

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

**Meeting of
June 8, 2011
7:30 p.m.**

Present - Board of Appeals Members: Glenn Goist; Rich Baldin; Frank Bohac; Bill Harr; Ken Evans

Administration: Assistant Law Director: Dan Kolick

Building Department Representative: Joe Allen

Recording Secretary: Kathryn Zamrzla

The Board members discussed the following:

NEW APPLICATIONS

1) ROBERT JAROWSKI, OWNER

Requesting an 18' Setback variance from Zoning Code Section 1252.17 (c), which requires that the fence be located within the setback of the main building and where the applicant is proposing a 6' Fence 18' beyond the setback of the main building; property located at 17804 North Inlet Drive PPN 399-31-140 zoned R1-75.

The Board did not discuss this New Applicant.

2) WILLIAM LINK, JR., OWNER

Requesting a 10' Side Yard Setback variance from Zoning Code Section 1252.29 (b)(1), which requires a 15' Side Yard Setback and where a 5' Side Yard Setback is proposed in order to install a 52" high 18' diameter Above Ground Pool; property located at 18156 Broxton Drive PPN 395-06-020 zoned R1-75.

The Board did not discuss this New Applicant.

PUBLIC HEARINGS

3) ERIC SEMPLE, OWNER

Requesting a variance from Zoning Code Section 1252.15, which permits one (1) accessory building and where the applicant has constructed a second accessory building 12' by 16'; property located at 20650 Albion Road PPN 391-26-003 zoned R1-75.

The Board discussed that Mr. Semple didn't obtain a permit for the second shed, has a garage and now two accessory buildings. Mr. Harr stated that it's a very small lot with a lot of stuff on it. Mr. Bohac stated he sees no issue with the second building. Mr. Evans asked the Board to consider how they would

have voted had the applicant come to the Board prior to putting the shed up. Mr. Harr stated that there is no hardship. Mr. Baldin stated it's a small lot with a lot of storage space. Mr. Evans stated that the Board could condition the building as a playhouse structure only. Mr. Kolick stated that enforcement would be an issue but also that the building is still an additional accessory building, regardless of the usage. Mr. Evans stated that even if the applicant's son has a medical condition, a medical condition is not listed in the ordinances as a hardship. The Board stated that the applicant has the option of removing either one of the buildings. Mr. Evans and Mr. Kolick stated that two Code Sections can be used in this instance, 1252.15 and 1252.18 instead of just 1252.15, Mr. Kolick asked Kathy to add 1252.18 to the final documents and asked the Board to read both into the motion on the floor.

4) JEFF KLJUN, OWNER

- a) Requesting a 4' Height variance from Zoning Code Section 1252.04 (g), which permits a 12' Height and where a 16' Height is proposed in order to construct an accessory building;
- b) Requesting a 48 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 240 SF Floor Area is proposed in order to construct an accessory building; property located at 8680 Ashwood Drive PPN 391-11-063 zoned R1-75.

Dr. Goist and Mr. Harr stated that they think a 16' height is too tall but the square footage variance is okay. Mr. Allen stated that the lot is very large. Dr. Goist stated that he would like to see the height variance eliminated. The applicant stated that the small plastic shed in the far rear will be demolished.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS

MINUTES OF MEETING

June 8, 2011

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

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

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 8, 2011 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. Kathy, would you call the roll please?

ROLL CALL: ALL PRESENT

Dr. Goist – I hereby certify that this meeting has been posted in accordance with Chapter 208 of the Codified Ordinances of the City of Strongsville. We have minutes in our packet from May 11, 2011. If there are no additions or corrections I will ask for a motion to approve.

Mr. Evans – So moved for approval.

Mr. Baldin – Second.

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

ROLL CALL: ALL AYES: MOTION CARRIED

Dr. Goist - For all the people who are in the audience who would like to speak before this Board as well as Mr. Allen and our secretary, please stand and our City Assistant Law Director will swear you in.

Mr. Kolick then stated the oath to those standing.

1) **ROBERT JAROWSKI, OWNER**

Requesting an 18' Setback variance from Zoning Code Section 1252.17 (c), which requires that the fence be located within the setback of the main building and where the applicant is proposing a 5' Fence 18' beyond the setback of the main building; property located at 17804 North Inlet Drive PPN 399-31-140 zoned R1-75.

Dr. Goist – Our meetings are in two portions and our first portion is New Application. There are two new applications this evening and the first one is Robert Jarowski. If you would come forward and give us your name and address and then explain to us what you're asking for and why you would like the variance.

Mr. Jarowski – Good evening Board members. My name is Robert Jarowski. I live at 17804 North Inlet Drive. I come before you tonight to ask you to consider to approve an application for a variance on our property. We plan on constructing a 5' natural wood, board on board fence this summer. As a result of being on a corner lot, the variance we ask of you is to allow us to construct the fence within 12' of the sidewalk, also known as 18' down our driveway away from the actual building on the Fairwinds Drive side of our corner lot. I was advised by the Strongsville Building Department on May 23, 2011 when I applied for the permit that a variance would be needed if I wished to have the fence that had a perimeter that came out farther than the end of my house. I was also advised at that time that I probably wanted to double check and make sure that I could even bring a fence off the end of my garage. It was not for sure that I would be able to do that and it might actually have to be the end of the actual house. I showed on the copy of your survey the proposed perimeter comes 10' out parallel to the end of the garage and down 18' towards the sidewalk on Fairwinds. The fence then comes 54' parallel to Fairwinds Drive at a distance of 12' from the sidewalk at all points. The main reason I ask of the Board to grant this variance is to maximize our space available for fencing. Our lot is unique to the neighborhood with the house being to the extreme left portion of our lot, which is unusually wide to begin with. This puts us at a disadvantage compared to other homeowners and our ability to utilize our space while putting up a fence. If we were to fence in our back yard by Code, coming directly off the back of our house, not the garage but the actual house, it would be giving us approximately half of our back yard space, the ability to be fenced in. By comparison, most of our neighbors within Spyglass Hill who have fences have put up their fences directly along their property line, fencing in virtually all their available space in their back yard. We do not feel that by putting up this fence it would be a detriment to our neighborhood as evidenced by many of our neighbors giving their support for our request. I will submit to you in a moment some signed verification from these neighbors. We also feel that the granting of this variance would not be contrary to the intent and purpose of the Strongsville Codified Ordinance since the essence of the Code is to protect property owners and ensure that they all receive equal treatment; therefore, we feel that as if we have met the requirements needed to grant this variance. If you would, I actually have a few documents, which I would like to submit at this time.

Dr. Goist – You may submit them and then we as a Board will keep them.

1) **ROBERT JAROWSKI, OWNER, Cont'd**

Mr. Jarowski – That's fine. I have copies.

Dr. Goist – While you give us those documents, one thing I want to go back over because it wasn't marked on our drawing, the way the fence is proposed, it will still be 12' off the sidewalk of Fairwinds Drive, is that correct?

Mr. Jarowski – That is correct.

Dr. Goist – Then what you have done is actually juttred out 18' from your garage so if you came right off your garage all the way across, you would be 30' off the road, am I correct?

Mr. Jarowski – I believe you are correct, yes.

Dr. Goist – Okay. I'm only asking because I just want to put the numbers together.

Mr. Allen - Mr. Chairman, presently the way it's laid out is from the corner of the garage there was 18' so where the fence would be to the back of the wall would be approximately 6' all the way down the property line.

Dr. Goist – So, if he came straight off the garage and went to the back, he would be approximately 24' off the sidewalk, is that correct? It's a bit of an angle.

Mr. Allen – Twenty four to twenty six feet.

Dr. Goist – Okay. I'm just asking because one of the things that we as a Board look at, and the other Board members will also address, we're looking for a hardship and your hardship in this particular case is only your personal reason that you would like to have maximum space in the fence boundary.

Mr. Jarowski – Correct, so that it would be equal to our other neighbors who have property and have their entire back yard fenced in. I want the same opportunity.

Dr. Goist – But you don't have the same kind of lot. You live on a corner and when you bought the lot, you knew you were on a corner. So, you don't have the same lot is what we're saying.

Mr. Jarowski – I understand that.

Dr. Goist – I'm just putting things together here. You're right but we're looking at it from the standpoint of how much room you actually have and it looks like you have a pretty big back yard.

Mr. Jarowski – It is a pretty decent sized back yard. The whole lot is approximately a quarter of an acre. My back yard is about half of that.

1) **ROBERT JAROWSKI, OWNER, Cont'd**

Mr. Bohac – We are going to need a letter from the Spyglass Association.

Mr. Jarowski – I do have that actually.

Mr. Bohac – That's fine.

Dr. Goist – Thank you, Mr. Bohac. Board members, do you have any questions?

Mr. Bohac – That's all I have.

Mr. Jarowski – Dr. Goist, if I may, can I explain exactly what it is being passed out to you at this time. There are three signed letters from three neighbors of mine, one of which is the Hielman's who live directly behind me and probably would be impacted the most by this fence. They live on Fairwinds Drive behind our property. All of them have agreed that they would have no problem with me putting up this fence. Also, you have a copy of a document from my homeowners association agreeing that as long as it is okay with the City of Strongsville, they don't have a problem with me putting up this fence. Finally, I know one of the questions may be if I were to construct this fence on a corner lot so close to the sidewalk, is it a safety risk. There are two pictures of me, one of which is with my dog, which is one of the reasons we are putting up the fence. The first one shows exactly where the fence would end where myself and my dog are standing. The second is the more significant one, which is the view from my vehicle at the very top of my driveway. If you can see, circled down there is actually my tape measure and it's 35' from the end of my driveway down the sidewalk. That is the exact distance between the end of my driveway and the corner of Fairwinds and North Inlet. I just wanted to prove that I feel I have sufficient space and visibility to see people coming down the sidewalk so it will not be a safety risk if I put that fence up.

Dr. Goist – I'm studying the picture. That blue canister that you have there is the edge of the fence.

Mr. Jarowski – Yes, that is correct.

Dr. Goist – If we do this, sometimes we have our CPTED Officer from the Police Department come out to see if it is a line of sight problem for kids on the sidewalk on bikes and big wheels and that type of thing. Sometimes they're really moving in some cases and do you have time to see that child coming out of your driveway? That's a safety issue or someone coming around the corner and here comes a child.

Mr. Jarowski – That's what I'm trying to prove. If I can see the same distance as I can to the corner on the opposite side as I can towards that side, I feel that that is sufficient space.

Dr. Goist – I appreciate the pictures. Very nicely done. Board members?

Mr. Baldin - Mr. Chairman?

1) **ROBERT JAROWSKI, OWNER, Cont'd**

Dr. Goist - Mr. Baldin?

Mr. Baldin – Mr. Jarowski, you are asking for 6’ but you are actually building a 5’ fence?

Mr. Jarowski – I apologize if on the application I put 6’. It is a 5’ fence. That is mandated by my development.

Mr. Baldin – I’ll reserve other questions after I look at the property.

Mr. Jarowski – Thank you.

Dr. Goist – Mr. Harr?

Mr. Harr – Mr. Jarowski, the reason for the board on board? One of the concerns we have on corner lots and fencing is sight lines and aesthetically how that impacts the neighbors. Is there a specific reason that you’re looking for a solid fence line as opposed to something that may allow some gapping?

Mr. Jarowski – Personally I prefer the look. Probably also for privacy being on a corner lot. Those would be my only main reasons.

Mr. Harr – I’m sure our Chairman will mention too that when we come out to look at the property, if you will be so kind to drive a stake or mark the corners for us so that we can see the sight lines.

Mr. Jarowski – Absolutely. Not a problem.

Mr. Harr – I don’t have any other questions until I see it, Mr. Chairman.

Dr. Goist - Mr. Evans?

Mr. Evans – Thank you, Mr. Chairman. Mr. Jarowski, the primary reason on the corner lots is safety because of the line of sight. As Mr. Harr alluded to, I think that probably one of the things that you may want to consider, as least from my perspective as one member on the Board, in the past we have asked residents to consider alternatives because a board on board does not allow any sight line through there. If the reason you want the 5’ fence as a board on board is privacy, while we understand that, that same reason of privacy drives the safety concerns. So, whether or not a vinyl covered chain link or a 5’ tall picket fence that has sight line availability through it or things like that might be an alternative that you would have thought about. We would encourage you to think about a fence that might have sight line capability. Even though your drawings – and as has been indicated we will be out to take a look at it – even though you feel that you have enough distance to be able to see, I happen to live on a corner lot as well. I don’t have the fortune of having the driveway against that area but because I live in a development where fences are not permitted at all, we know all too

1) **ROBERT JAROWSKI, OWNER, Cont'd**

Mr. Evans continues - well that those developments that have fences on corner lots, they are oftentimes problems because kids on bicycles don't understand when a car is backing up until they can see it right in front of them and oftentimes they'll come down a street at much faster speed than really is something that ought to be done when there is a lack of visibility. They don't see that and hopefully you as a driver or any guests that you might have at your home would but again, that is the reason that Dr. Goist has suggested that we will in fact ask the CPTED Officer to take a look at that. So, Mr. Chairman, when you said we might, we actually will because that would be an important feature but the safety concern is the number one. While you could put up shrubs that would be sight impairment as well and we would have no control over that, when you do put a fence up, that is the one thing that we look at is the line of sight, the safety feature of youngsters that may be on the sidewalk and protecting them.

Mr. Jarowski – If I may, in the development, I'm not allowed to put up a chain link fence. That is not an option. In terms of a picket fence, from my early estimations would probably be a little bit more costly for me to put up as opposed to another type. So, that is the reason that I'm going the direction at this time.

Mr. Harr - Mr. Chairman, I think Mr. Evans makes a good point that sometimes when we look at fencing along a corner lot like this, we think of safety and we're thinking about seeing cars coming down the street and the real danger for the most part is kids screaming down the sidewalk on bicycles and so forth. They are that much closer to the fence line and that much less aware of their surroundings than maybe a driver would be. So, when you look at where you want to put that corner there, that is an important feature to make sure there is plenty of distance there that somebody could stop.

Mr. Jarowski – Absolutely and that is what I was trying to demonstrate with that picture. I do invite the officer to come out, obviously, and double check because I do want to make sure that this is not a safety risk for others.

Dr. Goist – Now, there is one other option that we have had people on corner lots also do, which has helped and that is on that corner, rather than doing the corner at a 90 degree angle they will cut that corner off there and do maybe a 45 degree angle. So, that gives you even a longer sight line than if you're square.

Mr. Jarowski – That would be something that I would be willing to consider. As you can see on the drawing, I don't bring the fence directly down my driveway. It does go over 10' and then down so this is one of the ways I was trying to mitigate that a little bit; however, if that was offered as an option, my wife and I would consider it.

Mr. Harr – You wouldn't lose a lot.

Dr. Goist – You don't lose a lot in that corner as far as that back yard privacy issue but you gain a lot in sight.

1) **ROBERT JAROWSKI, OWNER, Cont'd**

Mr. Evans– Actually, Mr. Chairman, if you take a look at the drawing that the applicant has provided, there is a 45 degree line now that is not used as the fence from the corner of the garage there. If that 45 degrees were continued to the proposed fence line, you would be flipping the two triangles, not giving up even a square foot of the space but increasing the sight line on it and I would suggest to the applicant if that is something that he and his wife felt they wanted to do that perhaps they can put two stakes in the ground at the two corner points there and that would give us a better option of looking at where it might be and where they're proposing it would be.

Dr. Goist – Again, Mr. Evans, I'm a little bit confused but are you saying come from the corner of the house or coming from the corner of the garage?

Mr. Evans – From the corner of the garage, there is a line that has a 931.0 with a 99 above it and that could be a fence line and then continuing over along by the sidewalk so you would have a trapezoidal shape at that corner that would then – he would give up part of that at that one side and take it off on the other so the square footage wouldn't change any.

Dr. Goist – Did you understand that?

Mr. Jarowski – I do understand and my better half isn't here and that is something I think we would consider. She apologizes that she isn't here. She is under the weather.

Dr. Goist – That's fine but I think Mr. Evans is giving a good point that you don't lose any space by doing that.

Mr. Jarowski – If I may, what would the procedure be then for amending the drawing if we come before you next time? Would that set me back any duration in the ability to build the fence?

Dr. Goist – We'll ask Mr. Kolick.

Mr. Kolick – No, all you would have to do is stop up at the Building Department and draw that line on there and initial it and date it. That is all you would have to do. The variance is going to be the same no matter what. It isn't changing anything because we go by the closest place to the sidewalk that you're going to be. So, the variance is going to be the same. Just the actual configuration will be a little different.

Mr. Jarowski – Very good, thank you.

Mr. Harr - Mr. Chairman, I have one more question. Any gates proposed?

1) **ROBERT JAROWSKI, OWNER, Cont'd**

Mr. Jarowski – Actually, yes we are planning on having the gate right over by the garage area. I do apologize for not showing that on the drawings. One interesting thing about our house is that we do not actually have a door off the back of the house itself. It is only off the garage. So, that is why we don't start the fence all the way back by the house. We have it coming off the garage like that.

Mr. Harr – So, you don't have to crawl out the kitchen window.

Mr. Jarowski – Exactly. Yes.

Dr. Goist – I think Mr. Allen explained to us that where your proposed line is you are actually 6' off the side of the sidewalk. Many times we ask the applicant to come off of that a little bit more but I want to ask you what space is required for the utilities.

Mr. Allen – The utilities have a 10' easement, which is continuous to the sidewalk and the right of way is 1' past the sidewalk and then there is a 10' utility easement. So, it is approximately right down the center of the utility easement.

Dr. Goist – Do you understand that?

Mr. Jarowski – No, actually I don't because on my drawing from what I can see, I did not cross over that 10' area at any point. If you could clarify please.

Mr. Jarowski approached Mr. Allen and viewed the drawing.

Dr. Goist – Mr. Jarowski, let me just suggest to you, if you would stop up at the Building Department and someone like Mr. Allen or someone in the Building Department will go over all of those with you so you understand because if you put that fence in, it's in the middle of that utility easement, which is not necessarily drawn on this paper.

Mr. Allen - Mr. Chairman?

Dr. Goist – Yes?

Mr. Allen – I think there is something wrong with his drawing and what is drawn on here so he needs to come to meet with me and we can correct his because it may be a different number for the variance. It may not be the 18'. It may be something else.

Dr. Goist – If you will get together with them, they will try their best to put you on the right track so that we know and you can choose to cut off an angle. We particularly like the see-through fences a little bit better than the board-on-board because we feel that that gives a stockade look that we're not real fond of. You want it for more privacy. We understand that but the City as a whole – this is going to be a wood board-on-board and guarantee, twelve to fifteen years from now that fence is not going to look like the day you install it. That is what

1) **ROBERT JAROWSKI, OWNER, Cont'd**

Dr. Goist continues - happens all over the City. We've got these very unattractive fences so we like vinyl fences, we like things that are clad in vinyl and if you leave space of 2" or 4" or whatever it happens to be, it gives you much more line of sight for the kids and it is still very attractive and twenty years from now it's still going to be attractive. Not to add cost, just to add something that is more attractive.

Mr. Jarowski – I will take that under consideration, thank you.

Mr. Harr – Just as a closing comment, you understand the implications of the utility easement because in the event that you're in there and they need in there for some reason –

Mr. Jarowski – Absolutely, I think there is a miscommunication with the drawings because that was not my intention at all. I will definitely stop up.

Mr. Harr – Just so you're aware what happens.

Mr. Jarowski – Thank you.

Dr. Goist – Your Public Hearing will be the 22nd of June. So, we will see you back on the 22nd and if you'll get together with the Building Department.

Mr. Jarowski – Thank you, gentlemen.

2) **WILLIAM LINK, JR., OWNER**

Requesting a 10' Side Yard Setback variance from Zoning Code Section 1252.29 (b)(1), which requires a 15' Side Yard Setback and where a 5' Side Yard Setback is proposed in order to install a 52" high 18' diameter Above Ground Pool; property located at 18156 Broxton Drive PPN 395-06-020 zoned R1-75.

Dr. Goist – Our second New Application is William Link. If you will come forward and give us your name and address please.

Mr. Link – My name is William Link, Jr. and I live at 18156 Broxton Drive.

Dr. Goist – Okay, will you explain to us what you're variance is about.

Mr. Link – I am proposing a 5' variance on the side of the neighbors because my garage is in the way and there just is not enough room to put the pool anywhere else. I don't want the kids jumping off the garage when they are a little bit older. I want to keep it away from the garage as much as possible.

Dr. Goist – So, you want to be 5' off the side yard property line. Mr. Allen, what fencing requirement does he have?

2) **WILLIAM LINK, JR., OWNER, Cont'd**

Mr. Allen – Mr. Chairman, the pool is at least 48” high so the pool itself can act as the barrier. Then he has to have a cover for it and he has to have a removable ladder.

Dr. Goist – Do you understand that?

Mr. Link – Yes.

Dr. Goist – Okay. I just didn't know. I haven't been to your property yet so I don't know. You may already have a fence all the way around the property.

Mr. Link – No, there is no fence.

Dr. Goist – So, you have met the pool requirements for the fencing. Board members?

Mr. Evans – Mr. Chairman, I have no questions other than the fact that I guess we would probably ask him to put a couple of stakes out there to give us an approximation of where the 18' diameter will fall.

Mr. Link – I can draw it out for you.

Mr. Evans – Thank you.

Dr. Goist – Mr. Harr?

Mr. Harr – Mr. Chairman, is there any decking proposed with the pool or is it just a stand-alone pool?

Mr. Link – It's a stand-alone pool.

Mr. Harr – Immediately to your east is another residence?

Mr. Link – Yes. I will visit your property between the meetings. I was just curious. I don't have any other questions.

Dr. Goist – The kids will go in and out with a ladder then?

Mr. Link – Yes, I will have a locking ladder.

Dr. Goist – Mr. Baldin?

Mr. Baldin – Mr. Chairman, I have been to the site and again, the neighborhood has smaller lots. Apparently you poured some new concrete. Did you build a new garage?

Mr. Link – Yes.

2) **WILLIAM LINK, JR., OWNER, Cont'd**

Mr. Baldin – Okay, I thought it was new. You really do not have a lot of room back there.

Mr. Link – Not at all.

Mr. Baldin – I can see why you're asking for this.

Mr. Link – And I want to keep it away from the garage as much as possible.

Mr. Baldin – You have a good sized garage and the lots are small. The guy to your left has a fence and has a pool. The gentleman to your right has concrete right there. You're going to be 5' off of his property line. He has his driveway there.

Mr. Link – Right to the property line.

Mr. Baldin – Right to the property line with concrete.

Mr. Link – Yes.

Mr. Baldin – I don't know. I will take a look at it. Joe, is that a problem that the neighbor extended concrete right to the property line? You can do that, can't you?

Mr. Allen – Mr. Chairman, he is supposed to be approximately 2' off the property line.

Mr. Baldin – Okay, I wasn't sure on that.

Mr. Link – It's approximately 6" off I would say.

Mr. Baldin – You're very close. Once you stake it out, we'll take a better look.

Dr. Goist – I don't have any other questions so Mr. Link, your Public Hearing will be on the 22nd of June and we'll see you back then.

PUBLIC HEARINGS

3) **ERIC SEMPLE, OWNER**

Requesting a variance from Zoning Code Section 1252.15 & 1252.18, which permits one (1) accessory building and where the applicant has constructed a second accessory building 12' by 16'; property located at 20650 Albion Road PPN 391-26-003 zoned R1-75.

Dr. Goist - Our first Public Hearing is Eric Semple. If you would come forward please and give us your name and address for the record and then go through your reasons for the variance.

3) **ERIC SEMPLE, OWNER, Cont'd**

Mr. Semple – Okay. Good evening. My name is Eric Semple. I live at 20650 Albion Road and the reason for the request for the variance is I have a second accessory structure on the property that was identified by a City worker about a year after I put it up that was inappropriate so I immediately went to the City and I asked what the appropriate process would be to try to remedy it and was told that that the only option I would have short of removal was a variance request.

Dr. Goist – I think you may have heard us. You sat in on the caucus, did you not?

Mr. Semple – I did hear the caucus, which obviously wasn't encouraging.

Dr. Goist – We will go through that now -

Mr. Semple – Okay.

Dr. Goist - because we want it on the record –

Mr. Semple – Sure.

Dr. Goist – and one of the problems that we come up against all the time is that people build structures without asking permission. One of the problems that we have with yours is you built a structure, built with a permit, turned right around and built the second building and did not pull a permit.

Mr. Semple – I actually did them at exactly the same time and as I communicated before, the two pads that were constructed for these two buildings were there when the pre-inspection for the pad was offered and all I can say guys is I have been in this community since 1995. I built my own addition. The folks that came through the property could see that. It's a large addition. I've had issues that came up during that process just like you would in any construction process and I immediately took the suggestions of the inspectors and corrected them. This was no an effort on my part to come and short circuit your process. I had a rather detailed discussion with, I believe, Mr. Baldin out front and he said, "I still don't understand how you could think that this was going to be fine". He said, "Explain it to me". He said. "I went through the process and said 'What do I need to do to put up a shed' and they told me." The only answer I could give him and this is in all honesty. I said maybe it's a generational gap. I am of the newer generation. The first thing I did was to ask my wife to go on the web and find out what we need to do to put up a building properly. She pulled off the City of Strongsville document for sheds and I read it rather carefully. This is the original one from back when I pulled the permits. I circled different things where it talks about the size. It has no reference to a requirement or a limitation for one building anywhere and actually in bullet two it uses the word plural sheds. I didn't believe that anything was amuck. I did hear when I talked before and I heard many people say, "Well, he negotiated with the guy and of course he was given a better deal". That is in reality what happened and when I went in and I did a quick Google search on the Code and that's how I do things. I did a quick Google search on

3) **ERIC SEMPLE, OWNER, Cont'd**

Mr. Semple continues - the word playhouse. Absolutely nothing came up. I completely understand your position that you're not going to legislate and all these names and titles but I want to reiterate to the Board, this was not an intentional short circuit, "I'll show them, I'll pull a fast one". These pads were there when they were pre-inspected, both of them. It's an above ground pad with a 4" timber. They were there bright as day when the first building not only was pre-inspected for the pad but then post inspected for the second building. The only issue was they can't bring them both up on one truck because they wouldn't be street legal. They come completely pre-assembled, completely self-contained. I realize that from your guy's end that probably works to your favor if you say, "It will only take you twenty minutes to get it out of there". They are completely self-contained, they are not permanent structures and what I had asked one of the members that came by this evening and I said I would try to work with you guys in any way possible. Whatever limitations to the variance that could be put in place to call it a temporary structure, to say that the only way the variance is approved is if it is a completely self-contained on skids movable non-affixed structure, no power, which it doesn't have, no utilities, which it doesn't have. I would even stipulate and I understand that the variance goes with the property but I would even support an amendment to the variance that says if I do sell the property, I have to take them with me. I understand that the variance stays with the property but then you could still say they are temporary structures and if you want temporary structures, they have to meet this criteria of being a self-contained unit and I'll stipulate that I'll take them with me when I leave. I understand the predicament that you guys are in. I just really – I heard a lot of people saying he's got a big garage. I challenge you again to come back to my property. I can't even fit two cars in my garage.

Mr. Evans - Mr. Chairman?

Mr. Semple – And it's not because – let me just finish – it's not because I have a lot of extra crap. Really, I think I have what an average person with three kids has. I have zero basement storage. I will offer any of you to come back and see my basement and what I have in there. I have no man space if you will in my basement. My house was built in 1963. I just don't have it. That additional accessory structure that I permitted exactly as you talked about in your assessment has my tractor in it, my sharp pieces of tools, nailers, air compressors and all the stuff that a kid – right now I contend, my kids are three and five so they are right at that age limit and I do believe that the answer that I'm going to give you guys and you're not going to like to hear it and I don't want to threaten that but I have a lot of stuff, otherwise my kids' stuff is going to be out in the yard. I have nowhere else to put it and I do have safety concerns that Drake Elementary is right behind my house. We have a lot of kids that do walk and do commute to school by walking and toys out there that are age appropriate for them are a huge issue and temptation. So, I think when you guys all came by and I only know for sure when three of you came by but I think you all came by, I think you saw I keep the stuff put away and it's for that reason. We did have dialogue with the school. The school had no issue with it. The school from what little I talked to them said, "Hey, we think it's a great idea that you're putting the stuff away rather than keeping it out". So, to say that, Oh, he's got plenty of storage, re-look at my picture. That little back shed that the original owner – I bought this

3) **ERIC SEMPLE, OWNER, Cont'd**

Mr. Semple continues - house from the original owner so there has only been one other owner than me – he used that for the same thing that I'm using it for. A couple of tillers, a utility trailer that otherwise is stored out in the yard, a rototiller that is otherwise stored out in the yard, a bagger that is otherwise stored out in the yard, a hand mower that is otherwise stored out in the yard – there is nowhere else for me to put this stuff.

Dr. Goist – Mr. Semple, we aren't here to argue with you.

Mr. Semple – Okay.

Dr. Goist – We are not trying to argue –

Mr. Semple – I understand. I'm just trying to explain –

Dr. Goist – with you. You bought a house that has no basement. You bought a house -

Mr. Semple – My house has a basement.

Dr. Goist – that has a garage – you said you had no basement.

Mr. Semple – I put a 32' by 18' addition on it and it's –

Dr. Goist – I'm just saying that your house is what it is. If it doesn't have enough storage space, it's not because the City later put something on their record that says that you can't have two sheds. That's my contention.

Mr. Semple – I understand.

Dr. Goist – And as Mr. Baldin said to you outside, you did know enough to pull one permit.

Mr. Semple – I did, that's very true.

Dr. Goist – You did pour two pads.

Mr. Semple – They aren't poured.

Dr. Goist – Did the City inspector come out and say –

Mr. Evans – Stone pads.

Dr. Goist – Okay. So, they are not concrete. Okay, all right. I'm just saying –

Mr. Semple – I understand.

3) **ERIC SEMPLE, OWNER, Cont'd**

Dr. Goist – we don't want to get into any argument type thing -

Mr. Semple – And I don't either.

Dr. Goist - because we aren't here to argue.

Mr. Semple – I just really want you guys to hear what I'm up against. Can I be honest? I have a neighbor who was wanting – I don't want to say who it is because I don't want to get him into trouble – but I have a neighbor who was forced to take a second structure down, a temporary structure. He has about a 12' by 16' trailer in his yard that is titled. It has a license plate on it so it's legal. That is his solution to his storage problem and I don't want to do the same thing. I'm asking for some help to try to work within the confines of the – I'll bend over backwards to put whatever limitations you guys want to have on it so that what I'm trying to do is keep stuff out of sight and in its place. It is what I think is the right thing. I understand your frustrations as well. I understand that you say, "He doesn't really have a legitimate hardship". From what I've seen about Ohio law and Code and how it's evolving with regards to that specific issue, hardship isn't the sole determiner in most of what I've seen of the modern litigated things on variances. It goes back to what is the spirit and the condition of the surrounding neighborhood that the house is in. If you go down my street and you look at what is on my street, what I have, in my mind, improves the condition of my neighborhood. It doesn't negatively impact new sheds, it doesn't – and especially with all the acreage that the school has behind me. I understand the property that faces mine.

Dr. Goist – I'm going to ask our Legal Director -

Mr. Semple – Okay.

Dr. Goist – to reply to you.

Mr. Semple – Okay, thank you.

Mr. Kolick - Mr. Chairman, we have in our laws conditions that the applicant must meet in order to have any variance granted. One of those is a hardship and one is practical difficulties.

Mr. Semple – Sure.

Mr. Kolick – One of those conditions to be met relates to the neighbors. One relates to whether you have something unusual or your topography or whatever –

Mr. Semple – Sure.

Mr. Kolick – that would constitute a reason to grant any variance. Those are some of the standards that you utilize in determining whether or not to grant the variance in these cases.

3) **ERIC SEMPLE, OWNER, Cont'd**

Dr. Goist – Thank you.

Mr. Bohac - Mr. Chairman?

Dr. Goist – Yes, Mr. Bohac?

Mr. Bohac – How did we ever find out after a whole year that these things were up? That this came about? That’s what amazes me at this point. Did someone turn you in?

Mr. Semple – It was explained to me they were doing some OUPS flagging or some kind of flagging at the school, which is right behind my yard and a City worker pulled in to assist with that, realized that apparently – obviously it’s a requirement that you can have no more than one accessory structure. So, he snapped a picture of it out of the window. You can almost see the City seal on the picture – nobody complained. Again, I went up and down and street and my wife and I went up and down the street. I got every neighbor that I got get a reply from and there are some, of course, that won’t answer the door or don’t want to talk.

Mr. Bohac - I understand. I checked over the neighborhood pretty well when I was out and spoke to your wife.

Ms. Zamrzla - Mr. Chairman?

Dr. Goist – Yes?

Ms. Zamrzla – Sir, did you call for a final on that first shed?

Mr. Semple – I did.

Ms. Zamrzla – Okay. And when was that?

Mr. Semple – I was whenever I got the final. It was three days after it was delivered.

Ms. Zamrzla – Normally, what happens and it was my understanding that the inspector found it when he went over to do the final inspection on the first shed, which wasn’t done immediately.

Mr. Semple – No. We had the final done a week after it was delivered. I would have to find the documents on it but it was finalized the same summer I put it up. It was a year ago August.

Ms. Zamrzla – Okay. A lot of people don’t call for their finals on their sheds so we end up doing them a couple of months later.

3) **ERIC SEMPLE, OWNER, Cont'd**

Mr. Semple – No, I did call. I went through an 18' by 32' addition on the house with you guys so I knew what the scoop was with the pre and the posts and they get it all done and get your green tag. I have the tag.

Mr. Baldin - Mr. Chairman?

Dr. Goist – Yes, Mr. Baldin?

Mr. Baldin – Let me go back here again. The applicant made a comment that the inspector came out and you had two gravel pads laid out in the yard before the sheds were delivered with the 4' by 4' posts.

Mr. Semple – Above grade, correct.

Mr. Baldin – And he came out and inspected both of those pads –

Mr. Semple – I didn't say he inspected both. I said they were both there.

Mr. Baldin – But he came out and he saw two pads in the yard, which should tell him that there were going to be two sheds put up.

Mr. Semple – I don't know. I wasn't there when he came. They come during business hours.

Mr. Baldin – It's a little confusing.

Mr. Semple – I don't know when –

Mr. Baldin – We send an inspector out there and he sees two pads in the yard, wouldn't he have come back and said something was wrong.

Dr. Goist – I would have to agree with Mr. Baldin. You're pleading your case and that is what I expect you to do.

Mr. Semple – I'm not trying to be argumentative. I'm really not.

Dr. Goist – Our other problem is that as soon as we approve this second accessory building we will have ten people in here in the next three months asking for a second accessory building.

Mr. Semple – And all I'm asking you to do is try to work with me to figure out some language. I've worked with folks that do historic easements and other things. You can write limitations in that prevent that onslaught. I understand what you're up against and I'm asking you to try to be creative with me and help me come up with –

3) **ERIC SEMPLE, OWNER, Cont'd**

Dr. Goist – You're asking us really what –

Mr. Semple – a temporary structure issue as an option.

Dr. Goist – Excuse me. What you're really asking for is one exception and what we're really saying is that is a difficult thing for us to do.

Mr. Semple – I understand.

Dr. Goist – We make one exception and we have ten requests. So, we're here to grant variances if the applicant meets the legal standards. That is what this Board is all about.

Mr. Semple – I understand.

Dr. Goist – But we have a hard time making one exception for a lot that is no different than all the other neighboring lots.

Mr. Semple – I guess all I was asking is that hopefully there would be a creative way to come up with one exception with enough limiting factors on it that it doesn't give you what I know you fear, which is twenty people now saying, "Well, you did I for one guy". My understanding is it is on a case by case basis.

Dr. Goist – I think we're going to beat a dead horse -

Mr. Semple – I have every neighbor in the neighborhood behind me.

Dr. Goist – and I don't mean to do that but I want to say to you that we can add exceptions and we have in some cases put exceptions in but we're not a police force.

Mr. Semple – I understand.

Dr. Goist – None of us on this Board are a police force. None of the people in the Building Department unless they happen to be there are out looking for violations. So, that is not the spirit – the spirit of this thing is to make it fair for everyone.

Mr. Harr – Mr. Chairman?

Dr. Goist - Mr. Harr?

Mr. Harr – I think part of the problem is that what you're asking us to do it to regulate the use and that's an impossibility. A pig is a pig and an accessory building is an accessory building. The fact that you use it as a playhouse for the children right now is not something that we can possibly regulate and in my opinion, in granting a variance because of your particular use right now is inherently dangerous because it can't be monitored. It goes with the property. It

3) **ERIC SEMPLE, OWNER, Cont'd**

Mr. Harr continues - can't be written in and it opens the door for other people to make false claims about what their intended use is for the property for the purpose of using your example –

Mr. Semple – Right.

Mr. Harr – as precedent. There have been situations where this Board has granted dual sheds, dual accessory buildings, if you will but they were done only with a number of other mitigating factors in mind such as a very sizable lot, no neighbors, nobody in sight view, -

Mr. Semple – I'd say the only unique thing –

Mr. Harr – a lack of a garage where –

Mr. Semple – The only unique thing I have going for me is I do have a school behind me. That means I have no neighbors behind me.

Mr. Harr – Well, but you have neighbors that still view that and admittedly –

Mr. Semple – I do and I have been hearing support –

Mr. Harr – they support you. I understand that but they may not be your neighbors forever.

Mr. Semple – Understood.

Mr. Harr – Or you may not be there forever.

Mr. Semple – Is there no opportunity to have that stipulation that when I leave I have to take the structures with me. At least that means they go when I go and someone has to go to the expense to put two structures back on and I'll tell you it's not cheap.

Mr. Kolick - Mr. Chairman, if I may, we cannot do that. The idea is if there is a hardship or a practical difficulty for you that merits –

Mr. Semple – Sure.

Mr. Kolick – the variance then the same hardship or practical difficulty is going to be there for the next person to merit the same variance. So, there is no reason why the Board should allow you to have it and not have the next person have it on the –

Mr. Semple – I understand what you're saying. I think -

3) **ERIC SEMPLE, OWNER, Cont'd**

Mr. Kolick – Let me finish here. And also under the intent of the Code one of the reasons for the limitations on accessory buildings is to have useful open space, to have air, to have light – all those items. That’s why we don’t allow – that’s why the legislators don’t allow that much to be jammed on a lot. It’s not just unique to you. So, to allow you to have it and say take it off doesn’t make any sense. If it’s okay for you, it’s okay for the next person too. If you meet the requirements of the Code then the next person meets the requirements of the Code. This Board can’t ever condition it on the removal of it. The only time we ever condition anything on a removal is if it was a temporary time like six months or while something else is being built –

Mr. Semple – Sure. Sure.

Mr. Kolick – and we know it’s coming down. Something like that they can do for a short period but not by way of ownership to say we will grant the variance but it has to come down when you leave.

Mr. Semple – I understand that what you’re telling me is that the variance stays forever with the property. What I guess I was getting at is because I have these on literally a temporary base – it’s on 301’s and 4’ of timber, I can take those out and reclaim that property back to virgin in an afternoon on both structures and I would do that with both. Understanding the variance is there with the house and then that someone would have to come back in and completely redo that effort if in fact they wanted to have the two structures and I contend to you that many folks won’t go through the effort or the expense to do that.

Dr. Goist - Mr. Evans, did you have a comment?

Mr. Evans – Mr. Semple, in the original information that you provided us you indicated that your son had a medical condition that required or prohibited him from being out in the lawn area. Is that in fact a documented medical condition or is that just he has –

Mr. Semple – I have a generic letter from his MD that says he is currently on prescribed allergy medications. What basically happens is if he is out in the yard in any kind of bare feet, which kids most times of the year in the summer they are, after a few hours he gets an actual rash and he has a brother that is only two years older than him and what my wife’s dilemma is that she can’t really send him in the house and leave the other one out so she has to penalize one and put the other one in with him and what her solution is then is because we do have the playhouse and there is a picnic table in there for those of you that saw it, it’s very usable as a constructive area for a kid to play. It allows him several hours to get there with the windows open, cross ventilation, get out of the grass and still have his brother playing with the dog or picking vegetables in the garden or doing something outside with his mom that prevents her from being in the predicament where she has to penalize one “Okay we both have to go in now because Philip’s feet are blistering out’.

Mr. Harr – Or he can wear socks and shoes.

3) **ERIC SEMPLE, OWNER, Cont'd**

Mr. Semple – He could, no doubt. Have you had kids that age?

Mr. Harr – I did.

Mr. Semple – Do you know how hard it is to get them to wear –

Mr. Harr – And I did. I sympathize with your predicament but I can't find a hardship that I can hold up as a shield against the next guy who wants two sheds. You have a two car garage. You have a big shed. You have a basement. I have a two car garage, I have no shed. My garage is a catastrophe and I can only park one car in there.

Mr. Semple – As can I.

Mr. Harr – But that's what it is. The Code is there for a specific purpose and we are allowed to make deviations when the Code conditions are met. There has to be specific hardships or practical difficulties to merit it.

Mr. Semple – Can you offer me any comment – I would be interested in the legal folks comment on the issue of – I know everybody is dialing in on hardship, hardship, hardship, hardship. I know that's a big element but –

Dr. Goist – Mr. Semple, I don't think this is the proper forum for legal advice. If you want to seek legal advice, there are those avenues.

Mr. Semple – I understand that.

Dr. Goist – This is a Public Hearing. I am now going to ask if there is anybody who is in the audience that would like to speak for your variance.

Mr. Semple – Thank you.

Dr. Goist – It there is, if you would come forward and give us your name and address please.

Mr. Ward – Rich Ward. Good evening, Board members. I live at 20684 Albion. I am directly next door to Mr. Semple. Just a couple of quick things. I have absolutely no problem with the way it's set up with the playhouse. My kids share it as well. I have a four year old son. It's fantastic actually especially in a weather situation because where we're at it is open in the back, really windy and nasty back there when we have weather and they can still play outside. It is a beautiful structure. It really is. You look at my little thing I built on my own over there and I feel bad. I wish I had something nice.

Mr. Harr – The blue shed out there, right?

3) **ERIC SEMPLE, OWNER, Cont'd**

Mr. Ward – Yes, it's pitiful, right? Oh no, that's hers (indicating Ms. Marxen). Mine is just - it's pitiful, I'm sorry, but it is what it is. I was there and actually helped my neighbor Mr. Semple build the pads. It was interesting work. He doesn't do anything in any way, shape or form half way. Everything was perfect. It was beautiful. It was tamped. He should build them for a living but basically what I'm saying is I have absolutely no issue with it. I can understand the issue that we won't be his neighbors forever and the idea about taking it down or tearing it down when he leaves or whatever would please the new neighbors or whoever bought my house or his house or the neighbors down the streets house or whatever it is but basically all I want to do is just add that there is absolutely nothing about it that upsets my way of living in any way. We have a beautiful open field behind our yards, which is great because it's great. I have older kids. I have many kids and the older ones enjoy the park back there as much as they would if we took them down to the MetroParks. So, I guess in my closing I have absolutely no issue with it and the way he is using it and the way the kids enjoy it, it's something that I enjoy as well. Working all day and then coming home and seeing them in there on a rainy day is just the greatest thing ever to me and that's just something that I wanted you guys to take into consideration just to hear me speak just to know that I have no issues at all with it.

Dr. Goist – We very much appreciate your comments.

Mr. Ward – Thank you.

Dr. Goist – Is there someone else that would like to speak for the variance? If you'll give us your name and address please.

Ms. Marxen – My name is Sara Marxen. I live at 20624 Albion Road. I am the one with the pitiful blue shed in the back.

Mr. Harr – I didn't use the word pitiful.

Ms. Marxen – I heard pitiful. Was that you? (Referring to Mr. Ward).

Mr. Ward – It's on the record already.

Ms. Marxen – I heard this whole thing is on TV. Is that right?

Dr. Goist – No.

Ms. Marxen – Thank goodness. Okay, I've lived next door to Eric since 1996. My next move like Mr. Wards is to a funeral home so I plan on staying there until I die. A couple of things that I think are important. Our neighborhood is not part of a homeowner's association. We are not Waterford Crossing; we are not Spy Glass; we are not anything. Our back yard is an elementary school; our front yard is an apartment building. Not too far east is a railroad track; not too far west is a shopping plaza with a bar, a convenient store and the Twilight

3) **ERIC SEMPLE, OWNER, Cont'd**

Ms. Marxen continues - Boutique, which I'm not sure exactly what they do. Suffice it to say that we don't really live in a glamorous neighborhood. What he has done is going to help organize and clean up the variety of stuff that he has in his yard. He is very handy as he stated and Rich has stated. They have a lot of garden stuff. He has a large garden so they store tools, rakes, rototillers, that kind of stuff. They also harvest rain water so they have to collect 55 gallons drums of water. There is a bunch of those things going on that would in the wintertime just make it unattractive if they were out. I don't know if that's a hardship for me. They do have two small children with a lot of play stuff. There is a trampoline, a sandbox, a kiddie pool. The lot does have a lot of items. The second structure is used to store those items during the winter. It's not a cheap structure from a big box store. It is something they brought in. It looks decent. It's a high quality building. It's not unlike any other structures in the neighborhood and I know that while there may be a regulation that you can't have two, there are plenty of folks up and down the street that have multiple things in their back yard or, like you said, the neighbor - I'll give it away - on the other side does keep a trailer back there and that's where he puts all of his stuff. I would rather have what Eric has in his back yard than a trailer. So, that's all I have. I'll paint my shed.

Dr. Goist - This is still a Public Hearing. Is there anyone else who would like to speak for this? Is there anyone who would like to speak against this? I am going to because of you bringing this matter up, I think we need to, as a City, look into the fact that somebody is using a mobile trailer as - I don't know if it's perfectly legal, I don't know if it meets Code. I have no idea but I know that we have people who can find out and we'll ask our secretary to ask the appropriate people to check that out and we'll find out what's going on. I tend to agree with you but I live in a different area here where we don't have that kind of thing in our back yards. We don't have fences and so it's a totally different situation but I understand that trailer sitting there. There is no one here to speak against the variance so I'm going to ask for a motion to approve this variance.

Mr. Baldin - Mr. Chairman, before we do that, Mr. Semple, have you inquired with your builder since you were here a couple of weeks back if he had any interest in buying that improperly placed shed back from you?

Mr. Semple - I have not. The package that I set up was a pretty good deal to be able to waive the shipping fees, which is the biggest piece of it with gas being up over \$4.00 a gallon. He is all the way down in Amish country so I would find a relative that would take it and pay the \$200 or \$300 or \$400 to have it shipped probably to a neighbor's house before I did that.

Mr. Baldin - Thank you.

Mr. Semple - I appreciate your asking but it's over a year old so even the warranty probably is over.

Mr. Harr - Mr. Chairman?

3) **ERIC SEMPLE, OWNER, Cont'd**

Dr. Goist - Mr. Harr?

Mr. Harr – Does the lady with the blue shed that has been referred to as pitiful want a new shed? Just kidding, just kidding.

Mr. Baldin – It could be moved over to the neighbor's yard.

Ms. Marxen – Then I might accept it (from the audience).

Mr. Semple – Can I really be honest? That's how much my neighbors and I get along.

Dr. Goist – We appreciate that. That's a very heartfelt thought. Very heartfelt thought.

Mr. Semple – They offered that and you know what, I just don't think it's right. I don't think it is right to put my shed on her property with all my stuff in it.

Dr. Goist – I understand. Very heartfelt thoughts but I'm going to ask for a motion to approve this variance.

Mr. Evans - Mr. Chairman, before we do that, one other thing that I wanted to mention that I talked about in caucus just for purposes of having it on the record, we did have a discussion in caucus about this situation. Had this been a request to us to grant a variance in order to construct a building, our propensity in looking at it would have been probably to look at the variance request as one that we would deny because of past experience where we have denied second structures in similar circumstances. Unfortunately, in this situation the Semple family has come to us with the structure already up. It does limit us because of the way that we have treated variance requests in the past and unfortunately, the constraints as Mr. Harr and others have said is that we look at it in the context of not the existing structure and not the fact that it has been used and in place or whatever but we have to look at it in the context of were it to be a new request coming before us with the structure not in existence. Nevertheless, it is already up and we really have to look at it in that context. We did talk about that in caucus and I did want that to reflect on the record.

Dr. Goist – Thank you. I appreciate that. Now I'll entertain a motion.

Mr. Evans - Mr. Chairman, I would like to move that we approve a request for a variance from Zoning Code Section 1252.15 and Section 1252.18, which permits one (1) accessory building and where the applicant has constructed a second accessory building 12' by 16'; property located at 20650 Albion Road PPN 391-26-003 zoned R1-75.

Mr. Bohac – Second the motion.

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

3) **ERIC SEMPLE, OWNER, Cont'd**

ROLL CALL: MR. BALDIN – NAY MR. BOHAC – AYE
 MR. EVANS – AYE MR. HARR – NAY
 DR. GOIST – NAY

Dr. Goist – Your variance has been denied. So, we wish you the best and hopefully it's all going to work out for you.

Ms. Zamrzla – Mr. Chairman, the Board needs to set a date that the shed needs to come down.

Dr. Goist – I think the last time this happened it was thirty days.

Mr. Kolick – Mr. Semple can work with the Building Department and it will give him a reasonable period of time to work to remove the shed. At this point, as was mentioned in caucus, maybe he wants to leave the larger shed and move the other one. He just needs to let our Building Department know. I think thirty days is a reasonable time to have it accomplished but he'll work with the Building Department. A lot of these things are weather dependent. If for some reason we get thirty days of rain then they will give him a little longer but they'll work with him.

Mr. Evans – Mr. Chairman, could I perhaps offer the suggestion at this point that we suggest to the Building Department that if the applicant wants to modify the larger shed that at this point a modification could be made over the next couple of months and in caucus we talked about the fact that given the size of this second shed that was done without the permit that he could perhaps wall off a section, add a door in the back and store equipment in that area, keep that one larger shed and use the front portion of it that would be walled off as a play area. At that point in order to make that modification that he would be given time perhaps until September first or whatever to accomplish that in order to allow due process to take place and that's not to put a burden on the Building Department but to exercise the option that he could make a choice and appropriately do what is necessary.

Mr. Allen - Mr. Chairman?

Dr. Goist – Mr. Allen?

Mr. Allen – He would not have to submit any plans to make those modifications. He could just go ahead and make it.

Mr. Kolick – Again, Mr. Chairman, I think the time we have to leave up to the Building Department and the Building Commissioner. At this point he is in violation of the Zoning Code. It's not for us to determine how long it goes on in violation. They will give him a reasonable time. They will work with him with it, I'm sure. If he contacts Mr. Allen or the Building Commissioner they will work with him to accomplish what needs to be accomplished.

4) **JEFF KLJUN, OWNER**

- a) Requesting a 4' Height variance from Zoning Code Section 1252.04 (g), which permits a 12' Height and where a 16' Height is proposed in order to construct an accessory building;
- b) Requesting a 48 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 240 SF Floor Area is proposed in order to construct an accessory building; property located at 8680 Ashwood Drive PPN 391-11-063 zoned R1-75.

Dr. Goist – Our next Public Hearing is Jeff Kljun and his brother Brian is here for Jeff. If you will give us your name and address.

Mr. Kljun – My name is Brian Kljun. I live at 11003 Fairway Drive, Columbia Station. My brother's address is 8680 Ashwood Drive and was looking for a height variance of 16'. I'm not well versed in this since I was just given this yesterday and a request for a 48 SF Floor Area for an out building.

Dr. Goist – We understand just from our brief conversation and we appreciate the fact that you let us know that your brother was in an accident and he is having surgery. I'm just wondering and I'm going to ask our legal counsel, would it be better if we tabled this for a period of time or should we proceed. Obviously, he is not going to be involved except for in spirit.

Mr. Kljun – One of the things that we're looking at with the variance, I know it was set up for 16' with the building that he is putting in. What he is trying to do is mirror the house that is existing. Part of the plan setup was a minimum of 14' height. I know the request is for 16' the way the structure was set up. They can go to a minimum of 14'. I know that that's only a 2' variance on the height and I know what you said in caucus was a lot of it has to do with the neighbors on the side but I think even in the back with the aesthetic value, it's not like he is putting up a cheap blue shed in the back. He is trying to keep the aesthetic value of the neighborhood as well and I guess when you're talking about peak on peak height, it's not like it's a full 14' box all the way around.

Dr. Goist – I understand what you're saying. What we're saying is that it is that much taller. He has a 6' fence. What he had asked for originally and now you are saying he could go down to a minimum of 12'.

Mr. Kljun – No, no, this was saying 16'. He says he can go to 14'.

Dr. Goist – Okay, I apologize. Okay, I guess at this point I'll ask the Board members for comments.

Mr. Baldin - Mr. Chairman?

Dr. Goist – Mr. Baldin?

4) JEFF KLJUN, OWNER, Cont'd

Mr. Baldin – One thing, apparently there is no one in the audience who is going to be for or object to this and it is a very nice lot. I don't have any problem with the overall floor size. I do have a little bit of a problem with the height. Since you are thinking that you may bring it down to 14', it would be more favorable in my mind that this might be better. I did not see anything else in the neighborhood that is that big. We do want to work with people. Sometimes we can and sometimes we can't. That is all I have to say.

Mr. Bohac - Mr. Chairman?

Dr. Goist – Yes?

Mr. Bohac – I was down at the sight viewing the lot and I was down towards the cul-de-sac actually. It was pretty tough to find the address but I wound up down there. There was a building that was probably pretty close to 14' high. I don't know when it was constructed. Even though at that size, it didn't have a fence and it had trees like that had, I wouldn't have a problem with it being 14' high. Sixteen feet high I would agree after what you guys said in caucus with the fact of the 6' fence but there are trees in the back, back there, and I don't think it would infringe on anything either way with that. Thank you.

Dr. Goist – Mr. Evans?

Mr. Evans – Unfortunately, Mr. Chairman, at this point, again, the reasons for granting a variance resolves around the hardship of the situation. There are sheds that are in the area that are in compliance. I did notice the one down at the end of the street that Mr. Bohac was referring to and I guess, to me, the shed height is not something that really allows a hardship unless you have topographical issues or something where in this situation, to match an architectural style of the house I look at it as there are four yards that back up to it. Whether or not those current residents object to it or not, the problem is again, all of a sudden we have people all around who want bigger sheds then. It's the way that things oftentimes work and I can't see any reason either for the height variance or the square footage in this case that there is a hardship that we're given latitude in terms of the Codified Ordinance just to grant the exception for it. At this point, to me, the 16' is too high. Whether 14' is or not, even a 12' might be but 12' is allowed in the Code. So, we can't necessarily legislate that. That is allowed but the 16' involves us looking at the constraints of a hardship and again, in this one, I don't see that. Thank you.

Dr. Goist – Do you have issue with the square footage?

Mr. Evans – At this point, I can see nothing under our Code that says there is a hardship that the square footage should be granted separate from the height restriction.

Dr. Goist – I think looking at the size of the lot, it's such that it can handle that square footage.

4) JEFF KLJUN, OWNER, Cont'd

Mr. Evans – I'm not saying that it can't handle it but at this point, I can't justify doing that based on what has been presented. There is no topographical issue; there is no issue about anything else. It's just a desire to have something and we're not necessarily allowed to use that for a reason for the variance.

Dr. Goist - Mr. Harr?

Mr. Harr – I personally don't have an issue with the square footage. It's a pretty nominal item there. Because I do have an issue with the height, which to get where I would like it to be, which is within the Code, you may end up reworking the plan anyway and that 48 square feet may disappear at some point. I do concur with Mr. Evans on the height. I looked at the property and there are a number of houses that intersect right there. I think 12' is going to look very high to be honest with you but that is within the Code. I do believe anything in excess of the Code, in my opinion, is almost unsightly back there. I respect the fact that he wants to build something that looks similar to the home or it really impacts anyone except himself, as Mr. Evans has pointed out, that is an aesthetic item of his choosing and it's not really a hardship per say in the construction of the shed. I think for that sized yard, the 12' is more than enough and will provide more than enough storage to service that yard. The 48' doesn't bother me. It's a very small variance and I think the yard is of sufficient size to handle it. I don't think that will adversely impact the neighbors at all.

Dr. Goist – I think, Mr. Kljun, as we said in caucus and as I had suggested, I think I would like to see variance (a) disappear. I would like to eliminate that and consider –

Mr. Harr - Mr. Chairman, at the very least, if the applicant wants to move forward with that variance request or amend it to 14' I would suggest we vote on them separately.

Dr. Goist – Well, if he asks for 14' we'll turn it down and then he can go ahead and comply.

Mr. Kolick – I think you should act on the height separate from the square footage because there may be a different result.

Mr. Kljun – Yes, it is listed as an (a) and (b) item.

Mr. Harr – Ordinarily we would act on them both in concert. All I'm suggesting because we have varied opinions on those variances that if you decide to move forward with variance (a) as a request, I would ask that we act on them separately.

Dr. Goist – Your comments?

Mr. Kljun – Coming back from my side, maybe we could come down to keep the overall plan with the 14'. So, if you do them separate, we're going to have to look at something else as far as the structure goes but if I can get the approval on one or the other, that would be fine.

4) **JEFF KLJUN, OWNER, Cont'd**

Mr. Kljun – Thank you.

Mr. Kolick - Mr. Chairman, do we want Findings of Fact and Conclusions of Law on those items denied tonight?

Dr. Goist – Yes.

Mr. Kolick – Okay, thank you.

Dr. Goist – Any other business to come before this Board? If not, meeting is adjourned.

Meeting adjourned by Dr. Goist at 9:12 p.m.

<u>Signature on File</u>	<u>Signature on File</u>	<u>August 10, 2011</u>
Dr. Goist, Chairman	Kathryn A. Zamrzla, Sec'y	Approval Date