

MINUTES
REYNOLDSBURG BOARD OF ZONING
AND BUILDING APPEALS
SEPTEMBER 16, 2010
6:30 P.M.

A. CALL TO ORDER

1. ROLL CALL

Members Present:	Mr. Lucas Haire
	Mr. Patrick Feeney
	Mr. David Stoffel
	Mr. Norman Brusk
	Mr. Anthony Rettke
Members Present:	Mr. Matthew Hansen, Planning Administrator

2. APPROVAL OF MINUTES OF AUGUST 19th.

Chairman Brusk: Are there any corrections, additions, deletions?

Mr. Hansen: Actually I have just one correction. Where I spoke on page three, the very last sentence of the first instance where I speak. It says, "Staff finds no reason to support this variance" and it should read "not to support this variance." So there was a deletion.

Mr. Brusk: Okay. Any other changes? (No response.) If not, we'll declare the minutes approved as amended.

3. APPROVAL OF AGENDA

Mr. Brusk: I see we have a new agenda than the one that was sent out and I was going to bring that forward, so I'm glad you did make that correction. Are there any other changes?

Mr. Hansen: No.

Mr. Brusk: All right. Seeing no other changes we'll approve the agenda.

4. SWEARING IN OF SPEAKERS

(Mr. Brusk administers the oath.)

5. PUBLIC COMMENT

Mr. Brusk: Is there any public comment? Anybody out in the public want to say anything? (No response.) Okay.

B. UNFINISHED BUSINESS

1. SPECIAL EXCEPTION APPLICATION, 6006 E. LIVINGSTON AVENUE, REYNOLDSBURG, OHIO; PRESENT ZONING, CC; PRESENT OWNER'S NAME, TERRY S. BROWNER; REQUESTING A SPECIAL EXCEPTION FOR AN EATING AND DRINKING ESTABLISHMENT. CONTACT: STEVE KHOURY (43-SE).

Mr. Brusk: First of all, is there anyone here for that? Because if not, I don't think that we're going to waste the time to go through it.

Mr. Hansen: No. It does not appear that the applicant is—

Mr. Brusk: Did they withdraw it? Did they call? Did they do anything?

Mr. Hansen: I spoke with them yesterday and they had a family emergency, but were going to – was going to try to send somebody but—

Mr. Brusk: I move that we take this – what's the word I want to –

Mr. Hansen: Well, we have to make a decision on it.

Mr. Haire: Have to take action within 45 days. The application – it was submitted on August 11th, so we are required to take action.

Mr. Brusk: Then I am going to move that we reject this motion. Well, I'll move to do it but my – I'm going to vote against it. I am very unhappy with them. They have no right to keep us on a string. If they don't want to do it properly, I don't want to be bothered with them.

Mr. Haire: The applicant's brother did pass away actually Tuesday of this week, so that's why they're not here this evening.

Mr. Brusk: Yeah, well, I guess I should pull back a little bit then, huh? All right. I'll tell you what. I move that we again – can we again? No, we can't?

Mr. Hansen: Unfortunately not. We have to make a decision.

Mr. Brusk: I don't know how we can make a decision when we don't have the information that we need. They're going to have to re-submit. I move at this point on the special application to approve it, but I am going to vote against it. Are there any other comments?

Mr. Rettke: The only thing I was wondering is since he did have a pretty big family emergency – when does the application run out? I know we’ve had special meetings sometimes. I don’t know if that’s an option. I mean—

Mr. Hansen: It’s 45 days, so—

Mr. Haire: It’d have to be within the next week or so that we’d have to take action, so we wouldn’t be able to get it posted in time to hold the special meeting.

Mr. Hansen: There could be an appeal to City Council?

Mr. Haire: Yes.

Mr. Hansen: Is that correct? So they can always appeal to City Council and City Council can take up the case and—

Mr. Brusk: With that in effect we’re going to have to vote on it today. So if we vote “yes” then they get the approval even we don’t know what the thing’s all about, or if we vote “no” then they have to go to Council.

Mr. Feeney: And explain their situation.

Mr. Hansen: Yeah. And there’ll be a full hearing in front of Council.

Mr. Rettke: Or they can re-apply?

Mr. Brusk: Exactly.

Mr. Rettke: Okay.

Mr. Brusk: They can re-apply, right?

Mr. : With more _____

(inaudible)

Mr. Brusk: _____, there’s a date restriction and they have to pay the fee again.

Mr. Hansen: Yeah. I’d have to what that date – I don’t know off the top of my head.

Mr. Brusk: Yeah. But’s it’s not—

Mr. Hansen: Very rare that something like this would happen.

Mr. Brusk: But we can't do another delay on it so.

Mr. Hansen: We cannot table it.

Mr. Brusk: Okay. Do I have a second on my motion?

Mr. Rettke: I'll second that motion.

Mr. Brusk: Is there any discussion on it before we vote on it? (No response.)
Can we have the vote, please?

(Mr. Hansen called the roll. Mr. Rettke voted "no." Mr. Brusk voted "no." Mr. Stoffel voted "no." Mr. Feeney voted "no." Mr. Haire voted "yes.")

C. NEW BUSINESS

1. VARIANCE APPLICATION, 654 KELTON CREST ROAD, REYNOLDSBURG, OHIO; REQUESTING A VARIANCE FROM REYNOLDSBURG ZONING CODE SECTION 1171.06(c) TO PERMIT A NON-CONFORMING FENCE FORWARD OF THE STREET SETBACK. CONTACT: NATHAN LEMON (75-ZV).

Mr. Brusk: Who is speaking on that? Would you come forward, give your name and address and then we're going to wait for a brief review done by Matt on the overhead.

Mr. Nathan Lemon: Sure. My name is Nathan Lemon. The address is 654 Kelton Crest Drive.

Mr. Brusk: Thank you.

Mr. Hansen: If you look here on the screen, the lot is on Kelton Crest Drive, but it's a double fronting lot. It fronts onto Kelton Crest and it also fronts onto Summit Road. Two-lot and in this situation any setbacks for buildings and accessory structures, which fences are considered accessory structures, have to meet building setbacks. On Summit Road the building setback for a residentially zoned property is 30 feet. So the applicant acquired a fence permit. The fence permit permitted building of a fence at 25 feet. Now, this was approved by the staff in error. If you look here on the screen, 25 feet is the yellow line. Now, just moving for a – we could permit construction fence at 25 feet since it was permitted in error, even though it's supposed to be at 30 feet, which is where the green line is. When the applicant began construction of this fence, he started construction at the blue line and staff was notified that the fence seemed – it was closer to the street than other fences adjacent to them and so we notified them and explained the situation and I believe the applicant has another explanation that he can go further into. But the fence is, I believe he indicated 11 feet from the rear property line.

If we look at the considerations for maybe approving this variance, it was permitted at 25 feet, so we could give a variance for up to 25 feet. If a variance is granted, it could change the character of how Summit Road is perceived, considering that all adjacent setbacks still maintain that 30 feet from the road right-of-way and not the edge of pavement. The variance does not establish a use which is specifically prohibited, so that's not an issue. Staff does not really see any special circumstances applicable to the land or the structure in which the fence can be constructed in the appropriate location. There's no practical difficulty that's established from the request of this variance. If the fence was placed at the permitted setback, the fence still could be built. It doesn't impair any adequate supply of light, air to adjacent properties which would endanger the public in any way, but it would confer a special privilege upon the property owner which is denied by the zoning code from other property owners involving fences.

Here's the house here. This is the back of the house and you can see that the fence is going to be a 4-foot fence. It's a privacy fence, so it will be completely opaque. Now fences are permitted in the front yard and he must have certain design characteristics that they're open in nature, they can only be in lengths of no greater than 36 feet, they can be no taller than 36 inches high. So since this fence is located in the front yard, technically, because it's a double-fronting yard, it would need to meet those fence regulations. Here's looking down south towards the fence and you can see the adjacent fence here on the right where the neighbor's is setback 30 feet from the right-of-way, which the right-of-way probably occurs somewhere along here. And this is looking north. The fence is obstructed from the trees by a little bit. Just a closer view of the fence. This was the permit that was granted for the construction of the fence and this is where the fence was drawn to be located 25 feet from the property line and then this indicates a 25 foot easement here. Note this was permitted in error. It was supposed to be 30 feet. This was the drawing that the applicant submitted. Sorry, it didn't really scan in too well, but if you look here, he'd altered the original permit just a little bit. Let me explain it. This line here shows the edge of where Summit Road is and he's indicating that this is 22 feet to his property line and from his property line the fence is constructed 11 feet 7 inches, so this is not really shown to scale. You can see this down here. And I can answer any other questions for the Board.

Mr. Brusk: Yeah. Reading the article, there was a number of references that he had asked the City to come out and be sure that everything was correct. We have documentation that shows that?

Mr. Hansen: No. There's no documentation as far as that. There were direct conversations with the Planning Administrator preceding me.

Mr. Brusk: And was – you don't know what – what was his statements? Did they correspond to what we have?

Mr. Haire: All we have is the permit.

Mr. Hansen: Yeah.

Mr. Haire: The permit that was issued that the applicant submitted that showed a fence that was located 25 feet from the property line.

Mr. Hansen: The other question was between the planning administrator and Mr. Lemon was where was his property line.

Mr. Brusk: Exactly.

Mr. Hansen: And I guess that maybe it was conveyed wrong when he spoke with the previous planning administrator. I don't know. It could've been a mix-up of terms or the—

Mr. Brusk: We haven't talked to the previous planning administrator about this.

Mr. Haire: He wouldn't recall.-

Mr. : Yeah.

Mr. Brusk: And we didn't documentation--

Mr. Haire: He gets a couple hundred fence permits a year so.

Mr. Hansen: Yeah. I mean this is the only documentation that we have.

Mr. Brusk: Would you care to bring any--

Mr. Lemon: Yes. When I originally acquired the permit I had several conversations with the previous planning administrator as is noted in the article and I inquired where the fence should be needed to be built, how far in it needed to be, and it was clearly stated that it needed to be 25 feet off the road. And I asked several follow-up questions to that, recognizing that my neighbors had built fences that were significantly further in off the road than 25 feet from the road. And he said, "Yes, 25 feet from the road." I had multiple conversations with him in order to establish this. He even went online and looked at satellite views—not while I was standing there, we were having phone conversations. And said, "As long as you are around those pine trees" – that you show, saw – I don't know if you recall, but there were some shots of where the pine trees are and the fence is obviously behind those. "As long as you're around where those pine trees are you're fine. If you're in line with those or just inside of them you're okay, that there would be no issue." I asked -- this was prior to the resurfacing of Summit Road. "What do you consider the edge of Summit Road to be? On the edge of the pavement or the edge of the gravel that lines it?" Because at the time it was a lot wider with gravel than it is now and so that would be, you know, 6 to 18 inch discrepancy. He said the edge of the pavement is where you need to be 25 feet from. He was emphatic and clear. I didn't see a need to get written documentation because

he was so clear and consistent from the start. I kind of harassed him in inquiring to ensure that I didn't invest thousands of dollars in a fence that I would then have to remove and so that I would be compliant. So I received indication that was clear and concise as to where it needed to be. Even when I came in to get the permit I asked again. He said, "Yes, as long as you're in line with those trees you're good." And so I came in to renew the permit this year, found no – saw no reason. I didn't know there was a change in planning administrator and so I saw no reason to re-clarify that this year and received permission to go ahead with the existing permit and build the fence. And so I did according to the counsel I had received very clearly from the representative of the City.

Mr. Brusk: Any questions?

Mr. Feeney: So you're asking for a variance so you can put your fence 11 feet inside your property?

Mr. Lemon: Yes.

Mr. Feeney: That's what you want to do? Where it's being built right now?

Mr. Lemon: Right.

Mr. Feeney: Okay.

Mr. Haire: Mr. Lemon?

Mr. Lemon: Yes.

Mr. Haire: The drawing that's up on the screen now, the permit drawing – did you draw the fence in that location?

Mr. Lemon: Yes. And when I was—

Mr. Haire: Okay. And didn't you see that it says 25 foot easement on the rear there when you drew it in?

Mr. Lemon: Yeah. And when I was speaking to the previous planning administrator, he indicated that a 25 feet easement off of the road and not off of the property line and that was a verbal discussion again. I didn't see a need to get writing because it was very, very clear from the start.

Mr. Haire: Okay. Were you aware of where your property pins were?

Mr. Lemon: Yes, which is why I actually asked. I said, "Well, my neighbor was told he had to be about 50 or 55 feet off, because my neighbor who had built a fence five or six years earlier had obviously had it more set off of the road, which is why I

asked so many clarifying questions, because he had been told he needed to be 25 feet off the road plus another 30 feet off his property or something of that nature. He's moved since then, but he had been given that counsel and that's why I was so emphatic to ensure that I didn't put a fence in the wrong place. And so I'm asking that I be allowed to put the fence in based on the counsel I had received from the City.

Mr. Brusk: How did you find out that you were in violation?

Mr. Lemon: I received notification from Mr. Hansen.

Mr. Hansen: I wrote a letter.

Mr. Brusk: And how did you find out that he was in violation?

Mr. Hansen: Code Enforcement Officer.

Mr. Brusk: Okay.

Mr. Haire: Mr. Lemon, I guess where my confusion is, is that if you knew where the property pins were – submitted a drawing that shows a fence 25 feet from the property line, yet you constructed it at 11 feet from the property line.

Mr. Lemon: Um-um.

Mr. Haire: I guess that's where I'm confused here.

Mr. Lemon: Yeah. I see your confusion. As you phrase it that way, I understand. My understanding of the drawing was that the back line was Summit Road and my pins are approximately 25 feet off. I didn't measure them at the time. I didn't measure them until I had to come in for the variance. So I assumed that that second line in from the rear, which would be what – the east in the way my lot's aligned -- that that second line was where those pins were and so that that was the property line. And so the 25 feet was the ease off of the road, which was what was reinforced by my conversation with the planning administrator at the time.

Mr. Haire: Then why didn't you construct the fence on the property line if your perception—

Mr. Lemon: Well, because I—

Mr. Haire: --was that was the property line that you construct it—

Mr. Lemon: Yeah. If you look at where the fence is – I didn't want to cut down the pine trees. The pine trees are right at the property line and so it made more sense from a construction perspective to build it inset more than that. I didn't need to go – I was getting a permit for what I could do and I knew I could move in from the permit

without issue or perceived that and so the trees actually grew quite a bit over the last two years, especially this spring with all the rain. But, anyway, I wanted to be inset from those without having to remove or significantly trim those trees to where they didn't have their original character.

Mr. Brusk: The problem that I see is that it does change the nature of the fences. Allowing the fence to be built that way will, in the future obviously, produce other people thinking the same, saying that they want a variance because there are fences that are well outside of the variance. What frustrates me – I don't think we're the right place to get to be made whole, because our objective and your objective are two entirely different things. Basically it's our feeling -- my feeling anyway, that that fence can be built where it should be built and that being said, it's very unfair, I think, based on what you said, that you have been informed that that's not the – that the place that you did build it was the right place. I understand that, but I don't think it can be resolved by a variance on that. I think that this is more of an issue of—

Mr. Feeney: I have to say that we get a lot of variance requests for fences in the front yard. I think we had one a couple of months ago. And this is a back yard and it's obviously going to be hidden by some trees. You know, I see the confusion. Over two years' period, two different administrators, the conversations – not utilizing his full back yard is, I think, a benefit to him that to the property.

Mr. Brusk: On the other hand, it gives him a special advantage in that his back yard now with being fenced, will be considerably bigger than the neighbors' and neighboring houses, I would be surprised, would not say, "Oh, no. We want that, too. We want that ability." You know, had you had documentation and so on, there's a way of resolving it, I think. But without the documentation it makes it much more difficult.

Mr. Feeney: I think he's – yeah, I believe what he's saying—

Mr. Brusk: Yeah. I do, too, but I don't have documentation that would allow one to say without a doubt that that's what it is. I have a problem with it and I'm really in a quandary.

Mr. Rettke: Yeah, because that's really even so much above and beyond. If we were considering a variance like the 25 foot, if for some reason, you know, we felt that that was a necessary variance application, to me, I can think about that. But this is so far off what we would even consider as a variance. To me, I agree with Norm that that conversation that you may have had with the previous administrator, I honestly think there must have been some confusion. You know, just the dialog between edge of pavement, property line – there had to have been. I don't think your fence was placed there intentionally, thinking that you were trying to get away with anything. I agree. I think it is completely honest, but I don't think as far as us looking into the variance that it's something that I can—

Mr. Brusk: Right. And if the road is widened, it'll even become more of an issue in the future. It's Summit Road – I can't see staying as at that size.

Mr. Lemon: Actually anticipating that Summit Road would be widened is why – another reason that I was so clear about where the fence could be built. There was not ambiguity in the conversation. It was exceptionally clear.

Mr. Brusk: You know, I think you did a very excellent job in writing up what happened and I have no doubt that what you've said is substantially the way it went down. I don't have any problem with that. I am glad that you didn't finish the fence. Is it at the point where we saw that photograph, just the posts there?

Mr. Lemon: Yeah. Well, they're in concrete but, yes, it is.

Mr. Brusk: So, to remove it would be a fairly difficult task, but it still can be done. That's a lot easier than removing a whole fence, but how should you be compensated for that is very, very difficult. I think that you have a legitimate complaint that may be able to be resolved in the court system against the City, but what you're trying to do – and I don't disagree with the thought. It makes perfect sense to me, is to say, "Well, let's do – let's change the rules here to allow this because it's your fault."

Mr. Lemon: It's the counsel I received from your representative.

Mr. Brusk: Yeah. The problem is – and I would've suggested that, but the variance is too great and it puts – and you mentioned that, that you had said, "Look, this is a lot different than my neighbor's fence. There's 25 feet difference between what he had to do and what I have to do." And I understand that, but that doesn't mean that we as a Board have the right to make that change for that reason. It just doesn't fall in there. Unless we look at hardship and really stress that in it, I—

Mr. Rettke: What's the City feel about that?

Mr. Feeney: You see, I don't – you know, the neighbors – is a street and looking across the street you can't even see the house.

Mr. Brusk: Yeah. But there's also neighbors adjacent and that's where the problem comes in. Not only here but all the way – Summit's a pretty good sized street and there's a lot of houses that face Summit.

Mr. Feeney: I guess I have a tendency to say, "Well, yeah, he has this large back yard, but he can't use it because there's a street behind him." And if he can fence it in, make it safe, increase the value of his property, increase the value of everybody's property.

Mr. Lemon: There are two to three additional homes in the Reynoldsburg zoning district that are on Summit Road that are not pictured that don't already have fences.

Mr. Stoffel: So you're just seeing then the scope of – you were mentioned there's a lot of—

Mr. Lemon: Yeah.

Mr. Stoffel: --_____.

Mr. Brusk: But there's other places – or is that the whole—

Mr. Lemon: That's it. Reynoldsburg starts just a couple blocks north of my property.

Mr. Brusk: You've got a couple things in your favor that's making me think a little harder and I don't want to think too much harder, but you do have the trees in front between the street and the fence, so that's a plus. If the fence was on the other side of the trees, there'd be no question at all. I think this might save the City from going through a lot of things if we did pass it, but stress in the record that we feel that this is due to hardship and it is a true hardship to have to pick up – how much, \$1,100 or—

Mr. Lemon: Yeah.

Mr. Brusk: --\$1400, whatever, of fence work that was triggered by information provided by the City.

Mr. Hansen: The only—

Mr. Brusk: I wish we had the documentation on that.

Mr. Hansen: You can't base your hardship on an economic hardship. That's the only problem.

Mr. Haire: Right. And my only thing, and I don't doubt that you're _____ to us, but, you know, it's alleged conversations because there is no record. The only record we have is the fence permit and the applicant didn't install the fence according to the permit.

Mr. Brusk: Yeah.

Mr. Haire: I think it's a no-brainer.

Mr. : It isn't or is installed per the permit?

Mr. Haire: It's not per the permit. The permit shows it 25 feet and he installed it at 11.

Mr. Brusk: Gosh. But the starting point was different. Is that what it is?

Mr. Lemon: The understanding of what was permitted there's a variance between those, which is what I attempted to explain them, to review—

Mr. Brusk: And what you're saying, as I understand it, is that if he would've built it to that drawing that he had, it wouldn't have been put where it is.

Mr. Haire: Right.

Mr. Feeney: But he still would've had to get a variance, right? Would have had to have gotten a variance.

Mr. : Yeah. It was agreed to.

Mr. Feeney: At 25 feet.

Mr. Hansen: If we permitted it at 25 feet, there probably would've not needed to be a variance.

Mr. Feeney: Right. _____ had a 30 foot?

Mr. Hansen: Technically it's 30 feet.

Mr. Haire: But Mr. Domini approved the permit at 25 for some reason.

Mr. Brusk: I had that—

Mr. : (inaudible) – variance anyway, really, to make it legal.

Mr. Brusk: Is there – yeah, you can't use hardship on that, is that right?

Mr. Hansen: Not an economic hardship. It's specifically stated as not a reason for approval.

Mr. Brusk: Can I – is there any other discussion on this?

Mr. Haire: I'll make a motion that we approve application C1 (75-ZV).

Mr. Feeney: I'll second.

(Mr. Hansen called the roll. Mr. Haire voted "no." Mr. Rettke voted "no." Mr. Brusk voted "no." Mr. Stoffel voted "no." Mr. Feeney voted "yes.")

Mr. Brusk: Now, can he appeal this to the Council?

Mr. Hansen: 30 days and you can appeal with a written letter to the Clerk of Council and if you – I'll email you.

Mr. Lemon: Okay.

Mr. Brusk: You know who your Council person is?

Mr. Lemon: No, I don't.

Mr. Brusk: I think it's Kelly.

Mr. Haire: Doug Joseph.

Mr. Brusk: Oh, it is Doug Joseph? You might want to get in touch with Mr. Joseph. You can call the City to get his phone number.

Mr. Lemon: Okay.

Mr. Brusk: And discuss it with him to some degree and see if he's going to champion you at the Council meeting.

Mr. Lemon: Okay.

Mr. Brusk: This is kind of – I feel bad. It's a dilemma. It shouldn't have happened, but it did. If we had proof of it there would be other ways you could get around it. Otherwise, you're going to be in that position.

Mr. Lemon: Unfortunately, the conversation was so clear there was no indication of a need for proof.

Mr. Brusk: Yeah. I understand. We apologize, but there's nothing we really as a Board can do.

Mr. Feeney: So you might want to try to get hold of the previous administrator to get that information.

Mr. Lemon: What was his name or how can I attempt to find that?

Mr. Hansen: Aaron Domini.

Mr. : I'll follow-up with you on this, too.

Mr. Brusk: Yeah. Whether he would remember, that is the problem.

Mr. Lemon: Yeah. That's highly unlikely.

Mr. Brusk: All right. Thank you.

Mr. Lemon: Thank you.

2. VARIANCE APPLICATION, 995 SUNVIEW ROAD, REYNOLDSBURG, OHIO; REQUESTING A VARIANCE FROM REYNOLDSBURG ZONING CODE SECTION 1175.07(A) TO REDUCE THE MINIMUM FRONT YARD SETBACK FROM THIRTY FEET TO TWENTY-FOUR FEET. CONTACT: RON AND BEVERLY BOHLEN (76-ZV).

Mrs. Beverly Bohlen: My name is Beverly Bohlen. I live at 995 Sunview Road.

Mr. Brusk: Great. Matt, would you please give us an overview?

Mr. Hansen: Sure. This is an application for a front yard setback to construct a deck and a ramp to the front entrance of the house. The house is located in the Brookside subdivision. It's located as indicated by the red dot. Here's an aerial view of the house and the plan of metric. Most of these houses in this subdivision have their front yard set back of their primary façade right at 30 feet. Here's an aerial view of the house. Here's a front view of the house and what the applicant is proposing to do is to construct a deck. It's a wooden deck, correct?

Mrs. Bohlen: Yes.

Mr. Hansen: This would extend an additional 2 feet from the edge of the sidewalk here in front and then 2 feet each side of the concrete porch. Here's another view. And from that deck there'll be a ramp that'll connect to the sidewalk and this is to accommodate Mrs. Bohlen's husband who needs the ramp and extra area on the front porch to get in and out of the home. Here're the plans. These are not to scale. The larger square here is not in proportion with the house and this'll show the new setback of 24 feet. Looking at kind of a perspective view, this is – it's probably not 100% accurate, but if you extend the front porch, which I imagine the deck will be in line with the doorway so that there's not an extra step.

Mrs. Bohlen: Correct. This is Jim. He's the one that's going to build it for me, so he'll have more of the answers to those questions.

Mr. Hansen: So, just in perspective, that this extends out a little bit farther on each side. We can see that on either side it'll be out – the deck will be underneath the overhang. If you extend out front 2 feet this looks to appear to be approximately 3 or 4 feet out from the overhang of the house. And so, looking at the proportion of how that deck may appear with the proportion of the overhang of the house, might not appear as – it would appear off – the proportions would appear off between the deck and

overhang. Staff would like some clarification on how the supports will be integrated into the deck and looking at the standards for granting a variance – that staff report didn't get in my packet. We do see that there're other front porches in the subdivision and zoning district which extend beyond the front yard setback. And it's most likely the case, as we've seen in other applications, that the zoning regulations were put in effect after the subdivision was platted and built. The Board may want to consider a deck extension just to the edge of the sidewalk just so that the proportions are a little bit more congruent with the structure and the variance would not confer any use of that is denied by other property owners since we already see these types of setback variances being granted and existing in the zoning district. So I can answer any questions.

Mr. Brusk: Yeah. I guess my first question would be the reason that it has to be the additional 2 feet from the sidewalk is?

Mr. Jim Zimmerman: I was thinking -- I'm a Trustee at her church. I'm Jim Zimmerman. Just so he has enough room to make it, because there's two posts on each side of the – in front of the doorway and I just wanted to make sure he had enough room to turn that corner, is the main reason I—

Mr. Feeney: So it'd be about 5 feet from the—

Mr. Zimmerman: (inaudible)

Mr. Brusk: I have a handicap ramp at my house and I do understand exactly what you're saying. You do have to have turning room and if you ever get an electric wheelchair you definitely would have to have the extra room.

Mr. Haire: Will there be railing on the ramp or deck?

Mr. Zimmerman: I talked to – I can't this of his name – when I talked to him he said he's only been here three months.

Mr. Haire: Yeah. Building official.

Mr. Zimmerman: Okay. And he told me since it was – don't quote me – below 20 feet or something, you didn't have to have railing, 20 inches—

Mr. Haire: 20 inches. Yeah. Maybe that's the case, so you're not anticipating putting railing on there then?

Mr. Zimmerman: If I have to I will.

Mr. Haire: Okay.

Mr. Zimmerman: But he said since it was below a certain height we didn't have to put railing on it.

Mr. Feeney: I would think that if you didn't extend it you'd have a real problem with it because you'd have to have a railing, because it would be too close to the edge when he came out, but then he wouldn't have the room to turn.

Mr. Haire: Just for a visual perspective. We've done a lot of handicap ramps in yards out front and granted a variance for in the past.

Mr. Brusk: This one is the smallest I've ever seen.

Mr. Haire: Yeah. Some of the ones, when they don't do a deck and they just do a ramp, we consider them an accessory structure and we just allow them without variances because it's temporary.

Mr. Brusk: But I understand why the extension out. I can't fight that.

Mr. Feeney: You'll have the railing for the ramp. I mean, that might be a—

Mr. Brusk: We'll leave that up to the building code. Once – if it's needed, I'm sure they'll make sure it's on there.

Mr. Brusk: Are you making the ramp?

Mr. Zimmerman: Because he's – what was that, sir?

Mr. Brusk: How wide are you making the ramp?

Mr. Zimmerman: At least 4 foot.

Mr. Brusk: Okay, good. So it'll be slightly bigger than the sidewalk.

Mr. Zimmerman: Right. Because my son is ESCP and he's in a wheelchair and everybody tells me when I do stuff I overkill.

Mr. Brusk: Well, that's—

Mr. Zimmerman: I only have time to build it the first time. I don't want to have to do it the second time.

Mr. Brusk: Well, you hate to see them tip over on the side.

Mr. Zimmerman: Right. Because he said something about sometimes they put like a little – but I just think that'd be something to trip over.

Mr. Brusk: A toe rail or something _____?

Mr. Zimmerman: Yeah. Because he says sometimes they put toe rails and I think without a railing you can trip over that if he didn't know it was there.

Mr. Brusk: Yes. And I think a toe rail you might want to consider but that's just my own opinion.

Mr. Zimmerman: That leads down the ramp?

Mr. Brusk: Just a small—

Mr. Zimmerman: Yeah. Like a 2 inch—

Mr. Brusk: Yeah—

Mr. Zimmerman: 2 by 2 boards.

Mr. Brusk: Yeah. So that if he – if the wheelchair gets a little bit out of control you don't go over the edge. Any other comments?

Mr. Haire: No.

Mr. Brusk: Then I'll entertain a motion.

Mr. Stoffel: I'll make a motion we approve Item C2 variance 76-ZV.

Mr. Rettke: Second.

(Mr. Hansen called the roll. Mr. Feeney voted "yes." Mr. Stoffel voted "yes." Mr. Brusk voted "yes." Mr. Rettke voted "yes." Mr. Haire voted "yes.")

Mr. Zimmerman: So what now?

Mr. Brusk: Talk with the Building Department to make sure you're doing it right. Other than that you are all set.

D. OTHER BUSINESS - None

E. ADJOURNMENT

The meeting was adjourned at 7:16 o'clock p.m.

Norman Brusk, Chair

Matthew Hansen, Planning Administrator