

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

**Meeting of
October 19, 2011
7:30 p.m.**

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

Administration: Assistant Law Director: Dan Kolick

Building Department Representative: Joe Allen

Recording Secretary: Kathryn Zamrzla

The Board members discussed the following:

1) JAMES TOMCHECK, OWNER

Requesting a variance from Zoning Code Section 1252.15, which already permitted one (1) accessory building in 1989 and where a second 7' by 7' accessory building exists; property located at 14456 Oakland Park Drive PPN 398-03-040 zoned R1-75.

The Board discussed that this applicant put up a garage in 1989 and moved a 7' by 7' shed to the other side of the property instead of removing the 7' by 7' shed. A permit was obtained for the garage in 1989 but there is no permit for the 7' by 7' shed. This situation was brought to the attention of the Building Department by a neighbor who complained about the applicant's fence permit.

(F) **PUBLIC HEARINGS**

2) SPRAGUE RESEARCH, DEVELOPMENT CO./
John Carney, Representative

Extension of the determination of November 17, 2010 of the Board of Zoning and Building Code Appeals:

- a) Requesting a 79' Front Yard Parking Setback variance from Zoning Code Section 1262.07 which requires a 100' Front Yard Parking Setback from the Sprague Road right-of-way and where a 21' Front Yard Parking Setback is proposed in order to install Additional Parking Spaces;
- b) Requesting a 41' Side Yard Parking Setback variance from Zoning Code Section 1262.07 which requires a 50' Side Yard Parking Setback from the Dow Circle right-of-way and where a 9' Side Yard Parking Setback is proposed in order to install Additional Parking Spaces;
- c) Requesting a 5' Side Yard Setback variance (West) from Zoning Code Section 1262.07 which requires a 10' Side Yard Setback (West) and where a 5' Side Yard Setback (West) is proposed; property located at

14955 Sprague Road PPN 395-12-001 Zoned Research and Development (RD).

The Board discussed that this is the third or fourth year that this variance has come to the BZA, the company doesn't require it yet, there are no changes and that if approved, it must be read that it is subject to the parking spaces being installed first on the Dow Circle side of the parking lot and then the Sprague Road side.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS

MINUTES OF MEETING

October 19, 2011

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

Present: Dr. Goist
Mr. Baldin
Mr. Evans
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 October 19, 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. For all of you who are in the audience this evening who would like to speak before this Board, and also our Secretary and Mr. Allen in the Building Department, if you would please stand and our Assistant City Law Director will swear you in.

Mr. Kolick then stated the oath to those standing.

1) **JAMES TOMCHECK, OWNER**

Requesting a variance from Zoning Code Section 1252.15, which already permitted one (1) accessory building in 1989 and where a second 7' by 7' accessory building exists; property located at 14456 Oakland Park Drive PPN 398-03-040 zoned R1-75.

Dr. Goist – We have one new application and it is James Tomcheck. If you would come forward and give us your name and address first please.

Mr. Tomcheck – James Tomcheck. I live at 14456 Oakland Park Drive. I have been a resident there since 1973 and I'm here for this garage business. I would like to bring to attention to everyone here that the reason that I had the garage there was for my hobby. I have an antique automobile I restored and that is what the garage was for. I have pictures

1) **JAMES TOMCHECK, OWNER, Cont'd**

Mr. Tomcheck continues - here that prove I used the garage for this car. It was a seven year project. Would you like to see it?

Dr. Goist – No, we really don't need it.

Mr. Tomcheck – Well, that's what I did. I put the garage up to restore this 1930 Ford car and it's quite a project to do. You can't do it in the family garage. You have a lot of sanding and painting and stuff like that. So, I went to the City and asked them – at that time – I don't think people remember but the most prevalent type garage that was being sold at your Forest City and Builder's Square at that time was a little barn type structure. Do you know what I'm talking about? So, I asked them if I could put up this garage – what is the difference between a garage shed and a storage shed? They asked me what I was doing and I explained it to them. I don't know who I talked to. He told me what maximum size I could build and the square footage and how far I had to be off the property line and I told him it was going to have an overhead door and he said it looked okay to him. So, I applied for a permit and I got it. After I built it I started on this car. It was a seven year project and there was no room in there for my lawn mowers, of course, so I just took the shed and put it on the other side of the property.

Dr. Goist – Which you did not get a permit for the little shed.

Mr. Tomcheck – No, when I put that thing up there, there was not too much around me. It was open area there and the gentleman who lived next door to me was a fireman in Parma and I have a picture of his little shed too and we built both of them at the same time. I didn't get a permit.

Dr. Goist – The concern is that in 2011 you are not allowed to have two accessory buildings.

Mr. Tomcheck – I didn't know that at the time when I put my garage up.

Dr. Goist – Now you have come in and applied for a permit so the rules are what they are today, which is only one accessory building. So, we as a Board want to bring this into compliance. So, I'm going to let the other members of the Board quiz you and get their questions answered.

Mr. Tomcheck – I also have some signatures from my neighbors around me who say it doesn't bother them.

Dr. Goist – You want to make sure that at your Public Hearing on November 2, 2011 that you have anyone who is in favor of your project at the meeting to speak on your behalf.

Mr. Tomcheck – I could probably ask them.

Dr. Goist - Mr. Evans?

1) **JAMES TOMCHECK, OWNER, Cont'd**

Mr. Evans – Thank you, Mr. Chairman. Mr. Tomcheck, what will be the use of the garage going forward now? Are you keeping that car in there now that it's restored?

Mr. Tomcheck – No, next week the car is going to Iowa.

Mr. Evans – What will you do with the larger building then?

Mr. Tomcheck – Well, like I said I built it for that car. I did keep it in there for a long time. It took me seven years to build it in there and I stored it in there for a while and now I'm in the process of moving to Florida. I'm selling my house and I'm selling the car. So, what am I going to do in the garage? What do you have in there? I have a lot of the stuff that I used in the shed too - sand blasting equipment, wash tubs and stuff like that.

Mr. Evans – So, you have water and electricity out to the building?

Mr. Tomcheck – No.

Mr. Evans – Do you have any idea when that smaller first shed that you and the neighbor would have built was built?

Mr. Tomcheck – I think it was 1987 or 1986. I'm really not sure.

Mr. Evans – So, it's been around for a long time and when you got the permit for the new garage, there was probably nothing said to you that that was the second accessory building.

Mr. Tomcheck – No. James Lumber built that for me when they were in business. They sent two carpenters out and I went and got the permit after work and stuff like that. It was just a hurry up deal. Nobody told me anything about not having two buildings and I didn't ask anyone at the time.

Mr. Evans – All right. Each of us will be out to look at it. I have not had the opportunity to do that. The overhead door that is on there is large enough to get a vehicle in and out and I'm assuming it must be 8' tall.

Mr. Tomcheck – Yes, the door is 7' tall and 8' wide. The model A car is a very small little car. It's not very big if you're familiar with a Model A Ford.

Mr. Evans – I couldn't tell what kind of car it was from the front there.

Mr. Tomcheck – It's not even 14' long to tell you the truth.

Mr. Evans - Mr. Kolick, one question I have is the applicant has indicated he is in the process of selling his house. With a garage with the overhead door, does he need to be aware of what constraints there may be once that house is sold to someone and the use of that garage?

1) **JAMES TOMCHECK, OWNER, Cont'd**

Mr. Kolick – He won't, Mr. Evans, because we issued a permit for this garage back in 1989. We didn't have the same restrictions for anything with the 6' overhead garage door. It wasn't then considered a garage. That is not the way we interpreted the Code back in 1989. Now, if it sat vacant there for a year, we may have problem because then he may lose his non-conforming status, but right now, no. If someone wanted to use it for the same thing they would be permitted to do it but Mr. Tomcheck, just so you understand, there is no problem with your garage. The shed with the garage door is in compliance. You have a permit for that. The problem is with your 7' by 7' structure. Even back in 1989 we only permitted one accessory building on a lot. That should have been removed at that time and whether the inspector didn't see it or whether he –

Mr. Tomcheck – I probably would if I didn't need it for the storage of lawn equipment.

Mr. Kolick – I understand but the laws haven't changed since then. So, it isn't a matter of the laws changing and making something improper now that was proper then, it was never proper to have two buildings on there. We don't have a problem with the one from 1989 because you have a permit. The problem is for the 7' by 7' shed you never got a permit for. That is what the Board is looking at.

Dr. Goist - Mr. Harr?

Mr. Harr – I don't have anything. I think Mr. Evans covered most of my comments. I was concerned as well if you recall having any conversations with regards to that second shed but at the time that it was inspected and the inspected process of the garage that you built there, no one mentioned anything about the second shed to you?

Mr. Tomcheck – No, I don't recall anyone saying anything. James Lumber took care of a lot of that. They just built the thing and two carpenters came out and knocked it out. I was working.

Mr. Harr – Pretty quick process is was you're saying then.

Mr. Tomcheck – Yes. I don't know if anyone even came out to inspect it.

Mr. Kolick – The drawing that was submitted to get the permit in 1989 only shows the new accessory building. It doesn't show the smaller shed. Whoever submitted the drawing didn't put it on the drawing.

Mr. Harr – Maybe they presumed it would be removed. Mr. Tomcheck, the vehicle is sold to a third party?

Mr. Tomcheck – He is supposed to come and pick it up the 29th of October. He is coming from Iowa to look at it. He gave me a bid on EBay for it.

1) **JAMES TOMCHECK, OWNER, Cont'd**

Mr. Harr – With the removal of that vehicle from the garage, will it now accommodate the materials that are now housed in the 7' by 7' shed?

Mr. Tomcheck – Probably.

Mr. Harr – I don't have any other questions until I see the property.

Dr. Goist – Mr. Bohac?

Mr. Bohac – No questions.

Dr. Goist - Mr. Baldin?

Mr. Baldin – I think Mr. Harr and Mr. Evans pretty much covered everything. I think at the time that you went for the permit, James Lumber was building your shed and they probably told you that you needed a permit, I assume.

Mr. Tomcheck – They just took care of putting it up for me because I bought all the materials.

Mr. Baldin – That's what I'm saying. They're probably the ones that told you that you needed a permit. Why else would you go if you didn't go for the first shed? Okay. Again, once the car is sold there would be room to store whatever you have in the smaller shed, correct?

Mr. Tomcheck – Yes.

Mr. Evans – I have one other observation. Mr. Tomcheck, as you're doing the talking to your neighbors about the variance request, it probably does give you an opportunity to ask if anyone might be interested in buying the 7' by 7' shed from you. It looks like it's a nice shed from the pictures and well-constructed.

Mr. Tomcheck – Yes, it's not junky. It's the nicest one around.

Mr. Evans – You might see if someone might have an interest that doesn't have a shed.

Mr. Tomcheck – If they can get it apart.

Dr. Goist – Mr. Tomcheck, I was at your house already. I get to run around town since I'm retired and you and I had a discussion the other day. You told me that you were not at all objectionable to taking that shed down.

Mr. Tomcheck – Well, I don't like to take it down.

1) **JAMES TOMCHECK, OWNER, Cont'd**

Dr. Goist – I'm going to follow up on that because you –

Mr. Tomcheck – If I have to take it down, I'll take it down. That's all.

Dr. Goist – You're going to sell the house so I see no reason for this Board to give you a variance to approve the 7' by 7' shed, which is not allowed, for you to then sell the house and us to have given you a variance that stays with the house. I just want you to know my thinking because we're here to give people variances to people in need. You are indicating this need is going away and it's going away rapidly. So, if you sell the car, which we hope you do, and you have room to put the stuff from the smaller shed into the garage, then I see no reason to give you a variance for that smaller shed. That is my feeling.

Mr. Baldin - Mr. Chairman, I'm glad you brought that up. If we grant the variance, it stays with the property. That is not what we are here to do because there is no hardship. You have to understand what the different Codes are and why we grant variances. That's all I have to say.

Dr. Goist – Thank you, Mr. Baldin. If there are no other comments, your Public Hearing will be November 2, 2011. We will have you back then. Bring your neighbors if you want them to speak on your behalf. We hope your car is gone then.

Mr. Tomcheck – I hope I sell the house. Heck with the car.

RULING: SET FOR PUBLIC HEARING NOVEMBER 2, 2011

(F) **PUBLIC HEARINGS**

2) **SPRAGUE RESEARCH DEVELOPMENT CO./**
John Carney, Representative

Extension of the determination of November 17, 2010 of the Board of Zoning and Building Code Appeals:

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2) **SPRAGUE RESEARCH DEVELOPMENT CO./**
John Carney, Representative, Cont'd

- c) Requesting a 5' Side Yard Setback variance (West) from Zoning Code Section 1262.07 which requires a 10' Side Yard Setback (West) and where a 5' Side Yard Setback (West) is proposed; property located at 14955 Sprague Road PPN 395-12-001 Zoned Research and Development (RD).

Dr. Goist – We move to our Public Hearing and our only Public Hearing is the Sprague Research Development Company. Mr. Carney, if you would like to come forward and give us your name and address and I'll ask you to briefly summarize your request. We have been through this and there are no changes.

Mr. Carney - Mr. Chairman and members of the Board. My name is John Carney. I live at 20664 Beach Cliff Blvd. in Rocky River, Ohio. I am one of the managing general partners of Sprague Research Development Company so I'm not here as a lawyer representing but as an entity. We have two major tenants in that building and a couple of smaller tenants. The major tenant that occupies half of it is ITT Educational Services. They have been in there for a substantial period of time. Two or three years ago we renewed their lease for seven years. At that time, Dow Chemical had a long term master lease on the building and had two years left to go on it. We knew when we took it over that we did not have enough parking required in the ITT lease. So, we had an architect determine how much more parking we could add that would bring us into compliance and we came here to ask for a variance to put it in. We haven't needed it. They have not come to us and said they were short of parking. So, from our point of view they may very well leave sometime. We don't want them to leave. We want them to stay but if they were ever to leave, we wouldn't need that extra parking and we could leave the buffers the way they are. I asked Mr. Kolick why I can't get this for three years so we're not back here every year because obviously you may get to know us but it's not really the best use of your time. He said the way your Ordinance is written it only allows a one year variance because in the interim you could very well change the requirements. Of course, if that happened, we might have to put the parking in depending on how that works. So, we're here and last year you mentioned, let's not do this forever. I think frankly the first time we did this was 2008 not 2009. So, I think we're here for the fourth time and we request that you favorably consider this again so that we have the opportunity to put it in if it's needed.

Dr. Goist – Thank you. Mr. Bohac?

Mr. Bohac – We talked about it in caucus and whether we should or shouldn't, it's something we know we have to do for the interest of business in our town. I guess we'll just have to go with the flow on this one. No other comments.

Dr. Goist - Mr. Baldin?

Mr. Baldin – Mr. Carney, does ITT have four years left on the lease?

2) **SPRAGUE RESEARCH DEVELOPMENT CO./**
John Carney, Representative, Cont'd

Mr. Carney – Yes, it may be four and one half or four and a quarter. Something like that.

Mr. Baldin – How long have they been there?

Mr. Carney – We own the building from when we built in in 1972 until two years ago and it was under a lease completely to Dow Chemical and once they moved out, they moved that into a multi-tenant building and they came to Strongsville a number of times for building permits to change it. I think ITT has been there for ten or fifteen years.

Mr. Baldin – I know it's been quite a while. Who is the other tenant there now?

Mr. Carney – I don't know.

Mr. Baldin – Did they take much of the building?

Mr. Carney – They took about a third of it. They were in the building right next door.

Mr. Baldin – It looks like you may be coming back again since I don't think the Ordinance is going to change. So, what else can we say.

Mr. Carney – It's a substantial expense too besides the aesthetics. I think it makes sense to everybody to try to keep it the way it is and then someday it may not be necessary to put it in.

Mr. Baldin – We hope that it continues to grow and as Mr. Bohac said, we like to see more happening in our City. Thank you.

Mr. Carney – Thank you.

Dr. Goist - Mr. Harr?

Mr. Harr - Mr. Chairman, this is really not a terribly uncommon occurrence. We deal with a lot of commercial real estate at the bank in our business and through some of our trouble properties as well but where you have situations where you need flexibility, of course, to make required improvements. From an economic feasibility standpoint, you don't want to make changes until you absolutely have to. So, I certainly understand the request and as well as the reason that why you're not putting in the requirements until they really require them for their business. I would remind you that at the last approval or the last granting the variance did include language that we would want to see added to tonight's request as well conditioning that if you were to add parking spaces to that lot that they be done on the Dow Circle side first and then on Sprague as the last spaces put in.

Minutes
Strongsville Board of Zoning and
Building Code Appeals
October 19, 2011
Page 12 of 12

Mr. Goist – If there is no other business to come before this Board this evening, the meeting is adjourned.

Meeting adjourned at 8:21 p.m.

<u>Signature on File</u>	<u>Signature on File</u>	<u>November 16, 2011</u>
Dr. Goist, Chairman	Kathryn A. Zamrzla, Sec'y	Approval Date