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CONCORD TOWNSHIP BOARD OF ZONING APPEALS
LAKE COUNTY, OHIO
MEETING

September 9, 2009

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

James Rowe, Vice Chairman
Richard Smith
Claudia Hemphill
Blair Hamilton
Chris Jarrell, Alternate

Also Present:

Kathy Mitchell, Board of Zoning Appeals secretary,
Zoning Inspector

King & Melton Court Reporters

11668 Girdled Road
Concord, Ohio 44077
(440) 946-1350

1 7:00 p.m.

2 VICE CHAIRMAN ROWE: Good evening. My name is Jim
3 Rowe, vice chairman, Board of Zoning Appeals, and the
4 September 9th meeting of the Board of Zoning Appeals is now in
5 session. First on the agenda, as always, we'd like to
6 introduce the Board to you. On my far left, Blair Hamilton,
7 Claudia Hemphill, next to me, Richard Smith, and our alternate
8 Board member, Chris Jarrell, sitting in for the first time.
9 It's a new situation that we have alternates now so that we can
10 maintain a full component of five people at these meetings.

11 There are two appeals on this evening's agenda. And
12 at the advice of our legal counsel, anyone who is going to
13 address the Board, either as the appellant or with commentary,
14 should be sworn in. So if you intend to address the Board this
15 evening, if you would stand, raise your right hand, please. I
16 swear to tell the truth, the whole truth and nothing but the
17 truth, so help me God. Please indicate by "I do."

18 (Speakers responded en masse.)

19 VICE CHAIRMAN ROWE: Thank you very much. Be seated.

20 MS. MITCHELL: Yes.

21 VICE CHAIRMAN ROWE: Were the notices filed on a
22 timely basis?

23 MS. MITCHELL: Yes, they were.

24 VICE CHAIRMAN ROWE: Thank you very much.

25 The first appeal this evening is Number 0809-954,
26 Charles Pengal, Incorporated, on behalf of Michael and Cynthia
27 Onderisin, proposes to construct a detached accessory building
28 at 6826 Melridge Drive (R-1 Residential District) to be located
29 5 feet from the side property line, in lieu of the 15 feet
30 minimum side yard clearance required, as set forth in Section

1 15.07 of the Concord Township Zoning Resolution. The existing
2 lot frontage is 75 feet, as measured from the front property
3 line. The existing storage shed on the property will be
4 removed.

5 One other bit of housekeeping, I forgot. In making
6 your appeal or addressing the Board, if you will use the
7 microphone at the podium, for the benefit of the television
8 audience, and introduce yourself by name and address and also
9 attest that you have been sworn in.

10 Speaking for the first appeal?

11 MR. PENGAL: Good evening. I am Charles Pengal, from
12 Charles A. Pengal, Incorporated. Is this close enough, where
13 it's at? Okay. My address is 11744 Cali Drive, Concord. I am
14 here to represent Mike and Cindy Onderisin in the matter before
15 you. And Mike Onderisin is also here with me, if you have any
16 questions for him as well.

17 Briefly, I just want to state what we're proposing to
18 build is an accessory building. It's 18 by 32. That's a pole
19 structure. Part of the floor is concrete and part of the floor
20 is wood. We proposed it that way because we built the building
21 as far back as we can. It's actually starting to go over the
22 hill in the back of it. We are anticipating that we're going
23 to have to do a little excavation and that's why we don't want
24 to have to add too much fill in the back, so we proposed the
25 back of it is going to be a wood structure. And there is not
26 going to be any heavy storage on that part of the floor
27 anyway.

28 Their lot is a 75-foot wide one-acre lot. It's in,
29 Melridge Drive is an older subdivision, so the lots were
30 undersized as compared to today, the present zoning.

1 Two-thirds of this lot is on a fairly severe slope and it's
2 wooded, so essentially they have a third of an acre,
3 approximately, to build on. And so our hardship in asking for
4 this 5 foot, or for the 5-foot side yard on the west property
5 line is the narrowness of the lot and the topographical
6 challenge that we have in the back.

7 We want to keep the building to that side of the lot
8 so that they can still have access between the house and the
9 building in case they need to get a vehicle through back over
10 to the woods. There is a little bit of back yard that is still
11 going to be left. That, they would like to leave as
12 functional.

13 That's all I have. Mr. Onderisin has some
14 photographs of the area if you also would like to see them as
15 well.

16 VICE CHAIRMAN ROWE: Any questions from the Board
17 members while Mr. Pengal is at the microphone?

18 MR. SMITH: Yes, Mr. Chairman. Mr. Pengal, one of
19 the statements you made was regarding the access to the back
20 yard by vehicle. But if there was a 15-foot side yard setback,
21 that access would be provided or not provided?

22 MR. PENGAL: Well, it wouldn't get them to the part
23 of the yard behind the house, it would get them to the, back to
24 the woods. But their preference is to have vehicle access and
25 just better access for use of the back yard to what is
26 behind this. If you can see from the aerial photograph, there
27 is a swimming pool there.

28 MR. SMITH: How far is that swimming pool from the
29 side lot line; do you know?

30 MR. ONDERISIN: Hi. Mike Onderisin, 6826 Melridge

1 Drive, Concord, and I have been sworn in.

2 I got a variance for when I installed the pool. I
3 think it's about 10 feet off the other side. This is a
4 picture. I printed one out for each of you showing the
5 existing shed, the neighbor's fence, and the swimming pool. So
6 by going 5 feet off the fence, I would be able to get about 8
7 feet wide between the swimming pool and the building, enough to
8 pull a lawn tractor around back and such. So I think the pool
9 is about 10 feet off the other fence.

10 MR. SMITH: Mr. Pengal, do we know how far the
11 existing shed is from the side property line, existing?

12 MR. ONDERISIN: I think it's about 5 feet. I can
13 answer that question.

14 MR. SMITH: Thank you.

15 VICE CHAIRMAN ROWE: The present storage building
16 appears to be, what, 8 by 12?

17 MR. ONDERISIN: I believe that's about correct, yes.

18 VICE CHAIRMAN ROWE: I guess, driving by this site
19 the other day, I was curious. The new building request is
20 like, you know, better than like five and a half times that.

21 MR. ONDERISIN: Correct.

22 VICE CHAIRMAN ROWE: That's quite a ramp up. I mean,
23 is there —

24 MR. ONDERISIN: The reason is, I have a completely
25 finished basement. I have a garage underneath the house. If I
26 can show you this photo, here is the front of the house. There
27 is the shed in the back. I am just looking for some additional
28 storage. I am renting a storage unit right now, one of those
29 one-car garages, and I've got it full, so my intention is to be
30 able to put my convertible in the shed in the wintertime, in

1 the back, so I don't have to have any cars in the driveway.
2 Right now, I park one of the cars in the driveway. This way, I
3 can use the two-car garage under the house for the wife's car
4 and my car and be able to store my motorcycles and my lawn
5 mower and bicycles and all that in the back building. That's
6 the reason for the size of the structure.

7 MS. JARRELL: The opening of the garage will be in
8 front; would it not?

9 MR. ONDERISIN: That's correct.

10 MS. JARRELL: So when the structure is, is erected,
11 you are going to have 8 feet between the swimming pool and the
12 structure —

13 MR. ONDERISIN: Correct.

14 MS. JARRELL: — because you want to get a vehicle
15 back there?

16 MR. ONDERISIN: No. So I can drive a lawn —

17 MS. JARRELL: The lawn mower?

18 MR. ONDERISIN: — a lawn tractor. I don't want to
19 get, like, 4 feet from the pool. I don't want anybody to get
20 up on the building and jump into the pool either.

21 MS. JARRELL: That's wise.

22 MR. ONDERISIN: I have children, so that's —

23 VICE CHAIRMAN ROWE: What a spoiled sport.

24 MS. JARRELL: That's wise.

25 MR. PENGAL: Mr. Onderisin also has a letter from the
26 next door neighbor on that side that said he has no objection
27 to the variance request.

28 VICE CHAIRMAN ROWE: Do you have a copy you can file
29 with us?

30 MR. ONDERISIN: I have the original here. That's

1 from the neighbor. The neighbors on the other side have a much
2 larger building than that that's also 5 feet off of their
3 fence. So as you can see in this photo, this is the neighbor's
4 house. This is their building. This is their building as you
5 see it from my deck. So like she said, "Well, I couldn't very
6 well object to you building one when I have a larger one." And
7 she's got, like, 200 feet of frontage.

8 MR. HAMILTON: Do you mind sharing that?

9 MR. ONDERISIN: Yes. This photo, this is her
10 building, this is the front of her house and then her garage on
11 her fence. This is my house. This would be the side of the
12 house.

13 This letter is from the fellow on the other side.

14 MR. HAMILTON: Is from the one on the other side.

15 MS. HEMPHILL: That's the one on the other side.

16 MR. ONDERISIN: Right.

17 MR. HAMILTON: Very good.

18 MR. ONDERISIN: The one that would see the building.

19 MR. HAMILTON: Right.

20 VICE CHAIRMAN ROWE: Are you intending to put a
21 driveway between this building?

22 MR. ONDERISIN: No, I am not because I am only going
23 to drive back to it once a year, pretty much.

24 VICE CHAIRMAN ROWE: Once a year.

25 MR. ONDERISIN: No. I am going to keep the yard just
26 the way it is. It's high and dry there on Melridge. We're
27 right at the top of the hill, so no issues about getting stuck.

28 VICE CHAIRMAN ROWE: I notice that, in the structural
29 plan you're looking at, the building is actually going to be,
30 the back end of it is going to be over the drop-off, to some

1 degree.

2 MR. PENGAL: Yes.

3 VICE CHAIRMAN ROWE: What would be the effect if you
4 did a little more of that, allowing you then to move it to the
5 left so it would have the proper 15-foot side line?

6 MR. PENGAL: Well, we moved it back. It starts to
7 slope slightly as you go back. We're building into that slope
8 already. We felt that the farther back we go, the steeper it
9 slopes.

10 MR. ONDERISIN: It's about a slope like that once you
11 get back about 5 feet beyond where the ground is flat. So
12 it's, it drops right down to, I don't know, probably 40 feet.
13 So it would require lots and lots of backfill and a retaining
14 wall and all that stuff.

15 MR. PENGAL: Yeah. We're trying not to get to a
16 situation where we have to have some sort of engineered fill or
17 specialty, expensive type of fill material to get underneath
18 where the vehicle storage itself is going to be. As you can
19 see, the first 24 feet of it is what's going to be the heavy
20 vehicle storage.

21 VICE CHAIRMAN ROWE: Yeah.

22 MR. PENGAL: And that's what's kept over what we feel
23 is going to be good solid fill at this point.

24 VICE CHAIRMAN ROWE: Okay.

25 MR. PENGAL: And then it drops to wood floor in the
26 back.

27 VICE CHAIRMAN ROWE: Got you.

28 MR. PENGAL: That's where the slope starts.

29 VICE CHAIRMAN ROWE: Okay.

30 MR. PENGAL: Even the flatter part of the lot is a

1 little bit challenging.

2 VICE CHAIRMAN ROWE: Any other questions from the
3 Board members while these gentlemen are at the mike?

4 MR. SMITH: For the record, Mr. Pengal or
5 Mr. Onderisin, what would your statement be about what the
6 hardship is for not being able to comply with the Zoning
7 Resolution for a 15-foot setback.

8 MR. ONDERISIN: The hardship if I were to put it at
9 15 feet, it would be into my pool, so I would have to move the
10 pool, which is already at the far east end based on the
11 variance I got for that. So I guess it would just be up
12 against the pool if I had to comply with 15 feet, and I
13 probably wouldn't build if that were the case.

14 MR. SMITH: Mr. Pengal, do we know what the setback
15 from the side of the house to the property line is?

16 MR. PENGAL: I'm sure it exceeds the 15 feet. I am
17 not sure exactly what it is. Honestly, I didn't measure it.

18 MR. ONDERISIN: It wouldn't be by much though. The
19 scale is probably, say, from the house to the side line is
20 probably from here to the wall, 18 feet maybe, 20 feet,
21 possibly.

22 MR. SMITH: The minimum —

23 MR. PENGAL: The best indication I have of those.

24 MR. SMITH: The minimum side yard setback under the
25 Resolution appears to be 15 feet for the main dwelling and the
26 side yard.

27 MS. MITCHELL: Correct, yes.

28 MR. SMITH: So that would, if it were to be
29 constructed with the 15 foot setback, it would line up with the
30 side of the house. It's 18 feet wide, the proposal?

1 MS. HEMPHILL: Yes.

2 MR. ONDERISIN: 18 feet. To be honest, the other
3 side of the house is closer. It's closer to that property line
4 than this side.

5 MR. SMITH: So 18 feet would go right up to the pool
6 then?

7 MS. HEMPHILL: Actually, this photograph, I walked
8 into your side yard today down to about here.

9 MR. ONDERISIN: Yeah.

10 MS. HEMPHILL: That's going to be really tight, I
11 mean, even putting the —

12 MR. ONDERISIN: We're going to tuck it right there.

13 MS. HEMPHILL: This makes your yard look roomy. It
14 doesn't feel that roomy when you walk there.

15 MR. ONDERISIN: Exactly. That's exactly what I'm —

16 VICE CHAIRMAN ROWE: How long have you been renting
17 the storage facility? Do you rent it year-round?

18 MR. ONDERISIN: Yes, yes. About three years, \$1,000
19 a year.

20 MR. HAMILTON: Other than the expense, it seems to
21 work for you?

22 MR. ONDERISIN: I'm sorry?

23 MR. HAMILTON: Other than the expense, it appears to
24 work for you?

25 MR. ONDERISIN: It's not very appealing. I have to
26 keep the bicycles there, so if the children want to go for a
27 bike ride — all I have is a two-car garage underneath the
28 house. I would rather keep the money at home, personally.

29 VICE CHAIRMAN ROWE: Okay. Thank you very much.

30 MR. ONDERISIN: Thank you.

1 VICE CHAIRMAN ROWE: Is there anyone in the audience
2 wishing to speak in favor of the granting of this appeal?
3 Hearing none, is there anyone in the audience wishing to speak
4 against the granting of this appeal? Hearing none, the public
5 portion of this appeal is closed. I will entertain a motion
6 for approval of this appeal.

7 MS. HEMPHILL: So moved.

8 MR. SMITH: Second, Mr. Chairman.

9 VICE CHAIRMAN ROWE: Moved and seconded. Discussion,
10 please.

11 MR. SMITH: Mr. Chairman, noting the narrowness of
12 the lot, which is 75 feet, and the existing house appears to be
13 at the 15-foot setback, it's clear that an 18-foot wide
14 accessory structure would probably abut, if not encroach, on
15 the existing swimming pool, which, in my opinion, truly is a
16 hardship.

17 VICE CHAIRMAN ROWE: Thank you. Anyone else?

18 MS. HEMPHILL: I agree.

19 MS. JARRELL: Yeah.

20 VICE CHAIRMAN ROWE: Kathy, would you call for a
21 vote, please?

22 MS. MITCHELL: Mr. Hamilton?

23 MR. HAMILTON: Yes.

24 MS. MITCHELL: Ms. Hemphill?

25 MS. HEMPHILL: Yes.

26 MS. MITCHELL: Mr. Smith?

27 MR. SMITH: Yes.

28 MS. MITCHELL: Ms. Jarrell?

29 MS. JARRELL: Yes.

30 MS. MITCHELL: Mr. Rowe?

1 VICE CHAIRMAN ROWE: Yes. The ayes have it and the
2 appeal is granted.

3 MR. PENGAL: Thank you.

4 VICE CHAIRMAN ROWE: Be sure to see Kathy before you
5 leave.

6 MR. ONDERISIN: Thank you.

7 VICE CHAIRMAN ROWE: The second appeal on this
8 evening's agenda, Number 0809-955, Joseph and Lisa Kayza
9 propose to construct a detached accessory garage at
10 11341 Palmer Road (R-4 Residential) to be located 10 feet from
11 the side property line, in lieu of the 15-foot minimum side
12 yard clearance required, as set forth in Section 18.07 of the
13 Zoning Resolution, and I suspect Mrs. Kayza is approaching.

14 MRS. KAYZA: Yes. I'm Lisa Kayza. I've never done
15 this before so I don't really have anything.

16 VICE CHAIRMAN ROWE: You weren't here to be sworn in.

17 MRS. KAYZA: Oh.

18 VICE CHAIRMAN ROWE: So if you raise your right hand
19 and also —

20 MRS. KAYZA: I'm sorry.

21 VICE CHAIRMAN ROWE: If you are going to — I swear
22 to tell the truth, the whole truth and nothing but the truth,
23 so me God?

24 MRS. KAYZA: I do

25 VICE CHAIRMAN ROWE: Thank you very much.

26 MRS. KAYZA: I'm sorry.

27 VICE CHAIRMAN ROWE: That's all right.

28 MRS. KAYZA: Like I said, I've never done this
29 before. I don't know where to begin other than I typed up the
30 letter.

1 VICE CHAIRMAN ROWE: Yeah.

2 MRS. KAYZA: I gave everyone a copy. I don't know if
3 you read it. It's kind of an extensive story, why we came to
4 find the lot and to try to start to build. It is because of
5 our daughter getting sick and becoming handicapped. And we
6 were going to remodel our existing home on Prouty and,
7 ultimately, after a lot of cost and fooling around with this
8 and that, she'd still have a lot of hurdles in that house
9 existing because we didn't build it handicap accessible.

10 VICE CHAIRMAN ROWE: Yeah.

11 MRS. KAYZA: So in actually getting our business back
12 up and running, looking for lots and stuff, we came across this
13 property, which is beautiful. One of the reasons we decided to
14 buy it was because of the beauty and we thought, okay, we can
15 build this sprawling ranch, because I went to our architect
16 with a little 2,000-square-foot house plan, but by the time you
17 make all the halls wide enough and the bathrooms accessible and
18 room around the island in the kitchen and everything for her to
19 get around in her wheelchair, it ended up being quite larger.
20 So we went to Babcock and Jones and we had the site plan drawn
21 up.

22 And Harry originally wanted the house to be parallel
23 with the street. So in doing that, our detached garage, if we
24 were to keep it in line with the house and parallel it, it
25 would encroach even farther, closer to the other property line,
26 so we kind of straightened it out. But if we pull it over the
27 full 15 feet, it's already blocking my son's entire view of the
28 back yard and then it would go into my nook and great room.

29 Now, the view is not a hardship, I understand that.
30 But the fact of the matter is that the detached garage houses a

1 handicap bathroom and shelter for my daughter because she
2 does — part of her physical therapy is in the water at UH out
3 here in Chardon, the rehabilitation center, and then she swims
4 in our pool that we already have on the lot we have.

5 But if we push the garage back farther, that means
6 I've got to push the pool back farther. And for her, in her
7 wheel chair, then she is going back away from the house. It is
8 a safety issue for her with me. She lost both of her legs when
9 she got sick and she can walk with prosthetics but she
10 doesn't — once she gets home, she takes her prosthetics off.
11 They're uncomfortable and she doesn't like them, so at home
12 she's in a wheel chair.

13 So the farther I put the pool away from the house and
14 the garage away from the house, it's a safety issue for me.

15 VICE CHAIRMAN ROWE: Right.

16 MRS. KAYZA: And, also, I know you probably don't
17 want to hear about the financial end of it but the farther we
18 put everything back, then the money, the concrete — and our
19 business was put on hold for two and a half years because she
20 got sick. I quit working and was full-time caregiver to her.

21 And so I, ultimately, would have loved to put the
22 garage, you know, ask for 5 foot to keep it out of my son's
23 view and keep the pool and the garage closer to our house that
24 we have already started to construct. But if we go the 10
25 foot, we can still keep the pool relatively close and have that
26 shelter and handicap bathroom there for her.

27 Unfortunately, when we were at the architect, sitting
28 there thinking about everything, we didn't have a bathroom at
29 the back of the house, so she would have to come all the way
30 through the house or all the way around the opposite side into

1 the garage to get back to her handicap bathroom in the house.
2 So what we did was put a handicap bathroom in that detached
3 garage. Because we have four people in the house and three
4 vehicles, and then with all the pool equipment and all that, we
5 always have had an extra garage so we don't have junk all over
6 the yard. I don't know what else to say. That's it.

7 VICE CHAIRMAN ROWE: Very well said. One thing that
8 came to mind in looking at the plans, looking at the site and
9 so forth was the garage. I mean, I see in the layout and
10 everything but it's, essentially, a two-car garage plus. One
11 thing came to mind, I mean, you have a two-car garage as part
12 of the house attached. If that were a single-car garage with
13 the extra space on it, then it would certainly be within zoning
14 requirements.

15 MRS. KAYZA: Okay.

16 VICE CHAIRMAN ROWE: I mean —

17 MRS. KAYZA: I think what — Because we have four, we
18 have a two-car attached garage now and then a two-car detached
19 garage now and they're filled to the rim with everything, you
20 know, all the pool equipment and patio equipment we store and
21 everything and the vehicles. And are you saying we should
22 possibly build a smaller detached garage?

23 I think the reason it became so large is because we
24 put the handicapped bathroom in there and we decided, since
25 we're building, we are constructing it, we're going to make it,
26 you know, a regular size so that we can house all of our lawn
27 mower and everything. We won't have another — In our attached
28 garage, it's also enlarged because we have a ramp in there for
29 her with her wheelchair. So right now, in our garage, it's a
30 two-car garage and we can't put a ramp in it because it wasn't

1 wide enough, so one of the reasons we did that, you know — The
2 attached garage now is wider and a full two-car for access with
3 a handicap ramp, so that does take up some of that space.

4 MR. KAYZA: There really will be no storage space.

5 VICE CHAIRMAN ROWE: Sir, come up to the microphone,
6 please, sir.

7 MR. KAYZA: Hi. I'm Joe Kayza. There really will be
8 no storage space.

9 VICE CHAIRMAN ROWE: Your address? I know but —

10 MR. KAYZA: Joe Kayza, 10379 Prouty Road, Concord
11 Township, Ohio.

12 VICE CHAIRMAN ROWE: Thanks. And you were sworn in?

13 MR. KAYZA: Yes. You swore me in.

14 VICE CHAIRMAN ROWE: Yes. Well, but for the —

15 MRS. KAYZA: Yes.

16 VICE CHAIRMAN ROWE: — people out in TV land, both
17 of them, they want to know that.

18 MR. KAYZA: Yeah. There really won't be any storage
19 room in the attached garage. There will just be enough for two
20 cars, basically. And the ramp is 4 foot 4 wide and runs the
21 whole length of the garage on the one side, comes up and levels
22 off into the house.

23 VICE CHAIRMAN ROWE: Yeah.

24 MR. KAYZA: And the detached garage with the
25 handicapped bath in it and it has a little kitchenette for my
26 daughter and her friends to grab pop or whatever so they don't
27 have, she doesn't have to go all the way back to the house to
28 get anything.

29 VICE CHAIRMAN ROWE: Yeah.

30 MR. KAYZA: And we'll have another two vehicles to

1 put in there, my car and my son's car, so we're looking to get
2 both vehicles under cover, plus there is some miscellaneous
3 stored lawn mowers and —

4 MRS. KAYZA: Like, the patio equipment.

5 MR. KAYZA: — the patio equipment.

6 MRS. KAYZA: And the pool equipment.

7 MR. KAYZA: And I have some scaffold from, you know,
8 building these homes that I do, so I have some, need some room
9 for storage, also.

10 VICE CHAIRMAN ROWE: Okay. Questions?

11 MR. SMITH: Yes, Mr. Chairman. Mr. and Mrs. Kayza,
12 the pool size is what size?

13 MRS. KAYZA: You know, we haven't — we didn't put in
14 for the pool.

15 MR. SMITH: What size do we have shown on this plan
16 that was submitted?

17 MRS. KAYZA: You know what? I don't have a copy of
18 that. I'm sorry. I ended up giving them all to Kathy.

19 MR. SMITH: On the plan that was submitted, it
20 appears to be a rectangular pool.

21 MRS. KAYZA: Yes. We were going to do a rectangular
22 pool and keep it as close to the shelter as possible.

23 MR. SMITH: Okay.

24 MRS. KAYZA: Because —

25 MR. SMITH: But it appears on the plan that the pool
26 can be turned 90 degrees and easily comply with the setback
27 requirements. Is that a consideration?

28 MRS. KAYZA: Well —

29 MR. KAYZA: The pool turned 90 degrees?

30 MRS. KAYZA: Well, the thing is, the farther —

1 MR. SMITH: You have the long going parallel with the
2 width of the yard. If it is turned the other way, you can
3 easily pull the shed over, the garage 5 feet.

4 MRS. KAYZA: Okay. And this is not a hardship but
5 then my entire back view is looking at my garage.

6 MR. KAYZA: No. The grade of the land there would
7 not work.

8 MRS. KAYZA: The grade as well. We are going to have
9 a retaining wall —

10 MR. KAYZA: The grade drops off.

11 MRS. KAYZA: — at the back end, yes.

12 MR. SMITH: This house is not constructed yet.

13 MRS. KAYZA: It's already —

14 MR. KAYZA: It is going up right now. The foundation
15 is in. And it is flattened off on the top and then it drops
16 down.

17 MRS. KAYZA: Right.

18 MR. KAYZA: There is about a 6-foot drop to the back.

19 MR. SMITH: I understand. When you excavate the
20 pool — And the house has been excavated already?

21 MR. KAYZA: The house has been excavated.

22 MR. SMITH: Is there a spoil on the site?

23 MR. KAYZA: Spoil is on the site.

24 MR. SMITH: So you can easily grade that to make it
25 level.

26 MR. KAYZA: No, because the septic field goes back
27 there. You cannot disturb that soil.

28 MR. SMITH: Where is the septic field?

29 MRS. KAYZA: Right there.

30 MR. KAYZA: Right behind the pool. That's why we

1 can't turn that. And then you have the duplication field
2 beyond that.

3 MR. SMITH: Thank you.

4 MR. KAYZA: Yes.

5 MRS. KAYZA: Because we thought about pulling the
6 detached garage up on the other side but because of the
7 septic —

8 MR. KAYZA: Yeah, the septic comes out, the tanks are
9 on the east side — west side of the property here.

10 MR. SMITH: Your site plan isn't very clear.

11 MR. KAYZA: No. That's a —

12 MRS. KAYZA: It was a —

13 MR. KAYZA: I have another site plan in my truck. It
14 shows the —

15 MRS. KAYZA: It wasn't a detailed one. That was
16 something just for us to apply for the variance.

17 MR. KAYZA: Variance. He doesn't have the grade on
18 it or anything.

19 MS. JARRELL: You don't know the size of the pool?

20 MR. KAYZA: It will be roughly 20 by 30.

21 MRS. KAYZA: We didn't pick it out yet. I didn't get
22 an application for that yet.

23 MS. JARRELL: Well, I'm interested to know what the
24 planning process has been so far.

25 MR. KAYZA: The what?

26 MS. JARRELL: Your planning process in putting in
27 your house and then you subsequently came up with the idea of
28 the accessory building?

29 MRS. KAYZA: No. It was all together. And I don't
30 know why Harry turned our house the way he did.

1 MR. KAYZA: He turned it to be parallel with the
2 road.

3 MRS. KAYZA: Parallel with the street. Because if we
4 would have tilted the house — We got it approved and went
5 through all the rigamarole and then we realized, if we would
6 have turned the house a little, we wouldn't have as much
7 encroachment on our view. If we move it —

8 MR. KAYZA: It has nothing to do with the view, too,
9 it has to do with, if you turn the house this way a little bit
10 then, all of the sudden, I don't have the room to pull in my
11 garage.

12 MRS. KAYZA: That's right.

13 MR. KAYZA: So we pulled it around this way a little
14 bit and it gave more room. It's a side-entry garage. Okay?
15 So we're 15' 5" off the one side. If he would have left it
16 like this, straight with the road, I would have ended up with
17 probably 25 feet to pull in and out of the garage. Roughly,
18 you're supposed to have 30 feet, is rule of thumb, okay, on
19 side-entry garage, and that's right around what I have. On the
20 one corner when you're pulling in the garage to the right-hand
21 side, I have about 29 feet, and then in the front corner by the
22 road I have about 31 feet.

23 So you start to lose some, as you skew the house a
24 little bit, you start to lose some of the distance that you
25 need to pull in and out of the garage cleanly, the attached
26 garage.

27 MRS. KAYZA: We did have a plan though to have the
28 pool and the detached garage, but when we saw the —

29 MR. KAYZA: But I wanted to get going with the house.

30 MRS. KAYZA: We got the house approved and started

1 because we wanted to get going, and then when we saw the
2 grade — And if we pull back, if we push the pool back farther
3 then we're into a hill, like, you know, it's not a cliff but
4 it's enough of a grade where we would have to have a pretty
5 extensive retaining wall as it is, keeping it where it is.

6 And I don't want her back so far, because I might not
7 necessarily always be out there with her. You know what I am
8 saying? It's a safety issue for me.

9 MR. KAYZA: To try and keep it all close to the
10 house.

11 MRS. KAYZA: I would rather have her close to me.
12 Right now, our house, she walks — she crawls or goes on her
13 scooter out our deck and into the pool, so I am literally,
14 like, 10 feet away from her at any given time that she's out
15 there and I am in the kitchen, where there is going to be
16 pretty far as it is.

17 VICE CHAIRMAN ROWE: Okay.

18 MS. JARRELL: But the pool and the accessory garage
19 were all —

20 MR. KAYZA: They were all in the plan from the
21 beginning but I wanted to see about the variance before I went
22 ahead with that. The pool and the garage have been on the site
23 plan since day one but I had them deleted from the building
24 permit so that I could get going with the house because I want
25 to try and close it up before winter.

26 MS. JARRELL: I see.

27 MR. KAYZA: I've got some stone I want to put on it
28 and stuff, so I am starting to frame that. And my garage
29 really doesn't matter this year, you know. I would like to
30 start on it but —

1 MS. JARRELL: So you deleted those items to get your
2 building permit.

3 MR. KAYZA: That's correct.

4 MRS. KAYZA: To get going because we had — I never
5 dealt with a septic system either and we had to go through the
6 health department. We also have been out of business for a
7 couple years. And getting back into the swing of things with
8 everything, we did start getting our other, another home for
9 our business going. And we were kind of trying to get our guys
10 lined up and we thought, well, let's get the house under so
11 Rachael can enjoy, we can move in.

12 MR. KAYZA: Yeah. There is a plan from day one.

13 MRS. KAYZA: It's on the original house plan that was
14 approved.

15 MR. KAYZA: Part of it, we needed to get the building
16 permit for the home until I find out what happens with the
17 variance issue.

18 MR. SMITH: Do you have a copy, Mr. Kayza, of that
19 original site plan —

20 MR. KAYZA: Yes.

21 MR. SMITH: — with the house? May we see it?

22 MRS. KAYZA: Do we have it with us?

23 MR. KAYZA: Yes, I do.

24 MRS. KAYZA: Is it not here?

25 MR. KAYZA: It's in my truck.

26 (Mr. Kayza left briefly.)

27 MR. KAYZA: It would be with me if I had my truck.

28 MRS. KAYZA: Kathy will have one, right? It was on
29 the original plan.

30 MS. HEMPHILL: I have a question while we wait, if

1 that's okay.

2 VICE CHAIRMAN ROWE: Yeah, a question.

3 MS. HEMPHILL: Maybe it's too obvious to me, I don't
4 know. Is there a reason you can't just move the pool and the
5 garage 5 feet more towards the other side line?

6 MR. KAYZA: To the other side?

7 MRS. KAYZA: You mean without getting the variance?

8 MS. HEMPHILL: Right.

9 MR. KAYZA: Yeah, make it 15 feet

10 MS. HEMPHILL: Right. I know it's messing up your
11 view, however —

12 MRS. KAYZA: Well, we would have to put it back
13 farther.

14 MS. HEMPHILL: Why? If you just moved it —

15 MR. KAYZA: Because the garage would end up behind
16 the house. I wouldn't be able to pull in.

17 MRS. KAYZA: We're pulling —

18 MS. HEMPHILL: Okay, that little —

19 MR. KAYZA: As it is right now, I am going to have 30
20 feet from the house to the garage. If I pull it over another
21 5, I am already going to be back with my garage door behind the
22 building as it is.

23 MS. HEMPHILL: What would happen then if you took the
24 garage itself and moved it, just the garage, and moved it back,
25 let's say, 10 feet and then over towards the pool?

26 MR. KAYZA: 10 feet farther back?

27 MS. HEMPHILL: Just the garage, I am not asking you
28 to move the pool. I'm what-iffing. And then move it over
29 towards the pool a little more, which would shorten your 8-foot
30 little covered area to maybe 3 feet but then you could have

1 your 15 — Here is where I am coming from. I am totally
2 compassionate to what happened with your daughter. We also
3 have a blank piece of property on which we're drawing this, so
4 you've got some lateral movement. You've got movement in a lot
5 of different directions. I have to believe there is another
6 way you can, everybody can be happy.

7 MR. KAYZA: It's the same issue with the grade, too,
8 dropping off in the back yard.

9 MS. HEMPHILL: That's right there at the back of the
10 garage, that 6 foot?

11 MR. KAYZA: Yeah. It starts, it takes off quick.
12 I've already tried to level that off a little and I am going to
13 have to cut that down and then pile the dirt in as it is
14 because it takes off pretty quickly, as you can see on that
15 drawing there, the grade.

16 MR. SMITH: That's easily accomplished though,
17 Mr. Kayza.

18 MR. KAYZA: Right. You can pile the dirt in, no
19 doubt about it.

20 MRS. KAYZA: But then that whole covered area which
21 is for her, I would have to move the pool back at that time.

22 MR. KAYZA: We would have to move the pool back.

23 MRS. KAYZA: And then we're talking about, you are
24 talking about farther —

25 MR. KAYZA: Then you're farther back, away from the
26 house.

27 MRS. KAYZA: — farther from the house. We're
28 talking about more cost. And I know you don't care about cost
29 but, in all honesty, that's a big part of this. We would have
30 to add the extra —

1 MR. KAYZA: Driveway.

2 MRS. KAYZA: — soil and extra driveway and the extra
3 retaining wall, and then I'd still not have a view of the
4 beautiful lot that I bought and my daughter would be, you know,
5 everything would be back farther.

6 MR. KAYZA: Even further away from the home.

7 VICE CHAIRMAN ROWE: The way this layout shows the —

8 MR. KAYZA: That's with the 15-foot setback, yeah.

9 VICE CHAIRMAN ROWE: — and the covered, the
10 sheltered area internally in that garage. Could there be some
11 flip-flop? That could be brought to the forward where it's
12 adjacent to the pool.

13 MR. KAYZA: To the front of the garage, you mean?

14 VICE CHAIRMAN ROWE: Well, it's on the side of the
15 garage but at the rear.

16 MR. KAYZA: Right.

17 MRS. KAYZA: Right.

18 VICE CHAIRMAN ROWE: Couldn't it be —

19 MR. KAYZA: How do I get my car in then?

20 MS. JARRELL: No. I think what he is talking about
21 is moving this —

22 MR. KAYZA: Yeah, I know what he is saying.

23 MS. JARRELL: — up to the front of the garage. It
24 doesn't infringe on your car entering at all.

25 MR. KAYZA: Then you would have to move the kitchen
26 and the bathroom —

27 MRS. KAYZA: From here then, yeah.

28 MR. KAYZA: — up to the front.

29 MS. JARRELL: Is that possible?

30 MRS. KAYZA: I don't know if we have that, I don't

1 know if we have that space there for that. I don't think so
2 because back here, on the inside of the garage is — this area
3 where the bathroom is, I think, encroaches on this.

4 MS. JARRELL: Couldn't you just flip-flop it?

5 MS. HEMPHILL: This is different from this.

6 MR. KAYZA: We could possibly do that. It is not the
7 way I had it drawn but, yes, we could.

8 MS. JARRELL: Just flip.

9 MRS. KAYZA: Well, then I would — I don't know what
10 we'll do because that will — So you would want us to move this
11 over the other 5 feet.

12 VICE CHAIRMAN ROWE: Like this.

13 MS. HEMPHILL: Like it's drawn on here.

14 MR. KAYZA: Like it is on that site plan.

15 MRS. KAYZA: On the original site plan, right, so
16 then it would totally — Well, how far back was that pool?
17 Because I think we pulled the pool up closer, so that's going
18 to make a difference with —

19 MR. KAYZA: It still doesn't matter. You won't be
20 able to pull into the garage being over that far.

21 MRS. KAYZA: Because he had the pool too far back
22 originally.

23 MR. KAYZA: He had it 40 foot originally. On that
24 site plan, is it 40?

25 MRS. KAYZA: And he brought it up to be closer to the
26 house and because of the lot slope, so then, all of the sudden,
27 it was, like, the garage was right outside my kitchen and it's
28 already outside my son's bedroom but then it's right outside
29 this.

30 MR. KAYZA: As it lays out right now, it's right

1 outside the breakfast nook, the edge of the garage.

2 MRS. KAYZA: So it would come into the whole view. I
3 wanted to pull the pool up, so as soon as I wanted to pull the
4 pool up so she is closer to the house and it's less concrete
5 and she is closer, then all of the sudden, the garage was
6 behind the whole reason we got the house, too.

7 MS. JARRELL: How far did you pull the whole thing
8 forward?

9 MR. KAYZA: 10 feet.

10 MRS. KAYZA: 10 feet.

11 MR. KAYZA: Yes.

12 MRS. KAYZA: So then pulling into the garage got to
13 be a problem. This is just easier.

14 MR. KAYZA: Right now, I am 30 feet off the back side
15 of the house.

16 MR. HAMILTON: Now, the original site plan did allow
17 you to pull into the garage, correct?

18 MS. HEMPHILL: This one lets you pull in?

19 MR. KAYZA: At 40 feet, yes.

20 MS. HEMPHILL: And then if you pull this pool that's
21 on here 10 feet that way, that's what you want to do? Is that
22 what you —

23 MRS. KAYZA: I want to pull it —

24 MR. KAYZA: Pull it 10 feet closer to the house.

25 MRS. KAYZA: — closer to the house. I didn't like
26 how Harry had it so far back.

27 MR. KAYZA: And then pulling it closer to the garage,
28 also.

29 MS. HEMPHILL: Well, if you moved this, left this
30 where it's drawn here, left this up here, you can put this

1 covered thing right off this end of the garage and it would
2 appear that you would have 10 feet — you could move that — so
3 you would still have the access in here for your pool.

4 MR. KAYZA: Yeah. But at 30 feet then I am driving
5 around —

6 MS. HEMPHILL: No. I am leaving the garage where
7 it's drawn.

8 VICE CHAIRMAN ROWE: The garage stays.

9 MS. HEMPHILL: I am not moving the garage.

10 MRS. KAYZA: On the original plan?

11 MS. HEMPHILL: Right.

12 MR. KAYZA: Oh, at 40 feet.

13 MS. HEMPHILL: Right.

14 VICE CHAIRMAN ROWE: The garage.

15 MS. HEMPHILL: Leave the garage where it is, move the
16 pool up, and then just move the covered area up here and maybe
17 flip-flop your bathroom and your —

18 MS. JARRELL: That's what we were discussing. You
19 seemed amenable to that.

20 MR. KAYZA: I got what you are saying, put that in
21 the front, yeah.

22 MRS. KAYZA: So is that pulling the pool up closer to
23 house?

24 VICE CHAIRMAN ROWE: Yeah.

25 MS. HEMPHILL: Yeah.

26 MRS. KAYZA: So in other words —

27 MS. JARRELL: This will go back to where it
28 originally was planned, back here, leave your pool here, and
29 just move this, this alcove here forward. See what I am
30 saying? So once you move that back, it will still be even.

1 MRS. KAYZA: Okay. I see what you are saying. It
2 will be back here but it would be on the front of the garage.

3 MS. JARRELL: But it will still be adjacent right
4 there where you need your daughter to go through.

5 MRS. KAYZA: Okay. What do you — I mean, it is up
6 to you guys.

7 MR. SMITH: Because the garage isn't constructed, it
8 can easily be redesigned at this point, correct?

9 MR. KAYZA: Right. But the thing is, there, then I
10 am still 40 feet away from the house.

11 MR. SMITH: The garage.

12 MS. HEMPHILL: The garage but not the pool.

13 MR. KAYZA: The garage and the pool.

14 MS. HEMPHILL: No. The pool, you're moving up.

15 MS. JARRELL: It says —

16 MR. SMITH: The pool, we can leave where it's at, 30
17 feet.

18 MR. KAYZA: Well, yeah, the entranceway would still
19 be 40 feet away.

20 MS. JARRELL: You just moved that back so it is like
21 this.

22 MR. KAYZA: Right. I like your idea but I like it at
23 30 feet. That way, I could put my — get that even closer.
24 You know what I mean? If I am 30 feet back and had that right
25 here, okay, this part here right here —

26 MS. HEMPHILL: You need this drawing over there.

27 MR. KAYZA: — then my pool is even closer and she's
28 even closer here. I like the idea you are giving me.

29 MS. HEMPHILL: What if you look at this drawing
30 because this drawing is different from that. You can use my

1 little pool.

2 MR. KAYZA: Right. See, if I did you this, okay, and
3 made this 30 feet, like I am asking, and 10 feet off the side
4 yard, then this could be here.

5 MR. SMITH: We're saying 15 feet.

6 MR. KAYZA: I know, but I'm saying 30 with the
7 10-foot variance. Then this could be here and this, I could
8 put there and even get this closer to my house, the pool, which
9 I would really like to do is have the pool closest as I could
10 to the house with that there. Okay?

11 MS. HEMPHILL: That's a new pool. You can move it
12 closer that way.

13 THE COURT: That's Claudia's pool but she said you
14 could use it.

15 MR. KAYZA: Right. See, if I did this, okay, and I
16 had my 30 feet then I could have this right here, which would
17 be very close for her and me — her closer to the house, too.
18 The whole reason for this is to try and get that pool as close
19 as I can to the house. I like your idea of moving that to this
20 corner, okay, because then that gets that closer to the pool
21 and closer to the house with my 30 feet and 10 feet.

22 MR. SMITH: We're talking 15.

23 MS. JARRELL: What about 15?

24 MS. HEMPHILL: We're talking 15.

25 MR. KAYZA: Right. But now I'm talking to John
26 because what you did was give me a better idea to even get this
27 close enough to the house so she — Here is another thing. The
28 reason this pool is in this area is because my door here, the
29 ramp for her is going to come out right about here. Okay? So
30 then she'll be right by the pool. If I had that right there,

1 that would be perfect.

2 MRS. KAYZA: I mean, is it totally out of the
3 question to keep — to go with the 10 foot, because even if we
4 pull the —

5 MR. KAYZA: I am trying to get the pool —

6 MRS. KAYZA: We're trying to get the pool as close as
7 possible.

8 MR. KAYZA: — as close to the house as possible.

9 MRS. KAYZA: Safe on concrete.

10 MR. KAYZA: And her handicap bath.

11 MRS. KAYZA: And not block my entire view of the back
12 of the house.

13 MR. KAYZA: And, plus, for my access into the garage.

14 MRS. KAYZA: That would go way out of my —

15 MR. KAYZA: I hear what you are saying. The 40 feet
16 does give me a little better access.

17 MR. SMITH: To the garage.

18 MR. KAYZA: Right. But then still keeps that pool
19 house 40 feet away from the house. Now, if I was 30, you know,
20 then the pool house would be 30 feet.

21 MS. HEMPHILL: But your access into the pool house,
22 into the — it still exists. You haven't changed that.

23 MR. KAYZA: That's right.

24 MS. HEMPHILL: You can still get in there if you
25 leave it at 15 feet and 40 feet.

26 MR. KAYZA: Right.

27 MS. HEMPHILL: You move the pool closer.

28 MR. KAYZA: If I can get it to 10 feet closer, I'd
29 like to.

30 MS. HEMPHILL: Well, we've got it 15 feet over.

1 We're trying to figure this out.

2 MRS. KAYZA: You are then also asking for us — we
3 will have to go back farther, which is more cost with the
4 concrete and everything. And then it's completely blocking,
5 not only from my son's bedroom but from our whole breakfast
6 area.

7 MR. KAYZA: I am not even really concerned with the
8 view. I am concerned with trying to get it as close as
9 possible to the house as I can to make it most convenient for
10 us to use it.

11 MRS. KAYZA: And, I mean, the cost of concrete as
12 well and all of that grading and everything, I don't know how
13 that will be because the farther, the more we come over, the
14 farther that garage has got to go back.

15 MS. JARRELL: But you originally complied with the
16 zoning in your original plans and then —

17 MR. KAYZA: Well, I —

18 MS. JARRELL: And then you took off a portion of your
19 plan to get the building permit to expedite breaking ground,
20 and now you're coming back to ask us for the variance.

21 MRS. KAYZA: Oh, I see what you are saying. I was
22 saying, I didn't come to zoning before we started. But Harry
23 did the same thing.

24 MR. KAYZA: Yeah. So what?

25 MRS. KAYZA: Yeah, it complied to the zoning.

26 MS. JARRELL: Right.

27 MRS. KAYZA: But when you go to the lot and see how
28 it all lays out and you see where the pool would be placed and
29 the garage and everything, you would understand. Our whole
30 thing was to keep the pool as close as possible to keep her

1 near the shelter and to keep the cost down as much because
2 we're just getting back on our feet as well. So it's up to you
3 ultimately.

4 MR. KAYZA: I mean, is that unheard of doing,
5 starting and pulling that off while you're —

6 MS. JARRELL: I was just interested in the planning
7 process.

8 MR. KAYZA: Yeah, trying to get a variance.

9 MS. JARRELL: And just the setting aside of the
10 zoning —

11 MRS. KAYZA: Right. Harry put —

12 MS. JARRELL: — in order to get started quicker.

13 MR. KAYZA: Yeah.

14 MRS. KAYZA: — the site plan and we knew we weren't
15 happy with that. We said we are building the house. We held
16 off on the rest and went back and forth to see Harry several
17 times since. That's why I said we don't even know what pool
18 size we are going with. I haven't even looked at pools yet.
19 We just know that in the future we're goint to have a pool and
20 we want to keep the detached garage as close to the house
21 without blocking the entire — It would block more than half of
22 the view.

23 VICE CHAIRMAN ROWE: I am afraid the blocking is —

24 MR. KAYZA: She keeps stresses the view block.

25 MRS. KAYZA: I know that's not a hardship.

26 MR. KAYZA: I'm trying to get it as close as
27 possible.

28 MRS. KAYZA: We're going to get the pool as close as
29 possible, so the closer I have the pool, the closer I have that
30 garage, the harder it is to get into the garage. And so we

1 would have to pull the garage back farther, which means then,
2 you know, everything just —

3 VICE CHAIRMAN ROWE: But, again, the pool can move
4 forward from that original plan. There is no question, the
5 pool can move forward. The internal of the garage could be
6 flipped.

7 MRS. KAYZA: Switched, that's right.

8 VICE CHAIRMAN ROWE: So it's up toward the front of
9 the garage. And, you know, you are getting into semantics here
10 a little bit that I think it just, you know, it ends up in a
11 vote.

12 MR. KAYZA: Right, right. I already know the vote.
13 30 feet is what I was looking for. I mean, I am trying to get
14 the pool as close as possible to the house. That's all.

15 VICE CHAIRMAN ROWE: That's fair.

16 MR. SMITH: The pool isn't the question though.

17 MS. MITCHELL: I was going to suggest, since the pool
18 plans are still up in the air, would you consider tabling this
19 and request that it be tabled so you can finalize your pool
20 plans, take into consideration what they suggested and see,
21 when you know the final dimensions of the pool, what you can
22 work with?

23 MRS. KAYZA: Well, it doesn't matter. I mean,
24 wherever they place the garage is going to end up being where
25 we have to put the pool closest to that shelter area, so it
26 doesn't matter. I mean, if they say we want to move it over,
27 then it is where it is and then we will go around the pool.
28 You know what I am saying? I know what you are saying. But if
29 the garage is going to be where it is then we will work around
30 it.

1 MS. JARRELL: I need to understand. If you were to
2 comply with the 15 feet —

3 MR. KAYZA: Yes.

4 MS. JARRELL: — how much more, what's the additional
5 cost? I mean, is that what you are saying, that there is so
6 much more additional cost?

7 MR. KAYZA: I am not even concerned with that.

8 MS. JARRELL: It's the view?

9 MR. KAYZA: No. My initial —

10 MRS. KAYZA: It is cost and view and Rachael's
11 safety. It is three different items, in my eyes.

12 MR. KAYZA: It is trying to get the pool as close to
13 the house as possible with access to that covered porch area
14 and the handicapped area, that's the main concern right here.
15 The cost factor, I mean, I am already spending a ton of money
16 on this house. Okay? Whether I get it or not, I am going to
17 build it. You know what I mean? I am trying to pull the pool,
18 the garage up and over so that I can have that pool as close as
19 possible to the house there.

20 MR. SMITH: It would appear that you can accomplish
21 that, since nothing has been constructed yet as far as the pool
22 and garage go, by redesigning the entire layout.

23 MR. KAYZA: Right.

24 MR. SMITH: Even given the 15-foot setback, you can
25 still get your pool close to the house. What you have to do is
26 redesign your garage layout, obviously.

27 MR. KAYZA: Right. It still keeps me 40 feet away,
28 no matter what. That garage is 40 feet.

29 MR. SMITH: Right.

30 MR. KAYZA: That's where I am going. I like the idea

1 of reconfiguring it. It's a good idea. But if I can
2 reconfigure it at the 30 then I am closer than I was before.

3 MR. SMITH: But then you have trouble with the
4 driveway access if you are —

5 MR. KAYZA: If I am 15 off.

6 MR. SMITH: — 15 off.

7 MR. KAYZA: If I am 10 off, it's set up a little
8 better.

9 MR. SMITH: Thank you.

10 VICE CHAIRMAN ROWE: Thank you.

11 MR. KAYZA: Okay.

12 VICE CHAIRMAN ROWE: Is there anyone in the audience
13 that was going to speak in favor of the granting of this
14 variance? Anyone in the audience speaking in opposition to
15 this variance?

16 MS. PREINESBERGER: Hi. My name is Helga
17 Preinesberger and I live at 11331 Palmer Road, right next door.

18 VICE CHAIRMAN ROWE: Were you sworn in?

19 MS. PREINESBERGER: Yes, I was.

20 VICE CHAIRMAN ROWE: Thank you.

21 MS. PREINESBERGER: Let me start out by stating the
22 reasons that I moved into this area in the first place, which
23 were the open spaces, the beautiful vistas and the houses that
24 were not set right on top of each other but had a little bit of
25 green space between them. And if you drive around Concord,
26 that's all you see. You see, you know, lots with big vistas.

27 I believe that Concord set these zoning rules with
28 the minimum of 15 feet side clearance for this reason, to keep
29 the rural looking character, as it states so in Section 1.01 of
30 the purpose of that Zoning Resolution.

1 Now, the house that is being built on the lot next to
2 mine is clearly large and straddles the property as far as the
3 minimum side restrictions of the zoning codes allow. The
4 driveway, which is next to my property, will supposedly be
5 taken very close to the property line. And the only green
6 space, in all likelihood, will be on my side of the line, and
7 my house is only 22 feet from that line. My bedroom right now
8 is on that side as well. And when I look out the windows right
9 now, I am looking right into their garage entrance and hearing
10 all the noise associated with that. The drive then continues
11 back the side of the property to the back and accessory
12 garage.

13 Now, I am not exactly sure. These are things that I
14 feel are affected by this garage being closer. Although I am
15 not exactly sure where the garage is proposed to be located,
16 nearby could be as close as 10 feet away. There is a huge ash
17 tree whose roots could very well be affected by the foundation
18 of a structure that's 5 feet closer than it should be. And the
19 tree is a defining structure on my property and a big asset,
20 giving me shade and sun throughout the day. Some of its roots
21 have already been torn out by the heavy machinery moving along
22 that side. For this reason — or this is one of the reasons I
23 object to a variance, is that putting in the garage at 10 feet
24 instead of 15 feet would have even more impact on the tree.

25 Now, the accessory garage is not a little shed but a
26 a two-story building with, you know, occupation above, living
27 quarters above. And I think being that close to it, to my
28 property, is going to be a wall sitting right over there, and
29 anything that's planted underneath that area will have the
30 shade and the obstructions from the air as well.

1 If access is needed to the back yard with heavy
2 machinery or a truck trying to pass through the 10-foot
3 variance then, you know, I think that's kind of small.

4 So my neighbor on the property next to me also has a
5 large pole barn which was originally within the 15 foot of the
6 line, but he purchased from a previous owner another 2 foot
7 over so that it would comply with the variance, with the
8 zoning laws. That barn was built way before my house was
9 built.

10 So another large concern for me is snow removal.
11 With that driveway going right up the side and then the garage
12 sitting that much closer to the side, where is all the snow
13 going to be plowed, you know, with the big large circular drive
14 in front as well? You would think that 15 feet is likely space
15 for some of that snow to go. If you decrease to it 10 feet,
16 they're just not even along that line, if you look at the
17 pictures — I am sorry. I have a split rail fence and some
18 evergreens growing there with ground cover. And I do not know,
19 I don't think there is snow to be piled into that area.

20 And then another reason I have for this is one of the
21 ramifications of selling my property with a driveway along the
22 property line leading to a large structure in the back and
23 thereby limiting any privacy or looking into my yard on the
24 side and placed within the zoning allowance — outside the
25 zoning allowances.

26 The fact is, a couple years ago, I was thinking of
27 enlarging my bedroom on that side several feet but I was told
28 that the zoning code would not permit it because of the 15-foot
29 yard clearance requirement.

30 So in closing, I would like to say that the new

1 neighbors, the Kayzas, seem to be very nice people and I
2 believe they will make good neighbors. But I think the code is
3 a code and was put into the zoning law for that purpose and
4 should be implemented by the township for property owners and
5 neighborhoods to have their character remain intact.

6 This one-acre property contains a lot of structures
7 and concreted areas and expanded to inside of the side yard
8 clearance. I feel this would impact my property. When I
9 looked at the plans, I didn't see any hardship in adjusting the
10 areas involved further west because now my views are being
11 blocked to the area with all the structures but it looks like
12 they have a nice, open space with views to that area.

13 So on the one hand, I have a large barn facing my
14 back yard on the east and I have a large garage facing my yard
15 on the west. It feels like I am being walled in and being
16 squished in the middle, and I don't think that the variance
17 should be granted.

18 VICE CHAIRMAN ROWE: Thank you. Now, is there any
19 questions on that drawing? I think very —

20 MS. PREINESBERGER: Are there any questions?

21 VICE CHAIRMAN ROWE: I think it's very self —

22 MS. PREINESBERGER: Okay. This is the barn. I just,
23 visually, across the houses, this does — This is the 15-foot
24 variance over here, over here and even the, you know, property
25 lines.

26 VICE CHAIRMAN ROWE: Okay. Thank you.

27 Is there anyone else in the audience speaking in
28 opposition to the granting of the variance? Hearing none, the
29 public portion of this appeal is closed. I entertain a motion
30 for granting of the appeal.

1 MR. HAMILTON: So moved.

2 MR. SMITH: Second.

3 VICE CHAIRMAN ROWE: Moved and seconded. Time for
4 discussion.

5 MR. SMITH: Mr. Chairman, it would appear that the
6 issue is having the pool close to the house, which is not a
7 problem because it's not the pool that has the setback issue,
8 and that the garage could be designed in such a fashion to
9 comply with the setback requirement and still have access for
10 the kitchenette that they want to have in the garage.

11 VICE CHAIRMAN ROWE: Thank you. Anyone else? Kathy,
12 would you call for a vote, please?

13 MS. MITCHELL: Mrs. Hemphill?

14 MS. HEMPHILL: No.

15 MS. MITCHELL: Ms. Jarrell?

16 MS. JARRELL: No.

17 MS. MITCHELL: Mr. Smith?

18 MR. SMITH: No.

19 MS. MITCHELL: Mr. Hamilton?

20 MR. HAMILTON: No.

21 MS. MITCHELL: Mr. Rowe?

22 VICE CHAIRMAN ROWE: No.

23 The final item on this evening's agenda would be the
24 approval of the minutes on the August 12th, 2009, meeting, as
25 they were submitted to us. Everything looked great to me.

26 MR. SMITH: I tried to find fault but I couldn't.

27 VICE CHAIRMAN ROWE: Wow. All in favor of accepting
28 the minutes from the last meeting, signify by saying "aye."

29 (Five aye votes.)

30 VICE CHAIRMAN ROWE: The meeting of Concord Township

1 September 9th BZA is now closed.

2 (The deposition was concluded at 8:03 p.m.)

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1 STATE OF OHIO)
2)
3 COUNTY OF CUYAHOGA)
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CERTIFICATE

5 I, Melinda A. Melton, Registered Professional
6 Reporter, a notary public within and for the State of Ohio,
7 duly commissioned and qualified, do hereby certify that, to
8 the best of my ability, the foregoing proceeding was reduced
9 by me to stenotype shorthand, subsequently transcribed into
10 typewritten manuscript; and that the foregoing is a true and
11 accurate transcript of said proceedings so taken as
12 aforesaid.
13

14 I do further certify that this proceeding took
15 place at the time and place as specified in the foregoing
16 caption and was completed without adjournment.
17

18 I do further certify that I am not a friend,
19 relative, or counsel for any party or otherwise interested
20 in the outcome of these proceedings.
21

22 IN WITNESS WHEREOF, I have hereunto set my hand and
23 affixed my seal of office this 21st day of September 2009.
24
25
26
27

28 _____
29 Melinda A. Melton
30 Registered Professional Reporter

31 Notary Public within and for the
32 State of Ohio

33 My Commission Expires:
34 February 4, 2013
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