

BOARD OF ZONING APPEALS MEETING
JULY 17, 2018
7:00 P.M.

I CALL MEETING TO ORDER

Meeting called to order by Mr. Ramirez

II ROLL CALL

Members Present: Joe Ramirez, Dave Nienaber, Jeffrey Anderson, Carmen Daniels, Robert Weidlich, Carolyn Ghantous

Members Absent: Gregory Johnson

Staff Present: Gregg Taylor

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF JUNE 19, 2018

President Ramirez: At this time if you have a cell phone, please put it on mute or turn it off, which that includes me and the other board members. Members, have you reviewed the minutes from the previous meeting and do I have a motion to adopt those minutes?

Mr. Weidlich: Move to adopt.

Mr. Anderson: Second.

President Ramirez: Moved and seconded. Secretary poll the members please to approve the minutes. All in favor vocal say aye.

(Minutes were adopted with a vote of 6 Aye and 0 opposed and 1 member absent)

V CORRESPONDENCE

None.

VI REPORTS

A. Report on Council

President Ramirez: Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. Chairman. So I have two City Council meetings to report on. The first one took place on June 20th. The first item of business was to make a presentation to our own Bob Weidlich for being recognized as the Ohio Crime Prevention Association volunteer of the year. (applause).

Mr. Ramirez: Congratulations Bob.

Mrs. Ghantous: Bob is amazing and he puts in more time at his volunteer job than I do at my full-time job. It's awesome and we appreciate it. We also had an introduction of two new employees at the Police Department. We met JoAnn Nordwick, she is the new Violations Bureau Clerk and we met Alex Marshall, he is a new patrol officer. We had Ordinance number 33-2018, that was amending the code and the zoning map to provide for the rezoning of 11100 Springfield Pike from

residential zoning to Public Facilities. That is Maple Knoll. They are expanding, building a new building or two back there in the area that was, I think, parking lot. That did pass with a 6-0 vote. We had Ordinance number 34-2018, that was approving a modification, excuse me, a major modification to the PUD and the preliminary development plan to the Springdale Business Center, that is the new name of what was formerly known as the Princeton Bowl. That item was tabled so I will talk about that on the next report. We also discussed Ordinance number 35-2018, that was an ordinance declaring to be a Public Purpose Certain Public Improvements which are necessary for the further development of real property within the city exempting such improvements from real estate taxation and that was for the Springdale Commerce Park which was formerly GEEAA park. That passed with a 5-1 vote. We had Ordinance number 36-2018, that was appointing special legal council for the Council Investigatory Committee and authorizing compensation. That passed with a 5-1 vote. We had Resolution R9-2018 and that was adopting the tax budget for the city for the year January 1, 2019 through December 31, 2019. That was a first reading so there was no action taken. Then we met again on July 11th and we had Ordinance number 34-2018, that was the continuation of the Springdale Business Center, formerly Princeton Bowl. I mentioned to you, I think, last month their intent was to, is to make that bowling alley into what they are calling a flex use space. My understanding is that it will be things like plumbing, plumbers, or landscaping people so that maybe a small office space and then a place in the back for equipment to be kept. So, I mentioned that they were at the previous meeting and the reason that it was tabled was, there was a lot lot lot lot of discussion about acceptable uses and what the landlord or the seller, landlord guy is wanting to use it for and what is in our code. So, when he came back at this meeting on the 11th, he had a lost and we ended up with some negotiation kind of meeting in the middle and we did pass that with a 6-1 vote. It appears that that is going to become the flex space as I described to you a moment ago. There was Resolution number R9-2018 and that was adopting the tax budget for the year January 1, 2019 through December 31, 2019. This was the second reading so we voted on it and it passed with a 7-0 vote. We had Resolution R11-2018 that was approving the report of the Assessment Equalization Board for the Beacon Hills/Kenn Road rehabilitation project. That passed with a 7-0 vote. Then we had Ordinance number 37-2018 adopting estimated assessments as reported by the Assessment Equalization Board declaring a determination to proceed with certain public improvements for the Beacon Hills/Kenn Road rehabilitation project. That also passed with a 7-0 vote. So, Mr. Anderson, did I leave anything out?

Mr. Anderson: No, very comprehensive, thank you.

Mrs. Ghantous: Thank you that will conclude my report then.

Mr. Ramirez: Thank you for that report.

B. Report on Planning Commission

President Ramirez: Planning Commission met on July 10th. We had three issues before us. We had Devin Nagar, Home 2 Suites 325 Pictoria Drive, Springdale, Ohio. This is the final development plan and application 33814. If you remember this is the new Home 2 Suites is a hotel going up in Pictoria Island. He had some changes, one is basically changing the whole direction for I believe it was sewage on the property. After discussion, it is all favorable. A few minor considerations which he did not detail but it was not enough to hold up the vote on it and that was passed with a 7-0 vote. The second item was Thorntons at 12185 Princeton Pike, Springdale, Ohio. This was a revision to the development plan an application 33818. What they are looking to do, if you know Thorntons, behind Thorntons they want to have three lanes for diesel fuel so the trucks would be coming in. So a lot of discussion on that, on traffic, on lighting because they have the lighting that would be quite bright back

there. Traffic getting in and getting out. Congestion from delivery trucks, so there were a number of different issues and in the end they agreed to table that and it was approved to table that project with a 7-0 vote. Finally, OVR Equipment and Sale Rentals, 345 Glensprings Drive, Springdale, Ohio. It's a concept plan so it was basically a discussion. He wants to get a feeling of out thought and maybe some input on putting in, just as Mrs. Ghantous said the Princeton Bowl location this will also will be a flex space. We had the same types of discussion on what will go in there, traffic flow, size of vehicles and so forth. He is very willing to work with us and take recommendations and basically in the end, without voting, we gave him a favorable go ahead with his plan and he will have to come back in the future with the actual plan for that property.

Mrs. Ghantous: What property is it?

President Ramirez: It is 345 Glensprings Drive, it is back near Applebees or the old Applebees. One of the stipulations is that it does butt up against residential back that way so we had the discussion with buffering and he was again very agreeable with us that he would take care of the concerns of the residents back there which was a major concern of ours. So, any questions on that or the other two subjects? Okay we will move on.

Chairman's Statement

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 up, raise your right hand and repeat after me:

(all members of the audience were sworn in at this time)

Please be seated.

Be advised that anyone who was not standing and sworn in cannot testify unless they request the Chair to be sworn in as they come to the podium.

This can be done at any time.

VII OLD BUSINESS

None

VIII NEW BUSINESS

- A. Pretzel Baron, 311 Northland Boulevard, Springdale, Ohio, Zoning Variance from section 153.253(F) of the zoning code requiring a 50' minimum rear setback. (Application 33838)

President Ramirez: The applicant wishes to construct an additional freezer at the end of the building which will encroach the required rear setback by 6 feet to 12 feet.

The application 33838. At this time would the applicant please come to the podium and Mr. Taylor will give us a staff report.

Mr. Taylor: Thank you Mr. Chairman. This is just what you just heard. This is the way that the property looks today. This is directly from CAGIS. It is zoned SS which is Support Services. This is in your packet folks. This is the proposal. On the map which is the left most, the orange kind of dashed line is the property line, the red lines that you see inside are the setbacks and they reflect the appropriate setbacks based on the zoning code. The big white thing of course is the building and the kind of burnt orange at the back of the building is the proposed freezer addition. You can see how both the existing freezer addition and the proposed freezer addition cross into the required setback somewhat. Back in 2014, this body voted to approve that variance for what's now the existing freezer, the only condition was that the buffer yard requirements of the zoning code be maintained along there, which in this case I believe involved, there are several ways in our zoning code that you can comply with the buffer yard. It is a combination of planting and earth mound and so forth. Back in 2016, when Mr. Gottenbush, also known as the Pretzel Baron, was in negotiations with the Ditsch company, this idea was presented to Planning Commission in concept form, in addition to the, there are some other modifications to the building which will include some flour silos and some elements that are going to be popping up through the roof to accommodate a vastly increased production capability. I'm sure they will have something to say about that later but the long and the short of it is, Planning Commission was in support of the concept, of course that support was subject to you folks granting whatever variance that would be required. In this case, I think the only variance that will be required is the, this freezer addition that is before you right now. Is that correct?

Mr. Schlagetter: Correct.

Mr. Taylor: Okay. That is basically all that I have. You have staffs report, you have our conditions and findings for your consideration and staff's happy to answer any questions that you may have for us and the applicant is with us.

President Ramirez: Thank you for that report. Sir, would you please state the reason for requesting the variance.

Mr. Schlagetter: Yes, my name is John Schlagetter, I'm the project architect with Process Plus. My home address is 2534 Warsaw Avenue, Cincinnati, Ohio. This is the first project that we are proposing to execute for the expansion for the manufacturing capacity at Pretzel Baron. There will be some additional modifications to the building, alterations, additions things of that nature. That I will actually be touching base with Gregg on tomorrow morning as a preliminary review. As Gregg mentioned, this is the only modification to the facility that we are currently anticipating the need for a variance for. With regards to height we are trying to keep all building additions to within 35 feet to give ourselves a little bit of wiggle room for the height requirement. In terms of the rear yard setback, what we have tried to do is to optimize the new freezer addition based upon Pretzel Baron's production needs for a new manufacturing line. We are balancing the need for storage capacity of their property with also the desirability to keep the footprint as small as possible, not only to minimize construction costs but operating expenses, things of that nature for a cold storage freezer. We have made the freezer as small as we can but unfortunately as small as we can still means we are crossing the rear yard setback. We are doing that in two places as you can see in the footprint. We are actually crossing the setback in two places. The existing freezer has pallet storage racks that are three high and this is finished product. Those pallets are two deep, front to back and six pallets across. What we are proposing with the first step out of our freezer addition is that we would eight pallets across, so we are adding another two pallets in terms of what we call the facing of those racks and we do that for the first few racks and then we step out again to add an additional 36 pallets. So, when we talking about encroaching into the rear yard setback 6 to 12 feet that is because the foot print of the addition varies a little bit. I will say also that we constructed this drawing based upon the best available information at the time, we used the meets and bounds description for the property line from CAGIS to construct the property line and the orientation of the Google Earth photograph for the facility. We believe that is not perfectly aligned. I believe that the surveying work will be completed

tomorrow based on the information we have. So, at that time we will have a much better idea of the exact encroachment into the rear yard. It is possible based upon the accuracy of that information that the worst case encroachment could be up to 15 feet that would be in the middle step if you see. So we have a very short encroachment on both the east and west sides but because the setback line is on a diagonal relative to the building, the maximum depth of that encroachment would be essentially in the middle. In order to not encroach that far we would lose, like I said, approximately 36 pallets of product which is about 7 ½ % of the total. The issue we get into in terms of trying to optimize the capacity of this freezer is meeting Pretzel Baron's production demand for the amount of product that they need have on hand from a food safety standpoint given not the unreliability of the refrigerated trucks to come and pick the product up but just the normal fact of the variability of those truck deliveries. They have to be able to store enough product to keep it food safe until the trucks do show up. So, again we have tried to minimize the encroachment into the setback but we are also kind of bound physically by the dimensions of these shipping pallets and the racks that they sit on.

President Ramirez: Thank you. If nothing else we can come back to you if there are questions for you. If you would please remain there. Members, questions for the applicant? Mr. Anderson.

Mr. Anderson: Thank you. I just have one question. So, the original application said 6 to 12 feet, today we are talking about 15 feet. I just wanted to make sure that we are doing the right variance that we are changing the application to 15 feet based on the lack of information or would you come back.

Mr. Schlagger: If that is possible, in order to provide, to allow for up to 15 feet. I think it is going to be less than that but until we get the survey data we won't know for sure. If it is in the board's interest to modify the language from 6 to 15 feet that would allow the project to continue moving forward without taking any more of the board's time and I am confident that we would not need more than 15 feet based upon the math that we have been doing recently.

President Ramirez: So, to Mr. Anderson's point would you request that to be 15 feet now.

Mr. Schlagger: If that is acceptable, yes.

President Ramirez: Because, if we did 12 or 15, or 12 or less you would have to come back for another variance.

Mr. Schlagger: Potentially.

President Ramirez: Yes.

Mr. Schlagger: And we would not know that for certain until we receive the survey information. So, if we could strike the 12 foot and make that 15 foot without objection that would be good for the process to move forward. One thing that I would like to mention, again, I'm thinking it's maybe a 2 ½ foot increase so 14.6 but again until we have this survey data we won't know for certain, it could be less. To satisfy the requirement of the application the photographs we submitted were from the Dean Drive view using Google Street View. You would not be able to see the freezer from the Northland Boulevard elevation so we did not see a point in showing you a photo of nothing so I believe that the tree cover that is currently along the property line does a pretty good job of screening the back of the plant as well as the orientation of the apartment buildings along Dean Drive appear to have views east and west as opposed to views to the north so it is not as though residents will have to look at this freezer day in and day out of their living room or bedroom windows.

President Ramirez: Do you have plans for buffering further on down like you did on the previous section going further up to the right hand side? So, buffer from the residents. I believe that you have buffering on the lower left hand corner right now.

Mr. Schlagger: So.

President Ramirez: Do you have trees or a mounding?

Mr. Schlagetter: We could absolutely take a look at that particularly if we think about putting up evergreens in order to shield the view on a 365 day a year basis. I think that most of the trees are currently deciduous. So, we would definitely be able to fill that in. The distance to the property line is such that from again from a food safety stand point we do try to keep vegetation off of food plants as far as possible because they harbor birds and other insects that tend to want to find the food product. So, if we were able to do a buffer along the property line, I think that would probably be acceptable from a food safety standpoint.

President Ramirez: Okay. Mr. Weidlich.

Mr. Weidlich: Thank you. I noticed, when I went back in The Colony Apartments, there is a mound there with some plantings down through there. Do you know how long those have been there? Are they going to grow up to be quite a bit larger than they are?

Mr. Schlagetter: I do not. We have the construction drawings for the freezer addition itself that was installed previously but no civil or landscape design information. Gary do you know?

Mr. Gottenbusch: I didn't sign in thank you, and swear in.

Mr. Weidlich: State your name and address sir?

Mr. Gottenbusch: Gary Gottenbusch, 3872 Round Bottom Road, Cincinnati, Ohio, 45244. We have, those were existing, I believe when I bought the building. I don't actually recall actually putting them in. There is vegetation through out the back of the building and we will be able to have extra soil so we can use that for buffering if you'd like. We can absolutely mound that up. It's completely white, the back of the building as opposed to brown so that was the change in the appearance of the back of the building and then the currently freezer only holds our current capacity for our line, we are actually undersized now, we are only trying to keep product for up to seven days and we put another line in and we are absolutely going to be out of capacity. It's not going to be able to put as much through as we anticipated.

Mr. Weidlich: Okay, thank you.

Mr. Gottenbusch: Thank you.

President Ramirez: Mr. Taylor.

Mr. Taylor: Thank you Mr. Chairman. I think staff would suggest that if it is the pleasure of the board to grant the variance, that one, you would go ahead and increase that to 15 feet so that they don't have to come back and the other is that I would put the stipulation that it needs to comply with the buffer yard requirements of the zoning code. It maybe that it already does, however; that gives us the opportunity to make sure that we are crossing the T's and dotting the I's.

President Ramirez: Thank you. Mr. Anderson.

Mr. Anderson: Thank you Mr. Chairman. The one question that we have been talking about, the visual site lines quite a bit, do you have any information on incremental noise with the new freezer? Is the pumps and motors on this backside to so we are moving those all closer or is that not an issue?

Mr. Schlagetter: Yeah, that's a great question. So, the existing rooftop equipment, the freezers have evaporators, it's very much like your freezer at home, the evaporators are inside the building and then the condensers for the existing freezer are on the 20-foot high roof. The condensers are just like your air conditioner at home they reject the heat from the freezer into the atmosphere through the refrigeration cycle. One of the nice things about this particular facility is that the roof the equipment sits on is at about 20-foot high and the freezers are at about 35 feet high so there is a very nice 15 foot wall that helps to deflect the sound up and away

from the apartments. I have never heard the sound of the roof-top condensers in my multiple visits to the facility.

Mr. Anderson: Thank you.

President Ramirez: Any other comments, questions for the applicant? I would like to note, for the record that it is in the back side of the building, it does about an apartment complex and there are trees and shrubs in between this property and the land before we get to the apartment buildings. If there are no other questions at this time would somebody like to put forward a motion? Mr. Nienaber.

Mr. Nienaber: I move to grant a variance to the owner of 311 Northland Boulevard to construct a 5,133 square foot addition at up to 35 feet from the rear lot line. Said variance from this section 153.252(A) reads, the minimum rear setback for properties in this district shall be 50 feet when abutting a residential district. Applicants shall also comply with the buffer yard requirements of section 153.608.

President Ramirez: Mr. Taylor.

Mr. Taylor: Sorry. The 153.608 that was in the previous variance, the code has changed since then so you need, I think if you just say comply with the zoning code then we can leave that out.

Mr. Nienaber: Comply with the buffer zone requirements. We will just drop that last line about which section.

President Ramirez: That will allow him his 15 feet maximum.

Mr. Nienaber: Right by allowing it that he only has to have a 35 foot buffer.

President Ramirez: Thank you. Mr. Anderson.

Mr. Anderson: Thank you. Just one more clarification on that. I think when you read the section for the variance it was under the old code, the one that I have is 253(F) so I just want to make sure it is clear for the record that we are talking about 153.253(F) for the setback.

Mr. Nienaber: Got ya.

President Ramirez: Please note that that is changed to 153.253(F). At this time do we have a second.

Mr. Anderson: Second.

President Ramirez: At this time secretary would you please poll the members.

(Secretary polled the members and the motion was approved with a vote of 7-0.)

President Ramirez: Thank you sir. The variance has been approved.

Mr. Schlagetter: Thank you. I do appreciate it. Good evening. Thank you.

- B. Matthew Mudry, 406 Cameron Road, Springdale, Ohio, Zoning Variances from section 153.252(F)(2)(a)(i) of the zoning code which prohibits a fence from projecting past the front of the building line and section 153.252(F)(2)(iii) which prohibits fencing in the setback for the building from the side street line to construct a privacy fence in the front of the building line and along the side street line. (Application 33884)

President Ramirez: Matthew Mudry, step forward please. Before we hear from you, I am going to make a short statement, we will talk to staff and then you can present your case. Mr. Taylor.

Mr. Taylor: Thank you Mr. Chairman. As you all know this came before you last month and frankly, after listening to the tape from last month it was pretty clear that actions were taken that were not based on maybe correct information. I think there was a misunderstanding of the extent of the request and specifically I believe that Mr. Mudry was asked if he could move the fence two feet and I believe everybody thought that was going to bring him into compliance therefore there was no variance granted. Unfortunately, that is not the case. Moving it two feet does not get him out of the required setback. So basically, I am here to make sure that we are proceeding knowing the facts of the case, at least to the extent possible. So, there are a number of photographs in your packet, I just selected a couple of them here. This is the rear of the property that shows the driveway. Basically, it is a drive under garage and topographically the back yard is substantially higher than that driveway area. Again, this is looking the other way on the driveway and you can see some steps coming down off of the deck which faces Sharon Road. (What's wrong with my little gizmo here, it is not doing anything.) This is a picture of the front sidewalk and the steps coming off of the deck near the front, this is important because you folks had granted a variance to allow the fence to be four feet in front of the property, which at the time Mr. Mudry said he thought that would work, upon further review four feet puts it somewhere actually in side that walk so that is the reason for the request to increase the distance in front of the house on the Cameron Road side to eight feet so that would accommodate the gate going across the sidewalk here. This is the actual proposal, this took some work to get this developed but let me just explain some of the lines on here to make sure everybody is on the same page. First of all this along here that you can see on the aerial photograph of course is the edge of both Cameron here and Sharon here. This blue line represents the right of way line. This is taken from CAGIS, Cincinnati Area Graphic Information Service. It is not a perfectly legal survey but it is a very good representation of what we really have and we frequently use this for this type of thing. This is the rear property or the side property line and then this is the rear line. This is a shed that is on the property. Again, you can see the driveway and part of the retaining wall shows on the aerial photo. This is the house and then this is the deck that faces Sharon Road. Here again on the aerial you can see where the sidewalk comes in and this is drawn as nearly as we could to scale. This is an eight foot projection in front of the Cameron Road side and then this green line represents the rest of the fence as proposed by the applicant. That comes back across and allows him to access the deck from the fenced area from their deck steps. This then, in the red line here is the required minimum setback and essentially he has two front yards because he has a corner lot, however; the code stipulates that the front, which this particular house faces Cameron Road, making this the front, you cannot according to the code extend in front of the front of the house and then on the side you are not allowed to extend into the setback on what is considered the side street even though Sharon Road is the major street in this case it is the side street because the house faces Cameron. So, we have two variance requests, one right here for this eight-foot projection and the other is this area here which starts at that arrow and comes down, goes across along here and then back up to the red line. That area is not within the zoning code, that is in violation of the code unless you folks grant a variance. This dimension here is approximately 18 feet into the setback and this dimension is about 25 feet. I hope you can see them and I know you have this in your packets as well, these little white flags that are shown here. Mr. Mudry went out and basically staked the location of the fence so you could see where that would be in relation to the street and importantly these bushes here, because you also see in the packet, you've got a letter and again I believe that this is similar to what you saw last time, there was a concern about site distance and the people that wrote the letter here on Ashleigh Court are not opposed to the fence but they wanted to verify that the fence would not adversely affect the sight distance. I looked up the required site distance for 40 mile an hour stopping sight distance and it is about 220 feet and it would appear that the fence does not encroach on that stopping sight distance. I believe, I hope this drawing clarifies what the request is. Again, just for one to reiterate, one request is to change this from four feet to eight feet because you already gave them four feet and the other request is to allow this portion of the fence to

encroach on the setback by basically between 18 and 25 feet. It is my understanding that the fence would be a six-foot high wood privacy fence. I am happy to answer any questions particularly about kind of how we went off the reservation if that is necessary and why we are where we are.

President Ramirez: Thank you Mr. Taylor. That was a great report. I think it is a lot clearer now what we are really looking at for a variance. At this time, I'd like to read into the minutes a communication from a neighbor.

July 6, 2018

Zoning Board, Springdale, Ohio.

Concerning the hearing of the property on the corner of Sharon Road and Cameron that is seeking to put a privacy fence, we won't be able to attend the meeting. Our concern would be that it in no way hinders visibility for those turning left from Cameron onto Sharon Road then heading east. There is already a bush on that block that when filled out in the summer can block one's sight. We are all in favor of neighbors having the opportunity to improve and enhance their property and wish a win win solution to be agreed upon.

*Mr. & Mrs. Galvin
10984 Ashleigh Court
Cincinnati, Ohio 45246*

So, at this time please state your name and the address and state your case.

Mr. Mudry: Matt Mudry, 406 Cameron.

Ms. Norman: Jessica Norman, 406 Cameron.

President Ramirez: Thank you.

Mr. Mudry: Gregg covered a lot of it. I misspoke at last month's meeting thinking that four foot would be enough to cover the first variance in the top right corner of the picture. Went home, measured my garden bed, realized that I was going to have a cutoff right though my sidewalk. The other reason that four foot wouldn't work to that end is because the steps coming down, I don't know if you could see it in the picture, the steps already protrude past the house by about a foot and a half so you would walk down and smack face first into a fence. Likewise, the turn of the steps would be, not to mention the slope would be near impossible to gate effectively so that is why we wanted to ask for the eight foot instead of the four. As far as the Sharon Road portion, there is additional pictures, I'm not sure if that was everything that we had but I did, we intentionally put the proposal to be inside of the stop bar that way any vehicle coming up to the road to make a turn would be able to see clearly both ways without being effected by the fence.

Mr. Taylor: That's this dark line here is labeled here stop bar and again I think that was located by the applicant. If you basically draw a straight line from, you assume the driver is sitting back here about five feet from the stop bar, if you draw a straight line across here these bushes that are here, and they are somewhat problematic, we have I believe the appropriate length in terms of what's required but pulling out of here myself, this is again you have ample sight distance but it is a little bit uncomfortable. I can see where somebody might have had concerns had this fence protruded further.

Ms. Norman: We have since cut the bushes. We've taken care of that issue.

Mr. Taylor: Again, they (whoops), I think this is what you are talking about.

Ms. Norman: Yeah. I need to get a ladder to do the top part but yes.

Mr. Taylor: And then here is the fence that is behind the bushes. Now, where this picture is taken is kind of, you are standing in line of the fence which is well behind the stop bar I believe.

Mr. Mudry: Yes.

Ms. Norman: Yes.

Mr. Mudry: So the fence varies between, I think, at its closest point is 19.7 feet from the road and at its furthest point is 21.3 feet from the road due to the angle of the road it would be a 90 degree fence but the road is at a slight angle. What we were more or less looking for is the same thing we were looking for last month. We found out the following day when we went into file the building permit that what had happened and why we are back here again. The only alternative at that point would have been to cut the entire thing in half and I think fencing half a yard would be aesthetically pleasing or practical by anybody. That is what the red line is that is drawn on the CAGIS photo.

President Ramirez: Mr. Taylor.

Mr. Taylor: One thing I would want to point out, I believe that the dimensions that Mr. Mudry was mentioning, the 19 feet and the 21 feet are actually from the pavement not from the right of way line. I think it is actually, on the

Mr. Mudry: That is correct.

Mr. Taylor: This point here, it is about 10 feet from the right of way line and I think down here it is about 17 feet from the right of way line if memory serves me correctly. It is like 19 feet from the pavement here and 21 down here. I think, is that correct? Or is it the other way around?

Mr. Mudry: Other way around.

Mr. Taylor: So, it is 19 here and 21 here.

Mr. Mudry: It is about 19 ½ and 21 ½ give or take.

President Ramirez: Ready for questions. Questions from members for the applicant?
Mr. Anderson.

Mr. Anderson: Thank you Mr. Chairman. So, I guess I have more of a general question kind of about the change. The last time we talked about this I know I was comfortable about the front encroachment because of the nature of the lot and how your house was placed on it, it made sense to make an accommodation for that. Eight feet, four feet, I can get my head around that because of the nature of the house placement of the lot. Where I am struggling with is the encroachment into the setback because you are already getting extra distance on that yard for the same reasons that we granted the variance for the front, it is set further back. So, I guess I am trying to understand why it is appropriate to do something like, go into the easement, we do that if there is an accommodation to be made. If there is a reason that is different. Why is this, other than I want a bigger fenced in lot, what about this can get us past that idea, I just don't understand the rationale.

Ms. Norman: The stone walkway, otherwise the fence would go into the middle of it just so it could stay there. It wouldn't have a gate there I guess is why we were asking.

President Ramirez: That is for the frontage though right.

Mr. Anderson: Yeah, the frontage I am comfortable with the four feet to eight feet.

Ms. Norman: Oh, I'm sorry I'm not understanding.

Mr. Anderson: So, I'm comfortable with that in general the same reasons that I was comfortable last time with four feet making and adjustment to eight because I understand they are in four-foot segments so adding two feet, eight feet I am comfortable with that part of it. I guess what I am struggling with is the easement encroachment to the Sharon Road side.

Ms. Norman: Oh, okay.

Mr. Anderson: I'm trying to understand why your lot or your house placement would justify a variance because that is the reason, otherwise, there has to be some reason that we would grant a variance, not just because I want a bigger fenced area. We need to understand what about the property of the house placement necessitates this in order for you to get a reasonable return or to use the property. So, I guess I am asking what's the rationale for not just blowing by that line because you can fence in an area here and stay within variance. The four to eight feet I understand, I'm just talking about the Sharon Road side. Why can't you just have a smaller fenced area that meets the zoning code.

Mr. Mudry: We thought it would look a little silly to fence half the yard is more or less the reason. I did not think it would be very aesthetically pleasing or practical to have half a yard fenced and half the yard not. I thought that we would be able to make something that looked practical without impacting the safety of others. That seemed to be the only objection from our neighbors was their safety and driving the vehicles through the turns.

Mr. Anderson: It is just a far way into it. You're not a foot or two into the easement you are 25 feet into it and that is a big chunk of space. So, had you considered a smaller fenced in area? Even if not. I mean crossing a line because your lot is on a corner and it is the way Sharon Road comes it makes it tough to build a square but you are talking about both corners outside the easement not just one of them.

Mr. Mudry: Correct.

Ms. Norman: With our deck to it is cutting it down quite a bit.

President Ramirez: I think we are kind of comfortable with the variance we gave in the front but like Mr. Anderson said even if we had to extend that from four to eight feet but it is a considerable variance for the side yard. Is it even doable to stay within the requirements on the side yards for a fence? I know it is not a square fence but it would not, and there are other issues for you such as splitting your property in half but it would allow you a fence, it does go down through the middle of the property but it will also meet setback. Is that an option for you at all?

Mr. Mudry: If it is the only option we have, then it is what it is. It wasn't what we wanted to do, it wasn't what we had planned to do coming into last month or going in the next day. If that is the only option the board will give us then that is what is. That is not our desire. We could have done that last month but we decided to wait it out and try because at the end of the day, I think, we all walked away last month understanding that we were going to build the fence 20 feet from the road and the

majority was okay with that, so it's the reason that I thought that we'd be able to come back, ask for the same thing and receive it even with a different understanding.

President Ramirez: Mrs. Daniels.

Mrs. Daniels: Thank you. Mr. Taylor, did you say, was it difficult when you pulled out of there as far as being able to see? What was the challenge for you?

Mr. Taylor: It wasn't, I wouldn't say difficult but I could definitely, I would have been more comfortable if I could have seen further but again I did not feel it was unsafe.

Mrs. Daniels: Was that before the bush was cut?

Mr. Taylor: I'm not sure. I would say that it probably was because I went out right after last month so it very well may have been before they cut the bush back.

President Ramirez: Mr. Weidlich.

Mr. Weidlich: Thank you. I just want to state, the same as I did last month. I am not comfortable with the fence encroaching that far out into the right of way. I just wanted to say that.

President Ramirez: I think maybe, if I am reading the members correctly that it's not going to be a favorable vote for the side yard. If that is the case, without you submitting another appeal, would you be okay with getting a variance for the eight feet in the front of the yard?

Mr. Mudry: Yes, I would definitely want the eight foot for sure.

President Ramirez: Mrs. Daniels.

Mrs. Daniels: Could we, by chance split these two, I mean take a vote on both of these separately, that's what I would suggest.

President Ramirez: Yes. So, if there are no other questions, do we have a motion from a member? I believe what we are going to ask for is a variance from the front yard of eight feet, maintain, drop the request for the side yard variance unless the applicant would like to go forward and have us vote on the side yard, we can do that as well, it is one or the other.

Ms. Norman: I'm really confused, sorry my head is pounding.

Mr. Mudry: He's saying he is pretty sure the board is going to turn down the side year and he is asking if we would like them to vote on it anyway.

President Ramirez: Mr. Weidlich.

Mr. Weidlich: I was going to make the motion.

President Ramirez: Oh, great. Did you have something Mr. Taylor.

Mr. Taylor: I think it would be appropriate to vote on each because there really are two variances. The one on the Cameron Road side because it is a slightly different section of the code and then create a motion for the Sharon Road side separately.

President Ramirez: Okay. Mr. Weidlich are you ready to give a separate variance motion.

Mr. Weidlich: That is what I was going to do was for the Cameron Road setback. I would like to make a motion to grant a variance to 406 Cameron Road to increase the distance from the house to the edge of the fence from four feet to eight feet, let's see if I can find the codes here, per section 153.252(F)(2)(a)(i) states that no fence shall or wall shall, retaining wall shall project past the front of the building and any principally permitted or conditionally permitted structure.

President Ramirez: Mr. Taylor we need the distance for the setback as opposed to the distance from the house saying that the house is no longer in the future.

Mr. Taylor: No because if you didn't have the house you wouldn't be permitted to have the fence at all. If it was somehow, if the house was somehow, if the lot was somehow combined with the house adjacent to it, in theory you would have a humongous side yard and I would say in that case that variance would be relative to whatever else was built and then if, I think it would be appropriate to state that it is eight foot in front of the current residence and it is more than, it is beyond the setback.

President Ramirez: It would be 27 feet

Mr. Taylor: No, because if again if you look at the drawing, here is 35 feet is the red line okay so the eight feet does not even come close to the actual setback if we got involved in that. So, I think if it's, I suppose you could, if let's say the house went away then conceivably I guess somebody could build another house that was right against the setback so you could say, in which case you would not want the eight feet to project in front of that because then it would be yet another variance. I guess my thought would be you could state eight feet in front of the house but in no case encroach up on the required front setback.

President Ramirez: Okay. Would you like to amend that Mr. Weidlich?

Mr. Weidlich: Yes, we can amend that to that wording that at no time shall the eight feet from the house encroach into the 35 foot setback.

President Ramirez: Okay, do we have a second?

Mr. Anderson: Second.

President Ramirez: We have a motion and a second, at this time secretary would you please poll the members.

(Secretary Daniels polled the members and the motion passed with a vote of four in favor, two against, Mr. Nienaber and Mrs. Ghantous, and one member absent.)

President Ramirez: The front variance has been approved. At this time we need a motion for the side yard variance. Mr. Anderson.

Mr. Anderson: Thank you. I'd like to make a motion to approve the variance for 406 Cameron Road to section 153.252(F)(2)(a)(iii) to allow a fence to encroach on the setback by not more than 25 feet for application number 33884.

President Ramirez: Second anyone? I'll second that one. Secretary please poll the members.

(Secretary Daniels polled the members and the motion was not approved with a vote of one in favor, five against, Mr. Ramirez, Mr. Nienaber, Mr. Weidlich, Mr. Anderson, & Mrs. Ghantous and one member absent.)

President Ramirez: So as we stand the front yard variance has been approved to allow you eight feet and you have to stay within the required setback for the side yard.

Mr. Mudry: Copy.

President Ramirez: Thank you for coming back.

Ms. Norman: Thanks. We missed you guys.

IX DISCUSSION

President Ramirez: Discussion? Mr. Nienaber.

Mr. Nienaber: Thank you Joe. I just wanted to thank Mr. Taylor for his help here tonight. His remarks were very helpful in both cases.

President Ramirez: Mr. Taylor and I met yesterday to try to clarify some of this and it was very helpful for me as well. Going forward, we believe like they do on Planning Commission for cases that are a little muddied I will come in advance to see if we can get a better understanding or clear understanding of what the applicants are looking for. As your drawing here and explanation here was much easier to follow. Nothing against Mr. Campion but it was in part our fault for not reading it correctly. Any other comments for discussion?

X ADJOURNMENT

Mr. Nienaber: I move we adjourn.

President Ramirez: We have a move for adjournment. Do we have a second?

Mr. Anderson: Second.

President Ramirez: Voice vote.

(voice vote 6-0 to adjourn.)

President Ramirez: We are adjourned.

Respectfully submitted,

_____, 2018

Chairman, Joseph Ramirez

_____, 2018

Secretary, Carmen Daniels