

**CAUCUS PRIOR TO STRONGSVILLE BOARD OF ZONING &
BUILDING CODE APPEALS
Meeting of
July 31, 2024**

Board of Appeals Members Present: Dustin Hayden, John Rusnov, Dave Houlé, Richard Baldin

Administration: Assistant Law Director Daniel Kolick

Assistant Building Commissioner: Steve Molnar

Recording Secretary: Mitzi Anderson

The Board members discussed the following:

1) **BRENDAN KROWKA (OWNER), (TABLED AT JULY 10, 2024 MEETING)**

Requesting a 217.5 SF Floor Area variance from Zoning Code 1252.15, which permits a 400 SF Floor Area and where a 617.5 SF Floor Area is proposed, in order to construct an Unenclosed Structure over patio, property located at 14350 Timber Lake Drive, PPN 398-09-083, zoned R1-75

Mr. Hayden – Item number one on the agenda originally appeared at our July 10, 2024 meeting and was tabled. We have since received confirmation from the Building Department that the measurements were in fact correct; therefore, we have a variance request of 217.5 SF. While I do respect the want of property improvement I do think that for me personally with Council increasing the square footage on projects like this, it was a sufficient increase. I for one given the circumstance am not in favor of going over the square footage and I am not sure if there is a need to do so because, 400 SF is approximately a two- car garage and that is a lot of space.

Mr. Houlé – I echo your comments and I don't see the necessity.

Mr. Rusnov – Also, there is a precedent that could be set. There was a request a few weeks ago, which was huge and they wanted to build it over an existing deck. The square footage was increased to 400 SF for these structures, which is a significant increase in size.

Mr. Houlé – This is pretty close and almost identical to what we reviewed last month and we rejected that request. I just do not see the hardship, 400 SF is huge.

Mr. Baldin – I reviewed this and there is a nice patio back there; however, it is rather large. As we mentioned, we can't set precedent and we have to worry about that because if you give it to one, then the next one and the next one. There have been times when we have made some exceptions but there have to be some real cause and we have the four conditions to follow.

Mr. Rusnov – We only have four conditions that we can act on and if we overstep our bounds then City Council can reverse our decision.

Mr. Hayden – In this particular case it is residential so, Council would not review our decision.

Mr. Baldin – Regarding the medical issue we will have to wait to address this with the applicant on the floor so that we can get more clarification.

Mr. Rusnov – We will see if Mr. Kolick can aide us in determining if the ADA guidelines apply to this request.

Mr. Kolick – The ADA guidelines do not apply here because it has very key issues such as; three normal life experiences that you can't deal with like walking, talking and psychological problems. Those are the types of things that the ADA protects against but not things like lupus, chron's disease and those types of things but they are immunological conditions.

Mr. Rusnov – Basically you are saying our hands are tied and the ADA guidelines do not apply to this.

Mr. Kolick – The ADA guidelines do not apply to this.

Mr. Rusnov - We have to follow our original four conditions and cannot exceed that.

Mr. Kolick – Even if the ADA guidelines was applicable, someone can still go underneath 400 SF.

Mr. Baldin – We understand that the design does meet the City Code as far as the structure but not the size. Is that right?

Mr. Kolick – Yes, you are permitted up to 400 SF that is an area of 20' x 20', which is the size of a garage. We are not talking about a small area, maybe when the limit was 175 SF but Council has enlarged it to 400 SF.

Mr. Baldin – We just wanted to get that clarification.

2) PINE LAKES RESIDENTIAL COMMUNITY (OWNER), David Reed, Agent

- a) Requesting a 9' setback variance from sidewalk on a corner lot from Zoning Code Section 1252.17 (c), which requires a 12' setback variance from sidewalk on a corner lot and where a 3' setback variance from sidewalk on a corner lot is proposed to install a fence, property located on Forestview Dr (S. of Albion) PPN. 398-19-002, zoned R1-75
- b) Requesting a 9' setback variance from sidewalk on a corner lot from Zoning Code Section 1252.17 (c), which requires a 12' setback variance from sidewalk on a corner lot and where a 3' setback variance from sidewalk on a corner lot is proposed to install a fence, property located on Forestview Dr (S. of Albion) PPN. 398-19-003, zoned R1-75

Mr. Hayden – Item number two on the agenda is for a fence replacement and the fence is above a retention area, this is located in Pine Lakes on Forestview Drive. We do have an email from Patrolman Drlik, within the email he feels that the newly proposed fence should be installed in the exact place that the existing fence is in now. The fence will help with pedestrian safety and this will help in preventing anyone from falling into the retention area and upon reviewing the project, the fence is dilapidated and falling apart.

Mr. Kolick – The other thing that we usually look at for fences close to a sidewalk is, if it is blocking the driveway or obstructing the view. This does not do any of that because there are no residential structures on the corner lot.

Mr. Rusnov – Should the fence be located in the same place?

Mr. Kolick – As long as they locate it where it is shown on the drawing, we are okay.

Mr. Baldin – Dan, I am glad that you brought up the issue of blocking the driveway although this doesn't because, people don't understand that sometimes.

Mr. Houlé – This request is actually for two variances.

Mr. Kolick – Yes, because it is for two different lots.

The Board members approved the minutes for July 10, 2024

**STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS
MINUTES OF MEETING
July 31, 2024
7:00 PM**

The meeting was called to order at 7:00 PM by Mr. Hayden.

Present:

Mr. Baldin
Mr. Rusnov
Mr. Houlé
Mr. Hayden

Also Present:

Mr. Kolick, Assistant Law Director
Mr. Steve Molnar, Assistant Building Commissioner
Mrs. Anderson, Recording Secretary

Mr. Hayden – I would like to call this July 31, 2024 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. May we have a roll call please?

ROLL CALL:

MR. HAYDEN	PRESENT
MR. EVANS	ABSENT
MR. HOULÉ	PRESENT
MR. RUSNOV	PRESENT
MR. BALDIN	PRESENT

Mr. Houlé – I move to excuse Mr. Evans for just cause.

Mr. Baldin – Second.

Mr. Hayden - Thank you Mr. Houlé for the motion and Mr. Baldin for the second. May we have a roll call please?

ROLL CALL:

MR. RUSNOV	YES
MR. HOULÉ	YES
MR. HAYDEN	YES
MR. BALDIN	YES

MOTION APPROVED

Mr. Hayden – I hereby certify that this meeting has been posted in accordance with Chapter 208 of the Strongsville Codified Ordinances.

Mr. Hayden - Before us we also have minutes to approve from our meeting on July 10, 2024. We discussed this in caucus and there were no corrections or changes and we will file those accordingly.

Mr. Hayden - If you are here this evening and you plan on addressing the Board, I would ask that you stand and be sworn in by our Assistant Law Director, as well as our Building Department representative and Secretary.

Mr. Kolick administered the oath to those standing.

3) **BRENDAN KROWKA (OWNER), (TABLED AT JULY 10, 2024 MEETING)**

Requesting a 217.5 SF Floor Area variance from Zoning Code 1252.15, which permits a 400 SF Floor Area and where a 617.5 SF Floor Area is proposed, in order to construct an Unenclosed Structure over patio, property located at 14350 Timber Lake Drive, PPN 398-09-083, zoned R1-75

Mr. Hayden – Item number two on the agenda is for 14350 Timber Lake Drive. Please state your name and address for the record.

TRACE BAUM, 14350 TIMBER LAKE DRIVE, STRONGSVILLE, OHIO

Mr. Hayden – You were here during Caucus and heard some of our comments, the Building Department has responded back to us notifying us that the measurements were correct on the original documents that were submitted. You also heard some of our comments around the size of the structure, the floor is yours.

Mr. Baum – Steve and I were talking about how Strongsville used to calculate the unenclosed structure square footage from post to post but not gutter to gutter. If I submitted a 16' x 16' structure, soffit to soffit it was 17' x 17' so, post to post the total square feet for this project is 558 SF. You are including the soffit lower hang now and we are at 617 SF and that was my argument so, I am really looking for a variance of 158 SF.

Mr. Hayden – We have to include the total square footage.

Mr. Baum – You did not used to and I have multiple projects that I have worked on in Strongsville.

Mr. Hayden – As of today, is what we have to base this off of so, it would be 617 SF.

Mr. Baum – I am the contractor by the way and the original quote was the middle structure only and the side structure. We were going to construct a pergola but he got the doctors report that I forwarded to you, which said he should stay out of the sun at all cost. He asked if he could make the pergola a solid roof and I said well we can do anything you want, if it gets approved.

Mr. Hayden – Without that side what would be the total square footage?

Mr. Baum – The middle structure would be 342 SF.

Mr. Hayden – How big is that?

Mr. Baum – It would be 18' x 19'.

Mr. Hayden – You heard us allude to, in Caucus, that we have the four conditions that we have to base our decisions on, which would include a topographical issue; like a pie shape lot on a cul-de-sac, or there needs to be some other hardship associated. While I respect the medical condition that was brought to light, it does not require us to go up to that square footage. It is more of a want where there would be a choice to stay out of the sun or go out in the sun.

Mr. Baum – Would you be okay if we made that a pergola? Would that count in the square footage of the 216 SF, 18' x 12' pergola because, that was my original quote?

Mr. Hayden – Do you have an issue with that Steve?

Mr. Molnar – No, I don't have an issue with that.

Mr. Hayden – If that is the case would they even need a variance?

Mr. Molnar – No, they would not need one. Unless, Dan, do you see that as all one thing?

Mr. Rusnov – That would eliminate the need for him to be here by doing that so, you don't need a variance.

Mr. Baum – This pergola would be 95 percent shade.

Mr. Rusnov – Basically, you don't need us.

Mr. Baum – That is my question so, if we don't do the solid roof structure and I do the pergola, then are we good?

Mr. Hayden – As you heard in Caucus it would be very difficult for us to approve that request.

Mr. Baldin – Is this over the whole deck area or just a portion?

Mr. Baum – Just that side, we would keep the main solid roof structure in the middle with the fireplace.

Mr. Hayden – Is that considered an accessory structure?

Mr. Molnar – Yes, it would be an accessory structure.

Mr. Hayden – Would he need a variance?

Mr. Molnar - If it is over 400 SF he would need a variance.

Mr. Kolick - Steve, do you include a pergola as part of an unenclosed structure?

Mr. Molnar – It is considered an unenclosed structure but, he would have two different structures.

Mr. Kolick – There would still be two accessory structures that exceed the 400 SF even if you call it two different structures, an unenclosed structure can only be 400 SF. If you include the pergola as being an unenclosed structure he would still be over the square footage. This makes sense because otherwise the pergola could cover the whole back yard and that is why it is included in the definition of an unenclosed structure.

Mr. Rusnov – What is right then?

Mr. Kolick – He is permitted up to 400 SF, whether he covers it with a pergola, a roof or a combination. He is allowed a total of 400 SF for the whole thing.

Mr. Rusnov – What he is doing to accommodate us, does that mean anything?

Mr. Kolick – He still does not meet the Code.

Mr. Baum – He has no neighbors in his backyard at all, there is nothing back there except a lake.

Mr. Hayden – We are limited on precedent and we talked about this, Council has just made this change, where the permitted square footage was around 175 SF and it has been increased to 400 SF.

Mr. Baum – We did an attached 20' x 20' structure in 2020.

Mr. Baldin – Was it a roof or was it a patio?

Mr. Baum – It was an open-air attached structure.

Mr. Kolick - Mr. Chairman, this is the problem, the City started to receive complaints regarding people covering over decks and they were taking up too much space. Council made a decision that we are going to use unenclosed structures and enclosed structures so, for enclosed structures you are permitted 200 SF and for unenclosed structures you are permitted up to 400 SF for that size lot, unless it is a larger lot. He is correct because at one time we didn't cover

unenclosed structures until the City started to get all types of complaints. City Council asked the City Planner and Law Department to take a look at it and we reviewed it and came up with these numbers and City Council determined that is what they wanted to use. Making part of it a pergola is not going to help because you are still limited to 400 SF, whether it is completely open or if it is a pergola.

Mr. Baldin – When did they change that?

Mr. Kolick – Just very recently.

Mr. Rusnov – I have a question for Mr. Molnar, what can he do so that he would not need a variance?

Mr. Kolick – He is permitted up to 400 SF with any combination of solid roof or pergola.

Mr. Rusnov – He is stuck with the 400 SF.

Mr. Kolick – Yes, not unless he meets one of the conditions in the Code. Council just passed the change in the Ordinance on January 16, 2024.

Mr. Baum – There are many structures in the City of Strongsville, that are way over 400 SF.

Mr. Kolick – We were having all types of problems with people and that is why Council changed the laws and separated unenclosed and enclosed structures.

Mr. Baldin – If you gave him the 400 SF that he is allowed and he came back later for a variance for the pergola, would that be a second variance or second structure on the property?

Mr. Kolick – That is what he is asking for now, if he wants another 217.5 SF for the pergola then that is the same variance. He is permitted up to 400 SF, he can divide it anyway he wants to.

Mr. Baum – A pergola lets the weather through.

Mr. Kolick – It is included as a structure under our Code.

Mr. Baum – They have 200 SF of their patio now that is really unusable because they can't sit on that part.

Mr. Baldin – How long have the owners lived at this residence?

Mr. Baum – I don't know.

Mr. Baldin – Is that a new patio that was put in?

Mr. Baum – It looks fairly new.

Mr. Baldin – Yes, that is what I thought and that is why I was curious on how long they have lived there.

Mr. Baum – I think that he just received the medical diagnosis, last winter, I did not look at the date on the doctor's email. Their son also has it too, so there are three of them.

Mr. Rusnov – Three people have lupus?

Mr. Baum – Yes.

Mr. Rusnov – I couldn't make that out in the medical statements that I received because it was heavily redacted.

Mr. Baum – If we do the pergola it also takes out the soffit question so, that reduces the size of the variance.

Mr. Rusnov – How much could you cut the square footage for the variance?

Mr. Baum – That is just covering the whole patio so I am doing part of the patio with the structure and part of the patio with the pergola and that is my re-preproposal.

Mr. Rusnov – Does it make a difference that part of it will be covered and the other part will be a pergola?

Mr. Kolick – He is allowed up to 400 SF.

Mr. Hayden – The option that he would have is to reduce it to 20' x 20'.

Mr. Baldin – What can you reasonably reduce the square footage down to?

Mr. Baum – Really nothing because the patio is already there, so I am kind of stuck.

Mr. Rusnov – Can you enclose certain portions of the structure or half of it?

Mr. Baum – With the 18' x 19' he would like to put a corner fireplace there so he is losing some space and that is why we decided to add the pergola to the other shade structure to give him more of a seating space. Under the main structure you have your steps coming out of the house and with the fireplace you are losing three feet coming out of the house.

Mr. Hayden – That is still a lot of room for a family of five.

Mr. Baum – It is not my house, I am trying to do what he wants but if we can't, we can't.

Mr. Hayden – With the recent change we are going to be limited to 400 SF.

Mr. Baum – Do I have approval to do the middle structure?

Mr. Hayden – If you are below 400 SF, you would not need a variance.

Mr. Kolick – Would you like the Board to act on this or would you like to withdraw the request?

Mr. Hayden – On record officially we would need a withdrawal, if we are not going to act on it.

Mr. Baum – Yes.

Mr. Kolick – You will need to revise your drawings and submit them to the Building Department.

Mr. Molnar – Submit what you are going to do and eliminate what you are not.

Mr. Baum – For now I will withdraw the request.

Mr. Rusnov – We are not trying to be difficult; however, because of the changes that Council has recently made by increasing the square footage to 400 and we also have the four conditions to operate under, which ties our hands. The ADA portion of it, we do not have enough information to even act on that.

Mr. Baum – Is a shade sail okay?

Mr. Hayden – You will have to discuss that with Mr. Molnar.

2) PINE LAKES RESIDENTIAL COMMUNITY (OWNER), David Reed, Agent

- a) Requesting a 9' setback variance from sidewalk on a corner lot from Zoning Code Section 1252.17 (c), which requires a 12' setback variance from sidewalk on a corner lot and where a 3' setback variance from sidewalk on a corner lot is proposed to install a fence, property located on Forestview Dr (S. of Albion) PPN. 398-19-002, zoned R1-75
- b) Requesting a 9' setback variance from sidewalk on a corner lot from Zoning Code Section 1252.17 (c), which requires a 12' setback variance from sidewalk on a corner lot and where a 3' setback variance from sidewalk on a corner lot is proposed to install a fence, property located on Forestview Dr (S. of Albion) PPN. 398-19-003, zoned R1-75

Mr. Hayden – Item number two on the agenda is for Pine Lakes Residential Community. Please state your name and address for the record.

David Reed, Strongsville, 11097 Forestview Drive, Strongsville, Ohio

Mr. Reed – I am the President and Trustee of the Homeowners Association for Pine Lakes Residential Community. I have before you a request to replace a fence, there are two fences which are 72 linear feet and they are picket gothic style 4' fences. Just beyond that fence you can see in the photos, it actually drops off and we have a retention basin on one side. The fence is currently three feet off of the sidewalk and I don't know how long it has been there.

Mr. Rusnov – We have an email from Patrol Officer Drlik, who does the safety inspections for us, and his recommendation is to replace the fence and put it in the exact same spot.

Mr. Reed – I understand.

Mr. Rusnov – Do they even need a variance?

Mr. Hayden – They still require a variance but the report is important because it talks about the fence needing to be there for pedestrian safety and to prevent anyone from falling into the retention area. As Mr. Kolick alluded to in Caucus, the report determines that there is no line of sight issues with driveways, kids riding bikes and things of that nature. We did talk about the need for the fence to be replaced because it is in rough shape.

Mr. Houlé – How high will the fence be?

Mr. Reed – It will be 4', the same as what is there now.

Mr. Rusnov – As long as they put it in the same exact position.

Mr. Baldin - We have all the information that we need from the Police Department and the Homeowners Association, which have approved it.

Mr. Hayden – This is a public hearing, is there anyone in the audience that wishes to speak for the granting of the variance. Is there anyone in the audience that wishes to speak against the granting of the variance. Hearing none and seeing none, I will declare the public hearing closed and entertain a motion.

Mr. Baldin – Mr. Chairman, request for a 9' setback variance from sidewalk on a corner lot from Zoning Code Section 1252.17 (c), which requires a 12' setback variance from sidewalk on a corner lot and where a 3'setback variance from sidewalk on a corner lot is proposed to install a fence, property located on Forestview Dr (S. of Albion) PPN. 398-19-002, zoned R1-75 and a request for a 9' setback variance from sidewalk on a corner lot from which requires a 12' setback variance from sidewalk on a corner lot and where a 3'setback variance from sidewalk on a corner lot is proposed to install a fence, property located on Forestview Dr (S. of Albion) PPN. 398-19-003, zoned R1-75

Mr. Houlé – Second.

Mr. Rusnov - Should we make it a condition on this that the fence be placed in the exact same position?

Mr. Kolick – We do not need to do that because he is getting a 9' variance and he can put it anywhere within that 12'. He can go up to within 3' of the sidewalk and if they decide they want to go back 1' because it makes more sense, that is fine. The variance is up to 3' off of the sidewalk.

Mr. Hayden – Thank you Mr. Baldin, for the motion and Mr. Houlé for the second. May we have a roll call please?

ROLL CALL:

MR. HAYDEN	YES
MR. BALDIN	YES
MR. RUSNOV	YES
MR. HOULÉ	YES

MOTIONS APPROVED

Mr. Hayden – Mr. Reed this variance has been approved by this Board.

Mr. Hayden – Mr. Kolick, just a quick question, is this considered residential?

Mr. Kolick – Yes.

Mr. Hayden – There is no longer a residential waiting period, so you are all set to start your project.

Mr. Hayden – If there is no further business to come before this Board, this meeting is adjourned.