

MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
JUNE 12, 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 June 12th 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 May 15, 2025, as presented. Mr. Christ seconded.

5 Ayes – 0 Nays
APPROVED

1. RUFFING MONTESSORI SCHOOL – 1285 Orchard Park Dr. – PUBLIC HEARING –

Variance: To install an electronic message board 120 feet from a residential structure vs. the 125 feet that is permitted. Per Section: 1193.11 (b)(3)G

Variance: To install an electronic message board on the side of the building vs. a freestanding sign that is permitted. Per Section: 1193.11 (b)

Mr. Christ introduced the variance requests, and Mr. Farrell swore in Anne Lashutka, the principal of Ruffing. Three residents came forward to be sworn in as well: Holly Wilson, 22409 Bartlett Drive; Dawn Lafferty, 13 Baldwin Lane; and Steven Shepard, 22429 Bartlett Drive.

Mrs. Lashutka said they lost their message board when they added on offices to their building. They were donated the electronic message board by one of the parents. The only place they could add the message board as a freestanding sign would be where the kids play. Mrs. Lashutka is hesitant about doing that because kids could start playing on it. That is why they want to have the sign on the building, for safety reasons. It would only display simple messages and be on from 8 am to 4 pm on school days.

Mrs. Lafferty said there is quite a bit of noise and commotion from the school as it is and would like to know where the sign is going to be located. The sign will be located on the western side of the building, the side that faces the Orchard Park entrance. Mrs. Lafferty would not be affected by the placement of the sign, but if she were, she would not be in support of the variance.

Mrs. Wilson said that her home is in the direct line of the sign. If you look at the site plan, where it is labelled 120 feet, that is her house. If the sign is erected, it would be clearly visible from the

dining room, living room, kitchen, and bedroom. She disagrees with the application's statement that affected homes will not be directly within the sight lines of the message board. There are 5 public and 5 private schools in Rocky River, none of which have a wall-mounted electronic message board. They do have the freestanding ones, which are permitted. Mrs. Wilson said the application states that the signage is for convenience. That is because Ruffing already has efficient, effective, and immediate means of communication through the Ruffing app. Ruffing can notify the parents and community without the need for an LED screen. Mrs. Wilson said there are no special or unique conditions that exist to support the variance. All the other schools in Rocky River function without a wall-mounted sign, and so has Ruffing for the last 50 years. Enforcing the city's ordinances as written will not cause any unnecessary hardships to Ruffing. Erecting the sign will alter the residential nature of the neighborhood and negatively impact her family's enjoyment of their home, their property values, and those of their neighbors. Literal interpretation of the code will not hurt Ruffing in any way; they can erect a freestanding sign. Mrs. Wilson quoted the application again, 'the absence of a messaging board would not directly impact Ruffing's operations.' It would directly herself, her family, and the enjoyment of their home and its property value. Granting the variance is an extraordinary request; it is reserved for only those situations when a property owner is facing substantial difficulties in the use of their property. No such difficulties exist here; as such, Mrs. Wilson asked the Board to deny the request.

Mr. Farrell asked where a freestanding sign could go. Mrs. Lashutka said it would go in the side yard closer to Baldwin Lane. She said she will not put the sign there because that is where the 3-5-year-olds play, and will not put the sign in their play area. Mr. Lashutka said the nice thing about Ruffing is how private the school is, and she wants to keep it that way. With the sign on from 8 am to 4 pm, she is not sure how that will affect the enjoyment of Mrs. Wilson's home. Mrs. Wilson claimed that from November to April, it is dark at 8 am.

Mr. Farrell asked for clarification on the site plan. The location labeled freestanding sign is where the sign cannot go, Mrs. Lashutka confirmed. Children play there, and Mr. Farrell wondered if there was some way to control that. Mr. Wright suggested putting a fence around the sign. Mrs. Lashutka said that it is not going to work, and she will not put a fence up. Mr. Farrell wanted to know what the signage will be used for exactly. Mrs. Lashutka said it will be used to say simple messages, like "no school tomorrow" or "play tonight."

Mr. Dever said that he and Mrs. Wilson have a professional relationship, and any legal questions should be deferred to the Law Director.

Mr. Shepard said the sign would be visible from the bedroom and living room, as his lot has no vegetation to shield his home from the sign. The light shining into their homes eliminates the feeling of privacy and distracts from the peaceful residential charm of their neighborhood. Mr. Shepard said the lighting does not fit the neighborhood and would negatively impact both the value and the enjoyment of his property. Mr. Shepard argued that Ruffing's claim that the sign would eliminate the amount of paper printed and emails sent does not outweigh the impact of the sign on neighboring properties. There is a lack of clarity in the sign management in the variance application regarding who is responsible for the sign's timing, brightness, and content. What insurance do residents have that the sign will be shut down at a certain time, and its use will not be expanded over time. Mr. Shepard said they are opposed to both a wall-mounted and a free-standing electronic message board sign. Mr. Shepard asked the Board how they would feel to have a sign like this outside of their bedroom window.

Mrs. Lashutka said that the sign will only be on during daylight hours; they do not plan to keep it on all night. They do not want to be an advertisement; they want it to be a message board for

their parents, and that's it. Mr. Shepard said that there are other means of communication, as Mrs. Wilson pointed out. Mrs. Lashutka is aware, and she said that the parents miss the sign, which is why they are trying to replace it. Mr. Wolf asked if there is any other location that the freestanding sign could be, and Mrs. Lashutka said there is none. Mr. Christ wondered what the viewing angle of the sign was. Typically, LED signs have angles where you can't see the sign. The residents who are objecting to the sign are at least 45 degrees from their sign. Mrs. Lashutka said she is not aware of that and would have to look it up. Mr. Christ said it looks like they would be able to shield the sign from that direction. Mr. Farrell wanted to know if the sign flashes. Mrs. Lashutka said it would not; it will display one message and not change like the high school one.

Mrs. Lashutka said this is the most visible spot for people to see the sign, it is where parents pick up and drop off their children. Mr. Farrell asked if they had studied any other areas a monument sign could go if it can't go in the side yard by the Orchard Park entrance. Mrs. Lashutka said they have, and no other place would be visible for parents, and if it is not visible, then what is the point? Mrs. Lashutka said that it will be 8' up on the wall, so it's visible and it cannot be reached. Mr. Wright said there is a building right at the entrance of the school, could they put a sign on that? Mrs. Lashutka said that it is not their building, it's the gas company's building.

Look at ways to screen it or adjust it. Mr. Christ said that if she works with the sign company, they could create a box mock-up that they can illuminate. It would make it possible to see how the sign could block it or screen it. Some signs have angled pieces that can help direct the lighting. Or look for another location where they may not need a variance.

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

5 Ayes – 0 Nays
TABLED

2. JOE'S DELI – 19215 Hilliard Blvd. – PUBLIC HEARING –

Variance: To expand the existing parking lot southwards without the required 4' masonry wall. Per Section: 1167.11 (b)

Mr. Christ introduced the variance request, and Mr. Farrell swore in Tony Valore, the builder. When they first submitted the plans, they were told they needed to have a 4' masonry wall. So, they decided to angle the parking so they could keep enough room to maintain the existing fence and landscaping. From Rockcliff, you won't be able to tell a difference since there would be no elevation changes. They are changing the bioretention basin to a 7' x 13' area versus the current one that is 90' x 20'. Which gives them that space to add the parking spaces. Mr. Farrell said it's not affecting anyone more than it already has.

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 there is a current retention basin that is being modified, but the existing shrubs and fence will remain, fully screening as it exists. 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. The applicant has indicated that this is the minimum necessary to accommodate extra parking spaces. He does not think that the essential character of the neighborhood will be substantially altered, the landscaping and fencing will stay exactly as it. 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 because any other remediation would create a solution with an unsightly appearance. 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 Joe's Deli, 19215 Hilliard Blvd, to expand the existing parking lot southwards without the required 4' masonry wall. Per Section: 1167.11 (b). The applicant has indicated the practical difficulties with revising the retention basin in order to increase parking. Maintaining the current appearance of the lot with the existing landscaping and fence and should be replaced if needed at a later date. Mr. Wright seconded.

5 Ayes – 0 Nays

APPROVED

3. CHRISTOPHER TJOTPOS – 231 Yacht Club Dr. – PUBLIC HEARING –

Variance: To install a generator 5' from the side property line vs. the 10' that is permitted. Per Section: 1153.15 (k)(2)

Mr. Christ introduced the variance request, and Mr. Farrel swore in Mike Essary, the contractor. Also, a resident came forward to be sworn in, Stephen Herron, 275 Yacht Club Drive. Mr. Herron said the neighbor who would be most affected is out of town, so she would not have received the notice. Mr. Farrell said that was his first question: if the homeowners had spoken to their neighbors. Mr. Essary said he is not sure if they have or not. There is a greenhouse on that side of the house, and it sits behind that. The generator is well screened from the road, and Mr. Essary said they just put up fence screening on both the neighbor's side and the river's side. The exercise time is set for midday.

Mr. Farrell asked Mr. Reich if the greenhouse is permitted. Mr. Reich is unsure; he has not been to this property; it is one of the inspector's projects. Mr. Christ said it is a relatively small plastic or glass greenhouse. Mr. Reich asked if this is the generator that is already installed. Mr. Essary said there was confusion as he had received a permit, but it was for the HVAC equipment, not the generator. He wouldn't have installed the generator if he hadn't thought there was a permit for it, because he knew there would be a side setback issue. Mr. Essary said that section of the yard floods, so they had to place the generators on an elevated platform. Mr. Farrell asked if the AC units are on that same wall. There are four units before the greenhouse, the greenhouse, and then the generator. Mr. Farrell thinks a lot is going on, and it should all be reviewed by the Building Department because those AC units should've had variances, too. Mr. Essary said the AC unit they did was a replacement; they did not place any new units down there. Mr. Reich said the last original AC placement was in 2011, and the home was built in 1995, so someone allowed these AC units. Mr. Farrell thinks the Building Department should look at this. Mr. Reich agreed

that they can look at it. Mr. Christ made the point that only two AC units are allowed, per the code, on the same side of the house. There are four on this side.

Mr. Farrell would like some guidance from Mr. Reich on whether these AC units are allowed to be on this side of the house without variances. Mr. Reich said that he cannot answer that tonight with the information that he has. Mr. Farrell also said he would like some paperwork on a discussion between the homeowner and the neighbor most affected. Mr. Christ agreed, as that is someone's rear porch.

Mrs. Martinez was curious if Mr. Essary had tested the sound levels at the lot line. Mr. Essary said the generator is 66 dBA at 23' but has not tested it from the lot line. Mr. Wolf would like to see the spec sheet of the generator. Mr. Essary said they put the solid fence up as a sound barrier, but it is a combustion engine, so they cannot restrict the air flow. Mr. Farrell said there are options for sound deadening. Mr. Essary said there is already sound deadening in the unit, and the exhaust faces the greenhouse, so the sound is not blown toward the neighbors. Mr. Christ said that this is not a preferred location for the generator due to its proximity to the neighbor.

Mr. Wolf said this is the first time they have had an installer of generators here, and he would like to know more about attenuation. Mr. Essary said there are third-party suppliers who do sound deadening, but it destroys the warranty for the generator. So, there are ways to do it, but it becomes risky because Generac does not want to cover the warranty after they are installed.

Mr. Herron said the noise from the generator will be funneled towards the river and the neighbor's house that is south and west of the property in question. Mr. Herron believes there is a better location for the generator, but it would just be more costly. The generator that was down there was for a man who had an oxygen tank, and he needed the generator. People who get generators just because they don't want their fridge to shut off, he has a little less sympathy for. Mr. Herron wants to make sure that there is a rule that if there are generators that they run the exercise time during the week.

Mr. Essary said the only possible locations would be in the front, which is not allowed and has a lot of concrete, or the rear, which would not be attractive. Mr. Farrell wondered why the rear wouldn't work; it's only boats that would be able to see it. Mr. Essary and Mr. Herron both agreed that on the river, it would not make sense because that is the part of the property you are trying to enjoy the most. Mr. Herron was hoping the variance would be for the front of the house.

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

5 Ayes – 0 Nays
TABLED

4. CHARLIE GAGLIANO – 229 Argyle Rd. – PUBLIC HEARING –

Variance: To install a generator 4' from the side property line vs. the 10' that is permitted. Per Section: 1153.15 (k)(2)

Mr. Christ introduced the variance request, and Mr. Farrell swore in Ashley Knox from Shumake Electric. Two sides of the house are occupied because of the driveway, and this is the only location where they can put the generator. It is going in the rear corner of the house, where it will be screened by the existing landscaping and fence. It is on the same side as the neighbor's air conditioning units. Mr. Farrell wondered if a conversation had happened between the property owner and the neighbor. Mrs. Knox is unsure. The project manager was supposed to attend this

meeting, but something had come up, which is why she is here. Mrs. Martinez is struggling to read the site plans. Mr. Wolf said this is a relatively close generator, and he was wondering what that sound reading might be at the property line. Mrs. Knox said they usually tell homeowners that the best way to dampen the sound is through landscaping and vegetation. As Mr. Essary pointed out in the previous submittal, there is no aftermarket sound-deadening system that is allowed to be installed on the generator without canceling the warranty.

Mr. Farrell asked Mr. Reich if they ever do sound readings at the property line. Mr. Reich said that this Board approved a generator two meetings ago that was 2' from the property as long as the decibel reading was what it is required to be at the property line. The inspector did a reading today, and the reading was 3 dBA lower than the 70 that is required. Mr. Farrell and Mrs. Knox have conversations about other possible locations for the generator. Mr. Farrell thinks possibly in the rear of the home.

Mr. Farrell feels that he cannot give a vote on this when they just turned down the previous generator for the same issue, the location. Mr. Christ said he thinks the generator Mr. Reich is referring to is placed far back in the rear corner of the house, set back from all the homes. Mr. Christ said that they have allowed generators when they are pushed back from the houses or closer to the property line when there is absolutely no other place that they can put it. Mr. Christ said there are not many places for them to locate the generator on this property, and it could be pushed towards the rear, away from the houses.

The Board would like to see a more accurate site plan, a conversation with the neighbor, and the spec sheet.

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

5 Ayes – 0 Nays
TABLED

5. MATT AND LINDSAY BARBICAS – 242 Arundel Rd. – PUBLIC HEARING –

Variance: To construct a second-story addition increasing the lot coverage to 31.1% vs. the 28% that is permitted. Per Schedule: 1153.05 (3)

Mr. Christ introduced the variance request, and Mr. Farrell swore in Jill Brandt, the architect, and Lindsay Barbicas, the homeowner. Mrs. Brandt said it is a 200-square-foot addition over the existing rear addition. It solves two issues, giving the homeowner shade on their patio and fixing some of the issues of the previous addition. The existing home and garage sit at 27.5%, so any work done on the property would require a variance. The first floor will be open where the patio is; it is just the second story. The materials will all match, and the size and scale match the neighboring homes. Talked to both neighbors, and they were in support of it.

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 trying to provide some covering over the existing patio at the same time as adjusting some usages within the building space, and these combined create the

additional area coverage. Regarding whether the property in question will yield a reasonable return, it will improve the situation. The variance is not substantial and is the minimum necessary. The applicant has indicated that they are minimizing the area that they are covering, which is an existing exterior patio, and is the minimum necessary to provide for that. He does not think that the essential character of the neighborhood will be substantially altered; they are maintaining the footprint of the existing house and patio. 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 since the lot coverage of the existing house is already 27.5%. 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 Matt and Lindsay Barbicas, 242 Arundel Rd, to construct a second-story addition increasing the lot coverage to 31.1% vs the 28% that is permitted. Per Schedule: 1153.05 (3). The applicant has indicated the practical difficulties; this will be a covering of an existing landscaped patio area, and it will be limited to that footprint. It will be above that area and concentric with the back of the house, and this is a reasonable solution. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

6. TOM AND FRANCINE CUTURA – 19200 Frazier Dr. – PUBLIC HEARING –

Variance: To expand the existing driveway to a width of 37' vs. the 20' that is permitted.
Per Section: 1153.15 (1)(4)D

Mr. Christ introduced the variance request, and Mr. Farrell swore in the homeowner, Tom Cutura. The driveway was approved through the Building Department, and the contractor pulled the permit, but wasn't aware that it needed a variance. Mr. Cutura said there are retaining walls on both sides of his driveway, and there are no neighbors around the house. Mr. Cutura said they need to expand the driveway because when they try to pull out of the driveway, they either risk hitting the cars in their driveway or the retaining wall. The intersection and the road make it even harder to pull out, and Mr. Cutura has experienced angry drivers when he is simply trying to pull out of his driveway.

Mr. Wolf asked if there was any intent to maintain landscaping. Mr. Cutura said the driveway will go from retaining wall to retaining wall, but there will be landscaping going up the hill on both the left and right sides of the home. Mr. Wolf said he can understand why there might have been some confusion at the city because the permit for the driveway said, 'apron repair, same width.' He can sympathize with the need for a wider driveway, but the large homes on these smaller lots have created this condition.

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 geometry and topography of this site are unique. Regarding whether the property in question will yield a reasonable return, it is almost necessary to make the property useful. The variance is not substantial and is the minimum necessary, for safety purposes this is the minimum necessary. He does not think that the essential character of the neighborhood will be substantially altered since there are no neighbors around that will be affected. The delivery of government services will not be adversely affected; it will actually improve. 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 Tom and Francine Cutura, 19200 Frazier Dr, to expand the existing driveway to a width of 37' vs the 20' that is permitted. Per Section: 1153.15 (1)(4)D. The applicant has indicated the practical difficulties with providing a safe egress and ingress to their property and garage. This is a very unusual geometry and topography, and there is no other reasonable solution than what they are proposing. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

7. ANDREW AND CHANIN PATSOURAS – 22677 Beechnut Ln. – PUBLIC HEARING –

Variance: To retain accessory off-street parking adjacent to the garage rather than between the driveway and the side lot line, as required. Per Section: 1153.15(1)(4)

APPLICANT DID NOT SHOW

8. CANDICE REDER AND MATT KNICKMAN – 1992 Wooster Rd. – PUBLIC HEARING –

Variance: To construct a second-story addition above the existing garage with a rear setback of 6' vs the 25' that is permitted. Per Schedule: 1153.07 (2)

Variance: To construct a second-story addition above the existing garage with a side setback of 1' vs the 8' that is permitted. Per Schedule: 1153.07(1)A

Mr. Christ introduced the variance requests, and Mr. Farrell swore in the homeowners, Candice Reder and Matt Knickman, and the contractor, Ken Bublinec. Mr. Bublinec said they have a home on a corner lot that they want to expand to increase the living area for this growing family. The existing garage is very close to the neighbor's property lines, and they want to add on top of that garage. Mr. Farrell asked where the AC unit is going. They have not gotten to the point, but it would go on the north side of the house somewhere. Mr. Reich told them to put it in the plans and submit that for review.

Mr. Wolf asked why they don't move the addition towards Riverview and then step the second story back on the north side. Mr. Bublinec said the homeowners are using the Heritage Home

Loan Program, and they have to preserve the existing lead glass windows. Moving the garage and the addition towards Riverview would interfere with those windows. Mr. Farrell said having a one-story garage one 1' from the property line is normal, but having a two-story home that close is not. Mr. Farrell asked why they could not pull just the second story closer to Riverview and off the northern property line. Mr. Farrell suggested tearing the whole garage down, but Mr. Bublinec said they wanted to keep the garage because it is masonry and in good shape; the footers looked good as well. Mr. Wolf said they normally do not see additions of that scale on a corner lot in the rear or interior side yard.

Mr. Wright said that the existing garage and footers are in this location, and pulling the garage towards Riverview defeats the whole purpose. Mr. Wright said the other thing in their favor is that the adjacent properties do not have any built structures in that same general area. Mr. Wolf asked about the 8' addition to the existing garage footprint on the west side. Mr. Bublinec said that the garage wall on the west side will be taken down and then expanded on. Mr. Farrell is curious how they would be able to maintain that space between the garage and the neighbor to the north. Mr. Bublinec said the same way they maintain it now. The property to the north has a fence that runs right along the garage now, so there is no need to maintain it. Mr. Christ said that bringing the second story out over the first-floor garage would only affect the window in the stairwell, not the ones the Heritage Home Program wants them to save. Mr. Bublinec said that the issue of maintenance still appears.

Mr. Wolf said the addition is not insignificant. He wonders if the addition could be smaller on the second story and pulled off the north property line. Mr. Farrell said they are taking some of the masonry walls down, so why not all of them and try and pull that garage off the northern property line. Only a 24' stretch of the northern garage wall will remain from the existing garage; all the other walls will be new. Mr. Reich told him anything within 5' of the property line would have to be fire-rated. Mr. Christ said that more than half of the existing walls are to be removed in the garage, so maybe they should investigate moving the garage off the north property line. 1' is asking for a lot. They may not need to hit the 8', but they need to find something, maybe around 5' from the property line. Which would help with the fire rating as well. Mr. Bublinec asked what the Board's opinion is on the rear setback or the west side setback. Mr. Christ said he is only one opinion but believes that since it is the side yard for the neighbor to the west, it is a more reasonable request. That is because it is rear of the property to the side of the neighboring property.

Mr. Farrell said they are all uncomfortable with putting a two-story structure 1' from the property line. Mr. Christ asked if the yard is squared to the building because the rear setback looks to narrow as you move southwards. Mr. Christ said that it could raise issues if they come back and get the variance for 6' and the lot narrows, and there is not enough space to keep the garage square and maintain that setback.

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

5 Ayes – 0 Nays

TABLED

9. TOM GALLA – 1190 Woodside Dr. – PUBLIC HEARING –

Variance: To install a corner side yard fence with a height of 48" vs the 42" that is permitted. Per Section: 1153.15 (j)(4)

Variance: To install a corner side yard fence 3'7" from the corner side yard sidewalk vs. the 5' corner side setback that is required. Per Section: 1153.15 (j)(4)

Mr. Christ introduced the variance requests, and Mr. Farrell swore in the homeowner, Tom Galla. Mr. Galla said that there was a miscommunication with the Building Department, and he thought that once the 10-day notice was up, he could start installing the fence, so he had already bought the materials. The fence is part of a larger remodel of his yard, including landscaping and a patio. 4' tall black ornamental fence. The landscape designer wanted the fence to be square with the house, which meant it wouldn't run parallel to the sidewalk. The Design and Construction Board of Review preferred to see the fence parallel with the sidewalk, and Mr. Galla said that he could do that if it were at 3'7".

Mr. Christ said that when he went to the site, he liked how the fence was when it wasn't parallel. If it should be parallel, it should be at the 5' so he wouldn't need a variance. Mrs. Martinez asked why they chose the placement of this fence, why not pull it off the sidewalk 5'. Mr. Galla said if they did that, it would take the one end 7' into their yard, and their lot is already relatively small, so they would lose some of their enjoyment. Mr. Farrell wants to make sure he can see when he backs out of the driveway. Mr. Galla said he will maintain the bushes so he can see. Mr. Wolf and Mr. Martinez agreed that this is a relatively well-sized lot, and there are other areas of the lot that could offer privacy that wouldn't interfere with the setbacks.

Mr. Christ said the height is not his concern. There is not much difference between 42" vs the 48" if the fence is open. He said he is not one to judge whether skewing the fence to be square with the house or the sidewalk is a positive or a negative. Mr. Christ asked about the landscaping. Mr. Galla said the trees that were planted would be the issue because they were planted with a machine. Mr. Christ said he is fine with how the fence is designed. Mr. Farrell agreed that he wasn't concerned with the height of the fence. Mr. Farrell thinks making the fence parallel to the sidewalk is not crucial.

Mr. Wright wanted to confirm that the fence is set back 5'2" on the northernmost point. Mr. Galla agreed. Mr. Farrell asked if that was from the sidewalk or the property line. Mr. Galla said the sidewalk. Mr. Farrell and Mr. Reich agreed that this would mean the fence is actually set back closer to 4' rather than the 5'. The property line is usually 1' in from the sidewalk. That means the way the variance request is written is incorrect; it should be written from the corner side yard lot line rather than the sidewalk. Mr. Dever said they cannot vote on a variance from the sidewalk, but they can amend the request and vote on it based on the lot line. They'll have to verify where that lot line is.

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 skewed street to the house and a reduced area in the rear yard for the use of the family. Regarding whether the property in question will yield a reasonable return, he doesn't believe that it will apply. The variance is not substantial and is the minimum necessary; the applicant has indicated that they have tried to come as close as possible to the code, and that, therefore, would make it the minimum necessary. He does not think that the essential character of the neighborhood will be substantially altered. The Board has discussed where the sidewalk is and the appearance that it would be reasonable. 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. This applies to the height of the fence and its alignment with the property line. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Tom Galla, 1190 Woodside Dr, to install a corner side yard fence with a height of 48" vs the 42" that is permitted. Per Section: 1153.15 (j)(4). The applicant has indicated that the fence was already supplied based on liaisons with the city Building Department and that this is a reasonable accommodation of the slightly different height of the fence. Since it is an open fence, the impact will be minimal, if any. Mr. Wright seconded.

5 Ayes – 0 Nays

APPROVED

Mr. Christ moved to grant a variance to Tom Galla, 1190 Woodside Dr, to install a corner side yard fence 3'7" from the corner side yard lot line vs the 5' that is permitted. Per Section: 1153.15 (j)(4). The applicant has indicated the practical difficulties with providing a fence as close to the alignment as required by the city and in accordance to his landscape design, which is maintaining this with the house configuration over the sidewalk configuration. Mr. Wright seconded.

3 Ayes – 2 Nays (Wolf, Martinez)

APPROVED

10. KEVIN AND ALEXA BASH – 1100 Elmwood Rd. – PUBLIC HEARING –

Variance: To install a corner side yard fence 5' from the sidewalk vs. the 5' corner side yard 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 with 25% transparency vs. the ornamental style that is permitted. Per Section: 1153.15 (4)

After reviewing the modified plan from the May meeting, the Board determined that the project did not need the variances after all. Since the fence was in line with the house, it was no longer in the corner side yard and did not have to adhere to the restrictions outlined in Section 1153.15 (4). The fence will be sent to the Design and Construction Board of Review for review of any sort of landscaping or screening to make the fence less impactful on the neighborhood.

VARIANCE NOT REQUIRED

11. RIVERROCK APARTMENTS, LLC – 18997 & 18975 Hilliard Blvd. – PUBLIC HEARING –

Variance: To rebuild a carport on the rear property line vs. the 20' that is permitted. Per Section: 1157.13 (c)(3)

Variance: To rebuild a carport 1'-10" from the side property line vs. the 10' that is permitted. Per Section: 1157.13 (c)(2)

Variance: To add parking spaces 6' from the street right-of-way vs the 10' that is permitted. Per Schedule: 1157.11 (1)

Variance: To add parking spaces 8" from the side lot line vs the 10' that is permitted. Per Schedule: 1157.11 (2)

Variance: To rebuild a carport that has 12 parking spaces vs the 12 enclosed parking spaces that are required. Per Schedule: 1187.09 (3)

Variance: To include 7 unclosed parking spaces vs the 15 spaces that are required. Per Schedule: 1187.09 (3)

Mr. Christ introduced the variance requests, and Mr. Farrell swore in the architect, Christina Schmitz, and the property manager, Andrew Deerhake. Also, numerous residents came forward to be sworn in: Mark Brown, 19010 Rockcliff Drive;

Maureen Murman, 19010 & 19020 Rockcliff Drive;

Tom and Ann Rich, 18990 Rockcliff Drive; and

Michael Klingensmith, 19000 Rockcliff Drive.

Mrs. Schmitz said they are tearing down the two existing carports and making one continuous carport in the rear. There is a 3' grade difference between their property and the property to the rear. There is a 3' retaining wall on the rear property line that will be rebuilt, and the carport will be built on top of that and incorporated within the structure of the carport. Where the carport isn't continuous, there will be a privacy fence, much like what is there currently. On the side property line, they will have to rebuild the retaining wall and put in a new chain link fence. They are going to widen the driveway to add parallel parking to the eastern edge. So, they are adding more parking, but still need a variance because they don't have enough to meet the code.

Mr. Farrell asked about the parking requirements. The 12 parking spaces in the carport would not be considered enclosed, so there are enough spaces in the carport to meet the code; they are just not enclosed. They are required per the code to have 12 enclosed spaces, 12 unenclosed spaces, and then 3 guest unenclosed spaces. So, they would need a total of 27 parking spaces, and they are providing 19 spaces, or 8 short. Mr. Schmitz said they are adding more spaces than what is currently there; they have added spaces everywhere they possibly could. Mr. Deerhake said if both buildings were completely occupied, they would have a parking issue. They are looking to improve the parking situation and the aesthetics. Mr. Reich said that both buildings have gone through a renovation, from top to bottom, so they have created a better product. Not all the units were occupied previously.

Mr. Brown thinks the variance for not having enclosed parking spaces should be rejected because a building to the west has that, and he thinks it looks very nice. Mr. Brown said that the building also has the trash enclosed. Their proposal has it open above, and it is screened with a fence and not a wall. Mr. Reich said it is not required to be enclosed; it is required to have a corral. Mr. Reich also said that the buildings Mr. Brown is referring to have much more space between their building and the garages; here, they can barely fit one car behind the building, so making a turn into a garage would be difficult. Mr. Brown said that adding a garage door would not add much length to the carports. Mrs. Schmitz said the carport structurally has a depth of 14' and overhangs 4'. Mr. Farrell asked, since the residents are on the rear side of this project, how does it affect them if they are enclosed or not, and what are their concerns relating to that. Mr. Brown said safety in terms of the residents' cars and keeping animals out of the garbage.

Mrs. Maurman said that the carport looks like a garage from the rear, but not from the front. Mrs. Maurman said it appears to be closer to their property. Mr. Deerhake said they had an ALTA survey done when they purchased the property, and their interpretation is that they owned the fence that was on their property. If the fence is south of the property line, it can stay, but they can build a retaining wall on the property line. Mr. Christ is separating the carport and the retaining wall. The retaining wall can be legally built on the property wall. So, they are building on top of the retaining wall. It is a 3' tall retaining wall and then another 6' of wall for the carport, so it will essentially be the same height as what it is currently there. Mrs. Maurman asked if they were planning on taking the fence out. Mr. Deerhake said that if the fence is on their property and sits behind the retaining wall, then the retaining wall will abut the fence. Mr. Reich said if the property is on Riverrock's property, then it will need to be removed, or the homeowners on Rockcliff can challenge it by getting their own survey. This becomes a civil matter. Mrs. Maurman said that she would not like the carport any closer. Their yards are already small, and the space between their property and the current carports is 8". Mrs. Maurman said they get a lot of noise and trash from the neighboring property, and moving closer would only enhance that. Mrs. Maurman said they are also concerned that there is no solid wall separating the trash area and their homes. It will allow trash to come into their yards, increase noise levels, produce an unpleasant smell, and lower the overall value and enjoyment of their properties. Mrs. Maurman said the current proposal only shows a dotted line on the plan that shows the required 5' setback for a trash corral. Mrs. Schmitz said they could add a fence there, but they kept it open because of the utility pole to keep it serviceable. Mr. Farrell said to build a wall on that 5' setback and add a roof to it, and the utility pole can be accessed from the yards of Rockcliff.

Mr. Rich said his other neighbors have vegetation in front of their fences, but he does not; it is only the fence. Currently, he can see just a few feet above the carport above the existing fence. What insurance do they have if any damage occurs in the construction of the carport. Mr. Dever said there are legal actions that can be taken if any damage occurs. Mr. Dever said landscaping can be trimmed if it encroaches on either property. If trimming occurs, it has to be done appropriately. Mr. Klingensmith said his major concern is the open trash area. He is not sure if it's from animals or people. Mr. Deerhake said he is local and is in property management for a living. He said he wants to work with the residents and create a better product for them and the city.

Mr. Farrell asked about what would be needed to add garage doors to the carport. Mrs. Schmitz said it would increase the depth, and the smallest possible garage could be 20' deep, and right now they can accomplish the carports in 14'. The drive aisle goes from the back of the building and goes to the strip of the parking stripe is 16' wide. Mr. Farrell asked how much they would encroach on that drive aisle to add garage doors to the carport. Mrs. Schmitz said approximately 2'. The front of the garage would have to go to the overhang. Mr. Reich said that it would get too tight back there for anyone to drive back there. Mr. Christ said that with a carport, you only have to look out for the columns of the carport. Whereas, with a garage, more obstacles are presented, making it hard to get larger cars in there.

Mr. Christ asked if this is a remove and replace situation or is it considered new construction. Mr. Reich said since they are building one larger structure to try and accommodate more parking, it is more than a remove and replace situation. Mr. Christ said there is not a ton of space between the building and the carport to be able to make the carport deeper. Mr. Reich said the photo in the submission shows maybe space for a car and a half. Mr. Reich said to Mr. Brown's point about the buildings to the west, they have 2-3 times more space from the building to the property line than what is here. Mr. Wright said there would probably be 12'-13' from the existing apartment building and a new garage with a door. Mr. Wright said that's why he believes a garage will not work in these conditions.

Mr. Farrell said, with the trash issue, they could easily enclose that space. He is not sure of what the rules and regulations are when it comes to this, but they will need more than a dotted line on the ground; a wall should be built there. Mrs. Schmitz said that they can work on that. Mr. Farrell said the issue about whose fence it is can be resolved. There are legal ways to protect the fence and landscaping. Mr. Farrell said the only other concern these neighbors have is making garages out of these carports, but he does not think there is enough space for that. Mr. Brown said that if there is not enough space, that is fine. Mr. Brown and the rest of the neighbors asked if the lighting from the apartment buildings would not shine into their properties and their homes. Mr. Reich said that they cannot have light trespassing over one candle foot into the neighbors' properties, and Mr. Deerhake will need to resolve that.

Mr. Christ asked Mr. Reich what the procedure is for building a retaining wall on the property line. Mr. Reich said the city engineer will be involved, and the property owners should be involved as well, since it is on the shared property line. Mr. Brown said somewhere in time, there must have been an allowance for a setback deviation. Mr. Reich said there was, and that is also why they are here. Mr. Brown said having that carport 8" from the fence is much closer than what is allowed. Mr. Reich said he could have a discussion with Mrs. Schmitz and Mr. Deerhake about how they could make the wall of the carport more architecturally appealing so they wouldn't need a fence.

Mr. Wolf asked Mr. Dever if the fence is on the apartment's property, and the Board was to allow the retaining wall and carport to go to the property line, which could mean the fence would have to come down. Mr. Dever said it could mean the fence would come down, and whoever constructed that fence may have had permission to encroach on that property. So, to remove the fence, if there is a dispute, if the landowner said I built that fence 30-40 years ago, they may have legal rights to have that fence remain in that location. Mr. Wolf asked if there was no permission, then the apartment could just take the fence down. Mr. Dever said the apartment owner would not need to rebuild the fence, but arrangements would have to be made since the apartment owner does not own the fence and should be returned to the rightful owner. Mr. Wolf asked Mr. Deerhake if he would be willing to rebuild a fence if the existing fence is on his property and needs to be removed. Mr. Deerhake asked if the carport is going to be one continuous wall on the property line, is there a need for a fence. The neighbors said that it wouldn't be very attractive to look at. Mr. Deerhake said that the answer is not no. Mr. Reich said a meeting can be facilitated, if need be, between the concerned neighbors, the apartment building owner, and the Design and Construction Board of Review. The Building Department can facilitate that. Mrs. Murman asked about the trash. Mr. Farrell told Mrs. Schmitz and Mr. Deerhake that one of the conditions of these variances would be to add a roof and wall around the trash area. Mr. Farrell said there needs to be a door to maintain the dead behind the wall and the property line. Mr. Reich said he can work with them on how to enclose this garbage area.

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

5 Ayes – 0 Nays
Passed

Mr. Christ said that there are no requirements on the trash space that they are voting on, so they must meet the 5' requirement. So that will fall with the accommodation of the Design and Construction Board of Review, the Building Department, and each concerned party. Mr. Christ said that he will treat these variances as one grouping in his evaluation of the area variances, as they are all related since this is a pre-nonconforming use. That does not facilitate improvement towards enclosed parking or more parking than they are trying to provide. It's there, and there is

no way to meet the current code. So, all the practical difficulties would reflect that. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the existing buildings and property lines are where they are, and the space behind does not facilitate any other solutions than improving the carports and improving the space where they can utilize it. Regarding whether the property in question will yield a reasonable return, to make this usable, these variances are required. The variance is not substantial and is the minimum necessary; the applicants have indicated that they are trying to maintain, as closely as possible, the existing conditions and to facilitate extra parking as minimally as required in a variance magnitude. He does not think that the essential character of the neighborhood will be substantially altered, since these are existing carports and parking spaces. They will be similar looking and try to accommodate and improve the current building conditions and the usage of the space behind. The delivery of government services will not be adversely affected. Reconfiguring in the manner that is proposed will assist in the use by the tenants and the government providers who would access this area. 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 is to apply the same rationale to each variance.

Mr. Christ moved to grant a variance to RiverRock Apartments, LLC, 18997 & 18975 Hilliard Blvd, to rebuild a carport on the rear property line vs. the 20' that is permitted. Per Section: 1157.13 (c)(3). The applicant has indicated the practical difficulties with rebuilding the existing facilities, which are pre-existing nonconforming uses and reconfiguration of the property as such that there is no reasonable way to provide a carport without rebuilding it as requested. This is a reasonable solution. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to RiverRock Apartments, LLC, 18997 & 18975 Hilliard Blvd, to rebuild a carport 1'-10" from the side property line vs. the 10' that is permitted. Per Section: 1157.13 (c)(2). For the same reasons, and in addition, providing as much additional parking as possible on the property. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to RiverRock Apartments, LLC, 18997 & 18975 Hilliard Blvd, to add parking spaces 6' from the street right-of-way vs the 10' that is permitted. Per Schedule: 1157.11 (1). For the same reasons as the previous. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to RiverRock Apartments, LLC, 18997 & 18975 Hilliard Blvd, to add parking spaces 8" from the side lot line vs the 10' that is permitted. Per Schedule: 1157.11 (2). For the same reasons as the second variance. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

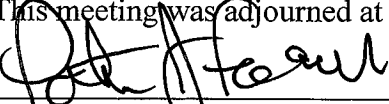
Mr. Christ moved to grant a variance to RiverRock Apartments, LLC, 18997 & 18975 Hilliard Blvd, to rebuild a carport that has 12 parking spaces vs the 12 enclosed parking spaces that are required. Per Schedule: 1187.09 (3). For the same reasons as the first variance. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to RiverRock Apartments, LLC, 18997 & 18975 Hilliard Blvd, to include 7 unclosed parking spaces vs the 15 spaces that are required. Per Schedule: 1187.09 (3). For the same reasons as above. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

This meeting was adjourned at 10:45 pm.



Patrick Farrell, Chairman



Richard Christ, Secretary

Date: 07/10/25