

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS

MINUTES OF MEETING

February 8, 2006

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

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

Also Present: Mr. Kolick, Asst. Law Director
Mrs. Zamrzla, Recording Secretary
Mr. De Hoff, Assistant Building Commissioner

Mr. Evans – Good evening, I'd like to call the February 8, 2006 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. Kathy if you would please do a roll call?

ROLL CALL: ALL PRESENT

Mr. Evans – Thank you. This evening we have an amended agenda before us. I would entertain a motion for an amended agenda.

Dr. Goist – So moved.

Mr. Harr – Second.

Mr. Evans – Thank you. We have a motion and a second to approve the amended agenda. If we could have a roll call please?

ROLL CALL: ALL AYES: MOTION CARRIED

Mr. Evans – Thank you. We have before us this evening, minutes from the meetings of January 11, 2006 and January 25, 2006. Are there any additions or corrections to the minutes as they were presented?

Dr. Goist – I move that we approve the minutes as written.

Mr. Baldin – Second.

Mr. Evans – Thank you. We have a motion and a second to approve the minutes of January 11, 2006 and January 25, 2006 as submitted. If I may have a roll call please?

Mr. Kolick then stated the oath to all standing.

Mr. Evans – Thank you very much. Our first item on the agenda this evening is Ben and Elizabeth Moskowitz, owner. If you would...

Dr. Goist - Mr. Chairman?

Mr. Evans - Dr. Goist?

Dr. Goist – I just want to go back a little bit. I think that we skipped the Certification of Posting.

Mr. Evans – Yes we did. Thank you very much. I would hereby certify that this meeting has been posted in accordance with the ordinances of the City of Strongsville. Thank you Dr. Goist for that omission. Then we will come back to Ben and Elizabeth Moskowitz. If you would please come up to the microphone and we'll need your name and address and if you would please explain the request for the variance.

BEN AND ELIZABETH MOSKOWITZ, OWNER

Requesting a 20' Setback variance from Zoning Code Section 1252.15 (a) which requires a 20' Setback from a main structure and where a 0' Setback is proposed in order to approve an existing Shed; property located at 17279 Park Lane Drive PPN 397-16-069 Zoned R1-75.

Mr. Moskowitz – My name is Ben Moskowitz. I live at 17279 Park Lane Drive. I'm here for a variance for my storage unit. It is currently located against the back of my garage which is also attached to my dwelling. I gave everyone – I hope everyone has a copy of my report. Do you require me to read it?

Mr. Evans – No I don't think that is necessary. We do have copies of it. All the members of the board were furnished with that. So we do have that. The shed has been there for how long?

Mr. Moskowitz – Since 2002. July.

Mr. Evans – Okay. At this point – so it's an existing situation. Members of the board, do you have questions that you would wish to ask/

Mr. Baldin - Mr. Chairman? Sir, if you say and you have some pictures here of what you're storing in here and one of the items you're storing, it looks like to me might be a lawn mower or maybe a snow blower?

Mr. Moskowitz – It's a lawn mower.

BEN AND ELIZABETH MOSKOWITZ, OWNER, Cont'd

Mr. Baldin – Lawn mower. Okay. And sometimes there's some gas in it isn't there?

Mr. Moskowitz – Usually there is very little. It takes about one gas tank to cut my lawn so currently there's nothing in it because of winter time and I run it dry for storage.

Mr. Baldin – Where do you store the gas at? In the garage or in your shed?

Mr. Moskowitz – In my garage along with my snow blower gas, my propane tank is in my garage. So moving of the shed would unfortunately probably would not make my house any safer.

Mr. Baldin – Alright. Thank you.

Dr. Goist - Mr. Chairman? To the applicant, you stated that you called in 2002 and got some information that said that you were allowed to put this up without any kind of a permit.

Mr. Moskowitz – Correct. Unfortunately I did not get the name of the individual I talked to.

Dr. Goist – I certainly figured you didn't or you would have documented that for us but the other thing that we need to make you aware of if that any shed that is against any residence has to be lined with fire rated drywall. This is a Rubbermaid shed and obviously by the pictures that you have shown us this is not lined with fire rated drywall. Am I correct on that?

Mr. Moskowitz – That is correct. There would be no way of anchoring that to...

Dr. Goist – That's a much a safety violation as the fact that you might be keeping gas in there. We don't get so concerned that maybe you say your lawn mower is empty most of the time but if you sell your house and someone else buys that house and the shed is there and they store gasoline in there then we have the potential for another fire hazard. So we want to make you aware that even though you are asking for these variances the fact is they don't meet code in any way because it's looks good. It looks like your house. All of the pictures were great that you showed us. But in no way does it conform to the city codes. So we want you to be aware of that and if you said 'I'd like to build another one that's out of wood and it's fire rated drywall' then I think that's certainly more to our liking than this situation.

Mrs. Lane – Or if you, in the next two weeks, between this meeting and the next meeting you can find a way to anchor and do drywall I think that that fire rated drywall, I think that would be to your benefit to come back with that information to us.

BEN AND ELIZABETH MOSKOWITZ, OWNER, Cont'd

Mr. Moskowitz – I have looked in that. There really is no way of anchoring to that plastic. It's just a plastic skin. There's really nothing there to anchor to. Especially the way it's constructed. It's just snapped together. It's just a snap together unit.

Dr. Goist – I understand exactly with the images that you have. They make a lot of them for decks. They make a lot of them but not necessarily to go up against the residence although that's what you bought it for. Is this a problem with putting it twenty feet from your house and if so what is that hardship?

Mr. Moskowitz – I do have a swale line in my back yard that I do not want to encroach into. Originally when I was putting in my shed my neighbor on Drake Road who is no longer there, at that point, where I was going to put it back towards the swale line, he did not like that because it blocked the view of his back yard looking out his morning room through the development. You can see his house in photo six there's a line of bushes that are towards his house. That was approximately the location that I was originally going to put the shed three years ago and the original owner did not like that location because it would block his view – because everyone's yards back there are open and the neighbor behind us has about a five acre yard which is full of woods.

Dr. Goist – That is a possibility that you could move it back there...

Mr. Moskowitz – It is a possibility.

Dr. Goist - ...and you wouldn't even need a variance. You would just need a permit to put the shed back there. Am I correct Mr. DeHoff?

Mr. DeHoff – Yes, you are correct Dr. Goist.

Dr. Goist – You would need to put it back there twenty feet but if your neighbor doesn't like it and you're trying to be a good neighbor then you wouldn't put it back there. But if you want our approval we're going to have to ask you for the safety portion of this to be corrected too.

Mr. Evans – Well, Dr. Goist just to make sure the applicant understands what it is that you're referring to, when you come before us for a variance, in our decision process one of the things that we will be asking for is for the Fire Department to render a decision as to whether or not that poses a hazard. Whether you keep gasoline in it or not as Dr. Goist intimated, the next owner might not be aware of the circumstances and so they might put something in there that would be combustible. If they were to do that and the house were to burn down, the fact that we had granted a variance would make us a party to the situation that something has caused the fire that burned the house. So when we look at it, if the Fire Department, under our direction, goes out and visits it and says this could be a potential hazard, that's the

BEN AND ELIZABETH MOSKOWITZ, OWNER, Cont'd

reason that that twenty foot separation is there, is to keep a fire in the shed localized and not burn the house down. They're going to look at it and say 'a) there's not way to attach the drywall, b) at this point that does pose a fire hazard' we would not be in a position where we would be able to grant the variance because we would be putting ourselves in harms way at that point. So what Dr. Goist has said is that normally when there are sheds including one five house down on Drake Road there, going towards the west that faces out onto Drake Road, when they put their shed up against the house it was a wood shed and we required drywall on the walls and also on the ceiling. The fire rated drywall is such that if there were to be combustion inside of that shed it would be contained within the shed. And so, that's the reason that Dr. Goist has said that this is the normal procedure that we would go through so it would be very unlikely for us to be able to override a Fire Department recommendation for safety purposes that it not be up against the house because of the nature of the shed. So you will want to take that into consideration over the course of the two weeks here before we get to the Public Hearing time just because that is all there. So tonight is a part of the process. I'm going to ask our secretary to require the Fire Department to visit that and render a written opinion to us as to whether or not that poses a safety hazard and I think from our past experience we know that that will come back in the affirmative and at that point that would be a part of our decision process then in granting the variance.

Mr. Moskowitz – I'm aware of the house that you're referring to and there's another one on the corner of Selby and Park Lane that also has their house with the shed up against it. But I also have one right there at the corner of Drake Road and Park Lane that apparently given approve within a variance for their plastic shed which is only five feet from a wooden deck and fifteen feet from their house. And they never applied for a variance and from my understanding it's been approved for it's location and there is no fire proof drywall in that. I don't want to get into issues with other people. I don't want to but it's still the same plastic design and Rubbermaid does make other sizes, smaller sizes. Sizes that you put on your deck which are still storage units that people put propane and put oils in. put gasoline in, put their lawn tools in and you guys don't required building permits for those units. They're just as hazard – going with the same philosophy of needing to have fire proof drywall inside of those.

Mr. Evans – That goes back to the adage that we can't protect everybody from themselves but when we have a walk in storage unit that accommodates equipment that's the point of which the Building Department does...

Mr. Moskowitz – These units does have vents on the front up on the top too. So it is a ventilated unit.

Mr. Evans – Right.

BEN AND ELIZABETH MOSKOWITZ, OWNER, Cont'd

Mr. Baldin – I believe, Fred, going back a few years when we had a house that had one on the side between homes, if I recall the guy was a contractor or a cement guy, he was able to drywall his rubberized shed instead of moving it.

Mrs. Lane – Yes, I think we've had that before.

Mr. Baldin – Do you remember?

Mr. Evans – I think he built a frame inside of it if I remember right to accommodate the drywall.

Mr. Baldin – I can't remember exactly what he did but it was fire proofed.

Mr. Moskowitz – To take the expense of several hundred dollars to drywall the inside I would opt to move it which isn't pleasant for my neighbor to have to look at. Which apparently someone did call in because that was what was told to the Building Department, that mine and two other sheds are ugly to look at.

Mr. Baldin – That's what happens sometimes.

Mr. Moskowitz – I know.

Mr. Baldin – That's how it comes about.

Mr. Moskowitz – So if I...

Mrs. Lane – So often when somebody finds out they have to apply for a building permit then they wonder why their neighbors do it. So sometimes that happens. The point is everyone needs a permit.

Mr. Moskowitz – I realize that. That's fine. Again it's not a permanent structure. It's not on a concrete base. It's not a pole barn. When I do move I can take it with me if I opt or I can leave it there if the person wanted to purchase it with the house. To apply for a building permit and then have that forty nine square feet show up on my tax document – oh it would not?

Mrs. Lane - Mr. Kolick? Could you answer that for him?

Mr. Kolick – Any permit we're required to turn down to the county so it will be turned down to the county. Whether they will change your valuation for a forty nine square foot storage shed, I seriously doubt that or if it is it's going to be minimal.

BEN AND ELIZABETH MOSKOWITZ, OWNER, Cont'd

Mr. Moskowitz – Well it would be. You're talking two dollars probably a year but the point of the matter is it's not a permanent structure. It's just like my kids Rubbermaid toy house that was there too.

Mr. Kolick - Mr. Chairman? The problem comes from the city's standpoint though whether it's permanent or not it becomes a fire hazard. If that thing catches fire it could take hour your house right with it. I don't think you want that and we certainly don't want to see that. That's why the regulation is there. Not because we as a city don't like shed up against houses. It's there for a purpose to confine a fire if that would come about. So that's something that we have to take into account or that this board has to take into account in deciding whether or not a variance should be granted. Okay? You can set it for Public Hearing.

Mr. Evans – Okay. Any other questions from board members?

Mr. Harr – No questions.

Mr. Baldin – No questions.

Dr. Goist – No questions.

Mr. Evans – Alright. Then on February 22, 2006 you will have a Public Hearing and in the meantime we will be notifying neighbors within five hundred feet of the request for the variance and they will get a letter from the city and have the opportunity to appear at the Public Hearing then. Okay?

Mr. Moskowitz – Thank you.

ACTION: SCHEDULED FOR PUBLIC HEARING FEBRUARY 22, 2006

PATHWAY CHURCH, OWNER/ Tom Colburn, Representative

Requesting a Sign variance from Zoning Code Section 1272.08 (a) (4) which allows one (1) Monument Sign and where two(2) Monuments Signs are proposed; property located at 21211 Drake Road PPN 394-12-005 Zoned Public Facility.

Mr. Evans – Alright. Thank you very much. Second on our agenda is Pathway Church, owner and Tom Colburn, representative. If you'll come up to the microphone please? We would need your name and address. And then if you will please describe the request for the variance.

PATHWAY CHURCH, OWNER/ Tom Colburn, Representative, Cont'd

Mr. Kratche – My name is Kip Kratche. I'm the pastor at Pathway Church. 21211 Drake Road is the address. You're all familiar with the building I know which used to be owned by the city.

Mr. Kratche - The old rec center and what we are requesting is a variance for an additional sign. We've been already given a permit and granted permission to go ahead with a monument sign directly in front of the building right in front of the flagpole, but you're also aware that those streets, both Drake Road and Prospect Road are very large streets. We have frontage of over six hundred feet on both sides and to do justice as far as advertising, as far as signage is concerned, we're requesting a second sign that you would consider granting us and we would locate that on the corner itself of Drake Road and Prospect Road. Tim Colburn is with the sign company and so I'll let him share and answer any questions you might have about the sign.

Mr. Evans – Okay. Members of the board, questions?

Mr. Baldin – This monument sign that you're going to put on an angle that we're looking at in the drawing here, the way that it's going to be setting – I don't know. If I was coming up Drake from the east going west it looks to me like, yes, I can see that pretty good.

Mr. Colburn – The one on the corner?

Mr. Baldin – This one's going to be set back on the corner?

Mr. Colburn – Right. You can see that from both streets.

Mr. Baldin – You should be able to see that from both sides without any problem right?

Mr. Colburn – Right.

Mr. Baldin – So the other one is going to be down further closer to the driveway?

Mr. Colburn – There's two driveways. It will be right between them.

Mr. Baldin – Between the two driveways.

Mr. Colburn – Right. I think there's – the distance is called out between the signs. Four hundred and twenty feet between the two monuments.

Mr. Baldin – Don't you feel that if you just changed some of the wording from the sign that you wouldn't have to go through all this. Change the facing.

PATHWAY CHURCH, OWNER/ Tom Colburn, Representative, Cont'd

Mr. Colburn – I don't understand what you're saying. Change the facing of the sign?

Mr. Baldin – Hold on a second. Mr. DeHoff what were we talking about in the meeting?

Mr. DeHoff – Yes, if you made the sign a changeable copy sign, you know, maybe just a couple of words that you could change on it, then you wouldn't need a variance. I think I tried to tell you that during the Architectural Review Board hearing.

Mr. Kratche – Personally I think those kinds of signs look pretty junky. You deal with people messing with the letters. I've talked to a number of people even this week and then that's the very thing that they've been dealing with. People come and take the letters themselves. They take the strips off the sign. Quite honestly we don't want anything to look junky. We think it better represent Our Lord well and as you can see the sign itself is done well. I've looked at signs everywhere like that and I've never seen one that looked good yet. Quite honestly, we're in an information age. People will come and check out the website and that's going to always be changing and that's what matters most to us anyway. I know what you're saying; we wouldn't have to have a variance if we went that route. Quite honestly, I don't even want to go that way.

Mr. Evans – Other questions from board members.

Mr. Harr - Mr. Chairman? The signs, I'm assuming, are going to be identical with the exception of the sign at the angle is going to be single sided, would that be accurate?

Mr. Colburn – Right,

Mr. Harr – But in all other respects they'll be the same.

Mr. Colburn – Very similar. The one on the corner is definitely bigger. The one on the corner of Drake Road and Prospect Road, that's bigger monument. They'll match. They're just about identical. The size is pretty much the only difference.

Mr. Harr – The sign that has been approved is the one on Drake Road.

Mr. Colburn – Right.

Dr. Goist – How much bigger is the sign on the corner?

Mr. Colburn – The one on the corner is full thirty square feet. The one in front of the building is only eighteen square feet. The dimensions are on...

Dr. Goist – On monument too?

PATHWAY CHURCH, OWNER/ Tom Colburn, Representative, Cont'd

Mr. Colburn – Yes. Monument two, the first page. The dimensions are – it's four feet by seven feet four inches.

Dr. Goist – Okay. And the height is still at six feet.

Mr. Colburn – It's five feet. This drawing, the day we were in the meeting, he wanted it five feet and all we have to do is knock three courses of block off the bottom and that would make it five feet. So if you look at the rectangle representing the base we're just to omit that. I didn't have time to amend the drawing before submitting it for this meeting.

Mrs. Lane – Will you submit it for the next meeting/

Mr. Colburn – For the permit? Yes.

Mrs. Lane – For the next meeting in two weeks? The Public Hearing?

Mr. Colburn – Yes that's no problem.

Dr. Goist – We also had some discussion in our caucus as to the fact that you're going to put it on an angle and I understand right where it's at, at the corner, and we wondered if you placed it perpendicular to the street if people coming up Prospect Road couldn't see it better from both directions. And the only disadvantage that you have is Drake Road coming that way but you already have another one down the road, four hundred and twenty feet down the road if they're coming down Drake Road. If they're on the other side of Drake Road they're not going to get a shot of that setting at an angle. We thought.

Mr. Colburn – Right.

Dr. Goist – You seem to think that it's better. They certainly couldn't read that website at an angle so we were wondering if perpendicular to the street might not be better.

Mr. Kratche – If you're heading north from Boston Road to Drake Road there's a tree line that runs almost the full length of the property on that side. If you had a sign during the winter it potentially could be read. People clip down that road pretty good speeds as it is and in all honestly I don't think many people will read the sign coming from that direction. We don't count on the fact that they're going to but I'm they're heading that way in one direction you're going to have to come back the opposite way most likely and we wanted to catch the people coming down Drake Road from either direction. They'll get that from the sign in the front if they don't cross over Prospect they'll get it from the sign at any angle and those heading from the north south on Prospect Road will more than adequately see the sign itself. So we figured if we can knock out three directions between the two signs, unless we went in there and started cutting trees down which quite frankly we don't want to do. We think it

PATHWAY CHURCH, OWNER/ Tom Colburn, Representative, Cont'd

looks beautiful that way. We don't want to mess with it if we can't help it. So we were going to capitalize on three out of four directions.

Mrs. Lane - Have you considered doing a sign double-sided on that perpendicular spot that Dr. Goist is talking about instead of having a sign in the front as well? That would not serve your purposes. So that you can read it from all angles?

Mr. Kratche – We wanted people, if they're coming from the industrial park for example, they have to drive by our building before they would ever see a sign. Most properties on corners, to me, one doesn't really adequately do justice. That's why we're asking for the variance. The one out front is good for those who are driving by the front of the building but I want people to be able to see, and know, that we're there without having to drive all the way down to our driveway to see the sign. I think, in our thinking anyway, we felt probably the best way to do it is with two signs if at all possible. The one in the front, I think, is good to have. You need to have numbers on the signs itself. The street address; it would be great it on that sign. That's our intent and when we got approval from the city for that sign that's what the agreement was and the understanding was. There will number on the column, the pillar on the front side closest to Drake Road on either side so in the event of emergency vehicles needing to come in they'll no exactly where we are. But there's no way that you can adequately see that sign from that intersection without driving down towards it and so that's why we came for the second variance.

Mr. Evans – Any other questions?

Mr. Baldin – Did you ever think of eliminating the sign on Drake Road and doing the double sided sign on the corner here? Then you wouldn't need a variance for two signs. Not being on an angle. Would it work? Would they see it? You're saying on your sign that you're looking for the variance that they can see this coming either which way. So why would you really need the other sign out in front between the two driveways?

Mr. Kratche – You say perpendicular to Drake Road?

Mr. Baldin – Well not perpendicular. Leave it as it is on the angle. You can you can see this. This is why you want to put it at an angle so everyone can see it as they're coming from either direction. Other than if they're going to be coming heading east on Drake Road. They're not going to see it.

Mr. Evans – Which is why Mr. Colburn said that they wanted the one between the driveways.

Mr. Baldin – Between the driveways. I understand that. Okay. But how often are you going to get that much traffic coming that way to your church. It's a good question. Who knows?

PATHWAY CHURCH, OWNER/ Tom Colburn, Representative, Cont'd

Mr. Kratche – You have, I don't know, how many hundreds of cars going through there every single day for all the people that work down there. To me its worth having it there. You – right by the industrial parkway, as you enter from Prospect Road, the city has a sign right there in the middle on the grassy area. We're trying to work around that because in all honesty there is some blockage for people driving from the north south on Prospect Road itself. Unless you're stopped at the light chances are you will not see that sign unless you happen to glance over for a split second. What we're trying to do is we're trying to hit as many angles as we can and I realize in coming here and asking for a variance we're asking for you to seriously consider doing something gracious for us. I don't think it's overkill. I do think that it's trying to consider there's a tremendous amount of traffic flow into the industrial parkway throughout the course of a week. I really would hate to miss them being able to see and know that we're there without having to drive all the way up to the corner if they came, for example, off of Prospect Road down Foltz Parkway. I think even with deliveries and things like that it make sense to have the street address right there and for them to find it easily. I know, since the time we've moved in there, we have had quite a few trucks and they always have come from Foltz Parkway. I think it would be a real disservice for them not to be able to see and know where we are until they go past both driveways, go up to a corner and have a real challenge turning around. I hope you understand the thought process. We're trying to do as good as a job as we can. The monuments, the construction that the monuments are made of are made of good materials. They'll look sharp and if you have any other questions by all means...

Dr. Goist - Mr. Chairman? I think you make very reasonable arguments for your point of view but from our point of view, as a board, you have to realize that we're not a legislative board. If we approve this variance and allow you to have this, do you know how many churches there are in Strongsville and do you know how many more are going to want two signs? Do you know how many more people at the new one being built and people have four hundred and some feet of frontage on the front? We have one sign and now are going to want two. You have to realize that if we do this one time then we're going to have a lot more people coming back so I would like you to consider because your Public Hearing is coming up in two weeks the fact that we, as a board, have a responsibility not to legislate and if we turn around and approve this, in turn, we're going to have other requests. I can just in my mind think of two or three other requests so that is part of our process and we're trying to give you some alternatives to say that if you put it on a corner and if you double side it, if you face it the direction that you want, you may not have to have two signs.

PATHWAY CHURCH, OWNER/ Tom Colburn, Representative, Cont'd

Mr. Kratche – I understand what you're saying and I am not unwilling to think that one through some more. We spent a lot of time out there at that corner. I'm just going to be straight forward with you guys; there are things that will obstruct some visual, some sight lines to the sign. That's why – had we not been on a corner we wouldn't even be here. There would be a one sign. To me that's the only reason we're here because of the corner and because we have two streets that we're dealing with and we're trying to adequately present ourselves as best we can on a corner lot. I think that does make this situation different from maybe other churches that have one street. So that's why we're here.

Mr. Baldin – At your driveways, are there little signs at your driveways saying enter or exit now?

Mr. Kratche – There's nothing right now.

Mr. Baldin – There's nothing right now. You use both of these driveways that go in and out of? Ones coming in and ones going out or are they both ingress and egress on both of them?

Mr. Colburn – They're both two lanes.

Mr. Baldin – They're both two lanes.

Mr. Colburn – Right?

Mr. Baldin – What if you had a little sign that just said Pathway on each side of your driveway so anybody coming up heading east on Drake Road, as you say trucks making deliveries, etc., instead of having the large monument sign there in the middle of the two driveways, you would have enter and exit. Unless you think it's more appropriate to have egress on both of these driveways instead of having the one entrance and the one exit.

Mr. Kratche – So what you're stating now, two small signs near the driveways period.

Mr. Baldin – Yes. Enter and exiting signs as well. So you could have one for entering and one for exiting. Alright? Instead of using this as – these driveways are still driveways right now?

Mr. Kratche – Correct.

Mr. Baldin – Limit it. Still driveways. Have one strictly as an enter and one as an exit. And you would have some little three by, what size do we give them in industrial areas? Maybe a little two by three? I'm not quite sure. Smaller signs for entering and exit. Then you would put Pathway on there. People would see it. They're not going to miss it.

PATHWAY CHURCH, OWNER/ Tom Colburn, Representative, Cont'd

Mr. Kratche – The street address goes on what sign?

Mr. Baldin – It would have to go back on the first one, I guess.

Mr. Kratche – Out at the corner?

Mr. Baldin – You've got a broad base at the bottom here right?

Mr. Colburn – Yes.

Mr. Baldin – You could go across that.

Mr. Kratche – Yes. You're talking over four hundred feet at the driveway and the base, if you recall just earlier, they're going to eliminate three layers of stone from the base which then, really your numbers and going to be, if the grass is at all growing, most likely will be partly covered. And I'm not trying to be sarcastic with you. I'm trying to be honest with you.

Mr. Baldin – The height of the base if what, exactly?

Mr. Kratche – It's one foot.

Mr. Baldin – One foot up and it's – you've got like three courses of block and brick? Whatever that is? To bring that down because right now you have an overall of six and it's supposed to be five.

Mr. Kratche – Correct.

Mr. Baldin – That might be something to consider and think about. Maybe the six foot because of the size, again, as you're saying, of your lot and so forth, if the address has to go, the numbers, maybe the six foot might be something to think about versus the five foot and eliminating the one other sign.

Mr. Kratche – Now the six foot, my understanding was...

Mr. Baldin – Code is five feet. We know that.

Mr. Kratche – So you're saying come back for a variance on this...

Mr. Baldin – You may need a different variance. I don't know. Maybe that's another option.

Mr. Kratche – Might be an option to consider.

PATHWAY CHURCH, OWNER/ Tom Colburn, Representative, Cont'd

Mrs. Lane – He's just being creative. He looking creatively at this to come up with some others.

Mr. Colburn – That might bring up a concern like you stated before that everybody else would then want a six foot monument so there's really a lot of different solutions.

Mr. Baldin – Everybody's situation is different and that's why you're here.

Mr. Colburn – Right. The way that we – we chose the two monuments and I hear your suggestions. Make this one perpendicular to Prospect Road and this and that and the bottom line is the way we have done it, the way we have designed and laid it out this is just going to look the best. As shallow as that might sound, aesthetics is very important especially on that corner. It just looks the best this way. We have looked at all the different angles and possibilities and just led us to this.

Mr. Baldin – The only other thing that I would ask you is that you stake it out, the sizing of the sign that you want then when we go to take a look at the property we'll get a better understanding of it.

Mr. Colburn – There's stakes there now if anybody is driving by. They're not – they don't demonstrate the size. They don't demonstrate the size of the monument but they circle the area where they're going to be. They're little orange sticks. They stick up about two and one half feet if anybody goes past there.

Dr. Goist – In some instances, people have then gone and put a piece of four by eight plywood that just sets up there so that we can see. You're talking to us about sightlines in trees and things that we can't envision with a two foot pole but if you put a piece of plywood up there or drywall or whatever you happen to use then we can get an idea of what the sightlines are.

Mr. Colburn – Okay. We can do that. That's not a big deal.

Mr. Baldin – It gives us a better idea.

Mr. Harr - Mr. Chairman?

Mr. Evans - Mr. Harr?

Mr. Harr – Just two quick questions. Do we intend to light the sign here in any fashion? Ground lighting or anything like that?

Mr. Colburn – The one in front of the building we're going to use low voltage lighting.

PATHWAY CHURCH, OWNER/ Tom Colburn, Representative, Cont'd

Mr. Harr – Okay. This sign nothing.

Mr. Colburn – No there's not electricity out that far.

Mr. Harr – And my second question for Mr. DeHoff perhaps, and I understand the objections to a copy type sign but is there particular requirements with regards to a copy sign. Is there a minimum amount of language that has to be changeable to qualify?

Mr. DeHoff – No minimum. As far as I read the code it could be one word or one hundred words. You don't have to change it. There's no minimum amount you've got to change it either. It could be spring, fall, summer, winter. Something like that. There's nothing that says it has to be changed everyday. We do have on the code you can't change it too often. You're not supposed to have one of those signs that changes every thirty seconds.

Mr. Colburn – If you look at the sign, the picture that you guys have, the website, lets assume that was a placard that hung on a hook on the sign. Would that then be a movable sign board? What we're afraid of is the Plexiglas with the black lettering and that gets yellow. If that's a movable sign that's not what he's interested but maybe, like I said, if it were just a placard that hung on a hook just to make it a moveable sign.

Mr. DeHoff – That would probably be within the code.

Mr. Colburn – Okay.

Mr. Evans – Okay. Any other questions from members? Then what we'll do...

Mr. Baldin – One other question. Am I looking at this sign that you're proposing right here, correct?

Mr. Colburn – Just look at the sign within the green frame. That's from the sign company. They're going to make the actual sign. The poly styrene sign.

Mr. Baldin – Right. I read that.

Mr. Colburn – What we're doing is the monument. That's the only printout he was able to provide to us. It just happened to have that monument behind it. He's trying to sell that monument too.

Mr. Baldin – But it is going to be double sided?

Mr. Colburn – The one in front of the building? Yes. The one on the corners is not. It's just – not as drawn here its not. It's just one sided.

PATHWAY CHURCH, OWNER/ Tom Colburn, Representative, Cont'd

Mr. Baldin – So this picture is the one on the corner or the one in front of the building?

Mr. Colburn – Both. They're the same.

Mr. Baldin – Because it says here double sided.

Mr. Colburn – Oh okay. Yes they're the same.

Mr. Harr – The one in front of the building is a little smaller and double sided and low voltage lit.

Mr. Colburn – Right.

Mr. Evans – Any other questions from board members?

Mrs. Lane – The actual size of the face of this sign is four feet high now?

Mr. Colburn – Just the sign, yes.

Mrs. Lane – Just the sign. Four feet by seven four, seven six. Okay. Including the stone work it will then be twelve high. Is that correct?

Mr. Colburn – Six feet.

Mrs. Lane – Six feet. I'm sorry.

Mr. Colburn – Twelve feet long. Six feet high. Five feet high.

Mrs. Lane – Twelve feet long, I'm sorry. Six feet high.

Mr. Colburn – Five feet high.

Mrs. Lane – Five feet. I know that. I'm sorry. I didn't cross that out. Thank you. Just making sure I'm understanding.

Mr. Evans – Okay. Any other questions? Then we will assign the Public Hearing date as February 22, 2006. Again we will be notifying people within five hundred feet. You can take into consideration the comments that we have made tonight and if you make any changes or anything like that or have any predetermination it would be helpful if you get that to us ahead of time. If not we will see you back here February 22, 2006.

Mr. Colburn – Thank you. We appreciate your time.

PATHWAY CHURCH, OWNER/ Tom Colburn, Representative, Cont'd

ACTION: SCHEDULED FOR PUBLIC HEARING FEBRUARY 22, 2006

Mr. Evans – And then we would move onto Public Hearings item number H on our agenda or item number three is Wireless Toyz and Todd Quatro, representative. If you'll come forward please and give us your name and address and we need to speak right into that microphone. And then if you will take us through the request for the variance please.

WIRELESS TOYZ, TENANT/TODD QUATRO, REPRESENTATIVE

- a) **Requesting a 78.5' Building Setback variance on Royalton Road from Zoning Code Section 1258.11 (a) which requires a 125' Building Setback and where a 46.5' Building Setback is proposed and;**
- b) **Requesting a 75' Building Setback variance on Prospect Road from Zoning Code Section 1258.11 (a) which requires a 125' Building Setback and where a 50' Building Setback is proposed and;**
- c) **Requesting a 13.5' Parking Setback variance from the Royalton Road Right-of-Way from Zoning Code Section 1258.11 (a) which requires a 20' Parking Setback and where a 6.5' Parking Setback is proposed and;**
- d) **Requesting a 15' Parking Setback variance from the Prospect Road Right-of-Way from Zoning Code Section 1258.11 (a) which requires a 20' Parking Setback and where a 5' Parking Setback is proposed in order to occupy an existing building located at 21034 Royalton Road PPN 391-16-003 Zoned Local Business.**

Mr. Quatro – I'm Todd Quatro with TS Quatro Company. 201 North Park Street, Ypsilanti Michigan. Presently we have an existing structure sitting on the corner that's located too close to the center line of the road and we're renovating the existing structure on the outside to install a new Wireless Toyz. In doing so we are taking off the asphalt in the front, putting in some landscaping that's presently inside the right-of-way in the front area and we are going to install a new dumpster enclosure and install a new façade around the whole outside.

Mr. Evans – Kathy, do you want this set up on the chair? Why do we – right, set them on the – there you go.

Mr. Quatro – This is basically a three D rendering of what it's going to look like. I can pass it around if you like.

Mrs. Lane – No that's fine. My apologies. I didn't even know there was one there.

WIRELESS TOYZ, TENANT/TODD QUATRO, REPRESENTATIVE, Cont'd

Mr. Quatro – Basically, as you know, the existing building has a hip roof on it and it shows all the shingle on the front and we're going to remove the top of the existing roof off. The building looks like it used to be an old gas station that they added on to from the front. We're taking just the roof off and we're extending the front façade all the way up and we're installing glass in the front. There had been a few modifications since our submittal. Mainly the center line of the road is actually two foot farther from the building than what we originally had. We had a survey and the road had widened since so there was a little mix up. I went and sat down with the Engineering Department and got that resolved. We're going to probably eliminate this front door because the parking is on the side therefore we don't really need the front door. We can eliminate some of the concrete in the front but still put the landscaping in the front area and dress up the building.

Mrs. Lane – So the landscaping is pretty much on that drawing like you're going to put?

Mr. Quatro – Yes, they're having a little trouble with the trees so we might be nixing a couple of them because of couple of them are high growth and they were scared that they we going to hid the building. But the façade, as long as the Architectural Review Board passes everything that we've got we're basically got the canopies. Right now we're told that we're not going to get our logos on there. The Verizon or the Nextel on there but normally that's what we look for is just display of what we do. It's primarily just a cell phone store. We sell all types of cell phones and – Verizon, I think Alltel, Nextel, Sprint and one other is going to be in there.

Mr. Baldin – All of those are going to be in one?

Mr. Quatro – Yes, all of them in one. They're like a cellular super store. We've opened six now in the Cleveland area. They're looking to open sixty in the next four or five years. We've been going pretty aggressively especially corners. Corners are always good for us.

Mr. Baldin – So then the Verizon store on 82 might disappear?

Mr. Baldin – I've heard rumors of that for some time.

Mr. Quatro - I'm not really sure. It just depends on how they do. These folks are just real customer oriented and I don't know if you've been into a Verizon or one of their stores or even a Cell One or one of them. The corporate stores, you go into buy just and earpiece, you wait twenty minutes in line. You walk into a Wireless Toyz they're really kind of on top of you. That's basically it. We're not adding any more to the existing structure. Any more square footage. Any more around the perimeter. Anything along that line. We're not increasing the existing hardship that is already there. We're trying to rectify a few situations that currently exist on the site while doing the remodel.

WIRELESS TOYZ, TENANT/TODD QUATRO, REPRESENTATIVE, Cont'd

Dr. Goist – Todd, there was some question at our last meeting. I think Mr. Baldin asked and for some clarification, are there just going to resurface the parking lot that's there or are they going to tear that out and do a new parking lot. Did you get an answer? At the time we didn't...

Mr. Quatro – I spoke with the owner of the building itself. We're the tenant. We're just coming in doing that. When we sign up to do it we're looking at it like a remodel. That's why we had some mix up on the actually legal description and they got clarified. When I brought it up to him, he was talking about a complete resurface. I pointed out to him he's going to need some engineered drawings. I stopped by the Engineering Department and talked to them about it. His original intent was to tear up the asphalt and repave. I did explain to him what's going to come along with it that it's not just going to be you're going to tear it up and abate it and not turn in any drawings or you may have to adjust some sewers and maybe place another catch basin in there or along that line. Once I kind of outlined that I think he's looking at just capping. Again, I told him we've just got to show that there's going to be adequate drainage.

Dr. Goist – Thank you.

Mr. Evans – Any other questions from board members?

Mr. Baldin – Correct me if I'm wrong, you're going to have one sign out in front of the building?

Mr. Quatro – No, actually that was one of the other things that we eliminated was the sign on the front. We're going to attempt if we can get the signs on the awnings we would like to remove the ground ones.

Mr. Baldin – You have a corner building. You can put signs on two sides.

Mr. Quatro – The real important things for these guys is their logos because the carrier is who gives them their money. So they sign up a cell phone and they get residuals back from them on and on for the life of the contract.

Mr. Baldin – But you're going to have more than one in there selling so you're attempting to put two or three different logos which you are...

Mr. Quatro – Well we have a sign on the building itself. It's hidden behind the trees. There's a Wireless Toyz sign and there is a Wireless Toyz sign there.

Mr. Baldin – Okay.

Mr. Quatro – And it's basically LED, low, back lit sign. It says Wireless Toyz, Your Cellular Super Store.

WIRELESS TOYZ, TENANT/TODD QUATRO, REPRESENTATIVE, Cont'd

Mr. Baldin – Okay.

Mr. Quatro – He put a few too many shadows in there.

Mrs. Lane – So you're saying that they're hoping to have Verizon and one canopy and Alltel on another canopy?

Mr. Quatro – That's what they're hoping. And Dish Network and basically we told them usually we do that or we hang them inside the building off the ceiling and sometimes you can see them through the windows. If we can't have them on the canopy we elect to do that. Optimally they try both but...

Mr. Harr – Just to reiterate then, you're not changing the footprint of the building whatsoever. You're not changing the curb cuts from their current status and really these are exiting conditions that we're dealing with here. Nothing really new.

Mr. Evans – Any other questions from board members?

Mrs. Lane – Just a comment. I would encourage them to have some trees to enhance the building not block their signage. It's just personal. It will defiantly make the building look more gracious and more friendly to consumers. It looks good. It's for their benefit.

Mr. Quatro – Personally I think we scared them a little because those in the drawing are like full grown and it's really going to be forty years before that happens.

Mrs. Lane – A lot of those trees have no trees – like if you use birch the bottom end there is nothing that would block signage probably but it's defiantly a landscaping point. It has nothing to do with the variance. It's just there are plenty of trees. It's just the idea of softening...

Mr. Quatro – I a believer of landscaping. I believe it does a lot for the corner.

Mrs. Lane – Right. Enhance the building ten times over and draw people's eyes to the building versus...

Mr. Baldin – Much more appealing than what's there now. No doubt about it.

Mr. Evans – Okay, then what I would like to do is, Mr. Quatro, we'll give you a break for just a moment. We'll see this evening, is there any body in the audience who wishes to speak in favor of the variance request from Wireless Toyz? Is there anybody here that wishes to speak against the request for the variance? Any other final questions from board members?

Dr. Goist – No questions.

WIRELESS TOYZ, TENANT/TODD QUATRO, REPRESENTATIVE, Cont'd

Mr. Baldin – No questions.

Mr. Harr – No.

Mr. Evans – Then I would entertain a motion.

Mr. Harr - Mr. Chairman? I would make a motion that a request for a 78.5' Building Setback variance on Royalton Road from Zoning Code Section 1258.11 (a) which requires a 125' Building Setback and where a 46.5' Building Setback is proposed **AND** a request for a 75' Building Setback variance on Prospect Road from Zoning Code Section 1258.11 (a) which requires a 125' Building Setback and where a 50' Building Setback is proposed **AND** a request for a 13.5' Parking Setback variance from the Royalton Road Right-of-Way from Zoning Code Section 1258.11 (a) which requires a 20' Parking Setback and where a 6.5' Parking Setback is proposed **AND** request for a 15' Parking Setback variance from the Prospect Road Right- of-Way from Zoning Code Section 1258.11 (a) which requires a 20' Parking Setback and where a 5' Parking Setback is proposed in order to occupy an existing building located at 21034 Royalton Road PPN 391-16-003 Zoned Local Business be approved.

Mr. Evans – Thank you. We have a motion and a second. Kathy, if you would please do a roll call?

ROLL CALL: ALL AYES: MOTION CARRIED

Mr. Evans – Thank you. The variance request has been approved. This goes back to Architectural Review Board and Planning Commission. You have to wait twenty days while City Council has the opportunity to review the variance that we have granted. You will be notified by the Building Department at the conclusion of those twenty days but you can proceed to Architectural Review Board though in the meantime, correct?

Mr. Kolick – Have you been the Architectural Review Board at all?

Mr. Quatro – No I'm told it's on the 14th.

Mr. Kolick – You can go to Architectural Review Board. You'll need to wait the twenty days before you can get back to Planning Commission. You'll go back to Planning Commission after Architectural Review Board.

Mr. Quatro – Okay. Do you know when the first Planning Commission is? The next one?

Mr. Kolick – They meet the second and forth Thursday of every month.

Mr. Quatro – Okay, thank you.

WIRELESS TOYZ, TENANT/TODD QUATRO, REPRESENTATIVE, Cont'd

ACTION: VARIANCE GRANTED

Mr. Evans – Okay. Thank you very much. Item number four on our agenda, Sweetbriar Homes, Owner, Steve Avner, Representative and I believe that we have someone else here representing Steve here tonight. So if you'll come forward and use the microphone? Please give us your name and address and if you will describe for us the request for the variance because it's been now awhile before you were before us.

SWEETBRIAR HOMES, OWNER/STEVE AVNER, REPRESENTATIVE

Requesting a 7.26' Rear Yard Setback variance from Zoning Code Section 1252.05 which requires a 50' Rear Yard Setback and where a 42.74' Rear Yard Setback is proposed in order to construct a Single Family Dwelling; property located at SL 9 Timber Edge Place part of PPN 398-14-010 Zoned R1 75.

Ms. Snyder – Right Steve had some surgery so I'm here instead. I'm Christine Snyder. Home address is 4040 Huffman Road, Medina. And I do work for the builder, Sweetbriar Homes. The request that has been asked for is for, I guess, encroaching slightly into, at the one corner of the home to be built on Timber Edge Place to go into the fifty foot rear yard setback. I know from the original time that it was presented there were some modifications done. I think the home was flipped with the garages on the opposite side to get it to fit a little better. We did also approach all of the adjoining property owners including behind the property and we do have their written statement that they would not object to that. It was a little more of a challenge in this particular home site because it has a ninety foot front setback probably because it is on a cul-de-sac it narrowed at the street and it was probably to give it a certain square footage of front yard. That really pushed us all the way all the way against that rear setback line and the folks that are hoping to build there are with me here today. A two story home would have fit just fine on the footprint that we had to work with, however, their son, Andrew, has some health problems that will potentially worsen and they really have the medical need to be all on one floor. That's why we're really hoping to accommodate them with a single story home.

Mr. Evans – Okay. Thank you very much. Board members, questions that you have?

Dr. Goist - Mr. Chairman? When we last talked about this there were still some problems on the back area of the property that proper easements or it had not been properly platted. So has that been rectified?

Ms. Snyder – Yes. There was a portion that was to have been split off that had been identified and prepared but had never taken place, had never been recorded and that has since been done.

Mr. Kolick - Mr. Chairman? I might be able to shed some light on that. Part of it was done. They came before the Planning Commission. They granted a parcel split to split off that rear.

SWEETBRIAR HOMES, OWNER/STEVE AVNER, REPRESENTATIVE, Cont'd

One of the conditions of the Planning Commission was though that the area to the rear needed to be removed from the covenants and deeds because it was kin of crazy to have a lot behind it half in the sub division and half out of it so we're still waiting for those final documents and the filing of the plat. So although I've talked with their attorney and it's in order, it's not yet completed so if in fact you approve this tonight it has to be made subject to the actually filing of that plat with the county which can't be done until the covenants and deeds are revised. Thank you.

Mr. Evans – Thank you Mr. Kolick. Questions from board members?

Mr. Harr – No questions.

Mr. Baldin – I don't have any questions.

Mr. Evans – I do know that we had asked to flip that which reduced the variance amount and we appreciate both the builder and the prospective buyer doing that. We think that makes doing our job a little bit easier. If there are no other questions then we'll let you relax for a minute and we'll see if we have anybody in the audience. If there is anybody in the audience this evening who wishes to speak for the granting of this variance if you would please come forward? Is there anybody here that wishes to speak against the granting of the variance? If you will please come forward we'll need your name and address and if you would speak right in the microphone as you do that?

Ms. Quade – Good evening. My name is Sandra Marie Quade. I reside at 11538 Timber Edge Place. I am here to object to another home being built in that area, that cul-de-sac because there is a wetland. I have been in touch with the Army Corps of Engineers. Also the EPA and I have documentation to prove that the area is a swamp. The swamp starts on lot nine where the home is to be built. I found out that that area is swamp land and I brought a complete package to give to Mr. Kolick because I have been working with the Law Director, Mr. Ken Kraus in reference to all of the problems in the area. I will start first of all with a map that's on record at City Hall that denotes that from subplot four through subplot nine is supposed to have sump pumps. I can understand human error to let one sump pump. There are three homes currently, not there. No sump pumps at all.

Mr. Evans – Ms. Quade, let me just interrupt and ask, who is it that required the sump pumps?

Ms. Quade – It's...

Mr. Evans – You said it was a map that was filed with the city...

SWEETBRIAR HOMES, OWNER/STEVE AVNER, REPRESENTATIVE, Cont'd

Ms. Quade – A map that was submitted to the City of Strongsville and this came from Shaker Heights or the EPA. All of the documentation that I have is from the EPA and the Army Corps of Engineers.

Mr. Evans – Ms. Quade, I need to stop you for one second for a technical problem. The batteries in the microphone have evidently worn out because we're no longer picking you up. So we need to take a brief moment and you catch you breath while we find out how we replace the battery.

Ms. Quade – And you can take this up to Mr. Kolick.

Mr. Evans – Thank you.

Ms. Quade – I brought this information from the Army Corps of Engineers and also the Environmental Protective League.

Mr. Evans – Let me stop you though because we do need to get it on mic so just hang right there and hopefully this should not take that long.

Mr. Baldin – Can I ask you a question?

Dr. Goist – Wait for the batteries.

Mr. Evans – Not we're back live. Go ahead and continue.

Ms. Quade – Did I wear the batteries out in such a short time?

Mr. Evans – No.

Ms. Quade – There is an ephemeral stream that was illegally filled, and it's in the documentation that Mr. Kolick has, when the area was actually being developed. The developer, Mr. Stradtman, was fined by EPA for illegally filling in the ephemeral stream. The Army Corps of Engineers were supposed to be notified by the developer after he was fined. You'll see that the EPA even sent copies of the checks from the developer on the fines. Right there in the package. The wetland also must be disclosed when an individual is purchasing a piece of property. Sweetbriar Homes never did for any of the homeowner's, disclose that that area is a wetland. That is a state law and that is a federal law that has been violated. The ephemeral stream has resurfaced. I have been working with the Building Commissioner, Mr. Biondillo. He came and took pictures. You can actually see the wave pattern at the bottom of my basements wall where the stream is actually flowing especially when we had such a mild winter. Three walls in my basement, the lower section, has the wave pattern. In addition, Sweetbriar Homes visited my home four months ago, took pictures, never once even responded

SWEETBRIAR HOMES, OWNER/STEVE AVNER, REPRESENTATIVE, Cont'd

back with what they were going to do in reference to being notified that there is an ephemeral stream that has resurfaced. And the sad part about all of this, the stream starts, according to that map that Mr. Kolick has, it starts on subplot nine and it ends on my lot, subplot three. So the actually run off is really hitting my home.

Mr. Baldin – We're going to go back here to these findings. Coming in to that cul-de-sac subplot, you're the first home being built there?

Mrs. Lane – No, you're on the opposite side.

Ms. Quade – No, I'm the opposite side. The home that's being built is where the ephemeral stream, subplot nine is where...

Mr. Baldin – Right but the (unintelligible) should say. There's...

Ms. Quade – I think that's subplot ten. That's the model that's been sitting there for what? Two or three years it hasn't sold.

Mr. Baldin – Yes. That has been pumped out probably three or four times because it keeps flooding.

Mr. Baldin – Okay.

Ms. Quade – Okay?

Mrs. Lane – So you're – are you directly across the street from subplot nine?

Ms. Quade – I am caddy corner to subplot nine. I'm the last – if you come into the cul-de-sac my home is the last home with the brick...

Mr. Baldin – Have you had water come into your basement yet?

Ms. Quade – Oh yes. Yes. And in fact it was so bad that Sweetbriar brought over, and it's still there, a dehumidifier to pull out the water out of the basement area. I have thirty two years with the federal government besides being a college professor at three universities. It's common knowledge that water will seek it's own self out. The water has actually sought itself out and is coming into the home. The water pattern is an identifier or metric that that ephemeral stream was incorrectly, illegally built in. Also, Mr. Biondillo took pictures and confirmed that yes, there is a problem. And that's why it's with the Law Director right now. Besides the fact that the evergreens, no one, and there are approximately fifty evergreens back there that were supposed to be mounded. The purposed of mounding evergreen trees in a wetland is to absorb

SWEETBRIAR HOMES, OWNER/STEVE AVNER, REPRESENTATIVE, Cont'd

the water. The evergreens back there, many of them are dying. It in a common, what is called our common area, and they're dying off. They were incorrectly planted.

Mrs. Lane – Are you saying there were not mounded?

Ms. Quade – Not one tree, and it's on the blueprint, that Mr. Kolick has, that not one tree was mounded. Not one. As I stated before, I can understand human error maybe one or two trees being missed. But fifty? I also called the developer, Mr. Stradtman, approximately three or four months ago. Mr. Stradtman drove into the cul-de-sac, called me at NASA and said 'Ms. Quade, you have an absolutely gorgeous home'. He said 'the problem is Mr. Freet did not read the fine print'. I have garnered all of the information to move forward with a lawsuit as far as my home is concerned. It is a swamp back there. I'm not going to speak for the other neighbors, but we cannot sit in our back yards. I've spoken to the county. The county has assured me that they will be out to spray twice during the summer months. It is a wetland and I firmly believe that no other homeowners back in that area should go through what I've gone through.

Mr. Evans – Questions of board members?

Mr. Baldin – I have a question.

Mr. Evans - Mr. Baldin?

Mr. Baldin – Do you feel that this land and your home, etc. and everything was misrepresented?

Ms. Quade – Exactly. Absolutely. And what's even more appalling is on the map that Mr. Kolick has it actually defines because it is a wetland how high the first floor is supposed to be. Well that's defined for a twelve course basement. No one mathematically and using any type of engineering calculations factored in the fact that I have a fourteen course basement. Not a twelve course basement. Which just adds to the problem.

Mr. Baldin – Do you also feel that not only was this represented, that before this land was either purchase sold by whomever, the builders, developers, may be, that they were aware of all this?

Ms. Quade – Absolutely. It's in all the documentation that Mr. Kolick has. Just based on the fines.

Mr. Baldin – And what is this fine print that you're referring to? What is the fine print?

Mrs. Lane – Mr. Freet?

SWEETBRIAR HOMES, OWNER/STEVE AVNER, REPRESENTATIVE, Cont'd

Ms. Quade – That Mr. Freet – when Mr. Freet purchased the property it was not completely developed. It was not completely developed.

Mr. Baldin – Okay. Well what does the fine print refer to?

Ms. Quade – The fact that the property was not complete...

Mr. Baldin – Not completely developed.

Ms. Quade – Right. Exactly. Exactly. I have – in fact what I just shared with Mr. Kolick is just a drop in the bucket of the information that my lawyer has. I have an entire Xerox box of paper with documentations from the Army Corps of Engineers. It pays to work for the federal government because the Army Corps of Engineers and EPA have provided me with a wealth of information.

Mr. Baldin - Mr. Kolick? If all this information is true and apparently the city was aware of this, how did this ever happen that this could even be developed?

Mr. Kolick - Mr. Chairman? Again, I was just handed this tonight so I'm going through a quick glance at this. It appears that the developer got approval from the Army Corps of Engineers to do certain filling within there. Now it appears that there were some violations but it appears also from the documentation those have been taken care of by way of a payment over to the, a mitigation payment which we call it, was taken care of. There's nothing, and again, I was just handed this whole packet tonight so I'm going through quickly but it appears that, and the city would have required to see, approval from the Army Corps of Engineers, before we would have approve the subdivision. Now if there's been something done subsequent to the approval of the city in violation of the permit, that's another story that would have to be looked at. But at least the subdivision itself was approved to go forward by the Army Corps of Engineers. They're indicating that it was approved to go in. Keep in mind then, we will monitor the construction but we don't monitor, we don't have authority to monitor compliance with wetlands area. Only the Army Corps of Engineers does so if there's a problem vis-à-vis the wetlands area only the Army Corps of Engineers has the authority to enforce that. We don't as a city. In fact, it's contrary to law for us to even attempt to enforce the regulations that are imposed by the Army Corps of Engineers. It's outside of our jurisdiction. We need to get through the documentation more than I can in a cursory manner here but I would say we require as a city the documentation from the Army Corps of Engineers before we approve the subdivision. Now, if the developer does something or individuals do on their individual lots that violate the wetlands requirements under the code, that we don't have jurisdiction to do. However, conversely we also have grading plans and we also have common area plans and we do have authority to see that those are complied with and the grading plans as required are complied with. I don't know what the situation is either on subplot eight or whatever. Tonight is the first night I'm hearing about it the problem other than the Law Director did advise me that

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someone would be bringing information tonight but again there is no way I can get through this whole thing to give you any advise while we're sitting here. But I think we ought to hear whatever comments there are from the audience then we can talk about it after that.

Mr. Evans - Mr. Kolick, am I not correct, as well, that if the part of the EPA and the part of the Army Corps of Engineers requirement was that homes in that area have sump pumps that would have been enforceable through us as part of the building permit process. Would that be correct?

Mr. Kolick – No, only if we required it as a city. There are areas in the city that, because of grading concerns that, we as a city require sump pumps. If we did that by way of a Planning Commission, by way of a plat restriction, we would have to comply with that and we would see that that compliance is done. If this is a separate, and I'm not saying it is or it isn't, but if it's a separate requirement by the Federal Government under the Army Corps of Engineers, that we don't have jurisdiction to enforce compliance but again, I would also think that the things that they're talking about should also fit into our grading plan because our Engineering Department would not only approve the grading for the whole subdivision they'll approve individual grading plans for each individual lot and they certainly need to be in compliance with those grading plans before we issue a permit or before we give inspections and approve them.

Mr. Evans – Okay.

Mr. DeHoff - Mr. Chairman?

Mr. Evans - Mr. DeHoff?

Mr. DeHoff – I would like to address the sump pump item. A lot of times we receive topos and plans that have sump pumps in it. But any time that you can get off on gravity we don't allow sump pumps. You have to go off on gravity because sump pumps become a maintenance item. Eventually they're going to fail. They use a lot of energy to keep them running. So there's no sense to have a sump pump when you can get off on gravity and that's one of the things that we look at real closely.

Mr. Evans – Okay. Other questions from board members of Ms. Quade? Now the direct answer is that at this point the building permit has been issued. That is the only way that we would be able to consider granting the variance and at this point your objection to the variance as part of the objection to the overall which we understand and will be taken into consideration as a part of our process. In addition to that, the information that you have given to Mr. Kolick tonight which may also be in the hands of Mr. Kraus and if that is the case and Mr. Biondillo, our Building Commissioner, that information would also pertain or have a bearing in terms of our consideration of the overall facts in this situation. What Mr. Kolick has suggested is that we will have to this evening tell you that we do not have an answer to your questions that you

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have asked. That is a part of something that we'll have to continue forward here and we do not have that information at our availability tonight. For answers to the questions that you have asked I will ask you to stay in touch with Mr. Biondillo or Mr. Kraus because they would be the ones to respond to you based on your prior contact. This board will have to take that into consideration during our deliberation here this evening as to what impact it has on the variance request.

Ms. Quade – Yes. Thank you. And just one other comment Mr. Kolick. Mr. Kraus asked me to deal directly with him and not with Mr. Biondillo. Mr. Biondillo came and took pictures as I had shared and he is moving forward to sit down with the mayor to look at all of this information and the City Engineer.

Mr. Kolick – That's fine.

Ms. Quade – Thank you.

Mr. Evans – Okay. Thank you very much. Is there anybody else in the audience here this evening who wishes to speak against the request for the variance? Mr. Bartos, am I not correct that you came in after we swore people in?

Mr. Bartos – Yes.

Mr. Evans – That's what I thought. Okay, then we need to swear you in so that we can hear you speak.

Mr. Kolick then state the oath to Mr. Bartos.

Mr. Evans – Name and address please.

Mr. Bartos – My name is Bob Bartos. 11563 Circle Ridge. I am also the president of Forest Park Association and the only comment that I really want to make as Sandy has pretty much stated everything that has needed to be stated but there was a large undertaking where a number of residents, and you can see them in a letter in that document opposing this development originally because of the ephemeral stream. All I'm saying is our concern back there is Forest Park is getting a reputation as having significant water problems as you're well familiar with and so I just want go on record to say that's our concern. We absolutely would love to have more houses there but our concern is towards the new neighbors coming in so they don't have to go through what Sandy is going through and the others may. That's all.

Mr. Evans – All right.

Mr. Bartos - Any questions?

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Mr. Evans – Yes. Any questions for Mr. Bartos?

Mr. Baldin – No I don't.

Mrs. Lane – I guess, question; other than the previous speaker, how many homes over there are having problems that you know of?

Mr. Bartos – I believe four. We have the three there and again, it's only hearing what has occurred through neighbors talking but we also new that the basement was being pumped out of the model. So the water is being pumped out of the model basement.

Mr. Evans – Christine, we're going to bring you back in just one second. Any other questions for Mr. Bartos?

Mrs. Lane – Thank you.

Mr. Baldin – Yes. Let's go back to that. The house that's right next to thine right now. That's a fairly new house. That's the model right there right? That's the first one? Is that the model?

Mr. Bartos – The first one – when you come into the development, the first one on the right is the model. There's about three empty lots and then there's three homes.

Mr. Baldin – Before you make the...

Mr. Bartos - They're all next to each other.

Mr. Baldin – So that empty lot...

Mr. Bartos – So there's about three lots. I think nine...

Mr. Baldin – Okay. You had said it's been pumped out a number of times already.

Mr. Bartos – Three, right, ten.

Mr. Baldin – What about the other houses that have been there a little bit longer. Have they had any problems?

Mr. Bartos – Three, four and five.

Mr. Baldin – The existing homes that have been there for awhile. Have they had any water problems? As you come up the street. As you pull into the street, you've got homes on the left,

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you've got a house on the corner on the left side; you've got the houses on the right. Have they had any water problems? The older homes?

Ms. Quade – I don't know about the older homes. I can only speak about where the ephemeral stream is which starts at lot nine. But lot ten where the model home is that's been sitting, that has been pump out a number of times and in fact it was one of Sweetbriars employees who gave me the documentation denoting the key map that my lawyer has that this is an ephemeral stream.

Mr. Evans – Okay.

Mr. Bartos – Right now, eleven is going – if you would – subplot eleven is not eleven – there's really no eleven but it's next door to the model, they're actually having sewers right now...

Ms. Quade – Right now.

Mr. Bartos – As we speak. The last two days they have been digging because they had a water problem that was identified through the URS study. So to answer you question it might, the stream very easily could have extended beyond the model.

Ms. Quade – It's pretty sad because – here's an example. This past summer I had my family over and I know mosquitos are bad during the summer. We couldn't sit outside. My niece left my home with over thirty mosquito bites. The home, and I don't like to speak for neighbors who are not here, the home two doors away where the Palmetto's live, in the evening, their back patio door and back windows are covered, literally covered with mosquito's which is a true sign of swampland. These individuals will be called into court when my case is ready for the suit against Sweetbriar.

Mr. Evans - Now again, this evening we're only dealing with the request for the variance.

Ms. Quade – Yes.

Mr. Evans - I want to make sure that we...

Ms. Quade – Sorry Mr. Evans.

Mr. Evans - ...don't go too far.

Ms. Quade – Yes. Yes.

Mr. Evans – We're not trying the case tonight.

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Ms Quade – Yes but it's a pretty sad situation. It's pretty sad and if Mr. Kolick or Mr. Kraus need more information I have it. I can provide it to anyone who needs it at City Hall. The engineer or whoever.

Mr. Evans – Any other questions from board members pertaining to the variance?

Mr. Baldin – I have no further questions.

Mr. Evans – Okay. Ms. Snyder, if you'll come back up? And I don't know how equipped you are to answer some of the concerns that have been expressed but we'll give you the opportunity to address those.

Ms. Snyder – Thank you. I have worked for this builder for six years and I was at the very inception of when he looked at these lots to purchase from Mr. Stradtman. What he purchased there they were fully improved lots that were ready to build on. There was no understanding whatsoever that there was further development yet to be done. The street was in, sewers, water, gas. There was certain requirements for, which is significant, catch basins in the backyards of a lot of the sublots, presumably because at whatever point in the development, there was a concern about water and so to prevent that, you'll notice if you look at the topo of the entire cul-de-sac area there are yard drains along the back yard lines which is pretty unusual in a subdivision. So that was obviously provided for. We had no knowledge whatsoever of any continuing wetland consideration and, in fact, I don't believe that there is any continuing concern about it. As Mr. Kolick pointed out, that was all addressed and given a final approval. As far as the evergreens not being mounded, the purpose of the evergreens is to be on top of the mound that blocks the turnpike. So there is a very large mound there with evergreens on top of it as well as a wooden fence. Again, the purpose of that was as a noise shield for the turnpike, which is in pretty close proximity. If some of the trees have died, that is possible, that does happen and we as the builder have replaced some of them already. That was a development function. As far as mosquito's or a swampy sensation, that will be remedied to a large degree once these remaining untouched lots are able to be built on because what we have there is a lot of old growth of trees and the land has settled over the years and there is low areas in and among those trees. Until those trees can be removed and a home put there and the grading as it properly needs to be, out towards the edges away from the home itself, there are going to be pockets that are continuing to hold water. Again that will be addressed more effectively once we're able to get in there and provide a final grade.

Mrs. Lane – Are you planning on back yard drains, etc. in this particular...

Ms. Snyder – They're already in place.

Mrs. Lane – They're already in place?

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Ms. Snyder – Yes.

Mrs. Lane – On subplot nine?

Ms. Snyder – On subplot nine, I'm not one hundred percent sure. I know I was standing in the patio door of subplot ten and I noticed one in the back yard of that home almost at the dividing line between ten and nine.

Mr. Evans – It's shown on the plan here.

Mr. Kolick - Mr. Chairman? Maybe for the applicant, are you aware of any water problems on homes you have constructed already within the subdivision including the model that we're hearing tonight?

Ms. Snyder – No, and that is a big point that I need to state loud and clear. That basement has never had to be pumped out, ever. It has never, okay? Where that impression came from I'm not sure but it is absolutely not true. Ms. Quade has had some complaints that she issued to us concerning concerns that her basement was damp. At no time had we ever had complaints from her that she had actually water and that was the reason that we did provide the dehumidifier to lessen the feeling of the moistness down there. She is correct in stating that our personal took photographs and then someone from the city, about three or four months later took another set of photographs. The marks that she is referring to as wave lines of water or something, she has a block foundation and that is the natural leeching of the minerals and so forth as that block is drying out and it does create a differentiation in color many times as the block dries. In that four month period, if you compare the photographs, there is no difference in the appearance of those marks and therefore it indicates that there is no water seeping into that basement. We have had it checked by our foundation company, by the waterproofing company, your city personnel has been there, there's really nothing further that we can do.

Mr. Kolick - Mr. Chairman, again, so we don't get into other issues here, obviously this individual and you have a difference of opinion as these things. We're not here to try that but what we are here to do is to look at subplot nine and, if it has the same problems that some of these at least alleged to have. I'm not saying they do or they don't because I don't know but, a couple of questions. Are there any wetlands on subplot nine, any delineated wetlands, restrictions on subplot nine that you're aware of?

Ms. Snyder – No.

Mr. Kolick – There are not.

Ms. Snyder – No, and again as far as the sump pumps it was a good point made that those are avoided because they do tend to be problems later but that is not even our determination. As

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the builder, we submit the plan and we show, if a sump pump is required, what location it would be in, and that's what the foundation print will say 'sump pump is required'. Then the city when they give us the approval, their engineering people will tell us if it needs a sump pump or not and it really doesn't have to do with whether the area is wet so much as the depth of the sewers because gravity feed versus needing to make sure it gets pumped out from all the footer drains and, again that's never our decision. We put it in if we're required to and if not we don't.

Mr. Kolick - Mr. Chairman? Again, for the applicant, are you aware of any requirements from the Army Corps that there be sump pumps on sublots four through nine or something like that?

Ms. Snyder – No, none that I'm aware of or my company is aware of.

Mr. Kolick – Has anybody checked with the Army's Corps permit that was granted for this particular area and what restrictions it had or didn't have on it?

Ms. Snyder – I believe that what we have in our file is the fact that it is an approved subdivision and it has met the various requirements that Mr. Stradtman has been under when he was in the development phase of that area. So that it was to our satisfaction as we were buying these lots that they were buildable and ready to go.

Mr. Kolick - Mr. Chairman? I think this evening we need as a Law Department and the Building and Engineering Department to look at the documents that are here. However, I also want to give the applicant an opportunity to give us whatever documents you may have that indicate that whatever you have done has complied with any permits or if you have any information from the Army Corps, or whatever, that say something differently, at least from what has been represented to us tonight. Please you have the same opportunity to present that to us. Just present them up to the Law Department and we'll take a look at them. I wanted everybody here to know we can't try the issue of Ms. Quade's house with the developer however, I don't want to, if in fact there is a problem; I'm not saying there is or there isn't but if there is a problem I don't want the new person building there to have the same problem either. So that's something we need to look at and we have to see what restrictions the Army Corps may or may not have on here. The partial information is reviewed has indicated that the Army Corps has granted a permit to do this development and it did show some violations of that permit and it shows that they've been remedied by way of remediation through the Army Corps of Engineers. That may not be the whole answer and again it may be so my suggestion is here tonight we table this, at least to the next meeting. For the applicant, we'll look at whatever information you may have to submit to us as well as Ms. Quade or the homeowners association have any other information to submit to us and, I'm sure everybody's aim is the same to have homes constructed to have homes constructed without any problems and that's what we want to find on behalf of the city. We need that time to do it before I can give any recommendation to the board to do anything here tonight.

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Mr. Evans – At this point normally our requirement would be that the applicant is the one who tabled it the first time when we did this and we would ask that you would, if you would want to table it again in order for us to accommodate the research here in order to have the right opinion rendered. That would be my indication to you as well that that would be the right thing to do and again I want to apologize to your buyers because this is not something that we're trying to do to hinder someone who wants to build a home in Strongsville or anything else. We want to make sure that everything is done properly and at this point the variance does not necessarily have a lot to do with building the house because the house has already been approved but in the overall scheme of things this is a point in the process where we talked earlier this evening about putting a shed too close to the house and the house catching on fire. This is the same type thing that when we grant a variance we are giving our stamp of approval and if later on there is a problem and that problem happens to be something that may or may not have been attached to the variance then we become a party to the problem. We just don't like doing that. We would rather do it the other way. So that's the reason for our caution in moving forward with this process. It is nothing to say that we're opposed to the building of the house or granting the variance. We want to make sure we have full disclosure of all the information before we would render a decision. If that would we your wish tonight to table then we would do that until at least the next meeting and hopefully, again, move forward expeditiously and I know that Mr. Kraus will do that from the Law Director's standpoint.

Ms. Snyder – That would be acceptable if you feel that's the process we need.

Mr. Evans – Okay. So we will table until the next meeting of February 22, 2006. Now just so that you understand in terms of us moving we have now concluded the Public Hearing. At the next time that we would have this back on the agenda, presuming it might be February 22, 2006 or whatever we would not go back to a Public Hearing process again. We would have disclosure of information which has been additionally discovered during that time but we would not necessarily go back to a Public Hearing situation again and perhaps delay it. Now that we have information before us we will resolve that information and then move forward expeditiously with a decision. Okay?

Ms. Snyder – Thank you.

ACTION: CONTINUED UNTIL FEBRUARY 22, 2006 BZA MEETING

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Mr. Evans – Is there any other business to come before the board this evening? Members, anything? Then I would declare the meeting adjourned.

Meeting adjourned at 9:35 P.M.

Signature on original
Kenneth. D. Evans, Chairman

Signature on original
Kathryn A. Zamrzla, Secretary

2/22/06
Approval date