

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

**Meeting of  
June 24, 2009  
7:30 p.m.**

Present - Board of Appeals Members: Glenn Goist; William Harr; Richard Baldin; Frank Bohac

Administration: Assistant Law Director, Daniel Kolick

Building Department Representative: Joey Allen

Recording Secretary: Kathryn Zamrzla

The Board members discussed the following:

**1) PATRICK FERGUSON, OWNER**

- a) Requesting an 1,100 SF Floor Area variance from Zoning Code Section 1252.22 (c), which allows a 1,000 SF Floor Area and where a 2,100 SF Floor Area is proposed in order to enlarge an Existing Garage;
- b) Requesting a 1' Height variance from Zoning Code Section 1252.04 (g), which allows a 15' Height and where a 16' Height is proposed in order to enlarge an Existing Garage;
- c) Requesting a variance from Building Code Section 1436.02 and from Zoning Code Section 1274.06, which requires a Portland Cement or concrete paver driveway and where an asphalt driveway exists in order to Enlarge an Existing Garage; property located a 20275 Lunn Road PPN 393-25-010 zoned R1-75.

**Dr. Goist stated that the owner has one huge building and a second one behind it and he couldn't get in to review the project. Dr. Goist stated that this parcel is occupied by a tenant. Dr. Goist stated that the asphalt is in bad shape and he needs to upgrade the drive. Mr. Harr questioned why a resident would need that much storage space. Mr. Allen stated that the Building Commissioner has been to the site and stopped the work since it needed a variance and didn't have a permit. The Board asked the Building Department to look into whether the patio had a permit or not.**

**2) JON A. WEIDELING, OWNER**

Requesting a 29' Rear Yard Encroachment variance from Zoning Code Section 1252.16, which allows a 14' Rear Yard Encroachment and where a 43' Rear Yard encroachment is proposed in order to construct an Unenclosed Deck Attached to an Existing Pool; property located at 14300 Oakland Park Drive PPN 398-04-016 zoned R1-75.

**Mr. Baldin stated that the owner should think about moving the deck over away from the fence and that no swale is apparent in the yard so that the people on the deck can't see over the fence. Dr. Goist stated that there is room in the yard to move the deck over.**

3) **BOB AND CONNIE SEDLECKY, OWNERS**

Requesting a 35' Front Yard Setback variance from Zoning Code Section 1252.04 (d) (2), which requires a 100' Front Yard Setback from the centerline of Morris Drive and where a 65' Front Yard Setback from the centerline of Morris Drive is proposed in order to construct a Single Family Dwelling; property located at 21222 Morris Drive PPN 393-06-037 & 038 zoned R1-75.

**The Board stated they don't have any problem with the placement of the house and it will be where it ought to be. Mr. Allen stated that the two separate parcels were consolidated today.**

4) **KERRY KURETZ, OWNER**

Requesting a 7' 1" Height variance from Zoning Code Section 1252.04 (g), which permits a 12' Height and where a 19' 1" Height is proposed in order to construct a 240 SF Shed; property located at 9283 Prospect Road PPN 391-19-010 zoned R1-75.

**Dr. Goist and Mr. Baldin stated that the shed needs to come down and comply with the code because the shed is too tall. Mr. Harr stated that the lot is large enough to build the shed according to the Code and stated that the shed overhang goes up to the property line.**

5) **RITA DAAR, OWNER**

Requesting a 16' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which permits a Patio to encroach 14' into the Rear Yard Setback and the applicant is proposing 30' into the Rear Yard Setback and to be constructed on the property line for an unenclosed Stamped Concrete patio; property located at 17425 Pioneers Creek Circle PPN 397-28-018 zoned R1-75.

**Mr. Harr stated that the association will be represented tonight. Dr. Goist stated that the Board needs to speak for or against during the Public Hearing portion since we have not heard from them. Mr. Baldin and Mr. Harr stated that they want to hear from neighbors and address the yard drainage.**

6) **LARRY PILZ, OBJECTING PARTY**

Hearing of the objection by Larry Pilz and Louise Pilz, regarding the application for a building permit by property owner, Guido Bevilacqua, to construct a 6' High Shadowbox Wood Fence; pursuant to Codified Ordinance Section 1418.03; property located at 18592 Southporte, PPN 396-19-064, Zoned R1-75.

**Mr. Kolick stated that the Board the objecting party was referring to at the previous meeting was Planning Commission and they approved the trees. Jennifer Milbrandt gave a report that stated that the fence shouldn't disturb the trees. Mr. Harr stated that the fence meets code. Ms. Zamrzla stated that the owner on Southporte did not have a permit for a patio extension. Mr. Allen stated that the property pins will be located before the permit is issued. Mr. Baldin stated that the cut down trees should be replaced. Mr. Kolick stated that the City can enforce something that Planning Commission approved.**

7) **DAIRY QUEEN/Bruce Taylor, Architect**

**Extension of the determination of June 11, 2008 of the Board of Zoning and Building Code Appeals:**

- a) Requesting a 25' Lot Width variance from Zoning Code Section 1258.08, which requires a 150' Lot Width and where a 125' Lot Width is proposed in order to rebuild the Dairy Queen Restaurant;
- b) Requesting a 22.1 SF Sign Face Area variance from Zoning Code Section 1272.11(a), which allows a 64.5 SF Sign Face Area and where an 86.6 SF Sign Face Area is proposed in order to install a Wall Sign;
- c) Requesting a 3' Sign Height variance from Zoning Code Section 1272.12(c), which allows a 5' Sign Height and where an 8' Sign Height is proposed in order to install a Ground Sign;
- d) Requesting a maximum 10.5" Sign Height variance from Zoning Code Section 1272.12(f), which allows a 3' Sign Height and where a 3'10.5" Sign Height is proposed in order to install 3 Directional Signs (1 "Exit", 1 "Enter" and 1 "Drive-through");
- e) Requesting a maximum 10' 0" Sign Setback variance from Zoning Code Section 1272.12(f), which requires a 10' 0" Sign Setback from the right-of-way and where the applicant has proposed to install 2 Directional Signs 0' from the right-of-way (1 "Exit" and 1 "Enter"); property located at 12152 Pearl Road PPN 392-28-009 Zoned R-RS.

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**The Board stated that portion c) needs to be removed. The Board agreed that there is no reason to not approve this extension.**

**STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS**

**MINUTES OF MEETING**

**June 24, 2009**

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

Present: Dr. Goist  
Mr. Baldin  
Mr. Bohac  
Mr. Harr

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

Dr. Goist – Good evening, ladies and gentlemen. I'd like to call this June 24, 2009 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. Kathy, would you call the roll please?

ROLL CALL: ALL PRESENT EXCEPT FOR MR. EVANS

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

Mr. Baldin – Second.

Dr. Goist – We have a motion and a second. Kathy, 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 received minutes in our packets from May 27, 2009. If there are no objections or corrections to those minutes, I will entertain a motion to approve.

Mr. Harr – So moved.

Mr. Bohac – Second.

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

ROLL CALL: ALL AYES:

Dr. Goist – For all the people who are here in the audience tonight, if you have an agenda in your hands, there is a number eight that is on the agenda and that item has been removed by request of the applicant. So, if there is anyone here for Tim Eyerman, on Castlereagh Drive, you certainly don't have to stay here because that item has been pulled from the agenda. Now, for all the people who are here who would like to speak before the Board of Zoning and Building Code Appeals this evening, if you would now please stand and be sworn in by our Assistant Law Director.

Mr. Kolick then stated the oath to those standing.

Dr. Goist – Our meetings are in two sections. The first section is New Applications and the second section is our Public Hearings. So, for our new applicants, once you have presented your facts and given us your ideas you certainly do not have to stay for the Public Hearing.

#### **NEW APPLICATIONS:**

Dr. Goist - Our first new applicant is Patrick Ferguson. Patrick, if you will come forward please and I would like to have you give me your name and address first and then if you'll explain the variances and what you're requesting.

- 1) **PATRICK FERGUSON, OWNER**
  - a) **Requesting a 1,100 SF Floor Area variance from Zoning Code Section 1252.22 (c), which allows a 1,000 SF Floor Area and where a 2,100 SF Floor Area is proposed in order to Enlarge an Existing Garage;**
  - b) **Requesting a 1' Height variance from Zoning Code Section 1252.04 (g), which allows a 15' Height and where a 16' Height is proposed in order to Enlarge an Existing Garage;**
  - c) **Requesting a variance from Building Code Section 1436.02 and from Zoning Code Section 1274.06, which requires a Portland Cement or concrete paver driveway and where an asphalt driveway exists in order to Enlarge an Existing Garage; property located a 20275 Lunn Road PPN 393-25-010 zoned R1-75.**

Mr. Ferguson – My name is Patrick Ferguson. The address of the property is located at 20275 Lunn Road. I'm here tonight to request three variances. First, the square footage, second, a height variance and third, the asphalt drive. I have an existing garage on my property that I would like to repair and remodel in order to allow the storage of my RV's. A little history about this property is that I have made many improvements to this property since I acquired it. I first focused on the house, upgrading the electrical, the plumbing, the interior living space as well as the landscaping and sealing the asphalt in order to make it an attractive property. I have begun to focus on the repair of my garage. The rear of the building was in disrepair. Having read in the newspaper about the desire of the City to improve the properties

1) **PATRICK FERGUSON, OWNER, Cont'd**

**Mr. Ferguson continues** - within it, I am trying to be proactive by making as many improvements to the property as I can myself, making it more beautiful to the neighbors. To accomplish this, I need a 1' height variance to allow my RV's to be stored inside out of sight. I already have a good hard surface drive to the garage. As of this time, it would be a waste to tear out and replace with concrete just for the sake of having concrete. I want to repair the garage, making it aesthetically pleasing to the neighbors. The rear part of the garage contained mold, animal feces and dead animal carcasses. As you can see from these pictures that I have, the garage was not in any way aesthetically pleasing and needed to be repaired. I have a few pictures if you would like to see them.

Dr. Goist – Once you give us those pictures, Mr. Ferguson, they become part of the public record so we will keep them.

Mr. Ferguson – That is okay.

Dr. Goist – You may proceed while we are looking at the pictures.

Mr. Ferguson – Do you have any questions?

Dr. Goist – I think we definitely have some questions. One of the questions that I have - and I was at your property but not able to get in – is this is a rental property as I understand because the lady that answered the door said, “I am a tenant here. I will call Mr. Ferguson”. She attempted to call you and couldn't get a hold of you. So, I assume that this is a rental property. Is that correct?

Mr. Ferguson – That is correct.

Dr. Goist – Okay, and secondly the portion that I would just like to say, and I just heard you say for the record, that the asphalt is in good condition and I think that there may be some reason to say that that may not be the case. The asphalt that I saw did not appear – now I'm not an engineer, I'm not the City, but I think we'll ask the Engineering Department to evaluate that asphalt because asphalt driveways are no longer allowed by code and if you are to make these improvements, the new code says that you need to have either concrete or paving bricks. So, I want you to be aware of that and thirdly, it appears to me that you started to do this building and were going to put it up and you went right ahead and somebody stopped you. Is that correct?

Mr. Ferguson – I was repairing the rear of the building. What happened is in the wintertime, I received a letter from the City about the RV's not being allowed. So, I talked to Tony and the rear of the garage, it's a very big undertaking –

Mr. Baldin – Excuse me, when you say Tony –

1) **PATRICK FERGUSON, OWNER, Cont'd**

Mr. Ferguson – Tony, the Building Commissioner.

Mr. Baldin – Okay.

Mr. Ferguson – So, I had already been working on this repair for a couple of years so that's where I'm at. What I was going to do, at first I wasn't going to do this but when I had Tony out, we talked about it and the best thing to do was if I could possibly get a 1' height variance that would allow – I don't know if you have the pictures I drew up – two larger garage doors. What I want to do is the doors right now are not high enough to be able to park the RV's inside. So, that is what I have to do. The 1', in order for the garage door to go up, you need a little clearance for the overhead door from the bottom of the truss. You need that space for the overhead garage door to go up. That is the reason for the 1'.

Dr. Goist – May I ask you a question while you're saying that?

Mr. Ferguson – Yes.

Dr. Goist – Have you put a floor in this new area? Because I was not able to see the property, is the floor already in?

Mr. Ferguson – No.

Dr. Goist – Okay. What kind of a floor do you propose?

Mr. Ferguson – Concrete.

Dr. Goist – Okay. Mr. Baldin and I were both at the property to the west of the existing garage. Is there now a concrete patio or pad that has been poured to the west? We have an aerial picture –

Mr. Ferguson – It's going toward Prospect?

Dr. Goist – Right.

Mr. Ferguson – Correct, there is a concrete pad.

Dr. Goist – When was that put in?

Mr. Ferguson – That was installed the last couple of years.

Dr. Goist – Did you pull a permit for that?

Mr. Ferguson – Absolutely.

1) **PATRICK FERGUSON, OWNER, Cont'd**

Dr. Goist – Okay. Kathy, if you will check if we have a permit on that concrete pad. We're just looking at the pictures saying there is no concrete pad and then now you say you have a permit. So, that's good.

Mr. Ferguson – At first that is were I was going to park the motor home but what happened is I found out - that's why the pad is there – that that's not allowed. So, I thought to solve that problem I would put it inside that garage. The building is large enough to store them both and it would be out of eyesight for the neighbors.

Dr. Goist – Are you going to store any other vehicles other than RV's?

Mr. Ferguson – Possibly a van. I have an additional van that I store in there.

Dr. Goist – Are you going to have any kind of a business function on this property?

Mr. Ferguson – No.

Dr. Goist – We also noticed that there is water and electric. Do you have any other plans to put anything else in there? Is the water strictly for servicing the vehicles?

Mr. Ferguson – No toilet or anything like that. It's just a garden hose. That's it.

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

Mr. Baldin – Mr. Chairman?

Dr. Goist – Yes?

Mr. Baldin – Sir, being out and looking at your property, I don't have a problem with the height variance and you said RV's and vans and I think you just clarified you have two RV's?

Mr. Ferguson – Correct.

Mr. Baldin – Okay, because we see one sitting out there in the picture, etcetera and so forth. Now, the first portion, the pictures that you gave us that show all the deterioration of the building inside. Is that the first portion of the garage?

Mr. Ferguson – No.

Mr. Baldin – Where is that at? Is that in that back garage?

Mr. Ferguson – That is in the rear.

1) **PATRICK FERGUSON, OWNER, Cont'd**

Mr. Baldin – That back garage.

Mr. Ferguson – Correct.

Mr. Baldin – That is facing perpendicular to the property. The front door is facing Walnut Creek Road.

Mr. Ferguson – Right, it's all the way to the rear. The rear was the bad part. The front of the building is okay.

Mr. Baldin – Wait, which building are we talking about here. You have three buildings on this property.

Mr. Ferguson – One building. Number one building, the largest building.

Mr. Baldin – The first building when you come up your drive, you have two garage doors, you want to make them larger. You go back so far with that particular building then there is an addition where the job was stopped apparently. That addition that you just tried to add, it looks to me like there are new blocks, new foundation, new wall and that is when the job was stopped.

Mr. Ferguson – Correct.

Mr. Baldin – The chimney is at the end of the first building and you tried to put this addition on. Where was all this deterioration from the floor? Was that in that double car garage there?

Mr. Ferguson – No.

Mr. Baldin – Where is that at?

Mr. Ferguson – When you are coming in off of Lunn Road, if you were to drive through the entire building to the very rear, that was where those pictures were.

Mr. Baldin – Wasn't there a wall there before?

Mr. Ferguson – I tore all that out. That stuff was –

Mr. Baldin – So, it's hard to explain here unless you go out and look at the property. Where I look at the picture here, where all these lines are drawn and it says approximate footprint for new construction – the existing building with chimney and then you have new construction. I'm talking about the new construction. What was the bad flooring? Was it before the new construction?

1) **PATRICK FERGUSON, OWNER, Cont'd**

Mr. Ferguson – It's where the new construction is.

Mr. Baldin – So, in other words, this building went further out.

Mr. Ferguson – Absolutely, yes.

Mr. Baldin – Okay. All right.

Dr. Goist – Mr. Ferguson, do you have any plans to tear that back building down?

Mr. Ferguson – No.

Dr. Goist – Okay. If I'm correct, the walls that are up there now go from the existing garage all the way back to that old building. Is that correct? There is no space in there? You have put a wall up there on both sides, the east and the west, and they are there all the way from the existing building and the chimney area all the way back to that back shed. Is that correct? There is no space as this aerial photograph shows us. That is all enclosed?

Mr. Ferguson – No, there is space between the two buildings.

Mr. Baldin – What two buildings are we talking about? Do you have the same print that we have here?

Dr. Goist – This is an aerial view.

Mr. Baldin – Do you have this same print?

Mr. Ferguson – I've seen this. Okay.

Mr. Baldin – Was this your existing garage right here (indicating on the photographs) or was all of this an existing garage?

Mr. Ferguson – All of this was existing.

Mr. Baldin – To here.

Mr. Ferguson – Correct. Right.

Mr. Baldin – This was where it was all torn up, is what you're saying?

Mr. Ferguson – This is correct.

Mr. Baldin – This part is okay. What was here? Was this wooden floor? Was this concrete?

1) **PATRICK FERGUSON, OWNER, Cont'd**

Mr. Ferguson – Concrete.

Mr. Baldin – And that was fine?

Mr. Ferguson – That's beautiful.

Mr. Baldin – But back here, this back portion here of this huge garage, this was all wooden floor, it looked like.

Mr. Ferguson – It was. Underneath the wood was concrete. It was very interesting.

Mr. Baldin – I guess.

Mr. Ferguson – Underneath the wood is cement. I never saw anything like it but actually, the people who built that in the rear were pretty intelligent for their time. They had that slope. If any water would come in, it would drain right out.

Mr. Baldin – But it rotted out the wood.

Dr. Goist – Mr. Ferguson, there is a building to the west of that old shed. You see your RV and you see the shed and then there is another shed. Has that shed been torn down?

Mr. Ferguson – No, that is existing.

Dr. Goist – You are not allowed to have three sheds. You are not allowed to have two sheds unless you have a variance. You have one shed, you have a second shed and you have a third shed.

Mr. Ferguson – Okay, I have the three buildings, right?

Dr. Goist – Three buildings.

Mr. Ferguson – Right, there are three buildings. When I acquired the property there were three buildings there.

Dr. Goist - Mr. Kolick, is that a grandfather type of situation if he had three buildings or is that not allowed?

Mr. Kolick – He is grandfathered if it was constructed before the code provision or if they got a variance for it. If they didn't, he is not grandfathered so if they were just constructed, then they would need another variance for an additional shed.

Mr. Ferguson – Those three buildings are old.

1) **PATRICK FERGUSON, OWNER, Cont'd**

Dr. Goist – When did you acquire the property?

Mr. Ferguson – Four years ago.

Dr. Goist – So, they were there when you –

Mr. Ferguson – They have been there for a very long time. You can tell by the construction.

Mr. Kolick – What is in those sheds?

Mr. Ferguson – I have all kinds of personal items in those two buildings. I have shelving with parts and all kinds of stuff that I have accumulated.

Mr. Kolick – What do you do? Parts for what? Vehicles? Do you work on vehicles?

Mr. Ferguson – No, I don't. I am not a car man. I just accumulate – I have shelving in there from the prior owner and stuff from the prior owner. I have bolts. I have all kinds of stuff.

Mr. Baldin – Sounds like you need a garage sale.

Mr. Ferguson – The prior owner used to have big garage sales.

Dr. Goist – Mr. Ferguson, if we can, I would like to have you make available to the Board so that if we go to the property, we would be able to get in and look at this property and I would like all the Board members to be able to look at the condition of the asphalt and I would like us to look at the condition of the inside. I realize that you have tenants. If you would ask your tenants and give us permission so that we can go in and see it. They were reluctant and I didn't blame them but you weren't available to let me in. So, if you would give us permission and make sure that those are unlocked or that the tenants or whoever is there could unlock them for us.

Mr. Ferguson – Is there any way that you could just call me a half hour or 45 minutes ahead and I would be there right away?

Dr. Goist – Your tenant called you and you weren't available and I was there.

Mr. Ferguson – If I give you my phone number, my cell phone and my home phone, for some reason, I can see the number come up and I will answer the phone for the next three weeks. Anybody who calls, private number.

Dr. Goist – I'm going to say yes and if you'll give it to us, we can write it right on the paperwork.

1) **PATRICK FERGUSON, OWNER, Cont'd**

Mr. Ferguson – My cell phone is 440 –

Mr. Kolick – Before you do, this information is going out to the public. It will be in minutes and everything else. Just write it down.

Mr. Baldin – Write it down before you leave.

Mr. Ferguson – Thank you.

Mr. Kolick – You can give it to Kathy after the meeting. She can distribute it to the members.

Mr. Baldin – Let me ask this gentleman another question. This line right here, this is the end of the original building? Is that correct?

Mr. Ferguson – Not really. It goes back to this line here. What it is is this is the way it was. This building here, there is a space here. You know that picture I gave you?

Mr. Baldin – We gave it to Board members behind us.

Mr. Ferguson – The way they had it, they built this building over half of another building. It was inside. So, that is why I cut this off. This is a masonry chimney. There was another chimney there. It's gone. I cut all that stuff out.

Mr. Baldin – So, this has the original chimney and the original building right here. That is what you're saying.

Mr. Ferguson – No. This is all original to all the way back here. This is even older than this front. People used to live in there. That was plastered in there.

Mr. Baldin – What was the difference from here to here?

Mr. Ferguson – Approximately 66' 6".

Mr. Baldin – So, this building is going to be 66' long?

Mr. Ferguson – I believe 70' long.

Mr. Baldin – That's a big garage. The motor homes are how big? This one can't be 30' or 34'.

Mr. Ferguson – It's about 35'.

Mr. Baldin – And you have another one the same size as that?

1) **PATRICK FERGUSON, OWNER, Cont'd**

Mr. Ferguson – About 32' maybe.

Mr. Baldin – What are you going to do with the other 35'?

Mr. Ferguson – I do have a van that I have stored in there and also I have trailers stored in there right now that I use.

Mr. Baldin – I think the big thing is to make this available for us to review it.

Dr. Goist – Mr. Allen, can you give us an approximation of what he is actually allowed square footage wise.

Mr. Allen – He is allowed 1,000 square foot.

Mr. Baldin – And he is asking for 1,100.

Dr. Goist – Twenty one hundred.

Mr. Baldin – Eleven hundred feet more.

Mr. Ferguson – No.

Mr. Baldin – No?

Mr. Ferguson – That picture, if you look –

Mr. Baldin – You are requesting 1,100 square foot floor area variance. You are allowed 1,000 square feet. So, you are asking for 1,100 square feet more.

Mr. Allen – Presently he has 1,560 square feet. He wants to go up to 2,100 square feet. The problem being is he is already over so he is over 560 square feet with what he has existing. He wants to increase this up to 2,100 square feet. So, it's really a two part. One is he needs a variance because he is oversized already and he wants to make it even bigger.

Dr. Goist – Okay. I say we're going to take a look at this and it behooves you to talk to all of your neighbors. All of your neighbors within 500' will be notified that you are going to have a Public Hearing and the Public Hearing will be July 8. We will have you back July 8 and we will have a little more knowledge ourselves.

Mr. Ferguson – Thank you very much.

Dr. Goist – Thank you.

1) **PATRICK FERGUSON, OWNER, Cont'd**

**RULING: PUBLIC HEARING SET FOR JULY 8, 2009**

2) **JON A. WEIDELING, OWNER**

**Requesting a 29' Rear Yard Encroachment variance from Zoning Code Section 1252.16, which allows a 14' Rear Yard Encroachment and where a 43' Rear Yard encroachment is proposed in order to construct an Unenclosed Deck Attached to an Existing Pool; property located at 14300 Oakland Park Drive PPN 398-04-016 zoned R1-75.**

Dr. Goist – Our second New Application is Jon Weideling. Can you come forward please and give us your name and address?

Mr. Weideling – My name is Jon Weideling and the address is 14300 Oakland Park Drive. I'm applying for a variance on the deck for the existing pool. I tried to plan this out when we bought the house a few years back because I knew I wasn't going to be able to put a pool, deck and fence all in, financially, in a short period of time so I started with the fence. I live on that corner lot of Agnes and Oakland Park. The end of Oakland Park has a similar property as mine and their fence extends out closer to the sidewalk, which is what I wanted to do but I didn't get a permit to do that because my original plan was to have my fence extended out so I could use more of my side property and then build the deck on the back of my house farther over to the right where I would have room away from my air conditioning unit and the electric that is on the back. Then I wouldn't be here applying for a variance for the permit because I would have it right up against the house and I was thinking about putting patio doors in my dining room and being able to walk out onto it. Seeing as the fence had to go along the house line and I couldn't extend it out, that wasn't an option. So, when we got the pool, I actually wanted to go with a bigger pool but that wouldn't fit in the allotted space either. I went with the smaller pool and we would still like to put a deck on it and it's not real practical to put it in between the house and the pool. So, we wanted to put it in along the back side.

Dr. Goist – Let me ask you, why is it not practical and where is your hardship here. To get a variance, you need to prove to us that you have a hardship and one of the hardships is not where you can put that fence because City Council has changed the rules within the past two years that says you can't come out past your house extending a fence. So, even if you wanted to, according to City Code, at that point you would have been asking for another variance. Based on the type of overhang that you have and the little patio that you have, why could you not put a deck there and the second question or observation that I have, if you put the deck where you are proposing and I don't know exactly the height of the deck –

Mr. Allen – Seven feet.

2) **JON A. WEIDELING, OWNER, Cont'd**

Dr. Goist – Seven feet. Your kids are going to be able to jump off that deck and be over that fence. It's a 6' fence and 6' between your deck and the fence and that seems to me to propose a potential problem.

Mr. Weideling – Well, I could bring it in further. If the deck is too big and you need me to bring it in further from the fence, I can do that.

Dr. Goist – My first question is why can't you do it next to your house as you thought you might want to?

Mr. Weideling – I have some pictures here.

Dr. Goist – I have been to your house.

Mr. Weideling – Oh, you have?

Dr. Goist – You can bring up the pictures.

Mr. Weideling – Right now, because the pool is existing, if I – I suppose I could but it wouldn't be a whole lot of room. I have the air conditioning unit in the way and my electrical stack where the electric goes into the house is right back there as well. The deck that I put in then would be higher than the floor level of the house and it would be, basically, about head high with the roof with the gutters.

Dr. Goist – Okay, I understand that you're saying. This is going to be 7' high?

Mr. Weideling – The floor isn't going to be 7' high. It will be 44" or something to the level of the pool.

Mr. Allen - Mr. Chairman, the deck surface itself it 48".

Mr. Weideling – Right, and then a 36" railing.

Dr. Goist – The other observation that we have there is if you put it that high, you'll be looking over your neighbors fence into their side yard.

Mr. Weideling – Yes, I thought about that. Before I even came to the City with the design, I already came to the neighbor about it and he has no problem with it.

Dr. Goist – He'll have a chance at the Public Hearing to voice his opinion. We will all take a look at it. Board members, do you have any other questions at this point?

Mr. Baldin - Mr. Chairman?

2) **JON A. WEIDELING, OWNER, Cont'd**

Dr. Goist – Yes?

Mr. Baldin – Since I was out at the property and I talked to the gentlemen's wife, they do have a nice home, a nice corner house, there is no doubt about it. Nice new pool and again, you went ahead and did a few things probably and if you had come to us for a variance, you may have gotten a couple of extra feet but you never know that unless you try. I don't know if you ever went to the Building Department and asked or did you just ask around town and were told you can't do it.

Mr. Weideling – I wasn't real familiar with the process back then and it was my mistake.

Mr. Baldin – I understand you've had a lot of problems since you moved in. Your house burned and everything. God bless you. Anyway, you are a little bit close to the fences and he brought up a very good safety point. The children can jump over it. They can impale themselves on the fence because you're so close. You're only about 6' away. I would think if you would move that over more instead of in that corner. I understand it's a dead corner because you took trees down but if you would move it this way a little bit it will take up some of your yard and I can understand from the pictures and what I saw there why you can't do what you wanted to do originally. You have a little bit of a problem. Why don't you rethink that a little bit and give us a little time to take a look and we'll talk about it when you come back.

Mr. Weideling – You're talking about shifting it away from the side fence?

Mr. Baldin – Yes and bring it around this way a little bit more. It will be closer to your existing patio anyway. It seems to be that it would be more adaptable.

Mr. Weideling – It just don't want to use up more yard space.

Mr. Baldin – And you may not need a variance.

Mr. Weideling – I understand.

Mr. Baldin – You're allowed to go 14' in but only 14'.

Mr. Harr - Mr. Chairman?

Dr. Goist – Yes?

Mr. Harr – I have not been out to your property yet and one of the questions in looking at the topo that was supplied to us is why we couldn't consider the deck on the western side of the pool but that is where your patio is, correct?

2) **JON A. WEIDELING, OWNER, Cont'd**

Mr. Weideling – Correct.

Mr. Harr – It doesn't show on this drawing here. My concern with moving the pool too far in that direction is that you will encourage diving off the patio roof. Not that we ever did that as kids, but that happens sometimes.

Dr. Goist – Mr. Weideling, when you put that overhang in that patio back there, did you pull a permit for that?

Mr. Weideling – That was there when I bought the house.

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

Mr. Weideling – I did have one other thing. You did mention in the caucus something about the swale and I don't know where –

Mr. Bohac – It doesn't look like it. The way your property lays it doesn't look like there is a swale.

Mr. Weideling – Actually, that area is higher than the rest of the property.

Mr. Baldin – The topo shows a swale.

Mr. Weideling – I saw that. If you go to the property you won't see an existing swale.

Mr. Baldin – Do you have a standing water problem? The neighbors behind you?

Mr. Harr – Mr. Allen's comment was that it really is not an easement swale. It's a swale just for the drainage in your particular yard. I think the important thing to note is if this committee were inclined to grant the variance that you would not be able to store items under the deck, the posts themselves would not interfere with the swale and you would have to restore the swale to the original condition after the construction and not put anything in it that would interfere with drainage at all.

Mr. Weideling – Right.

Mr. Baldin – I have no further questions.

Dr. Goist – Okay, your Public Hearing will be July the 8<sup>th</sup> and if you decide to make any changes, please let Kathy know. She is going to publish this as of tomorrow and it will go out on Friday so if there are any changes please let her know.

Ms. Zamrzla – It will go out tomorrow.

2) **JON A. WEIDELING, OWNER, Cont'd**

Dr. Goist – Let us know if there are going to be changes because all your neighbors within 500' will be notified.

Mr. Weideling – Very good.

Dr. Goist – Thank you.

**RULING: PUBLIC HEARING SET FOR JULY 8, 2009**

**PUBLIC HEARING:**

3) **BOB AND CONNIE SEDLECKY, OWNERS**

**Requesting a 35' Front Yard Setback variance from Zoning Code Section 1252.04 (d) (2), which requires a 100' Front Yard Setback from the centerline of Morris Drive and where a 65' Front Yard Setback from the centerline of Morris Drive is proposed in order to construct a Single Family Dwelling; property located at 21222 Morris Drive PPN 393-06-037 & 038 zoned R1-75.**

Dr. Goist – Mr. Ferguson, if you choose to not stay here, you are free to leave. We are now going to open our Public Hearing and our first Public Hearing is Bob and Connie Sedlecky. If you'll come forward and give us your name and address and again go over your request for the variance.

Mr. Sokol – My name is Matt Sokol. I am representing Mr. and Mrs. Sedlecky. They are still out of town. My address is 6605 Middlebrook Blvd., Middleburg Heights.

Dr. Goist – Mr. Sokol, if you would like to go through what they are requesting.

Mr. Sokol – Our variance as requested is we have a lot split consolidation that was approved a couple of weeks ago. We are building a new house and the codes stated that we should be back 100'. All the houses on Morris Drive right now are approximately 35' to 40' off the street. So, we would like to keep the new house constructed even with all the other houses.

Dr. Goist – I think we all understand what you're doing. I have no questions. Board members, do you have questions?

Mr. Baldin – Mr. Chairman, I was at the property and I see no problems whatsoever and I understand you consolidated that lot and that it's been approved.

Mr. Harr - Mr. Chairman, I echo those comments. The proposed placement for the house is proper for the street and the required setback would not be aesthetically pleasing at all.

3) **BOB AND CONNIE SEDLECKY, OWNERS, Cont'd**

Dr. Goist – Any other comments? If not, this is a Public Hearing. Is there anyone here who would like to speak for this variance? Is there anyone here who would like to speak against this variance? Seeing none and hearing none, I will entertain a motion.

Mr. Harr – Mr. Chairman, I would make a motion that a request for a 35' Front Yard Setback variance from Zoning Code Section 1252.04 (d) (2), which requires a 100' Front Yard Setback from the centerline of Morris Drive and where a 65' Front Yard Setback from the centerline of Morris Drive is proposed in order to construct a Single Family Dwelling; property located at 21222 Morris Drive PPN 393-06-037 & 038 zoned R1-75 be approved.

Mr. Bohac – Second the motion.

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

ROLL CALL:                      AYES:                      MOTION APPROVED.

Dr. Goist – Your variance has been approved. There is a twenty-day waiting period and then you may go to the Building Department and they will guide you from there.

Mr. Allen - Mr. Chairman?

Dr. Goist – Yes, Mr. Allen?

Mr. Allen – For the applicant, on your site plan, there are a couple of small revisions that need to be made on it and I'm still waiting for those revisions.

Mr. Sokol – They are in my truck. I will get them to you tomorrow.

Dr. Goist – Thank you, Mr. Sokol.

Mr. Sokol – Thank you.

**RULING:     VARIANCE APPROVED**

4) **KERRY KURETZ, OWNER**

**Requesting a 7' 1" Height variance from Zoning Code Section 1252.04 (g), which permits a 12' Height and where a 19' 1" Height is proposed in order to construct a 240 SF Shed; property located at 9283 Prospect Road PPN 391-19-010 zoned R1-75.**

Dr. Goist – Our next Public Hearing is for Kerry Kuretz, if you'll come forward.

4) **KERRY KURETZ, OWNER, Cont'd**

Mr. Kuzlik – My name is Kevin Kuzlik. I represent Kerry Kuretz, 9283 Prospect Road.

Dr. Goist – Again, if you would like to go over your request for the variance.

Mr. Kuzlik – My request for the variance was for the building to be 6'6" or 7' ½" is the variance in height. The construction of it is that the shed in my back yard is lower than my house. That was my biggest scenario there. If you look at the topo, the elevation of the floor of the house, the elevation of the shed, there is a 7' difference right there. I know that everybody was looking at it because I had started it prior to coming for a permit, which that is why I'm here now but as a life person from Strongsville – let's put it that way, born and raised in Strongsville, went to the Strongsville school system – I want to stay here and without the variance, I'm not going to be able to. It's plain and simple. I've got parents on my side of the family, parents on my girlfriend's side of the family. This has been their homestead. My parents have been here for over forty years. My girlfriend's parents have been here for over forty years. We are looking to stay and it's not an unaesthetically pleasing thing that I'm creating back there, in fact, I think it's going to look really nice when it's finished. I have no neighbors behind me that can even be seen. The neighbors left and right have no problems whatsoever. I'm asking you guys to please allow me to build this shed.

Dr. Goist – I will just give you my comment that even though your lot slopes back, this is a very extremely high building compared to what the code allows.

Mr. Kuzlik – It's 7' higher I know. Instead of being 12' it's 19'.

Dr. Goist – If we give you 7', somebody else is going to want 7' and so therefore, we set a precedent by giving you something that you really are not allowed. Now, I'm just stating my own opinion and would like to hear from the other Board members. The other question that I have for you, the way that that slopes off toward your neighbors house to the north, are you possibly over the lot line? Did you have a survey and a site line done?

Mr. Kuzlik – They had their survey done prior to me putting my fence up.

Dr. Goist – Does it extend over their –

Mr. Kuzlik – No, it comes right to the fence line, that is where it is.

Dr. Goist – The roof itself? It does not extend into the other yard.

Mr. Kuzlik – No, it doesn't go past the fence line, it goes to the fence line.

Dr. Goist – The stakes and the pins are still there?

4) **KERRY KURETZ, OWNER, Cont'd**

Mr. Kuzlik – Yes, I had the inspection before I had the fence put up and they verified the pins that were there.

Dr. Goist – You had the inspection or your neighbor did?

Mr. Kuzlik – I had the City come in and inspect the pins when I put the fence up. My neighbors to the north had a surveyor come out and put the stakes in themselves because they thought at one time they had talked about putting a fence up and they had wood there to do it but they just never got to it. I told them I was going to put a fence up and they said, “No problem.” They had it surveyed and I went by their survey stakes.

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

Mr. Harr - Mr. Chairman?

Dr. Goist – Yes.

Mr. Harr – I don't necessarily have a question. I too visited the property. I think there are some valid reasons for wanting a bigger shed. I think that you certainly have a large lot there and I think it does slope down a little bit and certainly you have a number of items in the yard that I can see that you want to put someplace. I absolutely understand that. We did take a look at – I recognize that there are some large trees and so forth that help shield that back lot and so forth but it is a high structure and really, the precedent that we set with sheds, we are very, very careful with. Putting something 7' is a large, large variance. I think if that difference were 1' or 2', on that lot, to me would be, on a personal level, not nearly as material. It's pretty high. It looks high even from the road level.

Mr. Allen - Mr. Chairman?

Dr. Goist – Yes?

Mr. Allen – Presently, the size of the shed is not a problem. It's the height. The size of the shed that he is proposing is a 240 square foot shed. With the size of his lot, he can make the shed up to 323 square feet.

Mr. Kuzlik – Correct and the reason that's it's not bigger is I can't afford to build it bigger. I built what I could afford to build and actually, it wasn't that I could afford it. It was given to me and I used the rafters the way I could to make up as much space as I could to be able to have storage and get everything out of the yard and out of the garage so a couple of vehicles could be inside instead of outside.

4) **KERRY KURETZ, OWNER, Cont'd**

Dr. Goist – Mr. Kuzlik, I think we all understand your problem and what you want to do. What we have is a problem with is you did this and you didn't ask permission and as Mr. Allen says, you are allowed a much bigger shed. So, I think that we as a Board feel that you should go back to the drawing board and go to the City, request a larger shed, bring the height down and you'll still get the storage space that you'll need –

Mr. Kuzlik – But what you are not understanding is that I can't afford to build a different shed. I built what was given to me. I have no money invested in to where that shed sits as of right now. Every piece of wood that is on there, other than the two by fours that are holding the rafters together, was picked off of a job. I'm a construction person. I don't have a lot of money. I have lived in Strongsville all my life and I want to stay here and when the Amish people said, "We are not going to use these, take them home", I took them home and designed a shed with that I could build with what I had. That is why I'm requesting for a variance.

Mr. Baldin - Mr. Chairman?

Dr. Goist – Yes.

Mr. Baldin – Kevin, it's just too large and as we said here, there are codes and regulations that we have to abide by. We can't set precedence. Whether your neighbors on either side of you or the people behind you can see it or can't see it, that is fine but if we let you do this believe me, within a week or two, a month we're going to have a half dozen people in here asking for a 20' high shed. We can't let that happen. The gentleman prior was asking for a foot because he wants to put larger doors in. That's fine; that's not a problem. What you're asking for –

Mr. Kuzlik – But see –

Mr. Baldin – regardless of where you got your material and what you can and can't afford, I'm sorry that isn't really our problem. We are to upgrade our properties and do the best we can.

Mr. Kuzlik – Correct, correct.

Mr. Baldin – I wanted a glass door when I built my house and I couldn't afford the other \$35.00. Today I could probably put 1,000 of them in but that's besides the point. You have to understand, your yard slopes a little bit, you have an existing shed, etcetera, etcetera.

Mr. Kuzlik – The existing shed would come out. That's not the question.

4) **KERRY KURETZ, OWNER, Cont'd**

Mr. Baldin – I know, it's going to have to come out. It's just too high and personally I cannot in good conscience – I have been on this Board for something like 15 years – and I can't go ahead and say I would give you the right and approval to put up that height of a shed. That is all I have to say.

Dr. Goist – Kevin, instead of continuing to banter back and forth and argue with you, I'm going to – since this is a Public Hearing – ask is there anybody here to wants to speak for this variance, so if you'll give us that time. Is there anyone in the audience who would like to speak for the variance? Will you come forward? Were you sworn in?

Ms. Kuretz – Yes. I'm Kerry Kuretz. Is there any possible way that there could be a temporary variance and when I sell the house the shed comes with me?

Dr. Goist – No, the answer - I'm not the legal counsel but I can let Mr. Kolick address that because –

Ms. Kuretz – It's not technically a permanent structure.

Dr. Goist – He will tell you what happens with variances.

Mr. Kolick – Mr. Chairman, variances go with the property. We can't key it to a property owner. If this Board finds that you have reasons under the code to get the variance granted, then those same reasons would apply to the next person. It doesn't change because another person takes over the property. So, we can't grant a temporary variance.

Ms. Kuretz – It shouldn't be considered a permanent structure. That is what I'm saying. Technically it's not a permanent structure. Yes, it's too tall and that but –

Mr. Kolick – Our code doesn't make a distinction between it.

Ms. Kuretz – It doesn't matter? That's all I'm asking, does it matter or not?

Mr. Kolick – No.

Ms. Kuretz – Okay, thank you.

Dr. Goist – Anybody else who would like to speak for the variance? Anyone who would like to speak against the variance? Hearing none and seeing none, is there any other discussion? If not, I will call –

Ms. Otto - I am your backside neighbor and I

4) **KERRY KURETZ, OWNER, Cont'd**

Dr. Goist – Ma'am, you have to come to the microphone and I think you were not sworn in. Were you sworn in?

Ms. Otto - I was sworn in. I live behind him. My name is Gina Otto. I live at 9204 Fair Road. I am behind him and I came here mainly to find out – this huge structure behind all these trees, what color, what material, I have been hearing construction going on – actually today I think I heard some going on when I came home from work.

Mr. Kuretz – I was putting up a fence.

Ms. Otto – I didn't know what it was. I just am curious. If he is going to put up a structure that size, even with large trees, I want to know what materials, what color, all of that because I do spend a lot of time in the back of my yard. So, that is my weigh in on it. As far as 20' go, our properties slope back but I am a backside neighbor and it would be visible to me in the winter.

Mr. Baldin – What you're saying is it would be an objection to you to see a shed at that height.

Ms. Otto – No, I would want to see the plans for it, know what color and what materials. It might –

Mr. Baldin – We're telling you that he is asking for 19'.

Ms. Otto – It might be aesthetically pleasing depending on what kind of materials he built it from and what color. That's my weigh in. It might be, I don't know.

Dr. Goist – Thank you. Anybody else who would like to speak against this variance? If not, I will entertain a motion.

Mr. Bohac – I would like to make a motion requesting a 7' 1" Height variance from Zoning Code Section 1252.04 (g), which permits a 12' Height and where a 19' 1" Height is proposed in order to construct a 240 SF Shed; property located at 9283 Prospect Road PPN 391-19-010 zoned R1-75 be approved.

Mr. Harr – Second.

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

ROLL CALL:                      ALL NAYS                      MOTION DENIED

4) **KERRY KURETZ, OWNER, Cont'd**

Dr. Goist – Kevin, to you and I would just ask Mr. Kolick to tell you and maybe Mr. Allen, I think your next procedure is to go back to the drawing board and decide what you may want to do and go back to the Building Department. Am I correct?

Mr. Kolick – Yes, Mr. Chairman.

Dr. Goist – Thank you.

**RULING: VARIANCE DENIED**

5) **RITA DAAR, OWNER**

**Requesting a 16' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which permits a Patio to encroach 14' into the Rear Yard Setback and the applicant is proposing 30' into the Rear Yard Setback and to be constructed on the property line for an unenclosed Stamped Concrete patio; property located at 17425 Pioneers Creek Circle PPN 397-28-018 zoned R1-75.**

Dr. Goist – The next one is Rita Daar.

Ms. Daar – My name is Rita Daar. I live at 17425 Pioneer Creek Circle and I am requesting a stamped concrete patio in the rear of my yard.

Dr. Goist – Again, would you go over the specifics as you have listed them for the record.

Ms. Daar – It's a 25' by 18' not perfectly square and it runs along my property line although it will probably be about 1' from my property line in the back with the waves of it and what else?

Dr. Goist – Just to help you out, you're asking for a 16' rear yard setback and you're only allowed a 14' and you're asking for 30' in the rear yard setback.

Ms. Daar – I don't understand what that is because the patio is not that big. It's within that 30'. The wording is confusing to me.

Mr. Allen – What it is is you have an existing 30' rear yard setback –

Ms. Daar – Right, I understand that.

Mr. Allen – That is what the building is –

Ms. Daar – It's just I think the wording – even the neighbors were asking about that.

5) **RITA DAAR, OWNER, Cont'd**

Mr. Allen – and what the code allows you with a patio or a deck is to encroach 14' into that 30'.

Ms. Daar – Fourteen foot, correct. I understand.

Mr. Allen – So, that means that you can be 16' off the rear property line.

Ms. Daar – Correct and I am requesting to go within that 16'. Correct.

Dr. Goist – Mrs. Daar, we also know and we have an email from your association people who said –

Ms. Daar – Yes, they are here tonight.

Dr. Goist – Okay. That's good. We know that they weren't able to get together. I'm going to ask them if they'll come forward and tell us what their thoughts are and if they have in any way changed their thinking. If you will give us your name and address and what your position is with the association.

Mr. Walsh – Yes, my name is William Edward Walsh, Jr. and I live at 19272 Ridgeline Court and I'm the President of the Deerfield Woods Association and we have gone out to look at Mrs. Daar's property and it looks like a very professional job and all that and it looks like it's going to beautify the property tremendously and we don't have any objections from that aspect. We just have some small objections to make sure that it doesn't go over the property line and into the common area behind her house to the south and the other is there are two, they look rather permanent, PVC pipes coming out from the back towards the back and what our concern is that that will cause too much water racing towards the swale faster in a heavy rain storm. If having – I know that Rita told me that somebody was out there looking at it today and if that indeed isn't a problem, we don't have a problem with the construction.

Dr. Goist – Is that runoff from your eaves or is that runoff from your patio, the water that he is referring to and the PVC pipe that has been put in? Where is that water coming from?

Ms. Daar – It's not from my eaves because I don't have eaves coming down right there. I only have eaves on my far corners. From what I understood from the landscaper is that he put them in just to catch water on either side of the wall right there so that the water doesn't gather up against the wall.

Mr. Harr – It's drain tile.

Ms. Daar – Yes, from the yard just draining from the water seepage in the yard. So, I can't imagine that would become rushing out but he said he could also direct – those will be covered. Those aren't going to be shown.

5) **RITA DAAR, OWNER, Cont'd**

Mr. Walsh – I wouldn't think so in the final analysis.

Ms. Daar – Right, in the final thing. He can direct the water toward the drain that is in the rear right of my yard.

Dr. Goist – Mr. Allen has something to say.

Mr. Allen - Mr. Chairman, what should be done is the applicant should revise his application showing these drains and how he proposes to drain the site. Right now, all that shows on the drawings is a patio. You should have your surveyor or whoever prepared the drawings show us how you are properly going to drain it.

Ms. Daar – Okay.

Dr. Goist – Mrs. Daar, also I was there the first time and they were just putting in the steps that were coming down and very nicely done. I would have to say that your yard is nice and the area is nice but if you were to have a storm like we have had in the past week and you get 3” of rain, you are going to have water coming down those steps whether you want it to be rushing or not, it's going to be rushing. I think somehow, that needs to be alleviated. Mr. Allen, is that correct?

Ms. Daar – Do you mean the steps closer to my house?

Dr. Goist – The steps closer to your house. That water is all going to come and where is it going to go. It's got to go towards that wall and it's got to go towards the back.

Mr. Allen – Again, Mr. Chairman, we need a drawing showing how they propose to handle the water.

Ms. Daar – Sure.

Dr. Goist – Can you do that?

Ms. Daar – Of course.

Dr. Goist – Do we need to do that before we grant the variance?

Mr. Kolick - Mr. Chairman, I would suggest that if you consider that variance that you just make it subject to the Engineering Department approving the drainage on the property.

Dr. Goist – Okay and Mr. Walsh, do you speak for all of the trustees? Did you have a quorum of people that have voted to say, Yes, you approve of this project?

5) **RITA DAAR, OWNER, Cont'd**

Mr. Walsh – Let me check with the secretary.

Dr. Goist – We do need a written letter for our file.

Mr. Baldin - Mr. Chairman, while he is checking that, that is the only thing and I would concur in that. I think it's going to look very nice when they finish it all, etcetera and so forth but yes, I think the water might be a problem and I agree with what Mr. Allen said. The Engineering Department really needs to look at that again because there is an awful lot of – it's beautiful stamped concrete steps going down. It's very nice. I think the patio will really look nice. I'm not too crazy about the fact that you're putting it that far back close to the property line because you do have probably 20' from your existing deck to where you are putting this. I don't see why you couldn't come back a little bit further.

Ms. Daar – I explained the reason was because where the wall is – there was already a wall and that was already a flat area. So, to avoid having to excavate –

Mr. Baldin – There was already an existing block wall? That all looked new to me.

Ms. Daar – No, there was an existing railroad tie wall and they replaced the wall but I avoided a lot of excavating coming up closer to my house, digging out a lot more dirt. That would have cost a lot more –

Mr. Baldin – So, there was a wall there before and there was a, sort of, recessed area where you –

Ms. Daar – There was always a flat area there. That's where my –

Mr. Baldin – It was always a flat area anyway so you put that –

Ms. Daar – Yes. It was all mulch. That's why I chose to put it there just because of the flat area.

Mr. Baldin – Thank you.

Mr. Harr - Mr. Baldin, I think that we established at the last meeting, if I recall correctly, Mrs. Daar, that you believed at the time that your property ran back through that swale area –

Ms. Daar – Yes.

5) **RITA DAAR, OWNER, Cont'd**

Mr. Harr – and so you did not believe you were that close to the property, number one and number two, your contractor was not – you did not agree to putting in those improvements at that point. They did that in your absence and you returned from vacation or what have you to find them there. The first point about not knowing where the property line is relevant as it pertains to the Association's concerns. Have you had those pins marked at this point?

Ms. Daar – Yes, we found the pins in the back and we measured again and I did not get another formal survey because we found the pins. We re-measured to make sure it was the 130' on both sides where those pins were that we found –

Mr. Harr – You are confident then –

Ms. Daar - I am very confident and comfortable with how we measured from the topos from the City and from measuring from the house setback –

Mr. Harr – Is that something, Mr. Allen, that you will check as well just to make sure they are not over the –

Mr. Allen – We will spot check it, sir but we are not surveyors.

Mr. Harr – I agree.

Ms. Daar – They wanted a lot of money to survey it and I called the man that Mr. Allen gave me and they said they don't keep records that long.

Mr. Harr – I guess my question is you have located the pins and is it close enough that it requires a survey?

Ms. Daar – I don't think so, no. I feel very comfortable with where the pins were with where we measured back. We had a 42' measurement from the back corner of my house to the very back end of the yard, which is right where the patio would come up to and then I moved in the patio 1' from where we found in line.

Mr. Harr – Mr. Walsh, to that question then, the drainage item we can address through the City with the Engineering Departments approval of the plan. Are you comfortable with the placement of the – have you seen these pins or sighted it?

Mr. Walsh – Yes, I have.

Mr. Harr – Okay, so that is not an issue at this point.

Mr. Walsh - No, I just wanted to make absolutely sure that it wasn't over the property line but it sounds like it indeed isn't.

5) **RITA DAAR, OWNER, Cont'd**

Mr. Harr – The only way to be absolutely sure it to survey it. So, if you are –

Mr. Walsh – Okay, but if you guys also agree with me that it's not over the property line then I'm happy.

Mr. Baldin – We don't really know that.

Mr. Harr – I guess our point being is if you are going to condition your approval that changes our approval.

Mr. Walsh – Okay, it's close enough that as to not be over the line. We are fine with it. It's not an issue.

Mr. Harr – So, that will not be a condition on your part.

Mr. Walsh – No.

Mr. Harr – So, we will limit it to the drainage approval and your correspondence –

Mr. Walsh - Correct, limit it to the drainage and we have our own form that we're happy to sign and give you tonight if that – subject to the drainage issue, which we already have a disclaimer in our form anyway. So, I think we are ready to roll with it.

Mr. Harr – I just want to be clear because an informal sighting isn't really necessarily –

Ms. Daar – I understand that.

Mr. Baldin – Mr. Walsh, you now have a letter that you can present to the Board that says that the trustees approve of this project?

Mr. Walsh – We don't have approval from the trustees, we have concurrence from the trustees. We have a form that I would be happy to sign on their behalf. We have concurrence from the trustees, which I just confirmed with –

Dr. Goist – Our legal counsel says that is fine so if you can give us that for our record.

Mr. Walsh – Yes, sir. Let me sign them first.

Dr. Goist – I am going to ask if there is anyone else to speak for this variance? Being a Public Hearing, is there anyone here to speak against the variance? Hearing none and seeing none, I will entertain a motion with the conditions, please.

5) **RITA DAAR, OWNER, Cont'd**

Mr. Harr – Mr. Chairman, I make a motion that a request for a 16' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which permits a Patio to encroach 14' into the Rear Yard Setback and the applicant is proposing 30' into the Rear Yard Setback and to be constructed on the property line for an unenclosed Stamped Concrete patio; property located at 17425 Pioneers Creek Circle PPN 397-28-018 zoned R1-75 subject to the Engineering Department's approval of a drainage plan for the property, be approved.

Mr. Bohac – Second.

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

ROLL CALL:                      ALL AYES:                      MOTION APPROVED

Dr. Goist – Your variance has been approved and you need to get together with the Engineering Department and the Building Department so that all those little conditions are satisfied.

Ms. Daar – Will they come out and look or do I bring the drawing in, Kathy?

Mr. Kolick – You'll need to bring a drawing up to City Hall. If there are any questions, talk to Mr. Allen.

Ms. Daar – Okay, and then do I still do the 20 days from today once I bring the drawing up?

Mr. Kolick – Twenty days from today as long as you have Engineering approval and then the Building Department can issue the permit.

Ms. Daar –Okay.

**RULING:    VARIANCE APPROVED**

6) **LARRY PILZ, OBJECTING PARTY**

**Hearing of the objection by Larry Pilz and Louise Pilz, regarding the application for a building permit by property owner, Guido Bevilacqua, to construct a 6' High Shadowbox Wood Fence; pursuant to Codified Ordinance Section 1418.03; property located at 18592 Southorte, PPN 396-19-064, Zoned R1-75.**

Dr. Goist – Our next Public Hearing is Larry Pilz objecting party. Larry, again if you will just go –

Ms. Zamrzla - Mr. Chairman?

6) **LARRY PILZ, OBJECTING PARTY**

Dr. Goist – Yes?

Ms. Zamrzla – I noticed that the homeowner on Southporte was not in the audience and I left the room and made a phone call and they will not be represented here tonight. Thank you.

Dr. Goist – Thank you. Mr. Pilz, if you would just go ahead.

Mr. Pilz – Okay, I think as we left the last meeting, there were too issues that were outstanding. I don't know if they are still outstanding or not but they were going to be reviewed by the Board. One was the trees that were taken down that were put up by the builder when the builder built the condo units –

Dr. Goist – Larry, I'm going to stop you right there just for one second.

Mr. Pilz – Sure.

Dr. Goist – I know and you know that I was there at your yard and I looked at all the things and just so you know, with this Board, those trees are a portion of that condominium association. It has nothing to do with – your objection is that they were taken down but the City has nothing to do with enforcing those private covenants.

Mr. Pilz – I understand. I'm just bringing up the two issues that were left.

Dr. Goist – I understand but that is a non-issue at this point.

Mr. Pilz – Sure and to be handled by others? I don't know.

Dr. Goist – If you were to seek any other restitution type of thing about that would have to be through litigation.

Mr. Kolick - Mr. Chairman? Let me address this. Historically, when this subdivision came in, the City Planning Commission, not this Board as I suspected but the Planning Commission approved a landscape plan that showed a buffer of trees on that area, that the City did approve and the City can enforce that. So, what we did do is send out the City Forester to make a determination if the fence that was proposed would have any detrimental effect on that landscape plan that was approved. Our City Forester went out and reported that the fence can be installed with minimal impact on the landscape buffer. So, she is the one who we rely on for landscape plans and trees. Although that area of trees was approved, the fence can be installed according to our City Forester without any real substantial effect on it. So, according to what the Chairman is saying, he is correct in that regard that it becomes a non-issue because it won't effect that landscape buffer.

**6) LARRY PILZ, OBJECTING PARTY**

Mr. Pilz – It was just brought up at the last meeting, that’s all. The other issue was the extension of a patio with a permit or without a permit, that I’m not aware of.

Mr. Kolick – Again, that is an issue that the Building Department can address but it’s not an issue for this Board because they aren’t asking us for any variances for patios or compliance with the code. They are asking for a fence permit.

Mr. Pilz – So, if I wanted to, I would have to go to the Building Department.

Mr. Kolick – You would have to go to the Building Department.

Mr. Pilz – To make an objection.

Mr. Allen – We can pull the file.

Mr. Pilz – Okay then, I believed that was probably a foregone conclusion that the fence has – to me it has no social redeeming value whatsoever. It takes up 29’ of my 100’ width and it doesn’t offer privacy and it surely doesn’t offer containment. So, that is what my objection was all about anyhow.

Dr. Goist – We all understand.

Mr. Pilz – So based on that, I would like or beseech the Building Department, which is present, that the fence be installed properly, which is per code 1252.17 and then I am going to ask a question. There is code 642.06, which deals with injuring vines, bushes, trees or crops. There has been previous history to just step all over my Hosta’s. Is that a police issue? Who do I call to enforce that Code?

Mr. Kolick – If you contact the City’s Building Department, they will tell you what they can work within and what they can’t. If it is a police matter, they will turn it over to the police. If it’s a trespass matter –

Mr. Pilz – If it occurs during non-business hours, do I just call the police?

Mr. Kolick – If it is a police matter and it has to do with trespassing and it has to do with damaged personal property, that would be a police matter whether it’s business hours or not business hours, whatever. The police are the ones that would enforce any type of trespass or nuisance action.

Mr. Pilz – Okay and the same would apply to obscene or profane language I would assume.

**6) LARRY PILZ, OBJECTING PARTY**

Mr. Kolick – Anything that is illegal, the police will do it. The only thing the Building Department will take care of would be the Zoning Code and the Building Code. If it is within those two Codes, the Building Department will address it. If it is dealing with anything with personal property, nuisance, violations of criminal code, the Police Department will deal with it.

Mr. Pilz – Then the only other outstanding thing I have is according to the fence installation, pins need to be located and I still do not see any pins that have been located. I measured the property.

Dr. Goist – I am going to ask Mr. Allen.

Mr. Allen – That’s correct. The permit has not been issued and it will not be issued until the pins are located.

Mr. Pilz – He did paint a couple of things and once again, it’s 30’ versus 29’ but I’m not really concerned about that but okay. I have not seen any pins other than what I had for my own rear yard line.

Mr. Allen – He doesn’t have a permit.

Mr. Pilz – Okay.

Dr. Goist – Okay, Mr. Pilz, I am going to stop right there to see if anybody else wants to speak for your objection and is there anyone to speak against his objection? Seeing none and hearing none, I will entertain a motion for this objection.

Mr. Baldin - Mr. Chairman? Before a motion, Mr. Pilz, I feel for you and you have a beautiful back yard there, pool, etcetera and so forth. I know the fence is not going to be very pleasing to the eye and hopefully with all that foliage that is back there, he does not cut it all down and put an ugly board-on-board fence in.

Mr. Pilz – Once again, I don’t have an option there.

Mr. Baldin – As you heard from our Law Director here and the Building Department, there is not a whole heck of a lot that we can do here as a Board and I’m sure the City will look into it as our Law Department did say that there was approval for x amount of trees and so forth and they should be there. Okay? That is all I can say at this particular time.

Dr. Goist – Is there anybody else who wants to speak for or against it? If not, I will now entertain a motion for the objection.



7) **DAIRY QUEEN/Bruce Taylor, Architect, Cont'd**

- d) **Requesting a maximum 10' 0" Sign Setback variance from Zoning Code Section 1272.12(f), which requires a 10' 0" Sign Setback from the right-of-way and where the applicant has proposed to install 2 Directional Signs 0' from the right-of-way (1 "Exit" and 1 "Enter"); property located at 12152 Pearl Road PPN 392-28-009 Zoned R-RS.**

Dr. Goist – Our last Public Hearing is an extension for the Dairy Queen and it says that Bruce Taylor, the architect, will present himself. If you would give us your name and address and we are going to ask you, for the record, to read this into –

Mr. Kolick – He doesn't need to read it.

Dr. Goist – Okay. You're just asking for an extension and I'm going to ask you, reasonably, is there a time frame on this? We gave you a variance and that lasted for a year and you're now asking for an extension and what we don't want to see is another year and then another year and then another year. Is there a time frame that has been somewhat –

Mr. Taylor – The project is presently out for bid right now. We expect numbers back by this Friday. We are hoping to break ground this fall.

Dr. Goist – Okay.

Mr. Taylor – That is the intent.

Dr. Goist – In the interest of brevity, is there anyone here who has any comments.

Mr. Taylor – I'll take the extra 3' if you're willing to give it to me.

Mr. Baldin – Did you give us your name and address yet?

Mr. Taylor – Bruce Taylor, 3723 Pearl Road, Cleveland, Ohio.

Mr. Baldin - Mr. Chairman, c) has to come off of this.

Mr. Taylor – Yes, I am asking for an extension as approved. I was kidding.

Dr. Goist – We are eliminating one of the variances that was on here that we had eliminated a year ago.

Mr. Harr – I was just questioning the applicant, is there anything - your business being so seasonal there, I'm sure you want to build during off peak.

Mr. Taylor – It was a timing issue. Everything hit at the wrong time.

7) **DAIRY QUEEN/Bruce Taylor, Architect, Cont'd**

Mr. Harr – Is there anything that you forecast that stands a reasonable possibility that you won't get started this year?

Mr. Taylor – No.

Mr. Harr – Okay. There are no impediments per say. It was just a timing issue. You didn't have enough time to ramp up before last season.

Mr. Taylor – Yes, he has got to hit it at the right time. He has to have the building up and in place and running by a certain time of year.

Mr. Harr – Right.

Dr. Goist - I will entertain a motion to extend this.

Mr. Baldin - Mr. Chairman, I would like to make a motion requesting a 25' Lot Width variance from Zoning Code Section 1258.08, which requires a 150' Lot Width and where a 125' Lot Width is proposed in order to rebuild the Dairy Queen Restaurant and requesting a 22.1 SF Sign Face Area variance from Zoning Code Section 1272.11(a), which allows a 64.5 SF Sign Face Area and where an 86.6 SF Sign Face Area is proposed in order to install a Wall Sign and requesting a maximum 10.5" Sign Height variance from Zoning Code Section 1272.12(f), which allows a 3' Sign Height and where a 3'10.5" Sign Height is proposed in order to install 3 Directional Signs (1 "Exit", 1 "Enter" and 1 "Drive-through") and requesting a maximum 10' 0" Sign Setback variance from Zoning Code Section 1272.12(f), which requires a 10' 0" Sign Setback from the right-of-way and where the applicant has proposed to install 2 Directional Signs 0' from the right-of-way (1 "Exit" and 1 "Enter"); property located at 12152 Pearl Road PPN 392-28-009 Zoned R-RS be approved.

Dr. Goist – Before we vote, I didn't ask if anyone wants to speak for or against this extension. Does anyone wish to comment? (there were no comments)

Mr. Bohac – Second.

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

ROLL CALL: ALL AYES: MOTION CARRIED

**RULING: VARIANCE EXTENDED**

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

Meeting adjourned at 9:11 p.m.

Minutes  
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<u>Signature on File</u>	<u>Signature on File</u>	<u>July 29, 2009</u>
Glenn Goist, Chairman	Kathryn A. Zamrzla, Sec'y	Approval Date