

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

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

October 10, 2018
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

Ivan Valentic, Chairman
Francis Sweeney, Vice Chairman
Blair Hamilton, Member
Brandon Dynes, Member
Todd Golling, Alternate Member

Also Present:

Heather Freeman, Planning & Zoning Director/Zoning
Inspector
Michael Lucas, Esq., Legal Counsel

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

1 7:00 p.m.

2 CHAIRMAN VALENTIC: Good evening. The Concord
3 Township Board of Zoning Appeals for October 2018 is now in
4 session. I would like to introduce the Board. To my far left
5 is Skip Sweeney and Brandon Dynes. I am Ivan Valentic. To my
6 right is Todd Golling and Blair Hamilton. To my far, far
7 right is Heather Freeman, our Zoning Inspector.

8 This evening, under the advice of counsel, we ask
9 that anyone speaking must be sworn in. If you plan on
10 speaking, please stand and raise your right hand. Thank you.
11 All right.

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

13 CHAIRMAN VALENTIC: Okay. Thank you. Please be
14 seated.

15 This evening when you're presenting or speaking,
16 come to the microphone and state your name and address for the
17 record and also confirm that you've been sworn in for the
18 record. Okay?

19 Heather, were the legal notices published in a
20 timely manner?

21 MS. FREEMAN: Yes, they were.

22 CHAIRMAN VALENTIC: All right. Thank you.

23 Tonight we have two appeals. A three-vote majority
24 is required to either approve or deny your appeal. If your
25 request is denied, you have the right to file an appeal, and
26 then you can see Heather if that happens.

27 Okay. First is Variance Number 2018-39, Lake County
28 Committee on Family Violence, d.b.a. Forbes House, on behalf
29 of Rylan, Inc., is requesting a variance to Sections 22.02 and
30 22.03, Table of Uses, to permit a domestic violence abuse

1 shelter within an existing building located at 7480 Auburn
2 Road, located in the B-1 restricted retail district. Please
3 come up and present your case.

4 MR. DOLCE: My name is John Dolce. I live at
5 11175 Caddie Lane, Concord, Ohio. I happen to be the board
6 president of Forbes House. What we're looking to do here --

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

8 MR. DOLCE: I'm sorry. I've been sworn in, yes.

9 CHAIRMAN VALENTIC: Very good. Okay. Thank you.

10 MR. DOLCE: Unfortunately, what we're looking for is
11 another shelter for the clients that we represent in
12 Painesville now. We have a place in Painesville that we
13 currently have seven bedrooms that we house our clients seven
14 days a week, 24 hours a day, 365 days a year. And,
15 unfortunately, we're looking for more space to house our
16 clients, you know.

17 With this new shelter, we hope to get into a little
18 bit more mental stuff in regards to counseling. We're looking
19 to put in a garden for them. The building has been empty for
20 about two years now. There's not a lot of -- We'll be doing
21 no exterior work. What we will be doing is interior. We will
22 be putting in another maybe seven to eight bedrooms, a
23 kitchen, play area for the kids, something that when they
24 leave home they have a place to come where it's safe.

25 So my appeal is if we can change and ask for a
26 variance on that.

27 CHAIRMAN VALENTIC: Okay. Does anyone have any
28 questions for him from the Board? I do not have any at this
29 time.

30 MR. GOLLING: Is this in addition to or replace of?

1 MR. DOLCE: Yes, this will be in addition.

2 CHAIRMAN VALENTIC: You said you're adding bedrooms.

3 MR. DOLCE: Yes.

4 CHAIRMAN VALENTIC: How many?

5 MR. DOLCE: Well, we're working with Joe Myers, the

6 architect from Willoughby. Right now the building is,

7 actually, completely emptied.

8 CHAIRMAN VALENTIC: Okay.

9 MR. DOLCE: We're in the process of trying to get --

10 Once we get this approved, hopefully, then we will sit down

11 with him and see how many bedrooms we can fit in and what

12 we're trying to do as far as -- We would like to have a

13 meditation room for them, somewhat of a library. We are

14 actually looking to get a -- We've had a donor who's been

15 willing to donate some money to put in like a fitness, little

16 fitness center for them.

17 CHAIRMAN VALENTIC: Okay.

18 MR. DOLCE: Yeah. Again, it's just a place so they

19 can come to and feel safe away from what their situation is

20 now.

21 MR. HAMILTON: So you don't anticipate expanding the

22 footprint of the current building?

23 MR. DOLCE: Not at this time, no, not at all.

24 Again, we're not going to close the shelter we have in

25 Painesville. That will be an existing shelter. We have staff

26 there. Like I said, we have seven bedrooms there and

27 approximately six offices. But, unfortunately, again, we

28 just -- we don't have space anymore. What we do in that

29 situation, we'll rent some rooms from other hotels and we'll

30 put them in there until we are able to counsel them. And we

1 take them to court and we have advocates that work with them
2 to get them in a better place after, you know, they've stayed.

3 They're allowed to stay with us for about 60 days.
4 We give them all the counseling and help that they can and
5 then we move them on to a different housing development for
6 them. But they leave -- Like, I don't know if you know what
7 the shelter is. I mean, they leave in the middle of the night
8 with their kids sometimes with nothing. You know, we help
9 what we can.

10 CHAIRMAN VALENTIC: Do you think you've got enough
11 parking? Is there sufficient parking there? You are not
12 going to expand that?

13 MR. DOLCE: No, no. We've had some preliminary
14 meetings with Joe and the builder and we currently have the
15 same parking that we have now. The grassy area that we have
16 in the back, we're hoping to put in some gardens.

17 CHAIRMAN VALENTIC: Okay.

18 MR. DOLCE: So the clients can, you know, have a
19 garden, grow tomatoes, you know, things like that.

20 CHAIRMAN VALENTIC: Okay. Any other questions from
21 the Board?

22 MR. DYNES: No.

23 CHAIRMAN VALENTIC: No? You guys are all good?
24 Thank you.

25 MR. DOLCE: Thank you very much.

26 CHAIRMAN VALENTIC: Thank you. You can be seated.
27 Is there anyone else here this evening that's either
28 speaking for or against this appeal that would like to come
29 up? If there's no further questions, the public hearing for
30 Variance Number 2018-39 is now closed to the public.

1 I will entertain a motion to approve Variance Number 2018-39.

2 MR. DYNES: So moved.

3 MR. HAMILTON: Second.

4 CHAIRMAN VALENTIC: Thank you. Open for discussion
5 on the Board. Anything you guys want to talk about? It's
6 pretty self-explanatory to me. Either of you guys, anything
7 you want to mention?

8 MR. HAMILTON: I'll just make a comment. I mean,
9 there are other conditional uses in this district that could
10 be seen in what's trying to be accomplished here.

11 CHAIRMAN VALENTIC: Yeah.

12 Todd, you good? You are in deep thought over there.

13 MR. GOLLING: Yeah. I was just thinking about the
14 footprint questions. I mean, if seven bedrooms are good, you
15 know, ten would be better. And it's definitely a good service
16 for people to go but, you know, it's -- The expansion on here
17 is, I mean, there's really not a whole lot they can grow into,
18 at least -- I'm thinking out loud here. I am good on the
19 rest.

20 CHAIRMAN VALENTIC: Okay. All right. If that's the
21 case, the question is on the approval of Variance Number
22 2018-39. A yes vote is for the approval of the variance, a no
23 vote denies it.

24 Heather, please call the vitae.

25 MS. FREEMAN: Mr. Golling?

26 MR. GOLLING: Yes.

27 MS. FREEMAN: Mr. Dynes?

28 MR. DYNES: Yes.

29 MS. FREEMAN: Mr. Sweeney?

30 MR. SWEENEY: Yes.

1 MS. FREEMAN: Mr. Hamilton?

2 MR. HAMILTON: Yes.

3 MS. FREEMAN: Mr. Valentic.

4 CHAIRMAN VALENTIC: Yes.

5 Your variance has been approved. Thank you. Good
6 luck.

7 Okay. Next on the docket is Variance Number
8 2018-40. Steven Olbrysh and Donna Olbrysh are requesting a
9 variance from Section 17.04(B), 17.07(A), to allow for the
10 construction of a single-family dwelling with a 50 foot
11 riparian setback in lieu of the 75 foot required for the
12 property located at 7325 Brookridge Lane.

13 Please come up and present your case.

14 MR. OLBRYSH: Steve Olbrysh, 7549 Parker Drive,
15 Mentor, Ohio.

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

18 MR. OLBRYSH: I have.

19 CHAIRMAN VALENTIC: Okay.

20 MR. OLBRYSH: My wife, Donna, and I own the property
21 at 7325 Brookridge Lane. We purchased this property from the
22 developer in July of 2010. The house plans and the site plans
23 were approved by the developer in October of 2010.

24 CHAIRMAN VALENTIC: October of 2010?

25 MR. OLBRYSH: Yes. For various reasons, major
26 health issues among them, we have been unable to build. Early
27 this year, we decided to sell the property. We found a buyer.
28 And as the buyer was doing their due diligence, it was
29 discovered that Concord Township, in July of 2016, had passed
30 riparian setback regulations with a 75 foot requirement.

1 After working with the Barrington Consulting Group,
2 who created the site plan, it was determined that this
3 property is not buildable without a riparian zoning variance.
4 We are requesting a 25 foot variance.

5 Also, prior to tonight's meeting, Concord Township
6 Zoning notified all adjacent property owners by mail. No such
7 notification was afforded affected property owners prior to
8 the passing of the new riparian requirements in 2016.

9 In addition, the site plan showed the elevation of
10 the proposed walkout basement was over 6 foot above the 100
11 year floodplain.

12 The real estate taxes on this property are \$1,459.36
13 per year. All taxes are, of course, current.

14 I have asked Dave Novak, of the Barrington
15 Consulting Group, to accompany me this evening. He can answer
16 any questions specific to the site plan or the requested
17 zoning variance. Thank you.

18 CHAIRMAN VALENTIC: Did you, I guess, did you guys
19 consider any other site plan layouts besides this one that was
20 provided, or a different house footprint?

21 MR. NOVAK: Well, let me --

22 CHAIRMAN VALENTIC: Dave, name and --

23 MR. NOVAK: My name is Dave Novak, from Barrington
24 Consulting Group. The address is 9114 Tyler Boulevard. And,
25 yes, I have been sworn in.

26 I would -- This is the same document that was sent
27 to you as part of the application process but I like to color
28 things up so it's a little easier for everyone to understand.

29 MR. LUCAS: Thank you, Dave.

30 MR. NOVAK: You're welcome.

1 And I think what -- This diagram, again, is the site
2 plan that was submitted for the application. And there is a
3 dash line that kind of goes down. At the bottom of the slope
4 there, that's Kellogg Creek. That's the existing creek.

5 CHAIRMAN VALENTIC: In purple?

6 MR. NOVAK: In purple. There is a blue line that
7 represents a 25 foot setback off the edge of the creek; there
8 is a green line which would be the 50 foot, which is what
9 we're asking for; and the pink line represents the 75 or
10 what's current based on your regulations.

11 And part of when you ask the question whether any
12 other houses or layouts of the lot, I think it's kind of
13 obvious that, if you look at where that 50 foot riparian
14 setback is, it would have to be a very --

15 CHAIRMAN VALENTIC: You mean the 75?

16 MR. NOVAK: Or the 75. This would have to be a very
17 long and narrow house. We also showed, you know, when they
18 were anticipating building on the property, it was shown with
19 a two-car side load garage and there is one front load garage
20 there, also. And that's why, you know, the side setback
21 that's shown is 21 feet. And the reason for that is to be
22 able to get out of the garage, turn around and go down the
23 driveway head first because you surely wouldn't want -- This
24 is a relatively steep driveway. There is really no place to
25 put it. The only other place to put a turn-around, if you had
26 a front load garage, would be in the front, which this really
27 doesn't afford the ability to put a turn-around in the front.

28 MR. GOLLING: Steep how, like steep incline?

29 MR. NOVAK: Yes.

30 MR. GOLLING: Like you're going up a hill?

1 MR. NOVAK: Yes. I would, I'd have to double check
2 but we're probably approaching 10 percent on that driveway.

3 So all of these conditions were taken into account
4 back in 2010 when they had purchased the property, worked with
5 Little Mountain Homes to design a home that really fit this
6 lot.

7 The other colored line on here, there is a red line
8 that kind of goes along the creek, gets -- meanders through
9 there. And, again, that's the 100 year flood elevation. So
10 even in a 100 year storm event, it's anticipated that, you
11 know, the water would never rise above that red line.

12 So I believe we're trying to be cooperative here and
13 it would have been my recommendation that we ask for the
14 variance to be 50 feet or we only go to a 25 foot riparian
15 setback so that we can really use and enjoy that property
16 because, if you look at the blue line, that would allow,
17 afford my clients to use the property in the back and to the,
18 to the west side of the property.

19 Right now, when you go to the green, that whole side
20 over towards the creek, which is one of the nicer features of
21 the property to be able to go over there and see the water
22 meandering through that creek, we're going to be very
23 restrictive as to what we can do other than walk across that
24 property. So --

25 And, again, as my clients mentioned that, you know,
26 they purchased the property in 2010, I believe. The
27 regulations went into existence in 2016.

28 CHAIRMAN VALENTIC: 2016.

29 MR. NOVAK: And now we are here in 2018.

30 One of the other things, and I am sure that a lot of

1 you have seen these standards that everybody uses for
2 determining hardships and so forth. And if we can go down
3 through them real quick, number one is whether the property
4 would yield a reasonable return or whether there can be a
5 beneficial use of the property without the variance? And I
6 would say definitely not because without the variance, in our
7 opinion, the lot is almost unbuildable.

8 Whether the variance is substantial? Again, the
9 requirement is 75. I think we should go to 25 but they're
10 willing to go to 50 to kind of try to keep in the spirit of
11 the regulation.

12 Whether the, Number three --

13 CHAIRMAN VALENTIC: So what's your answer to that
14 one. Is it substantial, yes or no?

15 MR. NOVAK: I say no because of the hardship that
16 this requirement has placed upon the property because, without
17 the variance, the property is useless.

18 Number three, whether the essential character of the
19 neighborhood would be substantially altered or adjoining
20 properties suffer a substantial detriment? Again, I say no.
21 We have the creek, and the people to the west are on the other
22 side of the creek up the hill off of the -- I can't remember
23 the street name over there.

24 Whether the property owner purchased the property
25 with the knowledge of the zoning restriction? That's no.
26 They purchased it on July 19, 2010. The plat was recorded in
27 February of 2005, way before the regulations. And the new
28 code went in July 15th of 2016.

29 Whether the problem can be solved in some other
30 manner than granting the variance? Again, I would say no

1 because we need the variance in order to be able to build on
2 -- build a structure on the property.

3 And Item Number seven, whether the variance
4 preserves the spirit and intent of the zoning requirement?
5 Again, I would say we're trying to do that by meeting halfway
6 between the 75 and what I think is reasonable, the 25.

7 So that's really all I have other than, you know,
8 again, this lot is 1., almost 1.3 acres. And when you go down
9 to the 50 foot, if you apply the 50 foot riparian setback,
10 just a little over a half acre is usable. Currently, the way
11 it is right now with the 75 foot riparian setback, this 1.3
12 acre piece of property is reduced to about four-tenths of an
13 acre of usable property, which is a 70 percent take of their
14 piece of property that they paid good money back in 2010 for.

15 So, again, we're here to answer any other questions
16 that the Board might have.

17 CHAIRMAN VALENTIC: So maybe I will ask one of the
18 -- one question to start. And so is the topography in the
19 creek alignment based on the year 2010 survey?

20 MR. NOVAK: Yes.

21 CHAIRMAN VALENTIC: Did you guys go out and verify
22 that this is still the alignment of the channel in that area
23 because it has been eight, you know, eight years since then?
24 And so I only ask because your variance is based on this, you
25 know, dimension. But if the creek, say, shifted 10 feet --

26 MR. NOVAK: We have not gone back out and relocated
27 the creek.

28 CHAIRMAN VALENTIC: Okay.

29 MR. DYNES: And who is actually building? You
30 mentioned earlier somebody might be under contract or you are

1 looking to sell it but the potential buyer examined it?

2 MS. OLBRYSH: We're looking to sell.

3 MR. DYNES: So you're --

4 CHAIRMAN VALENTIC: Come to the microphone, please.

5 MR. DYNES: You haven't been sworn in or
6 acknowledged yet rather.

7 CHAIRMAN VALENTIC: Yes.

8 MS. OLBRYSH: Donna Olbrysh. I own the lot at
9 7325 Brookridge Lane.

10 CHAIRMAN VALENTIC: You've been sworn?

11 MS. OLBRYSH: I have been sworn in.

12 CHAIRMAN VALENTIC: Thank you.

13 MS. OLBRYSH: So in the perfect world, we would have
14 built and we wouldn't have been here. We would have built
15 eight years ago. But because of multiple reasons and my
16 husband's health, we decided to finally sell the property. We
17 had a buyer with a young family that loves Concord and wants
18 to be in the Mentor school system and there is not a lot of
19 lots out there in that category. And it wasn't until they
20 reneged on the deal four days later that we found out. I
21 didn't even know the word "riparian" before today -- or before
22 then.

23 MR. DYNES: I appreciate that. My question, is this
24 the home that you had proposed to build at some point?

25 MS. OLBRYSH: Yes.

26 MR. DYNES: This is not -- Is this currently your
27 plan then to actually construct this home for yourselves and
28 move to the property?

29 MS. OLBRYSH: No. We, we gave the plat -- We had to
30 apply for a zoning permit and be rejected to apply for a

1 variance to sell the land to someone that wants to build, and
2 they would build in a similar footprint to what we had given
3 them, that what we had proposed initially.

4 MR. GOLLING: But could the new buyers go in there
5 and say, "We're fans of long, skinny houses," and they don't
6 want this footprint at all? I mean, they could totally reject
7 this, this thing on here.

8 MS. OLBRYSH: They did a site plan with their
9 builder -- and I don't know who their builder was -- but it
10 was similar in size of a one-story ranch house. And it would,
11 I think, even be narrower than our present house but I don't
12 know how much narrower.

13 I will add that both my husband and I are retired
14 now and this is a substantial lot. It's about \$100,000 lot.
15 And if we don't get a variance, it will be a financial
16 hardship to my husband and I.

17 CHAIRMAN VALENTIC: So it's clear, you're looking
18 for that 25 feet setback change, I guess, across the whole
19 property, not just where you're building a house because the
20 house, you know, if I look to the -- As an example, Dave, up
21 front, you want that change but you're not building in that
22 area.

23 MR. NOVAK: Right.

24 CHAIRMAN VALENTIC: So you are looking for the whole
25 area.

26 MR. NOVAK: But, actually, if you look at the -- The
27 yellow line represents the limits of the property. Okay?

28 CHAIRMAN VALENTIC: Yes.

29 MR. NOVAK: And the green line is the variance,
30 would represent that 50 foot. Once you get almost to the

1 front of the house, if you project the front of the house over
2 to the western property line, that riparian setback goes off
3 the property. So it doesn't affect us. But, again, we don't
4 -- At worst case, I guess, we would say the northern property
5 line up until it intersects the 50 foot requirement, if you
6 guys wanted that little bit of area, I guess, along the north
7 property line or that angled property line.

8 What I am saying is this line right here, the yellow
9 line, represents our property line. So once it crosses that,
10 our property line, I guess I'd have to -- You might want to
11 talk to your legal advisor but, in reality, once it crosses
12 our property line, if you're granting us the variance on our
13 piece, I don't know that that variance crosses the property
14 line. I would say it does not.

15 CHAIRMAN VALENTIC: No, it does not. But I guess
16 the point is the riparian setback, what we're trying to do is
17 protect the riparian corridor. So you're looking for an X
18 percentage change in the variance. We can potentially reduce
19 that variance amount if we say that this pink line, instead of
20 going all the way up there, you know, ties in here and this is
21 still -- or, you know, as it comes through, this doesn't
22 become part of -- this is maintained as riparian buffer up
23 front, you know, when we look at the area of what you guys are
24 requesting. Is that an option or are you looking for the
25 whole thing?

26 MR. NOVAK: I think, again, only because of the
27 restriction of the side yard and the rear yard overlooking the
28 creek, which is one of the nice features of this piece of
29 property, that we're already being restricted back there -- I
30 would think that somebody would want to be able to have the

1 use and the enjoyment of that, I am saying to say, that 20
2 feet. I don't know that it's exactly that 20 feet from the
3 pink line to the property line in the front yard.

4 CHAIRMAN VALENTIC: So we received a letter from
5 Chad Edgar at Soil and Water. You know, his Comment Number 3
6 is that the proposed building and fill placement setback
7 currently consists of dense, woody vegetation. The riparian
8 setback's water quality function will be compromised with the
9 proposed improvements.

10 How much they are compromised, I don't know, maybe
11 Chad doesn't know either. But I am looking to -- I am asking
12 the question, is there any wiggle room in what we are
13 proposing here to try to reduce the water quality impact to
14 the stream?

15 MR. NOVAK: Well, I guess, is there wiggle room in
16 the back then? If we can get some additional relief in the
17 back of the house and along the side of the house, I think it
18 might be reasonable.

19 But, again, you know, Mr. Edgar, I can appreciate
20 his opinion. It's just, again, you're taking a lot that's
21 almost 1.3 acres and, when Concord enacted these rules, you
22 took 70 percent of the lot away from these folks.

23 CHAIRMAN VALENTIC: Well, Dave, here's the thing.

24 MR. NOVAK: I realize that we're trying to do a
25 balancing act of trying to preserve as much as you can --

26 CHAIRMAN VALENTIC: Right.

27 MR. NOVAK: -- to protect the residents of Concord.

28 CHAIRMAN VALENTIC: Right. And we're here and
29 that's why this Board is the lucky group that has to look at
30 these variance requests and use what you present and our

1 opinion to try to determine what's the best solution here and
2 try to work with you guys to develop what we think is the best
3 solution and kind of hash this thing out.

4 We understood, I think, Concord understood, once
5 they adopted those rules, there's a lot of people that are
6 grandfathered in. We had a ton of them already come through
7 here. We are going to have many, many more to come. So I am
8 just trying to ask questions to see if we can come to a happy
9 medium somewhere with this request.

10 And then I guess another question I would have as a
11 follow-up, there is a front yard setback with the lot. It has
12 to be a certain dimension.

13 MR. NOVAK: Correct.

14 CHAIRMAN VALENTIC: I think it's 100 feet. Did you
15 take any time to look at, well, what if we pushed the house up
16 a little bit further to maybe, you know, reduce -- because
17 when I look at the impact, the impact is mostly in the back.

18 MR. NOVAK: Right. But, again, if you look, there
19 is a dashed line just in front of the house, okay, and that is
20 actually where the lot is 100 wide at.

21 CHAIRMAN VALENTIC: Right.

22 MR. NOVAK: So could this house be moved forward?
23 Yes, maybe two feet.

24 CHAIRMAN VALENTIC: But --

25 MR. NOVAK: To get to that line.

26 CHAIRMAN VALENTIC: To get to the line. But could
27 we -- Did you look at a front yard setback variance to help?

28 MR. NOVAK: We did not.

29 CHAIRMAN VALENTIC: Okay.

30 MR. NOVAK: We did not.

1 CHAIRMAN VALENTIC: Okay.

2 MR. LUCAS: Dave, just so I am clear, this riparian
3 setback variance is not fact sensitive to a particular house,
4 correct?

5 MR. NOVAK: That is correct.

6 MR. LUCAS: Okay. So -- And the chairman is asking
7 you questions about moving the house here. It's an abstract
8 discussion because there is somebody else that's going to be
9 building this house.

10 CHAIRMAN VALENTIC: Or a different house.

11 MR. LUCAS: Right.

12 MR. NOVAK: Right. But, potentially, a different
13 house. And I can appreciate the Board's question. Okay? But
14 the problem is that without a variance --

15 MR. LUCAS: Right.

16 MR. NOVAK: -- they can't sell the lot. So we are
17 kind of stuck here between, well, it may not be the exact
18 house but at least they can demonstrate to a potential buyer
19 that a house of this width located at this location in the
20 property, based on the variance that, hopefully, is granted
21 this evening, they could build this house.

22 MR. LUCAS: Yeah. And don't get me wrong. I don't
23 think we're stuck on the house. I just want to make sure
24 everyone understands that, when you're talking about can we
25 move a house here or move it further back, the house we're
26 talking about isn't necessarily the footprint of the house
27 you've got on the exhibit that you produced. You're just
28 talking about having a straight riparian setback of 25 feet
29 and then the builder will come in, knowing the one thing for
30 certain, that you have 25 foot variance on the riparian

1 setback. If you want -- The young lady said that he could
2 make it narrower but it's not tied in to the house and I just
3 want to make that point clear.

4 MR. NOVAK: No, that's correct. And, again, if some
5 potential buyer was to come in and need a wider house, for
6 whatever reason, then the 25, if we were granted that 25 foot
7 variance to the 70 -- or the 50 foot setback, riparian setback
8 line, they would truly have to come before this Board and
9 argue their case again. But we're stuck. We can't sell the
10 property as it is, period.

11 CHAIRMAN VALENTIC: And you're not --

12 MR. DYNES: Well, that's why I asked the question I
13 asked about the home and the buyer and what you had.

14 MR. NOVAK: Well, they had, they had a potential
15 buyer and when they found out about the riparian setback --

16 MR. DYNES: You need a variance to run with the land
17 so you can sell the property.

18 MR. NOVAK: -- the deal went away, plain and simple.
19 And like I said, I don't -- I am not opposed to maybe granting
20 something along the, you know, that front portion of the lot
21 but I would hope, if we're going to make that negotiation,
22 that we could negotiate and get, grant, get a little bit more
23 in the back so that the people have some enjoyment of this
24 piece of property, it's not hindered by they can't mow it,
25 they can't take a tree down, they can't do anything in that
26 riparian setback.

27 CHAIRMAN VALENTIC: You're aware of the rules, what
28 you're allowed to do and not do in that riparian setback? You
29 can't build a patio, you can't build a driveway, none of those
30 improvements.

1 And you're only looking for the variance on this
2 side of the creek, not on the other side of the creek because
3 the creek runs through the property, correct?

4 MR. NOVAK: Right. Essentially, again, you'd have
5 to go down the slope, cross the creek and, by the time you get
6 to the other side, there really isn't much usable land. And
7 there is a sanitary sewer easement that goes through the --
8 through that lower area down there. So that property, other
9 than the beauty to be able to sit at the top of the hill and
10 enjoy the, you know, nature as the water rambles through the
11 babbling brook -- I don't know if that's the right term I want
12 to use but --

13 CHAIRMAN VALENTIC: Skip, you got any questions?

14 MR. SWEENEY: No.

15 CHAIRMAN VALENTIC: Anybody else? Blair?

16 MR. HAMILTON: No.

17 CHAIRMAN VALENTIC: Todd?

18 MR. GOLLING: I just -- Why can't the garage be
19 flipped to the back, the house just scooched up front, and
20 then it looks like it would kind of fit? And I'm trying to
21 put Legos to go and see --

22 MR. NOVAK: I guess I am not quite following you
23 but, again, if you == what I am kind of hearing you say,
24 almost flip the house 180, you know, flip it front to back.

25 MR. GOLLING: Yeah.

26 MR. NOVAK: Regardless of where the rooms are but
27 that's what you are saying.

28 MR. GOLLING: Uh-huh.

29 MR. NOVAK: I am not quite sure how that works
30 because, again, that green line encroaches onto the property.

1 When you flip the house over, you really can't move it to the
2 east because we would probably still have -- we would have to
3 have a side entry garage and we need enough room to get a
4 vehicle around the garage, around the side of the house. You
5 know, it's almost a square box.

6 I mean, fortunately up in that, the front corner
7 where the -- on the west side of the house, you know, the
8 house itself sits back a little bit. But, again, as Mr. Lucas
9 alluded to, is we can sit here and play with, as you call it,
10 your Lego blocks and move things, move things around. But
11 when they sell the lot, it needs to be a house that somebody
12 wants to live in. And, again, we have a footprint that works
13 with a set of plans that these folks already paid for. And if
14 they would have built in 2010, we wouldn't be here.

15 CHAIRMAN VALENTIC: Yeah. I guess the thing I
16 struggle with is, you know, you say that it's not substantial.
17 I mean, I see the 25 feet across that whole riparian setback
18 as substantial. I mean, that's a lot of riparian corridor on
19 a decent size stream that's getting cleared, but that's just
20 my opinion on that.

21 I don't, I don't want to make the lot not buildable
22 either but I think the request is pretty substantial. And
23 that's where I was going to try to get to, is there a way to
24 reduce that impact somehow, but it doesn't sound like you --
25 It sounds like you want to stick with the 25 over --

26 MR. NOVAK: Well, again, I guess I would have to
27 say, what are you suggesting? Because if you look at the
28 grading, again, like I mentioned, this lot rises quite a bit
29 as it goes back to where the house is. We've tried to keep
30 the grading reasonably tight to the house. Again, the county

1 requires, you know, a maximum slope of three to one, which is
2 what's shown here. You know, the front door is wedged in, I
3 am going to say, behind that garage where the front porch is.
4 So you have to have a flat area from the driveway to get
5 around the garage to get to the front step. So we've got to
6 grade almost to the property line right there where the --
7 there is a box that says "745" in it.

8 CHAIRMAN VALENTIC: Okay.

9 You good, Brandon? You guys good over here? You
10 said you're good.

11 Okay. I don't think we have any other questions.

12 MR. NOVAK: Okay.

13 CHAIRMAN VALENTIC: You can be seated.

14 Is there anyone else that's here speaking for or
15 against this appeal that would like to come up? Come on up,
16 sir.

17 MR. BABRAUCKA: I haven't been sworn in. I'm Bob
18 Babraucka, 7321 Brookridge.

19 CHAIRMAN VALENTIC: All right. We've got to get you
20 sworn in.

21 MR. BABRAUCKA: I am the next-door neighbor.

22 CHAIRMAN VALENTIC: Please raise your right hand.

23 (Whereupon, Mr. Babraucka was sworn in.)

24 CHAIRMAN VALENTIC: Thank you.

25 MR. BABRAUCKA: So I just want to know what the --
26 How is it going to impact my house? So I live right next to
27 them.

28 MR. GOLLING: Bob, where are you? On this map, are
29 you to the east?

30 MR. BABRAUCKA: Yeah, I'm --

1 MR. NOVAK: He would be to the east.

2 MR. BABRAUCKA: I am the white house that --

3 CHAIRMAN VALENTIC: The only neighboring house.

4 MR. BABRAUCKA: I'm sorry?

5 CHAIRMAN VALENTIC: The only house that's right next

6 door.

7 MR. BABRAUCKA: Yeah, yeah, yeah.

8 MR. GOLLING: Go ahead.

9 CHAIRMAN VALENTIC: Okay.

10 MR. BABRAUCKA: So, I mean, I am a little concerned

11 about the 25 feet. That's a lot. I mean, I have seen that

12 creek turn blue in the spring from all the fertilizer that

13 goes into it. I don't know, you know -- Not from that lot but

14 in general, you know. It's really weird but the creek turns

15 like a blue/green in the spring with all the fertilizer from

16 everywhere or whatever causes it. It's just weird. That's my

17 concern.

18 I would be, you know -- That's what I am trying to

19 say. And as long as it doesn't impact my house, the sale of

20 my house or, you know, it's not going to cause me any drainage

21 issues. I've got enough wet there in part of my property. So

22 that's all. I am concerned about the -- So the concern I have

23 is it's going to be closer to the creek, right? That's where

24 the house is going to go? That's where the house would go?

25 Is that what -- That's what they're saying here? Because I

26 haven't seen what they're --

27 CHAIRMAN VALENTIC: Do you have one of these plans?

28 MR. BABRAUCKA: No.

29 MR. NOVAK: Here, he can have -- I have another one.

30 CHAIRMAN VALENTIC: Dave, why don't you just stay up

1 here, too.

2 MR. BABRAUCKA: Exactly. So just show, so --

3 MR. NOVAK: Here is your house.

4 MR. BABRAUCKA: Right, yep, that's it, yeah.

5 MR. NOVAK: This is where the --

6 MR. BABRAUCKA: Right.

7 MR. NOVAK: -- potential house --

8 MR. BABRAUCKA: Right, sure.

9 MR. NOVAK: -- would go with a 21 foot side yard to
10 the side of the house.

11 MR. BABRAUCKA: Right, okay.

12 MR. NOVAK: Yours is probably -- I don't know if
13 it's at minimum but 15 feet is actually minimum.

14 MR. BABRAUCKA: Right, yeah. Mine is, right, right,
15 right.

16 MR. NOVAK: Again, we're talking on the other side
17 of the property.

18 MR. BABRAUCKA: Right. So you would build -- They
19 want to maybe move the house toward the creek or --

20 MR. NOVAK: No. The requirement is this pink line.
21 This is the way the code reads.

22 MR. BABRAUCKA: Right.

23 MR. NOVAK: As represented by this pink line. We're
24 asking to be able to reduce that variance --

25 MR. BABRAUCKA: Sure.

26 MR. NOVAK: -- setback to the green line.

27 MR. BABRAUCKA: Right, gotcha.

28 MR. NOVAK: That's what we're asking.

29 MR. BABRAUCKA: Okay.

30 MR. NOVAK: So that this house or some similar

1 house --

2 MR. BABRAUCKA: Right.

3 MR. NOVAK: -- could be built in this location.

4 MR. BABRAUCKA: Okay. I see what you're saying.

5 Because that's what it was, that's what was approved ten years
6 ago?

7 CHAIRMAN VALENTIC: But that doesn't mean that
8 that's where the house will go or that will be the house.

9 MR. BABRAUCKA: Right, right. No, I understand.

10 CHAIRMAN VALENTIC: But they get that. That entire
11 area is buildable from the green line to the --

12 MR. BABRAUCKA: Yeah. I mean, I get the dilemma.
13 I mean, if I was rich enough, I would buy the lot from you
14 but -- Okay.

15 CHAIRMAN VALENTIC: Okay?

16 MR. BABRAUCKA: Yeah.

17 CHAIRMAN VALENTIC: That answers your questions?

18 MR. BABRAUCKA: Yes. Thank you.

19 CHAIRMAN VALENTIC: Do you have anything else for
20 the Board?

21 MR. BABRAUCKA: No.

22 MR. SWEENEY: Mr. Babraucka.

23 CHAIRMAN VALENTIC: Stay up there, please.

24 MR. SWEENEY: I have a question for you.

25 MR. BABRAUCKA: Me?

26 MR. SWEENEY: Yes.

27 CHAIRMAN VALENTIC: Stay up at the podium for just a
28 moment.

29 MR. SWEENEY: How long have you lived at this
30 address?

1 MR. BABRAUCKA: Gosh.

2 MR. SWEENEY: Let me just ask you, were you there in
3 2005, 2006?

4 MR. BABRAUCKA: No. We moved in in 2007. I think
5 it was April of 2007.

6 MR. SWEENEY: Was that a year after the
7 torrential --

8 MR. BABRAUCKA: We were there for the -- that huge
9 flood.

10 MR. SWEENEY: You were there for that?

11 MR. BABRAUCKA: Yeah. The water -- I don't know if
12 you're familiar with that area.

13 MR. SWEENEY: What did the water do?

14 MR. BABRAUCKA: I am sorry?

15 MR. SWEENEY: What did the water do? Did you notice
16 on that lot?

17 MR. BABRAUCKA: Yeah. So it never, I mean, it would
18 never, I don't think -- It did not go where they're proposing
19 to have the -- The walkout was going to be where? Show me
20 that. The walkout was going to be.

21 MR. NOVAK: This side right here.

22 MR. BABRAUCKA: Here?

23 MR. NOVAK: Yeah, right here. This is actually
24 where the creek is, the purple.

25 MR. BABRAUCKA: Oh, oh.

26 MR. NOVAK: So this would be --

27 MR. BABRAUCKA: Yeah, yeah. I'm sorry. Wasn't the
28 walkout going to be over --

29 MR. NOVAK: The walkout is going to be right there.

30 MR. BABRAUCKA: Yeah. The walkout, when I was

1 there, it -- that would not, the water would not have went
2 into that house. I mean, it sits high enough. It spills over
3 into like my neighbor's, you know, across the creek. It
4 spills all into their floodplain. So it would have never --

5 MR. SWEENEY: And that was like a 500 year event.

6 MR. BABRAUCKA: Yeah.

7 MR. NOVAK: Actually, if you look at the road grade
8 down there near the culvert, it's about 741. The basement
9 floor as we have proposed here is 746.

10 MR. SWEENEY: And the creek is 735?

11 MR. NOVAK: Right. But even, I mean, it would cross
12 over the road.

13 MR. BABRAUCKA: Right. That's why --

14 MR. SWEENEY: Before it got any higher.

15 MR. NOVAK: And cross the street before it would get
16 to this proposed house.

17 MR. BABRAUCKA: Right, that's what I -- yeah.
18 Because it never, in that storm, it did not come across the
19 road. It came pretty close but did not cross the road.

20 MR. SWEENEY: Okay. Thank you.

21 MR. BABRAUCKA: So any more?

22 CHAIRMAN VALENTIC: Thank you.

23 Is there anyone else that's here that would like to
24 speak for or against this appeal that would like to come up?

25 Okay. With that being said, there is no one else
26 speaking for or against the appeal, the public hearing for
27 Variance Number 2018-40 is now closed to the public. I will
28 entertain a motion to approve Variance Number 2018-40.

29 MR. DYNES: So moved.

30 MR. SWEENEY: Second.

1 CHAIRMAN VALENTIC: All right. Got a second.
2 Discussion for the Board? Anybody want to start the
3 discussion?

4 MR. SWEENEY: Heather, what was the setback in two
5 thousand --

6 CHAIRMAN VALENTIC: There wasn't one.

7 MR. SWEENEY: There wasn't any? I thought there was
8 a min -- Wasn't there even a minimum back before the new
9 regulations, like a 20?

10 MS. FREEMAN: No.

11 MR. SWEENEY: So there wasn't any?

12 MS. FREEMAN: No. Just the standard side yard
13 setback from property line.

14 CHAIRMAN VALENTIC: Yeah, the side yard setback.

15 MS. FREEMAN: No riparian setback.

16 MR. SWEENEY: So theoretically --

17 CHAIRMAN VALENTIC: That's the problem, there wasn't
18 anything. You know what I mean?

19 MR. SWEENEY: Right, right.

20 CHAIRMAN VALENTIC: That's also an issue.

21 MR. DYNES: I appreciate what the riparian setback
22 does. I appreciate the protections it tries to afford. I
23 think, in looking at these particular folks and the situation
24 they're in front of us with, it's a hardship. Had they built
25 previously -- And I understand now they're never going to sell
26 this property without the variance being there. And if they
27 have to go through that exercise, they're probably stuck with
28 it for a long period of time. So I get it.

29 I think the riparian stuff is good and bad. In this
30 particular case, I appreciate you going through the test with

1 us. I think we most all know that by heart but thank you,
2 David. You highlighted it well and I see it as a true
3 hardship.

4 CHAIRMAN VALENTIC: Okay.

5 MR. DYNES: My opinion.

6 CHAIRMAN VALENTIC: Blair, do you have anything you
7 want to add?

8 MR. HAMILTON: No. It's tough because, you know,
9 given the inability to make any other stipulations in terms of
10 setbacks to the front or some other area, we're dealing with
11 an unknown. So --

12 MR. DYNES: Well, and whoever, if and when someone
13 does build, they're going to have all the restrictions that
14 are there presently anyway.

15 MR. HAMILTON: Right. But if we were to say, you
16 know, your front yard setback could be 75 feet --

17 CHAIRMAN VALENTIC: Yeah. We can't --

18 MR. HAMILTON: We'd have some options.

19 CHAIRMAN VALENTIC: Yeah.

20 MR. HAMILTON: But we can't do that.

21 CHAIRMAN VALENTIC: We can't do that up here right
22 now. They need to come to some --

23 MR. HAMILTON: Right.

24 CHAIRMAN VALENTIC: Show us something.

25 MR. HAMILTON: Right.

26 CHAIRMAN VALENTIC: Todd?

27 MR. GOLLING: I'm good.

28 CHAIRMAN VALENTIC: You're good.

29 Okay. I mean, I don't have anything else to add to
30 the conversation.

1 So the question is on the approval of Variance
2 Number 2018-40. A yes vote approves the variance, a no vote
3 denies the variance.

4 Heather, please call the vote.

5 MS. FREEMAN: Mr. Dynes?

6 MR. DYNES: Yes.

7 MS. FREEMAN: Mr. Sweeney?

8 MR. SWEENEY: Yes.

9 MS. FREEMAN: Mr. Hamilton?

10 MR. HAMILTON: Yes.

11 MS. FREEMAN: Mr. Golling?

12 MR. GOLLING: Yes.

13 MS. FREEMAN: Mr. Valentic?

14 CHAIRMAN VALENTIC: Yes.

15 The variance has been approved.

16 MS. OLBRYSH: Thank you very much.

17 MR. SWEENEY: Good luck.

18 CHAIRMAN VALENTIC: Yeah, good luck.

19 Next on the agenda is the approval of minutes. I
20 would like to call a motion to approve the minutes from
21 September 2018.

22 MR. SWEENEY: So moved.

23 CHAIRMAN VALENTIC: How about a second?

24 MR. HAMILTON: Second.

25 CHAIRMAN VALENTIC: Thank you. Is there any
26 discussion or additions or deletions regarding the minutes?

27 MR. DYNES: I will abstain. I wasn't here.

28 MR. GOLLING: Abstain.

29 CHAIRMAN VALENTIC: All right. You guys are good
30 with the minutes as written?

1 MR. HAMILTON: Aye, yes.

2 CHAIRMAN VALENTIC: Okay. The question is on
3 approval of the minutes from September 2018. A yes vote
4 approves the minutes, a no vote does not. All in favor of
5 approving the minutes as written say aye. Skip, aye?

6 MR. SWEENEY: Aye.

7 CHAIRMAN VALENTIC: All right.

8 MR. SWEENEY: Sorry.

9 CHAIRMAN VALENTIC: You're abstaining and Todd is
10 abstaining, for the record. The minutes from September 2018
11 have now been approved.

12 (Three aye votes, no nay votes, two abstentions.)

13 CHAIRMAN VALENTIC: Our next meeting is on
14 November 14, November 14, 2018. The Concord Township Board of
15 Zoning Appeals is now closed.

16 (Whereupon, the meeting was adjourned at 7:46 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 proceedings were 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 26th day of Octtobber 2018.

Melinda A. Melton
Registered Professional Reporter

Notary Public within and for the
State of Ohio

My Commission Expires:
February 4, 2023