

MINUTES OF THE SPECIAL MEETING OF COUNCIL

Monday, April 4, 2011 – 7:00 p.m.

Mayfield Village Civic Hall

The Council of Mayfield Village met in Special Meeting on Monday, April 4, 2011 at approximately 7:00 p.m. in the Mayfield Village Civic Hall. Council President Buckholtz called the meeting to order.

ROLL CALL: Present: Mr. Buckholtz, Mrs. Cinco, Mr. Marrie, Mr. Marquardt,
Mrs. Mills, Mr. Saponaro and Dr. Parker (7:30 p.m.)

Absent: None

Also Present: Mayor Rinker, Ms. Calta

The Pledge of Allegiance to the Flag was given.

Council President Buckholtz stated, the purpose of this Special Meeting that we are doing is a Formal Hearing of Council that we do by our laws whenever the Board of Zoning Appeals rules on something and there is an appeal, which we have here tonight. I don't know if Diane wants to weigh out some of, not background on it as much as just the process, or where the process came from. I have some things to say about how we are going to handle this.

The Appellant Ms. Bernstein will speak first followed by the Appellees, the Scasnys and Hamills. Each party has 15 minutes. One thing you have to realize is that if you want to, the Appellant Ms. Bernstein has the right to come back with a rebuttal at the end but she needs to take that time out of her 15 minutes. Also, if anyone wanted to engage in Q&A, and that would be strictly directed at Council, you need to leave room in your 15 minutes for that to happen as well. That's not required. It doesn't have to be a dialogue here but you certainly get to state your case. Diane?

Ms. Calta stated, just a little bit on the procedure here, how we got to Council. The Village has a Codified Ordinance section that permits an appeal of a decision of the Board of Zoning Appeals to Council. I think it's somewhat of a unique provision. Some communities do not have it. Mayfield Village does. What it essentially means is that any interested party can direct their appeal to Council and Council then can review the transcript of the Board of Zoning Appeals and make a decision or have a rehearing and make a decision. That's what tonight is. It's the rehearing on the appeal.

Just for the record, it's Codified Ordinance 1105.02(d). The Board of Zoning appeal is Case No. 2010-02. They made their decision back in November. The decision was issued. All interested

parties were notified. Within 10 days interested party and appellant Diane Bernstein filed her Notice of Appeal with Council. It is now before Council for the rehearing.

Council has a couple of options as to its decision. It can affirm the decision of the Board of Zoning Appeals so it can agree with that decision or it can modify or reverse that decision. There were three separate decisions of the Board of Zoning Appeals. I think everyone's familiar with those decisions.

I know Council has a copy of all of the information from the Board of Zoning Appeals, the transcript, all of the information that was admitted at that hearing, the decisions, the appeal, the Building Department information, so we are not looking to repeat what was already introduced into evidence at the Board of Zoning Appeals.

As President Buckholtz indicated, there will be 15 minutes per side. The appellant does have the ability to reserve some time for rebuttal.

One last thing Council President Buckholtz wants to bring up. He didn't see it on the agenda. Is this a place for public comment? If so, is that part of the time allotted. Typically in situations like this, I noticed there is a large crowd in the audience, we are pretty liberal about allowing people to address Council. I would say that one of the standard things we say is that if there's a number of people that feel a certain way about something then we ask that one person get up and state that and other people can get their names put on the record as agreeing or disagreeing. I am not even sure if that is appropriate.

Ms. Calta replied, there is an Open Portion on the agenda. We talked about public comment. As the President of Council you are given the duty of establishing the agenda. Typically public comment is limited to 5 minutes. In this instance we would ask everyone that if they do have any public comment to limit their information to something that's new or different and not something that's already been testified to at the Board of Zoning Appeals. If there is any sort of, Mr. President as you indicated, consensus or collective opposition or support to the record that will be noted for the record within the 5 minutes.

Council President Buckholtz stated, okay, we are going to repeat that when we get to the Open Portion. So for those who didn't get that whole thing, we will go over that again. So I guess having said that, we are ready to begin.

- **FORMAL COUNCIL HEARING:**

- Appeal of Board of Zoning Appeals Decision Filed By Diane Bernstein**

- **PRESENTATION OF TESTIMONY –**

- (Testimony is limited to 15 minutes from each party.)

- Appellant Diane Bernstein has the right to reserve a portion of her 15 minutes for a final rebuttal if she so chooses.

Council President Buckholtz stated, it's also a requirement that we swear you in for the testimony, much similar as a court case. We can swear in everyone?

Ms. Calta replied, it would be easier if everyone that would be testifying today would just stand and raise their right hand and they can all be sworn in at the same time. Typically we do the same thing as the Board of Zoning Appeals. So if there's anyone that will be testifying today if you would like to stand up and raise your right hand.

- **Administration of Oaths**

- . Tim Scasny
- . Lynne Hamill
- . Diane Bernstein
- . Howard Bernstein

Ms. Calta asked, do you swear to tell the truth? Yes.
The whole truth and nothing but the truth? I do.
So help you God? Yes, so help me God.

TESTIMONY BY DIANE BERNSTEIN (7:15 p.m.)

Okay, I would like to thank Council for devoting their time to this issue again. I'm hopeful that unlike the Zoning Board you will make a decision that is based upon the facts and the law. As I said my name is Diane Bernstein and I am the Trustee of my mother's estate.

You may have known my mother as Joanne Spuzzillo, a native Clevelander. This is my husband Howard over here who is the Successor Trustee.

For matters of simplicity, I will refer to the property at 6765 Meadowood as "my house". In previous testimony, Mr. Scasny and Lynne Hamill attempted to discredit me among other things by saying that it is not my house and that I do not live there full time. However, Ms. Calta has previously clarified that. In fact, I have all the legal rights as a homeowner.

My mother purchased the home in 2004 for about \$200,000. After gutting the entire house, putting on additions and landscaping, she invested a whopping \$250,000 in improvements. She removed the deadwood and the brush from the woods, planted specimen trees. The only part of the yard that she was unable to complete was her plan for a zen-like garden with meandering paths, flowing water, shrubs, rocks and seeding. As a gardener, I too would love to complete that project, but the ambiance in the back of my property is no longer serene. Still, it is probably the nicest home in the area and I think a gift to all of the neighbors because it will increase their property values.

As the Administrator of my mother's estate, which includes this house, it is my fiduciary responsibility to maintain and hopefully increase, the value of all of the assets in that estate. I

have been told by realtors that the structure next to me at 648 devalues my property. You have before you Exhibit A which is a letter from one of those realtors who came out to give me an appraisal and shared that opinion.

The new construction in my home is all at the back with three French doors, floor to ceiling windows, so that you can fully enjoy the wooded view. But the view and the privacy have been greatly diminished by the unsanctioned and grossly overbuilt 2-story cottage at the adjoining property. If you look at Exhibit B, it will show you a view that I see from my patio, kitchen table and porch. The view from my master bedroom is the same but much closer.

Furthermore, the Scasny property has been a perpetual construction zone since I have been visiting or living here for the past 8 years. Apparently, construction began in 2001 and Mr. Scasny still has plans for further work. He has little regard to the noise created by his never-ending projects which often require heavy equipment like his tractor, caboda or buzz saw. He has routinely worked outside the hours and days permitted by the Village noise ordinance. I would like to know who of you would buy a house next to ongoing construction site.

While I was walking my dog last week, I encountered Mr. Scasny three times going door to door soliciting support from neighbors and I would expect he'll be presenting a petition here tonight.

I have provided you also, on the next page, Exhibit C, which is a view that all of these neighbors see as they pass the property from the street. It does look like a charming dollhouse from the street, but if you look below at Exhibit D, it shows the 45 foot expanse of white that I see from my own backyard.

More importantly, I am not sure what the point of a petition is at this point in time. I don't know what neighbor would refuse to sign. They don't have my vantage point. Mr. Scasny's a very friendly neighbor. Ms. Hamill and her parents who are here tonight are original residents. They know everybody in town. But this should not be a referendum or a popularity contest. If Mr. Scasny seeks to change the law, he should have gone through the legislature and he should have tried to do that before he so blatantly broke the law. We are here tonight to apply the law as it exists and that law is clear on its face.

That being said, I don't believe this should have ever become my fight. Last summer my husband was awoken at 10:15 p.m. by Mr. Scasny hammering siding wearing his safety goggles and spotlights on. The next day, I called Mr. Marrelli completely anonymously, did not want to be a bad neighbor and I inquired about the Building Codes and the noise ordinances. I then approached Mr. Scasny and asked him to cease any further construction within my view, abiding by the hours of the noise ordinance and to please put up a row of evergreen trees along the property line in lieu of the wall he was intending to erect around his cottage.

If you will look at Exhibit E, I have given you a photograph of a row of cypress trees which is a hardy and inexpensive option which I mentioned to Mr. Scasny.

After that conversation, I went back to New Jersey. I came back to the Village four weeks later hoping to see trees planted which Mr. Scasny said he would do. But there were none. Instead there were a stack of paver stones which are still there today.

During my absence, Mr. Scasny took it upon himself to approach Mr. Marrelli who then came out to see the property. From that point forward, I considered this an issue between Scasny/Hamill and Mayfield Village. In reality, these proceedings should be going on with or without my input.

In the lengthy testimony before the Zoning Board, Scasny/Hamill failed to have credible responses to most of the questions posed to them by Chairman Prcela and Mr. Caticchio. There are numerous statements made which I know to be false. Mr. Scasny is clearly in violation of the law that Ms. Calta presented as well as the Building Codes and procedures described by Mr. Marrelli.

First, he ignored what the Architectural Review Board, a legal binding board approved back in 2001. A 292-foot square garage with a driveway. Instead he built 644 feet which bears no resemblance to the plan either in size or design.

Mr. Scasny's excuse that he and the former Building Commissioner Bernie had a verbal agreement is absurd. Ms. Calta states that there is no documentation in the Village record to back-up the unauthorized conversations.

According to Mr. Marrelli, the proper procedure would have been to go back to the Architectural Review Board, get approval, and have it recorded. But nothing was done, stamped and approved.

Second, Mr. Scasny constructed a wood shed, an additional 281 square feet, with no permit or inspections whatsoever. Although this structure properly fits the definition of what a shed should be, it puts his square footage up to a grand total of 925.

Per Mr. Marrelli, neither of these buildings are on the tax duplicates and by law the building permits are only good for one year and Mr. Scasny failed to ever renew these for the last 9 years.

Third is the issue of how the cottage is used. I have seen and will swear on a lie detector besides under oath that I know this building to be used as a dwelling by both Mr. Scasny as well as his out-of-town guests. Mr. Scasny has clearly told me as well as others as his intentions and the reason for those intentions that he is going to live in the cottage. I have also heard from several women in the neighborhood that Lynne Hamill has shared the same living arrangements with them.

The cottage has every amenity that makes it a dwelling by the letter of the law: kitchen, bathroom, laundry, electric, gas, hot water furnace, upholstered furniture, phone, cable and television. Ms. Calta states that this is a single family district and clearly states the definition of a dwelling versus a garage.

It's kind of funny, if you look at Exhibit F which is a drawing that Mr. Scasny did back in 2006, he himself labels the structure "Little House". He then very conveniently renames the very same structure "Main Storage/Tool/Garage" on the revised drawing when he appeals to the Zoning Board.

Back in 2006, there was one garage with a small loft, but by 2010, there is an additional room and a true second story. I don't recall when he added the dorm rooms. The pillars holding up the portico were added this summer after I approached him last August and asked him to halt construction. Regardless of how the cottage has been used, as it exists with all of its amenities, it could certainly be used as a rental property or guest house by future owners.

I am a strong believer in individual rights and do not welcome any unnecessary governmental intrusion into our daily lives. However the rights of all parties must be respected. I am aware that the Village Code allows for a maximum of 675 square feet and other homeowners on our street do have large structures in their backyard. However, they don't live in those structures nor did it take them 10 years and still counting to build them and I trust they have the proper permit. But I don't see how Scasny should be granted the same square footage. They have exhibited total disregard for the law.

If I understand correctly, the ordinance regarding penalties which I am not suggesting be enforced, Hamill/Scasny could be fined as much as \$500 per violation per day. Again, I am not suggesting that you fine, however they should certainly not be rewarded for their misconduct.

I urge the Council to disregard the recommendations made by the Zoning Board. I do not believe they did their job, which was to enforce their own laws and procedures as written. Mr. Caticchio and Prcela both concurred that I had a justifiable complaint, yet I received no relief by their decision. There is no hardship or practical difficulty here that makes granting a variance appropriate and putting some wood in the cottage does not make it inhabitable now or in the future. I would expect the Council to resolve this matter in keeping with the law and return integrity to both of our properties. Thank you.

Council President Buckholtz stated, thank you Mrs. Bernstein. I just wanted to point out that you have about 3 minutes remaining for rebuttal. Thank you for your presentation. Now the Scasnys/Hamills.

Ms. Hamill asked, Mr. Buckholtz, did you not say that we should try to refrain from repeating what's already been established?

Council President Buckholtz replied, that was more of a comment to, I mean, yes.

Ms. Hamill stated, I am just trying to figure out what the best thing is.

Council President Buckholtz stated, I think that was basically designed for the crowd, for the public. You are allowed to state whatever you want. You use your time the way you want. I am assuming everyone in Council are familiar with the Minutes and what's going on.

TESTIMONY BY TIM SCASNY (7:27p.m.)

Good evening Mayor Rinker, President Buckholtz and Council. Thank you for this opportunity.

I just wanted to point out that Diane did not come to the Appeals Board meeting. She could have been there. She could have responded. She did not and she's picking out things that are in the transcripts that she could have been there, rebutted and said whatever she wanted. She did not come.

I am submitting a Petition from the neighborhood regarding our two structures asking Village Council to vote that both structures will remain. Do I just give it to you?

Council President Buckholtz replied, you can give it to the Council Clerk, Ms. Betsa. Mr. Scasny presented the Petition to Mrs. Betsa.

Mr. Scasny continued, since the Zoning Board Appeals' decision is being appealed, I am asking that our woodshed storage structure will not have to be removed. We need it to store wood each year that we use to heat our home. To my knowledge, there is not one single resident at the last Council meeting who believes that the structure should be removed.

Our storage room was built with a permit. Building Commissioner Bernie Samac gave us permission to make the plan changes without having to apply for any permit before I started rebuilding the garage. Mr. Samac told me that I was allowed to make the changes under the existing permit and under his supervision.

The majority of the structure as it exists today was built in the Fall of 2001. Dominic and Melanie Vitale were our neighbors then. They owned the property at 6765 Meadowood Drive. Diane's mom, Joanne, purchased their property as you said in 2004.

It is unfortunate the Village Building Department does not give Certificates of Inspection which would prove that I had permission to change my original garage plan. I gave them all of the photographs, pictures of what the building looked like in 2001. There was no addition to the second floor. It's always that way. It was built that way from the beginning of the main structure minus a few additions.

I researched the internet and found Bernie Samac's California phone number and called him after receiving John Marrelli's October 2010 order to comply with the 2001 permit. I explained Mr. Marrelli's letter and Mr. Samac told me, you had a permit, what's the problem? You are allowed to make changes. Those were his exact words.

Mr. Samac was on my site frequently to inspect it and because I asked him for advice on how to build my garage in order to build it the best way possible and to best maximize issues I also visited Mr. Samac frequently at his office asking him questions regarding Codes and changes. Mr. Samac was on my site frequently to inspect and because I asked him for advice on how to build my garage in the best way possible.

I applied and was granted another permit in 2006 from John Marrelli to trench a new 2-inch gas main and all utilities, sewer, water, gas, electrical and an emergency generator to my garage. Mr. Marrelli said nothing from 2006-2010 that I was in any violation of permits or Codes and proceeded without notification.

My garage does not block or obstruct any neighbors' property. My garage does not devalue our neighbors' property. Our garage is not property to rent. It does not qualify as a residence by definition. Our garage storage structure meets all Village zoning criteria for up to 675 square feet as an accessory building. Our garage is for our personal use.

When Diane first complained, she said she didn't like the size of the patio in front of the garage. She wanted to see more greenspace in our yard. I said okay. I cut it down to less than half the size, 6 feet. The pavers that she says is a wall, I purchased to finish in front of the building. I never did that. I was told to stop, to cease all work. So that wall she says, there's not a wall, it's just a stack of pavers ready to be put on the ground when I can continue.

Diane said she wanted trees to block her view of our garage and she suggested her landscaper to hire and have trees planted. I said I really can't afford a landscaper, I would be glad to plant trees but they would have to be ones that grew and I asked her please let me know what those trees would be, I will buy whatever she wants, but they would have to grow and I said I need to know what trees will grow in the shade or dark where trees don't grow and she said she would get back to me but she never did.

I appreciate President Buckholtz's efforts between this interim time. He had told me that he had offered to plant trees by the city, paid for by the Village, in order to resolve our issues and he informed me that she had refused and she was going ahead with this appeal.

I apologized to my wife and family that three and a half years ago I confided with people at a time of distress. Circumstances changed and I am dismayed that people will use what they think they know about me and my family today and use it for their own personal benefit or gain.

That's all I have to say now. Thank you.

Council President Buckholtz thanked Mr. Scasny.

Ms. Hamill asked if she was on the same 15 minute slot.

Council President Buckholtz replied, yes, so that's 6 minutes.

TESTIMONY BY LYNNE HAMILL (7:36 p.m.)

We are back to much ado about nothing. I do believe and I appreciate everybody having to be here and deal with this. Frankly many of you know I am kind of at the end of my strength with all of this.

I need to clarify some points. I am not going to repeat what's been said. It's very clearly indicated, especially for those of you who came out and saw. You came out and saw it, you get a completely clear perspective on exactly what's out in the yard.

I am unfortunately going to have to address issues where veracity is at question. There was no degrading comments about home ownership to Mrs. Bernstein. My questions are not about home ownership, they are about residency. She's not a resident. Yes, she has a job to do with the home ownership, I understand that, but residency is a different animal and I have been a resident of the Village all my life. I have put a lot of time into the Village, a lot of volunteering and I have a responsibility to myself to say to you as Council your job to me as a resident is to serve and protect and that's why I'm saying, what I'm saying about what I believe is not fair or honest in all of this procedure. It's just beyond anything anymore that needs to be discussed. It's just, it's too much foolishness.

Words like routinely were used, you know, routinely making noise. We have other neighbors on the other side. We have neighbors in other parts of the community that you hear just as well as any others who have said in previous meetings there was not routine noise. Those people have said that under oath or in meetings when they have an opportunity to speak. So there is no routine about that. There is no paver wall. Those pavers are stacked to finish up a little piece of patio out in front to go across that we didn't get anything done with it because this all came out and what's the point of putting more work into something when it's not, no matter what it is, it's not pleasing.

I think if we're going to talk about issues of hurting good name and veracity, when Ms. Bernstein first spoke to this group, she said that she had a good relationship with Mr. Scasny and that she felt that there was nothing wrong with her request to ask him to do some landscaping. I don't ever remember him feeling that there was any, to my knowledge, any problem with that. But she did say, all I want is to repair the situation and I want to see a nice backyard, more greenery, block the view a little bit, more trees, could you please do some landscaping? That's all I'm asking. Well, you know the rest of that story. But the most important part of it is the Village made an offer to her on our behalf to provide whatever landscaping she asked for and she refused. That is an issue of veracity for me. When she said to the Village that was all it would take, she told this Council that was all it would take to repair this issue, just get something up there, that's why the offer was made and that's why I believe it was made in good faith and we would have done whatever we could have as well.

I have a problem with throwing Mr. Samac under the bus. We are going to talk about under oath, I was involved in conversations with him and I will also tell you separate from Mr. Scasny, I

spoke with Mr. Samac too. I had to sign permits. I had to verify things as the homeowner. I had as many conversations with him where he told us these exact things. It wasn't a problem then. I'm not going to expect that we can rewrite history but it was not a problem. We followed what we were told. I dotted t's, dotted i's and crossed t's as much as I could as the homeowner. I was concerned.

Council President Buckholtz advised Ms. Hamill that she has about 2 minutes.

Ms. Hamill continued, anything that we've said in many different vernaculars, I talked about who lives in the back of the house. I know Tim has talked about living in our backyard. We consider living in our backyard outside part of our living space in the summer. We love it and when one says to another somebody lives in a spot, it's all based on their perception of what they're saying. We are not claiming any kind of residency. We're not claiming any kind of rentability, we are not, the building is not done. The pictures will provide you with that view. There is no shower and like I said at the last meeting, I have here with me tonight a realtor who will say in her opinion that it is not a diminishing quality to the values of the neighborhood. And that's where the people in the Petition also have an opinion to what they feel their property values are. And so there you have the will of the people in that Petition. That's the plan of the Petition. I don't think there's any question about what you put in the Petition, I don't think that's any problem. But I must say that the elements that Mrs. Bernstein said or her realtor said, she has a letter, et cetera, I can provide if you wish the same opinions from a realtor that's here in Mayfield Village.

Finally, I have to say that if the energy and the money and the effort and the foolishness that's gone into this and the twisting and betrayals of things that are innocent and in good faith of people, if we could put all that energy into doing something else, like the people in Japan, we would be doing a lot better than this waste of time.

Respectfully so submitted.

Council President Buckholtz thanked Ms. Hamill.

Council President Buckholtz stated, at this time, Ms. Bernstein, if you would like to, you have an additional 4 minutes if you would like to use that now.

REBUTTAL TESTIMONY BY DIANE BERNSTEIN (7:43 p.m.)

Ms. Bernstein stated, since the last time we were here, the only communication I've had was phone calls with Mary Beth and I spoke to Mr. Marrelli this week, I put a call out to Diane Calta who was not in the office. No one ever has called me and made an offer of putting any trees in my yard at anybody's expense. So I have no idea where that came from. Is there somebody here who called me and left a message that I don't know about? Okay. I have no idea where that came from.

It is true when I approached Mr. Scasny the first time and said, he told me he was planning to put a very small 2-foot wall around his cottage and I said please don't do that. Plant green trees. And at that point in history if he would have done that and stopped doing the noise on Sundays and late at night, I would have walked away as a happy camper.

All the slanderous things that have been said and all that I have learned by reading the Minutes of this meeting have really changed things. Now that I am aware that they have a permit for 292 and they built 925, it does change what I'm asking for. Trees are nice, but you know what? They are in gross violation of the law.

The reason I didn't come to the first meeting back in November which I easily could have, my conversation with Mr. Marrelli was, you have no reason to be there. He was so livid with the whole situation and made it sound like he was going to handle everything. It was a slam dunk. There was no reason for me to be there. I didn't come. I could have been there.

Again, I say, those trees, I don't know. The day I did approach Tim, he said to me, you tell me about trees and I said, I don't know a lot about trees. I know a lot about perennials and shrubs. I said I can only tell you about cypress trees because that's what I have in my yard. They're hardy. I said, you can put up many evergreens, spruces, whatever you like and he said to me, well, I have plumbing on my yard, I don't think I can put it on my property, can I put it on your property? I said, no I think that creates a problem. If they die down the road, then who's going to replace them? He said, I'll figure something out. And that's how we left it. So when I came back four weeks later, I really thought I was going to see some trees.

But the bottom line, I never went to city hall. I called anonymously from my out of town cellphone number. He brought this whole thing upon himself by going to Mr. Marrelli and calling attention to himself and I think he's in this hot water now by his own doing.

And I did not tell him to hire a landscaper. I said I had one if he wanted it. In the 6 years my mother's been dead, I have hired a landscaper once. I do all my work myself and I do not have the luxury of backhoes and equipment. I dig and bend and lift so I'm not a stranger to hard work and I would definitely not recommend that he hire a landscaper. And I even told him I bought my trees at Costco for \$75 and brought them home in a 4x4. I said to him 7 or 8 foot trees. I never said he had to buy mature trees. Buy something that grows fast and is hardy. So I did give him as much information as I had.

That's all I have to say. Thank you.

Council President Buckholtz thanked Mrs. Bernstein. Before we move on to the public comment, when I was explaining, we don't do a lot of these appeals and it was explained by the Mayor and the Law Department that we are kind of a group that hears the appeal and I don't know if you said it kind of tongue in cheek but I am like a judge or somebody. So, I'm not going to run away with that, but I would like to make a comment primarily for Council. Again, we are going to take our time in deciding. This is a serious issue. But I just would like to say, representations, I want to say two things, I want to address the trees business because many people on Council don't

know what that is all about and you sound like you don't. But before I do that, representing conversations with people, you have to be really careful about. I mean, when you talk about what Mr. Marrelli said or how he said it or a slam dunk or using, and again, this is not about being under oath, this is just about we're human beings, but, or when you talk about calling Bernie Samac in California and what he may or may not have said. It's not to say we don't trust people or believe people, but I think that stuff best be left out of what we are looking at. We have enough stuff to look at in terms of the law and what's transpired in the Minutes, okay? So that's just my personal thing. Anybody have a problem with that in terms of just painting people's pictures?

Now on the tree, it occurred to me that in many situations the way out of things in the past is by bringing situations to closure in the past. Since we've done a lot of agricultural landscaping around the Village we have established a number of accounts with a number of providers. We have bought a lot of trees. So it was something that I mentioned to the Law Department. I believe I may have said something to Mr. Scasny or Ms. Hamill that did come up. Just to clarify, so I don't get in trouble with my own Council, because it's not for me to say, here, want this tree, you can have this tree. So that's not what I said to you or to Ms. Calta. What I said is perhaps something could be done with landscaping where the Village could participate, be a broker in the deal either by providing low cost trees at what we pay for them or by helping with some of the, I don't bring this up for discussion purposes, I just wanted to clarify it so everybody understands that. It was my understanding that that was brought up as a possibility but evidently it did not make the issues go away.

Ms. Calta stated, Diane, we spoke in February and I asked you about a possible resolution and you sent me back an e-mail about the trees. I think you remember that e-mail.

Mrs. Bernstein replied, you did. It had the specifics and I told you how far apart and this and that, but, I mean, I didn't think that was an offer but you were just trying to, I mean, ask me what I was looking for.

Ms. Calta replied, correct. I was asking for your thoughts on a possible resolution and you did communicate your thoughts.

Mrs. Bernstein replied, what I was confused of was, we offered her trees and she said no. I mean, nobody ever offered me anything.

Council President Buckholtz stated, just so you know, that was at my direction. I said, why don't you see if we can make an offer to help out by effective screening. That's what we call it in my neighborhood. When they built Progressive Insurance in our backyard, effective screening became a solution that worked. It was a shared thing, not that it can't still be. I don't know if it's still an issue at this point.

- **OPEN PORTION**

The public is limited to 5 minutes and are asked to only address Council with information new or different to what has already been testified to at the Board of Zoning Appeals Hearing and/or to note their collective opposition or support on the record.

Let's move on to the option portion and again, I want to restate what that was all about. It's 5 minutes, strictly 5 minutes. Anyone that would like to address Council, and again that is addressing Council, not each other or the people, the interested parties here and also I will ask and again it's human nature, everybody may want to, although we didn't swear in a lot of people, do you feel that the public needs to be sworn in? If so, we can do it as you come up if you haven't done it already. But if it's of the same nature, if it's repetitious, then we'll stop you and ask you just how many people feel that way? It's not like taking a vote, it's just getting your name in the record as how you feel. So who would like to begin? State your name and address, please.

. **Dave Robinson**
654 Meadowood

I'm the neighbor on the other side. We moved, my wife and two kids moved into the 654 Meadowood address in 2007. I would just like to say, I don't feel, obviously both structures were up when we moved in and I don't feel like it devalued the property or the realtor didn't mention anything to me. We have been fine with both structures. They are in plain view of our family room where we live, so in the back part of our house we have full view of both structures and aren't bothered by it and I would almost feel, I don't know if this has been brought up or not, but there's one of the smaller structures where he keeps the wood to heat his house in the winter. I would feel that would be more of a deterrent if that was taken down and there was tons of wood everywhere with covers on it or tarp over it. I just feel that would be less attractive or possibly devalue it even more than the structures he has up now. Just on my end, because I'm the neighbor on the other side, I have not been bothered by either structure.

Council President Buckholtz stated, thank you very much. Anyone else? Okay, if there's no more public comment, I would just ask for comments or questions if anyone has any on Council. There were none. No questions or comments is not a sign of lack of interest. We have been inundated with material that we are still going through. Yes, ma'am?

From the audience, I have a question. Council President Buckholtz stated, can you come up to the mic, if it's not inconvenient for you.

. **Sandy Pangonis**
660 Meadowood

I live at 660 Meadowood which is two houses up from Tim and Lynne and I know I spoke at the other hearing. I don't have a problem at all with their dwelling, but my question to the Council

is, does the fact that Ms. Bernstein's mother never objected to this dwelling, does that have any relevance to the argument?

Council President Buckholtz can't really answer on the spot. It's a collective opinion here. We will be reaching a collective decision. Duly noted. It's a good point that you raised, something that we would take under consideration, but I'm not sure. What it comes down to is 2 or 3 decisions that were made by another legal body of the Village. So really we are looking to some kind of resolution on whether to accept, refute or modify those decisions that have been previously made.

Ms. Pangonis stated, it appears to me that you can look back at things that happened years and years ago and object to them now and it's something that happened a long time ago. It kind of seems like an odd situation to me that her mother didn't object, why is she objecting? The other point is I don't think that taking that property down, I'm not a realtor but I know about realty, houses and homes in the neighborhood. There's no way that taking that building down is going to put her house value up to \$450,000 so she can recoup all that money. It's just not possible. It's not realistic at all.

Council President Buckholtz thanked Ms. Pangonis for her thoughts.

Mr. Saponaro asked Ms. Calta, do you have an opinion on that Diane in terms of the lack of objection by Mrs. Spuzzillo?

Ms. Calta replied, I would just note that the fact that a neighbor does not object does not change the nature of a Code violation. If there's a Code violation, there's a Code violation. It can't be waived by agreement of a neighbor. Certainly there are circumstances where neighbors would consent in the event of a need for a variance from a Code that's taken into consideration in that context. But when there is a Code violation, there is a Code violation. It can't be waived. Mr. Marrelli would look at it strictly as a Code violation.

. **Howard Bernstein**

The structure was there when Mrs. Spuzzillo was alive. It was half the size. And, there's 11 years of construction. Is there any time when construction has to come to an end? Would you buy a house next to total construction for 11 years? When is enough enough? And it's a shame because the work is nice work. It's all good looking stuff. But when does it end? Does it ever end? Can you build just forever and ever?

Council President Buckholtz thanked Mr. Bernstein. Anyone else?

. **Casey Kucharson**
6564 Hunt Circle

Quite honestly, I don't really care about the outcome here between the two parties. The only thing I would ask Council to consider, I'm on Ordinance Review Committee. I have had these

discussions with other members. This decision here affects not only people in the past who have applied for Building permits to try to build accessory structures and have been denied in certain instances. I'm sure that is the case. And also, what precedent this is going to set in the future. If you make exception for one family but not another family in the future, they could come back and say, well, why did you do it in this instance and not in our instance when we clearly have law that needs to be followed and we're not, right now it doesn't seem like we are following it? So, I would just like Council to take that into consideration. Thanks.

Council President Buckholtz thanked Mr. Kucharson for his comments. Anyone else?

Ms. Hamill came up to the podium.

Council President Buckholtz stated, you have already spoken.

Ms. Hamill replied, I know, but can I not speak as a resident?

Council President Buckholtz replied, no.

Ms. Hamill replied, I wanted to address something that you said, just ask a question about what you said. I'm not allowed to do that?

Council President Buckholtz replied, not really.

Ms. Hamill asked, I can't ask you about something you said in that explanation?

Council President Buckholtz asked, about the trees?

Ms. Hamill replied, no.

Council President Buckholtz stated, no.

Ms. Hamill asked, if Mr. Bernstein can do that, why can't I?

Council President Buckholtz stated, it was clearly that Bernstein was allowed a rebuttal and you are not.

Ms. Hamill stated, he just spoke to you.

Council President Buckholtz stated, he was sworn in as a member of the public. He's not one of the direct parties. I think we need to move on.

. **Jerome Catalano**

I am another member of the Ordinance Committee. When I moved here in '83, I had a tin shanty back in the corner of my property. I went through the Building Department. Back in those days

it was Gus Amendola. I told Gus, I'd like to replace it. He said, fine. The same size you dig down, the same size you put up. He came, inspected the foundation. First I had repairs to do. I put up the new structure, a barn that's the same size that I obtained out by the Drive-In Theatre on Mayfield Road beyond Chesterland. And that is still standing today. And that is the rules back in those days and I sure as heck hope they stand today.

Council President Buckholtz thanked Mr. Catalano.

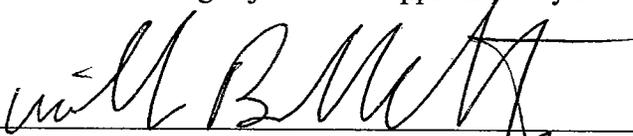
- **QUESTIONS/COMMENTS BY COUNCIL**

There were no further comments.

- **ADJOURNMENT**

Mrs. Mills, seconded by Dr. Parker, made a motion to adjourn.

The meeting adjourned at approximately 8:00 p.m.



WILLIAM BUCKHOLTZ, COUNCIL PRESIDENT



BRUCE G. RINKER, MAYOR



MARY H. BETSA, CLERK OF COUNCIL