



AGENDA

Regular Meeting

May 21, 2024 | 7:00 p.m. | 555 Frost Rd. Streetsboro, Ohio 44241

- I. **Call to Order**
- II. **Pledge of Allegiance**
- III. **Roll Call**
- IV. **Disposition of Minutes**
July 18, 2023; August 15, 2023; November 21, 2023; December 19, 2023; March 19, 2024
- V. **Old Business**
- VI. **New Business**
 - A. Application #VRA24-1 V/L Harper Rd. PPN#: 35-071-00-00-036-000
An 8-foot variance from Section 1127.03(b) which requires a minimum lot width at the building setback line of 100 feet, resulting in a permitted minimum lot width at the building setback line of 92 feet.
 - B. Application #VRA24-2 142 Harper Rd.
A 6-foot variance from Section 1127.04(c) that requires a 10-foot side yard setback for principal structures in the R-1 district, resulting in a 4-foot side yard setback
- VII. **Citizens' Comments**
- VIII. **Board Member Comments**
The next regularly scheduled Board of Zoning and Building Appeals meeting will be held on Tuesday, June 18, 2024 at 7 p.m. in the Council Chambers at City Hall, 555 Frost Rd.
- IX. **Adjourn**



May 21, 2024

Application #VRA24-1

Vacant Lot Harper Rd.

PPN#: 35-071-00-00-036-000

A request for an 8-foot variance from §1127.03, to allow a minimum lot width at the building setback line of 92 feet, where Code requires a minimum of 100 feet.

April 26, 2024

Board of Zoning and Building Appeals

City Of Streetsboro

RE: Parcel: 35-071-00-00-036-000 – Area Variance Request

Owner: Joseph J, Sankovic, Trustee of the Joseph J. Sankovic Trust

Dear City of Streetsboro Board of Zoning Appeals:

Please accept my application for an area variance for the above referenced property. This application is for a reduction from the 100 feet setback requirement to 92 feet to build a structural building on Parcel 35-071-00-00-036-000.

The reason the variance is necessary is due to an encroachment of a neighbor's building onto my parcel. The variance will result in an amicable settlement of a dispute currently pending in the Portage County Court of Common Pleas between myself and the neighboring property owner. Without this variance, either I will not be able to build on my lot or my neighbor will need to remove his building addition. Please see Exhibit A for a full description of the variance request.

Due to previously scheduled travel, I will not be able to attend the Board of Zoning Appeals meeting scheduled for May 21, 2024. My attorney, Jennifer Kangas Berendt, will attend the meeting on my behalf and answer any questions regarding the property and variance application.

Respectfully Submitted,

Joseph J Sankovic, Trustee

Exhibit A

Property Address: Parcel Number 35-071-00-00-036-000

Owner: Joseph J. Sankovic trustee of the Joseph J. Sankovic Trust

Variance Application Summary:

I. A statement indicating why the variance is necessary.

The variance is necessary due to an encroachment by a neighboring property owner's building on Parcel Number 35-071-00-00-036-000 (hereinafter referred to as the "Sankovic Property"). The property owner of 142 Harper Road, Ryan Suchy, constructed an addition on his home that encroaches on the Sankovic Property by approximately four feet. Construction on the building began prior to Joseph Sankovic purchasing the property and resulted in the filing of civil claims in Portage County Common Pleas Court. Through Mediation, the parties settled the dispute by Sankovic agreeing to transfer an eight-foot strip of land to Suchy, on the condition that the City of Streetsboro will grant Sankovic a variance to build his home on the lot based on the reduced building setback line of 92.00 feet.

II. A statement indicating conditions which are peculiar to the subject property and are not characteristic of nearby properties in the same zoning district thereby creating practical difficulty.

The agreement reached at Mediation between Suchy and Sankovic is contingent upon the granting of the variance. A variance is necessary so that Sankovic can build a home on the Sankovic Property and Suchy can keep his home addition as currently built. If the settlement agreement cannot be finalized, the addition to the Suchy home may need to be demolished due to the encroachment or Sankovic and future owners of the Sankovic Property will not be able to build a home or structure on the lot.

III. The exact nature of the variance being requested.

The property is located in the R-1 Low Density Urban Residential District. According to Streetsboro Zoning Ordinance 1127.03, the minimum lot width at the building setback line must be 100 feet. The requested variance is for a decrease in the minimum lot width at the building setback line to 92.00 feet.

IV. A statement demonstrating the variance requested is the minimum necessary to alleviate the difficulty and will not be detrimental to the public health, safety and welfare.

The encroaching building extends four feet past the current property line. The transfer of an eight-foot strip of land was the minimum area necessary to allow Suchy to keep his building intact and have enough space to mow around the structure. Additionally, the parties agreed to a deed restriction that will not allow any other structure to be built in the eight-foot strip area. The variance will not be detrimental to the public health, safety and welfare of Streetsboro residents because it is a minor reduction in the setback requirement that will not cause any impact on other residents or city services.

JOSEPH SANKOVIC, TRUSTEE

APPROVED: CITY OF STREETSBORO ENGINEER

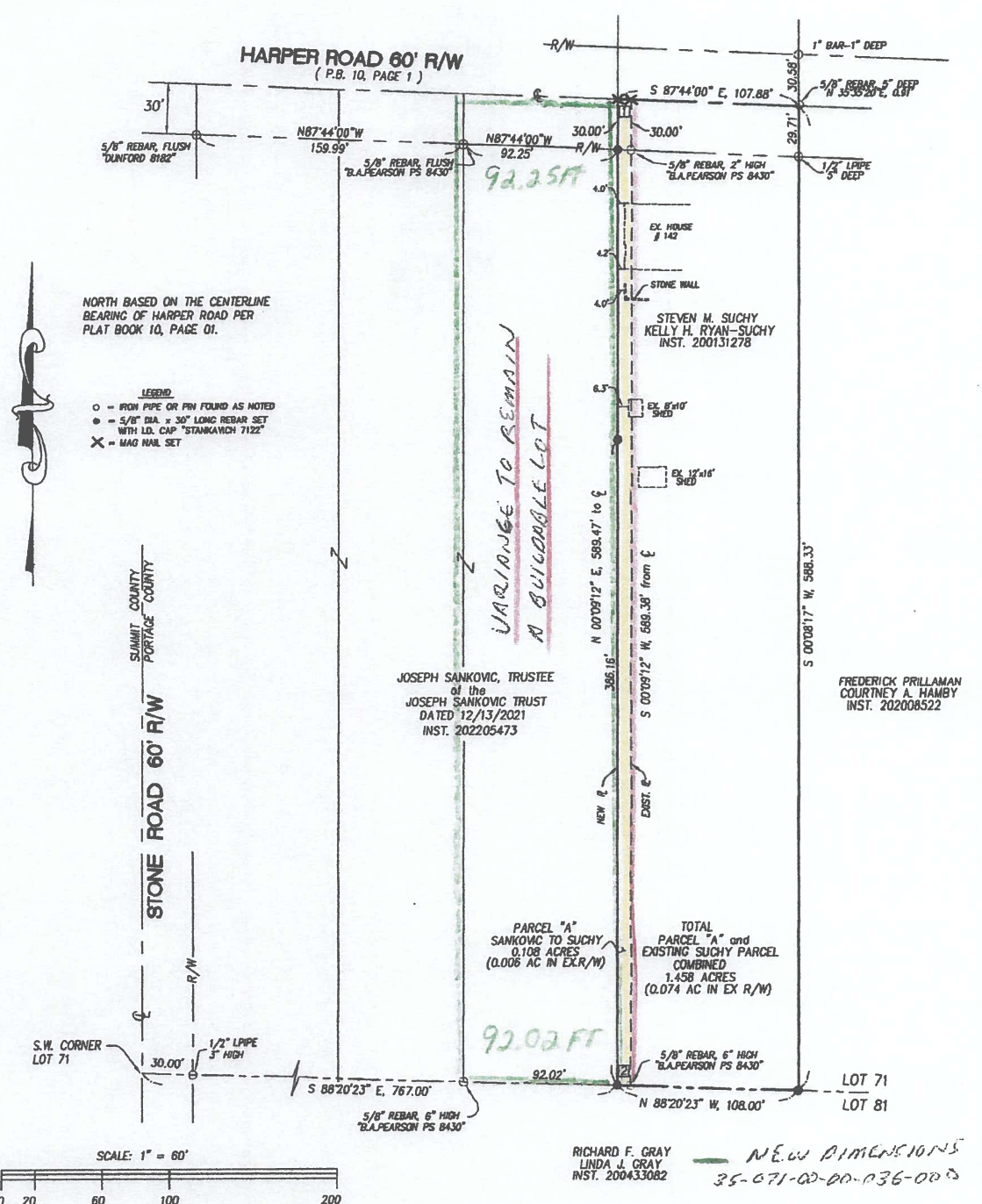
DATE

PARCEL 35-071-00-00-036-000

APPROVED: CITY OF STREETSBORO ZONING DIRECTOR

DATE

LINE TABLE
① = S 87°44'00" E, 8.00'
② = N 88°20'23" W, 8.00'



NORTH BASED ON THE CENTERLINE BEARING OF HARPER ROAD PER PLAT BOOK 10, PAGE 01.

LEGEND
○ = IRON PIPE OR PIN FOUND AS NOTED
● = 5/8" DIA. x 30" LONG REBAR SET WITH LD. CAP "STANKOVICH 7122"
X = MAG NAIL SET

JOSEPH SANKOVIC, TRUSTEE of the JOSEPH SANKOVIC TRUST DATED 12/13/2021 INST. 202205473

FREDERICK PRILLAMAN COURTNEY A. HAMBY INST. 202008522

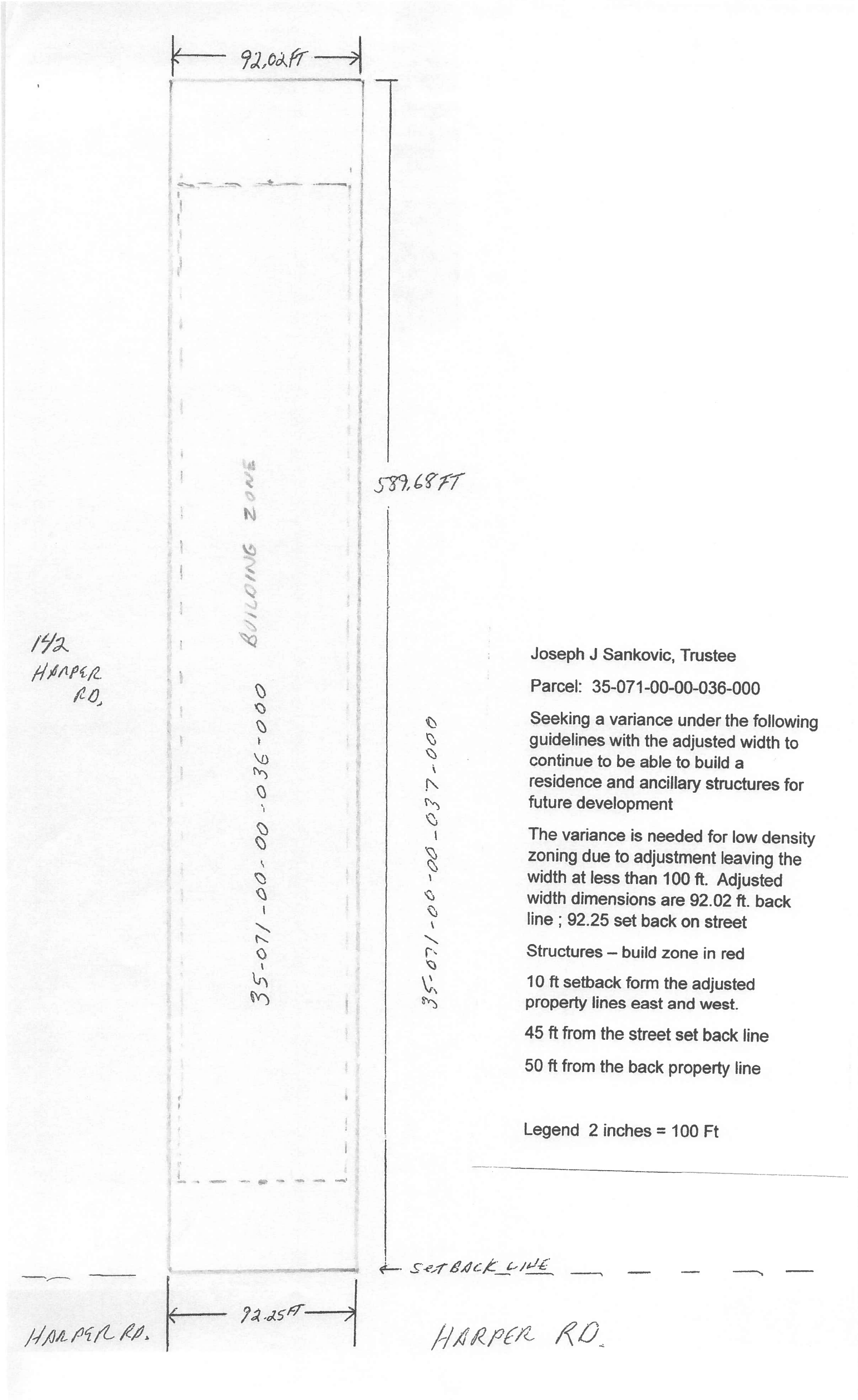
PARCEL "A" SANKOVIC TO SUCHY 0.108 ACRES (0.006 AC IN EX R/W)

TOTAL PARCEL "A" and EXISTING SUCHY PARCEL COMBINED 1.458 ACRES (0.074 AC IN EX R/W)



SURVEYOR CERTIFICATION
I HEREBY CERTIFY THAT THIS SURVEY WAS MADE IN ACCORDANCE WITH CHAPTER 4733-37 OF THE OHIO ADMINISTRATIVE CODE GOVERNING THE MINIMUM STANDARDS FOR BOUNDARY SURVEYS. DIMENSIONS ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF. ALL MONUMENTS WERE FOUND OR SET AS SHOWN AS OF APRIL 6, 2024.

DAN STANKOVICH, P.S. DATE



Joseph J Sankovic, Trustee

Parcel: 35-071-00-00-036-000

Seeking a variance under the following guidelines with the adjusted width to continue to be able to build a residence and ancillary structures for future development

The variance is needed for low density zoning due to adjustment leaving the width at less than 100 ft. Adjusted width dimensions are 92.02 ft. back line ; 92.25 set back on street

Structures – build zone in red

10 ft setback form the adjusted property lines east and west.

45 ft from the street set back line

50 ft from the back property line

Legend 2 inches = 100 Ft

**CITY OF STREETSBORO
MEMORANDUM**

TO: Board of Zoning and Building and Appeals (BZBA)

FROM: Jimmy Hoppel, AICP;
Assistant Planner

DATE: May 15, 2024

RE: Comments re: Harper Road Minimum Lot Width at Building Line for the May 21, 2024 Meeting

I offer the following comments for consideration by the BZBA:

Site Address: N/A

PPN#: 35-071-00-00-036-000

Applicant(s): Joseph Sankovic

Property Owner(s): Joseph Sankovic (Trustee)

The variance being requested:

The applicant is requesting an 8-foot variance from Section 1127.03(b) which requires a minimum lot width at the building setback line of 100 feet, resulting in a permitted minimum lot width at the building setback line of 92 feet.

Project Summary:

The adjacent property owner to the east previously applied for an addition to their principal structure, which was approved and provided a zoning certificate. Application materials submitted to staff made it appear as if the minimum side yard setback of 10 feet would still be met. The addition was constructed and later, upon the purchase of the subject property by Mr. Sankovic, it was discovered that the addition of the neighbor's home encroached several feet onto his property. It was determined that the application materials for the addition that were submitted were inaccurate. Due to the encroachment Mr. Sankovic and the adjacent property owner entered legal mediation with their legal representation. The two parties have agreed to adjust the lot line between their two properties west by eight feet. This will result in the adjacent owner having a minimum 4-foot setback from the property line to their principal structure (this is being handled by a separate but concurrent variance application). It has resulted in Mr. Sankovic's request for a variance for a reduced lot width at the building setback line. He has requested an 8-foot variance from the 100-foot minimum lot width at the building setback line, resulting in a permitted lot width at the building setback line of 92 feet.

Variance Standards:

In *Duncan v. Middlefield* the Ohio Supreme Court utilized standards for determining if a practical difficulty exists that would justify the granting of an area variance. Find below the *Duncan v. Middlefield* standards as well as standards contained in the City's Zoning Ordinance, in **bold** followed by information provided by staff for the BZBA to consider in weighing the standards and rendering their decision.

1. The property in question (will/will not) yield a reasonable return and there (can/cannot) be a beneficial use of the property without the variance;

The property itself would yield a reasonable return and the could be beneficial use of the property without the variance, however, there is an existing encroachment that does currently create an issue where remedy is currently being sought.

2. The variance is (substantial/insubstantial);

The variance is not substantial as it would be a reduction of the required 100-foot lot width at the building setback line by eight feet, which is only 8%.

3. The essential character of the neighborhood (would/would not) be substantially altered (and/or) adjoining properties (would/would not) suffer a substantial detriment as a result of the variance;

The essential character of the residential area would not be substantially altered. While the lot line adjustment that is proposed to solve an existing encroachment issue, is also resulting in the need for a variance to a substandard lot width at building setback line, the adjacent property owner is working in conjunction with the property owner of the subject property and has determined this to be an amenable solution.

4. The variance (would/would not) adversely affect the delivery of governmental services (e.g. water, sewer, garbage, etc.);

This variance would not adversely affect the delivery of governmental services.

5. The applicant purchased the property (with/without) (actual/constructive) knowledge of the applicable zoning restriction;

It is the understanding of staff that the during the purchasing process the applicant was made aware of the encroachment during a title search, but it is unknown if code requirements for the property, as it existed, were known at the time.

6. The applicant's predicament feasibly (can/cannot) be resolved through some method other than a variance;

The applicant's predicament could be resolved outside of a variance being granted. If the adjacent property's encroachment were removed from his property, then the subject property would no longer need to adjust the lot width and, therefore, would not need to seek a variance.

7. The spirit and intent behind the Zoning Code (would/would not) be observed and substantial justice (done/not done) by granting the variance;

The spirit and intent of the zoning code is to set lot widths that allow for a standardized pattern of development that adhere to a specified character for the overall neighborhood. It

is staff's belief that while this does not meet the code requirement, it would not be such a significant reduction that it would greatly alter the character of the neighborhood or development on Harper Road. In fact, there are multiple existing properties on Harper Road with lot widths at the building setback line that are less than the 92 feet that the subject property would result in, further suggesting that this lot would be in-line with the character on Harper Road.

8. There (are/are not) conditions peculiar to the property which are not characteristic of other nearby properties in the same zoning district;

The condition peculiar to the property is that the adjacent property has a house that is encroaching onto it.

9. The peculiar conditions are not the result of actions of the applicant.

The peculiar condition is not a result of actions of the applicant.

10. The peculiar conditions would be encountered by any person who might own the property.

Any person who might own the property as it currently exists would also experience the encroachment from the adjacent property.

11. The variance (has/has not) been requested solely to increase property value or provide some other financial benefit.

The variance is being requested to resolve an encroachment and to amicably resolve mediation between two property owners.

12. The variance is the minimum one necessary to alleviate the difficulty;

It is difficult to say what the minimum variance necessary is for the current circumstances with multiple parties involved and two variances for two properties that are inextricably linked. That being said, Staff believes that this variance is adequate to meet the needs of both property owners and is supportive of the fact that the two property owners have found a solution that they can agree upon.

The BZA should weigh the above standards to determine if a practical difficulty exists that would merit the requested variance.



May 21, 2024

Application #VRA24-2

142 Harper Rd.

A request for a 6-foot variance from §1127.04(c), to allow a side yard setback of 4 feet, where Code requires a minimum of 10 feet.

FLYNN KEITH & FLYNN, LLC

ATTORNEYS & COUNSELORS AT LAW

JOHN J. FLYNN
MICHELE K. KEITH
SCOTT J. FLYNN
JASON A. WHITACRE
LAURA TSAI JUSTICE
JESSICA A. WRIGHT

JON M. DERHODES (1962 - 2007)

214 SOUTH WATER STREET
POST OFFICE BOX 762
KENT, OHIO 44240

TELEPHONE (330) 673-0114
FACSIMILE (330) 617-4278

VARIANCE APPLICATION NARRATIVE--SUPPLEMENT

May 7, 2024

To: The Streetsboro Board of Zoning Appeals (submitted electronically)

RE: My Clients: Steven and Kelly Suchy, 142 Harper Rd., Streetsboro, Ohio
Side yard setback variance request

Dear Sir/Madam:

As a follow-up to my Narrative dated April 29, 2024, we would like to amend our variance request, as my clients only need a 6' variance from the side-yard setback requirement. Previously we requested a 6.2' variance request. Thank you.

Very Truly Yours,

/s/ Scott J. Flynn

FLYNN KEITH & FLYNN, LLC

ATTORNEYS & COUNSELORS AT LAW

JOHN J. FLYNN
MICHELE K. KEITH
SCOTT J. FLYNN
JASON A. WHITACRE
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TELEPHONE (330) 673-0114
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VARIANCE APPLICATION NARRATIVE

April 29, 2024

To: The Streetsboro Board of Zoning Appeals (submitted electronically)

RE: My Clients: Steven and Kelly Suchy, 142 Harper Rd., Streetsboro, Ohio
6.2 foot side yard setback variance request

Dear Sir/Madam:

This office represents Steven and Kelly Suchy, who are seeking a 6.2' variance from the 10' minimum side-yard setback requirement¹. My clients have suffered significant hardship by relying upon an incorrect mortgage location survey when they obtained building permits in order to build an addition on their residence at 142 Harper Rd, Streetsboro, Ohio. The Suchys had substantially completed their addition when their new, adjacent neighbor, Joseph J. Sankovic, Trustee ("Sankovic") informed my clients that my clients had built some of their addition on a portion of Sankovic's property.

I filed a lawsuit against Sankovic in April of 2023, claiming that my clients owned a portion of Sankovic's property under the legal doctrine of adverse possession. After a year of litigation, discovery, and multiple mediations, Sankovic has agreed to sell to my clients an 8' wide strip of land adjacent to the Suchy's property, which acquisition would keep my client's addition (and concrete patio) from being located on the Sankovic's property. However, even with the purchase of the strip of land, the Suchys still need a variance in order to comply with the City's side-yard setback requirements.

The sale of this strip of land is contingent upon the Streetsboro BZA granting not only the Suchys a variance, but also granting Sankovic a variance to build a home on his property. The Suchys and Sankovic are seeking their variance applications separately, but are working in concert with one another. If the BZA grants both variances, Suchys will finalize all of the survey work and acquire the 8' foot strip of land from Sankovic, which will put an end to the litigation in the Portage County Court of Common Pleas.

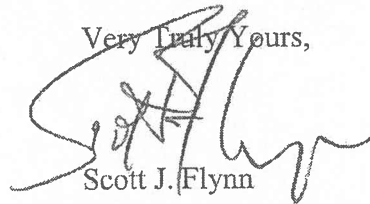
¹ The 6.2' variance request is based upon what is needed by the Suchys *after* they purchase land from Sankovic, which purchase is contingent upon this Variance Application, as well as Sankovic's Variance Application.

Given the Suchys' and City of Streetsboro's reliance on the survey, we believe this is a peculiar situation not characteristic of nearby properties. The Suchys detrimentally relied on an incorrect survey prior to obtaining building permits from the City, and would face a severe economic hardship if they were to have to tear down their addition. Also, after a year of negotiations and mediations with Sankovic, the 6.2' variance request is the minimum necessary to allow the Suchys to keep their addition and also maintain the western side of their house without trespassing, while leaving enough land for Sankovic to build a residence on his property. The variance will not be detrimental to the public health, safety and welfare, and will only impact Sankovic, who supports the Suchys' request for this variance.²

I have attached a copy of the plat map recently prepared by my clients' surveyor, which indicates the 8' strip of land to be acquired in relation to my client's residence and outbuildings. I have also attached a copy of the signed settlement agreement between the Suchys and Sankovic, which goes into some more detail regarding the agreement reached between the two (2) neighbors.

Should you need any additional info prior to the May 21, 2024 BZA meeting, please let me know.

Very Truly Yours,



Scott J. Flynn

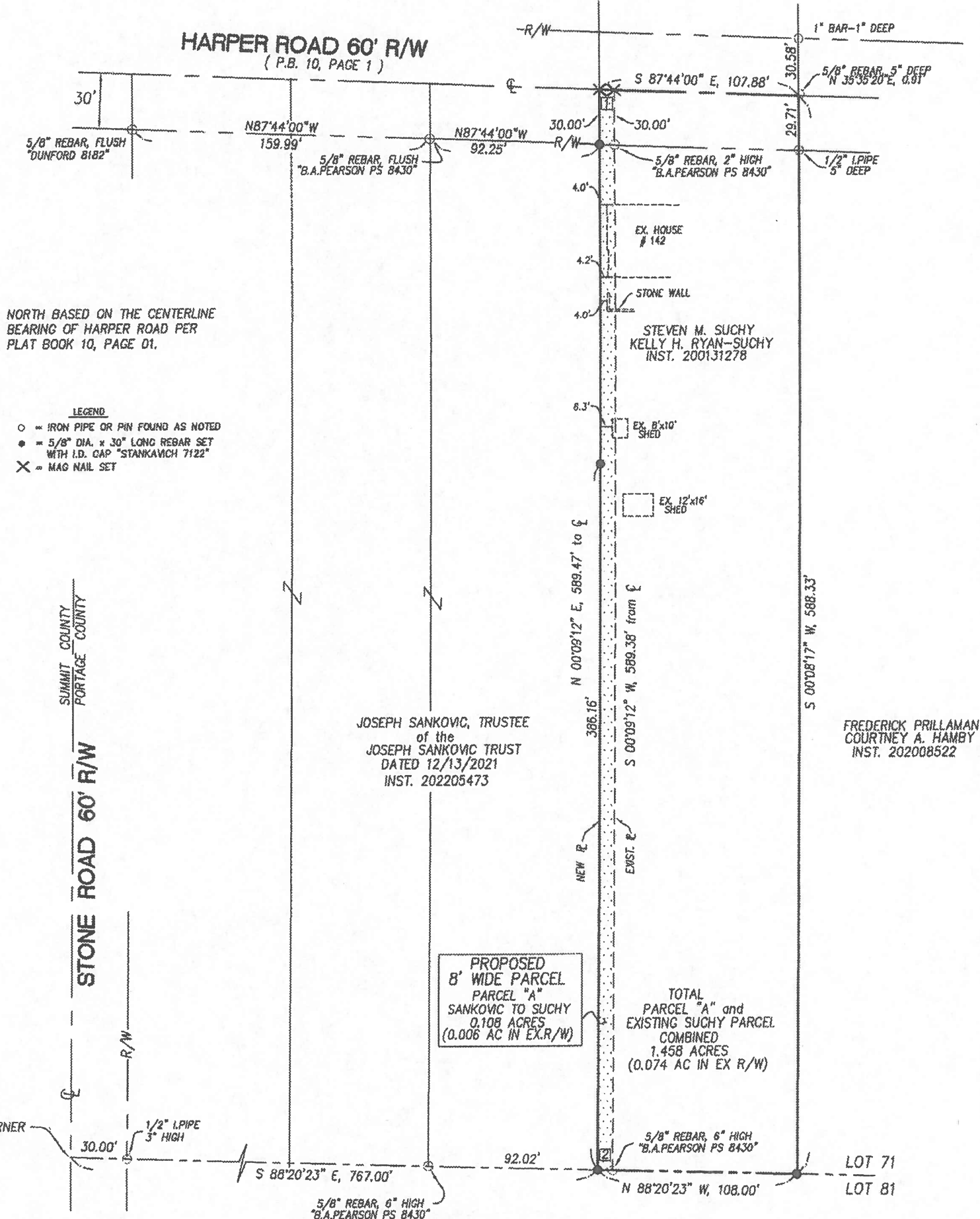
² The Suchys likewise support Sankovic's Variance Application.

APPROVED: _____
 CITY OF STREETSBORO ENGINEER DATE

APPROVED: _____
 CITY OF STREETSBORO ZONING DIRECTOR DATE

LINE TABLE
 [1] = S 87°44'00" E, 8.00'
 [2] = N 88°20'23" W, 8.00'

HARPER ROAD 60' R/W
 (P.B. 10, PAGE 1)



NORTH BASED ON THE CENTERLINE BEARING OF HARPER ROAD PER PLAT BOOK 10, PAGE 01.

- LEGEND
- = IRON PIPE OR PIN FOUND AS NOTED
 - = 5/8" DIA. x 30" LONG REBAR SET WITH I.D. CAP "STANKAVICH 7122"
 - ✕ = MAG NAIL SET

SUMMIT COUNTY
 PORTAGE COUNTY

STONE ROAD 60' R/W

JOSEPH SANKOVIC, TRUSTEE
 of the
 JOSEPH SANKOVIC TRUST
 DATED 12/13/2021
 INST. 202205473

FREDERICK PRILLAMAN
 COURTNEY A. HAMBY
 INST. 202008522

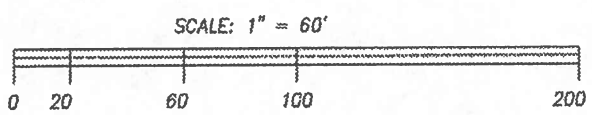
PROPOSED
 8' WIDE PARCEL
 PARCEL "A"
 SANKOVIC TO SUCHY
 0.108 ACRES
 (0.006 AC IN EX.R/W)

TOTAL
 PARCEL "A" and
 EXISTING SUCHY PARCEL
 COMBINED
 1.458 ACRES
 (0.074 AC IN EX R/W)

S.W. CORNER
 LOT 71

LOT 71
 LOT 81

RICHARD F. GRAY
 LINDA J. GRAY
 INST. 200433082



SURVEYOR CERTIFICATION

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE IN ACCORDANCE WITH CHAPTER 4733-37 OF THE OHIO ADMINISTRATIVE CODE GOVERNING THE MINIMUM STANDARDS FOR BOUNDARY SURVEYS. DIMENSIONS ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF. ALL MONUMENTS WERE FOUND OR SET AS SHOWN AS OF APRIL 6, 2024.

 DAN STANKAVICH, P.S. DATE

PROPOSED
 MINOR SUBDIVISION
 and
 COMBINATION SURVEY
 SUCHY / SANKOVIC
 CITY OF STREETSBORO, COUNTY OF PORTAGE, OHIO
 ORIGINAL STREETSBORO TOWNSHIP LOT 71
 APRIL 4, 2024

MUTUAL SETTLEMENT AGREEMENT AND RELEASE

This Mutual Settlement Agreement and Release is entered into as of the dates reflected below by and between Joseph J. Sankovic, Trustee of the Joseph J. Sankovic Trust dated 12/13/2021 (the "Sankovics"), and Steven M. Suchy and Kelly Ryan-Suchy (the "Suchys") (the Sankovics and Suchys are collectively referred to as the "Parties").

WHEREAS, the Suchys are the owners of real property and a residence located at 142 Harper Rd., Streetsboro, Ohio, (PPN 35-071-00-00-035-00) ("Suchy's Property"); and

WHEREAS, the Sankovics are the owners of vacant land (PPN 35-071-00-00-036-000) ("Sankovic's Property") adjacent to and west of Suchy's Property; and

WHEREAS, prior to building an addition to Suchy's residence, which addition encroaches onto Sankovic's Property, the Suchys relied on a mortgage location survey, which survey the City of Streetsboro also relied upon when it issued building permits to the Suchys; and

WHEREAS, the Suchys filed a Complaint on April 17, 2023 against the Sankovics, captioned *Steven M. Suchy et al. v. Joseph Sankovic, Trustee of the Joseph J. Sankovic Trust dated 12/13/2021*, in the Portage County Common Pleas Court, Case No. 2023CV00310 (the "Lawsuit"), seeking claims to acquire a portion of Sankovic's Property by adverse possession and/or implied and prescriptive easements; and

WHEREAS, the Sankovics filed Counterclaims against the Suchys within the Lawsuit, seeking claims for declaratory judgment, quiet title, trespass, and slander of title; and

WHEREAS, the Parties answered the respective Complaint and Counterclaims, and generally disputed each other's claims; and

WHEREAS, the parties now choose to settle and resolve all claims by and between them rather than proceed with the Lawsuit, contingent upon each Party receiving satisfactory variances and/or approvals from the City of Streetsboro.

NOW, THEREFORE for good and valuable consideration, including the foregoing recitals which are incorporated herein by reference, the parties agree and acknowledge as follows:

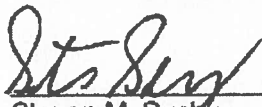
1. The Suchys agree to pay to Sankovics the sum of Seventeen Thousand Three Hundred Seventy-Five and 00/100 Dollars (\$17,375.00) for an 8' wide strip of land ("Purchased Strip") on Sankovic's Property that is immediately west of Suchy's Property's boundary line. The Purchased Strip is approximately 589.41' in length.

2. The Suchys further agree to pay all surveying fees, governmental approval fees, deed preparation and recording fees in order to effectuate the transfer of the Purchased Strip from Sankovics to Suchys.
3. The Suchys further agree to a deed restriction that will prevent any new construction including concrete from taking place upon the Purchased Strip, and the Suchys further agree to relocate a drain that is located on Sankovic's Property.
4. The Parties mutually release and discharge each other from all actions, causes of action, suits, debts, sums of monies, claims and demands of any kind or description whatsoever, in law or in equity, whether based in contract, tort or any other theory of recovery that the parties may have or claim to have, or that were or could have been asserted between or among them, whether directly or indirectly, arising out of or related in any way to the subject matter of the Lawsuit.
5. The Parties agree that, within five (5) business days of the receipt of payment by Suchys as provided for below in Section 1, all claims that any Party has asserted, or could have asserted, known or unknown, contingent or noncontingent, in the Lawsuit will be dismissed with prejudice. The Parties further agree to cooperate with one another on any miscellaneous matters that may arise in relation to the subject matter of this Agreement, after the Lawsuit is dismissed.
6. This Agreement is contingent upon the City of Streetsboro granting the Sankovics the necessary variance(s) or approval(s) required to build a house upon the Sankovic's Property (minus the Purchased Strip), and is further contingent upon the City of Streetsboro granting the Suchys the necessary variance(s)—setback or otherwise—required to be in compliance with City of Streetsboro Zoning Code, as a result of the location of the Suchy's residential addition in relation to the future boundary line between both Parties' respective properties. Each Party shall be responsible for their own costs in obtaining any variances or governmental approvals with the City of Streetsboro and/or Portage County. In the event either Party is unsuccessful in obtaining the requisite variances or approvals outlined above, the Parties agree to mutually contact the Portage County Common Pleas in order to schedule a status conference pertaining to the Lawsuit. The Parties agree to submit applications for the respective variances with 30? Days of execution of this Agreement.
7. This Agreement shall be construed in accordance with the laws of the state of Ohio and any action regarding the applicability or interpretation of this Agreement shall be brought in Portage County, Ohio.

8. The Parties to this Agreement represent that the persons signing below on behalf of each Party are duly authorized to execute this Agreement and do so after careful consideration and consultation with their respective attorneys.
9. This Agreement is an incorporation of all agreements by and between the parties and there are no separate representations upon which any party is relying.
10. The Parties agree that the facts and terms of this Agreement, the consideration referred to herein, and the facts underlying the Parties' potential claims against shall be treated as strictly confidential, and that no Party shall suggest, reveal or publish to the public or any other person or entity, other than the Parties' attorneys, accountants, regulators, tax and/or financial advisors, any information concerning this Agreement, the consideration paid and/ or received and the facts of this case, unless disclosure to the court becomes necessary in the event of any Party's default of this Agreement or except as otherwise required by law or, with the approval of the other Party's counsel, upon bona fide circumstances.
11. The Parties hereto will not, directly or indirectly, make any negative or disparaging statements regarding the other Party maligning, ridiculing, defaming, or otherwise speaking ill of the other Party.
12. The Parties agree that they have read all the provisions of this Agreement in full, understand them and voluntarily agree to be bound thereby and warrant that no promise, inducement, or agreement not herein expressed has been made to any of the Parties herein.
13. The Parties acknowledge and agree that they have had the opportunity to consult with legal counsel and that they are entering into this Agreement based solely and exclusively upon their own and/or their counsel's own analysis of the facts and/ or information of which they and/ or their counsel are independently aware and not based upon or in reliance upon any statements and/or representations of any of the Parties signing or otherwise referenced in this Agreement.
14. No Party shall bear any responsibility for payment of the other Party's attorney's fees and costs incurred in connection with the Litigation or settlement of this matter. However, if any Party commences any action or proceeding arising out of this Agreement, including, without limitation, any action or motion to enforce or interpret this Agreement, the prevailing party or parties in such action or proceeding shall be entitled to recover its/their reasonable attorney's fees and other expenses incurred in such action or proceeding.
15. No Party admits any liability, wrongdoing, or violation of law.

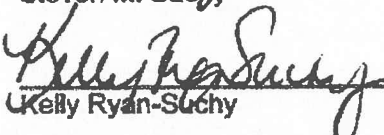
16. This Agreement shall be binding upon and shall inure to the benefit and/or detriment of the parties and their respective heirs, beneficiaries, guardians, administrators, trustees, executors and executrixes, agents, principals, representatives, successors, and assigns.
17. This Agreement may be executed by electronic means or by facsimile, and electronic or facsimile copies of this Agreement shall be treated as originals for all purposes. The headings and captions contained herein are for convenience only and may not be considered in interpreting the meaning or intent of any provision hereof. The singular as used herein includes the plural, the plural as used herein includes the singular, and the use of pronouns and gender shall apply to all genders. If any provision of this Agreement shall be adjudicated by any Court to be invalid or unenforceable, the remainder of the provisions, covenants, terms, and conditions of this Agreement shall not be affected thereby, and there shall be deemed substituted for the affected provision(s) a valid and enforceable provision as similar as possible to the affected provision(s).

WHEREFORE, the undersigned certify that they have read the foregoing agreement, understand the content, and set their hands hereto as their own free act and with the intention of being legally bound as of the date stated.



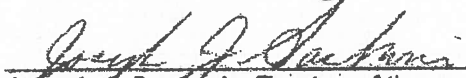
Steven M. Suchy

Date 4/18/24



Kelly Ryan-Suchy

Date 4/18/24



Joseph J. Sankovic, Trustee of the
Joseph J. Sankovic Trust uad 12/13/2021

Date 4-17-24

**CITY OF STREETSBORO
MEMORANDUM**

TO: Board of Zoning and Building and Appeals (BZBA)

FROM: Jimmy Hoppel, AICP;
Assistant Planner

DATE: May 15, 2023

RE: Comments re: 142 Harper Road – Side yard Setback Variance for May 21, 2024 Meeting

I offer the following comments for consideration by the BZBA:

Site Address: 142 Harper Road

PPN#: 35-071-00-00-035-000

**Applicant(s): Scott J. Flynn, Esquire; Flynn Keith & Flynn
Property Owner(s): Steven and Kelly Suchy**

The variance being requested:

The applicant is requesting a 6-foot variance from Section 1127.04(c) that requires a 10-foot side yard setback for principal structures in the R-1 district, resulting in a 4-foot side yard setback.

Project Summary:

Mr. Suchy previously applied for an addition to his principal structure, which was approved and provided a zoning certificate. Application materials submitted to staff made it appear as if the minimum side yard setback of 10 feet would still be met. The addition was constructed, and later upon the purchase of the adjacent property to the west by a separate property owner, it was discovered that the addition encroached several feet onto the neighboring property. It was determined that the application materials for the addition that were submitted were inaccurate. Due to the encroachment, the adjacent property owner and Mr. Suchy entered legal mediation with their legal representation. The two parties have agreed to adjust the lot line between their two properties west by eight feet. This will result in the subject property owner having a minimum 4-foot setback from the property line to their principal structure (code requires 10 feet). It will also result in the adjacent property owner needing a variance for a reduced lot width at the building setback line (this is being handled by a separate but concurrent variance application).

Variance Standards:

In *Duncan v. Middlefield* the Ohio Supreme Court utilized standards for determining if a practical difficulty exists that would justify the granting of an area variance. Find below the *Duncan v. Middlefield* standards as well as standards contained in the City's Zoning Ordinance, in **bold** followed by information provided by staff for the BZBA to consider in weighing the standards and rendering their decision.

1. The property in question (will/will not) yield a reasonable return and there (can/cannot) be a beneficial use of the property without the variance;

The property exists as a single-family home and could continue the beneficial use as a single-family dwelling without the variance, however, it would require that the addition be removed or the side lot line be further adjusted, which would further impact the adjacent property owner negatively.

2. The variance is (substantial/insubstantial);

The variance is substantial as it reduces the required side yard setback by 60%.

3. The essential character of the neighborhood (would/would not) be substantially altered (and/or) adjoining properties (would/would not) suffer a substantial detriment as a result of the variance;

The essential character of the residential area would not be substantially altered. While the lot line adjustment that is proposed to solve an existing encroachment issue, is also resulting in the need for a variance to a substandard side yard setback, the adjacent property owner is working in conjunction with the property owner of the subject property and has determined this to be an amenable solution.

4. The variance (would/would not) adversely affect the delivery of governmental services (e.g. water, sewer, garbage, etc.);

This variance would not adversely affect the delivery of governmental services.

5. The applicant purchased the property (with/without) (actual/constructive) knowledge of the applicable zoning restriction;

It is unknown whether the applicant purchased the property with knowledge of the applicable zoning restriction, however, it is the understanding of staff that the location of the lot line in relation to the building addition was misunderstood at the time of application and construction.

6. The applicant's predicament feasibly (can/cannot) be resolved through some method other than a variance;

The alternative options would be for the applicant to remove their addition to a point where their house would meet the 10-foot side yard setback line or for the lot line adjustment to be extended further west. The former is not desirable to the applicant due to the already expended time, money, and energy to expand the home. The later is not desirable to the adjacent property owner as it would continue to lessen the width of their lot, requiring an even greater request for variance on their part.

7. The spirit and intent behind the Zoning Code (would/would not) be observed and substantial justice (done/not done) by granting the variance;

While the exact setback would not be met, it would improve the current situation greatly, as it would result in at least a 4-foot side yard setback, where currently there is an encroachment onto an adjacent property.

8. There (are/are not) conditions peculiar to the property which are not characteristic of other nearby properties in the same zoning district;

The only peculiar conditions to property in relation to this variance is that the addition of the principal structure was constructed over the property line. This addition was granted a zoning certificate by the Planning and Zoning department based on application documents that did not depict the property lines and proposed addition setback accurately.

9. The peculiar conditions are not the result of actions of the applicant.

As stated previously, while it may not have been done intentionally, the peculiar condition is a result of actions of the applicant.

10. The peculiar conditions would be encountered by any person who might own the property.

Based on the current condition, anybody that were to own the property would face the fact that the principal structure encroaches onto an adjacent property.

11. The variance (has/has not) been requested solely to increase property value or provide some other financial benefit.

The variance is being requested to resolve an encroachment and to amicably resolve mediation between two property owners.

12. The variance is the minimum one necessary to alleviate the difficulty;

It is difficult to say what the minimum variance necessary is for the current circumstances with multiple parties involved and two variances for two properties that are inextricably linked. That being said, Staff believes that this variance is adequate to meet the needs of both property owners and is supportive of the fact that the two property owners have found a solution that they can agree upon.

The BZA should weigh the above standards to determine if a practical difficulty exists that would merit the requested variance.