

MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
June 11, 2026

Members Present: Farrell, Christ, Wright, Harpster

Presence Noted: Lisa Havemann, City Councilwoman

Steven Dever, Assistant Law Director

Ray Reich, Building Commissioner

Dylan Minek, Planning and Community Development Administrator

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 June 11th, 2026, 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.

Each agenda item and the appropriate neighboring properties were notified in accordance with Section 1133.07 of the Codified Ordinances of Rocky River.

Mr. Farrell opened the June 11th meeting of the Board of Zoning and Building Appeals at 7:30 p.m. He said that there are only four members present tonight, which normally isn't an issue. However, applicants will need to receive three out of four votes instead of three out of five. Mr. Farrell said the applicants can table their items if they wish to do so. 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.

1. DAVID AND KELLY MARTENS – 22711 Briscoe Dr – PUBLIC HEARING –

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

Mr. Christ introduced the variance request, and Mr. Farrell swore in David and Kelly Martens, the homeowners. Mr. Martens said they are on a corner lot, and the other sides of their yard are fenced in by their neighbors. They have a dog and grandkids, they want to keep them in the yard, and they thought the 48 inches was more reasonable to do so than the 42 inches. It will be a black aluminum ornamental-style fence. The trees and landscaping will remain. Mr. Harpster said he thought it was a good idea. He asked if there was going to be a new 8-foot-wide gate. Mr. Martens said there would be a normal ornamental gate; it would not be 8 feet wide. Mr. Harpster asked what the height of the neighboring fences are and if the Martens currently have any fencing themselves. Mr. Martens said the fences have to be 5 to 6 feet tall, and they currently have no fences. Mr. Farrell said the blue line on the site plan are the neighbors' existing fences and the red line is the new fence. However, it looks like this ornamental fence is butting into that fence. He wanted to make sure this fence is not placed on the neighbor's property. Mr. Reich said the Building Department will go through a lot line inspection. Mr. Christ said to work with the city to ensure that the fence is angled at the corner so as not to obstruct the neighbor to the south's view when backing out of their driveway. Mr. Reich said they can address that with the applicant and the neighboring property.

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

4 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud:

- A. The applicant has indicated that their corner lot is adjacent to a rather significant public park, and with that, there are quite a few people and dogs coming by, which does affect their corner side and their street side.
- B. He does not believe that will apply.
- C. They have indicated that they are only adding 6 more inches to the 42-inch requirement, which is a minimum. The applicant is trying to increase safety by preventing the dog from being able to jump over that fence.
- D. Since this is a relatively open, aluminum fence, it will not affect the character.
- E. He does not believe that will apply.
- F. He does not believe that will apply.
- G. He does not believe that will apply.
- H. He does not believe that it can.
- I. He believes it would.
- J. He does not believe that it would.
- K. He believes it would.

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

Mr. Christ moved to grant a variance to David and Kelly Martens, 22711 Briscoe Dr, to install an ornamental corner side yard fence with a height of 48 inches, vs the 42 inches that is permitted. Per Section: 1153.15 (j)(4). The applicant has indicated their practical difficulties, and this is a reasonable solution to provide the safety and security for their rear yard. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

2. ROBERT KILBANE – 20715 Stratford Ave – PUBLIC HEARING –

Variance: To construct a second-floor addition with a side setback of 5' vs the 5'-7" that is permitted. Per Schedule: 1153.07 (1)A.

Mr. Christ introduced the variance request, and Mr. Farrell swore in Robert Kilbane, the property owner. Mr. Kilbane said they are not changing any of the footers, just raising the rear of the home. Mr. Farrell said it is a 7-inch variance, and it maintains the existing setback, which is minimal to him. Mr. Harpster, Mr. Wright, and Mr. Christ agreed.

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

4 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud:

- A. This is a preexisting, minimal situation.
- B. He does not believe that will apply.
- C. Since this is existing and it is just a second-floor addition, this is clearly not substantial and is minimal.
- 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. He does not believe that will apply.
- H. He does not believe that it can.
- I. He believes it would.
- J. He does not believe that it will.
- K. He believes it would.

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

Mr. Christ moved to grant a variance to Robert Kilbane, 20715 Stratford Ave, to construct a second-floor addition with a side setback of 5' vs the 5'-7" that is permitted. Per Schedule: 1153.07 (1)A. The applicant has indicated their practical difficulties. This maintains the existing 7-inch nonconformance, which is minimal and is a reasonable solution. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

3. BKB PROPERTIES, INC – 21808 Center Ridge Rd – PUBLIC HEARING –

Variance: To provide 26 off-street parking spaces vs the 40 off-street parking spaces that are required. Required parking spaces are determined by the nature of Uses and the associated minimum parking requirement set forth in Schedule 1187.09. The 40 required spaces are after the 20% reduction for shared parking. Per Section: 1187.15 (a).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Leslie Jia, the property owner, and Duke Jia, her son. Mr. Farrell said this went through the Planning Commission, and the Commission asked them numerous questions about the business and parking; those meeting minutes were provided. He said the Planning Commission noted that Gunselman's may require a higher parking count, per the ordinances, than what is needed in reality. Mr. Farrell said the new nail salon will only have three chairs in there, so at most, there will be 6 people in there at any given time. He said he does not disagree with the Planning Commission that there are enough parking spaces on the property. Mr. Harpster and Mr. Wright agreed. Mr. Christ said it is a pre-existing nonconforming strip mall that is having a change in tenant. The Planning Commission's final decision was to support this variance, and Mr. Christ agrees with them.

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

4 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud:

- A. The applicant has indicated that this is an existing facility, and nothing is changing regarding the area of the existing facility and the parking that is currently provided. As a nonconforming preexisting condition that is their special condition and circumstance.
- B. The applicant has reviewed that with the Planning Commission, and this is a reasonable solution.
- C. For the same reason as B.
- D. Since this is an existing facility and is remaining as is, 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. As a preexisting condition, it cannot.
- I. He believes it would.
- J. He does not believe that it will.
- K. He believes it would.

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

Mr. Christ moved to grant a variance to BKB Properties, 21808 Center Ridge Rd, to provide 26 off-street parking spaces vs the 40 off-street parking spaces that are required. Required parking spaces are determined by the nature of Uses and the associated minimum parking requirement set forth in Schedule 1187.09. The 40 required spaces are after the 20% reduction for shared parking. Per Section: 1187.15 (a). As discussed and as the applicant has presented and as was reviewed extensively by the Planning Commission, this is a reasonable change of use and is a reasonable, acceptable situation that can be maintained. Mr. Wright seconded.

4 Ayes – 0 Nays

APPROVED

4. AKRON CHILDREN'S HOSPITAL – 20220 Center Ridge Rd – PUBLIC HEARING –

Variance: To replace an existing 8-foot-tall board-on-board fence with an 8-foot-tall privacy fence adjacent to the property lines that abut a residential district. Fences shall not exceed 6 feet in height in the Business District. Per Section: 1167.13 (a)(3).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Ann Schwab and Scott Radcliff from Hasenstab Architects. Mr. Farrell also swore in neighbors Chuck Tisdale, 20415 Orchard Grove Rd; Nancy Zagaria, 20309 Orchard Grove Rd; and Richard Sinatra, 2825 Northview Rd. Mr. Farrell said this was another item that was discussed extensively with the Planning Commission. Mr. Radcliff said the hospital is trying to be a good neighbor to the adjacent residential buildings. One of the neighbors attended a Planning Commission meeting and requested that the need fence between the properties remain 8-feet tall instead of the proposed 6-feet, which would be permitted by code. The 8-foot fence would run along every boundary that abuts a residential property. Mr. Tisdale said he had a letter to provide the Board that expressed support from a majority of the neighboring properties. He said they are in support of the fence and are appreciative of them increasing the height. Mr. Reich said they can add that letter to the record. Mrs. Zagaria said the current 8-foot fence wraps along the northeast corner

and down a portion of the east property line. She wondered if the intention was to match that; if not, would they be open to doing that because it would help provide her more privacy. Mr. Radcliff said they are not intending to run it down the east property line at all, but they are more than amenable to do so, and matching the condition that currently exists.

Mr. Farrell asked if they were removing the concrete curb. Mr. Radcliff said they are removing the curb. Mr. Farrell said that the total height of the fence from grade will be 8 feet, and it will extend around the northeast corner, along the east property line 16 feet or so to the south.

Mr. Sinatra came forward to express his concern about the flooding of his property. Removing the concrete will only cause more flooding in his yard. Mr. Radcliff said they apologize that he had to experience that. They are aware of the issue. He said that since the hospital purchased the property, they have agreed to dig a detention pond to replace the underground storage, which is essentially just a pipe. Mr. Radcliff said they have discovered that there is a lot of buildup on the underground storage from salt. He said they will clean out any pipes that remain and upsizing pipes that don't meet modern requirements. There will be underground and surface stormwater management. Mr. Reich said the current design does not meet the requirements for a 100-year flood, but the new design will.

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

4 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud:

- A. The applicant has indicated the practical difficulties. This is an existing facility that's being converted, and the existing fence is going to be replaced with a new privacy fence that is the same height. The new fence will have the same extent as the existing one, except for the extension as discussed in accordance with the Building Department and the concerns from the neighbor.
- B. He does not believe that will apply.
- C. Since the height matches the existing fence and this style of fence is allowed, this is a reasonable solution.
- D. Since the fence is preexisting, he does not believe that it will.
- E. This is a back property fence, so it will not.
- F. They are incorporating whatever the current requirements are into their conversion and upgrading of this property.
- 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 it would.

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

Mr. Christ moved to grant a variance to Akron Children's Hospital, 20220 Center Ridge Rd, to replace an existing 8-foot-tall board-on-board fence with an 8-foot-tall privacy fence adjacent to the property lines that abut a residential district. Fences shall not exceed 6 feet in height in the Business District. Per Section: 1167.13 (a)(3). This is a reasonable solution. The applicant will be adjusting the adjacent areas of fencing to conform to the current code. They will also adjust the fence to conform to the neighbors and the Building Department. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

5. RINI BROTHERS, LLC – 19245 Detroit Rd – PUBLIC HEARING –

Variance: To install a second wall sign on the south side of the building, vs only one wall sign permitted at this location. Per Section: 1193.05 (a)(1) and (2).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Tricia Nejman, Wagner Sign, and Mike Lucas, Sibling Revelry. Mrs. Nejman said they are here for a variance to have a sign on the rear side of the building. It is 2 feet tall and 10 feet wide. The sign is nonilluminated. The goal is to have some sort of identification on the parking lot side of the business.

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

4 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud:

- A. This property is an unusual, existing, historic building that is fronted on Detroit Road and has always had a majority of the parking in the rear, as indicated by the applicant; this is their practical difficulty for the special condition.
- B. He does not believe that will apply. However, not having signage where the majority of the parking is will be a detriment and cause more traffic issues.
- C. The sign is smaller than the primary signage, and that is reasonable.
- D. Since there was a previous sign in this area and there is currently signage on almost every property in a similar vein on these two blocks, it will not change the character of the neighborhood.
- 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. In order to eliminate confusion, he does not believe that it can.
- I. He believes it will.
- J. He does not believe that will.
- K. He believes it would.

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

Mr. Farrell wanted to make sure that the sign would not be illuminated. He is aware that the sign is not internally illuminated, but will there be any spotlights that shine on it. Mr. Lucas said he is not sure. Mr. Reich said there is residential that abuts this property, and they do not want to

create a light trespass issue. He said the patio is already illuminated and should have enough lighting to see the signage from the parking lot.

Mr. Christ moved to grant a variance to Rini Brothers LLC, 19245 Detroit Rd, to install a second wall sign on the south side of the building, vs only one wall sign permitted at this location. Per Section: 1193.05 (a)(1) and (2). The applicant has indicated the practical difficulties. They are signing so as to provide clear knowledge of the location of this business from the parking lot, which is the rear of the building. This is a reasonable solution since the majority of the parking for this business has been maintained and operated in this manner. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

6. WILLIAM AND CAROL GARVEY – 3494 Palmer Dr – PUBLIC HEARING –
Variance: To install a 5-foot tall rear yard fence with 0% transparency vs the 25% transparency that is required. Per Section: 1153.15 (j)(3).

Mr. Christ introduced the variance request, and Mr. Farrell swore in William Garvey, the homeowner. Mr. Garvey said they have an in-ground pool, and a semi-private fence makes for a good step ladder. They have new neighbors with toddlers, so their main concern is liability. He said the fence will be white. Mr. Farrell asked Mr. Dever if there was any liability on this Board if they were to hold true to what the code allows for, and some child were to climb that type of fence. Mr. Dever said he does not think there is any liability towards the city, whatever the Board's decision is. As long as they apply the law and guidelines given to them, it's fine. Mr. Garvey said to him the liability is real. A privacy fence is not climbable, and a semi-private fence has the slats that are. Mr. Harpster said young children will not be able to climb a semi-private fence. Mr. Garvey said that 10 years ago, there were vandals who climbed the fence. A privacy fence would prevent them from being able to climb the fence. Mr. Harpster said he has a hard time believing they would be able to climb over that and not be able to climb over a 5-foot fence. Charlie Hanna, an applicant for a different agenda item, commented that insurance statistics say otherwise. It happens way more than one would think. Mr. Harpster asked if there was any concern with Safety Services. Mr. Reich and Mr. Farrell said that is usually an issue when the fence is 6 feet tall. This one is 5 feet, so most of them would be able to see over the fence.

Mr. Wright said he thinks the applicant makes a good point, and this is what will mitigate his problems. He believes it is an attractive fence. Mr. Farrell asked if they considered any colors other than bright white. Mr. Garvey said they could, but it does add cost. He said it is broken up with shrubbery. Mr. Christ said he sees this as a problematic situation. The fence code has a requirement for the fence around pools to be 5 feet tall and 50% transparent so you can see if someone is inside the pool. This is at odds with what Mr. Garvey is saying. Mr. Christ said he believes there is a conundrum being put in front of the Board. He said a 5-foot-tall fence, regardless of whether it is a privacy or board-on-board fence, will not stop a teenager or adult who is nefarious. Mr. Christ said they have seen more 6-foot-tall fence requests because it is easy for anyone older to get over a 5-foot fence. Mr. Farrell said he is sympathetic to the applicant's needs. Mr. Christ asked Mr. Dever if the Board could request documentation from the insurance company regarding the liability requirements. Mr. Dever said that would require the applicant to

table this item and come back with that additional information. He said there could be five members present rather than the four tonight. Mr. Christ said there have been instances where they have voted on variances, subject to documentation being provided to the Building Department. Mr. Dever said he has not seen that, so he cannot comment on that. He said it is the Board's discretion to believe in the validity of the claim by the applicant.

Mr. Christ said the code allows for a 6-foot fence. 5 feet of board-on-board and 1 foot of lattice at the top. He said no toddler or young child would be climbing up that fence, and the 6-foot fence is more of a deterrent to teenagers and adults than the proposed 5-foot fence. Mr. Harpster asked what the linear footage is. Mr. Christ said just over 200 feet, which is a lot of fence. Mr. Farrell said he would rather see a 5-foot fence rather than a 6-foot fence. He is not a fan of the bright white but thinks it would be less obtrusive than a taller fence. Mr. Wright agreed with those comments.

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

4 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud:

- A. The applicant has indicated the practical difficulties with providing a safe and secure environment around an existing in-ground pool. The pool is up 24/7, 365 days of the year, and on that basis, the applicant indicated the conditions relative to that as being special and that they are peculiar to the land or structure.
- B. He does not believe that will apply.
- C. The applicant had indicated that this is not substantial and it's the minimum to make reasonable use and to make the situation as acceptable to both himself and to his insurance carrier.
- D. Although this may change the appearance, a well-maintained and good-quality fence will not affect this, and the applicant will work with the Building Department relative to how it looks and with their neighbors.
- E. Since it will only be 5 feet tall, this would fall within the safety and security of the Fire and Police Departments.
- 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. Based on the situation proposed, he believes it would.
- J. He does not believe that it will because of these specific circumstances.
- K. He believes it would.

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

Mr. Christ moved to grant a variance to William and Carol Garvey, 3494 Palmer Dr, to install a 5-foot tall rear yard fence with 0% transparency vs the 25% transparency that is required. Per Section: 1153.15 (j)(3). The applicant has indicated the practical difficulties with providing a safe and secure pool area. What is being proposed is a reasonable solution. The applicant will work with the Building Department relative to the final appearance of the fence. Mr. Wright seconded.

4 Ayes – 0 Nays

APPROVED

7. BACK NINE GOLF – 21633 Center Ridge Rd – PUBLIC HEARING –

Variance: To install window signage that covers 100% of the total window area vs windows signs shall not have a maximum area greater than 20% of the total window area of the space occupied by the occupant, provided that such signs do not cover more than 30% of the window panel to which they are affixed. Per Section 1193.07 (c)(1)A. and B.

Mr. Christ introduced the variance request, and Mr. Farrell swore in Charlie Hanna, Back Nine Golf, and Michael Holsman, APEX Pinnacle. Mr. Farrell said this went through the Design and Construction Board of Review, and they had a lot of comments and concerns. He said he drove through the shopping center, and he never realized how many tenant spaces already have window signage. Mr. Farrell asked the Building Department about the existing window signage in the shopping center, and they never came in front of this Board for them. Mr. Reich said there is a lot of existing nonconforming signage, and since it is based on window area, each tenant space would have to be evaluated relative to the code.

Mr. Hanna said the window signage is not only for branding. It is also for usability because of the sun glare that comes through the west-facing windows. It gets so hot and bright inside that it is challenging to use the space. Mr. Hanna said these golf simulators use a camera that is sensitive to light. They cannot even turn on the lights in the rooms without them affecting the cameras' ability to work. Mr. Holsman passed around the sample of what the perforated material will look like. Mr. Farrell said it is well-perforated, but they will most likely still need their window shades. Mr. Hanna agreed. It will still be visible enough for safety services to see inside.

Mr. Christ asked Mr. Reich about storefronts like Westwood, which have curtain walls. So, the walls are a greater percentage of window to wall than anything the code would ever require. He is curious what the amount of windows required in a façade. Mr. Reich said the windows are part of the business; it does not matter if they are structural or for design purposes. That would be the glass square footage they have to work with. Mr. Christ asked what if they were to change these to metal panels. Mr. Reich said that they would have to be reviewed by the Design Board. He said there are two separate processes. Mr. Christ said he was trying to compare the appearance of the two situations, and they are substantially different. He is trying to evaluate this from a code and building standpoint. Mr. Christ asked the Building Department if they were not to include the black ground of the window signage, would that comply with the code requirements? Mr. Minek said he would need dimensions. It would need to be 30% or less of each panel and 20% or less of the total window area.

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

4 Ayes – 0 Nays

Passed

Mr. Christ read the practical difficulties factors aloud:

- A. The significance in location and orientation clearly sets up a special condition that is not unique but is affecting a legitimate business.
- B. He believes the applicant has indicated that without this, the functionality of this space would not happen.
- C. The Board has discussed this, and the screening will have the ability for security, police, and fire to see inside the store, and yet will provide the amount of screening that they need relative to the business operations.
- D. They will, in essence, be conforming or very close to the written and graphic portion of the code.
- E. As discussed, it will still be visible through from a close-up standpoint.
- F. He does not believe that will apply.
- G. He does not believe that they do.
- H. This was discussed. It would be difficult to change the type of walls with the ownership of the property.
- I. He believes it would.
- J. He does not believe that it would.
- K. He believes it would.

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

Mr. Christ moved to grant a variance to Back Nine Golf, 21633 Center Ridge Rd, to install window signage that covers 100% of the total window area vs windows signs shall not have a maximum area greater than 20% of the total window area of the space occupied by the occupant, provided that such signs do not cover more than 30% of the window panel to which they are affixed. Per Section 1193.07 (c)(1)A. and B. His interpretation is that this percentage is relative to the 30% of the window panels for anything other than a neutral black screening. This is a reasonable solution for the conforming use of a commercial property. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

Mr. Dever said the next two items, 61 Buckingham Rd and 314 Northcliff Rd, carry with them a substantial request for variances. 61 Buckingham Rd is asking for nine variances, and 314 Northcliff Rd is asking for five variances. He said the Buckingham Rd property was before the Board on an earlier occasion, and it was discussed at that time, the application of Duncan vs Middlefield factors. Mr. Dever said he wanted to remind the Board that they can look at the cumulative nature of all these variances and ask themselves whether or not the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variances.

8. **SUZANNE MUYSHONDT – 61 Buckingham Rd – PUBLIC HEARING –**
Variance: To construct a detached garage with a side setback of 2'-2" vs the 5' that is permitted. Per Schedule: 1153.15 (1).
Variance: To construct a detached garage with a rear setback of 3'-1" vs the 5' that is permitted. Per Schedule: 1153.15 (1).

Variance: To construct a new single-family house with an attached porte-cochere that has a side setback of 4'-9" vs the 8' that is permitted. Per Schedule: 1153.07 (1)A.

Variance: To construct a new single-family home with an egress window that has a 5'-7" side setback vs the 8' that is permitted. Per Schedule: 1153.07 (1)A.

Variance: To install two air conditioning condensers with side setbacks of 6'-4" and 6'-9" vs the 10' that is permitted. Per Section: 1153.15 (k)(1).

Variance: To construct a new single-family residence with a covered front stoop that has a 26'-4" front setback vs the required 30' as shown on the setback map, City of Rocky River, May 12, 1975. Per Section: 1153.07 (a).

Variance: To construct a new single-family residence with a height of 27'-1" vs the 25' that is permitted. Per Section: 1153.09 (a).

Variance: To construct a detached garage with a height of 16' -10" vs the 15' that is permitted. Per Section: 1153.09 (b).

Variance: To construct a new single-family residence with a detached garage that has a lot coverage of 35.3% vs the 28% that is permitted. Per Schedule: 1153.05 (3).

Mr. Christ introduced the variance request, and Mr. Farrell swore in Antonia Marinucci, the architect; Anna-Katrin Strauss, the architectural designer; Suzanne Muysshondt, the homeowner; and Tony Visconsi, a resident at the property.

Mrs. Marinucci said that from the last meeting, they eliminated variances that the Board felt strongly about, and to improve upon the other variances requested. In that time, they also went through three meetings with the Design and Construction Board of Review, where they ultimately approved the plans that are currently in front of the Board. Mrs. Marinucci said the Design Board's biggest concern was the overall height of the building, and they were able to reduce it close to the current height of the existing home. Mr. Farrell wanted to note that this was reviewed by the Design Board on April 20th, May 4th, and May 18th. They were supportive of the height of the building. They were not concerned with the lot coverage.

Mr. Farrell wanted to ask what the correct setback is for the air conditioners. The plans show a different setback than what was noticed. Mrs. Marinucci said the plans were probably an older iteration of the correct setbacks, the 6'-4" and 6'-9" that were noticed.

Mr. Farrell wanted to go through the variances one by one. He asked the reason for the garage side setback. Mrs. Strauss said the site is clipped in that area, so the 2'-2" is the closest dimension to the property line. Mrs. Marinucci said the way the site angles down and the relation of that to the house, they need that space to make it possible to pull a car out of the garage. These are the same reasons why they need the rear setback variance for the garage as well. Mr. Farrell asked if they removed the porch in that rear corner of the house, if they would have more room to move a car around. Mrs. Marinucci said that it is supporting the second floor. Mrs. Strauss said they could not move the garage to the other side of the property due to the existing curb cut and city utilities. Mr. Farrell said the Board usually looks for at least 2 feet from the property line for garages, so there is space to maintain that side of the garage. They also demonstrated that the neighboring garages are all similarly placed. Mr. Harpster had no issue with those setbacks, but he did think the height of the garage should be reduced to 16 feet. Mrs. Marinucci and Mrs. Strauss said they had two iterations of garages in the plans, so they can reduce the height to the

15'-10" option. Mr. Christ and Mr. Wright were good with the setbacks and the reduced height for the garage.

Mr. Farrell moved to the side setback for the porte-cochere. Mrs. Marinucci said they pushed it off the property line an additional foot from the last submission. Mrs. Muyschondt said they discussed it with that neighbor, no issue. Mr. Reich said it will need to be fire-rated. Mrs. Marinucci said they are aware of that. The 4'-9" is measured from the property line to the column. Mr. Wright said as long as it meets the fire code, he is good with it. Mr. Christ said the setback average is 5 feet along that side since the porte-cochere is squared to the house and not the property line, and he is good with the 5 feet.

The egress window will have a retaining wall and a cover on it and will be to grade. None of the Board members had any concerns with the setback. Mr. Reich said it will comply with the Building Code.

Mr. Farrell asked what the correct setbacks for the condensers were. Mrs. Marinucci said the 6'-4" and the 6'-9" setbacks that were noticed. Mr. Farrell asked why the condensers could not go next to the screened porch. Mrs. Strauss said that they would still not meet the 10-foot requirement in that location. Mrs. Marinucci said the neighboring property has their condensers on a second-floor porch in the same orientation. Mrs. Muyschondt said they have spoken with those neighbors, and they were in support of the project. None of the Board members had concerns related to the location of the condensers.

Mr. Farrell said just the front stoop sits in the front setback, and the face of the house complies with the setback. Mrs. Marinucci said that is correct. None of the Board members had concerns related to the location of the condensers. They said it adds characters to the home.

Mr. Farrell said they reduced the height to 27'-1" to mean. Mrs. Marinucci said that is correct. They did that by dropping the entire house down 6 inches and changing the roofline to be a hipped roof, which helped bring that geometry down. Mr. Farrell asked if they dropped the gutter line. Mrs. Marinucci said yes slightly. Mr. Farrell and Mr. Christ agree that the hipped roof makes a huge difference. Mr. Farrell said the lot coverage does play a part in driving the height. He asks if they looked over the floor plans to see what could be altered. Mrs. Marinucci said they did, which is why the lot coverage was reduced slightly from the first iteration. Mr. Farrell said none of the rooms looked oversized. He asked the size of the screen-in porch and if it could be smaller. Mrs. Muyschondt said the goal is to have enough room for a dining room table out there. The screened-in porch is 12' x 19'. Mrs. Strauss said the space will be used as a patio, and if it were a patio, it would not be included in the coverage. Mr. Farrell said they are at 30.5% before the open structures. It increases to 35.3% when they are added. He said none of the rooms seemed excessively large. Mr. Wright said the only variance he has concern with is the lot coverage. He said the only space that he could see being trimmed down is the screened-in porch. Mr. Christ said that space is tight as it is. Mr. Wright asked for three spaces: a screened porch, a rear covered porch, and a porte-cochere, which they would be willing to give up. Mr. Christ sees the importance of a screened-in porch. Mr. Farrell said he has not been a huge fan of the porte-cochere; however, he said it is completely open, so maybe the impact isn't as significant. Mr. Visconsi said it is essentially their second covered parking space since only one space in the garage can fit a modern car.

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

4 Ayes – 0 Nays
Passed

Mr. Christ read the practical difficulties factors aloud:

- A. He believes the applicant has argued that the functionality of the existing house with the garage as it is, and the inability to add an attached garage in any reasonable shape other than sitting on the road, and that is not going to happen. It is integral to the house, which means this house has a huge problem with functioning in any way of updating. This is the special condition and circumstance.
- B. He said that is for each member to evaluate relative to the number and types of variances. Obviously, something else can be built, and it can be viable. But that is for the Board to evaluate for the other variances separately.
- C. He believes that for the garage, most of the setbacks, the air conditioners, and the egress window are not substantial, and they are the minimum necessary to make reasonable use based on driving, exiting, emergency egress, and the location of air conditioners.
- D.
- E. He does not believe they would.
- F. He does not believe that will apply; the property owner has owned this property for some time, so it is a neutral point.
- G. Only that they are proposing a new building on this property.
- H. In the same way, the variances were differentiated for factor C; those variances cannot. The variances of concern and of a greater weight are the height and lot coverage.
- I. He said this becomes more of the total evaluation because again, the smaller, minor variances on any separate project would probably not be of such concern. However, it is the total and its relationship to the height and the area.
- J. He believes that is what each member is evaluating relative to these specifically.
- K. He believes that is what each member is evaluating individually.

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

Mr. Christ moved to grant a variance to Suzanne Muyshondt, 61 Buckingham Rd, to construct a detached garage with a side setback of 2'-2" vs the 5' that is permitted. Per Schedule: 1153.15 (1). The applicant has indicated the practical difficulties with locating the detached garage with the configuration of the property and the house, and allowing for ingress and egress. The 2'-2" is a reasonable maintenance size and is acceptable. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Suzanne Muyshondt, 61 Buckingham Rd, to construct a detached garage with a rear setback of 3'-1" vs the 5' that is permitted. Per Schedule: 1153.15 (1). For the same reasons, and the first variance, with the caveat that it is only one portion that needs the variance. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Suzanne Muyshondt, 61 Buckingham Rd, to construct a new single-family house with an attached porte-cochere that has a side setback of 4'-9" vs the 8' that is permitted. Per Schedule: 1153.07 (1)A. Recognizing that the furthest setback is 5'-3" and that is parallel with the side of the house, which would make that average 5 feet; which is a normal minimal setback for a smaller lot. That is a reasonable dimension to allow the functionality of the porte-cochere. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Suzanne Muyshondt, 61 Buckingham Rd, to construct a new single-family home with an egress window that has a 5'-7" side setback vs the 8' that is permitted. Per Schedule: 1153.07 (1)A. This is a life safety item, and it is reasonably setback from the property line, and it will be covered with a load-bearing top that can be lifted for emergency egress. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Suzanne Muyshondt, 61 Buckingham Rd, to install two air conditioning condensers with side setbacks of 6'-4" and 6'-9" vs the 10' that is permitted. Per Section: 1153.15 (k)(1). The applicant had indicated the practical difficulty with trying to provide a reasonable location along the sides of the house to locate these, and that this is a reasonable situation considering the overall alignment of the house and the skewed property lines. Wright seconded.

4 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Suzanne Muyshondt, 61 Buckingham Rd, to construct a new single-family residence with a covered front stoop that has a 26'-4" front setback vs the required 30' as shown on the setback map, City of Rocky River, May 12, 1975. Per Section: 1153.07 (a). This is a minimal item being added and is strongly favored by the Design Review Board, which will add to the overall appearance and character of the house. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Suzanne Muyshondt, 61 Buckingham Rd, to construct a new single-family residence with a height of 27'-1" vs the 25' that is permitted. Per Section: 1153.09 (a). The applicant has indicated their practical difficulties with providing vertical space within the first, second, and third floors. The roof has been adjusted in accordance with the review from the Design Review Board. The roof and entire home have been lowered from the original request, and this is reasonable. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Suzanne Muyshondt, 61 Buckingham Rd, to construct a detached garage with a height of 16' vs the 15' that is permitted. Per Section: 1153.09 (b). The applicant had indicated their practical difficulties with providing a little extra space above the garage, and this is in accordance with the Board's review based on the city code relative to providing some allowable access to that garage height. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

Mr. Christ moved to grant a variance to Suzanne Muyshondt, 61 Buckingham Rd, to construct a new single-family residence with a detached garage that has a lot coverage of 35.3% vs the 28% that is permitted. Per Schedule: 1153.05 (3). The applicant has indicated their practical difficulties with providing the necessary space within their new residence to accommodate various normal uses of a residence. This is a reasonable solution, based on their evaluations of all of the spaces and with multiple meetings with the Design Review, and recognizing that there are multiple spaces, such as the screened porch, the portico, and the porte-cochere, two of which are open structures that provide less impact than a solid structure. Mr. Wright seconded.

4 Ayes – 0 Nays
APPROVED

9. PETER BERGAN – 314 Northcliff Rd – PUBLIC HEARING –

Variance: To construct a new single-family residence with a height of 28'-9" vs the 25' that is permitted. Per Section: 1153.09 (a).

Variance: To construct a new single-family residence with a side setback of 6'-10" vs the 8' that is permitted. Per Schedule: 1153.07 (1)A.

Variance: To construct a new single-family residence with a rear setback of 22' vs the 25' that is permitted. Per Schedule: 1153.07(2).

Variance: To construct a new single-family residence with a lot coverage of 33.8% vs the 28% the is permitted. Per Schedule: 1153.05 (3).

Variance: To construct a driveway with a width of 21' at its widest vs the 20' that is permitted. Per Section: 1153.15 (1)(4)D.

Mr. Christ introduced the variance request, and Mr. Farrell swore in Peter Bergan, the property owner, and Mike McGettrick, the architect. Mr. Farrell also swore in neighbors Michael Harvey, 311 Northcliff Rd, and Karen Davey. Mr. McGettrick said that some of the variances being requested are not about greed or want; it is a life safety issue. He said some of the setbacks are driven by the irregular lot shape. For instance, the east setback variance is just a portion of the corner of the garage; it does not run the entire distance of the house. That is the same condition for the north setback. Mr. McGettrick said there are concerns regarding lot coverage; however, this is a condition that happens frequently in this neighborhood. This is evident on this street.

Mr. Bergan said they have lived in Rocky River since 2011. He said they spent time, effort, and money renovating their existing home, and thought it would be their forever home. However, after their daughter was born, she was diagnosed at the age of 2 with a rare disease. She is severely allergic to mold. Mr. Bergan said she hardly goes outside the home. He said they engaged with some environmental consultants and architects to retrofit their existing homes to meet the health needs of their daughter. However, the older home came with issues, and they concluded that the only way a home would work for them in Rocky River was to build new. Mr. Bergan said some of the characteristics of the home are driving these variances. They would like this to be their forever home, which is why they need the first-floor master bedroom and the mini master on the second floor, because they anticipate their daughter living with them for the rest of their lives. He said they spoke with the adjacent neighbors and changed the plans accordingly. They originally had a detached garage originally and one neighbor had concerns related to that, so that is why the garage is attached. Mr. McGettrick said the design of the home is all about water control and water diversion. He said that is why there are large eaves and the homes sit above grade significantly to make sure the basement breathes. Natural air flow is important. Mr. Farrell said it looks to be 3'-8" above grade. Mr. McGettrick said it is not the desire of the applicant to have it high above grade, so they are going back and forth with the environmental specialist. He said there is some possible give and take, so they could possibly lower the house.

Mr. Farrell asked what else contributes to the height of the house. Mr. Bergan said the hard ductwork. It was recommended to them not to have any flexible ductwork anywhere in the home. Mr. Farrell said the roof pitch is only a 6/12, which is not a very steep pitch. Mr. McGettrick said the basement is just for mechanicals for the first floor, the first floor has 9-foot ceilings, and the second floor has 8-foot ceilings. The attic is just an attic and will be used for storage.

Mr. Farrell asked about the lot coverage, if there was any space that could be reduced to get that number lower. He said none of the rooms look overly sized. Mr. Bergan said the first-floor master is what is driving that lot coverage.

Mr. Harvey said they had not heard about this project until they received the notice for this project. The applicant never reached out to them about this project. He said they have lived on the street for 33 years, and it is a very unique street. He said the current house is extremely unique and fits well within the neighborhood. Mr. Harvey said they have lived by the code passed by the City Council, and it is the job of this Board to grant variances based on the Duncan test. He said the character and nature of their street and neighborhood are extremely important. Mr. Harvey said the code does not account for someone's personal situation, and these variances are not based on that. He questions whether this home would fit into the street and affect the character of the neighborhood. He said the variances are too much of a request. If they were to

comply with the code requirements, they would not even be in front of this Board. They would be in front of the Design Review Board with these plans, which is the proper course of action.

Mr. Harvey said the driveway is a major concern. His driveway might be 10 feet wide with a detached garage in the rear. What the applicant is proposing is a front-facing attached garage with a large, wide driveway out in front of the house. It will be a tall and massive home with cars probably parked in front of it. He said it will not look good at all. Negatively affecting the aesthetics, nature, and quality of the street. He strongly urges the Board to reject the variance requests, and the applicant comes back with something that complies with the code. Mr. Harvey said he went into greater detail regarding this in the letter submitted to the Board. Mr. Dever said the letter will become part of the public record even though it was delivered to the Board members today. He said the objector would have the opportunity to read it into the record, or the Board could take a few moments to read it before they make their decision. The applicant confirmed they received a copy of the letter.

Mr. McGettrick said these hearings are public record and they are posted a week in advance. When the Bergans purchased the property, they mailed everybody their family history and contact information. He said that many of the neighbors had reached out. It was not like they were attempting to avoid anyone. They were more than willing to discuss the project. Mr. McGettrick said the Bergans took the right steps to speak with their neighbors. Mr. Harvey said he received a handwritten letter about a daughter with special needs, but that is all he heard from the Bergans. So, when he received the notice for this meeting, he was surprised.

Mr. Farrell said some of the variances are not significant to him. He said the development code does not apply evenly to every property in the city. According to the code, the minimum lot size is 10,000 sf, which he said is not a common occurrence in the city. The lot in question is just under 9,000 sf. Mr. Farrell said that this plays a part in why so many variances are required. He said, looking at these variances independently, the setbacks being requested and the driveway are minimal requests. He said the Board then looks at the plans submitted and tries to determine why the lot coverage has to be 33.8%. They look to see if the rooms are oversized or if they are trying to fit too much house on this property. Mr. Farrell asked what the height of the existing house was. Mr. McGettrick was not exactly sure of the exact height, but it is around 30 feet to the ridge. Mr. Farrell said the proposed house only has a 6/12 slope, which is not significant. The height is driven by the required height above grade, which plays into the hardship, in a way. The argument could be made that it needs to be built somewhere else. However, he is trying to determine whether it is going to be out of place within the neighborhood. Mr. Farrell said the lot coverage and height are the big requests here. Mr. Harpster agreed. He wonders if it would need to go to Design Review to look at the height. He asked how much they could adjust the height. Mr. McGettrick said they could possibly reduce the height by 1'-8". The environmental consultant said they could as long as the window wells are dug properly. Mr. Harpster said they will need to work out the lot coverage to meet the needs of the homeowner while not being substantial. Mr. Bergan said they actually had already shaved 2 feet off the side because the neighbor was concerned about the proximity to their property. Mr. Harpster said it is ultimately the applicant's home, so he wants to be empathetic to that situation.

Mr. Christ said he agrees with Mr. Farrell that the setbacks and driveway variances being requested are minimal. The driveway is 21 feet at the face of the garage and is being reduced to

13 feet at the street. His main concerns would be the height and lot coverage. Mr. Christ said the height is being driven by the depth of the house. Although a 6/12 pitch is not excessive, the depth is driving the height of this home. He said a different roof configuration could allow them to drop the overall height of the home. Mr. Christ said, looking at the lot coverage, he does not see any spaces that seem excessive. However, they are creating a lot of spaces. On a larger lot, they could have all of these amenities and functionalities. However, this is a smaller existing lot. He said the home almost hits every setback line of the legitimate building area, which will ultimately create a lot coverage issue not only on paper but with the appearance of the home on site. Mr. Christ said this drives him to start questioning the spaces proposed and what can stay and what can go. There are no open structures that are contributing to the lot coverage that could be discounted in his mind.

Mr. McGettrick said they can reduce the height to 27'-1", which is very similar to what the applicant previously proposed. He understands that the lot coverage is an issue. However, the neighbors on both sides are over their lot coverage. Mr. Christ asked what the current home's lot coverage is. Mr. McGettrick said it might comply. The current home is extremely small and is not habitable. He said the lot coverage they are requesting is not out of the norm of what has been approved previously within the neighborhood. Mr. Christ said he is of a different opinion. The Board does not usually see lot coverage north of 30% unless it is a very unusual shaded lot where just one small extra space pushes them over the lot coverage. However, this home is new construction. Mr. McGettrick said the functionality and design of a home are important. He said the environmental architect instructed them to keep jogs out of the foundation because that is where water collects. Mr. McGettrick said these lots would not be buildable. Mr. Christ said not the type of home being built in Avon. He asked what the first floor square footage is. Mr. Farrell said it is 2,300 sf. The second floor is 2,171 sf, which is 4,400 sf. Mr. Christ said nowadays that is not that big of a house, but it is far from small. Mr. McGettrick understands his point, but he does not think they are asking for anything that is out of control compared to the other homes in the neighborhood. Mr. Farrell said that speaks to the character of the neighborhood. He understands things do change. He said people could move out to Avon or Westlake and build these types of homes, and he is concerned with protecting property values.

Mr. Farrell said he is not as concerned about the height as he is with the lot coverage. He is looking at the central hall, which is beautiful, but wonders if they could lose some square footage in there and reduce the coverage. Mr. McGettrick said that if they reduced it to a single door, they might reduce the lot coverage below 33%. Mr. Farrell said it could be a start to reducing the lot coverage. He thinks they could take another look at the floor plan to see if they could reduce the coverage. Mr. McGettrick said the rooms are already narrower, and they have already altered the plans from the original plans to reduce the coverage by 2%. Mr. Wright, Mr. Harpster, and Mr. Christ are also concerned with the lot coverage. Mr. McGettrick said the home is portioned nicely on the property. It has a nice backyard, which many of the neighbors do not have. Mr. Christ said homes that touch all corners of their setbacks tend to dominate their neighbors and contribute to the loss of charm in the city. Mr. Farrell said the home appears to be significantly in front of the neighbor on the south side. Mr. McGettrick said they are virtually in line with the neighbors on both sides.

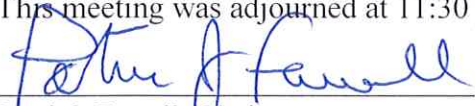
Mr. Christ asked if they could provide supporting documentation that identifies Mr. McGettrick's argument that this home would fit within the scale of the neighboring properties.

Something that would give them more information that would lay out the neighborhood based on the volumes of the homes. Highlighting the irregularities in the spaces between homes. Mr. Christ said some sort of streetscape should be submitted next time, highlighting the rhythm of the street.

Mr. Farrell moved to table this agenda item for a period of 120 days. Mr. Christ seconded.

4 Ayes – 0 Nays
TABLED

This meeting was adjourned at 11:30 pm.


Patrick Farrell, Chairman


Richard Christ, Secretary

Date: 07/09/26