

MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
JULY 10, 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 July 10th 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 June 4, 2025, as presented. Mr. Christ seconded.

4 Ayes – 1 Abstain (Wolf)
APPROVED

Mr. Wright moved to approve the Board of Zoning and Building Appeals meeting minutes from June 12, 2025, as presented. Mr. Christ seconded.

5 Ayes – 0 Nays
APPROVED

1. JACQUELINE VARNESE – 257 Arundel Rd – PUBLIC HEARING –

Variance: To install a front patio that projects 14' into the front setback vs the 5' that is permitted. Per Section: 1153.13 (b).

Mr. Christ introduced the variance request, and Mr. Farrell swore in the homeowner, Jacqueline Varnese. Mrs. Varnese said they are looking to add a front patio and courtyard space. The house is unique because it has two front doors, so they are asking for the variance to try and separate the two. Packages, Halloween, guests, etc., never know where to go, which is the reason for the courtyard, to create that definition of space. Mrs. Varnese said they will be adding pavers, new stairs, and landscaping. The space will not have a roof; it will be completely open. Just a patio at grade. Mr. Farrell asked if there would be side walls on the patio. Mrs. Varnese said there is a border around the patio. Mr. Farrell asked if the border would come above the pavement. Mrs. Varnese said no, the only place it is above is where they need a retaining wall, towards the stair area. Mr. Christ wanted to clarify that when Mrs. Varnese refers to the grade, does she mean where the stairs end currently. She confirmed that it will start at the bottom of where the steps are currently and be level from there.

Mr. Wolf wanted to disclose that he does know the applicant through kids' sporting activities, but he does not see any conflicts in this case. Mrs. Varnese did not see a conflict either.

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 current house has two front doors, and they are trying to simplify the approach to the house. Regarding whether the property in question will yield a reasonable return, he doesn't believe that will apply. The variance is not substantial and is the minimum necessary to unify the front of the house. 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 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 Jacqueline Varnese, 257 Arundel Rd, to install a front patio that projects 14' into the front setback vs the 5' that is permitted. Per Section: 1153.13 (b). The applicant has indicated the practical difficulties with providing a unified entrance to the residence that is clear for visitors and deliveries. This is a reasonable solution. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

2. SCOTT ARCURI – 3610 Bradford Gate – PUBLIC HEARING –

Variance: To construct a deck that is 456 square feet vs. the 250 square feet that is permitted. Per Section 1153.15 (g)(3).

After reviewing the submission, Mr. Dever said the code would not apply to their situation since the code says "detached" in the heading, and this deck is attached.

NO VARIANCE REQUIRED

3. RYAN CARNEY – 20201 Westhaven Ln – PUBLIC HEARING –

Variance: To construct a pavilion that is 336 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 the homeowner, Ryan Carney. Already got a variance back in June for the height of the fireplace. His original plans were approved at 14' x 18'. However, he decided he wanted to make it bigger by extending it to 14' x 24'. The backyard is 140' in depth and 60' wide. He wants the additional area because the kitchen and fireplace will take up a large chunk of the space of the pavilion that any furniture added will make it feel cramped. Mr. Carney said the additional 6' will make it a more functional space.

Mr. Farrell wanted to know if Mr. Carney is planning to have posts and a foundation similar to the example photo provided. Mr. Carney said it will be 6 posts with sonotube footers. Mr. Farrell asked more about the photos that were submitted and what each line represents in the photo. Mr. Carney said the white line is post-to-post. The orange line outside of that represents where the stamped concrete will go. So, the stamped concrete is slightly larger than the pavilion. Mr. Farrell asked if the orange line is where he measured the 14' x 24'. Mr. Carney said that if you measure post to post, you are shorter than 14' x 24', and with the overhangs, you get the 14' x 24'. The stamped concrete will be bigger than all of that.

Mr. Farrell asked Mr. Carney what he is referring to when he says "post-to-post." Mr. Carney believes it is center of post to center of post. His drawings show 22-23' post-to-post on the long end. The manufacturer calls it a 14' x 24', so that is why he put that in his narrative. Mr. Reich asked him what the square footage of the roofed area is, from the gutter line to the gutter line, all the way around. Mr. Reich looks at the drawings. Mr. Christ said his question doesn't pertain to the variance itself, since the pavilion is right along the neighbor's property line, does he intend to plant any sound and visual screening. Mr. Carney said there are shrubs there now, and those will stay.

Mr. Reich said, looking at the plans, the pavilion is a little larger than what is being requested. The roofed area is what the variance should be for; the plans show that to be closer to 17' x 24', which is 408 square feet, versus the 336 square feet requested. Mr. Reich asked Mr. Carney if he would like to reduce his plans to what the variance requested is for. Mr. Carney declined. Mr. Dever said that it is significantly more than what was noticed. If Mr. Carney wants to do the 408 square feet, he will have to come back. Mr. Farrell said they cannot consider this anymore.

Mr. Carney said he is a little confused because in his original documents that were submitted for the 14' x 18', the same issue would have been true, and that was approved by the Building Department. Mr. Farrell and Mr. Christ explained that the only variance that they had seen was for the height of the chimney. They wouldn't have seen the area for the pavilion since it was labeled 14' x 18', it was right at the 250 square feet requirement, and a variance would not have been needed. Mr. Carney said that if this one is 17' x 24', that means the original plans submitted would've been 17' x 18', which would have been above the code requirements. Mr. Farrell said that this Board had never seen this project for its size. If you are represented it as 14' x 18', then that is 252 square feet, and it's close to 250 square feet, and you didn't need a variance. Mr. Farrell said you represented it as 14' x 24' in the submission, but when they took a closer look at it, it's really 17' x 24', which is much larger than what was represented and noticed.

Mr. Wolf said this has occurred before. Mr. Farrell said they can table this and make sure on the next submission to have the roofed area represented. Mr. Christ said they can vote on what was noticed if he wants to shrink it. Mr. Carney declined.

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

5 Ayes – 0 Nays

TABLED

4. JOSH AND HOLLY GIBSON – 19418 Argyle Oval – PUBLIC HEARING –

Variance: To install a driveway on the side property line vs the 3' that is required. Per Schedule: 1153.15 (2).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Josh and Holly Gibson, the homeowners. Lydia Floyd and Michael Harford, 19410 Argyle Oval, the property directly next to the driveway, came forward as well to be sworn in.

Mrs. Gibson said they take great pride in their home, and one issue they have had is the existing gravel driveway. Both aesthetically and functionally. The gravel makes it hard to clear in the winter, ice freezes, when it rains the gravel moves into the yard and can cause damage with their mower, and it has become an eyesore. When they tell people they are the house with the gravel driveway, everyone knows which one they are referring to. Mrs. Gibson said it has even become a safety hazard with a neighbor and their son slipping on the stones. Their current driveway narrows as it goes towards the house and has created a situation where they cannot open the car doors without stepping onto their lawn, killing the grass and creating a muddy mess.

Mrs. Gibson said they are proposing to widen the driveway at the sidewalk, maintaining the 3' setback. The orange twine shown in the photos represents the property line, and the yellow twine represents the driveway. It shows how the driveway maintains the 3' at the sidewalk but then gets closer to the property line as the driveway moves towards the house. If they are to have a patch of grass between their driveway and the property line, it becomes useless, and they will have the same problem as this one has with stepping on the grass to get out of their cars. Mrs. Gibson said their current driveway goes up to the property line and encroaches on Lydia and Michael's property. Mrs. Gibson said their goal is to maintain their current driveway and not encroach on their neighbor's property. They will not touch the small gravel that is on their neighbor's property. Mrs. Gibson also pointed out that their neighbor on the other side of them has a driveway that is 8" from their property line, and they do not have a problem with it and think it makes both their homes more attractive and safer. This is very common throughout the city. Mr. Farrell asked if the survey stakes shown in the photos were done professionally. Mrs. Gibson confirmed it was Henry Reitz's company.

Mr. Farrell asked the neighbors to speak about their concern, and the Board has received their letter of concern. Mrs. Floyd wanted to make it clear that they are not here to prevent applicants from getting concrete driveways. They were concerned with the photos and plans that they saw submitted. Both homes are over 100 years old and are extremely close together. Mrs. Floyd said the applicants will be changing the nature of their driveway, from a forest substance to

something impervious. Stormwater runoff and drainage are issues in the area, and they are not sure how this change will affect their foundations and basements of both homes. Mrs. Floyd said proper planning can help mitigate potential runoff problems. Firstly, by following setbacks so water doesn't run directly into neighboring homes. Secondly, by requiring plans like this to address drainage. Mrs. Floyd said the plans submitted showed dimensions that would place the proposed driveway over the property line.

Mr. Farrell wanted to address some of the things that have been said. He asked how the plans say they want a driveway over the property. Mr. Harford said the plans that were submitted showed a 14' driveway, and there is only 13' between the house and the lot line. Mr. Farrell said they probably do not intend to have a 14' driveway. Mrs. Gibson confirmed that they would respect the property line. Regarding drainage, Mr. Reich said they are required to invert it to the center and push the water out towards the street. It also looks like there is a drain on these drawings. Mrs. Gibson said there is one towards the garage, and when they start pouring the driveway, they may add another if need be. Mr. Reich asked if it was a trench drain. Mr. and Mrs. Gibson were both unsure, but they do know it will be tied into the downspouts. Mr. Reich said it's inverted with drainage in the front and back; that is how they do driveways, so no issues regarding that.

Mrs. Floyd said they are also concerned about paving directly onto the property line because, in their experience, that leads to property disputes when the property changes hands. There is no room for error. The 3' setback is established for the good of the community. Mrs. Floyd said a variance is granted to the minimum necessary to make reasonable use of land and address particular hardships to a property. The front area of the applicant's property allows for the 3' setback through the first and second stakes. Even with their proposed compromise, the narrowest their driveway would be 11'-2", which is 39% larger than the 8' minimum. Mrs. Floyd said nothing is preventing the applicants from expanding their driveway towards their house, which would not go into the setback. In the area between the houses, they understand the space narrows, but there is still enough space to have a driveway larger than the code minimum and maintain the setbacks. They are okay with a reduced setback of 12", and they do not care if the applicants use that space; they just want something other than concrete in that space. Also, they ask that a condition be set that requires the applicants to submit a dimensioned driveway plan and drainage plan showing the proposed path of the driveway and how drainage will be handled, which can be administratively approved.

Mrs. Gibson showed the board photos of their car in the driveway with the proposed setback that their neighbors are proposing. With the window wells and the space available to the property line, the 12' setback makes space very tight. As you move towards the garage, there are shared arborvitaes between the two properties that are extremely overgrown and make it hard for them to access their garage. Mrs. Gibson said making their driveway a foot smaller than it is currently, as their neighbors are suggesting, will make accessing that garage even harder. Mrs. Floyd and Mr. Harford said that the applicant's existing driveway has been migrating into their yard, and they have not had an issue with it since it is temporary and not a permanent fixture. Mr. Gibson said that is what they are trying to prevent by paving the driveway. They want to get rid of the gravel because it tends to travel. Mr. Christ said in his experience with gravel, it is not good on property lines because it moves, and they should be looking for an alternative for them to share between the two properties.

Mr. Farrell wants to look for a solution. Between the two parties, they agreed that there is 13' between the front corner of the house and the property line, and maybe 12'6" to the property line from the rear corner. Mrs. Floyd said the plan they submitted in the letter showed a proposed compromise that they were okay with. Mrs. Gibson said the 12" setback that is proposed in that compromise is not something they agree with since it will make the driveway smaller than what is existing. Mr. Gibson said that for them to spend \$20,000 on a driveway just for it to be smaller than what they already have doesn't make sense. Mr. Farrell said he cannot tell them the percentage, but a lot of driveways in the city go directly to the property line. That being said, his driveway is extremely close to the property line, but it is only 8'-6" wide, and it has worked perfectly fine for years. Mr. Farrell said he has sympathy for both sides, so he wants to come to a compromise because it is not worth being enemies over. Mr. Farrell said the drainage was already addressed by sloping the driveway inwards and out to the road and having drains in it.

Mrs. Gibson said the compromise may look good in a schematic, but in the picture shown with their actual car in the driveway, the 12" setback makes it very tight for them. Mr. Farrell said he is not sure because, like he said, he's having an 8'-6" driveway at his house for 40 years and it has worked completely fine. This driveway, being proposed, even in the compromise, would be much wider than that. Mr. Wolf said they replaced their driveway and had similar issues to the Gibsons, and they took theirs to 9 or 10 feet and it's been perfect for them. He thought the width of the driveway being proposed might have been a little excessive. Mr. Wolf said they had an issue with arborvitae as well, so they worked with their neighbors to remove them and plant new ones, and make sure to maintain them so there is enough space there. Mr. Wolf likes to see some space between the driveway and the houses, both theirs and the neighbors. Mr. Farrell said he doesn't see what is wrong with the compromise the neighbors are proposing. The driveway would be 11'-7", which gives them space between their driveway and the basement windows and the driveway and the property line. They would maintain the 3' setback at the sidewalk and taper to no less than 12" as it goes toward the house and maintain the 12" to the rear of the house. As the driveway goes towards the garage, it will pull away from the property line. Mrs. Gibson asked Mr. Christ about the 12" between the driveway and the property line, the gravel should be removed but with what. Mr. Christ said that is something for both parties to decide and come to an agreement with. They could plant grass, extend the flower beds, or plant arborvitaes. Mr. Wright said he would like a scaled drawing showing the exact location of the driveway to be submitted to the Building Department. Mr. Reich said there should be a sort of diagram showing the inverted driveway.

Mr. Christ said that the narrowest part from the house to the property line will be 12" and it will taper to 36" in the front and will taper to the garage in the back. They will let them do the drawings and submit them to Mr. Reich, and the two parties will meet and come to an agreement on that. Their limit is 12", but it will taper in the front and the rear. Mrs. Gibson wanted clarification that if they accepted the variance, they do not necessarily have to go forward with the project. Mr. Reich confirmed.

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 applicants have indicated that this current, nonconforming driveway is creating a difficulty between the use of their property and the garage. As a result, some adjustments may be necessary to create a permanent driveway. Regarding whether the property in question will yield a reasonable return, he doesn't believe that will apply, other than it would increase the value of their home. 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 bring a nonconforming use into better compliance with the code. The delivery of government services will not be adversely affected, but will provide more safety to those services. 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, as discussed tonight, the current configuration of the applicant's home and the adjacency of the neighbor can only be obviated through the granting of 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, it could be interpreted that way, but the discussion has led us to a compromise that is a reasonable solution. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Josh and Holly Gibson, 19418 Argyle Oval, to install a driveway that is a minimum of 12' from the side property line along the footprint of their house, and it will taper to 3' per code in the front and will taper to the garage corner in the rear vs. the 3' that is required. Per Schedule: 1153.15 (2). The applicants have indicated their practical difficulties with providing a permanent driveway, and this is a reasonable solution to provide access, safety, and appearance. As well as maintaining the adjacent property owners' rights. Accurate scale dimension drawings need to be submitted to the Building Department as well. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

- 5. MIKE AND JULIE SPOONER – 20852 Beaconsfield Blvd – PUBLIC HEARING –**
Variance: To construct an addition that is 5'-11" from the side property line vs the 8' that is permitted. Per Schedule: 1153.07 (1)A.

Mr. Christ introduced the variance request, and Mr. Farrell swore in Michael Spooner Sr., the father of the homeowner, and Tom Liggett, the Arcus Group.

Mr. Liggett said they are trying to update the home by opening up the floor plan and making the kitchen larger. They wanted a larger mud hall that you entered into from the garage, versus the cramped space they have now. Upstairs, they wanted another bathroom, so they want to take down the existing bedroom above the garage and build a better one. Make it taller to fit more in line with the addition on the mud hall and create enough space for a master bedroom and bathroom. That addition is set back from the garage slightly because the materials will be

different, and Mr. Liggett said he does not like putting two materials side by side like that. Mr. Liggett said the variance requested is for the addition in the rear and not for the second-story rework above the garage, since that is an existing setback and they are just improving on what is already there. Mr. Farrell asked Mr. Dever and Mr. Reich if a variance is needed on the garage for the second-floor renovation since there is a room up there, but they are making it bigger. Mr. Reich said that since it is the same footprint, he doesn't necessarily see why it would need a variance. Mr. Christ said that in the past, when they were making changes, such as these, a variance would be required. Mr. Reich said they will have to renotify for the garage portion for the August meeting, and they'll have to come back.

Mr. Liggett understands and recognizes that they can only vote on what has been noticed, which would be the addition behind the garage. He would just like to know where the Board stands with the project as a whole so they can start bidding it out to contractors. He doesn't need a vote on the garage variance, but would like to know the Board's overall thoughts on the expansion of the second floor above the garage. Mr. Farrell said to him it is not a big issue, but he is only one member of the Board. Right now, they are only focusing on the addition on the rear side of the house, for the variance that was notified correctly. Mrs. Martinez said she appreciates how he set the addition back from the existing garage, giving breathing space and to transition between the different materials. The first-floor addition and the second-floor piece seem like minimal asks to make it feasible.

Mr. Wolf said the garage with the master suite over it creates a two-story wall, and the roof line goes away from the property line. Mr. Liggett said that is pretty much what it is right now, it just doesn't go a full two stories. They are doing 6' on the sides, so it will be a dormer-ish type of bedroom, with a 9' high ceiling in the middle. Mr. Liggett said that was done so it didn't overpower the front of their house. Mr. Wolf clarified that the roofline would continue between the existing house and the second story of the garage. Mr. Wright said he is fine with everything that is here. Mr. Christ said he is not going to have an issue with the adjustment of the second floor above the garage. He believes it is respecting the neighbors, and it is a minimal situation. Mr. Christ said the variance request that was notified is great because it has a 1' offset between existing and new, which is something they prefer.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud regarding the notified portion, which is the addition behind the garage that is 5'-11" from the property line. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the current setback is 4'-11" and this will have one additional foot to respect the offset at the change of structure. Regarding whether the property in question will yield a reasonable return, he doesn't believe that will apply. The variance is not substantial and is the minimum necessary while providing better clearance. 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 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 Mike and Julie Spooner, 20852 Beaconsfield Blvd, to construct an addition that is 5'-11" from the side property line vs the 8' that is permitted. Per Schedule: 1153.07 (1)A. The applicants have indicated the practical difficulties. This will increase the setback, maintain visual appearance, and is a reasonable solution. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

6. 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 is required. Per Section: 1153.15(l)(4).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Andrew and Chanin Patsouras, the homeowners.

Mrs. Patsouras apologized for being here asking for forgiveness rather than permission. Mr. Farrell wanted to verify that the variance is only because it is on the side of the garage rather than next to the driveway. Mr. Reich and Mr. Christ agreed. Mr. Farrell said the applicants had a lot of support from their neighbors regarding this. Mrs. Patsouras said they are in an unusual predicament where their closest neighbors are 50' away. Mrs. Patsouras said they bought the house and had done a lot of work on it. However, when the home was built, there were not as many drivers as there are nowadays. Mrs. Patsouras said they have a family of five and their children are all grown up, live there, and have their own cars; so, there are a total of 6 cars in the family. They needed more space in the driveway to park these cars. Mrs. Patsouras said she decided to put the accessory parking up next to the garage, thinking she was preventing having a concrete jungle. She says they were parking in that space beforehand, and it was becoming expensive to maintain and fill in the ruts that kept happening. People stop them all the time to tell them they love the work they've done on the house.

Mr. Farrell said he sees no issue with it. Mrs. Martinez asked if there was going to be any landscaping. Mrs. Patsouras said it's pretty clean-lined, and they put a small tree in front of it. Mr. Wright said he has lived in that neighborhood for 35 years. In their favor, they live on a cul-de-sac, so the only people who see it are the people who are walking their dogs or residents in the neighborhood. It is 12' from the property line, and none of the neighbors have an issue with it, so he sees no issues with it. Mr. Christ said this is a better solution than having it in front of the house, where they see people parking 4 cars across and 2 cars deep. His only concern would

be that they don't park a trailer, RV, jet ski, etc., on it because in other parts of the code, that is addressed. As long as it is used for vehicular parking, he sees no issue with 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 applicants have indicated that this is a cul-de-sac with wedge-shaped lots with more than an adequate amount of space. This provides a better situation than if it were directly adjacent to the driveway, as the code would allow. Regarding whether the property in question will yield a reasonable return, he doesn't believe that will apply. The variance is not substantial and is the minimum necessary, as they have indicated they made it just wide enough to accommodate the vehicles and provide reasonable access. He does not think that the essential character of the neighborhood will be substantially altered, and there is more than enough space where they decided to locate 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; if it were compliant with the code, it would be the same, just a different location, so it is reasonable. 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 Andrew and Chanin Patsouras, 22677 Beechnut Ln, to retain accessory off-street parking adjacent to the garage rather than between the driveway and the side lot line, as is required. Per Section: 1153.15(l)(4). The applicants have indicated their practical difficulties with providing adequate secondary parking for their residence and the individuals residing there. This is a reasonable solution, and they will maintain what is there, and it will not be expanded. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

- 7. RUTH FORTNEY AND WILL AKINS – 21228 Avalon Dr – PUBLIC HEARING –**
Variance: To construct a rear addition that has a depth of 28', all of which sits in the rear setback. This property is adjacent to Lake Erie, and the setback is determined by averaging the rear setbacks of the nearest dwellings on either side of the lot, but shall not be less than 25 feet. Per Schedule: 1153.07 (b).

WITHDRAWN

8. SUSAN UMBENHOUR – 1032 Elmwood Rd – PUBLIC HEARING –

Variance: to construct a carport 1'-4" from the side property line vs the 6'3" that is permitted. Per Schedule: 1153.07 (1)(a).

Variance: to construct a carport, pavilion, and addition, increasing the lot coverage to 35.7% vs the 28% that is permitted. Per Schedule: 1153.05 (3).

Mr. Christ introduced the variance requests, and Mr. Farrell swore in Susan Umbenhour, the homeowner, and John Faile, the Architect.

Mr. Faile said this came before the Board back in February with different plans and a different architect, and it was approved. Mr. Faile said these plans are different; they are putting a carport out in front of the garage that will be detached from the garage. The reason for that is that Mrs. Umbenhour has fallen on the ice before, and she wants something to cover her driveway and the walkway to her garage. There will be a mudroom addition on the rear of the house, just smaller than the submission in February. Mrs. Umbenhour said she has people who are helping her with her yard, and it's important to be able to access her rear yard from the driveway, and the previous plan did not provide that. They are trying to keep the landscape intact. Mr. Faile said that for the side setback variance, he said you can see how close the neighbor's overside garage is on that same side, and it is extremely close to the property line. There will be no gutter on the carport; it will have an internal drain. Mr. Faile said the entire site drains well.

Mrs. Martinez wanted to clarify that they are going from a two-car garage down to a one-car garage. Mr. Faile confirmed. Mrs. Martinez also asked if there was any consideration to have the carport be the length of a car. Mr. Faile said that they can push it forward more, but he didn't want to make it bigger than it needed to be. Right now, it fits her car comfortably; it's more about her getting out of her car safely, rather than keeping the rear dry. Mrs. Martinez asked what they are doing for the grade change between the house and the garage. Mr. Faile said they have to do driveway work anyway, so the grade will be changing, and there will be one step down from the mudroom and then into the garage. Mr. Faile said they will be able to solve the puddling issue and would like the cover before winter. Mr. Farrell said he has some concerns about the carports.

Mr. Wolf asked if the intent is to park under the carport. Mr. Faile and Mrs. Umbenhour said it gives options. If she has her car in the garage, it gives a space for someone else to pull their car under there. Mr. Wolf said it doesn't pertain to the variance, but snow can blow up under there, and since it's not long enough for a car, the rear of the car would still need clearing. Mr. Wolf asked how the carport is supported. He wondered if there are any posts as they go towards the addition. Mr. Faile said there will be a beam from the two columns on the northern property line. The joists will be running towards the south, so there will be a low point towards the addition, and the water will run towards that. It will all be on the same plane with a 14" fascia all the way around. Mr. Faile said the two shorter columns will have an outrigger beam that will go off towards the garage joists that are coming out towards the south side. They will step it back and do the same for the pavilion. For the pavilion, Mr. Faile said the joists are on the south side of the property, and they will have a gutter on that side to collect the water.

Mr. Wright asked Mr. Faile to verify that the joists are moving North to East and will be tied into the mudroom addition and the outrigger beam. The span will be from the columns on the north side to the columns that are midspan. Mr. Christ said he is not bothered about the addition and understands the need for that space. Mr. Christ questioned how the carport will be used. Mr. Christ is not concerned about the setback either since the garage is already in that location. His concern is with the lot coverage. It is pretty significant, and it wasn't broken down. Mr. Farrell said he is concerned with the lot coverage as well.

Mr. Farrell asked why they can't just extend the roof of the addition towards the west and avoid putting the carport on. He thinks it is a little bit of overkill just because there is a puddling issue in the driveway. Mr. Farrell said a lot is going on in this relatively small backyard. Mrs. Umbenhour said if the carport doesn't span the front of her garage, she doesn't think it'll help with the ice problem. Mrs. Martinez said to maybe consider some sort of screening device that won't increase the lot coverage. Mr. Wolf said he is less troubled by the lot coverage, especially since these structures are open on the sides. Mr. Christ wanted to expand on what Mr. Farrell suggested, which was to extend the roof of the addition towards the garage and avoid the carport. Mr. Christ thinks that if their concern is to keep the front of the garage clear from snow and ice, the carport might not help with that. Mrs. Umbenhour said she just needs a clear path from her house to her garage. Mr. Christ said she is probably better off with some sort of screening door that can close off the walkway between the garage and the house while still making the rear yard accessible from the driveway.

Mr. Farrell moved to close the public hearing. Mrs. Martinez seconded.

5 Ayes – 0 Nays
Passed

Mr. Faile said, based on Mr. Christ's suggestions, there is something else they can do here. He knows if the variance isn't passed, they have to come back with a different scheme and a lower square footage request. Mr. Faile said to remove the carport in front of the garage and keep everything else. Take the roof of the addition and extend it to the garage. Mr. Christ said they could install something that is not set and can be opened between the mudroom and the garage to make it accessible for the law professionals while still protecting Mrs. Umbenhour from the elements. Removing the carport would remove the setback variance and shrink the lot coverage. The Board and the applicant calculated the lot coverage without the carport, and it came out to 32%. Mr. Reich said to vote on the 32% and Mr. Faile will provide new plans showing that.

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 providing a new, minimal addition for a mudroom and protected access from the existing house to the existing garage. Regarding whether the property in question will yield a reasonable return, he doesn't believe that it will enhance that. The variance is not substantial and is the minimum necessary following the discussion and the adjustment of the plans. 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 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 Susan Umbenhour, 1032 Elmwood Rd, to construct a pavilion, covered walkway, and addition, increasing the lot coverage to no more than 32% vs the 28% that is permitted. Per Schedule: 1153.05 (3). The applicant will provide a revised drawing to the Building Department that shows a walkway canopy only with adjustable panels as required from the addition to the garage. Mr. Farrell seconded.

5 Ayes – 0 Nays
APPROVED

9. ALBERTO AND JULIE MACHINENA – 21995 Addington Blvd – PUBLIC HEARING –

Variance: to construct a storage shed with a gross floor area of 140 square feet vs. the 120 square feet that is permitted. Per Section: 1153.15 (c).

Variance: to install an accessory parking space 15' wide vs. the 8' that is permitted. Per Section: 1153.15 (l)(4)B.

Variance: to install an accessory parking space 25' long vs the 18' that is permitted. Per Section: 1153.15 (l)(4)B.

Mr. Christ introduced the variance requests, and Mr. Farrell swore in Alberto Machinena, the homeowner.

Mr. Machinena said the street is very busy, and parking on the street is extremely difficult. He had parked one of his cars on the street, and a box truck came through and scraped the side of his car. Mr. Machinena said the size of the concrete is being driven by the location of the storage shed. The shed will be set back a foot compared to the face of the garage to keep it aesthetically pleasing. The height of the shed will be 12' to the highest point, so that it is shorter than the house. He is pushing the storage shed off the house about 4' because he doesn't think it would be practical for it to be right next to the house. Mr. Machinena said having it set back from the front of the house and pushing it away from the side of the house are the reasons why the concrete is longer and wider than what the code allows. Mr. Machinena said they inherited a tractor and also have a 13' long trailer, so they need the storage shed to be 10' x 14'. The storage shed will be the same color as the house and will be landscaped. Mr. Farrell asked if the height needs a variance or not. Mr. Reich said it would need a variance; the requirement is 10'.

Mrs. Martinez said she believes he explained the first two variances well, but wonders if he could talk about where he got the 25' from, and what the reason is for that length. Mr.

Machinena says the location of the shed is what is driving the 25', as the shed sits back 6' or so. He did that so he could still access the side man door to his garage. Mrs. Martinez understood that, but wondered if he looked at just going 18' from the front of the shed, because to her, the 25' seemed arbitrary. Mr. Machinena agreed it could be a little arbitrary on his part, and the length of it could change. Mr. Farrell said it would be nice to make that concrete area smaller. Mr. Wolf said a typical driveway is around 400 square feet, and there is almost that much pavement for the accessory parking spot, which is additional to the existing driveway; it is a lot of concrete.

Mr. Reich said the shed will have to be fire-rated due to its proximity to the garage. Mr. Farrell said that at this point, it would be easier to build an addition to the garage. Mr. Machinena said he would love to, but he is not allowed because of the easements. Mr. Christ asked if they are allowed to build slabs on that easement. Mr. Machinena said he would be allowed because there is no structure and there is no foundation. Mr. Reich said that for the sewer easement, they will have to get permission from Safety Service before building anything over it. Mr. Christ asked concrete pad in front of the storage only to access the storage shed, or will they park a car on there. Mr. Machinena said that from time to time they will park a car, but the main purpose is the storage shed. Mr. Christ said that a typical parking spot would be 10' – 12' wide and 18' – 20' long, and the area he is proposing is almost double that. Mr. Christ said it seems like the Board's main concern is the amount of concrete. Mr. Farrell said it seems like no one has an issue with the shed, just would have to come back for the height. Mr. Farrell said they need to figure out this easement situation as well. Mr. Reich said he can pour a slab over an easement, but needs to check to see if the storage shed can be.

Mr. Farrell asked the Board members if there were any recommendations to limit the amount of concrete, or will it be tabled for a later date. Mr. Machinena said he thinks the location of the shed is appropriate. However, he can try to reduce the concrete size. Mr. Wright asked if we could pinch the width down to 12' with the storage shed 2' off of the house. Mr. Machinena said he is okay with that. Mr. Christ said to Mrs. Martinez's point you do not need to go as far out as you are from the front of the shed. Mr. Farrell said you could come out 14' from the front of the shed and cut it over. This is only a paved path to the shed, and you can't park your vehicle in front of it. It would be an area of 12' x 14' in front of the shed. A scaled drawing would be helpful for the next submission.

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

5 Ayes – 0 Nays
TABLED

10. AARON VAUGHN – 21227 Stratford Ave – PUBLIC HEARING –

Variance: to construct a garage 1' from the side property line vs the 5' that is permitted.
Per Schedule: 1153.15 (1).

Variance: to construct a garage 1' from the rear property line vs the 5' that is permitted.
Per Schedule: 1153.15 (1).

Variance: to construct a garage with a height of 17' vs the 15' that is permitted.

Per Section: 1153.09 (b).

Mr. Christ introduced the variance requests, and Mr. Farrell swore in Aaron Vaughn, the homeowner.

Mr. Vaughn distributed to the Board a rendering that showed if the garage were to follow the code's 15' height restriction. Mr. Farrell asked if that meant they decided not to follow through with the height variance. Mr. Vaughn said no, they still wanted to, but the diagram was to show that at 15' there is no space for someone to stand up in the second floor. Mr. Farrell said they see these requests pretty regularly, and several years ago, the Board used to grant these requests because people wanted them. The Board went to the City Council to have the ordinance changed because they didn't think it was right to grant these variances all the time. The ordinance was not changed. Since that time, the Board has stopped granting these height variances. Mr. Farrell said they have been somewhat flexible and have allowed up to 16', and that is his limit. Mr. Farrell, there were issues with the permanent stairs in these garages and the dormers. Mr. Reich said the stairs, nor the dormers, were ever addressed in the ordinances. Mr. Farrell said the dormer may not be as objectionable. Applicants were coming in with dormers on both sides, sometimes facing the neighbor, and that became an issue regarding privacy. However, the dormer in this case looks into their yard and not the neighbor's. Mr. Farrell said they will talk about the setbacks later because he hopes there is some flexibility there, because it is never a good idea to have only one foot between their garage and a fence. Mr. Wright said that is to the eave, it is actually 2'-4" to the wall of the building. Mr. Farrell said then maybe they are okay there. What they don't want is a trap area that has rodents, trash, and leaves where they can't reach, but maybe there is enough space.

Mrs. Martinez asked Mr. Vaughn to explain why he is requesting the height variance. Mr. Vaughn said he has two relatively tall vehicles, two trucks. So, he needs a little extra height to get them inside the garage. Mrs. Martinez said the plans show a 7' door, Mr. Vaughn said it will have to be an 8' door. Mrs. Martinez asked if that means it would have to be a foot taller. Mr. Vaughn said no, he would lose space on the second floor to get his vehicles in the garage. The second floor would be storage, so they are just looking for enough space to be up there and access whatever is up there. Mr. Vaughn said he doesn't know if this matters or not, but the rear property line is the railroad tracks, so there is no rear neighbor. Mr. Christ asked where his property line is relative to the space that is back there. Mr. Vaughn is not sure just that all the garages are in a line along there. Mr. Christ asked if it was an easement. Mr. Vaughn said it is, and he had been told that they are allowed to use it, just no permanent structures. Mr. Christ asked about the fence. Mr. Vaughn said the fence is on their property from the house to the garage. There is a bit of return at his garage and runs along the garage to the rear. Mr. Vaughn said there is about a foot of his neighbor's property on his side of the fence. Mr. Christ said the rear setback doesn't bother him because it is open to the setback and easily accessible for maintenance. The side setback, since it is 2'-4" to the wall, doesn't bother him either. Mr. Wolf asked if he intends to use it as a two-car garage because it may be a little tight with larger vehicles. Mr. Vaughn said yes, that is why they are asking for the side variance to make the most remove possible to get into the garage. Mr. Wolf said in instances where they have approved the 16', he recalls it being on a larger lot or trying to have a roof on the garage that matches the roof of the house. Mr. Christ and Mr. Farrell both said they haven't approved any since City Council reaffirmed the 15' code restriction.

Mr. Wright asked Mr. Vaughn if he is okay with the 16'. Mr. Vaughn thinks he can make it work at the 16'. Mr. Christ said the push back is because there should be no habitable space whatsoever inside the garage. That could be argued that this shouldn't even be used for storage. Mr. Christ said when you push up the eaves, it starts to look like a commercial garage, so maybe look at low overhang door options. Mrs. Martinez said that while they are on the size of the garage door, maybe consider a larger door because a 16' wide door may feel tight with two trucks.

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 location of the rear to the utility power lines and railroad that is actually set at the back of their property, with no adjacent structures behind. The neighbors on the street all have garages that are similarly situated. Regarding whether the property in question will yield a reasonable return, he doesn't believe that will apply. The variance is not substantial and is the minimum necessary to allow the most reasonable use of the land and access to the garage. 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 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 Aaron Vaughn, 21227 Stratford Ave, to construct a garage 1' from the side property line vs the 5' that is permitted. Per Schedule: 1153.15 (1). That 1' dimension is to the eave, and the wall of the garage will be 2'-4" from the property line. This is a reasonable dimension to allow for maintenance. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Aaron Vaughn, 21227 Stratford Ave, to construct a garage 1' from the rear property line vs the 5' that is permitted. For the same reasons as the first variance. Per Schedule: 1153.15 (1). Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Aaron Vaughn, 21227 Stratford Ave, to construct a garage with a height of 16' vs the 15' that is permitted. The applicant has indicated the practical difficulties with trying to provide a reasonable storage space that he can access. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

11. THE FOUNDRY AT ROCKY RIVER – 20325 Center Ridge Rd – PUBLIC HEARING –

Variance: To have 18 one-bedroom apartments less than the 750 square feet requirement. Per Schedule: 1157.07 (f)(1)a.

Variance: To have 10 studio apartments, which is not permitted in the development code. Per Section: 1157.

Variance: To have 60 storage units ranging from 54 square feet to 66 square feet vs. the 98 storage units at 90 square feet that would be required. Per Section: 1157.19 (a).

Mr. Christ introduced the variance requests, and Mr. Farrell swore in the property owner's lawyer, Garret Allen, from Walter Haverfield.

Mr. Allen said it is a total conversion of an office building into residential apartments. The variances are consistent with previous approvals, such as Brighton Chase and ORRIS. Hardship occurs to the owner based on economics and usage of space with current demographics and market trends of rental spaces. An additional hardship that wasn't present in the previous approvals is that this is an existing building versus new construction. The Planning Commission and the Design and Construction Board of Review have supported this project; now they are here requesting the variances. Mr. Farrell said he looked at the minutes that were provided from the Planning Commission meetings, which showed their support since they were allocating storage spaces to the units that were smaller than the square footage requirements. Mr. Allen agreed and said they noted the large size of the 2-bedroom apartments meant they could add 90 square feet of storage in the apartment and still be over the size requirement. Mr. Allen said this is a more conservative variance request than what has been approved for the other projects.

Mr. Farrell said he remembers when this project came in front of them a few years back, and there was a discussion about the storage units. Mr. Farrell said there is room for more storage units. Mr. Allen said only if there is demand for it. Typically, in his experience, the storage units are rarely used, and individuals who are looking for storage will rent a storage unit in a storage facility that has better climate controls. Mr. Farrell said that for this Board's consideration, one could say there is more space for storage on that basement level. Mr. Allen said in theory, yes, but based on the previous precedent set based on economic hardships, storage does not return the same as amenity spaces when you look at a per-rent basis. Mr. Farrell said that the Planning Commission seemed to be okay with the size of the storage units. He also asked why the new development code is mentioned when it has not been passed by the council. Mr. Allen said in previous discussions there was mentioned of Dublin, Ohio's development code and was a model trend for planning.

Mrs. Martinez said she has worked on several types of these projects herself, and she believes this is a very commendable undertaking. Given the existing conditions of the building and the state it's been in for quite a while, she thinks this is a successful use of it. She is in support of it. Mr. Wolf saw the gym on the lower level but wondered if there was any outdoor, private, open space; the roof would be the only option. Mr. Allen said the roof would take a lot of work to make it habitable, so the roof will not be used for that, but there is extensive landscaping going on the parking deck. Mr. Wolf said he is not concerned about the variances, but in his previous position as a Planner in the city of Berkley, they were creating relatively small student housing. However, what they were good at was creating open spaces within those developments, and he would like to see that incorporated in these projects.

Mr. Christ said that Mr. Allen had mentioned precedent. However, there is no precedent when it comes to variance requests. It is on a case-by-case basis. Mr. Christ said he is looking at the Planning Commission's review of the project specifically. They are not granting variances because they did so on another project. Mr. Christ said he does not have any objections, and the Planning Commission has been thorough on these types of projects. They have heard multiple times about storage not being needed, and that the size of apartments is getting smaller.

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, as the applicants have indicated, this is an existing structure, and the usage is being changed from office to residential. As such, they are limited by the existing structure and existing building and have to accommodate space within that. Regarding whether the property in question will yield a reasonable return, that is the crux of the question in front of the Board. A variance is required to make this conversion financially viable; that is a legitimate city evaluation. The variance is not substantial and is the minimum necessary. The applicants indicated that they tried to make it closer to code and that they are only doing it in a way that facilitates the usage in the building. He does not think that the essential character of the neighborhood will be substantially altered since it is an existing building. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he believes that they did, and they are accommodating the code as closely as possible. 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. He's tying that into the Planning Commission meeting minutes. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to The Foundry at Rocky Rover, 20325 Center Ridge Rd, to have 18 one-bedroom apartments less than the 750 square feet requirement. Per Schedule:

1157.07 (f)(1) a. The applicants have indicated their practical difficulties with providing sufficient space for the usage of apartments in this existing complex and has been substantially reviewed by the Planning Commission and has their support. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to The Foundry at Rocky Rover, 20325 Center Ridge Rd, to have 10 studio apartments, which is not permitted in the development code. Per Section: 1157. For the same reasons as the first variance. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to The Foundry at Rocky Rover, 20325 Center Ridge Rd, to have 60 storage units ranging from 54 square feet to 66 square feet vs. the 98 storage units at 90 square feet that would be required. Per Section: 1157.19 (a). The applicant has indicated their usage of the space to provide storage relative to the market, and this was also reviewed by the Planning Commission. This is a reasonable solution. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

12. MOHAMED NAEM AND MAHA SHEMISA – 1839 Wynwood Dr – PUBLIC HEARING –

Variance: To construct a pool house and covered patio with a height of 15'-1" vs. the 10' that is permitted. Per Section: 1153.09 (b).

Variance: To construct a pool house and covered patio that is 646 square feet vs. the 600 square feet that is permitted. Per Section: 1153.15 (c).

Variance: To construct an attached masonry patio and retaining wall 18'-1" from the rear property line vs. the 25' that is required. Per Schedule: 1153.07 (1)B.

Variance: To construct a masonry pool 21" above grade vs. the 12" that is permitted. Per Section: 1153.15 (h)(4).

Mr. Christ introduced the variance requests, and Mr. Farrell swore in Bill Hance, Landscape Architect from New Vista Enterprises, and Brandon Young, Architect from Young Design Studio. One resident came forward to be sworn in, Jerry Sadlowski, 2 River Parke Drive, and his lawyer, James Nagy.

Mr. Nagy said the documents Mr. Sadlowski found on the website did not include all of the variances requested tonight. Mr. Minek told him that his application only included three variances because that is what the applicant thought applied to him. When reviewing the plans, a fourth variance was needed, and the notice that was sent to Mr. Sadlowski reflected that. The information on the website was correct, and the applicant was not aware of the other variance so

that is why the application did not have all four of them. Mr. Christ said you should follow the notice that you receive in the mail, and the notice he received is correct.

Mr. Farrell had a question about the height. Is it measured from grade or finished floor? The height is 12'-1" from the finished floor. Mr. Hance said it is 15'-1" from the lowest point in the grade. Mr. Reich said that if there is a sloping grade, it should be taken from the average. Mr. Farrell also asked how the height of the pool is calculated. Mr. Reich read the code, and it is from the grade, but it doesn't specify what grade. Mr. Wolf said he thinks you would ignore all paving, it finishes at 691.3, and whatever that is from the grade would be the height. Mr. Reich asked if they were moving the yard drain. Mr. Hance said no, all the elevations on the north end of the yard will not change. That is why they need a retaining wall to hold up the pool house, and steps that go down to the yard area; none of that grade would change. At the rear stairs, there is a 21" difference between the pool height and the grade, which is the variance they are here for. Mr. Wolf said he understands the variances more now and thinks they should hear from the applicant and the neighbor.

Mr. Hance said it will be a 16' x 32' pool that has a patio all around it. There will be a pool house with a small half bath and storage. Attached to the pool house is a covered patio with an outdoor kitchen. All of which is included in the square footage being requested. Materials will match the materials of the house, a masonry wall that matches the house, the fence is in good shape, they have screening in the rear yard, and there will be a small fire pit. Mr. Farrell said for the height, it's 12'-1" from the finished floor, and they have determined the height above grade for the patio is roughly 21", so the height of the pool house would actually be 13'-10".

Mr. Sadlowski said he lives right behind the property; his front yard and door would look directly at the pool and pool house being proposed. His property is very private; he has woods and a ravine surrounding him, a neighbor next to him, and then two homes on Wynwood that abut his property. His concern was that by building it up above grade, when someone is standing out there, they will be taller than the privacy fence. Right now, he doesn't see anyone. Mr. Sadlowski is also concerned with noise, the pool equipment and generator will face his property, and now he will have to see it and hear it every time he walks out his front door or is in the dining room. Mr. Sadlowski does not want the Board to allow variances for any of them. He doesn't want it any closer to his property. He said it would ruin the quality of the neighborhood, and there was another neighbor, John Krik, 3 River Parke Drive, who was here tonight, but he had to go. He told Mr. Sadlowski to represent the whole HOA of River Parke Drive, as Mr. Kirk is the treasurer. The entire HOA opposes the variance requests. Mr. Nagy said the solution would be to lower the patio; the applicants have failed to meet their burden. If the Board chooses to support these requests, they would like to ask for a condition that non-deciduous screening be at the width of their lot for the duration and that the pool deck does not project into the 25' setback.

Mr. Farrell asked Mr. Hance if he could lower the pool deck. Mr. Hance said they can lower it by about 12"; it would just require more retaining wall up towards the house. He also said there is already an evergreen screening at the rear of the house, but they can get a substantially larger screen back there. Mr. Christ asked how tall the fence is. Mr. Hance was not 100% certain, but he believed 6' in the rear and 4 or 5' on the sides. If they bring the deck down from 21" to 12", they eliminate one of the variances. When they bring the pool deck down, it will bring the height of the pool house down. Mr. Christ asked what the grade difference is between the rear porch

and the pool deck. Mr. Hance said the porch is at 692.7 and two steps going down, so 691.3. We can take that down, but that means they will have to do low stone border walls around the house to keep that grade up. Mr. Hance said he does not want to mess with the rear grade of the house; it would be planter walls. Mr. Christ said to him that he would've expected a longitudinal section and a transverse section.

Mr. Christ said that instead of two steps going down from the rear patio and they could do 3 steps and look at the grade at the end of the pool against the wall, the pool would be 14" above grade, and if he raised the grade by 2", then he would be in compliance. Mr. Farrell said that maybe he could do even better and get the deck down where it needs to be, and provide more information in doing so. Mr. Farrell said he thinks he can get the retaining wall outside of the rear setback. Mr. Hance said that it will be hard since they try to keep 5' around the pool. The Board said he could make it smaller or remove something, just make everything stop at the required setback. Mr. Farrell asked why they can't lower the height of the roof. Mr. Young said that it is acting as a retaining wall. Mr. Farrell said that it looks nice, but it may be excessive. Mr. Young said they wanted to have a low-pitch roof instead of a flat roof. When you lower the pool deck, the height of the pool house will be reduced. They can lower the height to comply with the code. Mr. Farrell thinks they should table this, and they can come back, or they can adjust it to meet the code.

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

5 Ayes – 0 Nays
TABLED

13. ERIC AND JACKIE WIEDEMER – 21468 Avalon Dr – PUBLIC HEARING –

Variance: To construct a boat house that is 1,265 square feet vs the 250 square feet that is permitted. Per Section: 1153.15 (i)(2).

Variance: to construct a boat house with a height of 24' vs the 15' that is permitted. Per Section: 1153.15 (i)(1).

Variance: to construct a boat house with habitable interior space vs accessory buildings shall not contain habitable spaces. Per Section: 1153.15(c).

Mr. Christ introduced the variance requests, and Mr. Farrell swore in Chad Costello, Architect from Peninsula Architects. Mr. Reich asked if the Board members had all three letters of support that were submitted for the project. They confirmed that they did. Mr. Costello said they are requesting the three variances so they can tear down the existing 814 square feet boathouse that is inhabitable and is in disrepair. Their goal is to keep the existing foundation, which ties into the lake wall. Which is why they are over the square footage requirement. Mr. Costello said the existing boathouse is 17' to 18' to the chimney, and they are asking to go to about 25'. They are asking for that because they are building upon the existing retaining wall and the steep slope of the hillside. It will be a total of 25' from the Lakeside elevation. It is in similar proportions to the neighbor's boathouse. Mr. Costello said they are also requesting a variance for habitable space

because the existing boathouse already has a sleeping loft, kitchen, bathroom, and lounge area; they are maintaining that.

Mr. Farrell said that the plans show the height at 24'10" and the notice says 24', which was measured from the finished floor. Mr. Dever said the difference of 10" is a scrivener's error and not substantial. Mr. Farrell wanted to know where the average grade would be to measure the height. Mr. Costello said the hillside slopes towards the building, and the Lake elevation is much lower. Mr. Farrell said his issue is with the habitable space, because to him it is kind of asking them to rewrite a big usage. Mr. Farrell said he doesn't want to take responsibility for allowing habitable space when the ordinance is pretty clear that it does not want habitable space. Mr. Costello asked even if the existing boathouse has habitable space. Mr. Farrell said that might have been, but that wasn't this board's decision. Mr. Christ said it is under the code as a boathouse, but there is no boat. To him, it is almost like a second house on the property rather than a boathouse because, without a boat, how can it be a boathouse? Mr. Christ said there is already a boathouse existing, and they can talk to the Building Department and the Law Director about repair and replacement in kind as opposed to variance requests. They allowed a project in the past, it wasn't a boathouse, that was an entire demolition and reconstruction, same footprint, same height. Mr. Costello said he is not going to demolish something and rebuild it when it was subpar to begin with. He said they can build on the existing footprint, which is what they were doing, but the height elevation is becoming a problem with the existing hillside. The hillside has created damage to the existing boathouse, so they raised the boathouse higher.

Mr. Christ said variance requests are different depending on which sections of the code you're applying to. Repairs and replacements, pre-existing nonconforming use, are different than what they are proposing. He is not saying he needs to or can't build a new retaining wall back there. You have a footprint right now, you have an elevation right now, and within those parameters, you're saying you want to build it on the same foundation. Mr. Farrell asked if there is a boat in the existing boathouse or if there is space for one. Mr. Costello said there is not; it is a space purely for entertainment. Mr. Wright agreed that the only issue he has is the habitable space, which is something council does not want in secondary structures.

Mr. Costello asked what constitutes habitable space; is it just the bedroom? Mr. Wright and Mr. Reich said it's any living space. Mr. Wright said what really sets it off is the bedroom. Having a lounge space and a kitchen down by the water as an entertainment space makes sense, but once you add a bedroom, it starts becoming a bigger issue. Mr. Christ said the boat house they approved on the river had space for a boat in it, and it had a boat dock. A lot of the discussion around their amenity space was that when the boat docked, the captain or passengers on the boat did not have to go all the way to the top of the hill to get anything they needed. If they wanted guests over, they needed a place to prepare food. So those supported the boathouse being used as a boathouse. Mr. Reich said that according to the definition in the Development Code, all of the space would be considered habitable space. The living room, kitchen, bathroom, and bedroom. Mr. Costello said he is replacing what is already there, which has those spaces in it. The neighbor's house has a boathouse that is 10 years old, which has these same spaces within.

Mr. Christ said he has a problem with the height as well. He understands that it is down in the bluff, but anytime there are changes in views and appearances down on the Lake, the Board has a hard time approving that. Mr. Costello understands but said the only people who would see it are

people out on the Lake and the two neighbors, who both are in support. Mr. Wolf said that we should be concerned with the views from individuals on the Lake since it is a public gathering space. There is also concern with the emergency services getting access to the boathouse if needed.

Mr. Dever asked the Board if they wanted more clarification on the boathouse dilemma from the Law Director. Mr. Farrell said yes because he can only vote no on the habitable space right now. Mr. Dever said they can table this until clarification is determined. Vince, the builder, rose to ask a hypothetical question. If they were to have come in and applied for a building permit to remodel and rehab the existing structure that already has living space in it, would they be having this conversation about a variance? Mr. Costello said on the one hand, the Board is saying they can't have habitable space, but on the other hand, they are saying if they replaced it as is, it wouldn't have been an issue. Mr. Reich said that is a good question, that he probably would have had to ask the Law Director once he saw the living space. Mr. Christ said previous Law Directors have done the research and provided a memorandum for what they were looking at; this is how your evaluation is to this standard.

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

5 Ayes – 0 Nays
TABLED

This meeting was adjourned at 11:45 pm.


Patrick Farrell, Chairman


Richard Christ, Secretary

Date: _____

08/14/25