

The Board of Zoning Appeals of the City of North Royalton met on **September 22, 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 8:22 pm

Present: Vice Chairman John Ranucci, Paula Recker, Councilman Dan Kasaris, Prosecutor Donna Vozar, City Engineer Mark Schmitzer, Secretary Julie Broestl

John Ranucci: I need a motion to excuse Neil Price and Tony Caraballo.

Moved by Paula Recker, seconded by Dan Kasaris to excuse Neil Price and Tony Caraballo for cause.

John Ranucci: Call the roll.

Paula Recker: Yes.
Dan Kasaris: Yes.
John Ranucci: Yes.

Ayes – all. Nays – none.
Motion carried. (3-0)

John Ranucci: I want to make an announcement here for some of the residents that are here for the item that was tabled, the Scott Goldberg sidewalk issue, BZ08-19, Scott has just informed us that he would like to withdraw his request for a variance. He appreciates our time and effort and he states that he no longer needs the variance. So, anyone that was here for that are welcome to stay but you may want to go home. Thank you.

(BZ08-23) Michael Sepic requests a variance to Chapter 1270 “Residential Districts”, Section 1270.12 “Yards for Accessory Buildings and Uses”, paragraph (b), of the City of North Royalton Codified Code, for relief from the distance to the dwelling for a detached garage that he wishes to construct on his property located at 9800 Ridge Road, PPN: 482-14-021.

Mr. Michael Sepic approached the microphone.

John Ranucci: 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. Sepic: I do.

John Ranucci: State your name and address.

Mr. Sepic: Michael Sepic, 9800 Ridge Road. Don't really have much to add to what's in the application. Mr. Ranucci was at the house today and basically we have a garage that is not in good shape and we want to tear it down and put up one that is identical in size and shape in the same spot. It is too close to the house by Code now because we added a dining room to the house about twenty-years ago. The only difference would be that we are going to rotate the roof ninety degrees so that the gable is on the front instead of on the side.

Mr. Sepic handed a picture to the Board.

Dan Kasaris: This is the garage here?

Mr. Sepic: Yes.

Dan Kasaris: Do you need this back?

Mr. Sepic: No.

Dan Kasaris: We will mark this exhibit A.

Mr. Sepic: Any questions?

Paula Recker: Later maybe.

Mr. Sepic: Okay.

John Ranucci: Does anyone else wish to be heard? I need a motion to move BZ08-23 to the regular order of business.

Moved by Paula Recker, seconded by Dan Kasaris to move BZ08-23 to the regular order of business.

John Ranucci: Call the roll.

Dan Kasaris: Yes.

Paula Recker: Yes.

John Ranucci: Yes.

Ayes – all. Nays – none.

Motion carried. (3-0)

(BZ08-24) Philip and Terri Kozsey request a variance to Chapter 1270 “Residential Districts”, Section 1270.05 “Schedule of Area, Yard and Height Regulations”, of the City of North Royalton Codified Code, for relief from the side yard setback requirement for an accessory structure that they wish to construct on this property located at 4250 Sir John, PPN: 488-21-061.

John Ranucci: Is the applicant here?

Mr. Philip Kozsey approached the microphone

John Ranucci: 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. Kozsey: I do.

John Ranucci: State your name and address.

Mr. Kozsey: Phil Kozsey, 4250 Sir John Avenue. To summarize, I would like to a 10 x 12 storage shed in my backyard. If you took a look at the diagram that I supplied with the variance request, you will see that there is some existing structures already there and there is a lot of old trees that I would really hate to have to cut down to adjust the location of the storage shed. So, I positioned as best I could to minimize impact to existing landscape and structures and to minimize the impact to my neighbors. I can say that were I positioned it is the least obtrusive. It is going to have trees surrounding it and the only open part would be facing in towards my backyard. Any questions that I can answer?

John Ranucci: In the next session of the meeting. Thank you. Anyone else wishing to be heard? Do I have a motion to move to the regular order of business.

Moved by Paula Recker, seconded by Dan Kasaris to move BZ08-24 to the regular order of business.

John Ranucci: Call the roll.

John Ranucci: Yes.
Paula Recker: Yes.
Dan Kasaris: Yes.

Ayes – all. Nays – none.
Motion carried. (3-0)

(BZ08-25) Christopher Czechanski requests a variance to Chapter 1270 “Residential Districts”, Section 1270.27 “Swimming Pools”, paragraph (b)(1)(E), of the City of North Royalton Codified Code for relief from the rear yard setback and distance from the dwelling for an above-ground pool that he wishes to construct on his property located at 15010 Falls Circle, PPN: 484-18-001.

Mr. Marcus Tidwell approached the microphone.

John Ranucci: 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. Tidwell: I do.

John Ranucci: State your name and address.

Mr. Tidwell: Marcus Tidwell, 13151 Mariner Drive. I share the property line in question. I just have a couple of questions and concerns. It seems the size of the pool is large, a 20-foot pool, an adjustment with that would have passed the Code at least with the property line. It seems that it could cause issues with the resale of the home. Also, I’m not real familiar with pools and the maintenance of pools, but the grade of the property goes steeply down towards my property, so, if a fair amount of water that gets drained out of the pool, I’m not sure where the drainage would go, but if it is straight out of the pool it would go towards my property, and if we could keep within the Code it would help. That’s all. Thank you.

John Ranucci: Thank you. Is there anyone else wishing to be heard? Is the applicant here tonight? Would you like to say anything? You need to come up to the microphone.

Mr. Christopher Czechanski approached the microphone.

John Ranucci: 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. Czechanski: I do.

John Ranucci: State your name and address.

Mr. Czechanski: Christopher Czechanski, 15010 Falls Circle. Basically, with this pool it will be 12-feet either side, so I guess if you did have a leak it would run a little bit, but there is a swale that takes it towards Tangelwood, I believe. So, I don’t foresee that happening. It is going to be put in professionally. That is where we are at right now. Thank you.

John Ranucci: Anyone else? Do I have a motion to move?

Moved by Paula Recker, seconded by Dan Kasris to move BZ08-25 to the regular order of business.

John Ranucci: I have a motion and a second. Call the roll.

Paula Recker: Yes.
Dan Kasaris: Yes.
John Ranucci: Yes.

Ayes – all. Nays – none.
Motion carried. (3-0)

(BZ08-26) Quality European Craftsmanship and Bill Havis requests a variance to Chapter 1270 “Residential Districts”, Section 1270.12 “Yards for Accessory Buildings and Uses”, paragraph (a)(1), and Section 1270.04 “Area, Yard and Height Regulations”, paragraph (g) of the City of North Royalton Codified Code, for relief from the maximum size and height allowed for an accessory building that they wish to construct on this property located at 11101 Donmar Road, PPN: 484-15-011.

Mr. Bill Havis approached the microphone.

John Ranucci: 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. Havis: I do.

John Ranucci: State your name and address.

Mr. Havis: Bill Havis, 11101 Donmar Road. I know a few of you folks had the opportunity to go on over and see the properties. I think that this is going to be quite a relief. A picture is worth a thousand words, I think the visual effects spoke for themselves. I thank you.

John Ranucci: Thank you. Anyone else wish to be heard? Can I have a motion to move BZ08-26 to the regular order of business?

Moved by Paula Recker, seconded by Dan Kasaris to move BZ08-26 to the regular order of business.

John Ranucci: I have a motion and a second. Call the roll.

John Ranucci: Yes.
Dan Kasaris: Yes.
Paula Recker: Yes.

Ayes – all. Nays – none.
Motion carried. (3-0)

(BZ08-27) Paul Blair requests a variance to Chapter 1286 “Nonconforming Uses”, Section 1286.06 “Extension Prohibited”, paragraph (a), for relief from the **nonconforming building so that an addition** may be constructed onto his home which is located at **8410 Ridgedale Road, PPN: 489-01-025.**

Mr. Paul Blair approached the microphone.

John Ranucci: 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. Blair: I do.

John Ranucci: State your name and address.

Mr. Blair: Paul Blair, 8410 Ridgedale Road. About seven years ago I bought the house at Ridgedale. Since then I have put an addition on that was approved three years ago. I

followed the same property line that sits 4-feet from the neighbor's driveway. So, when I submitted my drawings to have another addition put off the back of the house, my lot is 65-foot wide and 672-foot long. I don't have a lot of room to go left and right. So, my current house 36-feet wide and it is 4-feet from the person on the right. My garage is detached and it is 25-feet so, there is really not a lot of room to go back and not stick to that 4-foot property line. So, I have spoken with both neighbors, the one on the left and on the right, Mike and Emily Perkovic sit to the right of me, and they are fine with it. I spoke with Tim and Jill Trotter, they sit to the left of me, and they are fine with it as well. I have a picture of what the house looked like initially. Do you have any questions?

John Ranucci: Later on in the meeting. Anyone else wishing to be heard? Could I have a motion to move BZ08-27 to the regular order of business?

Moved by Paula Recker, seconded by Dan Kasaris to move BZ08-27 to the regular order of business.

John Ranucci: I have a motion and a second. Call the roll.

John Ranucci: Yes.

Dan Kasaris: Yes.

Paula Recker: Yes.

Ayes – all. Nays – none.

Motion carried. (3-0)

(BZ08-28) Kathy and Allan King request a variance to Chapter 1270 “Residential Districts”, Section 1270.03 “Accessory Uses”, paragraph (e)(2) “Gardens and Pets”, of the City of North Royalton Codified Code for relief from the minimum lot size requirement to **allow three horses to be housed** on their property located at **11134 Edgerton Road, PPN: 484-04-002.**

Mr. Dean Klunzinger approached the microphone.

John Ranucci: 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. Klunzinger: I do.

John Ranucci: State your name and address.

Mr. Klunzinger: Dean Klungzinger. I own the property at 11146 Edgerton Road, which is next store to the property in question. I want to speak in favor of the variance. This is a rural area of the City. The horses that they have there now are very well maintained. They built a beautiful new barn. I think that it would be a real plus to be able to allow them to have another horse. Thank you.

John Ranucci: Anyone else wishing to be heard?

Mr. Roger Pellagelli approached the microphone.

John Ranucci: 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. Pellagelli: I do.

John Ranucci: State your name and address.

Mr. Pellagelli: Roger Pellagelli, 6659 Pearl Road, Parma Heights, Ohio. Good evening agues members of the Board. I represent Noreen DuNuzo and Jeff Myers, who are

adjacent neighbors to the Kings. I'm here to represent them this evening in part and to provide you with their interpretation of why this should not be granted. I do have a packet of information that I would like to provide to the Board, if I may approach?

John Ranucci: Yes.

Mr. Pellagelli approached the bench with the packets.

Mr. Pellagelli: As I was suggesting they are opposed to the application for a couple of reasons. Primarily, the pollutant aspect of having an additional horse there, and you will see from the first sheet the breakdown of the amount of manure, this sounds kind of bad, but the bottom line is that we are dealing with solid waste here. Roughly, for a thousand pound horse, 22.5 pounds per day. So, currently on a yearly basis we are getting, with the two horses that are presently there, 44 pounds per day, 315 pounds per week, almost 10,000 pounds a month, and almost 3, 500,000 pounds per year. You add additional horse to that, you are up to 67.5 per day of solid waste that is created by this additional animal with the other two. You will also find in the packet a photograph that shows the present composting or present way that they are dealing with this solid waste. There are three piles in the photograph that you see. I do have a blow up of that. If I may approach?

Mr. Pellagelli approached the bench with the picture.

Mr. Pellagelli: It is my understanding that the two smaller piles are in fact manure that has been stored on the property. Bottom line is this, when it rains, when it snows, water gets into an open pile of waste or animal waste, it degrades that pile and puts it into the surface water system, which as you know, then goes into the lowest section of the property, which then goes into, probably not in North Royalton, a storm sewer. That storm sewer then takes it and passes it on to whatever system then takes it out to probably Lake Erie. As late as Saturday in the front page of the Metro section, Lake Erie algae has scientist puzzled. They are talking about the dead zone in Lake Erie from pollutants like manure, like fertilizer, animal waste. Also, in your packet you will find a copy of a handout from Cuyahoga County Soil and Water Conservation District. At the bottom in the high-lighted region it will talk to you about the phosphorous that is in manure in huge amounts that gets into the system and causes this dead zone or this nonoxegenated water from algae that kills fish basically. Now again, here we are talking about one additional horse, and I'm not suggesting that this horse is going to bring on a calamite, but it does in fact, create that much more towards the problem that already exists. Also in the packet you will find another item from the Cuyahoga County Soil and Water Conservation District, this is a handout that suggests that when your pet goes on the lawn, remember that it just doesn't go on the lawn and suggests exactly what I'm talking about, it gets into the system and travels further and gets to the point where its causing a problem. According to this document it suggests that we, as we walk our pets, we should pick it up and put it through the toilet so that it could be processed appropriately as opposed to just draining into the system which causes the problems we talked about. Finally, in your packet, you will find a study from the same organization from Cuyahoga County dealing with Rocky River from a few years ago, which deals with similar issues with regard to equine, horses, and the pollutants difficulties that they do cause with the water systems. Aside from that, agues members of the Board, I would suggest to you that the standard that we are reviewing here tonight is a practical difficulty. Practical difficulty, according to your Code, the Supreme Court of Ohio, will tell us, that it is not a matter of something that we create ourselves. I believe the Kings have been forthright in suggesting that in deed they understood when they purchased this property that there were restrictions on it. All of us live with zoning restrictions. The social contract is part of how we get along in the City. The zoning laws of this City, just like any other, will restrict us. They came in with full knowledge that they could only have two horses on this property. The suggestion, I believe, at the last hearing was that perhaps they were told be somebody at the City, oh, you could get a variance. Well, again that is not something that can be relied upon in any City in the State of Ohio. The bottom line is that under the practical

difficulty standard, I do not believe, that there could be credible or substantial evidence that they meet any of the factors that must be considered by this Board. Let me address a couple of those, whether there can be any beneficial use of the property without the variance. The answer of course is yes. And they have been doing just that for the past year or so. They have been benefiting from property. The difference here is they want something more. That is a choice. That is not a practical difficulty. That is not something that surprised them when they came and said wow, we didn't know about this, lets go and have this rectified by this Board. Whether the variance is substantial. They have you believe that .29 is not substantial. I submit otherwise. You agreed to .29% today, you are going to have everybody in here with .29 acres of property saying "hey, I want a horse, too." You did it over here. Or to the contrary, you'll have everybody in here with 1.71 acres of property saying "hey, I deserve a horse, too." The question is how many North Royalton residences have that amount of property that would allow them to have less than two acres to have at least one horse. You will be setting a precedent that will go on forever in this City. Another consideration is whether the property owner purchased the property with knowledge of the zoning restrictions again, we addressed that indeed that is the question, or that is the situation here. The next consideration under your Code is whether the property owner's predicament feasible can be obviated through some method other than variance. I submit to you the answer is yes. They have two horses and God love em, everybody has to have hobby, I know that is personal thing and it is almost relationship if you will. I do understand, I have two dogs myself. I love them more than they love me but the bottom line is I understand that relationship. At the end of the day there is another means that doesn't require bending this Code to allow them to have their horse and that is stabling it at another place. There are commercial stables up and down the area throughout the park. They could utilize one of those. According to your Code they have not met any of the factors required to show a practical difficulty. Finally, I will just address, that the spirit and intent behind the zoning regulation will be observed and substantial justice done by granting the variance. Again I will submit to this Board that no, it will not be done. Your Code would have been obviated by the fact that your saying hey, wait a minute, everybody has to have to acres to have one. Everybody has to have an additional acre for each additional horse. You are making an exception here without a practical difficulty which would not withstand a legal review. I would suggest to you also the Supreme Court of Ohio has reviewed these issues and suggested that just because somebody has a desire to have a more beneficial use in their opinion for their property doesn't mean they are entitled to a variance. An area variance. There is a case out of one of the district suggesting that there was a farm and they wanted to have their family live on their property and they needed an area variance to build a home on it. The BZA in that case said nope, you got good use out of your property, and you are getting a viable use out of your property, this is certainly reasonable and we understand why your might want to do it but at the end of the day we are not going to vary our Code to allow that and it was upheld. Suggesting that the Supreme Courts rules that you have Codified here those factors we just went over, each of those is an important matter. Not anyone will win or lose the day, but at the end of it the totality of circumstances suggest that in a situation where there is no practical difficulty a variance can not be granted. In summation I would suggest and ask you to consider that fact, and I believe that my clients will also suggest to you that they have canvassed the neighborhood a second time to sign a petition, as the City's requirement here to have testimony of persons that are not here. I do believe that they do have of the persons contacted around the area they have a petition that they will present that has at least 25 homes represented suggesting that they are against the variance. Let me finally suggest this is not personal against the Kings, my clients about them and they want to remain good neighbors, but they just disagree for the reasons I suggested. The pollution issue as well as there are no practical difficulties here. I look forward to any questions you might have in the other session. Thank you very much.

John Ranucci: Is there anyone else wishing to be heard?

Noreen DeNuzzo and Jeffrey Myers approached the microphone.

John Ranucci: 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. DeNuzzo: I do.

John Ranucci: State your name and address.

Ms. DeNuzzo: Noreen DeNuzzo, 15526 Ethan Trail.

John Ranucci: 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. Myers: I do.

John Ranucci: State your name and address.

Mr. Myers: Jeffrey Myers, 15526 Ethan Trail.

Ms. DeNuzzo: Yes. This is the second time we've been here regarding this issue and we have the same response. We have a petition opposing the King's request to house three horses on their property. It is signed by 28 residents of The Trails. I would like you to know that someone from every household that received a notice of the hearing signed it and I have the petition. I'm not sure if you would like to read it.

Ms. DeNuzzo gave the petition to the Board.

Donna Vozar: She will read it into the record after you are finished.

Ms. DeNuzzo: I want to make one other comment about the gentleman that was up here in support of the case. He was just up here. Well there is a relationship here. I know that he is speaking on their behalf, but the Kings bought his mothers property. I'm just saying that it might have something to do with the reason that he is here. I just want you to know that there is some kind of relationship. Thank you.

John Ranucci: Anyone else?

Laurie Ulbrich approached the microphone.

John Ranucci: 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. Ulbrich: I do.

John Ranucci: State your name and address.

Mrs. Ulbrich: Laurie Ulbrich, 15496 Ethan Trail. I live in The Trails back behind that property as well. Having grown up on a farm, we had horses, and I'm very familiar with the manure and the smell. I will say that I do not believe that North Royalton is a rural community and I think that we should stand by the laws as they were written. Thank you.

John Ranucci: Thank you. Anyone else?

Shannon Sites approached the microphone.

John Ranucci: 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. Sites: I do.

John Ranucci: State your name and address.

Mrs. Sites: Shannon Sites, 3566 Akins Road. I just want to say that I've known the Kings close to a year and I took care of their horses in July when they were gone for three days. I just want to say that I observed that the property at that time was very well maintained. They had a very clean barn. No fly problems at that time, and a very small manure pile. I do not believe allowing a third horse on the property would adversely effect the surrounding property owners. If I was a resident who lived behind the Kings property I would rather look out my windows and see horses grazing in a pasture than another housing development built on that land. Thanks.

John Ranucci: Thank you. Anyone else?

Kathy King approached the microphone.

John Ranucci: 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.

John Ranucci: State your name and address.

Mrs. King: Kathy King, 11134 Edgerton Road. Where do we begin? I do want to thank you for the opportunity for letting me come back with a request for a variance. We have accomplished a lot since being here on February 25th. I only bought one small picture and it just shows that we are about 350-foot from the property line. Our property line goes over an open field which used to be pasture into a hedgerow. Three seasons out of the year you don't even see the houses or notice they are up there in the development. We have purchased property as horse property in June 2007. It was confirmed by the Building Department that horses were allowed in this area since it is rural residential and it is surrounded by the metroparks and by twelve acres of farm land. We saw large canvas ready to be completed the way we wanted. The trail residents had concerns on the impact the horses would have on the area when we moved in and when we were here in February. We agreed to come back in the fall after spending a full year on the property. We made it through the hot, humid, cold, icy, rainy days and the sunny days. The horses have been there a year and there have been no complaints to the City or to us on the smells or any other problems. The concerns that were raised in the petition by Ms. DuNuzo and Mr. Myers were diseases, flies, smell, health and safety of the children. Verbally in a conversation with Mr. Myers in August he was also concerned that there would be a detriment to property values. I personally had visited the neighbors that back up to our property and the neighboring farm land, that 500 foot plus. I did not go up into the other parts of the development that did not have land abutting up to ours. We have extended an invitation for everyone to come down to our property and see what goes on and to answer any questions. In my visits, the three times up there, with nine of the neighbors no one had any concerns nor did anyone come down except for Eric Dombrowski and that was months ago. I would like to address the concerns that were brought up. We do have our horses vet checked and vaccinated twice a year. John Gifford comes from Western Reserve Vet Services. We get their shots. West Nile, Rhino Flu, and tetanus shots, twice a year. Again, I have a letter of reference or recommendation from him that our horses are healthy and fine. We use fly predators from Spalding Labs for fly control. A box arrives in our mailbox from May to October. We put it on the manure pile to keep the flies in check. We worm our horses regularly, We put in all weather paddocks where the horses will be able to come and go in the day. The manure management container materials are on the premises and we are in the process of doing that. We got a little behind this summer unfortunately due to reasons beyond our control. For manure removal we can use Kurtz Brother Urban Organics and we do compost currently. We are required to aerate the pile about three times a week. In the pictures that the DuNuzo's submitted there is a large pile which is dirt. When we took the access road out, when we did the all weather paddock, we did have to put the

dirt somewhere, that dirt will be used in the field to fill in all the low divots. It is an old farm field, corn farms, they have to be reworked and that is what that will be. The two manure piles that are there we haven't done much with because the tractor has been hooked up but we have been working on the fence. We are trying to do two or three things at once. Under a large pine tree, anyone that was on the property, would have seen possibly black dirt, that is six months worth of manure that has been composted properly and was put out there in June. The two piles that are there should be about the same size except that we were afraid that we would cause a nuisance because people say it is a problem when they hear my husband out there aerating and making noise when he is trying to do that. We haven't done the aerating and turning the pile because we have been busy doing other things. We have put a lot of money into the property to increase the property value and make it appealing to the eye and to allow us to be responsible horse owners. I can not think of anything that would be health risk to the children in the Trails. My grandsons spent ten days here in June and July mucking stalls, feeding the horses, and riding our senior horse around. They ages are 6 and 10 and I don't for a minute hesitate having children around horses. The biggest concern is having your toes stepped on. We are putting up a 4.5" flex rail fence. It will be three strands. In the one picture you can see just a part in the right hand side. This morning I took a picture real quick before I left and thought I could get it developed. You can see it is a beautiful white fence. It is there to keep the people out as well as to keep our horses in. I have been around horses all my life. They are my passion, they are my pets and buddies. It is a part of who I am. When you have a horse it becomes old and arthritic. You just don't cast them out or put them down. You give them a retirement home. Our thirty year old doesn't get down the trail any more. I do take him and walk him a little bit up as far as The Trails actually. This is why we are asking for that third horse. He's not able to go. My husband and I would still like to have the pleasure of riding together. A vet doesn't just come into a home and put a horse down because he is old and arthritic. I know that what I said, the factual statements does not have the impact on what the Board is after. The Board is looking at hardships and lot sizes. 567-foot of the metroparks borders our property. We did ask Mr. Klunzinger about selling a third of the back of his property to give us the property. He is not willing to sell, nor do I blame him. He's got .83 acres. He did let us use it for a few days to graze when we needed. Dr. Miklos has absolutely no interest in dividing his twelve acres of farm land that is behind us. We are situated on the metroparks right directly across from 90-miles of horse trails, right across from the trail head, which is the metroparks trail head. The Edgerton coral was designated September 2007. Having 3.71 acres it is .29 acres short of that 4-acres required for the horse. 3.71 acres is much closer to 4 acres than it is to 3 acres. I'm not asking for anyone to use this to grant other peoples variances, I'm asking for a variance based on the information that I have presented. Every case should be looked at individually. I do appreciate the consideration and I would like the Board to approve a variance for the third horse on our property. Thank you.

Donna Vozar: Mr. Chairman. If I could just clarify for the Board and for the audience. This Board only takes testimony as part of the evidence that it hears and renders its decision. Statements from residents who are not here, statements from Doctors or anything like that, is not evidence before this Board.

Allan King approached the microphone.

John Ranucci: 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: I do.

John Ranucci: State your name and address.

Mr. King: Allan King. 11134 Edgerton Road. Just a couple of things. I believe they gave you a picture of two manure piles and a dirt pile. I just wanted everyone to know that the big dirt pile was where we dug out for an all weather paddocks so that the horses don't spend the winter time in the mud. The other thing is their concern about the horse

manure and the amount of it. I understand that they got information probably from off the internet, but with those statics you would need an aircraft hanger to house a few horses for their manure. Obviously, we have been there for a year and that is how much manure we have. So, if that is any verification. The other thing that I wanted to mention was is that we are working with a government program to set up a manure containment structure. I have the materials on site and it is going to be a 15 x15 with 6-inches of concrete. The government has the specs on this thing and you can hide under it during a blast and you would survive. That is going to mitigate any kind of drainage problems somebody might be concerned about. Other than that, if you would look at an aerial view of the property and the adjoining properties, I don't see where that just over a .25 acre would be a mitigating factor. I appreciate your time.

John Ranucci: Thank you.

Jessica Barone approached the microphone.

John Ranucci: 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. Barone: I do.

John Ranucci: State your name and address.

Ms. Barone: Jessica Barone, 10821 Silber Tree Trail. I'm a resident of The Trails as well. I just want to add that nobody has really addressed whether we had any of the problems that we were concerned about. I am opposed to the variance because we are getting the smell of horse manure in the neighborhood. I don't see any benefit for anybody in our neighborhood to having a third horse there. The benefit is strictly to the Kings. The potential harm is to the hundred or so people that live in The Trails. In their statements they said that they tried to turn the manure pile at a time that is not going to bother the residents but we have a third of our community is stay at home moms with their children. I don't step outside wondering if I am going to smell manure, but there are days when I do step outside and it takes me a minute to figure out that that is what I am smelling. I'm thinking did someone mulch next store and it is horse manure. So, the concern is many. The big concern about property values would be that some day I'm selling my house and it is a hot summer day and it smells like horse manure. Somebody comes to look at my house and what do I say, "we only smell it sometimes." We just put in a landscaping project in our backyard so that we could enjoy the property that we have. I understand that they want to enjoy their property, but there will be days that it is difficult for us to enjoy ours in any way, shape or form, because smells. Obviously, the zoning committee decided that the reasonable amount of acreage is what it is. I don't see any reason that they would need to have that change. Thank you.

John Ranucci: Anyone else?

Larry Antoskiewicz approached the microphone.

John Ranucci: 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. Antoskiewicz: Yes I do.

John Ranucci: State your name and address.

Mr. Antoskiewicz.: Larry Antoskiewicz, 12271 Eagle Nest Drive, Councilman in Ward 5 where the variance is being applied for. I just want to keep it brief because we have heard most of the arguments both ways. Let everybody know that I visited the Kings. I do believe that they are responsible horse owners. But I have also talked with many of the residents that do live on The Trails. This area has a lot of additional acreage, rural

acreage, that has the potential for further horses. The Ordinance was put in place to keep and maintain the balance in the area. The majority of residents there feel that they want to keep that balance in place. And talking to them and obviously with the petition and everything else, as much as the Kings are responsible in what they do, I would have to ask the Board to deny the variance. Thank you.

Julie Broestl read the petition attached to the back of these minutes.

John Ranucci: Thank you. Could I have a motion to move BZ08-28 to the regular order of business.

Moved by Paula Recker, seconded by Dan Kasaris to move **BZ08-28 to the regular order of business.**

John Ranucci: Call the roll.

Paula Recker: Yes.
Dan Kasaris: Yes.
John Ranucci: Yes.

Ayes – all. Nays – none.
Motion carried. (3-0)

(BZ08-29) Good Karma Broadcasting and OSWGI Ltd. Partnership request a variance to Chapter 1281 “Traditional Town Center/Main Street District”, Section 1281.03 “Use Regulations”, paragraph (d), of the City of North Royalton Codified Code, to allow **two additional radio towers** to be constructed in a TCD-4 District located on **Ridge Road, PPN: 488-06-008.**

Tony Coyne approached the microphone.

John Ranucci: 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. Coyne: I do.

John Ranucci: State your name and address.

Mr. Coyne: Tony Coyne. My office is at 55 Public Square, Cleveland. Briefly, if we could, members of the Board, I'm Council for Good Karma Broadcasting. I'm here this evening for Craig Karmazin who is the operator of Good Karma and will be here to explain in some detail the business and the necessity for these improvements at the site and the property. Also, because of the property and the change of the zoning we've also brought with us here tonight who will speak in favor of this is Tom Embressica, who is essentially the landlord and owner of the property. I will be very brief to the Board, this is a site that has radio towers on it for the better part of 60 some years. They want to add two additional towers to improve the use and to improve the operation for the listening audience. The property, as you know, has been rezoned but these towers have been there on the 61 plus acres for a period of time. Location comply with sighting under your Zoning Code but because of the change in the Zoning Code these are lawful, pre-existing, but nonconforming uses. What we would like to do is have Mr. Karmazin explain the use. We would also like assure you that the property owner and Good Karma Broadcasting are willing to work with the City if some other opportunities develop on the properties was the case in recent years past. And also to introduce and discuss the possibility of some other recreational uses on the property which hasn't occurred in the past. We would like to try to do that to demonstrate our continued desire to work with the City and be good neighbors within the City of North Royalton. So, with that, I would

like Mr. Karmazin to come up and explain the operation and to also show you the location of the towers.

Mr. Craig Karmazin approached the microphone.

John Ranucci: 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. Karmazin: I do.

John Ranucci: State your name and address.

Mr. Karmazin: Craig Karmazin, 701 West Lakeside Avenue, Cleveland. As Mr. Coyne said, we are looking to just expanding our existing use. The towers have been there and were first proposed here and excepted in 1941. We have been operating radio stations with them ever since. They are existing 260-foot radio towers. There are six of them currently. We are just looking to add two of them. Those towers would be 180-feet. So, the two towers we are adding would be shorter than the six existing towers. I will show you. I think you have copies of this. Anyone who is interested, these are guide towers. This is what radio towers look like. Here is along the existing property where the two towers would be added to the existing six towers that are there. Anyone who wants to come up here and check it out they can. Here is the current view of what the six towers look like using fancy Photoshop. This is what the new version will look like with the two new towers. I can walk it around if you like. This is an absolutely ideal situation for these towers because there are already towers here. The last thing we want to do is bring towers to an area that doesn't have towers before. We actually need four new towers for what we need to do, but as a result of being able to use two existing towers as part of this, we are able to accomplish our needs with only two towers. So, this is the best case scenario for everyone involved to be able to use the land that is already being used for towers and has been for sixty plus years. In addition, in terms of health, people have questions about health with towers, there is absolutely no health risks or health impact beyond twenty-five feet of a radio tower. We do have to go up to Code in actuality it is less than twenty-five feet, but it is the maximum area that is used so, there is not a health impact beyond twenty-five feet. There is certainly no residents within twenty-five feet of these towers. Lastly, and I am trying to keep it brief, we have been a neighbor for a long time. We believe in being good neighbors. When the town center district came about and I don't know much about it and I was not involved in it. We, like a lot of people here, agreed to be relocated if we could be as part of that plan. When the City came to us and the fire department came to us and asked to shoot off fireworks from our land, usually we are chasing off kids from shooting off fireworks, but when the City was doing it we gave permission and allowed that. The only risk if we were to relocate with the town center district would be that our new facility would not be as stable and as strong as this one would have been for over sixty years. The last thing, neighborhood wise is, it was brought to our attention that there may be a recreational use that could be worked with on our property. We were excited as part of this that we could bring a positive to the community in addition to our radio station. So, we are happy to work with the City recreation department or anyone who would like to work with us to figure out the best way to use this. Today I just want to get out as much information as possible and to meet people. I appreciate your time. Thank you.

John Ranucci: Thank you. Anyone else?

Don Keehn approached the microphone.

John Ranucci: 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. Keehan: I do.

John Ranucci: State your name and address.

Mr. Keehn: Don Keehn, 5611 Goodman Drive. First of all, I want to point out the fact that, yes, there have been radio towers there for sixty years. There haven't been houses there for sixty years though. The houses came in 1978 or so when I moved in. I've lived there for thirty years in December. One of the issues we had was RF problems in relation to the equipment we have, telephone singing. Having to deal with issues like that. It's a problem. If I'm not mistaken it's a 50,000 watt station that already has antennas to allow it to do 50,000 watts. I don't know what they need the other antennas for. What I have been told is that it is for another radio station. Now, that could be if they are different frequencies to beating issues different frequencies beating with one another causing other RF problems. I don't like the fact that the last time, years ago when I first moved there when Dick Saderwade was the Chief Engineer, you could call Dick up and say "hey dick, I have a problem." The last time I called I got a lot of attitude and like "hey, the FCC says this is the way it is, screw you." I don't really like that. I want to hear the sound of them kissing my , if they want to be in my neighborhood. Because this is my neighborhood. I live in a house. Do you live there?

Donna Vozar: Sir, sir, please address the Board.

Mr. Keehn: Okay. Well, I want to know is the people that run the station don't live there. There is a problem with RF. I didn't hear anyone address the issue of why they need other antennas. They said we need it. That is not a reason. That is a statement. I want to know why we need additional antennas for a 50,000 watt radio station. It presents problems. I have had problems with my first cell phone I got didn't work right because I couldn't get reception over there. It was in part due to the radio station. We have special baleens on our telephone lines because they sign radio station. I don't really enjoy that. I don't see a reason to have to do this. First of all it isn't zoned that way any more, its zoned for a town center. It has changed its zoning. I would like to work with them too. I don't see the attitude with working with people when I call up and they don't answer my questions directly or I get well we are part of this mega mono broadcasting facility and you are just a little guy, you don't count. I like counting and I like to prick the balloon of the big guys who think they have it made. I have been enjoying the series in the PD lately about certain public officials. So, I real feel we need to think about why this is going to be wanted. Nobody has explained that. I don't see the reason why we need these additional antennas. Thank you.

John Ranucci: Anyone else?

Mr. Bob Suter approached the microphone.

John Ranucci: 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. Suter: I do.

John Ranucci: State your name and address.

Mr. Suter: Bob Suter, 5630 Goodman Drive. Just a little bit of history about the station. I have lived there for 29-years. I knew the station was there when I moved there. It was only 10,000 watts with five towers. I put up with the interference on my phone. On the speakers of my stereo. And the hearing bone lines on my TV set. Approximately 1998, the station was sold to a new owner and they took all five of those towers down and put six new ones. Now they increased the power to 50,000 watts. Now my problem tripled in size. It comes through on everything. When the station switches from its day signal to its night single all my gfi's in my bathroom and my outside click off because of the surge of RF, as Don Kee just indicated. Now, what they are not telling you is that this owner now has purchased a second station that is downtown Cleveland and they want to move that station to North Royalton that is why they need the two additional towers. So now

we are going to amplify our problems. We are going to compound everything twice as much now we are going to have two broadcasting stations and I am going to hear two sport stations now on my phone instead of just one. We are now talking about intermixing two high powered stations together, which causes multiple harmonics when you mix two large signals together. Anything that is in the area, any rusty wire, or any fence that has a rusty area on it will cause intermixing, it is called diode effect, and it will cause multiple signals called harmonics up the frequency band and will interfere with who knows what. Today's industry with all the wireless devices like your Wi-Fi and your keyless entry, your garage door opener, it will interfere with all of that in the Goodman Drive area. Thank you.

John Ranucci: Thank you.

Tom Bonus approached the microphone.

John Ranucci: 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. Bonus: I do.

John Ranucci: State your name and address.

Mr. Bonus: Tom Bonus, 13146 State Road. I have talked with many of the neighbors. And like these other two gentlemen mentioned there was not a neighbor who said that they do not have phone interference. Every neighbor said that they had to put receptors on their phones to stop interference. The fact that these two towers will be the closest to the residents. They mentioned unsightly. They showed a picture but if you took that picture from the backyards of my neighbors on Goodman Circle, where those towers would only be a few hundred feet, which right now they are over 600-feet away, those towers will be hovering over their backyard. They won't need night lights because they will have plenty of red glow. There clearly unsightly. This is going to affect the values of our properties. Consistently we have all experienced electronic interference with our land phones, our cell phones, our radios, our televisions, cell phones, I said cell phones twice, excuse me. When I read the reason that was sent to City Hall for putting these in, it said something about that if we can't get this variance it won't make sense for us to be in business, or something. They have one station that it makes sense to be in business, they don't need two stations to be on that property. Let them keep them downtown or put them far out in the country. I know this is a high elevation and a nice great place to electronically to spread a signal and I'm sure that affects why they want them here, but that shouldn't be our problem. Another thing is health risks. Everybody says that there is no health risk. For seven years I have lived in the shadows of the towers on Pleasant Valley and State Road. Before that I lived down in Parma not near any towers. When I moved there, I work from home so I am always home, I always felt tired and rundown. One day I read an article about the affects of these might be signals and the static electricity and the magnetic fields that emit from them, and how they affected cows in pastures and milk productions and yielding. I thought to myself, you know what, it is kind of weird that since I moved here I just haven't felt my energetic self. I sold that house and moved to North Royalton, not near any towers, and I haven't had those problems. I actually live down the street and I purchased the house that is the closest house to these towers. My boundary is right on the tower property boundary. We are fixing up that house for my family to move in right now and I don't want them to have to experience what I did. At one time the experts told us that asbestos wasn't bad for us either. Time showed us that wasn't the case. So, there is no definitive knowledge on what its like to live in the shadow of this type of electric energy let alone doubling it or tripling it or whatever is going to happen when these people who understand the technology of it talking about these things playing off each other. Clearly we are going to have a devaluation of our property when we have to sell for anybody that is concerned likewise will have to disclose issues like phone problems, television interference problems, because all of that is on the Ohio Disclosure List and none of us who sell want

to get sued by somebody says you didn't tell us. So that will affect our property values. The other thing is the location selected, don't ask me why, is the closet possible location that they could be to the residential area. They are north of the existing towers which puts them as close to our backyard as they can be. These towers would be 180 feet from my property line. If they have to go there, which I am dead set against, and my neighbors are, and even if they did why not put them closer to 82 where it is a commercial district where people aren't living. Again, I'm still against it, and we are against it. Another thought is that if for some reason our voice isn't heard as a people and there is some decision that these towers should go through, then we should certainly should be financially compensated for that, because we will suffer clearly financial loss in the value of our property. And who knows about our health and productivity. I propose that if this went through that every property owner who has property directly abuts on that radio tower property should get a hundred dollars per lineal foot. This has not been talked about with a group and the group would have to get together and decide what was a fair amount. But my opinion for the record is \$100. per lineal foot for anybody that adjoins. \$50. per lineal foot for anybody within 150-feet from their property line to the radio property line. \$10. per lineal for anybody within 350-feet. Just an idea. Whatever the number would be if this goes through. And I pray and the neighbors pray that it doesn't, but if it does we should be compensated.

Donna Vozar: Mr. Chairman if I may interrupt for just a moment while you review your notes. I want to state to the audience and more importantly to the Board, this Board hears evidence, sworn testimony. You may speak for yourself. Attorney's are free to speak for their clients but short of that you are not authorized to speak on behalf of anyone else. If you do have a signed affidavit from someone you can present that to the Board, but it is only sworn testimony that we take. Also, whatever testimony that the Board hears needs to be based on your personal knowledge. Again, there are limitations to what this Board can do and they are obligated to hear the evidence presented and they are bound by law to only consider the evidence. Okay.

Mr. Bonus: Okay. My personal knowledge would be limited to almost everything that would be...

Donna Vozar: That is up to the Board to decide. You have given your statement and I just want to caution them on what the standard is and make sure they are aware of this and I just wanted to say it for the record.

Mr. Bonus: Just to let you know that my statements are from my personal experience. And I do have three affidavits from three neighbors who could not make it tonight.

Donna Vozar: Great. I will be happy to check them over and submit them to the secretary. Thank you.

Mr. Bonus: That is all. I just want to ask you in view of us who have to live there for the next sixty years that you please do not allow additional towers and additional wattage. I do encourage my neighbors to not be shy of the microphone and please step up and make your voice count.

Bill Schmidt approached the microphone.

John Ranucci: 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. Schmidt: I do.

John Ranucci: State your name and address.

Mr. Schmidt: My name is Bill Schmidt, I live at 5077 Goodman. I have been a resident of North Royaltan for over forty years. I have been in business for over fifty years.

North Royalton has always been a beautiful suburb, why do we need more radio towers? They are not beautiful. They are ugly. I live on a cul-de-sac where I have to look at those radio towers every day. I don't need two more radio towers closer to my house. Its ridiculous. Can't they put them out on a farm somewhere where its high and put the radio station out from this beautiful suburb? We don't need radio towers. We don't need to be known as the suburb that has more radio towers than any place in the city in one small area. Its ridiculous! I like beauty. I like to look at beautiful things. I don't want to stare at radio towers. Besides the property was going to be used for a town center. The radio towers were going to be taken down and beautiful things were going to be constructed. Can't that land be used for beautiful things than radio towers? It's available. Let them build a recreation center or a place for people to meet. We don't need radio towers. Thank you. That's all I have to say.

John Ranucci: Thank you.

Wally Saleh approached the microphone.

John Ranucci: 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. Saleh: Wally Saleh, 5641 Goodman Drive. We do have interference with electronic equipment in our house. The TV, and even the blender and other things from interference from the towers. We really don't need anymore towers. Like Dr. Schmidt says, we see them all the time. I don't know about anyone else but if they are going to produce more towers to accommodate the likes of Rush Limbaugh we really don't need that. Its commotion and junk, deceiving, we really don't need that. Thank you.

John Ranucci: Thank you.

Joyce Zifcheck approached the microphone.

John Ranucci: 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. Zifcheck: Joyce Zifcheck, and my husband Gene is back there. We live at 13100 State Road. We are really upset about the towers. Not only do we see them blinking all night in our rooms, but also get the interference on our television and phones, just like the gentleman said. It is very distracting while you are watching programs and you are in the middle of it and all of a sudden it goes dadadadada, and you get a real lot of static and your eyes almost blow out because the noise it makes is overwhelming. I don't think we need an eyesore. We have enough radio towers here now. Seeing them blink like that. We really need something nicer, maybe a recreation center for the children would be great there. Thank you.

Ellen Cook approached the microphone.

John Ranucci: 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. Cook: I do.

John Ranucci: State your name and address.

Mrs. Cook: My name is Ellen Cook, 13395 Ridge Road. unlike most of the speakers that I heard so far, we might have trouble with out television stations, I never thought that it could be from the towers, we live pretty close to the towers and my concern is my property value. I came to the meetings from the Master Plan and the zonings and the transportation studies, and everything else. We moved here ten years ago and we knew the property and the radio towers were there. That was great, ya know. Someone said

that there was years lease on that property. That's fine with me. My problem is that it seems as if certain properties are granted variances more readily than others. When the mixed use district was put in I happen to be on the north end and the east end. It surrounds my property. We only have a quarter acre so I don't like hearing that there might be a recreation center or the additional traffic, I don't like the idea of my property being devalued. That's all I have to say.

John Ranucci: Thank you.

Emil Traxler approached the microphone.

John Ranucci: 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. Traxler: I do.

John Ranucci: State your name and address.

Mr. Traxler: Emil Traxler, 13436 State Road. I live right behind the radio station towers and I am in the Master Plan and I wanted to do some home improvement and I was denied it and I had a deck that was going bad and lucky for Mayor Stefanik he managed to get me to replace the deck and do some vinyl siding on my house. I wanted to take down an old shed that was 8 x 16 and double sized and I was denied because I was in the Master Plan. Now, if this is all part of the Master Plan how can the radio stations get a variance to put up new towers when a homeowner can't do anything to their home to improve it and keep their property value up. Thank you.

John Proppe approached the microphone.

John Ranucci: 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. Proppe: I do.

John Ranucci: State your name and address.

Mr. Proppe: My name is John Proppe, 4910 Royalton. About a half mile from the radio stations. I'm kind of an unlikely guy speaking against radio station towers because I own the tallest ham radio tower in the City of North Royalton, which was no easy feat to get and when I wanted to put up my second tower the BZA, not this BZA, but one from twenty three years ago denied my appeal. I had to go to court, which I did and lost. Then went to the appeals court the State of Ohio and three judges and they over turned the North Royalton zoning law declaring it unconstitutional. So, I'm very aware about tower fights in the City of North Royalton. But in this case its not really a fight. The situation here was Good Karma Broadcasting is that they own a station that currently has an antenna on Euclid Avenue, I believe 8000 Euclid Avenue according to the FCC application that they have made to move it. And they want to move it to North Royalton to increase the coverage of that station. It's at 1540 on the dial. The current station WKNR now sports radio is 850 on the dial. So, by moving it to North Royalton they will have better range, but they still have the restrictions of the FCC puts on them because it is not a Clear Channel frequency. So, when the sun sets that station has to go off the air. Just like the station down at Abbey Road and Royalton Road, its called a daytimer. It can only operate when the sun is above the horizon. So, this radio station is kind of a minimal use really because it can't broadcast at night. A lot of people listen to the radio during the daytime but I would think that when people are home at night its much more likely that they are going to want to listen to the radio. Never-the-less the current property has had that radio station there for many years and that has been well documented. This is not a situation whether there is any kind of hardship for Good Karma they simply want to move another station to the property for their benefit. It would be

one thing if the FCC would change their rules and say to WKNR you have to meet a certain technical requirement and to do that they would have to put up more towers in order to control their radiation pattern. But that is not the case here. They simply want to move this station to the new location and it seems to me that just a few years ago the entire City of North Royalton voted to change the zoning of that property and the property that I live on as well to this town center, mixed use. It was quite a big deal. The administration as well as the Council spent a lot of money, and a lot of hours, public hearings telling the residents why we had to have this property rezoned. And we had to have it rezoned right away. Couldn't wait. Couldn't study it. We had to have it right now. The voters went along with it because apparently the majority felt it was a good idea. So, it seems to me to continue to expand the use of that property where the radio station is now and adding more towers flies against that new zoning and the mandate of the people to have that rezoned to a town center. If those plans are gone away and the city administration and the council decide that we can't support town center between Ridge and State anymore than it is time for them to go back to the voters and tell the voters well, we tried but we couldn't do it so we want to give the property back to the owners so that they can continue to use it as they did before the zoning was changed. Until they do that I think it would be inappropriate for this Board to grant this variance. There is certainly no hardship and it flies in the face of the mandate of the voters. Which just happened a few years ago. I have personal reasons as well against the towers because of the frequency of that radio station. It is at 1540 on the dial. There is a ham radio at 1800 and that station at 1540 will in general reduce my reception to the point that it would be unusable while it is on the air. It's just to close. You can't filter it out. But never-the-less if it happens, it happens. It seems to mean that there is no cause for a variance in this case and all though Good Karma seems to be very cooperative and they want to help the city and so forth, that's not a reason to give a variance. There has to be a hardship and I don't think they have made their case. Thank you very much.

John Ranucci: Thank you.

Brian Bonus approached the microphone.

John Ranucci: 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. Bonus: I do.

John Ranucci: State your name and address.

Mr. Bonus: Brian Bonus, 13521 State Road. They can say what they want about that there is no danger of health problems but everything that I have read and seen seems to be contrary to that. I don't live on Goodman but on State Road I can see the towers all the time. They are very close and an eyesore. I don't believe that they are healthy and I don't think that it is a good use for that property.

John Ranucci: Anyone else?

Blake Brewer approached the microphone.

John Ranucci: 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. Brewer: I do.

John Ranucci: State your name and address.

Mr. Brewer: Blake Brewer, 5591 Goodman Drive. My wife Rita and I moved there in 2003. Let me just start by saying I served a four year term as Mayor of a small town and I also served on city council of that same small town in southwest Ohio and I know that it

is a difficult and some times thankless job to serve in community government like this, but it's an important job and I'm sure you are taking all this very seriously. But, I think this really puts the issue of the interest of a big out of town media conglomerate against the needs, desires, and wants of the citizens of this community. As you have heard I am also one of those people who have had interference in my personal communication devices, television, telephones, etc. It seems to me that this is only going to aggravate that type of problem. If I understand the legal standard properly the hardship that must be demonstrated here is one of actually depriving the owner of the property of any actual use of the property which certainly not the case here. I like listening to WKNR, Jim Rome, all that is great but what is the actual need here that they can't broadcast. Obviously, they have the ability to do that now. The variance that is requested here is only going to harm to citizens of this community in terms of the property values and the eyesore. So, I will ask the Board to please vote against the variance. Thank you.

Donna Vozar: Mr. Chairman, can I add something. Just so the Board understands the applicant, since everyone has heard, we only have three members here, and it is my understanding that the applicant is going to ask that this be tabled. So, we will be back for another meeting and at that time both the City and the applicant will have a further opportunity to present evidence. So, while you did here from them briefly, I think they limited their statements to you in order to make it brief tonight. But it is my understanding that they will be presenting other evidence at the next meeting and so too may the City. Just so you understand that what you heard isn't everything that you are going to hear from them. So, hopefully they will be able to answer more questions at the next meeting. Hopefully all of you can come back at that meeting. So, if we could continue on.

Eugene Zifcheck approached the microphone.

John Ranucci: 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. Zifcheck: I do.

John Ranucci: State your name and address.

Mr. Zifcheck: Eugene Zifcheck, 13100 State Road. Right behind the radio towers. As far as a hardship goes, the radio towers are right behind me and as far as progress goes in this town, I have lived here for 16-years, and I moved here 16-years ago and it was a wonderful small town, which today the progress has made it all difficult, flooding in our area. The lights go off. The sewers are all blocked up. There is progress all right but overdone. And by putting these towers in this area will be overdone. Along with the whole town that went from a beautiful town to a wreck. That's all I have to say.

Tom Embrescia approached the microphone

John Ranucci: 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. Embrescia: I do.

John Ranucci: State your name and address.

Mr. Embrescia: Tom Embrescia and I own the property that we are talking about tonight. So, I would like to address everyone tonight. This is a hard case and I want to first of all tell you who I am so that you understand that I was here in the early 90's I bought this property in about 1988 from Art Model and Al Lerner. I'm not a big media conglomerate I'm a home boy from Cleveland Ohio, I think I told you back then that my dad was a carpenter and what we have we earned. So, this broadcast property we're sensitive to the community. This is not an easy situation. I know that you don't want towers sitting here

and I said back then when I addressed this Board in the 90's when you were concerned that I was going to build big box facilities back then. As I said then I couldn't even spell big box. I'm a broadcaster and we were using for radio towers. And when the time was right, and the community and your council told us what to do with it and we would attempt to work with you. We are not from out of town. We live in the city. My kids are here. I have grandkids and I am sensitive to your concerns about health and right being. So, from my stand point we want to do the right thing. When you came up with the town council plan as the landlord I went to my tenant and I said to my tenant, who doesn't have to cooperate with anything on what we are doing here. It would be in our best interest to work with the community and what they want to accomplish. I know this is complicated for you but I would like to relocate you to another facility. And we worked with the community at the time for another parcel of land far out that Mr. Karmazin could relocate you because our objective is the same as yours, quite frankly, to do the right thing. I make no more money from Mr. Karmazin to accomplish what he wants to do. I am very happy to sit here and be what I said I was going to be in 1988 which was a broadcaster and a tenant for these towers long term. If that is what the community wants I am very happy to do that. I have no axe to grind one way or another, I will do what is in your best interest. Yet on the other hand if the community really wants a development here and you are looking to do that and we cooperated and we worked with people who were there, economically at the moment, as you all know, which is difficult to build these concepts, so it wasn't working right then. I think everyone would like to see something that is in your best interest, the Town Center, a new town hall, a recreational facility, we would like to do that as well. I don't want to be in more dodo with you guys then was the last case. I want to be cooperative. So, I'm here to tell you that from my standpoint as the land owner that I'm trying to coheres my tenant, who doesn't have to cooperate here and is only into broadcasting business, to work with us when the time comes to do what you want, and he doesn't have to do that. My only suggestion at the moment to council is he is asking for this, this was radio towers before you rezoned it out of the radio tower business, he is asking for additional towers because it is a hardship for him as part of this last plan when he could have relocated his towers more easily in downtown because of the last plan that we went through that time when by and he is literally evicted from his property and I think Craig will tell you that later on. So, that is the only reason I'm here. I want you to know who we are and we have nothing to hide and we have no hidden agenda. I'm here just to speak to you as citizens, as parents, as grandparents, to address your issues, and I know it's a tough issue. I don't like being the tower guy in the middle of your property. It was here when most of you were here in the 90's when I stood in front of you and you were afraid I was going to develop it, and I said I'm not developing it, we will do what you want us to do. When you wanted us to develop it we said okay, we will cooperate. I went to Craig and co horsed him into working with us to move, which is hard to do. Now, we are back and trying to work with him on this end and I'm suggesting you give it some consideration. So, thank you for your time and we are here and available. Thank you.

John Ranucci: Thank you. Anyone else?

Terry Ernst approached the microphone.

John Ranucci: 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. Ernst: Terry Ernst, 13362 State Road. My house abuts directly up against the radio tower property. The North Royalton residents, when we voted we voted for not additional radio towers we rezoned this. When we voted we voted for a new town center. We are raising our children here. My son looks out the window and thinks those are stars in the backyard, there not stars, it is a radio tower radiating stuff over our house. I don't want my kids playing too far back in our acre. There is a creek right off of our property that they love to go and play in but I don't want them back there because they are to close to the radio towers. I do not think they need more radio towers. I think it is just another eyesore. Before Mayor Luks left before Stefani came they were suppose to be coming

down. They are supposed to be relocated. Not more towers going back up. I also agree with everyone that has spoken tonight.

John Ranucci: Anyone else?

Mrs. Broestl: I have a couple of notarized letters that I have to read. Letters are all attached to the back of these minutes.

John Ranucci: Do I have a motion to move BZ08-29 to the regular order of business.

Moved by Paula Recker, seconded by Dan Kasaris to **move BZ08-29 to the regular order of business.**

John Ranucci: Call the roll.

Paula Recker: Yes.
John Ranucci: Yes.
Dan Kasaris: Yes.

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

John Ranucci: We are going to take a five minute recess and come back for the Open Meeting, the next session.

The Board of Zoning Appeals of the City of North Royalton met on **September 22, 2008**, to hold a Open Meeting, in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 9:49 pm

Present: Vice Chairman John Ranucci, Paula Recker, Councilman Dan Kasaris, Prosecutor Donna Vozar, City Engineer Mark Schmitzer, Secretary Julie Broestl

John Ranucci: I need a motion to excuse Neil Price and Tony Caraballo.

Moved by Paula Recker, seconded by Dan Kasaris to **excuse Neil Price and Tony Caraballo for cause.**

John Ranucci: Call the roll.

Paula Recker: Yes.

Dan Kasaris: Yes.

John Ranucci: Yes.

Ayes – all. Nays – none.

Motion carried. (3-0)

John Ranucci: I need a motion to approve the minutes of July 28, 2008.

Moved by Paula Recker, seconded by Dan Kasaris to **approve the minutes of July 28, 2008 as submitted**

Dan Kasaris: Yes.

Paula Recker: Yes.

John Ranucci: Yes.

Ayes – all. Nays – none.

Minutes approved. (3-0)

Julie Broestl: **BZ08-19 has withdrawn from the variance requested for the sidewalk on Riverview and State Road.**

John Ranucci: We are going to make a little change in the agenda and move the last issue to the front since it is the hot issue here tonight.

Donna Vozar: Mr. Chairman. The applicant has indicated that they are requesting that this be table until our next meeting. Just so we are clear for the record for our consent both the applicant and the City reserves the right to present any evidence at the next hearing. Obviously we will have another meeting and the residents will have the opportunity to come forward and hear whatever is presented by either the City or the applicant. So, if we can have the applicant come forward and his attorney, if he hasn't already left, come forward and indicate that at this point they would like to request that it be tabled.

Craig Karmazin approached the microphone.

Mr. Karmazin: I couldn't afford to have him stay any longer.

Donna Vozar: Here he comes now.

Craig Karmazin: No, the meter is off. He doesn't get that nice of a suit by accident. I request that our action be tabled.

Donna Vozar: That's wonderful. Mr. Coyne, while you were gone we made some stipulations. Both you and the City reserves the rights to present any evidence at the next meeting. I'm assuming that you agree with it?

Mr. Coyne: Yes.

Moved by Paula Recker, seconded by Dan Kasaris **to table BZ08-29.**

John Ranucci: I have a motion and a second. Call the roll.

John Ranucci: Yes.

Paula Recker: Yes.

Dan Kasaris: Yes.

Ayes – all. Nays – none.

Variance tabled. (3-0)

Julie Broestl: Just to let everyone know that the next Board of Zoning Appeals meeting will be on October 27th and you will not be notified again. October 27th, 7:30 will be the caucus and 8:00 will be the meeting.

Donna Vozar: You can leave if you want.

John Ranucci: We will give you a few minutes to leave.

Donna Vozar: We need to withdraw the table and then again proceed and then do the table again.

Moved by Paula Recker, seconded by Dan Kasaris to withdraw the table.

John Ranucci: Call the roll.

Dan Kasaris: Yes.

John Ranucci: Yes.

Paula Recker: Yes.

Ayes – all. Nays – none.

Motion carried. (3-0)

Moved by Paula Recker, seconded by Dan Kasaris to approve a **variance to allow two additional radio towers to be constructed on this property in a TCD-3 district which is contrary to Section 1281.03 (d) of the Zoning Code.**

Paula Recker: Mr. Chairman. Per the applicant he has requested **to be tabled I thus than make a motion to table BZ08-29, seconded by Dan Kasaris.**

John Ranucci: Call the roll.

John Ranucci: Yes.

Paula Recker: Yes.

Dan Kasaris: Yes.

Ayes – all. Nays – none.

Variance tabled. (3-0)

(BZ08-23) Michael Sepic requests a variance to Chapter 1270 "Residential Districts", Section 1270.12 "Yards for Accessory Buildings and Uses", paragraph (b), for relief from the **distance to the dwelling** for a **detached garage** that he wishes to construct on his property located at **9800 Ridge Road, PPN: 482-14-021.**

Paula Recker: Mr. Chairman. Before I make this motion, seeing that there are so many people in the audience, all motions are put in the positive and then they are voted on. So, when you here the motion we haven't granted or denied it yet, it just gets it on the table.

Moved by Paula Recker, seconded by Dan Kasaris to approve a **variance of 17-feet less than the minimum required distance from a dwelling as prescribed in Section 1270.12(b) and relief from Section 1286.08(a) of the Zoning Code permitting a detached garage to be constructed on this nonconforming lot.**

John Ranucci: Discussion?

Paula Recker: Mr. Chairman. I feel the applicant has presented enough evidence to prove practical difficulty. So, personally I will be voting yes in my opinion.

Dan Kasaris: Mr. Chairman. I concur.

John Ranucci: After reviewing the property I will have to agree with my associates and approve this variance.

Donna Vozar: Mr. Chairman, are you ready for findings of fact?

John Ranucci: Yes.

Donna Vozar: The applicant was here and testified that he is tearing down a shed and replacing it with the same size garage. He has indicated the reason for the need. He presented a photo to the Board and the Board has the opportunity to review and as established under Section 1264.08(e)(1) practical difficulty has been established according to the Board. If there is anything else the Board would like to add feel free.

John Ranucci: Call the roll.

John Ranucci: Yes.
Paula Recker: Yes.
Dan Kasaris: Yes.

**Ayes – all. Nays – none.
Variance granted. (3-0)**

(BZ08-24) Philip and Terri Kozsey request a variance to Chapter 1270 “Residential Districts”, Section 1270.05 “Schedule of Area, Yard and Height Regulations”, for relief from the **side yard setback requirement for an accessory structure** that they wish to construct on this property located at **4250 Sir John Ave., PPN: 488-21-061.**

Moved by Paula Recker, seconded by Dan Kasaris to approve a **variance of 8-feet less than the minimum side yard setback requirement as prescribed in Section 1270.05 of the Zoning Code with regards to this proposed accessory structure.**

John Ranucci: Discussion?

Paula Recker: Mr. Chairman. I feel that the applicant has presented within his application form enough evidence to show his practical difficulty and in viewing the property today it is extremely well buffered from the neighbors so I will be voting yes.

Dan Kasaris: Mr. Chairman. I will also be voting yes. I think that the trees and the stone path render and determine that this is the only place that this storage shed can be placed. I will be voting yes also.

John Ranucci: When I reviewed this site this afternoon I was trying to get three feet more added to this but looking at it, with its stoned path, it is by far one of the most crowded backyards that I have ever seen. I do see the difficulty there, so I will be voting yes for this also.

Donna Vozar: Mr. Chairman. As far as the findings of fact established by this Board pursuant to 1264.08(e). One, the Board has indicated that they have found practical difficulty based on the standards and the criteria provided by the applicant and his application for the variance for the side yard setback. The Board has indicated that there are special conditions that exist which are peculiar to the land and the structure. Specifically the trees and the stone path on the property. Due to the existing structures this will be a minimal impact and the least obstructive taking consideration the property and criteria. Based on that is there anything else you would like to add Mr. Chairman to those findings of fact?

John Ranucci: Call the roll.

Paula Recker: Yes.
Dan Kasaris: Yes.
John Ranucci: Yes.

**Ayes – all. Nays – none.
Variance granted. (3-0)**

(BZ08-25) Christopher Czechanski requests a variance to Chapter 1270 “Residential Districts”, Section 1270.27 “Swimming Pools”, paragraph (b)(1)(E), of the City of North Royalton Codified Code for relief from the **rear yard setback and distance from the dwelling** for an above-ground pool that he wishes to construct on his property located at **15010 Falls Circle, PPN: 484-18-001.**

Moved by Paula Recker, seconded by Dan Kasaris to **approve a variance of 3-feet less than the requirement as prescribed in Section 1270.27(b)(1)(E) of the Zoning Code with the regards to the location of an above-ground pool to the dwelling.**

Paula Recker: Mr. Chairman. Based on one of the neighbors statements in the public hearing, I don’t know if this is pertaining to this variance or the next, but I think it needs discussion to satisfy the neighbors maybe if the applicant is willing to put up arborvitaes as a buffer to screen this pool. I don’t know how the rest of the Board feels, but I would like to hear some input on that.

Dan Kasaris: Mr. Chairman. Doesn’t the pool have to be fenced in?

Paula Recker: It is fenced. But I’m looking at putting in an actual buffer.

Dan Kasaris: Between the fence and the pool.

Paula Recker: Correct. Near the property lines. Pines or whatever he chooses. An above-ground pool comes with a fence. Or should at least.

Dan Kasaris: Some do some don’t. I don’t have a problem with that.

Paula Recker: I was wondering if that would satisfy the neighbor has departed unfortunately.

Christopher Czechanski approached the microphone.

Mr. Czechanski: For the record, he has a whole line of shrubs that are four feet tall.

Paula Recker: Was he looking for something higher?

Mr. Czechanski: I don't know. I can talk with him and find out.

Paula Recker: No, no, we have to decide that tonight unless you want us to table for another thirty days.

John Ranucci: Excuse me Mrs. Recker. I think the concern, if I understand correctly, the neighbor was more concerned with the potential run off of water.

Paula Recker: drainage was one of it and the other was that he felt the pool was way too big and he didn't want to look at this monster. That's paraphrasing. He didn't use the word monster. He stated that the size of the pool was too big.

John Ranucci: He was referring to the 28-foot diameter and if it was a 24 or 20-foot pool it would fit within the variance. Not so much height but width.

Paula Recker: My thoughts after the neighbor spoke was that maybe he could put up a buffer. Now, the applicant is stating that there are already four feet shrubs there and as much as I was on that property I have no recollection of those being there.

Mr. Czechanski: They are there. If you want me to I can add two of them.

Paula Recker: I'm sure that they are there, I just don't remember seeing them there.

Mr. Czechanski: They are there.

Paula Recker: Pools do tend to have a leak or two. Drainage is a concern.

Mr. Czechanski: Like I was saying before there is a swale back there and it takes everything down to a drain if something would happen.

Paula Recker: Thank you. Do I get the impression that since there are four foot bushes there that we can this idea of the buffer?

John Ranucci: My impression was that it wasn't the view of the pool but that if it was a smaller pool it would fall into the variance. I didn't get the impression that he didn't want to not look at the pool.

Dan Kasaris: It was the drainage issue.

Paula Recker: Okay. Then we won't go forward with that. But I think that with listening to the neighbor and the applicant I think that he has proven practical difficulty on this variance.

John Ranucci: I will be approving this variance. The only comment that I would be making is that next time before you buy a large pool, don't make assumptions. You know the saying about assuming things. So, that would be my only comment. So, I will be approving this variance.

Dan Kasaris: I have nothing to add to it.

Donna Vozar: Yes. The property owner was here and submitted an application and presented evidence to the Board for establishing practical difficulty. There was a neighbor here objecting and requesting that the Board not grant the variance. Never-the-less the Board feels that practical difficulty has been established.

John Ranucci: Call the roll.

John Ranucci: Yes.
Dan Kasaris: Yes.
Paula Recker: Yes.

**Ayes – all. Nays – none.
Variance #1 granted. (3-0)**

Moved by Paula, seconded by Dan Kasaris to approve a **variance of 3-feet less the requirement as prescribed in Section 1270.27(b)(1)(E) of the Zoning Code with regards to the location of an above-ground pool to the rear property line.**

John Ranucci: Discussion? I'll go first this time. Based on the discussion that we had for the first variance the drainage problem, it is going to be minimal to the neighbor in the back, the swale will take that away before unless a worst case scenario and you lose the whole pool, but I don't think that's a concern for the neighbor. The hardship with purchasing the pool ahead of time, you are stuck with it now. I do see that as being a problem. I will be approving the second variance.

Dan Kasaris: Mr. Chairman. With regards to this second variance it is actually closer to his home then to the property line. I have no issue so I will be approving this second variance.

Paula Recker: Mr. Chairman, I concur.

Donna Vozar: Mr. Chairman. The evidence submitted by the applicant are the same as the previous variance number one.

John Ranucci: Call the roll.

John Ranucci: Yes.
Paula Recker: Yes.
Dan Kasaris: Yes.

**Ayes – all. Nays – none.
Variance #2 granted. (3-0)**

(BZ08-26) Quality European Craftsmanship and Bill Havis requests a variance to Chapter 1270 "Residential Districts", Section 1270.12 "Yards for Accessory Buildings and Uses", paragraph (a)(1), and Section 1270.04 "Area, Yard and Height Regulations", paragraph (g) of the City of North Royalton Codified Code, for relief from the maximum size and height allowed for an **accessory building** that they wish to construct on this property located at **11101 Donmar Road, PPN: 484-15-011.**

Moved by Paula Recker, seconded by Dan Kasaris to **approve a variance of 352-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 accessory structure.**

Paula Recker: Mr. Chairman. From viewing the property today, and I thought that the applicant was very nice in the public hearing and admitting to this, and he has stated in the application that the two existing structures will be torn down before God does. I think that when he does that and puts in the new accessory structure there will be less square footage than there is now. It will definitely be an improvement to the property and neighborhood because of it. I feel that there is enough buffering from the neighbors to see this.

John Ranucci: I could not have said it better myself.

Dan Kasaris: Mr. Chairman. I will be voting in favor of this. As Paula just indicated this actually benefits the neighborhood, area, and benefits the ward. I will be voting in favor of it.

Donna Vozar: Mr. Chairman. The applicant was here tonight regarding a variance of 351-square feet more than allowed for an accessory structure. The evidence submitted was from the application and testimony from the applicant both of which was considered by the Board and they find that the applicant has established practical difficulty as a condition the applicant will be removing the existing structures from the property and replacing them with a structure that is less square footage than he currently has. The Board finds that this will be a benefit to the neighboring properties and these are special conditions that warrant granting the variance and is keeping with the spirit of the Code. If the Board has anything else to add.

John Ranucci: Call the roll.

Paula Recker: Yes.
John Ranucci: Yes.
Dan Kasaris: Yes.

Ayes – all. Nays – none.
Variance #1 granted. (3-0)

Moved by Paula Recker, seconded by Dan Kasaris to approve a **variance of 1-foot more than the maximum height allowed as prescribed in Section 1270.04(g) of the Zoning Code with regards to this proposed accessory structure.**

Paula Recker: Mr. Chairman. I again see that the applicant has proven practical difficulty with the types of materials he is using. I see no reason why one foot should not be allowed. I don't think that it will interfere with the view of the neighbors so I will be approving.

Dan Kasaris: Mr. Chairman. I also will be approving for reasons I already stated.

John Ranucci: So will I.

Donna Vozar: Mr. Chairman. The findings of fact for variance number two are the same as previously stated in number one.

John Ranucci: Call the roll.

Paula Recker: Yes.
Dan Kasaris: Yes.
John Ranucci: Yes.

Ayes – all. Nays – none.
Variance #2 granted. (3-0)

(BZ08-27) Paul Blair requests a variance to Chapter 1286 “Nonconforming Uses”, Section 1286.06 “Extension Prohibited”, paragraph (a), for relief from the **nonconforming building so that an addition** may be constructed onto his home which is located at **8410 Ridgedale Road, PPN: 489-01-025.**

Moved by Paula Recker, seconded by Dan Kasaris to **approve a variance of 6-feet less than the required side yard setback as prescribed in Section 1270.05 and relief from Section 1286.06(a) of the Zoning Code with regards to this proposed addition to be constructed on this nonconforming lot.**

Dan Kasaris: I just have one question for the applicant.

Paul Blair approached the microphone.

Dan Kasaris: What is the purpose for the addition?

Mr. Blair: I am going to have a master bedroom, office, laundry room, and a full basement. There is currently a basement underneath the house that is nonexistent. You really can't use it. It is five foot high. So, I will have a 36 x 36 basement along with the master bedroom and two bathrooms. Did you visit the house?

Dan Kasaris: Yes.

Mr. Blair: The little shed that is off the back is a bathroom. I hit my head on the ceiling when I am in the bathroom and I'm not that tall.

Dan Kasaris: Thank you.

Paula Recker: Mr. Chairman. From viewing the property today, I would have liked to have gotten back there further but your two dogs were out and no one was home, and as a dog person I don't disturb them I understand those things, but I viewed it as best I could. I can see the improvement that this owner has done to this property and he obviously wants to continue not only for his usage but will also help the neighborhood. The property to the north has already a fence there. That is the only use that he can do to get beneficial use out of this property. I do thank you for improving your property value.

Dan Kasaris: Mr. Chairman. I also will be voting in favor of this variance for the reason Board member Recker has stated. He has done an excellent job with the property given the width of it I don't think he has any choice.

Paula Recker: His dogs are also cute!

John Ranucci: I will have to agree. With just the 65-width of the property and we have done this with other properties that carry the same line so we remain consistent there. I will be approving this also.

Donna Vojar: Mr. Chairman. The findings of fact for BZ08-27. The property owner was here to testify. No neighbors were here to object to the granting of the variance. The applicant submitted evidence to the Board. He also testified for the purpose for this addition request. The Board finds that there could not be beneficial use of the property without the variance. In addition the Board finds that there are special conditions that exist which are peculiar to the land or the structure, specifically the lot exist and the property owner is continuing the current home backwards. Based on that and the photograph submitted and exhibit the Board has found that practical difficulty has been established.

John Ranucci: Call the roll.

John Ranucci: Yes.

Paula Recker: Yes.

Dan Kasaris: Yes.

**Ayes – all. Nays – none.
Variance granted. (3-0)**

(BZ08-28) Kathy and Allan King request a variance to Chapter 1270 “Residential Districts”, Section 1270.03 “Accessory Uses”, paragraph (e)(2) “Gardens and Pets”, of the City of North Royalton Codified Code for relief from the minimum lot size requirement to **allow three horses to be housed** on their property located at **11134 Edgerton Road, PPN: 484-04-002.**

Moved by Paula Recker, second by Dan Kasaris to approve a **variance of .29-acres less than the minimum acreage required as prescribed in Section 1270.03(e)(2) of the Zoning Code permitting three horses to be housed on this property.**

John Ranucci: Discussion?

Paula Recker: Mr. Chairman. First of all I would like to thank the residents for staying this long. This was a long meeting and I'm sorry that we had to change around the agenda a little bit. This is a very difficult situation for me to vote on because I was in the dog world profession for many years. Having basically running into this sort of problem that when you move into suburbia you can't bring your hobbies, in my case, profession with you. So, unfortunately there has to be sacrifices made because of all the reasons that have been stated basically because of waste products with the neighbors. The odors do also carry. Manure is one thing, urine is another. The manure I understand can be well taken care of, and fly controlled and that sort of thing. The last time you were here, and the same thing now, is the urine. I don't know how in horses you can control that. I know in the dog world you are hosing down constantly even if it is ground. Your other concern both from the last time and this time, you mentioned your older horse who doesn't like to be alone at his age, dogs have the same problem. Unfortunately there are times that you have to adjust and they don't like it and they find ways to get back at you, but they do adjust. They seem to be fine once you get back home. Also based off the testimony of the surrounding neighbors, both good and bad, and testimony of the councilman, even though this is such a minimal variance, I don't see where you have proven your practical difficulty. I feel that they haven given us more evidence not to vote for this. Also, from viewing the property I feel that the property is adequate for two horses only. If at some point you have the opportunity to add on to that property than I'm sure an application would be accepted without a problem. So, with heavy heart, I am going to have to be voting no on this based on that there is no practical difficulty. I think that you still will have beneficial use of the property as is.

Dan Kasaris: Mr. Chairman. City Council and apparently even in the 1970 and all the way into 1998 passed a set of guidelines that we have to follow, factors that we have to determine when we consider this type of variance. The applicant has the burden of proof. They have to establish the factors exist that there is a necessary hardship and practical difficulty. City Council listed roughly ten factors and looking at the ten factors and going through them I agree with Paula. The variance here is minimal. It is less than a third of an acre and a little bit more than quarter of an acre. However, I think that the applicant moved onto the property knowing, or should have known, that there was a problem with three horses on the property. Further, I think that the property can be used beneficially by the property owners without the variance. I also believe under Section C, I think the adjoining properties do suffer a substantial detriment. I think that this is very close call in my mind. Sat here for an hour thinking about what to do. I went through each factor however, based upon the Code, and we have to follow the Code, whether this application or another application, I will be voting no.

John Ranucci: Listening to all of the discussions we have had hear tonight and listening to both sides of the story, I feel that there is some right or wrong and some practical difficulty in that the second horse that they currently have can not be ridden. They have their property for their use. They have two people and need two horses. Going back earlier this year, last year I think, we did grant a variance for just about the same amount of land for a second horse on that property. Considering it all the applicant has shown that they will take care of the property and horses and will do what needs to be done to maintain it and be good neighbors. So, I will be voting to approve this application.

Paula Recker: Mr. Chairman. I know which two you are talking about. In my view they are entirely two different applications that we had to review then versus this one. That's just my opinion.

Donna Vozar: Mr. Chairman. If I could? Based on the findings of fact the majority of the Board, and again, all three votes need to be a yes vote in order to grant the variance, based on that practical difficulty has not been established by the applicant and the variance is denied. For all the reasons stated by the Board members and based on the testimony that was presented by the numerous residents, application, and by the applicants themselves, testimony by an attorney, all of which established to the majority of the Board that practical difficulty has not be established pursuant to our Code. I would incorporate all that testimony into findings of fact. The variance is obviously denied. But you will need to call a roll.

John Ranucci: Call the roll.

John Ranucci: Yes.
Dan Kasaris: No.
Paula Recker: No.

**Ayes – one. Nays – two.
Variance denied. (1-2)**

Moved by Paula Recker. seconded by Dan Kasaris to **adjourn the Board of Zoning Appeals meeting of September 22, 2008.**

John Ranucci: Yes
Paula Recker: Yes.
Dan Kasaris: Yes.

**Ayes – all. Nays – none.
Motion carried. (3-0)**

Meeting adjourned at 10:34 pm

Approved: _____

Date: _____

Attest: _____