

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

**AGENDA:**

**Old Business:**

**Approval of Minutes of Regular Board of Zoning Appeals Meeting held on June 20, 2019.**

**New Business:**

- 1. 7732 Treelawn Drive, Chris Wygonski** - Requesting a variance to 1165.01 of 5 ft. to permit an accessory building to be 10 ft. from the side yard setback (15 ft. required, 10 ft. requested) and a variance to 1143.02(b)(2)(B) of 56 sq. ft. to permit an accessory building to be 200 sq. ft. (144 sq. ft. permitted, 200 sq. ft. requested).
- 2. 5009 Maple Leaf Lane, Tony Clark** – Requesting 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).
- 3. 5298 Brookside Road, Joseph & Allison Czyzk** – Requesting a variance to 1113.09(c) of 17.58 ft. to permit a driveway to be 37.58 feet wide (20 ft. permitted, 37.58 ft. requested, a variance to 1181.08 of 2 additional parking spaces (4 spaces permitted, 6 spaces requested) and a variance to 1181.09(a) to permit parking spaces to be located in the required front or side yard (not permitted).

The meeting was called to order by Chairman Mark Moreal at 5:30 p.m. and the following responded to Roll Call:

**PRESENT:**           **Mark Moreal, Chairman  
Charles Bredt  
Carol Fortlage  
Judy Smith**

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

**ABSENT:**           **Councilperson Carl Asseff**

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Chairman Moreal stated that he would ask the Board if there were any corrections, changes or additions to the June 20, 2019 meeting.

**A motion was made by Charles Bredt, seconded by Judy Smith, to approve the June 20, 2019 Minutes.**

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

**7732 Treelawn Drive, Chris Wygonski** – Homeowner Chris Wygonski was in attendance and sworn in along with neighbor Rocco Fana of 7728 Treelawn Drive.

Chairman Moreal asked Mr. Wygonski to explain what he was looking to do. Mr. Wygonski stated that what he would like to do would be to put up a new shed. He realized that it was a little bigger than what the City would call a shed. He would be on the same footprint that he has right now. Mr. Wygonski stated that Mr. Fana was his neighbor. He stated that the shed will not go any closer to his property line. It will be located on the existing property line. He doesn't want to make it too wide so that you would not be able to see it from the street. He stated that all the trees would stay there. Mr. Wygonski stated that he would go 2 feet towards his house and 8 feet back on his property.

Mr. Wygonski stated that his existing shed was 20 years old. His garage was also the entrance to his house. He stated that everyone walks through the garage. He would like to keep his garage really nice so he would keep his lawnmowers out in the shed, the bikes and all that stuff. He stated that in the fall when he takes his patio stuff down, he hauls it back to his existing shed because he doesn't have room to store it anywhere. He stated that it would be nice to have a place to put his patio furniture. That was the reason that he was doing it.

Chairman Moreal stated that Mr. Wygonski would be staying on the same building line, not the property line. Mr. Wygonski agreed. He stated that he would not be going any closer towards his neighbor's property line. He stated that he would be going more on his property line.

The Chairman stated that he stopped at Mr. Wygonski's the other night and he met the neighbor, Mr. Fana. The Chairman asked if everyone got a chance to see the property. He asked if anyone had any questions.

Mrs. Smith asked Mr. Wygonski what he was planning on doing with the old shed.

Mr. Wygonski stated that he would just tear the old shed down. He was going to move the shed, but it would be too much trouble; and he didn't want to move his garden. He stated that there was no way to get the shed out except for cutting it up in pieces and hauling it out.

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Mrs. Smith stated that there was a fence there, and Mr. Wygonski still had 10 feet to the property line.

Chairman Moreal stated that he was 10 foot off, and he was supposed to be 15 feet. He was asking to be 10 feet off. The variance would be for 5 feet, and then the rear yard goes down into the valley.

Mr. Wygonski stated that it was almost 350 feet in the back.

The Chairman stated that Mr. Wygonski's yard was fenced in.

Mr. Wygonski stated that when they put the fence up, his boys were little; and he didn't want them wandering over the hill. When he built the shed, he just took the fence from the corner of the shed forward and over. He stated that he was just going to keep it inside the fence line where it was now. He stated that it was the black fence that they saw in his backyard.

Mr. Fana stated that if the Board has been there, they see how Mr. Wygonski's house is and his yard. He was meticulous. He was not putting up any junk or anything like that.

Chairman Moreal stated that it was a very secluded neighborhood. He stated that there was a lot of foliage around there. He asked Mr. Wygonski why he wasn't making the shed a little bigger. He didn't want to see it from the street. It was kind of sheltered behind all the trees and the shrubbery and everything.

Mrs. Fortlage stated that the Board had the opinion from the Engineer about no encroachment in the steep slope setback, and that was an important factor too.

Mr. Fana asked about the steep slope setback.

City Engineer Ramm stated that it was officially called the Protected Hillside Zone. It was really meant to control development and not destroy natural ravines, corridors of trees, natural stream corridors. So, the ordinance was adopted across citywide, not just in undeveloped areas. It encumbered established neighborhoods such as his; but it doesn't get triggered until you propose to do something that might encroach upon the slope.

Mr. Wygonski stated in other words fill that valley.

City Engineer Ramm stated like fill the ravine, impact the ravine.

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

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

**5009 Maple Leaf Lane, Tony Clark** – Homeowner Tony Clark was in attendance and sworn in.

Chairman Moreal stated that he had a chance to visit Mr. Clark's property, and he wasn't there. He asked Mr. Clark's reason for the request.

Mr. Clark stated that it was pretty simple. He stated that he was building a compliant structure which was 12' x 12'. It would meet the side setback. It was just the front corner, he was planning on building the shed on skids so that front corner when it rains becomes a lake. He stated that he would like to take care of it at some point in the future, but he just moved so he can't right now. Mr. Clark stated that if he moved it 5 feet back it would get him into a flat area; and then he could build his skids.

The Chairman stated that he noticed the swale, and he noticed the City Engineer made a comment on that; and he sees exactly what Mr. Clark was looking not to do. He did notice on the opposite side of the property he had a wooden swing set all set up. He asked if the fence behind Mr. Clark's was the neighbors. Mr. Clark agreed.

Mr. Clark stated that his neighbor's advice was to try and push the shed back in the far corner as he could, but he would keep the 15 foot side yard and just go 5 feet back.

**A motion was made by Charles Bredd, seconded by Judy Smith, to approve the variance requested.**

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

**5298 Brookside Road, Joseph & Allison Czyzk** – Homeowners Joseph and Allison Czyzk were in attendance and sworn in. The Chairman asked if there were any neighbors present. There were no neighbors in attendance.

Chairman Moreal asked Mr. & Mrs. Czyzk to explain for the record why they would need the variance.

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Mrs. Czyzk stated that they didn't really think about how short the driveway was. She stated that they have their daughter, son-in-law and 2 children; and they moved in because her daughter was special needs. She stated that their garage was full. Their equipment and special needs stuff that she has to have. There is only able to be 1 car in the garage, so they all park in the driveway. She stated that she has 4 children, and any time they have any family event, usually the daughter that lives with them, she parks her car up on the street above so other people can come in the driveway.

Mrs. Czyzk stated that also it was really hard to see around that corner. She stated that they have had some people come through and crash through their fence. She stated that they just stop north of the tree. They would have been probably dead if they would have hit the tree. She stated that it was kind of a dangerous curve. She stated that it would give them a way that they could turn around and look to see before they go out of the driveway. She just thought for safety sake, and when he stated that he was putting in the curbs; right now everybody just pulls onto their grass. She stated that she doesn't know how they will even have their family over. She stated that her friends are all 70 and over now; so they can't walk down from the hill up the street if they park on the street. She stated that their kids will park up there, except the 1 with the special needs because that was too scary. She stated that her friends can't park up there because they can't walk that far.

Chairman Moreal asked Mrs. Czyzk if she was looking to, besides the new piece that they were looking to put on; would they be redoing all of the concrete? Mr. Czyzk stated that they would just be adding on.

Chairman Moreal stated that there was a City project that will be coming up soon over there, and maybe the City Engineer could give the Board some information. He knows that the Board received information from the City Engineer as far as the curve. He wanted the City Engineer to explain to the Board what was put in his letter.

City Engineer Ramm stated that it was a unique dynamic. So, when they did the survey; and that was when they realized that a piece of the road was actually on Mr. & Mrs. Czyzk's yard. It has been that way for a long time. Now they were doing a major road construction project with new sidewalks, new drainage improvements. They will put vertical curbs along that road, a little bit of widening. They felt like they were obligated, and they continue to need that little encroachment of the road. The City Engineer stated that he reached out to them and approached them. That was how the dialogue started about the need for the City to get some special consideration from them to allow the City to do some work, given the City a permanent highway easement that they really didn't have that they should have had, and then also the temporary grading to help grade their front yard and make it blend in with the new curbs. That was really how the dialogue started, and then at that time they talked about every drive would get a new apron, and they mentioned that they would love to consider doing something with the driveway. The City

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Engineer thought it was perfect timing for them to accommodate their apron. They do that all the time with people on projects.

City Engineer Ramm stated that he felt that they were in a position. He stated that the City needed the Czyzk's cooperation. The City didn't want to do an eminent domain action. The Czyzks seemed very willing to help out the City with the needs. The City Engineer stated that it was a minor area so the appraised value was not a lot of money. If the Czyzks objected and caused a delay to the project; but the City Engineer felt that the Czyzks were very cooperative with the City, and he felt that they could potentially look upon their variance with favor. He tried to lay out that 1 exhibit that showed on the scaled drawing. City Engineer Ramm stated that the City was obligated to meet that regardless. If the Czyzks did nothing, the City would meet their driveway width as it was and then give them a nice apron with the project. He stated that the little piece of widening was what he tried to reflect on the drawing. In looking at the plan view, it didn't look to be anything too overwhelming; and he just tried to show. He stated that the problem with that property goes back to when it was built in terms of the side yard not being deep enough, not being set back enough; and the garage being on that side. There was literally nowhere to park. The City Engineer felt for the Czyzks in some regard because he has boys, and he has 6 or 8 cars in the driveway.

Chairman Moreal stated that the apron that the City Engineer shows on the drawing submitted. He asked if the City would be putting the apron in.

City Engineer Ramm stated that they were giving new aprons up and down the street on that project.

The Chairman asked if it would be on the asphalt area. Is that what he was seeing. The applicant had a picture there. He was just curious.

City Engineer Ramm stated that would be where the apron would be.

Chairman Moreal stated that it was drawn straight, and he saw the Engineer's drawing.

City Engineer Ramm stated that they were emphasizing that the orange was the current width, and they would flare out from there. That was also what the orange was. He stated that it would be both conditions, the existing and then the City's proposed apron to accommodate. If the Czyzks would do some widening, then extend the apron, extend the curb cut that much more to accommodate the extra width. It could be easily accommodated in the project.

The Chairman stated that the City Engineer mentioned that sidewalks were going in also.

The City Engineer stated that it was not on the Czyzk's side luckily. There would be no room.

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Several people began speaking at once.

Chairman Moreal stated that if there were sidewalks, they would be blocking the sidewalk by parking there.

Mr. Czyzk stated that now they park up on the fence, but they would be putting in 6 inch curbs. On the other side of the driveway, that would be gone too.

Law Director O'Brien asked if there would just be a temporary easement.

City Engineer Ramm stated it would be both. The little corner would be a permanent highway easement from it, but then the bigger area that actually would have more value would be the temporary grading. So, it would be both. He stated that it wasn't until they looked at it and started realizing that they were not in compliance already with some of the additional width that was triggering all those other variances.

Mr. Czyzk stated that if they would try to extend the front sidewalk out to the street, then there would have been a 3 or 4 foot dirt patch between that and the driveway; so they just paved the whole thing.

City Engineer Ramm stated they were looking to get as much as they could squeeze out of it. He stated that he was not before the Board to suggest that it was a quid pro quo that they were going (inaudible), and the City would have to acquire these in the old fashion way.

Law Director O'Brien stated that it had been there for 21 years.

Several people began speaking at once again.

Chairman Moreal stated that it definitely was a unique situation with the driveway and the corner. He stated that there would be a lot of concrete in one area, but like the City Engineer's statement, the square footage based on a typical, it would be even less. He stated that he did like the fact that they were putting the apron and flaring it out. He was going to suggest that earlier on, and now it will be after the construction. It would give it a better look. It will be more concrete, but it would be the right thing to do.

Chairman Moreal asked Mrs. Czyzk if they were still looking to go 14 feet over.

Mrs. Czyzk stated that they thought they could turn around then in it to go out forward and would be able to see better.

Mr. Czyzk stated that they had a month to move, and that was all they had available; so they moved in there.

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Mrs. Czyzk stated that it was actually terrible when they got the letter because they took their other house by eminent domain in Garfield. She was asking what did the City want.

Law Director O'Brien asked what were the odds?

Mrs. Czyzk stated that it turned out to be the driveway. She thought they were going to put a freeway through or something.

Mr. Bredt asked the City Engineer if the project was going to take place this summer.

City Engineer Ramm stated that it would. They were going to get going with construction, whether or not it would be completed this summer would depend on when they go and a lot of other things. The contract has been awarded.

Chairman Moreal asked Mr. & Mrs. Czyzk if they would do it right away, or would they try to time it with the project?

Mr. Czyzk stated that the street would take precedence.

Mr. Bredt stated that it was a unique piece of property, and the square footage would be under the normal.

Law Director O'Brien stated it could be subject to the entering into and execution of a temporary and permanent easement for public record purposes.

Mrs. Czyzk asked what that meant.

Law Director O'Brien stated that it meant that in return for the Czyzks getting their variances, the City would get a temporary and permanent easement.

Mrs. Czyzk stated that they were going to do that anyway.

The Law Director stated that he knew they were.

**A motion was made by Charles Bredt, seconded by Carol Fortlage, to approve the variances, subject to entering into and execution of a temporary and permanent easement.**

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

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**There being no further business, the Board of Zoning Appeals meeting of July 18, 2019 was adjourned at 5:53 p.m.**

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**Chairman Mark Moreal**

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**Debi Beal, Secretary**  
Minutes Unapproved at Time of Release 07/19/19