

**BOARD OF ZONING APPEALS
MINUTES FOR THE
MAY 24, 2018 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 Thursday, May 24, 2018, 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). Also present were the persons listed on Exhibit A attached hereto and incorporated by reference herein.

After all those present who planned on giving testimony were duly sworn in by Chairman Schutte, the following appeals were on the Agenda:

1. Applicant, Niko Murrell, 3309 Plateau Place, has submitted a request for an appeal of the Building Commissioner’s interpretation of maximum height of perimeter fences in the Residential District per Schedule 1266.04(A) of the Village of Evendale Code of Ordinances and is seeking an appeal as per Section 1284.01 of the Village of Evendale Zoning Code.
2. Applicants, Nicola and Greg McSwain, 10311 Evendale Drive has submitted a request for a variance from Schedule 1250.05 Notes (a) of the Village of Evendale Zoning Code per request from the Village of Evendale Planning Commission (EPC) and is seeking a variance as per Section 1284.01 of the Village of Evendale Zoning Code.

Section 1284.02 of the Code establishes the parties entitled to appeal to the BZA. “Any application for appeal to the Board of Zoning Appeals may be filed by any person adversely affected by an order, decision, determination, or failure to act of the Building Commissioner or the Planning Commission”.

The first order of business was the appeal filed by **Niko Murrell** regarding 3309 Plateau Place. After hearing the testimony of those testifying and reviewing the written evidence submitted, the BZA, upon motion made by Mr. Reed, seconded by Mr. Valentine, unanimously adopted the following Findings of Facts.

1. By letter dated April 18, 2018, Don Mercer, Building Commissioner of the Village of Evendale, Ohio, denied applicant’s, Mr. Murrell, request for a building permit to build a perimeter fence six feet in height. A copy of said rejection letter is on file in the Building Department and is incorporated by reference herein.
2. Applicant, Mr. Murrell, filed an appeal dated April 23, 2018, with the Evendale Zoning Board of Appeals within the required 14 days following the denial of the applicant’s request. A copy of said appeal is on file in the Building Department and is incorporated by reference herein.
3. After proper notice to the required parties, the BZA held a hearing on May 24, 2018, said date being within the required time. A copy of said notice is on file in the Building Department and is incorporated by reference herein.

4. Mr. Murrell explained that the nature of his dog requires substantial exercise and the size and nature of his dog requires a fence higher than that permitted by applicable statute. Applicant submitted the following testimony and other evidence:
 - a. Application for Variance and Nature of Variance.
 - b. Justification of Variance.
 - c. Proposed site plan to scale.
 - d. Topographical map depicting drainage swales.
 - e. Sketch of irrigation system.
 - f. Sketch of septic installation.
 - g. Fence quote.
 - h. Images of proposed fence.
5. Mr. Valentine asked Mr. Murrell if he had considered an electrical dog fence. Mr. Murrell responded no, and stated that he does not believe in shocking dogs. Mr. Valentine said that it is his preference is that applicant try something within our zoning code before a variance is granted.

DECISION

RESOLVED, that Mr. Murrell met all but two Justifications; Justification #2, that Mr. Murrell's variance request is 50% above the allowable fence height, which the BZA determined was substantial and Justification #6, that an electrical dog fence is a feasible solution. The BZA hereby denies the application for a variance to allow a six-foot perimeter fence to be built on the subject property by the Applicant with a vote of 4 in favor, 0 against.

The next order of business was consideration of the appeal filed by **Nicola and Greg McSwain** regarding their property located at 10311 Evendale Drive.

After hearing the testimony of those testifying and reviewing the written evidence submitted, the BZA, upon motion made by Mr. Reed, seconded by Mr. Valentine, unanimously adopted the following Findings of Facts.

1. Evendale Planning Commission minutes dated April 17, 2018 denying overhead doors fronting Evendale Drive per Schedule 1250.05 Notes (a) of the Village of Evendale Zoning Code exist. A copy of said minutes are on file in the Building Department and incorporated by reference herein.
2. Applicant filed an appeal with the Evendale Zoning Board of Appeals within the required 14 days following the denial of the applicant's request. A copy of said appeal is on file in the Building Department and is incorporated by reference herein.
3. After proper notice to the required parties, the BZA held a hearing on Thursday, May 24, 2018, said date being within the required time. A copy of said notice is on file in the Building Department and is incorporated by reference herein.

4. Applicant submitted the following testimony and other evidence:
 - a. Mr. McSwain satisfied all seven required justifications for a variance.
 - b. That the building is located on the dead-end portion of Evendale Drive.
 - c. A detention pond on the State of Ohio property located to the west of 10311 Evendale limits the placement of the new proposed buildings.

DECISION

RESOLVED, that the BZA hereby reverses the findings made by Evendale Planning Commission and grants the applicant's appeal from the Evendale Planning Commission's interpretation of Section 1250.05 Notes (a) of the Village of Evendale Zoning Code, by a vote of 4 in favor, 0 against.

The next order of business was review of the minutes from the August 17, 2017 meeting of the BZA. A motion was made by Mr. Harwood and seconded by Mr. Schutte to approve the minutes of the August 17, 2017 meeting. The motion passed by a vote of 3 in favor, 0 against and 0 abstentions.

Upon a motion made by Mr. Schutte, seconded by Mr. Valentine and unanimously adopted, the meeting was adjourned at 8:05 P.M.

Attest:

Al Schutte, Chairman
Board of Zoning Appeals