

**WRITTEN SUMMARY  
BOARD OF ZONING APPEALS  
MEETING MINUTES  
Thursday, October 6, 2016  
1:30 p.m.**

The Board of Zoning Appeals meeting was called to order by Madam Chair Underwood-Kramer at 1:30 p.m.

**Members Present:**

Ms. Nancy Bushman, Mr. George Jonson, Mr. Desmond Maaytah, Madam Chair Karen Underwood-Kramer and Mr. Michael Samoviski.

**Members Absent:**

None

**City Staff Present:**

Mr. John Creech, Ms. Kathy Dudley, Mrs. Heather Hodges, and Ms. Kim Kirsch. Mr. Allen Messer (Public Works) was also present to answer questions.

Madam Chair Underwood-Kramer gave an overview of the process of the meeting.

**Swearing in of Those Providing Testimony to the BZA:**

Ms. Dudley swore in audience members who were going to testify.

**Old Business:**

None

**New Business:**

**Agenda Item #1 - 2016-14: Variance Request for 140 Wasserman Road**

**Staff: Mr. John Creech**

**Request by Ms. Patricia Bishop for a side yard setback variance for the expansion of a driveway into the five (5) feet minimum setback, on property zoned R-1 Single-Family District, located at 140 Wasserman Road.**

Mr. Creech stated that Ms. Bishop is seeking a variance to the requirements of the zoning ordinance in order to allow a recently constructed driveway expansion to remain on the property within the five (5) foot minimum side yard setback. He stated that the minimum

setback for a new driveway is five (5) feet from the side property line per Section 1115.00 of the Hamilton Zoning Ordinance.

The dispute between the applicant and the abutting neighbor at 130 Wasserman Road is that the expanded driveway encroaches over the property line and onto the adjacent property. In addition, the expansion on the driveway caused a change to the storm water flow, resulting in a back up of water onto the Applicant's property.

Mr. Creech then gave a few more specifics of the current item and gave details of the items that were handed out just prior to the meeting.

Mr. Creech then stated that the BZA can approve, deny or modify the variance request for the driveway setback.

### **Zoning Variance Review**

In order to grant a zoning variance, the Hamilton Zoning Ordinance "Section 1170.63 Variances -Findings of the Board" requires that the BZA must find that all four of the following facts and conditions below exist beyond a reasonable doubt:

Exceptional Circumstances, Preservation of Property Rights, Absence of Detriment, and Not of a General Nature.

Mr. Creech addressed each of these conditions, gave the staff findings and some additional information for each.

Madam Chair Underwood-Kramer verified with Mr. Creech that the only thing the Board can do is with regard to what is up to the legal property line, nothing that involves a survey, and nothing with regard to the driveway encroachment onto adjacent property. She further verified that the issue with the catch basin is an issue with Public Works, and the Board does not need to address anything with regard to that either.

There were then photographs shown of the property which were taken in 2013, and then current pictures.

There was then a brief discussion between the Board and Mr. Creech regarding the survey, property lines, easements, issues with the catch basin, and drainage on to the property at 140 Wasserman.

Mr. Creech concluded his presentation to the Board by stating that the item was advertised as a Public Hearing.

Madam Chair Underwood-Kramer asked if there was anyone in the audience who wished to speak.

First was Ms. Patricia Bishop, 140 Wasserman Road. She said that she has always lived in the country, she didn't know that she had to get any permits, and she didn't know that the new driveway was on the neighbor's property line at all. She said that prior to the addition of the new driveway, she maintained the grass up to the fence line, and the neighbor maintained everything from the fence line over.

She gave the reasons for the additional driveway and said that she has been trying to work on the catch basin issue with Public Works. She said that she would like to get her own survey done, and that she will what is right with regard to anything that is on the neighbor's property.

Next to speak was Elmer Bishop, 1188 Shuler Avenue. He said that he helped Ms. Bishop with the driveway, and he also was not aware of the ordinances. He said that it's Ms. Bishop's wish to get the variance up to the property line.

Madam Chair Underwood-Kramer than asked if there was anyone that wished to speak against the appeal.

Lisa Roberts, 130 Wasserman Road, spoke. She said that had there not been the issue with the storm water flow, they would not know there was an issue with regard to the property line. She said that she's just asking for anything that extends onto their property to be removed, and that she believes that once the extra part of the driveway on their property is removed, the issue with the catch basin will resolve itself.

Ms. Underwood-Kramer asked her if she was opposed to the variance up to the legal property line, and she said that she is not; she just wants anything of the neighbor's that is on her property to be removed.

With no one else in the audience wishing to speak, Mr. Jonson made a Motion to close the Public Hearing. With a 2<sup>nd</sup> by Mr. Samoviski and all "ayes", the Public Hearing is closed.

Mr. Jonson made a Motion to grant the variance and gave his reasons with regard to each condition. With a 2<sup>nd</sup> by Mr. Samoviski and all "ayes", the Motion is passed with a vote of 5-0.

Mr. Creech advised Ms. Bishop that her variance is approved up to the property line, that the Board's decision becomes effective 5 days after the date of the meeting, and that she will receive a letter confirming the Board's decision within 5 days.

**Minutes:**

Approval of Meeting Minutes - Written Summary and Audio Recording for the following dates:

**September 1, 2016.**

Mr. Jonson made a Motion to accept the minutes as presented. With a 2<sup>nd</sup> by Ms. Bushman and all "ayes", the Motion passes and the minutes are approved.

**Adjourned:**

With nothing further, Mr. Jonson made a Motion to adjourn. With a 2<sup>nd</sup> by Mr. Samoviski, the meeting is adjourned.

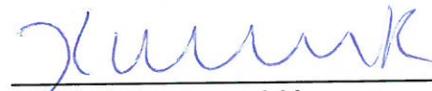
Respectfully submitted,

Ms. Kim Kirsch  
Administrative Assistant



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Mr. John Creech  
Secretary



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Karen Underwood-Kramer  
Madam Chair

**BOARD OF ZONING APPEALS (BZA)**  
City of Hamilton  
Council Chambers

**MEETING DATE:** 10/6/16

**MEETING TIME:** 1:30 PM

**Please sign in and provide requested information. Thank you for your participation.**

Name	Agency	Address	Phone	Email
PATRICIA Bishop		140 WASSERMAN RD	513-348-0272	
EMERY Bishop Sr		1188 SHULER AVE	513-257-6992	
DAVE Lisa Roberts		180 WASSERMAN Rd	513-8567226	

