

MINUTES OF MEETING  
BOARD OF ZONING AND BUILDING APPEALS  
AUGUST 20, 2020

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Members Present: Wolf, Christ, Brandt, Farrell, Pempus

Presence Noted: Andrew Bemer, Law Director  
Raymond Reich, Building Commissioner  
Kate Straub, Planning and Zoning Coordinator

Council Members Present: Christina Morris, At-Large Council Member

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Mr. Pempus opened the August 20, 2020 Virtual Special Meeting of the Board of Zoning and Building Appeals at 6:00 p.m. via ZOOM. He announced that the variances for John Fox's project at 19242 Telbir Ave. has been withdrawn from the agenda.

**1. JESS WIEDEMER – 20742 Beachcliff Blvd. – PUBLIC HEARING – Variance to construct a new single family residence with a height of 27' – 11" vs. 25' maximum height permitted (Section 1153.09(a)) and a Variance to construct a new single family residence with an attached four-car garage vs. the total number of accessory parking spaces provided for any dwelling unit shall not exceed the spaces required by more than 50 percent (50%) (Section 1187.21(a)), and a Variance to locate 3 air conditioner condensers and 1 generator in the front yard vs. air conditioner condensers and generators are not permitted in the front yard (Section 1153.15(k)(1)(2)).** Mr. Steve Schill, Architect, is in attendance with Gary Ebert, Attorney for Jess Wiedemer, to present the variance requests. Also in attendance is Ralph Daugstrup, 20756 Beachcliff Blvd., Robert Krueger, 20728 Beachcliff Blvd. and Jeanne Conway, 20762 Beachcliff Blvd., all neighbors of the applicant

Mr. Christ read the meeting notice, which contains a list of names of the parties who received it. The parties were sworn in. Mr. Ebert introduced Steve Schill to address the 3 variance requests and the changes they made since the last meeting. Mr. Schill explained that he submitted a letter to summarize everything they have done with the plans since they were tabled at the last meeting. They have dropped the roof pitch from a 9/11 to a 7/12 pitch, which changes the mean height from 29' – 11.5" to 27' – 11". The overall height of the ridge dropped 3' – 4 5/8". He has included a landscape plan as 3D renderings to show how concealed the garage and the motor court are from the street. They are locating the air conditioner condensers and generator in the front yard behind a screen wall, and he included an overall plan that shows the units behind the screen wall. He said that the units are very quiet and they are not visible from the street. Mr. Pempus said that the Board received an email with detail regarding the decibel ratings for the units earlier today. Mr. Schill confirmed that and said that as a response to one of the Board member's request, he also showed more detail of the lookout room. There is no additional height needed to accommodate the lookout room.

Mr. Pempus said that he does not have a problem with the proposed location of the units behind a screen wall and he thinks it's a unique solution. Mr. Krueger spoke and said that he is the neighbor who resides in the home that is located adjacent to the side where the

condensers will be placed. He said that it is uncomfortable for him to be asked to evaluate the Code of Rocky River. He suspects that the reason they are written as they are is because there is good reason why air conditioner units are not allowed in the front or the side of the house. He said that the units will be placed between the front wall of the house and the screen wall in front of the condensers and generator, and the location between 2 walls will magnify the noise from the units, making a bad situation worse. He asked about the hardship as to why they cannot place the units in the back of the home like every other house in Rocky River. Mr. Schill responded that he has done several homes along the Lake and people don't want to locate them in their backyards. He has constructed screen walls like this and no neighbors have ever complained. The new units are quiet and he has never had an issue with this arrangement. Mr. Krueger said that unless there is a hardship such as the back yard is not large enough to accommodate the air conditioner, he does not see why they cannot be located there. Attorney Ebert said that people construct their outdoor living areas in the back yard along the Lake and air conditioner condensers are much quieter than they used to be, and many cities have made accommodations for them to be located on the side now. These units are actually hidden so they cannot be seen from any side. Law Director Bemmer explained that the Code has changed to allow units in the side yard and if there is the need for a variance, this is the proper process. In this instance, because units are only permitted in the rear and the side yard, a variance is being requested. The primary reason not to put it in the front yard is not necessarily because of sound, but because of aesthetics and the belief that all utilities should be out of site. This proposal has them locate in the front, but they are completely out of site behind a wall and if Mr. Krueger has any concern here, it would be about the sound as measured at the property line. These units will already be screened which would satisfy this Board's practice to be sure they cannot be seen. It sounds like the concern Mr. Krueger has is really about the sound and not about the location. Mr. Pempus asked Mr. Schill how many feet the closest unit will be to the side property line and Mr. Schill responded they will be approximately 12' away from the property line. Mr. Pempus pointed out that if these units were located on the side of the house then it would be in compliance with the Code.

Mr. Krueger said that he did not get an answer on what the hardship is regarding locating these units in the back of the property. He said that the wall is more of a sound magnifier than a screen. Mr. Bemmer explained that there are 10 practical difficulty standards that must be satisfied and not unnecessary hardship standards. Mr. Schill said that he has done this many times on other houses without a sound issue and the landscape plan on page 2 shows 10' tall arborvitae that will also attenuate any sound that may come from behind the screen. Mr. Krueger asked whether there is a code that says you can only have a maximum of 2 air conditioner units and Ms. Straub responded that the code stipulates only 2 air conditioner condensers may be installed in the side yard.

Mr. Daugstrup said that he believes that the argument for air conditioner units being located in the front of the house, being unseen and quiet, apply equally to the back of the house. If either place is equally good from an attractiveness point of view and from a sound point of view, then he thinks it is appropriate that they continue on with the Code as written and ask the Wiedemers to place them in the rear of the property. He added that they are facing three condensers and a stand-by generator running simultaneously and the Board speaks of the dB output of only one unit. He does not think that the people walking

by with their baby carriages in the front of the house should now be disturbed because it has always been a very quiet and tranquil place.

A brief discussion was had about the accumulation effect of the decibels of more than 1 condenser. Mr. Wolf said that he thinks they should consult a noise engineer rather than rely on HVAC consultants or architects on the science of that. He said he hasn't heard why they cannot go in the back and asked if the wall can be solid on the neighbor's side also if they were left where they are, with an opening closer to the driveway for access and this could perhaps help with the tunneling effect of the noise. There may also be the possibility that they switch the units around so that the generator is closest to the neighbor because it is the unit that will run the least. Mr. Christ said that sound blankets could even be installed on the inside of the walls to diminish the sound that bounces off the walls.

Mr. Schill said the back of the house has outdoor living spaces and that is where they intend to be living the majority of their days in nice weather and they don't want to be looking at these units. He does not have a problem with rearranging the units and putting the generator on the far side. He could add a solid return screen wall and leave a 3' opening for a technician to be able to gain access for maintenance. They can also install sound blankets if this Board asks them to. He has installed condensers like this multiple times and they have never had an issue about it from neighbors. Mr. Daugstrup said that the purpose of the Code is to protect the front of the house and he and his neighbor feel strongly about that. They have done a lot to make their houses and yards look the best that they can possibly look with concern for the people who are walking by. He said there seems to be a sentiment among the Board members to figure out why they shouldn't go ahead and break 4 or 5 variance laws to facilitate this.

Regarding the other 2 variance requests, Mr. Schill said that the owner wants to keep everything inside of his garage and not out in his driveway. There have been thefts recently, which is a reason they want the 4-car garage and since the house is so large, they are requesting the fourth bay to help with storage. He discussed the height and said it is buffered very well from the road. The height is 2' – 11" above the requirements of a 25' mean and the scale of the home dictates a certain geometry so that the look of a modern home is avoided and so it fits better into the neighborhood.

Ms. Jeanne Conway, 20762 Beachcliff Blvd. said that she objected to the 4-car garage in writing for the first meeting and she does not hear a good reason why a fourth garage is necessary, for instance if there are extenuating circumstances such as a handicap person needing a certain van. It does not seem right to grant a variance to be able to put a lot of stuff in the garage. Mr. Krueger said that they have a 4-car garage and then 4 spots to get out of the garage and then a 2 or 3-car parking pad which looks like a parking lot in front of a 4-car garage. Mr. Daugstrup asked whether the section of the Code that says a parking space shall not be located directly in front of the dwelling is relevant in this particular case. There is a pad that can accommodate 3 or 4 parked cars directly in the center of the property. Law Director Bemer said that there are many smaller scale properties that need a turnaround in order to exit the driveway. He said that they defer to the discretion of the Zoning Administrator to disregard the nature of the technical aspect of when is someone parking in the front entrance of a structure. He said that provision is not very well defined

in the Code. Building Commissioner Reich said that the Code is more directed toward homes with garages that face the street and people add a turnaround in their front yards in front of the house. It does not apply when the 3 or 4-car garage is a side load in the front of the house and the space is part of the operation of the driveway.

Regarding the height request, Mr. Krueger said he does not understand the homeowner's hardship. It will dwarf his house and he was hoping that Design Board would request a home of similar scale to the homes that are on both sides of this. He hopes that they will not grant the variances. Mr. Pempus responded that the Code allows this Board to grant variances.

Mr. Brandt said that he questions whether there is enough space for the generator in this location relating to distances from combustible construction and distance for the exhaust to be away from the building. He is curious whether it works from a technical standpoint in that location. He reminded the Board that they had an earlier request to install 3 condensers and a generator on one side of a building and they made the homeowner figure out a creative way to do that. He said that Mr. Schill is aware of the design challenge of complying with placing the units in the rear yard and he is struggling with the proposed location of these. Regarding height, he thanked the applicant for dropping the height of the principal building and providing a section through it. Regarding the fourth garage, he struggles with the fact that it creates more concrete outside and he hasn't heard the true need for the fourth car garage. The program above the garage is labeled as flex space and there is nothing concrete that says that this architecture has a need four garage bays. Mr. Schill said that the applicants have 3 cars and they will be acquiring another one, which is the reason for the request. The flex space above the garage will be a playroom for the children and their friends, and the entire space is already laid out.

Mr. Christ moved to close the public hearing. Mr. Wolf seconded.

5 Ayes – 0 Nays  
Passed

Mr. Wolf said that he concurs with Mr. Brandt's comments relative to height. Mr. Farrell said he has a question for Mr. Krueger relative to the air conditioners. They look at the properties along the Lake and the different sensitivities that exist there that they try to take into consideration. He said that if these were located in the back of the house, they would be closer to Mr. Krueger's living space as opposed to them being next to his garage where they are proposing to locate them. Mr. Krueger responded that he has considered that but they would be located in the back adjacent to where Mr. Krueger's condensers are located. He said he does not know why they allow variances and Mr. Farrell responded that variances are part of the process outlined in the Code, which is why they are discussing this request. They try to hear all sides, including the neighbors who may be affected. In this case he thinks they may be making the situation worse for the neighbor by forcing them to put them behind the house. Mr. Krueger said that one of his concerns is the noise magnification by putting this between a wall and the building and he thought there was a restriction that there could only be 2 units on the side. Mr. Farrell said that if he were asking to place them on the side of the house then there would be that restriction.

Regarding the garage, Mr. Farrell said that if they would be creating a worse situation by not allowing homeowners to house more of their vehicles in a garage and force them to park them in their driveway.

Mr. Brandt said that Mr. Farrell has some good points but the ordinances that are in place are considered the starting point for him and he thinks that if a 4-car garage is being done on a parcel that is large enough that is not causing a lot coverage variance, then that can be what helps the case in favor of the variance. Mr. Wolf said that he struggles with this because anyone can make a case for needing one more of this or that. Law Director Bemer said that there are many factors to consider relating to a person's individual circumstance that are unique to a particular family or property, so the BZA can consider those situations as they come. Mr. Wolf said that on a very small lot there may be many considerations where this would not be acceptable and on other existing lots that are larger there can be far fewer issues and the outcome is not as bad. Law Director Bemer agreed with Mr. Wolf's assessment.

Mr. Christ said that there will be unhappy people no matter what they decide. Regarding the roof height, and the desire for the views, the first and second floor levels are higher and the third level is not going to be higher because they are not creating an entire third level. They provided the section he asked for and demonstrated the need to maximize the owners' usage and view out toward the lake. Regarding the garage, there have been a lot more requests for side yard setbacks for 3-car garages and in his neighborhood there are many homes with up to 8 cars parked outside. He would much prefer they have more garage space to store them in rather than having cars sitting out in front all of the time. Regarding the condensers and the generator, he believes that if the noise can be less objectionable in the front, then it can be less objectionable in the back. His concern with them in the front are more visual concerns and he believes they should look into providing sound proofing for them to mitigate the noise in general.

Mr. Pempus asked the applicant what he would like to do at this point. Attorney Ebert said that it sounds like there is more of a concern with the condensers and generator so perhaps they could table that item so that Mr. Schill can look into the soundproofing options for them as well as addressing the issues that were discussed. Law Director Bemer said that the applicant can ask the Board to table the condenser matter and they can move forward on the other two requests. Chairman Pempus said that he agrees with doing it that way.

Mr. Christ applied the practical difficulties test aloud relating only to the first two variance requests. Regarding special conditions or circumstances that exist, Mr. Christ said that the applicant has made their arguments relative to the height at this meeting and at the last meeting and also for the garage spaces. Whether the property will yield a reasonable return is not applicable. He does not believe that the height variance is substantial and they have shown that it is the minimum necessary to achieve their goal relative to their views and they have demonstrated the same with the 4-car garage. The essential character of the neighborhood will not be altered because of this proposal, and the adjacent properties will not suffer substantial detriment because of the size of the applicant's lot, the setback of the house and garage are sufficient and they will not affect the essential character. This will not adversely affect the delivery of governmental services. Regarding whether the property

owner purchased the property with knowledge of the zoning restrictions, he believes the homeowners may have, but he does not believe it should limit their ability to seek a variance. There are no special circumstances that exist as a result of the actions of the owner. Whether it is possible to obviate the property owner's predicament feasibly through some method other than a variance, Mr. Christ said it would force them to change the feel within the house and its functionality, and the same is true for the garage and the fact that there would be more cars parked outside on the property. The spirit and intent of the Code would be observed by granting a variance and the granting of this variance will not confer any special privilege on the applicant. The literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties.

Mr. Christ moved to grant a variance to Jess Wiedemer, 20742 Beachcliff Blvd., to construct a new single family residence with a height of 27' – 11" vs. 25' maximum height permitted. The applicant has indicated the practical difficulties with the programming of this residence and this is a reasonable solution. Mr. Farrell seconded.

5 Ayes – 0 Nays  
GRANTED

Mr. Christ moved to grant a variance to Jess Wiedemer, 20742 Beachcliff Blvd., to construct a new single family residence with an attached 4-car garage vs. the total number of accessory parking spaces provided for any dwelling unit shall not exceed the spaces require by more than fifty percent (50%). The applicant indicate the practical difficulties with providing sufficient garage space for their vehicles and for the use of their house. Mr. Farrell seconded.

5 Ayes – 0 Nays  
GRANTED

Mr. Christ moved to table the third variance for a period of up to 60 days. Mr. Farrell seconded.

5 Ayes – 0 Nays  
GRANTED

**2. PETE McCABE – 21375 Aberdeen Rd. – PUBLIC HEARING – Variance to construct a new 3-car attached garage for a total of 4 accessory parking spaces for the dwelling unit vs. The total number of accessory parking spaces provided for any dwelling unit shall not exceed the spaces required by more than 50% (Section 1187.21(a)), a Variance to construct a second curb cut on Elmwood Rd. for a new 3-car garage vs. for corner lots, both curb cuts are to be located on the same street (Section 1187.31(d)(4)), a Variance to construct a new 3-car attached garage with a 29' – 6" front setback vs. 60' front setback required (Section 1153.07(a)); and a Variance to construct a new 3-car attached garage with an 8' rear yard setback vs. 25' rear yard setback required (Section 1153.07(f)(2)).** Homeowners Dana and Peter McCabe are present with their Architect, Mark Reinhold. Also present are Deborah

Stenger, the Trustee of the Eleanor Beckwith Trust, 21338 Lake Rd and Patricia and James Seiple, 21351 Aberdeen Rd. and Ms. Christine McCormick, 21341 Aberdeen Rd.

Mr. Christ said that he would like to identify that he knows the neighbors who live next to the applicant, Patricia and James Seiple, because of their dogs, but they have had no conversation relating to this project. There was no objection to Mr. Christ's disclosure.

Mr. Christ read the meeting notice, which contains a list of names of the parties who received it. The parties were sworn in. Mr. McCabe said that they are back with a similar project this month, and since the last meeting they reduced the existing 2-car garage to a 1-car garage, and they want to keep the current driveway, which is reflected in the plans. This request seemed to be the one that Board members expressed the most concern about. Mr. Reinhold said that the site plan shows the note that the existing garage will have a new single door rather than a 2-car door and garage on the northeastern side of the house. They also measured the area shown to demonstrate further what they would do to reduce the existing garage to a single car garage. There is necessary living space above the existing garage and the existing garage needs to be there to hold up that active and used second floor space.

Mr. Farrell said that he has no issue with the driveway or the existing garage. Mr. Christ said that he agrees with Mr. Farrell and he does not believe that converting that garage to interior usable space is something that can be easily achieved. Ms. Seiple, 21351 Aberdeen Rd., said that there is a large property across the street, with 2 curb cuts on Elmwood for a turnaround and their driveway is on the side. Looking at the subject house as it is, she said that she believes it would be fine to keep it as it is because it would look like a service entrance, which would add value. Ms. Christine McCormick, said that they live to the east of the Seiples and they see this homeowner moving the cars every single day and parking on Aberdeen Rd. She said that they have no problem with the McCabe's adding another 3-car garage on the Elmwood side because it would help them and it would not be aesthetically unappealing.

Mr. Christ said that he believes the property owners indicated that this original garage is really a tertiary space relating to the use of it as a garage and they will not be using it every day. Mr. McCabe said that they would primarily be using the new garage for parking once it is built.

Regarding the side and rear yard setbacks for the new 3-car garage, he said that he submitted a demonstration of the unusual size of this lot by providing a lot coverage calculation even though lot coverage is not in question. Even with the newly proposed footprint, they are under 20% lot coverage versus the allowable 28% coverage. The rear yard setback being proposed at 8' really has the overall appearance of a side yard, which would require an 8' setback on this lot and that is why they are holding to that dimensions. They spoke at the last meeting about the unique characteristics of Elmwood going into Aberdeen and the low density of housing on Elmwood Rd. and the lack of front yards and houses that face the front on Elmwood Rd. He said that the neighbors immediately to the south attended the last meeting and stated they had gone over the plan with the applicant

and they did not object as long as there was some landscape cover from the south toward the addition to the north.

Ms. Deborah Stenger said that she is the neighbor to the south as well and she can see that the new garage will be adjacent to her neighbor to the west but the existing garage is directly behind her. She said that since they are not doing anything to change the existing garage, she is fine with it.

Mr. Farrell said that he still has some concerns about the setback along Elmwood Rd. and from the conversation at the last meeting, he thought they were going to take a look at the master bedroom above the garage to see if you can spare square footage there. Mr. Reinhold responded that they are balancing the 2-story setback and the square footage so they do not reap a lot of benefit from all of the square footage because that second floor is inside the hip and eaves. They studied the floor plan to reduce it to its smallest size on the first go-around. They worked very hard to have the design in character with the front as well as the massing of the house throughout, and did not feel like a tall two-story in competition with the main house was the right solution. This is a 1.5 story addition with the second floor in the eaves as small as they can get it and they feel it is the proper design. They were cognizant of stepping it down toward the setback with the hip, and with regard to the rear and side yard setback, they wanted to be sure it was as low as possible. Mr. Farrell said that they are proposing to be half way into the required setback and the nearest home they will be somewhat lined up with is to the southwest, at the corner of Elmwood and Lake Rd., which is back about 42'.

Mr. Wolf said that he looked across the street at the southwest corner to look for the pattern over there and they are at about 45'. One favorable thing about the garage is that it is just the corner of it that comes forward and not the entire structure and there is an attempt to put some substantial landscape plantings along Elmwood Rd. Mr. Farrell agreed with Mr. Wolf and said that it makes a difference in the perception of the streetscape when the walls move away from the closest point along a setback. Mr. Pempus said that he agrees that the setback issue is mitigated because it is just a corner of the garage versus being a long wall in the front setback. Mr. Christ said that just about every lot that is along Elmwood Rd. has irregularities in setbacks and he is not troubled by this proposed setback relative to all of the other houses. This proposed garage is not overly deep either.

Mr. Christ moved to close the public hearing. Mr. Farrell seconded.

5 Ayes – 0 Nays  
Passed

Mr. Christ applied the practical difficulties test aloud. Regarding special conditions or circumstances that exist, Mr. Christ said that with the curve along the two streets and the configuration of this lot are special conditions. Whether the property will yield a reasonable return is not pertinent. Whether the variance is substantial and is the minimum necessary, Mr. Christ said that these could be looked at as substantial but as they have discussed, it is the minimum necessary to accommodate the parking, the curb cuts and the



alignments with all of the variances. The essential character of the neighborhood will not be altered because of this proposal. This will not adversely affect the delivery of governmental services. Regarding whether the property owner purchased the property with knowledge of the zoning restrictions, does not apply. There are no special circumstances that exist as a result of the actions of the owner. Whether it is possible to obviate the property owner's predicament feasibly through some method other than a variance, Mr. Christ believes that there is no other solution to solving the parking with where the current garage is, other than what they are proposing. The spirit and intent of the Code would be observed by granting a variance and the granting of this variance will not confer any special privilege on the applicant. The literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties.

Mr. Christ moved to grant a variance to Peter McCabe, 21375 Aberdeen Rd., to construct a new 3-car attached garage for a total of 4 accessory parking spaces for the dwelling unit vs. the total number of accessory parking spaces provided for any dwelling unit shall not exceed the spaces required by more than 50%. The applicants have indicated the practical difficulties with the current conditions and this is a very reasonable solution. Mr. Farrell seconded.

5 Ayes – 0 Nays  
GRANTED

Mr. Christ moved to grant a variance to Peter McCabe, 21375 Aberdeen rd., to construct a second curb cut on Elmwood Rd. for a new 3-car garage vs. For corner lots, both curb cuts are to be located on the same street. The applicants have indicated their practical difficulties relative to that and this is not by definition strictly a corner lot. The configuration is such that this is a minimal variation and they are not connected, so cutting through the yard is not possible. Mr. Farrell seconded.

5 Ayes – 0 Nays  
GRANTED

Mr. Christ moved to grant a variance to Peter McCabe, 21375 Aberdeen rd., to construct a new 3-car attached garage with a 29' – 6" front setback vs. 60' front setback required. The applicants have indicated their practical difficulties with the configuration of the lot perimeter and the configuration of the street which has limited the possible location for the new structure and this is a reasonable request. Mr. Farrell seconded.

5 Ayes – 0 Nays  
GRANTED

Mr. Christ moved to grant a variance to Peter McCabe, 21375 Aberdeen rd., to construct a new 3-car attached garage with an 8' rear yard setback vs. 25' rear yard setback required. The applicants have indicated their practical difficulties with the configuration of the lot perimeter and of the property in relation to the streets and it is mitigated by the fact that this is more of a side yard setback and the minimum for side yard setback is 8' on this particular lot. Mr. Farrell seconded.

5 Ayes – 0 Nays  
GRANTED

**4. MARK SCHUTTE – 1197 Woodside Dr. – PUBLIC HEARING – Variance to locate an outdoor condenser in the side yard 5’ – 2” from the side property line vs. 10’ side yard setback required (Section 1153.15(k)(1)).** Mr. and Mrs. Mark and Amy Schute are in attendance to present their variance request.

Mr. Christ read the meeting notice, which contains a list of names of the parties who received it. The parties were sworn in. Mr. Pempus said that he understands from the materials submitted that the applicants are trying to navigate through their heating and cooling issues to accommodate an office in their house. This Board can appreciate that as a sign of the current times with the Covid-19 issue.

Mrs. Schute said that they have a bedroom on the third floor that they have converted into an office and they are both working in the house. They have the need for proper heating and cooling into the new office space because they are currently using portable heating and units and a window air conditioner and they are not comfortable leaving any of the units on at all times. They are planning to install a single-zone ductless window unit to provide heating and cooling and the unit that will be mounted to the house will be fairly small as their schematics show. The unit is very quiet and will be located on the south side of the house. They have a built in patio in the back and they would have to go over the chimney with the coolant lines if they were to install the condenser in the back yard. The unit will be installed in front of the two windows, as drawn. It will not extend out as far as the chimney and it will be screened by landscaping that is currently in the area. Per Mr. Wolf’s request the applicants agree to enhance the landscaping to improve the appearance of it from their neighbors’ perspective. They have spoken with the neighbors and they are fine with the location of the unit. Mr. Pempus said that it is to the applicants’ advantage that the unit and the neighbors’ house is separated by a driveway.

Discussion was had relating to the coolant lines being on the outside of the house and how the vinyl ducts that are placed over the condenser lines will run down the side of the house. The vinyl covers that hide the lines are paintable and they intend to paint them if necessary. Mr. Christ said that it may behoove them to install a small barrier such as a fence, to protect the neighbors from the air that the unit discharges toward their driveway. The applicants said that they will discuss this with the contractor. Mr. Brandt said that he prefers that this stay back behind the front façade, tucked it in as close to the existing landscaping. If necessary, he would like them to add additional landscaping. He thinks what they are asking for is reasonable because they are mitigating an existing condition.

Mr. Christ moved to close the public hearing. Mr. Farrell seconded.

5 Ayes – 0 Nays  
Passed

Mr. Christ moved to grant a variance to Mark Schutte, 1197 Woodside Dr., to locate an outdoor condenser in the side yard 5' – 2" from the side property line vs. 10' side yard setback required. The applicants indicated their practical difficulties with providing conditioned air to a third floor of an existing house with severe constraints and this is a reasonable solution. They will work with the Building Department to provide appropriate vegetative and fencing for screening on the front and sides of the unit and the appearance of the lines that extend up the house. Mr. Farrell seconded.

5 Ayes – 0 Nays  
GRANTED

**5. JAMES & MEAGAN HOUSER – 2710 Devon Hill Rd. – PUBLIC HEARING – Variance to construct a 280 sq. ft. storage shed (with greenhouse) vs. 120 sq. ft. maximum permitted for accessory storage buildings (Section 1153.15(c)).** Mr. James Houser is in attendance to discuss his variance request.

Mr. Christ read the meeting notice, which contains a list of names of the parties who received it. The applicant was sworn in. Mr. Pempus said that all of the Board members had the opportunity to review the application and visit the site. Mr. Houser thanked the Board for taking the time to study his variance request. He explained the goal for the shed and greenhouse along with the reasons for it. This is his first home he has owned and it does not have a basement, walk-in closets or significant storage and it does not have any attic storage space. He said that his grandparents are downsizing due to Parkinson's and are moving into assisted living, which means he will inherit his grandfather's camping and fishing gear. He also has lawn and snow equipment that he needs to be able to store someplace other than in his garage. This shed will be a storage solution for him without being more than he needs. He added that he has physical restraints that would make it difficult for him to access any off-site storage spaces. The greenhouse that is connected to the shed will be to accommodate his desire for a healthier lifestyle and they will be starting their garden in it earlier in the season. He said that the greenhouse will help make the shed portion look nicer if someone were to happen to look over his fence and see it.

Mr. Pempus said that they are well under the maximum permitted lot coverage even though the structure is twice the size of what is allowed, and asked what the square footage of the shed is if it did not include the greenhouse. Mr. Houser replied that the greenhouse is 40 sq. ft., so the shed portion is 160 sq. ft.

The Board members discussed the proposal. Mr. Brandt said that the scale of the shed relative to the size of the property is appropriate for the property and the variance is an appropriate request. Mr. Pempus said he agrees with Mr. Brandt. Mr. Christ said that this is a dual purpose building but his only concern is about seeing clutter through the glass windows of the greenhouse. Mr. Houser said that he intends to keep the greenhouse neat and tidy. Mr. Christ asked exactly which corner it is going to be located in and Mr. Houser said that the drawing he provided is inverted and the structure will be on the back left corner of the property when you are facing the house. He said that they decided to locate the structure there because there is the most amount of sun and the other side of the house

is more of the social area with the porch and windows located there. Nothing will be disturbed by the shed being where they are proposing to locate it.

Mr. Christ moved to close the public hearing. Mr. Farrell seconded.

5 Ayes – 0 Nays  
Passed

Mr. Christ moved to grant a variance to James and Meagan Houser, 2710 Devon ill Rd., to construct a 200 sq. ft. storage shed (with greenhouse) vs. 120 sq. ft. maximum permitted for accessory storage buildings. The applicant has indicated the practical difficulties and this is a dual structure so that only 160 sq. ft. is for storage and the other portion is for greenhouse. By combining those spaces, it is minimizing the total affect and as noted, this has a minimal effect on this property. Mr. Farrell seconded.

5 Ayes – 0 Nays  
GRANTED

**6. ERIC LEWIS – 2673 Carmen Dr. – PUBLIC HEARING – Variance to retain a play structure with a total under roof area of 210 sq. ft. vs. the part of a play structure that is under a roof shall not be greater than 50 sq. ft. in area (Section 1153.15(g)(2)) and a Variance to retain a play structure with a 32.9% lot coverage vs. 28% maximum lot coverage permitted (Section 1153.04(c)(3)).** Mr. Eric Lewis, property owner, is in attendance to discuss the variance requests.

Mr. Christ read the meeting notice, which contains a list of names of the parties who received it. The applicant was sworn in. Mr. Pempus said that this is a continuance of last week's variance hearing. Mr. Lewis explained what has changed since then, and how he has revised the plans. They will move the structure from the side and rear property lines to 7', which eliminates the setback variances. They removed the playhouse on the top deck of the structure and will enclose a portion of the bottom deck for a playhouse. They lowered the swing beam 5", which puts the entire structure under the 12' requirement. They eliminated some decking on top of the planned monkey bar structure, which removed about 120 sq. ft. of decking from the original 389 sq. ft. The new square footage is 210 sq. ft. which is a 46% reduction from the original design. They are asking for a larger than 50 sq. ft. under roof area than is permitted and the lot coverage is at 32.9% which also requires a variance. Mr. Lewis said that the only reason that he decked the bottom of the structure is because the area underneath their old play structure got very muddy.

Mr. Pempus said that all of the parties are aware of the concerns of the neighbor regarding this project. Mr. Lewis said that all of the other neighbors are fine with the structure and he has a letter signed by 11 different households stating their consent to continue the construction of the play structure. He said that the neighbor to the south of him is still dissenting and he does not think that she would like any structure built at all. They have tried to speak with her and offer to compromise and she is not willing to discuss it.

Mr. Farrell said he likes the fact that the applicant moved the structure away from the property lines, downsized it, and brought the height down. He said that for the purpose of the Code, they are still calling the main deck a roof. Ms. Straub said that since there is a platform under the top deck, it acts as a roof. The section relating to play structures and even patio fireplaces is vague and it is difficult to regulate those two things the exact same way that gazebos and pergolas are regulated.

Discussion was had relating to the way the Code reads with regard to play structures and how to apply the Code to this very unique structure. Law Director Bemer pointed out that the Code reads that detached decks can be no higher than 3' and this structure has decks that are much higher than 3'. The Board members agreed that it is difficult to discern how to regulate play structures using all of the criteria outlined in the Code.

Mr. Wolf asked the applicant if he can still accomplish his objectives in other ways. For example, installing the fire pole so it is connected to the same platform as the slides, so that there is no longer a fenced structure over the swing bar. He said that he wonders if he could reduce the number of swings and he even questions whether the beam can handle the swing weight of 4 children swinging who are getting older. He wonders if the applicant would be satisfied with reducing the size of the deck area and if the climbing wall could be relocated to one of the sides or on the back of the structure so that it doesn't elongate the width of the structure. He wonders if there can be 1 slide as opposed to 2 slides. He said that if the applicant reduced the amount of elements contained in the structure, then the structure would shrink down considerably. Mr. Lewis responded with the reasons why he and the children want all of the elements they are asking for. The idea is to accommodate the types of games and play activities that young and older children and their friends like to do together.

Because of the amount of time remaining before the Zoom meeting automatically stops, the Board agreed to ask the applicant to return with further modifications to lessen the size and overall mass of this structure.

Mr. Christ moved to table this item for up to 60 days so the applicant can work with the Building Department to determine what can remain until this is resolved. Mr. Brandt seconded.

5 Ayes – 0 Nays  
TABLED

The meeting adjourned at 9:00 p.m.

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Eric Pempus, Chairman

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Richard Christ, Secretary

Date: \_\_\_\_\_