

The North Royalton **Board of Zoning Appeals** held a Public Hearing on **September 24, 2007**, in the City Council Chambers, 13438 Ridge Road. The meeting was called to order by Vice-Chairman John Ranucci at 8:00 pm.

Present: Vice-Chairman John Ranucci, Paula Recker, Denise Bobulsky, Tony Caraballo, Prosecutor Donna Vozar, Joe Hartman, City Engineer Clark Merdes, Secretary Julie Broestl.

Mr. Ranucci: I need a motion to excuse Neil Price from the Board of Zoning Appeals meeting.

Moved by Paula Recker, seconded by Denise Bobulsky, to excuse Neil Price from the Board of Zoning Appeals meeting of September 24, 2007.

Mr. Ranucci: Call the roll.

John Ranucci: Yes.  
Denise Bobulsky: Yes.  
Tony Caraballo: Yes.  
Paula Recker: Yes.

Ayes – all. Nays – none.

**Motion carried. (4-0)**

**(BZ07-21) Michael Maloney** requests a variance to Chapter 1480 “Sidewalk Construction”, Section 1480.01 “Construction required, waiver”, paragraph (a) and (b), of the City of North Royalton Codified Code, for relief from the required sidewalk that is to be installed in front of his new home located at **12124 Drake Road, PPN: 484-09-001**.

Mrs. Broestl: The Chairman will recognize anyone wishing to be heard, please come to the microphone.

Mr. Ranucci: Is Michael Maloney here?

Mrs. Broestl: Yes.

Mr. Maloney: Yes.

Mr. Ranucci: Do you wish to be heard?

Mr. Maloney: No.

Mr. Ranucci: Anyone else wishing to be heard on this issue?

Moved by Paula Recker, seconded by Denise Bobulsky, to move BZ07-21 to the regular order of business.

Mr. Ranucci: Call the roll.

John Ranucci: Yes.  
Denise Bobulsky: Yes.  
Tony Caraballo: Yes.  
Paula Recker: Yes.

Ayes – all. Nays – none.

**Motion carried. (4-0)**

**(BZ07-22) Dale and Debra Growley** requests a variance to Chapter 1480 “Sidewalk Construction”, Section 1480.01 “Construction required, waiver”, paragraph (a) and (b), of the City of North Royalton Codified Code, for relief from the required sidewalk that is to be installed in front of his new home located at **15879 York Road, PPN: 485-05-010**.

Mrs. Broestl: The Chairman will recognize anyone wishing to be heard, please come to the microphone.

Mr. Ranucci: Anyone wishing to be heard?

Moved by Paula Recker, seconded by Denise Bobulsky, to move BZ07-22 to the regular order of business.

Mr. Ranucci: Call the roll.

Tony Caraballo: Yes.

Denise Bobulsky: Yes.

Paula Recker: Yes.

John Ranucci: Yes.

Ayes – all. Nays – none.

Motion carried. (4-0)

**(BZ07-23) Mario and Cathy DeSensi** request a variance to Chapter 1270 “Residential Districts”, Section 1270.14 “Landscape Features, Fences, and Walls”, paragraph (a), of the City of North Royalton Codified Code, for relief from the front yard setback requirement for a fence that is installed on their property located at **10900 Ridge Road, PPN: 484-18-061**.

Mrs. Broestl: The Chairman will recognize anyone wishing to be heard, please come to the microphone.

Mrs. Vozar: Mr. Chairman. If I could add something at this time just so that all the applicants understand. This is the time that you come forward and you give your testimony to the Board. So, if you have anything that you want to say at this time, whether it be the applicant or any neighbors or residents, that would like to have their statements made public, this is the time to do so. So, come to the microphone and be sworn in.

Mr. Ranucci: Are the applicants here? Do you wish to be heard?

Mrs. Vozar: This would be the time to come up and have the opportunity to address the Board and answer any questions that they might have.

Mr. Hartman: Mr. Chairman. I would like to add in regards to this fence protruding beyond the front of the dwelling. The Ordinance states that the fence can not be more than 6-foot in height. Now, the gentleman who was the previous owner, had a variance for the rear yard fence higher than normal, I believe that it is 8-foot. If they are granted the variance for beyond the property line, they would have to bring it down to the 6-foot height or obtain another variance.

Mr. Ranucci: Thank you. You need to come up and state your name and address.

Mario DeSensi approached the microphone.

Mr. DeSensi: Mario DeSensi, 10900 Ridge Road.

Mr. 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. DeSensi: Yes, I do. This section of fence is located only in front of my property. The two neighboring properties are much further up front. So, the requirement that the fence should not extend beyond the front of the house does not affect anybody else but me. I just wanted to make you aware of that point. I'm not protruding or exceeding any limit on any property but mine.

Mr. Ranucci: Mrs. Vozar. With regards to Joe's comment about the height, should this be tabled or do we just need to vote on this variance?

Mrs. Vozar: The applicant could amend their application, and request that another variance be added. But as it stands right now there is only one variance before the Board. Since Mr. Hartman has brought this up it is now up to the applicant to let us know how they want to proceed. Sir, would you mind coming back up to the microphone.

Mr. DeSensi: What are my options?

Mrs. Vozar: The Building Inspector indicated that you only have one request for a variance before the Board. That request right now is regarding the front line setback for your fence. Unfortunately, the fence is also too high according to our Code. So, you would need to request a second variance for that height, or agree that you are going to cut it down to the correct height.

Mr. DeSensi: Could I see the result of this hearing first? If the fence gets rejected there is no point in going for the height.

Mrs. Vozar: Okay. You could do that. But if you do that, you will need to come before us a second time and get on that agenda at another meeting and ask for the second variance. Do you understand that?

Mr. DeSensi: What do I need to do to make that request?

Mrs. Vozar: You could do that right now. You could make that request on the record right now, if that is what you would like to do. You could put on the record today, based on what Mr. Hartman has indicated, that you are requesting a second variance.

Mr. DeSensi: Yes, yes, that is what I want to do.

Mrs. Vozar: Mr. Hartman, that variance would be two feet, is that correct?

Mr. Hartman: Correct, two feet.

Mrs. Vozar: A two foot height variance for the fence, is that correct?

Mr. DeSensi: Yes. I don't what the difference is, but yes.

Mr. Ranucci: Anyone else wishing to be heard?

Mr. Al Guidino approached the microphone.

Mr. Guidino: I'm Al Guidino, 10836 Ridge Road.

Mr. 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. Guidino: Yes. The fence in question was put up illegally and is more than 8-feet in some sections, by the previous owner. When it was pointed out that it was too high, he came and requested a variance for the west side of the property. Nothing was ever requested for the south side of the property, and nothing ever done about it. That fence, I think, is more than eight foot tall from the ground level. That ground was changed, as well as in the back, that property was changed. Mounded earth and trees put on top of it and then the fence. The Engineering Department stopped them from putting the fence in the swale of water. You have to understand the beginning of this. The fence is in a swale of water which the Engineering Department told them that they could not put the fence in that area because it would block the flow of water in that area. And that was done. The fence was moved. He continued to build the fence and built it to eight to ten foot tall on the south side of the property. To me right now it is illegal and should be torn down. There is no permit for even the six foot fence, as far as I know, for the south side. Thank you.

Moved by Paula Recker, seconded by Denise Bobulsky, to move BZ07-23 to the regular order of business.

Mr. Ranucci: It has been moved and seconded. Call the roll.

Tony Caraballo: Yes.  
Paula Recker: Yes.  
John Ranucci: Yes.  
Denise Bobulsky: Yes.

Ayes – all. Nays – none.  
Motion carried. (4-0)

**(BZ07-24) Champion Windows of Cleveland and David Quolke** 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 rear yard setback requirement for an all-season sun room that they wish to construct onto the rear of their home located at **6166 Hilary Drive, PPN: 488-01-064.**

Mr. Ranucci: Anyone wishing to be heard?

Moved by Paula Recker, seconded by Denise Bobulsky, to move BZ07-24 to the regular order of business.

Mr. Ranucci: Call the roll.

Denise Bobulsky: Yes.  
Paula Recker: Yes.  
John Ranucci: Yes.  
Tony Caraballo: Yes.

Ayes – all. Nays – none.  
Motion carried. (4-0)

**(BZ07-25) David and Susan Koler** request a variance to Chapter 1270 “Residential Districts”, Section 1270.19 “Area of Garage”, paragraph (d), of the City of North Royalton Codified Code, for relief from the maximum square footage allowed for a proposed garage addition that they wish to construct at **16821 Bennett Road, PPN: 485-12-027.**

Mr. David Koler approached the microphone.

Mr. Koler: Good evening. Dave Koler, 16821 Bennett Road.

Mr. 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. Koler: I do.

Mr. Ranucci: State your case.

Mr. Koler: Good evening everybody. I don't know if you all have the plans in front of you. It is just a simple garage addition to an existing garage to our home. We need a third stall for a third vehicle and room for additional storage because we don't have a basement. Any questions?

Mr. Ranucci: I have one question. When I was out there looking at the property there looks like there is a current cut-out into the front of the existing garage. Like a swale for a run-off. I assume that will be extended so that it will run off towards Bennett Road.

Mr. Koler: It can be. As you noticed that's mounded in the front. It was just to cut another probably three or four feet, enough to make the 18-feet for the foundation. That swale in the front is constantly wet most of the year. Probably eight months out of the year.

Mr. Ranucci: If I remember seeing the property. If you would bring that forward into the cut-out the three foot that you need, you will be butting up against the mound. The back of your garage currently has a swale back in there and.....

Mr. Koler: Oh, the swale in the rear!

Mr. Ranucci: Yes, wouldn't that be full of water?

Mr. Koler: I could extend that in the rear of the garage, sure.

Mr. Ranucci: Which way does that water flow, towards the back of the property?

Mr. Koler: Yes. There is actually drain tile in there right now, in that swale that runs to the rear of the property.

Mr. Ranucci: And the trees that are there right now are those going to remain?

Mr. Koler: Yes.

Mrs. Recker: Are you saying that the swale behind the rear of the house, by the garage, and your neighbor to the west, below that hill there there's drain tile in there?

Mr. Koler: Yes.

Mrs. Recker: I saw an old retaining wall. Do you intend to re-install that retaining wall on that hill to the west?

Mr. Koler: I'm sorry Mrs. Recker. That old retaining wall? There were some decorative ties in there where that tree was. Those were simply decorative ties in there.

Mrs. Recker: How do you intend to keep that stable?

Mr. Koler: I hadn't planned to touch that at all. There is no reason to touch that.

Mrs. Recker: If you touch this in front of that, that is going to weaken this over here.

Mr. Koler: To the north of my property.

Mrs. Recker: Here is your garage. This way okay. You are coming in and cut this slope here.

Mr. Koler: Only the slope towards Bennett Road.

Mrs. Recker: Once you cut into this it is going to destabilize the one between your neighbor to the west and you.

Mr. Koler: Is that what Engineering is saying?

Mrs. Recker: Engineering?

Mr. Koler: There is probably ten or fifteen feet between where my garage will end and my neighbor's property. Is there an issue there?

Mrs. Recker: To me there is, yes.

Mr. Koler: I am putting in cement footers and a cement floor. If there needs to be a cement wall there that's fine too.

Mr. Ranucci: What's currently behind the existing house back there, is it just siding and a floor slab?

Mr. Koler: Yes.

Mrs. Recker: Mr. Chairman, I would suggest that we take this discussion into the regular order of business so that we can get into further discussion.

Moved by Paula Recker, seconded by Denise Bobulsky, to move BZ07-25 to the regular order of business.

Mr. Ranucci: Call the roll.

Paula Recker: Yes.  
Tony Caraballo: Yes.  
Denise Bobulsky: Yes.  
John Ranucci: Yes.

Ayes – all. Nays – none.  
Motion carried. (4-0)

**(BZ07-26) George and Irene Sopka** request a variance to Chapter 1270 “Residential Districts”, Section 1270.05 “Schedule of Area, Yard and Height Regulations”, Section 1270.12 “Yards for Accessory Buildings and Uses”, paragraph (b), and Section 1270.04 “Area, Yard and Height Regulations”, paragraph (g), of the City of North Royalton Codified Code, for relief from the height, side and rear yard setbacks for an accessory structure that they wish to construct on their property at **16453 State Road, PPN: 487-29-027**.

Mr. George Sopka approached the microphone.

Mr. Sopka: George Sopka.

Mr. Ranucci: Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

Mr. Sopka: I do.

Mr. Ranucci: And your address.

Mr. Sopka: 16453 State Road.

Mr. Ranucci: State your case.

Mr. Sopka: The variance that I am after is on the Code of 10-feet to a 5-foot variance in the back of the property, and the north side of the property. The reason for the north side of the property, I would like to have it lined up with my driveway. The back of the property, I think I am going to rescind that. I am going to stay with the 10-foot Code. The height, I want the roof to match the roof of the house. That's about an 8-12. So, the building will be about 17-feet high. There is about a 6-foot drop from the street to the location of the building, so it wouldn't really look out of place.

Mrs. Vozar: Mr. Chairman, if I could just ask the applicant a question. Just so we are clear for the record, you are withdrawing your variance for the rear property line?

Mr. Sopka: Yes. I will stay with the 10-foot. I will be withdrawing that variance.

Mr. Ranucci: Anything else? Thank you.

Mr. Sopka: Thank you.

Mr. Ranucci: Anyone else on this?

Mrs. Broestl: I have a letter that is notarized that was sent to the Building Department from Mr. David Grayson. (Letter attached to the back of these minutes)

Moved by Paula Recker, seconded by Denise Bobulsky, to move BZ07-26 to the regular order of business.

Mr. Ranucci: I have a motion and a second, call the roll.

Paula Recker: Yes.  
Denise Bobulsky: Yes.  
John Ranucci: Yes.  
Tony Caraballo: Yes.

Ayes – all. Nays – none.

Motion carried. (4-0)

**(BZ07-27) Richard Labuda** requests a variance to Chapter 1270 “Residential Districts”, Section 1270.19 “Area of Garage”, paragraph (d), and Section 1270.05 “Schedule of Area, Yard and Height Regulations”, of the City of North Royalton Codified Code, for relief from the square footage allowed and rear yard setback requirement for a garage addition that he wishes to construct on his property located at **10304 South Red Oak, PPN: 488-16-067**.

Mr. Richard Labuda approached the microphone.

Mr. Labuda: My name is Richard Labuda, I live at 10304 South Red Oak.

Mr. 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. Labuda: I do.

Mr. Ranucci: State your case.

Mr. Labuda: I have a pie shaped lot and that is where the rear setback will come into play. Where the garage is being constructed is 48-feet to the rear line, and it is 38-feet on an angle because of the pie shape. If you would go straight back it would be only off about 2-feet. If you go on the angle it is off more. That is where the problem is on the setback. The size of the garage is oversized because of the Ordinance. The first thing I took into consideration was to build a garage that exactly matches my home. I have a newer home and I wanted to match the front of my house. A lot of money was put into designing the garage so that it flows with the roof line, and the brick, and a total match. It's not just a garage that is thrown up. It will match.

Mr. Ranucci: Does anyone else wish to be heard?

Moved by Paula Recker, seconded by Denise Bobulsky, to move BZ07-27 to the regular order of business.

Mr. Ranucci: Call the roll.

Tony Caraballo: Yes.  
Denise Bobulsky: Yes.  
Paula Recker: Yes.  
John Ranucci: Yes.

Ayes – all. Nays – none.

Motion carried. (4-0)

**(BZ07-28) Glen D. Ramage Architect, and Lino Buttazzoni** request a variance to Chapter 1276 “Business Districts”, Section 1276.07 “Area Regulations”, of the City of North Royalton Codified Code, for relief from the lot width requirement for a chiropractic clinic that they propose to construct on this property located at **11443 State Road, PPN: 488-08-016**.

Mr. Glen Ramage approached the microphone.

Mr. Ramage: Hello. Glen Ramage, 34 South Main Street, Chagrin Falls.

Mr. 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. Ramage: I do.

Mr. Ranucci: State your case.

Mr. Ramage: We are here requesting a variance to the lot width. It is an existing lot that is 90-feet. The Code requirement is 100-feet. The lot is zoned commercial and without the variance it's not a buildable lot. The project that we are proposing is an addition to a residential structure to turn it into chiropractic clinic. The addition that we are proposing, and I can show you some elevations, but it is residential in character and scale, and we think that it might fit very well into the neighborhood. We would like to be a good neighbor in the neighborhood. Again, the property surrounding our project is all commercial and I think that we comply in all respects with setbacks and parking requirements, it's just the lot width that we need the variance for. Would you like to see the project now? I'm not sure the best way to present this is, but this is the property and the lot width is 90-feet. The existing structure is 900-square feet and the driveway is on the side, which would allow us to get a driveway all the way back to the rear. This is all new here and the parking will be here back behind the existing building. This is the style of what we are planning on doing. This is the front elevation. We are not going to build a huge addition, so it will blend in with the surrounding neighborhood. This will be vinyl siding. Thank you.

Mr. Ranucci: Thank you. Anyone else?

Mr. Romano: Good evening. My name is Joseph Romano. I live at 12381 Spruce Run Drive. I represent the Romano family residents at 11431 State Road.

Mr. 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. Romano: I do. The movement represented today by Ramage D. Architect is not entirely correct when he states that there is only one variance necessary for the proposed building at 11443 State Road. In fact there are no less than four variances that would be required in order to adequately build this proposal under North Royalton's Codified Ordinances. Aside from the area regulations which Mr. Ramage is here representing that is necessary, the additional 10-feet that is required, under Code Section 1276.07, there are four other variances that would be required in order for this plan that is proposed to be approved not only by this Board but by the Planning Commission. Section 1276.09, is regulations for side yard regulations. What is important to note here is the property surrounding proposed 11443 State Road is nonconforming lawful residential property, under North Royalton Codified Ordinances that 11431 falls under Residential Ordinances, not the Commercial Ordinances, because of its nonconforming use. So, when applying the standards for Building Codes for the proposal at 11443, you have to take in

light Building Code requirements as they pertain to residential properties abutting the proposed business plan. In this particular case 1276.09 requires a minimum of 20-foot side setback, not 5-foot side setback, as if this were a business property. The proposal only plans for a 5-foot setback, it complies with the business to business requirements, but it doesn't comply with business to residential. Which is what the North Royalton Ordinance requires a 20-foot side setback. The plan, as proposed, varies between 5-feet and 16-feet from 11431, which violates that particular Building Code section. Second, Section 1288.04(c)(1), states that the buffering areas for business properties must comply with more restricted zoned buffering requirements. Because residential buffering requirements are more restricted then commercial buffering requirements. This particular proposal must comply with the residential buffering zoned requirements. The current plan calls for a 5-foot buffer between it and the proposed adjacent property which is residential in nature, which is 5-feet short of the minimum 10-foot requirement necessary for building a general business next to a resident. Third, Section 1282.12, states that in parking areas more than twenty spaces that the building should have a minimum two lane driveway. The proposal calls for a 35-space parking lot with a minimum width of 18-feet. When this 18-feet is added to the 20-foot building side setback requirement, Section 1276.09, it requires a 38-foot side setback. There should be 38-feet right now, there is only 25-feet in some parts, and towards the back of the proposal 36-feet. So, at any point the building driveway requirement is not in compliance with the Code Section 1282.12. Finally, Section 1260.02, states that any proposed building has to do as little interfering with the current status of the area in which it is proposed to be built. Here, every property in that area is currently being used as a residence, aside from this particular property which lost its nonconforming status years ago. It's the only actual business property located in that particular area. Now, 1260.02, states that in order to promote and protect to the fuller extent the convenience, comfort and general welfare of the surrounding area, you can regulate the use of the building. That specific Code section is a restrictive tool design to make any proposed building be as less restrictive as possible on the surrounding area. This particular property, which is being used as a residence currently, has two residence in it. But the Romano's have three grandchildren who are at that house every day, and the proposal as submitted puts a driveway 3-feet from the property line, so there would be constant traffic right next to this residence which only would stand approximately 8.5-feet from that driveway with children playing in the back yard, which is proposed next-store to a parking lot. So, by all means this proposal is most restrictive on property that is currently being used as a residence. The 8<sup>th</sup> District Courts, which is a court that of a staining jurisdiction in this district, settled law that individuals who propose buildings have to take into account what the current Code is for that particular City before taking measures to purchase property and to ask cities for variances. They essentially have said that you build at your own peril. The movement knew that variances would be needed before purchasing that property. He specifically came to this Board to ask for variances of the Code section knowing that he was purchasing the property in violation of North Royalton City Ordinances, which the 8<sup>th</sup> District Court of Appeals has said you could not do. This Board has the duty to allow variances when there are only practical difficulties or unnecessary hardships when building proposals. What the movement is requesting aren't practical difficulties, they are asking you to abridge the North Royalton City Ordinance by allowing them to build there. This is no less than asking you to essentially to throw away the City Ordinances when they ask you to allow them to build this building here. Thank you.

Mr. Ranucci: Thank you. Anyone else wishing to be heard?

Moved by Paula Recker, seconded by Denise Bobulsky, to move BZ07-28 to the regular order of business.

Mr. Ranucci: Call the roll.

John Ranucci: Yes.  
Tony Caraballo: Yes.  
Denise Bobulsky: Yes.  
Paula Recker: Yes.

Ayes – all. Nays – none.  
Motion carried. (4-0)

Moved by Paula Recker, seconded by Denise Bobulsky, to adjourn the Public Hearing.

Paula Recker:           Yes.  
Denise Bobulsky:       Yes.  
John Ranucci:           Yes.  
Tony Caraballo:        Yes.

Ayes – all. Nays – none.  
Motion carried.

Mr. Ranucci: That concludes the Public Hearing. We are going to take a 5-minute recess.

The North Royalton **Board of Zoning Appeals** held an Open Meeting on **September 24, 2007**, in the City Council Chambers, 13438 Ridge Road. The meeting was called to order by Vice-Chairman John Ranucci at 8:45 pm.

Present: Vice-Chairman John Ranucci, Paula Recker, Denise Bobulsky, Tony Caraballo, Prosecutor Donna Vozar, Joe Hartman, City Engineer Clark Merdes, Secretary Julie Broestl.

Mr. Ranucci: I need a motion to excuse Mr. Price from the Open Meeting.

Moved by Paula Recker, seconded by Denise Bobulsky, to excuse Neil Price from the Open Meeting for cause.

Mr. Ranucci: It has been moved a seconded, call the roll.

Paula Recker: Yes.  
Denise Bobulsky: Yes.  
John Ranucci: Yes.  
Tony Caraballo: Yes.

Ayes – all. Nays – none.  
Motion carried. (4-0)

Mr. Ranucci: I need a motion to approve the minutes of the July 23, 2007 meeting.

Moved by Paula Recker, seconded by Denise Bobulsky, to approve the minutes of July 23, 2007 Board of Zoning Appeals minutes.

Paula Recker: Yes.  
Denise Bobulsky: Yes.  
John Ranucci: Yes.  
Tony Caraballo: Yes.

Ayes – all. Nays – none.  
Motion carried. (4-0)

**(BZ07-21) Michael Maloney** requests a variance to Chapter 1480 “Sidewalk Construction”, Section 1480.01 “Construction required, waiver”, paragraph (a) and (b), for relief from the required sidewalk that is to be installed in front of his new home located at **12124 Drake Road, PPN: 484-09-001**.

Mrs. Recker: Mr. Chairman. I would like to explain to the audience that any and all motions are put in the affirmative. That does not mean that the variance passed. There will be discussion than a vote after.

Moved by Paula Recker, seconded by Denise Bobulsky, to approve a variance for relief from the sidewalk installation requirement as prescribed in Section 1480.01 (a) and (b) of the Zoning Code with the condition that a waiver be signed and help on file in the Building Code stating agreement to install sidewalks when the City mandates that the owner will comply.

Mr. Ranucci: I have a motion and a second. Discussion? Paula?

Mrs. Recker: It is standard that in areas that have no sidewalks that this is passed. I will be voting yes on this. There is practical difficulty.

Mr. Ranucci: Denise?

Mrs. Bobulsky: Mr. Chairman. Being that there are no sidewalks in the area and a waiver will be signed, I will be voting yes.

Mr. Ranucci: Tony?

Mr. Caraballo: I also will be voting yes.

Mr. Ranucci: So will I.

Mrs. Broestl: Based on the evidence presented to this Board tonight the findings of fact are as follows: The applicant is Michael Maloney. The variance is at the location of 12124 Drake Road. Requests is for a variance to Section 1480.01 (a) and (b). He needs relief from the sidewalk installation requirement for a new home with the condition of signing a waiver and keeping on file in the Building Department that when the City mandates the owner will comply. No neighbors were here tonight to object to this variance. The Board is in favor. The granting of the variance will not be detrimental to the area. If the Board has nothing more to add go on with the vote.

Mr. Ranucci: Call the roll.

Tony Caraballo: Yes.

Denise Bobulsky: Yes.

Paula Recker: Yes.

John Ranucci: Yes.

Ayes – all. Nays – none.

**Variance granted. (4-0)**

**(BZ07-22) Dale and Debra Growley** requests a variance to Chapter 1480 “Sidewalk Construction”, Section 1480.01 “Construction required, waiver”, paragraph (a) and (b), for relief from the required sidewalk that is to be installed in front of his new home located at **15879 York Road, PPN: 485-05-010.**

Moved by Paula Recker, seconded by Denise Bobulsky, to approve a variance for relief from the sidewalk installation requirement as prescribed in Section 1480.01 (a) and (b) of the Zoning Code with the condition that a waiver be signed and help on file in the Building Code stating agreement to install sidewalks when the City mandates that the owner will comply.

Mr. Ranucci: I have a motion and a second. Discussion?

Mrs. Recker: Mr. Chairman. This is for the consensus. With this application as with the previous one all the same reasons apply.

Mr. Ranucci: Denise?

Mrs. Bobulsky: I agree with Mrs. Recker. We should probably state this for the record that since there are no sidewalks in the area at this time and since the applicant is willing to sign a waiver I will be voting yes.

Mr. Caraballo: I also will be voting yes.

Mr. Ranucci: And myself.

Mrs. Broestl: Based on the evidence presented here tonight, the finding of facts are as follows: The applicant are Dale and Debra Growley and are requesting a variance to the location of 15789 York Road. A variance to Section 1480.01 (a) and (b), relief from the required sidewalk installation for a new home with the condition that a waiver is signed and held on file in the Building Department that if the City mandates the owner will comply. No neighbors were here to object. The Board feels that since there are no sidewalks in the vicinity and waiver is going to be signed they will be voting yes for this variance. The granting of this variance will not be detrimental to the surrounding area. If the Board has nothing to add feel free to vote.

Mr. Ranucci: Call the roll.

Denise Bobulsky: Yes.  
Tony Caraballo: Yes.  
John Ranucci: Yes.  
Paula Recker: Yes.

Ayes – all. Nays – none.

**Variance granted. (4-0)**

**(BZ07-23) Mario and Cathy DeSensi** request a variance to Chapter 1270 “Residential Districts”, Section 1270.14 “Landscape Features, Fences, and Walls”, paragraph (a), for relief from the front yard setback requirement for a fence that is installed on their property located at **10900 Ridge Road, PPN: 484-18-061.**

Moved by Paula Recker, seconded by Denise Bobulsky, to approve a variance for relief from the required front lot line setback as prescribed in Section 1270.14(a) of the Zoning Code with regards to this existing fence.

Mr. Ranucci: I have a motion and a seconded. Discussion?

Mrs. Recker: This is a very difficult issue. The original variance that was granted allowed the fence in the rear to be higher. With the way that those lots are set up, I personally don't have a problem with the front the way it is. I do agree with some of the evidence that was presented, that it could be brought down in height. Which led to the applicant amending to a second variance. I feel that it is an existing condition.

Mr. Ranucci: Denise?

Mrs. Bobulsky: I think that we do need to bring this into compliance. That the fence is too high and we do have the second variance here. Are we working with one variance, we need to clarify this, or do we have two? Donna's nodding one.

Mrs. Vozar: I think that you need to make clear that you do each variance separately. You can't lump them together.

Mrs. Bobulsky: Right. Shall we start with the first one? Okay. I think that the fence itself is okay, in terms of location. Again, we will deal with the second variance.

Mr. Ranucci: Tony?

Mr. Caraballo: I think that location of the fence is also alright.

Mr. Ranucci: I agree. When I was out there looking at it I didn't see it causing any real problems being so far off from the road. So, I will be approving that. Consensus?

Mrs. Broestl: Based on the evidence presented here tonight, the finding of facts are as follows: The applicants are Mario and Cathy DeSensi and live at 10900 Ridge Road. They are seeking a variance to 1270.14(a). A fence going 40-feet beyond the building lot line to the front yard. There was a neighbor here tonight that did object to the granting of this variance. The Board feels no problem with this variance. The granting of this variance will really not be detrimental to the area. If the Board has nothing more to add go on with the vote.

Mr. Ranucci: Call the roll.

Denise Bobulsky: Yes.  
Paula Recker: Yes.  
Tony Caraballo: Yes.  
John Ranucci: Yes.

Ayes – all. Nays – none.

**Variance #1 granted. (4-0)**

Mrs. Recker: Mr. Chairman. Before we get into the next variance asked for by the applicant I need to ask Mr. Hartman something. Mr. Hartman, is that the same Code 1270.14 but paragraph (b), is that right?

Mr. Hartman: I'm sorry, are you asking me the question?

Mrs. Recker: Yes.

Mr. Hartman: What was the question?

Mrs. Recker: The height variance, I need a Code for it? Is it paragraph (b)?

Mrs. Vozar: Mr. Chairman. I think that it is important that the applicant, since it was the applicant was the one that requested the second variance be put on, that he actually come forward and indicate the height that he is requesting the variance. There was some testimony that was given that it might be more than 2-feet. If it is a 2-foot variance, whatever, he needs to come forward and indicate that. I think that you need a number before you.

Mrs. Recker: I thought that we did that in the Public Hearing.

Mrs. Vozar: Well, he said he wasn't sure, what my recollection was. Or, that he didn't know exactly what the height is. But, he needs to specifically need to state what he is requesting that number for and either cut it down to that number whatever it is.

Mr. Ranucci: Would the variance be down to the six foot maximum height?

Mrs. Vozar: Whatever the applicant is requesting. I think that he needs to come forward with that number.

Mr. Hartman: Excuse me Mr. Chairman. It is 1270.14 (c) height requirement.

Mrs. Vozar: What is the height requirement?

Mr. Hartman: Six foot.

Mr. Ranucci: Could I have the applicant come up here.

Mr. Mario DeSensi approached the microphone.

Mr. Ranucci: State your name for the record.

Mr. DeSensi: Mario DeSensi. I do not know the difference. Mr. Hartman said that it was exceeding the limit. The request would be for whatever the difference is that exists.

Mr. Ranucci: Above the six foot.

Mr. DeSensi: Right. It was inspected by more than one person.

Mrs. Recker: Mr. Chairman. I think that this might be a question for Mrs. Vozar, even though we have voted on the first variance and the applicant has requested to amend this, seeing that the

applicant isn't quite sure what he wants for this amendment, can I request to table and he go and investigate so that we have an exact for this variance?

Mrs. Vozar: I think that the applicant has to make the decision right now because unfortunately, the problem with time limitations and what not, he would basically have to come back on a reconsideration. I would recommend that you deny it and have him come back on a reconsideration with a change of circumstances.

Mrs. Recker: Could you please explain to the applicant the reconsideration.

Mrs. Vozar: When an applicant comes forward before the Board of Zoning Appeals, you are asking for a specific variance. We need to know the amount of footage. We work with numbers in granting a variance. A variance has to be very specific. You would need to know what that height is. It is not up to Mr. Hartman, or anyone on the Board, to determine what that is. You need to provide that. So what we can do is, since we don't know that number, and you don't know that number, what we can do is that the Board can go forward and deny it, because you haven't given specific information to this Board, or...

Mr. DeSensi: Could I just state a number which I think is close enough?

Mrs. Vozar: You could do that, but then you would be bound by that number. But if it is off you would have to cut your fence to that number. Another option that exists is that the Board will go forward on the second variance and deny it, because there is no specific number before them, and then you could come back before this Board on a reconsideration. Then you can come back and say that it is a two foot variance, or 18-inches, or whatever it is, and come back at the next meeting.

Mr. DeSensi: Is it possible for me to state a number now and then if the difference is higher then ask for another variance?

Mrs. Vozar: One of the things that we try to avoid is granting numerous variances. That is actually disfavored. So, the Board wouldn't want to grant a variance of three feet and have you come back and request a little bit more, and then grant a second variance. The variance runs with the land. It is something that we would have to protect. It is a deviation from the Code. So, we really need to know what that number is.

Mr. DeSensi: I'm going to say 3-feet and then see what happens.

Mrs. Vozar: You are going to request a 3-foot variance?

Mr. DeSensi: Somewhere between 2 and 3-feet.

Mrs. Vozar: It doesn't work somewhere.

Mr. DeSensi: No, I am stating 3-feet.

Mrs. Vozar: Okay.

Mrs. Cathy DeSensi approached the microphone.

Mr. Ranucci: State your name and address.

Mrs. DeSensi: Cathy DeSensi, 10900 Ridge Road.

Mr. 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. DeSensi: Yes. I was wondering, can you ask for a variance on the existing fence as it is and leave it whatever it is?

Mrs. Vozar: No. As I indicated, it is numbers. This Board grants variances on numbers. The setback, height, we deal with numbers.

Mrs. DeSensi: Okay.

Mr. DeSensi: It was inspected does that matter?

Mrs. Vozar: It is my understanding that it was not inspected because it was not a permitted fence. Correct, that is why you are seeking a variance.

Mr. DeSensi: Recently, someone came to check it out from the Board maybe.

Mrs. Vozar: As I indicated, when an applicant comes before the Board you have the burden to come and show us what you are seeking and asking us for. Mr. Hartman can not be that person. You need to come and give us that information and measurements. Because if Mr. Hartman is wrong, you are going to be bound by that number. That is why the burden falls on you to tell us what that number is. One of the factors is how great is that variance, and the larger the variance is the less likely they are to grant that variance. Just so that you understand that. Is 3-feet what you are requesting?

Mr. DeSensi: Lets say 2-feet. 2-feet. If it makes a difference...

Mrs. Vozar: Mr. Chairman. The applicant has indicated that he doesn't know what the number is. We have had testimony from someone that said it was more than 2-feet. Obviously, whatever the Board wants to do, but I think that you have a problem.

Mr. DeSensi: Are you talking about just that section or the whole fence.

Mrs. Vozar: Whatever part of your fence that is not in compliance with the laws of the City of North Royalton require a variance.

Mrs. DeSensi: It is 2-feet. We have construction there now and they told me that it is 6-foot plus the 2-feet of the lattice, I think that is what they called it, the part on the top. So, that would make it the 8-feet in height.

Mr. Ranucci: If we grant the variance for the 2-feet that they are requesting and if...

Mrs. Vozar: And if it is 2-feet and 3-inches they would have to cut off 3-inches, or whatever that number is.

Mr. Ranucci: Just so you understand. If we approve the 2-feet variance and the inspector comes out and if you are anything over that 2-feet you will have to cut it off.

Mr. DeSensi: Does it make difference in requesting 2 or 3-feet?

Mr. Ranucci: What Mrs. Vozar is saying, 3-feet that is 50% greater than the 6-foot that is required by Code. Which, after everybody discuss it that might be a large request, a large variance. 2-feet, 1-foot, that all goes into consideration.

Mr. DeSensi: I'm going to request 2-feet, and if I have to cut it down 3-inches then I will cut it down 3-inches.

Mr. Ranucci: Okay. So, 2-feet is what you are requesting for the variance.

Mrs. DeSensi: Thank you.

Moved by Paula Recker, seconded by Denise Bobulsky, to approve a variance of 2-feet more than the maximum height requirement as prescribed in Section 1270.12(c) of the Zoning Code with regards to this existing fence.

Mr. Ranucci: I have a motion and a second. Tony?

Mr. Caraballo: After going out and viewing the fence I will be voting yes on this variance.

Mr. Ranucci: Paula?

Mrs. Recker: I would agree and concur with Mr. Caraballo.

Mr. Ranucci: Denise?

Mrs. Bobulsky: Mr. Chairman. I think that we are trying to get this situation under compliance. I think that I would like to see the 2-feet come off the fence. If we are talking the possibility of more than 2-feet my problem here would be the taking off of 3-inches, I would prefer it to comply with the 6-foot. I will be voting against it.

Mr. Ranucci: When I was first out there, not looking at the height, the situation of the fence being off the road, there is really nothing on the left or right side of it, and it didn't seem to be an issue. Looking at the 2-foot more, I am going to vote yes on. Anything greater than I would vote against it. The 2-foot I will vote yes on. Call the roll.

Mrs. Broestl: Based on the evidence presented here tonight, the finding of facts are as follows: The applicant is the same, and so is the location. The variance is to Section 1270.14(c), height requirement. They are allowed 6-feet and asking for 2-feet more than the requirement. There was someone here tonight in objection to the variance. Most of the Board members do not have a problem with the extra 2-feet. One Board member feels that 6-feet should be the maximum. Anything else to add?

Mr. Ranucci: Call the roll.

John Ranucci: Yes.  
Denise Bobulsky: No.  
Paula Recker: Yes.  
Tony Caraballo: Yes.

Ayes – three. Nays- one.

**Variance #2 granted. (3-1)**

**(BZ07-24) Champion Windows of Cleveland and David Quolke** request a variance to Chapter 1270 “Residential Districts”, Section 1270.05 “Schedule of Area, Yard and Height Regulations”, for relief from the rear yard setback requirement for an all-season sun room that they wish to construct onto the rear of their home located at **6166 Hilary Drive, PPN: 488-01-064**.

Moved by Paula Recker, seconded by Denise Bobulsky, to approve a variance of 3-feet less than the minimum rear yard setback requirement as prescribed in Section 1270.05 of the Zoning Code with regards to this proposed sunroom addition.

Mr. Ranucci: I have a motion and a second. Discussion?

Mrs. Recker: Mr. Chairman. After looking at this property I will have no problem with this. I see no drainage problems that this would interfere with. I think that it would be a nice addition to the value of the home along with the neighborhood.

Mr. Ranucci: Thank you. Denise?

Mrs. Bobulsky: I concur Mr. Chairman.

Mr. Ranucci: Thank you. Tony?

Mr. Caraballo: I also concur.

Mr. Ranucci: Thank you. I also see no problems with this at all.

Mrs. Broestl: Okay. Based on the evidence presented here tonight, the finding of facts are as follows: The applicant is Champion Windows and David Quolke. Variance to location 6166 Hilary Drive, are here tonight asking for a variance to Section 1270.05 of the Zoning Code with regards to a proposed sunroom that would encroach into the rear yard setback of 3-feet. No neighbors were here tonight to object to this. The Board has no objection to this variance. It will not be detrimental to the surrounding. If the Board has nothing else to add go ahead with the vote.

Mr. Ranucci: Call the roll.

Denise Bobulsky: Yes.  
Tony Caraballo: Yes.  
John Ranucci: Yes.  
Paula Recker: Yes.

Ayes – all. Nays – none.

Variance granted. (4-0)

Mrs. Recker: Mr. Chairman. I would like to ask Mrs. Vozar something. We have never done this before, but I thought I'd ask. BZ07-25 and 27 and 28, I see are going to be involved discussion. I find that BZ07-26 will not be, can we do 26 first or do we have to leave them in order?

Mrs. Vozar: Now we have to leave them in order. We could have previously moved them but unfortunately.

Mrs. Recker: I just happen to think of that. Too late.

Mrs. Vozar: The only one you see as not a problem would be 26, so it's just one before the next one.

Mrs. Recker: Alright, okay.

Mrs. Broestl: I have to indicate that I received a letter regarding BZ07-25 which is David and Susan Koler, I have a Public Hearing Form that is not in favor of this. The Board has a copy of the letter and photos which indicates that their property will be injured if this variance is granted.

**(BZ07-25) David and Susan Koler** request a variance to Chapter 1270 "Residential Districts", Section 1270.19 "Area of Garage", paragraph (d), for relief from the maximum square footage allowed for a proposed garage addition that they wish to construct at **16821 Bennett Road, PPN: 485-12-027.**

Moved by Paula Recker, seconded by Denise Bobulsky, to approve a variance of 292-square feet more than the maximum square footage allowed as prescribed in Section 1270.19 (d) of the Zoning Code with regards to this proposed attached garage addition.

Mr. Ranucci: I have a motion and a second. Discussion?

Mrs. Recker: Mr. Chairman. My first opinion on this after reading the application I would like to put a condition on this. The first condition would be a buffer to the west. A landscape plan that is used to help with erosion control. Personally, I can see why the applicant wants to add to his garage. I don't find that the square footage is excessive. It is pushing the envelope but. I am highly concerned, as stated in the Public Hearing; I'm seeing some problems in these photos. Maybe I should send this question to Mr. Merdes, but with this applicant having to cut into the existing grade to the east, that slope into the back between those two properties, where

that swale is behind that. Cutting into that front part of the grading is going to destabilize this slope in between the two properties, the property to the west. Am I correct? According to this letter from his neighbor. There is a retaining wall. A large tree, a hard wood tree, they do die.

Mr. Koler: May I ask a question?

Mrs. Recker: Just a minute. I need an answer from the Engineer. Am I correct in that Mr. Merdes? This is going to destabilize this hill. The neighbor to the west is stating that do to pressure from vehicles that since this retaining wall was removed, the hard wood tree is gone. He has had to replace his concrete driveway in the front and on the side that leads to the backyard, I assume. At least that is what I saw also. Due to the pressure from vehicles, that slope is now unstable. By adding onto this side load garage and cutting into the existing grade, this will further destabilize this hill or slope?

Mr. Merdes: Mr. Chairman. It's possible, but if this variance is granted and the applicant goes forward, he is going to have to consult with his own engineer. Just as when the home was built, he needed a plan for the site, as he builds this addition. He will also need a grading plan surrounding the addition. Being that the neighbor has a concern. That will be something that our department will review when we review the application. Whether the applicant knows it or not his property has a special flood hazard zone on this property. I have seen your application. Someone has given you, or at least part of that Chapter of the Code that is required, it's not so much required prior for the variance you are seeking, but again depending on the outcome of the variance when you go to get the permit that three page form is required. The second page is required to be filled out. Right now it is currently blank. That second page will need to be filled out by your engineer or your surveyor, who is a professional and registered in the State. So, there will be more consideration given to the question that is raised here tonight, depending on the outcome of what the Board decides.

Mr. Koler: Can I ask a question? I apologize, Mrs. Recker, I think that maybe I misunderstood you earlier, but in regards to this grade, and I know that you were out to see it, but it is currently below grade. Once the garage goes up, it wouldn't be any problem for me to make that level grade with his driveway or above his driveway, does that resolve the issue?

Mrs. Recker: How are you going to make that level?

Mr. Koler: From the back of the garage level grade with his driveway. Even if it comes up the block in the garage, I don't have an issue with that.

Mrs. Recker: You are going to fill in that swale behind the garage?

Mr. Koler: Yes.

Mrs. Recker: What are you going to do for drainage?

Mr. Koler: Behind the new garage.

Mrs. Recker: How are you going to handle the drainage from the new addition?

Mr. Koler: From the garage roof? It will run into the existing drain, gutter work, which is already drain tile and goes out the back.

Mrs. Recker: And how are you going to handle the swale behind the present garage?

Mr. Koler: There is a need to change that?

Mrs. Recker: I'm asking you. How are you going to handle the drainage?

Mr. Koler: I didn't feel that there was a need to change that grade. That is part of the existing condition.

Mrs. Recker: So you are going to split the drainage, is that what you are saying? One part of the drainage is going to go east and one part is going to go south?

Mr. Koler: I'm sorry, I'm not following you.

Mrs. Recker: That flows, not well I'm not sure because it is as flat as a pancake, east. So what you are saying is on the new addition to this garage that you will make that drainage go south?

Mr. Koler: The new addition gutter work would tie to the existing.

Mrs. Recker: And into the present drain tile that you say you have?

Mr. Koler: Yes.

Mrs. Recker: Now, how do you intend to keep this slope? What is your intent to keep that stabilized, because there was some slippage in it, but nothing horrible. How are you going to stabilize that slope between you and your neighbor to the north?

Mr. Koler: Existing grade? I'm below grade. An existing condition. If I don't touch anything that is the condition.

Mrs. Recker: But you are going to have to cut that front part. Here is the whole next to your present garage, there is another slope here. You are going to cut into this slope. In my opinion, is going to destabilize this.

Mr. Koler: Taking three feet off the slope to the west you feel that will destabilize it to the north?

Mrs. Recker: Yes. You are going to get in there and have construction vehicles running around on it and it is going to destabilize it. That is my fear.

Mr. Koler: I understand your fear. My understanding is that this concern is everything to the north.

Mrs. Recker: Up there also.

Mr. Koler: It will be improved because I will bring it up to grade. The destabilizing issue ends there.

Mrs. Recker: So what you are saying is that your garage now is going to be abutting this slope behind you now. That leads me back to the drainage issue, what are you doing with that swale issue behind your present garage.

Mr. Koler: I didn't plan on doing anything with it unless something is required.

Mrs. Recker: You now just told me that you are going to put the new garage addition in it.

Mr. Koler: No, no, no.

Mrs. Recker: Well, if I had a better drawing in this application it would help the cause.

Mr. Koler: The drawing is there.

Mrs. Recker: This is not the greatest application that I ever seen.

Mr. Ranucci: One question I have in filling that swale up, I understand what you are saying. You are bringing that across and you are going to bring the block up, and that three feet will be filled and it will grade away to the west. The imaginary line where the new garage butts up to

the existing garage, that is going to be a three foot straight line down, and you are going to put a retaining wall to keep that back, or are you going to slope that down to the existing swale?

Mr. Koler: Mr. Ranucci, you are exactly right. There would be a three foot level grade. There would be no reason for a swale back down to the new garage. Not at all.

Mr. Ranucci: But where this is grade to the back of the garage, you are going to have a wall straight down, and you are going to block that to retain that so that...

Mr. Koler: That is exactly right.

Mrs. Recker: And you are going to block the existing swale behind the existing garage.

Mr. Ranucci: No. Those 13-feet from the property line to the back of the garage, he is going to fill in level, and then where the new garage butts up to the existing garage, he will be putting in a block wall there, so that it is a 3-foot drop. His swale that runs off the back, he is not doing anything to the current swale that is there on the north side of the property.

Mrs. Recker: You can assure that to me?

Mr. Ranucci: He just said that he is not going to do anything. There is nothing to assure.

Mr. Koler: There is no plan to touch the existing swale. The north side of the home is just one continuous piece.

Mrs. Bobulsky: Mr. Chairman.

Mr. Ranucci: Yes.

Mrs. Bobulsky: Is the applicant clear that there are standards that he will have to meet per the Engineering and Building Department in terms of the drainage? I think that some of these questions that we are bringing up will be addressed through Engineering and Building Departments?

Mr. Koler: Sure.

Mr. Caraballo: Mr. Chairman.

Mr. Ranucci: Tony.

Mr. Caraballo: Well those are the questions that I had also. Along the north side of your building, your house, there is a severe swale, if you will, and I understand where you are saying that you are going to build a garage, you are going to raise that. I see a swimming pool happening there, but you are telling me that the Engineering Department and you are going to address this issue to alleviate this potential problem of flooding there on top of what you have. I guess that is our concern. The driveway that is also to the north of you is so close to that proposed garage you are building. That ground gives away right there. His concern was that his driveway is falling in going towards your lot. He showed me some new areas of concrete, that I don't know if they are being washed away, what have you.

Mr. Koler: That's interesting. After I sat and thought about it a little bit, you would think he would be more concerned about that tree staying there, and the root damage to that driveway, as opposed to removing it and making it level grade. It was a large spruce.

Mr. Caraballo: With the concrete being replaced, I don't know if it was root damaged or if it was undermined.

Mr. Koler: I couldn't say.

Mr. Caraballo: Nor could I. Mrs. Bobulsky had mentioned that it is going to have to be up to the Engineering Department from this point where you could get into some other jams with your neighbor to the north.

Mr. Hartman: Mr. Chairman. Could I ask Mr. Koler a question? The proposed garage, is it going to be extending out past the home next to you?

Mr. Koler: It is not.

Mr. Hartman: According what you submitted here it is very difficult to see exactly where the next store neighbor's house is. As long as that addition does not protrude out beyond that, that would be our concern in the Building Department.

Mr. Koler: It does not go past his home to the west.

Mr. Hartman: Alright.

Mr. Caraballo: From what I recall, basically, there is going to be garage to the front of your property, and garage to the front of his property, and going to be approximately even.

Mrs. Vozar: Mr. Chairman. Could I also add something to this? There does appear, based on the back and forth between the Board and the applicant, there does appear to be some confusion regarding the plans and whether or not the Board is comfortable with what he submitted to answer all their questions. The Board always has the option of tabling this and having the applicant bring forward further information, further plans from an Engineer, indicating that the questions that you have could be addressed with the plans he submits, without additional problems arising that he may not be aware of at this time. Better than granting a variance than finding out he can't get in compliance. Again, the goal is not to grant the variance unless it is absolutely necessary and the applicant has met their burden. So, that's always an option to the Board.

Mrs. Recker: Mrs. Vozar. You and I must be having ESP, because that was going to be my next thing. I agree with Mr. Hartman also. I have seen better applications. I would suggest that we table this. I'm very uncomfortable with these drawings. If I saw drawings from an Engineer, it might change my vote.

Mr. Ranucci: Denise?

Mrs. Bobulsky: I think due to the location of where the home is and where the variance is going to be granted, I think that it would be prudent to go and get some further information. Instead of denying it here. Come back in another month.

Mr. Caraballo: I concur with that. I would feel more comfortable with getting some more information also to avoid any future problems.

Mr. Ranucci: I have to agree based on that we don't want to grant it and then find out that they can't do it. I was going to turn it over to Engineering and let them fight it out. But I will go with the Board on table.

Moved by Paula Recker, seconded by Denise Bobulsky, to table BZ07-25 to give the applicant time to get more information.

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

Denise Bobulsky: Yes.  
Tony Caraballo: Yes.  
Paula Recker: Yes.  
John Ranucci: Yes.

Ayes – all. Nays – none.

**Variance tabled. (4-0)**

**(BZ07-26) George and Irene Sopka** request a variance to Chapter 1270 “Residential Districts”, Section 1270.05 “Schedule of Area, Yard and Height Regulations” and Section 1270.04 “Area, Yard and Height Regulations”, paragraph (g), for relief from the height and side setbacks for an accessory structure that they wish to construct on their property at **16453 State Road, PPN: 487-29-027.**

Moved by Paula Recker, seconded by Denise Bobulsky, to approve a variance of 5-feet less than the minimum side yard setback requirement as prescribed in Section 1270.05 of the Zoning Code with regards to proposed accessory structure.

Mr. Ranucci: I have a motion and a second. Discussion?

Mrs. Recker: Mr. Chairman. I would like to put a condition of this if the variance is approved that the existing shed be removed.

Mr. George Sopka approached the microphone.

Mr. Ranucci: State your name for the record.

Mr. Sopka: George Sopka. That shed is a temporary shed.

Mrs. Recker: That’s fine. We have to condition that, because how long is temporary? We are not saying that you are not going to take it down but incase something happens we want to make sure that it will come down.

Mr. Sopka: Does it have to be removed before the construction starts?

Mrs. Recker: Yes. Isn’t that how it is?

Mrs. Vozar: Is there a problem with that? That usually is a question from the Board. Obviously, if you have things that are in there that you can’t store elsewhere.

Mr. Sopka: I can’t store anything elsewhere. It will just be a pile of rubble.

Mrs. Recker: What do you have in this present shed?

Mr. Sopka: Garden supplies.

Mrs. Recker: Garden like in lawn mowers, and...

Mr. Sopka: There is not enough room for a lawn mower in there. Pots, and tools, whatever is connected to it.

Mrs. Recker: A lot of stuff?

Mr. Sopka: A lot of stuff.

Mrs. Recker: Lots of stuff!

Mr. Sopka: My former home was bought by FEMA. I lived there for 30-years and I collected a lot of stuff.

Mrs. Recker: And you brought all the stuff with you.

Mr. Sopka: Not all the stuff.

Mrs. Recker: Alright. **We will amend the condition to read that the existing shed has to be removed within 14-days of the completion of the new shed.**

Mr. Sopka: Okay fine. That's no problem. What I didn't want is..

Mrs. Recker: Is that a problem for you Mr. Hartman?

Mr. Hartman: That is not a problem with the Building Department.

Mrs. Recker: So, you have time to build it. So, you better hurry up because it is going to snow soon. Then you have 14-days to move the stuff from that one to the new one.

Mr. Sopka: It will be off the property within 2-weeks.

Mrs. Recker: That works.

Mr. Sopka: Is that the only objection?

Mrs. Recker: That's my only objection.

Mr. Sopka: How about the height?

Mrs. Recker: No, no. That's another variance.

Mr. Ranucci: The first variance. Then we have to go through the other.

Mr. Sopka: Tonight?

Mr. Ranucci: Yes. We will finish the discussion on this first variance and then we will proceed to the next. Are you done Mrs. Recker?

Mrs. Recker: I'm done.

Mr. Ranucci: Denise?

Mrs. Bobulsky: Mr. Chairman. With the condition that has been applied I don't see a problem with approving this variance.

Mr. Ranucci: Tony?

Mr. Caraballo: I also concur with the condition we installed.

Mr. Ranucci: So do I.

Mrs. Broestl: Based on the evidence presented here tonight, the finding of facts are as follows: The applicant is Mr. George Sopka. He is seeking a variance to 16453 State Road. A variance of 5-feet from the side yard setback per Section 1270.05, for an accessory structure. A condition has been added that the existing shed will come down 14-days from the completion of the new shed. There was one Public Hearing objection to this variance. Board feels they have no objection to this with the condition added. If the Board doesn't have anything to add go forward with the vote.

Mr. Ranucci: Call the roll.

Tony Caraballo: Yes.  
John Ranucci: Yes.  
Denise Bobulsky: Yes.  
Paula Recker: Yes.

Ayes – all. Nays – none.

**Variance #1 granted. (4-0)**

Moved by Paula Recker, seconded by Denise Bobulsky, to approve a variance of 2-feet more than the maximum height allowed as prescribed in Section 1270.04(g) of the Zoning Code with regards to this proposed accessory structure.

Mr. Ranucci: I have a motion and a second. Discussion?

Mrs. Recker: Mr. Chairman. I do not find this excessive. I do see some practical difficulty. Especially now that we know he has so much stuff.

Mr. Ranucci: Thank you. Denise?

Mrs. Bobulsky: Mr. Chairman. I think that the applicant stating that he would like the height in keeping with his current home. And with the choices of what this proposed accessory building are, I don't have a problem with granting this one.

Mr. Ranucci: Thank you. Tony?

Mr. Caraballo: After visiting the site I don't have a problem with this height.

Mr. Ranucci: Looking at the two extra feet, and the six foot drop from the front of the road to the back of the property it isn't going to be negligible. I will be voting yes on this also.

Mrs. Broestl: Based on the evidence presented here tonight, the finding of facts are as follows: The applicant and location are the same. The variance is for Section 1270.04(g), requesting 2-feet more than the maximum height allowed. He wishing to go to 17-feet in height. The Board has no objections to this. If the Board has nothing more to add go to the vote.

Mr. Ranucci: Call the roll.

John Ranucci: Yes.  
Paula Recker: Yes.  
Denise Bobulsky: Yes.  
Tony Caraballo: Yes.

Ayes – all. Nays – none.

**Variance #2 granted. (4-0)**

**(BZ07-27) Richard Labuda** requests a variance to Chapter 1270 “Residential Districts”, Section 1270.19 “Area of Garage”, paragraph (d), and Section 1270.05 “Schedule of Area, Yard and Height Regulations”, of the City of North Royalton Codified Code, for relief from the square footage allowed and rear yard setback requirement for a garage addition that he wishes to construct on his property located at **10304 South Red Oak, PPN: 488-16-067.**

Moved by Paula Recker, seconded by Denise Bobulsky, to approve a variance of 12-feet less than the rear yard setback requirement as prescribed in Section 1270.05 of the Zoning Code with regards to this proposed garage addition.

Mr. Ranucci: I have a motion and a seconded. Discussion?

Mrs. Vozar: Mr. Chairman. Before we get into discussion, it has been raised whether or not there is a homeowner's associate or not. Based on the fact that this is a relatively new development I'm concerned that there is a homeowners association that we actually need to have approval from and verify if one even exists. Unless the applicant can verify that, I recommend that this Board table this until we can get further information.

Mr. Ranucci: Can the applicant please come forward.

Mr. Richard Labuda approached the microphone.

Mr. Ranucci: Just state your name and address.

Mr. Labuda: Richard Labuda, 10304 South Red Oak. The builder owns the lots as of right now. There is no homeowner association. We can not do anything unless the builder okays it.

Mrs. Recker: That is an association.

Mr. Labuda: Right. He is in charge. Anything that we want to do, a fence, anything, he has to sign for it. As a matter of fact I just got a building permit two weeks ago for a fence, and George Callas signed my plans because he is like the homeowners association.

Mrs. Recker: He is the homeowners association.

Mr. Labuda: Right. I also had that done on the plans that you have up there right now. George signed them that he approved of this garage addition. It is on one copy that I gave to her. I forget her name right now. But I gave them to her and George signed off on both the fence and on this garage proposal.

Mrs. Recker: It says right here in our application, no homeowners association.

Mr. Labuda: Right. It doesn't.

Mrs. Recker: You misunderstand. There is an association. Unfortunately right now it is the builder. At some point he will turn the association over to you owners. So, we need, as I call them in our association, a bless you letter from Mr. Callas.

Mr. Labuda: Well, what he does is sign off. He signs his name on the plans. That's what George does in place of a letter.

Mrs. Recker: That's not what we do. We need a letter from Mr. Callas. Or a copy of your bi-laws stating that you are allowed to even do this.

Mr. Labuda: Well, as George is the builder and he approves or disapproves. What we can do is..

Mrs. Recker: It depends on what George's document states.

Mr. Labuda: Well, without a homeowners association I go to the builder and he approves or disapproves from there I don't know what I have to do.

Mrs. Recker: You misunderstand. He is the association. When you bought into that development, somewhere in that stack of papers, that we all sign when we buy houses, you have a document that is titled covenant and bi-laws of Whispering Meadows, isn't that the name of that development?

Mr. Labuda: Yes.

Mrs. Recker: And within all that you need to read and that is what we need to know is whether or not you are allowed to do this.

Mrs. Vozar: Mr. Chairman. If I could. Mrs. Recker, I don't mean to interrupt you but, in order to save time, I would be happy to speak to the applicant and explain the dilemma that we are facing. But, because it appears to be a homeowners association. When you indicate that you own that lot and you tell me that you can not do anything on that lot without the permission of Mr. Callas, it leads me to believe that there is a homeowners association and he has retained approval. So, based on that when I have a letter from him stating that there is no homeowners association, we need that clarified. Because if there isn't a homeowners association I would like to know why Mr. Callas has approval over your privately owned lot. We need to clear that up. I would be happy to meet with you after the meeting. I suggest that we do table this until we get that cleared up.

Mr. Labuda: That's fine. I did ask him about a letter because I did need a letter for the fence and he just signed my documents, that is what he does. I don't know if there are other legal things, but that is what he does.

Mr. Ranucci: The question I raised earlier in reference to this project here, the garage doors would be facing the roadway. Everything in that development is a side entry garage.

Mr. Labuda: There is one in the cul-de-sac. One on the side and the other straight out. I really didn't pay attention to that.

Mr. Ranucci: I drove around there and that is the reason I raised the question is that a front facing garage versus everything else being a side entry, other than that one and it seems like that one was built when the home was built.

Mrs. Vozar: In addition it seems as though the numbers might be off as far as the variance is concerned. Those are all things that need to be clarified before the next meeting.

Mr. Ranucci: I just want to point this out to you here. Joe Hartman, did some numbers here and the current garage, by County Records is listed as 764-square feet, not 529-square feet that you have listed on the application.

Mr. Labuda: Okay.

Mr. Ranucci: Along with the variance the additional garage is 484-square feet. So the total square footage would now be 1348. The good news is that your house is 3555-square feet, which allows you 1000-square foot total garage area. So, when you subtract 1000 from 1348, your variance will be 348-square feet.

Mr. Labuda: What did I have as the original?

Mr. Ranucci: 213-square feet. It's a bit more. So, you might check those numbers. Will he have to amend this?

Mrs. Vozar: We can at the next meeting.

Mr. Ranucci: That is why we are going to table.

Moved by Paula Recker, seconded by Denise Bobulsky, to table BZ07-27 until the October BZA meeting so that the applicant can readjust the numbers and get a homeowners association letter.

Mr. Labuda: What is the biggest problem that I will have to deal with at the next meeting. I can get the letter from George, I guess that its not a problem. Amending the numbers is just making the numbers right, I understand that. Is there anything else a concern?

Mrs. Vozar: You can talk with Joe Hartman from the Building Department. He can give you the guidance that you are going to need.

Mr. Labuda: So, this will be another month. I'm trying to work with the weather here.

Mrs. Vozar: Correct.

Mr. Ranucci: Call the roll.

Denise Bobulsky: Yes.

Tony Caraballo: Yes.

John Ranucci: Yes.

Paula Recker: Yes.

Ayes – all. Nays – none.

**Variance tabled. (4-0)**

**(BZ07-28) Glen D. Ramage Architect, and Lino Buttazzoni** request a variance to Chapter 1276 “Business Districts”, Section 1276.07 “Area Regulations”, for relief from the lot width requirement for a chiropractic clinic that they propose to construct on this property located at **11443 State Road, PPN: 488-08-016.**

Moved by Paula Recker, seconded by Denise Bobulsky, to approve a one time variance for relief from the 100-foot lot width frontage requirement as prescribed in Section 1276.07 of the Zoning Code with regards to the construction of a proposed chiropractic clinic.

Mr. Ranucci: I have motion and a seconded. Discussion?

Mrs. Vozar: Mr. Chairman. If I could address a few issues before we get started that I hope will clarify some issues for this Board. In reviewing Chapter 1260.02 “Purposes and Intent”, under the general provisions and definitions of our Code. If you look under sub-section B, where it talks about the purpose of this Code. The Zoning Code is intended to achieve among other things the following objectives under sub-section B. To protect the character and values of residential, institutional, and public business, commercial, and manufacturing uses. To ensure their orderly and beneficial development. When the City of North Royalton re-zoned this property it did permit the continued use of their property in violation of the current zoning which is business. However, all property owners are encouraged to get their properties within compliance with the zoning. It is important to note that the applicable zoning requirements in this case the lot width, is governed by 1276 under Business Districts. The property is allowed to be used as residential, but it is a Business Districts and it is bound by all the requirements there. While Mr. Ramono presented an interesting argument, I strongly disagree with it. The applicable Code here is governed by the zoning of the area. To rule otherwise would be frustrate the purpose and intent of the Zoning Code, and prohibit the use of commercial property for that use. It would, in that case, prevent it forever being used as a commercial property. The practical difficulty standards have been defined by case law, and by the North Royalton Code 1264.08 (a)(e). Based on that, it is my opinion that this Code is bound as suggested under your variance request under the business requirements. And the only variance that is required and has been presented to this Board is for the lot width, one time variance lot width, from the 100 to the 90-foot width that is that property.

Mrs. Recker: Mr. Chairman. After listening to Mrs. Vozar's explanation and weighing in the evidence that was presented, I will be voting for this variance. Mr. Ramono had mentioned that it is all residential. No, it is not all residential. Off the top of my head I could of at least six or seven businesses right in that area. So, I will be voting yes on this.

Mrs. Bobulsky: Mr. Chairman. Albeit Mr. Ramono cited several other Codes that he felt that we needed to vary, in the circumstance those were items that I believe should be addressed by

Planning Commission, not this Board. We are looking for relief from the 100-foot lot width at this time, so I will be voting in favor.

Mr. Ranucci: Tony?

Mr. Caraballo: I also will be voting in favor of the 100-foot lot width relief.

Mr. Ranucci: I agree. I also.

Mrs. Broestl: Based on the evidence presented here tonight, the finding of facts are as follows: The applicants are Glen Ramage Architect, and Lino Buttazzoni. The variance is for location 11443 State Road. They are seeking a variance to Chapter 1276.07 lot width requirement of 100-feet, they have 90-foot on this property. This is a one time variance. Mr. Ramono was here tonight in objection to this who is a neighboring property. This Board feels no objection to this variance. Anything else the Board feels that they need to add, if not go on with the vote.

Mr. Ranucci: Call the roll.

Denise Bobulsky: Yes.  
John Ranucci: Yes.  
Tony Caraballo: Yes.  
Paula Recker: Yes.

Ayes – all. Nays – none.

**Variance granted. (4-0)**

Moved by Paula Recker, seconded by Denise Bobulsky, to adjourn the Board of Zoning Appeals.

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

John Ranucci: Yes.  
Denise Bobulsky: Yes.  
Paula Recker: Yes.  
Tony Caraballo: Yes.

Ayes – all. Nays – none.

**Meeting adjourned at 9:48 p.m.**

Approved: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_