

ZONING BOARD OF APPEALS

CITY OF LIVONIA

MINUTES OF REGULAR MEETING HELD FEBRUARY 2, 2021

Due to COVID-19, a Regular Meeting of the Zoning Board of Appeals of the City of Livonia was held online via Zoom on Tuesday, February 2, 2021.

MEMBERS PRESENT: Gregory G. Coppola, Chairman
James M. Baringhaus, Vice Chairman
Timothy J. Klisz, Secretary
Christopher N. Boloven
Lisa Fraske
Michael Testa
Joel Turbiak

MEMBERS ABSENT: None

OTHERS PRESENT: Leo Neville, Asst. City Attorney
Harry Ramsden, City Inspector
Janet M. Seewald, CSR-5079

The meeting was called to order at seven p.m. Chairman Coppola explained the Rules of Procedure to those interested parties. Each petitioner must give their name and address and declare hardship for appeal. Appeals of the Zoning Board's decisions are made to the Wayne County Circuit Court. The Chairman advised the audience that appeals can be filed within 21 days of the date tonight's minutes are approved. The decision of the Zoning Board shall become final within five (5) calendar days following the hearing and the applicant shall be mailed a copy of the decision. There are four decisions the Board can make: To deny, to grant, to grant as modified by the Board, or to table for further information. Each petitioner may ask to be heard by a full seven (7) member Board. Seven members were present this evening. The Secretary then read the Agenda and Legal Notice to each appeal, and each petitioner indicated their presence. Appeals came up for hearing after due legal notice was given to all interested parties within 300 feet, petitioners and City Departments.

_____(7:00)

TABLE OF CONTENTS

Appeal Case #	Pages
2020-11-31 (Canagan/Funchar)	3 - 23
2021-02-03 (Kendall)	24 - 29
2020-02-04 (Elonzae)	30 – 41

APPEAL CASE NO. 2020-11-31 (Tabled on November 17, 2020): An appeal has been made to the Zoning Board of Appeals by Joan Canagan and Timothy Funchar, 33503 Capri Court, Livonia, MI 48152, seeking to construct an uncovered rear yard deck, resulting in deficient rear yard setback.

Rear Yard Setback:

Required: 20 feet

Proposed: 13 feet

Deficient: 7 feet

The property is located on the south side of Capri Court (33503), between Farmington and the west end, Lot. No. 013-05-0011-000, R-1 Zoning District. Rejected by the Inspection Department under Ordinance 543, Section 18.28, "Yards Encroachments."

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Thank you. Motion to remove appeal case 2020-11-31 from the table.

Coppola: Do I have support? No one wants to support this? I'll support. All in favor?

Board: Aye.

Coppola: It's removed from the table. Mr. Ramsden, anything to add?

Ramsden: Not at this time.

Coppola: Any questions for the Inspection Department? Seeing none, I'm going to now unmute you, petitioner. I'm going to try to. There we go. So who is on the phone for the petitioner?

Funchar: This is Tim Funchar, F-u-n-c-h-a-r.

Coppola: Your address for the record, please?

Funchar: It's 33503 Capri Court.

Coppola: Anybody else going to be speaking for this case tonight for you?

Funchar: I did ask Shawn White to call in, the contractor that did -- that's doing mine and who already did my neighbor's. I'm not sure if he's there.

Coppola: I see another phone number there. I don't see anybody by the name of Shawn White that's logged in. So if -- Shawn, if this is your phone number ending in 3307, hit star nine to raise your hand so I can unmute you. That must not be Shawn. You're on your own. So Mr. Funchar, why don't you tell us what you have revised since we last talked.

Funchar: So the contractor made the diagram -- if you look at the diagram -- 16 feet from the house to the post and then the deck would curve out two feet to 18 feet. So that's what he did. He redesigned it a little bit there.

Coppola: Okay. So you reduced your deficiency?

Funchar: Right, yeah. I was at 20 feet, right? Was it 20 feet?

Coppola: I was just looking that up right now. I should have it memorized by now but I don't have it in front of me.

Baringhaus: Mr. Chairman, I believe the prior deficit was nine feet and he's reduced it to seven feet.

Funchar: The deficiency, yeah.

Baringhaus: The deficiency.

Funchar: Right. Trying to make it a little style but not as huge as it was. It was way out there at 20 feet from the house so made the footings at 16 foot.

Coppola: I'm still having tech issues getting everything loaded here properly. So what's the dimensions of the -- the dimensions of the deck?

Funchar: Let's see. So he's got here 19 feet eight and that's the width. Then there's a four-foot width for the staircase. And then like I said, I don't know if you have the diagram there, but he made it gradually from the back of the house straight out 16 feet where he's going to put the post and then he's got a little curve out there, a foot -- a two-foot curve total. So the maximum curve he has here at 18 foot at the max.

Coppola: Okay. Questions for the petitioner?

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Yes. Mr. Funchar, I noticed there was like sort of a gray structure being constructed. I think it might be next to the proposed patio. Can you tell me what that is?

Funchar: Yeah. That's the pavers. It's like a patio that's 16 feet from the house out and it's just pavers. Because -- he did that because there's the windows, the basement windows, so it's kind of like a -- it's like you can have a walkout basement if you wanted to spend the money, but I have windows under there and it gives more light to the basement so we wouldn't put a deck there so we did this patio.

Baringhaus: Very good. Thank you very much.

Funchar: Yeah.

Klisz: Mr. Chair.

Coppola: Secretary Klisz.

Klisz: To the petitioner, I wasn't at the first meeting so I did read the minutes and did look at the explanation. I think one of the things that I was interested in finding out, you said that yours being the first house was actually closer to the line and that most of the other neighbors are not going to be as close and therefore their decks will most likely be

bigger. Is that fair to what you were saying?

Funchar: Yeah, it is, because if you look out -- I took some pictures of the front of the house to my neighbor's house and everybody else that -- my house sits back about five, six feet. I'm not sure why, but it's sitting back farther than the other houses. I'm not sure why. So I'm in the backyard, of course I'm going to be setting back. So I'm not sure why that is, but I did take the pictures to try to explain it. But I can't really explain it any further than that. The neighbor, of course, he has a 17-foot deck and he didn't I guess encroach the setback at all. So that's kind of strange.

Klisz: Because he was farther away from the rear yard?

Funchar: Correct.

Klisz: Okay. Just because I know some of the concern was that we were setting a precedent here and that everyone is going to be coming in looking for exceptions. I think maybe that might be alleviated if what you're saying is accurate and that yours is sort of the exception rather than the rule. Would you agree with that?

Funchar: Yeah. I do agree with that and my house was the first built, so maybe that --

Klisz: Right.

Funchar: -- or when they built it they're off of -- I can't really explain it, but it is setting back a good five and a half feet.

Klisz: That's what I wanted to clarify. Thank you.

Funchar: Yeah, okay.

Turbiak: Mr. Chairman.

Coppola: Mr. Turbiak.

Turbiak: Yes. Through the Chair to the petitioner, Mr. Funchar, at the last meeting you had mentioned that your wife could provide a drone photo. I didn't see that in the packet. Did you take one and did you review it?

Funchar: No, we didn't do the drone. We just didn't feel -- I still could do it, but we thought taking the pictures from the side of the house was sufficient. But I can still do that in the next couple of days if you really would like that I can do that. I absolutely can do that for you.

Turbiak: Yeah, it won't help us in this meeting unfortunately so we'll do our best to work with what we got. One thing that would have been nice about that is it would have been a very recent photo as this is a development in progress. If you look on Google Maps, you're not going to get much data however --

Funchar: Sure.

Turbiak: -- our City GIS system does allow for us to see a picture that has more construction than what's shown in the Google Maps. So when I look at that, I see what you're saying and I hear what you're saying and I can see in your picture that the front of the house is setback. But that's not what's relevant. It's really the back of the house

and it fits into the rear lot line that's really important, so I'd like to avoid focusing on the front of the house for a minute and just say that from what I can see and measure with the limitations of the measurement tool on the app and all of that, there's only two houses that are in a better position in regards to having a greater distance from the rear lot line. One of them being your direct neighbor to the east as you touched on already, and the other one being three houses down with the walkout basement. I think that one was also mentioned in the last meeting as well. So just a clarify for Board Member Klisz, I don't think that we're going to avoid that scenario where we have many interested parties. I think we have at least four of the six. I exclude the one closest to Farmington because the lot goes the full depth. It includes the 60 feet of retention pond depths as well, so that one does sit back farther but it has -- it's not close to the rear lot line because of that extra 60 feet. So with that being said, we do have to be aware of a precedent we set here and how we decide. I spent quite a bit of time out at the site today, took a lot of hand measurements. And because when I was looking on the GIS system, a lot of the numbers didn't just add up so I tried to see what I could find in person, and I have to admit I was just one man with one 25-foot tape and there's only so much accuracy that can be had there. But to get to the point of what my whole thoughts are on this -- or I shouldn't say my thoughts. I want to talk about my findings. I'll get to my thoughts I guess at the end. My findings were inconsistent between what I saw on the GIS, what I measured in person and what I saw at the site plan that the developer had submitted and that we find in our package. So just to keep it brief and highlight it for my colleagues, if you go to page -- in our packet if you go to the site plan which is -- give me a minute here -- on page 26. You can see that Mr Funchar's garage distance to the front of the lot line or the front yard line is measured at 30 feet, and you can also see that if you were to translate that front of the garage line over to unit 12, which is also shown on this page, you can see that they're in line. They're basically -- you can say that house is also 30 feet from the front yard line. But as Mr. Funchar shows in his picture and as I was able to confirm with some simple measurements, that driveway is not 30 feet as it shows. It was closer to 35 and a half feet which is why he can say that his house -- you know, he's standing in his garage showing the garage in reference to the house next door, he said it's five or six feet, I think, and that jives with what I measured but it doesn't jive with the plan. So my conclusion there, Mr. Funchar, is that your garage is smaller than what the plan says. I hate to break that news to you and maybe I'm wrong, but that's really not the point of what I want to get to here. The point I want to make is that there's some inconsistencies. And why I bring that up is maybe there's a chance that the distance from the rear of your house to the rear lot line -- I think that's a question in my mind. And just to highlight -- because talking about the front again is not really relevant -- to highlight why I think that's in question is because on the GIS system that retention pond is only 55 feet -- or sorry -- 50 feet wide and when I measured it it was 65. And I'm measuring to what I would call the staked rear lot line. So I'm measuring from the fence of the neighbor to the south of, their rear yard line, to some little stakes in the ground. So I guess that's a good point, let me get that confirmation. If you happen to know, those wooden stakes seem to represent the rear lot line of your property and the property down the street. Is that your understanding?

Funchar: I'm not really sure because I put stakes in there to keep geese out, so I put some stakes around my border because the geese were coming in there and chewing on my new sod so I'm not -- I can't really say what stakes you're referring to.

Turbiak: I understand. I'm pretty confident. There was at least one per property all the way down the street, so that's what I based my conclusion on, right or wrong. And so the point being there is that there is up to five feet that -- if it's only supposed to be a 60-foot wide retention pond and somebody staked it off at 55 feet, that's 55 feet that's

eating into your room to build a deck. So unfortunately, I'm unlikely to support anything because in my mind there is too much unknown as far as where and how much you really have to deal with and how much variance we would be approving or considering. I mean right now it says seven feet, it could be a little less too and it could be wrong the other way as well. And just to give a little bit more credence to my measurement abilities -- well, I guess I won't say give credence. Never mind. I think that's all the questions I have for Mr. Funchar, but I would like to direct a question to the Inspection Department to Mr. Ramsden, if I may. Mr. Chair?

Coppola: Sure. Proceed.

Turbiak: Thanks. Mr. Ramsden and I were speaking before the meeting after I had done some of my onsite scouting, if you will. And Mr. Ramsden, we had talked about the house three down, the one that has the walkout basement.

Ramsden: Yes.

Turbiak: Just to clarify before I get to that question for myself and for my fellow Board members; Ordinance 1828, which is the one that's in consideration here, basically said that in some cases a deck may encroach into the rear yard setback but it can go no closer than 20 feet and this property already has the rear setback at 20 feet so you can't really encroach in the rear yard setback. But going back to that point, what you told me earlier is that if it's like a patio and it doesn't require a permit, like a patio doesn't require a permit, then you can go -- that's the case when you can go into that rear yard setback. My concern with that property down the road there with the walkout basement, you said maybe it needs a permit and you were going to check on it. Does it need a permit and is that one in violation?

Ramsden: No. There's no permit required for hardscapes below the first floor level. Just like that ordinance 1828 pertains to, so it would not be encroaching and there's no permit required for that

Turbiak: That was one of Mr. Funchar's concerns was why they were allowed to go into the setback more. So that clears that that one is good to go, not in violation. And that's why also your patio is not in violations because it's 15 feet, and if it's truly only 31 feet at the 15-foot mark then you'd be within that 20 feet setback. So if that was the case, you also would have been in violation so we got that cleared up so that's not a concern. I think that's all my questions and comments for right now, Mr. Chair. Thank you.

Coppola: Thank you. Other questions?

Testa: Mr. Chair.

Coppola: Mr. Testa.

Testa: Can I please direct a question to the Inspection Department?

Coppola: You may. Please proceed.

Testa: Thank you. I apologize, Mr. Ramsden. Is the measurement for the deficiency taken to the furthest point on the deck or the furthest part on the deck that touches to the ground so it's a bit of an overhang here?

Ramsden: It's measured to the structure itself, so that would be the deck surface and

the handrail.

Testa: Perfect. Thank you. And then Mr. Chair, I did also go out to this property, it was a few weeks back during the holidays actually, and I was able to take a look at this area as well. I think page 28 in our packet, the bottom photo does kind of clearly show that this property does set further back than the other homes that are on that street, and that's one of the things I wanted to confirm with my own eyes based on this previous meeting. So anyone who is looking at the packet can take look. I do agree discussing the front kind of is irrelevant, that we should focus on the rear. And I also kind of took a look at the neighbor's backyards to see line of site. And I do appreciate the changes to the plan and I understand it's still deficient, but I'll consider it as such. No actual questions, more of a comment. Thank you.

Coppola: Thank you. Other questions?

Turbiak: Mr. Chairman.

Coppola: Mr. Turbiak.

Turbiak: Yeah. To clarify or to respond to give my impression on Mr. Testa's comment about the site plan, I do agree that the neighbor directly to the east is not setback as far and you might not have access to the GIS system. Unfortunately, my Zoom is through a different computer than my iPad right now and so I can't just send it in the chat but I can maybe try and send an email to the Board if that's acceptable and maybe in that link you'll be able to see the data again because on Google Maps you can't see -- it's not recent enough to see any properties. But to summarize it, there's seven houses on the south side of the street. The one closer to Farmington can be ignored, and then the other -- four of the houses are very -- would be included in a group with Mr. Funchar's house. They're within two to three feet, the same distance from the rear lot line whereas the one neighbor to the east is six feet or seven feet better and then the one that had the walkout basement -- or maybe it's the one next to that, I'll have to -- I have it right here. I'll have to look at that, I'm on another site, sorry. But anyway, the point is there's only two of the six that were significantly better than his and one of them was that neighbor that you can see on the site plan. Thanks.

Coppola: Other questions? Seeing that there's none, we'll go ahead and take audience participation. If there's anybody that is in -- and while we do this, I'm not going to put you on mute, Mr. Funchar, but if you could remain silent I would appreciate that.

Funchar: Sure.

Coppola: And I'll call on you when you're able to speak. I see Mr. Salo here, so I'm going to unmute you. Mr. Salo, name and address, please, for the record.

Salo: Todd Salo, 33524 Norfolk.

Coppola: Please speak. You may proceed.

Salo: Yeah. I live basically two doors down. I've been here 28 years, and I sent in a letter back on the November meeting that wasn't read. I'm not sure if you got my letter for this particular meeting.

Coppola: We did, and I apologize for missing your letter the last time.

Salo: So I want to thank Mr. Turbiak who's really summarized a lot of the confusion about the setbacks. He's absolutely correct about the four and the two. This project is something that we worked on a couple of years ago with the developer and the Livonia Planning Commission and the Livonia City Council and we put a lot of time and effort into this project. I think petitioner has really benefitted from our efforts. He has got best lot in the entire subdivision, in my opinion, and through our efforts he's actually been able to get a more generous rear setback and a wider lot. The one thing that has occurred since the development started though is -- I think this was mentioned at the last meeting because the minutes were finally posted today that I was reading -- that this whole neighborhood -- the elevation was certainly raised. I wasn't aware it was going to be so steep. In fact, the neighbor who moved in behind me on Capri Court mentioned to my wife that his backyard was so steep that he was complaining that he can't even walk into it. But the higher elevation has led to what -- my personal issue is it's a privacy issue. Now, I have a pool, I have a hot tub, I have a wife, I have a teenager daughter, and now there's going to be next to little privacy back there because of the elevation. They're kind of looking down on us. So that's one thing that really is a concern for me personally. And I think the bigger issue though is the concern regarding the precedence. Like I said and you duly noted in your other meeting, is that there was several homes that are in various stages of construction on the south side that are going to be looking for nice decks. This gentleman's next door neighbor just completed a deck, a beautiful deck that was done by his deck contractor. That deck appears to have been properly permitted, properly inspected and obviously within code. So I'm just a little bit confused why he's still seeking a variance when it certainly could be done. So I think that's pretty much my comments.

Coppola: Thank you. I'm going to go ahead and put you back on mute. Is there anybody else out in the audience that would like to speak for or against this petition? I'm going to unmute you, Mr. Pennington. I believe you're unmuted, Mr. Pennington, if you could give us your name and address for the record.

Pennington: Scott Pennington. It's 33638 Norfolk Street, and I'm located in the house just to the west of the property that Mr. Funchar's property backs up to.

Coppola: Okay.

Pennington: I had sent a letter in for the last meeting that I believe was read into the minutes. I'm not going to -- I could read it again today, I'm not going to go over that. A lot of the issues are similar to what Mr. Salo had commented. We did work very closely with both the City and the developer to come up with a development that worked for everyone concerned. We were pleased that the developer was willing to work with us and that the City took into consideration our concerns to come up with a development. And as was mentioned, our concern has been -- Mr. Funchar said he spoke to my next door neighbor and my next door neighbor said he didn't have a problem with the deck being built the way it was being proposed, and that's fine. But we're not looking out for any one individual. I'm not here today just because I'm concerned with how it's going to affect me. I mean we all worked together on this project to come up with a project and a solution that works for everybody, and the concern is definitely that once a waiver is approved that it could be used by the other residents to do the same thing and encroach on the property lines that's in violation of the current zoning laws. Couple other comments, just to address some comments that were made in the last meeting, the comment was made that the shrubs along the back property line at my next door neighbor's property that Mr. Funchar's property backs up to, that the comment was that the shrubs are 10 feet tall. The shrubs are six feet tall. And it's not a hedge, it's individual bushes with gaps in between, and they were also only planted two or three

years ago. So it's not as though there's a privacy hedge that's all along the back of the property line. The other comment that Mr. Salo touched on as well is the elevation change. As he mentioned, we were not aware that there was going to be such an elevation difference between our backyard and the backyards of the development, and because of that elevation change, it makes this a little bit more of an important issue for us because they're truly going to be sitting up above on their decks looking down into the backyards of the people's houses on the north side of Norfolk Street. So that's why we are not in favor of granting the petitioner what he's requesting to build it within the 20-yard zoning requirement.

Coppola: Just a question for you. So he's asking for a seven-foot encroachment variance. From your perspective, do you believe that the seven -- is it the seven feet will provide you more privacy, or are you kind of just more against the concept in general based on all of the hard work that you guys -- your neighbors have put in when this development was planned?

Pennington: I think the farther that they encroach on the property line the less privacy people are going to have in their backyards on our side of the street.

Coppola: Okay. Thank you.

Pennington: You're welcome. Thank you.

Coppola: Put you back on mute. Is there anybody else out in the audience that would like to speak for or against? Just raise your hand if you're on the phone, star nine. Seeing none, do we have correspondence, Secretary Klisz?

Klisz: We do. The first one is a Letter of Approval from John R. Pastor, 33461 Capri Court. There's no comments on it. Next one is a Letter of Approval from Scott Asselin, A-s-s-e-l-i-n, 33489 Capri Court. (Letter read.) Next one is a Letter of Approval from Todd Geverink, 34462 Woodvale. There's no comments, just an approval. Letter of Approval by Xiaoduan Tang, 33539 Pondview Circle. (Letter read.) Letter of Objection from Mr. Salo who spoke so I won't read that one. There's a typewritten one that goes with it. A Letter of Objection from Edith Szubeczak, 33561 Pondview Circle. (Letter read.) Then there's a letter from the Penningtons who spoke so I won't read that one. Then there is the Salo letter from November and that one was printed, and I believe that's all of them.

Coppola: All right. Thank you. Mr. Funchar, anything you'd like to say in closing, you're welcome to respond to the audience participation or correspondence.

Funchar: Sure. You know, I also want privacy, so that's why I went back to my contractor who did my neighbor's here, Scott. We're going to do a really nice, all-the-way-around privacy fencing on the deck. So it's going to hang from the -- I forgot what you call those things. Pergo, it's like a covering, wood structure. You know, like to break up the sun. Pergo or something like that they call them. But from that they're going to hang down, these panels, to give me like break up -- it's not going to be solid all the way around, but it's going to be breaking up the -- to give me privacy when I'm out there on my deck. I don't want to sit out there like a little birdie. It's completely open. I get the point. So I want some privacy. I'm also going to put in tropical plants around there on the deck so it's going to be -- it's not going to be like an open where I'm spying on the neighbors. It's going to have panels around the deck that are going to be very nicely done. I guess that's it.

Coppola: Thank you. I'm going to go ahead and put you on mute for now.

Funchar: Okay.

Coppola: I'm going to close the public portion of the case and start the Board's comments with Ms. Fraske.

Fraske: I said I knew you were going to start with me because I'm torn on this one. I feel like I can't support this at this time because I feel like there's so many objections and I feel like the objections are warranted. I feel like there could be some revisions to the size of the deck to conform to the setback, so I'd like to hear what everyone else says but right now I'm not in support.

Coppola: Okay. Mr. Turbiak.

Turbiak: Thank you, Mr. Chair. Yes. I tend to agree with my colleague, Ms. Fraske, in that the neighbors' concerns are quite concerning to me as well. What's also concerning to me is the recent mention of the pergola and the semi enclosing of this deck. And I might maybe turn to Mr. Ramsden later after we give our thoughts if it's appropriate to understand how that affects this request as far as the ordinance. Maybe it's really irrelevant and maybe we don't need to take that into consideration, but that would be another point for my nonapproval. So I'm either going to be in favor of tabling or rejecting outright. I mentioned earlier about my questioning of the location of the rear of the house relative to the actual rear lot line, and if it turns out it's five more feet there and there's some kind of a goof up on the plan or where the wooden stakes or whatever the case maybe, Mr. Funchar might be able to remodel it again and contain it so he doesn't have to come back to us. Or maybe he would want to come back to us for one or two feet to contain this design, that two feet plus the five feet that might exist there could get him in with this design. But I cannot support tonight as it is. Thank you.

Coppola: Thank you. Vice Chair Baringhaus.

Baringhaus: Thank you. I think the petitioner has demonstrated a hardship basically because of the location and the setback of the home relative to the other homes in the neighborhood. I agree it does sit back at least a good six to seven feet from the other homes on the street itself. In terms of the rear deck itself, the petitioner I think made an effort to accommodate our request by reducing the size of the deck which in turn reduced the deficiency. I guess one thing -- a couple things strike me. These are not adjoining properties. These neighbors are separated by a fairly large -- it looks like a retention basin. In fact, if I recall from the last meeting, it was estimated that the distance from the petitioner's deck to the property line of their neighbors behind them is almost 60 feet. The other point is just visiting the site twice, the elevation difference is -- I'm sure they were changed during the construction of this neighborhood, but I think historically they were always there because the street itself seems to be very naturally higher than the level of the neighbor's property behind them. In fact, there's hills in the neighborhood. Kids were sledding in those backyards. That's the elevation change that I'm seeing. So based on that, again, I think a hardship has been proven and I think the addition of the screening on the pergola I think also demonstrates the petitioner is making an effort to have some privacy themselves. I know my neighbors do similar screens on their patio decks in my neighborhood and they're substantially closer than the properties in this neighborhood. So again, I'll support the variance.

Coppola: Secretary Klisz.

Klisz: Thank you. Like I had mentioned when I had asked the petitioner questions, I wasn't at the first meeting but did read carefully the analysis by the Board members who were there and then listened to the explanations today. I think while we're setting a precedent, I think in the end if we look at what this neighborhood really is is seven homes. As Mr. Turbiak said, you can kind of toss out one so now we're done to six. One has already got a deck and then there's the petitioner so that's four. So there's really not that much precedent setting I guess because there's really not that many more houses left to consider and they might not want any decks or decks within reason or we can consider each one. I guess it's not hundreds of houses that we would have to consider. Looks like the petitioner has reduced it. It sounds like it's going to be a good plan. There are certainly a lot neighbors in support and there are some against and they have spoken here tonight and I respect what they had to say. I think in the end they just are not very happy with the elevation, but that just doesn't have anything to with the deck. You can easily build a deck, whether it's seven foot closer or seven foot back, the deck is still going to happen. Decks are going to go up all throughout the neighborhood most likely, so I don't think they can stop that. So I guess the de minimus difference is not enough to say no in this case so I will be in support.

Coppola: Thank you. Mr. Boloven.

Boloven: Thank you. I tend to agree with Secretary Klisz and Vice Chair Baringhaus that what it really comes down to is that is seven feet immaterial. Like Secretary Klisz said, the elevation is going to be there whether they're seven feet up or seven feet back, you're still going to be peering into the backyard so there's nothing stopping that. I do have my concerns on the multiple measurements that are being tossed out, whether those measurements -- again, as Secretary Klisz put it earlier -- are they de minimus, is it immaterial, or is it actually going to be relevant to this house being -- this specific house being either six foot back, which again that extra six foot basically eats up the seven foot causes a one foot, which again, I see the hardship and I would support it on that. But from everything I have seen, I do appreciate the neighbors' concerns, the ones that are directly affected. But the concerns that I believe they're presenting are going to be there no matter, whether it's seven foot front or seven foot back you're still going to have somebody peering into the yard. I did read the minutes like Secretary Klisz for the November 17th meeting which I was also out. I appreciate the changes that the petitioner made and I would be in support at this time.

Coppola: Thank you. Mr. Testa.

Testa: Yeah, thank you. So when I went out to the property several weeks back, the two main things that I was looking at was is the house set further back as Mr. Funchar indicated, and from me eyeballing it it was. And then the other point was kind the site line. It is an elevated property, and I wanted to see -- obviously on the map and from the pictures provided it's not adjoining properties. The neighboring properties are further back in whatever that is, a retention pond. So there is a significant distance between his house and any neighbor's house, so I agree with the point that whether the decks sits out 18 feet or 10 feet, any deck someone sitting up on top of it is going have the same site line. It's the elevation that's providing that site line. I respect what the neighbors are saying and I normally take into account their objections, but in this case what they're objecting to, again, as the other Board members have pointed out is it's not going to change in either case whether it's a 18-foot deck or 10-foot deck. So I am probably inclined to approve this.

Coppola: Thank you. So when you were -- when the petitioner was here last time, those are in the minutes, I had suggested that he reduce the request for the variance

five feet based on the argument that he lost five feet up front so we'll give him five feet in the back. I thought that was fair, although it's really not an argument that'll probably stand up to a lot of debate. Nonetheless, I thought that was an equitable trade. He elected to go to seven feet instead of the five feet and that's obviously his prerogative. But to kind of respond to some of the questions, some of the comments here, I watched this development go in, particularly the site development, and the property was raised up significantly. It was raised up significantly so that the individuals could have walk-out basements. So there's already an elevation created when they raised this property, raised it up quite a bit. I watched them to that. So realistically when you look at the decks they're having on there, it's higher than you would normally have if it had been built at the topography that was originally on that property. And I wasn't involved or monitored the discussions that happened by the Planning Commission Department, so I don't know if whether that elevating of the property was disclosed or not disclosed. But the walkout basement concept, and now you have got a -- it's a first-floor deck but it's really more like a second-floor deck because of the elevation. So that, to me, if you had a neighbor that had -- for those who live in a tighter neighborhood, a neighborhood that had a deck coming off their second floor, you'd probably feel that your privacy was encroached a little bit. The other thing that I see here is the petitioner designed what was designed -- or I assume was involved in the design of the house and should have been cognizant of all the limitations, and when he put his house back five feet further than everybody else, if he meant to do that or not it happened. So he lost five feet there, and his house is deeper than the house next to him so there's probably an extra four to five feet there so there may be even 10 foot -- probably not 10, maybe about an eight-foot difference. So these are all issues that were self-imposed. If the petitioner was aware or should have been aware of all the limitations he would have designed it appropriately. So I can't from that perspective feel that there is a hardship when the hardship was -- at least the hardship in a sense was self-created. This is a brand new house. He had an opportunity to put it where he needed to put it. He should have designed it with the deck in mind and incorporating staying within the limits of the requirements. So again, I was willing to do five and it may seem like two feet is not a lot, but I can trade the five for the five in the front to the five in the back, but I can't do seven. So I won't be in support of this as it sits now. I would be willing to table it and if the petitioner came back with five feet I would probably be inclined to approve that. So I'll go ahead and open up the floor for a motion.

Upon motion by Baringhaus and supported by Klisz, it was:

RESOLVED: APPEAL CASE NO. 2020-11-31 (Tabled on November 17, 2020): An appeal has been made to the Zoning Board of Appeals by Joan Canagan and Timothy Funchar, 33503 Capri Court, Livonia, MI 48152, seeking to construct an uncovered rear yard deck, resulting in deficient rear yard setback.

Rear Yard Setback:

Required: 20 feet

Proposed: 13 feet

Deficient: 7 feet

The property is located on the south side of Capri Court (33503), between Farmington and the west end, Lot. No. 013-05-0011-000, R-1 Zoning District. Rejected by the Inspection Department under Ordinance 543, Section 18.28, "Yards Encroachments," **be granted for the following reasons and findings of fact:**

1. The uniqueness requirement is met due to the location of the house placed as six feet fight behind the

surrounding neighborhoods.

2. Denial of the variance would have severe consequences for the petitioner due to a reduced floor plan and the ability of the petitioner mother to safely use the deck itself.
3. The variance is fair in light of its effect on neighboring properties and is in the spirit of the Zoning Ordinance due to support from the surrounding neighborhoods.
4. The property is classified as R-1 medium density residential under the Master Plan and the proposed variance is not inconsistent with that classification.

FURTHER, that the variance be granted with the following conditions:

1. The proposed deck be built as presented.

Coppola: Have a motion by Vice Chair Baringhaus supported by Secretary Klisz. Any discussion?

Boloven: Mr. Chair.

Turbiak: Mr. Chair.

Coppola: I think Mr. Boloven was first.

Boloven: Just a question. The petitioner mentioned tonight that he's going to put potentially a covering or change the deck as presented. Is that a worry or how is that addressed right now, Mr. Baringhaus?

Baringhaus: Based on what he -- maybe the petitioner could give us some more clarification on that, but I read that as that's kind of a cosmetic or a decorative feature that the owners are going to add to the unit itself. Mr. Funchar?

Coppola: He's on mute.

Baringhaus: Okay. Mr. Funchar?

Coppola: I can't get him to unmute.

Baringhaus: Mr. Funchar?

Turbiak: Mr. Chair.

Coppola: There you go.

Funchar: I did it. I'm unmuted.

Baringhaus: Very good. There was a question from some of the Board members regarding this shielding that you're planning or this screening you're going to install on

your property.

Funchar: It's like a -- I was going to do a privacy fence around the deck because I don't want to sit on my deck out in the wide open. I want some privacy. So I came up with the idea, I Googled all these deck designs, and you can put this -- what they call a pergola or whatever, it breaks up the sun. And then you can hang from there decorative panels especially on the east side because I'm really close to my neighbor right here that just built his deck. So I want definitely privacy there and then the front, the south side, and then partial on the west side.

Baringhaus: Is this like a fabric screening or a lattice? Can you provide more detail?

Funchar: Exactly. It's a lattice. It's going to match the lattice that'll be below the deck to hide the underneath the deck because that looks -- to me it looks really bad. So I'm going to put the lattice around there, it'll be Trex lattice, you never have to paint it, don't have to do anything, and then it'll hang -- not huge panels, but panels that will give you some privacy when I sit on the deck.

Baringhaus: So it's nothing that would extend the dimensions of the deck or change the dimensions of the deck?

Funchar: Absolutely not. It will just -- it will add more worth to the deck and it'll look nice so that when I'm sitting on the deck and I have people over, we're not just like wide open in the wide open west there. And because I want privacy as well, I don't want to sit right out there and then some guys jumping into the pool right behind me. I don't want nothing -- no part of that. I'm my own little space there. So some plants, stuff on the deck, some tropical plants, some lattice panels that hang from the pergola.

Baringhaus: Again, it's sort of privacy or decorative items you'll put in to increase the privacy without it changing the dimensions of the deck?

Funchar: Correct, yeah. So the deck curves out. That's the problem is it's curving out two feet and you want to go back another foot and a half or so. Right now it's curving out at 18 foot. If we just go straight across, there's no curve, that's going to be at 15, 15 and a half feet.

Boloven: But my understanding, sir, of a pergola, is it goes up. It's basically on posts that are vertical

Funchar: Right.

Boloven: -- and you're having to have it now enclosed, it's not going --

Funchar: It's not enclosed.

Boloven: But you have --

Funchar: I mean fully enclosed. I'd have to show you a picture. But the pergola thing, it breaks up the sun, right? It has the --

Boloven: Right. It's got closing boards on top. It's not fully enclosed, but you have posts that go up and then you're going to come over across, so that is technically changing the deck. My understanding is it's not just a screen.

Funchar: They're going to be -- well, the screen you can see right through it so there's no privacy with the screen. Lattice panels like five feet long, they're going to hang down from the structure of the pergola. But not completely all the way around, just a decorative, like one, two or three on each side so there's a little space between so it looks more -- it's not changing the structure of the deck. It's just hanging some privacy fencing around there.

Boloven: Thank you, sir.

Coppola: Mr. Turbiak, you had something you wanted to --

Turbiak: Yeah. Actually, Mr. Boloven was touching on the same point that I had interest in. But after hearing that, I have a follow-up to Mr. Ramsden. Is what's being described have any impact to ordinance or permitting? I mean the deck is being permitted for As Presented and now there's this change that's being discussed. I'm not really clear on it. I think I got a good picture of it based on my experience with a pergola, and I'm a little surprised to hear that he's going to hang panels not the length or the width, just kind of one here, one there, and they don't even seem to go the full height from the pergola to the deck surface. It's like five feet hanging from the top.

Funchar: No, they would. They would go from the full length.

Turbiak: Okay. I should have asked you to clarify. Sorry, Mr. Funchar.

Funchar: They're not like blowing in the wind.

Turbiak: Right, right. So gotcha. So back to the point, Mr. Ramsden, does that have an impact to the permitting?

Ramsden: My understanding of the ordinance is that the deck is not to be enclosed or covered. If a pergola is built as an accessory, decorative, smaller than the deck, I don't believe the Inspection Department would have any reason to deny a pergola on a deck. If it's enclosed the full width of it or the full length of it, then it would likely not be allowed. Without specific drawings, I hope that helps answers your concern.

Turbiak: It does. Thank you. I mean yeah, I think it puts a little bungle in the proposed motion, but that's just my opinion. All of my questions are answered, Mr. Chair. Thanks.

Coppola: Thank you.

Boloven: Mr. Chair.

Coppola: Mr. Boloven.

Boloven: For discussion sake, I mean everybody heard my comments on the initial before we closed here. With this pergola and my understanding of pergola, it would change the dimensions of this deck and I would switch to a tabling on this rather than a straight approval as presented because I think it would be a significant change to the actual proposal.

Turbiak: If permitted, I would support if that's not out of order.

Coppola: I'm sorry?

Boloven: I'm not making a motion. I'm just letting everybody know which way I'm going.

Turbiak: I'm sorry, Mr. Boloven. I misunderstood you.

Boloven: Mr. Baringhaus has a motion on the table.

Coppola: He does. So any other discussion? Right now the only condition is Build As Presented. Any other discussion? Seeing none --

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: Just to summarize, if we keep that condition in, which we haven't removed it, then he would not be able to put in the pergola or the screening that he's envisioning. Is that correct?

Coppola: I would guess that the pergola is kind of an accessory and he can put that on anytime he wants, so I would suggest no, that would not be a limitation.

Turbiak: Okay. What I heard Mr. Ramsden say was he would need to see a drawing but maybe I misunderstood.

Baringhaus: Mr. Chairman.

Coppola: Yes.

Baringhaus: Just for clarification, to the Inspection Department, when he says "Enclosed," are you referring to like a solid wall enclosing it which would require like additional inspection or drawings? Like with a lattice that's kind of semi open. I'm not sure what your requirement would be.

Ramsden: I don't know if I can add clarity. In general it's three-inch spacing between lattice or pickets. And then when describing a deck, if it's enclosed, which is not allowed, it would mean that all of the sides are enclosed, or covered with a roof without enclosed walls. If it's just a pergola that he's proposing, it's smaller than the deck surface, it's an accessory.

Baringhaus: I've seen pergolas with like fabric roofs that can be open and closed and same with side walls. Where would that fall relative to the ordinance?

Ramsden: I don't think the Inspection Department or the ordinance covers pergolas as it's more furniture.

Neville: Mr. Chair.

Coppola: Sorry, who was that?

Neville: Mr. Neville.

Coppola: Yes, Mr. Neville.

Neville: I think what's going on here is the Board is being asked to speculate on

something that Inspection -- or Inspection to speculate on something that it hasn't had the opportunity to see. And if what he's proposing is tantamount to whether it's a screen or a privacy fence, there's issues there. And I think right now it appears he has got his variance with regards to how far this deck may come out. But what's going to be hanging or enclosing, that is something that needs to I think go to the Inspection and the Building Department first. And then if there's an issue there then he may have to come back and get a variance on that. But to ask Mr. Ramsden or anybody else to speculate on something that the petitioner hasn't even put to drawing or photographs before the Board is unfair because he may go to the Inspection Department or Building Department to get his permit and find out "You can't do that." So I think that's something that would need to -- it would need to see in order to be able to --

Coppola: Let me ask this question: So if we have a condition Build As Presented, and he were to do a pergola that's considered an accessory, that's not an issue because it's not permitted in the sense permitted that requires a permit. So if he wants to put a pergola in that's considered an accessory, he's not enclosing in any shape or form, he's still building it as presented, he's just adding an accessory. If it's something that's required to be permitted, then he would be in default of our Build As Presented and then he would have to come back. So the question is -- and this is what we're asking -- is a pergola something that requires permit or not, and I thought we were told "No."

Neville: All he's presented is an aerial depiction of something -- if you're looking at it -- he really hasn't --

Coppola: Well, then the Inspection Department will go back and they'll inspect. If he put something up that requires additional permitting, they're going to deny it and they're going to -- and he's going to have to come back or they'll ask him to remove it.

Neville: He's going to say that "I presented it to the ZBA and -- " I'm just telling my legal --

Coppola: We haven't added any other conditions except for Build As Presented. So if he does something above and beyond what's been presented that has to be permitted, that's not being Built as Presented.

Neville: I think anything other than -- and again, there isn't really much structure as to what's presented. I've offered my opinion so you can take it for what it's worth.

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: Yeah. Maybe we can add another condition that Build As Presented and the other condition to be any pergola and/or lattice screening or just screening in general needs to be reviewed by the Inspection Department and then they can determine if it needs a permit or not. And to your point, if it doesn't need a permit, then everything is going to be good to go. If it needs a permit, then it may come before us again. But at least that way if it's done, it's done. And to your point, I agree, an accessory pergola doesn't need -- would not violate the Build As Presented. My concern -- the reason for adding this extra clarifying condition is that if he adds this lattice and it quote unquote encloses the full thing that that's a violation. So I think that -- whether or not it violates it or not, whether or not it encloses it is something that the Inspection Department should review. If we just make that a condition that he has to review that with the Inspection Department I think we clean up that gap there.

Funchar: I can email you that picture of it too. I can do that.

Coppola: So is there other conditions or what are we doing? Put it to a vote or is there other conditions?

Turbiak: I'll leave that up to the maker of the motion. It's just a suggestion.

Funchar: When I wrote -- when I signed the contract to start digging on the basement, I had no say about where -- how far back my house was going to be built from the road. That's what they go by, from the road, I guess. I had no say in that. I asked the realtor and he said "No, that's going to be up to the City, the builders and the Engineering Department." It was not -- I had no say in that. It was built, done. If you want to ask Donny Orlando I can get you his number but he'll --

Coppola: Mr. Funchar, you presented a site survey with a proposed house and a basement on it. That would have been done prior to the house being built including dropping the foundation and basement. So if you didn't look at that or approve that, that's unfortunate for you. You should have. I would generally think that would be the normal course, but it should have been built as this site plan was provided to the City. And you've included this in your package, I assume you have it, you have it in your possession --

Funchar: I have the site.

Coppola: -- or I don't know. But unfortunately, that argument for me just doesn't hold a lot of water because these are things you should have done or should have been involved in. It's unfortunate for you, but that's part of the process of building a home if you're building the home. If it was a spec home and you went and bought it from someone else, yeah, it is where it is. But you built this home.

Funchar: Again, that's just where the builders told me it had to be and that's where it had to be, so I couldn't say "Oh, I want it four feet out closer to the road." They didn't give me that opportunity. But here we are.

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Yes, thank you. Going back to the November 17th file, Mr. Funchar did present a sketch of the deck, which is essentially just basically the deck with a railing around it. However, I think he added another element into it when he started talking about a pergola at this point, and I'm inclined to agree with Mr. Neville. What I would like to do is change my motion. I'd like to make a motion to table this.

Coppola: I don't think we can do that procedurally. We'll have to -- we'll have to withdraw.

Klisz: Withdraw your motion.

Baringhaus: Yes, I'll withdraw my motion at this point. Also, I'd like to propose, if it's appropriate, that we table it because I'd like to see Mr. Funchar come back with a completed drawing that shows the -- every component of this; the patio, the deck, and also what the pergola would look like with the proposed screening so we have a clear

idea on what the final design will look like before we vote on the variance. So my motion is to table.

Coppola: I just want to make sure, Mr. Neville, if we're following the proper procedure. Do we need to vote on that or not?

Neville: I believe the proper procedure is to make a motion to essentially withdraw the --

Baringhaus: I'll do that right now.

Neville: -- and see if you have support to do that and take it from there.

Baringhaus: As I said, I'll withdraw my original motion and then I'll make a motion to table Appeal Case Number 2020-11-31 so that the petitioner can come back with a fully detailed complete drawing of the final design of this patio.

Klisz: Support.

Coppola: I've got a motion by Vice Chair Baringhaus to table this seeking additional details on design, supported by Secretary Klisz. Go ahead and take roll, Secretary Klisz.

Klisz: Mr. Turbiak.

Turbiak: Yeah. Just to be clear, is this a vote on the tabling --

Klisz: Yes.

Turbiak: -- or a vote to remove the previous motion?

Klisz: Yes, tabling.

Turbiak: I thought I heard Mr. Neville say that we have to vote to remove the previous motion. He seems to be acknowledging that that's correct.

Neville: Mr. Turbiak is correct. It's a two-step motion. The first motion is to withdraw the proposed resolution.

Baringhaus: Which I did.

Neville: And then --

Turbiak: We have to vote on that though. We have to agree to remove your motion.

Neville: And then you need support for that motion, Mr. Baringhaus.

Baringhaus: That's fine.

Coppola: So why don't we go ahead -- so we've got two motions on the table right now, I don't know if that's appropriate or not. The first motion is to withdraw the original motion to approve by Mr. Baringhaus who is now provided a motion to withdraw who were both supported by Secretary Klisz. Can you go ahead and take the roll for the motion to withdraw first.

ROLL CALL:

AYES: Baringhaus, Klisz, Boloven, Coppola, Fraske, Testa, Turbiak

NAYS: None

ABSENT: None

Coppola: So Mr. Funchar --

Neville: Now the motion to table should be made.

Coppola: Right, I'm sorry. We just did that, didn't we?

Klisz: We just did one.

Coppola: We have a motion to table by Vice Chair Baringhaus and supported by Secretary Klisz.

Upon motion by Baringhaus and supported by Klisz, it was:

RESOLVED: APPEAL CASE NO. 2020-11-31 (Tabled on November 17, 2020): An appeal has been made to the Zoning Board of Appeals by Joan Canagan and Timothy Funchar, 33503 Capri Court, Livonia, MI 48152, seeking to construct an uncovered rear yard deck, resulting in deficient rear yard setback

Rear Yard Setback:

Required: 20 feet

Proposed: 13 feet

Deficient: 7 feet

The property is located on the south side of Capri Court (33503), between Farmington and the west end, Lot. No. 013-05-0011-000, R-1 Zoning District. Rejected by the Inspection Department under Ordinance 543, Section 18.28, "Yards Encroachments," **be tabled so that the petitioner can come back with a fully detailed complete drawing of the final design of the proposed deck.**

ROLL CALL:

AYES: Baringhaus, Klisz, Boloven, Coppola, Fraske, Testa, Turbiak

NAYS: None

ABSENT: None

Klisz: Motion to table passes seven to zero.

Coppola: So Mr. Funchar, you understand the case has now been tabled again. This time we're looking for a detailed design of your deck not only including the footprint but kind of the elevation so we can see what the plans would look like with not only the railing and such but with any type of pergola or any other structure you're adding to it.

Funchar: Well, how about this? You have the elevation drawing, right? I have it right here in front of me. Do you have a copy of this, the elevation drawing?

Coppola: The elevation would have to show also the proposed pergola if you decide that's the direction you want to go. But we've been -- it's been tabled.

Funchar: Like I can always wait on that accessory till we get the deck approved and I can get it built and then submit the pergola with the drawings in the spring. It's just an add-on.

Coppola: The case has been tabled so you can submit a revised petition with greater detail. I don't actually recall seeing -- I'm looking right now through the old one whether there was an elevation or not -- yes, there was. So again, if that's all you're going to do then you can submit it then. We've already tabled this.

Funchar: Okay. So I'll submit that tomorrow and then we can get on for the next meeting. Okay? And then --

Coppola: I think the next meeting open actually is not until --

Funchar: March, right?

Coppola: -- March, right.

Funchar: Right. That's cool. Yeah, we can do that. I'll get you this drawing and then get the thing approved and then --

Coppola: Right. So if you're going to add a pergola or anything, you really want to it to be included on the plans.

Funchar: Okay.

Coppola: Because we're going to be really strict on Build As Presented.

Funchar: Right, right. So I might do it, I might not. But if I don't do it, then it'll just be the elevation drawing that's already been submitted and then we'll just go over it again in March.

Coppola: You might want to adjust the elevation to correspond with the new petition which is now you're at seven instead of nine just so we can see it.

Funchar: Right.

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Just to be clear for the petitioner, yes, we do want to see the design with the pergola.

Funchar: Right, if we move forward with the pergola. If not, we can just add that on later. Are you willing to go deficient on five and a half feet? Or you want to talk about that in March?

Coppola: We can talk about that in March, but that would more correspond to what I suggested on the earlier hearing.

Funchar: Okay. No problem. We'll definitely wrap it up in March.

Coppola: I appreciate that.

Funchar: Yep.

Coppola: Thank you.

Funchar: Okay. Bye.

APPEAL CASE NO. 2021-02-03: An appeal has been made to the Zoning Board of Appeals by Robert Kendall, 34294 Lamoyne, Livonia, MI 48154, seeking to erect an addition on the rear of an existing dwelling, resulting in deficient rear yard setback.

Rear Yard Setback:

Required: 35.0 feet
Proposed: 31.3 feet
Deficient: 3.7 feet

The property is located on the north side of Lamoyne (34294), between Ashurst and Southampton, Lot. No. 064-01-0508-002, R-4B Zoning District. Rejected by the Inspection Department under Ordinance 543, Section 4.05, "Schedule of Minimum Front and Rear Yard Requirements in R-1 through R-5 Districts."

Coppola: Mr. Ramsden, anything to add?

Ramsden: Not at this time.

Coppola: I do have one quick question for you and I apologize because I know you asked for questions earlier before the meeting. I'm looking at page 14 of the petition which is the site plan with the proposed addition.

Ramsden: Yes.

Coppola: Where exactly is that deficiency? I can't -- maybe my reading skills of plans aren't that good, but I couldn't figure out where it was.

Ramsden: My understanding is that the rear lot line is determined in that triangular corner which would be the northwest.

Coppola: That's showing a 30-foot setback. It looks like it's in the building envelope. That's why I was confused. I don't see where the required setback is on any of these measurements. So again, this is from the survey so it may not be accurate pursuant to the requirements.

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Ramsden: Sorry. So 35 feet is required, so it's drawn at 31.3 from the backyard setback.

Coppola: So on this, I'm just looking on this site plan, it's showing 30 feet as the setback and it should be 35.

Boloven: You got the additional 1.3 on the left, Mr. Chair. So if you look, there's like a little 1.3 -- that line has an additional 1.3 to the left.

Coppola: No. I see that. I'm just trying to understand. It's also showing a building envelope which may be not accurate. It looks like the back of the property is within the envelope so --

Boloven: The actual distance to that line it's the actual building is 31.3. And I might be wrong, but that's the way I read it.

Coppola: I get that. I just didn't see the 35. Generally when we see the surveys, they show the setback on it and it's a dotted line. It says "Here is your setback" or "here is your building envelope." This shows a building envelope, but it doesn't show -- it shows it at 30, not 35. So it's not -- so I'm assuming it's not correct.

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: I can't recall exactly and I wish I would have thought of this to confirm it before this question came up because I also noticed that. Rolling back to the property we looked at pretty recently on Schoolcraft on the west end of the City there, and I seem to recall that that had a building envelope and the proposed location was within the building envelope but there was still a setback variance. So I think the building envelope calculation is different than the setback because it's a uniquely shaped property. So that's kind of how I think that -- everything is right, it's peculiar that the building envelope allows it to be within the setback. But when you look at it through the lens of the setback of 35 feet it is sufficient; yet when you look at it through the lens of the building envelope definition or calculation, it is within scope. So that's how I kind of summarized it in my mind.

Coppola: Clear as mud. So if the petitioner would please -- or any other questions for Mr. Ramsden before I proceed since I probably confused everyone now? All right. Mr. Kendall or Mrs. Kendall, one of the two, I'm going to unmute you. You are unmuted. Whoever I have actually on the phone, if you can give me your name and address, please, or on the computer.

R. Kendall: Robert Kendall, 34294 Lamoyne, Livonia, Michigan.

Coppola: Mr. Kendall, if you would tell me a little bit about your project. If you could focus in on the peculiarities and the hardship that you have that would suggest that a variance would be appropriate it would be great. Thank you.

R. Kendall: So the size of the lot as stated is very irregular, but it's a very small house. When we originally bought it it was just going to be us. We have a son that's getting ready to move out, it was going to be a nice downsize house. Unfortunately, we didn't take into account that when everyone's over, kids, grandchildren, it's impossible. Since the pandemic we've been having to work on and off in our house. The house is just too small. When we originally bought it we thought to ourselves "Well, we can always add on." So that came to fruition and started to happen. So we put the plan together, it's a 14-foot kind of bumpout of the home. To make it work we wanted to expand the kitchen, that's when we discovered it's a little bit too much. So we're asking for that variance just to get the addition out. The house doesn't have a basement either, so there's really no space here.

Coppola: So in the construction, based on the plan, you're going to repurpose some of the brick but there's still going to be the majority vinyl?

R. Kendall: Yeah. The brick and the vinyl match the existing house. Like you said, they're going to repurpose the brick. It'll match 100 percent the house.

Coppola: When you say vinyl will match the house, is there vinyl on the house right now?

R. Kendall: Yes, there is. There is vinyl. There was -- they added an extension on the roof before we bought it, but there's vinyl on the side of the house and I guess the garage addition has vinyl on two sides of it. It would match the existing.

Coppola: Questions for the petitioner?

Baringhaus: Mr. Chair.

Coppola: Vice Chair Baringhaus.

Baringhaus: Thank you. On your plot plan, can you describe the backyard terrain? Does the back of your home back up to some type of ravine or depression or --

R. Kendall: Yeah. There's a ravine running back and three homes that kind of back up to it evenly. It's a little elevated.

Baringhaus: The other question is you had some trees that are fairly close to where the proposed addition is going to be. Are you planning to keep those trees or take them down?

R. Kendall: We plan on keeping them.

Baringhaus: Great. Thank you.

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: Mr. -- through the Chair to the petitioner, Mr. Kendall. Mr. Kendall, do you know if you'll need to bring in any dirt to fill in? As you mentioned, there's quite of a bit of a grade there, and when you look at it I understand that the proposed addition sits in the current level portion of the property. But I didn't know if there was any need to compensate and push that grade out a little bit.

R. Kendall: I discussed it with the builder and he doesn't think so at the moment.

Turbiak: Okay. That's all my questions. Thanks. You know what? I'm sorry. Apologize. Would you consider building vertically like a second floor addition?

R. Kendall: No. Same level.

Turbiak: Is there a reason why you did not consider that?

R. Kendall: We didn't want to climb up stairs. We're getting older.

Turbiak: That's the number one answer. All right. Thank you.

Coppola: Other questions?

Baringhaus: Mr. Chairman, just one question. On the proposed addition, there will be no basement?

R. Kendall: No basement. No.

Baringhaus: Okay, great. Thank you.

Coppola: Anything else? Seeing there's no other Board questions, is there anyone in the audience that would like to speak for or against this petition if you can raise your hand, that's star nine on your phone or the little raise your hand icon on your screen. Seeing there's none, any correspondence, Mr. Klisz?

Klisz: We have one letter, a Letter of Approval, David Grosan, 15718 Southampton Street (Letter read.) That's the only letter.

Coppola: Thank you. So Mr. Kendall, any final statement before we close the public portion?

R. Kendall: No. That pretty much sums it up other than we love the neighborhood, the lot is wonderful. We think the addition would definitely improve our life here so we'd appreciate your approval.

Coppola: Thank you very much. We're going to put you on mute and I'm going to close the public portion of the case and start the Board's comments with Vice Chair Baringhaus.

Baringhaus: Thank you. I'll approve the variance. I think the shape of the lot makes for maybe a little bit of a challenge to put an addition of this size on the home itself. The actual design is very well thought out and it is a -- your home is very well maintained and it's a really interesting neighborhood. So again, I'll approve the variance.

Coppola: Thank you. Mr. Testa.

Testa: I'm also in support of this variance. I've been out to this area. There actually used to be a school back there probably well before I was born, but I read that in a Livonia schools back I was looking at a few months ago and drove out there to kind of see what the area looked like. But I do like how it's drawn up. I did have some concerns with the -- in the picture showing siding, but it does match to the rest of the siding of the house. I was looking at a picture of the front of the house, there's plenty of siding on the upstairs level so I think it matches well and keeping the trees there as well. Also I think it keeps fitting into the area as well so I'm going to support this.

Coppola: Thank you. Mr. Turbiak.

Turbiak: Yeah, thank you Mr. Chair. I, like my colleagues, am going to be in support of this. I don't see issues. It's an irregularly shaped lot so I think the hardship is there. I drove up and down the street from both sides envisioning how it would look, and as the neighbors I think noted -- or maybe it was the petitioner noted that the neighbors thought it would even help the site line, I can see that maybe providing a little bit more privacy. I think it's a win-win situation and I can be in support.

Coppola: Thank you. Secretary Klisz.

Klisz: I agree. There's not a whole lot to add here. I believe that the -- again -- deficiency is what I would consider the minimum of 3.7 feet. The one neighbor who chimed in is in support, so it's a pretty easy one here. I see the hardship

for sure.

Coppola: Mr. Boloven.

Boloven: I echo what my colleagues said. I am in support. I see the hardship. Not going to go beat a dead horse any further.

Coppola: Thank you. And just for the record, Ms. Fraske has recused herself for this case so she won't be making a comment or voting. And then I too -- my comment is I too support this. I think it's well designed. I think it will look really nice. The neighbors that would impacted have either provided a positive comment or haven't commented at all, so from that perspective I think it makes sense to do this. I'll go ahead and open up the floor for a motion.

Upon motion by Klisz and supported by Turbiak, it was:

RESOLVED: APPEAL CASE NO. 2021-02-03: An appeal has been made to the Zoning Board of Appeals by Robert Kendall, 34294 Lamoyne, Livonia, MI 48154, seeking to erect an addition on the rear of an existing dwelling, resulting in deficient rear yard setback.

Rear Yard Setback:

Required: 35.0 feet
Proposed: 31.3 feet
Deficient: 3.7 feet

The property is located on the north side of Lamoyne (34294), between Ashurst and Southampton, Lot. No. 064-01-0508-002, R-4B Zoning District. Rejected by the Inspection Department under Ordinance 543, Section 4.05, "Schedule of Minimum Front and Rear Yard Requirements in R-1 through R-5 Districts," **be granted for the following reasons and findings of fact:**

1. The uniqueness requirement is met because of the very unique lot size.
2. Denial of the variance would have severe consequences for the petitioner because they could not expand on the smaller home and they definitely need more space.
3. The variance is fair in light of its effect on neighboring properties and is in the spirit of the Zoning Ordinance because of the 100 percent neighbor support.
3. This property is classified R-4B under the Master Plan and the proposed variance is not inconsistent with that classification.

FURTHER, that the variance be granted with the following conditions:

1. That the addition be built as presented.
2. Petitioner has one year to complete the project.

ROLL CALL:

AYES: Klisz, Turbiak, Baringhaus, Boloven, Coppola,
Testa

NAYS: None

ABSTAINED: Fraske

Klisz: Passes six to zero.

Coppola: Okay. Mr. Kendall, so your petition has been granted with the conditions that it be built as presented and that you have to pull your permit within a year or the variance would expire. Any questions?

R. Kendall: No, that'll do it. Thank you very much.

Coppola: Good luck. Look forward to seeing it.

R. Kendall: Thank you.

APPEAL CASE NO. 2021-02-04: An appeal has been made to the Zoning Board of Appeals by Elmer Elonzae, 19935 Sunset, Livonia, MI 48152, seeking to erect an accessory building (i.e., shed), which is not allowed based on condition No. 7 set forth in Appeal Case No. 9804-48. The property is located on the west side of Sunset (19935), between Pembroke and Fargo, Lot. No. 006-99-0123-001, RUF Zoning District. Rejected by the Inspection Department under Condition No. 7 of Appeal Case No. 9804-48 - That no other auxiliary buildings be allowed on the property.

Coppola: Mr. Ramsden, anything to add?

Ramsden: Not at this time, Mr. Chair.

Coppola: Any questions for the Inspection Department? Seeing none, Mr. Elonzae, I'm going to attempt to unmute you. Let's try one more time. There we go. All right, Mr. Elonzae, if you can give me your name and address for the record. We cannot hear you. Are you unmuted on your side? Mr. Elonzae? Mr. Elonzae, can you hear us? We seem to be having some technical difficulties so I don't know if you can hear me, Mr. Elonzae. You can hear us, we can't hear you. Let me chat here. I'm wondering if it makes sense for you to log out and log back in, see if we can get a better connection. We'll wait for you for a minute if you'd like to try that. Message says "We will call." Okay. Call in then. Just give it a minute here. There we go. Let me see if this is them. Mr. Elonzae, if you're now on the phone, you can hit star nine so I can see. I'm trying to unmute you here, just give me a minute. There we go.

Elonzae: Hello.

Coppola: You'll need to turn off your computer now, otherwise, you'll get that feedback because you have two sources of the sound.

Elonzae: So we have to leave the meeting?

Coppola: Well, you're on the phone, but you have to turn your speaker off on the computer and you have to turn the mic on.

Elonzae: Okay. Hold on. Okay, it's off. How is that? Is that better?

Coppola: Much better. Much better, thank you. Sorry about all that difficulty. So if you can -- let's start with name and address just for the record.

Elonzae: Okay. Elmer Elonzae, 19935 Sunset, Livonia, Michigan.

Coppola: Mr. Elonzae, you've been in before when you were asking for an addition to your garage. That was denied, you're now coming back to look for a shed. What size -- actually size shed are you looking for?

Elonzae: Just the standard size, 200 square foot shed. That's all.

Coppola: My one question to you was on the last meeting we had where yours was denied, I believe it was brought to your attention that there was a -- with the approval that you had previously for when you built your garage that no other outbuildings were to be permitted, but then you proceeded to file for a petition for a building permit to build an outbuilding. Can you explain why you did that rather than coming directly to the ZBA?

Elonzae: I really didn't think I had to. I understood that I just had to apply for a permit to build the shed. I was not aware that I had to go to the ZBA.

Coppola: Well, when we were on the last meeting, I believe it was actually me when I looked back at the minutes, and advised you that the prior approval for when you built your garage there was a condition that there would no other outbuildings which would include a shed.

Elonzae: Yes, there's a third party that -- I'm sitting here with my wife, Kathy, and there's a third-party that's trying to get into this conversation, a Mr. Mark Merlanti.

Coppola: He's muted right now so he can't speak.

Elonzae: Okay. I mean I'd like to have him into it, please. He's helping me out with this. I'm not very good at dealing with this type of a situation, that's why we have him to give us a hand.

Coppola: So he's with you? All right. So let me --

Elonzae: Yes. Yes, he is.

Merlanti: Hello. Can you hear me?

Coppola: I can now. You're unmuted.

Merlanti: Thank you.

Coppola: Name and address, please?

Merlanti: Yeah. My name is Mark Merlanti. I'm an attorney. I work at Finkel, Whitefield, Selik in Farmington Hills, 32300 Northwestern Highway, Suite 200, Farmington Hills 48334. I have a residence of Novi as well. That's where I am now.

Coppola: Okay. So I believe Mr. Elonzae was going to hand over the podium to you, so please proceed.

Merlanti: Thank you. First of all, I appreciate the long meeting. I've been in several meetings like this, and I appreciate that you folks visit properties and obviously take this role very seriously. Mr. Elonzae and Mrs. Elonzae got me involved after their request for a shed was denied, and I looked at some of the history as you have as well. I'm aware of the 1998 variance that allowed them to increase the size of the garage due to the size of their lot and lawn care equipment. I'm aware of a proposal in July of 2020 that would increase the size of the garage that was turned down. And I think the Elonzaes did the only logical thing -- and this is before they retained me -- which was to go with the a shed proposal as opposed to increasing the size of their garage. I understand that a couple people asked them perhaps they could make a smaller request for an addition, but I think the shed is much more workable and I'll explain what they and I think about that. So I think at the end of the day, I'm hoping that the Board will agree that they can exercise their discretion here. They had a hardship which is they have an extremely large lot. It's about two acres, heavily wooded on one side, backs up to a park. So the garage was expanded to allow them to have some lawn equipment. They've increased the lawn equipment that's all attached to the presentation over the years. The hardship is still there. Their property is somewhat

unique. They have two side neighbors, then their property goes really deep in the back which is to the west. On the south side there's just a park, on the north side once you clear their side neighbor, you've got three neighbors on their street and they all have long, deep lots. The rear of the their lots is the rear of the Elozanes' lot. None of those people would be affected by this shed which would be much further east, much closer to the house and the garage. Last time their next door neighbor to the south, Mr. Kevin Mayer-Garrett was there. He was opposing the garage addition because he was concerned about drainage, he also didn't like the view of a tarp structure in the back which has been removed. The Elonzaes are willing to place drainage on the garage even though that's not part of their proposal anymore and to place the shed further back than the tarp was located so that Mr. Mayer-Garrett will no longer see it based on the configuration of his property. And so the design of the ordinances -- which I reviewed them with the Elonzaes -- they have a house, they have a detached garage, and they're asking for a 200 square foot shed. I have looked at the ordinances. I see that they're -- for lack of a better word -- there's a design plan for those three structures. This lot is much larger than the half acre demarcation that's in the garage ordinance. It's four times as large, so I don't think there's an issue with the neighbors. I don't think there's an issue with the crowding that could appear when you've got a smaller lot with three outbuildings and a small backyard, that's not a issue. I don't believe there's an issue with neighbors. I'm aware of the standard for the finding of a hardship. Their hardship is still there. Their lot is extremely large and it's more than an inconvenience thing. They have acquired equipment so that they -- they really maintain their yard to the same degree of quality as a contractor would, and I don't believe there's any affected neighbors from the street view that the proposed shed would be blocked by their existing garage. The neighbor to the south would be blocked by his own shed and his trees, the neighbor on the other side to the north has approved it already. I don't think he can see it as I mentioned earlier. If you look at one of the charts on page 10 of the package that you were given, you'll see that the three side neighbors that are to the west, they are all further west than the profile of that shed. So based on that, we would ask the Board to exercise its discretion and take into consideration the size of the lot and the intent of the ordinance design which is to allow setbacks, avoid overcrowding, I think all of that can be achieved. Thank you.

Coppola: Okay. Thank you. For the record, I'm going to have some questions, Mr. Elonzae, that you were probably asked. You've got a 985 square foot garage. Is that correct?

Elonzae: A 960 square foot garage, yes.

Coppola: So it's 960. What's in that garage now?

Elonzae: I have the one antique car, I have my lawn mower tractor with the loader bucket on it. I have -- what else I got in there. Gardening tools, some bicycles, there's another car we'd like to put in there if I can have a shed to put the lawn tractor and stuff into.

Coppola: So I've got -- last time you were here you had two antique cars. Did you get rid of one?

Elonzae: Yeah. One is sitting outside now because the tractor is inside.

Coppola: So you have two or one antique cars?

Elonzae: I got two. One is sitting outside parked underneath a cover, a car cover, and

the other is in the garage and then my tractor is in the garage.

Coppola: How many bays are there in the garage? Four bays? Is that right?

Elonzae: Two. No, no. Two bays. There's one garage door that's 16 foot wide so that's two bays, and then there's a section to the left of that about a half a car or about -- it would be what, a half a car width section in the garage.

Coppola: Any questions for the petitioner?

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Mr. Elonzae, I have reviewed the Zoom meeting recording from the last meeting in July. Back then you were asked what were the contents of your garage and you mentioned --

Elonzae: Yes.

Baringhaus: -- that one-third was -- this is your words, kind of paraphrasing it, "One third was a mancave with a pool table, I also store carvings in there and some models displayed and also an antique Corvette."

Elonzae: Yes.

Baringhaus: What's changed since then?

Elonzae: I still have the antique Corvette there and I still have my models on the wall, on shelves on the wall and I still have the pool table in there.

Baringhaus: You have one-third of the garage that's not being used for storage, correct?

Elonzae: Well, it's storage being used there. I got shelves there with the paint stuff, tools in it, I got shelves there with my fishing stuff in it. That's all storage.

Baringhaus: You consider a pool table to be a hardship?

Elonzae: No, but I have no place else to put it. Let's put it that way. My wife won't let me put it in the living room.

Baringhaus: You have a -- do you have a basement that you can use for storage?

Elonzae: It's not very big. The only -- when we put the addition onto the house, the only portion of the house that has a basement underneath it is the two-story section, not the one-story section. The one-story section has only got a little crawl space.

Baringhaus: Back in the July meeting you mentioned that your wife was using the basement as a stained glass studio. Is that still --

Elonzae: Well, yes, she does. She uses it for a stained glass studio and then laundry. And then I also have a -- I store inside storage stuff.

Baringhaus: In your backyard, you have a large gray tarped structure. Can you explain what that's being used for?

Elonzae: That's my camper.

Baringhaus: You have a camper stored in your backyard as well and it's covered with a gray tarp?

Elonzae: Yes.

Baringhaus: Kind of in a Quonset hut type structure.

Elonzae: No, not a Quonset hut. That's been removed. That was removed after the July meeting. It's the trailer and there's a cover on the trailer.

Baringhaus: Okay. Seems like there was some type of metal pipe structure supporting the tarp. But either way, it's covering your camper?

Elonzae: Yeah.

Baringhaus: Very good. Thank you very much.

Boloven: Mr. Chair.

Coppola: Mr. Boloven.

Boloven: Question for the petitioner. Sir, you were before this body in 1998 so now coming up on 23 years ago. Besides the accumulation of more stuff I'll call it, material possessions, what has changed for you since 1998 to today?

Elonzae: Well, we've accumulated quite a bit more equipment to maintain the property. And because we're older, retired, we enjoy working out in our yard in spring, summer and fall to make it look presentable to all the neighbors and to us. That's the only deal, just all of the equipment that we've accumulated to make the yard look good, look presentable. We don't have anybody to come and maintain the yard. We do it ourselves.

Boloven: Thank you, sir.

Merlanti: That's covered in the petition in the third paragraph and there's photographs of the additional equipment.

Elonzae: Yes, there is. You've got my packet there, correct?

Boloven: I just wanted to know besides more personal property what has changed since 1998 and --

Elonzae: Way more personal property.

Boloven: I get that. I understand. Thank you.

Merlanti: I also think that probably the neighbors have added some sheds themselves since 1998, the two side neighbors. He's produced some photographs that shows that.

Elonzae: Yes, they have.

Boloven: I yield back, Mr. Chair. Thank you.

Coppola: Thank you. Mr. Turbiak.

Turbiak: Thank you, Mr. Chair. Through the Chair to the petitioner, just kind of piggybacking on Mr. Boloven's comment, and maybe this isn't where he was going, but when you were before this body in 1998, did you originally request a larger and was it then reduced before approving?

Elonzae: Are you talking to me, sir?

Turbiak: Yes, Mr. Elonzae. Sorry.

Elonzae: Yes, I did.

Turbiak: So then my question -- I didn't see it identified on your packet anywhere, maybe I missed it. You mentioned that you would drain it beyond to the neighbor to the south's property line, well beyond. If there's a picture can you point it to me, and if there's not can you verbally describe how far it's going to go beyond his property line and then how is the water going to be carried there, underground conduit or pipe or some kind of above-ground trench? Just can you describe that, please?

Elonzae: It would be a drainage pipe. If you look on page 24 of my packet you'll see where my property is and then where the end of my neighbor to the south's property stops and where the shed is proposed to be, and I would drain it past the end of his property. There's a --

Turbiak: Was that the -- sorry. I thought you were done. Continue.

Elonzae: Not really. There is a creek bed that goes through the center and back of his property, and before the City of Livonia widened Merriman Road it used to be able to drain through Merriman west, but when you widened Merriman Road 10 or 15 or so years ago, they closed off that drainage. So when it rains and it snows, all the water just accumulates there on that creek bed. That's what my neighbor was kind of mentioning because of that. I mean I'll put drains wherever I have to put drains to alleviate the problem.

Turbiak: Thank you for that explanation. I learned quite a bit there about the widening of Merriman and how that maybe impacted your neighbors so that's very interesting. But just a comment on your drawing, the hand drawn sketch, I think, let me pull it back up. My concern is that when I look at the rear lot line as proportioned on your drawing compared to when I see on the GIS system, my concern is that it looks like the shed is -- whatever it is, 10 by 20 and you've got kind of drawn like a square, so it looks like about a shed width further to the west that you would have to drain it. But when I measure it out on the system here -- let me just retype in the measurement here -- from the back of his fence that goes around his shed to his property line, it's more like 85 feet. But it just sounds like a long distance to commit to draining. I mean I can appreciate he would have a lot less concern if it goes beyond his property line, I think that's a good goal, I'm just wondering are you aware that it's that far to his property line?

Elonzae: If that's what I have to do to put the shed on, then I'd be happy to do it.

Turbiak: Okay. Well, I guess my next question practically then is it looks like there's some trees there. I can't tell from this overhead view. I guess you'd just have to find a way around the trees to keep the pipe underground. Is that what you're willing to commit to?

Elonzae: The trees are on his property, not on mine. There is no trees back on my property where it's going to drain to. If you're looking at the Google map --

Turbiak: Yeah, it's like a Google map. It's a satellite.

Elonzae: The trees that you're seeing, that's the overhang from his property, my neighbor's property.

Turbiak: Maybe I'll go look it up on the Google map because what I'm seeing -- again, based on where you identified the location for the shed and I think that the most direct route to drain the water would be continue to west, straight west --

Elonzae: Exactly.

Turbiak: -- then it looks like there's a lot of tree coverage there on your property, so maybe I'm looking at a different picture and that's why it looks different. I mean even way farther than what the -- I guess, I don't know, maybe it could have that kind of a footprint, so I'll try and look at it from a different angle. But if you're saying that there's no issue to get the drain pipe underground, then that's all that I need to know, that you can find a way to get it beyond his property line.

Elonzae: Yeah. That's not a problem. There's a straight shot back where I'd like to put the shed back where the creek bed is that runs through my property.

Turbiak: So it would run right into the creek bed?

Elonzae: Yes. The whole area drains into the creek bed.

Turbiak: That's interesting. Wouldn't that just basically be in the same body, for lack of a better word, body of water that the creek bed that's on his property that he's complaining about and not really solving his problem, it's just moving the water to the creek and then the creek -- I don't know which way the creek flows. I guess that would be to the north or away from his property, then I guess doing what you're proposing is probably good. But if it flows to the south, then it sounds like we're just making a long way to get back to the property.

Elonzae: No. The creek goes east and west.

Turbiak: Okay. But his property is to the south?

Elonzae: Correct.

Turbiak: But you said the property is on both of your properties, So I guess it must run somewhat northeast or southwest.

Elonzae: Like caddy corner but mostly east to west.

Turbiak: Which way does it flow? Does it flow from your property towards his property?

Elonzae: Well, to be honest with you, it doesn't flow at all since they blocked it off on Merriman Road. When it rains and it snows, the water just sits there all the way behind all of our neighbors all the way to Merriman Road and then it stops.

Turbiak: So could it be considered more like a pond, for lack of a better word. It's not flowing, so again if you're dumping draining water from your garage and your shed into this pond that's in this pond and it extends onto his property, my concern is that although you have good intentions, you know, I mean I'm just thinking it through here, maybe there's a better place to drain it is I guess from when I'm hearing. Maybe I don't know the exact nature of this topography. I acknowledge that. As long as we can come to a solution where the water is going somewhere where it's not causing problems, I think that's going to be a good advantage for your case here.

Merlanti: Would that be addressed in a permitting process?

Turbiak: I mean maybe in talking to Engineering it might be necessary to find a good place to drain the water. I guess I'm pretty confident that you can find a place to drain it and maybe it's not exactly what we have defined here, but I think if we hang that on the Engineering Department, if that's the right direction and everyone can agree to that, meaning your neighbor mostly and any Board member that would be in support of that, I'm not speaking for them, then I think that would be a good approach to making sure that we don't undo what we're trying to achieve here.

Elonzae: Yeah, true. I mean the shed is only 200 square feet, so the draining coming off the roof, that shed is not a lot. Let's put it that way.

Turbiak: I absolutely agree that the amount of water is very small or as my friend would like to say de minimus. However, your neighbor might see it from another lens, if you know what I'm saying. He might say any water is the end of -- end of -- how do I say -- would sully the agreement if he should also agree to the drainage aspect. But I really -- I don't want to belabor this one any more. My point is I think we can come to a drainage location, maybe that's not the drainage location that meets that intention. That's all. Thank you, Mr. Chair.

Elonzae: Okay. I --

Merlanti: Let me make a comment, please.

Elonzae: Okay.

Merlanti: Keep in mind that we're going to address the drainage associated with the garage which was permitted and not covered back in 1998 as an accommodation to the neighbor, so I believe the property and the Elonzae property is higher than the neighbor to the south so there would be some natural flow there anyway. But as an accommodation we will agree to put drainage around the existing garage and drain it, as you've said, Mr. Turbiak, with the drainage from the shed, albeit a much smaller item, put it toward the back. I'm not sure if there's one or two creeks back there, and I think with the help of the Engineering Department the flow onto the neighbor's property will now be reduced because of the downspouting drainage associated with the garage which has a much bigger footprint and more water to displace.

Turbiak: I agree with your intention, and I also agree with you that they're not required and so therefore your intentions are to help satisfy the neighbor. If the neighbor is on

board, then I think this helps the case, helps the Board members get on board, and that's all I'm aiming for there is to make sure that the neighbor likes it as well and that I think that helps your case.

Merlanti: Thank you.

Coppola: Any other questions?

Elonzae: I don't.

Coppola: Seeing that there's none, is there anyone in the audience that would like to speak for or against it? And Mr Elonzae, I'm going to put you on mute right now. So if there's somebody that would like to speak for or against the case, raise your hand. I'm going to lower all the hands first to make sure I'm not duplicating. For you to raise your hand, you can do that by star nine on your phone or the little raise your -- the little hand icon on the screen. Okay. I see someone in the audience but they're not raising their hand. I'm going to give you one last chance to use the little hand icon on your screen and you can raise your hand to get an opportunity to speak. All right. I don't see any. Do we have any correspondence, Secretary Klisz?

Klisz: Yes. We have one letter, a Letter of Objection from Kevin Mayer-Garrett, 19915 Sunset, Livonia, Michigan. (Letter read.) That's the only letter.

Coppola: Mr. Elonzae and Mr. Merlanti, I'll attempt to unmute you and you get an opportunity for a final statement before we close the public portion and do the Board's business with comments and motions.

Merlanti: We have tried to address Mr. Mayer-Garrett's concerns. I don't know if the property was razed when the garage was built, that may have been a contractor decision. It appeared to me it was natural flow, but in any event, we have agreed to address that. None of us know if all of the problems he has mentioned are solely based on the garage, base drainage, natural flow or a variety of other factors. His main concern in July and now is drainage. I've had a lot of matters involving water, water is very powerful, so we are addressing that. And as Board Member Turbiak suggested, there's a way to engineer that and solve that problem. It doesn't have a -- he had a problem last time with the location of the tarp that he could see, we've addressed that. Because anytime a neighbor -- a next door neighbor complains you have to take that seriously, which we have done. So the new shed -- first of all, it doesn't look like a tarp. It'll be much more attractive. It'll be placed further to the west so he won't be able to see it. And we can address drainage as well as extra drainage we're addressing, so I really believe that the concerns from the next door neighbor, Mr. Mayer-Garrett, can be adequately addressed. We have no problems with a permitting process that assures that and follow the recommendation of the City engineer. So I think his question about location was because he's concerned about drainage. There's many, many ways to address drainage and keep that location which is better for all concerned in terms of the view from the street, the view from Mr. Mayer-Garrett as well as the view for everybody else, that the view is less impacted by where the proposed shed is now. So again, Mr. Mayer-Garrett was suggesting it be moved for drainage purposes, I don't think he wants it moved for vision purposes so I think his concerns can be addressed. Thank you.

Coppola: Okay. Is that everything from the petitioner?

Elonzae: Yes.

Coppola: Thank you. I'm going to put you on mute again. I'm going to close the public portion of the case and start the Board's comments with Secretary Klisz.

Klisz: This one is kind of interesting. I guess I'd like to hear what other people have to say and also how if this were to be a grantable exception that how the conditions would be worded so that the garage issue, which is not really before us, can somehow be addressed. If that were the case, then I might be in support, otherwise, I'm very much on the fence so I'd like to hear what other people have to say.

Coppola: Thank you. Mr. Boloven.

Boloven: I'm not in favor of the request. It's the same facts as last time, and I used the legal term last time of stare decisis and it's the same thing. It's the same issue that came before the Board in 1998. The Board reviewed it, it was requested of excess of 1,000 feet, he was granted 960, somehow it ended up at 985. Again, 15 feet, whether it's de minimus or not I don't know, but I asked the question, "What's changed since 1998," it's just the accumulation of personal property. That's all that's really changing here. When you have a garage that's over what's been asked that's one of the biggest garages around and you're using one third of it as mancave, it's very hard to find a hardship here. So I think I'm giving some deference to our prior Board on this. It's already been reviewed, and I would be against this variance request. Thank you.

Coppola: Thank you. Ms. Fraske.

Fraske: Yeah, I agree with Mr. Boloven on this one. I don't see a hardship. A hardship does not include personal items and an accumulation of personal items, so with that I'm not in support.

Coppola: Thank you. Vice Chair Baringhaus.

Baringhaus: I agree with my colleagues. I'm not in support of this variance. Back in 1998, the City accommodated the petitioner by giving him a garage at 960 feet which was 240 square feet over the requirement. Also they have stated two conditions very clearly about the size of the garage to not exceed 960 feet. Back in 1998, the petitioner said, "I'm fine with that, that's all I need." And again, I go back to item number seven that "No other auxiliary buildings be allowed on the property." I think that decision was a sound one and I think it needs to be enforced today. So again, I will not support the variance.

Coppola: Thank you, Mr. Testa.

Testa: Yeah, I agree. I want to honor the decision from the prior Board, and since there's no new hardship -- I would reconsider if there was some new hardship, I'm not seeing it, so I'm not in favor of this as well.

Coppola: Thank you. Mr. Turbiak.

Turbiak: Thank you, Mr. Chair. I would be in support of this concerning the new hardship some of my colleagues have not seen. I do see the hardship of the accumulation of lawn care equipment. It's not just stuff. It's a greater interest in improving the yard. And I know that this Board, even since I've been on it, has taken into consideration when approving a garage's variances on a large property such as this. I mean I think that's weighed heavily on the need for large garages and the amount of equipment such as the petitioner here has a tractor, and I won't list all the

things, but a tractor is a very large one so I'll focus on that one. And also I think the petitioner has done a great job of taking into consideration the neighbor. It's too bad that the neighbor isn't here to talk and give feedback. I feel that I have strong support for this based on how if I was in the neighbor's shoes -- and that's a difficult thing to do -- I think that the location would be out of sight because of the shed that is -- the neighbor's shed that's there would be blocking it. And I -- if the neighbor had concerns about the water would be presumably addressed with the City's Engineering stamp of approval, I think that would give me a lot of confidence. So I can't speak for that neighbor and that's why I would have liked to have heard it from his perspective because he's the current neighbor. But even since he wasn't here, I did my best to put myself in his shoes. And I think that like the hardship is met because it's a large property and the large number of lawn care items. I do hear some of my Board members' disapproval or dissuasion by some of what the garage is being used for, but it's not my place to go and look exactly how every square foot is being used and say "This could be optimized here or optimized there." I think it's reasonable to have a garage. I mean the garage is under 1,000 square feet. If it was attached to the house it would be conforming and then there would be no need to have any question about the shed other than the previous case. So I think this is well within an approvable request, and I don't have a lot of confidence that it is going to go through which is one Board member's opinion unfortunate, however, we are a body of individuals and that's how this thing runs. With that, I would be in support.

Coppola: Thank you. I'm not sure -- I can't support this. We have got a 985 square foot garage. It's a four-car garage, again, it's a square so it doesn't -- you'd have to park two cars deep or whatever to make it work but it's a large garage. It was approved, albeit a ways back, but under the consideration of the size of the lot for need for equipment to take care of the property, the petitioner has elected to fill the garage with other things and that's definitely his prerogative. He's welcome to do that. But I don't think that creates a hardship. Antique cars, pool tables and other stuff is a decision that the petitioners made. We could easily make things work if he needed to without the shed. Back when this was approved, he did state that it was all he needed and he needed it at that time for equipment to take care his lawn. He's now asking for a shed for equipment to take care of his lawn. I struggle with this, and again, it's a large piece of property. Again, Joel -- Mr. Turbiak brings up a good point: Yes, if it was attached to his house it could be 1,000 square feet and we would allow -- he could have built it -- probably a 200 square foot shed on there. But it's not attached to his house, it's detached, so it requires a variance. It could be used for the purposes that have been discussed today. So not to be any more longwinded, I will not be in support of this variance. So I'll open up the floor for a motion.

Upon motion by Baringhaus and supported by Boloven, it was:

RESOLVED: APPEAL CASE NO. 2021-02-04: An appeal has been made to the Zoning Board of Appeals by Elmer Elonza, 19935 Sunset, Livonia, MI 48152, seeking to erect an accessory building (i.e., shed), which is not allowed based on condition No. 7 set forth in Appeal Case No. 9804-48. The property is located on the west side of Sunset (19935), between Pembroke and Fargo, Lot. No. 006-99-0123-001, RUF Zoning District. Rejected by the Inspection Department under Condition No. 7 of Appeal Case No. 9804-48 - That no other auxiliary buildings be allowed on the property," be denied for the following reasons and findings of fact:

1. The petitioner has not demonstrated to the Board that a practical difficulty exists.

2. The petitioner has not demonstrated that a hardship exists.
3. Based on Condition Number 7 on Appeal Case Number 98-04-48 it was decided that no other auxiliary building be allowed on the property.

FURTHER, the denial of this appeal is in the best interest of the City of Livonia.

ROLL CALL:

AYES: Baringhaus, Boloven, Coppola, Fraske, Klisz, Testa

NAYS: Turbiak

ABSENT: None

Klisz: The motion to deny passes six to one.

Coppola: Let me just unmute both parties. All right. Mr. Elonzae and Mr. Merlanti, your petition has been denied. There wasn't an agreement that there was a sufficient hardship and other issues that would suggest that the variance be approved. And as I stated earlier, if you don't agree with the decision you have 21 days from the date tonight's minutes are approved which you can appeal the decision to the Wayne County Circuit Court. Any questions?

Merlanti: No. Thank you.

Elonzae: No. Thank you.

Coppola: All right. Have a good day.

Merlanti: Thank you.

Coppola: We do have some housekeeping, I believe. We've got some minutes to approve. We've got the minutes for -- let's start with the minutes from December 8th of 2020. Do I have a motion to approve the minutes for December 8th, 2020 if there are no issues or questions or comments?

Klisz: Mr. Chair, motion to approve the minutes of December 8th.

Testa: Support:

Coppola: I have a motion by Secretary Klisz and I think it was supported by Mr. Testa. Is that right?

Testa: Yes.

Coppola: All in favor?

Board: Aye.

Coppola: The minutes for January 5th of 2021, any comments, questions, corrections? Seeing none, do I have a motion to approve?

Baringhaus: Mr. Chairman, motion to approve the minutes from the January 5th, 2021 meeting.

Coppola: Thank you. Do I have support?

Klisz: Support.

Fraske: Support.

Coppola: All right. I'm going to give this one to Ms. Friske. So I have a motion by Vice Chair Baringhaus, supported by Ms. Friske. All in favor?

Board: Aye.

Coppola: All right. Everybody's in favor. I should ask anybody against. Anybody against? No one's against. Is there any other housekeeping that needs to be taken care of? Seeing that there is none, do I have one final motion?

Klisz: Motion to adjourn.

Baringhaus: Support.

Coppola: I have a motion to adjourn by Secretary Klisz and supported by Vice Chair Baringhaus. All in favor?

Board: Aye.

Coppola: Any opposed? Seeing none, we're adjourned.

There being no further business to come before the Board, the meeting was adjourned at 9:30 p.m.



Gregory G. Coppola, Chairman



Timothy J. Klisz, Secretary

/jms