

BOARD OF ZONING APPEALS MEETING
JUNE 16, 2015
7:00 P.M.

I CALL MEETING TO ORDER

The meeting was called to order at 7:02 p.m.

II ROLL CALL

Members Present: Mr. Knox, Mr. Hawkins, Mrs. Ghantous, Mr. Ramirez,
Mr. Nienaber, Mr. Weidlich, Mrs. Huber

Others Present: Randy Campion, Building Inspector; Mr. Taylor, Building Official

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF MAY 19, 2015

Chairman Weidlich: We have the Minutes from our May 19th, 2015 meeting. Does anyone have any corrections or additions to those Minutes?

Mr. Knox: I move to adopt.

Mr. Hawkins seconded the motion and with a unanimous ~~aye~~+vote from the Board of Zoning Appeals Members, the May 19, 2015 Minutes were approved as submitted.

V CORRESPONDENCE

Chairman Weidlich: We have no correspondence for this month.

VI REPORTS

COUNCIL

(Mr. Hawkins gave a summary report of the May 20th and June 3rd, 2015 City of Springdale Council Meetings.)

PLANNING COMMISSION

(Mrs. Ghantous gave a summary report of the May 12th and June 9th, 2015 City of Springdale Planning Commission Meetings.)

Mr. Hawkins: Was there anything different with regard to the GEEAA Park in terms of the buffer with either sets of residents, either the ones in Heritage Hill or the ones in the condos?

Mrs. Ghantous: What they presented wasn't acceptable. Part of the reason it wasn't acceptable was it wasn't in very great detail. For instance, they hadn't done a tree survey, so how many trees were going to be on that buffer, how many existing, how many new were going to be planted and so on and so forth so the buffer thing was one of the major things that was not resolved that evening.

Mr. Hawkins: Okay.

Mrs. Ghantous: They did resolve several things but that wasn't one of them. We are hoping they're going to come back next month with a great solution to that to shield the noise and the light. They gave us some good sight line pictures from different areas . from the condos and from Heritage Hill so we could kind of visualize what those folks will be seeing. Most of them were okay so it really wasn't the sight that was the problem with the exception of the actual makeup of the buffering. Another item that wasn't really addressed at all was noise and of course we're all concerned about that because it's neighboring residential areas so that's one of the bigger things that has yet to be resolved. It's coming along each time we hear from them, we're getting more resolution but we still need to do a little more discussing I think to solve a few of these bigger problems.

Mr. Hawkins: Thank you.

VII CHAIRMAN'S STATEMENT AND SWEARING IN OF APPLICANTS

Chairman Weidlich: Ladies and Gentlemen, this is a Public Hearing and all testimony given in cases pending before this board is to be made a part of the Public Record. All testimony and discussion relative to said Variance is recorded and it is from this recording that our minutes are taken. Citizens testifying before this board are directed to sign in on the clipboard in the rear of the room, take their place at the podium, state their names and addresses and the facts as they are pertinent to the subject before this board. As this is a Public Hearing, being sworn in prior to giving testimony is required by law. At this time, please stand if you plan to give testimony this evening. (Performs swearing-in of individuals intending to testify.)

VIII OLD BUSINESS

The owner of 175 Progress Place requests a variance to reduce green space to 17.5%; Said variance is from Section 153.269 "Minimum green space shall be 30% of the lot area".

Mr. Warnement: Good evening. My name is Patrick Warnement. I work with the Kleingers Group in West Chester, Ohio. We are the Civil Engineer, Surveyor, and Landscape Architect for the 175 Progress Place Project.

Chairman Weidlich: What is the address of your business, sir?

Mr. Warnement: 6305 Center Park Drive in West Chester, Ohio.

Chairman Weidlich: Okay, thank you. State the reason for your request.

Mr. Warnement: Item A, the green space . the site is currently under the 30%, roughly 25%, so that's an existing condition. New tenants will require substantial new parking, which would reduce that to 17.5%. Through the design process, we made an effort to save trees to the maximum extent possible. Green space was very difficult because the previous tenant, Avon, had basically designed the building very specifically to their needs and much of the parking is at the two extreme ends of the building and the majority of the new tenants will be at the center of the building. To avoid having them walk upwards of a quarter mile to get to work, they need that parking concentrated in the center of the buildings to have their employees have decent access in and out of the building.

Mr. Campion read staff comments.

Chairman Weidlich: Thank you Mr. Campion. Is there anyone in the audience that would like to speak on behalf of this variance request?

Mr. Knox: The portion of one of the submissions that we have several pieces of paper here for says that the buffer yard requirements are 60 trees and 690 bushes. At present there are 49 trees. First of all, are any of those trees going to be taken down?

Mr. Warnement: The 49 are new trees.

Chairman Weidlich: Mr. Knox, I think that's another item on the agenda tonight.

Mr. Knox: But it has to do with the parking itself. We have no diagram of where the parking is going to be.

Mrs. Ghantous: They did present a diagram to the Planning Commission.

Mr. Warnement: We submitted ten sets of plans with a Variance Application.

Mr. Knox: Okay, I'll hold my question until the next one but what's going on now does bear on that question.

Mr. Ramirez: I have a question for the Applicant . is it possible, since the area you will no longer need because it's on the end of the building, to be converted to green space to make up for the area that's the center portion?

Mr. Warnement: The area to the east there is some opportunity for that. The tenant arrangement is not finalized yet so, as of right now, we can't necessarily say that that can be green space but that has been considered, yes. We have made an effort in some of those existing areas to add landscaping to beautify - say the western end of the building, for example - there are some areas that don't have any trees. We took the opportunity to add those trees to try to spruce that area up a little bit but Avon does still occupy some of that western portion of that building so they've got parking requirements in addition to potential new tenants.

Mr. Ramirez: So if the Variance is not approved, would you come back with a plan to increase green space or it's either this or we go on to a yes or no with this?

Mr. W: If we were to do something like that, we still wouldn't hit the 30%.

Mr. Ramirez: Okay.

Mr. Warnement: The site's only 25.4% right now, so basically, hitting the 30%, we'd have to demo part of the building.

Mr. Ramirez: So you would be in agreement to expand some of the green space, if you took some away?

Mr. Warnement: It's possible, yes. Like I said, especially on the eastern end of the building, there is an area that we looked as a potential for adding green space, but like I said, until the tenants are finalized, if that area were to be needed for temporary truck parking or something, we can't say with 100% certainty.

Mr. Ramirez: Thank you.

Mr. Hawkins: Bottom line for you guys is the great size of the site causes you guys a hardship with regard to being able to access the center part of the site without having some more parking relocated?

Mr. Warnement: Exactly. We're limited by the existing condition. If we were to redesign it by scratch, none of this would probably be as much of an issue as just the constraints of a previously developed site.

Mr. Hawkins: And I understand you're indicating that you've given Planning Commission some aerial photos of what that development's going to look like.

Mr. Warnement: Yes.

Mr. Hawkins: Do you have any pictures with you this evening?

Mr. Warnement: We brought nothing with us this evening on that as they were submitted with Planning Commission and with the variance application, so no, we did not bring that but like I said, we really made a big effort landscaping-wise to beautify the site and screen the truck dock area from the highway view. The Planning Commission suggested changing a small number of trees to evergreens to help additional screening and we did that.

Mr. Hawkins: And you guys went over with Planning Commission and staff for the city on how to manage the green space?

Mr. Warnement: Yes, we worked with Mrs. McBride.

Mr. Hawkins: I have a question for Mr. Campion . right now, are they legally nonconforming or the site just never had a Variance to manage being under the 30%?

Mr. Campion: This report doesn't mention another variance being granted in the past so I would say they are a legal nonconforming use right now, at 25.4%

Mr. Hawkins: Thank you.

Chairman Weidlich: Does anyone else having any questions for the Applicant? (No response.) Okay, we will move on to deliberation and discussion on the evidence presented. Does anyone have any comments?

Mr. Hawkins: Thank you Mr. Chairman. I would just note for the record that it appears that the site is currently legally nonconforming and due to the great size of the site, it would create a hardship for the Applicant if the Variance is not granted, to be able to access the site from the middle area without reallocating some space for taking away some green space to allocate for parking.

Chairman Weidlich: Take a couple of minutes to review this drawing. (Building Official Mr. Taylor had retrieved drawing from Building Department.)

Chairman Weidlich: So this additional parking sir, is going to be on the 275 side of the building?

Mr. Warnement: Yes.

Chairman Weidlich: I just wanted to make sure I was looking at the correct orientation. (Board of Zoning Appeals members reviewing.) Does anyone else have any more discussion or deliberation on the information presented? (No response.) We will move on to a motion then.

Mr. Hawkins: Thank you, Mr. Chairman. I move to grant a variance to the owner of 175 Progress Place to reduce the green space to 17.5%; said variance coming from Section 153.269, which had indicated a minimum green space shall be 30% of the lot area. (Mrs. Huber seconded the motion and with seven "aye" votes from the Board of Zoning Appeals members, the variance request was approved.)

Chairman Weidlich: Sir, you have that variance.

IX NEW BUSINESS

- A. The owner of 175 Progress Place requests a variance to allow the minimum parking stall size to be reduced to 9' x 18'. Said variance is from Section 153.502(A) "minimum parking stall size shall be 9' x 19'".

Mr. Warnement: We understand that Section 153.502(A) is already under discussion to be amended to make the standard size 9' x 18' rather than 9' x 19'. Planning Commission and staff are both supportive. That one foot on any one aisle of parking may not make a lot of difference but when you do it on multiple aisles of parking, then you are looking at 6' x 8' x 10' which cuts into the number of parking spaces that some of the new tenants have a very significant parking requirement so losing that one foot multiple times would cause us to lose some of those parking spaces.

Mr. Campion read staff comments.

Chairman Weidlich: Thank you, Mr. Campion. Do we have anyone in the audience that would like to speak on the behalf of this various request? (No response). We will close the public portion and move on to discussion from the board with the Applicant.

Mr. Hawkins: Thank you, Mr. Chairman. Again, the main issue is the size of the building - being so big on this lot limits your amount of space for accessible available parking and so, as such, you need this variance to be able to put in sufficient parking to work with the site - is that fair?

Mr. Warnement: Exactly.

Mr. Hawkins: Okay, and you are limited based on I-275 being there as well as how the building is laid out, correct?

Mr. Warnement: Exactly.

Mr. Hawkins: Nothing further, thank you.

Chairman Weidlich: Anyone else? (No response.) We will move on to deliberation and discussion of the evidence presented.

Mr. Hawkins: Just a question for Mr. Knox and anyone else who is on the Rezoning Committee, I think Mr. Nienaber and Mrs. Ghantous. Is that accurate, that you're looking to change the size to 9x 18 anyway? Okay. Note that the Variance Request is necessary for the Applicant to be able to utilize the site in the appropriate manner based on the lack of space because of I-275 and the great size of the building, to need to limit the parking stall size so that they can have more parking that will allow them to use the building in an appropriate way.

Chairman Weidlich: Anyone else? (No response.) Can we have a motion please?

Mrs. Huber: I make to grant a variance to Section 153.502(A) for property located at 175 Progress Place so as to allow the minimum parking stall to be reduced to 9x 18 from the Code requirement of 9x 19 stall size. (Mrs. Ghantous seconded the motion and with seven aye+votes from the Board of Zoning Appeals members, the variance request was approved.)

Chairman: You got that one also, sir.

Mr. Warnement: Thank you.

- B. The owner of 175 Progress Place requests a variance from Section 153.608 for the planting requirements for a buffer yard along a public right-of-way or a private street adjacent to the I-275 right-of-way. The minimum buffer yard requirements for the 2,070 linear feet of frontage are 60 trees and 690 shrubs. A total of 49 trees and no shrubs are located in the 10' perimeter area. A variance is needed to eliminate the requirement for the additional 11 trees and 690 shrubs.

Mr. Warnement: As part of this project, we will be removing some trees on site and it was determined through the Building and Planning Departments that we would need to replace 664 caliper inches of trees on the site, which we have accomplished, with our Landscaping Plan. The 690 shrubs, in discussion with Mrs. McBride, would not be visible from I-275 and the whole idea of the requirement is to screen the building. Due to the topography of the site, those shrubs would not be visible at all so the whole idea of screening is not accurate on that so basically, we have the 49 trees there and we have a walking path for potential tenants that will come, exit the building from the cafeteria, and wind its way through this area back around to the building. That would be compromised, which is a major selling point for tenants and to get 290 shrubs, we would have to eliminate parking to get the shrubs in. Mrs. McBride has been very supportive of the idea of the 49 trees being sufficient.

Chairman Weidlich: Okay, thank you.

Mr. Campion read staff comments.

Chairman Weidlich: Thank you, Mr. Campion. Would anyone in the audience like to speak on behalf of this variance request? (No response.) We'll close the public portion. Board members, does anyone have any questions for the Applicant?

Mr. Knox: Actually the tree situation is a moot point now that you've got the parking spots but what threw me was, in the next to the last sentence of the document, it says a total of 49 trees are located. I couldn't remember any trees being located there; they are going to be located there.

Mr. Warnement: Are going to be, yes.

Mr. Knox: After looking at the plan that we finally got to look at, that looked like the maximum you could actually put in there, so I have no problem with it. Thank you.

Chairman Weidlich: Does anyone else have any questions for the Applicant? (No response.) We will move on to deliberations and discussion on the evidence presented.

Mr. Hawkins: Thank you, Mr. Chairman. A note for the record that the sheer size of the lot makes the requirements, with regard to the space that is available, for the Applicant to put the trees in would be impractical for them to be able to fit any more trees or shrubs within that area. I would also note that the Applicant has replaced all of the required caliper inches and also note that the shrubs, had they been put in, would not benefit the city or the Applicant with regard to screening, which would be the major purpose for them being there.

Chairman Weidlich: Anyone else? (No response.) Can we have a motion please?

Mr. Knox: I move to grant a variance to the owner of 175 Progress Place to allow for the planting requirements for the buffer zone along the public right-of-way to be 49 trees and no shrubs within the 100 perimeter area as referenced in Section 153.608 of the Zoning Code. (Mr. Nienaber seconded the motion and with seven "aye" votes from the Board of Zoning Appeals members, the variance request was approved.)

Chairman Weidlich: You are good to go, sir, on all of your requests.

Mr. Warnement: Thank you very much; I really appreciate it.

Chairman Weidlich: You will get the variances in the mail from the Building Department next month after our minutes are approved from this meeting. Thank you.

- C. The owner of 578 Grandin Avenue requests a variance to allow a garage conversion to remain. Said variance is from Section 153.105(B) "A single two-car garage and related parking area is required" +

Chairman Weidlich: Would the Applicant for 578 Grandin please come up to the podium, sir. State your name and address and tell us why you are requesting this.

Mr. Ciul: My name is Ronald Ciul. Our address for our business is 3189 Princeton Road, Hamilton, Ohio. I am a Project Manager for a property management company that purchased the property at 578 Grandin Road. It was in foreclosure. We cleaned it up. The garage had been previously converted into additional living space and we wish to just keep it as it is and not do anything. Apparently when we got our permitting for the property, they did discover that apparently the prior owner didn't permit it when he did the conversion. We do have four means of egressing the property from this room. There is heat, air conditioning, lighting, electric. We put in a fire-rated door between the converted portion into the existing garage. We are asking just to keep it. It is not a bedroom space; there is no closet in there. It is just additional living space. The tenant that is in place there uses it as a home office.

Chairman Weidlich: Okay, thank you sir.

Mr. Ciul: There are four parking spots in the driveway in front of the property so there is plenty of off-street parking and there is also an additional shed in the rear, so there is plenty of other storage area.

Chairman Weidlich: Alright, thank you sir.

Mr. Campion read staff comments.

Chairman Weidlich: Thank you, Mr. Campion. Is there anyone in the audience that would like to speak on behalf of this application?

Mrs. Brown: My name is Felicia Brown and I live at 578 Grandin Avenue and I am here in support of the conversion to remain. Like he said, it's not bedroom space; we are using it as an office space. It's really convenient as opposed to going downstairs for the office space, having to go up and down the stairs. My concern with that is my grandson because you know how they are very curious. It's a nice little area and it's workable.

Chairman Weidlich: Okay, thank you for your comments. Would anyone else in the audience like to speak on behalf of this variance request? (No response.) We'll close the public portion and move on to interactive discussion with the board members and the Applicant.

Mrs. Huber: I notice that the existing garage door is as it should be. Is it workable?

Mr. Ciul: Yes ma'am. There's an opener on it.

Mrs. Huber: Thank you.

Mr. Hawkins: It's your intention to maintain the overhead garage door?

Mr. Ciul: Correct.

Mr. Hawkins: And it is your intention to maintain that 10x11 unfinished area storage as it is?

Mr. Ciul: Yes, sir.

Mr. Hawkins: Thank you.

Mr. Knox: Actually I wanted to compliment whoever designed this, which was before you folks arrived there but there are multiple emergency egress points on this, including the overhead garage doors. I wish more of them looked like this. Thank you.

Chairman Weidlich: Does anyone else have any questions for the Applicant? (No response.) We'll move on to any deliberation/discussion on the evidence presented.

Mr. Hawkins: Thank you, Mr. Chairman. I will note that the existing setbacks don't comply with the current zoning requirements and therefore, there may be some difficulty with regard to the Applicant building an addition onto the home as it is right now.

Chairman Weidlich: Anyone else? (No response.) Can we have a motion please?

Mr. Hawkins: Thank you, Mr. Chairman. I move to grant a variance to the owner of 578 Grandin Avenue with regard to allow a garage conversion to remain; said variance coming from Section 153.105(B) which indicates a single two-car garage and related parking area is required with the condition that the Applicant maintain a working overhead garage door as well as a 10x11 storage area, just inside the overhead door. (Mrs. Ghantous seconded the motion and with a vote of seven aye votes from the Board of Zoning Appeals members, the variance request was approved.)

Chairman Weidlich: You got your request with a unanimous vote, sir.

Mr. Ciul: Thank you very much.

Chairman Weidlich: You're welcome. Thank you for your time.

X. Discussion

Chairman Weidlich: We'd move on; we do have an item for discussion this evening. The owner of 246 Balsam Court has a garage conversion and it looks like he wanted us to verify his current plans that he has with a previous approved variance. I guess we'd just treat this like a standard Variance Request even though it's a discussion.

Mr. Hafer: Yes, this is not a variance. My name is William Hafer, 246 Balsam Court. It is a discussion because I've been granted a variance and I was told that I had to keep a working garage door. I've got a garage door that opens this way; it's not an overhead but it's on hinges and it opens up and it's a working garage door. I received a letter from Mr. Taylor, stating that stop it and he was going to put it on the agenda for tonight. When it was done by my contractor, I had called the Building Department. I had come up to the Building Department to see if I needed a permit for a garage door. They said I didn't need a permit for the garage door. So when my contractor finished the door, it's not completely finished but the operation of it, I called the Building Department and I asked for Mr. King to come down to take a look at it. I was informed that he was ill; he was not in the office. So I asked for somebody else. Brian Ward came down and took a picture of it. It opens, it closes and this is the way it operates. He said he'd call me back. He called me back a little while later and said, Mr. McErlane was still here, he said if the door is on the garage and it opens and closes, it's a garage door. So I called the junk guy and he came to pick up my old garage door. I don't know what - it's going to be finished. I've got a window in it and I'm putting siding and things like that on it, but it will be a door that can open up if need be. That's basically it.

Mr. Ramirez: Thank you, Mr. Chairman. Was not the variance to have the existing door remain?

Mr. Hafer: No. It's just says maintain an operational garage door. I've got a letter here in my pocket that I got from Mr. Taylor; he's very nice about this. That was the whole thing. I contacted A&E Door; I contacted Overhead Garage Door; I contacted multiple people to try to get what I wanted and even a couple different contractors. Finally a contractor came by and said well, we'd just make a door that goes like this because I was thinking about maybe making carriage doors. (Reading from letter) - %A garage door is to be left as a workable garage door+.

Chairman Weidlich: Which I understand as being left as the current garage door.

Mr. Hafer: It doesn't say that. Do you mean that I couldn't change my garage door ever?

Chairman Weidlich: According to this variance, your garage door should be left as a working garage door, not replaced with a different garage door.

Mr. Hafer: I have a working garage door.

Chairman Weidlich: We've never had this happen; I'm just questioning, I'm not

Mr. Hafer: Oh no. And I did everything I could to try to solve my problem and, reading the way it said, I had to maintain a working garage door. It's a working door.

Chairman Weidlich: Does that garage open from left to right?

Mr. Hafer: It opens from yes, from left to right.

Chairman Weidlich: That's all I have, thank you. I don't know who was next. We'd go with Mr. Nienaber.

Mr. Nienaber: I'm just trying to follow. Is this, as opposed to being an overhead door, does this operate as a sliding or as a barn door?

Mr. Hafer: It's on a hinge. It's got five set of hinges on it.

Mr. Nienaber: All on the right side?

Mr. Hafer: All on the right side. You can walk up to it, it's got a handle on it, and it opens up like this.

Mr. Nienaber: Thank you.

Mr. Hafer: You're welcome. You can drive a car in there right now, if you want, but it's not big enough.

Mr. Knox: I feel that this falls under the %it looks like a duck and quacks like a duck, it's a duck+. Well, this is a door and it meets the requirements of what were laid on you, so I'm going to vote in favor of this.

Mr. Hafer: Thank you.

Mr. Hawkins: I'll look at the variance.

Mrs. Huber: Here it is.

Mr. Hawkins: I don't know what Mr. Forbes would say regarding the situation. I'm sure that was not the intention of myself; I won't speak for anybody else on the board, with regard to the variance when it was granted. If that matter passes legal muster, it passes legal muster. I don't know, I'll leave that to Mr. Forbes. That is not something that if that was brought to me as what the intention was, I don't think that's okay. It doesn't look like a %garage door+. I understand it's a door on a garage that you're saying can open but I don't think it looks good. I don't think it looks like a typical garage door.

Mr. Hafer: Do you have a picture of it there?

Mr. Hawkins: Yes and I've seen it.

Mr. Hafer: It's not finished.

Mr. Hawkins: I went by there too. I think you're saying you're going to put siding on it?

Mr. Hafer: Yes. My whole front is going to be sided, around my front window - I've bought a specific window to match it. So it will be finished, believe me, it's not going to sit like that - if you look at the rest of my house, I don't think you would think that I would leave it like that.

Mr. Hawkins: I'll start with this - I don't like garage conversions to begin with. Now, I don't have any control over some of that, because some of that's been happening for years, long before I ever got on with the Board of Zoning Appeals. So I'm stuck with what has been done in some other instances. In an effort to be consistent and maintain some of the precedents that have been set. If we could go back in time, I wouldn't grant a single garage conversion but that's beyond me now. The goal is, I think, when there's going to be a garage conversion, is to have the garage still look like a garage and if someone wants to do something else inside of that area, let them go do what they're going to do. The idea is not to look like some of our municipal neighbors in other jurisdictions where it looks like that area is just walled off and is a house. That becomes part of the concern. So this, and I don't doubt, I know you're going to be meticulous in whatever you do, but this is going to look like just house. The fact that it's operable, an opening and closing on a garage, I understand, as an attorney, the use of words and to use those to one's advantage as much as possible. That's why I say I'll leave that up to Mr. Forbes but I don't think that was the intention of the board when that was granted, that that was going to be the end result. What you do is what you do with it. I don't know if my opinion has a leg to stand on as for as Mr. Forbes says; he may sit there and say hey, you're stuck with it based on what's in the variance but it definitely was not my intention. I won't speak for the other six people up here but if someone said this is what we plan on doing - that would not have been where I wanted to go with that.

Mr. Hafer: I noticed that you, on the one that you just approved before, you were talking about an overhead door. Believe me, I tried to do everything I could. Like I said, I contacted different contractors, different garage door makers, to do what I wanted to do. This is what, reading the variance, it says a workable garage door.

When I got a call from Brian, basically he said if it opens and closes and it's on the garage, then it's a garage door. What constitutes a garage door?

Mr. Hawkins: What was the issue for you, in terms of the other contractors and garage door companies that you checked out, in terms of what you wanted to get done from a functional stand point?

Mr. Hafer: I wanted a window in the center and nobody was able to make something that was operational that didn't look like somebody's gas station, if you wanted a garage door that was all glass. You know, I wanted it to be in, because ultimately she's going to be doing work in there and have some light and have a window there. Ultimately, if you want to have glass, you've got to have glass everywhere just about, is what everybody told me. I even asked if they would custom make a garage door and I explained this to contractors that came out. One guy said well, we can most certainly put one on hinges and it can open and close and we'll leave the hinges there and the latch there and we'll finish it up. If I leave tomorrow, if I sell the house tomorrow, and somebody wants a garage door, an overhead garage door, I'd put it on there but they'd be able to open it up and drive and do whatever they want with it. If the variance would have said overhead garage, that would have been a different story I think.

Mr. Champion: I was just going to say I went back and read the minutes of the meeting. The minutes revealed that, I believe three people on the board wanted the door to remain to look like a garage door like it was and that the Applicant had proposed putting in a window there and I do not believe that was the intent of the board. We have a copy of the minutes here if the board wants to look at the minutes.

Mrs. Ghantous: I'm understanding you say that the reason you chose this design was so it would look a certain way, the way you envisioned it and so you would have light.

Mr. Hafer: For practicality purposes, yes.

Mrs. Ghantous: To get a certain look.

Mr. Hafer: And to get, not so much a certain look, but to be able to have a window, okay, to have some light come into that area and to do that, either you've got to come down to a little bitty block in the garage door or they take the whole part of it and make it all glass and that - I don't want out in front of my house to look like a gas station.

Mrs. Ghantous: Is it going to be cold and drafty if all that is is like a swinging door?

Mr. Hafer: No. I'd be putting rubber, he's got some rubber things to put up there that will seal it up and if I need to open it up, I've got a latch and I'd open it up. My intention is that I hope I never have to open it, but if I need to move things into the house or whatever, it can be opened and be access to go in. It's going to remain on the hinges and so on and so forth.

Mrs. Ghantous: Okay, thank you.

Mr. Knox: If, when the house was originally built, you had put that type of door that you're proposing right now in there, it would have been legal, wouldn't it?

Mr. Hafer: Yes. It's a garage door.

Mr. Knox: Thank you.

Mr. Hafer: I know what people envision a garage door looks like, but I'm sure if you went to some other places you would see garage doors that are of different design than an overhead garage door.

Chairman Weidlich: I've got to say myself, when I voted in favor of your variance, I was not envisioning anything like this. I was envisioning a traditional overhead operational garage door.

Mr. Hafer: Believe me, I've spent two months dragging our feet, trying to come up with an overhead garage door or something to that affect, any type of door and then finally a contractor, he says, garage door. We'll put it on hinges, we'll put fasteners on it, you can open it this way and it's a garage door.

Chairman Weidlich: I don't recall, was there any storage area, at the front there, of your conversion, or not? I don't remember that part of the variance.

Mr. Hafer: In 1994, there was a variance given. I had a house fire in 1994. I was given a variance for the front of the garage to be turned into a laundry area, a laundry room. We've never been able to use that portion, the front portion of the garage for anything but storage or whatever. So when we moved back and wanted to take that area and make it an area for my wife to do sewing and embroidery and things like that, so that's basically what we're going to end up using it for, so that's why we wanted light, so she's not sitting there looking at some garage door. Like I said, for two months, ever since I've been going through this about the garage door. I have contacted a half dozen companies and contractors and things, trying to come up with something. When Brian came down, took a picture of it, told Bill, said well, if it opens and it closes, and it's on the garage, it's a garage door. With that, I called my junk man.

Chairman Weidlich: You could use this on a daily basis, opening and closing it if you had to?

Mr. Hafer: If I wanted to; I do right now. And then Mr. Taylor sent me a letter. I said he didn't feel it met the spirit or something of it and he asked me very nicely if I would come back up tonight and talk to you about it, so that's why I'm here.

Chairman Weidlich: I've got to agree with Mr. Hawkins. If it didn't have an operational overhead garage door, you've got to have a workable garage door on there.

Mr. Hafer: I've got a workable garage door on there. If it would have said overhead, it was very obvious where that was going.

Mr. Ramirez: Just for the record, when we approved that, I'm with Mr. Hawkins. I anticipated you would leave the current garage door there. This, I don't believe I've seen another garage door like this in Springdale. I'm sure when it's done, you're going to do it very nice, but I'm sure it's not going to look like a garage door. The issue we have is, just like you heard previously, we ask people to maintain their garage door for future owners so it looks like you have a garage. What you have here, I've seen this throughout Springdale, but it's not called a garage door. I think the issue we have here is the definition of a garage door and whether or not that meets that definition. That's all I have, just for the record.

Mr. Hafer: If I could have done it another way, I would have done it another way but this is the best alternative for my issue.

Mr. Nienaber: As I see it here, it's a lesson for the board here. We need to make sure we phrase variances to say it will be an overhead garage door in the future as opposed to leaving it at large. Thank you.

Mr. Hawkins: I think we could spend an hour wordsmithing every Variance Request. You could sit there and make a garage door over the top that looks the same way. I don't think that addresses the issue of trying to maintain the resemblance of something looking like a garage door. I can sit here and go through and wordsmith something and I still think you can end up with some situation like this. For the record, I don't like it; I feel hoodwinked, but there's nothing I can do about it. Potentially, like I said, unless Mr. Forbes says something in reviewing it, it may be what it is; I don't know. I would leave that up to the Law Director but it's not the look of consistency that is trying to be obtained and maintained throughout the city. I appreciate Mr. Taylor asking to have this for a discussion. It doesn't sound like you're asking for any action; I don't know if we're in a position to give you any action. We can sit here and take opinions of what people think about it but I think the issue comes down to, at this point, is are you in conformity with the variance that's been granted. Unless staff has some other mindset, I don't know that the board's in a

position to make that determination. I think it probably is something that, if there's an issue regarding it, then I guess (interrupted)

Mr. Hafer: I think this was a (indistinguishable) brand new, coming in and seeing the door, and to see how you all felt; he asked as a courtesy if I would come in and explain the situation, because it is different. Believe me, I want to tell you, this wasn't for lack of trying. I had tried many, many things to do what I wanted to do, what I envisioned. I read that over many, many times and people said well, we even talked about making one to lift it up or something; I don't know. He asked me to stop doing it, that's why it looks like the way it is now. We have not touched the door.

Mr. Hawkins: Mr. Taylor, Mr. Campion, is it your mindset that if there's going to be any action by the City in opposition or against what's going on currently, that would have to take place I guess through what . . . citing in through Mayor's Court saying this isn't in compliance or ?

Mr. Campion: My question to the board would be exactly what did the board envision that a garage door looked like and probably tonight we should have brought photographic evidence of something, of actually what you build, or do we have that?

Mr. Hawkins: It's in there.

Mr. Campion: Oh, you gave it to them? I just didn't see it. So, is that garage door what the board envisioned; is that what they approved or did they approve something different? That would be my question.

Mr. Hawkins: But I think the issue is procedural . . . is the Board in a position to go and make an executive decision? I don't think we're executing the law; I think we're sitting here making some decisions on a variance and whether or not the variance is complied with, I would assume goes beyond this board's purview. Some executive entity would come back and say this is not in compliance with what you've been allowed to do, or, if it is in compliance, that executive entity wouldn't do anything but if they're not in compliance, then, I would assume, the Building Department would either cite it into Mayor's Court.

Mr. Hafer: I'm not a mind-reader; so I can't tell what anybody was thinking. I know that they wanted a garage door. All I ask is if I can get back going on this again.

Mr. Taylor: The reason that I didn't ask Bill to come in is, my interpretation was I didn't think it was in the spirit of the motion, but I was not here nor am I in your collective heads. So my hope was that we could get some direction as to what was the intention of the motion. If the intention of the motion is it was an overhead garage door then no, it doesn't comply. If the intention of the motion was an operable garage door, then I think it does comply and so I think that's really the issue that we're looking for some direction. If the board is uncomfortable taking some sort of action on this pending some further opinion from someone, specifically the law director, obviously that is question that could be asked. In terms of everybody's rights, if the determination is, the Administrative wing in the city, the Building Official, determines it's not in compliance, if our recourse as a city is to cite this to Mayor's Court, then you have an opportunity to appeal that decision as well. So I guess my hope was, in asking Mr. Hafer to come in here, is that we could try to poll the board and see do you all feel like this is what you approved. If you don't, then I think then we need to issue an order that says it's not in compliance and then we'd continue down the road. If you want me to do something else, obviously that's your pleasure - just give me some direction. Again, all of this transpiring while there's a staff change further complicates things a little bit but in an effort to give you folks the benefit of weighing in on this, that's why we're here.

Mr. Hawkins: I appreciate Mr. Hafer for coming in and having the discussion. I think it's fine; it's good to have the data of the board in terms of what the mindset is. I think the information that you take if you poll the board, I think the Administration still has to make a decision where you go with that. My suggestion is, you know we can poll the board and you have that data and then I would say talk with Mr. Forbes and see what he thinks about the legal side of it.

Mr. Hafer: I'd just like to (two or more people talking-indistinguishable) to say yes or no. I mean, I think that's why I came, for your benefit, so you know where you stand.

Mr. Taylor: I don't know if you feel like you can poll the board. Obviously it's not a decision I would make; I'm not an expert on policy.

Chairman Weidlich: I'm not either, by any means.

Mr. Hafer: I think it give him some direction, as a new Department Director, which direction to take in this situation. It's more for him than for me.

Chairman Weidlich: I would think that's it appropriate to poll the board and see what each person's intent was, for their approval or denial of the variance.

Mr. Taylor: Thank you.

Mr. Nienaber: I want to pull three sentences out of the minutes from that meeting. Mr. Hafer makes a remark like what we would like to do is put in a bow window or a bay window in the front. Further down Mr. Hawkins is remarking "are you going to put up a false wall so that the garage door can remain operable". That's telling us that there was some lack of both parties seeing the same thing because false wall means you're not going to have the room go all the way to the front of the garage door whereas he's saying he wants a bow window or a bay window, which means you are going to occupy the whole front half of the garage. So I think there was never a meeting of the minds at the time. As I'm seeing it, it was Mr. Hafer's intent from the beginning was to use the entire garage and at least Mr. Hawkins's questions were leading to you are going to reserve the very front of the garage for a place for the garage door to operate. Now that's where we can't read Mr. Hafer's mind either on whether; that's what I gather from it - is that even at that point in time, it was your intention to use the whole garage space and our understanding you would not. I think in my mind, the variance exists now and it was written rather ambiguously. Thank you.

Chairman Weidlich: Anyone else? Do we just want to go ahead and poll the board and see each person's intent of the variance that evening?

Mr. Ramirez: I don't know if that makes a difference. We've already given the variance.

Chairman Weidlich: Yes, true. What's everybody's thoughts?

Mr. Hawkins: If we're trying to help out Administration with regard to if they're going to take any action, it may be appropriate to ask, to poll the board in terms of if the board feels that Mr. Hafer is in compliance with the variance. If this wasn't our intention or wasn't some people's intention or what have you and the variance is granted, the only question now is, is Mr. Hafer in compliance with the variance or not? If he's in compliance with the variance, then there's nothing for the city to do. If he's not in compliance with the variance, then the city can go forward with whatever procedural mechanisms it deems appropriate in dealing with it. The board really is not in position to execute anything but if we're giving data to Mr. Taylor, to help him make a decision on what kind of course of action he may take, then that would be the only benefit of doing it. I don't know that anybody up here envisioned a garage door that was going to open quite the way it is, but as Mr. Ramirez said, I don't know if that's the issue at this point, in terms of helping the city decide if they're going to do anything - it's about once the variance was granted, is the applicant in compliance with the variance? While we're not doing anything executive with regard to that, we're giving data, I guess, to the City Administration for them to make decisions on what they're going to do. We may have seven people up here say I think that the applicant is in compliance; City Administration may still say I don't think he is. We're going to court. We may have seven people up here say I don't think he's in compliance with the variance; City Administration may sit there and say we think he is and that may be the end of it. But if they're just trying to take data, I think that would be the questions that's probably most helpful for the city and Mr. Taylor in going forward and figuring out what they're going to do.

Chairman Weidlich: Do we have a copy of the variance this evening of how it was written to Mr. Hafer? What was there? Oh, I thought that was just the minutes.

Mr. Taylor: That's just the minutes. I don't have the variance.

Mr. Campion: I can go get it.

Mrs. Ghantous: Thank you, Mr. Weidlich. I agree with Lawrence - that the question isn't, as you stated Mr. Weidlich, what was our intent. I agree that the question has to be, if we are going to take a little poll here, it has to be - are we in compliance, not what was our intent. Because I think we all know what our intent was - it was an overhead garage door, but that's not what we said - so it's is he in compliance with what he was given or not is the question. I don't think anybody here is questioning what our intent was; we all know what we intended, but that isn't what we said.

Mr. Nienaber: As I see it, he is in compliance, but with the letter, but not with the spirit and to read Mrs. Huber's motion from that day, to move to grant a variance to Section 153.105(B) so as to allow an existing garage to be made into a living space. The property is located at 246 Balsam Court. Section 153.105(B) states a single two-car garage and related parking area is required. A garage door is to be left as a workable garage door. Mr. Hawkins seconded the motion. So I think it's he's in compliance with the letter, but not the spirit.

Chairman Weidlich: I agree - that's why I was just curious how the variance was written that he was sent. We'll wait a couple of minutes for Mr. Campion to get back. While we're waiting Mr. Hafer, you were talking about siding the front of your house?

Mr. Hafer: Yes.

Chairman Weidlich: You weren't going to be siding the brick, were you?

Mr. Hafer: No, I'm not.

Chairman Weidlich: I didn't think so. I have seen that done on a house.

Mr. Hafer: (indistinguishable) on front of my window. It's all going to look the same; it's all going to be. I haven't done any work on it; I've been sitting on this, waiting for this meeting, to come up and talk to you. When I first started, I went to the Building Department and asked them, I said I'm changing my garage door out - do I need a permit? And they said no, you don't need a permit for your garage door. So then the next thing I know, we do this. Like I said, I got Brian to come down; I wanted somebody to come down there while my old garage door is still laying there and he said well, I mean.

Chairman Weidlich: This is a new twist to our garage conversions.

Mr. Hafer: When Mr. Hawkins kept referring to an overhead garage door, I knew where that was going for this.

Chairman Weidlich: I suspect, if the variance reads like you say, just an operational garage door, and you're in compliance in that respect.

Mr. Hafer: There's doors in town that are carriage doors.

Chairman Weidlich: Right.

Mr. Hafer: Now whether they had a permit, I don't know. I've gone by some garage conversions around here and I know that you haven't, I know Mr. Hawkins is not for them but some of them really, really look horrible. And I don't want that and I never wanted that to happen that's why it's taking so long.

Someone not on mic: When yours is finished being sided, will it even be able to be (indistinguishable) that there ever was a garage?

Mr. Hafer: Yes, it will be framed but I mean you will have the siding go to the side. It will be so we can

(Someone not on mic): Was it cost-prohibitive, to have a garage door that would come up as a single panel?

Mr. Hafer: I didn't even go that way because when they're talking custom garage doors, you're talking - you start at \$5000 for a custom garage door.

(Mr. Campion returns with the approved Variance issued to Mr. Hafer; board members reviewing)

Mrs. Ghantous: How much is this garage door project going to cost, if you don't mind me asking?

Mr. Hafer: To be honest with you, I don't know because I haven't got the price on the siding yet. To make the door, I can say maybe, in lumber and materials and things, probably about \$500 plus the windows installed, so that was several hundreds of dollars in windows.

Mrs. Ghantous: So maybe \$1200?

Mr. Hafer: \$1200 - \$1500. It's nowhere near what a custom garage door was going to cost.

Mrs. Ghantous: No, that's for sure.

Mr. Hafer: Most certainly, we don't want our neighborhood to look bad.

Mrs. Ghantous: We know you don't. We all trust that what you do here is going to look nice; that's not anywhere in any of the question marks here. We know that it will look nice.

Mr. Hafer: Right.

Chairman Weidlich: I can't argue with the way the variance is written "operable garage door."

Mr. Hafer: I showed it to several, and the carpenter who did the work for me and he said we're going to make you a garage door. We even talked about lifting one up and he said that would be way too heavy and too much so he can up with this. This letter has kind of held us up so that's why I want to get moving. I'm going to get moving anyway.

Chairman Weidlich: I know that wasn't my intent when I voted for it, but I can't argue with the way the variance is written.

Mr. Hafer: Thank you.

Chairman Weidlich: Operable garage door.

Mr. Campion: Can we poll the board to see how everybody feels about this?

Mr. Hawkins: Mr. Taylor, have you spoken with Mr. Forbes on this at all?

Mr. Taylor: No.

Mr. Hawkins: I don't want to make Mr. Forbes's job more difficult and I don't know if polling the board does that or not.

Mrs. Ghantous: That's a good question.

Mr. Hawkins: I guess what I would say is, based on the discussion that has taken place, does staff have any questions, or Mr. Taylor, do you have any questions of the board, beyond what you have heard, that will be helpful in answering?

Mr. Taylor: Reading the way the variance is written, there's a subtle difference in the way that the motion was put forth. I'm not an attorney either; I'm not Mr. Forbes, but I think we'd be hard-pressed to say that it's not an operable garage door. Obviously,

I didn't think it was what was intended; however, he did what was stated, not necessarily what was intended. I think it would be very difficult to ask him to take it down at this point, based on what the actual variance says.

Mr. Hawkins: Whatever the Chairman of the board wants to do; I'd rather not have the board polled on it and just let Mr. Forbes make a decision if this is legally in compliance or not. I don't want to do anything that's going to create a more difficult situation for the city Law Director, depending on what decision he makes based on what the board sits up here and says or doesn't say about the situation, so I'd leave it up to Mr. Forbes to make the legal determination if it's in compliance or not and let that be.

Mr. Taylor: Fair enough.

Mr. Hafer (off microphone): (Indistinguishable) - Let me know what Mr. Forbes; if he says aye or nay - my intention - I got a garage door. If he says it's not in compliance, then you do what you want. Either way I will continue to work.

Mr. Knox: I disagree with Mr. Hawkins. I believe the city needs a consensus of the board to see how we feel about it. Whether it's worth going on with it, because during the discussion, I stated that he needed to keep an operable garage door. He did that. It might not have been what's in my mind but he did meet the letter of what was called for. I think we need to make a statement if at all possible. Thank you.

Chairman Weidlich: I'm not sure where to go with this, board members - does every body want to voice which way they feel on this issue?

Mrs. Ghantous: I agree with Mr. Hawkins that we should not poll the board.

Mr. Ramirez: I also agree; I don't think that is my decision to make.

Chairman Weidlich: I'm inclined to agree with that as well, myself.

Mr. Hafer (off microphone): Let me make it easy. It doesn't make any difference to me whether you make a decision or not. (indistinguishable)

Mr. Hawkins: I think to be clear, the board doesn't have a position - we don't have the power to make a decision about anything. All we can do is give input as to what are opinion is, which is not anything that's necessarily actionable. There either is compliance with the law or there isn't. It's not this board's job to decide if there is - we have an executive branch of government that's going to do that. So the only point in polling the board is to give data to the city administration as to what the board feels about the situation. I think we've done that through some discussion. My only concern, and I think if you want to poll the board, you can always poll the board. Someone could abstain if they don't want to give their viewpoint. My only concern is I don't want to put our legal counsel in a position where, if this ends up in Hamilton County before some Common Pleas judge, they're going back into the record, based on what folks have said and he now has a more difficult situation. It is what it is. I think everybody up here has spoken on what they think about it, whether it was what they intended, and maybe it was or wasn't, but they may feel we think he's in compliance; I think this is a workable garage door or if they feel otherwise, and disagree with it; but to be clear, the poll or the vote means nothing beyond just giving data to the Administration. I think we've given the Administration data already. My only concern is I don't want to make things more difficult for our Legal Counsel if they think that it's not in compliance with the law.

Chairman Weidlich: I think four of us already said about not polling the board.

Mr. Nienaber moved to not poll the board.

Chairman Weidlich: Okay, there's five of us.

Mrs. Huber: I agree because it says operable garage door and that's what he's providing.

XI ADJOURNMENT

Mrs. Huber moved to adjourn; Mrs. Ghantous seconded the motion and the Board of Zoning Appeals meeting adjourned at 8:35 p. m.

Respectfully submitted,

_____, 2015 _____
Chairman Robert Weidlich

_____, 2015 _____
Secretary Jane Huber