bought it. He stated that it was a plastic shed. It was 8' x 10'. He stated that the shed was in the rendering on the screen. He stated that he was looking to upgrade the shed to a larger wooden framed that was on the screen. He stated that it would comply with Mr. Swansiger's understanding of the code in all ways but one which would be the setback of where he would intend to place the shed; and where he wanted to put it was right in the footprint relative to the side yard as the existing shed sits. He stated that would be 10 feet from his understanding of the property line which was shared with 6424 Pebble Creek. He stated that he was asking for the variance to put the shed on the property where the existing one would sit relative to the side lot. It would be 10 feet rather than 15 feet.

Chairman Moreal asked Mr. Swansiger if Dominic Rega lived to the north.

Mr. Swansiger replied yes.

The Chairman stated that he wanted to let the Board know that he got a call from Mr. Rega today. He was out of town and couldn't be on line. He stated that he had no issue with it. He would support it. The Chairman stated that he was just putting it out there.

Mr. Swansiger stated that they had talked many times about it, and he was in favor as well; although there was no variance needed from the rear lot, Mark and Carol Zemba, adjacent to him on the rear side were also acknowledging and consenting to the variance.

Mrs. Fortlage stated that she had a question. She stated that her question would be for Building Official Michael Gero if he was in the meeting.

Building Official Gero stated that he was here.

Mrs. Fortlage asked if there was a size variance needed.

Building Official Gero replied no.

Mrs. Fortlage asked don't we count the little porch?

Building Official Gero stated we don't count the porch, we just count the enclosed portion of the structure.

Mrs. Fortlage replied thank you.

Mr. Monteleone asked if Mr. Swansiger was going to put up the shed this year.

Mr. Swansiger stated that he was planning on doing the site prep to the extent the weather would allow, but it would be relative to when the materials would be available from the builder so he cannot say it would go up before end of year.

Chairman Moreal asked if there were any other questions.

A motion was made by Charles Bredt, seconded by Carol Fortlage, to approve the variance of 5' to permit an accessory structure to be 10' from the side lot line.

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

Mrs. Fortlage wanted everyone to know that when she did her site visit today, she was witness to Chris rescuing his neighbor from a fall down his wet slope.

Mr. Swansiger stated that he can confirm that Mark was doing just fine. He was a little sore, and his ego was bruised as well.

Mrs. Fortlage stated that it looked like his wrist might have been a concern, but she was glad that it was not.

5108 West Ash Road, Luke Patacca – Homeowner Luke Patacca was in attendance along with neighbor Lisa Sabol. They were both sworn in.

Chairman Moreal asked Mr. Patacca to explain to the Board why he would need the variance.

Mr. Patacca stated that he has the corner lot, and he would like to be able to fence off his backyard for privacy. He stated that anyone coming down the street, his whole back wall was windows; so he can see pretty much down the entire street almost to Chestnut on a good day. Anyone walking down the street or cars coming down the street, the headlights go right into his living room. He stated that he would like to be able to fence all of that off, and with it not being the biggest backyard, that would be going a little bit further down the side so the dogs and kids can go out.

Chairman Moreal asked Mr. Patacca how far he was looking to be off the property line. He stated that he was there last night, and they talked about a few different things.

Mr. Patacca stated that he would like to stay closer to it, two or so feet from it.

The Chairman asked what was Mr. Patacca's intent with all of the brush, bushes, some trees.

Mr. Patacca stated that on the Sabol's side, which was in the rendering right there, he was planning on leaving the majority of that and just cutting down the part that would be on his inside of the fence. He would still leave the brush to cover up the outside of the fence in most areas.

The Chairman stated that rest of the property, the side and the front, or the adjacent property line, how far was he going to be on the 120 foot side.

Mr. Patacca stated that the Jacob residence would be to his right, he would stay within a foot or two of that also.

The Chairman stated that Mr. Patacca would have to be enough to maintain it from his property.

Mr. Patacca replied yes.

The Chairman asked if there were any questions for Mr. Patacca.

Councilperson Walchanowicz stated that when they were there yesterday looking at it, the trees that were along the Sabol's side, there was potential that the fence company may not be able to stay two feet. He asked if Mr. Patacca was okay with them having to move it in a little bit to avoid the roots and stuff. He stated that he could be three or four feet off, it would be based on the roots of the trees.

Mr. Patacca agreed.

Councilperson Walchanowicz stated that if Mr. Patacca was that far off the line, that one 8 to 10 foot section where he could see, he would be open to planting some landscaping there just to kind of cover the fence a little bit.

Mr. Patacca stated that one little gap, if he had to plant a couple of bushes he could do that.

Chairman Moreal asked Lisa Sabol if she was the neighbor to Mr. Patacca. He asked her if she wished to speak.

Ms. Sabol stated that she was assuming that the fence would be where the existing caution tape was constructed.

Mr. Patacca replied yes. He stated that was where they were aiming for.

Ms. Sabol stated that it will not affect the front area by the telephone pole then.

Mr. Patacca replied correct. He stated that they were staying back quite a bit from the telephone pole towards her house. He stated that if she would look where the yellow line was, that was where the fence would be going on that rendering. He stated that big tree on the corner, it will be inside his yard of that tree.

Ms. Sabol wanted Mr. Patacca to repeat that.

Mr. Patacca stated the very large tree when she would pull into her driveway to the left, it will be inside that tree. The tree will be in front of the fence. The fence will be behind that. It would be where he was starting it.

Ms. Sabol stated that tree would be the beginning point.

Mr. Patacca replied correct.

Ms. Sabol stated that the property line was basically on the telephone pole.

Mr. Patacca stated that it was almost right there.

Ms. Sabol stated that Mr. Patacca will be able to get the fence behind the large tree.

Mr. Patacca stated that he was stopping before that large tree.

Ms. Sabol stated it will begin right after that tree.

Mr. Patacca replied correct. That tree would be outside of his fence once it was fenced off.

Ms. Sabol stated that it will be about two feet in the property line onto his property.

Mr. Patacca stated it was going to be at least two feet.

Ms. Sabol stated that she knows that they can consider it brush in between their properties, which would be farther on back; and Mr. Patacca will do his best to preserve as much of that as possible.

Mr. Patacca replied correct. He stated that he would leave as much as possible. He would rather cover the fence. He doesn't want to knock it down and have his fence showing. He would want that to cover the fence also.

Ms. Sabol stated that she agreed. She stated that Mr. Patacca had a very unfortunate lot there; so what he can do to provide him with privacy would be important. She asked what type of fencing would Mr. Patacca be using.

Mr. Patacca stated it would be a six foot high wood privacy fence.

Ms. Sabol asked if the flat portion would be toward her property.

Mr. Patacca replied correct.

Ms. Sabol asked about coloring.

Mr. Patacca stated it would most likely be like a stained wood, but not red or anything abnormal. It would be just like a wood stain.

Ms. Sabol stated that was what she was hoping for. She stated that she figured Mr. Patacca would because he has kept up the property to a standard that was within the condition of the neighborhood. She stated that she had no problem. She was just interested in exactly how far on the property line it would be going, and her concern of saving the trees as much as possible.

Mr. Patacca stated that he wasn't taking down any more big ones, and the brush would be what is on his side. He stated that if Ms. Sabol would look where the caution tape was, a lot of that was just branches. The main part of the tree of the brush will still be there.

Councilperson Walchanowicz stated that when they were there last night, he thinks that Luke had mentioned about just cutting a path through that brush area enough to get the fence through.

Mr. Patacca stated that he was going to clear the part on the inside once he puts the fence on his side, but he wanted to leave as much of that as possible for Ms. Sabol.

Ms. Sabol stated that she thought it would cover up the fence. She stated that most of it would cover it up, and eventually cover up the entire fence.

Mr. Patacca stated that there was the one path where you could walk through the yards, and that is where he mentioned that if it was an eyesore and he had to put a couple bushes in, he would not be opposed to that. He stated that he wasn't going to try to make it an eyesore for anybody.

Ms. Sabol stated that she thinks Mr. Patacca has an unfortunate lot, and for Mr. Patacca to be able to enjoy it, she thinks that the fence would be important and necessary.

Mr. Patacca replied thank you.

A motion was made by Pasquale Monteleone, seconded by Councilperson Walchanowicz, to approve the variance to permit a fence to extend approximately 53 ft. past the front building line of the adjacent property.

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

8211 Brookside Road, John May – Homeowners John and Laura May were in attendance and sworn in along with Architect Rick Jozity.

Mr. Jozity stated that Mr. & Mrs. May want to put an addition on the back of their house; and due to the angle of the property line, the property line goes from the southeast to the northwest, and the house was situated perpendicular parallel to the road. He stated that any addition they would put on would encroach the 15 foot setback. He stated that he believed that Mr. May had spoken to his neighbors, and he thinks they are all in agreement and have no issue with what Mr. & Mrs. May would want to do.

Chairman Moreal stated that he was assuming they designed the house so that only the little sliver was affected. He asked if that was to keep it further off the side yard.

Mr. Jozity agreed.

The Chairman stated that they were looking at 3'5" at the front of the corner there because of the sliver.

Mr. Jozity agreed.

The Chairman asked if there were any neighbors on line.

The Secretary stated that if there were any neighbors on, they would need to raise their hand; but she didn't believe there were any neighbors on the line.

Building Official Gero stated that he had a question for the architect. He asked on the driveway area that was being shown on the plans. He stated that on the plan, the area where the line stated 15 foot setback where the letters were typed in, that point was part of an existing driveway, he asked if that was correct.

Mr. Jozity stated that was correct. He stated that there was a carport that goes up to the front of that garage. He stated that they were adding on a few feet onto the west side of the garage, and the carport goes all the way up.

Building Official Gero stated the driveway that extends back towards the new garage, the area back there, that would need to be 3 feet off the property line. He asked if that was the intent.

Mr. Jozity stated that it was the intent. He stated that they have 4'9".

Building Official Gero stated that he just wanted to be sure that there wasn't another variance that would be needed for the project.

Chairman Moreal stated that he didn't have any issues with it. He stated that for the little bit that would be encroaching, it would just be a sliver. They have a big lot, and obviously they were trying to improve their house. He didn't have an issue with it.

Mrs. Fortlage stated that in addition to it just being a corner, it was against a big blank wall of the neighbor's house.

A motion was made by Pasquale Monteleone, seconded by Carol Fortlage, to approve the side yard variance as requested.

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

5299 Brookside Road, Jason Zimmerman – Homeowner Jason Zimmerman and Architect David Sabol were both in attendance sworn in.

Chairman Moreal asked if there were any neighbors present.

The Secretary stated that if there are, they would need to raise their hand to speak.

The Chairman asked Mr. Zimmerman to start with the size of the garage. He stated that Mr. Zimmerman was looking for 32' x 40', and he was allowed 36' x 24'. He wanted Mr. Zimmerman to explain why he would need the extra size.

Mr. Zimmerman stated that he has a few nice vehicles, and his snow plow. He stated that the neighbor two doors down calls and complains about his snow plow and stuff. He stated that he didn't have enough room in his garage. He stated that his garage was built too shallow to fit his regular vehicles in, like his pickup truck and his Yukon. He stated that he wanted to put up a bigger garage so he could put his stuff away and stop bothering the guy two doors down.

Chairman Moreal asked if it was east or west, his neighbor two doors down.

Mr. Zimmerman stated it would be west. He stated that he had bought the garage at an auction, a Ritchie Brothers Auction; and he had nowhere to put it while he was waiting for the variance. He put the lumber in his yard, and his neighbor called the City on him that night. He stated that he was one of those old guys who is retired and has nothing to do and picks on his neighbors.

Chairman Moreal stated that Mr. Zimmerman did not have a shed now. He didn't see one.

Mr. Zimmerman stated that he did not have a shed now.

The Chairman stated that his one concern was Mr. Zimmerman was looking for a three foot side yard, and he was supposed to be 15 feet. He asked any reason why Mr. Zimmerman could not make it 15 feet.

Mr. Zimmerman stated that he just wanted to tuck it behind the trees so the neighbor wouldn't complain. He was just trying to get it in the back corner as much as possible to hide it in the trees so that it wouldn't be a big problem for the neighbor. He stated that if he would have to move it over, he probably could do that.

Chairman Moreal stated that he was just thinking out loud and wondering why.

Mr. Zimmerman stated that was the only reason. He would like to have it further left, he thinks it would line up with the driveway better. He stated that when he was over with his architect.

Mr. Bredt stated that he had a couple of questions. He stated that the application itself refers to work equipment. He asked if it was work equipment for any kind of a business that Mr. Zimmerman would be running out of his property.

Mr. Zimmerman replied no. He stated it would be his snow plow and pickup and tools for working on his cars that he has. He was not running a business out of his property. He stated that he rents a commercial building for his trucking company at 3600 Ridge Road in Cleveland.

Mr. Bredt stated that his second question would be relative to the height of the building. He stated that Mr. Zimmerman was showing two 10' x 10' garage doors side-by-side. He asked Mr. Zimmerman why he would need that extra height on those doors necessitating the height restriction.

Mr. Zimmerman stated that his pickup truck would not fit in an 8' door.

Mr. Bredt asked what kind of a pickup truck did Mr. Zimmerman have.

Mr. Zimmerman stated it was a 2021 three-quarter ton GMC Sierra. He stated that it was just nice to have a bigger door too.

Mr. Bredt stated that he agreed with that. He stated that Mr. Zimmerman had multiple variances, and those multiple variances include increasing his parking requirements; and he was wondering what the practical difficulty was that would allow the Board to pass all the variance requests. He stated that it seemed very large, and he stated that he guesses he just doesn't get it.

Mr. Zimmerman stated that it was not very much bigger than the garage he was allowed to build without a variance.

Mr. Bredt stated that he totally agreed with Mr. Zimmerman. He stated that the height was what really caught his attention.

Mr. Zimmerman stated that it was a pole structure. It could be lowered down. He stated that he had four collector cars; and he would like to put a four post lift in there and teach his kids how to work on cars in his garage. He stated that he would like to teach them something that they can't learn in school anymore. He stated that cars were his hobby. He stated that garage would basically be used for storing his cars and keeping his plow and other cars out of the weather and away from the neighbor.

Mr. Bredt stated that he could appreciate all of that if Mr. Zimmerman was building a building with a 12' wall and that is what caught his attention. He wanted to make it part of the record that there was no intention for using this for a commercial vehicle or equipment in the building.

Mr. Zimmerman stated that the only commercial vehicle that was parked there was his three-quarter ton pickup truck and that was only because it was registered as a commercial vehicle. He stated that he just uses it to run back and forth to work and plow his yard and his shop and stuff.

Mr. Bredt asked Mr. Zimmerman if he would have plumbing in the garage.

Mr. Zimmerman stated that he would have plumbing, heat and electricity.

Mrs. Fortlage stated that for the record, it was a significant request; it was 50% more than allowed in size, plus the height variance. She stated that it was very large, and she has some qualms about it.

Mr. Bredt stated that he did too. He stated that the overall scope of it was, especially asking for the extra parking space.

Mr. Zimmerman stated that his neighbor across the street has a garage that was 30' x 40'. He stated that it wasn't that big.

Mrs. Fortlage stated that each variance was considered on its own and not justified by neighbors.

Mr. Zimmerman stated that he was just saying if they wanted to see what size it would be, his neighbor's garage was 30'x 40'. He stated that it wasn't as tall, but it was a 30' x 40' garage. He stated it was at 5300 Brookside.

Chairman Moreal asked Mr. Zimmerman how big was his lot.

Mr. Zimmerman stated that it was .98 or .96 acre.

Chairman Moreal stated that Mr. Zimmerman was 142' x 239', and Mr. Zimmerman was going to set the garage back almost 50 feet behind his house. He asked if that was correct. He stated that he walked the property and saw that it went down. He asked what he would do with the slope in the back. He asked if the garage would be before that.

Mr. Zimmerman stated that the yard sloped down to his walk out to the right, but when you would get to the tree line, it ends 4 or 5 foot into the tree line, and that was his neighbor behind him yard back there in the woods there.

Mr. Bredt asked Mr. Zimmerman why he would need the extra parking space.

Mr. Zimmerman stated that he had his Yukon that would not fit in his regular garage. He stated that the Sierra won't fit in the regular garage. He stated that he has his boat, and he has a Corvette and a Camaro. He has another Camaro and a 1953 GMC pickup truck. He stated that

those were all things he would like to keep on his property in his home. He stated that his neighbor called about his snow plow.

Mr. Bredt stated that he buys it about the neighbor. He stated that if the Board was giving Mr. Zimmerman the size of the building to get everything inside, then why would Mr. Zimmerman need an additional parking space outside.

Mr. Zimmerman stated that there was no additional parking outside.

The Chairman stated that Mr. Zimmerman had a three-car attached garage. He asked the Secretary if the proposed garage was considered a three-car garage? He asked if it would fall under the three-car garage?

Building Official Gero stated that Mr. Zimmerman has a three-car attached garage, that would mean he had three covered parking spaces. He stated that if the size of the garage was larger than a three-car, but smaller than a four-car garage per the code measurements; therefore, the Building Official considered it as an oversized three-car garage. He stated that would be three parking spaces in essence, and with the three parking spaces that he has on his sized lot, he would be allowed to have five parking spaces. He stated that they were talking about indoor parking.

Mrs. Fortlage asked what was the depth of the current garage.

Mr. Zimmerman stated that he was not sure off the top of his head. He stated that he knows that his car doesn't fit in it. He can't close the garage doors.

Mrs. Fortlage asked if there was stuff in front of it.

Mr. Zimmerman replied no. He stated that if you put the car all the way to the drywall wall, you cannot close the garage doors.

Chairman Moreal stated that he has that at his house. On the one side he can't park a car. It was the way they built the garage. He stated that he has a two-car garage, and he has to have a smaller car because it didn't work.

Mr. Zimmerman stated that he didn't know if the Board knew the size of a Chevrolet Camaro which was probably 3 or 4 foot shorter than his Yukon; that car would fit in there with about a foot of room. He stated that when he tries to put his pickup truck in there or his Yukon, they do not fit.

Mr. Monteleone stated that he would like to make a motion to pass the variances.

Chairman Moreal stated that the Board had a bunch of variances there. He stated that he wanted to vote on the side yard variance first. He stated that he heard a couple of options. He stated that Mr. Zimmerman could stay the 15 foot. He stated that the Board could vote on the 1165.01 variance.

A motion was made by Pasquale Monteleone, seconded by Charles Bredt, to approve the variance to 1165.01 of 3' to permit a garage to be built 12' from the side lot line.

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

A motion was made by Pasquale Monteleone, seconded by Charles Bredt, to permit a three car garage to be 32' x 40'.

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

A motion was made by Pasquale Monteleone, seconded by Chairman Moreal, to approve the variance to 1143.02(b)(1)(C) of 1 parking space.

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

A motion was made by Pasquale Monteleone, seconded by Charles Bredt, to 1143.02(b)(1)(A) of 2' to permit a three-car garage to be 17' in height.

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

Chairman Moreal wished Mr. Zimmerman good luck.

7800 Brookside Road, St. Maron's Church – Brett Smith, the sign contractor, was in attendance and sworn in on behalf of St. Maron's Church.

Mr. Smith had to call in to access the meeting.

Mr. Bredt stated that his application stated that Skip Collins was the applicant.

The Secretary stated that she emailed the Board an application today about 5:00 p.m., she had been out of town until that time, and Brett Smith was the new applicant.

Mrs. Fortlage asked what else was different.

The Secretary stated that she did not know as she did not get a chance to look at it.

Mr. Bredt asked if they were the same folks who did not appear last month.

The Secretary stated that they did not appear because they had sold their business.

Mrs. Fortlage stated that she had two pictures and no application.

The Secretary stated that the application was showing on the screen.

The Secretary then proceeded to call Mr. Smith so he could access the meeting by phone.

Chairman Moreal swore in Mr. Smith.

The Chairman wanted Mr. Smith to explain the reason for the variance request.

Mr. Smith stated there was a 35 foot triangle that was proposed. He stated that if they would place the sign back from that, they would be basically up on a hilltop, and there would be some trees in the way. He stated that he knows the old sign was really close to the road.

Mr. Smith stated that they were asking to put the proposed sign off the roadway edge, and then 12 foot off the driveway. He stated that when he was there, he pulled up to the street, and you could still see around it easily in both directions. He stated that the problem was the church was so far off the road. He stated that was the only way you could tell there was a church there with the sign. He stated that if the sign would go back beyond the triangle, it would be up on a hillside, and there would be a couple of trees in the way. That was why they were asking for the variance. He again repeated that the sign would be 12 foot off the edge of the roadway and off the driveway.

The Chairman stated that if a car would pull up, you would not be blindspotted by car.

Mr. Smith stated that the one picture he took, that was him taking his picture looking left.

Building Official Gero stated that he wanted to interject some history here. He stated that at the Architectural Board meeting which occurred previously to the previous Board of Zoning meeting which there was no attendee, they had a discussion with Skip Collins, and it was related to the fact where he was looking to locate the sign. He stated that the Architectural Board approved the sign for its appearance and aesthetics and everything.

He stated that the issue became that he had it measured out 12 feet from the roadway, but that is not from the right-of-way. He stated that the Engineering Department sent a drawing with locations as far as where the right-of-way ended, and he doesn't know if this applicant received that drawing to be able to know exactly where he was putting it.

He stated that given the fact that there are utilities and everything, and it was a substantial sign, if anything would be granted, and the Assistant Law Director could correct him if he was wrong; the location, it would be aesthetics and being able to see. He stated that often variances were

granted subject to the safety service approval, but this could be subject to the Engineer Department's approval of the exact location. If the sign would be staked out, and the drawing would be used to provide where they intend to put the sign so that the Engineering Department would be able to tell exactly where the sign may be. He stated that he didn't know if that sounded like something that the City Engineer might be in agreement to or not. He stated that would be the one variance.

The Building Official stated that the other variance was the fact that they wanted to illuminate the sign, and in a residential district there was no illumination of signs. He stated that those were the two variances, and that was a little bit of the history with the sign.

Mrs. Fortlage stated that she only saw one variance on the agenda.

Building Official Gero stated that he didn't think so. He stated that the agenda stated it was requesting a variance to 1151.10 for the installation of a double-sided illuminated monument sign.

Mrs. Fortlage stated it was to be located within the 25' triangle.

Building Official Gero stated that the section restricted the illumination also.

Chairman Moreal asked Mr. Smith what would stop him, to get it out of the triangle, what would stop him from putting it further west; and he wouldn't need the variance, other than the illumination.

Mr. Smith stated that as far as the illuminating, all the letters would light up. He stated that as far as the placement, it would be so far away from the driveway, and he thinks the tree might come into play. He stated that he didn't know exactly the distance from the roadway to the right-of-way. He stated that in the one drawing it was not real clear as far as the distance from one point.

Chairman Moreal stated that if Mr. Smith got outside of the triangle, he would think the tree would be in the way.

Mr. Smith stated that was the main point. He stated that once they go back further.

Chairman Moreal stated that he didn't mean back further, he meant further west.

Councilperson Walchanowicz stated to Mr. Smith that the Chairman was talking about taking the sign west towards Brecksville Road.

Building Official Gero stated that the issue would still be in the right-of-way.

The Chairman stated that if Mr. Smith could get out of the right-of-way, then it would not be an issue.

Building Official Gero stated that he thought the right-of-way extended as far as back and east as the concrete apron that everyone sees in the one photograph.

Mr. Bredt asked the City Engineer, subject to the unseen below surface, the utilities, etc., would OUPS identify that to his satisfaction?

City Engineer Ramm stated that the utilities would be marked if they would call the number. He stated that if the variance would be granted, he would just make sure that they put some sort of protective language for the City that in the event the City would ever construct a sidewalk there, that it would be on them to move the sign because it would be in the right-of-way.

Mr. Bredt stated that his second question to the applicant was if the illumination of the sign, if it could be put on a timer where the lights would go off an hour after dusk.

Mr. Smith agreed. He stated that it would definitely be on a timer.

Mr. Monteleone stated that was one of his concerns. How would deal with the illumination in a residential area. He stated he would have to say business hours. He didn't know if they would have events at night there, it would be able to be on during the time of the event, and off when it was not occupied.

Mr. Bredt stated that they would almost have to put a time on it because most events at churches would start at 7:00 or 7:30, or maybe 8:00, and if they were using the sign to identify where to approach the business, he doesn't see any necessity for it to be lit up after 8:00 or 8:30 at night. He was just guessing.

Mr. Monteleone stated that he wouldn't want to see it on all night long. He stated that when there was no one occupying the building, he believes the sign should be off since it was in a residential area.

Councilperson Walchanowicz asked the Chairman if they notify the residents on the street that there would be an illuminated sign there.

The Secretary stated that she notified the adjacent neighbors.

Mrs. Fortlage asked if they were notified again for this meeting.

The Secretary stated that they were notified again for this meeting.

Mrs. Fortlage stated that she had some concerns about the documentation. She stated that they have five pages in their packet. She stated that last two match the pictures they got by email. She stated that Page 1 was different, and they were shown that tonight. She stated that Page 2 was a property owner's consent for the sign. She asked if that had changed because of who signed it. She didn't think so, but she was just asking.

The Secretary stated that the church was the property owner, not the sign company.

Building Official Gero stated that the document was to Allsigns. He asked if Allsigns was the current applicant.

The Secretary replied no.

Building Official Gero stated that was something that would have to come to the Building Department.

Mrs. Fortlage stated that their documentation was insufficient at this point. She asked if that was right.

Building Official Gero stated that the Board doesn't usually see that property owner consent. He stated that was something they handle in the Building Department when they issue the permit.

Mrs. Fortlage asked that when there was a new application submitted, was there anything submitted with it?

Building Official Gero stated that they had not received a new application yet. The only thing that was submitted was the Board of Zoning Appeals application that was submitted from what Debi said.

Mrs. Fortlage asked the Building Official if he actually got one because she didn't.

Building Official Gero stated that he didn't get the email either. The email was sent to Debi, she sent the email when she returned to the office; and the Board is looking at what was sent.

Mrs. Fortlage stated that she was saying does the City have a relevant application. She stated that it looked to her like they did not, but she could be wrong.

Mr. Smith stated that it was the same application, they just changed the applicant name.

Mrs. Fortlage stated that in legal documents that really didn't cut it. She asked the Assistant Law Director if she was right.

Assistant Law Director Doyle stated that he didn't get the new one from Brett Smith before the meeting, he was looking at it now. He stated that it asked to request a variance to install one double-sided monument sign.

The Chairman stated that it was the same as the old one too with Skip Collins on there.

Mrs. Fortlage stated that she asked again, was there any other attachment that they have seen on the old one?

Building Official Gero asked the Secretary if that was the only page she received.

The Secretary stated that she came into the office after 5:00 p.m., and she forwarded the email that she received. She didn't review it and check it for everything that needed to be done. She stated that she was more in tune with getting it out before the 5:30 p.m. meeting.

Building Official Gero stated that the Secretary did not receive a hard copy.

The Secretary replied no.

Mrs. Fortlage stated that the Secretary didn't even receive an electronic one if the Board got the pictures but not the application.

Councilperson Walchanowicz stated that the Secretary had training today, so she was out all day.

Mrs. Fortlage stated that it was not the Secretary's fault that was what was submitted, or not submitted.

Chairman Moreal stated that the Board didn't get a hard copy, either emailed or in person, the new application with Mr. Smith's name on it; but everything is the same except the name, correct?

Mrs. Fortlage stated how would they know. She stated that she doesn't think the Board should be passing stuff that they don't even have the documents for.

Mr. Bredt stated that he thinks the Board has to table this matter. He stated that the applicant had an additional month to get this right, and it was still not right.

Councilperson Walchanowicz stated that it didn't seem right that the Board would vote on something that would have Skip Collins' name on it.

Assistant Law Director Doyle stated that he also had concerns about, he knows they could cite 1151.10 generally; there were a number of things within that ordinance, but there were sub-points, and he thinks the applicant was looking for variances to more than one of the sub-points, so he would like to see an application that would call out the specific 1151.10 sections that the variance was being sought for.

A motion was made by Carol Fortlage, seconded by Chairman Moreal, to table the matter.

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

Mr. Smith stated that would give him more time to go out there and take a look and see how far back it would go.

The Chairman thanked Mr. Smith.

Mr. Smith stated that he was told by Skip Collins to finish the job up because they were done. He stated that he thought everything was turned in, and he just had to do the meeting. He stated that was what he did last month, but he wasn't recognized last month. He signed in, but he wasn't recognized. The Board wanted a new application with his name on it. He did that and did a couple of little drawings. He stated that he visited the site and came up with a better idea as far as setback.

Mr. Smith asked if 60 feet was standard for the right-of-way?

City Engineer Ramm stated that it was a 60 foot right-of-way correct, but the roads are not always at the dead center of the right-of-way; so taking 30 feet from the double yellow would give you an approximate location; but they will have to try to help him get a better location on the right-of-way.

The Chairman stated that they will see him next month.

Mr. Smith stated that was fine. He believes the church has been without a permanent sign for two years now.

Chairman Moreal asked if there was anything else.

Mrs. Fortlage stated that Mr. Smith stated he was here last month. She asked how could somebody not have a Zoom connection at this point.

The Secretary stated that if Mr. Smith was on the line, the Board did not know that he was on the application last month. Last month the Board thought Allsigns and Designs, Skip Collins, was the person. If he didn't identify himself previous to the meeting, the Board wouldn't know.

Assistant Law Director Doyle stated that he vaguely remembered the Board seeing somebody on the line, and it was asked who was that and they never spoke up. Maybe he was having the same problem last month.

Mr. Bredt stated that he had official business that he would like to add into the Minutes. He brought it up generally speaking, and other people have also for the last ten years. He stated that he was going to try to wrap two issues into one.

He stated that Vista Springs has a temporary sign up that has continued to be used to identify and advertise their services. He stated that he has been to Vista Springs, and he has not brought this up. He stated that he thinks it is a phenomenal operation. He stated that he truly appreciates everything they have done, but it feels to him like they have been taking advantage. He stated that he would like to see them apply for a second sign or take the sign down.

He would like to continue right on and say St. Michael's has been taking advantage of that same thing at the corner. He stated that he was not an atheist. He stated that he truly appreciates what they have done for the children and the community. He stated that he was trying to not make that part of it, but enough was enough. He stated that it was starting to look junky, and it's time

that it refers to something that happened 10 or 12 years ago. He stated that he thinks the Board needs to get them in here and apply for a variance or they need to take the sign down, preferably both while they apply.

Councilperson Walchanowicz asked the Building Official if he was able to notify them.

Building Official Gero stated it was just added to my list of things to do, that's all.

Mrs. Fortlage stated that Mr. Bredt was so right to bring it up.

Building Official Gero stated right now with all the signs going up in the City, and the latitude that we have been giving with Covid and everything, it was just that it hasn't been at the top of his list Mr. Bredt. He stated that he was sorry that it was on his to-do list, and he hasn't addressed it; but it was not on his priority at this time. He will get on it. He will just say for the record, he usually doesn't like to mess with God; but he will make sure they come into line with their issues too.

Mrs. Fortlage stated that the Lutherans and the Catholics have the same God, and the Lutherans abide.

Building Official Gero stated that was not necessarily true.

Mrs. Fortlage stated that they got a five year permit, and the Board held them to making the bible sign.

Building Official Gero stated that the Lutheran church had a sign that was not permitted.

Mrs. Fortlage stated that it was there before the rules changed. She asked if she was wrong.

Mr. Bredt stated that he could just pick one or two off for the next month.

The Chairman stated that Mr. Bredt was right. He remembered that Concordia always came to the Board for the sign for the Bible Class, and they did it every year; and he thinks the Board gave them a five year permit. He stated that everybody should follow the same laws.

Mrs. Fortlage stated that their LED sign was one of two that went in place before it was addressed at Council.

Mr. Bredt stated the LED, yes.

The Chairman stated that those were good points.

A motion was made by Charles Bredt, seconded by Councilperson Walchanowicz, to adjourn the meeting.

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

**MINUTES OF A REGULAR MEETING OF THE BOARD OF ZONING APPEALS
CITY OF INDEPENDENCE, OHIO
November 18, 2021**

There being no further business, the Board of Zoning Appeals meeting of November 18, 2021 was adjourned at 6:47 p.m.

Chairman Mark Moreal

Debi Beal, Secretary
Minutes Unapproved at Time of Release 11/22/21