

## PERKINS TOWNSHIP BOARD OF ZONING APPEALS MEETING

Held By: Perkins Township Board of Zoning Appeals

Place: Perkins Township Service Facility, Meeting Room, 2610 Columbus Avenue

Date: June 20, 2023

Time: 4:00 p.m.

Board Members Present: Mr. Kastor  
Mr. Larry Pitts  
Mr. Bixler  
Mr. Bertsch

Board Members Absent & Excused: Mr. Gast & Mr. Spence

Staff in Attendance: Ms. Angela Byington, Director of Community Development  
Mrs. Casey Sparks, Planner  
Mrs. Jessica Gladwell, Administrative Assistant

### I. Pledge of Allegiance

Mr. Kastor called the meeting to order and lead the Board and staff in the Pledge of Allegiance.

### II. Roll Call

Mr. Kastor asked for roll call to be taken.

Mr. Kastor, here; Mr. Bixler, here; Mr. Pitts, here; Mr. Bertsch, here.

### III. Minutes

Mr. Kastor asked for a motion to approve the minutes from the May 15, 2022, meeting. Mr. Pitts made the motion and Mr. Bixler seconded.

**Roll Call:** Mr. Pitts, Yes; Mr. Bixler, Yes; Mr. Bertsch, Yes; Mr. Kastor, Yes.

### IV. Chairperson's Welcome and Explanation of Public Hearing & Public Meeting

Mr. Kastor welcomed everyone to the meeting. He said it will be held in two (2) parts. First will be the Public Hearing, where the Board will hear from the applicant. Then they will switch to the Public Meeting, where the Board will decide the fate of the application.

Mrs. Gladwell Swore in everyone that signed in.

**V. Reading of the Request**

**APPLICATION #BZA2023-13.** A variance application submitted by High- Tech Pools, Inc. for the property located at 5002 Kirkwood Terrace (Parcel # 32-04381.000). The variance request is to allow for four accessory structures on the property whereas Article 13.6(10) of the Zoning Resolution states that no more two (2) accessory buildings can be erected on a lot in a residential district. A variance request to allow for a 4' fence whereas Article 26.3(1) requires a 6' fence when constructing an in-ground swimming pool.

**VI. Staff Review**

Mrs. Sparks stated as Jessica stated this application is for a variance from High- Tech Pools, on behalf of Tammy Jones & Glenn Furstenberg has applied for two variances for the property located at 5002 Kirkwood Terrace. Parcel 32-04381.000. The zoning is "R1-A" / Single Family Dwelling. Construction of an inground pool and a 4' fence. The existing site and zoning map, you will be able to locate the existing accessory structures, there are some in the rear yard and one in the side yard. The pool is proposed to be in the rear yard, which I will show a site plan. I will note the property is very well screened, they have screened around all areas around the property. There is an area of 5ft fence in the rear of the property now that is the neighbors, and the applicant is proposing a 4ft fence around the rest of the property. As indicated the variances the applicant is applying for are the following:

1. The variance request is to allow four accessory structures on the property whereas Article 13.6(10) of the Zoning Resolution states that no more two (2) accessory buildings can be erected on a lot in a residential district.
2. A variance request to allow for a 4' fence whereas Article 26.3(1) requires a 6' fence when constructing an in-ground swimming pool.

Staff did not receive any comments from Fire, Police, Public Works, and the Building Department. Staff did receive a complaint from a surrounding property owner expressing concern of the proposed 4' fence.

Staff would recommend denial of the variance for the 4' fence around the property due to safety concerns for adjoining property owners. Staff would recommend denial of the inground swimming pool as the zoning resolution addresses the maximum number of accessory buildings to be two and the applicant is proposing a total of four. It is important to note that the property is almost entirely screened. The inground pool would likely not be visible from the street.

Should the Board move to approve the application staff would recommend the Board move forward with the following conditions:

1. The applicant shall construct a 6' fence around the surrounding property.
2. The applicant shall apply for all required building permits prior to construction.

Staff will note that a zoning application was submitted last June. It is the staff's belief that at that time staff were not aware of the small accessory structure on the side of the driveway. At that time the third accessory structure was approved.

Mr. Kastor stated that he recalled a previous incident where he was considering a 4ft fence if they would put in an automatic pool cover.

Mrs. Sparks stated yes that is actually in our zoning resolution as well, that was communicated to the applicant prior to the 4ft fence.

Tammy Jones 5002 Kirkwood Terrace – the 6ft fence is fine, I don't have a problem with a 6ft fence. The reason I am building this pool is because I have an autistic granddaughter who I can't take to any other pool and it's her therapy, and she has melt downs everywhere else. So, I told my daughter I would try to do this, I have been planning it for years. All the structures on my property are not permanent structures, they are not in footers they are just on top. The one is just a plastic shed for the kids' toys. That's a 2ft by 4ft shed for toys, I like to keep my yard picked up. I want to stay there. I've stuck a lot of money into this house, I love my neighbors for the most part. I work a lot, but in the summer, I want to be home with my grandkids. Other than that, the 6ft fence I don't have a problem with that, Adkins came out to give quotes today. My neighbor has a pool and only a 4ft fence, I don't go and bother them I just figured I'd try.

Jeff Hammerschmid – 5903 Liberty Ave Vermillion. Owner of High Tech Pools. I just want you to know I've been working with Tamie for 5 years until in assess just thinking about a pool and committing for a pool. When we applied for our permit and seeing the 6ft fence, we were a little surprised because of the fact the national code throughout the united stated is 4ft, and we were wondering why Perkins Township was 6ft. So, we thought we would just apply for the 4ft as a standard, we are in 5 states building pools and of the 5 states we have pools being built, I only know of 2 of which this is one of the two that require a 6ft fence. You heard her say 6ft is okay, I feel like 4ft is a little nicer. I have some pictures of the property and the structures, they are more of a pole kind of thing or a shed that could be moved around if she had too.

Robert Hamilton – Kirkwood Terrace – I am Mrs. Jones direct neighbor, there is a 3ft fence between us right now. Aesthetically I would like to see a 4ft, I don't want to feel like im engaged, I like my neighbors, all my neighbors. Tamie has a very nice yard, looks nice, looks nice from my side of the yard. I don't have a problem with the swimming pool, it's a large yard. It's my opinion I don't know if it matters or not but thank you.

Jim Fantozz – 5001 Normandy Court Right behind Tammy's house. First of all, about the fence, this gentleman said he only knows about 2 or 3, I know about 5 or 6. They are all down by Sandy Acres, my daughter has a 6ft rod iron fence, my nephew across the street has a 6ft. I believe you should go with a 6ft fence, because there are little kids around the neighborhood, and I know Tammy is busy and not home all the time. I have the 6ft white fence behind her, there is less chance of little ones, the neighbors across the street have little kids. I think a 6ft fence would be suitable. Another thing is you know, I hate to be a bad neighbor, but you're only allowed two accessory buildings and she's been trying to put this pool in for the past 2 3 4 5 years, she's got that big building. What's the chance someone will want to buy my property with that building, she's got that pavilion. You know how much room you can take up in a backyard, I only have one shed in my back yard, so I can put a few more back there. We live in a development and everyone's yard is so big, how much stuff can you put in your back yard, per zoning. I know she takes good care of her property, and it's just

something for zoning to decide. I'm just giving you, my opinion. I do believe the 6ft fence should be made, there are always kids in the neighborhood. The neighbor next door to us, Tim Alexander, has his grandkids there a lot, they come over to the house in the morning and take the bus.

Tami Meyers 5007 Kirkwood Terrace – I'm here to speak against the variance for the accessory structure the pool. I'm not going to address the fence; it's been addressed enough by other participants here. Uhm, it's my understanding there are already 4 accessory structures in this property. The small vinyl shed, I don't recall in the zoning resolution seeing whether or not that would be not considered an accessory structure even if its portable. Even barring that if we got rid of that as an accessory structure, we have a structure that is close to the east elevation that is not attached to the house, I mean on the drawing it appeared as it was part of the dwelling, that is not the fact there is space between that and the dwelling. The pavilion and 20\*22 storage shed (which was just constructed last summer) and if the vinyl shed is considered an accessory structure that would've been the 4<sup>th</sup> one right there and it was permitted without a variance to my understanding. I'm sure the board members know you drive your authority to grant variances through the ohio revised code. In order for the applicant to succeed in its request for a variance, applicant must demonstrate that "a literal enforcement of the resolution will result in unnecessary hardship" to the applicant. O.R.C. § 519.14(B). As a township, Perkins Township is held to this "unnecessary hardship" standard in O.R.C. § 519.14(B) when examining requests for variances to the *Zoning Resolution*. The burden of proof of unnecessary hardship, however, falls on the applicant. And this hardship cannot be of the applicant's own making—it cannot be self-created, and it must be suffered directly by the property in question. *Briggs v. Bd. of Zoning Appeals*, 161 Ohio App. 3d 704, 710 (Ohio Ct. App. 2005) ¶8, (4). It is up to the applicant to proffer the evidence that *not* constructing an in-ground swimming pool on the property will somehow result in this unnecessary hardship. Frankly, the more logical statement is that *having* an in-ground swimming pool is the hardship—higher utility bills, expenses for chemicals and cleaning, and the constant worry that the "attractive nuisance" nature of a swimming pool—especially an in-ground pool—could result in an unspeakable tragedy. In *Green*, the trial court erroneously found a section of the zoning ordinance to be ambiguous with respect to the measurement of the height of a fence and subsequently denied the Appellant's variance. The appellate court found the trial court erred in interpreting the ordinance because the ordinance's language was unambiguous. As a result, the appellate court reversed the trial court's decision and stated that the Appellant did not require a variance for the fence.

John Woodman 917 Eastwood Dr. Akron. I think it should be noted, it was noted in the presentation, it is a well screened area. I've noticed a lot of the complaints are you're able to see sheds and view things from the street or her yard. This pool will be very well screened from the side yard and Kirkwood Terrace. Also, the hardship, well not to do with the actual yard is her granddaughter with Autism who can't go to public pools can go here and be safe for her. I just wanted to make note it will not be highly visible from either side of the street.

Jeff - Is there a clear definition of what a structure is. I mean personally looking at the property, I would consider one of the structures to be a structure. The other two are just an awning kind of thing, and it's really not a building structure so I don't understand that, so I'd like some clarification. Another question is, is there a specific square footage requirement that you're allowed to have within the Township.

Mrs. Sparks stated that it is 35% of the rear property. So, when we calculated it from a staffing perspective, she was still under 35%.

Jeff stated that because of the size of her property she can have one, that's what I thought as well, I just wanted to hear it from the board because no one has said anything about that.

Mr. Kastor stated as far as what defines a structure, you know it's kind of arbitrary its something that's possibly could be moved, doesn't have footers or foundations or could be reused- good point.

Jeff started to go back to the fence thing, I'm talking about the cities and township that kind of stuff for the 6ft thing, that's what I was speaking about earlier.

Robert Hamilton – just with all the conversations, I was wondering if they were grandfathered in for 4ft fences there is one close to us with a pool that I can see from my front yard. I'm just wondering if it was grandfathered in, why did it change, were there problems or why did it change.

Mr. Kastor stated that he wasn't sure he could answer that, he has been on this board here for almost 30 years, any fence that has come in front of us for a fence around the pool is 6ft. It may not apply to the national codes or whatever but its what we have in Perkins Township. This 4ft fence we have around a pool, uhm I'm not even sure grandfathering is correct here, but our staff will look at this situation, I can assure that.

Jim Fantozz – The neighbors across the street from Tammy have an above ground pool and they have a 6ft fence all the way around it, I don't have a pool, but I have a vinyl fence. I worked in a factory 35 40 years, first thing all I'm going to say, safety first. Thank you.

Mr. Kastor states that he appreciates the comments, that's what makes Perkins Township a great place to live.

## **VII. Staff Close Public Hearing/Open Public Meeting**

Mr. Kastor asked for a motion to close the public hearing and open the public meeting.

Mr. Bertsch motioned to close the public hearing. Mr. Pitts seconded. Mr. Bertsch, yes; Mr. Pitts, Yes; Mr. Bixler, Yes; Mr. Kastor, Yes.

## **VIII. Discussion from Board**

Mr. Kastor asked if the board had any questions for the applicant.

Mr. Kastor stated that there were some questions raised by the Ohio Revised Code about different things, I feel a little disadvantaged here that we don't have consult, Mr. Coppeler to advise us. The issues we are talking about are pretty clear, we're talking about a fence and an additional structure. My opinion on the size of the yard, the autistic child, the way the property appears to be screened, and we look at every case individually. I don't see the number of structures proposed as an issue, I want to stay pretty strong with the 6ft fence requirement.

Mr. Bertsch stated I have a question for staff, the 20\*22 building that was built in 2022, did that do not require a variance.

Mrs. Sparks stated that she was not here at that time, and I did look into that, and Jessica did help me pull that permit up. It looks like Arielle did approve it, I assume what had happened was if you look at it from an ariel view, she just didn't realize that the small accessory shed was there on the side, and if it wasn't on the application, it was just missed.

Mr. Bertsch even with the small accessory shed it still would have been a 3<sup>rd</sup>.

Mrs. Sparks stated that we did look into from a staffing point and it was approved, and it was hard to indicate that is what that was and she just missed it. But they did receive a permit for it. I do know we have not approved a 4ft fence without an automatic cove.

Mr. Pitts stated that the pool itself is considered an accessory structure.

Mrs. Sparks stated yes that is per code. I can pull the section up, just give me a few mins here.

Mr. Pitts stated that would make it a total of what?

Mrs. Sparks stated 4.

Mr. Pitts asked all of those that are there, are they just on slabs?

Tammy Jones stated it's a little plastic shed that goes over the toys.

Mr. Pitts stated that other than that plastic shed.

Tammy stated there is a steel one that we got years ago to go over the hot tub.

Bryce stated that it just sits on top of the concrete.

Mr. Pitts said and then there is a?

Tammy Jones stated that there is a pavilion and gazebo so we can sit under that and sit under the sun. We took our tree down last year for the pool.

Mr. Pitts stated that his question is that if we delete that, you'd have 3.

Tammy said the Shed (pool pump going in) I am very anal about my house, the gazebo and the thing over my hot tub.

Mr. Pitts stated that he's just trying to understand.

Tammy stated that if she moves everything goes with her.

Mr. Bertsch stated that the opposition is mostly for the fence, not the number of accessory buildings.

Mr. Kastor asked if anyone wanted to make a motion.

Mr. Bertsch stated he'd make a motion to deny the request for a 4ft fence. Mr. Bixler seconded.

Mr. Bertsch yes; Mr. Bixler, yes; Mr. Pitts, Yes; Mr. Kastor, Yes;

Mr. Kastor stated so were saying we'd like a 6ft Fence, on the accessory structure would anyone like to make a motion?

Mr. Kastor stated that hearing on the chair will make a motion.

Mr. Kastor made the motion to approve the proposed structures considering the circumstances, size of lot, structures don't exceed the 35% of property, and visibility. Do I have a second.

Mr. Pitts stated in our code, what is the definition of a structure?

Mr. Bixler stated that he feels that a critical question for a critical answer.

Mrs. Sparks stated that it is defined as anything constructed or erected, the use of which requires a location on the ground or attachment to something having a fixed location on the ground. Among other things structures include buildings, mobile homes, walls, fences and billboards.

Mr. Kastor stated there is a motion; if there is no second is there a countering motion.

Mr. Bixler stated that he'd second that motion.

Mr. Kastor yes; Mr. Bixler, yes; Mr. Pitts, No; Mr. Bertsch, No;

Mr. Kastor stated okay, technically you need a majority to pass. So that motion does not pass.

Mr. Pitts stated he'd like to have further clarification. So the structure that is over your hot tub, does it have walls?

Bryce stated, yes plastic walls, vinyl walls.

Tammy Jones stated that it's a kit, it's something that I can take down. If it's an issue I'll talk my little plastic shed down and put it in my bigger shed. If I must get rid of one of them, it is what it is. The Shed just got built, we just finished it two weeks ago.

Mr. Pitts stated the other question he has is, is the filter and everything for the pool where that will be located.

Tammy Jones stated that it would be in the shed that just went up and got finished.

Mr. Kastor stated okay so now we have new information; I will re-do my motion to approve.

Mr. Kastor made the motion to approve the proposed structures considering the circumstances, size of lot, structures don't exceed the 35% of property, and visibility. Along with eliminating the plastic toy structure, now we are down to the pool, shed, and the hot tub cover. Do I have a second.

John asked if they could remove the hot tub structure, so that would make it down to two.

Mr. Pitts stated that would be fantastic.

John stated a permanent structure, is typically something that has a structure and doesn't move. A structure is something with a foundation.

Mr. Kastor stated that was a stale date. So, I would ask for a new motion on the structures.

Mr. Pitts stated that his motion would be to approve the accessory buildings contingent upon a reduction to two structures. The plastic shed and the thing over the hot tub to be removed. The pool is the third, for the variance. Mr. Bertsch seconded.

Mr. Pitts, yes; Mr. Bertsch, yes; Mr. Bixler, yes; Mr. Kastor, Yes;

Mr. Kastor stated thank you all. The decision of this board is appealable, so if you want to do so, get a lawyer.

**IX. Reading of the Request**

**APPLICATION #BZA203-14** A variance application submitted by Ron Cantelli, LLC. for the properties located on Force Ave (Parcel #32-01241.000, Parcel 32-03727.000, and Parcel 32-01036.000). The variance request is to allow the creation of two lots that are 4,800 square feet in size whereas Article 13.3 of the Zoning Resolution requires lots within the R1-B Zoning District to be a minimum of 9,000 square feet.

**X. Staff Review**

Mrs. Sparks stated that as Jessica indicated RAR Cantelli, LLC has applied for properties located on Force Ave. The variance request is to allow the creation of two lots that are 4,800 square feet in size, whereas Article 13.3 of the Zoning Resolution requires lots within the R-1B Zoning Districts to be a minimum of 9,000 square feet.

Staff recognizes that it would be beneficial to increase the size of the existing two non-conforming lots as such staff would recommend approval of the variance with the following conditions:

1. The applicant shall combine parcels and apply for all necessary permits through the Township and the County.

Ron Cantelli – we have the property, which is an L shape, we were just cutting the grass. Mrs. Steel over here didn't have a side yard, so we figured we'd make it nice for her and just keep a rectangle for ourselves, make it happen and move on.

Mrs. Steel stated she had been taking care of that side yard before they owned it, never had any problems with it.

**XI. Staff Close Public Hearing/Open Public Meeting**

Mr. Pitts asked for a motion to close the public hearing and open the public meeting.

Mr. Bertsch motioned to close the public hearing. Mr. Bixler seconded. Mr. Bertsch, yes; Mr. Bixler, Yes; Mr. Pitts, Yes.

**XII. Discussion from Board**

Mr. Pitts asked if the board had any questions for the applicant.

Mr. Bertsch made the motion to approve BZA2023-14. Mr. Bixler seconded.

Mr. Bertsch, yes; Mr. Bixler, Yes; Mr. Pitts, yes.

### **XIII. Reading of the Request**

**APPLICATION #BZA2023-15-** A variance application submitted by Dustin Reiter for the property located at 3535 Campbell Street (Parcel # 32-02784.001). The variance request is to allow an accessory structure to be located 15' from the property line whereas Article 13.6(3) requires 20' from the side property line. A variance request to allow the accessory structure to be 23' in height whereas Article 13.6(9) requires a maximum height of 20' for an accessory structure. Lastly, a variance request to allow the accessory structure to be larger than the proposed single-family dwelling whereas Article 13.6 (1) requires no accessory structure to exceed the square footage of the first floor of the main dwelling.

### **XIV. Staff Review**

Mrs. Sparks stated that as Jessica stated Dustin Reiter has applied for the following variances:

1. An accessory structure to be located 15' from the property line, whereas Article 13.6(3) requires 20' from the side property line.
2. A variance request to allow the accessory structure to be 23' in height whereas Article 13.6(9) requires a maximum height of 20' for an accessory structure.
3. A variance requests all the accessory structure to be larger than the proposed single-family dwelling whereas Article 13.6(1) requires no accessory structure to exceed the square footage of the first floor of the main dwelling.

The applicant has indicated that the property does slope down so it will be difficult to place the accessory structure in the rear of the property. Staff did not receive any comments from Fire, Police, Public Works, or the Building Department.

Staff did receive concerns from a surrounding property regarding the location of the accessory structure.

Staff recognizes that this lot is 1.14 acres in size. The lot is adequate size to accommodate an accessory structure and a single-family dwelling. Staff recommends the accessory building be located within the rear of the property. It is important to note that the accessory structure cannot be utilized for personal storage.

Staff would recommend approval of the applications with the following conditions:

1. The applicant shall be locating the accessory structure within the rear yard.
2. The applicant shall apply for all building and zoning permits.
3. No business shall be conducted within the structure or on-site.
4. The single-family dwelling shall begin construction prior to the construction of the accessory structure.

Dustin Reiter – 3535 Campbell St. I'm proposing to build a brand new 1730 sq ft residence, I bought the two lots that were from each of the property owners on the left and right of

me to address any concerns they may have. Originally, I talked to them and gave them all the plans of what I was planning on doing, with the building and house and there were no issues at that time, but of course they came up with some different issues. I am fine working with them on trying to reposition slightly or making the building a little bit smaller. I can't do anything about the height, with a 14ft garage door and 4/12 pitch, it's going to be 23 ft tall. Now the house that I'm proposing to build is a ranch house with a finished half basement, that I can't count as sq footage for the size of the building even though its going to have egress windows and counted from a real estate standpoint for re-sale. The other variance is larger than the sq footage of house, the height I can't change, essentially it is going to be 2 ft taller than the peak of the house, so we're not talking some drastic change of some ginormous building next to a little tiny house. As far as the 20ft variance for the accessory structure on the house, this is originally when I submitted this, I didn't realize this. I have set it up 15ft off the property line, which meets zoning. So, what I am proposing is shrinking the building 4ft from 40\*64 to 40\*60 which makes it 19 ft now and taking the gap between the building and house sliding the building towards the house which gives them 20ft for the property line. The 19ft still meets the adjoining code for building for being too close to each other. I can't get away from height no matter where its going. Now the reason I don't want to put it in the rear of the property is because there is about a 7ft drop off. I have already brought in 1600ton of dirt to make this land usable it would require me to bring in an additional 2000 ton and you're probably talking at an additional 20 -30k in dirt to put in the rear of the lot, which one of the property owners have done in the past – filled all their land in and their building is high. The other property owner set hers down on the ground and it flooded several times. If I brought this dirt in, it would flood out my neighbors, if I brought in 6 – 7 ft of direct for 150 ft. It's just going to run off on the sides and across the back to Pukrins. That is the hardship it brings on me, financially of bringing in all this extra dirt, I feel more importantly it puts a hardship on my neighbors with shedding all that water off to them because it's got to go somewhere. One of the property owners told me that they could tile their property line, well I don't think that any property owner should have to spend money on something because I'm putting in a structure or filling my land. It kind of works for both of us. The dirt work has been done, what you're looking at on the left is the temporary driveway that was put in. What they're proposing is that they would like it in the back yard, staff would like it in the backyard, but I don't see a feasible possibly it is, financially and putting a hardship on the neighbors by putting the shedding water onto their properties. I'm willing to shrink that to 60ft wide and slide it to the left 1ft to get the 20ft off the property line on the right-hand side. I know this isn't a hardship thing also, but the further I shove it in the back, it's kind of nice to sit out at the back of your house and see a field that you know isn't going anywhere that Pukrin has owned for how long and if you push that building out it ruins the view. I have pictures, it would be more for the neighbors because I didn't have it at the time. You guys have the drawing and the print, they wanted to see what the finished house was going to look like, that's the exact house. To once again, to you guys this is storage only, I own a handy man repair business, I have a van and a pickup truck that I store inside my facility now, there is no commercial business done in that building, no one comes to the building there are no transactions done in the building. I provide a service to people that I'm going too, its all-

personal tools and my truck and van that get stored in there. I don't like to keep stuff outside and make it look junky, so everything I have goes inside the building.

Skip 124 Woodlands Way, Lakeside. My mother is Sophie, she lives just to the north of the property. She sold property to Dustin just a couple of years ago, she is asking me to speak on her behalf today. Our concerns are, when my mother agreed to sell the property, she was very consistent on it being a single-family dwelling. Dustin said it was going to be a single-family dwelling with a 3-car garage, certainly a 60\*40 is 2400 sq ft, so significantly larger. The fact that he wants 14ft doors with a low pitch roof is extremely of a commercial style building and it was purchased as a buffer by my parents. The grading that has already happened, already that Dustin presented has a 90ft wide parking lot in front of that area, almost to the road with a narrow entrance way. He brought it to our attention that his intent was to bring the equipment that he already stores at his other facilities which is multiple trailers, tractors all being stored outdoors, and he was going to bring it there. Even though he's not doing official business there, he needs it to operate his business. 14ft doors, and metal sided building is not represented as or in a residential neighborhood. The ideal of a runoff is already a concern since the property was built up more than the grade and you can see a significant of run off on my mother's property as it is. It has not ever flooded, there has not been any water in the building since they've owned the property. The representation of the drawing is a little bit uhm skewed because the view of the red drawing, it appears the buildings are almost the same size, but in reality, that building is about 1.5 times the size of the main dwelling. The setback from the side was one of the concerns my mom already had, she didn't want a structure right up against her property. There was no communication to ask for multiple variances to achieve the goal. In the pre-construction work, for bringing in all the stone and the large added driveway that is already there, it was all in the included plan like he said. I guess our position were not fully supported of any of the variances if you would've addressed the request of the variances with us or the adjacent property owners we would've said no, and we wouldn't have supported those variances up front at first. The hardship created prior to is not a consideration we have to absorb, that was a decision he made after he did all of that work.

Sophie 3513 Campbell– the house has a two-car garage in addition to the three bays in the large garage. I know it is connected to the house.

Skip said the width of the is still significantly wider than the house. That's where we differ.

Sophie stated the original discussion was an attached 3 car garage to the house.

Dustin stated that originally when he went to both property owners, I did show them pictures of intentions of what I was doing. The only thing Sophie is, and I discussed is in the purchase agreement and she didn't care as long as I was 15ft off of her property line. That is in the purchase agreement, that I agreed to and that included a driveway. I talked to her, and she said she didn't want anything within 15ft, which is something I made to her. So, what I decided to do is put a slot through the center so there is nothing going on with that side, that is why I started with the 15 ft. So, I put in that area to get between the house and

the building. Originally, before this exact drawing came about, I was going to build a barndominium, which is the same as what that barn looks like other than a section to the left of it was living quarters. Essentially why I didn't do it was because of the cost, no one does a turnkey barndominium around here, I must sub all of those out and be the general contractor. I am licensed through the city to do that, but it costs about 150k more as one continuous building, which honestly might have made them more upset by what they're saying because I'm going to have a metal roof on the house, metal siding, it is basically going to look like a barn house which there are plenty of them out there now a days. I can show you a picture, it's beautiful looking, it has a porch across the whole thing. But I'm asking to separate them now because of the cost, so I can have Wayne Homes build the house. They require a basement which I didn't really want, I wanted a slab home. At the end of the day, if we don't come to terms on everything, I go back to the drawing table. When I said that I go back to I was going to put a 4ft poured wall and have a slab home, and that was the expensive home. The 4ft poured wall footer was 150k, you have to have it go all the way through the house. If I go back to this route, I'm going to setting poles in the ground for the entire house instead of doing the footers, I'll get rid of 150k. Then I'm back to the barndominium which is still going to allow me to make a big barn/garage/whatever I want connected to the house and all I must do is make a firewall between the two of them, that's it. It's not a matter of if it is getting done, it's how it is getting done, whether we connect them not connect them, put it in the front yard or the back yard. If I'm talking about building one structure it's all going upfront, it's connected it doesn't really. I'm not asking for something that is larger or smaller than what I originally planned, it's just separated due to costs. Which then makes me have to follow different rules.

Mr. Pitts stated that you know why we are here this evening is because you're outside of the zoning code, which is why we're trying to determine whether we should or should not grant the variance. You've already said, "Well I want to do this and now you're telling us that if I can't do this, I'm going to do that.

Dustin stated I know I have options.

Mr. Pitts stated so do we.

Dustin stated that I'm just looking at what is best for everybody, that's why I have an open discussion kind of thing.

Mr. Pitts stated we look to do the best for everyone as well.

Dustin stated if I explain to you guys, hey essentially this is what I'm looking to do, how can we all get to the same place with the same vehicle, whether it is getting one building two separate buildings, a house with a building connected to it.

Mr. Pitts stated that he isn't trying to be rude or anything but that is not our determination here tonight. What we're looking at here is what you submitted, if we are willing to vote on

a variance for you to do that. There is a code that says you can't have a structure that is bigger than the house.

Dustin stated that there is a builder that just told him that he is starting a building at 7707 Campbell St it's a 40\*60. It's bigger than the sq footage of the house.

Ms. Byington stated that we will look it up.

Mr. Bertsch stated that can we clarify one thing? Are you willing to shrink the building down by 4ft to make the setbacks?

Dustin stated correctly.

Mr. Bertsch stated that the only thing left is the 3ft in height and the issue of the sq footage is slightly bigger. He just wanted to clarify.

Dustin stated that he fixed and changed that, and the Township made a call, and they said let me review these and call you. That's an easy fix, I can fix the 4ft. the other concern about the 14ft garage door, I can't put a 12ft, but the thing is anything that is legal to go down the road can fit in there. Whether it's the boat for storage in the winter, if I buy a camper with an AC unit on top of it. So that is the reasoning on the 14ft door.

Deb Volt 3609 Campbell St. I talked with Dustin just recently and what he is doing, and I asked why you have to have the 20 ft. which he is doing that. As far as building it behind the property, we built our barn to the back, we had to do a little bit of filling in the back, but not as much as he would. He said if I build it in the back, it will run off on your property. My property sits kind of on a hill where kids used to go sledding. When it was graded for Sophies lot, there is only a little bit of area that gets wet. When he first talked to me, he told me he was going to build a bigger house, but then it was about costs so I can see where Sophies concerns are.

**XV. Staff Close Public Hearing/Open Public Meeting**

Mr. Pitts asked for a motion to close the public hearing and open the public meeting.

Mr. Bertsch motioned to close the public hearing. Mr. Bixler seconded.

Mr. Bertsch, yes; Mr. Bixler, Yes; Mr. Pitts, Yes;

**XVI. Discussion from Board**

Mr. Bertsch stated in my opinion we're in the wheelhouse that we have approved before, relativity for the sq footage and the height.

Given that I'm inclined to make the motion to approve Application BZA2023-15 with the changes the applicant has made to downsize the building to meet setbacks. Mr. Bixler seconded.

Mr. Pitts stated that he had another question. Dustin why does this building have to be so large, I know you said to accommodate your stuff better, but this is quite huge for a residential area. I guess that is my concern.

Dustin stated that they always say go bigger because you'll run out of room. The tools I have personally, by the time you put stuff in there for yard work. When you put a gator in there a lawn mower. Neither of those vehicles will fit in a standard garage. I want to be a good neighbor and keep everything inside, even though the township says you can keep stuff in the rear yard. I don't want to have things outside, so they are protected from the weather and out of sight. From where I'm storing my stuff now, I'm going down in square footage. I'm not even asking for what I have now, I'm getting smaller from the get-go and then rules and now I'm going down even smaller. They get filled up pretty quickly you don't have a lot of floor space. Out of that floor space which will come with the building permit, I'm proposing to put an 8ft by 8ft bathroom in the corner, wash basin and toilet.

Skip stated that the square footage is less than his current building, his current location has multiple trailers and equipment stored outside of it. If this is also going to have equipment outside, it's addressed as a business. Company Logo on the door of your current location. It's kind of like I have my business stuff here but I'm not running a business here.

Dustin said for that property now, that is being rented, it is not all my stuff. Yes, there are trailers outside but they will be going inside. I'm not going to build a 400k dollar house to make it a junk hole. It's all under one roof, nicely clean.

Mr. Pitts stated that we are either going to have to table it.

Mrs. Sparks stated if you wanted to table it you would have to motion against the current motion.

Mr. Bertsch, yes; Mr. Bixler, No; Mr. Pitts, No.

Mr. Bixler said so were tabling it.

Mr. Bixler made a motion to table it, there are too many questions, we need more information. Mr. Bertsch seconded.

Mr. Bixler, yes; Mr. Bertsch, yes; Mr. Pitts, yes;

**XVII. Reading of the Request**

**APPLICATION #BZA2023-16-** A variance application submitted by Eugene Hartman for the property located at 300 West Perkins Ave (Parcel # 32-03767.000). The variance request is to allow a fence to be located 6' from a public right-of-way whereas Article 26.10(4) requires fences in industrially zoned districts to be set back at least 25' from the road right-of-way.

**XVIII. Staff Review**

Mrs. Sparks stated that as Jessica stated Ohio Eastern Express has applied for a variance to allow a fence to be located 6' from the public right-of-way. Article 26.10(4) of the zoning resolution requires fences in industrial zoned districts to be set back at least 25' from the road right-of-way.

Staff received the following comments from Public Works Department and the Fire Department:

During snow emergency there may be potential for damage to occur. Check with Erie County Water Department about water line that from Gilcher to the Dead of End of Doerzbach.

The distance from the right-of-way is not an issue, the width of the gate and ability to maneuver our vehicles in would our concern and possibly a Knox Box or key switch if it has electric opener.

Staff recognizes that this fence is utilized to screen in the storage area for the business and the intent of the Zoning Resolution is to assure fences are not located directly along a public street.

Staff would recommend approval of the variance with the following conditions:

1. The applicant shall combine parcels 32-04951.019, 32-03737.000, 32-04951.007.

Eugene Hartman 300 w Perkins Ave. asked how to combine the lots. It's really cut and drive, they said there is an easement but there's been a guardrail forever. I bought the property from Ron Cantelli. The reason I bought it because land, when it gone it's gone, I wanted more truck parking. I did a fence because of safety; I've had kids racing my semis on bicycles.

**XIX. Staff Close Public Hearing/Open Public Meeting**

Mr. Pitts asked for a motion to close the public hearing and open the public meeting.

Mr. Bertsch motioned to close the public hearing. Mr. Bixler seconded. Mr. Bertsch, yes; Mr. Bixler, Yes; Mr. Pitts, Yes;

**XX. Discussion from Board**

Mr. Pitts asked for a motion to close the public hearing and open the public meeting.

Mr. Bertsch motioned to approve BZA2023-16. Mr. Bixler seconded.

Mr. Bertsch, yes; Mr. Bixler, Yes; Mr. Pitts, Yes;

**XXI. Old Business**

**XXII. New Business**

**XXIII. Adjournment**

Mr. Pitts asked for a motion for adjournment.

Mr. Bertsch made the motion and Mr. Bixler seconded. Roll Call: Mr. Berstch; Yes, Mr. Bixler, yes, Mr. Pitts, yes;