

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

**Meeting of
September 23, 2009
7:30 p.m.**

Present - Board of Appeals Members: Glenn Goist; Richard Baldin; Kenneth Evans; Frank Bohac, William Harr

Administration: Assistant Law Director, Daniel Kolick

Building Department Representative: Joe Allen

Recording Secretary: Kathryn Zamrzla

The Board members discussed the following:

1) U STORE IT, OWNER/Sign Vision, Representative

Requesting a variance from Zoning Code Section 1272.04 (k), which prohibits a Two-Sided Changeable Copy Sign in a Commercial Services Zoning District and where one (1) Changeable Copy Sign is proposed; property located at 15910 Pearl Road PPN 393-27-024 zoned Commercial Services.

Mr. Kolick advised the Board that the new proposed sign code still does not approve of changeable copy signs in a non-Public Facility Zoning District. Mr. Allen stated that the sign without the changeable copy section is permitted the way it was submitted.

**2) JOHN R. REHS JR. & TAMMY L. REHS & RICHARD CARTER, OWNERS/
Wayne Homes, Builder**

Requesting a 154 SF Floor Area variance from Zoning Code Section 1252.22 (c), which permits a 1,000 SF Floor Area and where a 1,154 SF Floor Area is proposed in order to construct an Attached Garage on a New Single Family Dwelling property located on 19955 Bowman Drive PPN zoned R1-75.

Mr. Bohac advised the Board that the owner wants a bigger garage for health reasons.

3) DR. KAST, OWNER

- a) Requesting a variance from Zoning Code Section 1260.09 (c) (2) which permits one Ground Sign and where 2 Ground Signs are proposed;
- b) Requesting a 10' Setback variance from Zoning Code Section 1260.09 (c) (2) which requires a 25' Setback and where a 15' Setback is proposed in order to install a Ground Sign;
- c) Requesting a 24 SF Face Area variance from Zoning Code Section 1260.09 (c) (2) which permits a 36 SF Face Area and where a 60 SF

Face Area is proposed in order to install a Ground Sign; property located at 16580 Pearl Road PPN 393-34-019 Zoned PDA-2.

Dr. Goist stated that the Board received a letter from Dr. Kast. Dr. Goist asked the Echo Lake Board members and Dr. Kast if they brought the written signed agreement. Since they answered that they did not, Dr. Goist removed them from the agenda. Mr. Kolick reminded the Board that (c) has been removed from the Dr. Kast portion of the agenda.

4) MARK DONNELLY, OWNER

Requesting a 25' Side Yard Setback variance from Zoning Code Section 1252.17 (c) which requires that the fence be located within the setback of the residence and where the applicant is proposing to extend a fence 25' beyond the setback of the residence in order to Replace an Existing Fence with a 6' Vinyl Shadowbox Fence with Lattice; property located at 14106 Oakland Park Drive PPN 398-04-041 zoned R1-75.

The Board agreed that the fence needs to be replaced or repaired and will ask for a 22' setback variance. They would have liked to see more setback but the pool and/or equipment is in the way. Mr. Kolick advised the Board that Mr. Donnelly could not replace the posts unless he followed the restrictions of the variance.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS

MINUTES OF MEETING

September 23, 2009

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 September 23, 2009 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. Kathy, would you call the roll please?

ROLL CALL: ALL PRESENT

Dr. Goist – I hereby certify that this meeting has been posted in accordance with Chapter 208 of the Codified Ordinances of the City of Strongsville. We have minutes from August 12, 2009 and August 26, 2009 that were submitted. There were some typos on August the 12th and Kathy and I went over them and they have been changed. So, unless there are any correction or additions that anyone else would like to bring up, I'll ask for a motion.

Mr. Baldin – Motion to accept.

Mr. Bohac – Second.

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

ROLL CALL: ALL AYES: MOTION CARRIED

Dr. Goist - Now, for all the people who are here who would like to speak before the Board of Zoning and Building Code Appeals this evening, if you would now please stand and be sworn in by our Assistant Law Director.

Mr. Kolick then stated the oath to those standing.

1) **U STORE IT, OWNER/Sign Vision, Representative**

Requesting a variance from Zoning Code Section 1272.04 (k), which prohibits a Two-Sided Changeable Copy Sign in a Commercial Services Zoning District and where one (1) Changeable Copy Sign is proposed; property located at 15910 Pearl Road PPN 393-27-024 zoned Commercial Services.

Dr. Goist – Our first New Application is U Store It and I think we may have a sign representative. Would you come forward and give us your name and address first, please.

Mr. Sarrocco – My name is Raymond Sarrocco. I'm with Sign Vision Company out of Columbus, Ohio and we are the contractors that have been retained to build and install the sign that is being proposed for the U Store It. I know that we have been in some contact, Kathy and myself, going back with some information and, I guess, the real issue that - unfortunately there will be no representative from U Store It here this evening so, I'm really the messenger. I'm getting familiar with what your sign code is. There is a question on the moveable copy, which is not to be used outside of public areas and the customer is looking for some type of a variance or at least the opportunity to go forward on one, if that is something that is feasible. If it is not, we are looking at the sign as proposed without the moveable copy and if that is a valid consideration as well.

Dr. Goist – I'm going to let Mr. Kolick, being the legal representative, tell you exactly what our Code says about changeable copy signs.

Mr. Kolick – Mr. Chairman, the Code is currently written and the Code as being proposed, which is currently before Planning Commission for review, does not permit changeable copy signage within anything other than a Public Facility District. The main reason from City Council has always been it's distracting to both drivers and all going down the road. They try to keep it very limited to just those specific public events. I think there is a changeable copy sign for the church probably across the street but that is in a Public Facility Zoning District. I know this Board has pretty consistently held to the standards and I guess the question would be for the applicant – this Board does have the ability to vary that but only if there is a hardship. Is there some particular reason that they need changeable copy? Is it different than any other businesses on Pearl Road who request changeable copy?

Mr. Sarrocco – The only information that has been provided to me is that 1) it's part of their national marketing campaign, which they are going across the country doing this with their various locations. Naturally, it's a pure business decision that they're making to try to bring in more business, try to draw awareness to their organization, hopefully increase their employment base as well. Those are the primary issues that they brought to me to share with you. The only other item that they said that they will comply with whatever restrictions that are appropriate for such signage.

1) **U STORE IT, OWNER/Sign Vision, Representative, Cont'd**

Mr. Kolick – Mr. Chairman, just so the applicant knows, the only reason you are before this Board is just for the changeable copy. So, your sign otherwise complies now with all the adjustments. So, it's up to the applicant. You can continue to ask for the changeable copy. I think you, sort of, heard in caucus where everybody is at and I want you to know that other than that, you don't even need to be here. You would just go to the Building Department and get a permit and that signage can go up in the normal course of affairs to the Building Department but for the changeable copy.

Dr. Goist – May I just ask you, are they going to change a sign out?

Mr. Sarrocco – The sign that exists is going to be removed and it's going to be moved to comply with the widening of the street with the appropriate setbacks and it's going to be a new sign.

Dr. Goist – I think in this case then, as Mr. Kolick has just said, you have no reason for a variance because you're not interested and you may proceed and say that you're dismissed.

Mr. Sarrocco – Because it is going to be something outside of a public area.

Dr. Goist – Very good, okay. Thank you very much.

Mr. Sarrocco – Thank you.

Mr. Kolick - Mr. Chairman, for the applicant then are you going to withdraw the application for the variance then and you'll just go forward with the sign as permitted by law?

Mr. Sarrocco – Well, if we are not going to be granted the variance, I am withdrawing the variance and proceeding ahead with the permit.

Mr. Kolick – Okay.

Mr. Sarrocco – Thank you.

Mr. Bohac – Thank you.

RULING: VARIANCE WITHDRAWN

2) **JOHN R. REHS JR. & TAMMY L. REHS & RICHARD CARTER, OWNERS/
Wayne Homes, Builder**

Requesting a 154 SF Floor Area variance from Zoning Code Section 1252.22 (c), which permits a 1,000 SF Floor Area and where a 1,154 SF Floor Area is proposed in order to construct an Attached Garage on a New Single Family Dwelling property located on 19955 Bowman Drive PPN zoned R1-75.

Dr. Goist – Our next New Application is John and Tammy Rehs and Richard Carter and I have another name here. I don't know who Richard is.

Ms. Rehs – That's my Dad.

Dr. Goist – Okay, fine. If you'll give us your name and address first please.

Ms. Rehs – Tammy Rehs and I live at 5342 West 148 Street in Brook Park, right now.

Dr. Goist – Okay. Tammy, would you explain to us what you're asking for and tell us – in all cases with variances, we like to hear what your hardship is and the reason that you are asking for a variance in the Code and I would like for you to do that for the record.

Ms. Rehs – The part that is a hardship is because I do have MS. I'm in remission right now but down the line if there were any problems where we would need more parking for handicap access for the van or something like that, we would have more room. Plus with my Dad living with us, he collects cars so we need room for that too.

Dr. Goist – We certainly understand that. Board members, do you have questions for Ms. Rehs?

Mr. Evans - Mr. Chairman?

Dr. Goist – Yes?

Mr. Evans – Ms. Rehs, do you own the property now or do you have an option on buying the property to build?

Ms. Rehs – We own it.

Mr. Evans – You do own the property now. At this point, please understand that one of the things that will happen is that we will, prior to the next meeting on October 14, notify neighbors within 500' of your home. Typically, our announcement to them just says that you are applying for a variance to increase the size of the garage so you might want to contact the neighbors that are immediately in the area and let them know what it is that you are doing because oftentimes that eases the process. When they get a letter from the City, sometimes

2) **JOHN R. REHS JR. & TAMMY L. REHS & RICHARD CARTER, OWNERS/
Wayne Homes, Builder, Cont'd**

Mr. Evans continues - it's not understood and it might cause people to ask a lot more questions. If you go to them ahead of time, it usually makes the process a little bit easier. Thank you, Mr. Chairman.

Ms. Rehs – Okay.

Dr. Goist – Any other questions from Board members? If not, Ms. Rehs, your Public Hearing will be October the 14th. We changed the date. It would have been earlier but several of us are going to be out of town. So, it will be October the 14th. As Mr. Evans said, talk to the neighbors and tell them and then maybe they won't get excited when they get a letter saying what is happening.

Ms. Rehs – Okay, thank you.

Dr. Goist – Thank you.

RULING: PUBLIC HEARING SET FOR OCTOBER 14, 2009

4) **MARK DONNELLY, OWNER**

Requesting a 25' Side Yard Setback variance from Zoning Code Section 1252.17 (c) which requires that the fence be located within the setback of the residence and where the applicant is proposing to extend a fence 25' beyond the setback of the residence in order to Replace an Existing Fence with a 6' Vinyl Shadowbox Fence with Lattice; property located at 14106 Oakland Park Drive PPN 398-04-041 zoned R1-75.

Dr. Goist – We are going to take Mr. Donnelly first. If you would like to come forward and give us your name and address please.

Mr. Donnelly – My name is Mark Donnelly. I live at 14106 Oakland Park Drive in Strongsville.

Dr. Goist – Again, we all know, Mr. Donnelly, that you sent a letter to us as a Board to let us know what your interests are. I think you heard us talk in caucus and you know what our interests are. We would like to somewhere split the difference in the middle and we would like to have you move that in at least 3', which would be giving you a 22' side yard setback and then you can construct your new fence if you would like to do that, if you are willing to go that far.

Mr. Donnelly – Can I make a few comments?

Mr. Bohac – Sure.

4) **MARK DONNELLY, OWNER, Cont'd**

Mr. Donnelly – I really do appreciate all you time. I know that you're extremely busy and you have a lot of things to deal with and I have taken your time for three sessions. My goal all along has been the 25' variance and the reason, obviously, is because that is where the existing fence is and, of course, we have a pool and a deck now. It really comes down to three reasons for my family. The first reason is, as you have seen, the fence is in pretty bad shape. It has taken it's years of normal wear and tear and I think, obviously, a new fence would look the best. I'm looking at about \$10,000 spending on the fence, which is a lot of money for me and whenever I do a project at home, especially that kind of money, I really want it to look the best and when I look at the situation if I look at where my neighbors in the back there, they also applied for a variance this year and they were not successful but we talked a lot about it. I don't know if you know Tim and Linda but they're great people with a couple of young kids. Initially they were disappointed just like I would be if I don't get the variance but they got over it pretty quickly and if you have been out there, you've seen what they've done. They planted a line of evergreen trees, privacy shrubs. What they did is they asked me if it would be okay. What they wanted to do was line that wall of trees up wherever my fence line was, not knowing – they knew that I would be going through this process eventually and they thought that I would be successful. Anyway, they put up that line of trees. If I bring my fence in 3' – and by the way, their hedges or tree line is another foot beyond where my fence line is – I would be looking at bringing it in about 3' to 4' and my fence line would come down this way and it would zig out another 4' and then zag another 50' down with that line of trees. So, for me, for an appearance yes, the new fence would look great but if I'm going to have that zig zag going down like that, I think it would look a whole lot better if it was just one straight run, right along the fence line, right along the wall of trees there and I think that was their intention. Like I said earlier, they were disappointed at first but they looked at what they wanted to do with their back yard. They wanted to keep the scale of the back yard with what they wanted to do. They initially wanted to build a fence too. They also wanted to keep privacy and when they looked at the cost of putting in the trees, it was considerable less than putting up a new fence. So, from an appearance standpoint, I would love to have the 25' variance just for that. I think the new fence would look phenomenal, obviously, in the neighborhood. The second reason is for safety. I think, obviously, a new fence if you've been back there or driven by there during the day or after school, you've seen lots of kids in the neighborhood. The fence right now is in pretty bad shape. Obviously, the new fence would look the best and it would be the safest thing. My fear is that I've got two teenage boys with lots of friends and there are lots of teenagers in the neighborhood. My fear is that they know where that fence line has been for over ten years and when they see it moved in 3' to 4', I'm afraid that all the words of wisdom that Dad has to say may go out the window and one of them may just jump on top of that fence and seeing it 3' closer to the pool, just try to jump into the pool. We had a tree taken out of the back there for that same reason because the kids were jumping out of the tree into the pool. I'm really afraid that moving that fence in 3', I'm looking at the possibility at somebody getting hurt. Last but not least, it's just really for the family. In ten years or so, we have spent a lot of time back there. We've put a lot in to the back yard. We put a brick patio in there and we put a pool and put a two-tiered deck and landscaping and we spend a lot of time back there. If

4) **MARK DONNELLY, OWNER, Cont'd**

Mr. Donnelly continues - I'm looking at bringing it in 3', I may not like that much but when I take 3' and multiply it by the 73' that the fence line goes down there, I'm really looking at sacrificing about 220 of usable back yard and when I look at all those things – appearance, safety, what that means to my family – I'm having a really hard time understanding why I would want to spend that much money and not really be happy with the project and those are the reasons why I'm still here.

Mr. Kolick - Mr. Chairman?

Dr. Goist – Yes?

Mr. Kolick – For the applicant, I should make a couple of comments as to why this law is where it is. When I first started with the City in 1972, we didn't have setbacks for fences and people came up to City Council chambers complaining "We're looking like a stockade. We're building forts right up to the sidewalks" and City Council was getting bombarded with complaints "You've got to do something" and they were particularly vociferous on corner lots because they were wrapping around the whole corner and then like yours, you actually back up to another corner lot and if that fence was taken all the way down, it would look like in some peoples opinion, a fort going all the way down the road. So, City Council decided we can't have this anymore. We're getting too many complaints about this. So, they initially passed an ordinance that said you couldn't take the fence on a corner lot past where the rear house was and we lived with that as a Board for a long time. We were continuously granting variances to at least bring it out to where the house is. So, City Council took it and said although they were getting complaints about it, we're going to lessen it at least to allow it to go to the house line. The reasoning with City Council was they didn't like the stockade fence but we've got to get these things off the sidewalks. Yours was permitted to stay there as what we call in zoning a non-conforming use. The whole spirit behind the non-conforming use and it says right in the Code, is to bring it into compliance and I think what this Board was talking about doing in caucus here was carrying out the mandate of the legislature is to bring it into compliance; however, maybe we can temper that some with the thought that you have your fence that's there, that if it's brought in another 3' or so further, it's not going to require you to move the pool, it's not going to require you to move the patio or anything, and I'm speaking maybe a little more than I should for the Board and they can jump in on their own, but I think that was the idea. So, they carry out the mandate of the legislature to start bringing in the fences where they should be and at the same try to help you by not causing you - as we were concerned at the last meeting, we don't want to block the equipment or not have enough air flow or whatever you need around the equipment. That's why we talked about that. So, I think that's what the Board was trying to do to help you with it. The other problem we have with it as a Board, and you heard those comments at caucus too, is if it's granted for you then your neighbor behind you will say, Why didn't you grant ours? Why couldn't we have put ours just 3' off? And then the person on the next street is going to ask the same thing and then we're back to the very thing that all the people were yelling about in the first place. It's

4) **MARK DONNELLY, OWNER, Cont'd**

Mr. Kolick continues - not to create any hardship on you but you need to understand where the legislature was on this and where this Board has to judge and look at any variance on it.

Dr. Goist – Mr. Donnelly, I just want to say from my standpoint that the vinyl fence will look a lot nicer than the wood fence. We all tend to agree. I'm speaking for the Board but we think vinyl fences look really nice. If it's moved in 3', and looking at your situation and knowing where that equipment is, you're going to move – that equipment I'm going to guess that that's not a play area. That is not an area that you normally – you might go back there and cut the grass but that is, kind of, what we would call dead space. Yes, it's a long run and yes, it's 3' but it's not a place that you're playing ball, at least in my opinion. So, I consider that dead space up to that point. I think your legitimate concern is that somebody will jump off that fence; however, being outside of that limit and with that concrete pad that Mr. Baldin measured, I think it's going to take somebody a heck of a leap to make it from the top of that fence, if they don't break the lattice work off, to get into your pool. So, I respectfully disagree with the fact that somebody is going to jump into the pool off of the fence. They might try. They may be in the equipment instead of the pool. So, if you can understand our point, we're still going to ask you if you can come in and take a 22' setback instead of what you have. If not, I think the Board is inclined to say that we probably won't give you the variance. Then you have to decide what to do because if you move, and you heard Mr. Kolick say, if you move supporting members and you have changed the fence, you can not put them back in the same place. You're now removing what was there and rechanging. It's not a conforming use. So, if the City came out and saw that you're changing the posts, then you have another issue on your hands. We're not here to make that issue either. Board members, do you have any questions?

Mr. Evans - Mr. Chairman?

Dr. Goist – Yes?

Mr. Evans – Mr. Donnelly, just so you understand, we're not a legislative Board. We are a Board of Appeals and we might like to legislate because it would be a lot easier for us. Spending time with folks like you is not something that is a problem for us because what we try and do is engineer solutions from situations based on whatever the Code is and try and work things out. In that spirit, I think one of the things that we have not said to you is that when most people come in, our inclination is move 15' to 20' off the sidewalk. Again, going back to what Mr. Kolick said that years ago putting fences on sidewalks was a problem because of the way it looked. If you drive over through Hunting Meadows and a lot of developments where that's been the case, it does look like Parma. It looks just like it's a stockcaded area. So, we have tried to work with that and while your neighbors across the street may not say something about whether they like it or not, the reality is that if you choose to move or the neighbors choose to move at some point for whatever reason and people come in and a prospective buyer looks at a situation, they may look at it differently than a current homeowner or a current neighbor. Again, as we look at it we have to look at

4) **MARK DONNELLY, OWNER, Cont'd**

Mr. Evans continues - what the City has proposed in terms of a Code to live with and try to mitigate the circumstances. So, it's not like we're trying to force you to give up 3' of your yard. The reality is that we would like you to give up 15' of your yard and put the fence, sort of, where we have worked out deals with other people. That doesn't make sense in your situation because of the pool, because of the nature of the existing fence. So, our compromise is really more like about 12' as opposed to the 3' that you may see. Again, it's always your choice, as Mr. Kolick pointed out, and Dr. Goist said as well, you may decide just to replace it panel by panel. We think we agree with you that the new vinyl fence would be nice. Ten thousand dollars is a lot more than I can even conceive of a fence costing. I live on a corner lot but I'm lucky. I am in a development where we don't permit fences. So, that isn't even an option. In your situation and the amount of traffic flow through there, because you're on a closed loop, isn't as great as it might be on a corner and an area where there's a lot more traffic. So, while the fence is important, it's probably not as important in your situation because of low traffic density. For your purposes, the yard – Dr. Goist said it's dead space. Every square foot of yard is important to dogs, to family and everything else but again, what we're trying to do is to move from a point where we really need to take you 15' to 20' off the sidewalk in allowing you to be much closer because we think that makes sense. So, I don't want you to think that we're unwilling to consider your situation. The reality is it's because we're considering that situation that we're willing to go to a 22' variance as opposed to much less than we might normally be inclined and we have certainly done in the past with other people.

Dr. Goist – Thank you Mr. Evans. Mr. Harr?

Mr. Harr – I don't have any new comments. I echo my colleague's comments. I would love to see a new fence. I think everybody would – your neighbors, your family and so forth. As Mr. Evans very eloquently put, the compromise that we're proposing is really because of the pool situation, which you have there. It's very unique compared to what we've looked for from other people for side yard variances and so forth. I appreciate how gentlemanly you have been through the whole process and your patience with this but I too feel that we have to honor what was legislated. We have to look to adhere to the Code as much as possible and approve a variance only when they really make sense. So, I encourage you to think about it if that's an option. If it's not, I perfectly understand. You have to do what is best for your family.

Dr. Goist - Mr. Kolick?

Mr. Kolick – I guess with that then, Mr. Donnelly, you have heard the comments. Are you willing to go to a 22' side yard setback variance? If not, the Board will act on your request for 25'.

Mr. Donnelly – I want to be real clear on what my options are. One option is withdraw the variance request, right? What would I do then? I maintain the fence as best I can?

4) **MARK DONNELLY, OWNER, Cont'd**

Mr. Kolick – Then you can maintain the fence but understand again, because it's a non-conforming use, you can't replace structural members or you have to go back to where the Code requires, which is right off the end of your house, which would go right through your pool frankly. So, you would probably have to bring the fence down if you got to that point.

Mr. Donnelly – So, as long as I'm real clear, as long as I don't change the structural, as long as I don't take the posts out, I can repair panels.

Mr. Allen - Mr. Chairman, he has the right to maintain his fence.

Dr. Goist – Okay, do you understand?

Mr. Donnelly – I think I do. I can keep the posts where they are and I can do the repairs where necessary on the panels and on the lattice. So, that is one option. To take that option, do I need to ask for the variance –

Mr. Kolick – You don't need any variance to do that if that is what you want to do.

Mr. Donnelly – Okay, so that would be one option. The second option, if I accept the 22' variance, then it's still my option to either maintain or to build a fence according to that variance.

Mr. Kolick – Well, no because that variance is talking about a vinyl shadowbox fence with lattice. So, that would be your new fence. If you were granted a variance it would be for the new fence.

Mr. Donnelly – Okay. If I take option one and I would decline the variance request, I can use whatever material I want to maintain, is that correct?

Mr. Kolick – As long as it complies with the Code.

Mr. Allen - Mr. Chairman?

Dr. Goist – Yes?

Mr. Allen – I think what the applicant is indicating is he would have to replace the fence in kind. He couldn't replace the panels with vinyl. They would have to be just like they are now.

Mr. Donnelly – Is that true?

Mr. Allen – Yes.

4) **MARK DONNELLY, OWNER, Cont'd**

Mr. Donnelly – Yes.

Mr. Harr – I'm sorry. Perhaps I misunderstood the applicant. I don't want to put words in your mouth. Is what you asking is if you amend your variance request to 22' and that variance request is approved but you decide to not act on that and leave the existing fence as it is and repair it, is that permissible. Is that what you were asking?

Mr. Donnelly – Yes.

Mr. Kolick – That's okay.

Mr. Evans – That is what I thought too, Bill.

Mr. Harr – I thought so too. So, if you did amend your variance request to 22' and if it was approved by this Board and you go home tonight and go, I really don't want to do that, you still could maintain your existing fence provided you meet the Code and the criteria that have been mentioned here and just not use the variance.

Mr. Evans – Right, but he could not go back and replace the panels with vinyl on the existing fence. It would have to be replaced with like materials.

Dr. Goist – Mr. Allen said it has to be in kind.

Mr. Harr – In kind, yes. Is that clear?

Mr. Donnelly – Yes. What if I used a vinyl that's not a white but

Dr. Goist – In kind means cedar.

Mr. Donnelly – Cedar. Okay.

Dr. Goist – I don't want to take words out of Mr. Allen's mouth but I think that is what he is saying.

Mr. Allen – That is correct.

Mr. Donnelly – That sounds fair. I've gotten almost ten years out of the fence. If I replace panels I could probably get another.

Dr. Goist – The one thing - I will have to say we have to give credit to our City employees – that they will do is periodically check to see if the fence is not deteriorating worse now by the fact that you have come, they are going to at least check and see what progress is being made. We've had people who said they were going to do something and they didn't do

4) **MARK DONNELLY, OWNER, Cont'd**

Dr. Goist continues - anything. Credit to the Building Department. They do stay on top of that. I just wanted you to know.

Mr. Donnelly – Can I ask another question? What is the difference between putting up a walls of trees? I can do that right? That would be another option. I wouldn't need any kind of variance or anything on that. I can go as close to the sidewalk as I would like? Is that right?

Mr. Bohac – I don't think you can go close to the sidewalk.

Mr. Kolick – Joe, what is the restriction as far as – you have to keep it within your property line, that is for sure but I don't think there is a restriction unless it's over –

Mr. Allen - Mr. Chairman? Let me double check. I know there is a restriction on hedges. I don't know if it encumbers trees or not.

Mr. Baldin – Unless it's a tree hedge regardless. The way they planted it, they planted it – I'm not sure what type of trees they are.

Mr. Bohac – Arborvitaes.

Mr. Baldin – Frank, you are in that type of business or used to be so how big can they get and how wide? Roughly.

Mr. Donnelly – From what I understand, they can get 40' to 60' high and they grow about 2' a year.

Mr. Harr – Twenty feet tall.

Mr. Bohac – Three feet.

Mr. Baldin – Three feet wide?

Mr. Bohac – Oh yes. At maturity and 25' to 30' tall but believe me, you don't want to put those in. Ten years down the road, they start dying on the inside and look like heck.

Mr. Allen - Mr. Chairman?

Dr. Goist – Mr. Allen?

Mr. Allen – Section 1252.17 does not address trees. It just addresses fences, hedges and walls. So, to my knowledge, there is no requirement on trees.

Mr. Evans – But they cannot grow over the sidewalk right?

4) **MARK DONNELLY, OWNER, Cont'd**

Dr. Goist – Once they grow over the sidewalk, and this just happened in my development, we do not have anything except a water retention basin but along Howe Road there are all pine trees and the pine trees began to grow over the sidewalk and they were infested with poison ivy and the City came out – the forester – and she declared that a hazard to the public walking on the sidewalk and the association was required to get rid of the poison ivy and to cut the trees back to a point where people could walk down the sidewalk. So, if your neighbor's trees got big enough that if they were to come to the sidewalk, then they would be required to trim them. So, you can't plant just any kind of tree that is going to overgrow the sidewalk.

Mr. Baldin – They are only about 2' off your back fence line, aren't they?

Mr. Donnelly – They are at least a foot or more. About 18".

Mr. Evans – Yes, they're close.

Mr. Baldin – They'll be right up against your fence eventually.

Mr. Donnelly – I was just curious. It sounds like I could accomplish everything I want with doing something like that. To get back to your comment earlier Glenn, you asked about that being dead space back there, that is where my sons garden is. That's about the only spot in the yard that gets light and he has his garden right in the back corner there.

Dr. Goist – I was back there but I did not see the garden there. I wasn't looking for a garden.

Mr. Baldin – I wasn't paying attention.

Mr. Bohac – Put it on the other side of the fence.

Mr. Donnelly – Can I make a request in the spirit of compromise? We're looking at a few feet. Could I ask for a foot, coming in a foot? We're still accomplishing some sort of a compromise. Instead of 3', coming in 1'. That will give me just about everything that I needed and in the spirit of compromise, it will still come in something.

Dr. Goist – We're asking for 3' and you're asking for 1'. We're asking for a 22' side yard setback and you're asking for 21' or are you asking for 20'. Let's not play a game here.

Mr. Baldin – Twenty-four feet.

Mr. Harr – Twenty-four.

4) **MARK DONNELLY, OWNER, Cont'd**

Dr. Goist – You're asking for 24'. I'm going to say to you – I don't speak for the whole Board but the answer in this spirit, we think that we have come in 3' where we should have come in 7'. We think we have come in half way. We're asking you to come in that half way because if we really did it where we wanted to do it, we would bring it in right up against your pool.

Mr. Bohac – You would end up taking down your pool.

Dr. Goist – We are talking about off the house. You have to realize that we're talking about the setback being off the house. For me, I would say, no. Board members?

Mr. Baldin – Mr. Chairman, I would have to echo your comments. Three feet is sufficient. I think a foot is like asking for – why even ask for a foot. Either stay with what you have and take your variance off the Board here and go ahead a repair your fence as it is because 1' is not going to do anything. Three feet is going to be somewhat of a help and somewhat of a compromise of what we're asking for. We don't want you to take your pool down. We don't want you to give up your recreation in your yard. We're just trying to comply with the laws but we can't because if we did that, we would really upset you and you would be taking your pool down. So, we're trying to compromise.

Dr. Goist - Mr. Bohac, any comments?

Mr. Bohac – I agree. That's why I mentioned to the gentleman. I think he knew our feelings and I told him I would think about it before we even got in here that we were pretty well set at 3' and I think that's more than a fair compromise. We have our hands tied to a certain degree but I was out there three times. So were the other people. You aren't putting us out. If we didn't want to do it, we wouldn't do it. That's why we're here. Hopefully we make the City a better place to live. I don't think 3' is asking that much.

Mr. Baldin – I would like to make another comment. Right here before me is a piece of paper, which is a request for action by the City of Strongsville to check another piece of property in your neighborhood. There is a fence that should not be there and was probably put up without a permit. There is a restriction backing out of the garage and you can't see down the sidewalk, etc. and so forth. I do not recall that coming in front of this Board. These are the kinds of things that we look out for.

Dr. Goist – Mr. Donnelly, I'm going to ask you as the Chairman of this Board if you would like us to request a 22' side yard setback? We will put that language in our request and then you know your options and you know that in kind means in kind. If you replace panels and lattice it has to be cedar as you have now and so, if you would like us to do that, we will do that.

Mr. Donnelly – Okay.

4) **MARK DONNELLY, OWNER, Cont'd**

Dr. Goist – The Public Hearing has been held so I won't ask for a public comment. I'll ask for a motion.

Mr. Harr - Mr. Chairman, I make a motion that an amended request for a 22' Side Yard Setback variance from Zoning Code Section 1252.17 (c), which requires that the fence be located within the setback of the residence and where the applicant is proposing to extend a fence 22' beyond the setback of the residence in order to Replace an Existing Fence with a 6' Vinyl Shadowbox Fence with Lattice; property located at 14106 Oakland Park Drive PPN 398-04-041 zoned R1-75 be approved.

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 – Mr. Donnelly, we have approved your variance for a 22' side yard setback. I think you are very clear and understand the options. We appreciate you being a gentleman and working with us and we hope that we have been the same and tried to give you what we could do within the City Code.

Mr. Donnelly – You have.

Dr. Goist – We will be interested in seeing what you do. There is a twenty day waiting period for the permit if you choose to go to the 22'.

Mr. Donnelly – Okay, thank you. Is that something that – you've seen the fence. Do I –

Dr. Goist – Everyone has a twenty day waiting period because City Council has the right to review what we've just done tonight.

Mr. Donnelly – I have to wait to repair it?

Dr. Goist – Twenty days from today you can pick up the permit.

Mr. Donnelly – I thought I already put a permit in.

Mr. Kolick – You have an application for a permit. We can't actually issue the permit and say it's approved until after the twenty-day waiting period.

Mr. Donnelly – Okay.

Mr. Bohac – Good luck.

4) **MARK DONNELLY, OWNER, Cont'd**

Dr. Goist – Thank you.

RULING: VARAINCE APPROVED AS AMENDED

3) **DR. KAST, OWNER**

- a) Requesting a variance from Zoning Code Section 1260.09 (c) (2) which permits one Ground Sign and where 2 Ground Signs are proposed;
- b) Requesting a 10' Setback variance from Zoning Code Section 1260.09 (c) (2) which requires a 25' Setback and where a 15' Setback is proposed in order to install a Ground Sign;
- c) Requesting a 24 SF Face Area variance from Zoning Code Section 1260.09 (c) (2) which permits a 36 SF Face Area and where a 60 SF Face Area is proposed in order to install a Ground Sign; property located at 16580 Pearl Road PPN 393-34-019 Zoned PDA-2.

Dr. Goist – We have notice that Dr. Kast is back. Please come forward and give us your name and address. Wait, first you weren't sworn in. Our Assistant Law Director will swear you in.

Mr. Kolick stated the oath to all standing.

Dr. Kast – My name is George Kast. My address is 1203 Cooper's Run, Strongsville, Ohio.

Dr. Goist – Okay, I'm going to ask you one question. The question is do you have with the homeowner's association at Echo Lake a signed agreement?

Dr. Kast – I do.

Dr. Goist – Would you bring it to the Board please and we'll give it to our Assistant Law Director.

Mr. Baldin – While he is reading the agreement, will you pass to this our secretary for an action to be taken?

Mr. Rakowski - Mr. Chairman?

Dr. Goist – Yes?

3) **DR. KAST, OWNER, Cont'd**

Mr. Rakowski – Tom Rakowski, 19929 Echo Drive. While Mr. Kolick is perusing the document, the points of contention that we revised earlier today, Dr. Kast did have a revised copy that was sent to him by his attorney. While we were out in the hallway, we did get the two respective attorneys on the phone to confirm their understanding and agreement and so they verbally told us that we could go ahead and execute the document to which we did prior to coming into the room here.

Mr. Evans – My compliments on making that happen Mr. Rakowski.

Mr. Rakowski – Thank you, Mr. Evans.

Mr. Harr – We'll be sending you to the Middle East here pretty soon.

Mr. Kolick - Mr. Chairman, we need to get a copy of this and you can keep the original document. It's my understanding that, basically, what is going to happen is if your variance is granted, the two signs would stay there until the road is widened and then within six months after the time period that the road is widened, the homeowner's association sign would get moved to another area. Is that basically what is going to happen?

Dr. Kast - Yes, that is, basically, my understanding of the documents.

Mr. Kolick – Okay, then the Board can go ahead and act on it. We just need to show that it's contingent upon the homeowner's association sign being moved within six months after the time that the roadway is widened. So, we know that if the variance is granted, it's only going to be for this period of time, which at the most should be thirty months because I know that we're saying twenty-four months for the road widening and it could be much quicker. So, I see the homeowner's association people are shaking their heads yes, it's their understanding too. With that I think that we can go ahead and act on it.

Dr. Goist - Mr. Kolick, I had one question for you. He had three variance requests. One of them being (c) 24 SF Face Area. Did we decide that that was no longer necessary, that he complied so you're only asking for two variances. Is that right Dr. Kast?

Mr. Kolick – That's correct.

Dr. Kast – Yes, if that is the case, yes.

Dr. Goist – Okay, so you're only asking for (a) and (b) and then contingent with the six month agreement that Mr. Kolick interjected.

3) **DR. KAST, OWNER, Cont'd**

Mr. Kolick - Mr. Chairman, the only other thing that I would like to say is the City isn't party to this. The City is not going to enforce this. As long as you guys understand that this is an agreement between yourselves that has to be taken care of. The only thing that would happen is if the sign wouldn't be removed in six months after that roadway is expanded, the City may have to take action at that time. So, as far as any agreement between the two parties, yes the City wanted to see it done but we don't intend on trying to enforce or not enforce an agreement. This is a private matter between the two of you.

Mr. Harr - Mr. Chairman, just to make sure I understand, the contingency on the homeowner's agreement to move their sign off the property is really only affecting the setback variance. There is no intention to move the doctor sign after the homeowner's association sign has been moved. Is that correct?

Mr. Kolick - No. The thought process is the doctor sign can go up now where it's proposed, attached right behind the homeowner's association sign but in six months after the roadway is done that homeowner's association sign has to be moved out of there.

Mr. Harr - Do we need to act on (a) and (b) separately because of the contingency?

Mr. Kolick - No, make them both contingent upon removal of the homeowner's association sign within a six month period after the roadway is widened in that area.

Dr. Goist - Okay, this is probably a technicality, Mr. Kolick but you have the agreement in your hand. Do we want to take that and have the City copy it and give him back a copy? I would hate to have this go out of this room, have it be changed and come back.

Mr. Kolick - That's what we'll do. You can stop up at the City. We don't need the original agreement. We'll just make a copy and you can get the original from Kathy tomorrow.

Dr. Goist - We can make a copy here.

Mr. Kolick - If there is a copier here, we'll make it right here then. We'll give it to you at the end of the night. How's that?

Dr. Goist - The Public Hearing has been held and I'll now entertain a motion for -

3) **DR. KAST, OWNER, Cont'd**

Mr. Evans - Mr. Chairman, before we get to that point, I have a clarification if I may. The first is that we have on record that fact that the City has indicated that the homeowner's association will be able to use the right-of-way in order to construct the sign. Is that correct Mr. Allen?

Mr. Kolick - Mr. Chairman, maybe I had better answer that. I think there has been some discussion with the homeowner's association and maybe our Engineering Department and Administration are in favor but, like anything else, it has to go through a process. Only City Council can grant a license to use their right-of-way and I don't intend and I don't think Mr. Allen can speak for City Council.

Mr. Allen – Are you talking about the proposed sign that they're putting in now or where it's going to go?

Mr. Kolick – He's talking about the new sign when the homeowner's association put one in the right-of-way after the widening.

Mr. Allen – At that point, like Mr. Kolick said, we would have to have an agreement with the City.

Mr. Harr – I don't know that our action – worse case scenario is they would not have signage. Is that accurate?

Mr. Evans – Yes, but we are granting a temporary variance with a timing issue so I thought that I had understood that that was something that wasn't going to be a problem so I just wanted to be sure that we address that as part of the thought process.

Dr. Goist – If you'll give us your name and address.

Mr. Maloney – Yes, Scott Maloney, 19532 Stoughton Drive in Strongsville. I was at a couple of meetings with the City Engineer Ken Mikula and we had talked through all these plans and he had expressed to us that he had confirmation that the City was going to be okay with our plans to put our sign in that island but that we would have to draft up an agreement with the City, which has been done in a number of other subdivisions so there is a precedence for it and he didn't feel there would be a problem with ultimately getting that drafted and having that in place when we get ready to put our sign in the island after the widening project is complete.

Mr. Allen - Mr. Chairman, I spoke to Mr. Mikula and they concur with that.

Dr. Goist – I think that is exactly what Mr. Kolick was saying to make sure that you have City Council and the agreement in your hand.

3) **DR. KAST, OWNER, Cont'd**

Mr. Maloney – There is language in that agreement as well that we just signed that says that we are to get that document in place with the City as well as part of the arrangement that we have.

Mr. Evans - Mr. Chairman, the second point of clarification is that in granting the variance, Mr. Kolick, we are not stipulating that the sign that the homeowner's association currently has is the one that has to move because that's probably not going to be the sign that they will use on the island. Our variance is not restrictive in that sense, is that correct?

Mr. Kolick – The variance is contingent upon the sign coming down. Whether they move it, whether they destroy it and build a new one, we're not concerned with this as a City. The idea is we'll only have one sign on that lot, basically, within a thirty month period at the longest and I think everybody understands that. We're not saying they have to take the exact same sign and put it in the right-of-way. If they elect to put another sign there that complies with the Code and it gets approved by the City and City Council, that is fine. We aren't mandating that same sign. On the other side, if that sign works and it meets all City Codes and is approved, that is fine too.

Dr. Goist – Okay, I'll entertain a motion for the variance.

Mr. Evans - Mr. Chairman, I would like to move that we approve a variance request from Zoning Code Section 1260.09 (c) (2) which permits one Ground Sign and where 2 Ground Signs are proposed and approve a 10' Setback variance from Zoning Code Section 1260.09 (c) (2) which requires a 25' Setback and where a 15' Setback is proposed in order to install a Ground Sign; property located at 16580 Pearl Road PPN 393-34-019 Zoned PDA-2 contingent upon the removal of that homeowner's association sign within six months after the Pearl Road right-of-way is completed by the City.

Mr. Baldin – Second.

Dr. Goist – Kathy, would you call the roll please.

ROLL CALL:

ALL AYES:

MOTION CARRIED

Mr. Kolick – Mr. Chairman, there is that twenty-day waiting period but I do think as a City we wish to thank both the homeowner's association and Dr. Kast for working this out and I think it's not only in their best benefit but the best benefit of the citizens of the city to have this taken care of. You'll have proper signage there and yet it will look right, at least after the right-of-way is completed.

Ms. Zamrzla - Mr. Chairman?

3) **DR. KAST, OWNER, Cont'd**

Dr. Goist – Yes?

Ms. Zamrzla – Dr. Kast, do you have to return to ARB now?

Dr. Kast – Yes.

RULING: VARIANCE APPROVED AS AMENDED

Dr. Goist – Thank you again, Dr. Kast. Thank you to the gentlemen from Echo Lake. We appreciate that. We will get that copy for you right now. If there is no other business to come before this Board, meeting is adjourned.

Meeting adjourned at 8:51 p.m.

Glenn Goist, Chairman

Kathryn A. Zamrzla, Sec'y

Approval Date