

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

**Meeting of
June 23, 2010
7:30 p.m.**

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

The Board members discussed the following:

1) DAWN WIEMER, OWNER

Requesting a 4' 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' high fence 4' beyond the setback of the main building; property located at 13504 Olde Orchard Road PPN 399-33-042 zoned R1-75.

Mr. Harr asked about the deck being in the way and asked the New Applicant why she couldn't come off the corner of the house. The New Applicant stated that there is a garden there and a walkway from the front of the house. Ms. Zamrzla stated that the rest of the fence had a separate permit to start that part early.

(F) PUBLIC HEARINGS

2) LEMONBERRY FROZEN YOGURT, TENANT/Frank Colabianchi, Representative

Requesting a 12' Lot Width variance from Zoning Code Section 1258.08, which requires a 200' Lot Width and where a 188' Lot Width is proposed in order to permit an existing building to be occupied for General Retail Use; property located at 12927 Pearl Road PPN 396-08-003 zoned General Business.

Mr. Harr stated that it's a preexisting condition and nowhere to go. Mr. Baldin said that he is pleased to see new business coming to the City.

3) **CATHERINE ANDRE, OWNER/Chris Tsonton, Representative**

Requesting a 5' Front Yard Setback variance from Zoning Code Section 1252.04 (d) (3), which requires a 35' Front Yard Setback and where a 30' Front Yard Setback is proposed in order to construct a New Single Family Dwelling; property located at 14262 Calderdale Lane PPN 398-25-009 zoned R1-100.

Dr. Goist stated that this same variance has been issued before for this development. Mr. Baldin stated that we will probably see more. Mr. Harr stated the sites weren't buildable without the variances and that we didn't issue a variance for all of them when the development went in because the variances would expire.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS

MINUTES OF MEETING

June 23, 2010

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

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

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

Dr Goist – Good evening, ladies and gentlemen. I'd like to call this June 23, 2010 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. Kathy, would you call the roll please?

ROLL CALL: ALL PRESENT EXCEPT FOR MR. EVANS

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

Mr. Baldin – Second.

Mr. Harr – 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. If there is anyone in the audience who would like to speak in front of this Board this evening, if you would now please rise and be sworn in by our Assistant Law Director.

Mr. Kolick then stated the oath to those standing.

1) **DAWN WIEMER, OWNER**

Requesting a 4' 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' high fence 4' beyond the setback of the main building; property located at 13504 Olde Orchard Road PPN 399-33-042 zoned R1-75.

1) **DAWN WIEMER, OWNER, Cont'd**

Dr. Goist – Our meetings are in two portions and the first is New Applicants and the second portion is our Public Hearings. This evening we have one New Application, Dawn Weimer. If you would come forward and give us your name and address please and then explain to us what you're asking for in terms of a variance.

Ms. Weimer – My name is Dawn Weimer. I live at 13504 Olde Orchard Road in Strongsville. I am requesting a variance to replace an existing fence. It's 4' off the edge of the house. When I bought the house in 2007, the fence was already there. It's connected to a deck, which is connected to a pool so I would just like to replace it because it's getting a little weathered and warped and I want to replace it with a vinyl fence. So, I would be redoing all the posts and everything.

Dr. Goist – Is this fence going to be right together or is there going to be spacing?

Ms. Weimer – No.

Dr. Goist – No spacing. What you have there now is board-on-board?

Ms. Weimer – Correct.

Dr. Goist - Okay. I know we had asked you about that 4' so we will all be out to take a look at it before the next meeting.

Ms. Weimer – I would also like to add to that 4', all the landscaping was there when I bought the house. There are a bunch of plants and things that grow on that side of the fence. So, again, if that had to be removed I would have to tear everything down.

Mr. Harr - Mr. Chairman?

Dr. Goist – Yes?

Mr. Harr – They are on the outside of the fence?

Ms. Weimer – No, they are on the inside. They are directly up to the fence.

Mr. Harr – I know we touched on that briefly in caucus but the attached deck portion is behind your house but that little strip along the side that we were discussing is a paved walkway with some plantings and stuff and a gate right next to the front of your house.

Ms. Weimer – Correct.

Mr. Harr – Okay. I don't have any other questions.

1) **DAWN WIEMER, OWNER, Cont'd**

Mr. Baldin - Mr. Chairman?

Dr. Goist – Yes?

Mr. Baldin – I think everything we heard in caucus and here would cover everything I had thought to ask. Thank you.

Dr. Goist – Okay. Your Public Hearing will be July the 14th. Make sure you talk to your neighbors. All the people within 500' of your home will get a letter stating what you're asking to have done. So, we'll see you back on the 14th. You do not have to stay for the rest of the meeting unless you would like to.

Ms. Weimer – Okay. Thank you.

RULING: PUBLIC HEARING SET FOR JULY 14, 2010

(F) **PUBLIC HEARINGS**

2) **LEMONBERRY FROZEN YOGURT, TENANT/Frank Colabianchi, Representative**

Requesting a 12' Lot Width variance from Zoning Code Section 1258.08, which requires a 200' Lot Width and where a 188' Lot Width is proposed in order to permit an existing building to be occupied for General Retail Use; property located at 12927 Pearl Road PPN 396-08-003 zoned General Business.

Dr. Goist – Now we move into our Public Hearing portion and our first Public Hearing is Lemonberry Frozen Yogurt. Frank Colabianchi is the representative. If you would like to come forward and state your name and address and what you're asking for.

Mr. Colabianchi – Frank Colabianchi, 11005 Pearl Road, Suite 2 here in Strongsville. I'm representing the Lemonberry Frozen Yogurt. We need a variance for the lot width. It's supposed to be 200' and we're only at 188' right now. It's pretty much locked in. We have Dr. Peacock to the south and there is no room there whatsoever and, as I put it last time, Kenny Kings to the north there, which is really KFC. So, there is really not much room in between the two there either.

Dr. Goist – Okay. Board members, I don't think I have any questions. This seems to be pretty cut and dry and in order to get in there, you need to have a variance.

Mr. Harr - Mr. Chairman? Absent any land that they can acquire on either side, they're locked in and we're pleased to see new businesses come. I don't know how they could resolve this issue practically.

2) **LEMONBERRY FROZEN YOGURT, TENANT/Frank Colabianchi,
Representative, Cont'd**

Dr. Goist – I agree. Mr. Bohac?

Mr. Bohac – I have no questions. I agree with Mr. Harr.

Dr. Goist - Mr. Baldin?

Mr. Baldin – I concur with what has been said already here and I think it's a no brainer, considering the conditions you have there.

Dr. Goist – This is a Public Hearing. I will ask if there is anyone in the audience who would like to speak for this variance. Is there anyone who would like to speak against this variance? If you would like to come forward. Please give us your name and address.

Mr. Husik – Brian Husik, 12824 Fountain Court. My house is diagonally behind the property you're speaking of. I'm not really aware what he is doing or what he is planning on doing, so I just need to be filled in. Is he building a structure or is he just modifying the structure that is in place? Is he paving the parking lot that seems to be gravel back there? Is he putting up a fence to block the back yard to the rest of the neighbors or is he just asking for a variance?

Mr. Kolick - Mr. Chairman, for the individual at the microphone, they are utilizing the same building. They are changing the north side of the building to put some glass in there between Leff Electric and the copy place. They'll be changing the façade on the building on the north but they aren't modifying the building in any way structurally. It's not getting bigger or smaller or having any addition to it. I think the intent, as far as the gravel parking lot, is right now they have sufficient parking on the north side of the building that is paved. If they start to use the gravel parking lot, it's up to Planning Commission and at that point, they would probably make them pave over that parking lot. The immediate intention is not to pave it over. I don't know if that answers your questions.

Mr. Husik – As far as any fence to block off traffic flow from the back yards –

Mr. Kolick – Maybe the applicant may be able to address that but you need to use the mic here.

Mr. Colabianchi – At this point in time, the people who purchased the building are the people that own the copy center to the CQ printing and they are also the same person putting in the buildout for the yogurt shop. They haven't mentioned anything about the fence or anything like that but, as was discussed with Planning Commission, if they do do anything outside or if they do get great traffic, they are going to pave the back and I'm sure they would consider something like that but a little down the road. Let them get through this initial cost that they have been through. Down the road, it is definitely down the road to do something like that. I

2) LEMONBERRY FROZEN YOGURT, TENANT/Frank Colabianchi,
Representative, Cont'd

Mr. Colabianchi continues - don't know if that answers your question but for the time being, they're not going to pave the back part until they need it.

Mr. Husik – I understand. I just wanted it on the record that there has been discussion that if it's warranted via traffic flow – privacy too. Now it's a business and a residential – more of a consumer business where you get more traffic, people coming in. You do want that privacy. At least the people living there I'm sure will. That's my question. I was just trying to get an understanding.

Dr. Goist – Did that answer your questions?

Mr. Husik – Yes, he's not being held to do it to a point unless somebody probably complains and the City questions about the parking lot. The fence is probably totally up to the land owner, I'm sure. The parking lot, well, that's – I don't know how the City can enforce that. Is there some judgment call if cars are parking on it?

Mr. Kolick - Mr. Chairman? The City Codes require for each square footage a certain number of parking spaces. Based on the size of the building as it is right now, they have sufficient parking within the existing asphalt area. If they didn't, then they would need to pave that. If the usage changes so that more parking spaces are required or there was some talk at one time about maybe putting a deck out there or something or an outside patio that would take away parking, then they would be required to pave the back area because if they are going to be using those spaces, then the City requires them to pave the spaces. So, I think the immediate plan, as the applicant said, is to leave it the way it is, but if the use would change or if the Building Commissioner deems there is so much traffic there that there is more than an occasional use of the gravel area, then the Building Commissioner would required them to meet the City Codes and pave that back parking area.

Mr. Husik – Okay, thank you.

Mr. Baldin - Mr. Chairman?

Dr. Goist – Yes?

Mr. Baldin – Mr. Kolick, isn't there something in the Code for retail businesses abutting residential areas that you have to have some type of a buffer?

Mr. Kolick – That is an issue before Planning Commission about fencing and Planning Commission can require fencing between a commercial use and a residential use but it's within Planning Commission's discretion. If they are approved by this Board for the Lot Width variance, then they would be required to go back to the Planning Commission who is

2) LEMONBERRY FROZEN YOGURT, TENANT/Frank Colabianchi,
Representative, Cont'd

Mr. Kolick continues - going to have to see if they approve the conditional use and approve the site plan. So, that is an issue that can be addressed by Planning Commission, yes.

Mr. Baldin – Thank you.

Dr. Goist – I did notice that the two ladies in the back raised their hand. Would you like to come forward, please?

Ms. Collinridge – My name is Carolyn Collinridge. We live at 12920 Fountain Court and 12922 Fountain Court. We live right behind where this yogurt place is going in. We have a 6' fence we just took all summer fixing last year. We are not exactly excited about the traffic that is going to happen back there unless they put in a great big fence. I think it's going to cause us a lot of headaches with my fence and it's also, I know this has nothing to do with this, but the electric company that is back there now is a pain in the neck right now as it is. They get deliveries at one o'clock, two o'clock in the morning. Last Sunday morning at ten minutes to one, a truck pulled in. They are constantly getting late time deliveries. I don't know why they are delivering at night time when they're there during the day, but they are. We haven't said anything about that. Now, if we have more traffic coming back there and we have our new fence up, which we did all by ourselves, and we have all these kids back there now as it is, it's going to, kind of, ruin our property and we are not happy with that going up back there. Not only that, how are you going to work traffic. There is only one way in and one way out unless you go through the vets yard - that Crossroads is there, so you cut through Crossroads there, but the way I see it, there is only one way in and one way out and that is by the electric company.

Mr. Kolick - Mr. Chairman, there is only one way in and one way out onto Pearl. There aren't two entrances but you mentioned kids there. Are there kids there?

Ms. Collinridge – Kids hang around in the back. A couple of months ago, the electric company got their walls drawn on with paint or whatever. I was told about it. I went back to see if my fence was damaged and it was not. We have kids hanging back there at late hours of the night.

Mr. Kolick – If that is the case, they are obviously trespassers and not users of the businesses there. When you find that, call the Police Department and the same thing with early morning deliveries. We have restrictions on hours of delivery so if a truck is there at one or two or three o'clock in the morning, please call the Police Department. They will come and take care of that because there are restrictions on delivery hours and they are cognizant of that when it backs up to residential areas. So, that's not something you need to ignore. You call the Police Department and they will take care of that. If there are kids back there, they're not back there for the electric company and they aren't there for the copy company and the other

2) **LEMONBERRY FROZEN YOGURT, TENANT/Frank Colabianchi,
Representative, Cont'd**

Mr. Kolick continues - place isn't open. So, if they're back there, they are trespassing. Again, call the Police Department. They will respond to that.

Ms. Collinridge – So, again, my comment is how do you plan to work that with one way in and one way out and all that traffic back there. When the school was there, we had a lot of dust back there because of the stones and gravel. Now, another question is you're talking about maybe blacktopping it. If you blacktop it, is the water going to run into our yard then after you blacktop it.

Mr. Kolick – Part of putting a hard surface back there, they would have to come in with engineering drawings to show where they are going to take the water to. They would have to have appropriate catch basins. There are engineering restrictions. They just can't have it flow onto other properties. So, they have to maintain it on their own property by putting it into catch basins. The one thing you can assist the City with is the item that we address with the applicant and that is if they start to use this with any regularity – I'm not talking about a car here or there but if they start to use the gravel lot with any regularity and there is dust and something raised then feel free to contact the City's Building Department at that point because most likely the Planning Commission – I can't speak for them but they need to go back before the Planning Commission for a Public Hearing. If they hear the type of comments that you're talking about now, they can put restrictions in there that, again, if they start to use that back area, they are going to need to pave it.

Ms. Collinridge – Yes, when the school was there, there was a lot of dust and people would step on the gas and peel it out because it's on stones. We did not complain about that either.

Mr. Kolick – Well, you should. We don't know it as a City unless we hear the complaints about it. So, if that's happening, you need to complain so we can address it. Your comments and these comments are appropriate but there will be a conditional use permit hearing before the Planning Commission. That is probably where you will need to come in and address these items. They are appropriate items for the Planning Commission to consider because they are the Board who determines the type of surface. They are the Board who determines if there is going to be fencing back there to protect the residents. That would be the proper place to raise these things. Again, if there are kids back there or if this is becoming a nuisance and there is a lot of dust, contact the City. We have ways to correct the problem.

Ms. Collinridge – Okay. So, is this yogurt thing definite or is it still not definite yet?

Mr. Kolick – As far as we know, we have received plans to put glass across the front there on the north side of the building, not facing towards the residents but facing out where the doors are now. It's definite as far as we know.

2) **LEMONBERRY FROZEN YOGURT, TENANT/Frank Colabianchi,
Representative, Cont'd**

Ms. Collinridge – So, there is no way you're going to put a fence put up there to block off our area.

Mr. Kolick – That is something that you can raise with the Planning Commission and that would be the proper Board.

Mr. Harr – It doesn't fall under the purview of this Board.

Ms. Collinridge – Will we be notified when the Planning Commission meets?

Mr. Kolick – If you keep in touch with our secretary to the Planning Commission, her name is Carol Oprea, she can tell you when they are going to be on the agenda. There is a Planning Commission meeting tomorrow but it won't be then. It will probably be the following meeting. I might have that date. I believe it will be scheduled for July 8th, which is a Thursday evening. You can coordinate that and make sure with our Planning Commission secretary. It will be here, probably July 8th. If you keep in touch with City Hall, they can confirm that date.

Ms. Collinridge – Thank you.

Ms. Collinridge – My name is Joyce Collinridge. I live at 12922 Fountain Court and I'll tell you, we have been happy here but we just put a lot of money into this house and the back yard. The fencing back there is all new and you're going to disrupt everything we've done. When we moved in twenty years ago, I told them then, I'm not leaving here unless I go feet first. This is where I want to stay, this is where I want to retire. I don't work anymore. She has to do a lot of the work herself. You're going to disrupt everything she does plus we have two dogs. Hers is good but I have a barker.

Dr. Goist – Why do you say that this is going to disrupt your yard?

Ms. Collinridge – Because of the trash that might come around.

Ms. Collinridge – That's another thing. You know you're going to end up with trash being thrown over the fence and then we'll have a mess to clean up. Our yard is exactly the way we want it now. We finished it this year. So, I'm really not happy about this at all.

Ms. Collinridge – She is home all day long too. She gets a lot of the commotion. The dog barks. The dog sees between the crack of the fence and the people are walking through the yard. They climb that fence to the cemetery. They take their bikes and they put their bikes over the cemetery fence and then they climb the fence. This is kids.

2) **LEMONBERRY FROZEN YOGURT, TENANT/Frank Colabianchi,
Representative, Cont'd**

Dr. Goist – I think this, as Mr. Kolick has said before, if you have a problem where people are trespassing and where they are causing you some concern, I think you have every right to call the Police Department and ask them to check it out and it sounds to me like you're understanding, now that there is going to be a different business there, I think this is the time for you to express your concerns when you have those types of things happening. I don't know about your dogs barking but those are your dogs. They are going to bark because people are there. I have a dog and when somebody comes to my house, my dog barks. That is the nature of animals. I don't think there is anything that you can do about your dogs except to train them not to bark. The shock collar works. I'm not saying that you have to use a shock collar but I have been able to teach my dog not to bark. So, there are solutions to every situation and I think the City would be happy to help you too. Do you have any more to say?

Ms. Collinridge – No.

Dr. Goist – Sir, did you want to come back up?

Mr. Husik – No.

Dr. Goist – Board members?

Mr. Harr - Mr. Chairman, I would just remark to the comments that they made, we appreciate your concerns and recognize that they are coming to light because of this notification and it, kind of, brings everything to the surface a little bit. These are items that this Board doesn't necessarily control. Your concerns about buffering and the use of the gravel parking lot and so forth are all points that need to be raised in front of Planning Commission when they are looking to grant the conditional use. Certainly the other items that you talked about such as vandalism and trespassing, these are enforcement actions that the police will need to be brought in. It's not something that we can control necessarily through a variance request. The lot size is the lot size.

Dr. Goist – We appreciate you coming. I think if you will make the July 8th meeting, you will be able to talk to people that can follow up on your concerns again. Is there anybody else who would like to speak against this variance? If not, I'll entertain a motion to approve it.

Mr. Baldin - Mr. Chairman, I would like to make a motion for the request for a 12' Lot Width variance from Zoning Code Section 1258.08, which requires a 200' Lot Width and where a 188' Lot Width is proposed in order to permit an existing building to be occupied for General Retail Use; property located at 12927 Pearl Road PPN 396-08-003 zoned General Business be approved.

Mr. Bohac – Second.

2) **LEMONBERRY FROZEN YOGURT, TENANT/Frank Colabianchi, Representative, Cont'd**

Mr. Colabianchi – I'll even mention it to those guys. I got to know them pretty well and see if that's the case.

Mr. Bohac – Who knows? I used to plow for Peacock and I've never seen anything back there and I was out in the middle of the night.

Mr. Colabianchi – I'll check into that. Thank you very much.

Mr. Baldin – You're welcome.

RULING: VARIANCE APPROVED

3) **CATHERINE ANDRE, OWNER/Chris Tsonton, Representative**

Requesting a 5' Front Yard Setback variance from Zoning Code Section 1252.04 (d) (3), which requires a 35' Front Yard Setback and where a 30' Front Yard Setback is proposed in order to construct a New Single Family Dwelling; property located at 14262 Calderdale Lane PPN 398-25-009 zoned R1-100.

Dr. Goist – Our last variance request is Catherine Andre. If you'll give us your name and address.

Mr. Tsonton – My name is Chris Tsonton, 2403 Hunter's Creek Circle, Hinckley, Ohio. I'm representing the lot owner, Catherine Andre. We're requesting a 5' Front Yard Setback variance for the proposed home that we would like to build at 14262 Calderdale Lane in Avery Walden in Strongsville.

Dr. Goist – I think we all know the property and we all understand that we have approved variances there before. We knew that this could happen in the future. Board members, do you have other questions of this applicant?

Mr. Baldin – No questions, Mr. Chairman.

Mr. Harr – No questions.

Dr. Goist – Nobody has any questions. This is a Public Hearing. There is no one in the room to either speak for or against the variance. So, I will ask for a motion to approve this.

Mr. Harr - Mr. Chairman, I move that we approve a request for a 5' Front Yard Setback variance from Zoning Code Section 1252.04 (d) (3), which requires a 35' Front Yard Setback and where a 30' Front Yard Setback is proposed in order to construct a New Single Family Dwelling; property located at 14262 Calderdale Lane PPN 398-25-009 zoned R1-100.

3) **CATHERINE ANDRE, OWNER/Chris Tsonton, Representative, Cont'd**

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 get together with the Building Department to pick up your permits.

RULING: VARIANCE APPROVED

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

Meeting adjourned by Dr. Goist at 8:27 p.m.

<u>Signature on File</u>	<u>Signature on File</u>	<u>July 14, 2010</u>
Glenn Goist, Chairman	Kathryn A. Zamrzla, Sec'y	Approval Date