

HIGHLAND BOARD OF ZONING APPEALS
Minutes of the Meeting of
October 28, 2020

The Highland Board of Zoning Appeals met on the Zoom Platform, Meeting ID: 928 8969 8155, Password: 059299, on October 28, 2020 at 6:30 p.m. Central Time (US and Canada). Mrs. Murovic called the meeting to order at 6:32 p.m. The meeting opened with the Pledge of Allegiance, led by Mr. Thomas.

ROLL CALL: Present online were Board Members Mr. Martini, Mr. Grzyski, Mr. Thomas and Mrs. Murovic. Also present were Building Commissioner/Zoning Administrator, Mr. Ken Mika, Town Attorney, Mr. John Reed and Town Council liaison, Mr. Mark Herak. Absent was Mr. Helms.

MINUTES: The minutes of the September 23, 2020 meeting were approved as posted.

ANNOUNCEMENTS: The next meeting of the Board of Zoning Appeals was discussed. Mrs. Murovic suggested it take place on December 9th, 2020, to combine the November and December BZA meetings, due to the upcoming holidays. Mr. Martini motioned to approve the suggested date. Mr. Grzyski seconded, and the date was unanimously approved with a 4 – 0 roll call vote, therefore: The date of the next Board of Zoning Appeals meeting is to be December 9, 2020.

COMMUNICATIONS: None

Old Business: (From September’s meeting) Review/Approval of Findings of Fact for Good Luck LLC, Inc. /DVG Team – Paramvir Singh, 3325 Hart Street, Dyer, IN, Seeking a variance at 9333 – 9337 Indianapolis Boulevard for the proposed fuel island canopy setback of 50’ rather than the minimum 60’ front yard building setback requirement. {HMC 18.45.050} (C) (3) Property development standards. Front Yard. In a B-3 district, front yards shall be provided as follows: For developments fronting principal arterial streets and highways, a minimum 60-foot front yard shall be provided, but not to exceed 95 feet. Included in this front yard shall be a minimum 20-foot landscaped strip along the front right-of-way that spans the entire length of the front right-of-way.

Mr. Grzyski motioned to approve the revised Findings of Fact for Good Luck LLC, Inc. / DVG Team – Paramvir Singh. Mr. Martini seconded and it was unanimously approved with a roll call vote of 4 – 0.

Old Business: Approval of Findings of Fact for Christine Scheeringa, 9349 Kleinman Road, Highland, IN 46322, Seeking a variance at same address to build a 30' x 40' (1,200 sq. ft.) addition to an existing pole barn that is currently 30' x 60' (1,800 sq. ft.). {HMC 18.05.060 (F) (5)} In zoning district R-1A, R-1, R-2 or R-3, the summation of the gross floor area of all accessory structures shall not exceed the gross floor area of the principal structure, or 720 square feet, whichever is less.

Mr. Martini motioned to defer approval of the Findings of Fact for Christine Scheeringa until the next Board of Zoning Appeals meeting on December 9th, 2020, this due to Attorney Reed not yet having them prepared. Mr. Grzymiski seconded and the motion was unanimously approved with a roll call vote of 4 – 0.

New Business: Public Hearing for Peter De Quarto, 8949 Waymond Avenue, Highland, IN 46322, requesting a variance to replace a fence beyond the build line. Property is on a corner. {HMC 18.05.060}(G)(5)(a) Permitted Obstruction in Required Yards. The following shall not be considered to be obstructions when located in the required yards specified: (a) In All Yards. Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches; open terraces or decks not over four feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch and not including terraces or decks which project into the required front yard by more than six feet from the front of the principal structure; awnings and canopies; steps which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 18 inches or less into the yard; arbors, trellises and flagpoles; fences, screens, hedges and walls; provided, that in residential districts no fence or wall shall be located in the required front yard and no landscaped screen or hedge shall exceed three feet six inches in height if located in the front yard, and no fence, landscaped screen, hedge or wall shall exceed six feet in height if located in a side or rear yard. On a corner or reverse corner lot, the side yard setback shall be the same as the front yard setback on adjoining lots; fences shall not be installed beyond this point. No fence, screen, hedge or wall shall interfere with line of sight requirements for local streets or intersections. No fence, screen, hedge or wall shall be constructed of material that may be described as rubble, cardboard, chicken wire, trees and brush, corrugated tin, utility poles, railroad ties, barbed wire, broken glass or electrified material. The design, location and construction of a fence or wall shall be approved by the building commissioner prior to the issuance of a building permit.

Mrs. Murovic asked if there was anyone to present this petition to the Board. Mr. Peter De Quarto, 8949 Waymond Avenue, responded by confirming that he and his wife, Marie, were present to present their petition.

Mrs. Murovic asked if the Proof of Publication was in order. Mr. Reed responded that the Proof of Publication was in order and that it had been published on October 13, 2020, which was more than 10 days prior to this meeting and less than 30 days. He confirmed that the publication gave the correct Zoom platform log in information.

Mr. De Quarto brought up his PowerPoint presentation on the screen and stated that the contractor that they planned to use was Cedar Rustic, which is the same company his neighbor had used. He continued that they planned to have 3 locked gates and that his East fence line was adjacent to Cady Marsh Ditch and an alley. He continued that the house frontage was on Waymond Avenue and due to fact that they were adjacent to Cady Marsh Ditch, they did not have any neighbors on that side. He stated the reason they were asking for the variance was due to safety and privacy. They wanted their children to be able to play out in the yard and be secure in the yard without worrying about a ball going out into the street, or stray dogs coming into the yard, which had happened in the past. He continued that because it was a corner lot, a lot of families walked on that street, so privacy was a concern, especially if they were having a party. He also stated that wouldn't have to worry about theft from the yard if it were enclosed by a fence. He continued that if they were to adhere to the corner lot requirements for fence placement, it would cut the yard size almost in half. He pointed out that the road in between his home and the Cady Marsh Ditch was about a 1 car width, it was a quiet road and there were no stop signs or street signs. He pointed out that they did have cars go by pretty quickly on that road occasionally, and some seem to use it as a test track for their cars. He continued that the edge of the fence should be about 17' – 18' from the edge of the alley. He pointed out in the presentation the Plat of Survey, the photos of the street where it meets their yard and the property line, which was about 18' from the edge of the alley. He said that he had tried to measure some of the widths and distances from the edge of their property line to the edge of the alley and had come up with between 17' and 18'. He continued that he had marked the plat with the width of the alley on the side and the back of the house, then the width of Waymond Avenue for comparison.

Mrs. Murovic opened the meeting to the public. Hearing no remonstrance, she brought the meeting back to the Board. Mr. Martini said that he had driven past the De Quarto's property and could understand why they would like to have a fence, especially on the south side of the property. He then mentioned that it was difficult to visualize where the property line was and asked Mr. De Quarto how far the fence would be located from the south property line. Mr. De Quarto responded that it would be right along the east side of the property line, up until the driveway. Mrs. Murovic asked if they were planning to put the driveway inside the fence. Mr. De Quarto replied that the driveway would be outside the fence. He then showed the diagram from Cedar Rustic, the contractor that would be installing their fence, which showed that the driveway would not be included in the fenced area. Mr. Martini then asked about the south fence line and if it was 9' going from the house to the fence. Mr. De Quarto responded that was correct. Mr. Martini then asked where the boundary to the property was beyond the 9'. Mr. De Quarto responded that the property line was right at the 9'. Mr. De Quarto then pointed out that with the fence being at the property line, it was still almost 18' away from the street. Mrs. Murovic pointed out that their property does not go all the way to the street. Mr. De Quarto stated that he understood that, which is why they were only asking for the fence placement to be 9' from the house on their property line. Mr. Thomas said that if there were stakes marked on the property it would be easier to tell where the property line was. Mrs. Murovic then stated that she had looked at the GIS and determined that the property line was closer to 6' from the edge of the house to the property line rather than 9', as Mr. De Quarto stated. Mrs. Murovic asked if Mr. De Quarto had the old survey and if he could bring it back up on the screen. Mr. De Quarto replied that he did and proceeded to bring the old plat of survey up. He then stated that he felt the 6' number referenced on this plat was in reference to where the house jutted out, or the fireplace, but he was not sure. Mrs. Murovic mentioned that she had measured the distance from the back south corner of the

home and had come up with approximately 6' 2". Mr. Mika stated that it was a pretty straight line and that the house itself did not angle at all off of the property line. Mrs. Murovic mentioned that the property line did angle, but the house didn't and Mr. Mika agreed. Mrs. Murovic stated that this was a concern and if the Board were to even grant a variance, they would have to know exactly where the property line was. Mr. De Quarto agreed and said that is all they were asking for and they wanted it to be on the property line. Mr. Thomas stated that a survey would have to be done to find out where the pins were so they could have a clear understanding of where the definite property line was, before the fence placement could be determined. Mr. De Quarto stated that all he could do was use the measuring system for the GIS and plat he had to determine the property line. Mr. Thomas stated that was not very accurate. Mr. Martini commented that when he looks at a property that wants to be developed, changed or added to, the first request is for a current plat. The plat that Mr. De Quarto was referring to and using was done in 1942. Mrs. De Quarto mentioned that the plat they had provided was the only one made available to her by the previous property owner when she purchased the house 20 years ago. Mr. De Quarto apologized and asked if there was a frequency in which you should obtain a survey. Mrs. Murovic responded that they could hire an engineering firm to obtain a survey of their property. Mr. De Quarto said he understood that, but wasn't aware that they should have obtained a more recent survey of the property. He didn't think that the survey he had, no matter how old, would have changed in any way. Mr. Thomas stated that if the survey they had could not give them the specific dimensions off the side of the house, they could hire an engineering firm on their own to obtain a survey in which the location of the iron pins could be determined, so it could give definitive property markers. Mrs. Murovic stated that Mr. & Mrs. De Quarto's petition was a little difficult due to the fact that they were asking to place their fence right on the property line. Even though their house was straight, the property line was at an angle and because of this, they weren't exactly sure what the width of the lot was at these points and they didn't know where the pins were. From what was being presented, the Board could not accurately determine where the property lines were in order to approve the placement of the fence. She continued that there was a lot to consider when the petitioners were asking for a variance and an exception to the rules and the Board didn't have the correct information in order to make the decision. Mr. Mika agreed and continued that looking at the existing plat on the north side of the home, the dimensions showed distances of 6.85' and 7.2' from the home to the property line at different points, but on the south side of the home, there were no dimensions marked and nothing to go by. Mr. Thomas stated that you could get a rough estimate by going from the two distances marked on the north side, then putting stakes and measuring approximately to the end of the property, but this would be an estimate only. Mr. De Quarto pointed out that, taking the measurement at the back corner of their home at 6.85', plus the home dimension of 34.2', even at the shortest width of 50' in the front of their home, they still had a minimum of 9' of property left on the south side of their home before the end of their property line, because the property widened to over 54.2' in the rear. Mr. Thomas recommended getting a survey done first to be sure of the locations and distances to be sure they are not over the property line, because of the easement. Mr. Reed suggested they could have a licensed surveyor draw up a survey location report, which would be less expensive than having an actual plat of survey done. Mr. De Quarto asked if there was a recommended surveyor he could contact. Mr. Reed replied that the Town could not recommend anyone, but that they should be easy to find. Mr. Mika suggested looking in the phone book or online. Mr. Martini suggested to Mr. De Quarto to ask the company installing their fence, which was Cedar Rustic, if they could recommend a licensed surveyor. Mr. Mika remarked that Cedar Rustic was out of Illinois and may not be as familiar with local

companies. He thought the best option would be the phone book or online to find Northwest Indiana companies.

Mrs. Murovic asked Mr. Reed if, in this situation, the petitioner would request a continuance. Mr. Reed replied that it was ultimately up to the Board to make that decision, but that it may be the best way to proceed, because they are dealing with a property line issue. Without an accurate stake or survey, he stated it would be difficult for the Board to determine the distances involved and make a decision. He then continued that if the request were going to be approved, a limit from the property line could be stated, then if and when someone comes in for a building permit, there could be a condition made that they bring that information with them at that time to show their distance from the property line. Mr. Mika stated that he would not have a problem with that and if the surveyor, if and when they establish stakes, were notified to verify the location. Mrs. Murovic added that they didn't necessarily have to go all the way up to a property line, even with that circumstance, when a survey is done, some space could still be allowed and it could still be a foot to two feet off the property line. Mr. Thomas pointed out that it may be best to stay off the easement. Mrs. Murovic agreed and said that the street was not developed at this point, like it could be and it was just a quiet street by Cady Marsh Ditch. Mrs. De Quarto stated that the street will never be developed and that it was right on the ditch. Mr. Thomas confirmed developed, as in curbs or sidewalks. Mrs. De Quarto stated she did not think it ever could be developed like that. Mrs. Murovic said that it was possible because when you view the GIS, there is quite a bit of land existing between the street and public right-of-way. Mr. De Quarto stated that to that point, the fence would still be located 2 – 3 feet away from any potential sidewalk. Mrs. Murovic pointed out that they would like to make sure of that fact. Mr. Mika said that the Board had to make sure that the fence is going to be on the De Quarto's side of the property. Mrs. De Quarto said she appreciated that, but if they went ahead and paid to get a survey done, would they then have to re-pay the fees for another variance hearing. Mr. Mika responded that they would not have to pay any additional fees. Mr. De Quarto asked how a survey would ever be exactly accurate. Mr. Thomas replied that surveyors had GIS and many different tools to measure and figure out property lines. Mrs. De Quarto mentioned the iron stakes brought up earlier. Mr. Mika said that the stakes were a common way to measure years ago, but there were no guarantees they would still be there, or ever were there. Over the years, some people remove them, not knowing what they were there for. Mrs. De Quarto asked if she were able to locate the stakes herself and take pictures, if would that be enough to prove the boundaries. Mr. Mika replied that would not be enough, and they would still need to obtain the survey. Mr. Thomas asked what kind of a setback should be agreed on, if they are to establish clear property lines. Mrs. Murovic replied that in some instances in the past, they have gone with a 2 – 3 feet setback. Mr. Martini said that typically the 2 – 3 foot setback was requested when the property is located on a busy sidewalk where there were a lot of people walking by. He continued that in this particular case, he felt that a 1 foot setback would be sufficient. Mr. De Quarto said that he would appreciate that because they would still have room for the 3 foot gate they planned to put up without taking out their garden area. Mrs. De Quarto stated the entire fence request was for their young son and to keep him safe while playing in the yard. Mr. Mika replied that he also lived nearby and fully understood their concerns.

Mr. Thomas motioned to approve the variance, with the condition that a survey would be obtained and brought in the Building Department when applying for the permit, in addition, the fence placement will require a 1 foot setback off the property line. Mr. Martini seconded and the motion was unanimously approved with a roll call vote of 4 – 0.

New Business: Public Hearing for Lindsey Rockymore, 2214 Teakwood Circle, Unit A, Highland, IN 46322, requesting a Use Variance for a childcare facility located at 2929 45th Street, Highland, IN 46322. {HMC 18.35.040} Permitted uses in a B-1 District do not include daycare.

Mrs. Murovic asked if there was anyone present to represent this petition.

Lindsey Rockymore, 2214 Teakwood Circle, Unit A, Highland, replied that she was present and would present her petition to the Board.

Mrs. Murovic asked Mr. Reed if the Proof of Publication was in order. Mr. Reed replied that the Proof of Publication was in order and had been published on October 17th, which was in advance and the Zoom information was correct.

Mrs. Murovic commented that she believed Ms. Rockymore was familiar with the procedure of the hearing, then asked her to present her petition.

Ms. Rockymore stated she was applying for a Use Variance in order to open a second location at 2929 45th Street and that she had gone through the same process last year for her first location at 2933 45th Street. She quickly developed a waiting list for her first location and when the property next door became available, she decided to apply for another Use Variance so that she could expand her business. She went on to say that she wanted to split up the age groups of the children she cared for so that each group would have a better chance to develop. Her first location would be for children aged 0 – 2 and the second location would be for pre-school children aged 3 – 5 years. She continued to say that there was quite a bit of work involved in the first location, including a fenced area. With the second location there would be no work involved other than setting up the inside and added the State would allow her to utilize the fenced area at her first location for both of the properties.

Mrs. Murovic opened the discussion to the public. Hearing no remonstrance, she closed the public discussion and brought it back to the Board.

Mr. Martini congratulated Ms. Rockymore on her business doing so well. He said he remembered her coming before the Board last year and that he felt very strongly at that time that she would succeed. He continued to say that he remembered that she had added a fenced enclosure in the back for the children to go out and play, but thought she had also added a back door. Ms. Rockymore replied that she had not added a back door and that the children utilized the side door to enter and exit the building and access the play area. Mr. Martini then asked how she planned to get the children out of the 2929 building to access the play area behind the 2933 building. Ms. Rockymore replied that there was a side door in the second building at 2929 as well and the children would go out that door and around the back of the building and that they would not have to enter the parking lot to access the play area. Mrs. Murovic asked if Ms. Rockymore had considered fencing that area off to combine the two together. Ms. Rockymore said that

she had considered that and may do it in the future, possibly in the next year or so. Mrs. Murovic went on to say that the success of Ms. Rockymore's business was incredible and that it showed there was obviously a need for the facility. She then asked about the waiting list and if there was already one for the new location. Ms. Rockymore responded that if she is approved for this second Use Variance, then both of her locations would be nearly full. Mr. Martini asked how many children were on the waiting list. Ms. Rockymore replied that she was currently full at her first location, with 12 children and there were currently 10 children on the waiting list at the proposed second location. Mr. Martini congratulated Ms. Rockymore. She thanked him and stated that everyone is ready to go. Mr. Grzymiski asked if the second property was for the older kids. Ms. Rockymore replied that was correct, the second location would be for 3 – 5 year old kids. She continued that coming from a home day care, she had always kept the kids in a group all together and she had them all out by 3:00 p.m., so it would be a more structured environment. At her current location, she had a separate program for the 3 year olds, but with a separate location, she could have a full pre-school program without the littler kids and babies being there and trying to be involved with the activities. She went on to explain that the play area she had set up for the pre-school kids was more accessible for their age group, rather than the younger children and likewise, the younger children can have more age-appropriate areas available for them to develop in. Mr. Martini asked who would be working with her to manage the kids in one building while she was at the other building. Ms. Rockymore replied that she will remain in the building for the 0 – 2 year old children because her concentration was infant/child development and that she had hired a pre-school teacher 3 weeks earlier that had already done fingerprinting and drug testing, was certified in CPR and first aid, who was ready to go. The final step would be to finish getting processed through the State, but Ms. Rockymore had to complete this Use Variance process first. Ms. Rockymore also stated that the pre-school teacher had a degree in sociology and that she had worked with children in group homes in the past. She continued to say that this qualification was important to her because she would be good with behavioral issues and that relating to the children was very important in order to teach them, which a lot of people didn't understand. She added that she also had an assistant for the pre-school teacher and that they would both be separated from her in the second location at 2929 45th. Ms. Rockymore would also have an assistant at her current location of 2933 45th. Mrs. Murovic asked if the State regulated the amount of people required to teach, according to how many children were in each facility. Ms. Rockymore responded that they did and in both locations she would be required to have two employees, but was looking to add a third at her first location and would add a third at her second location, as needed.

Mrs. Murovic stated that she was concerned about getting the children to and from the play area safely, between the two locations. Ms. Rockymore replied that they did not have to enter the parking lot to access the play area. She continued to say that there was a space between the buildings and they could use the side door and go to the rear to reach the play area.

Mr. Grzymiski asked if there were any way cars would have access to the area between the two buildings toward the back. Ms. Rockymore said there was only grass in the back area. Mrs. Murovic stated she thought that some barriers could be added to ensure cars could not access the area between the buildings. Ms. Rockymore stated there were lines on the lot that warned of no parking. Mrs. Murovic pointed out that lines are great, but unfortunately, did not prevent cars from entering areas they are not supposed to. She mentioned the large balls that Target stores had in front of their stores, which were to prevent any vehicles from driving into the building or pedestrians, then pointed out that other daycare facilities had similar barriers for cars because the vehicles didn't always stay where they were supposed to. She continued that it was a great concern of hers because it could have a very unfortunate outcome. Ms. Rockymore commented that both of the buildings sat back off the parking area and she didn't really feel this would be an issue because the area the kids would be walking was off to the back. Mrs. Murovic asked Ms. Rockymore if there was some way she could secure the area so that cars could not enter. Ms. Rockymore asked if possibly some boulders would work. Mrs. Murovic replied that would be helpful, or possibly some large concrete planters, which would be more decorative. She concluded that even concrete stoppers would work. Lastly, Mrs. Murovic pointed out that what the Board would be doing was making a recommendation to the Town Council, due to the fact that this was a Use Variance.

Mr. Martini motioned to grant a favorable recommendation to the Town Council regarding the Use Variance for the daycare facility requested by petitioner Lindsey Rockymore. Mr. Thomas seconded and the motion was unanimously approved by a roll call vote of 4 – 0.

Mr. Mika mentioned that a certificate of occupancy would have to be issued for this location and that the Board may wish to make the vehicle accessibility issue be mentioned as a condition for issuing the occupancy.

Mr. Thomas then made a motion that the parking situation between the two buildings be addressed and be barricaded to avoid any vehicle traffic from accessing that area to the back, prior to an Occupancy Certificate being issued. Mr. Martini seconded and Mrs. Murovic clarified that the Board was giving a favorable recommendation with the condition that the parking situation being addressed between the two buildings with regards to secure a walkway for the children. The motion was unanimously approved with a roll call vote of 4 – 0.

Ms. Rockymore asked if there would be another hearing, as there were two the last time she went through the process. Mr. Mika replied that the action of the BZA tonight would be certified to the Town Council. The Town Council would then be at liberty as to when to put it on their agenda to vote on. He continued that he assumed it would be on the second or last Monday of the month.

New Business: Public Hearing for Gail Kus, 3601 Highway Avenue, Highland, IN 46322, requesting a variance to replace a fence beyond the build line. Property is on a corner. {HMC 18.05.060}(G)(5)(a) Permitted Obstruction in Required Yards. The following shall not be considered to be obstructions when located in the required yards specified: (a) In All Yards. Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches; open terraces or decks not over four feet above the average level of the adjoining ground but not including a permanent roofed-over terrace or porch and not including terraces or decks which project into the required front yard by more than six feet from the front of the principal structure; awnings and canopies; steps which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting 18 inches or less into the yard; arbors, trellises and flagpoles; fences, screens, hedges and walls; provided, that in residential districts no fence or wall shall be located in the required front yard and no landscaped screen or hedge shall exceed three feet six inches in height if located in the front yard, and no fence, landscaped screen, hedge or wall shall exceed six feet in height if located in a side or rear yard. On a corner or reverse corner lot, the side yard setback shall be the same as the front yard setback on adjoining lots; fences shall not be installed beyond this point. No fence, screen, hedge or wall shall interfere with line of sight requirements for local streets or intersections. No fence, screen, hedge or wall shall be constructed of material that may be described as rubble, cardboard, chicken wire, trees and brush, corrugated tin, utility poles, railroad ties, barbed wire, broken glass or electrified material. The design, location and construction of a fence or wall shall be approved by the building commissioner prior to issuing a building permit.

Mrs. Murovic asked if there was anyone present to represent this petition.

Gail Kus, 3601 Highway Avenue, Highland, IN responded that she was online to present her petition with audio, but could not get the video to work.

Mrs. Murovic asked Mr. Reed if the Proof of Publication was in order. Mr. Reed responded that the Proof of Publication was in order and had been published on October 14th, 2020 and all the correct Zoom information was provided.

Mrs. Kus stated that she was requesting a variance for a fence that extended from her house away from the build line to the public sidewalk on the side of her house, approximately 19' x 42'. She stated she did not have a visual presentation but had provided a copy of her survey and some photos that had been emailed to the Board members. She stated that the main reason they wanted a fence was for security. She continued to say, because they are located on a corner with a large picture window facing the street, it was not unusual to walk out of the kitchen at 6:00 in the morning and find someone looking in the window. She does not like that at all and if they were to put the fence along the side build line, she would have to take apart her back porch, due to the fact that the stairs go right along that line between the garage and the house.

Mrs. Murovic opened the meeting to the public. Hearing no remonstrance, she closed the meeting to the public and brought the discussion back to the Board.

Mr. Thomas stated that he lived about 4 or 5 houses down from Mrs. Kus and had lived there for 20 years. He said he understood why she would like a fence, but he had a concern about

the fact that a lot of people used that sidewalk, as it is the only one that comes down Liable in that area. He felt that to put a fence right along the sidewalk at that point would not work. He stated possibly 3' off might be acceptable, then asked if that was the normal procedure for a situation like this. Mrs. Murovic confirmed that 3' was often considered. Mr. Thomas then said that he could understand if it were space that was needed for animals, but in this case, Mrs. Kus had a big back yard. He didn't see why the fence had to go right along the sidewalk. Mrs. Murovic asked Mrs. Kus if she planned to bring the fence right out the sidewalk. Mrs. Kus replied that she wanted to do that because of the big trees that were in that area. She then stated that she could not take them down and plant other trees because they go through NIPSCO lines. Mr. Mika stated that if the Board were to grant the variance, he felt that, looking at the survey and photos, the 3' distance from the sidewalk should be able to be maintained, despite those existing trees. Mrs. Murovic stated that she could not tell by looking at the photos if the trees would be on the outside of the fence, or inside the fence with the 3' setback. Mrs. Kus said that she felt it would probably be right in the middle of the trees. Mrs. Murovic said that is something that should be considered. She continued that having the fence all the way to the sidewalk made it difficult for maintenance and for snow removal. Mr. Mika added that there was currently a clean line of sight down the street on the Liable side and jutting the fence out at that point would do away with that and limit the visibility. Mr. Thomas agreed that the line of sight would be impaired and added that there were going to be new houses there in the future that would all have to keep that distance from the street. Mr. Martini stated that in the past, similar cases for fences right up to the sidewalk on corner lots had been denied and he felt that this request fell into the same area. Mr. Mika stated he did not disagree with Mr. Martini's comment. Mr. Martini then asked Mrs. Kus about the length of the fence. She had stated at the beginning of the hearing it would be 19' east to west and 42' north to south. Mrs. Kus replied she had been looking at the survey to determine those lengths. Mr. Martini said that when he looked at the survey, he saw the 19' for the east to west, but noticed the north to south would be approximately 27.83', rather than 42'. Mrs. Kus did not dispute that and acknowledged her numbers were wrong. Mr. Thomas agreed with the discrepancy and pointed out that 42' would take the fence all the way out to Highway Avenue. Mr. Martini mentioned that the area Mrs. Kus had marked in yellow on the survey would be roughly 28'. Mrs. Murovic agreed and said it was from the back of the house to the garage. Mrs. Murovic pointed out that it was good that she still had a lot of yard available. Mrs. Kus stated that they did have two dogs and had to take them out on leashes right now because they didn't have a fence. Mrs. Murovic confirmed with Mrs. Kus that her deck steps landed right on the build line. Mrs. Kus confirmed that was correct. Mr. Martini stated that he had not heard a hardship in this case, especially on a corner lot.

Mr. Thomas motioned to deny the variance request. Mr. Martini seconded and the motion passed unanimously with a roll call vote of 4 – 0.

BUSINESS FROM THE FLOOR: None

ADJOURNMENT: Motion: Mr. Grzyski Second: Mr. Martini Time: 7:28 p.m.