

MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
AUGUST 14, 2025

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

Presence Noted: Steven Dever, Assistant Law Director
Ray Reich, Building Commissioner
Dylan Minek, Planning and Community Development Administrator

Mr. Farrell opened the August 14th 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. Christ moved to approve the Board of Zoning and Building Appeals meeting minutes from July 10, 2025, as presented. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

1. MICHAEL AND JULIE SPOONER – 20852 Beaconsfield Blvd – PUBLIC HEARING –

Variance: To expand the second floor above the garage that has an existing side setback of 3'-11" vs the 8' that is permitted. Per Schedule: 1153.07 (1)A.

Mr. Christ introduced the variance request, and Mr. Farrell swore in the architect, Tom Liggett, and the homeowner, Michael Spooner. Mr. Farrell said this project came in front of the Board last month and was not properly notified. Mr. Liggett said that there is currently a bedroom above the garage. They are not changing the perimeter of that space; they are taking it upwards and making it better. This will become the master bedroom. Mr. Christ requested that all the minutes from the July 10th meeting be included with this submission.

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, since they are continuing the existing garage and setback vertically, that is the special condition. Regarding whether the property in question will yield a reasonable return, he believes this will enhance that. The variance is not substantial and is the minimum necessary since it matches the existing setback. He does not think that the essential character of the neighborhood will be substantially altered. The applicants have indicated their changes to the existing residence, and this will improve the use of this building. The delivery of government services will not be adversely affected, since it is an existing setback. 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 Michael and Julie Spooner, 20852 Beaconsfield Blvd, to expand the second floor above the garage that has an existing side setback of 3'-11" vs the 8' that is permitted. Per Schedule: 1153.07 (1)A. The applicants have indicated their practical difficulties with renovating the space, and this will expand it slightly upwards, which is reasonable. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

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

Variance: To construct a pavilion that is 459 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. Mr. Farrell said this is another item that was before them and was tabled based on clarification issues. Mr. Carney said the plans were updated to include the entire roof line of the pavilion, making it 459 square feet. Lot coverage would only increase to 15%, much lower than what is allowed. The backyard measures 60 feet by 140 feet. It's 14 feet by 24 feet post-to-post and 17 feet by 27 feet at the roofline. Mr. Carney had talked to the three closest neighbors who border the house, and they were all comfortable with it. Mr. Farrell said the construction drawings show the ridge height of 14'-9", and he wanted to make sure that it will stay below the 12' requirement. Mr. Carney said it would. Mr. Christ and Mr. Wright said the new packet includes all of the information they were looking for. Mr. Christ said that normally the larger size would have him concerned, but the pavilion is pulled close to his house; it is a reasonable setback, and sized accordingly, and the lot coverage is not an issue. Mr. Christ made the point that if the pavilion were attached, it would not need a variance.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the applicant has indicated the practical difficulties in providing a reasonable solution to providing an outdoor area under a roof for entertainment and personal use. This is a reasonable area, and the applicant has shown how it is intended to be used. Regarding whether the property in question will yield a reasonable return, he believes this will improve the property value. The variance is not substantial and is the minimum necessary; the applicant has indicated that they need this space and indicated how it will be used. He does not think that the essential character of the neighborhood will be

substantially altered. The applicant is keeping the roof under the height limit and has received a variance for the chimney height, and this is a reasonable configuration for the property. 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 Ryan Carney, 20201 Westhaven Ln, to construct a pavilion that is 459 square feet vs the 250 square feet that is permitted. Per Section: 1153.15 (g)(3). The applicant has indicated the practical difficulties, reviewed the criteria for practical difficulties, and this is a reasonable solution to provide the space the applicant is looking for. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

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

Variance: To construct a storage shed with a gross floor area of 154 square feet vs the 120 square feet that is permitted. Per Section: 1153.15 (c).

Variance: To construct a storage shed with a height of 12' vs the 10' that is permitted. Per Section: 1153.09 (b).

Variance: To install an accessory parking space 12' wide vs the 8' that is permitted. Per Section: 1153.15 (l)(4)B.

Mr. Christ introduced the variance request, and Mr. Farrell swore in the homeowners, Julie and Alberto Machinena. Mr. Farrell said this is another item that was tabled previously. Mr. Machinena said they are asking for a storage shed next to their garage with a concrete pad to access that storage shed. Mr. Machinena said that the parking space has gotten much smaller, and the size of the storage shed includes the overhang. The 12' height variance is to match the height of the roof line of the house to make it look aesthetically pleasing. Mr. Machinena said the concrete apron leading to the storage is 11' for the majority of it, but expands to 12' at the last foot that abuts the storage shed to make it in line with the storage shed.

Mr. Farrell said he wanted to clarify that the size of the storage shed would be outside wall to outside wall, not to include the overhangs. So, the size variance is for 140 square feet, not the 154 square feet that was noticed. Mr. Farrell said that the Board had asked them the first time around to try and bring that apron down and get it closer to complying with the code. Mr. Farrell wanted to know what had changed since the last submission. Last time they were requesting 15' wide and 25' long. Now, they were able to eliminate the variance for the length and reduce the width to 11' for the majority of the apron and 12' at the last foot adjacent to the storage shed. Mr. Machinena said the shed needs to be setback from the front and sides of the garage to maintain a

nice aesthetic, but that increases the amount of concrete. Mr. Farrell agreed that the placement of the shed is good and prefers it to be stepped back. Mr. Machinena said they wanted a third bay for their garage, but they can't do that with the easement that runs through there.

Mrs. Martinez said that it is pretty reasonable. Mr. Machinena said they have a tractor and a 13' trailer, and that's why they need the space that they do. Mr. Wolf said they have a two-car garage and a driveway where they could park 4 cars. Mr. Machinena said it's only him and his wife, and the concrete apron to the shed would not be for parking; it would be for access to the shed. Mr. Wolf said he is having trouble with the amount of storage, pavement, and parking. Mr. Wolf said there are two bays in the garage, they can fit 4 cars on the driveway, and then another spot, potentially on the side of the driveway with the accessory parking space. Then there is the structure itself. Mr. Wolf said it is a lot of pavement and would they want to see that rolled out across the city.

Mr. Christ thinks they took what the Board said last time and accomplished what they were suggesting. He appreciates that they are pulling it off and back from the house. Mr. Christ thinks that will enhance how the storage shed sits, with that comes more concrete. If they are parking a car there, he thinks it's reasonable to have space to walk around that car. He views this more as necessary than excess. Mr. Christ wanted to make sure they are not parking a trailer or equipment in the accessory space. Mr. and Mrs. Machinena said that would never happen.

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

5 Ayes – 1 Abstain (Wolf)
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 their practical difficulties; they have utility easements that impact where they can locate things. The lot is an unusual shape on a corner, and this is a reasonable location for the storage area and to provide reasonable access. Regarding whether the property in question will yield a reasonable return, he believes this will enhance the property. The variance is not substantial and is the minimum necessary; the applicants have reviewed the areas that were provided and how they are being utilized, and it is reasonable. He does not think that the essential character of the neighborhood will be substantially altered since the shed will be located farther back. 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 Alberto and Julie Machinena, 21995 Addington Blvd, 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). That dimension is the area wall to wall and is a reasonable area, and they have indicated have they are utilizing it to keep items that would not be permitted to be seen in sight of the public. This is a reasonable solution. Mr. Wright seconded.

4 Ayes – 1 Abstain (Wolf)
APPROVED

Mr. Christ moved to grant a variance to Alberto and Julie Machinena, 21995 Addington Blvd, to construct a storage shed with a height of 12' vs the 10' that is permitted. Per Section: 1153.09 (b). At the last meeting, there was a discussion about the height, and that was reasonable. The height allows them to access and utilize the storage they need. This is a reasonable solution. Mr. Wright seconded.

4 Ayes – 1 Abstain (Wolf)
APPROVED

Mr. Christ moved to grant a variance to Alberto and Julie Machinena, 21995 Addington Blvd, to install an accessory parking space 12' wide vs the 8' that is permitted. Per Section: 1153.15 (1)(4)B. The applicants have indicated the practical difficulties with locating the shed further back, and the paving area provides access to the shed; this is a reasonable solution. The concrete pad is 11' in proper, but it does taper outwards to 12' to allow for wheel access to the shed. Mr. Wright seconded.

4 Ayes – 1 Abstain (Wolf)
APPROVED

4. RUFFING MONTESSORI – 1285 Orchard Park Dr – PUBLIC HEARING –

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

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

Mr. Christ introduced the variance request, and Mr. Farrell swore in numerous individuals: Anne Lashutka, Principal at Ruffing; Lori Coticchia, Administrator at Ruffing; Dan and Buddy Krueger, The Krueger Group; Joseph Hill, Fast Sign; Meaghan Shepard, 22429 Barlett Drive; Steven Shepard, 22429 Barlett Drive; and Kathy Lewis, 1261 Orchard Park Drive.

Mr. Wright said he had to recuse himself as he is an adjacent neighbor to Ruffing Montessori.

Mr. Christ wanted clarification from Mr. Dever on the one variance being requested. Is the message board on the side of the building a use or a practical difficulty. Mr. Dever said it would be a practical difficulty.

Mrs. Lashutka said they were previously at the June meeting requesting these same variances. They had listened to the neighbors' concerns, so they wanted to share pictures that show the new landscaping they planted to act as screening between them and the neighbors. Mr. Farrell asked

as far as their application and where they wanted to put the sign; nothing had changed. Mrs. Lashutka said that is correct. She said what they are trying to do is block the view from the neighbors. Mr. Farrell asked why they don't put a monument sign underneath where they are proposing to put the sign on the wall. Mrs. Lashutka said that is where the kids wait for the bus. Mr. Farrell suggested that they be open to some ideas tonight so a compromise can be achieved.

Mr. Bobby Kreuger said it is important to note the hours of operation. The school starts at 9 am and ends at 3 pm. The sign will be utilized from 8 am to 3:30 pm, which would avoid the sign interfering with the neighbors during nighttime or early in the morning. Mr. Farrell said that there is a letter from a concerned neighbor who has an issue with even daytime lighting. Mr. Bobby Kreuger said the reason they resubmitted with the same location is because they came with more information to support their argument on why it needs to be located here. But they are here to listen and work on a compromise. Mrs. Coticchia asked if it was a ground sign that was 125 feet away, would they need a variance. Mr. Reich said that is correct, but since it's on the wall and closer than the 125 feet, that is the two variances they need. Mrs. Coticchia said the reason they put it where they did was to keep children off of it, and so it wasn't visible from the street. Mr. Farrell asked why it isn't important to be seen from the street. Mrs. Coticchia said it is for their community only, and they are trying to be as non-obtrusive as possible. Mr. Farrell said if they put it on the ground under where they are proposing it on the wall, it would not be as obtrusive. A variance would be needed for the distance, regardless. Mr. Bobby Kreuger said they would have to move the sign if they were to do a monument. Mr. Bobby Kreuger said that for everything they want to achieve, a monument sign would not suffice. Regardless of whether there are people or buses at the drop-off, the sign would be visible.

Mrs. Lewis said her backyard would look directly at the sign. Mrs. Lewis said the trees lose their leaves during the school year, so the signage will be completely visible. She thinks it makes more sense to have the sign on the ground. The children can be taught not to climb on the sign. Mrs. Lewis said the sign will be visible from her chair, and not knowing how bright it will be makes it difficult for her. She would prefer the sign on the ground.

Mrs. Shepard handed the Board pictures of her home. Both their living room and bedroom windows are in direct sightline of the signage. The sign would have a real and daily impact on their property. Mrs. Shepard said the applicants have indicated that the sign will be screened with vegetation, although that is true for some properties. The Shepards' home and the Wilsons' homes, which are the closest properties to the sign, will not. The shrubs planted are only 3-season plants and would be bare for the majority of the school year. To shield the view, Mrs. Shepard said these shrubs would have to grow to substantial height and density. Without a message board, Ruffing's operations would not be affected. However, the value and enjoyment of the Shepards' home would be negatively affected. Mrs. Shepard said the electronic message board would not uphold the character of the neighborhood. Mrs. Shepard said they strongly oppose the variance requests, and alternative methods of communication can achieve their desired goals.

Mr. Hill said they deal with this issue a lot. The manufacturer has put in a built-in brightness sensor. The brightness can be adjusted manually, but the sign will also adjust based on the weather. There is no chance that this sign will be too bright during the day, and the sign will be off at night. Mr. Farrell asked if the background could be the color of the brick. Mr. Hill said the

brick can be any color they want, as well as the text. The most important aspect is the brightness. Mr. Hill said that if the sign is installed and a neighbor thinks it's too bright, then they can turn the brightness down. Mrs. Shepard said she is not worried about the brightness; it is simply having an electronic sign in general. It is not attractive and will negatively impact their enjoyment and value of their home. Mr. Bobby Kreuger said that a monument sign relocated would still be visible. Mrs. Shepard said she would oppose any sign.

Mrs. Lewis wanted to know what type of protections are in place so that if the residents have an issue with the sign, what can be done. If they keep the sign on longer than they are allowed or if it is too bright, what can the neighbors do if the school doesn't uphold these agreements? Mr. Reich said if a variance is granted with a condition on the hours of operations, those conditions would be put within the permit. If they receive a complaint, they will go into the permit and see those conditions, and they would have to be enforced. Mr. Hill said one other thing to note is that the sign is only 3' by 8', which is smaller than a sheet of plywood. Mr. Farrell said that's why he asked about the color of the background. If they matched the color of the brick and the color and font style of the existing sign, then it would not be as obtrusive.

Mr. Shepard said at the last meeting, they were advised to come with a mock-up, which he does not see today, and to turn the sign, which they have not done. Mr. Shepard said it is disheartening when you, as a Board, ask them to do things and they have not followed through. Mr. Hill said that they have a mock-up in front of them. Mrs. Shepard said it is the same submission as the last meeting. What Mrs. Shepard read in the minutes from the last meeting was for them to maybe angle the sign and show that you were trying to prevent neighbors from seeing the sign. The trees and vegetation that were planted will not do anything to prevent the sign from being seen from their home. Mr. Shepard said a photo is not a mock-up, that it can be manipulated. Mr. Hill wanted clarification of what a mock-up is. Mr. and Mrs. Shepard said it is a model or diagram.

Mr. Farrell said they talked about even putting something on that wall that would represent the sign. They didn't physically do that, but they did it on paper. Mr. Farrell wanted to know what the sign is made of. Mr. Hill said it is the same as a TV screen, 3" thick. Mr. Farrell asked if there is any shielding that can go on the sign so it can only be seen straight on. Mr. Bobby Kreuger said there could be a film you can put on there, so it is only seen from the front. Mr. Hill said it could be angled from the wall instead of flush. Mrs. Lewis said that would still affect her since she is straight on.

Mr. Farrell said at the previous meeting, the Board had talked about other possible locations for the sign, and they were basically told no. Mr. Farrell said there has to be some other location; he keeps hearing about kids climbing on the sign, but they have to control that somehow. Mrs. Lashutka said they have 70+ children. Mrs. Coticchia said it is not just their kids they have to worry about; they had to put a 10' fence around their garden because of deer and neighborhood children going in there. Mrs. Lewis and Mrs. Shepard both disagree with that statement.

Mrs. Martinez said that they asked them at the last meeting to work with the neighbors. However, it does not seem like that has happened. Mrs. Martinez said it is a really large property, and there are other places that this signage could go. It seems like a want rather than a need. Mr. Wolf agreed with those comments. The means of communication have changed, and it is the

responsibility of the parents and the children to stay up to date. Mr. Wolf is also concerned with the height of the sign and wonders if drivers will look up to look at the signage.

Mr. Christ wanted clarification from the Building Department on if this was a ground sign what the restrictions would be. Mr. Reich said it could not be taller than 6' and no larger than 40 square feet. Mr. Christ also asked what properties would be within the 125'. It would be Mr. and Mrs. Shepard, and the Wilsons. Both of which are on Barlett Drive. Mr. Christ said to Mrs. Lewis that although he appreciates her comments, she is not a part of the variance request. Mr. Christ asked what size fence the school could put up because of dissimilar uses. Mr. Reich said he would have to look into what the code allows. Mr. Christ asked the applicants if they would be amenable to adding a fence. Mrs. Lashutka said she would have to check the cost. Mrs. Lashutka said they were asked to plant a hedge, so they put in a privet hedge. Mrs. Shepard said they did not ask for a hedge. Mrs. Lashutka said she spoke to her husband in the driveway. Mr. Shepard said that they spoke about arborvitae, not privets. Which are poisonous to dogs, and they have dogs. Mrs. Shepard also thinks an 8' fence wouldn't even shield the sign from their view. Mr. Farrell agreed. Mr. Farrell wished that this discussion had happened between the two parties months ago, instead of right now. Mr. Farrell said he does not support the variances, and there is no movement on the applicants' part to try and find a solution.

Mr. Hill asked if they could put a monument sign in and turn it on whenever they want, and if it would be permitted. Mr. Reich said there is a restriction on the time the signs can be on; he believes it's 7:00 am to 11:00 pm. But they could do a monument-style sign as long as it is 125' away, they would not need a variance. Mr. Farrell said they could protest that. Mr. Christ wanted clarification on when a sign becomes electric. Mr. Reich said anytime it's electronic and there is a changeable copy. Mr. Christ asked if they were to put a sign up that was changeable by hand, and they were to put lights on it, that would be permitted. Mr. Reich agreed.

Mr. Christ said to him it would seem more reasonable to move the sign down some. If they are trying to keep it out of the reach of children, they place it 5' off the ground, and then the sign is 3' wide, so at its highest point, it would be 8'. Mr. Christ said they are not trying to take away from what someone can do legally. 120' vs 125' is a very small percentage. Mr. Christ understands the applicants' position, where they had a sign, and now they don't, so they want to replace that. Maybe this is not the best solution. Mr. Christ would ask again if they had some sort of truck-mounted panel or anything they had to take out there to let the neighbors see. Mr. Christ said some sort of communication needs to happen between the two parties.

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

4 Ayes – 0 Nays
TABLED

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

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

Mr. Christ introduced the variance request, and Mr. Farrell swore in George Eging, the contractor. Mr. Farrell said this is another agenda item that was tabled from a previous meeting.

Mr. Eging said to his understanding, there was not enough information provided at the last meeting to justify putting the generator where it is. Mr. Eging said the only other place they could put it would be to trench back behind the garage and remove a tree, and that would only be okay if the homeowner was okay with spending the extra money. Mr. Farrell asked what about the other side of that little bump out where the condenser is now. That is the driveway side, and with snow removal and vehicles, it would be a no-go. Also, it cannot be put there because of the windows per code. Mr. Eging said in that corner, you wouldn't want to put anything in there because of the exhaust and getting trapped there.

Mr. Farrell asked if there were any windows on the neighbor's house next to the generator. Mr. Eging said it is over the 5' code requirement. Mr. Reich said the stat sheet for the generator has the sound reading at 67 dB at 23' away. Mr. Reich said the code allows for a sound reading of 70 dB at the property line. So, at 4' away, they will have to achieve a reading of 70 dB. Mr. Eging said no muffler can be purchased that would not void the warranty for the generator. Typically, when it is an emergency situation and the generator is needed, people aren't outside. Mr. Reich said but this is our ordinance, and when the inspector goes out there, it needs to be 70 dB at the property line. It will have to be taken out if it doesn't meet that.

Mr. Farrell asked if it is an overheating issue with the muffler. Mr. Eging said yes. If the motor doesn't have proper airflow, it can ruin the motor/engine or shut down. Mr. Eging said there was a discussion last meeting about whether they had spoken with the next-door neighbor who would be most affected. He said they have, and there was no disagreement. Mr. Christ asked about the other possible locations again. Mr. Eging said to put behind the garage, they risk removing the tree roots or having to trench through the driveway and upsize the gas lines, adding to the cost for the homeowner.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the applicant has indicated the practical difficulties with finding a space that will meet code requirements, and this is about the only location, short of going all the way on the other side of the property. Regarding whether the property in question will yield a reasonable return, I don't believe that will apply. The variance is not substantial and is the minimum necessary; he believes the applicant has indicated that they are restrained by the size and location. He does not think that the essential character of the neighborhood will be substantially altered since there are existing fences and existing air conditioning units in that area, so he doesn't believe this will affect the essential character. 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 Charlie Gagliano, 229 Argle Rd, to install a generator 4' from the side property line vs. the 10' that is permitted. Per Section: 1153.15 (k)(2). The applicant has indicated the practical difficulties in finding a permissible location by code as to where this can be located, and this is a reasonably forced area to locate it. The applicant will work with the city to make sure it follows the rest of the code. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

6. JOHN DAVID – 20514 Morewood Pkwy – PUBLIC HEARING –

Variance: To install a hot tub in the side yard vs the rear yard, where it is permitted.

Per Schedule: 1153.15 (6).

Variance: To install a hot tub 1'-6" from the property line vs the 8' that is permitted.

Per Section: 1153.15 (h)(2).

Mr. Christ introduced the variance request, and Mr. Farrell swore in John David and Jocelyn Clemings, the homeowners. Mr. David said they have no true backyard, so they are requesting a variance to be in their side yard and within the required setback. Mr. David said they have already obtained a permit to pour concrete in the area, and he passed around updated photos. Mr. Farrell asked if the neighbor knew. Mr. David said they had no concern about its location, but about where they are going to drain the hot tub. He said they will let it drain into the downspouts.

Mr. Farrell said his main concern is its proximity to the neighbor and how loud it will be to those neighbors. Mr. David said they had already thought of that. They told their two children that they are not allowed to go in the hot tub by themselves. Mr. David said there is an existing fence there, so on the first floor, they won't be able to see the hot tub. On the second floor, Mr. David said the neighbor told him they have higher windows, so if they wanted to look out, they would purposely have to. Mr. Farrell asked if the hot tub is behind the neighbor's house or adjacent to it. There was some discussion about the location of the hot tub in relation to the neighbor's house. Mr. Farrell agreed that the hot tub would be behind the neighbor's house.

Mr. Christ asked if this is a life safety issue with the fire department not being able to access that side of the house without traversing the hot tub. Mr. Reich said that since it is a corner lot, that should not be an issue. However, he would check with the Fire Prevention Officer depending on what decision the Board makes tonight. Mr. Christ asked if the hot tub is only allowed in the rear yard. Mr. Minek confirmed. Mr. Christ asked if they could put the hot tub northwest of the garage. Mr. Minek said that it is the rear yard, so it would be permitted. Mr. Farrell asked why the hot tub can't go back there. Mr. David said they would still need a variance. Mrs. Clemings said that for them, it would just be inconvenient to walk out and around the garage. Eliminating their children's play area.

Mrs. Martinez asked what the distance is between the side of the house and the property line. Mr. David said it is 8'. Mrs. Martinez then asked what the dimensions of the hot tub are. Mr. David

said it is 6' x 6', from outside to outside. Mrs. Martinez said that means the hot tub is 6' off the side of the house, then. She has the same concern that the area is extremely tight. Mr. Farrell asked if they were going to have to extend the fence then. Mr. David said there is an existing fence already there, but they had to remove the perpendicular fence to get the concrete in there. Mr. Wright asked if it was the neighbor's fence. Mr. David said it is. Mr. Wright said then we can assume that is the property line. Mr. David said that is what he and his neighbor have a good relationship, and they mutually agreed on that being the property line. Mr. Farrell asked Mr. Reich if some sort of verification of the property line we be needed. Mr. Reich said a lot line inspection will need to happen before the hot tub is placed. The applicant will string their property line, the neighbor will be notified, and that string will stay up for 10 days. If there are no challenges, then the lot line has been established. Mr. Wright said they could assume the property line is on their side of the fence, and the fence would be completely on their neighbor's property.

Mr. Wolf said the nice thing about the hot tub is that if there are any disputes in the future with new neighbors, the hot tub can be picked up and moved. Issues arise when they are substantial structures. Mr. Wolf asked about the noise ordinance. Mr. Reich said that is Chapter 5 and there are different levels of decibels for pumps on pools, it's not 70 dB like generators. Mr. Wolf asked if there was a general nuisance, and if the generator of the side property line became an issue, is that the city's responsibility? Mr. Reich said the neighbor would call, they would see what the issue is, compare the ordinances, and then notify the violator.

Mr. Christ said he believes that this is not substantially any different than a very small pool. They are only inches from the neighbor, and the sound will travel right over to the neighbor. Mr. Christ said there is no way to mitigate that. Mr. Christ thinks they are trying to shoehorn this hot tub in a location that is too close to their neighbor. He said that when reading the practical difficulties, it asks if the variance can be obviated by some method other than a variance. Mr. Christ said it can be put in the rear yard and does not need a variance. Mr. Farrell wanted to confirm that they are aware that they will only be able to access this from one side. Mr. David is aware. Mrs. Martinez asked if there was any concern with not being able to access two of the sides for maintenance. Mr. David said there is only one panel on this model, and it would be facing the direction of the steps so it can be maintained.

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

5 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the applicant has indicated the practical difficulties with trying to locate this on their side yard between houses opposed to in their rear yard. They are trying to accommodate this in a narrow space. Regarding whether the property in question will yield a reasonable return, he doesn't really have an opinion on it. One realtor may say it's a positive, another may say it's a negative. The variance is substantial due to the tightness of the space; in order to locate it here, it is the minimum necessary. That is for the board to determine if it is substantial or not. He does not think that the essential character of the neighborhood will be substantially altered. The adjoining property might suffer detriment as a

result of this variance. The delivery of government services will not be adversely affected. The Building Department will determine, with the City's safety forces, the reasonableness of this location. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that it applies. He does believe that special conditions exist because of the actions of the owner, because the owner is creating the need for a variance. He does believe that the predicament can be obviated by some method other than a variance. Whether the spirit and intent of the Code will be observed, he feels that is for the Board to decide. Whether the granting of the variance will confer any special privilege on the applicant. He believes it would. He believes it would grant something, because of this configuration, that is not normally considered. With this situation, it is recognized that the existing house is where it is, and the existing property line is where it is. However, there are some other solutions. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes that if someone were trying to approve of this, they would be looking as this would deprive them the right to a hot tub. The other Board members agreed with Mr. Christ's assessment. Mr. Wright wanted to add that the applicants have stated that adding the hot tub in the rear yard would take away from the enjoyment of that space. Mr. Christ said that if it were a pool, it would have to be in that rear yard, and one could argue that the enjoyment of the hot tub would improve. Mr. David said it is also more private in the side yard. Mr. Christ said they could get privacy screening that is permitted per code to help with that. Mr. Farrell said, regardless of the vote, think about where the hot tub is going and if it is the right location.

Mr. Christ moved to grant a variance to John David, 20514 Morewood Pkwy, to install a hot tub in the side yard vs the rear yard, where it is permitted. Per Schedule: 1153.15 (6). The applicant has indicated the practical difficulties with locating this hot tub where they feel it is most amenable to their use, and the situation of their house and their yard. In their opinion, this is a reasonable solution. Mr. Wright seconded

3 Ayes – 2 Nays (Martinez, Christ)
APPROVED

Mr. Christ moved to grant a variance to John David, 20514 Morewood Pkwy, to install a hot tub 1'-6" from the property line vs the 8' that is permitted. Per Section: 1153.15 (h)(2). For the same reasons as the first variance.

3 Ayes – 2 Nays (Martinez, Christ)
APPROVED

7. JONATHAN AND ANN DUNLAP – 2652 Carmen Dr – PUBLIC HEARING –

Variance: To retain a 6' tall privacy fence in the rear yard vs the required 25% transparency for the first 5' and 50% transparency for the last foot. Per Section: 1153.15 (j)(3).

Variance: To retain fencing in both side yards with a height of 6' vs the 5' that is permitted. Per Section: 1153.15 (j)(2).

Variance: To retain privacy fencing in both side yards vs the 25% transparency that is permitted. Per Section: 1153.15 (j)(2).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Jonathan and Ann Dunlap, the homeowners. Mr. Dunlap said that they have not changed the fence since it was tabled last year. Took down a 4' chain-link fence and replaced it with a 6' decorative fence for safety and security purposes. They did the fence themselves, and there were no permits pulled. Mrs. Dunlap said the older woman who was next door, who had an issue with it, is not living there anymore, and all the other neighbors signed letters in support of the fence. Mr. Farrell did point out that the letters are from their 2024 submission.

Mr. Farrell said there are a lot of issues with fences in this community. They believed that they had come to a happy medium as a community, but people still go against that. Also, when people place something without approval and then ask for forgiveness puts the Board in a tough position. Mr. Farrell said he has an issue with the height and the transparency. It is quite a structure in the backyard. Mr. Wolf was not on the Board when the city revisited the fence section of the code. However, what he heard was that the city had a more stringent code, and they arrived where the ordinance is now. Some special circumstances warrant variances. Mr. Wolf said this more modern look is not allowed per the ordinances, although some may find it more attractive. It creates a character that the city is not striving for. Mr. Wolf is struggling with it, especially since the fence is already up. Mr. Wolf said that with variances, they are also asked to look at the unusual circumstances. He is trying to look at it from the perspective of if this same variance was granted on every lot in the city with this condition, would he be happy? Mr. Dunlap said the variance request does say on both side yards, but it is only on one side yard – the north side.

Mr. Wright said he has a problem with the stockade fence. If this fence were 5' tall and the last foot was a lattice to get you to the 6', he'd be willing to compromise. He said the 6' in the current style is too much for him. Mr. Farrell was leaning that way as well. Mrs. Dunlap asked if it had to be the lattice style. Mr. Reich said whatever achieves the 50% transparency required per the ordinance. Mr. Wright said cities like Atlanta, Albuquerque, and Dallas have house after house with stockade fences, and that this city is trying to avoid that. Mr. Farrell said they are in a tough position with this being placed already, so he's trying to find a compromise that the Board would be happy with. Mr. Christ said he would not support that compromise. Mr. Dunlap said he is okay with that compromise. Mr. Reich and Mr. Dunlap confirmed the work would have to be done by October 10th. Mr. Farrell said the other issue with the fence is that the structural posts are on the outside rather than inside, so they face the neighbors' yards rather than the applicants' yard.

Mr. Farrell said he thinks the top foot being 50% transparent is something they could vote on. Whatever they plan to do, Mr. Reich said to submit to the Building Department for review. Mr. Wolf said the top foot does help, but is it enough when the first 5' are so obstructive? Mr. Farrell said the 12" at the top that is open is closer to what the code is looking for rather than what is there already. Mr. Christ said he is bothered too much by the fence; it is essentially a wall. That is not where the code is, and there are no extenuating variance items that it checks a box for.

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, he does not believe that this one is met. Regarding whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance, he believes there can be beneficial use of the property without the variance. Whether the variance is substantial and the minimum necessary, there seems to be a difference of opinion as to the two pieces of the fence that are being looked at. He believes that the solid fence is substantial and is not the minimum necessary. He does believe that the essential character of the neighborhood will be substantially altered. This is a solid fence, and you can argue about board on board being almost the same, and yet there's a different feel to that fence. This is a wall. Whether the delivery of government services will be adversely affected, he does not believe that will apply. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that it applies. He does believe that special conditions exist because of the actions of the owner. The fence was built without a permit and does not meet the code. He does believe that the predicament can be obviated by some method other than a variance. Whether the spirit and intent of the Code will be observed. He does not believe the spirit and intent that is in the code, as was discussed by the board, would be observed. Whether the granting of the variance will confer any special privilege on the applicant, he believes it will. Does the literal interpretation of the provisions of the Code deprive the applicant of rights commonly enjoyed by other properties, he believes it would not. Some of the other Board members disagreed with Mr. Christ's assessment. Mr. Farrell said he probably wouldn't go as far as to say that by granting the variance, we would be causing such a negative outcome. Mr. Wright would concur.

Mr. Christ moved to grant a variance to Jonathan and Ann Dunlap, 2652 Carmen Dr, to retain a 6' tall privacy fence in the rear yard vs the required 25% transparency for the first 5' and 50% transparency for the last foot. Per Section: 1153.15 (j)(3). The applicants have not identified any other practical difficulties other than that they have already built it. They will remove the top 12" and replace it with 50% transparency by October 10th, 2025. Mr. Wright seconded.

3 Ayes – 2 Nays (Wolf, Christ)
APPROVED

Mr. Christ moved to grant a variance to Jonathan and Ann Dunlap, 2652 Carmen Dr, to retain fencing in the north side yards with a height of 6' vs the 5' that is permitted. Per Section: 1153.15 (j)(2). The applicant and the Board have discussed changing the height to five feet with one foot of 50% transparency. Mr. Wright seconded.

3 Ayes – 2 Nays (Wolf, Christ)
APPROVED

Mr. Christ moved to grant a variance to Jonathan and Ann Dunlap, 2652 Carmen Dr, to retain privacy fencing in the north side yards vs the 25% transparency that is permitted. Per Section: 1153.15 (j)(2). Mr. Wright seconded.

3 Ayes – 2 Nays (Wolf, Christ)
APPROVED

8. COLLEN GREENROD – 20655 Morewood Pkwy – PUBLIC HEARING –

Variance: To install an air conditioning condenser 3' from the side property line vs. the 10' that is permitted. Per Section: 1153.15 (k)(1).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Randy King, the homeowner. Mr. King said they want to put a mini split in to cool and heat their attic and help with the second floor. Mr. Farrell said the noise ordinance will need to be followed as well, 70 dB at the property line. Mr. Farrell asked about any other possible locations. Mr. King said that where they have it is directly underneath the bedrooms that need it, and gives it a good access point to the attic. The other side of the house is the driveway, and any other location would be a long run. Mr. Farrell said that it is not a problem of the Board. Mr. King said the pipes would run up the side of the house. Mr. Farrell said there should be a cover on them that is painted to match the house.

Mrs. Martinez asked Mr. King to explain why the mini split could not go to the rear of the house. Mr. King said that is where the existing air conditioning condenser is located. There is a single-story addition on the rear of the house. Placing the mini split in the rear would require the piping to go around the addition and then up. Where it is proposed now, it just goes straight up. Mrs. Martinez is not convinced this is the only spot it could go. Mr. King said he bought the mini split from someone, and he did not like the rear spot for that reason because it was such a long run. Mrs. Martinez asked how much longer the run was. Mr. King said an additional 25'.

Mr. Farrell asked if he had spoken with the neighbor. Mr. King said they have, and she is fine with it. Mr. Farrell said this is still subject to the decibel reading that is needed from the Building Department at the lot line. Mr. Christ asked if he was accommodating the window well for the basement. Mr. King said there is enough space between the window well and the first-floor addition that it is not an issue. Mr. Christ wanted to know how thick the unit is. Mr. King said it is 13" deep. Mr. Christ said that means he is 6" from the house. 6" to the unit, 13" for the unit, and then 36" to the property line, or 55" in total. Mr. King said there is enough room to have the mini split on the other side of the window, maybe north of the window. Mr. Christ said the plans show it in the corner closer to the fence. Mr. King said it's not; it is actually closer to the house. Mr. Christ asked if they thought about mounting it to the wall. Mr. Farrell said they don't want to approve 36" from the property line, and then it's closer. Mr. King said it is not going to move in that direction; it is going to move along that wall. Mr. Farrell said that this will have to move towards the sided part of the house. Mr. Christ said they can vote on the 36" and then work it out with the Building Department. Screening and sound requirements would still apply.

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

5 Ayes – 0 Nays
Passed

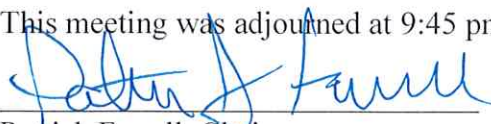
Mr. Christ read the practical difficulties factors aloud. Whether special conditions or circumstances exist that are peculiar to the land or structure involved, the applicant has indicated the practical difficulties of trying to locate the unit relatively close to the vertical portion where

the air conditioner will feed its piping. Also, to miss the existing air conditioner, which is currently residing in the back corner. This is a reasonable solution along the side of this house. Regarding whether the property in question will yield a reasonable return, he does not believe that will apply, other than adding air conditioning that functions would be an improvement. The variance is not substantial since the request is 36" and the space here is only 55". He does not think that the essential character of the neighborhood will be substantially altered. Since it will be behind and below the fence, whichever location is used, it will not change the appearance from the street, and it will be screened accordingly with the fence. 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 Colleen Greenrod, 20655 Morewood Pkwy, to install an air conditioning condenser 3' from the side property line vs. the 10' that is permitted. Per Section: 1153.15 (k)(1). The dimension is 3' and the exact location will be worked out in conjunction with the Building Department, so that they will meet the 3' and it will be properly screened. Mr. Wright seconded.

5 Ayes – 0 Nays
APPROVED

This meeting was adjourned at 9:45 pm.


Patrick Farrell, Chairman


Richard Christ, Secretary

Date: 09/11/2025