

BOARD OF ZONING APPEALS MEETING  
JULY 23, 2019  
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, Robert Weidlich, Carolyn Ghantous, Douglas Stahlgren

Members Absent: Carmen Daniels

Staff Present: Randy Campion

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF JUNE 25, 2019 AND THE SPECIAL MEETING OF JULY 2, 2019

Chairman Ramirez: At this time the chair will accept nomination to approve the minutes from the June 25, 2019 meeting.

Mr. Nienaber: I move to approve the minutes.

Mr. Anderson: Second.

Chairman Ramirez: It has been moved and second. All in favor by voice vote.

(Voice vote taken and the minutes from June 25, 2019 were approved by a vote of 5 to 0 with 1 member absent and 1 member, Mr. Stahlgren, abstained.)

Chairman Ramirez: Please note that Mr. Stahlgren abstained. Also we need to approve the special meeting of July 2, 2019. We need a motion to approve.

Mr. Weidlich: I move to adopt.

Mr. Anderson: Second.

Chairman Ramirez: All in favor

(Voice Vote taken and the minutes from the special meeting on July 2, 2019 were approved by a vote of 6 to 0 with 1 member absent.)

V CORRESPONDENCE

Chairman Ramirez: We do have correspondence from DeCastro Management LLC, dba as Kerry Ford 155 West Kemper Road and 150 Northland Boulevard, Springdale, Ohio submitted request from a variance from section 153.353 (B) & (C) to increase the light levels. That is application 34781. This letter dated July 17, 2019 written to Gregg Taylor:

*Please accept this email as my client's request to table the above variance hearing until the next scheduled BZA Meeting which I understand is Tuesday, August 27<sup>th</sup>. The light shields are on back order and Kerry's lighting engineer will need time to install and test the back shields and to run a photometric study using this data.*

At this point that was our only correspondence. Bill Turner from, I guess there is nothing to actually state it is just physical stated. Nothing that we actually say. I can pass these along. The drawings concern, under New Business, Charles Brown (contractor), on behalf of Danny Dillon, Olivia Carranza & Hector Ruiz, 678 Allen Avenue to consider variances from Section 153.252(G)(1) of the zoning code, front

and side setback requirements to allow construction of an addition. This is application 35246. We will put this in the packet but basically it is a document showing a drawing of what they intend to do.

## VI REPORTS

### Report on Council

Mrs. Ghantous: Thank you Mr. Chairman. City Council met on July 17<sup>th</sup>. There were six members present. We had five ordinances. Ordinance No. 20-2019 was amending the Ordinance No. 3-2019 to review the pay table for full and part-time and seasonal employees. That passed with a 6 to 0 vote. Ordinance No. 21-2019 was authorizing an agreement between Springdale and the Board of Hamilton County Commissioners for Municipal Road funds relative to the improvement of East Kemper Road. That passed with a 6 to 0 vote. We had Ordinance No. 22-2019 and that was authorizing contributions to certain health care accounts of full-time employees related to the City's health insurance plan. That passed with a vote of 6 to 0. We had Ordinance No. 23-2019 adopting a supplemental appropriation estimated receipts ordinance to adjust appropriations for current expenditures and adjust estimated receipts for the fiscal year ending December 31, 2019. That passed with a vote of 6 to 0. Then we had the first reading of Ordinance No. 24-2019. That was an ordinance removing section 153.460 (C) and amending sections 153.253(C) and 153.253(E) and 153.600 of the Codified Ordinances of the City. There was no action taken on that, we just had it read for the first time. That is about it unless somebody has any questions.

Chairman Ramirez: Mr. Anderson.

Mr. Anderson: Thank you Mr. Chairman. I think to be clear with that the zoning question that was brought up, that was largely about digital signage right? That's the section that is being updated? The last ordinance that had the first reading?

Mrs. Ghantous: I did not think that's what it was and I do not have that with me to verify it. I thought it was removing some language about allowable uses in certain areas, but I might be wrong about that.

Mr. Anderson: Okay, thanks.

Mrs. Ghantous: You have a better memory than I do so, I kind of trust you.

Mr. Anderson: I thought it was usage for digital signage. I thought it was adjusting when it was appropriate but I could be wrong. We could look it up, I was just curious if there was any discussion on it. I didn't recall that there was any.

Mrs. Ghantous: We did not discuss that at the meeting.

Mr. Anderson: Okay, thank you.

Mrs. Ghantous: That concludes my report.

Chairman Ramirez: Thank you for that report.

### Report on Planning

Chairman Ramirez: As I recall, when looking through, we had a special meeting the Pretzel Baron, I believe was the only one that we had concerning Planning Commission. Pretzel Baron basically was looking to change their configuration for their freezer from 5,000 square feet to 7,000 if I remember the numbers. Sorry I don't have the report with me, 7,000 or 8,000 square feet. Again, that was approved. That was the only report that I have for the Planning Commission. We did have the Mi Tierra to change the sign, we had Carpenter Sign Company come in on behalf of Mi Tierra Restaurant at 401 West Kemper Road, a Minor Improvement requiring Planning Commission Approval, which was approved. We had a few discussions for the awning for those signs, they were red if I remember

right and they requested an orange sign just for the restaurant entrance. After some discussion we came to an agreement that they would make all of the awnings the same color which was a reddish type color. Then Maronda Homes of Cincinnati, LLC, 479 Dorothy Lane, a revision to the PUD which again was reviewed and approved. It was a setback for one of the residents. They had a porch to the back and it was going to encroach on the open area and again that was approved. It was from 25 feet to 15.67, from 15.67 feet to 25 feet and because that was just encroaching on the open space that that was approved as well. Thanks for that help Liz.

VII 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 name 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:*

*President Ramirez: If you think you may want to testify make sure that you have signed in at the back. Okay. Raise your right hand and repeat after me:*

*I (state your name)  
Do solemnly swear  
To tell the truth, the whole truth  
And nothing but the truth,  
So help me God.*

Please be seated. Please 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 up to the podium.

Chairman Ramirez: At this time please make sure that any communication, such as cell phones are turned off or muted.

VIII OLD BUSINESS

- A. DeCastro Management LLC, dba Kerry Automotive, 155 West Kemper Road and 150 Northland Boulevard, Springdale, Ohio, submitted a request for a Variance from Section 153.351(B) & (C) to increase the light levels.  
(Application 34781) **Public Hearing** (continued)

Chairman Ramirez: I believe that we have to table this again and vote on tabling that. Mr. Anderson.

Mr. Anderson: Thank you Mr. Chairman. I would like to make a motion to continue in process the hearing for DeCastro Management, application 34781 in process.

Mr. Nienaber: Second.

Chairman Ramirez: It has been moved and second. We need to vote on this one. Please poll the members.

(Ms. Morsch, acting Secretary in Mrs. Daniels absence, polled the members and the motion was approved with a vote of 6 to 0.)

Chairman Ramirez: Thank you, that was tabled with a vote of 6 to 0 and we will

move that to the August meeting.

IX NEW BUSINESS

- A. Charles Brown (contractor), on behalf of Danny Dillon, Olivia Carranza & Hector Ruiz, 678 Allen Avenue to consider variances from Section 153.252(G)(1) of the zoning code, front and side setback requirements to allow construction of an addition.  
(Application 35246) **Public Hearing**

Chairman Ramirez: At this time comments from Mr. Campion.

Mr. Campion: (read staff comments)

*Request: Reduce the Front and Side Setbacks to Allow the Construction of an Addition.*

*The subject property is zoned Residential Single Household – Low Density (RSH-L). The applicant wishes to construct an addition to the residence as shown on the accompanying application.*

*The minimum front setback is 35' and the minimum side setback is 8' with a total of 18' in the RSH-L district per Table 252-2.*

*The request is to reduce the front setback to 26.5', and the side setback to 5' having a total of 10'. The dimensions have been provided by the applicant.*

*A variance request to convert the existing garage to living space was denied in July 2017. There are currently orders from the building department to obtain a permit for a covered porch that was constructed without a permit, and to cease utilizing the garage for living space.*

*In the event, a variance is granted, a separate building permit is required. Properly sized windows, code compliant electric, smoke detection and carbon monoxide detection devices will be required.*

*A statement of conditions and findings listing the factors for consideration of the granting of a variance is included. Each of the factors should be considered by the board. As stated in 153.206(B)(4)(j), "No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts."*

*Gregg H. Taylor  
Building Official*

Chairman Ramirez: Thank you for those comments. At this time would the representative for or Mr. Charles Brown. Thank you. Please state your name and address.

Mr. Brown: Charles Brown, 552 Black Hawk Trail, Loveland, Ohio 45140.

Chairman Ramirez: Thank you. Please give us a little back ground on why you are asking for the variance.

Mr. Brown: I just took over this project about two months ago. Somebody had come there and built them an overhang on the back, didn't pull a permit or anything, converted a garage after it was not supposed to be converted, and then left them. So they didn't finish the project, didn't pull permits so basically I just walked through it with them. The best way to do this is to build a new garage on the front of the house and then an addition on the side of the house to make everything up to code, spec wise and everything. Then we are going to take it, redo the back porch. Right now nothing that they have built is within code or close. So, we are going to have to tear it down anyway and rebuild it. So, basically at this point there is a 14 foot setback at this property, or not setback, right-of-way so we are already starting 14 foot into the yard so really we are still going to be over 40 feet from the road if we get the front

setback. Then the side setback, the house is built five foot already to one property line, which I understand that's grandfathered or whatever, so the other side we want to match and have five foot on that side. That will allow us to do the addition, the 400 sq. ft. garage that is needed to comply in code and zoning code and then let them convert that or stay converted that they have already done inside the house. We will just pull permits for the smoke detectors up to date, electrical and everything else.

Chairman Ramirez: If you would please just stay there, we might have some questions for you.

Mr. Brown: Yes, absolutely.

Chairman Ramirez: Questions from the board? Mr. Anderson

Mr. Anderson: Thank you Mr. Chairman. A couple questions. So, I can sympathize with contractors not doing what they need to. Obviously, again, we always tell people, get a building permit first. Make sure you have it before anyone breaks ground because these types of things would be caught. This is another case where that didn't happen which is unfortunate. I have a question about what you said about the right-of-way. I am looking at the picture. So, the new garage and overhang that you are proposing does not encroach on the right of way.

Mr. Brown: Well it is actually 35 feet from the right-of-way. What I was stating is the right-of-way in this property, it's not like a normal street, it's 14 foot into the property already. So, we are starting 14 foot and then it is 35 feet from there. So, we still need to be less than 35 feet, we need to be 26 foot.

Mr. Anderson: I understand that. Just let me play it back for you and make sure I understand what is being requested. Because the right-of-way goes into the property more than what a typical house would be if you were building it today, you need an additional easement because of that so the number is higher because of the right-of-way.

Mr. Brown: Right.

Mr. Anderson: But I want to be clear, you are not encroaching on the right-of-way with this? I'm looking at the numbers and they are still 22 feet from the right-of-way so you are not causing obstruction.

Mr. Brown: We have to be 35 feet. It is 26 feet actually, 26.5 from the right-of-way.

Mr. Anderson: Could you help me a little bit with the five foot, the addition. So, I guess the main question is going off of the side because that is where the garage is now, it seems like what you want to do.

Mr. Brown: Yes.

Mr. Anderson: For cost reasons. Can you talk a little bit about why not go out the back that would be easier from a code stand point? The reason I mention it is, I understand that you are grandfathered in or they are grandfathered in the five foot one side, now adding an additional five foot distance from the neighbor's house is very close, it would not even meet low density standards today for setback. So, this is in, or high density. This is a low density area so it has additional requirements. Five feet doesn't even meet high density, that is six feet. So, help me understand why? I mean it's nice that it is centered but why not out the back so that you don't have to be right on your neighbor's house?

Mr. Brown: I mean, that could possibly do that but the only problem is that would make our garage wider and not, you know what I mean, or farther towards the street to stay within 400 feet because right now it is coming out to the edge of the addition so if we shorten that up nine feet to stay within the house that is there now we would have to go farther to the street with the garage because we have to be 400 square feet to get a qualifying garage for the city. So, it could be done but then my setback from the street would have to be even farther.

Mr. Anderson: Unless the addition in its entirety is in the back instead of off to the side, right so the garage remains a garage where it is now.

Mr. Brown: Well, no matter what we are trying to build the garage in the front so that way we can leave what they've already paid for and had done along inside the garage currently.

Mr. Anderson: The unpermitted work?

Mr. Brown: Yes.

Mr. Anderson: The work that was explicitly told not to be done.

Mr. Brown: Yes.

Mr. Anderson: We are trying to maintain that.

Mr. Brown: Well yes. I mean, no matter what that is already built into living space so what we were trying to do is build a new garage so that way we are in code because it just has to have a 400 square foot garage. So, if we can build a 400 square foot garage on the front of the house without being goofy and taking up the whole front of the house, we are just trying to make it look good also.

Mr. Anderson: So can you talk a little bit about the lot itself? Is there something different about this lot that other lots wouldn't have to make it easier for us to approve it? If it is just because I want it or it is cheaper usually isn't enough of a reason so I am trying to understand, is there something unique you can help us with so that we can help the home owner.

Mr. Brown: Like I said I can only tell you guys basically on this part of it is I can build a garage on the front and be in code but it is really going to be a 13 foot deep garage and it is going to be 30 feet wide so that way we can still be in code but it just would not look aesthetically good. It's just trying to make it look good and keep everything the way that it is. I can't really say too much more than that. Like I said, we can build a garage that would fit within your guys' parameters but it is going to be 30 feet wide on the front of the house and be 13 feet deep to be a qualifying garage.

Mr. Anderson: Is that garage useful or are you doing that just for code? I mean that's different.

Mr. Brown: I mean just to be within code for the city would be building a 400 square foot garage on the front of the house.

Mr. Anderson: For the city. Thank you.

Chairman Ramirez: Can I interject here and maybe it will help with some of the questioning going forward. These are some of the reasons why we grant a variance and I am just going to read the ones that might pertain. Whether the property will yield a reasonable return without the variance, or whether there can be a beneficial use of the property without this variance, whether the variance is substantial, and I believe that at five foot it most likely is. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of this variance. Again, that would speak to the five foot setback. Whether a variance would, now this would doesn't apply, the governmental services. Whether the property owner purchased the property with knowledge of the resolutions, ordinance regulations, measures and orders? Whether the property owner's predicament feasibly can be repaired through some other method other than a variance and whether the spirit and intent behind the resolutions, ordinance, regulations, measures and order would be observed and substantial justice done by granting the variance. That being said, we have a few other questions for you. I think Mr. Nienaber was up next.

Mr. Nienaber: Thank you. Mr. Brown are you the owner or just the contractor?

Mr. Brown: Just the contractor.

Mr. Nienaber: Okay. Couple of things that I have a problem coming to terms with are failing to get the permit for the work on the rear and intentionally building living quarters into the garage after that variance had been denied. Given that and seeing these as rather pretty substantial variances they are asking for I just an leaning against it unless I hear something miraculous. Thank you.

Chairman Ramirez: Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. Chairman. I will not be voting in favor of this. When they were here in July we discussed options with them and building living space in that garage was not one of the options that we discussed. They were told not to do that and at this point two years later I don't think I am in favor of saying, ~~wh~~ no we changed our mind we are okay with it, because they deliberately went against what we said. I mean if they had come back and talked about different things, maybe talked to us about doing some of these things before they did that but it just leaves a bad taste in my mouth.

Chairman Ramirez: Mr. Weidlich.

Mr. Weidlich: Thank you. I've got to say, myself that everybody else has said pretty much my feelings and the other thing is this would be setting a precedent for the other residents, not just there but around the city that we are allowing them to encroach on the side yard setback for one and if you look at aerial views of Allen Avenue, all of the residents are lined up. This garage would be, what a 20 x 20 box set out in front that nobody else has on the street, I was not on the board back in July of 2017 but I was previously on other things similar to this and the blatant going and doing the conversion even after they were told they couldn't have it and if an addition was going to be made on this I would go for the back yard, not what is currently. I too will not be voting in favor of this. Thank you.

Chairman Ramirez: Thank you. Any other comments from the contractor? I know that you are just a representative, maybe are the owners of the property here?

Mr. Brown: No. If you don't mind?

Chairman Ramirez: Sure.

Mr. Brown: The only thing that I just want you to consider is literally to be in code and keep the garage a garage, or living space, I've got to building something on the front and it's just not going to be aesthetically pleasing to come out 13 foot by 30 foot to make a garage so that way everything could stay there. That's the only reason that I filed for the variance is to make it look more appealing. To be in code and file for a permit, I can file for a permit and stay within our parameters that are set right now, it's just not going to be a pretty garage, like I said it is going to be funky looking. So, that's the reason why I came here, to try to at least get that part not so ugly.

Chairman Ramirez: No, I appreciate that thank you. Mr. Anderson.

Mr. Anderson: Thank you Mr. Chairman. I'm sympathetic, I know that you didn't do the work previously so don't take the concerns about the building as any incitement on your work. I struggle a little bit with, I'm building a garage up front that needs a variance so I don't need a different variance to not have a garage. Like, I don't understand that myself. We have garage conversions. They are not generally permitted, especially in the established areas. We have done that before, there's some precedent for that but encroaching on both sides because I want to stay in code that didn't. I can't think of a single case where this board has done that. Where because they did something we want to preserve what they did. So, I just don't think that is going to work. That's why I was asking the question, I want to make sure that it is clear. There aren't any other special circumstances about the lot that would necessitate, that we could hang our hats on and say going against the setback is okay because that's really what, in my opinion for me anyway, this would need is a special circumstance with the lot. Something irregular or something else that was

grandfathered with the neighbor's yard or the neighbor's location right that then forces you to be closer. Those things would be compelling.

Mr. Brown: One last question. If we refile for a variance for just the front setback and that way I can keep it at least square and more of a garage and get rid of the addition on the side, would that be something that would be more considered and just eliminate the whole addition off of the side? Like I said, still trying to make the house look good. That's my only thing. So, my front setback would be probably still needing to go to 20 something feet, 22 feet I think?

Chairman Ramirez: Well that would definitely be substantial with five feet on the side. I did notice on here the other side of the house already has a five foot.

Mr. Brown: Has a five foot, yes.

Chairman Ramirez: At this time, one other point that the secretary brought up that when we had the last meeting that we did discuss, and actually I was the one that brought up the point of whether or not you could possibly build behind the house because of the additional cost that was declined by the owner. Looking at this if you were to build behind the house as opposed to on the side of the house that might have been a better option. It still might be your only option. So, at this time we will continue discussion. I think Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. Chairman. This is for Mr. Champion. What would the circumstances be that they would not have to undo what they did that was not permitted?

Mr. Champion: Well, they are required to have the 400 square feet of garage. If they vacate the space and use the garage for a garage they are allowed to have a single car garage. Our code says you have to have a double car garage. The other option that they probably have to is, there's probably room for a road on the side and they could probably put the garage in the back. I don't know if you have considered that?

Mr. Brown: I had not.

Mr. Champion: The other thing is, I recall when they came back to us last time, they were going to look at going up a story and putting the living space above the garage like build an addition in the back with living space above the garage. That's what they proposed to the board.

Mrs. Ghantous: I remember that now that you say that.

Mr. Champion: That's what they were going to do. The addition that is on the back meets the zoning code, it just doesn't have a permit. They also they extended the eaves which was done without a permit but it would meet the zoning code. We sent them orders, which they were supposed to respond by July 8<sup>th</sup>, so I guess if we don't hear from them we are probably going to take them to Mayor's Court.

Mr. Brown: I was unaware about that.

Mr. Champion: I can give you copies of the orders. So, I mean they need to, and the orders say that they have to vacate the space in the garage immediately. So, I don't know, I would try and move them to the back of the house, whatever they are going to do.

Mr. Brown: I am not familiar with the side setback in all as far as putting a driveway in there. So you are saying that we could potentially get a driveway down the side of it?

Mr. Champion: Yes, you are allowed to take a driveway right up to the property line. Okay, but you can't build within eight feet of that property line. So, it is possible, I guess, to take the driveway around and maybe put the garage on the back and then they could use the garage for living space. I don't know, the rear yard setback I believe is 40 feet.

Mr. Brown: I think they are, if I remember right like

Mr. Campion: It says 46 on your drawing after this addition of eight feet. I mean everything is tight.

Mr. Brown: Right.

Mr. Campion: So, they could do all of those things without a variance with just a building permit but I advise you to tell them about the orders and I will give you a copy of them.

Mr. Brown: Yeah, let me have them because I am unaware of that. They knew that I was going to be here today.

Mr. Campion: Okay.

Mr. Brown: Discussing this to see how to move forward, but I was unaware that they had an order.

Mr. Campion: Does that answer your question?

Mrs. Ghantous: It kind of does. So, while we are trying to work out maybe where maybe they can build another garage that kind of just makes it okay for them to do what they did and use that space? Arend we enabling that?

Mr. Campion: The zoning code says that you have to have a two car garage or a garage of so many square feet. So the only way that they could use that space is if they had a garage. So, if they had a detached garage or a garage around the back, they could use the space that they have converted but you have to have minimum garage space somewhere on your property. So, we've written them orders to vacate the space and to cease and desist what they are doing. So, I mean, have I answered you?

Mrs. Ghantous: Yes, I don't like the answer because if they build a garage in the back it makes okay that they went against what we told them in July of 2017.

Mr. Campion: That's true but the

Mrs. Ghantous: Oh, you know that's okay just build, we will find a way for this nice guy to build them a garage somewhere else and it kind of makes it okay.

Mr. Campion: Well, I mean we don't let you convert a garage unless you have another garage so, I mean it is not that we are condoning what they are doing even if they build another garage the space that they converted in their house would have to meet code. So, it would all have to be done under a permit. But, the zoning code allows for that. That's all I can say.

Mrs. Ghantous: I think the two only things I would consider is an addition on the back or the second story addition that you discussed with them which they seemed to like that idea when they were here if I recall.

Mr. Campion: Yes.

Mr. Brown: That was never brought up to me, so didn't even know that they were here.

Mrs. Ghantous: I might consider that a little more seriously than just trying to manipulate some way to get them a garage so they don't have to undo what they did and they weren't supposed to do it.

Mr. Campion: Sure.

Mr. Brown: Yeah, I didn't know.

Mrs. Ghantous: It feels like manipulation. We let's see how we can get around it.

Mr. Brown: I was unaware of them being here last July until I submitted a variance for this one and then HELLO, she was like do you know they were not supposed to be there?

Chairman Ramirez: Mr. Weidlich.

Mr. Weidlich: Thank you. I was going to suggest the back yard. Are you familiar with the house on the right of this property?

Mr. Brown: No.

Mr. Weidlich: It has a garage on the back? This one here. There is a way to get in there.

Mr. Brown: Yeah, like I said, I wasn't sure what the setback would be for a driveway down the side and if we don't have a setback and we can get there, I have no problem recommending that.

Mr. Weidlich: Pavement can go, as Mr. Campion said pavement can go all the way

Mr. Brown: At this point I am just trying to help them not tear out the garage.

Mr. Weidlich: I understand, you are between a rock and a hard place right now.

Mr. Brown: Yes.

Mr. Weidlich: Just out of curiosity, are you altering the front façade of the home as well with the furrow strips as well?

Mr. Brown: Yes, siding, fixing the sidewalk. It is broken right now so we are going to pour a new sidewalk, new siding. The people that they paid before did 80% of the roof and stopped so there is just a number of things that has to be completed. Like I said, if Randy has been out there he already knows the back overhang has got to come off and be redone. They used 2x6's for supports and everything else so it is getting redone.

Mr. Weidlich: So you have to clean up the mess?

Mr. Brown: Oh, yes, absolutely.

Mr. Weidlich: Okay, thank you.

Mr. Brown: I don't know if you guys are familiar, on Dimmick there we did and got a variance for that porch and everything. We did that project here, if you guys are familiar with that.

Chairman Ramirez: We are going to go out of order here. We have some members have their lights lit but we are going to go back to Mr. Campion and maybe shed some light on what

Mr. Campion: I just wanted to make another point that if you decided to build a detached garage in the back yard that the setback for a detached building is only five feet.

Mr. Brown: Okay.

Mr. Campion: Okay that is all that I have.

Chairman Ramirez: Mr. Nienaber.

Mr. Nienaber: Thank you. Again, to the contractor I know you're just stuck in this but you have said, well the alternative to that is to go a 30 foot wide garage 13 foot deep. That's just making a farce of a garage unless they are going to have smart cars parked in there.

Mr. Brown: Yes.

Mr. Nienaber: That's not really a garage and if we have any say so I'd be against that.

Mr. Brown: I understand fully. I was just trying to, like I said

Mr. Nienaber: You are just grasping at straws, I understand.

Mr. Brown: All, at this point basically they're hiring me to save their garage. They have already put all the money into that part of it and now how do we get to code and that's build a garage. Now, if we can build it in back, I'm totally happy and I'd tell them that is their only option.

Mr. Nienaber: Thank you.

Chairman Ramirez: Mrs. Ghantous.

Mrs. Ghantous: I'm sorry, this will be my last time. I don't understand this thing from Bill Turner. Isn't he, he's the neighbor who submitted this and he doesn't have any comments on it. Does anybody have, what is somebody else's interpretation of this?

Mr. Turner (Talking from the audience off mic.): Bill Turner can interpret that if you'd like?

Mrs. Ghantous: Oh, are you there? Yay. I'd like to hear from Bill Turner.

Mr. Brown: Let me get out of the way for a minute.

Chairman Ramirez: If you would please stand by, we will listen to Mr. Turner. Please state your name and address.

Mr. Turner: My name is Bill Turner, I live at 675 Park Avenue. The entire south side of my house is the boundary between 678 Allen. So, I sent you a picture of what this house looks like from my kitchen window. I assume that if this is acceptable to the City of Springdale, this is the new look of Springdale? Exposed plywood, exposed wood, unfinished construction. It is a mess. I am a licensed professional engineer. My clients are from last night Mexico City, this afternoon Nigeria, so I do not come here with any ethnic bias what so ever. I come here with questions and I come here with data. So, can I help you with your questions?

Mrs. Ghantous: Yes. So, I see why you are unhappy with the way this looks. I got that but what about this other addition, construction.

Mr. Turner: I sent you all a big drawing, does everybody somehow have reference of the big drawing?

Mrs. Ghantous: Maybe I just didn't understand it.

Mr. Turner: Yes, well the big drawing represents the data of this presentation okay. The data of this presentation is there is a 70, an 80 foot long fence behind this property that is 70 foot, 75 foot wide.

Ms. Morsch: Just so you are aware, because of the size of those drawings, we don't have the ability to reproduce those so they did not get those large drawings but they are passing them down.

Mr. Turner: Okay, if there's a copy, if you have a copy there you can share. There's a drawing that shows, I do drawings all the time so I am not unusual with doing drawings and I try to do drawings with color to represent what is going on. So, in this case there is a 75 foot wide property. The drawing that was submitted to you says 100 foot. That's incorrect. This is a 75 foot wide plat, period. The fence across the back coincidentally happens to be 80 feet long and it starts 4 ½ feet in from the property. So it starts at the corner of the house and proceeds to the east 75 feet

which puts it about 9 ½ to 10 feet on the neighbor's property. So, if you were to walk around 678 Allen on the east side of the house you'd probably see that there is a lot of room but there's not. I submitted you a drawing from the Hamilton County Auditor's office that shows that there is 11 feet from the house to the property line; 11 feet. I do these drawings all the time. If you ever go down and get a permit from the City of Cincinnati or Hamilton County the first thing they do is bring up the Auditor's site which has CAGIS, Computer Aided Geographical Information Systems. This is how we create the property lines, okay, for the communities in which we live. So, there is 11 feet from the east side of the house to the east property line and they proposed to put a 10 foot addition here. It doesn't work very well in my mind. They have to spend most of their time on their neighbor's property. The footers for the addition would be on the neighbor's property. I don't think what they think they have is what they have. And I'm not, personally not so sure who the owner of this property is. I look at the Auditor's site and it is somebody named Dillon. So, is that, and he doesn't even live in Springdale.

Mrs. Ghantous: The property was sold on a land contract.

Mr. Turner: Does Springdale have an executed contract to know that it is legal?

Mrs. Ghantous: I doubt that, that would be down at Hamilton County.

Mr. Turner: Okay, I'm just saying that it should be a legal contract if we are working for somebody who has a land contract.

Mrs. Ghantous: Correct.

Mr. Turner: Don't you think so?

Mrs. Ghantous: Absolutely.

Mr. Turner: Okay.

Mrs. Ghantous: So, if some kind of addition was going to make it look better than this but not encroach on the other lot, would you be in favor of some type of improvement that would make this look better?

Mr. Turner: I'm only concerned about the fact that there is probably 10 to 15 people that currently live in this house.

Mrs. Ghantous: Okay so

Mr. Turner: This is an area of single family residents.

Mrs. Ghantous: Yes sir, I understand that.

Mr. Turner: Okay.

Mrs. Ghantous: So, if there was an improvement that could be agreed upon, which I have already said I am not really in favor of manipulating so they can keep their converted garage, but you would or you would not be in favor of something going on back here that would make this look better?

Mr. Turner: If things do, if someone constructs things according to the rules and regulations of Springdale, there's nothing I can say about that.

Mrs. Ghantous: I'm just asking would that make you happy if it looked better?

Mr. Turner: Well, I'm the guy in the back yard. I don't what, do you see what I am looking at now.

Mrs. Ghantous: I think it looks terrible.

Mr. Turner: Maybe it will take the place of the trampoline. If you build a garage maybe we can get rid of the trampoline. You know, I don't know what will happen

back there. So, if this owner complies with the rules and regulations of Springdale, I am okay with it. I am going to live in that house the rest of life. So, if you folks agree that that is the right thing to do then there's nothing I can say about it.

Chairman Ramirez: Just for the record, you asked about the ownership. We have two Owner's Affidavits with a notary seal. One being Danny Dillon and the other owner is Olivia Carranza.

Mr. Turner: Okay, just asking. I didn't know.

Chairman Ramirez: That's fine. At this time Mr. Anderson, question?

Mr. Anderson: Thank you Mr. Chairman. I have two, one for Mr. Turner and one for the contractor. I just want to make sure that you understand, I think from what you heard tonight we are also very concerned about the effect that a variance has on the neighbors which I believe is why Mrs. Ghantous was asking, even if it did comply, because we try to steer residents to be good neighbors when possible, and we try to avoid variances when there are other opportunities. We do want that feedback. Even if it is in code you still have a voice, there are still neighbors and we want to hear that which I think is a fair question.

Mr. Turner: Well and I have talked to the neighbors who live on the east side and the west sides of this property, okay and I volunteered to come here and be kind of a spokesman for them. They are extremely unhappy and extremely scared, extremely upset of what is going on here.

Mr. Anderson: I can appreciate that. I just want to make sure that you hear that we have those concerns to and it's in the back of our minds. Mrs. Ghantous and I are both on Council as well and we have the opportunity to adjust zoning rules and code to make it beneficial for the entire community so that feedback is important to us.

Mr. Turner: Thank you I appreciate that.

Mr. Anderson: I am glad you are here sharing it and the picture is helpful. I drove by the residents to on the way here to get a feel for it. I do think that a garage in the back is probably the best way to deal with what they are trying to do. I don't want to deprive them of the full use of their property either. Just because they have had trouble before doesn't mean we don't want them to move in the right direction.

Mr. Turner: I understand.

Mr. Anderson: Which is what I think everyone here is trying to get to.

Mr. Turner: I understand, I appreciate that, thank you.

Mr. Anderson: So, thank you for that. I do have one question or really a comment for the contractor and make sure that it is on the record. There was comments earlier about the garage and if they, to use it as the remodeled space and there's concern about are we rewarding that. I want to make sure I'm understanding the note that was in the staff comments as well. Do we believe that the current conversion is up to code? It is my understanding that even if they do the garage thing that we are talking about or the second floor thing, there is still substantial work that would have to be certified or redone even with what they have done to make that current garage conversion, although not permitted, legal right? So, we talked about exits, electric, HVAC, window size, those things, we're not saying just if they do these things with the garage they are good with the conversion. They still have to get a building permit and inspections and make sure everything in that conversion is up to code?

Mr. Campion: That is correct.

Mr. Anderson: So, I don't think we are rewarding, I think they are going to feel some of that when they make it a safe space to be a residence. I understand, I don't want to find a way out for them but at the same time I don't want to have them keep avoiding us. So, thank you.

Chairman Ramirez: Mr. Champion did you have something further?

Mr. Champion: Yes. I just wanted to correct the record a little bit. I went to the Auditor's web site and there all of the lots are 50 feet wide.

Mr. Turner: That was the original plat.

Mr. Champion: Yes. Both of the, this address and the one to the right are splitting that lot in the middle.

Mr. Turner: That's correct.

Mr. Champion: Okay, so what you were proposing in your drawing was that they were building on another person's lot which they aren't according to the Auditor's web site.

Mr. Turner: No, that's incorrect.

Mr. Champion: Well I clicked on both of the addresses and it showed

Mr. Turner: I know but according to the Auditor's web site the property is 11 feet from the property line on the east side. Regardless of how the plats were split

Mr. Champion: Okay.

Mr. Turner: The property still remains 11 feet from their property line, is that correct?

Mr. Champion: No, not from what I saw on the Auditor's web site.

Mr. Turner: Can you look at my drawing?

Mr. Champion: I looked at your drawing and then I pulled the Auditor's drawing.

Mr. Turner: Okay, well look at the drawing.

Mr. Champion: But the Auditor's web site will tell you that their addresses, that everything should be surveyed and that you shouldn't rely on them for accuracy.

Mr. Turner: Well I would totally agree, we need a survey here.

Mr. Champion: Well that is true

Mr. Turner: I think we are way amiss and I don't know what happened in the past but nobody bothered with a survey.

Mr. Champion: So, today we are just here to rule on a variance or not if the board chooses to do that or chooses not to. But, before any permits are granted and work is completed they would have to verify that they are building on their property or at least where the property line is.

Mr. Turner: I agree. Thank you.

Chairman Ramirez: At this time anything else Mr. Turner?

Mr. Turner: That's all I have thank you.

Chairman Ramirez: Well, we appreciate you coming in. There's nothing more important than hearing neighbors because we want to make sure that they are happy living in Springdale. So, I appreciate you coming in.

Mr. Turner: Thank you, I appreciate you letting me talk.

Chairman Ramirez: Is there anybody else in the audience that would like to speak on this subject? No. At this time I believe that we are ready for a motion. Mr. Nienaber.

Mr. Nienaber: I move to allow the following variances to the owner of 678 Allen Avenue to section 152.252(G)(1), BZA application 35246, to allow the setback distance from the structure to the front property line at 26 ½ feet and to allow setback to each side of the house of five feet. Both of the above contingent on the owner, 1) cease using the garage as living space, 2) obtain a permit for the covered porch (not able to understand, talking off mic.), 3) obtain a building permit for the new structure, ensure properly sized windows, be code compliant with regard to electric installed and carbon monoxide and smoke detection devices installed.

Chairman Ramirez: Do we have a second?

Mr. Anderson: Second.

Chairman Ramirez: Secretary please poll the members.

(Ms. Morsch, acting Secretary in Mrs. Daniels absence, polled the members and the motion was defeated with a vote of 6 to 0 not in favor and 1 member absent.)

Chairman Ramirez: Mr. Brown the application has been denied. I again, appreciate you coming in but as suggested that maybe you reload and take some of the suggestions that we gave to you. Good luck. Thank you.

B. Jude Spoerl, 11678 Greenlawn Avenue, to consider a variance from Section 153.252(G)(1) of the zoning code, rear and side setback requirements to allow the erection of a shed.  
(Application 35273) **Public Hearing**

Chairman Ramirez:

Mr. Campion: (read staff comments)

*Request: To construct an accessory structure (shed) of 100 square feet at 11678 Greenlawn Ave. 2' from the property line, approximately 13' from the adjacent residence.*

*The subject property is zoned Residential Single Household – Low Density (RSH-L). The applicant wishes to construct a shed as shown on the plan accompanying the application.*

**Table 252-2 indicates the following:**

*The minimum setback from the side and/or rear property line is 5', and the minimum distance between the accessory structure and an adjacent residence is 20'.*

*The property in question is a corner lot with virtually no rear yard within which to place an accessory structure.*

*A statement of conditions and findings listing the factors for consideration of the granting of a variance is included. Each of the factors should be considered by the board. As stated in 153.206(B)(4)(j), "No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts."*

*Gregg H. Taylor  
Building Official*

Chairman Ramirez: Thank you. Would the applicant please step forward? Do you need a microphone, are you able to stand sir?

Mr. Spoerl: Beg pardon?

Chairman Ramirez: Are you able to stand, we can get you a microphone.

Mr. Spoerl: Yes, I'm okay.

Chairman Ramirez: Please state your name and address.

Mr. Spoerl: My name is Jude Spoerl, 11678 Greenlawn Avenue for thirty some years. I'm requesting a 100 square foot shed be built on the north side of my property.

Chairman Ramirez: At his time if you remember the previous statement we made, what we really look for here is odd property circumstances where you are at a disadvantage just because the shape of your property and maybe on a corner lot. Whatever might be some reason that we should request a variance that does not meet the zoning code.

Mr. Spoerl: We've live there thirty some years and it is getting very crowded. Our garage, we have a two car garage but I got to go into the garage we have to go in sideways. It is just crowded and we want to move our lawnmower and tools and stuff in this shed that we would like to have built in order to make it a little bit easier for us to get around.

Chairman Ramirez: I don't know if other members can understand where this shed is going to be place on the property. I see a little box in the middle and I am not sure what that is. Mr. Nienaber.

Mr. Nienaber: Yes, Joe I am puzzled by the drawing that was provided (talking off mic. not audible).

Mr. Spoerl: It probably is, yes I can't see that far.

Mr. Nienaber: (Still talking off mic. not audible).

Mr. Spoerl: I mean I submitted drawings to the Building Department.

Mr. Nienaber: (Still talking off mic. not audible).

Mr. Weidlich: I think they've got two separate drawings on that one sheet there. The one is showing 15 feet from the property line to the three season porch and the other one is a 26 feet from the neighbor's foundation.

Mr. Spoerl: Oh, okay.

Mr. Nienaber: Two pictures of the same situation.

Mr. Spoerl: This was, I put this in at somebody's request. This is the original right here. See the back of the house to the fence is 8'6", this is from the enclosure that we had built here there is 26 feet from here. This is all vacant.

Mr. Nienaber: Where are you planning on putting the shed if you can?

Mr. Spoerl: Right in this area.

Mr. Nienaber: Okay. Thank you. So he is saying that he wants to put the shed in this (off mic. not audible).

Mr. Weidlich: Right in the back corner.

Mr. Spoerl: That's really the only place that I have to put it.

Mr. Weidlich: Right.

Chairman Ramirez: So that 26 feet is from your enclosure the actual house, not their property line correct?

Mr. Spoerl: Yes 26 feet is to that next unit north of us.

Chairman Ramirez: Mr. Weidlich.

Mr. Weidlich: Thank you. We have seen a few properties that are tough to put a shed on but I think you have the toughest property to put a shed in that I have seen being on the board here. You don't have any alternative but to put it in that corner there.

Mr. Spoerl: That's something that you all told me.

Mr. Weidlich: And the fact that that would be on your neighbor's garage side. You wouldn't be blocking any views or anything of your neighbor there because of that.

Mr. Spoerl: No.

Mr. Weidlich: So, with that in mind I will be in favor of your application.

Mr. Spoerl: Thank you.

Chairman Ramirez: Thank you. Mr. Anderson.

Mr. Anderson: Thank you Mr. Chairman. I can echo those sentiments. I've spent a fair amount of time across the street from your house especially in my youth and it is a very narrow lot. It is difficult to place and the one question that I have for you is, had you gotten any feedback from your neighbors with concerns about putting that shed in?

Mr. Spoerl: No sir I haven't.

Mr. Anderson: Okay. I certainly for myself feel it would be difficult.

Mr. Spoerl: I mean it has been positive, I haven't had any negative.

Mr. Anderson: Thank you for that, I appreciate that. I also generally think it is your only option to put a shed in and it is a tough lot. Like we told the applicant before, a difficult lot situation is something that we do consider and I think that this is one of those situations. Thank you.

Chairman Ramirez: Thank you. I agree. It does look like a difficult situation and not much of an alternative other than that corner. Any members have any other questions for the applicant? Members in the audience?

Mr. Hucke: I live across the street and I've got to look at it and I think it is the best place for it.

Chairman Ramirez: Can you, if you don't mind, would you come up and please make that statement. State your name and address please.

Mr. Hucke: Walter Hucke, 11677 Greenlawn. I live across the street from the view of where the shed is going to be and I think it is about the only place that he can put it that looks normal. If you put it on the other side it out by the street, everybody drives up and down is going to see it. His side yard is his front yard along with the front yard of the house. It is just aesthetically the best place for the shed. Thank you.

Chairman Ramirez: Thank you for the comments. Thanks for coming in and giving us your opinion. At this time Mr. Campion.

Mr. Campion: As a point of clarity. I marked it on a piece of paper so can we just verify where it is exactly.

(Talking with applicant off mic. to clarify location of shed.)

Chairman Ramirez: Any other questions, comments? At this time the chair will accept a motion. Mr. Nienaber.

Mr. Nienaber: I move to allow a variance to the owner of 11678 Greenlawn Avenue to code section 153.252(G)(1), BZA application 35276 to place a shed not larger than 100 square feet in a position not less than two feet from the rear property line and not less than two feet from the side property line and not less than 13 feet from the adjacent residents at 11688 Greenlawn.

Chairman Ramirez: Thank you, second?

Mr. Anderson: Second.

Chairman Ramirez: Secretary please poll.

(Ms. Morsch, acting Secretary in Mrs. Daniels absence, polled the members and the motion was approved with a vote of 6 to 0 with 1 member absent.)

Chairman Ramirez: Thank you. Sir it has been approved basically as you presented.

Mr. Spoerl: Thank you very much.

Chairman Ramirez: Thank you for coming in.

Mr. Spoerl: My pleasure.

X DISCUSSION

None.

XI ADJOURNMENT

Chairman Ramirez: Favorite subject of the night.

Mr. Anderson: Move to adjourn.

Chairman Ramirez: Move to adjourn that was very quick. Second.

Mr. Nienaber: Second.

Chairman Ramirez: In favor by voice vote.

(Voice vote all in favor meeting was adjourned.)

Respectfully submitted,

\_\_\_\_\_, 2019

\_\_\_\_\_  
Chairman, Joseph Ramirez

\_\_\_\_\_, 2019

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Secretary, Carmen Daniels