

**MINUTES OF REGULAR MEETING
BOARD OF ZONING APPEALS
CITY OF INDEPENDENCE
February 21, 2019**

AGENDA:

Old Business:

Approval of Minutes of Regular Board of Zoning Appeals Meeting held on December 20, 2018 and January 17, 2019.

New Business:

- 1. 6248 Brecksville Road, PPN 562-19-001, Rock 21 Properties, Ltd.** – Requesting a variance to 1163.04 of 7.4 ft. to permit a front setback of 67.6 ft. (75 ft. permitted, 67.6 ft. requested) and a variance to 1165.01 of 10 ft. to permit a side setback of 5 ft. (15 ft. permitted, 5 ft. requested).
- 2. 6262 Brecksville Road, PPN 562-19-002, Rock 21 Properties, Ltd.** – Requesting a variance to 1163.04 of 1.3 ft. to permit a front setback of 76.3 (75 ft. permitted, 76.3 requested).
- 3. Quarry Lee Estates, Sublot 1** – Requesting a variance to 1163.04 of 10 ft. to permit a front setback of 65 ft. (75 ft. permitted, 65 ft. requested).
- 4. Quarry Lee Estates, Sublot 5** – Requesting a variance to 1163.04 of 34 ft. to permit a front setback of 41 ft.(75 ft. permitted, 41 ft. requested).
- 5. Quarry Lee Estates, Sublot 6 and Sublot 7** – Requesting a variance to 1163.03 of 5 ft. to permit an average depth of a lot to be 195 ft. (200 ft. permitted, 195 ft. requested).
- 6. Quarry Lee Estates, Sublot 8** – Requesting a variance to 1163.01 of 1,146 ft. to permit a minimum lot area to be 18,854 ft. (20,000 ft. permitted, 18,854 ft. requested), a variance to 1163.03 of 10 ft. to permit an average depth of a lot to be 190 ft. (200 ft. permitted, 190 ft. requested) and a variance to 1163.04 of 25 ft. to permit a front setback of 50 ft. (75 ft. permitted, 50 ft. requested).
- 7. Quarry Lee Estates, Sublot 9** – Requesting a variance to 1163.01 of 1,000 ft. to permit a minimum lot area to be 19,000 ft. (20,000 ft. permitted, 19,000 ft. requested), a variance to 1163.03 of 10 ft. to permit an average depth of a lot to be 190 ft. (200 ft. permitted, 190 ft. requested) and a variance to 1163.04 of 25 ft. to permit a front setback of 50 ft. (75 ft. permitted, 50 ft. requested).

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The meeting was called to order by Chairman Mark Moreal at 5:35 p.m. and the following responded to Roll Call:

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

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

ABSENT: **Michael Gero, Building Official**

Chairman Moreal stated that he would like to ask the Board if there were any corrections, changes or additions to the December 20, 2018 Zoning meeting.

A motion was made by Charles Bredt, seconded by Councilperson Asseff, to approve the December 20, 2018 Minutes.

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

Chairman Moreal asked if there were any issues with the January 17, 2019 Minutes.

A motion was made by Councilperson Asseff, seconded by Charles Bredt, to approve the January 17, 2019 Minutes.

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

6248 Brecksville Road, PPN 562-19-001, Rock 21 Properties, Ltd. & 6262 Brecksville Road, PPN 562-19-002, Rock 21 Properties, Ltd. – Chairman Moreal stated that the Board will take both properties at the same time.

Jason Chatal and Carlo Sarti were both in attendance and sworn in.

Chairman Moreal asked the applicants to explain what they were before the Board for. Mr. Chatal stated that they were looking to slide the property line over from the smaller property. He stated that by doing so, they would increase the size of the one property from a quarter acre to

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three-quarters of an acre and decrease the size of the other property from one to three-quarters acre. He stated that they were both existing non-conforming lots, but they wanted to make them more conforming. He stated that by doing so, it should be more attractive to homebuyers when they go to sell the properties to purchase them as owner-occupied properties and hopefully bring some families to that area.

Chairman Moreal stated that just so the Board knows, prior to this it was a flag lot. Mr. Chatal agreed.

Mrs. Fortlage stated that she was glad not to see that.

Law Director O'Brien stated that the applicants had gotten approval from the Planning Commission, subject to the variances being approved.

Mrs. Fortlage asked which of the houses exist. Several people said both houses. Mrs. Fortlage stated that based on what she sees there, it appears that a side yard variance would be required, and she didn't see one. The side yard variance was listed on the agenda.

Mrs. Smith asked Mr. Chatal if he would be planning on fixing up the homes for sale. Mr. Chatal stated that was the intention. He stated that they owned the third one there as well, and they fixed that one up really nice and sold it. He stated that it had gotten nice compliments from a lot of the citizens.

Chairman Moreal stated that he was guessing that the applicants rent out the two houses. Mr. Chatal agreed. Mr. Sarti stated that the whole plan was to develop the properties, and that fell through. Now they were looking to move on. Mr. Chatal stated that it had been tough trying to sell the smaller lot just because the lot was so small, and the house was relatively small as well. With that size lot, it wouldn't give someone a lot of options if someone wanted to put an addition on or possibly knock the house down and build a new home there.

Mr. Chatal stated that plus if any families wanted to come here, they really have no place to play. The front yard slopes towards 21, and the backyard had nothing there. So, the split would give a little room back there without trespassing on the neighbor's properties.

Chairman Moreal stated that prior when they had the flag lot, what was the side yard. He asked if it was still 5 foot. He asked how much they moved it over. Mr. Chatal stated that it was the dotted line. The Chairman stated that the dotted line was basically touching the house. Mr. Chatal agreed.

Mr. Bredt asked how old were the two properties, the houses. Mr. Chatal stated that he believed the larger one was built in 1956, and the small one was really old. The Chairman stated that it was old enough to be built on the property line, over the property line.

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Several people began speaking at once.

Mrs. Smith asked how big was the smaller house. Mr. Chatal stated that it was 690 square feet. He stated that it was two bedrooms, or one bedroom. It would all depend on how you work it out.

Mrs. Smith asked about the larger house. Mr. Chatal stated it was a two bedroom ranch. It was about 1,300 square feet. Mrs. Smith asked if it was safe to say that they will add on.

Law Director O'Brien stated that they were going to sell them. He stated that the application was that they could market the properties.

Mr. Chatal stated that they would clean them up, but the next owner certainly could sell them, especially on the larger lot. They have a lot of room back there.

Mrs. Smith stated that she saw in the Planning Commission Minutes that they were going to fix them up to sell them.

Law Director O'Brien stated that they may, but that was not their intention. He stated that they originally were going to try to do something commercial, a long time ago.

Mr. Sarti stated that someone might eventually want to buy that smaller house with the larger lot. The lot was larger for the smaller house, 6262 Brecksville Road; and they could potentially want to knock the house down. They would have a three-quarter acre lot.

Mrs. Fortlage stated that it was an improvement.

A motion was made by Charles Bredt, seconded by Councilperson Asseff, to approve the variances for both properties as presented.

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

Quarry Lee Estates, Sublot 1, 5, 6, 7, 8 & 9 – Property owner Tim Lee was in attendance and sworn in. There was one neighbor in the audience who did not want to be sworn in or speak.

Chairman Moreal stated that he wanted to read all the variances and put them into the Minutes, and then the Board would address them all. He stated that they have Sublot 1 which was requesting a variance to 1163.04 of 10 feet to permit a front setback of 65 feet, 75 permitted, 65 requested. On Sublot 5, they were requesting a variance to 1163.04 of 34 feet to permit a front setback of 41 feet, 75 feet permitted, 41 requested.

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Law Director O'Brien stated that was the existing house. Mr. Lee agreed. The Law Director stated that there was an existing home on that lot.

Chairman Moreal stated that they have Sublot 6 and Sublot 7 requesting a variance to 1163.03 of 5 feet to permit an average depth of a lot to be 195 feet, 200 feet permitted, 195 feet requested. Sublot 8 was requesting three variances. A variance to 1163.01 of 1,146 feet to permit a minimum lot area to be 18,854 feet, 20,000 feet permitted, 18,854 feet requested. A variance to 1163.03 of 10 feet to permit an average depth of a lot to be 190 feet, 200 feet permitted, 190 feet requested; and a third variance request to 1163.04 of 25 feet to permit a front setback of 50 feet, 75 feet permitted, 50 feet requested. Sublot 9 also three variance requests. The first one to 1163.01 of 1,000 feet to permit a minimum lot area to be 19,000 feet, 20,000 feet permitted, 19,000 feet requested. The second variance request to 1163.03 of 10 feet to permit an average depth of a lot to be 190 feet, 200 feet permitted, 190 feet requested; and a variance to 1163.04 of 25 feet to permit a front setback of 50 feet, 75 feet permitted, 50 feet requested.

Chairman Moreal wanted Mr. Lee to explain his proposed development.

Mr. Lee stated that Sublot 5 was existing and that was his house. He stated that he picked up three different lots. He put the whole piece together and wanted to split them up and make housing on it. He stated that some of the variances, he had those lots turned; but he turned them back, and it looked better because they were turned towards Daisy. They would have had five neighbors looking at their backyard. So, it would make sense.

Law Director O'Brien stated that it was a request by the Planning Commission. Mr. Lee agreed. He stated that they wanted them all uniform. He stated that it then made five more variances.

Law Director O'Brien stated that the variances for 6 and 7, those variances were the result of the applicant conceding and revising his plan to the wishes of the Planning Commission. He stated that but for the Planning Commission wanting Mr. Lee to make that the change, 6 and 7 would not be on the Zoning agenda.

Mr. Lee stated that the variance for Sublot 1 was just adjusting the house to be more in line and keep it away from the power lines.

Chairman Moreal stated that Mr. Lee had three variance requests on Sublots 8 and 9. Mr. Lee stated that it was a 25 foot setback, and the 19,000 square foot.

Chairman Moreal stated that he was there today and had a question. He stated that the existing house. 5703 at the corner of Aster and Laurel; he asked where was the house. He asked if it was coming down.

Mr. Lee stated that the house would come down.

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The Chairman stated that the houses that they would be adjacent to, there was a house at the corner that the driveway would go. He asked if it was Mr. Lee's house. Mr. Lee stated that it was across the street from him. The Chairman asked where was it.

Mr. Lee stated that he was not sure which one it was.

Chairman Moreal stated that the houses all face forward, and that house had a side load drive. Mr. Lee stated that the drive comes off of Aster. The Chairman understood.

Mr. Bredt stated that he had a couple of easy questions just to get them on the record. He asked about the power lines that parallel I-77 in the preliminary plan, and that they both refer to the transmission line acceptance issue. He asked if that would be part of each individual lot sale eventually. He stated that they would be so close to the powers lines that alleged issues from power lines. He stated that the Board ran into that down at Hillside back in that area.

Law Director O'Brien asked if Mr. Bredt was asking if Mr. Lee was required to give a disclosure statement. Mr. Bredt agreed.

Law Director O'Brien stated that the answer would be no, not under the City's code; and quite frankly, if anyone would be looking at the lot, once they put the street in, they would see the lines. Mr. Lee stated that every one falls right in line of that.

Mr. Bredt asked the Chairman if he remembered that they were having that issue where CEI had to reverse the transmission. Mr. Bredt stated that where he was going was it was almost a buyer beware part of it, but they would not be allowed to build under the power lines in any way, shape or form; and he doesn't anticipate, but he just wanted to make certain that everybody would understand that there would probably be modifications to the locations of the homes just by the way they would be configured. They don't want to get into an issue where a variance would be required to get closer, further away, whatever the case because of the power lines. He stated that was his point. He stated that it wouldn't be a condition or anything, it was just he wanted to make sure that the power line issue would be addressed in the future.

Chairman Moreal stated because Sublots 1 and 2 would take you all the way, 365 feet and you would be under the power lines.

Law Director O'Brien stated that they would have about 200 feet before they would get even close to the power lines. He would say 250 feet.

Mr. Bredt stated that it was not an issue that concerns him personally, but he has heard an awful lot of people on the power lines that back up to where he lives. Early on people were always up in arms about that power line on the transmission lines. They eventually abandoned one of the

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lines and moved it further away. He stated that it was something that comes up from a public relations standpoint, and he wanted to make sure it was recognized and one the record.

Mr. Bredt stated that the other thing was, and he was there today himself. He was very surprised to see how much nice property was accumulated and put together. He stated that it appeared to him that the land was fairly flat, but the topo showed that there were two to four foot changes in elevation, depending on which lot you were looking at. He stated that he sketched the way he thought water flow issues would take place, and then he sat down and read the Planning Commission's concerns about the water flow issues. He stated that he didn't anticipate a problem, but he does see the existing residents may have in one area a concern; and that was basically with the construction and the land leveling. He stated that he thinks 99% of it could be taken care of, but over towards an area that would be known as Block A, he asked if it was anticipated where the existing pond was to be a detention area?

Mr. Lee stated that it would be.

Mr. Bredt asked if that was why it was blocked off from the rest of the area. Mr. Lee agreed. Mr. Bredt asked if it was in Mr. Lee's control. The Law Director stated it was their water retention.

Several people began speaking at once again.

Law Director O'Brien asked Mr. Lee if he had gotten permission from CEI, or if he needed permission from CEI. Mr. Lee stated that he would have to ask Todd. He stated that Bohning was working on that. He stated that he didn't think they would.

Law Director O'Brien stated that he didn't think he did either because he has read his fair share of CEI Easements for the City here, and there doesn't seem to be anything with regard to going lower since they weren't building any structures. The Law Director didn't think they were restricted in putting trees in, but they would come in and shave the trees off if they were close. He stated that the only thing he would say would be the Board would want to make all the variances subject to Mr. Lee getting approval if necessary from CEI. He stated that he would guess Mr. Lee could not build it without that. The City Engineer would not let him build the development without having that retention or he would have to figure out something. Mr. Lee stated that the lot there would hold that anyways. He stated that he would have to talk with Todd on that.

Law Director O'Brien stated that if Mr. Lee could not get it in there, the City Engineer would not let him build the development unless he would have adequate stormwater storage.

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Mrs. Smith stated that she was just curious if there was a lot of rock there, and she saw in the Planning Commission Minutes that there was only a foot to five foot of soil on top. She asked if they would be slab homes or a crawlspace.

Mr. Lee stated that they could put a basement in. He stated that he had a basement in his house. He stated that the rock was not as hard at the top. He stated Independence Excavating came up and excavated in three hours. Mr. Lee stated that any time that you are in rock, the cost does go up. He stated that when he first found the piece of property, he stated there was (inaudible) where they used to mine for downtown Cleveland. He didn't know that. He stated that it was just beautiful back there. He stated that he thought because of all the rock was the reason why the property just sat there for so long. The utilities alone were very expensive for him to put in. He stated that everything doubles in price when there was rock.

Chairman Moreal asked if it was safe to say there was rock all over there. Mr. Lee stated that there was rock all over there, but the best part was the rock at that top was not that hard. He stated that it was not like it was granite, it was sandstone.

Law Director O'Brien asked how far as the City's sewer. Mr. Lee stated that he was tied in. He showed on the drawing where the main was. The Law Director asked if the City put that in. Mr. Lee stated that he thought he put it in. He stated that he did that because he figured in the future, he would split the two properties off. He stated that all the mains were put in. He would just have to extend it.

Chairman Moreal stated that the Law Director stated earlier that Mr. Lee had a different plan, there were two houses facing Daisy. Mr. Lee stated that it was Sublot 11 and 12. They were turned that way because there would be no variances that would be needed. He stated that Planning wanted him to turn the houses, which would make them look better. He stated that Sublot 10 would have had five backyards looking at it.

Chairman Moreal asked Mr. Lee if he always had 12 lots in mind. He asked if there were ever more lots. Mr. Lee stated that there was one piece that would make another beautiful lot, but the retention needed to go somewhere. He stated that was the biggest lot.

Mr. Bredt stated that in the discussion from Planning, Mr. Lee indicated that there was basically two concepts in the homes, ranch versus a two-story. He stated that it didn't mean that they could all be one or all be the other. Mr. Lee stated that he thought a 2,500 square foot ranch, and nothing less than 3,000 for a bi-level.

Mrs. Smith asked if someone could buy a lot and bring in their own builder. Mr. Lee stated that he hadn't gotten that far yet. He stated that he didn't know if he would sell it all or one lot at a time, separate builders. He stated that he hadn't figured that one out yet.

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Chairman Moreal asked Mr. Lee if he was planning on staying where he was at. Mr. Lee stated that he was.

Chairman Moreal stated that Mr. Lee put the jog in there. He asked if that was something Mr. Lee did to get himself away, give him some comfort. Mr. Lee stated that he did.

Mrs. Smith stated that there was some discussion at the Planning Commission about the mailbox unit. She asked if it would be moved and not be in the island.

Law Director O'Brien stated that Mr. Lee would have to come in with his final plan and say where it would be. The Law Director stated that they were talking about the location, and it would be common space. The Law Director asked Mr. Lee if he had finalized where it would go. Mr. Lee indicated on the drawing.

Several people began speaking at once again.

Mrs. Smith asked if the island would be eliminated. Law Director O'Brien stated that it would be eliminated.

Mrs. Fortlage stated that when the Chairman asked about the jog, she asked what jog was that. The Chairman stated that it was where Mr. Lee's house was. He stated that he didn't know if it was Mr. Lee doing it.

Law Director O'Brien referred to the drawing.

Mrs. Smith stated that they were going to be doing all the work on Lafayette and that, and how would that work out.

Law Director O'Brien stated that he knew they wanted to move forward on Lafayette.

Councilperson Asseff stated that they hadn't gotten the engineering costs and all of that. He stated that was a \$2,000,000 project because the water lines will have to be replaced too at the same time they would do the road. He stated that it was certainly on their radar screen to get it finalized.

Law Director O'Brien stated that they would try to coordinate it with the new development.

Mrs. Smith stated that the reason for the one 10 foot variance was to try to even it out between 2 and the other house. Mr. Lee agreed.

Chairman Moreal stated that it would be a gradual step back to hit 75 feet. It would make sense.

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Councilperson Asseff asked Mr. Lee if 2,500 square feet for the ranch would be in concrete. Would it be a hard number? Councilperson Asseff stated that the reason he was asking, there were people in the City who want to downsize, and they were looking for ranches and those types of things. He asked if this development could be that type of thing for people who wanted to downsize. Mr. Lee stated that he never thought about it. Councilperson Asseff stated that he was looking at it from a price standpoint. It would be for people to get rid of their big houses and move into something a little bit smaller.

Chairman Moreal asked Mr. Lee if it was something he would set or would the City set.

Law Director O'Brien stated that the City would not determine size. He stated that the Ohio Basic Building Code sets a minimum, but beyond that.

Chairman Moreal stated that someone would want to overpay for a lot and build a smaller house; that would be someone's call if they could do it.

Mr. Lee stated that he would like to get people to build houses close to his size. The Chairman stated that he understood.

Councilperson Asseff stated that the only reason he asked was that it may be an opportunity for people to downsize to 2,000 square feet. He stated that he knows all the numbers, but he thought there was a need out there for people who don't want to stay in bigger homes. He stated what was the difference between 2,000 and 2,500 feet, he has no idea. Mr. Lee stated that he would take it into consideration.

Mrs. Fortlage stated that the only one of the requests that cause her any concern would be the one for Sublot 5, which if it were the last one going in, there would be no way the Board would allow that to be such a short front setback. She stated that she thought it was awkwardly placed compared to the neighbors. She stated that all of that was forward of the building lines of the neighbors. She stated that if it was the last request, the Board would say no.

Chairman Moreal asked what could be changed. You can't.

Mrs. Fortlage stated that they could get rid of the lot and take the road the other way. Mrs. Smith asked what lot to get rid of. Mrs. Fortlage stated Sublot 8. She asked how much of it was paved. The Chairman stated that right now it was nothing other than the main drive.

Mrs. Fortlage indicated on the drawing how it should go and then gave a setback that would be more sensible. The Chairman stated that if they would do that, it would hinder the other lots. They can't be brought up. They couldn't have a cul-de-sac that would be 100 foot wide. There would be more variances needed to drop that back.

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Mrs. Smith asked Mr. Lee what the square footage of his home. Mr. Lee stated that it was 4,000 square feet.

Chairman Moreal stated that he didn't see any issue. Mr. Lee was the one who lived with it. He stated that he liked the little jog in the road. It gives it a little character. He stated that he knows what Mrs. Fortlage was saying, but that would put a whole different look on the whole development. It would hurt the other lots. He stated that the pie-shape would become narrower.

Mr. Bredt stated that he thought the Chairman used a great word. He stated that the jog would give it some character, and the jog itself would slow the drivers down a little bit. He asked Mr. Lee if the development was a dream of his. He stated that Mr. Lee had put a lot of work into it, but he was obviously moving through the process at his own piece. He stated that he appreciated it.

Mr. Lee stated that the first piece he picked up was to there. He stated that the whole front came later. He stated that once he split it up and (inaudible) passed away, they called him and asked him if he wanted the house. He took that. Their relative in California called him and asked if he wanted the other two pieces. He stated that it kind of worked out perfect, and they never even put it up for sale. They liked him so much, and they wanted him to pick it all up. Mr. Lee stated that it worked out. He stated that the plan was eventually in the future to split it up. He stated that was why he set that up with the main lines because nobody really puts main lines all the way back to their house. He stated that he did that for future development.

Law Director O'Brien stated that he thought the City did. Mr. Lee stated that he was pretty sure he did. He will have to check, but he does know his bill was pretty high.

Mr. Bredt asked if Bontempo owned the first two properties when Mr. Lee first started. Mr. Lee replied that he did. He stated that he was working on building his house at the time. Mr. Bredt stated that he supplied the materials.

Several people began speaking at once again.

Mr. Bredt asked Law Director O'Brien to help the Board with a motion. Law Director O'Brien stated that unless there was any objection from anyone regarding the single application; if that would be the case, they would have to cluster them.

A motion was made by Charles Bredt, seconded by Councilperson Asseff, to approve Agenda Items 3, 4, 5, 6 and 7 as requested.

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

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Chairman Moreal stated to Mr. Lee it looked nice and wished him good luck.

There being no further business, the Board of Zoning Appeals meeting of February 21, 2019 was adjourned at 6:12 p.m.

Chairman Mark Moreal

Debi Beal, Secretary

Minutes Unapproved at Time of Release 02/25/19