The regular meeting of the January 15, 2003 Olmsted Township Board of Zoning Appeals was called to order at 8:00 PM. present were Chairman James Bolander, Edward Lege, Larry Maser, Alla Workman and Gregory Engelking. Also present were Building Commissioner Daniel Gargas and Secretary Tammy Tabor.

Mr. Bolander asked the audience to stand for the Pledge of Allegiance.

Mr. Maser moved to approve the minutes of December 18, 2002 as submitted. Seconded by Mr. Engelking. Roll call, all approved, Mrs. Workman abstained.

The secretary read the public notice for application #20020887
Mr. Bolander asked if any one was present to represent Mr. Tony Leanza in this case. Mr. Lucas stated that Mr. Leanza is not present. Mr. Maser asked if any correspondence had been received from Mr. Leanza regarding his request for a variance. Mr. Gargas stated that Mr. Leanza had called and was interested in tabling his application until a buyer for his property was available. However Mr. Leanza has not submitted any thing to the Board in respect to his comments. Mr. Maser moved to table the hearing until the next regular meeting of the Board. Seconded by Mr. Engelking. Roll call, all approved.

The secretary read the public notice for application # 20021020. Matt Sokol was sworn in representing M. Sokol Builders. The application is requesting that egress windows be permitted in an attached garage instead of an additional service door. Mr. Sokol was sworn in. Mr. Sokol stated that due to the design of the home a service door was not able to be placed on the rear of the garage. Being a side entry garage the overhead door was on the side and to place a door on the front would not be attractive. Mrs. Workman asked why a door could not be placed behind the garage. Mr. Sokol stated that part of the home is behind the garage.

Mr. Gargas stated that due to his oversight, the option of egress windows was not included in the current building code. This option will be offered to the Board of Trustees in revisions and updates to the current code. Mrs. Workman asked how they will know that the windows are approved for egress. Mr. Gargas stated that the house and garage have to be inspected prior to occupancy. There are designated sizes of windows that are permitted as egress windows.

Mrs. Workman asked what size the windows are. Mr. Sokol stated 6 foot 6 inches by 3 foot wide. Mr. Bolander asked how high off the floor the windows are. Mr. Sokol stated approximately 33 inches.

Mr. Lege moved to approve this application as submitted. Seconded by Mrs. Workman. Roll call, all approved.

The secretary read the public notice for application #20021095- Garland Griffin Homes
Mr. Bolander asked if anyone was present representing Garland Griffin Homes.
Chris Griffin was sworn in. Mr. Griffin stated that in a number of homes in the Woodgate Farms development they are building homes that are designed without service doors. In those homes they would like to place egress approved windows. Mr. Griffin stated that the code calls for egress windows to be at least five(5) square feet for first floor installation.
Mr. Lege asked if this request is a blanket variance for all of Woodgate Farms. Mr. Griffin stated that since they are a custom builder, the homes are not built until there is a buyer. Some of the buyers may request the windows or the design may not allow for a service door. Most of the side entry garages will need this variance. All garages have a door into the home from the garage.

Mr. Engelking asked if a small child would be able to open a window to get out. Mr. Griffin stated that the windows are generally lower to the ground than a door knob. Mr. Gargas stated that in preparing the building code he omitted the option of egress windows in garages in error. Mr. Bolander asked when the Trustees would be reviewing the code. Mr. Gargas stated that he would hope to have the revisions to the Trustees by March, however he is still waiting on additional information.

Mrs. Workman asked how many homes are left to build in Woodgate. Mr. Griffin stated that 20-25 in Phase 2 and 60 in Phase 4. Mr. Bolander stated that by the time those homes are build the code could be amended to reflect approval of egress windows.

Mr. Lege moved to approve as submitted. Seconded by Mr. Maser. Roll call, all approved.

The secretary read the public notice for application #20021074. John O’Brien was present representing the West Side Irish American Club. Mr. O’Brien stated that throughout the year the club has events that they have been promoting using temporary signs. Mr. O’Brien was notified that the temporary signs needed to be permitted and a variance was necessary since the signs are located in a residential area.

Mr. Bolander asked what type of signs are they requesting. Mr. O’Brien stated that a 2 foot by 3 foot sandwich board sign is being used for the fish fry. And a 4 foot by 3 foot sign is used to promote the Vegas night. Mrs. Workman asked if the signs are lighted. Mr. O’Brien stated that the Vegas sign is internally lit and the fish fry sign is not lighted. Mrs. Workman asked how long the signs are up. Mr. O’Brien stated that the Vegas sign is up for approximately 1 week and the fish fry sign is up approximately 2 months.

Mrs. Workman moved to approve the application as submitted. Seconded by Mr. Bolander, Roll call, all approved.

The secretary read the public notice for application # 20020985. Jeff Andre was sworn in representing Western Reserve Landscape Supply. Mr. Andre stated that due to a company name change they would like to change the sign that has been in place since 1973. Mr. Engelking asked if the sign area is changing. Mr. Andre stated that the same pole is being used and the sign area is smaller than what is currently in place. Mr. Bolander asked if the sign would be lighted. Mr. Andre stated no.

Mrs. Workman asked how far from the street is the sign. Mr. Andre stated that the sign is 29 feet from the road and the code calls for a minimum of 20 feet.

Mr. Gargas stated that the property has twice the frontage required for this type of sign. Brian Hoffman, a resident, was sworn in. Mr. Hoffman stated that they are not opposed to the sign, however it may create more traffic to the business and they have had a problem with the odor that was created by the landscape supply last year. Mr. Bolander stated that
the smell is nothing that the Board can address, however they can see Mr. Gargas on that matter.

Mr. Engelking moved to approve the application as submitted. Seconded by Mr. Lege. Roll call, all approved.

The secretary read the public notice for application #20021073. Tim Dye was sworn in representing Ryan Homes. Ryan Homes is requesting a variance to permit HVAC units to be placed on side or rear lots that encroach the setback regulations. HVAC units are not recognized as permitted in RMFT zones. Also, they would like a blanket variance to permit patios and decks on lots within Westfield Park. These decks and patios will encroach on the rear yard setbacks.

Mr. Dye stated that Ryan Homes does not place these patios on the property the homeowners may wish to construct the patios on the property. Ryan Homes is requesting this variance as a courtesy to the homeowners.

Mr. Lege asked what size the patios would be. Mr. Dye stated that there is no set size. Mr. Engelking stated that he does not wish to grant a variance to permit patios and decks that do not have a definite size or placement on the lots. Mr. Dye stated that the request would not permit decks or patios to be more than 12 feet from the rear of the house and no further that the width of the house. Mr. Lege stated that some of the houses are designed differently and patios and decks could extend far into the rear yard setback.

Mr. Lege asked if the builder thought about the placement of HVAC units prior to designing the lots. The residential code does not permit HVAC units to be placed closer than 20 feet from a side lot line. These homes are only 7 1/2 feet from the property line. HVAC units are not even a recognized permitted use in RMFT districts. This development has already received many variances permitting the type of construction being done. Mr. Lege asked why HVAC units could not be placed at the rear of the house. Mr. Dye stated that the homeowners often have windows in the rear and do not want the condensers in the rear.

Dan Harnegy, Stearns Rd., was sworn in. Mr. Harnegy stated that he lives in front of this development and wanted to know if the patios and decks would encroach the minimum amount green space that was agreed upon by the developers.

Gary Rietler, Stearns Rd., was sworn in. Mr. Rietler asked if the area will be buffered from the surrounding area. Mr. Sturgill, representing Ryan Homes, stated that what the developer agreed on would be done.

Kevin Sturgill, Michael Larson and Dustin Henning were sworn in representing Ryan Homes.

Mr. Lege stated that the HVAC units may not encroach the rear yard setback. Depending on the design of the home, the units could be placed in the rear yard. Mr. Bolander asked why the builder has to build homes this large on small lots. Why didn’t they consider the lot sizes when they decided to build there.

Board discussed possible changes to the request for a variance. Mr. Dye amended the application to remove the request for patios and decks from the request. Also, the HVAC units would only be placed in the rear yards.
Mr. Engelking moved to approve the application as amended to permit HVAC units in the rear yards only. Seconded by Mr. Lege. Roll call, all approved.

Floor Discussion

Mr. Bolander moved to adjourn. Seconded by Mr. Maser. Roll call, all approved.

Respectfully submitted,

_______________________________
Tammy Tabor, secretary

James Bolander, Chairman 2/19/03
The Olmsted Township Board of Appeals regular meeting of February 19, 2003 was called to order at 8:00 p.m. Present were Chairman James Bolander, Edward Lege, Larry Maser, Alla Workman and Gregory Engelking. Also present was secretary Tammy Tabor. Mr. Bolander asked the audience to stand for the pledge of allegiance. Mr. Bolander asked for changes or corrections to the minutes of the January 15, 2003 meeting. Mr. Maser stated that the application number for Garland Griffin Homes be included in the last paragraph on page one. Mrs. Workman asked that the date be included in the first sentence. Mr. Maser moved to approve the minutes as amended. Seconded by Mr. Engelking. Roll call all approved.

The secretary read the public notice for a variance request submitted by Summer Hill Homes. Craig Metzler was sworn in representing Summer Hill Homes. Mr. Metzler stated that due to the fact that patios and HVAC units are not covered as approved accessory uses in RMF districts, a variance is required to allow them. Mr. Metzler stated that he would like to offer a patio as part of the home sale. The proposed patios would be 12 foot deep and placed approximately 2 feet from the house. The patios are concrete slabs and do not have footers. Mr. Lege asked how far into the rear yard the patios would encroach. Mr. Metzler stated that 14 feet would extend into the 50 foot year yard. Mr. Lege asked how wide the swale is at the rear of some of the properties.

Mr. Bolander stated that the patios do not appear to be structures and did not feel that a variance was required.

Dustin Hemming was sworn in. Mr. Hemming asked if this would hold true for all developments, if the slabs were not attached to the house and no footers were in place, they are not considered structures. Mrs. Tabor stated they are structures, the variance is to request an encroachment into the rear yard setback for patios and to permit patios and HVAC units in RMF districts. Mr. Bolander stated that all variances are determined individually.

Mr. Metzler stated that he has planned on putting the HVAC units at the rear of all properties. Mrs. Workman stated that she liked the plan. Mr. Bolander stated that the design of the lots is very nice and does not seem crowded.

Mr. Metzler amended his application to describe a 12 foot deep patio on each unit not to exceed a 14 foot encroachment into the rear yard setback, also to place all HVAC Units in the rear yards.

Mr. Lege moved to approve the application as amended. Seconded by Mrs. Workman. Roll call, all approved.

The secretary read a public notice for application # 20030187, submitted by Ryan Homes. Dustin Hemming was sworn in representing Ryan Homes. Ryan homes is requesting sales signs to be permitted in the Westfield Park subdivision. Mr. Hemming stated that the request is for signs to mark the parking area, model home and model type. Mr. Bolander asked what size the signs will be and if they will be illuminated. Mr. Hemming stated that the signs will not be illuminated. The model identification and

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model type sign will be the largest at approximately two feet by three feet. The parking sign will be approximately thirty inches by thirty inches.

Mrs. Workman moved to approve application #20030187 as submitted. Seconded by Mr. Maser. Roll call, all approved.

The secretary read the public notice for application #20030190, submitted by Wheaton Development. David Binder was sworn in representing Wheaton Development. Wheaton Development is requesting sales signs to be permitted within the Woodgate Farms subdivision. Mr. Binder stated that the request is to permit a four foot high by six foot sales sign and flags that will be used to mark model homes. Mr. Binder stated that the flags would be used only during the day. Mr. Binder stated that in the application, the dimensions of the sign are incorrect. The sign will be four feet high by six feet wide. Mr. Maser moved to approve as amended. Seconded by Mr. Lege. Roll call, all approved.

Mr. Bolander asked for a motion to adjourn. Mr. Engelking moved to adjourn at 9:05 p.m. Seconded by Mr. Maser. Roll call, all approved.

Respectfully submitted,

[Signature]

Tammy Tabor, secretary

[Signature]

James Bolander, Chairman  3/19/03

Date
The regular meeting of the Olmsted Township Board of Appeals was called to order March 19, 2003 at 8:00 p.m. present were Chairman James Bolander, Edward Lege, Larry Maser and Gregory Engelking. Also, present were Building Commissioner Daniel Gargas and secretary Tammy Tabor. Mr. Bolander asked the audience to stand for the Pledge of Allegiance.

Mr. Maser moved to approve the minutes of February 19, 2003 as submitted. Seconded by Mr. Lege. Roll call, all approved.

Swings-n-Things Conditional use- # 20030290

Mr. Tim Sorge was sworn in representing Swings-n-Things. Mr. Sorge stated that Swings-n-Things was created in 1982 as a family entertainment park. Due to the drop in attendance at the park, they would like to expand the activities to allow for paint ball fields. Mr. Sorge described the sport of paintball originally as a militia sport that has become more of a family activity. Mr. Sorge stated that paintball has been ranked as a very safe sport when correctly organized. Mr. Sorge stated that the fields will have a 20 foot mesh fencing around the fields. An existing building will be converted to a sales and information building for the paintball activities. Mr. Sorge stated that the busiest times are during the day and spring and fall. The paintball fields will be open all year. Mr. Sorge stated that he has hired a consulting firm to help design and set up the fields.

Mr. Bolander asked if there is adequate parking available. Dan Gargas was sworn in. Mr. Gargas stated that he did not review the required parking. Mr. Gargas stated that before the Commission meeting on March 26th he will review the parking to assure that the parking will be adequate. Mr. Sorge stated that currently they have parking spaces for 225 cars.

Gary Reitler was sworn in. Mr. Reitler stated that he lives across the Turnpike from Swings-n-Things and has taken 20 years of abuse from them. The speakers are very loud and whistles from the Go cart tracks go on until one a.m. on the weekends. Mr. Reitler stated that the park has ignored requests to quiet the speakers and whistles. Mr. Reitler asked that the Board consider noise barriers be included as part of the approval of the expansion.

Tom Rottel was sworn in. Mr. Rottel stated that he lives to the east of the property and would like the public address system to be quieted or redirected. Mr. Sorge stated that he has no problem discussing these issues with the residents, however has never heard any of these concerns before.

Mr. Gargas stated that he will work to investigate the noise issue. Mr. Gargas stated that he will work with Mr. Sorge and the residents to determine the best solution for all involved. Mr. Sorge stated that the park is open until 12 midnight except for a few times a year when private parties rent the park.

Mr. Engelking stated that he was on site and saw many used tires at the park. Mr. Sorge stated that the tires are due to be picked up by a tire reclaimers.

Mr. Engelking asked if the paintball fields will be covered by netting. Mr. Sorge stated that the netting is a tight mesh and any weight of snow and ice would damage the netting and would not be advisable.

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Mr. Rottel stated that he would not like additional speakers or speakers closer to his property. Mr. Sorge stated that there would be no additional speakers closer to the Rottel property.

Mr. Gargas stated that he would research other noise resolutions and ordinances and possibly use a noise meter to determine if the noise is unacceptable.

Mr. Bolander asked if the activities is open to all ages. Mr. Sorge stated that all players must sign a waiver and all children between 10 and 18 years old must have a parent or guardian sign.

Mr. Lege asked if the paint ball fields will cause an increase in the noise. Mr. Sorge stated that no additional noise will be created from the public address system or the paint ball fields.

Mr. Engelking asked what modifications will be done to the building and will it only have one entrance. Mr. Sorge stated that the overhang will be enclosed and whatever the fire and building codes require for egress will be done.

Mr. Engelking asked how many people will be in the building at one time. Mr. Sorge stated 20 – 25 maximum.

Mr. Engelking moved to approve the variance as submitted with the provision of no additional noise created by the addition of paintball fields. Seconded by Mr. Lege. Roll call, all approved.

Mr. Gargas stated that he will meet with the residents and Mr. Sorge March 20, 2003 at 6:00 p.m.

Rankin - Variance- lot split request-application # 20030291

Mr. Rankin stated that he would like to split a parcel located on Rainbow Dr. that is located partly in Olmsted Township and North Olmsted. The variance is required because the required one hundred foot frontage will not be met.

Mr. Rankin stated that he would also need to receive a variance from north Olmsted to split this parcel. The configuration of a home on the lot will not allow a split that conforms. Mr. Bolander stated that most of the property is in North Olmsted and there should not be a problem as long as the residence is built according to setback regulations.

Mr. Bolander asked for comments from the audience. Hearing none, Mr. Bolander moved to approve the application as submitted. Seconded by Mr. Lege. Roll call, all approved.

Wheaton Development- Construction variance- #20030346

William Bishop was sworn in representing Wheaton Development. Mr. Bishop stated that they are building 42 homesites in Woodgate Farms. The final plat will not be filed until June and they would like to take advantage of the spring building season to begin construction. Mr. Gargas stated that the variance would allow more than one home to be built on a lot.

Mr. Bishop stated that the response from the fire department stated that the temporary road would not be able to support the weight of a fire truck if it was necessary to access the construction site. Mr. Bishop stated that the temporary road would be constructed to hold the weight of cement trucks, cranes and other heavy vehicles. A fire hydrant across the road would be 300 feet from the first 3 construction sites. Mr. Gargas stated that a
compromise may be considered for foundation only permits. Mr. Bishop stated that the permanent road should be ready by mid June, when the subdivision plat can be filed.
Mr. Bishop stated that the first 50 feet of temporary road will be asphalt and will remain as parking for the model home located on the corner of Watin Rd. and Wheaton Place.
The Board discussed options for approval. Mr. Maser moved to approve the application with the provision of sublots 38 and 39 be approved for foundation only, unless approved by the fire department that emergency vehicle access is available and sublots 40, 41 and 42 be permitted full construction permits. Seconded by Mr. Lege. Roll call, all approved.

Mr. Engelking moved to adjourn at 9:40 p.m. Seconded by Mr. Lege. Roll call all approved.

Respectfully submitted,

Tammy Tabor, secretary

James Bolander, chairman Date

Olmsted Township Board of Appeals March 19, 2003
The regular meeting of the Olmsted Township Board of Zoning Appeals was called to order May 21, 2003 at 8:00 p.m. Present were Chairman James Bolander, Larry Maser and Edward Lege. Alla Workman and Gregory Engelking were absent. Also, present was secretary Tammy Tabor.

Mr. Maser moved to approve the minutes of the April 16, 2003 meeting as submitted. Seconded by Mr. Lege. Roll call, all approved. Mr. Bolander asked if Columbia Park had submitted plans on the application to expand the mobile home park onto vacant land owned by Columbia Brookpark Management. The secretary reported that no new plans had been received.

Galway Bay – Signs
Craig Metzler was sworn in representing Summer Hill Homes. Mr. Metzler stated that Summer Hill Homes would like to place advertising signs to be located within the Galway Bay subdivision. Also, Mr. Metzler presented plans for the entrance to Galway Bay. Mr. Bolander asked if the sign would be lighted. Mr. Metzler stated that there would be low voltage lighting on the ground that would illuminate the sign. Mr. Bolander stated that the comments from the Olmsted Township police, fire and service departments had no objections to any of the signs. Mr. Bolander asked how longs signs would be in the development. Mr. Metzler stated that as soon as the homes were sold, the signs would be removed. Mr. Metzler amended his application to include the lighting determination. Hearing no other discussion Mr. Bolander moved to approve application # 20030671 as amended. Seconded by Mr. Lege. Roll call, all approved.

Scheeff- Armstrong Variance
Bill Scheeff was sworn in. Mr. Scheeff stated that he would like to increase the size of his garage to allow for a vehicle to be parked inside. Mr. Scheeff stated that currently he has a wood working shop and lawn equipment in the existing garage.
Mr. Lege asked if the wood working shop was used as a hobby or for business. Mr. Scheeff stated that the wood working is a hobby, however he has a construction business and occasionally uses the shop for business.

Mr. Lege asked if there are employees who work out of the garage. Mr. Scheeff stated that the employees are usually on site, custom woodworking is done in the shop.

Mr. Bolander asked how tall the garage would be. Mr. Scheeff stated that the walls would be 10 ft. tall. Mr. Scheeff stated that from the street, all that is seen is the driveway and the mailbox. Mr. Bolander asked what type of material is the driveway constructed of. Mr. Scheeff stated it is an asphalt surface. Mr. Bolander asked if the garage height is lower than the house. Mr. Scheeff stated that the house is three stories high and the house and garage are at the same grade level.

Mr. Bolander asked for any further comments. Being no further discussion Mr. Maser moved to approve the application as submitted. Seconded by Mr. Lege. Roll call, all approved.

Mr. Maser moved to adjourn at 8:40 p.m. Seconded by Mr. Bolander. Roll call, all approved.

Respectfully submitted,

__________________________________________
Tammy Tabor, secretary

__________________________________________
James Bolander, Chairman Date
The regular meeting of the Olmsted Township Board of Zoning Appeals was called to order June 18, 2003 at 8:00 p.m. Present were Chairman James Bolander, Edward Lege, Larry Maser, Gregory Engelking and Charles Cvitkovich. Also, present were secretary Tammy Tabor, Building Commissioner Daniel Gargas and Cuyahoga County Assistant Prosecutor Michael Lyons. Mr. Bolander asked the audience to stand for the Pledge of allegiance.

Mr. Maser moved to approve the minutes of the May 21, 2003 meeting as submitted. Seconded by Mr. Lege, roll call, all approved.

Mr. Bolander asked the secretary to read a letter from Anthony Coyne requesting a continuance of the application submitted by Columbia Brookpark Mgmt., LLC, regarding expansion of the Columbia Mobile Home Park. Mr. Maser moved to continue the hearing until July 16, 2003 at 7:30 p.m. Seconded by Mr. Lege. Frank Pojman. President of the Columbia Park Homeowners Tenants Association was recognized and sworn in.

Mr. Pojman stated that the residents would like to be heard regarding this matter and feels that this request is to stall the proceedings. Mr. Pojman stated that there are several issues including the ability of the sewage processing system to adequately handle additional properties to the development. Mr. Pojman stated that the PUCO denied the request for a 90 day extension and was told to have all information completed within 30 days.

Mr. Bolander stated that the applicant requested a continuance and the Board will vote on the motion to continue the hearing. On the motion to continue the hearing, the motion was all approved. Mr. Pojman stated that Mr. Vitale asked that a vote be taken at the last meeting and was denied and Mr. Pojman is requesting a vote today and is again being denied. Mr. Pojman said that the residents are being denied the opportunity to be heard and the Board should represent the people of the community.

Brenda Kocevar, Friendship Ln. was sworn in. Ms. Kocevar stated that she would like a vote to be taken.

Faith Bible Chapel

Bruce Berger was present representing Faith Bible Chapel. Mr. Berger stated that the church would like to place a sign on the property to identify the location of the future church at 7191 MacKenzie Rd. Mr. Berger stated that the application was reviewed and approved by the Olmsted Township Zoning Commission on May 28, 2003. Mr. Bolander asked when construction would begin. Mr. Berger stated that they are still in the process of planning for a sewer line extension down MacKenzie Rd. They would like to begin construction in the late fall or early next year. Mr. Bolander asked why the sign would go up now. Mr. Berger stated that they would like to let the neighborhood know what is planned for the site. Mr. Bolander asked why a sign that large is necessary. Mr. Berger stated that they wanted to include a graphic on the sign. The sign will be placed approximately 50 feet from the road and the frontage of the lot is 300 feet. Mr. Bolander asked if the sign is double faced. Mr. Berger stated that the sign is single faced and will be parallel to the street.

Mr. Bolander asked if the sign will be illuminated. Mr. Berger stated that the sign will have a spotlight from the ground. Mr. Bolander asked if it will interfere with the neighboring properties. Mr. Berger stated that it will be on timer and the surrounding neighbors are far enough away that it would not disturb the neighbors. Mr. Engelking
asked what is behind the sign site. Mr. Berger stated that the church owns the property 1000 feet back. Currently it is vacant.
Mr. Bolander asked for any further comments or questions. Hearing none, Mr. Maser moved to approve the application as submitted. Seconded by Mr. Lege. Roll call, all approved.

Fronek Variance
Brian Fronek was present representing Greg Fronek. Mr. Fronek was sworn in. Mr. Bolander asked why the request is for a six foot high privacy fence. Mr. Fronek stated that his brother has 5 small children and would like to have the fence to keep the children safely in the yard. Mr. Engelking stated that a fence that high is unnecessary to keep small children in the yard. High fences seem to cause complaints from other residents. A chain link fence will still confine children to the yard, yet allow for visibility. Mr. Bolander stated that a four foot fence should be adequate to keep small children in the yard. Mr. Maser stated that a fence that close to the street could cause sight problems for drivers coming around the corner.
Judy Dobies was sworn in. Ms. Dobies asked if the Fronek family had any pets. Mr. Fronek stated no.
Sean Leonard was sworn in. Mr. Leonard is the president of the home owners association for Hunters Ridge. Mr. Leonard stated that the height of the fence would be unattractive as well as dangerous to drivers coming down the road. Mr. Leonard stated that a 3 1/2 foot fence should be adequate to contain small children in the yard.
Mr. Rodriguez was sworn in. Mr. Rodriguez stated that he would not like a fence that is that high to be placed around the entire property. Mr. Rodriguez showed computer generated photos that imposed a 6 foot fence around the property. The fence would block the view to the west from Mr. Rodriguez’s front door. Also, Mr. Rodriguez stated that the fence would block the view of the surrounding driveways.
Mr. Engelbrook, 7085 Hunters Ridge Dr. was sworn in. Mr. Engelbrook stated that he is not aware of any other privacy fences in the Hunters Ridge Development. Mr. Engelbrook stated that he feels that a fence that high and close to the road would cause problems with visibility for cars coming around the curve.
Rich Zivcak was sworn in. Mr. Zivcak stated that he feels that a 3 1/2 foot tall fence can contain children in the yard and the required setback regulation needs to be maintained so that visibility around the curve does not blind driveways.
Carolann Charboneau was sworn in. Ms. Charboneau stated that other homes that are in the area do not have privacy fences that are that high. Many homes are adjacent to the pond and do not have fences that tall to contain children.
Amy Rodriguez was sworn in. Ms. Rodriguez stated that the height, and placement of the fence would be difficult to maintain. Mrs. Rodriguez stated that the applicant has not met the required criteria to prove a hardship. There will be no harm if the fence is not permitted as proposed.
Mr. Fronek stated that his brother is originally from Ohio and is not requesting anything that is not permitted in other areas.
Dan Gargas was sworn in. Mr. Gargas stated that corner lots have two front yards and setbacks need to be observed as a front yard.
Doris Adams was sworn in. Ms. Adams stated that she met with the prospective homeowners prior to the purchase of the property. She feels that the placement of a tall fence at that location would be hazardous.

Mr. Bolander asked if there was any further questions. Being none Mr. Engelking moved to approve the application as submitted. Seconded by Mr. Bolander. Roll call, Mr. Cvitkovich-yes, Mr. Lege-no, Mr. Engelking-no, Mr. Maser-no, Mr. Bolander-no.

Pulte Homes
Pulte Homes did not have a representative present. Mr. Engelking moved to table the application until next month. Seconded by Mr. Maser. Roll call, all approved.

Smith Variance
Audrey Smith was sworn in. Mr. Bolander asked how far from the property line the fence would be. Ms. Smith stated that the deck would encroach eight feet into the rear setback. The deck would be 62 feet from the rear property line. Mr. Bolander asked if there was any more discussion. Being none, Mr. Bolander moved to approve the application as submitted. Seconded by Mr. Engelking. Roll call, all approved.

Ryan Homes
Dustin Hemming was sworn in representing Ryan Homes. Mr. Hemming stated that he is requesting a variance to permit rear yard decks and patios to encroach five feet into the rear building line in the Westfield Park subdivision. Mr. Hemming stated that the variance request will not permit decks or patios to encroach on the rear drainage easement. Mr. Bolander asked if all of the lots are owned by Ryan Homes. Mr. Hemming stated that some of the properties have been sold. Mr. Hemming stated that he would get the approval of the current homeowners that would like to participate in this request. Mr. Hemming stated that he would have republic development request variances for unsold lots in Phase 3 of the Westfield Park development. Mr. Maser moved to table the application until July 18, 2003. Seconded by Mr. Engelking. Roll call, all approved.

Stineman variance
Barbara Stineman was sworn in. Ms. Stineman is requesting a variance to permit construction of a home on a non conforming lot. Ms. Stineman was approved for a variance for this request that has expired. Mr. Maser asked what is behind the property. Ms. Stineman stated that the property backs up to the North Olmsted property line. Ms. Stineman also stated that she received a variance to permit construction a hard surface driveway to be constructed over a period of time for this property. Mr. Engelking moved to approve the application as submitted. Seconded by Mr. Maser. Roll call, all approved.
Floor Discussion
Cingular Wireless

The Board requested that the meeting be scheduled for another site due to the number of people in attendance.
Mr. Lege moved to adjourn. Seconded by Mr. Maser. Roll call all approved.

Respectfully submitted,

[Signature]
Tammy Tabor, secretary

[Signature]
James Bolander, Chairman
The regular meeting of the Olmsted Township Board of Appeals was called to order July 16, 2003 at 7:30 pm. Present were Chairman James Bolander, Edward Lege, Gregory Engellking and Charles Cvitkovich. Mr. Bolander asked the audience to stand for the Pledge of Allegiance. Mr. Engelking moved to approve the minutes of June 25, 2003 as submitted, seconded by Mr. Lege. Roll call all, approved.

Mr. Bolander asked for a representative of Columbia Brook Park Mgmt. to come forward. Columbia Brook Park Management did not have a representative present. Mr. Maser arrived at 7:40 pm.

The secretary read a request from Anthony Coyne, attorney for Columbia Brook park Mgmt., addressed to Daniel Gargas, to continue the hearing until August. The secretary read a letter of response from Mr. Gargas to Mr. Coyne stating that a representative should be present at the meeting and it is the decision of the Board to continue a hearing. Mr. Engelking moved to accept the request as submitted to table the hearing. Seconded by Mr. Lege.

Mr. Frank Pojman asked if he could speak representing the tenants and homeowners of Columbia Park. Mr. Pojman was sworn in. Mr. Pojman stated that the current residents are not in favor of expanding the mobile home park. Currently the park has many vacant lots and several homes for sale. The residents would like the Board to recognize the journal entry dated December 14, 1987. This document does not permit expansion of the mobile home park allowing a maximum of 1096 units. The journal entry does not permit mobile homes to be any closer to Cook Road than 350 feet. Also, the entry states that an additional access road to the mobile home park be created on Cook Road.

Mr. Pojman stated that the entry was issued in 1987 and the park has never honored the judgment to provide the required buffering and access road. Mr. Pojman stated that in April the Board requested additional information from the applicant. In June the applicant was still not prepared and asked for a continuation until August.

Anthony Coyne attorney representing Columbia Brook Park Mgmt. was present. Mr. Coyne stated that his firm is representing Columbia Brook Park Mgmt. for land use issues. Mr. Coyne stated that the attorneys handling the case are unavailable and Gordon Adams is out of town. Mr. Coyne stated that from his knowledge of the case the rezoning was granted in 1998 and in 2000 the Olmsted Township Zoning Resolution did not include mobile home regulations. Mr. Coyne stated that the professionals that have knowledge of this conditional use request are unavailable.

Mr. Engelking moved to remove his motion to table from the floor. Seconded by Mr. Lege. Roll call, all approved.

Mr. Engelking moved to approve the application as submitted. Seconded by Mr. Lege. Roll call, Mr. Lege – no, Mr. Cvitkovich-no, Mr. Engelking-no, Mr. Maser-no, Mr. Bolander-no.

Mr. Coyne stated that for the record he wanted to address the fact that this application was denied with no evidence presented. The Board did not allow a hearing to take place and was unable to make an informed decision without any evidence being presented according to the federal law and the laws of Ohio. Mr. Coyne noted the objection of Columbia Park of this decision.
Mr. Bolander stated that the applicant may reapply.
Mr. Coyne stated that he was unaware of how organized the Columbia Park residents would be. Mr. Coyne stated that he would hope to continue this on another day and the residents may voice their concerns.
Mr. Bolander stated that the Board would like to have more information regarding the court documents and more information in order to make a wise decision.
Mr. Pojman stated that he would like to thank the Board on behalf of the tenants and homeowners in Columbia Park.

Ryan Homes
Mr. Engelking moved to reopen the public hearing for Ryan Homes. Seconded by Mr. Maser. Roll call, all approved.
Jeff Straka was sworn in representing Ryan Homes. Ryan Homes is requesting a variance to permit decks and/or patios to encroach five feet into the rear building line within the Westfield Park subdivision. Mr. Straka stated that he received signatures from most of the current homeowners and Ryan Homes has signed for the rest of the unsold lots. Mr. Bolander stated that the homeowners who have signed and Ryan Homes will be permitted to submit applications if the variance is approved. The variance is not transferable and the current property owner must apply for a permit prior to a property transfer.
Mr. Engelking moved to approve application # 20031009 as submitted for properties included in the request and unsold properties submitted by Ryan Homes. Seconded by Mr. Lege. Roll call, all approved.

St. Innocent Orthodox conditional use.
Dan Kulchytsky was sworn in representing St. Innocent. Mr. Kulchytsky stated that the church has an existing chapel and would like to expand the conditional use to construct an addition. Previous plans included an expansion of the church to the north of the property. The revised plans would like to expand to go to the west of the existing building and would include an office, kitchenette and fellowship hall. Mr. Kulchytsky stated that all plans have been reviewed by Olmsted Township and all construction will comply with the building code. Mr. Engelking asked if the new addition will be the same size as the existing structure. Mr. Kulchytsky stated that the addition will be slightly smaller than the existing building. Mr. Bolander stated that the new addition would not be seen from Usher Road. Mr. Bolander asked how far from the property line or existing houses on Regina Lane the structure would be. Mr. Kulchytsky stated that the structure would be 84 feet 8 inches from the property line and approximately 200 feet away from the nearest house. Most of the trees would remain as a buffer between the properties. Mr. Bolander moved to approve the expansion of the conditional use to permit the construction of an addition to St. Innocent Orthodox Church. Seconded by Mr. Lege. Roll call, all approved.

Cingular Wireless
Mark Morris was sworn in representing Cingular Wireless. Cingular would like to construct a tower on residential property on Barrett Rd. Mr. Morris displayed maps
showing areas of the Township that are not receiving wireless signals and a tower is needed in that area. There are no existing commercial or industrial zones within the area needed. Mr. Morris stated that Cingular would like to construct a 150 foot monopole tower that would accommodate up to 4 different carriers and multiple antennas. Mr. Morris The property owner on which the proposed tower will be placed also owns the property to the south and west. The tower would be painted gray or whatever the Township would request. Removal of the tower, if vacated by Cingular, would be removed as part of the lease with the property owner.

Susan Boggs, 24505 Barrett Rd., was sworn in. Ms. Boggs asked if the FAA has been notified. Mr. Morris stated that the FAA application has been submitted and the response is usually received in approximately 90 days. If the FAA states that a tower cannot be built on the site, the tower will not be built regardless of the Township’s ruling.

Ms. Boggs stated that she was told that the electrical towers are illegal, no towers are permitted within 5000 feet of an international runway. Anything higher than 25 feet is not permitted within 5000 feet of that runway. Ms. Boggs stated that the area is no longer in a residential zone and all of the homes over in her area are illegal.

Mr. Engelking asked if the antennas will interfere with television signals. Mr. Morris stated that the antennas are on different frequencies and will not interfere with television signals.

Carol Miller, 24525 Barrett Rd., stated that she was told that the proposed tower would not be higher than the existing electrical towers. This proposal is much higher than that. Ms. Boggs stated that the radiation from the towers is dangerous. Mr. Morris stated that radiation is not emitted from the towers to the ground any signals are directed upward and the radiation that you are concerned with is not emitted from these antennas.

Mr. Maser stated that in Brookpark, 500 feet from the runway, the FAA approved a 100 foot tower. Also tests have shown that radiation is not emitted from the towers.

Mr. Morris stated OSHA only requires precautions for workers within 20 feet of the antennas.

Mr. Engelking moved to table the application until September 17, 2003 or until more information is received from the FAA and the answers to concerns submitted from Daniel Gargas. Seconded by Mr. Maser. Roll call, all approved.

Hargenrader variance

Craig Hargenrader was sworn in. Mr. Hargenrader stated that he began construction of a fence in Villages of Lakeside and had received a permit to do so. Mr. Hargenrader’s property is at the corner of Laurel Lane and Laurel Court. After construction of the fence began Mr. Gargas notified Mr. Hargenrader that the permit had been issued in error and fences were not permitted to be placed that close to the right of way. Mr. Hargenrader stated that the concern is that fences are not permitted over 30 inches high within 25 feet of the right of way. Mr. Hargenrader stated that the has the approval of the homeowners association. Mr. Hargenrader’s home was also permitted in error, it is closer to the road than permitted. Mr. Bolander asked what type of fence Mr. Hargenrader is constructing.

Mr. Hargenrader stated that the fence has open pickets is 4 feet tall and will be made of wood. Mr. Bolander stated the was at the site and does not feel that the fence will cause a sight problem with traffic on the cul de sac.
Mr. Bolander asked for any further questions or comments. Hearing none, Mr. Lege moved to approve as submitted. Seconded by Mr. Maser. Roll call, all approved.

Mr. Hargenrader asked if the $150.00 fee for the variance could be refunded, since he did not have the opportunity to change his plan until after construction had begun. Mr. Bolander stated that Mr. Hargenrader submit that request to the Board of Trustees.

Mr. Bolander stated that the item on the agenda submitted by Mr. Peter Lucas, has been requested to be tabled. Mr. Lucas is unavailable to attend this meeting. Mr. Bolander asked if anyone in the audience had questions regarding this application. Mercedes Hathcock asked if she could see where the lots were that were being proposed to be split. Ms. Hathcock asked why a variance is required. Mr. Bolander stated that parcels without the required amount of square footage or lots that do not conform to the Olmsted Township Zoning Resolution require a variance.

Mr. Engelking moved to table the application until September 17, 2003 at 8:00 p.m. Seconded by Mr. Lege. Roll call, all approved.

Wheaton Development

William Bishop was sworn in representing Wheaton Development. Mr. Bishop stated that prior to plating in Olmsted Township, Cuyahoga County required all improvements to be made within the subdivision. The properties are not permitted to be transferred and may not be sold until the subdivision has been plated. Wheaton Development would like permission to construct an additional 10 lots within the Wheaton Place subdivision prior to plating.

Mr. Bolander asked if all of the requested lots have been committed to buyers. Mr. Bishop stated that 5 have been committed to buyers, the other 5 are spec. homes. Mr. Bolander asked if these are model homes. Mr. Bishop stated that their model home is on Maurer Dr.

Mr. Bolander asked if there were any more questions from the audience or Board members. Hearing none, Mr. Lege moved to approve the application as submitted.

Wheaton Development

William Bishop was present representing Wheaton Development. Mr. Bishop stated that Wheaton Development would like to develop a 22 acre parcel on Sprague Rd. The proposed development would have 3.3 units per acre. Mr. Bishop stated that the type of development proposed would be ranch style homes, small lots, more suitable for elderly people. Mr. Lege asked what the property to the north of the CEI towers would be used for. Mr. Bishop stated that the area is unsuitable for building, may be used for recreation or open space.

Mr. Bolander asked how many acres the parcel is. Mr. Bishop stated that the parcel is 21.8 acres and if the property to the north of the CEI towers would be 25.5 acres. Mr. Bolander asked how long the cul de sac is. Mr. Bishop stated approximately 1900 feet. Mr. Bolander asked how large the lots would be. Mr. Bishop stated that the lots are proposed for 60 foot frontage.

Mr. Engelking stated that the houses on cul de sac would not be able to maintain the required side setbacks. Mr. Cvitkovitch asked if the design would have more or less houses if the street design was straight. Mr. Bishop stated that a straight street would
have less houses. Mr. Bolander stated that the in the proposed design, lot 42 would back into the side lot of another property.
Mr. Engelking asked if there is a written easement for the CEI property. Mr. Bishop stated that he could get a copy of that easement.
Mr. Bolander suggested that the application be tabled until more information is available. Mr. Engelking moved to table the application until September 17, 2003 at 8:00 p.m. Seconded by Mr. Bolander. Roll call, all approved.

Mr. Maser moved to adjourn. Seconded by Mr. Lege. Roll call, all approved.

Respectfully submitted,

Tammy Tabor, secretary

James Bolander, Chairman Date
The regular meeting of the October 15, 2003 Olmsted Township Board of Zoning Appeals was called to order at 8:00 PM. Present were Chairman James Bolander, Larry Maser, Gregory Engelking and Charles Cvitkovich. Also present were Secretaries Tammy Tabor and Nicole Rosiu.

Mr. Bolander asked the audience to stand for the Pledge of Allegiance.

Mr. Engelking moved to approve the minutes of September 17, 2003 as submitted. Seconded by Mr. Maser. Roll call, all approved.

The secretary read the public notice for application #20031213 along with a letter dated October 10, 2003, regarding changing the height of the cellular tower.

Mr. Engelking motioned to re-open the hearing. Seconded by Mr. Maser. Roll call, all approved.

Mr. Bolander asked if any one was present to represent Cingular Wireless. Mark T. Morris came forward as the representative. Mr. Morris stated that they have now changed the height of the tower to 96 feet, rather than the 150 feet stated at the September meeting. Mr. Morris then gave the Board members a copy of the Letter of Determination that he received from the FAA. The letter stated that no cell tower should exceed 96 feet in height. Mr. Engelking asked if the cellular tower would be lighted. Mr. Morris stated that he was not sure at this time. Mr. Engelking then asked how far from the property lines would the tower be. Mr. Morris stated that it would be 50 feet from the easement.

Mr. Engelking asked if the existing wood shed was going to be removed. Mr. Morris said that he already obtained approval from the landlord to have the shed removed. Mr. Engelking then asked if the trees would be removed. Mr. Morris stated that the trees would not be removed.

Susan Boggs from Barrett Rd. was sworn in and requested a copy of the FAA Letter of Determination and a copy of the plans for the cell tower.

Mr. Maser moved to approve this application pending FAA approval. Seconded by Mr. Engelking. Roll call, all approved.

Mr. Maser motioned to re-open the hearing for application #20031239 submitted by Wheaton Development for Planned Residential Development. Seconded by Mr. Bolander. Roll call, all approved.

Mr. Bolander asked if any one was present to represent Wheaton Development. William Bishop came forward. Mr. Bishop stated that in July he submitted plans for a new development for the South East point of Sprague Rd. for a 66 home site. Wheaton was told to remove some homes and resubmit. Wheaton removed 10 homes and resubmitted for a 56 home site. Mr. Bishop stated that the new site conforms to the rules of Planned Residential Development of having 2.2 units per acre. Wheaton removed about 8 corner lots to preserve tree lines.

Mr. Bolander asked what the depths of the lots are now. Mr. Bishop said there is a 25 ft. buffer on each side. Mr. Bolander asked who owns the buffer. Mr. Bishop stated that the Homeowners Association would own the buffer. Mr. Bolander asked if the site was reduced by 14 buildings. Mr. Bishop said yes it was. Mr. Bolander asked what the minimum lot frontage is. Mr. Bishop stated that the minimum lot size is 60 ft. and it will retain the minimum setbacks allowed.

Mr. Engelking stated that over 60% of the houses have 75 ft. frontage, 24 straight lots and 32 cul-de-sac lots on a site more than 60 ft. by 125 ft. Mr. Bishop stated that minimizing corner lots would leave more room for landscaping and tree lines.
Mr. Maser asked what are the depth of the lots such as 3, 8, 38, etc. Mr. Cvitkovich measured with an architect ruler and stated that those lots were about 67 ft.

Mr. Bolander asked about homeowners who want to put decks and patios on their houses. Mr. Bishop said only 2 lots will fall into the problem with setbacks.

Mr. Bolander asked if there were any pictures of the designs of the houses that will be built in this development. Mr. Bishop stated that the houses in this development would be similar to the houses Wheaton Development is building in Woodgate Farms right now, including ranches, cape cods and 2-story houses. The smallest home is approximately 1700 sq. ft. and the houses will go up to 2200 sq. ft.

Mr. Bolander asked what the price range of these houses would be. Mr. Bishop said the will be between $195,000 and $250,000, the average houses people buy is around $240,000 to $253,000.

Mr. Engelking asked if these houses were going to look like the same houses off of Sharp at the Woodgate Farms entrance. Mr. Bishop stated that these houses would be a little bigger than that.

Mr. Engelking moved to approve as amended on Oct. 8, 2003 site plan. Seconded by Mr. Cvitkovich. Roll call, all approved.

Mr. Engelking moved to make Hall Gardens Dog Day Care active. Seconded by Mr. Maser. Roll call, all approved.

Linda Malicky came forward to represent Hall Gardens Dog Day Care.

Mr. Bolander read a letter sent out to residents about reproducing the noise level of the dogs barking to see what it would sound like. This hearing took place on Tuesday, October 14, 2003. Mr. Bolander stated that he was at the hearing and there was very little noise heard.

Mr. Engelking said that the barking dogs are a concern to the neighborhood. Mr. Bolander said that the dogs escaping is also a concern.

Chris Griffin was sworn in. Mr. Griffin asked if the Zoning Code prevented turning this day care into a kennel. Mr. Engelking said the Zoning Code says a day care is a permitted use and it says a kennel is not permitted.

Robert Miller was sworn in. Mr. Miller questioned if the dogs had to have shots, vaccinations, flea control, etc. and if there would be any restrictions of type of breed.

Ms. Malicky stated that the dogs would have to have all of their shots and vaccinations and they would all be screened before attending the day care. Mr. Miller asked what Ms. Malicky would be doing about the waste from the dogs. Ms. Malicky stated that the waste would be picked up right away and put in 2-3 plastic bags and thrown away in the dumpster right behind the building. Mr. Miller then asked if it's going to be a health problem having the Dog Day Care next to Hall's meat market. Ms. Malicky said that it would not.

Mr. Engelking asked how high the fence was going to be. Gerald Hall stepped forward and handed the Board members the fence application in which he had applied for. Mr. Engelking asked how far the fence would be to the grain tower. Ms. Malicky stated that the fence would not be touching the grain tower. Mr. Hall said that the Dog Day Care would only use a small section of the fence being built and Hall Meats would use the rest of the fence. Ms. Malicky stated that the total area of the fence is 51 ft. by 26 ft. bounded by 2 existing buildings and there will be a concrete pad within the fence so the dogs
would not be able to dig out, and the fence will also be 6 ft. high, board on board, privacy fence, so the dogs could not jump over the fence. Mr. Engelking asked if the inside of the building was going to be redone. Ms. Malicky stated that they would be dropping the ceiling and putting up insulation, acoustic tiles, heat and installing new windows. Mr. Hall said that they will be thermal pained windows, which she will not open, and they will be putting awnings above the windows outside that are about 4 ft. in length. The awning going over the entrance on the West side of the building will be lighted. The space that she is renting is 41 ft. by 54 ft. Mr. Miller asked how frequently the dogs would be outside using the fenced in area. Ms. Malicky stated that the dogs would be outside when they had to relieve themselves. Mr. Miller then asked if the Dog Day Care would be open on the weekends. Ms. Malicky stated that she might be open on Saturday, but only for grooming. Mr. Miller asked how many dogs would be outside at a time. Ms. Malicky stated that she would be taking them out in groups of 3 or 4. With the limited space of the fenced in area, she would probably only be able to take 5 at the maximum.

Dave Payne was sworn in and was wondering why he got no notice about the hearing of the noise level. He also asked what if the dogs become chaotic and if there is an assurance that the dogs would be picked up by 6 or 7 PM and not 9 PM. He asked what would happen if the Dog Day Care didn’t work out and she moved or closed down and if she had visited any other facilities of this sort. Ms. Malicky stated that she just visited the largest Dog Day Care in North America located in Ontario. It was a 2000 sq. ft. building. There were 35 dogs there, no noise outside from barking dogs. The facility was open from 7:30 AM until 6:00 PM every day with training at night and was nominated by the Chamber of Commerce for one of the top 10 businesses.

Mr. Engelking asked how long Ms. Malicky would be open for training. Mr. Malicky said she would be open for training from 7 PM until 9 PM and would allow 5-7 dogs in there at a time. Mr. Engelking asked what type of training would be involved. Ms. Malicky stated that it would be strictly obedience training, no agility training. Chris Gaugler from Shade Tree Ct. was sworn in and asked what the maximum number of dogs would be there at a time. Ms. Malicky stated that there would be only 25 dogs at a time. Mr. Miller stated that she will not actually close at 6:30 PM if she has training until 9 PM. Mr. Miller asked if this involves potty training. Ms Malicky said there would be no potty training, because it fits under Zoning Laws of a Day Care. Potty training has to be done by the owners on their own time. Mr. Engelking asked if all the training would be done inside. Ms. Malicky said that it would be all inside, no outside training.

Mr. Engelking asked since there is limited space outside, and you will have about 25 dogs at a time, but only take up to 5 out at a time, when will you clean up the waste. Ms. Malicky stated that she will clean up right after them, since she will be outside with them, supervising at all times. Mr. Miller asked if there would be training on the weekends. Ms. Malicky stated that there will not. Mr. Miller asked if there was any recourse he could take if the dogs barking gets out of control. Mr. Bolander said the only thing you can do is do the same thing you would do if your neighbor’s dog were barking. Training is a permitted use. Ms. Malicky stated that she wants to be a friendly neighbor and her intentions are honorable and if you have any problems, her phone number will be posted all over the place, so you will always be able to get a hold of her.
Sandy Davis was sworn in. She stated that she is a resident of Villages of Lakeside and has a 2-year-old daughter that was attacked by a dog and wants to make sure that the dogs are going to be contained and if the Dog Day Care being there is going to affect the property value of the surrounding houses. Ms. Davis is also concerned about the hours of operation, and the neighborhood dogs barking at the dogs in the Dog Day Care.

Mr. Bolander stated that when he went to the noise hearing the night before, the tape was inside the building, while the audience stood outside, with the door open, the audience could talk to each other normally. Mr. Bolander also made it a point that this was without the building being insulated and remodeled. Ms. Davis asked again if it does come down to it, what type of recourse do the neighbors have. Mr. Bolander stated that you could do the same thing you would do if your neighbor’s dog were barking.

Mr. Engelking said the Dog Day Care being there would be just like when Hall’s was built, it will probably help your property value.

Ms. Malicky stated as for the safety issue, there is no exit that will not be fenced in. The fence will not have a gate and will be on a concrete pad. It will be 6 ft. high and she said she would be supervising the dogs at all times. Ms. Malicky said it would be worse for her if the dogs did manage to escape.

Ms. Davis stated that she had looked at the plans and the building that they are proposing looks very nice.

Mr. Payne suggested that the board have a stipulation to limit the hours of operation. Ms. Malicky stated that the dogs would be put in crates at about 4:30 PM before they are picked up, so the noise factor will be lessened after 4:30 PM. The morning will be the noisiest. Ms. Malicky said that if the Board does restrict her hours, she doesn’t know what time her customers are going to get out of work. Mr. Engelking asked if she would be open after 10 PM. Ms. Malicky stated that she would not be open after 10 PM, all the dogs will be picked up by 9 PM at the latest. Mr. Engelking asked if there would be a problem with being open until 10 PM on weekends. Mr. Payne asked if the dogs would definitely be in by 7:00 PM. Mr. Engelking said when the dogs have to go, they have to go.

Mr. Payne stated that if the Dog Day Care runs like Ms. Malicky says, then it will be very nice.

Mr. Engelking stated that they might make a stipulation on hours of operation.

Paul Zauner was sworn in. Mr. Zauner stated that he received letter about the noise demonstration and if any of the surrounding neighbors were concerned or had any ideas, they should have went to the hearing and found out the locality of the business. Mr. Zauner said that when he moved to Olmsted Township, that building used to be a slaughterhouse and he would wake up to cows mooing and it didn’t bother him. Mr. Zauner asked why a dog barks, and stated that a dog barks because he is disturbed, but not to a point of disappointment. If a dog is taken care of, there is no reason for him to bark. Mr. Zauner said he believes this will be a good business and if he had a dog, he would be a customer.

Mr. Bolander asked if Ms. Malicky had any objections to being open from 7:00 AM until 10 PM. Ms. Malicky stated that she has no problem with that.

Mr. Engelking proposed 6:00 AM. Ms. Davis stated that she likes to sleep in on the weekends until about 8:00 AM. Ms. Malicky asked if the Board could make it 6:30 PM.

Mr. Engelking proposed 6:30 AM until 10:00 PM for hours of operation. Mr. Bolander
stated that the dogs will be inside, and if they are barking, you will not be able to hear them. Ms. Malicky said there would be grooming on Saturday and closed on Sunday.

Mr. Maser moved to approve with the stipulation of business hours being 6:30 AM until 10:00 PM, Monday through Friday. Seconded by Mr. Bolander. Roll call, all approved.

The secretary read the public notice for application #20031942. Chris Griffin stepped forward to represent Garland Griffin’s variance request concerning side yard setbacks for 27299 Watkin Rd., sublot 107. Mr. Griffin submitted a copy of the TOPO to the Board members. Mr. Griffin stated that he was going to split up a little on both properties, sublot 107 and sublot 108. The side yard of sublot 107 is 8” closer than required by the Zoning Code. Mr. Engelking asked if there was a house on sublot 106 yet. Mr. Griffin stated that there is not a house on sublot 106 yet, and when it is built, it will maintain the 20 ft. setback requirement. Mr. Bolander asked if Mr. Griffin why Garland Griffin Homes did not reduce the width of the house. Mr. Griffin stated that they did not realize what they did until the plans were done. Mr. Bolander asked if they could cut portions off of the house. Matt Garland stepped forward and stated that they cannot take portions out of the house, because of the set up of the house. The house has already been sold on that house design. Mr. Griffin said that the PRD code says side yard set backs have to be 20 ft. between 2 houses. Garland Griffin Homes has the minimum side yard set back on sublot 106 also. Instead of 10 ft. of side yard, there is only 8.95 ft. Mr. Engelking stated that he went out to Woodgate Farms and looked at the site and it’s only a couple feet. Mr. Griffin said that the home is 2200 sq. ft.

Jeff Gable was sworn in. Mr. Gable stated that he lives in the house on sublot 108 and asked if the house will be a couple feet closer to him. Mr. Griffin stated that it would be 8” closer to his house and 1.05 ft. on the other side. There will be 24 ft. between houses 107 and 108. Mr. Griffin stated that Dan Gargas suggested 15 ft. on one side and 5 ft. on the other side to comply with the PRD code. Mr. Bolander said he wasn’t sure. Mr. Engelking stated that the house would be 9.33 ft. off of sublot 108’s property line. Mrs. Gable asked if a fence would be a problem. Mr. Bolander stated that it would not.

Mr. Engelking moved to approve with the stipulation that sublot 106 must be 20 ft. away from sublot 107. Seconded by Mr. Bolander. Roll call, all approved.

The secretary read the public notice for application #20031989. Meegan McKenna was sworn in to add a concrete pad onto her existing driveway. Ms. McKenna stated that the concrete pad she wants to add goes 15’ beyond her property line. Mr. Bolander asked whom her neighbors were and if they accepted this. Ms. McKenna stated that her parents owned the property next door. Mr. Engelking reviewed this property also and understands the problem with pulling out onto Usher Rd. Mr. Engelking stated that this not allowable in our current Zoning Code, which states that there should be no ingress or egress to property. Mr. Engelking said that Ms. McKenna could actually call this a concrete pad instead of a driveway extension. Mr. Bolander stated that he was concerned about a permanent structure on a lot that does not belong to Ms. McKenna and if either of the lots were sold, Ms. McKenna may have to remove the driveway. Ms. McKenna she would address the issue if moving. Ms. McKenna showed a photograph of her property, and stated that she just had her sanitary sewer replaced and she figured it was a perfect time to do her driveway.
Mr. Engelking asked what if she continued her driveway across her parents' property and into their driveway. Ms. McKenna's father stated that the driveway is only going to go 15 ft. on his property line. Mr. Engelking proposed making a stipulation that the pad be removed if the property was ever sold. Ms. McKenna asked if her father sold his property and she bought it, could the concrete pad stay. Mr. Engelking stated that if either of the properties transfers ownership in that way, they would need to get another variance. Ms. McKenna said that would be fine.

Mr. Bolander moved to approve with the stipulation that the concrete pad be removed if the property is sold. Seconded by Mr. Maser. Roll call, all approved.

Floor Discussion

Mr. Maser moved to adjourn. Seconded by Mr. Bolander. Roll call, all approved.

Respectfully submitted,

Nicole Rosiu, secretary

James Bolander, Chairman 11/19/03
The regular meeting of the Olmsted Township Board of Zoning Appeals was called to order October 16, 2003 at 8:00 p.m. Present were Alla Workman, Edward Lege, Larry Maser and Gregory Engelking. Chairman James Bolander was absent. Vice Chairman Lege asked the audience to stand for the Pledge of Allegiance. Mr. Maser moved to approve the minutes of September 25, 2002. Seconded by Mrs. Workman. Roll call, all approved.

Storey Variance
Judy Storey was sworn in. Mrs. Storey is requesting a variance to allow the housing of livestock on her property at 7750 Stearns Road. Mrs. Storey stated that she was unaware that she could not keep livestock on her property. Mrs. Storey stated that according to the Ohio Revised Code, she is permitted to keep livestock on her property. She stated that Section 519.22 of the ORC stated that the Township Trustees could not regulate the use of land for agricultural purposes. Mrs. Storey stated that a couple years ago the setbacks were changed, no one came over and asked her about changing setbacks. Mrs. Storey stated that she did not sign a petition to change the setbacks. Mrs. Workman asked what is happening that Mrs. Storey is not permitted to do. Mrs. Storey stated that she has 2 sheep and a horse and a rooster. The barn was existing when she bought the property. She also has a baby sheep. Mrs. Storey stated that she put up the corral. Mrs. Storey stated that there is 1 stall inside the barn, however it can hold 4 horses. Mrs. Workman asked how old the barn is. Mrs. Storey stated that the barn is about 10 years old. Mr. Engelking stated that it is probably closer to twenty years old. Mrs. Storey stated that she moved here to be able to have horses on her property. She doesn’t understand why she cannot have horses on her property to provide income for boarding. Mrs. Storey stated that until 20% of the neighborhood is developed she should be able to have livestock on 1 acre of land. Mrs. Storey read the ORC section 519 that states the Township Zoning Resolution may in any platted subdivision or in any area consisting of 15 or more lots approved under section 711 of the Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road regulate:
Buildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than 5 acres by; set back building lines; height; and size; Mrs. Storey stated that her property is just shy of 2 acres. Mr. Maser stated that under Township Zoning section 210.08 L states that one horse, cow, pig or other similar animal may be kept on a lot not less that two acres in area, if the stable and corral, exclusive of perimeter fences, in which they are kept are located in the rear yard not less than 300 feet from a street right of way line, not less that 200 feet from any existing residence on adjacent property existing at the time the stable and corral are erected and not less than 50 feet from an adjoining lot line: an additional half acre of land shall be provided for each additional animal. Mrs. Storey asked when that went into effect because no one notified her or came to her house to ask if she wanted this change. Mr. Maser stated that the regulation was the same in the Zoning Resolution dated 1994. Mr. Maser stated that the public hearings were held and public notification was given. Individual notification was not required. Notification was provided in the newspaper and posted at Town Hall.

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Mrs. Storey stated that according to section 519.12 of the ORC specific notification was necessary. Mrs. Storey stated that failing to provide adequate notification of any changes the zoning referendum may be ruled invalid.

Mr. Maser stated that he would like to have a prosecutor's opinion regarding this issue. Mrs. Storey stated that the Township would not be allowed to use public funds to prosecute. Mr. Maser stated that the County Prosecutor is the Township's legal council. Mrs. Workman stated that this is not to prosecute, it is to obtain information. Mr. Gargas stated that the prosecutor may come back with the same interpretation that Mrs. Storey has.

Mr. Lege stated that he would like to have a legal opinion on this issue. Mr. Engelking moved to table the request until the November 20th meeting for a variance to request a legal opinion from the Cuyahoga County Prosecutor. Mrs. Workman asked what the opinion was for. Mr. Engelking stated that he believed that the property was not conforming to allow the horses or livestock on the property. Seconded by Mr. Maser. Mr. Dooley asked what the law is. The secretary read section 210.08 l (2). Mr. Lege stated that the minimum lot requirement was the same prior to the 2000 resolution. Mrs. Storey stated that the surrounding area was not developed. Mr. Engelking stated that there were houses on all of the lots around and across the street from Mrs. Storey's property. Mrs. Storey stated that the developers have not come in and built all around her property. Mr. Engelking stated that "developed" means houses built on a lot. Mrs. Storey asked if Mr. Hocevar's property was now a street. Mrs. Workman stated that the setback was 300 feet from Stearns Road and 200 feet from an adjacent residence. Mrs. Storey stated that the setback was the law that was changed in 2000 that she was not notified of. Mr. Gargas stated that the motion is still on the floor. Mr. Gargas asked if Mr. Hocevar and Mrs. Storey would permit him to come out and measure the structures and property and also have Mrs. Storey write her questions and concerns down and he would have the prosecutor review the application and any concerns she may have regarding the Zoning Resolution.

Mrs. Dooley, Stearns Road, was sworn in. Mrs. Dooley stated that since 1956 the previous owner had livestock and the horse paddock should be far enough back and not interfere with any one. Mrs. Workman asked when that changed. Mrs. Dooley stated that Mr. Kinder had horses there. When he (Kinder) past away Ron Stuhm bought the property. He (Stuhm) removed everything except the barn. Mr. Gargas asked what the amount of time was when there were no animals on the property. Mrs. Dooley stated approximately one to one and one half years.

Joe Walsh asked if this motion was to request an opinion or to make a decision. Mr. Lege stated that the motion was to request an opinion.

Mr. John Runyan, 7753 Stearns Road, has lived there for 39 years, and the property at 7750 property did have sheep and chickens on the property at one time.

John Hocevar, 7766 Stearns Road, was sworn in. Mr. Hocevar stated that Mrs. Storey bought the property 3 years ago and did not acquire a permit for the construction of the corral. If she had she would have known that her property was not large enough to house livestock. Mr. Hocevar stated that the smell and the noise is not pleasant. Mrs. Storey stated that Mr. Hocevar should not complain about someone following rules.

On the motion to table and request a legal opinion from the Cuyahoga County Prosecutor, the roll call was all approved.
Slimak Variance request

Danielle Slimak was sworn in. Ms. Slimak stated that she erected a fence along the front of her property approximately 1 ½ years ago. Ms. Slimak stated that the fence was to deter children from running into the street, her rear yard has a very steep drop into a ditch. Ms. Slimak stated that she was unaware that a permit was required from the fence.

Joe Walsh was sworn in. When backing out of 8647 Usher Road, Mr. Walsh stated that the trees and the telephone pole as well as the vehicles parked in the neighboring driveway seem to be causing more of a sight problem.

The secretary read a letter from Mike and Charla McKenna, an Usher Road resident regarding the fence at Ms. Slimak’s home. Ms. McKenna stated that the fence causes a hazard when trying to pull out of her driveway. Mr. Engelking stated that he feels that the combination of a telephone pole, parked vehicles and trees are more of a hindrance than the fence. Mrs. Workman asked if Mrs. McKenna feels that Ms. Slimak is not permitted to have a fence in the front yard. Mrs. McKenna stated that the fence is too high and blocks the view looking down the street. Mr. Gargas stated that he will request that the Cuyahoga County Engineer mark the right of way on Usher Road so that the correct setback could be determined. Mrs. McKenna stated that there are no regulations for fences and shrubs. Mrs. McKenna stated that she has never met Ms. Slimak before and has no personal feelings against her. Ms. Slimak asked why the complaints have been registered now, the fence has been up for approximately 1 ½ years. Mr. McKenna asked what would be permitted. Mr. Gargas stated that within 25 feet of the right of way the maximum height permitted would be 2 ½ feet. Mike McKenna stated that the Slimak property is at the top of a hill and does cause an additional sight problem for oncoming traffic.

Mr. Lege asked if the fence was moved 10 foot back, would that resolve the problem. Mr. McKenna stated that if that is what is legal, he would approve.

Meegan McKenna, 8631 Usher Road, lives 3 houses north of Ms. Slimak’s property. Ms. McKenna stated that this is a safety issue. She drives a Nissan Altima and due to the height of the fence, the telephone pole and the rise of the road, it is very dangerous to try to pull out of her driveway. The distance from the fence to her driveway is 226 feet, at 35 MPH, a car would pass the fence and reach her driveway in 4.4 seconds. She feels that the amount of time is not enough to react to a car coming down Usher Road. Ms. McKenna stated that since the fence does not enclose her yard it is not there for safety. Mr. Engelking stated that the fence may deter children from running into the street from the front yard.

Mike McKenna asked what the height of the fence is. Mr. Gargas stated that the highest post is 42".

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Mr. Lege moved to table this application until the right of way can be determined. Once the right of way is determined, a correct setback could be determined. Seconded by Mr. Maser.
Roll call, all approved.

Kling Variance #20020563
Ray Kling was sworn in. Mr. Kling is requesting a variance to allow the construction of an oversized accessory structure on his property. Mr. Kling presented drawings of the proposed structure and site plans of his lot and surrounding lots. Mr. Kling showed that the surrounding properties have similar size or larger buildings on approximately the same size lots. Mr. Kling stated that the structure would be used to house his boat and trailer as well as yard maintenance equipment.
Mrs. Workman asked what type of doors would be on the building. Mr. Kilng stated that on the end of the building a sliding door would allow for the boat and trailer to enter at the end. On the front of the building would be a 16 foot garage door that would match the garage attached to the home.

Mr. Engelking moved to approve the application as submitted. Seconded by Mr. Maser.
Roll call, all approved.

Gareau Variance 27146 Cook Rd.
Jim Gilbo, contractor for the Gareau’s, was present representing Mr. and Mrs. Gareau.
Mr. Gilbo stated that the request was to allow the construction of an addition to the home, that would keep in line with the existing house, that would encroach on the site setback regulation. Mrs. Workman asked why the variance was needed. Mr. Gilbo stated that currently the home sits approximately 2 feet from the side yard line. The Gareau’s would like to build an addition off the rear of the property the would encroach further on the setback. The furthest corner would be 1’6” from the neighbor’s property.

The secretary read a letter from the neighbor’s on the west side of the property. The neighbor’s do not want a change to the property line and are concerned that they would be unable to construct a fence on their property. Mr. Gargas stated that the construction of a fence on their property would still be possible and the property line would not change. Mr. Gargas stated that Mrs. Heyduk did not have any objection to the addition as long as it was not interfering with the erection of a fence on her property in the future.
Gary Laisy is a neighbor on Cook Road. Mr. Laisy stated that he has no objection to the addition and feels that the Gareau’s are updating the home and property.

Mr. Engelking moved to approve the application as submitted. Seconded by Mrs. Workman. Roll call, all approved.

Mr. Lege moved to adjourn. Seconded by Mr. Engelking.
Mr. Gargas asked that the Board review and comment on the proposed property maintenance code. A meeting is proposed for November 6, 2002 at 7:00 p.m. with the Board of Trustees and the Olmsted Township Zoning Commission. The Board members agreed to meet and review the proposed code.

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On the motion to adjourn. Roll call, all approved.

Respectfully submitted,

Tammy Tabor, secretary

Edward Lege, Vice Chairman

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The regular meeting of the November 19, 2003 Olmsted Township Board of Zoning Appeals was called to order at 8:00 PM. Present were Chairman James Bolander, Edward Lege, Gregory Engelking and Charles Cvitkovich. Also present were Building Commissioner Daniel Gargas, Secretary Nicole Rosiun and Cuyahoga County assistant prosecutor Michael Lyons.

Mr. Bolander asked the audience to stand for the Pledge of Allegiance.

Mr. Engelking moved to approve the minutes of October 15, 2003 as submitted. Seconded by Mr. Cvitkovich. Roll call, all approved. Mr. Lege abstained.

The secretary read the public notice for application #20032140

Mr. Bolander asked if anyone was present to represent this variance request.

Michael Kulaga was sworn in. Mr. Bolander stated that his understanding is that Mr. Kulaga would like to tear down two older buildings and replace them with one larger building. Mr. Kulaga said that Mr. Bolander was correct. Mr. Bolander asked if the proposed building would be the same distance from the property lines as the existing buildings. Mr. Kulaga stated that the proposed building would be the same distance as the existing building from the rear yard line, which is 6 ft.

Mr. Engelking asked what the proposed building would be used for. Mr. Kulaga stated that the building would be used for large storage items, such as tractors, motorcycles, and automobiles. Mr. Engelking asked if Mr. Kulaga would be working on the vehicles. Mr. Kulaga said that he would not.

Mr. Bolander asked what the height of the building was going to be. Mr. Kulaga stated that the building would be 15 ft. high. Mr. Engleking asked if the other 2 buildings have been torn down already. Mr. Kulaga stated that he did have them torn down already and he did it before he knew about the variance process.

Mr. Bolander asked if Mr. Kulaga planned on having any type of driveway. Mr. Kulaga said that he would not be driving vehicles in and out of this building, so he may not need one.

Mr. Gargas asked if this would be strictly an accessory building or used as a garage. Mr. Kulaga stated that he would not be using it all the time and would not go back there in the winter. Mr. Engelking asked if this would be a storage shed or garage. Mr. Kulaga stated that there would be (2) 10 ft. by 10 ft. swinging doors on the front of it so the vehicles could get in, but it would be used for storage.

Mr. Bolander asked if there would be a driveway or not. Mr. Kulaga stated that he would not have a driveway. Mr. Gargas said that if Mr. Kulaga wanted a driveway will need to apply for a permit.

Mr. Engelking asked if the storage shed would cause drainage to go onto the neighbor’s property with a 15 ft. high roof. Mr. Kulaga stated that the property next door has a hole in their yard anyway from what was supposed to be a pond, so the neighbor’s property is lower anyway. Mr. Kulaga also said that there is a 2½ ft. culvert between his yard and his neighbor’s yard.

Mr. Cvitkovich asked if the 2 existing accessory buildings have been there since the house was built. Mr. Kulaga stated that he didn’t know, being that he moved into this house in January and they were there. Mr. Bolander asked if the gravel drive was there when Mr. Kulaga moved into the house. Mr. Kulaga said that it was already there. Mr. Gargas asked when the house was built. Mr. Kulaga stated that he wasn’t sure, but he believes it was built in 1994. Mr. Gargas said he would have to check the 1994 Zoning Code to see if it was okay to have a gravel driveway.

Mr. Cvitkovich asked if Mr. Kulaga was presenting this variance because of square footage. Mr. Kulaga stated that he did get this variance due to the square footage of the accessory building not meeting code and the 2 existing buildings were an eye sore and were going to fall over. Mr. Kulaga stated that he wanted to put up a new building to make the backyard look more appealing to the eye.

Mr. Bolander asked what the building would be made out of. Mr. Kulaga stated that the building would be made out of T-111 Siding, 25 year shingles and cedar trim.

Mr. Kulaga submitted pictures to the board members of previous barns built by his friend that would be building this barn for him.
Mr. Bolander asked Mr. Kulaga to add to his application that the accessory building would be 6 ft. off of the side lots and 15 ft. in height. Mr. Kulaga came forward and added that to his application.

Mr. Engelking moved to approve this application as submitted. Seconded by Mr. Lege. Roll call, all approved.

The secretary read the public notice for application #20032203.

Mr. Bolander asked if anyone was present to represent this variance request. John F. Toth was sworn in. Mr. Bolander stated that this was a variance re-issue to construct a house. Mr. Bolander then asked why this variance, which was approved in August 2002, was never completed. Mr. Toth stated that he had personal issues that caused setbacks on the project.

Mr. Engelking said that he visited the site and it was his understanding that Mr. Toth would like to move the house closer to Stearns Rd. Mr. Toth said that on his application he said he wanted the house 160 ft. from Stearns and he would like to move the house 140 ft. from Stearns Rd. Mr. Bolander said he did not see any problem with that.

Mr. Engelking asked if his driveway would be coming from Schady Rd. and Mr. Toth stated that it would be coming from Stearns Rd., because he wants a Stearns Rd. address. Mr. Engelking stated that there is already a garage on site, and then asked if he would be building an attached garage on the house. Mr. Toth stated that he would be building an attached garage on the house.

Mr. Toth stated that there was an existing fence line on the property, but Mr. Toth had to remove the fence to give the County easement. Mr. Toth asked if he would be able to replace the fence in the same place it was before. Mr. Gargas stated that the fence would be in the public right of way and could only be a certain height.

Mr. Bolander asked if Mr. Toth would make the change in setbacks from the street on his application. Mr. Toth came forward and made the change from 160 ft. to 140 ft. from Stearns Rd.

Mr. Bolander moved to approve the application as submitted. Seconded by Mr. Engelking. Roll call, all approved.

Floor Discussion

Mr. Gargas came forward and stated that the Olmsted Falls Board of Education would be coming in front of the Board of Zoning Appeals for a Conditional Use application to build trailers behind the Middle School. Mr. Gargas said that the application must go for Developmental Plan Review unless waived by the Zoning Inspector. Mr. Gargas showed the plans to the Board members. Mr. Gargas stated that the big issue is what is missing from the site plans. Mr. Gargas said he would like to know how the Board of Appeals members felt about these items missing. Mr. Gargas stated that they do have some of the requirements on the plans, but not all.

Mr. Engelking stated that the pavement markings are marked. Mr. Gargas agreed, but then said that the driving lanes are not marked. Mr. Engelking said that the driving lanes might not have to be marked at all if the Middle School puts up “Entrance” and “Exit” signs. Mr. Gargas stated that the word “site” means “entire lot”, including all structures within 200 ft. of the property, which also includes across the road, which they did not show. Mr. Engelking asked why that is necessary. Mr. Gargas said that it is a requirement in the code.

Mr. Engelking said he would like to know if there is a fire hydrant where the proposed trailers will be. Mr. Engelking also said that if Mr. Gargas thinks it is necessary to have all of the same site plan requirements as anyone else, then that’s fine. Mr. Engelking stated that this site plan should be different from any other site plan just because it is for a school.
Mr. Bolander asked what was required when Olmsted Falls submitted for the old City Hall. Mr. Gargas stated that he did not know, because that is the city. Mr. Engelking said that it went to the Zoning Board. Mr. Gargas asked if the City Hall was annexed between now and then. Mr. Bolander stated that it was not. Mr. Engelking said that the Board has had experience with this type of project before, when the trailers were put in at the High School last year. Mr. Bolander stated that he did not recall that application.

Mr. Bolander said to Mr. Gargas that he doesn’t see a problem with asking the Board of Education to provide the correct information. Mr. Engelking stated that he would still like to know if there is going to be fire hydrants there or at least something to rely on.

Mr. Lyons said that he was going to talk about Columbia Manufactured Home Park. Mr. Lyons stated that they filed an appeal with the Court of Common Pleas. Mr. Lyons said that he would be going to discuss the status of the case. Mr. Lyons also said that they have filed a motion to submit more evidence, so Mr. Lyons may have the opportunity to resolve this matter without going through the court process. Mr. Lyons stated that Columbia Manufactured Home Park did not do well at presenting options or showing other requirements. Mr. Lyons said that Columbia Park felt compelled to file an appeal due to the fact that they thought the Board would not let them resubmit. Mr. Lyons asked the Board members for their opinions and if Columbia Park were to come up with a different presentation or concept, would the Board be willing to let them re-open their case. Mr. Lyons also asked if they would need to start all over or take everything back a step and do something significantly different.

Mr. Bolander asked if the Board is legally allowed to reopen a case if it is different and why it wouldn’t be like a whole new application. Mr. Lyons said that he would need to get Columbia Park to be willing to take that approach. Mr. Bolander stated that the Zoning Amendment says a person can re-apply, but the application has to be different somehow. Mr. Gargas then asked how different the application has to be. Mr. Lege said there is no positive intent for Columbia Park whatsoever and they stood their ground. Mr. Lyons stated that Columbia Park fumbled the whole thing. Mr. Lyons said that the first time they came in front of the board, they casually threw out ideas, the second time they came in front of the board, they presented the layout with no setbacks, and the third time the came in front of the board, they didn’t bother to show up until after the meeting had started.

Mr. Bolander said that if it goes to court and the court decides the final outcome, it could be something the Township does not want or something the residents do not want. Mr. Bolander stated that if it does come back to the Township, the board might have some control over what happens. Mr. Engelking said that maybe the board could request Columbia Park provide proper setbacks, and resubmit stating the fact that they are now plowing land next to the creek by Columbia Manufactured Home Park and almost closing the creek off at points. Mr. Gargas stated that the Cuyahoga County Board of Health said that dumping yard waste and leaves has been going on by Columbia Park for years. Mr. Gargas suggested that Columbia Park could come forward and say they have graded the site and put seed down, which they did get a permit for.

Mr. Engelking asked if the Board of Appeals would be able to reopen the application if Columbia Park did not change anything on the application. Mr. Lyons stated that the board would be entitled to reopen the application. Mr. Lyons also said that there is no clear way to approach this until he knows what their response will be. Mr. Engelking said that since the residents have issues with the buffers, Mr. Lyons could suggest Columbia Park put this into their application and resubmit. Mr. Engelking asked if Mr. Lyons thought the residents would be more open to that. Mr. Lyons stated that may be sufficient, but the residents would need to come forward first, but the problem with that is that the court process does not involve people in the community.
Mr. Lyons stated that Columbia Park requested to bring additional evidence to court, but they did not present much of anything at the Board of Zoning Appeals meetings. Mr. Lyons said that he would try to direct Columbia Park into submitting a new application.

Mr. Bolander asked if Mr. Lyons has seen any of the new evidence that they want to submit. Mr. Lyons stated that he has not seen the additional evidence. Mr. Lyons then said he thinks he may know what it is. Mr. Lyons believes it may be that the board denied their variance because of the fact that there was no evidence presented and they should be able to be heard again. Mr. Lyons also believes one of their arguments might be that the change in the zoning constituted any economical use of property.

Mr. Lege asked if the property was purchased before or after the zoning change. Mr. Gargas said he believes the deal closed after the change.

Mr. Lyons stated that if the zoning code renders property unusable, it is still constitutional.

Mr. Lege said that he did not agree with Columbia Park’s presentation. Mr. Lege also requested the dates on the purchase of the property and the exact number of homes in Columbia Park right now.

Mr. Engelking moved to adjourn. Seconded by Mr. Bolander. Roll call, all approved.

Respectfully submitted,

Nicole L. Rosin
Nicole L. Rosin, Secretary

James Bolander, Chairman
The regular meeting of the December 17, 2003 Olmsted Township Board of Zoning Appeals was called to order at 7:30 PM. Present were Chairman James Bolander, Edward Lege, Gregory Engelking, Charles Cvitkovich, and Larry Maser. Also present were Building Commissioner Daniel Gargas and Secretary Nicole Rosiu.

Mr. Bolander asked the audience to stand for the Pledge of Allegiance.

Mr. Engelking moved to approve the minutes of November 19, 2003 as submitted. Seconded by Mr. Lege. Roll call, all approved. Mr. Maser abstained.

The secretary read the public notice for application #20032316.

Mr. Bolander asked if anyone was present to represent Garland Griffin Homes. Chris Griffin was sworn in. Mr. Griffin stated that there was a little over 4 ft. on the side yard setback of 27309 Maurer Dr. Mr. Bolander asked why Garland Griffin Homes made the house so big. Mr. Griffin stated that Garland Griffin Homes do not have any specs for their houses. Mr. Griffin said that all of their lots are sold before building.

Mr. Bolander asked why Garland Griffin Homes thinks they could just build this house and go to the Township and think the Township would make everything okay. Mr. Gargas stated that was one way to look at it.

Mr. Bolander asked if Garland Griffin Homes could build a smaller house on that lot. Mr. Griffin said that the person wanting to build this house was interested in that lot.

Mr. Engelking asked if there was any other lot in Woodgate Farms that this house would fit on. Mr. Griffin said that he wasn’t sure and he would have to look.

Mr. Bolander asked why Garland Griffin would build a house on a lot that it doesn’t fit on. Mr. Gargas stated that this is a self-created hardship. Mr. Griffin then stated that he has come in front of the BZA more than once, but Garland Griffin Homes is building over 150 houses in the Woodgate Farms subdivision and have only applied for 2 or 3 variances. Mr. Griffin said that the only reason he considered going in front of the BZA with this house is because there is an empty lot next to this house.

Mr. Gargas stated that Woodgate Farms is a Planned Residential Development, and there does not have to be 20 ft. between the houses in a PRD. Mr. Bolander said that he is amazed that builders know lot sizes, and if a customer wants to build a house that will not fit on a lot, tell the customer that the house will not fit, and try another lot. Mr. Gargas stated that Mr. Griffin has the right to appeal. Mr. Griffin said that he could take 5 ft from one side of the house, so there would be 15 ft. on the other side, which would move the house closer to the open space. Mr. Bolander stated that Garland Griffin could not go any less than the Zoning Code permits. Mr. Gargas said that Garland Griffin would be able to, but they would have to go back to the county and the Trustees.

Jeff Dubecky was sworn in. Mr. Dubecky stated that he doesn’t see a problem with granting this variance as long as nobody builds on the open space next to the proposed building. Mr. Dubecky suggested that if the board approves this variance, they could specify that the lot next door could never be built on.

Mr. Engelking asked what the size of the lot next door was. Mr. Griffin said he believes it is 75 ft. frontage. Mr. Lege asked who owns the open space. Mr. Griffin stated that the Homeowners Association owns it. Mr. Bolander asked if that lot would be built on sometime. Mr. Griffin stated that it would not be built on any time in the near future, because it has been reserved for green space.
Mr. Lege asked if someone wanted to build a gazebo in the open space next door, who would apply for the permits. Mr. Gargas stated that even though the lot has been reserved for open space, a gazebo should be allowed. Mr. Gargas and Mr. Bolander both agreed that the Homeowners Association would apply for the permits. Mr. Dubecy stated that there are more lots like this one in the development. Mr. Dubecy then suggested that Garland Griffin consider putting in a buffer or landscaping dividing the 2 properties.

Mr. Bolander stated that Garland Griffin should build a house on that lot that conforms to lot requirements. Mr. Bolander said that he has difficulty approving this due to the fact that these houses are not created by a TOPO that would cause a variance request. Mr. Bolander stated that the people who want houses built come forward to the builders and want their house to conform to lot requirements, but yet they pick a lot for their house that would not conform. Mr. Griffin stated that only a small percentage of Garland Griffin’s homes have needed a variance request.

Mr. Bolander said that he does not see any reason why the board should grant the variance. Mr. Griffin stated that in the Zoning Code, it says to keep the minimum distance between 2 houses, which you can accomplish, but still allow something like this lot, which has been brought in front of the BZA. Mr. Lege asked Mr. Griffin that if he made the house 3 ft. wider, would he still apply for a variance. Mr. Lege also asked how many lots are facing open space in this development. Mr. Griffin said that based on the comments he’s heard, he will try not to do a variance request again.

Mr. Gargas stated that he has been giving a lot of thought to the way zoning areas are determined and one of the driving forces is the availability of water and sewer. Mr. Gargas then said that water and sewer are mainly available in R-15 districts. Mr. Gargas stated that if Woodgate Farms were an R-15 district, then it would meet the zoning requirements. Mr. Gargas also said that he is amazed that the Township allows 5 ft. from the lot line, and he is trying to eliminate that from the Zoning Code. Mr. Gargas then stated that there are other developers that are closer than 20 ft. from the lot line.

Mr. Engelking moved to approve the application as submitted. Seconded by Mr. Maser. Roll call, approved by Mr. Maser, denied by Mr. Lege, Mr. Engelking, and Mr. Bolander. Mr. Cvitkovich abstained.

The secretary read the public notice for application #20032286.

Mr. Bolander asked if anyone was present to represent Fouad Inc. Susan Boggs was sworn in. Mr. Bolander asked if the trailers were already at this property. Ms. Boggs stated that there are currently 2 trailers at this property. Mr. Gargas asked how long the trailers have been there. Ms. Boggs said that they have been there for about 1 year. Mr. Gargas said he went out to do a property maintenance complaint on another property and that was how the subject came up about the trailers.

Mr. Engelking asked if the trailers were in the front or rear yard. Ms. Boggs presented pictures of a site plan of her property, explaining where the trailers are. Mr. Bolander asked if the trailers are being used for storage. Ms. Boggs stated that right now they are being used for storage, but she has a big dispute going on with Hopkins Airport. Ms. Boggs stated that when her house gets acquired, the trailers would make it easier to move. Mr. Bolander asked when Ms. Boggs was going to move. Ms. Boggs said that she will be moving once this dispute with Hopkins Airport goes to court.
Mr. Bolander asked how long the trailers are. Ms. Boggs said that they are tractor-trailers. Mr. Gargas stated that the trailers are about 25 to 30 ft. long. Ms. Boggs said that one can’t see them from the road and they are mostly empty right now. Mr. Bolander asked why they are on the property now. Ms. Boggs said that she has nowhere else to put them. Mr. Bolander said that Ms. Boggs might have to find somewhere to store them. Ms. Boggs said that she realizes that. Mr. Bolander asked if Ms. Boggs was going to use these trailers anytime in the near future. Ms. Boggs stated that she is trying to move out of Olmsted Township as soon as possible and that she has already had 2 buildings removed from her property. Mr. Bolander asked if there are any other buildings on the property now. Ms. Boggs stated that she has a house, a garage, a cottage and a barn on her property now.

Mr. Gargas stated that the site plan is an old one from the file. Mr. Gargas suggested that the board table this application so Mr. Gargas could confirm the measurements of the trailers.

Mr. Maser moved to continue the public hearing until January 21, 2003. Seconded by Mr. Engelking. Roll call, all approved.

The secretary read the public notice for application #20032329.
Geoff Moyse was sworn in. Mr. Bolander asked if what Mr. Moyse wanted to do was split a lot. Mr. Moyse stated that he would like to split a lot that would be 4 ft. short of the code. Mr. Moyse showed a picture of an existing accessory building crossing over the lot next door to Mr. Moyse’s property. Mr. Moyse said that he doesn’t think it is worth the cost of moving the building and he did not want to give up the right of not moving the building at this time. Mr. Moyse stated that the property on the other side of his property is owned by Fred Shaker and is vacant.

Mr. Bolander asked if Mr. Moyse would like to build a house on both properties. Mr. Moyse stated that eventually he would like to, but he would meet zoning requirements with both of the houses. Mr. Bolander stated that this would form a non-conforming lot. Mr. Moyse said that he knows, but it would only be by 3.54 ft.

Mr. Gargas suggested that this application be tabled to ask for a legal opinion from the prosecutor’s office.
Mr. Moyse said that if it helps, he went to Columbia Station within the past 3 months for a house that he had just built on a very non-conforming lot that was 150 ft. for one lot and 200 ft. on the other, and they were 100 ft. on each, after they were split. Mr. Moyse also stated that the side variance was way off and so many things were wrong, but the variance was still granted. Mr. Lege said that Mr. Moyse is comparing Lorain County to Cuyahoga County.

Mr. Lege asked how long Mr. Moyse has owned this lot. Mr. Moyse said that he has owned the lot for 4 or 5 years now. Mr. Lege asked Mr. Gargas when the Zoning for frontage requirements was changed. Mr. Gargas said it was changed in 2000. Mr. Cvitkovich asked what the area requirement was in 2000. Mr. Lege stated that he has the area requirements regardless. Mr. Cvitkovich then asked what the property was zoned at. Mr. Gargas stated that it was zoned at 40,000 sq. ft.

Mr. Bolander stated that he would like to get some interpretation on whether or not the board has the ability to create a non-conforming lot.

Mr. Bolander moved to continue the public hearing until January 21, 2004. Seconded by Mr. Maser. Roll call, all approved.
Floor Discussion

Mr. Engelking moved to adjourn. Seconded by Mr. Bolander. Roll call, all approved.

Respectfully submitted,

[Nicole L. Rosiū, Secretary]

James Bolander, Chairman