

BOARD OF ZONING APPEALS MEETING  
FEBRUARY 18, 2014  
7:00 P.M.

I CALL MEETING TO ORDER

The meeting was called to order at 7:00 p.m.

II ROLL CALL

Members Present: Carolyn Ghantous, Joe Ramirez, Lawrence Hawkins III,  
Dave Nienaber, Ed Knox, Robert Weidlich and Jane Huber

Others Present: Randy Champion, Building Inspector

III PLEDGE OF ALLEGIANCE

IV SWEARING IN OF BOARD OF ZONING APPEALS  
MEMBER DAVE NIENABER

(Mr. Dave Nienaber was sworn in for a new term as a Board of Zoning Appeals  
Member by Mr. Lawrence Hawkins III)

V MINUTES OF THE REGULAR MEETING OF DECEMBER 17, 2013

Chairman Weidlich: Are there any additions or corrections to the Minutes of our  
last meeting from December 17, 2013?

Mr. Hawkins: I move to adopt.

(Mrs. Ghantous seconded the motion and with seven "aye" votes from the Board of  
Zoning Appeals Members, the Minutes of the December 17, 2013 meeting were  
approved.)

VI CORRESPONDENCE

Chairman Weidlich: There is no correspondence.

VII REPORT ON COUNCIL

(Mr. Hawkins gave a summary report of the December 18th, 2013 and the  
January 8th, January 15th and the February 5th, 2014 City of Springdale Council  
Meetings.)

VIII REPORT ON PLANNING COMMISSION

(Mrs. Ghantous gave a summary report of the January 14th and the  
February 11th, 2014 Planning Commission Meetings.)

Mr. Hawkins: Did Waffle House ever indicate when they are going to complete  
their plan?

Mrs. Ghantous: No. Mr. Barineau didn't come the last two meetings, therefore we  
were left with a lot of unanswered questions, that being one of them.

Mr. Hawkins: When they started, did they have a goal or estimation?

Mrs. Ghantous: No. When we asked them that, they said that they were in the process of doing a pretty big expansion throughout the country and they did not know when they would start our building here.

#### IX CHAIRMAN'S STATEMENT AND SWEARING IN OF APPLICANTS

#### X OLD BUSINESS

(No Old Business presented at this meeting.)

#### XI NEW BUSINESS

- A. Chairman Weidlich: The first order of business is the owner of 11702 Van Cleve Avenue is requesting a variance to allow a second recreational vehicle to remain on the property and to remain in the front yard. Section 153.480 (C) "In all residential districts only passenger cars, which do not exceed twenty feet in length and / or eight feet in height may be parked or stored upon a driveway or parking area... "; and Section 153.480(D)(1) "One recreational vehicle, one boat on a trailer or one trailer used for recreational purposes may be stored in an unenclosed area in the side or rear yard of the property..."

Mr. Robert Buck: I am the owner of 11702 Van Cleve Avenue. We are requesting a variance because we apparently have two vehicles that are considered recreational; one being a boat that we have had in the side yard for several years, since the year of 2000 and then we have an R.V. that is classified as an R.V. We indicated to the Building Department that it has been gutted out and is basically a passenger vehicle. The reason why we are asking for a variance is that we were not aware that we couldn't have that size of a vehicle in our driveway. The aerial shots that we had from the Building Department shows that you can barely see any difference in that parked in the driveway. It does tuck itself directly underneath the awning. Other than the height of it, you really don't see that much difference as far as being parked in the driveway goes. The size of it does exceed the height regulation, the dimensions are supposed to be no higher than 8' and with the air conditioner on it, it is right around 11" above that. The pictures that I presented for the Building Department show it next to the basketball stand so it shows underneath that net which is at 10'. It really does fit quite well in that area. The color on the R.V. is white and brown which also matches the colors of our house and it does blend into that as well. The question is, as far as the R.V. is concerned, is it considered a personal vehicle instead of just an R.V. because it has been gutted and it has been altered and changed and we can only use it for transportation purposes; if that be the case, would it be considered a personal vehicle? The question is the size of it and can it continue to be parked in the front driveway? It does fit well and you can still park the cars in the driveway without going into the sidewalk area there; you still have about 4' or so beyond before you come to the sidewalk. With that in mind and with the boat being there since 2000, we would really like to leave it there. We have had it in the front yard and had a propeller stolen off of it and we had a couple of bicycles stolen in the front corner of the yard, too. So, security is also an issue. The Building Department said "Perhaps you could take and build a pad and put it on the side of the house"; as I would like to note with the size of it, if you put it on the side of the house it would stand out much larger than the boat would be. So, I would like to leave it on the driveway as requested there. The other thing that was recommended by the Building Department; if I were to keep it there for those purposes to drive on a regular basis, then to put it on a pad on the side, looking at that, it would be very difficult to do. With the water that we had from the heavy rains at times here, it would be kind of soggy in the ground. Also, as you have seen recently with all of the snow that we have had, you would have to take and shovel a path out to that. I really would not want to interrupt the terrain by

putting a gravel driveway or something to the side just to get back to have access to that. With that in mind, I would appreciate your consideration to take a look at that from the perspective of a homeowner in trying to utilize his property as best as possible with what we have. The size of the yard, I think for a corner, lot is relatively a good size. We do have side yard for the boat, as you can see in the aerial shot, as well. We do not have any backyard at all. I had put a deck in several years back just because we couldn't use the terrain back there because it was rocky and hard and sloping; we had the Building Department to give approval to get that done, as well. With that in mind, we appreciate your consideration regarding that to see if maybe we can continue to keep it parked in there and classified as a passenger vehicle and continue to leave the boat in the side yard.

(At this time Mr. Campion read the Staff comments.)

Chairman Weidlich: Is there anyone in the audience that would like to speak on behalf of this application?

Mrs. Elaine Buck: My address is 11702 Van Cleve Drive; I am the co-owner. The thing is, it is not in the front yard. That is driving me crazy, like it is on the grass; it is on the driveway. Also, it is there for repairs. It is not going to stay put. Right now I use it to go back and forth for groceries as a passenger vehicle but I also plan on going out in it and we will be selling it. That is all I have to say; it is not in the front yard it is on the driveway, under a foot shorter than it is allowed.

Mr. Robert Buck: Regarding the grandfathering in; I disagree with the grandfathering in statement there. We got a notice from the Building Department in, I think 2004 stating that we couldn't have boats in the front yard or in the driveway. So, according to what he told us from that, that is not true. Whatever grandfathering date that is being stated this summer, that is not the case at all, that was being enforced well before that.

Mr. Campion: I think what he is referring to is that in July 15th, 2013 the City changed what was allowed in the front yard and I believe they increased the size. I should rephrase, they didn't allow them in the front yard but they allowed them in the side yard. They changed their ordinance for recreational vehicles.

Mr. Robert Buck: According to what I had on it here, it says for all purposes and intent of these codes and to keep your property in compliance you must not park your boat or trailer on the driveway unless you have additional 9' x 19' spaces per Section 153.480 of Springdale Zoning Code, and this is from July 2004. It was pretty specific as far as yes, you cannot have it then. So, to say it is grandfathered in now, I really don't see where that comes into play here; I don't agree with that statement.

Mr. Campion: I guess what we would have to look at is the other vehicles. Are you offering the other vehicles out that this vehicle at this location has been permitted and yours hasn't?

Mr. Robert Buck: The size of the vehicle is what is being brought into question and that the Bureau of Motor Vehicles is considering it a motor home, as it was. I was wanting the Board to accept it as a personal vehicle instead of a recreational vehicle motor home because that is not what it is capable of being used as. As far as the size of it goes, I don't see any detriment to keeping it in the driveway, being that close to the dimensions that were set as standards for the community; 11" too high and 1' too long. And as I mentioned where it is located and how it is sitting in the driveway, it is not much different than if you were to buy a larger van or some kind of work truck. I think that would be compatible on some of the pictures that I presented to the Building Department to show that there were those in place out in the community; some things that you could actually buy and would be legal to use and park in your driveway; I am not much different than that. The one question is the two R.V.'s; well if it is not considered an R.V., based upon use, then perhaps we could have similar use having the two vehicles instead of just having the one.

Mr. Champion: As a point of clarity, I believe what he is making reference to is that we changed our R.V. ordinance in July 15, 2013. If you would like to present photos of other R.V.'s that exist out there. I am not sure if the statement is correct if what you are presenting are vehicles in the front yard that don't pertain to that change in the ordinance, does that makes sense?

Mr. Robert Buck: Well, we did present pictures of that. That was one of the things that I believe he wrote in his statement. But, we did provide pictures showing that other people had one or two boats or one or two trailers. There is one that is up on a stand and it is almost permanently there, it moves about once a year. There are some examples of where that is in play, whether grandfathered in, based upon the Building Department saying; that is not my argument.

Mr. Hawkins: I just want to make sure the applicant understood a couple things; The Board of Zoning Appeals can't necessarily reclassify a motor vehicle.

Mr. Robert Buck: I understand.

Mr. Hawkins: That is up to the Ohio Bureau of Motor Vehicles for the State to decide. It would have to be a variance for you to be able to do that. The other part of this that Mr. Champion was talking about is Council went through this last year and actually as a result of something that happened here with a resident that came in asking for a variance with regard to storing a R.V. that was beyond the spatial dimensions that the Code allowed at that time. Again, we are talking about the front yard, the driveway, the front part of the house. And so that variance was denied to that individual. We suggested to that individual that if they want to change or they want to suggest to Council to actually change the law, then they should go to Council and have that conversation. So, that applicant did end up coming to Council shortly thereafter, sparked a discussion, Council had a committee formed of residents in the community, some that had R.V.'s and some that did not have R.V.'s and they were charged with going out and examining what the typical industry standards are for the size of R.V.'s; length and height. Also, to go and look at other surrounding communities and cities and see what ordinances and laws they have with regard to residents being able to park R.V.'s at their homes. As a result of all that information, brought that back to Council, Council ended up changing the ordinance with regard to it and really gave a lot of leeway in saying it can be any size, you have to park it in the side yard or the rear yard. Part of the rationale for that was Council didn't want to have to keep coming back as industry standards would change over time and R.V.'s would get bigger and bigger and look at it. I personally thought that was way too much leeway to just give and say "any size is fine, just park on the side or park in the back, you can't put it in the front". What was being discussed in terms of it being grandfathered in, if someone had been already parking it in the front, I believe as long as that continued consistently, they were going to do that. At the point they stopped doing that for a period of time then they were going to have to conform with the new ordinance. I say all that to say that there has been a lot of leeway given with regard to R.V.'s and there has been a lot of discussion and talk and thought from Council in terms of that ordinance that is in effect. Now, there has been input from residents with regard to that as well. The concern when it comes to these things has to be kept in mind. A Member from Council that has an R.V. was the one that indicated this, that this ordinance is not for those that have R.V.'s or recreational vehicles, this ordinance is for those that live next to those that have R.V.'s or recreational vehicles. This is really trying to be mindful for our neighbors. I know that you indicated that neighbors don't have an issue with what you guys have going on but with it being a variance it lasts forever and goes on in perpetuity long after you are here and long after I am here, long after the neighbors are here. Someone else down the road may have an issue with it. I think it is interesting in terms of the discussion, as Mrs. Buck said, the intention is to sell this at some point and hopefully in the near future; if you do that and you are granted a variance then that variance goes on forever and the next person that buys the house is able to have an R.V. in the front and not only that, essentially two variances and have two recreational vehicles on that property.

Mrs. Elaine Buck: I don't intend to sell the house.

Mr. Hawkins: No, I mean the R.V. Whoever lives there fifty years from now is able to do that. That is something else that this Board has to keep in mind and consider. I wish we could give limited time variances; by the State law, we are not able to. That would help alleviate a lot of issues but this is something that is a big deal forever. I have some concerns with regard to that and I have some concerns particularly since Council really spent a lot of time going over this and I can't say everything that we have in the ordinance I am completely happy with but we came to a consensus with that. I understand with you guys being on a corner lot, corner lots have some unique circumstances but in terms of being able to store one R.V., you are still able to do that and I don't think you are limited based on those circumstances, based on your positioning. Those are concerns that I have. We are not just talking about one R.V., but two R.V.'s. We are talking about going against what this new ordinance was with all the time consideration that went into it. Whether I agree with everything in there or not, that we are not having it in the front yard beyond these spatial dimensions is a big deal. Those are my concerns and I can't speak for the rest of the Board.

Mr. Robert Buck: On the dimensional thing, there are a lot of the R.V.'s when you come to the dimensions and the cut off point of being 21' or 20', a lot of those have an over-cab which in that sense extends it back farther. So, you are actually truly getting the 21', 22', 23' or 24'. In this particular circumstance that is not the case at all, you have a cut off point right at the beginning of the cab and it slopes down and it is just a regular truck in the front there. It is basically on a truck bed, Chevy Astro truck frame. I would think that the circumstances, even though what you pointed out, I take that to heart because I understand what you are saying that a variance is a variance, regardless. At the same point, this particular circumstance and this particular vehicle, even if the variance was to be named to this particular vehicle if possible. I see that there is a difference between all the ones that are out there when they were looking around trying to put numbers on those. That is the reason we have variances and City Council.

Mr. Knox: I have no doubt that the information that you gave about the 2004 situation is accurate but there is a lot more to the story. Ordinance 6-2000 passed on February 16th, 2000, 430 was established. Then it was changed in 2005. It was further changed in 2008. What those things say may not agree with what you are saying now about the 2004. Of course then we changed it again in 2013. In order to take the full picture, we would have to research the whole thing which I don't think we can do at the moment.

Mrs. Elaine Buck: In just listening to all the variances and the changes and in this particular case, if we would have just bought this a couple months earlier then we would have been grandfathered in and for all purposes next year, again it could come back up and it could be changed again. It is not going to be parked there, it is going to stay there and we have to fix it and then we will be using it to go on the road to different places mainly for employment purposes that we have to find. I am hearing that it has changed here and there and if it changed next year then it hit us and nobody else.

(At this time, no one else from the audience came forward to speak and the public portion of the hearing was closed.)

Mr. Ramirez: I went by the property and it doesn't seem as if the recreation vehicle is a big problem; it fits on the driveway nicely. I did see that you have two other vehicles and the second one, because you don't have it wide enough to put the cars on there, the second vehicle is actually on the sidewalk and sits out on the walkway and overhangs the walkway.

Mr. Robert Buck: The second vehicle?

Mr. Ramirez: You have two vehicles on the right-hand side and the recreational vehicle.

Mr. Robert Buck: We could always park it on the street or I could pull the van back farther and it is only about this much over. I could pull it up.

Mr. Ramirez: Is that all that you own, those three vehicles?

Mr. Robert Buck: Those are the only ones that are parked outside, yes.

Mr. Ramirez: Do you have something in the garage, as well?

Mr. Robert Buck: Yes; it is a collector car and I try not to bring it out in the weather.

Mr. Ramirez: For us to be able to do anything, that either has to not be a recreational vehicle or we would have to give approval to have two vehicles on the property; to have that and the boat on the side.

Mr. Robert Buck: If I were to go back to the Motor Vehicles and have it changed to a passenger vehicle would that have an impact or make a difference?

Mr. Campion: The Board would probably have to reconsider that if the State of Ohio is calling it a recreational vehicle.

Mr. Hawkins: He would still need a variance.

Mr. Campion: I don't think so according to our ordinance.

Mr. Ramirez: A passenger car still cannot be 20'.

Mr. Hawkins: It is too long and too high.

Mr. Knox: Mrs. Buck mentioned that you were possibly going to sell this vehicle. What would the timeframe be in which you intend to sell it?

Mr. Robert Buck: With the economy as it is, the question is when it could be sold. We are talking about using it up through the Summer and maybe trying to get rid of it or sell it around Fall sometime.

Chairman Weidlich: I am going to reiterate this; the same as Mr. Hawkins and Mr. Ramirez, the fact of getting two recreational vehicles on the property is setting a precedent for this Board and the City by allowing two. Then we could have a bunch of other residents coming in wanting to keep a second vehicle on their property as well. I, myself won't be supporting your request but I am only one person on the Board here.

Mr. Robert Buck: Could I ask if it would make a difference having it classified, would that make a difference in the determination?

Chairman Weidlich: I am not qualified to answer that for you, sir. Like they said, being over the length and the height, chances are you would be back here for a variance for those purposes again. That is my guess at that point.

Mr. Robert Buck: Alright, thank you.

Chairman Weidlich: If no one else has any comments, could we have a motion?

Mr. Hawkins: I move to approve a variance for the owner at 11702 Van Cleve Avenue from Section 153.480(C), allowing there to be a vehicle that would exceed 20' in length and 8' in height to be parked or stored on the

driveway. Also a variance from Section 153.480(D)(1) allowing there to be two recreational vehicles at that residence.

(Mr. Ramirez seconded the motion and with no further deliberations or amendments to the motion Mrs. Huber polled the Board; with a unanimous "no" vote from the Board of Zoning Members the request was denied.)

Chairman Weidlich: I am sorry sir, your request was denied.

Mr. Robert Buck: Thank you for your time.

- B. Chairman Weidlich: The next order of business is the owner of 584 West Kemper Road is requesting a variance to subdivide the property. Section 153.069(A) "Single household dwellings...shall have a lot width of not less than 80'." Section 153.071(A) "Single household dwellings...shall have a minimum side yard setback of ten feet each side..." Section 153.075(A) "The minimum area for single household dwellings in the RSH-L district shall be 2,000 square feet." Section 153.075(B) "A single two car garage and related parking area is required. The garage shall have a minimum floor area of 400 square feet." Section 153.482(A)(1) "No fence or wall, other than a retaining wall, shall project past the front building line of any principally permitted or conditionally permitted structure." Section 153.072(A) "Single household dwellings... shall have a minimum rear yard setback of 40 feet." Section 153.502 "Parking areas and access driveways shall be improved with an asphaltic or concrete surface in accordance with the City Land Development Regulations. Pavers may also be used if approved by the Planning Commission."

Mr. Rick Lisi: I live in Loveland at 3363 Shadowridge Drive. I own this property that I purchased here in Springdale. I didn't expect to speak but I feel like I am at the Olympics and I will do my best. My wife had pointed out this piece of property in the paper and, to me, it was a sign from God to purchase this at a price that was extremely low. The property is an acre and it has got two buildings on the property and I had a good friend, Daryl Pilgrim who he and his wife I have known Daryl since he was fourteen years old. He is a good friend of mine and he has traveled around the country with me. He was in my Explorer Club at Princeton and he has had no opportunities like I have had in life. I got my college education and I worked my way through, to get it. Darryl has done many, many good things for many people and it was about time the dice rolled in his favor. When things went back and he was being moved out of a house where he was, my wife saw this house that was for sale in Springdale and we couldn't believe it when we saw it; the price was at \$65,000. and it was on an acre. I thought this is ridiculous, this is unbelievable in the middle of Springdale, right in the Princeton District, who wouldn't want that? We came and looked at it and investigated. The main house on the main street is fairly good but the second house that was behind it which had been a residence up until six years prior to that had been ruined because a tree limb had fallen onto the house and broken through the roof and rain water had come in; weather conditions and it wasn't taken care of. It was in great disrepair and dangerous. The neighbors said that kids would go in there and do drugs and smoke weed and stuff like that. So I thought, I have done this before, I have bought a house in Reading and I found out there were drugs in the neighborhood and I bought the house across the street to get those druggies out of there and people thought I was crazy. I took photographs of everybody that came and went and then I walked up to the people that were there and I said "You have got to move, I just bought this house". They said they weren't going to move and I said "Yes you are". I showed them pictures and they left; I had no trouble at all because they didn't want any problems. In this case, this was a house that was in very bad disrepair and I could see because I grew up in Massachusetts where we have taken old barns and old houses and made them the most valuable pieces of property around and I could see that I could do this because I've got that skill, I've got that talent of being a shop teacher and being an electrician for many years, I knew how to do all of this. I have done it many other times with other buildings. In this case, it was different. It was for my friend Darryl and for his family. My first thought was, I was told that I

could not use that building as a residence because it had not been used for six years and the condition of it was very bad. So, I looked it over and talked to my wife and I thought I could use it, because I am a photographer and I am the President of the Audubon Society of Ohio, I travel around the would doing photography and I thought I could use it as a set up where I could have people coming to see my work. But when I got in and started doing the work, I had no idea of the internal damage that I didn't see because I am not a professional in that way. Not only was it water damaged but all the insulation was ruined. Behind the walls there was rot and there was mold and because it hadn't been controlled and treated and conditioned properly for Winter, the water pipes were all broken so I didn't expect to have to replace the furnace and I didn't expect to replace the water heater; I didn't think these things were bad. They looked fine when you looked at them. When I got in there and found out I had to replace all of that and then I had to get in behind the walls because the water pipes were all frozen and split; it was far beyond what I thought. What do you do then? Like I said in the Olympic spirit, I am the kind of the guy that does it right. I am not going to do it half way. I have been a landlord for many years and my properties have all been beyond what anybody else does. I feel like my tenants were my friends and I would treat them the same way I wanted to be treated. I wanted to do this right. I talked to the Board about what I had to do and they told me, "You can't live in there, you can fix it up all you want". I thought I would see what happens. I got in there and started doing the work. I tore out the ceilings and tore out the walls. Put in all new insulation and today that place is really a showplace. The point is that I am told that I can't rent it and I can't let Darryl's family live in it. I am not going to use it for a photo place because I have too much invested in it now. I have used part of my wife's retirement to put into it and I know I can't use that as a condition. But I am thinking that constitutionally I have got a right to try to find happiness and joy. I think that the work that I have done I should be getting a pat on the back from Springdale. I have taken a place that was terrible and people should be looking at me and they should be writing books about it and saying "Wow, look at what this guy did with this residence. It is now a place that anybody could live in and be proud of ". At any rate, I know the law is the law, and it is the way it is. So, what I am requesting is, it is an acre of property, it can be easily divided up into two sections. Now granted, the two sections are narrow but they are well within what the recommendation would be for a house if you looked at it square footage-wise instead of looking at it the way that I am trying to propose it. I am asking that the property be split so that there are close to two 1/2 acre sections, which is plenty. The one house Darryl will stay in and live there and the other house we would then sell. I could get back some of the money that I put into it. It doesn't matter if I break even or not, it is just a matter of trying to make it right. In doing this, I had a problem with trying to think about how we were going to do it; there is parking and the house is a small house and it was a house and it is a separate house. It is not like a garage separated addition, it is actually a house with a single-car garage and it has three bedrooms and when you look at it, it looks small but everybody that walks in it and sees how big it is inside, they are totally amazed at how much space there is in there and how well it was designed. I was impressed myself or I wouldn't have bought it. So, I realized parking was going to be a problem and so I didn't realize the codes for the parking. I knew the code for the parking had to be for the driveway but I didn't know I couldn't put a parking pad there and I knew that Darryl would need additional parking so that if somebody had that house, that they would be able to park in front of that house but Darryl would have to park next to his house and he has the garage there that is a nice big two car garage and he would need parking next to that, in case he would have company so that there wouldn't be any conflicts. I put in a new driveway and it is all nice blacktop and put in a new walkway in front of the house, it is all brick and its beautiful. I had to put in special drainage because there was a water problem there. That is all done, but I did put in B-19 gravel for two parking pads, 8 x 8 timbers around them to hold the gravel. That is the way my driveway is set up in Loveland which has been that way for thirty years. I built my own log home there and had no trouble with that gravel driveway and I like the gravel driveway because with being with Audubon I don't like blacktop anyway, I think it is too hot and I like to keep things cool. So, I would rather have permeable surfaces for driveways and all parking lots. If I could have it my way, all parking



lots would be permeable so that the water would seep in and wouldn't flood your neighborhoods. But that is my own thing. So anyway I didn't see any problem with these parking pads, but I didn't realize that was against the code. I knew the driveway couldn't be graveled but I didn't realize that the parking pad couldn't; so I asked for that. The other thing is if they would split the property, we could do that and then I wanted to have a fence so that the people who are in that property would have a fence so there would be a demarcation between them and Darryl's property so that there would be no confusion and everybody could get along and whoever would come in would know that right from the beginning. It would be a nice white picket fence that I want to put in. I also don't have the water line or the gas line put in yet separate, they still come from Darryl's house. I want those to come in separate. I have already had the electric come in and it is underground because I didn't want it above the ground, so it is already in and a new power panel and all that. What I would like to have is the gas line and the water line brought in separately along the right-of-way, along the edge of the property there so that it is completely separate entities in the buildings. I am rambling on, I am sorry. Is there anything else I should say?

(At this time Mr. Campion read the Staff comments, outlining the different variances requested: from Section 153.069(A), lot width; Section 153.071(A), side yard; Section 153.075(A), dwelling area; Section 153.075(B), garage area; Section 153.072(A), rear yard for main building area, to be considered together to allow the property to be subdivided into two zoning lots.

As a separate request: Section 153.482(A)(1), fence in the front yard (only if the lot split occurs).

Section 153.502, gravel parking pads; this request is independent of the other two requests.)

Chairman Weidlich: I guess we will move on to the one page where he has #1, #2, and #3; item #1 with the lot width to start with.

Mr. Campion: Then I also had an email from a neighbor, do you want me to read that?

Chairman Weidlich: We will wait until the public communication part of the hearing.

(Mr. Campion further read the Staff comments defining the request to subdivide the property at 484 West Kemper Road.)

Chairman Weidlich: We will move on to communications from the public and we will at this time read Mr. Thomas Hinkle's letter.

Mr. Campion: We received an email today at 2:41 p.m. from Mr. Thomas Hinkle from 590 West Kemper Road. "My name is Thomas Hinkle and I own the properties on the west side of 584 Kemper Rd, First of all I'd like to say the improvements on the property have been great. It had been very run down and definitely devaluated my property. I do feel that the two buildings on 584 are too close to each other and can cause problems. The variances do not address the problems. As of now the tenants of the front house have four cars and the small space is not enough parking. If the back house is separated and sold, the number of cars could be six! The back building was a barn at one time and was close to the house in order to take care of the animals. The closeness of the two buildings now makes an awkward situation. Thank you for your consideration of my comments, Thomas Hinkle".

Chairman Weidlich: Is there anyone in the audience that would like to speak on behalf of this request; we are going to start with the variance for the 20' front yard where it is required by Code to be 80' at the street and in front of the home. Is there anyone in the audience that would like to speak on behalf of that portion?

Mr. Alford Watson: Most people know me here in Springdale as Tom. I live directly in the back of this property and I have lived there for forty-six years. I bought the property because of the large lot in the back, back there. It was an apple orchard and they had a huge garden back there and they supplied everybody in the neighborhood with apples and fruit or anything they wanted. I would like to see the property stay the way it is. I do not want to see a 40' lot, back up against mine. If they divide this out to the property width that they are showing on their diagrams there, 40' and 60', a 40' lot, if you do that, what about sometime on down the road somebody comes along and wants to build something back there; it is a deep lot and I grant you I can see his point. But, I cannot see having two dwellings that close together, like Mr. Hinkle said, he has lived there longer than I have. But if a fire happens on one of those properties, one of those houses, one of those buildings then the other one is going too. That is just the way it is because they are both wooden buildings. I would just like to see stuff stay the way it is. He bought the property, in my understanding, knowing it couldn't be used and now he wants to change it. To me, make laws and abide by them.

Mr. Butch Broermann: I live at 11639 Greenlawn. My backyard butts up to his property there. I have been fighting water for years that comes from up in the yards and down into my backyard. I do not want to see another building back there creating more water coming over. When we bought our place in 1979, we had a nice view where we could look all the way up through there and everything without anything and I just don't want to see another building or anything back there.

(At this time Chairman Weidlich did swear in a member of the audience, Ean Wallace who requested to speak, not previously sworn in.)

Mr. Ean Wallace: I live at 11627 Greenlawn Avenue. My next door neighbor is Butch and my property also butts up against the property in question. My biggest thing with this is, just like Butch, I don't want to see a garage, a second building put back there; for the same reasons, water and stuff like that. I do feel for you, pouring in a lot of money and fixing up the place and it does look nice. I stared at that building with the tarp on it for years. Darryl, I feel for you, I do. One of the biggest things is that it is a great thing that you did and, Darryl, I am glad to see he is helping you out but unfortunately it was a big gamble, pouring in a lot of money into a structure that you knew couldn't be lived in. That being said, everything that I have stated that is just my humble opinion and obviously I leave that up to the Board to make the best judgment. I am glad I am not sitting up there right now, it would really be tough. That is it.

Chairman Weidlich: Just for clarity, this is not about adding another building to the property, it is about subdividing the current property with the current dwellings on it. Right now, we are not discussing adding anymore structures to the property. Thank you for your comments.

Mr. Rick Lisi: Mr. Hinkle brought up a good point about parking and that is precisely why I put in the parking pads because I can see that was going to be an issue.

Chairman Weidlich: We are going to give you a chance to speak in a few minutes, after the public portion is over. That is our procedure. Does anyone else from the audience care to speak on behalf of this variance?

Mr. Darryl Pilgrim: I live at 584 West Kemper Road and when I moved there and I first got there, we saw the house in the newspaper and it was on an acre of property. We got there and we didn't know there was a second house on that property until we pulled up into the driveway. It was like a great find. When we inquired about it and they did say that we couldn't use it as a residential property. We had the intentions, Rick does photography and that is how we kind of started setting it up. It was only when we got really into it, because we had the roof put on and the windows put in and then we really got into it and found out that it is a lot of work. There was a lot of damage done in this property so we went ahead, in hopes since

all the money that he was spending that maybe it could be turned back into a residential property. This was somebody's home and it is a nice place, it really is. I am not trying to pull at your heartstrings because I know it is not going to work but it is a shame to see a building that somebody took the time and care to put into it, go to waste and be basically a big man cave when there are so many people out there right now that are just looking for nice homes. There is an issue about the parking and that is one of the things that we wanted to work out and I understand that; as far as, there was no plans to putting on another garage or anything like that. The water issue we have no control over, that is the way the land was. The house has been there and whatever water is flowing into your property had already been there and we had no control over that; we didn't do anything about that. I have known Rick for many a years and he has helped me out quite a bit, me and my family. Things haven't always gone the way that you sometimes want them to go. Recently I had a really bad blood infection that has kept me from work and in looking at this, to me, was like a Godsend that we were able to purchase this property. I don't know what your decision is going to be on this. It would just be a shame if this property, if you seen it, couldn't have the life back into it with a family. It would be a shame if it just reverted to just a plaything, a play room. It is a nice place and would be nice for another family to be able to enjoy it. That is pretty much all I have to say.

Chairman Weidlich: Is there anyone else in the audience that would like to speak on behalf of the 80' frontage; we are dealing with the 80' frontage and if you are not going to speak on that, we are going to get to the other features shortly?  
(No one came forward to speak on behalf of this portion of the request and the public portion of the hearing was closed concerning the 80' frontage.)

Mr. Nienaber: My question is more aimed at Mr. Champion; when it is requiring 100' frontage at the street, I know there are homes that have been built way after this one in the Oxford Hills area that are on flag lots, how did you make those distinctions?

Mr. Champion: In this particular zoning district, the minimum requirements are 80' per lot.

Mr. Nienaber: O.K., thank you.

Chairman Weidlich: Does anyone else have any questions for the applicant on this portion? If not, could we have a motion?

Mr. Knox: I move to grant a variance to the owner of 584-582 West Kemper Road to allow a lot width of 20' at the street and 60' at the building line at 582-584 West Kemper Road from Section 153.069(A).

Mr. Hawkins: I have a question in terms of procedurally how we are going at this. It is appropriate to address the idea of the property being split or subdivided into two zoning lots blanketly. If we go down all of these five in this first part of the memo, it makes sense if it is going to be subdivided but if it is not going to be subdivided then I don't know if it is necessary to do; whatever the Board thinks is appropriate.

Mr. Champion: Let me kind of clarify things. We have certain requirements and these are the requirements to build a single-family house in this zoning district. If you were to grant a variance to subdivide the lot then you are going to need a variance for less than 80' lot width and you are going to need all these things on the list. The house would have to at least be 2000 square feet; it is 1206 square feet. So, he wouldn't be allowed to leave the house at that size, he would have to increase the house size or the Board would have to grant a variance to allow a 1206 s.f. house. The garage is smaller than the requirements for a garage. My statement to the Board is, if you choose to allow him to divide the lot then you have to either grant a variance for all of these things or have him increase the size of his house, you have to have a two-car garage; all these items need to be considered. I take that back, you could receive a variance for the lot and then you could come to us and tell

us how you are going to address the other things. If you want to leave everything the way it is then you need a variance for all of these items. Does the Board understand that?

Chairman Weidlich: So, what you are saying, we are going to back up here and work on Mr. Hawkins' request to just look at the subdivision of the property first?

Mr. Campion: If you want to look at item #1 and see how that goes. Then you would have to proceed to item #2. Or you need to ask the applicant what he wishes. He has applied for a variance for all of these things.

Chairman Weidlich: So, I guess we back up and work on the subdivision of the property first, then.

Mr. Hawkins: Some of this is off of the suggestion from Mr. McErlane, in his memo he broke down the three different groupings. Obviously, for the first grouping you have to have all of these issues in term of the lot size, side yard setback, dwelling area, garage, etc. considered but if the Board is not inclined to subdivide the property, the rest of these become moot at some point. If we are going in that direction; you can make that decision.

Chairman Weidlich: I agree with you, I wasn't thinking in terms of that, I was kind of going from the top of the paragraph down and that was the last item. But, it makes sense to reverse the order. Does anyone have any problems with that procedure?

(No one from the Board or audience had any comments on the order of the consideration.)

Chairman Weidlich: We will kind of back up and work on the variance request to allow the property to be subdivided into two lots. I guess we start back with communications from the public on that.

Mr. Nienaber: Looking for clarification for the Board in that the last paragraph of page #2 of Mr. McErlane's remarks, is saying that we don't have the authority to grant that second building as a dwelling, is the way I am reading it.

Mr. Campion: On the same lot.

Chairman Weidlich: We can work on the subdivision of the property.

Mr. Knox: The motion, as stated will achieve exactly what Mr. Hawkins was talking about because if we don't approve it then the rest of the things will be totally moot and that is why I phrased it the way I did.

Chairman Weidlich: O.K., you are right there too. Can we reread the motion?

Mr. Knox: I moved to grant a variance to the owner of 584-582 West Kemper Road to allow a lot width of 20' at the street and 60' at the building line at 582-584 Kemper Road from Section 153.069(A).  
(Mr. Nienaber seconded the motion.)

Chairman Weidlich: Does anyone have any amendments to the motion?

Mr. Hawkins: No amendment, but just for the sake of the record and for brief discussion I just wanted to state, Mr. Lisi you should be commended for the work that you have done. Your references to the Olympics, if rehabbing that property was to medal, then you would get a gold medal; there is no doubt about it. I have known you for years and years since I was a young man and I have always been impressed with what you do. You always put your heart into it and your all. My heart goes out to this situation and it leaves me torn. I know that Ean indicated that he is not envious of those that are up here and making this decision but this is a situation where the Board has to make decisions based on the guidelines of the law

that are set in place for granting variances. There is some concerns with regard to the variances in this situation that I have, and I won't speak for the Board, just based on the legal issues it would be a substantial variance in terms of the lot size. It would be a substantial variance in comparison to the other properties around, precedent that would be set. So there are some concerns that I have there that do not reflect in anyway whatsoever what you have done because I think it is excellent. In my perfect world, if I was going to consider something, I would be quicker to consider the idea of allowing there to be two dwellings there on one piece of property before I would consider splitting the piece of property; that is just me. I know Mr. Campion said that we couldn't consider a variance for that but the fact that it was legally non-conforming up until 2009 when the property went into foreclosure and was abandoned, to me is something that deserves some consideration. But, I would be quicker to do that, personally than I would to subdivide the lot and put in that predicament. Because considering all those years you had the ability to have two dwellings on that property. I just want to state that for the record.

Mr. Lisi: When we looked at the property to think about whether we would purchase it or not, all this came up. The size of the lot was the big indicator of whether we would do it or not; an acre. I am used to living in the Springdale area where things are a 1/4 acre and so this is a nice expanse of property and being a person who has got vision, I could see somebody doing what they are afraid of in a way, is adding another garage and expanding the size of the house because there is plenty of room to do that. That is not what I can afford because I am on a teacher's retirement salary which is very limited. So, that is not something that I can do. But it is something that if somebody purchased the property, they could do in the future. Can I address some of the things that they brought up?

Chairman Weidlich: Yes, it will probably be your last chance on this particular issue; go ahead.

Mr. Lisi: As far as the water, the water is a real issue there because it comes downhill from the neighbor's property and there is quite a bit of it when it rains and that was the problem with the house and that was one of the issues that made us have to tear out the entire flooring, which I didn't expect to have to do either because so much subsurface water got up in there. We had to put in a nice curtain drain and put in a real good tiling system in there, so that is not going to be an issue with us. That is an easy issue to solve with anybody who has got a water problem, is to put in a very inexpensive curtain drain and it would solve their issues. But as far as the parking goes, that is exactly why I wanted that parking pad. If we have to have them blacktop or concrete, that is something that I could probably go ahead and do. It is not something that I wanted to do because I thought I had solved that problem pretty well. As far as the buildings being close together and worrying about fire, those buildings aren't that close together. If you got a chance to walk around and look at them, they're not as close as many other houses are together, at all. I wouldn't be worried about fire myself, but that is me. Before we bought it, we had asked if that was a possibility to split that property at some point and time and we were told "No". We asked what was the minimum for a flag lot, because we have flag lots out by me, and they told me 20'. And so that's what I really went on thinking that this was all a possibility in the first place. Yes, we were told that we couldn't have residents in there but I really did believe that it was because of the damage and the destruction that was done to the building. I didn't think that it was really because there was a code that said we couldn't do that. In my heart I really did believe if we could fix it up, it was going to be a very satisfactory residence, that it would be acceptable to split it or to be able to rent it; but we were told we couldn't rent it either. I am just rambling, I am sorry.

Chairman Weidlich: Does anyone else have any more discussion on this motion? (No one offered any further discussion, at this time. Mrs. Huber polled the Board; Mr. Knox, Mr. Nienaber, Mr. Hawkins, Mr. Ramirez and Chairman Weidlich voting "No"; Mrs. Ghantous and Mrs. Huber voting "Aye", for a 5-2 final vote for denial of the request.)

Mr. Knox: Mr. Lisi, I commend you on trying to help another human being, but I am forced to vote "no".

Mr. Ramirez: I would also like to commend Mr. Lisi. I think it is a great thing that you are trying to do and you have done a great job on the property and it looks beautiful. I also have to take into consideration your neighbors and I want to thank them for showing up because a lot of times things like this, we really don't know how they feel. We have to listen to the residents, as well; long-term residents Springdale residents. I thank you. Unfortunately I have to say "no".

Chairman Weidlich: The vote is 5-2. I am sorry sir, your request to split the lot has been denied. We appreciate everything that you have done with the property, it looks great. We do have the request of the parking pads yet to consider; that is separate of the first two items.

Mr. Champion: On Item #2 there would be no need for a variance.

Chairman Weidlich: Right. So, we will move on to the gravel parking pads on the property that were placed there when the code calls out for asphalt or concrete or even pavers to be put down. Does the applicant have anything more to say on that? (The applicant did not offer any discussion on the request for the gravel parking pads.)

(At this time, Mr. Champion read the Staff comments.)

Chairman Weidlich: Is there any communication from the public on the parking issue? (No one from the audience came forward and this portion of the public hearing was closed.)

Do any of the Board Members have questions for the applicant? (None of the Board Members presented questions for the applicant.)

We will move on to deliberation and discussion based on the evidence.

Mrs. Huber: I don't understand this, if it is not subdivided how can anyone utilize the building?

Chairman Weidlich: He has added parking pads that is not to code and that is the issue. They are currently on the property. Can you explain that better, Mr. Champion?

Mr. Champion: Parking pads are required to be asphalt or a hard paved surface. He has added parking pads out of gravel and the Zoning Code says it has to be asphalt or brick pavers. The applicant is requesting a variance to allow gravel parking pads.

Mrs. Huber: This is the original house that sits out in front. This gentleman owns that too?

Chairman Weidlich: Yes.

Mr. Hawkins: I would just note for the sake of the record, I don't find any exceptional topographical conditions or other extraordinary circumstances with regard to the property; no exceptional narrowness, shallowness or what have you or unusual shape to the property that would deem it necessary to not be in compliance with the Code as it stands currently, requiring asphalt or concrete.

Chairman Weidlich: Thank you. Does anyone else have any discussion on the item?

(No further discussion on this item of the request was presented at this time.)

Mr. Ramirez: I make a motion to provide a variance from Section 153.502, requiring gravel parking pads at the property at 584 West Kemper Road. (Mr. Nienaber seconded the motion. With no further deliberation or discussion on

the motion, Mrs. Huber polled the Board; Mr. Ramirez, Chairman Weidlich, Mrs. Ghantous, Mr. Hawkins voting "No"; Mr. Nienaber, Mr. Knox and Mrs. Huber voting "Aye", for a 4-3 final vote of denial.)

Chairman Weidlich: I am sorry, sir. The variance is denied by a 4-3 vote. You will have to get with the Building Department and either pave it or pavers or something. Thank you all for your time this evening, we appreciate it.

## XII DISCUSSION

Chairman Weidlich: Does anyone have any discussion items this evening?

Mr. Ramirez: Just a note; I don't know why we would, except for turning down the first one and feeling sorry for him, approve gravel parking pads. I wouldn't want to see those up in my neighborhood so I don't know why we would approve it. Just my thought, that is how I feel.

Mr. Knox: The reason I voted in favor of it is that the Garden Club is involved in a thing where you can get rid of water very nicely, and his parking would do the exact same thing. I think, as long as it is far enough away from the road and the tires don't carry out the stones onto the roadway, that it is actually a good idea. It might be something that we might consider when and if we redo the zoning.

Mr. Nienaber: Two things; one with regard to what Mr. Knox was speaking about is a system called pervious concrete where the water seeps through it, as if it were just loose gravel. But the reason why I was in favor of it, Joe, where the two are placed they are blinded by buildings to all of the neighbors anyway. So, I figured it didn't matter.

Mr. Hawkins: What I have noticed is that it helps, and this is just the legal mind in me, I think it helps if there is something that we are going to do particularly in terms of granting a variance that is contrary to what is normally out there, I think it helps if we state something for the record as to why we are doing it because if someone else comes through, maybe someone who lives up in Oxford Hills and says, "You guys granted a variance for somebody else to have this pervious surface area; why can't I?"; if we put something in the record it helps, if someone wants to go to Hamilton County and bring an action against the City to do it. Stating something like, "I am going to support this because..." or "I am going to note for the record that these pads are not in view of folks from the street"; I think it helps protect us and the City down the road when we do things that are different.

Chairman Weidlich: Mr. Campion, the lady that was here the other month about the greenhouse onto the barn or shed, whatever happened with that?

Mr. Campion: She has not come back to reapply. She was going to bring drawings back and she has not done that.

## XIII ADJOURNMENT

Mr. Hawkins moved to adjourn, Mr. Ramirez seconded the motion and the Board of Zoning Appeals meeting adjourned at 8:50 p.m.

Respectfully submitted,

\_\_\_\_\_,2014

Chairman Robert Weidlich

\_\_\_\_\_,2014

Secretary Jane Huber