

**MINUTES OF REGULAR MEETING  
BOARD OF ZONING APPEALS  
CITY OF INDEPENDENCE  
April 18, 2019**

**AGENDA:**

**Old Business:**

**Approval of Minutes of Regular Board of Zoning Appeals Meeting held on March 21, 2019.**

**New Business:**

- 1. 6633 Beechwood Drive, Charles Bodrock** – Requesting a variance to 1165.01 of 7 ft. to permit an accessory building to be 8 ft. from the side yard setback (15 ft. required, 8 ft. requested) and a variance to 1165.02 of 5 ft. to permit an accessory building to be 5 ft. from the rear yard setback (10 ft. required, 5 ft. requested).
- 2. 7142 Hawthorn Trace, Michael Dimora** - Requesting a variance to 1165.02 to allow a deck to extend 5.26 ft. past the rear building line into the required rear yard (not permitted).
- 3. 5994 Hillside Road, Salvatore & Erin Caruso** – Requesting a variance to 1163.04 of 17 ft. to permit a new home to be built with a front setback of 92 ft. (75 ft. required, 92 ft. requested).
- 4. Oval Drive, PPN 563-18-029, Michael Haggerty** – Requesting the following variances: (1) a variance to 1163.04 of 37.97 ft. to permit a new home to be built with a front setback of 37.03 ft. (75 ft. required, 37.03 ft. requested), (2) a variance to 1163.01 of 4,712 sq. ft. to permit a non-conforming lot to be 15,288 sq. ft. (20,000 sq. ft. required, 15,288 sq. ft. requested), (3) a variance to 1163.03 to permit less than 100 ft. at the building line (100 ft. required at the building line, 88.93 ft. requested) and a variance to 1163.03 of 31.75 ft. to permit an average depth of 168.25 ft. (average depth of 200 ft. required, average depth of 168.25 ft. requested).
- 5. 5959 Chestnut Road, Tim Jedrzejek** – Requesting a variance to 1165.01 of 12 ft. to permit a garage addition to be 3 ft. from the side yard setback (15 ft. required, 3 ft. requested), a variance to 1143.02(b)(1)(B) of to permit an addition to a garage of 56 sq. ft. x 80 sq. ft., creating a 56 sq. ft. x 128 sq. ft. garage (70 sq. ft. x 24 sq. ft. permitted, 56 sq. ft. x 128 sq. ft. requested), a variance to 1143.02(B)(1)(A) to permit the height of the garage to be over 15 ft., and a variance to 1143.02(b)(1)(C) to permit 11+ parking spaces (5 spaces permitted, 16+ requested).

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The meeting was called to order by Chairman Mark Moreal at 5:54 p.m. and the following responded to Roll Call:

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

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

**ABSENT:**           **Carol Fortlage**

Law Director O'Brien stated that to all the applicants in the audience, they may notice that there were only four members on the Board of Zoning Appeals. He stated that it was certainly within their rights to ask to table, to come back when they have a full complement of the Board. He stated that if a vote goes up on their application, and they receive a 2-2 vote; under the law it would fail, and they will not be able to bring their application back again because it will have already been decided. They could appeal that to the Court of Common Pleas, but it would be the applicants' choice. He stated that there really was no tie breaker.

Councilperson Asseff stated that he wanted to add that he will not be in attendance next month. So, the Board would have the same situation.

Chairman Moreal stated that he would like to ask the Board if there were any corrections, changes or additions to the March 21, 2019 Zoning meeting. There were none.

**A motion was made by Chairman Moreal, seconded by Charles Bredt, to approve the March 21, 2019 Minutes.**

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

**6633 Beechwood Drive, Charles Bodrock** – Homeowner Charles Bodrock was in attendance and sworn in.

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

Chairman Moreal asked Mr. Bodrock to explain what he was looking to do.

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Mr. Bodrock stated that currently he has a storage shed. He stated that it was 10 ft. 12 ft., and he had gotten a variance for that building. He didn't know how many years ago, but he knows the building has been there 20 plus years. He stated that the sides on the existing shed were 4 ft. side walls. He decided to get another one that had a little bit higher side walls. He wanted to have it the maximum that the code would allow, which was 12 ft. by 12 ft. He stated that in order to do that and still have it in the same place, as you would face the shed, you would look to the right of the shed and there was a tree. He stated that if he went to the right, he would have to take the tree out. He stated that rather than take the tree out, it would be easier to move it a couple of feet in the opposite direction; and that was one of the reasons that he was before the Board asking for the variance.

Chairman Moreal asked Mr. Bodrock if he was using the same pad. Did he have a pad there now?

Mr. Bodrock stated that what he did when he put the other one up was he had those patio stones. So, the whole area was covered with those. He stated that probably what will happen when he gets the old shed off the site; he will see what kind of shape the platform was in because he sure that in all those years it probably has settled. He will probably have to do some work to fix the base of it. He will basically put the new shed in the same location, assuming that he would get the variance.

Chairman Moreal asked if there were any questions from the Board. There were none.

Mr. Bodrock stated that he will have to probably go a little bit higher with the (inaudible). He stated that years ago when the house was built, according to the plans that the builder submitted to the City, he was supposed to have a catch basin in the corner off where that shed was located. He stated that it was the northeast corner of the parcel. He stated that he never got it. He stated that their excuse was that they would have to take trees down. He stated that the drain never got put in. He stated that the area has been a problem for him ever since he lived there. He stated that there were swales between the houses, the water runs between the 2 yards and into the backyard. He stated that some of it went to the right across the property down into his next door neighbor's. He stated that a lot of it goes straight into the back and creates basically a lake. He stated that he has lived with that.

Mr. Bodrock stated that a number of years ago what he did, he put in a catch basin in that area. He put another one over where it kind of cuts across the yard and then goes down into the next door neighbor's. He stated that it has always done that, and then he took that drain and diverted it as much as he could towards the rear of the property. He stated that it will still run to the neighbor's yard because there was no place else for the water to go. He stated that the neighbors complained and stated that they were getting too much water. He stated that rather than have a problem with the neighbors, he would block the pipe.

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He stated that his neighbor on the other side, he decided that he was going to build a shed. He raised the grade, and puts a shed on top of it. He stated that the shed was 5 feet from the side line. He stated that originally the water would run straight back. He would get some, and some would go on the other property. He stated that now he gets it all.

Mr. Bodrock stated that he had the City Engineer out last year and told him that it was crazy. He had water that was almost into the floor of the existing shed. He stated that he should not have to put up with that. The City Engineer told him to uncap his drain. He did that, but the problem was not solved. He stated that his next door neighbor on the other side gets water; and people that his lot butts into because they hit the side lots of the homes on Hickory Nut, they were complaining. Mr. Bodrock told them that he didn't create the problem, but he was getting it from all sides. He was getting it from the changing grade, the drain that was never put in that according to the plat maps for that subdivision was supposed to be there, and he doesn't know what to do. He asked the City Engineer. He stated that he didn't understand why they couldn't put a catch basin where his lot meets the neighbor's lot. They could put a catch basin there, run it over, tie it into the storm sewers on Hickory Nut; and that was not an unreasonable solution because they did just that for Mel Kurtz who lived across the street from him and the Niros who live next door. When they put a drain in, the pipe was that big all the way to the rear of the property to the street from under the street and tied it into the storm sewer which was about 3 feet off his mailbox. He stated that he knows that it can be done, but the thing was they didn't want to do it now.

Mr. Bodrock stated that his question to the Board was what does he do, and he would like someone to talk to his neighbors and explain to them why they won't solve the problem? He stated that he didn't think it was up to him.

Chairman Moreal stated that he hears Mr. Bodrock's problem, but he was before the Board for a variance; they have nothing to do with that. He would have to talk to the Engineer.

Mr. Bodrock stated that he would be changing grade where his shed was going, so he was just getting everybody ready because he is going to raise it. He was not going to put up a new structure and have it flood.

Mrs. Smith stated that she did notice that there was a grade change on the next door neighbor.

Chairman Moreal asked Mr. Bodrock if he was going to wait to see what happens before he did anything.

Mr. Bodrock stated that he waited 30 years. He stated that he has been there going on 33 years, and he has had this problem since he got there; and he has had (inaudible). He stated that last

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time he was told that it was not his problem, he put the drain in; and that solved a lot of his problem. If the neighbors want to complain, let them complain. He stated that he lives next to those people. He stated that he might be okay, but their attitude was that he dumped his problem on them.

Chairman Moreal asked Building Official Gero what would he suggest.

Building Official Gero stated that he would need to speak with the Engineering Department, they handle all stormwater issues.

The Chairman stated that Mr. Bodrock should make a phone call to the Engineering Department.

Law Director O'Brien stated that he wanted Mr. Bodrock to ask them to check his neighbor's, the one who put the higher grade in, and see if he had approval.

Mr. Bodrock stated that he didn't have a permit. He stated that he has already done that.

Law Director O'Brien stated that if it was causing the problem, not only should the City look at that to send them a notice of violation; but if he did that, and it was a nuisance on his property, he should talk to his attorney.

Mrs. Smith stated that Mr. Bodrock had said that he had checked into the next door neighbor, and he saw that he did not get a permit.

Mr. Bodrock stated that when he went to pull a permit for this discussion, he had them look. He stated that he knew he didn't have a permit, but he could be wrong, and check it out. They did check it out. He was right.

Mrs. Smith asked the Building Official if that would be something then seeing that he looked, and they didn't have a permit?

Building Official Gero stated that it could be Engineering. He didn't know what they would look at as far as constituting a change of grade, what the impact would be.

Mrs. Smith stated that she meant his shed actually.

Building Official Gero stated that he was in a position that he has to assume that the shed was permitted as an existing shed. He can't go back and tell him that 5 years ago he did this on a Saturday and it was illegal; and he has to get a permit for it.

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The Chairman stated that he was thinking that Mr. Bodrock would need to talk to the City Engineer and try to solve the water problem. They were not going to solve the shed problem right now. He needs to address that with the Engineering Department.

Mr. Bodrock stated that Don Ramm was out last year.

Chairman Moreal stated that he didn't know what to tell Mr. Bodrock. He stated that was who Mr. Bodrock should talk to. He should call him again.

Councilperson Asseff asked what did he say last year?

Mr. Bodrock stated that his attitude was he solved a lot of his water problem by having the drains that he has put in; but he was dumping it into his neighbor's yard, and they were not happy about it. So, it was affecting the people who live next door to him and the people who live behind him. So, he was the bad guy; and he told them that why doesn't he as the Engineer go explain it to them that it was okay. Mr. Bodrock stated that he can't do any more than what he has done. So, if the City thinks it is okay, then tell them that it's okay. Mr. Bodrock didn't want it left up to him to tell them it was okay. He was the Engineer, Mr. Bodrock was not.

Chairman Moreal stated that a year has passed, he would give the City Engineer a call, whatever it would take to try and get him out there and show him his problem and bring it back and freshen it up again. Hopefully, he can do something for Mr. Bodrock and help him out. He doesn't know.

Councilperson Asseff stated that he would suggest Mr. Bodrock get a meeting with his neighbors and the City Engineer to get the three of them together to talk it out. Mr. Bodrock had stated that it affected everyone. If he wanted to get a common solution, he would need common input from the three people. Mr. Bodrock stated that he would get them.

Chairman Moreal stated that the Board wanted to go back to Mr. Bodrock's issue. He stated that he saw what Mr. Bodrock was looking to do. He would need the variance because of trees. The Chairman stated that he didn't have any issues. Councilperson Asseff stated that he didn't have any issues.

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

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

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**7142 Hawthorn Trace, Michael Dimora** – Homeowner Michael Dimora and Chris Molnar of Northeast Ohio Deck Company were both in attendance and sworn in.

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

Chairman Moreal asked Mr. Dimora to tell the Board what he was looking to do and why he would need the variance.

Mr. Molnar stated that he was sure that the Board was pretty familiar with all the issues on Hawthorn Trace. He stated that the Dimoras have a second story walk out basement, about 10 foot of grade from the sliding doors. They have 3 feet on the southern side of the yard, and then it gets bigger as the yard goes east. Unfortunately, the sliding door was located on west side. There was about 10 feet of fall to the grade. He stated that they were looking to build a deck since they don't even have room to put a set of steps down. He stated that what they were asking for was to do a cantilever style deck so the footer posts themselves would only extend into the rear setback on the west side about 2 feet; and then on the east side only about a foot.

Mr. Molnar stated that there was also a drainage setback there. They have made 3 attempts and talked with the City Engineer. He has not gotten an answer back from him yet. He stated that the policy in the past has been that they could build into the drainage easement, but you were volunteering to remove or replace the structure if needed for them to get access to repair it.

Additionally, they did go through and have the property surveyed, but there were two pins there from a survey when Pulte did it, and they did pull a string line across the back and shot a laser; and the survey was off by 2 feet. He could see if it was off by 6 inches, but it was definitely off in Mr. Dimora's favor. He believed there was a couple more additional feet before the 20 foot rear setback and 20 foot rear stormwater easement starts.

The Chairman asked if Mr. Molnar was saying that they feel that they didn't need the 5.26.

Mr. Molnar stated that it was probably a little bit less, but he was guessing that the only way that could be rectified was if he hired a surveyor at his own cost. He was sure Pulte was not going to volunteer.

Councilperson Asseff stated that he thought it was important, not for building it, but if it comes where he would have to tear it down because of the sewer; that property line will be critical because if he would be over that, that would present some additional problems. It would seem to him that they should have an exact line there which would be correct. That will prevent problems in the future. Hopefully, they never come up, but you don't want to say you wish you would have.

Law Director O'Brien asked Mr. Molnar if he was positive on that survey being incorrect?

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Mr. Molnar replied yes. He stated that if it was 6 inches off, he could see one thing.

Law Director O'Brien stated that he thinks that they could get Pulte to re-run that.

Mr. Molnar stated that being said, the construction of it, the deck will be a cantilever style deck so the footer posts would be in a bet from the front. So, there would be only 1 footer post that would even be touching the 20 foot easement. Obviously, it was on a 20 foot wide diameter height; and the deck will start and just be 10 feet in the air. So, even being that it will be right next to and adjacent to the easement; there would still be plenty of access for them to get in there if they have to dig anything up.

Law Director O'Brien stated that Mr. Molnar made a comment, and he was right. That was a challenged area, the drainage easement; and there were so many disclosures. He knew when he bought it. You have realized that some of your neighbors have come and asked for a variance to build patios; but what you were saying was they may have a stone patio or something, but they don't have footers or stuff going into the City's drainage easement. So, whatever they were going to build there, he was sure the Board would ask them to say the footers will stay outside of the City's drainage easement. He knows that eventually if they would be granted the variance, they will sign a License Agreement so they could go in there at any time, rip it out at the homeowner's cost if they have to.

Mr. Dimora stated that they did that with their trees. Their trees were over when they had the landscaping put in.

Law Director O'Brien stated that the City and the residents who live on Mr. Dimora's street who have signed those documents that they record with the County, are fine because if the City has to remove it, it would be a patio or rocks or some stone pavers; but you would essentially have to take your deck down and they were not going to get into that.

Chairman Moreal stated that with that being said, he asked if they would feel comfortable with the posts and footer. He asked if it could be brought in on the line, cantilever. If they were not 5.26, then it will be less than what he was thinking by looking at that.

Mr. Molnar stated that there was 1 foot post that would be right on the line, obviously they could cheat that back. He asked the Building Official if it was a third?

Building Official Gero stated that off the top of his head it was a third.

Mr. Molnar stated that they have a 9 foot span, so they could do a 3 foot cantilever.

Building Official Gero stated that they had a 12 foot deck there.

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Mr. Molnar stated that if they feel that it was the actual line.

Building Official Gero stated that they would be running at their own risk as far as that goes without waiting to get a survey.

The Chairman stated that he would survey again, but he has no problem with it overhanging.

Building Official Gero stated that the Board of Zoning was looking at them going past the building line.

Chairman Moreal stated with the post.

Building Official Gero stated with the deck.

Mr. Bredt stated even though it overhangs.

The Chairman stated that he was okay with that.

Building Official Gero stated that even though it overhangs, it still goes past the building line. Building lines go all the way up. So, the Engineering Department was saying that if the posts could stay out of the easement, and the deck would overhang; then they could probably work with that as long as the posts stayed out of the easement and away from any drainage pipe because also the thing to remember is (inaudible) are typically draining out the back to that sewer line back there.

Mr. Bredt stated and the amount of cantilever would be an Engineering/Architectural decision.

Law Director O'Brien asked how can you grant a variance if you don't know what you are granting?

Mr. Molnar stated that it was a variance just to go into the building setback.

Building Official Gero stated the Board would give a variance to go past the building line.

Chairman Moreal stated that he was okay with that, but he thought that the footers and posts, but that would be the survey and someone would need to oversee that. He stated that it would be contingent to the posts being on the line; and the overhang is what it is right now. So, it might change depending on the survey. How would you write that up?

Several people began speaking at once.

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Mr. Molnar stated that if they would keep the posts behind the building line and just overhang without compromising the structure at all; it would be just an overhang variance would be what he was asking for. He stated that it was a second story because they didn't do him any favors putting it on the second story like that.

Mr. Dimora stated that like the Board stated earlier, the disclosures were not there.

Law Director O'Brien stated that he guessed the Board could move to approve the variance to 1165.02 to extend no more than 5.26 feet past the rear building line into the required rear yard, provided all footers and posts do not encroach upon the City's easement.

Councilperson Asseff asked would it also have the contingent on a survey?

Law Director O'Brien stated that he would take care of the survey. Their General Counsel used to work for the firm.

Chairman Moreal stated that was exactly what he would have stated.

**A motion was made by Chairman Moreal, seconded by Charles Bredd, to approve the variance to 1165.02 to extend no more than 5.26 feet past the rear building line into the required rear yard, provided all footers and posts do not encroach upon the City's easement.**

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

Law Director O'Brien stated to Mr. Molnar that he obviously did some work back there. He wanted Mr. Molnar to e-mail the Law Director to put some meat on the bones so he could forward that e-mail to Matt Viola who is Pulte's General Counsel stating that they need to get back there and re-survey.

Mr. Molnar agreed.

**5994 Hillside Road, Salvatore & Erin Caruso** – Homeowner Salvatore Caruso and Jeff Ury of Schumacher Homes were both in attendance and sworn in. Chairman Moreal asked if there were any neighbors present. There were no neighbors present.

Chairman Moreal asked the applicant to explain what he was looking to do.

Mr. Ury stated that they would like to construct a new home on the existing lot. The setback line was at 75 feet, and they would like to move it back to 92 feet. He stated that there was an

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existing structure on the site that would be razed. They would like to put the new house in a similar footprint and take advantage of the existing utility lines. He stated that by moving the house back it would take some of the slope out of the driveway.

Mr. Caruso stated that they have a pretty steep hill on the front of the lot. He stated that a lot of it was a protected hillside. The existing driveway was somewhere in the neighborhood of 20% grade. What they were trying to do was lessen that. He stated that the way it was drawn up now,

it puts them at 15%. Part of that was moving the house back a few feet. Mr. Caruso stated that at 92 feet, the front of the house will still be in front of the houses on either side of them.

Chairman Moreal asked if the old garage was coming down.

Mr. Caruso stated that the old garage was not coming down. They would like to salvage that and rehab it if they can. He stated that structurally it seems okay. There was one part that would need to be addressed, and the floor would need to be redone. He stated that he would need an engineer to look at it, but the people that he has had look at it so far it seemed like the structure was in good shape.

Chairman Moreal stated that he didn't look hard at it, he thought it was just coming down.

Mr. Bredt asked if Planning Commission had looked at the steep slope.

Mr. Caruso stated that they were on the May 7<sup>th</sup> agenda.

Chairman Moreal stated that whatever the Board would do would be subject to Planning Commission.

Mr. Caruso stated that he understood that.

Mr. Bredt stated that he sees that there is a practical difficulty here to build a home. He has no objections, subject to the steep slope variance being granted by the Planning Commission.

**A motion was made by Charles Bredt, seconded by Councilperson Asseff, to grant the variance, subject to the steep slope variance being granted by the Planning Commission.**

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

**Oval Drive, PPN 563-18-029, Michael Haggerty** – Homeowner Michael Haggerty and Jeff Ury of Schumacher Homes were both in attendance and sworn in.

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Chairman Moreal asked Mr. Haggerty his reason for the request.

Mr. Ury stated that Mr. Haggerty would like to build a modest home on the site. He stated that the front setback would need to be shortened to 37 feet because of the steep slope issue directly behind the house. He stated that the rest of the variances were because of the lot.

Law Director O'Brien asked how big was the house.

Mr. Haggerty stated that it would be just over 2,000 sq. ft.

Mr. Bredt asked if it would be a two story.

Mr. Haggerty stated that it would be two story.

Mrs. Smith asked if they would be staying out of the riparian setback.

Mr. Haggerty stated that they would be out of the riparian setback.

Chairman Moreal asked if there would be a deck going in the back. He stated that Mr. Haggerty should remember what he heard at the meeting this evening.

Building Official Gero stated that there were doors going out the back.

Law Director O'Brien asked if they would put in a deck would they need another variance.

Building Official Gero stated that it would all depend on where they would fall in the steep slope.

Mr. Ury stated that the patio doors that were being referenced would be located in the middle of the house. At that point there was 15 or 20 feet from the back of the house to where the steep slope starts.

The Chairman stated that Mr. Haggerty would be doing what the previous applicant did.

Law Director O'Brien asked if Mr. Ury's client understood that it was probably unlikely to get any additional variance to increase the patio beyond the 15 feet.

Mr. Caruso understood.

Chairman Moreal stated that it looked like Mr. Haggerty had the room to do whatever he had to do with posts and footers.

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Mr. Ury stated that there was a basement walkout door as well, and they discussed shifting that to allow for a patio out that door without interfering with the steep slope.

Mr. Bredt stated that once again Mr. Haggerty would understand that he would have to go to the Planning Commission to get approval for the steep slope variance.

Mr. Ury stated that Mr. Haggerty should also be on the May 7<sup>th</sup> agenda.

**A motion was made by Charles Bredt, seconded by Councilperson Asseff, to approve the variances requested, subject to the steep slope variance being granted by the Planning Commission.**

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

**5959 Chestnut Road, Tim Jedrzejek** – Homeowners Tim and Rhonda Jedrzejek were both in attendance and sworn in.

Building Official Gero stated that the square foot should be eliminated in the variance request. It should just be feet and not square feet.

Mr. Bredt stated that he would like to ask the Chairman that each variance be discussed individually and motions made accordingly.

The Chairman agreed.

Mr. Bredt stated that he wanted to start with the applicant's original application for the 3 foot variance. He stated that the application's original statement was that they were looking for a variance to the side to get a proposed garage door, which looking at the drawing he assumed and correct him if he was wrong, as the existing garage side.

Mr. Jedrzejek stated that the existing garage was noted on the drawing, and the driveway goes down the existing garage near the property line; and then the new structure, the addition, would be the garage located right at the end of the drive there and straight into the garage.

Mr. Bredt stated that it would be the one that would run straight into the garage.

Mr. Jedrzejek agreed.

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Mr. Bredt stated that the existing garage was not part of the application, even though it was included in the overall length of the garage.

Mr. Jedrzejek stated that it was added into the total square footage.

Building Official Gero stated that Mr. Jedrzejek was putting an addition on and creating one structure.

Mr. Bredt stated that it would be considered one structure.

Building Official Gero stated that they were connected so it would be one structure.

Mr. Jedrzejek stated that the driveway coming straight in next to the garage that was already there, so they will access that current driveway straight in. He knows that some of the members had visited the yard, but it will go straight into the new structure. So, that is where he would need that variance on the side from 15 feet down to 3 feet because the driveway was there already.

He also wanted to note that this would be over 400 feet from the neighbor's to the west that was on the driveway side, from their house. He stated that the back was all woods; so they wouldn't have a direct sight line for where the structure is going to be.

Mr. Jedrzejek stated that the height of the structure, the purpose for the garage was they have a 40 foot motor home, RV, and he tows the trailer behind that. They want to get that out of the yard and store that, not only get it out of the door; but just to protect the investment and everything and keep it sheltered indoors. They want to put that in the garage with the trailer, and then they will have access to their other cars to put in there as well.

Mrs. Smith asked Mr. Jedrzejek how many other cars was he talking about.

Mr. Jedrzejek stated that he currently has in his existing garage, a corvette that he would move to the backside of the garage so that they could free up space in the current garage so his wife could park her car in the front garage in the winter time. They were hobbyists. His kids race little quarter midget go-kart kind of cars. They are always in the garage tinkering and working with those. That is what they use the RV and the enclosed trailer for. They load the cars up, and they go to the race track on the weekends and come home and work on them during the week again. It is just a family thing that they do together. Mr. Jedrzejek stated that his daughter races, his son races, and his wife and he were the ones who pay the bills so they can enjoy their weekend activities. So, they are always out there tinkering and working with the family.

Mrs. Smith asked Mr. Jedrzejek how many of those vehicles does he have.

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Mr. Jedrzejek stated that they have 4.

Mrs. Smith asked how small were they.

Mr. Jedrzejek stated that they were about the size of a go-kart. They were a little larger than a go-kart. It would be the RV and the trailer. The trailer was about 30 feet.

Mrs. Smith stated then the 4 cars and the Corvette.

Mr. Jedrzejek stated that it would be at this point. He stated that he could see down the road, his son is 14; and he will have a car of his own.

Chairman Moreal asked Mr. Jedrzejek if the idea was to back the motor home with the trailer on it.

Mr. Jedrzejek stated that ideally that was it so he can put it all in there as one unit; and then when they would be ready to pull out, it would just pull out all as one unit. He wouldn't have to be hooking up and disconnecting when they were pulling out. That was where the 80 foot comes from. He stated that the 56 foot comes from to have the side door on the garage; and it would have to overhang that driveway enough to put the door in there. He stated that he offset the other side of the garage evenly so that the peaks and everything would match uniformly. It wouldn't look like it wasn't lined up together. They will all be centered, and that was where the 56 comes in just for aesthetics and to make it look nice like everything was supposed to fit.

Mr. Jedrzejek stated that they went through the Architectural meetings, and he saw a couple of the same people at the Architectural meeting earlier. He stated that they would tie it in to make it look like their house and the existing garage. The siding and everything would match. He doesn't want to get ahead of things, but he knows that there was an issue; and it seems like everyone in Independence has an issue with water. They talked at the meeting earlier, and they would do a site survey, and they were going to put storm sewers in for the drainage from the gutters. One of the things that they can do to help with the water with the neighbor to the west, which would be along that driveway side; as they were running the storm sewer, it was suggested earlier that it wouldn't be much added on cost for them to put a drain tile on top of that same trench that the storm sewer would be going in. There was a catch basin out near the driveway that the City had put in a few years back; so they could run it down the length that way. They would tie in, and it would help drain all the water that was in the neighbors' yards as well. He thinks it would be a big benefit to them. He thinks that there would be some kind of drainage going to the basin because right now what happens is it floods back there on a heavy rain. It all runs down naturally towards the street, but that process could take 2, 3 or 4 days before that water would start to subside. If they could put some drainage in on top of their storm sewer running out, it could really help with that. It would be catching the water in the back 200 foot from the road, and putting it into the drain tile, rather than it naturally happening.

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Mrs. Smith asked where were the vehicles being stored now?

Mr. Jedrzejek stated that the RV and the trailer were in the driveway. They would normally be up along that driveway next to the garage area. Right now he has them pushed a little bit further back to gravel back there. He stated that they would like to have them under shelter.

Mrs. Smith asked where were the other vehicles stored?

Mr. Jedrzejek stated that the Corvette was in the garage now, and then the other back half of the garage was full and overwhelming with stuff. That was why they were looking for more space.

Mrs. Smith stated that Mr. Jedrzejek was aware that he could store his motor home according to the ordinance, which he was, he doesn't need to store it in a building or garage.

Mr. Jedrzejek stated that he was aware of that because he didn't need to. He wants to protect it. When he parks it in the back, it's all in the woods. Every winter there are limbs falling on it. It gets banged up and beat up sitting out there in the winter. He would like to have it inside.

Mrs. Smith stated that there were storage facilities that Mr. Jedrzejek could pay for also. He was aware of that. He would not be required to have a garage.

Mr. Jedrzejek stated that there was a lot to having it at their access. He thinks that if they couldn't keep the RV in their yard or storage, then they probably wouldn't have an RV. He stated that it was a difficult task that every time you were going out in the RV, which they do every weekend in the summer. Once they get started here, they will be gone Saturday with it. They were gone last weekend. They will be traveling with it all summer, pretty much Fridays through Sundays.

Mrs. Jedrzejek stated that they have to load it every week.

Mr. Jedrzejek stated that putting in a storage area would be going back and forth to get it out, load it up and store it. He stated that there was a lot of maintenance on it. They are always washing it and polishing it. It is like another house. You always have something that you are repairing or working on, whether it's a headlight or something with the furnace. He stated that having it in their Chestnut location would be very important to them.

Mr. Bredt asked why so many parking places?

Mr. Jedrzejek stated that it would be the RV, the trailer, room to put the other cars.

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Mr. Bredt stated that he was talking about the extra parking spaces that were part of the one of the variances.

The Chairman stated that it was the size. It would be a garage with all that square footage that would not go away.

Mrs. Jedrzejek stated that it wasn't the parking spots, it was just inside the garage itself.

Mr. Bredt asked those were inside the garage?

Chairman Moreal stated that it was the square footage of the garage, the way he understood it.

Mr. Bredt stated that he understood, but part of his requesting that they look at all individually, allowing 11 additional parking places where the building will only be used for inside storage. They would be putting a parking lot back there also. Was he reading it correctly?

The Chairman stated that it would be enclosed. It would the structure inside. The applicant was looking to do an 80 foot deep to put the trailer in.

Mr. Bredt stated that it read 5 spaces permitted, 16 plus requested.

The Chairman stated that because it was a garage.

Building Official Gero stated that the size of the structure would constitute 16 parking spaces.

Mr. Bredt stated that it would allow for 16 parking spaces. It was written up as a variance to permit 11 plus parking spaces.

The Chairman stated that you would get 5 per house.

Law Director O'Brien stated that the variance follows the square footage request.

Mr. Bredt stated that he got it. He wanted to know if they could approve one and deny the other, the parking places?

Law Director O'Brien stated that it would be hard to.

The Chairman stated that he didn't know how they would do that.

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Mr. Bredt stated that he was just trying to get it on the record. He stated that the building was too big in his opinion, and there were enough issues floating around from the standpoint of the survey and the water issues that he believes right now if the Board was to vote on it without understanding what the practical difficulty was; and he is welcomed to listen. He would vote no, and he can't speak for his associates here; but if they would get 2 no votes, it would be denied. That was part of the Law Director making the comment at the very beginning. He stated that the applicant was welcome to withdraw the application. The Board could table the application, and the tabling would come up next month; and the Board just learned that one member will not be there. So, the applicant would run a risk, and he doesn't think he will change his mind about the size of the building. He might be amenable to landscaping issues which would include the water issues being addressed to the Board's satisfaction.

Mr. Bredt stated that he was in the construction business as a supplier, and he spent today in a barn that was 34 ft. by 54 ft., and that thing was huge. He stated that this garage would be bigger than that.

Mr. Jedrzejek stated that if he built a building that would be 35 ft. by 50 ft., and he put a 40 foot RV in there and a 30 foot trailer in there, he has very little room for anything else. That is why.

Mr. Bredt stated that he understood what Mr. Jedrzejek wanted, but the Board does have the issue of a practical difficulty as a rationale for proving something. He stated that it would be a monstrous building.

Law Director O'Brien stated that although he doesn't have a vote, it would be bigger than his house; but practical difficulty was a standard that the Board would have to apply. He stated that it happens a lot, and unfortunately when you have more stuff, which he can appreciate, more stuff would not be one of the elements that the Board could base their decision on. He realizes that people coming in say more stuff; but items like where they are aware of the restriction when they bought the house. That was one of the *Duncan v. Middlefield* standards. Could they abate the variance? Could they reduce the variance through some alternative means like a smaller building? That was why Mr. Bredt was saying that situation. It was an Ohio Supreme Court case. He could google it. Their firm was the one that litigated it back in 1986.

The Law Director stated that there were 8 or 9 items that they would have to request to fit into to get a practical difficulty to stand.

Chairman Moreal stated that he wanted to jump in. He does understand where Mr. Bredt was coming from. He stated that the key for Mr. Jedrzejek was the investment in his RV. He definitely would want that inside. That was 40 feet. So, try to work with 40 foot. What could he do? Mr. Jedrzejek had it at 80 feet. Obviously, if he would cut some length off of that and found a way.

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Mr. Jedrzejek asked if in the neighborhood of 60 ft. by 56 ft. would make it more comfortable. He stated that they would be chopping 20 feet off the back.

Chairman Moreal stated that it would be 1,000 feet taken off. He was just thinking if there was another place to put the trailer. Could the trailer stay outside? He doesn't know.

Mr. Bredt stated that those were all things that Mr. Jedrzejek really needed to consider before he comes back. That was his choice. He stated that it would be a monstrous building for no results that would apply to a practical difficulty. He stated that Mr. Jedrzejek chose to buy the RV knowing what property he owns; and he made a conscious decision at that time to do so.

Mr. Jedrzejek stated that he knows that the Board is aware of the big building that Zmija is building next door, and that was a monstrous building. He asked what their practicality was for getting approved on their building? He stated that he didn't have any problems with them building the building. He signed off on it, but their building is right in his backyard. He stated that the lots were parallel to each other back there. He knows that they were building their

structure, and he believes, and he doesn't have the prints; but it's somewhere in the neighborhood of a 60 ft. by 60 ft. building. From what he understands, it will be two stories tall. Again, he hasn't seen the prints, and it was all hearsay. He doesn't want to go on record that he knows the facts. He knows that it is a big building.

Mr. Jedrzejek stated that his building, where it would sit, would be really camouflaged, not only from the street but from the neighbors in front of him. He stated that the Zmija's were on a very unique angle, they might be able to catch the corner of it from their house. Obviously, if they were back in their building, they would see Mr. Jedrzejek's because they would be parallel to each other. They will be 100 feet apart from each other. He stated that as far as the building being an eyesore, it would be back deep enough that unless you would pull down the driveway and knew it was there. Even the driveway that they were talking about that goes straight into the door; the driveway comes down centered in his house, and then before you get to the house, it turns and goes around the house, and there was a big pine tree in the dog leg kind of thing. If you are driving by the house and you look, you could not see straight down the driveway because the pine tree would be blocking that view. You would not have a dead on look of where the garage would be.

Mrs. Smith stated that she does believe it would affect the rear yard. She stated that she believes it would affect the neighbors' views where he would be planning on putting the garage. She stated that they could see it, and she feels that it would affect the character of the neighborhood. She stated that the garage was the size of a large commercial building. It was huge, and she does not believe a structure of that size, a commercial building, would belong in a residential neighborhood. A commercial size building belongs in a commercial area. That is how she believes it to be.

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Mrs. Jedrzejek stated that it was a sizing issue. That is what Mrs. Smith was saying.

Chairman Moreal stated that he agreed with what Mrs. Smith was saying; but she made the comment, and he made the comment in Caucus that it would be camouflaged better than any other house on that street. He doesn't call it a development. He knows that Mrs. Smith calls it a neighborhood. He knows that size was an issue, and the Board all kind of feels that it would be big. If Mr. Jedrzejek could go back and maybe try to think a different plan out, and they like the fact because they all had a concern about the water issue. He could address that. Maybe he could put it on a drawing and show the Board where it would go.

The Chairman stated that based on what he was seeing and what Mr. Jedrzejek was hearing this evening, it probably would not be a good idea, the Board should probably table the matter.

Councilperson Asseff stated that he would like to see Mr. Jedrzejek look at it and minimize so that he would only ask for what he would really need. Right now he was asking for what he really wanted. There was a difference. He should ask for what he would really need to achieve

the goals that he was after, the water goals and the other kinds of things and bring that plan back. He thinks that would be a prudent way to do this.

Mrs. Smith stated that if you could equate the square footage of your vehicles and then figure it to his building; she thinks that would be the way to go.

Chairman Moreal stated that in a perfect world, Mr. Jedrzejek probably wanted 80 ft.

Mrs. Smith stated that he could give himself a little room.

The Chairman stated that you can't build a building that way. That would look bad.

Mrs. Smith stated that he should give enough space, but she doesn't see how it equates to space.

Chairman Moreal stated that the killer was the trailer attached to the motor home.

Mr. Bredt stated that the scale was really the issue, and neighbors who are amenable to and respect and are friends with neighbors, would generally not make comments that they will regret at some time. That is why the Board is there.

The other side of it would be to put yourself in the position of walking in one of his neighbor's backyards, back towards the trees and looking to one side or the other and seeing a pretty big building, even 2 or 3 lots down. He stated that he really loved the ability in Independence to still

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see some deep backyards where when you look across the deep backyards you see trees and open space. He stated that this would be a wall.

Mrs. Jedrzejek stated that they were seeing all of that next door to them too.

Mr. Bredt stated that he understood that. He would like to have a little time to find out why (inaudible).

Mr. Jedrzejek stated that he was not trying to be counter-productive, but when they were in the back and they walked out towards the street or they drove out to the street; but the neighbors to the west who Mr. Jedrzejek would be trying to help the water. He asked if the Board saw the pile of sheds and outbuildings and everything that they have to look at every day. He stated that he has watched those things multiply, and he knows that none of them are by code. There was a purple shed that they have to look at every day that they drive out of their yard; and he is not saying it is right or wrong. He has to accept that, and he is trying to build a building that is large; but they are trying to do it right. They are trying to match everything and have all the décor right. Mr. Jedrzejek is trying to help the neighbor with water situations, and he is glad that the Board was nodding and saw it. If those guys were the ones complaining, they were not worried about what he was looking at every day. It is behind their garage and house.

Chairman Moreal stated that he thought they just questioned the water.

Mr. Jedrzejek stated that he was willing to help with that water.

Mrs. Jedrzejek stated which that water, they have been there for 19 years; and it has been an issue.

Mr. Jedrzejek stated that when they came and looked at the house, and it was after a storm the day before. The yard was all flooded, but thankfully they went into the house and inspected. There was no water in the house. He stated that they know springtime is here when there are ducks in their yard because of the water. He stated that it dries up, and it is gone every year.

He stated that they were seriously willing to work with the water part, and it would help not only them but the two neighbors to the west as well which were the neighbors with 7 sheds amongst the 2 of them.

Mr. Bredt stated that he was just going to make one last comment, and he thinks that if he was reading things right, he will make the motion to table. He stated that Mr. Jedrzejek was going to have an expense no matter what he did, and the Board doesn't want to see them spending money without recognizing what they will get for the money that they were spending.

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Mr. Jedrzejek stated that if the building would be someday structured and built, they know they would be lifetime Independence people. He stated that they know it will be an expense. They know that it's not something that if they sell tomorrow, and they will get their money out of it. So, they love Independence, and they have kids growing up in Independence. They plan on staying in Independence. He stated to Mr. Bredt's point, that was a good point.

Mrs. Jedrzejek stated that's the only thing she would say too, she doesn't know if they have looked at their plans; but their house has such a unique setting because it was so skinny in the front.

Several people began speaking at once.

**A motion was made by Charles Bredt, seconded by Councilperson Asseff, to table the matter.**

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

**There being no further business, the Board of Zoning Appeals meeting of April 18, 2019 was adjourned at 6:50 p.m.**

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**Chairman Mark Moreal**

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**Debi Beal, Secretary**  
Minutes Unapproved at Time of Release 04/23/19

