

MINUTES OF MEETING  
BOARD OF ZONING AND BUILDING APPEALS  
SEPTEMBER 14, 2023

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Members Present: Farrell, Christ, Martinez, Harpster

Presence Noted: Raymond Reich, Building Commissioner  
Steven Dever, Assistant Law Director  
Kate Straub, Planning and Zoning Coordinator

Council Member Present: Jeanne Gallagher, Ward 3

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Mr. Farrell opened the September 14, 2023 meeting of the Board of Zoning and Building Appeals at 7:00 p.m. He explained the meeting protocol and said that the Board has had the opportunity to visit the sites and review the applications.

Mr. Christ moved to approve the Board of Zoning and Building Appeals meeting minutes from August 10, 2023. Mrs. Martinez seconded.

4 Ayes – 0 Nays  
Passed

**1. LIBBY SCHAIU – 21060 Aberdeen Rd. – PUBLIC HEARING – Variance to construct a sunroom addition with a 6’ side yard setback vs. 8’ side yard setback required (Section 1153.07(f)(1).** Mrs. Jill Brandt, Architect, came forward with Mr. Schaiu, homeowner to discuss the variance request.

Secretary Christ introduced the variance request and Mr. Farrell swore the parties in. The project consists of a proposed sunroom on the side of the applicant’s house, which currently sits 15.5’ off of the front property line at the front and is set back 9.5’ in the back, which makes the property line at a slight angle. The sunroom will be 9.5’ wide which gives an interior dimension of 9’ and that requires a variance of 2’ from the property line. They would maintain 19’ – 10” between houses. The materials will match the existing house and the character and scale of the neighborhood will be maintained. The plan shows a second fireplace, but that may not be part of the project, so Mrs. Brandt asked that they ignore that. The neighbors have no objection and are in support of this project.

Mr. Farrell said that there seems to be quite a bit of room there, so he doesn’t object to projecting into the setback by 2’ because he feels it will not cause harm. Mrs. Martinez said she has no questions and she appreciates that it is setback both on the front and on the side because it will make for a cleaner addition that seems reasonable and fitting with the neighborhood. Mr. Christ said it fits well with where the sun comes up, since it is a sunroom. He asked if they did any furniture layouts because he feels that 9’ is pretty tight and the applicant may not have enough room to enjoy it after going through this process. The applicant is satisfied with the dimensions of the room.

Mr. Christ moved to close the public hearing. Mr. Harpster seconded.

4 Ayes – 0 Nays  
Passed

Mr. Christ reviewed the practical difficulties test aloud. Regarding whether special conditions or circumstances exist which are peculiar to the land or structure involved, he said that the footprint of the existing house causes the special condition, and they are trying to provide the space to accommodate this unroom addition. Regarding whether the property in question will yield a reasonable return, Mr. Christ said he thinks that this will yield a reasonable return. He does not believe this variance is substantial and believes that it is the minimum necessary to provide for functional use of the space. The essential character of the neighborhood will not be altered because this is set back slightly from the front wall to give it some softening and there is a larger space between the two residences. The delivery of government services will not be adversely affected. Whether the owner purchased the property with knowledge of the zoning restrictions, he does not believe that to be the case. He does not believe that special conditions exist as a result of actions of the owner. He does not believe that the predicament feasibly can be obviated through a method other than a variance. He believes that the spirit and intent of the Code will be observed, and substantial justice will be done by granting the variance without conferring any special privilege on the applicant. He believes that a literal interpretation of the provisions of the Code will deprive the applicant of rights commonly enjoyed by other properties. The other Board members agreed with Mr. Christ's assessment.

Mr. Christ moved to grant a variance to Libby Schaiu, 21060 Aberdeen Rd., to construct a sunroom addition with a 6' side yard setback vs. 8' side yard setback required. The applicant has indicated the practical difficulty with the configuration of the house on the lot which affects the amount of space available for the sunroom. This is a reasonable solution and the minimum necessary. Mrs. Martinez seconded.

4 Ayes – 0 Nays  
GRANTED

**2. LINDSEY JUMP AND BRYANT ROTH – 2269 Winfield Ave. – PUBLIC HEARING – Variance to construct an attached garage addition with a 5' side yard setback vs. 8' side yard setback required (Section 1153.07(f)(1)) and a Variance to construct a garage addition with a 35' front setback vs. 40' front setback required (Section 1153.07(a)).**

Architect Jill Brandt came forward with the homeowners. Also present in opposition to the variance requests is Mr. James Hopkins, the neighbor immediately to the north, along with his Attorney, Kevin Hinkle.

Secretary Christ introduced the variance request and Mr. Farrell swore the parties in. Mrs. Brandt explained that the applicants would like to have a 2-car garage on their existing home, which currently only has a 1-car attached garage. She explained the design and said there will be a bedroom above the garage. The front face of the garage aligns with the entry porch, which is forward of the remainder of the house. They will add 7.5' to the north to expand the width of the garage, which leaves them a 20' – 6" interior dimension for the garage which narrows to 19' – 2" due to an existing mechanical and plumbing chase. They are proposing to pull the garage forward by 4' to allow them a little extra space for lawnmowers, bikes, etc. in the rear of the garage. The second floor will be expanded to maintain the current aesthetic

condition and they will update the entry porch as part of the overall enhancement of the home. Based on their survey, the existing front face of the garage is setback 39' – 8", which is non-conforming now. The request for a 2-car garage is a very reasonable one because they are very common in homes today and this is a very modest sized 2-car garage. They looked at pushing the garage back on the first floor but because the garage is already projecting forward, this is the most practical solution. She added that practically the entire street has front facing attached garages and only 7 have detached or rear garages. Of the 2-car attached garages that are front facing, 4 of them project forward of the house, 2 of which are the immediate neighbors to the north. They are proposing the garage protrude forward 4' from the entry and 5'-8" from the main body of the house. The existing side setback is 12.4' and there is 17' between the two houses. There will still be 11' – 8" between the two homes if the variance is granted, which they feel is a reasonable distance. They looked at alternate solutions, one of which was a tandem garage, with cars parking in front of each other but that is not a convenient option. They could also leave the garage the way it is and add a parking space outside of the garage on a wider driveway. Mrs. Brandt acknowledged receiving the letter written by the neighbor and she would like to address the point about the sidewalk along the side of the garage, which will be removed so there will only be grass between the two homes. She added that this proposal is in keeping with the aesthetic and style of the neighborhood.

Mr. Farrell acknowledged the survey that was provided by the applicant and asked what the stake in the middle of the backyard is but they don't know what it is for. Discussion was had about the existing setbacks and what they are proposing. Mrs. Lindsay Jump said that they hope to stay in the house a very long time and this improvement to their house and garage will add value to their house and to the neighborhood.

Mr. Farrell said that they Board received and has read a letter from the adjacent neighbor to the north and their attorney, which outlines their point of view regarding the practical difficulties. Attorney Hinkle said that there were statements made that this proposal is reasonable but the practical difficulties is what is in front of this Board. He does not see the practical difficulties or unnecessary hardships in the applicants' application and he outlined the reasons he believes that setbacks were put into place. He said that the 2-car garages that are upfront are attached to a bungalow style house that have a smaller width. The majority of the homes with 2-car garages have them in the back and they are colonials. He reviewed the practical difficulties factors from their point of view. There are no special conditions that exist, other than the fact that it is the applicants' choice to do this. This could be obviated by placing the garage in the backyard or they can add a shed to the backyard. The side yard is reserved for light and air circulation, open space for landscape and recreational use. This would be a special privilege if someone is given both a side and front setback variance. There would be no deprivation of the applicants' rights and providing a 2-car garage can be done within the Code. He added that the concept of the forward projection of garages is irrelevant because houses are uniformly back 40' in the front. They have concern about drainage and shedding rain and snow with a 2-story wall there. Everything tends to roll north toward the lake and water and snow will be shed toward the northerly neighbor who went through the expense of waterproofing the foundation, so drainage is a legitimate concern. He went through the pictures that they handed out and described the perspective of each, which show

their interpretation of the area that will be cut off by a 2-story addition next door and what view from their bay window will be cut off. Discussion was had about the pictures and whether they depict the reality of what will be affected, based on the location of the stake that was placed in the ground and where the second floor starts following a step back. Mrs. Brandt said that the forward projection on the garage will only be a single story.

Mr. Farrell explained that many or most properties don't comply with the existing Code relating to setbacks and said that the neighbor's house does not have an 8' side yard setback that is currently required. Because of that, he does not think that the applicant is asking for anything unreasonable simply based on current conditions. Mr. Farrell said that he does not see why they can't maintain the existing front setback and construct this space toward the back to eliminate the need for the front setback variance. He agrees that expense is not a reason to choose one variance over another.

Mr. Christ asked how much the proposed corner at the back of the garage would overlap the neighbor's house because most of their house is not looking at that wall. Mrs. Brandt said that it would be about 8' to 10' and there will be a window in the office and in the garage, and inclusion of those side elevation windows are historically a preference of the Design Board.

Mr. Farrell asked if they can move the garage so that the front wall is in line with the vestibule, which is approximately 4' back. He also asked if they could narrow the upstairs 20' "flex space" so that it is not a full 2-story wall on the side. Mrs. Brandt said she feels it would be aesthetically awkward to pull the second floor in and Mr. Farrell said he does not agree with her. She said that they can certainly line the front of the garage with the line of the current house and the 4' can be added to the back. She handed the Board an alternate plan they have developed and Mr. Farrell said he would like to see the second floor pulled in so it is not as wide as the first floor because he does not agree that it will be aesthetically awkward. It will provide more light and air between the homes and the 20' across is asking too much. A very brief discussion was had whether a 20' wide garage is wide enough and the applicants are satisfied that it will be wide enough for them.

Regarding the side setback, Mr. Farrell said that he cannot support this unless they pull the second story in. Mrs. Brandt said that they will have to discuss that proposal further and asked that they table this item so they can have that discussion. Mr. Farrell said that compromise has worked well in the past.

Mr. Christ moved to table this item for a future meeting. Mr. Harpster seconded.

4 Ayes – 0 Nays  
Passed

**3. GKHE PROPERTIES LLC – 1260 Smith Ct. – PUBLIC HEARING – Variance to construct a 1350 sq. ft. garage addition to an existing office building with a 5' parking setback to the west vs. 10' parking setback required (Section 1163.11(2)); a Variance to construct a garage addition to an existing office building with a 5' parking setback along**

**the south property line vs. 10' parking setback required (Section 1163.11(2)); and a Variance to construct a garage addition to an existing office building with a 4' – 9" building setback vs. 5' building setback required (Section 1163.07(b)(2)).** Mrs. Jill Brandt, Architect came forward to represent Gregg Mylett, Property Owner.

Secretary Christ introduced the variance request and Mr. Farrell swore the parties in. Mrs. Brandt explained the variance requests versus what is required by Code. She added that they are 22' from the edge of their back parking to the adjacent building and there are no windows on that neighboring building. Regarding the parking space to the south, Mrs. Brandt explained that the striped access aisle that is required for an ADA parking space actually sits within the required setback and she said that the striped area of the space cannot be parked in anyway, so the actual parking space itself is 10' from the property line. The project received Design Board approval and they received preliminary approval from the Planning Commission contingent upon receiving these variances.

The building is not currently occupied and the property owner will move his office into the building. The parking that is provided is sufficient as required by Code. Mr. Farrell commented that the building needs a lot of work from the outside and Mrs. Brandt agreed. Mrs. Martinez said she noticed the A/C condenser and asked about whether any other new mechanical units will be on site. Mrs. Brandt said that the addition is unconditioned garage space so no new unit will be installed to serve that. The second floor of the garage will be used for light storage. She added that the neighbors approve of the plan being presented.

Mr. Christ said that the setback averages to the Code requirement of 5' and he is not bothered by the parking setbacks.

Mr. Christ moved to close the public hearing. Mrs. Martinez seconded.

4 Ayes – 0 Nays  
Passed

Mr. Christ reviewed the practical difficulties test aloud. Regarding whether special conditions or circumstances exist which are peculiar to the land or structure involved, he said that the existing building is already at a minimum of 4' on one corner and 4' – 8' on the opposite corner, which establishes the setback for the building. Multiple facilities with paving, parking and driveways surround this property. Regarding whether the property in question will yield a reasonable return, Mr. Christ said that since this is an existing building, it drives the positioning of this addition and leaves the rest of the space for parking. He does not believe this variance is substantial and believes that it is the minimum necessary. The essential character of the neighborhood will not be altered. The delivery of government services will not be adversely affected. The owner probably purchased the property with knowledge of the zoning restrictions, but that does not affect the decision. The special conditions do not exist as a result of the actions of the owner. He does not believe that the predicament feasibly can be obviated through a method other than a variance because this is an existing building. He believes that the spirit and intent of the Code will be observed, and substantial justice will be

done by granting the variance without conferring any special privilege on the applicant. He believes that a literal interpretation of the provisions of the Code will deprive the applicant of rights commonly enjoyed by other properties. The other Board members agreed with Mr. Christ's assessment.

Mrs. Brandt asked the Board their opinion as to whether the striped area of a handicap space should be outside of the setback or whether it can be included as part of the setback since you can't park in it anyway. Mr. Reich said that the ADA portion of the space needs to be outside of the drive lane.

Mr. Christ moved to grant a variance to GKHE Properties LLC, 1260 Smith Ct., to construct a 1350 sq. ft. garage addition to an existing office building with a 5' parking setback to the west vs. 10' parking setback required. The applicant has indicated the practical difficulties with locating an addition to an existing building and providing parking required and this is a reasonable solution. Mr. Harpster seconded.

4 Ayes – 0 Nays  
GRANTED

Mr. Christ moved to grant a variance to GKHE Properties LLC, 1260 Smith Ct., to construct a garage addition to an existing office building with a 5' parking setback along the south property line vs. 10' parking setback required for the same reasons. Mrs. Martinez seconded.

4 Ayes – 0 Nays  
GRANTED

Mr. Christ moved to grant a variance to GKHE Properties LLC, 1260 Smith Ct. to construct a garage addition to an existing office building with a 4' – 9" building setback vs. 5' building setback required. The existing building is at 4' and this maintains the current wall face and is a reasonable solution. Mrs. Martinez seconded.

4 Ayes – 0 Nays  
GRANTED

**4. MICHELLE STEFANSKI – 59 Collver Rd. – PUBLIC HEARING – Variance to locate a generator in the side yard with a 3' side yard setback vs. 10' side yard setback required.** Mr. Tim Ferguson, General Contractor, came forward to present the variance request.

Secretary Christ introduced the variance request and Mr. Farrell swore in Mr. Ferguson. Mr. Ferguson explained that the applicant would like to install a 22 kw Generac generator on the rear of her property that will cycle once per week for 5 minutes at a low RPM. There is a letter from the next door neighbor who says they are fine with that location. There is an existing concrete pad in this location next to the A/C units which is an ideal location for the

generator because it is existing. If they can't locate it in this space, the applicant has stated that she will not install it. The area is heavily landscaped and can't be seen from the sidewalk. Discussion was had relating to other places to locate the generator and the Board agreed that there are other locations for it that are within Code. Mr. Farrell said that he was shocked to see that there are already condensers in that location and Building Commissioner Reich said he is not sure if they received variances to locate them there. Mr. Ferguson said he was not able to provide the specs for the unit.

Mrs. Martinez asked if there are required clearances for the generator and Mr. Ferguson said it must be 5' from any windows and 18" from the house. Mrs. Martinez said that she is concerned about servicing the unit considering the proximity to the neighbor's property line.

Mr. Christ said that this predicament can be obviated through some other method than a variance and there are many places this unit can go. Because of this, he is not in favor of this location. Other Board members agreed with Mr. Christ. Mr. Harpster said that since it is a very out of the way place and the unit will only run 5 minutes per week, he thinks this is a fine spot for it. Mr. Ferguson said that if they cannot locate the unit on the existing pad, then they will not install a generator. Mr. Ferguson said that this unit can go just about anywhere around this house and this area is too tight for it.

Mr. Harpster moved to close the public hearing. Mrs. Martinez seconded.

4 Ayes – 0 Nays  
Passed

Mr. Christ said that this would be an instance where he gets frustrated with the Code being very much at odds with the practice of people in the community. They have to adhere to the Code, and he thinks it should be looked at again.

Mr. Christ reviewed the practical difficulties test aloud. Regarding whether special conditions or circumstances exist which are peculiar to the land or structure involved, he said that the configuration of the property relative to the corner, the two streets and to the adjacent property. However, this location is as close to the neighboring property and house as possible. Regarding whether the property in question will yield a reasonable return, Mr. Christ said that he does not believe that applies to a generator. He believes this variance is substantial and believes that it is not the minimum necessary because other locations along the side of the house would provide reasonable usage. The essential character of the neighborhood will not be altered. The delivery of government services will not be adversely affected. The owner probably did not purchase the property with knowledge of the zoning restrictions. The special conditions do not exist as a result of the actions of the owner. He believes that the predicament feasibly can be obviated through a method other than a variance because there are multiple other places within Code that this unit can be placed. He believes that the spirit and intent of the Code will not be observed, and substantial justice will not be done by granting the variance and it will confer special privilege on the applicant. He believes that a literal interpretation of the provisions of the Code will not deprive the applicant of

rights commonly enjoyed by other properties that conform with the Zoning Code because there are other places to locate this generator.

Mr. Christ moved to grant a variance to Michelle Stafanski, 59 Collver Rd., to locate a generator in the side yard with a 3' side yard setback vs. 10' side yard setback required. The applicant has indicated the practical difficulties which seem to consist of the existence of a concrete pad to place it on. Mrs. Martinez seconded.

0 Ayes – 4 Nays  
DENIED

**5. ADAM BURG – 19670 Telbir Ave. – PUBLIC HEARING – Variance to construct a 2-story garage addition with 29.5% lot coverage vs. 28% maximum lot coverage permitted (Section 1153.05(c)(3); a Variance to construct a 2-story garage addition with a 2' – 10" side yard setback vs. 5' side yard setback required (Section 1153.07(f)(1)); and a Variance to construct a 2-story garage addition with a 3' – 5" side yard setback vs. 5' side yard setback required (Section 1153.07(f)(1)).** Mr. and Mrs. Adam and Tessa Burg, homeowners, came forward with Brian Hennies, Architect. Also present is Ms. Constance Keller, 19640 Telbir Ave., next door neighbor.

Secretary Christ introduced the variance request and Mr. Farrell swore in the parties. Mr. Farrell said that this was before them for requests which seem to be slightly reduced since the last time. He asked that they concentrate on what has changed because they know this request very well. Mrs. Burg thanked the Board for the feedback they received the last time they were here. They have provided additional information to make sure that the project is very clear for everyone. They feel they are not asking for anything unreasonable or that can be done differently. They also made sure they are doing better than the houses in their neighborhood, even though they know they are not within ordinance. They looked at new and existing builds and a lot of the existing builds have between 6' to 8' between houses. With this change, they will be 10' from their neighbor's house at the garage, they do not take it all the way back and they will not be obstructing her windows. Her back porch will not be disturbed and they will be going up as minimally as possible on the front. Mrs. Burg said that the pictures they provided show that the neighbor's view out her front porch will not be obstructed, which was a concern brought up previously. They have spent time with the neighbor to discuss the project on 4 different occasions and the neighbor's feedback was documented and addressed in the submission. They have found a garage system that is whisper soft so that it won't disrupt anyone in the house or the neighbors. They drive new cars so they don't have cars that off-gas and they will moving to all electric cars in the next 5 years because that is important to them. They believe that a 9' - 10' distance between their house and their neighbor's house will not affect the value of the neighbor's house.

Mrs. Burg continued by saying that if they located this on the back of the house, there would be no green space back there and they want to make sure that greenspace is maintained not only between the two houses, but also in the back. She said that they submitted police reports from the last 14 years that demonstrate that they live across the street from two different



felons who had open guns and were arrested for child abuse. She has had to get her kids out of the front yard on two different occasions as police had their neighbors' backs up against their house located just across the street. They want their children to be safe in their backyard to protect them from the pit bull owned by the neighbor across the street and their children are afraid for their safety. They feel the variance is not substantial and it keeps the house within character which is important to them.

Mr. Hennies said that the side yard setback on the east side of the house was pulled in by 10" and without the variance, it causes a problem with long, linear space on the first and second floor. The 2' – 10" side yard setback puts them at 9' from the neighbor's house at the garage, which is the closest point. There is 10' between houses where all of the windows are located along that entire stretch. The total footprint was reduced so it also reduced the total lot coverage they are requesting. The lot coverage request reduced from 30.6% to 29.5%. He described why they don't want to push the addition any more forward.

Next door neighbor, Mrs. Constance Keller said that she is a little bit upset because she enjoys sitting in her reading room and her view is currently very pleasant from that window but that will change with this plan. She is assuming that the grass in her entire side yard will be dead because of the location of the garage. She does not want to feel like she will be in a cave when she is in the room she enjoys so much. Mr. Farrell said that he understands her concerns and he is struggling with the fact that the lots are already so narrow. Mrs. Martinez asked about the floor plans on sheet A-1. The basement plan shows that it is 5' – 1" from the property line to the existing basement wall and the first floor shows the distance is 3' – 5". Mr. Hennies said that the first floor projects out that distance and they are requesting to continue the 3' – 7" setback distance on the west side because that is where the existing house is. Mr. Hennies said that the neighbors have submitted a letter, which includes the neighbor on the west side. Building Commissioner Reich said that he wants to make them aware that almost the entire construction needs to be fire rated materials and Mr. Hennies said that they are aware of that.

Mr. Farrell said that this home would project out in front more than the other two new houses on the street. He said that the new home to the east looks like it is more than 10' apart from the adjacent home. Mr. Hennies said that the home they measured is at the corner of Rockland and Telbir. Mr. Christ said that the distances they are quoting include the properties that are owned by someone else because they are quoting the distances from house to house. Those neighbors can build within 5' of their property and all of the sudden the 11' between houses becomes only 6' between houses. And the 10' distance becomes 5', and that is not the intent of the Code. It is not meant to include the setback of the adjacent properties when quoting distances between homes. Mr. Hennies said that they are allowing space for the neighbor to access the back yard and to enjoy light and air that can come in. Mr. Christ said that anything wider than a 30" lawnmower will not be able to access the backyard. Mr. Hennies said that there is no intent to access the backyard with more space than that. Mr. Christ said that he is not sure that a 2' – 10" access is enough room to allow adequate delivery of government services. He finds it troubling to use an adjacent property and that setback that belongs to that neighbor, in order to make the applicant's spaces work. He does not feel that

either of the side setbacks provide any adequate access for people or equipment to the backyard for servicing it if it becomes necessary. Mr. Hennies said that they discussed that and are comfortable with the amount of access they will have, even if a fence is installed along the property lines. Mr. Christ said that he is not comfortable with the little amount of space between the house and property line, and it is the downside of 40' wide lots. He said that sometimes there are lots that just won't allow you to add what you would look for in a modern house. Mr. Christ said that he could see moving closer to the front setback more easily than allowing a 2' – 10" side setback, but he said he is not encouraging them to go in that direction.

Mr. Farrell said that he is troubled by this and does not see that it fits in the front or on the sides. He cannot vote in favor of these variances. He said that he understands that the front of the house is within the setback, but he said it does not fit in with the neighborhood. The line of the street gradually steps forward and this house abruptly come south in front of the neighbor's house and it would be too close to her house. He does not feel this would be a good solution for this piece of property. He said that if they can do this without any variances, then there is not anything this Board can say about it. He said that he thinks this can be pulled back to 5' off of the east property line and they could make those spaces work without pulling it any farther forward and that is what he would like to see. Mr. Hennies said that it would create long, narrow spaces on the first and second floor. Mrs. Martinez said that she agrees with what has been said, and she understands the need for safety because she has 2 small children. Part of what makes the library district so friendly and the reason why people want to live there, is the front porches which bring a feeling of neighborhood because of visibility. She said she wishes there was a way to keep the front porch so that they are able to see where the kids are playing.

Mr. Christ moved to table this item. Mr. Harpster seconded.

4 Ayes – 0 Nays  
TABLED

**7. BRADLEY AND CAROL RICHARSON – 19580 Beachcliff Blvd. – PUBLIC HEARING – Variance to retain a generator with a 6' side yard setback vs. 10' side yard setback required (Section 1153.15(k)(2)).** Mr. Rob Kingsboro, installer for the generator came forward to present the request.

Secretary Christ introduced the variance request and Mr. Farrell swore in the applicant. Mr. Kingsboro said that they were issued a permit for this generator. He spoke about the location with of the generator with Ms. Straub who reviewed the proposed location of this. There was originally a shed in this location and Building Commissioner Reich told Brady III not to complete the installation of the generator and he has never heard from Brady III regarding the location of the generator. Mr. Kingsboro said that the unit has a 6' setback to the north, which is the rear property line and 10' from the side property line. Since the property line to the north is the rear property line, Ms. Straub said that the generator can stay there because we do not regulate the setback of units from rear property lines.

It was determined that there is no need for a variance for the existing location of the generator.

Mr. Kingsboro withdrew the variance application.

**6. FRAZIER DR. LLC – 19440 FRAZIER DR. – PUBLIC HEARING – Variance to construct a boat house with a height of 23’ vs. 15’ maximum height permitted for boathouses (Section 1153.15(i)(1)) and a Variance to construct a boat house with 1,918 gross sq. ft. floor-water area vs. 250 sq. ft. maximum gross floor/water area permitted (Section 1153.15(i)(2)).** Mr. Dave Maddux, Architect, came forward to present the variance requests.

Mr. Farrell said that the minutes from the previous meeting regarding this are included in the packets for the two Board members who were not present. Mr. Maddux said that they are requesting to build a boat house on the river on a property that will also have a main house up on Frazier Dr. There is a 53’ grade change from Frazier to the grade at the river so the boat house sits very low. The plan is to restructure the hillside and rebuild the retaining walls that are starting to fail along the whole side of Frazier and also build a ramp down to the river for access from Frazier Dr. down to the river. Boat houses in Rocky River can currently be about the size of a 1-car garage or about 250 sq. ft. They want to build a boat house that is larger to house his larger boat during the winter, as well as create a small entertaining space at ground level. He described that their previous submission included the property owner’s hopes of having a small Captain’s quarters associated with the boat house, which constituted a second living area and the Board was resolutely against that happening. They have removed that detail from the project. They lowered the size of the building, removed the housing but they do still have a bathroom because it is 53’ below the street level and the house is farther away. There is also a deck and covered area to the boat house. He explained that since the last meeting, they flipped the orientation to give a little more space to their neighbor to the north and explained the context of the area along the river. There are very few properties in Rocky River where the potential to do something like this exists. They have reduced the height to the minimum, reduced the second floor they previously proposed and removed the living quarter aspect of it to maintain it merely as a boat house and entertainment space.

Mr. Maddux explained that the boat storage part of the structure is 1,337 sq. ft., the entertainment space is 591 sq. ft. and the total square footage of the building is 1,918 sq. ft., but that does not include the veranda/porch, which is open, but covered. They have their permits from the Corps of Engineers. Mr. Farrell said he likes what they have done and the changes they incorporated from the original plan they saw.

Discussion was had relating to how the different portions are broken down. Mr. Christ said that a boat house clearly has to accommodate a boat. He understands the height, width and the need for the size of this structure. He said that the Building Department will be charged with being sure that the building conforms to the variances that may be granted. He said that everything they have asked for seems to be reasonable. He said that it looks like the neighbor to the north’s property is higher but they are still within the height restriction and they will not

be blocking any more of the neighbor because of the topography from Frazier to this point. Building Commissioner Reich said that the fire department as looked at this and access is available.

Mr. Harpster moved to close the public hearing. Mr. Christ seconded.

4 Ayes – 0 Nays  
Passed

Mr. Christ reviewed the practical difficulties test aloud. Regarding whether special conditions or circumstances exist which are peculiar to the land or structure involved, he said that this is clearly a special situation because of the cliff, the topography along the River, and the distance from Frazier Dr. Regarding whether the property in question will yield a reasonable return, Mr. Christ said that he does not believe that is a pertinent question on a property such as this. Regarding whether the variance is substantial and the minimum necessary, the applicants indicated the requirements for height relative to the boat and the area is relative is relative to supporting the boat in a reasonable and convenient method. The essential character of the neighborhood will not be substantially altered. The delivery of government services will not be adversely affected. The owner probably did purchase the property with knowledge of the zoning restrictions and they have tried to work within those requirements. Whether special conditions exist as a result of the actions of the owner, he does not think that applies. He believes that the predicament cannot feasibly be obviated through a method other than a variance because this is a unique property and there is a need for a boat house to accommodate the boat. He believes that the spirit and intent of the Code will be observed and substantial justice will be done by granting the variances and they will not confer special privilege on the applicant. He believes that a literal interpretation of the provisions of the Code will deprive the applicant of rights commonly enjoyed by others because of where and how this property is situated.

Mr. Christ moved to grant a variance to Frazier Dr. LLC, 19440 Frazier Dr., to construct a new boat house with a height of 23' vs. 15' maximum height permitted for boat houses. The applicant has indicated their practical difficulties with accommodating the boat that will be utilized and this is a reasonable solution to that based on the drawings and information provided. Mrs. Martinez seconded.

4 Ayes – 0 Nays  
GRANTED

Mr. Christ moved to grant a variance to Frazier Dr. LLC, 19440 Frazier Dr., to construct a new boat house with 1,918 gross sq. ft. floor/water area vs. 250 sq. ft. maximum permitted. The applicant has indicted the practical difficulties with providing sufficient space for the boat and area around it for maintenance and support of the boat and an adjacent structure for providing service, material and access areas for a boat and supplemental areas. Mrs. Martinez seconded.

4 Ayes – 0 Nays  
GRANTED

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Patrick Farrell, Vice Chairman

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Richard Christ, Secretary

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