BOARD OF ZONING APPEALS
June 18, 2015

The Board of Zoning Appeals met in Courtroom No. 1 for their regularly scheduled meeting. Chairman Behrens called the meeting to order at 7:32 p.m. and the acting secretary, Diane Melsheimer called the Roll. Members in attendance were Ms. Miller, Ms. Condon, Mr. Bartholomew, Mr. Callender, and Chairperson Behrens. Also in attendance were the Assistant Law Director, James Lyons; the City Planner, Lynn White; and the Assistant City Manager, Doug Lewis.

MINUTES: The meeting minutes of both May 14, 2015 and May 28, 2015 were approved as submitted.

Chairman Behrens explained the procedures for the meeting and swore-in those who planned on speaking for or against the variance requests.

TABLED BUSINESS

The Chairman indicated that a motion was necessary to remove Refusal No. 2261 from the table. Mr. Bartholomew moved, seconded by Ms. Condon to remove Refusal No. 2261 from the table. All members present said "aye"; Motion carried.

The Chairman asked the Secretary to please read the notice:

REFUSAL NO. 2261
APPLICANT: Hallmark Excavating, Inc.
DISTRICT: R-1 Single Family Residential
LOCATION: Community Lane Extension
15C-024-0-00-055-0
VARIANCE: Section 1129.01

An application has been submitted by Todd Harrison of Hallmark Excavating, 482 Blackbrook Road, Painesville Township, requesting a variance to Section 1129.01 of the Painesville Codified Ordinances. The applicant is requesting a variance to allow lots 60 ft. in width within the R-1 district in lieu of the required 75 ft. The existing portion of Community Lane was developed with 60 ft. lots per a variance approved through Refusal 1956.

Todd Harrison of Hallmark Excavating, 482 Blackbrook Road, Painesville Township was present at the meeting. Discussion concerned the dry retention or drainage pond, and the square footage of all the lots especially with regard to those nearest the retention pond, and the depth of each lot. The five lots nearest the drainage pond were of major concern as 10,000 sq. ft. is the required lot size. The 5 lots nearest the drainage pond averaged approximately 9,576 sq. ft. Mr. Lyons pointed out that because of the pond/retention area being dry, it does not take away from the homeowner's usable property.

Ms. Miller asked Mr. Harrison to explain their plans for the development of the community and its continuity. Mr. Harrison explained that they were to keep the same look with 35-40 ft. width houses with garages positioned toward the front. This would leave approximately 10 ft. on each side. The Development will have the same street lamp posts. He said that the previous developer, Western Reserve wanted to do the 60 ft. lots because they did not have the extra dollars to do a 75 ft. lot. He explained that a variance was granted for the initial build of Lexington Village.

Ms. White explained the rationale for 75 ft. lots was to encourage developments for families. However Liberty Greens and Heisley Park are both R-2 and have 60 ft. lots. An amendment will be presented to Council in July 2015 for an R-1 60 Zoning District. Ms. White pointed out that within the recommendations were noted that most lots be 10,000 sq. ft. or more and that there will be two points of egress for police and fire responders. Mr. Harrison stated that most of these lots are greater than 10,000 sq. ft. He explained that his timeframe is sixty-five (65) days to apply for a permit associated with this request. The preliminary plat will be submitted for Planning Commission review.

Mr. Callender moved to approve Refusal 2261 for lot width of 60 ft. as requested. Ms. Condon seconded the motion. On roll call, Ms. Miller, Mr. Callender, Ms. Condon, Mr. Bartholomew answered "yes" and Mr. Behrens answered "no". Motion carried, 4-1.

NEW BUSINESS

REFUSAL NO. 2268
APPLICANT: Javier Gamino
DISTRICT: R-2 Multi-Family Residential
LOCATION: 219 Jefferson Street
VARIANCE: Section 1127.06(d)

(All communication by Mr. Javier Gamino was done through his wife, Mrs. Beverly Gamino.)

An application has been submitted by Javier Gamino, 257 Courtland Street, requesting a variance to Section 1127.06 (d) of the Painesville Codified Ordinances. Section 1127.06 (d) states "one accessory structure shall

not exceed 768 square feet in residential districts". The applicant would like to build a 30 ft. x 26 ft. garage for a total of 780 square feet. A variance of 12 square feet is being requested.

Mr. and Mrs. Javier Gamino, 219 Jefferson Street, were present for the meeting.

The garage was paid for and built and the installer was to have pulled a permit. A permit was not pulled and a stop work was registered.

Mr. Lewis commented that the lot is 60 ft. x 150 ft. so it is a large deep lot that can accommodate the structure.

Chairman Behrens asked the secretary if there was correspondence from the neighborhood. The Secretary read a phone message of June 9, 2015, 12:45 p.m. from Tricia LeMasters, 229 Jefferson which is as follows: "Not in favor of variance request being granted. Too large for small lot".

Mr. Callender moved to approve Refusal 2268 as requested. Ms. Condon seconded the motion. On roll call, Ms. Miller, Mr. Bartholomew, Mr. Callender, Ms. Condon, and Mr. Behrens answered "yes". Motion carried, 5-0.

REFUSAL NO. 2269
APPLICANT: Barbara L. Abplanalp
DISTRICT: R-1 Single Family Residential
LOCATION: 1139 North State Street
VARIANCE: Section 1127.06(d); 1131.02 (d)

An application has been submitted by Barbara L. Abplanalp, 1139 North State Street, requesting a variance to Section 1127.06 (d) of the Painesville Codified Ordinances. Section 1127.06 (d) states "one accessory structure shall not exceed 768 square feet in residential districts". The applicant would like to build a 32 ft. x 40 ft. garage for a total of 1280 square feet. A variance of 512 square feet is being requested. Additionally the applicant is proposing to install a covered porch that will project into the front setback 5 feet. Section 1131.02 (d) of the Painesville Codified Ordinances states *fixed canopies may project not more than three and one-half feet (3 ½) into the front yard*. A variance of 1.5 feet is being requested.

> Note:
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> For the Record: Mr. Bartholomew and Mr. Callender did not receive the recommendation with their packet.

Barbara Abplanalp and her son, Rendell Garner, 1139 North State Street, were present for the meeting.

Chairman Behrens stated there are two separate issues to be considered, the garage and the porch; thus each to be voted on separately per Mr. Lyons.

Ms. Abplanalp stated that there are three adults living in her home. They each have one vehicle plus a tractor. Her son is a contractor and the garage is needed to house the vehicles plus their personal yard equipment and tools; and his business equipment and tools. Mr. Behrens asked if everything was to be housed in the garage. Ms. Abplanalp stated she likes a neat yard so everything would be in the garage.

Ms. Miller asked about the noise level involved in Mr. Garner's business. Mr. Garner stated he does not do any big jobs at the house nor does he have employees; he goes to people's homes for his work as a sole contractor. Ms. Miller stated her concern is about growing a business out of the garage.

Mr. Bartholomew asked if Ms. Abplanalp was aware of the city's recommendation. The city's recommendation was to prohibit any additional accessory buildings on the property, and to prohibit a business from operating out of the accessory building and/or any accessory use utilizing equipment or a process which creates noise, vibration, glare, fumes, odors, or electrical interference. She stated she was aware.

Mr. Bartholomew asked if there are plans to put a 220 electric line into the building. Mr. Garner stated that next year it may be considered.

Mr. Lyons asked Mr. Garner how he came up with the size of the building. Mr. Garner stated that he considered four vehicles parked tandem with space to walk around each and with additional shelving and storage. The size of the garage was calculated with that in mind.

Mr. Behrens asked if Mr. Garner's business phone number is 350-2004 as stated on the sign in front of the house. Mr. Garner stated that it was his number but does not have clients come to the house. He confers with them in their homes and does work in their homes. Ms. Abplanalp indicated that was correct.

Mr. Bartholomew asked how the valuation of $5K was arrived at for both the garage and porch. Mr. Garner stated he will be doing the work so that is the cost of the materials.

Chairman Behrens asked the secretary if there was correspondence from the neighborhood. The Secretary replied no.

Mr. Callender moved to grant the variance for the garage with the following five stipulations: (1) No electric source greater than 110V; (2) No heating system heat to be installed garage; (3) No sign identifying the business; (4) All parking and construction equipment to be contained within the building between the hours of 6 p.m. and 7 a.m.; (5) Accessory structure currently on property must be removed prior to October 1, 2015. The City will file an Affidavit of Fact with the Lake County Recorder's office, spelling out the stipulations of the granting of the variance. Ms. Miller seconded the motion. On roll call, Mr. Bartholomew,

Mr. Callender, and Ms. Miller answered "yes". Ms. Condon and Chairman Behrens answered "no". Motion carried, 3-2.

Mr. Callender moved to approve Refusal 2269 as requested. Ms. Condon seconded the motion. On roll call, Ms. Miller, Mr. Bartholomew, Mr. Callender, Ms. Condon, and Mr. Behrens answered "yes". Motion carried, 5-0.

REFUSAL NO. 2270
APPLICANT: Andrew & Suzanne Corsi
DISTRICT: R-2 Multi-Family
LOCATION: 511 Beechwood Lane
VARIANCE: Section 1131.01(c)

An application has been submitted by Andrew and Suzanne Corsi of 511 Beechwood Lane, requesting a variance to the Painesville Codified Ordinances. The applicant wishes to install a swimming pool on their property that is 5 feet from the side and rear property lines. Section 1131.01 (c) of the Zoning Code states that a swimming pool must be located a minimum of 10 feet from any property line. A variance of 5 feet to both the side and rear yard setback requirement is being requested.

Mrs. Suzanne Corsi, 511 Beechwood Lane, was present for the meeting.

Mr. Bartholomew asked about the extension cord going to the swimming pool. Mrs. Corsi explained that when the previous request was denied the pool was removed. She stated that once the pool is approved that proper electric service will be brought in. It will not be done by Lonnie's Pool who installed the pool initially but by a licensed contractor.

Mrs. Corsi stated that because of the small lot size the pool can only be placed in that one location. Mr. Bartholomew asked if it was possible to get a smaller pool but Mrs. Corsi said the company was unwilling to refund their money.

Ms. Miller stated that the equipment was not attractive. Mrs. Corsi replied that if the variance is granted the area would be landscaped. It was explained that the photos submitted were from the previous request. The area does not look that way currently.

Mr. Lyons stated that the lot shape causes some of the issues. Mrs. Corsi said it is a wedge shape on a cul de sac.

Mr. Lewis stated that a fence is not required with this type of pool. Mrs. Corsi stated that there is a fence along the back of the property and one of the side neighbors is planning a fence. Mr. Bartholomew asked if she would be willing to put up a fence. Mrs. Corsi stated that would be another expense.

Correspondence was received from both Brett and Nicole Woitella, 523 Beechwood and Susan Bly, 497 Beechwood in agreement with the installation of the pool.

Ms. Condon moved to approve Refusal 2270 as requested. Mr. Callender seconded the motion. On roll call, Mr. Bartholomew and Mr. Behrens answered "yes". Ms. Miller answered "no". Motion carried, 4-1.

REFUSAL NO. 2266
APPLICANT: Rich Kole of R.M. Kole & Associates Corp.
OWNER: AT&T/Ohio Bell
DISTRICT: R-1 Single Family
LOCATION: 162 Chestnut Street
VARIANCE: 1136.05

An application has been submitted by Rich Kole of R.M. Kole & Associates Corp., Parma, Ohio, requesting a variance to Section 1136.05 of the Painesville Codified Ordinances. Section 1136.05 addresses location and screening of utility structures within the front setback.

Mr. Michael Williams, 13630 Lorain Avenue, Cleveland was present for the meeting, representing AT&T/Ohio Bell.

Mr. Williams indicated the variance request is for a U-Verse cabinet because the second cabinet is full and there are residents waiting for service.

Mr. Lewis added that the location of the easement currently has high shrubs that buffer the house next to the easement. Discussion ensued regarding fencing. Mr. Bartholomew stated that if a fence is only for screening and not security, landscaping in his opinion, is preferable to fencing. Further discussion considered stipulations regarding landscaping and its upkeep. Mr. Lyons stated that the stipulation should be binding on the AT&T/Ohio Bell, its successors and assigns.

Chairman Behrens asked the secretary if there was correspondence from the neighborhood. The Secretary replied no.

Mr. Bartholomew moved to grant the variance for the location and screening of utility structures with the following stipulations: (1) Use of landscaping materials to hide 75% of equipment; (2) Landscaping to be maintained by AT&T/Ohio Bell, its successors and assigns. Ms. Condon seconded the motion. On roll call, Ms. Miller, Mr. Bartholomew, Ms. Condon, and Chairman Behrens answered yes. Mr. Callender answered "no". Motion carried, 4-1. The City will file an Affidavit of Fact with the Lake County Recorder's office, spelling out the stipulations on the granting of the variance.

Mr. Callender moved to have use of a fence as a screen removed from the utility structures. Ms. Miller seconded the motion. On roll call, Mr. Bartholomew, Ms. Miller, Mr. Callender, Ms. Condon and Chairman Behrens answered yes. Motion carried 5-0.

There being no further business, the meeting was adjourned at 9:37 p.m.

James Behrens, Chairman	Diane Melsheimer, Acting Secretary