



Building and Zoning Appeals Minutes

Meeting held in Boards and Commissions Room, Monday, May 8, 2023, at 6:00 p.m.

Members Present: Mike Svasta, Edward Franks, Randall Roberts, and Peggy Sykora

Members Absent: Greg Seifert

Also Present: Rick Gardner, Jeremy & Ashley Lepke, Brett Kasper, Bob Vober, Ron Antal, Marla Schleider, Meagan Wojtanek, Maxwell Fineling, Kristen Boone, Dan & Diane Francis, Drew Reilly, Zack Cowan, and Mary Botts

Meeting called to order by Edward Franks at 6:00 p.m.

Approval of Minutes: Minutes of the April 10, 2023, meeting; motion to approve by Mike Svasta, seconded by Peggy Sykora, motion passed 4-0.

Attendees were sworn in.

Case #23-007

Request: This is a request by Robert Vober, applicant, to allow an accessory building at 3490 Oak Rd. to exceed the allowable size of a single building of 500 sq. ft. and of the combined floor area of all accessory buildings of 500 sq. ft. In addition, a variance is requested is from the minimum side setback of 10 feet for an accessory structure to be located 6 feet from the side property line.

The property has an approximate area of 0.37 acres and is zoned R-2 - Residential. The applicant proposes to construct a 576 sq. ft. building at 6 feet from the south side property line and approximately 50 feet from the rear property line.

The applicant is requesting the following variances:

1. Variance (76 sq. ft.) from the maximum floor area of 500 sq. ft. for a single accessory building on a parcel with an area less than 1/2 acre - C.O.S. Section 1143.07(b).
2. Variance (76 sq. ft.) from the maximum combined floor area of 500 sq. ft. for a combined floor area of all accessory buildings on a parcel with an area less than 1 acre. - C.O.S. Section 1143.07(b).
3. Variance (4 ft.) from the minimum accessory setback requirement for accessory structures between 500-800 sq. ft. – C.O.S. Section 1143.07(a).

Mr. Cowan said the property size is under ½ an acre, it is in an R-2 residential. We are here for three variances; one is for a side yard setback and the other two are for the size of the accessory structure. What they want to do is construct a 576 s.f. garage in the back yard. It will be 24' x 24' and be 6 ft. from the side property line south end, 4' from the rear and the maximum height proposed is just over 14'. The current existing condition is there is currently a garage on the house, the new garage will essentially just replace this. It will be 6' from the south property line, 10' is required. This does not show the entire property lines. The height elevation is 15'. Two of the variances have to do with size. Any property under ½ an acre can have the maximum of 500 s.f. for a single accessory structure. Similar to that, the combined area of all accessory structures cannot exceed 500 s.f. so what they are requesting is 76 s.f. variances. That is for any structure between 500 – 800 s.f. Again, they are proposing 6' from the 4' variance from the side property line.

Mr. Vober said we are putting an addition on the house which the permits will be filed tomorrow and we are knocking down the garage that we have now which is probably from 1920's or 1930's somewhere around there. It currently sits about 1' - 11" from the property of the neighbor. We are trying to do a 6' by pushing it back with the addition, we are going to have a deck on the back and we are going to swing out for a 24' x 24' garage that will sit currently right behind where the garage is now.

Mr. Franks said when I was out there, I noticed you had an accessory building. Mr. Vober said I see that 500 s.f. is what is required as it is right now but I am asking for the variance for 76 s.f. and I also have, which I did not know, is included in all that as I have a shed that is 10' x 10' or 10' x 12" that I currently keep all my fertilizer and gas cans and all that stuff in there and I keep that locked up so my grandchildren can't go in there. They have all their toys in the garage so I am asking for the variance for the garage for that purpose. Mr. Franks said so the point is for the second variance of 76 s.f. over the 500 s.f. allowable for combined structures, we actually have a second structure. Mr. Cowan asked what is the size of that shed? Mr. Vober said 10' x 10' I think, nothing bigger than that. I did pull a permit for it when I put it in four or five years ago. Mr. Cowan said given that, that added on to the total square footage of all accessory buildings comes to 176 s.f. Mr. Franks said 76 s.f. is 176 s.f. combined. Mr. Roberts said we like to ask what you are using your garage for, what is its purposes? Mr. Vober said the garage will be used for the vehicles to be enclosed, we have two vehicles, we also have all the grandkids' bikes and what not that go in there, our bikes as well and then on the backside of the garage where there is going to be a garage door open there, I will have my mowers and stuff in the back there. I like to keep all this stuff that is poison and everything else, locked up in the shed so there is no accessibility there. Mr. Franks said on the third variance for the 4' variance of the setback, point out that it is less than 2' now and he is moving the new building out to 6' so that is an improvement from the setback that now exists. Mr. Vober stated the existing 10' x 10' shed will be moved to the back property line, where the fence is, that is where the currently and I have 10' beyond that fence as well so that is where it will be moved to. Mr. Franks said to it will be at least 10' from the property line.

Motion to approve Case #23-007, Variance #1 – motion made by Randall Roberts, seconded by Edward Franks. Motion passed 4-0

Motion to approve Case #23-007, Variance #2 – motion made by Randall Roberts with an amended s.f. of 176 s.f., seconded by Mike Svasta. Motion passed 4-0

Motion to approve Case 323-007, Variance #3 – motion made by Randall Roberts, seconded by Peggy Sykora. Motion passed 4-0

Case #23-009

Appeal: The applicant proposes to have a tattoo parlor as a tenant in the office buildings at 4466 Darrow Road. However, tattoo parlors and personal services are not permitted in the C-6 – Office district. This application is to Appeal the determination that a tattoo parlor is a personal service, and that personal services are not permitted in the C-6 zoning district per Section 1145.02.

Mr. Cowan said this is at 4466 Darrow Road. Property is zoned C-6 for office and it is also in the Darrow Road overlay. The applicant is appealing the determination that a tattoo parlor is a personal service, which is not permitted in a C-6 district. Mr. Cowan said a little background, so two months ago, the applicant presented to the Planning Department to seek out city approval of the use of the tattoo parlor. They needed it for the approval for the County Compliance so at that time, they needed a Certificate of Occupancy and that is not a permitted use. We advised that they could have the option to appeal and that is why we are here tonight. Looking into C-6 permitted uses, that group is professional offices, medical offices, research and testing labs, financial establishments, and health and services. This is not an exhausted list of all the uses, it is just a representative of what has been in the past. In all your packets, you should have a complete list of them. What C-6 does not permit is personal services. In the code, it has examples of personal services; hair care, dry cleaning, shoe repair, self service laundry. In looking in the overlay, the overlay is basically additional zoning replacements. They may have different setback requirements but landscaping and the different list of uses, this list and D.R.O. is the complete list of permitted uses. Basically, the same thing as C-6, administrative offices, plans and professional offices such as legal or architectural, dental, medical and other offices for human care services, real estate, insurance and travel services. Determination of a tattoo shop does not apply to medical offices nor offices for human care services. It is a personal service and not permitted in C-6. The most recent uses that define property with occupancies are accounting offices, tax agencies, therapeutic massage businesses, and financial establishments. Some of those uses, I think, the most recent one was 2019 and before that 2013 and the rest of those occupancies we had were in the early 2000's. Mr. Reilly said from the Law Department's perspective, because the Board doesn't typically hear administrative appeals, although we have had a rash of them over the last month and a half, just a reminder you are ruling on this determination of just this tattoo parlor, not tattoo parlors as a use so you are hearing the facts of the case as the applicant would provide in determining whether or not it is a personal use or a human care services, so just as we are setting the legal parameters of what you guys are determining. Mr. Franks asked has there ever been a conditional approval given for any of these other personal services in that complex for hair care? Mr. Cowan said the ones that were noted were in the applicant's application. Mr. Antal said there was a hair care salon that was in previously in Ross Commons. Mr. Cowan said I did not see a Certificate of Occupancy for that.

Mr. Antal said there currently are offices but there is also a couple of people who do massages. There is one that has been long standing, that is hair removal, so there is now two hair removals that are located in the complex so our position, we certainly understand most people have when they think of tattoo parlor, and to be honest, even myself, when we were first approached about it, I wasn't sure this was the right fit, I didn't think you could be in an office complex. The more we talked about it, he kind of explained what they were doing and the potential services they were providing and I provided more information. A lot of what they are doing is therapeutic and kind of medical. Mr. Fineling said we are more with trauma care and therapeutic tattoos. Outlined was a list of ways that are operable from addiction to grief and pain management, remembrance and things like that. Mr. Antal said the two on the lease are here and in fully honesty, I didn't actually realize that you had to get approval first so that is how it came up when he said the Summit County Health Department needs a letter and the next call was to the department and said we just need a letter and that is how we got here today so we do have a seven year signed lease and I was not aware of that at the time when we did this. Meagan is the partner. Mr. Fineling said so the main ways we think of as a tattoo parlor, we have been using language of a tattoo studio, we want to think privacy away from the loud noise, away from the walk-ins. Something like we can bring in our clients that have gone through these issues who need this assistance. More or less if we want to cover something up. We want to have a quaint profession and that is what we want to protect. We want to change beyond what you think of when it comes to tattoo artists. We want to portray an air of professionalism in the best way and the best way we found that is through Ron's property. We cover up scars from not only self harm but also from surgery. Those are probably the most common ones we do so if something has surgery and has nasty scars, we cover them up and make the person feel comfortable about themselves. Mr. Antal said can you talk about the process because I just assumed you wanted walk-ins and I guess in the tattoo industry, the walk ins are like the equivalent of iceberg lettuce, not that there is anything wrong with iceberg lettuce. We are only working with one or two people a day in a very ultra quiet place months in advance so our process is clients reach out to us looking for our specialized services. We reach out to them, set up a consultation which is an hour long consultation, we sit down to see what the intent of the tattoo is. Does it cover something, does it remember something? From there, we look at ways. At artists, we are working as artists. We go ahead and get the art together and prepare for the cover or the remembrance. Then on the day of, we set up 4-5 hours with the client, that is how long they usually take. This gives us plenty of time to make changes, make sure they are comfortable and take the breaks that are needed. Instead of rushing through, we want to take our time in the same way that professionals surrounding us do. Mr. Antal said I included all those photos of the office and what it will look like. It is probably more similar to medical chairs that a person sits in. Also in support, Rick Gardner, who leased it out, if you need any information, is here. As you know, the market right now for office space is flooded so the building from the time that I purchased it, had been empty for about six months or so. I am trying to find tenants to lease the space, the demand wasn't there to do that. We also have Kristen, who is an attorney, here. There are actually five building in Ross Commons. Two in the center are suites 225 and 224, currently 224 is vacant as well. We talked to everybody in Ross Commons. I am the President of Ross Commons Association. We did not receive anything back that was negative. Mr. Franks asked the center building that you are in, there are two suites, what is in the other suite? Mr. Antal said it is vacant. If this is approved, Max says he is actually interested in that space as well to expand. Mr. Fineling said he would eventually like to in more focuses, as artists, there are

limitations to what everyone's artistic focus is and we would like to expand with more like-minded people, a professional environment. We would like to get the resources to nail home that professional fixing of this industry stereotypes and stigma. Mr. Antal said we understand what the stigma was and that is why we have talked about it also. It's not going to be a neon light place, it is regular business hours and Saturdays. They want a very professional environment. Mr. Gardner said when we first started looking, I ran through, when we looked at a few of those, they just were automatically zero on that, they didn't want any like that at all, they wanted something that looked more like a medical office. That is how we ended up here. We didn't want to look at the regular kind of places where you want a tattoo. They were looking at something more professional and more medical based. Mr. Antal said in Ross Commons, we can only have one sign and you are not allowed to do your own signs, the name of the company that is outside the door. Mr. Fineling said we don't need to put up advertisement and billboards and all that stuff, we are looking to build trust within our clientele. Mr. Svasta asked if they had an existing studio? Mr. Fineling said we do not. We are coming from a shop together that was kind of what you guys assume what a tattoo shop is and we intend to introduce this idea of therapeutic tattooing that is focused on healing, and it didn't fit well with that so that is why we started this endeavor. To find a place that fit well within that sphere. Ms. Sykora said so you two are the primary service providers? Mr. Fineling said as of now we are the only ones. Ms. Sykora asked if they had an established client base at this time? Mr. Fineling said yes. Ms. Sykora asked what that number is? Mr. Fineling said for about 3 months, that is not the entirety of it but that is what we use so you can say that every month I tattoo 22 days, at least 2 people each day so we are looking at 88 to 150 people for those three months. My clients as a whole would be 3,000 who I have tattooed within the last two years. Ms. Sykora said is that prepaid? Mr. Fineling said yes, a deposit is required. Mr. Svasta said if someone just wanted a decorative type tattoo. Mr. Fineling said we are not denying that but if we have people who are in our focus on our door, that is the individual we are answering to, so people who are reaching out to us for our purpose that those are the people that are first come first served. Mr. Fineling said every year that goes by our list gets longer. I have friends and colleagues that are booked out nine months to a year. Ms. Sykora asked if they specialize? I understand the different types but in medical there are certain specialties? Mr. Fineling said Meagan and I both focused on scar cover ups, that is the most common, however, Meagan has experience with trauma related events, and handling those people within our environment, can give them the care before and after the tattoo. For me, I have family who have struggled with drug addiction so that is a real thing in my life so helping through that is a very big thing for me.

Mr. Roberts said so the business that you two are establishing for this tenant space, what is the given name for the business? Mr. Fineling said Arcana. Mr. Roberts said are you set up as an LLC? Mr. Fineling said yes. Mr. Svasta said I was thinking along the lines of a conditional use permit and would be a more appropriate thing, is that something that we can consider? Mr. Cowan said this is not a conditional permitting use so it is outright not permitted. The determination is as a personal service. Mr. Reilly said the Board can decide that no, the Zoning Department got it wrong, it is not a personal service. Mr. Antal said for clarification, if we have to go another month, they will have to find another space only because of business purposes to do it so time is somewhat of the essence. Mr. Fineling said we are hoping to have this more in the services because of our focus so that massage therapy is in line. I have certifications while the health board is also strict, we are also strict ourselves. We want to be beyond reproach which

I cannot say for a lot of shops I have seen. Mr. Antal said one thing a lot of shops are tattoo and piercing, they are not doing any piercing. Mr. Svasta asked if Mr. Fineling was a resident of Stow? Mr. Fineling said he was not but I intend to move out here. I currently live in Ravenna but have been looking at places to open a business in Stow as it was the most appealing. I wanted to stay away from Kent or Akron away from foot traffic centered.

Motion to approve Case #23-009 appeal, motion made by Peggy Sykora, seconded by Edward Franks, motion passed 3-1 (Nay's Mike Svasta).

Case #23-010

Request: This is a request by Brett Kasper, applicant at 4620 Seminole Circle, to allow an accessory building to exceed the allowable size of a single building of 500 sq. ft. and of the combined floor area of all accessory buildings of 500 sq. ft.

The property has an approximate area of 0.37 acres and is zoned R-3 - Residential. The applicant proposes to construct a 572 sq. ft. building at 10 feet from the south side and rear property line. The applicant is requesting the following variances:

1. Variance (72 sq. ft.) from the maximum floor area of 500 sq. ft. for a single accessory building on a parcel with an area less than 1/2 acre - C.O.S. Section 1143.07(b).
2. Variance (72 sq. ft.) from the maximum combined floor area of 500 sq. ft. for a combined floor area of all accessory buildings on a parcel with an area less than 1/2 acre. - C.O.S. Section 1143.07(b).

Mr. Cowan said this is a request for an accessory structure, acreage is under 1/2 an acre, zoned R-3 single family residential and this request is to exceed the allowable size of 500 s.f. This property sits at the end of a cul-de-sac. They are requesting to construct a 572 s.f. garage, 22' x 26'. It will be 14' to the peak of the garage and set back 10' from the side and rear of the property lines which meets the minimum requirement. The only variances needed is to exceed the size of the single accessory structure. It is structurally located in the southwest corner. Diagram shows side view which drops behind the house. A birds eye view of the property shows the back.

Mr. Kasper said we are going to build a 2 car garage in the back yard. I inherited my father's classic car and I need space to store that in addition to another car so we are kind of looking for additional storage space for cars. We are going to be putting in a car lift in the garage. My sons and I do pretty much our own maintenance on our cars, my daughter changes her oil and things like that so we need a space where we can spend time with my kids and also maintain my cars and a place to store them in the winter. I do have, similar to what you showed, and I just wanted to point out, the detention pond that is 1.7 acres behind the property and then you see the red square represents where the proposed location of the garage and the only neighbor that is really affected is at 4614. Pretty much a lot of our neighbors have been there for 25 years and the same neighbors and with speaking with them, they see no problem with the garage and we are going to be using a geogrid type product for the driveway so it will be a grass driveway because it is not an everyday use drive, it is more for a Sunday drive kind of thing so it won't look as ugly as

concrete might be. Also, I would propose, if you would, here, I have an amended drawing to share with speaking with Mr. Franks yesterday and Mr. Cowan this morning, if it would be permissible to also add to the variance, 5' on the side property line, the neighbor at 4614 Seminole has a chain link fence which is 10' on to their property line so for me to have this garage 10' on my property line puts 20' of space there that is really not used well or utilized and would be more efficient and more pleasing for us to shift that garage a few feet closer to the property line to give our back yard a little more space and take care of the space in between the garage and their chain link fence that doesn't get utilized. We can have a discussion if we can vote on as well or if there is another process we have to go through. Mr. Cowan said so they have pushed it to 5' from the property and is cause for an additional setback would be a 5' variance. Mr. Svasta said I noticed a shed to the back yard, 14' x 10', is that yours? Mr. Kasper said yes, I didn't realize that was part of the 500 s.f. so according to the first case, there would have to be an additional 140 s.f. onto the 72 s.f. variance. Mr. Svasta asked if Ms. Botts had heard from 4614 Seminole Circle? Ms. Botts stated no, no other neighbors had called. Mr. Kasper said he had spoken to the immediate neighbors and no one has any concern that they have expressed. Mr. Svasta asked if there were any other changes? Mr. Kasper said no. Ms. Sykora asked if this was metal? Mr. Kasper said it would be a concrete pad with a steel building that is put up in a couple of days. Ms. Sykora asked if it would have electric. Mr. Kasper said only electric, no plumbing but gas for the heat will be installed.

Motion to approve Case #23-010, Variance #1, motion made by Mike Svasta, seconded by Randall Roberts. Motion passed 4-0

Motion to approve Case #23-010, Variance #2, motion made with amendment from 72 s.f. to 212 s.f., by Mike Svasta, seconded by Peggy Sykora. Motion passed 4-0

Motion to approve Case #23-010, Variance #3 added for 5' side setback, motion made by Mike Svasta, seconded by Peggy Sykora. Motion passed 4-0

Case #23-011

Request: This is a request by Dan Francis, applicant, at 2599 Sherwood, to allow an accessory building to not meet the minimum setback requirements and maximum height requirement for a 1,200 sq. ft. structure. A 25-foot rear and side yard setback and a 150-foot setback from the right-of-way is required for structures greater than 800 sq. ft. In addition, accessory structures shall not exceed 15 feet in height. The property has an approximate area of 1.73 acres and is zoned R-3 - Residential. The applicant proposes to construct a 1,200 sq. ft. (30'x40') building at 6 feet from the side and rear property lines with a height of 17 feet to the peak.

The applicant is requesting the following variances:

1. Variance (19 ft.) from the minimum accessory structure rear & side setback of 25 feet – C.O.S. Section 1143.07(a)
2. Variance (16 ft.) from the minimum accessory structure right-of-way setback of 150 feet – C.O.S. Section 1143.07(a)
3. Variance (2 ft.) from the maximum accessory structure height of 15 feet – C.O.S. Section 1143.07(c)

Mr. Cowan stated the property is at 2599 Sherwood Drive, acreage is 1.73 acres, zoned R-3 single family residential. They are here for 3 variances for a garage, one variance is to not meet the minimum setbacks. The one setback is the right of way setback from the right of way and the last one is to exceed the maximum height of 15 feet. This is on a cul de sac and one of the larger properties in the neighborhood. They are proposing to construct a 1200 s.f. three car garage so that would be 30' x 40', maximum height is 17' and is proposing 6' from side and rear property lines and 134' from the right of way. The code does allow for this size of garage, maximum is 1200 s.f. for a single accessory structure for more than one acre so that complies with that. Site plan shows the garage extending past the house in the back. The driveway would extend out to the rear and garage is 6' to the property line and 6' to the sides. The rendering is showing what it would look like (on screen). The variance #1 a structure over 800 s.f. requires a minimum of 25' setback, rear and side. 6' is proposed thus the variance is 19'. #2 variance structures over 800 s.f. require a 150' setback in the right of way. This would be around 134' back so a 16' variance. Variance #3 is the maximum height of 15', is requesting 2' variance.

Mr. Francis said essentially everything the last guy said. The vehicles that we have, one was my dad's, a 1941 Ford that is fully restored, she (wife) has her own 1970 GTO. She hasn't used our garage attached to the house in over 10 years, so I am being pushed to do this. The 2' variance in height is because there is an elevation change in the back of the property so when we build the foundation, it will have 4 courses of block bringing up 2' and that is to allow the earth around to settle around the foundation. The reason we want to build so close to the back of the property, there were some in the appendix pages in the package from 2001, but essentially that common property, when they built a final cluster home, they were supposed to build a natural fence and fill that with evergreens and things like that. When we bought the house in 2005, we were told that and I got all excited in 2006 when they started building that and then it stopped, the company went bankrupt so they didn't have to comply to what they agreed to do so we never got our natural fence. If you look at the one picture of the property, the trees from the property have all come through our fence. One of the things that were pointed out in the 2001 meetings were the people who owned our house and others along that property line were very concerned that the trees on the property, everything that was foreshadowed actually came true. Over the last 15 years, we have removed over 60 trees from the property, and most of that is through wind. I have got this big open area that I can actually build a garage on and the rest of the property is just saturated, it is all clay. There is a culvert in one corner of the property where the water runs to. Getting a vehicle back there, a have a 4-wheel drive and got stuck back there one and I don't want to try to get a classic vehicle back there. Mr. Franks said the fence that is along the back, is that yours? Mr. Frances said yes and you can see the patchwork. If I am sitting on my deck, I am looking at their bedroom windows and there was a variance when they built too. They didn't build 25' off the property, they built 12' so they are already close to us through their variance. If we build further onto our property, there is just going to be a fence space there. I am not going to do anything with it, they aren't going to take care of it. Ms. Botts stated we haven't heard from any neighbors. Mr. Franks asked Mr. Cowan if there was any problem with the multiple buildings, the 192 s.f. shed plus the 1200 s.f. garage is all right? Mr. Cowan said the accessory area is 1500 s.f. for over one acre so that is fine.

Motion to approve Case #23-011, Variance #1, motion made by Peggy Sykora, seconded by Mike Svasta. Motion passed 4-0

Motion to approve Case #23-011, Variance #2, motion made by Peggy Sykora, seconded by Mike Svasta. Motion Passed 4-0

Motion to approve Case #23-011, Variance #3, motion made by Peggy Sykora, seconded by Mike Svasta. Motion Passed 4-0

Case #23-012

Request: This is a request by Ashley Lepke, applicant, to allow a 6-foot privacy fence in the front yard on a corner lot at 2195 Conwill Rd.

The property has an approximate area of 0.29 acres and is zoned R-3 - Residential. The applicant proposes to install a 6-foot privacy fence in, what is considered by code, the front yard approximately 19 feet from the Klein Avenue right-of-way and 9.5 feet from the Conwill Road right-of-way. The front yard is defined as the area between the right-of-way line and the dwelling.

The zoning code allows fences in the front yard to be constructed up to 4 feet in height, except that no vision impairing fence, or wall greater than 18 inches shall be located 20 feet of a street right-of-way.

The applicant is requesting the following variances:

Variance from the fence height (2ft) and type requirements to allow a 6-foot privacy fence in the front yard. - C.O.S. Section 1143.07(e).

Mr. Cowan said this one is at 2195 Conwill Road. The property is under ½ an acre and is zoned R-3. The request is to allow a fence of 6' height and the height allowed in a front yard is 4'. They would like to put a 6' white vinyl privacy fence in the front yard. It will be 19' from Klein Avenue and about 9.5' from Conwill Road. It will be on a corner lot where there are two front yards and is defined as the area between the driveway and the dwelling and it is measured out at essentially 75% of the property is considered front yard. When I look at the satellite image, the green mark is where they want to put the fence and will be located out of the site triangle on the corner. Front yard fences are allowed to be up to 4' in height up to the property except that no vision impairing fence can be used within 20' of the right of way. The wall of the house and the right of way is the front yard and can't be higher than 4' and between the driveway 20' you have to be able to see through the fence. So this variance is for a 2' height fence.

Ms. Lepke said as you can see, we have a lot of stuff going on in the backyard. I have a little one and he always has his friends over and a new puppy so we were hoping to, now that we have saved up the money to be able to afford a fence, we are hoping to fence that in for safety reasons and to make sure the kids aren't going too close to the street on the Klein side because once they are past that pool, you can't see what they are doing so I want to have that back fenced in so that we feel like they are not just going to run out into the road or the dog is going to run out in the road. Everything that they are playing with is not going to just make its way into the ditch or out into the street. We were hoping that we can get the variance approved for a 6' fence instead of a 4' and I believe it is exactly one foot off of allowing that picket so they wanted a 4' picket fence for basically that entire back 50' stretch and it will go up 1' and then it would transition to the

non-picket privacy 4' for another 10' and then it would go to like a 6'. We just think that is going to look really strange and awful so we have been talking to our neighbors and they think this is going to look great. Everybody would be happy if we can get a fence put up because they think it would make that corner look more aesthetically pleasing instead of seeing my water slide and my trampoline and everything like that. That is what we are requesting. I did want to mention that I know this part may not matter, but you do get 17' of devil's strip or curb from the sidewalk to the street so you have 17' plus the 19' so you really have 36' from the street to where that fence is going to be so in no way is it going to create a blind spot, not to mention that our entire property, as you can probably see, all my many trees, the fence would be on the inside of the entire tree line so it wouldn't be causing any problems so it would be well within that tree line too because we have to avoid those roots. It would be such an awkward space, we have no room on the back of that house to really utilize that so we use that side yard which is defined as our front yard that is actually our back yard play area.

Mr. Roberts asked what is the plan, the construction when you say privacy fence, we have a lot of pictures in our mind; some are wood, some are vinyl. Ms. Lepke said it is going to be a white 6' vinyl fence. We have lived there for twelve years now and when we first moved in we wanted to get a fence but we couldn't afford it and so we saved and once we realized that we had enough, we didn't know that it wasn't going to fit into the scheme of what was allowed. We ground down the tree stumps, I think we removed from that tree line to try to make sure those other trees around can grow well and they are not crowded. We removed about 14 trees and had all the stumps ground down so that it is ready to go and suitable for a fence to go up. Ms. Botts said we had one call from Howard Morgan who was for the fence. Ms. Lepke said he lives on our right side and we usually have about eight children at the house at a time which some people would rather not see them running around, kicking balls everywhere so I am sure Howard wants the fence. We plan to do something nice for the outside of that fence so it is more aesthetically pleasing. Ms. Sykora asked if Ms. Lepke ran a daycare or are you just "the house"? Mr. Lepke said I pick him (his son) up from school and I have kids waiting. Ms. Lepke said we have five kids that always come over and then three that come down from on the other side of Howard's so we are kind of like the central meeting zone for all the little ones to come and play so we are hoping to create a safer space where they are not by the sidewalk. I don't like them being that close to the street. Mr. Franks said this comes up a lot on corner lots, everybody has two front lots and you can't build a fence so we have given in quite a bit on this type of request. I will make one request of you, the fence you are showing is about 9.5' back from the right of way line on Conwill, just go 10'. We have approved at least 10'. Ms. Lepke said I don't know why I didn't stop right at 10'. Mr. Franks said if you do 10' then you are in conformance with a couple of the other variances that we have given and it doesn't look like favoritism. Ms. Lepke said that is no problem. Mr. Svasta said I would like to reiterate what Mr. Cowan said about since you have a corner lot and it is mostly front yard and scales off to 75% of your property is considered front yard and that is a hardship and that is what we look at, what is the hardship and is there any way we can remedy that.

Motion to approve Case #23-012 made by Mike Svasta, seconded by Peggy Sykora. Motion made with amendment to include condition of 10' distance off of Conwill Road. Motion passed 4-0

Other Business: Meeting Minutes – Mr. Svasta said regarding the meeting minutes, the draft minutes. The reason I bring this up is last month we had a meeting with 20 pages of meeting minutes and in the e-mail, Mary Botts asked please review this as people were asking for them. Mr. Svasta thought that we should not post those until those are approved. Mary Botts said the reason was is because what I usually do is type of the minutes and then send them to the board for any changes and review. Then they go out in an e-mail and published on the web page. The only other thing I think we can do is put “Approval of Minutes – Draft” and then we approve it here, then they will go on the web page. The only reason that case was because of people requesting the minutes. Mr. Svasta said last week we had a lawyer and I was thinking worst case, the lawyer was asking for them. It was not the lawyer for one of the cases that requested the minutes. Mr. Svasta said why not put “Draft” or “Preliminary”. Ms. Botts said she could, do you want me to put the watermark “draft” on and post it? Mr. Reilly said I think Council does it the same way, they put draft minutes up and then after they are approved they notify it as approved. Mr. Roberts said when I saw that come out, the first thing I thought of is the case where we were talking about where they were being represented by an attorney and they were looking for something, maybe nothing more than clarity but I think to protect the City, to protect the Board, the correct way is to put the watermark “Draft” subject to approval by the Board at the next available meeting or maybe two months down the road. The other thing I was thinking of is those are just our minutes. I will bring up as I sit on one, should we have a final order from the Board of Appeals where we can vote on it and that final order could be the document that says, this particular case was voted by the vote, yes or no, and is signed off by the secretary makes the document legal, it is on record. I just look at that and I am thinking that protects a lot more extensive people in the City than just this Board. Mr. Cowan said what do you mean by the final order? Mr. Roberts said so when we get done tonight with the case, it will say case #, what it was, what the variance was, what the vote was verified by the board secretary and it is a final order for that says we made a statement that was approved or disapproved based on the vote because being at the state level, when we do commercial projects down at the state, final orders and I advise other boards, BZA’s and I advise board of building standards cases, that always completes the circle. Mr. Reilly said we can draft something between the Law Department and Planning and present it at the next meeting. Mr. Roberts said I can send you something. Mr. Reilly said about having a city e-mail, you will have access to all the city internal outlooks.

Mr. Roberts said the last meeting that we had, unusual as it may be, but then again, just like the fences we look at or the garages we looked at tonight, 2-car garages is 576 s.f. I am surprised that we had one that was a little less. Mr. Cowan said I haven’t seen many under 500 s.f. Mr. Roberts said common is 24’ x 24’ for a 2-car garage. Mr. Franks asked if there was any chance of getting that ordinance amended? Mr. Cowan said we are working on the zoning right now. Mr. Reilly said the purpose of the BZA is to grant variances outside of the norm but the norm is you have to grant it for every single one of them so we should change the code.

Adjournment: With no further business to be discussed, motion to adjourn by Randall Roberts, seconded by Edward Franks, meeting was adjourned at 7:15 p.m.

Edward Franks, Chairman

Mary Botts, Secretary