

**CAUCUS PRIOR TO STRONGSVILLE BOARD OF ZONING &
BUILDING CODE APPEALS**

**Meeting of
June 13, 2018
7:30 p.m.**

Board of Appeals Members Present: Kenneth Evans, Richard Baldin, John Rusnov, David Houlé, Tom Smeader
Administration: Assistant Law Director Daniel J. Kolick
Building Department Representative: Brian Roenigk
Recording Secretary: Kathy Zamrzla

The Board members discussed the following:

NEW APPLICATIONS

1) BRENT AND GINGER HEYNEMAN, OWNERS

- a) Requesting a variance from Zoning Code Section 1274.07, which prohibits a change to a non-conforming lot where the applicant is proposing a 496 SF Unenclosed Patio where none is permitted;
- b) Requesting an 11' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which permits a 14' encroachment into the established Rear Yard Setback and where a 25' encroachment into the Rear Yard Setback is proposed in order to construct a 496 SF Unenclosed Patio; property located at 18313 Potomac Drive, PPN 396-19-045, zoned R1-75.

The Board noted that there was decking and trees already, and that it's muddy around the site. They discussed the applicant's plans to put in a larger patio in the yard, and it was commented that the plans look like it'll definitely enhance the yard. They noticed that they still need an HOA approval letter. They also pointed out that the applicant's first request is due to the change in the Code that makes their lot non-conforming.

2) MICHAEL AND ELAINE ZUSY, OWNERS

Requesting a 4' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 10' Rear Yard Setback and where a 6' Rear Yard Setback is proposed in order to construct a 144 SF Deck; property located at 10750 Carmel Oval, PPN 395-27-146, zoned R1-75.

The Board noted that they received an HOA approval letter. They also mentioned that the applicant's yard backs up to a common area to the turnpike and expressed that it shouldn't be an issue to anyone around them.

3) **DIRK GARNER AND ZARINA MELIK-STEPANOVA, OWNERS**

Requesting a variance from Zoning Code Section 1252.16 (e), which prohibits a Patio in the front yard and where the applicant is proposing a 283 SF Patio in the front yard; property located at 17631 Falling Leaves Drive, PPN 396-05-072, zoned PDA-2.

The Board noted that the plans are not really for a patio, but it's more like two sidewalks that go in a half round in the front yard with landscaping in the middle of it. They mentioned that it's only slightly larger than what's permitted and it's replacing an existing walkway. The Board was describing the flooding issue that their current situation causes, and mentioned that the change will definitely enhance the property. They also mentioned that there are similar situations around the neighborhood.

4) **SHIRISH PATEL, OWNER/Steve Bella with Bella Cement, Representative**

- a) Requesting a variance from Zoning Code Section 1274.07, which prohibits a change to a non-conforming lot where the applicant is proposing an 870 SF Unenclosed Patio and a 384 SF Unenclosed Patio where none is permitted;
- b) Requesting an 11' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which permits a 14' encroachment into the established Rear Yard Setback and where a 22' encroachment into the Rear Yard Setback is proposed in order to construct an 870 SF Unenclosed Patio and a 384 SF Unenclosed Patio; property located at 21688 Briar Bush Lane, PPN 392-09-007, zoned R1-75.

The Board pointed out that again the applicant's first request is due to the change in the Code that makes their lot non-conforming. They pointed out that it's already staked out. They found no issue with this request. They also mentioned that they need to receive an HOA letter still from Meadowood.

5) **PAULINE WARNER/Dave Hopkins with Paradise Pools, Representative**

Requesting a variance from Zoning Code Section 1274.07, which prohibits a change to a non-conforming use where the applicant is proposing an in-ground swimming pool; property located at 11433 Pearl Rd., PPN 392-21-014, zoned RMF-1.

The Board was informed that the yard has already been excavated, and that the pool shell is already in place. They also noted that the applicant doesn't have it backfilled or completed yet. The Board was told that there is a lot of the old pool is still there on the lot, and that this pool seems smaller than they had previously. They mentioned that this yard has always been non-conforming because it's zoned multi-family due to the apartment building behind it, and actually if it was the apartment putting in the pool it wouldn't be an issue. They noted that it is very private back there by the pool.

6) **WILLIAM FOWLER, OWNER**

Requesting a 17'4" Front Yard Setback variance from Zoning Code Section 1252.05, which requires a 50' Front Yard Setback and where a 32'8" Front Yard Setback is proposed in order to construct a 450 SF Garage Addition; property located at 11712 Park Point Place, PPN 398-15-029, zoned R1-75.

The Board noted that this is a front yard setback for a larger garage. They commented that they have already received an approval letter from the HOA. The Board mentioned that the extension is on the front of the garage, and that it will make it line up better with the rest of the houses around it after completed.

7) **SGT. CLEAN CAR WASH aka BENDIK HOLDINGS, LLC/ Greg Seifert, Representative**

Requesting a 5'6" Side Yard Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Side Yard Setback and where a 4'6" Side Yard Setback is proposed in order to expand an existing parking lot; property located at 18534 Pearl Road, PPN 394-26-003, zoned CS.

The Board noted that this is a small existing lot, and that they are requesting to put in some vacuums on the existing parking lot. They also mentioned that the applicant might possibly be putting in a fence, and that the fence that exists is not board on board. They also examined the plans and noted that they back up to some lots so it's important how they shield it.

PUBLIC HEARINGS

8) **ERIC BURCH AND KAREN SHINSKY, OWNERS**

- a) Requesting a variance from Zoning Code Section 1274.07, which prohibits a change to a non-conforming lot where the applicant is proposing an 80 SF Accessory Structure where none is permitted;
- b) Requesting a variance from Zoning Code Section 1274.07, which prohibits a change to a non-conforming lot where the applicant is proposing a 15' x 15' Unenclosed Patio where none is permitted;
- c) Requesting an 11' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which permits a 14 encroachment into the established Rear Yard Setback and where a 25' encroachment into the Rear Yard Setback is proposed in order to construct a 15' x 15' Unenclosed Patio; property located at 13206 Compass Point Drive, PPN 399-31-049, zoned R1-75.

The Board pointed out that the first two requests are regarding the non-conforming issue, and the other is for the encroachment on the rear yard setback. They also noticed that the neighbor has a shed in a similar location. They also stated that this is not a topographical issue, but more about the new Code changes.

9) CLARK OIL aka YEY LLC/ Eli Mahler, Representative

Extension of the June 14, 2017 determination of the Board of Zoning and Building Code Appeals:

- a) Requesting a variance from Zoning Code Section 1274.06, which prohibits the enlargement or structural alteration of a nonconforming building or use except to make it a conforming building or use and the applicant is proposing the demolition of the current Gas Station/Convenience Store and construction of a new building;
- b) Requesting a .64 acre Lot Area variance from Zoning Code Section 1258.08, which requires a 1 acre minimum Lot Area and where a .46 acre Lot Area is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- c) Requesting a 35' Lot Width variance from Zoning Code Section 1258.10, which requires a minimum Lot Width of 150' and where a 115' Lot Width is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- d) Requesting a 5' Side Yard Building Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Side Yard Building Setback and where a 5' Side Yard Building Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- e) Requesting a 5' Rear Yard Building Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Rear Yard Building Setback and where a 5' Rear Yard Building Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- f) Requesting a 10' Side Street Parking Setback variance from Zoning Code Section 1258.11 (b) (3), which requires a 20' Side Street Parking Setback on a corner lot and where a 10' Side Street Parking Setback (North) is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- g) Requesting a 10' Front Parking Setback variance from Zoning Code Section 1258.11 (a), which requires a 75' Front Parking Setback and where a 65' Front Parking Setback is proposed in order to replace a Gas Station/Convenience Store

with a 2,500 SF Gas Station/Convenience Store; property located at 15387 Pearl Road, PPN 397-01-025, zoned General Business (GB).

The Board was informed that the applicant applied for a new permit today for a new gas station and convenient store, and were given the plans provided by Kathy. They questioned if they need to go in front of the Planning Commission now as well. They debated if the applicant's prior Planning Commission approval had expired, and whether that would affect their decision today. They agreed that they can act on their request based on what they submitted in 2017, but only if those variances stay in place as they were. They concluded they wanted to know much more information about any changes they are proposing to their plans to see if it affects their decision during the meeting tonight. It was noted that the Building Commissioner had not yet seen the plans. They were informed by Mr. Kolick that they could table this for tonight if needed; otherwise it could take much longer to go through City's system if they have to start over again. He added that the applicant could instead amend their old plans to the current ones to keep the process going instead.

OTHER BUSINESS

10) DAVID AND DIJANA OUTCALT, OWNERS

Requesting a 10' Rear Yard Setback variance from Zoning Code Section 1252.04 (f), which requires a 50' Rear Yard Setback and where a 40' Rear Yard Setback is proposed in order to construct a 430 SF Addition; property located at 19789 Kensington Court, PPN 397-28-068, zoned R1-75.

The Board received the HOA approval letter they were waiting for from Deerfield Woods, and now they need to vote on it because the public hearing is completed.

The Board members also discussed the minutes and found no errors. They also discussed the Findings of Fact and Conclusions of Law submitted.

**STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS
MINUTES OF MEETING
June 13, 2018**

The meeting was called to order at 8:00 PM by the Chairman, Mr. Evans.

Present: Mr. Baldin
Mr. Evans
Mr. Rusnov
Mr. Smeader
Mr. Houlé

Also Present: Mr. Kolick, Assistant Law Director
Mr. Roenigk, Building Department Representative
Ms. Zamrzla, Recording Secretary

Mr. Evans – Good evening ladies and gentlemen. I would like to call this June 13th, 2018 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. Kathy if you would call the roll please?

ROLL CALL: ALL PRESENT

Mr. Evans – I hereby certify that this meeting has been posted in accordance with Chapter 208 of the Codified Ordinances of the City of Strongsville. We have minutes from the May 23rd meeting. If no one has any corrections to present, we will submit those minutes to the official record. We also have Findings of Facts and Conclusions of Law for Robert Dombrowski for the decision of the Board on May 9th, 2018. Are there any corrections or comments to make on those on the floor? Hearing none and seeing none I will entertain a motion.

Mr. Houlé – I make a motion to approve the Findings of Facts and Conclusions of Law for Robert Dombrowski for the decision of the Board on May 9th, 2018.

Mr. Smeader – Second.

Mr. Evans – Thank you Mr. Smeader, may we have a roll call please?

ROLL CALL: RUSNOV – YES MOTION PASSED
HOULÉ – YES
EVANS – ABSTAIN
SMEADER – YES
BALDIN - YES

Mr. Evans – We also have Findings of Facts and Conclusions of Law for the Pine Lakes development extension Phase 2 with Lipovits Construction for the decision of the Board that was also on May 9th, 2018. Are there any comments or changes? Hearing none and seeing none I will then entertain a motion.

Mr. Houlé - I make a motion to approve the Findings of Facts and Conclusions of Law for the Pine Lakes development extension Phase 2 with Lipovits Construction for the decision of the Board that was made on May 9th, 2018.

Mr. Baldin – Second.

Mr. Evans – Thank you for the second, may we have a roll call please?

ROLL CALL:	RUSNOV – YES	MOTION PASSED
	HOULÉ – YES	
	EVANS – ABSTAIN	
	SMEADER – YES	
	BALDIN - NO	

Mr. Evans – Thank you, the Findings of Facts and Conclusions of Law for both have then been approved.

Mr. Kolick – We should probably say for the record that you needed to abstain since you weren't present for the public hearing on either of these two items. So that should be noted.

Mr. Evans – Thank you for that clarification because I'm sure everyone was on the edge of their chairs wondering about that. Thank you, Mr. Kolick. Next, if there is anyone in our audience this evening that wishes to speak whether it is to present to the Board or to speak at a public hearing, I ask that you stand now and be sworn in by our Assistant Law Director, along with our Recording Secretary, and our Representative from the Building Department.

Mr. Kolick then stated the oath to those standing and anyone who participated.

NEW APPLICATIONS

1) **BRENT AND GINGER HEYNEMAN, OWNERS**

- a) Requesting a variance from Zoning Code Section 1274.07, which prohibits a change to a non-conforming lot where the applicant is proposing a 496 SF Unenclosed Patio where none is permitted;
- b) Requesting an 11' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which permits a 14' encroachment into the established Rear Yard Setback and where a 25' encroachment into the Rear Yard Setback is proposed in order to construct a 496 SF Unenclosed Patio; property located at 18313 Potomac Drive, PPN 396-19-045, zoned R1-75.

Mr. Evans – First on the agenda is Brent and Ginger Heyneman, and this is for the property on 18313 Potomac Drive. Please come up to the microphone and give us your name and address for the record.

Mr. Heyneman – Brent Heyneman, I'm the owner of that property. My address is 18313 Potomac Drive, Strongsville.

Mr. Evans – Can you describe for us the reason for asking for the variance? We understand that it's a non-conforming lot. What are you proposing to do?

Mr. Heyneman – We have given you pictures of what was there before. It was a deck that we had removed. We're basically looking to replace the deck with a stamped concrete patio. It's a little bigger than the deck was, but it doesn't go back any further than the deck did toward the rear lot line. We're requesting a variance for that.

Mr. Evans – There was change in the Zoning Code which has prompted your request here, correct?

Mr. Heyneman – Yes, when I met with Brian he explained that the Zoning Code had been changed a few years ago.

Mr. Evans – Okay. Are there any questions from the Board?

Mr. Smeader – We will need a HOA approval letter.

Mr. Heyneman – Yes, and I've never done this before, so what do I need to do with the HOA?

1) **BRENT AND GINGER HEYNEMAN, OWNERS, Cont'd**

Mr. Evans – You need to go to your HOA and indicate to them that you requested this variance from the City, and then you'll have to give them your plans, ask for their approval, and request that they send the Building Department a letter of support for the record. As soon as you can is ideal so Kathy will have it to distribute to the Board members prior to the next meeting. Otherwise you can bring it to the next meeting, and that will allow us to move forward with our vote.

Mr. Heyneman – Perfect, I'll do that.

Mr. Evans – I understand it's already staked out for us.

Mr. Smeader – This one is not marked. Just the decking has been removed.

Mr. Evans – In that case, we would ask that you put stakes at the corners of the proposed patio so we can see it.

Mr. Heyneman – The stone is already down so I have a good idea, and I think the plans that the concrete guy had were drawn on our plot where it'll be. Is that sufficient to take to the HOA?

Mr. Evans – Probably, but here again, they're free to ask for whatever they want to in terms of what they would like to see. For us it's just simply marking the corners. All of us will be out to see the lot. My suggestion is to start with what you gave to the City because that is usually sufficient for the HOA.

Mr. Baldin – It shouldn't be a problem, just let them know that the Code has changed because that's the big thing.

Mr. Houlé – The crushed lime stone is basically down as a foot print of where it'll be. It's pretty self-explanatory.

Mr. Evans – Okay. Is there anything else?

Mr. Rusnov – No.

Mr. Evan - Okay, so there will also be a notice that will go out to your neighbors within 500 feet of your property. It will state exactly the description that is written in the agenda tonight. So if you have curious neighbors that will want to ask questions, you should get together with them before the next meeting to explain simply what your plans are. That may save everyone some time and the trouble. The public hearing is on June 27th. We will invite you back at that time. It is not necessary that you stay for the rest of the meeting tonight. Thank you.

Mr. Heyneman – I'll be out of town because I'll be in Florida. My wife and family will also be out of town.

1) **BRENT AND GINGER HEYNEMAN, OWNERS, Cont'd**

Mr. Evans – Okay.

Mr. Kolick – You could have your contractor or someone represent you, or we could just push it back to the subsequent meeting, it's up to you.

Mr. Heyneman – I don't want to kick it any further back. I'm already 8 weeks behind.

Mr. Evans – This one is relatively simple. You have a contractor I presume?

Mr. Heyneman – Yes.

Mr. Evans - I would impose on them to come and represent you at that meeting since they want the work, and you want to get it done. There shouldn't be very difficult questions on this request for him so he should be able to sub for you.

Mr. Heyneman – Okay. Thanks.

Mr. Evans – If the contractor can't make it, tell to the Building Department and then we'll postpone it to the next public hearing, but June 27th is ideal for you, of course. Okay?

Mr. Heyneman – Very good.

Mr. Evans – You're all set.

Mr. Heyneman – Thank you.

2) **MICHAEL AND ELAINE ZUSY, OWNERS**

Requesting a 4' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 10' Rear Yard Setback and where a 6' Rear Yard Setback is proposed in order to construct a 144 SF Deck; property located at 10750 Carmel Oval, PPN 395-27-146, zoned R1-75.

Mr. Evans – Alright, item number two on our agenda is Michael and Elaine Zusy. Please come up to the microphone and give us your name and address for the record.

Ms. Zusy – I'm Elaine Zusy, 10750 Carmel Oval.

Mr. Zusy – I'm Mike Zusy at the same address.

Mr. Evans – You are asking for a rear yard setback variance to construct a deck. Tell us about your project, request, and why it's necessary.

2) **MICHAEL AND ELAINE ZUSY, OWNERS, Cont'd**

Ms. Zusy – We have 18’ of property from our house to the end of the property. The deck is 12’ and it’s supposed to have 10’ of clearance. Because of that we are asking for an additional 4’ for deck space.

Mr. Evans – This is because of the shape of the deck you want, and is this replacing an existing one?

Mr. Zusy – We have a sunroom that is 12’ from the house. Next to the sunroom is a concrete pad that is the same 12’ from the home. It was apparently built before the Zoning Code was 10’, and next to that is just a mulch bed of nothing. So what that nothing is, we want to build a 12’ by 12’ deck. We want it to all line up exactly from where it is now. I’m not going any further than the structures that are already there. My only question that I’d like to ask is whether the concrete pad which is 12’ by about 8’ was going to butt up against the deck, should we decide to take that out and put a deck there and make the deck 20’ by 12’. It’s already there, we are wondering if we have to ask for that in addition too?

Mr. Evans – Mr. Roenigk from the Building Department is turning his microphone on now and will respond to your question.

Mr. Kolick – I might be able to answer that actually. You should ask for that now.

Mr. Roenigk – Yes.

Mr. Kolick – If you do it later you’ll have to go through the whole process again because you’d be in violation of the setback again, and if this is granted the variance will only be for what your plans are currently. If you anticipate doing that, I would ask for it now.

Mr. Evans – So you’re proposing to take out the concrete pad and building the deck over that and to the limitation that you are now requesting. The setback would not change.

Ms. Zusy – No.

Mr. Roenigk – Right, just the square footage of the deck would change.

Ms. Zusy – Right, it would make it 20’ by 12’.

Mr. Roenigk – Right. The setback will be the same.

Mr. Kolick – It doesn’t matter because you’re only granting the setback variance for what they are currently asking for. So if they’re going to extend that structure out further than the rest of the structure it would be in violation of the Code so they’d have to get another variance for it.

2) **MICHAEL AND ELAINE ZUSY, OWNERS, Cont'd**

Mr. Evans – They aren't going out any further, they are going along the house.

Mr. Kolick – I understand, but you're only approving the 12' by 12' deck that she is showing us now. If they are going to extend it, and it's violating the setback they would need another variance. What you could do is ask for the whole thing now and if you decide not to do it then you have nothing to lose.

Ms. Zusy – That's what I would like to do then.

Mr. Roenigk – I'll need a resubmittal.

Mr. Kolick – Stop in at the Building Department and revise your drawing, Okay?

Ms. Zusy – Okay.

Mr. Baldin – We need to know the footage right now though, don't we?

Ms. Zusy – It would be 20' by 12'.

Mr. Baldin – Okay. So you're going to put a full deck in that is 20' by 12'.

Mr. Smeader – That's 240 SF instead of 144 SF.

Mr. Houlé – Right.

Mr. Evans – So you could still do the smaller amount, but if you want a larger one you'll have that as an option. Okay?

Ms. Zusy – Alright.

Mr. Evans – Are there any other questions or comment? Okay. So the same thing applies to you that all of the members of the Board will be out to visit the property to take a look at it. There will also be a notice that will go out to your neighbors within 500 feet of your property. It will state exactly the description that is written in the agenda tonight. So if you have curious neighbors that will want to ask questions, you should get together with them before the next meeting to explain simply what your plans are. That may save everyone some time and the trouble. The public hearing is on June 27th. We will invite you back at that time. It is not necessary that you stay for the rest of the meeting tonight. Thank you.

Ms. Zusy – Thank you.

3) **DIRK GARNER AND ZARINA MELIK-STEPANOVA, OWNERS**

Requesting a variance from Zoning Code Section 1252.16 (e), which prohibits a Patio in the front yard and where the applicant is proposing a 283 SF Patio in the front yard; property located at 17631 Falling Leaves Drive, PPN 396-05-072, zoned PDA-2.

Mr. Evans – Number three on the agenda is Dirk Garner and Zarina Melik-Stepanova. Please come up to the microphone and give us your name and address for the record.

Mr. Melik-Stepanova – My name is Zarina Melik-Stepanova, and I live at 17631 Falling Leaves Road.

Mr. Evans – We noted in caucus that we originally had the address wrong as 17031. So you are adding a patio in the front yard. Some of our Board members talked about it in caucus and noted that it's not quite a patio although it fits the Zoning definition of one. Tell us about why you want to do this project and why you need a variance. Some of the Board members mentioned flooding as an issue.

Mr. Melik-Stepanova – We do have a lot of flooding because the original patio has sunk into the ground so by elevating this a little bit and making the square footage a little wider, we're hoping that the flooding issues will be resolved. I have a picture if anyone is interested to see what this looks like.

Mr. Evans – We will all be out to look at it.

Ms. Melik-Stepanova – Perfect.

Mr. Evans – If you want to submit the picture we'd be happy to add it to the record.

Ms. Melik-Stepanova – No, they are on my lap top.

Mr. Evans – It's not necessary.

Mr. Smeader – This is effectively a half round sidewalk as opposed to a patio.

Mr. Evans – It fits the definitions of the Code.

Mr. Houlé – It's like two sidewalks.

Mr. Evans – So it makes it an easy one to look at.

Mr. Rusnov – Yes.

3) DIRK GARNER AND ZARINA MELIK-STEPANOVA, OWNERS, Cont'd

Mr. Houlé – We have the HOA approval letter already.

Mr. Evans – That's correct.

Ms. Melik-Stepanova – I also have signatures of all the neighbors who say it's okay with them.

Mr. Kolick – Why don't you present those.

Mr. Evans – That could really be helpful for you to submit. We'll be happy to take that, and now it's part of the official record then. Thank you. Excellent. I'll pass that this way. All of the members of the Board will be out to visit the property to take a look at it. There will also be a notice that will go out to your neighbors within 500 feet of your property. It will state exactly the description that is written in the agenda tonight. So if you have curious neighbors that will want to ask questions, you should get together with them before the next meeting to explain simply what your plans are. That may save everyone some time and the trouble. The public hearing is on June 27th. We will invite you back at that time. It is not necessary that you stay for the rest of the meeting tonight. Thank you.

Ms. Melik-Stepanova – Thank you.

4) SHIRISH PATEL, OWNER/Steve Bella with Bella Cement, Representative

- a) Requesting a variance from Zoning Code Section 1274.07, which prohibits a change to a non-conforming lot where the applicant is proposing an 870 SF Unenclosed Patio and a 384 SF Unenclosed Patio where none is permitted;
- b) Requesting an 11' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which permits a 14' encroachment into the established Rear Yard Setback and where a 22' encroachment into the Rear Yard Setback is proposed in order to construct an 870 SF Unenclosed Patio and a 384 SF Unenclosed Patio; property located at 21688 Briar Bush Lane, PPN 392-09-007, zoned R1-75.

Mr. Evans – That bring us to item number four on our agenda tonight which is Patel and Steve Bella with Bella Cement representing him. Please come up to the microphone and give us your name and address for the record.

Mr. Bella – Steve Bella, 12588 S. Churchill Way.

Mr. Evans – Thank you and you are representing the Patel's as their Contractor. They are looking for two variances, and we're back to the non-conforming issue again, and then the unenclosed patio. Tell us about their project and why the variance is needed.

4) **SHIRISH PATEL, OWNER/Steve Bella with Bella Cement, Representative, Cont'd**

Mr. Bella – They want to replace their existing deck with a stamped concrete patio that extends from the back of the house to the side of the house. It doesn't go further than that. My understanding is that anything you replace there you have to get approved through you guys.

Mr. Evans – This is the same size so the deck is still there?

Mr. Bella – The deck is smaller. They want to extend it so they have more room.

Mr. Evans – Any of those who have been out there, do we need to have them stake it out?

Mr. Baldin – You said that you're going to tear the old deck out and you're just going to put a concrete pad in now?

Mr. Bella – Because you do have a little bit of sloping there behind the house. Do you have to build that up?

Mr. Bella – We'll just face down with a side skirt of concrete.

Mr. Rusnov – This is another one that was adversely affected by the new Zoning Code.

Mr. Houlé – The backyard goes up to common land so there's no one behind it. We do need a HOA approval letter on that one.

Mr. Evans – Let the applicant know that they need to take their plans to their HOA and get them to send the City a letter of approval before the next meeting. They will probably need drawings or a description. Then let them know that everything that is here in the agenda will be in a letter that is going to go out to everyone within 500 feet of your property. It will state exactly the description that is written in the agenda tonight. So if you have curious neighbors that will want to ask questions, you should get together with them before the next meeting to explain simply what your plans are. That may save everyone some time and the trouble. All of the members of the Board will be out to visit the property to take a look at it before the next meeting, and your public hearing is on June 27th. The HOA letter is important so make sure to convey that to them.

Mr. Bella – Get it prior to the Building Department or just present it at the meeting?

Mr. Evans – It's helpful if you get it to us ahead of time, but given the amount of time they will probably be lucky to get it back from the HOA by the meeting. So have them bring it to the meeting if they can.

Mr. Bella – Okay. Thank you.

Mr. Evans - We will invite you back at that time. Thank you.

5) **PAULINE WARNER/Dave Hopkins with Paradise Pools, Representative**

Requesting a variance from Zoning Code Section 1274.07, which prohibits a change to a non-conforming use where the applicant is proposing an in-ground swimming pool; property located at 11433 Pearl Rd., PPN 392-21-014, zoned RMF-1.

Mr. Evans – Alright, item number five this evening is Pauline Warner with Dave Hopkins with Paradise Pools. Please come up to the microphone and give us your name and address for the record.

Mr. Berardinelli– I’m sorry I’m hard of hearing and you’re soft spoken.

Ms. Zamrzla – You’re microphone isn’t on.

Mr. Rusnov – That’s a good reason.

Mr. Evans – I have to pay my utility bill. Alright. Sorry about that.

Mr. Berardinelli – Wayne Berardinelli, 12361 Melody Lane, Grafton, Ohio.

Mr. Evans – Thank you very much. You are representing Paradise Pools?

Mr. Berardinelli – Yes sir.

Mr. Evans – Alright, thank you. We are looking at the request here which prohibits the non-conforming so we know that there has been a Zoning Code change that has affected this. In caucus you heard us talking about the fact that there is already work that has started on this. We understand that there is an explanation as to the process and what has happened so far.

Mr. Berardinelli – Our Company hasn’t started any work there at all. The couple that resides there had an existing pool from years ago. They contracted a different company, and I’m not sure who it was, but I’m sure they spent a ton of money with them. That company came in and started tearing out the top portion of the existing pool. It made it irreparable at that point, so even if it could have been repaired it was not an option any longer. So they put the fiber glass insert inside that, and did the prep work to bring the elevation up to accommodate that, and then they took off. So it’s an elderly couple, they are both in their early 80’s. I believe he has some health issues, although I’m not sure how much longer they will be living there. They got ahold of us via the internet. We’ve done several pools in Strongsville already. We’d like to be able to finish up their project for them so they can start enjoying it for some time.

Mr. Evans – Yes. Okay. Are there questions?

Mr. Rusnov – In other words you’re cleaning up the previous mess.

5) **PAULINE WARNER/Dave Hopkins with Paradise Pools, Representative, Cont'd**

Mr. Berardinelli – So to speak. We're going to make sure that everything that was done already was done right. Then we're going to finish it up for them.

Mr. Rusnov – Because you're going to have to guarantee someone else's work.

Mr. Berardinelli – We'll double check all that.

Mr. Rusnov – That's my only question.

Mr. Baldin – That old liner and all the stuff that is still there, that new fiber glass pool is sitting on top of some of that stuff right now?

Mr. Berardinelli – Sure.

Mr. Baldin – How are you going to get all that stuff out of there? Will you pick that liner up?

Mr. Berardinelli – It doesn't have to come out.

Mr. Baldin – It's just going to stay there. On the west end of it there were a lot of broken up pieces and so forth. I would think that would have to be removed.

Mr. Berardinelli – Well when the previous company started tearing up the top foot of the liner so they're in the coping, that's normal. You tear it out to get it below grade because you're just going to cover it up. You don't have to take the complete existing pool out.

Mr. Baldin – You're just going to cover it up then. All that stuff there.

Mr. Berardinelli – Yes, you just have to punch a few holes in the bottom to make sure that there's drainage, and you're elevating hydro-static pressure and it's not going to push on that. That way there's room for the water to go through. Plus we'll put in 4' perforated drain tile all the way across the deep end of the fiber glass pool, and we'll bed that in stone. Then we'll run it to a 12" crock to make sure that in the event that it does fill up the water can be taken away.

Mr. Baldin – The way the pool is sitting right now, that new fiber glass will pretty much be in the spot it's in now right?

Mr. Berardinelli – Correct.

Mr. Baldin – You're going to clean everything else up around it.

5) **PAULINE WARNER/Dave Hopkins with Paradise Pools, Representative, Cont'd**

Mr. Berardinelli – The existing pool is going to stay though.

Mr. Baldin – Okay. Wow. That was what I was wondering because like I said it looked like it was already on top of a pool that had collapsed and is falling apart.

Mr. Berardinelli – That's fine. It's not going to affect the structural integrity of the new pool whatsoever.

Mr. Baldin – So they had to put that in I assume with a big crane? I'm just curious about how they put that in there.

Mr. Berardinelli – Sometimes, it depends on the lay of the land. I'll use an extendable reach fork lift, a crane, sometimes I'll send in an excavator. It just depends on the circumstance. It depends on what machine I can get in there.

Mr. Baldin – A bit difficult I thought, it probably would have been. I don't know.

Mr. Berardinelli – Sometimes.

Mr. Evans – Are there other questions? All of the members of the Board will be out to visit the property to take a look at it. There will also be a notice that will go out to your neighbors within 500 feet of their property. We welcome the Warner's back for the public hearing is on June 27th.

Mr. Berardinelli – Is that different from the 10 day period that we already waited?

Mr. Evans – The public hearing is required for any variance request so tonight you're presenting to us what you're doing, then the notices go out indicating a public hearing on June 27th, and anyone with questions could come to that meeting to ask them. We'll also make the decision that night regarding the variance request.

Mr. Berardinelli – Okay. Sounds good.

Mr. Evans – Okay?

Mr. Berardinelli – Sounds good. Thank you.

Mr. Evans – So we'll see you or them back here on June 27th, and then you're all set.

Mr. Berardinelli – Thank you.

Mr. Evans – Thank you.

6) WILLIAM FOWLER, OWNER

Requesting a 17'4" Front Yard Setback variance from Zoning Code Section 1252.05, which requires a 50' Front Yard Setback and where a 32'8" Front Yard Setback is proposed in order to construct a 450 SF Garage Addition; property located at 11712 Park Point Place, PPN 398-15-029, zoned R1-75.

Mr. Evans – Item number six on the agenda is William Fowler. Please come up to the microphone and give us your name and address for the record.

Mr. Fowler – William Fowler, 11712 Park Point Place.

Mr. Evans – Thank you, you are asking for a front yard setback variance in order to do a garage addition.

Mr. Fowler – Yes sir.

Mr. Evans – You're also a part of the Forest Park HOA so we'll have to ask for a letter of approval.

Mr. Fowler – I have it in my hand.

Mr. Evans – That's excellent.

Mr. Fowler – Who would like it.

Mr. Evans – You can bring it right up here. Kathy will maintain all the records so you can hand it to our Secretary. We're all set with that then. You are building a garage extension, and you're staying within the required square footage that's allowed so it's just the setback you need. Are there questions from the Board?

Mr. Rusnov – When the thing is done it'll then be equal to the rest of the houses in the area.

Mr. Fowler – Yes, they're all over the place on our street. We didn't have a 50' setback when Bob Schmidt built it. My house is all the way back against the ravine so I couldn't go back any further.

Mr. Evans – Okay. Anything else? Do we need to have this staked out?

Mr. Fowler – I have it marked now. I have it staked.

6) WILLIAM FOWLER, OWNER, Cont'd

Mr. Evans - The public hearing is on June 27th. We will invite you back at that time. Again the notice will go out to your neighbors within 500 feet of your property. It will state exactly the description that is written in the agenda tonight. So if you have curious neighbors that will want to ask questions, you should get together with them before the next meeting to explain simply what your plans are. That may save everyone some time and the trouble. All of the members of the Board will be out to visit the property to take a look at it. We'll see you back at that time. Thank you.

Mr. Fowler – I have great neighbors so I don't expect any problems.

Mr. Evans – Thank you, Mr. Fowler.

7) SGT. CLEAN CAR WASH aka BENDIK HOLDINGS, LLC/ Greg Seifert, Representative

Requesting a 5'6" Side Yard Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Side Yard Setback and where a 4'6" Side Yard Setback is proposed in order to expand an existing parking lot; property located at 18534 Pearl Road, PPN 394-26-003, zoned CS.

Mr. Evans – Item number seven on the agenda is Sgt. Clean Car Wash aka Bendik Holdings, LLC with Greg Seifert representing them. Please come up to the microphone and give us your name and address for the record.

Mr. Extines – Trevor Extines, Streetsboro, Ohio. I'm in place of the applicant Greg Seifert. He's out of state.

Mr. Evans – You are the architect on the project?

Mr. Extines – Correct.

Mr. Evans – So you heard us in caucus talking about one of the questions that we had which was about the fencing that was indicated on the drawings that we have. Where it says high board on board fencing, we're presuming that it is a new fence. We didn't know about it though, so that's one of the questions we have. This is an existing property, and it's also a smaller lot. The car wash has been there a long time though, and it's been vastly improved over the course of recent years. So this is now an extension for adding vacuums into the area?

Mr. Extines – Correct.

7) **SGT. CLEAN CAR WASH aka BENDIK HOLDINGS, LLC/ Greg Seifert,
Representative, Cont'd**

Mr. Evans – That’s a popular thing to have a self-serve vacuum stations at many of the car washes in town here. I assume the applicant and the architect looked at any other way that they could put this in without requiring a side yard setback variance, correct?

Mr. Extines – Correct, knowing Greg Seifert he looked at this along with the client and got it to a functional point with safety in mind. They know the peak hours of activity at the car wash, and this variance, like he stated in his cover letter, is much needed to keep cars from stacking back into Pearl Road. He didn’t want that to happen, and to ask for the variance of 5.5’ to bring this curb 4.5’ closer to the property line, which actually lines up with the existing curb on this property, he thought it was worthwhile to keep cars out of Pearl Road.

Mr. Evans – Okay. And what about the fencing on the drawings?

Mr. Extines – The fencing that is there is not on our property. It’s on the development to the north, but we will extend this same type of fencing 80 lineal feet is what he has marked here and it’s to conceal what we’re extending.

Mr. Evans – That fence that exists is not a board on board fence. It’s a rail type fence at the front of the property.

Mr. Extines – Okay.

Mr. Evans – So is that what is being proposed to extend out more? Normally board on board is a solid fence it would protect the homeowners on that side.

Mr. Extines – Right, we think it would be best if we extended to match what’s there. To have two different fences from their side looking south, we’d match their fence style.

Mr. Evans – Do we have requirements for what type of fence that would be required up against a residential area behind the Keller Williams building?

Mr. Kolick – That would really be up to the Planning Commission. They can actually request a wall if necessary. That would be something they’re going to look at. Planning Commission will also look at how much noise will be coming from those vacuums because they may be concerned about the proximity to the residents. That is not something that this Board looks at, but I’m just letting you know so you can let the applicant know. Presuming we grant the variance you’ll still need to go back to the Planning Commission.

7) **SGT. CLEAN CAR WASH aka BENDIK HOLDINGS, LLC/ Greg Seifert,
Representative, Cont'd**

Mr. Extines – To briefly speak about the vacuums, the actual vacuum equipment is indoors, and it's an underground hose that is sort of like a central vacuum system installed in houses. The noise is contained.

Mr. Evans – That would be good to make sure that Planning is aware of that should we grant the variance because that would be germane to their considerations. As well as looking at what the setback backing distance from those residential units that exists behind Keller Williams there. So you should be prepared for that should the variance be granted.

Mr. Kolick – Have you talked to the residents in that HOA?

Mr. Evans – They will be notified because everyone within 500' is going to get a notice.

Mr. Kolick – I think it would be a good idea if you talked to those people, not even just for this Board but for the Planning Commission as well. They will be interested in what their feelings are on this thing. They may not even want a masonry wall put up. Maybe they would want a fence to match their fence. I can't speak for them, but you should talk to them so at least this Board and Planning will know where they are at on the issue.

Mr. Extines – So you're telling me that the fencing requirement falls under the Planning Commission's ruling?

Mr. Kolick – It does, but this Board also has the ability to attach certain conditions to the granting of any variance. So they may wish to do something by way of fencing or type of fencing before they would even grant the variance. That's why I'm saying that it would be a good idea to talk to that HOA, and see what they would agree to for something that best screens those areas.

Mr. Evans – I'm drawing a blank on the HOA that is across from Southwest.

Mr. Kolick – I think it's The Woods.

Mr. Evans – The Woods, thank you. Sorry.

Mr. Rusnov – You probably want to stress that there is noise containment. If they know that the equipment is in a building and all there is are hoses coming out they may have no problem with it.

Mr. Kushefski – Brian Kushefski, 15951 Kingsway Court, Strongsville. We actually received a letter when we took over the facility from the HOA thanking us for not only painting the facility and the five years of upkeep and maintenance that we've done. So I don't see any issues with continued support from the HOA.

7) **SGT. CLEAN CAR WASH aka BENDIK HOLDINGS, LLC/ Greg Seifert,
Representative, Cont'd**

Mr. Evans – You'll want to talk to them, Brian, to let them know ahead of time what the request is. Like I said, the letter is going to come out and they are going to look at it and think these are big, loud, vacuums right next to them. If you can get to them first that is always an advantage.

Mr. Kushefski – That's why I was looking at any requirements about the fence, but it was preexisting which was the board alternating one side or the other. If I lived in that home I would want something that was the same continued so it looks all the same and unison. So once I got that information from today with Planning, I was planning on doing that.

Mr. Baldin – Being out there and looking at the property already, I can see by looking at your drawing that you're just extending what's already there. By extending it to the north a little bit as well it'll be a safety feature as well I would assume. It's a little tight in there right now.

Mr. Extines – Correct.

Mr. Evans – Thank you. Anything else? All of the members of the Board will be out to visit the property to take a look at it. The public hearing is on June 27th. We will invite you back at that time. Then you're all set.

Mr. Kushefski – Just so I understand, the public hearing is the actual vote?

Mr. Rusnov – Yes.

Mr. Kushefski – Then after that is it another visit back to Planning?

Mr. Evans – Then you're back to Planning, yes.

Mr. Kolick – Go back to Planning and maybe you need to go to the Architectural Review Board, but we'll walk you through the process.

Mr. Kushefski – Thank you very much.

Mr. Evans – Okay.

PUBLIC HEARINGS

8) ERIC BURCH AND KAREN SHINSKY, OWNERS

- a) Requesting a variance from Zoning Code Section 1274.07, which prohibits a change to a non-conforming lot where the applicant is proposing an 80 SF Accessory Structure where none is permitted;
- b) Requesting a variance from Zoning Code Section 1274.07, which prohibits a change to a non-conforming lot where the applicant is proposing a 15' x 15' Unenclosed Patio where none is permitted;
- c) Requesting an 11' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which permits a 14 encroachment into the established Rear Yard Setback and where a 25' encroachment into the Rear Yard Setback is proposed in order to construct a 15' x 15' Unenclosed Patio; property located at 13206 Compass Point Drive, PPN 399-31-049, zoned R1-75.

Mr. Evans – Item number eight moves us into public hearings for the night. It's Eric Burch and Karen Shinsky. Please come up to the microphone and give us your name and address for the record.

Mr. Burch – Eric Burch, 13206 Compass Point Drive, Strongsville.

Ms. Burch – Karen Burch, same address.

Mr. Evans – Thank you. You are requesting three items. This is also a result of the non-conforming use. Give us a description of what you're planning on doing, why you need the variances, and what alternatives you may have looked at first.

Mr. Burch – We're replacing an existing back patio with a new patio. It's dilapidated. We're then also adding an 8' by 10' shed in the backyard.

Mr. Evans – We have the HOA approval letter already. Are there questions from the Board?

Mr. Smeader – This is one of the properties that was affected by the change in Zoning.

Mr. Evans – Thank you.

Mr. Baldin – It's pretty simple, Mr. Chairman.

8) ERIC BURCH AND KAREN SHINSKY, OWNERS, Cont'd

Mr. Evans – Thank you, Mr. Baldin. Is there anything else? Mr. Evans – Alright. This is a public hearing. I'll ask if there is anyone here this evening who would like to speak for the granting of this variance. Is there anyone here who would like to speak against the granting of the variance? I'll invite you up to the microphone. I know you were sworn in. You can ask your question. We'll hold in abeyance whether you're for or against after you get your question answered. Please give us your name and address for the record.

Ms. Milia – My name is Lynn Milia, I live at 18088 Spy Glass Hill Drive. Our property abuts their property in the back. We have a problem with water in that corner. It's a terrible problem with water to the point where it has now pushed our shed that has been back there for over 20 years has the back brick wall being separated from all the moisture. There's a swale that is cut at the rear property so if a shed is put there it's only going to block more water and cause more of a problem. When it rains it's like walking on a sponge in the corner of that backyard. The other corner though we also have a problem with water too. In both back corners there have been problems there with water for years now. For as long as we have lived there, and that's been 39 years.

Mr. Baldin – Are you saying that their house, and their yard and what they want to do is causing your problem?

Ms. Milia – What happened is that when these homes were built they are built higher than what our yards were built. So when the houses were first built there was a pipe that was put between the two yards that came out of a wall. The water would wash right out and would wash all the way down. Our next door neighbor going down the street has two sewers in the corner of her yard and it catches nothing. So this water just sits. It's coming from above because they are much higher than we are. By putting this in, their shed is going to end up floating away I think eventually with all the water we have.

Mr. Baldin – I didn't notice any wet spots in your yard. I walked around back there and saw that.

Mr. Evans – Hang on, if you're going to talk you have to use the microphone. We have to have this recorded for the record. That's okay. Let me just say that water and drainage are not usually part of what we are concerned with here unless something is changed as a result of granting the variance. Now, if there are drains in the area and what not then it becomes an Engineering problem. You're not indicating that they've changed the grade or anything so it's an existing problem that you've had long-term.

Ms. Milia – What had happened was that years ago the original owners of that house wanted a sewer put in. We came to the City and we met with the Law Director, the Building Inspector, and I can't remember who else. We sat down with an attorney, and what they had decided back then was, and I feel sorry for them because they were not made aware of this, that they were to cut a

8) ERIC BURCH AND KAREN SHINSKY, OWNERS, Cont'd

Ms. Milia continues - winding swale in their yard that would wind into the swale at the back of the yard. We have a variance at the end of the property for the swale that's between our house and the house behind me, and the swale runs all the way down Spyglass.

Mr. Evans – That wouldn't be a variance.

Ms. Milia – Whatever it's called, you can't build on it.

Mr. Evans – It's called an easement.

Ms. Milia – An easement, I'm sorry, you cannot build on that.

Mr. Evans – Fine.

Ms. Milia – So the original owners were told to cut a winding swale, and then they put the house up for sale and sold it. They never put the winding swale in. The new people moving in and they didn't do anything either. Then another family moved in and the same thing happened. I feel badly because this is now on them, but we still have this problem with this water. It needs to have a sewer somewhere so it elevates the problem. I'm just afraid that if a shed goes up that it's just going to block water and make it worse than it already is.

Mr. Burch – Our shed is an 8' by 10' shed. It's on the opposite side of the lawn, and there are no water problems there. It's lined up similar to where the shed of neighbor's is. It's actually smaller than any of the sheds around us, and it's going to have as being proposed, concrete under it as its required and it'll be fastened down.

Mr. Evans – The shed is not going to be in the swale based on what I saw.

Mr. Burch – It's not going to be in the swale, and we have no water problem. I understand what she's saying about down there on the other end where water collects. Right now, I have my entire yard mowed except for about a 2' by 6' area which I cannot mow. The shed isn't anywhere near there. It's on the opposite side of the yard.

Ms. Milia – Is your shed going to butt up against where ours is?

Mr. Burch – No.

Ms. Milia – You're going on the other corner?

Mr. Burch – The other corner.

Ms. Milia – Isn't that where the water sits in that corner too?

8) ERIC BURCH AND KAREN SHINSKY, OWNERS, Cont'd

Mr. Burch – No, it does not sit at all. There's no water there, it's actually one of the first places I can mow after it rains. It dries the quickest.

Ms. Milia – But you can't mow the back corner, right?

Mr. Burch – Right.

Ms. Milia – It's bad there by the swale. They're having the same problem we're having. Can't something be done about that too?

Mr. Evans – Not as a part of this variance request. Again Engineering will look at drainage problems in the area and would have to look at this. Whether or not there was some discussion years ago that involved putting a swale in the back yard or something, I am reluctant to believe that the Engineering Department today would approve something like that, but the Engineering Department should be contacted if there is a water problem in that area. Again though, based on my visit, and I don't know about the other members, but the other corner where they are proposing the shed wouldn't have anything to do with that problem.

Ms. Milia – I don't care. I don't care.

Mr. Evans – Engineering would have to be the one consulted on that though. There may be a solution. I can't tell you that. It's not being built in the swale and it's on the opposite side then Engineering is the contact to be made.

Ms. Milia – Okay. So we have to contact Engineering and have them come out?

Mr. Evans – Yes.

Mr. Kolick – I don't know where this shed is or how much water this is going to put off, but they are asking to go into the setback for their patio, and that's obviously going to create more water issues, I would think. I don't know where it's going to go, but if there's a problem there maybe it would be best for us to table it and refer it to Engineering. Then we can ask them to give us their input. If it is that this shed and the unenclosed patio is not creating more of a water problem than what is there now then so be it, and then you could act on it. I am concerned with putting more impervious soil whether it's the shed or the unenclosed patio than what is back there now. You're putting additional water somewhere. Maybe they're accounting for it, and maybe there's a foundation drain going out to the street. I don't know. I would think we should show the Engineers and see what they have to say about it.

Mr. Evans – Mr. Rusnov, Mr. Smeader, you were both out there too. I don't think that would be the case, but I understand what Mr. Kolick is saying.

8) ERIC BURCH AND KAREN SHINSKY, OWNERS, Cont'd

Mr. Rusnov – We defer to Mr. Kolick.

Mr. Evans – Okay.

Ms. Burch – I was going to say something is that okay? So we have an existing patio that has no water around it and it's falling apart. We've been delayed for months to replace it. She has to look at it. There's no water anywhere around it. It's right up against our house. We have a shed in the opposite corner. The whole yard does not slope there. It slopes on the side where nothing is. We can't put anything there, and I'd be entirely in favor of getting someone to look at that corner. I fail to see how this little patio that's replacing one that is already there and dry around it could and a shed on the opposite corner, which is right next to an existing shed that's already there that's much bigger than ours would be, would make any kind of an impact.

Mr. Baldin – I have to agree with Ms. Burch, however I'm not an Engineer. We're not here for the water problems. We're just here to approve or disapprove what they're asking for. I don't really see a problem with it.

Mr. Evans – Alright, so our first public comment we answered your question correct?

Ms. Milia – Yes. Thank you.

Mr. Evans – So we're set with that. Is there anyone else in the audience who wishes to speak for or against the proposed variance? Now in terms of making a decision, counsel has advised that we should defer to the Engineering Department for them to investigate the situation. If we do that then at least the public hearing is already done. So that's out of the way. If we defer then that would have to fall to the June 27th meeting, and we'd have to have Engineering check it in the meantime so it would delay the process by two weeks. That based on counsel's opinion would be the appropriate thing for us to do. I apologize. It's probably something that we could have had done ahead of time. I didn't think it was necessary when I visited though. What we would do then is to ask you to table this until June 27th, and we'll have the Engineering Department look at it and render an opinion. I agree with you though, I don't think it's going to change the circumstance.

Ms. Burch – They will look at it between now and then?

Mr. Evans – They will look at it between now and then. Now Mr. Kolick, because there is a limited building season in Northeastern Ohio, there is a 20 day waiting period in which time Council has the opportunity to review this so we would be delaying it then again another 20 days after that. Is there an option for us to advise Council of this prior to that or could we conditionally approve it based on Engineering's approval? Or what option do we have?

8) ERIC BURCH AND KAREN SHINSKY, OWNERS, Cont'd

Mr. Kolick – I don't want you to do that. Council can waive that 20 day period, but they'd have to have a Council meeting and agree to do so. I can't speak for Council and what they would agree to do or not do, and we can't commit Council as to what they would do or not do with it. I guess the choice is either you go forward and act on it and run the risk of creating a bigger water problem or we defer it for 2 weeks. You're still well within your time period because there's 60 days from the date of the application. I don't want to hold them up either, but I don't want to see us create a bigger problem than what's there now because that's not helping anyone.

Mr. Evans – I'll go on record for saying that I'm not an Engineer, but having been in the HOA of High Point for 30 years I've seen a lot of drainage problems. These two items are not going to complicate the drainage in that area, but that's just a personal opinion and I'm not a qualified expert. Unless you guys want to.

Mr. Baldin – I have no problem with going forward.

Mr. Rusnov – I would defer to Mr. Kolick.

Mr. Smeader – I agree. We don't want to exacerbate the situation.

Mr. Evans – Okay. So I think at this point what we would do is ask you to table it. We'll have Engineering look at it. We will make a decision on June 27th, and move it forward at that point. My apologies for the delay. It is the right thing to do though.

Mr. Burch – May I ask a question? Is there going to be a second public hearing?

Mr. Evans – No, the public hearing is over.

Mr. Kolick – We've closed the public hearing. You don't have to worry about it, and no other notices will go out. Nothing else, no, you'd just come back here at that time. We'll get the report in, and they can act on it.

Mr. Smeader – A comment from Engineering, that's all we're waiting for.

Mr. Burch – Okay.

Mr. Evans – Okay. Good. Thank you.

Mr. Baldin – June 27th.

Mr. Evans – Yes, June 27th. Thank you.

9) **CLARK OIL aka YEY LLC/ Eli Mahler, Representative**

Extension of the June 14, 2017 determination of the Board of Zoning and Building Code Appeals:

- a) Requesting a variance from Zoning Code Section 1274.06, which prohibits the enlargement or structural alteration of a nonconforming building or use except to make it a conforming building or use and the applicant is proposing the demolition of the current Gas Station/Convenience Store and construction of a new building;
- b) Requesting a .64 acre Lot Area variance from Zoning Code Section 1258.08, which requires a 1 acre minimum Lot Area and where a .46 acre Lot Area is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- c) Requesting a 35' Lot Width variance from Zoning Code Section 1258.10, which requires a minimum Lot Width of 150' and where a 115' Lot Width is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- d) Requesting a 5' Side Yard Building Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Side Yard Building Setback and where a 5' Side Yard Building Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- e) Requesting a 5' Rear Yard Building Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Rear Yard Building Setback and where a 5' Rear Yard Building Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- f) Requesting a 10' Side Street Parking Setback variance from Zoning Code Section 1258.11 (b) (3), which requires a 20' Side Street Parking Setback on a corner lot and where a 10' Side Street Parking Setback (North) is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- g) Requesting a 10' Front Parking Setback variance from Zoning Code Section 1258.11 (a), which requires a 75' Front Parking Setback and where a 65' Front Parking Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; property located at 15387 Pearl Road, PPN 397-01-025, zoned General Business (GB).

Mr. Evans – Alright, item number nine on our agenda is Clark Oil. Mr. Mahler if you'd come forward please, and we'll need your name and address for the record.

9) **CLARK OIL aka YEY LLC/ Eli Mahler, Representative, Cont'd**

Mr. Mahler – Eli Mahler, 3947 West Ash Lane, Orange Village.

Mr. Evans – Welcome back Mr. Mahler. It's been a year.

Mr. Mahler – I've missed this Board.

Mr. Evans – I'm sure you have. Tell us about what has transpired and why there's a delay and where you're going from here.

Mr. Mahler – Okay. I submitted a full set of plans this morning. It could have been done in February when they were completed. Mr. Ali was waiting for a response from Civil Engineers for the City Engineering's questions that they may have so we could answer them. There is no deviation from all the previous variances that you gave us. It's exactly as was when it was approved.

Mr. Evans – Excellent.

Mr. Mahler – Included in that full set of drawings is the site plan which has all the variances shown. We have not changed an inch from that.

Mr. Evans – Excellent.

Mr. Mahler – Mr. Ali could not be here tonight, and what he told me was that as soon as a permit is granted, they will break ground. So we are asking for this one year extension. First of all the delay should not have been there, but I thought when we got the approval that we had a year to start construction. I guess the Code says that it has to be finished in a year.

Mr. Evans – It's a year to start and show substantial progress.

Mr. Mahler – We missed that obviously.

Mr. Evans – That's okay. It happens. We do get similar request from time to time. Financing or whatever can sometimes take longer to get in place. Maybe if you had submitted the plans, which again we're acting on the original granting of the variances which can be in place for a new completed structure, but you'll have to go back through Planning and other things involved with that. It will take some time, so that cuts into the variance, and that's why we're doing the consideration tonight for the extension. Then at that point those plans will get reviewed and they will be butted up against the variances that we granted originally, which we are being asked to extend tonight. Then presuming that everything is okay, we would then move forward with Planning and others to review the new plans that you've submitted based on all the requirements and then go from there. So as long as you're telling us that the variances were taken into account,

9) **CLARK OIL aka YEY LLC/ Eli Mahler, Representative, Cont'd**

Mr. Evans continues - then we're going to act on these tonight as they were submitted as an extension. They're still in place and they will be used whether it's the original plan or a new plan. The new plan will have to go through review outside of this Board.

Mr. Mahler – Yes, I understand.

Mr. Evans – Okay. Are there questions from the Board?

Mr. Smeader – Out of curiosity, do the new plans call for not only a new retail building but also new pumps, underground tanks, and a canopy? What's the extent of the proposed improvements?

Mr. Mahler – The equipment is not reflected on the plans. This is for the convenience store only. The pumps and the canopy, you had a report given to you so that answered those particular questions.

Mr. Evans – Right.

Mr. Smeader – Those are not to be replaced though?

Mr. Mahler – No.

Mr. Evans – Okay. Are there other questions? This is a public hearing. I'll ask if there is anyone here this evening who would like to speak for the granting of this variance. Is there anyone here who would like to speak against the granting of the variance? Hearing none and seeing none, I declare the public hearing closed, and will now entertain a motion.

Mr. Rusnov – I make a motion to approve a request for a variance from Zoning Code Section 1274.06, which prohibits the enlargement or structural alteration of a nonconforming building or use except to make it a conforming building or use and the applicant is proposing the demolition of the current Gas Station/Convenience Store and construction of a new building; also to approve a request for a .64 acre Lot Area variance from Zoning Code Section 1258.08, which requires a 1 acre minimum Lot Area and where a .46 acre Lot Area is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; also to approve a request for a 35' Lot Width variance from Zoning Code Section 1258.10, which requires a minimum Lot Width of 150' and where a 115' Lot Width is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; also to approve a request for a 5' Side Yard Building Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Side Yard Building Setback and where a 5' Side Yard Building Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; also to approve a request for a 5' Rear Yard Building Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Rear Yard Building Setback and where a 5' Rear Yard

9) **CLARK OIL aka YEY LLC/ Eli Mahler, Representative, Cont'd**

Mr. Rusnov continues - Building Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; also to approve a request for a 10' Side Street Parking Setback variance from Zoning Code Section 1258.11 (b) (3), which requires a 20' Side Street Parking Setback on a corner lot and where a 10' Side Street Parking Setback (North) is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; also to approve a request for a 10' Front Parking Setback variance from Zoning Code Section 1258.11 (a), which requires a 75' Front Parking Setback and where a 65' Front Parking Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; property located at 15387 Pearl Road, PPN 397-01-025, zoned General Business (GB).

Mr. Smeader – Second.

Mr. Evans – We have a motion and a second, but before we go to roll call I'd like to make an editorial note that I should have done during the questions, we have a number of new Council people and I want to make sure for the record that I indicate that last year when we granted these original variances there was quite a discussion and there were a lot of discussion points. The applicant met the requirements fully that the Board of Zoning Appeals put on these requests. We looked at these again and these are basically pre-existing conditions for an existing business so they are not necessarily new variances. They are the existing conditions. We did approve them last year, and we looked at everything. There was a full examination review on these at that time. For all new Council members, I just wanted to make sure they were aware of that. With that, may I have a roll call please?

ROLL CALL:

ALL AYES

MOTION PASSED

Mr. Evans – The variances have been granted again pending a 20 day waiting period during which time Council may review our decision. You will get a notice from the Building Department when that time has passed. Then you are all set.

Mr. Mahler – I will be notified for these other things.

Mr. Evans – Absolutely. Okay. Thank you.

Mr. Mahler – Thank you gentlemen.

OTHER BUSINESS

10) DAVID AND DIJANA OUTCALT, OWNERS

Requesting a 10' Rear Yard Setback variance from Zoning Code Section 1252.04 (f), which requires a 50' Rear Yard Setback and where a 40' Rear Yard Setback is proposed in order to construct a 430 SF Addition; property located at 19789 Kensington Court, PPN 397-28-068, zoned R1-75.

Mr. Evans – Item number ten on our agenda is David and Dijana Outcalt. Please come up to the microphone and give us your name and address for the record. This was at public hearing a while ago, we were waiting on the HOA approval from Deerfield Woods which is now secured. So Ms. Outcalt there is no change in what you have requested, we are simply here to act on it. Gentlemen are there any questions? Alright, then I will move immediately to entertain a motion.

Mr. Smeader – I make a motion to approve a request for a 10' Rear Yard Setback variance from Zoning Code Section 1252.04 (f), which requires a 50' Rear Yard Setback and where a 40' Rear Yard Setback is proposed in order to construct a 430 SF Addition; property located at 19789 Kensington Court, PPN 397-28-068, zoned R1-75.

Mr. Houlé – Second.

Mr. Evans – Thank you. May we have a roll call please?

ROLL CALL:

ALL AYES

MOTION PASSED

Mr. Evans – The variance has been granted again pending a 20 day waiting period during which time Council may review our decision. You will get a notice from the Building Department when that time has passed.

Ms. Outcalt – Perfect, thank you very much.

Mr. Evans – Thank you.

Mr. Rusnov – Hope we weren't too rough on you.

Ms. Outcalt – Not at all.

Mr. Evans – Is there anything else to come before the Board tonight?

OTHER BUSINESS

Mr. Baldin – Going back to Mr. Mahler and the Clark gas station, and the additional comments you had made, should we have also said something about a note that was made by the Building Commissioner that some of the things we requested was completed?

Mr. Kolick – We had conditions on the other variances and the Building Commissioner has confirmed that he has received the technical reports. That’s why we didn’t impose those same conditions.

Mr. Evans – I believe when you read the minutes you’ll see that I made that comment. Is there anything else? Then we will stand adjourned.

Signature on File
Mr. Evans, Chairman

Signature on File
Kathryn A. Zamrzla, Sec’y

June 27, 2018
Approval Date