

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

**Meeting of
August 11, 2021**

Board of Appeals Members Present: Ken Evans, David Houlé, Richard Baldin, Dustin Hayden, John Rusnov

Administration: Assistant Law Director Daniel J. Kolick

Assistant Building Commissioner: Brian Roenigk

Recording Secretary: Kathy Zamrzla

The Board members discussed the following:

1) DAVID PHILLIPS, OWNER

Requesting a variance from Zoning Code Section 1252.18, which permits one (1) Accessory Structure and where one (1) Shed exists and a second Accessory Structure (Gazebo) is proposed; property located at 8989 Priem Road, PPN 391-11-022, zoned R1-75.

Mr. Roenigk stated that the existing swimming pool and shed were both installed without permits. We received a complaint and we straightened out the pool issue which is now compliant. They only need a variance for the structures. Mr. Evans stated that a letter was received stating an objection to the variance. Mr. Baldin asked if there were police records concerning noise violations. Mr. Kolick stated that Jonathan Drive homes immediately abuts this property.

2) ALBERT VONDRA, OWNER

- a) Requesting a 2' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 10' Rear Yard Setback and where an 8' Rear Yard Setback is proposed in order to construct a Concrete Patio;
- b) Requesting a 15' variance from Zoning Code Section 1252.16 (e), which requires a Concrete Patio maintain the same Side Yard Setback as the main dwelling and where the applicant is proposing a Concrete Patio encroaching 15' (West) beyond the main dwelling in the Side Yard Setback;
- c) Requesting a 97 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 289 SF Floor Area is proposed in order to construct a Pavilion;
- d) Requesting a 3'11" Height variance from Zoning Code Section 1252.15, which permits a 12' Height and where a 15' 11" Height is proposed in order to construct a Pavilion; property located at 11664 Weston Pointe, PPN 392-03-140, zoned R1-100 (Cluster).

Mr. Evans stated that this is a construction of a pavilion. Mr. Houlé stated that this a cul-de-sac property and there is a little bit of a drop off and common land behind the property. It is shielded from the street and from most houses because of its location. It is quite large and the height is an issue. Mr. Hayden questioned the location of the pavilion and the height. Mr. Roenigk stated that the contractor has requested that item (d) be reduced to one foot not three feet eleven inches. Mr. Baldin stated that the property was not staked out and you can't get a good visual. Mr. Kolick stated that the property owners are given instructions to stake out the projects. Mr. Evans stated that his concern is item (b) having it extend past the footprint of the house. He doesn't believe there is a hardship for this item. Mr. Evans stated that the HOA contacted him and had questions regarding the project.

3) **PETRO SYKYDA, OWNER**

Extension of the determination of September 29, 2020 of the Board of Zoning and Building Code Appeals:

Requesting a 10' Lot Width Setback variance from Zoning Code Section 1252.05, which requires a 75' minimum Lot Width and where a 65' Lot Width is proposed in order to construct a Single Family Dwelling; property located at 14363 Pearlview Road, PPN 396-17-048, zoned R1-75.

Mr. Evans stated that the variance was granted and due to Covid the project was slowed down.

4) **DUANE AND EMILY MANCINI, OWNERS/Moscarino Outdoor Creations, Representative**

Requesting a 14.5' Rear Yard Setback variance from Zoning Code Section 1252.05, which requires a 36' Rear Yard Setback and where a 21.5' Rear Yard Setback is proposed in order to install a Paver Patio and Fire Pit; property located at 18344 Heritage Trail, PPN 397-20-149, zoned R1-75.

Mr. Evans stated that this is a triangular area with shallow backyards. Mr. Houlé stated that there is common area in the back. Mr. Rusnov stated that this is a topographical issue. Mr. Baldin stated this project was not staked out. Mr. Evans stated that he will abstain from voting because he is a trustee in High Point. Mr. Evans stated that no letter was received from the homeowners association. Mr. Kolick asked if the Board wanted to wait until a letter is received. Ms. Zamrzla stated that they were trying to get a letter.

5) **REMOVED AT APPLICANT'S REQUEST, VARIANCE NO LONGER NEEDED DUE TO A CHANGE IN BUILDING PLANS**

BRIAN AND ELIZABETH KOLESAR, OWNERS

- a) Requesting a 96 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 288 SF Floor Area is proposed in order to construct a Pavilion;
- b) Requesting a 2' 4" Height variance from Zoning Code Section 1252.04, which permits a 12' Height and where a 14' 4" Height is proposed in order to construct a Pavilion; property located at 18322 Heritage Trail, PPN 397-20-150, zoned R1-75.

Mr. Evans – Gentlemen we have before us this evening minutes from July 7 and July 28. Any corrections? Any comments or any changes that we need to make in those?

Mr. Baldin – No, they were very good.

Mr. Evans – We appreciate the job that our recording secretary does on that. We also have Findings of Facts and Conclusions of Law for Felix Nungaray on July 28. Comments on those? Any corrections that need to be done? When we are voting this evening, I've talked with our Assistant Law Director and based on my review of the minutes I feel adequate in voting on the Findings of Facts and Conclusions of Law and also after talking with Mr. Houlé who filled in in my absence. If you had voted against the variance the last time you would be voting for the Findings of Facts and Conclusions of Law. If you voted for the variance the last time, you would be voting against the Findings of Facts and Conclusions of Law. We need three affirmatives to approve the Findings of Facts and Conclusions of Law. Just so you understand that.

Mr. Kolick – We have a swearing in to do first.

Mr. Houlé was sworn in for another term.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS
MINUTES OF MEETING
August 11, 2021

The meeting was called to order at 8:00 PM by Mr. Evans.

Present: Mr. Houlé
Mr. Baldin
Mr. Hayden
Mr. Rusnov
Absent: Mr. Evans

Also Present: Mr. Kolick, Assistant Law Director
Mr. Roenigk, Assistant Building Commissioner
Ms. Zamrzla, Recording Secretary

Mr. Evans – Good evening ladies and gentlemen. I would like to call this August 11, 2021 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. May we have a roll call please?

ROLL CALL:	MR. EVANS	PRESENT
	MR. HOULÉ	PRESENT
	MR. HAYDEN	PRESENT
	MR. BALDIN	PRESENT
	MR. RUSNOV	PRESENT

Mr. Evans - 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 before us minutes from July 7, 2021 and July 28, 2021. We talked about this in caucus. Is there anything else that anybody needs to offer as a comment or a change that needs to be made? Then we will submit those as they were given to us for the record. We also have Findings of Facts and Conclusions of Law for Felix Nungaray at 11430 Prospect Road as a result of the July 28, 2021 meeting. Is there any discussion about those? If not, then I will entertain a motion.

Mr. Houlé – Mr. Chairman, I would like to make a motion to approve the Findings of Facts and Conclusions of Law in regard to Felix Nungaray, 11430 Prospect Road, Permanent Parcel No. 392-10-013, zoned Single Family.

Mr. Baldin – Second.

Mr. Evans – Thank you Mr. Houlé for the motion. Mr. Baldin for the second. May we have a roll call please.

ROLL CALL:	MR. RUSNOV	NAY
	MR. HOULĚ	AYE
	MR. EVANS	AYE
	MR. HAYDEN	NAY
	MR. BALDIN	AYE

Mr. Evans – Thank you. The Findings of Facts and Conclusions of Law are then approved as they were submitted by our Law Department. That then takes us into the meeting. Ladies and gentlemen, if you are here this evening and you wish to speak during the meeting, that would be if you are an applicant and you are introducing a request for a variance or if you are here for a public hearing and wish to speak, I would ask you now to stand and be sworn in by our Assistant Law Director. So, if you think you might need to speak tonight, now would be a good time to be sworn in. We don't charge you and we don't hold it against you if you don't speak, but if you do speak you would need to be sworn in at this time. This is also for our Building Department representative and our secretary too.

Mr. Kolick stated the oath to those standing.

1) **DAVID PHILLIPS, OWNER**

Requesting a variance from Zoning Code Section 1252.18, which permits one (1) Accessory Structure and where one (1) Shed exists and a second Accessory Structure (Gazebo) is proposed; property located at 8989 Priem Road, PPN 391-11-022, zoned R1-75.

Mr. Evans – Our first item on the agenda is David Phillips at 8989 Priem Road. Do we have a representative here? If you would come forward to the podium and Mr. Phillips we will need your name and address for the record first.

Mr. Phillips – David Phillips, 8989 Priem Road, Strongsville, Ohio, 44149.

Mr. Evans – Mr. Phillips why don't you tell us a little bit about your application for the variance and the reason you are in need of the second structure and the process that you went through to get here.

Mr. Phillips – So the process was pretty complicated for me. I had no idea. I've had a pool up in the yard for several years. It ended up getting a hole in it so I tore it down last year. Bought a new pool this year. Didn't know I had to file a new permit which then, when I bought the pool and put it up, I also bought a gazebo. Wanted somewhere nice to sit outside and be able to watch my kids while they're in the pool so I didn't have to be in there the whole time, I could be right next to them. During that investigation of the pool, then the gazebo was brought up. I bought the gazebo from Big Lots. I honestly had no idea I needed a permit for the structure so I just threw it up and here we are today. That's kind of how it all unfolded.

1) **DAVID PHILLIPS, OWNER, Cont'd**

Mr. Evans – Mr. Phillips, in doing the shed then that you already have, has that been up for a while?

Mr. Phillips – That's been there since I bought the house.

Mr. Evans – I also want to make note that we did receive a letter today via email from a resident at 22028 Jonathan Drive, Jeffrey Helsac, who abuts the property, the backyard. He indicated that his request was that we not approve the variance because of loud music at all hours of the day and random days of the week, late night bonfires, loud partying, and the house, from what all of us saw, the yard where your gazebo is and the pool and everything does back up to their lot and pretty much right about the middle of their house where their bedroom window is. So, his letter was received by us and just that you're aware that we received the letter indicating that. That doesn't necessarily mean that that's how we would vote but I wanted you to be aware that one of your neighbors had expressed an opinion and he was unable to be here tonight, so he had sent the letter indicating that he had a disagreement with us approving the variance. So, I wanted to make you aware of that. Other thoughts from Board Members?

Mr. Baldin – Do you have. . . You're enjoying your backyard, you've got a pool, you got the gazebo up and I noticed you had a couple of little fire pits. It looks to me that it's a backyard that you're enjoying quite a lot and probably having a little bit of fun back there. Some late nights and a little loud music?

Mr. Phillips – Honestly, of late, no. In the past when I went through my divorce, yes. I'm not going to lie. It was a rough time and I did what I did to get through it. The situation I'm in now is totally different. It's more kid focused. I see where he's coming from but what I'm doing now is something that he really shouldn't worry about. Me and him have spoke over the years. He has my phone number. We've never really had dissention between one another so that's actually really interesting that it was him that said these things.

Mr. Baldin – I was under the impression it was the neighbor to your left if I was standing in your backyard.

Mr. Phillips – That's what I thought. So, you were the gentleman there today.

Mr. Baldin – Yes.

Mr. Phillips – So I didn't get to meet you, so hi.

Mr. Baldin – Looking through the boards standing out there, from what I was told by the young lady, I thought she complained.

1) **DAVID PHILLIPS, OWNER, Cont'd**

Mr. Phillips – That's who we thought. Me and him have had some disagreements. Just some weird behavior, more or less. Had the kids out in the front yard for my daughter's 7th birthday and it was just very uncomfortable. All the kids came running back. He should have been more concealed with his item. Just caused a disruption.

Mr. Baldin – Did you have the pool there before?

Mr. Phillips – Yes. Pool has been there since I bought the house.

Mr. Baldin – When you had the first pool put in, was there a permit?

Mr. Phillips – Not that I'm aware of, it was there when I bought the house five years ago.

Mr. Rusnov – Our concern is just sticking to what you're filing for now with the variance. Not these other peripherals because we have no jurisdiction whatsoever and we can totally understand, going through a divorce and all the other stuff, and most people are not attorneys or experts in the Building Code of Strongsville. So, it's easily understandable how you could make a mistake and not get one as our Assistant Building Commissioner said that it's kind of daunting the instructions that you get. So just to cut you guys short, all we're worried about is the variance right now. Because that's our purview, the variance. Do you have anything else to add, sir? Not to cut the Chairman short here.

Mr. Evans – So this is a public hearing. I'll ask if there's anybody in the audience who wishes to speak for the granting of the variance. Anybody who wishes to speak against the granting of the variance? Hearing none and seeing none, I will declare the public hearing closed. Regardless of how the vote might go, Mr. Phillips, I would want to make sure that you understand that we all live in a community and we all have neighbors. Oftentimes variances, while as Mr. Rusnov indicated, are not something where we consider ancillary things. It's strictly the variance. It is a time when people have an opportunity to express an opinion and usually when they do it's because they want to make a point. In order to be good neighbors, we need to take those things into consideration. I just want to make sure you understand that it's not necessarily, as Mr. Rusnov said, a part of our process but it does mean that you would want to take into consideration the neighbor. I will then entertain a motion.

Mr. Rusnov – Mr. Chairman, I would like to make a motion requesting a variance from Zoning Code 1252.18, which permits one (1) Accessory Structure and where one (1) Shed exists and a second Accessory Structure (Gazebo) is proposed; property located at 8989 Priem Road, PPN 391-11-022, zoned R1-75.

Mr. Hayden – Second.

1) **DAVID PHILLIPS, OWNER, Cont'd**

Mr. Evans – Thank you Mr. Rusnov for the motion and Mr. Hayden for the second. May we have a roll call please?

ROLL CALL:

ALL AYES:

MOTION GRANTED

Mr. Evans – The variance has been granted by this Board. What happens next is there is a twenty day waiting period during which time City Council has the opportunity to review our decision. We're not the ultimate deciding authority. If City Council chooses to they can look at our decision and act on it. Should they choose not to do anything, at the end of the twenty days you will be notified by the Building Department and can move forward with the process. Since the gazebo already exists, that would be the Building Department's call as to how they handle that then. But the twenty days has to pass during which time City Council has the opportunity to review it. You're all set for tonight. The variance has been approved by this Board.

Mr. Phillips – Thank you very much.

2) **ALBERT VONDRA, OWNER**

- a) Requesting a 2' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 10' Rear Yard Setback and where an 8' Rear Yard Setback is proposed in order to construct a Concrete Patio;
- b) Requesting a 15' variance from Zoning Code Section 1252.16 (e), which requires a Concrete Patio maintain the same Side Yard Setback as the main dwelling and where the applicant is proposing a Concrete Patio encroaching 15' (West) beyond the main dwelling in the Side Yard Setback;
- c) Requesting a 97 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 289 SF Floor Area is proposed in order to construct a Pavilion;
- d) Requesting a 3'11" Height variance from Zoning Code Section 1252.15, which permits a 12' Height and where a 15' 11" Height is proposed in order to construct a Pavilion; property located at 11664 Weston Pointe, PPN 392-03-140, zoned R1-100 (Cluster).

Mr. Evans – Item number two on our agenda is Albert Vondra on Weston Pointe. Do you have a representative here?

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Baldin – Before we get on with number two, I have a question for our Assistant Building Commissioner. Brian, is there any type of lattice work that can be built inside your own yard and not on a fence that's already there?

Mr. Roenigk – Maximum height is six feet. Lattice included.

Mr. Baldin – Lattice included. Okay.

Mr. Roenigk – Cannot extend on top of a fence.

Mr. Baldin – Not on top of a fence. What if you built something before the fence? Lattice work and you've got vines growing on it or something?

Mr. Roenigk – As long as it's not over six feet.

Mr. Baldin – That's what I thought. I just ran into that situation back home. My cousin got a pool in the yard and the gentleman that's always there right behind, same situation and he was allowed to put up lattice work eight feet high to block the view from the peeping tom behind him.

Mr. Evans – Allowing might not be the correct word for it. If he did it and didn't have a permit or something.

Mr. Baldin – No, they were allowed to do it. They went to the city back there.

Mr. Kolick – At least not in Strongsville.

Mr. Baldin – No. I'm sorry. Just some information for you.

Mr. Evans – If you would be so kind as to give us your name and address for the record please.

Mr. Colabianchi – Frank Colabianchi, 11005 Pearl Road, Suite 2, Strongsville. I'm representing Al Vondra who's the owner of the property.

Mr. Evans – So you heard us talking in caucus. There were obviously a number of things that we talked about. I'm going to let you go ahead and talk and tell us where the applicant is at and what you're working with him on.

Mr. Colabianchi – First of all I'd like to apologize to the Board and to some of the people that are here. Al, Mr. Vondra, just like many contractors and homeowners, they want to get the ball rolling real quick, so he took my hand drawing and he went to get a permit. My hand drawing is still basically correct and so we ran into the problem with the storm water easement in the back. We

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Colabianchi continues - had to shift some things around. That's why there's some miscommunication and misunderstanding there. So, I do apologize for that. I've also been in contact with Brian. I think there's some of these variances that I could scale back or maybe even eliminate to be perfectly honest with you. Just try to keep the status quo as much as I can in the subdivision there. If I may, I will go through the variances and just say where I could change or subtract from. I think the two foot rear yard setback, I'm going to need that because we're losing so much room because of the storm sewer easement. So, I'm going to need that. As far as the side yard variance, I believe I could kick the structure to the center of the lot more and there's more concrete on the side of the pillars there than I really anticipated. The drawing shows seven, almost eight feet from the center of the pillar and I think I can cut that down considerably and move the structure over to the right where maybe instead of a fifteen feet variance, half of that possibly.

Mr. Rusnov – So you go with a seven foot variance?

Mr. Colabianchi – I think I could make that work real easy.

Mr. Rusnov – So we're going to change that for you.

Mr. Colabianchi – Yeah. And with that being said I think I could cut the concrete down considerably too, that we talked about, that I could come up with a number for you on that. So that variance could probably be cut in half also, I think, if not even more.

Mr. Evans – You mean the . . .

Mr. Colabianchi – Item (c), yes.

Mr. Rusnov – So the 97, you're talking probably 45?

Mr. Colabianchi – I would say easy half.

Mr. Rusnov – Okay. Let's go with 45. And then the height.

Mr. Colabianchi – I called it a pavilion, that's probably the wrong word for it. It's basically going to be a covered porch. I have a picture of the other one we did for him. It's a nice structure. It's nothing gaudy or crazy. I think I could even conform to the twelve foot, to be honest with you. We vault the ceiling on the inside and so even with the twelve feet from the concrete floor to the top of the structure, I could still get him eleven foot plus on the vaulted part.

Mr. Rusnov – So we can eliminate (d)?

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Colabianchi – I think we can eliminate that totally. I talked to Brian, maybe getting one foot, but I really don't think I need that.

Mr. Rusnov – Thank you for your cooperation. We'll just eliminate (d).

Mr. Colabianchi – I think (d) could be completely eliminated.

Mr. Rusnov – Thank you.

Mr. Baldin – Is your customer going to go along with that?

Mr. Colabianchi – Oh yeah. I guess. I have a drawing of the one that we did before for him. A picture I mean. It will be an eight feet clearance around the pillars and then I can vault it up to eleven feet in the middle, so it's going to go up another three feet. Even with the two by six rafter, I could probably even get a little bit higher vault in there. I'm not worried about that. Al will be happy with that.

Mr. Roenigk – Can I ask a question Mr. Colabianchi? I'm just trying to get my numbers straight for the variances. So, the (b) is how much of the patio passes the side of the house. Right now you're fifteen feet past the side of the house.

Mr. Colabianchi – So the concrete slab, I think we have to go with seven.

Mr. Roenigk – So it will be seven feet past the house.

Mr. Colabianchi – By putting the structure to the right and eliminate some of that variance.

Mr. Roenigk – Just so we have the right numbers.

Mr. Colabianchi – You can do the math probably quick. I appreciate it.

Mr. Roenigk – No problem. Thank you.

Mr. Colabianchi – And then with that on (c) like I said, I think we can cut that in half too. Just for that, and like I said, eliminate (d) completely. I don't want to have any problems. It is a nice backyard. It's somewhat secluded. I'm going to keep a lot of the existing landscaping on the corner of the property intact. I'm not even going to touch that. That sort of got away from us on the drawing too. It didn't show that the landscaping is going to remain in those areas. The big thing is he's got a wood deck there that in bad shape and it's going to go into the dumpster.

Mr. Baldin – So the landscaping is going to hide just about all of that anyway.

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Colabianchi – Yes, I want to keep all the landscaping definitely on the corner of the structure and that's what's going to keep it private for both people there.

Mr. Baldin – Sounds good.

Mr. Evans – Any questions from the Board Members?

Mr. Colabianchi – Can I address one more please?

Mr. Evans – Absolutely.

Mr. Colabianchi – I think there's been some question on the water that we're going to generate being hard surfaces that we're putting in. First of all, we're going to cut back a lot of the hard surfaces so that's going to help. But this is sort of the ideal situation, if I may, because the structure of the home sits up high and it tapers all back down to the storm sewer. There's a catch basin on the left-hand side, well actually there's a catch basin on each side of the property to collect the water. But I'm going to have the downspouts off of the covered porch are going to be underground. I'm going to take them right to the catch basin. I'm going to run a drain tile in front of the small retaining wall that we have to put in there and tie that in so it goes to the catch basin too. That drain tile actually will help pick up a lot of that water that comes off the solid surface that we're going to be putting in there. But even whatever runs off the solid surface is just going to go down to the swale. The swale is actually all river rock right now and goes to one of the catch basins on the property. I think the water could be controlled fairly well.

Mr. Evans – Brian I believe you had indicated that the Building Department was in agreement with. . .

Mr. Roenigk – Yes. I wanted to let the Board know that I had a call from a resident with issues and concerns about the water with this project. The next day I had a call from Mr. Colabianchi himself and we discussed that. He proposed putting in extra drainages as he mentioned. After his conversation, and because I had the other call from a neighbor, I took the drawings to the Engineering Department. The Engineering Department said exactly what Mr. Colabianchi just said, that there are two catch basins in the back in this yard. They said they didn't think they needed that Mr. Colabianchi would be required to put in drainages. If he did put in drainage he could tie in to the drainage in the backyard that's there, as he just said. But the Engineering Department did not say that they would require it and they didn't have a problem with that.

Mr. Rusnov – He's trying to do this to improve the situation and the City is going to go along with it because there's no interference whatsoever. And this is not because he's being made to, he's doing it because he wants to. Correct?

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Roenigk – Correct. Engineering Department said extra drainage would not be required. However, if you do, please submit drawings to the Engineering Department. That's required.

Mr. Colabianchi – Okay.

Mr. Rusnov – That takes care of that.

Mr. Evans – Anything else?

Mr. Houlé – There is that common land behind there and we did note that it slopes back to the rear where the drainage is going to be and he's going to remove the existing deck. How about the Homeowner's Association? Do we have any kind of correspondence from them? I didn't get anything.

Mr. Evans – Mr. Colabianchi, are you aware if there was any communication with the Homeowner's Association asking for their approval of the variances?

Mr. Colabianchi – I don't think so. The variances, no. But he. . .

Mr. Evans – In Architectural Review, I am aware of that.

Mr. Colabianchi – And like I said, he gave them my initial drawing that wasn't up to scale. But I don't know if they had any conversation about the variances though. I don't think so.

Mr. Evans – Because normally our Board, in doing a variance request when property is located in a Homeowner's Association, we would require sign-off by the Homeowner's Association. So that's the prerequisite. It is in the information that goes out to applicants and contractors as well, that if you're in a Homeowner's Association, you do need to seek their approval for the variance. So, what we were just asking you about was we have no communication for that. So that may be a concern for the Board. We'll deal with that after we do the public hearing on this and figure out what we'll do then. I just wanted to ask the question. Nothing else from the Board Members? Alright, this is a public hearing so. . .

Mr. Colabianchi – One more thing. Sorry. And I throw myself on your mercy too as far as staking it. I did have it spray painted. Now it rains every day in the City of Strongsville, so that lasted about an hour.

Mr. Evans – Especially during Rib Burn Off season or Homecoming season.

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Colabianchi – There you go. That's like the definition of make it rain for sure. I can re-do that and put some stakes there and hopefully when they cut the grass they don't take the stakes out.

Mr. Baldin – Hopefully you can see where we're coming from or where I'm coming from.

Mr. Colabianchi – No, I agree with you 100%. I apologize. I should have put stakes in there. You can get a bird's eye view.

Mr. Rusnov – A better picture of what he's asking for.

Mr. Baldin – But I applaud you for making all these changes with your customer and making it a lot easier for us.

Mr. Colabianchi – I appreciate it.

Mr. Evans – So have a seat and let's get the public hearing out of the way. This is a public hearing so I'll ask if there's anybody in the audience who wishes to speak for the granting of the variance. Is there anybody in the audience who wishes to speak against the granting of the variance? So, I've got a row of people so let me start with the young lady on the aisle please in the dark clothing. If you'll come forward to the microphone.

Ms. Phillips – Thank you. I like that young part.

Mr. Evans – We will need your name and address.

Ms. Phillips – Yes sir. I'm Barbara Phillips. I live next door to Mr. Vondra at 11668 Weston Pointe.

Mr. Baldin – Is that to the left or the right?

Ms. Phillips – As he's looking out of his home, I'm to the right and I'm most affected of all of the people with his request for a variance change.

Mr. Evans – So you're aware of what has been discussed tonight. The numbers for the variances have been reduced.

Ms. Phillips – Yes, I understand that the builder is proposing that he's not prepared with his plans and they need a lot of adjusting. So, first of all let me say that I enjoy peace. I want to have peace with all neighbors and all mankind. And also I would like to have that reciprocated, and my one concern is noise. My bedroom is right there. That may or may not be a problem, but once he gets

2) **ALBERT VONDRA, OWNER, Cont'd**

Ms. Phillips continues - his gazebo up, I don't know what kind of parties we're going to have. Okay. Anyway, this also includes not only the width but the height. It's going to be very high because his elevated platform, because of his desires, and I'm also concerned because I'm in the middle of whether I'm going to move or not, and if I suddenly decide to move in the fall, because housing is very favorable to sell, and frankly I've been recently widowed so I'm there by myself, and there's no reason to stay in this house unless I want to, and I can but with that said, I am very sensitive to the new prospective buyers. They may want me to lower the cost of my home because they might not like this gazebo. Plus I don't know when the construction would take place by the time he gets done revamping all the building plans. That could be a lot of noise building and it could interfere with the new people, whatever, you know. The next people have to deal with it, but I am willing to compromise. Now if he wants to make something more reasonable that is also pleasing to the Homeowner's Association, I could be in agreement, but for right now I'd have to say negative.

Mr. Rusnov – Ma'am, he's already reduced the size of the height that you're concerned with to Code.

Ms. Phillips – I understand.

Mr. Rusnov – He's cut the sizes down. He's going to probably have to go through the Homeowner's Association to get approval, but a lot of this stuff is not within our purview. We can't make him do this stuff. If he conforms to the Code, we have no choice. And the other items that you brought up are also not within our purview.

Ms. Phillips – I understand. It's all about the variance.

Mr. Rusnov – The City will make sure he does a good job constructing it, but you're going to have hammer noise or whatever when they're constructing it. But it's not going to be an on-going thing. As far as party central is concerned, we have no control over that either if your bedroom is right next to the pavilion or pergola or whatever you want to call it.

Ms. Phillips – Well anyway these are my opinions, my concerns which I feel that I should express and I have every right to do that because Mr. Vondra has my phone number. He lives right next to me. I don't work. He could have approached me nicely, knock, knock on the door, hey Barb what do you think about this. This is what I plan, this is a fantasy of mine, hey I like gazebos too. I would never fathomed to build a gazebo in my backyard within a Homeowner's Association in Westwood Farms. I would never have done that. Frankly I would not have done that. We could have. So, I didn't want to go through all this, bother neighbors or do anything like that. So, it's sensitivity and respect to everybody else, we've kept a low profile. We don't make noise, we don't have parties, we don't build things. So, with that said, thank you for your consideration. I really appreciate the panel and what you do for our City of Strongsville.

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Evans – Ms. Phillips the one thing I do want to do is re-enforce what Mr. Rusnov said. If the applicant chose to build it within Code, you would have a gazebo back there. It might be a little bit smaller, it might not extend beyond the house, but he could build a gazebo without coming to the Board of Zoning. He's just requested things that are larger, different than what the Code permits and that's why he's coming here. So, he could choose to make it smaller and move it a little bit and still build it without coming here, that would be his opportunity to do that. That would not be something that you would have a say in. So, we understand and we appreciate you're coming to talk to us, but he could reduce that and change it and that would be a way that he could build it without coming here. So, I just want to make sure you're aware of that.

Ms. Phillips – Thank you. More power to him. Thank you for the opportunity to hear me speak.

Mr. Baldin – Excuse me ma'am. You said if I was looking at his house standing there on the cul-de-sac, you're to the right?

Ms. Phillips – Yes. As he's looking out his front door, I'm exactly to the right.

Mr. Baldin – Okay. And he's asking to put this. . .

Ms. Phillips – Oh, looking at his house. I am to the left.

Mr. Baldin – That's what I asked you.

Ms. Phillips – So sorry. Anybody else?

Mr. Evans – Thank you Ms. Phillips. Next in line there in the row.

Mr. Maiolo – Actually the Vice President of the HOA and would like to speak next. I'll cover anything I want to add later.

Ms. Maiolo – Before I even get there, my neighbor may wish to speak because I'm slow.

Mr. Evans – Why don't you go ahead and we will wait until you get to the microphone because our secretary can't pick up what you're saying.

Ms. Maiolo – I'm just slow. My name is Luanne Maiolo and that's spelled M-A-I-O-L-O. Who am I looking at? Who's the secretary? My address is 11704 Greystone Pointe. I am the Vice President of the Greystone Pointe Homeowner's Association. Where do I go from here?

Mr. Evans – You may tell us why you're objecting to the application for the variances.

2) **ALBERT VONDRA, OWNER, Cont'd**

Ms. Maiolo – Can I ask a question first? I spoke with Brian and I believe you're the one who said the Homeowner's Association gave approval.

Mr. Evans – The Master Association.

Ms. Maiolo – The Master Association. Okay because you don't have approval from the Greystone Pointe Homeowner's Association. That's what I wanted to clarify. First of all, I'll go with the first thing first, the plans that Al had sent to us or as the builder said these hand drawn plans don't match at all with what we got from Kathy. In speaking with Brian, it was me that you spoke with, he said there's yet another set of plans. So, I don't know what you guys are doing. I'm new at this. In regard to the variances we have concerns about the two feet rear yard setback because of the drainage and water from that decking. It appears that they are addressing that. I don't know. I don't know if the neighbors have basements. We personally do. About a third of the houses have basements. I want to protect water runoff which causes basement problems. So, extending the back and changing to a shorter backyard might be a problem with our Association because we have riding mowers. I don't know if you guys care about that, but I'm telling you that's why we might disagree with it. Talking about making changes. But the flooding was my biggest concern. Don't want to cause water damage to the neighbors. Number two. . .

Mr. Evans – Why don't we address that one so that it is taken care of. As Mr. Colabianchi indicated, they're going to do three things to mitigate, which means to lessen, the impact of water from the deck area. So, they're going to put a trench along the edge that's going to drain into those two storm catch basins that are in the back. They are going to, from the downspouts, take care of running those underground down to the storm sewers as well, so that the water is going to drain from that proposed deck area into the storm sewers. Our Engineering Department looked at it and said yes that should stop any increase in water that would be standing or in that area. That was a concern of the Master Homeowner Association as well, Westwood Farms. That's the reason that has taken place. The applicant has agreed to do that so that there would be no additional water problem.

Ms. Maiolo – Okay. Thank you.

Mr. Evans – That's number one.

Ms. Maiolo – Any information in regard to water flow and all so that's why I'm here saying we object to that until it's cleared up. It appears that it's being cleared up and that's why I say the word appears. I have never been involved in anything like this before and I'm sorry I don't know your last name.

Mr. Colabianchi – Colabianchi.

2) **ALBERT VONDRA, OWNER, Cont'd**

Ms. Maiolo – Has made changes that he's agreeing to eliminate (d) and he's willing to cut back the footage to 45 feet in (c) and change the height of the pavilion and this is just a knowledge question from my part – does that mean that we have to go through this all over again with the zoning changes or is it an addendum. When he makes changes like this is it verbal and it's just done?

Mr. Evans – He is under oath as are you and everybody that appears before this Board is always under oath. An individual is able to request whatever variance they may ask for. Our job is to determine whether or not a variance should be granted. There are four very specific criteria that we have by Code, by the City Code, to grant variances. We have to abide by those four reasons when we are making decisions as to whether or not to grant variances. Oftentimes an applicant will come to us and ask for something that we believe is too big, too large, too whatever. At that point our discussions which are on record and are public record and such that they are binding. So, we can have an applicant who will ask for the sun, the moon and the stars, and we say we're willing to give you the sun, not the moon and the stars. That is a binding agreement then that says that they're going to do whatever they've agreed to. Our agreement then with them in granting a variance is that they have indicated that they would do adjustments to what they had requested originally. That is the process that we have used. That is what we are authorized to do.

Ms. Maiolo – Thank you for clearing that up.

Mr. Rusnov – In other words, what he agrees to here, will be enforced by the City. It's a binding agreement.

Ms. Maiolo – Thank you very much.

Mr. Rusnov – That's why we try to have everybody conform to the Code and with (d) being removed, the height, a four foot height variance, that's gone and he's amended all of the other ones to be more conducive, number one for no flooding and you have the City Engineer who looked it over and they're very good. We try to cover the bases the best we can. The City will enforce any infractions. That's a given.

Ms. Maiolo – Okay, thank you. Are you done?

Mr. Rusnov – Yes.

Ms. Maiolo – Number (b) where you're saying the concrete patio, the actual size of the hard surface. I researched this. I'm not coming blind. I can't see a reason why, except for maybe the Covenants within our development stating that the size of our patios needs to be so small as to not encroach on the neighbors and yet apparently the City has a concern about the size of the concrete patios. So, I'm just leaving that out there. I'm still having a problem with changing that square

2) **ALBERT VONDRA, OWNER, Cont'd**

Ms. Maiolo continues - footage just in half and maybe because our cluster homes are so close, my husband's got pictures of the west side of our house, the side of Al's house and the side of the next house, each have seven feet. That's it. So, everything is really close and we have concerns about the actual size of the concrete patio.

Mr. Evans – All of the Board Members with the exception of me have been out to visit the property and I didn't because I was out of town and unfortunately, I had to rely on looking at photos from the internet. But the other Board Members have been out to look at. So, they've seen exactly how much space there is. This is the end of a cul-de-sac where the lots are pie-shaped. They're always going to be larger in the back than they are in the front. That's the nature of a cul-de-sac lot. So, we are well aware of how that impacts the neighbors in the area. Other concerns that you wanted to express?

Ms. Maiolo – Yes. I'm not done. In regard to (d) even though he's eliminated this, I need to bring it up because I don't think you made it real clear. Even having a twelve feet high pavilion, we don't understand because we're not architects. The height of the retaining wall that's on her side of the house. . . I'm hearing every different thing. So, what you're talking about is you got the height of the retaining wall, you got the patio, and then you got the pavilion. So, this is, if you're standing right here, whoever is standing there with the height of the retaining wall will be, basically right on top of the neighbor.

Mr. Evans – It would be twelve feet from the patio surface that they are allowed to build a pavilion, gazebo or whatever. So, the reason Mr. Colabianchi has taken it back down to twelve feet is because that's what the City permits. That's from the ground to the top of the pavilion. So, he doesn't need a variance to do twelve feet high.

Ms. Maiolo – My question. . . I'm learning of this. . . I'm sorry you guys, I'm new at this. Is there a Code to how high a retaining wall can be built?

Mr. Rusnov – As the commander here, Brian, is this a maximum height?

Mr. Roenigk – Retaining walls are built for different reasons. Some are decorative and some are used to keep earth back. It's based on what the contour of the grade is.

Mr. Rusnov – What the need is and the topography.

Mr. Roenigk – I know of one development, actually in Westwood Farms, I think it's like twelve feet tall, the retaining wall from neighbor to neighbor.

Ms. Maiolo – Oh really.

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Roenigk – Yes.

Mr. Evans – The grade of the house. So, wherever the house sits. So, at this point they're asking to put the patio even with where the house is. That means they have to build a retaining wall to support that. So, the height of the retaining wall is dependent on what the slope is in order to make that level with what the house is.

Ms. Maiolo – Thank you with your patience with me. I'm just Vice President and trying to secure the neighborhood and make sure that the neighborhood is protected. I can't put it the way I want to put it. You know where I'm going.

Mr. Rusnov – We understand your concerns and that's why we ask everyone that's exceeding the variance or variances to conform with the City Code. That's for everybody's protection. There's only so much we can do and we're within our scope of those four things and that's what we have to concentrate on.

Ms. Maiolo – Okay. Thank you.

Mr. Rusnov – That's why (d) no longer exists. The height variance of almost four feet on the height of the gazebo is gone. He conforming with Code. As the same with the water issues.

Ms. Maiolo – The water issues are my biggest concern.

Mr. Rusnov – That's why he went to see Engineering and why he's voluntarily doing these things, but he's now committed to us so they will be watching.

Ms. Maiolo – Thank you. I don't know if the neighbors have basements or not, but I'm elected to try to protect their interest in their property and that's why I'm here.

Mr. Rusnov – Totally understandable.

Ms. Maiolo – Sorry you're working with a newbie. I've never done this.

Mr. Houlé – My question is you're Vice President of Greystone Pointe? Is that a subdivision of the major development? Is that where Al lives?

Ms. Maiolo – He lives in Greystone Pointe Homeowners Association which is a cluster division consisting of three streets and forty six homes within Westwood Farms. So, you have to follow the rules for the big Master and then us.

Mr. Houlé – Okay.

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Baldin – I have a question.

Mr. Rusnov – Time's up.

Mr. Baldin – Were you aware of this happening before you received a letter within 500 feet? Is that how you heard about what was going on?

Ms. Maiolo – I got a letter in the mail from the City stating that you were considering a variance request.

Mr. Baldin – Everybody gets a letter from the City if they are less than 500 feet and that's the first you knew about what was happening. Is that correct?

Ms. Maiolo – No. The first I knew what was happening was this hand drawn drawing that Al submitted to our Association asking for approval for a patio that's like half the size of what he's building, not extend beyond the side of the house, did not extend way in the back of the patio. According to my drawing it ended way up there. So, to get a letter from you all saying he's asked for four at that point, zoning variances, it threw me for a loop.

Mr. Baldin – I understand that. So, the drawing he submitted to you didn't show anything like what he's asking for.

Ms. Maiolo – I can't understand your question.

Mr. Baldin – The drawing that he submitted to you people didn't show what he's asking for?

Ms. Maiolo – Not in my opinion and I'd be more than willing to show it to you. As a layman I'm assuming that the patio ends where the dotted line is. It's not professionally drawn. And the dotted line of the patio ends at eight to ten feet. Whereas what he submitted to the City is all the way back. And also what he submitted to us has the property, the patio ending at the end of the property, house, not the end of the property the end of the house. So, it would not encroach on the neighbors.

Mr. Baldin – He was in line with the house in what he submitted to you.

Ms. Maiolo – Yes.

Mr. Baldin – Thank you.

Ms. Maiolo – And you're welcomed to see what he submitted to us.

Mr. Baldin – Hand it up.

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Houlé – Does it matter?

Mr. Rusnov – Well he's going to resubmit drawings to the City anyway. Why don't you look at those and get the finished product? He's already admitted that this was done in error on his part and he's going to correct it.

Ms. Maiolo – Okay. I just want you to know why I'm here and why I'm so concerned.

Mr. Rusnov – We understand ma'am.

Ms. Maiolo – We didn't know anything about this until we got the letter from the City. We called Kathy, or my husband did, and she sent a copy of the architectural drawings for the patio to be placed in, and then I talked with Brian about the water and at that point I found out there's another set of drawings out there. So that's my confusion there. How many drawings do we need?

Mr. Evans – Actually there were only two sets of the drawings. The ones that Kathy sent you are the same ones that Brian had. That should clear that up.

Ms. Maiolo – Okay.

Mr. Evans – Mr. Kolick, you wanted to say something.

Mr. Kolick – Yes, Mr. Chairman. A couple things here. One, since they're going to re-do the drawings and since the Homeowner's Association really hasn't seen the final drawings that they are going to do, it probably makes sense to move this public hearing to the next meeting. Let Mr. Colabianchi submit the final plans with the reduced numbers also showing the drainage that he's proposing to do and my suggestion is that Mr. Colabianchi also give them to the Homeowner's Association so they can see them. I can't require you to and they will be available to the homeowner's association at City Hall, but I'm sure he'd cooperate and give them to you so you can get the full look at what the final product will be and where it is in relation to the property as well as the drainage improvements that he's proposing to make so that you can then determine if you're still objecting to it after receiving that or that may alleviate all the concerns that you have here tonight.

Ms. Maiolo – Can I remove my objections to certain variances and keep one on?

Mr. Kolick – Again, I think at this point, why don't you wait until you get the final drawings and if at that point you want to remove your objections, you can just send an email to Kathy and indicate that based on the final drawings, you no longer have any objection. If that is, in fact, the case.

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Rusnov – It appears that this was done in haste. Wait until the finished product is out and you can make your final decision.

Ms. Maiolo – Okay. Makes sense to me.

Mr. Rusnov – We'll just finish up what we're doing here with the hearings. As Mr. Kolick stated, you can withdraw or reaffirm. So, wait until the final drawings are in.

Ms. Maiolo – At this point there's been no changes to the zoning and no approval for variances?

Mr. Rusnov – No.

Ms. Maiolo – Thank you very much.

Mr. Evans – Is there anybody else in the audience who wishes to speak against the variance?

Audience – I think everything has been covered.

Ms. Maiolo – That's my husband.

Mr. Kolick – Mr. Colabianchi come back up.

Mr. Evans – Mr. Colabianchi why don't you come back up to the podium, if you would. The public hearing I'm not closing yet. We're going to talk about what the next steps are. So, Mr. Colabianchi you heard some of the discussion here this evening. There are several things we can do. One is we could vote on it as you presented it tonight. I think you've heard the discussions and I think you heard what Mr. Kolick suggested that perhaps getting the redone plans to the Master Association as well as the Cluster Association would be appropriate for them to review it. That would mean that what we would do is then table tonight's meeting including the public hearing so that we would have an opportunity for those drawings to be examined by them. It would go onto either the next agenda or whenever you have those items ready for the Cluster and Homeowner's Association to review. So, I think probably the two choices are: One would be voting on it as it stands or tabling it at your request in order to get the plans to the appropriate people so that they can have a chance to review it. It's going to delay the process a little bit, but in the long run it may be a better option to assure that we get to where you want to be.

Mr. Colabianchi – So when would the next meeting be or when would I have to have all that?

Mr. Evans – Our next meeting is August 25th. Now in order to make that happen you would need to be getting the plans to those two groups fairly quickly and you would be needing to indicate to the Building Department that you've done the plan and want to be on the agenda for the 25th.

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Evans continues - We've already received the information for the 25th but we don't have to post this again. So, at this point that allows us a little bit of discretion in terms of making it happen. So, it could be added on to the agenda for the 25th which would delay you by two weeks but again that might be the better route to go in order to ensure that it gets looked at appropriately.

Mr. Colabianchi – I agree. I'll get these cleaned up.

Mr. Kolick – The other thing is then you can look at exact numbers too. We'll know what they are Frank. Maybe rather than 45 you need a 46 foot variance for the square footage. All I'm saying is I know you're saying about half, about this, about that. It's good to have the exact number so that you are not going to have a problem later when we vote on it. You'll know exactly what it is and they're going to know exactly what it is and get in the revised drainage drawings to Engineering as well.

Mr. Colabianchi – So on the next meeting then assuming that everything is good with the drawing and stuff like that and I show the drainage that we're going to do. It won't be pushed off to Engineering or anything like that. I guess what I'm saying is just to try to get the ball rolling after all that.

Mr. Evans – If it is voluntary mitigation of the drainage situation so it may not have to be approved by Engineering. What Brian indicated is once those drawings are done, we want Engineering to look at it. That's a part of the construction process, not a part of the variance process.

Mr. Roenigk – The only thing would be is Engineering would want to know is how you're tying in, physically tying in to the storm sewer. They would want to know that. What type of pipe you're using. But the actual drainage is beyond what you would be required to do. If you're going to do it, you have to do it right.

Mr. Kolick – Through the normal process it always goes to Engineering anyway. So, it's not that you would be bypassing Engineering, it will go to Engineering anyway. But that will be after what we do. But at least they can take a look at it now and say we don't see any problem, we think its going to help. They can at least give us some input.

Mr. Colabianchi – Like I said, it's a fairly simple thing as far as how we're going to do that. I don't think that should be a problem. That's fine. I go with the second option.

Mr. Evans – So you would like to table it and we'll table the public hearing as well. That will give those that spoke tonight an opportunity to speak if they would need to at the 25th if that's when we can make it all work.

Mr. Colabianchi – Yes.

2) **ALBERT VONDRA, OWNER, Cont'd**

Mr. Evans – You just need to get back to the Building Department and let them know as this progresses. Get them the final drawings so that they know what they're doing and then we should be all set.

Mr. Colabianchi – Thank you very much. I appreciate it.

Mr. Evans – I also neglected to mention that item number five which was on the agenda, which was Kolesar at 18322 Heritage, that was removed at the applicant's request. So, item number five which was originally on the agenda, is no longer on the agenda.

3) **PETRO SYKYDA, OWNER**

Extension of the determination of September 29, 2020 of the Board of Zoning and Building Code Appeals:

Requesting a 10' Lot Width Setback variance from Zoning Code Section 1252.05, which requires a 75' minimum Lot Width and where a 65' Lot Width is proposed in order to construct a Single Family Dwelling; property located at 14363 Pearlview Road, PPN 396-17-048, zoned R1-75.

Mr. Evans – Item number three this evening is Sykyda on Pearlview. Do we have a representative here? If you'll come forward please and we'll need your name and address for the record.

Mr. Sykyda – My name is Petro Sykyda and we live at 2575 Crane Creek Parkway, Brecksville, Ohio.

Mr. Evans – We had you here a year ago or there about and you requested a variance which we granted to build a new single family residence on Pearlview. Why don't you tell us about what the process has been and why you're asking for an extension on the variance.

Mr. Sykyda – Two times we had blueprints and one open question a calculation needed. Couple times, couple engineering, and no one finished their work.

Mr. Rusnov – In other words, sir, because of Covid, the building material shortage that's slowing you down a little bit?

Mr. Sykyda – That's fine.

Mr. Rusnov – It's fine?

3) PETRO SYKYDA, OWNER, Cont'd

Mr. Sykyda – No problem. Material no problem. Labor no problem one open question, calculation, and engineers did not get it done.

Mr. Evans – When do you anticipate that you and your architect will have final plans to be able to submit to the City?

Mr. Sykyda – Around maybe four months.

Mr. Evans – So that's the reason we need the extension.

Mr. Sykyda – One open question and we will have answer.

Mr. Evans – So questions, comments from Board Members?

Mr. Kolick – I recommend that if you're going to extend it, just extend it for the year rather than coming back again after six months or something. If we set it let's extend it for the year.

Mr. Evans – This is a public hearing. I will ask is there anybody in the audience who wishes to speak for the granting of the variance. Is there anybody in the audience who wishes to speak against the granting of the variance? Hearing none and seeing none and will then declare the public hearing closed and entertain a motion.

Mr. Houlé – Mr. Chairman, I make a motion for an extension of the determination of the September 29, 2020 of the Board of Zoning and Building Code Appeals in regards to a request for a 10' Lot Width Setback variance from Zoning Code Section 1252.05, which requires a 75' minimum Lot Width and where a 65' Lot Width is proposed in order to construct a Single Family Dwelling; property located at 14363 Pearlview Road, PPN 396-17-048, zoned R1-75.

Mr. Rusnov – Second.

Mr. Evans – Thank you, Mr. Houlé, for the motion and Mr. Rusnov for the second. May we have a roll call please?

ROLL CALL:

ALL AYES:

MOTION GRANTED

Mr. Evans – So the variance has been granted by this Board. There is the same twenty day waiting period, during which time City Council has the opportunity to review our decision. At the end of the twenty days you will be notified by the Building Department that the extension goes forward. So, for right now you don't need to do anything. We just need to wait the twenty days for Council to look at it. The Building Department will notify you when that twenty days has passed. So,

3) PETRO SYKYDA, OWNER, Cont'd

Mr. Evans continues - you're going to continue on the process, getting your architect to get the plans in and you have one year to get that taken care of.

Mr. Sykyda – Thank you.

4) DUANE AND EMILY MANCINI, OWNERS/Moscarino Outdoor Creations, Representative

Requesting a 14.5' Rear Yard Setback variance from Zoning Code Section 1252.05, which requires a 36' Rear Yard Setback and where a 21.5' Rear Yard Setback is proposed in order to install a Paver Patio and Fire Pit; property located at 18344 Heritage Trail, PPN 397-20-149, zoned R1-75.

Mr. Evans - Item number four on our agenda is Mancini on 18344 Heritage Trail. If you have a representative, come forward please. We will need your name and address for the record.

Mr. Mancini – Yes, Duane Mancini, 18344 Heritage Trail.

Mr. Evans – Mr. Mancini you're asking for a setback variance and you may have heard us during caucus talking about the various things. The first question that of course we had is, did you request the Homeowner's Association to approve the variance.

Mr. Mancini – I did but they got to me and said they needed approval from the City first. I have the email.

Mr. Evans – The email was from?

Mr. Mancini – High Point Trustees.

Mr. Evans – Okay.

Mr. Rusnov – They want the City to act first before they okay it? It's kind of like putting the cart before the horse.

Mr. Mancini – Yes. I sent the plans in and then I got the email back and it said that I would need a variance and that the City would have to review it. “Therefore, we would be unable to approve these plans until the City has reviewed it.”

Mr. Evans – Okay and that would be correct in that the City had not looked at the plans at that point. So, when you made the application with the City they determined that a variance was needed. So, when you applied for the variance. . .

4) **DUANE AND EMILY MANCINI, OWNERS/Moscarino Outdoor Creations,
Representative, Cont'd**

Mr. Mancini – I did not apply for the variance.

Mr. Evans – Moscarino did.

Mr. Mancini – Correct.

Mr. Evans – So Chaz and Company. So, Chaz then should have come back to you and said I've applied for the variance because in the variance materials that Moscarino received, it says you've applied for a variance and you need to go back to the Homeowner's Association because a variance is required and get approval for the variance. When we gave you the architectural review from High Point and again I happen to be a Trustee for High Point so I'm abstaining on it, but when that document came back to you it said that we believe a variance is going to be required because of the size and the fact that it was encroaching on the setback of the rear yard. So, we we're giving you the indication that the City is going to tell you that a variance is required which Moscarino should have said yep the City does require a variance and then it should have come back to High Point to review for the variance request.

Mr. Mancini – I was made aware of it today by Kathy and I emailed the Trustees.

Mr. Evans – So Moscarino dropped the ball in that they didn't come back to you and tell you, yep variance is required and you need to go to the HOA because Architectural Review unfortunately and I think you're a relatively new resident in High Point, so Architectural Review is only one step in the process. Normally if it doesn't require a variance, that's all that gets done. When a variance is required, now that's a different opportunity because it comes to this Board, not associated with High Point, has nothing to do with High Point, but High Point has to grant approval or indicate that they are not in objection to the variance request or take some action on it in order for us to act on it then.

Mr. Mancini – Okay.

Mr. Evans – Gentlemen, other questions that you may have will probably wind up coming back to that point.

Mr. Rusnov – Mr. Mancini, it might be prudent to go back to the drawing board and get Mr. Moscarino aka Chaz to see what he can do to conform to the City's Code or possible cut this down a little bit or whatever you can do. In other words the final drawing. Which means you can table it and we could go through this again at the next meeting. It sounds like he dropped the ball.

Mr. Mancini – So you're asking me to go get approval from the HOA?

4) **DUANE AND EMILY MANCINI, OWNERS/Moscarino Outdoor Creations,
Representative, Cont'd**

Mr. Evans – That's one part of the process. The other question that Mr. Rusnov is alluding to is you currently have a patio in the back there. Do you know how much more Moscarino is proposing?

Mr. Mancini – Yes. There's a patio to the left of the sunroom that is rounded.

Mr. Evans – Thank you. We've all been out there.

Mr. Mancini – We're proposing to square it off. What we're proposing that I think is coming into the issue with the variance is a gas firepit right off the sunroom.

Mr. Evans – Actually if I remember the drawings here, the patio itself is going to go towards the creek in the back which is where the setback is measured from. Where that property line is. So, it's actually going much farther than what your current patio does. And I'm not sure that it's the fourteen feet but it might be all of that because when Parkview built those, many, many years ago, the building didn't need variances for when they put patios and decks in and oftentimes people over the course of the 30, 35 years that your house has been there, they did things that they didn't always necessarily get permits for. So, it may be that it's not the full fourteen feet that you would need beyond where your current patio is. That's something that Moscarino could have told us that the existing patio is X and we need another ten feet or another whatever and that's why the fourteen feet. It just helps us understand the difference between what you have now and what you're asking for.

Mr. Rusnov – In other words, accuracy will eliminate a lot of headaches.

Mr. Mancini – Okay.

Mr. Rusnov – We can table it until the next time?

Mr. Kolick – You have a public hearing.

Mr. Evans – We have a public hearing. I want to get that out of the way. Are there other questions from anybody? So, this is a public hearing, so Mr. Mancini, why don't you have a seat for just a second. Is there anybody in the audience who wishes to speak for the granting of the variance? Is there anybody in the audience who wishes to speak against the granting of the variance? If you're coming to the podium, we'll need your name and address for the record please.

Ms. McNeily – My name is Lori McNeily. I live at 18377 Admiralty Drive also in High Point which is around the corner from Duane. My only question is or my objection I should say is

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Ms. Mcneily continues - encroaching others. As the same as we had the Kolesars at the last meeting, my basic same thought is the homes are a certain size as you have stated during caucus. It's a wheel and there's nothing wrong with a gas fireplace as long as its not encroaching close to a common area. I think the Codes that we have all, that you have all been talking about all night were put into effect for a reason and I think we should try to keep to those especially when there's a narrow lane in the back that affects all of many homeowners. That's my only. . . It's not the height or anything like that it's just for everybody's enjoyment. All the neighbors.

Mr. Evans – Any questions of Ms. McNeily?

Mr. Rusnov – It seems how all this is subject to change. We are considering all the factors ma'am. That's why we're asking for any of your objections.

Ms. McNeily – That's my only question is to keep everybody within the Code requirements.

Mr. Rusnov – As long as he conforms to the Code, he's fine with us.

Ms. McNeily – Right.

Mr. Rusnov – The other factors we would need to reconcile with are reasons to grant variances.

Ms. McNeily – My thing is it's not in Code compliance.

Mr. Rusnov – Let's just see what's going to happen and see what the final product is when Mr. Moscarino give it to us and then the City will obviously review it and everything else, so I think you're pretty well covered.

Mr. Evans – Mr. Mancini come back up to the podium. So, let me go back to step one and I'm not sure if I said it tonight, I normally due. Part of the job of this Board in looking at those four criteria that we have for approving variances is to try to minimize or do away with variances. That's some of the conversation you heard tonight. So, when you apply for a fourteen feet variance or Moscarino does or whatever else, you are welcomed to apply for whatever variance you want. Our job is to take a look at that and determine is the variance warranted, is there a topographical reason for it. Your pie shaped lot, that is something that we do take into consideration. Elevations and drop-offs and things like that are things that we take into consideration. That's also whether or not it impacts neighbors or whatever else. Obviously, no other neighbors have chosen to come in here. The question that we would ask you and looking at the drawings that Moscarino provided and everything, could it be done with less than the fourteen feet variance? That's the question that we always ask. That's why Mr. Colabianchi was negotiating on doing that. Because you don't

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Mr. Evans continues - have the variance approval from the Homeowner's Association, that is a step in the process, but it's not the only one. Part of what you might want to do is go back to Moscarino and say, so looking at this, one of the things that they didn't like was that it's a fourteen feet variance. Again, our job is to try to minimize it or do away with it, as Mr. Rusnov suggested. So is there a different layout maybe that would get you what you want. We've all seen the extension of the house. We've seen that you have to work around that. We want to accommodate people as best we can without doing variances, but when variances are required that's what we're here to do is to make a choice and make a determination. So, if we suspend or . . . What's the word Daniel?

Mr. Kolick – Table.

Mr. Evans – Table, thank you. Sorry, I've been on vacation and I was on the beach at Myrtle Beach this morning at 11:00 and my mind still hasn't adjusted to this. So, if we table it for tonight then what you would want to do is get together with Moscarino. Say hey they talked about the fourteen feet, is there a way that you can get me what I want without going the full fourteen feet? Is there a way that we can change some things? See what you can do with him. If the fourteen feet is what you need, then that's what we'll take a look at and we'll judge that. Again, what we'd like to do is try and maybe reduce that if we can because, again, it's a pie shaped lot, you've got neighbors that are nearby. Reducing the variance, it's something we would prefer as less impactful on neighbors.

Mr. Mancini – But neighbors that actually touch our property don't care.

Mr. Evans – That's correct. They weren't here. Now I will tell you that when you come up with that final drawing, I would recommend that you knock on Kolesar's door and on the people on the corner there and say hey this is what we're doing.

Mr. Mancini – And behind us.

Mr. Evans – Because even though they weren't here tonight for the fourteen feet, that gives you the ability of being able to say hey I knocked on their door and they said they were okay with this. Then you've got sort of an airtight on that. But that way we can add it to the agenda for the 25th so we're not delaying this forever, but that depends on whether Moscarino can redo plans for you and come up with that. Now you may not need to do all of the landscaping and everything around that. Have them focus on the patio and firepit.

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Mr. Mancini – That was going to be my next question. Was the landscaping that's being done is to privatize the backyard. We are not building a structure. We are taking advantage of an unfunctional backyard because of the slope.

Mr. Evans – Understood. The landscaping you showed us here is good and that does enter into consideration. The fact that you've done this, when we look at the plan, we're concerned with the square footage, where the deck is and everything. Knowing that the landscaping is of this type and variety, yes, that is important.

Mr. Mancini – So letters would help?

Mr. Evans – Yes.

Mr. Rusnov – One last point. Everything that Mr. Chairman has asked you to do and if Mr. Moscarino decides he can redo this plan and you don't need variances, then you're done with us.

Mr. Mancini – I think our current patio needs a variance.

Mr. Rusnov – Whatever your needs are.

Mr. Mancini – We didn't build it. We bought the house.

Mr. Evans – We know that.

Mr. Rusnov – You're dealing with a house that has probably had seventeen changes in the past.

Mr. Mancini – Without a doubt.

Mr. Rusnov – We understand that. Just conform to what Mr. Evans wants you to do and Mr. Kolick and we'll go from there.

Mr. Mancini – Got it. Okay. I appreciate it.

Mr. Evans – If you have questions the Building Department can guide you through the process.

Mr. Mancini – I'm paying the other guy to do it, so he should be doing this. I know where I need to go.

Mr. Rusnov – You caught on to that one real quick.

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Mr. Evans – So we have tabled that until the 25th meeting if they can get the plan together. Is there anything else to come before the Board this evening? Then we will be adjourned.

Mr. Evans, Chairman

Kathy Zamrzla, Sec'y

Approval date