

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

**Meeting of
September 25, 2019
7:30 p.m.**

Board of Appeals Members Present: John Rusnov, Richard Baldin, David Houlé, Thomas 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

There are no New Applications.

PUBLIC HEARINGS

1) PHILLIP AND BRENDA LANZO, OWNERS

Requesting a 530 SF Floor Area variance from Zoning Code Section 1252.22 (c), which permits a 1,000 SF Floor Area and where a 1,530 SF Floor Area is proposed in order to construct a Garage Addition; property located at 19990 Royalton Road, PPN 392-34-008, zoned R1-75.

The Board mentioned that there are a couple of temporary structures that are to be taken down subsequent to this garage addition. They specified that the applicant knows that the driveway will need to have a hard surface along with this project if he goes forward with it. The Board indicated that there was a lot of equipment around the yard that really should be stored properly. They also noted that they will ask again if he plans to run a business out of the garage. The Board considered whether the size could be reduced.

2) RAYMOND AND KIM KAROLY, OWNERS

- a) Requesting a 14' Setback variance from Zoning Code Section 1252.15 (a), which requires a 20' Setback from the main dwelling and where a 6' Setback from the main dwelling is proposed in order to construct a 280 SF Pavilion;
- b) Requesting an 88 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 280 SF Floor Area is proposed in order to construct a 280 SF Pavilion; property located at 20001 Idlewood Trail, PPN 392-19-044, zoned R1-75.

The Board studied the lot and decided that with the unusual topography of the property, this is the only location for putting this structure. They noted that this is a pavilion, and that

Planning Commission is currently debating removing the need for a 20' setback from dwellings for pavilions.

3) CULVER'S RESTAURANT/Lora Martinson with Springfield Sign, Representative

- a) Requesting a variance from Zoning Code Section 1272.12 (c), which permits one Wall Sign and where one additional 29.12 SF Wall Sign (North) is proposed;
- b) Requesting a sign variance from Zoning Code Section 1272.12, which does not permit a Menu Board and where one 47 SF Drive-Thru Menu Board Ground Sign is proposed;
- c) Requesting a variance from Zoning Code Section 1272.12, which does not permit a Drive-Thru Canopy and where one Drive-Thru Canopy is proposed; property located at 8464 Pearl Road, PPN 395-05-019, zoned Restaurant-Recreational Service (R-RS).

The Board indicated that the Cleveland Metroparks sent the City a letter explaining that no signs should be visible from the Metroparks, and they want it made according to the Code. The Board examined the location, and mentioned that with several lots in between those properties, they did not believe the signs would be visible from there. They mentioned that they have reduced the total number of signs, and removed the request for the multiple copy sign since the last meeting. The Board noted that they conformed to the total SF allowed for all the signs combined like the Board had suggested as well.

4) ARBY'S/Ken Knuckles with Development Management Group LLC, Representative

Requesting a 10' Rear Yard Setback variance from Zoning Code Section 1258.11 (a), which requires a 20' Rear Yard Setback from a residential zoning district and where a 10' Rear Yard Setback from a residential zoning district is proposed in order to construct a New Restaurant Building; property located at 9175 Pearl Road, PPN 395-16-004, zoned Motorist Service (MS).

The Board considered that Council approved the lot size variance, and the variance from Whitney Road, they asked them to move the building 10' to the east, they approved 6' for the parking from the road, and they also made sure they will not have a left turn lane exit onto Pearl Road. So now Arby's is looking for this one variance based on these changes that they made. The Board indicated that this is for the space between the garage and to the rear property line. They noted that Arby's has been very accommodating to the City's wishes during this whole process.

The Board discussed a few clerical corrections to the meeting minutes of September 11, 2019.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS

MINUTES OF MEETING September 25, 2019

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

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

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

Mr. Houlé – Good evening ladies and gentlemen. I would like to call this September 25th, 2019 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. May we have a roll call please?

ROLL CALL: ALL PRESENT EXCEPT FOR MR. EVANS

Mr. Baldin – I'd like to make a motion to excuse Mr. Evans for just cause.

Mr. Smeader – Second.

Mr. Houlé – I have a motion and a second. May I have a roll call please?

ROLL CALL: ALL AYES MOTION PASSED

Mr. Houlé – 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 before us minutes from September 11th, 2019. We spoke about them in caucus, and if there are no further corrections to be made, we will submit those as we have corrected them. Also a note, after our last meeting, there was another item on the agenda for Vadim and Olga Dyakiv for their property at 17780 Lyon Lane. Letters were sent out to residents within 500', and subsequent to those letters being sent out they withdrew their request. So if you are here for that item on the agenda, you are free to leave. This evening 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 wished to participate.

Mr. Houlé – Thank you. Our meetings are normally divided into two portions. We do not have any new applications tonight; we have only public hearings this evening.

NEW APPLICATIONS

There are no New Applications.

PUBLIC HEARINGS

1) PHILLIP AND BRENDA LANZO, OWNERS

Requesting a 530 SF Floor Area variance from Zoning Code Section 1252.22 (c), which permits a 1,000 SF Floor Area and where a 1,530 SF Floor Area is proposed in order to construct a Garage Addition; property located at 19990 Royalton Road, PPN 392-34-008, zoned R1-75.

Mr. Houlé – First on the agenda this evening is Lanzo on Royalton Road. Please come up to the microphone and give us your name and address for the record.

Mr. Lanzo – My name is Phillip Lanzo, 19990 Royalton Road.

Mr. Houlé – Thank you. I know you were here at our last meeting, but would you briefly explain what you are asking for this evening.

Mr. Lanzo – I'm asking to put on an addition to the back of my garage. It's 22.5' by 40'.

Mr. Houlé – We talked about this addition, you are attaching it to the garage you have now, and eliminating a couple of temporary structures plus a canvas structure that you have in the backyard, correct?

Mr. Lanzo – Correct. There's two temporary structures and a wooden one.

Mr. Houlé – Yes, and at that meeting we talked about the need for a hard surface driveway.

Mr. Lanzo – Yes, I was waiting to get a couple of estimates. I have one back, and I'm waiting for two more.

Mr. Houlé – Okay. So is that an issue at this point?

Mr. Lanzo – I guess it would be because I have to know how much that is going to cost, plus the cost of the new building.

Mr. Houlé – Subsequent to getting a Building permit, and if we were to approve this, you understand that you'll have to have a hard surface driveway installed.

Mr. Lanzo – Can I get the Code number for that?

Mr. Houlé – We'll get that for you.

Mr. Lanzo – Also I just wanted to come here to see if any of my neighbor's had issues with me building it also. That was my main reason to come tonight. You said in caucus that maybe we could reach an agreement for something smaller.

Mr. Houlé – Yes, you're asking for 530 SF over and above the allowed amount. Although you do have a very large lot. I understand that. Your lot is almost 450' deep, and it's quite far back from Route 82. It's also heavily wooded in the backyard. It is still quite a large structure. You're not planning to do any business out of it, correct?

Mr. Lanzo – No.

Mr. Houlé – Alright good. Have you thought about the ability to reduce the size at all?

Mr. Lanzo – If I have to, I have to, but would I still need to get a hard driveway?

Mr. Houlé – Yes.

Mr. Lanzo – Then I'll try to keep it as large as I can.

Mr. Baldin – Mr. Lanzo, walking your property and looking around, I noticed that you have a lot of equipment around there. There's a lot of stuff that is hanging around outside. Inside your garage is pretty full. I can see that you can't get any vehicles inside that garage. I'm sure you do a little work inside that garage, but it couldn't be much. At first I thought it was probably a workshop where you do a lot of work, and then I was wondering if you were running a business out of there?

Mr. Lanzo – I am not.

Mr. Baldin – With all the equipment you have.

Mr. Lanzo – I work 50-60 hours a week. Sometimes its 7 days a week, and sometimes it's more. I've been a mechanic for over 40 years. I have a lot of tools in there, and a lot of wood working tools for a hobby. Most of what is in the garage is tools.

Mr. Baldin – That's what it looked like.

Mr. Lanzo – Right.

Mr. Baldin – Plus knickknacks and other things you have around.

Mr. Lanzo – Correct.

Mr. Baldin – So you're definitely not running any type of business.

Mr. Lanzo – I definitely am not.

Mr. Baldin – Alright, and you need this for what particular reason?

Mr. Lanzo – I would like to expand so I can do something in the wintertime in there. Like I said before, I have a couple of antique cars, and it's hard because my mother-in-law lives in Elyria and that's where they're at. It's hard to go out there to work on them, and I if I need a tool I need to go all the way home again for it. It's the same thing for my woodworking. We moved here 6 years ago, and I haven't had a chance to get my saws out to do any kind of woodworking.

Mr. Baldin – So you understand that you definitely need a hard surface, and like you said, you're waiting on bids to come back. You want to see what that's going to cost you.

Mr. Lanzo – Correct.

Mr. Baldin – If you were to get this variance approved tonight, it would be contingent on that hard surface be put in within a certain amount of town. Our Assistant Law Director can give you a little more of an understanding on that.

Mr. Lanzo – The other question I have is do I have to put that in before or after this garage? If I put it in before, then I'd have all the construction trucks coming in.

Mr. Kolick – We'd work with them with putting in the driveway. Whether a delay is weather driven or it's about getting the equipment back there to do the garage first, we will certainly work with him. We don't want you to put in a hard surface driveway, and then have it broken up by heavy equipment either. Don't worry about that. While we're on that subject, there are two Code sections if you care to write them down. They are 1252.15 (b) in the Zoning Code, and Chapter 14:36 in the Building Code. They all require a hard surface driveway.

Mr. Lanzo – That's 1252.15 (b) and 1436?

Mr. Kolick – Correct.

Mr. Lanzo – Okay.

Mr. Baldin – We'd give you some time, it's not a problem. As he said, we don't want it getting broken up. So yes, we'd like to see the building a little bit smaller. We don't like to see large structures, even though you have a nice piece of land there.

Mr. Lanzo – Right.

Mr. Baldin – But is it necessary? Is there a real hardship? Do you have to have it?

Mr. Lanzo – Like I said, I just want a little room to work. That's basically why I came up here tonight, to see if my neighbors had any questions.

Mr. Baldin – Well, we'll find out.

Mr. Lanzo – Okay. Thank you.

Mr. Houle – Are there any other questions? Alright, so 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 will now entertain a motion.

Mr. Kolick – I suggest that any motion that is made be contingent on two items. It should be contingent on the installation of a hard surface driveway during the time periods required by the Building Department, and also the removal of the sheds and temporary structures on the property.

Mr. Rusnov – I make a motion to approve a request for a 530 SF Floor Area variance from Zoning Code Section 1252.22 (c), which permits a 1,000 SF Floor Area and where a 1,530 SF Floor Area is proposed in order to construct a Garage Addition; property located at 19990 Royalton Road, PPN 392-34-008, zoned R1-75 subject to the installation of a hard surface driveway during the time period required by the Building Department, the removal of the sheds and temporary structures on the property, and also that this garage not be used for any business purposes.

Mr. Smeader – Second.

Mr. Baldin – Can I make a comment? Do we need to put a timeframe on this?

Mr. Lanzo – Probably in the spring.

Mr. Baldin – In the spring.

Mr. Kolick – The Building Department will determine that. If it's in the spring and its weather permitting, I'm sure they'll wait until he gets the structure up and then they'll require the driveway to go in immediately thereafter. You can't wait for months and months to put it in, but they are

not going to make you put it in first and have it destroyed by equipment. So I suggest you just say that it's the time period required by the Building Department.

Mr. Houlé – We have a motion and a second, may I have a roll call please?

ROLL CALL:

ALL AYES

MOTION PASSED

Mr. Houlé – The variance had 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. You can work with them to set a timeframe like we discussed today. You are free to go.

Mr. Lanzo – Thank you.

2) RAYMOND AND KIM KAROLY, OWNERS

- a) Requesting a 14' Setback variance from Zoning Code Section 1252.15 (a), which requires a 20' Setback from the main dwelling and where a 6' Setback from the main dwelling is proposed in order to construct a 280 SF Pavilion;
- b) Requesting an 88 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 280 SF Floor Area is proposed in order to construct a 280 SF Pavilion; property located at 20001 Idlewood Trail, PPN 392-19-044, zoned R1-75.

Mr. Houlé – Next on the agenda this evening is Karoly on Idlewood Trail. Please come up to the microphone and give us your name and address for the record.

Mr. Karoly – I'm Raymond Karoly. I live at 20001 Idlewood Trail.

Mr. Houlé – If you would, briefly explain what you're requesting here tonight please.

Mr. Karoly – I'm requesting to put a pavilion on an existing patio for shade so we can use our outside area during the daylight hours.

Mr. Houlé – I know at the last meeting we talked about the proximity to the home. We were concerned about you possibly having a fire pit in or fireplace near this pavilion.

Mr. Karoly – Right, there will be no fire pit or fireplace.

Mr. Houlé – Thank you. Your property is relatively flat. The pad is quite large, but the pavilion is being built to match the size of the pad, correct?

Mr. Karoly – Yes.

Mr. Houlé – Does anyone else have a question or comment?

Mr. Baldin – I have no comments other than the fact that he had an existing pad out there, and he just wants to cover it so he can relax and enjoy it.

Mr. Karoly – Yes. Yes. I'm retired.

Mr. Houlé – In caucus we noted that the height of the proposed pavilion did not create an issue with the Zoning variance so you're okay in that respect.

Mr. Karoly – Good.

Mr. Houlé – Are there any other questions? Alright, so 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 will now entertain a motion.

Mr. Smeader – I make a motion to approve a request for a 14' Setback variance from Zoning Code Section 1252.15 (a), which requires a 20' Setback from the main dwelling and where a 6' Setback from the main dwelling is proposed in order to construct a 280 SF Pavilion; and also to approve a request for an 88 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 280 SF Floor Area is proposed in order to construct a 280 SF Pavilion; property located at 20001 Idlewood Trail, PPN 392-19-044, zoned R1-75.

Mr. Baldin – Second.

Mr. Houlé – We have a motion and a second, may I have a roll call please?

ROLL CALL: ALL AYES MOTION PASSED

Mr. Houlé – 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. In the meantime, you are all set, and you may leave if you like.

Mr. Karoly – Thank you very much.

3) **CULVER'S RESTAURANT/Lora Martinson with Springfield Sign, Representative**

- a) Requesting a variance from Zoning Code Section 1272.12 (c), which permits one Wall Sign and where one additional 29.12 SF Wall Sign (North) is proposed;

- b) Requesting a sign variance from Zoning Code Section 1272.12, which does not permit a Menu Board and where one 47 SF Drive-Thru Menu Board Ground Sign is proposed;
- c) Requesting a variance from Zoning Code Section 1272.12, which does not permit a Drive-Thru Canopy and where one Drive-Thru Canopy is proposed; property located at 8464 Pearl Road, PPN 395-05-019, zoned Restaurant-Recreational Service (R-RS).

Mr. Houlé – Third on the agenda this evening is Culvers Restaurant on Pearl Road. Please have your representative come up to the microphone and give us your name and address for the record.

Mr. Lehar – Hi, I'm Doug Lehar, 7296 Pinewoods Way, Olmsted Township.

Mr. Houlé – Okay, and if you could briefly go over what you're requesting, and the changes that were made since the last meeting.

Mr. Lehar – Okay, yes. I have a notice from September 12th, and some of those items aren't on here. Were those just deleted? I'm not sure. The first one was a request for a variance for one wall sign is proposed, and my notice of the public hearing I received, it said...

Mr. Houlé – You're representing Culver's, correct?

Mr. Lehar – Yes, I'm the owner.

Mr. Kolick – Your sign company withdrew all but these three variances. So it's different from the original agenda that we have. We received a letter dated September 17th from Springfield Sign which indicated that they were only requesting three variances. Those are the three that are on tonight's agenda.

Mr. Lehar – There was no communication with me that those were changed. So I'm in the dark on this one.

Mr. Houlé – If you'd like we could have your sign representative come forward. Maybe then he could explain the changes.

Mr. Kolick – Come on up.

Mr. Wesso – I'm Mark Wesso with Springfield Sign, I'm representing CFS, and our local franchisee. We have modified the request based on the last meeting that we attended. We discussed at length. We're here requesting a menu board, canopy system, and one additional wall sign. The additional wall sign, if granted, is within the allowed square feet of the signage that we discussed which is roughly 80.3 SF. If the two signs are granted, we're at 75 SF. The original

building and this construction of this building was designed for modest signage all the way around the building. So we have very small areas where the signs are to be placed for the prototype. That was intentionally done to have modest signage, we do not want large commercial splashes. One thing that is unusual maybe it's just how this community is or how the Code is written, but the building is oriented where the walk-in entry does not actually face the road. If it did, that building is twice as long, so we probably would have been allowed 160 SF for signage. That's almost twice as much as the 80 SF. So by virtue of the walk-in entrance being on the interior side of the property is why we're requesting that extra sign. We would like the main entrance to have an identity sign. That was probably some new news here; short of me having interaction, we usually just come in and represent this for the franchisee. So I don't know if he would have any comments at this time.

Mr. Kolick – So we are acting on the three you have requested here, correct?

Mr. Wesso – I am, yes Sir. He's the owner of the property so I'd probably want to make sure that he's happy with where we're at. There were some things deleted. The changeable copy sign and an additional sign. We went through that with respect with the City, and precedent up to this point, and we made our argument for them. We felt we had some good arguments on your behalf for the static board, but they suggested that it would be a hard fought adventure if we were to go that way. So now we're just trying to maintain what we can for the project.

Mr. Lehar – Okay.

Mr. Kolick – Okay. Alright.

Mr. Houlé – Mr. Wesso, we appreciate you making the changes as we discussed them at the last meeting. We are happy you took that into account prior to our public hearing tonight. We thank you.

Mr. Wesso – Thank you guys for all the attention, we appreciate it.

Mr. Houlé – Are there any additional comments about it?

Mr. Lehar – I didn't even know there was a meeting two weeks ago, so again I'm in the dark.

Mr. Kolick – That's okay.

Mr. Houlé – We'll see if there are any comments from the public. If you would like to just step aside for a second.

Mr. Lehar – Sure.

Mr. Houlé – Alright, so 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 will now entertain a motion.

Mr. Baldin – I will make a motion, but first, Doug do you quite understand? Are you satisfied with what you are hearing here?

Mr. Lehar – I didn't know about the monument sign out front. I didn't know of that was dropped.

Mr. Baldin – The monument sign hasn't been dropped.

Mr. Lehar – Oh, it hasn't?

Mr. Kolick – The changeable copy on the sign is what is not permitted.

Mr. Baldin – Right, because you were looking for a changeable copy, and we don't allow that in our City according to the Codes or variances.

Mr. Lehar – Okay.

Mr. Baldin – Okay, so I just want to make sure you are up to speed with what is going on.

Mr. Lehar – That's unfortunate for me, but it is what it is.

Mr. Baldin – Okay.

Mr. Houlé – So the other sign that was eliminated was the one on the south side.

Mr. Baldin – I make a motion to approve a request for a variance from Zoning Code Section 1272.12 (c), which permits one Wall Sign and where one additional 29.12 SF Wall Sign (North) is proposed; also to approve a request for a sign variance from Zoning Code Section 1272.12, which does not permit a Menu Board and where one 47 SF Drive-Thru Menu Board Ground Sign is proposed; also to approve a request for a variance from Zoning Code Section 1272.12, which does not permit a Drive-Thru Canopy and where one Drive-Thru Canopy is proposed; property located at 8464 Pearl Road, PPN 395-05-019, zoned Restaurant-Recreational Service (R-RS).

Mr. Kolick – We should mention that we received a letter from the park district about the signs. They have some restrictive covenants that the applicant should be aware of in case you haven't received this letter. We don't enforce covenants and deed restrictions. We don't have that authority, but I want to make you all aware of it for the record.

Mr. Wesso – I just received it when I walked in the doors, so I haven't had time to look at it. I would assume that contacting Mr. Evans directly would be reasonable to see if he has any objections to any of the construction?

Mr. Kolick – No, I think what you would do is contact Mr. Smith at the Park District. Show him what you have because we as a Board don't enforce covenants and deed restrictions. We do take into account what other government agency information they give us. However, as I think it was noted in the caucus, this isn't abutting directly up to the park. There's the VFW and another parcel to the north, so I'm not so sure if they see your plans whether they would really have an objection anyway. Just be aware that you have another step to go through regardless of what we do this evening. If they have private covenants and deed restrictions then you need to work it out with them. Okay?

Mr. Wesso – My apologies. So I understand we need to work with them to gain permission or work out issues about it. Is there reconciliations that would have to do with the City then after that?

Mr. Kolick – Only if it would change a variance request, but we'll act on your variances here tonight because we only enforce the City's Codes. We don't enforce those covenants and deeds, but after talking with them, if you feel there is a problem so you need to change something with the City, then you'd have to reapply. Even if you would, it may not need a variance from the City. If it would, then that's the only time you'd have to change anything.

Mr. Wesso – I understand. I appreciate it.

Mr. Smeader – Second.

Mr. Houlé – We have a motion and a second, may I have a roll call please?

ROLL CALL:

ALL AYES

MOTION PASSED

Mr. Houlé – 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. In the meantime, you are all set, and you may leave if you like. Is there anything else he has to do with the Planning Commission?

Mr. Kolick – If you have not been before the ARB for your signage, then you'll have to get before the Architectural Review Board for that as well. They will do that even during the 20 day waiting period, okay? Thank you, that's all.

4) ARBY'S/Ken Knuckles with Development Management Group LLC, Representative

Requesting a 10' Rear Yard Setback variance from Zoning Code Section 1258.11 (a), which requires a 20' Rear Yard Setback from a residential zoning district and where a 10' Rear Yard Setback from a residential zoning district is proposed in order to construct a New Restaurant Building; property located at 9175 Pearl Road, PPN 395-16-004, zoned Motorist Service (MS).

Mr. Houlé – Lastly on the agenda this evening is Arby's on Pearl Road. Please have your representative come up to the microphone and give us your name and address for the record.

Mr. Knuckles – Ken Knuckles with Development Management Group, 4209 Galifin Pike, Nashville, TN.

Mr. Houlé – Thank you, Mr. Knuckles. A lot has transpired since you appeared here before us. We granted some variances for you back on July 10th. I know, as well as everyone else, that you appeared before Council then on September 3rd. I'm not sure that we need to reiterate all of that, but please bring us up to date on this new variance that you're requesting.

Mr. Knuckles – Certainly.

Mr. Rusnov – Also the changes that you've made.

Mr. Knuckles – Okay. So what City Council determined was that they were putting a lot more bearing on the buffer that we were providing along Pearl Road. They saw that as a more substantial variance in their eyes than was the direction we ended up going which was to encroach into this residential buffer to the east. So what they asked us to do was to slide the entire layout of the site plan to the east by 10'. That would basically bring us 10' into that 20' buffer zone. That added an additional 10' of green space along Pearl, which was part of their objective. By doing that it also eliminated the variance we had for the building encroachment from the center line of Pearl Road. The buffer variance that was previously granted along Whitney did not change, as well as the parcel size. So that didn't change either. Really the Pearl Road buffer was improved by shifting everything over, and the building setback encroachment went away. So we are here today because City Council has forced us to make this adjustment, which has created the need for this new variance.

Mr. Kolick – Mr. Knuckles did that bring the driveway further east or is it in the same position?

Mr. Knuckles – There's more throat that occurs there now for cars that would be exiting and turning right onto Pearl Road. I think with the exhibits that we submitted with this most recent request shows that right in, right out driveway. There is additional throat-width, which I'll call it.

Mr. Kolick – I recall that Council was concerned with moving that driveway as far as they could in an easterly direction so there won't be cars backed up on Whitney waiting to turn. They want

to make sure they can get out especially since they can't make a left onto Pearl now. That was part of Council's consideration with all this.

Mr. Rusnov – So in other words, all of the considerations that the City has brought to your attention you've fulfilled.

Mr. Knuckles – We have.

Mr. Rusnov – I have no further questions for you.

Mr. Knuckles – Thank you.

Mr. Houlé – Is there from anyone else?

Mr. Baldin – No questions.

Mr. Houlé – Alright, so 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? Please come forward. We need your name and address for the record please.

Ms. Rose – My name is Tara Rose. I'm a Land Use and Zoning Attorney from Buckingham, Doolittle, and Burroughs, 1375 E. 9th Street, Suite 1700, Cleveland, Ohio 44114.

Mr. Hughes – Gary Hughes, owner of the apartment building in question here.

Mr. Kolick – Your address or your business address is fine.

Mr. Hughes – 17927 Whitney is the apartment building that abuts this property.

Ms. Hughes – Beth Hughes, also owner of the same property on Whitney.

Ms. Rose – Chairman and members of the Board, good evening. Thank you for your time tonight. I'm here with Gary and Beth who are members of Appreciating Properties, LLC. Appreciating Properties owns the apartment complex directly behind the proposed Arby's. We're here today to bring to your attention some concerns that we have with the encroachment into the residential 20' setback on the rear. Appreciating Properties owns a 48 unit apartment complex, as stated, families live there, people who work 3rd shift, long-term tenants. There are no housing credits given, everyone pays market rent. Gary and Beth bought the property a couple of years ago. I'm going to let them talk to you about what they've done to improve the property. Mainly it's a little concerning that Council is putting green space on Pearl Road above and beyond the protections for residential tenants in the City of Strongsville. Those setbacks are put into place to prevent noise and light pollution. That's what our main concerns are today. Gary, can you tell the Board when Appreciating Properties purchased the apartment complex?

Mr. Hughes – About three years ago in November, I believe.

Ms. Rose – What type of work have you done to improve the property?

Mr. Hughes – First I want to say that I hope this doesn't delay Pomeroy House too much for anyone with this consideration. We do appreciate your consideration.

Mr. Kolick – You're listening too closely to us in caucus, that's all.

Mr. Hughes – By the way, we do like Arby's, they do have the meats. They have a good niche there. I go there quite often. We've done a lot to the property. We've redone the carpeting in the halls. We remodeled 24 out of 48 units so far. We've redid the balconies, and conditioned them. The garage fronts were fixed, I cut down 65 trees and shrubs. My chainsaw had them stump ground so we can now come back and make it nice outside and landscape everything. We like bringing neighborhoods up, not down. That's what we're doing here.

Ms. Rose – About how much would you say you've spend in improvements to the property?

Mr. Hughes – Probably about a third of a million dollars, about \$300,000.

Ms. Rose – So they were pretty significant improvements.

Mr. Hughes – Yes, it's been good. Strongsville is a nice place to do business in.

Ms. Rose – So members of the Board, I'm going to run through the factors really quickly just for the purposes of building a record. Again, we're here today to address my client's concerns with the encroachment into the residential 20' setback. The first factor is will the property owner have a reasonable return without the variance? Our position is yes. This is a corner parcel on two busy streets. I understand there are some Zoning implications, but it is zoned MS which has a broad array of uses. For example, a restaurant without any type of drive-thru structure could be put on the property and you'll get a reasonable return. Is the variance substantial? Yes. Case law indicates that any variance over 25% is considered substantial. Here they are requesting a 50% reduction in the setback. So our opinion is that the variance is substantial. The third is will the variance alter the character of the neighborhood or be substantially detriment the neighboring properties? Again, our opinion in yes. We're concerned that there is a drive-thru being put in and there will be speakers projecting out toward where residents live. There are 48 units, so if you assume double occupancy, that's 150 or so people that are going to be kept up at night due to cars blaring their horns, radios blasting, people making late-night orders. It's an overall concern. This is a nice, quiet property. People have lived there for 15-20 years, and we don't want tenants running for the doors due to the excess noise, fumes, and light. The forth factor is will the variance adversely affect governmental services? We can see that's not an issue in this case. The fifth is did the property owners purchase with knowledge of this variance? My understanding is that the property transferred in 2013, and that these Zoning Codes have been around for quite some time. So our position is that they did purchase with knowledge, and to the extent that Arby's is a potential

purchaser, they are here making this bid so they are also aware of these Zoning implications. Number six is can the predicament be obviated in any way besides for the variance? Again, our response is yes. Apparently this was a site plan that was set a certain way without the need for this variance, and City Council for whatever reason decided to change it. That brought up the need for the variance, so there are certainly things that can be done. Whether the drive-thru is moved closer to Pearl Road, or the shifting of the building, but we feel there are other ways that need to be explored before the granting of this substantial variance. Finally, is the spirit and intent of the Code observed? Our response is no. In section 1258.11 of the Strongsville City Zoning Code has two types of setbacks. One for commercial properties that abut residential properties and one for those that don't. The reason is clear, it is to protect the residential tenants from these spill-over issues with light, noise, and fumes. If this was a commercial to commercial property this wouldn't be a problem. The fact is that it is not. There are people who live here and have been living here, and we have property owners who are taking care of a property within the City to try and make it better. We're here to ask the Council to not make it worse. In conclusion, we're asking that you deny the variance requested today. If you are not so inclined, we're asking that you at least put in protections for my client, whether that be a masonry wall pursuant to 1258.11 (b) (4), to limit the hours of the drive-thru, or require additional noise and light buffering. If you have any questions, we're happy to answer them.

Mr. Kolick – Your residential apartment complex, the area that abuts this property are the garages though. Are they solid masonry walls on that side of the garage?

Mr. Hughes – They're brick.

Mr. Kolick – Brick walls?

Mr. Hughes – Yes sir.

Mr. Rusnov – I thought it was brick and block.

Mr. Hughes – Brick on block. Yes Sir.

Mr. Kolick – How close is the closest building to the property line? Are we talking 20' or we talking 100'?

Mr. Hughes – I'm guessing it's maybe 70'. I can say, we're excited for something nice to be put in there, especially after it's been vacant and overgrown. I was going to have my guys go over and cut the weeds down to clean it up. So we're excited about that, but the biggest thing is the noise. My manager, Danielle and her husband, and their two kids live there. Over the years that it was vacant, sometimes we'll have a homeless person come and sit in the back. My manager hears everything from her apartment. Even when they're just talking back there. I was surprised to hear that, and she couldn't be here tonight, otherwise she'd speak for herself. She did answer the letter that I think you guys have.

Ms. Rose – Members of the Board those garages are not constructed for the purpose of limiting sound noise, and my client shouldn't be pigeon-holed into keeping those if in 10 years they want to knock them down. That's their prerogative as property owners. They shouldn't have to keep them there just to appease Arby's and to make their life easier.

Mr. Hughes – Like I said, they haven't stopped the noise even the way it is. It's not for that purpose, so it has been affected so far.

Mr. Kolick – For the objectors, I don't know what this Board is going to do, but in the event that they were to grant this variance, you do have some legitimate concerns that you should convey to our Planning Commission because after they are through here, they would have to go through the Planning Commission and the Architectural Review Board. Those are the Boards that will look at any type of screening to protect the residential areas. They can look at sound-dampening issues, we do run into these problems all the time between residential and commercial areas. We understand it, we had the same problems with McDonald's on the other side of the street. We are cognizant and recognize that we want to lessen the effects where we can. As far as pushing the driveway back toward Pearl which was one of the items you had in your memo. I know from a traffic safety standpoint that doesn't work. Originally they wanted traffic in and out, and to be able to turn left onto Pearl. Our Traffic Engineers didn't like that at all particularly with McDonald's turning left out of their side. It was actually at the request of the City that we push that driveway as far down as they could because, and I'm sure with you owning that property you understand, traffic backs up from the Whitey Road light at Pearl Road. We had them purposefully, for traffic safety reasons, push the Whitney drive as far east as they could. I don't know what this Board may do. It's within their prerogative to grant or not grant the variance. You're concerns are legitimate, and you can probably talk with Mr. Knuckles. I found that they are reasonable people and they would probably take your concerns into account. I don't know how much room is left to do anything by way of noise dampening, but you can talk with them. You can also talk with our City administrative people, our Engineer, our Planning Commission. You can certainly address any correspondence to them. We don't have public hearings on these, but they do read anything that comes in. So any of those concerns you should bring to their attention. You can do that whether this is granted or not granted frankly. But be aware that there is a Board who does consider and take into effect what you're concerns are. We do want to hear from neighboring property owners on these things. I'm glad you came to the meeting, and at least expressed them because we didn't hear them at the first meeting.

Mr. Hughes – Yes, we saw the notice, and we're sorry about the late arrival on this. We don't mean to throw a wrench into anything, but yes, I appreciate your appreciation.

Mr. Kolick – Alright. Thank you. I don't know if you have any other questions for the objectors. Or Mr. Knuckles can come up and address these concerns as well.

Ms. Rose – Any other questions?

Mr. Houlé – I would just like to say, not as a Board member, but as a homeowner, I would assume that when the previous occupants were there which was a restaurant and a bar, that the noise would have been equal or higher than it would with an Arby's coming in there. With liquor and later hours than you would have with an Arby's, I don't know how late Arby's stays open, but I have to think that it's a different type of a crowd that would be coming to one that had a bar with bands that played.

Mr. Hughes – I understand that.

Mr. Rusnov – There was also an outdoor patio for summer usage.

Ms. Rose – I think that predates my client's ownership of the property. My main concern is the speakers.

Mr. Rusnov – Predating that it was a Holiday Inn with a Howard Johnson's then this place was there...

Mr. Kolick – The Mad Cactus. That was part of the City's thought with this too was that this would be a whole lot less objectionable than a bar that was open until 2a.m. with an outdoor patio.

Mr. Hughes – It's just the constant cars, the noise from the speaker, people yelling to the speaker.

Ms. Rose – People with their radios on going through the drive-thru.

Mr. Kolick – They are legitimate concerns that the City will take into account.

Mr. Hughes – This is probably less offensive than the Mad Cactus would have done over the years, but I understand the patio consideration too like you said. Thank you very much.

Ms. Rose – Thank you.

Mr. Houlé – I would like to invite Mr. Knuckles back up here too in case he wants to add anything based on these concerns.

Mr. Knuckles – First of all, I greatly appreciate them showing up. When we first submitted an application to the City to come before the Board of Zoning Appeals we were pretty particular about how we wanted to structure our request and the types of variances that we needed. Part of our logic in doing that, and again it was our variance to decrease the green areas along the roadway would be better received by the City verses putting an encroachment onto a neighboring residential property. That's why we had structured things the way we did. We came before the Board of Zoning and Appeals, you guys approved those variances and we were all set to move based on that until the City Council pulled that.

Mr. Rusnov – City Council interjected into the fray here.

Mr. Knuckles – Right, exactly. It was their point as part of that, they believe leaving a greater buffer along Pearl Road at the expense of encroaching onto the eastern buffer, was a better situation for the City in their opinion.

Mr. Kolick – Mr. Knuckles, do you think anything can be done to help screen that property from any noise either from the speakers or what have you? I know other companies have put up sound-dampening equipment around for that kind of thing. I know Planning Commission in light of what they're saying, will probably ask you those same questions. So I ask you to start taking a look at those things to see what you might be able to do in the event that this Board grants the variance tonight.

Mr. Knuckles – I'm thinking that number one, based on the fact that the garage structure is solid wall, I'm not sure that putting an additional masonry wall on our side of that will really be effective. However, I think there are probably things we can consider with regard to some evergreen landscaping and stuff that would do a better job of buffering sound and possibly light. A 6' wall isn't going to effectively do a lot in regards to mitigating the sound or light. We're open to that, and we'll look at that to see if there is something we can do.

Mr. Rusnov – Wouldn't that also increase the size of the variance if you put a concrete block wall up against an existing structure?

Mr. Kolick – I don't want to get into a concrete wall because that is an Engineering question. I don't know about the drainage on this property or anything. There is a Code provision that would permit Planning Commission to consider that as one alternative when it abuts up against a residential property. Neither I nor this Board would have jurisdiction on that. He has to get back before the Architectural Review Board, and they can consider pine trees or other non-deciduous trees that may help with that type of thing. Whatever you can come up with I'm sure these people would appreciate.

Mr. Knuckles – We'll discuss it with Arby's and my client which is the developer. Then we'll be prepared to discuss that in more detail later on. In regards to some of the other comments relating to other uses that might be suitable for the property based on the Zoning classifications and all that, I appreciate that. We kind of touched on that when we came through the first time, and we talked about some of the alternatives, the bottom line is that Krukemeyer owns the property. If they had interest from other developers that were interested in building anything other than a fast food restaurant, we wouldn't be here talking about Arby's today. That's the deal. There's nothing I can do about that. I can't go back to the Krukemeyer's and say that you need to find a different use to put on your property and limit their ability to sell their property.

Mr. Kolick – Thank you.

Mr. Houlé – Thank you. If there are no other questions then I will entertain a motion.

Mr. Rusnov – I make a motion to approve a request for a 10' Rear Yard Setback variance from Zoning Code Section 1258.11 (a), which requires a 20' Rear Yard Setback from a residential zoning district and where a 10' Rear Yard Setback from a residential zoning district is proposed in order to construct a New Restaurant Building; property located at 9175 Pearl Road, PPN 395-16-004, zoned Motorist Service (MS).

Mr. Smeader – Second.

Mr. Houlé – We have a motion and a second, may I have a roll call please?

ROLL CALL: ALL AYES MOTION PASSED

Mr. Houlé – The variance has been granted.

Mr. Knuckles – Thank you for your time.

Mr. Kolick – Mr. Knuckles, you can contact Carol Brill, she'll get you back before the ARB. Mr. and Mrs. Hughes, we will get your letter and the minutes to the Planning Commission. However feel free to write to the Planning Commission chairman expressing what your concerns are. I also sit on the Planning Commission so I know they will take your concerns into account. Alright.

Mr. Houlé – Is there anything else to come before the Board this evening? Then we will stand adjourned.

Signature on File	Signature on File	October 9, 2019
Mr. Houlé, Acting Chairman	Kathy Zamrzla, Recording Sec'y	Approval Date