

MINUTES  
BOARD OF ZONING APPEALS  
JANUARY 11, 2012

Mayor Infeld called the meeting of the Board of Zoning Appeals to order at 8:00AM.

Roll Call: Present: Mayor Susan K. Infeld  
Mr. Rick Adante  
Ms. Linda Johnson  
Mr. Kenneth Callahan

Also Present: Clerk of Council Nancy E. English  
Building Commissioner David Menn  
Acting Law Director Dennis A. Nevar  
Councilwoman Adele H. Zucker

Approval of Minutes of December 14, 2011

There were no other corrections or additions to the minutes of December 14, 2011.

**MOTION BY MS. JOHNSON, SECONDED BY MR. ADANTE to approve the minutes of December 14, 2011 as presented. On roll call, all voted "aye".**

Agenda Items:

The agenda items were taken out of order. However, for the purpose of these minutes, the agenda items are denoted in proper order.

**ITEM 1. Applicant: Ohio Special Olympics, 9841 York Alpha Dr., Unit K, North Royalton, OH, re: 14440 Cedar Rd., BZA12-01**

No appearance was required for the annual renewal of a special permit for a clothing receptacle in the parking lot located at 14440 Cedar Road near CVS.

Building Commissioner David Menn reported that there have been no changes.

**MOTION BY MS. JOHNSON, SECONDED BY MAYOR INFELD to renew the special permit granted to the Ohio Special Olympics for a clothing donation receptacle on property located at 14440 Cedar Rd. near CVS for one (1) year. On roll call, all voted "aye".**

**ITEM 2. Applicant: Beverly Teer-Potter, 3916 Lansdale Rd., Section 1420.13(a), 1480.15(d), BZA 12-02**

No appearance was required for the annual renewal of special permit to delay construction of a garage for more than 180 days and to allow a converted attached garage to be used as a room until point of sale.

Mr. Menn reported that there have been no changes. He noted that a topographical hardship exists whereas a garage cannot be built on the property because the lot is too small.

**MOTION BY MR. ADANTE, SECONDED BY MR. CALLAHAN to renew the special permit granted to Beverly Teer-Potter, 3916 Lansdale Rd., to delay construction of a garage for more than 180 days and to allow a converted garage to be used as a room until point of sale with same conditions for one (1) year. On roll call, all voted "aye".**

**ITEM 3. Applicant: Ezra Rahamin, 29750 North Hilltop Road, Orange Village, Re: 13589 Cedar Road, Section 1280.14(4), BZA 12-03**

No appearance was required for the annual renewal of the special permit for rental of the third floor unit for one tenant with no cooking facilities and for the room off the kitchen to be used as a bedroom in both units of the two-family dwelling at 13589 Cedar Road.

Mr. Menn reported that the property is still a rental, but Mr. Rahamin is trying to sell the property.

**MOTION BY MS. JOHNSON, SECONDED BY MAYOR INFELD to renew a special permit granted to Ezra Rahamin, 13589 Cedar Road, for rental of the third floor unit for one (1) tenant only with no cooking facilities and for the room off the kitchen to be used as a bedroom in both the first and second floor units of the two-family dwelling until point of sale. On roll call, all voted “aye”.**

**ITEM 4. Applicant: James Rehm & Laurie Adam, 14380 Washington Blvd., PL 721-23-117, Section 1448.02(b), BZA 12-04**

No appearance was required for the annual renewal of a special permit for a 4ft. high fence forward of the rear foundation line of the house.

Mr. Menn reported that there have been no changes.

**MOTION BY MAYOR INFELD, SECONDED BY MR. CALLAHAN to renew a special permit granted to James Rehm and Laurie Adam, 14380 Washington Blvd., for the installation of a fence forward of the rear foundation line of the house for one (1) year. On roll call, all voted “aye”.**

**ITEM 5. Applicant: Target, 14070 Cedar Road, BZA 12-05**

No appearance was required for the annual renewal of special permit to govern hours of operation for Target, which are: Monday thru Sunday, 8:00 a.m. - 10:00 p.m.; holiday hours for the day after Thanksgiving through day after Christmas, 7:00 a.m. - 11:00 p.m., and deliveries during hours of operation.

Mr. Menn reported that there have been no changes.

**MOTION BY MS. JOHNSON, SECONDED BY MR. ADANTE to renew the special permit granted to Target for one (1) year to govern hours of operation, which are: Monday thru Sunday, 8:00 am. - 10:00 p.m.; holiday hours for the day after Thanksgiving through day after Christmas, 7:00 a.m. - 11:00 p.m.; deliveries during hours of operation. On roll call, all voted “aye”.**

**ITEM 6. Applicant: Macy’s, 2201 Warrensville Center Rd., BZA 12-06**

No appearance was required for the annual renewal of a special permit to govern hours of operation at Macy’s, which are: Monday thru Thursday, 10:00 a.m. - 9:30 p.m.; Friday and Saturday, 10:00 a.m. - 10:00 p.m.; Sunday 11:00 a.m. - 7:30 p.m.; deliveries during hours of operation; and holiday hours to be determined.

Mr. Menn reported that there have been no changes.

**MOTION BY MS. JOHNSON, SECONDED BY MAYOR INFELD to renew the special permit granted to Macy’s for one (1) year to govern hours of operation, which are: Monday thru Thursday, 10:00 a.m. - 9:30 p.m.; Friday and Saturday, 10:00 a.m. - 10:00 p.m.; Sunday 11:00 a.m. - 7:30 p.m.; deliveries during hours of operation; holiday hours (to be obtained). On roll call, all voted “aye”.**

**ITEM 7. Applicant: Inland Western Group of Companies, Retail Stores at University Square, BZA 12-07**

No appearance was required for the annual renewal of a special permit to govern hours of operation for the retail stores at University Square, which are: Monday thru Saturday, 10:00 a.m. - 10:00 p.m.; Sunday, 12:00 noon - 6:00 p.m. with a Merchants’ Association to be formed to set hours for the complex and any changes in hours shall be re-evaluated by the Board of Zoning Appeals.

Mr. Menn reported that there have been no changes.

**MOTION BY MR. ADANTE, SECONDED BY MAYOR INFELD to renew the special permit for one (1) year which was granted to the Inland Western Group of Companies to govern hours of operation at University Square’s retail stores, which are: Monday thru Saturday, 10:00 a.m. - 10:00 p.m.; Sunday, 12:00 noon - 6:00 p.m. On roll call, all voted “aye”.**

**ITEM 8. Applicant: Marilyn Swirsky, 13854 Cedar Rd., PL 722-8-15, S/L 321, Section 1260.02 (a)(1)(2)(3), Section 1478.24 (b), BZA 12-08**

No appearance was required for the annual renewal of a special permit to operate a business, Gramercy Interiors, 13854 Cedar Road, in a U-4, Multi-Family Residence District.

Mr. Menn reported that there have been no changes.

**MOTION BY MS. JOHNSON, SECONDED BY MR. CALLAHAN to renew the special permit granted to Marilyn Swirsky, 13854 Cedar Rd., to operate a business in a U-4, Multi-Family Residence District for one (1) year. On roll call, all voted "aye".**

**ITEM 9. Applicant: Rochelle Koval, 4404 Churchill Blvd., Section 1480.11, BZA 12-09**

No appearance was required for the annual renewal of a special permit to allow a kitchen in the basement for religious purposes.

Mr. Menn reported that there have been no changes.

**MOTION BY MR. ADANTE, SECONDED BY MS. JOHNSON to renew the special permit granted to Rochelle Koval, 4404 Churchill Blvd., for a kitchen in the basement for religious purposes for one (1) year. On roll call, all voted "aye".**

**ITEM 10. Applicant: Dollar Tree, Re: 13934 Cedar Road, Section 1270.07, BZA 12-10**

No appearance was required for the annual renewal of a special permit to install a Dollar Tree sign on the north elevation of Cedar Center Shopping Center.

Mr. Menn reported that there have been no changes.

**MOTION BY MAYOR INFELD, SECONDED BY MR. CALLAHAN to renew the special permit for one (1) year which was granted to Dollar Tree, 13934 Cedar Road, for a Dollar Tree sign on the north elevation of Cedar Center. On roll call, all voted "aye".**

**ITEM 11. Applicant: Speedway Super America LLC, 14458 Cedar Road, Section 1280.06, BZA 12-11**

No appearance was required for the annual renewal of a special permit to allow a free standing Blockbuster movie rental machine to be located in front of the store.

Mr. Menn reported that the Blockbuster movie rental machine was never installed. He recommended that the special permit be removed.

**MOTION BY MS. JOHNSON, SECONDED BY MR. ADANTE to remove the special permit granted to Speedway Super America LLC, 14458 Cedar Road, to allow a free standing Blockbuster movie rental machine to be located in front of the store. On roll call, all voted "aye".**

**ITEM 12. Applicant: Joe Calderwood, Property Owners: Andrew and Ida Lefkowitz, 4419 Churchill Blvd., Section 1250.06(a) and (b), BZA12-12**

Mr. Joe Calderwood, architect for Andrew and Ida Lefkowitz, was present to request a 11.7% variance on lot coverage for a total lot coverage of 36.7% and a 14'8" variance on the height of an accessory structure with total height of the accessory structure to be 24'8".

Mr. Menn reported that the owners would like to build an in-ground pool with a pool house. He noted that two (2) variances would be required. One for land coverage of 11.7% due to the fact that maximum lot area that may be built upon is limited to 25%. The other variance would be for the height of an accessory structure of 14'8". Mr. Menn classified the pool house as an accessory structure, which according to Code shall not exceed 10' in height. He mentioned that the Building Department had not received any calls or complaints. Mayor Infeld inquired as to what the height requirement would be for an addition to the main structure. Mr. Menn responded that an addition in a residential district cannot be higher than 35'.

Mr. Calderwood explained that the structure would have a breezeway connecting to the house so it could be considered an addition. Mr. Menn replied that although the pool house would be connected to the main building by a breezeway, he considered it an accessory structure. Mr. Calderwood noted that the property owner wanted an enclosed in-ground pool so that their children could use it year-round.

Mr. Menn reported that the City Engineer has reviewed the plans, but had no comments at this time. If approved, the City Engineer would review the detailed structural and drainage plans and the plans would go to the Architectural Review Board for approval.

Mr. Adante expressed concern that the proposed pool house structure would block any view out of the house to the west of the site in question. He was also concerned that the adjacent neighbors do not understand what is being proposed. Mr. Adante noted that the structure would be the size of a second home. He added that the structure seems to be too big aesthetically and for the adjacent lots.

Ms. Johnson stated that the Code is silent on why the restrictions were established for height and land requirements, but noted that it generally has to do with preserving green space, line of sight and shadowing. She noted that run-off is a concern as the water would run to the rear of the property. Ms. Johnson stated that the project would have an impact on the surrounding neighborhood and she was disappointed that there was no response from neighbors to the mailing.

Mr. Calderwood mentioned that there is heavy vegetation between the subject property and the property to the west. Mr. Menn confirmed that there is vegetation along the western property line, arborvitae on the eastern property line, and tall arborvitae along the rear of the property. Mr. Calderwood also pointed out that due to the size of the proposed pool structure, the property owners are willing to do extensive landscaping around the building. It was noted that building materials for the pool structure will match the main house.

Mr. Adante was not willing to set a precedent on such a large variance request. Ms. Johnson mentioned as far as percentage is concerned, the proposed variance would be the largest the Board has considered since she has been a member. Mayor Infeld noted that she and the Building Commissioner toured the back yard. She commented on the large lot sizes in the area and the configuration of the play equipment and buildings in yards surrounding the property in question. She noted that there would still be green space after the construction. She also mentioned that the way the houses are configured in the area, it was hard to determine what would happen with the light because the yards are so large.

Ms. Johnson understood the desire for a year-round pool, but she noted that there are pools in the area with significant seasonal use. She noted that the enclosed in-ground pool would be a permanent structure for the owner, future owners and neighbors. Mayor Infeld suggested the Board table the request and make a more extensive effort to get input from neighbors.

Mr. Calderwood mentioned that the property owners are looking into the option of buying the property behind their home in order to enlarge the area and then land coverage would not be an issue. Mr. Menn stated that lot consolidation would have to go before the Planning Commission. Mayor Infeld stated that it is not known if consolidation would take place, if the house would be used as a guest house, rental or be razed.

Mr. Calderwood stated that he worked with the pool company to make the pool structure as tight of possible because of the lot coverage requirements. He also explained that the height of the pool house was established to accommodate head clearance for a diving board. The roof pitch was designed to complement the roof pitch of the main house. In response to a question from Ms. Johnson, Mr. Calderwood stated that the height of the structure could be reduced another foot if the diving board was eliminated and even more if the roof pitch was changed, but that would be contingent upon Architectural Review Board approval.

The Mayor explained that it is tough balancing the needs of the owner with the needs of the community. She has talked with the property owner, who has said the neighborhood has a congenial relationship, but she has no direct evidence of that. The Mayor suggested tabling the issue until more input from the neighborhood is received, perhaps expanding the required mailing. Ms. Johnson inquired if the request could be tabled and referred to the Architectural Review Board to consider possible options that would minimize the height of the accessory structure and options for a more temporary structure that could be opened in the summer for line of sight. Mr. Adante said he did not want to give the owners false hope that if they changed the height of the accessory structure, their variance would be approved when there is still the issue of lot coverage.

Acting Law Director Dennis A. Nevar advised that it would be proper to table the request with a referral to the Architectural Review Board for options. Mr. Callahan suggested that the Board's concerns with the proposed configuration be communicated to the homeowners. Mr. Menn stated that he will communicate with the property owners.

**MOTION BY MAYOR INFELD, SECONDED BY MS. JOHNSON to table the application of Joe Calderwood on behalf of property owners, Andrew and Ida Lefkowitz, 4419 Churchill Blvd.; the application shall be referred to the Architectural Review Board for input; and the Board's concerns shall be communicated to the homeowners. On roll call, all voted "aye".**

**ITEM 13. Applicant: Joe Calderwood, Property Owners: Jonathan and Davida Schultz, 4345 University Pkwy., Section 1250.06(a), BZA12-13**

Mr. Calderwood was present representing property owners, Jonathan and Davida Schultz, to request a land coverage variance in the amount of 4.3% for a total building coverage of 29.3% for home remodeling. He noted that the existing structure is a bi-level house and the new owners would like to put addition on the first floor in the back of the house. Due to existing configuration of the structure, they are forced to go over the maximum land coverage.

Mr. Menn noted that the yard is wooded in the back and the houses on Milton Road are screened from the property. Mr. Menn reported that the Building Department has not heard any objections from the contiguous property owners.

In response to a question by Ms. Johnson, Mr. Calderwood explained that the new addition will replace the wood deck and concrete pad. Ms. Johnson noted that the surface coverage of the lot would not change because the concrete pad was not included in the land coverage, but with the footprint of the house and the new addition, it would require a variance of 4.3%.

**MOTION MR. ADANTE, SECONDED BY MAYOR INFELD to approve the application of Joe Calderwood on behalf of property owners, Jonathan and Davida Schultz, 4345 University Parkway, granting a 4.3% variance on lot coverage for a home remodel, bringing the total amount of lot coverage to 29.3%. On roll call, all voted "aye".**

**ITEM 14. Applicant: Joe Calderwood, Property Owner: Shaim Zwick, 2340 Milton Rd., Section 1250.06(a), BZA12-14**

Mr. Calderwood was present representing property owner, Shaim Zwick, to request a lot coverage variance in the amount of 2.91% for a total lot coverage of 27.91% for home remodeling. Mr. Calderwood stated that the new owners are doing extensive renovation and adding an addition to the back of the house. The 18' x 8' sun room will be replaced with a full width, one story addition. He added that the couple has a large family so bedrooms are to be added as well as a kosher kitchen, which caused the land coverage to go slightly over the maximum requirement of 25%. Ms. Johnson mentioned that similar variances have been granted in the past.

Mr. Menn noted that the Building Department has not received any calls or complaints. He noted that this application and the previous one will go before the Architectural Review Board.

**MOTION BY MS. JOHNSON, SECONDED BY MR. ADANTE to approve the application of Joe Calderwood on behalf of property owner, Shaim Zwick, 2340 Milton Rd., granting a 2.91% variance on lot coverage for a one story addition, bringing the total amount of lot coverage to 27.91%; the approval is subject to review by Architectural Review Board. On roll call, all voted "aye".**

There being no further business to discuss, the meeting was adjourned.

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Susan K. Infeld, Mayor

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Nancy E. English, MMC