

BOARD OF ADJUSTMENT MINUTES
December 9, 2010

6045 11th Avenue South (BZZ-5013, Ward 11)

Variance: Trenton Fields has applied for a variance to increase the maximum length of a recreational vehicle on the property located at 6045 11th Avenue South in the R1 Single-Family District.

ACTIONS: The Board of Adjustment adopted the findings and denied the variance to increase the maximum length of a recreational vehicle from 25 feet to 35 feet on the property located at 6045 11th Avenue South in the R1 Single-Family District.

Matt Perry: Let's begin with item number 2, 6045 11th Ave S. Ms. Sether

Shanna Sether: Thank you Board Chair, members of the Board of Adjustment. The first item for discussion is for the property located at 6045 11th Avenue South. This is located in the R1 Single Family District. The subject property is a corner lot and the Applicant is requesting to allow for the 35 foot Class A motor home to be located at the property as it is currently. The Zoning Code addresses recreational vehicles with five standards addressed in Chapter 541 for off-street parking and loading. The first regulates the maximum length of the vehicle. The second one allows for the maximum area devoted to the outdoor storage of the recreational vehicle. The third talks about the type of surfacing material that is permissible to park a recreational vehicle on. The fourth states that the recreational vehicle shall not be located closer than six feet to the habitable portion of the dwelling. And the fifth standard states that the parking of any inoperable vehicle shall be prohibited. As stated, the Applicant has a 35 foot Class A motor home currently parked in the rear of the lot behind the garage. There is a paved parking area here for which the RV is located, and you can see that the location is in compliance. It's outside of all the required yards and it's located more than six feet to the habitable portion of the dwelling. The surface material is also permitted, so in essence the Applicant is meeting four of the five standards. The only exception is the length. The maximum length allowed per the Zoning Code as right, is 25 feet. However, the Zoning Code authorizes a variance to extend the length up to 35 feet. Staff has received several letters of support from neighbors and in addition the Hale Paige Diamond Lake Community Association has also given their support. Copies of those are in your packet. We have also received on letter of opposition which was in your addendum today. Staff believes that this project meets three of the four required findings so I'm just going to focus on the one finding that has not been currently met and if we have questions about the other three findings we can discuss those further. Staff believes that the Applicant has reasonable use of the property as a single family home with a detached garage. We took a very strict interpretation about what reasonable use and what the use of the property is in stating that. Having a house and having a detached garage are reasonable uses of the property, and that it's not a hardship to have an RV. This RV, based on the size of the lot would not be able to exist on this property or any other property in the City of Minneapolis. The first standard in Chapter 541 allows for the recreational vehicle to

be 30 feet in length based on the length of the lot, however, even on this lot 25 feet would be the maximum allowed. So a 35 foot RV would not be allowed anywhere in the City of Minneapolis without a variance. Staff did a little bit of analysis as well. We looked at some different types of recreational vehicles. Essentially it falls into one of two categories versus the motorized RVs, that includes Class A, B and C motor homes. And as I mentioned earlier this is a Class A motor home. The average size for a Class A motor home is anywhere between 21 and 45 feet. So even with the variance 35 feet would be the maximum allowed. The second type would be the towable RV, that's where you have your pop-up trailers and your pickup campers. And those range anywhere between 20-40 feet. So based on just a little bit of additional research RV's tend to come somewhere between 20 and 40 feet on average. So this would fall into more the average size, not so much the mid-size for the recreational vehicles. The Ordinance was first adopted regulating RVs right around the mid 90's. There were some compliance issues and some nuisance issues with recreational vehicles in the City of Minneapolis and that's when we adopted these standards. In addition, staff recognizes that in certain circumstances a variance should be authorized when reasonable use of the property is prohibited. So as previously mentioned, staff believes that the circumstances are unique to the property. We believe that granting of the variance will keep within the spirit and intent of the ordinance, not be detrimental to the life safety ordinances or increase traffic congestion. We've been able to see visually by pictures and also doing site visits that sight lines were not obstructed based on the location of the RV. It's simply that strict interpretation of whether or not reasonable use of the property exists as a single family home and detached garage and whether or not the Board of Adjustment believes that an RV is a reasonable accessory use at the proposed length of 35 feet. That concludes my presentation so I can take any questions.

Matt Perry: Yes, I see questions and I looked at Mr. Koch first and then Mr. Sandberg. Mr. Koch?

Chris Koch: Perhaps you could articulate again what is the unique set of circumstances with this lot?

Shanna Sether: Staff believes that if the lot were to be a little bit larger in size they would automatically be granted those additional five feet. Beyond that, four of the five criteria are being met which really address the nuisance issues related to an RV. Making sure sight lines are protected, making sure that vehicle's parked on a material that's not going to be detrimental to the storm water management of the site if there's any sort of gasoline leakage or anything of that nature. It's also on an area that is not significant in area. It's less than the 300 square feet of area that you can park a vehicle on. The vehicle is operable. It's not presently at the property, it's being stored off site so we know it is movable. It's located in the rear 40 feet which in compliance with the Code and it's outside of the six foot requirement to the habitable space. So staff believes that the circumstances are unique to the land and not created by the Applicant because a larger RV may be allowed on a larger piece of property and that's not something created by the Applicant.

Chris Koch: So if this was a bigger lot you mentioned it would automatically be granted without a variance?

Shanna Sether: Up to 30 feet, so not this particular RV, but ...

Chris Koch: So this one would need a variance even if was a 300 foot deep lot.

Shanna Sether: Yes.

Chris Koch: Okay.

Matt Perry: Mr. Sandberg?

Dick Sandberg: Yeah, thank you. My first question was the same one that Mr. Koch had. Second one is that you mentioned that are authorized to issue a variance up to 35 feet. What section of the Code is that listed in?

Shanna Sether: In Chapter 525 Administrative and Enforcement, I believe it's 29 Authorized Variances. The one we're most familiar with is the first one to reduce required yards. This I believe was number 14 which authorized the increase of length of a recreational vehicle up to 35 feet.

Dick Sandberg: Up to 35 feet.

Shanna Sether: Yes, so 35 feet would be the maximum allowed.

Dick Sandberg: Thank you.

Matt Perry: Okay, Mr. Ditzler and then Mr. Cahill.

Matt Ditzler: Thank you Chair Member Perry. Ms. Sether, in the Code here that you have listed in the reports there's the term that says recreational vehicle shall be parked or stored.

Shanna Sether: Yes.

Matt Ditzler: Do you have any definition or put to light as to what the City would consider a length of time a vehicle is parked or stored on a property?

Shanna Sether: We do not define the time-line in which a vehicle would be parked or stored. In this case I think the Applicant would agree that they are parking it on the property and it's being stored as such. I should also mention that if this were to be stored inside of an accessory structure, an additional variance would required to increase the maximum area of a detached accessory structure based on the detached garage and any structure for which the recreational vehicle is ...(unintelligible, two people speaking at once)

Matt Ditzler: Right. I guess my point - what I was trying to – is if the City were to, I'm sure the Board will talk about this, but if the City had any comments about as far as if the Applicant does store the vehicle off-site to bring it on the property to load it or unload it and what sort of time frame they have to do that that which would still be considered in compliance or not in compliance, but what you're saying is that the City doesn't have a specific time definition for what those terms mean.

Shanna Sether: We do not have any specific parameters around the time-line for parked or stored.

Matt Ditzler: Thank you.

Matt Perry: Mr. Cahill.

Sean Cahill: Thank you Mr. Chair. Ms. Sether, I just have a quick question. Again, we all know that the reasonable use is going to be issue. Is there any circumstances which staff believes that there would be grounds to grant the variance? This is kind balancing the Krummenacher need versus the that this is really it's at our - was meant and I think it intended to give you discretion.

Shanna Sether: And I would say that that discretion is then forwarded on to the Board who ultimately gets to make the decision as to whether or not the recreational vehicle is deemed to be a reasonable use of the property. Krummenacher didn't go so far as to say specifically, however we have received legal guidance that the use of the property is a single family dwelling.

Matt Perry: Right, and so I would maybe add that what we're looking at is Krummenacher sort of flips things on its head. Can the property with not granting this variance prevent the property from being used in a reasonable way?

Shanna Sether: Correct.

Matt Perry: I've got a question. The Applicant calls out in our packet that there's a set of - it's not numbered unfortunately, but it would be page 4 of our packet and lists a set of things under number 1 in which certain criteria have been met. One of them has to do with the vehicle being parked at least six feet from the property line. Rather than quizzing the applicant on this I'd like to ask you, six feet from what property line?

Shanna Sether: On the site plan the Applicant shows that they're parking at least six feet to the shared interior side property line shared with their adjacent neighbor to the north at 6041 11th Avenue South.

Matt Perry: Okay, that's the property line there. It's the interior property line.

Shanna Sether: Yes.

Matt Perry: Okay. Alright. Any other questions of staff? Mr. Koch.

Chris Koch: Yeah, you mentioned that were they to essentially make a garage to fit this it would...

Shanna Sether: An additional variance would be required to increase the maximum area for an accessory structure.

Chris Koch: So if they were to take the existing garage and then add the additional 360 square feet required ...

Shanna Sether: Yes, the maximum floor area for accessory structures devoted to the area for parking. So in the case of a detached garage it would be the exterior dimensions cannot exceed 676 square feet on this property.

Chris Koch: And to you know what the existing is by chance?

Shanna Sether: It's a two-car garage and I believe it's right around 400 square feet, so the addition 35 by 7 would put them over the 676.

Chris Koch: Okay, thank you.

Matt Perry: Any other questions of staff? Thank you Ms. Sether for the presentation and for answering all of our questions. Is the Applicant present and would they like to speak?

Trenton Fields: Yes sir.

Matt Perry: Alright if you'd step to the podium and give your name and address please? And if you would also please keep your comments to the variance at question.

Trenton Fields: Yes sir. Good afternoon Chairman, Zoning Board, Zoning staff, neighbors and friends. My name is Trenton Fields this is my wife Rhonda Fields. I live at 6045 11th Avenue South. It's our goal and hope today that a variance will be granted allowing us to continue to park our RV on the site 6045 11th Avenue South. What I'd like to do, time permitting, is I have a few pictures that give a better example of how the RV is actually kept on the property. First of all I'd like to extend an apology on my family's behalf because when we first started RVing, maybe ten years ago, this is our second one, we were not aware of the Ordinance 541 requiring the strict adherence to the size of the vehicle. And for that I apologize. Had we been aware of it we would've taken some other steps to stay within the law. What I'd like to now is a lot of stuff that I was going to cover the staff person has covered so I'll just kind of bypass that. What I'd like to do is review the pictures and I have a slight narrative on those as well. Okay, here's the front view of our property, of our home here. I'd like for you to keep in mind that the RV is actually parked on the lot at this time. This is the view that you will have as you're

standing in front of my house from the west. Okay, and now just slightly, this is the view of the north corner of our house and you can kind of see through the two houses, looking through across neighbor's yard and then through our back yard you can see the rear of the RV. What you can also see is a six foot privacy fence there for fencing.

Matt Perry: And so Mr. Fields I think – I'm sorry for interrupting, but you are now – you just moved us a little bit south down the street.

Trenton Fields: No sir. This is north.

Matt Perry: Okay.

Trenton Fields: If you will,

Matt Perry: I'm glad I asked.

Trenton Fields: I apologize for not being clear. This is standing in front of the house and if you were to move north on 11th Avenue by a few feet you would have this view.

Matt Perry: Thank you.

Trenton Fields: Okay as you're standing at the corner of – actually this is the south view of the lot. And it being a corner lot, it has the perception of being a wider lot because it opens to the boulevard. Opening to the boulevard is kind of key because it allows the RV to be moved on and off the property without disturbing any of the neighbors or creating hazards or nuisance. If you look closely here where my finger is, at the most rear of the property you can see the very edge of the RV. As you're approaching the property from the west, you're going west on 61st Street and you're approaching the stop sign, this being 11th Avenue and this being 61st Street, this is the view you have. This is how my property represents itself with the RV in place. Coming from the opposite way, still on 61st Street, you can see we're at 12th Street and we're at the stop sign there. This is the view that one would have as they're sitting in their car. What I'd like to point out is if an individual is driving in their car, the last thing they're going to see is the tip of the RV here. My thoughts are that if you're at a stop sign on a busy street you're probably paying attention to which way the opposition of traffic is coming. You're not paying attention to the top of an RV that's maybe some 100 feet away behind a fence. Okay, this is north of the property. This is the alley between 12th Avenue and 11th Avenue headed in the south direction a few houses down. If you look closely you can see the very tip of it. What I'd like to point out is that the vehicle is not in the alley, it doesn't represent a hazard and doesn't represent an obstruction to view. I'd like to get a little closer here. Okay right now you're right next to my neighbor's house looking directly at the vehicle. This is how the vehicle represents itself and as you can see, it's well off the alley setback and doesn't represent an eyesore or problem to anyone at this point. Okay, coming from the opposite direction, coming from the south across the street down the alley. So you're going, once again this is the alley between 11th Avenue and 12th Avenue on the south side of 61st Street. As you look north here,

you can see the very side of the RV. And once again I'd like to reiterate that it doesn't represent an obstruction to utility vehicles, trash pickup vehicles, or anything to that effect. This is from my car, almost in my neighbor's yard across the street. This is the view that you have when the RV is parked. This is what you see when you drive by the house. Something I'd like to point out here is that something that staff pointed out is that this is considered a Class A motor home. Class A motor home's they come in a ripe variety of configurations. However, one thing that's common is the front profile. I called Brambilla's, I spoke with Pleasure Land and several other RV companies and along with Monocle, the builder of this coach. What's common to the RVs, what they consider an industry standard, and that industry standard is the width and the height. No matter what length vehicle you have, if it's a Class A motor home it's going to have this width and this height. If it doesn't meet that industry standard for the width and the height what you're going to have is maybe a Class B, which is a smaller RV based off of a van platform, or a Class C, an RV that's based off a small cargo truck platform that we used call them bread trucks – you guys are familiar with the term – that's basically what you have. But the point I'm trying to make here is that if this was a 25 foot RV you would see the same the profile. It would have the same profile, the same appearance. So the issue at hand here is 10 feet, and where is that 10 feet? The 10 additional feet is not across the alley, not across the sidewalk, not across my neighbor's property, it's in the back of our lot, out of view and not a problem. Why do we have the RV? As I state before the RV is – maybe I didn't state this before, but this RV is essentially used for two purposes with my family. It's used for family vacations and retirement planning. Ten years ago when we started RVing it was the best thing since sliced bread. It was the best way to get the kids away from the Nintendo and the X-Box and introduce them to fishing, camping, etc. We enjoyed that. As the kids have gotten a little bit older our focus has been more toward maintaining the vehicle for some family outings, family reunions, and retirement. And by retirement I mean as my wife Rhonda and I grew a little bit older we realized that maybe we'd like to spend the winters in a more hospitable climate. And that's part of the plan, nothing against Minnesota, we've been here for over 23 years and we love the City of Minneapolis and we plan to make the City of Minneapolis our retirement home. Once again it would be nice to have an option. Well that RV represents that option as part of our retirement plan. We spoke to the neighbors, our neighbors that are directly influenced with it. Of course there is some would have opposition to it, but those neighbors that we spoke to as we walked through the neighborhood and got signatures, were very supportive. The Hale Diamond Lake Community – you have the letter from them. A couple other letters from the neighbors – you have those as well. But an interesting thing that I discovered as I spoke with some of the neighbors, I asked my neighbors what do you think about this RV and I need you to be honest with me? And of course they said Trenton it's never a problem, it's never a hindrance, it's never obstructing the view, it's never in the way, I don't have any problems with it. And I said, okay well now take the gloves off and tell me what someone else might have. What issue they might have with the RV being kept there. And I got an interesting comment. The comment from one of the neighbors was that well there's a possibility that it may be seen as an eyesore and it may be bringing down the property value. That concerned me, and I said really? So how could I verify this? He said well maybe you could talk to someone down at Hennepin County. So I did, and so

what I did – and hopefully I’m allowed to do this, I went to the Hennepin County website and got the property values and I’d like to share a few of them with you if that’s legal.

Matt Perry: Well, Mr. Fields I’d like to point out – actually I don’t know if that’s really relevant (unintelligible) but I do want to point out that staff is in agreement with you on findings number 2, number 3 and number 4. The one area that they are not in agreement with you on – or which is holding up them recommending approval of this is finding number 1 that the property cannot be put to reasonable use under the conditions allowed by the official controls and strict adherence to the regulation of the Zoning Ordinance. So that’s the one we really need, I think, to address. So no need to do the property values.

Trenton Fields: Fair enough. As stated by the staff

Matt Perry: and if I could also point out, if the testimony you’ve given and the photographs that you’ve presented more than enough substantiate staff’s recommendations on items 2 through 4. So I think you really just need to speak to item number 1 if you’ve any comments about that.

Trenton Fields: Sure. Left being the issue here, 10 feet is what we’re really talking about. And as I stated earlier the question comes down to where is that 10 feet? Does that 10 feet represent an issue? An issue that would warrant denial of the variance. I don’t believe so. I believe that 10 feet doesn’t represent a nuisance to the public, it doesn’t represent a danger to the public, and that extra 10 feet where the vehicle sits is in basically our back yard. And based on that I believe that a variance should be granted. In closing I would like to ask that you find for us and grant our variance to allow us to continue parking and storage of the RV on our property.

Matt Perry: Alright. Thank you for your testimony. We might have people who have questions. Mr. Koch?

Chris Koch: I do, in your drawing of the area you show the RV parked so the front of it is basically on the same plane as the front of your garage. Is that how you typically park it? And in the pictures you showed, it kind of showed the same like that.

Trenton Fields: Yes.

Chris Koch: Okay, when it’s parked like that do you know how far from the rear fence it is?

Trenton Fields: From the rear fence, let’s see here ...

Matt Perry: Excuse me Mr. Koch, do you mean the alley side fence?

Chris Koch: I mean the

Matt Perry: Or the interior property?

Chris Koch: The interior property line. So how far from your neighbor's garage?

Trenton Fields: It's about 6 ½ feet.

Chris Koch: So.

Trenton Fields: It's parked right here at the edge of the garage ...

Chris Koch: Yeah.

Trenton Fields: It's 6 ½ feet from our privacy fence.

Chris Koch: Okay.

Trenton Fields: And when they installed the privacy fence they informed me that the privacy fence is not on the property line. It's set back 6 ½ inches off the property line to accommodate the footings. So essentially 6 ½ feet from the property line.

Chris Koch: Okay, great. Thank you.

Matt Perry: Any other questions? Yes, Mr. Sandberg?

Dick Sandberg: Yeah, thanks Mr. Chair. Mr. Fields thanks for your presentation. Can you tell us what your alternatives would be if you can't park your RV on the property? What would you do and how would that create a hardship, or how would that prevent you from using that part of your property?

Trenton Fields: Yes sir. The hardship comes in loading and prepping the vehicle. There are several sites that will allow you to store the vehicle but the way the vehicle is stored is basically they're put side by side where there's no access room. There's no electricity available. So if you plan on taking a trip what you need to do is stay with the vehicle and figure out how to get electricity out so you can get your refrigerator cooled enough to put your food in there. Some of the sites prohibit loading as well. All they want you to do is simply park the vehicle there and remove the vehicle off the site. I've explored that with Brambilla's, I've explored that with Pleasure Land to the north up in Anoka, and I've also explored that with a few independents out in the suburbs. These are basically guys that have pole barns. It's really a logistic issue because keeping the vehicle off site means that basically I have to work with the site owner's schedule in terms of accessing the vehicle. And if we're planning a long trip and I need to be in and out of the vehicle all night well then that has to be readdressed. Bringing the vehicle into Minneapolis, with it being a 35 foot, parking on the street is an automatic ticket. I'm in violation. And in view of Ordinance 541 if I back in on my property I'm still violating the law. So to answer your question sir, the mere logistics of it represents a hardship of

having to go from here to wherever with all of your gear and with some type of electricity to prep the vehicle.

Matt Perry: Mr. Ditzler?

Matt Ditzler: Thank you Chair Member Perry. As a very quick follow up question Mr. Fields. In this trip prep that you have, from beginning to end how long does it take? Would you say it's two days or less?

Trenton Fields: It depends on the trip.

Matt Ditzler: Average.

Trenton Fields: On the average trip, on the average we normally take our family vacations for three weeks. So we live in the camper for three weeks. That's three weeks worth of clothes, three weeks maybe worth of food, etc. Prepping the vehicle includes water, equipment that's needed for the trip and the basics such as clothes, other recreational stuff and so forth. So normally it would at least 12 to 13 hours of nonstop.

Matt Ditzler: Okay, thank you much.

Matt Perry: Any other questions of the Applicant? Thank you Mr. Fields for your testimony. Is there anyone else here to speak in favor of this application? Alright if you could step forward and give your name and address? And I would ask that if the point has already been made by the previous speaker or speakers you don't need to reiterate that point. You can just say I agree with what the previous speaker said.

Alicia Ricks: In favor of the people that made the application?

Matt Perry: Yes.

Alicia Ricks: We agree.

Matt Perry: Could you give your name and address?

James Ricks: Yeah I'm James Ricks and that's my wife Alicia. We live at 6040 12th and one ...

Matt Perry: 6040 12th?

Alicia Ricks: Avenue South

James Ricks: I just wondered when that ordinance was passed, for the City Ordinance for size of the camper, what year was that passed then?

Matt Perry: It was in the mid 90's.

James Ricks: Because one of the questions I asked, we moved in our property in 2003 and we don't know the Fields that well, but we kind of know them. And that 7 years we've been there, that's a long time for the City to take notice on that vehicle that's been there. So it's been there for 7 years and there has never been a complaint by any of the neighbors until now. So I'm saying that if it (unintelligible – not near the microphone) since 1990 how come the City didn't take action right away on that situation? And also that's a neighborhood that don't have too many black resident homes.

Alicia Ricks: We are black. There's not many. And we are constantly getting complaints.

James Ricks: But we're not going to make that an issue, but we just want to bring it to your attention. So you know

Matt Perry: Sir, I'll just say the – why that's coming before the Board today is not our issue as a Board. We are simply addressing the fact that a variance is required. That's the scope of our decision.

James Ricks: Okay, I'll just ask you because

Matt Perry: Thanks for bringing that to our attention

Alicia Ricks: I'd like to say too that it looks really nice since they have done the addition – the fence and everything. And I don't know if that's been brought up because we came in a little late. Since they have their new privacy fence. And since they have that variance that they already added to the back. It looks very nice.

Matt Perry: Okay.

Alicia Ricks: You can see now, because our house was on the picture that he showed so our garage was there, so we drive out because if we come out of our driveway his house is there, we can see. So you can see joggers, walkers, anybody, strollers, anybody walking dogs, they can see. And it's not an issue with sight, so I

Matt Perry: Mr. Fields made that point very clear so ...

Alicia Ricks: Thank you very much.

James Ricks: I know how to state where the City – where the grandfather clause based on the time statute, it's a time line to address certain issue. Maybe that could really actually be grandfathered in because his vehicle being it was still on that property. Then the fact is, I don't know long he actually lived in the house, but I

Matt Perry: Sir, in this case that is not an applicable ...

James Ricks: Okay, well this is an issue because I know how the state somehow worked with the grandfather issues thing. How a certain time line it's automatic stay because of the time line. Maybe that's something they could look at on how long he's actually been in the house and how long that vehicle's been at that property. Thank you.

Matt Perry: In this case that's not how – that doesn't actually come into play, but thanks for giving that perspective. Thank you, I appreciate it. Is anyone else here to speak in favor of this application? I see none. Anyone to speak against? I see none. Let's close the public hearing. Board comment? Anyone? Mr. Cahill?

Sean Cahill: I'll bring my brief, kind of the broken record again, that I think this is one of those unfortunate cases where Mr. Fields I think has made a compelling case. Shows that before Krummenacher he would have been granted it, but this is just an example how the rather strict ruling by Supreme Court has stripped single family home owners of their rights, their enjoyment, allowed their property (unintelligible) but ...

Matt Perry: Thank you for the editorial comment

Sean Cahill: Thank you very much.

Matt Perry:... I don't know if that's really something we need to discuss here but ...

Sean Cahill: Nope.

Matt Perry: you're making a point that

Sean Cahill: I do believe ...

Matt Perry: There's a higher bar that has been set by the State Supreme Court ruling.

Sean Cahill: Yup, and I don't believe it's been met. So thank you.

Matt Perry: Okay, yes Mr. Koch, then Mr. Ditzler.

Chris Koch: Mr. Fields makes a very, very compelling case and actually kind of turned my opinion about this, but then given light of the high bar that had to met I don't believe that it has been so that's unfortunate in this case.

Matt Perry: Thank you Mr. Koch and I'll remind my colleagues here and the Board that staff has found for all but number 1, and number 1 of course is very important and that's the one that has been impacted by the State Supreme Court ruling which makes our work a little more – it makes it different than before the State Supreme Court ruling. Mr. Ditzler?

Matt Ditzler: Thank you Mr. Perry. I know the neighborhood really well and I think that staff and the Applicant are in agreement on most of the points except for the one. I

think they both support each other very well and I didn't hear testimony from either side to refute staff's findings. I would support staff's findings. I think that what the City says in this case, and it's unfortunate the Applicant didn't know that before they proceeded forward, that for a lot of this size that vehicle is too big. Period. That vehicle is too big on a city lot of that size. That is what the City has said and that

Matt Perry: Mr. Ditzler, I'm sorry for interrupting you. The City has almost said that.

Matt Ditzler: They have almost said that?

Matt Perry: If they had said it was absolutely too big they wouldn't have it be one of the 29 variances that

Matt Ditzler: Let me rephrase Mr. Perry to correct. I don't think that the Applicant or staff has provided any information to say that this property cannot be put to reasonable use. The Applicant can own a motor home. Owning this property is not preventing you from owning a motor home. Your right to own a motor home is still intact. You can either apparently move this motor home onto this property in its exact location for some determinate amount of time before it's considered parked there, whatever that means, in order for them to unload and load before and after their trips. Now do you want to split hairs as to what that time frame is, but apparently there is some leniency there. Or I guess you could argue maybe there's no leniency there, I'm not quite sure depending upon enforcement, but I think that this property can be put to reasonable use as it is. So I would support staff's recommendation.

Matt Perry: Okay. Any other Board comment? Discussion? You know, I have a questions of staff. I'll have to tell you, I'm a little bit confused here. As I just pointed out, and staff you pointed out there's a way to – this is one of the 29 variances that can be applied for. So with the Krummenacher decision and the fact the Zoning Code authorizes a variance to increase the maximum allowed length of the recreational vehicle, we're talking about the property still and the use with this vehicle on it. I'm just trying to get a sense of that. I'm trying to figure out where the variance for this particular type of use is – where it comes into play with the Krummenacher decision.

Shanna Sether: Our understanding from legal is that the use of the property in this case is a single family home with a detached garage. The RV is an accessory use and it's the Board's charge to now determine whether or not this recreational vehicle is a reasonable accessory use, accessory to the use of the property presently as a single family dwelling.

Matt Perry: Alright.

Shanna Sether: And whether or not the use of a single family dwelling may be prohibited through the inability of using the accessory use of parking the RV.

Matt Perry: Interesting. Okay. Thank you for that explanation. I don't know that I feel more or less confused than I was before that. But it's not because of your effort. Mr. Cahill.

Sean Cahill: I think maybe it would help to answer your question is under 525 it makes an allowance that we can grant the variance. It's still subject of the four part test. So even though it's allowed that we can go up to 35 feet we can't do it without finding the four findings of fact as required, so Krummenacher, it's interpretation will trump the fact that there is an allowable variance as it stands under the Ordinance.

Matt Perry: Sure, that actually – thank you for that. My question was does it have to do with the total property use or would this be part of the property for which this use is being made.

Sean Cahill: My apologies. I misunderstood.

Matt Perry: So that was my question, I don't know if any of my colleagues could help me out. With that, Mr. Sandberg.

Dick Sandberg: Yeah thanks Mr. Perry. I appreciate your question because that started me thinking too is the Code implying when it gives us the authority to grant a variance up to 35 feet that a use of a motor home on a property or parking or storing on a property is somehow a reasonable use because that's one of the things that can get a variance. So we might be able to concur that the Code says it's a reasonable use because it's authorizing us to give a variance for that, hence it must be one of the reasonable uses of a single family property.

Matt Perry: Other comment? Mr. Ditzler?

Matt Ditzler: I don't know how that is much of a litmus of a test then just because it's possible to be granted and therefore you should grant it. That seems a little circular, but. Weren't we not going to talk about Krummenacher? After our retreat weren't we not supposed to bring that up during these meetings Mr. Perry? As dictated by yourself I believe?

Matt Perry: Thank for calling me out on something that I call people out on. Point is well taken. I simply was bringing it up because it has to do with a part of the Code that we really haven't seen before. I wanted to understand how in this particular type of variance, which I don't think I've seen, how it related. I appreciate my colleagues indulgence on something which I have in the past told them I thought was not appropriate for us to discuss at the Board in these deliberations. I don't know if we've made much headroom on that particular point but I would look to someone to entertain a motion of some sort. Mr. Nutt?

James Nutt: Thanks Chairman Perry. This isn't a motion but I do want to acknowledge that the one letter received against the property doesn't actually speak to anything that we

(unintelligible). All it talks about how tall it is, and we're not talking about how tall anything is. And the other talks about if it's not parked where it's supposed to be and we're also not. I just want to make clear for the record that we're hung up on the unreasonable use piece.

Matt Perry: Thanks for doing that and I think that's very important and highlights the fact that the Board does look through all the material even when folks can't be here, we look through that and consider the testimony that's provided both in person and written. Mr. Cahill?

Sean Cahill: I'll make a motion to adopt staff findings and deny the variance.

Matt Perry: There is a motion on the floor, is there a second?

Matt Ditzler: Second.

Matt Perry: There is a second. Is there further discussion? Will the clerk please call the roll?

Clerk: Mr. Cahill?

Sean Cahill: Yes.

Clerk: Mr. Ditzler?

Matt Ditzler: Yes.

Clerk: Mr. Finalyson?

John Finlayson: Aye.

Clerk: Mr. Koch?

Chris Koch: No.

Clerk: Mr. Nutt?

James Nutt: Yes.

Clerk: Mr. Sandberg?

Dick Sandberg: No.

Clerk: The motion passes.

Matt Perry: That means that the variance is denied and you can see staff after the hearing for what your options are. Again thanks for coming down, we appreciate the testimony that you've given.