

MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
MAY 15, 2025

Members Present: Farrell, Christ, Wright, Wolf, Martinez

Presence Noted: Michael O'Boyle, City Councilman
Steven Dever, Assistant Law Director
Ray Reich, Building Commissioner
Dylan Minek, Planning and Community Development Administrator

Mr. Farrell opened the May 15th meeting of the Board of Zoning and Building Appeals at 7:00 p.m. He explained the meeting protocol and said that the Board has had the opportunity to visit the sites and review the applications. He said that anyone who is present and interested in any of the agenda items should come forward when the item is called so they can be sworn in if they wish to speak.

Mr. Wright moved to approve the Board of Zoning and Building Appeals meeting minutes from April 10, 2025, as presented. Mr. Christ seconded.

5 Ayes – 0 Nays
APPROVED

1. MEGAN MCLAUGHLIN – 1498 Rockland Ave. – PUBLIC HEARING –

Variance: To install an air conditioning condenser 5' from the side property line vs. the 10' that is permitted. Per Section: 1153.15 (k)(1).

Mr. Christ introduced the variance request, and Mr. Farrell swore in William Weston, the homeowner's representative. They are remodeling the third floor, and it is pretty hot up there; they need an AC unit to make it livable. The condenser will be on the south side of the property and will be congruent with what is already there. The neighbors on the south side already have their condensers on that side of their house and are in support.

Mr. Farrell confirmed with Mr. Weston that it is a vertical unit and that there will be enough air flow. Mr. Farrell wondered if they would be running pipes up to the third floor. Mr. Weston said yes, but he is not the HVAC contractor, so technicalities may be hard to answer. Mrs. Martinez is curious about why they don't place this unit in the rear next to the existing unit. Mr. Weston said there is not enough room, it does not make sense logistically, and it would create a lot of noise in conjunction with the other unit. Mr. Reich let Mr. Weston know that they would want a professional cover over the condenser lines, which must match closely to the color of the house.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the applicant has indicated that the rear of the house has a single story, no basement, area and this unit cannot go behind there. This is a reasonable location based on the size of the unit, and there are already two adjacent units across the property line. Regarding whether the property in question will yield a

reasonable return, he does not believe this applies. The variance is not substantial and is the minimum necessary. This is a small unit being added, so it is the minimum necessary. He does not think that the essential character of the neighborhood will be substantially altered; evergreen screening is required, per the code. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that it applies. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament can be obviated by some method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes it would. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Megan McLaughlin, 1498 Rockland Ave, to install an air conditioning condenser 5' from the side property line vs. the 10' that is permitted. Per Section: 1153.15 (k)(1). The applicant has indicated the practical difficulties with locating the unit along the side, this is a reasonable location. They will provide screening for the unit and put up hiding conduits behind the chimney and along the side to eliminate the exposure. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

- 2. BRAD & KRISTEN WEINBERGER – 21515 Avalon Dr. – PUBLIC HEARING –**
Variance: To construct a roof over existing patio with a front yard setback of 40'6" vs. the 50' as shown on the setback map, City of Rocky River, May 12, 1975. Per Section: 1153.07 (a).

Mr. Christ introduced the variance request, and Mr. Farrell swore in the architect, Mark Reinhold, and the homeowner, Brad Weinberger. Mr. Reinhold said it is an existing blue stone patio that they want to add a roof to. Using the same overhangs and detailings that are consistent with the house. Not changing the living space, just the classification changes by adding a roof. Mr. Wolf said he appreciates Mr. Reinhold's work, but he would like to see the neighboring properties' setbacks in the future. Whether that is an aerial or included on the site plans.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, this is an existing porch/patio, and the configuration/location is already set. This will simply be adding a roof over it. Regarding whether the property in question will yield a reasonable return, he believes there will be additional benefits. The variance is not substantial and is the minimum necessary, since it is an existing patio area. He does not think that the essential character of the neighborhood will be substantially altered, enhancing the area. The delivery of government services will not be

adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that it applies. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament can be obviated by some method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes it would. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Brad and Kristen Weinberger, 21515 Avalon Dr, to construct a roof over existing patio with a front yard setback of 40'6" vs. the 50' as shown on the setback map, City of Rocky River, May 12, 1975. Per Section: 1153.07 (a). The applicant has indicated the practical difficulties, and this is going over an existing porch, maintaining the existing setback. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

- 3. SEAN & GRACE KENNEDY – 21630 Aberdeen Rd. – PUBLIC HEARING –**
Variance: To construct an attached masonry deck 22'1" from the rear property line vs. the 25' that is permitted. Per Schedule: 1153.07 (2).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Mike Supler, from New Vista Enterprises, representing the homeowners. Mr. Supler said they want to add a small masonry deck to the rear of the home. The family room will lead onto this new deck, and the deck will step down to a larger patio area. The stone will match what is currently on the home. The Board asked about the fence that is included in the package. Mr. Supler said they changed the style of fence that they were originally looking at, so they do not need a variance anymore. The Board wants to make it known that the fence is not to be included in this package, and a separate fence application would have to be submitted to the Building Department.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the current building is located such that, to provide a minimal space for a seating area, the setback variance is required and is reasonable. Regarding whether the property in question will yield a reasonable return, he believes this will enhance the property. The variance is not substantial and is the minimum necessary, since it is a relatively modest size. He does not think that the essential character of the neighborhood will be substantially altered, matching existing materials and conditions. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that it applies. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament can be obviated by some method other than a variance. He believes that the

spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes it would. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Sean and Grace Kennedy, 21630 Aberdeen Rd, to construct an attached masonry deck 22'1" from the rear property line vs. the 25' that is permitted. Per Schedule: 1153.07 (2). The fence portion of the submittal will be struck, and a separate permit will be sought for the fence changes. The applicant has indicated the practical difficulties; this is a minimal amount and a reasonable solution. Mr. Wright seconded.

5 Ayes – 0 Nays

APPROVED

4. STEPHANIE LICATA – 1182 Bates Rd. – PUBLIC HEARING –

Variance: To construct a play structure with a height of 13' vs. the 12' that is permitted. Per Section: 1153.15 (g)(1).

Variance: To construct a play structure with a setback of 3' vs. the 7' that is permitted. Per Section: 1153.15 (g)(1).

Mr. Christ introduced the variance request, and Mr. Farrell swore in the homeowners, John and Stephanie Licata. Mrs. Licata said that they are building a tree house in the rear corner of the yard, and it is closer to the neighbors than what the code allows. So, they talked to the adjacent neighbors, and they were fine with it. Mrs. Martinez wanted to know why the 13 feet vs. the 12 feet. Mrs. Licata said it is 7 feet up to the platform, so there is enough space below to have a swing underneath. The height of the actual building will be 6 feet. Mr. Christ said that the drawing actually goes up above 13 feet. Mr. Reich said they cannot exceed 13 feet if they get the variance today. Mr. Farrell agreed that it really can't be smaller than 13 feet; they need the 13 feet for clearances.

Mr. Christ is concerned with the placement of the treehouse. It means that each or at least one of the corners is underneath power lines. The power lines are not much higher than 13 feet, which can become a safety issue. Mr. Reich said there are clearance requirements, but he is not sure what those clearances are. The Electrical Inspector would know what those clearances are. Mr. Christ said the major concern is a child climbing on the window and onto the roof. Now they are 13 feet off the ground, the wire could be 18 to 20 feet, and all they need is some metal, and it could become a dangerous situation. The Board and Mr. Reich feel that they can continue with the approval process, and they'll leave it up to the Building Department to make sure there is enough clearance. The railing would also need to be to code, and they will let the Building Department verify that.

Mr. Farrell confirmed where the setbacks will be 3' at. Mrs. Licata said that it would be both the side and the rear setback. Mr. Dever said that it should be specifically stated which setback they are for. Mr. Christ will do that when granting the motion.

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

5 Ayes – 0 Nays

Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the applicant has indicated that they are trying to utilize the existing land configuration and an existing tree. Which is a reasonable approach, they will have to clear a few things with the Building Department beforehand. Regarding whether the property in question will yield a reasonable return, he does not believe that it will apply. The variance is not substantial, and based on the current configuration, it is the minimum necessary. He does not think that the essential character of the neighborhood will be substantially altered, as it is already screened by existing vegetation. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that it applies. He does believe that special conditions exist because of the actions of the owner, only because of the location they are choosing, but it is a reasonable approach that they are taking. He does not believe that the predicament can be obviated by some method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes it would. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Stephanie Licata, 1182 Bates Rd, to construct a play structure with a height of 13' vs. the 12' that is permitted. Per Section: 1153.15 (g)(1). The applicant has indicated their difficulties with locating the headroom and a swing below the platform, and a reasonable height in the room that is being built on the platform. The applicants will adjust the roof to make sure that it does not exceed 13', and this is a reasonable solution. As part of that, they will verify with the Building Department the electrical clearances, the structural design, and with the utility that is required for locating where it's at. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Stephanie Licata, 1182 Bates Rd, to construct a play structure with a setback of 3' vs. the 7' that is permitted. Per Section: 1153.15 (g)(1). This is indicated to apply to both the side yard setback and the rear yard setback and is subject to the same provisions as the first variance regarding electrical, structural, and utility. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

- 5. WILLIAM TODD SEABROOK – 20360 Parkview Ave. – PUBLIC HEARING –**
Variance: To construct a new garage that is 810 square feet vs. the 600 square feet that is permitted. Per Section: 1153.15 (c).
Variance: To construct a new garage with a 2' side setback vs. the 5' that is permitted. Per Schedule: 1153.15 (1).

Mr. Christ introduced the variance request, and Mr. Farrell swore in the homeowner, William Seabrook, and his father, Craig Seabrook, the chief engineer. Mr. W. Seabrook said they are tearing the existing garage down and rebuilding it a little bigger. That is to fit the two cars he and his partner have, and all of their stuff that comes with owning the home. The garage will be placed in the same place as the existing garage, which is nonconforming as it currently sits 2' from the property line. Mr. Farrell questioned whether the current foundation or floor would be able to sustain a building of this size. Mr. C. Seabrook said that the existing foundation would be removed, and a new foundation would be poured.

Mr. Farrell is curious about why it needs to be so large. Mr. W. Seabrook said the way he determined the size was by pushing all his items to the wall of his garage and adding the length of his car, plus some wiggle room, to come up with the depth. Mr. Farrell pointed out the support letters from his neighbors on both sides. Mr. Farrell also pointed out the depth of his lot and the fact that he will not be infringing on any rear neighbors as he has plenty of space behind the garage. Mrs. Martinez recommended that if space is an issue, make one large garage door instead of two separate ones, which allows you to park cars closer, allowing for more space. Mr. W. Seabrook said he had just installed new doors in his existing garage and wants to use those instead of buying a new, larger door.

Mr. Reich let the board know that since the wall is so long and abuts the property line, this project will have to go to the Design and Construction Board of Review. Mr. Christ said in essence, Mr. Seabrook is building a garage with an attached storage shed. Mr. Christ believes having one structure is more reasonable than having two structures. It will look better, even with a long wall. Mr. Christ thought the current garage looked closer than 2 feet to the property line and wants to make sure that the 2 feet will be verified by the Building Department. Mr. Reich said the Building Department will do a lot line inspection to verify. Mr. Farrell wanted to verify that they are not doing anything to the driveway; they are not. Also verifying if the existing garage and the new garage are the same width, they are.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the existing setback is around 2', and they will be maintaining that. While expanding the garage in the portion of the property that will not impact any adjacent neighbors, and is reasonable. Regarding whether the property in question will yield a reasonable return, this will enhance the return on the property and is reasonable. The variance is not substantial and is the minimum necessary, the applicant has indicated the practical difficulties of taking their lawn items and incorporating them in the yard to reduce the clutter and improve the total appearance of the yard. He does not think that the essential character of the neighborhood will be substantially altered; they will work with the Design Review Board to make sure the walls adjacent to the property line are appropriate. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that it applies. He does not believe that special conditions exist because of the actions of the owner. He does not believe

that the predicament can be obviated by some method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes it would. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to William Todd Seabrook, 20360 Parkview Ave, to construct a new garage that is 810 square feet vs. the 600 square feet that is permitted. Per Section: 1153.15 (c). The applicant has indicated the practical difficulties of locating the new car space and storage space, and this is a reasonable solution. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to William Todd Seabrook, 20360 Parkview Ave, to construct a new garage with a 2' side setback vs. the 5' that is permitted. Per Schedule: 1153.15 (1). This is the existing setback, and this will be maintained and extended within an area of the property that will not impact any of the neighbors. And the architectural review will be dealt with through the Design and Construction Board of Review. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

6. TIMOTHY PALMER – 315 South Riverdale Dr. – PUBLIC HEARING –

Variance: To construct a deck with a 9.3' rear setback vs. the 25' that is permitted. Per Schedule: 1153.07 (2).

Variance: To construct a deck with a 3' side setback vs. the 5' that is permitted. Per Schedule: 1153.07 (1).

Variance: To construct a deck that is 344 square feet vs. the 250 square feet that is permitted. Per Section: 1153.15 (g)(3).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Timothy Palmer, the homeowner. Mr. Palmer bought the home last summer and knew it was going to need a lot of work. There is a launch easement to get to the water that runs through the property and to the river. Mr. Reich said the home used to be a part of the property up the hill, and in 2022, the property was split into two. One on top of the hill along Riverdale and one down the hill along South Island. Mr. Farrell verified that the deck would start at the southeast corner of the home. Mr. Palmer confirmed that the corner of the house is 3' from the property line, explaining the side setback variance. Mr. Palmer said that parking was moved from the front of the house to the north side of the house. Mr. Wolf wanted to know what the expectations are for off-street parking. It looks like where the new driveway is, the access easement runs right on that. Mr. Reich said that he is unsure what the parking requirements are for that area, but he and Mr. Farrell agreed that people park wherever they like down there.

Mrs. Martinez wanted to confirm that the new driveway is where the boat easement is on the site plan; it is. Mr. Farrell assumes that it is okay to do so since it is still accessible and there are no

structures on that part of the property. Mrs. Martinez also wanted to know if there is a cover on the deck or if it is open above. Mr. Palmer confirmed that there is no covering. Mr. Farrell wondered if he planned on changing the windows to doors on the deck. Mr. Palmer said that is the plan, but he wants to get the variances before tackling that. Mr. Farrell also wondered if there were any historic guidelines or regulations that he must follow. Mr. Palmer said that he contacted the Historical Society, and they didn't have any rules or regulations, and they couldn't take the concrete pillars from the front side of his home.

Mr. Wolf wanted to make sure that any decision from the Board about the deck is separate from the off-street parking space. Making sure that it is conforming and looking back through old records to see if there is any information still on file about this subdivision. If there was legal space before, then there needs to be a legal conforming space again. Mr. Christ said that since there is no garage, that is what is nonconforming, not the off-street parking space. The code would be concerned with a garage, not off-street parking. Mr. Reich wants to make sure if there is off-street parking for Mr. Palmer. Mr. Christ's main concern is the rear setback. He is not concerned with the measurement itself, but where that measurement is in relation to the access road. Mr. Palmer did not have a survey done, and he was going off the realtor's map that he had. Mr. Christ is concerned because they do not know where the property line is. Mr. Reich confirmed that the Building Department will do a lot line inspection for this project. Mr. Christ wanted to make sure that the concrete is not used for the deck itself. Mr. Palmer said they will be outside the deck itself and will act as a buffer between the deck and South Island Drive.

Mr. Christ wanted to know the rationale for the size variance. Mr. Palmer thought it made the most sense in terms of the contours of the land and the outdoor space he desired.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, this is a very unique property. Several conditions exist, including where it's located, the existing drive, and the river. Regarding whether the property in question will yield a reasonable return, the applicant has been adding value to the building by reconstructing it, this deck would enhance that, bringing a reasonable return. The variance is not substantial and is the minimum necessary. The applicant has indicated that he has looked at the area he has to work with, and this is a reasonable area. He does not think that the essential character of the neighborhood will be substantially altered; if anything, it will improve it. The delivery of government services will not be adversely affected. The applicant has indicated keeping some of the existing structure to improve the delivery. Whether the owner purchased the property with knowledge of the zoning restrictions, he believes he did, but he will work with the Building Department to locate this properly. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament can be obviated by some method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation

of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes it would.

Mr. Farrell asked Mr. Palmer if there were to be any railings, and Mr. Palmer confirmed there would. Mr. Farrell said they were not included and wondered if he would be going to the Design and Construction Board of Review. Mr. Palmer confirmed that he is already on the agenda for the Design and Construction Board of Review.

Mr. Christ moved to grant a variance to Timothy Palmer, 315 South Riverdale Dr, to construct a deck with a 9.3' rear setback vs. the 25' that is permitted. Per Schedule: 1153.07 (2). The configuration of the property is such that the rear of the property faces the drive that runs behind his property, and it could be considered the front, but this is for the South Riverdale property. This is a reasonable distance, and they will verify this with a survey, and it is a good solution to provide this desk. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Timothy Palmer, 315 South Riverdale Dr, to construct a deck with a 3' side setback vs. the 5' that is permitted. Per Schedule: 1153.07 (1). For the same reasons. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Farrell wanted to ask again why he needed the size variance. To have an "L" shape lounging area, a table, and a grill, the 250 square feet may be tight. Mr. Palmer said the old concrete boat post will be just on the other side of the deck. Those being there is why he created the deck in the way that he did. Mr. Farrell thinks that the deck is larger than necessary. Mr. Farrell wanted to confirm that the deck square footage included the stairs and the pump-out at the stair landing, Mr. Palmer confirmed that it does. Mr. Palmer also said that the one way to access the deck, until he changes the front windows to doors, is from the stairs. Mr. Farrell thinks that is way more than necessary, especially in this neighborhood. Mr. Palmer said he has a young daughter, and having space for her is also a priority. Mr. Christ and Mr. Wright said the main part of the deck is only 308 square feet, which is just 23% over the 250 square feet requirement. Mr. Wolf understands why you would put the deck in this space, there is no other space for it. Mr. Wright said what makes this property unique is the fact that there is no uniformity at all within this neighborhood. Mr. Christ agreed that the front of the house is his only spot for outdoor space, which is an unusual circumstance. Mr. Christ has seen multiple gazebos that were 14' by 14', and they were tight.

Mr. Christ moved to grant a variance to Timothy Palmer, 315 South Riverdale Dr, to construct a deck that is 344 square feet vs. the 250 square feet that is permitted. Per Section: 1153.15 (g)(3). The applicant has indicated his practical difficulties with providing an outdoor living space that will take advantage of the location and the amenities that he wants to be able to provide relative to this as a front yard, which is, by code, a rear yard. This is a reasonable area, and a portion of

this will go towards a side exit and stairs. The actual deck area is much smaller and is a reasonable solution. Mr. Wright seconded.

4 Ayes – 1 Nays (Farrell)
APPROVED

7. WILLIAM LAZZARO – 1201 Woodside Dr. – PUBLIC HEARING –

Variance: To widen the driveway with a 6” side setback vs. the 3’ that is permitted. Per Schedule 1153.15 (2).

Mr. Christ introduced the variance request, and Mr. Farrell swore in William Lazzaro, the homeowner. Mr. Lazzaro said the driveway is below code, and they are looking to replace their driveway because it is a little destroyed. He understands that the code says it must be 8’ wide, so they want to expand it a little bit. They will replace the whole driveway. They spoke to their neighbor, and they were in support of it, and that was provided in the package. Mr. Lazzaro said they will maintain the current flower bed that is there and not pour up next to their house. Mr. Farrell wanted to confirm with Mr. Reich that this is not new for the city, as a lot of driveways are on the property lines. Mr. Reich confirmed that it is the case. Mr. Reich also wondered if Mr. Lazzaro was planning on extending the apron. Mr. Lazzaro said he didn’t think that they could. Mr. Reich said that they can, but there is a guy wire at the edge of their apron, and they would need to get in contact with the utility company about that. Mr. Lazzaro said they are trying to avoid that, and Mr. Reich said that the conversation should still take place regardless of widening the apron or not.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, as the applicant has noted, the house is located very close to the property line, and the existing driveway is not meeting minimum width, and he is expanding it to do so. This will give additional clearance and is a reasonable solution. Regarding whether the property in question will yield a reasonable return, he does not believe that it will apply, but he does believe it will facilitate the property’s value. The variance is not substantial and is the minimum necessary; the applicant has indicated that this is the minimum necessary and therefore is not substantial. He does not think that the essential character of the neighborhood will be substantially altered. The delivery of government services will not be adversely affected; having a wider driveway will actually make it easier. The applicant will work with the city and the power company to locate the apron, easements, and existing guidewires. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that it applies. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament can be obviated by some method other than a variance. The house is located where it is located, so it cannot. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly

enjoyed by other properties, he believes it would. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to William Lazzaro, 1201 Woodside Dr, to widen the driveway with a 6" side setback vs. the 3' that is permitted. Per Schedule 1153.15 (2). The applicant is bringing his driveway into conformance with the code, relative to its width, and with the configuration of the property; this is a reasonable and minimal solution to meet this requirement. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

8. JAMES & VIRGINIA CAHILL – 2233 Winfield Ave. – PUBLIC HEARING –
Variance: To construct a garage addition with a 3.8' side setback vs. the 8' that is permitted. Per Schedule 1153.07 (1)(a).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Mike McGettrick, the architect. The homeowners are looking to add a garage bay to their existing single-car garage. The Cahills' side yard abuts the neighbor's rear yard on East Shoreland. Mr. McGettrick said they are adding 10 feet to the length of the house. They had explored trying to add a double door instead of having two single doors. However, since a bedroom sits about the existing garage, it would be a lot more work to install a double door. Mr. Farrell wanted to confirm that the only property that this would directly affect is the property to the north, which is their rear property line. Mr. McGettrick said that is correct, but the neighbor's garage would be 30 feet from this addition, and there are shrubs and landscaping between the two. The other neighbor to the east on Shoreland is like 75 feet away from the garage. Mr. Farrell thinks it fits very well. Mr. Christ wants to make sure that the addition is square with the house, and that's why it varies in distance from the garage to the property line. Mr. McGettrick confirmed that there is a slight skew in the property lines in relation to how the house is set.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the applicant has indicated the practical difficulties in adding a second enclosed garage space. The existing garage sits in the side yard, and there is minimal space to expand the garage. Regarding whether the property in question will yield a reasonable return, he believes it will enhance the property. The variance is not substantial and is the minimum necessary. He does not think that the essential character of the neighborhood will be substantially altered, the applicant has indicated that it will match the existing house. The delivery of government services will not be adversely affected, the 3.8' provides enough space for emergency access. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that it applies. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament can be obviated by some method other than a variance. He believes that the spirit

and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes it would. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to James and Virginia Cahill, 2233 Winfield Ave, to construct a garage addition with a 3.8' side setback vs. the 8' that is permitted. Per Schedule 1153.07 (1)(a). The applicant has indicated the practical difficulties with providing a clear space for one new enclosed garage, and the existing house construction limits the ability to provide this space. This is the minimum required to provide this, and there will be adequate access to the side of the house. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

9. KEVIN & ALEXA BASH – 1100 Elmwood Rd. – PUBLIC HEARING –

Variance: To install a fence on the corner side lot line vs. the 5' corner side setback that is permitted. Per Section 1153.15(4).

Variance: To install a corner side yard fence with a height of 60" vs the 42" that is permitted. Per Section 1153.15(4).

Variance: To install a corner side yard fence in picket style vs. the ornamental that is permitted. Per Section 1153.15(4).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Kevin and Alex Bash, the homeowners. Mr. Farrell wanted to thank them for doing such a good job answering the questions on the variance application. Mr. Farrell also wanted to point out letters of support for the neighbors. The rear property line neighbor is here in support; she was out of town when they were asking for letters, so she decided to come instead. Mr. Farrell said it's good that she is here because her visibility would be the most affected by a fence. Mr. Farrell wanted to clarify that they would be removing the existing fence and the privacy wall along the patio, Mr. Bash confirmed. Mr. Farrell also wanted to clarify that the fence would go right along the sidewalk. Mr. Bash said that the current fence is 6" off the sidewalk; their proposed fence would be an additional 6" off the sidewalk. Mr. Reich said they can do a lot line inspection or check the distance of the right-of-way. They have that information for the right-of-ways in this area, so the Building Department can send out one of the inspectors to verify the information that they have.

Mrs. Martinez asked Mr. Reich what the difference is between picket and board-on-board style fences, according to the code. Mrs. Martinez thought the style of fence depicted looked more like a board-on-board instead of a picket. There is a lot less visibility than she would expect to see from a picket. Mr. Reich said he believes it would be 25%. That 25% would be from any angle, does not have to be from straight on. This is a corner lot fence, so that means it must go to the Design and Construction Board of Review. Mr. Reich said that if Mrs. Martinez has a particular question or taste, that would be provided in these minutes to the Design and Construction Board of Review. Mrs. Martinez felt that the combination of the height, visibility, and how close it is to the property line was a pretty substantial ask.

Mr. Wolf wanted clarification from Mr. Reich on what the code allows. Elmwood is the front of the property, there is a corner side and an interior side, and the rear faces the neighbor's driveway to the West. The fence in the corner side yard needs to be set back, per code, 5' from the corner side yard property line. At the 5' setback, the fence must be ornamental, and the height must be 42". Along the rear property line, once they are within the rear corner of the house, they can be 6' board-on-board fencing with the first 5' being 25% transparent and the last foot being 50% transparent. Which is the same as the interior side yard lot line. Mr. Bash said that if it wasn't clear in the write-up, the variance is only for the southside property line fence. Mr. Christ wondered if they took the fence northward, if they could use a different style of fence. Mr. Reich said that even to the corner of the house, they would have to use ornamental. Mr. Farrell said the fence boards are not overlapping. Mr. Bash agreed, the pickets are on the outside of it, and there are gaps between the boards. Mrs. Martinez said that the spacing is not substantial. Mr. Farrell looks at the rendering and agrees. It would be permitted on all sides of the yard except the south side of the yard.

Mr. Wolf said in the narrative that there was a lot of emphasis on preventing people from reaching in or out of the ornamental fence. Mr. Bash said that they have very friendly dogs and have had incidents where their dogs and people have come into contact. Nothing serious has ever happened, but not everyone wants a dog to run up to them. Mr. Bash said they have had incidents with their kids sticking their hands through the fence. Mr. Wolf said there are other ways to achieve the same objective, with plantings or where the ornamental fence is positioned relative to the sidewalk, and those plantings can be placed between the fence and the sidewalk. Sometimes with fences, there is more than one way to achieve the homeowner's objective while maintaining the community's objective when it comes to fences. Mr. Bash said that he has seen landscaping throughout the city, between the sidewalk and the fence, and he felt that it is more intrusive because it hurts visibility more than a fence, and the plants grow into the sidewalk. Mr. Bash felt that plantings would be a subpar solution to what they had in the proposal.

Mr. Wright wanted clarification from Mr. Reich on where the fence can be placed on the south property line. Mr. Reich said it must be set back 5' from the south property line. Mr. Wright said his understanding was that it was going to replace the existing fence, +/- 6". Mr. Reich said yes, they are going to pull it farther into their yard 6", so it would be 12" off the property line. Mr. Wolf asked if the assumption is the property line is 12" off the sidewalk, Mr. Reich said they would have to establish that. Mrs. Martinez said that the variance reads that the fence is on the side yard lot line.

Mr. Christ said there is a reason for this part of the code. The downside of a corner lot is exactly what you are expressing. Mr. Christ said he cannot think of one the Board has reviewed that was approved. Mr. Bash said there are examples throughout the city. Mr. Christ said that it does not matter; there are plenty of things within this city that are nonconforming, and he must look at their property specifically. They may have met code when they were put in, or they never got a variance. However, he remembers more than a dozen that came before this Board looking for a corner side yard variance, and the relaxation of the corner side yard with ornamental has almost never happened. There is one that he can think of who used 50% openness and used special screening. The other one he can think of used a picket fence that used one by one and spaced them with 4" clearance, which was accepted because they were narrow pickets and wide spaces. Mr. Christ said the fence proposed here is not a picket in any stretch of the imagination. The

code is intended to maintain the openness of the city and the appearance of the city. Mr. Chris said that if the fence is 5' off the property line, then the reasons for the variance, the dogs and the kids, would go away. As stated before, this is not a picket fence; the fences allowed before were at least 50% open and were not as tall. Mr. Christ said that you cannot go anywhere in the city and see a fence with this combination of opacity and height in a corner side yard.

Mrs. Bash said they thought about moving the fence inwards, but there is existing landscaping that they wanted to preserve, and they moved it as far as they could without disturbing the existing plantings. They also wanted to keep the fence consistent around the yard. Mr. Christ said those are strong arguments for an interior lot, but for a corner lot, it is not. He thinks their goals could be achieved through a different method. Mr. Wolf said that most of the code is probably 75 years old, but the fence section of the code was revisited 10 years ago. The Board has also heard from the community and council to adhere to these provisions as much as possible. Mr. Wolf said they are looking at each property individually. They would not want to see this same style in every lot in this city that faces the same circumstances.

Mr. Christ also wanted to add that this fence would create such a hazard for the rear neighbor. Mr. Farrell said that he'd like to hear from the neighbor herself. The neighbor has had her own concerns about pulling out of her driveway and not being able to see a pedestrian. She said that she is in support of Mr. and Mrs. Bash getting what they want and improving their home. She said they have been great at coming over and showing her renderings and mock-ups. She said they angled the fence so that she could it didn't come right to the end of her driveway, so it is easier for her to see. Mr. Bash said the proposed fence is pushing the first post along the west property line 12.5' off the sidewalk. Which is well beyond what the setback allows. If they were to put the fence right on the setback, then the visibility would be worsened. Mr. Bash said he chose to angle that rear corner of the property in a way that allowed her to maintain 18' of visibility down the sidewalk from her garage. If they followed the setback, she would see 11.5' down the sidewalk. Mr. Farrell is not sure if the 18' makes sense; he understands what he is saying, but does not think it would improve her visibility. Mr. Christ followed up with the fact that the fence will continue eastward from that curve. So, the fence will curve from the West property line and meet at the South property line and run along that property line. Mr. Bash said the greatest obstruction would be the existing trees that are there. Mr. Christ said he is concerned that even 5' from the property line, as the code states, would be too obstructive. Mr. Christ said that, in essence, what they are proposing is a solid fence on a property line.

Mrs. Bash wondered if there were any modifications that the Board would like to make. Mr. Farrell said they probably won't have an answer tonight. For the first variance, the 5' setback. If they were to allow for a taller height, they would want it pushed back to at least that setback. Mr. Bash said the fence would be in code then. Mr. Christ said the setback would be in code, not the fence itself. Mr. Farrell said the first variance for the setback would mean pushing the fence back at 5', but still at that 5', a special type of fence would be required. Mr. Farrell said the Board is leaning towards pushing that fence back some. As far as the height of the fence, which gets into the style of the fence, which is the third variance. Mr. Farrell said he is sorry to say it, but they have a corner lot, and the code was refreshed relatively recently to have an emphasis on openness on a corner lot. Mr. Wolf said that even if you came back 5' from the property line, the height and style would still need a variance.

Mrs. Bash wondered if they would keep their proposed fence along their interior side lot line and the rear lot line. Then on this south line, followed the same path as the existing fence, lowered the height to 42" and increased the spacing between the boards to allow for more visibility. But having the boards spaced so that it would make it harder to put hands through. Mr. Reich just reiterated what the code said, saying they could come back with a new design or send it to the Design and Construction Board of Review to get their input. They can agree that the interior lot lines are okay for the style of fence they have, but it's the south lot line that needs to be addressed. Mrs. Bash wondered if they kept the fence design they had in the interior lot lines and then used the same material and dropped the height and/or increased the space. She is trying to gauge where the Board is. Mr. Christ and Mr. Farrell wonder why they cannot just use the existing ornamental fence that they already have. Either moving landscaping inside the fence or between the fence and the sidewalk.

Mr. Farrell said that with these corner lots, when it comes to fences, they assume that people buy these properties with knowledge of the code. Mr. Bash said they talked to the title agent, the real estate agent, and the homeowner, and they all said they would be able to change the fence. Mr. Bash wants clarification on the code for the corner side yard fence. Mr. Reich said that only an ornamental fence of 42" is permitted in the corner side yard, and that fence must be 5' from the corner side yard property line. If you are in line with the house, then that becomes the rear yard and not the side yard. Mr. Bash also wanted to know what the table meant. Mr. Farrell said there is no vote, and they will revisit it at another meeting. Mr. Reich said it's better than them voting on it and then having to wait a year to come back. Mrs. Bash would like to know what the Board wants for the next meeting. Mr. Farrell said they can be a little flexible with the 5' sometimes if it is an open face, but they also don't want it up against the sidewalk because that causes problems too. Mr. Farrell thinks the openness is probably the most important thing the board is trying to enforce. Mr. Christ said if it's open, he is not sure the Board forces the adherence to 42," they have had instances where they have allowed taller fences when they were open fences. The height doesn't obstruct the view as much as the openness of the fence. Mr. Wolf said that he can think of many instances where these conversations have happened and the applicants have come back with a conforming plan. Mr. Farrell said to have a conversation with Mr. Reich about the fence, and they'll table this for 90 days.

Mr. Wright moved to table all three of the variance requests for a period of 90 days. Mr. Christ seconded.

5 Ayes – 0 Nays
Tabled

10. MASON & AMY OATEY – 21213 Aberdeen Rd. – PUBLIC HEARING –

Variance: To construct a front porch with a 36' front setback vs. the 40' required front setback as shown on the setback map, City of Rocky River, May 12, 1975. Per Section: 1153.07 (a)

Variance: To construct a front porch increasing the lot coverage to 29% vs. the 28% that is permitted. Per Schedule: 1153.05 (3).

Mr. Christ introduced the variance request. Mr. Wolf wanted to raise a point of order, as he knows Mason Oatey personally through their kids at school. Based on discussions with the

previous law director, he believes he can be impartial in this case. Mr. Farrell swore in Dave Maddux, the architect, and Mason Oatey, the homeowner. Mr. Maddux said the great thing about Aberdeen is that there are a lot of people on the streets, and it's a great neighborhood street. Mr. Maddux said the only outdoor space they have is in the rear, and they would like to increase their connections to the street. They have proposed a 6' porch, which is the shallowest it can be while still being practical. The porch helps create a better architectural composition and functionally improves access to the home.

Mr. Farrell feels that it is relatively modest and thinks it is a nice architectural feature. Mrs. Martinez wanted to confirm that there is no railing; there is not. She also felt that it was a reasonable ask and appreciated increasing the attractiveness from the street. Mr. Wolf has no objections, and Mr. Wright agreed. To him, 4' is not substantial, nor is 1%. Mr. Christ had no questions for the particular project but wanted to note that people have been asking about why there are so many front porches. Mr. Christ said people want to sit on their front porches and visit with neighbors, and he agrees with that.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the applicant has indicated the practical difficulties with the existing house and front setback, and they are only using 6', which is a reasonable dimension. Regarding whether the property in question will yield a reasonable return, he believes it will enhance the property. The variance is not substantial and is the minimum necessary. He does not think that the essential character of the neighborhood will be substantially altered; it will actually be improved. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that it applies. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament can be obviated by some method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes it would. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Mason and Amy Oatey, 21213 Aberdeen Rd, to construct a front porch with a 36' front setback vs. the 40' required front setback as shown on the setback map, City of Rocky River, May 12, 1975. Per Section: 1153.07 (a). The applicant has indicated the practical difficulties with the existing house location and existing setback, and this is a reasonable solution. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Mason and Amy Oatey, 21213 Aberdeen Rd, to construct a front porch increasing the lot coverage to 29% vs. the 28% that is permitted. Per Schedule: 1153.05 (3). This is an open area, and it is a minimal increase on the total property's square footage; this is a reasonable solution. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

11. PETE CARELLI – 19446 Frazier Dr. – PUBLIC HEARING –

Variance: To construct a new home with a 15' front setback vs. the 20' required front setback as shown on the setback map, City of Rocky River, May 12, 1975. Per Section: 1153.07 (a).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Dave Maddux, the architect, and Pete Carelli, the homeowner. The Carellis have had the property since the 1930s. The previous house had the garage up on the hill, and the house was down the hill. The existing garage was 12' off the street, and there were steps that you had to walk down, both inside and out, to get from the garage to the house. The residence will be moved up on the hill to make it more livable as they age. That is the reason why they need the setback variance so they can pull the house up on top of the hill. Mr. Maddux said that the front of the garage will be 20' off the curb line, which allows for enough space to park a car. The 5' variance is the minimum necessary to achieve their goals.

Mr. Farrell said his main concern would be whether there is enough space to park a car in front of the garage. Mr. Farrell said this area is terrible for parking. Mr. Maddux said the previous garage was much closer to the street than what they are proposing, and they used to park sideways on the driveway, which would actually increase the amount of space to park. Mr. Wolf would like to know what the setbacks are of the two houses in the north. Mr. Maddux thought they could be 12-13', they are further back than the previous garage, but not the full 20'. Mr. Wolf said that from his perspective, he likes the articulation of the street, and several homes are closer to the street. Mr. Wright liked the fact that he is pushing the face of the garage back 10'.

Mr. Farrell asked Mr. Wright if a question should be posed to the Planning Commission about the overall parking in this area or if a discussion should be had. Mr. Reich said that a discussion has not been had. There is no parking allowed in the streets over there, and there was a house that was there before. In fact, he is pushing the garage further back off the street. Mr. Maddux said the right-of-way line is further back off the curb than it is in a lot of places. The right-of-way is about 7' off the curb line. Mr. Maddux said the home is 20' from the curb. Mr. Christ said that means if the city ever decided to come in and put a sidewalk in, then anyone parking in the driveway would be obstructing the sidewalk. Mr. Farrell said he thought of that but doesn't think that would ever happen. Mr. Wright agreed. Mr. Farrell asked if you are allowed to park in the right-of-way. Mr. Reich said, as long as the car is not on the street, he doesn't see how that would be an issue. Mr. Wright said that it is a unique stretch of Frazier Dr., and Mr. Wolf agreed and said that he feels as if the road slows down in that area, and it feels like a safer stretch of road since all the homes are so close to the street.

Mr. Christ said that Mr. Maddux and his clients heard the Board's concerns and would advise them to look at the garage and see if there is any space they can take from the garage and add to the driveway. Mr. Christ said he is fine with the 15', but he thinks the driveway is a valid question. His main concern was the existing retaining wall and the closeness of the house. Mr. Maddux said they were aware, and they are not at the point yet. Mr. Christ figured he was aware, and the city was aware, just wanted to raise that question.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, as this is sitting on the bluff of the river, some special conditions and circumstances exist, and the previous garage was much closer. Regarding whether the property in question will yield a reasonable return, he believes it will enhance the property. The variance is not substantial and is the minimum necessary. The applicants have indicated where the existing retaining walls are, and the configuration of this floor and the drive-in garage are reasonable. He does not think that the essential character of the neighborhood will be substantially altered; the previous garage was closer to the street, and this will improve that. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he believes they did, but he does not believe that it applies in this case as an improvement. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament can be obviated by some method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes it would. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Pete Carelli, 19446 Frazier Dr, to construct a new home with a 15' front setback vs. the 20' required front setback as shown on the setback map, City of Rocky River, May 12, 1975. Per Section: 1153.07 (a). The applicant has indicated the practical difficulties with adding a new residence on this difficult site, which slopes down. The new is a much better configuration than the previous home, and this is a reasonable solution. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

12. BAHAR MALEKZADEH – 19332 Frazier Dr. – PUBLIC HEARING –

Variance: To construct a new home with a lot coverage of 31% vs. the 28% that is permitted. Per Schedule: 1153.05 (3).

Variance: To construct a new home with a height of 33'6" vs. the 25' that is permitted. Per Section: 1153.09.

Mr. Christ introduced the variance request, and Mr. Farrell swore in Dave Maddux, the architect, and Curran Convy, the homeowner. This is a modification in the design from the concerns voiced at the April meeting. Mr. Maddux said they were able to eliminate one of the variance requests. Mr. Farrell wanted to make sure because the agenda still had three variances requested. Mr. Minek said that when he reviewed the plans, it looked like the second story was still projected into the front setback, which meant it still needed the front setback variance. Mr. Maddux said that the wall of the enclosed space on the second floor is in line with the front wall of the garage, and there is still a slight overhang. Mr. Maddux said they took the height down and stepped back the volumes from both the front and rear sides. It is 18" lower than what was submitted back in April. They brought the balcony down and the overall front scheme down.

Mr. Maddux said they have also brought down the front entrance elevation. Previously, it went all the way up to the third floor. Now, they have stepped back both from the street and from the side of the home coming from the south. They have everything that is stepped back in a darker color to help them recede. The third floor is stepped back from both sides to limit the impact it has. They added the views of the property to the south to show that it is more park-like in that area and helps minimize or hide the height of the house coming from the south. Mr. Maddux said they have moved the materials and forms to the rear of the house to bring the overall feel of the house to match the neighboring homes more closely than what was submitted in April. Bringing the forms of the home downward helps to soften the height of the home and its impact that it has on Yacht Club Dr. Mr. Maddux pointed to the pictures from Yacht Club Dr. that the vegetation is dense, and that will help mask the impact of the home. Mr. Maddux also pointed out the pictures from Frazier Dr., and the property to the south has dense trees too, which helps shield the home as well.

Richard Hahn, 19443 Frazier Dr, came forward. Mr. Hahn submitted a letter dated April 16 regarding the height variance. Also, a letter dated May 14 regarding the lot coverage. Mr. Hahn wanted to review the language of the ordinance. Mr. Reich wanted to address the height and the sloping grade. Mr. Reich said the height, when the lot is a sloping grade, is taken from the front side to side, not front to back. So, if the grade is to slope side to side, you would take that average, but the slope front to back does not matter; that is taken from the front of the house. For any house, for any height measurement, you use the finish grade at the front unless the grade at the front slopes. Mr. Hahn wanted his two letters to be submitted to the records. Regarding the lot coverage, Mr. Reich said the lot coverage by the building is a measurement from the outside wall to the outside wall at the finished grade. Looking at previous projects, balconies, decks, and overhangs have not been included in the lot coverage by the building. Mr. Reich read the definition from Mr. Hahn's letter, lot coverage looks at view downwards, whereas lot coverage by building looks at outside wall to outside wall. Lot coverage by building is what is used to determine the 28% coverage in the code. Mr. Hahn is concerned about any practical difficulties or hardships in this case. Mr. Hahn said that from the April meeting minutes, the architect said they need the height variance because they are "approaching the design stylistically different." Mr. Hahn does not feel as if that is a practical difficulty. Mr. Hahn does not feel that adding a 5th floor to a home is a practical difficulty. He strongly recommended to Mr. Farrell that there should be a meeting with the Planning Commission about what is happening on Frazier Drive. Mr. Hahn said that there is only one home in this style on the road, and this will be the second. Mr. Reich said that the Planning Commission has already reviewed the two vacant lots to the north of this property, and the design is very similar to the design that is being proposed here.

Mr. Hahn is concerned about the direction Frazier Dr. is going and wants to make sure the Planning Commission is aware of this stretch of Frazier Dr. and when will enough be enough. Mr. Hahn feels the character of Frazier Dr. is changing, and the people living there in conventional homes are, in their view, being prejudiced by some of the new constructions' mass and height.

Mr. Farrell said that as far as the design of the project is concerned, that is not the Board's decision to make. That is why there is a Design and Construction Board of Review and the Planning Commission to review these projects. Mr. Reich sympathizes with the concern that Mr. Hahn has about this stretch of Frazier. Mr. Farrell said that, as far as the height variance, looking at the new renderings, it looks like the design is going to recede like a traditional roof. Mr. Farrell said that, to him, it gives the same feeling as a traditional roof line. Mr. Farrell said they can have an opinion on the architecture, but they can't decide on that. Mr. Hahn said that the fifth floor cannot be built without a variance. Mr. Hahn is concerned with the precedent that is being set just because the architect wants to do something stylistically different. Mr. Hahn feels that the Planning Commission should look at this to ensure it is keeping with the Master Plan. Mr. Farrell wanted to make sure he was aware that it is only a three-story house from the Frazier side. Mr. Hahn said that in the ordinance, it specifically states that a flat roof height should be measured from the highest point. Mr. Hahn thanked the time for the Board for their time, and the Board thanked him.

Mr. Maddux said they tried to address the issues the Board had addressed in last month's meeting. They stepped the house back on both sides and lowered the parts of the house that are in the lighter stucco color. Adding lighter colors and forms to the eaves of the house and darker colors and forms to the parts of the house that step back. Mr. Farrell brought up the white, historic house that is up the road, which has a stepped-back third floor with a flat roof. Mr. Maddux agreed that it was very similar in concept. Mr. Christ said in the winter that the white historic home stands out in the winter.

Mrs. Martinez said she appreciates the side-by-side comparison that was provided in the packet, which showed the previous design and the new design. She agreed that it brought the visual down. She has no problem with the lot coverage variance, but the variance for the height she has a problem with. The code states that the height of a flat roof is determined at the highest point, so she does not support his argument of the gable roof. Essentially, what he is asking for is a third floor, which is not an available option to anyone else on the street. Mr. Wolf appreciated the work Mr. Maddux has put into the project, but he agreed with Mrs. Martinez that he cannot get past the height. He knows this isn't in the code, but he believes the sides should be stepped back as well. Mr. Farrell said that item 10, where the home follows the hill downward, is odd-looking. Mr. Wolf is talking about stepping down the home, so the height is not so substantial. Mr. Maddux said that it does, with the recessed balcony at the top and the cantilever balcony. Mr. Wolf agreed that it does there. Mr. Wright said he liked both versions and appreciated the changes in mass from the April meeting. Mr. Christ felt that the inclusion of the views from previous to revised is significant to him. Mr. Christ said that Mr. Maddux is mimicking the two office buildings that were completed on Lake Road with the coloration and offsets. Everyone that he has talked with feels that those office buildings came out very well doing so. The height of those buildings needed variances as well for the same reason, having a flat roof. But their articulation of surfaces and their change of color, which is what Mr. Maddux is showing, are

achieving that. Mr. Christ said there are numerous examples of flat roofs in the city, and they have been proven to be troublesome. The Board has to recognize that not all styles are going to be a gable roof. The height to him is a number that is hard to get behind. However, when he sees it in context with the neighboring houses with gable roofs, from a volumetric standpoint, it is not very different. The recognition of style is not something that they are looking at; for better or for worse, they are looking at it volumetrically. By stepping back, he feels that Mr. Maddux is meeting those considerations.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud for the first variance request. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the site slopes significantly, and to achieve their desired space, the slight increase in lot coverage is warranted. Regarding whether the property in question will yield a reasonable return, it is a neutral point and is up to each board member to evaluate. The variance is not substantial and is the minimum necessary. He does not think that the essential character of the neighborhood will be substantially altered. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he believes they did, but that is not a constriction/conflict on evaluating this. He does not believe that special conditions exist because of the actions of the owner. He does not believe that the predicament can be obviated by some method other than a variance given the slope and topography of the site. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes it would. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Bahar Malekzadeh, 19332 Frazier Dr, to construct a new home with a lot coverage of 31% vs. the 28% that is permitted. Per Schedule: 1153.05 (3). The applicant has indicated the practical difficulties with providing the spaces that they wish to have in this new residence, and this is a reasonable configuration of those. The lot coverage is driven by the slope of the site to accommodate these spaces, and this is a reasonable solution. Mr. Wright seconded.

4 Ayes – 1 Nays (Wolf)
APPROVED

Mr. Wright wanted to verify why the roof line is lower by 10 to 12 inches lower than the height requested. Mr. Maddux said that it is them allowing for space for parapet and insulation. Mr. Farrell wanted to know how the fire department feels about homes on these hills. Mr. Reich said that the home is required to be suppressed because they can't fight a fire from the rear, only the front. Mr. Reich said that it will be addressed when the Building Department does its plan review. Mr. Christ said the front setback variance has been struck, and the Building

Commissioner is accepting that the home falls within the definition of the code for front setback requirements.

Mr. Christ read the practical difficulties factors aloud for the second variance request. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the applicant has indicated the practical difficulties with providing the house relative to the slope of the hillside. The area and limitations that they have within the plan, with stepping down those various elevations. In essence, creating an upper level by utilizing a flat roof. All of these are driven by site, slope, and layout. Regarding whether the property in question will yield a reasonable return, it is a neutral point and is up to each board member to evaluate. If the variance is substantial and the minimum necessary, he believes that it will fall to each board member to decide. In his opinion, it is the minimum necessary to make reasonable use of the land or structures, and in that result, it is not substantial in trying to fit a residence in this style and design. Will the essential character of the neighborhood be substantially altered, that is more of an architectural question as opposed to a building volumetric question. That is up to each member to decide, and it will go to the Design and Construction Board of Review. The delivery of government services will not be adversely affected. There was discussion about the fire department, and they have their own methods of evaluation. Whether the owner purchased the property with knowledge of the zoning restrictions, he believes they did, and they are seeking to meet reasonable requirements for this residence. He does not believe that special conditions exist because of the actions of the owner, only in regards of the design, but it is not an unusual request. He does not believe that the predicament can be obviated by some method other than a variance given the site and the style of the home. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance. Recognizing a difficult site in high-profile areas, it is difficult to meet all the zoning requirements while providing reasonable use of the property. Whether granting the variance will confer any special privilege on the applicant that is denied to others, in his opinion, it would not. The critical item is the front elevation, and the Board has reviewed how this will be configured on the street and how it will feel coming down the street, and how it is being looked at relative to other styles of houses and roofs. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes it would be because most residences in the city often have a third-floor area. From the street, this only creates three floors of habitat space, and it is a reasonable solution to that. Mr. Christ asked if anyone had any differences in opinions to put on record. The Board did not.

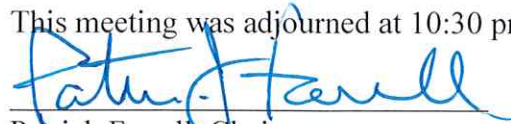
Mr. Christ moved to grant a variance to Bahar Malekzadeh, 19332 Frazier Dr, to construct a new home with a height of 33'6" vs. the 25' that is permitted. Per Section: 1153.09. The applicant has indicated the practical difficulties with providing a reasonable solution. Based on the site difficulties and the land configuration. They are trying to develop an alternate style of house relative to that which has occurred in other locations, and that is a design review item and not strictly a variance requirement. So, he sees this as a reasonable solution. Mr. Wright seconded.

3 Ayes – 2 Nays (Wolf, Martinez)

APPROVED

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This meeting was adjourned at 10:30 pm.


Patrick Farrell, Chairman


Richard Christ, Secretary

Date: 06/12/25

