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

Concord Town Hall 7229 Ravenna Road Concord, Ohio 44077

June 8, 2016 7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

Ivan Valentic, Chairman
Chris Jarrell, Vice Chairwoman
Brandon Dynes
Francis Sweeney, Jr.
Blair Hamilton

Also Present:

Bruce Bullard, Zoning Inspector Heather Freeman, Planner

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

7:02 p.m.

CHAIRMAN VALENTIC: Good evening. The Board of Zoning Appeals meeting for June 8, 2016, is now in session. I would like to introduce the Board. To my left is Brandon Dynes. I am Ivan Valentic. To my right is Chris Jarrell and Blair Hamilton. And to my far right is Bruce Bullard, our zoning inspector.

Under the advice of our counsel, we ask that anyone speaking tonight must be sworn in. If you plan on speaking, please stand and raise your right hand.

(Whereupon, the speakers were sworn en masse.)

CHAIRMAN VALENTIC: Thank you. Please be seated.

Tonight when presenting --

(Noise.)

MR. BULLARD: That's okay.

CHAIRMAN VALENTIC: Everyone is -- Everything is okay. All right. When presenting your case or commenting, please come up to the microphone and state your name and address and please confirm that you've been sworn in.

Bruce, were the legal notices published in a timely manner?

MR. BULLARD: Yes, they were.

CHAIRMAN VALENTIC: Thank you. Tonight we have two appeals and approval of our meeting minutes. A three-vote majority is required to either approve or deny your appeal. If your request is denied, you have the right to file an appeal. And Bruce can help you with that, if that's the case.

Tonight we are going to start with the approval of our meeting minutes. The meeting minute -- I will call -- The meeting minutes were from April 13, 2006 -- 2016. I am sorry.

I call for a motion to approve the minutes from April 13, 2016. 1 MR. HAMILTON: So moved. 2 MR. DYNES: Second. 3 CHAIRMAN VALENTIC: Okay. Is there any discussion 4 regarding the minutes? Comments? 5 MS. JARRELL: Excellent, as usual. 6 MR. HAMILTON: No comments. 7 8 CHAIRMAN VALENTIC: All right. The question is for 9 the approval of the minutes from April 13, 2016. A yes vote approves the minutes, a no vote does not. All in favor of 10 approving the minutes as written, say "yes." 11 12 (Four aye votes, no nay votes.) 13 CHAIRMAN VALENTIC: All right. The minutes have been approved for April 13, 2016. 14 Okay. We are short a member tonight. Currently, we 15 have a four-person panel. We have two appeals on the agenda. 16 I would ask the first one, being Mr. James Paul, if you would 17 like to proceed with the four-person panel or would you like us 18 to wait for the fifth person to arrive? 19 MR. PAUL: I would like to wait. 20 21 CHAIRMAN VALENTIC: You would like to wait. Okay. 22 Next is Mr. Thomas Valencia. Would you like to wait 23 or would you like to proceed with the panel as is with the four of us? 24 MR. VALENCIA: I think it would be fair to wait. 25 26 CHAIRMAN VALENTIC: Okay. All right. 27 MR. VALENCIA: How much time do we have? 28 MR. BULLARD: I am going to see if I can get a hold of him. 29 30 CHAIRMAN VALENTIC: Okay. Bruce, so --

MR. BULLARD: Well, you know, they can ask if they 1 want to postpone it until our next meeting, which is a month 2 from now. I mean, that's really the options. 3 MR. HAMILTON: And to clarify, it requires a three-person vote --5 MR. BULLARD: Yeah, for approval. 6 7 MR. HAMILTON: -- for approval. 8 MR. BULLARD: We are at what time right now? 9 MR. DYNES: If I may, I think the options are, we can wait approximately 15 minutes, see if he arrives. 10 (Whereupon, discussion was held off the record.) 11 MR. BULLARD: Take a little recess for a minute and 12 dock the camera. He will be here as soon as he gets here. He 13 is out in Leroy. 14 CHAIRMAN VALENTIC: Okay. Well, we're going to --15 MR. BULLARD: Yeah, do a recess. 16 CHAIRMAN VALENTIC: We are going to recess and we'll 17 come back. 18 19 MR. BULLARD: Right. (Whereupon, there was a recess from 7:06 p.m. until 20 21 7:18 p.m.) 22 CHAIRMAN VALENTIC: Okay. Good evening. We are 23 going restart our meeting for June 8, 2016. Our first Appeal 24 Number is 0516-1071. Mr. James Paul is requesting a variance for the property located at 7560 Sarah Lee Drive and being 25 26 Permanent Parcel Number 08-A-004-D-00-046-0, to have a second 27 accessory building that is 100 square feet, in lieu of the 28 maximum one accessory, accessory building, as set forth in Section 15.03(A)(6) and the Table 15.03-1 of the Zoning 29

Resolution.

Mr. Paul, if you would please come up and present your case, please state your name and address and confirm that you've been sworn in.

MR. PAUL: My name is James Paul, 7560 Sarah Lee Drive, and I've been sworn in.

CHAIRMAN VALENTIC: Thank you.

MR. PAUL: I have a letter from my neighbor to the south that was given to me a couple days after I filed for the appeal, so I can pass this to you.

CHAIRMAN VALENTIC: The letter that we already have is from, okay, to the north.

MR. PAUL: Yeah.

CHAIRMAN VALENTIC: Okay. Sure. You can pass that around.

MR. HAMILTON: Thank you.

CHAIRMAN VALENTIC: Bruce, just make a note that this e-mail will become part of our documents. And just to briefly describe what it says, that they don't have any issue or problem with the shed location as currently constructed. It's from Michael Pettrey. Go ahead.

MR. PAUL: Well, as my letter stated that the small 10 by 10 is there to primarily serve my wife's hobby of gardening. The property is very hilly. I thought, when we moved here from Leroy, that we weren't going to be gardening but she convinced me to make a raised bed for her organic gardening. Her hobby and my hobbies don't mix. I've got some very expensive cars in that large barn.

Years ago, I had a 90 percent completed, very expensive Cadillac and a long-handled shovel cracked the front fender and caused about \$20,000 worth of rework to that car.

So no shovels, no rakes, no hoes go around the cars.

CHAIRMAN VALENTIC: I get it. For the Board, to help us understand the shed and its location, where does it -- how it sits on the property, I know there are some pictures here but do you want to just talk us through that and help us?

MR. PAUL: It's about 3 feet off of the west end of the large building. It aligns the south wall of the large building. So it's 10, 10 feet wide. The large building is 24 feet. So it basically sits back 14 feet from the north side.

And as Bruce stated, when it's winter and there are no leaves, you can see it; but for the most part, with the leaves, you can't see it.

MR. DYNES: There is not a concrete pad underneath it, correct?

MR. PAUL: No, no. It's sitting on 411 stone base.

MR. HAMILTON: So your larger building, when it was built, was built with a permit, correct?

MR. PAUL: Yes, correct.

MR. HAMILTON: And you didn't consider a permit was required for this?

MR. PAUL: No. I just took some bad advice from some neighbors that --

MR. HAMILTON: Yeah. Did you consider adding onto the existing building? I know you don't want to, you know, you don't want to have direct access or necessarily make the building larger but, you know, a sep -- an addition that would be separate from the main building.

MR. PAUL: I didn't, I didn't consider a permanent addition simply because of the utility nature of that building, simply for gardening tools. A wood floor was fine. So I

didn't -- It didn't need to be a substantial structure, by any 1 means. It's just a utility building. 2 CHAIRMAN VALENTIC: Does anyone have any other 3 questions? 4 MR. HAMILTON: Not from me, no. 5 CHAIRMAN VALENTIC: You guys? 6 MR. SWEENEY: How long has that shed been there? 7 8 MR. PAUL: Eleven months. MR. SWEENEY: 9 Thank you. CHAIRMAN VALENTIC: Okay. Thank you. Please be 10 seated. Is there anyone else here speaking for or against this 11 Okay. If there's no further questions, the public 12 13 hearing for Variance Number 0516-1071 is now closed to the public. I will entertain a motion to approve the Appeal 14 15 Number 0516-1071. MS. JARRELL: So moved. 16 17 MR. DYNES: Second. CHAIRMAN VALENTIC: The approval is for Appeal 18 Number 0516-1071. It's been moved and seconded. It's open for 19 discussion on the Board. 20 21 MR. HAMILTON: I wish homeowners would come forward 22 with their requests for a variance before they plop a building 23 down. I mean, bad advice is one thing but there are zoning 24 requirements. CHAIRMAN VALENTIC: Yeah. 25 MS. JARRELL: Agreed. 26 27 CHAIRMAN VALENTIC: It happens way too much. 28 MS. JARRELL: But that being said, there's -- The topography of that property is such that it would be difficult 29

to probably add onto that big structure, not to mention cost

prohibitive. It's very small, this 10 by 10. The neighbors don't seem to mind.

CHAIRMAN VALENTIC: Yeah, I agree. Do you guys have any thoughts on that end?

MR. DYNES: No. I agree with all that. I mean, it's a small building that could be moved. It's not a permanent structure, by any stretch. But I guess I echo everybody's sentiments. We put ourselves in a tough position, the homeowners do through bad advice or whatnot. But it's also a difficult spot to approve such a thing. This one, particularly, is less obtrusive than others and, certainly, out of sight. The neighbors approve. I don't have anything else. CHAIRMAN VALENTIC: Skip, you got anything or are you

good?

MR. SWEENEY: Well, it's a clear violation of the rule. There has been shown to be no circumstance that the law allows for a relief from, from the violation. At least, none was presented. And I think homeowners need to understand that they have an obligation to, at the very least, understand that, when they put structures of any size on their property, they have to get a permit. I think we all know that. I don't think that's anything new to any homeowner.

However, I am not going to make an example of this homeowner because it's, number one, not fair; and number two, it is very, very unobstructive and both neighbors don't have a problem with it.

CHAIRMAN VALENTIC: Yeah.

MR. SWEENEY: If either neighbor had a problem with it, I think this Board would have -- would be really tied up right now.

CHAIRMAN VALENTIC: You are probably right. 1 MR. SWEENEY: But I just, I just don't think it's 2 fair. 3 CHAIRMAN VALENTIC: Okay. The question is on the approval of Variance Appeal Number 0516-1071. A yes vote is 5 for the approval. A vote no denies the variance. Bruce, 6 please call the vote. 7 8 MR. BULLARD: Ms. Jarrell? MS. JARRELL: Yes. 9 MR. BULLARD: Mr. Hamilton? 10 MR. HAMILTON: Yes. 11 MR. BULLARD: Mr. Dynes? 12 13 MR. DYNES: Yes. MR. BULLARD: Mr. Sweeney? 14 MR. SWEENEY: Yes. 15 MR. BULLARD: Mr. Valentic? 16 CHAIRMAN VALENTIC: Yes. 17 18 MR. BULLARD: So passed. 19 CHAIRMAN VALENTIC: The ayes have it. Your appeal has been passed. Congratulations. 20 21 MR. PAUL: Thank you. 22 CHAIRMAN VALENTIC: If you plan on leaving, please 23 see Bruce before you go this evening. 24 Next on our agenda is Appeal Number 0516-1072, Mr. Thomas Valencia is requesting a variance for the property 25 26 located at 11721 Jennifer Court and being Permanent Parcel 27 Number 08-A-005-D-00-034-0, to locate an above-ground pool 28 30 feet from Far Hills Road right-of-way, in lieu of the min -the 50 foot minimum set forth in Section 31.03(A) of the Zoning 29 Resolution. 30

Please come up and state your name and address and please confirm that you've been sworn in.

MR. VALENCIA: My name is Thomas Valencia. I live at 11721 Jennifer Court. And, yes, I have been sworn in.

CHAIRMAN VALENTIC: Thank you. Go ahead and just walk us through --

MR. VALENCIA: Okay.

CHAIRMAN VALENTIC: -- the packet.

MR. VALENCIA: All right. Well, as you see, we put together a packet showing a map of where the pool would go. My wife wrote this letter for the request of the variance for 20 feet. It is an 18-foot pool, stands 54 inches high. And on the map where we want to put it, as you see, we are on that corner lot where it gets very narrow towards the north end of the property. And the part that we want to put the pool in is basically the only area that we can put it in.

As we came to get the permit, Bruce, you know, informed us that, you know, we needed to get this variance because we needed more feet. So that's why we are here tonight. And every consideration that you can give us tonight, we would appreciate that.

If you've been by the property -- I don't know if you have or haven't -- but it's at a slope. And by the time they dig in the ground and place it into the ground, I honestly believe it's going to even be below street level. So I don't believe it's going to be an eye sore to any of our neighbors. So that's why we are here tonight. We are asking for that variance.

CHAIRMAN VALENTIC: So there is an existing deck and an existing screened in porch, I guess, to the, to the east

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that prevents you from shifting it that way as well.
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               MR. VALENCIA:
                             Yes.
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               MS. JARRELL: What's the side yard clearance from the
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    house to the right-of-way?
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               MR. VALENCIA: What was that, 20 feet or 30 feet?
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    Thirty feet.
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                             Thirty feet.
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               MR. BULLARD:
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               MR. DYNES: Did you build the house?
               MR. VALENCIA: No, we did not. We purchased the
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    house almost four years ago now.
               MS. JARRELL: So a variance had to have been granted
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    at some point.
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               MR. BULLARD: For the house?
               MS. JARRELL: For the house.
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               MR. BULLARD: No. Back then, the front, the front of
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    the house is set back 50 feet, but they had a side yard setting
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    in some subdivisions that was 25 to 30 feet at different times.
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               MS. JARRELL:
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                             Okay.
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               MR. BULLARD:
                             But it's not, it's nonconforming
    currently is what it amounts to.
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               MR. HAMILTON:
                             This pool is permanent? You would
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     consider it to be permanent?
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               MR. VALENCIA: Yes, it will be permanent.
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               MR. HAMILTON: You mentioned that it would be, you
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    know -- they had to do some excavating to put the pool in.
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               MR. VALENCIA: Yes.
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               MR. HAMILTON: At any point, will that pool be 4 feet
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    or less above the ground level?
               MR. VALENCIA: No, I do not believe it will be.
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               MR. HAMILTON: Do you intend to put a fence around
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the pool? 1 MR. VALENCIA: We intend to put a deck around, like 2 an L-shaped deck. Then we're going to put some, some foliage 3 around, some plants, that type of thing to maybe offset any eye 4 sore from anybody passing by or whatnot. So we do plan on 5 putting up something that would --6 MS. JARRELL: I mean, it's not really permanent. 7 8 could get rid of it, if you needed to. 9 MR. VALENCIA: At some time, yes. Permanent, I guess, would be an in-ground, right? 10 MS. JARRELL: Yes. 11 CHAIRMAN VALENTIC: Well, I mean --12 MR. VALENCIA: It's not one of those blow-ups and you 13 take it down seasonably. 14 MS. JARRELL: And that's not even permanent either. 15 MR. HAMILTON: No, it can be above ground and be 16 considered permanent. What I am worried about is, you know, 17 safety and access to the pool, obviously. 18 19 MR. VALENCIA: Yeah. MR. HAMILTON: So I want to make sure that it's 20 21 not -- some kid is going to wander in there --22 MR. VALENCIA: Right. 23 MR. HAMILTON: -- and just fall in the pool. 24 MR. VALENCIA: Right. MS. ULJANIC: May I approach and speak? 25 26 MS. JARRELL: Sure. 27 CHAIRMAN VALENTIC: For the record, please state your 28 name. MS. ULJANIC: My name is Beatrice Uljanic. I am the 29 wife of Thomas Valencia. This pool --30

CHAIRMAN VALENTIC: Have you been sworn in? I am sorry.

MS. ULJANIC: Yes, I have. I am sorry.

CHAIRMAN VALENTIC: That's all right.

MS. ULJANIC: This pool in particular has a removable staircase that can be removed every day when someone is not using the pool. The deck in time, which we are not doing at this moment but that we do plan to do, will attach to the existing deck with the screened in porch. But I would also like to have some sort of a gate that closes on that so no one can go in. I know that there's versus different alarms systems as well that you can put if something, you know, comes within that area and triggers it.

The property is hard to put a fence around. As you know, it is considered having two front yards. And the landscaping in the home is beautiful, which is why we purchased it. I don't want to close it off with a fence. If it is, you know, required, then that is something that we can look into later on but it was not our intention to do so.

We chose this area because it is the only viable area. It is the most level area. Everything else slopes and it, kind of, evens out there so we don't have to excavate as much. The back of the property is very wooded. So in order for us to do something like that, we wouldn't get any sun and we would have to take down a lot of trees, which we don't want to do at this time because we do appreciate, you know, that wooded area.

MS. JARRELL: I don't think the fence is required.

MS. ULJANIC: Okay. And it is 54 inches, so it is

not going to go into the ground much more. They're just going

finish leveling it out as much as they need to. So we were 1 told that that height was a good height and it is, kind of, a 2 barrier so that children or whoever cannot just crawl in easily 3 and get hurt or drown. 4 We have a five-year-old son, which obviously safety 5 is a concern for us. So that was a major factor in deciding 6 the size of the pool. But it is also the reason why we want to 7 8 have the pool. He wants to learn how to swim. So --9 CHAIRMAN VALENTIC: Good. Okay. MR. HAMILTON: So if I can, I will read you what the 10 zoning does say about a fence. "A fence enclosure is not 11 required for above-ground pools if the pool has a non-climbable 12 13 vertical side not less than 4 feet in height as measured from grade at the base of the wall." So if they were to lower the 14 grade to where your 54 inches becomes less than 4 feet, then 15 this would apply. 16 17 MR. VALENCIA: Okay. MS. ULJANIC: And it shouldn't. 18 MR. VALENCIA: No, it's not going to. 19 20 MR. HAMILTON: Okay. 21 CHAIRMAN VALENTIC: Anyone else have any questions? 22 MR. SWEENEY: The 30 feet as measured from the right-23 of-way is, is to where? Does your property line go right up to 24 the curb or is there --25 MR. BULLARD: If you look at your last, last drawing. 26 MR. SWEENEY: Yeah. 27 MR. BULLARD: Do you see the red line? 28 MR. SWEENEY: Yeah. MR. BULLARD: That's the relationship of the property 29

line and the distance.

MR. SWEENEY: That's the measure distance? 1 MR. BULLARD: Yeah. 2 MR. SWEENEY: Okav. 3 CHAIRMAN VALENTIC: Yeah. So outside of that right-4 of-way line there is still some green, you know, right-of-way 5 that separates cars and people from. 6 MR. SWEENEY: 7 Okay. 8 MS. ULJANIC: I believe it's 10 feet, actually. 9 MR. SWEENEY: Okay. CHAIRMAN VALENTIC: Any other questions? I think I 10 am all set. Okay. Thank you very much. 11 Is there anyone else here speaking for or against 12 this appeal who would like to come up? All right. If there's 13 no further questions, the public hearing for Variance Number 14 0516-1072 is now closed to the public. I will entertain a 15 motion to approve Variance Number 0516-1072. 16 17 MR. DYNES: So moved. MS. JARRELL: Second. 18 19 CHAIRMAN VALENTIC: The approval for Variance Appeal Number 0516-1072 has been moved and seconded. It's open for 20 21 discussion on the Board. I will start. It's a tough, tough 22 property with the way it's angling. It makes things a little 23 bit difficult. The house, like they said, already doesn't meet 24 the side yard setback requirements. The grade does help secure 25 it, kind of, screen it from the neighborhood, which I think is 26 a bonus. 27 MR. DYNES: I agree. It's a neat parcel. It's got some limitations to it. I appreciate you want a pool. I've 28 got a pool. Pools -- I've got young children -- they scare me, 29

and my fair goes to Blair's. Not that it's relevant here, my

aunt and uncle had a pool and a seven-year-old climbed, got in and drowned. That was in Michigan 35 years ago. They came home and found him. So that kind of thing frightens me.

I would, I would likely approve this only with the caveat -- and I think the requirement, it's in our text anyway, 31.04(B)(3) on the grade -- it's got to be conforming to the grade and there's got to be no question about. I don't -- Not that we bear liability for that. Your liability frightens me.

I would tell you, I don't like to bring this up. But as two lawyers here and one of -- you know, doing the kind of work that we do, and knowing what your insurance requirements might be, you might want to consider a fence. And that's for you and your safety. I know your neighborhood. And God forbid -- So I'm speaking a little bit of turn here and speaking directly to you and I understand that. I have a pool, I have a fence, and there's a lot of concerns here. So I would just be -- You know, a fence may not be required. I would certainly though, in my mind, approval, tie it to other parts of our text that I think are relevant.

CHAIRMAN VALENTIC: Any more?

MR. SWEENEY: I think having a five-year-old is built-in caution. That's enough.

MR. VALENCIA: Yep.

MR. SWEENEY: The original nonconforming or nonconforming measurements, just so I get an idea of what -- what was it? What should it have been and what was it allowed to be?

MR. BULLARD: Well, it was what was allowed to be at the time that the subdivision was built.

MR. SWEENEY: But now it would be nonconforming.

MR. BULLARD: Now, yeah, now you are nonconforming because it's changed. When it's by a right-of-way in a normal development, it's 50 feet from the right-of-way. MR. SWEENEY: But back then? MR. BULLARD: Both sides. Back then, it was -- some were 25 and some were 30 on the secondary frontage. eliminated that at some point in our text. MR. SWEENEY: So had they put the pool in back then, they wouldn't even need a variance? MR. BULLARD: That's correct. MR. SWEENEY: Okay. MR. BULLARD: He's a little late. MR. SWEENEY: A couple years. MS. ULJANIC: Better late than never. MR. DYNES: Well, I think that's the thing we all recognize. It's a unique lot and I think we all notice that. CHAIRMAN VALENTIC: Yeah. MR. SWEENEY: Yeah. MR. DYNES: And I appreciate the fact that where you're putting it seems to be the most logical location for a pool. I think they're pretty limited. CHAIRMAN VALENTIC: They put together a pretty good package of showing, giving you a view with respect to how it sits. Do you guys have any other questions or comments? MR. HAMILTON: Covered it. CHAIRMAN VALENTIC: That's it. Okay. The question is for approval of Appeal Number -- Variance Appeal Number 0516-1072, adding that the pool construction design will meet all the required zoning code requirements for an above-ground

pool, which it would have anyway. We will make that part of

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it, as Brandon mentioned in his request. A yes vote is for the
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     approval of the variance. A no vote denies it. Bruce, please
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     call the vote.
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               MR. BULLARD: Mr. Dynes?
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               MR. DYNES: Yes.
               MR. BULLARD: Mr. Sweeney?
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               MR. SWEENEY: Yes.
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               MR. BULLARD: Mr. Hamilton?
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               MR. HAMILTON: Yes.
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               MR. BULLARD: Ms. Jarrell?
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               MS. JARRELL: Yes.
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               MR. BULLARD: Mr. Valentic?
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               CHAIRMAN VALENTIC: Yes.
               MR. BULLARD: Passed five-oh.
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               CHAIRMAN VALENTIC: The yesses have it. Your appeal
    has been approved.
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               MR. VALENCIA: Thank you very much.
               CHAIRMAN VALENTIC: Since we have already completed
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     our meeting minutes, the meeting for June 8th for the Board of
     Zoning Appeals is now closed.
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                (Whereupon, the proceeding was concluded at
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               7:42 p.m.)
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STATE OF OHIO 1 CERTIFICATE COUNTY OF CUYAHOGA 2 I, Melinda A. Melton, Registered Professional 3 Reporter, a notary public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that, to 4 the best of my ability, the foregoing proceeding was reduced by me to stenotype shorthand, subsequently transcribed into 5 typewritten manuscript; and that the foregoing is a true and accurate transcript of said proceedings so taken as 6 aforesaid. 7 I do further certify that this proceeding took 8 place at the time and place as specified in the foregoing caption and was completed without adjournment. 9 I do further certify that I am not a friend, relative, or counsel for any party or otherwise interested 10 in the outcome of these proceedings. 11 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 29th day of June 2016. 12 13 14 Melinda A. Melton Registered Professional Reporter 15 Notary Public within and for the 16 State of Ohio 17 My Commission Expires: February 4, 2018 18 19 20 21 22 23 24 25 26 27 28 29 30