

**MINUTES OF VIRTUAL MEETING
BOARD OF ZONING APPEALS
CITY OF INDEPENDENCE
December 17, 2020**

AGENDA:

Old Business:

Approval of Minutes of Regular Board of Zoning Appeals Meeting held on November 19, 2020.

New Business:

- 1. 6860 Bradford Circle, Paul Shim** - Requesting a variance to 1165.02 to permit a deck to extend approximately 9.5 feet past the rear building line (not permitted).
- 2. 5700 Brecksville Road, AAA Travel Insurance** – Requesting a variance to 1151.09(c)(1) of 1 foot to permit a ground sign to be 6 foot in height (6; requested, 5' permitted) and a variance of 5 foot to permit a sign to be located 5 foot from the right-of-way (5' requested, 10' required).

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: **Gregory J. O'Brien, Law Director**
 Michael Gero, Building Official

Chairman Moreal stated that he wanted to ask the Board if there were any corrections, changes or additions to the November 19, 2020 Meeting Minutes.

A motion was made by Pasquale Monteleone, seconded by Councilperson Walchanowicz, to approve the Minutes of November 19, 2020 as presented.

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

6860 Bradford Circle, Paul Shim - Chris Molnar of Northeast Ohio Deck Company was in attendance and sworn in.

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

Chairman Moreal asked the applicant to explain the need for a variance.

Mr. Molnar stated that they wanted to build a deck extending into the rear building line.

Building Official Gero stated that there was a storm sewer drainage easement on the back of the property. He stated that there was an easement back there, but the deck would be by no means in that easement whatsoever.

Chairman Moreal stated that what he was hearing was that without a variance, the applicant would only be permitted to build a 3 foot deck.

Mr. Molnar replied correct.

Chairman Moreal stated that the deck would be 12' x 20', and he was guessing that it was kind of a little bit on a radius, the building line; so 9 ½ feet would be the furthest point.

Mr. Molnar agreed. He stated that it may be a little bit less on the outside.

Mr. Monteleone stated to Mr. Molnar that if the variance would get approved, he should be careful with the easement. He is aware that it is far away, but if he does anything, just make sure not to encroach on the easement. If he would, make sure to repair it back to its natural state.

Mr. Molnar agreed.

The Chairman stated that the deck would be pretty far from the retention basin.

Mr. Molnar stated that there was a 15 foot stormwater easement, the drainage swale to keep water from going in there; and the retention pond was actually off the homeowner's property. He stated that all the lots back there have the back 15 or 20 foot engineering easement. He stated that the deck would be approximately 11 feet from getting into that easement.

Councilperson Walchanowicz asked if they would be in the swale.

Mr. Molnar replied no. He stated that the grade was far away. They would be able to see on the topographical chart there.

Chairman Moreal stated that everything would be sitting on the homeowner's property.

Mr. Molnar replied absolutely. He stated that it would be 26 foot from the rear property line.

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Mrs. Fortlage stated that it was a pretty significant variance. She asked what would the alternatives be to it. She asked if it could be handled in another way.

Mr. Molnar stated that the north corner of the house was about zero feet; it was right to the building line; and the south corner was approximately 4 feet. He stated that there was already a sliding door there with the kitchen in the center. He stated that they could not access the house off the side. He stated that right now they just have a very large elevated backyard that had no access, no ingress or egress from the sliding door. He stated that there was no other way to get around it. He stated that he knows that other lots back there only have 15 foot rear building lines and 20 foot rear building lines. He stated that there was not really much rhyme or reason from what he has seen throughout doing 25 jobs back in Chestnut Woods, why some would have a 15 foot rear building line. Some of them have a 20 foot rear building line, some have a 35; and he has seen some with 40 foot back there. He stated that there was a lot of inconsistency in the neighborhood.

Mrs. Fortlage stated that the need was manufactured by putting a door up high where there would be no allowance for building there. She stated that it was not a natural difficulty; it was a created one.

Mr. Molnar agreed.

Chairman Moreal stated that he thought every house, and that would go back to the builder, not the homeowner. He stated that they all have a walkout, and maybe he was wrong; but he sees it all over. They all have a sliding door or walk out door off their kitchen or off the family room, and a lot of the homes, in this case, they would be allowed to put a 3 foot deck which to him would look ridiculous.

The Chairman asked the Building Official if they were going to put in a patio or pad with designer walls and all of that, the applicant could go without a variance and go past the rear building line.

Building Official Gero stated that was correct.

Chairman Moreal stated that the way he sees it is they need a deck. He wouldn't want to see 3 foot of deck sitting out in the backyard with a little walkway. He stated that he didn't see an issue because he knows that they would be on the rear building line, but they would not be infringing on any easements. There was also a retention basin that was pretty far away. He stated to Mrs. Fortlage that he knows that the variance was huge, but at 3 foot they need something.

Mrs. Fortlage stated that you didn't have to give him something.

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Chairman Moreal stated but they didn't create it. He stated that the City was involved with the planning also. He stated that they were half million dollar homes in the development; and they were coming to the Zoning Board for some help. He stated that was his thought.

Mr. Molnar stated that he agreed. He stated that it was unfortunate because the builder has not been forthcoming with any of the homeowners. He stated that the Chairman just stated that people were building half million dollar homes back there, and putting a 12 foot deck off the back will hardly complement the size of the house or the valuation of what it could be. He stated that the houses were put on non-conforming; and unfortunately the residents were paying the price.

Mrs. Fortlage asked how do they get the builder to pay the price?

Mr. Molnar stated that he thought it was a great idea.

Mrs. Fortlage asked what were they doing here?

Law Director O'Brien asked who was the builder?

Mr. Molnar stated that it was Pulte.

Councilperson Walchanowicz stated that they had the same problem on Hawthorn Trace. He stated that all of those homes have upstairs walkout kitchens, and they were all boarded up because they have 10 foot of backyard. They can't do anything with them. Pulte definitely should not have done that.

Law Director O'Brien stated that to be fair, there were so many disclosures and notices when they buy a home out there; they know what they are buying. He stated that he heard what Councilperson Walchanowicz was saying. He was sure it was in the fine print, and they were not putting a strobe light over them to focus people's attention on it. He stated that there were a lot of disclosures for these properties as far as the type and non-conforming lots like Councilperson Walchanowicz stated. He stated that it was part of the lawsuit, so there was a lot of material in the Cuyahoga County court.

Mr. Bredt stated that he thought the reality of it was when you look at the backyards of many of the homes would be very short pre-approval of what could be built without a variance. He stated that it would start to detract from the neighborhood when you look across the backyard and see what would be an emergency stairwell being built on the back of the house. He stated that he would think that a better constructed deck, even if it would extend past what would be typically allowed, could in all probability increase the value of the property and add to the aesthetics. He stated that he was in favor of approving the variance.

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Law Director O'Brien stated that not from a legal standpoint, but he would agree with Mr. Bredt 100%. He stated that the only thing they have been concerned from a legal standpoint would be whatever they were building back there does not interfere with any type of water retention, water flow from rain and storm events.

Chairman Moreal stated that he thought it was pretty clear that it would not in this case. He stated that he thought everyone was far enough away.

Mr. Bredt stated that if it would require any accessibility issues, the homeowner would have to understand that as a condition of the variance, the appropriate utilities people have to have unfettered access to what they were doing.

Law Director O'Brien stated that he didn't know this particular easement Mr. Bredt, but they would not be able to interfere, whatever they would build, they would not be able to interfere with it as a matter of law because it would be on file.

The Chairman agreed.

Mr. Bredt stated in this particular case.

A motion was made by Charles Bredt, seconded by Pasquale Monteleone, to approve the variance as presented.

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

Building Official Gero stated to Mr. Molnar that he was approved, and he stated that he thought that all the drawings were submitted. The Building Official stated that he will review the plans; but he just wanted to let Mr. Molnar know that the Building Department will be closed December 24th until January 4th. He stated that he might not get to the permit until after January 4th. He just wanted to let Mr. Molnar know.

Mr. Molnar stated it was not a problem.

5700 Brecksville Road, AAA Travel Insurance – Dustin James of Advanced Installation was in attendance and sworn in.

Chairman Moreal asked Building Official Gero if the variances were correct.

Building Official Gero stated that the request for variances was incorrect. He stated that what it should be was to request a variance to 1151.09 (c)(1) of 34.75 inches to permit a ground sign to

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be almost 8 feet in height; 5 feet was permitted; and they were requesting an additional 34.75 inches. He stated that the sentence as far as the right-of-way was totally erroneous. There was no issue with distance in or from the right-of-way.

Mr. Bredt stated that he was concerned about the skirt being eliminated from the height also; so he appreciated that.

Chairman Moreal asked if the Board could get an amendment to that based on the Building Official's dialogue there.

Mrs. Fortlage stated that she would like the numbers repeated please.

Building Official Gero stated that it was requesting a variance to 1151.09 (c)(1) of 34.75 inches to permit a ground sign to be 94.75 inches in height (60 inches permitted).

A motion was made by Chairman Moreal, seconded by Councilperson Walchanowicz, to amend the variance as stated above.

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

Mr. Monteleone stated that there was no issue with being in the right-of-way.

Building Official Gero replied no. He stated that there had been much discussion with the sign people and the Engineering Department. There was an easement in the new section of road. It was determined where the easement was; it was determined where the right-of-way was. The sign would actually be from the area, if you went by there, there was a staked out area; that staked out areas, the sign will be a little further up the hill. There will be tied in with the landscape plan, tying that in with the current landscape mulch on the top.

Mr. Monteleone stated that was good. He stated that the reason for the extra inches was because they figured in the base.

Building Official Gero stated that they just figured the sign for a U-5 was permitted to be 5 foot in height; and they designed the sign at almost 8 foot in height. He stated that it was not specifically for the base. The sign height was measured from grade to the top of the sign.

Chairman Moreal asked Mr. James to explain to the Board the reason for his request, and he believes that he saw another picture come in today of the sign. He asked if the Board would have that on the screen.

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The Secretary brought up that picture on the screen.

Mr. Bredt asked Mr. James what his capacity was.

Mr. James stated that he was not sure he understood the question.

Mr. Bredt asked Mr. James if he represented the sign company, the owner or was he with AAA?

Mr. James stated that he was with the sign company.

Mr. Bredt stated that he wanted it on the record.

Chairman Moreal asked Mr. James to explain to the Board the reason for the request. The Chairman stated that he drove by there today and saw it staked out; but he heard it might move or change from that location.

Mr. James stated that it looks like they have to move the sign back after talking to the City Engineer early today. He stated that they will have to locate the sign 10 feet from where they have it staked out to be compliant. He stated that he was a little concerned because of the hill there. He stated that after discussing it with the Building Official a little bit and his boss, he thought it would be easier on them up the hill a little bit farther; and as the Building Official and he were talking, they had the idea of the landscaping going around and continuing on from the actual base of the landscaping to the top of the hill. He stated that it seemed like it made sense.

He stated that the big thing was, and he was talking to his customer, which was the salesperson who works with AAA; and their concern was that if they lose that foot, the AAA, the brand, the sizing of it, it would shrink it down and look a little bit more pill shaped. He stated that they liked the layout the way it was, and they were looking at trying to get it passed as is.

Building Official Gero stated that for clarification Mr. James was referring when he stated to move it down, he was talking about lowering the height of the sign, not moving down the location of it. He was talking about reducing the sign face.

Mr. James stated that he was referring to the meeting they had earlier about moving the sign back, that was all they had to do for that meeting. He stated that they would like to keep the height that height because of the image for the AAA that was being displayed on there.

Building Official Gero stated that the overall height of the sign was for the image of the AAA.

Mr. James stated that the overall height of the sign for AAA was 72 inches.

Building Official Gero stated okay.

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Mrs. Fortlage asked if there some sort of a practical difficulty that would lead to the request?

Mr. James asked the Secretary to go to the original picture of the AAA sign that they had before everything happened. He stated that they had been working through trying to figure out a good location. He referred to the picture of the original AAA sign. He stated that the landscape and the size of the hill changed dramatically, even how close the hill was. He stated that was a tough spot. They have to shoe horn the sign in. He stated that was the sign the customer wanted to go for, and to make the logo fit right, that was the sizing that would make sense for them. He stated that they were flexible, but the proposed sign was what they were going for. He stated that they were moving the sign 80 feet down from being able to be right in front of their drive. He stated that they have had to make some sacrifices, and it would be nice to put the sign up.

Mr. James stated that his customer who sold the sign; she also stated that she went through the City and measured other signs in the neighborhood, and they were of the same height or over as well. He stated that he didn't think they were asking for anything unreasonable.

Law Director O'Brien stated that Mr. James evidently didn't have any background as to the history here, nor should he. He stated that the reason why the condition of the AAA was as it is was because the City acquired the majority of this property to put in the extension of Rockside Woods Blvd. North; and as a result, took out the old sign and left them with the condition of their property now. He stated that he wanted the Board to factor that in there as well. He stated that it was not the typical situation where a property owner comes in, and they knew what they had when they asked for the request. He stated that this was a situation created by the City.

Mrs. Fortlage stated that she got that, and she was glad that it was entered into the record now; but if she heard correctly during this meeting, the sign was being moved in such a way that it was rising on the hill and therefore will be set higher than planned, and yet they still want it to be taller?

Building Official Gero stated that the sign will not be any higher. It would be positioning up higher on the hill; however, from grade from the hill, it will be no higher than that.

Mrs. Fortlage stated that she was not seeing why if it was elevated even more it would need to be above allowance. She was seeking clarification on that.

Mr. James stated that if he could speak to that real quick, and he didn't know if she would understand exactly because it was the design of the sign. He stated that they will fabricate a sign, AAA or whoever was the customer, they will decide if they like it, and they will keep going through different renditions until they get something they like. He stated that the layout for the way the size of the logo was, this was a layout that they felt really best suited them. They were the most comfortable with this, and that was from whoever made the call to go for the sign. He stated that they presented it to his business, and then he is bringing it before the Board and find

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out that they are a little bit taller than they are supposed to be, and he was before the Board to see if he can be accepted on that. He stated that like he stated, it seemed like there was other signage in the area that has also been accepted. Especially since what these folks have been through with the relocation and such; he doesn't think it would be unreasonable. He stated that ultimately they want to make everyone happy for sure.

Mrs. Fortlage stated that she didn't know if Mr. James would understand, but whether the person who wants to put up the sign likes it better or not, is not a fact before the Board.

Mr. Bredt stated that he would like to read into the Minutes to the point of other signs in the area. He stated that he took the time to measure the signs that were in that area. Cornerstone from grade to top of sign was 54 inches. He stated that the Cavaliers' sign from grade to top of sign was 78 inches. The Vista Springs sign from grade to top of sign was 76 inches. L.A. Pete's sign which was somewhat grandfathered from ground to top of the old wood base was 95 inches, and the Rockside Woods sign shopping center from grade to top of sign was 75 inches. He stated that the comment about the other signs in the area being approximately the same size was somewhat stretching the imagination.

Mr. Bredt stated that the sign was a big sign.

Mrs. Fortlage stated it was 95 inches, would that be from grade to top of sign?

Mr. Bredt stated that was correct.

Chairman Moreal stated that the sign itself, and Mr. James could tell him if he was wrong; but if it was on flat ground like the previous sign, he was guessing he wouldn't need the base at 20 inches on the high side, or low side, whatever you would want to call it. He stated that the 20 inches were included in that because if they would go 117 inches, the width of the sign, you would be going into the hill; there will be nothing exposed the way he would see it. He asked if he was right. He stated that if it was level ground, they would not be asking for a 20 inch base. The Chairman stated that he believes they need the base due to the topography of the land that was created by the hill, the mound that was put in.

Mr. James stated that it was his understanding that was correct. He stated that the situation was created as they had to make a new sign; and it was part of the design to incorporate it. He stated that he knew that it would have to be along the side there. He believed that originally it was going to be a little closer to the original spot and would not be as bad; and then as it moved over, the height of it changed a little bit yes.

Chairman Moreal stated that he got out and looked, and he showed 20 inches. He asked if the sign would have to move further into the hill, would the 20 inches remain because there was such

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a big elevation change of maybe 3 feet in 10 feet; which he thinks they would bury the other end. He stated that it was perpendicular with the street.

Mr. James agreed.

Mr. Bredt stated that he totally agreed. He stated that if the base would be dug into the edge flush with the surface, then he would be amenable to considering the overall height of the sign to be the sign itself, not the sign plus the base with the 20 inches. He stated that adding 20 inches at the eastern, plus the 6 feet of sign would be just too big in his opinion. He stated that it would basically be a footer built into the ground with a sign on top of it. He stated that 20 inches at the sidewalk edge, plus the height of the sign was too much in his opinion.

Chairman Moreal stated that the sign itself, he didn't have a problem with the 6 foot sign; but he didn't know if they could put that in there without having the base. If it was perpendicular, he didn't see how they could do it. If they would do it parallel with the street, they could do it. Would the sign have to go that way?

Mr. James stated that he was pretty sure they wanted the sign to go in that direction. He stated that it hadn't been looked at, but that would not be the way they would set a sign up going that direction. He stated that as far as the base, even in talking with the Building Official, they were asking for that extra foot based off the top of the sandstone. He was caught off guard with the question. He stated that the slope would help take up, and you would still be able to see the address. It would take up some of the slope of the hill. He stated that they were dealing with a huge hill, and they were trying to put in spot with a huge hill and that would be a little bit of a buffer. He stated that the Chairman was eluding to that, and he did not do a good job of explaining that. He stated that it had a little bit of a buffer, and if they could go from the top up the 6 feet to give it that look. He stated that he was not sure why the picture came through so cloudy. It was aluminum and backlit. He stated that it was a gorgeous sign, and it would really be a pleasing to the eye sign for sure.

Chairman Moreal stated that he was just concerned if Mr. James would move it back like he stated earlier, and based on what he saw, he would be into such a high slope. He stated that if the Board was to grant the variance, he doesn't see the sign fitting in there. That was his thought. He could see the east end of the base growing to 3 feet or something which the Board would not want to see. He stated that he didn't know if that could fit further back.

Mr. James stated that what the Chairman was stating was that he was not concerned if it was 6 foot or 5 foot tall from the sandstone.

Several people began speaking at once.

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Mr. James stated that the reason why he was before the Board for the variance was to get an extra foot. He stated that even if they didn't get the variance, they would still be dealing with everything the Chairman was talking about. He stated that as they looked at the spot, they felt that they could manicure to lay to present it in a way that was within code to have the 20 inches in the front, and the sign on the top. He stated that was the best he could tell the Chairman. He stated that it was a horrible situation.

Chairman Moreal stated that he would like to see a mockup of the sign and wherever the sign would be located. He stated that right now Mr. James mentioned that the sign would be further back. He stated that he thought it would be a problem going further back into the hill.

Mrs. Fortlage stated that she had a question. She asked Mr. James to help her understand why he would call it a 1 foot request when it looked to her like a 3 foot request. She was reading it as 95 inches versus 60 inches permitted.

Mr. Bredt stated that it was a 34 inch request.

Mrs. Fortlage stated that it was not a 1 foot request.

Mr. James stated that he was referring to an e-mail. He apologized.

Mr. Bredt stated that he wanted to talk one second about the base which was part of the variance. He stated that the address of 5700 was shown on the base that will be built to support the sign; and if the sign would be pushed further west, the 5700 would probably disappear also. He stated that he liked the Chairman's suggestion that a mockup be done. It would not have to have all the graphics, but a couple of pieces of plywood or whatever in the position that they want to put it to see. He stated that assuming it would be possible, he would rather review the matter next month because as shown tonight he would vote against the variance if it would not be reduced in size.

Chairman Moreal asked the Building Official if the request would be based on the old sign ordinance or the new sign ordinance.

Building Official Gero stated that it would be the old sign ordinance. He stated that the application came in prior to the new sign code taking effect.

Law Director O'Brien stated that he wanted to ask the Building Official a question that the applicant would undoubtedly want to ask the Building Official. He stated that if the applicant would withdraw the application, and then would refile it under the new sign ordinance, what would he be looking at.

Building Official Gero stated that it would be the same thing.

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Mr. Monteleone stated that he had a couple of comments. He stated to Mr. Bredt that he was thankful he took the measurements, they helped him a little bit there. He stated that the sign that was there prior to the construction was terribly too small. He stated that the sign that they were proposing was nice, but 6 foot seems a lot larger. He stated that he understood what Mr. Bredt was saying. He stated that if they incorporate the large area that was there, he would like to see something himself, some mock up also because he thinks that they would not want too small of a sign in such a large area. If the sign looks too big on paper, would it be too big in person?

Chairman Moreal stated to Mr. James that he mentioned earlier that he was going to move the sign back. He asked who requested that.

Mr. James stated that he received an e-mail this morning saying that it would need to be 10 more feet from where they were at now because of an easement right-of-way. The Building Official would be able to tell the Board.

Building Official Gero stated that the sign got staked for location, and he was working with the Engineering Department to try to determine where it was out the easement area and the right-of-way area. He stated that this morning the Engineering Department went out and determined that the sign was located where it was staked; it was located in the right-of-way. He stated that was why at the eleventh hour the Engineering Department created the dance as far as trying to figure out how far it would go back. He stated that approximately 10 feet was what they determined it would need to go back. He stated that there was a discussion at the ARB meeting as far as creating a little bit of a buildout with possibly a landscape wall so that the sign would fit in the side of that mound better and fit in with the landscaping and create a little wall there.

Mrs. Fortlage stated that it seemed to her that the problem that the Board was trying to cure began with the City buying up the property and creating the need for a new sign; but it also seemed to her that their information was not clear enough for the Board to make a decision tonight. She would suggest that the Board table the matter.

Mr. James stated that he would like to have a chance to speak before someone would second that.

The Chairman told Mr. James to go ahead.

Mr. James asked the Chairman what he wanted to see with the sign.

Chairman Moreal stated that he wanted to see a mockup of the sign. He stated that his concern was, and the Building Official and he talked earlier. If the sign would be moved back into the hill, he thinks it would be a drastic slope. He stated that he didn't see, and maybe he was wrong, but 117 inches wide.

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Building Official Gero stated to the Chairman that what he was not getting, and no one has heard evidently when he had talked about it, was that the topography around the sign area would be reworked in such a way so that the sign wouldn't look like it was a triangle.

The Chairman stated that it would be hollowed out and lowered.

The Building Official stated that it would be hollowed out or built up.

Mr. James stated that they would incorporate the landscaping mulch into that rounded out area.

Building Official Gero stated that they would incorporate the landscape that was currently there around the sign so it would look like it was part of it.

The Chairman stated that he got what the Building Official was saying. He stated that it made sense. He stated that with that being said, he asked if they could lower the sign completely.

Mr. James asked to go to the slides with the picture of the snow and all. He stated that the Board could see how steep it was. He stated that the representation in the one picture showing that they would have 20 inches in the front, and then it would taper back. He stated that they might have to move the 5700 out. He stated that if at the end of the day they get to 20 inches, and they get the height; it was a tough spot.

Chairman Moreal stated that with that being said, it sounded like the base would have to be as is, and he guesses what he was hearing from the rest of the Board, they all think it was a little too high. He asked Mr. James to alter the sign itself and squeeze it down a little bit?

Mr. James stated that he was sure there was room to work. He wanted to make sure that the sign would look good at the end of the day also. He stated that if they would get rid of the base, and the sign was just 6 foot tall; and they were coming for a variance for a 6 foot tall sign the way it was. The base would make the sign nice. He stated that the masonry and sandstone would be a classy look. He stated that with the side of the hill, they would definitely need a little buffer. He stated that he would hate to take much off the base because every course they would take off, it would get closer to the dirt for the sign. He asked for an idea from Chairman.

Mr. Bredt stated that the Board was not in the design business. He stated that the Board was not supposed to do that.

Building Official Gero asked since when?

Mr. Bredt stated that he had a couple of questions for the record. He asked who established the landscaping? He asked if it was the City or AAA?

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Mr. James stated that he had no idea.

Building Official Gero stated that he believed it was the City.

Mr. Bredt stated that the City mounded the property.

Law Director O'Brien stated that he could definitely state that the City was the one who mounded the property.

Mr. Monteleone stated that there was always a pretty decent mound there.

Mr. Bredt stated that he was a zillion year member of AAA and appreciate AAA; and he appreciates the fact that they are in Independence. He stated that he was also a longtime friend and follower of the Cleveland Cavaliers. He stated that he also goes to Rockside. He stated that the sign was bigger than any other sign in the area regardless of how it was constructed. He stated that he thought the motion to table, while not seconded, would be a valid one. He stated that he believes the Board should see a mock up. He stated that if the Board would vote on the matter at this point, he would vote against it.

Mr. James stated that he staked it out like the Building Official and he talked about. He took the pictures that the Board looked at. He stated that he agreed, but Mr. Monteleone brought some things up that he thought were good points. He stated that the size of the sign on the side of the hill, that was a big hill, that was a long stretch. He stated that they could go smaller. He stated that to go smaller and meet the requirements of the City on the side of that hill, he thinks it would be an injustice for the Board as a City to look at it, and also there was the business. He stated that it was not uncommon to have a suggestion. He stated that it would be helpful because they want to make the City happy. He stated that as far as the size of the hill with the size of the sign, it wouldn't seem like it would be gaudy or anything of that nature.

Mr. Monteleone asked Mr. Bredt what was the largest sign.

Mr. Bredt stated that the tallest sign right now currently standing was the L.A. Pete's sign. It was on a wooden base. He stated that the new sign was smaller than required, the original face he was pretty sure was grandfathered, and they put the sign on top. That was a grand total of 95 inches off the ground.

Chairman Moreal stated that the Board was looking at 94 inches.

Several people began speaking at once again.

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Mr. Bredt stated that he was trying to stress the fact that the L.A. Pete sign was unusual in relationship to the other signs that were newer, better built and put in place in conformance with the Board's review at the time.

Councilperson Walchanowicz asked if he could say a few things if that was alright.

Chairman Moreal replied yes.

Councilperson Walchanowicz stated that he had sat through hours and hours of Streets & Sidewalks meetings, and they have spent millions and millions of dollars already on Rockside Woods North and heading northbound on 21. He stated that with an excess of \$10,000,000 being spent from basically AAA towards Rockside. He stated that he believed Council and the Mayor's office would not like a gaudy, small, ugly sign. He stated that he understood that the sign seems awfully big, but where Rockside would be going in the future, and the majority of that side of the road going commercial at some point. He stated that he thinks some of them, and maybe he was off task; but he didn't find a problem with it one bit seeing where they were going, spending millions of dollars and then they were bickering over the size of a sign where at some point there was going to be a whole lot more over there.

Mr. Bredt stated to Councilperson Walchanowicz's points, and he appreciated all of them. First of all, he didn't think they were bickering. He stated that second of all he thought that the representation initially of the sign being approximately the same as other signs in the area was what he had the problem with. He stated that he heard today that the sign was now being moved further to the west. He stated that he didn't think it was unreasonable for any one of the Board to see how that profile would look in relationship to both the landscaping and the new highly improved accessibility to that area, whether you would be coming north or south on 21 or out of the Rockside Woods Road. He stated that he thought there was enough discussion going on under the matter, that it would be well within their rights to ask for the applicant to resubmit or allow the Board to make the motion and vote on it.

Councilperson Walchanowicz stated that he apologized for using the word bickering. He should have used a different term. He didn't mean that.

Chairman Moreal stated that he appreciated what everybody was saying.

Councilperson Walchanowicz stated that he understood where Mr. Bredt was coming from.

Chairman Moreal stated that he understood both ways, both sides; his concern early on was when he heard that the sign was going to be moved back up the hill, he looked at it trying to be knowledge saying that he didn't know if it was going fit. He asked if the sign was going to grow; but the Building Official chimed in and said that they will hog out that land a little bit so it would not bury the west side. He stated that it helped him understand it a little better; but again

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he didn't think asking for a mockup if there was a lot of concern from Board would hurt anybody. He stated that he wasn't talking about building a sign, just show the Board 117 inches, a level piece of wood and just box it out in 2' x 2's or something.

Mr. Bredt stated just put it in the right location.

The Chairman stated that right now the sign has changed from where it was laid out from what he understood. He stated that where the sign was laid out now, it would go further back.

Mr. James stated that he would have originally staked it out further back no problem, but working through with the City, that was the spot that he understood was fine. He staked it out. He stated that as far as the mockup, he gets it; but when you go to the meetings and explain these things sometimes. Some meetings people do some background and understand what it is about and understand the fight that AAA has had with having their signed moved; and sometimes you have to explain everything. He stated like Councilperson Walchanowicz was saying, it was going to change. He stated that he would have loved to have a situation where they could dialogue and feel good about a sign there a certain size. If the Board thinks it was too big; but in general like the Chairman was saying, he thinks they could look at it and bring it back even closer to the top there a little bit. He doesn't know. He stated to tie it into the landscaping might be the right way to go about it. He stated that after talking to the Building Official and moving it back, and looking at it, it seems to make a good idea.

Mr. James stated that as far as them getting a mockup done, they are a sign company, and they were booked out all the way until the middle of January. He stated that they can't go and build a structure. He stated that it might sound like it would be pretty fast and simple; but they were a small company, and they have guys working every day. He stated that they were blessed and thankful for that. He stated that if that was what it would take to get it done, they will do some overtime hours and talk to the customer to make sure everything was good. He stated that if they want the exact same size; he stated that they understand why the base was there with the 20 inches. He stated that they can make it happen he guesses, but he can't guarantee when. He doesn't have the authority to say it will be done this week or anything; he would have to talk to his boss.

Mrs. Fortlage stated that it wouldn't have to be a mock up per se, just another drawing but some very clear specifics on the request which the Board did not come into this meeting with.

Mr. James stated that he thought the one picture showed it. He stated that he was asked for a picture to show the lay of the land by the City; so he showed that picture, and he was told it was fine or he would have brought more stuff. He stated that he didn't know what to say. He would have brought whatever was needed.

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Mrs. Fortlage asked if that was before or after the move. She doesn't see any peeling out of the landscape around that sign which is what has been discussed tonight.

Chairman Moreal stated that to the applicant's defense, he doesn't think they will start digging out around there until they get the variance; but the Building Official made it clear that there will shape it so it wouldn't get buried.

Mrs. Fortlage stated that you could draw a picture of anything, and the Board wasn't seeing a picture that tells them what it would be.

Councilperson Walchanowicz stated that they shouldn't forget that the application went in on the 4th, and they found out this afternoon that it had to be moved back. He stated that they need a little bit of a break for not having drawings.

Mr. Monteleone stated that he thinks the Board is getting off the beaten path here. He wanted to take the sign that would be allowed, the sign that they want to propose, what was the total footage that they were talking? Were they talking 30 inches here or 34 inches?

Mrs. Fortlage stated it was 35 inches, 95 over 60 would be the size.

Mr. Monteleone stated that 27.5 was what he heard, was bigger than. He stated that either the Board could propose this thing if they could cut it down in half, would that make everyone happy? They were talking about a foot.

Mr. Bredt stated that they were talking about to Mr. Monteleone's point, and he stated that he thought he had a good one. If they would take the Cavaliers, Vista and Rockside all at 75 to 78 inches; and you wanted to cap it at 78 inches overall, it would be good to go.

Chairman Moreal stated to Mr. Bredt that all those signs, if he was not mistaken, they pretty much sit on level ground.

Mr. Bredt stated that Rockside and the Cavaliers were basically in mounds, as is Cornerstone that was built above what would typically be the flat topography.

Mr. Monteleone asked Mr. James if he could have something that size and make it work?

Mr. James asked what size did Mr. Monteleone say?

Mr. Monteleone stated 78 inches max.

Mr. James stated that if he had something like that to go with because he doesn't have the authority to say yes for sure. He was the sign installer. He does the permitting for the company;

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so as far as it would go, if the Board gave him something like that, he could ask and see if they could come up with a rendition, a mock up and table it and then come back and let the Board know. He would be in communication with the Building Official and let him know what they have and see where they could go from there.

Mr. James stated that they said 78 inches, and it was just because of that one sign.

Mr. Bredt stated that it was the tallest of the three signs that were closest to that, 75, 76 and 78 inches. He was throwing out the lowest which was 54 inches, and the highest which was 95 inches which was grandfathered. He stated that he thought they were extending it from at least his standpoint. He stated that if someone would make the motion, the Board could vote on it.

Several people began speaking at once again.

Mr. Bredt stated that the sign itself was fine. He stated that the AAA, the box they were going to build as a sign company was outstanding. He stated that he had no problem with that. If it was already started, it should fit on whatever Mr. James would do with the base. He stated that he wanted to be clear.

Chairman Moreal stated that he wanted to say again, it was cleared up when he heard they were going to hog it out a little bit. He stated that the fact that the City made them take down their sign that was on level ground, which if this was on level ground, there would really be no issue because they wouldn't need a base that high. He stated that they need the base because of the topography. He stated that he was not that opposed to it if all of this would happen. He stated that he just thinks that Mr. James moving it back, if they could make it work the way the Chairman sees it; he was not that against it. He just looks at it different thinking that they will have to grow the right side; but the fact that the Building Official mentioned that it will be landscaped out.

Mr. James stated to the Chairman that if the Board would say 78 inches, that would hurt because the size of the base would be a buffer so the sign would look good and was elevated enough and looks proper.

Chairman Moreal stated that the way he sees it is the base will always have to be that height. He asked if that was correct.

Mr. James replied yes.

The Chairman stated that they have to keep in mind that it can't change because you were plugged into a steep hill.

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Mr. Monteleone wanted to vote on the variance as it was, and if it doesn't pass, they would have to come back next month.

Chairman Moreal stated that if the variance wouldn't pass, the applicant couldn't come back with the same thing. That was the only thing.

Mrs. Fortlage stated that she made a motion to table, and she thinks that has to be dealt with. She asked if there was a second? Mr. Bredt you don't want to table this?

Law Director O'Brien stated that because there was no second, the motion would not proceed.

Mrs. Fortlage stated that the motion doesn't proceed for lack of a second. She stated that she got it.

Mr. James stated that he didn't understand the legalities of, he would table it as opposed to having to wait a whole year. He stated that some cities have serious stipulations for voting and being turned down. He asked if the Building Official or somebody could explain to him real quick.

Law Director O'Brien stated that if the Board would vote on it, it was a legal principle called race judicata. They have already reviewed it, and they have already denied it. So, Mr. James could understand the practical aspect that municipalities don't have to keep taking the application over and over again. It would never end. He stated that the City follows race judicata. Mr. James would have to materially change his application to have it reviewed. He stated that could be any number of things. It could be a higher sign, a lower sign or whatever. He stated that Mr. James would get back on the agenda. He just couldn't present the same identical application to the Board.

Mr. James asked if the colors could be the same though.

Law Director O'Brien stated that he was talking material changes as to the structure. He stated that this Board does not talk about colors. He stated that he knows that Mr. Bredt mentioned aesthetics.

Mr. James stated that as long as he was clear on that, it was no problem.

Mr. Bredt stated that the box of the sign itself was 6 foot and was a foot over the regulations. So, in theory if that box were reduced to 5 foot, and the base was reduced by 6 inches; he would be somewhere in that 78 inches category.

Mr. James asked the Board if they went 5 foot off the top of that sandstone slab, leave it 20 inches and leave the sandstone and make it 5 foot on top of there; could they say that would be

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good? He stated that they need that buffer. He stated that anybody who has worked with this, you need every inch that you can get. He stated that 6 inches could hurt them a little bit. He stated that he would go for that, and that was about as far as he could say.

Chairman Moreal stated that he would go for that because he sees Mr. James has an issue with the hill that was created from giving up that land.

Mr. James stated that the other sign fit perfect there.

Chairman Moreal stated that they went from a flat ground to this, and that was his concern with the hill. He stated that if Mr. James would take a foot off the sign, he would be okay with the base as is because he thinks they need the base.

Mr. James stated that it was pivotal. He stated that the Board would not be happy with it without the base.

Mr. Monteleone stated that he definitely did not want a sign without a base. He stated that it was 2021, they were not going back to an old sign with no base.

Councilperson Walchanowicz stated that it was back to what he said. The Mayor and everyone, they were looking for specific aesthetics on that end of town. They were really trying to spruce it up. It would have to be a good looking base.

Mrs. Fortlage stated that based on what Councilperson Walchanowicz said it was heading commercial; but if the Board would allow the biggest sign of all to go in there as the first one, you know what they would be looking at. Everyone else would want it bigger because that was the way these requests go. She stated that she doesn't think starting out with an enormous sign would be a good plan for the future Councilperson Walchanowicz described.

Mr. James stated that they could lower it to 5 foot, and then as far as these cases would come as Mrs. Fortlage was saying, they have reasons to come before the Board with the hill, and the scenario they have. He stated that it would make sense that the sign would be 5 foot which would be legal, the base he doesn't know; but he does hear what she was saying. You have to be careful, and he totally understands.

Chairman Moreal stated to Mr. James that if the Board were to amend his request to a total height of 82.75 inches, that would be a foot taken off the total. He stated to the Law Director if the Board were to approve that, could the applicant, he would have 82.75 inches to work with, he could lower his base if when he gets to it he sees he could do it and give himself a higher sign face. If the Board was giving the applicant 82.75 inches as the total; it would be up to the applicant what he would want to do after that. He asked if that was correct.

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Mr. James stated that would be fine.

Law Director O'Brien asked the Building Official what his thought was on that because he deals with this on a more regular basis.

Building Official Gero stated that what they deal with was as far as the code was the overall height from grade to top of sign. He stated that the code would allow for 5 feet, 60 inches. So, if the Board would grant Mr. James a variance to allow the sign to be 82 inches; then he make it whatever it was as long as it was from grade to the top of the sign was no more than 82 inches.

Mr. James stated that unless there was a motion he believed.

Building Official Gero stated to Mr. James to hold on.

Chairman Moreal stated to Mr. James that if he would find out once they get into it that they could shorten the base by a brick or so or a block and give themselves a little more sign face; if not, if they could deal with a 5 foot sign base.

Mr. James stated that he saw what the Chairman was saying. He was thinking that they won't find that. He stated that truthfully if this would get approved, if they take a foot off like they were saying, then it would go into production. He stated that at that point the sign would be manufactured. He stated that they have what they have. He stated that the base will start getting done, but as far as actual sign manufacturing, it would be already off to the races. He stated it would be done in a month or so; that is what it would take. He stated that he heard what the Board was saying, but it would already be too late.

Councilperson Walchanowicz asked Mr. Bredt if he was okay with 82.75 inches.

Building Official Gero stated that he wanted to add that if Mr. James would reduce the size of the sign, it would need to have ABR approval because they would want to see that everything would be dimensionally the same. He stated that it would have to get submitted to the Building Official's office for approval. He stated that it might be able to be done administratively if there was not too much of a change.

Mr. James agreed.

Chairman Moreal stated that he would like to amend the request to request a variance to 1151.09(c)(1) of 22.75 inches to permit a ground sign to be 82.75 inches in height, 82.75 inches requested, 60 inches permitted. He asked if that was correct?

Mrs. Fortlage stated that part had stayed the same throughout.

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Chairman Moreal stated that would be it.

A motion was made by Chairman Moreal, seconded by Pasquale Monteleone, to amend the request for the variance to read a request to 1151.09(c)(1) of 22.75 inches to permit a ground sign to be 82.75 inches in height (60 inches permitted, 82.75 inches requested).

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

Law Director O'Brien stated that if the motion passes, and Mr. James could not make it work because the Law Director has been doing this 20 years; and he always relies on the sign people because it's a science. He stated that if it doesn't work, Mr. James could always come back and ask for his original application because the Board just amended it, and that would be material enough to come back.

Mr. James agreed.

A motion was made by Councilperson Walchanowicz, seconded by Charles Bredt, to approve the amended request.

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

Chairman Moreal stated to Mr. James good luck.

Building Official Gero stated to Mr. James to get a revision into his office so that the process can be started.

Mr. James stated that he will get it to the Building Official.

There being no further business, the Board of Zoning Appeals meeting of December 17, 2020 was adjourned at 6:34 p.m.

Chairman Mark Moreal

Debi Beal, Secretary
Minutes Unapproved at Time of Release 12/18/20

