

**MINUTES OF VIRTUAL MEETING
BOARD OF ZONING APPEALS
CITY OF INDEPENDENCE
December 15, 2022**

New Business:

- 1. 6025 Jefferson Drive, Extended Stay America** – Requesting a variance to 1151.13(e) to permit an additional wall sign (not permitted) and a variance of 67 sq. ft. to permit the additional wall sign to be 97 sq. ft. in size (30 sq. ft. permitted, 97 sq. ft. requested).
- 2. 7021 Hawthorn Trace, Tanveer Singh** – Requesting a variance to 1165.02 to encroach into the rear building line by 6 ft. (not permitted). **WITHDRAWN**
- 3. 6583 Cheryl Ann Drive, Michael & Jenny D’Aiuto** – Requesting a variance to 1143.02(b)(1)B to permit a two-car garage to be 28’x 28’ (24’x 24’ required, 28’x 28’ requested).
- 4. 7033 Hawthorn Trace, Matthew & Natalie McAllister** – Requesting a variance to encroach into the rear building line by 1.54 ft. (not permitted).

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

ALSO

PRESENT: **William Doyle, Assistant Law Director**
 Anne Lynch, City Planner
 Michael Gero, Building Official

Chairman Moreal stated that at this time he would like to ask the Board if there were any corrections, changes or additions to the November 17, 2022 meeting.

A motion was made by Carol Fortlage, seconded by Councilperson Walchanowicz, to approve the Minutes of November 17, 2022.

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

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Chairman Moreal stated that before the Board would get started, he would like to read the Board of Zoning Appeals opening statement.

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.

6025 Jefferson Drive, Extended Stay America – Kathy Clarke was in attendance and sworn in.

Building Official Gero stated Mr. Chairman, just for everyone's understanding there's a request for an additional wall sign, both the signs are oversized.

Chairman Moreal asked the existing?

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Building Official Gero stated there's nothing existing, they're putting two new signs up and both of them will be oversized and one will be an addition.

Chairman Moreal stated okay, do you want to explain to the Board your reasons and needs for the request.

Ms. Clarke stated yes, my name is Kathy Clarke, (inaudible) 1260 Moore Rd, Avon, Ohio and basically, I am an agent for Extended Stay America Suites. They took over the old Hyatt Place, so they are requesting a front sign and a rear sign. Both are 97 sq. feet and the allowable as we said was 30 sq. feet, so we need an additional 67 sq. feet on both and the additional variance for the rear sign.

Mr. Bredt asked any reason for the rear sign?

Ms. Clarke stated there was an existing rear sign with The Hyatt Place and they're just looking to replace it.

Mr. Bredt asked are these signs illuminated?

Ms. Clarke stated yes sir.

Mr. Bredt asked 24/7?

Ms. Clarke stated I believe so, yes.

Mr. Bredt asked will they have the ability to be turned off late at night? Like 2-5 in the morning?

Ms. Clarke stated they do, yes.

Mr. Bredt stated well, I happen to agree the size of the sign makes sense. You wouldn't be able to see anything smaller.

Several people began speaking at once.

Chairman Moreal asked did you say they were illuminated?

Ms. Clarke stated yes, LED illuminated. So, you've got the green and white channel letters and the green and white logo.

Chairman Moreal stated okay.

Mr. Bredt asked are you taking the old sign down?

Ms. Clarke stated the old signs are down, there are banners up currently.

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Mr. Brecht asked did you take the old sign down?

Ms. Clarke stated we did.

Mr. Brecht asked was there any disruption in the existing façade that needed to be repaired or anything like that?

Ms. Clarke stated no, basically we took down the old signs and caulked everything, capped off the electrical so we'll put the new sign up and use the existing electrical outlets.

Chairman Moreal stated so you're not seeing any imprint or shadow, you know a lot of times you get that, and it looks pretty bad.

Ms. Clarke stated I have pictures probably, of the take down but not with me. It looked pretty good coming down.

A motion was made by Charles Brecht, seconded by Councilperson Chris Walchanowicz, to approve the variance to allow the additional wall sign and the variance of 67 sq. ft. in size.

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

7021 Hawthorne Trace, Tanveer Singh – Item was withdrawn.

Chairman Moreal stated next, we move to item number three, two has been withdrawn.

6583 Cheryl Ann Drive – Michael D'Aiuto was in attendance and sworn in.

Mr. D'Aiuto stated I was here before and received a couple of approvals. I had an issue with the architect I was working with, that wasn't really an architect, I thought he was, but he was a draft person. I took my plans to a real architect that a couple of my friends told me was really good. We discovered some issues with his drawings that would just not work.

He said I am coming back in front of you to request 28'x 28', I will not be back again. This is to allow for several things; one is even spacing between two garage doors. The previous drawing had a single large garage door, but the span of 26' to do it properly and securely without going crazy with too many (inaudible) across the top, the real architect told me it would be wise to have two separate garage doors and to keep everything symmetrical. He also said I did not have room for the staircase properly from the other architect and he just basically drew it in there and never really accounted for the staircase. So, my wife was really upset because she wants an area to go across the back, like a small work bench for prepping plants and stuff like that. She doesn't want to have separate buildings, we want to try to have everything in one garage, one building: our cars, our

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lawn and garden, everything. Again, a real architect drew this properly, and he's got everything to move to final plans. That's the one to look at here.

Chairman Moreal stated let's go back to the 26'x 26', it wouldn't work because you added a door.

Mr. D'Aiuto stated well there was a single door going across the front, and this architect told me it would be much more stable and stronger to have two separate garage doors and have a beam going across the middle of the inside of the garage.

Chairman Moreal stated in lieu of the one door or a bigger door? Your door last year was what?

Mr. D'Aiuto stated it was a single 18' wide door.

Chairman Moreal stated oh okay.

Mr. D'Aiuto stated and he was trying to keep symmetry on the left and right. Then the staircase on the inside of the garage, basically with a 26'x 26' the car on the right could hit it potentially. It would get really close to it and I'd just like to be able to put my wife's SUV and my truck in the garage and not have them sitting out. So, that extra 2' allows for all of that.

Chairman Moreal asked you plan on using this for both of your cars?

Mr. D'Aiuto stated yes.

Chairman Moreal asked did I miss what you were doing with your other garage? Were you making that living space?

Mr. D'Aiuto stated no, the attached garage will be for a car also, but it's going to be lawn and garden, bicycles, and stuff like that.

Mr. Bredt asked what does the expansion of the building footprint do relative to your side setback?

Mr. D'Aiuto stated I have already had the variance approved for that.

Mr. Bredt stated but now you are making it wider.

Mr. D'Aiuto stated yeah so it will come into my property just a little bit more.

Mr. Bredt asked you're shifting the whole building over?

Mr. D'Aiuto stated yes.

Mr. Bredt asked you're not affecting the variance that's already there?

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Mr. D’Aiuto stated no.

Chairman Moreal stated we gave him front and back, side, height, and we gave you the size. So, you’re just going to go this way and this way.

Mrs. Fortlage stated so, we gave you variances and you’re not vacating any of them, you just need this additional one.

Mr. D’Aiuto stated yes. I’d like to retain what was received and just add an extra 2’ to the width and depth.

Mr. Bredt stated just to be clear the addition is interior to your property.

Mr. D’Aiuto stated yes.

Mr. Bredt asked not to the back or to the side?

Mr. D’Aiuto stated correct. I see exactly what you’re asking, it would come into my property.

Chairman Moreal stated I think your side yard was 4’ and 6’. 6’ off the rear and 4’ off the side.

Several people began speaking at once.

Mr. Bredt stated this was August 18, 2022. 6’ from the rear property line.

Chairman Moreal asked so, that’s not changing?

Mr. D’Aiuto stated it’s not changing.

Chairman Moreal stated if I remember everything does looks the same.

Mr. D’Aiuto stated pretty much everything is the same except the correct math and the garage doors.

Chairman Moreal stated which to me looks nicer than one big door.

Mr. D’Aiuto stated I think so too. The architect highly recommended it.

Chairman Moreal asked and you’re doing a little canopy off the side?

Mr. D’Aiuto stated yes.

Several people begin speaking at once.

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Building Official Gero states yeah, but that doesn't count as square footage or (inaudible). I do have a question for the applicant, you mentioned that your wife's SUV is going to be parked in there, now I'm assuming that's going to be a daily trip, back and forth so you're going to need to put a driveway in.

Mr. D'Aiuto stated we will be putting a driveway in. We won't put anything in the garage without a driveway.

Building Official Gero stated okay.

Mrs. Fortlage asked Mike, will we need any approvals about the driveway?

Building Official Gero stated no, you can throw it in there if you want, but the driveway needs to be installed. I think what needs to be done and Will can correct me, I think we need to reconsider the variances that we granted in August for the 26'x 26' and then grant this variance for the 28'x 28'.

Assistant Law Director Doyle stated I think it's cleaner that way to be honest with you. There's really not a good reason to not do it that way.

Building Official Gero stated just the variance for the 26'x 26'.

Assistant Law Director Doyle stated in fact, when was that request, Mike?

Building Official Gero stated the August meeting.

Assistant Law Director Doyle stated okay, so we're not 270 days out from that.

Chairman Moreal stated I think Carol you asked about the driveway. By looking at this are you going to continue it straight?

Mr. D'Aiuto stated yes.

Chairman Moreal asked so you don't need any side yard with the driveway, right?

Mr. D'Aiuto stated no.

Mrs. Fortlage stated that was my question.

Mr. D'Aiuto stated I don't think so. There should be plenty of room, it was just going to curve a little.

Chairman Moreal stated if this is drawn the same, it looks like it's 6', but I don't know.

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Mr. D’Aiuto stated approximately, but the driveway could easily jog over a little closer to the house and easily be 6’ off also.

Building Official Gero stated it needs to be at least 3’ from the property line and the drive. So, if he says 6’ in line with the garage (inaudible).

Mr. D’Aiuto stated okay. I’m very confident 3’ is definitely not a problem. I know that because I’m pretty sure this is bigger than 3’, but even if it’s not, 6’ is not a problem to keep it in line.

Mr. Bredt asked the 2nd floor will still be used strictly for storage?

Mr. D’Aiuto stated strictly for storage. We don’t have an attic in the house, it’s a split level and it doesn’t even have a full basement. So, we’re going to use that for all of our seasonal decorations and stuff like that. That’s why it doesn’t have a full height ceiling in there, it’ll be for storage.

Councilperson Walchanowicz stated I wasn’t here for that August 18th meeting so, was there going to be electric, water, gas or any of that?

Mr. Bredt stated just electrical.

Several people began speaking at once.

Chairman Moreal asked you’re still doing gutters, right?

Mr. D’Aiuto stated gutters, the electric, floor drains.

Building Official Gero asked you still need to come before ABR, the Architectural Board?

Mr. D’Aiuto stated yes.

Building Official Gero stated so, he’ll need to present that with the Architectural Board and storm drainage issues (inaudible).

Mr. D’Aiuto stated I’ll make sure that all that stuff is met. Working with David Sabol, the architect, I know he’s worked with the city before and is aware of the requirements as well, so I’ll be working with him and obviously you guys too. If hypothetically you guys were to grant it, I’ll make sure everything is followed exactly how you guys want it. The garage is going to be stick built. One of the other things I did not know is because the interior height is going to be a little bit taller, it needs a 2’x 6’ exterior wall and that takes a little bit of space inside of the garage too and I want to do it right.

Mrs. Fortlage asked what was that bit about taller? We gave you a height variance before.

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Mr. D’Aiuto stated it’s going to be the same height. Just to meet that height and have it structurally sound and built to the highest quality, this architect says I should have a 2’x 6’ exterior wall for the strength.

Mr. Bredt asked did we ask if there were any neighbors present?

Chairman Moreal stated we did not.

Mr. Bredt asked and have we heard anything?

Chairman Moreal asked Debi, are there any neighbors present?

The Secretary stated there are no neighbors present, but you did receive an email from one of the neighbors, Mr. Herrage I believe.

Mr. D’Aiuto stated oh the new neighbor.

Mr. Bredt stated he said you were a great guy.

Mr. D’Aiuto stated well that’s good.

Mr. Bredt stated I made the motion the last time, so I’ll restate the motion to allow for now a 28’x 28’, no difference in the side setback or the back setback.

Building Official Gero stated you’ll need to reconsider the previous motion first.

Mrs. Fortlage asked is that separate from approving a new one, it’s a stand alone?

Building Official Gero stated yeah, you’ll reconsider the one that you made in August and vote it down and negate it. Then you can consider the new variance.

A motion was made by Carol Fortlage, seconded by Councilperson Walchanowicz, to reconsider the size variance of 26’x 26’ that was previously granted for this property.

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

A motion was made by Charles Bredt, seconded by Pasquale Monteleone, to approve as presented a 28’x 28’ footprint of the building, maintaining a 6’ side variance in rear areas as drawn, and installing a driveway to be 6’ off the property line.

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

Building Official Gero stated you're going to have to stay 6' off now because they granted you a variance to stay a minimum 6'.

Mr. D'Aiuto stated okay.

Mrs. Fortlage asked I thought we changed it?

Mr. Bredt stated no, we negated it and readded it in.

Several people began speaking at once.

Mr. D'Aiuto stated my intent was to keep it in line with the garage anyway. The only reason I would not keep it in line is if I absolutely couldn't.

Building Official Gero stated here's the way this goes now, when you get your site plan, the City Engineer is going to require a topo. (inaudible), if whoever is doing your topo says your driveway can't be at 6' for whatever reason then you're going to have to come back.

Mr. D'Aiuto stated I don't think we'll have to revisit it because that was my intent, to keep it at 6' off anyway. That's my goal and measuring it out, I do have the space.

7033 Hawthorn Trace – Jason Lex was in attendance, representing Matthew & Natalie McAllister and sworn in.

Chairman Moreal asked are they online?

The Secretary stated yes, his name is Jason Lex.

Chairman Moreal asked do you want to explain to the Board?

Mr. Lex stated yes, absolutely. So, the McAllister's are proposing to add an outdoor covered space to their backyard. It's going to be a full outdoor living space for the patio, outdoor kitchen area, a place to eat, a place to congregate and with that the covered space extends into that rear setback by a foot and a half. The reason being is just the way everything is designed, laid out and due to the elevations of the house a significant portion of that covered space will be taken up by a set of steps from a set of double doors coming down onto the patio space. So, in order to make a

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functional space for a table and chairs for their family we designed the space in such a way to accommodate for everything.

He states, if you scroll through the plans, there should be some structure details and renderings towards the end of the set.

Mr. Bredt asked are there any easements back there we should be aware of?

Building Official Gero stated Jason, I was reviewing this with the Engineer, and he pointed out the fact that there is a 30' easement back there also for drainage. So, what we'll have to do is, it doesn't concern this meeting at all, but we'll have to prepare a revokable license agreement to have the owners sign and we'll execute that with the county. It doesn't factor into this meeting, it's just a sidenote on the 30' stormwater easement.

Mr. Lex stated understood and our intention for the rear space is we're not really looking to change the existing grade at all, other than there's a couple of pockets of standing water that was left over from the builder's grade when it rains and stuff like that, that we're just going to correct. There's a swale in the backyard that we were going to try to correct while we were out there.

Mr. Monteleone stated if you do encroach in that area just make sure it's put back the way it was when you got there, the easement area.

Mr. Lex said understood.

Chairman Moreal stated I don't see any issue with this. It's so secluded, it's in the middle of the yard.

Assistant Law Director Doyle stated the license usually covers that too, just so you know.

Mr. Lex stated okay, right now just for further reference, their backyard abuts up onto what appears to be common ground and looks like a big utility easement. I don't think anything will be built behind them with the way it appears to be.

Chairman Moreal stated that's got to be that development.

Councilperson Walchanowicz stated South Great Oaks, could be. I don't see any problems; I'll make a motion to approve.

A motion was made by Councilperson Walchanowicz, seconded by Charles Bredt, to approve the variance requested to encroach into the rear building line by 1.54'.

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

There being no further business, the December 15, 2022, meeting of the Board of Zoning Appeals was adjourned at 6:01 p.m.

Chairman Mark Moreal

Amanda Sharrer, Secretary
Minutes Unapproved at Time of Release 12/16/2022