

**PAINESVILLE TOWNSHIP
BOARD OF ZONING APPEALS
MEETING MINUTES
February 12, 2019**

Present **Dave Lindrose, Tom Hill, Dave Enzerra, Randy Van Buren and Dale Lewis**
Absent: **Ken Sullivan**
Zoning Inspector: **Rich Constantine**
Legal Counsel: **Matt Lallo**

Chairman Tom Hill opened the meeting at 6:30 p.m. The Pledge of Allegiance was recited. It was noted that a quorum was present. The Chairman requested that Legal Advisor Matt Lallo swear in the persons who were present to speak and intended to testify during the public hearing. There were no persons who refused to be sworn in.

PUBLIC HEARINGS

Case 18-BZA-29 (continued from Dec. 11, 2018 meeting)

Chairman opened the public hearing and asked the secretary to read the application. Applicant, Darius Racys, located at 696 Outrigger Cove has filed a Variance request to allow installation of approximately 60 lineal feet of 6' tall vinyl fencing extending forward towards Searay Cove, a dedicated roadway, from the actual setback of the dwelling in violation of Section 6.13(E) which limits the height of fencing extending forward from the actual setback of the dwelling to a 36 inch maximum.

The first person to speak on behalf of the application was the applicant's wife, Akvile Raciene. She stated that she would still like to build the fence for the safety of their son and dog. Chairman stated that the applicant did submit additional photos to review. Chairman also noted that the applicant did submit modifications to their request.

Chairman asked if there was anyone who would like to speak against this. Mike Chepelsky, neighbor at 1400 Searay Cove, stated that he is still concerned the fence will block their visibility. Mr. Chepelsky stated that he has tried working out a solution with the applicants, however, Mr. Chepelsky stated that watching the traffic flow the fence would be a safety concern for anyone walking down the sidewalk while they are backing out. The 6ft fence would block their view. The rear tire would already be on the sidewalk before they could view the sidewalk. Chairman commented that the flags are angled from the driveway. Chairman shows Mr. Chepelsky that the applicant has changed where they plan on installing the fence and they would have 20 ft to view the sidewalk. Mr. Chepelsky stated that he didn't realize the change. Chairman commented that 20ft would be reasonable. Chairman asked Rich to explain the new 3ft height. Rich stated that in Section 6.13, the Zoning Commission made some changes. A former zoning commission member happened to push to eliminate 6ft fences in front yards. In his attempt to eliminate fences in front yard fences the board agreed to limit the height of fences in front yards to 3 feet. Rich stated that he'd be happy to take a recommendation from the Appeals Board back the Zoning Commission to have this new requirement revised.

Chairman stated that he looked at the property and commented that he thinks the safety concerns have been addressed in this request. Mr. Chepelsky stated that the new location has addressed the safety issue. Chairman stated that a letter from Pat Coulter submitted a letter regarding safety as well. Mr. Chepelsky commented that he is worried about the esthetics.

Chairman stated that he can't condemn one application because another property owner didn't maintain their fence.

Dave Enzerra commented that the new location of the fence was not made clear to the board at the last meeting. Rich commented that corner lots are special case scenarios. A setback for an accessory building on a corner lot is 20 feet from the road right-of-way on the side street of the main dwelling, while another lot (not on a corner) can have an accessory building 10 feet from the sideline.

Mr. Chepelsky stated that if the both driveways were on Outrigger then they would have a defined backyard. Mr. Chepelsky asked why the address is Outrigger and not Searay? Rich replied that the county subdivision uses the street the front door faces, and they allow driveways on the side street on corner lots. Dale Lewis commented that if you view this lot from one direction this could be a side yard or a front yard, which makes it confusing.

Chairman stated that a motion is always made in the positive and asks the audience to hold any comments.

Dave Lindrose made the motion to approve **Case 18-BZA-29** as modified with the new location of the fence which is 22 ft from driveway and 20 ft from Searay Cove and 3 ft from the sidewalk. The date referred to for the amended application was January 28, 2019.

Dave Enzerra seconded it.

Roll Call: Lewis, Aye; Lindrose, Aye; Enzerra, Aye; VanBuren, Aye; Chairman, Aye.

Motion carried.

Case 19-BZA-03

Applicant, U.S. Veterans Motorcycle Club located at 1861 North Ridge Rd has filed a Conditional Use application to use the property as a gathering place for a local U.S. Veteran Motorcycles Club. Proposed activities in the building to include club meetings, socials, and a drop off location for charity donations.

Chairman stated that he saw no error in the zoning inspector requiring a Conditional Use Permit.

Chairman asked if anyone was there to speak in favor of this request.

Bobby Zappitelli, property manager of the Club, stated that the applicant is their tenant and is in favor of this. Chairman asked if anyone else would like to speak in favor and explain what they plan on doing. Applicant was not in attendance. Chairman asked Mr. Zappitelli if they have received any objections from Cradle to Crayons? Mr. Zappitelli replied no. They are there at opposite times and this would not be a conflict. Chairman asked for clarification of what they are going to do? Will there be a lot of motorcycles gathering there? Mr. Zappitelli stated that he was aware of one gathering but there were no issues. Chairman commented that the applicant was not in attendance and was hoping that someone would be there to answer questions in detail. Mr. Zappitelli stated that the applicants have been there since December 29, 2017 and have not had any issues.

Chairman would like to hear from the applicant to explain more details.

Randy VanBuren moved to continue **Case 19-BZA-03** to the March 12, 2019 meeting date.

Dave Lindrose seconded.

Roll Call. Lewis, Aye; Lindrose, Aye; Enzerra, Aye; VanBuren, Aye; Chairman, Aye.

Motion carried.

Case 19-BZA-04

Applicant, Khaled & Mohammad AlRousan located at 1435 Mentor Ave has filed a Conditional Use application to operate a gas station and a small automotive service station.

Chairman asked the Zoning Inspector, Rich, to explain the history of this property.

Rich passed out the survey of the property and commented that the board will notice that the building and the canopy are close to Mentor Ave. Rich stated that in Section 12 that gas stations and canopies have restrictions and the canopy should be 40 feet from the road right of way and gas pumps should be 50 feet from the road right of way. Rich commented that this station was built 1957, which was 2 years after the township began its Zoning resolution. The property was zoned B-3 in 1955 and we allowed gas stations in the B-3 district at that time as permitted uses. The building front setback at the time was 25 feet minimum from the road right of way. This building is probably 25 feet from the road right of way today, but the center of the road has moved since then due to road widenings. The existing canopy is only 10 ft from the right-of-way and the station has been there. Gas hasn't been sold there for 7-8 years. This is a legal non-conforming structure. Rich stated they did not require a permit when it was built and now that's been idle the new buyers need a conditional use permit.

Chairman asked the applicant, Khaled Al-Rousan, his plans. Mr. Al-Rousan replied that the new plan is to run a gas station and offer mechanical services such as oil changes. In the future he stated he would like to add a store, which would be a separate building from the one that is currently there. The new building would go in the back of the current building. Mr. Al-Rousan commented that it will remain a Sunoco station and they will be keeping the canopy as is and Sunoco will help fix things and update the image. Chairman verified with the applicant that the pumps have been certified. Mr. Al-Rousan replied yes. Chairman asked what the hours will be? Mr. Al-Rousan replied that the gas station hours will be 7 days a week from 7am - 12am. The current setbacks on pumps and canopies will remain the same.

Rich commented that he has not been given alterations for the rebrand of the canopy/signage.

Chairman clarified if it was just the canopy or a sign on the building. Mr. Al-Rousan stated that it will be the canopy. Dave Enzerra asked how many employees? Mr. Al-Rousan replied there will be 2-5 employees on each shift. Chairman asked about the overnight bays. Mr. Al-Rousan commented that they will keep vehicles inside the garage and there are 2 spaces outside. There is a concrete pad that can park up to 3 cars. Dave Enzerra asked if they had a preference regarding the length of time of the conditional use permit? Mr. Al-Rousan replied 5 years.

Dave Lindrose moved to approve **Case 19-BZA-04** with the following conditions:

- 2 parking spaces to the right of property (on concrete pad to the right of the existing building)
- Allow Sunoco sign if zoning approves
- Accept current setback for pumps and canopies
- Gas station hours will be 7 days a week from 7am -12am (midnight)
- Service hours will be 7am-9pm for services
- Service as per their application for oil change, tire rotation and tire repairs
- For a 5-year term
- Sunoco canopy increase of 10% of sq ft for signage

Dave Enzerra seconded.

Roll Call: Lewis, Aye; Lindrose, Aye; Enzerra, Aye; VanBuren, Aye; Chairman, Aye.

Motion carried.

Randy VanBuren moved to journalize **Case 18-BZA-04**.

Dave Enzerra seconded.

Roll Call: Lewis, Aye; Lindrose, Aye; Enzerra, Aye; VanBuren, Aye; Chairman, Aye.

Motion carried.

Regular meeting:

Election of Officers:

Chairman stated that he is willing to stay on as Chairman. Dave Enzerra said he would be willing to stay on as Vice Chairman.

Dave Lindrose moved to keep Tom Hill as Chairman and Dave Enzerra as Vice Chairman for 2019.

Dave Enzerra seconded.

Roll Call: Lewis, Aye; Lindrose, Aye; Enzerra, Aye; VanBuren, Aye; Chairman, Aye.

Motion carried.

Dave Lindrose moved to approve the December 2018 minutes as submitted.

Dale Lewis seconded.

Roll Call: Lewis, Aye; Lindrose, Aye; Enzerra, Aye; VanBuren, Aye; Chairman, Abstain.

Motion carried.

Randy VanBuren moved to approve January 2019 minutes as submitted.

Dave Lindrose seconded.

Roll Call: Lewis; Abstain, Lindrose; Aye, Enzerra; Aye, VanBuren; Aye, Chairman; Aye.

Motion carried.

Matt Lallo stated that the board only needs to acknowledge the minutes. You do not have to vote on the minutes. If there are no modifications, then they are approved without voting. Matt Lallo asked the secretary to modify the agenda from here on out to acknowledge the minutes.

Old Business: None

New Business

Rich commented about the 3ft height limit in front yards and whether the board would like to discuss that. Chairman would recommend that a fence can't run up to the driveway and aesthetics should play a role in a neighborhood. If you have application that looks good and no safety concern, then you should be able to accept it without a variance. Rich commented that maybe it would be best to see if variance requests decrease a bit before discussing a change.

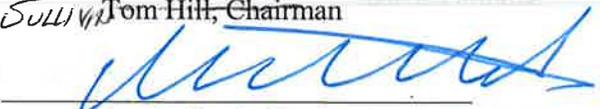
Zoning Secretary, Lorrie Schuck, stated she will not be here for the meeting in March.

Chairman adjourned the meeting 7:25 PM. Next meeting will be Tuesday, March 12, 2019.

Respectfully submitted,



KENNETH SULLIVAN Tom Hill, Chairman



Lorrie Schuck, Zoning Secretary
RICH CONSTANTINE