

**BOARD OF ZONING & BUILDING APPEALS  
CITY OF AVON  
MEETING MINUTES FOR JANUARY 4, 2023**

**ROLL CALL**

The meeting was called to order by Chairman Ladegaard at 7:00 p.m. in Council Chambers.  
Present: Michael Bulger, Mark Ladegaard, Chauncey Miller, Kurt Schatschneider  
Staff: Jill Clements, Zoning Enforcement Officer; Pam Fechter, Planning Coordinator; John Gasior, Law Director; Duane Streater, Safety Director, Nicole Rambo-Ackerman, Planning Clerk  
Absent: Bill Hricovec

**REVIEW & CORRECTION OF MINUTES**

**Mr. Miller moved, seconded by Mr. Schatschneider, to dispense with the reading of the minutes of the regular meeting held on December 7, 2022, and to approve the minutes as published. The vote was: "AYES" all. The Chair declared the motion passed.**

**REPORTS & CORRESPONDENCE**

**ADDITIONS & DELETIONS**

**APPEALS & REQUESTS**

**1. Kristyn Fitchko; 38757 Melgrove Lane; 67-22**

No representatives present.

Proposal consists of a driveway extension. Proposal was tabled at the November and December BZBA meetings.

The following variance is requested:

1. A 4 ft. side yard setback for a driveway extension; code requires 5 ft., applicant proposes 1 ft., Section 1262.08(c)(2).

**Mr. Miller moved, seconded by Mr. Schatschneider, to remove the request from the table for the following variance for Kristyn Fitchko; 38757 Melgrove Lane; 67-22:**

1. A 4 ft. side yard setback for a driveway extension; code requires 5 ft., applicant proposes 1 ft., Section 1262.08(c)(2).

**The vote was: "AYES" all. The Chair declared the motion passed.**

Mr. Ladegaard said the applicant is having problems with their contractor so it may take a while to get it resolved.

**Mr. Miller moved, seconded by Mr. Bulger, to table the request indefinitely for the following variance for Kristyn Fitchko; 38757 Melgrove Lane; 67-22:**

1. A 4 ft. side yard setback for a driveway extension; code requires 5 ft., applicant proposes 1 ft., Section 1262.08(c)(2).

**The vote was: "AYES" all. The Chair declared the motion passed.**

During the comments portion of the meeting, Mr. Schatschneider asked if the Fitchkos would need to resubmit if they wanted to continue with their variance request. Mr. Gasior said if they were not planning on coming in within the next four to six months, then they would need to resubmit a new

application and fee. Mr. Ladegaard said Ms. Fitchko is looking for a new contractor so she would need to go through the application process again. Ms. Clements said they will need a new zoning permit application as well. Mr. Gasior asked if the fee would be refunded, Mr. Schatschneider said it depends on how they look at Schedule 1262.08(c). Mr. Schatschneider pointed out that Schedule 1262.08(c) requires a setback of five feet from the side lot line for supplemental paved areas for parking with the notation (d) which states that the setback from adjoining lot lines in the area between the front lot line and the building line shall be two feet. He noted 20 feet is required for the front lot line with a notation of (g) requiring ten feet from the property line. Mr. Gasior asked if the proposal is in the side yard, Mr. Schatschneider thought that it would be the front yard because it goes from the front building line to the street, Mr. Gasior agreed. Mr. Gasior read notes (d) and (g) and believed it was saying the setback from the side lot line would be two feet when in the front yard but would increase to five feet after the front building line in the side yard. Ms. Fechter thought there would be a gap where they meet. Mr. Gasior did not think it made sense if the pavement could be expanded 20 feet from the front lot line to be two feet from the side lot line, Ms. Clements said that would be for an extension. She explained when a driveway is expanded to the curb, then there have never been any issues. Ms. Fechter said there is another code section that requires concrete for the apron and at the garage but could have gravel in the middle. Ms. Clements clarified that was for very long driveways. Ms. Clements asked if a resident wants to do a driveway extension that would encroach on the area within 20 feet of the curb, then would it require a variance. Mr. Gasior said that is how he read it. Mr. Ladegaard pointed out that a driveway requires a zero foot setback in the front yard. Ms. Clements was told that the setback would not be required if they extended it to the curb. Mr. Gasior recollected that the bump out was allowed but it needed to be tapered back to the existing apron because they were not allowed to expand the apron. In the cluster areas, the driveways are allowed to be wider because the driveways are not as long and the lots are smaller. The maximum driveway width allowed in residential districts is 36 feet. This proposal is currently 16 feet wide and would be expanded to 27 feet. Mr. Gasior explained the requirements for basketball hoops and unenclosed decks and patios to use as a comparison. Ms. Clements thought it was dependent on the building setback. If it was 50 or 40 feet, the supplemental area had to start 20 feet from the front lot line and then go out. If it was 30 feet or less, then it could angle out 45 degrees past the sidewalk and then go up. Mr. Schatschneider said the two-foot setback from the side lot line is there so the water run off would stay on the owner's property and not go onto their neighbor's property. Mr. Gasior suggested tabling the proposal for three months in case the contractor remains the same. Ms. Clements said the zoning permit would expire April 12 [Clerk's note: the zoning permit application was denied and no permit was issued]. Mr. Gasior said that would give staff a chance to review the writeup and issue new notices if needed. Ms. Clements said the applicant's front building line is 30 feet, the front yard setback is 34 feet and the house is 24 feet nine inches from the right-of-way. Ms. Clements asked where it states that the 45 degree was required. Mr. Gasior believed it came from residents not wanting to expand the apron. Mr. Gasior was not sure where the 36-foot wide driveway came from. Ms. Clements said it is rare to receive a request to expand the driveway to the curb. Mr. Gasior thought they should come up with an interpretation to use.

**Mr. Schatschneider moved, seconded by Mr. Miller, to reconsider the motion to table the request indefinitely for the following variance for Kristyn Fitchko; 38757 Melgrove Lane; 67-22:**

- 1. A 4 ft. side yard setback for a driveway extension; code requires 5 ft., applicant proposes 1 ft., Section 1262.08(c)(2).**

**The vote was: "AYES" all. The Chair declared the motion passed.**

**Mr. Ladegaard moved, seconded by Mr. Schatschneider, to table the request until the April BZBA meeting for the following variance for Kristyn Fitchko; 38757 Melgrove Lane; 67-22:**

- 1. A 4 ft. side yard setback for a driveway extension; code requires 5 ft., applicant proposes 1 ft., Section 1262.08(c)(2).**

**The vote was: “AYES” all. The Chair declared the motion passed.**

**2. Nagel Crossing Retail Development; NE Corner of Nagel Road and Just Imagine Drive; 75-22**

Representative: Jim Evans, Portal Associates, 3951 Convenience Circle NW, Suite 302, Canton, OH 44718

Proposal consists of a new retail center with Starbucks.

The following variances are requested:

1. A 15.5 ft. variance for parking setback from Just Imagine Drive; code requires 35 ft., applicant proposes 19.5 ft.; Section 1270.06(a)(1).
2. A 4 ft. variance for parking setback from Nagel Road; code requires 35 ft., applicant proposes 31 ft.; Section 1270.06(a)(1).

Mr. Evans was sworn in. Ms. Fechter explained that city staff requested that the lanes and drive access line up with the neighboring hotel property, which created the variance requests. A site plan showing the proposal with the neighboring property was also provided. A copy of the February 2014 minutes was also provided showing a similar variance being granted for Residence Inn on Just Imagine Drive. Mr. Evans said they are proposing a little more than 15,000 square feet of retail development on the site with a Starbucks and retail tenants. The main variance is on Just Image Drive so they can line up the driveways with the hotel. If the setback was met there would be a jog and they do not have room on the site to meet the other requirements and make the project viable. The request is about half a foot more than the hotel’s request due to the right-of-way line bending slightly up closer to Nagel Road. Ms. Fechter added that the applicant is looking at doing a lot split so the green space to the north will hopefully be another hotel. Mr. Evans said the variance is needed on Nagel Road because Starbucks likes to have an outdoor seating area. On the other end of the building, Chipotle will be going in and they also want an outdoor seating area. Ms. Fechter said she previously spoke with Mr. Evans and Mr. Sirpilla from Deville Developments and they have agreed to work with Mr. Gasior to prepare a document stating that they will restore any work that needs to be done in the utility easement at their own cost.

**Mr. Miller moved, seconded by Mr. Bulger, to approve the request for the following variance for Nagel Crossing Retail Development; NE corner of Nagel Road and Just Imagine Drive; 75-22:**

1. A 15.5 ft. variance for parking setback from Just Imagine Drive; code requires 35 ft., applicant proposes 19.5 ft.; Section 1270.06(a)(1).

**The vote was: “AYES” all. The Chair declared the motion passed.**

**Mr. Bulger moved, seconded by Mr. Miller, to approve the request for the following variance for Nagel Crossing Retail Development; NE corner of Nagel Road and Just Imagine Drive; 75-22:**

2. A 4 ft. variance for parking setback from Nagel Road; code requires 35 ft., applicant proposes 31 ft.; Section 1270.06(a)(1).

**The vote was: “AYES” all. The Chair declared the motion passed.**

**COMMENTS**

**Section 1262.08**

Mr. Schatschneider asked for clarification regarding Section 1262.08(c)(2) regarding the setbacks from the lot line in regard to the Fitchko appeal. See Fitchko appeal discussion for more details.

**ADJOURN**

**Mr. Bulger moved, seconded by Mr. Miller, to adjourn the meeting at 7:39 p.m. The vote was: “AYES” all. The Chair declared the motion passed.**

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Mark Ladegaard, Chair

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Nicole Rambo-Ackerman, Clerk

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Date