

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

**October 8, 2008
7:30 p.m.**

Present - Board of Appeals Members: Glenn Goist; William Harr; Celia McGrath; Richard Baldin, Kenneth Evans
Administration: Assistant Law Director, Daniel Kolick
Building Department Representative: Joey Allen
Recording Secretary: Kathryn Zamrzla

The Board members discussed the following:

NEW APPLICATIONS

- 1) **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 an existing 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 an 8' Fence; property located at 14496 Ordner Drive PPN 396-18-010 Zoned R1-75.

Mr. Allen informed the Board that the deck was constructed previously and was not constructed according to the plans.

PUBLIC HEARINGS

- 2) **GLORIA SMITH, OWNER**

Requesting a 15' Side Yard Setback variance from Zoning Code Section 1252.17 which does not permit a fence to project beyond the house setback and a 15' projection is proposed in order to install a 5' to 6' tall Fence on a Corner Lot; property located at 20568 Spruce Drive PPN 393-24-056 Zoned R1-75.

Mr. Harr asked if the property goes all the way back to Lunn Road. The Board discussed that the fence permit was issued in 1981 and Mr. Kolick stated that perhaps the current fence ordinance was not in effect in 1981. Mr. Kolick reminded the Board that a new relaxed fence law is in effect. Bill Harr stated that aesthetically the fence doesn't pose a problem but he does not see the hardship.

3) **JAMES CARTER, OWNER**

Requesting a 29.5' Front Yard Setback variance from Zoning Code Section 1252.04 (d)(2) which requires a 100' Front Yard Setback from the centerline of Bowman Drive and where a 70.5' Front Yard Setback is proposed in order to construct a Single Family Dwelling; property located at Bowman Drive PPN 393-37-004 Zoned R1-75.

Mr. Allen stated that this is before the Board due to an oversight from the Engineering Department because the development wasn't plated right at the beginning. Dr. Goist stated that the variance doesn't pose a problem. During a visit to the property, a neighbor stated that the vacant lot next door floods. In addition, if the lot next door sells, it too will need a variance to improve the lot.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS

MINUTES OF MEETING

October 8, 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 October 8, 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

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 also received in our packets the minutes from August 13, 2008 and August 27, 2008. If there are no corrections or additions, I will entertain a motion to approve the minutes as submitted.

Mrs. McGrath – So moved.

Mr. Harr – Second.

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

ROLL CALLED: ALL AYES MOTION CARRIED

Mr. Evans - Mr. Chairman, I move to approve the amended agenda.

Mr. Harr – Second.

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

ROLL CALL: ALL AYES

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) **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 an existing 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 an 8’ Fence; property located at 14496 Ordner Drive PPN 396-18-010 Zoned R1-75.**

Dr. Goist – Our first New Application is Clint and Diane Nelson. Do we have a representative here?

Mr. Kolick – Why don’t we just defer them to the end of the agenda and see what happens since they are not here.

(G) PUBLIC HEARINGS

- 2) **GLORIA SMITH, OWNER**

Requesting a 15’ Side Yard Setback variance from Zoning Code Section 1252.17 which does not permit a fence to project beyond the house setback and a 15’ projection is proposed in order to install a 5’ to 6’ tall Fence on a Corner Lot; property located at 20568 Spruce Drive PPN 393-24-056 Zoned R1-75.

Dr. Goist – Okay. We will go right into our Public Hearing and our first Public Hearing is Gloria Smith. Gloria, if you would come forward and give us your name and address, and then, again, explain to us why you would like your variance.

2) **GLORIA SMITH, OWNER, Cont'd**

Ms. Smith – Gloria Smith, 20568 Spruce Drive. I'm requesting to replace a fence that has been on the property twenty to thirty years. It was partially knocked down in a wind storm. We would like to put the fence exactly where it was previously. The deck was built based on where the fence was and so our hardship would be that we would have to replace a railing on the deck, remove the steps, plus it significantly reduces the size of our back yard. We do have a big dog and children and it's a big lot but we wouldn't have much of a back yard.

Dr. Goist – Okay. We had talked about this in caucus and I'm going to give you a little bit of – were you in caucus?

Ms. Smith – Yes.

Dr. Goist – Did you hear some of our explanation that we, as a Board, had asked the City to change where they put fences next to the house, because in previous years, everybody was putting up a stockade fence, board on board on a corner lot and the rules were different and they were allowed to bring it out from the house. We had times when the people could bring it out 20'; we had times when they could bring it out 35' and so we as a Board asked them to change that. I think we have sympathies with you as far as aesthetics are concerned but we are the ones who had asked for the change in the law and they did change the code and so we understand your situation, although at the last meeting I had said to you that you still could put a deck up and then drop your fence down and go back.

Ms. Smith – The thing that I was concerned about doing that – well, aesthetically, I'm not sure what that would look like from the street to have it up but I was concerned about the safety because nobody could see the back entrance to the house. So, I thought it would be unsafe. Someone could break in. No one could see that area. It didn't seem safe with children and I was concerned about putting it up like that. I do understand the regulation but I do feel like we are set quite a ways back from the sidewalk. We're not along the sidewalk in any way and we are – I know it's not necessarily a concern but the fence was in that location for twenty for thirty years. We aren't asking for anything different.

Dr. Goist – I concur with all the things that you have said. What we need to do is to poll our Board and see how they all feel about it also. Board members?

Mrs. McGrath - Mr. Chairman, I just want to make sure that I understand that you wouldn't even be here putting up a new fence had it not blown down in that storm and that you would just like to put it up where it was initially.

Ms. Smith – That is correct.

Mrs. McGrath – Okay, thank you.

2) **GLORIA SMITH, OWNER, Cont'd**

Mr. Baldin - Mr. Chairman?

Dr. Goist – Yes?

Mr. Baldin – How long ago was this storm that blew your fence down? Two or three years?

Ms. Smith - It was about a year ago. Looking at your property, the way your deck is right off your house there right on the corner, do you have steps coming down on the west side?

Ms. Smith – We have steps on each side.

Mr. Baldin – Facing Pinewood, right? Facing the back yard?

Ms. Smith – That is correct.

Mr. Baldin – Okay, so the steps come out maybe 4' or 5'? I didn't pay any attention.

Ms. Smith – Yes, I'm not sure exactly but I'd say 4'.

Mr. Baldin – It seemed to me – let's see here. We're looking at 10' plus 15' equals 25' from the corner of the house to the sidewalk maybe? I'm not sure.

Ms. Smith – There is a little wooded path also right there at the bottom of the steps that we would have to tear out if the fence –

Mr. Allen - Mr. Chairman? It would be approximately 35' from the corner of the house to the back of the walk.

Mr. Baldin – Okay, I was pretty close there.

Dr. Goist – I think I know where you are going.

Mr. Baldin – I would have a little inclination to, maybe, give you a little bit of a bump out there. Not the full bump out that you're asking for but give you something so that you don't have to tear down your steps. It will still help you to give you a little bit more room in your back yard and you still have access to your steps. You can put your fence up and close in your yard but I don't think I can go along with what you're asking for. It's something that you have to think about.

Ms. Smith – Okay. So, would I have to request a different amount or would you determine what that amount would be?

2) **GLORIA SMITH, OWNER, Cont'd**

Mr. Baldin – We can do that.

Dr. Goist – We can ask you. This is, kind of, a compromise type of thing and we're saying to you, and I would rather poll all of our Board members before we say but would you go half way?

Mr. Baldin – Maybe 6' or 7'. It would be sort of stupid just to go 5' or 6' and just give you 2' to the steps in between there.

Ms. Smith – Right, because you would walk down the steps and run into the fence.

Mr. Baldin – Right, so maybe half the distance or what-have-you.

Mrs. McGrath - Mr. Chairman?

Dr. Goist – Yes, Mrs. McGrath?

Mrs. McGrath – I don't have a problem if we were to put it where it was initially because if you are looking at it – I see two, sort of, hardships. The first hardship was the storm itself taking out part of the fence. So, it has to be replaced. She wouldn't be here asking for this if she hadn't had the storm take the fence out and secondly – Ken and I were discussing here – the deck was probably put where it was because the fence originally was where it was and so everything was aesthetically pleasing to begin with. I don't have a problem putting the fence back where it was initially before the storm took it out.

Mr. Baldin – Excuse me, do we know whether the deck was in before the fence was ever in? Are you the original owners? You're not the original owners are you?

Ms. Smith – We are not. It was put in after. That is what we were told by a neighbor. The deck was put in after the fence.

Mr. Baldin – The deck was put in later.

Mrs. McGrath – I don't have a problem keeping it the way it is, without the compromise, in other words.

Dr. Goist – Okay. Mr. Evans, do you feel the same way?

2) **GLORIA SMITH, OWNER, Cont'd**

Mr. Evans – I am inclined to feel that we need to provide a variance for the 10' or 15'. What Mrs. McGrath and I were talking about was the placement of the deck being predicated on the location of the fence and I think that in this case, there is certainly a grandfathering issue here. We're not creating a new variance. This was an existing situation. Whether mother nature is a hardship or not, the placement of the deck certainly is and asking them to do away with one set of steps, for safety reasons and everything else, I think at this point it would behoove us to consider a variance of a minimum of 10'. Whether we go the full 15' or not, maybe, I think, the compromise is an amenable way of doing it. One panel of the fence would be 8' or whatever it might be. So, I think that there is obviously room for us to work on that.

Dr. Goist – I concur with Mr. Evans. I think we could – we said, “Would you go halfway?” and you were willing to say – almost said “Yes”. Mrs. McGrath wants 15'.

Mrs. McGrath - Mr. Chairman? Was the fence originally 8' or would you have to make it 8' to get the privacy if it's up next to the deck?

Mr. Baldin – It's not an 8'.

Mrs. McGrath – It was never 8'?

Mr. Evans – They are talking about sections of fencing.

Mrs. McGrath – Right but –

Ms. Smith – You are talking about the length out, right? The actual height would be 5'.

Mrs. McGrath – Okay. I'm looking at a different one. I'm sorry, I got it mixed up.

Dr. Goist – Out from the house.

Mr. Baldin – Eight feet is the other one.

Ms. Smith – Yes, and then the back would be 6'.

Mrs. McGrath – I wanted to make sure the height was 6' and you are going 6'. That's right.

Ms. Smith – Five on the side where it would be in the back. It would be preferable, obviously, to have the bigger back yard. We do have, like I said, a big dog that likes to run and children but obviously, we don't want to have to modify the deck either.

2) **GLORIA SMITH, OWNER, Cont'd**

Mr. Harr - Mr. Chairman?

Dr. Goist – Mr. Harr?

Mr. Harr – As I had mentioned in caucus, I think from an aesthetic standpoint, I certainly understand the desire to move it out a little bit. I don't think it is necessarily pleasing coming right off the back of the house and as Mr. Evans and Mrs. McGrath pointed out, there is a grandfathering issue here. I think we should be looking – I like the compromise of 10'. I don't really want to go out any further than we have to but, by the same token, I want to go out far enough that the steps don't present a hazard but the fence is so close that someone could fall down the steps and into the fence. So, I think that 10' for me probably feels right.

Dr. Goist – I concur with 10'.

Mr. Baldin - Mr. Chairman, I don't really have a problem with that. That's why I brought up the issue in the first place. I can't see the 15' but to have some type of compromise here, which a lot of times we do, sometimes even between neighbors, we get them to sit down and talk. I think that 10' will be sufficient if the applicant would like to adhere to that.

Mr. Allen – Mr. Chairman?

Dr. Goist – Yes?

Mr. Allen – Wherever the steps come down by code, they will have to have a minimum of 3' to the fence.

Dr. Goist – So, if the steps come down 4' away from the house, he is saying you still need 3' clearance from the fence. So, if we give you 10' and you don't bring your steps out further than 7' –

Mr. Evans – The steps are existing. I don't think the applicant is planning on changing those but I just think that it's important – not that City Council would ever read anything that we have deliberated on because they have certainly proven in the past that they don't care – but at this point, I think that we need to, at least for our purposes, stipulate that it's because of the grandfathering issue and the fact that the deck was built around where the fence was located.

Dr. Goist – Thank you.

Mr. Harr - Mr. Chairman, are we going to ask the applicant if they would like to change their request?

2) **GLORIA SMITH, OWNER, Cont'd**

Ms. Smith – Yes, we would like to change to the 10' please.

Dr. Goist – This is a Public Hearing. Is there anyone here who would like to speak for this variance? Is there anyone here that would like to speak against this variance? Hearing none and seeing none, I will entertain a motion.

Mrs. McGrath - Mr. Chairman? I would like to move that we approve a request for a 10' Side Yard Setback variance from Zoning Code Section 1252.17 which does not permit a fence to project beyond the house setback and a 10' projection is proposed in order to install a 5' to 6' tall Fence on a Corner Lot; property located at 20568 Spruce Drive PPN 393-24-056 Zoned R1-75.

Mr. Baldin – 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. Thank you to the Smiths. I think that it was a very good compromise.

Ms. Smith – Thank you.

Dr. Goist – You will have a twenty-day waiting period now and then you may go to the Building Department and they will direct you from there. Okay? Also, since you are the first ones, you don't have to stay for the rest of the meeting. You are welcome to leave.

RULING: VARIANCE APPROVED

Ms. Zamrzla - Mr. Chairman?

Dr. Goist – Yes?

Ms. Zamrzla – Regarding item number one, I called the homeowner and I spoke with the contractor, and the homeowner as well. The homeowner is not prepared to come up and speak for them. The contractor was here and I actually saw him at seven o'clock in the parking lot but he thought that with all of the ruckus that was going on – I think that was the word he used – he thought our meeting might be cancelled so he left and he is not able to come at this point. So, it's rescheduled for two weeks from tonight.

Dr. Goist – Okay.

2) **GLORIA SMITH, OWNER, Cont'd**

Ms. Zamrzla – Thank you.

Dr. Goist – We appreciate that information.

3) **JAMES CARTER, OWNER**

Requesting a 29.5' Front Yard Setback variance from Zoning Code Section 1252.04 (d)(2) which requires a 100' Front Yard Setback from the centerline of Bowman Drive and where a 70.5' Front Yard Setback is proposed in order to construct a Single Family Dwelling; property located at Bowman Drive PPN 393-37-004 Zoned R1-75.

Dr. Goist – Our last Public Hearing is James Carter. If you would like to come forward. I know that you are not James. If you would give us your name and address please.

Ms. Evans – Sure, it's Denise Evans. I live at 5374 West 150 Street in Brook Park Ohio, 44142.

Dr. Goist – Okay. Again, we all know this lot very well and would you explain to us what you would like to do, for the record.

Ms. Evans – What we would like to do is move the house forward from what the code says. I know the code says to go 100' back but that wouldn't leave us much backyard. We would eventually like to put a pool in and have room for our little one to play with a swing set and all that good stuff. So, that is why we are, pretty much, asking to move it up so we can have – I don't want to say more of a back yard but at least somewhat more of a back yard than what it originally is.

Dr. Goist – Okay, I think we all understand your issues. Mr. Baldin brought up one comment and I don't know how this runs but there is culvert that runs along the side of your house.

Mr. Baldin – Along the west side but I think it is detailed out on the prints. I didn't realize that either until I looked at it the other night. Actually, I saw it in the backyard while I walked the backyard – the big massive piece of concrete and the manhole cover. I wondered about that and there is someone in the audience tonight that lives in the neighborhood and she had made a comment to me about a stream or a creek running through their property years ago. She thought maybe it might have gone underneath the property and you people weren't aware of that. That's why I, sort of, brought this up this evening.

Ms. Evans – Yes, because I didn't know that.

3) **JAMES CARTER, OWNER, Cont'd**

Mr. Baldin – The other question I have is does your property go back a little bit further from where it was cut right now? Do you go into the woods some?

Ms. Evans – Not much. I think its a few more feet because there were some bigger trees and we figured as long as you could see where they had originally put the ribbons and everything on. That's another reason why we didn't want to cut all the trees back there to that area. It doesn't go much further than that.

Mr. Baldin – Actually, Betty Myers here, she made a comment to me that she thought it was good to see that they finally something was being done there. Betty, would you like to make any comments? You didn't get sworn in yet. Stand up to get sworn in.

Mr. Kolick stated the oath the Betty Myers.

Dr. Goist – You can come to the podium.

Mr. Evans – You're used to being at a microphone Betty.

Ms. Meyers – I have no problem with the setback and in fact I'm glad that they did that because I was really upset with the other house because they –

Dr. Goist – Give us your name and address please.

Ms. Meyers – Betty Meyers, 19355 Bowman Drive. I have no problem with the setback or bringing that forward because I think it's going to look better. The other house that was built there just does not conform to the neighborhood at all.

Mr. Baldin – You're talking about the one that we gave the variance for that is almost like a three story house?

Ms. Myers – Yes, but we didn't know until too late that it was going up. It's built 5' above grade and I don't know if any of you realize that that property was sold to those people and the prior owners were never allowed to build. That's why they sold that property but that's neither here nor there. So, anyway, as far as this culvert – I was talking to Richie and I said, "Do you realize there is a culvert there?" because I remember watching them cover that up and I said, "You're covering up that creek" and I stopped to ask them why and they said, "Well, to make it look better". Then I see the property up for sale and my concern was this – were the people who bought that property notified that there is a culvert under there. Is it going to cause them problems down the road? I hope not and I know Nelson's next door and I was talking to them and they have been flooded out numerous times since all this construction has happened. So, that's my concern. Those people lived there for a long time.

3) **JAMES CARTER, OWNER, Cont'd**

Ms. Meyers continued - They do not need any more problems. So, that's what – I would like people to make sure that that doesn't happen to them and these people don't have a problem with that culvert there.

Dr. Goist – That's why when Mr. Baldin said to us that there was a culvert and she just said now "We might like to build a pool back there", I think you have to – we want you to know all the possible ramifications because if you get ready to build a pool, you want to have all your ducks in a row.

Ms. Meyers – Because we all saw an open creek prior and I watched them cover it up.

Ms. Evans – How far back was it?

Ms. Meyers – It went all the way back through the property from the front. It goes all the way back but it kind of snaked around . So, I think you really need to check that out. I think that it does show it on the map.

Mr. Baldin – It's on the map. It is west of where you are building, like 5' or 6'.

Ms. Meyers – I think that you need to find out what type of a culvert was put in there so you don't have any problem down the road.

Mr. Allen - Mr. Chairman?

Dr. Goist – Yes?

Mr. Allen – When this subdivision was designed the culvert was taken into consideration. The entire drainage area upstream going to this culvert has been sized. You'll notice that on the plans, the existing culvert underneath the road is 27". The culvert that they put in was a 42". It's more than sufficient to handle the upstream area. I'm not saying that they aren't going to have a problem but what the engineer designed and what we approved was well within all of the City of Strongsville safety parameters.

Ms. Evans – Okay.

Ms. Meyers – Okay.

Mr. Baldin – Excuse me Betty, the Nelson's have flooded out since Stages Day Care has been in there, since they rebalanced all that property?

3) **JAMES CARTER, OWNER, Cont'd**

Ms. Meyers – Yes. Yes. She said that they have never had water problems before and they do now as I do. My backyard is always like swamp but the City allowed the guy next door – which Bill, you mentioned the porch – I’ve had to live next to it. He really has worked on it to try to complete it. He lived out of town. He is cleaning it up. He just redid his yard but I’ll tell you what. There has got to be something done between his property and mine and this is my neighbor and I’m very giving with my neighbors but I’m tired of being flooded out and there should have been a culvert right down between or properties or maybe some sort of a sewer line or French drain put down because when it rains, I can’t walk off of my deck.

Mr. Baldin – He is higher than you?

Ms. Meyers – Yes. He is way higher than me and every time they build coming from up on – it all comes from Drake Road and heads down. I never used to have that problem but every time there is a new construction site somewhere, it’s like that water finds it way. It all goes down hill.

Mr. Harr – You do have remedies for that through the City and have the Building Department come out and take a look at the topography and the swales and so forth to make sure that they are conforming to what is required.

Mr. Allen – If you like, you can come and fill out an Action Request form and the City will come out and take a look at it. We will send someone from the Engineering Department.

Ms. Meyers – Thank you.

Mr. Baldin – Thank you Betty. Let me ask the new applicant, were you ever aware – have you talked to the Nelson’s next door? Are you aware their basement has been flooding out?

Ms. Evans – We met him once when we were out there cleaning out and getting everything cut down. He introduced himself and so forth. He didn’t say anything about that to us. He just said that he was glad to see young families coming in with small kids and he wouldn’t have a problem with us doing what we wanted to do because we told him that he is going to get a letter and so forth. So, that was it. It was probably about a five or ten minute conversation with him.

Mr. Harr - Mr. Chairman?

Dr. Goist – Yes?

3) **JAMES CARTER, OWNER, Cont'd**

Mr. Harr – I would think the advice to the applicant would be knowing that the area has experienced some water issues and that you have the culvert there and so forth that your contractor, and whoever is doing your grade and so forth, pay special attention to your topo and be conscious of that so that you make sure that you get everything just right.

Ms. Evans – Okay.

Dr. Goist – Okay. This is still a Public Hearing and Betty Meyers spoke in favor. Is there anyone here who would like to speak against this variance? Hearing none and seeing none, I will entertain a motion.

Mr. Harr - Mr. Chairman, I make a motion that a request for a 29.5' Front Yard Setback variance from Zoning Code Section 1252.04 (d)(2) which requires a 100' Front Yard Setback from the centerline of Bowman Drive and where a 70.5' Front Yard Setback is proposed in order to construct a Single Family Dwelling; property located at Bowman Drive PPN 393-37-004 Zoned R1-75 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 – Just so you know, there is a twenty-day waiting period and then you may go to the Building Department and begin.

Ms. Evans – Okay.

Mr. Evans – These plans are expensive to have reproduced. Do you want our extra sets?

Ms. Evans – Thank you.

RULING: VARIANCE APPROVED

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

Meeting adjourned at 8: 29 p.m.

Signature on File	Signature on File	December 8, 2008
Glenn Goist, Chairman	Kathryn A. Zamrzla, Sec'y	Approval Date