

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

**Meeting of
November 3, 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) JOSE AND CARMEN VELEZ, OWNERS

Requesting a 16' Rear Setback variance from Zoning Code Section 1252.16, which allows a 14' encroachment into the Rear Setback and where a 30' encroachment into the Rear Setback is proposed in order to construct a Deck around an existing pool; property located at 15626 Indianhead Lane PPN 397-07-073 zoned R1-75.

No discussion on this matter occurred.

2) MIKE KENNY, OWNER/Troy-Mill Concrete, Contractor

- a) Requesting a 5' variance from Zoning Code Section 1252.16 (e), which requires a Concrete Patio to be 5' from an easement and where a Concrete Patio was installed 0' from an easement;
- b) Requesting a 1' variance from Zoning Code Section 1252.16 (e), which allows a 14' encroachment Concrete Patio into the rear yard setback and where a Concrete Patio was installed 15' into the rear yard setback; property located at 20374 Tramore Circle PPN 394-30-059 zoned R1-100.

Mr. Allen explained that the contractor called for a pre-pour inspection but when the inspector got there, the patio was already poured. He also explained that the contractor did not put the patio where he indicated it was going on the drawing he submitted. Mr. Allen explained the need for the variance. Mr. Harr questioned what consequences the contractor will face.

3) WEBSTER ROAD LLC/Timothy Dean, Representative

Extension of the determination of November 18, 2009 of the Board of Zoning and Building Code Appeals:

Requesting a 5' Front Yard Setback variance from Zoning Code Section 1252.32 (k) (3) C, which requires a 35' Front Yard Setback and where a 30' Front Yard Setback is proposed in order to construct Single Family Dwellings; property located at sublots

44, 45 and 49 Castlereagh Lane PPN's 398-17-039, 398-17-040, and 398-17-044 zoned R1-100.

See notes from caucus under number (4) below.

4) WEBSTER ROAD LLC/Timothy Dean, Representative

Extension of the determination of November 18, 2009 of the Board of Zoning and Building Code Appeals:

Requesting a 5' Front Yard Setback variance from Zoning Code Section 1252.32 (k) (3) C, which requires a 40' Front Yard Setback and where a 35' Front Yard Setback is proposed in order to construct Single Family Dwellings; property located at sublots 46 and 48 Castlereagh Lane PPN's 398-17-041398-17-043 zoned R1-100.

The Board discussed that the need for the extension is due to the economy and that lots are not selling as fast as desired.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS

MINUTES OF MEETING

November 3, 2010

The meeting was called to order at 8:00 PM by the Chairman, Glenn 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

Mr. Baldin – Good evening, ladies and gentlemen. I'd like to call this November 3, 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 move to excuse Mr. Evans for just cause.

Mr. Bohac – Second.

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

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 an amended agenda. I would ask for a motion to approve the amended agenda.

Mr. Baldin – Motion to approve.

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

Dr. Goist – We have in our packets minutes from the September 22, 2010. I would ask for a motion to approve unless there are any questions on the minutes.

Mr. Bohac – So moved.

Mr. Harr – Second.

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

ROLL CALL: ALL AYES: MOTION CARRIED

Dr. Goist – For everyone who is in the audience this evening, if you will stand and our Assistant Law Director will swear you in.

Mr. Kolick then stated the oath to those standing.

1) **JOSE AND CARMEN VELEZ, OWNERS**

Requesting a 16' Rear Setback variance from Zoning Code Section 1252.16, which allows a 14' encroachment into the Rear Setback and where a 30' encroachment into the Rear Setback is proposed in order to construct a Deck around an existing pool; property located at 15626 Indianhead Lane PPN 397-07-073 zoned R1-75.

Dr. Goist – Our meetings are in two portions. The first portion is New Applications and the first New Application, we do not see the people present, which is Jose and Carmen Velez. So, I'm going to move to number two on the agenda and if the Velez's happen to be here we will move them to the end of the meeting. They may be having trouble finding our new meeting place.

2) **MIKE KENNY, OWNER/Troy-Mill Concrete, Contractor**

- a) Requesting a 5' variance from Zoning Code Section 1252.16 (e), which requires a Concrete Patio to be 5' from an easement and where a Concrete Patio was installed 0' from an easement;
- b) Requesting a 1' variance from Zoning Code Section 1252.16 (e), which allows a 14' encroachment Concrete Patio into the rear yard setback and where a Concrete Patio was installed 15' into the rear yard setback; property located at 20374 Tramore Circle PPN 394-30-059 zoned R1-100.

Dr. Goist – Let's go to number two, Mike Kenny, Owner. Would you come forward and tell us why you are requesting the two variances that you are asking for. Could you give me your name and address please?

Mr. Kenny – Sure, Michael Kenny, 20374 Tramore Lane, Strongsville. That is Waterford Crossing Development.

2) **MIKE KENNY, OWNER/Troy-Mill Concrete, Contractor, Cont'd**

Dr. Goist – Okay and now your reason for the variances.

Mr. Kenny – We filed a permit with Troy Mill Companies, well he did, for a patio 18' in diameter to be placed in our back yard. The drawing that he did was not to scale and when the inspector came out to inspect the work, he realized that it was beyond where it needs to be in terms of the zoning. It's up to the line of the 15' easement from the back yard but it's not within the guidelines of the 5' setback that is required. So, that is the reason for the first variance and the second variance is the 30' from the back of the property. It needs to be, I guess, 16' back and it's 15' back. Or it can only be 16' back it's 15' back. So, it's 1' off on that as well. So, as I said, the work is already done. It's already poured and complete and it would be pretty disastrous if we had to tear that out. So, I'm just asking that you guys will approve the variance to allow that to stay as it is and I think, obviously, I would state that if there is any paperwork that you need me to sign as a homeowner that would release the City from any costs that would be incurred if they had to tear that patio out at some point because of the zoning requirements, I would be happy to do so as well.

Dr. Goist – Thank you. Usually we don't get a chance to go over New Applications but since our agenda was short, we know that Mr. Allen has brought us an updated version so we know the exact location of the patio and we got to go over everything. Board members, do you have other questions.

Mr. Bohac – No, sir.

Mr. Baldin – Mr. Chairman?

Dr. Goist – Yes?

Mr. Baldin – Mr. Kenny, in caucus something did come up to the fact that behind you is common ground property?

Mr. Kenny – That's right.

Mr. Baldin – Is it 20' or 30' behind you?

Mr. Kenny – Twenty feet on the plans.

Mr. Baldin – Twenty feet on the plans of common ground property. Are you happy with what is put in there?

Mr. Kenny – Yes.

Mr. Baldin – You're satisfied?

2) **MIKE KENNY, OWNER/Troy-Mill Concrete, Contractor, Cont'd**

Mr. Kenny – Yes.

Mr. Baldin – All right. You really would have a problem if it had to be torn out, I assume.

Mr. Kenny – It would be detrimental, yes.

Mr. Allen – Mr. Chairman?

Dr. Goist – Yes?

Mr. Allen – There is only a 15' block of common area but there is a 20' AT & T easement.

Mr. Kenny – Oh, sorry. I thought I saw on the plans 20'. It's a fair amount. There are two rows of trees. Our row then grass and then their row.

Mr. Harr – Mr. Chairman?

Dr. Goist – Mr. Harr?

Mr. Harr – To reiterate a couple of things that we discussed in caucus, Mr. Allen, we are not over the sewer easement? We are just up to the sewer easement? Correct?

Mr. Allen – That is correct.

Mr. Harr – And Mr. Kenny, it's a stamped concrete pad? I have not seen it yet.

Mr. Kenny – Yes?

Mr. Harr – You relied on the contractor through the process for placement and everything?

Mr. Kenny – Everything.

Mr. Harr – Have you had any conversations with the neighbor to the rear of you?

Mr. Kenny – Yes.

Mr. Harr – Do they have any issues with the placement of the patio?

Mr. Kenny – No.

Mr. Harr – I don't have any other questions, thank you.

2) **MIKE KENNY, OWNER/Troy-Mill Concrete, Contractor, Cont'd**

Dr. Goist – Okay, if there are no other questions, your public hearing will be set for November 17, 2010 and we will see you back here.

Ms. Zamrzla – Mr. Chairman?

Dr. Goist – Yes?

Ms. Zamrzla – I called Ms. Velez and they have been sitting over at the Communications Center so they are now on their way.

Dr. Goist – Which is what we assumed would happen. Since we have Mr. Dean here, I'm going to switch to Public Hearings and you're all set. You don't have to stay.

Mr. Kenny – Thank you.

Mr. Baldin – Thank you.

RULING: SET FOR PUBLIC HEARING ON NOVEMBER 17, 2010

3) **WEBSTER ROAD LLC/Timothy Dean, Representative**

Extension of the determination of November 18, 2009 of the Board of Zoning and Building Code Appeals:

Requesting a 5' Front Yard Setback variance from Zoning Code Section 1252.32 (k) (3) C, which requires a 35' Front Yard Setback and where a 30' Front Yard Setback is proposed in order to construct Single Family Dwellings; property located at sublots 44, 45 and 49 Castlereagh Lane PPN's 398-17-039, 398-17-040, and 398-17-044 zoned R1-100.

4) **WEBSTER ROAD LLC/Timothy Dean, Representative**

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Dr. Goist – Mr. Dean, if you would tell us what extensions that you're asking for.

3) **WEBSTER ROAD LLC/Timothy Dean, Representative, Cont'd**

Mr. Dean – Yes, good evening. My name is Tim Dean, 22100 Horseshoe Lane, Strongsville, Ohio. I'm asking for an extension of the variances that were granted on November 18, 2009. The first request was for sublots 44, 45 and 49 where there is a 35' front yard setback and were asking for a 5' variance there so it would be set at 30'. The second group of lots is 46 and 48 and that is a 40' to a 35'. So, each one of them is a 5' variance.

Dr. Goist – Board members, do you have any questions for this applicant?

Mr. Bohac – No.

Mr. Harr – Mr. Chairman?

Dr. Goist – Yes?

Mr. Harr – Mr. Dean, these are just extensions? These are just lots that you had planned to sell or planned to build upon in some fashion but the economic conditions are such that the activity warrants a need for an extension as opposed to moving forward?

Mr. Dean – Yes.

Mr. Harr – Thank you.

Dr. Goist - Mr. Kolick, do we need to vote on these separately?

Mr. Kolick – You need to do them separately, Mr. Chairman. The other thing I would add is you should determine if you're going to extend it for a year then fine but that should be noted as an extension until November 18, 2011.

Mr. Baldin – Excuse me Mr. Chairman, but Mr. Dean, do you have any idea how long it's going to take to get these sold? I know you only have a few, maybe 10 or 15 lots left to sell in that area.

Mr. Dean – If all goes well, those lots in question – we're negotiating a sale right now so I would say that by this time next year I would hope that they would be sold.

Mr. Baldin – Basically, you need a year extension?

Mr. Dean – If you would like to extend it a year, that is fine.

Mr. Harr – I don't think there is any reason not to.

Mr. Baldin – Yes.

3) **WEBSTER ROAD LLC/Timothy Dean, Representative, Cont'd**

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

ROLL CALL: ALL AYES: MOTION CARRIED

Dr. Goist – Your extensions have been approved and you are all set to go.

Mr. Dean – Thank you very much.

RULING: VARIANCES APPROVED

Dr. Goist – Okay, we are going to go back to New Applications. I see that the Velez's have found us and we certainly understand why you went to the other building. If you would like to come forward now.

Mr. Allen – Mr. Chairman, I believe they have to be sworn in.

Dr. Goist – If you would please be sworn in by our Law Director.

Mr. Kolick stated the oath to those standing.

1) **JOSE AND CARMEN VELEZ, OWNERS**

Requesting a 16' Rear Setback variance from Zoning Code Section 1252.16, which allows a 14' encroachment into the Rear Setback and where a 30' encroachment into the Rear Setback is proposed in order to construct a Deck around an existing pool; property located at 15626 Indianhead Lane PPN 397-07-073 zoned R1-75.

Dr. Goist – Okay, if you would come forward and give us your name and address.

Ms. Velez – Carmen Velez, 15626 Indianhead Lane, Strongsville, Ohio 44136.

Dr. Goist – If the other two gentlemen are going to speak, we'll need their names and addresses also.

Mr. Knight – My name is Marty Knight, 353 Forest Meadows Drive, Medina, Ohio 44256.

Mr. Velez – My name is Jose Velez, 15626 Indianhead Lane.

Dr. Goist – Thank you. If you would explain to us why you are asking for this variance that you're requesting.

Ms. Velez – We want to build a pool deck around my pool and we were told that we needed a variance so that is why we're here. Marty spoke to Joe Allen and that's why we're here.

1) **JOSE AND CARMEN VELEZ, OWNERS, Cont'd**

Dr. Goist – You're asking for a variance of 16' and it's behind –

Mr. Knight – If I could say something. It's behind the house and the pool is already existing and if I'm not mistaken, the easement is 20' beyond where the pool is located as of now and we want to put the deck no further back on towards the easement than the pool is that is already standing.

Mr. Allen – Mr. Chairmen?

Dr. Goist – Yes, Mr. Allen.

Mr. Allen – What it is is that the required setback for a deck is different than the required setback for a pool. The pool can be as close as 15' to the property line, however a deck cannot encroach more than 14' into the required rear setback. In this particular instance the required setback is 50'. So, he can only encroach 16' and that's the reason because there is a different setback for pools and decks.

Dr. Goist – Do you understand that?

Mr. Knight – Yes, to a degree I do but my thing is why would there be a difference in the Code from a deck to a pool? We went over this about the height of the pool and invasion of privacy but being that you can stand on a deck 4' high but there is no invasion of privacy on all three sides of the surrounding property is chain link fence.

Mr. Velez – Right. Everything is open.

Dr. Goist – I understand that but you're asking why the Code is different and the Code happens to be for decks one Code, and for pools another Code and I can only ask our Law Director. Certainly the City felt that that's what they wanted to do.

Mr. Kolick – Mr. Chairman, it's set by City Council and I think part of the reason is just privacy. With the deck you've got someone there and with a pool the pool is going to be high enough where it's going to be blocking a view of individuals if you're talking about privacy purposes. You've got a deck that's up there with someone on top of a deck and they're going to be looking right into someone else's back yard; in fact you could be looking right into someone's back yard or right into their back window. I'm sure that's probably the reason that City Council enacted it or part of the reason. So, that's why they'll be looking at where your pool and deck are and where your neighbor's home is. Have you talked to your neighbor behind you?

1) **JOSE AND CARMEN VELEZ, OWNERS, Cont'd**

Ms. Velez – Yes, they know about it. When we had our summer party, they thought it would be really nice. They were surprised we hadn't done anything yet. We have a ladder and I don't even like to go into the pool because I have to get on this ladder that doesn't feel safe to get in. I have a little girl that likes to go into the pool and it would be nice to have a deck that we could just go in.

Mr. Knight – Entertain and so forth.

Ms. Velez – And it would look nice. I think it would look much nicer in the back yard with the deck.

Dr. Goist – This is up next to your neighbors. Do you have neighbors right to the side of the pool?

Ms. Velez – They have their back yard. It would not be like next to their house. They have a big back yard like we do and everybody in the back has a pool also. It's not as if we're the only ones. Each neighbor – Joe was there.

Mr. Knight – If I'm not mistaken, the plans were drawn up that the deck itself comes 10' away from the existing fence on the south side.

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

Mr. Harr – Mr. Chairman?

Dr. Goist – Mr. Harr?

Mr. Harr – So, you have chain link fence all around your yard presently? There are homes on either side and homes behind you as well?

Ms. Velez – Yes and they have a pool too, the same size. We all have the same pool.

Mr. Harr – What is the proposed height of the deck?

Mr. Knight – Four feet and with railings another 36" higher.

Ms. Velez – We have a picture of what we want to do.

Mr. Allen – If the variance is granted, I will see that it complies with all the sections of the Code as far as deck height and railings and so forth.

Dr. Goist – Okay.

1) **JOSE AND CARMEN VELEZ, OWNERS, Cont'd**

Mr. Knight – Oh yes, most definitely. I did get your fax with the requirements of the railing height and the paperwork states that all joists are two by tens with hurricane clips but they are joist supports.

Mr. Harr – I'm just trying to get an idea of what you're putting there and the impact it might have on your neighbors because that's really what the variance is about. You're pushing a structure closer to your neighbor's yard than what the Code allows and the height of that while it may meet Code, it may impact them. So, that's the whole idea. Taking a look at the drawing that you have here, you're got the deck surrounding three quarters of the pool. Have you contemplated at all rotating the deck so that you have less of an impact so that more of the deck would cover half of the pool? For example, move it closer to the home.

Mr. Knight – Yes, we have considered that but whoever installed the pool itself, the filtration system, that would come into play with that. You won't be able to have access to get in to change your filters and do your cleaning of your pool to change the pumps. Take it out for the winter time so that it doesn't freeze up and so forth.

Mr. Harr – Can you stake the deck corners so that when we come out to take a look at it, we can see exactly where it's proposed to go.

Mr. Knight – I would be glad to stake it.

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

Dr. Goist – All the members of the Board will come out at some point and look at your yard. Is it fenced in? Are we able to get to it?

Ms. Velez – It's open. You can get in.

Dr. Goist – Any other questions?

Mr. Baldin – No questions.

Dr. Goist – Your Public Hearing will be November the 17th so we will ask you to come back November the 17th.

Ms. Velez – Now we know where you are.

Dr. Goist – We almost made the same mistake. It's our first time here too. You're all set.

Ms. Velez – Thank you.

RULING: SET FOR PUBLIC HEARING NOVEMBER 17, 2010

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Dr. Goist – You’re welcome. Any other business to come before this Board? Meeting adjourned.

Meeting adjourned by Dr. Goist at 8:21 p.m.

Signature on File

Signature on File

January 12, 2011

Dr. Goist, Chairman

Kathryn A. Zamrzla, Sec’y

Approval Date