

The **Board of Zoning Appeals** of the City of North Royalton met on **January 24, 2011**, to hold a Public Hearing in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 7:35 p.m.

Present: Chairman Neil Price, John Ranucci, Diane Mastronicolas, Robert Jankovsky, Dan Kasaris, Prosecutor Donna Vozar, Building Commissioner Rito Alvarez, Secretary Lynn Brinkman.

PUBLIC HEARING

(BZA11-01) Christopher E. Duke / Robert Taddie request a variance to **Chapter 1284 "Signs", Section 1284.05 "Design Standards", paragraph (b)(6) and paragraph (c)**, of the City of North Royalton Zoning Code, for relief from the requirement which states that **the number of items of information displayed on a sign shall be limited to ten items** and relief from the requirement that states that **window signs shall have a clear background**, for this **window sign** they wish to install at this tenant space located on the property at **12999 Royalton Road, also known as PPN: 483-17-006**.

Public hearing notices were sent to property owners within 500 feet of the property in question and posted for the required period of time.

The Chairman recognized anyone wishing to be heard.

Christopher Duke, the applicant, approached the microphone.

Chairman Price: Would you raise your right hand please. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Duke: I do.

Mr. Price: Your name and address please.

Mr. Duke: Christopher Duke, 19168 Saratoga Trail, Strongsville, Ohio.

Mr. Price: We are here tonight because...

Mr. Duke: I wanted to rent the property which is also known as Taddie's Auto Body. They have some very large windows. Rather than go through the cost and time of having a sign installed I wanted to try to use a large screen television. It would be placed in the center window to advertise my business as well as other businesses who may rent that space.

Mr. Price: You would be a tenant.

Mr. Duke: That is correct.

Ms. Vozar: Sir, are you a tenant there now?

Mr. Duke: No.

Ms. Vozar: Do you have a lease agreement with them?

Mr. Duke: The agreement has not been finalized and is pending this variance.

Ms. Vozar: Is the property owner here tonight?

Mr. Duke: No.

Ms. Vozar: Did he sign the application?

Mr. Duke: No, he did not.

Ms. Vozar: So only you signed the application.

Mr. Duke: That is correct.

Ms. Vozar: We require, pursuant to our Code, and since the variance actually runs with the property, that the property owner sign the application and request the variance. He can obviously give you the authority to act on his behalf by power of attorney or some other means but we certainly need the property owner to have signed the application and agree and acknowledge it. We do not give advisory opinions as to whether or not we would grant a variance. As I indicated, the variance runs with the land. When the time is appropriate during our meeting you may either request that this matter be tabled or the Board, on its own, may table it so that you may speak with the property owner and see if the property owner is willing to sign the application requesting a variance. The variance would only be on that property.

Mr. Duke: Understood.

Mr. Price: Anybody else? May I have a motion to move this item to the open meeting.

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **move BZA11-01 to the open meeting.**

Mr. Price: Call the roll.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

(BZA11-02) Paul Beegan / Beegan Architectural Design / North Royalton Animal Hospital request a reconsideration on the question of granting a variance to Chapter 1276 “Business Districts”, Section 1276.09 “Yard Regulations”, paragraph (a) and Chapter 1282 “Off-Street Parking and Loading”, Section 1282.05 “Schedule of Parking Requirements”, paragraph (b)(5)C, of the City of North Royalton Zoning Code, for relief from the side yard setback requirement for this addition to be constructed along the south property line which abuts a residential district and relief from the minimum number of parking spaces required, for this proposed addition / parking area they wish to construct on this property located at 9027 Ridge Road, also known as PPN: 489-04-006.

Public hearing notices were sent to property owners within 500 feet of the property in question and posted for the required period of time.

The Chairman recognized anyone wishing to be heard.

Mr. Beegan approached the microphone.

Mr. Price: Would you raise your right hand please. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Beegan: I do.

Mr. Price: Your name and address please.

Mr. Beegan: Paul Beegan, from Beegan Architectural Design, 15703 Madison Avenue, Lakewood, Ohio. We are requesting a variance for an addition to an existing building which is nonconforming, as far as the setback goes. That is what the requested variance is for. The existing building on the site right now is already within the 40 foot setback and the proposed addition would not be any closer to the line. As far as the second variance, the parking variance required, the parking requirements are most closely associated with an actual medical clinic and this is an animal hospital. Since there will not be that many people but instead animals we are requesting a reduction in the number of parking spaces required. Thank you.

Mr. Price: Anyone else?

Robert Lynch introduced himself as representing Scott and Sheila Sopata, the neighbors who reside at 9039 Ridge Road, just south of the North Royalton Animal Hospital.

Mr. Price: You are an attorney.

Mr. Lynch: I am an attorney. My Bar Number is 0072037. My phone number is 216-392-7949. I have a card as well that I can provide to the Board. We were previously here on the North Royalton Animal Hospital's appeal known as BZA10-11. According to the information I received in the notice this is a reconsideration and there has been a different number assigned, BZA11-02. So I guess that, as a matter of procedure on how the Board wants to handle it, there were a number of people who testified at the first hearing. We presented some evidence for my client – videotapes and his statement. I guess that my question to the Board would be do we want to present the same testimony again or can we incorporate all the evidence and the testimony that was previously submitted at the first hearing.

Ms. Vozar: I believe that when the Public Hearing Notices went out they came on as a reconsideration.

Ms. Brinkman: Yes.

Ms. Vozar: When was the last hearing on this? Was it within six (6) months?

Ms. Brinkman: Yes. It was withdrawn on October 25, 2010.

Ms. Vozar: All of the evidence will have to be re-submitted for this reconsideration hearing. The Board will not review its previous hearing. Was it denied?

Mr. Price: It was withdrawn.

Ms. Vozar: It was withdrawn. So while this is a reconsideration because it is coming back before the Board within a six month period it is considered a new hearing. All of the evidence presented tonight will be heard and will be the determining factor for the Board.

Mr. Lynch: We submitted video at the last hearing. We have to present all of the testimony again today – does the Board still have copies of those videos?

Ms. Vozar: Of course.

Mr. Lynch: We could otherwise make copies but we do not have... We do? Alright.
Mr. Chairman, as a matter of procedure ... this is off of the City of North Royalton's web site. There is an Ordinance 10-144 that was scheduled for a third reading on January 18, 2011. I am not sure if this ordinance was passed by Council.

Mr. Kasaris: The ordinance passed.

Mr. Lynch: If I may, Mr. Chairman, I will just ask my client some questions to get the foundation for our evidence.

Mr. Price: You would need to be sworn in. Please raise your right hand. Do you solemnly swear that with regard to the testimony you are about to give you will tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. Sopata: I do.

Mr. Price: Your name and address please.

Mr. Sopata: Scott Sopata, 9039 Ridge Road, North Royalton.

Mr. Lynch: Scott, how long have you lived at 9039 Ridge Road?

Mr. Sopata: Since August of 2003.

Mr. Lynch: Do you have any children?

Mr. Sopata: Yes.

Mr. Lynch: How many?

Mr. Sopata: Two stepchildren and one child of mine.

Mr. Lynch: Does everyone live with you at 9039 Ridge Road?

Mr. Sopata: Yes.

Mr. Lynch: When you moved to your current residence at 9039 Ridge Road - obviously the Animal Hospital was there.

Mr. Sopata: Correct.

Mr. Lynch: When did you notice a problem with noise regarding the Animal Hospital?

Mr. Sopata: June or July of 2006.

Mr. Lynch: What did you do about the noise? Let me back up. What was the problem that you were having or the noise that you were experiencing?

Mr. Sopata: Excessive barking.

Mr. Lynch: It was coming from the Animal Hospital?

Mr. Sopata: Correct.

Mr. Lynch: What did you do about it?

Mr. Sopata: I contacted the staff of the North Royalton Animal Hospital. I talked to Dr. Hechko. I talked to the Police. I talked to the Animal Warden. I was in mediation with the council person and Ms. Vozar. That is pretty much it.

Mr. Lynch: Did you do anything to record the noise of the dogs barking?

Mr. Sopata: Videotaping a decibel meter as well as videotaping just the dogs.

Mr. Lynch: What did you do to videotape the decibel meter?

Mr. Sopata: I put the decibel meter in front of the video camera, pointing at the noise source.

Mr. Lynch: Can you explain to the Board what a decibel meter is.

Mr. Sopata: It measures sound and impulses of sound.

Mr. Lynch: Where did you get the decibel meter?

Mr. Sopata: Radio Shack.

Mr. Lynch: Are you familiar with this piece of equipment?

Mr. Sopata: Yes.

Mr. Lynch: These videos or CD's - there are four - what are on these DVD's?

Mr. Sopata: A series of videos starting back in 2006 and going all the way up to September of 2010. There are different instances of dogs barking and videotapes of readings of the decibel meter.

Mr. Lynch: When you measured the sound on the decibel meter in your house - what were the sound ranges or readings that you would get?

Mr. Sopata: I believe that the highest decibel meter reading taken from inside of the house was 79 decibels.

Mr. Lynch: Where did you measure it from within your house?

Mr. Sopata: Inside of the northeast corner, which at that point in time was my office.

Mr. Lynch: Where is the Animal Hospital in relation to your office at the northeast corner?

Mr. Sopata: They are further northeast.

Mr. Lynch: How far away from your ...

Mr. Sopata: Thirty feet off of the property line and approximately forty feet off of the back of my house.

Mr. Lynch: What are the dates on the DVD's? Did you capture 2006 through 2010?

Mr. Sopata: Yes.

Mr. Lynch: Are these the same DVD's that were presented to the Board of Zoning Appeals at the initial hearing back in September?

Mr. Sopata: Yes.

Mr. Lynch: Do these events on the DVD's fairly and accurately reflect the conditions that you recorded on these dates from 2006 through 2010?

Mr. Sopata: Yes.

Mr. Lynch: Have the sounds of the dogs barking stopped?

Mr. Sopata: No.

Mr. Lynch: Is it still going on today?

Mr. Sopata: Yes.

Mr. Lynch: The same terms of volume?

Mr. Sopata: I do not sit outside with the decibel meter and I try to keep my windows closed as much as possible. The last time I took a meter reading was in September as well as with the videotapes. You would go crazy if you would sit there and do it every day.

Mr. Lynch: That would have been September of 2010?

Mr. Sopata: Yes. The latest videos were taken on September 11th and September 25th.

Mr. Lynch: Is this a copy of a statement that you prepared?

Mr. Sopata: It is a statement. It is not the same one as last time but it is a statement for this time. Correct.

Mr. Lynch: Would the Board like him to read his statement into the record?

Mr. Price: Yes.

Mr. Sopata: My name is Scott Sopata and I live at 9039 Ridge Road, a residential property next door to North Royalton Animal Hospital. Our issue is with noise that comes from the North Royalton Animal Hospital. As it stands the dogs are so loud that they can be heard inside of our house with the windows and doors closed. This creates a financial burden, forcing us to keep our windows and doors closed year round. In addition, making our property unusable outside. We have measured the noise inside of our house from the dogs at the North Royalton Animal Hospital. It has been as loud as 79 decibels, which is comparable to standing 5 feet away from a riding lawnmower. I compared it to an 18 horsepower MTD. I have personally been to the doctor on several occasions to deal with the stress from the barking next door. It is my understanding that the property located at 9027 Ridge Road is zoned Local Business even though recent ordinances have changed to define the practice of veterinary medicine and animal hospitals allowable in Local Business districts. They define them as conducted wholly within enclosed buildings. (Continued on next page ...)

The property was modified and currently is used for exterior use. The intent in the plan is to have the areas of the property used for exterior use. This makes them nonconforming and their intent is to expand and modify a nonconforming use. I reference three ordinances: 1286.06, 1286.07 and 1286.08. One states that *"no nonconforming building shall be enlarged or structurally altered except to make it a conforming building,..."* The Code states that a nonconforming building may not change only to be conforming and that the moving of a structure can only be moved to be conforming. The City cannot enforce its noise ordinances now. How are they going to enforce noise ordinances after they have approved the proposed plan? The plan clearly defines expansion of exterior use – 3,000 sq. ft. only 30 feet away from my property for dog boarding. There are 49 slots for dogs, 12 runs, on the average 20 minutes a session a day, 4 sessions a day, that is 6 hours of dog barking. Allowing this type of variance is in violation of existing ordinances. It is not safe and will deteriorate human health and the property around it. Although the plan defines *"animal hospital"* and *"dog boarding"*, it is clearly to implement a dog boarding facility that can't be regulated. There are a certain number of spaces for a medical office. What is a certain number of allowable boarding areas for an animal hospital? If this is for animal hospital boarding why is there a second entrance? Why is it so far away from the actual medical facilities? How does the City plan to enforce the ordinance regarding boarding? What is *"animal hospital boarding"*? Based on looking at ordinances from other municipalities it is typical for 500 feet to exist between properties that do boarding. Why would North Royalton think that it is acceptable for 30 feet? That is all that I have.

Mr. Lynch: Scott, on these videos do they show like a date and time when they were taken?

Mr. Sopata: I do not know. I do have an outline.

Mr. Lynch: Okay, let's go back to that. What is on the DVD's? What are we talking about in terms of dates?

Mr. Sopata: In 2006, clips from inside of the house and clips from in the back yard. Clips titled September 2010 – September 11th, September 23rd. Clips titled *"open door"* from the fall of 2006. Clips where the dogs are barking and Dr. Hechko is walking away – in late 2006 and 2007. The DVD presented for zoning - one is September 11th, 2010 and September 23rd, 2010. The other three are different sessions on September 25th, 2010.

Mr. Lynch: So you can put these DVD's in the computer or DVD player.

Mr. Sopata: There is also labeling on the head – it is a little hard to read but it is there.

Mr. Lynch: You need to pull it up on a media player or something.

Mr. Sopata: Put it in a DVD player – it is a regular DVD.

Mr. Lynch: Okay. A couple of things Mr. Chairman and members of the Board. The ordinance that passed last week talks about basically changing the definition of what is permitted in a Local Business district to include the *"practice of veterinary medicine and animal hospital (conducted wholly within an enclosed building), ..."* That is the ordinance at least that I received and I am assuming that that is the one that passed. When looking at the drawings that Mr. Beegan had submitted on behalf of the North Royalton Animal Hospital - it shows outdoor dog runs on the plans. So based on the new ordinance, while the definition of Local Business changed to identify what is permitted, his business is still a nonconforming use because of the outdoor dog runs. The ordinance may have changed the definition but it still states that it has to be *"conducted wholly within an enclosed building"*. The plans that he submitted show outdoor dog runs. That being the case he is still going to be a nonconforming use and under the City's ordinances he is not allowed to expand a nonconforming use. That is the one issue that we have with this. Nothing has really changed since the last hearing when the Law Director submitted his legal opinion stating that it was a nonconforming use. The Ordinance may have changed but, because of the outdoor dog runs, he is still nonconforming. If we could take a hypothetical situation in which the North Royalton Animal Hospital had no intention or desire to expand and the City decided, through its own legislative process and part of its Master Plan, that animal hospitals and veterinary facilities would be better suited under a Local Business district. If they then went to Dr. Hechko and the North Royalton Animal Hospital and said that we changed the zoning and you are now permitted to operate in a Local Business district, but you have outdoor dog runs so now you have to get rid of those, his response would be that I am nonconforming and I was legally doing this beforehand so I should be nonconforming now and you should not be able to prevent me from doing that. When he submitted his plan though, showing the outdoor dog run, and when you look at the Ordinance, he is still a nonconforming use and he is not allowed to expand a nonconforming use per the City's ordinances.

Mr. Lynch (continued): The next issue is the second part of Ordinance 10-144 "... *provided that no kennels, boarding facilities, or animals are housed on the premises, except for medical purposes only and not to exceed to the extent medically necessary*". The plans basically show 48 rooms for boarding. I am not sure how many animals are going to need to be there because it is medically necessary. It seems that 48 rooms would be more than would be necessary for any animal hospital. The other thing is, when you look at the plans, there are two separate entrances that front Ridge Road. One is clearly for the veterinary practice or animal hospital. Then there is a separate entrance for the boarding. If these 48 rooms or "boarding units" are just for dogs or animals that are there out of a medical necessity there would not seem to be a need for a separate entrance. Even beyond that you need to look at what the Zoning Code talks about in terms of what is required and what the factors are when considering a variance under Section 1264.08, paragraph (e)(1)A thru J. It talks about whether there could be any beneficial use of the property without the variance. The North Royalton Animal Hospital is obviously still operating and would be able to continue to operate without expanding, so they would still have a beneficial use of the property. As to whether the variance is substantial or is the minimum necessary to make possible the reasonable use of the land or structures – when you read the plans either the North Royalton Animal Hospital purchased the property to the north of their current property and they are expanding on to that or it is an anticipated purchase. I do not know. I do not have that information and I am assuming that the North Royalton Animal Hospital will provide that. When you look at what the plans show, and it is now either a combined lot or at some point they are going to consolidate the lots, they are requesting a variance of almost 30 feet from my client's property line but if you look at the northern property line they have 106 feet between that and a commercial zoning district. So when you look at whether the variance is substantial or not, in my client's case it is substantial because it is moving closer to him. If the case is that they have purchased this property and they have 106 feet to the north - why not expand in that direction. Another factor is whether the essential character of the neighborhood would be substantially altered. The other criteria they need to demonstrate is "*whether the spirit and intent behind the zoning requirement would be observed*". I think that this is appropriate because the City's own ordinance which passed last week states that there is no boarding. The plans show that there is going to be boarding. Their plans show that they are going to run an animal hospital and they are going to have boarding. Even though the City's own ordinances say that you can't do that it seems that they have already made that determination that they are going to do it. So this appeal, in my mind, is not within the spirit and intent of the Zoning Code. It appears that they are determined to board regardless of the City's ordinances. The issues are that this building is still nonconforming. They are not allowed to expand a nonconforming use. They would need to show the reasons why, under the Zoning Code, they are entitled to the variance. I do not think that changing, in this particular case, the definition of what is included in a Local Business district solves the problem because of the outdoor runs. So our position is that we request that the Board deny the request for a variance for the North Royalton Animal Hospital. Thank you.

Ms. Vozar: Is there anything else that was submitted at the previous hearing that you would want to re-submit tonight and that we would have in our records?

Mr. Lynch: I think that that would be all, Mr. Chairman and Ms. Vozar. I think that we submitted pretty much everything. I can give you the videos.

Ms. Vozar: That would be great.

Mr. Price: Could you please mark the five CD's as Exhibits 1 thru 5.

Ms. Vozar: They are all the same – they are just copies. Is that correct?

Mr. Sopata: They are all different dates and times. They are the exact copies of what we gave the last time but the numbering will be different showing the year, the date and possibly a time associated with it.

Mr. Price: Thank you.

Mr. Sindyla: Robert Sindyla, office located at 7425 Royalton Road. The only thing that I would like to ask is that the witnesses who testified on behalf of the North Royalton Animal Hospital at the last hearing be noted and that this body take judicial notice and incorporate that testimony into the minutes being generated for today. We ask this because each one of those people who came here, citizens of the City of North Royalton, gave their statements under oath. I do not think that those statements have changed. We would ask that those statements be incorporated because the people were under oath at that particular public hearing.

Ms. Vozar: Mr. Chairman, if I could, I was not at that meeting so I would like to clarify a few things. Was the neighbor represented by his counsel at that meeting?

Mr. Sindyla: Yes.

Ms. Vozar: Did he have a full opportunity to cross examine those witnesses?

Mr. Sindyla: Yes.

Mr. Lynch: I was here last time on behalf of my client and I had the opportunity, if I chose, to cross examine those people. I do not believe that I did cross examine any of the people. As I said in my opening I am fine with incorporating those testimonies, in part, because it benefits my client because he had some testimony that may or may not have been the same as that given today. I do not have a problem with that – that is what I had requested.

Ms. Vozar: When we adjourn perhaps I could have some time to reflect on that.

Mr. Kasaris: We did pass the minutes of that meeting (September 27, 2010).

Ms. Vozar: The request had been withdrawn at that time.

Mr. Sindyla: It was withdrawn afterwards. We withdrew our request after that meeting (referring to the October 25, 2010 meeting).

Mr. Kasaris: The minutes are public record.

Mr. Sindyla: What I would like to do is ask the neighbor, Mr. Sopata, some questions. Sir, is it true that you have advertised to board animals at your residence?

Mr. Lynch: Objection.

Mr. Price: Mr. Sindyla, that is not a point I don't think.

Mr. Sindyla: The only point that I would make is that I believe that the testimony that would be forthcoming would be that he had dogs and that he did board dogs in his basement. This is definitely illegal. Those dogs allegedly make noise even if he says that they don't. I think that that is important because it goes to the credibility of his comments about barking dogs. Not only are dogs barking and if they do bark it also indicates that he is making a profit and he is doing something illegal or unlawful. My client is doing something lawfully. He is running a legal, nonconforming use. His use was legal until the City changed the ordinance making him a legal, nonconforming use. It has not changed his legality. That is number one. I think that that is very important because it goes to credibility. This body can determine the weight and credibility of whatever the complaints are in terms of how you view that. I do not need to go any further but that is where I think that it has some validity and it should be good for the record.

Ms. Vozar: Mr. Chairman. While obviously the Chairman makes the rulings on what evidence he believes is relevant to this Board my legal guidance to the Chairman is that, while I understand that Mr. Sindyla believes that it may be helpful to his case I am not sure that it is actually relevant to the matter at hand, which is does the applicant meet the standards set forth in our ordinance for the granting of a variance. Whether or not the neighbor is in violation is a separate matter that would require the City to enforce its code. As it stands right now - that is my opinion Mr. Chairman. You obviously get to make the decision on any objections.

Mr. Price: We are here to discuss two variances which have to do with the location of the building and parking spaces.

Mr. Sindyla: I will withdraw my request to cross examine. I think that I made my point.

Mr. Price: Thank you. Anybody else? Do I have a motion?

Moved by Mr. Ranucci, seconded by Mr. Kasaris to **move BZA11-02 to the open meeting.**

Mr. Price: Call the roll.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

Mr. Price: May I have a motion to adjourn the public hearing.

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **adjourn the Public Hearing.**

Mr. Price: Call the roll.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Ayes – all. Nays – none.

Motion carried (5-0).

Public Hearing adjourned at 8:10 p.m.

Mr. Price: Would anyone like to have a break? (No response.) We will then continue.

The **Board of Zoning Appeals** of the City of North Royalton met on **January 24, 2011** to hold an Open Meeting in the Council Chambers at 13834 Ridge Road. The meeting was called to order by Chairman Neil Price at 8:11 p.m.

Present: Chairman Neil Price, John Ranucci, Diane Mastronicolas, Robert Jankovsky, Dan Kasaris, Prosecutor Donna Vozar, Building Commissioner Rito Alvarez, Secretary Lynn Brinkman.

Mr. Price: We are going to need motions to approve the Minutes for the December 6th and December 27th, 2010 meetings. We are also going to need a motion to excuse Diane Mastronicolas and John Ranucci for cause regarding the approval of the Minutes for the meeting on December 6th.

Moved by Mr. Kasaris, seconded by Mr. Jankovsky to **excuse Ms. Mastronicolas and Mr. Ranucci for cause regarding the approval of the Minutes for the meeting of December 6, 2010 and to approve the Minutes of said meeting.**

Mr. Price: Call the roll.

Mr. Price: Yes.
Mr. Jankovsky: Yes.
Mr. Kasaris: Yes.

Ayes – all. Nays – none.
Motion carried (3-0).
Minutes approved.

Mr. Price: May I have a motion to approve the Minutes for the meeting of December 27, 2010.

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **approve the Minutes of December 27, 2010.**

Mr. Price: Call the roll.

Mr. Ranucci: Yes.
Ms. Mastronicolas: Yes.
Mr. Jankovsky: Yes.
Mr. Kasaris: Yes.
Mr. Price: Yes.

Ayes – all. Nays – none.
Motion carried (5-0).
Minutes approved.

OPEN MEETING

Old Business:

(BZA10-15) Thomas Unik / Sunshine Diversified Investments request a variance to **Chapter 1276 “Business Districts”, Section 1276.07 “Area Regulations” and Section 1276.09 “Yard Regulations”, for relief from the minimum lot width requirement and relief from the requirement that in all Business Districts, buildings and land shall abut a dedicated street for the required lot width, for this proposed lot split and consolidation for these two properties located at 8868 Ridge Road, which are zoned for Local Business, also known as PPN: 482-12-017 and PPN: 482-12-018.**

Ms. Brinkman: I received a memo from Thomas J. Unik, Sunshine Limited Partnership, on January 16, 2011, stating that he was **withdrawing** his application effective immediately.

Mr. Price: BZA10-15 is withdrawn.

(BZA10-16) ML Warner Architects / Peter Gherghel request a variance to **Chapter 1270 “Residential Districts”, Section 1270.19 “Dwelling Unit Area Requirements”, paragraph (d) “Area of Garage” and Section 1270.04 “Area, Yard and Height Regulations”, paragraph (g), for relief from the maximum square footage requirement and relief from the maximum height requirement for a detached garage they wish to construct on this property located at 8300 Ridgedale Drive, also known as PPN: 489-01-027.**

Variance # 1:

Moved by Mr. Ranucci, seconded by Mr. Kasaris to **approve a variance of 100 square feet more than the maximum square footage allowed as prescribed in Section 1270.19 (d) of the Zoning Code regarding the size of this proposed detached garage.**

Mr. Price: Any discussion?

Mr. Kasaris: To the property owner, you indicate in your letter that you are going to be storing materials and vehicles for your home improvement business in the scaled-down version of your garage.

Mr. Gherghel: No. I am now working for Colony Roofing. They are located at 951 Bagley Road, in Berea. I do the labor. They supply the materials and everything. I am working for them.

Mr. Kasaris: You are not self-employed anymore.

Mr. Gherghel: I am self-employed but I am working for them.

Mr. Kasaris: So you are an independent contractor working for them.

Mr. Gherghel: Yes.

Mr. Kasaris: Do you have any employees?

Mr. Gherghel: I have four employees but they are located over there. We meet over there.

Mr. Kasaris: When you say "over there", what do you mean?

Mr. Gherghel: On Bagley Road - at Colony Roofing because they give us the jobs.

Mr. Kasaris: So will the employees be coming to your property on Ridgedale Drive?

Mr. Gherghel: No. Maybe once a month if we have a house to do in North Royalton. The rest of the time we would meet at Colony Roofing on Bagley Road.

Mr. Kasaris: So the information in the second paragraph of this letter has changed. It had stated that *"the property owner, Peter Gherghel, is asking for these variances in order to store materials and vehicles for his Home Improvement business"*.

Mr. Gherghel: It has changed.

Ms. Warner: That has changed.

Mr. Kasaris: Do you have an office there?

Mr. Gherghel: Where?

Mr. Kasaris: In the scaled-down version of the garage.

Mr. Gherghel: No.

Mr. Kasaris: Will you have an office at the house?

Mr. Gherghel: No.

Mr. Kasaris: Will there be an office on the premises?

Mr. Gherghel: No.

Mr. Kasaris: I have no further questions Mr. Chairman.

Mr. Price: Anybody else?

Mr. Kasaris: (Referring to the plans that had been submitted) On the drawing it indicates that you will have an office.

Ms. Warner: That is actually my misunderstanding. I am sorry. It was my mistake that I did not take that off of the drawings.

Mr. Kasaris: So you would amend the exhibit by deleting the office?

Ms. Warner: Yes.

Mr. Kasaris: What will be there?

Ms. Warner: Storage.

Mr. Price: Excuse me Dan but for the record could you please state your name and address.

Ms. Warner: Michele Warner, ML Warner Architects, 561 Edinborough Drive, Bay Village.

Mr. Price: I am sorry. I did not mean to interrupt.

Mr. Kasaris: No office.

Ms. Warner: No office.

Mr. Price: The second floor will then just be an unfinished storage area.

Mr. Gherghel: Yes.

Ms. Warner: Yes. I thought that he had wanted drywall but ... originally he had wanted drywall in there.

Mr. Gherghel: There will not be drywall.

Ms. Warner: There will be plywood as a sub floor.

Mr. Price: So you can put your Christmas decorations up there and things like that.

Mr. Gherghel: Yes.

Mr. Price: Anybody else?

Mr. Jankovsky: I have no further questions. It is a drastic change from what we reviewed the last time but I have no questions.

Mr. Ranucci: Based on the scaled-down version and the minimum request of 100 square feet I will probably be approving the first variance being requested.

Mr. Kasaris: I would concur with my colleague but I would issue a warning to the applicant that he had testified under oath that there would not be an office and that this would not, in essence, be a home business. Please make sure that you follow our code.

Mr. Gherghel: I understand.

Mr. Kasaris: Mr. Chairman, you have to take the man for what he is saying. I will be voting in favor of this proposed variance.

Mr. Price: I will also. There has been no neighbor present to oppose this request. It is going to be located in an area that is not particularly visible from the road so it will not change the aesthetics of the neighborhood. The biggest impact will be on the neighbor next door and we have not heard a word from the neighbor next door; therefore, I will be approving it.

Ms. Mastronicolas: I agree with the comments of my colleagues and I too will be approving this variance request.

Mr. Ranucci: I am also in agreement with everyone and will be approving this request for a variance of 100 square feet.

Ms. Vozar: The findings of fact and conclusions of law submitted for consideration by the Board are as follows. The architect and the homeowner were here and testified on behalf of the first variance which is a variance of 100 square feet. This is a modification and a significant decrease in the square footage from the initial version that they had requested. There were no neighbors who appeared here to testify. The variance is pursuant to Section 1270.19, paragraph (d). It is a variance of 100 square feet. The variance is in keeping with the spirit of the Code and will not be detrimental to the neighborhood pursuant to the factors set forth in Section 1264.08. There will be beneficial use of the property without the variance; however, based on the revision of the application it is the minimum necessary to make reasonable use of the land. The essential character of the neighborhood will not be substantially altered. There will be no affect on the delivery of governmental services. The Board also found that there are conditions that exist that do support a finding of practical difficulty. Is there anything else to add Mr. Chairman?

Mr. Price: Any additions? Please call the roll.

Variance #1:

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ayes – all. Nays – none.

Variance granted (5-0).

Variance # 2:

Moved by Mr. Ranucci, seconded by Mr. Kasaris to **approve a variance of 10 feet more than the maximum height allowed for a detached garage / accessory structure per Section 1270.04 (g) of the Zoning Code.**

Mr. Price: Discussion.

Mr. Kasaris: For the reasons that I previously mentioned I will be supporting this request for a variance as well.

Mr. Ranucci: Based on the lay of the land and the distance off of the road I do not think that the extra height will be any detriment to the neighborhood. It will not give the appearance of being as high as what is actually being requested. I will be approving this variance also.

Mr. Price: I have a question. Why do you need the extra 10 feet in height? I guess that I would direct this question to the architect.

Ms. Warner: That is an aesthetic preference. My client showed me a photograph of what he would like to have in his back yard. It has dormers. We could decrease the slope somewhat. Originally it was to have a little bit of head height in there. It is for more storage space. The height allows for more storage. There is not much sense of having a stairway if you have to crawl around up there. It will make for more accessible storage.

Mr. Price: What is the typical height of a 3-car garage with a storage area above the garage, with no dormers or outside stairs?

Ms. Warner: I honestly think that you would be hard pressed to keep it at 15 feet and to have any kind of slope on that. I have not done the drawing to show that. I can do that if you would like. This garage is slightly deeper and we have talked about the reasons why that is so. Since it is 30 feet deep it adds to the height, with a 12:12 pitch.

Mr. Price: That is what I was thinking. It is deep so you have storage space on the ground floor and a lot more upstairs with the dormers and the higher roof and the wider floor space area.

Ms. Warner: It is deep because he has a large truck and he would like to open up the hood in there and have some extra room.

Mr. Price: That is one slot – you have two left for cars which are not 30 feet long.

Ms. Warner: You do not want to make it an irregular shape.

Mr. Price: No, you would not want to do that. So that gives you storage space for equipment, tools, a workbench, lawnmower and things like that. So what do you have to store upstairs? Christmas and Halloween decorations?

Mr. Gherghel: Stuff like that. Boxes - clothes boxes.

Mr. Price: That is a lot of storage space.

Ms. Warner: Speaking as somebody who had to go back and change my coat because I messed it up squeezing through my typical garage – he has my sympathy for a 20 x 20 foot is pretty tight.

Mr. Price: I would like to address this question to the Building Commissioner. What is the standard size of a 2-car or 3-car garage?

Mr. Alvarez: A standard attached 2-car garage is 400 square feet. You can fit 2 cars in there but not much more. You could add on an additional 200 square feet for an additional car or a 3-car garage. Keep in mind that most people have larger vehicles as well as boats or other recreational vehicles which they need to store as well. The standard 2-car garage though is 400 square feet.

Mr. Price: Thank you. Any other questions?

Ms. Mastronicolas: I had the same concerns as you regarding the height and usage of the upstairs. I think that we clarified that but I do want to ask again if there will be any utilities or any type of plumbing or anything going to the upstairs?

Mr. Gherghel: No.

Ms. Mastronicolas: Any heat?

Mr. Gherghel: No.

Ms. Mastronicolas: Electric, for lights?

Mr. Gherghel: Lights. The reason why I want a garage with a design like this is because I do not have a garage on my property and if I am going to build one I want to make it for real. I have some pictures. This garage is in Bay Village. I saw this garage and I liked it. (Mr. Gherghel came forward to show the pictures of the garage.)

Mr. Price: I will be voting for this request based on the fact that no neighbor has come forward to make any comments and the fact that the garage will be set back quite a distance and somewhat hidden from the road due to the vegetation and the lay of the land. It is not going to impede any governmental services.

Mr. Jankovsky: Based on the applicant's representation of the use and their cooperation in downsizing from their prior application, I will have no objection.

Mr. Ranucci: I will also be voting for this based on the stated comments and the much reduced size of their previous submittal.

Ms. Mastronicolas: I agree as well. I will also be voting in favor of this request.

Ms. Vojar: The findings of fact and conclusions of law as to variance #2 are as follows. The applicant is seeking a variance of 10 feet more than the maximum height allowed for this detached garage or accessory structure pursuant to Section 1270.04 (g) of the Zoning Code. The applicants, the homeowner and the architect, again testified on this issue and discussed the need and purpose for the additional height. All of the previous findings of fact and conclusions of law as stated in variance #1 are re-stated here. Is there anything else that the Board wants to add?

Mr. Price: Anything else? Call the roll.

Variance #2:

Mr. Jankovsky: Yes.
Mr. Kasaris: Yes.
Mr. Price: Yes.
Mr. Ranucci: Yes.
Ms. Mastronicolas: Yes.

Ayes – all. Nays – none.
Variance granted (5-0).

Mr. Price: Good luck.

Ms. Brinkman: (Addressing both applicants) You know that you still have to apply for a building permit.

Ms. Warner: Yes.

Mr. Gherghel: Yes.

New Business:

(BZA11-01) Christopher E. Duke / Robert Taddie request a variance to Chapter 1284 “Signs”, Section 1284.05 “Design Standards”, paragraph (b)(6) and paragraph (c), for relief from the requirement which states that the number of items of information displayed on a sign shall be limited to ten items and relief from the requirement that states that window signs shall have a clear background, for this window sign they wish to install at this tenant space located on the property at 12999 Roylton Road, also known as PPN: 483-17-006.

Mr. Price: Would the applicant please come up to the microphone.

Mr. Duke: I would like to request that my request for a variance be tabled so that I can get the signature of the property owner, Robert Taddie.

Mr. Price: Okay. Do you have anything to add Donna?

Ms. Vozar: I would like to point out a few things. We will need something more than just an application by the property owner or his consent to it. You, as the applicant, will actually have to be the tenant because the variance will only be granted on that parcel. In order for this Board to move forward on this we will need not only a consent by the property owner that a variance be granted on that property but also some indication that you are, in fact, the tenant of that property. We do not want to put ourselves in a position where we are granting an advisory opinion. That is all that I wanted to add to that Mr. Chairman. That is my recommendation.

Mr. Price: Do I have a motion to table?

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **table this item until the next meeting in February.**

Mr. Price: Call the roll.

Mr. Kasaris: Yes.
Mr. Price: Yes.
Mr. Ranucci: Yes.
Ms. Mastronicolas: Yes.
Mr. Jankovsky: Yes.

Ayes – all. Nays – none.
Item tabled (5-0).

(BZA11-02) Paul Beegan / Beegan Architectural Design / North Royalton Animal Hospital request a **reconsideration** on the question of granting a variance to **Chapter 1276 "Business Districts", Section 1276.09 "Yard Regulations", paragraph (a) and Chapter 1282 "Off-Street Parking and Loading", Section 1282.05 "Schedule of Parking Requirements", paragraph (b)(5)C**, for relief from the **side yard setback requirement for this addition** to be constructed along the south property line which abuts a residential district and relief from the **minimum number of parking spaces** required, for this **proposed addition / parking area** they wish to construct on this property located at **9027 Ridge Road, also known as PPN: 489-04-006**.

Variance #1:

Moved by Mr. Ranucci, seconded by Mr. Kasaris to **approve a variance of 10'-2" less than the requirement as prescribed in Section 1276.09 (a) of the Zoning Code with regard to the side yard setback requirement for this proposed addition along the south property line which abuts a residential district.**

Ms. Vozar: We have a few evidentiary issues that we will need to address, one of which is the viewing of the CD's that were submitted. I would like an opportunity to speak to both counsel, off the record if I can, to see if there is a way that we can do this tonight and resolve it. We will need to resolve our evidentiary issues. If I could have just a few minutes to meet with both counsel?

Mr. Price: We will recess for about five minutes. (Time: 8:37 p.m.)

Mr. Price: We will call the Board of Zoning Appeals meeting back to order. (Time: 8:42 p.m.)

Ms. Vozar: Mr. Chairman, after discussion with the counsel who are here, Mr. Sindyla and Mr. Lynch, we have an agreed stipulation and waiver of any objection on behalf of both parties. The parties have both agreed that rather than having the Board view these CD's of evidence that were submitted, of which there are five, there is a stipulation that what would have been heard and seen would be dogs barking. As I indicated to both counsel, and as the Chairman had previously ruled, dogs barking is not relevant to the variances that are before us but nevertheless will be submitted and stipulated that that is what is on the CD's and there is no need then for the Board to hear and view these CD's. In addition to that the parties have requested and have agreed to stipulate that the previous hearing, minutes and evidence that was submitted will be incorporated into tonight's hearing. Again, there will be a waiver of any objections to their admissibility, submitting them, any objection that can be waived at any time. Is that correct Mr. Lynch?

Mr. Lynch: That is correct. The videos show the sound and what my client is measuring in his property which I think relates to the City's ordinances in the granting of a variance and the affect on the adjoining property owners.

Ms. Vozar: The variance, and I will be happy to put it on the record as to what the variance is, but our stipulation is that the CD's that were presented are from your client's property and it is of dogs barking. It is the noise of dogs barking. Is that correct?

Mr. Lynch: From the Animal Hospital. Yes.

Ms. Vozar: That is all that they illustrate. They do not illustrate anything more than dogs barking from your client's property. Is that correct?

Mr. Lynch: The sound - correct.

Ms. Vozar: Mr. Sindyla?

Mr. Sindyla: Correct.

Ms. Vozar: Thank you. Mr. Chairman, if I could add one more thing before we get started. For the record I think that it is important to note that, when this matter initially came before the Board, the property was zoned Local Business but veterinary clinics were not a permitted use at that time. So while there may have been evidence that was submitted at that time, and it has been stipulated that this Board may or shall consider that evidence, I think that it is important to note that the standard would have been different. So while you may take into consideration what the residents would have been testifying, I am not sure how relevant it is when we now are under a different law that says that this is a property that is permitted to operate a veterinary clinic. That law was recently passed by our City Council. (Continued on next page...)

Ms. Vozar (cont'd.): So, based on that, I do hope that you will take that into consideration when you are considering the evidence from the prior meeting, assuming that you so choose to accept that, the stipulations on behalf of Council. I would also like to point out that it is important, while the parties have discussed issues of barking dogs and what not or what is going to take place on this property or the plans themselves, that there are only two variances that this Board is hearing. Those two variances are regarding the minimum side yard setback of a local business which abuts a residential district and the other is regarding parking spaces. Those are the only two items that will be heard here. The number of kennels or anything else that is on this property are all matters that are properly before Planning Commission for approval of the plan. That is all that I have Mr. Chairman. Thank you.

Mr. Kasaris: After considering the evidence that I feel that I am permitted to consider, and after reviewing Section 1264.08 (e) dealing with the practical difficulty with regards to the setback variance, because that is the first issue that we are dealing with is the setback, any other issues such as dogs barking or anything else should have been brought before City Council and/or the Planning Commission and have nothing to do with the setback. I feel that the setback is not substantial. It is the minimum necessary to make possible the reasonable use of the land. I do not think that it is out of character with the neighborhood. It will not affect governmental services. I support the request for a setback variance. Thank you.

Mr. Price: I would like to ask the neighbor a question. In making these videos you made the comment that you are familiar with the D.B. equipment. What is your experience?

Mr. Sopata: I was a sound man years ago. I use to do sound in bars and I use to measure sound relative to instruments. I did sound engineering for a while.

Mr. Price: Okay. I was just curious.

Mr. Sopata: I made relative measurements to compare to other things to clarify calibration, thus the reference of the lawnmower standing at 5 feet compared to what is happening at my house.

Mr. Jankovsky: Mr. Chairman, I also have a question for the gentleman at the microphone. Keeping in mind what Ms. Vozar had stated about the variances and what Mr. Kasaris had stated, all of the objections that we did hear earlier were regarding the sound issue. Do you feel specifically that these two variances being requested today would exasperate the condition that you said that you have tolerated all of these years?

Mr. Sopata: What do you mean by "exasperate"?

Mr. Jankovsky: Would it make it any worse than it was when you bought the property?

Mr. Sopata: Most definitely.

Mr. Jankovsky: How so?

Mr. Sopata: You will be adding another 900 square feet on the back of a building and converting that building entirely for boarding.

Mr. Jankovsky: But the variance of the setback itself ...

Mr. Sopata: The variance of the setback is adding more boarding space.

Mr. Jankovsky: It was 29'-10" from the property when you bought your property. It will still be 29'-10". It is not going to change anything and the addition is farther away from your home.

Mr. Sopata: The use is changing. According to the plans the use is changing from an animal hospital to a boarding facility. The noise will increase. It will change.

Mr. Jankovsky: But the variance of the setback itself is not going to change anything.

Mr. Sopata: It will allow more animals in there, would it not?

Mr. Jankovsky: The size of the building will but not the setback.

Mr. Sopata: But the setback will allow for more interior space.

Mr. Jankovsky: But you already have the setback.

Mr. Sopata: They are asking for another 900 square feet on the back of the building.

Mr. Jankovsky: Okay.

Mr. Price: I have a question for the veterinarian. The issue of boarding – how would you define “boarding”? What is “boarding”?

Dr. Hechko: Watching animals while their owners are away. Taking care of the animals and giving them the medical care that they need.

Mr. Price: Is it for animals who are sick and have to be watched, taken care of and rehabilitated or is it for the overnight and weekend babysitting activity?

Dr. Hechko: We do both. A large portion of our patients that stay in the hospital overnight are for medical reasons. They need medication administered while their owners are away. We administer treatments for diabetes and constant medical care.

Mr. Price: A healthy dog staying in a strange environment because its owner decides to go off wherever is not a happy camper. They would tend to be noisy and rambunctious and unruly.

Dr. Hechko: Not necessarily.

Mr. Price: They could also be quiet and scared because they are in a new environment.

Dr. Hechko: We try to do things to enrich those animals while they are with us to make sure that they are comfortable and less stressed.

Mr. Price: Enriched in the sense of giving them medication?

Dr. Hechko: No. We give them toys that they can play with. They have interaction with my staff – brushing, grooming, petting, bathing and things like that. You could walk into my hospital and sit in one of my waiting rooms or examining rooms and you would not hear a dog barking. The exception would be right in the morning or right in the evening when we are feeding them and everyone is all excited. During the day they are very comfortable. Dogs that are stressed will bark but we put things into place to make sure that does not happen. We have a trainer on staff who works with the rest of the staff to mitigate those things.

Mr. Price: I am going back to “**Main Building and Uses Permitted**”, the code that was recently passed. It includes the following “... *practice of veterinary medicine and animal hospital (conducted wholly within an enclosed building), provided that no kennels, boarding facilities, or animals are housed on the premises...*” Is “housing” not the babysitting activity – you are taking their house, their facility, their domain away from them for awhile and putting them in the new facility and housing them there?

Dr. Hechko: They are not going to be in the new facility. They are going to be in the existing building.

Mr. Price: That is what I mean. They will be in the same structure.

Dr. Hechko: Right.

Mr. Price: Well is that not “boarding”?

Ms. Vozar: Mr. Chairman, may I add something? I do not mean to interrupt but maybe it can help clarify. The applicant was running an animal hospital and boarding facility. They were previously a permitted, nonconforming use of the property. Since the Code has been amended to permit them to use it as a veterinary clinic, that now is a permitted use. The boarding aspect of the use of their property, however, is now a nonconforming use. They may not expand that nonconforming use of the property as it relates to boarding. They may not add anymore boarding facilities. They may not increase that use. Again, these are all issues that are addressed in the plans that are going before the Planning Commission.

Mr. Price: It goes toward where it is located in proximity to the residents next door and what activity is taking place in the “old building”.

Ms. Vozar: Okay.

Mr. Price: Would you not agree?

Ms. Vozar: It is your call Mr. Chairman.

Mr. Lynch: I do not mean to interrupt your testimony but I do not think that Dr. Hechko was sworn-in. Just to get it on the record that he was sworn-in and that his testimony is under oath so that we can use it on appeal, if necessary.

Dr. Hechko approached the microphone.

Mr. Price: Name and address please.

Dr. Hechko: Dr. Adam Hechko, 2711 Boston Road, Brecksville.

Mr. Price: Would you raise your right hand please. Do you solemnly swear that the testimony that you have given and are about to give is the truth, the whole truth and nothing but the truth, so help you God?

Dr. Hechko: Yes.

Mr. Price: Thank you. Now I lost my train of thought.

Mr. Lynch: Sorry Mr. Chairman.

Mr. Price: Back to boarding facilities...

Dr. Hechko: We are not expanding any more capability for boarding with our facility. The same number that we board now will be the same number that we board a year from now if these plans are permitted.

Mr. Price: But it is not the same number that you did board.

Dr. Hechko: It is. We have currently the capacity to board the same exact number that is on there. We can actually board six (6) more. We lost six spots with that new change. We have runs, we have cages, we have all kinds of different sizes that we board. We are not asking to board any more animals than we have right now.

Mr. Price: As I read the plans that were submitted I thought that the old building was ...

Dr. Hechko: All I want to do is modernize what I have to allow for, as you pointed out earlier, dogs that are stressed. A dog that is in a small cage is more likely to be stressed than one that is in a run. So part of this process is to make sure that they all have enough space to minimize stress, to improve their quality of life and to improve their general stay.

Mr. Price: I understand that. The old building, as listed in the new plans, is all boarding or cages or whatever we want to call them – kennels. With the existing operation that whole building is not all cages.

Dr. Hechko: Correct. It can't be. I run my hospital out of there.

Mr. Price: So how did the number not increase?

Dr. Hechko: Because we have cages. So I have maybe, I can't remember what the dimensions are, a 4' x 10' run and right now I have 4' x 10' runs but I also have 3' x 8' cages or 6' x 8' cages. We have stacks of cages in our kennel along with runs. What we are doing is changing them all so that they are runs so that all of the animals have a more spacious accommodation.

Mr. Price: I see.

Mr. Beegan: Paul Beegan, Beegan Architectural Design. In the design of the facility we toured several other animal clinics that have overnight boarding for animals. All of the facilities that we toured had much larger areas. Dr. Hechko's intent is to provide better care for the patients that he has there. The areas indicated in the old building – we are not increasing the amount but increasing the size of those. (Continued on next page ...)

Mr. Beegan: So we are now at a much larger size for the location of those animals. Instead of having small cages sitting stacked up against the wall, which they are right now, it would allow for more space, basically, per cage.

Mr. Price: It would be like the cat condo.

Mr. Beegan: Exactly.

Dr. Hechko: Instead of a broom closet it is a two-bedroom suite.

Mr. Beegan: I know that there seems to be questions about the overnight nature. I just want to give you a personal note about this. We were on vacation a couple of years ago and my dog had a stroke while we were on vacation. He basically needs to have someone with him all of the time. So for the first ten years of his life a neighbor could let him out during the day. Now I take him over to Dr. Hechko's because he needs to be under supervised care due to his medical condition. That is kind of the nature of the animals that are staying there overnight. Obviously after surgeries and things like that the animals require more care.

Mr. Price: Thank you.

Mr. Ranucci: I have a question for the doctor. In looking at the plans here I noticed that you have some landscaping screen up towards the front of the existing building. Is it possible to extend, and I am not sure what you are planning on doing there, some screening where the wood fence ends. If you could plant some arborvitaes or something tall to help deflect ...

Dr. Hechko: I am open to anything.

Mr. Ranucci: Is that a roadway that goes down to the back.

Dr. Hechko: On what side are you looking at – the north or south side?

Mr. Ranucci: The south side where the 29'-10" setback is.

Dr. Hechko: It is just a grassy area. A lawn.

Mr. Ranucci: So you could landscape with some pine trees or arborvitaes which would also help deflect the noise and then take that back up to where the addition is.

Dr. Hechko: Correct. Yes.

Mr. Price: What is the status of the lot to the north? Are you consolidating the lots?

Dr. Hechko: The purchase is pending approval of our plans.

Mr. Price: Are you going to raze that structure?

Dr. Hechko: Yes.

Mr. Price: Is that why it is not shown on your plans?

Dr. Hechko: Correct.

Mr. Price: And you said that it was pending what?

Dr. Hechko: Pending approval of the plans.

Mr. Price: We do not approve the plans, just the variances.

Dr. Hechko: I know that you do that here but then the next step is the Planning Commission.

Mr. Price: Access to the outdoor runs is buffered from the residential property by the building addition.

Dr. Hechko: Correct. It is actually moving further away from the residential property.

Mr. Price: I like the layout with the new plan and the additional buffering that could be put in between you and the residential area. Because we are only talking about the variance for the side yard setback – I will be voting to approve it. I think that you are going to have a quieter clientele with more room and activities that the animals can get involved with. It will improve the neighborhood. Government services, such as fire and safety, will find it easier to get in and around the building due to the layout. I will be voting for the variance.

Mr. Ranucci: For some of the same reasons that you just stated, based on the variance that is in front of us and disregarding all of the other issues, we have been asked to approve a variance of 10'-2". Since the current facility and building there is already at that 29'-10" off of the property line and this 900 square foot addition is just an extension of that, I do not see it affecting any of the services in the neighborhood. So based on what is in front of us here I will also be approving that 10'-2" variance.

Ms. Mastronicolas: I concur with my colleagues and I will be voting in favor of this variance.

Mr. Jankovsky: I feel the same way. While I can relate to the neighbor's concerns, and I am sure that some of them are valid from the standpoint of somebody that has to live there, but for the most part I believe that they existed before he purchased this property. The applicant has shown a desire to do everything he can to make this right for everybody, including the neighbor and the City, so I will be voting for it.

Mr. Kasaris: I already announced that I would be voting for it.

Mr. Price: Okay. Donna?

Ms. Vozar: Mr. Chairman, the following findings of fact and conclusions of law are submitted for the Board's consideration and comment. As to the first variance, the applicant is seeking a variance of 10'-2" less than the requirement as prescribed in Section 1276.09 (a) of the Zoning Code with regard to the side yard setback requirement for this proposed addition along the south property line which abuts a residential district. The applicant was present here tonight and represented by counsel. The parties presented evidence - both the neighbor and the applicant. The neighbor was here represented by counsel and objected to the variance. As a ground for the objection he presented evidence which was stipulated by various discs indicating noise heard on the neighboring property of dogs barking. In addition to that he objected to the granting of the variance due to the fact that it would increase the noise that he would be hearing. The applicant testified that the purpose and intent of the variance was to actually take the addition farther away from the neighboring property and to minimize any difficulties that he was experiencing. The Board found that the factors under Section 1264.08 (e) for practical difficulties has been established. The Board found that even though there could be beneficial use of the property without the variance, they believed that the variance was the minimum necessary to make reasonable use of the land. The Board also found that the essential character of the neighborhood would not be substantially altered. There would be no affect on the delivery of governmental services. The Board also found that the variance was, since the enactment of the code, a conforming lot. The use was conforming at this point based on the recent enactment of City Council. Additionally, the property owner's difficulty in the use of his property could only be met by the variance in this case. The Board found that it was within the spirit and intent of the Code and, as such, practical difficulties has been established. If the Board wants to make any changes, comments or additions to those findings of fact and conclusions of law please do so.

Mr. Price: Anybody have any changes, suggestions, additions or corrections. Call the roll.

Variance #1:

Mr. Jankovsky: Yes.

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes

Ms. Mastronicolas: Yes.

Ayes – all. Nays – none.

Variance granted (5-0).

Variance #2:

Moved by Mr. Ranucci, seconded by Mr. Kasaris to **grant relief from Section 1282.05 (b)(5)C of the Zoning Code so as to allow a variance of 19 parking spaces for this proposed parking area on this property zoned for Local Business.**

Mr. Price: Discussion?

Mr. Kasaris: Mr. Alvarez, I am looking at the asphalt driveway going into the back. It says that it is 20 feet wide. Will that be wide enough for a fire truck or an ambulance to get back there and turn right into that parking area?

Mr. Beegan: I believe that they could.

Mr. Kasaris: (To the applicant) How many employees do you plan to employ?

Dr. Hechko: We currently employ twenty and hopefully that number will grow to thirty by the time that we are done with our plans.

Mr. Kasaris: So would you say that your maximum employment would be thirty people?

Dr. Hechko: I would expect that it would be right around there – thirty to thirty five.

Mr. Kasaris: You have enough spots for fifty cars.

Dr. Hechko: There will not be thirty to thirty five people there all of the time. We are open over eighty hours a week so there will be multiple shifts. So I would expect at any time fifteen to twenty staff members.

Mr. Kasaris: So you are looking at a maximum of twenty staff members there at a time. How many people would you typically anticipate visiting and having to park in a day at your facility?

Dr. Hechko: Most of the clients that are there will be in and out within a half hour depending on what services they are in need of that day. We are planning on adding one more doctor. I will be typically seeing anywhere from two to four patients in an hour. That would be four clients parking in an hour, with some overlap of appointments, plus clients who would be coming in and out for other services such as picking up medication and things like that. So if we had two doctors we would reasonably expect six to seven cars there at any time, parked, and waiting for care.

Mr. Kasaris: Will any of these parking spots be designated for employees?

Dr. Hechko: The whole back will be designated for employees.

Mr. Kasaris: I take it that no one will be permitted to park on the new asphalt drive.

Dr. Hechko: No.

Mr. Kasaris: So then people who come to visit are going to park in the 29 spaces in the front.

Dr. Hechko: Correct.

Mr. Kasaris: Thank you. I have no further questions.

Mr. Price: Did I understand you correctly to say that would have approximately 20 people on staff. That will not be the number of people who will be there every day though.

Dr. Hechko: Correct. Right now we have 8 – 10 staff members per shift, depending upon the time of day.

Mr. Price: When you refer to staff you are talking about ...

Dr. Hechko: Doctors, nurses, support staff and such. With the addition we will be planning on adding at least one doctor who will have 2-3 support staff with them along with at least 1-2 additional receptionists who would be answering phones and taking care of patients. So it would at least mean 15 – 20 support staff in the building per shift.

Mr. Price: Then you have people coming in for medication, for grooming and for follow-up care.

Dr. Hechko: Correct. People visiting their pets that are in the hospital. We have a lot of people who spend hours visiting their pets while they are in the hospital.

Mr. Price: Really.

Dr. Hechko: Yes. That is why one of the rooms in there is dedicated just for visitation.

Mr. Price: Based on the testimony regarding the numbers of people and the shift numbers and activities that take place, I think that the number of spaces being requested are adequate. I am going to be voting for the variance.

Mr. Kasaris: I just have one question for the architect. How will a garbage truck turn around?

Mr. Beegan: I have seen garbage trucks do a lot of things. There is actually room for the garbage truck to pull in forward and then be able to back out.

Mr. Kasaris: Swing back on the drive.

Mr. Beegan: The driver would be able to back out.

Mr. Price: The driveway is open to the parking lot.

Mr. Beegan: Yes. He would be able to back out and swing around into the parking lot on his way out.

Mr. Kasaris: Thank you. Mr. Chairman, we are here for a variance request for the parking. Based on the testimony of the vet, the architect and Mr. Alvarez, I will support the variance request. It is not going to have an adverse affect on governmental services. It is not going to change substantially the character of the neighborhood. I do not believe that the variance request is substantial. Based upon those factors I will support the variance request. Thank you.

Mr. Jankovsky: I agree with the prior comments. I will be voting for it.

Mr. Ranucci: It might get a little "hairy" based on the numbers that you have given us with regard to twenty staff members and two doctors having six patients at a time. That is 32, but then at the shift change you are going to have people coming and going.

Dr. Hechko: It is not all in and all out – it is staggered throughout the day. You are not going to have 20 people there, 20 people coming in and 20 people leaving. It is usually a couple throughout the day. It would not be good for patient care if everyone were to come and go at the same time; therefore, it is staggered.

Mr. Ranucci: Very good. Based on that, Mr. Chairman, I do not see this request as being excessive. This type of business has traffic throughout the day. There is never going to be that many people at any given time so I do not see that as being a problem. I will be approving this variance.

Ms. Mastronicolas: I will be approving this variance as well.

Mr. Price: I would like to say that I think that this is a very good layout. The concept here, I think, will be a benefit to the City.

Dr. Hechko: Thank you.

Ms. Vozar: Mr. Chairman, on the second variance, the applicant is seeking relief from Section 1282.05 (b)(5)C of the Zoning Code so as to allow a variance of 19 less parking spaces than required for this proposed parking area on this property zoned for Local Business. The applicant testified on behalf of this variance as did his architect. There was discussion regarding the difference between a medical clinic versus a veterinary clinic. The use and the specific parking needs were also testified to and there was also evidence from the Building Commissioner as to meeting the needs of the property, taking that into consideration with the Zoning Code. Based on that the Board, based on the findings of fact and others that were discussed, has found that practical difficulties has been established pursuant to Section 1264.08 (e). (Continued on next page ...)

Ms. Vozar: The Board finds that while there may be beneficial use of the property without the variance they believe that it is a minimum variance necessary. In addition they are of the opinion that the essential character of the neighborhood will not be altered; in fact, it will probably be more advantageous to have the variance in this case. There will be no affect on the delivery of governmental services. As previously indicated, the ordinance was recently amended in this case to permit this as a permitted use. The property owners predicament cannot be alleviated through any other use besides the variance regarding the parking conditions. Based on the area of the lot, those special conditions result in the Board finding that practical difficulties has been established. If the Board has any changes, comments or suggestions to amend those proposed findings of fact and conclusions of law; otherwise, Mr. Chairman, I leave it to you.

Mr. Price: Any comments or additions? Call the roll.

Variance #2:

Mr. Kasaris: Yes.

Mr. Price: Yes.

Mr. Ranucci: Yes.

Ms. Mastronicolas: Yes.

Mr. Jankovsky: Yes.

Ayes – all. Nays – none.

Variance granted (5-0).

Mr. Price: May I have a motion to adjourn?

Moved by Mr. Kasaris, seconded by Mr. Ranucci to **adjourn the B.Z.A. meeting of January 24, 2011.**

Ayes – all. Nays – none.

Motion carried.

The Board of Zoning Appeals Meeting **adjourned** at 9:20 p.m.

Approved: Neil E Price
Chairman

Date: Feb 28, 2011

Attest: Lynn M. Briskman
B.Z.A. Secretary