

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS
MINUTES OF MEETING
July 22, 2020

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

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

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 July 22, 2020 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. May we have a roll call please?

ROLL CALL: ALL FIVE MEMBERS 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 May 27, 2020. I don't believe that there are any corrections so we will approve those and send them forward as submitted. Then we will submit them for the record. If you are here this evening and wish to speak, we now ask you to stand and the Assistant Law Director will swear you in as well as our representative from the Building Department and our Secretary.

Mr. Kolick stated the oath to those standing.

1) **PHUONG LIEN, OWNER**

Requesting a 9' Side Yard Setback variance from Zoning Code Section 1252.17, which requires a 12' Side Yard Setback and where a 3' Side Yard Setback is proposed in order to install a black aluminum 4' Fence; property located at 14709 Pebblestone Court, PPN 399-26-083, zoned R1-100.

Mr. Evans – Our first item on the agenda is Phuong Lien and if you would come up to the microphone and give us your name and address.

Mr. Lien – Hi, my name is Kyle Lien and my address is 14709 Pebblestone Court.

Mr. Evans – Thank you. You are representing the request for the variance. This is a request for coming closer to the sidewalk than what is normally allowed by the City and our job is to figure out whether or not your request is justified and then we will vote on it. Give us an idea as to why you need the variance and what it is that you need to accomplish.

1) **PHUONG LIEN, OWNER, Cont'd**

Mr. Lien – Before I start I have some photographs.

Mr. Evans – You can bring those up and we'll hang on to them after we pass them out.

Mr. Lien – Good evening, thank you for the time. I came here before the chamber to request the variance in order to put up the fence to help protect my kids from running around and possibly into the street. If you look at some of the exhibits that I presented there the first one is an overview of the current structure that is there and the two that I want to point out is the flower bed and the putting area that is existing. It's been there for the last four or five years now. Over this past Covid19 mandate I've stayed home and due to a freak occurrence it came to my family's attention that we needed to put up a fence because I now have two daughters, one of them is two years and seven months and the other one is seven months so eventually they're going to be outside more often. We were able to get a permit for the fence that you see in the background and that would be evident in the first photo there. As far as the fence that I want to put up towards the sidewalk there are two issues with that fence because of the twelve foot variance. The existing putting green that is there is sitting about 8 1/2' to 9' away from the sidewalk. So, just by that physical limitation for the 12' variance I really can't stick to that. The second thing is that just because of where that fence would come off the existing flower bed that just doesn't really set up for a good curb appeal as far as the randomness that it comes off the flower bed. That's the reason why I'm requesting a variance.

Mr. Evans – Okay, all of us have been out to view all of the properties that are on our agenda tonight. So, all the Board members have gone to the properties and looked at them. It's helpful for you to provide the photos as well but we have all been to the site regarding your requests. Comments or observations from Board members?

Mr. Rusnov – Number one, with the 4' high fence that you've proposed there is not going to be a line of sight obstruction because of the design of the fence, correct?

Mr. Lien – Yes.

Mr. Rusnov – And you have a pipe at the 9' mark or the 8' mark?

Mr. Lien – Yes.

Mr. Rusnov – Is there any chance to move it back a little bit?

Mr. Lien – Yes, I have proposed the 3' just because of the curb appeal that would come off the flower bed but if I have to I am more than willing to adjust it if the chamber grants a 5' or 6' variance between where the putting green is and the sidewalk is. That is more than I would be acceptable to.

1) **PHUONG LIEN, OWNER, Cont'd**

Mr. Rusnov – The 6' mark, would that sweeten things more?

Mr. Evans – Well, it's still a variance on our part. There is the fact that the street does come in towards the back yard there. That is a topographical issue. We don't have that in every corner that is perhaps on this one but we have always tried to keep the fences away from the sidewalk as best we can. The fact that there is a putting green there is not necessarily a reason that is in our reasons for granting variances. It is an existing structure we understand that but I think that having been there and looked at it I would say that we need to bring the fence closer to the putting green. Rather than being farther away from it, I think it needs to be closer to it.

Mr. Rusnov – I was more concerned with the bushes being in the line of sight than I would with the fence. The fence is not going to obstruct the line of sight. You have to keep the bushes trimmed down. Okay? Probably the same height as the top of the fence.

Mr. Baldin – Mr. Chairman?

Mr. Evans – Mr. Baldin?

Mr. Baldin – From my observation I see that there is no hardship here and one of our criteria for granting a variance is for a hardship and I see no criteria here regarding a hardship that pertains to your situation. Now, your little plot back here with the shrubs and bricks you would have to remove some of those to bring that fence in further because I just can't see where we can allow what you're asking for. We also have a letter from the homeowner's association that they are not in favor of this.

Mr. Evans – Anybody else?

Mr. Houle – Mr. Chairman, when I was out there I thought I had measured that 12' would get to about where the edge of the mulch was, not 8 ½' so I'm not sure about that. I definitely feel that we can't grant the 9' variance. I don't see the hardship as Mr. Baldin refers to also.

Mr. Evans – Okay.

Mr. Rusnov – Would it be appropriate to suggest tabling this to see what he can do to tweak this thing down to where it could be closer to the allowable setback?

Mr. Kolick – Why don't we have the Public Hearing and then come back.

Mr. Baldin – We can ask the applicant now if he's willing to shorten it.

1) **PHUONG LIEN, OWNER, Cont'd**

Mr. Evans – You asked for a 9' variance and that means that you would be 3' off the sidewalk. I think what you're hearing is that we probably would prefer that you're 9' off the sidewalk as opposed to being 3' off. That is still granting a variance but at this point that would be lesser of a variance than what you're requesting now. Again, we have to live with the precedents that we choose to do here and we understand that everybody always wants the most use of the back yard and we're certainly aware of what Covid19 had done to alter the way that we live life but none the less there isn't really a hardship here that according to the code as reasons to grant variances, as Mr. Baldin suggested. The existence of the putting green back there is a hardship that is one that you created. The variance could be reduced to the 3' variance and that might be easier to look at but again that is up to you. You're able to request 9' and we will act on that request but what we're indicating is that that is a big variance and we are probably less than inclined to grant that.

Mr. Lien – I appreciate the chambers consideration and 9' wouldn't work in that area. Is there any possibility of it going just a little more than just 3' variance? Is it possible to be at 5' or 6' just so there is just a little more area between the putting green and the fence?

Mr. Evans – Again, you may ask for whatever you wish. That is up to you. We will act on whatever your request is. You have heard some of the indications of the Board members. We have not taken a vote yet, this is simply discussing it. That is up to you as to whether or not you want to say 5' variance or 6' variance. Whatever it is that you're wanting to do we will act on that accordingly. If you want to take a couple of minutes and think about it we have the Public Hearing to do and we can do that while you're thinking about what you're options might be.

Mr. Lien – Okay, I'll let the others go and then I'll come back then?

Mr. Evans – If you want to table it to do that to our next meeting that can be done.

Mr. Lien – No, I would like to get it done today.

Mr. Evans – Okay, this is a Public Hearing. Is there anyone in the audience who wishes to speak for the granting of the variance? Is there anyone in the audience who wishes to speak against the granting of the variance? Okay, Kyle, if you'll take a seat while this person is speaking and if you could come forward and give us your name and address for the record.

Mr. Hughes – My name is Jason Hughes. 15230 Camden Circle.

Mr. Evans – Thank you, Mr. Hughes. Go ahead.

Mr. Hughes – I'm a member of the homeowner's association and we're opposed to this, which is why we wrote the letter. We have numerous other residents in our past who have asked for our blessing on such a variance on corner lots and we have told them no for the sake of uniformity and

1) PHUONG LIEN, OWNER, Cont'd

Mr. Hughes continues - setting any new precedent. I walked around before coming here and there are seven corner lots with fences off the top of my head that have all complied with the 12' and many of them are newer ones and for me to give a blessing to a variance when we have told other people no in the past is unfair to those other residents. Again, if it was for a legitimate hardship that would be one thing but we're talking about being inconvenienced to have a fence too close to your putting green or your landscaping, and I think the solution for that is to move those items, not to change the city ordinance for one person. We also have a number of side streets and a number of corner lots going down Stony Point and if we allow one there is nothing to stop the others from applying. It would open a bag of worms that we don't want to get into.

Mr. Evans – And that is one of the things that this Board has to live with when we grant variances that set precedents. Some of them we find work and some we find don't work. Okay, thank you Mr. Hughes. Is there anyone else who wishes to speak against the variance? Hearing none and seeing none I will declare the Public Hearing closed. Kyle, if you want to come back up to the podium. At this point what do you want to use as the final number. You have 9' now that you've asked for. Is that where you wish to stay? Do you wish to suggest another number? We would be happy to vote on the 9' and render the decision that way or if you want to modify it that is up to you.

Mr. Lien – I wish to modify it. Listening to the chambers reaction and my neighbor's I understand your concern and I appreciate it and I ask that you consider to grant me a 3' variance so that I could set the fence at 9'.

Mr. Evans – So gentlemen, that would change item number 1) on our agenda. It would be a 3' variance which requires a 12' and where 9' is proposed. Does everyone have that? Okay, so then I will entertain a motion.

Mr. Baldin– Mr. Chairman, I would like to request a 3' Side Yard Setback variance from Zoning Code Section 1252.17, which requires a 12' Side Yard Setback and where a 9' Side Yard Setback is proposed in order to install a black aluminum 4' Fence; property located at 14709 Pebblestone Court, PPN 399-26-083, zoned R1-100.

Mr. Houle - Second.

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

ROLL CALL:

ALL NAYS:

MOTION DENIED

1) **PHUONG LIEN, OWNER, Cont'd**

Mr. Evans – The variance has been denied then. That means that the process ends. You can go ahead and put the fence up but it would have to comply with the Code. One of the problems is that we have held other people up to the standard and the reason is simply because there was not an individual hardship here but the situation is much the same as other people. The variance has been turned down and you are finished for the evening. You are welcome to stay for the rest of the meeting if you want or you may also leave. You are all set for tonight.

2) **EDWARD LECHLER, OWNER**

- a) Requesting a variance from Zoning Code Section 1252.18 to permit a second Accessory Structure where a 440 SF Pool House exists and a second 3,500 SF Accessory Structure is proposed;
- b) Requesting a 3,020 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 480 SF Floor Area and where a 3,500 SF Floor Area Accessory Structure is proposed;
- c) Requesting a 20' Height variance from Zoning Code Section 1252.04, which permits a 15' Height and where a 35' Height is proposed in order to construct a 3,500 Accessory Structure; property located at 21302 Cedar Creek Lane, PPN 391-14-124, zoned R1-75.

Mr. Evans – All right. Item number two on our agenda is Ed Lechler on Cedar Creek. Please come forward to the microphone. The first thing that we will need is your name and address for the record.

Mr. Lechler – Ed Lechler, 21302 Cedar Creek Drive, Strongsville, OH 44149.

Mr. Evans – Thank you. Mr. Lechler, you heard Brian talk a little bit during caucus. Take us through what your thoughts are as to why you need the building. I understand that it's changed a little bit because Brian gave us the new one tonight. So, give us the rundown on what has changed and what is still the same.

Mr. Lechler – Basically what we are trying to do is make the out building look like the house and by moving it to the side yard we can connect it with another portico and it would look like a larger home. Same windows and same stone that I currently have. The reason I'm doing it to be completely honest is that I have a multi-million dollar car collection that I never get to drive. It's to the point that it's ridiculous and all the money that I've put into that development and put in the house I feel that it's better to stay in Strongsville where my business is and everything I've done is. Whoever is against it is against it but it's what I need at this time.

2) **EDWARD LECHLER, OWNER**

Mr. Evans – Okay. Mr. Lechler, you heard at least during our caucus a couple of comments and I will start off by saying that the 3,500 square feet is huge. We have granted variances before like off Webster for estate homes for people with car collections and we've allowed four or five bay and the 3,500 square feet is just huge. There is no other way to describe that. I don't think that we have ever in the history of this Board granted anything that large. There are two reasons for that. One is that within residential areas people think that it should be residential and bigger buildings even though you might not run a business the next person that buys that house might say, wow, I've got this warehouse and I can run a business out of it. It becomes a problem. The second situation that we oftentimes have to live with is that people convert these into apartments and they have people living there. Every time that we do this it seems to come back and bite us in the butt and particularly for these really huge buildings that we have allowed and City Council has told us that they disdain us doing that. Part of the reason is that when you're living out in the country and you build something like this it's not going to interfere with neighbors. Part of our process here is that we have to look at what the impact is going to be on neighboring residents. Particularly in developments such as Cedar Creek there are obviously concerns about neighbors and things that go on and that type of thing. That is a concern with this Board and that's the reason we exist is to take a look at that, make decisions and be able to make a logical decision based on the input. So, gentlemen, other Board members, questions, comments or observations?

Mr. Houle – Mr. Chairman, the observation that I would have is we have granted variances in the past for separate out buildings, barns and that sort of thing but they have all been in the range of 500 square feet, not in this capacity, this large and some of those were on very large lots. I think that taking that into account this is a very large request to have in a residential area.

Mr. Baldin – Mr. Chairman, I have to concur with my colleague. That is a huge request, particularly in a residential area. Mr. Lechler, correct me if I'm wrong, you do own some property on Prospect Road?

Mr. Lechler – Five acres.

Mr. Baldin – And there is quite a bit of property there. Can you store your vehicles there? Can you add on to that property? It's a huge piece of land on Prospect, which is close to where you live.

Mr. Lechler – I have a 50,000 square foot building on Prospect that is packed with equipment and machinery. You don't put a \$200,000 car next to a bulldozer. You just don't.

Mr. Baldin – I would have to agree with that. Is there still some land there that you could add a building on?

Mr. Lechler – Not that I would ever entertain for personal use. It's a business.

2) **EDWARD LECHLER, OWNER, Cont'd**

Mr. Baldin – Thank you.

Mr. Rusnov – This is the old lumber yard.

Mr. Baldin – And the Clark station. I don't know if he owns that too.

Mr. Lechler – I bought Medina Supply and tore the building down.

Mr. Baldin – Right.

Mr. Evans – Anything else, gentlemen?

Mr. Rusnov – No.

Mr. Evans – Okay. Mr. Lechler, the only other thing that I would add that I know that you did talk with Brian today and we understand that you're willing to try to work with us. As I indicated that off of Webster where we have allowed similar types of garages to be built they have been in the 1,000 square foot range. We have not done anything close to this. Is there any part of you that says I want to come down to 1,000 square feet to be able to have some of the prize cars there and the rest would have to be stored off property or something or is this a winner take all?

Mr. Lechler – I would be willing to compromise. I have other houses that I own where I do keep some of my cars that have lifts in them where one car sits on top of the other. I have a sixteen year old, a thirteen year old and a nine year old and the last thing I want them to do is go under lifts. So, I would be willing to, I mean, work with the neighbors and I would be willing to split it in half and go with 1,750 or 1,800 and put lifts in and at that point it's pretty much the same. It's less of a footprint and I would be fine with that but anything less than that it isn't worth it to me.

Mr. Evans – Okay.

Mr. Baldin – Would it be the same idea of what you're changing, not what your original plan was, your new plan to connect?

Mr. Lechler – To connect it to my house and make it look like my house but just smaller.

Mr. Baldin – Okay.

Mr. Rusnov – Mr. Chairman, for Mr. Lechler, you have all this land back here. Any of this possible buildable that you could put the structure back there, which would be out of the line of sight of everybody?

2) **EDWARD LECHLER, OWNER, Cont'd**

Mr. Lechler – It all depends on how this meeting goes.

Mr. Rusnov – Okay. You have a couple of options if you table this and get with Brian to see if there is another location that might accommodate what you're trying to do at the reduced rate.

Mr. Lechler – The neighbors behind me who may be here are probably going to speak and they won't want that.

Mr. Evans – Closer to them, right? I understand that.

Mr. Lechler – I know where that is going.

Mr. Baldin – Are there woods behind you?

Mr. Lechler – Yes.

Mr. Baldin – Do you own that property or someone else?

Mr. Lechler – When I built the development I granted probably close to ten acres to the Army Corps to make sure that my neighbor Bob Klonk did not have someone right next to him. We all kind of wanted our own lots so we gave land to the Army Corps. We didn't build twenty homes, we built eight. So, everybody has the understanding of our neighbor is going to look out for us. I wouldn't do anything that would impact them whatsoever. I could go back and get that land because I do have the right to it but I won't do that.

Mr. Kolick – Mr. Chairman, I think the plan is also showing some type of environmental easement across the rear of that property as well.

Mr. Lechler – In the very back.

Mr. Kolick – Yes. He's not going to be able to build into that environmental easement. So, I don't think he can really push it back. Mr. Lechler, so you understand, even on a hobby like cars and that you start putting in lifts and start doing that then a lot of times it turns into a lot of wheels being removed and hydraulics and all that, which also interferes with the neighborhood, even if it's your own personal matter and that the City has to be concerned about. Again, I don't know what type of work you do on the cars but if there are things like that then we start get complaints. I'm just trying to avoid having that occur because you are in a residential neighborhood. You have a residential neighborhood to the north of you as well and I believe they're set down lower than you so that sound will carry is the concern. We don't want to create any problems for the neighborhood by doing any of these things, just so you understand.

2) **EDWARD LECHLER, OWNER, Cont'd**

Mr. Lechler – I trust them. I get it.

Mr. Evans – Gentlemen, anything else? All right. This is a Public Hearing. Mr. Lechler, you may have a seat. Is there anyone in the audience who wishes to speak for the granting of the variance? If you would come up to the microphone, please, we will ask for your name and address for the record.

Mr. Manson – I'm Rich Manson and I live at 21248 Cedar Creek Drive.

Mr. Evans – Thank you, Mr. Manson. Go right ahead.

Mr. Manson – My wife owns the two lots immediately to the right of Ed. So, this proposed structure would be in full view of windows on both sides of our house. I have no issue with it whatsoever. I'm also the HOA president. I wrote the letter in support of it. If you get to the development Ed's garage is built with nicer materials than most people's houses. It looks like a house, not like a garage. Ed is a great neighbor. From a noise standpoint no concern from that and just really here to tell you that as far as being the closest neighbor to him who would be closest to the structure, absolutely no concern of the building.

Mr. Evans – Okay, thank you, Mr. Manson. We appreciate it. Is there anyone else who wishes to speak for the granting of the variance? Please come forward and again we will need your name and address for the record.

Mr. Klonek – Robert Klonek, 21363 Cedar Creek Drive. I live on the other side of Mr. Lechler and I would have sight to his property and like Mr. Manson said this out building extension will look nicer than many homes. He takes very good care of his property. He is a great neighbor. I have absolutely zero issue with this going up and I support it 100 percent.

Mr. Evans – Okay. Thank you, Mr. Klonek. I appreciate that. Is there anyone else who wishes to speak for the granting of the variance? Yes sir? If you would please come forward and state your name and address.

Mr. Azzarello – Hello, Mike Azzarello, 9715 Priem Road. We are right behind the Lechler family and their house is just amazing. Their property, they are great neighbors, great people. I'm a classic car enthusiasts as well and I get it. All the property they have there, there should be no reason why they can't build the building they want. They pay a lot of taxes. They run a business in the city, they're good people. It's their property and they own it. They could have sold it off to a builder years ago. I have been offered to sell my property, haven't done it, which I will if I have to one day, but they're good people and they should be allowed to build this. No objection at all here.

2) **EDWARD LECHLER, OWNER, Cont'd**

Mr. Evans – Okay. Mr. Azzarello, to be clear, when we're looking at variance, setting precedent is one of the things I mentioned when we were talking about fences. When we look at a 3,500 square foot building that is a small warehouse and for us to allow that it is much more than what we have ever done in the past. The reason that we're here is to look at all the things but the fact that it is his land and everything we understand that but a lot of people would like to do a lot of things and our job is to try and look at the reasons that we're given to grant variances, which are public and they are part of the application process. There are four of them and one of them is hardship, one of them is not having a negative impact on the City on immediate neighbors so there are a number of constraints that we have when we are looking at making a determination on variances. It's not just simply where or not an applicant wants it, there are other things that we have to look at that play into the picture. Just so you're aware of why.

Mr. Azzarello – I understand that a lot of ordinances are set up for small lots, postage stamp lots, which we don't have. It will be a great buffer also, a beautiful building like this that will match his home and everything. That's something to consider also.

Mr. Evans – Yes, thank you. Is there anybody else who wishes to speak for the granting of the variance? Is there anybody who wishes to speak against the granting of the variance? If you would come forward and state your name and address for the record.

Mr. Matyas– Albert Matyas 21377 Castlewood Drive, Strongsville, 44149. So, there are a number of representatives here from the Castlewood development and I'm not going to speak on behalf of everyone but first thing that I would like to say is that there is concern about this variance request from a number of areas. One is the use of it and the potential impact it's going to have. Not necessarily to the neighbors to the east or west of Mr. Lechler but to those that are on the Castlewood side of things. There is for lack of a better word noise that comes from out through the woods that is unmitigated and that happens. There are people out in the back yard enjoying their yard and they are allowed to do that. Our concern with this is that it is such a large structure and it's not just 3,500 square feet here. It is 122,500 cubic feet of space. It's a structure that the variance request is 233% of the normal zoning height for a residential. This is a concern. This is a big, big structure. I don't think anyone is denying that Mr. Lechler did a great job developing that street. Beautiful houses, values have increased for everybody around but this seems a bit excessive and there is just a lot of concern. Mr. Kolick brought up about how this is going to be used and if he is a classic car collector, great who doesn't like a nice 1955 Corvette or something like that. Beautiful cars but sound happens if they're starting to work on cars. It goes from being a garage to being a workshop and pneumatic tools and things like that become very offensive to other neighbors. Not that that would be his intention or is his intention but who knows what happens the day after the variance is granted so I'll speak for myself, I'm against the granting of this variance. The Board needs to look at what the implications are of this to other variances granted as you move forward for the City and I hope that you will not grant this variance.

2) **EDWARD LECHLER, OWNER, Cont'd**

Mr. Evans – Mr. Matyas, my question is are you against the granting of any building back there or if it were substantially reduced would that have an impact on your opinion?

Mr. Matyas – I guess it's the size and the use of the building.

Mr. Evans – Thank you. Is there anyone else who wishes to speak against the granting of the variance? If you'll come forward sir and as in the past we will need your name and address for the record.

Mr. Hofstetter – Charles Hofstetter, 21341 Castlewood Drive.

Mr. Evans – Mr. Hofstetter, were you sworn in?

Mr. Hofstetter – Yes.

Mr. Evans – Thank you.

Mr. Hofstetter – Mr. Chairman, I am the Vice President of the Castlewood Drive HOA. We did get a number of concerns from our community and that was enough for us as an HOA Board to write a letter on behalf of our community and submit it to your Board, that was on behalf of us and it brings up a lot of concerns that Al brought up that as an HOA we support. That's all I wanted to say.

Mr. Evans – I ask the same question of you, whether or not the objection is to any structure or is it to that particular structure because of the size and height of the building.

Mr. Hofstetter – Size and use has been a consistent message that we have discussed and from that use I think sound pollution and light pollution and the overall impact it has on the neighboring properties is what we feel we want to address to the Board here.

Mr. Evans – Fair enough. Thank you. Is there anyone else who wishes to speak against the granting of the variance? If you'll come forward as well sir? And your name and address for the record please.

Mr. David – Brian David, 21455 Castlewood Drive.

Mr. Evans – Thank you. Go ahead.

Mr. David – I just want to add to my neighbors sentiments. Mr. Lechler is right behind me and from a noise perspective the examples are specific and we're not trying to deny anyone their rights. We all have children that play and they play basketball and some of us have pools. Kids can get

2) **EDWARD LECHLER, OWNER, Cont'd**

Mr. David continues - loud in pools. Lawn mowing and things like that. The thing that I want everyone to understand is how that noise travels through the woods. Down the hill through the woods it's not mitigated and our big issue is and the great example is the other night his children were in the pool and not a complaint against that but I made a recording of that from inside my family room and I could understand the words of your children in your pool. None of your neighbors on Cedar Creek hear that in their family room but that's how the woods allow the noise to travel down. So, if the Board does decide to consider this we would be against any building but if you decide to go to a different size building I guess we would ask if there is some kind of mitigation that could be looked at from a sound perspective to see if there's a way because hydraulics and things Mr. Matyas talked about. I know how I'm going hear that if that does occur so that is the big concern. Any noise and how it travels down to our street.

Mr. Evans – Okay, thank you Mr. David. Anyone else who wishes to speak against the granting of the variance? Hearing none and seeing none I will declare the Public Hearing closed. Mr. Lechler, if you would be so kind to come back to the podium we may have some questions for you. I will start by asking we talked about reducing the size and here again, I understand that your desires to have all the cars in one place and the best example that I have is the development off of Webster with people that built five to eight garages to accommodate their collections. The height of 35' is one of the things that we talked about in caucus that is suspect because that would not be a normal garage. A normal garage would be much lower. Can you tell me why you need the height of 35'?

Mr. Lechler – Where the building is going is on a slope so my current house is sitting over 40' high so when you see that big number it sounds like something big but when you look at my house every tier steps down. To be honest with you my neighbors on Castlewood who don't like us who say we're loud and obnoxious I have police reports out there you know what that I could share with everyone who doesn't have toilet paper to be honest with you. I'm sick of it. The police have been out eleven times. Inside the police report it says they have come out due to the noise ordinance. They come to the back yard and there's nothing. Another policeman has come out with their little noise pollution control has walked to my fence about 120' from the property line and it was at nine decibels. One of the gentlemen who just spoke is a nice guy. I have no complaints against him but at the point of you hear kids and you hear like he did tell me that we were excessively loud when the Cav's won the championship. I'm sorry but that's one day, one day in our life and you've had grown men who have never seen nothing like it. I'm to the point where I'm okay and I'll actually withdraw my application but I'm going to clear my woods, which is what I have the right to do and I'm bringing my horses from Ashland and my goat, which I have already gone to the City for. That's what I'm going to do. Am I going to hear complaints every five minutes from that because that's allowed? Right? I have a multimillion dollar house. I have the second most expensive house two doors down from me in Cuyahoga County, which is massive so how can someone say that my garage is going to be out of the ordinary? It is crazy. We have the biggest homes in the City. When you come down the street my house would look smaller than

2) **EDWARD LECHLER, OWNER, Cont'd**

Mr. Lechler continues - the house that is ten million dollars. It's all about everybody else. It's my property, I built what I believe is probably one of the best looking developments in the area if not the best. We take care of our property. We do everything we can. We spend tens of thousands of dollars for annuals in our beds to make our street beautiful but someone 386' away from me is going to tell me they can hear my music, that they're going to come here and complain because they hear my kids talk and they can hear their conversations? Let me tell you something, I can hear theirs too but there is a pandemic going on that I can give two you know what about. Do you know why? There are other things in life than to worry about what your neighbor is doing. So when my goat wants to bah all night long, so be it. When my horses want to gallop, so be it because staring next week I will clear every tree in my back yard and I'm over it. I'm a business man and a tax payer. I pay \$24,000 a year in taxes to stay in this City and this is what I deal with. My daughter who is diagnosed Type 1 diabetic two days prior to her graduation has her friends over, right? Their homecoming dance or whatever it is, around the back come two police officers. All her friends parents, everybody, right? The policeman comes up to me and he says we have a noise ordinance complaint from your neighbors behind you but here is what it is. It's not actually a complaint right now, it's May 19 and they want to make sure that they set a precedent that they're not going to put up with your noise. Six months later your kids are loud, six month later the music, I can hear Pat Benetar on your radio. I can hear the lyrics. I'm sorry, God gave us trees and sound travels. I can hear voices in my back yard, I hear lawn mowers from down the street. This is all things people have to have common sense about and if we're going to live in a life where we have to live in a bubble then my bubble is going to get really obnoxious because enough is enough. This isn't Berea. This isn't an 800 SF house asking for a 3,600 square foot garage. I have a \$250,000 car that sits, right in a barn in Ashland where my goat and my horses are, is that fun? No. I live here and I pay more in taxes than most of these people have ever paid in their life but yet I'm told I'm obnoxious and I'm loud and every year I have multiple police reports. I have stacks of them and every report it says found nothing. Couldn't hear the music and I end up talking to the policeman ten to fifteen minutes. They say, Mr. Lechler, I'm sorry. Sorry that you're going through this. I have an officer Greg from the Strongsville Police Department in the woods doing this and he says crank the music and I crank it to the max. Thirty one decibels. Does anyone know what the noise ordinance is?

Mr. Evans – Twenty.

Mr. Lechler – Cranked but if I moved 52' back it was at 11. So, if I truly want I can play my music as loud as I want and I would never do it. We have a water slide in our back yard and we had to put a muffler on it so you don't hear the water. They are loud. We put baffles on it. You can't even hear it. \$1,800, I could care less but I knew what was going to happen. I just think that I have no issue because 1,700 square feet means nothing. This can go on record for a lesson for everyone in the City because I get the first gentleman, fence corner lot. Same thing, you grant them and everybody wants them. With me, same thing, if someone with a 10,000 square foot house and wants to build a 3,500 square foot garage, me personally if they're willing to put a half million

2) **EDWARD LECHLER, OWNER, Cont'd**

Mr. Lechler continues - dollars into the garage I would say go for it. It would look better than most people's homes. I love this City and I love where I live and I love my neighbors but you have to understand my frustration. I can't do anything without a policeman walking around. It gets old and it gets old really fast and I've tried everything. As a matter of fact, and I'm not going to...knowing that I was going into this, one of the gentlemen and I actually paid \$1,130 to move my speaker system. Going into this. 100% to tell you the truth I did it because I knew it's one more thing. I texted him to see if it would make a difference and he said it's not really him anymore. Whatever. But I did it but they might still hear it but at the end of the day, what am I supposed to do? You can't address every angle that Mother Nature gave you. If you talk this way and it hits an oak tree, guess what it bounces this way because that's what sound does. You can't call the police every time someone whispers or Pat Benetar comes on the radio. You just can't do it. So understand my frustration. But go ahead and withdraw my whole thing because I know you're not going to grant it. But I will be in the City in the morning.

Mr. Kolick – One thing is we do allow animals on lots but check with Brian in the Building Department since there are restrictions.

Mr. Lechler – I was there today.

Mr. Kolick - There are restrictions on fencing and other things. I just want you to be in compliance.

Mr. Lechler – That's what I want to be sure of. I don't need a variance. I checked into it. It does allow me to have a barn to house the animals on my property. I don't think I have to even propose it. I'm allowed three horses and two goats and my daughter would love to have my horses up in Strongsville. It is what it is.

Mr. Kolick – We will mark it withdrawn and make sure you're in compliance.

Mr. Lechler – I went this morning.

Mr. Baldin – Mr. Lechler, do I understand that you're withdrawing and not reducing the size?

Mr. Lechler – No, I reduced it but it's one of those things where it isn't worth it. I'm not in this world to upset people and my neighbors over a garage. All right? If I can't have what I asked for I went down to 1,700 and you heard the complaints from my neighbors that they don't want it. I can live without it. I do now. I just drive to Ashland and get in my car. It's how it is. It's most likely not going to be accepted and it's a waste of your time.

Mr. Kolick – We'll mark it withdrawn.

Mr. Lechler – Okay, we're good.

2) **EDWARD LECHLER, OWNER, Cont'd**

Mr. Evans – Thank you.

Mr. Kolick – Thank you, everyone.

3) **SAMIR KARIM, OWNER**

Requesting a 7' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 36' Rear Yard Setback and where a 29' Rear Yard Setback is proposed in order to construct a 44 SF Deck Extension; property located at 17884 Heritage Trail, PPN 397-17-014, zoned R1-75.

Mr. Evans – Item number (3) on our agenda is Samir Karim on Heritage Trail. If you would come to the microphone please and we'll need your name and address for the record.

Mr. Karim – My name is Sam Karim, this is my wife Sandra and my twins Alexis and Caiden.

Mr. Evans – And you are asking for a variance for the size of the deck in the back. You're asking for a 44 square foot extension. Basically it's a 7' variance for the rear yard setback. Gentlemen, observations and questions?

Mr. Baldin – Mr. Chairman, from what I saw back there everybody has the same type of deck and style that you have there. Is there a retention pond behind you?

Mr. Karim – Yes, there is a pond.

Mr. Baldin – You have one on stilts and there's a retention pond and I think everybody else's deck is pretty much the same size.

Mr. Karim – Some neighbors have bigger.

Mr. Baldin – Well, it may look that way to me. I personally don't have a problem with you asking for a 44 SF deck.

Mr. Evans – Anything else from anyone? We do have the homeowner's association letter and as I indicated I'll be abstaining on this. This is a Public Hearing. Is there anyone in the audience who wishes to speak for the granting of the variance? Is there anyone in the audience who wishes to speak against the granting of the variance? Hearing none and seeing none I will declare the Public Hearing closed and entertain a motion.

3) **SAMIR KARIM, OWNER, Cont'd**

Mr. Rusnov – Mr. Chairman, requesting a 7' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 36' Rear Yard Setback and where a 29' Rear Yard Setback is proposed in order to construct a 44 SF Deck Extension; property located at 17884 Heritage Trail, PPN 397-17-014, zoned R1-75 be approved.

Mr. Hayden - Second.

Mr. Evans – Thank you, Mr. Rusnov and Mr. Hayden, may we have a roll call please?

ROLL CALL:	MR. HOULE	AYE
	MR. EVANS	ABSTAIN
	MR. HAYDEN	AYE
	MR. BALDIN	AYE
	MR. RUSNOV	AYE

MOTION GRANTED

Mr. Evans – The variance has been approved by this Board. There is a twenty day waiting period during which time City Council has the opportunity to review our decision. You will be notified by the Building Department at the end of the twenty days and then can proceed with the project. You're all set.

Mr. Karim – Thank you very much.

Mr. Evans – Thank you.

4) **LAURA GACSADY, OWNER/LEDGEWOOD ASSOCIATION**

Requesting a 3' variance from Zoning Code Section 1252.18 which prohibits a Fence encroachment and where a Fence encroaching 3' onto PPN 396-05-049 is proposed; property located at 17524 Fallingwater Road, PPN 396-09-041, zoned R1-75.

Mr. Evans – Item number (4) is Laura Gacsady on Fallingwater Road. If you would come forward to our microphone please and state your name and address for the record.

Ms. Gacsady – Good evening. Laura Gacsady, 17524 Fallingwater Road, Strongsville, OH 44136.

Mr. Evans – Thank you. You are here asking for a variance because of an encroachment of a playhouse that is on common property behind you. You heard us talking in caucus and we might ask you to respond first. You are a new owner, do I understand that?

4) **LAURA GACSADY, OWNER/LEDGEWOOD ASSOCIATION, Cont'd**

Ms. Gacsady – Yes.

Mr. Evans – So, when you bought the property the playhouse was existing back there?

Ms. Gacsady – Yes.

Mr. Evans – Did the previous owner tell you anything about the playhouse, whether it was on association property, or whether they might have built it?

Ms. Gacsady – They gave me the impression that it was mine and so did the realtor and they said it was built several years back. It's very well constructed. It's been there at least twenty years.

Mr. Evans – Okay, so Ledgewood in granting their approval for the variance indicated that insurance and other considerations had been taken care of. Our Board doesn't necessarily always see things the way a homeowner's association does. The situation of a playhouse being on association property and then your request to put a fence onto association property going around that is a little bit different than anything that we have done before because we normally would not grant something like that. Again, part of our problem is that we have these four conditions for us to grant variances and it really doesn't fit into that bucket. So, I wanted to preface by saying that those are the concerns that we as a Board have when we are looking at something like this. The playhouse itself I gather you're intending on using.

Ms. Gacsady – Yes, I moved here in March with my daughter and my grandson, who is going on three years old. We love the playhouse. It is beautiful. It's the scenery. He played in it and it has a built in play box underneath. We live on a corner lot unfortunately and we have already had several episodes where he has just run darted to the street and it's a safety concern. Otherwise I would not even be wanting to put a fence up. The fence is only to contain my grandchild and keep him safe so with us both standing there he has ran so fast on us. So, it's strictly just for the time that we need it and the association came out to evaluate my situation and they agreed to allow me to put extensions to the playhouse sides off of my property. It's just that small area that is off my property actually. We're talking 3 square feet. Three feet on one side and three feet on the other. With the agreement and I'm happy to abide by that, once he is ten years old they agreed to I would simply have the fence brought back in so it's all on my property. At ten years old he probably will be more into golf and fishing like me and won't even care about the playhouse at that point hopefully. Again, I'm not asking for property that's not mine. I'm just asking to keep it safe to allow us access to the playhouse that we believed was ours and had every intention to utilize and it's just heartbreaking to think that we would have to enclose the fence and not be able to access the playhouse.

4) LAURA GACSADY, OWNER/LEDGEWOOD ASSOCIATION, Cont'd

Mr. Evans – Okay, I'll start with the questions and that simply is that in going out and looking at it could you not take the bottom of the playhouse and I'm going to say wall it in. That is probably not the right term but putting on the playhouse itself rather than constructing a fence separately because you could build the fence as you're proposing to the front of the playhouse and just simply put up slats on the bottom of the playhouse to keep that contained. I understand that three year olds have to run out. I remember wanting our children to be able to grow up and be able to run and then at two and three years old we were like, gosh what did we ask for. I do understand. They run all over the place. I understand the containment idea.

Ms. Gacsady – Yes, the side of the fence will be on our property line and then on the side to the front of the playhouse I hope you all have the picture of it. So, you can see that it's just 3' on the side so we will have access and the contractor putting up the fence will in fact enclose and put up matching posts on the back of it and the sides so he won't be able to get out underneath to get out.

Mr. Evans – It's actually constructing it as a fence not doing it as modifying the playhouse.

Ms. Gacsady – He will not be modifying the playhouse. He will be enclosing it so my grandchild cannot escape.

Mr. Evans – Okay.

Ms. Gacsady - Again, it will be pulled back like this and it will be a straight line until the agreement will be reached.

Mr. Evans – Okay. Gentlemen?

Mr. Rusnov – Okay, so you bought this house and the beloved realtor didn't discuss this with you. The lender never notified you that you have an encroachment in the back.

Ms. Gacsady – We discussed it but the lender did not say that there was an encroachment. The realtor had me believe that the property went beyond the playhouse. I informed her that with the streets I would need to put up some kind of fence and asked if the HOA would be okay with that.

Mr. Rusnov – What I'm alluding to here is that you were blind in this whole thing. I'm trying to figure out alternatives that would be more palatable and within our purview and that's what we have Mr. Kolick for. Is there a chance that you could purchase that 36 square feet and fence it or get it deeded over from the homeowner's association? There are ramifications, seventy five percent of the vote from the property owners. Maybe it would be easier and more within our purview to do something like that rather than go and vote on a variance on somebody else's property. Do you see where I'm going with this?

4) **LAURA GACSADY, OWNER/LEDGEWOOD ASSOCIATION, Cont'd**

Ms. Gacsady – Right.

Mr. Rusnov - And even though you got a letter from the association and they approve of it you're still putting something on someone else's property.

Ms. Gacsady – When the city came out to evaluate the situation we were out there for over an hour talking about options and what could be done and I did ask if that was a possibility to purchase the little bit of property needed. It was not an option. The homeowner's association said they can't sell any property. That's when they said that they would be willing to allow me to temporarily put the fence up to extend it to the front of the playhouse with the understanding that I would bring it back.

Mr. Rusnov – Wow.

Mr. Baldin – Mr. Chairman?

Mr. Evans – Mr. Baldin?

Mr. Baldin – I have a question for Mr. Kolick? Is there any recourse that this could backfire? I see no problem with what they are proposing to this young lady to do and she's willing to knock it down.

Ms. Gacsady – I think it's reasonable.

Mr. Baldin – Is there any recourse by doing this on someone else's property even though they give them the okay?

Mr. Kolick – Well, it should probably be done correctly. They should be granted an easement to cover everything. We have had this situation before when you're going onto someone else's property. What you can't do because the Board doesn't have jurisdiction is you either meet the conditions or you don't. You don't meet them now and then on October 27 2027 it no longer meets the condition. You can't do that. You can't impose those limitations on the variance.

Mr. Rusnov – What you're saying is do it right the first time.

Mr. Kolick – Right.

Mr. Baldin – Could this request come back on her or the association?

Mr. Kolick – The association could always have recourse. If someone is hurt on the structure I don't care what her agreement is with the association the association could be brought into a lawsuit by someone.

4) **LAURA GACSADY, OWNER/LEDGEWOOD ASSOCIATION, Cont'd**

Ms. Gacsady – I have the playhouse insured. It includes anyone on my property.

Mr. Kolick - What I'm suggesting is if someone would get hurt on there any attorney is going to file a suit against both the owner and you both. So, I mean there are some problems the association could have. Another minor problem they could have is taxes on vacant land. If the county got word that this is here then, and it would be miniscule, but there would be some added value to the property because right now what the auditor does is he put like a \$1,000 per acre and it's a minimal amount. That could be a problem. Whenever you're building on someone else's property there can be problems with it.

Ms. Gacsady – We're talking about 3 square feet though just so you know. One fence.

Mr. Evans – Understood. Our problem is that once we do this for you then we have opened the flood gates to other situations that might be similar and our problem, as Mr. Kolick said, is that we can't control all the pieces of this and it puts us into a precarious position to grant a variance for you to do something on someone else's property even if the property owner has granted permission. Mr. Kolick, if there is an easement in place then that would be the proper way to do it?

Mr. Kolick – Right.

Mr. Evans – So, can we table this to give the applicant the opportunity to get an easement with the association and that would allow us to do this and do it in the right manner?

Mr. Kolick – You still would be granting a variance and I don't want to put her through that unless the Board really feels with an easement that is something that you would consider doing. She would still need a variance but it would be much cleaner than this is.

Mr. Evans – Right.

Ms. Gacsady – I have been trying to fence in my child since March and it's been a long struggle with the HOA. I was so relieved and happy when they all came out to evaluate the situation and agreed to what I was asking for was not unreasonable. That was music to my ears. To think that I would have to go longer, I love my grandson very much but he is climbing the walls and running out and I've had neighbors bring him back to me and I really don't want to have to put off putting this fence up. At the same time I really would appreciate the fence being allowed to just go to the front of the playhouse. He is very active in the playhouse. He enjoys it. I don't think that I'm being unreasonable. I don't think that I'm asking for much and I am not planning on keeping the fence for many years. If it was not for the fact that we've had several situations with him already. So, I plead that you guys would just allow me to have this variance so I can get this fence up once and

4) **LAURA GACSADY, OWNER/LEDGEWOOD ASSOCIATION, Cont'd**

Ms. Gacsady continues - for all. Again, I will abide by the rules that the HOA put into place with me and I will happily bring it back onto my property at the time given. Probably even sooner than that.

Mr. Hayden – Mr. Chairman, may I make a suggestion?

Mr. Evans – Yes, Mr. Hayden.

Mr. Hayden – Going back, you had mentioned earlier carrying the fence to the front of the playhouse and then walling in the sides. Could this be an option while she works to get the easement? Would it be possible to carry it to the sides to create some sort of temporary barrier at the bottom of the playhouse? She works with the association to get the easement and then come back to complete the remaining 33 square feet?

Mr. Evans – We have in the past done variances predicated on knowing that an easement is being worked on. The only thing that we don't know here is whether or not the association would be willing to do and it would be up to the applicant to have that legal work done. It would be the question of whether or not the association would allow an easement to be done for this.

Mr. Kolick – I think what Mr. Hayden was suggesting is just that she put some type of temporary barriers there while she waits to see. The problem is I don't know where the association is on this whole easement thing and the association has not already agreed yes, we will grant an easement.

Mr. Evans – I think we should table this to the next meeting in order for that to take place but as you indicated we don't want her to do that if the Board is inclined not approve that. So, I guess what I'm asking the Board members is that if we were to pursue the course and we still have to do the Public Hearing but if we were to pursue the course of getting an easement would that then change the situation such that we would be in a position to grant the variance?

Mr. Rusnov – It doesn't guarantee an approval but it would make it much more palatable if you got the easement and limited the access to the playhouse to one side only, the back and the two sides would be totally shut off but that would make it like a small cave under there. I can't give you any guarantees on anything. The ball is in the court of the homeowner's association.

Mr. Evans – That would be true but what I'm saying is I don't want to send her to work with the association to get an easement unless we feel that if she is able to do that then we would approve the variance.

Mr. Rusnov – If she got the easement and enclosed the bottom to limit the kid from making a sprint for the street then it would have a positive effect on me.

4) **LAURA GACSADY, OWNER/LEDGEWOOD ASSOCIATION, Cont'd**

Mr. Hayden – I agree.

Mr. Baldin – Excuse me, that all sounds fine but what we have in front of us is whether we want to grant a variance for what is in front of us period with an approval from the homeowner's association. There is no recourse that it would come back on us?

Mr. Kolick – That is why we want to see the easement granted or an agreement from the homeowner's association.

Mr. Baldin – There would be no recourse to come back on us now if we granted what she is asking for at this particular time, right?

Mr. Kolick – No, there could be some problems.

Ms. Gacsady – May I ask what would those problems be? I don't understand the easement because the HOA did sign off on this?

Mr. Kolick – You're building something on someone else's property, okay?

Mr. Evans – The easement would give you access to the playhouse on the association property. It's a legal document that says that they are doing that. The letter that they have furnished stipulations for their agreement that you could build a fence there. We're taking it a step further in that an easement provides the association can't decide that because they change officers who could say they don't want that any more so they aren't going to allow access and you have to take the fence down. The easement is a permanent legal agreement but the letter they gave to you is not, and for us in order to be able to grant a variance what we're saying is that we would want that to be in place as the proper and appropriate way of doing this.

Ms. Gacsady – With all due respect though if I trust the HOA when they came out and they put that in writing and they even furthermore suggested to close the bottom so he can't escape so he can go both top and bottom, why would I feel that an easement is necessary?

Mr. Kolick – Mr. Chairman, the easement is a formal legal document and it gets filed with the county so that it's a matter of record. It can't be revoked by a later Board or a later Board member or anything else. That's the difference, that's a legal document that is enforceable under that law. If they can't sell you the property then the next step would be to give you an easement to utilize that property. That would be the proper way to do it before the Board would be in a position to grant the variance. As long as they gave us a letter indicating yes, they will give you an easement we wouldn't necessarily hold up our action on it but they would have to hold it up at the Building Department level until they saw that the easement was in place but from a timing standpoint we could act on it subject to that.

4) LAURA GACSADY, OWNER/LEDGEWOOD ASSOCIATION, Cont'd

Ms. Gacsady – I'm very concerned because we're now approaching the end of July and now I'm thinking while you are talking I'll be lucky to have a fence before winter.

Mr. Rusnov – We understand your situation how you weren't told the truth about where that building laid but Mr. Kolick is suggesting to you the right way to do this. Someone should have told you but obviously didn't. It's great that Sam is your buddy on the Board but when Sam leaves they could say heck with her. Everything comes down. This is a legal document that protects you that someone should have told you this up front. They should have known better. The can is kicked to us and Mr. Kolick is kind enough to tell you the right way to do it. And we're trying to listen to what he has to say to do this the right way. Bottom line is we can't have a variance on somebody else's property and this is the way to do it if you want to do it. We're totally aware of the child and the danger and everything else but our hands are tied. This is not within our scope of how to do this. We are trying to tell you the right way to do this.

Ms. Gacsady – I wish someone at the Building Department would have told me. They had me fill out an application. At that point they should have said that I would need an easement. Not one has directed me about an easement. This is the first that I have heard about it.

Mr. Kolick – Mr. Chairman, for the applicant, this is what the Board is to give those directions. The Building Department can't legally advise you what to do. We're sorry that the real estate company didn't tell you or the prior owner or that they misrepresented but we can't correct that mistake. That mistake was made by the realtors and the prior owner if they told you this was on your property. If you have any recourse then your recourse may be back against them. All we can tell you is how to proceed at this point. You have to have some legal right to that property before we can grant a variance for the fence on the property.

Mr. Evans – We're trying to find a way to help you. This Board would be turning down your request. I'm trying to figure out a way to get around that and an easement is a legal document that would allow us to grant the variance. Yes, the Building Department could have told you that but they aren't legal experts. That is what this Board is for. Your realtor and the title company, I understand that it's been a lot of time that has passed. I'm saying that if we do the Public Hearing tonight and we table this then at our next meeting we would be able to take care of business. You would need to get to the homeowner's association and tell them the Board has said they would approve the variance but you would need an easement from the association allowing access to the playhouse. You would need to have an attorney draw up an easement document. They would sign off on it and file it as record. We would ask at the next meeting for the agreement from the homeowner's association that they will allow an easement for the access so that we can grant the variance. That would be the process. At the next meeting you would have had the association say yes, they will write you the easement. It's not going to be the association. You would have to go to an attorney to have that done. In the meantime if they agree to it by our next meeting then we would approve the variance. We are trying to do the best we can. We can't put the City at risk.

4) **LAURA GACSADY, OWNER/LEDGEWOOD ASSOCIATION, Cont'd**

Mr. Evans continues - That's not something that we can do but we can approve the variance if you have an easement in place, which grants you legal access to the playhouse. Same thing as someone who puts a driveway across common area or something like that. There's an easement in place to protect that situation. It's unfortunate that this is something that has had to happen over the course of time. We would like to try to get it resolved for you. That would be the only way that we could legitimately do it. Otherwise tonight we would have to turn the application down.

Ms. Gacsady – Would it be possible to help save time to vote on it with the expectance of the association granting the easement so we can at least get that into action and do follow up with the paper trail?

Mr. Kolick – That is why we are asking you to get us a letter so that we will do that. We said we will approve it once the association gives you a letter saying they will grant you the easement or act on it. We can't do it in a vacuum unless there is someone here from the association board that can tell us yes, we will grant her an easement but without that we can't.

Mr. Evans – The filing of the easement takes time and it's a process. That is why we're saying that if the homeowner association says that they will grant you an easement and at that point we will take their word for it and act on the variance request and it will be in the paperwork coming after the fact but we can't do that until we know that the HOA is willing to grant you an easement.

Ms. Gacsady – A letter from them for the next meeting is what you would require.

Mr. Evans – A letter or an email saying that the association will provide for an easement for access to the property.

Mr. Baldin – Unless there is someone here with the authority to do that.

Mr. Evans – I don't think so.

Mr. Kolick – We need to move on Mr. Chairman so that we can have the Public Hearing and get that out of the way.

Mr. Evans – So, do you understand what we have presented to you?

Ms. Gacsady – I understand.

Mr. Evans - This is a Public Hearing. Is there anyone in the audience who wishes to speak for the granting of the variance? Okay, if you will come forward sir and state your name and address.

4) LAURA GACSADY, OWNER/LEDGEWOOD ASSOCIATION, Cont'd

Mr. Pierce – Doug Pierce, 12287 Moss Ridge Circle Strongsville. I believe that my wife and I are the only residents that have a line of sight to the proposed fence. Our back yards both are exposed to the common area. In regards to the structure we have no objection whatsoever for the fence. The existing playhouse has been there for the ten years that we have lived there and it looks like it was there ten years prior to that. Both previous residents in the home used it as winter storage for lawn furniture, et cetera. It was always assumed that it was part of their property. I've never seen a soul in that common area so it's not like it is regularly used by the residents. It's just a catch all for leaves and sticks and everything else. Again, no objection whatsoever and anything that Laura wants to do to improve the property is totally fine by our standards.

Mr. Evans – Okay. I appreciate it. Is there anyone else who wishes to speak in favor of the variance? Is there anyone in the audience who wishes to speak against the granting of the variance? Hearing none and seeing none I will declare the Public Hearing closed. Laura, if you want to come back up to the podium our suggestion is to table if you would request that and go to the association and say that the Board of Zoning Appeals said that we would need to do an easement. Laura, you would need to contact an attorney but as long as the association says they would be willing to have you do an easement for access for the property so that we can grant the variance then you would want to get them to put that in an email or a formal document that they give to you and then at our next meeting we would move forward and vote on the variance. Does that make sense?

Ms. Gacsady – Yes.

Mr. Evans - My apologies for the process otherwise you will have problems a lot longer than we will be around.

Ms. Gacsady – I appreciate your time and thank you so much for your consideration and advice.

Mr. Kolick – For the applicant, before you leave you have to request that we table it at this time until such time as you have obtained that letter from the association.

Mr. Evans – You want to get to them and just say hey guys they are willing to do the variance but we need to do an easement.

Ms. Gacsady – Okay, yes, I will table it.

Mr. Evans – Then you'll all set. Get the document to the Building Department and you can get on the next meeting after that.

Ms. Gacsady – Thank you.

5) **GREGORY AND KAREN GRATTAN, OWNERS**

Requesting a 32 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 224 SF Floor Area is proposed in order to construct a Shed with overhang and porch; property located at 11381 Brady Lane, PPN 392-10-044, zoned R1-75.

Mr. Evans- Mr. Grattan, if you'll come forward please. We'll need your name and address for the record.

Mr. Grattan – My address is 11381 Brady Lane, Strongsville, OH 44149.

Mr. Evans – And your name is Gregory Grattan?

Mr. Grattan - Yes, and my wife is Karen.

Mr. Evans – And please tell us about the shed with the overhang and porch.

Mr. Grattan – I bought this house last year. It's my third house in Strongsville. It was a rental and the back yard needed a lot of work. A couple of months ago I put a stamped patio in and now I'm going to tackle a shed. It's a very poor shed. It's a 10' x 12' shed. It's got dead trees all around with poison ivy. I'm getting all that cleared out. I asked my wife because she does a lot of gardening and reads the Bible in the morning if she would like a she shed with a porch and she said that would be great honey. I went to North Ridgeville and found the shed. It's only 10' x 16' and it has a 4' overhang on it and I already paid for it. What really befuddles me is I looked at my lot and my neighbor he has a shed that is twice the size with an 8' overhang and the neighbor to the right has a huge shed that is twice the square footage but Brian told me over the phone that the overhang counts as square footage and it's only 32 square feet and I've talked to a lot of inspectors that came to the house that said I should have no problem getting a shed. That's what they said to me. They were very kind gentlemen. I'm trying to beautify my house and it's like not a humongous shed. It's only 10' x 16'.

Mr. Rusnov – The rub here is the overhang is called an overhang and not really a porch, which it is. We have had this discussion before so we understand your position. Okay?

Mr. Grattan – Okay.

Mr. Evans – Again, we have all been out to look at it and you have done improvements in the yard and everything and we appreciate your investing in it that way. Mr. Baldin, you made the observation in caucus about the sheds that are in the vicinity there.

Mr. Baldin – I see no problem with that but he had just improved his yard and he has done a lot of work to keep it up.

5) **GREGORY AND KAREN GRATTAN, OWNERS, Cont'd**

Mr. Grattan – Thank you.

Mr. Evans – Anybody else? The code does not differentiate the overhang and the shed space but we have looked at the overhang differently. The shed itself is within code but the overhang is causing the 32 square foot variance. The porch. Anything else? This is a Public Hearing. Is there anyone in the audience who wishes to speak for the granting of the variance? Is there anyone in the audience who wishes to speak against the granting of the variance? Hearing none and seeing none I will declare the Public Hearing closed and entertain a motion.

Mr. Rusnov – Mr. Chairman, requesting a 32 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 224 SF Floor Area is proposed in order to construct a Shed with overhang and porch; property located at 11381 Brady Lane, PPN 392-10-044, zoned R1-75 be approved.

Mr. Houle – Second.

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

ROLL CALL:

ALL AYES:

MOTION GRANTED

Mr. Evans – The variance has been approved by this Board. There is a twenty day waiting period during which time City Council has the opportunity to review our decision. You will be notified by the Building Department at the end of the twenty days and then can proceed with the project. You're all set for tonight.

Mr. Grattan – Thank you. Have a good night.

6) **NAJIB AFECH, OWNER**

Requesting a 2' Side Yard Setback variance from Zoning Code Section 1252.17 (c), which requires a 12' Side Yard Setback and where a 10' Side Yard Setback is proposed in order to install a 4' Black Aluminum Fence; property located at 15261 Dewitt Drive, PPN 395-15-058, zoned R1-75.

Mr. Evans – Item number (6) on our agenda is Afech on Dewitt Drive. Is there anyone here for this? If you will come forward please?

Ms. Zamrzla – He's not sworn in.

Mr. Evans – Were you sworn in at the beginning of the meeting?

6) NAJIB AFECH, OWNER, Cont'd

Mr. Afech – No.

Mr. Evans – Mr. Kolick if you would be so kind.

Mr. Kolick stated that oath to Mr. Afech.

Mr. Evans - Okay, please state your name and address for the record.

Mr. Afech – Najib Afech, 15261 Dewitt Drive, Strongsville, OH 44136

Mr. Evans – Thank you. You are here asking for a side yard setback variance for a fence. Can you tell us why or what the project is and why you are requiring a variance?

Mr. Afech – I do have an existing wood fence that I'm trying to replace in the same place with a black aluminum fence 4' high and the reason for the variance is to keep it in line with my neighbor's fence of the same size. I have a picture here.

Mr. Rusnov – Basically, it's for continuity.

Mr. Afech – Yes.

Mr. Rusnov – This is a much more expensive fence than what exists currently.

Mr. Afech – It's outdated and the black aluminum fence will keep it looking the same as the other one.

Mr. Rusnov – This also improves the line of sight in the fence area.

Mr. Afech – Yes, it's not a solid fence and I do have a letter from the association that should have been emailed to you and a letter from the back yard neighbor also. By the way it's an L-shaped fence not all the way around the yard. It's just an L-shape.

Mr. Evans – Okay, this is an existing fence that you're replacing.

Mr. Baldin – No problems.

Mr. Evans – Questions, anyone? This is a Public Hearing. Is there anyone in the audience who wishes to speak for the granting of the variance? Is there anyone in the audience who wishes to speak against the granting of the variance? Hearing none and seeing none I will declare the Public Hearing closed and entertain a motion.

6) NAJIB AFECH, OWNER, Cont'd

Mr. Rusnov – Requesting a 2’ Side Yard Setback variance from Zoning Code Section 1252.17 (c), which requires a 12’ Side Yard Setback and where a 10’ Side Yard Setback is proposed in order to install a 4’ Black Aluminum Fence; property located at 15261 Dewitt Drive, PPN 395-15-058, zoned R1-75 be approved.

Mr. Houle – Second.

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

ROLL CALL:	MR. HAYDEN	ABSTAIN
	MR. BALDIN	AYE
	MR. RUSNOV	AYE
	MR. HOULE	AYE
	M. EVANS	AYE

MOTION GRANTED

Mr. Evans - The variance has been approved by this Board. There is a twenty day waiting period during which time City Council has the opportunity to review our decision. You will be notified by the Building Department at the end of the twenty days and then can proceed with the project. You’re all set for tonight.

Mr. Afech – Thank you, gentlemen.

Mr. Evans – Thank you.

7) JOSHUA AND GORDANA DIMACCHIA, OWNERS

- a) Requesting a 5’ Rear Yard Setback variance from Zoning Code Section 1252.29 (b) (1), which requires a 15’ Rear Yard Setback and where a 10’ Rear Yard Setback is proposed in order to install a 648 SF In-ground Swimming Pool;
- b) Requesting a 6’ Side Yard Setback variance from Zoning Code Section 1252.29 (b) 1(1), which requires a 15’ Side Yard Setback and where a 9’ Side Yard Setback is proposed in order to install a 648 SF In-ground Swimming Pool; property located at 10200 Forestview Drive, PPN 398-10-074, zoned R1-75.

Mr. Evans – Item number (7) on Forestview Drive, if you will come to the podium please and state your name and address for the record.

7) **JOSHUA AND GORDANA DIMACCHIA, OWNERS, Cont'd**

Mr. Dimacchia – Josh Dimacchia, 10200 Forestview Drive, Strongsville, 44136.

Mr. Evans – Mr. Dimacchia, you are asking for a variance to put in an in-ground pool and tell us about the project and why you feel that you need the size that you do.

Ms. Zamrzla – Excuse me, Mr. Chairman, do we have an HOA letter from Pine Lakes?

Mr. Dimacchia – No.

Mr. Kolick – For the applicant, have you spoken to the homeowner's association?

Mr. Dimacchia – No, I haven't. There are pools throughout the neighborhood so I thought the variance kind of was with you. I've spoken with the neighbors about the plans and the reasons for coming in and submitting for a variance.

Mr. Evans – Okay, Mr. Dimacchia, the reason why the homeowner's association is involved is because it is within their association so part of the direction that you should have gotten from the Building Department when you applied for the variance is that you should have gone to your association for their approval. Whether it's for architectural review and particularly for variances homeowner's associations should be contacted. That is something that is going to take place. We will have to sort through that process but why don't you go ahead and tell us about the project and tell us what is involved.

Mr. Dimacchia – As someone mentioned before we have a smaller back yard and it's unique. It shifts to the back and we have worked with local pool contractor Rios Pools to try to find a way to fit in the design and the idea that we want for the pool and that is kind of where we stand. We have a fifteen to eighteen foot arborvitae that shades the back property behind us that we bought with what we are proposing and we will keep those because that would be on the other side of the five feet. The only other thing that I mentioned is that we're asking for six feet and it's only in that far left hand side corner.

Mr. Evans – It's fifteen at the other corner.

Mr. Dimacchia – It's not the whole left side abutting property. It's just a little spot over there that needs a variance. So, it's primarily that back five feet that we need. We have wanted to have a pool for years and the timing was right. The pool guys are busy as all get out and we were fortunate to get them and at the time that we did and I guess a learning experience with this.

Mr. Rusnov – Your yard is fenced and you removed an existing deck.

7) **JOSHUA AND GORDANA DIMACCHIA, OWNERS, Cont'd**

Mr. Dimacchia – We did. We had a really big deck. We are going to put a patio there and we are going to replace that fence so if you were there you saw the fence is old and needs to be replaced. Once we are done with this construction the fence would be a 6' fence. We like many that are here for variances are actively updating our house inside and out and this is another part of it. So, we are requesting a little bit of room to make this thing happen because it is kind of tough with this size of yard and if you squeeze it too much it doesn't become a viable pool. It's an easy sized pool but it's already been squeezed down. The pool guys do a lot of 20' x 40'. We keep shrinking.

Mr. Evans – That is true but on much bigger lots though. One of the concerns that we have to deal with is your neighbors may at this point say yes, go for it, this would be great because you're going to invite us over. They may not understand what an 18' x 36' pool size is and the amount of noise is may generate and then they go to sell their house during the summer when the realtor brings people in and they're like all that noise, I can't handle it. So, part of what we have to look at is whether or not pools in this area is appropriate. The reason that we have the code that we do with the setbacks is because we have learned over the course of time and City Council has told us time and again that they don't like it when we grant variances for pools because they do generate a lot of noise. You probably heard about the one tonight on Cedar Creek and about the amount of noise and everything. People don't understand all the time until it is actually there how much noise it generates. So, as a Board what we are looking at is we understand that you want the pool as big as you can get it but that means two variances. It's coming closer to the back and one neighbor and at that point would a smaller pool, and I understand pool builders will build you a pool as big as you can pay for because that is how they make their money. This is a custom build instead of a plastic in-ground pool of and can build it at any size. Eighteen by thirty six may be what you want but what about making it slightly smaller?

Mr. Dimacchia – Maybe. We have looked at it. We have a family of five with three teen agers. It's a valid argument but in my yard if I went sixteen by thirty does it really change the noise level. We still would have five people out there.

Mr. Evans – I can't argue with that but the only thing that I know is that where this Board has granted variances we oftentimes find that we grant variances and we set a precedent. We made a mistake and find that we didn't do something become we find out that someone turns a garage into living quarters or runs a business out of an accessory structure. We have had City Council come to us with a problem with us granting a variance even though we thought that we had the best intentions and followed the rules but it didn't quite work out the way we wanted it to. One of the places that we have been bitten in the butt is with pools with granting a variance which allowed the pool closer to a neighbor they may say initially, I didn't want to be the wet sock and tell them they didn't want to do it but all hours of the day and night and then they come back to the City Council person that it's those people at BZA who grant those variances and then we're on the hot seat. So, that is the reason that we look at these and try to figure out is the pool too big for the yard? Would a smaller one be the same amount of noise? You would have the same five people in

7) **JOSHUA AND GORDANA DIMACCHIA, OWNERS, Cont'd**

Mr. Evans continues - it but a smaller pool wouldn't allow ten teenagers with your three teenagers. That would be the question that we're always forced to answer.

Mr. Kolick – Mr. Chairman, this is an active homeowner's association, Pine Lakes. My suggestion is to have the Public Hearing and I would feel more comfortable having something from the Pine Lakes Homeowner's Association saying they have no difficulty with this. Not that we have to follow what they want but particularly in getting before City Council too if any of these issues get there we can say we contacted the homeowner's association and they didn't have any objection to it. Again, we have had these in the past and we should at least have them go back to the homeowner's association and show them what you are doing and hopefully they will give you a letter indicating that they don't have an objection to it and get that over to the City. That gives us something more knowing that someone else in the neighborhood has looked at it.

Mr. Evans – Pine Lakes does have an architectural review group and this would fall under that category. Unfortunately, that would mean that we need to delay because we really can't act until we know that the homeowner's association has approved it or if they say they don't like it they would tell us the reasons and we would have to consider that in our evaluation in making a determination. But in the absence in having a letter from them we're on thin ice particularly in terms of City Council in terms of acting. That is why the Building Department, in the materials that you got, said to talk to the homeowner's association and get their authorization for it.

Mr. Dimacchia – So, when the variance letter goes out and it went to people within 500' but it still would have gone to Board members because someone is caddy-corner to this.

Mr. Evans – That may be true but the directive that we give to applicants it to present the plans to the HOA and get a letter from them with their opinion. Variances are different from when you decide that you want a new deck on the house and everything is within code and the HOA says go ahead. When a variance is granted it's a legal process that takes you outside of the accepted norm and that is why we require the homeowner's association judgement. We don't always listen to the homeowner's association. When we do there are good reasons and when we don't there are also good reasons but we try to work with the homeowner's associations because when we don't that is when we get into trouble.

Mr. Dimacchia – Got it.

Mr. Evans – So first let's take care of the Public Hearing. Is there anyone in the audience who wishes to speak for the granting of the variance? Is there anyone in the audience who wishes to speak against the granting of the variance? Hearing none and seeing none I will declare the Public Hearing closed. Now, we come back to what we do. So, without the homeowner association we will have to table your request to the next meeting or decline your variance. I don't want to do that because I don't think that that's going to be the course we would take. You need to get a hold of

7) **JOSHUA AND GORDANA DIMACCHIA, OWNERS, Cont'd**

Mr. Evans continues - Pine Lakes and say, hey guys, I need something from you. Here are the plans, here is what we are proposing. They will be more interested than us. Tell them you've talked to your neighbors and they're okay with it. That will get us back to the next meeting when we could approve it. I know that is going to hold you up and I apologize but that is why that information is given to you when you apply for the variance. We say talk to the Association Board because variances are different than architectural review. We have learned over time that when we go around that for expedience we wind up in all sorts of trouble.

Mr. Dimacchia - Got it.

Mr. Evans – Thank you, have a good night.

Mr. Baldin – Sir, how long have you lived there?

Mr. Dimacchia – We moved in in 2006.

Mr. Baldin – Thank you.

Mr. Evans – So we will table it per your request and when you get the letter you need to send it to the Building Department so we can put you back on the agenda. Is there any other business to come before the Board?

Mr. Kolick – Mr. Chairman, I suppose you want Findings of Fact and Conclusions of Law for number (1) on the agenda that was denied this evening?

Mr. Evans – Yes, Mr. Kolick. Okay, anything else? We are adjourned.

Signature on File
Mr. Evans, Chairman

Signature on File
Kathy Zamrzla, Sec'y

September 9, 2020
Approval date