

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

**Meeting of
November 12, 2008
7:30 p.m.**

Present - Board of Appeals Members: Glenn Goist; William Harr; Celia McGrath; Richard Baldin.

Administration: Assistant Law Director, Daniel Kolick

Building Department Representative: Joey Allen

Recording Secretary: Kathryn Zamrzla

The Board members discussed the following:

NEW APPLICATIONS

1) SUPER 8 MOTEL/Bill Kelleher of Century Sign Co., Representative

- a) **Requesting an 18.02” Sign Height variance from Zoning Code Section 1272.12 (b) which permits a 60” Sign Height and where a 78.02” Sign Height is proposed in order to install a Wall Sign;**
- b) **Requesting a 5 SF Sign Face Area variance from Zoning Code Section which permits a 3 SF Sign Face Area and where an 8 SF Sign Face Area is proposed in order to install a Directional Sign; property located at 15385 Royalton Road PPN 399-02-013 zoned Motorist Service.**

Mr. Kolick discussed with the Board the precedent if they approve this. The Board stated that they would ask the applicant on the floor if they are removing the pine trees. Mr. Baldin said he doesn't think the directional sign is necessary and that he would rather it say "Enter" and "Exit" than "Super 8". In addition, the Board determined that the directional sign needs to be lowered by 1'.

(G) PUBLIC HEARING

2) CLINT AND DIANE NELSON, OWNER/Joe Lombardo, Representative

- a) **Requesting a 5' Side Yard Setback variance from Zoning Code Section 1252.05 Table and 1252.16 (e) which requires a 5' Side Yard Setback and where a 0' Side Yard Setback is proposed in order to approve a Previously Built Deck and a Just Completed Deck;**
- b) **Requesting a 2' Height variance from Zoning Code Section 1252.17 (c) which permits a 6' Height and where an 8' Height is**

**proposed in order to construct a 27' 8" length of an 8' high Fence;
property located at 14496 Ordner Drive PPN 396-18-010 Zoned
R1-75.**

There was no discussion on this matter.

3) JOE AND THERESA KINTLER, OWNER

Requesting a 13' Rear Yard Setback variance from Zoning Code Section 1252.16 (e) which requires a 5' Rear Yard Setback from Public Storm Easement and the applicant is proposing to build 8' into the Public Storm Easement in order to construct a Deck; property located at 20434 Prairie Meadows Lane PPN 391-26-030 zoned R1-75.

The Board discussed that the existing pavers are in violation and may have needed a variance for the pavers. Dr. Goist suggested that the pavers be removed. Joe Allen and Ken Mikula both went to the property and determined that the deck shouldn't present a drainage issue. Mrs. McGrath said a neighbor had no problem with the variance. Mr. Harr stated that Chestnut Drive behind the property is a different subdivision. Mr. Baldin said that he doesn't think the variance would have a negative impact. Mr. Kolick stated that the variance could be contingent upon removing the deck if it poses a drainage problem and the owner should provide an affidavit to this effect.

4) JIM PTACEK, OWNER/JOE GAZZO, REPRESENTATIVE

- a) **Requesting a 16' Height variance from Zoning Code Section 1252.22 (b) 3 which permits a 19' Height for a second floor and where a 35' Height is proposed in order to construct a Single Family Dwelling;**
- b) **Requesting a 221 SF Floor Area variance from Zoning Code Section 1252.22 (c) which permits a 1,000 SF Floor Area and where a 1,221 SF Floor Area is proposed in order to construct an Attached Garage; property located at 18052 Benbow Drive PPN 399-22-009 zoned R-100.**

The Board stated that the garage will be a 4-car garage and the basketball court will be beneath the ground somewhat. Mr. Allen stated that the Building Department is not against this variance. The Board stated that at the last meeting the contractor stated that the owner will not run a business out of the basketball court and that they should make the variance contingent upon using the basketball court for personal use only.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS

MINUTES OF MEETING

November 12, 2008

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

Present: Dr. Goist
Mr. Harr
Mrs. McGrath
Mr. Baldin

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

Dr. Goist – Good evening, ladies and gentlemen. I'd like to call this November 12, 2008 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. Kathy, would you call the roll please?

ROLL CALL: ALL AYES: ALL PRESENT EXCEPT MR. EVANS

Mr. Harr – I make a motion to excuse Mr. Evans for good cause.

Mrs. McGrath – Second.

Dr. Goist – We have a motion and a second. Kathy, would you call the roll please?

ROLL CALL: ALL AYES: MOTION CARRIED

Dr. Goist – 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 an amended agenda. Could I have a motion to approve the amended agenda?

Mrs. McGrath – So moved.

Mr. Harr – Second.

Dr. Goist – We have a motion and a second. Kathy, would you call the roll please?

ROLL CALL: ALL AYES: MOTION CARRIED

Dr. Goist – For all the people who are here in the audience, if you would like to speak before the Commission this evening, if you would now please stand and be sworn in by our Legal Counsel.

Mr. Kolick then stated the oath to all standing.

NEW APPLICATIONS

- 1) **SUPER 8 MOTEL/Bill Kelleher of Century Sign Co., Representative**
 - a) **Requesting an 18.02” Sign Height variance from Zoning Code Section 1272.12 (b) which permits a 60” Sign Height and where a 78.02” Sign Height is proposed in order to install a Wall Sign;**
 - b) **Requesting a 5 SF Sign Face Area variance from Zoning Code Section which permits a 3 SF Sign Face Area and where an 8 SF Sign Face Area is proposed in order to install a Directional Sign; property located at 15385 Royalton Road PPN 399-02-013 zoned Motorist Service.**

Dr. Goist – Our meetings are in two portions. First are New Applications and the second portion are our Public Hearings. Our first New Application is Super 8 Motel, Bill Kelleher of Century Sign, representative. Would you like to come forward please? If you would give us your name and address first please.

Mr. Kelleher – Sure. My name is Bill Kelleher, 7401 Exchange Street, Cleveland. I’m with Century Sign company and I’m here representing the Super 8 Motel.

Dr. Goist – All right. You heard us talk a little bit. We happened – all of us looked at this in advance and have gone out and looked at what you’re asking for. Why we’re here is to hear what you want to do and what your plans are for the signage.

Mr. Kelleher – As I’m sure you’re aware, there was formally the Motel 6 there and the signage change consists of three items. The pole sign, the wall sign and the directional sign. The current pole sign was 192 square feet. We reduced that to 96 square feet and that didn’t need a variance so the Architectural Review Board approved that and we did secure a permit for that. The second part is to replace a wall sign that was there. The current wall sign is 7’ high, 6’ wide and they would like to replace that with a Super 8 sign that is 6’ 6” high. Unfortunately, that is 18” higher than your code allows and the reason for that is because of the shape of the sign. Mostly, there is a radius on the top of the sign that makes it a little taller than normal but it is smaller than the current sign that was there. It is still there without a face in it. That is the one variance. The second variance is there is a directional sign there and the directional sign is at the driveway and it’s a shared driveway. It’s the only driveway

1) **SUPER 8 MOTEL/Bill Kelleher of Century Sign Co., Representative, Cont'd**

Mr. Kelleher continues - that goes into both buildings of the Super 8 and they do share it with the property directly to the east of them. So, they would like to replace the faces in the directional sign. The previous directional sign for Motel 6 did have a Motel 6 logo on it and an arrow. So, what they're trying to do is to duplicate that with the Super 8 logo and an arrow signifying that that is the entrance. That sign is 2' by 4', which is 8 square feet and your code calls for an allowance of 3 square feet on a directional sign. So, if it were a new sign, it would be 3 square feet but we're trying to just replace faces in the sign that is there. There is no variance for the height of the sign. It is legally at the correct height, 4' off the ground is legal according to the code. So, we're only dealing with it – on the directional sign – the two issues of the logo being on it and by the fact that we're trying to replace faces that are 8 square feet as opposed to the 3 square feet that the code allows.

Dr. Goist – Mr. Kelleher, I'm going to stop you for just a moment and ask Mr. Allen from the Building Department if that is correct on the height of the sign?

Mr. Allen – No, Mr. Chairman, that's incorrect. Based on section 1272.12 (f) Directional Sign, it says a direction sign's maximum height shall not exceed 3' in height.

Dr. Goist – So, where you said that it was in compliance, what we're saying to you is based on the code, it is not in compliance.

Mr. Kelleher – Okay, I'm going on the word of the Building Commissioner at the Architectural Review Board meeting where they reviewed this previously. He told me that the only problem with this sign was the fact that it was over the directional sign size.

Mr. Allen - Mr. Chairman?

Dr. Goist – Mr. Allen?

Mr. Allen – In talking to the Building Commissioner, he was under the assumption that the new sign was going to be placed at 3' maximum height.

Dr. Goist - Mr. Kolick, in this case, do we, kind of, say that the other sign was not in compliance and this one we now want to be in compliance?

Mr. Kolick – I don't know about the other one but this one would have to be in compliance. So, he either has to bring down the height if you're going to look at approving it or you have to consider another variance, a height variance besides your size variance, and your directional variance.

1) **SUPER 8 MOTEL/Bill Kelleher of Century Sign Co., Representative, Cont'd**

Dr. Goist – Mr. Kelleher, would you be willing to bring it into compliance with what the code is asking for?

Mr. Kelleher – Height wise?

Dr. Goist – Since you thought you were correct but we have since found out that's not correct and this is just a directional sign, are you willing to –

Mr. Kelleher - Mr. Chairman, I see no problem lowering the sign if that were a point of contention.

Dr. Goist – Okay, we have one other question for you then. “Exit” and “Entrance” signs are really supposed to be “Exit” and “Entrance” signs only. If you put “Super 8” on there, according to our code, that is another sign and you're only allowed the pole sign and the one on the building. So, if we allow you to put “Super 8” on there, even though you just told me – although I don't remember “Motel 6” again, I would refer to our Law Department, do we again ask him to just put “Enter” and “Exit” or are we allowed to give them a variance so that they can put the verbiage “Super 8”?

Mr. Kolick – You can grant them a variance if you feel they meet the standards necessary to do so but it would take a variance to permit them to put “Super 8” on there. If they brought a sign that met the height and the square footage and it was just an arrow on there or “Entrance” or “Exit”, then they don't need any variances. So, if they want to put the “Super 8” on there, they are going to need a variance.

Dr. Goist – Board members, do you have a feeling on this?

Mr. Baldin – Sir, what you're showing here, which is the existing sign that is there right now, there is only one little sign right there, this one right here. You say here the verbiage is either “Enter” and/or “Exit” on a directional sign. What do you want to put on there? Do you want to put “Enter” or do you want to put “Exit”? If you're driving west, I'm assuming you want to say “Enter” and I'm assuming if you're driving east you want to say “Enter”.

Mr. Kelleher – Actually, “Enter” is the most important thing. They need customers to find the motel, especially traveling west on 82 there. They are real concerned about how to get into the lot. Once they get in there, they assume they're going to find their way out of the lot. Mr. Patel, the owner, is just trying to duplicate what the previous signs had that were there. He is not trying to do anything that is outrageous. He is certainly not trying to fight the code.

Mr. Baldin – This is the style? This is what you're proposing with the little arrow?

1) **SUPER 8 MOTEL/Bill Kelleher of Century Sign Co., Representative, Cont'd**

Mr. Kelleher – Yes.

Mr. Harr - Mr. Chairman?

Mr. Harr – What was there previously from Motel 6, in all likelihood, was done prior to maybe some changes in the Sign Ordinance and so forth. So, we have to look at this as a brand new case here. I drive that way frequently, as I live in Ward 1 of town. There are not a whole lot of driveways there. For myself – I don't want to use solely my opinion because I know exactly where the buildings are but there is a light right there, correct, at that entrance and exit? It's really the only significant entrance and exit once you get past the Holiday Inn. I think that this would be a little superfluous and I think it's unnecessary for you to put a third sign up for people to find it. The pole sign will be seen from literally a half a mile away. I think the average person could easily deduce that the entrance or an entrance could be found right there at that traffic light but that's – at first blush, that's how I feel about them.

Dr. Goist – Okay. Anybody else have any other comments? Do you feel that we should ask them to put just “Enter” on there?

Mr. Harr – Again, a simple sign that meets code as an additional means to let people know that there is an entrance there. It meets code so it's not an issue but a third sign of this magnitude to me is just redundant. I don't know that I would look at it if I saw the pole sign and I think as a normal traveler, I would assume that at the light, I can get in. The building is right there by the light.

Dr. Goist - Mr. Kolick, that would mean that we would eliminate variance (b), am I correct?

Mr. Harr – It would eliminate (b) and (c) if they simply went with a –

Mr. Kolick – Right, if they simply went with a sign that met the code but that's up to the applicant. The applicant can ask for it. It's up to this Board whether or not to grant it or the applicant can withdraw it.

Mrs. McGrath - Mr. Chairman?

Dr. Goist – Yes?

Mrs. McGrath – If he kept the yellow background that would be congruent with his yellow pole sign and just put “Entrance”, that would suffice and the variances would go away, correct?

Dr. Goist – I think that would be correct.

1) **SUPER 8 MOTEL/Bill Kelleher of Century Sign Co., Representative, Cont'd**

Mr. Kolick – If it met the square footage and it just said “Entrance” and it met the height requirement, then the variance wouldn’t be needed.

Mrs. McGrath – And still have the yellow background?

Mr. Kolick – Well, color would wind up going back to ARB anyway. ARB did not accept the sign because it doesn’t meet the code. They are going to have to decide about the color on it.

Mr. Baldin – Are these the standard colors for Super 8? Yellow, red and black?

Mr. Kelleher – Yes, sir.

Mr. Harr - Mr. Chairman?

Dr. Goist – Yes?

Mr. Harr – I think Mrs. McGrath makes an excellent point. By making it an “Enter” sign, that color matches the other signs that will be within peoples vision range at that point. I think that that would further enforce the idea that this is indeed an entrance for Super 8, without necessarily signage logo on there.

Dr. Goist – Mr. Kelleher?

Mr. Kelleher – I am quite sure that if the Board would consider allowing us to replace the faces in the existing sign, that I could get the owner to take the logo off of it and say just “Enter” and be yellow.

Dr. Goist – Just say “Enter” and then be in compliance with the colors that ARB would ask you to do.

Mr. Kelleher – ARB had no problem with the color.

Dr. Goist – Okay. The request for the 5 square feet sign face area would go away also, correct?

Mr. Kelleher – No, we would still ask for that trying to use the same sign that is there.

Mr. Kolick – They would still need that square footage and they probably would need a height variance but item (b) would go away if they are going to use the existing sign. That is what he asking you to do.

1) **SUPER 8 MOTEL/Bill Kelleher of Century Sign Co., Representative, Cont'd**

Mr. Kelleher – We are even willing to lower the sign to the current code provided we could just slide faces in there without logos on them.

Mr. Kolick - Mr. Chairman, what I suggest is that the applicant go back and talk to his client, let Kathy know, in light of the comments that you heard here tonight, what you want to propose at the correct height, just saying “Entrance” or whatever, so that we can draw up the agenda properly. Just get us a new drawing for whatever you’re going to do with that sign, in light of the comments here.

Mr. Kelleher – That wouldn’t be something that the Board could entertain and –

Mr. Kolick – They can’t act on it tonight because you’re just here for a New Application anyways. They have to set it for a Public Hearing.

Dr. Goist – Your Public Hearing will be December 3, which is Wednesday December the 3rd. We usually meet on the second and the fourth Wednesday but because of the holidays, we changed it around to meet on the first and the third.

Mr. Harr - Mr. Chairman?

Dr. Goist – Yes?

Mr. Harr – Mrs. Zamrzla, when would the applicant need to have renderings to you so that they could go out for the Public Hearing aspect?

Ms. Zamrzla – One week before December the 3rd, the day before Thanksgiving.

Mr. Kolick – That’s the day they have to go out. Give her some time to react to it. So, if you could get the drawings over to her –

Mr. Kelleher – So, if I understand you correctly, if we can amend the application for the directional sign and get it to her a week before the Public Hearing, we can act on it at the Public Hearing?

Mr. Kolick – Get it to her as soon as you can.

Ms. Zamrzla – We’re off that Thursday and Friday so we need it –

Mr. Kelleher – I don’t have a problem getting to you in a few days, Kathy.

Ms. Zamrzla – Thank you.

1) **SUPER 8 MOTEL/Bill Kelleher of Century Sign Co., Representative, Cont'd**

Mr. Kolick – Thank you.

Mr. Baldin – So, basically, what we're saying is you're going to drop it a foot and take the verbiage out.

Mr. Kelleher – Correct.

Mr. Kolick – Then we would be looking at item (c) because of the size. That would be the only variance.

Dr. Goist – Do you have any other questions?

Mr. Baldin – I have no further questions.

Mr. Kelleher – No, I just wonder if you have any questions about item (a), the wall sign?

Dr. Goist – No, I think we're okay with the wall sign. Your Public Hearing will be December the 3rd.

Mr. Kelleher – Thank you.

Dr. Goist – Thank you and just so you know, sometimes when people are new applicants, they feel like they have to stay here through the Public Hearing. You do not, you're free to go.

Mr. Kelleher – Thank you very much.

RULING – PUBLIC HEARING SCHEDULED FOR DECEMBER 3, 2008

(G) PUBLIC HEARING

2) **CLINT AND DIANE NELSON, OWNER/Joe Lombardo, Representative**

- a) **Requesting a 5' Side Yard Setback variance from Zoning Code Section 1252.05 Table and 1252.16 (e) which requires a 5' Side Yard Setback and where a 0' Side Yard Setback is proposed in order to approve a Previously Built Deck and a Just Completed Deck;**

2) **CLINT AND DIANE NELSON, OWNER/Joe Lombardo, Representative,
Cont'd**

- b) **Requesting a 2' Height variance from Zoning Code Section 1252.17 (c) which permits a 6' Height and where an 8' Height is proposed in order to construct a 27' 8" length of an 8' high Fence; property located at 14496 Ordner Drive PPN 396-18-010 Zoned R1-75.**

Dr. Goist – Our first item for Public Hearing was Clint and Diane Nelson at 14496 Ordner Drive and they have asked to be taken off the agenda for this evening. If there is anyone in the audience who was here to speak for or against that, that has been removed from the agenda.

Mr. Kolick – Mr. Chairman, since the Public Hearing is scheduled and if someone is here to speak, we can at least hear them. We won't act on it tonight but there may be someone here who wants to address that.

Dr. Goist – Is there any one here who wants to speak for or against this issue?
(No one appeared)

RULING – CONTINUED TO DECEMBER 3, 2008

3) **JOE AND THERESA KINTLER, OWNER**

Requesting a 13' Rear Yard Setback variance from Zoning Code Section 1252.16 (e) which requires a 5' Rear Yard Setback from Public Storm Easement and the applicant is proposing to build 8' into the Public Storm Easement in order to construct a Deck; property located at 20434 Prairie Meadows Lane PPN 391-26-030 zoned R1-75.

Dr. Goist – Our next item is Joe and Theresa Kintler. If you would come forward please and give us your name and address and tell us what your proposal is.

Mr. Kintler – My name is Joe Kintler, 20434 Prairie Meadows, Strongsville, Ohio 44149. I'm here today to request – forgive my inexperience with the process – a variance and we're here tonight for our Public Hearing.

Dr. Goist – Okay and I know that all of us have seen your property and we have some questions for you and then we'll try and move through this whole process because it depends on some of the things that you may be doing. Are you going to take the brick pavers and the steps out?

3) **JOE AND THERESA KINTLER, OWNER, Cont'd**

Mr. Kintler – Yes.

Dr. Goist – And you would just have a deck there?

Mr. Kintler – That is correct. According to the plan that you should have copies of, off the sliding glass doors, there are the paver patio steps that are there now and they are sinking. We're having some problems with that so we'll talk about that builder later on. We want to build a deck out there and extend it a little bit so we'll have a little area there to have some cocktails and then use the existing patio that's down on the ground for a portion of the paver patio.

Dr. Goist – Another question that I have for you is in our research in looking at this with the Building Department, do you know that the paver bricks and the steps that you currently have are in violation of the ordinance? As it sets now, you are not 5' off of the easement. You are already into the easement. The only part that is not in the easement is your house and your house is allowed to be right up to the easement and it is right up to the easement. So, I guess, my question is did you ever get a variance to put in the steps and the paver bricks?

Mr. Kintler – That's a negative. Initially, we hired a contractor named Wink Landscaping with the pavers. We showed him our topographical survey and he assured us that he was going to get the permits and everything was all taken care of when we paid him to contract the business. I had several problems with the builder and I know it's not relevant in this situation but I couldn't get a hold of him. I think he filed bankruptcy and, quite frankly, I hope I never see him again. At the time, we did not know that we were in violation of that easement or we didn't know the parameters of the 5' variance until I came to City Hall with this plan and spoke with Joe Allen.

Ms. Zamrzla - Mr. Chairman?

Dr. Goist – Yes?

Ms. Zamrzla – Could I ask the applicant, are the pavers set in concrete or sand?

Mr. Kintler – I think they are set in sand.

Ms. Zamrzla – No permit is required if they are in sand. He didn't need to pull a permit for that.

Mr. Kintler – I see. Please forgive my ignorance if we are in violation of the easement.

3) **JOE AND THERESA KINTLER, OWNER, Cont'd**

Dr. Goist – We were just looking at the map and Mr. Allen was showing us the map of where the easement is which comes right up to the corner of the house.

Mr. Kintler – Yes, that was our hardship.

Dr. Goist – When we came out to look at your house as each of us has, we realized that what you're planning on doing is only about a foot to 2' on the westerly side, maybe 3' out from where the paver bricks are.

Mr. Kintler – Correct.

Dr. Goist – And then the steps, of course, go out from there.

Mr. Kintler – Correct. We designed the deck and the paver patio in that way to stay off of that easement. So, we did have knowledge that there is an easement there but I wasn't aware of the 5' rule. Just to clarify that.

Dr. Goist – We understand that and we also have had communication from the Building Department and am I correct, Mr. Allen, in saying that Mr. Mikula is one of the City engineers?

Mr. Allen – He is the City Engineer.

Dr. Goist – He has visited your site and in his opinion, “allowing an 8' encroachment into the 20' drainage easement, for the purpose of constructing a deck will not affect the drainage of this lot or any adjacent lots. If, in the future, the drainage situation changes and it becomes necessary to remove the proposed deck, said deck will be removed at the owner's expense”.

Mr. Kintler – Understood.

Dr. Goist – Do you understand that?

Mr. Kintler – Yes, sir.

Mr. Harr - Mr. Chairman?

Dr. Goist – Yes?

Mr. Harr – Sir, when were the pavers put in?

Mr. Baldin – After the house was built?

3) **JOE AND THERESA KINTLER, OWNER, Cont'd**

Mr. Harr – Two years ago, many years ago?

Mr. Kintler – 2004 in the summer.

Mr. Harr – Have you noticed any change in the drainage patterns based on their presence?

Mr. Kintler – None whatsoever.

Mr. Harr – Okay. The deck that you plan to put in, are you planning to change the topography of the land there under or are you really just sinking posts and so forth.

Mr. Kintler – We're not changing the grade whatsoever in any fashion there.

Mr. Harr – You understand that should we grant this variance that you'll be asked to sign an affidavit acknowledging that you're encroaching and that there is a contingent liability that will travel with the title to your property for future buyers, and so forth, indicating should the deck need to be removed to perform any maintenance or in the event that it does cause any issues in the City's determination, that that will be removed at your expense.

Mr. Kintler – Understood and I have that signed affidavit with me.

Dr. Goist – Okay.

Mr. Harr – I have no further comments.

Mr. Baldin - Mr. Chairman, since the pavers are already in and they are existing wouldn't we have to include that because they are already encroaching in this variance?

Mr. Harr – They're going to be taken out.

Mr. Baldin – Oh, you are going to be taking them out? No, you're not. You're not going to be taking the pavers out on the right side, you're taking what little bit of pavers out that are going to be underneath the deck.

Mr. Kintler – It would be on the west side of the property where the steps are and about half of the existing square footage.

Dr. Goist – That east side, he is off the easement there. Am I correct Mr. Allen?

Mr. Baldin – Are they 5' off the easement?

3) **JOE AND THERESA KINTLER, OWNER, Cont'd**

Dr. Goist - Mr. Baldin, he is off the easement in compliance on the east side.

Mr. Harr – Not 5' though maybe.

Mr. Baldin – Not 5', that's what I'm saying. Not that's it's such a big deal but we need to clarify that. It's existing; it's there and it's probably not 5' off the easement line. I'm not too concerned about where he is putting his deck. I went out there and walked his property and as far as I'm concerned, he has plenty of room back there.

Mr. Kintler – I understand.

Mr. Kolick – Are the pavers – I know they can't go over the easement – are they also required to be 5' off the easement or is it just a deck that is required to be 5' off the easement?

Mr. Allen – It's a patio or deck.

Mr. Baldin – Right. So, we'll just amend that and add that.

Mr. Harr – If we grant it.

Mrs. McGrath - Mr. Chairman?

Dr. Goist – Yes, Mrs. McGrath?

Mrs. McGrath – Mr. Kintler, are you having trouble with any of the pavers slipping that would be in compliance with this City Ordinance? In other words, I understand that the ones that are sliding are the ones that are right on the easement on the west side. The ones that you're going to keep, are they sliding?

Mr. Kintler – No.

Mrs. McGrath – Is the guy that you never want to see again, the landscaper –

Mr. Kintler – Kevin Winkler.

Mrs. McGrath – He is not doing any more work on your property, is that correct?

Mr. Kintler – No, he is not.

3) **JOE AND THERESA KINTLER, OWNER, Cont'd**

Mrs. McGrath – I assume that you're having a City approved contractor do the work on your deck?

Mr. Kintler – Yes, Bill Soeder Landscaping.

Mrs. McGrath – Okay. I think that's all I had for the time being.

Mr. Kintler – Just to clarify that as well, from the sliding glass doors, the steps, which are a half circle, that's where we are having the most problem with settling and it's due to bad installation.

Mrs. McGrath – I can see it, improper installation.

Mr. Kintler – I'm paying for this patio twice.

Mr. Baldin – I have no further questions.

Dr. Goist – Okay. This is a Public Hearing and so I will ask if there is anyone here to speak in favor of this variance? Is there anyone who would like to speak against this variance? Yes, please come forward and give us your name and address, please.

Mr. Schaeffer – Sure, my name is David Schaeffer and my wife Rosemary Schaeffer joins me and also, I have a signed written letter from my other neighbor, William and Susan Kerr on 20673 Chestnut Drive. My address is 20675 Chestnut Drive and we abut the back property. To walk back in history a little bit, prior to the building of all that development, we attended a Public Hearing and at that point in time, there was considerable discussion about how everything was going to be put in place and the City was very diligent in setting up the easement back there because of all the property concerns that the neighborhood had. So, that easement is presently there for a very important reason, to give us some space. I need to reassure you, my back neighbors are really, good people. There is no malicious intent on anybody's behalf and my heart goes out to them. When they did all the building and you walk the property, you can see that it's right up to the property line. Unfortunately, they got that land so they are trying to do the best they can. However, the people that have been there for many years, in the back we have to deal with, there is some drainage change. You know the history of Strongsville. We have a lot of drainage problems. Little knownst to their knowledge, there used to be a creek back there that was all covered over when that building took place. It was just a small creek but that was a mature forest back there and all the land drained there and it drained off real fine right over to Drake Elementary School and when it rained we had floods down there. So, we put in culverts and so forth. However, you take all those trees away and there is no place for that water to go but to the back properties. So, what we're saying, the Kerr's and myself, is that we have serious concerns with bringing the living area even closer to the back of the property. We are trying to maintain the green areas that

3) **JOE AND THERESA KINTLER, OWNER, Cont'd**

Mr. Schaeffer continues - Strongsville barely has. We're building on every little dribble of land in Strongsville. Our color green is the history of Strongsville. My wife and I have been close to lifetime members living here. We have raised our families in the schools. I'm still in the public schools. My wife works in the public schools. So, what we're asking for - I don't know, do you require me to read the letters? I understand that you were given the letters and that they were mailed to you.

Dr. Goist - We have all had your letter and we have all had Mr. Kerr's.

Mr. Schaeffer - Okay, then you don't need me to read those letters then?

Mr. Baldin - No, just the knowledge that we have received them.

Mr. Harr - And they are part of the record.

Dr. Goist - I have a question for you.

Mr. Schaeffer - Sure.

Dr. Goist - Since you refer to the flooding problems and things that you have had -

Mr. Schaeffer - Yes?

Dr. Goist - since this development that the Kintler's live in, have you had any flooding or drainage problems back there because when I looked at the property -

Mr. Schaeffer - Right.

Dr. Goist - it appears to me that any drainage is away from their house some 20'. It's all in the back and it's back there by all the trees and all the landscaping is, where the green space is that you really want and so when I looked at what he wants to do and when the Engineer from the City goes and looks at it, I say, I can't see how building this deck is in any way going to encumber or disturb or hinder what is there now. So, I understand your concern but, I think, in my own opinion, is a little bit overdone and unfound.

Mr. Schaeffer - Okay.

Dr. Goist - I appreciate the fact that you would say that when you first heard this and your knee jerk reaction would be, Oh my gosh, we're going to have trouble. But when you look at what the proposal is, I don't see that kind of a problem.

3) **JOE AND THERESA KINTLER, OWNER, Cont'd**

Mr. Schaeffer – Okay. Okay. I appreciate that. Then I can go on record stating that when the drainage starts to come in my basement, I can make that phone call and you also made him aware that he is responsible for any adjustments that need to be made. So, thank you for putting that on the table because I can tell you, visibly you can look at that, but I can tell you the history because I have been there a lot of years and I have also seen when it rains, the neighbor to my other side, who abuts right up to their property, the water comes right down and all the trees have been – you know how when the trees are taken away, there is a nice little river that goes right down. In fact, whoever is the previous owner, she sold the property. Prior to selling her property, she had to call in a company because her whole – her house is on a slab – they had to pump in some kind of Styrofoam or something to lift that slab. She is now in Virginia. She has relocated. Her whole slab had settled. I have no problem with what you're saying and yes, as you look visibly, it doesn't look like it's a major situation. The request that I would have, I have no problem with him with his little deck that he has now, we all have to have some place to get out – unfortunately, his property just goes right up - you've seen it - right to the property line. There is not much space back there. If he could maybe modify it just a little bit and put the deck maybe over to the side because he has a pretty good side over there. I would have no problem with that and the Kerr's that I represent, I don't think – I have had discussions with them - would have problems with that but the request to take up right up to 0', I think, is a little bit on the unfair side. I'm willing to split the difference and say, Okay, let's keep what he has and put the deck right there but don't expand it right up to 0' and keep that little bit of green space, because it isn't much.

Dr. Goist - Mr. Allen, is he going to 0' by the green space?

Mr. Allen – No, Mr. Chairman, the green space is 30' and it's still going to be maintained. He is not encroaching into the green space at all and that was established by City Council when Planning Commission approved this subdivision.

Mr. Schaeffer – The letter that I got says requesting a 5' setback variance – prohibits that – where 0' encroachment is proposed.

Mr. Allen – This is not into the landscape buffer. He is not talking about an encroachment into the buffer. He is talking about an encroachment into the storm sewer easement. So, what is going to happen is based on – from the property line to where his steps are coming down, it's approximately 41' from the rear property line. It's going to be –

Mr. Schaeffer – I don't see how that could be because it's 30' from the corner of his house to the property line.

Mr. Allen – From the steps to the rear of his property that he is proposing is approximately 41' to the rear property line from the last step that is coming down.

3) **JOE AND THERESA KINTLER, OWNER, Cont'd**

Mr. Harr – That's what I was going to ask Mr. Allen, from a language standpoint, we're not talking about green space. We're talking about an encroachment into a storm easement.

Mr. Allen – There is a 20' public storm sewer easement. Behind that there is a 30' landscape buffer easement.

Mr. Harr – Which he is going to be 10' or 12' off of the outside of that landscape easement.

Mr. Allen – Yes, he'll be outside of that buffer easement by –

Mr. Harr – He is not changing the green space at all. He is simply – there is – if you want to take a peek here.

Dr. Goist – Mr. Schaeffer, this is the drawing that shows the easement –

Mr. Harr – This is the storm easement here. (Indicating on the drawings.)

Mr. Schaeffer – Okay. Right, right, right and here is where we live.

Mr. Harr – Here is the edge of the landscape buffer.

Mr. Schaeffer – Gotcha, gotcha.

Mr. Harr – It's a little piece here that is coming into this area that is set aside so that everything actually probably drains down into this area here.

Mr. Schaeffer – Right, so his proposal is to move -

Mr. Harr – No, his proposal is right here.

Mr. Baldin – He is going to put that deck right in there.

Mr. Harr – Maybe that wasn't clear in the mailing because – actually if you wouldn't mind getting back on the record there because I have a couple more questions for you. Have you had any basement flooding since the new subdivision has been put in?

Mr. Schaeffer – Yes.

Mr. Harr - Have you spoken to Engineering or the folks at the City about that at all? Have you approached them about trying to remedy that situation or asked them to come out and take a look at your drainage?

3) **JOE AND THERESA KINTLER, OWNER, Cont'd**

Mr. Schaeffer – We have tried to handle it ourselves by adding additional fill dirt around the foundation of our house and also making sure that our gutters are draining appropriately because it's real deep so that's what I'm working on myself. In fact, I invested in leaf guards all the way around to make sure things are clear. So, that's been within the last year so I can document that I've done that and I'm hoping that that's going to –

Mr. Harr – Did those situations exist prior to the new subdivision? Did you have any drainage issues before?

Mr. Schaeffer – No, clean and clear.

Mr. Harr – Okay, but you have not approached the City in any fashion.

Mr. Schaeffer – No, because it's not like massive amounts of water. It's like dampness that's coming in and that has changed and we have been there for a lot of years.

Mr. Harr – None the less, if you feel you have drainage concerns or water related, to what has been set up back there, you can speak with the Engineering Department.

Mr. Allen – Yes, you can just come in and fill out an Action Request form and the City Engineer will send an inspector to take a look at it for you.

Mr. Harr – Absolutely, and have them take a look at that. Have there been any significant changes that you have noticed since the existing patio that has been put in, was put in?

Mr. Schaeffer – No.

Mr. Harr – No, it's basically the same?

Mr. Schaeffer – No, I would not say that.

Mr. Harr – I have looked at the property as have the other committee members and where the Kintler's are proposing to put the deck is really practically where the patio is at present. It is well up on the hill and the elevation and I can't imagine, unless we had a tidal wave, that it would really impact the drainage.

Mr. Schaeffer – Right. Can I switch gears real quick. Because of your clarifying and showing the situation much clearer, I would like to withdraw my letter and objection. I'm sure it's okay with my wife. She rakes the leaves and cuts the grass. Is that a problem?

3) **JOE AND THERESA KINTLER, OWNER, Cont'd**

Mr. Harr – We don't expect you to speak on behalf of the Kerr's but was that their understanding as well that it would head into the landscape buffer?

Mr. Schaeffer – Yes, absolutely, yes. Is that okay?

Dr. Goist – We really appreciate that. We ourselves did not know even in looking and so we were able to see the easement this evening and could not understand why you would be as concerned and I think it's a knee jerk reaction that would have made you think that this was going to be a major problem.

Mr. Schaeffer – And see, we're dealing with a lot of history, as most of us have been here for quite a while in the city. That building has happened on us and they're coming in and they're just cramming them in and then they leave. He can attest to the same thing. My heart goes out to him. He's trying to squeeze in some pleasure in the wonderful city that we have and our design is, Let's work together and make it happen.

Mr. Harr – You have had flooding issues or moisture issues or standing water in your backyard, we encourage you to use the City resources.

Mr. Schaeffer – Thank you for your time. Thank you for the process. Is that all you need of me?

Dr. Goist – Ms. Zamrzla has something that she would like to say.

Ms. Zamrzla – Mr. Schaeffer, the Building Department is there to help the citizens so if you ever receive another letter like this or if you see the big white cards with red letters, which are posting cards, in peoples windows that say that they have applied for a building permit or something, you're always welcome to come up and look at the public records of what it is that they are applying for. Look at the drawings and ask questions and see as many people as you like.

Mr. Schaeffer – Thank you very much.

Mr. Baldin – I went out and looked at the property and I actually walked in your neighbors yard and I saw your yard and I do think you have a little bit of dampness back there. You people have deeper yards I'm sure and the new development that is in there right now and I can't see, however, why the new development was allowed to go in there at a higher topo and so forth. That's not the first time that's happened in the City of Strongsville. I have that in my same subdivision that I'm in. As you say, they're cramming them in. They have the same situation and as you said earlier when Mr. Harr had asked the question about whether you had flooding in the past, you said there is a little creek in there, you never had that problem.

3) **JOE AND THERESA KINTLER, OWNER, Cont'd**

Mr. Baldin continues - I'm sure it was all misconstrued as you acknowledge now because we all said, "How could this be? Why would there be a problem? Why would there be a question on this?" I just wanted to clarify that. I walked the four yards in your subdivision and I am concerned about the fact that a neighbor wanted to put a deck up and was turned down. Where was that at?

Mr. Schaeffer – That was the Kerr's. They told me that they wanted a variance as well and it was denied. I don't know the particular's of that but –

Mr. Baldin – if I was in your yard facing your house, would that be to the left of to the right?

Mr. Schaeffer – They would be to the right, the colonial.

Mr. Baldin – Isn't there a deck?

Mr. Schaeffer - There is a deck but they had wanted the deck in a different position.

Mr. Baldin – They have a pretty good sized yard.

Mr. Schaeffer – They have a pretty good sized deck. That's what they verbalized to me.

Dr. Goist – How long ago was that?

Mr. Schaeffer – A couple years.

Mr. Harr - Mr. Harr – There could have been a variety of different reasons.

Mr. Baldin – I know there is a deck so I'm questioning exactly which neighbor was requesting and got turned down and the deck is in there and maybe it's smaller than what he wanted.

Mr. Schaeffer – I have a feeling that that is the answer. I think you can tell that our neighborhood is very close and we work together and that's what it takes for us to make this happen. Thank you.

Mr. Baldin – I think the Kintler's need their little deck and they don't have a lot of yard back there and there is plenty of vegetation with that buffer. I don't think there will be any problem whatsoever.

Mr. Schaeffer – No. Is that all you need of me?

3) **JOE AND THERESA KINTLER, OWNER, Cont'd**

Dr. Goist – That’s all we need. Board members, if there is no one else to speak against this variance, I would entertain a motion.

Mrs. McGrath - Mr. Chairman, I would like to move that we approve the request for a 13’ Rear Yard Setback variance from Zoning Code Section 1252.16 (e) which requires a 5’ Rear Yard Setback from Public Storm Easement and the applicant is proposing to build 8’ into the Public Storm Easement in order to construct a Deck; property located at 20434 Prairie Meadows Lane PPN 391-26-030 zoned R1-75.

Mr. Harr - Mr. Chairman, might I also amend the motion to allow for the existing patio and also subject to an executed affidavit acknowledging the encroachment and the contingent liability.

Mr. Kolick – That would be fine.

Mr. Baldin – Second.

Dr. Goist – We have an amended motion and a second. Kathy, would you call the roll please?

ROLL CALL: ALL AYES: MOTION CARRIED

Dr. Goist – Your variance has been approved. There is a twenty-day waiting period. At the end of twenty days then you go back to the Building Department and they will direct you from there.

Mr. Kintler – May I make one small statement? I know a letter went out to a lot of the neighbors within 500’ and I talked to as many as I could and once tried to reach out to Mr. Schaeffer but never – with busy schedules, I never saw him. We had it staked out and I appreciate him coming down and I appreciate his concerns.

Mrs. McGrath - Mr. Chairman, I even spoke with your neighbor, Mr. Tennant and he had no problem with it and wished you well. So, maybe you want to invite him for drinks on the deck.

Mr. Kintler – Thank you.

- 4) **JIM PTACEK, OWNER/JOE GAZZO, REPRESENTATIVE**
- a) **Requesting a 16' Height variance from Zoning Code Section 1252.22 (b) 3 which permits a 19' Height for a second floor and where a 35' Height is proposed in order to construct a Single Family Dwelling;**
 - b) **Requesting a 221 SF Floor Area variance from Zoning Code Section 1252.22 (c) which permits a 1,000 SF Floor Area and where a 1,221 SF Floor Area is proposed in order to construct an Attached Garage; property located at 18052 Benbow Drive PPN 399-22-009 zoned R-100.**

Dr. Goist – Our last Public Hearing is Jim Ptacek. If you will give us your name and address.

Mr. Gazzo – I'm Joe Gazzo representing Mr. Ptacek and I reside at 19762 Kensington Court here in Strongsville, and Mr. Chairman, the last time I was here when we spoke about the two variances that I'm requesting, Mr. Ken Evans asked that I go out there or have our engineer go out there and stake where the basketball court was going to be, which we did and I think some of the folks here and Mr. Allen looked at it and I also talked to some of the people within the area, particularly the gentleman that lives just north of him. His name is Carl Neil and he was all for it. I probably had a good hour talk with him about a lot of things but he is very well aware of the fact of what is going on back there. He looked at the stakes. I explained everything to him. I also spoke with – the cul-de-sac that is directly across the street from where this home is going to be built, I spoke to the party at 11:00 and at 1:00. The party straight ahead, I tried a couple of times in vain and they weren't home but I did speak with both parties on both sides and they were all for it as well. They had no problems with anything there. So, the main thing to mention was that Mr. Neil has no objections whatsoever and I explained to him everything that was going on back there.

Dr. Goist – Board members, any questions?

Mr. Baldin – I have no questions. I think it's a piece of property that is going to be utilized to a great advantage. That's all I have.

Mrs. McGrath - Mr. Chairman?

Dr. Goist – Yes?

Mrs. McGrath –Dan, did we want to confirm something on the use of the basketball court?

4) JIM PTACEK, OWNER/JOE GAZZO, REPRESENTATIVE, Cont'd

Mr. Kolick – Yes, I believe if you are going to consider this variance that you make it contingent, as they represented to the City, that the basketball court would be only for personal use, it won't be rented out or generate any more traffic than any normal residential home would. Again, we don't have problems with the friends coming over to play. We just don't want to see leagues being run out of there or renting it out where you get much more traffic than a normal residential home. Then you may have a problem with the City. So, if you add that contingency to it, then I think you're free to act on it.

Dr. Goist – Okay. Is there anyone here who would like to speak for this variance? Is there anyone who would like to speak against this variance? Seeing none and hearing none, I will entertain a motion.

Mr. Baldin - Mr. Chairman, I request that a 16' Height variance from Zoning Code Section 1252.22 (b) 3 which permits a 19' Height for a second floor and where a 35' Height is proposed in order to construct a Single Family Dwelling and (b) requesting a 221 SF Floor Area variance from Zoning Code Section 1252.22 (c) which permits a 1,000 SF Floor Area and where a 1,221 SF Floor Area is proposed in order to construct an Attached Garage; property located at 18052 Benbow Drive PPN 399-22-009 zoned R-100 contingent on personal use only for the basketball court that is going to be constructed be approved.

Mrs. McGrath – Second.

Dr. Goist – We have a motion and a second. Kathy, would you call the roll?

ROLL CALL: ALL AYES: MOTION CARRIED

Dr. Goist – Your variance has been approved and as we have said before, there is a twenty day waiting period and then you go to the Building Department and they will direct you from there.

Dr. Goist – Thank you very much. Have a good evening.

RULING – VARIANCE APPROVED

Dr. Goist - If there is no other business to come before this Board, meeting is adjourned.

Meeting adjourned at 8: 53 p.m.

Signature on File
Glenn Goist, Chairman

Signature on File January 14, 2009
Kathryn A. Zamrzla, Sec'y Approval Date