

## BOARD OF ZONING APPEALS

June 17, 2021

**CALL TO ORDER:** The Board of Zoning Appeals met on Thursday, June 17, 2021, at 7:30 PM in Courtroom 1 of City Hall.

Chairman Behrens called the meeting to order at 7:30 p.m. and asked the Secretary to call the roll. Members in attendance were Mr. Dunay, Ms. Aston, Mr. Briggs and Chairman Behrens. Mr. Bartholomew was absent. Also in attendance were Assistant Law Director, Jim Lyons; Assistant City Manager, Derek Feuerstein; City Planner Rita McMahon, and Secretary Tara Baumgartner.

### **ACTION ON MINUTES OF PREVIOUS MEETING:**

Chairman Behrens indicated the Board had a set of minutes from the previous meeting that required action by the Board. Chairman Behrens asked for additions or corrections to the minutes of the Board of Zoning Appeals Meeting of May 20, 2021. There being no comments, Chairman Behrens asked for a motion. Motion by Ms. Aston, seconded by Mr. Briggs, to accept the Board of Zoning Appeals Meeting Minutes of May 20, 2021. Chairman Behrens asked the Secretary to call the Roll. On Roll Call, Mr. Dunay, Mr. Briggs, Ms. Aston, and Chairman Behrens answered "yes". **Motion carried, 4-0.**

### **MEETING PROCEDURE AND SWEARING IN:**

Chairman Behrens explained the procedures for the meeting, and then swore in those who planned on speaking for or against the variance request. Additionally, Chairman Behrens explained that the Board of Zoning Appeals has the right to adjourn the meeting to deliberate, if needed, and then return to resume the meeting. In addition, representatives of the City Administration are present; Mr. Lyons, the City's Legal Counsel, Mr. Feuerstein, the Assistant City Manager, and Ms. McMahon the City Planner.

Chairman Behrens explained that the meeting is being recorded and informed the applicants that the results of the meeting will stand as an official public hearing. He asked the applicants if they agree to the meeting procedures. The applicants in attendance agreed with the meeting procedures.

### **NEW BUSINESS/PUBLIC HEARING ITEMS:**

Chairman Behrens moved to the first item on the agenda. He asked the secretary to read the application for Refusal No. 2367.

**Refusal No:** 2367  
**Applicant/Owner:** Julio Tavera Vasquez  
**Location:** 541 Cedarbrook Drive (15-C-035-B-01-025-0)  
**District:** R-1; Single Family Residential District  
**Variance:** 1119.0 5(b) (1) B Fence Height on Corner Lot

An application has been submitted by Julio Tavera Vasquez requesting a variance to Section 1119.05 (b)(1)B of the Painesville Unified Development Code to allow the placement of a 6-foot high privacy fence within the front setback. The property is a corner lot with two front setbacks. Section 1119.05 (b)(1)B Fences, states the following:

*B. Fences within the front setback line of record or existing main building line whichever is less shall not exceed three feet in height. On corner lots all sides adjacent to the right of way shall be treated as a front setback line.*

The applicant is requesting the placement of approximately 90-feet of 6-foot high privacy fence within the front setback adjacent to Hawkins Drive. A 3-foot height variance for the fence is required at the proposed location.

Chairman Behrens provided a summary of the information the Board received on this request. He asked the applicant to state their name and address for the record prior to presenting their case.

The applicant, Julio Tavera Vasquez of 541 Cedarbrook Drive was accompanied by Annette Falu-Ortiz of 344 Sanford Street. Ms. Falu-Ortiz stated that Mr. Tavera- Vasquez does not speak English. Mr. Lyons stated that in order for Ms. Falu-Ortiz to translate the proceedings she would need to be sworn in as a translator by Mr. Behrens. Mr. Behrens swore Ms. Falu-Ortiz in as a translator and Mr. Tavera-Vasquez was sworn in so that he could speak in front of the Board.

Mr. Tavera-Vasquez, through Ms. Falu-Ortiz, stated that he built the fence to protect his children from neighborhood dogs, as stated in his application, but also to keep them from running out into the street when they're playing. He stated that he's worried about their safety. He also provided photos of other fences that neighbors on his street have installed.

City Planner, Rita McMahon stated that there have been other variances granted by the BZA which are similar to what Mr. Tavera- Vasquez is asking. She stated that if he were to follow the setback requirements he wouldn't have much of a back yard left because of the shape and position of the lot.

Chairman Behrens asked Ms. McMahon if the fence was already installed. Ms. McMahon stated that it was. Mr. Behrens asked a permit was required, and if so had one been issued. Ms. McMahon stated that a permit was required, but had not been granted. Chairman Behrens asked how the violation was discovered. Ms. McMahon stated that one of the Code Inspectors discovered it while driving around. He then asked what the rationale for the 3ft height requirement was. Ms. McMahon replied that it has to do with sight distance near corners, but in this case it wouldn't be an issue.

Chairman Behrens asked if there were any further questions from the Board. There being none, he asked if anyone would like to speak for or against this issue. There being none, Chairman Behrens asked if any correspondence was received on this matter. Ms. Baumgartner that there was no correspondence.

Chairman Behrens asked if there was a motion on **Refusal No. 2367**. Motion by Mr. Dunay, seconded by Mr. Briggs to approve **Refusal 2367** with the stipulation that Mr. Tavera-Vasquez apply for a permit. On Roll Call for the motion, Ms. Aston, Mr. Dunay, Mr. Briggs, and Chairman Behrens answered "yes". **Motion carried, 4-0.**

The applicant was advised that the Code requires a waiting period of five (5) days to acquire a permit.

#### **ADJOURNMENT:**

Chairman Behrens asked if there was any further business the Board should address. There being no further business, the meeting was adjourned at 7:38 p.m.

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Tara Baumgartner, Secretary

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Jim Behrens, Chairman