

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

**Meeting of
September 7, 2011
7:30 p.m.**

Present - Board of Appeals Members: Glenn Goist; Rich Baldin; Frank Bohac; Ken Evans
Administration: Assistant Law Director: Dan Kolick
Building Department Representative: Joe Allen
Recording Secretary: Kathryn Zamrzla

The Board members discussed the following:

- 1) **BRIAN BUCKHOLTZ, OWNER/R & R Pool and Spa Co,
Representative**
 - a) Requesting a 9' Rear Yard Setback variance from Zoning Code Section 1252.29 (b) (1), which requires a 15' Rear Yard Setback and where a 6' Rear Yard Setback is proposed in order to install an Inground Pool;
 - b) 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 in install an Inground Pool; property located at 13830 Basswood Circle PPN 398-10-146 zoned R1-75.

Mr. Bohac stated a concern that the homeowner's in Pine Lakes Crossing may have a complaint about a pool going in so close to their property. Mr. Kolick stated he had a conflict on this application and could not advise the Board.

(H) PUBLIC HEARINGS

- 2) **CHARLES AND JANN DINDIA, OWNERS**

Requesting a 28.5' Setback variance from Zoning Code Section 1252.16 (e), which allows a 14' encroachment in to the required Setback and where the applicant is encroaching 42.5' in to the required Setback in order to install a Concrete Patio; property located at 17276 Hampton Chase PPN 397-12-139 zoned R1-75.

Dr. Goist stated that he will wait until the neighbors speak to form an opinion and he doesn't see where the hardship is. Mr. Evans stated some neighbors may not be impacted but some may because the sound of the ball bouncing carries and that neighbors tend to keep their opposition to themselves to keep the peace in the neighborhood.

3) **VINCENT VLASUK, OWNER**

Requesting a 9' Rear Yard Setback variance from Zoning Code Section 1252.32 (k)(3) E, which requires a 30' Rear Yard Setback and where a 21' Rear Yard Setback is proposed in order to construct an Addition; property located at 14280 Bentley Lane PPN 398-25-039 zoned R1-100.

Dr. Goist stated that because the back yard slopes the applicant has a hardship. The Board also stated that quite a few of the properties in Avery Walden had to get variances just to build the homes.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS

MINUTES OF MEETING

September 7, 2011

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

Present: Dr. Goist
Mr. Baldin
Mr. Bohac
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 September 7, 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 EXCEPT FOR MR. HARR

Mr. Bohac – I would like to make a motion to excuse Mr. Harr for just cause.

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 – I hereby certify that this meeting has been posted in accordance with Chapter 208 of the Codified Ordinances of the City of Strongsville. This evening we have Findings of Facts and Conclusions of Law for two separate items and I would like a motion on each of them separately. This first one is Richard Price. If I could have a motion to approve those.

Mr. Evans - Mr. Chairman, I would like to move that we approve the Findings of Facts and Conclusions of Law for the application of Richard Price, PPN 397-05-021.

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

Mr. Evans - Mr. Chairman, I would also like to move for approval for Findings of Facts and Conclusions of Law for the application of Mai-ly Nguyen PPN 392-33-025.

Mr. Bohac – Second. We have a motion and a second. Kathy, would you call the roll please.

ROLL CALL: ALL AYES: MOTION CARRIED

Dr. Goist – We also have in our packets minutes from July 27, 2011 and August 10, 2011. I'd like a motion to approve.

Mr. Baldin – Motion to approve.

Mr. Bohac – Second.

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

ROLL CALL: ALL AYES: MOTION CARRIED

Dr. Goist – Also, to our secretary, thank you Madam Secretary. You have our minutes caught right up to date.

Ms. Zamrzla – Thank you.

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

Mr. Kolick then stated the oath to those standing.

Dr. Goist – Our meetings are in two portions, New Applications and then Public Hearings. This evening we have one new application and it is Brian Buckholz. If you would like to come forward, give us your name and address and then explain to us what you would like to do.

NEW APPLICATIONS

- 1) **BRIAN BUCKHOLTZ, OWNER/R & R Pool and Spa Co, Representative**
 - a) Requesting a 9' Rear Yard Setback variance from Zoning Code Section 1252.29 (b) (1), which requires a 15' Rear Yard Setback and where a 6' Rear Yard Setback is proposed in order to install an Inground Pool;
 - b) 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 in install an Inground Pool; property located at 13830 Basswood Circle PPN 398-10-146 zoned R1-75.

1) **BRIAN BUCKHOLTZ, OWNER/R & R Pool and Spa Co, Representative,**
Cont'd

Mr. Fazulak – My name is Ronald Fazulak, 25904 Water Street, Olmsted Falls.

Dr. Goist – If you would tell us please the reason for the variance.

Mr. Fazulak – The property is on a cul-de-sac so it's, kind of, a crazy shaped yard and we are trying to maximize the left side of the yard to put an in-ground pool in. He would like to put in a 16' by 32' pool because that, kind of, maximizes where the – you can go smaller on a pool but what happens is the cost of the pool, the only thing you save on is material. The labor is the same. That is why a 16' by 32' is somewhat of a standard pool. In order to do that and the way the yard is shaped, we are asking for 9' off the rear property to the concrete deck so that puts the deck 6' off the property line instead of 15'. Off the side lot because again the way the pool and the yard is shaped, the one corner we are asking for 10' so again the concrete deck would be 5' off the property line.

Dr. Goist – I just have one question for you. If you didn't have these variances could you still get the pool in? I know you're asking because you want to maximize the size of the pool and put it in but I'm just asking if it could be done.

Mr. Fazulak – If we didn't put a concrete deck around it, yes. It's hard to see but I drew a line, which was 15' off the property lines and then I superimposed the pool above it. So, as you see, if you were to wipe the deck out I could move the pool closer to the house and to the right but then you have no concrete deck.

Dr. Goist – It was just a question to know where it stood. That's kind of a hardship for you.

Mr. Fazulak – The thing is the back of his yard - I can't remember the neighborhood there - that's a common area. There is really nobody behind them. My understanding is no one ever will be there. So, the only two people are his neighbors.

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

Mr. Evans – Thank you. Mr. Fazulak, is the deck required to be built around the pool for structural purposes or anything or is that aesthetic?

Mr. Fazulak – The way I build a pool because it's a galvanized steel wall vinyl pool, we have rebar, which gets put into the galvanized steel panels; therefore, when you pour the concrete deck, it becomes a structural part of the pool. Usually, the minimum on that is 3'. I know in the past what has happened on some of these because I know one time in order to – we didn't have to go through a variance – I cut the deck down then all the homeowner did at a later date is take some rebar and make the deck bigger. You have your rules here but you're the only city – this is my fortieth year in this business – that measures to the deck. Everybody else is to the water and that's what makes a real problem on these. I think you did it because one time people were putting above ground pools in 15' off the property line and then they

1) **BRIAN BUCKHOLTZ, OWNER/R & R Pool and Spa Co, Representative,**
Cont'd

Mr. Fazulak continues - would put a big massive wooden deck on it and put it right on the property line and it looks ugly. So, the rule is you measure from the deck rather than the pool water and my understanding is that is because of both inground and above ground.

Dr. Goist – You may have given us a history lesson. I didn't know that. Mr. Evans?

Mr. Evans – On the indication of the topo here we have a swale indication here that runs across the side. Is the pool going to be in the swale?

Mr. Fazulak – I don't know if they moved the swale in the back but there is no swale there. When I stake out the pool for you, you will see it's flat.

Mr. Evans – Okay. There is common area behind this?

Mr. Fazulak – Yes.

Mr. Evans – So, there are not homes?

Mr. Fazulak – Those would be way off.

Mr. Evans – It might be helpful if you have an idea what the distance – the width of the common area is back there. That may be helpful for us to know that. I know in some places the common area is 10' and some it's 40'.

Mr. Fazulak – I don't know that information. If this topo is to scale where they marked the common area here, we are already at least 40' to that.

Mr. Evans – The other question that I was going to ask is can it be taken off the property line so that we only have the variance on the one side. Is the deck or patio that exists now in the middle there, is that already there? I have not seen it yet. In other words, can it be moved to the right?

Mr. Fazulak – That's a screened in porch area. To the right, there already is a big stamped patio area there with a spa.

Mr. Evans – Okay. Thank you, Mr. Chairman.

Dr. Goist – Also, we would ask you to stake this for us so that we can see where the boundaries are.

Mr. Fazulak – You want me to stake to the outside of where the deck is going to be, not where the pool is.

1) **BRIAN BUCKHOLTZ, OWNER/R & R Pool and Spa Co, Representative,**
Cont'd

Dr. Goist – Yes.

Mr. Fazulak – I've done that before.

Mr. Bohac - Mr. Chairman?

Dr. Goist - Mr. Bohac?

Mr. Bohac – I noticed you do have a letter from Pine Lakes but they also – obviously they are going to be notified if there are going to be any variances that you're going for – they have the right to object. That's all.

Dr. Goist – Any other comments Board members?

Mr. Baldin – No comments.

Dr. Goist – We'll be out to see the property before the next meeting and I have one other question. Does Mr. Buckholz plan on doing this this year?

Mr. Fazulak – Yes, at least a major part of it. Usually, weather permitted obviously, the way the weather has been going the last x number of years, it seems to be nice until Thanksgiving.

Dr. Goist – Well, it is getting late in the year.

Mr. Fazulak – I realize that I can't start until after the twenty-day waiting period if it's approved. That way I can get the shell of the pool in, get it backfilled and get the dirty work done.

Dr. Goist – Thank you. Your Public Hearing will be September the 21st. You do not have to stay for the rest of the meeting unless you choose to listen.

Mr. Fazulak – Thank you.

RULING: SET FOR PUBLIC HEARING SEPTEMBER 12, 2011

(H) PUBLIC HEARINGS

2) **CHARLES AND JANN DINDIA, OWNERS**

Requesting a 28.5' Setback variance from Zoning Code Section 1252.16 (e), which allows a 14' encroachment in to the required Setback and where the applicant is encroaching 42.5' in to the required Setback in order to install a Concrete Patio; property located at 17276 Hampton Chase PPN 397-12-139 zoned R1-75.

Dr. Goist – Our first Public Hearing is Charles and Jann Dindia. If you would come forward and give us your name and address and go over your request for your variance.

Mr. Dindia – Charles Dindia, 17276 Hampton Chase. My request is for a setback variance to build a patio/recreation area. I apologize how I'm dressed tonight. I just came from my son's football practice. Normally I wouldn't be this informal.

Dr. Goist – And where do you want to put this and why?

Mr. Dindia – I want to build this patio/basketball court off the back property line for aesthetic reasons. I just feel it's the best place for the basketball – the patio to be.

Dr. Goist – Since you were probably seated behind me - I don't know if you were in the caucus.

Mr. Dindia – I was not in the caucus.

Dr. Goist – We did have some discussion in caucus. I think there is a feeling on the Board that this patio/concrete pad, if it should happen to be a basketball court, seems to be a little bit too far back in your yard. We, as a Board, feel that it would be better off – you're infringing on your neighbors, not on yourself. So, I would ask you where is the hardship if you brought it forward towards your house?

Mr. Dindia – Well, there is that swale that is right off in the front of where we are proposing to put it.

Dr. Goist – Swale being between the pad and your house?

Mr. Dindia – Yes, there is a small one. We just would prefer it to be back where it's at and the only neighbor that would be affected is the one immediately behind us and there is a fence there that would stop anything from going into their yard and if you came out and saw you noticed it would not affect anyone to the right. Cartwright's are to the left and that is a huge field as you know there and it's just the folks that are directly behind us that anything would affect at all, if at all, and we would just prefer it to be there. We just don't want it closer to the house.

2) **CHARLES AND JANN DINDIA, OWNERS, Cont'd**

Dr. Goist – I know we talked last time about the swale and some of the areas that had been redone and the landscaping that had been redone but I want to ask our Building Department, if he were to bring this forward and that was in the swale, is that going to affect it to the point that if they had to get in there they would have to take his patio up?

Mr. Allen – What normally happens is his yard is slightly higher in the back than up next to the house. So, normally what they do is have a small wrap around swale that is located approximately 20' behind the house. So, if he is 20' behind the house he still has room to move it up.

Dr. Goist – How far forward in your opinion?

Mr. Allen – We don't have a site plan for this property so I don't know exactly where this swale is but they are normally located 20' behind the house. He still could probably move this 40' to 50' forward if the swale is located 20' off the rear of the house.

Mr. Dindia – The swale runs right behind – it runs all around the perimeter of the yard.

Mr. Allen – About how far from the back of the house.

Mr. Dindia – It's almost on the property line.

Mr. Allen – No, behind the house.

Mr. Dindia – That's what I mean. It's almost – I have this here (indicating). Here is the back. I have a swale that goes behind here. Here is the sewer that we installed. I'm assuming that you all saw the sewer that we installed. So, it runs this way and then it goes like Mr. Allen has mentioned. It runs around the back of the property and then –

Mr. Allen – Behind where the –

Mr. Dindia – Yes, it runs behind and there is a tiny one that runs right here.

Mr. Allen – That's the one that I was talking about, the tiny one. How far from the back of the house is the tiny one?

Mr. Dindia – About 25' from the patio.

Mr. Allen – So, if he goes 25' from the patio, based on this drawing, he could probably move it 20' toward the house.

Dr. Goist – I'm going to ask you before we ask the other members, are you willing to come 20' closer to your house?

2) **CHARLES AND JANN DINDIA, OWNERS, Cont'd**

Mr. Dindia – We would prefer not to because you're talking about putting it here.

Dr. Goist – That's not what I asked you.

Mr. Dindia – But that's where you're asking –

Dr. Goist – On a compromise basis –

Mr. Dindia – That's where you're asking me to put it then on the other side of the swale here.

Dr. Goist – Correct.

Mr. Dindia – We would prefer not to. We would prefer to put it back where we have it.

Dr. Goist – I understand prefer and I understand that this Board in caucus felt it was too far back. So, I'm asking you on a compromise basis, would you be willing to move it 20' towards the back of the house?

Mr. Dindia – I would have to talk to my wife. Again, I don't want to do that. Again, it's only – the only person that it's affecting is the neighbor directly behind us. If they had a problem with it, they would be here tonight, I would assume. I'm assuming they got the flyer.

Dr. Goist – As we said in caucus, that is sometimes true and sometimes not true because a neighbor many times will not come forward because they are worried that they have to live behind you and they don't want to make that kind of stink.

Mr. Dindia – That's why we have Public Hearings and we spend a lot of money to send out flyers so that they can come and be heard but I can tell you, to the best of my knowledge, those folks wouldn't have a problem with what we're doing. Again, I understand what you're saying about a compromise and boy, would I like to compromise but that is not where we would like to put it.

Dr. Goist – It could be a deal breaker. It could be whether you get the variance or you don't.

Mr. Dindia – If I move it up, I don't need a variance.

Mr. Allen - Mr. Chairman? If he would move it up 20', as we suggested, he would still be encroaching. He would need a 10' variance.

Dr. Goist – Did you understand? If you move it 20' toward your house, you still need a variance for 10'.

Mr. Evans - Mr. Chairman?

2) **CHARLES AND JANN DINDIA, OWNERS, Cont'd**

Dr. Goist – Yes?

Mr. Evans – Mr. Dindia, there are several things that we, as a Board, have to look at and when you were here last time you may or may not have heard our usual dissertation about how we grant variances and the things that go on. Part of what we have to look at are precedents that we set because we oftentimes make a decision based on a particular property and then other people watch what goes on and what we approve and sometimes we have the front page on the paper and sometimes there are a lot of people who are surprised at what the BZA is doing. Any time we do a decision it's not necessarily about just one property, it's also about the precedents that we set. While your neighbor there right now who is behind you may not have a concern about it, should they go to sell their house a year from now and the first ten people are upset about the basketball court in their back yard and tell the owner they would never buy their house and right away they may be in a position where what seemed like a nice idea becomes a detriment and comes back to us and they wonder how we could have approved it. The BZA becomes the bad guy. The other thing that we have to look at is back yards, as we talked about in caucus, are oftentimes looked at as being a sanctum or an area that is a private area for people and those people who may live three or four houses away, their sanctuary is their back yard where they enjoy going out on their deck and sitting and relaxing or something like that. They may now have a basketball court in the back yard a couple of houses down and those of us that have had teenagers that understand basketballs, when they bounce on concrete they make a certain noise and coming off the backboard twanging sound, when that moves into the back yard it's altogether different than when we have them out in front of our house along the street where the driveway and garage is and everything may be located and some of your neighbors who may not think it's that bad because they looked at it as a patio suddenly find out it's a basketball court and now you have ten kids from the neighborhood that are playing half court back there and the sound becomes a little bit different than what they may have anticipated for a patio. So, our problem is that sometimes even though your neighbors may not object to it, we have to look at it with a broader picture because we have a responsibility that the Code calls for certain reasons for us to grant a variance and we have to look at the precedents and we have to look at the area and try to be smarter sometimes than what the occasion may be for looking at a situation and trying to anticipate what may happen. We have approved garages before that we thought were okay and suddenly they became residences because we didn't ask the right questions or the person didn't give us the right information and suddenly we have behind the house a new place that is being rented out and the neighbors are all upset because now that person happens to have moved in and has a rock band that practices back there and who knows where things go. We have to be cognizant of what the overall impact is and even though you may not see it as a situation whether it is closer to the house or not, we don't know whether it would make a difference but when we grant a variance, obviously people come back and look at us and ask why we would grant a variance for that much because it has impacted all the neighbors back in the area. So, those are the kinds of things that we have to look at as we deliberate whether or not to grant a variance.

Dr. Goist – Thank you, Mr. Evans.

2) **CHARLES AND JANN DINDIA, OWNERS, Cont'd**

Mr. Dindia – Thank you.

Dr. Goist – Mr. Baldin?

Mr. Baldin – Yes, Mr. Chairman. Pretty much I feel the same things that Mr. Evans has said and the other thing, even though that fence is behind you, it's a short fence. You may want to make that a little bit larger.

Mr. Dindia – That fence they had there they used to separate the lots when they had small children so they wouldn't come wandering.

Mr. Baldin – The other thing, we see the Cartwright property and it's not going to impose on the Cartwright property but who knows. Maybe someday Cartwright is going to sell that. Maybe they will build some homes there.

Mr. Dindia – I wish Donna or John would have come tonight because they called and said they weren't going to have issues.

Mr. Baldin – That's a possibility. That could happen. Just as Mr. Evans says over there the fact that a person buying the lot may not want to buy.

Mr. Dindia – Then again the neighbor behind me who has – you talk about sanctum in the back yard, you have the neighbor directly behind me with the swing set.

Mr. Baldin – But it is rather large and it is a recreational/basketball court and I think it's just a little but too big and it's too close to the property line. That is my personal opinion.

Dr. Goist – Mr. Bohac?

Mr. Bohac – I concur with both of the other fellows. There is no use beating a dead horse.

Dr. Goist – I agree and I think Mr. Evans did a really good job of explaining to you our position as a Board.

Mr. Dindia – I totally understand what Mr. Evans said.

Dr. Goist – On a compromise basis, would you be willing to move it forward to the point that you would only need a 10' variance. I'm not speaking for the Board but I think there is certainly a consensus that said we will accept a 10' variance.

Mr. Dindia – At this point, obviously, yes. I don't know if I would follow through with it but at this point I would agree to the compromise. Again, you are talking about one house that is really affected here. You talk about having a back yard that is –

2) **CHARLES AND JANN DINDIA, OWNERS, Cont'd**

Mr. Evans – Visually that would only affect one. Sound wise I'm not convinced that it would only affect one. I have a neighbor two doors down who has a basketball court that is sort of in the side yard. It's on a cul-de-sac and so it's positioned tucked into the house there and I do remember when Scott played basketball we would hear that day and night. We lived across the cul-de-sac but sound again, basketball and concrete, it carries. So, it wouldn't be just the neighbors right next door and while you may have kids from all over the neighborhood coming to do it you may have someone that lives three doors down that doesn't have kids and they might not feel quite as happy about having a basketball court back there. Does moving it up towards the house really change the sound dynamics? I don't know if it does. At this point, having it out in the middle of the back yard, there is no buffer at that point. The sound is going to move particularly down between the houses and that would be where I think we would have the greatest complaints. So, when somebody said you granted a 28' variance, we have to wonder if it's the smartest thing to do. Perhaps maybe not. Again, as Dr. Goist said, we are trying to look at a compromise so that we don't get hung out to dry should things go south and we make the wrong decision in terms of where we're laying that out. If you were to bring it up closer to the house then the part of the house that sticks out is going to shield that a little bit from going down that way. Again, will that solve it? I don't know. Would it be a problem? I can't tell you if it would be until it's in and then we wouldn't really know but I understand your desire to put it out in the back so that you have yard space and it's a beautiful yard. It's a deep yard. It's a nice area and I can see why you would want to do that. My problem is again, even though your back neighbor doesn't think it's an imposition now, should they go to sell, it may be people who live a couple of houses down who may feel that it's right out in the back yard and they may not say anything to you because they want to be a nice neighbor but they may hate you for it and again, they would hate us because we allowed it. We have to be the public conscious sometimes in addition to just being the BZA.

Mr. Allen - Mr. Chairman?

Dr. Goist – Yes?

Mr. Allen – I recalculated. If he would move it 20' forward he would only need an 8 ½' variance.

Mr. Baldin - Mr. Allen, you had made the comment earlier that you didn't have a topo. Do you think that's correct without the topo? Would it be better to have him come in with a topo and have a truer number? Can we just say between 8' and 10' tonight?

Mr. Allen – I was unable to locate a site plan. If the applicant has a site plan then I can show him.

Mr. Dindia – What about my drawing?

Mr. Allen – I need the one that shows the swales.

2) **CHARLES AND JANN DINDIA, OWNERS, Cont'd**

Mr. Baldin – The other thing, Mr. Chairman, is that did we talk about the lighting?

Dr. Goist – No.

Mr. Baldin – The lighting is something that we have to consider here. I don't know if you plan to put the spotlights on your home to light up that court to play at night.

Mr. Dindia – I think we talked about that last time. I have no plans of doing that at this time.

Mr. Evans – Mr. Dindia, we would probably condition the variance were we to grant it on the basketball court not being lit up so that you would not have night play on it. We do the same thing with restaurants in terms of mounting outside speakers in patio areas and things like that so that they don't interfere with the neighborhood.

Mr. Dindia – The only thing I have is this plan. Right now I do have a little spotlight on the back of my house as it is. It's a motion light. I wasn't planning on putting lights to have it lit but if I'm going to compromise here and move it back 10' what can – I might want to light it in the future. Is that going to be an issue? I'm already moving it back 10'.

Dr. Goist – No, we're not talking about 10'. We're talking about 20'.

Mr. Dindia – No, you said the compromise was 10'. That's what Mr. Allen said.

Mr. Baldin – No, you would be off 10', for a 10' variance.

Mr. Dindia – You're talking about me moving the court up 20'?

Mr. Baldin – Correct.

Mr. Dindia – That's nuts. It's too close to my house. I'm sorry. I would have moved it 10'. I could compromise. Twenty feet, that's right up against my house and that's not where we want it.

Dr. Goist – Let me be clear.

Mr. Dindia – That is right up against the house.

Dr. Goist – Joe is going to come and show you but we were talking about moving it 20' toward your house. You would only need an 8 1/2' variance. Mr. Allen is requesting that we get a site plan. Does that mean we should table it?

Mr. Kolick – At the applicant's request, I don't see how we have a choice. We don't want him to put it in the middle of a swale.

2) **CHARLES AND JANN DINDIA, OWNERS, Cont'd**

Mr. Dindia – Mr. Allen, you were out there. Did you see a swale?

Mr. Allen – I wasn't out there.

Dr. Goist – So, would you like to –

Mr. Dindia – I have already spent a lot of money on these plans. I'm assuming a site plan or survey would be at my expense.

Mr. Allen – Yes.

Mr. Dindia – I guess I'm willing to compromise at the 20'. I don't want to do anything else. The pad has been moved up beyond what I would like.

Dr. Goist – What in your mind is anything else? We have told you that we don't want lights. You don't have to take down the light on the back of your house.

Mr. Dindia – Basically, you're telling me that I have to move where I want the court for aesthetic reasons and for my own reasons why I would like this pad and you're telling me that I can't have it there so we're going to compromise and move it up 20' but now you're saying I have to get a whole site plan down to make sure the water runs. I put a sewer in at my own expense because of a mistake that was made by the Zoning Board or whatever when the house was built next to Cartwright's. My basement flooded three times and engineers came out to my house and said everything is fine. Okay? Now I'm just asking for a little pad. I guess I will compromise if you're going to allow that. I don't want to go out and spend five hundred dollars on a site plan.

Mr. Evans – Mr. Dindia, when the sewer was done, wasn't the City involved in that?

Mr. Dindia – The City was involved after I called them three and four times to come out after my basement flooded.

Mr. Evans – But I believe in order for that sewer to have been put in, there was probably a plat done that would have shown the topography.

Mr. Dindia – That I don't know. If that was done at the time, the sewer technically was on Cartwright's property which is right there. Again, my basement flooded three times. The City was kind. They provided the sewer and the piping. Okay? But I had to pay for the excavation and the installation and everything else.

Mr. Kolick – For the applicant, the reason they're asking for a topographical plan is so that you don't put the court in and wind up with the same problem again. You don't want to create another drainage problem or you're going to go back to the City and say, Why did you make me move this court here. Now I have a water problem.

2) **CHARLES AND JANN DINDIA, OWNERS, Cont'd**

Mr. Dindia – Isn't there a plan on record? Shouldn't there have been?

Mr. Allen – There was but I was unable to locate it.

Mr. Evans – Again, as we have indicated to the first applicant, one of the things that we would look at is if that really is a swale and to me it looked like the depression that I have from where my sewer pipes are and the ground settled, because it isn't a real deep swale like one normally might find if that is a working swale. We would not want to put the basketball court in the swale. That might be a reason then to locate it where you want it as opposed to moving it up closer. Making the right choice, and as you said you have already invested a lot in it, I don't want to make the wrong choice. I know the other Board members don't want to either because you'll come back to me and ask me why I let you put it in the swale. That just recreates a problem and you may have to build another sewer. We obviously don't want to do that. I understand that you want to get it in and weather becomes an issue and a lot of other things but the only way to do it is the right way and we have enough things in this City that were done the wrong way because we didn't take the time, didn't do things the right way, didn't ask the right questions, didn't have the right mechanics done to do it the right way. So, what we ought to do first is find out whether that was done at the time you did the sewer and go from there.

Dr. Goist – Mr. Allen, would the Building Department help him to go forward and get his site plan.

Mr. Allen – We will research our records and see what we can find and if we have anything available, we will make it available to him.

Dr. Goist – I would recommend that we table this and you get together with the Building Department and see if you can't come up with a site plan and we will table it indefinitely until you have that site plan. Shall we do it that way?

Mr. Evans - Dr. Goist, I think what we ought to do is at least do the Public Hearing tonight and get that portion out of the way so that, at least, that is closed and then that will allow us to move forward expeditiously on reviewing this at the appropriate time.

Mr. Baldin - Mr. Chairman, before you do that I just want to make one more comment. I have a hard time seeing that this would be a hardship and where he wants to put this court is 50' away from his house right now. That is taking advantage of what you want and this is what we're talking about here. He is saying to table this and let the City help you figure out where you can put this.

Mr. Dindia – I want to do it because it's my property.

Mr. Baldin – I understand that it's your property.

2) **CHARLES AND JANN DINDIA, OWNERS, Cont'd**

Mr. Dindia – It's not 50' from the property.

Mr. Baldin – Just by eyeballing it myself it looks about 50' from your home and talking with Mr. Allen, he, sort of, calculated about the same thing. That is why I asked him. Okay? That is a long ways and you want to put it out of the way and I can understand that because it is your property, but it's not a hardship reason for this Board to grant a variance.

Dr. Goist – We would ask you if you would request that we table this and I'm going to ask Mr. Kolick to put a time limit on this.

Mr. Kolick - Mr. Chairman, we will schedule it for the next meeting and then hopefully between now and then he can get together with the Building Department and see what we can find but if we have the Public Hearing we don't need to re-notice it or anything. So, we will ask for the public to talk and then we can get him back on a future agenda.

Dr. Goist – Okay? Is that acceptable with you?

Mr. Dindia – Yes.

Dr. Goist – This is a Public Hearing and I will ask for anyone to speak for this variance. There is no one. Is there anyone who would like to speak against this variance? There is no one.

Mr. Kolick - Mr. Chairman, we will schedule it for the next meeting. If for some reason they can't get together and can't get the items here for the next meeting then we will put it on for the meeting after. Right now we can put it on and we don't need to re-notice it because the Public Hearing has been concluded.

Mr. Dindia – So, who does a site plan? Would I see you Mr. Allen?

Mr. Allen – Yes, come see me and we'll work with you to put something together.

Mr. Dindia – Okay. All right, thank you.

Dr. Goist – Thank you, Mr. Dindia.

RULING: TABLED UNTIL SEPTEMBER 21, 2011

3) **VINCENT VLASUK, OWNER**

Requesting a 9' Rear Yard Setback variance from Zoning Code Section 1252.32 (k)(3) E, which requires a 30' Rear Yard Setback and where a 21' Rear Yard Setback is proposed in order to construct an Addition; property located at 14280 Bentley Lane PPN 398-25-039 zoned R1-100.

Dr. Goist – Our next Public Hearing is Vincent Vlasuk. Please come forward and give us your name and address.

Mr. Vlasuk – Vincent Vlasuk. Our current address is 8276 Claridge Court, North Royalton, Ohio. Address of the property in question is 14280 Bentley Lane, Strongsville, Ohio.

Dr. Goist – Okay. I think we all know what your request is for. I know that we have all seen your property. We all understand that there is a built-in hardship here. At least in my opinion there is.

Mr. Vlasuk – More so than we initially thought.

Dr. Goist – So, I said my opinion. Certainly what you want to do is something that I would want to do also. I'll let the Board members have their say. Mr. Bohac?

Mr. Bohac – As I mentioned before, now your situation there is to get the house built, the room built, the room that you're asking for the variance for and I understand that because, like I said in caucus, I'm going to want to see personally the property. I've been in landscaping for thirty years and I love it and I want to see what you come up with afterwards. After seeing what the fellow did and he was before us too, maybe you should see him. The fellow in Ledgewood, right above their swimming pool, he had to put up some special walls too for his driveway and he would be a guy I would suggest you see if you're going to have to go through that expense. But other than that, I have no other questions.

Dr. Goist – Mr. Baldin?

Mr. Baldin – Yes, Mr. Chairman, they do have a hardship and I think once they put this building up they will be very happy with it. We knew the property and it had a lot of problems. We have been there before in the area and good luck.

Mr. Vlasuk – Thank you.

Mr. Evans - Mr. Chairman, I think we talked in caucus about the fact that we know that in the area here, because of the way the lots are situated because of the topography, there are a number of variances that we have granted and there will probably be another series of variances that we are granting in the area here. This particular lot and the way the home is situated in order for them to construct the additional room that they're looking at, really there aren't any options in terms of location. The way the property sits and the way that the home is being built really limits the way that they could do this and because we have granted

3) **VINCENT VLASUK, OWNER, Cont'd**

Mr. Evans continues - variances on a number of properties in the past, I think that this is probably in keeping with the lay of the land, the type of the homes that are being built back in there and I think it's probably a situation that we're going to see again in the future and I just would say for the record that as we have looked at the way Avery Walden is constructed, that these types of variances do not have a major impact on the area and because of the nature of the layout and the way the homes are, the size, even though they are large lots and everything, that it's just not an unusual situation and totally appropriate to look at this variance.

Dr. Goist – Also, I want to make note that Mr. Dean, the President of the Homeowner's Association on the 31st of August sent us a letter regarding that they approve of the fact that you would like to have the variance. So, that's on public record too.

Mr. Vlasuk – So, you did get the amended letter?

Dr. Goist – Yes.

Mr. Vlasuk – Very good.

Dr. Goist – If there are no other comments, I would entertain a motion to approve. Oh wait, this is a Public Hearing. Is there anyone who would like to speak for the variance? Is there anyone who would like to speak against this variance? Seeing none and hearing none I will entertain a motion to approve.

Mr. Evans – Mr. Chairman, I'll move that we approve a request for a 9' Rear Yard Setback variance from Zoning Code Section 1252.32 (k)(3) E, which requires a 30' Rear Yard Setback and where a 21' Rear Yard Setback is proposed in order to construct an Addition; property located at 14280 Bentley Lane PPN 398-25-039 zoned R1-100.

Mr. Bohac – Second the motion.

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

ROLL CALL: ALL AYES: MOTION CARRIED

Dr. Goist – Your variance has been approved. There is a twenty-day waiting period and then you can go to the Building Department and pull your permits and proceed and also, if you would like any of our copies we certainly would be happy to hand them over to you.

Mr. Vlasuk – No, that's fine. Thank you.

Dr. Goist – You're all set.

RULING: VARIANCE APPROVED

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Mr. Baldin - Mr. Chairman, before we adjourn, in regard Mr. Buckholz's property, the Board of Trustees sent a letter in about the fact that they didn't seem to have a problem but they never signed the letter.

Ms. Zamrzla – It was an email.

Mr. Baldin – Oh, it was an email? Okay.

Dr. Goist – Do we need to get a signed copy, Mr. Kolick?

Dr. Goist - Mr. Chairman, I have a conflict in this one and really can't answer anything with this. You can turn it over to our Law Director.

Dr. Goist – Very good, thank you.

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

Meeting adjourned at 8:43 p.m.

<u>Signature on File</u>	<u>Signature on File</u>	<u>October 12, 2011</u>
Dr. Goist, Chairman	Kathryn A. Zamrzla, Sec'y	Approval Date