

The Board of Zoning Appeals of the City of North Royalton met on February 25, 2008, to hold a Public Hearing, in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 8:00 pm

Present: Chairman, Neil Price, Paula Recker, John Ranucci, Tony Caraballo, Councilman Dan Kasaris, Prosecutor Donna Vozar, Zoning Inspector Joe Hartman, City Engineer Ken Tyrpak, Secretary Julie Broestl.

(BZ08-02) Richard Kral requests a variance to Chapter 1270 “Residential Districts”, Section 1270.12 “Yards for Accessory Buildings and Uses”, paragraph (a)(1), and Section 1270.14 “Area, Yard and Height Regulations”, paragraph (g), of the City of North Royalton Codified Code, for relief from the maximum square footage and height allowed for a garage that he wishes to build on his property located at **3101 Akins Road, PPN: 487-28-014.**

Chairman Price: Anyone wishing to speak?

Richard Kral approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Kral: I do.

Chairman Price: State your name and address please.

Mr. Kral: Richard Kral, 3101 Akins Road, North Royalton. I’m asking for variances for height and area. I’ve out-grown my house and I just need additional storage space.

Chairman Price: That’s it?

Mr. Kral: Pretty much.

Chairman Price: Okay. Thank you. Anybody else on BZ08-02? Can I have a motion to move BZ08-02 to the Open meeting.

Moved by Paula Recker, seconded by John Ranucci to move BZ08-02 to the regular order of business.

Chairman Price: We have a motion and a second, call the roll.

Dan Kasaris: Yes.

Chairman Price: Yes.

John Ranucci: Yes.

Paula Recker: Yes.

Tony Caraballo: Yes.

Ayes – all. Nays – none.

Motion carried. (5-0)

(BZ08-03) Anne Hahn requests a variance to Chapter 1270 “Residential Districts”, Section 1270.15 “Buildings Permitted on Zoning Lot”, of the City of North Royalton Codified Code, for relief from the required frontage to allow this to be a buildable lot which is located at **PPN: 489-08-018.**

Chairman Price: Does anyone wish to speak?

Lorraine Hilfer approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. Hilfer: Yes I do.

Chairman Price: State your name and address please.

Mrs. Hilfer: Lorraine Hilfer. 10550 Tudor Circle.

Chairman Price: Could you spell your last name please.

Mrs. Hilfer: H-I-L-F-E-R.

Chairman Price: Thank you.

Mrs. Hilfer: I just wanted to say that I believe that this variance to the Code should be denied. The required frontage is to be on a dedicated street. This property has none. After taking a look at the county auditors map, there are five parcels that separate this lot and a dedicated street. It is over 830-feet away from Ridge Road. That is according to the auditor's legal description. I believe that this variance should be denied. Another problem that exists is flooding in this area. There is a storm sewer that is located close to that property. Within the last five years that storm sewer starts shooting up water when we have heavy rains. It hasn't impacted my lot per say, but it has impacted other peoples. I have mentioned two other yards that have been flooded because of this. What happens is that water comes shooting out of the sewer and comes drains to other people's yards and it ends up on Queens Way. At least two occasions the police had to come and shut down the road because of all the water on the street. Also, in front of my own home, there has been flooding that has occurred even though there hasn't been a direct water path way, but because I'm sure that that is tied into the same drains that I'm tied into, I'm getting flooded on my yard also. So, I believe that I would like to request that this variance denied. Thank you.

Christine Rakowsky approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. Rakowsky: I do.

Chairman Price: Name and address please.

Mrs. Rakowsky: Christine Rakowsky. 10540 Tudor Circle. I sent a notarized letter. Do you want me to read the letter?

Chairman Price: Whatever you prefer.

Mrs. Rakowsky: Okay. I'm not going to address the distance to the dedicated street anymore because Mrs. Hilfer has done so for me. What Mr. Hilfer has not mentioned is that that property, 018, is entirely encompassed by other properties. It has absolutely no access from the street. The properties mentioned are 489-08-017, 006, 007, 084, and 085. These properties encircle and enclose the property in question. The flooding issues have been mentioned. My other concern is what will happen to the waste and sewage problem. How has that problem been taken care of, what plans are made for that? Now, another point that I have not mentioned in the letter would have been too long is that the responsibility for checking Zoning Codes that pertain to a parcel what intends to

purchase west with that perspective buyer, or with his or her realtor who's job it is to protect his clients best interest. The current owner of parcel number 489-08-018, must have seen that she was purchasing a land locked parcel without any frontage to a dedicated street. I think it is presumptuous of that new owner, who neglected to do her homework, to expect the City of North Royalton to grant variance from its existing zoning code solely for her profit. Therefore, I submit that her request for this variance be denied. Thank you. (Letter attached)

Dan Kasaris: Mr. Chairman, if I may. Do we have a copy of this resident's record so that we can enter it in as an exhibit?

Chairman Price: Yes.

Dan Kasaris: Thank you.

Mrs. Rakowsky: I have a map of the area also. Would you like it?

Dan Kasaris: Yes. Mr. Chairman Price. I would ask if the map that she has handed also be entered as an exhibit at this time.

Chairman Price: Julie, if you would mark that.

John Bennett approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Bennett: John Bennett. 4835 Akins Road. I'm representing my sister, Anne Hahn, owner of this property. The property does have access by a private road that leads to Ridge Road.

Mrs. Vozar: Mr. Chairman. I'm sorry to interrupt. Sir you have indicated that you are here on behalf of the applicant?

Mr. Bennett: Yes.

Mrs. Vozar: Okay. Do we have anything from your sister authorizing you to be able to speak on her behalf?

Mr. Bennett: No.

Mrs. Vozar: Just so that the Board knows, we take sworn testimony. We do request that the applicants be here to speak or have their legal representative or someone authorized to speak on their behalf. Since we do not have anything from your sister indicating that you are authorized to speak on her behalf, obviously, the Board can take your testimony but they must consider that it is not authorized by the applicant unless we have something from her in writing or if she were here she could authorize you to speak for her. I'm sorry, continue.

Mr. Bennett: So, there is access. And if I'm not mistaken, Tudor Circle is at a much higher elevation. I'm going to estimate 75-feet higher. There are storm drains and have no effect on this property what-so-ever. I'm asking for the variance to go through.

Chairman Price: Thank you.

Mr. Kenneth Hurley approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Hurley: I do.

Chairman Price: State your name and address.

Mr. Hurley: My name is Kenneth Hurley, I'm an attorney. I have been retained by David Perry, who is the owner property two lots west of the proposed variance. Mr. Perry also owns the only access to this property. It's a small driveway that goes from Ridge Road back to the property. It goes from Ridge Road to the end of Mr. Perry's residence. He too is vehemently opposed to the granted of this variance for a number of reasons. One, it is land locked. Second, that if there were to be construction to occur on that property, the only access would be through Mr. Perry's driveway. It is a small narrow piece of property that can not accommodate construction vehicles. It couldn't accommodate traffic. Some of the vehicles that would be needed to go on this property to commence construction wouldn't even be able to make the turn from Ridge Road onto that driveway. Anybody who is seeking a variance needs to show an undo hardship. The only undo hardship in this particular case is that someone wants to make more money from the property that they purchased. There is no undo hardship here for the owner other than the inability to make a profit on her investment. When you balance that against the interests of all the other surrounding property owners, the damage is going to occur to Mr. Perry's property as well as the problems with the sewage and storm water. I think that it is extremely clear that this variance should not be granted. Thank you.

Chairman Price: Thank you.

Michael Singer approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Singer: I do.

Chairman Price: State your name and address.

Mr. Singer: Michael Singer. 10530 Tudor Circle. I just wanted to add to a lot of valid points by the neighbors in that area, but I just want to tell you first hand the flooding that goes on in that parcel. You visit that parcel, which if you go I suggest that at least three of you come out and look at this parcel. You can see that there is a creek that runs through there. There are two sewer culverts back there. One in my backyard, which after very heavy rains is under water. And then drops down to the one that affects this property and on three occasions after heavy rains that two hundred pound sewer lid, I find, in the middle of my yard. The neighbors on Queens Way, who probably don't even know that this is going on right now, have had their basements flooded. This much water has run through my yard to Queens Way. I just want to make sure, because we have had issues, and North Royalton has flooded in the past, with zoning laws that have been passed that hurt homeowners, so I am making sure that we don't run into this problem right now because this is probably what you are going to see after this gets developed. That's all I have to say. Do you want a copy of this?

Chairman Price: Yes. Give it to Julie. Thank you. Anyone else?

Barbara Charvat approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. Charvat: I do.

Chairman Price: State your name and address please.

Mrs. Charvat: Barbara Charvat. 6741 Queens Way.

Chairman Price: Could you spell your last name please.

Mrs. Charvat: C-H-A-R-V-A-T.

Chairman Price: Thank you.

Mrs. Charvat: The gentleman for Ms. Hahn's representative said that Tudor Circle is 75-feet above. The water does rush down Tudor Circle and into that area. The trees and the things that are there do slow it down so that only when we have the really hard rains it continues on through and then onto Queens Way and I have a picture of that.

Mrs. Recker: Excuse me. Do you mind if we have these pictures?

Mrs. Charvat: I have a copy if you would like.

Mr. Kasaris: I would ask that the pictures be entered into the record. Where does this water come from?

Mrs. Charvat: From the rain that rushes down from the street and then as it runs up, because it is all downhill, and then goes down and into that property behind us. And as he said, there is a little stream that runs through there that collects. But, when there is a heavy rain it is too much for it to do all at once. So, then it comes barreling through and floods that street. That has happened twice.

Mr. Kasaris: So, where is the property in relation to the pond that was created on the street?

Mrs. Charvat approached the bench and spoke with Mr. Kasaris away from the microphone.

Mr. Kasaris: With this exhibit you could just read off of that. Where is the property in relation to the flooded area?

Mrs. Charvat: It comes from....

Chairman Price: Excuse me. You are going to have to speak into the microphone.

Mrs. Charvat: Okay. The water comes down Tudor Circle, goes through this little lot, number 18, and then goes between around our lot, number 26, and then floods Queens Way. Looking at this little map, I'm just trying to describe what is going on. To remove the natural foliage is just going to increase the flooding that we experience. That foliage deters the water flow. So, we would have it more often than we do now.

Chairman Price: Thank you.

Mr. Richard Prayson approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Prayson: I do. My name is Richard Prayson and I live at 6800 Sherwood Trail. Which is to the rear of this property. This property was acquired in July 2007. The applicant, in this case, knew at the time of purchase, or should have known, that it was severely blighted, deteriorated, and in law I think it constitutes a public nuisance. She has made no effort what-so-ever to affect Code compliance. There is a question also as far as the available of utilities, particularly water. There is only one water line that runs to the Perry's house and then continues on but it is shared between the Perry's and the applicant's property. Interestingly, if you look at the application, the applicant stated rational that is two fold for selling this property on the open market. One, relief from the tax burden, which should be brought before the County Board of Revision. Not this body. Secondly, to sell it as is to the public as a buildable lot. The facts, I think, lead inescapably to two conclusions; one, this person is nothing other than a land speculator. Secondly, she deliberately ignored the blighted conditions of this property before and after acquisition, with the intent and expectation that this Board would bail her out financially. So, I think the issue is not so much whether or not this variance should be granted as much as this body should remand this to the Board of whatever the municipal enforcement board is to affect Code standards. I don't think that should would because it would be expensive to rehab this building to demolish it and pursue whatever cost associated against this woman. Thank you.

Chairman Price: Thank you. At the microphone please.

Mrs. Rakowsky approached the microphone.

Chairman Price: State your name and address.

Mrs. Rakowsky: Christine Rakowsky, 10540 Tudor Circle.

Chairman Price: Thank you.

Mrs. Rakowsky: Am I still under oath?

Chairman Price: Yes.

Mrs. Rakowsky: Okay. The dilapidated building that the gentleman talks about was the first building built on that series of parcels. In 1946, it is parcel number 489-08-017, not 018 the applicants parcels. Those are two different issues. Now, what I initially wanted to add was that the 018 parcel sits at the lowest point of that hill. The water that collects in the pond, right next to the Singer property, that sits for several days, don't come from Tudor Circle, they flow through my property because it sits lower than the remainder properties, it comes from Sherwood Trail's southern part, not from Tudor Circle. That is the route of the water. But, the water just remains there for a number of days. That is all I wanted to add. That you very much.

Chairman Price: Okay. Thank you.

Mr. John Bennett approached the microphone.

Mr. Bennett: I would like to add more. John Bennett, 4835 Akins Road. The parcel that we are speaking of does not have any building on it. This is vacant lot. It is .68 of an acre. So, two thirds of an acre. Right now, without a variance to build on, the lot is just going to sit there. I live in North Royalton and we all have flooding problems. But if the lot just sits there the flooding is just going to

continue. If we obtain a variance perhaps we could stop the flooding there. That's all I have to say.

Chairman Price: Thank you.

Councilman Don Willey approached the microphone.

Councilman Willey: Don Willey, Councilman Ward 3. The residents have brought up a number of very valid and important points. The water actually flows part from Sherwood Trail and part from Iron Gate. Iron Gate is an entrance to Ridge Road south of Queens Way and in the backyards that water flows all the way back into there. Number two, two thirds of an acre, the fact that it is land locked, it's not a buildable lot, and there is not an access to a public street, the driveway is a private driveway that is owned by Mr. Perry. According to the deed, number 018 there is not an easement to access it and there is not necessarily a possibility of getting one. 2/3rds of a lot, and not a sanitary line access there, and according to the County Board of Health specifications is too small to put a septic system on it. Those are my comments. I am not in favor of this and I think that the property owners should do what they can to dismiss the water from there. Thank you.

Chairman Price: Thank you. Anybody else? Can I have a motion to move BZ08-03 to the Open Meeting.

Moved by Paula Recker, seconded by John Ranucci to move BZ08-03 to the Open Meeting.

Chairman Price: Call the roll.

Paula Recker: Yes.
Dan Kasaris: Yes.
Chairman Price: Yes.
John Ranucci: Yes.
Tony Caraballo: Yes.

**Ayes – all. Nays –none.
Motion carried. (5-0)**

(BZ08-04) Kathy and Allan King request a variance to Chapter 1270 "Residential Districts", Section 1270.03 "Accessory Uses", paragraph (e)(2) "Garden and Pets", of the City of North Royalton Codified Code, for relief from the minimum lot size requirement to allow four horses to be housed on their property located at **11134 Edgerton Road, PPN: 484-04-002.**

Noreen DeNuzzo and Jeffrey Myers approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. DeNuzzo: Yes.

Mr. Myers: Yes.

Chairman Price: State your name and address.

Mrs. DeNuzzo: Noreen DeNuzzo. My address is 15526 Ethan Trail.

Mr. Myers: Jeffrey Myers. 15526 Ethan Trail.

Noreen DeNuzzo read the letter that is attached to the back of these minutes.

Chairman Price: Thank you.

Mr. Myers: I would like to read this petition that was signed by the residents of the Trails and the near by neighbors opposing the variance.

Chairman Price: Do you have a notarized copy?

Mr. Myers: Yes.

Ms. DeNuzzo: Should he read the whole petition? It is basically the same of what I've stated. It is up to you if you would like my husband to read it.

Mr. Myers: We have all the signatures.

Mrs. Vozar: Could I see the document first. It might make it easier if I do. Obviously, if everyone took the time to sign it and have it notarized we would want it and it is their statements.

Ms. DeNuzzo: Each page is notarized. The signatures were done on different days.

Mrs. Vozar: Did this notary go around and get these?

Ms. DeNuzzo: Yes. To each house. I know it doesn't count but I would like you to know that originally when we obtained these signatures these weren't notarized. These are two people that agreed to what was in the petition but their signatures were not notarized. I don't know if you would want these as well.

Mrs. Vozar: No. As long as we have this. Actually, if you wouldn't mind we can read this into the record because there are about 30 residents who signed this and notarized it, and we would want it for the record.

Ms. Denuzzo: Everyone in the Trails signed it and two of the signatures were not notarized. I wanted you to know that.

Mrs. Vozar: The secretary will actually read this for the record. Thank you for getting it notarized I know it's a lot of work. I'm sure as the secretary explained to you, we take sworn testimony here and that's what the purpose of having the notary going out and having this signed. Thank you.

Chairman Price: The secretary will now read it.

Julie Broestl read the document that is attached to the back of these minutes.

Mrs. Vozar: Each signature has been notarized.

Chairman Price: Approximately how many residents?

Mrs. Broestl: Approximately thirty.

Chairman Price: Thank you.

Kathy King approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. King: I do. Kathy King. 11134 Edgerton Road. We are celebrating six months being down there in the park. All of their concerns are legitimate. I had to ask myself the other day, and I put down on paper, why four and why here? Biggest thing is the location. We are right on the corner of the Metroparks and Edgerton Road. The Metropark is a beautiful park, its green and we all enjoy it. There are 92-acres of equestrian trails in the Metropark. I am very much involved with the Ohio Horseman's Council and very much appreciate the system, whether I'm on foot or on horseback. By the location there, horse properties do not become available on a regular basis. When they do you buy two to five acres and it is usually land locked. We have the luxury of having a beautiful trailer and we trailer to all the different reservations and out of state as well with our horses. But the luxury of being able to go out your front door and hit the parks is a great thing. When we came out of the woods and saw that place for sale, I had been admiring it for four years, and who would have known we were actually going to buy it and have the privilege of being there. We brought with us two horses. They have been there since, my husband says it's been since the end of September, I thought it was October sometime, and I don't think we have had any problems. We have been on the trails a quite a bit. We have been trying to make sure that we were visible so that if there were any problems or questions any of the neighbors could come to see us. When ever we see people in the park we always nod our head and say 'hello, how are you.' We try to be courteous neighbors. We did purchase with the hope and the thought that we would be able to have three horses. I have a thirty-year old that is getting a little old and some day going to be a pasture buddy. They don't live forever and they can't be ridden as much as we like. So, at some point I would like to replace him and have him standing around a little bit more. We are surrounded by a very unusual lot. There is twelve acres still of property down there. It is part of rural residential. And it's green. I think that's the biggest thing that caught our eye when the place was for sale also. We still preserving a piece of that green rural residential area and if money were no object we would be purchasing that other twelve acres. We did contact Dr. Miklos three times and I actively will be pursuing again to continue asking about purchasing. I don't see where he could put another development in. I guess that I'm on the other side of the fence where I prefer seeing green rather than more development down there, because of the park and the amount of people that we have running in and out and enjoying the scenery. Horses are herd animals. Even having two horses, I go down to the park by myself or my husband rides with me often, when we leave a horse behind sometimes they get a little anxious. We boarded them over at the Berea Fairgrounds for six years after I moved down here from New York and when you take an animal that has been around twenty other animals and then put two of them in their own little barn they get a little anxious and excited. They are social animals. They are herd animals. Like us, they need other people around. That was the biggest reason thinking and hoping that we could have a third horse right off the bat. When we were initially looking at 3.71 it is pretty darn close to 4 acres. We thought that if we had three, it's like well if we take two horses out we are still leaving a horse behind, because of where we are it is possible to put the forth horse and that is why I upped the increase to four horses for this variance. We are right across from the designate parking trail head for the Metroparks; there was a new corral that was dedicated in September. The Ohio Horseman's Council and the Metroparks put that up in the Spring. We are hoping to have more horse people in the area. Personal preference, some of us like dogs, some like horses. Horses are a large animal. There is manure, there is urine that has to be dealt with on a regular basis. But it is all manageable. One of the first things we did when we purchased the property was got in touch with a soil and conservation so that we were able to develop a good plan to work with on waste

management as well as water retention. We are putting an all weather dry paddock which is costly but in front of the barn that we put in the horses will have a dry area. It has to be kept clean to keep out the flies. The pasture, we plan on fencing that in. The horses will be out there, but for the majority of the time they would be in all weather paddocks. All weather paddocks have to be cleaned on a regular basis. There will be a manure management container there, which has to be emptied once or twice a year depending on how much manure is in there. We have two companies that we have already talked to. Urban Organics is a company that comes in and brings in a huge dumpster and you load it and the manure is removed that way. There is another way by a pick-up on a regular basis from March until September. Another one of the issues was the flies. Spalding Labs has things called Fly Predators and you buy those and open it up over your manure dumpster, you dump it and sprinkle it over the manure and there are little bugs that eat the fly larva, so that the flies never hatch. There are certain things horse owners need to do to be responsible, and the neighbors were saying that they want to be able to be in their yard and enjoy it. I too have certain standards. I like going outside drinking a sarsaparilla and having myself a cook out and having friends over too. So, certainly that would be a concern for all of us. We are down in the park often and it keeps me fairly fit. I'm out in the barn and I usually go out three or four times a day. That was the biggest reason for moving into the park, and moving where we were with the luxury of that close proximity instead of boarding. Horses are healthier. Again, I have a 30-year old horse so they must be getting a lot of good care. I think it is sometimes the unknown that scares us more than anything. I certainly don't know everything about horses and I can't control the way the wind blows, but at the same time we would love to show barns off. We just finished putting a new barn in. We checked out what The Trails looked like from their yard into ours. I drove up there several times and walked around there at night. We wanted to see what the neighbors were seeing so that we could make sure that we would be a good neighbor. We try to be very proactive and make sure that there are no problems. I don't even think we are a little speck on the map until we put our new barn up. The barn certainly is a beautiful barn, bigger than we anticipated. What it looks like on paper is huge when you get it in your yard. But we have plenty of room to put our farm equipment. We have a tractor for the manure management for turning the compost pile that will be put inside there. So, we wanted to make sure that when we did this we did it right. Aesthetically it was correct for other people as well as for ourselves. People are welcome to come down and see. We ask the only other neighbor family we have right now, we asked them if they have had any odors or problems to make sure that they let us know. The only way to know is if there is communication. I guess that is all I have for now.

Chairman Price: Thank you.

Allan King approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. King: So swear.

Chairman Price: State your name and address.

Mr. King: Allan King. 11134 Edgerton Road. One thing, and I didn't know if anybody had seen it, but I brought an aerial photo of the property incase anyone wants to see what it looks like. The other thing that I wanted to address that in the certified petition it seems as though there is a misconception that we have three horses, and I don't know why that is in there. We have two horses.

Mrs. Vozar: Mr. Chairman. The aerial photo was submitted and is in the Board's packet.

Chairman Price: Thank you.

Jessica Barone approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. Barone: I do.

Chairman Price: State your name and address.

Mrs. Barone: Jessica Barone. I live in The Trails too, and I understand that the Kings want the opportunity to enjoy their property, however, there are two of them and they have two horses on their property. It doesn't seem like any negative impact on them to be limited to that. They each have a horse to ride. I think that you can only ride one at a time. The fact that they are pack animals, my dogs are pack animals, and I only have two. I'm not going to get four more to encourage mental well being for them. So, I don't think that we need to be making these exceptions for four. I'm a little confused if they only own two horses as to why they are asking for four. Are they purchasing two more horses? Are they keeping horses that belong to friends? I don't really understand why they would need four if they own two. We are concerned about the smell. I do smell the compost from my house which is the City compost, which is thousands of feet away. I can assume that in the dead of summer that we are going to smell horse manure. We have not, to my knowledge, up to this point have not smelled it, but as they said; the horses came in October. We haven't lived through a cycle of 90-degree temperatures and 90% humidity to really establish whether or not there is going to be an odor problem with the two current horses. So, yes there is some unknown there, but the unknown is that there haven't been horses there until October. We don't have enough knowledge to even know if that is going to create phone calls and issues this summer even if they do stick with the two horses. I'm reposed to granting them the variance. Thank you.

Chairman Price: Thank you.

Eric Dombrowski approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Dombrowski: I do.

Chairman Price: State your name and address.

Mr. Dombrowski: Eric Dombrowski. I live at 10860 Silver Tree Trail. I'm the house directly behind the Kings. I probably would be affected the most if there are any odors or anything. I'm also the president of the homeowners association. I just want to state on both parts that there is a lot of concern on The Trails, a lot of people got together and I just want to support their opinions first of all. I have concerns about the location of the container, the four horses, and where are they storing all these things. If we allow this variance we don't seem to have a lot of requirements they are going to be able to put on them as far as the size of their staging area. They are going to need room, more fencing area. What is the fence going to look like? Is it going to be bigger? If they get a variance for four horses without putting other stipulations on this what happens? I just wanted to

state my opinion on that we don't approve of this variance for four horses. Thank you.

Chairman Price: Thank you.

Councilman Larry Antoskewicz, Ward 5, approached the microphone.

Councilman Antoskewicz: Larry Antoskewicz, Councilman Ward 5. I'll make it about as brief as I can because everybody else has pretty much gone through all the issues on both sides, but I believe after looking at the property and knowing where The Trails are, at this point I believe a variance of 1.29 is asking for more than, to me, what a variance is really all about. So, I encourage the Zoning Board at this point to deny the variance. Thank you.

Chairman Price: Thank you. Anybody else?

Kathy King approached the microphone.

Mrs. King: If I may?

Chairman Price: State your name and address for the record.

Mrs. King: Kathy King. 11134 Edgerton Road.

Chairman Price: You've been sworn.

Mrs. King: Based on the fact, your right, that we haven't been there a full year. Till October we haven't gone through the hot season, and that was a concern of ours too. We can't predict how wet it's going to be, how humid, I can only do so much as a homeowner. Our plan is not to run out and buy a third and fourth horse. A third horse possibly as a hope. Again, a 30-year horse that I ride too much becomes a problem. I could get a companion goat for the horse when we leave home. That takes care of the anxiety when you leave one behind and ride one. A lot of times people have more than one horse. I have a gated horse that moves a little bit quicker. Then I have the older guy which we consider a scenic horse, who just plods along and sees things a little bit differently. We also have people who come from out of state that we would love to have them board, or not even board, but come down for a week with their horses to be able to stay there. That was part of it. Can they be there as visitors. Could we ask for that, so if they are there for one or two weeks is that acceptable? I think we just wanted to make sure and be honest up front and let the people know that we have horses there. Truly, I see us having three horses and that would be a wonderful thing. Four horses, possibly. Just because. I'm willing to rescind at this point, I guess, the request for variance and just wait until fall. Until fall and after we go through a season. Does that make more sense? If people would feel more comfortable. What is the procedure at this point, I would ask for the neighbor's opinion as well as the Boards.

Chairman Price: We will refer that to Donna.

Mrs. Vozar: Mr. Chairman thank you. To the applicant. Obviously it is your decision. You are here before the Board. The Board heard the testimony of your neighbors. They have heard your testimony. Your councilpersons. They will render a decision today if you so choose, based on the facts that you have supplied. After hearing the evidence if your decision is to withdraw your application at this time and you let the Board know that then you could come back before this Board at a later date, and at that point give new information addressing the concerns that your neighbors had. It is your decision at this time.

Mrs. King: Like I said we would still actively pursue purchasing property from Dr. Miklos. If he is not willing to, the other option we have is possibly leasing a couple acres. I don't know if he is more receptive to that, it didn't sound like he was in December.

Chairman Price: So what is your decision?

Mrs. Vozar: What we can do is we can move forward and when we take our break in between the Public Hearing and meeting at that time, if you want, you can let us know, after we reconvene. That gives you a little more time. I

Mrs. King: If we ask to table it would only be a month. We just will have the barn finished and we are looking to put our fence in and the manure dumpster will be done by August. In the fall it would probably make more sense.

Mrs. Vozar: Sure. We couldn't table that long of time. Why don't we just move forward. That is my recommendation. We will finish up with other matters. We will take a break and when we come back and you get before us, probably within the next hour, you can let the Board know at that time.

Mrs. King: Okay. Thank you.

Chairman Price: Anybody else? Do I have a motion to move BZ08-04 to the open meeting.

Moved by Paula Recker, seconded by John Ranucci to move BZ08-04 to the regular order of business.

Chairman Price: I have a motion and a second. Call the roll.

Tony Caraballo: Yes.
Chairman Price: Yes.
Dan Kasaris: Yes.
John Ranucci: Yes.
Paula Recker: Yes.

**Ayes – all. Nays- none.
Motion carried. (5-0)**

(BZ08-05) Jim and Darlene Blondin request a variance to Chapter 1286 “Nonconforming Uses”, Section 1286.02 “Lawful Nonconformance”, of the City of North Royalton Codified Code, for relief from the rezoning to build a new home on a lot that they wish to split which is located at **11893 West 130th**, **PPN: 481-25-010.**

Jim Blondin approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Blondin: I do.

Chairman Price: State your name and address.

Mr. Blondin: My name is Jim Blondin and I live at 11893 West 130th Street. I'll give you a little bit of history. We have lived there for 34-years. In 1989 we purchased an additional 40-foot. We had 5-acres and we purchased another 40-feet to the north so that our frontage would be over 200-feet so if ever we wanted to split it we could meet the residential requirements. In 2005, they rezoned our

property to Research Office. So, by being Research Office, we are still grandfathered in as far as a residential lot, but we come before this Board to see if we can split it and build a house there for my grandson, daughter and son-in-law. This is the property, that you got in your packet, that has been rezoned. We are right here on 130th Street. The property was rezoned, and you have other pages there that indicate the lot. I also have an aerial view of the lot. Most of the property, if we split it, half of it would be into the woods. There is a vacant lot to the north of us that abuts. We would put the lot up in the north west corner of the property so it wouldn't be sitting in front of the house. It would be out of the way. I have had a soils analysis and a feasibility study for septic system, and it's been approved. There is a rough design of a septic system so that I would know how much property I would have to split off. It would be approximately 100-foot wide and 300-foot deep minimum. We might have to go a little deeper but that depends on the septic system. I have a little sketch here of the proposed house. I believe you have that in your packet also. What it boils down to is a couple years ago we found out my grandson has muscular dystrophy. They live in North Royalton now but their house isn't converted to a handicapped house, that's not possible. That is why I am proposing to give them a lot so that they can build a handicapped accessible house on that property. So, if the variance is granted that is what we are proposing to do there. This is a little larger view of the property. This is approximately where the new house would sit. That is the jest of it and for that reason we are requesting the variance. We would build a house that meets all the requirements of a residential home. It would be about 2200 square feet. It would meet the setback requirements of a residential lot, the front, rear and side. I need the variance because they rezoned it. By rezoning that area we are no longer residential. Any questions?

Chairman Price: If there are questions we will get to it later in the next half.

Mr. Blondin: Alright. Thank you.

Chairman Price: Anybody else? Come on, you don't have to be nervous.

Valerie Ellis approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. Ellis: I do.

Chairman Price: State your name and address.

Mrs. Ellis: My name is Valerie Ellis. I live at 11542 York Road. I'm Jim Blondin's daughter. He is asking for this variance for my son. Like he said, he was diagnosed with Muscular Dystrophy in 2004. I'm trying not to lose it.

Chairman Price: Take your time. That's alright.

Mrs. Ellis: I always dreamed of living on parent's property for different reasons. Just because it is beautiful, it has a lake. My parents are wonderful. They are the best parents in the world. My children adore, and love them. But now it is a necessity. We can't give my child what he needs to live like any other child if we stay where we are. So, I'm sorry for getting emotional. It boils down to my son being able to live with his freedom and his freedom would be a handicapped accessible house so that he could be as happy as any other child. So, I just want to thank you whatever your decision is, I thank you for even considering it. Thank you.

Chairman Price: Thank you. Anybody else?

Dale Gross approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Gross: I do.

Chairman Price: State your name and address.

Mr. Gross: Dale Gross. 11803 West 130th Street. This new house would butt up against my property. My only concerns are for the septic system. Where would it drain off to? Also, if the frontage matches with the frontages. When I came in there I had to buy additional property to make the frontage. I don't know what it is off the top of my head. Does anybody know what it is, 100 or 120?

Mr. Hartman: 50-foot from the right-of-way.

Mr. Gross: Okay. That's all my wife and I are concerned with. That they do have enough frontage and their septic won't be draining into my property. Thank you.

Chairman Price: Thank you. Anybody else? Do I have a motion to move BZ08-05 to the regular order of business.

Moved by Dan Kasaris, seconded by Paula Recker to move BZ08-05 to the regular order of business.

Chairman Price: I have a motion and a second. Call the roll.

Dan Kasaris: Yes.
Chairman Price: Yes.
John Ranucci: Yes.
Paula Recker: Yes.
Tony Caraballo: Yes.

**Ayes – all. Nays – none.
Motion carried.**

Chairman Price: Do I have a motion to adjourn the Public Hearing.

Moved by Paula Recker, seconded by Dan Kasaris to adjourn the Public Hearing.

Chairman Price: I have a motion and a second. Call the roll.

Tony Caraballo: Yes.
John Ranucci: Yes.
Paula Recker: Yes.
Dan Kasaris: Yes.
Chairman Price: Yes.

**Ayes – all. Nays – none.
Meeting adjourned. (5-0)**

The Board of Zoning Public Hearing was adjourned at 9:02 pm.

The Board of Zoning Appeals of the City of North Royalton met on February 25, 2008, to hold an Open Meeting, in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 9:15 pm

Present: Chairman, Neil Price, Paula Recker, John Ranucci,
Tony Caraballo, Councilman Dan Kasaris, Prosecutor Donna Vozar,
Zoning Inspector Joe Hartman, City Engineer Ken Tyrpak,
Secretary Julie Broestl.

Chairman Price: Do I have a motion to approve the minutes of January 28, 2008.

Moved by Paula Recker, seconded by Dan Kasaris to **approve the minutes of January 28, 2008.**

Chairman Price: Call the roll.

John Ranucci: Yes.
Chairman Price: Yes.
Paula Recker: Yes.
Tony Caraballo: Yes.
Dan Kasaris: Yes.

**Ayes – all. Nays – none.
Minutes approved. (5-0)**

(BZ08-02) Richard Kral requests a variance to Chapter 1270 “Residential Districts”, Section 1270.12 “Yards for Accessory Buildings and Uses”, paragraph (a)(1), and Section 1270.14 “Area, Yard and Height Regulations”, paragraph (g), or relief from the maximum square footage and height allowed for a garage that he wishes to build on his property at **3101 Akins Road, PPN: 487-28-014.**

Mrs. Recker: Mr. Chairman. Before I make a motion, seeing how many residents are in the audience that are not use to procedure, I want to inform them that all motions are put in the affirmative form and then discussion, and a vote there after. When you hear me make a motion to approve does not mean that it is approved.

Moved by Paula Recker, seconded by John Ranucci to **approve a variance of 64-square feet more than the maximum square footage allowed as prescribed in Section 1270.12(a)(1) of the Zoning Code with regards to this proposed garage.**

Chairman Price: I have a motion and a second. Discussion.

Mrs. Recker: Mr. Chairman.

Chairman Price: Mrs. Recker.

Mrs. Recker: After viewing the property and reading the application and listening to the evidence presented, I personally see some practical difficulty with this. I don't find the variance request excessive. I will therefore voting in the affirmative.

Mr. Ranucci: Mr. Chairman.

Chairman Price: John.

Mr. Ranucci: I agree with Paula. The request is not excessive and I see practical difficulty so, I will be voting for variance number one also.

Chairman Price: Dan.

Mr. Kasaris: Mr. Chairman. I have no issues with this particular request and will also be voting in favor of it.

Mr. Caraballo: Mr. Chairman. I also see some practical difficulties with this. As long as we are enforcing that other shed, I believe, was going to be removed after the completion. What do we put down, 30-days removal of the existing shed?

Mrs. Recker: You want a condition?

Mr. Caraballo: A condition of removal of the existing shed that is about 50-feet from the house right now, be removed on completion of the new garage.

Mr. Krall: No problem.

Chairman Price: Could you come up to the microphone.

Mr. Robert Kral approached the microphone.

Mr. Kral: You want it removed at a certain time?

Mr. Caraballo: 30-days after completion. Will that give you ample time to get everything that you have inside?

Mr. Kral: That's reasonable. Okay.

Chairman Price: Actually, isn't it going to be in the way when you put up the new one?

Mr. Kral: Yes. Where that one exists now, the new one will be. So, it will be taken down during construction.

Chairman Price: So we wouldn't need a condition. It will be gone before the new shed goes up. Thank you. I concur with the other Board members because it is not excessive. Julie, could you read the consensus?

Mrs. Broestl: Based on the evidence presented here tonight, the findings of facts are as follows: The applicant is Robert Kral. The variance being sought is at 3101 Akins Road. He is requesting a variance to Section 1270.12(a)(1), he wishes to construct a garage that is 864-square feet. He is allowed 800-square feet. The variance is for 64-square feet more than allowed. He stated in the Public Hearing that he is in need of additional storage space. The other shed on the property will be removed before the building of this new shed. No neighbors were here tonight to object to this. The Board feels that it is not excessive and do see some practical difficulty. The granting of the variance will not be detrimental to the surrounding area. If the Board has anything else to add feel free to do so.

Chairman Price: Call the roll.

Dan Kasaris: Yes.
Paula Recker: Yes.
Chairman Price: Yes.
John Ranucci: Yes.
Tony Caraballo: Yes.

**Ayes – all. Nays – none.
Variance #1 granted. (5-0)**

Moved by Paula Recker, seconded by John Ranucci to **approve a variance of 4-feet more than the maximum height allowed as prescribed in Section 1270.14(g) of the Zoning Code with regards to this proposed garage.**

Chairman Price: I have a motion and a second. Discussion?

Mrs. Recker: Mr. Chairman. In this specific case because of the way the property is laid out and the elevation, I don't find this excessive and I will be voting in the affirmative.

Chairman Price: To the applicant please. Why are you requesting the additional height?

Mr. Kral: I need upstairs storage space to store furniture, Christmas trees, and things that need to be stand upright.

Chairman Price: That gives you the increased height?

Mr. Kral: Correct.

Chairman Price: What will the pitch on the roof be?

Mr. Kral: Can my architect answer that?

Chairman Price: Your architect?

Ms. Becky Kohout approached the microphone.

Chairman Price: Raise your right hand please. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Ms. Kohout: I do.

Chairman Price: State your name and address.

Ms. Kohout: Beck Kohout. 4347 Abbeyville Road, Medina. I'm almost architect. I'm not allowed to legally say that I am yet. The pitch on the roof is an 8 to 12. The reason I made it an 8 to 12 is so that the space he has for walkable area and the middle is roughly 10 to 12 feet wide but the walls start at 4 foot. So, he has a 1-foot space that is 7-foot high. So he can walk upright and store things to the right and life. We made it as short as we could and allowed him that walkable space. That was the goal.

Chairman Price: Thank you. Anybody else have any questions? Consensus?

Mr. Ranucci: Mr. Chairman.

Chairman Price: John?

Mr. Ranucci: I will be voting in the affirmative for this second variance also.

Chairman Price: Tony?

Mr. Caraballo: I will be voting the same, in the affirmative.

Mr. Kasaris: As well I, Mr. Chairman.

Chairman Price: Paula?

Mrs. Recker: As I have stated right off the bat, yes I will be.

Chairman Price: Julie?

Mrs. Broestl: Based on the evidence presented here tonight, the findings of facts are as follows: Everything is the same with Richard Kral. This is a variance for 1270.14(g), wants this shed 19-feet high. He needs a variance for 4-feet.

Chairman Price: Call the roll.

John Ranucci: Yes.
Paula Recker: Yes.
Tony Caraballo: Yes.
Chairman Price: Yes.
Dan Kasaris: Yes.

**Ayes – all. Nays – none.
Variance #2 granted. (5-0)**

Chairman Price: Between the Open Meeting and the Public Hearing, we had a request for one of the variances. I would like to have a motion to move BZ08-04 to the front right now.

Moved by Paula Recker, seconded by Dan Kasaris to move BZ08-04 to the front of the agenda.

Chairman Price: To the applicants for BZ08-04, the Kings, please come forward.

Mrs. Kathy King approached the microphone.

Mrs. King: At this time we are requesting to withdraw our request for the variance of four horses. We would like the opportunity to come back this fall when we are out of the season of hot and humid weather. We would like the neighbors to keep us informed if there is a problem with any smells or issues, and to invite them down to see what we have going on and to enjoy the other side of the fence. If this is doable.

Mrs. Vozar: Yes. Thank you very much. Mr. Chairman, I also informed the applicant that when they do come back before us, if in fact they choose to do that, I would ask the Board to waive the fee to come back before the Board.

Chairman Price: Okay. Back to the regular order. We are going to change tape here for just a second. BZ08-03

(BZ08-03) Anne Hahn requests a variance to Chapter 1270 “Residential Districts”, Section 1270.15 “Buildings Permitted on Zoning Lot”, of the City of North Royalton Codified Code, for relief from the required frontage to allow this to be a buildable lot which is located at **PPN: 489-08-018**.

Moved by Paula Recker, seconded by John Ranucci to **variance to allow this vacant parcel to become a buildable lot which is contrary to Section 1270.15 of the Zoning Code.**

Chairman Price: I have a motion and a second. Discussion?

Mr. Kasaris: Yes Mr. Chairman. I have a question for Mr. Hartman. Mr. Hartman, I know that you are not the Fire Chief but the Fire Chief isn't here

tonight, if this variance were to be granted and if a home were to be built on this lot, assuming that Mr. Perry granted an easement, the person living in the home, how would a fire truck be able to get back to the house to service it if there was a fire?

Mr. Hartman: I hate speaking for the Fire Department but in past history, when lots sit back far from the road, naturally fronted on a main street so the permit had been granted, in some cases the size of the water line had to be increased to two and three inches to accommodate additional water for that distance. On one parcel it was questionable as to whether the Fire Department was going to want a fire hydrant. If a fire hydrant would be requested it would be a six inch line and it is quite expensive to do it.

Mr. Kasaris: Would there even be difficulties with the fire truck getting back to the fire hydrant?

Mr. Hartman: Seeing that the road is only approximately 12-foot wide, yes.

Mr. Kasaris: How wide is a typical city street?

Mr. Hartman: Streets are 30-foot.

Mr. Kasaris: Thank you.

Mr. Hartman: You're welcome.

Mr. Ranucci: Mr. Hartman. Currently the homes that are on that access road, there is currently no hydrant there to access the farthest home that is on that road right now?

Mr. Hartman: That home was initially built before these Codes were initiated. So, that I wouldn't even take into consideration. That home by the way is very close of being condemned. I have seen the inside of that home and it is so badly torn up on the inside and I don't think that it can be repaired anymore.

Mr. Ranucci: Alright thank you.

Chairman Price: Anybody else?

Mr. Ranucci: Mr. Chairman. I have a question for Mrs. Hahn's brother if he would come up?

Mr. Bennett approached the microphone.

Mr. Ranucci: Do you know if your sister approached Mr. Perry about having access or getting easements for utility tie ins to make her lot more buildable if the variance to go through?

Mr. Bennett: As far as I know she did not speak to Mr. Perry. We are speaking of lot #018, which at one time #017 and #018 were one lot. They were split and the house, which has been mentioned a couple times today that should be condemned, is on #017. We are speaking of lot #018. There is no house on lot #018. As far as a fire truck, there are four houses down this private street and if the fire truck can access the fourth it can the fifth one. So, there is no trouble as far as the fire truck.

Mr. Ranucci: So she hasn't approached anyone about access?

Mr. Bennett: I do believe that she has approached some of the neighbors that are adjacent to see if they are interested in obtaining and increasing their yards. I don't think she has received any comment or returns.

Mr. Ranucci: Thank you.

Mr. Bennett: Anything else?

Mr. Hartman: Yes. I would like to add to that. Presently, there is only one house occupied there, the other house is the one that I referred to that is very close to being condemned. There are no other houses on that street, or driveway I should say.

Mr. Bennett: Okay. I was there last year and there is more than one house there.

Mr. Hartman: There are two homes but one is...

Mr. Bennett: Not the house that should be condemned. Yes, it should be condemned.

Mr. Hartman: The only house there is Mr. Perry's house. It is the only active house there now.

Mr. Bennett: As I recall there are several houses down that private drive.

Mr. Hartman: I have been down there several times and I can tell you no.

Mr. Bennett: Okay.

Mrs. Recker: Mr. Chairman.

Chairman Price: Paula.

Mrs. Recker: I would like to state that I personally, based on the evidence presented by both the applicant and the neighbors, that I agree with the neighbors that this will be detrimental to the character of the neighborhood. The day that I was there, there were obvious drainage issues. I feel that the fire issue is very, very important there. But I think that building anything there will not help with the drainage issue. I will be voting in the negative on this.

Mr. Kasaris: Mr. Chairman. For plethora of reasons I will be voting no. Number one, flooding. Number two, access to the property. Number three, fire concerns. Safety concerns. Number four, sewage issues. And water issues. These are the reasons that I will be voting no.

Mr. Ranucci: Mr. Chairman.

Chairman Price: John.

Mr. Ranucci: I will be voting no on this issue also. Other than the obvious reasons that were mentioned here, I don't see the applicant making an effort to try to work with Mr. Perry as far as getting access for utilities, water. Some of the issues that she could possibly do to improve the lot and make it more sellable. So, based on that opinion and other reasons, I will be voting no on this also.

Chairman Price: I also will be voting against it. Special conditions that exists, such as the city services and the access to water, things like that, have not been understood or presented at this time. I will be voting no.

Mr. Hartman: Mr. Chairman. One other thing that I could add that hasn't been brought up yet, and that is the issue of sanitary sewer. Checking with the health department, the lot is not big enough for a septic system, and if there is sanitary sewers there, to my knowledge, it only goes up to Mr. Perry's house, and possibly to the house that should be condemned. What they would do for sanitary sewer at this time would be something that they would have to discuss with our engineering department and Mr. Perry.

Mr. Caraballo: Mr. Chairman. I also will be voting no on this due to where the lot sits. I also have the concern of flooding and getting access back there. I also will be voting no.

Chairman Price: Julie.

Mrs. Broestl: Based on the evidence presented here tonight, the findings of facts are as follows: The applicant is Anne Hahn. She is not here tonight. The variance is located at permanent parcel number 489-08-018. It is a vacant lot off of Ridge Road. She is requesting a variance to 1270.15; relief from the required frontage necessary to make a parcel a buildable lot. This parcel is not on a dedicated street, it is off an access driveway on Ridge. Many neighbors were here tonight to object to this variance and they have submitted letters that will be incorporated in the minutes. The Board feels that this will be detrimental to the surrounding area. There are flooding issues and fire truck access concerns, sanitary and sewage issues. Anything else the Board needs to add to this?

Chairman Price: Call the roll.

John Ranucci: No.
Dan Kasaris: No.
Paula Recker: No.
Tony Caraballo: No.
Chairman Price: No.

**Ayes – none. Nays – all.
Variance denied. (0-5)**

(BZ08-05) Jim and Darlene Blondin request a variance to Chapter 1286 "Nonconforming Uses", Section 1286.02 "Lawful Nonconformance", of the City of North Royalton Codified Code, for relief from the rezoning to build a new home on a lot that they wish to split which is located at **11893 West 130th**, **PPN: 481-25-010.**

Moved by Paula Recker, seconded by John Ranucci to **approve a variance for relief from Section 1286.02 of the Zoning Code relating to this property currently zoned as Research Office so as to allow the applicant to go before Planning Commission for a lot split in order to construct a new home on the newly created parcel.**

Chairman Price: I have a motion and a second. Discussion.

Mrs. Vozar: Mr. Chairman. Before we begin the discussion could I add something?

Chairman Price: Yes.

Mrs. Vozar: This Boards usual practice is to hear area variances and based on the criteria that you just applied in your last decision, you are bound under

1264.08(e)(1), which is the practical difficulty standard which this Board is used to dealing with. In this case though it is a use variance. In this case you will be applying the standard under (e)(2), which are the unnecessary hardship criteria. In order for an applicant to prevail he has to establish that he will suffer unnecessary hardship. If strict compliance with the terms of the Code is required and such hardship must be demonstrated by clear and convincing evidence as to all of their criteria listed under subsection (2). So, again it is a higher standard than this Board is used to applying. I just wanted to bring that to your attention when you are applying the law to the facts and the evidence that you heard today.

Chairman Price: Thank you. Are there any other City Officials that wish to comment?

Tom Jordan approached the microphone.

Mr. Jordan: My name is Tom Jordan and I'm the new Community Development Director for the City of North Royalton. One of the criteria's that was cited by your legal council has to do with the contradiction of the City's Master Plan, as well as the City's Zoning Code. I've served on these Boards in the past and the hardship that was outlined relative to the grandson is something I can't imagine ever dealing with myself. However, unfortunately your Code and that we charge the Board of Zoning Appeals with is upholding that Code and relative to the City's Master Plan. That area was rezoned Research Office. The issue is your going to establish by granting this variance an additional housing unit within an area that was outlined for Research Office. By doing that you are opening up the area again for further residential development. The residents, when reviewed the Master Plan and approved the Zoning Code changes, did affirm the City's Master Plan, and unfortunately it would contradict the City's Master Plan by expanding on additional residential use in this area. If there were other options that the Board could explore. Currently we do have a number of industrial areas in the City that are open for development. The idea is that this area, being on the western side of the City, that further industrial land will be needed for the City's balanced growth. The idea is that the City's taxes, relative to its survival, are dependant upon the expense of the income tax base, i.e.: office or industrial. The key to continue to expand by expanding through residential growth. If we do not have balance between industrial, office, and residential, the City will have serious financial implications in the long term. That's why the City went through a Master Planning process as well as explored zoning codes. The feasibility of an expansion of an industrial area in this particular area of town, I did not create the Code or the Master Plan, and personally I am unaware of the feasibility of expanding those industrial uses in this area. That would have to be done at a future date. However, the state of the Master Plan is stipulated in the Zoning Code and one of the specific criteria is that we ask the Board not to contradict it. Any questions?

Councilman Don Willey, Ward 3, approached the microphone.

Mr. Willey: Mr. Chairman. I, at the time, tried to do the right thing and make the rezoning of many, many, acres, thousands of acres of land, through the Master Plan. I feel that in this particular circumstance that should that broad area, hundreds of acres, be the beneficiary of office and industrial, that the economics would certainly compensate all those homeowners there, whether there is one or probably nine of ten, in order to abandon those houses. I think that it is a legitimate situation. As we had with R1-A and R1-B there is still close to two thousand lots that were rezoned and they could, in theory, come to this Board and get building variances. Council is, through Building and Building Codes, going to address this to exempt those 80-foot lots. But I think in this particular instance were the physical location is on West 130th Street, near the turnpike,

that this is not an unreasonable variation from the Master Plan. The Master Plan is plan. The implementation of that plan, we are tweaking it, and that is within the spirit of the whole theory of the Master Plan. Thank you.

Mr. Kasaris: Mr. Willey.

Mr. Willey: Mr. Kasaris.

Mr. Kasaris: What was the rationale for changing the zoning from what it was before to what it is now?

Mr. Willey: Mr. Kasaris, that whole area was for the hope that someone would come streaming into North Royalton with several wheelbarrows full of hundred dollar bills and develop that area between West 130th and Abbey Road, from Rt. 82 down to Woodridge. That is the basic quadrant of it. Of course there is across the street on Abbey Road there is phase three and four that haven't been started yet of the Industrial Park. Also, along York Road that is also zoned Office Research. That would be approximately from Wallings Road down to where Mom's is, that whole shopping center there. So, that whole hillside is supposed to be Research Office. I think there is plenty of acreage available should a large company come to town and want that. Personally, if you go back to the record, I voted against that particular portion of the rezoning because I thought it wasn't reasonable and wasn't a necessary goal. It could always be zoned residential as now, could always go before the voters and be rezoned.

Mr. Kasaris: Thank you.

Mrs. Vozar: Mr. Chairman. Could I make a comment? I would just caution this Board to be very careful in making their decisions in this case, because this Board is not a legislative body. The council enacted and the property has been rezoned. We want to avoid the situation where this Board is taking authority and power away from Council. This Board is authorized and is bound by the Code that determines what criteria you have to look at. A Use variance, obviously, is guarded more stringently than an Area variance. Again, when you look at the Code it tells you what factors you have to look at, and the evidence must be compelling to come before this Board. I'm very sympathetic to the applicant and his family situation. The problem is, you will be putting yourself in a position that if someone else has their property zoned and they are unhappy with the zoning of their property, and they have a unique situation, you could theoretically throughout this City basically change the zoning and the Master Plan because of various problems and situations that residents have. There are always options available to residents. This is an extreme one by asking that the property be given a Use variance for the property. The applicant could make modifications to their home. This Board has had a lot of applicants that have come before them requesting variances for similar reasons. For health concerns for people that have heart conditions, and their home had to be modified, and because of that they were given a variance for whatever reason to accommodate those needs. Those were limited and not substantial variances. I think it is important for you to take into consideration and remember that, have the applicant come before you and perhaps requested a variance to allow him to expand his nonconforming residence to accommodate it and add an addition on, that would be a more unsubstantial variance. In this case they are asking for the maximum variance and that is something for you consider too. I just want you to again remember that you are not looking at the Area variance you are looking at a Use variance and you must review, carefully, the criteria that you have before you.

Chairman Price: Thank you Donna.

Mrs. Recker: Mr. Chairman.

Chairman Price: Mrs. Recker.

Mrs. Recker: This has been very interesting listening to Mr. Jordon and

Mrs. Vozar, and also Mr. Willey. I know that Council passed on its agenda right now and Building and Building Codes, Ordinance number 0817, that they are considering. What I'm suggesting is that we table this for thirty days and see what Council may or may not do, and then at that point we could either consider it either ye or nay.

Mr. Kasaris: Mr. Chairman, if I may. The problem with that is, that specific Ordinance deals with this specific piece of property and based on my back round training experience, to rezone that particular piece of property would constitute what is known as spot zoning. I think a better approach would be to look at the entire area and the way the entire area is zoned, whether that is something we want the City Council to continue to permit. The Ordinance that is currently before City Council does not address that issue. It only addresses this specific piece of land and there are severe problems with that particular piece of legislation if it were to pass. So, Donna did you want to add?

Mrs. Vozar: Yes. Mr. Chairman, if I could. Just so that the Board is clear on how this all happened. The applicant had various avenues that he could pursue and try to get his property rezoned. One, obviously was to petition Council and Planning to see if they would rezone his property and do a spot zoning. When it was referred to committee that was when the issue came up and we actually discussed the spot zoning problem and how that just flies in the face of any good planning. Another option that was available to the applicant was to come before the Board of Zoning Appeals and plea his case and see. It has been tabled before Council and Planning to give him an opportunity to come before the Board of Zoning Appeals and pleas his case, because a Use variance would be a better planning option than the spot zoning. Clearly it is still not the best plan when you are trying to comply with your Codes, but it was the better option being faced with at the time.

Mrs. Recker: Mr. Chairman.

Chairman Price: Mrs. Recker.

Mrs. Recker: I totally agree and was aware of exactly what Mrs. Vozar and Mr. Kasaris was stating. What I was hoping that was that if we were to table this for thrity days and give it to Council, that they could look into this whole thing further and make a decision, because if they decide to rezone this particular thing, which isn't good planning, or take it and rezone the entire area. I thought that that we could possibly accomplish by giving this thirty more days for the table. If Council could not come to some conclusion than of course at the end of thirty days we will have to make a decision. I hate to delay the applicant any further, but I think that it is in the best interest of the City and for the applicant and for that entire area.

Mrs. Vozar: Mr. Chairman. I strongly disagree with the aspect of tabling this. I don't think that anything will be gained by having this tabled. The applicant has come before you and requesting to be heard. You have the criteria before you and the evidence before you. To keep having various Boards or Council and Planning to continue to table this, I think this Board should proceed with what they have and move forward on this.

Mr. Kasaris: Mr. Chairman, if I may.

Chairman Price: Yes.

Mr. Kasaris: To the applicant.

Mr. Jim Blondin approached the microphone.

Mr. Kasaris: What issues or problems would you have with simply adding onto your house?

Mr. Blondin: Well, it just doesn't seem to be feasible. I have a two thousand square foot house and I would have to add another two thousand square foot to it. I don't see why. Like Donna said, we went to the various Boards, and I don't blame Council, Council doesn't want to rezone the property and I don't think it should be rezoned. If someone does want to come in and wants to build in that area, some big developer, he is going to buy everybody's house. He won't have to worry about a zoning issue. There are thousands of houses there. One house isn't going to screw up the tax base for the whole City or the Master Plan. Do you know what I mean? You have phase two, that just started the second building there. Phase three isn't even started yet. Phase four hasn't started yet. By the time they get to my property there will be none of us here, believe me. I wouldn't be here before you if there wasn't for the circumstances that have happened. The house that they do have is a small ranch. The hallways aren't big enough. You could build a house for what they would have to do to remodel their house. They would have to tear the whole thing apart. It's too high off the ground. You would have to put the ramps in. The whole nine yards. We just want to build a house that is accessible with a basement and a lift so that there is an access to the basement. The hallways would be wide. The doorways would be wide. The bathrooms would be handicapped. That stuff is quite expensive to do! Like I said, I don't see where it would throw a wrench in the Master Plan. There are thousands of homes there. I'm not trying to set an example there. I agree with Council and Planning, or whoever. We have been to all of them. The BZA is the way to go because the zoning isn't changing. We just want to change the use for this one particular house. If something happens and they want to come in and want to buy the whole area, God Bless them. They will include that house too. It would all be the same zoning. It's just one more house there. I mean we have six and a half acres. One acre for that six and a half isn't going to screw up the Master Plan. At least not in our lifetime. You have any other questions? Thank you.

Councilman Larry Antoskiewicz, ward 5, approached the microphone.

Chairman Price: Just state your name and address for the record.

Mr. Antoskiewicz: Larry Antoskiewicz, Councilman in Ward 5. Maybe I could clear up a little bit of Paul's concerns, because I was the sponsor of that legislation of City and Council and Building and Building Codes. The reason I sponsored it was Jim came back to me a while back because he seemed to be a little unsure as to exactly how he should proceed. Through talking to many people in the City he came to me and approached me as a resident in my ward asking me to sponsor legislation so that he could see what he could do about getting that house built for his children. Whether its right, whether its wrong, my feeling was is that he has a right to be heard. That's why the legislation was sponsored. After we went back in and put it into Building and Building Codes and went through that committee meeting and it was finally determined that the best way to approach this whole situation was to come before the zoning board. With the council that was there, there wasn't a lot of support. You could tell there wasn't a lot of support to do a spot zoning. I don't believe that would ever pass through council without officially pulling everybody. We just left it sitting in Building and Building Codes until we went through this process. Because obviously if it fails here he still has the opportunity to say 'hey look, I would like you guys to just vote

Chairman Price: Thank you.

on it'. That's why it was tabled in Building and Building Codes at this time.
Thanks.

Mr. Kasaris: Mr. Chairman, if I may. A question to Donna. What are the factors that we have to consider in deciding whether or not we should allow the variance?

Mrs. Vozar: Again, the standard is the applicant has the burden to prove the hardship by clear and convincing evidence of all of the following criteria; A) whether the little application of the provisions of this zoning code would result in no economic viable use of the property for any purpose for which the property is zoned and there by creating unnecessary hardship unique to the property and not based on conditions created by the owner. B) Where other exceptional circumstances or conditions, such as topographical or geographical conditions, or type of adjoining development are unique to the property involved and do not apply to other property within in the same zone unless the same exceptional circumstances or conditions exist. C) Where granting a variance will not materially be detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located. D) Where the granting of a variance will not be contrary to the general purpose, intent, and objectives of this zoning code, and the Master Plan of the City of North Royalton, and the variance sought is the minimum which will afford relief to the applicant. All of those must be demonstrated by clear and convincing evidence.

Mr. Kasaris: Thank you.

Mr. Ranucci: Mr. Chairman.

Chairman Price: Yes, John.

Mr. Ranucci: I have a question for Mrs. Vozar. Donna, if this was to get granted would this basically open up a flood gate to the whole area as far as other residents coming over to rezone their property to be able to build?

Mrs. Vozar: As in any type of case all the facts are unique. No two cases would be exactly the same, so you would be hearing evidence that would be slightly different. Assuming that the facts were similarly situated, and the evidence was relatively the same, you would basically be setting up precedence, so to speak, for other applicants who would come before us if they were in the same situation. If this Board finds that this applicant has met that, than the next applicant would too. So, yes, you would be putting yourself in a position where you would be hard pressed to be able to tell another applicant 'no' if they came before you with the same set of facts and circumstances.

Mr. Ranucci: Okay. Thank you.

Mr. Kasaris: Mr. Chairman may I ask the applicant one question.

Mr. Jim Blondin approached the microphone.

Mr. Blondin: Sure.

Mr. Kasaris: The vacant lot that you purchased in 1989.

Mr. Blondin: Yes. I purchased 40-feet. My lot was originally 160-foot wide, and 1400-deep. They were going to sell the lot next store to me and it was the same size of mine, so I approached the guy and asked if I could buy 40-foot so that if I ever wanted to I could split it. Before the zoning change we would need the 100

foot frontage. Now I'm over 200-foot. If you grant this variance I would put a lot that would meet all the requirements of the area. The requirements of a residential area. If that zoning change never happened we wouldn't even be here. I could just go to Planning and get a lot split and have it done. It would be a buildable lot if I got the variance. This is the only thing holding this up.

Mr. Kasaris: Thank you.

Chairman Price: Any other questions? Consensus?

Mr. Ranucci: Mr. Chairman. I guess I'll go first. Based on the discussion that we just heard, and the criteria that have to be met. It hurts me to say this but I will be voting against this variance because I don't think that the five criteria were met. I think that it would just open up much more problems down the road.

Mrs. Recker: Mr. Chairman. I would concur unfortunately. My heart breaks for Mr. Blondin. I think that it's wonderful what he wants to do. But looking at the betterment of this City I will have to vote no. The Code states, and we do have to take this very strictly, does not meet all of those requirements.

Chairman Price: I'm very sympathetic to Mr. Blondin's problem. If it hadn't been for the zoning change we wouldn't be here tonight. But, based on the criteria granting a variance will not be contrary to the general purpose intended objectives of the zoning code and the Master Plan, and the fact that this is, I guess you could call it, a maximum request to the variance, that is building a resident that is not zoned for it. The concern also for spot zoning. Whatever you want to call that, and the issues that would come down the road later. Use, use, I mean. I would have to vote no.

Mr. Caraballo: Mr. Chairman. I have a big concern with the zoning use and the potential down the road and opening up flood gates for many other similar situations. As Donna noted, they all are very similar and unique in their own way. But, I think I am going to have to vote along with the Master Plan and vote against this.

Chairman Price: Julie.

Mrs. Broestl: Based on the evidence presented here tonight, the findings of facts are as follows: The applicant is Jim Blondin. The variance is located at 11893 West 130th Street. He is requesting a variance to Section 1286.02, for relief from the rezoning in 2005 from residential to research office so as to allow him to split the property and create a lot so that they can construct a new home on it. One neighbor was here tonight to discuss the septic run off. Tom Jordan, the City's Community Developer, spoke in favor of the Master Plan. Don Willey spoke more or less in favor of the variance. Larry Antoskiewicz spoke, Councilman for ward 5, regarding the variance. The Board feels that this is going to open up flood gates for other issues. Might as well go on with the vote unless you want to add anything else.

Chairman Price: Anything to add? Call the roll.

Chairman Price: No.
John Ranucci: No.
Paula Recker: No.
Dan Kasaris: Yes.
Tony Caraballo: No.

**Ayes – all. Nays – four.
Variance denied. (1-4)**

Chairman Price: Do I have a motion to adjourn?

Moved by Dan Kasaris, seconded by Paula Recker to adjourn the Board of Zoning Appeals meeting of February 25, 2008.

**Ayes – all. Nays – none.
Meeting adjourned. (5-0)**

Approved: _____
Chairman Neil Price

Date: _____

Attest: _____
Secretary Julie Broestl