

**ZONING BOARD OF APPEALS  
MEETING MINUTES  
Mayfield Village  
Oct 15, 2019**

The Board of Appeals met in regular session on Tues, Oct 15, 2019 at 7:30 p.m. at the Mayfield Village Civic Center Conference Room. Chairman Syracuse presided.

**ROLL CALL**

**Present:** Mr. Vetus Syracuse Chairman  
Mr. Stivo DiFranco Chairman Pro Tem  
Ms. Alexandra Jeanblanc  
Mr. John Michalko

**Also Present:** Ms. Kathryn Weber Law Department  
Mr. John Marquart Economic Development Manager  
Mr. Tom Cappello Village Engineer  
Mr. John Marrelli Building Commissioner  
Ms. Deborah Garbo Secretary

**Absent:** Mr. Joseph Prcela

**CONSIDERATION OF MEETING MINUTES: Sept 17, 2019**

Ms. Jeanblanc seconded by Mr. Michalko, made a motion to approve the minutes of Sept 17, 2019.

**ROLL CALL**

Ayes: All                      **Motion Carried**  
Nays: None                    **Minutes Approved As Written.**

**CONSIDERATION OF CASE NUMBER #2019-03**

**Applicant:** Skoda Construction & 345 Miner Rd, LLC  
Highland Rd PRDD Subdivision

1. A request for a variance from Section 1359.01 to allow for Tree Clearing to make way for utility work for a new PRDD Subdivision.
2. A request for a variance from Section 1117.04 (b) (c) to allow for a 6% maximum Centerline Road Grade to allow for a new PRDD Subdivision.

**Abutting Property Owners:**

Highland Rd: 6434,6442,6450,6468,6492,6500,6532,6544,6566,6580,6598,6441,6449,6465  
6473,6483,6493,6501,6517,6525,6533,6543,6553,6575,6587

SOM Ctr Rd: 554

**OPEN PORTION**

Chairman Syracuse called the meeting to order. This is a Zoning Board of Appeals meeting of Mayfield Village Tues, Oct 15, 2019. The only Case before us tonight is consideration of Case #2019-03. The applicant is Skoda Construction and 345 Miner Rd, LLC. The abutting property owners were notified of this meeting as noted.

Chairman Syracuse asked, who is here that'll be making a presentation on behalf of the applicant?

Chris Skoda replied, myself and Chuck Szucs.

**OATH**

Chairman Syracuse stated that anyone wishing to speak must be sworn in. Chairman Syracuse administered the oath to Mr. Chris Skoda and Mr. Chuck Szucs and asked anyone else wishing to speak, to state their name and address for the record.

**Tree Clearing  
Presentation by Chris Skoda**

Chris Skoda said, good evening. The tree clearing issue for any subdivision the way the code is written right now, any property owner can cut down 10 living trees maximum.

Ms. Weber said, that's correct. In order to cut down more than 10 trees, you have to receive a permit in order to clear. Technically, what this Board is determining is whether or not you want to issue a permit to Mr. Skoda in order to remove the trees as part of his Planned Residential Development.

Chairman Syracuse said, I'd like to note for the other members, this tree clearing issue did come before the Planning & Zoning Commission at our last meeting and was approved subject to the condition that these variances are granted here, otherwise, it's not going to be approved by Planning & Zoning. They did vote to approve it.

Mr. Marrelli said, we've been through the planning process. In order to get the streets started, utilities started, obviously he's going to have to take down more than 10 living trees on these properties. There's more than one property, but there's more than 10 trees on any given property. It's going to take some clearing. There was a clearing plan that was approved by the Planning Commission. Chris, would you like to point out where the trees are going to come out.

Chris Skoda points out on the clearing plan the planned area for tree removal. This will give us the ability to clear for sewers and road work.

Mr. Marrelli asked, so the house lots will not be cleared, just the utilities and roadways?

Chris Skoda replied, correct. All of the housing lots will stay treed at this point.

Mr. Michalko asked John, did you hear from any of the neighbors?

Mr. Marrelli replied, no. There're a couple here tonight.

Chairman Syracuse suggests, let's go through and discuss the second variance request and then open it up for comments and questions from anyone here.

### **Road Grades**

#### **Presentation by Chris Skoda**

Chris Skoda said, the way the code is currently written, the street grades are supposed to be no more than 4%. For example, Highland Rd is 4% going up to the bridge. Our property, this section is low, naturally it's maybe 3 to 4 feet lower than Highland and up here is higher by a few feet. The church is down here, the freeway up here. In order to go to 4% grade, this end has to come up, this end has to go down. The issues that creates, the one grade will be higher than the Church here, so we'll have trouble with water. Secondly, there's a really high spot right here on the property as you come up from Highland going towards the freeway. Either way, we're still going to have to strip land out if you grant the variance. We're going to have to strip about 4' of earth out of here, this section. If we weren't granted a variance, this road would probably have to go down to 8 to 10 feet from current grade and that would create a mound over here. So, it creates quite a few issues. What we're asking for with grade is 5% here instead of 4% and then this road we're going to be at 6%. Everything else conforms to the current code. So I guess our request would be no more than 6%. Certainly we don't want to have it any higher than we have to, we don't want to build hills.

Shout out from the audience, then the ordinance should be changed, it should be 6% before you-

Chairman Syracuse said, hold on, there's still a presentation being made. You're going to have to be sworn in if you're going to give any testimony before us tonight.

Chris Skoda continued. It's not that this couldn't be done, but it would look awful. What would happen is these lots up here are going to be on top of a mountain per say because this road's going to be 8' below, so you're going to see driveways going uphill to all these houses. By this going to 6% alleviates that, you won't have that issue. Aesthetically it's going to be more pleasing not to stick to 4%. Every lot's not the same, they're not all flat or not all at 4 degrees. I'll let Chuck explain the technical issues.

Chuck Szucs with Polaris Engineering said, actually that's pretty technical. The grade we're on is like 8%. I think in the County you're allowed to do 8%, ODOT says 9%, and Geauga is like 10%. At 6% we try to follow the natural grade of the land. That's just good design, economically it makes sense.

Chairman Syracuse asked Tom to explain his review letter.

Mr. Cappello said, I think our code at 4% is somewhat strict. I don't necessarily agree with it myself. ODOT's Location and Design Manual Volume 1 talks about grading of street profiles and they do permit any level area which we consider as fairly level even though it's 8%. They can go up to a 9% grade. I would not want to see that. In conversations with Mr. Skoda and Chuck from Polaris, we thought 6% max made more sense. It was a logical compromise. If I was designing this, I would be doing it very similar to this. I gave you some examples of roads in the Village;

<u>Street Name</u>	<u>Centerline Profile Grade</u>
Miner Rd (Not in Village)	5%
Joyce Rd	5%
Worton Pk Dr	4.5%
Beechers Brook Dr	6.7%
Aintree Pk Dr	6.7%
Hardwood Ct	5.6%
Hanover Rd	6.7%
Echo Dr	5%
Village Trails	8.9%
Wilson Mills Rd	8%

Mr. Cappello said, my personal opinion, I have no problem with this request. The other thing to remember is, the way these lots are and these hills, if he has to follow that stricter sense based on the higher lots, we don't have the distance from the road. These PRDD lots, the driveways are very short. You may have steep driveways, you still may have some of them in the subdivision just because of the terrain, but we would try to avoid having to do that.

Chairman Syracuse said, just to remind everyone here, our standard for our vote tonight for granting these variances, whether or not we're going to, is a practical difficulty standard. What we're looking at are all the factors that were considered in the application in determining that either one or both of the following factors are met which would constitute a practical difficulty;

- a. The conditions upon which an application for a Variance is based are particular to the subject property with respect to the physical size, shape or other characteristics of the premises or adjoining premises, differentiating it from other premises in the same district: or
- b. The Variance would result in an improvement of the property that is more appropriate and more beneficial to the community than would be the case without granting of the Variance.

#### **OPEN DISCUSSION**

Chairman Syracuse states, if there's anyone here from the public who has anything they'd like to say or ask of the applicant or others seated on this Board, I'll get you sworn in.

There were no comments.

Chairman Syracuse asked, any of the other members have any questions or comments?

Ms. Jeanblanc said, I think they've noted the water issues.

Mr. DiFranco said, the tree clearing piece first, in our ordinance it says; "If, however, in the opinion of the Municipal Engineer and the Building Commissioner, there are additional trees that should be removed...." So Tom, is it your opinion, you have no problem with clearing of the trees?

Mr. Cappello replied, to John's point, I think this ordinance was really meant for individual home lots. For any development, you're going to have to remove more than 10 trees no matter what. In this case, no, I don't have a problem with removing these trees.

Ms. Weber said, to clarify, he's not seeking a variance from this section. What the code provides, is that in order to get a permit to remove these trees, the Board of Appeals is who issues those permits. It first goes to our Building Dept and Village Engineer to give a recommendation, which they provided in your packet, then it's up to this Board to issue that permit.

Mr. Michalko said, I read it to the fact that; "With the consent of the Municipal Engineer and the Building Commissioner, the person need not apply for the permit required herein before causing such trees to be removed or destroyed." So, if you guys decide on it, technically you guys could make the decision.

Ms. Weber said, once the permit is issued, if it's determined that there needs to be a couple of additional trees through the building process, they don't need to come back to the Board in order to get another permit to take down additional trees. The Building Commissioner and Engineer can approve that.

Mr. Marrelli brings attention to the memo dated 2/7/85 from Gus Amendola to Mayor Carmen;  
**Trees**

"Chapter 1359....Although our tree ordinance covers the required permit for the cutting of trees, it does not cover the circumstances that require more trees removed than may appear to be necessary. For example, it is a common sense rule that any tree within 20' of a building will eventually die due to the heavy excavating equipment damaging the root systems. Nothing is worse than to have someone move into their new building and then have some of the trees die off. Trees also interfere with the driveway location and the owner may have some definite reasons for its location. A certain amount of reasonableness must be used in the layout."

Mr. Marrelli said, in the past, we've only come to this Board when a homeowner has wanted to put in a swimming pool or an out building, or whatever and have to take down more than 10 living trees. I've always approached it as for developed property, not for a new development. We're working with the Law Dept to clean up that language. Because if not, every development from here forward forever will have to come to the Board of Appeals for a permit to cut down trees to build.

Mr. Michalko said, that would include the Memory Care development that never did start.

Mr. Marrelli said yes, that's Artis by Campus II. There's probably 500 trees that have to come out there. They'd have to come in here and explain that they're putting a building in the middle of that lot so they need to clear all those trees. We're going to try to clean up the language between Administration and the Law Dept so that new projects should be exempt because, how are you going to build anything without taking the trees down?

Mr. Michalko asked, what do you do with the landscape plan eventually to add more trees to the site?

Mr. Marrelli said, we always have a tree clearing plan as part of the approval process, and that goes through the Planning Commission.

Chairman Syracuse said, the final site plan will have to go through the Planning & Zoning Commission before it's approved. This is preliminary to that. If this gets approved tonight the applicant will be able to go ahead and start clearing trees this year, to get started on the project now rather than have to wait until spring. Again, the P & Z Commission already approved this tree clearing at the last meeting. Again, this Planned Residential Development District issue was on the ballot May of this year and did pass by the electorate. Without the granting of these variance requests for a permit tonight, the applicant would not be able to use this property. In my opinion, without the granting of these variances and the permit, it could create a practical difficulty with the owner.

Mr. DiFranco said, back to John's point, the way that this reads, they don't have to come in here for a variance.

Mr. Marrelli said, you're not actually granting a variance.

Ms. Weber said, you're issuing a permit. If you look at **Section 1359.01**, the second part of that paragraph, you're talking about additional trees outside of what the initial permit was issued for. So we're saying;

“No person shall in any one calendar year, remove or destroy or cause to remove or destroy, by cutting, burning, bulldozing, or any other means, more than 10 living trees having a trunk diameter of nine inches or more at height of fourteen inches above ground level, or more than 25% of the living trees having such trunk diameter, whichever is fewer, on any lot or parcel of land within the municipality without first receiving the permit for such purpose from the Municipal Engineer and the Building Commissioner.”

Mr. DiFranco said, stop there. What I'm hearing you say is that the permit is issued through the Village Engineer and the Building Commissioner.

Ms. Weber said, but then it goes on to say under:

**1359.03**; “The application shall be forwarded to the Board of Appeals of the Municipality by the Municipal Engineer and the Building Commissioner, within 10 days after receipt thereof, together with their report and recommendations thereon”.

Ms. Weber said, and then **1359.04** provides that there needs to be a hearing before the Board of Appeals and;

“The Board of Appeals, after considering the reports and recommendations of the Municipal Engineer and Commissioner, as well as any and all additional evidence presented by the applicant and other persons at the hearing, shall determine whether a permit shall be granted and may attach to the granting of the permit such conditions as it deems necessary to promote the public welfare.”

Mr. Michalko said, it states here that if the trees are going to be damaged through any type of construction, they don't have to come for a permit.

Mr. Marrelli said, the way it's written is conflicted because it says that the Engineer and the Building Commissioner can make that decision. But then it also says to apply for the permit, you have to come to the Board of Appeals.

Mr. Michalko said, but it also says the person need not apply for the permit.

Chairman Syracuse said, I think the confusion is that in our packet we only have the language from 1359.01.

Ms. Weber said the full Chapter 1359 provides that the Board of Appeals has to issue the permit. The standard that you're looking at is **Section 1359.04**;

“The Board of Appeals shall not grant the permit if it finds that such removal or destruction of trees is reasonably likely to cause soil erosion, result in pollution or an unreasonable large loss of oxygen, interference with drainage and the natural supply of water, or that it will result in an unsightly and blighted condition, or will depress property value in the Municipality.”

Mr. DiFranco said, so I would make the evaluation that the particular pieces that we are to look at are covered. Is it through the SWPP, and has the Village Engineer approved that plan?

Mr. Cappello replied, for the clearing part, yes.

Mrs. Jeanblanc said, it's our job to tell him to issue the permit.

Mr. DiFranco said, I understand that. But what that's saying is the criteria by which we wouldn't issue the permit.

Mrs. Jeanblanc said, it's a little circular.

Mr. DiFranco said, it's not circular to me. So if you could read that again, the soil piece.

Ms. Weber said;

"The Board of Appeals shall not grant the permit if it finds that such removal or destruction of trees is reasonably likely to cause soil erosion, result in pollution or an unreasonable large loss of oxygen, interference with drainage and the natural supply of water, or that it will result in an unsightly and blighted condition, or will depress property value in the Municipality."

Mr. DiFranco asked, so how do we make that evaluation?

Ms. Weber said, both the Village Engineer and the Building Commissioner will evaluate those factors as part of their recommendation to this Board as well as the water plan for this subdivision that has gone through approvals at the Planning & Zoning level.

Mr. DiFranco said, so what I'm hearing is that the Village Engineer and the Building Commissioner have agreed that soil erosion and pollution criteria are not significantly impacted. In other words, we can stand on their professional judgment to say that this permit should be issued because those things won't be harmed.

Ms. Weber replied, correct.

Mr. Marrelli said, and we have the SWPP plan already approved.

Mr. Cappello replied, as far as the tree clearing. As far as the approval, I haven't officially approved everything yet. What they're asking here and what they're going to do is an erosion control plan after they clear it. It's basically remove trees and mulch them-

Mr. DiFranco said Tom, did you approve the SWPP plan (SWP3)?

Mr. Cappello replied, no not yet.

Mr. DiFranco said, so we haven't gotten that approved yet, so how could we make that evaluation?

Mr. Cappello said again, what they're proposing to do is clear the trees so they can prepare, timing wise to get the road in and sewers. Chuck, do you have a preliminary SWPP plan for this part?

Chuck Szucs replied, it's part of this but the basin and everything isn't required until we start the building soil.

Mr. Cappello said, as far as plan wise, it's not in my opinion something I'm worried about. I can approve this this week if I have to if that's something that you're concerned about. I don't think anything that they're doing here is going to not be addressed.

Mr. Marrelli said, nothing will come off of that site to affect anybody anywhere in that area.

Mr. Cappello said, you're going to have runoff that goes off the site anyway, but they have the proper filter sock and-

Mr. DiFranco said, those are my points. Those are pollution pieces, storm water management pieces. If they're not approved by you, how can we make a determination that more than 10 trees should be removed from this particular location?

Chairman Syracuse said, we could take a vote tonight on approving the issuance of the permit subject to the Village Engineer's approval of the plan.

Mr. Cappello said, I'm not sure if I should be approving a plan that doesn't get done. I've given you my recommendation, but before they get a variance or the appropriate permit, I don't know that I should be approving something.

Ms. Weber said, I believe that the preliminary plan pursuant to the Planned Residential Development District is approved and has been vetted. Under the PRDD regulations, the process is that the applicant presents a preliminary plan which goes through approval, and then presents a final plan that has the nitty gritty details to it. The preliminary plan has already been approved by the Planning & Zoning Commission and-

Mr. DiFranco said, but not by the Village Engineer.

Mr. Cappello said, we're still in the process of going through changes here. This clearing plan's a little different than the original one you sent, because we moved some sewers out of the backs and things like that. There's actually less disturbance in this one. Have I officially approved the storm water, no, for this particular one yet, no, but the intent is there.

Mr. Michalko said Tom, with Steve's concerns, if you see the issues that Steve's bringing up right now, you could put a stop to the work.

Mr. Cappello said right, they will be addressed. Like we've done at Planning & Zoning before, sometimes we don't have completed plans yet, but I'll do a comment letter that the applicant addresses. So we've done this in the past, the bodies have approved the plans contingent on me being satisfied that all my points, those conditions are met.

Chairman Syracuse asked, does anyone have anything else on this or the other request?

Mr. DiFranco said, on the second one, relative to the slope, this kind of development was a Planned Residential Development for Senior Living, that's how it was sold to the Village, has that changed?

Mr. Skoda said, we abandoned that through the process. We went to first floor living. We had that taken out of the Development Agreement.

Mr. Marrelli said, it's not a Senior Housing Development.

Mr. DiFranco asked, was the Development Agreement put in place prior to the Village residents voting?

Chris Skoda replied, yes.

Chairman Syracuse asked, any other questions or comments?

There were none.

### **DECISION**

Ms. Jeanblanc, seconded by Mr. Michalko made a motion to approve the two variance requests to allow for tree clearing and a 6% maximum centerline road grade to make way for a new Highland Road Subdivision for Skoda Construction & 345 Miner Road, LLC as proposed.

### **ROLL CALL**

Ayes: Mr. Syracuse, Mr. DiFranco, Ms. Jeanblanc, Mr. Michalko

Nays: None

**Motion Carried.**

**Variances Approved.**

### **Right to Appeal**

Chairman Syracuse stated, you or any interested party has the right to appeal the decision within ten (10) days to Council.

### **ADJOURNMENT**

Ms. Jeanblanc, seconded by Mr. Michalko made a motion to adjourn the meeting.

### **ROLL CALL**

Ayes: All

Nays: None

**Motion Carried**

**Meeting adjourned at 8:00 p.m.**

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Chairman

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Secretary