

**CAUCUS PRIOR TO STRONGSVILLE BOARD OF ZONING &
BUILDING CODE APPEALS
Meeting of
August 28, 2024**

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

Administration: Assistant Law Director Daniel Kolick

Assistant Building Commissioner: Steve Molnar

Recording Secretary: Mitzi Anderson

The Board members discussed the following:

1) **CURTIS CARNES (OWNER)**

- a) Requesting a 13' distance variance from dwelling from Zoning Code Section 1252.15 (a), which requires 20' distance from dwelling and where a 7' distance from dwelling is proposed in order to construct a 58 SF Accessory Structure (Shed)

- b) Requesting a variance from Zoning Code Section 1252.15 (a), which prohibits an accessory structure to project into a side yard and where a 58 SF Accessory Structure (Shed) is proposed in the side yard, property located at 11585 Pleasant Ridge Place. 398-16-023, zoned R1-75

Mr. Hayden – Item number one on the agenda is for an accessory structure (shed). There is a ravine that runs behind this and there is essentially no back yard. I went out to review the property and they did have cones up to mark off where they would locate the shed. They really have no other space to do this.

Mr. Houlé - There is clearly a topographical issue.

Mr. Hayden – We did receive Homeowners Association approval, which we received via email.

Mr. Baldin – They have a bad situation and we do have a couple of other places on Ledgewood and in town that have sheds pretty close up front and to the side. They have no other place to go, there is no doubt about it.

Mr. Houlé – The owner said they would landscape in front of it to seclude it a little better and to soften the area.

Mr. Evans - Mr. Chairman, when I was there the wind was definitely blowing from the west. Being only 7' away from that residence, I would recommend that we require fire rated drywall in the shed. It is not going to be a big shed but 7' away is just so close and they will probably have combustibles stored in it.

Mr. Hayden – That is something that we recommended in the past with all of the other sheds that have been within 10' of the property. We can certainly discuss that on the floor.

Mr. Hayden – Are there any other comments.

Mr. Baldin – It is a good looking shed and has a little style and design to it.

2) **YAHIA HASSAN (OWNER)**

Requesting a 454 SF Floor Area variance from Zoning Code 1252.15, which permits a 400 SF Floor Area and where an 854 SF Floor Area is proposed, in order to construct an Unenclosed Structure over existing patio, property located at 16045 Squirrel Hollow Lane, PPN 397-11-044, zoned R1-75

Mr. Hayden – Item number two on the agenda is on Squirrel Hollow Lane. This is for the installation of a pergola, gazebo, and it looks like a pavilion type to me.

Mr. Baldin – Once again we are running into a situation where people are overstepping the bounds of what is allowed. They are looking for a lot of square footage and this is much more than what is allowed. We have made a couple of exceptions for maybe 50 SF and 100 SF; however, 400 SF is a lot.

Mr. Hayden – It is a lot.

Mr. Houlé – There is certainly no hardship involved, this property has a perfectly flat yard and a big deck in front of the pad that they could certainly put a cover on it.

Mr. Rusnov – If you grant 400 SF by the Code, then the next guy wants an additional 200 SF, 400SF, 600SF and 800SF, then eventually they want to cover the entire yard.

Mr. Hayden – In lieu of the recent increase that was made by Council, I would like to see them stick to the Code on this request. We have been pretty consistent at previous meetings on this.

Mr. Baldin – We have turned down these requests and have had a request every month for the last three months.

Mr. Hayden – We will discuss this with the homeowner, on the floor.

3) **LIPOVITS CONSTRUCTION, INC. (OWNER)**

Requesting a 13' rear yard setback variance from Zoning Code Section 1253.11 (b) (3), which require a 35' rear yard setback and where a 22' rear yard setback is proposed in order to construct a new single-family dwelling, property located at 9849 Rosalee Lane, PPN. 398-08-073, zoned R1-75

Mr. Hayden – The last item on the agenda is on Rosalee Lane, for Lipovits Construction. This is a cluster home community looking for a rear yard setback for the installation of a Drees home. They are requesting a 13' rear yard setback variance, where we require 35'.

Mr. Baldin – We have run into a few of these in that particular area and when the builder built back there it was not a lot of room. We have given a couple of variances in that area, even on Rosalee Lane. I did notice quite a few homes in that area do have sheds.

Mr. Rusnov – This is for a setback variance and not a shed.

Mr. Baldin – I do realize that.

Mr. Kolick – This request is for a structure variance instead of a shed variance.

Mr. Houlé – I went to the house on Brushwood today to walk the lot and see how much room there was, there is really quite a bit. There is approximately 150' from the house just to the setback line. It certainly is a pie shape lot and is an irregular lot and it is a very large one. It's just that one little corner that they would impede into the setback area.

Mr. Baldin – I didn't have a problem with it.

Mr. Kolick – There is a letter from a homeowner that backs up to it, just be aware of it.

Mr. Houlé – Yes, that is why I went there today to see how close that house would be to it and there is a retention pond on the other side. I guess that is common land back there.

Mr. Kolick – Brushwood we have had a problem with, because it was laid out for a common area for a retention basin but the Homeowners Association never formed. One of the property owners who lives on Brushwood actually owns it and brought it at a tax sale because the Homeowners Association never paid taxes on it. They own and maintain it so it has been a problem area, I think we learned from this one that you can't have a small subdivision without any recreation area. What you have to look at on this is whether they can build a house on there without a variance or is it the size of the house that is causing the problem, that is really the issue.

Mr. Evans – Mr. Chairman, the email that we received from one of the residents indicated that this was originally explained to people in the area, that this would be common area and became a sellable lot. That does happen often times in developments where contractors who may develop the property, tells people around it what it is going to be and then it changes over the course of time when they realize they could sell additional lots. In this particular case, the house the Drees has proposed, it is likely a breakfast area or some type of an extension like that and the house could probably be built without it. The one corner that sticks out is a couple of feet into it, not as much as the proposed breakfast area or porch. They could probably build it without that, it might not be as enticing for somebody to not have that but they certainly could. We have to realize that in this area we have done a number of variances but we have also denied a number of variances, where people objected to them. I think we need to keep that in mind.

Mr. Kolick – Keep in mind that this is the subdivision that came before you for single-family homes that they needed variances but, you denied those variances. They then developed with cluster homes, which are typically smaller homes. Our typical setback for a single-family home is 50' and it is only because they are clusters that they are permitted to be 35'.

Mr. Evans – Rosalee is all single-family homes.

Mr. Kolick – They look like single-family homes but the second half of it is technically cluster homes, including this one because they are zoned Cluster. There was talk about this being common area but this was laid out for a home since they developed it for clusters. It was not reserved for common land property; however, your inquiry should be whether they can build on the lot without a variance. The size of the home matters when you only have a 35' setback, for the cluster. Those are the issues that you need to look at.

Mr. Hayden – We will address those issues on the floor.

The Board members approved the minutes for August 14, 2024.

**STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS
MINUTES OF MEETING
August 28, 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
Mr. Evans

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 August 28, 2024 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. May we have a roll call please?

ROLL CALL:	MR. BALDIN	PRESENT
	MR. HAYDEN	PRESENT
	MR. RUSNOV	PRESENT
	MR. EVANS	PRESENT
	MR. HOULÉ	PRESENT

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

Mr. Houlé – I make a motion to approve the Findings of Fact and Conclusions of Law regarding the Appeal of Olha Hays on August 14, 2024.

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. EVANS	YES
MR. HAYDEN	YES
MR. BALDIN	NO

MOTION APPROVED

Mr. Hayden - Before us we also have minutes to approve from our meeting on August 14, 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.

1) CURTIS CARNES (OWNER)

- a) Requesting a 13' distance variance from dwelling from Zoning Code Section 1252.15 (a), which requires 20' distance from dwelling and where a 7' distance from dwelling is proposed in order to construct a 58 SF Accessory Structure (Shed)
- b) Requesting a variance from Zoning Code Section 1252.15 (a), which prohibits an accessory structure to project into a side yard and where a 58 SF Accessory Structure (Shed) is proposed in the side yard, property located at 11585 Pleasant Ridge Place, PPN. 398-16-023, zoned R1-75

Mr. Hayden – Item number one on the agenda is 11585 Pleasant Ridge Place. Please state your name and address for the record.

Curtis Carnes, 11585 Pleasant Ridge Place, Strongsville, Ohio

Mr. Hayden – We did discuss your project in caucus and touched a little on the topographical issues you have there. If you can take us through the project and the need for the variance.

Mr. Carnes – It is an 8' x 7' shed that we would like to put north of our house because directly in the back yard there is no room. The reason we want to put up a shed is because we do not have a basement and very little storage in our house. We would love to be able to put up an 8' x 7' storage shed just north of our house.

Mr. Hayden – We also covered in caucus that you have Homeowners Association approval for this from Forest Park Association. I think you were here for most of caucus and heard Mr. Evans mention that projects such as this, especially when they are within 10' of a structure or your property, often we will condition that fire rated drywall is placed on the inside of the shed. This would be in case combustible materials are kept in there, whether it is gas, or otherwise. This is whether it is done by you or when you go to sell the property, if you leave the shed behind. We would like to ensure that if something happen, as far as a fire is concerned, it would help stop the spread. Is that something you would be agreeable to install or maybe you were planning on doing it already?

Mr. Carnes - Honestly, I did not know about that Code. I would prefer not to, can I commit to just not storing flammable items there?

Mr. Molnar – I would like to go on record to say that is not a State Code. He is not within 5' of a structure and that is not in the State Residential Code. It is not required for him to put that in there.

Mr. Kolick – It is not required under the Building Code but, we have been requiring it under the Zoning Code. The reason we have the 20' separation is because if that accessory building catches fire, you do not want it to spread to your house. Even if the fire rated drywall is placed in there, it can delay it 5 – 10 minutes before it spreads to your house. It would give the Fire Department time to get out there to take care of it so, it is for safety purposes that the Board generally requires fire rated drywall around the interior of the premises.

Mr. Carnes – Can I just commit to not storing gasoline in there?

Mr. Hayden – One of our top concerns and we take into consideration the safety of our residents. Although you may commit to that, if you decide to move in five years, the next person may not.

Mr. Carnes – I understand that, is there anyway I can attempt to get it 10' away from my house and not do that?

Mr. Hayden – You would be moving into the neighbor’s property line, I can not remember how close you are.

Mr. Houlé – Pretty close.

Mr. Hayden – I don’t even know if you have 10’.

Mr. Carnes – It is very tight.

Mr. Baldin - He probably has another 1’ or 2’ but not much.

Mr. Rusnov – Can you mount drywall in the shed? Does it have a vinyl exterior?

Mr. Carnes - It is a cheap in the box COSCO shed and I don’t think it has the capacity to mount it.

Mr. Kolick – Steve, can they mount it in the shed?

Mr. Molnar – The issue is, are we compromising the structure by adding the drywall and where is the drywall going? Is it going on the floor, roof or sidewalls? I think that would need to be clarified for him if we are going to push a condition on him like that because this is not a State Code.

Mr. Baldin – What about those types of structures because we have seen a lot of the smaller ones, right up against houses.

Mr. Molnar – Correct, and you would have to look at the manufacture instructions and see what it says, regarding the Fire Code.

Mr. Rusnov – Whether or not you can even mount fire proof drywall on the exterior because it would compromise the structural integrity of it.

Mr. Molnar – It is just something to think about.

Mr. Kolick – We have always done this and have not had a problem in the past, as far as I know.

Mr. Rusnov – We are overstepping our bounds here.

Mr. Kolick - You are not overstepping your legal bounds because the Code allows you to grant a variance and impose whatever conditions are required by the granting of that particular variance. It may not be a part of the Building Code but there are a lot of things that are not in the Building Code that are in the Zoning Code.

Mr. Rusnov – In other words, we are looking out for the applicant’s safety.

Mr. Kolick – You are looking out for his safety, the neighbor’s safety and everybody’s safety. That is the reason you have the 20’ separation.

Mr. Carnes – This is not super thick plastic and I really don’t think you could mount it to this current shed. I don’t think this shed has the capacity to do that but I could be wrong. If you go into COSCO the shed is just out in that first aisle and that is it.

Mr. Rusnov – There are three thickness of vinyl; One, is the builder’s grade, which is the thinnest and then the second and the third one is where you have a tough time mounting it. I would assume this is probably builders’ grade the thinnest possible vinyl.

Mr. Baldin – Are you pouring a pad underneath it?

Mr. Carnes – No, what we are going to do is excavate it about 6” and put stone down for some water retention and put it on top of that and we are not going to pay to have a pad poured.

Mr. Evans – Mr. Chairman, in the past we have done this with sheds and if we flag on that now then we better be prepared to flag on this in the future.

Mr. Hayden - I struggle with this because we have always done it for the safety of the occupant and the safety of their neighbors, always. I am just not sure that I am willing to deviate on that.

Mr. Baldin – But, if it can’t be attached.

Mr. Hayden – There are things that you could do, you could build a wood frame on the inside of that and attach the drywall to it.

Mr. Houlé – Is this the wall by the home?

Mr. Molnar – If we are going to state that he needs to drywall that, the Board will need to clarify with him what he is drywalling so that he understands. Is he doing it towards his dwelling or the neighbors dwelling? I don't know where this is situated, is there a neighbor behind you?

Mr. Carnes - No, there is a neighbor on the side but this is way closer to our house.

Mr. Hayden – Steve, I don't think there is 10' from this shed to the neighbor's house, maybe.

Mr. Baldin – Probably 15'.

Mr. Molnar – I think that most of our houses, 15' is required between houses.

Mr. Kolick – The shed projects into the side yard, which means it is projected beyond his house and you are only required to have 5' on one side and 10' on the other. If that house to the side is 5' and he is projecting into the side yard he may actually be closer to the neighbor's house than he is to his house.

Mr. Houlé – That is quite possible.

Mr. Carnes - Living there 2.5' years, when it is in the location I described there is at least 15'.

Mr. Kolick – It is still going to be less than the 20' required in the Code.

Mr. Baldin – There is a bench out there where people sit, and I asked your wife if it was yours and she said no it is the neighbors. That has to be another 10' from where your shed is.

Mr. Carnes – I agree.

Mr. Hayden – I think for me, it is about consistency and we have been consistent. Since I came onto this Board we have always done this. If we are going to change it, to Mr. Evan's point, then we would have to do that moving forward, no matter what.

Mr. Houlé – Did you already purchase the shed?

Mr. Carnes – Yes, we already purchased it. It is bigger than other sheds in our neighborhood but there are a good amount of sheds, slightly smaller against homes, not even 5', 7' or 10'.

Mr. Hayden – I am guessing those people have not been in front of this Board.

Mr. Baldin – Dan, what does the Code say.

Mr. Kolick – The Code says that the shed has to be 20' from the building for fire separation purposes. The Code says that you can vary that because that is a Zoning Code requirement, it is not a Building Code requirement and the Zoning Code gives you the ability to impose conditions that you feel as a Board are necessary for granting the variance. In the past this Board has always felt that it is necessary to grant the variance but if you are going to allow it closer than 20' then you protect the safety of the residents by requiring drywall. That will not keep it from burning down but it may delay the spread of the fire and two minutes for a fire department is a big deal.

Mr. Evans – Mr. Chairman, because I have been in insurance for the last 10 years of my career, Mr. Kolick, I would presume that if there is a fire in the shed and the house catches on fire and we granted a variance but did not require fire rated drywall inside of it, we would be a party to the insurance claim, by granting the variance.

Mr. Kolick - Mr. Evans, we would still be protected by sovereign immunity because we are acting in a governmental capacity. Might we be joined in a suit, yes, but would they be successful against the City, in my opinion, no. I am not worried about liability to the City as much but liability to the property owner and his neighbor. I want to make sure that they stay safe and that is our main concern and not the liability to the City.

Mr. Evans – Thank you.

Mr. Hayden – In light of some of those comments, and to Mr. Molnar's point we can specify that for you. Is it something that you are open to figuring out if you can do, if it was conditioned by this Board?

Mr. Carnes – I would need to see if we could do it, or try and return the shed if we couldn't. The only thing that I could think of is building a wood frame, it is like you are almost building a mini house just to put try wall up. I don't know if that work and effort is worth us keeping it, to be honest. If that was a requirement, I would have to talk to my wife and see how badly she wants it.

Mr. Hayden – You do have an option, if you want to have that discussion without us ruling on it today then you can request to table the item, which means it just moves to the next meeting. In light of some of these comments, I would be in favor of conditioning this request because of how close it is to your house. If you want to have that discussion first with her before we make a decision on this, you can table it and come back to the next meeting and we would be able to rule on it at that point.

Mr. Kolick – Mr. Carnes, it may make more sense to table it not only to have a discussion with your wife but also to check and see what it would take to install fire rated drywall and whether it is cost prohibitive.

Mr. Carnes – I am fairly confident that it would be cost prohibitive and we would not do it. I am happy to check it out because we were trying to do a very simple and low-price option to create storage.

Mr. Kolick – We don't want to run up money for you but we do want to keep you safe and keep your neighbors safe. Maybe the best thing to do is to table this request and you can check those things out then come back to the Board at their next meeting.

Mr. Carnes – I will follow the Boards advice.

Mr. Kolick – That is probably the best way to do it and then you can get all of the answers to the questions that they have here.

Mr. Hayden – You may want to contact the manufacture of the shed and let them know that City Code is requiring fire rated drywall. Ask the question if this is something that can be installed without affecting the integrity of the product.

Mr. Carnes – I have a follow-up question, is there any way I could go 10’ away from the house, so that I don’t have to do that? That would be my preferred option.

Mr. Hayden – You could measure that in this time frame because our next meeting is in two weeks. If you request to table the request this evening, you would have two weeks to figure that out.

Mr. Carnes – My question is if I could safely place it 10’ away, can I not put up the firewall?

Mr. Evans – In the past it was anything under 20’.

Mr. Hayden – Well then, the short answer would probably be no.

Mr. Carnes – I would like to table the request.

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. We will leave the public hearing open until the next meeting.

2) YAHIA HASSAN (OWNER)

Requesting a 454 SF Floor Area variance from Zoning Code 1252.15, which permits a 400 SF Floor Area and where an 854 SF Floor Area is proposed, in order to construct an Unenclosed Structure over existing patio, property located at 16045 Squirrel Hollow Lane, PPN 397-11-044, zoned R1-75

Mr. Kolick administered the oath to Mr. Yahia Hassan.

Mr. Hayden – Please state your name and address for the record.

Yahia Hassan, 16045 Squirrel Hollow Lane, Strongsville, Ohio

Mr. Hayden – Item number two on the agenda is on Squirrel Hollow Lane. Please take us through the project and the need for the variance.

Mr. Hassan – A couple of years ago I was here for a variance to install a patio in my back yard and it was approved but they made the size a little bit smaller, I don't know if you remember that. The only reason I am installing the pavilion is because a couple of years ago I did mention that, my plan was to put a pavilion over it. I wanted that size because I wanted to put a nice sitting area, fans and some lights. The only reason that I am going this big is to follow the City of Strongsville's building rules by putting a post in the ground, 3' below the frost line. That is why I am going this size and I would like to cover and protect the patio that I did a couple of years ago.

Mr. Hayden – Mr. Hassan, one of the things we discussed in caucus is that our Code was originally 175 SF and Council recently increased that to a maximum of 400 SF. In light of that, we have had some other request here recently that we have denied for this size. Especially in light of this recent increase, we have been pretty consistent with the precedent that we set, which is you need to be at Code when it comes to the size of these. The struggle for me personally and I will defer to the gentlemen on the Board as well, is that I don't see a hardship. We have to take into account if there is a hardship, a topographical issue and those sorts of things and I don't see that here. For the sake of setting a different precedent in the City and really making those other people upset that we might have approved this, I struggle with approving something of this size, but I will defer to the other Board Members.

Mr. Evans – Mr. Hassan, you are requesting a 31' x 25' pavilion and that is huge in a backyard area such as yours, where the houses are close together. One of the reasons Council has limited the size on that is because of the number of times that parties under those type of sizes of pavilions, become a distraction for the neighborhood because of the noise, people and everything else. In Hunting Meadows, because of the size of the lot, when you put a structure back there it is just huge. When City Council changed the sizes, which allowed up to 400 SF, that was more than doubling the size that was permitted before. The 854 SF requested is more than double the square footage that was changed by Council. As the Chairman stated, we are given a set of guidelines for criteria that we can take into consideration and the hardships do not include, I want a bigger one. That is why the several cases the Chairman referred to we have turned down recently because they were so large. If you were on a 2-acre lot and there were no neighbors nearby, maybe putting that pavilion up would not be as noticeable but, in a

development where the lot sizes are what they are you may be causing a problem. I went back and looked at the variance granted in 2022 to put that in and make it a bigger one but that was not something that you talked about at that time, to put a roof over it. It may have been your plan and you may have mentioned that you would like to do that; however, we looked at putting a patio in and allowing the variance for the patio but not for a covered roof.

Mr. Hassan – The first thing they asked me was, are you going to make a small basketball court or something.

Mr. Hayden – Yes, I remember that.

Mr. Hassan – I told them it is going to be a stamped patio. It was going to be a little bit smaller but according to the City of Strongsville Code, I wanted to go with the post below the frost line. I went to the City of Strongsville before I did anything because I don't like to do anything without a permit. I talked to Steve and mentioned to him what was going on and he said you might need to get a variance. That is why I presented my drawing and everything to see what will happen.

Mr. Kolick - Mr. Chairman, I would add that I am looking at his approval from back in 2022 and there was not a size variance granted; however, the variance was for a rear yard setback.

Mr. Evans – It was just a setback variance.

Mr. Hassan – Back then they asked me because the patio was supposed to be a little bit larger and I think they gave me 75 percent of the size that I applied for. They asked me what were your plans in the future and I told them I would like to put in a pavilion or gazebo but I don't want to do it right away. As far as upgrading the house, I do one thing every couple of years.

Mr. Kolick – It is also noted Mr. Chairman, that they back up to homes on Eagles Nest. This isn't like they back up to a common area, there are two homes immediately behind them on Eagles Nest. We have always made a difference between unenclosed and enclosed structures.

Mr. Hassan – My patio is 20' away from my property line so, I have plenty of room.

Mr. Hayden – Do you think you will be able to redesign this down to 400 SF?

Mr. Hassan – That would make me have to tear up the whole patio so, I can't default to what the City requires. This is my home and I have been living there and a homeowner for 22 years.

Mr. Baldin – What is the size of your wooden deck that you have out there now?

Mr. Hassan – It is 20' x 24 or 25'.

Mr. Houlé – That is the other consideration, you could possibly cover part of the deck instead of the entire back patio.

Mr. Hassan – I just redid the deck a couple of years ago, before I did the patio and I replaced all of the wood with composite wood.

Mr. Baldin – You did that in 2022?

Mr. Hassan – I believe it was in 2022.

Mr. Baldin – I think that is when we gave you a variance back in 2022.

Mr. Hassan - Like I said I don't like to do anything without a permit.

Mr. Hayden – We appreciate that. You have heard some of the comments from the Board regarding the size. We would be able to go in two directions with this, the first option you have is to table this request to see if there is some type of redesign you would be able to do to get down closer to Code and if you get down to Code you would not have to come back to the Board. The second option is we can vote on this, this evening and you would be left with the decision of the Board, at that point.

Mr. Hassan – Close to 400 SF?

Mr. Hayden – The Code is 400 SF. Back when you did this patio the maximum square footage allowed was 175 SF but City Council increased it by 225 SF, just this year. In light of that, this Board has not been willing or likely to set a new precedent to go bigger because they recently increased it. I would say 400 SF would be your number.

Mr. Hassan – I will have to talk to the company that I am dealing with to see what other plans they could come up with because, I want to make sure it is done right. God forbid if we get a tornado or something like we had this past one, which was a very bad one and I want to make sure it will be up to Code.

Mr. Hayden – Absolutely. Similar to the previous applicant, I would need you to request us to table it on the record. You can go back to the drawing board and redo your plans, if you are inside the 400 SF, you can let the Building Department know that and you would not need to come back to this Board, because you would be within the confines of the Code. I would need for you to say that on record if you would like to table the item, this evening.

Mr. Hassan – One other question, I was looking online and COSCO has 12' x 24' gazebos. Do these require permits?

Mr. Hayden – Yes, because they are considered an unenclosed structure.

Mr. Hassan - Let me talk to my wife and the company to see what other plans we can come up with to restructure this to see how safe it will be putting it on the patio itself and that is pretty much it.

Mr. Hayden – Are you okay with tabling it until the next meeting?

Mr. Hassan - To be honest I would like to move forward, I have been back and forth to the Building Department for a long time.

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 this public hearing closed and entertain a motion.

Mr. Evans - Chairman, I make a motion to approve the request for a 454 SF Floor Area variance from Zoning Code 1252.15, which permits a 400 SF Floor Area and where an 854 SF Floor Area is proposed, in order to construct an Unenclosed Structure over existing patio, property located at 16045 Squirrel Hollow Lane, PPN 397-11-044, zoned R1-75

Mr. Rusnov – Second.

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

ROLL CALL:

MR. EVANS	NO
MR. HAYDEN	NO
MR. BALDIN	NO
MR. RUSNOV	NO
MR. HOULÉ	NO

MOTION DENIED

Mr. Hayden – Mr. Hassan, this variance has been denied by this Board. You should work with your company or should you plan another option it would need to be within what the Code allows of 400 SF. Thank you for coming in and have a good night.

LIPOVITS CONSTRUCTION, INC. (OWNER)

Requesting a 13' rear yard setback variance from Zoning Code Section 1253.11 (b) (3), which require a 35' rear yard setback and where a 22' rear yard setback is proposed in order to construct a new single-family dwelling, property located at 9849 Rosalee Lane, PPN. 398-08-073, zoned R1-75

Mr. Hayden – The last item on the agenda is for 9849 Rosalee Lane. Please state your names and addresses for the record.

Paul Lipovits, 35620 Grafton Eastern Road, Grafton Township, Ohio 44044

Tony Svoboda, Drees Homes, 6860 West Snowville Road, Brecksville, Ohio 44141

Mr. Haden – You were here for Caucus and heard some of our comments around your project. please take us through the need for the variance.

Mr. Lipovits - I would like to say good evening to you; Mr. Chairman, Law Director Kolick, and the rest of the Board. I am here as a representative for Drees Home, we currently own the property and Drees will build the homes on this property. We are requesting a variance for a small modification to the rear property line and this will probably be the final house built on the street. We would like to see a house that would fit on there.

Mr. Svoboda – We are requesting this variance because we are trying to preserve the character of the street and continuity of design from a product standpoint throughout the community. We have built 43 homes in this community since 2019 and approximately a quarter of those are the Buchanan plan that was submitted with our application. All of the other lots fit the Buchanan plans that was submitted; however, this lot is a little shallower then the rest so, we are requesting this setback variance to accommodate this popular floor plan and maintain a continuity of design throughout the community.

Mr. Kolick - Mr. Chairman to the builder, how many homes have you built on Rosalee?

Mr. Svoboda - I believe 43 but there might be a handful I think was built during Phase I.

Mr. Kolick – How many have you built during Phase II for the cluster sites?

Mr. Svoboda – There were 38 homes.

Mr. Kolick – How many of those homes are the Buchanan? Is that your largest home within the subdivision?

Mr. Svoboda - I don't know exactly if it is our largest but, it is in our 48' product category. We have three tiers of product, which include; 40' product, which is not in this community. A 48' product, pertains to the width of the home and is sort of our mid-size product and is the prevalent home type throughout this community and that is what the Buchanan is.

Mr. Hayden – We do have Homeowner's Association approval for this and we did discuss that during Caucus. We also covered that this is a bit of a pie shape lot, the back corner of this property is what will really encroach upon the setback.

Mr. Kolick – The back corner and the entire sunroom. The corner is one thing but the sunroom is the real encroacher. If it did not have the sunroom, how much would this encroach into the rear setback?

Mr. Svoboda – I believe approximately 2.5' without the sunroom.

Mr. Evans – Mr. Chairman, the representative from Lipovits said that this is probably the last house to be built. I would like for him to define what that means.

Mr. Lipovits - There are 34 completed with people that have moved in and 35 and 36 are currently being built. I believe the 35th one has been sold and however they are working it with their team to sell it, there is another one and then there will be two more. Based on the way it looks we figured this would be the last one to complete the cul-de-sac.

Mr. Rusnov – In other words this is the last lot and it would be considered an out lot. When you build a subdivision the premiere lots go first.

Mr. Lipovits – No, that was not the case.

Mr. Rusnov – So, they brought all shapes and sizes, no matter what the variances were?

Mr. Lipovits – What I wanted to say is that, I want to thank Mr. Kolick, and I wanted to elaborate on something. This was never a common ground, it was always owned by us, Lipovits Construction.

Mr. Rusnov – That is not the point I was trying to make.

Mr. Lipovits – I understand but I wanted to elaborate on something. Usually the cul-de-sac lots go first but the reason why this was never built is because there were some wetlands on it and because of the Army Corps of Engineers. I am not sure if you have dealt with the Army Corps of Engineers, it can take years to work with them. Once everything got straightened out it was out of their jurisdiction and it was fine. That was the only reason why it has not been built on.

Mr. Houlé – Do you have a model that does not have the sunroom in the back that would still be considered the size of the Buchanan?

Mr. Svoboda – We do but it will still encroach into the setback without the sunroom.

Mr. Houlé – I personally don't see the hardship of going 13' in just to accommodate that one little room, that is going to be on there.

Mr. Baldin – Do you have a buyer for the house?

Mr. Svoboda – Not currently, no. We would be building it as a marketer spec home.

Mr. Evans – We should enter into the record that we have an email from a resident regarding the situation. Mr. Kolick, do we need to read this into the record.

Mr. Kolick – I think you can just summarize it but you should provide the name and address of the resident because that is the individual who is filing an objection.

Mr. Kolick – We received a letter from Lawrence Kubinski, PPN. 395-11-085, which is adjacent to 9849 Rosalee. They stated in the email that it was to be common area at one time, in the spring the contractor knocked down trees and cleared the land, and they were basically against the granting of the variance and they stated this would back up to their yard.

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.

Mr. Baldin – We do have a letter of approval from the Homeowner Association

Kathy Imbrigiotta, 9588 Brushwood Lane, Strongsville, Ohio 44136

Ms. Imbrigiotta - I believe that 13' is a considerable size variance to ask for, it is not 2' and that means it will be 13' closer to my house. That will definitely affect my property value and my neighbors, Mr. Kubinski. This property was initially a wetland and at one point I looked out a couple of years ago, and trees were coming down. I called the City and I said I thought they weren't allowed to take down trees in a wetland, she said that they are only taking down the dead trees. Not all of the trees that I saw coming down were dead. At some point after that, landscapers came through and cut down a lot of brush, I don't know the situation with wetlands but that allowed it to dry out quickly so I guess it wasn't a wetland anymore. My main concerns are that these houses are closer to the street than houses in my neighborhood because they are cluster homes and they are asking for a considerable variance for the backyard, which is going from 35' to 22', which is considerable, and would definitely affect my property values.

Mr. Kolick – Ms. Imbrigiotta you own the lot that was the former detention basin that is immediately behind this lot?

Ms. Imbrigiotta – No, I don't but my neighbor does and the retention basin ends at my lot.

Mr. Kolick – You are on Brushwood and you back up to this lot.

Ms. Imbrigiotta – Right.

Mr. Kolick – You would not have a problem with a 2' variance, just the 13' variance, is that correct?

Ms. Imbrigiotta – My problem goes back to that it was a wetland and now it is not a wetland and for reasons that I don't think were natural.

Mr. Kolick – What happens with the wetlands is, they go through the Army Corp of Engineers and if they can remediate the property by paying a credit, I am not sure how they did it. I would like you to understand, that they didn't remove the wetlands by cutting down the trees so, don't worry about that and it isn't because it dries out. Frankly, wetlands don't even have to be wet because it goes by vegetation, insects and a whole bunch of things. At one point they were not able to build at all because

the Army Corp of Engineers designated wetlands; however, once they took care of that with the Army Corp of Engineers, which was probably by paying a dollar amount to remediate the property. I wouldn't worry that they cut down the trees but the issue is how close to the homes on Brushwood should the property be located. As I stated at the caucus 35' is the minimum setback and they only did that because they are cluster homes. Cluster homes are typically smaller than your normal home because normal homes require a 50' setback.

Ms. Imbrigiotta – I seemed to remember when we started this whole process that there was a five-year period where if that was no longer a wetland they would be allowed to build on it. I think five years is coming up and I don't know what happened to that designation. To answer your question, yes, I would prefer a 2' variance versus 13'.

Mr. Hayden – Thank you very much Ms. Imbrigiotta. Is there anyone else that wishes to speak against the granting of the variance? Hearing none and seeing none I will declare this public hearing closed and entertain a motion.

Mr. Evans – Mr. Chairman before you do that, I wonder if the applicant wishes to modify their request for the variance because they have that opportunity?

Mr. Hayden – What Mr. Evans is asking is given some of the comments not just by the Board but also Ms. Imbrigiotta, would you be agreeable to reducing the size of the variance?

Mr. Kolick – If you took off the sunroom you would still require a variance but they could act on that variance. The Board may be more prone to grant a variance like that, although I am not speaking for them. You could put a house on there but maybe not quite the size you are designating. Would you be agreeable in doing that, would you need 2' or 3', what amount would be needed?

Mr. Lipovits – I am not the engineer but I believe we would need around 3.5'.

Mr. Rusnov – The variance would be 3.5'?

Mr. Lipovits – Approximately.

Mr. Rusnov – You would be going down from 13' to 3.5'? Do you need to table this request so that you can make sure that your numbers are correct?

Mr. Svoboda – I think we will have to table the request.

Mr. Lipovits – When people say wetlands everybody thinks that it is a lake or a pond. There were very small portions like the size of the podium and it could be a wetland and most of this lot was not wetlands. Basically, where this house is sitting is not wetlands either and that goes back to a map that can be shown, if you would like to see one later. It was not all wetlands but I would like to probably table it.

Mr. Svoboda – I would agree. I would like to say we are permissible to removing the sunroom but we just aren't certain with the parameters on what that would look like.

Mr. Hayden – That works and once you have the measurements, contact the Building Department and they can get you on our agenda for the next meeting.

Mr. Hayden – Do we have to reopen the public hearing?

Mr. Kolick – No, we closed the public hearing because everyone within 500' were notified and they are not making the variance larger, so we are okay to do that. Just contact the Building Department with the correct number that you need and you could be placed on the next agenda with the correct number.

Mr. Hayden – Thank you, you are all set for tonight.

Mr. Kolick – Do you want the Findings of Fact and Conclusions of Law on the item that was denied tonight?

Mr. Hayden – Yes, thank you.

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

Dustin Hayden /s/

Mitzi Anderson /s/

9-11-24

Mr. Hayden, Chairman

Mrs. Anderson, Secretary

Approval Date

