

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

**Meeting of
April 22, 2009
7:30 p.m.**

Present - Board of Appeals Members: Glenn Goist; Richard Baldin; Kenneth Evans; Celia McGrath

Administration: Assistant Law Director, Daniel Kolick

Building Department Representative: Joey Allen

Recording Secretary: Mary D'Andrea

The Board members discussed the following:

1) BRADLEY WUENSCH, OWNER

Requesting a 9' Side Yard Setback variance from Zoning Code Section 1252.17 (c) which requires that the fence be located within the setback of the residence and where the applicant is proposing to extend the fence 9' beyond the setback of the residence in order to construct a 6' High Fence on a Corner Lot; property located at 15205 Prospect Road PPN 393-24-021 zoned R1-75.

Dr. Goist stated that the owner is trying to stop high school students and deer from cutting through their property. Mr. Evans stated that the type of fence that they are applying for may not prevent this.

2) MARGARET COLE, OWNER

Requesting a 22' Front Yard Setback variance from Zoning Code Section 1252.04 (d) (2) which requires a 70' Front Yard Setback from the right of way and where a 48' Front Yard Setback is proposed in order to construct an Addition to an Existing Garage; property located at 12700 Alameda Drive PPN 393-23-013 zoned R1-75.

The Board members stated that they did not yet view the property on site. Mr. Baldin stated that it seems like a car storage problem.

3) MISAEL AND NADIA MINAYA, OWNERS

Requesting a 25' Side Yard Setback variance from Zoning Code Section 1252.17 (c) which requires that the fence be located within the setback of the residence and where the applicant is proposing to extend the fence 25' beyond the setback of the residence in order to construct a 6' High Fence on a Corner Lot; property located at 9977 Forestview Drive PPN 398-10-022 zoned R1-75.

Mr. Evans stated that no CPTED report was ordered because there is no driveway adjacent to the property and there is not a sidewalk that comes out from the playground area. The Board members read the letters from the neighbors that are submitted objections. Dr. Goist doesn't think there is a line of sight problem and will ask the applicants on the floor what their compromise will be. Mr. Evans stated that the owner, last time, seemed to be in favor of only board-on-board and those really stick out. Mr. Evans stated that the playground is elevated so he doesn't feel there is a line of sight problem. Mr. Evans stated that topography would be the only reason to consider because of the elevation of the play area and that he would like to see the owner drop the fence height along the sidewalk to 5'. He doesn't like setting the precedent of a board-on-board fence. The Board members stated that the fence doesn't pose a problem with people jumping from the fence into the pool.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS

MINUTES OF MEETING

April 22, 2009

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

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

Also Present: Mr. Kolick, Assistant Law Director
Mr. Allen, Building Department Representative
Mrs. D'Andrea, Recording Secretary

Dr. Goist – Good evening, ladies and gentlemen. I'd like to call this April 22, 2009 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. Mary, would you call the roll please?

ROLL CALL: ALL PRESENT EXCEPT FOR MR. HARR

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

Mrs. McGrath – Second.

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

ROLL CALL: ALL AYES

Dr. Goist – I hereby certify that this meeting has been posted in accordance with Chapter 208 of the Codified Ordinances of the City of Strongsville. We have minutes from March 25, 2009. If there are no changes, I will entertain a motion to approve the minutes.

Mrs. McGrath– So moved.

Mr. Evans – Second.

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

ROLL CALL: ALL AYES

Dr. Goist – For all the people who are here in the audience tonight, our meetings are in two portions; one is New Applications and the second section is our Public Hearings. For anyone who is here, if you would like to speak before the Commission this evening, if you would now please stand and be sworn in by our Legal Counsel.

Mr. Kolick then stated the oath to those standing.

1) **BRADLEY WUENSCH, OWNER**

Requesting a 9' Side Yard Setback variance from Zoning Code Section 1252.17 (c) which requires that the fence be located within the setback of the residence and where the applicant is proposing to extend the fence 9' beyond the setback of the residence in order to construct a 6' High Fence on a Corner Lot; property located at 15205 Prospect Road PPN 393-24-021 zoned R1-75.

Dr. Goist – Thank you. Our first New Application is Bradley Wuensch and if you would come forward please and if you would give us your name and address first.

Mr. Wuensch – My name is Bradley Wuensch. My address is 15205 Prospect Road.

Dr. Goist – This is your first application tonight and so we will listen to what your plans are and comment on it and then your Public Hearing will be in two weeks. If you would explain to us what you want and why.

Mr. Wuensch – Basically, on the plan that you have before you, I live on a corner lot. There is a lot of traffic on Lunn Road. I'm down from the high school and we were looking to have a little privacy to reduce some of that traffic noise on our back yard. Our family likes to spend a lot of time in the back yard and we were just looking to put up a small fence for the privacy factor, reducing some traffic noise and not have to look at all the traffic that goes up and down Lunn Road.

Dr. Goist – Okay, I'm just going to tell you that I was there and met with your wife the other day and one of the things that she said is that you find the kids from the high school do cut through your back yard quite a bit.

Mr. Wuensch – They do.

Dr. Goist – That's not such a big concern.

Mr. Wuensch – They're kids. To be honest with you, even with this fence, if they choose to cut through the back yard they do have the access.

Dr. Goist – Board members, do you have questions?

Mr. Evans - Mr. Chairman?

1) **BRADLEY WUENSCH, OWNER**

Dr. Goist – Yes?

Mr. Evans – Mr. Wuensch, just looking at the plans here it looks as if you're going to do two sections of 18' at 90 degree angles there so it's not going to completely enclose the back yard or anything?

Mr. Wuensch – That is correct.

Mr. Evans – At this point, the height of that is going to be 6', right?

Mr. Wuensch – Yes, sir.

Mr. Evans – That is going to be a board-on-board style?

Mr. Wuensch – Correct.

Mr. Evans – At this point, there are no driveways or anything like that that are in the vicinity there where you are proposing the fence?

Mr. Wuensch – No, sir.

Mr. Evans – Okay. I know that we will ask you to stake that out so that when we come out to take a look at it, we can see where you're proposing the fence will be located. That would be all that I have, Mr. Chairman.

Dr. Goist – Mr. Baldin?

Mr. Baldin - Mr. Chairman and sir, this came up in the meeting and none of us was really quite sure. How long has your shed been up?

Mr. Wuensch – It was there when we purchased the house.

Mr. Baldin – So, it's been there for some time?

Mr. Wuensch – Yes.

Mr. Baldin – You people remodeled that place not too long ago?

Mr. Wuensch – Correct.

Mr. Baldin – You did a very nice job.

Mr. Wuensch – Thank you.

1) **BRADLEY WUENSCH, OWNER**

Mr. Baldin – That is all the questions that I have.

Dr. Goist – Mrs. McGrath, do you have any questions?

Mrs. McGrath – I have no questions, Mr. President.

Dr. Goist – Anybody have any problems with the 6' high fence or the board-on-board? You are proposing a board-on-board, correct?

Mr. Wuensch – Correct.

Dr. Goist – Okay, no one seems to have any objections. If not, your Public Hearing will be May the 13th so all of your neighbors within 500' will get a copy of the proposed fence and they will be able to be here for the Public Hearing.

Mr. Evans - Mr. Chairman?

Dr. Goist – Yes?

Mr. Evans – Just so the applicant understands, they will not actually get a copy of the proposal. They will get a notice that indicates that you have applied for a variance so what we would always recommend is that you talk with neighbors that are immediately in your vicinity so that they understand what it is that you're proposing because the letter that comes from the City will be very vague and they will all look at it and say, What is this? So, to cut off people asking the question, it's easier if you go to them and precipitate that with getting them the information instead of them having to come to the Public Hearing.

Mr. Wuensch – Which I have Mr. Evans. I have to the neighbors on all sides.

Mr. Evans – Very good. Thank you.

Mr. Wuensch – Thank you.

Dr. Goist – Thank you, Mr. Evans. Okay, that is all for this evening. Thank you. Also, so that you know, during the rest of the meeting, you do not have to stay here. You can leave if you choose.

Mr. Baldin – The date of the next meeting?

Dr. Goist – May the 13th.

RULING: SET FOR PUBLIC HEARING ON MAY 13, 2009

2) **MARGARET COLE, OWNER**

Requesting a 22' Front Yard Setback variance from Zoning Code Section 1252.04 (d) (2) which requires a 70' Front Yard Setback from the right of way and where a 48' Front Yard Setback is proposed in order to construct an Addition to an Existing Garage; property located at 12700 Alameda Drive PPN 393-23-013 zoned R1-75.

Dr. Goist – If you would give us your name and address please.

Ms. Cole – Hello, Margaret Cole, 12700 Alameda Drive.

Dr. Goist – Okay, and if you would tell us what you're proposing to do.

Ms. Cole – My proposal is to add on to my garage and make it a little bit bigger as I'm currently downsizing from a very large house to the rental house. There is no basement; there is no shed. I can't put all my things in this garage so I need to add on. I have a granddaughter with play stuff and yard things, a riding mower, a push mower, two cars, dirt bike and a trailer. It doesn't all fit in the little garage so I just want to add on to it. I took some pictures of the neighborhood. Did you get to look already? I signed the paper for you to look. I don't know if you had a change to look.

Dr. Goist – We have not seen the pictures.

Ms. Cole – I just took them today.

Dr. Goist – Oh.

Mr. Baldin - No wonder I didn't see them.

Ms. Cole – This is my neighbor and where I want to put the garage add-on. I park the cars where I want to put the garage.

Mr. Kolick – She is not going to be able to pick you up if you don't speak into the microphone so if you could show the pictures from the podium.

Ms. Cole – Can you see it?

Mr. Evans – Yes.

2) **MARGARET COLE, OWNER**

Ms. Cole – So, this is my garage currently and my cars are parked where I want to put the garage, which is where I park them now because I can't get them in the garage. I want to add on to the current garage just a little bit. This is the street. There is nothing going on down the street. There is my neighbor across the street that has a shorter driveway than me, by the way. That's just another of how it looks the other way. It's all trees. There are no people to – that's trees instead of house, so it won't affect that. This is where I got the idea. It's a neighbor on Westwood; I don't have their address but I, kind of, wanted it to look like this house and I do the drawings, prospective drawings. This guy here just added on this garage in the front and then landscaped it with a little sidewalk there. So, I feel that this – I read the directions of what I'm supposed to say and I'm supposed to say that it would make a little bit of a hardship for me to have to live with the small garage and I'm within the 1,000 square feet for storage that is in your zoning. The only problem is that it's a little bit closer to the road than in the zoning but there are no other houses on the street to set a precedent and I haven't talked with the neighbors about it yet but I don't have any arguments with the neighbors and I will be happy to do it but nobody can see this garage from their house.

Dr. Goist – Where it's located, there is a fence between your property and the neighbors.

Ms. Cole – Yes.

Dr. Goist – Is that your fence?

Ms. Cole – No.

Dr. Goist – That is their fence and that has had a new section. I can see the new section. That's comes out further than where your new addition would be, is that correct? It comes close to the road, the fence does.

Ms. Cole – Yes. The little addition is just right here and I didn't measure how many feet but it's a lot of feet. There is no way that these people would know that I put this addition on, I don't think. They can't see it from their house and their house here is much closer – if you get a chance, there is no way to take this picture properly but their house is closer to the street than my garage will be by 20' or something. It's way closer. Theirs is closer to the street than mine. So, if this fence were ever removed, my garage would still be tucked way back from the street.

Dr. Goist – The one thing that we would ask you to do before the next meeting is to stake out exactly where this garage will be. If you would mark it with stakes so that we know exactly where it's going to be and then our Board members when they come out will be able to see where your proposal is going towards the road. Board members, do you have other questions?

Mr. Baldin – No, but can we have those pictures.

2) **MARGARET COLE, OWNER**

Ms. Cole – Do you want the one of that other idea house?

Mr. Kolick – Just give us all the pictures. We need to put them as part of the record anyway.

Ms. Cole – Okay.

Dr. Goist – Board members, any other questions?

Mr. Evans - Mr. Chairman?

Dr. Goist – Yes?

Mr. Evans – Ms. Cole, do you intend to keep the garage that you currently have in use as a garage or will that be converted to living space?

Ms. Cole – Storage.

Mr. Evans – Storage space. So, it will still be open and connected to the garage?

Ms. Cole – Partially.

Mr. Evans – Mr. Allen, I believe that when she submits plans on that, that information will have to be included because of firewalling and so forth?

Mr. Allen – That is correct.

Ms. Cole – I understand that you have to have the proper drywall for a garage.

Mr. Baldin – That is correct.

Mr. Evans – Okay.

Mr. Evans – And this is going to go over where there is a driveway now?

Ms. Cole – Yes.

Mr. Evans – I assume that you're working with a contractor. Have you looked at drainage that will be required inside that garage and everything?

Ms. Cole – I have looked at the Ohio Code and you have to have the proper pitch and drain and I'll be working with Mr. Allen and he will be checking it out pretty thoroughly, I'm pretty sure.

2) **MARGARET COLE, OWNER**

Mr. Evans – Okay.

Dr. Goist – Thank you. Any other questions? If not, Ms. Cole your Public Hearing will be May the 13th and all the neighbors will be informed and we will see you back on the 13th.

Ms. Cole – Thank you. Could I ask, do I have to be here on May 13th because I will probably be out of the country on that day but my friend Renee can come. Does it matter?

Mr. Kolick – You can have anybody come on your behalf but if questions arise and you're not here, I hope someone else can answer them for you.

Ms. Cole – That is why I have asked her to come today because I will be Guatemala that day. I already bought the tickets and I don't want to change them unless I have to. Is that okay?

Dr. Goist – That's fine.

Ms. Cole – Thank you.

RULING: SET FOR PUBLIC HEARING ON MAY 13, 2009

(G) **PUBLIC HEARING**

3) **MISAEAL AND NADIA MINAYA, OWNERS**

Requesting a 25' Side Yard Setback variance from Zoning Code Section 1252.17 (c) which requires that the fence be located within the setback of the residence and where the applicant is proposing to extend the fence 25' beyond the setback of the residence in order to construct a 6' High Fence on a Corner Lot; property located at 9977 Forestview Drive PPN 398-10-022 zoned R1-75.

Dr. Goist – That concludes our New Applications for this evening. The next portion is our Public Hearings and our Public Hearing this evening is for Misael and Nadia Manaya. You may come forward and if you would give us your name and address.

Mr. Manaya – Misael and Nadia Manaya, 9977 Forestview Drive.

3) **MISAEAL AND NADIA MINAYA, OWNERS**

Dr. Goist – We know from your wife being here last time what your proposal was and I'm sure that she has brought back to you what some of our concerns were and some of the things that we had asked her to talk over with you but before I have you go ahead, I'm going to just insert here that we have two letters from neighbors in your neighborhood. One of them is signed by Sid Sridharan and they have given us their concerns about your fence. I'm going to summarize: one of them was safety, the second one was safety from the stop sign area, the third one was the fence in an open view will change the look of the subdivision and so therefore, they were objecting to the fence. The second letter is anonymous because the person chose to be anonymous and I'm going to briefly summarize that. Their one concern was possible property devaluation, the second one was an eyesore and the third one was safety and just for brevity, I'm not going to read the whole entire letter but I think we addressed some of these concerns last time with your wife so these people were not privileged to hear those objections that we had and so I would ask you if one of the things that we had asked was would you consider something other than wood board-on-board fence – that was one concern – and the other concern was would you move it in closer to the house and the recommendation was 12' instead of 25' from the house towards the road. So, now if you'll tell us how you feel about those things.

Mr. Manaya – We took some pictures of houses around the area in the same neighborhood where their houses extend and I don't understand the safety concern because the stop sign is going to be very far away from the fence. They are not in a very close proximity there.

Dr. Goist – Let me tell you that we briefly talked about this in caucus today and we also tend to feel that this is not a problem. So, I don't want you to feel that because someone has brought up an objection that we necessarily feel that way.

Mr. Manaya – Okay.

Dr. Goist – I understand your rebuttal and we all do but we're really asking if you would consider something other than a board-on-board fence.

Mr. Manaya – That is the only way we're going to go with the fence, a full privacy wood fence and we took some pictures of some other houses around the area if you would like to take a look.

Mrs. Manaya – This is exactly how our fence is going to look. It's going to match our deck if you have seen our house and this is a house right down the street that has their fence extended and it's the same height and everything.

Mr. Manaya – The addresses are written on the back of the pictures and they also have full wood board-on-board fences.

3) **MISAEAL AND NADIA MINAYA, OWNERS**

Mrs. Manaya – It's right down the street that got extensions.

Dr. Goist – Okay, give our Board members just a minute. Can you tell me, I noticed the one – board-on-board, that is, kind of, one behind the other. Do we still call that board-on-board when its –

Mr. Evans – They're offset.

Mr. Allen - They're shadow box.

Dr. Goist – Okay.

Mrs. Manaya – It's actually not board-on-board.

Mr. Manaya – It's a privacy fence.

Mrs. Manaya – It's just like the picture that I gave you. It's complete privacy 6' fence.

Mr. Allen – Mr. Chairman, that is called a shadowbox fence.

Dr. Goist – Shadowbox, okay.

Mr. Baldin – This is what you're proposing to do?

Mrs. Manaya – Yes. It would not be an eyesore. It's a cedar fence. Our contractor is putting it up. We're not putting it up by ourselves.

Mr. Manaya – It's one hundred percent quality.

Mrs. Manaya – We're paying a lot of money to have the fence put up.

Mr. Manaya – I'm not going to go back there and put up a fence.

Dr. Goist – Okay, that shows us that you're asking for the shadowbox. The second thing that we're going to ask is did you consider or will you consider moving it in towards your house.

Mrs. Manaya – Last time I was here they said 12' to 15'.

Dr. Goist – Twelve feet. I have a copy of our minutes, which I just read to the other Board members and I had asked you if you would move it in.

3) **MISAEAL AND NADIA MINAYA, OWNERS**

Mrs. Manaya – I would be willing – it doesn't have to be this full 25'. I'm just asking for a little bit of leeway because, like I said, if I fence in what is originally asked, I'm only fencing in a pool. I would like to put a play set in there for my children one day and we don't –

Mr. Manaya – We didn't put the pool in. The pool was up when we purchased the home. We got our baby, we have another one on the way, we have our seven year old and we have a dog and we have the park, the kids running around back there. Sometimes, we have noticed that there are older kids that go back there that really shouldn't be there and we don't feel one hundred percent right leaving our seven-year-old running around there. That is why we would like to fence it in so he can play around in his own area.

Dr. Goist – Okay. Board members, do you have questions?

Mr. Baldin - Mr. Chairman?

Dr. Goist – Yes?

Mr. Baldin – So, what you're saying is that you are willing to bring it in about 12'. I was out there. Where you have the stakes right now - I didn't have a tape measure but I would assume there was about 12' or 13' feet in from the sidewalk.

Mrs. Manaya – It was actually 16'. The way the contractor was telling me is it's in 4' sections, so it would be – I would like to do 16' but it's a lot different than 25'. I had it at 25' originally. So, that is still taking away a lot. It's only another 4' from the 12'. It would really help with it a lot to have as much yard as we can for our family.

Mr. Baldin – From the sidewalk to the fence, you're saying that's really 16'?

Mrs. Manaya – From the house, coming out.

Mr. Evans – It would be 9' from the sidewalk.

Mr. Manaya – All the way to the sidewalk, a little bit closer to the sidewalk is almost 25'. That is what I wanted before.

Mrs. Manaya – From the house towards the sidewalk it was 25' originally. Now, it's marked 16'. The contractor marked it.

Dr. Goist – Mrs. McGrath, did you see the stakes today? I did not.

Mrs. McGrath – Yes, I saw the stakes.

Dr. Goist – What did you feel as far as how far out it was?

3) **MISAEAL AND NADIA MINAYA, OWNERS**

Mrs. McGrath – I didn't have my yardstick with me and 16' is fine. I knew it wasn't 25'. I knew it was something less than what they had asked for and just because the fence isn't there, I have tried to imagine what it would be at 6' and I even backed up around the cul-de-sac on the other side of that intersection and then back on the side of your side street and I personally want something there for the safety of their kids and the kids playing so that the kids playing in the park don't get into the pool.

Mr. Manaya – Exactly. That is what I'm saying.

Mrs. McGrath – I don't have a problem with where the stakes are today.

Dr. Goist – Thank you. Mr. Evans, do you have a question?

Mr. Evans – Not only a question but again, I would want to reiterate for the minutes that at this point that when we consider situations obviously the shadowbox, which for all intents and purposes, looks like a solid board-on-board fence and at the 6' height probably is not something that we would like because of the precedent that we're going to set. By the same token, across the back of the property, you do have a severe lift in the playground area that is behind them, perhaps as much as 2' 6" to 3' and, at least from my perspective, the 6' height along the back probably makes sense. I would probably advocate that if we were going to do a variance that it would drop to 5' along the side of the property there. Again, just softening up the intensity of the fence as it appears on a corner, because we're going to have a lot of people if we consider this variance, that are in the area, that live on corners, that are probably going to be requesting something similar to that. Certainly, the topography does lend itself to consideration because of the height. I think that as I look at the objections that we received from individuals, from a safety standpoint, again, they were notified that it was going to be 25' off of the building and at this point bring it back to only 16' certainly allows a lot of room for visibility even give the topography that is back behind it. I don't think that there is anything there that property values will be reduced if the fence is not out to the sidewalk or anything like that. So, I think that, again, the information that we received from the people who commented on it was based on what they had applied for not on what they have reduced the request to.

Dr. Goist – Thank you, Mr. Evans. Again, to the applicant, would you consider, as Mr. Evans recommended that you might drop down to 5' high on the side toward the road. We certainly understand the 6' on the back but would you consider 5' high on the side.

Mrs. Manaya – The only problem with that is my dog.

Dr. Goist - If your dog can jump over a 5' fence then I want to see your dog.

Mrs. Manaya – He is going to be a pretty big dog.

3) **MISAEAL AND NADIA MINAYA, OWNERS**

Dr. Goist – I have a dog. I have a dog that could jump your 6’ fence but most dogs can’t and so I don’t want to make the argument one way or another. I’m asking you if you would consider because we are looking at it from an aesthetics standpoint and from not trying to legislate higher fences in the city.

Mr. Manaya – So, the standard is not – I thought the maximum standard was 6’. I thought that was the cut off point for the fence.

Mr. Evans – Yes.

Dr. Goist – It is.

Mr. Manaya – Are we going above –

Dr. Goist – If we give a variance. You’re allowed a 4’ fence, am I correct?

Mr. Kolick – The idea is because you’re encroaching in the setback, they’re asking you to lessen the impact of encroaching in the setback by reducing the height of the fence. That may lead to being more lenient with the setback if you reduced the height of the fence, at least on the one side.

Mr. Manaya – Okay. Do you think that that not being even will look better, having 6’ on one side and 5’ on the other side, be aesthetically more pleasing being uneven? Plus my yard is like this so this is going to be high and this is going to be lower and then the other side is going to be lower so it’s just going to just –

Dr. Goist – If you have a contractor that’s doing it, I’m sure that he can make that level all the way along, 5’ on the side and 6’ in the back. I’m sure that if that’s what you ask for –

Mr. Kolick – From an aesthetic standpoint, a contractor can gradually get it to the rear to make it look – or maybe you would like it 5’ at the side and 6’ at the back. That depends on your individual tastes. There are ways to make it gradually hit that height too.

Mr. Allen - Mr. Chairman?

Dr. Goist – Yes?

Mr. Allen – A lot of times they’ll take the sections and step them down so it’s just a gradual affect. So, maybe at the turn you can step one corner.

3) **MISAEAL AND NADIA MINAYA, OWNERS**

Mr. Evans – It's called transitioning. It's a term in the fencing business and basically what it does is it reduces it along the way so that it comes down. Again, the idea is where that fence is going to be closer to the sidewalk, 5' would still give you privacy but it's not going to be like somebody is walking by a stockade. You can soften it, you can increase the height of it by planting along the outside of the fence, you can put arborvitae or a deciduous type of bush or something like that that could grow 6' or 7' tall to give you additional privacy beyond the fence but the fence itself in terms of the solid look would have that type of protection for you but not be something that is going to make it look like you're going through Parma or somewhere else where fences are everywhere.

Dr. Goist – We are going to give you a minute and ask the audience if there is anyone who wishes to speak for or against the variance. If you'll come forward please and give us your name and address.

Mr. Spuhler – My name is James Spuhler and I live at 13586 Bridgecreek Circle, Strongsville. I am a trustee with the Pine Lakes Homeowner's Association. I am here with Pat Schuette who is the President of the homeowner's association. Our concern on the height of the fence, because of the playground and putting it so close to the sidewalk and the street, that should someone run out of the playground, is a person coming up Pine Lakes Drive going to have the ability to see that person and stop without hitting that person. As we all know, little kids run pretty quick and when they dart out from behind a isolated object it could be difficult to see them before it's too late. I would hate to see something happen to someone who is up there innocently playing at the playground and a ball gets rolled towards the street or whatever and they in turn chase after it not realizing there is a car coming up the street. Our concern is mainly safety and also by having a – I know that you have already alluded that you want them to drop the height of the fence to 5' along the sidewalk side, our concern would be the isolated affect of the fence from someone walking up the sidewalk. You are not going to see them until they are right up upon you.

Mr. Allen - Mr. Chairman?

Dr. Goist – Yes?

Mr. Allen – It should also be made clear that originally the proposal was for the fence to be approximately 11' from the back of the walk to the fence. The new proposal, if the variance is approved, will be now be 20' for the back of the walk to the fence. So, it's a little bit different than what was originally proposed.

Mr. Spuhler – I understood it to be 16' from the house toward the sidewalk.

Mr. Allen – Yes. That is correct. That would make it 20' from the back of the walk.

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Mr. Spuhler – There is 45’ there? I don’t get it.

3) **MISAEEL AND NADIA MINAYA, OWNERS**

Mr. Allen – There is 25’ plus a 10’ utility easement. That is 35’ plus the sidewalk is 1’ behind. So, you have a total of 36’.

Mr. Spuhler – Okay.

Dr. Goist – May I ask again, I apologize, but what is your name again?

Mr. Spuhler – James Spuhler.

Dr. Goist – And you represented the gentleman who did not get sworn in. Would you give us his name?

Mr. Spuhler – Patrick Schuette.

Dr. Goist – Now, I have a letter and I want to read this into the record because we didn’t read this into the record. This was written by Patrick Schuette. It was dated March 16, 2009. “I have checked with our Board of Trustees and have reviewed our bylaws and deed restrictions and do not find any reason that Nadia Manaya cannot install her proposed fence as requested. As long as it meets City requirements and a building permit is displayed so that any neighbor has an objection they can make it know. If a variance is required it is our understanding that the adjacent neighbors will be notified in writing of the variance requested by the Manaya’s for their fence. If you have any further information or confirmation, please let me know. So, I have a letter that says that the Board of Trustees approved it as it was originally presented. Are you here to tell me that that’s not true.

Mr. Spuhler – I’m here based on the ordinance as it reads for fence variances.

Dr. Goist – We have not given a variance yet. They have asked for a variance. We have not given a variance yet. That is not what I’m asking you. We have a letter and the letter is dated and it’s signed by Patrick Schuette.

Mr. Spuhler – I understand that.

Mr. Baldin – I think what the gentleman is saying is that as long as it meets all the requirement’s they don’t have a problem.

Mr. Spuhler – Right.

Mr. Baldin – Their letter is saying that if it meets all the City requirements, they don’t have a problem. They do have a problem because they are asking for a variance.

Mr. Spuhler – Right.

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Mr. Baldin – I think that is the way that you wanted the letter to be interpreted.

Mr. Spuhler – Correct.

Mr. Spuhler – The way your ordinance reads that on a corner lot, fences, walls, hedges shall be set back from the side street right of way a distance not less than the actual setback from the main building on the corner lot provided, however, that in no event shall any part of the fence, wall or hedge be closer than 20’ to any sidewalk or any right-of-way. That’s right out of your own City ordinance and that was what the letter was based on.

Dr. Goist – I understand that but they are here and what this Board is for is to grant variances to that code.

Mr. Evans - Mr. Chairman?

Dr. Goist – Yes, go ahead.

Mr. Evans – I think what we need to do is Mr. Kolick, we need to have Mr. Schuette sworn in, please and we need to bring him to the podium because he is the author of the letter. The author does not say that if a variance is required that they are going to withdraw their permission or anything like that. I think given what is being presented by Mr. Spuhler on behalf of the Board of Trustees that we need to have the author of the letter sworn in and he needs to make the statement on record that they are here because of the variance, that they were not aware of that when the letter was written so that we have an appropriate means of dealing with this situation.

Mr. Kolick – We can certainly do that. Would you please raise your right hand?

Mr. Kolick then stated the oath to Mr. Schuette.

Mr. Kolick – If you could approach the microphone and maybe just explain the intention of your original letter, Mr. Schuette.

Mr. Schuette – Okay. The way the letter is written, the letter says we do not object to the fact that they are building the fence provided it meets the City Ordinance. It does not meet the City Ordinance as it is written, therefore, they are requesting a variance. So, that is the intent of the letter and we are objecting to the fact that it’s going to be so close to the sidewalk because it’s going to hinder the view of a young child running out of that playground and perhaps into the street so that a driver coming down Pine Lakes Drive is going to not have a lot of time to react, in the event that does happen. Being a playground you have kids all ages, there is a lot of equipment in there. There is a swing set, sliding board, monkey bars and a

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Mr. Schuette continues - couple of other apparatuses and climbing things and such. I have seen that playground when it's been quite crowded. That's all that we're concerned with is the safety of the kids.

Mrs. McGrath - Mr. Chairman?

Dr. Goist – Yes, Mrs. McGrath?

Mrs. McGrath – Mr. Schuette, has the association paid for any kind of signage in the neighborhood that says “Slow, children playing” around this playground?

Mr. Schuette – Not during my tenure of being involved but Jim has been there longer than I have.

Mrs. McGrath - Mr. Chairman?

Dr. Goist – Yes?

Mrs. McGrath – Joe, would that be something the City would do?

Mr. Allen – That is correct. Anything put in the public right-of-way the City would have to do and there would have to be a license agreement with the association to do anything else.

Mrs. McGrath – Is there any reason why something like that couldn't be put up around on both of the side street and the main street there so that people are cautioned that children are playing in that area.

Mr. Allen – All they would need to do is make a request of our Service Department.

Mrs. McGrath – And the association would make that request?

Mr. Allen – Yes.

Mrs. McGrath – Mr. Schuette, would you take that back to your Board please and see if they would consider doing that at the City's expense? Is it at the City's expense?

Mr. Allen – That is correct.

Mr. Schuette – Sure, absolutely, however, let me say this. There are signs all over the City of Strongsville and sometimes they are not obeyed.

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Mr. Kolick - Mr. Chairman, would the association have a problem with the fence if it were 16' from the house and a 5' fence which is a little different than down closer to the sidewalk as originally was proposed with the 6' fence because that is the last proposal that we were discussing with the property owner. Would that be acceptable to the association? It's still a variance but at much less than originally proposed both the height of the fence and the distance from the house.

Mr. Schuette – Could you please explain that to me again?

Mr. Evans – You weren't here during caucus and we talked at length during the beginning part of the caucus about this and part of reason is because our concern is always visibility in situations like this. So, Mr. Kolick, if I may, what we talked about was taking the fence 16' off of the house and at that point that would leave approximately 20' – somewhere between 19' and 20' between the sidewalk and where the fence would be. That fence, running from the back corner of their property up to the front corner where the fence would be we are suggesting might be a 5' height then so at that point it's not as tall and it is set back off the sidewalk by 19' or 20' somewhere right in there. So, it would be well off the sidewalk so traffic now – our discussion in caucus was because the hill, a bicycle, a ball or a child going downhill always picks up speed, coming off of that to the sidewalk even though there is not a sidewalk going out to the street, still coming to the sidewalk itself, we felt that the 20' would be enough space so that a child would be able to either slow down or certainly that traffic going by on Pine Lakes Drive would be able to see a child approaching that area. That was the compromise, if you will, that we felt was acceptable from a safety standpoint. So, that is 16' off the house and 20' roughly off the sidewalk.

Mr. Schuette – Okay, and just so I understand it's 20' off the inside of the sidewalk, the part of the sidewalk that is closest to the house.

Mr. Evans – Yes.

Mr. Schuette – I think given that, we are willing to compromise. This is the first time, I think, that we have been up here objecting to someone's variance request. This certainly isn't something that we want to get involved in but we're just trying to do the right thing. I think that we would certainly be willing to compromise at 20' in from the sidewalk and the idea with the signs, again, great idea and we can certainly go forward with that as well by bringing it up to the Board and go to the City and get the appropriate signage to be put up there.

Dr. Goist – Mr. Kolick?

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Mr. Kolick - Mr. Chairman, just one other comment for the Board to think about. When the legislature passed this act they really had two things in mind and the homeowner's association reading it sort of reminded me again, they said one, to be in line with the house but they said in no event would it be closer than 20' to the street. They found that to be important and those codes are written by our Planning Director with input from the Police Department and so forth. They felt that is important so maybe this Board would want to consider to be no closer than 20' to the sidewalk so that at least you're fulfilling the second portion of that legislation which required it to be 20' off. So, rather than worry about 19' or anything else, the variance can be no closer than 20' to the sidewalk and if you still want it at 5' maybe that's the best way to approach it with the applicant.

Mr. Allen - Mr. Chairman? Presently, it's at 21'. That is what they are proposing.

Mr. Kolick – Okay.

Mr. Schuette – So, the final number is 21'?

Mr. Kolick – It will be 21' from the sidewalk and 16' off the house.

Mr. Schuette – Sure, then I don't think that we would object at all. Do you agree Jim?

Mr. Spuhler – I concur with Pat.

Mr. Kolick – Now you need to bring the applicant back up.

Dr. Goist – To our applicants, if you would like to come back please.

Mrs. Manaya – I just have a quick question. If you said 5', can I just do the back in 5' too because I want it to be level.

Mr. Baldin – You can do it all 5'.

Mr. Kolick – You can do the back anyplace you want. The only thing they are looking at is 5' on the side. If you want to do 5' all the way around, that's fine. There is no problem going lower.

Mrs. Manaya – If I decided later. So, I can do the back at 6' and then the rest at 5' but if I wanted to do them all the same at 5', I could do that too.

Mr. Kolick – All we're concerned about is the side because all the rest of it will be within code.

Mrs. Manaya – Okay.

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Dr. Goist – Do you have any other questions? I think your association has been very fair and just didn't quite understand and I think we cleared up –

Mrs. Manaya – Nice to meet you by the way.

Dr. Goist – You have an unusual situation with the playground in the backyard and so on. We appreciate that.

Mr. Kolick – To the applicants, are you okay to amend your request to a 5' fence on the side there and 16' out from your house?

Mr. Manaya – Then that is how we will change it.

Dr. Goist – May I have a motion please.

Mr. Evans - Mr. Chairman? Before we do that I want to go back and revisit the two comments we had from residents and just make sure – safety was the number one concern on the one and the open view from the road and the other one, property value, eye sore and safety were the concerns. I just wanted to point out that I think that we have resolved, certainly in our mind as a Board, the safety concerns by the fact that we have lowered the fence, it will not be quite as imposing, and so I think that we have responded to the concerns again, recognizing that these residents who responded did so as the Board did to the variance request as it was originally proposed. Not having been here this evening, I think that we have adequately responded to those concerns from the neighbors but addressed that as we did with the Homeowner's Association Board. I just wanted to make sure for the record that we had that in.

Dr. Goist – Thank you very much. I will entertain a motion.

Mrs. McGrath – I would like to move that we approve the request for a 16' Side Yard Setback variance from Zoning Code Section 1252.17 (c) which requires that the fence be located within the setback of the residence and where the applicant is proposing to extend the fence 16' beyond the setback of the residence in order to construct up to a 6' High Fence on a Corner Lot with the side fence being 5' maximum; property located at 9977 Forestview Drive PPN 398-10-022 zoned R1-75.

Mr. Kolick - Mr. Chairman? Just to make it clear on the motion the only side that is required to be 5' is the side that faces the sidewalk. That is that it is required to not exceed 5'. The other fence can be up to 6' or you can put it at 5', if that is what you want.

Mr. Evans – Actually, Mr. Kolick that would be the side not only along the sidewalk but also from that portion to the house.

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Mr. Kolick – He is talking about the front there.

Mr. Manaya – Okay.

Mr. Evans – Second.

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

ROLL CALL: ALL AYES

Dr. Goist – Thank you. Your application for the variance has been accepted. There is a twenty-day waiting. After twenty days you can go to the Building Department and they will take it from there.

Mr. Manaya – Thank you for a thorough and fair review.

Mrs. Manaya – Thank you.

RULING: VARIANCE GRANTED

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

Meeting adjourned at 8:47 p.m.

Signature on File

Glenn Goist, Chairman

Signature on File May 27, 2009

Kathryn A. Zamrzla, Sec'y Approval Date