

MINUTES OF MEETING
BOARD OF ZONING AND BUILDING APPEALS
AUGUST 12, 2004

Members Present: Pempus, Christ, Wright, Downing, Farrell, DeCapua

Presence Noted: Gary Hotz, Assistant Law Director, Kevin Beirne, Building Commissioner, Korey Koran, Economic Community Development Director, Mayor William Knoble, Councilman Earl Potterfield, Bobbie Van Atta, Alternate Board of Zoning & Building Appeals Member

1. MIKE THORN, 366 CORNWALL RD. – PUBLIC HEARING– Variance to locate an air conditioner condenser in the side yard vs. air conditioner condensers permitted in rear yard 15’ from a side property line. Mr. Mike Thorn, Homeowner, came forward to explain his variance request.

Mr. Thorn said that he had relocated an air conditioner condenser on the side of his house and he was unaware that he would need a variance to do that. He said that when it was brought to his attention that he would need a variance to locate the condenser of the side of his house he filled out the proper paperwork and applied for the variance.

Mr. Thorn said that his hardship would be a 7’ wide stairway on the back of his house. He said that if he would locate the condenser according to the Code it would interfere with the existing stairway. Mr. Thorn said that his lot is very narrow. He said that his lot is only about 41’ wide.

Mr. Thorn said that he has an existing 5’ board on board fence on the side of the lot that would shield the condenser. He said that it would not be visible from the street or the adjacent neighbor. Mr. Thorn said that his neighbor is aware of the location of the condenser and does not have a problem with it.

Mr. Pempus asked how old the air conditioner condenser is. Mr. Thorn said that the unit is less than 1 year old. He said that it is a high efficiency, very quiet unit.

Mr. Wright said that the neighbor has a side door and windows on the side of the house where the air conditioner would be located. Mr. Thorn said that the neighbor is aware of the unit and he does not have any problem with it being located in the side yard.

Mr. Downing asked if the applicant had considered the back yard near the rear corner of the house. Mr. Thorn said that since he would have to obtain a variance for either location he would prefer to put it in the proposed location on the side of the house.

Mr. Christ said that, in the applicant’s favor, there is a driveway on the same side of the house that the condenser would be located. Mr. Farrell said that he usually does not have a big issue with air conditioner condensers in side yards, especially when applicants are dealing with narrow lots and the neighbors are not objecting to the proposed location.

Mr. Pempus asked where the applicant's furnace is located in the house. Mr. Thorn said that his furnace is located next to the condenser just on the other side of the wall

Mr. Wright moved to **grant** the variance for Mike Thorn at 366 Cornwall Rd. to install and air conditioner condenser in the side yard vs. air conditioner condensers are permitted in the rear yard 15' from a side property line under Section 1141.04(b)(8) because the applicant has indicated the hardship that locating the unit 15' from the side property line in the rear yard would put it in the middle of his existing steps. He said that there is an existing 5' board on board fence that would visually shield the unit. Mr. Christ seconded.

5 Ayes – 0 Nays

2. JAMES MARTIN, 20139 LAKEVIEW CT. – PUBLIC HEARING – Variance to construct a 6' fence vs. a maximum height of 5' permitted for fences along a side property line and a variance to construct a solid privacy fence vs. fences shall be 50% open to light and air. Mr. Martin, Homeowner, came forward to explain the variance requests.

Mr. Martin said that he would like to replace an existing chain link fence with a 6' solid vinyl fence. He said that the fence would be located around his backyard except not behind his garage.

Mr. Pempus asked why Mr. Martin wanted a 6' solid fence. Mr. Martin said that he was told that the style of fence that he was proposing only comes in a height of 6'. Mr. Martin said that they would like a little privacy in their yard. He said that the adjacent neighbor has recently built a big deck on the back of their home.

Mr. Martin said that they would like to update their house and make it a little more modern. He showed the Board Members photographs of his property and the current surroundings.

Mr. Pempus said that he was not aware that the only fence height available is 6'. Mr. Martin said that is what the salesman at Lowes told him. Mr. Pempus asked Mr. Martin if he had checked with any other places. Mr. Martin said that he only went to Lowes.

Mr. Downing asked if the proposed fence has 1' of lattice across the top. Mr. Martin said that the fence would be 5' solid vinyl with a 1' lattice top. Mr. Pempus said that he does not like 6' solid fences, or any type of 6' fence. Mr. Christ said that he thinks that solid may be a problem. Mr. Christ said that 6' along the back is permitted, and 6' with the lattice top along the side of the yard adjacent to the neighbor's deck may be reasonable. Mr. Christ said that he cannot see all that solid fence, and the other side being 6' bothers him as well. He said that the Board does not normally look at solid fences. Mr. Pempus suggested that the applicant could investigate other fence company sources.

Mr. Downing asked how long the applicant has lived at the proposed location. Mr. Martin said that this was his parents' home originally. He said that he has purchased the property for his family and they are going to be moving into the house.

Mr. Martin said that his parents always had the chain link fence. He said that he would like a little more privacy because the new deck next door is high and the neighbors can look right into his yard. Mr. Christ said that he would not have a problem with 6' but he would have a problem with a solid fence.

Mr. Christ said that along the back property line the 6' fence would be compliant with the Code. He said that the fence along the side adjacent to the deck is reasonable, in his opinion. He said that he does not see why a 6' fence would be necessary on the other side except for the fact that it is consistent. Mr. Martin said that he feels that the fence would look weird with only one side 5' and the rest 6' high.

Mr. Christ moved to **grant** a variance for James Martin at 20139 Lakeview Ct. to construct a 6' fence vs. a maximum height of 5' permitted for fences along a side property line under Section 1141.04(b)(2) the applicant has indicated his hardship regarding the adjacent deck and this would be a reasonable solution to providing some privacy and the top 1' of the fence would be a lattice portion. Mr. Wright seconded.

4 Ayes – 1 Nay (Pempus)

Mr. Christ moved to **grant** a variance for James Martin at 20139 Lakeview Ct. to construct a solid privacy fence vs. fences shall be 50% open to light and air under Section 1141.04(b)(3) in accordance with the applicant's hardship indications. Mr. Wright seconded.

0 Ayes – 5 Nays (***DENIED***)

3. PAUL BURSTADT, 19418 ARGYLE OVAL – PUBLIC HEARING – Variance to construct an addition with a 3' side yard setback vs. a 5.625' side yard setback required and a variance to construct an addition with 28% lot coverage vs. a maximum of 25% lot coverage permitted . Mr. Burstadt, Homeowner, came forward to explain the variance requests.

Mr. Burstadt said that he would like to construct a 110 sq. ft. addition on the rear of his house. He said that the addition would close in a notch that had not been filled in as part of the original 1919 construction. Mr. Burstadt said that they would like to square off the rear of the house. He said that it would be a 2 story addition that would stay in line with the existing footprint of the house.

Mr. Burstadt said that he has a pie shaped lot. Mr. Pempus said that pie shaped lots do create a problem. Mr. Pempus said that the front of the proposed house is within Code in terms of setback, and it is just toward the back that becomes a problem because of the shape of the lot.

Mr. Wright said that the proposed side yard is next to the neighbor's driveway.

Mr. Farrell asked the applicant if he would have to take down any of the arborvitae to do the proposed addition. Mr. Burstadt said that they would like to keep the arborvitae but with the construction they may lose some of them.

Mr. Downing moved to **grant** a variance for Paul Burstadt at 19418 Argyle Oval to construct an addition with a 3' side yard setback vs. a 5.625' side yard setback required under Section 1143.02(f) because of the situation whereby they are extending existing house lines and closing in an existing notch. He said that the nature of the side lot line is such that it is on an angle with the existing house thereby that is the hardship. Mr. Wright seconded.

5 Ayes – 0 Nays

Mr. Downing moved to **grant** a variance for Paul Burstadt at 19418 Argyle Oval to construct an addition with 28% lot coverage vs. a maximum of 25% lot coverage permitted under Section 1143.02(c) because the variance is small and is not causing a problem for the neighbor or anyone else in that area. Mr. Farrell seconded.

5 Ayes – 0 Nays

4. LUTHERAN WEST HIGH SCHOOL, 3850 LINDEN RD. – PUBLIC HEARING – Variance permission to display banners vs. banners are prohibited. Mr. John Buetow, Principal, came forward to explain the variance request.

Mr. Pempus asked if there would be only one design for the proposed banners. Mr. Buetow said that there would be only one design. He showed the Board a picture of the proposed banner. Mr. Pempus asked what material the banners would be made of. Mr. Buetow said that the proposed banners would be weather resistant cloth material. He said that they would be securely fastened with bands, located in 3 locations around the school.

Mr. Buetow said that one of the locations would be on Linden Rd., but not directly across from any residential homes. He said that they would like to put some banners in their parking lot area, and also on the access road leading to the football field.

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Mr. Pempus asked if the banners would be installed on existing poles or if they would be putting up additional poles. Mr. Buetow said that all of the banners would be placed on existing poles. Mr. Pempus asked if the applicant had spoken with the utility companies regarding putting the banners on the poles. Mr. Buetow said that they have not spoken to the utility companies because they would be using bands to fasten the banners. He said that the banners would not be directly applied to the poles.

Mr. Downing asked if the banners would be temporary or permanent. Mr. Buetow said that he would like the banners to be permanent. He said that they are trying to promote their ministry and they would love for the banners to be up permanently.

Mr. Downing asked if the banners were being put up for advertisement, so to speak. Mr. Buetow said that the banners would be advertising the school. He said that the banners would be an advertisement on Linden Rd. He said that it would increase the curb appeal. Mr. Buetow said that they have just done a pretty significant addition and renovation of the school and the banners would add color and help complete that project. He said that the banners would be a marketing tool for exposure for the school.

Mr. Wright asked how many banners the applicant would like to display. Mr. Beutow said that they would like to display 9 banners total. He said that they would like 4 of the banners on Linden Rd. at least partially the length of their property.

Mr. Pempus said that the school has a new addition and they just resurfaced their parking lot and everything looks very nice. He said that he would not have any problem with the banners in the parking lot or on the access road. He said that the only question would be with the proposed banners on Linden Rd. He said that he does feel that the proposed banners would be colorful and the street could use a little "spicing up".

The Board discussed the library's banners. Mr. Wrights asked the applicant if the banners became worn would they replace them. Mr. Buetow said that they would definitely maintain the banners and replace them if they became worn looking.

Mr. Pempus suggested that if the Board would like to have the applicant come back after a period of time it would provide them with an opportunity to re-visit the issue.

Mr. Christ discussed other Churches and Schools in Rocky River that have existing banners. The Board discussed the size of the proposed banners, etc.

Mr. Farrell and Mr. Beirne discussed that in the past City Council reviewed requests for banners. Mr. Beirne said that it was changed a few years ago that this Board would be the one to give permission for banners, not City Council.

Mr. Pempus asked if the Ordinance states if banners are “strictly prohibited”. Mr. Beirne said that the Ordinance just states that banners are prohibited. The Board discussed other banners within the City.

Mr. Pempus suggested that no time limit be put on the banners. He said that he feels that the school would police the banners. Mr. Downing suggested that the motion include that the banners be properly maintained. Mr. Beirne suggested that the banners on the City property right-of-way on Linden Rd. should have some time stipulation and be reviewed by the City Administration. Mr. Farrell, Mr. Christ, and Mr. Beirne discussed a reasonable timeframe for the variance for the proposed banners to be displayed.

Mr. Christ moved to **grant** a variance for Lutheran West High School at 3850 Linden Rd. to display banners vs. banners are prohibited under Section 1163.06(i) the applicant shall maintain the proposed banners and return to the Board in 5 years for re-approval of the 4 banners to be located on Linden Rd. He said that the Board would like the City Administration and Council to review the banners that are proposed to be located on Linden Rd. Mr. Wright seconded.

5 Ayes – 0 Nays

5. LARRY & MICHELLE RODGERS AT 21237 KENWOOD AVE. – PUBLIC HEARING – Variance to construct an addition with a 5’ side yard setback vs. an 8’ side yard setback required and a variance to construct an addition with a 4’-5” side yard setback vs. an 8’ side yard setback required. Mr. & Mrs. Larry Rodgers, Homeowners, came forward to explain the variance requests.

Mr. Rodgers said that they just purchased the house and they are proposing to do an addition. He said that the addition would include a 1st floor family room off the back of the house. He said that above the family room would be 2 bedrooms and an additional bathroom. Mr. Rodgers said that they would like to add an attached 2 car garage with a master bedroom and bath above the garage. He said that they would be tearing down the existing 2 car detached garage. Mr. Rodgers said that in order to accomplish that they would need 5’ and 4½’ side yard variances.

Mr. Pempus said that the West side property line would be continued straight back. Mr. Rodgers said that Mr. Pempus was correct and he had a letter of support from his adjacent neighbor on the West.

Mr. Pempus said that since a 2 car garage is being taken down the lot coverage really does not become an issue. Mr. Beirne said that the applicant is well under the maximum lot coverage requirement.

Mr. Christ, Mr. Farrell, and Mr. Pempus discussed a minimal dimension for a 2 car garage. They all agreed that the proposed garage was as narrow as it could be to accommodate 2 cars.

Mr. Pempus asked the applicant if they had considered putting the garage behind the house. Mr. Rodgers said that they would like a bigger backyard for their children to play in. He said that they would like to be able to see the entire back yard from the house as opposed to a garage in the rear blocking visibility to the yard.

Mr. Rodgers said that the house is a Dutch Colonial. He said that they felt that they would be able to keep the existing architecture in place if they were able to bring the symmetry of the garage and the jut-out on the West side of the house evenly across.

Mr. Wright said that he would be concerned about the massiveness of the front elevation, 60 lineal feet on a 70' lot. Mr. Pempus said that he shared Mr. Wright's concern.

Mr. Rodgers said that his neighbor has offered to write a letter in support of the proposed addition. Mr. Christ said that even though the requested setback is 5', the adjacent house is almost 12' off the property line. He said that the applicant has effectively 17' between the houses.

Mr. Christ and Mr. Farrell discussed some options with the applicant. Mr. Christ said that he feels that the applicant is restrained by the lot and the house.

Mr. Farrell moved to **grant** a variance for Larry & Michelle Rodgers at 21237 Kenwood Ave. to construct an addition with a 5' side yard setback vs. an 8' side yard setback required under Section 1143.02(f) because the garage could not be any narrower than the proposed garage to accommodate 2 cars and the adjacent structure is 12' from the property line and this would not be an unreasonable request. Mr. Downing seconded.

3 Ayes – 2 Nays (Pempus, Wright)

Mr. Farrell moved to **grant** a variance for Larry & Michelle Rodgers at 21237 Kenwood Ave. to construct an addition with a 4'-5" side yard setback vs. an 8' side yard setback required under Section 1143.02(f) the applicant has demonstrated their practical difficulty because with the space of the adjacent structure, the arrangement of their floor plan, and the continuing line of the existing structure this would not be an unreasonable variance. Mr. Wright seconded.

5 Ayes – 0 Nays

6. MIKE & MARIGENE McHALE, 21368 ERIE RD. – PUBLIC HEARING – Variance to construct an addition with 31% lot coverage vs. a maximum of 25% lot coverage permitted. Mr. Terry Bennett, Terry Bennett Builders and Remodelers, came forward to explain the variance request.

Mr. Bennett said that the applicants currently have an existing wood deck and screened-in porch on the rear of their house. He said that they would be tearing down the porch and deck and in just about the exact same location they would be constructing a 2 story addition.

Mr. Bennett said that the proposed lot is pretty small, only 45' wide, with only 5,400 sq. ft. of land area. He said that the new addition would put them at about 30.5% lot coverage area. He said to stay within compliance of the Code they would only be able to construct an addition that would be 8' deep instead of the 17' that they are requesting.

Mr. Pempus asked if the proposed addition would take over the deck and covered patio area. Mr. Bennett said that was correct. Mr. Pempus said that the new addition would not really take up any more footprint than what is currently there. Mr. Bennett agreed.

Mr. Pempus asked if the addition would be a single or 2-story. Mr. Bennett said that part of the addition would be 2-stories and the family room would be a single story with a vaulted ceiling.

Mr. Bennett said that the addition would go straight back. He said that they would not be going out past the existing house on either side. He said that there would be no side yard setback issues. Mr. Pempus asked if they intended to keep the same exterior materials. Mr. Bennett said that they have already received an approval from the Architectural Design and Review Board contingent upon the granting of the variance.

Mr. Beirne asked Mr. Bennett where the air conditioner condenser would be located. Mr. Bennett said that the condenser would be located behind the family room on the right side of the house. Mr. Bennett said that if he cannot put the unit 15' from the property line he would need to come back for a variance for the unit.

Mr. Farrell asked if Mr. Bennett considered holding the addition to 16' instead of 17'. Mr. Bennett said that the applicants really wanted 17' because of furniture placement. Mr. Bennett asked Mr. Farrell if there was a reason he asked about 16'. Mr. Farrell said that it would be less lot coverage.

Mr. Pempus said that the applicant would not be taking up anymore of the footprint than is currently occupied by structures, a deck and patio.

Mr. Christ and Mr. Bennett discussed the calculations of the existing and the proposed plans. Mr. Christ asked what the existing coverage is because some of the dimensions were not called out on the drawing. Mr. Bennett gave Mr. Christ the dimensions and said that the existing lot coverage is 20.3%. Mr. Christ said that he is concerned about giving a variance for 31%. He said that if the applicant would reduce the addition from 17' to 16' they would eliminate 32'. Mr. Bennett said that the variance would only be reduced by .7 of 1%. He said that the lot coverage would be about 29.5%.

Mr. Bennett said that their hardship is that the lot width is only 45' wide and only 120' deep. He said that he does not feel that it would look crowded. He said that it would not be noticed from the street because the addition would be totally in the rear behind the existing home. He said that all the colors would blend in and it would not look like an addition. Mr. Bennett said that they would be adding on a 2nd floor master bedroom and bathroom.

Mr. Christ asked how close the house is to the adjacent houses. He said that they are not shown on the site plan. Mr. Bennett said that he could not say what the dimension is between houses. He said that because there were no side setback issues he did not include the adjacent houses. Mr. Bennett said that there are driveways on either side of the house.

Mr. Farrell asked Mr. Bennett that since this is a rather large variance did he consider any other options, like taking 1' off the addition. Mr. Bennett said that he had not considered that option. He said that if the feeling of the Board is either take 1' off the addition or be rejected he could probably convince the homeowners to accept that. Mr. Farrell said that after looking at the floor plan he did not feel that it would hurt that much.

Mr. Bennett said that the applicants wanted to have a sufficient size upstairs master bathroom and closet. Mr. Farrell suggested that the 2nd story could overhang. Mr. Beirne said that the 2nd story could be cantilevered out 1' above the 1st floor.

Mr. Farrell said that he does not know if it would be necessary to require the applicant to reduce the addition by 1'. Mr. Christ said that variances for lot coverage are usually in the range of a 28% maximum. Mr. Bennett said that he would be willing to reduce the 1st floor to 16' but he would not want to reduce it any more than that. He said that would bring it down to 29.6%

Mr. Farrell moved to **grant** a variance for Mike & Marigene McHale at 21368 Erie Rd. to construct an addition with just below 30% lot coverage (amended from 31%) vs. a maximum of 25% lot coverage permitted under Section 1143.02(c) by reducing the 1st floor of the addition from 17' to 16' and he feels that it would not be unreasonable and he feels that it works well with the floor plan, in his opinion. Mr. Wright seconded.

7. JOYCE WOLF, 20709 BEACONSFIELD BLVD. – PUBLIC HEARING – Variance to construct a storage shed with a 2’ rear yard setback vs. accessory structures shall be a minimum of 5’ from a side or rear property line and a variance to construct a storage shed with a 2’ side yard setback vs. accessory structures shall be a minimum of 5’ from a side or rear property line . Mr. and Mrs. Wolf, Homeowners, came forward to explain their variance requests.

Mr. Wolf said that they purchased the home last year and their daughter occupies it with her son. He said that the house has a very short narrow 1-car garage and she cannot really park her car in the garage. He said that with the small garage the necessity for a storage shed does exist.

Mr. Wolf said that they would like to locate the shed in the right rear of the property. He said that they would like to leave as much of the rear yard as open as possible for children to play.

Mr. Pempus said that the proposed shed is not overly large. He said that the proposed shed is within Code for the size. Mr. Pempus asked Mr. Wolf if he felt that the 2’ side yard would provide enough space for him to maintain the storage shed. Mr. Wolf said that he feels that the 2’ side yard would be enough room to maintain the shed. He said that he would like to angle the shed so that the 2 corners of the shed would be the only part of the shed that is actually 2’ from the property lines. Mr. Wolf said that by angling the shed it would look a little bit better.

Mr. Christ said that the neighbor’s garage is on one side of the proposed storage shed and there is a fence along the other side. He asked who’s fence it is. Mr. Wolf said that the fence belongs to him.

Mr. Downing asked the applicants what they feel their practical difficulty is. Mrs. Wolf said that they do not have enough space in the small garage to store their 9 year-old’s necessities, etc. She said that her daughter has to park her car outside the existing garage and the storage shed would allow her to use the garage. Mrs. Wolf said that the proposed location of the storage shed would also be for aesthetics. Mr. Downing said that he did not believe that aesthetics would be a basis for this variance. Mr. Wolf said that they have a small yard and they need to preserve as much of the space as they can for a play area.

Mr. Pempus said that the angle of the proposed storage shed would only require a 2’ side and rear setback at the 2 corners of the storage shed. The Board discussed the placement of the storage shed.

Mr. Wright moved to **grant** a variance for Joyce Wolf at 20709 Beaconsfield Blvd. to construct a storage shed with a 2' rear yard setback vs. accessory structures shall be a minimum of 5' from a side or rear property line under Section 1143.09(a) the applicant has indicated that the reason for the shed is because they only have a single car garage and this would allow them to store materials that would otherwise have to be stored in the garage and indicating that their car sits in the driveway every night. He said that the applicant has indicated that they will alter the footprint of the proposed shed, from the drawing that was submitted to the Building Department in such a way that it was juxtaposed, to a certain degree angle so that the 2 rear corners would be no closer to the property line than 2'. Mr. Christ seconded.

4 Ayes – 1 Nay (Downing)

Mr. Wright moved to **grant** a variance for Joyce Wolf at 20709 Beaconsfield Blvd. to construct a storage shed with a 2' side yard setback vs. accessory structures shall be a minimum of 5' from a side or rear property line under Section 1143.09(a)) the applicant has indicated that the reason for the shed is because they only have a single car garage and this would allow them to store materials that would otherwise have to be stored in the garage and indicating that their car sits in the driveway every night. He said that the applicant has indicated that they will alter the footprint of the proposed shed, from the drawing that was submitted to the Building Department in such a way that it was juxtaposed, to a certain degree angle so that the 2 rear corners would be no closer to the property line than 2'. Mr. Christ seconded.

4 Ayes – 1 Nay (Downing)

8. MARY JANE LINN, 20567 BEACONSFIELD BLVD. – PUBLIC HEARING – Variance to construct a 6' fence vs. a maximum height of 5' permitted for fences along a side property line. Ms. Mary Jane Linn, Homeowner, came forward to explain the variance request.

Ms. Linn said that she would like a 6' white vinyl board on board fence with a 16" lattice top along the back and side yard. Ms. Linn said that the fence would be installed by American Fence Co. Ms. Linn showed the Board a brochure with the proposed fence.

Mr. Pempus asked Ms. Linn why she feels that she needs a 6' fence on the sides of her backyard. She said that her yard is situated in such a way that her side yard on the East abuts her neighbor's rear yard. She said that on the West side there is her neighbor's garage. Ms. Linn said that she would like to have the same construction all the way around her yard.

Ms. Linn said that her neighbor to the rear of her yard currently has a 6' fence. She said that her yard is used as a cut through for neighboring children with bikes, etc. and she is concerned about safety.

Mr. Pempus said that he would not have an issue with the side that has the neighbor's garage and driveway. Mr. Christ said that if the neighbor on the East put the fence up, since it is their back yard, they would not require a variance because a 6' fence would be within Code along a rear lot line.

Mr. Farrell said that he would be concerned about maintaining the neighbor's garage because it is only 16" off the property line. Ms. Linn said that there is currently gravel on the side of the garage not grass. Mr. Christ asked Ms. Linn if she would be willing to allow the neighbor access on her property if they had to clean the gutters or do any other maintenance to the garage. Ms. Linn said that she would allow the neighbor access.

Mr. Christ moved to **grant** a variance for Mary Jane Linn at 20567 Beaconsfield Blvd. to construct a 6' fence vs. a maximum height of 5' permitted for fences along a side property line under Section 1141.04(b)(2) the applicant has indicated the hardship and is proposing a board on board fence with a 16" lattice top and he feels that this is a reasonable request. He said that the portion on the East side is a back yard adjacent property that would be eligible for a 6' fence without a variance. He said that only the portion on the West side is a significant difference. Mr. Wright seconded.

5 Ayes – 0 Nays

9. CHANDLER'S INC., 1 RIVER PLACE – PUBLIC HEARING – Variance to construct a deck with a 7'-4½" rear setback vs. a 20' rear setback required. Mr. John Chandler, Developer, came forward to explain their variance request.

Mr. Chandler said that they have 2 model homes in their cluster development at River Place, a ranch and a Cape Cod, that they would like to put decks on. He said that they would require variances to construct a deck on the rear of these units. He said that with the design and layouts of the units they found that the patios that were originally proposed would encroach into the swales that are needed to take care of the storm water flow around the edge of the property. He said that they found that it would be best to not encroach and build a deck above the area and put landscaping underneath to keep the swales open.

Mr. Christ asked if 1 and 8 River Place would be the only 2 properties in the development that would have decks. Mr. Chandler said that they do not know yet if any of the other units will have the same problem with the swales. He said that it depends on the style of the house to the depth of the patio, etc.

Mr. Pempus discussed the grade of the property in relation to the proposed patios. Mr. Wright and Mr. Chandler discussed the topography of the swales.

Mr. Farrell asked if a homeowner wanted to put a roof over the deck would they have to come back to BZA. Mr. Beirne and Mr. Chandler said that they would have to get permission from the Homeowners Association as well as come back to BZA to put a roof on the deck.

Mr. Downing asked if there is a swale around the entire development. Mr. Chandler said that they have underground retention in the front of the development in the 2 easement areas shown on the site plan. He said that there are catch basins around the whole perimeter of the development. Mr. Downing, Mr. Chandler, and Mr. Beirne discussed the issue of the drainage system for the development, catch basins, swales, grade, storm sewers, etc.

Mr. Pempus asked Mr. Chandler what his practical difficulty would be. Mr. Chandler said that his practical difficulty would be the design of the patio area that exits out to where the swale is.

Mr. Beirne and Mr. Christ discussed 5' projections that are permitted in a setback. Mr. Farrell said that if the railing on the deck was just a privacy screen it would be permitted as close as 5' from a property line without a variance.

Mr. Downing moved to **grant** a variance for Chandler's Inc. at 1 River Place to construct a deck with a 7'-4 1/2" rear setback vs. a 20' rear setback required under Section 1145.07(8)(b) because the applicant would be required to raise the patio area in order to provide proper drainage of the site. Mr. Christ seconded.

4 Ayes – 1 Nay (Pempus)

10. CHANDLER'S INC., 8 RIVER PLACE – PUBLIC HEARING – Variance to construct a deck with a 7'-6" rear setback vs. a 20' rear setback required. Mr. John Chandler, Developer, came forward to explain their variance request.

As discussed with the previous Item

Mr. Downing moved to **grant** a variance for Chandler's Inc. at 8 River Place to construct a deck with a 7'-6" rear setback vs. a 20' rear setback required under Section 1145.07(8)(b) because the applicant would be required to raise the patio area in order to provide proper drainage of the site. Mr. Christ seconded.

4 Ayes – 1 Nay (Pempus)

Mr. Wright recused himself from reviewing the following 2 Items. Mr. DeCapua sat in Mr. Wright's place on the Board for the following 2 Items.

**11. HAMLETS OF ROCKY RIVER (EAST), 22352 – 22450 CENTER RIDGE RD.
– PUBLIC HEARING –**

Exception to the Code: the proposed development includes both attached and detached units vs. "Townhouse" is defined in the Code as an attached single family dwelling

Variance: to construct a townhouse development with a 25' front setback vs. a minimum 50' front setback required

Variance: to construct a townhouse development with 27.3% lot coverage vs. a maximum of 20% lot coverage permitted

Variance: to construct a townhouse development with a 16'-11" distance between building Nos. 32 & 33 vs. a minimum distance between buildings of 35' required

Variance: to construct a townhouse development with a 16'-11" distance between building Nos. 34 & 35 vs. a minimum distance between buildings of 35' required

Variance: to construct a townhouse development with a 19' distance between building Nos. 28 & 29 vs. a minimum distance between buildings of 35' required

Variance: to construct a townhouse development with a 19'-5" distance between building Nos. 29 & 30 vs. a minimum distance between buildings of 35' required

Variance: to construct a townhouse development with a 15'-3" distance between building Nos. 25 & 26 vs. a minimum distance between buildings of 35' required

Variance: to construct a townhouse development with a 21'-7" distance between building Nos. 19 & 20 vs. a minimum distance between buildings of 35' required

Variance: to construct a townhouse development with a 21'-7" distance between building Nos. 21 & 22 vs. a minimum distance between buildings of 35' required

Variance: to construct a townhouse development with a 25' distance between building Nos. 23 & 27/28 vs. a minimum distance between buildings of 28' required

Mr. Jim Wymer, WXZ Coral the Developer, and Ms. Alexis Boothe, Director of Development for the Coral Company, came forward to explain the variance requests. Mr. Phil Korey, 2807 East Asplin and Mr. Bob Mayer, 6 Aberdeen Ct., came forward to express their concerns for the proposed projects.

Mr. Koran said that he is the Economic and Community Development Director for the City of Rocky River, and he wanted to talk to the Board this evening about how the City Administration is strongly in favor of this project, conceptually and the details of the project. He said that his involvement began approximately 2½ years ago when he met with the owner of the proposed property. He said that the owner had discussed some previous plans prior to his arriving here and during those early discussions he stressed to the owner of the property that the City was beginning the Master Plan process. Mr. Koran said that he suggested that the property owner hold off on any final plan until the City got into the Master Plan process to see what the residents would like to see on the West side of the Community on Center Ridge Rd.

Mr. Koran said that the developer was very much in favor of creating some type of development for “empty nesters”. He said that he feels that the proposed project are true “empty nester” type homes. Mr. Koran said that sometime after that Mr. Wymer had scheduled a meeting with the Mayor and himself, presenting some preliminary plans, which at the time were presented to be rental apartments at these 2 sites.

Mr. Koran said that the Mayor and he were very clear that even though this property is zoned for apartments, and could be developed for apartments, they did not favor apartment development on this side of Town on Center Ridge Rd. He said that they favored some less dense development. He said that certainly owner/occupied would be much better. Mr. Koran said that Mr. Wymer went back to the drawing board and came back with 2 different plans since that time.

Mr. Koran said that Mr. Wymer came back with a plan that they felt would be acceptable but was not yet the best plan. Mr. Koran said that Mr. Wymer found a partner in Peter Rubin from the Coral Group. Mr. Koran said that he has worked with Mr. Rubin in the past. He said that both Mr. Wymer and Mr. Rubin are both “top shelf” developers.

Mr. Koran said that he thinks that Mr. Wymer and Mr. Rubin have put together some outstanding plans for this side of the Community on Center Ridge Rd. He said that he feels that what is being presented tonight is exactly what this Community needs. He said that these are true “empty nester” homes, 1 story living.

Mr. Koran said that the Master Plan is pretty much complete. He said that the amount of seniors in the Community is growing and they are looking for homes like this and this is 100% consistent with the Master Plan. He said that he just wanted to make those comments known.

Mr. Pempus said that he is aware that the applicant has been to the Planning Commission. He asked Mr. Wymer to make a presentation to this Board. Mr. Wymer gave a brief history of the proposed developments. He said that because of the way the property is zoned they would be able to accommodate 30 to 35 rental units on each of these assemblages, a total of about 70 units.

Mr. Wymer said that as Mr. Koran indicated they were discouraged to proceed with that plan. He said that the City Administration indicated that the Master Plan was moving forward and the “empty nester” type cluster was much more in favor as to their Master Planning.

Mr. Wymer said that they agreed and came back with their first plan that was single attached and detached, “empty nester”, predominately first floor living, cluster homes. He said that they originally proposed 20 units on each of the assemblages. He said with that plan they had 6 types of variances that would be required. He said that the variances were a result of a City Code that does not facilitate the larger footprint of a first floor master suite type living alternative.

Mr. Wymer said that they were asked to reduce the number of units, beef-up the landscaping, and especially pay attention to the buffers to the neighbors of the proposed development. He said that they came back with 38 total units, 19 units on each of the assemblages. He said that they eliminated the side and rear setback variances from the first site plan. He said at that point they were ready to prepare for the Planning Commission meeting.

Mr. Wymer said that before the Planning Commission meeting they invited the neighbors to a preview of the site plan, held in City Hall a couple weeks before the Planning Commission meeting. Mr. Wymer said that they listened to the neighbors concerns and issues and as a result of that they made more changes to their site plan. He said that they eliminated 2 more units and reduced the total to 36. He said that they also eliminated retention/detention ponds that were certainly not favored by the Community. He said that they handled storm water underground. He said that they added fencing and landscaping to protect the neighbors from any headlight and buffer concerns. He said that they proceeded to the Planning Commission.

Mr. Wymer said that they attended the May 18, 2004 Planning Commission Meeting, and while the Planning Commission was overwhelmingly in favor of the conceptual project they challenged them to make additional site plan changes, building elevation changes, and more and better landscaping. Mr. Wymer said that at this time they did receive unanimous Pre-Preliminary Approval from the Commission.

Mr. Wymer said that they went back and rearranged their site plans and they ended up with more detached single units. He said that they did reduce 1 more unit from the mix. He said that the current site plan has 18 units on one and 17 units on the other assemblage, a total of 35 units. He said that they greatly enhanced the landscaping and the streetscape and gave the building elevations significant “punch”, as was requested by the Planning Commission. He said that they received unanimous Preliminary Approval from the Planning Commission.

Mr. Wymer said that they attended the Architectural Board of Review a couple of weeks ago. He said that they received, once again, full approval from the Board with no additional changes requested to the building elevations.

Mr. Wymer said that tonight they are requesting 3 types of variances. He said that one is the front setback off Center Ridge Rd. He said that the Code calls for 50' and they are requesting between 25' to 40' setbacks depending upon which unit on the site plan. He said that the setback would be heavily mounded and landscaped to provide a buffer. Mr. Wymer said that they attempted to move the units closer to Center Ridge Rd. so that they would not impact the neighbors to the North of the development.

Mr. Wymer said that they would be requesting a lot coverage variance for 26% to 27% from the 20% coverage permitted. He said that he would like the Board to keep in mind that the 1st floor master suites do take up more ground space. He said that they feel that the coverage percentage is quite reasonable considering that. He said that density would allow twice as many units as proposed, but because of the floor plan the lot coverage requirement is not met.

Mr. Wymer said that the bulk of the variances relate to the issue of distance between buildings. He said that most of the buildings are anywhere from 16' to 17' between each other. He said that the requirement would be anywhere from 24' to 30'. He said that is quite a considerable distance requirement for a project like this, or any other "empty nester" type development. He said that single family homes do not have to maintain anywhere near that kind of side yard requirement.

Mr. Wymer said that they feel that they are proposing an exciting new project for the Western edge of Rocky River. He said that they hope and believe that it will attract existing citizens to stay in Rocky River instead of moving to other Communities where this product is prevalent.

Mr. Pempus asked how the 50' front setback is calculated. Mr. Beirne said that the Code requires whatever setback the Chart in Section 1143.03 stipulates or what is otherwise shown on the Setback Map, whichever is greater.

Mr. Pempus said that this development would be required to be set back further than some of the existing developments along Center Ridge Rd. Mr. Beirne said that was correct.

Mr. Pempus said that Mr. Korey had submitted a letter and a signed petition from some of the neighbors in the area regarding their objections to the proposed project. Mr. Pempus said that the Board Members have also received a letter from Marlys Christensen expressing her concerns regarding the project. (See attached)

Mr. Korey said that he is a little troubled regarding the proposed project. He said that he is not very excited about a development of dense homes in violation of the Code. He said that he lives on East Asplin and he has had many people over to his home that have seen the proposed area and have said that they sure hope that no one builds back there.

Mr. Korey discussed the Code requirements for lot coverage and the distance between buildings for this project vs. the variance percentages being requested by the Developer. He said that he feels that because of the sloping topography of the proposed development the "sardine packed" units in violation of Code will appear to be toppling down. Mr. Korey said that he feels that this Board should not grant the variances being requested.

Mr. Korey discussed his opinion of the City's Master Plan, high density developments, internal variances, etc. He said that he does not feel that this project would serve the Community at all. Mr. Korey discussed the 7 standards of practical difficulty as it relates to the Developers burden of proof regarding those standards.

Mr. Korey discussed the proper procedure if someone wanted to change the Code. He said that he sees no good reason to disregard the Code to create a sardine effect. He said that he does not feel that this project would be a good Master Plan for the City, he feels that a good Master Plan for the City would be good housing and space and following the Code. Mr. Korey said that if the Developer claims that the Code is outdated and would like to seek changes in the Code there is a process to follow for that.

Mr. Korey discussed unnecessary hardship, what constitutes a variance, etc. He suggested that the Developer should put in fewer units. He said that just because the profit margin for fewer units would not be as high as they may like, it does not mean that the citizens of Rocky River don't deserve a better fate. He asked for more respect for the Code.

Mr. Korey discussed existing park-like settings vs. cluster home development with regards to property values, etc. Mr. Korey discussed the drainage issue, run-off, grade drop, etc. regarding the project.

Mr. Korey asked how a developer can come in here and dictate, and claim economic hardship and claim all sorts of variances beyond greater than 50% and the people just sit. He said that they do not even have a public hearing on it except for here, this is the first they have been permitted to speak. He said that they were not permitted to speak at the Planning Commission. He said that is the rule and he guesses that they would respect that rule. He said that this is the first time that the residents have had an opportunity to address any public body regarding Hamlet East or Hamlet West.

Mr. Korey said that he would like to respectfully ask the Board to deny all of the variances except the variance for the front setback on Center Ridge Rd., he did not have an objection for that variance.

Mr. Korey again asked the Board to consider the topography. He said that the topography and the downward slope makes this thing look like, as one member on the Planning Commission said, it has the appearance of a potential Riverwalk, which all the residents know turned out to be a disaster. He said that they appreciate a parkland setting without sardines.

Mr. Pempus asked what is the approximate grade drop between Center Ridge and Mr. Korey's street. Mr. Korey said that he did not know and they were not sure at the Planning Commission meeting. Ms. Boothe said that depending upon the site, either 14' or 15', which over the distance of the site results in about a 4½% slope. She said that it would not be considered severe. Mr. Korey said that the slope is severe if you look at it. He said that the numbers don't really tell the story.

Mr. Mayer said that he had some questions regarding the variance requests. He said that 25' front setback would be right on the street. He said that he went over to River Place on Northview and that cluster development is approximately a 40' setback and that is a little bit more reasonable. He said that he can understand a developer wanting to maximize his investment but he also sides with Mr. Korey saying that the City has Ordinances and then you're looking at 50% variances. He said that he thinks that as a City they should come to grips with more realistic standards, but then you face a voter reaction to that, too.

Mr. Mayer said that he understands the need for senior citizen places or for "empty nesters" and he thinks that it is a good concept but within the Code.

Mr. Mayer discussed the entrance for the proposed development. He discussed the heavy traffic on Center Ridge Rd. Mr. Beirne said that the Fire and Police Departments will both review the ingress and egress of the proposed development before it goes for final planning review. Mr. Mayer said that he is concerned that this would be the most predominant setback in that area on Center Ridge being so close.

Mr. Mayer asked what the range of estimated selling price of the units. Mr. Wymer said that the units would start at about \$325,000. Mr. Mayer asked what the size of the units would be. Mr. Wymer said that the units would be approximately 2,600 sq. ft. with a complete basement except under the garage.

Mr. Pempus and Mr. Wymer discussed the floor plans of the proposed units.

Mr. Pempus asked what the applicant has done to accommodate the neighbors to try to make them happy.

Mr. Wymer said that they have tried to address the reasonable issues that have been raised by the neighbors. He said that they have moved the buildings as far away from the neighbors to the North on the rear property line. He said that they have dramatically increased the landscaping proposed in the rear of the development. He said that they have proposed fencing to ensure that no headlights shine into the neighbor's yards.

Mr. Pempus asked if the applicant has proposed any earth berm around the back of the property. Mr. Wymer said that they would have 2½' to 3' berms and a fence on top of that berm. He said that there would also be landscaping along both sides of the fencing.

Mr. Pempus said that it appears to him that the single units are located towards the back of the property. He asked the applicant if there was a reason why the units were arranged on the site that way. Mr. Wymer said that the detached units that look more like single family were located closer to the single family homes at the rear of the property. He said that they feel that the detached units would be more benign to the neighbors and would be the more attractive and marketable units, so they moved them furthest away from Center Ridge Rd.

Mr. Christ discussed the difference between the requirements for a cluster development vs. a townhouse development. He said that if the units were not attached and it was a cluster development half of the variances would go away. Mr. Christ said that the proposed units do not have a lot of 2 story walls so even though they may be close to each other they won't look like huge boxes. Mr. Wymer said that the 2nd floor is considerably smaller than the 1st floor so the units do not look like massive structures.

Ms. Boothe discussed the floor plans, roof pitches, etc. Mr. Wymer and Mr. Christ discuss the difference between the proposed structures and a true townhouse. He said that a typical townhouse would basically be a 2 to 3 story vertical structure and the proposed units are predominately 1st floor living space. Mr. Christ said that the Code doesn't really recognize the coupling of attached multiple units and single units, so he would look at the proposed project more like a cluster development. He said that if it could be considered a cluster development it would be very close to meeting the Code.

Mr. Wymer said that by separating the units they have created more green space and it would be a more attractive development. Ms. Booth said that they have more green space in the proposed developments than the Code requires. Mr. Wymer discussed the way the units are situated on the site and the green space that would be provided on Center Ridge Rd.

The Board discussed the difference in Code requirements for cluster developments, townhouse developments, and single family residences.

Mr. Farrell asked if the preliminary grading plan had been submitted. He discussed the slope from Center Ridge to the back of the property, grade design, and engineering concerns related to the proposed property. Mr. DeCapua discussed with Mr. Wymer and Mr. Beirne the storm water and underground catch basins. Mr. Downing said that the Planning Commission would address the engineering issues.

Mr. Farrell said that he realizes that the Planning Commission would address the engineering issues. He discussed placement of the units on the site in relation to the grade of the property. He said that he feels that the units would not be stepping down continuously toward the adjacent neighbors and the units may visually sit lower on the property than the concerned residents think they will.

Mr. Farrell suggested if the applicant attached more units they could eliminate more variances. Mr. Wymer said that they are trying to avoid the look of row houses. He said that they prefer the look of detached single family homes, with more windows and green space around the units.

Mr. Farrell asked if the Fire Department would review this type of development. Mr. Beirne said that they would review the plans prior to the final Planning Commission's review.

Mr. Downing said that he observed that there is only one spot where a 25' front setback occurs. He said that all the other setbacks are much larger than 25'. He said that the distance between single family homes is allowed to be a lot closer than any of the proposed buildings.

Mr. Korey discussed the City Code and the procedures to follow for granting variances. He asked the Board again not to grant the variances. He said that he does not believe that a "high density" development is in keeping with the character of Rocky River.

Mr. Koran came forward to clarify the term density with regards to the proposed project. He said that City Code density would be considered 5 units per acre. He said that this project is in compliance with the townhouse density requirement. He said that this development would be much less dense than most of the neighborhoods in Rocky River. Mr. Koran said that he feels that density should not be an issue.

Mr. Korey said that the applicant uses the term "high density" in his application. Mr. Koran and Mr. Korey discussed the issue of density. Mr. Farrell discussed the density issue as it relates to townhouses.

Mr. Wymer said that he feels that they have tried to create a very exciting and good project on the West edge of Rocky River on Center Ridge Rd. that will be attractive for "empty nester" Rocky River residents that are currently moving out of the City to find such a product. Mr. Wymer said that any other insinuation he takes offense to.

Mr. Tim Feller, President of the River Walk Condominium Association, said that he has spoken with many residents regarding the proposed development. He said that he has not heard any negative comments about the development. He said that some of the residents have expressed some concern regarding losing some of their woods, as anyone would.

Mr. Feller said that he feels that the proposed development would be a potential enhancement to the area. He said that River Walk Condominium Development is on a little bit lower-end scale than the rest of Rocky River. He said that when he sees \$300,000+ units coming in next to theirs' he feels that it can only raise their property values, in his opinion.

Mr. Pempus said that he respects the effort that the Developer has made to put detached single family units next to the existing neighboring single family residences.

Mr. Farrell said that he feels that the Board Members should show some credence to what the Planning Commission has gone along with. He said that there has been a lot of discussion and a lot of positive changes made. He said that he feels that the Planning Commission has used good judgment with their Planning Criteria.

Mr. DeCapua said that there are a half a dozen current projects that have issues that are far more stringent than the ones he is seeing before him tonight. He said that he feels by comparison that this is a well planned project.

Mr. Downing said that he feels that there are times that the Board needs to use rational thought opposed to rigid application of the Code. He said that Rocky River is an extremely mature Community and if we are going to keep people here we are going to have to update our residential facilities.

Mr. Christ moved to **grant** an exception to the Code for Hamlets of Rocky River (East) at 22352 – 22450 Center Ridge Rd. the proposed development includes both attached and detached units vs. “Townhouse” is defined in the Code as an attached single family dwelling under Section 1179.08(e)(1) the applicant has indicated their hardships by configuring the townhouses as meeting both the usage and the site and the solution presented here seems to be a very reasonable solution to that problem. Mr. Downing seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (East) at 22352 – 22450 Center Ridge Rd. to construct a townhouse development with a 25’ front setback vs. a minimum 50’ front setback required under Section 1143.02(e) the setback is predicated upon Center Ridge which is a larger number than would normally be required. He said that the actual 25’ dimension only occurs at one location on the property and the remainder is actually increasing. He said that the applicant has actually met the request of the City and the Planning Commission configuring the development in this manner to provide more green space to the rear of the property. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (East) at 22352 – 22450 Center Ridge Rd. to construct a townhouse development with a 27.3% lot coverage vs. a maximum of 20% lot coverage permitted under Section 1143.02(c) he said that the applicant has indicated the practical difficulty with developing the site. He said that the proposed percentage of lot coverage is a reasonable number when compared to single family and cluster developments. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (East) at 22352 – 22450 Center Ridge Rd. to construct a townhouse development with a 16’-11” distance between building Nos. 32 & 33 vs. a minimum distance between buildings of 35’ required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (East) at 22352 – 22450 Center Ridge Rd. to construct a townhouse development with a 16’-11” distance between building Nos. 34 & 35 vs. a minimum distance between buildings of 35’ required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (East) at 22352 – 22450 Center Ridge Rd. to construct a townhouse development with a 19’ distance between building Nos. 28 & 29 vs. a minimum distance between buildings of 35’ required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (East) at 22352 – 22450 Center Ridge Rd. to construct a townhouse development with a 19'-5" distance between building Nos. 29 & 30 vs. a minimum distance between buildings of 35' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (East) at 22352 – 22450 Center Ridge Rd. to construct a townhouse development with a 15'-3" distance between building Nos. 25 & 26 vs. a minimum distance between buildings of 35' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (East) at 22352 – 22450 Center Ridge Rd. to construct a townhouse development with a 21'-7" distance between building Nos. 19 & 20 vs. a minimum distance between buildings of 35' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (East) at 22352 – 22450 Center Ridge Rd. to construct a townhouse development with a 21'-7" distance between building Nos. 21 & 22 vs. a minimum distance between buildings of 35' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (East) at 22352 – 22450 Center Ridge Rd. to construct a townhouse development with a 25' distance between building Nos. 23 & 27/28 vs. a minimum distance between buildings of 28' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

12. HAMLETS OF ROCKY RIVER (WEST), 22750 – 22850 CENTER RIDGE RD. – PUBLIC HEARING –

Exception to the Code: the proposed development includes both attached and detached units vs. “Townhouse” is defined in the Code as an attached single family dwelling

Variance: to construct a townhouse development with a 25’ front setback vs. a minimum 50’ front setback required

Variance: to construct a townhouse development with 26.3% lot coverage vs. a maximum of 20% lot coverage permitted

Variance: to construct a townhouse development with a 17’-9” distance between building Nos. 16 & 17 vs. a minimum distance between buildings of 30’ required

Variance: to construct a townhouse development with a 19’-8” distance between building Nos. 14 & 15 vs. a minimum distance between buildings of 35’ required

Variance: to construct a townhouse development with a 16’-10” distance between building Nos. 10 & 11 vs. a minimum distance between buildings of 24’ required

Variance: to construct a townhouse development with a 17’-9” distance between building Nos. 9 & 10 vs. a minimum distance between buildings of 30’ required

Variance: to construct a townhouse development with a 17’-9” distance between building Nos. 8 & 9 vs. a minimum distance between buildings of 30’ required

Variance: to construct a townhouse development with a 16’-11” distance between building Nos. 6 & 7 vs. a minimum distance between buildings of 28’ required

Variance: to construct a townhouse development with a 20’-5” distance between building Nos. 2 & 3 vs. a minimum distance between buildings of 35’ required

Variance: to construct a townhouse development with a 17’ distance between building Nos. 4 & 5 vs. a minimum distance between buildings of 35’ required

Mr. Jim Wymer, WXZ Coral the Developer, and Ms. Alexis Boothe, Director of Development for the Coral Company, came forward to explain the variance requests. Mr. Phil Korey, 2807 East Asplin and Mr. Bob Mayer, 6 Aberdeen Ct., came forward to express their concerns for the proposed projects.

Mr. Pempus asked if many of the same concepts apply to the West that we have just discussed for the East development. Mr. Wymer said that the developments are identical issues and identical comments that he would make. He said that he would refer back to the comments that he made for the Hamlets East Item.

Mr. Pempus said that the Hamlets West development has a different site plan and different site. Mr. Wymer said that the West development has 1 less unit than the East but the site is basically designed in a similar fashion as the Hamlets East with the U-shaped roadway and approximately half of the units are single detached units and they are predominately in the center of the site. He said that there would be 9 detached units out of 17.

Mr. Wymer said that they would have identical elevations. He said that the landscaping and streetscape would be the same. He said that the signs would be the same except one would be East and the other West.

Mr. Wymer said that the front setback on Center Ridge has 2 points that are only 25'.

Mr. Korey said that he would like to reincorporate what he said regarding the Hamlets East Development.

Mr. Christ moved to **grant** an exception to the Code for Hamlets of Rocky River (West) at 22750 – 22850 Center Ridge Rd. the proposed development includes both attached and detached units vs. “Townhouse” is defined in the Code as an attached single family dwelling under Section 1179.08(e)(1)) the applicant has indicated their hardships by configuring the townhouses as meeting both the usage and the site and the solution presented here seems to be a very reasonable solution to that problem. Mr. Downing seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (West) at 22750 – 22850 Center Ridge Rd. to construct a townhouse development with a 25' front setback vs. a minimum 50' front setback required under Section 1143.02(e) the setback is predicated upon Center Ridge which is a larger number than would normally be required. He said that the actual 25' dimension only occurs at two locations on the property and the remainder is actually increasing. He said that the applicant has actually met the request of the City and the Planning Commission configuring the development in this manner to provide more green space to the rear of the property. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (West) at 22750 – 22850 Center Ridge Rd. to construct a townhouse development with a 26.3% lot coverage vs. a maximum of 20% lot coverage permitted under Section 1143.02(c) he said that the applicant has indicated the practical difficulty with developing the site. He said that the proposed percentage of lot coverage is a reasonable number when compared to single family and cluster developments. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (West) at 22750 – 22850 Center Ridge Rd. to construct a townhouse development with a 17'-9" distance between building Nos. 16 & 17 vs. a minimum distance between buildings of 30' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (West) at 22750 – 22850 Center Ridge Rd. to construct a townhouse development with a 19'-8" distance between building Nos. 14 & 15 vs. a minimum distance between buildings of 35' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (West) at 22750 – 22850 Center Ridge Rd. to construct a townhouse development with a 16'-10" distance between building Nos. 10 & 11 vs. a minimum distance between buildings of 24' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (West) at 22750 – 22850 Center Ridge Rd. to construct a townhouse development with a 17'-9" distance between building Nos. 9 & 10 vs. a minimum distance between buildings of 30' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (West) at 22750 – 22850 Center Ridge Rd. to construct a townhouse development with a 17'-9" distance between building Nos. 8 & 9 vs. a minimum distance between buildings of 30' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (West) at 22750 – 22850 Center Ridge Rd. to construct a townhouse development with a 16'-11" distance between building Nos. 6 & 7 vs. a minimum distance between buildings of 28' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (West) at 22750 – 22850 Center Ridge Rd. to construct a townhouse development with a 20'-5" distance between building Nos. 2 & 3 vs. a minimum distance between buildings of 35' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

Mr. Christ moved to **grant** a variance for Hamlets of Rocky River (West) at 22750 – 22850 Center Ridge Rd. to construct a townhouse development with a 17' distance between building Nos. 4 & 5 vs. a minimum distance between buildings of 35' required under Section 1145.13 the applicant has indicated the practical difficulty with configuring and developing the site. Mr. Farrell seconded.

5 Ayes – 0 Nays

13. BEACHCLIFF MARKET SQUARE, 19300 DETROIT RD. – PUBLIC HEARING – Variance to construct a retail center with 37% lot coverage vs. a maximum of 25% lot coverage permitted and a variance to construct a retail center with 330 parking spaces vs. a minimum of 508 parking spaces required. Mr. Robert Acker, Development Director from Madison Marquette, Mr. Keith Hall, Michael Schuster Architects, Raymond Conley, C W Courtney Co., Civil Engineer, came forward to explain their variance requests. Mr. Andrew Bekeny and Mr. Scott Swartz, Representatives of the Rocky River Methodist Church, and several other Trustees of the Church, and Mr. Bob Dugan, Property Owner on the East side of the proposed shopping center, came forward to express their support and concerns regarding the proposed project.

Mr. Acker said that Madison Marquette is a national retail real estate developer and the owners of the proposed retail center. He said that they operate from California to DC, across the nation. He said that as a developer they create special places, unique environments that are tailored to their community and additive to their community.

Mr. Acker said that they purchased the Beach Cliff Market Square several years ago. He said that at the time they looked to buy a number of other properties around it. He said that as they got into the economics of the equation they knew that 50,000 sq. ft., the mini mall concept, was not the format that was going to appeal to a broad range of national retailers that they knew wanted into this market.

Mr. Acker said that in the meantime the demand for retailers was starting to be filled by the project in the West End and as that came to fruition, which was one of the projects that Jeffrey Anderson was a partner in, as that was coming thru its course of entitlements, it did not make it past its entitlement stage. He gave some background regarding that 450,000 sq. ft. project.

Mr. Acker said that they have purchased the adjacent print shop. He said that the current shopping center has low visibility, parking hidden in the back, it is internally focused and it simply does not work. He said that the effectiveness of the shopping center continues to erode, particularly with completing projects that are happening around this area.

Mr. Acker said that in the light of what has happened to the West End they are trying to capture the best of the best of those tenants, and provide them an environment that they can be successful in. He said that this project does just that. He said that they are very excited about the project. He said that they feel that this is a huge win for them and for the Community that it resides in. He said that even though they would like it to be much larger, because they would be able to accommodate a greater critical mass of retailers which is what they normally require, they think that this plan allows them enough square footage to do this project.

Mr. Pempus said that the plan would require a great deal of demolition on the site. Mr. Acker said that they currently have a former theater building on the site. He said that the building had been added onto, to create an extra area of retail space to basically double the size of the square footage that was in the former theater building.

Mr. Acker said that their proposed plan would be to take out the portion that was added onto the theater building, keep the original theater building in place, and renovate and reorient it from an internal focus to an external focus, giving it storefronts and entries right on the sidewalk.

Mr. Acker said that along the back of the property, what is currently the back parking lot, they would build a surface parking garage with retail space built above it. He said that they would be taking advantage of the site elevations as the property drops from Detroit Rd. back to the railroad tracks. He said that the retail would be accessible from the sidewalk and the parking field in front of it and would have additional parking underneath the retail.

Mr. Pempus asked if the parking garage would be accessed in the back. Mr. Acker said that the parking garage could be accessed from both sides, Parsons Ct. or Depot St.

Mr. Pempus and Mr. Acker discussed open store fronts vs. internal malls. They discussed the open air concept. Mr. Acker said that each of the tenants would be designing storefronts that have canopies, awnings, and façade treatments that allow people to sort of take cover in inclement weather.

Mr. Hall discussed the architecture and streetscape. He said that they would create a variety of storefronts as if you are walking down "Main Street USA". He said that they do have a certain level and quality of design criteria and materials that they require the tenants to adhere to, so that the masonry, windows, canopies, and signage all has a nice appearance to it.

Mr. Pempus asked about the size of the signage for the tenants. He wanted to know if the signs would be readable from the street or would these tenants be coming in for additional individual signage on the street. Mr. Hall said that the type of high-end retailers that Mr. Acker is referring to have a draw, an identity to them, and they would not need additional signage on the street.

Mr. Wright asked if they would use the existing theater marquis. Mr. Hall said that they would like to keep the marquis, but he did not know what specific tenant would use it.

Mr. Swartz said that they are not here as an official statement of the Church. He said that during the summer months they recess and the Trustees of the Church have not met on this matter, but informally they have met with the applicants and those meetings have been positive and very helpful.

Mr. Swartz said that they are very interested in the issues that are being addressed this evening because their Church is the gateway into the propose area. He said that they believe that the health and beauty of their Church adds to that. Mr. Swartz showed an aerial photo of the surrounding area and said that the next largest block of parking near the retail center would be their Church parking lot.

Mr. Pempus asked if the project would impact the Church. Mr. Swartz said that they do not necessarily feel that the project will or won't impact them. He said that they are merely at the meeting to offer information or clarify any questions that may come up. Mr. Swartz said that on week days their parking lot is spoken for because of the nursery school. He said that they need to keep it clear and under control because of the drop-off and pick-up of the children. He said that most week nights the lot would be substantially full just by their own use. He said that of course on Sunday and Saturdays for weddings, etc. the lot could be full. He said that during the times he mentioned it would be pretty much full to varying degrees. He said that they would be concerned regarding overflow parking.

Mr. Swartz said that they would be interested in the back of the proposed building having a softened look. Mr. Bekeny discussed the truck deliveries, traffic pattern for the nursery school safety regarding the East side on Parsons Ct. He discussed the possibility of additional street lights on Detroit Rd and delivery truck entrances and exits.

Mr. Bekeny discussed the aesthetics of the back of the proposed building. Mr. Swartz said that they are very much informally in favor of a strong project. He said that they would like to see a successful project for the Beach Cliff Market Square. Mr. Acker said that he has had many discussions with the Pastor of their Church and had spoken in great detail with him. He said that they have made changes to their plans based upon some of those requests. He said that they have made some architectural changes to the building to enhance the building for the neighbors' view.

Mr. Hall discussed the changes that they made in the elevations of the building, landscaping, and lighting options. Mr. Hall said that he feels that the presentation will be a dramatically better project than what is existing.

Mr. Dugan said that his only concern would be for the proposed 4 delivery doors on the East of the building and as long as the Noise Ordinance is respected he would be fine. He said that he has had an issue in the past regarding trash pickups before 7AM and that is an issue. He said that Gamekeepers has always been a good tenant. He said that if that would change he hopes that he would not have a problem with a new tenant regarding noise. He said that he has no objection with the proposed plan.

Mr. Pempus asked if National City Bank would remain a tenant. Mr. Acker said that they are planning to remain as is. The Board discussed some of the surrounding properties. Mr. Downing said that he would like the Police Department to take a look at the traffic situation on Parsons Ct.

Mr. Downing asked if the applicant has any parking agreement with the Church. Mr. Acker said that there is no formal agreement with the Church. He said that the new proposed parking garage would be open to the public. He said that they also do have a reciprocal shared parking agreement with the Dawson Building.

Mr. Koran said that a lot of time and effort has gone into this project. He said that ever since the Lakewood West End Project was defeated by the Lakewood voters he has been working with Madison Marquette and Jeffery Andersen to try to get the tenants that were originally going to be over in Lakewood to come to Rocky River. He said that it looks that they are fairly close to being successful in that effort.

Mr. Koran said that the most significant problem they have is the size of the propose area. He said that even with the very expensive acquisition of the Passage Building the site is still less than 6 acres. He said that they are trying to squeeze 100,000 sq. ft. of retail into 6 acres. He said that the biggest issue is parking. He said that Madison Marquette will build a parking garage and maintain it. He said that the City will lease it from Madison Marquette for 15 years, if Council approves it. He said that the parking will be open and available to the public. He said that legally it cannot be restricted or reserved.

Mr. Koran said that the Mayor and the Administration endorses this project. Mr. Wright asked if this project fits within the Master Plan for the City. Mr. Koran said that this project is absolutely very consistent with the Master Plan. He discussed the entire area as it relates to the Master Plan.

Mr. Acker said that the retailers that they have been talking to have done a significant amount of research on the type of parking, amount of parking, and location of parking that they would require to make a store successful. Mr. Acker said that the retailers are requesting a 3.5 parking spaces per thousand sq. ft. ratios. He said that without the shared parking they have a 3.3 per thousand ratios. He said that with the shared parking they would have a 4 per thousand ratios.

Mr. Acker discussed a possible open agreement for parking with the Church. He said that he does not know if that would happen. Mr. Bekeny said that the Pastor would not have the authority to make a formal arrangement. He said that they have 125 parking spaces and there is no other land that the Church could utilize so he does not think a formal agreement would be in the picture.

Mr. Swartz and Mr. Pempus again discussed the activity at the Church as it relates to parking. They discussed the parking situation for the neighborhood. Mr. Bekeny said that they have always been friendly neighbors and the area is open to the Community. He said that their only concern with the project would be parking.

Mr. Wright discussed with Mr. Acker that the national standard for parking for a shopping center is 4 per thousand. Mr. Beirne said that the City of Rocky River requires 5 per thousand ratios. He said that for the calculation he would have to count the number of parking spaces that are actually on the lot. He said that there are currently 280 on the site.

Mr. Koran discussed the traffic issue as it relates to Parsons Ct. He discussed the possibility of widening Parsons Ct. at some point in the future and possibly adding a traffic light if it is warranted. Mr. Downing and Mr. Koran discussed who would pay for the light. Mr. Koran said that would be up to City Council.

Mr. Farrell said that 3 to 4 spaces per thousand seemed to be sufficient for shopping centers in the past. The Board Members discussed their opinions regarding spill over parking, etc. Mr. Christ said that the calculations do not include the Dawson Building parking, the Church parking, etc.

Mr. Farrell said that the proposed building is highly visible and he would like to make sure that all of the Boards take a good look at the elevations. He said that he wants to make sure that no side of the proposed building looks like the back of a building. Mr. Pempus asked if this project would go back to the Planning Commission. Mr. Beirne said that it would go to Architectural Review and then back to Planning for a final review.

Mr. Christ said that the proposed building does back up to the railroad tracks and clearly density would not affect the railroad. He said that this is a unique situation because of its surroundings. Mr. Beirne said that the developer would also be eliminating 2 existing structures on the property. Mr. Christ said that there is about 75% open area on Detroit Rd. He said that no residential area would be affected and even though this is a large variance for lot coverage he does not feel that it is significant because of the surroundings.

Mr. Downing said that if the Board looks at the site as it exists and how it will be when it is improved they will see that there is no storm water issue. He said that there would not be a visual issue as it relates to lot coverage and he feels that is what lot coverage is all about. He said that he does not feel that it is a non-issue but he thinks that it can be rationalized.

Mr. Farrell moved to **grant** a variance to Beachcliff Market Square at 19300 Detroit Rd. to construct a retail center with 37% lot coverage vs. a maximum of 25% lot coverage permitted under Section 155.02(b)(5) the Board's discussion centered on why they feel that this is a unique situation and lot coverage in this situation will not adversely affect adjoining properties or the Community. Mr. Downing seconded.

5 Ayes – 0 Nays

Mr. Farrell moved to **grant** a variance to Beachcliff Market Square at 19300 Detroit Rd. to construct a retail center with 330 parking spaces vs. a minimum of 508 parking spaces required under Section 161.05(d) it has been this Board's recent experience that what the applicant is proposing per thousand sq. ft. has been sufficient in the past and he thinks that it will work for this project as well. He said that it would be up to the developer to address any parking issues that may arise and handle them internally. Mr. Wright seconded.

5 Ayes – 0 Nays

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The meeting adjourned at 11:40 PM

Eric Pempus, Chairman

Craig Wright, Secretary