

MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
NOVEMBER 20, 2025

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

Presence Noted: Michael O'Boyle, City Councilman
Steven Dever, Assistant Law Director
Ray Reich, Building Commissioner

The Board of Zoning and Building Appeals has two variance standards that it uses to evaluate every variance request. Depending on the variances requested, it is either an (Use) Unnecessary Hardship Standard or (Area) Practical Difficulties Standard. Each standard has a specific set of questions that the applicants must answer, and the Board must consider when looking at each request. The Secretary, or acting Secretary, will read through these questions and answer them to the best of their ability. The Board Members can agree with the evaluation of the Secretary or can give their own opinion to be considered.

In the case of the November 20th, 2025, meeting, every variance that was voted on used the (Area) Practical Difficulties Standard. The questions for the (Area) Practical Difficulties Standard are as follows:

- A. Describe what special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other land or structures in the same zoning district (i.e., exceptional irregularity, narrowness, shallowness or steepness of the lot; or proximity to non-conforming and inharmonious uses, structures or conditions).
- B. Explain whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance (discuss use limitations without the variance).
- C. Explain whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures (demonstrate how much the variance request deviates from Code requirements, i.e., coverage is 1 or 2% above Code, or setback is 1 or 2 feet less than Code requirement).
- D. Explain whether the essential character of the neighborhood would be substantially altered and whether adjoining properties would suffer substantial detriment as a result of the variance (discuss the increase of value, use, and aesthetic appeal for both your property and adjoining properties, together with any negative impact to adjoining properties).
- E. Explain whether the variance would adversely affect the delivery of governmental services, such as water, sewer, or trash pickup.
- F. Explain whether the property owner purchased the property with knowledge of the zoning restrictions.
- G. Explain whether special conditions or circumstances exist as a result of actions of the owner.
- H. Explain whether the property owner's predicament feasibly can be obviated through some method other than a variance (why other means and methods of property improvements or enhancements would not suffice).
- I. Explain whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance (discuss the positive impact of your improvement on your property and on the surrounding neighborhood).

- J. Explain whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
- K. Explain whether a literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

As the Secretary reads these Practical Difficulties for the variance requests, the letters for the questions will be referenced. Refer to the letters listed above during their evaluation of the Practical Difficulties.

Mr. Farrell opened the November 20th meeting of the Board of Zoning and Building Appeals at 7:00 p.m. He asked if anyone was here for the Ruffing Montessori agenda item. Mr. Reich said they withdrew and want to go to the January meeting. He said the neighbors can stay for a few agenda items if they'd like to see if anyone shows up to present. Mr. Farrell 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. Christ moved to approve the Board of Zoning and Building Appeals meeting minutes from October 9, 2025, as presented. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

1. **TOM AND CHERYL BOCCIA – 60 Buckingham Rd – PUBLIC HEARING –**
Variance: To enclose and expand the second-floor covered porch that was previously approved for lot coverage at 32% vs the 28% that is permitted. Per Schedule: 1153.05 (3)

Mr. Christ introduced the variance request, and Mr. Farrell swore in Mike McGettrick, the architect. Mr. McGettrick said the roof of the second-story porch would be extended and enclosed to create a walk-in closet. Will be adding windows to all three exposed sides, and the roof and cladding will match the existing. They are expanding the second-floor space, but the first-floor covered porch is not expanding. The Board members have no issues with it. Mr. Christ asked that the minutes from the prior approval be incorporated into tonight's meeting minutes. Since there have been no changes, he is not going to read the practical difficulties test since that was covered in the last submission. The other Board members had no objections.

Mr. Christ moved to grant a variance to Tom and Cheryl Boccia, 60 Buckingham Rd, to enclose and expand the second-floor covered porch that was previously approved for lot coverage at 32% vs the 28% that is permitted. Per Schedule: 1153.05 (3). The applicant has indicated their practical difficulties in a previous meeting, and this is a re-application of the previous approval. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

2. ANDREA AND DOMINIC MEDIATE – 21246 Maplewood Ave – PUBLIC HEARING –

Variance: To install two air conditioning condensers 4’-6” from the side property line, vs the 10’ that is permitted. Per Section: 1153.15 (k)(1)

Variance: To screen two air conditioning condensers using a vinyl enclosure, vs the evergreen plant material that is permitted. Per Section: 1153.15 (k)(1)

Mr. Christ introduced the variance requests, and Mr. Farrell swore in Chuck McGettrick, the architect. Mr. McGettrick said one variance is to move the condensers to the side of the house, and the other is to use white vinyl fencing instead of the required evergreen plant material. He said the vinyl fence will help the sound go vertically. Mr. McGettrick said they will add the evergreen material on the outside of the fence. Mr. Farrell asked why they needed to move the condensers to the side of the house. Mr. McGettrick said they are adding on to the rear of the house. The screened-in porch will be a slab and making it hard to run the condenser piping out to the units. Also, they were trying to run the condensers closer to the furnace area in the basement. Mr. Harpster said that was his question: why couldn’t they move it to the side or the rear of the screened-in porch? Mr. McGettrick said that the condenser’s noise and fumes would go into the porch, and there is an existing small crawl space from the previous addition that makes it difficult to place the condenser there. Mr. Wright asked where the existing condensers are. Mr. McGettrick said in the rear, where the addition is going. Mr. Christ had trouble with the dimensions; he wanted confirmation that it would be 4’-6” from the property line. Mr. McGettrick confirmed. Mr. Christ said the units will still need to meet the sound requirements.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud:

- A.** These are existing units being relocated to accommodate a slab-on-grade addition to the rear of the home.
- B.** He does not believe that will apply.
- C.** They are locating the condensers more towards the rear of the home, as close to the existing house as possible, and will maintain a fence for sound. They will verify the sound reading.
- D.** He does not believe that it will.
- E.** He does not believe that it will.
- F.** He does not believe that will apply.
- G.** Only in the sense that they are providing an addition, which is necessitating the move of these units.
- H.** He does not believe that it reasonably can.
- I.** He believes that it would.
- J.** He does not believe that it will.
- K.** He believes that it would.

The other Board members agreed with Mr. Christ’s assessment.

Mr. Christ moved to grant a variance to Andrea and Dominic Mediate, 21246 Maplewood Ave, to install two air conditioning condensers 4'-6" from the side property line, vs the 10' that is permitted. Per Section: 1153.15 (k)(1). The applicants have indicated their practical difficulties with providing the addition and relocating the existing units in adjacency to the basement unit that they are connecting to. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Andrea and Dominic Mediate, 21246 Maplewood Ave, to screen two air conditioning condensers using a vinyl enclosure, vs the evergreen plant material that is permitted. Per Section: 1153.15 (k)(1). The applicant has indicated that they will add evergreen plant material in addition to the fence. This is a reasonable solution. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

3. MATHEW DEVENPORT – 21080 Beachwood Dr – PUBLIC HEARING –

Variance: To install a sauna 2' from the side property line vs the 7' that is permitted. Per Section: 1153.15 (g)(1)

Mr. Christ introduced the variance request, and Mr. Farrell swore in Mathew Devenport, the homeowner. Mr. Devenport said he wants to add a sauna for medical reasons. He received a letter from his neighbor, and they were okay with it. The sauna is electric and will have a very low noise level. Mr. Devenport said the sauna is 4.5 feet by 6 feet and will be 7 to 8 feet tall. Mr. Farrell asked about the 2-3 feet from the property line that is in his application. Mr. Devenport said the exact location depends on where the electrician can get the conduit, so the sauna would be somewhere between 2 and 3 feet off the property line. Mr. Farrell asked if the conduit is coming up under the sauna. Mr. Devenport confirmed. Mr. Farrell said he thinks they could make it to the 3 feet from the property line. The sauna will have a flat roof and be wrapped in redwood cedar.

Mr. Harpster asked why that location. Mr. Devenport said the yard is already pretty small and would like to maintain as much of that yard as possible. There was already a fenced-in garden in that area, and they ripped it down. So, there is a mulched area in that location already. The other side of the yard has a walkway and a covered patio. Mr. Harpster asked if the gravel/tree-covered area that is identified in the plans was Mr. Devenport's property. Mr. Devenport said to his knowledge, it is his property. Mr. Harpster asked if that could be additional green space for the backyard since Mr. Devenport is concerned about the lack of green space. Mr. Devenport said that would require him to cut down trees and run the line back there. Mr. Harpster said he didn't mean to put the sauna back there but to increase the usable space. Mr. Devenport said he considers that usable space. Mr. Harpster said his only concern is the proximity to the neighbor's property line. Mr. Wright said he would like Mr. Devenport to respect the 3-foot setback rather

than the 2. Mr. Christ said he would like the sauna at the front corner of the adjacent garage, going backwards, just so it is not visible from the neighbor's side. Mr. Christ moved to close the public hearing. Mr. Wright seconded.

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud:

- A. The applicant has indicated the practical difficulties with trying to locate this unit. This is a reasonable location in the rear yard.
- B. He does not believe that will apply.
- C. They are going to locate it 3 feet from the property line, and that is a reasonable dimension that the Board typically requires for clearances.
- D. The sauna will be located next to the adjacent garage, so he does not believe that it will.
- E. He does not believe that it will.
- F. He does not believe that will apply.
- G. He does not believe that they do.
- H. He does not believe that it can.
- I. He believes it would.
- J. He does not believe that it will.
- K. He believes that it would.

The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Mathew Devenport, 21080 Beachwood Dr, to install a sauna 3' from the side property line, vs the 7' that is permitted. Per Section: 1153.15 (g)(1). The applicant has agreed to add an additional foot to be 3 feet from the property line and will be located no closer than the adjacent garage. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Farrell let the neighbors who decided to wait around for Ruffing Montessori know that it had been 30 minutes. Mr. Farrell said that, to their knowledge, they will be at the January meeting. One of the neighbors said they feel like Ruffing is dragging this out, and when is the city going to say enough is enough? He also wishes he had been notified that they were withdrawing. Mr. Farrell and Mr. Reich apologized for any inconvenience. However, Ruffing is allowed to attend as many meetings as they'd like; there are no restrictions regarding that. They had made changes to the plans from the previous submission, so they are trying to adjust their plans to make everyone happy. Also, the City notifies people through the mail; there is no way for the City to notify all of the neighbors if an item is withdrawn last second. Mr. Reich recommended calling the day of their next meeting to make sure they are still on the agenda.

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

Variance: To expand a structure occupied by an existing non-conforming use, vs no such building shall be enlarged or expanded to increase the non-conforming use. Per Section: 1139.05 (c)(2)

Variance: To expand an existing non-conforming boathouse with a gross floor area of 845 square feet, vs a maximum of 250 square feet of gross floor area permitted for boathouses. Per Section: 1153.15 (i)(2)

Variance: To construct a boat house with a height of 17'-5" vs the 15' that is permitted. Per Section: 1153.15 (i)(1)

Mr. Christ introduced the variance requests, and Mr. Farrell swore in Chad Costello, the architect. Mr. Costello said the plans have not changed much from the previous submission. The height is being measured from the maximum height and not the mean height, which is why there is the height variance now. The boathouse now is 814 square feet, and the proposed one is 845 square feet. Mr. Farrell asked if the intention is to take it down to the foundation. Mr. Costello confirmed. Mr. Harpster said it is like building a new building. He asked why they can't meet the code requirements then, if they are starting fresh and taking it down to the foundation. Mr. Costello said they are taking down to the existing slab, not just the foundation. He said there is a retaining wall down there. Mr. Costello also said their access to the boathouse was removed by the City. That is why they need the extra height, to make the boathouse accessible from the house. Mr. Harpster asked why the square footage has to be so large. Mr. Costello said the existing boathouse is 31 square feet smaller, and that additional square footage is coming from the covered stairs going down to the boathouse. The existing footprint is not changing except for the stairs.

Mrs. Martinez wanted to clarify that there are two staircases, one that runs through the boathouse and the other that runs adjacent to it. Mr. Costello confirmed. Mrs. Martinez said the interior stairs are driving the height of the building. Mr. Costello confirmed. Mrs. Martinez said she is still having trouble with the height of the boathouse. To her, it seems there is a viable path down on the outside, and the second staircase is not necessary. Mr. Costello said they could possibly get the height down a foot. Mr. Christ asked if they could stagger the height of the building, lower the height as it goes down the hill, to match the height of the existing boathouse. Mr. Costello said that would put it under the door. Mrs. Martinez asked if they were matching the slab height. Mr. Costello said they are. The existing boathouse is 14' from the slab to the ridge of the roof, and the new one will be 24'-10".

Mr. Christ said he did go back to a couple of previous preexisting non-conforming uses that this Board has had in front of them. The previous Law Director had written opinions relative to the interpretation of preexisting non-conforming uses. One was a house being torn down that was being used as an office. As long as they maintained the same footprint, then that footprint was reasonable and probably valid under the repair, replacement, and reconstruction. Mr. Christ said there was another one that was a use. Even though it had been abandoned for a couple of years, no statute waives the nonconforming preexisting use. On that basis, that is something they were to look at strongly in terms of allowing it to re-establish itself. Mr. Christ said he is looking at this boathouse through this same lens. He is looking at the existing footprint, and that is going to be maintained. They are going to use the existing foundation, and they are going to maintain that. Mr. Christ said the only thing he is troubled with is the height. He said from the house

perspective, not much will change. However, from the lakeside of the two adjacent properties, there will be a considerable change from what was previously there. Mr. Christ is asking if it is possible to meet the height requirement or come closer to that. Mr. Costello said he could possibly get it down to 15 feet on the Avalon side; 14 feet may make the design look disproportionate. Mr. Christ would like to see the height step down as it goes down the lakeside. Mr. Costello said that would be more difficult. He asked if he would drop the ridge height down from 17'-5" on the Avalon side to 15', would he still need a variance? Mr. Reich said he would not, but that doesn't address Mr. Christ's concerns. Mr. Reich asked if a flat roof would work on the lakeside. Mr. Costello said it would not. However, he said he is confident that he could get the height down the 2'-5".

Mr. Farrell said this is all down at the lake level. He asked Mr. Christ if his concern is about blocking the views of the neighbors. Mr. Christ said not blocking the view, but what it creates along the lake. He said there is a certain recognition in the code that the view is a prime item for the properties along the lake. If you build something to block someone, that clearly goes against the setback requirement. Mr. Christ said the other view would be the view of the lake itself. He said it may be more of a design review question, that how this looks is more important than an actual number. Mr. Christ said he is trying to balance the nonconforming use and the code requirements. If the maximum is 15' and the way it is interpreted from the Avalon side, then he is accepting of that. He said he needs to evaluate it based on how the overall project looks, and that is for the Design and Construction Board of Review to determine.

Mr. Farrell said the 15' maximum for accessory buildings is typically on flat lots, and the impact is much more significant to the neighboring homes and affects them every day. However, this boathouse is down by the lake, similar to the one next door. He said there is a boathouse down there already, and this will be 9-10' taller than what exists. To him, he is not sure if it would block the views. Mr. Costello said even with the extra height, it is still lower than the next-door neighbor's patio. Mr. Farrell said height is an issue when everything is up at the same level. However, in this case, the boathouse is far below the homes, and they have a hillside to compete with. Mr. Farrell said to him the height is not an issue. Mr. Wright asked if they had considered a flat roof. Mr. Costello said they did not. Mr. Wright said that would alleviate the one variance and tie in with some of the design elements on the rear of the home.

Mr. Harpster said he was not a part of the previous review of this. He did see in the minutes that there was a discussion about the interior of the boathouse. He asked if it's the Board's concern to address the interior. Mr. Reich said no, there are no concerns. The Building Department will review this based on the Building Code and look at fire safety, access, sanitary, etc. Mr. Reich said he and Mr. Costello will address that based on how the Board votes.

Mr. Christ said that if they drop the height of the ridge down to 15' along Avalon, that will remove the third variance. Mr. Costello said that he does not want to if he does not have to, but he will get the boathouse approved. Mr. Christ said the 15' code requirement is being interpreted from the Avalon side. Design review will look at this from the lakeside. Based on the code requirements, the 15' along Avalon would satisfy that code requirement. To him, he would like to see the ridge come down because it is an attempt to meet the spirit and intent of the code. Mr. Farrell said the 2'-5" difference will not have a major change on the impact of this structure. Mr.

Christ and Mr. Farrell said they should just vote on what was noticed, and if it fails, then they will have to lower the height.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud:

- A. Being a preexisting nonconforming use down by the lake and will a hillside, this is a special condition and circumstance.
- B. He does not think that will apply, since it is preexisting.
- C. This has been discussed, and this will be inherent on going to the Board of Design and Construction Review to look at creating an acceptable building on this site under their jurisdiction.
- D. He does not believe that it will substantially alter. However, the Board of Design and Construction Review will evaluate that.
- E. The Building Department will handle life safety, building design, access, fire codes, and service of the building.
- F. He does not believe that will apply.
- G. He does not believe that they do, only regarding that they are looking to restore a previous building and its previous use.
- H. He does not believe that it can, since this is preexisting.
- I. Based on the review by the Board of Design and Construction Review, this will meet the spirit and intent of the code.
- J. He believes that it will not, since it is preexisting.
- K. Based on it being a preexisting condition, he believes that it would.

The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Eric and Jacke Wiedemer, 21468 Avalon Dr, to expand a structure occupied by an existing non-conforming use, vs no such building shall be enlarged or expanded to increase the non-conforming use. Per Section: 1139.05 (c)(2). The applicant has indicated their practice difficulties as discussed in the discussion tonight and in the review of the area variances. They are conforming to the existing footprint, the existing building, and only expanding in such a way as to provide better life safety and access to this building. As a result, he believes this is a reasonable reason for this variance. Mr. Harpster seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Eric and Jacke Wiedemer, 21468 Avalon Dr, to expand an existing non-conforming boathouse with a gross floor area of 845 square feet, vs a maximum of 250 square feet of gross floor area permitted for boathouses. Per Section: 1153.15 (i)(2). For the same reasons as the first variance. Mrs. Martinez seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Eric and Jacke Wiedemer, 21468 Avalon Dr, to construct a boat house with a height of 17'-5" vs the 15' that is permitted. Per Section: 1153.15 (i)(1). The applicant has indicated that he will look at adjusting as much as possible in conjunction with the Design and Construction Board of Review. Then that is an acceptable adjustment to the preexisting nonconforming use. Mr. Harpster seconded.

4 Ayes – 1 Nays (Martinez)
APPROVED

5. CHRISTOPHER SBROCCO – 19118 Mitchell Ave – PUBLIC HEARING –

Variance: To construct a shed 3'-6" from the side property line vs the 5' that is permitted. Per Schedule: 1153.15 (1)

Variance: To construct a shed 3'-6" from the rear property line vs the 5' that is permitted. Per Schedule: 1153.15 (1)

Variance: To construct a shed with a gross floor area of 238 square feet, vs the 120 square feet that is permitted. Per Section: 1153.15 (c)

Mr. Christ introduced the variance requests, and Mr. Farrell swore in Christopher Sbrocco, the homeowner. Mr. Sbrocco said from the previous meeting that he has made the structure smaller and moved it more into his property, increasing the setbacks. He said the neighbors have expressed support. Mr. Sbrocco said these changes create less of an impact on the neighboring properties, and the shed is small compared to the relatively large lot. Mr. Farrell asked about the size because what he is proposing is twice the size of what the code allows, which is a substantial variance request. Mr. Sbrocco said he made a list of everything that will be stored in the shed. He brought that sheet, which has been scanned into his file.

Mr. Harpster asked Mr. Reich for clarification about the number of accessory structures a property is allowed to have. Mr. Reich said two; Mr. Sbrocco would have two, the detached garage, and this storage shed. Mr. Harpster visited the property, and he felt that Mr. Sbrocco did a good job of identifying the property lines. He asked what the dimensions of the property are. Mr. Sbrocco said 50 feet wide and 167 feet deep. Mr. Harpster said to him there is plenty of space in the lot to do what he is proposing. Mr. Sbrocco said that, even with the shed, he is well below the allowed lot coverage.

Mrs. Martinez said last time there was a lot of discussion about the footings for the shed and how they couldn't be moved. Now, they are moved, and she wanted to know how he achieved the extra 2.5 feet. Mr. Sbrocco said he hasn't moved the posts yet. However, he is going to remove the posts from the ground and move them. Mrs. Martinez asked about whether that is going to interfere with the drainage. Mr. Sbrocco said it will, but he will also move the drainage. He also had a surveyor come and determine the property lines, and that gave him more clarity on where he can put the shed and how it'll affect the drainage. Mr. Wright is still curious about why he

needs double the allowed size. All the Board has is the drawing of the shed, but no justification for why it needs that much space. Mr. Sbrocco said he has the list of everything that will be stored in the shed, and he handed it to the Board for their consideration.

Mr. Christ thanked Mr. Sbrocco for increasing the setback for 3'-6" from both the rear and side property lines. He said he paid more attention when he was looking at properties, and numerous garages throughout the city do not maintain the 3'-6" setback. They are extremely close to the property lines, and the space in between was gravel, which is not very neighborly, in his opinion. Mr. Christ said being able to maintain the sides is important. He likes the 3'-6" setback to be able to maintain that. However, his concern is the size of the shed. Mr. Christ said he cannot recall a time when the Board has approved a storage shed this large. Although the neighbors are supportive of this and the lot is relatively large, the size of the shed is excessively large. Mr. Christ said the storage has to be legitimate residential storage, not business storage. Mr. Sbrocco said all the storage he is requesting is residential. He understands this Board's perspective on trying to prevent an accessory building from being too large on a lot and feeling out of place. However, he does not think that is the case in this situation.

Mr. Farrell asked Mr. Sbrocco if he had any flexibility on the size of the storage shed. Mr. Sbrocco said he does because he wants to get this shed built and make sure everyone is happy. However, he wants to make sure he gets the space he needs. Mr. Christ asked if there was any consideration of attaching the storage shed to the back of his garage. Mr. Sbrocco said he could, but the neighbor has a garden and worries the shed would block the sunlight. Mr. Christ said if he kept it to a minimal height and minimal pitch, it would not obstruct the sunlight.

Mr. Farrell asked that the height of 10 feet be to the tallest point of the shed. Mr. Sbrocco confirmed. The roof slopes, and the high point will face his house. Mr. Farrell asked if the 14 feet by 17 feet is to the outside face of the walls. Mr. Sbrocco confirmed. Mr. Farrell asked if the door on the side is on his property's side. Mr. Sbrocco confirmed. Mr. Harpster asked if the garage is a two-car garage. Mr. Sbrocco confirmed.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud:

- A. The applicant has indicated that he has additional space. However, he does not think that qualifies as any special condition or circumstance.
- B. He does not believe this will affect this review.
- C. There is a difference in the discussion with setbacks and the area. He believes the setbacks are reasonable, but he is not sure if this Board will agree with the area.
- D. The argument has been made by the applicant that the size of his property and the shed being in the rear, the size is reasonable. However, it is essentially like two garages on the property.
- E. He does not believe that applies.
- F. He does not believe that will affect this.
- G. He does not believe that it does.

- H. He believes the applicant has made his argument relative to the setbacks, so he thinks those are reasonable. He is not as sure about the area.
- I. He believes the setbacks are reasonable, but he is not sure about the area. He believes that is the Board's decision.
- J. He believes it would because this is a 200% storage shed versus the 120 square foot that is permitted. However, the setbacks would not.
- K. He does not believe that it would.

The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Christopher Sbrocco, 19118 Mitchell Ave, to construct a shed 3'-6" from the side property line vs the 5' that is permitted. Per Schedule: 1153.15 (1). The applicant has indicated the practical difficulties and located the property lines. This is a reasonable dimension. Mrs. Martinez seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Christopher Sbrocco, 19118 Mitchell Ave, to construct a shed 3'-6" from the rear property line vs the 5' that is permitted. Per Schedule: 1153.15 (1). For the same reasons as the first variance. Mrs. Martinez seconded.

5 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Christopher Sbrocco, 19118 Mitchell Ave, to construct a shed with a gross floor area of 238 square feet, vs the 120 square feet that is permitted. Per Section: 1153.15 (c). The applicant has indicated the practical difficulties and provided a list of items he would be proposing to store within that facility. Mr. Harpster seconded.

2 Ayes – 3 Nays (Martinez, Wright, Christ)
DENIED

Mr. Sbrocco asked what he could do moving forward. Mr. Reich said he could reduce the size to 120 square feet and avoid the variance, or reduce the variance request and come back. Mr. Farrell said 50% might be more appropriate for the Board. Mr. Christ said 160 square feet comes to mind for the size of previously approved variances. He said they have gone larger when it was attached to the home or garage. If it is attached to the home, it is evaluated only based on lot coverage and the home's setbacks. If it is attached to the garage, he recommended talking to the Building Department about his existing garage size and see how much he is permitted to add onto his garage and still fit within the code. Mr. Sbrocco asked what size would be more appropriate. Mr. Farrell said 50% to him is more reasonable. Mr. Christ said, for him, 160 square feet. Also, he said he appreciated the list of what will be in the storage shed; however, a drawing might illustrate the use better and allow him to evaluate the space he needs and how to be more efficient with that space.

6. GKHE PROPERTIES – 19800 Detroit Rd – PUBLIC HEARING –

Variance: To install a 4' ornamental fence in the side yard abutting a public street right-of-way, vs fences shall not exceed three (3) feet in height when located in front of a building or in yards abutting a public street right-of-way. Per Section: 1167.13 (3)

Variance: To install a 4' ornamental fence within the parking setback, maintaining the required 5' screening setback for the first 82'. The fence moves 6" off the property line as it goes southwards. Fences that are not located within the required setback areas shall be screened with the following landscape materials, planted not more than five (5) feet from the fence and between the fence and the property line. Per Section: 1167.13 (4)(B)2

Mr. Christ introduced the variance requests, and Mr. Farrell swore in Jill Brandt, the architect, and Haley Mylett, the property manager. Mr. Farrell said that after reading through all of the Planning Commission minutes, the fire access, the number of parking spaces, and the look of the landscaping were discussed thoroughly; so, the Board should strictly focus on the variance requests.

Mrs. Brandt said they are proposing a fence along Linda Street. At the south end of the property, there is an existing retaining wall. They will abut the building at that point and run along Linda Street as it goes down the hill, and as it flattens out going north, they'll turn the fence to meet the 5-foot setback requirement from the property line. The fence will continue north and turn at the north property line and continue for about 20 feet. Mrs. Brandt said the fence is to deter people from cutting through the parking lot in their cars or parking and crossing the street and patronizing the businesses on the other side of Linda Street. She said the allowed 3 feet would not be tall enough to deter people from hopping over the fence, which is why they are asking for 4 feet. Mrs. Brandt said the 6-inch area from the property line is only where the property slopes down from Detroit Road. If they were to do the 5 feet, it would be in the existing landscaping and create a less appealing condition from a streetscape perspective. Mrs. Brandt said the 6 inches is also a safer option. Mr. Harpster, Mrs. Martinez, and Mr. Wright had no comments.

Mr. Christ asked the Building Department and Law Department what exactly the Board is reviewing because the Preliminary Approval from the Planning Commission was a modification of the parking lot; he wanted to know what those modifications are. Mr. Reich said the owner is closing the ingress and egress on the Linda Street side of the property. That has been approved and reviewed by Safety Services, and that has already been done. The fence is part of that project, and the fence requires these variances. Mr. Christ said the Board has to establish its Practical Difficulties, but in the Planning Commission minutes, there is no delineation of rationale for the approval. He said that the discussion in the meeting minutes said that this would not be approved without two entrances. Mr. Christ said the Planning Commission granted Preliminary Approval, but for what? Mr. Reich said the Planning Commission was looking at the fence being added to the east side of the property, running north to south. Mr. Christ asked if pedestrian access would be cut off and if that is acceptable. Mr. Reich said yes, the access will be cut off, and that is acceptable since they can walk up to Detroit Road still. Mr. Christ asked about ADA requirements. Mrs. Brandt said there is an ADA entrance to the building on the southeast corner; however, there is no requirement for a gate along Linda Street for ADA.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud:

- A. He does not believe that there are any special conditions or circumstances, other than the owner's concern about access and movement in the property. He doesn't believe that changing or limiting this to where it doesn't meet planning code is a proper use.
- B. He believes it has been yielding a reasonable return as it exists, so he does not believe that will change.
- C. He believes it is substantial.
- D. He believes it will because it changes the traffic patterns and can create a bigger traffic problem on Detroit Road.
- E. He believes it does. The City Service Department may have signed off on it, but he assumes they'll knock the fence down if they have to access it.
- F. He believes the owner did.
- G. He believes the owner is creating some of these situations.
- H. He believes that it can.
- I. He does not believe that it would be.
- J. He believes that the Planning Commission's evaluation in their beginning statements is exactly that. It is conferring special privilege.
- K. He does not believe that it would.

Mr. Farrell said looking at the two variances being requested, for the height and distance from the property, he does not agree with some of Mr. Christ's evaluation. He said that this Board sees height and setback requests all the time. In fact, it is an ornamental fence, so to him the difference between the 4 feet and 3 feet is insignificant. Mr. Farrell said they do like to see the fence off the sidewalk more than 6 inches. Mrs. Brandt said that typically, the property line is 1 foot in from the sidewalk, so they would be 1.5 feet from the sidewalk. Mr. Reich said it is typically 1 foot in, but that would need to be verified. Mr. Farrell said he does not see an issue with these two variance requests. Mr. Wright said he does not either because all of the other items that Mr. Christ discussed have been discussed at length with the Planning Commission. Mr. Wright his biggest concern was ingress and egress and life safety. If the Fire Department and Police Department do not have an issue, then he defers his judgment to them. Mr. Wright said neither of these variances addresses those issues. The variances are just the screening and the height. Mr. Wright does not have an issue with it. Mr. Farrell suggested that ownership look into widening the ingress and egress on Detroit Road.

Mr. Wright moved to grant a variance to GKHE Properties, 19800 Detroit Dr, to install a 4' ornamental fence in the side yard abutting a public street right-of-way, vs fences shall not exceed three (3) feet in height when located in front of a building or in yards abutting a public street right-of-way. Per Section: 1167.13 (3). The applicant has indicated their practical difficulties. They substantiated it with a detailed scale drawing. Mrs. Martinez seconded.

4 Ayes – 1 Abstain (Christ)
APPROVED

Mr. Wright moved to grant a variance to GKHE Properties, 19800 Detroit Dr, to install a 4' ornamental fence within the parking setback, maintaining the required 5' screening setback for the first 82'. The fence moves 6" off the property line as it goes southwards. Fences that are not located within the required setback areas shall be screened with the following landscape materials, planted not more than five (5) feet from the fence and between the fence and the property line. Per Section: 1167.13 (4)(B)2. The applicant has indicated their practical difficulties. Mrs. Martinez seconded.

4 Ayes – 1 Abstain (Christ)
APPROVED

- 7. RUFFING MONTESSORI – 1285 Orchard Park Dr – PUBLIC HEARING –**
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)

WITHDRAWN

- 8. DEPOT STREET DEVELOPMENT LLC – 19601 Depot St – PUBLIC HEARING**
Variance: To retain a projecting sign 8'-7" above ground level vs the 10' that is permitted. Per Section: 1193.07 (d)(4)
Variance: To retain painted wall signage on the north elevation, vs permanent signs shall be fabricated on and of materials that are of good quality and good durability. Per Section: 1193.17 (b)(9)
Variance: To retain two wall signs on the north elevation vs the one wall sign that is permitted. Per Section: 1193.05 (a)
Variance: To install a fabricated wall sign on the east elevation vs each building frontage shall be entitled to the sign area permitted. Per Section: 1193.05 (a)(2)
Variance: To appeal the final decisions of the Design and Construct Board of Review. Per Section: 5

Mr. Christ introduced the variance requests, and Mr. Farrell swore in Tom Gillespie, the owner. Mr. Farrell said to him the variance for the projecting sign is not a big deal. He said there are two other variances for that north elevation, one to have painted signs and another to have two distinct wall signs. Mr. Farrell said on the east elevation, he was told to create a fabricated sign by the Design and Construction Board of Review, and it looks like that is what he has proposed. Mr. Farrell said the other variance is because he does not have frontage on the east side, so he is not permitted to have signage on that wall. Mr. Gillespie said there is an argument that this would be considered frontage. Mr. Reich said that this is not a corner lot, so it does not qualify. Planning made that same determination. Mr. Christ said there is a public entrance along that wall, so he would consider signage on the east elevation as permitted.

Mr. Gillespie said if he could keep the painted sign on the east elevation, he would. However, he is proposing a fabricated sign for that elevation to compromise with the Design Board's and Planning's comments. Mr. Gillespie said that painted-on signs are permitted based on his

interpretation of the code. Mr. Reich said the City does not allow a sign painted on the side of a building. Mr. Gillespie said there are painted-on signs in Old River, near this building. Mr. Reich said he is going to look because they are not permitted, and he is not aware of any that are painted directly on the building.

Mr. Farrell asked the Board if they had any concern with the first variance request. They did not. Mr. Christ said it is a replacement, so it is a preexisting nonconforming sign. Mr. Farrell said the next two variances go with one another. Mr. Gillespie said they moved the phone number to the one sign to just have the logo on the eastern sign. His thought is that it is not a commercial sign anymore, and it would become wall art, which is exempt from the regulations in the sign code. Mr. Farrell said to him that if he is allowed two signs that they should match and they should not be painted on the wall. He is not sure why people do this kind of work without getting permission first. Mr. Farrell asked Mr. Reich about the logo claim. Mr. Reich said he would agree with the Planning Commission's interpretation that the definition of a wall sign is affixed or attached to the wall. Mr. Gillespie said they agreed with that argument on the east elevation, but on the north elevation, there is little impact on the surrounding neighborhood. Mr. Farrell wanted clarification from Mr. Reich that this Board would be voting on two variances on the north elevation, one for the signs to be painted and another for there to be two wall signs instead of the one that is permitted. Mr. Reich said that is correct.

Mr. Farrell asked if the proposed signage on the east elevation would be within the signable area. Mr. Reich confirmed that it is. Mr. Farrell said that if they were to put that same sign on the north elevation, it would fit within the signage area as well. He asked why they don't just get two of the same signs and put one on both elevations. Mr. Gillespie said there is such a small impact on the neighborhood, which is why they are asking for the variance. Mr. Farrell said it does have an impact. Mrs. Martinez asked if he needed the signage then, since it has such a little impact. Mr. Farrell said that is a good question, why does he need all of that signage? Mr. Gillespie said he does need the signage even if it has little impact. Mr. Farrell said, in his opinion, if he can get the variance for the east elevation, the fabricated signs should match on both elevations, and he would remove all of the painted signs.

Mr. Harpster said that when he came in here, he did not have an issue with the painted sign. However, comments from Mr. Reich made him realize it's a bigger issue than he thought. Mr. Reich asked if he would just have the logo without the phone number on the north side. Mr. Gillespie said yes, which is why they are saying it's permitted because there is no more commercial messaging. He said the definition of a sign says that it can be painted on. Mr. Reich said that if that is true, they can eliminate the second variance. However, he would still need the third variance for the two wall signs.

Mr. Reich said that he would like the Board to table this item tonight so he could meet with the Law Director to discuss Mr. Gillespie's argument, and he could come up with a package that Mr. Gillespie would have to challenge. Mr. Reich asked Mr. Gillespie how he wanted to continue. Mr. Gillespie said that he wants to continue with the plans he has submitted. Mr. Farrell asked what they should do then. Mr. Reich said to vote on all the variances except the second and the last one. Mrs. Martinez asked that the comments from Design Review say that the signage should be consistent on the two elevations. Mr. Christ said the last variance technically affects the other variances. Can they vote on that one and eliminate all the other variances? Mr. Reich

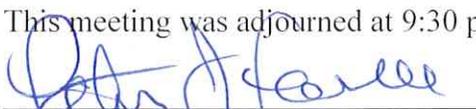
said no, that variance is to appeal their design decisions, while the others are to appeal code regulations. Mr. Christ said to move the logo to the other sign on the north elevation to eliminate the second signage on that wall. Mr. Christ said the Design Board is just a recommendation and not a legal requirement. Mr. Reich said that is not true; it is more than a recommendation, which is why it is here.

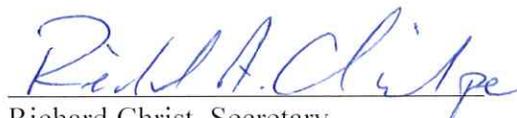
Mr. Farrell said they have to vote on the first variance regardless because the property is not a corner lot. For the second and third, they can move the logo over to the west of the overhead door. Mr. Wright asked Mr. Gillespie why he cannot just make a duplicate of the sign he is proposing on the east elevation and put it on the north elevation. Mr. Gillespie said that he believes that it is permitted to be painted on the building. Mr. Wright said he proposes to have two fabricated signs. Mr. Farrell asked him what the practical difficulties are. Mr. Gillespie said he painted a sign on a building that he spent a lot of money on, which he thinks he is allowed to do. Mr. Reich thinks they need to table this item.

Mr. Harpster moved to table the variance consideration by the Building Department and Law Department for a period of 120 days. Mr. Wright seconded.

5 Ayes – 0 Nays
TABLED

This meeting was adjourned at 9:30 pm.


Patrick Farrell, Chairman


Richard Christ, Secretary

Date: _____