



Zoning Hearing Board

Wednesday, June 20, 2018 4:00PM

City Council Chambers



BEFORE THE CITY OF GREENSBURG ZONING HEARING BOARD

In the matter of:
Robin & Jack Savage

Appeal:
Appeal of Zoning Officer's Decision

Property Location:
133 Northmont Street

Hearing Date:
June 20, 2018

PROCEDURAL BACKGROUND

133 Northmont Street – Property owners Robin & Jack Savage are appealing a decision of the Zoning Officer as it relates to the shed that they installed on their property. Subject property is zoned **R-1 Single Family Residence District**.

Members of the board present: Charlotte Kuhns-Chair
Patsy Iapalucci-Vice Chair
Barry Gaetano
Justin Calisti

Absent: Jon Hillwig

Also Present: Lou DeRose, Solicitor
Barbara J. Ciampini, Planning Director

Charlotte Kuhns introduced the Board Members present and advised all persons present who planned to participate in the scheduled hearing to stand and be sworn in.

There were no objections to advertising or procedure at the onset of the hearing.

DISCUSSION

Charlotte Kuhns: I'll read the Zoning Notice as filed. 133 Northmont Street – Property owners Robin & Jack Savage are appealing a decision of the Zoning Officer as it relates to the shed that they installed on their property. Subject property is zoned R-1 Single Family Residence District. Anyone would like to talk—are you talking first? State your name and address.

Lou DeRose: Before you do that, Michael, let me remind the board that when an applicant appeals the decision of the Zoning Officer, the board then acts as a mini court to determine if the officer was correct. If you find that the decision was correct, then you simply uphold the decision

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of the Zoning Officer. If the board finds that there was a mistake made, then you overrule that and perhaps grant relief but you don't have to.

Michael Korns: My name is Michael Korns. I am the attorney representing the applicants, Robin and Jack Savage. Procedurally, I don't know how—if you'd like me to start presenting my case, or if you wanted to have anybody else testify first, or however you'd like to proceed I'm obviously open to whatever you'd like to do.

Lou DeRose: Why don't you give us the nutshell version of your case?

Michael Korns: Sure. We are here today—you don't have a court reporter here today, do you?

Lou DeRose: No, it's being taped.

Michael Korns: It's being taped? Okay. I'm here today representing the property owners, Robin and Jack Savage, who own the property at 133 Northmont Street. We are appealing a decision of the Zoning Officer that they are in violation for what was listed in there as an accessory structure adjacent to Harvey Avenue, otherwise known as 819. The basis of our appeal—basically we have four (4) different grounds for our appeal or more accurately to lose point; three (3) grounds for appeal and one (1) request for relief if the grounds for appeal are not offered. Ground one (1) is simply that the determination that 819 should be considered to be a front yard for this property is an improper classification. This property is on a corner lot, so the way that the ordinance has been interpreted is saying that it has two (2) front yards. We believe that the classification of the yard abutting 819 is actually better categorized as a side yard. There's a significant slope and vegetation between 819 and this property, which really does not consider this to be a true front yard. We do have pictures from 819 showing exactly what you're seeing from that point of view. Our second reason for why that there should not have been a violation granted is the fact that previous to this hearing another hearing had been held in 2007 for a different variance; a variance for an addition to be put onto this property and that time a survey was submitted to the board that showed there was an accessory structure in this same location that is an issue today. It's actually a different accessory structure, or frankly a more true accessory structure, because what was there at the time was more in a fact a shed. What is there now, what is subject to this complaint is actually a car. There is a classic car, which the property owners have simply erected a small pop up tent over it just to protect the car from the elements. Again, what you'll see from these pictures is this is actually in their driveway. What is called a front yard is again, in our opinion, better categorized as a side yard with a driveway just because of the irregularity of the lot. The third basis for our argument of why this should never have been granted is the fact that quite simply that this is not an accessory structure at all. This is a car that has essentially a tarp on top of it. The tarp—we would make the argument that what we have now in having a more attractive looking tent that has a little bit more structure to it is better than what the applicant could otherwise do, which is simply put a tarp over the car that's in their driveway. Our final ground of what we're here for today would be if this board does not find, based on all our other arguments, that there is no violation here then we would be requesting a variance. The variance

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request is based on the fact that this is, by any classification, a highly irregular lot. We brought copies of the survey again from 2007 that will show that there is essentially—that there is no backyard behind the property at all. There is what is being called two (2) front yards, both along Northmont and along Harvey and frankly the yard along Woodland as well. There had been a variance granted in order for there to be an addition put on the building, whether it was formally done by variance or not you also have the driveway along Harvey Avenue. You had the previous plan showing that there was a vinyl shed accessory structure along Harvey Avenue which if that was a pre-existing non-conforming use the applicant should have just been able to transfer that non-conforming use into an additional non-conforming use of equal or lesser impact to the one that was there. I'm certain that this is equal if not lesser to what was there before. The hardship based on the irregularity of the lot was not caused by the home owner; it is simply based on the way the property is laid out.

Lou DeRose: You made reference to photos, do you have those?

Michael Korns: I do, yes.

****Michael Korns approached the board members to give them photos of the property. He had four (4) copies of a photo to pass out to the members for their review. This photo was entered as Exhibit A.****

Michael Korns: These photos were taken today by the property owner, Robin Savage. Again, the actual structure in issue is basically behind that—

Lou DeRose: These are all the same.

Michael Korns: Yes, they are all the same.

Barry Gaetano: So is there a picture of the actual structure?

Michael Korns: I did not bring a picture of the structure, no. It's not even visible unless you're coming from a different angle from where that was taken. Again, it's not a structure. It's a pop up tent temporarily covering a car that is parked in it.

Barry Gaetano: Do you have a picture of the structure?

Michael Korns: I do have a—

Justin Calisti: Wouldn't it be considered a carport?

Barbara Ciampini: Barry, I do have one in my presentation.

Barry Gaetano: Oh, okay.

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Michael Korns: I do have electronic pictures of it.

Lou DeRose: Do you have testimony that you could quickly give about a number of things; first, when did the property owners acquire the property? Second, when was the old vinyl shed installed and removed, and when did the new tent facility go in?

Michael Korns: I believe—I can do that myself, or do you want me to call one of the applicants.

Lou DeRose: Well, if you're going to testify that that is what they were going to say and what they recall then that's fine.

Michael Korns: Okay. The property was purchased in 2001. The shed, I believe, was put in around 2002-2003, and the shed came down in May of last year. The pop up tent went up in May, so the shed came down and the pop up went up immediately thereafter. The car—

Lou DeRose: When the property owner bought the property, there was no vinyl shed?

Michael Korns: At that time, I believe that was correct.

****Property owner, Robin Savage, speaking from her seat in the audience.****

Lou DeRose: We probably can't pick you up, so just tell Michael.

Michael Korns: Her testimony is that there was a previous shed in place that there that was decrepit and replaced by this vinyl shed. The vinyl shed was then in place until May of 2017 when it was replaced by the car covering that we are talking about.

Lou DeRose: Okay, but I'm confused why you made reference or why the property owner made reference to a non-conforming use. There's no testimony that I've heard so far that would indicate that this vinyl shed, whichever iteration it was, predates the zoning ordinance.

Michael Korns: Well it has been—I don't know when the previous property owner put this structure here, but there has been a structure in this location on this property going back at least to the early 2000s when my client acquired this property at which this has gone through—they've already come through this board previously for approval.

Lou DeRose: Michael, I pulled the old action of the board, the Zoning Board, because unfortunately I'm old enough to have been here then, but I pulled that and that was about a four and a half foot variance to allow the addition to the home right in the center 12 o'clock part of the property. It really had nothing to do with the vinyl shed, and the fact that the survey has a vinyl shed on it is irrelevant for that purpose. So, I don't think there's any comfort to your property owner in the old action granting a variance. I mean you might—you certainly have a right to ask for a variance today on some other aspect of the property, but I don't see any non-

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conforming use and I don't see any reason other than a request for a variance because of other certain characteristics of the property or whatever you want to call it that you have. Whether there was a vinyl shed there in 2001 the zoning ordinance goes back to 1971. Again, I was alive and functioning then. I think that's the only way your property owner has to go here.

Michael Korn: Okay, well we'll preserve—I mean I made the other arguments to preserve them for any future issues; however, that said we're perfectly—if it's the decision of this board if they find a variance here appropriate we would be perfectly happy to go that route. Ultimately, our only real interest here today would be to allow my client to have this covering on this car. It is a classic car; a Buick from the 1960s, which needs to be covered.

Lou DeRose: I think an additional problem you have and it may not be fatal, it's just a problem, is that you don't have photos or a current survey, if you will, that shows exactly what you would be asking for in a variance.

Michael Korn: We have, again, I can present to you the survey (**Exhibit B**)—may I approach?

Lou DeRose: This is old one, right?

Michael Korn: This is the old one.

Barry Gaetano: We already have these.

Michael Korn: So, again, it is not—we did not have a new survey done. We are looking at this point to—if we're going to go the route of a variance, we would be essentially asking for a variance allowing us to have this structure, or whatever you want to call it, in the same location where the previous survey is showing a shed. I don't necessarily think that if we went and got a new survey that showed a box in the same place—I don't necessarily think that that's necessary since we did show this as where we were going to have a structure the last time the survey was done.

Lou DeRose: Didn't I hear you say though, maybe you just misspoke, that it's really at or in the driveway of the property. The survey shows the driveway outlined in a dotted line and the vinyl shed is off that several feet apparently.

****Michael Korn approached the board to show them a photo on Ms. Savage's phone of the structure and the driveway.****

Michael Korn: I can provide you with a digital copy—I'm happy to supply the board with a printed copy after the hearing if the board would prefer.

****Board members took a moment to discuss the photo on the cell phone amongst one another.****

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Michael Korns: I guess I would say—

Lou DeRose: How large is this tent? I can see it now, but how large is it?

Michael Korns: The tent is 10 feet by 20 feet.

Lou DeRose: So it's a little bigger than a car.

Michael Korns: A little bit, yes. It's just big enough to fit his car.

Lou DeRose: What type of car is it?

Michael Korns: It's a '66 Bel Air.

Lou DeRose: Do you have any other—if you called your applicants, would they say anything else that we would need to hear?

Michael Korns: I don't believe so. Again, we presented the grounds on why we don't think this is a violation in the first place, but again given—again, we don't even think this is a violation at all given the type of structure that we have here and the location along 819, but the issue basically as I see it is if you do think that this would otherwise be not permitted we do have a highly irregular lot, this is right on the corner of the lot, it does provide a hardship otherwise. I mean if you take down the vinyl tent you're still going to have the car there, and I think that there's nothing done because of the property owner to cause this irregularity and therefore a variance would be warranted to allow this property owner reasonable use of their property.

Lou DeRose: I haven't heard this, but I doubt that anybody on the board or the Zoning Officer would have argued that the applicants couldn't have put a car in their driveway. I don't think that's the crux of the matter.

Michael Korns: No, that has not been argued, but again you have sort of the oddity where you can have the car there, but again I think what is just a car cover in a location that is not in any way offensive or particularly visible would not be permitted, and again given the car we have here it should be covered and alternatives here are not really available given the nature—we can't move this to the back yard. There is no back yard here.

Lou DeRose: Do you agree with me that a regular car cover that you put over the car you could do right now.

Michael Korns: Well, there's—we could do that. I see two (2) issues with that. One (1), my understanding is that while those can be helpful they still can cause rust to get on the car. They don't keep the water off the car in the way that these do, which is why we went with what we went with. The second issue is, again if you're considering the variance and the applicability of a

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variance here and considering how it affects the neighborhood, I would make the argument that this cover is no more offensive or no more detrimental to the neighborhood than it would be if they went out and covered it—I think this is preferable than if they went out and covered it with a tarp or covering it with something arguably less aesthetically pleasing. So, I guess it could be done. From the variance standpoint I don't think it would provide any benefit to the City and I do not believe that those would give the car the protection that we're looking for or otherwise that's what we would have done in the first place.

Lou DeRose: I think we've heard your explanation. The Chair has indicated that if you want to have—just tell what the neighbors would say, who they are and what they'd do, we'll accept that in lieu of their testimony if you want to go that way.

Michael Korns: Again, it's however the board wants to go. We do have four (4) neighbors; one (1) is a set of neighbors directly across the street and the others are on the street who would like to testify, and if it would please the board I think they would like to come up briefly. They did come to do that, and if they do not find it in any way offensive or bothersome. I also believe that one (1) of the property owners, on her own accord, has taken a petition around to the neighborhood to get additional signatures of property owners who do not find this to be—

Lou DeRose: Call whomever you want. We will do things a little out of order today.

Michael Korns: We have Carolyn Domasky.

Carolyn Domasky: Hi, I'm Carolyn Domasky.

Lou DeRose: Could you please spell your name, Carolyn?

Carolyn Domasky: Yes, it's C-A-R-O-L-Y-N D-O-M-A-S-KY, and I'm speaking on behalf of myself and my husband Bronson. We live at 134 Northmont, which is directly across from Jack and Robin's property. We can open our front door and she can open hers and we can wave and see exactly what everyone is doing. With that being said, I don't even want to call it a structure or a fixture because in no way shape or form has the property been damaged or altered. It does not bother me. It is neutral, there is no advertisement on it, it's covered by the greenery of 819, so the only way you can see it is if you're coming down the road, which I would argue that there's a lot of properties where things are in front yards where you can see coming off different angles of the road. As far as protecting the car goes, I would much rather see this tent instead of a traditional car cover. Personally, I think they are ugly, but from a protection standpoint I have a brother, a dad and several uncles who are all into classic cars and the fact that we live on 819 where a lot of snow buildup, rain and salt get kicked up onto the property even though it is on a slant this helps to keep it protected and I'm all for the protection of one's property. Thank you.

Steve Simon: My name is Steve Simon, S-I-M-O-N. I live at 16 Woodland Avenue which is right around the corner from Robin and Jack's property. I pass that property at least three (3) or

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four (4) different times a day from different directions. I hardly even notice the car cover when I'm going to 819, from 819, up to my property or whatever, so I don't even notice that it's on the property. It's not detrimental to anything that I see. I'd much rather have some of the other stuff on the highway taken off that you can't even see up 819. That's my story. This is a neighborhood of the people on Woodland Avenue that have signed this petition that they basically agree to my statements, that they find nothing offensive with the car cover—the cover—the structure. There's approximately 14 different people on here with 14 different addresses that have said that—

Barbara Ciampini: We'll mark that as **Exhibit C**.

Michael Korns: One (1) more property owner would like to speak.

Pat Simon: I'm Pat Simon, Steve's wife. I've lived on Woodland Avenue for approximately 15 years. Right now it's a beautiful community up there and Robin and Jack are quite an asset to the community. It's a very loving section up there. Everyone I walked to today had nothing—had no problem at all with them protecting their property. That is their property. They have every right to protect it in any way and have done a beautifully, tasteful way in doing that. Like Steve said, you don't even notice it. I'm more worried about that spot up on that area needing a red light coming out or somebody dealing with the State doing a better job of cutting down the trees at the back of the property there. That's all I have to say. Thank you very much.

Michael Korns: Thank you. I believe that is all the property owners that are going to speak and you can see that for the record I know this hearing is advertised and posted, and no property owner has come in opposition to our application.

Lou DeRose: Thank you. That's all you have?

Michael Korns: Yes, thank you. And again, I can have the property owner testify, but I've summarized everything already that they would say.

Lou DeRose: That's fine. The Chairman at this point would call the Zoning Officer to state why the citation was given.

Barbara Ciampini: This is a matter of history, that at some point of the Spring/Summer of 2017, Mr. Savage actually came into our office with his survey and asked if he could place the garage at one of the locations depicted on the slides that I will show you. I counseled him and informed him that he cannot place it at that location, because it is in the front yard setback and I'll describe that in a minute on the survey. A complaint was then received in January 2018 regarding the fact that the accessory structure was placed off of the driveway area on the subject property in the front yard of that area. On February 9, 2018, as a professional courtesy I sent an email to Robin Savage regarding this matter. Robin elected to reply to the Mayor instead of responding to my email.

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Michael Korns: And just for the record, I'm going to object to this entire—this is completely irrelevant and if we're going to go into this then we're going to go into the entire back history. This is an entirely irrelevant part of this discussion and again I have—

Barbara Ciampini: These are the facts of the case. My documentation. I'm not saying any more than the facts of the matter.

Michael Korns: I elected not to go into an entire back story here; you make contact made with the Solicitor of the Greensburg Salem School District is irrelevant, but if that's the direction that this hearing wants to go then we will do so.

Barbara Ciampini: Go ahead and bring it up, Michael.

Lou DeRose: We note your objection.

Barbara Ciampini: On or about February 26, 2018, the Mayor and Councilman Zappone met with Mrs. Savage at City Hall. As a professional courtesy, the Mayor granted the Savage's some time to make a decision on the shed. No communication was received from the property owners and another complaint was received in April to my office. A *Notice of Violation and Order to Abate* was then issued on April 11, 2018 and the appeal was received on May 10th. This is a copy of the *Notice of Violation and Order to Abate*. This is the accessory structure in relation to the *Violation Notice and Order to Abate* dated April 11, 2018. These are some photos from the front of the house from Northmont and the bottom one (1) is from 819 and Northmont. You'll note that in the picture on the top there's a shed on the property on the corner that exists today and then the bottom one is another picture of the house. This is the survey that was presented to the City both at the time of the counseling last year sometime. If you'll note the area in blue is the front yard on Woodland. You'll note the building line that's dashed there. That in the zoning world means that nothing is built in front of it. The green line, which is Northmont street, has a building line that's a 15 feet set back, and you'll note off of 819 the area in question along Harvey Avenue there is an additional 30 foot building line that nothing should be built in front of. Here is the property showing the streets, Woodland, Northmont and Harvey. Here it is again from an aerial depiction, and before I do that I'm going to move forward one (1). We did receive a complaint to the Zoning Department received Monday, June 18th. I'll read it.

To the Attention of the Greensburg Zoning Department:

For the record, I would like to file a complaint regarding the inappropriate placement of a large tent-like shed at a home at 133 Northmont Street in Greensburg.

The issue is the location of the structure; it is located on the corner of the residential lot, within the street frontage of Harvey Avenue. It is also in the side yard of the house facing Northmont. I believe that the City Code, which is meant to protect all property owners from visual blight of individual property owners, specifically excludes such structures in an owners' front yard. In this particular situation, this shed is in plain sight from two public thoroughfares.

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The shed is a temporary type structure, steel tent poles covered by vinyl canvas. As for the temporary nature of the shed, it is most assuredly not. I live nearby this property and I can recall that the shed has been permanently in place since at least the beginning of the fall of 2017. I'm not sure for certain, but it might have been in place through the winter of 2016/2017.

Barbara Ciampini: It was sent by David Kahley, who is the Chairman of the Planning Commission and he lives at 1 Meadowbrook Avenue. If I may, I have a drone video of the area just for everyone's edification.

****Barbara Ciampini played a drone video that was produced by Shane Hertzog of DroneZography LLC specifically for this hearing. The video essentially shows Harvey Avenue properties that depict that there are no structures in the front yard of those properties. There are cars and trees, but no structures. Ms. Ciampini paused the video on the aerial view of the subject property, 133 Northmont Street.****

Barbara Ciampini: The pavement isn't considered a permanent structure, so they can have their driveway over the the setback lines.

Lou DeRose: Michael, just to clarify, the pavement seems to be different than what's on the survey. Is that correct? It's perfectly permitted.

Michael Korns: Yes, it is, and this actually clarifies your earlier question as I do believe in fact that if you compare the existing survey to this it is in fact in the same location as the previous shed and that the area discrepancy is the driveway.

Lou DeRose: The rectangle seems to be different.

Michael Korns: Yes, the rectangle is not showing the ends of the pavement.

Barry Gaetano: So you folks built a shed after you bought the house?

Robin Savage: When I first purchased the house it was bought as is because the gentleman had some issues. It took me four (4) months before I could even move into the house we had to do so much work. He had a heap pile of garbage that continued to pile up. When we finally had to have triaxles, dumpsters and everything come in and clean up his bank there was a fort square footprint of a shed that had been there.

Barry Gaetano: Okay, and then you built--

Robin Savage: We did not build. We went and bought when we first started dating in 2003, in the Summer because our parents had fun sitting in the driveway watching us try and construct

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this thing by ourselves to put back up in the spot. We put it back in the spot. There was never an issue at all. It was there; we put it up.

Lou DeRose: So again, this structure that we're looking at—

Robin Savage: When I bought the house, if you go straight off of there in front that was nothing but grass clippings, garbage, pieces of a metal shed, animals and whatever else was in there.

Lou DeRose: At some time after you bought the house you expanded the asphalt.

Robin Savage: Yes, because there was nothing there. It was—we had to put gravel there; at that time I was single, so it was dirt and gravel. We got married, we had it fixed and it fell apart, so we had it repaved to improve so that they were looking at what they saw.

Lou DeRose: Okay, well thank you for that. Before we ask any more questions, Barbara, we want to make sure, are you completed with your testimony?

Barbara Ciampini: No. The last thing that I want to say is that the maximum shed size in the City of Greensburg is 16 by 12.

Lou DeRose: This exceeds that. This exceeds that.

Barbara Ciampini: Yes.

Lou DeRose: One (1) of the questions that I heard earlier was, what does the ordinance say about the shed—the tent? How do we define that?

Barbara Ciampini: It's defined as an accessory structure, which are normally—

Lou DeRose: Even if it's temporary?

Barbara Ciampini: Yes, whether it's a camper or—

Lou DeRose: So, what we're dealing with here is something larger than the ordinance provides in an area that is a front yard by definition of the ordinance.

Barbara Ciampini: That's correct.

Lou DeRose: And that would be a 30 foot setback?

Barbara Ciampini: There's a 30 foot setback there.

Lou DeRose: That would take us into the driveway, well into the driveway.

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Barbara Ciampini: That's correct.

Lou DeRose: Is there some other place, Barbara, that they could put a shed of some kind?

Barbara Ciampini: Well, I showed you in the video they already have a shed on the property.

Lou DeRose: Yes, where is that?

Barbara Ciampini: That's over in the tree corner clear up on the hillside. A garage can be placed on the property car right up against the house as an attached garage.

Robin Savage: Which side, Barb?

Barbara Ciampini: On your garage side.

Robin Savage: So then my sidewalk has to change.

Barbara Ciampini: I'm just telling you what the law provides to us.

Robin Savage: There's a lot more and he's telling me to be quiet.

Michael Korns: Robin, stick to where we're at...

Lou DeRose: I don't know if your applicant pays you, but generally what happens is the applicant pays the lawyer and the lawyer always tells the applicant to don't talk, let me do the talking. If you need to confer then go ahead.

Michael Korns: Yes, I'm just going to take her to the hall and confer.

****Michael Korns and Robin Savage went to the hallway for a few minutes to discuss the issues at hand.****

Michael Korns: Alright, I don't think anything further from us.

Lou DeRose: Okay, thank you for that. We understand how lawyer, client based things go. We talked a little bit about this, and Michael are you aware that with just a shift of where the location is of this I call it a tent, I don't mean to be insulting with this but to me it looks like a tent, if by shifting this tent over by the garage you avoid this whole discussion.

Barbara Ciampini: No, Lou, not as a temporary structure.

Lou DeRose: I don't mean as a temporary structure.

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Barbara Ciampini: Oh, okay.

Lou DeRose: I mean the location of the car.

Barbara Ciampini: You mean to build a garage?

Lou DeRose: Yes.

Barbara Ciampini: Yes, okay.

Michael Korns: Well, there's a couple of things. You mean if they build a permanent—

Lou DeRose: A garage.

Michael Korns: That's a separate issue again. There's a lot of back and forth on some of these issues that I really don't think are—

Barbara Ciampini: Can you please use your microphone?

Michael Korns: Again, I wanted to just keep today's hearing on the variance request.

Lou DeRose: That's fine. We just wondered if you've considered that.

Michael Korns: Which I do think that's appropriate, there have been some communications sort of back and forth through the City, but again I wanted to keep it focused on today's request. Again, I will also note for the record that the complaint that was presented—obviously whoever that person was wasn't here today to voice any opposition. I don't know where—there wasn't anything in there that says where that property—

Barbara Ciampini: He lives at 1 Meadowbrook Avenue.

Michael Korns: Okay, 1 Meadowbrook. That's across the street?

Barbara Ciampini: No, he's down on Meadowbrook heading north towards Main Street.

Michael Korns: Okay, so you have one (1) property owner who complained whose down near Main Street and you've got—

Barbara Ciampini: No, no, no. He's in the Northmont plan. I said towards Main Street.

Michael Korns: And you basically have every other property owner who is here who has absolutely had no complaint of the problem.

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Barry Gaetano: It's right at the bottom of Woodland; 1 Meadowbrook.

Barbara Ciampini: Yes.

Lou DeRose: But again, whether we have one (1) complainant and 25,000 supporters isn't the issue that we have to face. It's a legal issue now.

Michael Korns: It is a legal issue, but I think if you're making—if you are making a determination on a variance that can be one of the factors that is considered is whether it is impacting the—how this is impacting the neighborhood, and I think that the weight of the testimony is supportive of the variance on that ground.

Lou DeRose: I heard Barbara testify that the tent does not meet the City's specs for an auxiliary structure. Did you hear that?

Michael Korns: I did hear the testimony. Again, we had obviously from the beginning objected to whether this would either be considered to be an auxiliary structure. With that being said, I do have a few minor quibbles about that definition. Would the board be willing to accept, if I get it to you within 24 hours, a one (1) page brief on that issue? I don't want to make you wait on it.

Lou DeRose: Well we're here and we have to vote

Michael Korns: You'll vote tonight? Okay.

Lou DeRose: We're not going to reconvene a week later to consider the material. We have to advertise these hearings.

Michael Korns: Okay, well an accessory use the way I'm looking at it right now under Section 226-12 does have a minor garage listed as exclusively for the keeping of an automobile. I don't think that the consideration of this as a shed—by calling it a shed and putting in the dimensions of a shed, it's as small as you can and fit a car into it. So, that's why I don't think the consideration of this as a shed would be justifiable.

Lou DeRose: Zoning variances are always difficult things particularly in an old City like Greensburg, but we try to be and I think this is true for the last 30 years we try to be accommodating to people. If you just looked at the Zoning law in Pennsylvania you need these five (5) factors, right?

Michael Korns: Five (5) factors, yes.

Lou DeRose: And almost nobody qualifies for all five (5) of those factors, so we should never give a variance to—

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Barbara Ciampini: Well, wait Lou. The property owners did indeed qualify for a variance in the past.

Lou DeRose: It's because they—

Barbara Ciampini: They have no rear yard.

Lou DeRose: Right, they had no rear yard. They really bought a property that had a problem.

Barbara Ciampini: So, this property did qualify at one time for the variance they requested.

Lou DeRose: Go ahead, Barbara, you had something else to add.

Barbara Ciampini: Michael brought up the minor parking area carport or minor garage. It also goes on to say in the Code that it may be partially or entirely in required side or rear yards, not closer to the street than the buildable area of lot. Nowhere does it say the front yard; that's the problem.

Lou DeRose: That's the problem.

Michael Korns: And again, so from that stand point though we're only asking for one (1) variance. The variance is considered because the size of the shed issue is irrelevant then if you're considering it to be the minor garage under that standpoint then you don't need to get into the size of the shed. What we need is basically a variance that would say that this property should be treated as a side yard. I know the five (5) factors and again I know as I stated there is I think unique physical circumstances of this lot. I know—

Lou DeRose: Do you have a couple of the five (5)?

Michael Korns: Well, I do think we would have all five (5) of those if we go through them. There are unique physical circumstances I think that are specific about the fact that this is a highly irregular lot. If you tried to do this in strict conformity to the zoning ordinance, yes we could try to build an entire physical addition to that garage, but I think this is a far less intrusive minor thing to do. This hardship was not created by the applicant, and again the reason that the testimony I think from all the neighbors is relevant but the variance will not alter the essential character of the neighborhood or the district and that was testimony that you heard from everyone who showed up here today and the petition that was offered. The variance is the minimum variance that would afford relief. We don't need any modification on size of shed or those kinds of issues. I referred to your own Ordinance on those issues. We just need a determination that that is a side yard more than it is considered to be a front yard.

Barry Gaetano: So you're asking for a variance now on placement—difference in placement of the structure and the size of the structure.

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Michael Korns: No, we're not arguing on the—I mean that was the Code that Barb just said. The size of the structure is not an issue.

Barry Gaetano: The size of the structure is an issue.

Barbara Ciampini: I'm saying the size it is an issue.

Barry Gaetano: It is an issue, because it's a separate—it's an ancillary—it's an additional structure on the property, not an attached garage. I mean if you're calling it a shed then the shed has to be a certain size—

Justin Calisti: 16 by 12.

Barbara Ciampini: 16 x 12.

Barry Gaetano: Correct?

Michael Korns: We had—what the testimony—we're calling it an accessory.

Barry Gaetano: Which is only a certain size, correct?

Michael Korns: I mean if your garage is an accessory structure then it's not attached; it's a separate garage.

Barbara Ciampini: But that's a garage.

Michael Korns: Frankly, I think we've gone far beyond what this is at this point by considering it's a garage.

Justin Calisti: But again you're asking for an accessory, which Barb correct me if I'm wrong, a max accessory is 16 by 12 correct?

Barbara Ciampini: For a shed, yes.

Justin Calisti: And you're accessory what you're asking is for is what?

Michael Korns: That as a parking structure would be 10 by 20.

Justin Calisti: Okay, so you're bigger than what the max accessory structure is right there.

Barbara Ciampini: It makes this situation worse if it's not a shed.

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Justin Calisti: Are you calling it a shed or an accessory?

****Unknown audio from audience members arguing back and forth with board members.****

Lou DeRose: You need to get your crew in order.

Michael Korns: I know, and I don't want to keep beating a dead horse.

Lou DeRose: You've made your point.

Michael Korns: We've made our testimony and obviously we'll take it up on an appeal.

Lou DeRose: I don't see how you overcome the point that Justin just made about the size, and the second thing I don't see how you overcome is, well maybe I don't want to go down this road, but is there any other new thing you want to give to the board?

Michael Korns: No, not at this time. Thank you very much for your time.

Lou DeRose: Thank you. Don't go anywhere. Barb, do you have anything else to give to the board?

Barbara Ciampini: No, not really, other than their recorded plan that we've been given the survey shows three (3) front yards; three (3) building setback lines

Lou DeRose: We don't have the power as a board to change a front yard to a side yard just to accommodate the property owner.

Barbara Ciampini: Not to my knowledge. It's a recorded plan.

Lou DeRose: No one has given us that power. That's not in the zoning statute as well. So, we're going to consider and talk about it or do it right now as a matter of fact. We need a motion to uphold the decision of the Zoning Officer or overrule the decision of the Zoning Officer, and depending on what you do you may have further discussions.

Patsy Iapalucci: I make a motion that we uphold the decision of the Zoning Officer.

Lou DeRose: Okay and that would require a second of course.

Barry Gaetano: I'll second.

Charlotte Kuhns: Can I have a roll call please?

Barry Gaetano: Can I ask a quick question?

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****Barry Gaetano asked Solicitor Lou DeRose a question that was not picked up on the microphone regarding the hearing.****

Patsy: Yes to uphold decision

Jon: absent

Barry: Yes to uphold decision

Justin: Yes to uphold decision

Charlotte: Yes to uphold decision

Motion passed by a majority vote.

Chairwoman Charlotte Kuhns made the following statement: Within 30 days of the decision of the board, this decision may be appealed to the Court of Common Pleas of Westmoreland County. It is important that you understand that the persons requesting the action may take the appeal of this decision to the board against him, but those opposed to his or her requests may also take an appeal within the 30 day period. If the action of the board results in an approval of the request or an individual, no work may proceed on the property until the 30 day appeal period has expired. Any person requesting a copy of this decision, you can leave your name and address with the secretary.

***Items entered as Exhibits:**

1. Exhibit A – Photograph from the property owners of 133 Northmont Street from Harvey Avenue.
2. Exhibit B – The survey of the property from 2007.
3. Exhibit C – Petition from the property owners on Woodland Avenue.

Board member Barry Gaetano motioned to adjourn the meeting.

***Meeting adjourned at 4:59pm.**

6/20/2018

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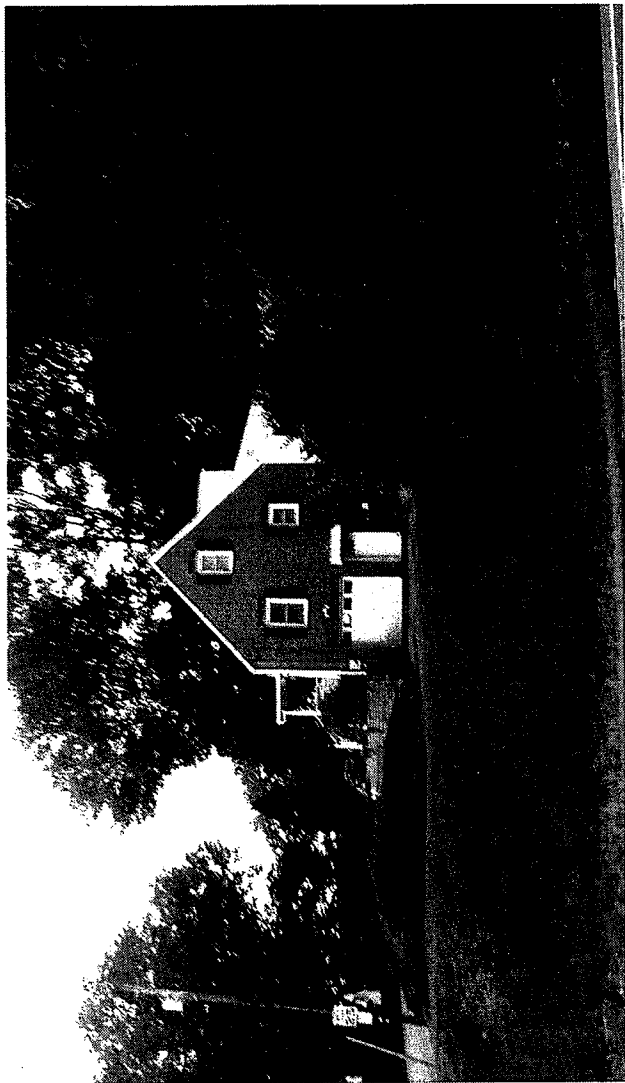
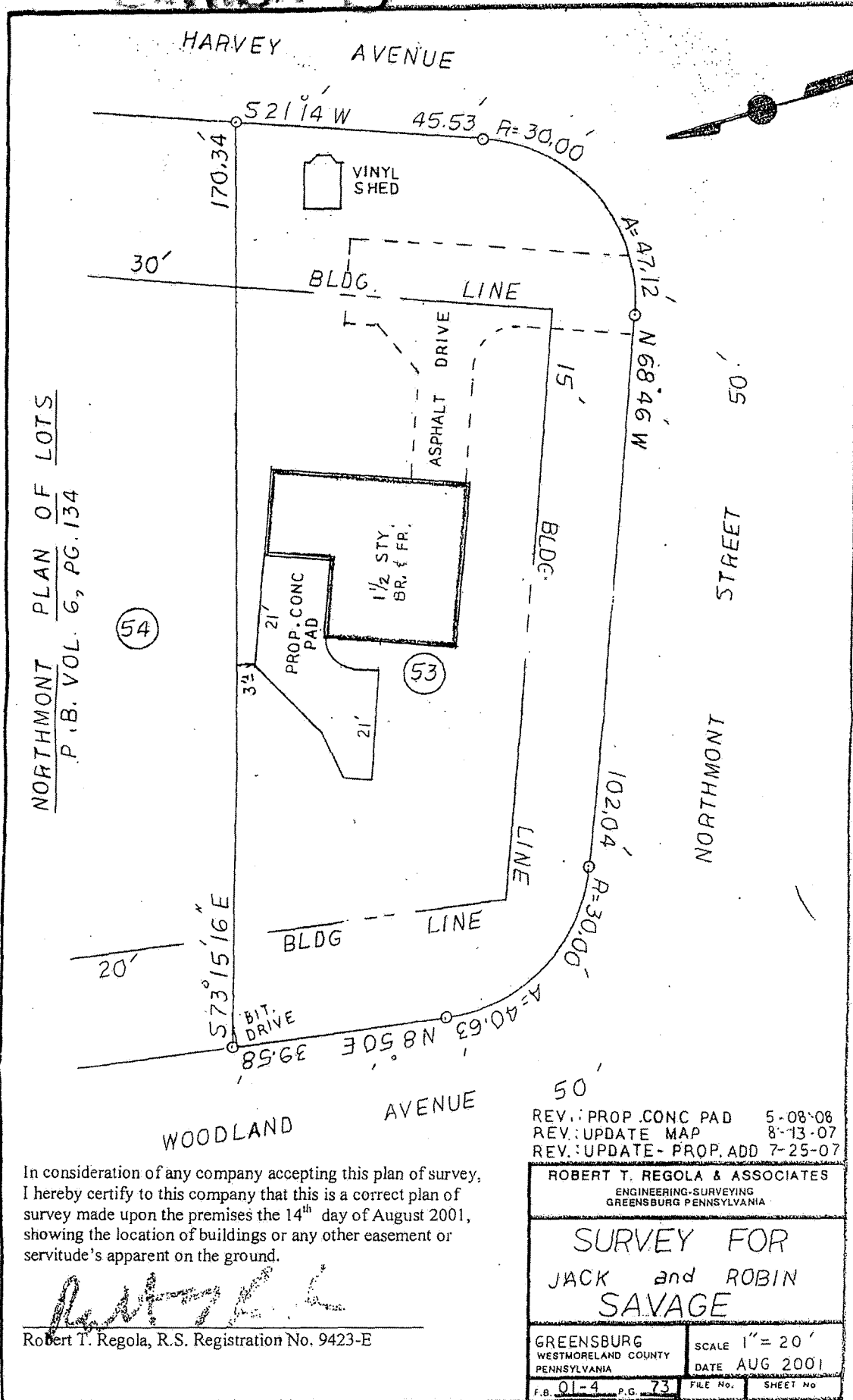


Exhibit A

Exhibit B



NORTHMONT PLAN OF LOTS
P.B. VOL. 6, PG. 134

In consideration of any company accepting this plan of survey, I hereby certify to this company that this is a correct plan of survey made upon the premises the 14th day of August 2001, showing the location of buildings or any other easement or servitude's apparent on the ground.

Robert T. Regola, R.S. Registration No. 9423-E

REV.: PROP. CONC PAD 5-08-08
REV.: UPDATE MAP 8-13-07
REV.: UPDATE - PROP. ADD 7-25-07

ROBERT T. REGOLA & ASSOCIATES
ENGINEERING-SURVEYING
GREENSBURG PENNSYLVANIA

SURVEY FOR
JACK and ROBIN
SAVAGE

GREENSBURG
WESTMORELAND COUNTY
PENNSYLVANIA

SCALE 1" = 20'
DATE AUG 2001

F.B. 01-4 P.G. 73 FILE No. SHEET No.

Exhibit C

We residents of Woodland Ave Greensburg Pa by signing this petition affirm that we have no problem whatsoever with Robin and Jack Savages front structure and feel they are not in violation of any city ordinance or codes. Woodland Ave is not her front yard as 819 is not. The one and only resident who faces her home is across the street from her and also has no issues.

NAME	ADDRESS	SIGNATURE	DATE
① PAT SIMON	16 WOODLAND AVE	<i>Pat Simon</i>	6/20/18
② Blaine Remaley	11 WOODLAND AVE	<i>Blaine Remaley</i>	6/20/18
③ Michelle Remaley	11 WOODLAND	<i>Michelle Remaley</i>	6/20/18
④ MARTIN ANKRAM	12 WOODLAND AVE	<i>Martin Ankram</i>	6/20/18
⑤ M. Martha Dickman	4 WOODLAND AVE	<i>M. Martha Dickman</i>	6/20/18
⑥ JENNIFER	18 WOODLAND AVE	<i>Jennifer</i>	6/20/18
⑦ MONICA J. A.	41 WOODLAND AVE	<i>Monica J. A.</i>	6/20/18
⑧ ROBERT E. RHOADS	31 WOODLAND AVE	<i>Robert E. Rhoads</i>	6/20/18
⑨ JENNIFER HANIGAN	23 WOODLAND AVE	<i>Jennifer Hanigan</i>	6/20/18
⑩ JENNIFER	20 WOODLAND AVE	<i>Jennifer</i>	6/20/18
⑪ ANDREA MOFFATT	19 WOODLAND AVE.	<i>Andrea Moffatt</i>	6/20/18
⑫ MARY L. JOBER	17 WOODLAND AVE.	<i>Mary L. Jobe</i>	6/20/18
⑬ JENNIFER E. JOBER	16 WOODLAND AVE	<i>Jennifer E. Jobe</i>	6/20/18
⑭ STEPHEN R. SIMON	16 WOODLAND AVE	<i>Stephen R. Simon</i>	6/20/18

ZONING NOTICE

Hearing Date: June 20, 2018

1. **133 Northmont Street** – Property owners Robin & Jack Savage are appealing a decision of the Zoning Officer as it relates to the shed that they installed on their property. Subject property is zoned **R-1 Single Family Residence District**.

The City of Greensburg's Zoning Hearing Board will hold a hearing on the above request(s) on Wednesday June 20, 2018 at 4:00 PM in the City Council Chambers, City Hall 416 S. Main Street, Greensburg, PA 15601. All persons either in favor or opposed to the granting of this request are invited to be present.

The above petition(s) are on file in the Planning Department Office, City Hall, Greensburg, and may be examined by those interested at any time prior to the date of the hearing, between the hours of 8:00 am - 4:00pm, Monday through Friday or you may go to the City of Greensburg's web site to view the case file:
www.greensburgpa.org.

Barbara J. Ciampini
Planning Director
City of Greensburg
724-838-4335 or bciampini@greensburgpa.org

City of Greensburg Zoning Hearing Board

APPEAL OF: Robin & Jack Savage

DATE: 20 June 2018

SUBJECT PROPERTY: 133 Northmont Street, City of Greensburg

HEARINGS HELD: 20 June 2018

INTERPRETATION

The Board adopted the following order, which states its interpretation of the Zoning Ordinance as requested in your Appeal.

Property owners Robin & Jack Savage are appealing a decision of the Zoning Officer as it relates to the shed that they installed on their property.

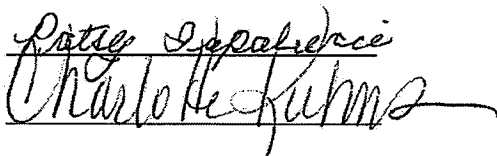
DECISION: _____ Granted
_____ Denied
_____ X _____ Other - Decision of the Zoning Officer Upheld

A list of the Findings of Fact, as determined by the Board is attached and is made part of this decision.

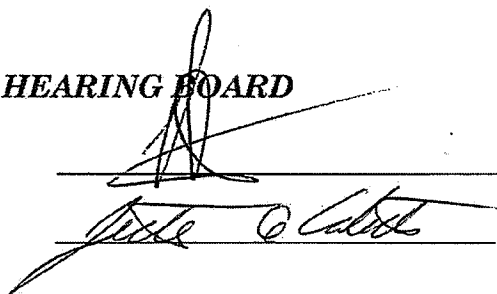
Unless otherwise stated, any authorization by the Board for a Special Exception, Variance, or other determination shall expire if the applicant fails to obtain a Building Permit within six (6) months from the date of authorization, noted above.

BY:

CITY OF GREENSBURG ZONING HEARING BOARD



Charlotte Kuhns



Justin C. Calt

CERTIFIED MAIL sent to property owner: