

**BOARD OF ZONING APPEALS  
MINUTES FOR THE  
OCTOBER 10, 2016  
MEETING**

Pursuant to written notice, the meeting of the Board of Zoning Appeals (the "BZA") was called to order by Chairman Al Schutte at 7:30 PM on Monday, October 10, 2016, in the Council Chambers of the Village of Evendale Municipal Building. Attending were Chairman Al Schutte, members Dave Harwood, Mike Reed, and Ken Valentine. Supporting the BZA was Pam Morin (staff).

**Nan Roy  
3300 Twilight Drive  
Applicant has submitted an application for a nine (9) foot variance from the  
required 35 feet rear yard setback in the Residential District as set forth in  
Schedule 1246.07 of the Village of Evendale Zoning Code.  
File #V-16-05**

Ms. Roy's house is located on a corner lot on the southern border of the Carpenters Creek Subdivision. When Mr. and Mrs. Roy built their home, Carpenters Creek Subdivision wasn't built out yet. Mrs. Roy testified at that time she was told that their house had two front yards, a side yard and a rear yard and that they were in compliance with the Evendale Zoning Code that was in place at that time. It was after the completion of their house, that the Village bought the lot east of her property and extended Carpenters Creek Drive to connect with the existing Twilight Drive.

Ms. Roy explained that her existing deck is two stories and is in need of repair. While she is repairing her deck, she would like to enlarge it an additional four feet toward the rear property line, placing the new deck nine feet from the property line.

Section 1242.03(a)(85) of the current zoning code states that a house built on a corner lot has two front yards and two rear yards. Schedule 1246.07 requires rear yards to have a minimum setback of 35 feet. The existing deck is 8 feet by 22 feet and is located 21.06 feet from the property line, making her property nonconforming.

Mr. Reed read Section 1264.05(d) regarding the expansion of nonconforming uses and Section 1264.06 regarding nonconforming structures.

After hearing Ms. Roy's testimony and reviewing the documents filed, the BZA establishes the following findings of fact:

1. The applicant timely filed an appeal from the denial
2. The Village of Evendale timely and properly provided public notice to all required parties;
3. The BZA timely conducted a hearing;
4. The BZA found that the residence located at 3300 Twilight Drive is a nonconforming use;
5. Section 1264.05(d) of the Village of Evendale Zoning Code does not allow the expansion of a nonconforming use;
6. The BZA members did not feel that they had the authority to make a decision in regard to nonconforming uses.

Upon motion made by Mr. Reed, duly seconded by Mr. Harwood and adopted by a vote of 4 in favor, 0 against, the BZA denied the request for the variance.

Mr. Schutte asked for a motion to approve the minutes. There was a short discussion where Mr. Schutte suggested one modification to the minutes. A motion was made by Mr. Harwood and seconded by Mr. Valentine to approve the minutes of the August 24, 2016 meeting as amended. The motion passed with a 4 – 0 vote.

Upon a motion made by Mr. Harwood and seconded by Mr. Valentine the meeting was adjourned at 8:15 PM.

Attest:

Al Schutte, Chairman  
Board of Zoning Appeals