

MINUTES OF THE REGULAR MEETING
OF THE
WORTHINGTON BOARD OF ZONING APPEALS
MAY 6, 2010

The regular meeting of the Worthington Board of Zoning Appeals was called to order at 7:30 P.M. with the following members present: C. Hermann, R. Dorothy, C. Crane, and D. Falcoski. Also present was D. Phillips, Chief Building Inspector.

Those present recited the Pledge of Allegiance.

Mr. Falcoski asked the Board members if they had reviewed the minutes of the April 1, 2010 and if so do they have any corrections, deletions, additions or motion for approval of the same. Ms. Crane moved and Ms. Dorothy seconded for the approval of the minutes. All members voted "aye" and the minutes were approved.

Mr. Falcoski asked those that plan to speak fill out speaker slips and to be sworn. Mr. Phillips swore in the witnesses prepared to comment at tonight's meeting.

AGENDA ITEM B-1 – Side Yard Setback – Air Conditioner – 440 Loveman Avenue (Columbus/Worthington Air/Squeo) BZA 05-10

Mr. Falcoski asked for Staff comments.

Mr. Phillips said this property is an existing lot of record in an R-10 district with a minimum side yard setback of 6 feet. Refrigeration equipment placed on the side of a dwelling must be effectively screened and not placed in a required yard. The applicant applied for a permit to replace the air conditioning unit on June 9, 2009. The sketch accompanying the permit application indicated the entire condensing unit was to be in the required side yard, which would require a variance. Staff attempted to contact the applicant on June 19 and June 22, 2009, advising the need for a variance and the permit was never issued. On March 25, 2010 staff faxed a Board of Zoning Appeals application to the applicant. The new condensing unit was placed in the side yard and is effectively screened. The requested variance is to allow the condensing unit to remain in the side yard.

Mr. Phillips continued to say smaller lot sizes in this neighborhood limit the size of rear yards as outdoor living areas. The placement of the condensing unit in the side yard allows the use of the rear yard. The newer condensing units are much quieter than units produced in past decades and staff had not received any inquiries about the location of this unit. The essential character of the neighborhood should not be substantially altered nor the delivery of governmental services be affected. Lastly, the Residential Code of Ohio allows for emergency repairs to be effected with the application for approval made immediately after the repairs have started.

John Ford, Columbus/Worthington Air, 554 Haymore Avenue North and 6363 Fiesta Drive, Columbus, addressed the Board. After due consideration of the property, the location of the unit previously placed by the previous owner, the new residents had two small children, the safety of the young children, no available space in the back yard, the lots are very close together, the side yard being fenced in, it was concluded this location made the most sense. The fence is a 6 foot high wooden fence between the unit and the neighbor's driveway. The yard is heavily shrubbed from the front, the unit is not visible from the street, and requested that the variance be granted.

Ms. Crane asked if this was replacing a unit that was in the same location. Mr. Ford replied it was not. The previous owner had built a 3 season room and a deck, and built the deck around the existing air conditioner. The top of the unit was at deck height and there was limited room to perform maintenance on the unit. Having the fan blades at the top deck height was a hazard to the two infant children. So it was moved to the best place available, which was the side yard, and is screened by the fence and the shrubs.

Ms. Crane asked if this is being heard because it is in the side yard or in the setback. Mr. Phillips replied because it is in the setback. Ms. Crane said air conditioners can be placed in the side yard under certain conditions if not in the setback. Mr. Phillips replied that was correct.

Mr. Falcoski asked if there was anyone in the audience who wanted to speak for or against the variance request.

There being no further comments, Ms. Crane moved:

THAT THE REQUEST BY COLUMBUS/WORTHINGTON AIR AND THOMAS SQUEO FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ALLOW AN AIR CONDITIONER CONDENSOR TO REMAIN AT 440 LOVEMAN AVENUE, AS PER CASE NO. BZA 05-10, DRAWINGS NO. BZA 05-10 DATED MARCH 29, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Hermann seconded the motion and all members voted "aye" thereon. The motion carried.

AGENDA ITEM B-2 – Variances – Front and Side Yard Setback – Garage Addition–
6885 Haymore Avenue West (Michael E. Jones - Jester Jones Schifer
Architects/Laughman) BZA 06-10

Mr. Falcoski asked for Staff comments.

Mr. Phillips said the property is zoned R-10 with a minimum front yard setback of 30 feet and minimum side yard setback of 8 feet. The applicant is proposing to enlarge the front of the existing two car garage approximately 28 feet from the right of way at its closest point plus footing and architectural projections. The footing projection below grade appears to be approximately 6 inches and the architectural projection above grade appears to be approximately 12 inches. The requested front yard variance is 2 feet for a portion of the enlargement plus footing and architectural projections of 6 inches and 12 inches, respectively, or approximately 3 feet.

Mr. Phillips continued to say the applicant is also proposing to add an additional bay to the north of the garage 1 foot 6 inches from the north property line plus footing and architectural projections. The projections appear to be approximately 6 inches. The requested variance is 6 feet 6 inches plus the footing and architectural projections of 6 inches, or approximately 7 feet. The Residential Code of Ohio requires walls constructed within the 3 foot fire separation distance be a minimum 1 hour fire-resistive rated for exposure from both sides including the underside of projections. Openings are not permitted in the wall. There is a 10 foot construction easement along the north property line. The property to the north has a 10 foot easement, a storm sewer, and a 5 foot construction easement along its southern property line. Construction into the construction easement will require approval from City Council.

Mr. Phillips continued to say a corner of the existing dwelling was constructed at the front yard setback and enlarging the existing garage 2 feet, where a small portion of that enlargement is in the front yard setback, staff did not see as substantial. The garage addition variance request appears to be substantial but is mitigated by the 15 foot easements on the property to the north, and staff felt the essential character of the neighborhood should not be affected. The granting of setback variances will not grant variances from the requirements of the Residential Code of Ohio. The storm sewer on the property to the north can be maintained within a typical 10 foot easement. Construction easements are typically granted as temporary construction easements but staff could not determine why these construction easements were not temporary or if they had expired. Approval of this variance request is not a guarantee that City Council will grant permission to build the garage in the construction easement. The delivery of governmental services should not be affected.

Michael E. Jones, architect and partner with Jester Jones Schifer Architects, 6209 Riverside Drive, Dublin addressed the Board and stated they had done an analysis of other residential separations in this neighborhood, looking at the existing conditions of about 15 properties nearby and determined the average separation between dwellings 25'-8". The proposed separation with the addition would be 25'-7" with the garage built as

submitted and 1” below that average. Moving the front of the garage forward will allow cars to fit more readily inside what is considered a small garage during the time it was originally built. Offsetting the third bay will break up the long elevation of a three car garage both aesthetically and visually. Coming around the corner on Haymore, you would see offsets in the roof lines and the facia, siding, and all of the materials.

Mr. Falcoski asked for more information about the home sample used to determine the average separation between dwellings and were they all in that particular part of the neighborhood.

Mr. Jones replied that they were and presented a plan of the neighborhood. Mr. Jones said they took a copy of the Franklin County Geographic Information System (GIS) that they could open in AutoCAD and dimension it. Mr. Jones stated he is not a surveyor so the dimensions are going to be plus or minus a little bit. The subject property is slightly darker and crosshatched.

Mr. Falcoski asked about the measurement 24’-1”. Mr. Jones replied it is from the property line to the existing house to the north. The other dimension, from the property line to the existing Laughman house is 14’-1” for a total of 38’-2”. Mr. Falcoski asked for the average separation and Mr. Jones replied 25’-8”. Mr. Falcoski asked for the proposed separation and Mr. Jones replied 25’-7”.

Ms. Dorothy questioned how the dimensions were determined. She sees 14’-1” and 27’-11” and looks like a much shorter distance and does not see 25’-7”. Mr. Jones replied they measured all of the other houses, totaled the distances, averaged them, and determined the mathematical average. A couple were only 15’. Ms. Dorothy said the distance to the house to the south is going to be quite a bit less than the average. Mr. Falcoski asked if 24’-1” is from the house to the north to the south property line and Mr. Jones said it was. Mr. Falcoski asked if the property line to the house is another 14’-1”. Mr. Jones replied it was. Mr. Dorothy says she now sees the distances as stated.

Ms. Crane said, reading the supporting statement, the garage expansion is to support a 2 car family along with requisite yard tools, mowers, bicycles, etc. Why is a storage shed not being considered. Mr. Jones replied the property backs up to the Olentangy Bike Path and there is a great view from the back of house and the owners did not want to interrupt that view with a shed. It is also anticipated, with two children, they will be driving and will generate a need for at least a third vehicle that they will leave in the driveway.

Ms. Crane stated these garage additions are to house more than tools. Mr. Jones replied currently it would be to house tools, but in the future it would be suitable for another vehicle and is the intention.

Ms. Crane does not see a hardship but sees a preference. She does not see it being the City’s responsibility to accommodate a certain number of cars. This application is for 3 cars, are if someone has 5 cars, are we required to approve garages for 5 cars. There are

many places where a shed can be placed on the property to accommodate tools. She is not saying the garage additions are not appropriate but is wondering what other options have been considered. Mr. Jones replied that part of the owner's dilemma is there already has been remodeling and an addition on the back of the house – kitchen enlargement and gathering room/eating space. That was completed about 10 years ago. There is simply no room to get behind the house and possibly do an end-load garage or access beyond the existing garage.

Ms. Crane asked if the site plan is showing a deck to the rear. Mr. Jones replied there was a deck and a paved patio. Above the deck is the addition.

Mr. Jones continued to say one of the reasons the applicant came before this Board was the 10' utility easement that will always remain open, will always remain 10' because you cannot build into the easement, and it will help maintain the permanent open space that is available in the neighborhood. This seemed the most reasonable solution given the constraints of the existing property and the existing house. The fact there is an easement along the north property line mitigates the relative closeness of the garage.

Mr. Hermann asked if the garage will encroach into the easement. Mr. Jones said it will not because the garage will stop just short of the property line. The easement is entirely on the property to the north and his surveyor could not find information that the construction easements are still in effect. A survey of the property was conducted when the addition was built and their records did indicate the construction easement was still in effect. If they are still valid, they can go before City Council to deal with that.

Mr. Jones continued to say they discussed the possibility or probability of landscaping north of the garage. The entire property is nicely landscaped and that will be continued.

Mr. Hermann said he appreciates the staggering of the garage addition.

Patricia Laughman, 6885 Haymore Avenue addressed the Board and said she and her husband, John, are planners, purchased their home because of the view and the location, and it is a lovely home. She teaches in Worthington and intend to be in this home a very long time. They have two young children, are looking into the future and are trying to make the smartest decisions for their family now. They like the look of the property, like to keep things tidy. Both vehicles park in the garage because, they have a garage for a purpose and it keeps the outside looking nice. There are a lot of possibilities with two young girls, they are going to have a third car, so instead of putting up a shed in the back, they are anticipating they will need a third garage bay. They will be at the property a very long time, they maintain their property very well, and it has been great working with the architect because they can see the addition will make the property look as nice as it does now. Currently, they do not have bicycles but when you have young children you accommodate lots of stuff and they feel there are being moved out of the garage and deferred purchases because they do not want the garage to be for storage. The view out the back is one of the things that sold the house to them, and the thought of having to put

something up that obstructs that view and creates an eyesore is what they are trying to avoid.

Mr. Falcoski asked if there was anyone that wanted to speak for or against the variance request.

Robert Wead, 6895 Haymore Avenue address the Board and said he lives at the property to the north. He said his neighbors are very fine people, great neighbors, is happy they are in the neighborhood, but must speak out against the addition. The addition is only a foot and a half from the property line and one of the things they maintain is it will increase the value of the neighborhood by adding another garage. He does not see how it will help his property value at all and possibly diminish it. One of the things it does is reduces the amount of green space that separates the houses and when it is built, the grade will have to be raised and cause his lawn to be a reservoir of water when it rains, and could cause possible foundation problems or have casual water during hard rains. To build the addition it would have to come through his lawn, and he does not want to be territorial, but he assumes his lawn will have to be dug up and he assumes the lawn would be replaced. But this is a side of the house that he does not have access to water. The spigots are on the back of the house and an unsightly hose would be brought around and would be difficult to maneuver around the house. The character of the neighborhood would change because there are no three car garages in the neighborhood and would be the exception to the rule. He can see adding a little bit to the garage but to add a whole bay seems unnecessary and seems to be encroaching farther than it needs to be. Our lot is an odd-shaped lot and that space adds to the appeal of the yard since there is not a significant front yard. There will have to be a driveway to the new bay that will make him feel more uncomfortable living there.

Mr. Falcoski said he heard Mr. Wead express three concerns. One is possible water damage due to potential ponding. The second is the decrease of his property value. And the third is his lawn will be damaged by the construction activity and it will be difficult to water the lawn.

Mr. Wead replied those are concerns, as well as the Haymore bike path is a couple of hundred yards away and his yard is one used as a cut through and their burden to provide that cut through would increase by forcing all that traffic onto his yard. Mr. Wead does not mind people cutting through but there needs to be some space where than can use another yard. Mr. Falcoski asked if the people are cutting through the other property and Mr. Wead said it is probably half and half. Mr. Wead stated if the variance is approved, he would like to see some paver stones or some walkway to make it clear where the path is and not wear out the grass. Mr. Falcoski asked if he meant the pavers would be on his property and Mr. Wead replied it would have to be since the garage is only a foot and a half from the property line and would be too tight.

Mr. Wead pointed out that the garages would be as wide as the house and does not know if that is a proper look or not.

Mr. Falcoski asked if there were any studies made about potential water damage concerns. Mr. Jones replied they have on other projects but have not started looking at this on this project yet. He understands that most municipalities have ordinances preventing water to be transferred to adjoining properties and have been able to comply with grading and drainage systems. Mr. Falcoski asked if this project will have a drain tile or something like that. Mr. Jones replied the project currently does not have a drain tile but may need it once they begin developing the design. Mr. Falcoski stated the addition will have gutters and downspouts and Mr. Jones replied it will. Mr. Falcoski asked if the existing dwelling have downspouts connected to a storm system and Mr. Jones replied he thinks it is an underground system out to the curb face.

Mr. Hermann said it appears the grade from the new driveway will be a steep slope to north property line if it is to be the same elevation as the existing garage floor elevation. Has there been any thought of a retaining wall. Mr. Jones replied a portion will likely have a retaining wall along the side of the driveway, and the block foundation of the garage will act as a retaining wall.

Mr. Falcoski asked if he was to act as the construction manager and Mr. Jones replied no, Mr. Laughman's father-in-law will act as the general contractor. Mr. Falcoski was asking in regards to minimizing damage on the adjacent property. Mr. Jones replied he anticipated most of the work near the property being done by hand. A small backhoe or Bobcat could use the driveway for some of the work. Concrete would be carried in a cart and probably not back a truck near where the concrete would be placed. Given the nature of the project, Mr. Jones anticipates most of the work being performed by hand or using small equipment and would not anticipate enter the adjacent property at all.

Mr. Falcoski asked the owner if they would agree to repair or replace any damage to the grass of property to the north, or provide for pavers. Someone in the audience inaudibly replied.

John Laughman, 6885 Haymore Avenue West, addressed the Board. He said he is hesitant on the question of the pavers because there is not right of way or easement for people to walk through the area and is not willing to open up liability by providing something that directs people to a certain area. People walking through his yard he has viewed as a choice they made. If he did not want someone to walk through there, he could erect a fence or something to discourage them, but would not want to place a path to encourage them to walk through the property and expose himself to liability.

Ms. Crane asked about the easements. Mr. Jones replied there is a 10 foot easement on the north property and was a 10 foot construction easement on the subject property and an additional five foot construction easement north of the 10 foot easement on the north property. The construction easements were for the construction of the storm sewer. Ms. Crane said those are easements but they are not extra property in between the two properties. Mr. Jones replied that was correct.

Ms. Crane asked if the applicant is proposing to place the garage one foot six inches from the north property line. Mr. Jones replied that is correct. Ms. Crane said she is struggling with the extent of the variance request to be this close to the property line. She does not have a problem with some expansion of the garage to accommodate additional storage, but does not believe there is room on this site for a third garage bay. Perhaps a third car will have to go on the drive way or on the street. A foot and a half from the property line is pretty close.

Mr. Falcoski asked for the dimension from the added garage to the existing garage to the north. Ms. Crane said the someone could expand the garage on the north towards the south and reduce that dimension even further. Mr. Jones replied the 10 foot easement would maintain green space between the proposed garage expansion on the subject property and any expansion of the garage on the property to the north. It would always be the 10 foot plus the foot and a half between the two garages. Ms. Crane said the proposed garage is to go into the easement and Mr. Hermann replied that easement is one of the two construction easements. Ms. Crane said the easement to be preserved is the sewer easement. Mr. Jones replied the sewer easement is the permanent easement, and if everyone built their garages as far as they could, the distance between the two garages would be a minimum of 11 feet six inches.

Ms. Crane said City Council would have to grant permission for the garage to be in the construction easement. Mr. Phillips said typically, construction easements are identified as temporary construction easements so it is clear they expire. This particular deed and this particular plat did not use the word temporary and staff did not feel comfortable that the easement had expired, and to be safe will ask City Council to grant approval to build this garage over that easement.

Ms. Dorothy asked how long has this project been planned and why they had not spoke to their neighbors before applying for a variance. Mr. Laughman replied he spoke to Mr. Wead on April 24 and had intended to speak to him prior to that but had not seen him in the neighborhood. Ms. Dorothy said some of these issues could have been mitigated by discussing them with the neighbors prior to the hearing to ensure everyone is comfortable with the project. It appears to be a nice addition but it appears the neighbor is substantially impacted by the project. In neighborhoods with smaller lots, this happens regularly. Ms. Dorothy said this is a substantial variance request.

Ms. Dorothy asked if the trees along the north side will be maintained. Mr. Laughman replied there is only one tree, a pine, in the front yard that is affected by the addition but no decision has been made. The other two trees are far to the rear and are to remain. The pine is leaning and probably needs to be removed at some point.

Mr. Falcoski asked why this addition will decrease property values in the neighborhood. Mr. Wead replied it fills in space that would normally be open and be more attractive, does not think the addition makes that property more attractive, creates a contrast between the lawns, and thinks it is a problem. Mr. Wead said he does not plan on selling

anytime soon. Mr. Falcoski said he understands and if he thinks it will affect his property value, that is a valid objection.

Dean Miller, 564 Haymore Avenue North, addressed the Board and stated he lives next to Mr. Wead. He asked how the addition will increase the value of the property. He believes it will decrease the value of his property because his property will have a two car garage while the other property will have a three car garage. Mr. Miller said the applicant picked only some dimensions between houses to calculate an average; he did not use the houses across the street not the dimension between his and Mr. Wead's house. Including those would have raised the average distance between houses.

Mr. Falcoski's asked if the Miller's house was used in calculating the average and Mr. Jones replied he did not and said other inaudible things about the Franklin County Auditor's Geographic Information System website.

Mr. Falcoski asked if all of the middle houses were in the average. Mr. Jones' response was not audible. Mr. Miller stated that Mr. Jones did not include the Barrow's and the Heatherington's dimensions. Mr. Hermann said lots 13 and 14 were more of a backyard measurement. Mr. Miller said it is the front of their house. Mr. Jones said he thought he had a fairly representative cross section of the neighborhood. There were a couple of dimensions that were 15 feet plus or minus, and some that were up in the 30's, 35 feet. It seems like a reasonable average and could find others that are way above the average. Ms. Crane did notice the dimensions were taken linearly and when you go around a curve, there is irregularity.

Charles Fuller, 6875 Haymore Avenue West, addressed the Board and lives on the south side of the Laughman's. This project was never discussed with him and felt it was easy for someone to knock on the door. He also felt this third garage bay would make the width of the garage length as much as the house and changes the nature of the neighborhood. If you look around the neighborhood, everyone has a two car garage. If you have to place your lawn care equipment someplace, there are different ways to solve that problem. There is additional parking on the outcropping on Haymore and one is next to the house and does not see the point of adding the garage. It will affect the view coming down the curve, and it is possible it will affect property values, but this no one will really know. The tree being taken out is another matter. There are five houses there at the curve and this garage addition will disturb that portion of the view. Coming down the street and seeing one house with a three car garage the width of the house – he had kids growing up, he looked at getting a larger house, looked at expanding the house, adding another bedroom, but never looked at expanding the garage.

Mr. Falcoski asked about the garage being the width of the house and Mr. Fuller said it is visually disturbing.

Ms. Laughman said she and her husband are novices in this and she is lucky to have a step-father who is in the business and provided guidance. She was not aware there was going to be a sign in the yard stating there was going to be hearing as soon as this, and

was not prepared. She talks to the Weads all the time and this project will not cause a problem with their relationship. She said she had not had a relationship with Mr. Fuller, for no particular reason, and would not have felt comfortable approaching him about the project, and is why the project was not discussed. They had been working on the project for six weeks with her step-father and Mr. Jones and she is a novice, but honest and not trying to hide the project from anyone.

Ms. Dorothy said one of the considerations when granting a variance is whether the property will yield a reasonable return or beneficial use of the property without the variance, which could be argued either way. Another consideration is whether the variance is substantial, which it is. And whether the character of the neighborhood will be substantially altered or whether the adjoining properties would suffer a substantial detriment. With that is communication with the neighbors. Ms. Laughman replied she felt it was the Weads she needed to be the most concerned with since they would be impacted the most. Recently she had a progressive dinner shortly after the hearing sign was erected and about 15 couples from the neighborhood were over discussing the project. None of those people are here tonight and the only objection she was aware of was from the Weads. It was an oversight on their part that things would progress as quickly as they did.

Ms. Laughman continued to said from her and Mr. Laughman's prespective, they are trying to make the home as livable as they can, and the garage seems like a smart thing to do, and would increase the value of the property and provide the luxury of more space to store things foreseen.

With no other discussion, Ms. Crane moved:

THAT THE REQUEST BY MICHAEL E. JONES AND JOHN E. LAUGHMAN FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT AND SIDE YARD SETBACKS TO ALLOW A GARAGE ADDITION AT 6885 HAYMORE AVENUE WEST, AS PER CASE NO. BZA 06-10, DRAWINGS NO. BZA 06-10 DATED APRIL 1, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING, WITH THE CONDITION THAT DAMAGE TO THE NEIGHBOR'S GRASS AT 6895 HAYMORE AVENUE NORTH BE REPAIR.

Mr. Hermann seconded the motion and all members voted "no" thereon, except Mr. Falcoski who voted "yes". The motion failed.

Mr. Falcoski asked what is the next step for the applicant. Mr. Phillips replied a new application can be submitted for a different variance request, or even reapply for this variance request, otherwise the project cannot move forward as planned.

AGENDA ITEM B-3 Variance – Front and Side Yard Setback - Addition – 485 Loveman Ave. (Mark Lagergren) BZA 07-10

Mr. Falcoski asked for staff comments.

Mr. Phillips said the property is an existing lot of record in a R-10 district with a minimum front yard setback of 30 feet and minimum side yard setback of 6 feet. The applicant is proposing to construct a garage, porch, and living space on the west side of the property, 26 feet from the right of way and 5 feet from the west property line. The requested variances are 4 feet for front yard setback and 1 foot for side yard setback.

Mr. Phillips continued to say the smaller lot sizes of this neighborhood limit the size of homes without reducing outdoor living areas. Staff could not see how a standard sized garage could be placed on the site without substantially altering the existing home. The essential character of the neighborhood should not be substantially altered and the delivery of governmental services should not be affected.

Mark Lagergren, 485 Loveman Avenue addressed the Board and said he and his wife are very excited about an addition since they have two young girls and require additional space.

Ms. Crane asked if this addition will replace the existing carport. Mr. Lagergren replied that was correct. Ms. Crane said it really cannot go farther over since there is not much room between the two garages. Mr. Lagergren replied the addition is basically the foot print of the existing garage, and the new garage is being pushed forward where the carport is, and a forth bedroom would be above the new garage.

Ms. Crane asked how wide the lot is. Mr. Phillips replied the lot is on the curve, the rear is 48 feet so the front should be approximately 48 feet.

Ms. Crane said she could not see anywhere else it could go. Mr. Hermann said there already is a structure there, it will not be any closer, just larger.

Ms. Dorothy asked if he is going to follow the Residential Code of Ohio and Mr. Lagergren stated he is.

Mr. Falcoski asked if anyone would like to speak for or against this variance request.

John Jolly, 491 Loveman Avenue, addressed the Board and stated he is Mr. Lagergren's neighbor, and supports the variance request. The Colonial Hills subdivision was not originally a part of Worthington. It was granted to veterans returning from the Second World War, who purchased plots of land and remained unincorporated until the mid-1950's. At that time, the approximate 750 homes were annexed. There are very small lots with pre-built houses, some without basements, some were built elsewhere and moved to their current site.

Mr. Jolly continued to say since the annexation, the neighborhood has taken on a character that is very desirable for a certain demographic, like people that have young children that walk to school at Colonial Hills Elementary. There are local parks that people walk to. The square foot prices of the homes are very high although the homes are very small. That creates a problem since people moving in are typically young couples, maybe childless, soon to have children, love the neighborhood, the child attends Colonial Hills, they have a second child, and then they run out of house. The houses tend to be 800 to 1000 square feet which is not typical of Worthington, and residents leave the community to other municipalities. They leave because their house has a single bath, very little to no garage, very little to no basement, and one or two bedrooms. Mr. Lagergren has this situation and is proposing to create add a larger house and a larger garage space and an extra bedroom.

Mr. Jolly continued to say the project is not only good for Mr. Lagergren, but good for the community. It is good for property values. It is good for the ownership turnover by increasing the number of years before people sell.

Ms. Dorothy said she lives in the neighborhood and a couple of her son's friends recently moved out of the community for the same reasons. Mr. Jolly said there are two neighbors that are watching this project and if it goes well, they will consider adding onto their houses instead of moving.

Mr. Falcoski asked if there was anyone else that wanted to speak for or against the variance request.

With no further discussion, Ms. Dorothy moved:

THAT THE REQUEST BY MARK LAGERGREN FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT AND SIDE YARD SETBACK TO ALLOW CONSTRUCTION OF AN ADDITION 485 LOVEMAN AVENUE, AS PER CASE NO. BZA 07-10, DRAWINGS NO. BZA 07-10 DATED APRIL 1, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Ms. Crane seconded the motion and all members voted "aye". The motion carried.

AGENDA ITEM B-4 – Variance – Side Yard Setback – Shed– 304 East Selby Boulevard (Gregory E. Hitzhusen) BZA 08-10

Mr. Falcoski asked for staff comments:

Mr. Phillips said this property is in an R-10 district with a minimum side yard setback of 8 feet for sheds in excess of 120 square feet in area. The applicant is proposing a 10 foot by 10 foot storage shed attached to a 6 foot by 8 foot potting shed, totaling 148 square feet in area for the combined structure. The structure is proposed to be 5 feet from the west property line and the requested variance is 3 feet.

Mr. Phillips continued to say the essential character of the neighborhood should not be substantially altered nor the delivery of governmental services should not be affected.

Greg Hitzhusen, 304 East Selby Boulevard addressed the Board and said he and his wife moved into Colonial Hills a year and a half ago and the first project they had in mind was a shed since both he and his wife are avid gardeners. Mr. Hitzhusen also provided two written statements of support from neighbors. The main reason for the variance request is a future play structure is planned to use a tree branch from the black walnut tree and placing the shed as planned would allow that branch to be used for that purpose. There is also an invisible fence to keep the dog out of the garden.

Mr. Hermann asked if the shed were located closer to the tree would the tree have to be removed. Mr. Hitzhusen replied it would interfere with the placement of the future play structure unless it is placed over the invisible fence. There is a corridor the dog can run to reach the rear of the property.

Ms. Dorothy asked where the two neighbors in support of the variance are located relative to this property. Mr. Hitzhusen replied one neighbor is west, the other one is to the north of the west property, and both are impacted the most by the placement of the shed. Mr. Hitzhusen continued to say the entire variance request package was given to the surrounding neighbors to inform them of their plans.

Mr. Falcoski asked if there was anyone else who wanted to speak for or against this variance request.

Seeing none, Ms. Crane moved:

THAT THE REQUEST BY GREGORY E. HITZHUSEN FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK FOR CONSTRUCTION OF A SHED AT 304 EAST SELBY BOULEVARD, AS PER CASE NO. BZA 08-10, DRAWINGS NO. BZA 08-10 DATED APRIL 2, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Hermann seconded the motion. All members votes “aye” and the motion carried.

AGENDA ITEM B-5 – Variance – Front Yard Setback – Awning Replacement – 5595 Emerson Avenue (Benchmark Roofing, Inc./Igel and Gillespie) BZA 09-10

Mr. Falcoski asked for staff comments.

Mr. Phillips said the property is in an R-10 district with a minimum front yard setback of 30 feet. The property had a porch roof in the front yard setback which had been recently removed. The applicant is proposing to replace the metal porch roof with a similar structure, 7 feet by 31 feet, approximately 23 feet from the right of way. The requested variance is for 7 feet.

Mr. Phillips continued to say the smaller lot sizes of this neighborhood limit the size of covered front porches without a variance. In this particular case, no covered porch is possible without a variance and poses a hardship. The essential character of the neighborhood should not be affected nor the delivery of governmental services should not be affected.

Mr. Falcoski asked if the house had an awning. Mr. Phillips replied that it did, and the roofing company asked for a partial plan approval to replace the existing asphalt shingle roofing, and in doing that replacement, had to remove the original awning. The older photograph from the Franklin County Auditor shows what the original awning looked like. Mr. Falcoski asked if what is proposed will simply occupy the space that the old awning occupied and Mr. Phillips replied that is correct.

Ms. Crane asked if the new awning will look the same and be made of the same material. Mr. Phillips replied it will look similar, but it is made of different materials, as seen by the section provided by the applicant. It is an insulated metal panel “sandwich”.

Betty Igel, 5595 Emerson Avenue, addressed the Board and said she bought the house over 40 years ago and the porch was there at that time until the February storm took it down and even the front door would not open. She is planning on replacing it with a new roof.

Ms. Crane said this Board does not typically deal with materials but does believe the materials chosen are appropriate.

Mr. Falcoski asked if there was anyone to speak for or against this variance request.

See no one, Mr. Hermann moved:

THAT THE REQUEST BY BENCHMARK ROOFING, BETTY IGEL, AND DONNA GILLESPIE FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT YARD SETBACK TO CONSTRUCT A PORCH ROOF AT 5595 EMERSON, AS PER CASE NO. BZA 09-10, DRAWINGS NO. BZA 09-10 DATED APRIL 7, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND

CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Ms. Dorothy seconded the motion. All members voted “aye” and the motion carried.

AGENDA ITEM B-6 – Variance – Rear, Side and Front Yard Setbacks – 783 Nova Court (John Little) BZA 10-10

Mr. Falcoski asked for staff comments.

Mr. Phillips said this property is in an R-10 district with a minimum rear yard setback of 15 feet for uncovered decks not more than 3 feet higher than the adjacent grade, a minimum front yard setback of 30 feet for fences, and a minimum adjacent front yard setback of 20 feet for fences on corner lots. The applicant is proposing to construct an uncovered deck 14 feet and 12 feet from the rear lot line. The requested variances are 1 foot and 3 foot for each portion of the deck. The applicant is also proposing to erect a 48 inch aluminum fence approximately 20’ from the Olentangy River Road right of way and approximately 5 feet from the Nova Court right of way. The requested variance is for 25 feet of approximately 100 lineal feet of fence.

Mr. Phillips continued to say this property is unique with its winding front yards and limited buildable area to the rear. The requested variance for the deck is not substantial, should not alter the essential character of the neighborhood, nor affect the delivery of governmental services. Fences in the front yard historically have not been approved by the City. This is mitigated by the unusual shape of the property with a limited amount of yard available for use by children and pets. The Olentangy River Road portion of the fence does not appear to require a variance and the City Engineer agrees with the applicant’s statement that the fence should not cause intersection sight distance issues for north bound traffic on Olentangy River Road. The fence should not affect the delivery of governmental services.

John Little, 783 Nova Court, addressed the Board and said he moved into the home in December. They have a problem with the back porch area, with elderly and young children visiting the home as part of their extended family. There is not much entertainment space to the rear, there are a lot of steps from the house to the porch, and the porch to the ground. It is not as safe as it could be and is the reason for the deck.

Mr. Little continued to say he knows he is asking a lot from the City regarding the fencing. The way the property sits, the house faces Nova Court and the side yard faces Olentangy River Road. He has virtually no back yard even without the deck. He has approximately five feet from the porch to the rear property line and is why he wants to extend the fence out into the side yard and along the sidewalk, creating a fenced in side yard using ornamental style fencing that looks better than a fence made of wood or vinyl. It would not create a sight line issue for traffic, it blends in good in the area. He has

talked to some of his neighbors and the ones he has talked to in the short time he has lived in the neighborhood do not seem to have objections and does not want to erect anything they would object to. Mr. Little said he is worried about dogs and kids not able to play in the back yard due to its size, and cannot play in the side yard due to Olentangy River Road and the amount of traffic.

Ms. Crane asked if the City Engineer's opinion about the fence not impacting sight lines is based upon it being an open style fence. Mr. Phillips replied the location of the fence is what prevents the sight lines from being impacted since it is proposed to be 20 feet from the Olentangy River Road right of way. If this lot were square, the west side would be the adjacent front yard and its setback is reduced to 20 feet, and would not require a variance along the Olentangy River Road front yard. It was that clearance that the City Engineer concluded the fence itself is not impacting the sight lines. Ms. Crane asked even if the fence were a six foot high, board fence, it would not impact the sight lines. Mr. Phillips replied that is correct.

Ms. Crane asked if the sight line concern was the reason for choosing an open style fence, although this Board typically does not deal with design issues. Mr. Little replied this is the style fence he wants to use. It is decorative, and is proposing a 42 inch tall fence.

Mr. Little said he measured 35 feet from the edge of Olentangy River Road to where the fence is proposed, but the sight lines are really not an issue. Ms. Crane said the Board approved a similar style fence in old Worthington on a corner lot, at Evening Street and West New England Avenue. It is very unobtrusive and is very similar to the one being proposed, and it is not easy to see.

Mr. Little said he took visibility and impact into consideration when trying to decide how to use the side yard by erecting a fence. The cost of erecting this style of fence is much higher than a wooden fence, but wanted to maintain the neighborhood aesthetics and is willing to spend the extra money to maintain the look of the neighborhood. Mr. Falcoski asked if the fence was metal and Mr. Little replied it is aluminum with a wrought iron style.

Mr. Falcoski asked why is the fence proposed to be so close to Olentangy River Road, the 38 foot measurement. Mr. Little replied the fence is proposed to be 35 feet from the edge of Olentangy River Road and 38 feet from the rear property line to the sidewalk along Nova Court. The sidewalk is approximately where the 60.84 is written on the site plan, and the fence will be 24 to 26 inches from the sidewalk. The sidewalk is along a curve so the fence would follow the curve.

Mr. Little continued to say the reason he is proposing a fence extending as far as shown are the existing trees on the lot. There are large trees in the side yard and if the fence went half way, it would not look as good and would lose fenced yard space. Mr. Falcoski asked if he is looking to fence in the trees and the large side yard. Mr. Little replied yes, the fence would be between the western most two trees on the lot and along the sidewalk.

Mr. Hermann said he does not have any issues with the deck but the fence causes concerns. Fellow members of the Architectural Review Board have issues with fences in the front yard. Mr. Hermann understand he has a limited rear yard, but it is the view of a fence in the front yard from the public way, what you see when traveling along the public way. The issue is not so much what is seen from Olentangy River Road but what you see from Nova Court, when someone is walking down the sidewalk or driving along the street, the fence will be close to the public way. The fence needs to be away from the public's view. He has no issue with a fence just not this close to the public way.

Mr. Little asked if the distance from Olentangy River Road is not an issue only the wide of the fence. Mr. Hermann replied it does concern him and he would like to see the entire fence taken back from Olentangy River Road. There needs to be enough space so that it does not feel like it is in the front yard.

Mr. Little said the way the lot is configured, the front yard is really a side yard but understands Mr. Hermann's concern. When you are driving into the neighborhood or along Olentangy River Road, you may lose some of the rural feeling. He was concerned about that issue as well and thought that would be a challenge in being granted permission.

Ms. Crane said the fence is barely on Olentangy River Road and Mr. Hermann's concern is really along Nova Court. Mr. Hermann replied that is correct.

Mr. Little said the sidewalk is about three to four feet from the street and the fence would be about two feet from the sidewalk, which is the width of a lawn mower, and provides plenty of room for children on bicycles and in strollers. Mr. Little could move the fence a little closer to the house.

Mr. Falcoski asked if anyone would like to speak for or against the variance request.

Laura Harter, 850 Middlebury Drive, addressed the Board and said her Shaker Square development is west of Olentangy River Road and is president of her local civic association. She had several neighbors express concerns to her about the fence and how far it extends towards the right of way. Shaker Square restrictions from 1966 restrict fence height to 42 inches and prohibit them in the front yard setback. No one in Shaker Square has a front yard fence and would change the look of the neighborhood. Their concern is not the aesthetics but how far it extends towards the right of way.

Ms. Crane asked where Ms. Harter's house is located relative to the subject property. Ms. Harter replied across Olentangy River Road and to the west. Ms. Crane asked what part of the fence is being objected. Ms. Harter replied how far it extends towards Olentangy River Road and curves along the sidewalk along Nova court. Ms. Crane asked if she is concerned about how far it extends towards Nova Court or just along Olentangy River Road. Ms. Harter replied as it extends towards Nova Court since it will be in the front yard, which her neighborhood typically does not have fences in the front yard.

Ms. Crane said she sees Olentangy River Road as an effective separator of those two neighborhoods and does not see how the two affect each other.

Mr. Little said the last thing he wants to do is create friction in the neighborhood. He has another plan. The biggest concern is security with younger children and dogs and can live with just boxing in the back yard. He can run the fence along the back yard up to the house on the west and not go into the side yard.

Mr. Falcoski suggested running the fence such that the 30 foot angled portion coming off the house going towards Nova Court stop at the 30 foot setback line. Mr. Little replied he is looking at having the fence stop at the four season room and not project into the side yard to avoid any objections by the neighbors. If he did that, he would like the option to erect a wooden fence.

Mr. Falcoski asked if the Board could focus on the deck and tabling the fence. Mr. Little replied he would like everything decided today.

Ms. Crane is concerned about redesigning during a meeting. The matter has been divided into two motions, one for the deck which has not been discussed much, and one for the fence. The Board has some problems with the fence and would rather he come back with a proposal rather than the Board come up with a proposal.

Mr. Little said he has another proposal and asked if he needed a variance to go along the back of the property and stop at the four season room. Ms. Crane asked if the entire west portion of the side yard would be unfenced and Mr. Little replied that is correct and from the house to the west would be unfenced. Mr. Phillips said that proposal would not require any variances from code requirements. Mr. Falcoski said if that is the new fence proposal, no action by the Board is necessary, let us discuss the deck, and consider the fence withdrawn from consideration.

Mr. Little said the photographs show there are multiple steps from the house to the patios and decks that are existing. There are three steps down from the exit door and another three steps down to the yard. It is very cumbersome and it is a very small area. The hot tub projects out like an eyesore. The hot tub is being moved to the concrete slab next to the four season room so it will not project out any longer. The deck itself will be more aesthetically pleasing, make it easier to entertain, and provide safety to the older members and younger children of the family.

Jane Weislogel, 6169 Middlebury Drive West, addressed the Board and said Middlebury is 61 homes in an oval and is a very united neighborhood, and Nova Court is part of the civic association, as is Alrojo Street and Samada Avenue. Ms. Weislogel asked if the fence will be on the lot line at the back. Someone in the audience inaudibly replied. Ms. Weislogel said there was a fence on the deck, and another wooden fence around the hot tub. So what kind of fence is being proposed. Someone in the audience inaudibly replied. Ms. Weislogel asked how tall will the fence be. Someone in the audience

inaudibly replied and Ms. Weislogel repeated 42. Someone in the audience inaudibly made a statement.

Ms. Weislogel said the fence could go a little farther than the four season room but no further forward towards Nova Court due to concerns about front yard fences. Worthington is not known for front yard fences. Her daughter lives on Capitol Hill and everyone has a front yard wrought iron fence. She worked with Mr. Hermann for many hours on the west Worthington plan and did not want to see it impacted.

An unidentified person addressed the Board who lives directly across an inaudibly stated address. When the addition was built on Mr. Little's property, she appeared before City Council, and spoke in favor of the addition. She has lived across the street for 31 years and has had a split rail fence since the house was purchased, and worked with Dave Foust to make sure the neighborhood looked nice going down Olentangy River Road. If you are a part of the neighborhood, you know it is a close knit community, and take care of each other. She likes the entrance to the community and was concerned how the fence in the front yard set back would impact the entrance to Nova Court. She has not had an opportunity to get to know the Little's.

Mr. Falcoski asked if anyone else would like to speak for or against the variance request.

Bobby Stonerock, a resident of Nova Court, addressed the Board and said the Little's had to consider the small rear yard when the property was purchased and recognize the limitations of the property. Her concern is the fence and hopes the Little's withdraw the fence from consideration, and believes the fence will not add to the value of the community, and aesthetics is matter of taste. Although the fence itself may be architecturally pleasing, the fence in the front yard as you enter Nova Court will not serve the interest of the community and not help the property values.

Mr. Falcoski asked if the objection is to the second, scaled back fence proposal. Ms. Stonerock replied her concerns are for both fences. She thinks a metal fence would be more pleasing than a wooden fence. Perhaps the wooden fence in a smaller fence would be okay but a metal fence would be the best, but any fence in the front yard would not help anyone's property values.

Mr. Little said he has withdrawn the front yard setback variance request. The new proposal is just fencing the rear yard. Someone in the audience made an inaudible statement. Mr. Little replied the fence would run from the four season room to the rear property line, and along to the east. The reason for the ornamental metal fence was to make it aesthetically pleasing. Due to the expense, a 42 inch wooden fence in the rear is what we will eventually erect, and hopes this quells the fence objections. He did not talk to every neighbor on the block, but discussed the proposal with the immediate neighbors.

Mr. Falcoski asked if anyone would like to speak for or against the variance request for the deck.

Seeing no one wishing to speak, Ms. Crane moved:

THAT THE REQUEST BY JOHN LITTLE FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK TO CONSTRUCT A DECK AT 783 NOVA COURT, AS PER CASE NO. BZA 10-10, DRAWINGS NO. BZA 10-10 DATED APRIL 8, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Ms. Dorothy seconded the motion. All members voted “aye” and the motion carried.

AGENDA ITEM B-7 – Appeal – The Decision of the Building Inspector –6603
McBurney Place (Trevor Custom Homes, LLC/Sherman) BZA 11-10

Mr. Falcoski asked for staff comments.

Mr. Phillips said the property is in an R-10 district with a minimum rear yard setback of 30 feet. The applicant is proposing to construct a new dwelling with a portion of the dwelling 20.3 feet from a rear property line. 1123.78 of the Codified Ordinances of Worthington, Ohio, defines the following: A "Yard" means an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used. A "Front yard" means a yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street right of way and the main building or any projection thereof, other than the projections of the usual uncovered steps or uncovered porch located within two feet of grade level. A "Rear yard" means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof, other than the projections of uncovered steps. A "Side yard" means a yard between the main building and the side line of the lot and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and that part of a building nearest to the side lot line. The Building Inspector has determined this particular lot has a front yard, two side yards, and two rear yards. The portion of the dwelling within the 30 foot rear yard setback requires a variance from code requirements.

Mr. Phillips continued to said, beginning with the front yard, the front yard setback line marked A on the site plan meets the definition of front yard. A side yard setback line extends from the required front yard to the required rear yard. Setback lines marked B and E meet the definition of side yard. Setback lines marked C and D do not extend to the front yard and do not meet the definition of a side yard. They do not meet the definition of a front yard since there is no street right of way. They do meet the definition of a rear

yard. Lines C and D must be rear yard setback lines. Corner lots do have 2 front yards, although the zoning code refers to the adjacent front yard as a side yard, so it is not unusual for poly-sided lots to have more than 1 front yard. The zoning code allows the adjacent front yard of a corner lot to be reduced to two-thirds of the front yard requirement. No such language was found in the zoning code for multiple rear yards. Staff correctly applied the definitions and correctly required a rear yard setback variance to issue a building permit to construct the new dwelling. If it is found that staff did not correctly interpret the definitions, clarification is required to determine which setback line, C or D, is the rear yard to apply this criteria to other property within Worthington.

Mr. Falcoski asked the appellant to step forward.

Catherine Cunningham, counsel for Trevor Custom Homes, 145 East Rich Street, Columbus addressed the Board, and said she would like to table this appeal until all five members are present. She said a different standard was applied to an adjacent lot with a different building inspector, and there will be another lot that will be affected, and are looking for consistency. Alternatively, a variance is being sought, and the owner's of the lot are present tonight. Even if a variance is granted, they will want to move forward with the appeal since they feel it is an important issue for the City and for the development.

Ms. Crane moved to table the appeal, and Ms. Dorothy seconded the motion. All members voted "aye" and the motion carried.

AGENDA ITEM B-8 – Variance – Front or Side Yard Setback – New House – 6603 McBurney Place (Trevor Custom Homes, LLC/Sherman) BZA 12-10.

Mr. Falcoski asked for staff comments.

Mr. Phillips said the property is in an R-10 district with a minimum rear yard setback of 30 feet, minimum side yard setback of eight feet, and the sum of the two side yard setbacks is 20 feet. The applicant is proposing to construct a new dwelling with a portion of the dwelling 20.3 feet from a rear property line. The requested variance for rear yard setback is 10 feet. An alternative to a rear yard setback, the applicant is considering moving the dwelling to the east to the east side lot line. The requested variance for side yard setback is eight feet. The Residential Code of Ohio requires walls constructed within the three foot fire separation distance be a minimum one hour fire-resistive rated for exposure from both sides including the underside of projections. Openings are not permitted in the wall. The two variance requests would be mutually exclusive.

Mr. Phillips continued to say this is a larger than typical lot in Worthington, being approximately 17,729 square feet whereas the minimum lot size for R-10 is 10,400 square feet. The amount of front, rear, and side yard will not be substantially reduced with the two triangular portions of the dwelling projecting into the second rear yard when the primary rear yard will be 55.5 feet. The shape of the front of the lot with the arc from

the cul-de-sac limits the placement of the dwelling. The adjoining property to the west is very deep with the principal dwelling near Worthington-Galena Road and a substantial distance away from this lot. The property to the east of this property is part of the reserve of the subdivision and it is not likely to be developed to the east. Staff saw either the rear yard setback variance or the side yard setback variance as accomplishing the same goal. The granting of the side yard variance will not grant variances from the requirements of the Residential Code of Ohio. The granting of either variance should not affect the essential character of the neighborhood nor affect the delivery of governmental services. Two motions are provided and either can be used.

Joe Sherman, 7080 Timberview Drive, Dublin, addressed the Board and said he has been in the Columbus area for 12 years and have been trying to move into Worthington for those 12 years. This is his last home and both he and his wife intend to retire in this home. The design is a first floor master suite, the house to the east owned by Mr. McBurney and looking at how that house is placed, tried to use the lot to meet their needs. The variance requested is not substantial and am asking for 10 feet. It will not encroach upon anyone. There is a house next door but it is 250 feet to the north of the proposed house and we will not see them nor they see us, and there should not be an impact to that house.

Mr. Sherman continued to say if the rear yard setback variance is not granted, it will impact their house because the house would have to be moved to the east and they consider it. The lot drops off substantially to the south into a ravine, and moving the house will change the angle because of the location of the attached garage that will have to be a side load garage, and he hopes this major design change is not something they will have to pursue because of the impact to the views. Another impact could be the number of trees that may have to be removed for this change on the lot, since the house may have to move deeper into the ravine, and really do not want to make that decision or make that an option. So what we are asking for is to leave the house sited as proposed and the granting of a 10 foot rear yard setback.

Mr. Hermann asked which lot line is the one requiring the rear yard setback variance. Mr. Phillips displayed the marked up site plan from case number BZA 11-10 and Mr. Hermann said the rear lot line is marked "D" and Mr. Phillips replied that is correct. Mr. Phillips said both the marked up and original site plans are the same. The markings were used to make it clear which line was being discussed in the staff memo for case BZA 11-10.

Mr. Falcoski asked if there is a drawing for the side yard setback option and Mr. Phillips replied that none was submitted. Ms. Crane said this site plan is for the rear yard setback and would be the first of the two motions and Mr. Phillips replied that is correct. Mr. Falcoski asked if the side yard setback variance request is the preferred option and Mr. Sherman replied it is the rear yard setback variance request that is preferred.

Mr. Hermann said he agrees with staff's interpretation of the setbacks but also thinks a variance is in order. Ms. Crane and Ms. Dorothy both agree.

Mr. Falcoski asked if there was anyone who would like to speak for or against the variance request.

Seeing no one, Ms. Dorothy moved:

THAT THE REQUEST BY TREVOR CUSTOM HOMES, LLC AND LINDA S. SHERMAN FOR A VARIANCE FROM CODE REQUIREMENTS FOR REAR YARD SETBACK TO ALLOW THE CONSTRUCTION OF A DWELLING 6603 MCBURNEY PLACE, AS PER CASE NO. BZA 12-10, DRAWINGS NO. BZA 12-10 DATED APRIL 9, 2010, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Hermann seconded the motion. All members voted “aye” and the motion carried.

Mr. Hermann moved that the meeting be adjourned, which was seconded by Ms. Crane. The meeting adjourned at 9:35 P.M.