

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

**September 26, 2007
7:30 p.m.**

Present: Board of Appeals Members: Glen Goist, Ken Evans, Bill Harr, Rich Baldin, Celia McGrath. Administration: Law Director, Ken Kraus; Building Department Representative, Joe Allen; Recording Secretary, Kathy Zamrzla.

The following was discussed:

(G) PUBLIC HEARINGS:

2) SPIRIT HALLOWEEN, TENANT

Requesting a variance from Zoning Code Section 1272.12(h) which prohibits Temporary Signs/Banners to be displayed in the window of the business for a period exceeding 30 consecutive days and where a Temporary Sign/Banner is proposed to be displayed in the window of the business for a period exceeding 30 consecutive days; property located at 17260 Royalton Road PPN 396-14-011 Zoned Shopping Center.

The board was advised that the permit was issued for the sign and that the board tonight will need to set a date that it has to come down.

3) TIMOTHY HIETALA, OWNER

Requesting a variance from Building Code Section 1436.02 and from Zoning Code Section 1274.06 which requires a hard surface driveway and where a gravel driveway exists in order to construct an Attached Garage and Breezeway; property located at 19990 Lunn Road PPN 393-21-004 Zoned R1-75.

The board stated that they don't have any issues with granting this variance but they will need to decide on a time limit for when the driveway has to be in. The applicant stated that he wants to start as soon as he has his permit. The old truck on the property will be moved into the completed garage. The board stated that the applicant must use his business address on his license application for the year 2008 instead of indicating that the business is run out of the home.

4) **SCHNEIDER RESERVE, OWNER/Pulte Homes, Representative**

Requesting a 22' Rear Yard Setback variance from Zoning Code Section 1252.04 (d)(1) which requires a 100' Rear Yard Setback from the centerline of Whitney Road and where a 78' Rear Yard Setback is proposed in order to construct Single Family Dwellings in Schneider Reserve Subdivision Phase 1 and Phase 2; property located at Sublots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 38, 39, 40, 41 and 42 within PPN 395-22-001 and PPN 395-22-004 Zoned R1-100.

Mr. Harr stated that the variance is unavoidable and the right thing to do. The board agreed that they don't have any issues with granting this variance.

5) **JASON HOVAN, OWNER**

Requesting a 2' Rear Yard Setback variance from Zoning Code Section 1252.05 which requires a 50' Rear Yard Setback and where a 48' Rear Yard Setback is proposed in order to construct a Garage Addition; property located at 19955 Drake Road PPN 394-23-023 Zoned R1-75.

The board stated that the trailer (RV) can be parked in the rear yard. The applicant stated that the height of the new garage will be a little bit higher than the current garage,

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS

MINUTES OF MEETING

September 26, 2007

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

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

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

Dr. Goist – Good evening, ladies and gentlemen. I'd like to call this September 26, 2007 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. Kathy, would you call the roll, please?

ROLL CALL: 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.

Dr. Goist – This evening we have an amended agenda. Would someone like to move that we approve the amended agenda?

Mr. Evans – I would like to move that we 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: MOTION CARRIED

Dr. Goist – We have minutes from September 12, 2007 for approval. If there are no objections to the minutes, I'll ask for a motion to approve the minutes.

1) **JIM AND TRACEY BUKVIC, OWNER/Joe Gallo, Representative, Cont'd**

Dr. Goist – Thank you. We have all been to your property, obviously, previously, when you asked for the variance when you asked to build and we also understand what you're asking for now so would you tell us in your own words why you're asking for this variance and what you would like to do?

Mr. Bukvic – Sir, I've seen many houses and setback like in our wooded type setback that we're living at and it looks more attractive, number one, to have the asphalt going back there instead of the hard concrete. It gives it a little bit more softer feel and more like if you're driving down Big Creek Parkway. Hopefully we can raise this up and run it to the contour of the ground so that we don't have to destroy our neighbor's trees. We don't want to move in here and then, all of a sudden, ruffling our feathers around there and causing trouble and it would save us a little bit of money.

Dr. Goist – We understand the money savings but I'm going to refer this question now. There are two things that are going on. The City of Strongsville has an ordinance that was passed - we just found out in caucus – in 1991 that said hard surface means concrete or brick pavers. There have been very few exceptions to that rule since that time. We also know through the Building Department that you have drainage established to that existing house and if you change the elevation of the driveway at this point, you may be into a situation where you have to change the drainage and so one problem may lead to a second problem. So, I'm going to ask Mr. Allen to explain what he knows about the changing of the elevation and the drainage.

Mr. Allen – Yes, Mr. Chairman, it's been supposed, I guess, that you're proposing to elevate this driveway somewhat and if you elevate it, you may cause pockets of water where the water – the water has to travel from one side of the driveway to the – from the high side to the low side and if you elevate it, you may be blocking it. So, there is existing drainage there but that drainage is on the neighbor's property. So, you would have to either get permission from them to tie in if you needed additional catch basins or French drains or something like that. What you would have to do is have your engineer provide me with the cross section of what you're proposing to do and also revise the topo to show how you propose to drain it, if you propose to elevate the driveway.

Mr. Bukvic – I understand.

Mr. Allen – Thank you.

Dr. Goist – I know we discussed this a little bit in caucus, which you were in caucus so you heard our discussion and I'm going to let the board members comment on their feelings now.

1) **JIM AND TRACEY BUKVIC, OWNER/Joe Gallo, Representative, Cont'd**

Mr. Baldin – Mr. Allen, is there a requirement – I know there is, I'm sure - with concrete of what they have to pour? Aprons are so thick and driveways are so thick. What about with asphalt? Would there have to be a recommended thickness if this was approved tonight? Does the City have any specifications on that?

Mr. Allen - Mr. Chairman? Sir, we do not have any specifications for asphalt residential driveways. What you would have to do is have your design engineer submit something and then the City Engineer would review it.

Mr. Baldin – Okay. Thank you.

Dr. Goist – Any other questions board members?

Mr. Harr - Mr. Chairman?

Dr. Goist – Yes.

Mr. Harr – I would also inquire, Mr. Allen, if he is aware of any significant advantage relative to the survivability of those trees laying a black top base as opposed to cutting in for concrete?

Mr. Allen – Yes, Mr. Chairman, board members, any time that you put any type of – at the bottom of the tree, that's the area of the tree, branches – any time you do any kind of disturbing the area under the tree, it's been my experience that, unfortunately, that's going to hurt the tree - it may not be right away; it may be two, three, four years down the road - any time you build dirt up around the base of the tree but what they're proposing to do is build gravel somewhat around the base of this tree, then put asphalt up and then eventually in my opinion it will probably hurt the tree. I don't know any way of saving it.

Mr. Harr - Mr. Chairman?

Dr. Goist – Yes?

Mr. Harr – I would ask the applicant then, are you folks aware of some benefit to the blacktop as opposed to the concrete or is really the plan not to cut into the lawn at all for the base and you're simply looking to build it up where you pass those trees. Is that the idea?

Mr. Bukvic – (no audible answer)

1) **JIM AND TRACEY BUKVIC, OWNER/Joe Gallo, Representative, Cont'd**

Mr. Harr – Okay. So, the idea being that you would build a base for the blacktop as opposed to actually cutting into the ground at all but our information indicates, if I'm understanding correctly, that that in and of itself may cause a problem with the trees.

Mr. Bukvic – That's correct.

Dr. Goist – Also, to the applicant, the Building Department did have a discussion with our arboretum specialist here in the City and this is some of the information that Mr. Allen has brought to us tonight that no matter what happens, that tree will probably be damaged. So, we're going to have to base our recommendations and your request on the variance, which will be at the next meeting on October the 10th. So, I just want you to know that we're going to factor in all of the ideas that we have.

Mr. Kraus – Mr. Chairman?

Dr. Goist – Yes, Mr. Kraus?

Mr. Kraus – I am having trouble with my microphone here but I would like to point out that 1436.02 only provides, as it has been stated in Residential Districts, that you can utilize Portland cement concrete or interlocking concrete paving stones. So, really and truly, asphalt is not a permitted use under Strongsville's code since 1991. The second thing that I want to point out to you is, basically, you listed three reasons in support of a variance and really two of them, under 1248.08, which are reasons for granting variances and the true hardships and all the other things that you have to establish under the law, saving a little bit of money, while we can all appreciate that, is not necessarily a true hardship under the code for substantiating a variance nor is necessarily that, in your view, that it looks more attractive because again, this is not a permitted use. Really, the sole thing that you're resting your situation on as I view it is the question of the trees, which the members of the board and Mr. Allen have discussed with you and laid out. So, that's really what this comes down to from my view, from a legal standpoint, is whether or not there is a substantial enough difference between the asphalt and the concrete vis-à-vis trying to alleviate any type of situation regarding the trees to justify asking this board to vary from what has been the law here for 16 years. Thank you, Mr. Chairman.

Dr. Goist – Thank you, Mr. Kraus. I notice that the builder has something to say.

Mr. Gallo – Is there an option at all to do a concrete apron and then leave stone up to a certain point to where we pass the tree lines and then do concrete in the back by the house? Is a stone driveway grandfathered? Most of the driveways there are all stone driveways up and down Whitney?

1) **JIM AND TRACEY BUKVIC, OWNER/Joe Gallo, Representative, Cont'd**

Dr. Goist – Mr. Allen?

Mr. Allen – I would have to confer with the Law Department but that would be a decision of the board.

Mr. Kraus – Again, that would be – I don't believe – I would have to confer with the Engineering Department but I don't think - what you're asking for strictly conforms to 1436.02 and so I think, again, you have to establish the requisite for hardship and the other requirement for a variance.

Ms. Bukvic – I think the reason why we would like to do the gravel also is that we're not talking one, two, three trees. There's approximately eight trees that line that driveway and also, you were worried about the drainage. If you put the stone in, it's a natural drainage. It's not going to destroy the trees. It's not –

Mr. Bukvic – There is an existing gravel driveway there.

Ms. Bukvic – It's been an existing gravel driveway. There used to be a cottage that was back there.

Dr. Goist – We understand exactly what you said but when you were asking for new construction and a variance then it changes to go to the new City code. All of those driveways – and there are numerous driveways in this city - there are hundreds probably but they do not conform to the new regulation and you're asking to build and change and so at this point it becomes a new matter and we do not allow gravel driveways to exist any more. They are there. They are grandfathered. They are legal but they are non-conforming to the codes of the City.

Mr. Evans - Mr. Chairman?

Dr. Goist – Yes?

Mr. Evans – A couple of questions – Jim have you talked with the neighbors yet about the trees and they're aware of the fact that you're building back there? It's an unusual circumstance because of the way that this lays in there. I have to admit when I was out on the other variance, I don't remember looking at the trees and thinking about those being a problem down the road or anything. So, when you talk about eight, they could be the biggest trees in the world but I just didn't pay attention to them. Have you talked to the neighbors about what might happen when you're putting some kind of an entrance through there, whether it's asphalt or concrete?

1) **JIM AND TRACEY BUKVIC, OWNER/Joe Gallo, Representative, Cont'd**

Mr. Bukvic – I haven't personally spoken with her but my parents have and she is kind of upset with the fact that some trees are going to have to come down or are going to die. She said she has a bad heart and she has been in this house for quite a while and she loves those trees. I don't want to put any more stress on this lady as I possibly can. I would like to try to move in nice and smoothly and be friends with my neighbors, not enemies.

Mr. Evans - Mr. Chairman? I think a couple of things then. One is that I would like to ask that administratively Jennifer Milbrandt be actively engaged on behalf of BZA to make an official determination on her part of what might or might not be the case as to disruption of the root system of the trees and their possibility of survival. I would also like to ask that we have Jennifer contact the neighbor whose trees we're talking about here to discuss with her because this goes on whenever we're building and I know when we were doing the Monticello in High Point, Jennifer came out and met with some of the residents that were upset when the Engineering Department required all of the trees be taken out of the area. She came out and met with people. I would like to ask that she meet with that resident to talk about what the survivability statistics might be of those trees with putting a driveway in there. I would also like to ask the Building Department to look back and I can give you one specific example and unfortunately I've not thought ahead about this but I know that the Cappy residence on Drake, which is on the south side of Drake just east of interstate 71, so it's between that and not Bent Tree but Hunt, I know that that driveway was put in seven, five, six years ago or whatever and that's an asphalt driveway. I'm aware that there are some other long asphalt driveways that have been put in, in the city, and they're not ones that we granted variances on. There must be some kind of a record of circumstance where we have permitted asphalt driveways and I would challenge the Building Department to explain the Cappy one on Drake then and I guess, Mr. Gallo, my final question is to you, have you – I'm assuming that you're the construction end of this. Have you projected what a difference in height might be for concrete sitting above the ground as opposed to an asphalt sitting above the ground given that one of the things that we're concerned about is you have a catch basin system on one side of the driveway, which works now because the gravel driveway is at ground level? What would be the difference in height between those two?

Mr. Gallo – On the proposed topo that was approved, there is a series of catch basins that are going in the Bukvic's driveway as well as the drainage is going to be going all the way back to the creek, which, even from the back of the house, it's about 800' of drain pipe coming to the driveway and there is probably about 1,200 to 1,500 feet of drainpipe that's going in with two by two ODOT approved catch basins on concrete that are going in, in their drive. As far as the elevations, if that is something that we need to provide we will. I think at this stage we're just trying to figure out where we're going from here. What are we going to be allowed to do? I know, going into this and I have already explained to them, we're probably going to have to redo the topo engineering depending on which way we go with the driveway, whether it's stone asphalt or concrete.

1) **JIM AND TRACEY BUKVIC, OWNER/Joe Gallo, Representative, Cont'd**

Mr. Evans – Okay. Thank you, Mr. Chairman.

Dr. Goist – Board member, any other questions?

Mr. Baldin – No further questions from me.

Dr. Goist – Your next hearing will be October the 10th so we'll see you back then. We'll try and have our arboretum specialist meet if possible and we'll try and work things out the best we can.

Mr. Gallo – Thank you, Mr. Chairman.

Dr. Goist – The next portion are our Public Hearings and the first one is Spirit Halloween. If you'll give us your name and address first please.

(G) **PUBLIC HEARINGS:**

2) **SPIRIT HALLOWEEN, TENANT**

Requesting a variance from Zoning Code Section 1272.12(h) which prohibits Temporary Signs/Banners to be displayed in the window of the business for a period exceeding 30 consecutive days and where a Temporary Sign/Banner is proposed to be displayed in the window of the business for a period exceeding 30 consecutive days; property located at 17260 Royalton Road PPN 396-14-011 Zoned Shopping Center.

Mr. Clark – Hello, Rich Clark, C-L-A-R-K, 6013 Delora Avenue, Cleveland, Ohio, 44144.

Dr. Goist – Okay, we understand your variance. From the last time, you asked to have it up on the outer fascia of the building. You're now asking for a variance. You've changed and you want the period to be extended from the thirty consecutive days and you are going to keep it in the window as the picture that you provided us. So, you're really asking to have the variance extended until November the 1st. Is that correct?

Mr. Clark – That is correct.

Dr. Goist – Board members, questions? No questions?

Mr. Baldin – I have no questions.

Dr. Goist – If not, I'll entertain a motion.

2) **SPIRIT HALLOWEEN, TENANT, Cont'd**

Mr. Evans - Mr. Chairman? I would like to move that we approve a request for a variance from Zoning Code Section 1272.12 (h) which prohibits Temporary Signs/Banners to be displayed in the window of the business for a period exceeding thirty consecutive days and where a Temporary Sign/Banner is proposed to be displayed in the window of the business for a period exceeding thirty consecutive days, which in this case would be November 1, 2007 for a property located at 17260 Royalton Road PPN 396-14-011 Zoned Shopping Center.

Mr. Baldin – Second.

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

Mr. Harr – This is a public hearing item.

Mr. Evans – Yes, that’s a good point.

Dr. Goist – I’m sorry. Is there anyone in the audience that would to speak for or against this variance? Thank you, Mr. Harr. There are none. Hearing none, Kathy would you call the roll?

ROLL CALL: ALL AYES: MOTION CARRIED

Dr. Goist – Your variance has been approved.

Mr. Clark – Thank you very much.

Dr. Goist – Enjoy. Have a good business.

Mr. Clark – Appreciate it. Thanks.

Dr. Goist – Our next applicant is Tim Hietala. Tim, if you’ll come forward please and again, explain what you’re doing and what you want.

3) **TIMOTHY HIETALA, OWNER**

Requesting a variance from Building Code Section 1436.02 and from Zoning Code Section 1274.06 which requires a hard surface driveway and where a gravel driveway exists in order to construct an Attached Garage and Breezeway; property located at 19990 Lunn Road PPN 393-21-004 Zoned R1-75.

Mr. Hietala – Tim Hietala, 19990 Lunn Road. I want to put up a garage with a breezeway and I would like a time extension to put in the hard surface driveway.

Dr. Goist – Members of the board. Do you have any questions? I don't know that you necessarily need a time extension but you know that you have a certain time limit after you complete your construction and the Building Department has worked with people in the past. If we had a horribly bad season of bad weather that extension could be six months, it could be a year or it could be a little longer. So, we understand what you're asking for as long as you are willing to put in the hard surface in compliance with what the Building Department asks you to do.

Mr. Hietala – Yes, I am.

Mr. Baldin – Board members?

Mr. Baldin - Mr. Chairman?

Dr. Goist – Yes.

Mr. Baldin – Why don't we have Mr. Allen explain that one more time for the record exactly when it starts and so forth, Joe, the six month period.

Mr. Allen – Yes, Mr. Chairman, board members. The permit – once the permit is issued you have six months to start construction and then if you start substantial construction within that six months you have a year's period to complete the construction. So, if you wish an extension of that, these board members at this time can grant that.

Dr. Goist – Okay. Any other questions board members?

Mr. Baldin – Apparently that gives you plenty of time Tim. You wouldn't really need a variance specifically on this because of that time frame, basically, and you're willing to go along with that, right?

Mr. Hietala – Yes.

3) **TIMOTHY HIETALA, OWNER, Cont'd**

Mr. Harr – So, to be clear then you feel that you can have – in compliance with the code – you can have the cement concrete or the interlocking paver stones in place within the 18-month window.

Mr. Hietala – Yes.

Mr. Evans - Mr. Chairman? Mr. Kraus, I believe then that would alleviate then the need for a variance then?

Mr. Kraus - Mr. Chairman? Mr. Evans? Mr. Allen? It's not eighteen months. It's twelve months. Is that correct?

Mr. Allen – Yes, that's correct, Mr. Chairman. He has to start construction within six months. He has a year to complete the total job so that's another six months. So, he would need another six-month extension. That's what the variance –

Mr. Harr – But, I guess, to understand properly then, to eliminate the need for the variance if he is planning to start this project next month, he would be, basically, completing the driveway by October of next year. That's correct to my understanding?

Mr. Hietala – Yes.

Mr. Harr – That's possible on your end?

Mr. Hietala – Yes.

Mr. Harr – Okay. So, you understand when we say eighteen months that's if you waited six months to begin.

Mr. Hietala – Is it a year from –

Mr. Harr – It's a year from when you start.

Mr. Hietala – Okay.

Mr. Harr – So, if you start it next month, you have to have the drive in by next year.

Mr. Allen – He has six months to start construction from the time he pulls the permit. Okay? From the time he pulls the permit he has one year to finish the project.

Mr. Harr – Right but he has told me that he intends to begin the project next month.

3) **TIMOTHY HIETALA, OWNER, Cont'd**

Mr. Allen – So, if he pulls the permit in October – he has already applied for the permit but it hasn't been issued. I don't know if it's from the time that it's pulled or from the time that it has been issued. I'm not sure.

Ms. Zamrzla – Issued.

Mr. Allen – From the time it's issued. So, whenever we issue it he has one year. The clock starts one year. He has six months to get started and he has one year total to complete it. Not eighteen –

Mr. Harr – So, if he waited six months, he only has six more months. Is that correct?

Mr. Allen – Correct.

Mr. Harr – Alrighty.

Mr. Allen – That's correct, yes. If he waits to start, then six months. Also, Mr. Chairman, if he determines that you do want to go with the concrete or pavers, you'll have to revise your drawings to reflect that.

Dr. Goist – Board members, any other questions?

Mr. Baldin – One other thing, Mr. Chairman? I think for the record we ought to definitely state that, Mr. Hietala, you're not operating any business out of this address?

Mr. Hietala – No, I'm not.

Mr. Baldin – Thank you.

Dr. Goist – Board members, any other questions now?

Mr. Evans – Yes, as a follow up to Mr. Baldwin's there I think that we had said that we did want to ask what the business address was because the applicant in his application did list the landscaping business at that address so we did want, for the record, to have the business address entered in the record.

Mr. Hietala – It's 21856 Royalton Road.

Mr. Baldin – Very good.

Mr. Kraus - Mr. Chairman?

3) **TIMOTHY HIETALA, OWNER, Cont'd**

Dr. Goist – Yes, Mr. Kraus.

Mr. Kraus – So, sir, then based on this discussion as I understand it, you're prepared to withdraw your request for a variance because you feel that you can live within the code now with respect to this matter. Is that correct?

Mr. Hietala – Yes.

Mr. Kraus – You are requesting that your request for a variance be withdrawn?

Mr. Hietala – Yes.

Dr. Goist – Thank you, Mr. Kraus. Does that require any –

Mr. Kraus – Based on the applicant's request I think there should be some kind of a motion to confirm his withdrawal of the request for a variance. He is withdrawing it so you don't need to necessarily defeat it but I want it to be clear on the record that this is cleared off either through defeating it or based on his request for a withdrawal, that we –

Mr. Evans – Mr. Kraus, we have withdrawal requests all the time and we take no action administratively or otherwise on it other than a withdrawal request from the applicant.

Mr. Kraus – We don't have a letter and we're here on the record and if that's what you have done in the past, that's fine but I think we ought to have it of record that this is absolutely being withdrawn.

Mrs. McGrath - Mr. Chairman?

Dr. Goist – Yes?

Mrs. McGrath – I would like make a motion that the board confirm the withdrawal of the applicant, Tim Hietala, of his variance.

Dr. Goist – Mr. Hietala, do you understand what we're saying here. Would you say that in your own words that you would like to withdraw your variance?

Mr. Hietala – Yes.

Dr. Goist – Do we have a second?

4) **SCHNEIDER RESERVE, OWNER/Pulte Homes, Representative, Cont'd**

Mr. Wise – Jerry Wise, Donald G. Bohning & Associates, 7979 Hub Parkway, Valley View, Ohio.

Mr. Dean – Tim Dean, 22100 Horseshoe Lane, Strongsville, Ohio.

Dr. Goist – Okay. Gentlemen, I think we're all very familiar with your requests. We know that you have done this in accordance with what the Building Commissioner has asked and so if you would just give us a synopsis of – we pretty well know what you want.

Mr. Katanic – Sure thing. We're respectfully asking for a 22' Rear Yard variance along the parcels that are abutting Whitney Road in our Schneider Reserve subdivision Phase 1 and 2.

Dr. Goist – Board members, do you have any questions for this gentleman?

Mr. Evans - Mr. Chairman? Do we take it for granted then that this is Phase 1, am I not correct? So, at this point do we anticipate that we're going to have variances coming before us for the additional phases or should this then take care of the variances on the entire project?

Mr. Katanic – This variance does include Phase 2 as well. It includes all the lots that are adjacent or abutting Whitney Road right-of-way.

Mr. Evans – But I'm asking whether or not we're going to have requests for variances on other parcels as we go forward or in other words, have you guys done the engineering so that we know that this is the package that goes for the whole thing or are we going to be looking at variances down the road.

Mr. Katanic – From what we hope and what we see, what we foresee, this would be the only variance for Phase 1 and 2.

Mr. Dean – Mr. Evans, the reason for the variances are because the Whitney Road setback was 100'. Obviously, if the subdivision was – the houses were built facing Whitney Road but we don't anticipate any variances for the back phases because they are beyond the creek. If you're familiar with Schneider Reserve, there is a creek that runs right through –

Mr. Evans – But the reason that I'm asking that Mr. Dean is that many of our other developers, many that you have worked with, have required variances because when they have laid out the lots they don't allow for the sunrooms. In this case, we're talking about the Whitney Road but I've not studied the plan for the entire development or anything. There are common areas that are back through there and what I'm asking is have – is this the lone circumstance or are we going to be – because you said this was driven by customer demand

4) SCHNEIDER RESERVE, OWNER/Pulte Homes, Representative, Cont'd

Mr. Evans continues - that people wanted sunrooms that back up to Whitney. So, I'm saying, as we go forward are we going to see more requests for lots who back up to other common area or have you anticipated now, knowing that your customers want sunrooms, that this is the only area where we're going to have to provide variances?

Dr. Goist – Excuse me, just a second. I'd like to interrupt for just a minute. Mr. Evans, I have a question to you as to why you're interrogating the builders as to whether or not in the future they may want more variances. The probability is that could happen and it seems to be an interrogation to say, "What are you going to do in the future?" Do they know necessarily? I don't think so and I don't think that's what we need to be asking based on this particular variance.

Mr. Evans – Okay, I apologize, Mr. Chairman.

Dr. Goist – Gentlemen, do you have –

Mr. Evans – Is that acceptable?

Dr. Goist – Yes.

Mr. Evans – Thank you.

Dr. Goist – Gentlemen, do you have any other comments?

Mr. Dean – No.

Dr. Goist – Board members, any other questions?

Mr. Baldin – No questions.

Mrs. McGrath – No questions.

Dr. Goist – I'll entertain a motion.

Mr. Harr – Public hearing.

Mrs. McGrath – Yes, that's right.

Dr. Goist – I'm sorry. This is a Public Hearing. If there is anyone here to speak for or against.

Mr. Baldin – Mr. Catanzarite, do you want to speak against it?

4) **SCHNEIDER RESERVE, OWNER/Pulte Homes, Representative, Cont'd**

Mr. Catanzarite – No.

Mr. Harr – We figured as much.

Dr. Goist – Hearing none and seeing none, I would entertain a motion.

Mrs. McGrath - Mr. Chairman? I would like to make a motion that we approve the variance requesting a 22' Rear Yard Setback variance from Zoning Code Section 1252.04 (d)(1) which requires a 100' Rear Yard Setback from the centerline of Whitney Road and where a 78' Rear Yard Setback is proposed in order to construct Single Family Dwellings in Schneider Reserve Subdivision Phase 1 and Phase 2; property located at Sublots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 38, 39, 40, 41 and 42 within PPN 395-22-001 and PPN 395-22-004 Zoned R1-100.

Mr. Harr – Second.

Dr. Goist – Kathy, would you call the roll?

ROLL CALL:

ALL AYES:

MOTION CARRIED

Mr. Dean – Thank you very much.

Dr. Goist – Thank you gentlemen. Our last applicant is Jason Hovan. Again, Mr. Hovan, if you would give us your name and address.

5) **JASON HOVAN, OWNER**

Requesting a 2' Rear Yard Setback variance from Zoning Code Section 1252.05 which requires a 50' Rear Yard Setback and where a 48' Rear Yard Setback is proposed in order to construct a Garage Addition; property located at 19955 Drake Road PPN 394-23-023 Zoned R1-75.

Mr. Hovan – Good evening. My name is Jason Hovan. I live at 19955 Drake Road and I was requesting a 2' side variance for a 24' by 24' garage addition with concrete.

Dr. Goist – Okay and we also have had discussion – were you in caucus? If you were, you were behind me.

Mr. Hovan – No sir, I was not.

5) **JASON HOVAN, OWNER, Cont'd**

Dr. Goist – We did have discussion with regard to the trailer and the truck that was parked and we have found out that you are allowed to park that in your back yard since it is your back yard. At one point, we thought you needed a hard surface back there. That is not the case. The gravel driveway that goes up to the fence is what we call a legal non-conforming driveway but it is there and it is grandfathered in. So, our only discussion is on what your building is. So, where we got off track and were talking about that, we also talked about whether you needed an easement or an agreement with your neighbor, that's a civil thing between the two of you to work out and not something before this board tonight. So, members I'll ask you if you have any questions regarding his variance.

Mr. Harr - Mr. Chairman?

Dr. Goist – Yes?

Mr. Harr – Just to confirm, we are putting a hard surface driveway up to the new garage?

Mr. Hovan – Yes, sir.

Mr. Harr – Okay. I don't recall seeing any correspondence from the neighbor immediately south. Have you had discussions? Are they aware of what you're constructing here?

Mr. Hovan – Yes, they are.

Mr. Harr – No objections? Nothing like that?

Mr. Hovan – Not at all.

Mr. Harr – I don't have any other questions, Mr. Chairman.

Mr. Baldin - Mr. Chairman?

Dr. Goist – Yes?

Mr. Baldin – Have you – I know you have – spoken to your neighbors south of you as far as the encroachment? If you guys haven't come up with any papers or signed anything saying this is okay or it's not okay, no one is going to take anyone to court, etc. and so forth, down the pike? You might think about doing something.

Mr. Hovan – Yes, I should. After the last meeting – nothing has ever crossed my mind but the more I thought about it the more I thought –

5) **JASON HOVAN, OWNER, Cont'd**

Mr. Baldin – It might be the thing to do, Jason.

Mr. Hovan – Will do.

Mr. Baldin – The height of your garage is going to be pretty much equal to the height of the peak of your house?

Mr. Hovan – Yes, sir.

Mr. Baldin – It's going to be higher than your existing garage?

Mr. Hovan – Yes, it is.

Mr. Baldin – All right. That is because of the size, the 24' by 24'? The truss section?

Mr. Hovan – Yes, they are pre-fab trusses. I was going to try to put an 8' door in instead of the standard 7' just for the clearance of the vehicle going inside.

Mr. Baldin – Okay. I have no further questions.

Dr. Goist – Any other questions, board members? This is a Public Hearing. If there is no one here to speak for or against and seeing none I'll entertain a motion.

Mr. Baldin - Mr. Chairman, just one other thing. Getting back to your gravel driveway trailer that's inside, which you were concerned and thought it was going to have to be concrete, Mr. Allen or Mr. Kraus, why don't we tell him exactly what the ordinance is so he has it firm in his mind of what he has or doesn't have to do because – what do you have, a 34' –

Dr. Goist - Mr. Baldin, again, this is not involved with this particular variance and it has no meaning. We just happened to see it there.

Mr. Baldin – I think it is because it came up to the fact we were concerned that he was going to have to put a concrete drive. So, just so the applicant knows if anybody questions him.

Dr. Goist - Mr. Allen, if you could explain and again, Mr. Baldin, I think it's not important to this particular variance but I'll ask Mr. Allen to go ahead.

Mr. Allen – Let me find the section.

Mr. Hovan – I have it right here, Mr. Allen.

5) **JASON HOVAN, OWNER, Cont'd**

Mr. Allen – Oh, I gave it to you.

Mr. Baldin – I just want to make sure he totally understands. This question comes up a lot in conversation in the city with people, with neighbors. This guy has a trailer, this guy doesn't have a trailer. I hear it a half a dozen times.

Mr. Allen – This is in Section 1252.26 Recreational Vehicle Parking and Storage and we're looking specifically at Section (e), which refers to rear yard requirements. "Any recreational vehicle parked or stored in the rear yard shall comply with the following requirements. Said vehicle shall be stored no nearer to the main structure or an adjoining lot than 20' into any side or rear lot line than 5'. The total area covered by the accessory structure and recreational vehicle in a rear yard shall not exceed 30 percent of the required rear yard. The grading of the lot shall not be altered and the drainage of the area shall not be obstructed or altered unless approved by the City Engineer."

Mr. Kraus – It think Mr. Chairman and Mr. Baldin and I just wanted to add on to what Mr. Allen said, I think the point is that there is no requirement with respect to the surface if it's in the rear yard but our code does provide requirements for a hard surface if it's in the side yard or the front yard. It's very clear in the other subsections so I just wanted to make that clear for the record.

Dr. Goist – Thank you, Mr. Kraus. Mr. Baldin, satisfied?

Mr. Baldin – You bet.

Dr. Goist – Okay. Now I'll entertain a motion for.

Mr. Harr - Mr. Chairman? I make a motion that a request for a 2' Rear Yard Setback variance from Zoning Code Section 1252.05 which requires a 50' Rear Yard Setback and where a 48' Rear Yard Setback is proposed in order to construct a Garage Addition; property located at 19955 Drake Road PPN 394-23-023 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 – Thank you and you have a twenty-day waiting period and then the Building Department will inform you that your permit has been approved. Is there any other business to come before this board this evening?

OTHER BUSINESS TO COME BEFORE THE BOARD

Mr. Baldin – Yes, Mr. Chairman? I would like to bring up the fact again with banners and so forth. This Halloween situation here in the Spirit Halloween, Kathy what did it cost for his permit? Fifty dollars?

Ms. Zamrzla – His permit?

Mr. Baldin – The cost to when he came in to make the application for the variance.

Ms. Zamrzla – His permit was \$25.00.

Mr. Baldin – Okay, \$25.00. We have turned down people in the past for banners and now we're starting to get a little lenient and we're starting to get a little bit lenient on signage in this city and I know the City is talking about coming up with a new code for temporary signs and so forth and here's a guy who has a nice big business going and we only get \$25.00 from him and we're letting him extend it to whatever he wants. I just think it's not equal. I think something is wrong here.

Ms. Zamrzla – Actually, what he's doing is within the code because it's on the inside of the window and it's less than 50 percent.

Mr. Baldin – Okay. I'm just saying that this keeps coming up. We give them the time frame. We have turned other guys down in the city in the past and that's all I have to say about it. I think it needs to be looked in to.

Mr. Kraus - Mr. Chairman? Mr. Baldin, it is being looked in to overall in terms of signs. We're grappling with some constitutional decisions issued by our Federal District Court in North Olmsted and in I believe it was Broadview Heights over the last four or five years and other new precedents that make it incumbent on us. The Building Department and the City Planner and the Law Department have been putting a lot of hours in reviewing the sign ordinances and revising them. They're in draft form. It's taking longer than we would have liked but it's a very difficult process given the recent case law and we are addressing it and will be addressing, hopefully, a lot of the issues that you're talking about. In the interim, we're trying to do the best that we can to be consistent with the code and to be consistent with constitutional restrictions and limitations and other mandates that are on us as a municipality. So, your points have merit but we are trying to apply things in as equal a manner as possible across the board. The question certainly of fees is something that when we get to the point that we've come up with the appropriate amendments to the sign codes otherwise than certainly the fees that the Building Department charges for signs is an area that the administration can and should take a look at. So, I don't know if that answers your specific question but –

OTHER BUSINESS TO COME BEFORE THE BOARD, Cont'd

Mr. Baldin – I think it does, Mr. Kraus, and I appreciate that but it does keep popping up and I know you guys have been working on it for some time. I found out today that I think that someone was turned down and was told to go to the Zoning Board here yesterday by the Architectural Review Board for another variance on a sign that was already – the Building Department apparently let them put it up. It exceeds the code.

Mr. Kraus – I'm not aware of that situation but I hope –

Ms. Zamrzla – Which project is that?

Mr. Baldin – I think that's the one down on Co-Moor.

Ms. Zamrzla – So, that's Today's Touch?

Mr. Baldin – I think that's it.

Ms. Zamrzla – From my understanding, that was an existing sign that was never permitted in the first place. That was done without our knowledge.

Mr. Kraus – We can talk about that outside the perimeters of this meeting. Mr. Chairman, I have one other piece of miscellaneous or other business, which is just to advise the board that I'm informed by the Building Department that Wendy Engel who was turned down at the last meeting on that corner lot for a variance you'll recall and there was discussion about the fence and whatever. I'm advised by Mr. Allen that she has come in, filed revised plans. The plans have been approved. The permit has been issued and that she is proceeding in accordance with the code and I wanted to let you know that because we had talked about findings in connection with that matter. It seems to be concluded by her. Thank you.

Dr. Goist – Thank you, Mr. Kraus. If there is no other business to come before this meeting, meeting is adjourned.

Meeting was adjourned at 9:08 p.m.

Signature on File
Glenn Goist, Chairman

Signature on File
Kathryn Zamrzla, Secretary

October 24, 2007
Approval Date