Minutes of a Meeting of  
BOARD OF ZONING APPEALS  
Held October 4, 2018

Members Present: Bruno, Burke, Gess, Miller, Norton, Tyo, Young

Also Present: Steve Vogel, Chief Building Official, Law Director Mark Barbour

Audience: Maxine Josie, Jon P. Demko, Doug Moore and Chris Yessayan

Chairman Norton called the meeting to order at 7:38 p.m.

Mr. Norton called for the approval of the minutes of the Board of Zoning Appeals held September 20, 2018. **Motion** by Mr. Bruno, **second** by Mr. Burke, to approve the minutes of the meeting held September 20, 2018. **Motion passed 7-0.**

Chris Yessayan  
29009 Wolf Rd.  
C.O. 1363.05(H)(3) Applicant is requesting a variance for a 6 foot high fence along the length of Bracken Way (approximately 100 ft.) as well as off the sides of their house.  
**Tabled on Sept. 6, 2018 to Oct. 4, 2018**

Applicant: Chris Yessayan  
Property Owner: Same  
Address of Property: 29009 Wolf Rd.

Mr. Norton stated that Chris Yessayan is requesting a variance for a 6 foot high fence along the entire length of Bracken Way (approximately 100 feet) and the sides of his property. This agenda item was tabled from September 6, 2018.

Mr. Burke discussed how the application has been resubmitted with a different permit and he is no longer seeking a six foot fence around the sides of the yard, only along the west side of the backyard and towards Bracken Way. Mr. Yessayan is seeking forty eight feet of a six foot fence and two eight foot units tapering down to four feet.

Mr. Burke voiced concerns that the requested forty eight feet is considerably more than the maximum thirty two feet allowed and questioned the reason for the submitted amount.

Mr. Burke stated that there was a similar situated property, on the northeast corner of Wolf Road, from two years ago that submitted an application and it was rejected.

Mr. Norton discussed that from a design stand point the part of the fence that tapers down from a six foot fence to a four foot fence softens the look of the fence, but it is clear that those sections
still violate the thirty two foot rule. The idea of the Board being lenient on the transition is already a variance. In affect the thirty two feet becomes forty eight feet with the added sixteen feet of transition.

Mr. Yessayan stated that he may have misunderstood and did not know that his proposed measurements with the transitions were still in need of a variance.

Mr. Norton explained that the ordinance still states properties can only have a four foot high fence of the maximum thirty two feet. He explained that technically he could do sixteen feet at full height, then have two eight foot transition pieces, adding up to thirty two feet total.

Mr. Yessayan explained why he thought the variance should be granted due to the uniqueness of his property being that high schoolers are driving past his property and games are held at the high school on evenings and on the weekends. He also explained that cars park on his side of the street.

Mr. Norton gave the option of voting on the purposed application measurements as it was submitted (forty eight foot plus the two eight feet transitions) or Mr. Yessayan could modify it on the fly as to not to have it put on a later meeting agenda.

Mrs. Young asked for more clarification on the past meeting minutes when this agenda item was discussed and what the prior submitted measurements were.

Mr. Bruno stated that he would be agreeable to the thirty two foot length and six foot high fence with the two eight foot tapered sections based on the comments that were shared.

Mr. Miller explained that based on his understanding that neighboring properties do not have fences and is not sure that his property is entirely unique. He suggested that instead of all the fencing, Mr. Yessayan could put in trees that are esthetically pleasing and help with privacy and sound.

Mr. Yessayan explained that their goal was to make it as esthetically pleasing as possible.

Mr. Bruno discussed clearing up some possible miscommunication from the reading of prior meeting minutes that may have incorrectly stated the permitted fencing requirements.

Mr. Bruno stated there was a property on the corner of Wolf and Columbia that did a nice job of using trees along their property instead of fencing.

Mr. Norton explained that they could vote on it as is which gives Mr. Yessayan a chance to come back with new purposed dimensions at a later date or make changes on the spot in hopes of it getting passed.

Mr. Yessayan decided to change his request to a thirty-two foot in length and six foot in height fence with two eight foot transitions pieces instead of the forty-eight foot by six foot fence.
Mr. Norton asked if there were any further discussions.

**Motion** by Mr. Burke, **second** by Mr. Bruno that the property at 29009 Wolf Road is granted a variance to have a six foot fence for thirty two feet with two, eight foot transition pieces on either side of the thirty two foot fence on the westerly side of the property where it connects up to Braken way.

**Roll Call Vote:**

**Yeas** – Miller, Bruno, Gess, Norton, Tyo, Burke, Young  
**Nays**  
Motion Carried 7-0

Doug Moore  
497 Bradley Road

C.O. 1163.05(H)(3) Applicant is requesting a variance for a 6 foot high fence for their entire backyard.  
**Tabled on Sept. 6, 2018 to Oct. 4, 2018**

Applicant: Doug Moore

Property Owner: North Coast Community Homes

Address of Property: 497 Bradley Road

Mr. Norton stated that next item on the agenda is C.O. 1163.05 (H)(3). Applicant, Doug Moore, is requesting a variance for a six foot high fence for their entire backyard that was tabled from September 6, 2018. The board recently received a letter from the Law Director, Mark Barbour with questions pertaining to the requested variance based on the requirements for one resident currently residing in the group home.

Mr. Norton asked Doug Moore how long it would be anticipated that the resident would be living in the home.

Doug Moore stated that it is anticipated that the current resident would live in the home for the rest of her life.

Mr. Norton explained that in the past the Board has been known to pass a variance on a temporary current condition basis, but that they didn’t have a mechanism in which to enforce it. There is nothing that triggers the city identifying that there have been changes within the home and the variance would no longer be needed. But if there was a conditional variance applied the city would have something to look back on and it would not run with the property in perpetuity. He was not sure that the Board was prohibited from making a decisions and putting a condition on it.

Mr. Bruno asked that the specific questions from the memo be read aloud to make things clear for the public and for the record.
Mr. Bruno proceeded to read the questions from the memo: Is this for one resident? Does the resident reside there? How long is it anticipated that this resident will live there? Has this been determined a medical necessity? Do other means exist that would accomplish the same effect but be within our code or require less of a variance? What are the practical or special requirements for this individual in other settings? What is done currently to cope with this situation and how would the variance change that situation? Is the situation purely one of economics or convenience? Would the variance be effected in achieving the desired resolve? What would the practical resolve be if the variance is not granted and how would that effect the use of the property?

Doug Moore explained that yes, the resident is currently residing at the property and the goal is for the residents to be properly matched so the resident can live there all their life.

Mr. Bruno asked Doug Moore if the application was made as a diagnosed medical necessity.

Doug Moore stated that is was medically diagnosed and pointed to a letter that was made by the resident’s team explaining the reasons the higher fence is needed. He explained that many of the residents can be considered flight risks if they are triggered.

Mr. Bruno asked whether this person has been diagnosed a flight risk.

Mr. Norton discussed the letter from the Cuyahoga County Board of Development and Metal Disability and how it does not clearly state that the resident has been diagnosed a flight risk. The letter does indirectly state that the environment has been assessed and having the fence would greatly decrease the risk of harm to the residents of the home.

Mr. Tyo stated that the letter states that the higher fence would help the environment for everyone in the home, but asked for clarification whether the application was submitted for only one resident in particular.

Doug Moore answered that to his knowledge it was only needed for one resident.

Mr. Tyo questioned if the difference between the four foot and six foot fence would make much of a difference for this resident.

Mr. Norton discussed the design of the fence being thin vertical metal railings as opposed to other designs to serve as an even more of a deterrent for the resident of getting out. He mentioned that the design could also be part of the decided upon motion if it was necessary.

Mr. Gess voiced his concerns for the basis of the request based on the use and not on a practical difficulty or hardship peculiar to the premises. He wondered how it would be enforced if the property owner were to change or the resident no longer lived at the property. He explained that he felt it was a special use of the property. He also asked Mark Barbour if there was an overlying mandate from ADA requiring the city to comply based on federal statute.
Mark Barbour explained that, in his opinion, this is a different situation from an animal or small children based on the fact that the status of the property is as a group home. He explained that the reason to ask the series of questions above was to understand the particular needs of this individual for the record so the applicant can demonstrate that the variance is required for this particular situation due to the status of the individual. He felt that Doug Moore was unknowingly not quite prepared or may not have the exact knowledge at this time to be able to answer all the questions from the Board. Although he had a letter prepared, he may have not been given clear instructions on what specific details were needed to be included.

Mr. Barbour explained that there are some limitations due to HIPPA that they need to be aware of in not disclosing the identity of the resident. It would be beneficial for the Board to have more of an understanding of the medical situation because it is a unique circumstance that the property is being used as a group home.

To answer Mr. Gess’ question, Mr. Barbour explained that the Fair Housing Act applies to group homes and there have been cases related to zoning requirements being struck down when being applied to group homes and regarding zoning ordinances that relate to location based on certain restrictions from schools or the amount of group homes allowed to be in one community. Those type of restrictions have been deemed invalid.

Mark Barbour explained that Doug Moore must demonstrate a strong particular need for the variance for this particular resident. Providing such a record would help make it clear that this is a specialized circumstance that applies to this particular use of the property.

Mr. Bruno explained that based on what he does professionally, that medical necessity is the appropriate term. The Board should be given that information in order to make the best decision and have a full understanding based on the fact that this decision will run with the property.

Mark Barbour stated that based on 1127-04 (D), the Board has broad powers to put any kind of requirements or restrictions on any variance that is granted, which includes a temporary variance.

Mr. Burke suggested that the Board could send a copy of these minutes to the Recorder’s office that could be placed on the file and would be seen if there was a search on the title.

Mark Barbour agreed that it would show up in a title search but also explained that each property has an address file kept here at city hall where such information could be held.

Mr. Bruno expressed concern that other practical considerations could be given that would not include a variance. Such as a four foot fence with arbs so that individual is less inclined to make it to the fence line.

Mark Barbour stated that practical difficulties can be addressed by something other than the requested variance should be used as a standard for the Board when making the determination. Group homes are still required to abide by zoning requirements and all the zoning codes still apply, but cannot be applied in a discriminatory manor.
Mr. Norton stated that he was under the impression that group homes are required to be registered by the city and were under its own category based on the fact it violates one of the ordinances by having multiple families in a single family home.

Mr. Miller explained that group homes were different and did not violate.

Mr. Tyo explained that if such variance was granted, it would clearly have to live with the property only as long as the resident was living at the property.

Mrs. Young discussed how there are 55 group home within the county, and wondered why the resident was placed in a city where there are more strict ordinances.

Doug Moore explained that matching the individual with a specific home and other house residents is specific to the need of each resident with similar challenges and ages. Making it as much of a family environment as possible.

Mr. Barbour shared that under 1114.06 each family in each home shall be inspected annually by the building department and the fire department. He also mentioned that each site has to complete a license renewal annually with the city. This ensures there is a system in place that would alert the city that the home is no longer being used as a group home.

Doug Moore concurred that there are many inspections done on the home.

Mr. Tyo asked Doug Moore if he was confident that a six foot fence would contain the resident in attempts to get out.

Doug Moore explained that based on the fence design it is the best option for that specific individual and that a four foot fence would not even slow down the resident. He also explained that any time an individual is home, there is staff there to watch them. The hope is that a six foot fence would keep the individual safe.

Mr. Norton read from the letter from the Cuyahoga County Board of Developmental Disabilities that based on multiple professional assessments, it was determined that this house would be most successful if it included fencing that was six foot in height around the perimeter of the backyard.

Mr. Bruno asked if the resident has left the property without the fence or have they done it at any other property in the past.

Doug Moore was not able to answer that. But wanted to respond to Mr. Norton’s previous reading from the letter from the Cuyahoga County Board of Developmental Disabilities. He explained that the assessments performed on the residents are thorough. A team of around 3-8 people meet from the county to discuss the specific needs of each individual.

Mr. Tyo asked if there were alarms on the doors. Doug Moore said yes.

Mr. Miller asked how the gate would be secured.
Doug Moore explained that generally speaking a latch would be put on the gate that the resident would not be able to figure out how to unlatch. Similar to a pool entrance latch.

Mr. Burke asked if the purpose of the six foot fence was to serve as a second barrier for the resident. He asked if the house is currently equipped with alarm locks on the windows and doors.

Doug Moore stated that yes, there are locks and alarms on the doors and windows and the fence is requested to serve as another barrier for the resident from getting out.

Mr. Tyo asked if it was necessary for the entire yard to be enclosed or could just a small portion around the patio be fenced.

Doug Moore explained that a goal of the county is for the group home to have a home like atmosphere and a tightly enclosed fence would give more of a cage like feel.

Mr. Burke wondered how the Board could come up with a reasonable solution that would best meet the needs of the resident but also have the least amount of variance running with the property.

Mr. Tyo stated that he would like to see a motion on this with a temporary variance put on the property based on the residence being a group home and the specific resident living in the home. He would also like to have it on file with the Recorder’s office. He did not think it would be prudent for the applicant to wing it tonight and proposed spending the next two weeks working on a motion that could be submitted to Council.

Mr. Norton asked Doug Moore if this was time sensitive and if a final review and vote could be held two weeks from now.

Doug Moore felt ok about waiting the two weeks.

Mr. Burke volunteered to write the first draft of the motion and submit it to City Council and to the other board members.

Mr. Bruno restated that it was fair for the record and for the public to know if this particular resident has exited a property in the past or at this current residence.

Mr. Norton asked that Doug Moore submit any more knowledge or paperwork to the secretary. He also asked the audience if anyone was here on behalf of this agenda item.

Jon Demko, neighbor, who shares the back property line with the group home voiced his concerns with the potential new variance. While he thinks the group home is doing great things, he would not be happy about how the fence would look aesthetically. He has worked with his surrounding neighbors to come up with and agree upon a fence and he does not like the idea that Doug Moore’s fence would be directly next to his. He feels it would no longer have a cohesive
look he and all the neighbors were going for. He was happy to see how they could make this work for everyone involved.

Jon Demko said he would be ok if they decided to pull up his fence and put the new six foot high fence in his place. He does not want to have two fences within inches of each other on his back property line.

Doug Moore wondered how it would work if the fence was granted based on a temporary basis.

Mark Barbour reiterated Doug Moore’s thought and questioned that if the resident no longer resided in the home, what would they do with the shared fence. He suggested they could avoid that by granting a permanent variance if they felt inclined.

Mr. Burke moved that the application be tabled until the October 18, 2018 meeting to allow time for a drafting of a purposed motion to be circulated to legal counsel and members of Board and Zoning appeals. This matter would then have further discussion and consideration.

Mr. Miller requested that the applicant also provide more information about the resident’s history of leaving the property past and present.

Mark Barbour asked Doug Moore to also provide any more information that would help with this application without violating HIPPA or if they could get a waiver from the resident’s guardian to provide more information in answering the previously asked questions.

Mr. Burke makes a motion to table the application until further research is performed. Mr. Bruno seconded the motion and called for roll.

**Motion** by Mr. Burke, **second** by Mr. Bruno to table the matter of Doug Moore regarding the property at 497 Bradley Road.

**Roll Call Vote:**

**Yeas** – Miller, Bruno, Gess, Norton, Tyo, Burke, Young

**Nays**

**Motion Carried 7-0**

This agenda item will be tabled until the October 18, 2018 Board of Zoning Appeals meeting.

Maxine Josie  
27219 Wolf Rd.  

C.O. 1173.01 Applicant is requesting a variance for providing microblading services to their customers.

Applicant: Maxine Josie

Property Owner: BV, LLC
Mr. Norton stated that Maxine Josie is requesting a variance for providing microblading services at her hair salon and spa, MJ’s Hair Studio. The Board has visited the site and reviewed the application. Mr. Norton asked if there was any discussion on the application.

Mr. Burke asked if microblading was subject to the tattoo section of the Ohio Revised Code and not under the cosmetology section.

Maxine Josie explained that microblading was under the tattoo section of the Ohio Revised Code.

Mr. Burke asked Maxine Josie if a beauty salon would be required to have two separate state licenses and subject to two different sets of regulations and inspections. He also asked if she was granted permission to perform microblading in her salon and she decided to stop the hair salon side of the business she could technically still do the microblading.

Maxine Josie explained that yes, two separate licenses are required and, although she never would, she could decide to stop with the hair portion of the salon and just do microblading.

Mr. Burke discussed that if she had the microblading license she could decide she would like to open up a tattoo business.

Maxine Josie was not sure if that would be allowed. But she does not have any plans for that. She is a stylist and barber and is looking to expand her business and continue to service the needs of her customers. She also explained that although it is under the tattooing license, there are different instruments used and is considered a semi-permanent tattoo. She is hoping to be able to provide a service that is in high demand and used by clients for various reasons.

Mr. Tyo explained that they were not questioning her intent or business but more so concerned with how Ohio State Law and local law would be effected by granting her permission to offer microblading.

Mr. Miller asked Maxine Josie to discuss further about who the technician is that would be providing the service.

Maxine Josie stated that the woman who would be providing this services has been doing it for the past two years, has taken two microblading courses, she is currently doing the microblading in Westlake but has just started apprenticing on the hair side at MJ’s Hair Studio. She also explained how she has a popular Instagram page showing all her work with picture of clients’ befores and afters.

Mr. Norton asked if this treatment was often used by cancer patients.

Maxine Josie explained that some of her cliental are cancer patients and people who have alopecia. She explained that the empowerment this service provides is beneficial in making them
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feel better about themselves. It is a semi-permanent procedure that can last 1-3 years if they do not get it done again.

Mr. Norton stated that the city clearly does not want a tattoo parlor in town and it comes down to the special use for the special permit. He sees it as a reasonable request so long as there is a barrier for somebody else coming in to take over or start a new one and turn it into a tattoo parlor. His main concern is making sure the wording is clear enough so that the city is protected.

Mr. Gess asked if the license for the microblading is a distinguishable license different than a general tattooing license. When she is granted a license for microblading does it limit her to only being able to provide microblading and not all tattooing in general.

Maxine Josie stated that she believed it was and that microblading is part of a subsection under tattooing.

Mr. Bruno explained that he was fine with the microblading procedure but wants to make sure that any variance or special permit that is granted is conditionally.

Mr. Norton asked Mark Barbour if this could be done by a special use permit granted to the applicant as a business for so long as they are in business, at that location and not running with the property.

Mark Barbour answered yes.

Motion by Mr. Burke, second by Mr. Norton for MJ Hair Studio to be granted the special use permit to allow the applicant to engage in microblading provided that this use permit does not extend in any way to tattooing or body piercing or any of the services allowed under Chapter 3730 of the Ohio Revised Code. Further provided that in the event the applicant ceases doing business at the property of 27219 Wolf Road this special use permit will be in decease as a salon spa. This special use permit is not allowed to be conveyed, assigned or transferred by the applicant.

Roll Call Vote:  
Yeas – Miller, Bruno, Gess, Norton, Tyo, Burke, Young  
Nays-  
Motion Carried 7-0

The meeting adjourned at 8:56 p.m.

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Jack Norton, Chairman     Kateri Vincent, Secretary