

BOARD OF ZONING APPEALS MEETING  
DECEMBER 17, 2013  
7:00 P.M.

I CALL MEETING TO ORDER

The meeting was called to order at 7:00 p.m.

II ROLL CALL

Members Present: Joe Ramirez, Dave Nienaber, Robert Weidlich,  
Carolyn Ghantous, Lawrence Hawkins III, Ed Knox and Jane Huber

Others Present: Randy Champion, Building Inspector

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF NOVEMBER 19, 2013

Chairman Weidlich: Is there any corrections or additions to the Minutes of our last meeting on November 19, 2013?

Mr. Hawkins: I move to adopt.

(Mr. Knox seconded the motion and with seven "aye" votes from the Board of Zoning Appeals Members, the Minutes of the November 19, 2013 meeting were approved.)

V CORRESPONDENCE

Chairman Weidlich: There is no correspondence.

VI ELECTION OF OFFICERS

Chairman Weidlich: December is our month to elect officers to the Board. We will start out with nominations for Chairman of the Board.

Mr. Hawkins: I nominate Mr. Robert Weidlich as Chairman.  
(Mrs. Ghantous seconded the nomination. No additional nominations were presented for Chairman.)

Chairman Weidlich: We will move on to Vice-Chairman nominations.

Mrs. Huber: I nominate Mr. Ramirez.  
(Mr. Hawkins seconded the nomination. No additional nominations were presented for Vice-Chairman.)

Chairman Weidlich: And then nominations for Secretary.

Mr. Hawkins: I nominate Jane Huber for Secretary.  
(Mr. Knox seconded the nomination. No additional nominations were presented for Secretary.)

Chairman Weidlich: We will close the nominations and vote.  
(With a unanimous "aye" vote from the Board of Zoning Appeals Members

Mr. Robert Weidlich will remain Chairman. With a unanimous "aye" vote  
Mr. Joe Ramirez will remain as Vice-Chairman and with a unanimous "aye" vote  
Mrs. Jane Huber will remain as Secretary.)

Chairman Weidlich: O.K. It looks like our Board will stay as it has been. Thank  
you.

#### VII REPORT ON COUNCIL

(Mr. Hawkins gave a summary report of the November 20th, 2013, the  
December 1st and December 4th, 2013 City of Springdale Council Meetings.)

#### VIII REPORT ON PLANNING COMMISSION

(Mrs. Ghantous gave a summary report of the December 10th, 2013 Planning  
Commission Meeting.)

#### IX CHAIRMAN'S STATEMENT AND SWEARING IN OF APPLICANTS

#### X OLD BUSINESS

(No Old Business presented at this meeting.)

#### XI NEW BUSINESS

- A. Chairman Weidlich: The first order of business is 505 Lafayette Avenue is  
requesting a variance to allow a fence taller than six feet to remain on her property.  
Section 153.482(B) "Height. Fences and walls shall not exceed six feet in height in  
the required rear and side yards."

Ms. Vicky Girdler: I live at 505 Lafayette Avenue. I went to put boarding up  
behind and backfill; I am trying to level the yard out because it slopes down and I  
wanted to level it out so that I could eventually put a deck out there.

(At this time Mr. Campion read the Staff comments.)

Chairman Weidlich: Is there anyone in the audience that would like to speak on  
behalf of this application?

Ms. Anna Mason: I live at 501 Lafayette Avenue. I want to state that I have  
nothing against Vicky, she is a nice neighbor. I do however have an issue with the  
fence. In plain English, it looks like crap. At no place does it touch the ground and  
at some places it is this high off of the ground and it looks terrible. I think it  
detracts from our property that we have spent the last three years trying to improve.  
Our house was abandoned and was run down and we did everything that we can to  
improve it. I think her fence detracts from our house.

Ms. Mary Haley: I live at 11558 Rose Lane. I don't want to have a problem with  
Vicky. The problem that I have is granting a variance for a job post completion.  
The appearance of this fence is, it is a six foot fence that has been modified to make  
it look like it is a nine foot fence, when the building code is six feet. I would just  
prefer that we stick with what our Code say and not do variances after the fact.

Chairman Weidlich: Thank you for your comments.

Mr. Bill Mason: I live at 501 Lafayette, east of the property that we are talking  
about. I concur with the wife that it looks more like a stockade or Fort Apache than

it does a fence. I have been all over Springdale, there is no fences anywhere in Springdale that I can find that does not start from the ground up. This fence starts from up in mid-air and goes six foot down and wherever it ends up, that is where it is at. Like the wife already stated, we spent a lot of time making things look good. I have had a number of neighbors come by and ask me "what in the world is that?". I said that they would have to talk to Ms. Vicky. It was even constructed while we was out of town. When I first seen the construction, the poles up in the air like they was, I figured hey that is normal because you put poles up and then you build the fence and you cut the poles off to match the contour of the ground which has already been stated; which is the way a fence is supposed to run. I figured they would do that and then cut the poles off. Instead of doing that, they went up to the top of the poles and cut it off. If you have got the same pictures that I seen, they very well show you how the front of the house, when you are going down the road you are looking under a fence about that much; then the fence is stuck up in mid-air and to me it looks like Fort Apache.

Chairman Weidlich: Thank you for your comments.

Mr. Daniel Tudor: I live at 519 Lafayette Avenue. It is an eyesore, as far as the fence goes. It could be constructed better; drop down the panels and cut off the tops.

Chairman Weidlich: Thank you for your comments.

Mr. Daniel Mastrullo: I live at 518 Lafayette Avenue. Normally, when you put a fence up and I have put a lot of them up in the Springdale area, years ago, you normally put them the contour of the ground and if you come to an area that you have to step, or whatever like you repeated earlier, then that is what you would do in order to run the contour of the ground. Otherwise you go and fill in the ground first and then build the fence up but you don't build the fence and then fill in the ground. That is just doing something backwards and it wouldn't look right anyway because you want to use wood piling for the retaining wall. It wouldn't look right. Then you would include that wood for a retaining wall as part of the fence and it would be more than six foot. I think the best thing to do is step that front part on the left side of the gate, step it down and then match in the other to blend in and cut the poles off. There is nothing to it.

Chairman Weidlich: Thank you for your comments. If there are no other comments we will close the public portion of the hearing.  
Does any of the Board Members have any questions for the applicant?

Mr. Hawkins: Have you seen a copy of what the Building Department had shown with regard to stepping?

Ms. Vicky Girdler: Yes.

Mr. Hawkins: The issue that I have, and I won't speak for the Board, we have the ordinance in regard to how high up you can have a fence and if we have a fence with the varying levels of contour of the yard, if you don't step and base off of the top where it may be six feet in one spot and Staff has indicated that we have a difference of eight feet at one other place, then the concern becomes, if this Board grants a variance for you to have that fence essentially it is allowing you to have an eight foot privacy fence. I hear what you are saying in terms of you plan on leveling out with dirt and backfilling it. In theory if you went and did that and it made a six foot fence then you wouldn't have to be here for a variance. You have to be cognizant of what Mr. Mastrullo indicated in terms of if you put more wood underneath there and that would probably be considered fence in terms of what the height is; the bottom line is, if the ground was there, then you wouldn't have to be here. Because the ground is not there and you are asking for a variance then essentially you are asking for a variance that would allow an eight foot privacy fence. To me that is an issue, a problem. Board of Zoning Appeals meets and variances are granted, they are granted because of exceptional circumstances with

regard to the real estate, the building, the topography or what have you, in a situation that puts you in a unique position that someone else would not be in necessarily or most people would not be in to allow you to enjoy your property the way someone else would. In your situation, I personally and I don't speak for the Board, I don't see the exceptional or extraordinary circumstances that would allow me to say that it is appropriate for me to grant a variance. Based on that, I know you have some topographical issue but it is not something that anybody else could not deal with by, as Staff had indicated, stepping the fence.

Ms. Vicky Girdler: If I go ahead and step the fence, then when I fill that in my fence is only going to be this high; it is not going to be six foot. When I fill it in, do I bring the fence back up?

Mr. Hawkins: It comes back to how high the fence is. Technically, if you fill it in you still have the right, based on the ordinance to be able to have a six foot high fence. There is no benefit to going back over what has been done, if we could roll back time and fill it in first, but we are here where we are. The reality is you have the right to put up a six foot fence in the City of Springdale. I think we are here because if you could go back in time then you would do it differently, probably.

Ms. Vicky Girdler: And fill it in first.

Mr. Hawkins: Right. When you ask for a variance, that is something that runs with the land forever. Essentially, we would be saying that this property could have an eight foot privacy fence forever.

Ms. Vicky Girdler: I don't need it forever.

Mr. Hawkins: I know you don't need it forever; that is the problem with the variance. If you talk to legislature and have them change the law in Ohio, then we could do something different. It would be much easier if we had temporary things but we don't. The problem is if this Board grants you a variance for an eight foot high privacy fence then that is an eight foot high privacy fence forever. Fifty years after you have left that property or one hundred years after everybody in this room is gone, then that property is allowed to have an eight foot privacy fence. I didn't write the law, that is just what it is and unfortunately that is something that has to be taken into consideration and that is why it is such a big deal when it comes to a variance. I know a lot of times folks what to try to fix a problem with a variance because it seems like it is an easier way to go but it is really not. It is a big thing. That is the concern I have. You want to have a privacy fence and I want you to have your fence, but that is the problem that I have based on those circumstances.

Mr. Champion: As a point of clarity, in order for you to have a six foot fence above grade, you would have to fill in on both sides of the property. When you fill on a property, you are allowed to fill but you can't fill with a slope greater than three to one. Three to one would be probably about a 40° angle. It is three feet for every one foot of rise. Just looking at the photographs and I am assuming the blue house is your neighbors house?

Ms. Vicky Girdler: Uh huh.

Mr. Champion: A three to one slope would go probably from the fence to maybe two feet off of that garage, as an example. It would go out at least six feet away from the fence, in order to accomplish that slope.

Ms. Vicky Girdler: He said that I could put blocks; a wall.

Mr. Champion: But then that is a retaining wall. You would be allowed a six foot fence but you would have to fill on both sides of the property and you would have to have permission from your neighbor to do that.

Chairman Weidlich: I would have said pretty much what Mr. Hawkins said, that the fence needs to be parallel to the ground, either stepped or follow the contour of the ground. That is where my feeling is so I will not be supporting your request for a variance.

If there is no further deliberation, would someone like to make a motion?

Mr. Hawkins: I move for the owner of 505 Lafayette Avenue, for a variance to allow a fence taller than six feet to remain on her property. The variance is in regard to Section 153.482(B) "Height. Fences and walls shall not exceed six feet in height in required rear and side yards." This would allow this property to have an eight foot high fence.

(Mr. Knox seconded the motion.)

Chairman Weidlich: Is there any further deliberation on the motion or amendments to the motion?

(No discussion or amendments were presented and Mrs. Huber polled the Members of the Board of Zoning Appeals, with a unanimous "no" vote the variance request was denied.)

B. Chairman Weidlich: The next order of business is the owner of 33 West Kemper Road is requesting a variance to allow a ground sign to remain on the property line. Section 153.531(D)(5) "Ground signs shall not be permitted if a pole sign is utilized on a lot. A ground sign shall be not less than 25 feet from another business lot line."

Mr. Trey Cantor: 6630 Cleves Warsaw. One thing I think the Board should note, that was an omission on our part, we did acquire a previous variance for several pole signs. This is referring to a ground sign and is not permitted if pole signs are on the property. Several years ago we were granted a variance for additional pole signs and it was an omission on our part to state that those poles signs have since all been removed, the pole signs that were present from the previous variance. As far as 25 feet from the property line, the poles were existing; the Shell station next door, there were four poles that were put up as a barrier, more or less. They are like concrete filled metal poles. If you came out of the old car wash and didn't turn then you went right into the new car inventory; no poles were there. So, they were existing and we used those for the mounting of the sign. That is where it got right on the property line basically, not the 25 feet.

Mr. Fred Mangold: I am the President of Jake Sweeney. As Trey just indicated, we received a variance several years ago to put up probably about 15 pole signs that we had on the light poles, 2' x 8'. As you all know, we recently remodeled the Chevrolet facility and at that time we decided to replace the light poles on Kemper. With the new look and the new design we decided that the pole signs that were on Kemper, which is probably seven or eight of them, were not aesthetic to the look of the new facility so we took those down. Because we took those down on the Kemper Road side we also took down the eight or so that were on the Princeton side. So, we took all of those signs down. I apologize to the Board because I didn't know there was a difference between the sign that we put up, those things that were about four or five feet, I think you guys referred to them as bollards. We figured, since we took the pole signs down on the light poles and all we did was replace those signs with a 4' x 16'. If you look at those bollards, they are not very good looking, they stick out of the ground so far and a couple of them are kind of crooked and obviously Shell had just remodeled their property and we decided that it would be a much better look to cover those poles with a sign. Obviously, our motivation for the sign was for the people that pull into the gas station. It is a nice looking sign and I don't know if you guys have a picture of it, it just says "jakesweeney.com" that is our logo and we put our tag line in there which is "better for less". The motivation that I felt was to have that look for people that pull into the gas station. I thought I was trading a whole bunch of square feet when we took that pole signs down for just a little bit of square feet on that sign. I didn't know

there was a difference between the ground and the pole. That is why we just went ahead and did it. Come to find out later that is a violation and that is why we are here. Again, I am willing to leave this sign here and eliminate forever the old variance; we are not intending on putting pole signs back up on our new light poles, if you wanted to make that part of the deal then that is fine with us. We think we have a good relationship with Shell. We spend a whole bunch of money with them every month, we get all of our gas from them and a lot of our employees go there and we buy the stuff from them. Assuming that there isn't a complaint from them, our attitude is that it is a nicer looking thing and we are not increasing our square footage, we are decreasing our signage even though this is on the ground. I don't know what ground signs, Randy would be able to comment to this; I guess we have some ground signs that maybe say "parts" in a certain direction. I think he said we have three ground signs and that is the most you are supposed to have. That is why we are here, we would like to be able to keep that sign up and we are willing to agree to never put any pole signs back up in the future. We think the place looks pretty good the way it is and as I say, I am just trying to have a little sign there for all the people that pull into the gas station.

(At this time Mr. Campion read the Staff comments.)

Mr. Campion: I just wanted to add that you are only allowed one pole sign per property and this property has three pole signs. They have variances for all three of the signs. There is a square footage amount that you are allowed of signage on a building. They have variances that exceed that square footage.

Chairman Weidlich: Is there anyone in the audience that would like to speak on behalf of this application?

(No one came forward to speak on behalf of this request and this public portion of the hearing was closed.)

Chairman Weidlich: Does any of the Board Members have any questions for the applicant?

Mr. Hawkins: You guys are not disputing that there are still pole signs on the property; you agree that there are pole signs still on the property?

Mr. Fred Mangold: Well, I don't know. I am not sure what Randy said, I know we have a lot less poles signs that what we used to have. I think the pole signs that we did have, we had variances to approve that. We took down a bunch of signs.

Mr. Hawkins: You guys had variances for the extended square footage of the overall signs. You guys had variances for pole signs to begin with. But there are still pole signs on the property.

Mr. Fred Mangold: Well, I guess but I am not sure which ones you are talking about. What do we still have? We had signs on Kemper, on the light poles that were 2' x 8'. On the one section it might have said "new cars", and then on one section it said "used cars", so we were trying to identify where used cars are and where new cars are and we did the same thing on the Princeton side. I think there were 15 or 16 of them, I don't remember exactly and I guess we got that approved several years ago. We took all those down, but we may still have on some of the poles. We have some signs that say "customer parking", is that what you are referring to? When you pull into the customer parking, on some of the poles we have a little 18" x 24" that just says "customer parking". We still do have those and I don't know how many there are. The used car and new car signage, the 2' x 8' have all been taken down. I am o.k. with not putting those back up again because we are not going to do that, it doesn't look good with our new look.

Mr. Hawkins: When did you say you took down the other pole signs?

Mr. Fred Mangold: We finished the remodeling of the Chevrolet about this time

last year, September or so of 2012; probably before that.

Mr. Hawkins: If you look at this, the picture in our packet, this is a pole sign.

Mr. Champion: There might be some problem with terminology; let's call it a monument sign. But the bigger sign that you have at the entrance, that is what is considered a pole sign.

Mr. Fred Mangold: Oh, yes. We still have the big Jake Sweeney sign out front on Kemper. On the Princeton side we have a sign that used to be the BMW and we moved the BMW and replaced that, where it used to say "the original used car super store", and now it says "our service department". Then we had the Mazda sign on that corner and when GM filed bankruptcy in 2009 and we lost all of our Saturn stores, then GM came in and said you guys have to move Mazda out of there because we want this whole corner to be exclusively Chevrolet. So, basically they were playing hard ball with us and we didn't have any choice, so what we did is we moved Mazda to where our Saturn store was on Kemper. That Mazda sign, we took down and obviously we replaced the Saturn sign with a Mazda sign; everything legal. Where the Mazda sign was on Princeton, we made that a Chevrolet Certified sign. Everything is kind of equal to what it always was and that is why in our minds, when we took down the signs on the light poles that said "new cars" and "used cars", we figured that all that square footage we were taking down. Then all I did was replace it with this sign, didn't know about the property line rule and I just wanted a little Jake Sweeney signage that would hide those ugly looking poles and at the same time the people would pull into the gas station and they would see our website "jakesweeney.com". Obviously, Shell didn't come tonight, I don't think they have a problem with it because I think we have been pretty good neighbors. The big sign is obviously still there but nothing is additional in what we have ever had. The old Mazda sign became the Chevrolet Certified Used Cars and the old Saturn became Mazda, so we didn't really add anything to what we ever had. In our minds we actually had less signage than what we had originally. I could take this sign down and I can go to one of my light poles and put this same sign up facing Shell and make it 25 feet away; but it would look dumb because it would be kind of in the middle of the property and I would face it towards Shell; to me it just didn't look right and we obviously didn't realize that we were breaking any laws until Randy sent the letter.

Mr. Champion: Let me make one more point, you have a variance to have the three pole signs right now, where you are allowed one but what the Zoning Code says is that you can either have a pole sign or a ground sign; so you have pole signs. All the signage that you are referring to that were on the light poles, we didn't grant a variance for 10 or 15 or 12 pole signs, we had allowed that signage because they were 2' x 8'. We included that in your square footage of your signage.

Mr. Fred Mangold: We got a variance for that.

Mr. Champion: And you have a number of square footage that you are allowed to go with that property. I don't know in the last remodel that you did, I know you have quite a bit of signage on the building.

Mr. Fred Mangold: But no more than we ever had.

Mr. Champion: Yes. You didn't ask for a variance to get more signage, I assume that you have less than what you had but I don't know, whatever that magic number is for signage. So, for this Board to consider this you would need a variance for a sign close to the property line and you would also need a variance for a ground sign because you already have three pole signs.

Mr. Fred Mangold: Again, I think the issue is overall signage, we have less than what we had; everybody agrees with that because we took all those pole signs down. We are willing, if you want to make that part of the agreement, that we wouldn't be allowed to at a future date to put any signs back on the poles. We

would be o.k. with that. I understand that the definition is different between a ground sign and a pole sign.

Mr. Hawkins: It is important that you understand, in terms of that 0' setback, and I know that Shell is a great neighbor and Shell has been there for awhile and you have had a great relationship for years and years, this variance goes forever. It is possible that maybe Shell sells to BP one day and the BP people come in and they are not as accommodating and you guys don't have the same relationship. If this Board says that you can have a 0' setback sign then you have to be cognizant of what that future person may have. I know Jake Sweeney has been here forever and I hope they stay forever but we have to be mindful of that and just because that is a good relationship right now, this runs with the property forever and ever. When Zack is dead and gone and his great-grandkids are running the dealership, that is still something that has to be considered. That is a concern. I for one love ground signs versus pole signs and the City has made ordinances to go with regard to it. I have a big concern with it being 0' setback. It is what it is; you had empty bollards there before and I don't know that you get a whole lot out of that, facing Shell versus facing someplace else. I, for one, will be more apt to be open to looking at that if you had it someplace else on the property where it may not be 25 feet setback from the roadway, it is not going to be at a 0' setback from a neighboring property. I, for one, would be more open to it if you said you were putting a ground sign on Kemper or on 747 than I am if you put a 0' setback at that spot. We have to be mindful of whoever that neighbor may be some time.

Mr. Fred Mangold: Obviously, our motivation is strictly where it is with the poles in there. Who knows, it may sell some more cars and it may not. In my mind it looks better. We could do something further back but then I would have to go to a pole because otherwise you couldn't see it unless I stuck it on a pole 25 feet away and it would have to face Shell. It wouldn't look good. In other words if you guys rule against this I am not going to do that. I just did it because I thought it looked good. I thought it looked better than those ugly looking stub poles sticking out of the ground and I didn't really think Shell would have a problem with it. One more little impression that we can give people that get gas there or pull in there for food or Dunkin Donuts or whatever. Bottom line is, if you rule against it we will take it down and I will be stuck with what it is.

Mrs. Huber: Sir, do you feel that you have an identity problem? No, really. I think our sign ordinance originally, and we do want to help businesses, was to keep the proliferation of signage; we didn't want another Colerain Avenue or another Route 4 up in Fairfield.

Mr. Fred Mangold: We don't either. I agree with that.

Mrs. Huber: But you have so many signs. A sign that would say "service" or something, then that would help a person. I just don't understand all the signage that you say you need. I just don't get that.

Mr. Fred Mangold: I guess the only response that I would have to that, Jane, is that we spend a lot on branding "jakesweeney.com", I am sure you hear our commercials.

Mrs. Jane Huber: Do you say Jake Sweeney, Tri-County, or do you say Jake Sweeney, Springdale?

Mr. Fred Mangold: We just say "jakesweeney.com". That is how we end all of our commercials on T.V. and the radio and that thing. All I did with this sign, as you can see is one more impression of the branding of "jakesweeney.com". If you pull into Shell you see "jakesweeney.com" and you may or may not be in the market for a car but once you are, you might remember that. They go to the internet and "jakesweeney.com" and boom, they are there looking at all of our stuff. We are just trying to do as many impressions as we can in the market place.

Mrs. Huber: And as many signs as you can.

Mr. Fred Mangold: Again, less than what we had.

Mr. Knox: I think it is a good idea to have something on those four poles, because they are hard to see particularly at night.

Mr. Fred Mangold: Exactly.

Mr. Knox: But then again, if you have something to be read then that is a very restrictive area. You are either going to make a hard right turn or a hard left and anything that distracts the driver then you are liable to have people running into some walls. I personally prefer the thing to be absolutely blank.

Mr. Fred Mangold: You are saying when somebody pulls into Shell?

Mr. Knox: Yes. When they are pulling into Shell and they do go around the drive-in or they turn into one of the pumps which I think are probably at the minimum distance between the pumps, it is tight driving in both cases and it is not the time for anybody to be reading a sign, even momentarily. On safety grounds I would rather see that being a blank white stretch there rather than something to read.

Mr. Fred Mangold: My response to that would be obviously that used to be where they had their carwash and now obviously the car wash is gone and there is a nice fence which we paid to put up. Shell looks a lot better than what it used to; they used to let that landscaping go a little bit. Now, it looks a lot nicer. I don't know but I would probably respectfully disagree with you, I think the sign adds to the safety from a standpoint that you can see it a lot better than those poles. The way they have it set up if you, if you pull in off of Kemper you are going to go straight on through and around if you want to go to Dunkin Donuts or you just pull to the left and pull into one of their gas pumps.

Mr. Knox: If just the shamrock was there with nothing else then I would be in favor of it because that wouldn't distract people and would also show them that there is an obstacle in the way.

Mr. Nienaber: I just want to remark that I think that the sign is a brilliant marketing use of the pre-existing bollards but I really would hate to start a proliferation of signs at 0' lot line. I like Ed's remark about the safety issue. While I can really appreciate the sign and the business purpose for it, I would hate to set a precedent.

Mr. Ramirez: I think it looks like a nice sign and covers up those poles and I agree that a little bit of landscaping on the bottom; I think it really looks nice. My concern is, like others, that it is right on the property line and without representation from Gilligan Oil saying that it doesn't bother them and they are for it then we will have to assume that they don't know it is on the property line.

Mr. Fred Mangold: Or we can assume that they know and they don't have a problem because they didn't show up.

Mr. Ramirez: Right. You are both long term neighbors and we don't see either one of you leaving; we hope not. But, like Mr. Nienaber said, starting a precedent with the 0' setback. I think the sign is fine, I am just not thrilled with the location of the sign.

Chairman Weidlich: If nobody else has questions, we will move on to deliberation and discussion.

Mr. Hawkins: I find that with regard to the sign being placed in the 0' setback from the neighboring property line, I don't find any extraordinary circumstances or issues or predicaments that the property owner is facing as to have a variance granted to allow 0' setback.

Mr. Knox: This Board must always be concerned with precedent. If we allow you to put something right there on the property line, then the next person comes along and it might be bigger and grander. We can't go down that road.

Chairman Weidlich: If there is nothing further, can we have a motion please?

Mr. Hawkins: I move to allow the owner of 33 West Kemper Road a variance to allow a ground sign to remain on the property line from Section 153.531(D)(5), which indicates ground signs shall not be permitted if a pole sign is utilized on a lot and ground signs shall not be less than 25' from another business lot line. Essentially granting two variances, one for a 0' setback and another for allowing a ground sign when there are multiple pole signs on the property.  
(Mr. Nienaber seconded the motion; with no amendments to the motion,  
Mrs. Huber polled the Board of Zoning Appeals Members and with six "no" votes and one "yes" vote from Mrs. Ghantous, the request for variance was denied.)

C. Chairman Weidlich: The next item of business on the agenda is the owner of 808 Weymouth Court is requesting a variance to allow an 8' x 6' greenhouse to be erected in the rear property. Section 153.492(B)(1) "There shall be no more than one detached accessory building, other than a garage on a lot in a residential zoning district."

Mrs. Goomatie Ramudit Singh: I live at 808 Weymouth Court. I have applied for a variance for setting up a greenhouse. I sent in all of the information. This is the greenhouse. It is small, 52 square feet. It is 8'-5" x 6'-3" x 6'-5" high. I had recently applied for a barn which is 12' x 20' x 16' high. If I had known at that time I wanted a greenhouse I could have included a greenhouse within the barn. I don't know if I would have gotten it but I would have applied for it. When I bought it, it said that we have to set this on 4 x 4 logs. And when I went to the City they said that we have to have a variance for it, since it is another building other than the barn that we have set up. According to the square feet of the barn, we set it up in two heights to accommodate the number of square feet that can be used. Why am I setting up this greenhouse? I have a couple of reasons, I did not know that I could not incorporate it into the barn and I came from the Caribbean and I eat different types of food and I use a lot of different seasonings and I grow a lot of plants for religious reasons. When it is this time of the year I put all of my plants inside, which is about twenty plants or so. Instead of having it inside my house, I am thinking that I could have it outside with a small greenhouse. As you see, for me it is pretty nice, it is not big and it is not that very high. I want to put it at the back of my yard, seven feet away from the back fence, twenty three feet from Mr. Bill's side and closer to the barn that we have constructed. That is my reasons why I want to have a greenhouse at the back. It is not going to be in the way of any neighbor. It is way down to the back and can hardly be seen. It is not an obstruction of anybody. I have enough space to walk around it, where I want to set it. According to this letter from my neighbor; do I read it aloud?

Chairman Weidlich: Well, the Secretary is going to read that into the Minutes when we have the public communication portion of the meeting. You can go ahead and read it and then when we get to that, you will have a chance to comment on that. We will move on to Staff comments.

(At this time, Mr. Campion read the Staff comments.)

Chairman Weidlich: Is there any communications from the audience on this application?

Mr. Steve Grubich: I live at 796 Weymouth Court, two houses down from my neighbor. My concern with it is, I have a picture here and I count three structures, not just two. I don't know if you consider the one structure a structure; I do, I look at it. I am not the kind of person who wants to tell another neighbor what they can

have and what they can't have. But, I think the cart has gone before the horse on this one. The new structure, the big structure has been in place since late August or the middle of September and the old structure has not been cleaned out, yet we are building this other structure behind the new structure and we are doing a fence. We haven't cleaned out the old structure and taken it down yet. Am I making sense? I just feel that there is certain steps that should have been done before even asking for this variance. I don't know that I would approve this new variance, maybe if I had a clue if I knew what it was going to look like and where it was going to be then I might be for it, but right now I am not.

Chairman Weidlich: Alright, thank you for you comments.  
Does anyone else wish to comment on this request?

(At this time Chairman Weidlich did swear in Janet Howell.)

Ms. Janet Howell: I live at 804 Weymouth. I live right next to Goomatie. I consider her a friend.

Chairman Weidlich: And this is your letter that we received today?

Ms. Janet Howell: Yes, I wasn't sure I could make it here. They have the old shed and they have the new barn and then they have a lattice work thing behind that framed with big wood. First of all we don't know where this new greenhouse is going to go. They have a lot in there now and they have not moved anything out of the old shed, it has not been taken down. They have started a fence and they didn't finish that yet and weather got cold and I can understand that they can't finish that. There are so many things going I can't understand why things aren't finished and then something else done. Like Mr. Grubich said, there is two or three things going on here and then we are asked to give permission for another thing, why can't those first things be accomplished and then ask. I may not have any objection to Goomatie putting in a greenhouse but I want to know where, I have no idea where; it is 8' x 6'. How high? Take care of the other one, get the first structure down and are we going to have that lattice-work thing there too, besides the greenhouse or is she building it where the lattice-work thing is? You have all those things going on in the backyard. I don't know if I approve of this or not. Even though I am friendly with her, I feel like I should be informed before I give my opinion. So, I am against it.

Chairman Weidlich: Does your comments now take the place of your letter?

Ms. Janet Howell: Yes.

Chairman Weidlich: Thank you for your comments. Would you like to see on the picture where the proposed location is for the greenhouse?

Ms. Janet Howell: Why start something else.

Ms. Carolyn Ghantous: I thought your concern was, that you didn't know where it was going to be.

Ms. Janet Howell: That is one of my concerns.

Ms. Carolyn Ghantous: We can show you that on the drawing, if you would like to see it.

(Ms. Janet Howell and Mr. Steve Grubich stepped forward to view the drawing.)

Chairman Weidlich: Is there anybody else in the audience that would like to comment on this application?

(No one stepped forward to comment and the public portion of the hearing for this application was closed.)

Mrs. Goomatie Ramudit Singh: Can I answer their questions? Concerning the barn, we only got the permit to have it built this year. And as far as I want to understand, a person has one year to finish it.

Chairman Weidlich: Is that correct?

Mr. Champion: Yes.

Mrs. Goomatie Ramudit Singh: The fence, we only got that fence permit maybe about four weeks now. We hustled as much as we can in order to finish the back part. I have a little puppy and I wanted to enclose it and have it inside for safety. He is small. A person can do so much, if they want to be their own contractor. My husband is working and my son is working. The time in between is the time that we can do it. How much we can do, that is what we are doing. Since we started in June with the barn, we had summer for about a month and then we had a lot of rain and now it is cold since October and the fence we finished the back. Another neighbor asked me if I had a permit for the side section of the house and I told her yes we did. Some of them don't understand that you can have a permit according to the height of the fence on the side of your house. If I was wrong, then I wouldn't have had the permit to get the side of the house done. I know one counselor on Glensprings, he has this short white fence almost out to the end of the road. One person's comment was they don't know anybody who has a fence erected at the side of the house. I think that is something that they are thinking about. The location of it is way down to the back. I have a little tree there and my neighbor has a fence. I think it is 23 feet at the end there. It is hidden.

Chairman Weidlich: We are not here to discuss your fence this evening, if you want to discuss that with your neighbors elsewhere, then that is fine. We are here about your greenhouse this evening.

Mrs. Goomatie Ramudit Singh: Right. As they were saying, if the barn is finished, we have the second barn. Complete the big one and take the little one and put in the contents. Yes, I can do it but in this cold weather, no I can't. I have to finish the bigger barn, it isn't finished as yet. I still have work to get done inside in order to move the contents from this one to the next one. They are all electrical machinery; small ones.

Chairman Weidlich: Like I said, we are here to discuss your application for your greenhouse this evening. The fact is that you have additional structures on your property, as well. We will move on to discussion with the applicant.

Mr. Hawkins: You have been told that you have to take down one of those structures, not even counting the greenhouse in this. You were told that you had to get rid of the shed with the building of the barn?

Mrs. Goomatie Ramudit Singh: Yes. When this one is finished, I can take the contents from this to that one and get rid of that one.

Mr. Hawkins: The issue becomes that you are not allowed to have more than one structure. Right now you have two. If you go through and complete the barn and you take off the shed, which I can confer with Staff on this but my thought is that you should only have one even right now, but we will see what Staff says regarding that; regardless of what is being built. Even if, let's assume, you didn't have the shed there and you had the barn there, the greenhouse would be another structure. So, you couldn't have two. That is what the City's ordinance is. There is nothing that I am seeing within the situation that puts the property in an extraordinary situation where you have a unique situation in comparison to other folks that use their property where you would need to have two, or should be allowed to have two, in setting a precedent in saying that we are going to grant you this variance. I have an issue with that. I am not here talking about the fence or anything else like that but you have to understand, the law says and the ordinance says that you can only have one structure. If you incorporate a greenhouse into a barn, if the Building

Department says it is o.k., then you don't need to be here to ask for a variance. You can only have one structure. There is nothing that I have heard or seen that would indicate that there is an extraordinary circumstance why you should have more than one structure on your property. If you want to have fresh spices and there are some other things that go along with that, religious reasons and dietary, then I want you to be able to have that but at the same time if we grant a variance we have to have some things to base that off of for why you are in a unique circumstance based upon your property in comparison to anyone else. I haven't seen that or heard that from you tonight in granting a variance, why you should have more than one structure. I just want you to understand the process.

Mrs. Goomatie Ramudit Singh: I understand that; that is why I am asking for the variance because it is all for growing plants.

Mr. Hawkins: But you understand that this is purely legal, there are factors that we have to have if we are going to grant a variance. We can't just grant a variance because we like somebody or we want them to be happy. There has to be some extraordinary circumstance as to why we are granting you a variance and why we are allowing you to do that. The basis is that there is something strange or unique to your circumstance different from anybody else. There is not. Your property does not have a unique circumstance in comparison to any of your neighbors or anybody else why you should have two structures versus somebody else. If we grant a variance for you with no unique circumstance then anyone else in the City should be able to come in here and say that "I should have two structures as well because you gave it to her and she didn't have a unique circumstance beyond her wanting it; I don't have a unique circumstance so give me two, as well." That is why we have a precedent being set, that is what that is. The difference is if you have a request for a variance and you have a unique circumstance as to why that has to be done, then we grant you a variance. I haven't heard anything unique with regard to your circumstance, as to why we would do that.

Mrs. Goomatie Ramudit Singh: I can answer your question by saying that it is because of my culture that I have certain types of food that I can use all year round and the greenhouse is what is going to help me for that.

Mr. Hawkins: But you can do that by having just one structure, the greenhouse and not having anything else. See what I am saying? No one said that you can't have a greenhouse, you are allowed to have a greenhouse but you are only allowed to have one structure.

Mrs. Goomatie Ramudit Singh: That is why we applied for a variance. When you apply for a variance, you ask for something that is not allowed in the law but to be granted it.

Mr. Hawkins: That is correct. And we have to have some kind of criteria in order to grant that.

Mrs. Goomatie Ramudit Singh: I already told you, it is my culture and it is my way to grow my type of spices and food. It is because of my religious reasons also. I think that is unique enough.

Mr. Hawkins: I understand what you are saying but I disagree with you based on the criteria that we have in terms of following the law. I have one question for Staff just for clarity sake. It does appear that she has a shed, she has this barn that is still being constructed, was she granted permission to be able to erect this barn with the shed still being in place or should the shed already be gone based on the barn which appears to be complete, at least as to it's outward identity?

Mr. Campion: We granted a permit to build a barn. The permit is good for a year and the permit for the fence is good for a year. Within that year time period, we would expect that the other shed would be removed and the contents be put into the

new barn. Yes, we would allow during construction probably for the two structures to be there at the same time. Now, that doesn't say that she couldn't modify her barn to allow the back part of it to possibly be a greenhouse by adding windows or taking this structure that you bought and putting it inside the barn with some windows added to the barn to let the light in. That is a possibility, if you wanted to do that because we have a permit for a barn that probably doesn't show any windows. You would have to come to us and we would modify your permit. The permit that we issued for the barn is good for a year and you have a year to build that and we would expect that shed to be gone at the end of that time.

Mrs. Goomatie Ramudit Singh: Right. I wouldn't expect you to force me to take down the shed in less than a year.

Mr. Champion: We wouldn't expect you to take down the shed before there was a place to put the contents in it.

Mrs. Goomatie Ramudit Singh: Right. Even the fence also, is another issue for my neighbors. I am not going to force myself in no cold weather to finish no fence.

Mr. Champion: Any permit that we grant is good for a year.

Mrs. Goomatie Ramudit Singh: Right.

Mr. Hawkins: With regard to the permit being good for a year, are we saying at the time of completion of the barn then we should not have a second structure, whether that is in six months?

Mr. Champion: That would be the case. If the barn was finished today, we would want the contents in the barn and the shed removed.

Mr. Hawkins: And as far as Staff is concerned, this barn is not complete?

Mr. Champion: I don't believe it is complete. I don't know.

Mr. Hawkins: We are not just talking about the outward structure. This looks like a complete outward structure, we are talking about the inside in terms of whatever is being done inside, too.

Mrs. Goomatie Ramudit Singh: My issue, or I was told that I needed to get the rail on the steps to the upstairs and on the other side I have to install a small separation also, but I am finishing the wall coming down the stairway. That has to be completed also. I can't store the things from the old shed in the new shed because if I do that then we cannot finish the work and the floor downstairs. I am not going to trip and kill myself inside there to move anything.

Mr. Hawkins: I don't want you to trip and hurt yourself. How do you feel about Staff's comments in regards to combining or attaching, if it meets all of the City's parameters with the barn, so that it is one structure?

Mrs. Goomatie Ramudit Singh: I can do that but remember that I have a certain amount of square feet per the square feet of my whole lot.

Mr. Hawkins: Correct.

Mrs. Goomatie Ramudit Singh: I would need help because this is only 52 square feet. Yes, I can attach it on the side of it, there is no problem in doing that.

Mr. Hawkins: Because I don't see something that is unique, legal circumstance to grant you a variance on it, my suggestion is that you look at a potential compromise from what the City Building Department has suggested as a resolution and either combine the greenhouse into the barn or connecting it so that it is one structure; again it has to meet whatever the square footage parameters are for that to happen.

I, for one, I don't see anything that would allow me to grant a variance for it. If you did that and you combine as one then you don't need a variance and you don't have to be here as long as you are in the confines.

Mrs. Goomatie Ramudit Singh: I only have about 20 square feet of the barn that I did not use for square feet. This thing is 8' x 6' is 48 square feet, give or take. I would need about 30 square feet in order to attach it on the side of it. It would look very nice there, too.

Mr. Hawkins: That is my suggestion is that you might talk with the Building Department and see if there is a way that you can make that work with your square footage.

Mr. Campion: You would have to come and talk to us about modifying.

Mrs. Goomatie Ramudit Singh: It seems like a good plan to me, I can do that.

Mr. Knox: The lattice-work structure behind the barn, what is that?

Mrs. Goomatie Ramudit Singh: I planted my grapevines. I moved my grapevines from the area that I constructed the barn on, so I planted them in a line. That is why I have that there. I cannot have this stick up in the air like this with no support because it is going to fall down. I have about five grapevines and I have blackberries, strawberries, blueberries that I have around there.

Mr. Knox: As it is now, it is as finished as it will ever be?

Mrs. Goomatie Ramudit Singh: Yes, right.

Mr. Knox: In other words, you are not going to enclose it or do anything else to it?

Mrs. Goomatie Ramudit Singh: No, I can't enclose it because I can't get in and out. I plant tomatoes in the middle and okra and other stuff.

Mr. Knox: The small building that is going to be removed eventually, the doors on it are quite a bit wider than the doors on your barn. Is there anything in that shed that would be too wide to go through the front door?

Mrs. Goomatie Ramudit Singh: Do you mean that I have the front door smaller than the back door?

Mr. Knox: The grey structure here, the doors are quite a bit wider than the door to the barn.

Mrs. Goomatie Ramudit Singh: The little one? I have got a bigger door to the back of the new one.

Mr. Knox: So, anything large would go through the back door?

Mrs. Goomatie Ramudit Singh: Yes. My riding lawnmower can go through the back.

Mr. Knox: I agree with Mr. Hawkins, if you combine it into one building then it would be much more suitable for this Board.

Mrs. Huber: It said that you were going to remove one of these buildings when you could. I guess the blue-grey building is to be removed; what do you have stored in there now?

Mrs. Goomatie Ramudit Singh: Electrical equipment that I use for cutting wood.

Mrs. Huber: How can you get a lawnmower into this other thing?

Mrs. Goomatie Ramudit Singh: There is a door to the back that is wider.

Chairman Weidlich: There is a door that is wider that you can't see in any pictures.

Mrs. Huber: How close to that building is the rear property line? Is this fence here on your neighbor's property and would be the property line?

Mrs. Goomatie Ramudit Singh: That is my neighbor's fence and it is like seven feet.

Mrs. Huber: Did you get a variance on that?

Mrs. Goomatie Ramudit Singh: No. That is what the City passed for us.

Mrs. Huber: Well, you have to have so many feet in the back yard and so many feet from the property line. There was no permit issued for that?

Mr. Champion: No, a permit has been issued for the barn that she has under construction.

Mrs. Huber: You are calling this a barn?

Mr. Champion: Yes.

Mrs. Goomatie Ramudit Singh: Barn or tool shed, I don't know what to say.

Mr. Champion: It is a 20' x 12' x 16' high barn. A permit was issued for that.

Mrs. Goomatie Ramudit Singh: What you are questioning, is the wall of my house the same distance. It is a straight line to the end of my garage, straight up.

Mrs. Ghantous: Randy, is that lattice arbor grapevine, is that a structure?

Mr. Champion: No, I don't think so. I don't think we consider arbors structures.

Mrs. Ghantous: So, that would be an arbor, according to the City?

Mr. Champion: Based on what she said tonight, I would say that is what it is.

Mrs. Ghantous: Based upon her usage of that, that is the definition based on the way she is going to be using it?

Mr. Champion: It doesn't have any walls on it, if you were to build a pergola or anything like that, I don't believe we regulate those right now.

Mrs. Ghantous: O.K.

Chairman Weidlich: Does anyone else have anything for the applicant?  
Sir, did you have something you would like to add? Does anyone on the Board mind if the gentleman from the audience speaks again?

Mr. Steve Grubich: I just want my neighbor to know that I am not complaining about your fence. I would not have liked to had a 16 foot outbuilding there but it is her yard and it was built within specification and I am not complaining about your garage. I don't want you to freeze moving your stuff from the little shed into the big shed. I would have done it differently; before I asked for a variance I would have made sure that the little shed was gone and some of the other little things that would have maybe upset my neighbor. I was upset that you are asking for a variance and I am seeing another building that should not be there, in my mind, because I am looking at the outside of your shed and to me it looks complete. I didn't know the inside is not done. Nobody wants you out in the cold. Nobody is complaining

about that and we are not complaining about your fence. The only reason I brought up the fence is because we see the fence going up, we saw the barn go up, as you call it, and I saw the lattice work go up and in my mind I didn't see the other shed coming down. That is my only statement. We are not asking you to do anything sooner than what the rules say.

Mrs. Goomatie Ramudit Singh: But the greenhouse with the weather as it is and my plants being inside, that is what I wanted to take out so that I can paint the walls of my kitchen and my dining room.

Mr. Steve Grubich: I have said what I wanted to say about your greenhouse for now.

Mrs. Goomatie Ramudit Singh: Good, o.k.

Chairman Weidlich: Board Members, we will move on to deliberation and discussion on the evidence. Does anybody have any comments?

Mr. Knox: Unless you agree to combine the greenhouse into what is now called the barn, I am going to vote against it. If you agree to put the two together then I will vote in favor of it.

Mrs. Goomatie Ramudit Singh: I agree with Mr. Hawkins, that is a good idea and it will look nice too. That will solve my problem and again I will get heat from my barn with the walls of my greenhouse and save me some money from buying all of those solar panels that I want to put up.

Mr. Champion: I want to make sure you guys are talking about the same thing, I was referring to putting the greenhouse inside the barn and maybe putting some windows inside the barn to allow the light in. It sounds like you are talking about putting the greenhouse on the outside of the barn and attaching it to it and I don't know that it meets the square footages. You are allowed to build an outbuilding so big and I can't say tonight what the square footage allowance for a barn is. Rather than this Board granting a variance for an addition to the barn, we would need to find out first what the allowable size would be for a structure like that.

Mr. Ramirez: That cleared up some of the questions that I had. I would not be in agreement to add onto the back of the barn merely sticking this greenhouse onto the existing structure. I just want to make sure that it was clear that we thought you were going to take this structure and incorporate it on the current square footage that this structure already has, put it on the inside like Mr. Champion has stated. I just want to clarify that and I would not be in favor of adding onto the back of the barn or attaching to the barn; but adding into the barn, yes.

Mr. Nienaber: I just wanted to voice what I am hearing from Mr. Champion to see if I am understanding it right. Sounds like it would be a good idea for the appellant to table her request for now until she has a chance to meet with the Building Department and see if she can arrange this thing.

Mr. Champion: I guess my point would be, let's just suppose that she needs an additional 52 square feet, which is the size of the greenhouse to be added to the back of the barn. If our Building Code allows for a barn to be built 52 square feet bigger than her existing permit and it meets the side yard and the rear yard setbacks, which in this case is only 5 feet, so she is 7 feet from the property line and she is 11 feet from the property line. If the Building Code allows for her to build her structure 52 square feet bigger and she is 5 feet from that rear property line with her rear structure then she wouldn't need a variance. She could come back to us and we could modify her plan and she could attach it to her structure but if she has already maxed out on square footage for her barn, then we are not going to allow her to add onto it and she would need a variance for that.

Mrs. Goomatie Ramudit Singh: Well, as it is, I know I have 15 square feet because

we didn't use up all of it.

Mr. Champion: So, you don't have 52 square feet?

Mrs. Goomatie Ramudit Singh: I don't have 52 square feet. So, if you are suggesting and if you will help me, a variance that I have applied for, for something that is not permitted and give me permission for the rest of the square feet then I can attach it from the side of it using what square feet I have remaining and give me the rest of the square feet in a variance.

Mr. Champion: So, you would want to change your application to ask for a variance to add an additional 40 something square feet?

Mrs. Goomatie Ramudit Singh: Thirty square feet or so.

Mr. Champion: I would feel more comfortable continuing this because what has been proposed is an additional structure separate from this one. We are changing things. And the other thing is we should find out the exact allowable amount and if you need a variance or if there is some way you could design the structure so that you don't have to put this greenhouse outside.

Mrs. Goomatie Ramudit Singh: I have already constructed all of the walls, the concrete pad to drive up with the lawnmower and everything. If I have to incorporate this inside, that is going to be a messy amount of work to get done. As I said, a variance is asking for something that is not permitted. If I get the permission for the number of square feet that I want, that I did not use plus whatever you can give me to construct it, that is fine. There is another issue that I am having also, the eave of the barn when the rain falls or the snow comes down and the water drips, my door paint is shelling off. I need to cover at least some part straight across my door. Also, the back door, water is getting into the top of the door soaking into the inside of the barn. That is another problem. If I get the greenhouse over the back door which is 6 feet wide already, then it would be easier for me to cover that part that I am having the water problem; so that would help me also.

Mr. Champion: Any alteration to the permit that you have, the barn that you got a permit for then you would have to come to us and show us that you are going to make a change and add a shed roof on the side or something to cover it. All that area is counted into the square footage of the barn. Again, I am hesitant to say, and I know you recall that you have 14 extra square feet but I don't know that is the case because I don't know exactly how much. I am saying that I would rather have Mr. McErlane go over the construction with you, as far as what would be allowable and what wouldn't and then have this Board be presented with whether they should grant a variance or not. Does that make sense?

Chairman Weidlich: Are you suggesting that we table this until the next meeting, if the applicant is willing?

Mr. Champion: It is up to the applicant; whether you want to consider what's been presented or if the applicant wants to change the request and then have you vote on that change.

Mrs. Goomatie Ramudit Singh: Let me review it with the Building office and find out what I have and what I don't have, find out what I need to ask for and maybe take some pictures of my problems with the water and make a drawing as to what I would really need because I don't want you to come to me saying my paint on my door is out and I need to paint it. That is what was done to me for the first shed. My door is rotten. I paid a lot for my front door. It is no good now. I have to take off the paint and repaint it. Even the floor, I used OSB and even that is very bad. I have a real water problem. Yes, I would go to the office and review whatever and then come back.

Chairman Weidlich: O.K., you would prefer that we table this and not make a decision this evening on your application?

Mrs. Goomatie Ramudit Singh: Right.

Chairman Weidlich: I assume none of the Board Members have a problem with that?

Mr. Hawkins: I move to table the application until our January 2014 meeting.  
(Mrs. Ghantous seconded the motion.)

Mr. Ramirez: I was wondering, we are actually looking at two different subjects. Should we just not vote on the greenhouse as is. What she is looking to do is not using this structure at all? So, we would be looking at a variance to add to the current barn and we would just wipe this out altogether. Or should we vote on this and get it off of our table?

Chairman Weidlich: I think this is under discussion so this may disappear when she talks with the Building Department, is that correct Mr. Campion?

Mr. Campion: Yes, that is correct. It depends on the allowable square footage for the barn and it depends on her design.

Mr. Ramirez: The question that we have, is allowing another structure. We are either going to add another structure or we are not and what she is looking at doing or making changes is just keeping one structure and enlarging it; is that correct?

Mr. Campion: Yes. I don't know if she has allowable square footage to enlarge the structure to where she wouldn't need a variance. I don't know what her design is going to be, so she may very well not need a variance which means she wouldn't have to come back to the Board or she would withdraw her application at that time or she might need a variance for additional square footage to the structure. The third option is she might come back and ask you for what she did tonight.

Mrs. Goomatie Ramudit Singh: I would prefer if you would let me come back on the 17th of January, that is my birthday and I can review the whole question again. I would prefer to let this be pending depending on what the answer is and I can come back and ask for the variance at the same time.

Mr. Hawkins: To be clear, your best bet if you want to have this greenhouse, I am just guessing but if you can find a way to do this working with the Building Department where you don't need to come back for a variance. The likelihood from comments that have been said up here, that you are going to get a variance for either another structure or additional square footage to that barn probably aren't very high. I am just saying that your best bet is probably to sit down with the Building Department and see if you can work something out. If you can't, you come back with a variance for either and from the comments that have been said tonight I don't know if you are going to be successful on that. If you can work something out where you don't need to come back for a variance because you can work out the square footage in making that one building then you are likely to get what you want. If you come back here for a variance to make that structure that is a barn bigger or asking for an additional building on that property I don't know if you are going to be successful. I can't speak for the Board, I am just saying based on the stuff that has been said tonight that may be a problem for you. So, see what you can do with the Building Department where you don't need a variance.

Mr. Nienaber: If she can work it out with the Building Department that is much better.

Mr. Campion: That is really up to the applicant. If the applicant wants to pull a vote then you can do that; if the applicant wants to continue it then that is up to the applicant.

Mr. Knox: I would like to make a modification to Mr. Hawkins motion, not to mention the month of January because it is kind a busy period of the year and not a whole lot of things get done and a lot of things get stretched out so I would amend it to say, "when the applicant is ready to bring it back".

Chairman Weidlich: Ma'am, what is your desire? Would you want us to continue this to another meeting in January or February or whatever, or would you like us to vote this evening on your request?

Mrs. Goomatie Ramudit Singh: This is my thought and then I will give you an answer; if I need a certain amount of square footage in order to add this to the building then I still have to come for a variance. If you are telling me to close it out now and work with the Department and then come back, and if I do have to come back then my chances are not good. Then, when I go to the Department and I don't have the footage then I am back to nothingness. There is no answer to the question. That means that I still have to come back and ask for maybe 35 or 36 square feet.

Chairman Weidlich: That is a possibility.

Mrs. Goomatie Ramudit Singh: Yes, that is a possibility.

Chairman Weidlich: So would you like us to continue this or would you like us to vote this evening? It is your decision.

Mrs. Goomatie Ramudit Singh: I am almost scared to think if I come back it is a negative answer.

Chairman Weidlich: You can always come back later with a different plan, if you come up with a different plan working with the Building Department. That has been done before also. If you want us to vote tonight, we can do that. If you want to table it and continue it we can do that.

Mrs. Goomatie Ramudit Singh: And if the Department works with me but cannot give me the footage, then I still have to come back, right?

Chairman Weidlich: If you wanted to do that, yes.

Mr. Champion: You will have to come back if whatever you are trying to do with your barn does not meet the Zoning Code. But, if there is enough square footage in the barn to attach the greenhouse to it and still meet the Zoning Code then you would not need a variance. If you are short then you would need a variance for additional square footage.

Mrs. Goomatie Ramudit Singh: Let me ask one question again; the water problem that I am having over the door, I have to have a roof over it so that would take me into a certain amount of square feet because it is over the door?

Mr. Champion: Yes.

Mrs. Goomatie Ramudit Singh: So if I have to do that over the door to prevent my building from rotting and wetting and all of that stuff then it will fall into the amount of square feet that I would need to complete this 42 square feet of greenhouse?

Mr. Champion: Possibly.

Mrs. Goomatie Ramudit Singh: Mr. Hawkins, what do you think about that?

Mr. Hawkins: I think ultimately you have three ways to look at getting what you want. The one is you put an accessory structure on there and that is what we are here for right now because you are asking for another accessory structure. Like

Mr. Ramirez said, if you want the Board to vote on that tonight so you know where you stand on that issue, then the Board can do that. You can still go back to the Building Department and sit down with them and talk to them about other options. You will know that option is off the table. The one way you can get what you want is to get an accessory structure and the other way you can get what you want is you may need more square footage ask for a variance for square footage to attach to the barn. The third way you can get what you want is to not need a variance because you work within whatever square footage that you have with the barn. It is really whatever you want. All I was saying is that the ideal thing for you is if you don't have to rely on the Board to vote on it because you can work something out where you can work within your square footage and you don't need a variance and you control your own destiny. That is what I was trying to say. When I say if you come back then you are likely to have a negative response, I am just saying from what I am hearing from the Members of this Board, I don't know that folks are going to support whatever it is today, next month or two months from now, you having an accessory structure. If you want to have a vote on that tonight then you can hear that answer and know. You can still talk to the Building Department or if this Board is likely to sit here and say that we are going to allow you to have more square footage for that barn; we don't know and that issue is not here before us tonight.

Mrs. Goomatie Ramudit Singh: Right. You are correct because as it is now I wouldn't have it, I don't need it. So vote on it and let me go there and work it out and then come back.

Mr. Hawkins: So you want us to vote tonight?

Mrs. Goomatie Ramudit Singh: I think that would be the best.

Mr. Hawkins: Based on that I withdraw my motion to table the applicant's application.

I would make a motion to approve a variance for the owner of 808 Weymouth Court requesting a variance to allow an 8' x 6' greenhouse to be erected on the rear property. Variance is from Section 153.492(B)(1) indicating that there shall be no more than one detached accessory building other than a garage on a lot in a residential zoning district. The variance would allow the owner to have two accessory structures on her property.

(Mr. Knox seconded the motion and with a unanimous "no" vote from the Board of Zoning Appeals Members, the request for variance was denied.)

Mr. Champion: I want to make a point, because they denied your variance if you want to meet with the Staff and go over what your options are and then if you need another variance for square footage you have to reapply. Make sure you meet that deadline so that you can be here next month, if that is your plan.

Mrs. Goomatie Ramudit Singh: Mr. Knox said that during January everybody is busy?

Mr. Champion: No, we will be meeting.

Mrs. Goomatie Ramudit Singh: So I may or may not see you.

## XII DISCUSSION

Chairman Weidlich: Does anyone have any discussion items this evening?

(No discussion presented.)

XII ADJOURNMENT

Mr. Knox moved to adjourn, Mr. Nienaber seconded the motion and the Board of Zoning Appeals meeting adjourned at 9:02 p.m.

Respectfully submitted,

\_\_\_\_\_, 2014 \_\_\_\_\_  
Chairman Robert Weidlich

\_\_\_\_\_, 2014 \_\_\_\_\_  
Secretary Jane Huber