

CONCORD TOWNSHIP BOARD OF ZONING APPEALS  
LAKE COUNTY, OHIO  
REGULAR MEETING

Concord Town Hall  
7229 Ravenna Road  
Concord, Ohio 44077

April 12, 2017  
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

Ivan Valentic, Chairman  
Blair Hamilton  
Chris Jarrell  
Francis Sweeney, Jr.  
James Rowe, Alternate

Also Present:

Heather Freeman, Zoning Director/Zoning Inspector  
Stephanie Landgraf, Esq., Legal Counsel

Melton Reporting  
11668 Girdled Road  
Concord, Ohio 44077  
(440) 946-1350

1 7:03 p.m.  
2 CHAIRMAN VALENTIC: Good evening. The Board of  
3 Zoning Appeals for April 12, 2017, is now in session. I would  
4 like to introduce my Board. To my far left is Skip Sweeney and  
5 Jim Rowe. I am Ivan Valentic. To my right is Chris Jarrell  
6 and Blair Hamilton. To our far right is Heather Freeman, our  
7 Zoning Inspector.

8 Under the advice of counsel, we ask that everyone  
9 speaking tonight must be sworn in, so I would like to just have  
10 everyone please stand up and be sworn in tonight.

11 (Whereupon, the speakers were sworn en masse.)

12 CHAIRMAN VALENTIC: Thank you. Please be seated.  
13 Tonight when you're presenting your case or commenting, please  
14 come up to the microphone and, again, state your name, confirm  
15 that you've been sworn in, and please provide your address for  
16 the record.

17 Heather, were all the legal notices provided in a  
18 timely manner?

19 MS. FREEMAN: Yes, they were.

20 CHAIRMAN VALENTIC: All right. Thank you.

21 Tonight we have two conditional use permits and nine  
22 variances and some additional cleanup work that we have to do  
23 as a Board. A three-vote majority is required to either  
24 approve or deny your appeal. If your request is denied, you  
25 have the right to file an appeal. If this is the case, Heather  
26 can help you.

27 Also, if there is a Board member missing for an  
28 appeal for whatever reason, which might come up tonight, you  
29 have the option to move forward with the Board as is or wait to  
30 table it to be addressed at the next month.

1 restaurant in accordance with Section 13.20 to operate a fast  
2 casual restaurant, Pizza Roto, at 7685 Crile Road and being  
3 Permanent Parcel Number 08-A-019-0-00-025-0.

4 Please come up and present your case.

5 MR. DeRUBERTIS: My name is Dan DeRubertis. I  
6 represent Rega Restaurant Group, doing business as Pizza Roto.  
7 I have been sworn in this evening. And my address is  
8 5801 South Ridge Road in Madison, Ohio.

9 CHAIRMAN VALENTIC: Thank you. Do you want to just,  
10 kind of, just let the group know what your --

11 MR. DeRUBERTIS: We are a fast casual pizza  
12 restaurant, being that it's, you walk in, create your own pizza  
13 and we're ready in about five minutes, cooking an excellent  
14 product. We have an operation now in Madison at Route 528 and  
15 we are currently looking to build out over here on Crile Road  
16 in the new plaza. We will be on the south end of the building  
17 with about 2,840 square feet, employing probably a full staff  
18 of around 40 to 45 people. Not all will be there at the same  
19 time, generally eight to ten during the day and in the evenings  
20 may have as many as 14 or 15 people there.

21 We are a clean operation. We're a very -- a company  
22 that cares about our employees and cares about the product. We  
23 have a great product and we believe that the Concord market  
24 would be excellent for our product. We are open seven days a  
25 week and -- except for major holidays.

26 MR. ROWE: Your opening hours are --

27 MR. DeRUBERTIS: We open at 11:00 right now,  
28 currently. We may open a half an hour sooner but generally  
29 around 11:00. We stay open until 9:00, 10:00 on the weekends,  
30 and sometimes we close early on Sundays during the wintertime.

1 So first on the docket is the election of chair and  
2 vice chair.

3 (Whereupon, there was brief discussion off the  
4 record.)

5 CHAIRMAN VALENTIC: Any discussion on election of  
6 chair and vice chair for the Board?

7 MR. HAMILTON: Accepting nominations?

8 CHAIRMAN VALENTIC: Can you, for the record, state  
9 those nominations?

10 MR. HAMILTON: I would nominate Ivan Valentic to  
11 serve one more year and Skip Sweeney as vice chair.

12 CHAIRMAN VALENTIC: All right. Any comments? Oh, we  
13 need a second. I am sorry.

14 MS. JARRELL: I second that.

15 CHAIRMAN VALENTIC: Yes, happily. I would move  
16 forward that I serve as chair for the next year and Skip as the  
17 vice chair effective on our next meeting. We will leave  
18 today's meeting as is. All in favor say "aye."

19 (Five aye votes, no nay votes.)

20 CHAIRMAN VALENTIC: It's been passed. Thank you,  
21 everybody.

22 Skip, I am looking forward to our year.

23 MR. SWEENEY: I'll bet you are.

24 CHAIRMAN VALENTIC: All right. Next on the agenda is  
25 Conditional Use Permit Number 2017-1, Mr. Dan DeRubertis,  
26 representing Rega Restaurant Group, LTD --

27 MR. ROWE: DeRubertis.

28 MR. SWEENEY: DeRubertis.

29 CHAIRMAN VALENTIC: Okay, DeRubertis, thank you. --  
30 is requesting a conditional use permit for a counter service

1 MR. ROWE: Thank you.

2 MR. DeRUBERTIS: You're welcome.

3 CHAIRMAN VALENTIC: And I apologize. I should have  
4 informed you one of our members will not be able to vote and  
5 she is going to recuse herself from this. Would you still like  
6 to move forward with the four-person panel? You still need a  
7 majority.

8 MR. DeRUBERTIS: I have no qualms about that.

9 CHAIRMAN VALENTIC: Okay. Thank you. Anyone else  
10 have any other questions? Blair?

11 MR. HAMILTON: Not at this point, no.

12 CHAIRMAN VALENTIC: Okay. I don't have anything for  
13 you either.

14 MR. DeRUBERTIS: That's it?

15 CHAIRMAN VALENTIC: That's it for now. We will let  
16 you know. Thank you.

17 MR. DeRUBERTIS: You are welcome.

18 CHAIRMAN VALENTIC: Is there anyone else here that's  
19 speaking for or against this conditional use permit, if you  
20 would like to come up? Okay, no one is coming up. If there is  
21 no further questions, the public hearing for Conditional Use  
22 Permit 2017-1 is now closed to the public. I will entertain a  
23 motion to approve Conditional Use Permit 2017-1.

24 MR. ROWE: So moved.

25 MR. SWEENEY: Second.

26 CHAIRMAN VALENTIC: Okay. It's been moved and there  
27 has been a second. It's open for discussion on the Board. I  
28 am happy to start.

29 MR. SWEENEY: It looks great.

30 CHAIRMAN VALENTIC: Yeah.

1 MR. ROWE: No, everything, the presentation is very  
 2 complete, their intent and the location.  
 3 CHAIRMAN VALENTIC: Yeah. It fits, it fits the uses  
 4 that we're looking for in that area.  
 5 MS. JARRELL: For the record, I will be abstaining  
 6 from voting.  
 7 CHAIRMAN VALENTIC: Thank you.  
 8 Blair, any comments?  
 9 MR. HAMILTON: I think they will be able to comply  
 10 with all the requirements of the zoning, so no comments.  
 11 CHAIRMAN VALENTIC: Yeah. I looked at that, too.  
 12 They complied with everything.  
 13 Okay. Then the question is on the approval of  
 14 Conditional Use Permit 2017-1. A yes vote is for the approval  
 15 of the conditional use permit, a no vote denies the permit.  
 16 Heather, please call the vote.  
 17 MS. FREEMAN: Mr. Rowe?  
 18 MR. ROWE: Yes.  
 19 MS. FREEMAN: Mr. Sweeney?  
 20 MR. SWEENEY: Yes.  
 21 MS. FREEMAN: Mr. Hamilton?  
 22 MR. HAMILTON: Yes.  
 23 MS. FREEMAN: Mr. Valentic?  
 24 CHAIRMAN VALENTIC: Yes. Congratulations. Your  
 25 permit has been approved.  
 26 MR. DeRUBERTIS: Thank you very much.  
 27 CHAIRMAN VALENTIC: If you are going to leave, see  
 28 Heather before you walk out.  
 29 MR. DeRUBERTIS: Thank you.  
 30 CHAIRMAN VALENTIC: Thank you.

1 MR. ANDREWS: It's going to be carry-out only. I  
 2 have a menu here. It's basic Thai food, noodle dishes,  
 3 stir-fried rice, curry dishes, duck, fish, kind of stuff. It  
 4 looks really good.  
 5 And these are -- this is the owner and operators who  
 6 have just located here from New York.  
 7 CHAIRMAN VALENTIC: Welcome.  
 8 MR. SWEENEY: Welcome.  
 9 MS. JARRELL: Welcome.  
 10 MR. FONGPHRAE: My name is Bamrong Fongphrae. I come  
 11 from --  
 12 CHAIRMAN VALENTIC: Okay.  
 13 MR. SWEENEY: Oh, that's cool.  
 14 MS. SIBOURA: And I am Chansy Siboura and I am going  
 15 to be helping him with the restaurant.  
 16 CHAIRMAN VALENTIC: Okay.  
 17 MS. SIBOURA: So I will be answering the phone most  
 18 of the time.  
 19 CHAIRMAN VALENTIC: Okay. Great. Does anyone have  
 20 any questions for them on the Board?  
 21 MS. JARRELL: No.  
 22 MR. SWEENEY: It looks good.  
 23 MR. ROWE: No. I mean, I know the location they  
 24 operate, you know. It fits in.  
 25 MR. HAMILTON: Right, similar to the previous  
 26 request.  
 27 CHAIRMAN VALENTIC: Yeah.  
 28 MR. ROWE: Probably a little hotter food.  
 29 MS. SIBOURA: You can request for mild.  
 30 MR. ROWE: I will be asking you about that.

1 All right. Next on the agenda is another conditional  
 2 use permit, Number 2017-2. I am going to butcher your name.  
 3 Mr. Bamrong Fongphrae is requesting a conditional use permit  
 4 for a counter service restaurant in accordance with Section  
 5 13.20 to operate a counter service carry-out and delivery  
 6 restaurant, Thai 999 Express, at 9853 Johnnycake Ridge Road,  
 7 Unit 15, and being Permanent Parcel Number 10-A-028-D-00-001-0.  
 8 Please come up and present your case. Who is going  
 9 to start?  
 10 MR. ANDREWS: I will start. My name is Eric Andrews.  
 11 I am with USA Management and we own and manage the shopping  
 12 center where Thai 999 is looking to get a conditional use  
 13 permit to occupy --  
 14 CHAIRMAN VALENTIC: And I'm sorry. You've been sworn  
 15 in?  
 16 MR. ANDREWS: Yes.  
 17 CHAIRMAN VALENTIC: And your address, please, for the  
 18 record?  
 19 MR. ANDREWS: 35110 Euclid Avenue, Willoughby, Ohio  
 20 44094.  
 21 CHAIRMAN VALENTIC: Thank you. Sorry. Go ahead.  
 22 MR. ANDREWS: So they are requesting a conditional  
 23 use permit for a counter service restaurant to occupy a space  
 24 that was previously a carry-out. It was catering, Manna  
 25 Catering. And prior to that, it was Roman's chickens wings,  
 26 which you might remember since I was a kid.  
 27 But I guess there was no conditional use permit on  
 28 this space with the prior restaurants, for whatever reason, so  
 29 I believe one is required and they're requesting one.  
 30 CHAIRMAN VALENTIC: Okay.

1 CHAIRMAN VALENTIC: Okay. Well, you can be seated.  
 2 MR. ANDREWS: Okay. Thanks.  
 3 MR. SWEENEY: Do we know what the hours are going to  
 4 be?  
 5 MR. ANDREWS: Yeah. Go ahead.  
 6 MS. SIBOURA: It is going to be 11:00 to 9:30. We  
 7 don't know what day yet. Right now, we are going to start with  
 8 seven days and see how -- We're going to pick which slow day  
 9 and we're going to have that day off for a slow day. So,  
 10 eventually, we are going to have six days, open six days.  
 11 MR. SWEENEY: Okay.  
 12 MS. SIBOURA: So 11:00 until 9:30.  
 13 MR. SWEENEY: All right. Thank you.  
 14 CHAIRMAN VALENTIC: Anyone else?  
 15 MR. ANDREWS: Thank you.  
 16 CHAIRMAN VALENTIC: Okay. Thank you. Is there  
 17 anyone else speaking for or against this conditional use  
 18 permit? Please come up. Okay. Well, if there is no one else,  
 19 then the public hearing for Conditional Use Permit 2017-2 is  
 20 now closed to the public. I will entertain a motion to  
 21 approve, to approve Conditional Use Permit 2017-2.  
 22 MS. JARRELL: So moved.  
 23 MR. HAMILTON: Second.  
 24 CHAIRMAN VALENTIC: Thank you. With the move and the  
 25 second, we are ready to go. The question is on approval of  
 26 Conditional Use Permit 2017-2. A yes vote is for the approval  
 27 of the conditional use permit, a no vote denies the permit.  
 28 Heather, please call the vote.  
 29 MS. FREEMAN: Mr. Hamilton?  
 30 MR. HAMILTON: Yes.

1 MS. FREEMAN: Ms. Jarrell?  
 2 MS. JARRELL: Yes.  
 3 MS. FREEMAN: Mr. Rowe?  
 4 MR. ROWE: Yes.  
 5 MS. FREEMAN: Mr. Sweeney?  
 6 MR. SWEENEY: Yes.  
 7 MS. FREEMAN: Mr. Valentic?  
 8 CHAIRMAN VALENTIC: Yes. Thank you.  
 9 Congratulations. Your permit has been approved.  
 10 MR. ANDREWS: Thank you.  
 11 CHAIRMAN VALENTIC: Again, see Heather before you  
 12 leave. Okay. Thank you.  
 13 Next on our agenda is Variance Number 2017-1,  
 14 Mr. Allen LaPoe is requesting a variance from Section 15.03(A),  
 15 Table 15.03-1, to allow for a second freestanding accessory  
 16 building, in lieu of the maximum one permitted, for the  
 17 property located at 8129 Viewmount Drive and being Permanent  
 18 Parcel Number 08-A-024-A-00-016-0.  
 19 Please come up and present your case.  
 20 MR. LaPOE: My name is Allen LaPoe. I live at  
 21 8129 Viewmount.  
 22 CHAIRMAN VALENTIC: And you've been sworn in?  
 23 MR. LaPOE: I beg your pardon?  
 24 CHAIRMAN VALENTIC: You've been sworn in, sir?  
 25 MR. LaPOE: Yes, sir.  
 26 CHAIRMAN VALENTIC: Okay.  
 27 MR. LaPOE: And Paul is my contractor representative,  
 28 so I will let him explain.  
 29 CHAIRMAN VALENTIC: Okay.  
 30 MR. WENGERD: Paul Wengerd, and I have been sworn in.

1 Address is 13650 Madison Road, Middlefield, representing  
 2 Mr. LaPoe and Pinecraft Storage Barns, a company that builds  
 3 accessory structures.  
 4 And, obviously, the paperwork presented shows you  
 5 that Mr. LaPoe needs an accessory structure. He's got a  
 6 detached garage. He does not have an attached garage like a  
 7 normal case. His current garage is 520 square feet. He's got  
 8 two vehicles and, obviously, the normal homeowner tools that's  
 9 needed to take care of his yard and his property and he doesn't  
 10 have room for his riding lawn mower and wheelbarrows and stuff.  
 11 So right now he's got a temporary structure, a fabric  
 12 inflatable structure, to shelter his tools that he didn't have  
 13 room for inside for over the winter and he doesn't like it and  
 14 he is wanting to improve on that, so that's the reason he would  
 15 like to have a storage shed.  
 16 CHAIRMAN VALENTIC: Is the -- We don't have a picture  
 17 of what the shed is going to look like, how it's going appear.  
 18 Can you maybe -- Do you have something or do you want to  
 19 describe it?  
 20 MR. WENGERD: I do. I was going to supply that with  
 21 your guy's paperwork but I never got that done. Here is  
 22 something.  
 23 CHAIRMAN VALENTIC: Hand it to Blair so everybody can  
 24 take a look. And I would ask if we could -- Can you leave this  
 25 with us and we will make it part of the record.  
 26 MR. WENGERD: Sure.  
 27 CHAIRMAN VALENTIC: Thank you.  
 28 MR. LaPOE: The building when it's finished, if it's  
 29 approved, is going to be stained the same as the house and the  
 30 garage. They will all match.

1 CHAIRMAN VALENTIC: Okay.  
 2 MR. LaPOE: It's a 10 by 14 building and the doors  
 3 will open toward the road.  
 4 MR. ROWE: Where will it be located though?  
 5 MR. LaPOE: It will be located to the -- If you're  
 6 looking at the house from Viewmount, it will be on the right-  
 7 hand side at the end of the drive, at the end of the asphalt  
 8 driveway.  
 9 MR. ROWE: Okay.  
 10 MR. LaPOE: So it's in close proximity to the house  
 11 but we have a walkway that goes down around back. It will be  
 12 off to the right of that.  
 13 MR. ROWE: Yeah. And there is also a, like, a roofed  
 14 patio back there?  
 15 MR. LaPOE: It's a screened-in porch that's actually  
 16 attached and part of the house, yes.  
 17 MR. ROWE: Oh, okay. I didn't walk back there. You  
 18 might be a dog owner or something.  
 19 MR. LaPOE: No, I'm not a dog owner, used to be.  
 20 MR. SWEENEY: Is the location of the proposed unit in  
 21 blue ink in a square in your materials?  
 22 MR. ROWE: Oh, I didn't see it.  
 23 CHAIRMAN VALENTIC: Yeah, that's it, I think, right?  
 24 MR. LaPOE: There is a sketch.  
 25 MR. SWEENEY: It's just off the asphalt driveway?  
 26 MR. LaPOE: Yeah, just at the end of it about five  
 27 feet out because there is going to be a short ramp where I can  
 28 drive the tractor up into it.  
 29 MR. SWEENEY: What was that previously? That area  
 30 where it's going to be built, is that --

1 MR. LaPOE: It, years ago, it was periwinkle and a  
 2 and railroad tie, and I took the railroad tie out and put  
 3 gravel back there so I could have places for people to turn  
 4 around. See, I am right on the edge of a ravine.  
 5 MR. SWEENEY: Yeah.  
 6 MR. ROWE: Yeah.  
 7 MR. LaPOE: So, you know, I can't even use the other  
 8 side of my property.  
 9 MR. SWEENEY: Yeah, I can see that.  
 10 MR. LaPOE: Unless I can get a great big culvert and  
 11 set it in the creek and make a land bridge across there.  
 12 MR. SWEENEY: What year was the house built?  
 13 MR. LaPOE: 1960, 1960, I believe, '60 or '66.  
 14 MR. SWEENEY: And how long have you been there?  
 15 MR. LaPOE: Eleven years. And, of course, when I  
 16 bought the house, I was living in Florida. And except for the  
 17 outside of it, I bought it sight unseen. So I didn't realize  
 18 that there was a restriction of two acres and beyond and all  
 19 that kind of stuff. And as you, as you live there longer,  
 20 there is other things that you want to do.  
 21 CHAIRMAN VALENTIC: Sure.  
 22 MR. SWEENEY: Yeah.  
 23 MR. ROWE: Here it is.  
 24 MR. HAMILTON: You may have said but can you repeat,  
 25 what's the size of the existing garage, square footage?  
 26 MR. LaPOE: It's 528 feet, square feet.  
 27 MR. HAMILTON: Thank you.  
 28 MR. LaPOE: It's 24 by 22.  
 29 CHAIRMAN VALENTIC: Does anyone else have any other  
 30 questions for these gentlemen?

1 MR. ROWE: No.  
 2 CHAIRMAN VALENTIC: I think you are good. You can  
 3 have a seat.  
 4 MR. LaPOE: Thank you.  
 5 CHAIRMAN VALENTIC: Is there anyone else here tonight  
 6 speaking for or against this appeal?  
 7 MR. SWICK: Ladies and gentlemen, my name is Walter  
 8 Swick. I am at 8145 Viewmount Drive. I have been sworn in. I  
 9 am Al LaPoe's next-door neighbor. I am in complete accordance  
 10 with what Al wants to do. Like he's explained, space is  
 11 limited in that area. But, in any event, I just wanted to let  
 12 the Board know that I am in accordance with his plans.  
 13 CHAIRMAN VALENTIC: Well, we appreciate you coming in  
 14 and letting us know. That means a lot.  
 15 MS. JARRELL: Thank you.  
 16 MR. ROWE: Thank you.  
 17 CHAIRMAN VALENTIC: Is there anyone else here  
 18 speaking for or against this appeal that wants to come up?  
 19 Okay. If there's no further questions, the public hearing for  
 20 Variance Number 2017-1 is now closed to the public. Discussion  
 21 for the Board?  
 22 MS. JARRELL: A motion, a motion.  
 23 CHAIRMAN VALENTIC: Oh, I am sorry. Thank you. I  
 24 will entertain a motion to approve Variance Number 2017-1.  
 25 MR. ROWE: So moved.  
 26 CHAIRMAN VALENTIC: Second, anyone?  
 27 MS. JARRELL: Second.  
 28 CHAIRMAN VALENTIC: Okay. Thank you. We have a  
 29 motion and a second. The question is on the approval of  
 30 Variance Number 2017-1. A yes vote -- I am sorry. Where am I

1 going? A yes vote is for -- I shouldn't be doing that. Now  
 2 we're having discussion.  
 3 MS. JARRELL: That's okay.  
 4 MR. ROWE: That's all right.  
 5 CHAIRMAN VALENTIC: Sorry. Okay. Let's discuss.  
 6 Forget what I said.  
 7 MS. JARRELL: It's a detached garage, so that just  
 8 kind of makes things hard. You've got this significant grade  
 9 on the property, you know, not a lot of room. He's got to put  
 10 his tractor somewhere. And the -- I think Blair is probably  
 11 going to point out the square footage of the two combined  
 12 accessory units don't even come close to what the parameter is  
 13 in the Resolution.  
 14 CHAIRMAN VALENTIC: Yeah, I agree.  
 15 MS. JARRELL: Did I take your --  
 16 CHAIRMAN VALENTIC: She stole your thunder a little  
 17 bit.  
 18 MR. HAMILTON: That's all I was going to say.  
 19 CHAIRMAN VALENTIC: You guys got anything?  
 20 MR. SWEENEY: No.  
 21 MR. ROWE: I presume that the temporary structure  
 22 will go away.  
 23 MR. LaPOE: Yes, yes.  
 24 MR. ROWE: That would be a benefit.  
 25 CHAIRMAN VALENTIC: Yeah, that's, yeah, going to be  
 26 much better situation for everybody.  
 27 MR. ROWE: Yes.  
 28 CHAIRMAN VALENTIC: Okay. Now I can say the question  
 29 is on the approval of Variance Number 2017-1. A yes vote is  
 30 for the approval of the variance, a no vote denies it.

1 Please call the vote, Heather.  
 2 MS. FREEMAN: Mr. Rowe?  
 3 MR. ROWE: Yes.  
 4 MS. FREEMAN: Ms. Jarrell?  
 5 MS. JARRELL: Yes.  
 6 MS. FREEMAN: Mr. Sweeney?  
 7 MR. SWEENEY: Yes.  
 8 MS. FREEMAN: Mr. Valentic?  
 9 CHAIRMAN VALENTIC: Yes.  
 10 MS. FREEMAN: Mr. Hamilton?  
 11 MR. HAMILTON: Yes.  
 12 CHAIRMAN VALENTIC: Your variance has been approved.  
 13 Thank you very much.  
 14 MR. LaPOE: Thank you.  
 15 CHAIRMAN VALENTIC: If you want to stay for the show,  
 16 please stick around. If not, see Heather before you go. See  
 17 Heather before you get out of here.  
 18 Okay. If everybody is ready, we've got another one  
 19 coming up.  
 20 MR. ROWE: Yep.  
 21 CHAIRMAN VALENTIC: This is for appeal for Variance  
 22 Number 2017-2, Mr. George Lunka, representing Regency  
 23 Construction, is requesting a variance from Section 15.04(B),  
 24 Table 15.04-1, to allow for a 12.13 foot left side yard  
 25 clearance, in lieu of the 15 foot required, for the property  
 26 known as Sublot 34 in Noble Ridge Subdivision, and being  
 27 Permanent Parcel Number 08-A-004-F-00-011-0. Mr. Lunka.  
 28 MR. LUNKA: Yes.  
 29 CHAIRMAN VALENTIC: Just so you know, we have a  
 30 member that's going to recuse himself.

1 MR. LUNKA: Okay.  
 2 CHAIRMAN VALENTIC: So it will be four on the panel  
 3 and you still need a majority to vote. Would you like to still  
 4 move forward --  
 5 MR. LUNKA: Yes.  
 6 CHAIRMAN VALENTIC: -- with the variance? Okay.  
 7 MR. LUNKA: Yes.  
 8 CHAIRMAN VALENTIC: Okay. Thank you.  
 9 MR. LUNKA: So my name is George Lunka. I'm with  
 10 Regency Construction. We build homes here in Lake County. I  
 11 have been sworn in.  
 12 What we're asking for is, we have a pie-shaped lot  
 13 that I have owned in Noble Ridge for, oh, gosh, over 10, 12  
 14 years and I am getting ready to build for some clients on it.  
 15 The home can fit on the lot with the given setbacks that we  
 16 have and with the newly-passed riparian easement that's in the  
 17 rear yard. However, it only leaves us 25 feet to the right  
 18 side of the garage, and side entry garages are required in  
 19 Noble Ridge. On top of that, we would have a 2 foot retaining  
 20 wall that you would be backing into downhill trying to get out  
 21 of your garage.  
 22 So we are trying to keep with the new riparian  
 23 easement that was passed last year in the back but we're right  
 24 up against it. Normally, in a pie-shaped lot, if you have an  
 25 issue with side clearance, you just slide the house back and  
 26 it's not a problem.  
 27 CHAIRMAN VALENTIC: Right.  
 28 MR. LUNKA: We can't do that now and still maintain  
 29 to the new riparian setback. When I purchased the lot in 2005,  
 30 there was a riparian easement but it was farther back down in

1 the ravine, so that whole thing has since moved forward towards  
2 the street and made it a little more difficult to build on.

3 So what we're asking for is a left side variance of  
4 approximately 2, a little under 3 feet, 2 feet and change, just  
5 for the front left corner of the house. You have the attached  
6 site plan that shows what we're looking for in terms of the  
7 setback of 12.13 feet instead of the 15 that's required.

8 What I wanted to also show you is it's not a parallel  
9 lot, so it only really impacts -- The area shaded in yellow is  
10 what would be over the side setback. It's very little. It's  
11 less than 10 square feet that would go over that 15 foot side  
12 setback. So that enables to us get the 28 foot driveway on the  
13 right side of the house and we feel it's going to make  
14 everything work a lot better for the homeowners.

15 The house is approximately 3,500 square feet, which  
16 is in keeping with what's in Noble Ridge. This would be the  
17 ninth house we would have built in Noble Ridge. The other  
18 eight we have built have ranged from 30 -- from 2,900 to  
19 actually 4,000 square feet, so this is right in the middle.  
20 It's not like we're trying to force a mansion into a lot. You  
21 know, this is really, for Noble Ridge, it's right up the alley  
22 and we feel it will maintain the valuations that the current  
23 residents in Noble Ridge already have.

24 CHAIRMAN VALENTIC: Okay. Does anyone have any  
25 questions? Jim?

26 MR. ROWE: No. I mean, it's, again, well laid out.

27 CHAIRMAN VALENTIC: Yeah.

28 MR. ROWE: Very plain, pretty minimal.

29 CHAIRMAN VALENTIC: Okay.

30 MR. LUNKA: Okay.

1 CHAIRMAN VALENTIC: Please have a seat.

2 MR. LUNKA: Thank you.

3 CHAIRMAN VALENTIC: Thank you.

4 Is there anyone else speaking for the appeal or  
5 against, if they want to please come up? If there's no further  
6 questions, the public hearing for Variance Number 2017-2 is now  
7 closed to the public. I will entertain a motion to approve  
8 Variance Number 2017-2.

9 MS. JARRELL: So moved.

10 MR. HAMILTON: Second.

11 CHAIRMAN VALENTIC: Okay. It's been moved and  
12 seconded. Discussion for the Board? Does anyone have  
13 anything? I am good with it.

14 MS. JARRELL: I think he did a good job accommodating  
15 the new language in the Resolution and it's minimal, a minimal  
16 request.

17 CHAIRMAN VALENTIC: I do the same thing he did. I'm  
18 looking at it's just that little corner.

19 MR. ROWE: Yeah. I think once it's there, you'll be  
20 hard-pressed to pick it out, you know, if somebody said, "Where  
21 is it?"

22 CHAIRMAN VALENTIC: Yeah, three feet, yeah. Okay.  
23 If that's the case, the question is on the approval of Variance  
24 Number 2017-2. A yes vote is for approval of the variance, a  
25 no vote denies the variance.

26 Heather, please call the vote.

27 MS. FREEMAN: Mr. Hamilton?

28 MR. HAMILTON: Yes.

29 MS. FREEMAN: Ms. Jarrell?

30 MS. JARRELL: Yes.

1 MS. FREEMAN: Mr. Rowe?

2 MR. ROWE: Yes.

3 MS. FREEMAN: Mr. Valentic?

4 CHAIRMAN VALENTIC: Yes. The ayes have it. Your  
5 variance has been approved. Thank you very much.

6 MR. LUNKA: Thank you.

7 CHAIRMAN VALENTIC: Again, if you are going to leave,  
8 see Heather first. A lot of people on that one.

9 Okay. Next on our agenda is Variance Number 2017-3,  
10 Mr. George Davis, representing ProBuilt Homes, is requesting a  
11 variance from Section 17.04(B) and 17.07(A) to allow for soil-  
12 disturbing activities related to the construction of a  
13 dwelling, and the placement of a concrete sidewalk with a zero  
14 feet riparian setback, in lieu of the 25 feet required, for the  
15 property known as Sublot 100 of Mountainside Farms, and being  
16 Permanent Parcel Numbers 08-A-023-E-00-082-0 and  
17 10-A-023-E-00-006-0.

18 Mr. Davis, welcome.

19 MR. DAVIS: Thank you for everyone's time. George  
20 Davis, address is 7962 Butler Hill Drive, Concord, Ohio. I  
21 have been sworn in.

22 So this will be my first of four appearances today.  
23 Other than Mr. Rowe, I was here, you might remember, I was here  
24 last fall for a very similar issue in Mountainside Farms. Last  
25 fall we were here with regards to Sublot 38. There was a creek  
26 in the front yard. And the committee graciously granted us the  
27 variance which allowed us to clear in the riparian, allowed us  
28 to grade in the riparian, and allowed us to place the front  
29 sidewalk to the front door in the riparian. At that time, we  
30 worked with Chad, from Soil and Water, and accommodated his

1 requests, which was changing some of the grading and so on and  
2 so forth.

3 We used those same guidelines in Sublot 100 and in  
4 the next three I am going to talk about. So the goal was there  
5 to not -- was to smooth the grade, not fill all the way to the  
6 high water line. That's what we've done here on Sublot 100.  
7 We do need to clear the entire riparian. It's the front yard  
8 of the home. And we do need the sidewalk to encroach into the  
9 riparian.

10 Mountainside Farms was originally laid out much, much  
11 prior to this riparian being instituted. This road itself  
12 actually is in the riparian in some lots. These lots were  
13 platted prior to the institution of the riparian. So what we  
14 are hoping for is that the committee will continue to grant  
15 similar variances like we did on Sublot 38. We are fairly  
16 close to being complete on Sublot 38. You know, we haven't  
17 done the final grade but if you have driven through there, you  
18 can see how, you know, we tried to smooth the grade and, you  
19 know, the homeowners will be doing their landscaping in the  
20 spring.

21 CHAIRMAN VALENTIC: One of the -- I think we have to  
22 separate that other case and we have to look at these case by  
23 case. So I don't want to -- I want to just focus on this one  
24 because there is a couple things that popped out to me. One,  
25 we don't -- we didn't get any feedback from Soil and Water on  
26 this one like we did the last time. There aren't any  
27 recommendations and sketches or anything.

28 MS. FREEMAN: No. I thought Chad was going to,  
29 possibly, come this evening but --

30 CHAIRMAN VALENTIC: He is not here.

1 MR. DAVIS: Chad's request was that we -- Chad did  
2 have these and, if you remember, he had us -- We didn't have  
3 the high water mark properly marked and Chad had us change  
4 those on the site plan. So he did review them. I don't know  
5 if we have a formal reply from him but --

6 CHAIRMAN VALENTIC: Okay.

7 MR. DAVIS: You know, he did, did have us make some  
8 alterations, especially to Sublot 100.

9 CHAIRMAN VALENTIC: Okay. So can you walk us through  
10 a little bit? The subplot was, the plot by the County was  
11 approved based on their riparian setbacks for the county. So  
12 they plotted this road in this part of the subdivision and, in  
13 that plot, they showed the homes located much further back and  
14 not impacting the riparian right-of-way.

15 So I agree that the Concord Township zoning, riparian  
16 zoning wasn't in place but the county's was at the time,  
17 correct, Heather? Tell me if I am wrong. Jump in. And they,  
18 when the road was plotted, the sublots were plotted, that was  
19 taken into account with the layout and dimension and design of  
20 the plots. Were you aware of that?

21 MR. DAVIS: I would like to speak on that and then,  
22 also, the engineer that did this phase of the subdivision. The  
23 riparian does not appear on that plat or the as-built. And as  
24 evidence that the county didn't think there was a riparian  
25 there, they allowed the road to be in the riparian. So if, you  
26 know, if the county did have the riparian setback in effect,  
27 they didn't, they didn't incorporate it into this plat, which  
28 was phased, you know, the last phase of a subdivision that  
29 started well prior to the riparian. I think it might be  
30 helpful for you to speak on that as well.

1 MR. GUTOSKY: So on the --

2 CHAIRMAN VALENTIC: So just with the Burgundy Court  
3 side, that was already graded when they created the road. Is  
4 that what you are saying?

5 MR. GUTOSKY: Well, yes, we graded all that. I guess  
6 my point would be, if it was within the riparian at that point  
7 when we platted the road, I don't believe the county would have  
8 allowed us to put that road in and grade within the riparian  
9 right-of-way, if it was in effect when we, you know, put the  
10 road because the road, the road went in in 2015 and the  
11 subdivision was platted in 2015 for this phase.

12 Again, as George had mentioned, this was the final  
13 phase of a multi-phase subdivision that started in 2002 and  
14 this was the last, the last road to go in.

15 MR. DAVIS: A couple other things I think that are  
16 important to talk about here is the rear of these lots have a  
17 40 foot tree easement, so any trees that are 10 inches or  
18 larger and healthy have to be left. So if you, you know, if  
19 you look at that grading plan that was set up when they platted  
20 this subdivision, they actually have the back wall of the house  
21 at the 40 foot rear setback. That's impractical. These are  
22 five, six hundred thousand dollar houses. I don't know anybody  
23 that buys a five or six hundred thousand dollar house and  
24 doesn't do a deck or a patio or want to have some sort of a  
25 back yard. You're not just going to walk out your back door  
26 and have a tree two feet off the back of your house. Most of  
27 the residents in Mountainside Farms, they put \$100,000 in their  
28 back yard, pools, large patios, gazebos, screened porches and  
29 stuff like that.

30 So when we were laying this out, our goal was, you

1 MR. GUTOSKY: Joe Gutosky, 10135 Gottschalk Parkway,  
2 Chagrin Falls, Ohio.

3 CHAIRMAN VALENTIC: Have you been sworn in?

4 MR. GUTOSKY: I have been sworn in, yes.

5 CHAIRMAN VALENTIC: Thank you.

6 MR. GUTOSKY: All right. So going back to the  
7 grading plan, basically, when we did the grading plan, it was  
8 just kind of the most expedient to getting the lots in because  
9 we show like 10 percent grades and that. When we put these  
10 grading plans together here, we worked with George. And if you  
11 look at the footprint that's worked in here, it's like 70 by  
12 60, like 4,200 square feet. And the reason we did that is so  
13 we can, kind of, get the lots preapproved and give somebody to  
14 work within that block. We don't expect that whole block to be  
15 built within. So some of this grading that we're showing in  
16 the front may not happen so much as the riparian. What we're  
17 looking at is worst case scenario.

18 And going back to another thing, if you look at --  
19 Let's see. Is it Sublot 100? If you look at Sublot 100, you  
20 can kind of see the -- we have, like, where the 25 foot  
21 riparian setback would be on the east side. If you look where  
22 that is, it actually is within the right-of-way. You can see  
23 where that fire hydrant is. That's actually going through that  
24 and it, you know, varies from like 5 to like 20 feet, give or  
25 take off that, to the pavement.

26 And we, you know, we graded all in there and we  
27 actually graded down into, you know, within 5 feet of the  
28 ordinary high water when we created the development on that  
29 whole side of the street with the --

30 CHAIRMAN VALENTIC: On the --

1 know, we deal with the general public everyday. We know what  
2 they're expecting. For a house of this magnitude, they really  
3 need a 60 foot rear yard. It's, you know, any less than that  
4 and they're just not going to purchase, you know, because they  
5 can't, you know, they only get 20 feet till you hit the 40 foot  
6 riparian -- I'm sorry -- the 40 foot tree easement where you  
7 have to start leaving trees.

8 So the only practical way to clean this up, ideally,  
9 you know, if Mountainside Farms hadn't been started yet, the  
10 whole roads would have been differently so these creeks were in  
11 the rear yards. But since Mountainside started in 2002 when  
12 the riparians didn't exist, the whole layout was generated the  
13 way it is today where you have creeks in the front yard of  
14 Daisy Hill, you have the creeks in the front yard along  
15 Karaboo, and then you have the creek in the front yard along  
16 the west side of Burgundy.

17 So, you know, all we're asking is that they would  
18 allow us to finish out the subdivision with the rules that were  
19 in accordance at the time. And we're not asking to put any of  
20 the homes in the riparian. We are placing the house so the  
21 face of the garage, per what Chad had asked, was a few feet off  
22 the riparian, Chad from Soil and Water. And then we're doing  
23 whatever grading necessary to make the front yard useable but  
24 not to fill all the way and create a steep bank at the high  
25 water mark, and we're not encroaching in the high water mark or  
26 the stream at all.

27 CHAIRMAN VALENTIC: But you, just so you understand,  
28 all the grading work that you are doing in that riparian area  
29 is all an impact.

30 MR. DAVIS: Correct.

1 CHAIRMAN VALENTIC: Yeah, okay.  
 2 MR. HAMILTON: Is it correct to say that the riparian  
 3 only intersects the road at the cul-de-sac?  
 4 MR. DAVIS: It intersects the road at the cul-de-sac  
 5 but what we were trying to say is it's in the right-of-way a  
 6 great deal of the way. In that right-of-way is where all the  
 7 utilities were set. There has been a bunch of fill that was  
 8 placed in that riparian, you know, back when the road was put  
 9 in.  
 10 You know, there is a little confusion on Burgundy  
 11 because there is some say that, you know, maybe the county had  
 12 a riparian in place at the time. It did not appear on this  
 13 plat. It did not appear on the as-built. And as evidence, I  
 14 would say, that they weren't enforcing it was the fact that  
 15 they let the grading happen where the road was and they let the  
 16 road encroach. So then we're talking about the Concord  
 17 riparian which was instituted in July of last year.  
 18 MS. JARRELL: Where is the sidewalk on here? I was  
 19 having trouble seeing that.  
 20 CHAIRMAN VALENTIC: It's not shown on here.  
 21 MR. DAVIS: Yeah. Typically, the front walks are  
 22 never shown on a site plan. We didn't do it on Sublot 38. We  
 23 just hug the face of the garage, you know. I mean, everybody  
 24 sort of has it, you know, the front of their -- you have a  
 25 sidewalk a couple feet off the face of the garage and then it  
 26 wraps around to the front door.  
 27 MS. JARRELL: Okay.  
 28 CHAIRMAN VALENTIC: So couldn't we have tried to pull  
 29 that grading in a little bit more to -- I mean, we're trying  
 30 to -- What we want to do is work with you on these and try to

1 minimize or, you know, give you enough space where you can do  
 2 what you need to do and reduce how much impact we have to that  
 3 riparian corridor, knowing full well that it sounds like parts  
 4 of it were disturbed at some point. But --  
 5 MR. GUTOSKY: I can address that.  
 6 CHAIRMAN VALENTIC: Sure.  
 7 MR. GUTOSKY: When --  
 8 MR. DAVIS: This one is slightly different because  
 9 the actual house is on here.  
 10 MR. GUTOSKY: When we worked with George, he tried to  
 11 basically, like, 6 foot flat area and then started to slope  
 12 down.  
 13 CHAIRMAN VALENTIC: Looks like you got more than that  
 14 in front of the garage.  
 15 MR. GUTOSKY: Okay. I didn't realize --  
 16 MR. DAVIS: Well, what we were trying to do here on  
 17 this one, on Sublot 100, we actually have a home to build on  
 18 that. The other three are the blocks, you know. Because what  
 19 we're struggling with here is, you know, imagine if I am the  
 20 builder trying to talk to a customer and I say, "Hey, okay, I  
 21 might be able to build you a house on this lot. I need your  
 22 money. We need to draw a blueprint, we need to do a site plan,  
 23 and then we've got to go to the Zoning Appeals Board. And then  
 24 if they will let us put the house where you would normally want  
 25 it, then we can proceed."  
 26 We have tried to do that since July of last year and  
 27 no one is interested in that, right?  
 28 CHAIRMAN VALENTIC: So is this --  
 29 MR. DAVIS: No one wants to spend that money not  
 30 knowing if they can do it. So on those ones, we're trying

1 to -- on the three that we're not talking about now, we are  
 2 trying to establish a generic house so that we can say to the  
 3 homeowners, "Hey, this is what your front yard is going to look  
 4 like. We've got this preapproved."  
 5 CHAIRMAN VALENTIC: Yeah, let's just hold off on that  
 6 conversation.  
 7 MR. DAVIS: On this one, though, this is an existing  
 8 home.  
 9 CHAIRMAN VALENTIC: This will be the, this will be  
 10 the shape of the home here?  
 11 MR. DAVIS: Right.  
 12 MR. GUTOSKY: Oh, actually, I wasn't aware of that.  
 13 MR. DAVIS: What we're, what we're trying to do on  
 14 this one is there is a height of that culvert that, you know,  
 15 there is a culvert. Did you guys go and look at the -- Did you  
 16 guys walk around out there? Did you see those metal or those  
 17 concrete culverts that are in there? So the culvert height is  
 18 set. And so all we're trying to do is, you know -- No one  
 19 wants to fall off their driveway, right? So we're trying to  
 20 make it so that, you know, the driveway has, sort of, a linear  
 21 movement to it and that the thing, the grade goes down.  
 22 I actually took some pictures of Sublot -- this is  
 23 Sublot 38 which we're wrapping up right now. And I am only  
 24 going to show it to you because it has a similar culvert and,  
 25 you know, we matched the grade so it sort of blends around the  
 26 culvert head so someone, other than at the actual bridge,  
 27 they're not maybe falling off the driveway with the car. So if  
 28 you want to look at -- This picture is a little more evident.  
 29 So, you know, we're taking the grade and sort of moving right  
 30 around that, which is exactly what was okayed on 38.

1 (Whereupon, Mr. Edgar arrived.)  
 2 CHAIRMAN VALENTIC: I guess what I was wondering is,  
 3 can some of those grades get pulled back in front of the garage  
 4 so we could, you know, have less fill down near the stream? I  
 5 know you are not filling below the ordinary high water mark.  
 6 Could we, you know, fill less down in that area and give that  
 7 channel more capacity?  
 8 MR. DAVIS: A couple of comments there. Could I sort  
 9 of point it out on your plan?  
 10 CHAIRMAN VALENTIC: Sure.  
 11 MR. DAVIS: Or maybe I can do it with this plan. So  
 12 the thing about Sublot 100 is the lot, the riparian is sort of  
 13 angling this way. So we actually, if you look here, we're the  
 14 same distance into the riparian all here. It's just it's  
 15 pulling away from the house because of this angle.  
 16 The concern I have with that is we have one, two,  
 17 three, four, five, six, seven, we're seven feet above the  
 18 stream bottom. So what I want to try to do, so that someone  
 19 doesn't roll their car -- you know how people are. They're  
 20 back being out of their driveway. We want to have it so that  
 21 this area that is a dropoff where we have to put, like, a  
 22 bridge wall doesn't have to proceed 15 feet along the sidewalk,  
 23 you know, or along the driveway.  
 24 So yeah, theoretically, I could pull all these lines  
 25 in but now we would have a 7 foot cliff all the way along here  
 26 which is not very, it's not very practical for a homeowner.  
 27 It's somewhat dangerous, you know, along the drive like that.  
 28 Most of the residents in Mountainside Farms either have kids,  
 29 you know, so you have kids trying to ride their bike. They're  
 30 going to fall off a 7 foot bank. It's just not very practical.



1 Or you have, you know, an empty-nester maybe getting a little  
 2 elderly and they're backing out of their driveway. So I, you  
 3 know, we did it on this lot this way because the riparian is  
 4 angling at the same time.  
 5 But, you know, the riparian most definitely created  
 6 some hardship, you know, to try to make these lots buildable so  
 7 that people would purchase them.  
 8 CHAIRMAN VALENTIC: Okay. Do you have any questions,  
 9 Skip?  
 10 MR. SWEENEY: Yeah. I am confused on the concrete  
 11 and what the violation is and what he is asking for.  
 12 MR. DAVIS: Oh, one other thing, you had mentioned  
 13 about the flow in the stream. So I don't know how familiar you  
 14 are with that area of Mountainside but at the top of that  
 15 cul-de-sac is like a 30 foot cliff coming off of where Lake  
 16 Erie College filled back many, many years ago. The water that  
 17 comes down this little stream is just the water that's  
 18 generated in that area from the cliff north. Every one of  
 19 these houses, per Lake County Stormwater, has to have a yard  
 20 drain in it and those yard drains don't go to this creek. They  
 21 get piped and they join into the pond down at the bottom of  
 22 Karaboo.  
 23 So, I mean, maybe this is my theory but my theory is  
 24 there is very little to no flow in this stream once all the  
 25 houses get built because all the water is going to the yard  
 26 drain. The downspouts, we have to tie them in per stormwater  
 27 anymore because there was too much volume. So we're tying in  
 28 the downspouts. All the yards are graded to go to the yard  
 29 drains. So at the end of the day, you know, all the road water  
 30 is going to the storm drain. There is very little surface

1 water that wouldn't be piped that would be using the stream  
 2 anyways, you know, if that's a concern of the Board.  
 3 MS. JARRELL: And you can't move the house back  
 4 because --  
 5 MR. DAVIS: You can but people aren't, I mean --  
 6 MS. JARRELL: They're going to object to a 50 foot  
 7 back yard versus a 60 foot back yard?  
 8 MR. DAVIS: With, actually, I would say you're  
 9 talking about a 20 or a 10 foot back yard because after 40 feet  
 10 we have to leave the woods, you know. We can't put -- You know  
 11 what I mean? The trees easement, we're leaving the trees, so  
 12 we can't smooth the grade or anything because, if you put dirt  
 13 around the trees, the trees die. So, you know, in reality  
 14 here, yes, it's 50 foot or 60 feet but the truth of it is it's  
 15 10 or 20 with the, with the trees easement.  
 16 MS. JARRELL: So in this tree -- I mean, it's a  
 17 restriction with the homeowners' association, right?  
 18 MR. DAVIS: Yeah. And that was requested by the  
 19 Township when the subdivision was put in.  
 20 CHAIRMAN VALENTIC: And it was 10, 10 inches or  
 21 greater?  
 22 MR. DAVIS: Ten inches or greater.  
 23 CHAIRMAN VALENTIC: That you can't clear?  
 24 MR. DAVIS: Right.  
 25 CHAIRMAN VALENTIC: What's the vegetation like back  
 26 here on the back of this property? I mean --  
 27 MR. DAVIS: The trees have not -- You know, it's just  
 28 natural forest so, pretty much, guarantee there is 10 inch  
 29 trees there. Some of the other ones, maybe there weren't but,  
 30 you know, I don't recall this one specifically.

1 MS. JARRELL: The deed restriction says that those  
 2 trees can be requested to be removed if they want to put an  
 3 accessory structure back there.  
 4 MR. DAVIS: Only an accessory structure, not the  
 5 house. They can't be removed for the house.  
 6 MS. JARRELL: But, no, I understand but, I mean, the  
 7 restrictions could be changed. They could be amended.  
 8 MR. DAVIS: That would be, as the gentleman --  
 9 MS. JARRELL: Have you talked with the homeowners'  
 10 association?  
 11 MR. DAVIS: I live in the subdivision and I, you  
 12 know, I've had people threaten to tie themselves to trees, call  
 13 the police on me every time we clear in the subdivision. You  
 14 can look at the sheriff's logs. You know, they call the police  
 15 every time we clear a lot and, you know, they want to make sure  
 16 we are not taking anything over 10 inches. We photograph every  
 17 tree when we clear every lot. The subdivision is extremely  
 18 sensitive to the 10-inch tree requirement.  
 19 CHAIRMAN VALENTIC: Question on the, on the home  
 20 here. How does -- This is, what, like an eating area, dinette  
 21 area, I'm guessing.  
 22 MR. DAVIS: Yes.  
 23 CHAIRMAN VALENTIC: How does that area -- We don't  
 24 have any doors or windows. How does that area work? Where are  
 25 the doors? Where are the windows?  
 26 MR. DAVIS: It's a sun room. So, you know, it's like  
 27 the, what you call the dinette, you know, where the informal  
 28 dining is. So there is window all around it and there is a  
 29 sliding door to the side of it.  
 30 CHAIRMAN VALENTIC: So if you -- Say you pushed it

1 back five feet if the door is on the side, so any patio would  
 2 probably be maybe to either side anyway. I mean, I think if we  
 3 pushed it even back 5 additional feet, I think that would give  
 4 you some -- I don't know -- maybe relief or -- in that riparian  
 5 area. Maybe then you're now filling a little bit less in that  
 6 riparian area.  
 7 MR. DAVIS: So here is the problem with that. I  
 8 thought of all this.  
 9 CHAIRMAN VALENTIC: Sure.  
 10 MR. DAVIS: So if you look at these hard lines, these  
 11 are the grades that we have to do. Lake County Stormwater  
 12 requires that we control our own water. So we have to collect  
 13 all the water on the uphill side. This is a pretty severe  
 14 hillside, right? So these are walk-out basements on the  
 15 downhill side just like the rest of, you know, Mountainside on  
 16 the hill. I am sure you guys have been back there.  
 17 So all of these hard grade lines are where we are  
 18 cutting the grade to create the swale that directs the water to  
 19 the yard drains. We can't do that in that 40 foot tree  
 20 easement because we would be -- everything is a cut, you know.  
 21 We are cutting for swale. So we would be cutting the root  
 22 structure of those trees that are over 10 inches. So we have  
 23 to try to contain our grading.  
 24 So if you look here, I really, I mean, it may seem  
 25 like 5 feet wouldn't hurt anything but then that swale would be  
 26 right off the rear of the house. Because if you look here,  
 27 this is our swale right here, you know, so there is not -- You  
 28 know, trying to tighten that up 5 more feet is going to make it  
 29 almost seem like a creek bed back there.  
 30 So it's a function of the fact they're half acre lots

1 with half a million to 600 thousand dollar houses and, you  
2 know, we have a 50 foot setback which we're already far, you  
3 know, as far off of that as we can go to stay out of the  
4 riparian. This would be the 50 foot setback normally. So, you  
5 know, it's difficult, you know. Ultimately, you know, we sort  
6 of talked about this the last time, salability versus  
7 practicality, you know, whether you -- Yes, you could put this  
8 house, push it all the way back, put it on that tree easement  
9 and you could build it but there would be no buyers for that  
10 house, you know. You have to imagine if you couldn't use your  
11 back yard, you know, if you -- and imagine if it was a six  
12 or -- five or six hundred thousand dollar house. It gets, it  
13 gets difficult. The subdivision would have been laid out  
14 dramatically different if this riparian --

15 MS. JARRELL: I don't think we're suggesting that you  
16 go completely into that 40 foot tree easement, for lack of a  
17 better terminology. But I mean, Mr. Davis, you do these  
18 developments all the time. So what happens when the township  
19 has an ordinance versus the homeowners' association deed  
20 restrictions? What takes precedence?

21 MR. DAVIS: I am not a lawyer. I wouldn't know that  
22 answer, you know. But they both weren't in existence at the  
23 same time, you know. There was the one that was there, you  
24 know. And, actually, it was the Township that requested the  
25 tree easement. That's a -- They want buffering from the  
26 surrounding properties, right? So, you know, that's -- When  
27 Mountainside was approved a long time ago, the buffering for  
28 the trees easement was part of, you know, what the Township was  
29 requesting. Almost all cities request those.

30 MS. JARRELL: I don't know. The back side of that

1 looks like it's a significant distance from any other  
2 structure. I don't know if anything else has been platted over  
3 here.

4 MR. DAVIS: That's property that's owned by Lake Erie  
5 College.

6 MS. JARRELL: Okay. Anyway, I guess I don't mean to  
7 be difficult but, I mean, I would venture to guess that the  
8 ordinance of the township would probably take precedence.  
9 Maybe I am wrong. However, there is language in these  
10 restrictions that you could get it modified, even if you were  
11 to adjust it by only 10 feet and move it back a little bit, and  
12 I would venture to guess that the parcel would still be  
13 salable.

14 CHAIRMAN VALENTIC: And I --

15 MS. JARRELL: And I know that would be a difficult  
16 endeavor and I don't want you to get hung in the trees.

17 MR. DAVIS: Yeah. So I am going to be the one  
18 building the 600 thousand dollar house that may or may not ever  
19 sell because I have no back yard.

20 MS. JARRELL: I -- Do you really think 10 feet, 10 or  
21 15 feet is going to have that huge effect on it?

22 MR. DAVIS: Well, yeah, because here's -- Understand,  
23 in a subdivision of this caliber, typically, this is what  
24 customers are doing. They're doing multi-level patios or decks  
25 that include, a lot of times, include a pool, right? So, like,  
26 you need 50 feet or so to be able to do that, right? You can't  
27 really have that here because of the tree easement, you know.  
28 An accessory structure, that would be up to you. I mean,  
29 that's -- Whether a pool counts as an accessory structure, I  
30 don't know. In my mind, accessory structure is a, is a

1 detached building, right?

2 So you can clear that tree easement for a detached  
3 building. Per the restriction, you can't clear it for a  
4 house. And, you know, I don't know if you could clear it for a  
5 pool. That would be something up for interpretation.

6 But, in general, you know, if you can imagine if you  
7 are living in a half million dollar house and you have either a  
8 50 or a 60 foot rear yard where you can mow it all, that's  
9 plenty. But where you have it where you have trees that you  
10 have to leave for the first 40 feet, then you're talking about  
11 20 or 10 feet. So I would say every foot counts. You know  
12 what I mean? Because, I mean, most people's deck, if they do a  
13 deck, is going to be 16 feet.

14 CHAIRMAN VALENTIC: Right. But when I scaled it off,  
15 I got 23 feet.

16 MR. DAVIS: Okay.

17 CHAIRMAN VALENTIC: But give or take a foot, so there  
18 is some fluff in there. But I think you admitted that you  
19 could fit a swale in there if it was, you know, 15 versus 20.  
20 It just might not look the same as what's drawn here. Is that  
21 a fair statement?

22 MR. DAVIS: Well, it's about salability in there,  
23 right? So you are talking about a swale that's really tight,  
24 so it's really steep, right?

25 CHAIRMAN VALENTIC: Sure, exactly.

26 MR. DAVIS: So it looks like another creek in your  
27 back yard that's difficult to mow, whereas this swale here is  
28 spread out so it just looks like a slight V, which is what most  
29 people want. In some subdivisions and in some cases, we have  
30 no choice but to do a tight swale and I can tell you the

1 landscapers always fill it in and then the water runs downhill  
2 and then I get the call and we've got to go out and mediate  
3 with Soil and Water and Stormwater and the client and say,  
4 "Hey, your landscaper filled in this swale." The landscaper  
5 says the swale was too deep, it looked bad. You know, it's a  
6 tough situation. You know what I mean?

7 I really wish that the Trustees would have invited  
8 some of us from the developer and builder side in to talk about  
9 some of these existing subdivisions before they just put this  
10 on everything and made it, you know. Otherwise --

11 CHAIRMAN VALENTIC: Well, that's a separate issue.  
12 And there were, I'm sure, plenty of public meetings as part of  
13 our process and anyone could have came and spoke on that, so --

14 But to stay on this, the door is on the side. So I  
15 think there is opportunities for a 16 foot, multi-level deck on  
16 either side of the side yard if the sliding door is on the, on  
17 the side as well.

18 MR. DAVIS: If I moved it back --

19 CHAIRMAN VALENTIC: You couldn't really put it in the  
20 back.

21 MR. DAVIS: If I moved it back 3 feet, would that  
22 appease the Board?

23 CHAIRMAN VALENTIC: I would say I am not looking for  
24 a specific number. I am looking to have you say, "We will move  
25 it back. You know, this is the best we can do and this is how  
26 far we can move it back," you know, if it's 3 feet or 10 feet  
27 or --

28 MR. DAVIS: As I look, I could move it 3 feet and  
29 make it work on this one. You know, most -- It's only that  
30 face of the garage that's even tight to the riparian if you

1 look here. You know, the rest of the house is, you know, is  
 2 far off. Only this part is real close. So if we move this  
 3 part back 3 feet, everything else comes way off. I can move  
 4 the grade back the same 3 feet.  
 5 CHAIRMAN VALENTIC: Yeah, we would like to see  
 6 everything moved back. The point, again, is that when you are  
 7 filling, I know you are filling above the ordinary high water  
 8 mark but there is still water that might go up above that and  
 9 that reduces the capacity and function of that stream through  
 10 there. I mean, that's the focus. I mean, it's not just the  
 11 channel, it's that whole riparian corridor.  
 12 And your impact is still huge on that riparian  
 13 corridor. You are still creating a majority of it, 90 percent  
 14 or so. We are still putting in turf versus native vegetation,  
 15 which is the whole goal of these riparian corridors. So we  
 16 feel like we are giving a lot here.  
 17 MR. DAVIS: Right.  
 18 CHAIRMAN VALENTIC: We if we do approve this.  
 19 MR. DAVIS: If you can just understand mine and the  
 20 developer -- The developer, Larrie Nadler, is here. These  
 21 didn't exist when the subdivision went in. So it doesn't feel  
 22 very American when someone takes what was yours, right? And  
 23 so, you know, it's just -- it's hard because, you know, we  
 24 would have laid out the subdivision differently if the riparian  
 25 existed at that time, you know.  
 26 So, you know, I said it when I was in here the last  
 27 time, you know. There is going to be a lot of upset residents  
 28 over this, you know. There is many, many homes in Mountainside  
 29 where they -- their house is in the riparian now. And when  
 30 they go to do a deck, you know, the volume of work here in

1 these existing subdivisions is very large because it wasn't  
 2 thought of, you know. So it's hard to pass a -- It's basically  
 3 like passing a retroactive law. It makes it very difficult on  
 4 existing roads.  
 5 So that's what we are struggling with here. And I am  
 6 not trying to be difficult. All we want to do, you know, it's  
 7 not a benefit to anybody to leave those vacant lots there  
 8 forever. Trees fall. You know, we're constantly getting calls  
 9 from the neighbors worried about trees falling on their houses.  
 10 You know, all we want to do is build a houses so that the, you  
 11 know, construction traffic can stop and people can enjoy their  
 12 lives, right, because construction is a disturbance.  
 13 So we are just trying to figure out a way that we can  
 14 sell these lots and then, on future subdivisions, once, now  
 15 that we know there is this riparian, we design them  
 16 differently.  
 17 CHAIRMAN VALENTIC: Do you have anything that you  
 18 want to say?  
 19 MR. GUTOSKY: Yes, I do.  
 20 CHAIRMAN VALENTIC: Come on up.  
 21 MR. GUTOSKY: Just the question was, you know, you're  
 22 looking at the capacity within the riparian to carry the flow.  
 23 What George had stated before, there is only like, for this  
 24 lot, there is only like two lots upstream that contribute any  
 25 flow because what happens in our -- at the south end of the  
 26 subdivision, there was apparently like an old bridal path. So  
 27 the earth is, like, mounded up and the drainage behind it is  
 28 kind of blocked and it goes around this mound, this mounding  
 29 that they created and, like, discharges west of the  
 30 subdivision.

1 So there is really only, like at Sublot 100, there is  
 2 only like two, two sub -- two half acre lots that are  
 3 contributing to that drainage area, so the flow through there  
 4 is minimal.  
 5 CHAIRMAN VALENTIC: Okay.  
 6 MR. GUTOSKY: It's not like when we looked at the  
 7 other one, Sublot 38, that had a lot of acreage coming through  
 8 that lot. This one only has a couple sublots going through it,  
 9 Sublot 100.  
 10 CHAIRMAN VALENTIC: Okay.  
 11 MR. DAVIS: Larrie, did you want to say anything?  
 12 CHAIRMAN VALENTIC: Hold on. Were there any other  
 13 questions from the Board for these two gentleman?  
 14 MR. SWEENEY: I may, depending on the answer I get  
 15 from Heather, my question to Heather.  
 16 CHAIRMAN VALENTIC: Okay.  
 17 MR. SWEENEY: I am a little confused here. I want to  
 18 back up a second. I want to know what the violations are. I  
 19 mean, I know what they're stated but what -- As I am looking  
 20 here, I am not seeing -- Is it the grading violation?  
 21 MS. FREEMAN: It's the grading of the land and the  
 22 filling and then also --  
 23 MR. SWEENEY: Right, and the filling and then the  
 24 sidewalk.  
 25 MS. FREEMAN: And the sidewalk, yeah.  
 26 MR. SWEENEY: Now, I don't see the sidewalk, so I am  
 27 assuming it encroaches on the riparian setback, right?  
 28 MS. FREEMAN: Right.  
 29 MR. DAVIS: Clearing, too, you are not allowed to  
 30 clear.

1 MR. SWEENEY: I am trying to oversimplify this  
 2 because I get easily confused. Now -- And the sidewalk is not  
 3 on the drawings, correct?  
 4 MR. DAVIS: Sidewalks are -- The front walks are  
 5 never put on the, on the site plans. You know, it's going to  
 6 be like two feet off. You are going to have two foot of bed.  
 7 MR. SWEENEY: Right.  
 8 MR. DAVIS: Then you're going to have three foot wide  
 9 sidewalk. So that's why we show that, like, a little bit of  
 10 flat area.  
 11 MR. SWEENEY: Swinging around to the front door.  
 12 MS. JARRELL: So if you move the house back -- Excuse  
 13 me for one moment. Skip.  
 14 MR. SWEENEY: Yep.  
 15 MS. JARRELL: If you move the house back 3 feet, then  
 16 you're -- we've got, what, two feet of the sidewalk still?  
 17 MR. DAVIS: In this plan, in this version, this house  
 18 here, if we moved the house back 3 feet, which I can do and  
 19 still make this work, this 3 feet here, so then just a little  
 20 bit of the sidewalk on that corner would encroach. On 38, the  
 21 whole sidewalk will encroach. We haven't poured it yet but it  
 22 will encroach.  
 23 CHAIRMAN VALENTIC: We knew that when we approved it,  
 24 that one.  
 25 MS. JARRELL: I am sorry, Skip.  
 26 MR. DAVIS: I just want to make sure --  
 27 MS. JARRELL: I interrupted your train of thought.  
 28 MR. SWEENEY: No. Is this house sold?  
 29 MR. DAVIS: No. This is our model. I --  
 30 MR. SWEENEY: It's a spec house?

1 MR. DAVIS: I have to build this as a model so that I  
2 can get people to buy the other lots, right? I am under  
3 contract with the developer to purchase the rest of the lots in  
4 the subdivision and we can't sell those lots because, right  
5 now, here is what I tell everybody, "You might be able to build  
6 a house there. I am not sure where it can go. They changed  
7 the rip -- They put a riparian in here that wasn't there when  
8 we put the road in. And we got a variance on 38 but we are not  
9 sure what we can get over here."

10 So in speaking with Larrie, the decision was, we will  
11 put a model on one of them so that we can show what it's going  
12 to look like so we can then sell the other three. Otherwise,  
13 it's virtually impossible.

14 MR. SWEENEY: And you've got a tree easement though  
15 that's always been there.

16 MR. DAVIS: Yes. The tree easement's always been  
17 there.

18 MR. SWEENEY: It's never been a --

19 MR. DAVIS: No, the tree easement --

20 MR. SWEENEY: It's always been known. All right.  
21 Thank you for the clarification.

22 MR. DAVIS: Larrie, do you want to --

23 CHAIRMAN VALENTIC: Anyone else have questions? You  
24 two good?

25 MR. HAMILTON: For now.

26 CHAIRMAN VALENTIC: Come on up.

27 MR. NADLER: Good evening. Larrie Nadler, I am the  
28 developer of Mountainside Farms, 3659 Green Road, Beachwood. I  
29 guess what --

30 CHAIRMAN VALENTIC: You've been sworn in, sir?

1 MR. ROWE: No.

2 CHAIRMAN VALENTIC: Okay. You guys can be seated.  
3 Is there anyone else here speaking for or against this appeal  
4 that wants to come up?

5 Chad, could you please come up?

6 MR. EDGAR: Chad Edgar, Lake County Soil and Water.  
7 And I was late, so I have not been sworn in.

8 CHAIRMAN VALENTIC: Oh, perfect. All right, Chad,  
9 let me find my notes.

10 AUDIENCE MEMBER: 125 East Erie.

11 MR. EDGAR: 125 East Erie Street.

12 (Whereupon, Mr. Edgar was sworn in.)

13 CHAIRMAN VALENTIC: Thank you, Chad. We're only  
14 focusing on the first one right now, Sublot 100.

15 MR. EDGAR: Right.

16 CHAIRMAN VALENTIC: You are up here. Do you want to  
17 say anything in regards to this plan specifically? And then I  
18 will let the Board ask you any questions that they may have.

19 MR. EDGAR: Sure, sure. Again, these lots are  
20 similar to the other lot in Mountainside that it was laid out,  
21 obviously, before the setback, so it's tough. I think the  
22 approach I would like to see was, do the grading on the east  
23 side of that stream would be to just smooth in the grade to be  
24 able to plant a lawn rather than having any fill shown on that.

25 The grading on the west side of the stream closest to  
26 the house, you know, obviously, George has stated his case of  
27 what he needs to have as a salable lot. It's pretty tight. My  
28 biggest concern with the grading is it is encroaching into that  
29 floodplain down there and reducing the capacity for flood  
30 waters. No matter how small the stream is, that's occurring.

1 MR. NADLER: Yeah, I have, yes. I guess what George  
2 basically was saying, I mean, he's building the size houses  
3 that people want at Mountainside. Could he build a smaller  
4 house? Sure, but will it sell? I mean, the houses there are  
5 certain square footage, they're a certain price, \$500,000, 600,  
6 some are more, are bigger than that, more expensive. So he's  
7 got to put a house up there that he is going to have customers  
8 for.

9 And the fact that the riparian setback was not there  
10 before, I mean, we paid Joe to design the subdivision and we  
11 could have paid him to design it differently. But, at the  
12 time, there wasn't a riparian setback, so we designed it the  
13 way, the way that it was shown there.

14 We're just trying to, just trying to build it. And I  
15 know the homeowners' association would love for all the houses  
16 to get built. There is about 10 or 11 lots total that there in  
17 we're done and then we're out of there, we're out of their hair  
18 and everybody is happy, the streets are clean and all the  
19 landscaping looks good and everybody is done.

20 MS. JARRELL: How many square feet is this house?

21 MR. DAVIS: This one is about 3,200 square feet, I  
22 think we're at. I didn't bring the house plan.

23 MS. FREEMAN: You know what? The denied zoning  
24 permit was in your application, just over 3,000.

25 MR. DAVIS: Oh, 3,000.

26 MR. NADLER: And that's the minimum for a, for a two  
27 story.

28 MR. DAVIS: Well, 27. In this case, it's a first  
29 floor master, so 2,700 was the minimum.

30 CHAIRMAN VALENTIC: Anything else?

1 In the area where it seems to be the steepest,  
2 tightest grade up against the stream is on the outside of that  
3 meander right there, which is kind of problematic. It would be  
4 nice to see some of that grading curved to follow the meander  
5 of that stream and pull it back as far as possible. If he  
6 could move that house back any further, it would be a better  
7 scenario.

8 CHAIRMAN VALENTIC: Can you explain to the Board why  
9 that outside meander might be problematic because you are the  
10 expert? I don't think we're all aware of what the issues could  
11 be.

12 MR. EDGAR: The outside of the meander is where you  
13 have the most erosion on the stream bank. When that, when flow  
14 goes through streams, it's not laminar flow, it's turbulent  
15 flow and it hits the outside of those streams. It's actually  
16 helical coming through and you get the down cutting on the  
17 outside of the meander, which is why you get pools. So having  
18 a really tight bank close to the stream right there just sets  
19 it up for failure.

20 CHAIRMAN VALENTIC: It sounds like the 3 foot, moving  
21 it back 3 feet will help some but --

22 MR. EDGAR: Help some.

23 CHAIRMAN VALENTIC: Some.

24 MR. EDGAR: Yes.

25 MR. HAMILTON: It looks like we've got about -- I  
26 don't know -- 4 feet of elevation that's really steep as it  
27 approaches the --

28 MR. EDGAR: It is.

29 MR. HAMILTON: -- the stream.

30 MR. EDGAR: And I don't know that you are going to be

1 able to fix that short of changing the elevation of the house,  
2 you know. The steepness could be changed to other areas. You  
3 could have it steeper closer to the house but then you've got a  
4 safety issue and an aesthetic issue. So it's -- It ends up  
5 being a trade-off of where do you -- how do you want to play  
6 out those grades? You have a uniform slope or the whole thing  
7 is a little bit steeper? Do you want to have your steepness  
8 away from the stream and closer to the house? Then you've got  
9 the safety issue. Do you want to have the steepness down  
10 closer to the stream, deal with the erosion issue? Tight lots,  
11 stream, setbacks, lots of fun.

12 CHAIRMAN VALENTIC: Do you guys have any questions  
13 for Chad?

14 MR. ROWE: No. He's explained.

15 MR. EDGAR: The comments are the same as we did on 38  
16 two months ago, three months ago when we did this. So --

17 MR. ROWE: You could have phoned it in.

18 MR. EDGAR: Maybe for the rest of them.

19 MS. JARRELL: Dare we ask what would be a good  
20 scenario as far as distance and minimizing all these things?  
21 You don't have to answer that. I am putting you on the spot, I  
22 know.

23 MR. EDGAR: I apologize. Heather gave me this packet  
24 two weeks ago. I couldn't have bought time to give you  
25 writing, the written comments if I had a truck full of money  
26 this week. Not making excuses but -- The further back you can  
27 move that house -- You know, there is other options other than  
28 swales. You can do some surface drains back there, like he  
29 has, shallow up your swales a little bit, do some French  
30 drains. So if you need tighten it up a little bit, that can be

1 addressed.

2 CHAIRMAN VALENTIC: I mean, yeah, it's --

3 MR. EDGAR: I guess, I would let George give you a  
4 number and we could weigh in on it at that point in time,  
5 but --

6 CHAIRMAN VALENTIC: Okay.

7 MR. EDGAR: That 3 feet buys you quite a bit.

8 CHAIRMAN VALENTIC: Yeah.

9 MS. JARRELL: Thank you.

10 CHAIRMAN VALENTIC: Can you come back up, have the  
11 engineer back up, too? I am sorry. That grade, is that a one  
12 to one when it gets right there tight in that corner?

13 MR. GUTOSKY: I didn't do this particular plan. Yes,  
14 yes, that is a one to one. I asked George about that.

15 MR. DAVIS: I can pull it back 3 feet.

16 MR. GUTOSKY: George, do you want to explain where  
17 the slope is steeper, what you were going to do with that?

18 MR. DAVIS: Yeah.

19 MR. GUTOSKY: Where it's the one to one.

20 MR. DAVIS: Yeah, just so you know, where the slope  
21 is steepest here, we were going to do one of those natural rock  
22 walls there. I just asked Chad if that helps him or not. He  
23 said no but moving it back does. So, you know, I can move it  
24 back the 3 feet. And then where these real steep lines are,  
25 that's going to be that natural rock wall. And --

26 MS. JARRELL: How did you come up with 3 feet?

27 MR. DAVIS: Because what I am looking at here is  
28 trying to not, you know -- And, again, I don't know the exact  
29 distance. I know there is a couple of big trees right here  
30 which I am going to leave, right? So I just know I'm like,

1 okay, well, if I clear -- and I am speaking off the top of my  
2 cuff. I didn't measure these but I know that those trees are,  
3 like, at 35, 36 feet or so because I always look at them  
4 because, like I said, the residents there are just really crazy  
5 about the trees.

6 So I know I've got a couple of trees that I've got to  
7 keep but I'm just saying, okay, if I go back three more feet, I  
8 can still get that swale in without it being so steep. I might  
9 have to do a French drain in there, which he is talking about,  
10 so I don't have to make it as deep. I am just trying to make  
11 it so the back yard is still usable for the homeowner, you  
12 know. Because what ends up happening here is down at the  
13 walkout, they have a lower level patio and then they always  
14 have an upper level deck where it's higher, right?

15 So I'm just trying to make sure I can make it all  
16 work where I can still sell the product. And I would be, you  
17 know, if you guys, if you were so gracious enough to grant the  
18 variance, if you wanted to stipulate that, you know, I would  
19 move it 3 feet back and then work with Chad on the grades, I am  
20 willing to stipulate to that. And then whatever Chad comes up  
21 with, we will work to that because then we would have to change  
22 them for Chad, I think, a little bit.

23 CHAIRMAN VALENTIC: So Chad is in control.

24 MR. EDGAR: Whatever, huh? That's nice, George.

25 MS. JARRELL: It's on tape, too.

26 CHAIRMAN VALENTIC: And TV. All right. Have you  
27 guys got anything else?

28 MR. ROWE: No.

29 CHAIRMAN VALENTIC: Blair, you good down there?

30 MR. HAMILTON: I am pretty good. My concern is how

1 steep the grade is going into the, going into the --

2 CHAIRMAN VALENTIC: The meander.

3 MR. HAMILTON: Yeah.

4 CHAIRMAN VALENTIC: Yeah. Okay.

5 MR. DAVIS: We will pull that back 3 feet and we'll  
6 rock that so it will, you know, when I put the rocks there, it  
7 will actually probably come -- because I will show rocks on the  
8 site plan, so maybe it will be five feet off that dogleg that  
9 Chad was concerned about.

10 CHAIRMAN VALENTIC: Is anyone else here speaking for  
11 or against this appeal that would like to come up? Okay. If  
12 there is no further questions, the public hearing for Variance  
13 Number 2017-3 is now closed to the public. I would like to  
14 entertain a motion to approve Variance Number 2017-3.

15 MS. JARRELL: So moved.

16 MR. ROWE: Second.

17 CHAIRMAN VALENTIC: Okay.

18 MS. LANDGRAF: You might want to note on the record  
19 as amended by the applicant.

20 CHAIRMAN VALENTIC: Yes, yes, as amended by the  
21 applicant.

22 MS. JARRELL: So moved.

23 MR. ROWE: And seconded.

24 CHAIRMAN VALENTIC: Okay. Does anyone want to say  
25 anything for this discussion?

26 MS. JARRELL: I just, kind of, want to say -- I am  
27 not speaking for the Board, I am speaking for myself. And,  
28 Mr. Davis, I get it. This is tough. It's like a preexisting  
29 condition kind of thing. And, you know, it's always tough when  
30 government and the private sector clash like this, and this is

1 a doozy. And I don't think any of us enjoy this, we really  
 2 don't. So what we're trying to do is find a, I guess,  
 3 compromise as much as we can.  
 4 And, you know, I know there is a lot of variables at  
 5 play with the deed restrictions and all the residents and the,  
 6 you know, the tree-loving people. I love those trees, too.  
 7 But the fact of the matter is, there is -- these  
 8 riparian setbacks have been put in place to protect the  
 9 residence as well and, you know, with all the flood waters and  
 10 et cetera, et cetera. I don't want to get into all that. But  
 11 I think I just wanted to say, for the record, that we have to  
 12 arrive at some kind of balance and compromise and do the best  
 13 we can because the situation stinks. That's all I have to say.  
 14 CHAIRMAN VALENTIC: Yeah, I mean, the word  
 15 "compromise" is the perfect thing to note here, that we are  
 16 trying to find a compromise that everybody -- try to improve  
 17 the situation and be able to help Mr. Davis build homes here.  
 18 MR. ROWE: Yeah.  
 19 CHAIRMAN VALENTIC: The fact he is willing to move  
 20 this one 3 feet is a compromise. I wish it was more but it's a  
 21 start.  
 22 Anyone else have anything?  
 23 MR. ROWE: No. I think it's a step. Chad's got a  
 24 little bit of a smile back there.  
 25 CHAIRMAN VALENTIC: He's got control now of  
 26 everything, yeah.  
 27 MR. ROWE: Put him in charge.  
 28 CHAIRMAN VALENTIC: Again, for the Board, in my view  
 29 we've got to really look at these as a case by case. There are  
 30 some similarities but when we get into the details on some of

1 them, they are -- each one is a little bit different, in my  
 2 opinion. If there is not any further discussion --  
 3 MR. SWEENEY: Well --  
 4 CHAIRMAN VALENTIC: Go ahead.  
 5 MR. SWEENEY: I just want to say that, you know, but  
 6 for the retroactive riparian setbacks, this wouldn't be an  
 7 issue.  
 8 CHAIRMAN VALENTIC: Yeah.  
 9 MR. SWEENEY: And I have -- I mean, period. I have a  
 10 real problem with that from the governmental standpoint. And I  
 11 love the environment. But to impair someone's business  
 12 interest like this in a retroactive way, I just think is  
 13 unfair. Now, I think the answer to it is, like you said, Ivan,  
 14 is a compromise. And I think that the developer and the  
 15 builder have stepped up and they have done everything they can,  
 16 I really do.  
 17 CHAIRMAN VALENTIC: Well --  
 18 MR. SWEENEY: But I, just, I have a distain for this  
 19 issue and we are going to be revisit it over and over again.  
 20 And I mentioned this a couple of meetings back, and I know you  
 21 don't want to look at it in a, in a group sort of sense. But  
 22 my concerns are going to be the same every single time, that  
 23 we're forcing these people to adopt something that they had no  
 24 knowledge of when they got into it, and I just think it's  
 25 unfair.  
 26 CHAIRMAN VALENTIC: Well, it's our job to get us  
 27 through this process, Skip.  
 28 MR. SWEENEY: Right. Well, and I think --  
 29 CHAIRMAN VALENTIC: So that's what we're trying to do  
 30 here.

1 MR. SWEENEY: In addition to that, I think that when  
 2 you measure this issue on this particular case with the Duncan  
 3 Factors, I don't, I don't think that -- I think it's too much  
 4 of a detriment against the builder.  
 5 CHAIRMAN VALENTIC: Okay.  
 6 MS. JARRELL: I agree with your sentiment, Skip.  
 7 CHAIRMAN VALENTIC: All set then? Okay. On that,  
 8 the question is on the approval of Variance Number 2017-3. A  
 9 yes vote is for the approval of the variance, a no vote denies  
 10 it.  
 11 Heather, please call the vote.  
 12 MS. FREEMAN: Mr. Rowe?  
 13 MR. ROWE: Yes.  
 14 MS. FREEMAN: Ms. Jarrell?  
 15 MS. JARRELL: Yes.  
 16 MS. FREEMAN: Mr. Valentic?  
 17 CHAIRMAN VALENTIC: Yes.  
 18 MS. FREEMAN: Mr. Hamilton?  
 19 MR. HAMILTON: Yes.  
 20 MS. FREEMAN: Mr. Sweeney?  
 21 MR. SWEENEY: Yes.  
 22 CHAIRMAN VALENTIC: The ayes have it. Your variance  
 23 has been approved. Thank you. Oh, should I have stated it  
 24 again? It's okay. It was on the record, right?  
 25 MR. HAMILTON: The stipulation.  
 26 CHAIRMAN VALENTIC: The stipulation is on the record.  
 27 MR. ROWE: Yeah.  
 28 CHAIRMAN VALENTIC: All right.  
 29 MR. ROWE: It's in the motion.  
 30 CHAIRMAN VALENTIC: All right. We have another

1 appeal, Appeal Number 2017-4, Mr. George Davis, representing  
 2 ProBuilt Homes, is requesting a variance from Section 17.04(B)  
 3 and 17.07(A) to allow for soil-disturbing activities related to  
 4 the construction of a dwelling, and placement of a concrete  
 5 sidewalk with a zero feet riparian setback, in lieu of the 25  
 6 feet required, for the property known as Sublot 98 on  
 7 Mountainside Farms, and being Permanent Parcel Number  
 8 08-A-023-E-00-080-0 and 10-A-023-E-00-004-0. A second variance  
 9 is requested from Section 17.08(A)(2) which states variances  
 10 shall be void if not implemented within one year of the date of  
 11 issuance.  
 12 Mr. Davis, welcome back. The Board is here to listen  
 13 to you again?  
 14 MR. DAVIS: Yeah, the majority of the issue is the  
 15 same as on the previous variance request. I would like to  
 16 highlight a couple of differences on this one and the next two.  
 17 These are unsold lots, right? So these are the ones where I  
 18 just need something that I can show the client and say, "Hey,  
 19 you know, as long as we put the house in this block and it  
 20 doesn't go any farther forward, we can, we can build your  
 21 house," so that they will contract and go through the, you  
 22 know -- No one is going to do it, no one wants to put up that  
 23 kind of money when they don't know if they can do something.  
 24 So in these three cases, what I am asking for is a  
 25 variance from the time frame request of one year due to the  
 26 fact that I may not sell all three of these in the next 12  
 27 months. Obviously, I would love to but it may drag out. I am  
 28 willing to come back every year on the anniversary to get it  
 29 reaffirmed. You know, I would have to ask counsel how do you  
 30 go about, you know -- Whatever, whatever works for you guys. I

1 just would like to be able to show the clients that, you know,  
2 as long as we do this type of grading and the house fits in  
3 this block that, you know, we can build your home so that I can  
4 sell these last three lots.

5 CHAIRMAN VALENTIC: On this lot, is there, again, do  
6 we have that 40 foot tree deed restriction?

7 MR. DAVIS: Yeah, we have it in all the lots. On 98,  
8 which is the one we're talking about now, a good portion of the  
9 lot is that embankment that he was talking about. So, you  
10 know, like on the side where it says 70, a lot of that is like  
11 10 or 15 foot higher, you know, because the hill is really  
12 steep at that point. So, you know, when you're looking at the  
13 back yard, you are really looking at that 60 foot angle. And  
14 you can see we're trying to get the swale in there and stay out  
15 of the tree easement, you know. So it's a little tough on this  
16 lot due to the grading.

17 I do not, on 98, we will not have to have the  
18 sidewalk in the riparian. It would just be for clearing and  
19 grading. And I would be willing to, you know, if you would so  
20 graciously be inclined to allow me to amend that to say that,  
21 you know, Chad and I would work together on the final grading  
22 in the riparian, but I am hoping that, you know, we could ask  
23 for a similar variance as the last case.

24 CHAIRMAN VALENTIC: How many square feet is the block  
25 that's shown here? Is this realistic or is it --

26 MR. DAVIS: So here is what we did, you know. The  
27 houses typically, in Mountainside Farms, are about 55 to 60  
28 feet wide, right, because they're side load garages. So we're  
29 typically 55 to 60 feet wide. So we, we made it 60 feet wide.  
30 And then the depth is typically somewhere between 60 and 70,

1 right, most of the depths of the houses in there. So I created  
2 the block the worst case.

3 CHAIRMAN VALENTIC: Okay.

4 MR. DAVIS: So it's possible that, you know, in the  
5 worst case they still yet the 60 foot rear yard. You know, if  
6 it's a little shallower house, maybe they end up with 65, 66.  
7 But, you know, it's -- Most of the homes in Mountainside are  
8 first floor masters. They have two-story great rooms. So most  
9 of the square footage is on the first floor. You have the den  
10 and the study and laundry and everything and then you just have  
11 a couple of bedrooms or three bedrooms up.

12 So most of that 2,700 or 3,050 square feet, depending  
13 on what type of house it is, is on that first floor. So it's a  
14 realistic box that we have here. And the garage is exact  
15 because it's requires a three-car side load, so the garage  
16 would be, you know, exactly that size, pretty much.

17 CHAIRMAN VALENTIC: Because this a different shape  
18 lot. Is that 40 foot on, I guess, both, well, kind of, that  
19 side and back?

20 MR. GUTOSKY: It would be on the south -- The south  
21 and the west line would have that 40 feet.

22 CHAIRMAN VALENTIC: It is not shown at all on this  
23 drawing that we have.

24 MR. DAVIS: Yeah, which would be that tree easement  
25 is -- So this is the street, this is that hillside that goes up  
26 to Lake Erie College, and then this is that woods that's on the  
27 side of Lake Erie College here. So you would have the 40 foot  
28 here and the 40 foot here. You know, we have our grades just  
29 about to that 40 feet.

30 CHAIRMAN VALENTIC: Yeah, I measured it off. It

1 looks like you are in there a little bit but it's not the same  
2 kind of drawing that the other submittal was.

3 MR. DAVIS: And the weird thing about this lot, 98,  
4 is all of this is 10, 15 feet higher. I mean, it's not even  
5 usable. You've got to walk up a cliff, basically, to get to  
6 it. So, you know, you have to put the house over to the side  
7 because of that.

8 MR. GUTOSKY: That, and the lots sits about -- the  
9 house sits about 10 feet higher than the road, too. So we have  
10 to get -- We have to spread that grade out across on the  
11 driveway just to get up to the site.

12 MR. DAVIS: Yeah, this house --

13 MR. GUTOSKY: The driveway is about 10 percent slope  
14 coming up to get to the house.

15 CHAIRMAN VALENTIC: That grading on, let's see, I  
16 guess the east side at the road, is that really that necessary?  
17 I mean, it looks like it's just --

18 MR. DAVIS: Well, that's what Chad said he'd like,  
19 that he'd like to see change and I am willing to work with him  
20 on that.

21 CHAIRMAN VALENTIC: Yeah. It doesn't seem like it  
22 would really be needed.

23 MR. DAVIS: We just want to -- What we don't want to  
24 have is where the driveway ends and you drop off like 3 feet.

25 CHAIRMAN VALENTIC: Yeah, I get that.

26 MR. DAVIS: The driveway is only 16 feet wide. You  
27 don't want to fall off a 3 or 4 foot cliff, so we've got to go  
28 a little bit but it's a little aggressive on this lot.

29 CHAIRMAN VALENTIC: Off of that road there.

30 MR. DAVIS: Yeah.

1 CHAIRMAN VALENTIC: It seems like you've gone quite a  
2 bit.

3 MR. DAVIS: Yeah. Like this, you are talking about  
4 this part right here.

5 CHAIRMAN VALENTIC: Yeah.

6 MR. DAVIS: We could bring that back. You know, the  
7 existing grades go this way. We were just rounding it a little  
8 bit but we could follow that.

9 CHAIRMAN VALENTIC: Then on the -- Is there room to  
10 shift this one back? It seems like this one's got, even with  
11 the 40 foot, again, kind of plotting it on there, it looks like  
12 there's some room to shift it back. Could we get it back a  
13 little bit more so we can get a little bit less fill here in  
14 front of the garage?

15 MR. DAVIS: Yeah, so I would agree, you know, in the  
16 spirit of compromise, if we pushed the house back 5 feet, if  
17 that would be acceptable.

18 CHAIRMAN VALENTIC: Okay.

19 MR. DAVIS: You know, does that help you, Chad?

20 MR. EDGAR: I am sorry?

21 MR. DAVIS: Does that help you if you we push it back  
22 5 feet?

23 CHAIRMAN VALENTIC: Well, I will have to have Chad  
24 come up when you are asking him questions --

25 MR. DAVIS: Okay. Sorry.

26 CHAIRMAN VALENTIC: -- so it can all be put on the  
27 record. But does anyone else on the Board have any questions  
28 for Mr. Davis?

29 MR. ROWE: No. Again, if --

30 CHAIRMAN VALENTIC: Chad, could you please come up?

1 MS. LANDGRAF: Mr. Davis, let me just ask, are you  
 2 asking or are you proposing to amend the application to move it  
 3 back 5 feet?  
 4 MR. DAVIS: Move it back 5 feet and work with Chad  
 5 Edgar, from Soil and Water, on the final contours.  
 6 CHAIRMAN VALENTIC: On the --  
 7 MR. HAMILTON: On the front, on the driveway?  
 8 CHAIRMAN VALENTIC: -- east side of the road.  
 9 MR. DAVIS: On the east side of the road.  
 10 CHAIRMAN VALENTIC: Yeah. And then if we move the 5,  
 11 house back 5 feet, we could shift that grade back about 5 feet.  
 12 Chad, did you have a chance to look at this second  
 13 one?  
 14 MR. EDGAR: I did. Again, the grading on the east  
 15 side of the channel, probably a good compromise to just do the  
 16 smoothing grading type of scenario that's been discussed in  
 17 other lots. If you were able to rotate that house clockwise  
 18 and move it back, a lot of this grading could kind of get fit  
 19 into -- This is the riparian setback. What do you think about  
 20 that before we make that proposition to the Board? Because  
 21 then you are moving some of this out of here.  
 22 MR. GUTOSKY: The only thing I would comment on that,  
 23 it makes it harder to get around into the garage.  
 24 MR. DAVIS: Right, because of the, you know, this  
 25 house is 10, you know -- this is a tough lot as it is with the  
 26 10 feet we've got to come up. And then the house isn't facing  
 27 the road, your house is facing the side of the house on this  
 28 lot. So, I mean, I had him rotate it back already as far as I  
 29 felt --  
 30 MR. EDGAR: That's far as it could be rotated, okay.

1 MR. DAVIS: -- that would be comfortable for a  
 2 client.  
 3 MR. EDGAR: Okay. So I guess one of the questions  
 4 that I have is, you know, when we went out last summer and HZW  
 5 flagged the ordinary high water mark on 100, did they do 98, 99  
 6 and 101? Are you sure that this setback line is where it needs  
 7 to be? Because they, did they -- I don't believe that flagged  
 8 the whole stream.  
 9 MR. GUTOSKY: What I used on this lot was what they  
 10 had originally located with the wetlands study.  
 11 MR. EDGAR: So that's not the ordinary high water  
 12 mark, that's the channel.  
 13 MR. GUTOSKY: Well, no, that's the center of the  
 14 channel.  
 15 MR. EDGAR: The center of the channel.  
 16 MR. GUTOSKY: But this is the start of the stream.  
 17 MR. EDGAR: All right. So that ordinary high water  
 18 mark could be in another 3, 4, 5, if I recall correctly,  
 19 ordinary high water mark on that stream was approximately 4  
 20 feet off the center line, give or take.  
 21 MR. DAVIS: Yes.  
 22 MR. EDGAR: So that line, that setback line could be  
 23 even further than is shown on the site plan.  
 24 MR. DAVIS: What did you, what did you -- So HZW  
 25 staked 100.  
 26 MR. GUTOSKY: Yes.  
 27 MR. DAVIS: Which was either 6 or 8 feet.  
 28 MR. GUTOSKY: Wasn't it 6?  
 29 CHAIRMAN VALENTIC: I say an HZW truck here.  
 30 MR. EDGAR: Has it, has it been staked out, the

1 whole -- every lot?  
 2 MS. JARRELL: He's going to have to come up.  
 3 CHAIRMAN VALENTIC: Yeah, you've got to come up.  
 4 MR. EDGAR: We're going to have a party up here.  
 5 MS. JARRELL: Yeah.  
 6 MR. LATOCHE: Ben Latoche, HZW, 6105 Heisley Road,  
 7 Mentor.  
 8 CHAIRMAN VALENTIC: You've been sworn in, sir?  
 9 MR. LATOCHE: I have been sworn in. I don't remember  
 10 this project. You said this was last summer we were out there?  
 11 MR. GUTOSKY: Last fall.  
 12 MR. LATOCHE: Last fall.  
 13 MR. DAVIS: August or September.  
 14 MR. LATOCHE: Do you have a site location map?  
 15 CHAIRMAN VALENTIC: It could have been somebody else  
 16 though, too.  
 17 MR. GUTOSKY: I think it was somebody else.  
 18 MR. LATOCHE: Jason maybe?  
 19 MR. GUTOSKY: Yeah, it was Jason.  
 20 MR. LATOCHE: Okay. Sorry.  
 21 CHAIRMAN VALENTIC: All right. So --  
 22 MR. EDGAR: So I guess my concern is that we are  
 23 discussing a plan here that this was a, like, a generic grading  
 24 plan. We don't know where the ordinary high water mark is, so  
 25 we don't where the riparian setback is. It might be premature  
 26 to discuss -- I know what George is trying to do. It might be  
 27 premature to discuss variance right now.  
 28 MR. GUTOSKY: But wait a minute, Chad. The center  
 29 line of this is what they located when they did the wetlands  
 30 study.

1 MR. EDGAR: Right.  
 2 MR. GUTOSKY: And then this is the start, this is the  
 3 start of this channel here, right here.  
 4 MR. EDGAR: Yeah.  
 5 MR. GUTOSKY: And it's upstream from the last one  
 6 which was like three, four foot wide, either side.  
 7 MR. EDGAR: Yeah, about four foot.  
 8 MR. GUTOSKY: Yeah. So I'm saying this is going to  
 9 be the same, if not less, because there's less flow going  
 10 through it.  
 11 MR. EDGAR: Okay. Well --  
 12 MR. GUTOSKY: But we have enough room in here,  
 13 I mean.  
 14 MR. DAVIS: But we're pushing it 5 feet back.  
 15 MR. EDGAR: I get what you're saying but we're making  
 16 assumptions --  
 17 MR. GUTOSKY: But, well, let's --  
 18 MR. EDGAR: -- on something that's supposed to be on  
 19 a map in an application.  
 20 MR. GUTOSKY: Well, for my understanding based on  
 21 where they had originally located this, I don't think it's  
 22 moved.  
 23 MR. EDGAR: The stream.  
 24 CHAIRMAN VALENTIC: Okay. Even if the stream is in  
 25 the same location, all right, the ordinary high water mark is  
 26 not shown on this drawing and the set -- the riparian setback  
 27 is supposed to be based off of that ordinary high water mark.  
 28 MR. DAVIS: Well, we did, on Lot 100, HZW went out  
 29 and they staked the high water mark.  
 30 CHAIRMAN VALENTIC: Yes.



1 MR. DAVIS: Lot 100 --  
 2 CHAIRMAN VALENTIC: That was shown on the drawing.  
 3 MR. DAVIS: That was 8 feet. What Joe did is he  
 4 continued that same width back up the hill, so we are still  
 5 that same width off the center line.  
 6 MR. EDGAR: The issue with that though is ordinary  
 7 high water marks are not a fixed width. They're based on an  
 8 elevation on the slope. So if you've got undulations on the  
 9 bank on either side, that, the change where that elevation  
 10 meets the landscape, your ordinary high water mark isn't going  
 11 to be like this as you look down the stream valley. It's going  
 12 to change. It's typically closer on the inside -- or closer on  
 13 the outside of the meander, farther away from the stream on the  
 14 inside of a meander, so it changes. So that's one of my  
 15 concerns.  
 16 MR. GUTOSKY: We can stipulate that we would work  
 17 with him on that with the grading, if you're okay with that,  
 18 because --  
 19 MR. EDGAR: I am fine with working with anybody on  
 20 grading but you are supposed to show these things on a plan.  
 21 MR. GUTOSKY: Well, we are with the information we  
 22 have on here. But what I would suggest is, if it's way grossly  
 23 different than what's on this plan, then we would come back.  
 24 MR. EDGAR: Right.  
 25 MR. GUTOSKY: But if it's consistent with what's on  
 26 here --  
 27 MR. EDGAR: That's up to, that's up to them to  
 28 decide.  
 29 MR. GUTOSKY: Yeah.  
 30 MR. EDGAR: I'll work on the grading, you know,

1 obviously, George and Dave's crew. We have talked about that.  
 2 I mean, it's got the same meander issue. It would be nice,  
 3 when you do lay out the contours, to make sure we're keeping  
 4 the slope as far away from that slight meander there as  
 5 possible.  
 6 MR. DAVIS: We can go 5 feet farther back.  
 7 MR. EDGAR: Yep, that will help.  
 8 CHAIRMAN VALENTIC: Okay.  
 9 MR. EDGAR: Those are my comments.  
 10 CHAIRMAN VALENTIC: Thank you, Chad.  
 11 MR. EDGAR: You're welcome.  
 12 CHAIRMAN VALENTIC: Does the Board have any other  
 13 questions for Chad?  
 14 MR. ROWE: No.  
 15 CHAIRMAN VALENTIC: Mr. Davis, can you come up  
 16 just -- I've probably got one question. I want to try to work  
 17 through this and get this resolved. I think we need, we're  
 18 going to need legal to chime in when I am out of line. So we  
 19 are going to, we're going to approve, you know -- You are  
 20 asking us to approve something tonight which has to hold true  
 21 going forward when you go to build the house, which may be a  
 22 smaller house, probably not going to be a bigger house. It  
 23 sounds like you've really thought that through.  
 24 We have to somehow confirm this ordinary high water  
 25 mark to establish that setback for the home, which may be  
 26 within a foot of this or it might be even, in your benefit, may  
 27 even be the other way, I suppose. We don't know.  
 28 But what we have to approve tonight is that this is  
 29 where the house is going to be built. Even if the shape  
 30 changes a little bit, it is not going to encroach any further,

1 I believe, correct? And we've got to approve that this is  
 2 going to be, you know, this will be your grading limits when  
 3 you come back to build that house and pull your permits,  
 4 correct?  
 5 MR. DAVIS: Correct.  
 6 CHAIRMAN VALENTIC: So you had talked about shifting  
 7 the home and the grading back 5 feet as a compromise based on  
 8 what we're -- with the given information tonight.  
 9 MR. DAVIS: Right, in the spirit of compromise.  
 10 CHAIRMAN VALENTIC: Which may be correct or slightly  
 11 incorrect, we don't know how accurate it is. For the sake of  
 12 this conversation to continue this and get this wrapped up  
 13 tonight, I just want to ask, is there -- Can that 5 feet maybe  
 14 increase a little bit more, because we are not sure where that  
 15 ordinary high water mark is? Because based on this, we're  
 16 making, we're getting a 5 foot, you know, compromise and it  
 17 makes the situation potentially better but we don't really  
 18 know. So can that bump a little bit more?  
 19 MR. DAVIS: What if I just say we'll go 5 feet off  
 20 the west side of the high water? So we're moving 5, wherever  
 21 the high water ends up being, we're moving 5 feet back.  
 22 CHAIRMAN VALENTIC: The grading won't get, won't be  
 23 within that 5 feet of the ordinary high water mark filling in?  
 24 MR. DAVIS: Do you understand what I mean by that,  
 25 Chad? Does that make sense? So if that high water actually  
 26 moves 2 feet, then we are actually moving 7 feet back, you  
 27 know.  
 28 CHAIRMAN VALENTIC: Yeah, that's not a bad idea. The  
 29 only thing I would say, it's not really consistent throughout  
 30 because here you are not even close. So we will just say that

1 would be in this, this little corner here. Okay.  
 2 MR. DAVIS: Yeah, that would be acceptable.  
 3 CHAIRMAN VALENTIC: You guys got anything else? No.  
 4 MS. LANDGRAF: The second variance.  
 5 CHAIRMAN VALENTIC: Oh, then we need to discuss your  
 6 second variance, which is that, that we have a one-year limit  
 7 and that you want that -- So what are you looking? Are you  
 8 looking for -- It's not a hundred percent clear to me. Are you  
 9 looking for two-year limit or are you looking forever? You  
 10 mentioned maybe coming back every year.  
 11 MR. DAVIS: Yeah, I just want, you know, my concern  
 12 is, obviously, we are going to try and sell these three lots  
 13 this year, right? But if we don't, I don't want to, you  
 14 know -- How do I say this correctly? Political, politicalness  
 15 of boards can change. And so, you know, we would like to know  
 16 that, you know, if I, if I sell a house 13 months from now,  
 17 that we don't have to start all over again. So if we, you  
 18 know, could come back for an affirmation if we could do that,  
 19 or extend it.  
 20 MS. LANDGRAF: It wouldn't be -- We couldn't just  
 21 leave it open and you're guaranteed a renewal, right?  
 22 MR. DAVIS: Right.  
 23 MS. LANDGRAF: So I would be more comfortable if  
 24 there was a time limit on it.  
 25 MS. JARRELL: Why don't we say two years?  
 26 MS. LANDGRAF: Or you would resubmit.  
 27 MR. DAVIS: Would three years be okay? That would  
 28 take us through the end of our contract which, gosh, I hope  
 29 I -- I hope I'm done by then.  
 30 CHAIRMAN VALENTIC: So it's open for three years,

1 okay.  
 2 MS. JARRELL: I think that's fine.  
 3 CHAIRMAN VALENTIC: Would he need to come back then  
 4 every year just to --  
 5 MS. LANDGRAF: No.  
 6 CHAIRMAN VALENTIC: Nothing, just it's all been set.  
 7 MS. LANDGRAF: On the third year.  
 8 CHAIRMAN VALENTIC: Then it expires in three years of  
 9 being --  
 10 MS. LANDGRAF: If nothing has been implemented, it  
 11 would be void after three years.  
 12 CHAIRMAN VALENTIC: Okay. And that would include  
 13 construction and everything, okay.  
 14 MS. LANDGRAF: The variance itself.  
 15 CHAIRMAN VALENTIC: So the variance would, if he's in  
 16 the middle of construction --  
 17 MS. LANDGRAF: Then he would have started already.  
 18 He would have started utilizing the variance within that period  
 19 of time.  
 20 CHAIRMAN VALENTIC: Within, yeah, he just has to  
 21 start it. Okay.  
 22 MR. GUTOSKY: Pull the permit, basically.  
 23 MR. DAVIS: Right.  
 24 CHAIRMAN VALENTIC: Okay. All right. I think I got.  
 25 It's clear as mud. Thank you. Please be seated.  
 26 Is there anyone else here tonight speaking for or  
 27 against this appeal that would like to come up? Okay. If  
 28 there's no further questions, the public hearing for Variance  
 29 Number 2017-4 is now closed to the public. I would entertain a  
 30 motion to approve Variance Number 2017-4 based on the fact that

1 MS. FREEMAN: Mr. Rowe?  
 2 MR. ROWE: Yes.  
 3 MS. FREEMAN: Mr. Sweeney?  
 4 MR. SWEENEY: Yes.  
 5 CHAIRMAN VALENTIC: All right. Your appeal has  
 6 been -- or your variance has been approved. Thank you.  
 7 All right. You know the drill. The next one is  
 8 Appeal -- or Variance Number 2017-5, Mr. George Davis,  
 9 representing ProBuilt Homes, is requesting a variance from  
 10 Section 17.04(B) and 17.07(A) to allow for soil-disturbing  
 11 activities related to the construction of a dwelling, and the  
 12 placement of a concrete walk with a zero foot riparian setback,  
 13 in lieu of the 25 feet required, for the property known as  
 14 Sublot 99 of Mountainside Farms, and being Permanent Parcel  
 15 Numbers 08-A-023-E-00-081-0 and 10-A-023-E-00-005-0. A second  
 16 variance is also requested from Section 17.08, which states  
 17 variances shall not -- shall be void if implemented within one  
 18 year of issuance.  
 19 Yes?  
 20 MS. JARRELL: We need a two-minute intermission.  
 21 CHAIRMAN VALENTIC: Okay. I am going -- The Board is  
 22 requesting that we have a quick two-minute intermission.  
 23 MS. LANDGRAF: Recess.  
 24 CHAIRMAN VALENTIC: Recess.  
 25 MS. LANDGRAF: You have to move to recess the  
 26 meeting.  
 27 CHAIRMAN VALENTIC: The motion is to recess the  
 28 meeting for two minutes.  
 29 MR. ROWE: So moved.  
 30 MS. JARRELL: Second.

1 Mr. Davis will work with Chad, from Soil and Water, or work  
 2 with Soil and Water and will attempt to move the home and  
 3 grading back 5 feet in this pinched here in front of the garage  
 4 and front door from the ordinary high water mark, and they will  
 5 also only smooth out the grading on the east side.  
 6 MR. HAMILTON: On the east side.  
 7 CHAIRMAN VALENTIC: And that the variance will be --  
 8 will expire after three years.  
 9 MS. LANDGRAF: Let me take the word "attempt" out,  
 10 that you will move it back.  
 11 CHAIRMAN VALENTIC: Yes, they will move it back --  
 12 thank you -- 5 feet from the ordinary high water mark, the  
 13 whole home and grading. Is there --  
 14 MS. JARRELL: So moved.  
 15 CHAIRMAN VALENTIC: A second?  
 16 MR. ROWE: Second.  
 17 CHAIRMAN VALENTIC: Thank you. Any further  
 18 discussion or have we belabored this enough?  
 19 MR. ROWE: I think it's been pretty well worked over.  
 20 CHAIRMAN VALENTIC: The question is on approval of  
 21 Variance Number 2017-4 with the stipulations as described. A  
 22 yes vote is for the approval of the variance, a no vote denies  
 23 the variance.  
 24 Heather, please call the vote.  
 25 MS. FREEMAN: Mr. Hamilton?  
 26 MR. HAMILTON: Yes.  
 27 MS. FREEMAN: Mr. Valentie?  
 28 CHAIRMAN VALENTIC: Yes.  
 29 MS. FREEMAN: Ms. Jarrell?  
 30 MS. JARRELL: Yes.

1 CHAIRMAN VALENTIC: Please do a vote. All in favor  
 2 say "aye."  
 3 (Five aye votes, no nay votes.)  
 4 CHAIRMAN VALENTIC: We are in recess for the next two  
 5 minutes.  
 6 (Whereupon, there was a recess from 8:45 p.m. until  
 7 8:49 p.m.)  
 8 CHAIRMAN VALENTIC: I could put the motion -- put  
 9 forth the motion to resume the BZA meeting.  
 10 MS. JARRELL: So moved.  
 11 MR. HAMILTON: Second.  
 12 CHAIRMAN VALENTIC: All in favor?  
 13 (Five aye votes, no nay votes.)  
 14 CHAIRMAN VALENTIC: All right. We are back, back  
 15 from recess.  
 16 Okay. Mr. Davis, the floor is yours.  
 17 MR. SWEENEY: Thank you, Mr. Chair, for that recess.  
 18 CHAIRMAN VALENTIC: You are welcome. Anybody else,  
 19 Skip, it would have been a no. Okay.  
 20 MR. DAVIS: Okay. George Davis again. This one, I  
 21 think, is a little better situation. We are not really doing  
 22 hardly any regrading at all on the east side that, you know,  
 23 all --  
 24 MR. GUTOSKY: Because it's the road.  
 25 MR. DAVIS: Yeah, because the road is right there.  
 26 So we are really not doing any grading on the east side. If  
 27 you, if you look on the west side, it's hard for me to go much  
 28 farther back because this is one of the steep lots where the  
 29 hill is running down and, you know, I've got to, I've got to  
 30 try to get a patio in there and I've got to get a deck and get

1 this swale to go around and not hit the house because it's  
2 going to be a walkout basement, so you wouldn't that water  
3 rushing down the hill onto the patio.

4 So I am hopeful, you know, that we could sort of -- I  
5 will defer to Chad but I am hoping he's a little happier with  
6 this grade than the other ones.

7 MR. GUTOSKY: Can I just, kind of, mention something?

8 CHAIRMAN VALENTIC: Sure.

9 MR. GUTOSKY: The other thing on this lot, too, is  
10 because it's like right at the extreme point where the cul-de-  
11 sac turnaround, the pavement is the farthest out. So the lot  
12 is really squeezed. If you look, we only have like 180 feet  
13 from the right-of-way to the back property line and the  
14 pavement is only about 5 feet off the edge of the right-of-way.  
15 So we're really squeezed in the front for width to work with.

16 If you look, like, at the other plans, the houses are  
17 sitting back farther and this one is, like, sitting right on  
18 the front setback line, just outside of that riparian setback  
19 line, also.

20 CHAIRMAN VALENTIC: Yeah, I don't disagree with any  
21 of that. My issue, you know, what got brought up the last time  
22 is this whole ordinary high water mark thing and not really,  
23 not having the exact ordinary high water mark on the drawing.  
24 So is there a way that we can resolve that for this one because  
25 I don't want you to have to come back for this one? We want be  
26 able to work through this and be done with it.

27 MR. DAVIS: What if I agreed that, for every, you  
28 know, for every foot the high water mark shifted, we would  
29 shift the house back the same amount so we would, we would stay  
30 that same distance off the high water mark?

1 CHAIRMAN VALENTIC: Do we have a number for that? Do  
2 we know what that would be? I guess, I am a little confused by  
3 that. So if it looks like it's off, some distance off the  
4 ordinary high water mark now. I don't know what that dimension  
5 is, maybe --

6 MR. GUTOSKY: It's probably like 27 because you can  
7 see where the one in front of the garage, that's 25 feet off  
8 the, you know, off the ordinary high water.

9 CHAIRMAN VALENTIC: But would you shift the grading  
10 then as well?

11 MR. DAVIS: Yeah, yeah, shift everything back. For  
12 every foot the high water mark moves, we would move everything  
13 we're doing back, the grading back, the house back.

14 CHAIRMAN VALENTIC: So how, how are we going to  
15 handle this?

16 MR. GUTOSKY: How about if we do just -- The house is  
17 set, like, 27 feet off of it now, or the garage.

18 MR. DAVIS: Yeah.

19 MR. GUTOSKY: The closest point. Why don't we say  
20 that the closest the house can be to the ordinary high water is  
21 like 27?

22 CHAIRMAN VALENTIC: And if the ordinary high water  
23 mark moves, then the house and the grading would move?

24 MR. DAVIS: Yes.

25 MR. GUTOSKY: Yes.

26 CHAIRMAN VALENTIC: That additional area.

27 MR. GUTOSKY: Because the house can't move any  
28 farther to the east because it's right on the minimum setback  
29 anyway right now. So if the ordinary high water moves --

30 CHAIRMAN VALENTIC: In that area.

1 MR. GUTOSKY: -- to the west, the minimum, the house  
2 has to be at least 27 feet off the edge of that, if that's  
3 acceptable.

4 CHAIRMAN VALENTIC: Okay.

5 MR. GUTOSKY: And, this one, we will need a variance  
6 for the sidewalk being in that setback, too.

7 CHAIRMAN VALENTIC: Yeah, understood. Yeah, that's  
8 all part of it. And then you're also, we would, you would  
9 be -- You would accept a three-year window on this one as well?

10 MR. DAVIS: Yes.

11 CHAIRMAN VALENTIC: Okay. Do you guys have any, the  
12 Board, have any further questions?

13 MR. ROWE: No, sounds like that will do it.

14 MR. HAMILTON: No questions.

15 CHAIRMAN VALENTIC: Chad, could you please come up?

16 MR. EDGAR: I am wearing a path in this carpet.

17 CHAIRMAN VALENTIC: You are not the only one. This,  
18 you know, we are -- You heard what Mr. Davis had to say. This  
19 one is pinched. But the stream -- I don't know -- the  
20 alignment is a little bit different here, too. So I just have  
21 some -- Are there any concerns with that? I don't know how  
22 much more Mr. Davis can do, but are there other things we  
23 should be worried about in this, in that little -- in that  
24 tight area, we will call it?

25 MR. EDGAR: No. I think that this one seems to be  
26 the least impactful that we have looked at tonight. No grading  
27 on the east side, that's a plus. The grading scheme seems to  
28 be fairly uniform, so you don't have any really steep areas  
29 adjacent to the stream. I guess my biggest concern is, again,  
30 we are looking at something where we don't know what the

1 grading is. We don't know where the setback is because we  
2 don't know where the ordinary high water mark is, so we're just  
3 kind of --

4 MR. ROWE: We don't know.

5 CHAIRMAN VALENTIC: So that's why we have --  
6 understood.

7 MR. GUTOSKY: So I don't know if Chad saw this but  
8 what we are suggesting is, wherever this ordinary high water  
9 mark ends up, we will be like the minimum of 27 feet off the  
10 front of the building.

11 MR. EDGAR: Right. I understand what you are  
12 proposing to do. I mean, there is a reason it says in the regs  
13 that, show these things on here so that we can have a  
14 meaningful discussion on it. Without, we are making all these  
15 things and we've got to try and, all right, what did we say on  
16 this lot? And what are we going to do on this lot? And it's,  
17 to me, it seems to be a little premature to apply.

18 I understand why George wants to do it. So I don't  
19 have to think about it like he does, or try not to. It would  
20 be nice to be able to review something that's a little more  
21 concrete and be able to give you comments on that.

22 CHAIRMAN VALENTIC: Yeah.

23 MR. EDGAR: We will certainly work with George. If  
24 you want to go that route of approving a minimum distance based  
25 on the ordinary high water mark, we will do that.

26 CHAIRMAN VALENTIC: Yeah, okay. Thank you.  
27 Have you guys got anything else for Chad?

28 MR. SWEENEY: Thanks.

29 CHAIRMAN VALENTIC: Okay.

30 Is there anyone else here speaking for or against

1 this appeal? Okay. If there's no further questions, the  
 2 public hearing for Variance Number 2017-5 is now closed to the  
 3 public. I'll entertain a motion to approve Variance Number  
 4 2017-5 with the additional stipulation that the ordinary,  
 5 ordinary high water mark will be identified in the field and  
 6 mapped and then they will work with Chad again to determine the  
 7 final location of the home and the grading which will shift and  
 8 maintain that 27 foot minimum distance at that pinch point of  
 9 the garage from the ordinary high water mark, and also that the  
 10 variance will be -- will remain open for a three-year period.  
 11 MS. LANDGRAF: Will be valid for three years.  
 12 CHAIRMAN VALENTIC: Will be valid for three years.  
 13 Can I please have a motion?  
 14 MS. JARRELL: So moved.  
 15 MR. ROWE: Second.  
 16 CHAIRMAN VALENTIC: Discussion for the Board,  
 17 anything?  
 18 MR. HAMILTON: I think we covered it.  
 19 MR. ROWE: Nope. You got it.  
 20 CHAIRMAN VALENTIC: Okay. The question is on the  
 21 approval of Variance Number 2017-5 with the conditions we  
 22 discussed. A yes vote is for approval of the variance, a no  
 23 vote denies it.  
 24 Heather, please call the vote.  
 25 MS. FREEMAN: Mr. Hamilton?  
 26 MR. HAMILTON: Yes.  
 27 MS. FREEMAN: Mr. Sweeney?  
 28 MR. SWEENEY: Yes.  
 29 MS. FREEMAN: Ms. Jarrell?  
 30 MS. JARRELL: Yes.

1 MS. FREEMAN: Mr. Rowe?  
 2 MR. ROWE: Yes.  
 3 MS. FREEMAN: Mr. Valentinc?  
 4 CHAIRMAN VALENTIC: Yes. Your variance has been  
 5 approved. Thank you.  
 6 Next on the agenda is Variance Number 2017-6,  
 7 Mr. George Davis, representing ProBuilt Homes, is requesting a  
 8 variance from Section 17.04(B) and 17.07(A) to allow for  
 9 soil-disturbing activities related to the construction of a  
 10 dwelling, and placement of a concrete sidewalk with a zero foot  
 11 repair setback, in lieu of the 25 feet required, for the  
 12 property known as Sublot 101 of Mountainside Farms and being  
 13 Permanent Parcel Number 08-A-023-E-00-083-0 and  
 14 10-A-023-E-00-007-0. A second variance is also requested from  
 15 Section 27.08(A)(2) which states variances shall be void if not  
 16 implemented within one year of the date of issuance.  
 17 Mr. Davis, the floor is yours.  
 18 MR. DAVIS: So in this case, again, we are not doing  
 19 any real grading on the east side against the street. And on  
 20 the west side, we are pretty far off, you know, what we believe  
 21 to be the high water. Obviously, you know, what I would like  
 22 to stipulate on this one is similar to the last one where we  
 23 would say that, you know, we would stay -- What are we here?  
 24 We are 60, we are --  
 25 MR. GUTOSKY: The house is 65 feet off the right-of-  
 26 way.  
 27 MR. DAVIS: Off the right-of-way, but what are we off  
 28 this high water mark here?  
 29 MR. GUTOSKY: Well, why don't we look at it this way.  
 30 MR. DAVIS: Okay.

1 MR. GUTOSKY: Say it would be a minimum 5 feet off.  
 2 MR. DAVIS: Oh, yeah. How about if we -- In this  
 3 case, I think the easiest way to do it, because we're not  
 4 really grading down towards the stream at all, if we just said  
 5 that we would maintain at least 5 feet of natural grade off the  
 6 high water mark.  
 7 Which is, when we scale that, Chad, we are 5 feet off  
 8 of it now. So if the high water mark shifted to the west, we  
 9 would stay 5 foot off the high water mark.  
 10 CHAIRMAN VALENTIC: In that one location only. The  
 11 rest of it needs to maintain what's shown on this drawing.  
 12 MR. GUTOSKY: Yes.  
 13 MR. DAVIS: Correct, yeah, only in the pinch point,  
 14 again.  
 15 CHAIRMAN VALENTIC: Okay. You guys got any more  
 16 questions for them?  
 17 MR. DAVIS: That would be all of our comments on this  
 18 one.  
 19 CHAIRMAN VALENTIC: Chad, do you have anything  
 20 different to add? If not --  
 21 MR. EDGAR: Nothing different.  
 22 CHAIRMAN VALENTIC: Okay.  
 23 MR. EDGAR: It would be the same thing.  
 24 CHAIRMAN VALENTIC: Okay. I don't want you to wear  
 25 that carpet out.  
 26 MR. GUTOSKY: Just to note, if you remember back in  
 27 October, I said, because we're getting these riparians in  
 28 Bainbridge and it's a lot by lot and this is what you struggle  
 29 through. And this lot, when you look at it, where the riparian  
 30 goes through is a little deeper than some of the other ones,

1 and this driveway actually comes down and then goes back up to  
 2 the house. So just so we're limiting the amount of grading  
 3 we're doing, you know, next to the driveway to try and limit  
 4 that grading within that riparian area for the driveway.  
 5 CHAIRMAN VALENTIC: Understood.  
 6 I mean, Mr. Davis, if you come back, I just, for  
 7 Chad's sake and ours, let's just try to make sure we get more  
 8 complete drawings, we actually get that ordinary high water  
 9 mark shown.  
 10 MR. DAVIS: Yes.  
 11 CHAIRMAN VALENTIC: We get that 40 foot area shown  
 12 because that's a big deal, and helps us make our determination.  
 13 MS. JARRELL: And the sidewalk.  
 14 CHAIRMAN VALENTIC: And the sidewalk. I know it's  
 15 not typical but when we have the whole picture, it's going to  
 16 save you and us a lot, a lot of time.  
 17 MR. DAVIS: Yes, I will definitely accommodate that.  
 18 Hopefully, I don't have to come back anymore.  
 19 CHAIRMAN VALENTIC: No offense. I am hoping so, too.  
 20 MR. GUTOSKY: We will do better on Sublot 102.  
 21 MR. DAVIS: Yeah.  
 22 MR. GUTOSKY: We are still trying to figure that one  
 23 out.  
 24  
 25 CHAIRMAN VALENTIC: Yeah, okay.  
 26 MR. ROWE: Oh, we looked forward to that.  
 27 CHAIRMAN VALENTIC: So we'll see you back then.  
 28 All right. Is there anyone else from the public  
 29 speaking for or against this appeal?  
 30 MS. LANDGRAF: George, you wanted the three-year

1 variance again?  
 2 MR. DAVIS: Oh, yeah, we would, we would request the  
 3 three-year time frame for the variance again.  
 4 CHAIRMAN VALENTIC: Understood. Okay. No further  
 5 questions, the public hearing for Variance Number 2017-6 is now  
 6 closed to the public. I will entertain a motion to approve  
 7 Variance Number 2017-6 with the stipulations that, in the area  
 8 that the grading is pinched near the ordinary high water mark,  
 9 that once the ordinary high water mark is mapped, they would  
 10 main a minimum of 5 foot of grading away from that ordinary  
 11 high water mark, and there is no grading to be on the -- to  
 12 occur on the east side as shown.  
 13 MR. GUTOSKY: Just --  
 14 CHAIRMAN VALENTIC: Just --  
 15 MR. GUTOSKY: Can I? Only because it's disturbed now  
 16 because it was graded when they did the subdivision  
 17 improvements and it's not perfect, so it's already been  
 18 cleared.  
 19 CHAIRMAN VALENTIC: Okay.  
 20 MR. GUTOSKY: For the subdivision.  
 21 CHAIRMAN VALENTIC: Smoothing the grading but no  
 22 filling of any kind of grade in that area, and they'll work  
 23 with Chad to review the ordinary high water mark and the  
 24 grading setback is maintained from that new ordinary high water  
 25 mark and that the variance will be valid for three years.  
 26 MR. ROWE: Right. That's good.  
 27 MS. JARRELL: So moved.  
 28 CHAIRMAN VALENTIC: Second?  
 29 MR. ROWE: Second.  
 30 CHAIRMAN VALENTIC: Moved and second. Open for

1 permitted, for property located 7665 Crile Road, and being  
 2 Permanent Parcel Number 08-A-019-0-00-027-0. A second variance  
 3 is requested from Section 30.05(D)(1) to allow a freestanding  
 4 sign to be located 10 feet from the adjoining property line, in  
 5 lieu of the 25 feet required. So we have two variances.  
 6 All right. Who is here?  
 7 MR. DOLCE: John Dolce of Lake -- Oh, go ahead.  
 8 MR. MEDINGER: Hi, everybody. I'm Brad Medinger. I  
 9 represent Crile Road Partners, and I'm at 7670 Tyler Boulevard  
 10 Mentor, Ohio, and I have been sworn in.  
 11 MR. DOLCE: My name is John Dolce, 11175 Caddie Lane,  
 12 Concord, Ohio, and I am representing Lakeland Realty.  
 13 MR. MEDINGER: So I just want to start by handing  
 14 you, showing you guys the signage that was approved previously.  
 15 That is two of the signs are already constructed. They don't  
 16 have panels on them yet though. And you can see, at the  
 17 bottom, those are the Lakeland Realty tenants. So, as you can  
 18 see, the sections at the, at the bottom are much smaller than  
 19 the panels up above.  
 20 The parcel where the sign we're proposing, the  
 21 additional sign, to go is owned by Lakeland Realty, which is  
 22 under ground lease by Crile Road Partners. That being said,  
 23 where we would like to add a second sign would be on the south  
 24 side of the southern turn lane right here. It would be exactly  
 25 parallel to the current sign that is already there.  
 26 Following off of that, I was going through the Zoning  
 27 Resolution and I came across Section 30.06 which it gives  
 28 classifications for large campuses. And what I found is that  
 29 our property is 12.08 acres, which is just north of the 10 acre  
 30 requirement to be classified as a large campus. We do have

1 discussion to the Board. No discussion from anyone. The  
 2 question is on the approval of Variance Number 2017-6 with the  
 3 stipulations we noted. A yes vote approves the variance, a no  
 4 vote denies it.  
 5 Please call the vote, Heather.  
 6 MS. FREEMAN: Mr. Valentic?  
 7 CHAIRMAN VALENTIC: Yes.  
 8 MS. FREEMAN: Mr. Hamilton?  
 9 MR. HAMILTON: Yes.  
 10 MS. FREEMAN: Mr. Sweeney?  
 11 MR. SWEENEY: Yes.  
 12 MS. FREEMAN: Ms. Jarrell?  
 13 MS. JARRELL: Yes.  
 14 MS. FREEMAN: Mr. Rowe?  
 15 MR. ROWE: Yes.  
 16 MR. GUTOSKY: Thank you for your time.  
 17 CHAIRMAN VALENTIC: Thank you. Your variance is  
 18 approved.  
 19 MR. DAVIS: Thank you.  
 20 CHAIRMAN VALENTIC: See Heather before you go.  
 21 MR. DAVIS: Thank you for all your time.  
 22 MS. JARRELL: Thank you for calling us gracious.  
 23 MR. ROWE: We don't hear too much of that.  
 24 CHAIRMAN VALENTIC: No, we don't. All right.  
 25 MS. JARRELL: Good night.  
 26 MR. SWEENEY: Looking forward to Lot 102.  
 27 CHAIRMAN VALENTIC: Yeah. Next is Variance Number  
 28 2017-7, Lakeland Realty is requesting a variance from  
 29 Section 30.05 and 30.05(D)(4) to allow for a second  
 30 freestanding sign, in lieu of the one freestanding sign

1 multiple buildings that are already constructed there and there  
 2 are more that will be constructed with the -- in the next year  
 3 or so.  
 4 And that being said, Lakeland Realty's buildings are  
 5 set back off the street so far that you would not be able to  
 6 visibly see the entire building. And Lakeland Realty had  
 7 signage that was taken down previously to accommodate our other  
 8 signs being approved.  
 9 MR. DOLCE: I am sure you have all seen these.  
 10 MR. MEDINGER: As you can see on that picture, the  
 11 sign -- their signage is much larger than what, you know, was  
 12 approved on the Crile Crossing signage. That being said, if  
 13 you look at what was approved and what they've had for so long,  
 14 you know, it really, in terms of, you know, visibility, driving  
 15 by, you know, you wouldn't be able to see those tenants  
 16 necessarily if you were to look at the bottom, you know, to see  
 17 the smaller writing and small print.  
 18 So what we would like to do is, you know, we propose  
 19 to install this sign which would clearly show, you know, all of  
 20 the tenants that are for the Lakeland Realty buildings nice and  
 21 clear. It would be set back.  
 22 MR. DOLCE: I am going to show them this one here.  
 23 MR. MEDINGER: Okay. Go ahead.  
 24 MR. DOLCE: This is where the sign would be in  
 25 reference to the other one that is existing. We are just going  
 26 to have it on our property set back a little bit so that people  
 27 coming down from both sides can see my tenants in the back,  
 28 also.  
 29 MR. SWEENEY: Is this sign in the background in that  
 30 photo?

1 MR. MEDINGER: Yes.  
 2 MR. DOLCE: Yes, right there.  
 3 MR. MEDINGER: That sign has been taken down though.  
 4 MR. DOLCE: We took it down today.  
 5 MR. SWEENEY: Okay.  
 6 MR. MEDINGER: And I think one of the issues that may  
 7 come up would be visibility. And as we see here, the stop sign  
 8 for where traffic would stop coming onto Crile Road is right  
 9 here. The signage is set back over here. So it really  
 10 wouldn't cause any visibility problems for, you know, traffic  
 11 coming this way or coming out of the center. And that was, you  
 12 know, one of the major things that, you know, I, reading  
 13 through the Resolution, I could see being a problem coming up.  
 14 And that being said, you know, I think aesthetically, you know,  
 15 it makes a big difference with that.  
 16 MR. DOLCE: Cosmetically, we'd like to keep it the  
 17 same with the new structures going up front. We just want to  
 18 make everything look nice on that street. We are trying to  
 19 make it appealing. So, cosmetically, the new sign would look  
 20 very appealing to our tenants and also people going up and down  
 21 Crile.  
 22 CHAIRMAN VALENTIC: Heather, I just want to enter --  
 23 these weren't in the packet, that these get put with this  
 24 variance as part of our record.  
 25 MS. FREEMAN: Okay, yes.  
 26 CHAIRMAN VALENTIC: I just -- I am a little bit  
 27 confused so I just want to make sure. So the sign that's there  
 28 now, you would put them here?  
 29 MR. MEDINGER: No.  
 30 CHAIRMAN VALENTIC: You wouldn't put --

1 MR. MEDINGER: No, we would not.  
 2 MR. DOLCE: If you had to put them on, you would put  
 3 them down there at the bottom.  
 4 MR. MEDINGER: Correct, correct. If we were not  
 5 approved tonight, we would go with that sign. But if we were  
 6 approved for this signage right there, they would not be put  
 7 on --  
 8 CHAIRMAN VALENTIC: That sign.  
 9 MR. MEDINGER: -- that Crile Crossing sign. They  
 10 would be on this signage.  
 11 MR. DOLCE: What we are trying to do is accommodate  
 12 our new tenants coming into the new building that we are doing  
 13 and also take care of my tenants in the back.  
 14 CHAIRMAN VALENTIC: Yeah.  
 15 MR. DOLCE: Because I really don't want to make their  
 16 signage any smaller.  
 17 MS. JARRELL: I venture to say that that's going to  
 18 become dangerous because people are going to slow down to read  
 19 something on it and --  
 20 MR. MEDINGER: It just wouldn't be very legible.  
 21 MR. DOLCE: The smaller ones, yeah.  
 22 MS. JARRELL: Yeah, so busy.  
 23 CHAIRMAN VALENTIC: Yeah. I had another question.  
 24 The setback, what's -- maybe talk -- You didn't talk about the  
 25 setback.  
 26 MR. MEDINGER: Off of --  
 27 CHAIRMAN VALENTIC: The property line.  
 28 MR. MEDINGER: -- the adjoining, off the adjoining  
 29 property?  
 30 CHAIRMAN VALENTIC: Uh-huh.

1 MR. MEDINGER: So, pretty much, it would be buffered,  
 2 you know, back here with the turn lane coming this way. And, I  
 3 mean, it's really, with the Lakeland driveway that's already  
 4 installed coming this way, there really is no room to push  
 5 further away from that property line. So 10 feet, you know, is  
 6 right around, you know, that's as close as you could get to  
 7 that, to that turn lane.  
 8 MR. DOLCE: Again, if it's -- I see what you are  
 9 saying. It doesn't have to be as close. We can actually move  
 10 it back, if we have to, away from Crile.  
 11 CHAIRMAN VALENTIC: So there is less of a variance  
 12 request then?  
 13 MR. DOLCE: From the frontage, from the front of it.  
 14 We still need the variance from the side.  
 15 MS. JARRELL: Twenty-five feet.  
 16 MR. DOLCE: So, again, just moving back so if they  
 17 were concerned with the visibility of both signs.  
 18 CHAIRMAN VALENTIC: And this may be a silly question.  
 19 Thank you for everyone being patient tonight. I'm not to  
 20 trying to drag this out. But you guys came in for site plan  
 21 review, came in for conditional use permits, I think, right,  
 22 for this property previously. Was -- What happened? I mean,  
 23 we looked at sign locations before. This was never brought up.  
 24 MR. DOLCE: Right.  
 25 CHAIRMAN VALENTIC: So I am assuming you always  
 26 thought you were going to be doing this and now we are changing  
 27 our mind. Just walk us through so we understand what happened.  
 28 MR. DOLCE: Looking at the signage when it first went  
 29 up, the two signs that we have now -- And, actuality, me being  
 30 in the back and in the front, I didn't realize the signs were

1 going to be as small as they were up front. In fact, we  
 2 thought they would be a little bit bigger. For some reason or  
 3 other, they just -- the signage just isn't enough for the  
 4 people, my tenants in the back.  
 5 And then when I saw that and was talking to Lance, we  
 6 thought that, if it was possible to put up another sign for my  
 7 tenants in the back, it would be helpful. Again, like, we have  
 8 semis coming in the back. They're having issues now because,  
 9 again, the big sign is down. They don't see anything and then  
 10 see a smaller De Nora Tech in the back with semis. It could be  
 11 a dangerous situation, them looking for an address because now  
 12 we don't have an address on that sign because it is a different  
 13 address versus the address up front. Our address in the back  
 14 is 7661 versus the --  
 15 MS. FREEMAN: 7665.  
 16 MR. DOLCE: Pardon me?  
 17 MS. FREEMAN: What's the address there?  
 18 MR. DOLCE: 7661.  
 19 MS. FREEMAN: Or 7665?  
 20 MR. DOLCE: Well, you know what? There is a question  
 21 on that. Yeah, there was a concern. I have to really find  
 22 out. But when we did all these parcels, when we broke them  
 23 down, our address is really 7661. That's what we --  
 24 CHAIRMAN VALENTIC: I just have one, I have one  
 25 other -- And I am, maybe, I am thinking too far outside the box  
 26 on this. The signs are nice but, I mean, for me visually when  
 27 I look at it, all those signs, to me, is obtrusive to the  
 28 landscape. I don't think, you know, having three signs, to me,  
 29 down that corridor when we already have a lot of utility poles,  
 30 light poles, a ditch, I mean, I am looking at it in the fact

1 that I don't really want to see another sign there. I feel  
2 like maybe we already have too many signs or some of these  
3 signs are too big.

4 MS. JARRELL: Well, it is, it is kind of a campus  
5 because it's a convergence of three parcels. We've got  
6 industrial in the back, we've got the commercial in the front,  
7 and they all have a right to be signed.

8 CHAIRMAN VALENTIC: Agreed. What I was going to get  
9 to is -- and maybe you guys have thought of this -- could the  
10 one sign that's on the one that's built be the front tenants  
11 and then this other new sign that's being built be for the  
12 people in the back because it's by this entrance anyway?

13 MR. DOLCE: Well, it's not really, it's not really  
14 set up that way. I don't know if you have the way the campus  
15 is going to be built.

16 CHAIRMAN VALENTIC: Yeah, I am familiar with it.  
17 Yeah, we have got drawings.

18 MR. DOLCE: Okay. Hopefully, we have another  
19 building actually coming in. Hopefully, we have a building  
20 that was going to come up front, another 4,000 square foot  
21 building.

22 MR. MEDINGER: It would be the, the southern most  
23 building.

24 MR. DOLCE: It would be on the opposite of the  
25 Starbucks that we built. So we are going to have the  
26 Starbucks. Hopefully, we have another tenant and then we have  
27 the building and then a building and then mine are in the back.  
28 So, again, it is a different campus and signage could be an  
29 issue, again, for us in the back.

30 CHAIRMAN VALENTIC: So you don't think we could --

1 CHAIRMAN VALENTIC: Okay. Anyone else have any  
2 questions?

3 MR. SWEENEY: I agree with Ivan. I mean, I don't  
4 have a problem with signs, I just don't. I mean,  
5 aesthetically, they're very attractive. But if you are  
6 anything like me and you drive past an area where you are  
7 trying to get to an address and you see all of these names,  
8 it's a danger.

9 MS. JARRELL: But the numbers will be on top.

10 MR. SWEENEY: I understand. Well, I get that. And  
11 that's what numbers are for, is you could spot a number ten  
12 times faster than you can -- I mean, just look at this sign and  
13 read down the list. Your eyes are off the road longer than  
14 looking at your cell phone.

15 MR. DOLCE: You mean the smaller one or the  
16 additional one?

17 MR. SWEENEY: Any one. It's just a comment. I don't  
18 know if you've thought of that or has anyone else had that  
19 problem.

20 MS. JARRELL: Do you have to have all of those small  
21 panels?

22 MR. MEDINGER: I mean, if that's -- If it was fully  
23 leased, the Crile Crossing was fully leased, then all the  
24 panels would be utilized.

25 MR. SWEENEY: For someone --

26 MS. JARRELL: I understand what you are saying.

27 MR. SWEENEY: You know the point.

28 MS. JARRELL: I mean, to list every tenant out there  
29 in front, you know, when you are looking at the plaza, you can  
30 see who is there.

1 the sign that's constructed out there now, that one couldn't be  
2 used for the stuff that's in the back and then the other  
3 constructed sign by Starbucks couldn't be for the buildings up  
4 front, is what I am asking?

5 MR. DOLCE: No. Again, the situation were we're very  
6 -- being very tentative towards Starbucks. They want to be on  
7 all of them.

8 MS. JARRELL: They are going to require that for  
9 sure.

10 MR. DOLCE: And I am not in a position that I would  
11 like to upset them. I mean, they want -- I mean, they're the  
12 anchor.

13 MS. JARRELL: They are.

14 MR. DOLCE: Without them, I don't think we would be  
15 in the position where we are right now getting more tenants.  
16 So they want to be on this sign. They want on that sign.  
17 So we are going --

18 MS. JARRELL: And if they're offset a little bit, I  
19 mean, they are aesthetically pleasing with the brick and what  
20 have you.

21 MR. DOLCE: Well, it's a heck of a lot more pleasing  
22 than what I had.

23 MS. JARRELL: I mean, you know, you've got to have  
24 another monument there but they are nice.

25 MR. DOLCE: And they'll be landscaped and, you know,  
26 they will, again, it will be a lot nicer appealing than what  
27 we've had.

28 MS. JARRELL: They will be landscaped?

29 MR. DOLCE: Yes, oh, yes.

30 MS. JARRELL: Excellent.

1 CHAIRMAN VALENTIC: That's my thing.

2 MS. JARRELL: Yeah, I know.

3 CHAIRMAN VALENTIC: I don't know. I didn't see a  
4 reason that all the names needed to be on there in the first  
5 place if you're -- I'm going to look for 7665.

6 MS. JARRELL: Even better if it says "Crile Crossing"  
7 and then had the address.

8 CHAIRMAN VALENTIC: And that would be it.

9 MR. DOLCE: Well, the one right now in front of  
10 Starbucks does have "Crile Crossing" on it.

11 MR. MEDINGER: Can I answer your question, I think, a  
12 little bit better? To sign, to bring a tenant in, you know, to  
13 sign a lease with the tenant, nine out of ten times they want  
14 signage. They want signage right on the road so that people  
15 know. If you are driving by, you don't have to necessarily be  
16 looking hard right to see, you know, all the tenants that are  
17 there. You can drive by and, you know, you have signage right  
18 there that you can see.

19 MR. DOLCE: You know, and there's deliveries and  
20 everything else that people, you know, mailmen, they have to,  
21 you know, everyone has got to know where these building are.

22 MS. JARRELL: I get the industrial. I think that's  
23 crucial. But as far as, you know, you've got a bunch of  
24 tenants over there. You are going to start Phase 2 at some  
25 point. Some of those tenants are more important than others  
26 and you can negotiate that in the leases as to who is going to  
27 be on that monument.

28 So I do think it's busy and I do think it -- I mean,  
29 I said it already -- I think it could be dangerous looking at  
30 all those. The industrial, there is not so many. But with the

1 retail -- I don't know. I just think maybe something else  
 2 could be done. I don't have a problem with having two signs.  
 3 MR. SWEENEY: I just think --  
 4 CHAIRMAN VALENTIC: Well, we have three signs.  
 5 MR. SWEENEY: -- the volume on the road.  
 6 MS. JARRELL: Well, at Starbucks, yes.  
 7 CHAIRMAN VALENTIC: Yeah. We have that one, another  
 8 one and then two at this entrance. So there is three total.  
 9 That's why my suggestion was, could we just have the one at  
 10 Starbucks, at that entrance, and it as all the tenants listed  
 11 on there, and then at this other entrance you would just have  
 12 the commercial only.  
 13 MR. DOLCE: We are not going to have -- The tenants  
 14 is going to be the building behind them. There is another  
 15 building eventually going behind Starbucks.  
 16 MS. JARRELL: Right.  
 17 MR. MEDINGER: There's two buildings that are not yet  
 18 constructed.  
 19 MR. DOLCE: Right. We still have construction of two  
 20 more buildings with multiple tenants.  
 21 CHAIRMAN VALENTIC: Yeah. Okay. Have you got  
 22 anything, Jim?  
 23 MR. ROWE: No. That's, as I say, it's a challenge.  
 24 I don't know. I think when people are looking generally for  
 25 things, they have some idea of the address or whatever. I  
 26 mean, I am not buying too much on that road that you are going  
 27 to be that distracted. I mean, you can figure it out.  
 28 CHAIRMAN VALENTIC: I think I said my piece for the  
 29 discussion. Anyone else have any questions for these guys?  
 30 MR. HAMILTON: It's a large variance. I mean, that's

1 my only comment.  
 2 CHAIRMAN VALENTIC: The setback variance, too.  
 3 MR. HAMILTON: Yes.  
 4 CHAIRMAN VALENTIC: On top of also allowing the third  
 5 sign.  
 6 MR. HAMILTON: Right.  
 7 MS. JARRELL: But if you look at if you look at -- We  
 8 will be doing discussion, nevermind.  
 9 CHAIRMAN VALENTIC: I just want everyone to know  
 10 there is two variances that we're approving.  
 11 MR. HAMILTON: Yep.  
 12 CHAIRMAN VALENTIC: Okay. You guys can be seated.  
 13 MR. MEDINGER: Thank you.  
 14 CHAIRMAN VALENTIC: Is there anyone else here  
 15 speaking for or against this appeal? If there's no further  
 16 questions, the public hearing for Variance Number 2017-7 is now  
 17 closed to the public. I will entertain a motion to approve  
 18 Variance Number 2017-17.  
 19 Can I add the stipulation that they're, they're  
 20 willing to move the sign back if the Board wishes or should we  
 21 just wait for the discussion?  
 22 MS. LANDGRAF: Did they state on the record they  
 23 would?  
 24 CHAIRMAN VALENTIC: Yeah, they said on record they  
 25 would be willing to move it back. I don't know if --  
 26 MS. LANDGRAF: Well, they would have to agree to  
 27 amend it.  
 28 CHAIRMAN VALENTIC: Okay.  
 29 MS. LANDGRAF: To the 10 feet back, I guess.  
 30 CHAIRMAN VALENTIC: Maybe we will just leave it for

1 the discussion. We'll approve the variance as it is now. Can  
 2 I get a motion?  
 3 MS. JARRELL: So moved.  
 4 MR. ROWE: Second.  
 5 CHAIRMAN VALENTIC: Okay. Discussion on the Board?  
 6 MS. JARRELL: I would just contend that I agree with  
 7 you about this campus. We have 12 acres. It's essentially a  
 8 mixed use project, you know, is what it comes down to. I mean,  
 9 we've got industrial, we've got retail. And it, you know, why  
 10 it wasn't presented on the original site plan, who knows? It  
 11 may have been an oversight.  
 12 CHAIRMAN VALENTIC: Yeah, I think that's the crux of  
 13 it. It was never caught up front, you know. There is -- And  
 14 now we are trying to find a way to address it.  
 15 MS. JARRELL: We are always doing this.  
 16 CHAIRMAN VALENTIC: Yeah. So we've got to move on  
 17 from that and figure a way that we could maybe address this  
 18 situation. That's the reason I threw out some other ideas to  
 19 try to maybe soften the blow.  
 20 MS. JARRELL: Well, and, again, I would contend that  
 21 we are dealing with a campus. So maybe, you know, the fact  
 22 that they're having multiple signs is not a variance request.  
 23 What do you think?  
 24 MS. FREEMAN: I am sorry. I just have to interject  
 25 with that.  
 26 MS. JARRELL: Yeah, please.  
 27 MS. FREEMAN: The Zoning Commission would have to  
 28 review an application for a large campus for signage.  
 29 CHAIRMAN VALENTIC: Right. So, apparently, they're  
 30 not classified --

1 MS. LANDGRAF: First of all, the Zoning Inspector  
 2 would have to determine that it is a large campus.  
 3 MS. JARRELL: Okay.  
 4 MS. LANDGRAF: And then the Zoning Commission would  
 5 have to approve an additional sign. That's not before us  
 6 tonight. It has to be treated as what it is currently  
 7 considered.  
 8 CHAIRMAN VALENTIC: Thank you for the clarification.  
 9 MR. HAMILTON: So I will just interject. I mean, the  
 10 zoning is clear. I mean, I do find these obtrusive. The fact  
 11 that there are three and not two, I think it's a, it's a  
 12 stretch.  
 13 MS. JARRELL: I think we have tenants in this  
 14 community that are important. The ones in the back, the  
 15 industrial, are vital and truckers and visitors are all going  
 16 to be looking for them, and it's the same with the retail  
 17 tenants. We are inviting development in this community.  
 18 They're doing a really nice job. And, you know, I think if  
 19 they offset it, that it's -- and landscape it, that it's really  
 20 not going -- nobody is going to notice it. Nobody is going to  
 21 notice that, oh, there is three signs over there. It would  
 22 really look better if there were two. That's ridiculous.  
 23 MR. HAMILTON: It can be done with two, I think  
 24 that's the point. Those objectives could be met with two  
 25 signs.  
 26 MS. JARRELL: Well, I understand what you are saying.  
 27 But we have industrial and we have retail, they're different.  
 28 And there is going to be different folks looking for that  
 29 signage with the address for the industrial and they need to be  
 30 able to see it, and the same with the retail.



1 CHAIRMAN VALENTIC: Yeah, I get where you are coming  
2 from, Chris. The one thing that kind of helps that situation  
3 or makes the case for that is that this Building 4 is, kind of,  
4 up front in that corner there, changing that, you know, hiding,  
5 kind of, in front of some of those buildings as opposed to --  
6 And even if we shift that sign back 5 feet, I mean --

7 MR. HAMILTON: It's not going to matter.

8 CHAIRMAN VALENTIC: I mean, it's not going to matter.  
9 Instead of a 10 foot, it's a 12 foot variance. At that point,  
10 I mean, it's still a substantial variance. I don't think there  
11 is really a huge benefit. I don't think it makes the sign any  
12 better for them.

13 So I just say leave the sign where it's at, where,  
14 you know, where we approve, if we approve and we vote, that  
15 it's voted on as the sign in the current location as shown.

16 Jim, do you guys have anything for the discussion?

17 MR. ROWE: I agree that, as I say, we're -- We got a  
18 lot of stuff in the area. And I think once it's set and  
19 landscaped, everything starts cleaning up and stuff, it will  
20 all come together all right.

21 CHAIRMAN VALENTIC: Skip, have you got anything?  
22 You're good? All right. Anyone else on the Board? The  
23 question is on approval of Variance Number 2017-7. A yes vote  
24 is for the approval of the variance, a no vote denies the  
25 variance.

26 Heather, please call the vote.

27 MS. FREEMAN: Mr. Rowe?

28 MR. ROWE: Yes.

29 MS. FREEMAN: Ms. Jarrell?

30 MS. JARRELL: Yes.

1 go through them briefly. Exhibit A is the vicinity map.  
2 Exhibit B is pictures of the site. Exhibit C is the site plan.  
3 Exhibit D is the letter from Concord Township regarding the  
4 need for a variance. Exhibit E is the letter from Barrington  
5 Consultants, our engineer, regarding the percentage of  
6 encroachment. Exhibit F is a letter from HZW, our  
7 environmental consultant, regarding the quality of the creek  
8 and the wetlands on the property. Exhibit G is the house  
9 plans. And Exhibit H is the variance statement that I included  
10 in our application packet.

11 The property is located, as you can see on Exhibit A,  
12 at the corner of Hermitage and Girdled Road.

13 Exhibit B are pictures of the site location so you  
14 can get a feel for the area.

15 And Exhibit C is the site plan and it shows the  
16 location of our proposed home and the required setback from  
17 both the creek and the outermost boundary of the wetlands, and  
18 it's a 30 foot requirement due to the fact that the creek is  
19 located within a wetland boundary. And so what I would like to  
20 point out is, as you can see, it's kind of difficult to discern  
21 the setback line, but from the creek we actually satisfy the 30  
22 foot distance. What we don't satisfy is the portion that is  
23 required to be from the outermost bound of the wetlands. So  
24 the corner of the home and the garage are actually within the  
25 30 feet, 30 foot setback on the boundary of one of the wetlands  
26 but it does satisfy the portion outside the creek, if that  
27 makes sense.

28 CHAIRMAN VALENTIC: Yes.

29 MS. HALL: It's kind of difficult to see but if you  
30 -- I can point it out. So the creek is located right here and

1 MS. FREEMAN: Mr. Sweeney?

2 MR. SWEENEY: Yes.

3 MS. FREEMAN: Mr. Hamilton?

4 MR. HAMILTON: No.

5 MS. FREEMAN: Mr. Valentic?

6 CHAIRMAN VALENTIC: No.

7 Your variance has been approved. Please see Heather  
8 before you leave. Thank you.

9 MR. MEDINGER: Thank you.

10 CHAIRMAN VALENTIC: Okay. Next on the agenda is  
11 Variance Number 2017-8, Ms. Gillian Hall, representing B. R.  
12 Knez Construction, Inc., is requesting a variance from  
13 Section 17.04(D)(4) and 17.07(A) to allow for construction of a  
14 dwelling and related soil-disturbing activities with a zero  
15 foot riparian setback, in lieu of the 30 feet required, for the  
16 property located at 8363 Hermitage Road and being Permanent  
17 Parcel Number 08-A-024-0-00-040-0.

18 Please come up and present your case.

19 MS. HALL: My name is Gillian Hall. I am counsel for  
20 Knez Homes. Our address is 7555 Fredle Drive, Suite 210,  
21 Concord, Ohio 44077. And for ease of the record, I would like  
22 to introduce the exhibits that we will be referring to tonight  
23 in our presentation.

24 CHAIRMAN VALENTIC: Do you have a copy for Heather,  
25 too?

26 MS. HALL: I do.

27 CHAIRMAN VALENTIC: Heather, this will become part of  
28 the record for their submission as well.

29 MR. SWEENEY: Were these included in the packet?

30 MS. HALL: Some of them were included. I will just

1 the setback from the creek, the 30 feet out here. Because the  
2 creek is located in the wetland boundary, we have to maintain  
3 30 feet from all edges of the wetland. As you can see, the  
4 wetlands take up the majority of the parcel. So what we're  
5 asking to encroach on comes to about 12 percent of the total  
6 setback requirement that we need to maintain.

7 And you can see that as it -- In Heather's, the  
8 Zoning Inspector's letter, Exhibit D it's saying that we're  
9 asking or for a zero feet riparian setback. We are maintaining  
10 it over a good portion of the site.

11 In Exhibit E, our engineer calculated the actual  
12 distance of the total setback and what's required is .3943  
13 acres. We're only disturbing .0460 acres, which is 12 percent  
14 of the total setback. So we don't believe that our request is  
15 substantial because it's a mere 12 percent of the total.

16 If you look at -- I will let Ben, from HZW, discuss  
17 his letter in a bit but Exhibit G is the home that we're  
18 proposing to build on the lot, and we think that that is  
19 consistent with what's in the neighborhood. And we're asking  
20 for relief from the riparian setback because we don't believe  
21 it would be consistent with the neighboring properties if we  
22 asked for relief from the front yard setback or other required  
23 setbacks. So we are asking for the riparian setback in order  
24 to keep the line of the street consistent. We believe that  
25 will, you know, fit better with the characteristic of the  
26 neighborhood.

27 And without the variances tonight, we would have no  
28 use of the property. So as you can see, the wetlands take up  
29 such a substantial portion of the property, we wouldn't be  
30 really be able to do much.

1 CHAIRMAN VALENTIC: Is this the -- This is the actual  
 2 footprint of the home that you are building there?  
 3 MS. HALL: Yes, it is.  
 4 MS. JARRELL: Is this home sold?  
 5 MS. HALL: We have not sold it yet because we didn't  
 6 want to sell it to anyone unless we know for a fact that we are  
 7 able to build it. We have a lot of interest in it but we just  
 8 haven't --  
 9 MS. JARRELL: Is it being built on spec?  
 10 MS. HALL: That's what we are going to do. That's  
 11 what we plan to do but we do have interest in it. So it may  
 12 end up selling once, you know, we have confirmation that we can  
 13 build it.  
 14 MS. JARRELL: And when did Mr. Knez buy the property?  
 15 MS. HALL: Well, we signed a purchase agreement prior  
 16 to the enactment of the riparian setback. But due to the lot  
 17 split process, it wasn't completed until after the ordinance  
 18 was enacted.  
 19 CHAIRMAN VALENTIC: So this was part of a bigger  
 20 parcel? This is just, this is one --  
 21 MS. HALL: Other things have been sold off.  
 22 CHAIRMAN VALENTIC: When you guys did the lot split,  
 23 were you guys aware of the wetlands at that time?  
 24 MS. HALL: The wetlands?  
 25 CHAIRMAN VALENTIC: Yeah. The stream and the wetland  
 26 feature when you split the lot.  
 27 MS. HALL: We were aware of the wetlands.  
 28 UNIDENTIFIED FEMALE SPEAKER: Not the riparian.  
 29 MS. HALL: Not the riparian, you know, it doesn't  
 30 exist when we started.

1 CHAIRMAN VALENTIC: But when you split the lots. So  
 2 when you split the lots, you are looking at creating buildable  
 3 lots, right? I'm just -- And I am just trying to understand.  
 4 That's why I am asking these questions. So when you split the  
 5 lots, you are trying to create buildable lots where you could  
 6 parcel off and sell homes. At that time when you split them,  
 7 the riparian code was in place or was --  
 8 MS. HALL: When the lots were actually split, it had  
 9 been in effect at that point; but when we started the process,  
 10 was not in effect because it took us a while to do it.  
 11 CHAIRMAN VALENTIC: Yeah, okay.  
 12 MS. JARRELL: When was the purchase contract signed?  
 13 MS. HALL: I don't remember the date off the top of  
 14 my head.  
 15 UNIDENTIFIED FEMALE SPEAKER: Long before the  
 16 riparian.  
 17 MS. HALL: It was, it was --  
 18 CHAIRMAN VALENTIC: If you are going to speak, you  
 19 have to come up.  
 20 MS. HALL: We had significant delays because we had  
 21 to get soil inspections, so all of that had to be done.  
 22 MS. JARRELL: So you were doing your due diligence.  
 23 MS. HALL: Yeah, we were -- we had been doing that  
 24 for months and so we had finally reached a point where we had  
 25 everything approved. The lots were split or I think that we  
 26 had 26 -- it was split 26 days after the enactment. So we were  
 27 doing due diligence. We had everything done based on our due  
 28 diligence studies and then it was split.  
 29 MS. JARRELL: I would think due diligence would  
 30 include finding out what the Zoning Resolution is all about.

1 And, I mean, Mr. Knez has, you know, been building homes in  
 2 Concord for a long time.  
 3 MS. HALL: Yeah. But, I mean, you can't dictate how  
 4 quickly you can get somebody out to the site and there was  
 5 weather conditions that we couldn't -- You know, we can't  
 6 predict when we are going to be able to have our soil studies  
 7 done, when we are going to be able to submit to the Health  
 8 Department for septic approval. I mean, all of that stuff  
 9 takes time and a lot of that is out of our control. So, I  
 10 mean, we tried to move as quickly as we possibly could but,  
 11 obviously, sometimes things are outside of our control.  
 12 CHAIRMAN VALENTIC: So it's still not clear to me  
 13 then. So when you, when you split the lots, did you know there  
 14 was wetlands on site when you split the lots, all these -- How  
 15 many did you create, six? five? I forgot what you said.  
 16 MS. HALL: It's six.  
 17 CHAIRMAN VALENTIC: Six sublots. So when you split  
 18 the six sublots from the big lot, did you know there was  
 19 wetlands on site when you did that split and that you would  
 20 have to work around them?  
 21 MS. HALL: The wetlands, yes, we knew that there were  
 22 wetlands on site.  
 23 CHAIRMAN VALENTIC: And I didn't, obviously, didn't  
 24 see the lot split submittal but there's some submittal to the  
 25 county, right? Do they show -- I am a little familiar. But do  
 26 you show the septic? Do you have to show septic and you had to  
 27 show the building location on that lot split?  
 28 MS. HALL: Yes.  
 29 CHAIRMAN VALENTIC: Okay.  
 30 MS. HALL: So, I mean, we had everything. And I

1 don't know if that's -- That may be a little bit outside the  
 2 bounds of our hearing tonight because we are here for --  
 3 CHAIRMAN VALENTIC: No, I'm not trying -- I just want  
 4 to understand what your under -- what you guys knew about the  
 5 property at the time when you split the lots. That's all I was  
 6 trying to --  
 7 MS. HALL: Yeah, we did have to have that all laid  
 8 out for Lake County when we submitted our applications for the  
 9 split.  
 10 CHAIRMAN VALENTIC: But obviously, at that time, you  
 11 didn't realize that there was riparian setbacks that impacted  
 12 that when you looked at it. Was the -- Has the septic system  
 13 been approved that's shown on here?  
 14 MS. HALL: Everything has been approved, you know. I  
 15 think we have to go back individually for each lot. And so  
 16 we've had all that submitted because we would like, you know,  
 17 to build it as a spec home.  
 18 CHAIRMAN VALENTIC: Does anybody else have questions  
 19 for her?  
 20 MR. ROWE: Not at this moment, no.  
 21 MS. HALL: You can explain --  
 22 CHAIRMAN VALENTIC: Any questions? Is there anyone  
 23 else that wants to come up and present?  
 24 MR. NOVAK: Good evening. My name is David Novak,  
 25 from Barrington Consulting Group. The address is 9114 Tyler  
 26 Boulevard, Mentor, Ohio. And I have been sworn in.  
 27 Sitting through this meeting for the last two and a  
 28 half hours, you know, we've heard a lot of, you know, about  
 29 riparian setbacks and high water marks and various other  
 30 things. And a couple of things that I took away from all this,

1 sitting here for the last two and a half hours, was that I  
2 heard the word "compromise" quite a few times. I also heard,  
3 you know, the amount of variance or, you know, the percentage  
4 of variance.

5 And the only thing that I would like to point out is  
6 that this particular lot, as it sits today, is 80,869 square  
7 feet. Out of that 80,869 square feet, when you take into  
8 account the wetland and then you add on top of that the 30 foot  
9 buffer that's required by the Township code, that unusable area  
10 is 60,914.97 square feet, which is 75 percent of this parcel.  
11 Because of governmental regulations as far as wetlands go,  
12 local regulations because of setbacks for wetlands and so  
13 forth, 75 percent of this lot isn't usable.

14 And what we're asking for, the amount of area of the  
15 total square footage is really only 3 percent that we're going  
16 to be affecting by this variance if you look at the entire lot,  
17 so it's minimal. Again, I heard Mr. George Lunka talk about  
18 the house over there in Noble Ridge, that it was 9 square feet,  
19 you know. And if you take -- I forget what he said the house  
20 was, 3,000 square feet, you know, that 9 square feet is a very  
21 small percentage. Just like this, this effect is 3 percent of  
22 this entire lot. But because of all these regulations and all  
23 this stuff that's imposed upon this lot, 75 percent of it can't  
24 be used.

25 MS. JARRELL: But Mr. Knez knew that.

26 MR. NOVAK: Well, Mr. Knez knew about the wetlands.  
27 Okay? And when this, when this property was originally  
28 proposed to be subdivided, it was -- They bought it, the intent  
29 was to divide it into seven lots. And because of the, you  
30 know, the wetland configuration and so forth, and as Gillian

1 mentioned, you know, the time frame -- Because the process to  
2 get a lot split or piece of property divided, the process is,  
3 again, first you have to lay it out to make sure that it means  
4 meets the code. You have look at the wetlands and so forth.  
5 You have to go, you know, you have to hire soil scientists and  
6 they do the soil borings on the lot to determine where on those  
7 -- on that property is suitable for septic systems.

8 So we laid out a development plan showing seven lots.  
9 Then based on the soil work that came back, we reconfigured it,  
10 we lost a buildable lot to make this, this project viable. We  
11 lost a lot. And in the interim -- And if I am not mistaken I  
12 think the lot split, the actual lot split took place like 26  
13 days after Concord enacted the rule for the setbacks.

14 Again, the setback that we're really talking about is  
15 a setback from the wetland. And if there wasn't a creek on  
16 here, the Concord code, as I understand it, would not even  
17 apply. But because there is this small, little creek, that's  
18 why it imposes the setback on the wetland. So, again, it's  
19 another layer of, in my opinion, the taking of the property.

20 CHAIRMAN VALENTIC: I have a question or maybe I am  
21 confused as to what was said earlier. So this lot split was  
22 approved after the riparian regulations were in place?

23 MR. NOVAK: That is my belief.

24 MS. HALL: Yes, it was.

25 MR. NOVAK: The purchase agreement, we actually  
26 started on this project back in late 2014. So, again, because  
27 we did different feasibility studies. We looked at, you know,  
28 trying to service it with sanitary sewer, water, water  
29 available -- availability, we had to extend the water from down  
30 by Mount Royal, up and around, down Girdled Road. So, again,

1 we had to go -- There were a lot of things that had to happen  
2 to be able to, in our mind, divide the property.

3 CHAIRMAN VALENTIC: Sure. So when was the lot split  
4 submitted and then approved? When was it submitted?

5 MR. NOVAK: Well, I guess I have to go back and look  
6 at the records because, again, the process is in order -- First  
7 of all, we have to make sure that we meet the minimum lot sizes  
8 for Concord and then we also have to get our soil work done, we  
9 have to submit it -- we submit it to the Lake County Health  
10 Department. We have to lay, physically, lay out on the  
11 property where all the septic systems go, where all the homes  
12 are going to go and so forth. Then the Health Department has  
13 to come out and do a site inspection and they have to approve  
14 or disapprove those locations.

15 And the first time that we went through the process,  
16 they didn't approve it. That's when we had the seven lots. So  
17 then we went to the six lots. We had to go back through that  
18 whole process, fill out the applications again, restake  
19 everything on the property and then have the Health Department  
20 come back out and give us their approval or -- It's not a  
21 formal approval but it's an indication that these lots could be  
22 built on based on the information that we provided them and  
23 their site visits.

24 CHAIRMAN VALENTIC: How much -- The 3 percent is the  
25 total parcel area?

26 MR. NOVAK: If you look -- Right. If you look at the  
27 little, this little shaded area right here, that's 3 percent of  
28 the entire lot.

29 CHAIRMAN VALENTIC: What percentage of that is --  
30 What percent of the setback is that? You are not impacting, I

1 am assuming, you are not impacting any wetland? It's hard to  
2 tell from this.

3 MR. NOVAK: No, we are not impacting any wetlands.

4 CHAIRMAN VALENTIC: So what percentage of the, I  
5 guess, buffer are you -- is that? I mean the whole --

6 MR. NOVAK: Well, if you take, if you take just the  
7 buffered area --

8 CHAIRMAN VALENTIC: Yeah.

9 MR. NOVAK: We would be impacting 12 percent of the  
10 buffered area.

11 CHAIRMAN VALENTIC: Okay. Thank you.

12 MR. NOVAK: So it's this shaded area right here,  
13 okay, and then the crosshatched area is the wetland. So -- And  
14 mine is highlighted here in yellow but between the crosshatched  
15 area and the yellow, and I can show this to you.

16 MR. SWEENEY: I think we have it.

17 CHAIRMAN VALENTIC: Yeah.

18 MR. NOVAK: So between this crosshatched area here  
19 and the yellow, so that's this area right in here, that's the  
20 30 foot buffer that we have to stay off of the wetland and  
21 that's only because there is a creek involved in the wetlands.  
22 If there was not a creek within the wetland, we wouldn't even  
23 have to have this discussion because we wouldn't -- that buffer  
24 would not apply.

25 CHAIRMAN VALENTIC: Yeah, understood. But it's there  
26 for a reason, I believe.

27 Can we -- Can you really build that thing in that  
28 blue shaded area? I mean, I believe what you say. It just  
29 seems like we have to dig a foundation and a basement, there is  
30 going to be a backhoe. Because my understanding is this

1 encroachment, if approved, you've got the fence that off and --  
 2 MR. NOVAK: Which we will do.  
 3 CHAIRMAN VALENTIC: I am sure you would. But can we  
 4 -- Can you really build that or do you really, I mean, do you  
 5 need more than what's shown on here?  
 6 MR. NOVAK: Well, more would always be nice but,  
 7 again, it's --  
 8 CHAIRMAN VALENTIC: Is this feasible, in your  
 9 opinion?  
 10 MR. NOVAK: Yes, in our opinion, it is feasible.  
 11 CHAIRMAN VALENTIC: Okay. The septic, you talked  
 12 about the due diligence for the septic field. Is that the only  
 13 location for it is that side based on the testing you guys did?  
 14 Is that why it's located there versus this side?  
 15 MR. NOVAK: Well --  
 16 CHAIRMAN VALENTIC: Or was there other driving  
 17 factors for where --  
 18 MR. NOVAK: Well, the driving factors to where the  
 19 septic system is located is really because, if we tried to put  
 20 the house -- The house wouldn't fit over there.  
 21 CHAIRMAN VALENTIC: How -- The house doesn't fit over  
 22 on that side? How close is it to fitting? Just curious.  
 23 MR. NOVAK: That would be difficult for me to answer  
 24 because, again, then, you know, we would also -- If we pushed  
 25 the house all the way to the south side of the lot --  
 26 CHAIRMAN VALENTIC: You need a front yard setback.  
 27 MR. NOVAK: The front setback would be at that dash  
 28 line that's there and then we'd probably have a rear setback  
 29 violation because I believe rear is 40 feet.  
 30 CHAIRMAN VALENTIC: Yeah.

1 MR. NOVAK: That whole -- That total length of that  
 2 line is 137.65. If we take 30 for the right-of-way, 50 for the  
 3 setback, and another 40 for the -- I can't do math quite that  
 4 fast -- it's not going to leave much room at all for a house.  
 5 CHAIRMAN VALENTIC: No. I see where you are coming  
 6 from.  
 7 MR. NOVAK: And I know that we did soil testing over  
 8 there. I don't remember if we did soil testing over where the  
 9 proposed house is.  
 10 MS. HALL: I don't remember.  
 11 CHAIRMAN VALENTIC: Anyone else have questions for  
 12 Dave?  
 13 MR. ROWE: No, nothing.  
 14 CHAIRMAN VALENTIC: Is there anyone else -- Go ahead,  
 15 Skip.  
 16 MR. SWEENEY: Yeah, I do. Thanks. Is the -- I  
 17 understand the volume argument and the placement options. But  
 18 I guess, are you, are you contending that your client did not  
 19 have notice of these restrictions prior to --  
 20 MR. NOVAK: That is, that is my opinion.  
 21 MR. SWEENEY: I don't know if it's --  
 22 MR. NOVAK: Again, this was all --  
 23 MR. SWEENEY: Are we talking about preliminary  
 24 negotiations? Are we talking about, are we taking about  
 25 signing a contract? Are we taking a changes to the contract or  
 26 additions to the contract? Are we talking about the closing  
 27 date on the purchase? Are we talking about title transfer?  
 28 Are we talking about -- What, what I would like to see is I  
 29 would like to see, if your clients did not know of this  
 30 restriction or contend that they should not be bound to the

1 ordinance that was already in effect, then I would expect to  
 2 see a specific timeline of events which support your contention  
 3 that you should not be bound by the ordinance from a time  
 4 perspective.  
 5 You are telling me there is so much -- Everything  
 6 takes time, everything takes time. If it took so much time,  
 7 then I think it would help us make our decision if that was  
 8 shown to us, how much time was expended and how your client  
 9 could not possibly have known of the ordinance in order to be  
 10 bound by it. That's what I would like to see. I don't know if  
 11 you can respond.  
 12 MR. NOVAK: I'd have to defer to --  
 13 MR. SWEENEY: Sure.  
 14 MR. NOVAK: -- to Gillian because I can't answer when  
 15 a contract was signed and so forth.  
 16 MR. SWEENEY: Sure.  
 17 MR. NOVAK: I remember hearing that the actual lot  
 18 split happened -- 26 days sticks in my mind as to when actually  
 19 the lot split happened. And I can tell you also that, you  
 20 know, we do this type of work for a living and I was -- I  
 21 personally was not aware of the new ordinance until after it  
 22 had already been enacted.  
 23 MR. SWEENEY: I am continually amazed by  
 24 contentions -- and this is not the first time -- where people  
 25 do not know of ordinances. And, you know, with all due  
 26 respect, you guys are professional. You do this every day of  
 27 your life. You eat, drink and sleep this stuff. Okay? And  
 28 for something to be so oppressive, potentially, to your  
 29 business, to not know about it is just -- It's disingenuous.  
 30 I'm sorry.

1 MS. HALL: I want to clarify about the knowledge.  
 2 The Duncan Factors, knowledge is just one of the factors that  
 3 there is to consider but it's not dispositive of whether a  
 4 variance can be granted, and it explicitly says that in Duncan.  
 5 It's one of seven factors and you can, you know -- Those aren't  
 6 the only factors that you're able to look at either. The court  
 7 says that you are allowed to weigh any considerations that  
 8 speak to whether the spirit and intent of the zoning code is  
 9 being upheld.  
 10 And we believe that the intent of the zoning code is  
 11 to protect the riparian. We are doing that in this situation.  
 12 We maintain the buffer and we create a safe distance from the  
 13 creek. Unfortunately, the boundary of the wetland extends far  
 14 beyond the creek and so that's creating a condition that, you  
 15 know, is requiring us to satisfy more than what we would have  
 16 had to do.  
 17 Second of all, which I think Ben will elaborate on,  
 18 is the creek is .05 square miles. The minimum is less than one  
 19 square mile and that's a 25 foot setback. So for the size of  
 20 the creek, it seems quite extensive to apply that requirement  
 21 to us. So not only, you know, leaving knowledge aside, when  
 22 you're applying that ordinance to our specific case, it seems  
 23 quite excessive when the area of the creek is minimal, but I  
 24 will let Ben elaborate on that.  
 25 CHAIRMAN VALENTIC: So before you leave, so Skip  
 26 asked a question -- Can you just stay up here for a second?  
 27 MS. HALL: Sure.  
 28 CHAIRMAN VALENTIC: Skip asked a question of the  
 29 timeline because you guys did so much due diligence up front  
 30 where you -- and it's unclear to me and Skip, it sounds like,

1 that you're not -- There isn't a definite answer of if you  
 2 knew, when the lot split occurred and all that was submitted,  
 3 if the ordinance was in place or not in place at that time.  
 4 MS. HALL: I personally did not know that. You know,  
 5 I can't speak for -- I did not know that that was in place.  
 6 And we obtained the lot split from Lake County without a  
 7 mention of it, so I didn't know at that point either.  
 8 MR. SWEENEY: Well, I think you -- Excuse me. I  
 9 mean, you know, we are talking about 26 days for the lot split.  
 10 I mean, when was the decision to place the house and when --  
 11 That's when the practical difficulty attaches, I think.  
 12 MS. HALL: And that had been --  
 13 MR. SWEENEY: Not when the lot split occurred.  
 14 MS. HALL: That had been done far before that because  
 15 we had to have that submission in place when we had our, you  
 16 know, soil scientist go out there. I don't remember dates but  
 17 I know that we had signed the contract.  
 18 MR. EDGAR: Do you want them?  
 19 MS. JARRELL: Yeah.  
 20 MR. EDGAR: The delineation was done in September of  
 21 2015.  
 22 MR. SWEENEY: What was?  
 23 MR. EDGAR: September 2015.  
 24 MS. JARRELL: Delineation.  
 25 MR. SWEENEY: What was done?  
 26 MR. EDGAR: Delineation.  
 27 MR. SWEENEY: Okay.  
 28 MR. EDGAR: Your setbacks were enacted July of 2016,  
 29 July 15th. The applications for the lot splits were submitted  
 30 to the Planning Commission November 7, 2016. So you've got two

1 weeks in July, all of August, September, October and then the  
 2 first week of November between the enactment of the setbacks and  
 3 the application for the lot splits. Now, I understand the  
 4 process to choose but those are your times, those are your  
 5 dates.  
 6 MS. HALL: And I don't -- I would have to confirm  
 7 that because I don't know off the top of my head.  
 8 MR. EDGAR: That was per Dave Radachy yesterday.  
 9 MS. JARRELL: Excuse me. Heather, was there any kind  
 10 of advertisement of these? I mean, obviously, you have contact  
 11 with these builders all the time. Did we send them a letter?  
 12 Did we do anything?  
 13 MS. FREEMAN: With anyone zoning amendment, we  
 14 typically don't send direct letters to any residents or  
 15 builders.  
 16 MS. JARRELL: I am asking if, you know, there were  
 17 any efforts made.  
 18 MS. FREEMAN: No, nothing in addition do what we  
 19 would normally do for any type of zoning amendment, public  
 20 hearings at the Zoning Commission level.  
 21 MR. SWEENEY: But there is public hearings on it.  
 22 MS. FREEMAN: Yes, we had several work sessions at  
 23 the Zoning Commission level before they initiated the  
 24 amendment, public hearing at the Zoning Commission and we had  
 25 two public hearings at the Trustees.  
 26 MR. SWEENEY: Were there builders present at those  
 27 hearings?  
 28 MS. FREEMAN: No one showed up.  
 29 MS. HALL: We wouldn't have been the owner of the  
 30 property at that time. So had there been notice, it would have

1 gone to the owner of the property.  
 2 CHAIRMAN VALENTIC: Okay.  
 3 MR. LATOCHE: I'll state my name again, Ben Latoche,  
 4 HZW, at 6105 Heisley Road, Mentor. I have been sworn in.  
 5 Correct me if I am wrong here but when we were  
 6 going -- The spirit of a variance isn't just, "Oh, we didn't  
 7 know about it." There is also a component of, what is the  
 8 intent of the actual ordinances?  
 9 And in here, if you read the ordinances as they are  
 10 recorded, the only clear intent is protection of the streams.  
 11 Because if it's a wetland and there is no stream in it, you  
 12 don't have to -- You can build right up next to it, you know,  
 13 put a giant cement wall right next to it and nobody cares, you  
 14 know. There are no ordinances about just wetlands.  
 15 So if we're looking at the protection of the stream,  
 16 the other thing we get from the ordinance is that it is related  
 17 to its quality and its size. Larger streams, higher quality,  
 18 higher setbacks, more protection. And that funnels down to  
 19 lowest tier of one square mile, which is a significant stream,  
 20 getting 25 feet.  
 21 This, you know, this stream is so small it's not even  
 22 on USGS StreamStats, which is a really good site to tell,  
 23 calculate how big a stream is, the drainage area. We estimate  
 24 it at .05 acres, so 5 percent of one square mile. So, I mean,  
 25 if you extrapolated that to 25 feet -- and that's not what we  
 26 are even saying to do -- you would get 5 percent of 25, which  
 27 1.75 -- I can't do the math right now.  
 28 So if you look at the site plan, not only are we more  
 29 than 25 feet away from the stream, we are also -- The way that  
 30 water will drain off this property, it will drain to the east,

1 and the stream is to the south. So it's going to buffer  
 2 through way more than 25 feet. And not only is that -- is it  
 3 going to buffer through just more than 25 feet, it's going to  
 4 buffer through a Category 2 wetland which has been quantified  
 5 to have the different values of nutrient absorption, lessening  
 6 the flows, absorbing flood waters. This water, when it reaches  
 7 the stream, is going to have a lot of buffering to it.  
 8 And we believe that this variance, it speaks to the  
 9 spirit and the intent of these ordinances, the protection of  
 10 the stream. We don't think that this house is going to have  
 11 any appreciable effect on the stream. That's essentially our  
 12 professional opinion at HZW.  
 13 CHAIRMAN VALENTIC: Question on the -- for the Board,  
 14 so it's clear, you said it was a Category 2 wetland. Can you  
 15 kind of walk us through 1 or 2? What are we looking at?  
 16 MR. LATOCHE: Sure. As the ordinance states, it  
 17 refers to the Ohio Rapid Assessment Method, a method of  
 18 classifying the quality of a wetland. In Ohio, that  
 19 methodology calls upon three types, 1, 2 and 3, 1 being low  
 20 quality, 3 being high quality, 2 being of moderate quality. If  
 21 I am going to be honest, 2 is a pretty broad category. I would  
 22 say 85 percent of the wetlands I classify are Category 2  
 23 wetlands.  
 24 CHAIRMAN VALENTIC: So if it's broad, is this, if you  
 25 were going to tilt it one way, is it tilted more towards a 3 or  
 26 a 1 in that big wide range there?  
 27 MR. LATOCHE: I did do the data sheet. How we  
 28 quantified it as a 2, I don't recall off the top of my head. I  
 29 think it was in the high 40s where you need over 60 to be a 3.  
 30 I think it was very middle of the road.

1 I don't know. Chad, you don't have that with you, do  
 2 you?  
 3 MR. EDGAR: I don't have that but I remember it being  
 4 -- I will speak when I get up.  
 5 CHAIRMAN VALENTIC: Okay. Thank you.  
 6 The stream being so small and having a small  
 7 watershed, does that mean that this is the beginning of a  
 8 larger system? Is this what you call a headquarter stream?  
 9 MR. LATOCHE: That is true. But that also negates  
 10 some of the, you know -- The purpose and the intent talks about  
 11 having a flood prone area to make sure that flood waters aren't  
 12 coming out and grabbing extra nutrients. Say, you know, if you  
 13 didn't have riparian setbacks and you said, "Here is my 55  
 14 gallon drum of fertilizer," and put it next to the creek down  
 15 there and it gets washed away, you have a problem.  
 16 Flood waters are not going to come towards the house.  
 17 You know, it would have to go 50 feet with this very small  
 18 watershed. That's highly unlikely. You would need a 1,000  
 19 year event to get over there. So that where I am speaking of  
 20 when I talk about the size, the small size of the watershed and  
 21 the stream.  
 22 CHAIRMAN VALENTIC: Yeah, okay. So does that mean  
 23 that this stream has a better -- is a better quality stream  
 24 because it is a headquarter stream, or no?  
 25 MR. LATOCHE: That's not necessarily true. There is  
 26 some confusion because the state has changed its mind many  
 27 times about the quality of headquarter streams. It's still a  
 28 flux as to what they want to protect and what they don't.  
 29 Currently, they have come out with a system where some  
 30 watersheds are considered high quality, and even streams --

1 then those watersheds that are lower quality are dragged into  
 2 higher quality systems because they want to protect what's  
 3 downstream.  
 4 Does that mean every stream coming off the top, top  
 5 elevation is a high quality stream? No. Really, to really  
 6 evaluate the true quality of the stream, you have to look at  
 7 the biology and that is very atypical even at the state level  
 8 when it comes to permitting. So there is nothing to suggest  
 9 that this is any high quality stream, is what I am getting at.  
 10 CHAIRMAN VALENTIC: You don't, in your opinion,  
 11 building right up against that wetland there, you don't think  
 12 that's going to impact the quality of that wetland?  
 13 MR. LATOCHE: That's not the spirit or the intent of  
 14 these setbacks. It only talks about streams. As I said, if  
 15 that stream didn't touch that wetlands, this meeting wouldn't  
 16 be happening.  
 17 MS. JARRELL: You could build right against it.  
 18 CHAIRMAN VALENTIC: You guys got anything for the  
 19 Knez team?  
 20 MR. ROWE: No.  
 21 CHAIRMAN VALENTIC: Okay. I am going to ask Chad to  
 22 come up first and then we will let, if there is anyone else  
 23 speaking for or against this appeal, come up as well.  
 24 MR. EDGAR: Chad Edgar, Lake County Soil and Water  
 25 Conservation District. I have been sworn in.  
 26 So I asked Dave Radachy, from the Planning  
 27 Commission, about when that lot split occurred because I was  
 28 very curious about the hardship and was it -- did they place it  
 29 on themselves by doing the split after the date. I am fully  
 30 aware that the process started long before the setbacks were

1 even in place. But, in my opinion, when you've got three  
 2 months and a few extra weeks after the setbacks were passed  
 3 before your application for the lot split, it's time to put on  
 4 the brakes if you wanted to, in my opinion. I am not a  
 5 builder. I don't do it. That's just my opinion. So that's  
 6 why I wanted to get those dates. That's why I provided them.  
 7 We are talking about a house that's going to be  
 8 placed about 7 feet from a wetland. When we did our own  
 9 internal ORAM scores, we actually, the first draft we did, we  
 10 came up with a Category 3. And I reached out to Ben and I  
 11 asked him and I looked at his data and I looked at ours and  
 12 said, all right, maybe we were being a little aggressive. We  
 13 kind of revised ours and we came up with a Category 2. I agree  
 14 with his scores. It's a Category 2, 30 feet is appropriate,  
 15 but it's on the verge of being a Category 3. We are very  
 16 close. The stream itself that goes through there, didn't do  
 17 the biology. You just did the first tier.  
 18 MR. LATOCHE: Correct, didn't take, didn't take --  
 19 MR. EDGAR: So it's just the physical metrics that  
 20 were looked at in that stream when they did it. I have looked  
 21 at the physical metrics and the biology of over 1,200 streams  
 22 in Lake County. That's a ground water driven stream. In two  
 23 months, if I was to go out there and find one of any number of  
 24 species of salamanders or a handful of macroinvertebrates, the  
 25 biology, that could be a Category 3. I would bet a beer on it.  
 26 But right now, it's -- I agree with his assessment,  
 27 it's a Class 1. The setback is appropriate. But if we look  
 28 deeper, that might change. The reason wetlands are included in  
 29 the buffers when they have a stream running through them is  
 30 because when that stream spills out of its floodplain into

1 those wetlands, we get a lot of beneficial uses out of that  
 2 wetland. So that's why it's written that way. So, yes, of  
 3 there wasn't a stream on the property, we wouldn't be having  
 4 this conversation but there is, and it captures that wetland in  
 5 the setback for a very good reason.  
 6 So effectively removing all of the upslope buffer  
 7 from that wetland in the construction of that house, I don't  
 8 think you are going to really save any meaningful trees between  
 9 Hermitage Road and that wetland by the time you do your  
 10 grading, dig your foundation, put your driveways in, so you  
 11 have removed all that. We've got 7 feet of grass then end of  
 12 game, after you've built your house before you get to that  
 13 wetland, in a pretty crappy, shallow soil of shale down about  
 14 48 inches, 5 feet, unless they did some borings and it's  
 15 changed but, according to the soil survey, 40, 60 inches. It's  
 16 going to get compacted when you drive your trackhoes back and  
 17 forth across it, your dozers across it. So your impervious  
 18 area is, at best, a few inches, so your filtering capacity is  
 19 nonexistent.  
 20 The layout is discharging stormwater into that  
 21 wetland. If this was a subdivision and they said we are going  
 22 to treat our stormwater by putting it into that wetland, they  
 23 would not be allowed to do that. You cannot discharge your  
 24 stormwater directly, without treatment, into a wetland. So  
 25 there is an issue with that as well. I believe the septic also  
 26 impacts the stream riparian setback as well by that crossing.  
 27 So there is a lot of issues with this, in my opinion,  
 28 a lot of issues. I think the impact of that wetland is going  
 29 to be pretty substantial with the construction of that house,  
 30 not directly with the discharge of fill but through runoff,

1 lack of the filtering capacity that's out there right now.  
 2 So keep in mind, too, that the size of the setbacks  
 3 are based on the size of the functions being provided, not  
 4 necessarily the quality. It's based ultimately on the drainage  
 5 area of that stream and then, if it's a higher quality  
 6 resource, you tack on a little bit more as kind of a factor of  
 7 safety to protect the functions that that stream is providing  
 8 to the community. So it's not necessarily based on the  
 9 quality. If it's a poor quality, we give it lower. It's based  
 10 on the watershed size, which drives how much room it needs to  
 11 provide those functions, and we will tack on more if it's a  
 12 higher quality, not, hey, it's a low quality, we will only go  
 13 here.

14 So I would like to see some front setbacks  
 15 considered, changes to the layout of the house, make it more  
 16 oblong rather than square, trying to fit that in, pull that  
 17 away from that wetland even further as an option to reduce the  
 18 impact to that or the proximity to that wetland seems to be,  
 19 and moving it forward closer to the road. Probably not ideal  
 20 for maybe a homeowner but that is allowed in the language,  
 21 variances for other setbacks. Those are my comments.

22 CHAIRMAN VALENTIC: Thanks, Chad.  
 23 MR. ROWE: Thank you.  
 24 MR. EDGAR: Questions?  
 25 CHAIRMAN VALENTIC: Do you guys have questions for  
 26 Chad before he sits?  
 27 MR. ROWE: No.  
 28 CHAIRMAN VALENTIC: Is there anyone else speaking out  
 29 against this appeal that would like to come up?  
 30 MS. LIPNIS: Hi. I'm Heather Lipnis. I live at 15

1 They bought the property. It was a 9 acre  
 2 single-family lot. They bought the property on November 1st.  
 3 They then decided to put it, put it into six parcels, which was  
 4 their own discretion. They decided how to split that out. I  
 5 don't care what they thought ahead of time. They did that in  
 6 November.

7 And I know I can drive down the freeway and if I  
 8 thought the speed limit was 60 in July but now it's not and  
 9 it's 55, I am still going to get a ticket because I am not  
 10 abiding by the law. When you look at this, you can't claim  
 11 that he doesn't have knowledge. He's a builder and, as you  
 12 stated, he's been a builder for 25 years. So I would think  
 13 that he would do his due diligence. And as they have stated,  
 14 they've done a lot of due diligence. How did they happen to  
 15 miss this one?

16 So our thought is, if you look at the map in the  
 17 back, that they do move the house to the other side. So I drew  
 18 exactly the same size of their house, plus, I believe, it's  
 19 their garage or their driveway, and moved it to the other side  
 20 of the property and it does fit and it's not within your  
 21 setback. I don't know about the rear but I was following their  
 22 little dotted lines. So if you look at the bright pink, that's  
 23 moving to it the other side. So when you talk about  
 24 negotiations and compromise, that's a good compromise.

25 To us, we -- There is three of us that butt up  
 26 against this property on Majesty Lane. You will see in this  
 27 package that we have signatures for all three of those property  
 28 owners. We also have the signature of the entire association  
 29 from Mount Royal Subdivision, so the entire association is  
 30 against this happening.

1 10530 Majesty Lane in Concord and I have been sworn in.

2 CHAIRMAN VALENTIC: Thank you.

3 MR. JOHNSON: My name is Easton Johnson. I live at  
 4 10530 Majesty Lane and I have been sworn in.

5 MR. MARCHINKO: My name is Devon Marchinko. I've not  
 6 been sworn in. I live 10530 Majesty Lane.

7 CHAIRMAN VALENTIC: Okay. We are going to swear you  
 8 in real quick. Okay?

9 (Whereupon, the Mr. Marchinco was sworn in.)

10 MS. FREEMAN: Let me just, before you get started, I  
 11 know you guys have been here for a long time and have been very  
 12 patient, but I know all of you were sworn in at the time. Only  
 13 one of you talk at a time for the court reporter's sake. Okay?

14 MS. LIPNIS: Okay. So I actually don't have a pretty  
 15 book but I do have a chart with some facts about the property  
 16 and I do have dates, along with Chad's dates. They match up.  
 17 I actually went into the county the first week of November and  
 18 the lot was only split into four lots at that time -- three  
 19 lots at that time and they were telling me that they were going  
 20 to trying to figure out what to do with test of them.  
 21 Actually, it was one, two, three, it was four lots.

22 So they were trying to tell me that they were going  
 23 to figure out what to do with rest of them. And if you look on  
 24 the county website, on November 7th is when they actually did  
 25 that final split, so a few days after I was there.

26 So if you look at the facts, the facts basically are,  
 27 you put this into place July 15, 2016. Then you put it  
 28 everywhere. You put it online. I can see it. You put it on  
 29 your fact sheets. I can see it when I going down to your  
 30 zoning sheets to go pull your facts sheets. It's on there.

1 We have a lot of water in our back yards. It's very  
 2 wet. There is a stream there. There's a stream in my yard.  
 3 It's wet and we don't build things in the very back of our yard  
 4 for that reason. We don't have grass back there because, when  
 5 you step in it, it's swamp land. I don't want somebody's feces  
 6 from their sanitary coming into our yards and our back yards.  
 7 We do have salamanders, we do have lizards.

8 So the fact that, you know, this is something that  
 9 was there. Everybody knew about it. They should have done  
 10 their due diligence. They should have looked. So we believe  
 11 that they should not be able to get this appeal.

12 And in addition, here is the lots. I only have one  
 13 copy but I can pass it around. This square was the addition --  
 14 the original 9 acre lot that they purchased.

15 CHAIRMAN VALENTIC: All this information, too, we  
 16 will give Heather the copy of the map and it will be part of  
 17 this hearing. And then did they have give you a copy of this,  
 18 Heather?

19 MS. FREEMAN: No, I don't have a copy of anything.

20 CHAIRMAN VALENTIC: Okay. We will get you a copy of  
 21 this.

22 MS. LIPNIS: I think I have my own copy I can give  
 23 you which has the original signatures.

24 MS. HALL: I'd just like to state for record that I  
 25 would like to make an objection. The lot split and the larger  
 26 plan is irrelevant to what we're here to decide tonight. We  
 27 are here to decide whether the granting of the variance is  
 28 appropriate. So I would just like to state that objection for  
 29 the record.

30 MS. LIPNIS: So one of their things that they said

1 was that this was going to make this detrimental to their  
 2 income. They're not going to be able to make any money off of  
 3 it. They bought a very cheap lot. They're going to make over  
 4 \$2 million selling this house. They said, in their own letter,  
 5 they are going to sell these houses for \$400,000 a piece. Even  
 6 if they can only build on five of those lots, that's over \$2  
 7 million in revenue that they're going to bring in. So this is  
 8 not detrimental to their income. The fact that it might not be  
 9 a buildable lot, again, that was their own error and their own  
 10 --  
 11 MS. JARRELL: Less their costs.  
 12 MS. LIPNIS: Right, less their cost, so not margin,  
 13 not profit but over \$2 million in revenue.  
 14 CHAIRMAN VALENTIC: Okay.  
 15 MR. SWEENEY: Can I ask a question?  
 16 CHAIRMAN VALENTIC: Yeah, you can ask questions.  
 17 Let us ask questions to everyone that's speaking and  
 18 we will, kind of, go through the line.  
 19 MR. SWEENEY: Thank you, Ms. Lipnis.  
 20 MS. LIPNIS: Yes.  
 21 MR. SWEENEY: Say, for example, there was a variance  
 22 request, a reapplication at some point and a variance was  
 23 requested to move the house back but keep it on that side of  
 24 the property and otherwise be compliance with all the other  
 25 ordinances and setbacks and so on. At that point, would you  
 26 have an objection?  
 27 MS. LIPNIS: I would rather have it on the other side  
 28 because it is so wet over there and if you put a walkout  
 29 basement --  
 30 MR. SWEENEY: And this is your lot closest to the

1 original question. So if there were changes made, compromises  
 2 achieved and that was -- You just don't want it on that side?  
 3 MS. LIPNIS: I would rather it have it on the other  
 4 side so that whatever grading they do is furthest away from our  
 5 properties.  
 6 MR. SWEENEY: Okay.  
 7 MS. JARRELL: But the leach field is going to be over  
 8 there towards you.  
 9 MS. LIPNIS: I'd be okay with the leach field as long  
 10 as it's not what Chad said about any excrement going into the  
 11 wetlands.  
 12 MS. JARRELL: Right.  
 13 MS. LIPNIS: I would not want excrement in, in our  
 14 wetlands.  
 15 CHAIRMAN VALENTIC: Okay.  
 16 MR. MARTINI: Craig Martini, I live at 10550 Majesty  
 17 Lane. I have been sworn in. Just to reiterate what she is  
 18 saying, we live right next door to her and our yard is, is a  
 19 swamp, pretty much. You can't do anything in the back yard.  
 20 It's just mud. And when you get to the tree line, the trees  
 21 are falling over constantly back there because it is so wet,  
 22 and that's basically how wetland is. You watch the trees grow  
 23 tall, then the root system fails and the trees are falling  
 24 everywhere. So that's basically what we have back there.  
 25 And I contend that that wetland actually exists  
 26 because the stream goes into there and, if that stream wasn't  
 27 there, this wetland wouldn't exist. So to say that if, you  
 28 know, only because there's a stream this is an issue. Well, I  
 29 contend that this stream is why this exists in the first place.  
 30 So to say that it's not an important factor seems silly to me.

1 proposed property?  
 2 MS. LIPNIS: I am the first lot, yes.  
 3 MR. SWEENEY: And you say in the back there, like,  
 4 the back of your lot is wet?  
 5 MS. LIPNIS: Uh-huh.  
 6 MR. SWEENEY: All time? When? Winter? Spring?  
 7 MS. LIPNIS: All the time, all the time. We actually  
 8 found a natural spring. We actually just found one the other  
 9 day. But it's always wet. It comes from Hermitage and it  
 10 comes straight down. Hermitage is very steep and the way, if  
 11 you actually look at this land, it comes down and then it has a  
 12 grade.  
 13 MR. SWEENEY: Yeah, I am right across the street. It  
 14 almost goes straight up.  
 15 MS. LIPNIS: Yes, exactly, yeah. So we have a ton of  
 16 water always in our yard.  
 17 MR. SWEENEY: And that's regardless of the season.  
 18 MS. LIPNIS: Uh-huh, yes.  
 19 MR. SWEENEY: In all your yards?  
 20 MR. MARCHINKO: Well, we live together.  
 21 MS. LIPNIS: Yeah, we're together.  
 22 MR. MARCHINKO: He can testify but we have a natural  
 23 spring that runs out of, where the road is, runs out and the  
 24 way our back yard is it tapers to this house that's going to be  
 25 built. So that natural spring that's always running water is  
 26 going to be flowing towards this new built house and they are  
 27 going to be building on this -- or building a house on this  
 28 property, which is going to be pushing water back into our  
 29 yards.  
 30 MR. SWEENEY: Okay. So just to get back to my

1 MR. SWEENEY: And you're second lot in from  
 2 Hermitage.  
 3 MS. CSEPLO: Second lot. My name is Kim Cseplo. I  
 4 live at 10550 Majesty Lane, which is the second lot in. I  
 5 have been sworn in. And I am just here to say that I am  
 6 against this as well because the area is so wet. And my  
 7 concern is, you know, they are going to put a structure there.  
 8 They are going to be displacing a lot of soil and the water is  
 9 going to have to go somewhere. And I am downstream from that  
 10 and I am concerned that I am going to even have more water. I  
 11 mean, I can't -- I am not interested in, you know, hoping that  
 12 it doesn't happen, that it doesn't get more wet. So this is  
 13 something that is a big concern to us. Thank you.  
 14 MR. SWEENEY: Thank you.  
 15 CHAIRMAN VALENTIC: Thank you.  
 16 MS. LIPNIS: And the Jerebs, which own the third  
 17 property, they did sign what you have in front of you. They  
 18 were not able to be here because it's spring break. And, also,  
 19 our homeowners' association wasn't able to be here because they  
 20 had other obligations but they did sign the letter saying our  
 21 entire development is against this.  
 22 CHAIRMAN VALENTIC: Okay. Thank you. Anyone else  
 23 that would like to speak from the group there?  
 24 UNIDENTIFIED FEMALE: We are good.  
 25 CHAIRMAN VALENTIC: Sure. Anyone that's here is  
 26 allowed to come up and speak.  
 27 MR. DAVIS: I would to just quickly address some  
 28 comments that were made that I felt were detrimental to all  
 29 builders where it was made --  
 30 MS. JARRELL: Just say your name.



1 MR. DAVIS: Oh, George Davis, 7962 Butler Hill Drive,  
2 Concord, Ohio. I would like to say there were many comments  
3 made that none of -- no builders showed up at the -- when the  
4 ordinance was being discussed. The Homebuilder Association was  
5 never contacted by the Trustees. And I know for a fact that  
6 they reached out to many groups on the other side of the aisle,  
7 the Watershed Partners were reached out to, such like that. So  
8 if, if the council, if the Trustees or staff would have reached  
9 out to us, my staff, for example, was in your offices here  
10 monthly, if not weekly, getting permits. If someone would have  
11 made us aware of it, we would have been there to speak about  
12 it.

13 I think the whole system is broken. People put it in  
14 the newspaper. It only goes in the printed newspaper. After  
15 this event, I resubscribed to all the print newspapers so I can  
16 read the legal notices because when you go NewsHerald.com, the  
17 legal notices do not appear.

18 CHAIRMAN VALENTIC: Okay.

19 MR. DAVIS: So the whole way that you -- that  
20 governments notify potential interested parties is broken with  
21 the legal notices that they do.

22 CHAIRMAN VALENTIC: All right.

23 MR. DAVIS: So I just wanted to say that. Mr. Knez  
24 is a good builder. He did his due diligence. It didn't exist  
25 at the time that he did the due diligence and then it got put  
26 in place as he was moving through the process.

27 CHAIRMAN VALENTIC: Okay. Sure.

28 MS. LANDGRAF: Let me just state there is no  
29 obligation in Zoning Resolution to notify on the event of a  
30 zoning change. All of the, all of the required notices were

1 somebody said that.

2 MR. NOVAK: Again, we --

3 MS. JARRELL: That you had to take it back.

4 MR. NOVAK: I know that, originally, this was laid  
5 out -- Okay.

6 MR. EDGAR: There was a boring here and a boring  
7 here.

8 MR. NOVAK: Okay. According to Chad, we do have a  
9 boring on both sides. But, again, are those borings conducive  
10 for a septic system? I don't know.

11 CHAIRMAN VALENTIC: Yeah, we don't know.

12 MR. NOVAK: We don't know that, okay. Again, all I  
13 remember through the process is that originally we seven lots  
14 and because of the wetlands and because of the soil borings, we  
15 took, we could only fit six homes on the property. I don't  
16 know if that answers your question or not.

17 MS. HALL: The other thing is I would like to point  
18 out, if we did flip the house, it would be closer to the creek  
19 and that's, I guess, the main thing that you are trying to  
20 protect and, right now, we're furthest distance away from it.  
21 So we are creating the most space and separation at the current  
22 location.

23 But, you know, we would be happy to table it and go  
24 look at other options to bring back to you. And if it's, you  
25 know -- I mean, we would like to work with you. If it's your  
26 preference to request a front yard setback, we could look at  
27 that and see what that would look like. But I guess, from the  
28 salability and just consistency with the neighborhood, we were  
29 trying to main the front setback.

30 CHAIRMAN VALENTIC: Would you have enough -- And I

1 given by Heather and the public hearings were held. So I just  
2 want to put that on the record as well.

3 CHAIRMAN VALENTIC: Thank you. Yeah, come on --  
4 Well, is there anyone else that would like to come up and  
5 speak?

6 Okay. Go ahead. I just wanted you to be able to  
7 hear from everybody else before you --

8 MS. HALL: No, that's all right. Thank you. I was  
9 just talking to Dave. I mean, we would be willing to move the  
10 house up. I don't think it's possible to flip sides because  
11 the house that we would build would only be able to --

12 MR. NOVAK: If you --

13 CHAIRMAN VALENTIC: Come on up, Dave.

14 MS. LIPNIS: We will do it together.

15 MR. NOVAK: Again, as I mentioned before, the depth  
16 of that property on that side is 137.65. If you take off the  
17 right-of-way -- That's including the center of the street. So  
18 if you take off the 30 feet for the right-of-way, the 50 foot  
19 for the current back requirement, and the 40 foot rear yard,  
20 the depth of the house could only being 17.65 feet. You can't  
21 even, if you had a garage, you can't even pull a car in there  
22 Without, without this Board granting another variance, meaning  
23 front setback, rear setback.

24 And the other thing that I -- Gillian asked me, I  
25 don't know, if we moved it to the, the house, which would mean  
26 the septic system would have to go on the north side, that the  
27 soils there would be conducive for a septic system. I don't  
28 know where we took those soil samplings from.

29 MS. JARRELL: You said you had to move the septic at  
30 one point. Where was it before? Didn't you say that? Or

1 don't know. You might not know this answer, Dave. If you do  
2 have a boring, you may or may not. Would -- If you guys came  
3 back in a month, would that be enough time to look and see if  
4 you could even put a septic system on that side?

5 MR. NOVAK: Sure. I mean, what Chad showed me  
6 indicates that there was a boring sample that was done where  
7 the house is.

8 CHAIRMAN VALENTIC: That's enough time.

9 MR. NOVAK: So we have, we should have the  
10 information. We would have to be convinced that it would  
11 happen is -- or we would want to look at the soil sample. We  
12 would want to repropose the septic system there, send it back  
13 to the Health Department to give them -- to get their approval  
14 because, again, every agency, everybody looks at things from a  
15 different viewpoint.

16 CHAIRMAN VALENTIC: Okay.

17 MR. ROWE: It can be done.

18 CHAIRMAN VALENTIC: Do you guys have any other  
19 questions for them? Do you guys have anything else that you  
20 want to add?

21 MS. HALL: I guess, procedurally, how would we go  
22 about tabling?

23 MS. LANDGRAF: You would have to request that it be  
24 tabled.

25 CHAIRMAN VALENTIC: Yeah, you would have to request  
26 it if you wanted to do that.

27 I still would like to keep this opne, even if  
28 they ask -- So if they ask to table it, I mean, we would vote.

29 MS. LANDGRAF: No, you would not vote. Well, you  
30 will vote to table it. You would make a decision on the table.

1 CHAIRMAN VALENTIC: And then we just leave it at  
2 that. So is that how you would want to proceed?

3 MR. NOVAK: Well, before we -- And I don't know if  
4 you could provide this guidance to us. Okay? If we were to  
5 request it to be tabled and require other variances, meaning  
6 front setback, side yard, rear yard, whatever those variances  
7 would be, can you provide us with any guidance as to --

8 MS. HALL: Your preference.

9 MR. NOVAK: -- the amount of a variance that -- And I  
10 know you can't vote on it but I am looking for some guidance  
11 because if I put the front of the house at, instead of the  
12 required 50, at 30, then, then I am another 20 -- I will be 27  
13 feet away.

14 CHAIRMAN VALENTIC: It's a huge percentage, yeah.

15 MS. JARRELL: That's a really good question and I  
16 can't really speak for my Board members.

17 MR. HAMILTON: Can't answer it.

18 MS. JARRELL: But the way that I am looking at  
19 this -- I mean, I am in real estate. I can't stand any of this  
20 stuff, I really don't. But the fact of the matter remains is  
21 that we have water issues and we have a lot of people who are  
22 very upset about it. So I would look at it that the front  
23 setback, a side setback variance is easier to accept than what  
24 you are doing right now on the north side.

25 I think you should consider flipping the house to the  
26 other side and asking for the other variances is what I am  
27 trying to say because we need to rectify the water situation.  
28 That's the bottom line.

29 MS. LIPNIS: And we would support that.

30 MR. NOVAK: And, again, I guess, I -- and I could

1 appreciate the fact that, you know, water issues and so forth  
2 within the community of Concord. But if you look at, if you  
3 look at the topography of this site, it's generally from  
4 Hermitage Road flowing due east.

5 CHAIRMAN VALENTIC: Dave, before you, before you go  
6 down the rabbit hole, I think, into some detail where you are  
7 about to go, I think maybe the better solution, because you are  
8 going to, kind of, describe why that won't work, and it may be  
9 better that you come back, if you decide to table it, you show  
10 us maybe there's two options and you show that option and you  
11 can demonstrate and show why it possibly doesn't work instead  
12 of letting us try to give you direction and it might be the  
13 wrong direction. I would rather avoid telling you something  
14 that's incorrect and let you, let you work to get to what you  
15 think is the best solution in your opinion and then we vote.

16 Again, that's what you think the best solution is.  
17 You are trying to appease us but it still doesn't -- We still  
18 have to look at all those deciding factors.

19 MR. NOVAK: Right, right.

20 CHAIRMAN VALENTIC: All those Duncan Factors.

21 MR. NOVAK: And I think that's an excellent point.  
22 And I think also that, again, I appreciate the concerns of the  
23 people next door. And, again, I think we could demonstrate, at  
24 least in our opinion, why maybe some of the things that they  
25 feel is going to happen with the building of this house,  
26 whether it's on the north side of the lot or the south side of  
27 the lot, how this, the runoff could potentially impact them  
28 because what I see, I don't think it would.

29 But that's, again, I think -- Again, I will defer to  
30 Gillian to decide whether she wants to ask for this to be

1 tabled and we can truly come back and bring back different  
2 scenarios.

3 CHAIRMAN VALENTIC: And show us what all the  
4 variances would be and we'll, as a Board, have to try to work  
5 through what we think, you know, would be appropriate to  
6 approve or not approve.

7 MR. NOVAK: This may be more for legal counsel but  
8 let's, let's assume for the fact that we table it and we want  
9 to go to a 30 foot front setback, which is not what was  
10 published, which was not requested as part of this hearing. So  
11 if that was what we decided to do, we would have to go back  
12 through the entire process --

13 MS. LANDGRAF: File an application.

14 MR. NOVAK: A new application asking for a 30 foot  
15 variance instead of the 50, correct?

16 MS. LANDGRAF: Because you wouldn't need this  
17 variance then, right?

18 MR. NOVAK: Well, we may still have some of it but  
19 that's not the variance that was published in the newspaper,  
20 that was not the variance that was requested here, and that was  
21 not the variance that was deemed necessary by Heather because  
22 we met the 50 foot setback for the front setback line of the  
23 house.

24 MS. LANDGRAF: The Board has a authority to grant  
25 variances to other sections of the Code in the riparian  
26 setback. But Heather is not going to be able to determine what  
27 variance you would need without having a plan submitted to her  
28 to look at.

29 MS. HALL: Right. But if we do options, I mean, if  
30 we give you several options, I mean, we just fill out one

1 application and say, "Here is our several options," and the  
2 legal notice would go through each of them? I guess I am just  
3 trying to figure out how you guys --

4 MR. NOVAK: Well, if I understood what you said  
5 correctly is that the riparian setback code, within that  
6 section of the code allows the Board to grant a setback  
7 variance, even though it wasn't requested, to help mitigate the  
8 impact within the riparian setback. Is that -- So we wouldn't  
9 have to go back through the whole process. If you granted us a  
10 30 foot setback for the front versus the 50, that could still  
11 be done under this same application.

12 MS. LANDGRAF: If you requested it.

13 MS. HALL: Okay. Well, so we didn't request it, we  
14 can't amend our application?

15 MS. LANDGRAF: You could amend the application but  
16 you have to request the Board, they can't just --

17 MS. HALL: No, I understand that. So we can amend  
18 the application to include alternatives.

19 MS. JARRELL: It's 17.08(C) and it says, "In order  
20 the maintain the riparian setback to the maximum extent  
21 practicable, the Board of Zoning Appeals may consider granting  
22 variances to other area setback requirements imposed on a  
23 property by the Resolution provided the applicant makes the  
24 necessary application."

25 MS. LANDGRAF: So you have to request it.

26 MS. HALL: So this would, if we table this, how would  
27 it be the same case number if we are making a new request in a  
28 new application?

29 MS. LANDGRAF: We can talk about it after if you want  
30 to table it. Or is your question, do you have to file a whole

1 new one?

2 CHAIRMAN VALENTIC: Yeah, I think that's what I'm --

3 Is the question, if we table it and they come back for a

4 different type of variance, do they have to file a new

5 application or can we just approve it at that meeting, the next

6 meeting.

7 MS. LANDGRAF: To file your amended application

8 requesting additional variances and you'd have to give notice

9 if you are requesting them in advance. But if you want to

10 Board to consider them while you are here, they have the

11 authority to do that.

12 MS. HALL: Okay. We don't -- You can't make a

13 definitive statement how far up you can move the house?

14 MR. NOVAK: No. I think, I think what we need to

15 present to the Board is, there may be two options, let's say.

16 One option on the north may be sliding the house towards

17 Hermitage. The other one may be putting the house on the south

18 side if the septic system could fit on the north side and

19 asking for maybe a 5 foot variance to the front setback and a

20 10 foot variance to the rear setback. So I think what we need

21 to do is we need -- I would suggest that we table it.

22 MS. HALL: Yeah, we will request it.

23 MR. NOVAK: We come up with those different

24 scenarios, present them to Heather so that she can say, well,

25 if you go with Option A, we are going to need these variances;

26 if we go with Option B, we would need these other variances.

27 MS. HALL: So we will submit an amended application

28 providing those options.

29 MS. LANDGRAF: Yes.

30 MS. HALL: We will request to table it until next

1 month.

2 CHAIRMAN VALENTIC: When you, so when you come back,

3 I just -- And you guys can do this however you want -- bring

4 everything you can think of that's going to help us make our

5 decision either way. Help us understand everything that you

6 guys are trying to accomplish. Bring all the data, bring all

7 the information. Also, but also think about the riparian

8 buffer and the wetlands and what -- some of the things that

9 Chad talked about as well when you're kind of making your case.

10 MS. JARRELL: And I would advise you to engage in

11 dialogue with those people out there. Let's make it work for

12 everybody. I mean, that's the bottom line. Gillian, I totally

13 appreciate, you know, the Duncan Factors and the spirit of the

14 Resolution and, you know, looking -- It's a small request but

15 the bottom line is the water.

16 MS. HALL: Okay. We can do that.

17 CHAIRMAN VALENTIC: So I am going to throw out a

18 motion to the Board, per the request of the applicant, that we

19 table this to next month and they would come in with a

20 revised --

21 MS. LANDGRAF: If they decide to do that.

22 CHAIRMAN VALENTIC: Yeah, potentially, a revised

23 application if they decide to do so. All in favor say yes.

24 MS. LANDGRAF: Second, you need a second.

25 CHAIRMAN VALENTIC: I need a -- oh, sorry.

26 MS. JARRELL: You need a motion.

27 CHAIRMAN VALENTIC: Yeah. Anyone first?

28 MS. JARRELL: So moved.

29 CHAIRMAN VALENTIC: Second?

30 MR. ROWE: Second.

1 CHAIRMAN VALENTIC: Okay. All in favor?

2 (Five aye votes, no nay votes.)

3 CHAIRMAN VALENTIC: Okay. It's been approved.

4 MR. NOVAK: Well, thank you again for your them.

5 MS. HALL: Thank you.

6 MS. JARRELL: Good luck.

7 CHAIRMAN VALENTIC: Thank you.

8 Okay. We have one more item on here. Hang in there,

9 Board. Variance Number 2017-9, Mr. James Whited is requesting

10 a variance from Section 17.04(B) and 17.07(A) to allow for the

11 construction of an accessory structure with a 35 foot riparian

12 setback, in lieu of the 50 foot setback required, for the

13 property located at 8335 Cambden Crossing Way, and being

14 Permanent Parcel Number 08-A-021-C-00-018-0.

15 MR. SWEENEY: I am abstaining.

16 CHAIRMAN VALENTIC: Oh, and Skip is going to abstain

17 from this one. Are you okay with the four-person Board?

18 MR. WHITED: Yes.

19 CHAIRMAN VALENTIC: I hope you are. Thank you.

20 I hate to have you wait that long.

21 MR. WHITED: Good evening, and thank you. My name

22 James Whited. I have been sworn in. And my address is 833 --

23 8335 Cambden Crossing Way. I am requesting the variance for

24 the riparian back so that I can construct a shed on my

25 property. I have currently a three-car garage. I have three

26 vehicles and I am looking for a solution where I can put my

27 riding lawn mower, snowblower, et cetera.

28 And when we bought the property, and I believe that

29 was in 2010, at that time the setback had not yet been

30 instituted. If you look at the picture of my lot, I am trying

1 to work within the confines of where I can put the actual unit

2 that's still in the rear of my property, and the best solution

3 that we could come out with was the south, southwest --

4 southeast corner.

5 What you can't see on this picture is there's

6 actually five pine trees that are in between the two yards. So

7 to put it up beyond the line, there is already an existing

8 structure there. I mean, the trees are already there.

9 MS. JARRELL: The trees are right here?

10 MR. WHITED: Correct. And I have some pictures if

11 that would help.

12 CHAIRMAN VALENTIC: Yeah, that would help.

13 MR. WHITED: Thank you.

14 CHAIRMAN VALENTIC: What about this side over here,

15 putting it on this side?

16 MR. WHITED: Yeah. So on the other side, I am

17 running really against the same issue over there. One of the

18 challenges over there is it would be extremely visible from the

19 street, so I am very concerned with the aesthetics. And what

20 the picture doesn't really give you appreciation for is the

21 topograph over there. It is very sloped on that side of the

22 property. It would make it very challenging to put something

23 there.

24 MS. JARRELL: Looks like a ravine.

25 CHAIRMAN VALENTIC: Is the yard, is that turf in

26 there already? Like, it's already been cleared, it's

27 functioning as turf in there?

28 MR. WHITED: So, yeah, what you can kind of tell from

29 the picture, if you are looking down towards the left, those

30 mulch beds were already there when we bought the property, and

1 then that kind of wraps around and ends where the swing set is  
2 in the back. And then if you were to continue that, all of  
3 that was already -- the lawn and everything was already there.  
4 And I have pictures of that to show you.

5 CHAIRMAN VALENTIC: All right.

6 MR. WHITED: We labeled the back for you to reference  
7 as A, B and C. You will notice that my neighbor does have a  
8 swimming pool, so that tree helps with a natural buffer. And  
9 if we were, those trees, if we were to remove those, remove the  
10 trees, there would be some aesthetics and some issues.

11 CHAIRMAN VALENTIC: Yeah, we don't want to remove any  
12 trees in that riparian buffer. That's why I was asking what  
13 you were building on. So you were just building on existing  
14 lawn.

15 MR. WHITED: Yeah. And you can kind of see that on  
16 the -- on both C and B. I put the letters on the back. I am  
17 sorry. I didn't mention prior -- I don't know if it matters --  
18 what construction of the shed is or if you don't need that  
19 information since it's just a riparian variance.

20 CHAIRMAN VALENTIC: So I've got nothing. Do you guys  
21 have any other questions?

22 MR. ROWE: No. I mean, we are not digging a  
23 foundation for it, obviously.

24 MR. WHITED: No. I talked to -- I am using Pinecraft  
25 as the construction for the shed. They spoke earlier and gave  
26 you a copy of the brochure and I do have that with me. He  
27 mentioned that they use a Number 57 limestone for the  
28 foundation. And then, also, we would be putting the silt fence  
29 around during that construction phase.

30 CHAIRMAN VALENTIC: Okay.

1 MR. EDGAR: Maybe asking for a little bit more buffer  
2 on that back lot where it's all veg -- turf lawn up to the  
3 property line. Maybe a compromise would be to add 5 feet to  
4 the back of that and it's a no mow anymore, just let it  
5 revegetate back naturally. Get a little filtration, water  
6 quality treatment benefit out of that as a compromise. But I  
7 really have no issue with the proposed shed and its placement.

8 CHAIRMAN VALENTIC: Chad, so it's clear for the  
9 Board, I think I heard you suggest that this is all turf  
10 through here on the back edge.

11 MR. EDGAR: Yeah.

12 CHAIRMAN VALENTIC: If we request, it's up to us to  
13 decide if we want to request that he stops mowing maybe,  
14 potentially, 5 feet of that turf.

15 MR. EDGAR: So that's 5 feet and that's 10 feet, just  
16 for clarification, see what --

17 CHAIRMAN VALENTIC: That's up to the Board if we  
18 wanted to ask the applicant if he was willing to do that. What  
19 that would do is create more natural buffer versus turf lawn in  
20 that area. It's up to us if we decide to ask him that.

21 Did you give the applicant a copy of this map?

22 MR. EDGAR: No. We were talking about it. He is  
23 welcome to have it. Just when I had a spare moment yesterday  
24 to look at the application, I tried to come up with something,  
25 an option. Are you done with it?

26 CHAIRMAN VALENTIC: I will hang onto it for a sec,  
27 please. Is this something that the Board would want to  
28 entertain, allow him to build this but then request that he not  
29 continue to keep a lawn in this area? It's up to us to decide  
30 if we want to ask the applicant for that. He can, the

1 MR. ROWE: I am sorry. The physical size of this?

2 MR. WHITED: Yeah, the actual, the shed itself would  
3 be 12 by 14 and Paul said he usually uses a foot around, so the  
4 foundation would be 14 by 16.

5 CHAIRMAN VALENTIC: You think this is pretty close to  
6 12 by 14 on here? I know you are --

7 MR. WHITED: Paul drew that, so I don't know.

8 CHAIRMAN VALENTIC: Yeah, it's probably pretty close.

9 MR. ROWE: Pretty close, yeah, 15, yeah, that's  
10 pretty accurate.

11 CHAIRMAN VALENTIC: Okay.

12 MS. JARRELL: When did you plant the trees?

13 MR. WHITED: I think it was in 2014.

14 CHAIRMAN VALENTIC: Those pine trees?

15 MR. WHITED: Yeah.

16 CHAIRMAN VALENTIC: Okay. Is there anyone -- Are we  
17 good here? Is there anyone else speaking for or against this  
18 appeal that wants to come up?

19 MR. ROWE: Is anybody awake? Here he comes.

20 MR. EDGAR: Chad Edgar, Lake County Soil and Water,  
21 and I've been sworn in. So Sydney and I went out and looked at  
22 the site about a month ago. It sits pretty high on the  
23 landscape. It's certainly not going to encroach in the flood  
24 prone area of that stream. It is existing lawn, you are not  
25 losing much there. I really don't have any real issues with  
26 the placement of the building, you know.

27 I think you could request -- Is the play set that's  
28 in the aerial photograph, it wasn't there when I went out  
29 there, it was gone.

30 MR. WHITED: It was removed, yes.

1 applicant can decide if he wants to do it or not. What I am  
2 asking the Board is, do we want to put that request to the  
3 applicant?

4 MS. JARRELL: It encroaches on the swing set.

5 CHAIRMAN VALENTIC: The swing set it gone.

6 MR. WHITED: It's not there, it's gone.

7 MS. JARRELL: Oh, okay.

8 CHAIRMAN VALENTIC: I just want consensus on that.

9 MR. ROWE: If it keeps Chad happy, then --

10 CHAIRMAN VALENTIC: Skip, do you feel either way if  
11 we should ask for that or not?

12 MR. ROWE: He is not voting.

13 MR. SWEENEY: Yeah, I'm not participating.

14 CHAIRMAN VALENTIC: Sorry. I'm just used to you, you  
15 know --

16 MR. ROWE: He is off the clock.

17 MR. SWEENEY: Shooting my mouth Off?

18 CHAIRMAN VALENTIC: What do you guys think?

19 MR. HAMILTON: I think it helps increase the intent  
20 of the riparian setback if we do that, so I would vote for  
21 that.

22 CHAIRMAN VALENTIC: Do you guys want to propose that  
23 to him then?

24 MS. JARRELL: We could propose it and see what he  
25 says.

26 CHAIRMAN VALENTIC: Okay. Could you please come back  
27 up?

28 MR. WHITED: Yeah.

29 CHAIRMAN VALENTIC: Pass that map down. So it's  
30 clear what Chad is asking, you know -- you don't have to accept

1 it or you can provide a different dimension -- he is suggesting  
 2 that we, you know, take that buffer that's now turf and let  
 3 that grass go and eventually it we renaturalize and become more  
 4 native providing additional buffer to that existing stream.  
 5 And Chad can go through the details with you --  
 6 MR. WHITED: Right.  
 7 CHAIRMAN VALENTIC: -- on what are the benefits of  
 8 that buffer. You know, it filters nutrients, things in your  
 9 lawn, things that come off the roof and so it also helps  
 10 improve the water quality. So if we -- The deal would be or  
 11 the variance request would be to approve the shed location as  
 12 is within the riparian buffer but then allow some of the  
 13 additional lawn to go back into more of a natural, natural  
 14 state, if you're amenable to that.  
 15 MR. WHITED: The biggest challenge that I have with  
 16 that request is the way my yard works, that's one of the only  
 17 flat parts in the back yard and now you are going to --  
 18 MS. JARRELL: Now we are going to ask him to change  
 19 his entire yard.  
 20 CHAIRMAN VALENTIC: Let him finish, please.  
 21 MS. JARRELL: I am sorry. Forgive me.  
 22 CHAIRMAN VALENTIC: You are forgiven.  
 23 MS. JARRELL: Thank you.  
 24 MR. WHITED: Specifically, just to kind of give you  
 25 an idea, it's really right here but this is an extreme slope  
 26 up. So, like, if I even try to put a volleyball net in the  
 27 back yard for my daughter, I am going to have to be in that  
 28 area.  
 29 CHAIRMAN VALENTIC: Okay.  
 30 MR. WHITED: For me, I would rather not.

1 CHAIRMAN VALENTIC: Okay. Thank you. So any other  
 2 questions? Okay. Good. If there's no other questions, the  
 3 public hearing for Variance Number 2017-8 is now closed to the  
 4 public. I am going to entertain a motion to approve variance  
 5 2017-8 as submitted by the applicant with the shed location.  
 6 Is there a motion, please?  
 7 MS. JARRELL: So moved.  
 8 MR. ROWE: Second.  
 9 CHAIRMAN VALENTIC: Okay. Open for discussion on the  
 10 Board. Anyone have anything? It's quiet tonight.  
 11 MS. JARRELL: I have already blurted out enough, I  
 12 think.  
 13 CHAIRMAN VALENTIC: I forgave you.  
 14 MS. JARRELL: Thank you, Ivan.  
 15 CHAIRMAN VALENTIC: Okay. If we have nothing else  
 16 from the Board, the question is on the approval of the Variance  
 17 Number 2017-8. A yes vote is for approval of the variance, a  
 18 no vote denies the variance.  
 19 Heather, please call the vote.  
 20 MS. FREEMAN: Mr. Hamilton?  
 21 MR. HAMILTON: Yes.  
 22 MS. FREEMAN: Ms. Jarrell?  
 23 MS. JARRELL: Yes.  
 24 MS. FREEMAN: Mr. Rowe?  
 25 MR. ROWE: Yes.  
 26 MS. FREEMAN: And Mr. Valentic?  
 27 CHAIRMAN VALENTIC: Yes. Your variance has been  
 28 approved. Thank you.  
 29 MR. WHITED: Thank you.  
 30 CHAIRMAN VALENTIC: Thank you for staying.

1 MS. JARRELL: Yeah, thank you for your patience.  
 2 CHAIRMAN VALENTIC: Next on the agenda is the  
 3 approval of minutes for March 8, 2017, meeting.  
 4 MR. ROWE: I wasn't here.  
 5 MR. SWEENEY: No.  
 6 MR. ROWE: I am off the clock.  
 7 MR. SWEENEY: Oh, boy.  
 8 CHAIRMAN VALENTIC: Is there a motion to approve the  
 9 minutes as is or any additions or deletions?  
 10 MR. SWEENEY: I think Mindy is flawless and so --  
 11 MS. JARRELL: Agreed.  
 12 CHAIRMAN VALENTIC: So is that a motion?  
 13 MR. SWEENEY: No corrections.  
 14 MR. ROWE: It's a tentative --  
 15 CHAIRMAN VALENTIC: I will take that as a motion.  
 16 MR. SWEENEY: Correct.  
 17 MS. JARRELL: Second.  
 18 CHAIRMAN VALENTIC: Thank you. The question is on  
 19 the approval of the minutes from March 8, 2017. A yes vote is  
 20 for the approval of the minutes, a no vote does not. All in  
 21 favor of approving the minutes as written say "aye."  
 22 (Four aye votes, no nay votes, one abstention.)  
 23 CHAIRMAN VALENTIC: The minutes for March 8, 2017,  
 24 have been approved. Our next meeting is May 10, 2017. The  
 25 meeting for April 2017 of the Board of Zoning Appeals is now  
 26 closed. Thank you, everybody.  
 27 (Whereupon, the meeting as adjourned at 10:47 p.m.)  
 28  
 29  
 30

1 STATE OF OHIO )  
 ) CERTIFICATE  
 2 COUNTY OF CUYAHOGA )  
 3 I, Melinda A. Melton, Registered Professional  
 Reporter, a notary public within and for the State of Ohio,  
 4 duly commissioned and qualified, do hereby certify that, to  
 the best of my ability, the foregoing proceeding was reduced  
 5 by me to stenotype shorthand, subsequently transcribed into  
 typewritten manuscript; and that the foregoing is a true and  
 6 accurate transcript of said proceedings so taken as  
 aforesaid.  
 7  
 8 I do further certify that this proceeding took  
 place at the time and place as specified in the foregoing  
 caption and was completed without adjournment.  
 9  
 10 I do further certify that I am not a friend,  
 relative, or counsel for any party or otherwise interested  
 in the outcome of these proceedings.  
 11  
 12 IN WITNESS WHEREOF, I have hereunto set my hand and  
 13 affixed my seal of office this 5th day of May 2017.  
 14  
 15 \_\_\_\_\_  
 Melinda A. Melton  
 Registered Professional Reporter  
 Notary Public within and for the  
 State of Ohio  
 16  
 17 My Commission Expires:  
 February 4, 2018  
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