

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

**Meeting of
May 10, 2017
7:30 p.m.**

Board of Appeals Members Present: Kenneth Evans, Richard Baldin, John Rusnov, David Houlié, Tom 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) ANTHONY JONES, OWNER

Requesting a 16' 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' Board on Board Fence; property located at 15288 Howe Road, PPN 397-07-022, zoned R1-75.

The Board noted that this is a corner lot on Howe, but it faces Pomeroy. They said that since this is on a corner, this means that the front yard of the neighboring house would be facing their backyard fence if they went forward on this project. They also noted that it's a small yard.

PUBLIC HEARINGS

2) MARY K. ROCK, OWNER/Kelly Faught of Bricks and Stones, Representative

Requesting a 7' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 10' Rear Yard Setback and where a 3' Rear Yard Setback is proposed in order to install a 37' x 22' Paver Patio; property located at 21414 Woodview Circle, PPN 392-10-110, zoned R1-100.

The Board agreed that there is a topographical hardship with this property. They mentioned how difficult it was to even walk through to check out the property when it was wet.

3) BENJAMIN AND DAWN IHDE, OWNERS/Robert Parken, Representative

- a) Requesting a variance from Zoning Code Section 1252.15 to permit two Accessory Structures where one Accessory Structure is permitted;
- b) Requesting a 720 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 480 SF Floor Area and where a 1,200 SF Floor Area is proposed in order to construct an Accessory Structure;

- c) Requesting a 6' Height variance from Zoning Code Section 1252.04 (g), which permits a 15' Height and where a 21' Height is proposed in order to construct an Accessory Structure; property located at 18365 Howe Road; PPN 397-33-013 zoned R1-75.

The Board mentioned that there is a lowered height from what was originally proposed, but they are still requesting a variance for 6' over what is allowed. They mentioned there is an existing structure on the property. They debated whether there is a reasonable hardship to warrant a variance from the Code. They also stated that it is a very large structure for that property size.

4) DAVID ANDERSON, OWNER

Requesting a 13' variance from Zoning Code Section 1252.17, 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 6' Solid Vinyl Fence; property located at 13548 Richards Drive, PPN 392-33-078, zoned R1-75.

The Board noted that this a privacy fence section that is to replace what is an existing split rail fence. The hardship is the shape of the lot how it sits on the corner. They also mentioned that there is an invisible fence, but noted that those fences they can be moved. The Board mentioned they would like to have it off of the sidewalk a bit more.

OTHER BUSINESS

5) CLARK OIL aka YEY LLC/ Eli Mahler, Representative

- a) Requesting a variance from Zoning Code Section 1274.06, which prohibits the enlargement or structural alteration of a nonconforming building or use except to make it a conforming building or use and the applicant is proposing the demolition of the current Gas Station/Convenience Store and construction of a new building;
- b) Requesting a .64 acre Lot Area variance from Zoning Code Section 1258.08, which requires a 1 acre minimum Lot Area and where a .46 acre Lot Area is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- c) Requesting a 35' Lot Width variance from Zoning Code Section 1258.10, which requires a minimum Lot Width of 150' and where a 115' Lot Width is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;

- d) Requesting a 5' Side Yard Building Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Side Yard Building Setback and where a 5' Side Yard Building Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- e) Requesting a 5' Rear Yard Building Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Rear Yard Building Setback and where a 5' Rear Yard Building Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- f) Requesting a 10' Side Street Parking Setback variance from Zoning Code Section 1258.11 (b) (3), which requires a 20' Side Street Parking Setback on a corner lot and where a 10' Side Street Parking Setback (North) is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- g) Requesting a 10' Front Parking Setback variance from Zoning Code Section 1258.11 (a), which requires a 75' Front Parking Setback and where a 65' Front Parking Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; property located at 15387 Pearl Road, PPN 397-01-025, zoned General Business (GB).

The Board noted that the Building Department has been in contact with the applicant, and that there is still an issue over the canopy. They are waiting to hear back from an Engineer about its stability. They stated that it is rusted around the bottom of the canopy's posts. They agreed the time to replace the canopy would be with the rest of this project. Otherwise the new pavement could get damaged later on, and that could cost more money in repairs later for the applicant. The Board also agreed that they would like to see that this project is done correctly and safely. They also mentioned that Mr. Mahler said that he would not be attending tonight's meeting if Mr. Ali was not able to come as well.

6) RICHARD AND JENNIFER KERN, OWNERS

Requesting a 2' Height variance from Zoning Code Section 1252.04, which permits a 12' Height and where a 14' Height is proposed in order to approve an existing Accessory Structure (Playground Equipment); property located at 9381 Durian Circle, PPN 395-22-002, zoned R1-75.

The Board noted that nothing has changed with this request, and that the Association has still not given them a letter of approval. They recalled that the Association said that they would work with him on this for a resolution at the last meeting.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS
MINUTES OF MEETING
May 10, 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 May 10th, 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. I have minutes from our April 26th meeting. If there are no changes I will submit them as presented. We ask that each of the individuals 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.

NEW APPLICATIONS

1) ANTHONY JONES, OWNER

Requesting a 16' 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' Board on Board Fence; property located at 15288 Howe Road, PPN 397-07-022, zoned R1-75.

1) ANTHONY JONES, OWNER, Cont'd

Mr. Evans – First on the agenda tonight is Anthony Jones. Please come up to the microphone and give us your name and address for the record.

Mr. Jones – Anthony Jones, 15288 Howe Road.

Mr. Evans – Thank you, Mr. Jones you're here asking for a variance for a fence. Can you tell us why you are doing this, and how it fits into your plan for the house?

Mr. Jones – We just moved there a month ago. My wife is expecting in another month. We have dogs. The idea was that we wanted to fence in the backyard. We didn't realize there was a corner lot zoning issue. 16' off the sidewalk is my understanding.

Mr. Evans – Sixteen feet from the right-of-way.

Mr. Jones – That's a quarter of my backyard almost that we would have to put the fence right down the middle of. We're requesting the variance just because I'd like to utilize the full backyard. The fence would start 21' from the driveway so pedestrian traffic coming out of our driveway would be very visible. On the other side it's a one way street as you enter into the development. We're not 100% tied to 6', but that's what we're asking for to see what you'd say. That's our preference obviously.

Mr. Evans – The Ordinances in Strongsville were changed a couple of years ago which now are even more forgiving in terms of the layout in the yard. It allows people a little more freedom. Before it ran right with the building line of the house. So it has been remediated a little bit. We asked Council to take a look at it, but for us there are only four reasons that we have to grant variances. One of them is not that I'd like to take advantage of my backyard. Within that context, one of the problems that we have is that everyone would like to put the fence wherever they can to maximize the backyard. We've generally tried to stay at least 4' off the sidewalk when we've had circumstances to grant the variance. As we discussed in caucus, one of the problems we have is that if you were to line that fence to the back corner of your property, then your neighbor behind you will now be looking at your fence rather than green yard space. One of the things you might want to think about is how hard and fast are you for having a 6' tall fence, particularly board on board which is like a solid wall. You can find those anywhere in Parma because people put those up all the time, and we've tried to not go that route here. You could also propose putting a corner that is at an angle back there so instead of having a complete rectangle you have a cutoff corner there. That might expose more of the neighbor's view. So those are things you might want think about. Just so you know our limitations though, we do have to stay within those four reasons that we have to grant variances from the Code.

Mr. Jones – I'm definitely amenable to cutting off a corner for the sightline for the neighbor. Do you have a suggestion for the type of fence?

1) ANTHONY JONES, OWNER, Cont'd

Mr. Evans – I'll leave that up to my fellow Board members who are always willing to share their opinions.

Mr. Rusnov – I've had board on board Cedar. They are a maintenance nightmare, and then you have the issue of carpenter bees. They drill into the wood, and lay their eggs. There's also woody the woodpecker that loves them too. Just consider some other alternative that may be feasible because the maintenance issue may be a bit much, OK? Also consider what Mr. Evans said about the 4' off the sidewalk, and making it a little bit more aesthetically pleasing. Also the corner as he suggested, sounds good.

Mr. Jones – How would I go about revising the drawing that I've submitted?

Mr. Smeader – Who made the drawing for you?

Mr. Jones – I did.

Mr. Smeader – OK.

Mr. Rusnov – Redraw it. I would strongly suggest getting together with our illustrious Building Department. I'm sure Mr. Miller would be more than happy to help you with suggestions. Whatever type of fence you want, but remember that a board on board takes a lot work. If you could cut down from 6' tall to 5' tall, or even down to a 4' tall fence.

Mr. Jones – One of my main concerns is that we're about to have our first child. We're on a corner lot, and as he's growing up I don't want to worry about him running around the backyard in this day and age.

Mr. Rusnov – That's true, but if you went with a 4' or a 5', the chances of him being able to get over that fence until he's like 10 or 12 years old is very unlikely.

Mr. Jones – I'm worried more about other people.

Mr. Rusnov – Other people right. How about getting a dog with large teeth? That's an alternative

Mr. Jones – I have little dogs, but that's OK. The 6' isn't etched in stone. Board on board isn't etched in stone. We just didn't want to have to leave a quarter of our yard outside the fence. We want to take advantage.

Mr. Rusnov – Mr. Evans has made some suggestions, and you might want to consider speaking with Mr. Miller and our Building Department. If you can't get this thing finalized within the next two weeks you can always ask for an extension.

1) ANTHONY JONES, OWNER, Cont'd

Mr. Jones – Would white vinyl be good?

Mr. Rusnov – Well you'd have to check it out. Let's see white vinyl, do you have to paint it? No. Are the bugs going to get into it? No.

Mr. Jones – I'm asking if that's what you would recommend.

Mr. Rusnov – I can't recommend to you what type of fence. I'm just trying to point out some of the short-comings and some of the positives.

Mr. Smeader – I had a corner lot with a 4' board on board fence for years. It's a lot of staining. After a number of years, maybe close to 10 years we had rotting in the posts despite the fact that they were set into concrete. Depending on which company you're dealing with, typically they are going to give you free materials but the labor is costly. The 4' tall fence worked very well with dogs and kids. I'd highly recommend 4'. The board on board I personally like, but it's just a lot of work.

Mr. Jones – A lot of work.

Mr. Smeader – Because you have to do both sides too.

Mr. Rusnov – The older we get the lazier we get.

Mr. Smeader – For what it's worth, that's my advice.

Mr. Evans – We are familiar where the lot sits, we obviously know that Howe Road is heavy traffic. Even going into Pomeroy there's heavy traffic at times. I think with the layout of the lot, if you're willing to come in and work with reducing the height and cutting off a corner in the back, I think there are things that you can do to help us be able to grant you this variance. My suggestion would be to get together with the Building Department. We're going to advertise this the way you've requested it. So everyone within 500' of you, all your new neighbors, will get a notice about it. Some of them may have issues with it, I don't know. You may want to meet your neighbors, tell them what you're planning on doing, but then you can tell them that you've actually scaled it back since then; if that's what you choose to do. Get that plan to the Building Department so we have it before our next meeting, which will help us out. In the meantime, we'll all be out to see the property. I happen to drive by it every day so I'm very familiar with that house, and I've seen it for a long time. Your ability is to ask us for whatever you'd like. We have reasons we can grant variances while traffic is not among those things, it is certainly a consideration for that particular lot. Having young children, that's definitely something we can work with. With everything that you're asking for though, it would be difficult for us to justify.

1) ANTHONY JONES, OWNER, Cont'd

Mr. Jones – OK.

Mr. Evans – OK. Are there other comments?

Mr. Rusnov – No.

Mr. Smeader – I'm all set.

Mr. Evans – Got it? OK. The notice will go out tomorrow, so you may want to preempt neighbors soon by letting them know what you're talking about doing. I say this because it's going to say exactly the terminology that is in our agenda tonight. We'll invite you back here on May 24th for the public hearing. If you do decide to change things, talk with the Building Department, see what they have to say, then get us a sketch again of what you're planning on doing. That will certainly help us for the next meeting. OK? Very Good. You're welcome to stay for the rest of the meeting, but most people duck out as soon as possible.

Mr. Jones – I think I'm going to do that as well. Thank you.

Mr. Evans – Thank you.

PUBLIC HEARINGS

2) MARY K. ROCK, OWNER/Kelly Faught of Bricks and Stones, Representative

Requesting a 7' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 10' Rear Yard Setback and where a 3' Rear Yard Setback is proposed in order to install a 37' x 22' Paver Patio; property located at 21414 Woodview Circle, PPN 392-10-110, zoned R1-100.

Mr. Evans – Item number two on the agenda is Mary Rock with Kelly and Jack Faught of Bricks and Stones. Please come up to the microphone and give us your name and address for the record.

Ms. Faught – Kelly Faught, 2117 Pinewood Drive, Brunswick, Ohio.

Mr. Evans – Thank you. We're here because we've moved to public hearing for the evening. You're requesting to put in a paver patio. You talked about it at the last meeting. We've all been out to look at it. There are definitely some topographical concerns with the yard that will be addressed by putting the paver patio in. Gentlemen, do you have any questions, comments, or observations?

2) **MARY K. ROCK, OWNER/Kelly Faught of Bricks and Stones, Representative,**
Cont'd

Mr. Baldin – The only comment I have is that it looks like it'll be a great improvement to what is there. I think it's a dangerous backyard at the present time. You are going to do an awful lot. Between what you told us last time, and now looking at the booklet here of what you're planning to do, and I think it's going to be one heck of an improvement. God bless you.

Ms. Faught – Thank you, and you will be invited.

Mr. Baldin – Oh! Very Good!

Mr. Evans – Anything else?

Mr. Rusnov – No that'll do it.

Mr. Evans – 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 7' Rear Yard Setback variance from Zoning Code Section 1252.16 (e), which requires a 10' Rear Yard Setback and where a 3' Rear Yard Setback is proposed in order to install a 37' x 22' Paver Patio; property located at 21414 Woodview Circle, PPN 392-10-110, zoned R1-100.

Mr. Smeader – Second.

Mr. Evans – We have a motion and a second, may I 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. Then you are all set. Several of us have these, if you would like them back you can have them. They are very nice, but you may use them for other things. So there you are.

Ms. Faught – Thank you very much.

Mr. Baldin – Good luck.

3) BENJAMIN AND DAWN IHDE, OWNERS/Robert Parken, Representative

- a) Requesting a variance from Zoning Code Section 1252.15 to permit two Accessory Structures where one Accessory Structure is permitted;
- b) Requesting a 720 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 480 SF Floor Area and where a 1,200 SF Floor Area is proposed in order to construct an Accessory Structure;
- c) Requesting a 6' Height variance from Zoning Code Section 1252.04 (g), which permits a 15' Height and where a 21' Height is proposed in order to construct an Accessory Structure; property located at 18365 Howe Road; PPN 397-33-013 zoned R1-75.

Mr. Evans – OK. Item number three on our agenda is Benjamin and Dawn Ihde. Please come up to the microphone and give us your name and address for the record.

Mr. Ihde – Ben Ihde, 18365 Howe Road.

Mr. Evans – Who's your counter-part?

Mr. Parkin – Rod Parkin, 20431 Scotch Pine Way, Strongsville, Ohio.

Mr. Evans – Alright. Mr. Ihde, you heard us in caucus talking about several things related to this. We have some concerns because of the size of the building and in particular the height. I recognize that we have buildings all over this City. There are lots and lots of storage buildings and sheds and things of that nature. Many of them are on larger parcels. Some of them are on smaller parcels. We've tried to stay as close to the Code as we can. You heard at the last meeting that we did some horse-trading and negotiating with Mr. Fijalkovich about his because he wanted a huge one, and we got him down to what we thought was a reasonable size. You've heard our concerns. We're happy to act on whatever you wish. So we can act on what is in the agenda if you wish. We're more than happy to do that. We're also happy to entertain any redirection that you may have in terms of changing the variance request.

Mr. Ihde – We did make some changes currently. I wanted to reassess my situation. The last time we were here we spoke about somethings you didn't like about how large the structure was. I've heard those concerns. We went back, we dropped the ceiling by 4.5' to get around the whole commercial aspect, the lift, and all of that. I heard you. I went and talked with all of my neighbors. I have six different people that have signed a document for me that I brought with me today. It states that they understand exactly what size it is, where it is, etc. So all of my direct neighbors on each side, and across the street are all fine with that. I don't need or want to do that, I don't want that in my neighbor's backyard. I'd be the first person at the meeting saying you can't build a shop in my backyard. I think some of you have been to my home.

3) **BENJAMIN AND DAWN IHDE, OWNERS/Robert Parken, Representative, Cont'd**

Mr. Evans – We've all been there.

Mr. Ihde – I have a nice house, and I want to keep it that way. This building is going to look like my house, it's going to act like my house. I'm not that guy. That said, I do want to stay the square footage, unfortunately. I have four vehicles, a trailer I have to house, yard implements, and all that. I'm currently paying for storage for one of those vehicles. I park my regular vehicles outside as it is. Those are also nice vehicles so those are getting ruined all year. My wife and I aren't enjoying the attached garage that we have. So I just want to tuck away these vehicles, be cognizant of my neighbors, and the fact that I am in the yard with cars. I think this would be an improvement to get it all away from the street, and away from where people can view it. Right now I have cars all over the driveway. In some of my neighbor's cases, they keep their cars in the woods. I want to be upfront and honest about what my intentions are. I wouldn't expect anything more from anyone else. That's my story, I have that document I can give you, and we've made some large concessions. I didn't have a whole lot to add to that. The footprint I kind of need though. If I get too much smaller than that, it'll defeat the purpose of what I'm doing. I'll still end up with vehicles in storage or parking in the driveway.

Mr. Evans – I know that one of our concerns continues to be the 21' height. That's still 6' higher than what the Zoning Code is. Where we have allowed buildings to be larger than what the Code is, and larger pieces of property can have larger buildings, but we've tried to maintain the height at 15'. That way it's not a really large building. Obviously height makes it much more visible and prevalent than if it's a shorter building. Are there any comments or questions from Board Members? We did establish at the last meeting that if you were allowed this variance that you would have to put in a hard surface driveway to the garage.

Mr. Ihde – Yes, and I've agreed to that, and that's another large expense that I'm willing to do.

Mr. Baldin – Mr. Ihde, is the size 40' by 26'?

Mr. Ihde – Its 30' by 40'.

Mr. Baldin – That's a lot of square footage. How many vehicles do you feel you can put in there?

Mr. Ihde – Six. So that would be barely with being able to open the doors. 30' would put three cars width, and barely enough room to open the doors and move them out. I have a four and a trailer, and I also have parts for those vehicles as well.

Mr. Baldin – You have a three car garages besides, and you have the other shed back there as well.

Mr. Ihde – That's correct.

3) **BENJAMIN AND DAWN IHDE, OWNERS/Robert Parken, Representative, Cont'd**

Mr. Baldin – I have a little problem with the size. That's the thing I'm having a problem with. The height I could probably live with, the 21' because you did come down; but as far as the overall floorplan, it's a little large for me for that neighborhood. That's all I have to say.

Mr. Ihde – OK.

Mr. Parkin – If I could say something regarding the height. Mr. Miller suggested at the end of the last meeting to take that pitch down. Any pitch from 1-12 is considered a low-slope pitch, and there's a lot of material and excess moisture prevention that goes into having a roof that pitch. So we went to a 5-12 which actually reduces the overall height. If you go from a 6-12 to a 5-12 the variance would actually be a 5.6' variance. I know I'm splitting hairs over half a foot, but then you've got your ridge vent and your shingles, and roof sheathing, so to call the variance 6' is probably more than it should be. It would actually be 5.6'. So we talked at length after we walked out of here at the last meeting, and what Ben was willing to concede was that he'll go without the lift. I don't need the 16' ceiling. So we made one concession there. What we're trying to do is find a common ground. We're taking away things to be in agreement. He's taken out the lift, we've gone to a 12' wall, Mr. Miller made the suggestion of the pitch, and now we've gone to a 5-12 pitch which is about as low as you can go without having to do all the additional moisture protection for a low sloped roof. We're trying hard to come to a common ground. We want to make these concessions. Yes, it's a building that you're reluctant to say that the size is acceptable, but we're trying everything we can to meet in the middle somewhere.

Mr. Evans – One of the problems that we have is that where we have approved variances before for larger buildings with the idea that all of these vehicles are going to get stored in there, somehow that never happens. Everyone on this Board, I think, would say that we've had way too many experiences where we've allowed the building so they could get all that inside and then they can finally use their garage for their personal vehicles and things. Somehow though it just never happens. Again we're in a position that when we set precedent we like to think that it's all going to work out. That's why we have a concern about you having a lift in the garage. Because you may only be there for 20 years, and someone after you comes along and wants to run a business using your building with the lift. So we are glad to hear that the lift is out of the picture. I guess what I'd like to know now is why you still need 12' walls then? You have the trailers, and you have the vans...

Mr. Ihde – Yes, so the vehicles, some of them are 7' tall on their own. Still if I'm going to work on them at all, even just putting them on jack stands I'll need some extra height. That was part of my concession. I've built every vehicle I've ever built in the 25 years on jack stands, so you can do it. I thought that was reasonable. In my garage, I have barely enough room to lift them up 3' on the jack stands and there's barely any room to get the wheels off of them then. That's why I spent the time with my neighbors. It was kind of a good exercise to be honest with you to make me go out and do that, but I spent time in people's homes. I spent time looking people eye-to-eye,

3) BENJAMIN AND DAWN IHDE, OWNERS/Robert Parken, Representative, Cont'd

Mr. Ihde continues - shaking their hands, and meeting their children. I know that the next guy is the next guy. I understand that. I lived in my last house for 17 years. It was 900 SF with no air conditioning. So I'm not that guy, and I know that's not the perfect excuse, but these people were really open to that. They couldn't see my backyard, they said. It is far off the street. My direct neighbors, left and right, are the ones that can see it, and they couldn't care less. One of them sent you an email, and he signed my document as well. Without that size, I lose what I'm trying to do.

Mr. Parkin – The 12' wall height allows for a 10' panel door. They are in 2' increments for the overhead door. You probably know that, but it's worth noting I suppose.

Mr. Baldin – I have one other comment. You're still going to have two auxiliary structures, and you're really only supposed to have one. That's a problem. You're talking about putting the one that is there now behind the new one that you want to build, right? You're going to build this property and put it off the property line?

Mr. Ihde – Yes correct.

Mr. Baldin – Like it's supposed to be.

Mr. Ihde – That's correct. As I said, I bought the house with that building there, and I will say that the building is a possible concession. If I can keep the footprint of the new building, that is. I could put the tractor in the garage, and the stuff I have in there in the new building. I could make that work. Then I absolutely have to keep the footprint of the new building though.

Mr. Baldin – Well again that X-Y problem is the footprint. Is there any way you could consider knocking that down a little bit since you have the other accessory building? You're only allowed one, now you've got to have two, plus you have a three car garage? You know? That's a lot.

Mr. Evans – Let me ask the question another way. So if the footprint stays the way as you have it requested here for the new building, then eliminating the extra building is something that you're willing to consider?

Mr. Ihde – Yes, and I would lose 200 SF from that. You could put a car in that. Actually that building was designed to put a car into it. Yes though, I would be willing to lose that piece. I think that would maybe be nicer for the property as well to have the one extra structure that matches my home. I'll have a driveway that goes to it, and I'll be able to fit everything I need in there. Then I won't have all these hodge-podge buildings on my property. I'll put it where it's supposed to be. I'll follow all those rules. I think that's an improvement because that building right now has gravel going to it, and it's not in the right place. My neighbor doesn't care about that, but it's

3) BENJAMIN AND DAWN IHDE, OWNERS/Robert Parken, Representative, Cont'd

Mr. Ihde continues - wrong. I knew that when I bought the house. Everyone knows you can't put a structure on the property line like that.

Mr. Baldin – You could probably sell that extra building. Someone could probably pick that up and move it someplace else.

Mr. Ihde – It was brought there on a flat bed. I talked the last owner. He might even be willing to buy it to be honest with you. So I would consider that as a concession if you are willing to keep the plans I have right now. I'll be willing to do that.

Mr. Baldin – Thank you.

Mr. Evans – Are there other comments?

Mr. Rusnov – So in other words, you're willing to raise the other garage, and that would drop your SF variance...

Mr. Evans – No. The variance is for the additional new structure.

Mr. Smeader – It eliminates (a).

Mr. Rusnov – It's just for the additional building. OK.

Mr. Parkin – We'll just completely eliminate that other piece of the variance request.

Mr. Baldin – It'll just be one structure.

Mr. Parking – One structure.

Mr. Evans – OK. So (a) goes away, and (b) and (c) would stay the same.

Mr. Ihde – Right, that's what I'm asking for that the SF stay the same, and then we'll lose that extra building. It's an odd size and shape compared to what I'm trying to do anyway.

Mr. Evans – OK. No other comments? 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. Just have a seat gentlemen in the first row for a moment.

Mr. Door – David Door, 20904 Albion Road. I'm a car guy so I know how it is. I just met him two weeks ago, but he's got some pretty nice vans. He's got a Dodge Hellcat is a \$100,000 now so I think he should have this stuff inside. That's my two-bits.

3) **BENJAMIN AND DAWN IHDE, OWNERS/Robert Parken, Representative, Cont'd**

Mr. Evans – OK. Thank you. Is there anyone else 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.

Ms. Disanti – Lindsey Disanti, 18563 Howe Road. So they are neighbors of ours. We just met tonight. We have also applied for a variance moons ago, I don't know about five or ten years ago to put up a large structure in our backyard. We were allowed a 30' by 30' structure, but we chose not to go forward with it. Some of you have been to our property over the years and you know that we have cars all over the place too. One of the reasons I wanted the building was to make it so no one had to look at it including myself looking out my back window. I'm in support of it, I think that having a structure so you can house these things to make everyone's yard look better is a good thing. I just wanted to say that.

Mr. Evans – OK. Thank you for speaking. We appreciate it. Is there anyone else who would like to speak for the granting of the variance? Is there anyone here who would like to speak against the granting of the variance? Hearing none and seeing none, I will consider the public hearing now closed. Gentlemen is there anything else you'd like to direct to the applicant.

Mr. Rusnov – If you're willing to raise that property, the first building that's there, variance request (a) which says to permit two accessory structures where one accessory structure is permitted. We'd strike that one?

Mr. Smeader – It goes away.

Mr. Rusnov – It goes away, big red "X". Then the rest stays the same along with a hard surface driveway to it, plus the proposed building would conform to the Code for the sideline setbacks.

Mr. Ihde – Yes.

Mr. Rusnov – OK.

Mr. Evans – Are there other questions or comments? OK, then I will now entertain a motion.

Mr. Rusnov - I make a motion to approve a request for a 720 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 480 SF Floor Area and where a 1,200 SF Floor Area is proposed in order to construct an Accessory Structure; as well as approve a request for a 5.6' Height variance from Zoning Code Section 1252.04 (g), which permits a 15' Height and where a 20.6' Height is proposed in order to construct an Accessory Structure; property located at 18365 Howe Road; PPN 397-33-013 zoned R1-75, subject to a hard surface driveway to this auxiliary structure along with conformance to the City Codes as far as Sideline Setbacks, as well as the removal of the existing accessory building.

Mr. Kolick – Accessory building because his three car garage will be staying.

3) **BENJAMIN AND DAWN IHDE, OWNERS/Robert Parken, Representative, Cont'd**

Mr. Evans – I also want to make sure that you're OK with the 20.6'.

Mr. Ihde – Yes.

Mr. Evans – OK.

Mr. Parkin – I'm going to have the guy from the lumber company to go out and measure the truss.

Mr. Evans – OK. I just want to be sure.

Mr. Rusnov – So what I said was correct.

Mr. Evans – Yes. That's OK. I have a motion, I'll now entertain a second.

Mr. Smeader – Second.

Mr. Baldin – One moment, can I add the fact that applicant has stated in the past that he will not be running a business out of that sized structure.

Mr. Ihde – Absolutely, and the documents that I had my neighbors sign specifically states that.

Mr. Evans – He has said that. If you'd like to submit that document, you may, but then it becomes part of the official record. We have a motion and a second, may I have a roll call please?

ROLL CALL:

HOULÉ – NO
EVANS – YES
SMEADER – YES
BALDIN – YES
RUSNOV – YES

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. You indicated that you were aware of the email that a neighbor had sent about the drainage. So as you are building this new building, please keep that in mind. The Building Department is also aware of that so when you're doing drainage on that there is obviously going to be a significant roof area, we want to make sure that drainage goes out to the back so it doesn't exit to the side properties.

Mr. Miller – Mr. Parkin you can get your revised plans to us before the 20 day expiration.

Mr. Parkin – Excellent. That's helpful, thank you.

Mr. Miller – You can get them in to us.

3) **BENJAMIN AND DAWN IHDE, OWNERS/Robert Parken, Representative, Cont'd**

Mr. Parking – Thank you.

Mr. Evans – OK? So you're all set. The only thing is to remember in terms of your wife that you said under oath that you were going to get all your vehicles and stuff into that building.

Mr. Ihde – I won't be living there much longer if this doesn't happen to be honest with you.

Mr. Evans – Alright, we're all set then, thank you.

4) **DAVID ANDERSON, OWNER**

Requesting a 13' variance from Zoning Code Section 1252.17, 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 6' Solid Vinyl Fence; property located at 13548 Richards Drive, PPN 392-33-078, zoned R1-75.

Mr. Evans – Alright then, item number four on our agenda is David Anderson. Please come up to the microphone and give us your name and address for the record.

Mr. Anderson – Dave Anderson, 13548 Richards Drive.

Mr. Evans – Thank you. You're here because you're requesting a variance. At the last meeting we talked about that section of fence. You're replacing the split-rail so it's not running the entire property length or anything.

Mr. Anderson – Correct.

Mr. Evans – We talked about the Setback from the sidewalk, and you heard us in caucus talking about splitting hairs often times when trying to put things where we think they should be. You were proposing that it be only 3' off the sidewalk roughly speaking. We were saying in caucus that we would prefer to keep it at 4' from the sidewalk. We asked the question in caucus about moving the invisible fence. What are the options in terms of doing that?

Mr. Anderson – I'd choose to stay at three. The existing split-rail fence is at 2'. So it's still coming off the sidewalk a foot further than the existing fence that's been there for multiple years. Again because of the shallow and odd shaped lot, every foot really makes a big difference on that section of the property.

Mr. Evans – Other questions?

Mr. Rusnov – You are or you are not going to move the invisible fence?

4) DAVID ANDERSON, OWNER, Cont'd

Mr. Evans – You'd prefer not to.

Mr. Rusnov – Prefer not to? OK.

Mr. Anderson – Prefer not to. Yes.

Mr. Smeader – That doesn't even come into play based on where you want the proposed fence to be is that correct?

Mr. Anderson – If it stays at three foot it will not be required.

Mr. Evans – Right.

Mr. Rusnov – OK.

Mr. Evans – We did discuss in caucus that this is a very unusually shaped lot. There is a topographical situation that comes into play on this. That is one of the grounds we have to use when looking to approve variances. Are there other questions or comments?

Mr. Smeader – No.

Mr. Rusnov – No.

Mr. Evans – 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 13' variance from Zoning Code Section 1252.17, 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 6' Solid Vinyl Fence; property located at 13548 Richards Drive, PPN 392-33-078, zoned R1-75.

Mr. Smeader – Second.

Mr. Evans – Thank you Mr. Rusnov and Mr. Smeader. 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

4) DAVID ANDERSON, OWNER, Cont'd

Mr. Evans continues - that time has passed. You'll want to have your plan into the Building Department, but you are all set to go.

Mr. Anderson – Great. Thanks so much.

ANY OTHER BUSINESS TO COME BEFORE THE BOARD

5) CLARK OIL aka YEY LLC/ Eli Mahler, Representative

- a) Requesting a variance from Zoning Code Section 1274.06, which prohibits the enlargement or structural alteration of a nonconforming building or use except to make it a conforming building or use and the applicant is proposing the demolition of the current Gas Station/Convenience Store and construction of a new building;
- b) Requesting a .64 acre Lot Area variance from Zoning Code Section 1258.08, which requires a 1 acre minimum Lot Area and where a .46 acre Lot Area is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- c) Requesting a 35' Lot Width variance from Zoning Code Section 1258.10, which requires a minimum Lot Width of 150' and where a 115' Lot Width is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- d) Requesting a 5' Side Yard Building Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Side Yard Building Setback and where a 5' Side Yard Building Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- e) Requesting a 5' Rear Yard Building Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Rear Yard Building Setback and where a 5' Rear Yard Building Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;
- f) Requesting a 10' Side Street Parking Setback variance from Zoning Code Section 1258.11 (b) (3), which requires a 20' Side Street Parking Setback on a corner lot and where a 10' Side Street Parking Setback (North) is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store;

5) CLARK OIL aka YEY LLC/ Eli Mahler, Representative, Cont'd

- g) Requesting a 10' Front Parking Setback variance from Zoning Code Section 1258.11 (a), which requires a 75' Front Parking Setback and where a 65' Front Parking Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; property located at 15387 Pearl Road, PPN 397-01-025, zoned General Business (GB).

Mr. Evans – Next on our agenda is Clark Oil. Do we have a representative here tonight? Hearing none and seeing none, gentlemen should we act on this tonight? Should we pass on this tonight or leave it out there?

Mr. Smeader – What does Mr. Kolick recommend?

Mr. Kolick – Kathy have we heard anything from either the Architect or Mr. Ali that they were not going to be here tonight?

Ms. Zamrzla – It was my understanding that they were, but that was a couple of weeks ago.

Mr. Kolick – We asked them to let us know if they were not coming. My suggestion is to go ahead and act on it. You could make it subject to the condition that we've said. We've had the public hearing. It's not like they weren't here for the public hearing. They were here. I know from the City's standpoint, we'd like to see this property get cleaned up. I wouldn't like to see it keep getting delayed. I don't think that's serving any purpose. If you're in favor of it with the condition we spoke about in caucus, then it would probably be appropriate to act on it.

Mr. Evans – OK. So I would say we can go ahead do the action on it. That would be predicated to replacing the canopy then as part of the project. That would be a condition.

Mr. Baldin – Before we take this vote, Mr. Kolick and Mr. Miller, has the City received complaints or problems with this property over the years?

Mr. Kolick – I can answer that. We have them in court right now to repair a number of these items. In addition to that, they added a whole section to the building without any permits at all.

Mr. Rusnov – Wonderful.

Mr. Kolick – So, yes, we've had a number of problems with the property. I think, Mike, it's still in Mayor's Court right now.

Mr. Miller – Yes.

Mr. Kolick – One or the other. So yes.

5) CLARK OIL aka YEY LLC/ Eli Mahler, Representative, Cont'd

Mr. Baldin – Thank you.

Mr. Rusnov – So why would we, after this track record, why would we act on this thing now? Just to get it over with and put stipulations to it?

Mr. Kolick – If they were to do a lot of this work, they would clean up a lot of the violations that currently exists.

Mr. Rusnov – OK. That are there.

Mr. Kolick – We've been on their case because we want to see a safer structure there then what is there currently.

Mr. Rusnov – OK.

Mr. Evans – I think eliminating one of the driveways goes a long way with the safety aspects. The concern would be that if we approve this given the track record, will he honor those things? We don't know, but at least then we'll have put in place the conditions necessary to make the adjustments.

Mr. Rusnov – OK. Just curious. Thanks.

Mr. Smeader – Aside from the discussion of the construction of a new canopy concurrent with the new construction of the retail building, so then would we also predicate it with the removal of one of the driveways? If so, do we need to identify which of the driveways they are to remove?

Mr. Kolick – We won't need to do that because we have a drawing that we're acting on subject to that drawing that is part of the application. It shows which driveway is already being removed. You don't need to make it a condition. It's already in the plans.

Mr. Smeader – OK. Thank you.

Mr. Baldin – I think without any representation being here, that tells me that they are not too concerned.

Ms. Zamrzla – Mr. Baldin, in all fairness to the applicant, it has been a couple weeks since I talked with them, perhaps the applicant is out of town again.

Mr. Baldin – Could be.

5) CLARK OIL aka YEY LLC/ Eli Mahler, Representative, Cont'd

Mr. Kolick – Again we've had a history of this individual delaying and delaying. So I don't think any further delay is helping us as a City to get this thing done. That's what I'm looking at, that any delay may be whether it's intentional or unintentional on their behalf. Even to move things along in the court, it's not that we try to cite people to get fines, we cite them to come in and clean up the problems. If we don't act on this, I can see him going back to court and saying that since he had no action by the City on our matters yet he hasn't done anything. Even if it's their fault that they aren't here, I don't want them to use that as an excuse for not cleaning up the property.

Mr. Evans – OK.

Mr. Rusnov – OK.

Mr. Evans – With that in mind, I'll entertain a motion.

Mr. Rusnov – I make a motion to approve a request for a variance from Zoning Code Section 1274.06, which prohibits the enlargement or structural alteration of a nonconforming building or use except to make it a conforming building or use and the applicant is proposing the demolition of the current Gas Station/Convenience Store and construction of a new building; also approve a request for a .64 acre Lot Area variance from Zoning Code Section 1258.08, which requires a 1 acre minimum Lot Area and where a .46 acre Lot Area is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; also approve a request for a 35' Lot Width variance from Zoning Code Section 1258.10, which requires a minimum Lot Width of 150' and where a 115' Lot Width is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; also approve a request for a 5' Side Yard Building Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Side Yard Building Setback and where a 5' Side Yard Building Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; also approve a request for a 5' Rear Yard Building Setback variance from Zoning Code Section 1258.11 (a), which requires a 10' Rear Yard Building Setback and where a 5' Rear Yard Building Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; also approve a request for a 10' Side Street Parking Setback variance from Zoning Code Section 1258.11 (b) (3), which requires a 20' Side Street Parking Setback on a corner lot and where a 10' Side Street Parking Setback (North) is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; also approve a request for a 10' Front Parking Setback variance from Zoning Code Section 1258.11 (a), which requires a 75' Front Parking Setback and where a 65' Front Parking Setback is proposed in order to replace a Gas Station/Convenience Store with a 2,500 SF Gas Station/Convenience Store; property located at 15387 Pearl Road, PPN 397-01-025, zoned General Business (GB), subject to the removal of the existing canopy, and the construction of a new canopy concurrent with the construction of the new structure.

5) CLARK OIL aka YEY LLC/ Eli Mahler, Representative, Cont'd

Mr. Kolick – Excuse me a second, I think our math is wrong on item (b). It should read a .54 acre lot area. That's what Mr. Houlé just pointed out to me. I believe he's correct. We require an acre, and they've got .46 acres, so that would make it a .54 acre Lot Area variance. The agenda was incorrect. You can make that correction.

Mr. Rusnov – The correction is that there is .54 acres not .64 acres.

Mr. Evans – We'll need you to read that entire thing again please.

Mr. Rusnov – Have you ever been stabbed with a pencil?

Mr. Smeader – Second.

Mr. Evans – Just kidding. Thank you Mr. Rusnov and Mr. Smeader for the second. May I have a roll call please?

ROLL CALL:	SMEADER – NO	MOTION DENIED
	BALDIN – NO	
	RUSNOV – NO	
	HOULÉ – YES	
	EVANS - YES	

Mr. Evans – So the variance request have been declined. Mr. Kolick will ask for Findings of Facts and Conclusions of Law. Then we will notify the applicant accordingly.

6) RICHARD AND JENNIFER KERN, OWNERS

Requesting a 2' Height variance from Zoning Code Section 1252.04, which permits a 12' Height and where a 14' Height is proposed in order to approve an existing Accessory Structure (Playground Equipment); property located at 9381 Durian Circle, PPN 395-22-002, zoned R1-75.

Mr. Evans – Item number six on our agenda is Richard Kern. Please come up to the microphone and give us your name and address for the record.

Mr. Kern – Good evening Rich Kern, 9381 Durian Circle, Strongsville.

Mr. Evans – Thank you. You're back before us requesting the height variance on the playground. You need to bring us up to speed on what has transpired since our last meeting.

6) RICHARD AND JENNIFER KERN, OWNERS, Cont'd

Mr. Kern – So this has really become more of a personal issue with the Board now. I was on the Board at one time, and the two gentlemen that were here at the last meeting I often didn't agree with them. But now I followed all their rules, and went through everything they wanted me to do. Now what they're saying is that the installation of the playset is in the side yard of the home. I have two topographical maps that I can show you if I can approach that show the structure is not in the side yard. It is in the backyard behind the fence in front of the easement. It's clearly in the backyard.

Mr. Evans – We've all been out to see it, even though it's been a couple weeks.

Mr. Kern – OK. Given the fact that there is no play area for the community in that subdivision, I would like to keep the structure where and as it is. Because it's mortise and tenon the way it's constructed, if I lower it on one end which I did try to do, I'm afraid it's going to snap one of the tenons. Therefore it wouldn't be stable for the kids.

Mr. Evans – OK. So when you left the previous meeting you said you were going to lower it. Now you've determined that wouldn't be a feasible way to react to this situation. You realize that by us granting a variance, it does not absolve you from responsibility to your Homeowners Association. They may still enjoy civil action against you based on the Covenants and Restrictions because of the fact that you did not follow the processes that were outlined in those documents. So if we say no, then at that point you'd have to do something with the structure to bring it down to the 12' height from the 14'. Other Board members, do you have questions for Mr. Kern?

Mr. Smeader – What is the gist of the conversation that you've had with Board members since you all last appeared here?

Mr. Kern – So I went ahead and filled out all the applications, and what they wanted me to do. They said they were going to deny it, and now they want to have an appeal. So I have to go again in front of the entire Board and have an appeal and basically plead my case with them again.

Mr. Smeader – OK. Thank you.

Mr. Rusnov – Wow.

Mr. Houlé – It's been quite a while now since I've been out there too, but if I recall correctly you have a pool in the back yard as well.

Mr. Kern – Correct.

Mr. Houlé – It was my interpretation too when I was out there that the playground was on the side yard then.

6) RICHARD AND JENNIFER KERN, OWNERS, Cont'd

Mr. Rusnov – It's on the right as you face the house.

Mr. Houlé – Right, it's definitely not in the backyard at all.

Mr. Kern – It is in the backyard. If you look at this map here, the way the house is positioned in the cul-de-sac, if you were to draw a straight line, I guess I'm talking semantics, but it is technically in the backyard. It's significantly behind that fence. I couldn't infringe on that 30' easement. I couldn't put it too close to the home. I believe we're talking about semantics if you consider the way the house is angled on the cul-de-sac.

Mr. Kolick – Mr. Miller, we haven't found that they are in any violation of any of our side yard setback requirements?

Mr. Miller – No Mr. Kolick, in fact by the definition of the side yard from the Ordinances, it is not in the side yard. It is indeed in the rear yard.

Mr. Kolick – OK. For our purposes, and again, the Homeowner's Association may be a different thing as we said, but for us he's OK. You just need to vote on the height variance. That's all we have. As you know in the past, we always get input from the Homeowner's Association, but as I've mentioned many times the Board does not enforce their Covenants and Deeds. We only enforce our own Ordinances, and we only look at those standards, not what their Covenants and Deeds say. As the Chairman has said though, Mr. Kern, that's a separate issue that you have with them, just so you understand that. That is regardless of what we do today.

Mr. Evans – Our problem does however become that according to the Strongsville Codified Ordinances we're only given four criteria for making decisions on variances. Topographical is one that we rely on often times. There are several others. In this particular situation, I'd be hard pressed to look at those four criteria and determine that one of those four meet a criteria for us to be able to approve a variance for you here. That's my opinion. The request for the variance from 12' to 14' has to rely on one of those grounds that we have for granting a variance. It can't be economic, it can't be out of convenience; those four criteria are what we're supposed to use in this context. That's why as we grant variances we'll often make reference to items that may pertain to a particular situation. Are there any other comments or questions?

Mr. Rusnov – No.

Mr. Baldin – No.

Mr. Kern – If I could add, I'm not sure what those four criteria are either, but there are numerous swing sets in the development that are over the 12'.

6) RICHARD AND JENNIFER KERN, OWNERS, Cont'd

Mr. Evans – All of those technically should have had a variance granted as well because that's what we have to work with.

Mr. Miller – Mr. Chairman, the reason why this applicant is before this Board is because we received a complaint. The department as a rule does not enforce the construction of playground equipment.

Mr. Evans – OK. Is there anything else? I guess since we've already done the public hearing, I'll then entertain a motion.

Mr. Rusnov - I make a motion to approve a request for a 2' Height variance from Zoning Code Section 1252.04, which permits a 12' Height and where a 14' Height is proposed in order to approve an existing Accessory Structure (Playground Equipment); property located at 9381 Durian Circle, PPN 395-22-002, zoned R1-75.

Mr. Smeader – Second.

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

ROLL CALL:	BALDIN – YES	MOTION DENIED
	RUSNOV – NO	
	HOULÉ – NO	
	EVANS – YES	
	SMEADER - NO	

Mr. Evans – Your variance has been denied so then the question of whether or not it meets City Code then is that it does not. Without a variance you will be required to bring the structure down to a 12' height. That's irrespective of whatever the Homeowner's Association may determine. You heard that Mr. Miller explained that according to the City Code, the playground set wouldn't be in the side yard. It would be in the backyard. So that may be of some value to you. At this point though, your variance request for the height has been denied by the Board.

Mr. Kern – So I'm not sure how this will have to work.

Mr. Kolick – Contact the Building Department, and they'll work with you for a reasonable period of time for you to make the adjustments that you need to make. It can't be indeterminate though.

Mr. Kern – Sure.

Mr. Kolick – Just contact them, they won't be up there tomorrow citing you. I can assure you of that.

6) **RICHARD AND JENNIFER KERN, OWNERS, Cont'd**

Mr. Evans – Given the situation, we understand, but a reasonable amount of time to get it into compliance would be acceptable.

Mr. Kern – OK. Thank you.

Mr. Kolick – So you'll need Findings of Fact and Conclusions of Law on both of these items.

Mr. Evans – Yes, Mr. Kolick that would be appreciated. Thank you, Mr. Kern.

Mr. Kern – Thank you. OK. Is there anything else? Then we are adjourned.

Signature on File

Mr. Evans, Chairman

Signature on File

Kathryn A. Zamrzla, Sec'y

May 24, 2017

Approval Date