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June 11, 2026

Privileged and Confidential

Rocky River Board of Zoning &
Building Appeals
21012 Hilliard Blvd.
Rocky River, Ohio 44116

RE: *June 11, 2026 Public Hearing*

Dear BZA Members:

On Saturday, June 6, 2026, my wife and I were very surprised to receive in the mail an agenda for the Thursday, June 11, 2026 meeting request by people I have yet to meet, seeking to obtain five variances for a home they propose to build directly across from us. In the same week, I discovered that the home is intended to be used as a fire training home prior to its demolition, as confirmed by Chief Leonard.

It is important that this Board understand some background about this home. I am enclosing photos I took of the late Coach Bonacci's home so you can appreciate our concerns with not only the demolition, but with the variances.

Our house was built in 1926 and finished in 1927. We have been blessed to have lived here for 33 years. For many of those years, we were neighbors and friends with Dick and Nancy Bonacci who lived across from us.

Dick and Nancy lived in that home for over 50 years, having purchased the house in 1969. They managed to raise three daughters in that home. Unfortunately, Nancy passed away in 2023 and Dick lived there by himself until he had a fall in the driveway in 2024 and later passed from his injuries. He was in his 90's and had been the Cleveland State University wrestling coach for many years.

After his passing, there was a multi-day house sale for the contents of the home and then the property was sold twice. Apparently, the first sale did not go through. It has been sitting vacant for some time now, and we had not heard anything about what was going to happen except for rumors. So, this came as quite a shock when we received the agenda item. We also looked at the drawings for the proposed home and the reasons for the variance requests.

One of the reasons this street has maintained its character is because people have abided by the zoning code in the building and even in the changes to the structures over the years. That

building code is not a suggestion but the community neighborhood law which keeps the homes and the street in proportion and keeps it a beautiful street.

As you can see from the second page of the photos of Coach Bonacci's old home, it is a beautiful home 97 years old. It had beautiful trees and shrubbery in the yard, all of which are gone. It was completely denuded a couple of weeks ago by a tree company that ripped everything out including the giant tree in front exposing the homes on Beachcliff.

The difficulty in Rocky River, we understand, is that it is a desirable place to live. But, at the same time, the reason why HOAs have been set up across the country much like our Board's is to maintain consistency even when people do not want to maintain the rules. Here, the people that bought this property, as we understand it, live very close to this property now. They got a very good deal on it because the Coach had taken on a reverse mortgage and the holder of that mortgage just wanted to be paid and that is what the family ended up doing. Apparently, this house they purchased and knew they were buying was not suitable for one of their children, so they required a brand-new home.

This new home is too large and too high and five variances prove that. Variance requests are not something that any community should take lightly and certainly something that the people wo knew what they bought going in should be requesting. In other words, if the plan all along was simply to put a large house on a street where the house would be inconsistent with what is already there because that is what they want, is simply not acceptable. Our three daughters lived in our house. It is very manageable as a property without demolition or without variances.

I. LEGAL DISCUSSION

The burden to prove the conditions necessary to obtain a variance is on the party seeking the variance and a failure to establish conditions requires the Board of Zoning Appeals to deny the requested variance. *See, ProTera, Inc. v. City Bd. of Zoning Appeals,* (8th District 2020), 2020-Ohio-6739.

Pursuant to Rocky River Codified Ordinance Section 1133.17(c), the BZA reviews variance requests under one of two standards. Either practical difficulties, which means the project cannot be completed without the variance due to physical or engineering constraints or unnecessary hardship that the project cannot be completed without the variance due to economic or other hardships.

It appears from the May 27, 2026 application and instructions to the applicant that the applicant shows, per the instructions, the practical difficulties test for the rear side and front setbacks as well as the coverage variance and the width variance. More specifically, under Practical Difficulties, the applicant stated and pursuant to Rocky River Codified Order Section 1133.17(c)(1), "The property has irregular property lines. The east property line is angled which

occasions our request for a 1.1 foot variance. The north property line is skewed at the northeast corner which creates a need for a 3.0 foot variance" and refers to site plans. Under Section (B), the applicant stated, "Again, because of the irregular shape and the minimal nature of the requested variances, would limit the beneficial use of the property should they not be granted." (This actually sounds more like an unnecessary hardship argument).

Under Section (C), the applicant states "Please see response to Question B. Please refer to the site plan. The setback variances are not continuous intrusions into the setback but rather are limited to the corners of the structure. Additionally, the covered variance is 5.8% over allowed by the Code."

Under Section (D), the applicant states "As illustrated by the elevation you can see the structure is designed to be in aesthetic harmony with the adjoining properties, as well as the neighborhood in total."

Under Section (E), the applicant stated "There would be no adverse effect to the delivery of government services as a result of the granting of the variances.

Under (F) on the question as to whether the property owner purchased the property with knowledge of the zoning restrictions, the applicant stated "We cannot opine to the owner's knowledge of the zoning restrictions" as if to suggest that no one would have known about the need for variance requests.

Under Section (G), the applicant stated "No special conditions or circumstances exist as a result of the owner's actions" in response to the question of whether special conditions or circumstances exist as a result of the actions of the owner.

Then, under Section (H), the applicant states again that the irregular shape of the lot coupled with the required setbacks make the design of a structure unachievable at the requested variance because the lot area is 8,897 square feet and the total area consumed by setback is 5,112 square feet.

Under Section (J), the applicant stated there would be no special privilege conferred to the applicant as a result of granting the variance.

Under Section (K), the applicant notes that neighboring properties exhibit significant improvements and could not have been realized under a literal interpretation of the provisions of the Code, although it does not specifically cite to any variance request that permitted these additions.

Because the applicant signed for the instructions which required the applicant to decide whether there were going to be practical difficulties or unnecessary hardship, that is the way we proceed.

As this Board is well aware, the practical difficulties standard variance was discussed in great detail in *Duncan v. Middlefield* (1986) 23 Ohio St. 3d 83 as cited in *ProTera, Id.*

The Supreme Court in *Duncan* stated that the factors to be considered and weighed in determining whether a property owner seeking area variance has encountered practical difficulties in the use of the property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

2. Whether the variance is substantial;

3. Whether the essential character of the neighborhood would be substantially altered or whether the adjoining properties would suffer a substantial detriment as a result of the variance;

4. Whether the variance would adversely affect the delivery of governmental services;

5. Whether the property owner purchased the property with knowledge of the zoning restrictions;

6. Whether the property owner's predicament can be obviated through some other method other than a variance; and

7. Whether the spirit and intent behind the zoning requirements would be observed and substantially adhered to by granting the variance.

The *Duncan* case has been cited 739 times since its decision in 1986. One of the most recent decisions citing it is *Snyder v. Leroy Township Bd. of Zoning Appeals*, (11th District 2024), 2024 WL2132562. In that case, the Township's Board of Zoning Appeals denied the application for a zoning variance to lessen a front yard setback requirement from 100 feet to 50 feet in order to build a second accessory structure. The Lake County Common Pleas Court affirmed that decision and the Eleventh District Court of Appeals affirmed it as well.

The Eleventh District Court of Appeals said the key to the practical difficulty standard is determining whether a property owner is entitled to an area variance is whether the area for zoning requirement as applied to the property owner in question is reasonable. *Id.* This is because any time an existing property owner encounters practical difficulties with zoning requirements that keep him or her from using the property as they desire, the question is whether what they are doing is reasonable.

The Eleventh District noted in weighing the *Duncan* factors, not any one single factor is dispositive, but there is also no requirement that the factors be applied mathematically. *Snyder v. Leroy Township Bd. of Zoning Appeals, Id.* citing *Winfield v. Painesville* (11th District 2005), 2005 WL1714181.

In general, the alleged "minimal nature of the requested variance" are not minimal at all and cumulatively are akin to shoving 10 pounds of potatoes in a 5 pound bag. In other words, as one former member of the Rocky River Board used to say, the the granting of such ordinances creates tenement housing in Rocky River. The applicant argues that the irregular shape of the lot coupled with the required setbacks makes the design of a structure unachievable without the request of variances. That is not accurate. It makes the *applicant's* design unachievable because it was simply too big for the lot, and they knew it going in, because they purchased this property over a year ago. So, the answer to the applicant's dilemma is not for him to be seeking variances but for the architect to redesign a home that meets the current zoning restrictions in the way that all other homes on the street have done. This is what the architect should have done in the first place.

More specifically, a variance for a 28 ft. 9 in. height home with only 25 feet permitted is extreme. That is essentially asking for a house 4 feet taller than allowed. This residence would be on a 8,897 square foot lot. To the extent that proposed height exceeds that of a house on either side of it, the applicant's house will be disproportionate to the next-door neighbor and simply look out of place and distract from the aesthetics of the street that the former Coach Bonacci's home was part of for 97 years.

The variance sought on the east side setback of 6 ft. 10 in. when 8 feet is required is reduction of 1 ft. 2 in. of a side setback. The result of such a reduction in the side setback would be the applicant's garage will be too close to the next-door neighbor's garage. The fact that the applicant's plans call for a two-car garage opening in front, and not in the back like most of the homes on the street, is unsightly. And, putting a two-car garage (with two separate garage doors) next to a two-car garage (with two separate garage doors) next to each other is simply unappealing.

In this case, this variance request is exacerbated by the fact that the applicant's next-door neighbors already have a two-car garage that opens in front, next to the applicant's garage. As such, there would be literally four garage doors next to each other separated by 6 ft. 10 in. This is an unfortunate aesthetic choice that will adversely affect the symmetry of the street as the garage will appear to be a row of storage spaces.

The applicant also requests that the rear setback be 22 feet, as opposed to the mandated 25. That is a 3 feet difference. A backyard with a setback of 25 feet is small enough to begin with, but reducing it even in small part, would make it disproportionate to the size of the house. The house is simply too large for the lot.

The applicant also asks for a variance to construct the residence with a lot coverage of 33.8% as opposed to 28% of the lot under Rocky River Codified Ordinances. That is almost a 6% increase of the lot coverage. Rocky River zoning laws are generous as it is, but allowing a 33.8% lot coverage will look disproportionate, not only in relation to the lot itself, but to the other houses on the street do not have that. The applicant's lot is only 8,879[1] square feet and they knew that going in. The lot was not meant for a 4,501 square foot house with an attached two-car garage, at least not without the house and the garage looking disproportionate or out of scale or out of place, in relation to the lot size and the houses around it and across from it.

So, in the *Snider* case, the Court went through the seven *Duncan* factors and found that the applicant had not met them. In looking at those seven factors in this situation, the fact is that the property would still yield a reasonable return and could be used for a beneficial use without the variance; the variances are substantial; we believe the essential character of the neighborhood would be substantially altered and the adjoining properties could suffer substantial detrimental results from the variances; the property owner purchased the property with knowledge of the zoning restrictions; the property could be obviated through some other method such as making the footprint smaller and the spirit and intent behind the zoning requirements would not be observed by granting the variances.

In *Vary v. Sidney Bay Village Board of Zoning Appeals* (8th Dist. 2017), 2017 WL 3531468 the BLZ denied the requested variances, which was affirmed by the Court of Common Pleas, then affirmed by the Eighth District Court of Appeals. The City's decision to deny the homeowner's requests for a variance of the City's setback requirements was supported by substantial, reliable and probative evidence; the homeowner could not demonstrate how his need for storage space was peculiar to his premises as the restrictions to the backyard were not unique, the variance did not deny a substantial property right and he had knowledge of the zone restrictions when he purchased the property consistent with Revised Code, Section 2506.04.

Similarly, in *Bilton v. Danbury Township Board of Zoning Appeals* (6th Dist. 2025), 261 N.W.3d 1165 the property owners appealed a BZA decision denying request for area variances from the setback requirement, but the Court of Common Pleas affirmed BZA decision and the Sixth District Court of Appeals affirmed.

Again, the Eleventh District Court of Appeals applied the *Duncan* factors and found that the decision by the BZA was fully appropriate and within the discretion of the BZA. They further noted again that even if some of the factors in the *Duncan* factors weigh in favor of the property owner that does not mean that the BZA must find in favor of the applicant. *Id. citing Phillips v. Westside Board of Zoning Appeals* (8th Dist. 2009), 2009-Ohio-2489.

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[1] The Cuyahoga County Fiscal Office reports the lot size as 8,500 square feet.

Also *see, 1450 Kenilworth, LLC v. City of Cleveland* (8th Dist. 2023), 2023 WL 1458881 in which the Eighth District Court of Appeals affirmed the Cleveland Board of Zoning Appeals decision denying the appellant's request for an area variance.

II. CONCLUSION

In conclusion, I do not know the applicant, but the proposed dwelling is simply too large for the lot. One of the reasons that we have laws regarding height, front and side setbacks and lot coverage is so that people do not have to guess about how to fit the symmetry of their home into already existing homes. They are not meant as suggestions. They are meant to be followed and for the good of the entire neighborhood, not just the people who want something different or better. Proportion, scale and uniformity all contribute to the beauty and the beneficial use of the neighborhood. When the rules are disregarded and variances are sought or allowed to occur we end up seeing something that sticks out in a displeasing manner. So, we believe the solution for the applicant is to build a smaller home on the lot they bought or to find a larger lot elsewhere.

I also suggest to the BZA that this lot leaves plenty of buildable area, just not enough for a house the size of the proposed dwelling; and there is nothing unique about the property. According to the applicant, the lot is 8,897 square feet. There are other lots in Northcliff that are even smaller all of the lots on Northcliff have irregular lot sizes, according to the County Fiscal Office.

For example, 357 Northcliff as 7,140 and irregular lot shape; 311 Northcliff is 8,184 and irregular lot shape; 326 Northcliff is 8,385 and an irregular lot shape; 326 Northcliff has 9,009 and an irregular lot shape; 344 Northcliff has 9,490 and an irregular lot shape; 325 Northcliff has 9,760 and an irregular lot shape; 300 Northcliff has 9,880 and an irregular lot shape; 349 has 10,020 and an irregular lot shape; 354 Northcliff has 10,500 and an irregular lot shape; 339 Northcliff has 10,980 and an irregular lot shape; 362 Northcliff has 11,100 and an irregular lot shape; 374 Northcliff has 12,395 and an irregular lot shape; 386 Northcliff has 12,950 and an irregular lot shape and 371 has 15,000 and an irregular lot shape.

Additionally, the applicant has failed to show: 1) he cannot realize a reasonable return on the property under current zoning laws; and 2) the hardship would result. The applicant bought a property that he knew or should have known was too small for their plans. As a result, the alleged hardship was *self-created* and, therefore, the applicant should not be entitled to any variances. In addition, the variances requested will alter the central character as well as overwhelm that lot by its size and bulk, and fail to fit in, as Coach Bonacci's house does now, and negatively affect the aesthetic of Northcliff Drive.

The applicant also asked for an increase of the driveway from 20 feet as wide as 21 feet again, that is not appropriate. The driveways on the street are not normally wide and that is too much. Mine is half that.

Ohio law has said repeatedly, under numerous cases, that mere inconvenience or increased costs; personal preferences and purported financial loss alone, even though that is not a case being made by the applicant, do not qualify as a hardship. So, to succeed one must prove a unique, unavoidable and economically significant hardship tied to the property's physical condition rather than one's own choices of general convenience.

As the Board is well aware, the intent of the single family zoning districts, pursuant to Section 115301 of our zoning ordinances and regulations are meant to regulate the bulk and location of dwellings, accessory buildings and other structures, to obtain property privacy and useable open space to each lot appropriate in the district the property sits in. It is also meant to regulate the density and distribution of the population and avoid congestion and to maintain adequate services.

The zoning regulations have been in place for some time. They are meant to provide proper space between buildings and to protect the desirable characteristics and promote the stability of the then existing residential development. I am paraphrasing a lot of this directly from Subsections (a) – (e) of Section 115301, which you will of course know. But, I remind you of this because when we bought our home in 1993 and looked at the surrounding homes we certainly would not have considered buying this home if we were looking across the kind of mass that the purchasers of 314 Northcliff want to put on their property. The volume of the proposed structure, which for all intents and purposes consumes the entire yard of the property, is way out of proportion with not only what was there, but other homes on the street. To my way of thinking, it completely eliminates almost all area space and light for adjoining neighbors as well as us looking at a ginormous structure.

Just recently as I mentioned, all of the trees, shrubs and plants on the property were eliminated. This was an inkling to us that demolition was close. Then we found out from the Fire Department that the house will be used for a training exercise, which we were not asked about. I think the kids will enjoy seeing the fire truck in the street, but I am a little concerned about a house like this being burned or used for exercises all day. But, that is not my concern or this Board's concern.

Section 115311 with respect to the Design of Construction Board of Review looks at the building height, width and general proportions, architectural features, the use of building materials and so forth. The whole concept is to make sure that the proposed structure is judged to be appropriate with respect to the then existing architectural styles that fits comfortably within the neighborhood and overall community. This applies to not only the structure but the landscaping, accessory structures including garages and so forth. So, designs that seek five variances deviates substantially from the current building and overall character of the neighborhood and they are not minimal.

Section 115329 limits the height of principal buildings and structures to 25 feet, and there is a reason for that, that all property owners adhere to. It is to prevent one house from overwhelming the other houses, looking out of place and being incongruous to the overall aesthetic of the neighborhood.

Sincerely,

MICHAEL P. HARVEY, CO., L.P.A.

/s/Michael P. Harvey
Michael P. Harvey, Esq.

MPH/cak/map/rrg
Enclosures