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Via email

July 9, 2025

City of Rocky River  
Department of Planning and Community Development  
Attention: Rocky River Board of Zoning and Building Appeals  
21012 Hilliard Blvd.  
Rocky River, OH 44116  
Email: dminek@rockyriverohio.gov

Re: Opposition to Variance Request by Gibson for Driveway to Property Line Instead of 3'  
Setback Required by Code

Dear Members of the Board:

We own the property directly next door to the Applicants. We are writing to formally oppose the variance request submitted by Holly and Josh Gibson ("Applicants"). Applicants are requesting a variance to reduce the required three-foot setback and install a new concrete drive that will sit within less than the required variance set by Rocky River Schedule 1153.15(2) and up to the property line that borders our property at 19410 Argyle Oval.

We have owned our property for approximately 13 years. Applicants are the third owners during this period. During the past 13 years (and likely many more given the home is about 100 years old), Applicants and all prior owners have used a stone driveway that meets the setback requirements in the front area of the property up until the area between the homes. In the area between the homes, the stones have migrated over the years to come into the setback and cross over the property line. Given that stones can be moved and allow water to permeate through them, we have allowed Applicants to leave the stones in this area.

Over the past 13 years, we've done our best to be neighborly and will continue to do so. We've mowed the yard in their setback and removed weeds. In addition, when Applicants were concerned about a large tree that was clearly planted within their setback, we agreed to split the cost of the removal. We will continue to mow the grass within their setback as it helps to maintain the appearance of both properties. Applicants' stated concern regarding weeding within their setback as creating a yard maintenance issue is not justification for unnecessarily decreasing the required setback.

Setbacks are rule established for the good of all property owners in this community. The requirement for a three-foot setback is a standard regulation designed to ensure proper spacing between properties, maintain neighborhood character, and maintain proper privacy. Setbacks also protect neighboring property from unnecessary intrusions and damage. For example, without a setback, a vehicle with a standard tire width of about 10 inches that incorrectly backs out of a driveway could damage the neighbor's property. The three foot side yard setback for paved driveways also keeps water from improperly draining off an impervious area adjacent to the neighboring building and is one more defense against water undermining foundation walls.

Enforcing variances promotes fairness to abutting properties that were designed to follow the code. It avoids unnecessary future legal disputes between neighbors over the potential incorrect measurement of a property line when properties change hands. Enforcing setbacks preserves the value of all properties in the neighborhood.

That's why it's not surprising that Rocky River's Building Code requires specific criteria for a variance to be issued. The Applicants' request for a variance does not meet the necessary criteria required by the Code and should therefore be denied.

The Rocky River Building Code establishes specific factors that must be satisfied for a variance to be granted. Specifically, Section 1133.17 (c) provides:

Review by the Board. According to the procedures established for appeals in Sections 1133.05 , 1133.07 , and 1133.13 , the Board of Appeals shall hold a public hearing and give notice of the same. **The Board of Appeals shall review each application for a variance to determine if it complies with the purpose and intent of this Development Code and evidence demonstrates that the literal enforcement of this Development Code will result in practical difficulty or unnecessary hardship. The Board shall not grant a variance unless it shall, in each case, make specific findings of fact directly based upon the particular evidence presented to it from the factors below.**

(Emphasis added).

The factors listed for the Board's consideration of a variance include:

- A. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district;
- B. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- C. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;
- D. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

- E. Whether the variance would adversely affect the delivery of governmental services, such as water, sewer, or trash pickup;
- F. Whether the property owner purchased the property with knowledge of the zoning restrictions;
- G. Whether special conditions or circumstances exist as a result of actions of the owner;
- H. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- I. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;
- J. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district; and,
- K. Whether a literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

In this case, Applicants have not demonstrated any special conditions or circumstances unique to their property that would justify the requested variance. Granting Applicant's variance would undermine these objectives and set a concerning precedent for future requests.

Applicants' existing driveway is currently over 10 feet wide -- well over the 8-foot minimum required by the Zoning Code Section 1111.09. Indeed, this driveway has existed in approximately the same location for many years before Applicant's purchased the property.

Applicants have not submitted any evidence that a wider driveway is necessary for the enjoyment of their property. However, Applicants have the option to expand the size of their driveway on the side that would not fall within the required setback. This is likely why many driveways in our neighborhood, including our driveway, are curved towards the non-setback portion of the property.

Between our home and Applicants' home, there is 13' between the edge of Applicants' home and the property line as shown on the survey. The Applicants' submitted driveway plan hand drawn by their contractor shows a driveway width dimensioned at 14' which does not coincide with the survey and could fall over the property line if installed per plan.

In the interest of compromise, we will agree to some variance in the setback area between the homes. We have attached a pdf of Applicants' survey that shows a proposed dimensioned driveway plan layout to scale that we are willing to accept. The proposed layout allows Applicants to keep their current driveway width mostly as is between our houses minus the area that falls over our proposed 12 inch setback. The driveway will remain the width of their existing garage and would increase in width at its entrance off Argyle Oval while maintaining a three foot setback at the curb cut.

However, Applicants' submitted proposal to bring the drive directly to the property line should be denied for several reasons. First, we are concerned that any error in the survey and installment will cause the concrete to permanently and illegally intrude into our property. Second, if there is no setback, then there is no barrier to catch any inadvertent water flow off the

concrete drive (as compared to a 12-inch setback in which no concrete is laid). Third, a minimum of 12 inches is required to avoid any damage to our property from reversing vehicles. Fourth, a minimum of 12 inches in the setback avoids any potential future dispute over survey or installment error.

The Board must consider whether the applicant's predicament can be resolved through alternative methods that do not require a variance and whether the proposed variance is the minimum necessary (see Section-1153.17(c)(1)(C, H)). Here, as shown in our proposed compromised drawing, Applicants have the ability to have a slightly narrower driveway and avoid coming in contact with our property line. Accordingly, Applicants' proposed variance is not the minimum necessary and Applicant's situation can be addressed through other means, including the proposed comprised position.

Moreover, approving the proposed variance would set a precedent that could substantially alter the essential character of the neighborhood and could negatively impact adjoining properties. Granting a variance that disregards setbacks is also unfair to the homeowners who have followed and have been required to follow the zoning regulations.

Lastly, we are concerned with the Applicants' drawings proposing to bring the paved concrete to the property line. The sketch provided by Applicant's contractor does not clearly display the drainage system for the concrete driveway and how it will tie into the stormwater system other than indicating a vague location for a drain. Drainage is an important consideration – especially since Applicants currently have a stone driveway that allows for surface drainage.

For these reasons, we respectfully urge the Board to deny the Applicants' variance request. The standards for granting a variance are clear, and this request does not meet the necessary criteria. Upholding the zoning regulations in this case is essential to maintaining the character and structural safety of our community.

Thank you for your time and consideration. Please feel free to contact us if you require any additional information or clarification regarding this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lydia Floyd + Michael Harford". The signature is fluid and cursive, with the names joined together.

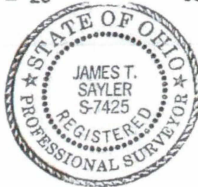
Lydia Floyd, Esq. and Michael Harford, AIA, NCARB

## Attachment 1

### Proposed Compromise – Dimensioned Driveway Plan

MATHEWS GILBERT'S SUBDIVISION NO. 6  
RECORDED IN VOL. 37, PGS. 20 THRU 23  
PART OF  
ORIGINAL ROCKPORT  
TOWNSHIP SECTION NO. 24  
NOW IN  
THE CITY OF ROCKY RIVER  
CUYAHOGA COUNTY, OHIO  
FOR  
JOSH & HOLLY GIBSON

BY 71 PRES.  
JAMES T. SAYLER, REG. SURVEYOR NO. 97425  
SCALE 1" = 20' JUNE, 2025



○ DENOTES 5/8" CAPPED  
(REITZ) IRON PIN SET.  
● DENOTES IRON PIN FOUND.



DENOTES EXISTING GRAVEL  
DRIVE



DENOTES EXISTING CONCRETE DRIVE

DENOTES EXISTING WOOD  
FENCE

SCALE: 1" = 20'

20'-0"

M

— = OUTLINE OF NEW DRIVEWAY

— = PROPERTY LINE  
BETWEEN 19418 AND 19410 ARGYLE OVAL

