

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

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

May 10, 2017
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

Ivan Valentic, Chairman
Blair Hamilton
Chris Jarrell
Brandon Dynes
Francis Sweeney, Jr.
Todd Golling, 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 7:06 p.m.

2 CHAIRMAN VALENTIC: The Board of Zoning Appeals
3 meeting for May 10, 2017, is now in session. I would like
4 introduce my Board. To my left is Skip Sweeney, Brandon Dynes.
5 I am Ivan Valentic. To my right is Chris Jarrell and Blair
6 Hamilton. To our far right is Heather Freeman, our Township
7 Zoning Inspector.

8 Under the advice of counsel, we ask that anyone
9 speaking tonight must be sworn in. So I would ask that
10 everyone please stand and raise your right hand.

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 to the microphone and state your name and address for the
15 record.

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

18 MS. FREEMAN: Yes, they were.

19 CHAIRMAN VALENTIC: Thank you. Tonight we have two
20 variances or appeals and one conditional use permit. A
21 three-vote majority is required to either approve or deny your
22 appeal. If your request is denied, you have the right to file
23 an appeal. And if that's the case, Heather can help you before
24 you leave.

25 All right. Tonight we have a continuation of
26 Variance Number 2017-8. Ms. Gillian Hall, representing
27 B.R. Knez Construction, Inc., is requesting a variance from
28 Section 17.04(D)(4) and 17.07(A) to allow for construction of a
29 dwelling and related soil-disturbance activities with a 0 feet
30 riparian setback, in lieu of the 30 feet required, for the

1 property located at 8363 Hermitage Road and being Permanent
2 Parcel Number 08-A-024-0-00-040-0. Good evening.

3 MR. KNEZ: Good evening. Bo Knez, B.R. Knez
4 Construction, 7555 Fredle Drive, Concord Township.

5 CHAIRMAN VALENTIC: Thank you.

6 MR. KNEZ: Thank you.

7 CHAIRMAN VALENTIC: And you've been sworn in?

8 MR. KNEZ: I have been sworn in. So it's a
9 continuation of the hearing for this parcel. There was a
10 couple things asked of us, one which was the timeline that this
11 project took on; and second was the detailed map of the
12 boundaries, as well as a couple alternative plans to the
13 project. So I guess we're on Exhibit I.

14 MR. SWEENEY: Thank you.

15 CHAIRMAN VALENTIC: Thank you, Bo.

16 MR. KNEZ: So the first two sheets --

17 CHAIRMAN VALENTIC: Heather, I would like that these
18 documents become part of the record because we weren't -- we
19 did not receive these before tonight's meeting.

20 MS. FREEMAN: Okay.

21 MR. KNEZ: So the first two pages --

22 CHAIRMAN VALENTIC: Oh, really quick -- I am sorry.
23 Heather, do you have one? Do you have a question?

24 MS. FREEMAN: Do you have an extra copy for our legal
25 counsel?

26 MR. KNEZ: Absolutely. I'm sorry.

27 MS. LANDGRAF: I'll just look --

28 CHAIRMAN VALENTIC: Thank you, sir.

29 MR. KNEZ: So the first two pages are the, is the
30 timeline of the project starting in August of two thousand and

1 -- 2015 and ending in 2024. We have backup documentation to
2 this if you would like, which is basically every document and
3 email that's stated on here. I think there is 30, 30 actual
4 acts for this approval.

5 As you can see by the timeline, everything was done
6 in an expedited fashion except, when we get into winter, it
7 slows us down a little bit. It seemed to be the time that we
8 were doing soil studies. It then has the who approved it, when
9 approved, Lake County Health Department, Lake County Health for
10 the splits. Every possible entity that was needed to be
11 approved approved this project.

12 If we go to the second page, you will notice that --
13 So there was actually two lots in question. It was the lot
14 that we're talking about today, Lot A1, and Sublot A2 which was
15 next door. Sublot A2 actually received a zoning permit from
16 Concord Township on December 29, 2016, and then it was revoked
17 January, January 24, 2017. Speaking for A2 for a second, when
18 we were notified that this was infringement of the riparian
19 setback, we immediately changed the site plan and altered the
20 plan to remove the encroachment from the riparian setback.

21 CHAIRMAN VALENTIC: Bo, and I am not trying to
22 inter -- I don't want to interrupt.

23 MR. KNEZ: Please ask, please.

24 CHAIRMAN VALENTIC: I am just a little -- I just want
25 to make sure it's clear in my head. So A2 though is not this
26 lot, that's a separate.

27 MR. KNEZ: It is the lot directly to the south of
28 this parcel.

29 CHAIRMAN VALENTIC: Okay.

30 MR. KNEZ: That was also impacted by the riparian

1 setback.

2 CHAIRMAN VALENTIC: Okay.

3 MR. KNEZ: Once we found -- Once our permit was
4 revoked on January 24th, we immediately made changes to that
5 plan to get us out of the infraction that we had.
6 Unfortunately, the lot next door, A1, we did not have, we do
7 not have the space that we needed to remove the home from the
8 riparian setback, hence our variance.

9 If we go to the first page, we basically color coded
10 the lot for you. Basically, the blue in the back is the
11 wetlands, the purple is the riparian setback, the black is the
12 stream, the dark green is the infraction, the red is the
13 proposed home, and then the gray being the driveway with the
14 setback line being boldly set. The total encroachment area of
15 the lot is 2 percent. The total encroachment of the 30 foot
16 buffer is a total of 12 percent or 0.0460 acres.

17 There are some other illustrations as you flip to the
18 back that just detail the different --

19 MS. JARRELL: Mr. Knez, do you have another copy, by
20 any chance?

21 MR. KNEZ: Absolutely.

22 CHAIRMAN VALENTIC: You didn't get one?

23 MS. JARRELL: No, I didn't get one.

24 MR. KNEZ: Sorry.

25 MS. JARRELL: Thank you.

26 MR. KNEZ: Any questions at this point?

27 MR. HAMILTON: It's a 30 foot buffer but the house is
28 there.

29 MR. SWEENEY: So far, there is -- you've submitted
30 nothing new.

1 MR. KNEZ: Nothing new has been -- I am sorry. The
2 timeline has been submitted. And if we go to the back section,
3 the last two are two alternative plans, the last two pages
4 being A1 Alternative Plan A, A1 Alternative Plan B. From my
5 understanding with the minutes read, it was asked for
6 alternative plans. So we did a couple alternative plans, one
7 with the home on the north side just the way it was initially
8 proposed yet encroaching on the setback line to pull the home
9 out of the buffer area.

10 This ends up with several other encroachments which
11 would be encroachment of the front yard setback, encroachment
12 of the side yard setback and still an encroachment of the, of
13 the 30 foot buffer. So, basically, Alternative Plan A is us
14 pulling the home up to a 35 foot setback and pushing it north
15 to get as much of it as possible out of the, out of the buffer
16 zone.

17 MR. SWEENEY: What's that side setback? What is
18 that, 10 feet?

19 MR. KNEZ: The side setback is 10 feet off of the
20 property line, correct.

21 MR. SWEENEY: And then the original drawings?

22 MR. KNEZ: The original drawings, we didn't -- the
23 only variance that we needed was the encroachment on the buffer
24 area. All other setbacks were met with Concord Township
25 zoning.

26 MR. SWEENEY: Has this -- I am sorry.

27 CHAIRMAN VALENTIC: No. You go first.

28 MR. SWEENEY: Has this lot been sold?

29 MR. KNEZ: It is not sold, sir.

30 MR. SWEENEY: Not on a contract, never was?

1 MR. KNEZ: No. We, once we found out the situation
2 that we had at hand, we did not want to offer it for sale
3 because we weren't sure what the final outcome of this or what
4 could be built on this. So it's basically not for sale at this
5 time.

6 So if we go to -- Is everybody okay with me going to
7 Alternative Plan B?

8 CHAIRMAN VALENTIC: Sure.

9 MR. SWEENEY: Yes.

10 MR. KNEZ: So if we go to Alternative Plan B,
11 according to the minutes, it was asked that the home would be
12 pulled to the south side, so we did that and we ended up with
13 actually even more encroachments, front yard setback, side yard
14 setback, encroaching into the rear setback, encroaching into
15 the 30 foot buffer area, and encroaching into the wetlands,
16 which are all stated on the right-hand side of your page.

17 CHAIRMAN VALENTIC: Can we maybe, for my sake, go
18 back to the timeline?

19 MR. KNEZ: Absolutely.

20 CHAIRMAN VALENTIC: Is this -- I guess the question
21 would be, is this different from the timeline that we heard
22 last time? And could you maybe highlight the differences of
23 where you were at in this timeline versus the one --

24 MR. KNEZ: I don't think that we stated a timeline.
25 I think Mr. Edgar stated a timeline that he received from
26 Mr. Radachy, and I have not audited or compared the two
27 timelines. This is our timeline. And if you would like, we
28 could give you all the backup documentation to this, as I have
29 it with me today.

30 CHAIRMAN VALENTIC: Was the, was -- The drawings were

1 submitted prior to July for review but weren't approved till,
2 the lot split was not approved till after the --

3 MR. KNEZ: Correct.

4 CHAIRMAN VALENTIC: -- code but they were submitted
5 prior to that.

6 MR. KNEZ: They were submitted prior to, yes, sir.

7 CHAIRMAN VALENTIC: Okay.

8 MR. SWEENEY: So the lot split that was submitted
9 prior to the effective date of the new code restriction was --
10 that hasn't changed, those lots? The lots that were submitted
11 prior to that date are the same ones that you are dealing with
12 today and that we're looking at here?

13 MR. KNEZ: I would think so, yes.

14 MR. SWEENEY: Okay.

15 MR. KNEZ: Because shortly after the 15th, which is
16 when the riparian setback came into Concord Township, we were
17 approved in that, in a short time frame.

18 CHAIRMAN VALENTIC: Okay.

19 MR. SWEENEY: So the lots that's reflected in your
20 appeal here today was submitted in a lot split request prior to
21 the effective date?

22 MR. KNEZ: Yes.

23 MR. SWEENEY: In the same configuration?

24 MR. KNEZ: Yes, sir.

25 MR. SWEENEY: And this lot was subsequently
26 approved --

27 MR. KNEZ: Yes, sir.

28 MR. SWEENEY: -- by the county?

29 MS. JARRELL: Yeah.

30 CHAIRMAN VALENTIC: Yeah.

1 MR. SWEENEY: By the county, right.

2 MR. KNEZ: I would hold this up. This was the zoning
3 permit approval that we received for the adjacent lot that had
4 a similar infraction but, on that lot, we had room to move the
5 home. So we, rather than ask for a BZA variance on that lot,
6 we just moved things around, notified the customer, because
7 this parcel was already sold, notified the customer of our
8 intent and then found out it was revoked after it went back to
9 Soil and Water.

10 So zoning in Concord approved it and then it went
11 back to Mr. Edgar and he asked us for the wetlands map, which
12 we happily provided, and then he revoked the permit, which was
13 the time that we were alerted that there was an issue.

14 MS. FREEMAN: Can I clarify that? I revoked the
15 zoning permit. Chad Edgar did not revoke it.

16 MR. KNEZ: I am sorry. After his review.

17 MS. FREEMAN: Right, a month, yes.

18 MR. KNEZ: Upon his review.

19 MS. FREEMAN: Yes.

20 MR. KNEZ: Sorry about that.

21 MR. DYNES: Mr. Knez, I appreciate the timeline and
22 the efforts you've put into this. I guess it's difficult when
23 we receive this here as you are speaking, getting this in front
24 us right now. My understanding from reading the minutes from
25 last time and what I am looking at currently is that you have
26 altered -- or offered alternate plans. I don't know if the
27 expectation is that we would, on our own, kind of respond to
28 and accept those and do something with those, which we don't
29 really have the authority to do. Hold on a second.

30 But my other thought here is, in the timeline, you

1 are indicating and referencing a number of documents and
2 things. You said you brought those with you. It would be
3 helpful to us to see those just so we have some evidence of
4 when they were submitted. As you know, our decisions can be
5 reviewed by the Court of Common Pleas and otherwise and we need
6 to make sure that we are up to snuff and doing this
7 appropriately. So if you have that and if you have multiple
8 copies of it, that would be helpful.

9 MR. KNEZ: I don't have multiple copies because it's
10 quite a thick document but I would be more than glad to share
11 this with you.

12 MR. DYNES: Yeah. And I am not trying to be
13 difficult but it it is hard for us.

14 MR. KNEZ: I don't think you are being difficult.

15 MR. DYNES: And we've got a full body here that wants
16 to get a lot of things done.

17 MR. KNEZ: I guess that would be Exhibit J.

18 CHAIRMAN VALENTIC: On Option A.

19 MR. KNEZ: Yes, sir.

20 CHAIRMAN VALENTIC: Alternate A1, that the closest
21 point is 35 feet in that one corner. And then do you know what
22 the dimension is on the other corner from the front yard
23 setback? It gets pretty close. Is that more like 40 or 45
24 feet?

25 MR. KNEZ: I would not know, sir. I'd be -- I do not
26 know that number.

27 MS. JARRELL: Mr. Knez, on Alternate Plan B, I see
28 you've got the septic tanks right here.

29 MR. KNEZ: Yes, ma'am.

30 MS. JARRELL: And then so do you have to have some

1 kind of pump or something that pushes it uphill? How does that
2 work?

3 MR. KNEZ: So actually alternate -- Yes, yes, that
4 is, that is a pump that pushes it uphill out of the, of the
5 riparian setback and back down into it because there is
6 approximately a 30, 30 foot fall from the front to the back of
7 this property.

8 MS. JARRELL: Right. So then the leach field is here
9 and the duplication area is here or is it vice versa?

10 MR. KNEZ: So each -- The duplication area is to the,
11 to the east of the system. So we have the first mound which is
12 maybe 20 feet off the setback line and then we have the
13 duplication area behind it, and then we have the second zone,
14 Zone 2, with the duplication area behind that.

15 MS. JARRELL: Zone 1, oh, I see.

16 CHAIRMAN VALENTIC: Was there any consideration to, I
17 guess, fill that corner of the wetland, thus reducing the
18 wetland buffer? Because I know in what you are showing is that
19 you are staying out of that wetland and you are not impacting
20 it but you are still grading within less than a foot of it and
21 you are putting a building there. And I would assume that
22 whoever buys this home may want to put a yard in or do
23 something in that. What you are showing really prevents
24 them --

25 MR. KNEZ: Which exhibit? Which exhibit are you on?

26 CHAIRMAN VALENTIC: I looking at, I guess, A1, the
27 wetland exhibit.

28 MR. KNEZ: Okay.

29 CHAIRMAN VALENTIC: Is that realistic that there,
30 really, there isn't going to be a back yard, that the area

1 that's shown in purple is going to be left undisturbed,
2 natural, and that the blue wetland, with all the construction
3 and backhoe coming in there and dozers and concrete trucks,
4 that you are not going to be disturbing that wetland and this
5 is the minimum amount of wetland buffer that you are going to
6 be disturbing?

7 MR. KNEZ: Sir, are we talking about the riparian
8 setback or the wetlands?

9 CHAIRMAN VALENTIC: And the wetland, yeah. Is that
10 realistic that that's all you are going to need because if we
11 approve it, that's the maximum.

12 MR. KNEZ: That can be -- I think that that can be a
13 specification of the approval.

14 CHAIRMAN VALENTIC: Is it -- I don't know. I just
15 don't see how you can build a home without getting into behind
16 the building at all.

17 MR. KNEZ: Currently, we're building on 24 foot wide
18 lots, 16 foot wide homes with existing residents on each side.
19 So I don't think that this would be as challenging as it seems
20 on paper.

21 CHAIRMAN VALENTIC: Okay.

22 MR. LATOCHE: I would just like to make a statement
23 for the record. Ben Latoche, I have been sworn in, HZW,
24 6105 Heisley Road, Mentor. We've had extensive experience with
25 Army Corps of Engineers who issues Section 404 Clean Water Act
26 permits for the filling of wetlands and they will under no
27 circumstances issue a permit for the purposes of appeasing a
28 setback.

29 CHAIRMAN VALENTIC: Understood. I wasn't insinuating
30 that was the reason. I just, I don't -- I just can't see

1 building a home that close to a wetland without impacting it
2 now, during construction, or maybe in the future with the
3 homeowner once Mr. Knez sells this house and walks away. You
4 know, there is a wetland that's literally within a foot of this
5 home and a landscape grass yard that you guys are proposing to
6 keep in place. So that's part of, in my mind, that's something
7 I am just trying to weigh when I am thinking of, you know, we
8 are trying to protect the wetland buffer and the wetland. And
9 I think, you know, the way it's positioned, it could in the
10 future put that wetland and stream in harm. That's all.

11 MR. KNEZ: Mr. Valentic, I will agree with you that
12 it is not the ideal condition. We were not anticipating this
13 to become an issue. It is an issue and this will be fully
14 disclosed to the new buyers of the home. We have to do that.

15 MR. DYNES: Mr. Knez, I appreciate the documents you
16 have provided. I have looked through them quickly. I have
17 looked at each document in and of itself and I don't see
18 anything that predates the effective date of the ordinance of
19 July 15, 2016. It would be helpful to have some of those as
20 evidence of what transpired and what took place during that
21 time period. If you have any of that that you can provide to
22 us, that might be a big help.

23 I think, as a general rule, if I may -- and this is
24 sometimes part of our discussion amongst ourselves -- but we
25 are a board here in Concord that generally tries to be helpful
26 to builders, homeowners, everybody. We are not, I don't
27 think -- I've been in front of other boards who are much more
28 difficult. We want to work with people and we want to find
29 ways to make things happen. As you know from the last time and
30 this time, we are in a bit of a tough spot here in light of

1 everything that's going on. I think that's readily
2 established.

3 So I am looking for something personally -- and the
4 reason I am telling you this is because I don't know if it's
5 before us or if it's going to be before us -- to give us some
6 evidence and to establish that hardship that you are seeking in
7 order to allow this to occur. And so I appreciate the
8 timeline. The timeline evidences a number of documents that we
9 don't have in front of us. If there is a way to get those to
10 us -- and, you know, tabling isn't always the best possibility
11 or the best way to go but it might be very helpful to get the
12 decision that you are hoping to get, just an aside.

13 MR. KNEZ: So thank you for your comment. Mr. Dynes,
14 I will tell you that I've been doing this for 30 years. This
15 is my second time in front of Concord BZA. The first time was
16 when we were building our building on Fredle Drive and it was a
17 similar situation. It was an overlay that was put in place
18 after we purchased the property. So we are not ones to abuse
19 the powers of the BZA. And if at all possible and avoidable,
20 we will not abuse the powers or stand in front of you arguing
21 our case.

22 I think Gillian has some comments on, Gillian Hall
23 has some comment on --

24 MS. HALL: My name is Gillian Hall. I am counsel for
25 Knez. My address is 7555 Fredle Drive, Concord, Ohio 44077. I
26 will just go through them with the timeline and I will hand
27 them to you as I am going through it just to make it a little
28 easier.

29 MR. DYNES: Well, in the interest --

30 MS. LANDGRAF: Gillian, are you going to mark them as

1 exhibits?

2 MS. HALL: I am going to mark them as separate
3 exhibits as I go through.

4 MR. DYNES: Well, maybe it's for the chairman to
5 decide but I think, in the interest of time, to go through all
6 those and identify them is probably not helpful. I went
7 through them. I don't see anything from August 2015 up to
8 July 11, 2016.

9 MS. HALL: Well, there were several submissions to
10 the Health Department prior to July 15th that we needed
11 approval from them before we could submit a lot split.

12 MR. DYNES: I understand that. And I am not being
13 argumentative any way, shape or form, but the Health Department
14 isn't necessarily our governing body or authority we rely upon
15 for lot splits and other things. I mean, they've got their own
16 purview and things they look to and that might be helpful to
17 us. But we're acknowledge -- We are talking about some other
18 agreements here and executions and some other things that,
19 letters and otherwise, that might be helpful to us to evaluate.

20 MS. HALL: But we can't, we cannot apply for a lot
21 split with Lake County Planning Commission until we receive
22 approval from the Health Department.

23 MR. DYNES: I understand.

24 MS. HALL: So we can't make that application and they
25 can't approve that split until we have Health Department
26 approvals. So we had all that information submitted to the
27 Health Department in June and we did not hear back. They
28 didn't, the Health Department didn't conduct a site visit until
29 July 5th and they didn't give us final approval until August of
30 2016, so we couldn't make an application until that point.

1 The other thing is that until we had final approval
2 from the Health Department, they had jurisdiction to make
3 modifications based on septic layout and we may have had to
4 modify the lot lines depending on their decision. So we didn't
5 start the legal description process and the approvals with the
6 legal descriptions until we had final approval by the Health
7 Department because it would have been fruitless to do that
8 without their final approval and understanding where we were
9 at. So we couldn't even start that process until August of
10 2016 with the legal description.

11 As soon as we had the legal description submitted --
12 prepared by Barrington, we submitted them to Dan Lark and to
13 Lake County for review and we made every single modification as
14 quickly as we could based on his responses, which you can see
15 there were several emails back and forth. We responded to him
16 very quickly. It is not like there was a lag in time. And by
17 the time that process was completed in October, we submitted
18 the deed to the seller for signatures. They were all out of
19 town. So we had to have an original, so we had to have the
20 deed prepared. We had to have it mailed. Once that signature
21 was signed, it had to be mailed back. So, I mean, this wasn't
22 like something that we could just do overnight or do in seven
23 days, which I, you know, think most lot splits can be done with
24 relative ease but this was a little bit more complicated.

25 CHAIRMAN VALENTIC: What may help me understand this
26 a little bit better, and maybe the Board, is when you submitted
27 to the Health Department, you showed them -- you provided a
28 layout with the six lots and where you would potentially put
29 the septic systems, correct?

30 MS. HALL: Correct, yes.

1 CHAIRMAN VALENTIC: Did any of that documentation,
2 does any of that get to the county for preliminary plan review,
3 lot split or anything like that?

4 MS. HALL: I mean, we had, we sent our initial plan
5 to David Radachy on August 28th of 2015, so he's been apprised
6 of what we wanted to do this entire time. But until we could
7 go through the Health Department, we couldn't give him the
8 final lot split and the final layout of the lots. So, I mean,
9 we gave him what we wanted to do and what we anticipated doing
10 but until we went through the soil reports, we designed the
11 septic system and we submitted to the Health Department, we
12 couldn't have a finalized lot layout.

13 CHAIRMAN VALENTIC: Okay. Just to stay on this
14 topic --

15 MS. HALL: Okay.

16 CHAIRMAN VALENTIC: You're making sense so far to me.
17 When you submitted that email to Dave on the 28th --

18 MS. HALL: Yes.

19 CHAIRMAN VALENTIC: -- was the six lots that are part
20 of this lot split, is that what was submitted to Dave?

21 MS. HALL: We actually submitted seven lots to Dave.

22 CHAIRMAN VALENTIC: Okay.

23 MS. HALL: And during the, I think it was during our
24 soils, when Floyd was doing the soil samples and it got back to
25 Dave and he was doing the layouts of the septic systems, he
26 realized that the soils couldn't support seven lots and that we
27 would have to modify it to six.

28 CHAIRMAN VALENTIC: Okay.

29 MS. HALL: So there was some minor adjustments with
30 the Health Department based on our septic systems and the soils

1 that were available.

2 CHAIRMAN VALENTIC: Okay.

3 MR. HAMILTON: So on July 5th when the Health
4 District --

5 MS. LANDGRAF: Can I ask you a question?

6 MS. HALL: Sure.

7 MS. LANDGRAF: You had the purchase agreements
8 executed on July 8th and July 11th?

9 MS. HALL: Yes.

10 MS. LANDGRAF: And that was for all the parcels,
11 right?

12 MS. HALL: We executed a purchase agreement with the
13 seller of the property for all the parcels once we obtained
14 final approval from the Health District or when they sent us
15 our letter on July 5th. We had had a letter of intent with the
16 seller and we weren't sure if we wanted to move to a purchase
17 agreement until -- That was the July, I believe, 8th date.

18 MS. LANDGRAF: July 8th and 11th.

19 MS. HALL: July 11th was a purchase agreement that we
20 executed with the customer for the parcel that's now Parcel A2.

21 MS. LANDGRAF: And then the title didn't transfer
22 until November; is that right?

23 MS. HALL: Title did not transfer until November
24 because, due to all the approvals that we just previously
25 discussed, we were not able to physically have our application
26 for the lot splits approved by Lake County and the deed filed
27 until we had Health, the Health District approval which came in
28 August.

29 MS. LANDGRAF: So was that a contingency of the
30 purchase agreement, that the lots had to be split?

1 MS. HALL: We had contingencies in the purchase
2 agreement that we had to obtain ownership and they had to
3 approve the plat and the parcel, the final parcel, that they
4 had to accept the final parcel.

5 MS. JARRELL: When did you find out that these
6 riparian setbacks went into effect?

7 MS. HALL: We found out in January when our, when
8 our -- Heather sent us a letter that she revoked the permit
9 that we had initially received for A2 because, originally, we
10 had received a permit. We submitted our plan for A2. We
11 received a permit for A2. And when it was going through the
12 permitting process, we had initially received an approval and a
13 permit from Concord Township to go forward with our building on
14 A2. And when it got to Soil and Water, the issue of the
15 setback came up and our permit was then revoked and we had to
16 revise our plan. So that's when it came up. So it was in --

17 MS. JARRELL: So during all of your due diligence --
18 And I don't know how much time you had on your purchase
19 agreement, what, 60 days, 45 days? What did you have?

20 MR. KNEZ: It was probably a little longer than that.

21 MS. JARRELL: Okay. So, oh, you had all this time,
22 you are dealing with all these entities, this is in the works
23 in Concord and you don't find out about this until January?

24 MS. HALL: It was never once brought up in any of the
25 correspondence. And we had several dealings with different
26 government agencies in Lake County and it was never brought up.

27 MR. KNEZ: Again, this is not a habit of our ours to
28 ask for BZA variances in any --

29 MR. DYNES: Well, again, playing devil's advocate --
30 and I know I probably sound argumentative and I'm not -- but

1 you understand this, just as there is three of us here, four of
2 us here that are lawyers -- that's probably a bad thing -- but,
3 nonetheless, there is no requirement for Concord to put you on
4 notice. That's your -- It's your responsibility. So I
5 understand where you are going with that.

6 MR. KNEZ: We completely understand.

7 MR. DYNES: But I want to make sure that that --
8 I mean, that's, I think, part of Ms. Jarrell's point here and
9 that's why this is difficult for us.

10 MR. KNEZ: Reading the minutes from the last meeting,
11 which I was unable to attend, it sounds like we were not the
12 only party in the building community that was not made aware of
13 this ordinance.

14 MR. DYNES: That who was not, you?

15 MR. KNEZ: No. Besides us, there was other parties
16 that were not -- that did not know this passed.

17 MS. JARRELL: I think Mr. Davis was here.

18 MR. KNEZ: Mr. Davis, our engineer.

19 MR. DYNES: Well, right, that's my point.

20 MR. KNEZ: Our engineer didn't know, our soil
21 scientist didn't know.

22 MR. DYNES: I understand. But what I am saying --

23 MR. KNEZ: I think the resident that was here didn't
24 know.

25 MR. DYNES: Sorry. Concord doesn't have a
26 responsibility to place you on notice, or any of these people.
27 It is incumbent upon --

28 MR. KNEZ: I did not say -- I did not say you did.

29 MS. HALL: And just to your point, I understand what
30 you are saying but, also, knowledge isn't a dispositive factor.

1 Just because we know of something doesn't mean you are not able
2 to grant us a variance.

3 MR. DYNES: I understand.

4 MS. HALL: There are other factors to consider. And
5 Duncan, the case specifically says that knowledge is not a
6 dispositive factor. So, you know, there are other
7 considerations.

8 MS. JARRELL: If you had learned about it, you may
9 have adjusted your request during the due diligence.

10 MR. KNEZ: Of course we would have. If course we
11 would have. We actually had a different -- I am sure the
12 audience doesn't want to hear this. We had a denser plan that
13 included bringing the sewer, bringing a sewer down and doing a
14 Chagrin Highlands type of development, condos, which under
15 by-right zoning in Concord is allowed. We chose -- We were
16 hoping for seven, we settled for six with absolutely no
17 knowledge. We would have, obviously, would have changed it. I
18 don't want to be here. You guys don't want me to be here. We
19 would have made some adjustments someway, somehow. Or if it
20 didn't make financial sense to us, we would have voided the
21 contract with Mr. Hartzmark.

22 MS. JARRELL: So I get all that. I am in the
23 business. I understand, I really do. But that being said, we
24 have water issues. And it's not even, to me, it's not even
25 just the riparian setbacks, it's the water issues with the
26 neighbors. So have you come up with anything in regards to
27 that?

28 MR. KNEZ: So as per the minutes of last -- So water
29 is always an issue.

30 MS. JARRELL: Yeah.

1 MR. KNEZ: As I've been doing this for a long time
2 and it's always a concern of the neighbors of how this will
3 impact their property. If we view the grading plan that was
4 proposed both last time and today, it shows the property
5 falling to the east and to the south, not to the north. You
6 made a very astute observation earlier with the septic system.
7 We would literally have to pump water up into the neighbor's
8 yard for them to have water from this property. So we
9 understand that.

10 And part of our approval process is to make sure --
11 If anybody has driven by the property, you have seen that Lake
12 County has required us to put a swale in the back to catch
13 water. There would be provisions made to the approved plan
14 that would deter any water from infiltrating any of the
15 neighbors' lots.

16 MS. JARRELL: That is a part of the plan right now?

17 MR. KNEZ: Absolutely, yes. And we have actually
18 installed, if you drive by --

19 MS. JARRELL: The swales are there.

20 MR. KNEZ: -- on Girdled, as you first enter the
21 property, on the right-hand side, you would see a swale cut
22 into the property. That was a requirement by Lake County to
23 reduce and eliminate any flow of water onto neighboring
24 properties. That has been, that has been pretty much the rule
25 with Lake County is we cannot disburse our water onto someone
26 else's lot.

27 CHAIRMAN VALENTIC: Any other questions on the
28 timeline?

29 MR. SWEENEY: No.

30 CHAIRMAN VALENTIC: We good on the timeline? Good?

1 I just want to keep the meeting moving.

2 On the alternate, alternate plans provided --

3 MR. KNEZ: Yes.

4 CHAIRMAN VALENTIC: I am wondering, what do you
5 think, what are your thoughts on -- You are a home builder and
6 you are trying to build this lot and sell it. How do you feel
7 about 1 or 2 and, you know, if you have a preference for either
8 Plan A or B?

9 MR. KNEZ: So I live a mile and a half from this site
10 and I live on Mentor Road. And though Mentor Road is busier
11 than this road, I would not want to pull this home up to a 35
12 foot setback. Actually, the home I live in was actually, back
13 in the day, manually moved back off of the street because of
14 the noise that horse carriages made. So I would prefer, my
15 preferred and least disruptive plan is A1. The alternates
16 require more variances. They require a setback that is not
17 conducive with the current line of homes. And one of them
18 actually incurs the septic system into the wetlands.

19 So we've, you know -- Yes, I am a home builder. I do
20 this every day. Once we found out the issue that we had, we
21 tried to vet it to make it as simple as possible, knowing we
22 needed a variance, not to come in here with 15 different
23 variances, to keep it as minimal as possible, which the only
24 thing we are asking on the original proposal is the, is the
25 encroachment into the buffer area, which is a total of 2
26 percent of the total lot.

27 MS. JARRELL: Which one are we talking about, this
28 one, right?

29 MR. HAMILTON: Yeah.

30 MS. JARRELL: Okay.

1 CHAIRMAN VALENTIC: Do you guys have any other
2 questions?

3 MS. JARRELL: No.

4 MR. HAMILTON: We can move on.

5 CHAIRMAN VALENTIC: Do you have any questions for
6 him?

7 MR. DYNES: No.

8 MR. SWEENEY: I have soil and water questions.

9 CHAIRMAN VALENTIC: Yeah. Thank you, Mr. Knez.

10 MR. KNEZ: Thank you.

11 MR. SWEENEY: Thank you.

12 CHAIRMAN VALENTIC: I am sure there might be some
13 other people speaking for or against this appeal. You know,
14 what we should have done -- and my fault -- we should have
15 provided Chad a copy to look at these. Chad, did you get a
16 copy, by chance?

17 MR. EDGAR: (Shaking head negatively.)

18 CHAIRMAN VALENTIC: Can you please give Chad your
19 copy, Heather, just to take a look at?

20 And then, Chad, what I am going to do is if there is
21 anyone else here that's speaking for or against this appeal
22 that's not Chad that would want to come up and present any new
23 or additional information?

24 MS. LIPNIS: Hi. I'm Heather --

25 MS. LANDGRAF: Before you get started, hold on one
26 second. Okay? I know there seems to be a lot people coming up
27 to the podium. For purposes of keeping this succinct and so
28 the court reporter can hear who is speaking, I am going to ask
29 that one of you speak at a time, okay, and that you try to
30 narrow your topics to nothing that's already been said by the

1 person in front of you. Okay?

2 MS. LIPNIS: My name is Heather Lipnis. I've already
3 been sworn in. I live at 10530 Majesty Lane. So when we were
4 here last time, you asked them to submit some alternatives, and
5 you also asked them to work with us. And I can tell you I
6 never got a phone call, I never got a letter and I never got
7 anybody stopping by asking to look at any one of these
8 alternative submissions that they're now giving that we never
9 even got to see. One of them, as I heard, is now moving it 10
10 feet from my property line.

11 Now, as you can see, this wetland goes through three
12 properties. There is no way they can put any buffer because
13 this wetland also goes onto their properties. So how are you
14 going to put a buffer from the water on my lot and the other
15 three lots when the wetlands are covering those lots already?
16 You can't put a buffer in the wetlands.

17 And also what was said before is, basically, there is
18 no back yard. This person who is going to buy this house can't
19 put in a yard, can't put in a patio, can't put in a deck. If
20 you put a house on that side of the property, they've already
21 put in walk-out basements in every one of the houses that they
22 built. They built two houses, they both have walk-out
23 basements. You can clearly see the grading.

24 My property is below this property. If you look at
25 the hill and look at Hermitage, it goes up and it goes back
26 down. I go back down. So when they're trying to say that this
27 land is going to be below mine, it is not possible because my
28 land goes diagonal towards my house. So there is no way they
29 could be pumping water up into my property. They're going to
30 be depositing water down into my property.

1 So I am very disappointed, first, to hear that there
2 is alternative plans that we were never spoken to or even
3 talked about and there was no cooperation and negotiation in
4 what they were submitting. And, again, I think it goes back to
5 talking about the timeline. They bought the property on
6 November 1st. I don't care about all their other stuff. If
7 they have all this backup and all this due diligence on what
8 they did, you missed this one? Come on, that seems a little
9 strange to me.

10 And I did go into the county on the first week in
11 November. I did not know that the land was purchased yet. I
12 went into the county and it was split into four lots at that
13 time. The last lots closest to our properties had not been
14 split out. When I asked what was going to happen with that,
15 they said that the builder was working on how they were going
16 to split it. So I find it a little difficult that they had all
17 of these lot splits already determined and, when they bought
18 the land the first week of November, that wasn't determined
19 when I went to the county. So what I would say is, very
20 disappointed, first.

21 I have talked to Chad and I went to Chad to see what
22 were some good alternatives. This really should be a
23 nonbuildable lot, it really should. It's always been wetlands,
24 it will always be wetlands. It is soaking wet back there right
25 now. There is a stream that is flowing very fast. Anything
26 that they put on this property is going to affect that. There
27 is no way it's not.

28 And I would rather have the septic closer to my house
29 than a house because if something goes wrong with that septic
30 and it does put water into the wetlands or it does start

1 leaking, I have alternatives. I can call the Health
2 Department. I can do something to stop that. If there is a
3 house next to me that's putting water on my property, there is
4 nothing I can do. If there is something that's going on with
5 that house where it's affecting the wetland, there is nothing
6 we can do. But at least a septic is regulated by the Health
7 Department and we can get somebody to step in and do something
8 about it.

9 So my option would be to move the house to the south.
10 But in all honesty, after hearing all this, it really shouldn't
11 have a house on it at all.

12 And is it affecting him profit wise? He's making a
13 good profit on five of his buildable lots. It's very evident.
14 You wouldn't have done it, you really wouldn't. And I really
15 do believe that they knew about it before January. And if they
16 didn't, then shame on them because they did a lot of due
17 diligence beforehand.

18 So with that said, I will let other people talk.

19 CHAIRMAN VALENTIC: Okay.

20 MR. MARTINI: Hi. Craig Martini. I live at
21 10550 Majesty Lane. I've been sworn in. Just to -- I live
22 there and so I can tell you what that is like back there. I am
23 in my yard a lot. I actually have a garden that I am trying to
24 do right now. It's actually at the highest point of my yard
25 and I can't put my garden in because there is so much water. I
26 dig a hole and it fills with water. So -- And that's towards
27 the front of the property, that's near the house.

28 And so when you get -- The further you start getting
29 back there, I mean, I really literally have to have boots up to
30 here. And my grass, you can't really mow it. The guys come

1 and make ruts through everything and it's a big mess. And when
2 you get to the edge --

3 MS. JARRELL: Do you see this? It's a little jumbled
4 but you can see where the splits are. Which one are you?

5 MS. LIPNIS: The second one.

6 MR. MARTINI: Oh, the second one in down Majesty
7 Lane.

8 MS. JARRELL: The second one?

9 MR. MARTINI: Yes.

10 MS. JARRELL: And Heather --

11 MR. MARTINI: She is first.

12 MS. JARRELL: You're first. So when you are talking
13 about your garden, where are you here? Here is the back of the
14 lot.

15 MR. MARTINI: Back of the lot and then this is her
16 house. I am sorry.

17 MS. JARRELL: Her house is up here.

18 MR. MARTINI: Oh, okay, gotcha. Oh, my garden is
19 here. It's in the front.

20 MS. JARRELL: Okay.

21 MR. MARTINI: So, I mean, as far as all the way to
22 the front of my yard, it's wet. And so the more you go towards
23 the back, the more wet it gets. And everything, like Heather
24 said, comes down that hill and it -- I have some pictures if
25 you would like to see. I actually brought a picture of my
26 garden that I haven't been able to actually --

27 CHAIRMAN VALENTIC: Excuse me.

28 MS. LANDGRAF: Anything you present to the BZA is
29 going to be admitted as an exhibit.

30 MR. MARTINI: That's okay. It can be kept. These

1 are just -- (Handing.)

2 CHAIRMAN VALENTIC: When was this taken?

3 MR. MARTINI: Just two days ago. And this is just
4 right at the property line behind. These are, these pictures I
5 am going to show you, these are right in the area where they're
6 planning on putting this house. And here is basically what
7 happens with the trees. They honeycomb out and they just fall
8 over. And I've had several in the yard that I had to actually
9 remove. There is a little bit of a closer up picture. Here is
10 --

11 MS. JARRELL: This is at the property line, you said?

12 MR. MARTINI: Yeah, that's right, right behind. I
13 will show you where the -- I have a property marker stake here
14 and then you can see the house that's actually existing that
15 they've already built. And so these other houses that they're
16 talking about are going in between this and there. That's kind
17 of close. And then here is just sort of a picture of the yard,
18 there is our house and I am not even really towards the back of
19 the property line yet. You can see what kind of water that is.
20 And then one more picture I took is that these guys --

21 MS. JARRELL: So what does this look like when it
22 hasn't been raining for the last 10 days?

23 MR. MARTINI: It's still pretty wet. It never really
24 dries out completely. And maybe by August you start to get,
25 you start to get a guy who can mow it back there without
26 getting ruts in it, but -- And then we have those guys living
27 back there, too. That was at the -- in the back yard.

28 That's all for me. Thank you.

29 CHAIRMAN VALENTIC: Thank you. Anyone else that has
30 anything new to add?

1 MS. MARCHINKO: This is kind of just a summary. I
2 have been sworn in. My name is Marlene Marchinko. I live at
3 9479 Stone Mill Drive in Mentor, Ohio. And I am here as a Lake
4 County resident concerned with the environmental impact of this
5 variance. I'll briefly state, to summarize, the purpose of
6 Section 17 of Concord's township zoning regulation is to
7 protect and enhance the functions of riparian areas. The
8 purpose of the Zoning Board, as you know, is to make sure these
9 regulations are followed.

10 After reading Section 17 and also reading the
11 variance proposal submitted by Knez, the Board will hopefully
12 recognize that Knez Construction has not and cannot supply any
13 satisfactory reasons to be granted the variance. Specifically,
14 Knez Construction does not suffer unreasonable deprivation
15 because of the zoning. The company has already split its
16 purchased property into five other buildable lots. That will,
17 in Knez's own estimation, result in reasonable return based on
18 purchase prices starting at \$400,000 each.

19 In fact, Knez is totally responsible for the manner
20 in which it divided this property and it could have chosen
21 division based on zoning regulations that were clearly
22 designated beforehand. A competent and knowledgeable
23 construction company is responsible for due diligence and
24 researching the zoning regulations of the property it intends
25 to purchase. I believe that Knez Builders is a competent and
26 knowledgeable company based on the many properties it has
27 developed and it should have complied. Instead, they're
28 blaming other entities for their lack of due diligence.

29 The only consideration left is that Knez was fully
30 aware of Concord Township's zoning restrictions and is trying

1 to manipulate the Zoning Board into believing it suffers from a
2 practical difficulty rather than an intent to merely increase
3 its profitability at the expense of Concord Township's
4 residents.

5 Furthermore, based on Lake County Soil and Water
6 Conservation, the encroachment into the riparian setback could
7 release excrement into the wetlands and adjoining properties
8 and cause additional issues, thereby doing what we are all
9 hoping does not happen but may require costly engineering
10 solutions to protect persons, structures and uses, as well as
11 to reduce the damage to real property and threats to overall
12 public health and safety concerns.

13 Therefore, I submit that the request for the variance
14 is monetary only, without regard for regulations, community,
15 residents or environmental impact. And, therefore, I am
16 respectfully requesting that you deny the variance that is
17 unduly requested by Knez Construction and to follow the purpose
18 and the intent of Section 17. I respectfully thank the Zoning
19 Board for your consideration.

20 CHAIRMAN VALENTIC: Thank you.

21 MR. FLANIGAN: I'm Bryan Flanigan. I have been sworn
22 in. I live at 10705 Mount Royal Drive. I'm past president of
23 the homeowners' association, currently serve as the sanitary
24 sewer manager within our subdivision, and we're also sitting on
25 a drainage program that we have within the subdivision.

26 We have spent a lot of money within the subdivision
27 to try to figure out how to divert water that's flowing over
28 the properties that, in fact, we're talking about here right
29 now. There's seven properties, starting with Heather Lipnis,
30 that already, without these homes going in, are receiving

1 enough water that we're planning, with, with George Hadden,
2 we're planning a collection ditch to try to divert the water
3 that's going up against the back of their houses.

4 In January, the Health Department announced a more
5 aggressive EPA inspection process for everyone that has septic,
6 impressing us to connect to sanitary sewer. There is actually
7 a sanitary sewer connection from our subdivision right at the
8 top of the street. Just one -- just across Heather's lot is an
9 8 inch main sanitary sewer that these people could have
10 connected and maybe done a better job.

11 Our people are worried about not only the water,
12 they're worried about the overflow of the septic systems with
13 all the water that's back there. With the enhanced inspection
14 procedure they're talking about, we're all spending \$28,000 a
15 house to connect to sanitary sewers. We're spending a lot more
16 money than that to get rid of the water. These homes just
17 create another problem for us that we didn't think was going to
18 be there.

19 So, again, we're backing up, the seven people that
20 are here, some are here of the seven that are adjoining that
21 lot. We have a lot of respect for Bo Knez. He's built some
22 great homes in our subdivision. It's unfortunate that this is
23 happening but these are real problems that we're facing that,
24 once he leaves, we're stuck with the result of how to get rid
25 of the water and how to handle what's coming off of those
26 septic systems.

27 So I also respectfully, on behalf of our whole
28 subdivision, ask you to turn this request down.

29 CHAIRMAN VALENTIC: Thank you. Okay. Thank you.

30 MS. LIPNIS: We had two more owners that are two down

1 from them and three down from them that came for their support.

2 CHAIRMAN VALENTIC: Okay.

3 MS. LIPNIS: But they have nothing additional, so
4 thank you.

5 CHAIRMAN VALENTIC: Thank you.

6 Chad, I am sorry. Can you please come up? I know
7 that you, as well as us, this is the first time we are seeing
8 some of the alternative solutions and I was trying to buy some
9 time to, at least, give you the opportunity to put your eyes on
10 them. I don't know. I'll just give you a chance, if there is
11 anything that you want to add that wasn't said at the previous
12 meeting or any comments in regards to the two proposed
13 solutions.

14 And one other question for you that you may or may
15 not have the answer to that -- I know I don't. Maybe we asked
16 this last time. What is the -- Do we know what the real impact
17 could be from that septic system? My assumption is, if the
18 Health Department approved it, you know, then it's, you know,
19 good to go. But I will let you answer and, kind of, tell your
20 story.

21 MR. EDGAR: Well, I couldn't, I couldn't quantify the
22 impact and say X will happen if you do Y. I can tell you --

23 MS. LANDGRAF: Chad, I am sorry, Chad. Can you state
24 your name and your address?

25 MR. EDGAR: Sorry. Chad Edgar, Lake County Soil and
26 Water, 125 East Erie Street. I've been sworn in. I've done
27 this enough, you'd think I'd remember.

28 CHAIRMAN VALENTIC: You would think I would remember
29 to ask you.

30 MR. EDGAR: So I can speak to what the literature

1 says about impacts to wetlands when you build next to them and
2 my experiences in 18 years of working in Lake County and
3 similar activities. So when you open up the canopy and you
4 start putting stormwater into a wetland that didn't previously
5 have it, you remove that buffer, you increase the likelihood of
6 invasive species coming through that wetland and it changes the
7 hydraulic nature and you get some nutrients in there and you
8 get some warming in there. What that will do when the
9 invasives take over that community that thrive in those
10 nutrient rich waters is it changes the hydrology in there.
11 There's some studies that have been done with, say, phragmites,
12 which is probably our most common invasive species that will
13 invade wetlands, what that does to the hydrology and the
14 wetlands.

15 So I couldn't tell you exactly it's going to get
16 wetter, it is going to fail, it's going to, you know, septic
17 systems downstream will go bad, but I just can tell you in
18 general terms what happens to wetlands.

19 CHAIRMAN VALENTIC: Understood.

20 MR. EDGAR: They get impacted. Alternative Plan B,
21 my comment on that one would be it's probably a non-starter
22 because it has impacts to the wetland by the duplication area.
23 I don't know that that would get approved at all without going
24 through permitting, and I'd be willing to assume that it
25 probably wouldn't get a permit for that since they have other
26 options to stay out of that wetland. So I would assume they
27 would get turned down if they applied for a permit to do that
28 from the Corps.

29 So Alternate Plan A, I think my comments from earlier
30 would probably stand. It's an improvement. It is moved

1 further away. There is no proposed grading on there, so it is
2 kind of hard to fully comment on it because I don't know what
3 the grading scheme would be like. But the house is moved
4 further away, so you would assume that, if the grading scheme
5 was moved further away, that we are just getting all of those
6 impacts further out of the setback but they're not completely
7 out. So my comments from the last meeting would stand.

8 CHAIRMAN VALENTIC: Okay. Do you guys have any --
9 Does the Board have any questions for Chad? Please, now is
10 your chance.

11 MR. SWEENEY: Yeah. Chad, you know, on this diagram,
12 we have the wetlands, we have the riparian setback, then we
13 have the violation, right?

14 MR. EDGAR: Are we looking at A1 wetlands, first
15 page?

16 MR. SWEENEY: A1.

17 MR. EDGAR: Okay.

18 MR. SWEENEY: So the blue is the wetlands, right?

19 MR. EDGAR: Correct.

20 MR. SWEENEY: What -- I am not sure what exactly you
21 cannot do on a wetlands. You obviously can't build on it,
22 right?

23 MR. EDGAR: Without getting a permit, no.

24 MR. SWEENEY: Okay. So there is exceptions to that?

25 MR. EDGAR: If you, if you receive a permit from the
26 Army Corps of Engineers, you can discharge fill in a wetland.

27 MR. SWEENEY: Okay.

28 MR. EDGAR: The Army Corps of Engineers regulates the
29 discharge of fill, rock, soil, dirt, you name it, in a wetland.
30 They quantify grubbing of stumps and earth disturbance as fill,

1 discharge of fill in a wetland. So, basically, you can't stick
2 a piece of equipment in there and start digging. The Ohio
3 EPA has authority over the quality of the wetland, so there is
4 Section 404 and Section 401. And Ben is probably far more
5 versed in this if you want. Ben, he is probably better to
6 answer that. But, basically, the Corps says, "We're going to
7 regulate the fill you place in it," the EPA regulates the
8 quality. You can't degrade the quality of the wetland. In
9 cases like this, the state just says, "If the Corps is good
10 with it, we're good with it."

11 CHAIRMAN VALENTIC: Right now, what they're showing,
12 they're not touching that blue area. They are not filling in
13 there.

14 MR. EDGAR: Correct.

15 CHAIRMAN VALENTIC: They're only filling, they're
16 only disturbing the purple buffer area.

17 MR. SWEENEY: So if I'm a homeowner and I buy this
18 house, you know, and I am told of this and I am aware of it and
19 I buy, what can I expect to happen back here?

20 CHAIRMAN VALENTIC: Nothing.

21 MR. SWEENEY: In terms of --

22 CHAIRMAN VALENTIC: Outside of the green, they can't
23 do anything, right?

24 MR. SWEENEY: No, no, not what can hap -- not what
25 can I do but what is going to happen, like, environmentally
26 back here over time? Is the wetland going to expand? Is it
27 going to recede? What is it going to do?

28 MR. EDGAR: It could do either. That really depends
29 on the amount of ground water that is in the system out there
30 and weather patterns, which probably don't play as big a role

1 as ground waters do. I wouldn't expect it to change
2 drastically. What I would expect to happen, the observable
3 effects would be a change in the vegetative types in there.
4 Once you open up that canopy and encroach into that buffer, get
5 right on top of that wetland, you are going to get invasive
6 species in there. So it's going to change from looking like it
7 is now to probably something more like the marsh, Mentor marsh
8 looks look if you've driven down Corduroy Road before they
9 sprayed it.

10 MR. SWEENEY: All right. Thanks.

11 CHAIRMAN VALENTIC: Any other questions of Chad from
12 the Board? Okay. Thank you.

13 Is there anyone else here tonight speaking for or
14 against this appeal that would like to come up?

15 MS. HALL: I'd like, if you don't mind, I'd like Ben
16 to just kind of discuss a few of the points that were made or
17 clarify some of the points, and then I just have a few final
18 thoughts that I would like to go over.

19 CHAIRMAN VALENTIC: Not a problem.

20 MR. LATOCHE: Do I have to repeat my name?

21 MS. LANDGRAF: Did you say it already? I'm sorry.

22 MR. LATOCHE: Yes, I did.

23 MS. LANDGRAF: Then go ahead.

24 MR. LATOCHE: You know, just to talk to Chad's points
25 a little bit, one thing I do want to make clear about the
26 wetland that's out there now is the canopy cover in that
27 particular area is pretty sparse to begin with. I think one of
28 the gentlemen up here who is a neighbor has said that, you
29 know, there is a lot of tree falls in that area. The reason
30 for why that is, I am not exactly sure. You know, over the

1 years, could have got a little more water than it was used to,
2 somebody might have logged it and never put it back right. But
3 the canopy cover is maybe 50 percent in the heart of that
4 wetland.

5 And with the very small footprint of what Knez is
6 proposing for this house and the sizeable size of that wetland,
7 I would expect any kind of negative impacts to be pretty
8 minimal. Again, like Chad admitted, it is very hard to
9 quantify at this stage or even, you know, it would take
10 extensive studies over years to do any quantifications but, in
11 my opinion, that would be minimal.

12 That was a little information that we talked about
13 last meeting but I just want to reiterate, it's a very, very,
14 very small stream, less than 5/100 of an acre drainage area, if
15 that. It doesn't even show up on most of the mapping that's
16 available, so if that weighs into the riparian setbacks because
17 the limit is only an acre and below and this is far below an
18 acre.

19 MS. HALL: That's kind of the point that I wanted Ben
20 to reiterate with you because we are here to determine whether,
21 when we're looking at this riparian setback, whether it's, as
22 applied to our property and our situation, whether it's
23 reasonable. And we've heard a lot of different information
24 tonight that you guys have to consider in making that
25 determination. But when we look at the size of this stream,
26 it's .005 acres, and the requirement is a 30 foot buffer. We
27 can satisfy a 30 foot buffer from this stream. But due to the
28 fact that it's contained within a larger wetland area, that
29 buffer extends to the outermost bounds of the wetland.

30 So if this wetland continues on for two miles, you

1 know, this buffer goes all the way outside that entire large
2 wetland area. So it can have a very significant impact on all
3 the homeowners and on us.

4 So we're trying our best to maintain any distance we
5 can from the stream, and that's another reason that we feel our
6 first plan is the best because it maintains that setback from
7 the stream. Unfortunately, due to the size of the wetland and
8 the irregular shape of the larger area, you know, we come
9 closer to that. So when we kind of look at the whole -- the
10 situation as a whole and we're applying this buffer, I mean, it
11 has a wide sweeping effect on this lot when this stream, in the
12 grand scheme of things and based on the acreage that you
13 specify in your Resolution, it's minimal. So this is on the
14 lower end of things.

15 And so I just wanted, you know, to kind of reiterate
16 that because I think, when we think about that and we apply
17 that to this situation, I think that the applying the 30 foot
18 buffer is unreasonable under these circumstances.

19 CHAIRMAN VALENTIC: And your engineer is not here
20 tonight, correct?

21 MS. HALL: He is not. Is there any, I mean --

22 CHAIRMAN VALENTIC: Well, I just, the way -- No, it's
23 okay. I just, when I look at it, so everything that's -- It's
24 not draining, it's sounds like it's not draining towards the
25 residents but it's draining towards, into the wetland. The
26 home, the runoff would drain into the wetland. Is that a
27 correct assumption?

28 MS. HALL: I will let Bo answer that.

29 MR. KNEZ: That is a correct assumption, yes. So if
30 you look, if you look at the topographical map, it does show

1 the corner being at 136, that northwestern most corner, and
2 then the bottom corner being 1095, which is probably a 40 foot
3 drop from the back to the front.

4 I think, I don't know if Gillian made it clear but as
5 long as -- So our wetlands stops, stops on this lot because
6 that's our lot. We don't go on the neighbor's property. If
7 this wetland continues on the neighbor's property, this 30 foot
8 buffer continues as well. And if this wetlands continues a
9 mile down the road, it's still impacted by this because the
10 issue isn't the wetlands, it's the stream that is located there
11 that requires the 30 foot buffer. So if we go a mile down the
12 road through Mount Royal into the back yards of people on
13 Girdled Road, that 30 foot buffer comes into play all the way.

14 CHAIRMAN VALENTIC: Yeah.

15 MR. KNEZ: Until this wetlands stops.

16 CHAIRMAN VALENTIC: Yeah. And that's what we --
17 That's what this Board is dealing with and that's what we're
18 going to continue to deal with in the future, we know.

19 MR. KNEZ: So this, according to Mr. Radachy, this
20 stream wasn't even on the GIS. I know there is documentation
21 that says that it's on there but it was very difficult for, for
22 that. And if people have streams in their back yard, then you
23 can amplify this again. So if you go through 50 feet of
24 non-wetlands and then you have -- Most of this water, I would
25 presume, seeing that Little Mountain is a, is a wealth of
26 underground water, it is coming from the ground rather than
27 over the ground, which is cause for the wetness. So there
28 could be streams that pop up in the middle of someone's yard,
29 hence the wetlands -- we have heard how wet the properties
30 are -- hence, the 30 foot buffer because of the creek or

1 stream, as you call it.

2 CHAIRMAN VALENTIC: Ben --

3 MR. KNEZ: So the impact is huge. The impact of this
4 is very, very huge not for just our property but all of the
5 properties.

6 CHAIRMAN VALENTIC: Ben, real quick, I don't think we
7 heard this answer. How did, how did you determine that this
8 was a stream or what was the process for that? Maybe that
9 might help with the Board. You know, is that through
10 documentation or is that your determination that it's a stream
11 or is that the Army Corps, so we all understand what's driving
12 that determination as a stream?

13 MR. LATOCHE: So we follow the Army Corps guidance
14 and it -- you start, you know, any delineation, you should
15 start in the office looking at different resources, you know.
16 If the Chagrin River, the Grand River pops up on your site, you
17 know, it's pretty obvious there's probably going to be
18 something out there. But when you get out in the field and you
19 see something, the primary indicator is bed and banks, sediment
20 sorting. An area that appears that water flows, at least,
21 relatively permanently is what the Corps is going to say. So a
22 lack of upland vegetation or really any vegetation, scouring,
23 things like that.

24 And under those, with that guidance in mind, our
25 professional opinion is that this would be what the Army Corps
26 would consider a stream.

27 CHAIRMAN VALENTIC: Did the Army Corps come out and
28 confirm the wetland boundary and the stream? Has that already
29 been completed?

30 MR. LATOCHE: Negatory.

1 CHAIRMAN VALENTIC: That has not.

2 MR. LATOCHE: That has not.

3 CHAIRMAN VALENTIC: So what if they come out and they

4 disagree with your boundary and the boundary grows, the wetland

5 boundary grows, which could happen, right?

6 MR. LATOCHE: That certainly is a possibility. Then

7 that would, obviously, put us in a pickle.

8 MS. JARRELL: When will they come out?

9 MR. LATOCHE: It could also shrink at the same time.

10 CHAIRMAN VALENTIC: Yeah, agreed, it could also

11 shrink.

12 MS. JARRELL: When will they come out? When would

13 they come out ordinarily in this process?

14 MR. LATOCHE: As far as my reading of the

15 regulations, there is no requirement to receive a

16 jurisdictional determination.

17 MS. JARRELL: They won't be coming?

18 MR. LATOCHE: They won't come.

19 MS. JARRELL: So where, if you could show me on my

20 picture, Mr. Knez, where is the swale?

21 MR. KNEZ: The swale that we put in?

22 MS. JARRELL: Yeah.

23 MR. KNEZ: You are not going to see it on this.

24 MS. JARRELL: I know, but if you could just draw it

25 in or just show me.

26 MR. KNEZ: This is Hermitage and then it curves into

27 Girdled.

28 MS. JARRELL: Yes.

29 MR. KNEZ: Where you put the two new stop signs.

30 MS. JARRELL: Yes.

1 MR. KNEZ: The lot that is coming off of Girdled Road
2 right next to the water line that we installed, you will see a
3 swale running back into the woods that was created by us as a
4 request of Lake County.

5 MR. SWEENEY: It pretty big.

6 MS. JARRELL: And does it even touch the subject lot?
7 Does it go -- I mean, where is it? Show me where, just with
8 your finger, just show me where it is.

9 MR. KNEZ: I am not a hundred -- I think it's this
10 lot right back in here. Yes, it is. So this lot goes here and
11 then that swale, according to Lake County Engineers, was meant
12 to catch the amount of water they felt relevant and then
13 disburse it into the swale that is on Girdled Road.

14 MS. JARRELL: So there is no swale on the north side
15 at all.

16 MR. KNEZ: No, swale on the north side?

17 MS. JARRELL: Right here.

18 MR. KNEZ: No, no.

19 MS. JARRELL: Okay. So --

20 MR. KNEZ: And if there was a requirement for us to
21 put one in, I am sure we would have had to put one in.

22 MS. JARRELL: Why didn't you talk to the neighbors?

23 MR. KNEZ: I guess it's a failure on my part. We did
24 not see this being an infraction onto the neighbors' property
25 because --

26 MS. JARRELL: Even after the last meeting?

27 MR. KNEZ: I -- yes, yes. And maybe back, you know,
28 shame on me but I did -- there is no water -- we were, as it
29 said in the meetings -- Everybody is always concerned about
30 water on their property. As it said in the meeting minutes,

1 the water does not flow, absolutely not, on the neighbors'
2 property and that was stated by Barrington Engineering and it's
3 in the minutes.

4 CHAIRMAN VALENTIC: It flows into the wetland on the
5 property.

6 MR. KNEZ: I think one of the options is more
7 intrusive than what we have proposed.

8 CHAIRMAN VALENTIC: I am not disagreeing with you
9 there but I am, I am a little hung up on this whole, this whole
10 wetland delineation and confirmation of the wetland limits. So
11 when, if they go in for site plan approval, we don't require
12 that they confirm the wetland boundaries? If we have a buffer
13 that's supposed to be offset 30 feet from this wetland -- and
14 I'm not trying to put you on the spot, Heather -- but it is
15 supposed to be offset from the wetland and this is -- Ben, you
16 are a professional, I believe. In your professional opinion
17 that this is the wetland boundary. But I would think that
18 somebody else might go out and draw a different boundary, but
19 possibly.

20 And I just, you know, working with -- I know when the
21 county approves plots, you know, subdivision plots, all the
22 wetlands need to be, you know, approved and, you know,
23 determined the limits of the wetlands and the Corps has to come
24 out and approve them.

25 But this is not a subdivision or a plot review, it's
26 a lot split. And so the county doesn't -- I don't believe
27 that's part of that requirement but is it, I wonder, is that
28 part of our requirements for site plan review and approval
29 because aren't we, aren't we still approving site plan of a
30 home on the site?

1 MS. FREEMAN: We are reviewing zoning.

2 CHAIRMAN VALENTIC: The zoning.

3 MS. FREEMAN: The site plan as it relates to
4 conforming with the zoning, including the riparian setback.

5 MR. DYNES: I don't think we have anything to do with
6 the site plan.

7 MR. EDGAR: I will just give you a quick perspective
8 on that issue from our standpoint, is that what you are asking
9 about is called a JD or a PJD, jurisdictional determination or
10 a preliminary jurisdiction determination. Unless the applicant
11 is proposing to impact that wetland, they won't ask for that.
12 So, basically, they're asking the Corps to affirm their
13 boundary that they show.

14 So if you are not going to impact, they typically
15 will not request that, using his reputation and his credentials
16 on the line as the burden of proof that that's kind of like a
17 PE uses his stamp of saying, "I used the best professional
18 judgment and this is where it is." So we will never ask for a
19 JD OR a PJD if they're not impacting that project unless we
20 look at it and we go, "Whoa, I think we really missed the
21 boundary here," if it's anywhere close to the boundary. And
22 Dan and I walked it and we were in pretty good agreement with
23 what he showed on there, not enough that we said, "Hey, we want
24 to see a JD." So I think the boundary is probably pretty well
25 shown on that site plan.

26 CHAIRMAN VALENTIC: Okay. Thanks, Chad, for
27 explaining that.

28 MS. JARRELL: Mr. Knez, one more thing.

29 MR. KNEZ: Yes.

30 MS. JARRELL: Why can't you connect to the sewer?

1 MR. KNEZ: Excuse me?

2 MS. JARRELL: You can't tie into the sewer
3 because why?

4 MR. KNEZ: It wasn't, it wasn't an option for us in
5 the cost aspect of it. If we would have went to the 18 unit
6 condo development that was proposed, we would have accessed the
7 sewer. We had a separate drawing that, basically, used your
8 two units per acre, in a 9 acre site allowed us 18 condos.
9 Then we would have brought the sewer in. We did bring a new
10 water line in, we did bring a gas line but we did not bring a
11 sewer line.

12 It wouldn't have changed much of the, of the
13 hindrance that we have here because all that would have
14 disappeared is the septic. The house would have still had the
15 infractions that we have.

16 MS. JARRELL: Understood. Thank you.

17 CHAIRMAN VALENTIC: Thank you.

18 MS. LANDGRAF: Gillian, I just have one quick
19 question.

20 MS. HALL: Okay.

21 MS. LANDGRAF: I know you submitted this. I am not
22 sure if it was I or J. But the Alternate Plan A, B, you guys
23 aren't presenting that for approval tonight? You want your
24 original, correct?

25 MS. HALL: We would prefer to have the original. I
26 think Bo went over the reasons why.

27 CHAIRMAN VALENTIC: Yes.

28 MS. LANDGRAF: Right. I just want to clarify because
29 these would require side yard and front yard but that's not
30 before the Board tonight. These are just showing the options.

1 MS. HALL: That is showing the options, and I believe
2 Bo gave you the reasoning why those would not work for us.

3 MS. LANDGRAF: That was my only question.

4 MS. HALL: And I just want to, just for
5 clarification, Stephanie, we have this pack of documentation to
6 go along with our --

7 MS. LANDGRAF: You are submitting all of these?

8 MS. HALL: We will be submitting all of these into
9 the record.

10 MS. LANDGRAF: So we will mark all of them.

11 MS. HALL: These are our outline. And, yes, do you
12 want me to do them for the record?

13 MS. LANDGRAF: Do you want to mark them just so that
14 -- Heather, what was the last one you said, J?

15 MS. FREEMAN: That's Exhibit J.

16 MS. LANDGRAF: This would be J?

17 MS. FREEMAN: Yes. Those are the documents that back
18 up the timeline?

19 MS. HALL: Yes. But I probably would like to
20 identify them individually as J through --

21 MS. LANDGRAF: That's fine. I mean, obviously, the
22 Board hasn't had the opportunity to look at them. So if you
23 would like to submit them --

24 MS. HALL: Yeah, I would like to submit them. I will
25 mark them.

26 (Whereupon, discussion was held off the record.)

27 CHAIRMAN VALENTIC: Gillian, have you got it all?

28 MS. HALL: We marked them. We individually marked
29 them for the record.

30 CHAIRMAN VALENTIC: Okay.

1 MS. HALL: I don't know if --

2 MS. LANDGRAF: I am going to present these to the
3 chairman -- This is marked J through MM -- now understanding
4 that these were presented tonight and the BZA has not had the
5 opportunity to review them independently.

6 CHAIRMAN VALENTIC: Thank you. These are now part of
7 our record for the submittal. Okay.

8 MS. LIPNIS: I don't want to take too much time. I
9 just want to say one thing. I think at the last meeting it was
10 very well said by Chad that this is actually almost a Category
11 3. And I know the fine gentleman over here said something
12 about it's a small stream and it's really amenable. This
13 actually is a pretty large, fast-moving stream. And as you
14 saw, she actually did find salamander or lizard on the
15 property, which would almost make it a Category 3.

16 So this isn't a small wetland and this isn't
17 something that would be almost a Category 1. It's almost a
18 Category 3. So I just wanted to reiterate that from the last
19 meeting. Thank you.

20 CHAIRMAN VALENTIC: Okay. Thank you.

21 MR. FLANIGAN: Can I add to that?

22 CHAIRMAN VALENTIC: Please.

23 MR. FLANIGAN: Okay. So we are covering our ditches
24 on Majesty. And something that's happened recently is that
25 we've got a lot of rain. So in order to cover our ditches,
26 there is enough water coming off that back that we have to
27 increase the pipe sizes going under the driveways, not 12
28 inches that they are now but up, by the time we get to where
29 these people live, 30 inches. So it might be seemingly a small
30 stream but there is enough water that's impacting us, this is a

1 big, it's a big deal for us. So that's my, that's my point.

2 CHAIRMAN VALENTIC: Okay. Thank you. Before we
3 close the meeting, is there anyone else that's speaking for or
4 against the appeal that would like to come up? Gillian, Bo,
5 are you guys --

6 MS. HALL: I think we're okay.

7 CHAIRMAN VALENTIC: You guys are okay.

8 MS. JARRELL: Can I ask one more question?

9 CHAIRMAN VALENTIC: Yes.

10 MS. JARRELL: I am sorry.

11 CHAIRMAN VALENTIC: For who?

12 MS. JARRELL: I am not sure, for anybody. I guess
13 that I am struggling with the fact that there were studies done
14 and the water is supposedly going to the southeast, but then we
15 have neighbors here and they're saying that the water is
16 definitely going to the north. And so I want a definitive
17 answer. Where is the water going?

18 MS. LIPNIS: On our property.

19 CHAIRMAN VALENTIC: Hold on.

20 MS. JARRELL: I mean, I want -- I think it's
21 important to know.

22 CHAIRMAN VALENTIC: Chris, she's asked the question.
23 We don't need anyone, please, shouting out any answers. If you
24 would like to answer Chris's question, Bo, please come up and
25 answer that question.

26 MR. KNEZ: So Little Mountain and the area there is
27 saturated with water. If you walk back on Little Mountain in
28 the old arboretum, there is actually water houses. The
29 McMillans, at one time, were going to tap into Little Mountain
30 to obtain drinking water. If you drive down Griswold, you will

1 see a fire hydrant, which shocked me as odd at one time.
2 Behind that fire hydrant, which was put in by the Mathers to
3 protect their homes against fire because a hotel burned on that
4 mountain many years ago, behind that if you walk to the back,
5 there is a concrete canister reinforced by two and a half --
6 inch and a half rods that is probably 15 feet wide by 20 feet
7 deep that is full of water that comes off of that mountain.
8 That mountain is porous sand. The water, my neighbors across
9 the street have the same issue because the water comes from the
10 mountain, basically goes underneath and then pops up as --
11 water is self leveling -- pops out as the topography levels
12 off.

13 I live in the area. I live a mile and a half from
14 this on Mentor Road. We have the same issues. My neighbor's
15 house is actually one of the last spring-fed houses with all
16 the water coming off of Little Mountain. My yard, I still have
17 two 1,000 gallon cisterns in the back yard that we used to grab
18 water from the mountain, put it in the cisterns and bring it
19 into the home. The area is infiltrated with water.

20 A lot of these streams are coming up. There is -- I
21 think someone said it, put a shovel in the ground, water comes
22 out. It's a spring. It's that type of -- It always has been
23 and always will be that type of soil being fed from Little
24 Mountain.

25 I say, again, there is, there is water houses that
26 were built in the 1920s. I found four of them so far that are
27 sitting in the back full of water that were used to accumulate
28 water from the mountain itself because it is, it is so
29 saturated with, with water.

30 MS. JARRELL: Thank you.

1 MR. KNEZ: So that's where -- That is my
2 unprofessional opinion of where the water comes, being a
3 neighbor on the west side of Little Mountain.

4 MS. JARRELL: So the water, if something pops up,
5 let's say, on your land, then the water could flow to the
6 north, right?

7 MR. KNEZ: No. The topography does not allow it.

8 AUDIENCE MEMBER: We have topo maps as well.

9 MS. JARRELL: I am looking at the two foot contours
10 on my little printout here.

11 MR. KNEZ: Again, that's an "if." What the situation
12 we have today, I mean, it sounds like we have wetness all the
13 way up and down the street.

14 MS. JARRELL: Right.

15 MR. KNEZ: Not just, not just limited to our wetlands
16 area or our stream, which is the big cause of the debate. So
17 that is my, that is where I feel that -- And anybody is welcome
18 to walk it. It's Holden Arboretum property. If you have -- If
19 you are a member, you can go up there and you can see what I am
20 talking about back there.

21 CHAIRMAN VALENTIC: Thank you, Bo.

22 MS. JARRELL: Thank you.

23 CHAIRMAN VALENTIC: Sir, please come up again.

24 MR. FLANIGAN: Okay. So on behalf of -- We hired
25 Polaris Engineering to do a water study and we presented the
26 water study to Soil and Water. When we're with Soil and Water,
27 we're recognizing a large amount of water coming off of Nob
28 Hill or whatever we are calling that hill, coming across
29 Hermitage and across these lots. And the -- I will present
30 this. I didn't bring the -- But, basically, here is Nob Hill.

1 Here is Heather Lipnis' lot. Here is the lots in question.
2 And this water is coming across here. So we are working with
3 Soil and Water to put a ditch line across the whole back of all
4 these property and bring it down into the front.

5 When we work with Health, the Health Department,
6 they're pushing us to put in sanitary sewers because of the
7 condition of the lots, the water, et cetera. So it seems like
8 we could share engineering with the builder if we could show
9 him what we --

10 MS. JARRELL: How much did this cost?

11 MR. FLANIGAN: We spent -- What, digging the ditch?

12 MS. JARRELL: I mean study and the ditch, how much
13 did that cost?

14 MR. FLANIGAN: We spent \$18,000 on the study and we
15 will probably spend 12 thousand to 20 thousand dollars on the
16 ditch.

17 MS. JARRELL: What -- How come we don't have any of
18 that information?

19 MR. FLANIGAN: I am sorry. I didn't bring that. I
20 didn't -- I can provide that. I mean, actually, I think the
21 engineering, if we could share engineering with the builder,
22 what we did on that whole street when we meet with Soil and
23 Water, when we meet with the Health Department, it would
24 probably help both of us to understand what it is, the impact
25 on him and then the final impact of what it means to the
26 homeowners that are on Majesty. We are not against what he is
27 doing. We are just -- We are realizing that it seems like we
28 are dealing with two, two different departments.

29 We also went with the Army Corps of Engineers. We
30 had to get, in order to cover our ditches and get that approved

1 by Concord, we had to first go to the Army Corps of Engineers
2 and they have guidelines for us as to the amount of water
3 that's coming in. And the only part of the street that we
4 can't cover is where that line comes down here. I'll step up
5 here. So this line comes down here to Majesty Lane. We are
6 not able to cover that because of the amount of water that's
7 coming out of the back.

8 So it has a big impact on us. And, again, maybe the
9 solution is to share engineering and collaborate with the
10 builder so that we're not working in silos on this thing.

11 MS. JARRELL: Thank you.

12 CHAIRMAN VALENTIC: Thank you. Okay. Are you adding
13 something new?

14 MS. LIPNIS: I am, actually.

15 MS. JARRELL: Just retorting?

16 MS. LIPNIS: No, I actually have -- So when it comes
17 down that hill onto Hermitage, the way Hermitage goes is
18 actually like this. Okay? So like on the third lot of theirs,
19 that is the highest point. So what happens at the highest
20 point, it comes down Hermitage and it actually goes to the
21 north and the south. And then our street goes straight down
22 this way, so the water is coming down the hill, it's hitting
23 that peak, it's going to the north and the south and then it's
24 going down Majesty Lane. So that's how it's going north and
25 south and both of us are saying the water is going both ways.

26 MS. JARRELL: Okay. Great. Thank you.

27 MR. EDGAR: I will try and answer your question the
28 best I can. So there was a swale that was dug by Mr. Knez on
29 the east side of his property that starts at the north and goes
30 south all the way to Girdled.

1 CHAIRMAN VALENTIC: Yes.

2 MR. EDGAR: So I would say probably 60 percent, just
3 a rough calculation, of A1 goes into that swale and goes south.
4 From probably the limits of their grading north and then kind
5 of running to the northeast line, almost to the corner of that
6 property, that water kind of goes east, northeast through the
7 back yards of the lots in the Mount Royal subdivision. So do
8 you want to see what I sketched?

9 MS. JARRELL: Uh-huh.

10 CHAIRMAN VALENTIC: Are you going to sign it?

11 MR. EDGAR: Sure. I am not a PE or a --

12 MS. JARRELL: Can I get your autograph?

13 MR. EDGAR: I'm just a hydrologist. I don't know how
14 it goes. So that swale comes here. So water flows at 90
15 degrees at topo lines. So that's all you've got to do is draw
16 a line, 90 degree topo line.

17 CHAIRMAN VALENTIC: I can verify that.

18 MR. EDGAR: It's easy to do. So you get, you know,
19 if you started here and you just went 90 degrees for those topo
20 lines and you get one that just escapes that, then you go south
21 of that, see how those topo lines kind of start to hook like
22 this?

23 MS. JARRELL: Yes.

24 MR. EDGAR: It's going to go that way and get into
25 that swale and go south.

26 MS. JARRELL: Okay.

27 CHAIRMAN VALENTIC: Can you show these guys down
28 here, please?

29 MR. SWEENEY: I am familiar with it.

30 MR. DYNES: Yes.

1 CHAIRMAN VALENTIC: Okay.

2 MS. JARRELL: Well, I learned something.

3 CHAIRMAN VALENTIC: And, you know, does water, Chad,
4 just real quick, that water and the runoff and the drainage and
5 the spring, I get all that and that water is a problem. Ask
6 Heather. Everybody calls every day, you know, about water and
7 drainage issues. But, you know, building a home or not
8 building a home, some of that is still going to stay in place.

9 What I think is more, maybe in my mind, is more
10 important is, what does that home, hard surface of the home,
11 the sidewalk, the driveway, a potential patio, what does that
12 do to the stormwater runoff? And if we, as a Board, remember
13 from the stream training that we all went through to help us
14 navigate through, you know, approving these variances, I think
15 that's what we should be thinking about, not necessarily how
16 much drainage is already there.

17 Does that make sense to the Board? And, Chad, do you
18 want to explain?

19 MR. EDGAR: So, obviously, hard surfaces are going to
20 increase the amount of runoff that's going through the system,
21 can't infiltrate through that. The soil types that are out
22 there, saturated high water table soils, they're going to get
23 compacted when it's built, so they're not even going to --
24 they're essentially going to act as hard surfaces. You will
25 get some infiltration out of it but I would say it's
26 negligible. So there will be a net increase in the amount of
27 runoff leaving that area. Like I said, 60 percent of that lot
28 is going to the swale, 40 percent going through the back yards.

29 CHAIRMAN VALENTIC: Okay. So, in theory, that swale
30 is probably made, if you don't, you know, if you exclude the

1 house, it's probably helped the situation some.

2 MR. EDGAR: I am sorry?

3 CHAIRMAN VALENTIC: The swale could have helped, is
4 potentially helping the situation.

5 MR. EDGAR: (Nodding affirmatively.)

6 CHAIRMAN VALENTIC: But then you add the home and now
7 you've increased other issues or runoff.

8 MR. EDGAR: (Nodding affirmatively.)

9 MR. SWEENEY: Ivan --

10 CHAIRMAN VALENTIC: All right.

11 MR. SWEENEY: Close it down.

12 MR. KNEZ: Can I just say one more thing?

13 CHAIRMAN VALENTIC: Yes.

14 MR. KNEZ: And, Chad, I want you to hear this. Would
15 it be a benefit if we ran the gutter drains -- because what
16 he's talking about, those are -- that has not been touched, so
17 those are existing conditions. With the hard surface area, I
18 understand that. So would it be beneficial -- and I ask Chad
19 this -- if we ran the gutter drains underground and exited them
20 in a manner that would cause it to go towards the eastern
21 portion, which would reduce the amount of water infiltration
22 that, that any of the neighbors could potentially see?

23 CHAIRMAN VALENTIC: Bo, that's not -- I mean, if you
24 want to propose that and make that a condition here, I think --

25 MR. KNEZ: I would.

26 MS. JARRELL: We can do --

27 CHAIRMAN VALENTIC: I think you can make that, you
28 know, you would --

29 MR. KNEZ: I would make that a condition, yeah.

30 CHAIRMAN VALENTIC: Okay.

1 MR. DYNES: I think we are going too far a field.
2 With all due respect, we don't have an engineer here to offer
3 testimony on that.

4 CHAIRMAN VALENTIC: No.

5 MR. DYNES: We can go down a million potential
6 scenarios and hypotheses and go on and on and on until three
7 days from now. We have in front of us a particular set and
8 request. We need to find some conclusion on this testimony,
9 take it for what it is, and render some, and through our
10 discussion, a decision. We can go on and on and on. Without
11 the proper people here to offer that --

12 CHAIRMAN VALENTIC: Yeah, understood.

13 MR. DYNES: -- we don't have that in front of us.
14 And if it's going to be amended or if it's in some other
15 format, fine, but we're --

16 CHAIRMAN VALENTIC: He put it out there. We take it
17 for his word, just like everyone else's thoughts on their
18 drainage. No one is a professional.

19 MR. DYNES: No.

20 CHAIRMAN VALENTIC: These are their opinions.

21 MR. DYNES: Right.

22 CHAIRMAN VALENTIC: Okay. If there's no further
23 comments or questions and no one else speaking for the appeal,
24 the public hearing for Variance Number 2017-8 is now closed to
25 the public. I will entertain a motion to approve Variance
26 Number 2017.

27 MS. JARRELL: So moved.

28 MR. DYNES: Second.

29 CHAIRMAN VALENTIC: Thank you.

30 MS. LANDGRAF: Dash 8, it was 2017-8, and as amended

1 by Mr. Knez on the record.

2 CHAIRMAN VALENTIC: Sorry. Thank you for the
3 correction. I am going to redo it then. I am going to propose
4 a motion to approve Variance Number 20 -- 2017-8 as amended by
5 Mr. Knez with directing the drainage to the, to the east.

6 MS. LANDGRAF: East. Okay.

7 MS. JARRELL: So moved.

8 MR. DYNES: Second.

9 CHAIRMAN VALENTIC: Thank you. The approval of
10 Variance Number 2017-8 has been moved and second. It is open
11 for discussion on the Board. So we have heard a lot. I just
12 ask if you have anything, you know, lay it out there now, you
13 know, for the rest of us to hear and move on. Skip or Brandon,
14 anything to add? You guys are --

15 MR. DYNES: He always looks to me.

16 MR. SWEENEY: No.

17 CHAIRMAN VALENTIC: Skip is set.

18 MR. DYNES: All right. I'll go first. I am in
19 favor, and this Board and the record and minutes will show from
20 meetings past, I am in favor of helping out builders. I am not
21 a regulation guy. I am not in favor of it. There is a
22 specific purpose of it. Our job here is to recognize that,
23 understand that, take testimony as is provided to us, see if
24 there is a practical difficulty.

25 In this particular situation, we're looking at an
26 area variance. We review that. And I think in looking at
27 that, and then we talk about the Duncan Factors that Ms. Hall
28 alluded to and I think were discussed a little more in the
29 prior meeting, if I go through it, my personal opinion, the
30 property in question can and will yield a reasonable return

1 otherwise. This is a, this is a large parcel that was split.
2 It has some opportunities maybe as lands for another parcel,
3 whatever it may be. I don't think that that's dispositive in
4 and of itself of the whole issue, so taking Number 1 for what
5 it is.

6 I think this variance is substantial. We can talk
7 about the size of the stream and the other things but in light
8 of what our regulation states and in light of what else could
9 occur, it's a substantial variance that's being requested of
10 us.

11 The essential character of the neighbor would be
12 substantially altered, the adjoining properties, the neighbors
13 and stream and wetlands. We've got testimony from a number of
14 residents who live close by who are telling us that their
15 property is going to be altered.

16 We don't have a lot of expert testimony. And I
17 appreciate Chad. I appreciate the gentleman from HZW. We do
18 not have an engineer here necessarily to talk about some of
19 these other issues. I understand he was here the last time.
20 He is not here tonight. I think we can only consider what was
21 in the record previously and what we have tonight, and I am
22 hearing a lot from neighbors who have some substantial hard
23 hardships that they are here to present to us.

24 There is no issue with government services that I am
25 aware of. I didn't hear anything along those lines. I don't
26 think that's an issue.

27 The applicant purchased the property with or without
28 knowledge of the zoning, that can be argued. My problem with
29 that is -- and I asked for some evidence of things prior to the
30 enactment of the regulation and we got a packet presented to us

1 that was not presented to us before tonight. It was identified
2 in whole as one exhibit. It was not broken down. There was
3 one copy. We didn't have time to review it. And there was
4 nothing in there brought to our attention by the advocates for
5 the variance to say, "These are the documents we have. This is
6 what occurred." We have a timeline. I appreciate that.
7 That's hard for me to accept in and of itself and with those
8 documents and think that that rises above to the level that we
9 should look to be granting this.

10 The applicant's predicament and feasibility can or
11 cannot be resolved through some method other than a variance,
12 we have some alternative plans. Those are not before us.
13 However, they were presented to us, I think, just for
14 consideration. I haven't heard anything else but I suspect
15 that, because of that and other requests for variances, they do
16 have alternative issues. There is other issues to do with the
17 property. They've got a large parcel they've purchased.

18 And then, finally, spirit and intent behind the
19 zoning, behind the zoning requirement would or would not be
20 observed and substantial justice done. From my understanding
21 as I read the zoning requirement, it would not be observed and
22 substantial justice would not be done by granting the variance
23 for the reasons I have stated. And, again, we've got some lack
24 of evidence.

25 And I think, from what I am hearing from everybody
26 here tonight -- And I might be the bad guy, Mr. Knez, and there
27 is a lot of other people here to vote, but I don't hear enough
28 that rises to the level or is a preponderance of evidence in my
29 mind to grant the variance, especially looking at the Duncan
30 Factors.

1 The gutter drain idea, that's great. Does that solve
2 the whole problem? I don't think that it does. We hear about
3 runoff. We hear about the disruption.

4 CHAIRMAN VALENTIC: Okay. Thank you, Brandon.

5 Do you guys have anything down there, Blair?

6 MR. HAMILTON: I think that was an adequate
7 summation. Thank you, Brandon.

8 CHAIRMAN VALENTIC: You stole Blair's thunder.

9 Chris, do you have any thoughts, anything you want to
10 add?

11 MS. JARRELL: I always have something to say.

12 CHAIRMAN VALENTIC: I know.

13 MS. JARRELL: I am going to try to be brief. I
14 really tried to look at both sides here. I agree with a lot of
15 what Brandon says as far as, you know, not having real
16 committed evidence here. But we've got -- There's a couple of
17 things that rise up in front of me and that's the fact that you
18 didn't communicate with the neighbors. And this may not have
19 anything to do with the wetlands. You should have communicated
20 with the neighbors. I think there is a real opportunity here
21 to work with the Mount Royal folks, especially with -- they've
22 already done a study, they're already trying to implement a
23 resolution to their water issues. And maybe this was something
24 you guys could have worked on together and maybe this would
25 have been, you know, just more amenable.

26 I understand. The EPA has killed more deals of mine
27 than I care to mention. It's not fun dealing with them by any
28 stretch, or any government entity. And we all know who the
29 government heads are up here and who are not. I am really not.
30 But the fact remains that -- and I agree with your assessment

1 of the Duncan Factors -- but the fact remains that the
2 neighbors, it's a real issue, we have a real big water issue.
3 And maybe -- And I apologize, Mr. Knez, but maybe this just
4 isn't buildable.

5 MR. KNEZ: Can we table?

6 CHAIRMAN VALENTIC: No, Mr. Knez --

7 MR. KNEZ: We would like to table.

8 MS. JARRELL: So I don't know that I can --

9 MR. SWEENEY: Let's just take a vote.

10 MS. JARRELL: Yeah, let's take the vote. Thank you.

11 MR. SWEENEY: Just take the vote.

12 CHAIRMAN VALENTIC: I don't really have anything more
13 to add. I think the Board did a great job listening. I think
14 everybody had an opportunity to present their thoughts.

15 MR. DYNES: I would like to say one more thing. And
16 I appreciate this and it's neither here nor there and we all
17 talk about our experience. And, yes, I represent a number of
18 builders, too, in my practice and I get it. And I am not a fan
19 of a lot of these things. But I want you to understand,
20 Mr. Knez, on a personal level -- and I'm speaking to you, in
21 part, when I'm supposed to be speaking to the Board right now
22 and I will speak to the Board and make it to you. This is
23 tough for us. And we have a number of residents and homeowners
24 here who are in a position who are, who are impacted by or
25 believe to be impacted by it. And we have this regulation in
26 front of us to uphold. To then offer a variance puts Concord
27 Township, the other residents and everybody else in a difficult
28 spot.

29 And the difficulty is, too, that this is not yet
30 built upon. There is a lot of factors here and there's a lot

1 of ifs and buts and things to be done. That's not to say that
2 the builder -- I will speak to you -- doesn't have options and
3 redress from this point forward and certain things that he can
4 do based upon our decision.

5 I just think what we are listening to and what we are
6 hearing -- and I'm not trying to impress my thoughts upon
7 anybody else a little bit more. I know I spoke first. But
8 with what we have to consider, I think if we consider it in
9 light of the totality of the circumstances that exist here, we
10 are pretty limited in what we can do. And I don't enjoy this.
11 I am not a fan of this riparian rule. I think it places a
12 large burden and difficulty on us. I suspect there is a lot of
13 people here who are going to talk about, perhaps, the same
14 issue later and we are going to hear it again and again. But
15 we're in a tough spot until that changes and it puts us in a
16 difficult spot with builders and the community. And I don't
17 envy it for any, for any of us and it's not something I enjoy
18 doing.

19 CHAIRMAN VALENTIC: Thank you, Brandon.

20 MR. DYNES: That's my soap box.

21 CHAIRMAN VALENTIC: Okay. The question is on the
22 approval of Variance Number, Appeal Number 2017-8. A yes vote
23 is for approval of the variance, a no vote denies the variance.
24 Heather, please call the vote.

25 MS. FREEMAN: Ms. Jarrell?

26 MS. JARRELL: No.

27 MS. FREEMAN: Mr. Sweeney?

28 MR. SWEENEY: No.

29 MS. FREEMAN: Mr. Dynes?

30 MR. DYNES: No.

1 MS. FREEMAN: Mr. Hamilton?
2 MR. HAMILTON: No.
3 MS. FREEMAN: Mr. Valentic?
4 CHAIRMAN VALENTIC: No. Unfortunately, your appeal
5 has been denied. If you choose to leave, see Heather.
6 MR. KNEZ: Thank you for listening.
7 MR. SWEENEY: Can we take a quick break?
8 CHAIRMAN VALENTIC: Yeah. Do we have to recess?
9 MR. SWEENEY: More water.
10 CHAIRMAN VALENTIC: We are going to recess and take a
11 break.
12 (Whereupon, there was a recess from 8:38 p.m. until
13 8:57 p.m.)
14 CHAIRMAN VALENTIC: The Board of Zoning Appeals for
15 May 10th is now back in session. I would like to ask
16 Mr. LeScoezek and Mr. Chamoun to please come up, please. Is
17 anyone here representing the third case?
18 MR. LeSCOEZEC: Oh, this is the second, this is the
19 next --
20 CHAIRMAN VALENTIC: I understand. I would like you
21 to --
22 MR. DYNES: They stepped out.
23 MS. FREEMAN: He must have stepped out.
24 CHAIRMAN VALENTIC: He stepped out, okay.
25 AUDIENCE MEMBER: They were here but I believe they
26 left.
27 CHAIRMAN VALENTIC: Okay. Well, that answers that
28 question.
29 AUDIENCE MEMBER: They were sitting in front and
30 just, with the timeline going, I believe they left.

1 CHAIRMAN VALENTIC: Okay. Thank you.

2 MS. JARRELL: Who left?

3 MS. FREEMAN: I am sure they're probably outside.

4 MS. LANDGRAF: Mr. Chairman, before we get started on
5 the second one, I am going to make a request of Mr. Sweeney to
6 recuse himself from this. So I am going to ask the applicant,
7 would you like to go forward with the Board with four members
8 or would you like to continue this to another hearing to allow
9 five members to be here?

10 MR. LeSCOEZEC: Four is fine.

11 CHAIRMAN VALENTIC: Okay. Thank you. Please state
12 your name and address and confirm you've been sworn in.

13 MR. LeSCOEZEC: Okay. My name is Dan LeScoeze. My
14 address is 9945 Campton Ridge Drive, Chardon, Ohio. And this
15 is --

16 CHAIRMAN VALENTIC: You've been sworn in? We just
17 need --

18 MR. LeSCOEZEC: Yes, I've been sworn in.

19 CHAIRMAN VALENTIC: Okay. Go ahead. Anyone that
20 comes up that speaks, they'll state their name and address for
21 the record.

22 MR. LeSCOEZEC: Okay. And I think you wanted to go
23 first.

24 MS. LeSCOEZEC: I have also been sworn. I am Karen
25 LeScoeze. I am also at the same address of 9945 Campton Ridge
26 in Chardon. And I just ask to start first because I get too
27 nervous and wanted to get my part over with here.

28 Over a year ago, we decided that we wanted to move
29 from Geauga County into Lake County because I am a teacher at
30 Riverside Local Schools, and we started looking for lots. We

1 found a lot in this development of Noble Ridge that we just
2 fell in love with. We kept walking it. It was an unusual
3 shaped lot, so it had, you know, a dropoff kind of on the one
4 side and in the back of the property, but we just loved the
5 idea. We went over, would park and take a walk and saw
6 different age people living in the neighborhood, met some of
7 the neighbors and thought it was very welcoming committee --
8 community.

9 So because it was an odd shaped, my husband had the
10 soils tested and he had -- we looked at plans online and hired
11 a surveyor to come lay out different things to make sure we
12 could even build the house, what was supposed to be the house
13 of our dreams, on that lot and to see if it was possible. We
14 were ready to basically start clearing when we got a letter
15 from the homeowners' association making us aware of this
16 riparian set -- Is that what it's called?

17 MS. LeSCOEZEC: Riparian setback.

18 MR. LeSCOEZEC: Riparian setback. So my husband will
19 speak to what we have done since that time but it is, I guess,
20 our hope that we will be able to, with these new changes and
21 asking for this permit today, that we can start clearing and
22 building this home. This isn't how I wanted to meet our new
23 neighbors. So thank you.

24 CHAIRMAN VALENTIC: Thank you.

25 MR. LeSCOEZEC: Okay. So I guess I am asking for two
26 variances to allow for the construction of a single-family
27 dwelling with a 45 foot riparian setback in lieu of the 50 and,
28 secondly, to allow for a 45 foot front building setback in lieu
29 of the 50, and a 10 foot side yard setback in lieu of the 15
30 foot required.

1 I think you have a couple drawings there, my old
2 plans and new plans. Basically, I know you can't see this but
3 you should have a copy of this right there, but we redesigned
4 the house. We had a covered terrace in the corner. And Harry
5 Jones is here, my surveyor. And when we learned about the
6 riparian setback, the covered terrace was about 13, 14 feet,
7 you know, in the setback. And then we also had our garage that
8 was in violation of the riparian setback by about the same
9 number of feet.

10 So we basically moved the covered deck, we shrunk
11 down the garage and moved it over in front of the house, and we
12 engineered a cantilever system where the joists are going to
13 hang over the foundation two feet on the side. And so this is,
14 when this is all said and done, basically, you've got a slight
15 amount of the foundation, under the foot, touching the corner
16 in the back right corner of the house. You have about one foot
17 of the garage that's touching the corner in the back right
18 corner. And then on the front, I am asking for the 5 foot
19 variance to the 50 foot front setback because we've got about 2
20 feet or a foot and a half of the garage, the corner, that
21 touches that front yard setback.

22 I had been in to see Heather a couple times to try to
23 get educated on the riparian setbacks. And the last setback I
24 am asking for is to move the side yard from 15 feet to 10
25 because that, obviously, moves my property further away from
26 the setback. And it was indicated to me that it was better to
27 ask for, possibly, a side yard setback than asking for a 10
28 foot riparian, you know, a 40 foot versus a 45.

29 So I think we, I think we closed on the lot. We
30 signed the contract on the lot, I think it was in May. The lot

1 closed about a month or six weeks later. So we had no idea
2 that this rule was coming.

3 Harry, is there anything you want to --

4 CHAIRMAN VALENTIC: If you are going to, Harry,
5 please come up, name and address.

6 MR. JONES: I am Harry Jones, 1924 Mentor Avenue in
7 Painesville, and I've been previously sworn in.

8 Mr. LeScoezech has really went through a lot of effort
9 to redesign the house to fit this property and based upon the
10 riparian setbacks and side yards and setback -- side yards and
11 front setback, and he's really worked really hard with his
12 architect to get a house that him and his wife are comfortable
13 with. And we duly request a variance in reference to what's
14 been requested.

15 CHAIRMAN VALENTIC: Does anyone have any questions,
16 Brandon or Blair, Chris?

17 MR. HAMILTON: No. It's nice to see that the effort
18 was put in to, you know, make the best of the conditions and
19 restrictions that are imposed by the lot topography and the
20 riparian requirements, so that is appreciated.

21 MR. DYNES: Yeah, one question. Mr. LeScoezech, you
22 mentioned that it was May 2016 -- there you are, sorry -- that
23 you purchased the home, correct, or that you purchased the lot?
24 I am sorry.

25 MR. LeSCOEZEC: Correct, correct.

26 MR. DYNES: And then you closed on it within a couple
27 weeks but prior to the enactment of the regulation?

28 MR. LeSCOEZEC: Yes.

29 MR. DYNES: Okay.

30 CHAIRMAN VALENTIC: Good?

1 MR. DYNES: That's the only question I had.

2 CHAIRMAN VALENTIC: Okay. Thank you, gentlemen. You
3 can be seated.

4 Is there anyone else here speaking for or against
5 this appeal that would like to come up?

6 MR. BLACK: My name is Douglas Black. I live at
7 11785 Brooke Lyn Court and I have been sworn in. I wanted to
8 thank you for the opportunity to pass along a couple of things
9 that we have noted in the course of the discussions and in
10 trying to research this. First of all, we are looking at,
11 although there are two numbers involved, there are really three
12 variances involved, a setback in the front, a riparian, and a
13 setback on the other side. So, therefore, we are, in essence,
14 redoing what the Zoning Commission did by asking you to do away
15 with everything on the side and the front and leave the back
16 alone.

17 The front setback of only 45 feet will dramatically
18 visually alter the continuity and the character of the area, in
19 that, that very small piece of land that's in front is right at
20 the arch of our cul-de-sac. So the closer you get, visually
21 the more that's going to change the character of all the other,
22 versus all the other homes in the area that maintain that 50
23 foot setback.

24 The variance on the residential side, which is the
25 side upon which we currently reside, my wife and I --

26 CHAIRMAN VALENTIC: So you live --

27 MR. BLACK: In the property --

28 CHAIRMAN VALENTIC: Sublot 28?

29 MR. BLACK: Correct.

30 CHAIRMAN VALENTIC: Thank you.

1 MR. BLACK: On the residential side, much like the
2 riparian side, is not a 5 foot -- it is not a 15 foot setback
3 but is now a 10 foot requested on both sides. What they're
4 asking for represents a reduction of 33 percent of the total
5 setback on both sides so that they can put their dream house on
6 it. We in the neighborhood, of course, are in favor of people
7 who find that area worth building a dream house in.

8 MS. JARRELL: Are you representing the whole
9 neighborhood?

10 MR. BLACK: No, just, just -- But I will say that I,
11 myself, have lived there for 11 years and find the area to be a
12 dream. The full depth of the future structure as it's outlined
13 in the map that you have there will basically encompass the
14 bulk of the property line, merely 10 feet from what will be our
15 driveway, the future structure significantly closer to the
16 property line than any other residence that currently is in
17 Noble Ridge. So this is not just a variance from the standard
18 but it's a variance for the current existing development.

19 To grant three requested variances violates the
20 intent of the zoning regulations. At an early stage, which we
21 are right now, obviously, there's still corrective action that
22 can be taken. I recognize the fact and appreciate the fact
23 that they have put an immense amount of time in redesigning and
24 believe, because we haven't done a shovel's worth of dirt yet,
25 that there are possibilities still available to them because
26 their capital commitment has not been that great to establish a
27 major hardship.

28 We are a good group of folks in that neighborhood, as
29 they said. We like to believe that. And we believe that, if
30 we continue to maintain the zoning as it currently exists

1 without having to alter significantly, as much as 10 percent in
2 front and 33 percent on each side, that we will continue to
3 have the dream house area that we currently live in. Thank
4 you.

5 CHAIRMAN VALENTIC: Thank you. Does anyone have any
6 questions?

7 MR. DYNES: Yeah. Mr. Black, if I am looking at this
8 correctly, your concrete driveway is right on the property
9 line, correct?

10 MR. BLACK: That is correct.

11 MR. DYNES: Okay. That's all I have. Thanks.

12 MR. BLACK: Thank you.

13 MS. CAMPBELL: I've been duly sworn in. My name is
14 Nancy Campbell. I live at 7622 Kenneth Drive, across the
15 street from this property. And, you know, people have been
16 talking about the neighborhood, so I thought I would give you
17 some pictures of what we have now, the cul-de-sac.

18 MR. DYNES: He is not part of this.

19 MS. CAMPBELL: I know. He doesn't know the
20 neighborhood anyway.

21 MR. DYNES: I know.

22 MS. CAMPBELL: That's setbacks for sides. There is
23 front yard setbacks. Here is -- And this might help you if I
24 can get a little closer. This is the Black's property line.
25 This is the builder's, proposed builder's property line.
26 That's the corner of his house. So you don't -- I don't know
27 if my camera catches what it is, you know, and if you could get
28 some idea. This is the property that's to be built on. This
29 is the cul-de-sac with two houses in the back that are back so
30 far you can't even see it.

1 The last group talked about erosion. Some of the
2 people that are on the side of this property have erosion
3 already. This, this here used to be able to hold, walk two
4 people. It can't anymore because it's falling into the ravine.
5 And this is looking at the cul-de-sac from the two houses up on
6 top of the cul-de-sac.

7 I object to the 5 foot, you know, change in the side
8 setback because that creates no buffer. I mean, if I was --
9 and it doesn't affect me. But how are you going to plant trees
10 or anything to try to hide the whole side of that house when
11 there is no buffer zone there? They're going, you know, 33
12 percent. I am not -- And I am not blaming Dan about the
13 riparian setback because I understand he probably is
14 grandfathered.

15 But, you know, when I moved into Kirtland before I
16 lived here, you know, sometimes people have no idea what
17 they're buying. They don't understand that they have to put --
18 and this doesn't affect the Concord area but, you know, our
19 area. They don't understand septic and lights and they think,
20 "Oh, you know, everything is here." So I think everybody
21 should do due diligence when they buy a lot.

22 You know, the Board, the Zoning Board set yard
23 setbacks and back setbacks. I just think to keep the integrity
24 of the community, we should follow our setbacks. I don't know
25 what's going to happen. I think Mr. LeScoezec has to cut down
26 every tree on that property. You talk about an open canopy.
27 What is that going to do to that lot?

28 And one of you mentioned the essential character of
29 the neighborhood. When you look at those pictures -- and I
30 can't talk for everybody in the neighborhood because I didn't

1 go up and down all the other streets. I just took pictures of
2 our cul-de-sac. But I don't think there is anybody in the
3 neighborhood that has their house that close to the road, or
4 any other neighbor in the whole development. So thank you for
5 your time.

6 MS. JARRELL: I have a question for you.

7 MS. CAMPBELL: Yes.

8 MS. JARRELL: And Mr. Black as well. Will 5 feet
9 from the side, will that satisfy you?

10 CHAIRMAN VALENTIC: Mr. Black, you have to come back
11 up, please. And, ma'am, please stay up there as well. I guess
12 Chris is asking that question of both of you.

13 MS. JARRELL: The 15 foot side setback, you seem to
14 be very concerned that it's so close to your driveway, and I
15 understand that. Will 5 feet make a big difference?

16 MR. BLACK: Well, I think the 15 feet, if in fact it
17 were being adhered to, would be.

18 MS. JARRELL: Would be fine with you.

19 MR. BLACK: Under current zoning, it would fit.
20 However, right now, what they're requesting is that it only be
21 10.

22 MR. DYNES: That's not what she is asking you. Is 5
23 feet, if it's 15 feet as required in the zoning as it is now,
24 is that acceptable to you?

25 MS. CAMPBELL: Well, you can't do anything else.
26 That's the zoning law.

27 MS. JARRELL: So that's okay with you?

28 MS. CAMPBELL: Yes. The 15 feet, yes.

29 MR. DYNES: Do you accept the zoning as it is?

30 MR. BLACK: If they're meeting the requirement rather

1 than attempting to alter them, that's fine.

2 MS. CAMPBELL: I mean, I can't speak for Mr. Black.
3 I can only speak for myself because, you know, that's, that's
4 the setback requirement.

5 MS. JARRELL: So the front setback of 50 foot that
6 they are asking for 45, will the 5 feet alter the neighborhood?

7 MR. BLACK: From an appearance standpoint because
8 they're at the arch.

9 MS. JARRELL: Five feet?

10 MR. BLACK: Yes.

11 MS. CAMPBELL: Look at how far those houses are.

12 MR. BLACK: Because of the arch in the cul-de-sac.

13 CHAIRMAN VALENTIC: This is for me. And I am missing
14 and I've been staring at this thing for a week and a day. The
15 front yard setback, where is it?

16 MR. JONES: It's right from that point right to the
17 driveway here. That's where the property --

18 CHAIRMAN VALENTIC: This is 45. He is pointing to
19 the map. So 50 would be --

20 MR. JONES: Fifty would be another 5 foot back from
21 there, across the corner.

22 CHAIRMAN VALENTIC: Sorry.

23 MR. JONES: It's 20, 20.

24 CHAIRMAN VALENTIC: So it's not only -- I understand.
25 Thank you, Harry. So what we're saying is that 45 is this
26 corner of the driveway. It's not -- The whole house isn't
27 within the 45 feet, it's the corner of the garage.

28 MR. LeSCOEZEC: Two feet of the garage.

29 CHAIRMAN VALENTIC: Two feet of the garage. Thank
30 you.

1 MR. LeSCOEZEC: Right.

2 CHAIRMAN VALENTIC: Two feet of the garage into that
3 front yard setback is what you have an issue with?

4 MR. BLACK: If it were to back up 5 feet would be at
5 the same, at the same frontage distance setback as the rest of
6 our homes on that entire side of the cul-de-sac.

7 CHAIRMAN VALENTIC: With the understanding that it
8 might not even be -- It may be two feet of backing up. But the
9 issue is that when you back it up two feet, it puts them into
10 the, you know, the riparian setback. We're just -- I am just
11 trying to understand what's more important to you, to
12 Mr. LeScoeze and to the Board. So moving the house back to
13 get two feet of the corner of the garage out of that 50 foot
14 front yard setback, because the rest of the house is out, it's
15 just that one corner of the garage, that's what you have issue
16 with?

17 MS. CAMPBELL: Well, I know you probably think that
18 that's really being picayune and maybe it is.

19 CHAIRMAN VALENTIC: Maybe it is.

20 MS. CAMPBELL: And I can't speak for what the Zoning
21 Department has done for other houses in that neighborhood
22 because I didn't do due diligence to see if anybody else has
23 gotten a front yard or a side yard or a back yard setback, so I
24 can't talk to that.

25 CHAIRMAN VALENTIC: And it really doesn't matter. We
26 take these on a case-by-case basis. And there have been plenty
27 of people that have come through here in my short time on the
28 Board that have gotten front yard setbacks.

29 I have one more question for Mr. Black, if you would.
30 If it was to stay as a 10 foot side yard setback -- just

1 throwing the question out there -- is there anything that could
2 be done to appease you in that 10 feet or not?

3 MR. BLACK: I don't know that you could put up
4 sufficient shrubbery or whatever to act as an interface that
5 would keep us from, literally, opening our garage door or
6 having company come in, because we do have a back porch,
7 also --

8 CHAIRMAN VALENTIC: Okay.

9 MR. BLACK: -- that they won't be walking right down
10 the side, blank side of a house.

11 CHAIRMAN VALENTIC: Okay. But if he moves it 15
12 feet, you understand he doesn't to have put in any landscaping.

13 MR. BLACK: He doesn't have to put in anything.

14 CHAIRMAN VALENTIC: Fence, nothing, okay.

15 MR. BLACK: That's not a problem.

16 CHAIRMAN VALENTIC: Thank you. I just think it helps
17 me understand.

18 Does anyone have any other questions?

19 MR. DYNES: No. And, Mr. Black, the reason I asked
20 you the question earlier that your concrete driveway is on the
21 property line is I presume you got a variance to put it there
22 to begin with.

23 MR. BLACK: Yes.

24 MR. DYNES: Okay.

25 MR. BLACK: We were one of the first homes built back
26 there.

27 MS. JARRELL: To build your dream home.

28 MS. FREEMAN: Did you get a variance? Did you
29 hear -- Brandon, can you repeat your question?

30 MR. DYNES: Did you have to have -- He told me he got

1 a variance to put his concrete driveway on the property line.

2 MS. FREEMAN: You did?

3 MR. BLACK: I believe all of that was cleared through
4 our builder, yes.

5 MS. FREEMAN: I am not aware of a variance granted
6 for a driveway.

7 MR. DYNES: Well, that was my question.

8 MS. FREEMAN: The driveway setback is three feet per
9 the zoning regulations.

10 MR. DYNES: Three, okay.

11 CHAIRMAN VALENTIC: Okay. Does anyone have any other
12 questions? Okay. Thank you very much. Is anyone else here
13 speaking for or against this appeal? Come on up.

14 MR. HADDICK: I am Jeff Haddick. I live at
15 7618 Kenneth Drive, right around the corner from where the
16 property is in question.

17 CHAIRMAN VALENTIC: You've been sworn in?

18 MR. HADDICK: I have been sworn in.

19 CHAIRMAN VALENTIC: Thank you.

20 MR. HADDICK: I just wanted to state for the record I
21 am against the variances proposed for all the reasons Doug
22 explained. I wouldn't want a house parallel to my driveway 10
23 feet away. It's just too close. I think that the house should
24 be built within the established city ordinances that you have.
25 The house is either too big, should be made smaller to fit or
26 build it somewhere else. It's my opinion.

27 CHAIRMAN VALENTIC: Okay.

28 MR. HADDICK: So, anyhow, I just wanted to support
29 the Blacks and their position.

30 CHAIRMAN VALENTIC: We are happy to have you come up

1 here and voice your opinion.

2 MR. HADDICK: Okay.

3 CHAIRMAN VALENTIC: One at a time.

4 MR. McCARTHY: My name is Ed McCarthy. I live at
5 11801 Brooke Lyn Court. We are Lot 30.

6 CHAIRMAN VALENTIC: Okay. Gotcha.

7 MR. McCARTHY: And, again, we are here, my wife and
8 I, to support the Blacks as well. The concept of that 5 foot
9 garage, it's not just the 5 foot garage as you would hack off
10 that 5 feet and it would be okay. The concept would be that
11 the whole house would go back 5 feet. And in that cul-de-sac
12 it would make a world of difference because every house is back
13 50, 75. Mine is back 150, 200 feet.

14 CHAIRMAN VALENTIC: Sir.

15 MR. McCARTHY: It is going to stick out like a sore
16 thumb.

17 CHAIRMAN VALENTIC: Just you understand that --

18 MR. McCARTHY: I know.

19 CHAIRMAN VALENTIC: When those homes were built, we
20 didn't have these riparian setbacks. And if you have a
21 riparian area, you may or may not. So if you were to come and
22 build that same house on your lot, potentially -- and I don't
23 know, I haven't looked at your lot -- you might be in the same
24 circumstance that they are right now.

25 MR. McCARTHY: I understand.

26 CHAIRMAN VALENTIC: And they're just trying to work
27 within what the --

28 MR. McCARTHY: Honestly, for the cul-de-sac, for the
29 neighborhood, the house is too big for the lot, period.

30 CHAIRMAN VALENTIC: Okay.

1 MR. McCARTHY: I met the gentleman. I enjoyed
2 speaking to him and his wife. But the house they are putting
3 on there is just too big for the neighborhood on that lot with
4 the present existing homes.

5 CHAIRMAN VALENTIC: Okay. All right.

6 MR. McCARTHY: And we have a lot of soil and water
7 issues that I would love to talk about but I don't think my
8 issues affect those issues.

9 CHAIRMAN VALENTIC: Thank you. Anybody else?

10 MR. RAND: Hello. My name is Wesley Rand. I live at
11 11800 Brooke Lyn Way. I am Sublot 31, next to Ed and Doreen.
12 I have been sworn in. And I came directly from soccer
13 practice, so I apologize for the casual attire.

14 As far as, you know, I have to say house wise, you
15 know, I commend the wonderful job you've done looking and
16 working to try and fit it on that lot. What I want to talk
17 about is not really the house on the lot, you know. I think
18 the 5 feet on the side and that is deep, you know. And the
19 driveway being on the lot line, there is two variances there,
20 if they were both requested. And what you would have is, you
21 know, I don't think, for the neighborhood, that is what we
22 really strive to get. You know, everybody is pretty far set
23 back, as they've already spoken about. So I do support that
24 side of the house, you know, looking to be pushed back.

25 But my main concern is just that lot. So I do want
26 to talk about the soil and water because I am the catch point
27 for everything that has been introduced into our water easement
28 from Stone Ridge. I am on the side of the driveway with the
29 culvert that I have to clean out and labor. I have taken logs
30 as big as this bench, 8 to 10 of them, moved them out of the

1 stormwater easement because one day I sat and looked and said,
2 it's awfully dry. We haven't, last summer, we have had zero
3 rain. Why is there water trickling through here? That's never
4 been here.

5 In talking to different -- and I believe it's George
6 Hadden, Lake County Engineers, Stone Ridge has put in
7 stormwater easement, has caught everything and has dumped it in
8 back, the back of our neighborhood into an area that's never
9 had water dumped into it. It flows through there, flows back
10 behind Mr. Haddick's house, comes together in a Y, runs behind
11 the Campbell's house, comes in the front of my house, hits this
12 culvert, you know. And I have a video on my phone where the
13 water that was flowing last Tuesday, I believe, when we had
14 that really, really, really heavy rain, it was overpowering
15 that.

16 You know, I -- Since we have moved in, it was flat
17 and there is only 6 inches of the top of that culvert, which is
18 about this big, that was open. There is logs across it. I
19 used manual labor to get all that out. And since then, where
20 it was flat, there is now about a section about this wide and
21 at points about this deep from the water when Stone Ridge was
22 opened that has cut through our sandy, silty soil, and that
23 part scares me.

24 And relating that to the issue with this lot is, you
25 know, I want them to have the ability to join the neighborhood
26 and to build your dream home because we have done the same
27 thing. But with all this water that's introduced in Stone
28 Ridge, the whole second half hasn't even opened yet. And I was
29 told there is supposed to be a retention pond but I haven't
30 found one yet. All I know is George Hadden originally told me

1 the pipe was supposed to catch, dump into the ravine in Cali
2 Woods behind my house on John Manfroni's lot, but it managed
3 somehow to make it and be put into the wrong one. And then I
4 was told later, "Oh, well, I just misread the map."

5 Well, now it's in, the roads are paved, all this
6 water is flowing. The whole second half of Stone Ridge, which
7 is higher elevation, goes all the way up to Girdled Road, and
8 when that all becomes hardscape, when this all gets literally
9 coming down, the pipe that's underneath our shared driveway and
10 on my side, it doesn't stand a chance. The part that does go
11 through and increases through is going to run through the back
12 of their property. It is going to run on the north, you know,
13 like the northeast portion and then it curves around.

14 And that part, I am looking off of the McCarthy's
15 property, there is fresh erosion that's pretty good size. I
16 have a picture on my phone. It's about, oh, about the size of
17 this wall on the back portion of their property where not only
18 has part of it fallen but it has also undercut the bend for a
19 good 10, 15 feet. So it kind of looks like, almost like a
20 little cave that opened. And then starting about 2 feet high
21 and running underneath the tree and the other stuff, it goes
22 back and undercuts it by about 2 feet.

23 You know, and just that, as you said earlier, water
24 is always an issue. I am not an expert but the amount of
25 volume that is flowing through compared to what used to is, I
26 mean, it's not even -- I mean, the percentage increase is
27 amazing. We still have water flowing now and we never did.
28 So, I mean, that's something that, you know, I don't even know
29 if you realize that because this is also pretty new. Stone
30 Ridge just opened.

1 And, you know, so that going through there, that's my
2 concern. I actually have some calls in to the Engineer's
3 Office and the Soil and Water because of what happened the
4 other day, on Tuesday, when I saw it. You know, that, I am
5 afraid what goes downstream affects us.

6 CHAIRMAN VALENTIC: Okay. Thank you. Does anyone
7 have any questions from the Board?

8 MR. RAND: Oh, and just relating that to, also, you
9 know, with the plans, I haven't, other than the outline of the
10 house, you know, that lot, if a lot of those huge, massive
11 trees get moved and taken away and there is a basement put in
12 there, you know, I am not an engineer but if there is a
13 basement that's put in there, I would sure hope that it would
14 somehow add to the stability of that hill right at that
15 riparian setback versus nobody -- and, obviously, you wouldn't
16 want to build, you know, a dream home and have it where it had,
17 you know, some sort of foundation issue or cause, you know, any
18 type of erosion behind you. But my concern from that is the
19 amount of water that's flowing through there and --

20 MS. LANDGRAF: Sir, I am just going to ask you to
21 direct your comments to the Board.

22 MR. RAND: My concern is just that house on that lot,
23 you know. It's not the house, it's that lot that scares me.

24 CHAIRMAN VALENTIC: Okay, noted. Thank you very
25 much.

26 MS. BLACK: Hi. My name is Angie Black and I live at
27 11785 Brooke Lyn, next door to the proposed lot that they're
28 building. I just want to correct my husband. We did not get a
29 variance when we put our driveway on that lot. It was the code
30 to do that, so I just wanted to clarify that.

1 CHAIRMAN VALENTIC: Okay. Thank you.
2 Is there anyone else here speaking for or against
3 this appeal that would like to come up?
4 Chad, unfortunately, I am going to ask you to come
5 up. Have you had a chance to look at this?
6 MR. EDGAR: I did. Thank you, Heather, for sending
7 that over.
8 MR. DYNES: Can I ask a question before Chad, before
9 you start? I'm sorry.
10 Mr. Jones.
11 MR. JONES: Yes.
12 MR. DYNES: Maybe I missed it. What's the square
13 footage of the home?
14 MR. LeSCOEZEC: The first -- It's 3,900.
15 MR. DYNES: Thirty-nine hundred?
16 MR. LeSCOEZEC: Yeah. The first floor is 3,033.
17 MR. DYNES: And then -- okay. I'm sorry. That was
18 all I have.
19 MS. LeSCOEZEC: Can I just make one comment? Before
20 we ever bought the lot, we had people come down. We had how
21 many different landscapers, I mean, for the erosion issue
22 because I was very nervous about having a home with issues. So
23 we did have all that done before.
24 CHAIRMAN VALENTIC: Yeah, I am sure. We can't really
25 review or approve any of the engineering. It's not really why
26 we're here.
27 MR. EDGAR: So another lot in the subdivision that
28 was platted long before the riparian setbacks.
29 CHAIRMAN VALENTIC: You've been sworn in?
30 MR. EDGAR: I've got to do it again. Chad Edgar,

1 Lake County Soil and Water. I've been sworn in. I thought
2 once was good. Sorry.

3 CHAIRMAN VALENTIC: I guess I've been corrected by my
4 counsel here to my left. It's for each case.

5 MR. EDGAR: So, you know, obviously, we've had the
6 discussion before. It's kind of tough when you've got these
7 lots that have building envelopes laid out long before the
8 riparian setback. So it's rather difficult to try and shoehorn
9 houses that are going to fit that neighborhood into the
10 existing lot without encroaching into that riparian setback in
11 some manner, or other setbacks.

12 I don't know if the house is at the minimum square
13 footage that Concord requires, if there is a minimum square
14 footage, and if that can be something that can be done.

15 But in terms of the riparian setback itself, it's a
16 minimum encroachment. It's a high -- We're not dealing with
17 any grading or filling in the floodplain. So I'm probably not,
18 not too concerned in this one. My biggest concern is with the
19 stability of that stream throughout the subdivision. It is
20 pretty severe, pretty substantial in all those tributaries. So
21 any effort to move that house further away from that stream, I
22 will encourage you to consider that.

23 I know there is other competing factors that you want
24 to consider but in terms of stability, I get phone calls quite
25 often from people in that neighborhood that are dealing with
26 erosion issues, slope stability issues. So the further you can
27 move that house from that slope, the better.

28 CHAIRMAN VALENTIC: We are up against, you know, we
29 are up against it. We are already pushed 5 feet over on the
30 other property.

1 Okay. Do you guys have questions for Chad? Any
2 questions for Chad?

3 MR. HAMILTON: No.

4 MR. DYNES: I have another question for Mr. Jones, I
5 guess. Harry, do you see any -- And I know, I'm sure, you've
6 engineered this to no end. But other than cutting down the
7 square footage, do you see any other possibilities on this
8 particular lot to move the home in any other direction to
9 accommodate these issues?

10 MR. JONES: I really agree with what Chad said, you
11 know. The farther we get away from the riparian, the better,
12 because it's a 30 foot drop there down to that creek.

13 CHAIRMAN VALENTIC: Thirty foot? I'm sorry.

14 MR. JONES: It's a 30 foot fall from the existing
15 grounds to the center of the creek. So by moving it, we're
16 only slightly into the riparian setback as we are. So, you
17 know, if we move the house to the east, you know, away from
18 Mrs. Black's property to the 15 foot, then we're 5 foot closer
19 to the embankment. If it was my druther, I would rather keep
20 it to the 10 foot side yard and the minimal riparian setback
21 variance.

22 CHAIRMAN VALENTIC: You're 5 feet within the
23 riparian?

24 MR. DYNES: Five feet in the riparian?

25 MR. JONES: It's a couple feet. It kind of varies
26 throughout the house. It is like a foot in the back.

27 CHAIRMAN VALENTIC: Yeah, like here.

28 MR. JONES: It kind of meanders.

29 CHAIRMAN VALENTIC: And then you are out of it and
30 back in it a little bit.

1 MR. JONES: I think we're just requesting the 5 foot
2 variance to the 45 instead of --

3 CHAIRMAN VALENTIC: Yeah, because --

4 MR. JONES: We didn't specifically say, you know, a
5 foot here, a foot there, a foot and a half.

6 CHAIRMAN VALENTIC: You could cheat the house over
7 possibly 2 feet --

8 MR. JONES: Exactly.

9 CHAIRMAN VALENTIC: -- that way because you are
10 requesting 5 feet?

11 MR. JONES: Exactly. I mean, we would be agreeable
12 to that, to move it if that would be your choice.

13 CHAIRMAN VALENTIC: Yeah. It's hard to say because
14 shifting the whole -- Chad would say shifting the whole house 5
15 feet towards the riparian, what's that impact? We can't
16 quantify that versus leaving it, you know, where it's at.

17 MR. JONES: Yeah, right.

18 CHAIRMAN VALENTIC: Trying to reduce that, we've got
19 to figure that out.

20 Just so it's clear what he is saying, there is a
21 riparian setback here. They're requesting a 5 foot variance
22 but the house may not necessarily be using all 5 feet, maybe 2
23 feet, 3 feet.

24 MR. DYNES: I have a question for Mr. Rand.

25 MR. RAND: Yes.

26 CHAIRMAN VALENTIC: Could you please come up, sir.

27 MR. DYNES: So, Wes, as I understand, I know your
28 house is over a little bit of a distance and so the other folks
29 have concerns and questions on the setbacks as far as their
30 homes from the cul-de-sac. I think, if I am understanding you

1 correctly, and you said it very clearly and adequately, is your
2 biggest concern, of course, is with the everything down there
3 with the creek and everything else that's going on with the
4 riparian setback and so on. The concern, if I heard you
5 correctly too, is more for the homeowners that are trying to
6 build this house because of what your knowledge is of that
7 particular area -- am I understanding you correctly -- and how
8 that could impact everybody else?

9 MR. RAND: Yes, sir, you are.

10 MR. DYNES: All right. I just want to make sure to
11 characterize -- I didn't want to mischaracterize you in any
12 way. I mean, the riparian setback as it is goes in between 5
13 feet, 5 foot down to nothing. But I think what you highlighted
14 and some of what Chad's talked about is that this whole area is
15 severely compromised now because of another development up the
16 road off of Girdled Road which has rendered everything
17 problematic.

18 MR. RAND: And only half developed.

19 MR. DYNES: Yeah. Thanks, Wes. I just wanted to
20 clarify that.

21 MR. JONES: Just one comment in reference to that.
22 Each one of the lots up there do have storm sewer connections
23 to where we can take the roof runoff, the roof runoff, instead
24 of doing splash blocks, we can take it all out to the street.
25 So really we're reducing the water coming down the hill to that
26 ravine probably 80 percent.

27 MR. DYNES: That was going to be one of my questions.
28 You can divert everything, so that's not an issue as far as
29 emptying anything more into that creek?

30 MR. JONES: Exactly, yeah. We can take the roof,

1 because we have a storm connection and that's what our plan was
2 anyway.

3 CHAIRMAN VALENTIC: Okay.

4 MR. JONES: So we can take all the gutters out to the
5 road.

6 CHAIRMAN VALENTIC: Okay. Thanks.

7 MS. CAMPBELL: Excuse me. Am I allowed --

8 CHAIRMAN VALENTIC: You have to come up and speak, if
9 you have anything to add.

10 MS. CAMPBELL: It wasn't for the Board. It was -- Am
11 I allowed to ask Mr. Jones a question?

12 MS. LANDGRAF: If he wants to answer. Your questions
13 need to be directed to the Board.

14 MS. CAMPBELL: Well, and I don't -- He is the
15 surveyor. So the point I was trying to make to you people,
16 because I don't know if any of you have walked the property,
17 the lots in Noble Ridge are one acre but the portion of the lot
18 that he bought is not one acre that's buildable. I would like,
19 if Mr. Jones doesn't mind, could you tell me what that area is
20 acreage wise that that house is going on?

21 MR. JONES: I really --

22 MS. CAMPBELL: Is it one third? One half?

23 MR. JONES: Probably a third, maybe a little more, 40
24 percent. But, typically, we get these lots anyway. They're
25 zoned based upon the requirement for the township.

26 MS. CAMPBELL: Right.

27 MR. JONES: You know, it doesn't mean we're going to
28 build on the whole lot.

29 MS. CAMPBELL: Right. Well, you can't build on the
30 whole property.

1 MR. JONES: Exactly, right.

2 MS. CAMPBELL: He can only build on one third of the
3 lot because the rest of the acre is over the ravine, so I just
4 wanted to try to clarify and make some things clear to you.

5 CHAIRMAN VALENTIC: Okay.

6 MS. CAMPBELL: Thank you.

7 CHAIRMAN VALENTIC: Thank you.

8 MR. McCARTHY: Excuse me. I appreciate Doug coming
9 up or Wes coming up and speaking to the creek that comes
10 through. Some -- It hasn't been eight years that we've been
11 there.

12 MRS. McCARTHY: Eight.

13 MR. McCARTHY: You have a picture up there that shows
14 an oak tree right next to the creek. That the oak tree and
15 mulch around it is starting to go down into the creek. You can
16 get two people walking hand in hand this far apart past there
17 on the left side of that tree. That's how much that has
18 regressed.

19 CHAIRMAN VALENTIC: Tell me if I am stepping out of
20 line here. What's happening with that creek is a much larger,
21 bigger issue --

22 MR. McCARTHY: It is.

23 CHAIRMAN VALENTIC: -- than what we're dealing with
24 here right now.

25 MS. McCARTHY: But the direction of the water.

26 CHAIRMAN VALENTIC: That they said that it would take
27 to the sewer.

28 MS. McCARTHY: What Wes spoke to. If that water goes
29 to the left as you are looking at it, it is going to take out
30 the area that they are going to build on. And I say that

1 because it's coming down on my side at this point and I am
2 physically unable to do anything about it. Pieces of my lawn
3 as big as this room are falling into that creek.

4 CHAIRMAN VALENTIC: I am sure. And that's, that's
5 part of the reason we have these riparian setbacks.

6 MS. MCCARTHY: It is going to happen on the other
7 side, too. As soon as I get that fixed, that water begins to
8 be directed the other way.

9 CHAIRMAN VALENTIC: And it may, yeah. And I don't
10 think, you know, I don't know and I guess you don't know if
11 this house is really going to make that any worse or better. I
12 think there is a lot of other things that are going on, and
13 that's my assumption, that are causing that to occur. We
14 can't --

15 MS. MCCARTHY: I understand.

16 CHAIRMAN VALENTIC: And I understand that's a
17 concern. That's a concerning all through Concord Township.
18 And if that's really an issue in this neighborhood, you know, I
19 think you guys can reach out to the county engineer and Heather
20 can help you --

21 MS. MCCARTHY: Did that already.

22 CHAIRMAN VALENTIC: -- get in contact with those
23 folks. We can't do anything with this Board to solve the
24 flooding issues. I wish we could but we can't. I am sorry.

25 MS. MCCARTHY: Could I make a statement, please?

26 CHAIRMAN VALENTIC: If you would please come up, name
27 and address.

28 MS. MCCARTHY: Yes. I am Doreen McCarthy. I live at
29 11801 Brooke Lyn Court in Concord Township. And, yes, I was
30 sworn in. These are very nice people and, you know, I think

1 all of us having been trying to make it clear, we would like to
2 have you in the neighborhood.

3 CHAIRMAN VALENTIC: Please address the Board so we
4 can --

5 MS. MCCARTHY: Okay. You know, we're looking for
6 solutions. Obviously, there are concerns here. And I don't
7 know, because I am very familiar with that particular lot
8 because part of our front part of the lot is right next to
9 theirs and I am nervous because of the erosion. But I guess
10 when I am thinking about other options for these folks that
11 could maybe solve everybody's problems, you know, they're
12 putting in a house with a very large footprint. Is there any
13 possibility that they could consider, perhaps, still coming up
14 with the same size house, the 3,900 square feet, but have it be
15 a little less of a footprint and put some of that extra space
16 up onto the second floor?

17 Yes, I am sure it would change the drawings but those
18 are things that architects can do all time. And I am wondering
19 whether that might be an option that could be considered also
20 that would allow them to build their dream house and yet not
21 cause problems, whether it has to do with the zoning
22 requirements or with erosion problems.

23 CHAIRMAN VALENTIC: And I will let the homeowner
24 correct me if I am wrong but I am going to speak for them for a
25 second. What I heard them say is that they did reduce the
26 footprint, they did cantilever the home two feet and reduced
27 that impact. And I am going to assume that they do not feel --
28 They have already put forth a good effort to incur some
29 additional expense to create a home that cantilevers two feet.

30 MS. JARRELL: Is this a ranch?

1 MS. LeSCOEZEC: It originally started out as a ranch
2 but we ended up moving our boys' two bedrooms and a bathroom up
3 above the garage trying to condense it.

4 MS. JARRELL: Thank you.

5 MS. McCARTHY: Living in a similarly sized home, our
6 footprint on a much larger lot is 2,300 square feet and we put
7 the rest of our approximately, approximately 1,000 square feet
8 up on the upper floor. It made a smaller footprint and left us
9 still with the same size home. That is why I raised it
10 because, like I said, I am looking for everyone to win in this
11 situation.

12 CHAIRMAN VALENTIC: Yeah, so are we. Thank you.

13 MS. LeSCOEZEC: Can I? I guess it's --

14 CHAIRMAN VALENTIC: Yeah. Is there anyone else
15 that's speaking that would like to come up? No, that's okay.
16 Go ahead.

17 MS. LeSCOEZEC: I just wanted to say that the reason
18 that we are keeping two bedrooms down there is because of our
19 parents. I mean, the reason we are rebuilding a home is so we
20 can have a master on the first floor but also, with our
21 parents, they can't do the steps. And that's the other reason
22 we were looking at building, was so that we could move another
23 bedroom down on that first floor. So we really did try to make
24 as many accommodations as we could as far as what we needed but
25 also trying to fit that footprint.

26 CHAIRMAN VALENTIC: Okay. Thank you.

27 Do you guys have any more questions up here? Are you
28 good? Okay. I am going to fold this up so it's out of my way.

29 Okay. If there's no more questions, if there's no
30 one else speaking for or against the appeal, the public hearing

1 for Variance Number 2017-10 is now closed to the public. I
2 will entertain a motion to approve Variance Number 2017-10.

3 MS. JARRELL: So moved.

4 MR. HAMILTON: Second.

5 CHAIRMAN VALENTIC: Thank you. The approval of
6 Variance Number 2017-10 has been moved and seconded, open for
7 discussion on the Board. Brandon went first last time, so I am
8 going to let Blair go first this time.

9 MR. HAMILTON: Okay. Thank you. So we are dealing,
10 I mean, our primary -- my primary concern here is with the
11 riparian setback and the size of the variance that we're being
12 requested to implement here. And we've dealt with several
13 situations where we've had to try to make the best of what the
14 riparian setback dictates for the certain property. And it's
15 my belief that the LeScoezeacs have really done the best they
16 can with this particular piece of property. Short of making
17 the home smaller or doing something very drastic, I don't see
18 that there is anything else that they can do with the property.

19 CHAIRMAN VALENTIC: I would argue that maybe they've
20 already tried to make things smaller with some of that work
21 that they've done with expanding the lower footprint. And that
22 5 yard riparian setback, they're impacting a small segment.
23 It's not 5 across the whole side of the yard, it's a small
24 section that encroaches into that front yard setback.

25 MS. JARRELL: Agreed. And the purpose of the
26 Resolution is to have these parameters. And, you know,
27 everything is not black and white. That's why the Board of
28 Zoning Appeals exists, so that we can address some of these
29 concerns and exceptions can be made at times when they're
30 warranted.

1 MR. DYNES: Well, there is no question about it that
2 they purchased the home, closed on the home before this was
3 enacted. So under that specific term of the riparian setback,
4 I would say, as we have done before, they're not in violation.
5 They're grandfathered in, as we have found for some of the
6 other people. Their circumstances are far different than even
7 the last appeal and some others. So on that particular issue,
8 I agree with all of you, I think. And the impact on it is
9 terribly minimal. So on that particular element, we've been
10 pretty consistent on that, I think.

11 CHAIRMAN VALENTIC: Yeah.

12 MR. DYNES: And I think it's fair and I think it's
13 important for everybody to know, whether I am right or wrong
14 and, you know, I have lots of thoughts, is that if this were to
15 go before a Court of Common Pleas -- and no one knows what
16 could happen. No one has that crystal ball, as we all like to
17 talk about. But I would say they have a pretty good argument,
18 just my two cents, on the riparian.

19 CHAIRMAN VALENTIC: Okay. I don't have anything more
20 to add. Do you guys have anything other discussion?

21 MR. DYNES: Well, I think Ivan made a good point,
22 too. And in full disclosure, I have known Wes Rand for a long
23 time and I am very fond of him. And I know Skip lives in the
24 neighborhood. So this one is a unique situation. And I think,
25 clearly, what Mr. Rand is indicating is absolutely true and
26 it's a hardship for the whole community. But as you said, none
27 of that impacts our decision on this, and I appreciate that.
28 That's why I wanted to know what Wes' statements were and what
29 his concerns were because of the fact that impacts the
30 neighborhood and impacts the subject that is probably a little

1 different than us, unless I am not understanding something.

2 I think we still have to consider a lot of the -- some
3 of the other elements here, too. And I know in the past when
4 it comes to variances all throughout Concord, minimal variances
5 and things, we've been pretty consistent with granting. So
6 this is a difficult one though in light of the number of people
7 that speak against it.

8 MS. JARRELL: Are you sure you want to live in this
9 neighborhood?

10 MR. LeSCOEZEC: Yes.

11 MS. JARRELL: Some of these neighbors aren't very
12 nice. I hope you will all be neighborly later.

13 CHAIRMAN VALENTIC: Okay. Well, I am going to -- The
14 question is approval of Variance Number, Appeal Number 2017-10.
15 A yes vote is for the approval of the variance, a no vote
16 denies the variance. Heather, please call the --

17 MR. DYNES: Wait a minute. We have --

18 MS. LANDGRAF: Three variances.

19 MR. DYNES: There is --

20 MS. LANDGRAF: Three variances.

21 CHAIRMAN VALENTIC: Yeah.

22 MR. DYNES: There is more than just one here.

23 CHAIRMAN VALENTIC: But it's all rolled into one,
24 isn't it?

25 MR. DYNES: No.

26 MS. LANDGRAF: No.

27 MR. HAMILTON: There is two variances.

28 MS. LANDGRAF: It's a side yard --

29 MS. FREEMAN: There's a variance from the riparian
30 setback and a variance from the Table of --

1 MS. LANDGRAF: Front and --

2 MS. FREEMAN: Table 15.04-1, the front setback.

3 CHAIRMAN VALENTIC: Should I read the whole thing?

4 MS. FREEMAN: Yeah, that would be good.

5 CHAIRMAN VALENTIC: Okay. I will read the whole

6 thing. The question is on the approval of Variance Appeal

7 Number 2017-10, Mr. Dan -- How do you say it?

8 MR. LeSCOEZEC: LeScoezec.

9 CHAIRMAN VALENTIC: -- LeScoezec, sorry, is

10 requesting a variance from Section 17.04(B), 17.07(A) to allow

11 for the construction of a single dwelling with a 45 foot

12 riparian setback, Variance Number 1, in lieu of the 50 foot

13 required for the property located at 11795 Brooke Lyn Way and

14 being Permanent Parcel Number 08-A-004-F-00-006-0.

15 A second variance is requested from Section 15.04(B),

16 Table 15.04-1, to allow for a 45 foot front building setback in

17 lieu of the 50 foot required.

18 And a third variance for a 10 foot side yard setback

19 in lieu of the 15 foot required.

20 A yes vote is for the approval of all the variances.

21 MR. DYNES: We've got to, I think, we've got to vote

22 on these individually, right?

23 MS. LANDGRAF: Heather, these are all on one

24 application?

25 MS. FREEMAN: There is one application.

26 MS. LANDGRAF: There is one application but there is

27 a variance to --

28 MR. DYNES: We have to, yeah, I'm just concerned --

29 MS. LANDGRAF: -- the riparian, the back, as well as

30 the table.

1 CHAIRMAN VALENTIC: It's one variance. I am good
2 with voting on it as one. Are you guys okay as one?

3 MR. HAMILTON: Yes.

4 MS. JARRELL: I am.

5 CHAIRMAN VALENTIC: Are you good?

6 MR. DYNES: Okay, yeah. I guess my thought was we
7 didn't really discuss all of those. Although it is one, we
8 didn't discuss all of them. So if anybody wanted to discuss
9 that --

10 CHAIRMAN VALENTIC: It is still open for discussion
11 on the Board. We had -- Is there anything you want to discuss
12 on any of the other variances? I assumed that we all knew that
13 we could discuss all three when we had our discussion.

14 MR. DYNES: That's fine.

15 CHAIRMAN VALENTIC: All right. A yes vote is for the
16 approval of the variances I just read, a no vote denies the
17 variance. Heather, please call the vote.

18 MS. FREEMAN: Mr. Dynes?

19 MR. DYNES: I am not sure yet. Do you want to call
20 somebody else? I am still thinking.

21 MS. FREEMAN: Mr. Valentic?

22 CHAIRMAN VALENTIC: Yes.

23 MS. FREEMAN: Mr. Hamilton.

24 MR. HAMILTON: Yes.

25 MS. FREEMAN: Ms. Jarrell?

26 MS. JARRELL: Yes.

27 MS. FREEMAN: And Mr. Dynes?

28 MR. DYNES: No.

29 CHAIRMAN VALENTIC: Your variance has been approved.
30 Thank you. Okay. If you are going to leave, please see

1 Heather before you go.

2 Next on the agenda is Conditional Use Permit 2017-3.

3 Skip, you are staying for this?

4 MR. SWEENEY: I am.

5 CHAIRMAN VALENTIC: 2017-3, Mr. Elie Chamoun.

6 We're going to recess again.

7 (Whereupon, there was a recess from 9:50 p.m. until

8 9:57 p.m.)

9 CHAIRMAN VALENTIC: The Board of Zoning Appeals for

10 May is back in session. Next on our agenda is appeal -- or

11 Conditional Use Permit 2017-3, Mr. Elie Chamoun.

12 MR. CHAMOUN: Yes.

13 CHAIRMAN VALENTIC: Awesome. -- is representing B2B

14 Concord Township LLC, is requesting a conditional use permit

15 for outside dining in accordance with Section 13.33 for Burgers

16 2 Beer, for the property located at 7669 Crile Road and being

17 Permanent Parcel Number 08-A-019-0-00-025-0.

18 Thank you. Name and address and you've been sworn

19 in, please.

20 MR. CHAMOUN: My name is Elie Chamoun, 231 Legacy

21 Drive, Highland Heights, Ohio 44143, and I've been sworn in.

22 CHAIRMAN VALENTIC: Thank you, sir.

23 MS. LANDGRAF: Mr. Chamoun, before you get started,

24 and I know you've been waiting patiently.

25 MR. CHAMOUN: That's all right.

26 MS. LANDGRAF: Heather, I want to confirm, are we

27 amending the prior conditional use permit or is this an

28 entirely new one?

29 CHAIRMAN VALENTIC: Because, yeah, we already

30 approved this.

1 MR. CHAMOUN: It is an amendment.

2 MS. LANDGRAF: You are amending, okay. So this
3 should be captioned an amended application, right? Is that
4 what your intention is, Mr. Chamoun?

5 MS. FREEMAN: Yes, it is amending.

6 MS. LANDGRAF: Okay. So we are amending the one that
7 you have already.

8 MR. CHAMOUN: Yes.

9 MS. LANDGRAF: All right, just to clarify.

10 MR. CHAMOUN: These are the full plans that you had
11 requested and these are the actual visual layout of the space.

12 MR. HAMILTON: So these are, these are part of the
13 full --

14 CHAIRMAN VALENTIC: Yes.

15 MR. CHAMOUN: Yes.

16 MR. SWEENEY: What page is that in here?

17 MR. CHAMOUN: That's the second page, but we changed
18 one thing on there is the -- The original time we were here, we
19 had an issue with we didn't have the fire room in the space
20 because Lance Osborne never notified us when we laid out the
21 first or initial layout. And all of a sudden, he comes back to
22 us like two months later saying that there is -- we've got to
23 put a fire room in your space.

24 CHAIRMAN VALENTIC: Gotcha.

25 MR. CHAMOUN: And me and him had a, kind of, a battle
26 about it for about a month and we just had to put it in there
27 because he just forced it on us. Now we have an issue with the
28 access, with the Fire Department accessing that room because
29 that room is already in there.

30 CHAIRMAN VALENTIC: Can you provide a copy to Heather

1 and everyone else?

2 MR. CHAMOUN: Heather, I will give you one of those.

3 MS. FREEMAN: He doesn't have these. He can have the
4 second.

5 MR. CHAMOUN: Also, I wanted to show the actual, how
6 the structure of the actual rooftop of the patio would be. And
7 this is what the interior of the actual patio would be over the
8 bar area. This is the structure. I just wanted to -- I don't
9 have one for you.

10 MS. LANDGRAF: That's okay.

11 MR. CHAMOUN: The changes that we've done is that we
12 noticed, since the space was -- if you look at the right side
13 of the, of the layout, we revised it almost -- this is not even
14 the full revision. We stopped putting the dates after November
15 of last year because of Mr. Lance changes on us every time we
16 have done a new layout. And I am glad he is not here
17 because --

18 MS. JARRELL: Would you fight?

19 MR. CHAMOUN: I am really -- I have spent an
20 additional \$10,000 on just changes for Mr. Lance Osborne. The
21 problem I am having here, I have already explained to Heather
22 my problem with Lance but this is regarding the space was given
23 to us under the condition of having 4,000 square feet. We have
24 laid out the layout at 4,000 square feet interior. He comes
25 back to us saying that there is a provision in the lease
26 stating that it's from the exterior walls of all the space
27 include -- that that was our 4,000 square feet. So that kind
28 of pushed us 6 inches on each side, we shrunk the space, so we
29 revised it to fit.

30 The original plan was, the bar being

1 interior/exterior bar, did not fit with the new changes that
2 we've done. So we asked Lance to allow us to push the patio
3 out further about two to three feet to actually be able to put
4 a separate bar on the outside of the actual patio so we can
5 actually have seating in there that would be able to serve the
6 million two I am spending in this space. So you have to have a
7 certain amount of seating to make the money to pay for the
8 expenses.

9 So after the many revisions, he comes to us and says,
10 well, we have to put a fire protection, fire room and electric
11 room in the space. And that also altered the changes again to
12 change the vestibule and the walk in, the front door area, and
13 we were, we were forced to eliminate certain tables and
14 eliminate also the hostess stand by -- from where it was to
15 where it is now. So after so many revisions, we finally came
16 up with this layout and we were hoping to have the approval for
17 the additional extension of the patio.

18 CHAIRMAN VALENTIC: So where -- And I am remembering
19 when you came in.

20 MR. CHAMOUN: Yes.

21 CHAIRMAN VALENTIC: We approved a conditional use
22 permit for an outdoor patio space that was much larger than
23 what the code allowed.

24 MR. CHAMOUN: Right.

25 CHAIRMAN VALENTIC: And now you are coming back and
26 asking to grow that patio even bigger than was initially
27 approved?

28 MR. CHAMOUN: For to us fit the bar on the outside.
29 They already put the plumbing on there. For us to fit the
30 patio, the bar on the outside, we needed to make the width of

1 the patio wider.

2 CHAIRMAN VALENTIC: Okay.

3 MR. CHAMOUN: Because, otherwise, you will not be
4 able to put a, put a bar where it will be able to be
5 functional.

6 CHAIRMAN VALENTIC: Okay.

7 MR. CHAMOUN: We are the -- We will be the main
8 tenant in the building. We occupy almost half of the building.
9 And, you know, with what we've put together the last year and a
10 half, it's been a long road. I've built 25 restaurants in my
11 past with my family business with so many other restaurant
12 chains that we've owned, and I have never experienced anything
13 like this before dealing with Lance Osborne. So --

14 CHAIRMAN VALENTIC: I am sorry to hear that.

15 MR. CHAMOUN: I am just saying he's literally cost me
16 an additional 20 to 25 thousand dollars of just wasted money
17 with his changes on certain things.

18 CHAIRMAN VALENTIC: So -- okay. And then so you
19 know, did you receive a copy of this?

20 MR. CHAMOUN: I did. I looked at it. I spoke to Ron
21 just briefly right now and we have -- I am not going to say
22 anything. I don't think it's fair for my space to take the
23 damage of Lance's decisions on having the room sit in there in
24 the middle of my space but I am accepting the fact that it is
25 there. Now, the door is underneath the actual canopy.

26 CHAIRMAN VALENTIC: It's -- So I don't know if you
27 want to come up. So this is the fire protection room that's
28 clearly labeled.

29 MR. CHAMOUN: Right.

30 CHAIRMAN VALENTIC: There is a door right here. This

1 is the door that they need access to?

2 MR. CHAMOUN: That door is on the outside.

3 CHAIRMAN VALENTIC: Yes.

4 MS. JARRELL: Yeah, that's the problem.

5 CHAIRMAN VALENTIC: So they need access from the
6 outside to this door.

7 MR. CHAMOUN: Yeah. But there is an actual enclosed
8 canopy right there covering the whole bar with heat lamps and
9 actual electrical vinyl doors that come down when it's windy
10 and they go up when it's sunny.

11 CHAIRMAN VALENTIC: Okay. So --

12 MR. CHAMOUN: We're making, we're making your city
13 look good, you know.

14 CHAIRMAN VALENTIC: Walk me through that just so
15 we're not confused.

16 MR. CHAMOUN: Yes.

17 CHAIRMAN VALENTIC: So not only do we have this door
18 that goes into the fire protection room that they need to get
19 into if something would occur but you are saying there's doors
20 out here?

21 MR. CHAMOUN: There is no doors.

22 CHAIRMAN VALENTIC: Okay.

23 MR. CHAMOUN: It is not an actual door. It's a, it's
24 a plastic cover that just drops down when it's, when it's
25 windy.

26 MS. JARRELL: But that doesn't have anything to do
27 with the door to the electrical room.

28 MR. CHAMOUN: No.

29 MR. HAMILTON: No, but I think you have to consider
30 it an obstruction. If they have to get in there and that's

1 down, it's got to be --

2 MS. JARRELL: All you have to do is pick it up and go
3 underneath.

4 MR. CHAMOUN: Yeah, it's a pick up.

5 MR. DYNES: Can we have Deputy Chief Terriaco come up
6 and talk right now to kind of get into this?

7 MR. CHAMOUN: Sure, absolutely.

8 CHAIRMAN VALENTIC: Yeah.

9 MR. CHAMOUN: I know the Fire Department --

10 DEPUTY CHIEF TERRIACO: Ron Terriaco, Concord
11 Township Fire Department, 11600 Concord-Hambden Road. The fire
12 protection room, let's journey back a little bit. From the
13 very beginning when I started doing site plan review for this
14 building, that fire protection room was there. The building
15 falls under use group of assembly, so that falls under certain
16 fire protection. So the whole building is sprinkled, which
17 then also means that building would have to have a fire alarm
18 because the sprinkler system has to be monitored. Some of the
19 tenant spaces that are there may also require their own fire
20 alarm system. So that fire protection room has to go
21 somewhere.

22 So what is in that fire protection room? The water
23 that supplies the sprinkler system is in that room, comes in
24 from the water main, comes up into that room. The remote Fire
25 Department connection that we pump into that supplies the
26 sprinkler system goes into that room. So that main riser for
27 that sprinkler system is in that room. The main fire alarm
28 panel for all those tenant spaces is in that room. So,
29 unfortunately, that is in his space, but that fire protection
30 room covers that entire building and all those tenant spaces.

1 So as it's proposed now, it is a violation of the
2 2011 Ohio Fire Code because that room has to be marked and it
3 has to have access for us at all times.

4 MR. DYNES: From the outside, so you need no
5 impediment to be able to get to that room.

6 DEPUTY CHIEF TERRIACO: Correct. Or I can, I can
7 have an access way in but it can't, I can't go through a pat --
8 I can't go through a patio. I can't go through the inside.
9 Some of our businesses, yes, we have a door that will open --

10 MS. JARRELL: It has to be to the exterior.

11 DEPUTY CHIEF TERRIACO: -- hallway into that
12 building. But since his was put on that north side of the
13 building, that door is there. So from the very beginning when
14 we started talking about how we would approach that building if
15 there is a fire there -- and even that's where the Knox-Box,
16 Knox lockbox is for the keys for all the other tenants, we
17 would go there for a fire alarm or a fire, that's one of the
18 first rooms we're going to to get the keys and also to confirm
19 that the activation of the sprinkler system. So there is a lot
20 of activity in that room.

21 CHAIRMAN VALENTIC: So, Deputy Chief, your team would
22 need to be able to, if something were to occur, be able to walk
23 directly through not a public space.

24 DEPUTY CHIEF TERRIACO: Correct.

25 CHAIRMAN VALENTIC: Through a cleared path into that
26 to that door and into that room.

27 DEPUTY CHIEF TERRIACO: Correct. Because what he's
28 proposing now is a gate into the patio. It would be like me
29 walking through your living room while your family is there
30 watching TV for me to get to a room for your neighbors.

1 CHAIRMAN VALENTIC: Understood. I am sorry, Chris.
2 I have one question for you.
3 MR. CHAMOUN: Yes.
4 CHAIRMAN VALENTIC: How do people get out of the
5 restaurant, which doors, how do you get out into this patio
6 area from, from the restaurant?
7 MR. CHAMOUN: From the restaurant?
8 CHAIRMAN VALENTIC: Yeah.
9 MR. CHAMOUN: This is a garage door right here.
10 CHAIRMAN VALENTIC: So they will be able to walk out
11 that way?
12 MR. CHAMOUN: And then there is a door right here.
13 CHAIRMAN VALENTIC: Okay.
14 MR. CHAMOUN: So they will be able to walk in and
15 out.
16 CHAIRMAN VALENTIC: Okay.
17 MR. CHAMOUN: My, my only concern is that I know this
18 is a bad design from the original. This, like, all the
19 restaurants I have been to, all these rooms are in the back of
20 the building where it's not, it's not concerning any of the
21 tenants or causing any issues. I am paying the price for the
22 whole shopping center by having this room in here. I mean, I
23 don't know if you can still force Lance to move it to the back.
24 MS. JARRELL: Are you telling me that this room was
25 not here before?
26 MR. CHAMOUN: When I submitted the first plans to you
27 guys?
28 MS. JARRELL: Yeah.
29 MR. CHAMOUN: It was not there.
30 MS. JARRELL: It wasn't there at all?

1 MR. CHAMOUN: No.

2 MS. JARRELL: So why, why did you put it there?

3 CHAIRMAN VALENTIC: He didn't.

4 MR. CHAMOUN: I didn't. Lance put it there.

5 CHAIRMAN VALENTIC: That's a separate issue. I mean,
6 so --

7 MS. JARRELL: But we're trying to get them access.

8 CHAIRMAN VALENTIC: Right. And my question for you,
9 can that room move?

10 MR. CHAMOUN: Can that room? I don't know. That's
11 Lance's -- I don't think he is going to.

12 MS. JARRELL: Why do you say no? Why can't it move?

13 DEPUTY CHIEF TERRIACO: Well, one, your water line is
14 coming in for the sprinkler system.

15 MR. DYNES: Yeah, everything is already there.

16 MS. JARRELL: It's already done?

17 DEPUTY CHIEF TERRIACO: It's done.

18 CHAIRMAN VALENTIC: In theory, maybe it could, but
19 that's a whole other --

20 DEPUTY CHIEF TERRIACO: Correct, you can't move it
21 now.

22 CHAIRMAN VALENTIC: Okay. You don't have an
23 objection. If it moved to somewhere else, you would review it
24 but you would still need that access and everything else.

25 DEPUTY CHIEF TERRIACO: I will always need that
26 access. I can tell you --

27 CHAIRMAN VALENTIC: If it's in the back and you can
28 access it, it's fine. Okay.

29 MR. DYNES: Well, right. I mean, the chief doesn't
30 have a choice.

1 CHAIRMAN VALENTIC: Choice, yes.

2 MR. DYNES: It's codified.

3 MR. CHAMOUN: There is a lockbox outside that room.
4 Okay? So for the Fire Department to actually access, they
5 still have to go through the lockbox, bring the key, unlock the
6 door, so there is a lot of steps behind it. An extra step of
7 opening a gate that is just sitting right there in front of the
8 restaurant it is not going to be -- I don't think it should be
9 an issue.

10 CHAIRMAN VALENTIC: I think --

11 MR. CHAMOUN: It's just basically moving a hinge and
12 opening the door to go into that room. It's a second. It's
13 not going to make a difference. This is my opinion.

14 CHAIRMAN VALENTIC: Yeah. Stay up at the thing.

15 MR. CHAMOUN: Yes.

16 CHAIRMAN VALENTIC: So just -- I am just going to
17 play devil's advocate. It's not just a hinge. There could be
18 maybe somebody in that path. I don't know. And we're in a bad
19 spot here. I mean, I see where the chief is coming from and I
20 get where you're coming from and we went to just make this all
21 go away. But we, you know, we are looking at the health,
22 safety and welfare of the general public. And, you know, if we
23 were to approve this, I feel like, as a Board, we are putting
24 the safety of the public in danger. And like you said -- I
25 don't know -- maybe it is that simple, maybe. But I am sure
26 the chief can say that one second could cost a life or more,
27 and we're not here to decide that.

28 MR. CHAMOUN: Yeah, I understand.

29 MR. DYNES: Within what we're able to do, if I
30 understand --

1 MR. SWEENEY: Mr. Chairman, I don't mean to
2 interrupt. I was going to make a proposal. I need to leave.
3 Our first alternate is actually here. If the applicant does
4 not object, would you mind if he sat in?

5 MR. CHAMOUN: Yeah, that's fine. Oh, yeah.

6 MR. SWEENEY: Is that okay?

7 MR. CHAMOUN: Absolutely.

8 MS. JARRELL: All right. Stephanie, procedurally, is
9 that all right?

10 MS. LANDGRAF: As long as you agree.

11 MR. CHAMOUN: I agree.

12 MS. LANDGRAF: Then he can stand in.

13 MR. CHAMOUN: I mean, I am not here to cause any
14 issues for you either, so everybody has things.

15 CHAIRMAN VALENTIC: Everybody agree with that?

16 MR. SWEENEY: Everybody good?

17 CHAIRMAN VALENTIC: Yeah.

18 MR. SWEENEY: Thanks.

19 (Whereupon, Mr. Sweeney stepped down and Mr. Golling
20 replaced him on the Board.)

21 MR. DYNES: Okay. So I will, to speed this up, I
22 will continue. If I understand this -- And, again, we have to
23 be careful. We don't have any authority over fire codes and
24 all that. That's a separate topic for us. We are looking at
25 this variance that's in front of us. But my understanding is,
26 in light of what is to be constructed and what's going on, the
27 Fire Department has some concerns. I think we can consider the
28 variance and talk about that and maybe we should do that first.

29 CHAIRMAN VALENTIC: It's a conditional use.

30 MR. DYNES: I am sorry. Conditional use. My bad.

1 MS. FREEMAN: Are you going to -- Excuse me. Are you
2 going to have Todd come up? He is going to sit in for Skip?

3 MR. DYNES: I thought he was.

4 CHAIRMAN VALENTIC: Come on up, Todd.

5 MR. DYNES: So the chief -- Chief Terriaco, or Deputy
6 Chief Terriaco, is there a way in which that the Fire
7 Department -- and I understand you can't give us complete
8 assurance but in order to move this along and try to be of
9 benefit to everybody here, if we have where the fireplace is
10 depicted on the map, which I believe is probably towards the --

11 CHAIRMAN VALENTIC: On the west.

12 DEPUTY CHIEF TERRIACO: You have better eyes than me.

13 MR. DYNES: -- towards the main entrance and to the
14 west, so if you are looking at the map, to the left of the fire
15 protection electrical room, if you had or if we had some kind
16 of condition and you had the assurance that there was no
17 impediment for Fire Department or anybody else to get immediate
18 access to that door to the fire protection electrical room,
19 would that potentially satisfy the concerns that you have? And
20 I understand you probably can't -- Would it be easier if I show
21 you what I am talking about?

22 CHAIRMAN VALENTIC: I think what Brandon is getting
23 at, is there a way to revise this patio layout that the chief,
24 you guys get together, the chief's requirements and not even
25 your requirements -- I am sorry, Deputy Chief -- the code
26 requirements are met and you are able to still build and
27 construct the patio, which you are trying to, and would help us
28 with our approval? Because if we're basing it on this plan and
29 the chief's concerns are not meeting the code, quite frankly, I
30 don't see how we could -- I could personally say yes to

1 something like that.

2 MR. DYNES: But wait. We may not even need to revise
3 the plan. We might just need a condition of this use that says
4 use can be granted with the condition that there will be no
5 impediment to this particular area. Can I, Deputy Chief, can I
6 show you?

7 DEPUTY CHIEF TERRIACO: So let's talk about just how
8 things happen.

9 MR. DYNES: Right.

10 DEPUTY CHIEF TERRIACO: So we say that here. It gets
11 approved. As time goes down, as time carries on, I can
12 guarantee that stuff will move over into that space. And we
13 talked about that and he said he can guarantee it.

14 CHAIRMAN VALENTIC: It should be fenced off. I am
15 sorry. I don't mean to --

16 DEPUTY CHIEF TERRIACO: Correct.

17 CHAIRMAN VALENTIC: It should be a secured path to
18 that door.

19 DEPUTY CHIEF TERRIACO: It has to be a secured path.
20 So I would envision that would be code compliant to stay with
21 your 3 foot 6 and give me a walkway to here and you could put a
22 wall here that keeps my space secure and you still can enjoy
23 your patio on the outside of it.

24 MS. JARRELL: That's a good idea.

25 DEPUTY CHIEF TERRIACO: The unfortunate thing is your
26 piping is already laid out.

27 MR. CHAMOUN: Uh-huh.

28 DEPUTY CHIEF TERRIACO: How that happened, I don't
29 know, but your piping is already laid out. So you are already
30 over here close to that wall, so that's going to infringe. And

1 I need to make sure that that door opens, so if you could
2 provide that and revise the plans.

3 MR. CHAMOUN: Why don't you, why don't you make Lance
4 expand that room to here, because it's not even finished yet,
5 and put the door here?

6 CHAIRMAN VALENTIC: Hey, I don't want to --

7 MS. JARRELL: Wait a minute. They were coming to
8 terms.

9 CHAIRMAN VALENTIC: I don't think -- I will be
10 honest. I am just going to say I don't think we can come to
11 terms tonight.

12 MR. DYNES: Right.

13 CHAIRMAN VALENTIC: I don't think you can come to
14 terms tonight and I don't want to put, Elie, I don't want to
15 put you -- I don't think it's fair to you to put you in a
16 little bit of a predicament in agreeing to something that you
17 might not fully agree to. If we take away your patio space,
18 you might want to grow a portion of that patio space or you
19 might reconfigure it to allow that proper access. What we --
20 If you guys can agree today, and that's fine if you think you
21 can get there, but it has to be solid in the fact that he is
22 meeting his requirements and you are good with everything.

23 MR. CHAMOUN: I am not against him. I just want to
24 show you something real quick. If you take, if you take, if
25 you take this patio right here, okay, I don't need this dead
26 space here. Okay? This is just a bench. Okay? Why don't
27 this wall, it's not even finished yet, be moved to here and
28 then put a door here? And then I will make a hallway right
29 here for him instead of having to make it all the way down to
30 here and it would make this and alter all of this.

1 MR. DYNES: So let me make a suggestion. That's what
2 we're saying.

3 CHAIRMAN VALENTIC: Yeah.

4 MR. DYNES: So why don't you -- It's to your benefit
5 maybe to suggest to table this, come back to us with that, then
6 we don't have any issue and have to vote against you.

7 MR. CHAMOUN: It is not me, it's Lance.

8 MR. DYNES: I understand.

9 CHAIRMAN VALENTIC: I know. But you are getting a
10 conditional use permit to change this already.

11 MR. CHAMOUN: Right.

12 CHAIRMAN VALENTIC: If you are saying you are good
13 with this width and you are good with this today --

14 MR. CHAMOUN: I am good.

15 CHAIRMAN VALENTIC: Are you sure?

16 MR. CHAMOUN: Yes, as long as, as long as this
17 wall -- There is only four studs in there. All they got to do
18 is move it back and put a door here and then eliminate this
19 door here, move this, that door to here. And then I will give,
20 I will give this fencing right here --

21 MR. DYNES: I understand that. My suggestion to you
22 is, before you spend more money and have more battles with
23 Lance Osborne or anything else, let's say we approve that and
24 we suggest all that. We don't have the ability, I don't think
25 amongst the five of us, to tell you what the engineering, that
26 is the moving of it, to specifically describe what that is. So
27 if you can come back to us in a month with that drawn up and
28 say, "Guys, here is what I am doing," you are going to have a
29 Board that's more able, in a better position to approve that
30 because now we can see that. Right now, that drawing, it's

1 great.

2 MR. CHAMOUN: Let me explain. That's why Lance
3 didn't show up tonight, because of that reason.

4 MR. DYNES: I understand.

5 CHAIRMAN VALENTIC: But if this is what we agree to
6 here in this meeting, this is it. You have to do this. I
7 mean, this is what you will have to do and this is what we're
8 approving.

9 MR. CHAMOUN: I know what you mean. We don't want to
10 approve it and then have to come back and change it again.

11 CHAIRMAN VALENTIC: Because we're coming back for a
12 second time right now.

13 MR. CHAMOUN: Right, right.

14 CHAIRMAN VALENTIC: And it's just a suggestion from
15 the Board.

16 MR. DYNES: Right.

17 MR. CHAMOUN: Go ahead.

18 DEPUTY CHIEF TERRIACO: I need plans. I need --

19 CHAIRMAN VALENTIC: That's what Chief is saying.

20 MS. JARRELL: Yes.

21 MR. HAMILTON: Exactly.

22 DEPUTY CHIEF TERRIACO: Because we still haven't seen
23 the plans for the building tent -- tenant space buildout yet.

24 MR. CHAMOUN: I have not submitted to the Fire
25 Department.

26 MR. DYNES: So that's --

27 DEPUTY CHIEF TERRIACO: We still need that and we
28 still need -- I still need to do a complete review. This
29 jumped out. So we still need to do a complete review of
30 everything.

1 MR. DYNES: And that then allows us to do our job. I
2 think I speak for the Board that this is fantastic. We are
3 happy to have you here and it looks like a wonderful place.

4 CHAIRMAN VALENTIC: And we feel like you are trying
5 to do the right thing and we are trying to work with you to get
6 to that place.

7 MR. DYNES: But we can't, with what's in front of us
8 right now and what we know from the Fire Code and what we're
9 hearing, we can't possibly approve that and we can't approve it
10 based on what you are telling us. It sounds good but the
11 chief, deputy chief is going to need to see it and we're going
12 to need to see it and then we can do that.

13 MR. CHAMOUN: Okay. So, originally, we came here for
14 the approval of conditional use of changing the size. Now we
15 have a different problem. It looks like our issue now is the
16 Fire Department.

17 MS. JARRELL: The problem didn't change, it's always
18 been there.

19 CHAIRMAN VALENTIC: Yeah, yeah. If you asked to
20 table -- Go ahead.

21 MR. HAMILTON: Additionally, you do have the staff
22 report that addresses some other issues?

23 MR. CHAMOUN: Staff report?

24 MR. HAMILTON: Yes, the analysis of the submittal of
25 the plan.

26 He does not have that?

27 MS. FREEMAN: No, no.

28 MS. JARRELL: Here, you can have my copy.

29 MR. DYNES: Well, that's probably our work product.

30 MR. HAMILTON: In this summary, there are a few other

1 issues that need to be addressed. And as long as you are
2 coming back, you want to make sure that those are covered when
3 you come back the next time.

4 MR. CHAMOUN: Okay. What's the issue with the staff
5 report?

6 CHAIRMAN VALENTIC: So, Heather, I will speak and you
7 -- It starts on page 5 but, you know, clarification must be
8 provided as to how the patio will be enclosed, whether access
9 in and out of the patio from outside the building will be
10 through a gate. So clearly show that gate, if you are
11 enclosing it, with what and how it's going to look. You
12 started to address some of that. And then the Fire Department
13 requirements, that those get addressed.

14 MR. CHAMOUN: You are --

15 MR. DYNES: Guys, I think what we're doing, this is
16 an internal staff report, kind of a work product issue. So
17 just handing that over, he may not be aware of these. This is
18 outside of what we're here for now. That can be discussed. If
19 he is tabling this and coming back, again, we're getting
20 ourselves into an issue, we'll be here until 4:00 in the
21 morning.

22 CHAIRMAN VALENTIC: Yeah.

23 MR. DYNES: That's something we have now provided him
24 to look at and understand and come back to us.

25 And, Mr. Chamoun, I think you understand we're trying
26 to be very helpful here. We are trying to work with you.

27 MR. CHAMOUN: I understand.

28 MR. DYNES: We want this to work. But under the
29 current terms, not the case. So it probably doesn't do any
30 benefit now. It's probably best for you to take that from here

1 and review it, if Heather is comfortable with that, have it
2 reviewed by your engineer, whomever.

3 CHAIRMAN VALENTIC: And follow up with Heather.

4 MR. DYNES: And follow up and come back.

5 CHAIRMAN VALENTIC: So we should ask him to --

6 MR. DYNES: And I regret that you had to sit here for
7 four hours beforehand.

8 MS. LANDGRAF: Heather, is he aware of the various
9 issues with the original conditional use permit versus what's
10 happening there?

11 MS. FREEMAN: With the original?

12 MS. LANDGRAF: Is he aware of these things?

13 MS. FREEMAN: I have asked him about these things in
14 our office, yes. I mean, the mismatch between the patio
15 enclosure itself, some of the plans are showing it's 6 foot
16 square metal fence, others are showing a 36 inch block wall.
17 We had the conversation with you. You told me that that wasn't
18 right. So the plans weren't clear, consistent.

19 MS. LANDGRAF: So let me ask you, between -- You have
20 requested that it be tabled tonight so that you can work with
21 Lance, correct?

22 MR. CHAMOUN: Say that again.

23 MS. LANDGRAF: You've requested that your application
24 to amend your CUP be tabled tonight; is that correct?

25 MR. CHAMOUN: Yes.

26 MS. LANDGRAF: So between now and the next hearing,
27 you can get together with Heather to figure out these other
28 issues that need to be resolved and work with the Fire
29 Department and get the plans to the Fire Department so they can
30 see what it is exactly we're going to do to resolve the Fire

1 Department access issue. And then anything else that's
2 outstanding with zoning, you can work with Heather, correct?

3 MR. CHAMOUN: Yes. The fencing, the fencing is
4 Lance's responsibility.

5 MS. LANDGRAF: Okay. Well --

6 MR. CHAMOUN: I know, I know. What I am trying to
7 tell you --

8 MS. LANDGRAF: So you and Lance need to get together.

9 MR. CHAMOUN: He is probably showing something
10 different on the plans but it's -- Lance is putting the fencing
11 on the outside.

12 MS. LANDGRAF: I understand that. This BZA is not
13 going to get involved in a contract dispute with you and Lance.

14 MR. CHAMOUN: Yeah, I understand. No, I understand.

15 MS. LANDGRAF: And I am not being disrespectful all
16 but, you know, they have to answer -- You have to answer to
17 this Board. So whoever comes before needs to have the answer.

18 MR. CHAMOUN: So if this room wasn't in existence in
19 that space, I would be approved today with that patio?

20 MS. LANDGRAF: Well, I can't say that.

21 MS. JARRELL: We don't know that.

22 MR. CHAMOUN: You don't know, okay.

23 CHAIRMAN VALENTIC: We can't say that.

24 MR. CHAMOUN: Just very confusing. I am not trying
25 to say anything about Concord. It's a great city. But, I
26 mean, I have done many of these before. I understand the
27 situation right now with the fire room but we will figure it
28 out.

29 CHAIRMAN VALENTIC: Yes, let's get it figured out.

30 MR. CHAMOUN: We'll figure it out.

1 CHAIRMAN VALENTIC: And Heather is here to help you.
2 MS. JARRELL: That's the most important thing --
3 MR. CHAMOUN: We will figure it out.
4 MS. JARRELL: -- is the safety.
5 MR. CHAMOUN: I hope next time I come here it is
6 already figured out.
7 CHAIRMAN VALENTIC: We do, too.
8 MR. HAMILTON: We do, too.
9 MR. CHAMOUN: Because we'd like to open by August.
10 CHAIRMAN VALENTIC: All right.
11 MR. CHAMOUN: It doesn't look like we are.
12 CHAIRMAN VALENTIC: So I am going to put forth a
13 motion for --
14 MS. LANDGRAF: You have a request from the applicant
15 to table. You need a motion.
16 CHAIRMAN VALENTIC: Yeah. I am going to put forth a
17 motion, per the applicant's request, to table Conditional Use
18 Permit 2017-3. A yes vote is for tabling --
19 MS. LANDGRAF: I don't want to be critical but this
20 is an application to amend the conditional use permit.
21 CHAIRMAN VALENTIC: Okay. I blame Heather for that,
22 for the record.
23 MR. DYNES: And I would move to amend the application
24 for the continual use permit.
25 CHAIRMAN VALENTIC: Okay.
26 MR. HAMILTON: Second.
27 MR. DYNES: To table it.
28 CHAIRMAN VALENTIC: Table it.
29 MR. HAMILTON: Table it.
30 CHAIRMAN VALENTIC: Okay. We've got a second.

1 Heather, please call the vote.

2 MS. JARRELL: Was there a second?

3 MR. DYNES: I think we just did.

4 CHAIRMAN VALENTIC: Yeah, to table it.

5 MS. FREEMAN: Mr. Hamilton?

6 MR. HAMILTON: Yes.

7 MS. FREEMAN: Ms. Jarrell?

8 MS. JARRELL: Yes.

9 MS. FREEMAN: Mr. Valentic?

10 CHAIRMAN VALENTIC: Yes.

11 MS. FREEMAN: Mr. Dynes?

12 MR. DYNES: Yes.

13 MS. JARRELL: Mr. Golling?

14 MR. GOLLING: Yes.

15 CHAIRMAN VALENTIC: Thank you for your patience this
16 evening.

17 MR. CHAMOUN: So the vote yes is for --

18 CHAIRMAN VALENTIC: We're tabling the issue till next
19 month.

20 MR. CHAMOUN: So now my -- I will talk to Heather
21 regarding any future plans. We're going to alter the actual
22 patio to make access to the fire room, right?

23 CHAIRMAN VALENTIC: Yes.

24 MR. CHAMOUN: Would that be sufficient?

25 MS. JARRELL: As long as the chief is on board and
26 has reviewed your new plans, that should be definitely
27 sufficient.

28 CHAIRMAN VALENTIC: In theory, it should be.

29 MR. CHAMOUN: Well, nothing is going to change much
30 except putting in an access for him to be able to get in there.

1 MS. JARRELL: Were you not aware of --
2 CHAIRMAN VALENTIC: We have to stop.
3 MS. JARRELL: I just --
4 MR. DYNES: He can talk to Heather about that and any
5 other issue.
6 CHAIRMAN VALENTIC: Yeah, we have got to -- because
7 it's being closed and we voted.
8 MS. JARRELL: Okay.
9 MR. DYNES: We're on the -- It's already been tabled.
10 MS. JARRELL: I gotcha.
11 CHAIRMAN VALENTIC: Okay. Next on the agenda is the
12 approval of the minutes from --
13 MR. CHAMOUN: Am I done?
14 CHAIRMAN VALENTIC: Yes, you are done, sir.
15 MR. CHAMOUN: Thank you.
16 MR. DYNES: Thank you.
17 MR. CHAMOUN: Appreciate it. Have a good evening.
18 CHAIRMAN VALENTIC: Thank you. You too.
19 Next on the agenda is approval of minutes from
20 April 12, 2017. I am calling for a motion to approve the
21 minutes from April 12th of 2017.
22 MS. JARRELL: So moved.
23 MR. DYNES: I will abstain. I was not present.
24 MR. HAMILTON: Second.
25 CHAIRMAN VALENTIC: Thank you, Blair. Any discussion
26 regarding the minutes, additions or deletions? None.
27 MS. JARRELL: Nice job.
28 CHAIRMAN VALENTIC: The question is on the approval
29 of the minutes from April 12, 2017. A yes vote approves the
30 minutes, a no vote does not. All in favor of approving the

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minutes as written say "aye."

(Three aye votes, no nay votes, two abstentions.)

CHAIRMAN VALENTIC: The minutes have been approved from April 12th. The meeting for the Concord Township Board of Zoning Appeals for May 2017 is now closed.

(Whereupon, the meeting as adjourned at 10:29 p.m.)

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STATE OF OHIO)
COUNTY OF CUYAHOGA)

CERTIFICATE

I, Melinda A. Melton, Registered Professional Reporter, a notary public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that, to the best of my ability, the foregoing proceeding was reduced by me to stenotype shorthand, subsequently transcribed into typewritten manuscript; and that the foregoing is a true and accurate transcript of said proceedings so taken as aforesaid.

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.

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.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 5th day of June 2017.

Melinda A. Melton
Registered Professional Reporter

Notary Public within and for the
State of Ohio

My Commission Expires:
February 4, 2018