

**MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
AUGUST 12, 2021**

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

Presence Noted: Andrew Bemer, Law Director
Raymond Reich, Building Commissioner
Kate Straub, Planning and Zoning Coordinator
Christina Morris, At-Large Councilmember

Mr. Pempus opened the August 12, 2021 meeting of the Board of Zoning and Building Appeals at 7:00 p.m. and explained the meeting protocol. He explained that all of the Board members have had the opportunity to visit each of the sites and review the variance applications and other information submitted by each applicant. He announced that the second item on the agenda, David and Tina Uible, 20025 Beachcliff Blvd., has been withdrawn.

1. COURTNEY REGO – 21318 Erie Rd. – PUBLIC HEARING – Variance to retain an air conditioner condenser in the side yard with a 3' side yard setback vs. 10' side yard setback required (Section 1153.15(k)). Mr. and Mrs. Courtney and Kahlie Rego came forward to present their variance request. Also present in opposition to the variance request is Catherine Manzo, 21282 Erie Rd., the next door neighbor to the east.

Board Member Todd Brandt introduced the variance request that is outlined on the notice, which also names the parties who received it. The parties were sworn in by Chairman Pempus. Mr. Rego explained that they were not aware of the need for a permit to move the air conditioner condenser and they did not know about the 10' setback requirement. They are building an addition on the back of the house and their only option was to move the condenser to the side of the house due to the fact that they have a lack of green space in their backyard. They proposed to put a fence around the unit so it couldn't be seen from the street. The neighbor is concerned about the noise level and they offered to construct a 5' board-on-board fence and place a silicone sound blanket on it to reduce the noise. Mrs. Rego said that she would like to add that they wanted the air conditioner condenser on the side so that it will not be located where their daughter will play in the backyard.

Ms. Catherine Manzo said that she lives next door to the applicants and she objects to the variance request for the reasons contained in the letter dated July 11th that was forwarded to the BZA members and to the applicants. She requests that the letter be admitted into the record of this hearing. The unit is right across from her kitchen window and she does not have air conditioning in her house. The unit is noisy and it runs often and she cannot get away from the noise. She has two bedrooms very close to the unit. She did not measure the distance of the unit from her house and Mr. Rego said that it is located 15'-4" from the closest corner of her house.

Mr. Farrell said that they were led to believe that there was some sort of an agreement between the parties. Mr. Rego said that they had agreed that if they were able to dampen the noise of the unit with the 5' fence then it would be fine to leave it there. Ms. Manzo

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said that she asked for sound proofing at the time of the conversation and she was not given that assurance so she thought she had better write the letter to the BZA members. She said she would prefer to have no air conditioner on the side of the house like happened to an applicant at the last BZA meeting. Mr. Farrell said that they are creating a 6' wide alley surrounded by a fence next to the house. He asked Mr. Rego if he can move the air conditioner to the back corner of the house, but still in the side yard. Mr. Rego said that he likes the condenser where it is and prefers to keep it there and that they will add the sound reduction measure to the fence as proposed. They like the greenspace of the backyard and want to maintain it. That is why they put the condenser in the side yard because you can't do anything with that space anyway. After more discussion, Mr. Rego agreed to move the condenser to the back corner and still in the side yard. Mr. Brandt said that the location Mr. Farrell is referring to is no longer adjacent to the neighbor's house, so the need for sound baffling is mitigated. Mr. Pempus said that this Board likes compromises and he believes they have reached a middle ground. Mr. Rego said that he was going to install a 5' tall fence to help with the noise, but he won't be doing that since he is moving the condenser. Mrs. Manzo said that the proposed location is a compromise. She is not happy and the applicants won't be happy, but it is a good compromise.

Mr. Farrell said that he thinks they should put a dimension on the condenser so it is clear where it will go. He feels that no more than 3' from the back corner of the house is appropriate. Mr. Wolf said that the provisions of the ordinance still apply relating to the decibel level and if it becomes a nuisance down the road, then the applicant may need to look at ways to mitigate the noise.

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

5 Ayes – 0 Nays
Passed

Mr. Brandt applied the practical difficulties test aloud. Whether there are special conditions or circumstances that exist which are peculiar to the land or structure, this is a typical interior lot, which is consistent with other lots in the zoning district. Regarding whether the property in question will yield a reasonable return, he does not believe that is impacted here because they are not taking up usable space with the unit. Mr. Brandt said that he believes this is a substantial variance, however, it is the minimum necessary because of the width of the side yard. He does not believe that this will substantially alter the essential character of the neighborhood but the adjoining neighbor does perceive a detriment, which is why they are asking the applicant to move it further back along the side line and away from the neighbor's house. The variances would not adversely affect the delivery of governmental services. Regarding whether the property owner purchased the property with knowledge of the zoning restrictions, the applicant stated that he didn't know about the restriction. Special conditions or circumstances do exist as a result of the actions of the owner. He said that regarding whether it is possible to obviate the property owner's predicament feasibly through some method other than a variance, Mr. Brandt said that they discussed baffles and a 5' fence and have decided that moving it back is the easiest way

to obviate the situation. He believes that the granting of the variance will observe the spirit and intent of the Code and substantial justice will be done by granting the variances. He said that the granting of the variance will not confer any special privilege on the applicant because there are a lot of side yard air conditioners in the City. He thinks that the literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties. Mr. Farrell, Mr. Wright and Mr. Wolf said that they agree with Mr. Brandt's assessment.

Mr. Brandt moved to grant a variance to Courtney Rego – 21318 Erie Rd., to locate an air conditioner condenser in the side yard with a 3' side yard setback vs. 10' side yard setback required. Based on the testimony, his summary of the practical difficulty, and with the specifics that were discussed that the air conditioner needs to be located toward the rear of the property to the north, within 3' of the rear back line of the house. Screening of the unit must comply with Code. Mr. Farrell seconded.

5 Ayes – 0 Nays
GRANTED

2. BRETT & JULIE ANDRESS – 21140 Beachwood Dr., PUBLIC HEARING –
Variance to construct a new detached garage with a height of 18' vs. 15' maximum height permitted for detached garages (Section 1153.09(b)); a Variance to construct a detached garage with a 2' rear yard setback vs. 5' rear yard setback required (Section 1153.15(b)(1); a Variance to construct a detached garage with 30% lot coverage vs. 28% maximum lot coverage by building permitted (Section 1153.05(c)(3)); and a Variance to construct a detached garage with 872 sq. ft. of gross floor area vs. 600 sq. ft. maximum gross floor area permitted (Section 1153.15(c)). Mr. Brett Andress, homeowner, came forward with John D'Amico of the Great Garage Company to explain the variance request.

Board Member Brandt introduced the variance request that is outlined on the notice, which also names the parties who received it. The parties were sworn in by Chairman Pempus. Mr. D'Amico began by explaining that they were here last month. They purchased the house with a very large room addition off of the back, which extended approximately 24' and encroached on the existing garage space. They are proposing to build a 24' x 22' garage with an 18' wide door so it is easier to pull out of the garage. They reduced the height from 19' – 4" last month to just under 18'. They eliminated the dormer on the neighbor's side and reduced the size of the gable dormer and made it a shed dormer on the one side. Mr. Andress said that they have some letters from their neighbors who signed off on the garage.

Mr. Pempus said that it is amazing how many garages are going to the basic design like what the applicant is presenting. His concern is that it starts to look like a little house. Mr. Farrell said that this is a good improvement and much better than the double gable they presented last month. He said that the west wall be a fully straight-up vertical wall and asked if the contractor can step the dormer wall in a certain distance to break up the 2-story

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height of the wall. They could run the roof past it so it looks more like a dormer and not a 2-story carriage house. Mr. D'Amico said that they could do as Mr. Farrell is suggesting. They can move it back on foot or so, which will give them a couple of feet of roof for overhang. He said that the structural plan shows that the dormer will be moved back.

Mr. Wright said asked what the need for the duplex outlets on the upper level is if the intended use is for storage on the second floor. Mr. Andress said that his wife plans to Peloton up there. Building Commissioner Reich said that the Board granted a variance on South Kensington for a garage with this sort of situation in July and the Building Department got a call for a plumbing inspection for a half bath in that garage. He said that they have difficulty enforcing this rule until after neighbors call or in this case, the plumber calls. The Motion in the July variance read that the upper area will be used for storage only and no water or sewer will be provided, and we really want to avoid these situations. Mr. D'Amico said that there is no sanitary sewer going in and the only utility will be electricity. Mr. Wright said that he would defer to the Building Commissioner relating to the use.

Mr. Brandt said that this Board is getting a lot of requests for bigger and taller garages. Garages are meant to park vehicles in and any space above that is truly meant for storage. He said that our Ordinances are getting diluted and not truly being respected and followed the way they are written today. He feels like they are being asked to write policy on the spot through variance requests and he doesn't think that is what they should be doing. Fixed stairs to storage areas sort of automatically drive toward a more permanent use. Pull down attic stairs can work perfectly to get storage on the second floor. He is struggling with big garages rather than appropriately scaled garages on an average lot. He doesn't struggle with the rear setbacks because the lot backs up to the railroad. He struggles with the height and the additional masses that are being proposed for garages because our parcels are not that big to support those. Law Director Bemer said that council is not in session at this point in time and some of the factors he and Building Commissioner Reich discussed are the height, elimination of any permanent stairs, and a ceiling restriction of probably 4'. He added that second floors are supposed to be for storage and not for use for Peloton or workshops, etc.

Mr. Farrell said that there has been a push during the pandemic to locate offices outside in sheds, etc., and he does not know whether that is acceptable. However, it may be something that should be discussed by City Council.

Mr. Wolf said that he has seen some improvement in this proposal because it was far too much at the last meeting. He said that he can see why permanent stairs may be beneficial for some of our aged residents to access the second floor. However, the Board is put in an uncomfortable situation when they start to see the shed roof portions when storage can be accommodated without that component. He said that they are in an odd spot and they could definitely use some guidance as to what the City is seeking to achieve.

Regarding the fixed steps inside garages, Mr. D'Amico said that he knows that they are a lot safer than pull down stairs and some people just need them if they are going to use the

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second floor as a daily kind of storage. Mr. Pempus asked if they are going to drywall and insulate between the studs in the entire garage and Mr. D'Amico said that the entire garage and second story will have insulation and drywall.

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

5 Ayes – 0 Nays
Passed

Mr. Brandt applied the practical difficulties test aloud. Regarding whether special conditions or circumstances exist which are peculiar to the land or structure involved, this is an interior lot, which is similar to every other lot, except that this lot backs up to the railroad property, which helps with the rear yard setback variance request. Regarding whether the property in question will yield a reasonable return, he said that the applicant answered the question with the argument about the rear yard setback by giving enough distance to make the vehicle movements necessary. Regarding whether the variance is substantial and the minimum necessary, Mr. Brandt said that they are planning to push it back to 2' where the existing setback is 4' but the railroad is behind this lot. The height is 20% over what is allowable at 3' taller but it creates a storage area that is full stand-up height. The lot coverage only jumped from 28% to 30%. Regarding whether the essential character of the neighborhood will be substantially altered, Mr. Brandt said that anytime they make a garage bigger and bigger, they are altering the character of the neighborhood, but it is not necessarily a detriment to the adjacent neighbors because many times they are asking for the same thing. The variances would not adversely affect the delivery of government services. Regarding whether the property owner purchased the property with knowledge of the zoning restrictions, Mr. Andress said he was unaware of the restrictions. There are no special conditions or circumstances that exist as a result of the actions of the owner. He said that regarding whether it is possible to obviate the property owner's predicament feasibly through some method other than a variance, Mr. Brandt said that the applicant is willing to compromise and has presented compromises per the last meeting. Regarding whether the spirit and intent of the Code would be observed by granting the variances, it really comes down to the size, scale and uses of garages. He does not believe that the granting of the variances will confer any special privilege on the applicant because there are other bigger garages. He does not think that the literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties because they are trying to get back to what the intent of the Code is. Mr. Farrell said that the applicant has letters from the adjacent neighbors that don't have any problem with the requests. The other Board members said that they agree with Mr. Brandt's analysis of the practical difficulties.

Mr. Farrell moved to grant a variance to Brett and Julie Andress, 21140 Beachwood Dr., to construct a new detached garage with a height of 18' vs. 15' maximum height permitted for detached garages. There has been a lot of discussion regarding how much height is needed but the applicant has explained his need for the storage on the upper floor of the garage. Mr. Wolf seconded.

3 Ayes – 2 Nays (Brandt, Pempus)
GRANTED

Mr. Farrell moved to grant a variance to Brett and Julie Andress, 21140 Beachwood Dr., to construct a detached garage with a 2' rear yard setback vs. 5' rear yard setback required. The rear property line is against the railroad tracks and the 2' allows for maintenance behind the garage. Mr. Wolf seconded.

5 Ayes – 0 Nays
GRANTED

Mr. Farrell moved to grant a variance to Brett and Julie Andress, 21140 Beachwood Dr., to construct a detached garage with 30% lot coverage vs. 28% maximum lot coverage by building permitted. This increase in lot coverage does not represent a significant variance. Mr. Wolf seconded.

5 Ayes – 0 Nays
GRANTED

Mr. Farrell moved to grant a variance to Brett and Julie Andress, 21140 Beachwood Dr., to construct a detached garage with 872 sq. ft. of gross floor area vs. 600 sq. ft. maximum gross floor area permitted. This is one of the changes that Mr. Brandt mentioned and this Board would have only considered the footprint of the garage in the past, which is well under the 600 sq. ft. Mr. Wolf seconded.

3 Ayes – 2 Nays (Brandt, Wright)
GRANTED

3. KYLE BLAIR – 21254 Erie Rd. – PUBLIC HEARING – Variance to construct a covered patio with a side yard setback of 5.5' vs. 6.25' side yard setback required (Section 1153.07(f)(1)(a)). Mr. Kyle Blair, homeowner, came forward to present the variance request.

Board Member Brandt introduced the variance requests outlined on the notice, which also names the parties who received it. The parties were sworn in by Chairman Pempus. Mr. Blair explained that as everyone knows, this past year was a challenge in that we all had to spend more time at home and inside of our houses. They realized that they weren't using their backyard space very much so they would like to install a covered outdoor patio because they have no tree cover to provide shade in the back yard. This will only be an outdoor space for the family to enjoy when they have previously only gone outside to do chores. The roof structure will help to protect them from the elements. There will be no walls, foundation, or any type of enclosure such as screens. They spent some time shopping for furniture that will fit comfortably under the roofed area with approximately one foot on each side of cover. The stairs that serve the French doors on the exterior of the

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house limit what they can do with furniture in the space. He has reviewed the plans with the neighbors and he has provided an approval letter from the neighbor directly affected by the structure. Mr. Blair added that has an 8' x 12' existing sunroom in the front of the house which is unusable in the summer because it is too hot and there is no airflow or fan in there.

Mr. Pempus said it makes a lot of sense to have outdoor space to enjoy. Mr. Brandt asked about the posts that are already constructed and it was determined that they need to be inspected by the Building Department. Mr. Brandt said that if the posts weren't already up, he would have asked the applicant to slide the structure over a little bit to avoid a variance. Mr. Blair responded that his neighbor was concerned about drainage so they wanted to make sure they have a big enough space to accommodate the drainage.

Mr. Wright said he does not have any issues with the variance for the setback but he does have an issue with going to 34% lot coverage. Ms. Straub explained that our Code limits the lot coverage "by building" to 28%, and by definition, lot coverage by building is measured from outside wall to outside wall. Since there are no walls on this structure, it really does not qualify as building coverage. Mr. Blair explained the furniture sizes they found to make the space comfortable without being too large. Discussion was had regarding the amount of green space that is left in the yard and the amount of concrete that exists. Mr. Blair said that they don't really use the yard space to begin with because their kids are older. The benefit is that this structure will encourage them to use their yard space more than they ever have. Mr. Wolf said that he feels this pushes the limit for open space on this lot.

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

5 Ayes – 0 Nays
Passed

Mr. Brandt applied the practical difficulties test aloud. Regarding whether special conditions or circumstances exist which are peculiar to the land or structure involved, this is an interior lot on Erie Rd. and it is not much different than any other lot on Erie. Regarding whether the property in question will yield a reasonable return, he said that adding functional outdoor space definitely adds a more beneficial use and a more reasonable return. Regarding whether the variance is substantial and the minimum necessary, Mr. Brandt said that the 9" variance is not substantial but the lot increase is already at 29.4% and how that is calculated is questionable. The essential character of the neighborhood is not really altered because this structure is located behind the house and there are neighbors who have demonstrated some support. This does not adversely affect the delivery of government services and the applicant did not purchase the property with knowledge of the zoning restrictions. Whether special conditions or circumstances that exist as a result of the actions of the owner, Mr. Brandt said that the posts are already constructed and this Board should be thoughtful when asking the applicant to spend unnecessary money. He said that regarding whether it is possible to obviate the property

owner's predicament feasibly through some method other than a variance, Mr. Brandt said that there are a couple of things the applicant can do such as buy different furniture. Mr. Brandt said he believes that the spirit and intent of the Code would be observed by granting the variances. He does not believe that the granting of the variances will confer any special privilege on the applicant. He thinks that the literal interpretation of the provisions of this Code would not deprive the applicant of rights commonly enjoyed by other properties because he is already over the maximum 28% lot coverage. Mr. Pempus said he has nothing to add to Mr. Brandt's analysis and it was helpful for the applicant to provide the layout of the furniture inside the structure. Mr. Farrell said that he does not have any objections to Mr. Brandt's interpretation.

Mr. Farrell moved to grant a variance to Kyle Blair, 21254 Erie Rd., to construct a covered patio with a side yard setback of 5.5' vs. 6.25' side yard setback required. As has been discussed, this is not a substantial request. Mr. Wolf seconded.

5 Ayes – 0 Nays
GRANTED

Mr. Farrell moved to grant a variance to Kyle Blair, 21254 Erie Rd., to construct a covered patio with 34% lot coverage vs. 28% maximum lot coverage permitted. This is an open structure and it will always remain open without the granting of an additional variance to enclose it, which makes it not a substantial request. Mr. Wolf seconded.

5 Ayes – 0 Nays
GRANTED

4. JOEY WILDROUDT – 19725 Telbir Ave. – PUBLIC HEARING – Variance to construct a 2-story addition with 29.8% lot coverage vs. 28% maximum lot coverage permitted, and a Variance to locate an air conditioner condenser with a 3' side yard setback vs. 10' side yard setback required (Section 1153.05(k)). Mr. Joey Wildroudt, homeowner, came forward with Brian Hennies, Architect.

Board Member Brandt introduced the variance requests outlined on the notice, which also names the parties who received it. The parties were sworn in by Chairman Pempus. Mr. Hennies explained that the addition consists of a bathroom and mudroom on the first floor and a master bedroom, walk-in closet and bathroom directly above their existing patio. The 1.8% over in lot coverage is very insignificant in that it equates to about 88 total sq. ft. The addition is causing the need to move the air conditioner condenser straight back a little bit, but it will still need a 3' variance. The lots in the neighborhood are very narrow and Mr. Wildroudt's lot is less than 40' wide. The placement of the unit at 10' from the side property line would put it much closer to the middle of the yard. The existing condenser is already located behind a fence and it will still remain behind that fence when they move it toward the back further. Mr. Hennies explained that the existing patio will remain and the part of the second story addition will be directly over it, so it will allow air, light and drainage on the lot as it is happening now.

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Mr. Brandt said that he walked the property today and he clearly understands what they are asking for. Mr. Wright said that he believes this to be a modest request. Mr. Farrell said that he is glad that they are placing the condenser behind the house so that it is not up against the side. Mr. Hennies agreed with Mr. Farrell and said they are moving it away from the neighbor's occupied space and putting it closer to his garage. The neighbor understands where it will be located and does not have a problem with it.

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

5 Ayes – 0 Nays
Passed

Mr. Brandt applied the practical difficulties test aloud. Regarding whether special conditions or circumstances exist which are peculiar to the land or structure involved, Mr. Brandt said that this parcel is pretty typical to the rest of the parcels. Regarding whether the property in question will yield a reasonable return, he said that adding functional space definitely adds a more beneficial use and a more reasonable return. The unit will not be sitting in the middle of the outdoor space and it will be tucked behind a fence. Regarding whether the variance is substantial and the minimum necessary, Mr. Brandt said that the 3' vs. 10' for the condenser may seem substantial, this is located in a side yard on a lot that does not have much width. They are also improving on the existing condition with the condenser. The essential character of the neighbor is not really altered because they are essentially keeping the fence where it is and the condenser is already behind it. The condenser will be a little bit further from the line, which is an improvement to the present situation and the lot coverage request is barely over the maximum requirement of 28%. This does not adversely affect the delivery of government services and the applicant did not purchase the property with knowledge of the zoning restrictions. Whether special conditions or circumstances that exist as a result of the actions of the owner, Mr. Brandt said that they are actually improving the existing conditions. He said that regarding whether it is possible to obviate the property owner's predicament feasibly through some method other than a variance, Mr. Brandt said that they could end up locating the condenser in the middle of the backyard and to try to limit the addition would probably find themselves over the 28% anyway. Mr. Brandt said he believes that the spirit and intent of the Code would be observed by granting the variances. He does not believe that the granting of the variances will confer any special privilege on the applicant. He thinks that the literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties because he is improving the current situation and making it better. Chairman Pempus and the other members had nothing to add.

Mr. Brandt moved to grant a variance to Joey Wildroutd, 19725 Telbir Ave. to construct a 2-story addition with 29.8% lot coverage vs. 28% maximum lot coverage permitted. Per the discussions and the review of the practical difficulties, it really is a nominal increase in area and is not substantive to warrant any concern. Mr. Farrell seconded.

5 Aye – 0 Nays
GRANTED

Mr. Brandt moved to grant a variance to Joey Wildroutd, 19725 Telbir Ave. to locate an air conditioner condenser with a 3' side yard setback vs. 10' side yard setback required. Per the discussion of the practical difficulties, while it is a variance request, they are actually taking an existing condition and making it better on the side. Mr. Farrell seconded.

5. DIANE MILLER – 20062 Bonnie Bank Blvd. – PUBLIC HEARING – Variance to construct a second story onto an existing detached garage with a height of 18' – 3" vs. 15' maximum height permitted for detached garages (Section 1153.09(b)); a Variance to construct a second story addition on an existing detached garage with a 3' side yard setback vs. 5' side yard setback required (Section 1139.07(a) and Section 1153.15(b)(1)); a Variance to construct a second story on an existing detached garage resulting in 1150 sq. ft. total gross floor area vs. 600 sq. ft. maximum gross floor area permitted (Section 1143.15(c)); and a Variance to construct an outdoor unenclosed stairway to access the second story of a detached garage vs. outside unenclosed stairways prohibited (Section 1341.02). Mr. Bill Miller, homeowner, came forward with Mr. Joe Presot, Architect.

Board Member Brandt introduced the variance requests outlined on the notice, which also names the parties who received it. The parties were sworn in by Chairman Pempus. Mr. Presot explained that Mr. Miller has an existing garage that has a shed roof that is need of repair. He would like to remove the roof and add a second story for storage. Mr. Miller is an outdoorsman with kayaks, canoes, fishing supplies and other things that he wants to be able to store along with patio furniture, etc. that needs to be stored for the winter. He wants the stairs on the outside of the garage to be able to more easily carry his 14' long canoe up to the storage area on the second floor because it would not be possible if they had a pull-down staircase on the interior. Mr. Miller said that they use their kayak weekly and it needs to be put away when not in use. He is almost 70 years old and the pull-down staircase is very difficult to maneuver when carrying something up and down them.

Mr. Pempus said that they don't see many exterior stairways in the City and Mr. Miller showed a picture of an existing staircase that serves a 3-family residence and it is unenclosed with outdoor stairs. He said that there are cabinets all around the inside of his existing garage for storage on the first floor and they contain fishing equipment. Mr. Brandt said that three of the applicant's variances fall under the practical difficulties and the outdoor staircase that is prohibited is a use variance that requires answers to unnecessary hardship questions that were left blank in the application, so they will be asking the applicant those questions as they move forward in their conversation.

Mr. Wolf said that one of the things that stood out to him is that they are doing a lot of work to this garage and he asked if they considered demolishing it. Mr. Miller said that the garage is masonry and brick that matches the house. It is in good shape and he doesn't want to lose it. He also doesn't want to give up all of the cabinetry he has installed in the

garage. Mr. Wolf said that he has seen pulley systems on the roof of the first floor that raise the kayaks off of the floor. Mr. Miller said he also has a full sized truck that can barely get into the garage as it is, and that is without a kayak being suspended from the ceiling. Mr. Farrell suggested they place the kayaks raised up on the side wall. Mr. Miller said that when he pulls into his garage he needs to pull his mirrors in. It is difficult to make the turn coming in so they are going to add a full sized door.

Mr. Farrell said that the double gables at this height are too much of a variance for him to vote for. This basically has 4 gables at 18' tall and that is too much mass and Mr. Brandt agreed. He suggested that there is some opportunity for some residential stairs inside the garage or a fixed ship's ladder within a third bay without the need for an exterior stair. Mr. Miller responded that the garage is only 20' deep and it will make it difficult to work that out. Mr. Brandt made some design suggestions in lieu of the exterior stairs as something for the applicant to think about as a solution to get him close to what he wants. Mr. Wolf said that there is 8' behind the garage and asked whether they thought of constructing a low structure up against the garage where they could store the kayak, or the big pipes or lockers that they use at the marina. Mr. Miller said that they have a dog coming in 2 months and that is where the dog pen will be located. Mr. Pempus said that he likes the exterior staircase because it adds character to the structure. He agrees with Mr. Farrell about the massive look of the double gables.

Mr. Farrell agrees that there are other ways to do this without putting the exterior stairs in and they are way over on the height and mass of the structure. Mr. Presot said that both of the neighbors have 18' garage heights and Mr. Farrell responded that they don't have 4 gables. Mr. Wright said that the presentation is fine but this looks like a carriage house to him or looks like it could be an in-law suite. The 4 peaks resemble a residential building rather than storage. Mr. Wolf said that he has nothing further to add.

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

5 Ayes – 0 Nays
Passed

Mr. Wolf said that they look at each project individually and he cannot think of any garages with 4 gables that come in front of them. Regarding the exterior stairs, he thinks about future owners of the property and what is left of the back yard does not leave them much open usable outdoor space.

Mr. Brandt said that he would like the applicant to answer some questions relating to the unnecessary hardship test and the fact that the exterior staircase is not permitted. He asked if the granting of the variance would have any adverse effect on the health, safety or general welfare of the City of Rocky River and its residents, and the applicant responded that it will not. Regarding whether the property can be put to any economically viable use under any of the permitted uses in the zoning district, Mr. Brandt said that this is obviously a residence and it has a viable use with or without the variance. Regarding whether the

hardship conditions were created by actions of the applicant, Mr. Miller responded that he did not create a hardship condition, except that they are getting older.

Mr. Brandt reviewed the practical difficulties aloud. Regarding the special conditions and circumstances peculiar to the land, this is much like other interior lots on Bonnie Bank Blvd., so it is not unique. Regarding reasonable return or beneficial use without the variance, he said that there is a reasonable use as the property stands now and this will improve upon that use. Whether it is substantial and the minimum necessary, Mr. Brandt said that the side setback is existing. He said that the 18' – 3" height vs. 15' may be the result of the fact that there is an existing structure they are building on top of. Based on the feedback, if they change the roof structure to a single gable, it will help resolve some of the Board's concerns. Very large garages do affect the essential character of the neighborhood but the applicant has letters of support from neighbors on both sides and across the street. This will not affect the delivery of government services and the applicant indicated that he was aware of the zoning restrictions. The need for the variance is not the result of actions of the owner. He believes that there are other solutions to obviate the request and the spirit and intent of the zoning code may be observed because they are building on top of an existing structure. He suggested that the reduction of the magnitude of the garage may work in the applicant's favor. If granted, this would not confer special privileges denied to others, with the exception of the outside stairs. A literal interpretation would deprive the applicants of rights commonly enjoyed by others because the existing garage is what it is and this Board would like to work with the applicant to help him find an acceptable solution.

It was explained to the applicant what happens if the Board votes against granting the variance and the fact that they would have to come back with a substantially different plan or wait a year. The applicant said that he will make some revisions and come back with a compromise

Mr. Brandt moved to table this item for up to 75 days. Mr. Wright seconded.

5 Ayes – 0 Nays
TABLED

The meeting adjourned at 9:20 p.m.

Eric Pempus, Chairman

Patrick Farrell, Vice Chairman

Date: _____