

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

**Meeting of
September 13, 2017
7:30 p.m.**

Board of Appeals Members Present: Kenneth Evans, Richard Baldin, John Rusnov, David Houlé, Thomas Smeader

Administration: Assistant Law Director Daniel J. Kolick

Building Department Representative: Michael Miller

Recording Secretary: Kathy Zamrzla

The Board members discussed the following:

NEW APPLICATIONS

1) JIM AND KAREN PETERSON, OWNERS/Jeremy Salupo with JM Design Build, Representative

Requesting a 34 SF Floor Area variance from Zoning Code Section 1252.22 (c), which permits a 1,000 SF Floor Area and where a 1,034 SF Floor Area is proposed in order to construct a New Single Family Attached Garage; property located at 12014 West 130 Street, PPN 398-24-006, zoned R1-75.

The Board stated that they have hired an excellent builder so the workmanship will be excellent, and that 34 SF is miniscule in comparison to many others. The Board disputed whether there's a drainage problem, but also noted that if there were this builder would fix it. They also indicated that there are septic issues, but that it doesn't affect the judgement for these variances.

2) ALFRED KRIST, OWNER

- a) Requesting an 8' Rear Yard Setback variance from Zoning Code Section 1252.04, which requires a 30' Rear Yard Setback and where a 22' Rear Yard Setback is proposed in order to construct a 234 SF Three Season Room;
- b) Requesting a 4' Rear Yard Setback variance form Zoning Code Section 1252.16 (e), which requires a 16' Rear Yard Setback and where a 12' Rear Yard Setback is proposed in order to construct a 600 SF Concrete Patio; property located at 22347 Olde Creek Trail, PPN 392-13-066, zoned R1-75.

The Board indicated that this is for a rear addition and a patio. They debated if the patio should be reduced in size. The Board found no issue with the rear addition. They also noted that they should try to get a letter from the Homeowners Association.

3) JEFFREY AND JOYCE EVIN, OWNERS/Tom Jackson with American Natural Stone, Inc.

- a) Requesting a variance from Zoning Code Section 1252.15, which permits one Accessory Structure and where one 140 SF Accessory Structure exists and a 360 SF second Accessory Structure is proposed;
- b) Requesting a 28' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 36' Rear Yard Setback and where an 8' Rear Yard Setback is proposed in order to permit an Accessory Structure; property located at 18206 Potomac Drive, PPN 396-19-060, zoned R1-75.

The Board examined the application, and concluded that the applicant wanted a variance in order to keep the very nice shed he currently has, and also have the have the pavilion as a second accessory structure. They also considered the rear yard setback, and noted that since its woods that is owned by the Homeowners Association and is mostly occupied by deer they didn't see a problem with it. They also mentioned they'd like to receive a letter of approval from the Homeowners Association.

4) BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative

Parcel A

- a) Requesting an 8,285 SF Lot Area variance from Zoning Code Section 1252.05, which requires a 12,750 SF Minimum Lot Area and where a 4,465 SF Lot Area is proposed;
- b) Requesting a 13% Building Ground Coverage variance from Zoning Code Section 1252.5, which permits a 35% maximum Building Ground Coverage and where a 48% Building Ground Coverage is proposed;
- c) Requesting a 24' Front Yard Setback variance from Zoning Code Section 1252.05, which requires a minimum 50' Front Yard Setback and where a 26' Front Yard Setback is proposed;
- d) Requesting a 5' Side Yard Setback variance from Zoning Code Section 1252.05, which requires a minimum 5' Side Yard Setback and where a 0' Side Yard Setback is proposed;
- e) Requesting a 44' Rear Yard Setback variance from Zoning Code Section 1252.05, which requires a minimum 50' Rear Yard Setback and where a 6' Rear Yard Setback is proposed in order to approve a Parcel Split; property located on Buccaneer Trail, PPN 399-32-801C, 399-32-802C and 399-32-803C, zoned R1-75.

Parcel B

- a) Requesting a 7,801 SF Lot Area variance from Zoning Code Section 1252.05, which requires a 12,750 SF Minimum Lot Area and where a 4,949 SF Lot Area is proposed;
- b) Requesting a 44.4' Lot Width variance from Zoning Code Section 1252.05, which requires a 75' minimum Lot Width and where a 30.6' Lot Width is proposed;
- c) Requesting a 19.27' Front Yard Setback variance from Zoning Code Section 1252.05, which requires a minimum 50' Front Yard Setback and where a 30.73' Front Yard Setback is proposed;
- d) Requesting a 5' Side Yard Setback variance from Zoning Code Section 1252.05, which requires a minimum 5' Side Yard Setback and where a 0' Side Yard Setback is proposed;
- e) Requesting a 26' Rear Yard Setback variance from Zoning Code Section 1252.05, which requires a minimum 50' Rear Yard Setback and where a 24' Rear Yard Setback is proposed in order to approve a Parcel Split; property located on Buccaneer Trail, PPN 399-32-801C, 399-32-802C and 399-32-803C, zoned R1-75.

Parcel C

- a) Requesting a 7,801 SF Lot Area variance from Zoning Code Section 1252.05, which requires a 12,750 SF Minimum Lot Area and where a 4,949 SF Lot Area is proposed;
- b) Requesting a 2.18' Lot Width variance from Zoning Code Section 1252.05, which requires a 75' minimum Lot Width and where a 72.82' Lot Width is proposed;
- c) Requesting a 38' Front Yard Setback variance from Zoning Code Section 1252.05, which requires a minimum 50' Front Yard Setback and where a 12' Front Yard Setback is proposed;
- d) Requesting a 5' Side Yard Setback variance from Zoning Code Section 1252.05, which requires a minimum 5' Side Yard Setback and where a 0' Side Yard Setback is proposed;
- e) Requesting a 21' Rear Yard Setback variance from Zoning Code Section 1252.05, which requires a minimum 50' Rear Yard Setback and where a 29' Rear Yard Setback is proposed in order to approve a Parcel Split; property located on 18600

Buccaneer Trail PPN 399-32-801C, 18602 Buccaneer Trail 399-32-802C and 18604 Buccaneer Trail 399-32-803C, zoned R1-75.

The Board discussed the issue of separating these parcels. They noted that because they are condos they would own the footprint of each unit individually. They also specified that the condo association still owns the land around each unit, but that the association is just those three or four units. They noted that there is another association for the other units. The Board also mentioned that they want to separate the ownership of the parcels, but since they are condos and are built under different regulations they don't fit many of the Codes for this new individual setup. They also noted that if they are given these variances, then they will then be considered up to Code. They also indicated that if they tried to get further variances it will be hard for them since they already are at the maximum, etc. The Board also mentioned that they would like a letter of approval from Spy Glass Hill Homeowners Association.

PUBLIC HEARINGS

5) TODD AND JENNIFER JAMES, OWNERS/ Margus Company, Representative

Requesting a variance from Zoning Code Section 1252.16 (e), which requires a Deck maintain the same required side yard setback as the main dwelling and where the applicant is proposing a 144 SF Deck 8' into the side yard; property located at 12248 Moss Point Road, PPN 396-09-050, zoned PDA -2.

The Board indicated that this is a needed project due to the topography of this property. They also specified that if the deck isn't replaced then someone will eventually be hurt.

6) JAMES AND CAROL JAGGERS, OWNERS

- a) Requesting a variance from Zoning Code Section 1252.15 (a), which requires an Accessory Structure maintain the same required side yard setback as the main dwelling and where the applicant has constructed a 21 SF Accessory Structure 1' 6" into the side yard;
- b) Requesting a 20' variance from Zoning Code Section 1252.15 (a), which requires a 20' Setback from the main dwelling and where a 0' Setback from the main dwelling exists in order to approve an existing 21 SF Accessory Structure; property located at 10791 Gate Post Road, PPN 391-05-054, zoned R1-75.

The Board considered how small the shed is, and noted that you can't see it at all. They indicated that it blends into the house completely, and that you'd think it was original to the house. They also discussed that other houses in similar developments have attached sheds that are bigger than this one, and this applicant's house had nothing like that before this. They did mention that there needs to be a firewall installed though, but he hasn't gotten final

approval yet. They also noted that the Homeowners Association had already sent a letter of approval.

OTHER BUSINESS

7) RICHARD MOODT, OBJECTING PARTY

Hearing of the objection by Richard Moodt pursuant to Codified Ordinance Section 1418.03 to the application for a building permit for an Accessory Structure located at 10791 Gate Post, PPN 391-05-054, owned by James and Carol Jagers.

The Board noted that they can hear this applicant's objection tonight, but if a variance were to be granted then they would have to wait until Council has the time to review the Board's decision for it to be finalized.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS
MINUTES OF MEETING
September 13, 2017

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

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

Also Present: Mr. Kolick, Assistant Law Director
Mr. Miller, Building Department Representative
Ms. Zamrzla, Recording Secretary

Mr. Evans – Good evening ladies and gentlemen. I would like to call this September 13th, 2017 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. Kathy if you would call the roll please?

ROLL CALL: ALL 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. Thank you, this evening we have minutes from our August 23rd meeting. If there are no changes I will submit them as presented. We also have before us Findings of Fact and Conclusions of Law regarding Solar Supply Center from the decision of August 23rd, 2017. If there are no further corrections to these, I will then entertain a motion to approve.

Mr. Baldin – Mr. Chairman, I'd like to make a motion to approve the Findings of Fact and Conclusions of Law for the recent application of Solar Supply Center.

Mr. Smeader — Second.

Mr. Evans – We have a motion and a second, may I have a roll call please?

ROLL CALL: RUSNOV – YES MOTION PASSED
 HOULÉ – YES
 EVANS – ABSTAIN
 SMEADER – YES
 BALDIN – YES

Mr. Evans – Thank you. The Findings of Fact and Conclusions of Law have been approved. During tonight's meeting, we will ask that each of the individuals presenting come forward in order and give us their name and address for the record. Then we are going to ask them to describe their request for a variance. Anyone in our audience this evening that wishes to speak whether it is to present to the Board or to speak at a public hearing, I ask that you stand now and be sworn in by our Assistant Law Director, along with our Recording Secretary, and our Representative from the Building Department.

Mr. Kolick then stated the oath to those standing.

Mr. Evans – Thank you, our meetings are divided into two portions; first we'll hear our new applications, and then we'll move onto our public hearings.

NEW APPLICATIONS

1) **JIM AND KAREN PETERSON, OWNERS/Jeremy Salupo with JM Design Build, Representative**

Requesting a 34 SF Floor Area variance from Zoning Code Section 1252.22 (c), which permits a 1,000 SF Floor Area and where a 1,034 SF Floor Area is proposed in order to construct a New Single Family Attached Garage; property located at 12014 West 130 Street, PPN 398-24-006, zoned R1-75.

Mr. Evans – First on our agenda is Jim and Karen Peterson with Jeremy Salupo and JM Design Build. Please come up to the microphone and give us your name and address for the record.

Mr. Salupo – Good evening, my name is Jeremy Salupo, owner of JM Design Build. My address is 3702 Minster Court, Cleveland, Ohio 44105.

Mr. Evans – Thank you Mr. Salupo. If you would please tell us what the applicant is requesting.

Mr. Salupo – They are requesting a variance for 34 SF for their garage. It's 34 SF larger than the 1000 SF allowed by the Code.

Mr. Evans – This is a new single family dwelling on W. 130th St.

Mr. Salupo – Correct.

Mr. Evans – Several of our members have already gone out and looked at it. It's in very close proximity of another situation that we observed some time ago. Is there a particular reason why they need the larger garage?

1) **JIM AND KAREN PETERSON, OWNERS/Jeremy Salupo with JM Design Build,
Representative, Cont'd**

Mr. Salupo – Yes, they designed the slightly larger garage because Jim Peterson has a few bikes, and auxiliary vehicles that he needs to store there.

Mr. Evans – I'm guessing at this point you can tell us whether Mr. Peterson intends on running a business out of the house and that's why the larger garage would be necessary?

Mr. Salupo – He does not.

Mr. Evans – Thank you. Are there other questions from the Board?

Mr. Baldin – The only question I have is are you the grandson of Jerry Salupo?

Mr. Salupo – Jerry Salupo Sr. is my grandfather.

Mr. Baldin – Oh OK. I knew him many, many, years ago.

Mr. Rusnov – Yes, about 1906.

Mr. Evans – OK. Is there anything else gentlemen?

Mr. Rusnov – Its 34 SF which is 10 x 3 plus a couple inches. That's miniscule in the overall picture.

Mr. Salupo – Yes, I agree.

Mr. Rusnov – I don't have further questions.

Mr. Kolick – If you heard in caucus, since this doesn't have sewers you're going to need to get that permit. Regardless of any action that this Board takes, that needs to be taken care of.

Mr. Salupo – On that note, I just received the final copy of the septic design today from the septic engineer and I'm taking it to County tomorrow.

Mr. Evans – Excellent.

Mr. Baldin – One thing else that I noticed is that this lot is a little wider than the required lots that would have been built on normally in this City as well. It's quite a bit larger.

Mr. Evans – Thank you Mr. Baldin. OK, Mr. Salupo, what happens now is that there will be a notice that will go out to your neighbors within 500 feet of your property. It will state exactly the

1) **JIM AND KAREN PETERSON, OWNERS/Jeremy Salupo with JM Design Build, Representative, Cont'd**

Mr. Evans continues - description that is written in the agenda tonight. So if you have curious neighbors that will want to ask questions, you should get together with them before the next meeting to explain simply what your plans are. That may save everyone some time and the trouble. In the meantime, all of the members of the Board will be out to visit the property to take a look at it. The public hearing is on September 27th which is our next meeting. We will invite you back at that time, and we will make our decision then. It is not necessary that you stay for the rest of the meeting tonight. Thank you.

2) **ALFRED KRIST, OWNER**

- a) Requesting an 8' Rear Yard Setback variance from Zoning Code Section 1252.04, which requires a 30' Rear Yard Setback and where a 22' Rear Yard Setback is proposed in order to construct a 234 SF Three Season Room;
- b) Requesting a 4' Rear Yard Setback variance form Zoning Code Section 1252.16 (e), which requires a 16' Rear Yard Setback and where a 12' Rear Yard Setback is proposed in order to construct a 600 SF Concrete Patio; property located at 22347 Olde Creek Trail, PPN 392-13-066, zoned R1-75.

Mr. Evans – Next on our agenda tonight is Alfred Krist. Please come up to the microphone and give us your name and address for the record.

Mr. Krist – Alfred Krist, 22347 Olde Creek Trail, Strongsville, Ohio.

Mr. Evans – Thank you, Mr. Krist. You are asking for two variances. Can you tell us about why the request for the variances are necessary?

Mr. Krist – So we're adding on a three-season room onto an existing home that we built here recently in the last couple years. We're looking to encroach 8' on the three-season room and 4' on the concrete, right? So behind the property is a common area. It's a fairly large common area. I'd say it's about 100' from the back of our property line to the back property line of the house that's going to be behind us. So there's about 100'. It's a bit of a pie shape, but there's a lot of room. I really doubt that anyone back there will object. Currently there's no one living there. They are empty lots because this is a new development. There are some other houses that are probably within the 500', but no one is directly behind us at this point in time.

Mr. Evans – OK. Have you applied for a Homeowners Association decision on this?

Mr. Krist – I have not yet.

2) **ALFRED KRIST, OWNER, Cont'd**

Mr. Evans – You might want to do that because not every Homeowners Association works very quickly. I don't remember if Parkview is still in control with the section with the clusters or not.

Mr. Krist – I don't think so. I don't think they're in control anymore.

Mr. Evans – You'll want to get that taken care of, and once you have it get it to the Building Department so we have it on record. All of the members of the Board will be out to visit the property to take a look at it. Again, there will also be a notice that will go out to your neighbors within 500 feet of your property. It will state exactly the description that is written in the agenda tonight. So if you have curious neighbors that will want to ask questions, you should get together with them before the next meeting to explain simply what your plans are. Like I said before, that may save everyone some time and the trouble. Are there any other questions from the Board?

Mr. Smeader – When we spoke on Monday, you suggested you might be open to reducing the size of the patio. Have you given any more thought to that?

Mr. Krist – It's only 4' now. I don't know if I could get it within the setback because that would be taking that 4' away. Maybe if I widened it a little I could knock off a couple feet. That might work. On the room, there isn't too much I can do about the encroachment on the sunroom itself.

Mr. Rusnov – He's just talking about the patio, not the sunroom.

Mr. Krist – I understand.

Mr. Rusnov – You're saying if you widen it, you might be able to come down a little bit on the variance.

Mr. Krist – Right, I'm sure I can.

Mr. Rusnov – Alright.

Mr. Baldin – If you could please stake it out, since it's an odd shape the way you have it curved, and so on. That'll give us a clearer picture of what it'll look like.

Mr. Evans – Just the corners.

Mr. Krist – No problem. Should I stake it out exactly as it's drawn now, or as it may be?

Mr. Baldin – As it's drawn now.

Mr. Krist – OK.

2) ALFRED KRIST, OWNER, Cont'd

Mr. Evans – When you present that information to the HOA and request the letter, you should ask for what you've requested here. Then if you choose to reduce it then you've at least gotten the maximum OK'd. It's also what will be sent out in the letter to the neighbors. Our purpose here is to reduce or minimize variances. We try to keep things within the Code, and not necessarily legislate so we'll often times ask people to reduce as much as possible. Is there anything else gentlemen?

Mr. Rusnov – In other words, when you cut the size of the patio, let us know.

Mr. Krist – OK.

Mr. Evans - The public hearing is on September 27th. We will invite you back at that time.

Mr. Krist – What if I can't be here? Do I push it to the next meeting or can I have someone represent me? I'm going to be in Florida on that date.

Mr. Kolick – You can have a representative as long as they're able to answer questions we have regarding the project, or you can move it to the next meeting. It's up to you, but let us know now so we know what to do with it.

Mr. Krist – I think I'll have a representative come out because I'd rather not push it out another couple of weeks.

Mr. Evans – That's fine, as long as they are a designated representative by you and they have the authority to speak for you.

Mr. Krist – Do I let them know that or do I have them just show up?

Mr. Kolick – They should come, but they should know if you're going to make modifications to it what you're able to do because they'll be speaking on your behalf. We just want to make sure that whomever speaks has the authority to speak for you. So if it's going to be made smaller then you need to give them the authority to do that.

Mr. Krist – Understood.

Mr. Evans – OK. Very good. It is not necessary that you stay for the rest of the meeting tonight. Thank you.

3) **JEFFREY AND JOYCE EVIN, OWNERS/Tom Jackson with American Natural Stone, Inc.**

- a) Requesting a variance from Zoning Code Section 1252.15, which permits one Accessory Structure and where one 140 SF Accessory Structure exists and a 360 SF second Accessory Structure is proposed;
- c) Requesting a 28' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 36' Rear Yard Setback and where an 8' Rear Yard Setback is proposed in order to permit an Accessory Structure; property located at 18206 Potomac Drive, PPN 396-19-060, zoned R1-75.

Mr. Evans – Item number three is Jeffery and Joyce Evin they have Tom Jackson and American Natural Stone representing them. Please come up to the microphone and give us your name and address for the record.

Mr. Jackson – Tom Jackson with American Natural Stone. 1004 Medina Road, Medina, Ohio.

Mr. Evans – OK, tell us about the request for the second building and the setback variance.

Mr. Jackson – So there are a couple different variances needed for this project. The first one is a second accessory structure. Right now he has a 10' x 12' shed on the property, and for the outdoor living space we want to put in a covered pavilion which would obviously be the second structure on the property. Also this particular property is a lot larger than normal. The property is only a 135' deep, but it has a 50' rear yard setback which takes up obviously more than a third of the property. In fact, even the house is built within that 50' setback. This was obviously changed after the house was built in '86. So the patio which is under the covered structure. There's a fireplace that was proposed off the back of the covered structure. I'm not sure if all that falls into the same variance. They are all a little bit different off the rear setback, but yes, just because the rear setback is so big, we're requesting a variance to build something in that space.

Mr. Evans – I believe in caucus we talked about the fact that this sits up against a common area.

Mr. Jackson – Right, so that's another reason too because there's nothing behind it. His property line stops and then there's another 40 yards of trees behind it.

Mr. Evans – OK. We also talked in caucus about an existing Homeowners Association.

Mr. Jackson – Yes, I was not aware of that. I was 99% sure that the homeowner said there was none. I messaged the homeowner during that meeting, and he said there is one; so yes, we'll have to seek approval from them.

3) **JEFFREY AND JOYCE EVIN, OWNERS/Tom Jackson with American Natural Stone, Inc., Cont'd**

Mr. Evans – That is necessary for us to move forward so if you can get that in writing whether it's a letter or just an email.

Mr. Jackson – OK.

Mr. Evans – Is there anything else?

Mr. Baldin – I'd like to ask Mr. Miller a question. I'm looking at the picture of this, and is it an accessory building just because it has a roof? Does it not make a difference that it has no walls, and is open air and not attached to the house?

Mr. Miller – By definition it would be considered an accessory structure in our Zoning Code.

Mr. Baldin – Even though it's just going to be a patio and for cookouts, etc.?

Mr. Miller – It's an open but roofed porch.

Mr. Baldin – Primarily because of the roof, right?

Mr. Miller – Yes.

Mr. Baldin – OK, thank you. That's what I thought.

Mr. Evans – Are there any other questions? OK. Mr. Jackson, all of the members of the Board will be out to visit the property to take a look at it. There will also be a notice that will go out to your neighbors within 500 feet of your property. It will state exactly the description that is written in the agenda tonight. So again you may want to notify them about that so if they have curious neighbors it may save everyone some time and the trouble since some people may think it's another shed or something. They could let them know that it's an entertainment area instead. Make sure to get the letter from their Association. Please stake out the corners of the pavilion, plus maybe another two at the rear portion where it juts out a bit since that's the shortest distance to the property line. Then we can clearly see where it's proposed when we come out to view the site.

Mr. Jackson – When would you like that to be done?

Mr. Evans – By weekend if you could that would be great.

Mr. Jackson – OK. Yes.

3) **JEFFREY AND JOYCE EVIN, OWNERS/Tom Jackson with American Natural Stone, Inc., Cont'd**

Mr. Baldin – I have another question. How far away do they have to be from the home since it's another structure?

Mr. Miller – It's an unenclosed patio so it doesn't fall under the same guidelines as an accessory structure. It's an accessory use by definition.

Mr. Evans – So it would not require the 20' setback?

Mr. Miller – No it does not require the 20' setback.

Mr. Evans – But we should also make Mr. Jackson aware so he can inform the Evins that if they ever decided to enclose that patio it would require a variance before it could be. Is there anything else?

Mr. Baldin – Just wanted to clear that up. Thank you.

Mr. Evans – OK. The public hearing is September 27th, and we will invite you back at that time. It is not necessary that you stay for the rest of the meeting tonight. Thank you.

Mr. Jackson – Thank you.

4) **BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative**

Parcel A

- e) Requesting an 8,285 SF Lot Area variance from Zoning Code Section 1252.05, which requires a 12,750 SF Minimum Lot Area and where a 4,465 SF Lot Area is proposed;
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4) BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative, Cont'd

- h) Requesting a 5' Side Yard Setback variance from Zoning Code Section 1252.05, which requires a minimum 5' Side Yard Setback and where a 0' Side Yard Setback is proposed;
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4) **BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative, Cont'd**

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Mr. Evans – Next on the agenda is Buccaneer Trail lot split with Eric Nevin representing this project. Please come up to the microphone and give us your name and address for the record.

Mr. Nevin – Good evening Attorney Eric Nevin, from the law firm of Foth & Foth, 11221 Pearl Road, Strongsville, on behalf of Linda Moore 18602 Buccaneer Trail.

Mr. Evans – Thank you. You were in caucus so you heard a lot of questions that we have. Tell us about what's going on and what's driving the request for these variances?

Mr. Nevin – What's driving the request for these variances is a homeowner that is presented with a very unique set of circumstances. Imagine yourselves as homeowners who own a parcel and property with the market value of \$205K. Imagine being unable to sell it due to an inability to obtain financing and being forced to reduce the listing price to \$150K. It's a significant hit, and it's a significant disservice currently being imposed by the Zoning Code. In my humble opinion, this is the exact type of case for which variances should be granted. In this case, the nominal use of the property will still be residential. It'll still be R1-75. Any concerns that the City might have about density or over building or anything of that nature is preserved or assuaged by the fact that any changes or alterations to these structures once the variances are granted would require additional variances. To be clear, these are existing structures. No changes are going to be made to those structures. We're simply asking for the Condominium designation to be removed which will allow these properties to sell at their real fair-market value unimpeded. The issue confronting my client and the other owners specifically is that banks will not provide lending since the condominium association has dissolved. Since the Condominium Association dissolved there are no records, and therefore no financials. Without financials the banks refuse to provide lending. Without lending, it leaves the fair-market value significantly diminished and effectively reduced to cash offers only. As a result, the Zoning has caused my clients, and others, to suffer a 25% reduction in the value of the property. That's an unnecessary hardship by definition. There is no

4) BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative, Cont'd

Mr. Nevin continues - reason not to grant the variance in this case because the only alteration is going to be on paper. Nothing else is changing. No changes in the structures are being made, no additional square footage is being consumed, and there will be no additional impact on the provision of government services. One of the main considerations that the Board, I'm sure, is concerned about the affect that their decisions will have on the neighboring community since that's one of the four factors that you review for the granting of variances. This will improve the neighborhood and community by maintaining a realistic report of the property values. There will also be increased taxes coming into the City as a result. I understand that this may be a very unusual request, as evidenced by the need for 15 variances on paper, but my clients will finally be able to realize what is reasonable in terms of marketability of their property.

Mr. Evans – Alright. So Mr. Nevin, you made a statement that the Condo Association has been dissolved?

Mr. Nevin – Yes, the Condo Association was intended to be an expanded condominium setup. There were four units built, and then the developer went under. These are obviously conditions that are beyond the owner's control. They had nothing to do with it and couldn't have stopped it. With just the four of them it was impractical to have a functioning association. The Association was dissolved over 15 years ago back in 2002. It has not been functional, and realistically it cannot be functional with only those four units being the whole of the Association. I do want to add some clarity to the fact that this is within Spy Glass. So the Association that was dissolved was a sub-association of these four units only. Spy Glass has already indicated that they do not object to this, and they will be afforded an opportunity as well as the owners to speak at the next hearing or offer objections.

Mr. Evans – We would require more than just the opportunity for them to object at the next hearing. We require a letter from the Homeowners Association, and that should be requested immediately.

Mr. Nevin – It's already been provided.

Mr. Evans – OK. Mr. Kolick, if the sub-cluster association was dissolved 15 years ago, and other clusters that are within that, then they are not a part of a cluster association either?

Mr. Kolick – No, the other units are part of a separate condominium association. There was a second one started because like Mr. Nevin said, they couldn't expand because they were beyond the time period to expand the initial one. So when the other units were created, they were made under a different condominium association which to my knowledge is still active.

Mr. Evans – At the point of dissolution, wouldn't the City have required that the dissolving one become a part of the other?

4) BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative, Cont'd

Mr. Kolick – No, it's something they could explore on their own. The other association would have to be willing to take them in, they or we couldn't compel them to take them in. They'd have to join their association.

Mr. Evans – OK. Are there other questions from Board members?

Mr. Smeader – Is the subject property currently listed for sale?

Mr. Nevin – Yes, and in fact two offers have fallen through due to the inability to obtain financing.

Mr. Smeader – What is the list price?

Mr. Nevin – The list price is currently \$175K. They are aware of this application, and depending on what happens it could be the third sale that's lost.

Mr. Smeader – What are you basing your opinions on the \$205K and the \$150K? Where did those figures come from?

Mr. Nevin – Those are based on information provided from a realtor working with my client. I brought her tonight if the Board would like to hear additional information.

Mr. Smeader – I would, yes.

Ms. Moore – Renée Moore, I work for Keller Williams, and I live in Spy Glass at 13545 Compass Point Drive, Strongsville.

Mr. Evans – You're the person selling this property?

Ms. Moore – Correct. They're my neighbors they're actually in my backyard. I've lived here for 17 years. My son goes to school here. It affects me too, and it's important to me due to property values. I took it over from another realtor that had this before me. My client didn't even realize that this was an issue because when they disbanded their association, they were under the impression that it had been filed and everyone was separated already. Then when they went to sell, they had a contract to sell it for \$195K which is full price. It fell through, and I have a letter from the lender stating that if it was actually correctly stated that it's not really a condo, it's like a person without a country. They have no association so the lender denied it. At that point, I took over the listing. She contracted Eric, and they tried to get a separation. We had plot maps drawn up, and we had all four people come in and sign off on those plot maps, and we went ahead and relisted the home. It sold again for \$185K which fell through again because they wanted to wait and at the last meeting the lender told him it was not going to go through so he backed out. I now have it under contract again for \$175K and the buyer is aware that there is no association, and that

4) BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative, Cont'd

Ms. Moore continues - she could join as a "B" Association with Spy Glass to use the pool and things like that, but that it's her job to maintain the walls, outside of the property, snow removal, etc., and she likes that. Only three of the four homes are attached. The single-family home has already sold. They had no problem because they weren't attached to anything. Out of the other three, one of the owners lives in California, and has no reason to ever do anything with it. No one is really living there. The other two have lived there over 20 some years. What happens is that they will end up selling cash only, and it removed FHA, VA, conventional loans, and things like that. So there are few options in this case. They can rent, foreclose on it, or they can sell for much less than it's worth and be upside-down on their loans. They are stuck in a situation where they can't sell their homes property, and it's bad for someone like me because they live right in my backyard. I think, they school's right there, what do I want in my neighborhood? I want families to move in, I want people who care about their homes, and want to live in them; not renters, and not foreclosures. That's why this is important to me also. It's a strange situation, and when I took it over, I was surprised that it was even allowed to be disbanded without any further official designation. It was done so long ago though, that they had no idea the implications that would cause.

Mr. Smeader – Did I understand that you said they had a cash offer at \$175K?

Ms. Moore – I have the contracts with me if you'd like to see them. But no, the neighbor on Parcel A is also a realtor, and he brought in a buyer and it was \$185K, and it was not cash either.

Mr. Rusnov – These are all subject to conventional loans. You have had no cash offers.

Ms. Moore – Correct. If we were going to go cash, I'd have to lower the price to at least \$150K.

Mr. Rusnov – How do you get there?

Ms. Moore – Just in knowing how the community works and where it falls in. Above \$150K, you're going to have to go conventional, FHA or VA because there are very few that go cash. If it does, it would sit on the market for quite a long time, and eventually we might get a cash offer, but it'll sit for a long time.

Mr. Evans – When you say conventional, you mean it's able to be sold on a secondary market.

Ms. Moore – No, it means it has a lender.

Mr. Rusnov – You're saying you can't obtain any conventional financing, VA, or FHA.

Ms. Moore – No bank financing whatsoever.

4) BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative, Cont'd

Mr. Rusnov – As far as a cash buyer, you'd apply a discount from your vast experience in the neighborhood or whatever, but...

Ms. Moore – The reason why is because every time it just sits there, they're paying taxes and everything else, so they're going to want to sell it as soon as possible. So I can list it at \$185K, but it'll sit there for a long time before I get a cash buyer for almost a year and in that time they've paid on their mortgage and things like that so they'd want to lower it to get it sold.

Mr. Rusnov – If it wasn't listed, they'd still be paying the same amount of money. I'm seeing cash-buyers at a half million dollars now.

Ms. Moore – I understand that. I've had it on the market and it's hard to sell.

Mr. Rusnov – There is demand for the units, it's not uncommon to see multiple offers above list price, and the guy with the cash offer usually gets the deal first because there's no issues with the bank or anything else. I don't agree with what you said about the discount for the cash.

Ms. Moore – Let me explain, we've had it on the market for \$185K with these conventional loans, but I have to have a cash offer for it to sell. It's already been on the market for almost a year. So we're going to lower it. However, the reason these condos are difficult to sell, well first of all condos in Ohio are hard to sell because there are only one percent that even offer an FHA loan., but in order to sell this home in a cash only situation I'd have to lower the price because it just sat on the market for a year.

Mr. Rusnov – its shop worn. It's been on the market for an extensive period of time.

Ms. Moore – Yes, and that's because of the issues with this.

Mr. Smeader – You're suggesting it stay at \$185K?

Ms. Moore – Even with a cash offer you're still buying a condo without an association.

Mr. Smeader – The disparity between the offers \$175K and \$185K is typical of the sales price of this property of that size?

Ms. Moore - Its \$175K and \$195K. Our original offer was \$195K.

Mr. Rusnov – List price or sales price?

Ms. Moore – Our original list price was \$200K and we sold it for \$195K.

4) BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative, Cont'd

Mr. Rusnov – OK, you had an offer at \$195K conventional.

Ms. Moore – Correct. That was before we knew of any of these issues with the condos.

Mr. Rusnov – The second offer was how much?

Ms. Moore - \$185K.

Mr. Rusnov – So you had \$195K, \$185K, and now \$175K.

Ms. Moore – The reason we had \$185K was because we had already started this, and coming into this meeting. We waited for the last meeting, and when it didn't pass they backed out. Now I have an offer for \$175K. It continues to go down because it's not able to sell.

Mr. Rusnov – Is this a cash offer at \$175K?

Ms. Moore – No, I have yet to get a cash offer?

Mr. Rusnov – How is it being financed?

Ms. Moore – Conventional. It's an out of town lender. At this point, I'm waiting if they see if they realize there is no condo association. They are accepting Spy Glass right now, but at any moment they could turn around and say that since they don't cover the walls, we can't get it insured, and then they'll back out.

Mr. Evans – Any further questions?

Mr. Rusnov – No that'll do it.

Mr. Evans – OK. Mr. Nevin, you also made the statement that this was the perfect reason for granting variances, and you alluded to the four criteria that we have, but the reality is that the four criteria don't encompass this situation. As a matter of fact, there are reason why we would not grant the variance request since it doesn't meet those four criteria. It in fact, steps outside the Code to a great degree of what would be permitted. So for us to consider the variance request for these three those four criteria should be looked at relatively carefully. I don't think it does in its present state meet any of those four requirements and certainly not all of them. You may want to go back and take a look at that too. Determine what you'd like to say at the public hearing on the 27th, as we discuss this.

Mr. Kolick – Mr. Nevil, is there one landscaper that takes care of this now or does everyone do their own lots even though they are not their own lots?

4) BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative, Cont'd

Mr. Nevin – My understanding is that each homeowner takes care of it. They have already executed a Common Wall Agreement that was done in conjunction with the 2002 Dissolution. That basically operates their treatment of the property amongst one another. Again the condo only exists on paper. The restriction only exists on paper, and that's the only change that is being requested. I understand that it doesn't meet any four of those, but I respectfully disagree. The very first section says that the first consideration talks about the economic disadvantage. It says it's not an unnecessary hardship it's a general hardship. It only says that economic disadvantage is only a general hardship when it's theoretical. That speaks to the overall principles of Zoning, but in this case my client can show and demonstrate tangible economic disadvantages being caused solely due to the Code's refusal to remove the condo designation. They had no control over that.

Mr. Rusnov – But, there was a very long period of time when this Association was dissolved and there was nothing, and now this is an issue 15 years later? What happened in these 15 years? Couldn't you have approached the main subdivision Spy Glass and get under their umbrella or talk to the rest of the people and form a new association? All of the sudden we have to react to this crisis that has been brewing for about 15 years.

Mr. Nevin – I appreciate that. As far as it goes with merging with another Association, they were told that they missed the time-window to do so that option is unavailable to them.

Mr. Rusnov – What about forming a new association?

Mr. Nevin – As it relates to forming a new association it would suffer from the same flaws that they experienced initially. We're talking about four unit owners.

Mr. Rusnov – No, if you encompass the entire complex in this new association for all 12 units or however many is there.

Mr. Nevin – They would be subsumed into it, so the four units would be taken into the overall Spy Glass subdivision.

Mr. Rusnov – I'm just talking about the existing condos that are there. Why 15 years ago did they not approach the existing association and find some legal advice to work something out then? They could have used the same arguments then. There was all kinds of time to come up with a solution to this. Now we're at the crisis stage and we're supposed to react to this.

Mr. Nevin – They were told that subsuming these four units into another association was not available. Apparently in 2002 that was an option that was already off the table for them. Evidently the Code did not permit that to be done, and I believe it was due to the same issue that Mr. Kolick spoke to earlier about the time limit had run on the expandable condominium to be altered.

4) BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative, Cont'd

Mr. Kolick – There is a procedure under the Code to merge condominiums together. Have they talked to the other 10 units to try into merge into their condo association? Have they at least explored that possibility?

Mr. Evans – You can come back to the podium, but I just ask that you keep it brief.

Ms. Moore – They did apply, and they asked the other Association but it told them no because they were a newer association because it would raise their dues because their homes were older and would take more care to maintain. They told them they'd have to make their own association.

Mr. Rusnov – They couldn't prorate the older units at a higher rate. That issue would then go right off the table.

Ms. Moore – I agree, but I didn't know them then. I'm just telling you that they were told that they couldn't join because their homes were older.

Mr. Rusnov – Every condo association, for example Ledgewood, there's a great disparity in age between the various associations, but they're all under the Ledgewood or Meadowood umbrella. So I'm having a lot of trouble with that issue.

Ms. Moore – I agree with you, and I contacted them about it recently, and I was also told no again. That was just over this last contract. I took it over in June.

Mr. Evans – Mr. Kolick, I believe those four impacted units that are not a part of an association wanted to form their own because of the way they are set up, they could do that though, correct?

Mr. Kolick – Sure. They could form their own. It's just difficult for an association when you have only four units or to even carry out the expenses. That's the downside of a small association. Could they do it? Yes.

Mr. Evans – The reason I say that is because I know that Camden Village on Drake Road is three cluster units and they are a new build. If you're talking a disparity of price from \$205K to \$150K then I would think that would be a very demonstrable event to those units that being in a cluster association was well worth the investment. Again, what I'm trying to say is that there are options, and I think Mr. Rusnov and Mr. Smeader have indicated that as well. This is not the only situation, and again for us we have four criteria that exist and since these are rather dramatic variances, and because of the nature of what's being requested, it may or may not be a decision of this Board to grant these variances. So I'm trying to give you options to consider or to encourage you to take a look at the four reasons that empower us to grant variances. That way you can appropriately prepare for that.

4) **BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative, Cont'd**

Mr. Kolick – Along those same lines, so the applicant understands, if the Board were to grant some of these variances, there's a 44' Rear Yard Setback variance, the problem we have with that is that someone down the street determines that the Board granted a 44' Rear Yard Setback variance, and says, how come I can't have that? There are some difficulties with granting variances to the scope of what these are. I mean we would permit a 35% building density coverage, these buildings are 48%. They're almost 50% of the lot. Again our concern is that these are there, and I understand that. The next person comes in and says you granted them almost 50% of their lot, how come I can't build on 50% of my lot? It's something the Board needs to be concerned about.

Mr. Evans – Precedent is something that we have to live with so we're very judicious when we make new ones.

Mr. Nevin – I think it is important to focus on the fact that they are already there though. This isn't an emergency measure. This is a very narrow set of circumstances, in which a variance like this would arise. Of course, I like to distinguish it and you guys have your ways of looking at things.

Mr. Evans – Right.

Mr. Rusnov – We totally understand your position, but our position is that if we create a precedent, then we have to live with the variances that we grant you for a new build. You've pretty much destroyed the Building Code for a new build then.

Mr. Nevin – How is it applicable?

Mr. Rusnov – They'll bring up the fact that we granted a variance for a sideline setback that should have been 100'.

Mr. Nevin – For a hardship though. The purchase of the property and control over the problem are key to this.

Mr. Rusnov – The hardship exists because past events that they had 15 years to try and correct. The City did not create this.

Mr. Nevin – It didn't become an issue until they tried to convey the property though. This is an unreasonable impediment on the convey-ability of the property.

Mr. Rusnov – There have been other sales in the course of the years that obviously were in the other associations and never had problem with financing. I don't want to keep beating a dead horse, but we need some sort of justification for granting these variances which are pretty severe, really severe, and we're going to have to live with them. Mr. Evans is telling you that you don't

4) BUCCANEER TRAIL LOT SPLIT/Eric Nevin, Representative, Cont'd

Mr. Rusnov continues - really truly meet the criteria for what we're supposed to be doing. That's your position to show us the error of our ways.

Mr. Nevin – In respect to the conveyance or transfer of properties over the last two decades, the only one that went to market and sold was the one that was not attached to any other units. It gave it the ability to stand alone. That's what we're asking for with these attached structures.

Mr. Rusnov – Yes.

Mr. Evans – OK. Well, again this is the introduction of this. We do have a public hearing that will take place on September 27th. So unless there's anything else that members need to say, then the notification will go out to everyone within 500', and you should obtain a written approval from Spy Glass Homeowners Association, and then we'll see you back here then.

Mr. Nevin – Thank you very much for your consideration.

PUBLIC HEARINGS

5) TODD AND JENNIFER JAMES, OWNERS/Margus Company, Representative

Requesting a variance from Zoning Code Section 1252.16 (e), which requires a Deck maintain the same required side yard setback as the main dwelling and where the applicant is proposing a 144 SF Deck 8' into the side yard; property located at 12248 Moss Point Road, PPN 396-09-050, zoned PDA -2.

Mr. Evans – Now we'll move onto our public hearings. Our first for the evening is Todd and Jennifer James. Please come up to the microphone and give us your name and address for the record.

Ms. James – Hi, I'm Jennifer James, 12248 Moss Point Road, Strongsville.

Mr. Evans – We talked in caucus, and we're going to ask you to very briefly explain the reason for the request for the variance and why it's necessary.

Ms. James – Sure, I need the variance because as you've seen in the pictures the wall is in disarray. The topography of our land is extremely challenging, and we're at a point where I have to do something about it. It's been left for 40+ years and it's a problem that I inherited and it's been badly fixed, and badly fixed, and now I'm trying to make it look better and useable. As it stands right now, my backyard is essentially completely unusable.

5) **TODD AND JENNIFER JAMES, OWNERS/Margus Company, Representative,
Cont'd**

Mr. Rusnov – So essentially what you're saying is the topography was an issue already, but now the chickens have come home to roost from previous owner's decisions due to this being non-wolmanized wood, and there being movement in the soil, etc.

Ms. James – You got it.

Mr. Rusnov – OK.

Mr. Evans – Topography is one of the reasons we have for consideration.

Mr. Rusnov – Yes.

Mr. Houlé – No questions, but we do have a letter from the Homeowners Association.

Mr. Evans – An HOA letter, yes we do.

Mr. Baldin – I go along with what John said.

Mr. Evans – OK. This is a public hearing. I'll ask if there is anyone here this evening who would like to speak for the granting of this variance. Is there anyone here who would like to speak against the granting of the variance? Hearing none and seeing none, I will now entertain a motion.

Mr. Rusnov – I make a motion to approve a request for a variance from Zoning Code Section 1252.16 (e), which requires a Deck maintain the same required side yard setback as the main dwelling and where the applicant is proposing a 144 SF Deck 8' into the side yard; property located at 12248 Moss Point Road, PPN 396-09-050, zoned PDA -2.

Mr. Smeader – Second.

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

ROLL CALL:

ALL AYES

MOTION PASSED

Mr. Evans – The variance has been granted again pending a 20 day waiting period during which time Council may review our decision. You will get a notice from the Building Department when that time has passed. You can at that point move forward. In the meantime, you're all done with us and all set.

Ms. James – Thank you for your time.

5) **TODD AND JENNIFER JAMES, OWNERS/Margus Company, Representative,
Cont'd**

Mr. Evans – Thank you.

6) **JAMES AND CAROL JAGGERS, OWNERS**

- a) Requesting a variance from Zoning Code Section 1252.15 (a), which requires an Accessory Structure maintain the same required side yard setback as the main dwelling and where the applicant has constructed a 21 SF Accessory Structure 1' 6" into the side yard;
- b) Requesting a 20' variance from Zoning Code Section 1252.15 (a), which requires a 20' Setback from the main dwelling and where a 0' Setback from the main dwelling exists in order to approve an existing 21 SF Accessory Structure; property located at 10791 Gate Post Road, PPN 391-05-054, zoned R1-75.

Mr. Evans – Item number six on the agenda is James and Carol Jagers. If you'd come forward to the microphone and give us your name and address for the record.

Mr. Jagers – My name is James Jagers, I live at 10791 Gate Post Road, Strongsville.

Mr. Evans – Thank you Mr. Jagers. We had you make the presentation at the last meeting, so if you could just sum it up for us again the reasons for the variances we'd appreciate that.

Mr. Jagers – At the last meeting, I presented the four points that are required to obtain a variance and spoke in detail to each of those. The one variance is for a side yard setback, and it's only 18" into the side yard. That's the west wall of this structure. That same wall is the butt end of a fence that has sat there for 38 years. It's been there. The other variance is for the setback into the backyard. Meadowood Association prohibits any stand-alone structures so we cannot build behind the home.

Mr. Evans – Are there questions from the Board? We do have a letter from the Homeowners Association and we also received a letter from Theodore Bartow about the situation. Those are entered into record. Is there anything else?

Mr. Rusnov – Essentially that 21 SF is tucked under the soffit and abuts the fireplace.

Mr. Jagers – Correct. It abuts the end of the fence on one end, the fireplace on the other.

Mr. Smeader – Are you aware that if your variances are granted then you'll have to install a firewall on two of the elevations?

Mr. Jagers – Absolutely.

6) JAMES AND CAROL JAGGERS, OWNERS, Cont'd

Mr. Rusnov – OK.

Mr. Evans – That's a condition of the variance.

Mr. Baldin – It blends right in with the house and the structure. I don't see any real problem here whatsoever in my opinion.

Mr. Evans – Alright. Thank you Mr. Jagers. This is a public hearing. I'll ask if there is anyone here this evening who would like to speak for the granting of this variance. Please come up to the microphone and give us your name and address for the record.

Mr. Ondrejech – Mark Ondrejech, 22468 Beach Creek Trail in Meadowood as well. I'm the acting President of the Meadowood Association right now. I've been in the development for 26 years, and of those 26 years I've probably worked with Jim Jagers for 15 to 20 years. He's our Architectural Control Board who notifies all of us on the Board what's going on with houses that are having additions and things of that nature done to them. I'm in support of Mr. Jagers requests. He asked me to come by and look at his addition. I walked right past it. I couldn't tell where it was or what had happened other than the saw dust being on the ground. We as the Board members of the Association have discussed many times within our Trustees meetings and also our annual Association meeting, and we oppose having free standing sheds in our development. So I'm in support with Mr. Jagers here this evening.

Mr. Evans – Thank you Mr. Ondrejech. Is there anyone else who would like to speak in favor or granting the variance? Is there anyone here who would like to speak against the granting of the variance? If you'll come forward sir, we'll need your name and address for the record please.

Mr. Moodt – My name is Richard Moodt. I live at 10784 Pebble Brook Lane in Strongsville. I live directly behind Mr. Jagers. We've been neighbors for 38 or 39 years. My position for being here this evening is not so much being against the variance. It's maintaining the integrity and the property values in our subdivision. I'll have to give you a little history. I was a sales manager for Bob Schmidt Realty while we built most of Meadowood and Olympia. I'm currently heading up the sales in a 1000 home subdivision in North Ridgeville named Ridgefield. So I've been around the block with Bob Schmidt homes and so forth. I think you need to understand that when Bob came from Ledgewood with the terrain, we were building very unique homes and so forth. It was pretty costly. He developed Meadowood and tried to go into a more cost effective home. So they are smaller homes. We had three or four models, and we built it in four major phases even though there's like 8-9 altogether. With that in mind, the first two phases were very cost effective. They were like \$70K at the time. Three bedrooms with two baths, no basement, with a two car garage. As we got into phase four and phase five, they got more into design with three car garages and so forth. The challenge I see in Meadowood today and also as a realtor why people are moving out or don't wish to move in is because of the lack of storage and how it looks. That's all the junk that's on the side of the homes. Mr. Jagers and I have a long disagreement about free standing

6) **JAMES AND CAROL JAGGERS, OWNERS, Cont'd**

Mr. Moodt continues - storage. There's no such phrase in the Covenants of the Meadowood By-laws. These are the same Covenants and By-laws that are in Forest Park, Ledgewood, and Meadowood. All it simply states is that if you were going to do an addition, a deck, or whatever, you need to submit it and it needs to be architecturally controlled. It does not prohibit them. Mr. Jagers has been in that position for 20+ years or whatever. I feel it's really too long. Actually when Bob started the Trustees, it was meant to have term limits. The first trustees were elected for two years and three for one year. They turned that over. So when one person controls 847 people for decades and he alone is saying that you can't have free-standing storage, the By-Laws don't say that you can't have them. All the other developments have them. My challenge is that people today have more stuff. When I was growing up there was no such thing as a storage building. Think about it, now there's probably a dozen within a half mile of here. You drive through our subdivision on a Sunday morning, you'll find one or two cars in the driveway because they don't fit in the garage. If it doesn't fit in the garage, it ends up beside the home. We get the big storage containers that's where they're going to end up. So whenever I've asked to build a free-standing storage structure that could be cost effective, and these are young families, they don't want to spend \$15K adding onto a home. They might have a college education they want to pay for, they might have a wedding to pay for, etc. If they could go get a \$4K or \$5K storage building....

Mr. Evans – I'm going to have to interrupt you because we've all been out there to see this and it's not a free-standing structure. So why are you talking about free-standing structures? Could you please bring us to your point please?

Mr. Moodt – Yes, I understand. Sure, because if we had free-standing structures we'd get rid of the junk on the side of the buildings. Last September I met Mr. Jagers back in our common area, and we were talking about some drainage issues. I asked him again what the problem was with putting up a shed in that corner. I'll even put up a fence around it and so forth. What he said to me was...

Mr. Evans – We've all understand that free-standing structures are not permitted. We're talking about an addition that's been put on the house. That's where I need to drive this conversation.

Mr. Moodt – What he said to me was build a free-standing structure close to your home. I said, the City won't give me a permit.

Mr. Evans – You can't be within 20'. You heard that earlier this evening.

Mr. Moodt – Put a 2' by 4' on it or something like that so with that in mind, I went through all the legwork, submitted it to Mr. Jagers and it was turned down. I talked to the Association President and this is what they said to build. This is what's on the side....

6) **JAMES AND CAROL JAGGERS, OWNERS, Cont'd**

Mr. Evans – OK. I'm going to stop you again. I'm sorry, but we're not going back and revisiting past history. I can't say whether or not discussions have taken place. We have a situation where we've had an application for a variance because this is an addition to the home. It has a common wall, and we've qualified it by saying that it would have to have a firewall rating on the interior of it because it's added onto the existing structure. I'm not going to debate free-standing structures because that's not germane to this conversation. Whatever may have happened in your situation I can't go back and deal with that, I'm dealing with the request that we have here. So if your objective is to the addition to the home, and it has nothing to do with free-standing structures then you need to get to the point quickly.

Mr. Moodt – My objection is to the side yard variance because the past President of the Association built this without a building permit and it's not fire rated. Mr. Jagers of all people, and I don't believe any of you on this panel would go and add an addition to their home, and then say geez, I forgot to get a building permit. So he goes and builds it without a building permit, so as long as the side yard setbacks are getting approved for the Associations Board members, then how can you or they tell me no? When the Association President said build what I have, and then they turned me down. Mr. Biondillo went to great lengths to describe what's permitted. The photos that I submitted to him would not get building permits, so I wasn't allowed to get one. So the next person who wants a side yard setback for storage, you as a panel like you said before, if you do it for one, you'll have to do it for them all. You're setting a new precedent.

Mr. Evans – Right, and we have granted variances in arrears of building being completed. We don't like doing that, the Building Department has charged people appropriately for that indiscretion, but we have allowed that. I agree that it was not appropriate for the Jagers; that's not the appropriate process. Unfortunately the record will show that it has been done that way, way too many times. In this community we've done that because it was an appropriate request, but done in the wrong order. The wrist has been slapped, and we've talked about that. In this particular situation, the absence of a firewall is something that can be corrected. We've done that in at least 6 other instances in the past couple years that I personally have voted on. So again Mr. Biondillo clearly identified what did not pass in your situation, and in the Jagers situation that is not the case. This is an addition to the home. The setback variance should have been done before that was built. There should have been a building permit applied for before it was done. As it exists it's not something that is detrimental to the community. Is there anything from the other Board members?

Mr. Rusnov – The side yard variance is one foot six inches. The rear of the house is pretty much flush with the fireplace. It sticks out maybe nine inches. That would be your rear yard and on the side of the property it's flush with the wall of the house. I don't see where there's even a one foot protrusion into the side yard unless it's the way the house is positioned.

Mr. Smeader – It's on a 45 degree angle.

6) JAMES AND CAROL JAGGERS, OWNERS, Cont'd

Mr. Rusnov – Enough said. I've done a few Bob Schmidt homes and it would be hard for me to realize that this wasn't originally there.

Mr. Moodt – I'm not saying it can be seen.

Mr. Rusnov – I understand your position.

Mr. Moodt – If this is permitted by the past Association President and by the current architectural control person then you are permitting side yard setbacks for storage. What will you tell the next person?

Mr. Rusnov – Attach it to the house.

Mr. Moodt – Attach to the house, right. It would be nice if you had the ability to not attach to the house. We're going to drop that, so what do you tell everyone else? Will you tell someone that moves in and says they want to build a storage building that it's not permitted? Well then what if I went out to the side?

Mr. Evans – First of all, Mr. Jagers isn't really permitting anything. Mr. Jagers is an Architectural Review Committee acting under the Homeowners Association's Covenants. This City has Codes that go beyond that. Again we've indicated that we have to live with the precedents that we set. We have granted many side yard variances under certain circumstances when they meet the four criteria that we have to be able to consider a variance. So I appreciate the fact that you've filed an objection, we have it on record now. That is to be considered yet as a determination is not yet made regarding this variance. Your point was well taken that there was no building permit made, and no application for a variance until after the fact. If this were the very first time we were dealing with that, I'd be aghast. Unfortunately I'm aghast because we deal with this all the time. I would expect someone who's in a position on a Board of a Homeowners Association would know the process and follow it.

Mr. Moodt – Absolutely.

Mr. Evans – That doesn't necessarily mean that the request would have been turned down had it otherwise been made. That's what the job of this Board is to make those determinations.

Mr. Moodt – Past President said if you want storage, do what I did. Mr. Biondillo said you can't do that.

Mr. Evans – Again, you were requesting a free standing building.

Mr. Moodt – No, no.

6) **JAMES AND CAROL JAGGERS, OWNERS, Cont'd**

Mr. Evans – You were requesting exactly what the President of the Association has on her house. She said to me, this is what you should build. Then the City said no.

Mr. Kolick – Mr. Moodt, understand two things. One is that we do have a punitive provision in our Code for someone who builds without a permit. Mr. Jagers will see that, they'll have to pay triple the amount of the permit price they would have had to pay otherwise, so that's being addressed. Number two is so you understand, the City cannot enforce and will not enforce Homeowners Covenants and Deed Restrictions. We have no authority to do that. All we can do is enforce the provisions of our Zoning Code. If you brought a structure into Mr. Biondillo and it didn't comply with the Code, then he'd tell you that it doesn't comply with the Code. Now do you have recourse? Yes, just like Mr. Jagers, he brought it here and asked the Board to give him a variance of the Code, and if you can show them that you meet these standards then they can vary it. That may not resolve any issue you have with the Homeowners Association, but it would resolve an issue that you have with the City. We can't be bound or concerned with whether Mr. Jagers or someone else from the Homeowners Association says you can't build something. All we're bound to is what our provisions say in the Code. The Code recognizes that it can't cover everything so it gives this Board some freedom in certain instances to grant variances from the provisions of the Code. There will always be some exceptional circumstances to merit it. That's all this Board is considering whether there's exceptional circumstances in this particular case, not your case, not the past President's case, not someone else's case. We can't address those. All we can address is whether this case meets the criteria of the Code, and if it does then they can also impose conditions such as putting a fire rated drywall on there to alleviate concerns that we may have as a City from a safety standpoint. We can only judge this particular case. If you have comments about this particular case, and I'm hearing them, then the Board will take them into account.

Mr. Moodt – My object on all of it is to keep the side yards as free as we can and keep the junk out of there because it's deteriorating our neighborhood. As a realtor, I keep hearing that they don't want their property's value to go down. Then as I said, you better be prepared to grant anyone else a side yard setback. Thank you for your time.

Mr. Evans – Thank you. Is there anyone else who would like to speak against the granting of the variance? If you'll come forward sir, and give us your name and address for the record please.

Mr. Bartos – My name is Joe Bartos I live at 10780 Pebble Brook Lane. I'm part of the Meadowood subdivision. I apologize for wasting your time with this, and as the gentlemen said over there I'm getting ready to kick a dead horse here. I just found out from Mr. Kolick that there's a somewhat punishment for not getting a building permit, and that was what my issue was with this whole process. I ride a motorcycle, I know that when I go out of state, there's different laws. I know those laws, I don't memorize them, but I have a book that tells me that when I go into

6) JAMES AND CAROL JAGGERS, OWNERS, Cont'd

Mr. Bartos continues - another state that I need a hat. So that's the only problem I have. Jim knows the rules, and he bypassed those rules. I just needed to say that cause my old man told me not to waste my time.

Mr. Rusnov – We totally listen to what you have to say, but when I went to this property I couldn't tell that there was an addition at all. It was very small. It's only 21 SF. Mr. Smeader pointed out that maybe because the house is slanted at a 45 degree angle which puts that one corner one foot and six inches into the side yard. I couldn't tell. The rear of the house, it's almost flush with the fireplace. Maybe it sticks out another 6 inches. I would be hard pressed to even tell you that this even existed. Mr. Kolick pointed out there will be some sort of retribution for not getting a permit.

Mr. Bartos – Well that's my thought there. It's not that you can see this thing or anything else.

Mr. Rusnov – He will be dealt with on this is my point. We're not here to punish people either though, people screw up.

Mr. Bartos – I never did.

Mr. Rusnov – Yeah, me neither, but bottom line is maybe he didn't know. I don't know what was inside the guy's head.

Mr. Bartos – You don't become an Association's Architectural Review person and not know the rules.

Mr. Rusnov – I didn't know that.

Mr. Evans – I agree with you Mr. Bartos, and I appreciate you coming and talking with us. One of the things that we're empowered to do is to look at situations on an individual basis and determine the overall best solution. Often times that involves a lot of horse trading and negotiating which this Board is relatively empowered to do so even though our Assistant Law Director often times kicks me under the table when we start down that path. My hope is that both the Homeowners Association President who is here and the applicant understand the gravity of what we're discussing because it does have an impact on many things. The fact that you and Mr. Moodt took the time to come in an express that I think is important. Our job is to weigh the overall and try and come to a decision that's appropriate. If this was the first time someone ran through a stop sign, I'd be shocked. Unfortunately it's not, but when a policemen runs through a stop sign I don't think that's the way it's supposed to be done.

Mr. Bartos – I agree with you there. As I said, I don't have an objection to people adding onto their property because it's theirs. My objection was to the by-passing of the rules.

6) JAMES AND CAROL JAGGERS, OWNERS, Cont'd

Mr. Baldin – If this wasn't brought to your attention, would you have ever noticed that it was there? They all look pretty much the same, but would you have ever noticed if it wasn't brought to your attention?

Mr. Bartos – No.

Mr. Baldin – Of course not, no one would. I chastise the gentleman for doing it without a permit, but no one would see that. It's not actually encroaching on side yards in my opinion or doing anything like that. Thank you.

Mr. Bartos – That was my point. I agree with you. It was just the process and not how it looks now. Thank you.

Mr. Evans – Mr. Moodt you can come back to the microphone if you wish, but I ask that you keep it brief.

Mr. Moodt – When all this came up, Mr. Biondillo told me that Mr. Jagers was adding an 8' by 29' addition to his home. That's what's listed on the records from the City. Until today, I'm visualizing a much larger structure. So I think you can understand a little bit of what I'm coming from.

Mr. Evans – I would have to guess that it's a typographical error because what was the subject of our discussion tonight is not that size.

Mr. Moodt – I had asked Mr. Ondrejch in a couple of different letters to tell me what was being built and he ignored the letters so until this evening I'm visualizing 8' by 29'.

Mr. Evans – So noted. Thank you. Is there anyone else who wishes to speak against the granting of the variance? Hearing none and seeing none, I will now entertain a motion.

Mr. Rusnov - I make a motion to approve a request for a variance from Zoning Code Section 1252.15 (a), which requires an Accessory Structure maintain the same required side yard setback as the main dwelling and where the applicant has constructed a 21 SF Accessory Structure 1' 6" into the side yard; and also to approve a motion for a request for a 20' variance from Zoning Code Section 1252.15 (a), which requires a 20' Setback from the main dwelling and where a 0' Setback from the main dwelling exists in order to approve an existing 21 SF Accessory Structure; property located at 10791 Gate Post Road, PPN 391-05-054, zoned R1-75, subject to the fire rated walls as required by the Building Department.

Mr. Smeader – Second.

6) JAMES AND CAROL JAGGERS, OWNERS, Cont'd

Mr. Evans – We have a motion and a second, may we have a roll call please?

ROLL CALL:

ALL AYES

MOTION PASSED

Mr. Evans - The variances have been granted again pending a 20 day waiting period during which time Council may review our decision. You will get a notice from the Building Department when that time has passed. I would again admonish you and the Association that you should know better. I think we've made that point here tonight. I apologize to Mr. Moodt that if the information furnished by Mr. Biondillo was incorrect. Those points should all be well taken. I happen to have been down in Houston this week for a day because I'm in the insurance business and I can tell you that there are lots more important things that we all have to worry about. That being said, we think we've done what is best here tonight. I appreciate the fact that everyone took the time to attend. I hope that this Board feels that they've done the right thing because we do live with our precedents, but everyone else has to live in the same community. So that being said, I hope we can move on from there and be thankful that we're not in Houston or Florida or any of the other hurricane affected areas, and get along.

OTHER BUSINESS

7) RICHARD MOODT, OBJECTING PARTY

Hearing of the objection by Richard Moodt pursuant to Codified Ordinance Section 1418.03 to the application for a building permit for an Accessory Structure located at 10791 Gate Post, PPN 391-05-054, owned by James and Carol Jaggers.

Mr. Evans – Is there anything else to come before the Board?

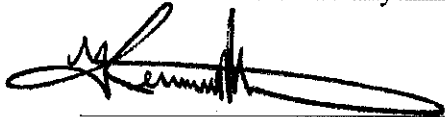
Mr. Kolick – We still have item number seven. Based on what you did tonight, we're going to have to table that to see if this variance stands or if Council would review it. If the variance would not stand then there would be a real substantive basis to the objecting party because it would not comply with the Code, but we have to see what will happen after the 20 day waiting period.

Mr. Evans – That's correct, so item number seven on the agenda, Mr. Moodt, we'd table because we've granted a variance so therefore the objection to the variance would stand in lieu of the variance being granted. There are two options, if Council chooses to overturn it, then we'd consider your objection at that point. If the objection was indeed based on information that may have been furnished incorrectly from the City, and that was the reason for the objection you can withdraw the objection to the permit being granted. In which case it would go away. That's up to you. As Mr. Kolick suggested though, because Council has 20 days to review the decision that we've made, we have to table the objection until after that waiting period. Unless you choose to withdraw it. Is that correct Mr. Kolick?

7) **RICHARD MOODT, OBJECTING PARTY**

Mr. Kolick – Correct.

Mr. Evans – Is there anything else gentlemen? Then with tabling that, we'll stand adjourned.



Mr. Evans, Chairman



Kathryn A. Zamrzla, Sec'y

Sept. 27, 2017

Approval Date