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BOARD OF ZONING APPEALS

NORTH CANTON, OHIO

IN RE:)
)
 ZONING AND BUILDING)
 STANDARDS BOARD OF)
 APPEALS) **TRANSCRIPT OF PROCEEDINGS**
)

Transcript of Proceedings, taken before the North Canton Zoning and Building Standards Board of Appeals, taken by the undersigned, Shannon Roberts, a Registered Professional Reporter and Notary Public in and for the State of Ohio, at the offices of North Canton City Hall, 145 North Main Street, North Canton, Ohio, on Tuesday, the 26th day of June, 2018, at 6:00 p.m.

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APPEARANCES:

- Clint Zollinger
- Christine Clevenger
- Samuel Bacon, Jr.
- Brian Mihalcin
- Daniel Griffith
- Timothy Fox, Director of Law
- John Stigalt, Chief Building Officer
- Christina Whittenberger

- - - - -

1 MR. ZOLLINGER: All right. It is 6:00.
2 Close enough. So I think we'll call the
3 meeting to order. Let's start by calling the
4 roll, please.

5 MS. WHITTENBERGER: Mr. Bacon.

6 MR. BACON: Here.

7 MS. WHITTENBERGER: Mr. Griffith.

8 MR. GRIFFITH: Here.

9 MS. WHITTENBERGER: Mr. Mihalcin.

10 MR. MIHALCIN: Here.

11 MS. WHITTENBERGER: Ms. Clevenger.

12 MS. CLEVENGER: Here.

13 MR. WHITTENBERGER: Mr. Zollinger.

14 MR. ZOLLINGER: Here.

15 Looks like all of us are present and
16 accounted for. And before we get to the
17 approval of the minutes, I want to take --
18 one thing I'll mention is that all five
19 members are present. And for a variance to
20 be granted, three members need to vote in
21 favor of a variance, just so -- just so you
22 are aware.

23 So with that, we will move to the
24 approval of the minutes of the May 23, 2018
25 meeting. Do I have a motion to approve?

1 MR. GRIFFITH: So moved.

2 MR. MIHALCIN: Second.

3 MR. ZOLLINGER: Any discussion regarding
4 the minutes? Any changes? If not, we'll
5 call the roll on the voting to approve the
6 minutes.

7 MS. WHITTENBERGER: Mr. Bacon.

8 MR. BACON: Yes.

9 MS. WHITTENBERGER: Mr. Griffith.

10 MR. GRIFFITH: Yes.

11 MS. WHITTENBERGER: Mr. Mihalcin.

12 MR. MIHALCIN: Yes.

13 MS. WHITTENBERGER: Ms. Clevenger.

14 MS. CLEVINGER: Abstain.

15 MS. WHITTENBERGER: Mr. Zollinger.

16 MR. ZOLLINGER: Yes.

17 So that motion is granted. The minutes
18 are approved.

19 We'll move to the business portion of the
20 agenda. What will happen here is anyone who
21 wants to speak, either in favor of or against
22 the application, will be put under oath by
23 the court reporter. Keep in mind, you'll
24 speak -- you'll stand up at the podium, speak
25 into the microphone, make sure that any --

1 we'll have some questions probably. So any
2 questions, make sure they are verbal; "yes,"
3 "no," "I don't know." You know, what -- you
4 know, whatever. Try to avoid shaking the
5 head, nodding, "uh-huh," "huh-uh." It just
6 makes the court reporter's job a lot easier.

7 And so with that, anyone who does think
8 they are going to speak tonight -- and if
9 that's just one or two people, that's fine --
10 just please stand up and raise your right
11 hand.

12 WHEREUPON,

13 **CASEY HILL,**

14 after being first duly sworn, as hereinafter
15 certified, testified as follows:

16 MR. ZOLLINGER: With that, why don't you
17 call the first item of business.

18 MS. WHITTENBERGER: Application number
19 ZBOA 2018-17, 618 Royer Avenue, Northwest;
20 applicant, Casey Hill. He is requesting a
21 variance to construct an accessory parking to
22 adjoin driveway in front of dwelling, 9 feet
23 wide by 24 feet in length on left side of
24 parking area, and 22 feet in length on right
25 side of parking area.

1 MR. ZOLLINGER: Okay. We'll first hear
2 from -- I -- Mr. Hill, I presume?

3 MR. HILL: Yes, that's me.

4 MR. ZOLLINGER: Yeah. Okay. Go ahead.
5 And let's -- give us an idea of what we are
6 looking at here. We have all -- we have all
7 been given the materials ahead of time.

8 MR. HILL: Sure.

9 MR. ZOLLINGER: Some of us have probably
10 driven by the property. I have.

11 MR. HILL: Okay.

12 MR. ZOLLINGER: So we have an idea of
13 what -- what the situation is. But go ahead
14 and let us know in your own words what you
15 would like done here.

16 MR. HILL: Okay. So the existing
17 property I live at with my wife and two
18 children. We have two automobiles. Our
19 existing driveway is 9 feet wide by roughly
20 42 feet long and houses both of our cars
21 comfortably.

22 The issue is when we have people in from
23 out of town. In the nine years I have lived
24 there, it has been pretty minimal. But in
25 the last year and a half, my wife has been

1 diagnosed with cancer. Because of that --
2 she is our primary caregiver to our children,
3 and we have people that are regularly coming
4 in town to help out during her treatments to
5 take -- help take care of her, as well as our
6 two kids.

7 I think last year, from April to now, we
8 have requested access to park in the street
9 from the police department for roughly a week
10 to two weeks per month, since April of last
11 year. The police department has been
12 fantastic. They have worked with us.

13 I will say that parking in the street
14 does come with a few challenges. I'm not
15 from the city. I grew up very country. And
16 I know ignorance is not an excuse, but I did
17 not know you couldn't park within 30 feet of
18 a stop sign. I was parked roughly 20, 25
19 feet and got a ticket.

20 We have since backed our car up, but --
21 and the only location in front of our house
22 to park a car in the street is directly
23 across the street from our neighbor's
24 driveway. And they have actually backed into
25 our car coming out of their driveway.

1 Additionally, we have had some issues
2 with receiving services in North Canton. The
3 garbage truck arm can't get around a parked
4 car and reach the trash cans, so they have
5 just not picked up our trash. We have
6 actually had to call and have them come back
7 out to pick it up. And I have witnessed the
8 mosquito truck that sprays for us, which is a
9 great part of living in North Canton, not be
10 able -- you know, to want to spray over our
11 cars, so he has turned it off, and we have
12 not gotten the mosquito spray in our front
13 yard.

14 So the goal of what we are trying to do
15 is to create the bare minimum parking spot
16 that we can to get one additional car off the
17 street and allow us one additional parking
18 spot in our driveway. I think the City of
19 North Canton, and as the homeowner, we
20 ideally would like that parking spot to be
21 away from the house.

22 But the way that our house faces, the
23 driveway is on the left side. And the left
24 side of the driveway is also Seventh Street,
25 as we are a corner lot. From the top of our

1 existing driveway to the sidewalk, it's 8 and
2 a half feet. And measuring up 10 feet from
3 the sidewalk, where our parking spot would
4 start, is 8 feet to the sidewalk. If we come
5 in 2 feet off the property line, that gives
6 us just about 6 and a half feet at the top
7 and just under 6 feet at the bottom for a
8 parking spot, which is just not quite wide
9 enough to get a car.

10 Additionally, I would think parking there
11 would cause some serious line of sight
12 obstructions for anybody using the stop sign
13 at Royer. I know that we were permitted to
14 put a fence in the backyard last year, and we
15 couldn't take the fence all the way out to
16 the sidewalk because of that. They didn't
17 want to block line of sight. And I would
18 assume a car in that position would do the
19 same thing.

20 So, ideally, the variance is for the
21 location of an accessory parking spot to the
22 right side of our existing driveway. And I
23 have tried to make it as small as I can to
24 get, like I said, one -- one car off to the
25 side, to allow one additional parking spot.

1 MR. ZOLLINGER: Is 9 feet the min -- the
2 minimal width that you would need? Could you
3 go less wide than that, or no?

4 MR. HILL: So my neighbor across the
5 street is actually doing this same project.
6 And what's unique to our property --

7 THE REPORTER: "My neighbor across the
8 street" -- I didn't hear you.

9 MR. HILL: Yes. My neighbor across the
10 street is actually doing the same project,
11 however, his driveway is mirrored to ours, so
12 it's on the opposite --

13 MR. ZOLLINGER: It's on -- it's going
14 away from the house?

15 MR. HILL: Correct.

16 MR. ZOLLINGER: Yeah.

17 MR. HILL: What's unique to our property
18 is -- almost all of the driveways around
19 us -- and I have actually gone around and
20 measured -- are roughly 11 to 12 feet wide.
21 Ours is only 9 feet wide. So I can't even
22 steal some of my existing driveway with -- in
23 conjunction with something, to park a car.

24 So, like, he only is adding 6 feet, but
25 with a 12-foot wide driveway, he gets to take

1 a couple feet from his existing driveway and
2 park a car there.

3 So 9 feet is my existing driveway. And I
4 will tell you now that getting out of the car
5 and getting your car door open and around it,
6 at 9 feet, is difficult. So that's -- I just
7 copied what we have now, and that's why I
8 came up with the 9 feet.

9 MR. ZOLLINGER: I don't know if you know
10 the answer to this or if John knows the
11 answer. If you go to the other side, and you
12 need to be 2 feet off the property line, is
13 that 2 feet from the edge of the sidewalk?

14 MR. STIGALT: Yes.

15 MR. HILL: Yes.

16 MR. ZOLLINGER: Okay. So he -- yeah, it
17 would be just 6 feet extra he would get going
18 the other way.

19 MR. STIGALT: Correct.

20 MR. ZOLLINGER: And that wouldn't be
21 enough to drive -- get a car around?

22 MR. HILL: No, not -- not -- if I had my
23 neighbor's setup -- if I had my neighbor's
24 setup, where my existing driveway went all
25 the way to the edge of the house --

1 MR. ZOLLINGER: Yeah.

2 MR. HILL: -- it would be. But my
3 driveway only goes to the inside of my
4 garage, not all the way to the edge of the
5 house.

6 MR. ZOLLINGER: Okay. Before you move --
7 did we lose power or did somebody just turn
8 the lights off?

9 MR. STIGALT: No. I think -- the
10 cleaning crew, I think, hit the wrong --

11 MR. ZOLLINGER: Okay. So the court
12 reporter is -- you're able to --

13 THE REPORTER: I'm good. You scared me.

14 MR. ZOLLINGER: Okay. I'm just making
15 sure. Okay.

16 MR. STIGALT: Wait.

17 MR. ZOLLINGER: Yeah, go ahead.

18 MR. STIGALT: Also, Mr. Chairman, that
19 in -- for accessory parking, not only does it
20 have to be a minimum of 2 feet from the side
21 property line, but also be 10 feet from the
22 front lot line. So he loses a lot on that --

23 MR. ZOLLINGER: Because --

24 MR. STIGALT: -- side of Seventh.

25 MR. ZOLLINGER: Because of the curve

1 going around.

2 MR. STIGALT: Correct. He has a 6 by 6,
3 roughly, as he mentioned, an area where --
4 the other side. He still has to have 10 foot
5 from the front line, but he gets to gain more
6 in the width.

7 MR. MIHALCIN: Is -- is the edge of the
8 sidewalk the right-of-way?

9 MR. STIGALT: Yes.

10 MR. MIHALCIN: Okay. On both --

11 MR. STIGALT: Back side. Yes.

12 MR. MIHALCIN: Front and side?

13 MR. STIGALT: Yes.

14 MR. ZOLLINGER: It looked like you
15 already had it formed out. Why -- why are
16 you already doing the project?

17 MR. HILL: Yeah, so I actually wasn't. I
18 actually rented some equipment from General
19 Rental. I had two slabs of cement in front
20 of my house that had fallen towards the
21 house, and I was getting water in the
22 basement.

23 If you all are familiar with renting
24 equipment from General Rental, you rent on
25 Saturday, you get it until Monday. I was

1 taking advantage of Memorial Day weekend, and
2 I got it till Tuesday.

3 I completed my projects a little bit
4 early, and so we decided to dig it out. I
5 will admit, I intended to get a permit, but I
6 was uneducated on the fact that you couldn't
7 do it in the front of the house. I also
8 didn't realize that it couldn't be gravel.
9 In our neighborhood, there are a couple of
10 gravel drive -- parking spots. I guess those
11 were grandfathered in from previous years.

12 MR. ZOLLINGER: So, yeah, if we deny the
13 variance, what are you going to do? You're
14 going to have to put it --

15 MR. HILL: I would just have to fill it
16 back in with dirt and seed it up.

17 MR. ZOLLINGER: All right.

18 MR. FOX: In the location that you have
19 the forms now, is that the intent where the
20 concrete is going to be laid, so you are
21 going to pull in --

22 MR. HILL: Pull at an angle.

23 MR. FOX: At the angle?

24 MR. HILL: Yeah. So that's -- as he
25 mentioned in the variance, it's 24 feet on

1 the left side and 22 feet on the right. It
2 was just tapered in 2 feet. Now, the
3 existing forms that are there do not account
4 for being 10 feet off the sidewalk. It has
5 to go up higher.

6 MR. ZOLLINGER: Any other questions? In
7 terms of government services, has anybody --
8 I know you talked about the trash. Has there
9 been any other issues with that; police, fire
10 issues?

11 MR. HILL: Luckily, we have not had to
12 call police or fire, so no.

13 MR. ZOLLINGER: Okay. All right. I
14 don't have anything else. Anybody else?

15 MR. MIHALCIN: There is one neighbor in
16 the general vicinity that has an accessory
17 space adjacent to his driveway. I'm assuming
18 that was allowed by variance?

19 MR. HILL: So I think the property
20 catty-corner to me -- not across the street,
21 but one down -- does have a parking spot to
22 the left, as far as a variance. He is not
23 parking in front of the house, though; it's
24 to the left.

25 MR. MIHALCIN: And I don't have any

1 record indicating that that was permitted by
2 variance or if this is the first one in the
3 area that is formally being requested by you.

4 MR. HILL: Okay.

5 MS. CLEVINGER: I noticed you had two
6 letters in favor.

7 MR. HILL: There are actually three.

8 MS. CLEVINGER: Three.

9 MR. HILL: So my neighbor across the
10 street, my neighbor to the left, and the
11 neighbor catty-corner to me, as I mentioned,
12 I did run it by them to make sure that it was
13 something that they were okay with. All
14 three of them were fine with it. I would
15 have gotten more, but there are a few
16 properties on our street that are rentals.
17 So the people that actually own them, I don't
18 have their contact information to reach out
19 to them.

20 MR. ZOLLINGER: Anything else?

21 MR. FOX: Perhaps one thing to
22 consider -- and the reason I'm up on this is
23 because it was one of the issues that was
24 appealed with the south Hoover parking lot;
25 the 9 foot parking spaces, 9 by 18 out there.

1 And so our current code has the 10 by 20. So
2 as far as the applicant pursuing the minimal
3 amount, that was, I guess, kind of an
4 education for us of 9 feet is really tight.
5 So it does appear he indeed is going the
6 minimal amount --

7 MR. ZOLLINGER: Can't go any farther.

8 MR. FOX: Right. Probably would have to
9 go out the passenger door if they go any
10 closer.

11 MR. HILL: Something tells me I'll be the
12 one that gets to park there.

13 MR. FOX: Sure.

14 MR. ZOLLINGER: Thank you, sir.

15 MR. HILL: Thank you.

16 MR. ZOLLINGER: Appreciate it.

17 Anybody else wish to speak with regard to
18 this application?

19 (No response.)

20 MR. ZOLLINGER: Okay. Well, I -- sir,
21 when it comes to granting variances, we have
22 about ten criteria we have to look at. They
23 are -- you don't have to meet every one of
24 these as part of your burden of proof. But
25 we have to look at things such as whether

1 the -- the variance is substantial or the
2 minimum necessary, which we were talking
3 about, the character -- where it changes the
4 character of the neighborhood, whether the
5 variance would adversely affect the delivery
6 of governmental services, whether the owner
7 purchased -- whether you purchased the
8 property with the knowledge of the
9 restrictions, whether this was something that
10 is the result -- you know, the need for the
11 variance is something you had done, whether
12 it can be obviated through some other method
13 other than a variance, and whether the spirit
14 of the zoning requirement does substantial --
15 whether the spirit and intent behind the
16 zoning requirement -- this being the off --
17 the accessory parking -- would be observed
18 and substantial justice done by granting the
19 variance.

20 And for me personally -- and I'm just one
21 member here -- I feel like when I look at
22 these ten criteria, about eight or nine,
23 maybe -- about eight or nine of them meet the
24 criteria for me to granting the variance.
25 And so I'm inclined to -- to grant it.

1 We'll listen to what everybody else has
2 to say, but I think that your -- your
3 property should be unique enough being a
4 corner lot and not having a lot of room up
5 against Seventh. I think the governmental
6 services factor is important. We talked
7 about the trash, but I also -- I'm familiar
8 with that intersection, and that can be
9 pretty dangerous if you had people parking
10 right next to the sidewalk there on Seventh.

11 And, you know, I don't think it changes
12 the character of the neighbor. I drove
13 through the neighbor. I'm very familiar with
14 it. And I know there are other houses with
15 accessory parking in front of the house. How
16 it got there, whether they got a variance or
17 whether it was grandfathered in, I don't
18 know. But it doesn't change the character of
19 the neighborhood to let you go ahead and do
20 this.

21 I was concerned about why you started the
22 project already, but you answered that for
23 me. You explained that to me in a
24 satisfactory way. So that's kind of where
25 I'm at right now.

1 MR. MIHALCIN: You're also in compliance
2 with the front yard setback.

3 MR. BACON: In view of the circumstances
4 set forth by Mr. Hill in his request for a
5 variance, I move that we grant it.

6 MS. CLEVINGER: I'll second.

7 MR. ZOLLINGER: Any other discussion? If
8 not, call the roll. And this is to -- a
9 motion to approve the variance, so "yes" vote
10 means a variance -- means you are voting to
11 grant the variance, and a "no" means you are
12 voting to not grant it.

13 MS. WHITTENBERGER: Mr. Bacon.

14 MR. BACON: Yes.

15 MS. WHITTENBERGER: Mr. Griffith.

16 MR. GRIFFITH: Yes.

17 MS. WHITTENBERGER: Mr. Mihalcin.

18 MR. MIHALCIN: Yes.

19 MS. WHITTENBERGER: Ms. Clevenger.

20 MS. CLEVINGER: Yes.

21 MS. WHITTENBERGER: Mr. Zollinger.

22 MR. ZOLLINGER: Yes.

23 The variance has been granted.

24 MR. HILL: Thank you.

25 MR. ZOLLINGER: Thank you, sir. With

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that, is there any business to come before
the Board?

MS. WHITTENBERGER: No.

MR. ZOLLINGER: All right. With that, I
will entertain a motion to adjourn.

MR. BACON: So moved.

MR. GRIFFITH: Second.

MR. ZOLLINGER: All those in favor?
We'll do it by voice roll.

MS. CLEVINGER: Aye.

MR. BACON: Aye.

MR. MIHALCIN: Aye.

MR. GRIFFITH: Aye.

MR. ZOLLINGER: All those opposed?

(No response.)

MR. ZOLLINGER: Hearing none, we are
adjourned.

(This proceeding concluded at 6:15 p.m.)
