

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

**Meeting of
October 6, 2021**

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

Administration: Assistant Law Director Daniel J. Kolick

Assistant Building Commissioner: Brian Roenigk

Recording Secretary: Kathy Zamrzla

Mr. Evans – Good evening ladies and gentlemen. I'd like to call this caucus for the meeting of October 6, 2021 to order. The caucus is a time for the Board Members to discuss the items on the agenda tonight. You will be invited to participate when we get to the 8:00 meeting and at that time, if you do choose to participate you would be sworn in. You are welcome to stay and listen to the deliberations and comments of the Board Members about the items that are on the agenda, but your participation will be invited once we have the regular meeting beginning at 8:00. This evening we do have minutes from September 22nd. Anybody catch anything? Very good again as usual, we appreciate that from our secretary.

The Board members discussed the following:

1) JAMES AND LYNN KENZIG, OWNERS

Requesting a 16' variance from Zoning Code Section 1252.17 (a), which prohibits a fence to be located in a front yard and where a 6' tall Board on Board Fence encroaching 16' past the front of the dwelling into the front yard is proposed; property located at 18153 Trailside Place, PPN 396-04-305, zoned PDA - 2.

Mr. Baldin stated that there are lots of different types of fences in this area. He also stated that the homeowner is willing to move the fence if necessary. Mr. Evans stated that there is HOA approval.

2) ADAM RACE, OWNER/Matt Matisko with Morton's Landscaping, Representative

- a) Requesting a variance from Zoning Code Section 1252.29 (b) (1), which prohibits a Swimming Pool to be located in the Side Yard and where a 392 SF Inground Swimming Pool in a Side Yard is proposed;
- b) Requesting a 34.5' 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 900 SF Concrete Pool Deck Extension encroaching 34.5' beyond the main dwelling into the Side Yard Setback;
- c) Requesting a variance from Zoning Code Section 1252.18, which permits one (1) Accessory Structure and where a second 80 SF Accessory Structure is proposed;

- d) Requesting a 7' Setback variance from Zoning Code Section 1252.15 (a), which requires a 20' Setback from the main building and where a 13' Setback from the main building is proposed in order to install an 80 SF Accessory Structure; property located at 11742 The Bluffs, PPN's 396-05-016 and 396-05-017, zoned PDA-2.

Mr. Rusnov stated that this is one of the larger houses in the development. It has a ravine in the back, no backyard but a large front yard. Mr. Evans stated that the homeowner has consolidated the lot. Mr. Rusnov stated that this is the only place to put a pool.

3) **DR. MISENCIK, TENANT**

Requesting a 3' Setback variance from Zoning Code Section 1272.12 (e), which requires a 10' Setback from the right-of-way and where a 7' Setback from the right-of-way is proposed for an existing Ground Sign; property located at 16363 Pearl Road, PPN 397-09-002, zoned General Business (GB).

Mr. Evans stated that this involves signs that were impacted by the widening of the road. Mr. Evans questioned whether the sign was illuminated or not. Mr. Houlé stated that there is a tree that impacts the sign.

4) **TIMOTHY AND ERIN WITTE, OWNERS**

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 688 SF Deck; property located at 19407 Saratoga Trail, PPN 397-28-031, zoned R1-75.

Mr. Hayden stated that the existing brick patio has been removed. Mr. Kolick stated that if the applicant is building out into the swale, he will need to go to the Engineering Department and have the plans approved by them. Mr. Roenigk stated that if this is approved he will take it to Engineering for approval. Mr. Houlé stated that there is HOA approval.

5) **EUGENIA HETZEL, OWNER**

- a) Requesting an 18' Side Yard Setback 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 390 SF Concrete Patio encroaching 18' beyond the main dwelling into the Side Yard Setback;
- b) Requesting a 9' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 10' Rear Yard Setback and where a 1' Rear Yard Setback is

proposed in order to construct a 390 SF Concrete Patio; property located at 19101 Bridge Path Oval, PPN 397-27-139, zoned R1-75.

Mr. Rusnov stated that there is a sewer easement and a large tree and the HOA has no problem with the placement of the patio. Mr. Evans stated that this was approved by the cluster association, not the master association. He also stated that he will be abstaining since he is a trustee of the association. Mr. Kolick stated that this applicant will need approval from the Engineering Department.

6) **RUSLAN AND OLENA STETSURA, OWNERS**

- a) Requesting a 16' Setback variance from Zoning Code Section 1252.17 (c), which requires a 16' Setback from the right-of-way and where a 0' Setback from the right-of-way is proposed in order to install a 6' tall Fence;
- b) Requesting a 12' Setback variance from Zoning Code Section 1252.17 (c), which requires a 12' Setback from the right-of-way and where a 0' Setback from the right-of-way is proposed in order to install a 4' tall Fence; property located at 13179 Fairwinds Drive, PPN 399-31-039, zoned R1-75.

Mr. Kolick stated that there may be sight line issues. Mr. Roenigk stated that the applicant is willing to work with the Board. Mr. Rusnov stated that they should conform as close to the Code as they can.

Mr. Houlé stated that he will be absent from the next meeting.

**STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS
MINUTES OF MEETING
October 6, 2021**

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

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

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

Mr. Evans – I would like to call this October 6, 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 this evening minutes from September 22, 2021. We discussed these in caucus. If there are no additional comments or corrections to that, we will submit the minutes as they were given to us for the record. If you are here this evening and you intend to speak before the Board, that would be if you are an applicant introducing a request for a variance or if you are here for a public hearing, I would ask that you now stand and be sworn in by our Assistant Law Director. So, if you think you might need to speak tonight for any reason, now would be a good time to stand and be sworn in, in order to be able to speak as well as our Building Department representative and secretary.

Mr. Kolick stated the oath to those standing.

1) JAMES AND LYNN KENZIG, OWNERS

Requesting a 16' variance from Zoning Code Section 1252.17 (a), which prohibits a fence to be located in a front yard and where a 6' tall Board on Board Fence encroaching 16' past the front of the dwelling into the front yard is proposed; property located at 18153 Trailside Place, PPN 396-04-305, zoned PDA - 2.

1) JAMES AND LYNN KENZIG, OWNERS, Cont'd

Mr. Evans – Our meetings consist of public hearings for the items that are on our published agenda. All of the Members of the Board have been out to visit each one of the properties that are on the agenda tonight so we have seen the situations and in some cases the resident may be there and we have spoken to them and in other cases we've been to the property and observed it without talking to the resident. Item number one on the agenda is Kenzig at 18153 Trailside. If you would come forward to the podium. Please give us your name and address for the record.

Mr. Kenzig – My name is James Kenzig, 18153 Trailside Place. I'm within the Trailside Association which is part of the Ledgewood Association.

Mr. Evans – Thank you. Why don't you give us a quick description of the project and why it is that you're here for the variance. You heard us talking in caucus. If there are any points from that discussion that you need to address, that's fine.

Mr. Kenzig – I have a front courtyard. There's no back to my home. It's a very small home with a very small courtyard. Our kitchen sliding door is right in the front also. We have a current fence that is five feet high and it's about 30 years old and in bad repair so it needs replacing. I understand from looking at that the current fence is about maybe six inches from the sidewalk that we looked at and it was stated that it should probably be a foot. So, if it needs to be pushed back, I'm willing to do that. It was also mentioned that it could stay in the same place. There are many fences in our neighborhood that are in the front yard. I am on the Board of Directors for the Trailside Association and we actually have a resident here that has a fence also in his front yard that he's going to be wanting to replace. I did speak with legal and they said that each man is his own island, but I would like to put in that the Board could consider that those be replaced also.

Mr. Rusnov – That was a good summary. That fence line that you're replacing is the original fence line. The zoning was different then. You're going to be in line with all the other fences. You have no back yard. All you have is a front yard for leisure pursuits. I don't have a problem with it.

Mr. Baldin – I don't have a problem with it either. We discussed it in caucus. The gentleman is willing to move it back, but I don't think that's necessary.

Mr. Rusnov – It would stick out like a sore thumb because it wouldn't follow the other fences.

Mr. Hayden – We do have HOA approval on this one.

Mr. Evans – Our Code allows is to make exceptions for variances where there are exceptional circumstances and layout of the land dictates that this is the only place that the applicant could put a patio and the fencing around it. Any other comments or thoughts? Okay, this is a public hearing. I will ask if there is anybody in the audience who wishes to speak for the granting of the variance?

1) **JAMES AND LYNN KENZIG, OWNERS, Cont'd**

Mr. Evans continues - Is there anyone who wishes to speak against the granting of the variance? Okay, Mr. Kenzig, why don't you have a seat. Sir, if you'll come forward to the microphone. Would you give us your name and address for the record.

Mr. Francu – Michael Francu, 17934 Cliffside. I'm a neighbor of Jim's. My fence is probably 30+ years old. It's bent and it's rotted on the bottom and it's ready to fall down. This is why I'm in favor of allowing us to have a new fence because as you noticed when I'm in my living room or dining room or patio, that's my front yard. I have no back yard. I have absolutely no privacy without a fence. So please consider that.

Mr. Evans – If I understand correctly, you are not objecting to the variance.

Mr. Francu – No, I'm not objecting.

Mr. Evans – You're in favor?

Mr. Francu – Yes, I'm in favor.

Mr. Evans – Is there anyone else who wishes to speak in favor? Let me go back again to those who wish to speak against it. If you would come forward.

Mr. Emerick – My name is Pat Emerick. I live at 18234 Glencreek Lane. I'm President of the Homeowners, representing 29 homes. Basically, here to say that we oppose allowing fences to be built as listed here, six foot fences. I think when Ledgewood was first constructed, and I wasn't here when it was, it was to represent the natural beauty of taking advantage of what's there with the woods and so forth. We don't want to see that disappear and we think granting a variance to allow six foot fences in the front of homes just might do that. That's our position. That's what we feel.

Mr. Evans – I'm not sure you understand. The variance is because these are all existing fences and the way that the properties are situated, they're what we might consider as being a backyard is actually in the front. This is the way that Schmidt built that development. All of the fences that are there are pretty much are the way that they have been. Some of them are four feet, some of them are five feet and some are six feet. This isn't really changing anything from what it is or has been. This is replacing, but because they are replacing fences, it does require a variance being granted. I'm reticent to say that in this case this is a dramatic change that we're doing. This is because the Code has changed since those fences were put in by the developer forty, fifty years ago. The Code, because it's different, requires a variance now when they want to go and replace them. I just want to make sure that you understand what they're asking for and what you're objecting to.

1) **JAMES AND LYNN KENZIG, OWNERS, Cont'd**

Mr. Emerick – Replacing existing is much less of a concern. But if we're going to open up the doors and allow all homeowners the opportunity to install fences that didn't exist before, we would oppose that.

Mr. Evans – This Board is empowered by City Council to make decisions and in the criteria that we have there are four points that we have to be able to address a request for a variance and grant them. In this case the change of Zoning Codes when those fences were initially done by the developer and in subsequent times when the Code permitted it. Now the Code is different and the Code does not permit those that are existing to be replaced, I think this Board would probably act differently were these requests for new fences and not replacing existing fences. Our ability here is to make judgments based on the facts and in this situation the Zoning Codes have changed and these are existing fences. We as a Board have acted a number of times when people have wanted new fences in front yards in other developments throughout the City and we have said no. This is an unusual circumstance because they do exist and because the way the lots were developed. We're not interested in opening the floodgates. We are doing this as a controlled measure because of existing circumstances.

Mr. Emerick – That's fine. I appreciate the opportunity.

Mr. Kolick – That's correct. Those fences are all in the front yards now because these houses have no backyards. That's the courtyard in the front yard and they're just looking at replacing it in the same place the fence is now which would be consistent with the other homes on the block.

Mr. Evans – I don't want you to be upset when we might entertain the request for the variance and perhaps approve it. We do understand your comments.

Mr. Emerick – Appreciate the opportunity to be here and present our thoughts and feelings.

Mr. Evans – Is there anybody else 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 16' variance from Zoning Code Section 1252.17 (a), which prohibits a fence to be located in a front yard and where a 6' tall Board on Board Fence encroaching 16' past the front of the dwelling into the front yard is proposed; property located at 18153 Trailside Place, PPN 396-04-305, zoned PDA - 2.

Mr. Hayden – Second.

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

1) **JAMES AND LYNN KENZIG, OWNERS, Cont'd**

ROLL CALL: ALL AYES: MOTION PASSED

Mr. Evans – The variance has been granted. There is a twenty day waiting period during which time City Council has the opportunity to review our decision. If Council chooses not to act on it at the end of the twenty days, you'll be notified by the Building Department and then you can move forward with the plan at that time. You are all set for tonight.

Mr. Kenzig – INAUDIBLE

Mr. Evans – Mr. Kenzig, if you would come back up to the microphone.

Mr. Kenzig – I wholeheartedly agree with Mr. Emerick. I was on the Board for the Ledgewood Association previously and I understand that we want to keep it beautiful.

2) **ADAM RACE, OWNER/Matt Matisko with Morton's Landscaping, Representative**

- a) Requesting a variance from Zoning Code Section 1252.29 (b) (1), which prohibits a Swimming Pool to be located in the Side Yard and where a 392 SF Inground Swimming Pool in a Side Yard is proposed;
- b) Requesting a 34.5' 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 900 SF Concrete Pool Deck Extension encroaching 34.5' beyond the main dwelling into the Side Yard Setback;
- c) Requesting a variance from Zoning Code Section 1252.18, which permits one (1) Accessory Structure and where a second 80 SF Accessory Structure is proposed;
- d) Requesting a 7' Setback variance from Zoning Code Section 1252.15 (a), which requires a 20' Setback from the main building and where a 13' Setback from the main building is proposed in order to install an 80 SF Accessory Structure; property located at 11742 The Bluffs, PPN's 396-05-016 and 396-05-017, zoned PDA-2.

Mr. Evans – Item number two on our agenda is Race on The Bluffs. If you would come forward to the microphone and we'll need your name and address for the record.

Mr. Matisko – Matt Matisko, 24677 Framingham Drive, Westlake, Ohio.

Mr. Evans – Thank you. There are four variance requests. This is for a situation that is similar to the one that we just discussed. But give us a little bit of background on this and what the process has been.

2) **ADAM RACE, OWNER/Matt Matisko with Morton's Landscaping, Representative,**
Cont'd

Mr. Matisko – What you guys were talking about in caucus is exactly the situation. It's a rather large house that has virtually no backyard that would even be suitable to install a swimming pool. I was here about three or four months ago and presented then. The problem at that time was he had to join both pieces of property, which he did, so now I'm back presenting once again. Given the fact that there's really no backyard on the property, the only place that would be suitable to put a pool would be in that side lot. That's what we're trying to attempt this evening.

Mr. Evans – You are correct in that we did ask for those lots to be joined together. As we discussed in caucus, there's really only one property that is ultimately affected by this. Tell us a little bit about what this project is because we've got four variances. This is a pool that's being situated in there, landscaping around this and the pool deck is being done. Can you enlighten us a little bit about that just so the people that are here can understand the process?

Mr. Matisko – Essentially there's a pool that's going to be installed in that side lot that is going to have a concrete patio around the pool deck. The homeowner is looking to put an out structure out to house the pool equipment and stuff so it's not readily visible. We also have to contend with the fact that, I believe, there a twenty foot easement on that lot between the neighboring property. We try to do our best to get it to fit in there and make it presentable so it wasn't an albatross to the neighboring community.

Mr. Evans – Our Code requires that projects such as this would fit behind, normally, the house that is constructed, and in this case, there is no backyard. There's no opportunity to do that. It's a constraint that we have in the way that Ledgewood was developed and the different cluster groups within that and everything. I just want to be sure that we set the stage on that. Any comments?

Mr. Rusnov – Clarify this. If you're facing the house to the left there's an existing patio area, you can't put it there. You can't put it in the front yard. You can't put it in the backyard based upon the ravine and the topography. The Code will not allow you to put a swimming pool in the front yard. The only choice that you have is the right side of the house and you're going to be screening it. You've completed everything that we've asked for.

Mr. Matisko – Absolutely. Essentially if you went to look at the property, I believe the property line is five feet off the corner of the house. The house will screen this swimming pool.

Mr. Rusnov – It's one of the largest properties in the subdivision and that's why it had to have two lots.

Mr. Matisko – Yes.

2) **ADAM RACE, OWNER/Matt Matisko with Morton's Landscaping, Representative,
Cont'd**

Mr. Rusnov – You have very little to work with and you're doing the best you can with what you have.

Mr. Matisko – Yes.

Mr. Houlé – We have a copy of the Homeowner's Association approval.

Mr. Evans – Anything else? 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 anyone 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. Hayden – Mr. Chairman, requesting a variance from Zoning Code Section 1252.29 (b) (1), which prohibits a Swimming Pool to be located in the Side Yard and where a 392 SF Inground Swimming Pool in a Side Yard is proposed; (b) Requesting a 34.5' 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 900 SF Concrete Pool Deck Extension encroaching 34.5' beyond the main dwelling into the Side Yard Setback; (c) requesting a variance from Zoning Code Section 1252.18, which permits one (1) Accessory Structure and where a second 80 SF Accessory Structure is proposed; (d) requesting a 7' Setback variance from Zoning Code Section 1252.15 (a), which requires a 20' Setback from the main building and where a 13' Setback from the main building is proposed in order to install an 80 SF Accessory Structure; property located at 11742 The Bluffs, PPN's 396-05-016 and 396-05-017, zoned PDA-2.

Mr. Rusnov – Second.

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

ROLL CALL:

ALL AYES:

MOTION PASSED

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. If they do not act on it, then you'll be notified by the Building Department at the conclusion of the twenty days and you can move forward at that time with the project. You are set for tonight.

Mr. Matisko – Thank you very much.

3) **DR. MISENCIK, TENANT**

Requesting a 3' Setback variance from Zoning Code Section 1272.12 (e), which requires a 10' Setback from the right-of-way and where a 7' Setback from the right-of-way is proposed for an existing Ground Sign; property located at 16363 Pearl Road, PPN 397-09-002, zoned General Business (GB).

Mr. Evans – Item number three on our agenda is Dr. Misencik on Pearl Road. If we can have the representative come forward?

Mr. Misencik – My name is Steve Misencik. Business address is 16363 Pearl Road, Strongsville. Regarding the variance for a sign that was put up. About two years ago I entered into a contract with somebody, I won't get into the name, with a North Royalton sign guy who was reputable, supposedly, and he flaked out and I lost \$5,000.00 there. Subsequently, we had a sign that was very beat up and Lori Daley said it's grandfathered in for square footage and whatever. Then I had Fast Signs come out and they went through the procedure of getting the permit. So, I assumed everything was okay. Then time passed and they said the sign should be set back. There was a mix up because they changed the widening of Pearl Road and again I wasn't out there measuring anything. That's where I'm at. I have pictures of neighboring signs east, west, north, and south of me and our sign. I'm trying to get a variance on it because it's going to cost me a couple of thousand to move it three feet and I don't know if that's significant with the pictures that show it doesn't look very obtrusive.

Mr. Evans – Thank you. The circumstance of the sign being put in by Fast Signs in the wrong location is what brought you here tonight. This Board is empowered to make decisions. I would be remiss if I didn't say that we appreciate every business and business owner that we have in Strongsville. Our Mayor would certainly want me to say that. You are here tonight for something that this Board is empowered to do. You may have heard us talking in caucus about it. We recognize the fact that the signs along Pearl Road; we have lots of them and many of them are in different locations, our argument here is not with you, it's with Fast Signs, because they are the ones who took out the permit, they knew where it was supposed to go, and they missed the mark. If they were here we would probably slap them on the wrist with a ruler or something like that. They are not here so we will take this up and discuss it this evening. Comments?

Mr. Rusnov – He's a victim of the widening of the road. The sign company, the present position falls in line with some of the other signs on the street, so I don't really have an issue with it.

Mr. Baldin – I basically agree. How long have you been there?

Mr. Misencik – Since 1983.

Mr. Baldin – I don't have a problem with it. We want to keep good businesses in the city and it falls in line with some of the others.

3) DR. MISENCIK, TENANT, Cont'd

Mr. Evans – Anything else? 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, I will declare the public hearing closed and entertain a motion.

Mr. Rusnov – Mr. Chairman, requesting a 3' Setback variance from Zoning Code Section 1272.12 (e), which requires a 10' Setback from the right-of-way and where a 7' Setback from the right-of-way is proposed for an existing Ground Sign; property located at 16363 Pearl Road, PPN 397-09-002, zoned General Business (GB).

Mr. Hayden – Second.

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 PASSED

Mr. Evans – The variance has been granted by this Board. Again, City Council, who is our ultimate authority, has the ability to review our decision. You will be notified by the Building Department at the conclusion of their twenty day review period. If they choose not to act on it, then our decision will stand and you then be absolved of the problem and you will have a variance for the sign where it sits today.

Mr. Misencik – Thank you for your time.

Mr. Evans – You are done for tonight.

4) TIMOTHY AND ERIN WITTE, OWNERS

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 688 SF Deck; property located at 19407 Saratoga Trail, PPN 397-28-031, zoned R1-75.

Mr. Evans – Item number four on our agenda is Witte on Saratoga. If we have a representative here, if you will come forward.

Mr. Witte – Timothy Witte, 19407 Saratoga Trail.

Ms. Witte – Erin Witte, 19407 Saratoga Trail.

4) TIMOTHY AND ERIN WITTE, OWNERS, Cont'd

Mr. Evans – Thank you. We talked a little bit in caucus. Why don't you give us a thirty second rundown of what you're doing and I believe that you also heard our Building Department person indicate that should we approve the variance tonight, then we would refer this to Engineering at a point so they can doublecheck that the swale that is back behind you, would not be interrupted or impeded by this particular project which would cause drainage problems on somebody else's property. Just to set the stage.

Ms. Witte – We did have this conversation and I actually spoke to Brian because that's our biggest concern because the swale. . . It wouldn't necessarily affect anybody else the way the ground is. It would affect our house. We don't want any water running back to us. That is why when we had worked with the contractor and with the design architect, the way that the deck is and it's aboveground so nothing will be digging into the ground. It goes up to where the swale is, so the swale won't be affected and it goes behind it so that it will continue to flow through the grass and the yard the way it's supposed to and the way it does now. We don't want it to be changed at all either.

Mr. Witte – Completely understand on the swale. Going back to the variance, we're looking for seven feet variance in the setback. Basically, it's replacement of patio that was there prior to our purchase of the home. We've been there for fifteen years. This was there prior to our purchase. It was brick and it was great at one time. It's deteriorating. We started tearing that up and we got plans for this deck and now we're looking for the variance as we've learned the rules. Common property behind us. All trees, no neighbors back to us, so it's not going to be encroaching in anyone's yard. The distance back out into the yard setback, pretty closely aligns to where our neighbor's deck is as well. It won't be expanding beyond the edges of the house at all.

Ms. Witte – If I would have known that we could have brought people, I would have brought my neighbors because they're all excited for us to build this deck.

Mr. Rusnov – You pretty much mirrored what we discussed in caucus. The Engineering people will have to look at it but that's for everybody's protection.

Ms. Witte – Do they look at it within the twenty days or is it after the twenty days?

Mr. Rusnov – It will be very rapid.

Mr. Roenigk – I will walk it over and ask them.

Mr. Houlé – As noted before, it is a secluded lot and the Homeowner's Association has approved it also. I have no issues with it.

4) **TIMOTHY AND ERIN WITTE, OWNERS, Cont'd**

Mr. Evans – This is a public hearing. I will ask if there is anybody in the audience who wishes to speak for the granting of the variance? Is there anybody 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. Houlé – 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 688 SF Deck; property located at 19407 Saratoga Trail, PPN 397-28-031, zoned R1-75.

Mr. Baldin – Second.

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

ROLL CALL:

ALL AYES:

MOTION PASSED

Mr. Evans – The variance has been granted by this Board. That same twenty day waiting period that applies to everybody else, applies here. You'll be notified by the Building Department at the conclusion of the twenty days. If City Council chooses not to do anything, and the Building Department will take this to Engineering as well, so it should not delay the project, and after the twenty days you may proceed. You are all set.

Ms. Witte – Thank you.

5) **EUGENIA HETZEL, OWNER**

- a) Requesting an 18' Side Yard Setback 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 390 SF Concrete Patio encroaching 18' beyond the main dwelling into the Side Yard Setback;
- b) Requesting a 9' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 10' Rear Yard Setback and where a 1' Rear Yard Setback is proposed in order to construct a 390 SF Concrete Patio; property located at 19101 Bridge Path Oval, PPN 397-27-139, zoned R1-75.

Mr. Evans – Item number five on our agenda is Hetzel on Bridge Path Oval. If we could have the representative come forward please. We will also need your name and address for the record.

Mr. Hetzel – Jeffrey Hetzel, 19101 Bridge Path in the High Point section.

5) EUGENIA HETZEL, OWNER, Cont'd

Mr. Evans – Thank you. Why don't you take us through a quick description of the project and the reason that the variance is required.

Mr. Hetzel – Sounds like we have the same problem that everybody else has. No backyard. Our house actually comes one foot from our property line. Beyond that is 110 feet of greenbelt before you get to the backyards of the adjoining street. Our only access to entertainment space is from our sunroom sliding doors on the right side of our house and we currently have a small deck. Over the years, not only has it deteriorated, but our family has grown. When we bring the family over, we end up having folks on the deck and on the lawn and the table sits there. We want to take the deck out and put in a concrete pad, pavers on top of that. We have a second problem. The swale that wraps around our house, from the deck area the swale goes uphill. My experience with water is that it wants to go downhill. We have a pond just at the edge of the planting. Our plan shows and I think the Engineering Department has reviewed it and approved it, to put in a French drain and run that to a common storm sewer which is about twenty feet off of the patio. That should solve our problem and give us some room to entertain. Likewise get rid of that pond that we had every time that it rained.

Mr. Evans – Questions, comments.

Mr. Rusnov – We do have a Homeowner's Association letter and I've also spoken with them and they have no problem with it. You're rectifying an existing problem caused by the topography. There's also a tree involved too.

Mr. Hetzel – Yes, a large one.

Mr. Rusnov – I have no issue with anything.

Mr. Hetzel – Yes, the Association approved it and the Beautification Committee approved it.

Mr. Baldin – I think the applicant presented a sound case. I have no problem with it. We understand what the situation is and he knows he has a water problem. He going to rectify that so I'm all in favor.

Mr. Kolick – Since this, unlike the previous one, is a foot off of their rear property line, you should make it subject to Engineering approval of the drainage. They may have looked at it, but they wouldn't technically approve it until after this Board acts on it. This should be made subject to Engineering approval of any drainage on the property because we don't want them to cause a problem with their own property nor with any of the adjoining properties.

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

5) EUGENIA HETZEL, OWNER, Cont'd

Mr. Evans continues - against the granting of the variance? Hearing none and seeing none, I will declare the public hearing closed and entertain a motion.

Mr. Houlé – Mr. Chairman, requesting an 18’ Side Yard Setback 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 390 SF Concrete Patio encroaching 18’ beyond the main dwelling into the Side Yard Setback; (b) requesting a 9’ Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 10’ Rear Yard Setback and where a 1’ Rear Yard Setback is proposed in order to construct a 390 SF Concrete Patio; property located at 19101 Bridge Path Oval, PPN 397-27-139, zoned R1-75, and subject to Engineering approval of drainage changes to the swale.

Mr. Rusnov – Second.

Mr. Evans – Thank you Mr. Houlé for the motion, Mr. Rusnov for the second. Just for the record, I will be abstaining on this because I am a Trustee for the High Point Association. Mr. Hetzel, in the event you would do any further plans, technically not only should Mr. Antos have looked at it, but he should have referred you to High Point because you are part of the High Point Association and the master association should have approved that as well. In this case, not seeing that there’s anybody objecting to it, I think we can overlook that, but were you to do any further plans, Mr. Antos should also send you to the master association for its review as well.

Mr. Hetzel – We started with the High Point Association. Spoke to Ben Baluci and he informed us that they did not have any jurisdiction over that. We would have our own homeowner’s association. Started there, hopefully did the right thing.

Mr. Evans – Okay. Thank you. That’s an error on the part of Mr. Baluci and he’ll be given that information appropriately. He’s a new trustee and I won’t say anything further. May we have a roll call please?

ROLL CALL:	MR. BALDIN	AYE	
	MR. RUSNOV	AYE	
	MR. HOULÉ	AYE	
	MR. EVANS	ABSTAIN	
	MR. HAYDEN	AYE	MOTION PASSED

Mr. Evans – The variance has been approved. There is that same twenty day waiting period during which time Engineering will take a look at that and you’ll be notified by the Building Department at the conclusion of the twenty days should Council not have any objection to it, then you can move forward with the plans at that time. You are set for tonight.

5) EUGENIA HETZEL, OWNER, Cont'd

Mr. Hetzel – Thank you for your consideration and time.

6) RUSLAN AND OLENA STETSURA, OWNERS

- a) Requesting a 16' Setback variance from Zoning Code Section 1252.17 (c), which requires a 16' Setback from the right-of-way and where a 0' Setback from the right-of-way is proposed in order to install a 6' tall Fence;
- b) Requesting a 12' Setback variance from Zoning Code Section 1252.17 (c), which requires a 12' Setback from the right-of-way and where a 0' Setback from the right-of-way is proposed in order to install a 4' tall Fence; property located at 13179 Fairwinds Drive, PPN 399-31-039, zoned R1-75.

Mr. Evans – Item number six on our agenda is Stetsura on Fairwinds. If you would come forward.

Mr. Roenigk – They are going to propose a change.

Mr. Stetsura – Rus Stetsura at 13179 Fairwinds Drive.

Mr. Evans – Did we have both of you stand for the swearing in?

Mr. Stetsura – Yes, we did. We have the same kind of problem here. We're on a corner lot and there's no backyard. The fence is very old. It's about 43 years old and it actually creates our backyard. After the garage was built, as you know you granted the variance for that, a little portion of the fence was removed so now we're trying to connect it and at the same time replace it to make a new one. Make a better-looking fence. We're trying to keep the same line so we can keep our backyard, but we're here today to make it right and we are willing to make it safe for everybody, but at the same time we would like to have our backyard the way it is right now. Maybe a little smaller.

Mr. Evans – You heard us talking in caucus and one of the things we know is that even though you may have built that as a storage for a boat, which is only going to go in every so often it's not like a car going in on a daily basis, you may eventually sell the house and at that point somebody may use that as a garage for a collector car or a car that they drive everyday or whatever else and at that point might be going in and out much more frequently. What you've proposed here, with your new drawing you gave us tonight, is now putting a corner on the angle and keeping it three feet off of the sidewalk. Gentlemen I just wanted to introduce that as what they are proposing. Comments, thoughts, your observations on it?

6) RUSLAN AND OLENA STETSURA, OWNERS, Cont'd

Mr. Stetsura – Also to clarify that we're not seeking a six foot fence because the Association allows us only five feet.

Mr. Baldin – I talked to the gentleman out there when I went to his home. He understands when I showed him exactly what would happen if a car was backing out of the driveway and he said he never thought about that. He asked about putting the fence on an angle. I said that would be a good idea.

Mr. Stetsura – We did a little experiment.

Mr. Baldin – I said he would have to move it back, a little further in and stay off the sidewalk. That's the thing we're looking for. With the new drawing it looks like he understands it.

Mr. Evans – That will change and Mr. Roenigk has been going over the numbers so that would change our sixteen feet variance to thirteen and it is a five feet tall fence in both (a) and (b).

Mr. Roenigk – Is the one along the sidewalk four feet or is it going up to five feet?

Mr. Stetsura – We would like to have it five for privacy and it's allowed by Association.

Mr. Roenigk – We just wanted to clarify that.

Mr. Evans – Now that we have questions out of the way. Anything further that anyone needs to add? This is a public hearing. I'll ask is there anybody in the audience who wishes to speak for the granting of the variance? Is there anybody 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. Kolick – Mr. Chairman, you need to see if the Board is in a position to approve three feet first of all. If you are, and this alternative that he submitted, if that's what you want to approve, then they should date and sign this as being their new submittal. That will give us exact distance of six feet and eleven feet creating that angle. First question is are you okay with three feet off the right-of-way because you know you're going to get other ones if this one is approved. That is the first thing you need to decide.

Mr. Evans – Gentlemen?

Mr. Rusnov – The closest you can get maintaining the Code and the public safety either by angling or cutting the size down. We'll listen to what you're proposing. We can't tell you what you want to do. It's entirely up to you. If you want to go back to the drawing board and see if you can come back with something that would be more in line with what the Code is, I understand. We would

6) RUSLAN AND OLENA STETSURA, OWNERS, Cont'd

Mr. Rusnov continues - need it in writing what you're going to do. We appreciate angling it, because we're worried about public safety as Mr. Baldin pointed out that you can't see. If you want to table it, that is okay. I've been looking at this but I don't have dimensions. What would the setback be? Six feet?

Mr. Roenigk – Three feet from the sidewalk.

Mr. Rusnov – Three feet from the sidewalk.

Mr. Roenigk – Five feet tall, both fences five feet tall, three feet off the sidewalk and angled.

Mr. Rusnov – That should be read into the record.

Mr. Evans – That's what Mr. Kolick is saying. Have him initial or sign this as being an official drawing which will be submitted. What Mr. Kolick is asking whether or not we're willing to accept the three feet off the sidewalk because it's different than what we have approved in the past, but this is a fence that existed at that point where it is now. That's the question that Mr. Kolick is asking.

Mr. Kolick – I am and additionally he is taking that fence up another foot. Which was four feet before has now become five feet.

Mr. Rusnov – Four feet would be better.

Mr. Evans – But it would also make it different fence levels around the yard.

Mr. Baldin – If you think there is a problem there, you would have to have CPTED take a look at it then.

Mr. Evans – We have had CPTED look at it in other cases, that is true. We've also wound up asking for an angle which is what the applicant is offering now.

Mr. Baldin – So do it. He's willing to make some adjustments here, so I don't see a real problem. Why do we have in (b) requesting a sixteen, now it's thirteen, and then requesting a twelve feet setback in (b)?

Mr. Hayden – Why are there two setbacks? I don't understand.

Mr. Kolick – The fences were different heights. The fence along the street right-of-way is one height and the fence going across the backyard was a different height. That's why. And yet they both have to be even with the house, according to the Code. One was saying six feet and the other

6) RUSLAN AND OLENA STETSURA, OWNERS, Cont'd

Mr. Kolick continues - five feet. Now he's changing them both to five feet. Maybe you want four from the right-of-way? It's up to the Board. You have authority to do it or if you want to take this drawing and give it to SIPTED and get their report, we can do that as well. We're well within our time period. This is the first time this is before you, so they could look at sight distances and determine if this is okay.

Mr. Hayden – I tend to agree with keeping it at four feet especially at the front part. Not so much in the back.

Mr. Rusnov – I think you'd want to err on the side of caution and have them look at this.

Mr. Evans – That is up to the Board.

Mr. Baldin – That's the proper way to go about it. I think because they made some adjustments, I don't really have a problem with it. Now it's only being used to store a boat, but in the future, who knows what it will be used for.

Mr. Rusnov – The variance follows the property. As the Chairman brought up, we don't know what's coming down the road if we grant this.

Mr. Evans – What Mr. Baldin said, they are willing to do the angle and they're coming off three feet. When I was over there and pulled into the driveway and backed up, that existing fence, I assumed, that they were going to go to five feet. When I backed up you had cleared this building, that wasn't an issue. There's no driveway next to that lot. It's on the far side of that lot.

Mr. Hayden – Nothing across from that either.

Mr. Evans – With the angle I didn't think there would be any problem. With this change I'm more inclined to say I don't think we need to have CPTED look at it.

Mr. Baldin – I don't either but if that's something the Board wants to go and vote on, I will do so..

Mr. Rusnov – Listening to your points, I think we don't.

Mr. Kolick – Do you want to keep the fence at four feet down on the sidewalk? Or take it up to five feet? I'm just throwing this out.

Mr. Evans – I'm not sure I have a problem with that.

Mr. Kolick – That would be different than the drawing. They will have to change their drawing.

6) RUSLAN AND OLENA STETSURA, OWNERS, Cont'd

Mr. Evans – The drawing doesn't have the height of the fence on it.

Mr. Kolick – Yes it does. By the side, well it says old fence, tall fence. Okay.

Mr. Hayden – I think if the angle wasn't there, I'd be more inclined to want the four feet, but being that it is, I feel like there's enough distance there between the driveway and where that ends. I didn't really see an issue with this new drawing.

Mr. Stetsura – I just measured that today. Eleven feet gives you a clear view of the house sidewalk because part of the fence will be gone.

Mr. Baldin – You're going back quite a ways.

Mr. Stetsura – It's seven feet between the posts so the whole section will be removed.

Mr. Baldin – They poured a lot of concrete there. They extended their patio back there. They have a fire pit. They want a little bit more privacy. I think that's why you want the five foot fence.

Mr. Stetsura – Yes.

Mr. Evans – Which Spyglass does allow. I'm more inclined to say that it's acceptable.

Mr. Kolick – The first one is going to read thirteen feet setback.

Mr. Evans – Mr. Stetsura why don't you, if you would, I just need you, you can take this back to the podium. I put a line for your signature down at the bottom and I've dated it so that it would be an official submission of the request. You can see my line down there at the bottom.

Mr. Kolick – Now (b) is changing too. It's a nine foot setback because he's moving it back three feet. It's three feet from the right-of-way and five feet tall. So, they will both change. You can put pursuant to the drawing signed today so we'll know. Sign and date it today.

Mr. Roenigk – Just for my record for when I write the permit if this gets approved, type of fence, picket, board-on-board, dog-eared, do you know what type of fence?

Mr. Stetsura – Shadow box.

Mr. Roenigk – Thank you.

Mr. Kolick – That should be noted as part of the motion.

6) RUSLAN AND OLENA STETSURA, OWNERS, Cont'd

Mr. Stetsura – The shadow box is going to give us some privacy, but still on the angle you can see through. It's not board to board.

Mr. Evans – Are we ready for a motion?

Mr. Baldin – Mr. Chairman, requesting a 13' Setback variance from Zoning Code Section 1252.17 (c), which requires a 16' Setback from the right-of-way and where a 3' Setback from the right-of-way is proposed in order to install a 5' tall Shadow Box Fence; (b) requesting a 9' Setback variance from Zoning Code Section 1252.17 (c), which requires a 12' Setback from the right-of-way and where a 3' Setback from the right-of-way is proposed in order to install a 5' tall Shadow Box Fence; property located at 13179 Fairwinds Drive, PPN 399-31-039, zoned R1-75, pursuant to a new drawing signed and dated today's date by the applicant, be approved.

Mr. Hayden – Second.

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

ROLL CALL:

ALL AYES:

MOTION PASSED

Mr. Evans – Thank you for working with us. The variance has been approved as it was redesigned here tonight. There is that same twenty day waiting period during which time City Council has the opportunity to review our decision. If they do not act on it, you'll be notified by the Building Department at the conclusion of the twenty days and then you can move forward with the project. So, you are set.

Mr. Stetsura – Thank you.

Mr. Evans – Is there anything else to come before the Board this evening? If not, then we will stand adjourned.

Signature on File
Mr. Evans, Chairman

Signature on File
Kathy Zamrzla, Sec'y

October 20, 2021
Approval date