

CONCORD TOWNSHIP BOARD OF ZONING APPEALS
LAKE COUNTY, OHIO
PUBLIC HEARING and MEETING

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

June 13, 2018
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

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

Also Present:

Heather Freeman, Planning & Zoning Director/Zoning
Inspector
Jared Winer, Planner/Assistant Zoning Inspector
Michael Lucas, Esq., Legal Counsel

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

1 7:01 p.m.

2 CHAIRMAN VALENTIC: Good evening. The Concord
3 Township Board of Zoning Appeals meeting for June 23, 2018,
4 (sic.) is now in session. I would like to introduce my Board.
5 To my far left is Skip Sweeney, to my left is Jim Rowe, I am
6 Ivan Valentic, to my right is Chris Jarrell and Blair
7 Hamilton, and to my far right is Heather Freeman, our Zoning
8 Inspector.

9 Under the advice of counsel, we ask that anyone
10 speaking tonight must be sworn in. If you plan on speaking,
11 please stand and raise your hand. I just ask, if you are
12 unsure, just stand. It will save us a little bit of time
13 later so I don't have to, kind of, reswear everybody in. So
14 please stand and raise your right hand.

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

16 CHAIRMAN VALENTIC: Thank you. Please be seated.
17 Tonight when presenting your case or commenting, come to the
18 microphone, state your name and address for the record.

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

21 MS. FREEMAN: Yes, they were.

22 CHAIRMAN VALENTIC: Okay. Thank you, Heather.

23 Oh, and also confirm that you've been sworn in when
24 you do come to the microphone.

25 All right. Tonight we have four variance appeals
26 and I guess, yeah, four variance appeals. A three-vote
27 majority is required to either approve or deny the appeal. If
28 a request is denied, you have the right to file an appeal, and
29 Heather will help you with that if that is the case.

30 Okay. The first one on the docket is Variance

1 Number 2018-29, Mr. Perry Blossom, of ZS -- ZSI Manufacturing
2 is requesting the following variances for the property located
3 at 8059 Crile Road:

4 First, A, a variance from Section 22.07(B)(1), trash
5 receptacle screening to not require the refuse containers to
6 be located wholly within an enclosed building or enclosed by
7 three solid walls and one gated wall.

8 Second variance, a variance from Section 38.04(A) to
9 not require a 5-foot planting area between all building walls
10 and paved areas on the northeast and south sides of the
11 building.

12 Third Variance, Number C, a variance from
13 Section 38.05, Interior Parking Lot Landscaping, to allow zero
14 percent interior parking lot landscaping in lieu of the
15 minimum 10 percent required.

16 Mr. Blossom, if you could please come up. Again,
17 please state your name, your address and confirm that you've
18 been sworn in.

19 MR. BLOSSOM: Good evening. My name is Perry
20 Blossom. The address is 8059 Crile Road. The company name is
21 ZSI Manufacturing. The location is the former CSM Building on
22 Crile. And I've been sworn in.

23 CHAIRMAN VALENTIC: Perfect.

24 MR. BLOSSOM: Thank you.

25 CHAIRMAN VALENTIC: So what we're going to do is
26 we're going to discuss and, kind of, talk through all three of
27 these variances, let you present all three.

28 MR. BLOSSOM: Okay.

29 CHAIRMAN VALENTIC: We're going to let folks comment
30 on all three. We're going to close it then and then we're

1 going to discuss the three and then we're going to vote for
2 each one separately though. Okay?

3 MR. BLOSSOM: Okay.

4 CHAIRMAN VALENTIC: So go ahead and, you know,
5 present your case and all three of the variances. If you
6 would please start from, you know, the first one and work your
7 way through.

8 MR. BLOSSOM: Sure. The first variance that we're
9 asking is for -- and, actually, it says "trash receptacle."
10 It's, really, we have 12 by -- 12 foot long by 8 foot wide
11 steel scrap containers. And so in our process, we have steel
12 scrap containers. And so for the vendor to come and pick up
13 the containers, it would be most reasonable or best if those
14 containers were not enclosed on the -- on all sides. So
15 that's, that's the first one.

16 CHAIRMAN VALENTIC: So my question really quick on
17 that was, do they -- How do they empty those, again, the
18 containers?

19 MR. BLOSSOM: They bring, basically, a large truck
20 in and they'll have an empty container. They'll set it down,
21 drive up to the next one, pull it out, pull out the full
22 container that we have.

23 CHAIRMAN VALENTIC: Okay.

24 MR. BLOSSOM: And then place that down and put the
25 other container in and then load, load it back up and go.

26 CHAIRMAN VALENTIC: So will the containers be
27 generally in the same location as shown on the plans?

28 MR. BLOSSOM: Yes.

29 CHAIRMAN VALENTIC: Because they have to drop one
30 before they pick another one up?

1 MS. JARRELL: How frequently are they emptied?

2 Excuse me.

3 MR. BLOSSOM: At this point, probably once every
4 quarter. We've been in the building for nine months or lights
5 on, so to speak. We've had one container taken out. We will
6 have another one probably within another month. So --

7 MR. HAMILTON: These are recycled materials and they
8 are generally out of sight where they're located?

9 MR. BLOSSOM: Yeah, they're in the back and we'll
10 have, we'll have screening on both sides of the building and
11 in the back around the parking lot area. So they won't be
12 visible from the Concord Rental side or the Drug Mart side.

13 MR. HAMILTON: Thank you.

14 MR. ROWE: You say the dimensions is 8 foot, 8 foot
15 by 12 foot?

16 MR. BLOSSOM: Approximately, yeah. Is that right?
17 Were they -- That's about right, yeah.

18 MR. ROWE: Yeah. The kind you have to, like, cable
19 or winch up over the back end of the truck?

20 MR. BLOSSOM: Yeah.

21 MR. ROWE: Thank you.

22 MR. BLOSSOM: Thank you.

23 MR. SWEENEY: Mr. Blossom.

24 MR. BLOSSOM: Yes, sir?

25 MR. SWEENEY: What is -- What does your company,
26 what type of manufacturing is it? What do you do?

27 MR. BLOSSOM: Yeah, so we are primarily machining
28 services and we have a product line of stamped washers, if you
29 will. And so the materials that we are primarily using are
30 stainless steel 316, 300 series, high nickle, nickle alloys.

1 MR. SWEENEY: Circular washers.

2 MR. BLOSSOM: Yeah, right. Generally speaking,
3 they're metal products that we're either manufacturing for
4 another regional manufacturing business or, or we're
5 manufacturing a completed product that we're -- we'll sell
6 globally.

7 MR. SWEENEY: And the container, it is not really
8 garbage. I mean --

9 MR. BLOSSOM: No, it's not garbage, it's steel.

10 MR. SWEENEY: Yeah.

11 MR. BLOSSOM: It's steel shavings and I will say
12 skeletons from the material that we're cutting the parts out
13 of.

14 MR. SWEENEY: Is there any organic material ever put
15 in there that could deteriorate?

16 MR. BLOSSOM: No, no.

17 MR. SWEENEY: Okay.

18 CHAIRMAN VALENTIC: I have a question on the
19 screening.

20 MR. BLOSSOM: Yeah.

21 CHAIRMAN VALENTIC: I am going to point to this real
22 quick, the map that was provided to us. You know, Drug Mart
23 is over here. There is a driveway. What's -- You know, this
24 is the new pavement. There is a drive that connects here. Is
25 there -- And I didn't go back there and I apologize for not
26 doing so ahead of time. What's, what's separating, what's in
27 this little area here that, if someone is driving back, they
28 wouldn't see the --

29 MR. BLOSSOM: Yeah, the intent, the intent is to
30 landscape that with trees and shrubs high enough that anybody

1 in a car would not --

2 CHAIRMAN VALENTIC: Okay.

3 MR. BLOSSOM: -- visibly see it, especially as
4 they're coming around the pharmacy space there, yeah.

5 CHAIRMAN VALENTIC: Yeah. But there isn't anything
6 right now in that little area?

7 MR. BLOSSOM: No. At the moment, there is the
8 gravel driveway that was preexisting out there.

9 CHAIRMAN VALENTIC: Okay. But you plan on putting
10 some landscape material for screening in there.

11 MR. BLOSSOM: Yeah. I think that's in a separate
12 proposed drawing, the landscape, a landscaping plan.

13 CHAIRMAN VALENTIC: Did we receive that drawing?
14 It's not in our packet. I am only asking, Heather, did we
15 receive that drawing?

16 MS. FREEMAN: There were additional plans submitted
17 for the Zoning Commission for their site plan review
18 application that would be in front of them next month.

19 CHAIRMAN VALENTIC: Okay.

20 MS. FREEMAN: I haven't had an opportunity to look
21 at it in detail.

22 CHAIRMAN VALENTIC: Okay. So there may be
23 landscaping like you just --

24 MR. BLOSSOM: There will be. There will be, yeah.

25 CHAIRMAN VALENTIC: Okay.

26 MR. BLOSSOM: I mean, our intent with everything
27 that we're doing is to minimize the amount of asphalt and
28 concrete that we're -- that we need to put down.

29 CHAIRMAN VALENTIC: Okay.

30 MR. BLOSSOM: And to keep as many trees and coverage

1 as possible.

2 CHAIRMAN VALENTIC: Okay. That's fine. I was just
3 wondering because when you said it would be screened, when I
4 look at this plan, that's not, that's not my perception. So
5 that's good to know.

6 MR. BLOSSOM: Yeah, okay.

7 CHAIRMAN VALENTIC: Any other comments or questions
8 on the first variance from the Board?

9 Why don't you go ahead and talk about Number 2 or B.

10 MR. BLOSSOM: Right. The variance, we're requesting
11 for our not being required to have the 5 foot of planting area
12 between the building and the driveway. Primarily -- And the
13 request there is for the south side and the east, the back of
14 the building and really just a small section of the north
15 side, which is facing Drug Mart.

16 But, primarily, that is so that we can optimize that
17 south side of the building and the drive and we can add a
18 couple parking spaces along that side of the building so we
19 don't have to add asphalt somewhere else. And on the back
20 side of the building, we've got two garages and several man
21 doors and there is very little space there at the moment for
22 having any landscaping.

23 CHAIRMAN VALENTIC: It looks like you've got a,
24 basically, the drawing we received, there is a big, large
25 vehicle that comes in and needs to maneuver through that
26 parking area as well.

27 MR. BLOSSOM: Yeah.

28 MR. HAMILTON: Is the area on the south side
29 primarily because of additional parking? Is that where you
30 intend to add parking, on the south side?

1 MR. BLOSSOM: Well, there is -- it's really just the
2 opportunity to put four spaces in along, along that run there
3 from the front of the building to the back and -- four spaces
4 and then there is a couple others, so about eight spaces
5 total. And, again, that just gives us the opportunity of not
6 making those -- we're talking about 50 something parking
7 spaces, right? That's part of the requirement. We will
8 probably never, ever be at that number as far as people on the
9 site. So that just gives us a chance not to have to add
10 asphalt somewhere else.

11 MR. HAMILTON: Okay. And then on the north side,
12 what's the impediment there?

13 MR. BLOSSOM: Well, there is one garage, there is
14 the CEI pole. And so from the CEI pole to the front of the
15 building, so let's just say about halfway up, there is a -- we
16 expect to have landscaping along that end of it. But there is
17 a --

18 CHAIRMAN VALENTIC: When you say the "end of it,"
19 are you saying this --

20 MR. BLOSSOM: Well, say the beginning, yeah, from
21 the beginning to the middle. So there is already a foot path
22 on the side of the building there because there is, there is a
23 door. There is a man door that goes into the front, the front
24 side of the building on that, on that end where the
25 preexisting north drive was.

26 CHAIRMAN VALENTIC: Yeah, this is, this is your man
27 door. This is, really, it's labeled but doesn't clearly --

28 MR. HAMILTON: I see it.

29 CHAIRMAN VALENTIC: You see it on the drawings.

30 MR. BLOSSOM: Yeah. And there is a garage door on

1 the side of the building there.

2 CHAIRMAN VALENTIC: Where? I am sorry. A garage
3 door, correct.

4 MR. BLOSSOM: Yeah.

5 MS. JARRELL: So you are going to add eight more
6 parking spaces on the south side? Why isn't it on this plan?

7 MR. BLOSSOM: It is -- I am sorry. Give me -- Which
8 drawing number do you have there, SW-01?

9 MS. JARRELL: Yes.

10 MR. BLOSSOM: So there is one, two, three, four,
11 five, six, seven, eight, SW-01 should have drawings --

12 MS. FREEMAN: This is the one I have.

13 MR. BLOSSOM: All of these in here. So they are on
14 the drawing.

15 CHAIRMAN VALENTIC: So I guess walk us through. I
16 guess, I think I am just going to speak for the Board for a
17 second.

18 MR. BLOSSOM: Sure.

19 CHAIRMAN VALENTIC: On the north side, there is an
20 overhead door. We understand why you need to have asphalt
21 there.

22 Chris is going back to this south side here.

23 MR. BLOSSOM: Uh-huh.

24 CHAIRMAN VALENTIC: And I think I know the answer
25 but walk Chris through real quick why you need to have asphalt
26 along the face of that whole building side.

27 MR. BLOSSOM: Oh, with regard to the minimum
28 clearance of, of the, I will say the width of the drive
29 because we are going to have semis coming in and dropping off
30 material, picking up product. And if my understanding is

1 right, the regulation as far as the clearance between the
2 width of the drive and then the space needed for a parking
3 space would impede if there was a 5 foot landscaped area.

4 CHAIRMAN VALENTIC: Yeah. If you put the 5 foot
5 landscaped area, you couldn't fit the parking.

6 MS. JARRELL: I see.

7 MR. BLOSSOM: No. We'd put them somewhere else, I
8 mean, but it's, again, we're trying to minimize the amount of
9 disruption and asphalt that has to get put down on the
10 property.

11 CHAIRMAN VALENTIC: Anyone else have any questions?

12 MS. JARRELL: So that's, that's your, that's your
13 practical difficulty here is that you want to minimize where
14 you're putting asphalt, right?

15 MR. BLOSSOM: Yeah, yeah, I mean, for sure, yeah. I
16 mean, if we, if we put, if we landscape up --

17 MS. JARRELL: So it's a financial thing and --

18 MR. BLOSSOM: Well, if we put 5 feet up against the
19 building, then we'll put the asphalt, I mean, we'll have to
20 put the parking spaces somewhere else.

21 CHAIRMAN VALENTIC: So then they could expand down
22 here or somewhere else.

23 MR. BLOSSOM: Yeah. I mean, if it's, you know --

24 MS. JARRELL: What's happening in front of the
25 building?

26 MR. BLOSSOM: Hopefully, nothing. Hopefully, we
27 leave trees and leave the grass.

28 MS. JARRELL: Okay, okay.

29 MR. BLOSSOM: We don't want, we don't want to
30 disrupt anything there.

1 CHAIRMAN VALENTIC: And then back to your landscape
2 plan that the Zoning Commission is reviewing, is there any,
3 you know -- You're adding these parking spaces here on this
4 end up at the north and some parking, I guess, down here at
5 the south. Is there any landscaping intended to kind of
6 buffer?

7 MR. BLOSSOM: Yeah, between the south side and
8 the -- and Concord Rental?

9 CHAIRMAN VALENTIC: Yes.

10 MR. BLOSSOM: Yeah. There will be a fence for the
11 entire parking area.

12 CHAIRMAN VALENTIC: Okay.

13 MR. BLOSSOM: I think it's 6 feet tall, whatever the
14 requirements are.

15 CHAIRMAN VALENTIC: Okay. So fencing and
16 landscaping will be coming?

17 MR. BLOSSOM: Yeah.

18 CHAIRMAN VALENTIC: Okay. Okay. All right. Well,
19 why don't you talk about the third variance, C.

20 MR. BLOSSOM: Sure. The third variance with respect
21 to putting 10 percent of landscaping within the parking lot
22 area, in other words, breaking up the parking spaces. Again,
23 it came down to, if we, if we do that, then we'll have to add
24 asphalt somewhere else.

25 CHAIRMAN VALENTIC: Which would be the front of the
26 building?

27 MR. BLOSSOM: Could be the front of the building
28 could be further back, yeah. So it's, it's essentially, you
29 know, where do you want the asphalt to be? And so, again, the
30 objective there was just to minimize the movement. We're

1 narrow on that north -- the south side, excuse me. We're
2 narrow on the south side and that's where the primary parking
3 is going to be for the employees.

4 CHAIRMAN VALENTIC: Okay. I kind of want to ask a
5 question but I am afraid it will complicate the whole
6 situation. But how many parking spaces do you really need, if
7 you were to just throw out a number, and how many did we
8 provide here?

9 MR. BLOSSOM: Yeah.

10 CHAIRMAN VALENTIC: Ballpark.

11 MR. BLOSSOM: Twenty? Thirty? Yeah, probably about
12 thirty.

13 CHAIRMAN VALENTIC: And how many did you provide?

14 MR. BLOSSOM: Let's see. The requirement is 57.

15 MS. FREEMAN: Fifty-two.

16 CHAIRMAN VALENTIC: Fifty-two.

17 MR. BLOSSOM: Yeah.

18 MR. HAMILTON: Keep in mind the variance goes with
19 the building, so we don't know what else will be there.

20 CHAIRMAN VALENTIC: Yeah, that's a great point.

21 MR. BLOSSOM: I am sorry?

22 MR. HAMILTON: We don't know what else may end up in
23 that building sometime in the future, so it's best to stick
24 with the zoning requirement.

25 CHAIRMAN VALENTIC: Any questions on this, the third
26 one, from the Board?

27 MR. SWEENEY: No.

28 CHAIRMAN VALENTIC: Okay. You can be seated.

29 All right. Is there anyone else that is speaking
30 for or against this appeal that would like to come up? Okay.

1 If there is no further questions from the public, the hearing
2 for Variance Number 2018-29 is now closed to the public. I
3 will entertain a motion to approve Variance Number 2018-29.

4 MS. JARRELL: So moved.

5 MR. HAMILTON: Second.

6 CHAIRMAN VALENTIC: Okay. We've got a second. It's
7 open for discussion on the Board and whoever wants to start,
8 have at it. If not, I can go first.

9 MS. JARRELL: Well, the dumpsters are going to
10 contain really heavy stuff. And even though it's not going to
11 be emptied that frequently, nobody really sees it.

12 Recycling --

13 CHAIRMAN VALENTIC: And he said he would put -- He
14 said there is landscaping coming in.

15 MS. JARRELL: Uh-huh. And the recycling aspect is
16 certainly --

17 MR. ROWE: The drawing shows a fence on the south
18 side.

19 CHAIRMAN VALENTIC: Yeah, it's on the south side.

20 MR. ROWE: Plus, it's wooded beyond that.

21 MR. BLOSSOM: And they're going to remain in that
22 area in the back. And he's probably right, like you said, you
23 got a good amount. If they're tucked into some walls, it
24 might become difficult at times to pull them in and out.

25 MR. ROWE: You get that loaded with scrap metal --

26 CHAIRMAN VALENTIC: Yeah. They are in the back. I
27 mean, well, a question would -- for Heather would be, if they
28 said they're coming in and putting this landscaping in, it's
29 not currently -- it's not part of the requirement here. I
30 mean, do we, is that a stipulation we should make here or we

1 just let that go through the Zoning Board approval process?
2 Or maybe that's a question for Mr. Lucas. He said he is going
3 to do it but should we make it --

4 MS. FREEMAN: I don't think it would hurt if you
5 wanted to stipulate it, if you felt more comfortable, and it
6 would still be covered.

7 MR. LUCAS: We want, we want to stipulate it with
8 the representation by the applicant that he is going to do
9 that as part of the record.

10 CHAIRMAN VALENTIC: Mr. Blossom, would you come up
11 real quick for one second? So would you be comfortable with
12 us making a, adding a stipulation to the, to the variances
13 that you will be coming back and adding landscaping that will
14 be approved by our Zoning Board? Right, that's who these
15 get --

16 MS. FREEMAN: Zoning Commission.

17 CHAIRMAN VALENTIC: Zoning Commission, I am sorry.
18 Would that be okay? Would you be amenable to us adding that
19 stipulation to this?

20 MR. BLOSSOM: Sure.

21 CHAIRMAN VALENTIC: Okay. All right. Thank you.

22 Any other comments or discussion on the trash
23 receptacles?

24 MR. ROWE: No.

25 CHAIRMAN VALENTIC: Dumpsters. Okay.

26 On Number 2, to not require 5 feet of planting
27 between the building walls and the pavement, any concerns
28 there or comments?

29 MR. HAMILTON: My concerns have been answered.

30 CHAIRMAN VALENTIC: Okay.

1 MR. HAMILTON: So no other comments.

2 MR. ROWE: Not on the south side, I think it's not
3 an issue, particularly, because that's where the tight --

4 CHAIRMAN VALENTIC: Yeah.

5 MR. ROWE: -- situation is there. And then it was
6 mentioned of doing landscaping on the north side toward the
7 front of the building as appropriate there and, certainly, not
8 in the back.

9 CHAIRMAN VALENTIC: Yeah, yeah, there is no room for
10 it.

11 The last one is the interior parking lot
12 landscaping. Any thoughts there? I mean, all the parking is
13 in the back. It's not like it's going to be up front. I
14 think, if we add green space to the parking in the back, it is
15 going to make it more difficult for trucks and then they'll
16 get more parking up front. Right now, they've got a pretty
17 green, open front.

18 MS. JARRELL: Agreed.

19 MR. ROWE: Yeah, sounds right.

20 CHAIRMAN VALENTIC: Okay. All right. So I am going
21 to read these. We are going to do these one by one and we're
22 going to vote on each one of them. So the question is on the
23 approval of Variance Number 2018-29 A, which is a variance
24 from Section 22.07 B-1, trash receptacle screening to not
25 require the refuse containers to be located wholly within an
26 enclosed building or enclosed by three solid walls and one
27 gated wall, with the added stipulation that the owner will
28 submit landscape drawings to approve the landscaping on the
29 north and south side that will be -- that will come in front
30 of our Zoning Board for approval.

1 A yes vote is for the removal of the variance, a
2 vote -- a no vote denies it. Heather, please call the vote.

3 MS. FREEMAN: Mr. Hamilton?

4 MR. HAMILTON: Yes.

5 MS. FREEMAN: Mr. Sweeney?

6 MR. SWEENEY: Yes.

7 MS. FREEMAN: Mr. Rowe?

8 MR. ROWE: Yes.

9 MS. FREEMAN: Ms. Jarrell?

10 MS. JARRELL: Yes.

11 MS. FREEMAN: And Mr. Valentic?

12 CHAIRMAN VALENTIC: Yes. The ayes have it. That
13 one has been approved.

14 Next is the question for approval of Variance
15 Number 2018-29 B, a variance from Section 38.04(A), to not
16 require a 5 foot planting area between all building walls and
17 paved areas on the north, east and south sides of the
18 building. Heather, please call the vote.

19 MS. FREEMAN: Mr. Sweeney?

20 MR. SWEENEY: Yes.

21 MS. FREEMAN: Mr. Rowe?

22 MR. ROWE: Yes.

23 MS. FREEMAN: Ms. Jarrell?

24 MS. JARRELL: Yes.

25 MS. FREEMAN: Mr. Hamilton?

26 MR. HAMILTON: Yes.

27 MS. FREEMAN: And Mr. Valentic?

28 CHAIRMAN VALENTIC: Yes. Congratulations, that one
29 has also been approved.

30 The next is Variance Number 2018-29 C, a variance

1 from Section 38.05, Interior Parking Lot Landscaping, to allow
2 zero percent interior parking lot landscaping, in lieu of the
3 minimum 10 percent required. Please call the vote.

4 MS. FREEMAN: Mr. Sweeney?

5 MR. SWEENEY: Yes.

6 MS. FREEMAN: Mr. Hamilton?

7 MR. HAMILTON: Yes.

8 MS. FREEMAN: Ms. Jarrell?

9 MS. JARRELL: Yes.

10 MS. FREEMAN: Mr. Rowe?

11 MR. ROWE: Yes.

12 MS. FREEMAN: Mr. Valentic?

13 CHAIRMAN VALENTIC: Yes. That has also been
14 approved. Thank you very much. If you would like to stay and
15 attend, that would be great; but if you wish to leave, feel
16 free to do so.

17 Let's see. What have we got next? I've got to find
18 my paperwork. I've got a lot of stuff up here.

19 Okay. Next on the agenda is Variance Number
20 2018-30, Mr. W. Richard Benton, of Arkinetics, on behalf of
21 the property owner, RT -- Route 44 LLC, is requesting the
22 following variances for the property located on Gold Court and
23 being Permanent Parcel Number 08-A-020-B-00-003-0.

24 The first, A, is a variance from Section 22.04(H),
25 Table 22.04, to allow for a principal building with a height
26 of 50 feet, in lieu of the maximum 40 feet permitted;

27 B, a variance from Section 22.04(D), Table 22.04, to
28 allow for the front building setback to be 34 feet, in lieu of
29 the minimum 50 foot required;

30 C is a variance from Section 38.05, Interior Parking

1 Lot Landscaping, to allow for 8.7 percent interior parking lot
2 landscaping, in lieu of the minimum 10 percent required;

3 And the last one, D, a variance from Section
4 38.04(A), Building Landscape Requirement, to allow for a zero
5 foot landscape area on the north side of the building, and a 3
6 foot landscape area on the south side of the building, in lieu
7 of the 5 foot planting area between all building wall and
8 paved areas.

9 Mr. Benton, please come on up. All right. While
10 he's getting it set up, name and address and confirm that
11 you've been sworn in.

12 MR. BARNEY: I am Dan Barney, with Arkinetics
13 Architects, 3723 Pearl Road, Cleveland, Ohio 44109.

14 MR. BENTON: Richard Benton, Arkinetics, Pearl Road,
15 3723 Pearl Road, Cleveland, Ohio 44109 as well.

16 CHAIRMAN VALENTIC: You both have been sworn in?

17 MR. BENTON: Yes, we have.

18 MR. BARNEY: Yes.

19 CHAIRMAN VALENTIC: Thank you. Go ahead. So the
20 same thing, we're going to have to vote on all four of these
21 separately. Present all four of them, kind of follow the
22 order. We'll ask questions as we go and we'll hit them all
23 and get this moving. Okay?

24 MR. BARNEY: Okay, great. I guess I will start.
25 I've been closest to this project since the, since the start
26 of it. We've been working on various site plan options for it
27 seems well over a year. We do a lot of hotel design work
28 throughout the country. I know when our owners came to us and
29 said they wanted to develop a new Home2 Suites here and they
30 had approximately two acres to work with, based on the size of

1 the building, I didn't think it would be that challenging as
2 it has posed itself for this particular site.

3 So we're asking for some relief on four items here.
4 We've probably gone through a dozen different site plan
5 iterations trying to minimize the amount of variances that we
6 requested. We're very -- tried to be very respectful of the
7 ordinances and avoid asking for relief unless we really feel
8 that we need it. So we've come down to the last four that we
9 need help on and I will go through all those here in a minute.

10 I can tell you the layout that we have come up with,
11 it's actually probably the best one that we've come up with
12 after all this effort over the past 12 months. So the
13 circulation is really good. We've respected fire department
14 access, so we have circulation around all sides of the
15 building. Really the, one of the biggest challenges with the
16 site is the cul-de-sac, so kind of that bowling ball shape
17 right at the front of our site. It's really causing some
18 challenges with the setbacks, some of the landscaping
19 requirements. So that's the, kind of the -- That kind of tees
20 up what we're asking for here.

21 So going to the first variance that we're asking
22 for, which is the height, it's a four-story building and most,
23 pretty much, if you look at any new development for hotels,
24 they're four stories or higher. They don't do the three-story
25 building anymore. They're looking for the presence. They
26 want to get away, you know, from the residential feel, so
27 they're going taller.

28 There is some residual benefits to that. The impact
29 on the site is a little bit less because the footprint is
30 smaller, so you're not taking more space than you need. So

1 we're asking for a 10 foot increase in variance to increase
2 the building height. Now the majority of the building is not
3 50 feet tall, it's 43, so that's to the parapet line, but
4 there is a tower piece that pokes up to the 50 foot mark. So
5 there's a small portion of the building that pokes up to kind
6 of give some identity to the front of the building. So that's
7 that piece.

8 CHAIRMAN VALENTIC: What's in that tower piece? Is
9 that for screening equipment or anything?

10 MR. BARNEY: Signage and some --

11 MR. BENTON: It's kind of the brand presence and to
12 get -- you can see it farther away. It's the whole being able
13 to get people to your site, getting -- so that people coming
14 off the highway can easily find you. It's wayfinding. So it
15 serves multiple purposes.

16 MR. HAMILTON: So this isn't screening for HVAC or
17 rooftop --

18 MR. BENTON: No.

19 MR. BARNEY: This isn't ours but this is one of the
20 standard ones. So this is the tower.

21 CHAIRMAN VALENTIC: That's the 50 foot section?

22 MR. BARNEY: Yeah. So you can't quite see it but
23 there is different stair steps at the top, so it changes. So
24 this piece here is the 50.

25 CHAIRMAN VALENTIC: That gray mass that's in front
26 though, how tall is that?

27 MR. BARNEY: This is probably closer to 45, and then
28 our building here, the main, main building is 43. So it's,
29 pretty much, right at the front that pops up.

30 CHAIRMAN VALENTIC: How does that relate to your

1 site plan then? Tie that back into that for me.

2 MR. BARNEY: That would be --

3 MR. BENTON: It is going to be roughly this area.

4 CHAIRMAN VALENTIC: So where is that 50-foot section
5 at?

6 MR. BENTON: Right (pointing).

7 CHAIRMAN VALENTIC: In the middle or the corner?

8 MR. BENTON: No, no, it's on the edge.

9 CHAIRMAN VALENTIC: Okay.

10 MR. BENTON: It's right above the main entry for the
11 building.

12 MR. HAMILTON: That's the northwest corner at that
13 point.

14 MR. BARNEY: Correct.

15 MR. ROWE: Is that north at the top?

16 CHAIRMAN VALENTIC: North is to the top, so that
17 would be the west side.

18 MR. BENTON: It is the side that fronts Crile.

19 CHAIRMAN VALENTIC: Yeah, it's the side that fronts.
20 So what's up on that, that last five feet that's pushing you
21 up from 45 to 50? What kind of graphics or text that somebody
22 needs to see is up on that little piece?

23 MR. BENTON: Right. This is actually what they call
24 a beacon. It's supposed to be lit at night so you can find
25 it.

26 CHAIRMAN VALENTIC: Okay.

27 MR. BENTON: That's the very, very top piece. Other
28 than that, you do have the Home2 sign.

29 MR. HAMILTON: So we understand, that's a lighted
30 glass?

1 MR. BARNEY: This piece?

2 MR. HAMILTON: At the top.

3 MR. BARNEY: It's like a frosted type of glass.

4 CHAIRMAN VALENTIC: Okay. I don't know. I will be
5 honest with you. I don't know how I feel about it but, okay.
6 Does the Board have any other questions about that piece? Any
7 questions?

8 MR. BENTON: I think this piece, particular piece is
9 also, pretty much, like a steeple or a large protruding
10 element that you'd have like on a church or some kind of
11 building, like a cupola or something like that. So it isn't
12 really -- It isn't truly a part of the building as a whole.
13 If you did any calculation with it and took your length and
14 your heights and averaged it out, we're going to average much
15 lower. It just happens to be this piece is a little taller.

16 MS. JARRELL: How big is the piece?

17 MR. BENTON: This is the part that goes up to 50.

18 MS. JARRELL: I know. But how wide?

19 MR. BENTON: Oh, length? I'd say it's --

20 MR. BARNEY: It's about, I would say, about a 12-by-
21 12 element.

22 MS. JARRELL: Okay.

23 CHAIRMAN VALENTIC: But the whole rest of the
24 structure too is all higher. This is just --

25 MS. JARRELL: Right.

26 CHAIRMAN VALENTIC: -- the highest piece. Okay.

27 MR. SWEENEY: That feature, the 12 by 12, it's going
28 to be lit, like, internally?

29 MR. BARNEY: Yes.

30 MR. SWEENEY: How many other hotels does the client

1 have?

2 MR. BARNEY: Does our owners have?

3 MR. SWEENEY: Yeah.

4 MR. BARNEY: I can have them come up here and --

5 MR. SWEENEY: You can just answer.

6 MR. BARNEY: Sure. How many hotels do you guys --

7 MR. PATEL: We have six.

8 MR. BARNEY: Six.

9 MR. SWEENEY: Six of them?

10 MR. BARNEY: Yes.

11 MR. SWEENEY: Is this a consistent, like, design
12 theme?

13 MR. PATEL: This is the new kind --

14 CHAIRMAN VALENTIC: Sir, if you are going to
15 comment, you have to come up to the microphone, if he's going
16 to comment. So either you guys answer or he's going to have
17 to come up and answer the questions.

18 MR. BARNEY: Okay.

19 MR. BENTON: Okay.

20 MR. SWEENEY: If you know.

21 MR. BARNEY: I can answer. So for this particular
22 brand, yes, it's their -- it's part of their design. So just
23 like brand identity with going to, you know, grocery stores,
24 any type of retail, they want that image so there's brand
25 recognition.

26 MS. JARRELL: But is this the first of the brand?
27 Is this the first building that the owner has of the brand?

28 MR. BARNEY: No, no, no.

29 MS. JARRELL: So there are others?

30 MR. BARNEY: Many, yes, many.

1 CHAIRMAN VALENTIC: So you knew, when they were
2 looking at this parcel, you guys knew that the prototype
3 building wasn't going to meet the zoning code height
4 restrictions from the beginning?

5 MR. BARNEY: Well, at the time when we were
6 designing this, I don't think it was established of what brand
7 we were going to go with. So there was actually a few other
8 franchises we were looking at.

9 CHAIRMAN VALENTIC: Oh, you were looking at.

10 MR. BARNEY: Yeah. So Hampton Inn was discussed.
11 There was another brand that was offered by Hilton as well
12 that we looked at. So we ended up settling on this one.

13 CHAIRMAN VALENTIC: And so for you to modify that
14 building, I mean, do you -- How does that work with the
15 process? Do you go back to Homewood or -- or to them or do
16 you guys -- are you allowed to tweak and change it, the height
17 restriction?

18 MR. BARNEY: No, we can, we can tweak it to some
19 degree. But, I mean, if we don't get the height variances for
20 four stories, the project is done. So we can't -- We cannot
21 get this to be a three-story and get the room density that we
22 need. So the, out of all the variances, the height is
23 extremely critical.

24 MS. JARRELL: So the franchisor has certain
25 parameters?

26 MR. BENTON: They have minimums, 80 rooms is the
27 minimum. That's pretty much industry standard for a new
28 development. Anything less than that, they won't entertain.

29 CHAIRMAN VALENTIC: Yeah, I would have liked for you
30 guys to show us, you know, this is what it is going to look

1 like. Here is the elevation. This is why we're at 50 feet.
2 If we go -- We can get it to 45 feet. Because if you talk to
3 some people on this Board, that 5 feet could actually be a
4 pretty big deal on when they're weighing the decisions and
5 looking at the percentages and stuff. You would have said --
6 If you would have maybe showed us, you know, at 45 feet it
7 looks like this; it doesn't really show what the brand is,
8 doesn't demonstrate the brand or the building isn't as
9 attractive.

10 So we're -- What I am struggling with is really
11 understanding the hardship. And saying it's their standard,
12 it's their standard --

13 MS. JARRELL: They had brand restrictions that they
14 just indicated.

15 CHAIRMAN VALENTIC: Well, he told me that there is
16 some wiggle room.

17 MR. BARNEY: There is, I mean, to some degree, sure.
18 If we needed to lower it a couple feet, I could -- that tower
19 piece, if that's what we need to agree to, we could scrunch it
20 down.

21 MR. BENTON: If we're missing elements, the brand
22 will come back and say, no, and you need to do X, Y and Z, you
23 know. And a lot of times, X, Y and Z are the things like this
24 because it is a core part of their brand.

25 MS. JARRELL: This is a core part of their brand?

26 MR. BARNEY: It is.

27 CHAIRMAN VALENTIC: Okay. Any other questions?

28 MR. ROWE: No.

29 CHAIRMAN VALENTIC: All right.

30 MR. HAMILTON: I think what I am considering,

1 I mean, above and beyond the 40 foot requirement is, is just
2 this feature itself. It's more of a beacon. It's something
3 that's lighted 24 hours a day. You see it all night. It is,
4 you know, in the variance area, so I think that's what bothers
5 me the most about it.

6 CHAIRMAN VALENTIC: Well, he just stated it's a core
7 part of the brand, the beacon.

8 MR. BARNEY: The beacon is, yes.

9 CHAIRMAN VALENTIC: Okay.

10 MR. BARNEY: We do have the building elevations here
11 if you want to see those.

12 CHAIRMAN VALENTIC: Yeah, if you want to put them
13 up.

14 MR. BARNEY: They are part of the packet but you can
15 see --

16 CHAIRMAN VALENTIC: Well, to get back into it,
17 Chris, you're right. If it's part of the core, you really
18 can't play with the height at all. It is what it is.

19 MR. BARNEY: So it's --

20 MR. BENTON: It's got this part here.

21 MR. BARNEY: As you can see, so we could pull those,
22 those down a couple feet. This piece cannot go away but if we
23 needed to lower it, you know, to give some good faith effort
24 to try and reduce our request --

25 MS. JARRELL: So the top is 50.

26 MR. BARNEY: The top is 50.

27 MS. JARRELL: The second, the second level is, you
28 said, what, about 45?

29 MR. BARNEY: This is 43.8, it's almost 44 feet. The
30 main building --

1 MS. JARRELL: That's not -- Not the top of the
2 building. You've got the parapet. Then it looks like you
3 have another -- that green part there that looks like another
4 layer.

5 CHAIRMAN VALENTIC: Oh, yeah, that one.

6 MS. JARRELL: How tall is that?

7 MR. BARNEY: This is about -- Let's do the math.
8 It's 3 feet.

9 MS. JARRELL: It's 3 feet. And this then, the
10 parapet, is another 5?

11 MR. BARNEY: This piece here?

12 MS. JARRELL: Three, three is six, four or five
13 feet, the very top?

14 MR. BARNEY: This piece?

15 MS. JARRELL: Yes. How tall is that?

16 MR. BARNEY: This is the 50 feet mark.

17 MS. JARRELL: I mean, so it's 4 feet from the next
18 level? Do you understand what I am saying? There is three
19 levels there.

20 CHAIRMAN VALENTIC: Yeah.

21 MS. JARRELL: There is the top of the building,
22 there is the next level on the parapet and then there is the
23 top of the parapet.

24 CHAIRMAN VALENTIC: From that right there where your
25 pencil is at to the top, what -- I like where you are going,
26 Chris. What's that dimension?

27 MR. BARNEY: This is roughly 7 feet.

28 MS. JARRELL: Seven feet.

29 MR. BARNEY: That's what you're looking at.

30 MS. JARRELL: So you could come down a couple of

1 feet is what you're saying?

2 MR. BARNEY: I could.

3 MS. JARRELL: So that the lighted portion would be
4 reduced to, say, 3 feet? What would it be reduced to if you
5 came down a couple of feet?

6 MR. BARNEY: Well, yeah, it might be a little bit of
7 everything. I might take a foot out of here, a foot out of
8 here and then a foot out of there, then just proportionally
9 reduce everything down.

10 MS. JARRELL: Okay. So the top is 4 feet tall, the
11 very top, correct?

12 MR. BARNEY: Yes.

13 CHAIRMAN VALENTIC: So it might be 3 feet instead of
14 4 and then every other level might come down. And I don't --
15 The other thing I -- we don't want to lose sight of is that
16 whole -- and it's hard from sitting here but that whole
17 corridor and, you know, now coming in and we have to try to
18 visualize what this is going to be like in that whole
19 corridor. It's going to dramatically change and there is a
20 lot happening in that corridor.

21 MS. JARRELL: It's going to grow up, there's no
22 doubt about it.

23 CHAIRMAN VALENTIC: Yeah. But this building and the
24 scale to the other buildings that are happening in that area,
25 it's different. And so, I guess, it is something I just
26 caution the Board to think about that as well. But there is
27 another hotel in the area which isn't as tall as this one but
28 it's pretty close to it.

29 MR. ROWE: But it's got -- But it's over 40 feet.

30 CHAIRMAN VALENTIC: Yeah, this one is --

1 MR. ROWE: I mean, the Holiday Express is.

2 CHAIRMAN VALENTIC: Was 45, I think.

3 MS. FREEMAN: It's about 45 and a half, I think.

4 MR. ROWE: I mean, so --

5 CHAIRMAN VALENTIC: Yeah. So if we get this to come
6 down a little bit --

7 MS. JARRELL: I think it's a good compromise.

8 CHAIRMAN VALENTIC: Yeah. Okay. Do you want to go
9 on to B?

10 MR. BARNEY: Yes. So the next one is the front
11 setback of 50 feet. So this is where the cul-de-sac is coming
12 into play. So this dash line here is our 50 foot building
13 setback. We have one corner, one corner of the building that
14 is encroaching on that setback line.

15 So this is a single-story pool, it's an enclosed
16 pool that is clipping, clipping the corner by 16 feet that we
17 can't seem to get around. So we've explored with the brand of
18 getting rid of the pool to try and avoid this. That was not
19 allowed. We also tried not doing an enclosed pool and having
20 it be an outdoor pool, and that was not approved either,
21 especially for this northern climate. So we did try to, try
22 to avoid coming in for this.

23 I guess, if I had any argument here, I mean, the
24 benefit of the nature of our request, it's a single-story
25 building. So it's not like we're asking for four stories of
26 building to impose on the setback. It's a small corner of the
27 pool.

28 CHAIRMAN VALENTIC: Yeah. For me, the bigger part
29 is that it's just a corner of that, not even that whole pool
30 area. It's just a small piece of it.

1 MR. BARNEY: Yes, and it's single story.

2 CHAIRMAN VALENTIC: Any comments or questions on
3 this one?

4 MR. ROWE: No. I don't see it as a problem.

5 CHAIRMAN VALENTIC: I don't either. Agree, Jim.

6 All right. The next was a variance from -- on the
7 interior parking lot landscaping from 8 -- from 8.7 from 10
8 percent.

9 MR. BARNEY: Yes. We're just shy by 1.3 percent
10 interior landscaping. We squeezed every island out that we
11 could while keeping our parking counts where they needed to
12 be.

13 CHAIRMAN VALENTIC: Including you had area set aside
14 for trash, too.

15 MR. BARNEY: We do, yes, which is in the upper
16 corner here.

17 MR. BENTON: And we parked the perimeter. So we
18 don't have a large parking field per se but it's just we're
19 around the edges of the building. And when you do that, you
20 have less opportunity really to take away from the design.

21 MR. ROWE: I would say driving in, you aren't going
22 to be smacked in the face with, hmm, looks like they're under
23 the 10 percent here.

24 CHAIRMAN VALENTIC: No, it's a minor --

25 MR. ROWE: In the practicality of it.

26 MR. BARNEY: Yeah.

27 CHAIRMAN VALENTIC: Yeah. It's a small percentage
28 and there is, like, a good amount of landscaping in the front
29 door.

30 MR. ROWE: Yeah.

1 CHAIRMAN VALENTIC: Any questions from the Board on
2 this one?

3 Okay. The last one, if you want to talk through it,
4 D, is to allow 3 foot -- or to allow the zero foot and a 3
5 foot instead, in lieu of the 5 foot.

6 MR. BARNEY: Right. So this is, the 5 foot relief
7 is along the north face here, which is set up in the variance
8 request. We could avoid this variance if we took the sidewalk
9 out and just made it all grass area. We could do that but,
10 from a safety aspect and not having people walk in the, in the
11 drive aisle to get to an entry point, we opted to put the
12 sidewalk in. So that's where the nature of this request is
13 coming from.

14 And the other area is a small little area right
15 here. Just the way that the site tapers, it goes down to --
16 is it 3 feet instead of the 5. So, technically, we need a
17 variance for this little area here, too.

18 CHAIRMAN VALENTIC: I mean, my perspective, that
19 makes sense. I would rather see that sidewalk in there to
20 help people getting out of their cars and getting into the
21 building rather than some landscape, I think, in there.

22 MS. JARRELL: You suggested enhanced landscaping in
23 the alcove. What -- Tell me what "enhanced" means.

24 MR. BARNEY: Well, there is minimums of landscaping
25 we could do. So we could, you know, it could be more of a
26 feature type of design, maybe there was some hardscape that's
27 included in there, along with some greenery. That's what I
28 was thinking, something instead of just planting shrubs and
29 saying it's good, something that had a little more thought and
30 design.

1 CHAIRMAN VALENTIC: Can you point to that area
2 again?

3 MR. BARNEY: It would be here, which is adjacent to
4 the pool building. We also have the opportunity to do that
5 towards the main entry, too.

6 CHAIRMAN VALENTIC: Yeah. And then, Heather, again,
7 the landscape and the site plan still has to go through
8 approval process after this if they get approved.

9 MS. FREEMAN: Correct.

10 MS. JARRELL: Can you walk out of that pool area
11 into that alcove area?

12 MR. BENTON: There is a door there, I believe, per
13 the floor plans. Whether that door is actually meant for
14 emergency egress or for that, I think, is, I think, up for
15 consideration.

16 CHAIRMAN VALENTIC: Any other?

17 MS. JARRELL: I was thinking they could make that a
18 nice area.

19 CHAIRMAN VALENTIC: Yeah, they can. It's a good
20 opportunity.

21 MS. JARRELL: On the outside, yeah, on both sides of
22 the pool.

23 CHAIRMAN VALENTIC: Okay. You guys are good if you
24 want to take a seat, maybe leave the board up for a second.

25 MR. BARNEY: Thank you.

26 CHAIRMAN VALENTIC: I am going to ask, is there
27 anyone else speaking for or against this appeal that would
28 like to come up?

29 MR. WEBER: I will take this, stick this up here, if
30 I may. I have been sworn in. Matthew Weber, Weber

1 Engineering Services. And this actually puts me in a very
2 awkward situation from a number of standpoints. One, I have
3 done work for Home2 Suites as a site engineer in the past. I
4 also have done work for -- and as they're chuckling back
5 there -- work for Arkinetics and Mr. Barney. And so this puts
6 me in somewhat of an odd situation but, at the same time, I
7 feel -- I think they would all understand. I have an
8 obligation, I believe, on behalf of my current client in this
9 particular situation to, at least, bring forth a few concerns
10 that we have.

11 I will say that competition is a great part of our
12 country and I believe firmly in that, so this isn't a
13 competition issue. Although I will also have to say that no
14 competition also makes business a little bit better. So I
15 wouldn't -- I'd be kidding you to say that that's not the
16 case.

17 We have looked at, we actually have looked at all of
18 these parcels at one time for the Holiday Inn Express when
19 this, when we have kind of looked at this to see where does --
20 what parcel fits best for the intention of the subdivision and
21 not require variances? And I think, as you guys may recall in
22 some of the discussions and I know through Planning
23 Commission, we actually purchased additional property to make
24 sure that we adhered to the subdivision regulations, the
25 setbacks. We did. We tried every parcel on here, you know.
26 As we did this, we moved it around the cul-de-sac.

27 So we did work through that and I understand exactly
28 what they're, what they're going through trying to fit a
29 prototype or a particular floor plan and desire and need by
30 the brand into a fixed element. In our case, it was, it was

1 fixed but we unfixed it by purchasing more land.

2 So the only variance that we requested was the
3 request for a height variance. And the intention of a height
4 variance typically is for parapet screening. It's to screen
5 mechanical units. It's not necessarily to grant yourself some
6 ability to bring notification to yourself. Those would be
7 signs and things like that. So we strictly need our, need our
8 variance to screen mechanical units. It was 45 feet.

9 CHAIRMAN VALENTIC: Yeah. And I don't, I don't want
10 to kind of interrupt your -- I don't mean to interrupt where
11 you are going with this but can you turn this back
12 specifically to --

13 MR. WEBER: I specifically can, yes.

14 CHAIRMAN VALENTIC: -- more of why you are against
15 it or for, maybe. I don't know.

16 MR. WEBER: Yeah, I think we will start --

17 CHAIRMAN VALENTIC: For their appeal.

18 MR. WEBER: The situation is this: I think the
19 height variance at 50 feet is a bit much. If it was for
20 screening, I mean, I can certainly see that. I think I am
21 just asking, on their behalf, for the amount of effort we went
22 through to make sure that we were staying with the code and
23 the intent of the setbacks, that you, you know, just make
24 sure, as you're looking at this, to look at it from that
25 standpoint. I understand it's a 16 foot variance. Okay.
26 It's only 16 foot and it's the corner. The intention of the
27 variance is to actually force elements back, to force it off
28 of the cul-de-sac.

29 Likewise, with the landscaping, you know, as soon as
30 I saw their plan, I saw that they were 1.3 percent -- No, I am

1 kidding. It wasn't noticeable. I respect what you are
2 saying. It's not necessarily noticeable. We had a few
3 situations where we wanted to remove some islands for
4 snowplowing.

5 So I think, from this perspective, just in the
6 understanding of what the code is, is the hardship self-
7 inflicted by trying to put too much into too little, which is
8 what we're required to do and present as part of our request
9 for a variance? Is it a self-inflicted variance that we're
10 requesting or is it something that was brought onto us after
11 we had already purchased the property? And so from that
12 perspective, I think coming around, that's what we need to
13 look at and that's what we're asking.

14 CHAIRMAN VALENTIC: All right. Thank you,
15 Mr. Weber.

16 Is there anyone else that is speaking for or against
17 this appeal that would like to come up?

18 MR. BARNEY: Just to add to Mr. Weber's comments, we
19 actually did look at purchasing more land to the, to the west
20 to see if we could get more relief from these. The truth of
21 the matter is the north sites are narrower than the southern
22 sites. So just buying more land just to go linear, it didn't,
23 it didn't help our case at all. So we did explore purchasing
24 more land.

25 CHAIRMAN VALENTIC: Okay. Thank you.

26 Is there anybody else that would like to respond?
27 Going once, twice? All right. If there are no further
28 questions, the public hearing for -- again, my papers are all
29 shuffled -- Variance Number 2018-30 is now closed to the
30 public. I will entertain a motion to approve Variance Number

1 2018-30.

2 MR. ROWE: So moved.

3 CHAIRMAN VALENTIC: Second?

4 MR. SWEENEY: Second.

5 CHAIRMAN VALENTIC: All right. Open for discussion
6 from the Board. I'll start. I have a hard time with the
7 first one. You probably picked up on that. I appreciate that
8 they're willing to work and it's going to be pretty close to
9 the other building. I do believe that -- I don't know. I
10 still have even a little bit of -- I still have heartburn with
11 it but that's just, that's just me.

12 MS. JARRELL: Even with the compromise?

13 CHAIRMAN VALENTIC: Even with the compromise a
14 little bit because, again, it is for an identity thing. But
15 it is part of their standard, so that kind of goes back do
16 that brand. It is hard to modify the brand, and they are
17 willing to work with modifying that brand. And having kind of
18 seen some of that happen in my professional life, so I get
19 that they kind of get pinched on some of that stuff. But --

20 MR. HAMILTON: But the zoning is what it is. I see
21 this more as almost a signage issue that, you know, they want
22 to, they want to have this beacon to draw attention to the
23 building, you know. That's really the only reason for it.

24 MS. JARRELL: If it's part of their brand
25 recognition then it is, it is what it is.

26 MR. HAMILTON: But, you know, McDonald's --

27 MS. JARRELL: Forty, forty feet in a commercial area
28 is, you know, as we're already beginning to see, it is going
29 to be a difficult parameter to stick with.

30 MR. HAMILTON: Well, it's unfortunate that they tied

1 it to the 40 feet requirement but if, if they were to modify
2 that design and only ask for 45 feet, I might be agreeable.

3 CHAIRMAN VALENTIC: And it sounds like they were
4 willing to modify it to lower the height. We can get them to
5 clarify it or agree to what that reduction would be.

6 MS. JARRELL: Uh-huh.

7 CHAIRMAN VALENTIC: If it's 46 or 45 or in that
8 range.

9 MS. JARRELL: I mean, definitely, I think we all
10 agree that 50 is not going to be acceptable.

11 CHAIRMAN VALENTIC: Acceptable.

12 MS. JARRELL: So we need to compromise. We need to
13 come down, so we need to identify what that reduction is going
14 to be.

15 CHAIRMAN VALENTIC: Okay. Could you please come up
16 for one second so we can get this on the record? So we are
17 going to add a stipulation and modify your request for the --

18 MR. LUCAS: Well, with the consent of the applicant.

19 CHAIRMAN VALENTIC: Yeah, but we need your consent,
20 exactly. Thank you. So we need your consent. So what would
21 you be willing to agree to, to that maximum height for the
22 variance if we --

23 MR. SWEENEY: Can I make a comment before we
24 actually go someplace we can't get back from?

25 CHAIRMAN VALENTIC: Yeah, go for it.

26 MS. JARRELL: Please.

27 MR. SWEENEY: I don't see this as being a terribly
28 substantial variance. I actually see the additional height as
29 a specific identifiable brand element that, actually, might
30 benefit the community rather than present an eyesore or

1 whatever the other opposing argument is, or violation to the
2 statute or to the zoning ordinance. And, frankly, I don't --
3 I think what they're asking for is reasonable, and I think
4 that -- I am not an architect but I am just thinking about
5 this visually driving up 44, driving up Crile. I mean, there
6 is no -- I don't know if there is any residential within any
7 sight line in that area. I think you have the golf course
8 behind, right? You've got Quail behind. And to the north,
9 south and east, well, it's commercial.

10 So I just -- I don't know. I think if you start
11 cutting that down, you lose the brand identity, you lose that
12 one thing that actually anchors it as to the brand and anchors
13 it to the consumer.

14 CHAIRMAN VALENTIC: Jim?

15 MR. SWEENEY: So it might be an opposing argument.

16 CHAIRMAN VALENTIC: No. It's a fair --

17 MR. SWEENEY: It's what I think.

18 CHAIRMAN VALENTIC: I appreciate that statement.
19 It's a fair statement. I would rather know what the Board is
20 thinking, that we all are on the same page before we make any
21 request.

22 MR. ROWE: Well, the thing is this taller part faces
23 Crile Road, which is backed up on 44. So, I mean, it's not
24 imposing on anybody visually, you know, that I can, that I can
25 imagine. I think the top part is internally lit, so it glows.
26 I mean, it's not like --

27 MR. BARNEY: It's translucent.

28 MR. ROWE: It's not spot lights or flood lights or
29 whatever. So, again, I don't see that as being a difficult
30 situation. I probably wouldn't choke up on it if it stayed at

1 50 feet.

2 CHAIRMAN VALENTIC: How would you feel about asking
3 them to make a modification to that height? Would you be,
4 would you be more of what Skip is saying, that we kind of
5 leave it at 50, or we make that request to ask them to max
6 that height out at something less than 50?

7 MR. ROWE: Yeah, I don't -- I don't know. Part of
8 the township is, you know, we like things coming in here. And
9 I don't know that, you know, on the one side, if, you know, if
10 it stayed at 50, it would not bother me. I mean, but if the
11 majority sees looking for some alleviation or some variance --

12 CHAIRMAN VALENTIC: Okay. Me, personally, I would
13 like to see it come down. I don't know where you two stand.

14 MR. HAMILTON: I agree.

15 MS. JARRELL: I'm personally okay with the 50 feet.
16 I'm just trying to, you know, make a compromise.

17 MR. ROWE: But why?

18 MS. JARRELL: Well, well, I see. I mean --

19 MR. SWEENEY: That's my point. Why?

20 MS. JARRELL: Understood. I am good with 50.

21 CHAIRMAN VALENTIC: Okay. So as a Board, do we want
22 to make -- It sounds like I am reading the Board. I'm going
23 to make the decision. It doesn't sound like the Board wants
24 to make that request to reduce the height at this point.

25 MS. JARRELL: I think it's only 4 feet.

26 CHAIRMAN VALENTIC: Okay. I mean --

27 MS. JARRELL: Four feet, and from a distance --

28 MR. ROWE: A relatively small section. I mean, it's
29 not like the whole bloody thing is --

30 MS. JARRELL: Is lit up.

1 CHAIRMAN VALENTIC: Yeah. And everyone's opinion on
2 4 feet is going to be different. In my opinion, I think --

3 MS. JARRELL: Well, from a distance at the end of
4 that street, it's really, coming, looking at it from 44, it's
5 not going to be that significant, it really isn't.

6 CHAIRMAN VALENTIC: In my opinion, I think it will
7 be.

8 MS. JARRELL: Okay.

9 CHAIRMAN VALENTIC: We've approved some other stuff
10 here that I voted against and I see it out on Crile and other
11 places. I'm like, I still think we made, you know, we made
12 our decision on it and I still don't agree with it. So -- But
13 if this is kind of how the Board feels, I think we don't have
14 to make an additional request, we leave it at the 50 and we
15 let the vote go, unless you want to put it in.

16 MR. SWEENEY: Well, it's up to the applicant.

17 CHAIRMAN VALENTIC: Yeah, it's up to you. If you
18 want to request that the height, that the variance stay the
19 way it is. We are not requesting anything from you.

20 MR. BARNEY: We will stay with the 50.

21 CHAIRMAN VALENTIC: Okay. Then -- Thank you. You
22 can be seated.

23 MR. BARNEY: Thank you.

24 CHAIRMAN VALENTIC: Then was B, the 34 feet on that
25 corner of the versus the 50 foot.

26 MR. ROWE: It's a nonissue to me. I don't --

27 MR. SWEENEY: No.

28 MS. JARRELL: The shape of the parcel is, is
29 preventing certain things and I don't think it's a big deal.

30 MR. SWEENEY: You've got to have a pool.

1 MR. ROWE: Well, it's part of the -- to be
2 competitive in the business.

3 MR. HAMILTON: Well, it is just the corner of the
4 building. I mean, it's very small.

5 CHAIRMAN VALENTIC: The cul-de-sac is existing,
6 so --

7 MR. HAMILTON: Correct.

8 CHAIRMAN VALENTIC: All right. Then the landscape,
9 the 8.7 instead of the 10 percent, Blair, you're all over that
10 one.

11 MR. HAMILTON: Okay.

12 CHAIRMAN VALENTIC: And then the last one with the
13 building, zero on side and 3 feet on the other.

14 MR. ROWE: Sidewalk instead of walking on ground,
15 yeah.

16 CHAIRMAN VALENTIC: Okay.

17 MR. ROWE: Definitely.

18 CHAIRMAN VALENTIC: All right. Is there any other
19 -- anything anyone else wants to say?

20 MS. JARRELL: I mean, we just want to stipulate that
21 they enhance that alcove area.

22 CHAIRMAN VALENTIC: Do you want to add that to
23 the --

24 MS. JARRELL: I would like to see that happen. I
25 mean, we're giving them a pretty big one on that one.

26 CHAIRMAN VALENTIC: Okay.

27 MR. ROWE: Enhancement is nice.

28 MS. JARRELL: But not just one.

29 CHAIRMAN VALENTIC: We need you to come back up one
30 more time.

1 MS. JARRELL: They offered it up so I think we
2 should --

3 MR. ROWE: See if we can wear you out.

4 MS. JARRELL: They offered it up, so --

5 CHAIRMAN VALENTIC: Yeah, you offered up the alcove.

6 MS. JARRELL: I think we should take it.

7 CHAIRMAN VALENTIC: So we are going to add on
8 Variance -- on D that the alcove landscaping, that the alcove
9 would be enhanced with landscape as part of our vote for
10 Variance D. Is that acceptable to you?

11 MR. BARNEY: Acceptable.

12 CHAIRMAN VALENTIC: Okay. And then our Zoning Board
13 will review the landscape provided for that alcove. Okay.
14 Thank you.

15 All right. Heather, you ready over there?

16 MS. FREEMAN: Uh-huh.

17 CHAIRMAN VALENTIC: All right. The question then,
18 if we get into approval of Variance Number 2018-30 A, a
19 variance from Section 22.04(H), Table 22.04, to allow for the
20 principal building with a height of 50 feet, in lieu of the
21 maximum 40 feet permitted. Please call the vote.

22 MS. FREEMAN: Mr. Rowe?

23 MR. ROWE: Yes.

24 MS. FREEMAN: Mr. Ms. Jarrell?

25 MS. JARRELL: Yes.

26 MS. FREEMAN: Mr. Sweeney?

27 MR. SWEENEY: Yes.

28 MS. FREEMAN: Mr. Hamilton?

29 MR. HAMILTON: No.

30 MS. FREEMAN: Mr. Valentic?

1 CHAIRMAN VALENTIC: No. Your variance has been
2 approved.

3 The next is for 2018-30, Variance B, a variance from
4 Section 22.04(D), Table 22.4, to allow for the front building
5 setback to be 34 feet, in lieu of the minimum 50 feet
6 required. Please call the vote.

7 MS. FREEMAN: Ms. Jarrell?

8 MS. JARRELL: Yes.

9 MS. FREEMAN: Mr. Sweeney?

10 MR. SWEENEY: Yes.

11 MS. FREEMAN: Mr. Hamilton?

12 MR. HAMILTON: Yes.

13 MS. FREEMAN: Mr. Rowe?

14 MR. ROWE: Yes.

15 MS. FREEMAN: And Mr. Valentic?

16 CHAIRMAN VALENTIC: Yes. That variance has been
17 approved.

18 The next is Variance Number 2018-30 C, a variance
19 from Section 38.05, Interior Parking Lot Landscaping, to allow
20 for 8.7 percent interior parking lot landscaping, in lieu of
21 the minimum 10 percent required. Please call the vote.

22 MS. FREEMAN: Mr. Sweeney?

23 MR. SWEENEY: Yes.

24 MS. FREEMAN: Mr. Hamilton?

25 MR. HAMILTON: Yes.

26 MS. FREEMAN: Mr. Rowe?

27 MR. ROWE: Yes.

28 MS. FREEMAN: Ms. Jarrell?

29 MS. JARRELL: Yes.

30 MS. FREEMAN: Mr. Valentic?

1 CHAIRMAN VALENTIC: Yes.

2 The last is a vote for Variance Number 2018-30, a
3 variance -- D, a variance from Section 38.04(A), Building
4 Landscaping Requirements, to allow for a zero foot landscape
5 area on the north side of the building and a 3 foot landscape
6 area on the south side of the building, in lieu of the 5 foot
7 required planting area between all building wall and paved
8 areas. This also includes a stipulation that the alcove area
9 will be enhanced with landscape and that will come in front of
10 our Zoning Board for approval. Please call the vote when
11 you're ready, Heather.

12 MS. FREEMAN: Mr. Rowe?

13 MR. ROWE: Yes.

14 MS. FREEMAN: Ms. Jarrell?

15 MS. JARRELL: Yes.

16 MS. FREEMAN: Mr. Sweeney?

17 MR. SWEENEY: Yes.

18 MS. FREEMAN: Mr. Hamilton?

19 MR. HAMILTON: Yes.

20 MS. FREEMAN: Mr. Valentic?

21 CHAIRMAN VALENTIC: Yes. That has also been
22 approved. Thank you very much. Again, if you would like to
23 stay, we're more than happy to have you here; but if you would
24 like to leave, you can.

25 The next is Variance Number 2018-31, Mr. Dennis
26 Balante is requesting a variance from Section -- I will just
27 wait just a second and let these folks come out, get out of
28 here.

29 MR. WEBER: Rumble in the parking lot. Take care.

30 CHAIRMAN VALENTIC: All right. We'll see you.

1 All right. They're requesting a variance from
2 Section 17.04(B) and 17.07(A) to allow for the construction of
3 a garage with a 30 foot riparian setback, rather than the
4 75 foot required for the property located at 10555 Prouty
5 Road. Please come up and present your case.

6 MR. BALANTE: My name is Dennis Balante and I live
7 at 10555 Prouty Road -- 555 Prouty Road.

8 CHAIRMAN VALENTIC: And you're helping me out, too.
9 And you've been sworn in?

10 MR. BALANTE: And I have been sworn in. So I would
11 like to build a garage. Actually, it would be in front of my
12 house. But I guess you have a riparian setback of 32 feet
13 from my creek.

14 MS. JARRELL: Seventy-five feet.

15 MR. ROWE: Is the requirement.

16 MR. BALANTE: Oh, I am only 32 feet from the creek.

17 MS. JARRELL: Gotcha.

18 MR. BALANTE: So I guess you have a 75 foot riparian
19 and they won't let me build it within the zoning. I have to
20 be here to ask you if I can build it close to the creek.

21 So the spot that we've picked to put it in, we
22 picked it because, if we put it in the back yard, there is no
23 more back yard. I figured the nicest place to put it would be
24 in front of the house, which would probably be -- I didn't
25 measure it but maybe 200 feet from Prouty Road.

26 And we're in a ravine, so anybody that's -- We're on
27 the corner of the Morley and Prouty. So anybody that's
28 driving by on Morley can't see the building. Only in the
29 wintertime, possibly, when you're driving across that Prouty
30 bridge, then you could possibly see the building.

1 My neighbor to the back of me is Jeannie Gilson and
2 my house is in between the two, so she won't even see the
3 garage if we get to build it.

4 CHAIRMAN VALENTIC: Give me a reason why, an
5 understanding of why you can't put it on the other side of the
6 drive.

7 MR. BALANTE: We're on a cliff. We're on a --

8 CHAIRMAN VALENTIC: Okay.

9 MR. BALANTE: -- gigantic cliff.

10 CHAIRMAN VALENTIC: This side drops off, the
11 topography?

12 MR. BALANTE: Right.

13 CHAIRMAN VALENTIC: There is no topo on here.

14 MR. BALANTE: Sorry.

15 MS. JARRELL: Yeah, there is the 2 foot contour on
16 here.

17 CHAIRMAN VALENTIC: Okay, yeah, in the packet.
18 Okay.

19 MR. BALANTE: So kind of building it between the
20 cliff and the creek.

21 MR. HAMILTON: So it appears as though the house and
22 the pool are already in the riparian.

23 CHAIRMAN VALENTIC: Yeah.

24 MR. BALANTE: Right. And if there were ever a
25 flood, my house would go first. So --

26 MR. ROWE: That's comforting.

27 MR. SWEENEY: Yeah.

28 CHAIRMAN VALENTIC: So how long have you --

29 MR. BALANTE: So it's up high like the house is.

30 CHAIRMAN VALENTIC: How long have you lived there?

1 MR. BALANTE: Twenty-five years.

2 CHAIRMAN VALENTIC: So I'd like to enter into our
3 packet -- Hopefully, you've all received this letter from Lake
4 County Soil and Water. Chad Edgar visited the site. He
5 provided a letter here with some recommendations. And, you
6 know, we weigh heavily on Chad's input on our decision. So if
7 you haven't taken a look at that, take a look at the letter.
8 I guess the short story is that the setback is a minimal, I
9 guess, impact to the riparian corridor in this area for
10 several reasons that he goes through.

11 MR. ROWE: In that letter, he, also, he mentioned a
12 site, I guess, up in here somewhere.

13 CHAIRMAN VALENTIC: It is hard for me to really --
14 Did Chad talk to you about another site?

15 MR. BALANTE: Well, there was a first site that I
16 really wanted that's down by the bridge because that's the
17 farthest away from my house but that's in your flood zone, so
18 I was advised not to try that.

19 MS. JARRELL: How many accessory structures do you
20 have on your property?

21 MR. BALANTE: There is one, two, three, four.

22 MS. JARRELL: There's four now?

23 MR. BALANTE: Four little sheds, yeah.

24 MS. JARRELL: And then, and then you're asking for
25 the garage?

26 MR. BALANTE: Well, yeah. I won't need all those
27 sheds if I have a nice garage to put everything in though.

28 MS. JARRELL: You are going to get rid of sheds?

29 MR. BALANTE: If I can, yeah, that would be great.

30 MR. HAMILTON: Do I remember correctly this is over

1 three acres?

2 MR. BALANTE: Yeah, three and a half, 3.7, I guess
3 it is.

4 MR. HAMILTON: Okay.

5 MS. JARRELL: So did you discuss putting it in the
6 back because, I mean, it looks like there is plenty of room
7 back there except you would have to extend your driveway.

8 MR. BALANTE: I wouldn't have a back yard though.
9 There wouldn't be a back yard. I mean, it would take probably
10 half my or a quarter of my back yard.

11 MS. JARRELL: I mean, I did a little bit of drawing
12 on the GIS system and I put a 1,000 square foot structure back
13 here in the corner in the flat area and here is your pool,
14 here is where the structure would be.

15 MR. BALANTE: You have a -- The county has a sewer
16 line or a drain pipe running through the very back of my
17 property back there, so I have a feeling that that would be
18 over that pipe. There is a drain line that runs from the --
19 from Morley Road into a culvert pipe, into a catch basin that
20 runs through the back of the property and over. I have a
21 feeling I wouldn't be able to do that.

22 MS. JARRELL: Do you know that for sure?

23 MR. BALANTE: Oh, yeah, I hit it one time.

24 CHAIRMAN VALENTIC: Let's just take his word because
25 it doesn't show up on any of the drawings, that ease -- if
26 there's an easement back there.

27 MS. JARRELL: So why aren't we asking for a variance
28 because of all the accessory structures, Heather?

29 MS. FREEMAN: When you're over two acres --

30 MS. JARRELL: Okay.

1 MS. FREEMAN: -- in the R-1, you are permitted to
2 have an unlimited number of accessory buildings.

3 MS. JARRELL: Okay.

4 MR. ROWE: Well --

5 MR. SWEENEY: Do you remember that big rain we had
6 in two thousand -- what was it '16?

7 MR. BARNEY: Seven? Six or seven?

8 MR. SWEENEY: Or I'm sorry.

9 MR. BALANTE: 2006?

10 MR. SWEENEY: Two thousand --

11 AUDIENCE MEMBER: 2006.

12 MR. SWEENEY: -- six, 2006.

13 MR. BALANTE: Yeah.

14 MR. SWEENEY: We got like 10 inches of rain in three
15 days.

16 MR. BARNEY: Yeah. I was at Hellriegel's that
17 night, came home and it was about 10:00. It got as high as
18 the steps going into my basement but it did not --

19 MR. SWEENEY: So --

20 MR. BALANTE: It did not -- My basement, obviously,
21 it's lower than where I want to build this building.

22 MR. SWEENEY: Your house is lower than the pool?

23 MR. BALANTE: So the basement is lower than the
24 pool.

25 MR. SWEENEY: The basement of the house is lower
26 than the pool.

27 MR. BALANTE: Right. So I have a walk-out basement.
28 So it got to -- It didn't get to the house, put it like that.

29 MR. SWEENEY: Wow.

30 MR. BALANTE: It did good. I was impressed.

1 CHAIRMAN VALENTIC: He even said the garage would be
2 in the 100-year flood elevation here.

3 MR. SWEENEY: That was beyond the 100-year.

4 CHAIRMAN VALENTIC: Yeah, it was.

5 MR. SWEENEY: I think a 500-year event.

6 CHAIRMAN VALENTIC: Any other questions?

7 MR. ROWE: No.

8 CHAIRMAN VALENTIC: I don't have any. Chad seems to
9 be okay with it. We don't want anything to be built in the
10 riparian zone but, I mean, it's an existing home, so we have
11 to consider a variance for that. Okay. You can be seated.

12 MR. BALANTE: Thank you.

13 CHAIRMAN VALENTIC: Blair, you were good? I am
14 sorry.

15 MR. HAMILTON: No questions.

16 CHAIRMAN VALENTIC: Okay. Is there anyone else
17 that's speaking for or against that appeal that would like to
18 come up?

19 Heather, we didn't get any letters from any
20 neighbors that are opposing that, the garage?

21 MS. FREEMAN: No. I received a phone call today
22 from a neighbor who was in support of it.

23 CHAIRMAN VALENTIC: Okay. Thank you.

24 Okay. With that, there is no further questions.
25 The public hearing for Variance Number 2018-31 is now closed
26 to the public. I will motion to approve Variance Number
27 2018-31.

28 MR. ROWE: So moved.

29 MR. HAMILTON: So moved -- second.

30 CHAIRMAN VALENTIC: Okay. Great. Discussion for

1 the Board? Does anyone want to say anything? You guys are
2 good?

3 MS. JARRELL: The parcel is extraordinary, so there
4 is only so many places you can put it. If you can't put it in
5 the back yard, that seems like the only other logical
6 location. And Chad, of Lake County Soil and Water, definitely
7 concurs with that. So --

8 CHAIRMAN VALENTIC: Okay. Then the question is on
9 approval for Variance Appeal Number 2018-31. A yes vote
10 approves the variance, a no vote denies the variance.
11 Heather, please call the vote.

12 MS. FREEMAN: Mr. Hamilton?

13 MR. HAMILTON: Yes.

14 MS. FREEMAN: Mr. Sweeney?

15 MR. SWEENEY: Yes.

16 MS. FREEMAN: Ms. Jarrell?

17 MS. JARRELL: Yes.

18 MS. FREEMAN: Mr. Rowe?

19 MR. ROWE: Yes.

20 MS. FREEMAN: Mr. Valentic?

21 CHAIRMAN VALENTIC: Yes. Your appeal has been
22 approved.

23 MR. BALANTE: Thank you.

24 CHAIRMAN VALENTIC: Thank you.

25 Okay. All right. So we've got one more variance,
26 it's a use variance. I am just going to say something before
27 we get started here, is that we want to have everybody get a
28 chance to speak that wants to say something. We want to be
29 fair and give everyone their time, but we also don't want to
30 repeat a lot of information if we can kind of hold back. If

1 you have something new that you would like to add to the
2 conversation, that would be greatly appreciated. I may cut
3 you off if we -- if I feel like we need to and we have already
4 handled that part of the conversation. We will give everyone
5 a chance to speak.

6 Please, when you come up, so we don't have to repeat
7 ourselves a whole lot, confirm your name, your address and
8 that you've been sworn in. And, you know, let folks take
9 their chance, you know, to come up and speak for or against
10 this appeal. Okay?

11 We've had a couple things in here where people were
12 clapping and celebrating. Let's not do that tonight so we can
13 get out of here a little bit earlier and not wait for the
14 applause to die down. So it might seem a little absurd that I
15 am making that request but it has happened.

16 So the next is Appeal Number Variance 2018-32,
17 Mr. Richard Sommers, Sommers Real Estate Group LLC, on behalf
18 of the property owners, Betty Jane Spear, Trustee of the Betty
19 Jane Spear Living Trust, and Barbara S. Calhoun, Successor
20 Trust of Betty Jane Spear Declaration of Trust, dated
21 September 22, 2000, is requesting a variance for the
22 properties located at 11400 Concord-Hambden Road and being
23 Permanent Parcel Numbers 08-A-013-0-00-002-0 and
24 08-A-013-0-00-003-0, from Section 22.03, Table of Uses. The
25 applicant is seeking for a use variance to use the property
26 for a residential subdivision, which is not permitted in a
27 Town Hall Neighborhood zoning district.

28 And to the Board, I am just going to give you a
29 quick little message that please keep in mind this is a use
30 variance. We don't see these very often. So please pay

1 attention and listen to what the arguments are and, you know,
2 refer to some of the hardships that we look for in a use
3 variance when making our decisions and asking questions.
4 Okay?

5 So, Mr. Sommers, if you would like to please come up
6 and present your case.

7 MR. SOMMERS: Hi. I am sorry. I was admitted late
8 and I was not sworn.

9 CHAIRMAN VALENTIC: Okay, not a problem. We can
10 take care of that. Please raise your right hand.

11 (Whereupon, Mr. Sommers was sworn in.)

12 CHAIRMAN VALENTIC: Okay. Thank you.

13 MR. SOMMERS: My name is Richard Sommers,
14 10585 Summerset Drive, Chardon, Ohio. I represent Sommers
15 Real Estate Group. We're requesting --

16 CHAIRMAN VALENTIC: Again, I am sorry, but you've
17 been sworn in? Even though we just did it, please state that
18 for the record.

19 MR. SOMMERS: I have been sworn in. I am sorry.

20 We are requesting a variance to allow for a
21 construction of a 24 unit residential subdivision on 8 acres
22 on Concord-Hambden Road that was previously referred to as the
23 Spear property. This request is based on a site plan and
24 zoning terms submitted with and made a part the variance
25 request.

26 One thing I want to bring up tonight is that we have
27 modified this slightly from the original proposal, and I'll
28 pass these around. We have submitted to the Zoning Board. We
29 have increased the rear yard setback against the Hunting Lake
30 properties by an additional --

1 MR. HAMILTON: We can pass them around.

2 CHAIRMAN VALENTIC: Just give them all to Blair and
3 we'll just, we'll just send them down.

4 MR. SOMMERS: If you will notice on the south side
5 of the property that abuts to Hunting Lake Drive, that is now
6 a 35 foot rear setback. When it was previously submitted, we
7 submitted that at 25 feet. We also, in discussions with some
8 residents of Concord, have been in discussions to, hopefully,
9 come to an agreement or address concerns of some of the
10 adjacent residences. That's the reason for this change.

11 We've also changed our original request. We have
12 agreed to do 1,600 square foot ranch units with a minimum --
13 ranch units only with a minimum of 1,600 square feet.

14 We did have, in that original submittal, that they
15 would be 35 foot height variance. We are willing to change
16 that to 20 feet and that would be part of our request tonight.
17 In other words, since we're building ranches, we can lower
18 that roof height to 20 feet. And that was a concern of a
19 number of the neighbors in the community, so we have made that
20 change.

21 CHAIRMAN VALENTIC: And then -- I apologize. I'm
22 just -- Can you just go from the beginning? There is a lot of
23 numbers and -- because the variance request is not for a use
24 variance. The square footage and the height requirements, the
25 things that you're speaking to are not what we're here to
26 approve right now. So if you could just maybe start from the
27 beginning on the, for me --

28 MS. JARRELL: I agree with you.

29 CHAIRMAN VALENTIC: I wasn't --

30 MS. JARRELL: I have to interject because I

1 appreciate the fact that Mr. Sommers is conferring with the
2 neighbors on this one because, as we have seen in the past, it
3 can become very contentious. And so I appreciate the fact
4 that you're letting us know that you have worked and are
5 trying to compromise and come up with a solution for
6 everybody.

7 CHAIRMAN VALENTIC: So if you could just tell me
8 what you've changed again, what you're proposing that --

9 MR. SOMMERS: Actually, I have copies for everybody.
10 But, basically, we're agreeing to 1,600 square foot ranch
11 homes. This is approximately 500 feet above the required
12 township square footage, which I believe is 1,100. So our
13 mini home would be built in this, if the use variance was
14 granted, would be a minimum of 1,600 square feet.

15 CHAIRMAN VALENTIC: Okay. And then --

16 MR. SOMMERS: Also --

17 CHAIRMAN VALENTIC: Go ahead.

18 MR. SOMMERS: The township has a regulation that a
19 residential home could be built with a maximum height of 35
20 feet. We are agreeing, since these are ranch homes, that we
21 will not build anything higher than 20 feet.

22 CHAIRMAN VALENTIC: Okay.

23 MR. SOMMERS: You under --

24 CHAIRMAN VALENTIC: Yeah.

25 MR. SOMMERS: Are we clear on the 35 feet against
26 Hunting Lake?

27 CHAIRMAN VALENTIC: Yes. So you've modified the
28 setback here.

29 MR. SOMMERS: Correct, made it, made it a larger
30 setback to get a bigger distance between any homes that would

1 be constructed and the homes on Hunting Lake Drive.

2 CHAIRMAN VALENTIC: I am going to ask a crazy
3 question. If this gets approved and you go to start building
4 houses, we're not going to get builders in here asking for
5 rear yard setback variances, are we?

6 MR. SOMMERS: That would be a condition of this
7 approval that it's minimum 35.

8 CHAIRMAN VALENTIC: You're not pinching these lots
9 too small that they're not buildable?

10 MR. SOMMERS: Right now, the average lot in there is
11 144 feet deep. So if we take out 35 feet from the back and
12 the 28, that ends up getting 28 from the back of curb, that
13 allows us -- we could build up to a 3,600 square foot
14 structure on that and not need any use variance.

15 CHAIRMAN VALENTIC: Okay.

16 MR. SOMMERS: We feel that most of the homes in this
17 subdivision will be between 1,600 and 2,100 square feet based
18 on emerging land patterns. People want smaller homes. They
19 want to stay in Concord.

20 CHAIRMAN VALENTIC: Okay.

21 MR. SOMMERS: So we have plenty of room. There
22 won't be variances necessary later on.

23 CHAIRMAN VALENTIC: I just, again, I just wondered.
24 Thank you. Keep going.

25 MR. SOMMERS: This variance request is a necessity
26 by the Concord Township zoning code for Town Hall
27 Neighborhood. It does allow, in Section 22.01, Item H,
28 reading from the thing, "selective community-oriented
29 businesses and residential uses while promoting emerging land
30 use patterns." That is how your code reads today. But the

1 code does not, in the section where it spells out terms and
2 conditions, there are no residential guidelines on how this
3 would be developed, even though the residential use is an
4 allowed use in Section H. So what we're --

5 CHAIRMAN VALENTIC: But when we look at the Table of
6 Uses, it's not allowed.

7 MR. SOMMERS: There is no -- There's nothing in
8 there. But if you look at Letter H, it specifically states a
9 residential use.

10 MS. JARRELL: It does.

11 MR. SOMMERS: So what we're here for is, this has
12 created an unnecessary hardship because there is an allowed
13 use but there is no terms for that use. It doesn't say how
14 big the houses have to be. It doesn't say the density. It
15 doesn't, it doesn't address it at all even though it's an
16 allowed use.

17 MS. JARRELL: Well, it's not technically permitted.
18 I know it says it in the text -- I looked at that -- but it
19 doesn't say it in the Table of Uses, of permitted usages.

20 CHAIRMAN VALENTIC: Yeah, that's right.

21 MS. JARRELL: So that is a conflict.

22 MR. SOMMERS: It definitely is a conflict and there
23 is a hardship created. We feel that this variance preserves
24 the spirit and intent of the Town Hall Neighborhood Resolution
25 as a proposed use is an allowed use according to, again,
26 Section H.

27 CHAIRMAN VALENTIC: Yeah.

28 MR. SOMMERS: The hardship hasn't been created by us
29 or the landowner. The proposed use of the property is
30 harmonious with adjacent property. There is residential

1 behind it. There is R-8 200 feet away, eight units to the
2 acre, basically, townhome, row-type homes within 200 feet of
3 the property.

4 The essential character of the neighborhood will
5 remain the same, a residential use. There is really no demand
6 for other services in this district. Obviously, Crile Road
7 has possibly changed that. That's where the business is
8 going. This variance would in no way hinder the delivery of
9 government services. And that's the reason for our request
10 for a use variance.

11 CHAIRMAN VALENTIC: And so this, this residential
12 little subdivision you're proposing, each one will be a
13 separate subplot. You know, they each -- someone comes in and
14 buys their own lot and buys their own house?

15 MR. SOMMERS: That is correct. It will be a fee
16 simple, public right-of-way street.

17 CHAIRMAN VALENTIC: Okay. Do you guys have
18 questions?

19 MS. JARRELL: Mr. Sommers, are you under contract
20 right now? Is this part of your due diligence?

21 MR. SOMMERS: Well, it's a condition of the contract
22 and I have submitted to the Zoning Office the permission to be
23 here tonight from the landowner.

24 CHAIRMAN VALENTIC: Yeah. Because you knew you
25 were, you know, when you are looking at this property and
26 going through, you knew you were going to run up against this
27 and that's why you were here, and that this was going to be --
28 That's why you made your purchase conditional. You knew that
29 you were going to have to try to this get this approval.

30 MR. SOMMERS: Typically any, in our business, any

1 purchase is subject to final approval. It's just -- It's good
2 business.

3 CHAIRMAN VALENTIC: Yeah. Question. I mean, I
4 don't know. The use thing, you know, we've got to talk that
5 through and hear what everyone else has. And, you know, that
6 whole code, you know, it's H versus the table. We will have
7 to make some interpretations.

8 And in providing this layout, you've made some
9 concessions already. I guess one, one, I guess, thought I
10 had, was there any, when you looked at this, I mean, it seems
11 pretty dense. I mean, did you look at other layouts where you
12 could maybe get more open space in there? It seems like we're
13 using -- And I don't know how much of this you're clearing or
14 not clearing. I mean, just looking at this plan, I am
15 assuming that you're thinking you're clearing the whole parcel
16 and, you know, yet there's a little bit of open space that's
17 going to be saved. I forgot, I think it's like 13 percent of
18 the whole parcel.

19 Did you look at anything like that where maybe you
20 could maybe maximize or get some more open space into this
21 little subdivision and look at maybe where you could save
22 trees or some of the buffer areas?

23 MR. SOMMERS: We did look at a couple things. I
24 believe one of our proposed conditions is a 15, minimum 15
25 percent open space, so we're just above that.

26 CHAIRMAN VALENTIC: Really quick -- And, Heather,
27 help me out here if I am saying the incorrect thing. You,
28 because -- and I'll ask our counsel that -- you don't have,
29 because this is not an approved use and we don't have any
30 stipulations of what you need to design to, you've selected

1 from, you are kind of picking and choosing a little bit of how
2 you're designing this subdivision, right? I mean, we don't --
3 If you go Town Hall, our zoning text, we don't tell you how to
4 lay out a subdivision.

5 MR. SOMMERS: That's correct. That's why we're here
6 tonight.

7 CHAIRMAN VALENTIC: Yeah.

8 MR. SOMMERS: We have looked at that. And I think
9 an important thing in that code where it says "emerging land
10 use patterns," I think what's happening today is there is a
11 lot of people don't want big, three-acre lots anymore. They
12 just want smaller lots. And there is a need, an emerging use
13 for senior-type housing or lifestyle-type housing, single-
14 floor ranches, people that want to maybe sell their bigger
15 house here in Concord and move into a smaller house, still be
16 there by their friends and neighbors and their lifestyle.

17 MS. JARRELL: Didn't we have a zoning change across
18 the street, zoning district change across the street?

19 MS. FREEMAN: There was a recent two acre parcel, or
20 a recent zoning map amendment that was approved by the
21 township for two acres right across the street from this
22 property that was rezoned from Town Hall Neighborhood to the
23 R-1 Residential.

24 MS. JARRELL: Just two acres?

25 MS. FREEMAN: Yes. Mr. Chairman, if I -- you don't
26 mind me saying something.

27 CHAIRMAN VALENTIC: Go ahead.

28 MS. FREEMAN: Mr. Sommers, you provided to the Board
29 tonight to enter into the record a revised concept plan dated
30 6/12/18. In your other comment, you indicated there was

1 revised terms that you wanted this Board to consider that go
2 along with this.

3 MR. SOMMERS: I did.

4 MS. FREEMAN: Did you want to submit that for the
5 Board's consideration then this evening?

6 MR. SOMMERS: I do. And that's the ones we
7 discussed. Here is copies that I proposed. Again, that was
8 the result of discussions with the neighbors.

9 MS. FREEMAN: So these are the set of terms that you
10 would like them to enter?

11 MR. SOMMERS: To consider, yes.

12 CHAIRMAN VALENTIC: So we will just enter the
13 provided terms and the map into, into this.

14 MR. SOMMERS: Are there enough sets there?

15 CHAIRMAN VALENTIC: It's all one.

16 MR. HAMILTON: Yes, we've got them.

17 CHAIRMAN VALENTIC: So these are the restrictions
18 that you're proposing would, you know, be put onto this
19 subdivision?

20 MR. SOMMERS: Yes, sir.

21 CHAIRMAN VALENTIC: I don't know. I will give the
22 Board a minute to kind of go through all these because I think
23 it's, I think it's important to understand, you know, these
24 requirements. You know, he's -- they're requesting that
25 they're part of the land use approval.

26 And, Heather, you have seen these or is this the
27 first time you are seeing some of these?

28 MS. FREEMAN: They were sent to me prior to this
29 evening, earlier this evening, this afternoon.

30 CHAIRMAN VALENTIC: Okay.

1 MS. JARRELL: Aren't you doing something across the
2 street?

3 MR. SOMMERS: No.

4 MS. JARRELL: No?

5 MR. SOMMERS: We are under a purchase agreement for
6 the property across the street that has been dropped.

7 MS. JARRELL: Okay.

8 MR. SOMMERS: This, this request is for the two
9 Spear parcels only. The two parcels make up approximately 8
10 acres.

11 MS. JARRELL: I am trying to get the historical
12 perspective intact.

13 CHAIRMAN VALENTIC: The terms you've presented here,
14 are you trying to follow one of our zoning, residential zoning
15 codes or are you picking and choosing from others?

16 MR. SOMMERS: Actually, how this evolved is we
17 originally went to the Lake County Planning Commission and we
18 worked with the Zoning Office here on terms that would be
19 possibly acceptable or good planning terms for, again,
20 emerging land use patterns. So this is the product of talking
21 to neighbors, the Planning Commission, the planners here at
22 Concord Township, basically, new type housing for the
23 community.

24 I would note, again, that there are R-8 on one side,
25 it's actually PUD behind us on Hunting Lake Drive, R-1 across
26 the street, the Town Hall Neighborhood. So there is, on the
27 south side of the street, is primarily residential varying
28 from -- What's R-1? I am not sure. Is that two and a half
29 units per acre?

30 MS. FREEMAN: The R-1 is a minimum of 22,000 square

1 feet.

2 MR. SOMMERS: So two, basically, two units to the
3 acre to eight units to an acre on the other side of -- what's
4 the road that goes in there -- Hunting -- Hunters Trail.

5 CHAIRMAN VALENTIC: And how many units per acre are
6 you at?

7 MR. SOMMERS: Three, with a 15 percent open space
8 requirement.

9 CHAIRMAN VALENTIC: You're sure you're at three
10 units per acre?

11 MR. SOMMERS: Pardon me?

12 CHAIRMAN VALENTIC: You're positive it's at three
13 units per acre?

14 MR. SOMMERS: It's all been designed and engineered.

15 CHAIRMAN VALENTIC: Okay.

16 MS. JARRELL: I think you need to elaborate a little
17 bit on your hardship because blaming the hardship on the
18 zoning doesn't -- I don't know -- doesn't sit well with me,
19 personally, my opinion. So maybe you can elaborate on that a
20 little bit.

21 MR. SOMMERS: Actually, I would defer to counsel,
22 Mr. Markowitz.

23 MR. MARKOWITZ: I have not been sworn either, if you
24 want to swear me in.

25 CHAIRMAN VALENTIC: You guys, what are we going to
26 do with you guys?

27 MR. LUCAS: He's an officer of the court. He
28 doesn't need to be sworn.

29 CHAIRMAN VALENTIC: Okay.

30 MR. MARKOWITZ: Thank you, Mr. Lucas.

1 My name is Dale Markowitz. I am with Thrasher,
2 Dinsmore and Dolan in Chardon, Ohio. I represent Mr. Sommers
3 and the Sommers Real Estate Group. I want to make sure I make
4 a couple points because, Mr. Chairman, I think what you were
5 getting to is something that -- Why are we presenting these
6 design guidelines, area, yard, regulations? We made those a
7 condition of our application and modified them today to make
8 even more restrictive so that you don't have to say, "Okay,
9 we're going to approve this but here's the condition for the
10 approval."

11 We made it a condition on our own as part of our
12 application so that you're not required to do what -- Some
13 boards just say, "Oh, we don't want to have to do conditional
14 approvals." So we want to give an approval.

15 And your point earlier was well taken, that you're
16 not here to design, you know, the subdivision criteria. So
17 that's why we incorporated it into our application.

18 The reason why we thought this was appropriate is
19 that, if you look at the permitted and conditionally permitted
20 uses in the Town Hall District -- and I will pull it out -- in
21 the chart at 22.03 -- actually, they call it table -- you are
22 allowed to have medical offices; administrative offices;
23 personal services, such as hair care, drycleaning, shoe
24 repair, photography studios; business services, including
25 mailing and copy centers; and I think that's -- Those are the
26 only permitted use.

27 The conditionally permitted uses are restaurants,
28 table services or counter service; bed and breakfast; and
29 child or adult day care centers; and then nursing homes,
30 residential care facilities, hospice care facilities; outside

1 dining; child or adult day care. And so we thought that for
2 the neighbors, particularly the ones behind us to the -- that
3 would be to the south, that they would much prefer that we
4 come in with a residential use than try to use it for any of
5 those permitted or conditionally permitted uses.

6 In addition --

7 CHAIRMAN VALENTIC: But that's your, that's your --
8 Sorry. That's your assumption that they would prefer that.
9 Hopefully, some of those neighbors are here to also speak to
10 that. That would be great.

11 MR. MARKOWITZ: Yeah. In our conversations with --
12 not my own but from my client's, they, they agreed that they
13 would prefer not to see commercial uses abutting their back
14 yards. I think it would be natural for somebody to prefer a
15 noninstitutional, residential or a noncommercial use behind
16 their homes.

17 The other part of it was that the analysis that we
18 have performed is that you could not appropriately use this
19 particular property for those uses because there was just no
20 demand for it. There is nobody who would be willing to use
21 those uses. Many of them, the areas -- the demographics don't
22 fit because traffic is not sufficient enough or the land is
23 not large enough to be able to accommodate those type of
24 institutional uses.

25 If somebody wanted to do a drive-in restaurant or,
26 you know, outdoor dining, I suppose, certainly the eight acres
27 would be big enough. But, again, we think that would be less
28 beneficial to the community and not promoting the purpose of
29 the Town Hall District where it abuts a PUD to put in, you
30 know, commercial, particularly those that are typically

1 operated at night and have a tendency to have more noise and
2 odors associated with them.

3 Likewise, we felt that, you know, nursing homes,
4 hospice, those types of facilities where you have larger
5 volume of traffic, that the people in the community would
6 prefer to have the residential homes.

7 So that's why we thought that it met the spirit and
8 intent of your code, in addition to the fact that our own
9 market analysis indicated that we couldn't find anybody who
10 would be interested in using the property for those purposes
11 on this parcel. There might be other areas that could be some
12 day included in the Town Hall Neighborhood District where that
13 might work but not here. And there is only a couple parcels
14 that are in this district for right now.

15 So we thought that there was oversight when the code
16 was adopted. And I agree with you, Ms. Jarrell, that the --
17 even though Section H contemplates residential, when you get
18 to the Table of Uses, it's not listed as a permitted use. We
19 think that the code contemplated that it should have been and,
20 for whatever reason, it didn't get accomplished.

21 MS. JARRELL: And that's your hardship?

22 MR. MARKOWITZ: No, no, that's not my hardship.

23 MS. JARRELL: That's, if you would --

24 MR. MARKOWITZ: No, that's just explaining to you --

25 MS. JARRELL: No, I understand.

26 MR. MARKOWITZ: -- the process. Our hardship is
27 that we can't use it for any of the permitted uses that are in
28 the table in 22.03. The hardship, you know, practically
29 speaking, is that there is no implementation of the
30 residential code, so we had to make up what we thought would

1 be appropriate area, yard regulations for that type of use.
2 If you have any other questions, I would be happy to answer
3 them. Otherwise, I'll be -- I will sit down.

4 MR. ROWE: Questions?

5 CHAIRMAN VALENTIC: Skip, do you have any questions?

6 MR. SWEENEY: Yeah.

7 CHAIRMAN VALENTIC: Skip does.

8 MR. SWEENEY: I don't even know where to start.

9 Mike, I don't know what the procedure is. I think we're
10 putting the cart before the horse here. I mean, we've got an
11 application. Do we have an application to change the zoning?

12 MR. LUCAS: No.

13 MR. SWEENEY: No. This is a request for usage
14 variance.

15 MR. ROWE: Use.

16 MR. SWEENEY: So if an owner of the property within
17 a zoning designated area objects to that zoning, for whatever
18 use, what's their procedural remedy? Do they have the
19 opportunity to file for an application to change the zoning?

20 MR. LUCAS: I am not following you.

21 MS. JARRELL: Or it's either a use variance or
22 change the zoning.

23 MR. SWEENEY: Change the zoning.

24 MS. JARRELL: Yes, two options, right, Mike,
25 Mr. Lucas?

26 MR. LUCAS: Right.

27 MR. SWEENEY: There's two options here. So
28 essentially what we're doing -- what the applicant doing is
29 filing for both.

30 MR. MARKOWITZ: No.

1 MR. LUCAS: No.

2 MR. SWEENEY: No?

3 MR. LUCAS: He's filing, he's filing --

4 MR. SWEENEY: The result is that both are satisfied?

5 MR. MARKOWITZ: No.

6 MR. LUCAS: No, that's not true.

7 MR. MARKOWITZ: No.

8 MR. SWEENEY: Okay.

9 MR. LUCAS: The reason it's not true is because,
10 number one, he's asking for a use variance fact sensitive to
11 this particular development that he's putting in front of the
12 Board.

13 MR. SWEENEY: Okay.

14 MR. LUCAS: And the limitation on that Board. All
15 right? So he's not asking, for instance, for a use variance
16 for single-family residential and then somebody else could
17 come in after buying it from Mr. Sommers and put in some
18 single family that's totally different from what Mr. Sommers
19 is proposing. He's establishing a nexus on the use variance
20 to what is being presented here and that's it. That's all
21 that he will be able to do then under the use variances for
22 this particular parcel of property.

23 MR. SWEENEY: Okay.

24 your code contemplates that your Board has power to grant
25 either what we would call practical difficulties area
26 variances or use variances.

27 MR. SWEENEY: Right.

28 MR. LUCAS: Yeah.

29 MR. SOMMERS: And the Supreme Court of Ohio many
30 years ago said that those are the two criteria that you can

1 use and you have to make those available. The reason why we
2 do it -- and I am a law director in some communities, like
3 Mr. Lucas. That's probably why we see each other all the
4 time -- is you provide for use variances so that you avoid
5 somebody claiming a taking of the property or some
6 unconstitutional deprivation of their land.

7 So the property owners here could say, if the
8 variance isn't granted, under this Town Hall Neighborhood
9 zoning, that there is no other way we can use it. So now we
10 have to pursue a taking claim if we can't get a use variance.
11 So that's why there is a relief valve in having that option
12 available.

13 MS. JARRELL: And is that why you chose this route
14 versus getting a zoning change?

15 MR. MARKOWITZ: I am not sure there is a good way to
16 answer that. I mean, you can go either route. My client
17 thought that this route was more appropriate.

18 MR. HAMILTON: More speedy.

19 MS. JARRELL: Yeah, true.

20 MR. SWEENEY: Quicker. The hardship.

21 MR. SOMMERS: Yes, sir.

22 MR. SWEENEY: Okay. That, I am having some
23 difficulty understanding. Explain, can you explain a little
24 bit further what your client feels the hardship is? Because
25 it seems to me that there are a myriad of other uses, some
26 very good, some potentially more profitable that are available
27 to him?

28 MR. MARKOWITZ: Sure.

29 MR. SWEENEY: Why is this particular hindrance a
30 hardship?

1 MR. MARKOWITZ: Because the uses that are listed in
2 the chart or the table, there is no one who would, from our
3 analysis and our study and our review of this land, is that no
4 one wants to use it for those uses. The property has gone
5 undeveloped for a long time and since that -- I forgot what
6 year the code was put in for Town Hall Neighborhood but since
7 that time, there has been nobody proposing to use this parcel
8 or the one that's across the street that's zoned the same
9 district for any of those uses. And the only interest in
10 using that property has been by Mr. Sommers for a residential
11 district -- I am sorry -- residential use.

12 MR. SWEENEY: Well, I mean, don't you mean that the
13 hardship is that it's not sufficiently profitable as opposed
14 to just reasonable profitable?

15 MR. MARKOWITZ: No.

16 MR. SWEENEY: I mean, that really is the hardship
17 here.

18 MR. MARKOWITZ: No, no. The hardship is that nobody
19 would use it for what it's zoned for, so there is no viable
20 use. It is not a question of the degree of profitability
21 because, certainly, there are other uses that are listed in
22 the, in the table that could be more profitable than building
23 these homes. That's not our goal. Our goal was to find a
24 viable use that can be made of it because nobody believes that
25 you can put in a restaurant there or put in a nursing home
26 there or put in a hospice facility there because of its
27 location and its, you know, lack of demographics that would
28 support those uses.

29 MR. HAMILTON: When you say "nobody," that's a
30 pretty absolute term, you know. What analysis can you point

1 to specifically, other than your own opinion, that makes this
2 fact?

3 MS. JARRELL: Well, I think what Mr. -- I am going
4 to interject --

5 MR. MARKOWITZ: Sure.

6 MS. JARRELL: -- if that's okay. I think what
7 you're trying to say, you're not vastly generalizing here.
8 It's not a fact. But being a realtor and knowing the
9 marketplace, that the propensity for the usages over in that
10 area is not commercial, it just isn't.

11 MR. MARKOWITZ: Correct.

12 MS. JARRELL: And you did a market analysis?

13 MR. MARKOWITZ: My client did.

14 MS. JARRELL: You did a market analysis. So the
15 propensity is for a residential usage, and so I understand
16 that. But we can't vastly generalize here.

17 MR. MARKOWITZ: Correct.

18 MS. JARRELL: This is an inference.

19 MR. HAMILTON: I think you're skipping over --

20 MS. JARRELL: I mean, it's a fact -- It's a well
21 supported inference.

22 MR. MARKOWITZ: Yeah. I would agree with the --

23 MR. HAMILTON: But you are skipping over some of the
24 other permitted uses.

25 MR. MARKOWITZ: No. There's --

26 MR. HAMILTON: Either conditional or permitted.

27 MR. MARKOWITZ: No, I listed all the permitted.

28 MS. JARRELL: Well, a lot of those, just based on my
29 experience in the commercial real estate arena, as well as the
30 residential, you know, looking at the small, small office

1 usages or restaurant where there, as it was indicated all
2 right, where there is no traffic, nobody is going to -- And
3 here I am generalizing -- it would be very difficult for
4 someone to go in and purchase that property and put a
5 restaurant in and expect it to be successful when you only
6 have -- I mean, I don't know what the traffic count is -- 50
7 cars going by. So that, that would be difficult. I guess you
8 could put a medical office there but, there again, it's not a
9 great location for a medical office.

10 The Town Hall Neighborhood District, in my opinion,
11 just based on my experience, it is difficult to get businesses
12 in for these permitted and conditional usages. I agree with
13 you.

14 MR. SWEENEY: Agree. But suppose -- I agree with
15 you, Chris. But suppose an applicant, any applicant comes in
16 to change the zoning to, say, residential. Okay? What would,
17 what would the requirement be at that point? I mean, I may be
18 getting ahead of it. But would it be high density? Would it
19 be three acre? two acre? one acre? What would it be if it
20 were rezoned residential?

21 CHAIRMAN VALENTIC: It depends.

22 MS. JARRELL: Well, I don't -- I don't have the
23 answer to that but I would contend that -- and I am,
24 obviously, revealing my support here -- is that people want
25 ranch properties. They are downsizing. They are simplifying.
26 And this definitely coincides with, with market factors, no
27 question, especially in Concord Township, no question.

28 MR. MARKOWITZ: But the other thing I was going to
29 say, to add to that, Ms. Jarrell -- and I drive by there
30 literally every day -- is what you have done in Route 90 and

1 Route 44 is amazing. But what that has done is it has moved
2 the business demand over to that corridor and away from where
3 these properties.

4 MS. JARRELL: That as well.

5 MR. MARKOWITZ: So that is a huge factor in why you
6 can't expect to get any, you know, viable commercial
7 businesses to go in there. And, in particular, the other
8 uses, such as whether it be hospice or nursing homes and all
9 that, they want to be by the hospital, and you've got two of
10 the finest right there at 44 and 90. So they're not going to
11 come to, you know, this intersection over here.

12 CHAIRMAN VALENTIC: Mr. Sommers --

13 MS. JARRELL: It's possible.

14 CHAIRMAN VALENTIC: Mr. Sommers, do you develop
15 other types of projects besides the residential stuff or is
16 residential kind of what you do?

17 MR. SOMMERS: Residential is our prime business.

18 CHAIRMAN VALENTIC: Okay. So you never would have
19 really looked at this property to develop it for commercial
20 anyway.

21 MR. SOMMERS: I personally wouldn't because there is
22 not a -- there is no user for it.

23 CHAIRMAN VALENTIC: But you don't do that type of
24 development either.

25 MR. SOMMERS: No.

26 CHAIRMAN VALENTIC: That's, I mean, that's -- I
27 understand where you are coming from and why you want to
28 develop this as residential. I am still struggling. Maybe
29 this will come on further discussion with the hardship because
30 I understand why the property is hard to develop but I don't

1 see why it's hard -- because that's what he does, it's hard
2 for him to develop. Some guy -- I don't know. I am not
3 saying I would develop it as something else but --

4 MR. MARKOWITZ: But the property owners have been
5 marketing this property for a while and they can't find
6 anybody to use it for any of the permitted or conditionally
7 permitted uses.

8 CHAIRMAN VALENTIC: Okay. That's fair enough.

9 MR. MARKOWITZ: It's been marketed for quite a
10 while.

11 CHAIRMAN VALENTIC: Okay.

12 MS. JARRELL: It's just not a great commercial
13 location. Even further south at Girdled and Ravenna where
14 it's general business there, there have been so many lots
15 there, residential lots that have been for sale that will
16 convert to commercial usage. Nobody wants them. Bremec's
17 went in there and did a fantastic job. The, the pet hospital
18 has existed there forever, but the property across the street
19 has been available forever. And the store there, I mean, it's
20 changed hands a number of times. I don't know, you know, how
21 successful it is. They're difficult commercial locations.

22 CHAIRMAN VALENTIC: Okay. Blair, did you have
23 anything else you wanted to ask or add?

24 MR. HAMILTON: No, not at this time, no.

25 CHAIRMAN VALENTIC: Okay. You guys have any other
26 questions on this end?

27 MR. ROWE: No, because I am looking at the layout of
28 the, you know, residential right behind, you know, the thing.
29 How thrilling would it be if you've got a strip small or
30 something down through there on --

1 CHAIRMAN VALENTIC: I don't disagree with that
2 comment, yeah.

3 MR. ROWE: So I think this looks like, you know, the
4 times that we're certainly hearing about, it should go well.
5 I mean, it's the type of thing that not only, not only
6 retirement people, there are a lot of younger groups that
7 aren't really big in maintaining a half an acre or whatever as
8 part of their lifestyle.

9 CHAIRMAN VALENTIC: Yeah. Skip, do you have any
10 further questions for the applicant?

11 MR. SWEENEY: No.

12 CHAIRMAN VALENTIC: Okay. Gentlemen, you can be
13 seated.

14 MR. MARKOWITZ: Thank you.

15 CHAIRMAN VALENTIC: I'm sure we'll be chatting
16 again. Okay. So is there anyone else that's speaking for or
17 against this appeal that would like to come up first? Okay.
18 Good for it, Vanessa.

19 MS. PESEC: Thank you very much. Vanessa Pesec,
20 11705 Cali Court, Concord, and I was sworn in. And having
21 been here watching this meeting, I am really impressed by how
22 detailed and thorough your analyses are. You need to go into
23 a lot of work and do a lot of homework. And having served on
24 the Planning Commission, I understand it is a lot of time and
25 effort, and I appreciate it, what you are doing. Thank you.

26 I wasn't very familiar with the use variance as well
27 and so what I did is I researched the topic. I went on the
28 Ohio Revised Code and then also searched for some authority,
29 authoritative presentations so that I would be able to
30 understand it a little bit better. And so I put together a

1 couple of sheets.

2 Heather, would you mind passing this to the Board
3 or, Blair, thank you very much.

4 MR. HAMILTON: Thanks.

5 MS. PESEC: And, oh, there is one extra one.
6 Heather, would you make sure that this becomes part of the
7 public record in case there is any future litigation or
8 anything like that? I would really appreciate that. And I am
9 giving you all these pages and, hopefully, you won't be able
10 to -- you won't read ahead too far.

11 So the first is the actual variance definition in a
12 use variance. And so as you know -- I am sure I'll be saying
13 things you already know. A use variance is the type of use,
14 whether or not it's not necessarily zoned for that. And the
15 other is the area variance, and we heard a lot of area
16 variances last -- earlier today, and this is the use.

17 And the application bears the burden of proving that
18 the variance should be permitted, as you were questioning.
19 Regarding the use variance -- And this is presented by Donald
20 Brosius, from Brosius, Johnson and Griggs in Columbus, an
21 attorney, and he presented this at the Ohio Township
22 Association 2015 Winter Conference on the role of township
23 zoning bodies, and so this is just specifically the BZA. This
24 is extremely important because the use difference is very
25 different and the use variance test is whether the particular
26 zoning code creates an unnecessary hardship, which is
27 different from the area, which was a practical difficulty.

28 CHAIRMAN VALENTIC: Hold on. Mr. Lucas, I don't
29 know if you want to weigh in, make sure I am kind of on par
30 here. Vanessa, I just -- If you could just tell us kind of

1 why you think they don't present a hardship to their variance.

2 MS. PESEC: Yeah, well, you first need to
3 understand that --

4 MS. JARRELL: We understand.

5 MS. PESEC: I know. I am also agreeing.

6 MS. JARRELL: We understand. We have workshops. We
7 understand. We've been here for years and years on this
8 Board. We understand.

9 MS. PESEC: I am also doing this to build the record
10 in case it goes on. So it's important to just present all of
11 the facts so that everybody hears it. So I am sorry if there
12 is -- I will go as fast, as quickly --

13 MS. JARRELL: I am not trying to be rude. We go
14 through these factors, Vanessa, every time we make a decision.

15 MS. PESEC: Do you? I absolutely --

16 MR. LUCAS: Vanessa, I think, respectfully, you're
17 establishing a record that's already in existence because Ohio
18 law is already in existence.

19 MS. PESEC: Right.

20 MR. LUCAS: I think the point you are trying to make
21 is that the use variance criteria is harder burden under undue
22 hardship under *Kisil versus Sandusky* and all those other cases
23 versus the practical difficulty standard and the *Duncan versus*
24 *Middlefield* factors.

25 MS. PESEC: That is correct.

26 MR. LUCAS: And the Board knows that the undue
27 difficulty, undue hardship is a higher burden of proof for the
28 applicant, and Mr. Markowitz is well aware of that, too,
29 because he is using the term in presentation "undue hardship."

30 MS. PESEC: No, he used "practical difficulty."

1 MR. LUCAS: Yeah, but not in reference to this
2 application.

3 MS. PESEC: Right, right. So I just wanted to make
4 sure that we were all on the same page, and I really believe
5 that. And the next paragraph, as you can read, is the
6 *Kisil* --

7 MR. LUCAS: *Kisil versus Sandusky*.

8 MS. PESEC: -- *versus Sandusky*, absolutely. And on
9 this, the document, then on the next page is really the crux
10 of what I wanted to present to you, is that there are certain
11 criteria standards that the applicant must meet and he must
12 meet all of them, right, in order for you to grant the use
13 variance.

14 And so is the property unsuitable for any of the
15 uses permitted by the Zoning Resolution? Not whether or not
16 they're, you know, they're likely to be in there, whether the
17 photography studio should or shouldn't be in there, but is it
18 unsuitable for any of the uses? His presentation further
19 states, simply because the property may be put to a more
20 profitable use does not, in and of itself, establish an
21 unnecessary hardship where there is less profitable
22 alternatives.

23 As you can see and was stated, there are a number of
24 permitted uses that can go into this area. And, in fact, one
25 of the reasons that this property was zoned in 2009 from
26 manufacturing to Town Hall Neighborhood was to allow many more
27 of the uses, because it was manufacturing with really large
28 setbacks.

29 CHAIRMAN VALENTIC: Okay.

30 MS. PESEC: And so some of the discussion that was

1 here, whether or not there would be enough traffic and whether
2 or not there was enough demand, could be because the price
3 point is wrong.

4 CHAIRMAN VALENTIC: Well, that's something we need
5 to consider in our --

6 MS. PESEC: I am just ex -- There was consideration
7 that it wouldn't be, so you're now hearing discussion that it
8 might be.

9 MS. JARRELL: We have -- Excuse me. We have the
10 factors in front of us. We know that in granting a use
11 variance is a much more difficult set of criteria and we want
12 them to meet the preponderance of the criteria. That's why we
13 have our discussion.

14 MS. PESEC: Right, right.

15 MS. JARRELL: So can you please get to the point?

16 MR. LUCAS: She's pointing out, she's pointing out
17 facts now in terms of the traffic and the point of purchase
18 and that. Those are facts. She's not talking about the
19 burden and the factors between undue hardship under a use
20 variance and *Duncan versus Middlefield*. So any -- She is
21 permitted to present whatever factual information, independent
22 of the legal factors and that, that she thinks should be
23 considered.

24 MS. JARRELL: These are facts?

25 MR. LUCAS: Not that. What she was saying when you
26 interrupted her.

27 MS. JARRELL: Forgive me, Vanessa.

28 MS. PESEC: That's okay.

29 MR. LUCAS: She was saying a factual matter.

30 MS. PESEC: One of the other things that is going --

1 will change and could definitely change the factor of the road
2 and its desirability is the fact that Riverside school is
3 coming into that. So there is going to be a lot more traffic
4 coming down that road in the future and that could have a
5 substantial impact on, on these uses, and so that's another
6 point.

7 The second part of the requirement was that the
8 variance result from conditions unique to the property in
9 question and other properties with the same zoning
10 classification. Well, this applicant submitted the same text
11 change and the same type of plan for all of the property, both
12 the north and the south properties, for -- in the Town Hall
13 Neighborhood on February 26th to the Zoning Commission. It
14 then went to the Trustees. So, consequently, this text change
15 that he is proposing for you is not unique to this specific
16 piece on the south property.

17 MR. LUCAS: Just so we are clear on the record, it's
18 not a text change, it's a use variance request. There is a
19 difference.

20 MS. PESEC: Right, right, exactly. So -- But the
21 point is the same, the same wording that, well, except for the
22 fact that he changed the square footage slightly, but the same
23 type of usage in the south can also be, could be applied to
24 the north as it was previously.

25 CHAIRMAN VALENTIC: Mike, I don't -- is that -- I
26 don't think that's a true fact, that just because we're
27 providing this land use here doesn't mean that it can be
28 provided to the north. This is specific for this parcel.

29 MS. PESEC: No, I am talking about prior.

30 CHAIRMAN VALENTIC: Okay.

1 MS. PESEC: Does the variance result from conditions
2 unique to the property in question? The answer is no because
3 he very -- he already submitted this type of usage to both the
4 north and the south properties along Concord-Hambden, and so
5 it's not just unique to Mrs. Spear's. It's the same to the
6 north and the south. Remember, all of these must be satisfied
7 in order for you to approve.

8 Third, and not as a result of actions by the
9 property owner. This is a so-called self-imposed hardship
10 rule. Generally speaking, a person who purchases land with
11 knowledge of the zoning restriction is said to have created
12 his own hardship, is not entitled to the use variance to
13 relieve such condition. Again, the applicant has an option to
14 purchase the land, as stated, which has been zoned Town Hall
15 Neighborhood since 2009. Consequently, he's created his own
16 hardship.

17 Fourth, other factors include whether the variance
18 is the minimum necessary to obviate the offending condition.
19 If no other uses were viable, let's say, and the property
20 needed to have a residential use, let's say, allowing the
21 highest density of single-family detached housing in this
22 vicinity is not the minimum necessary to obviate the offending
23 condition.

24 So, again, he's asking for residential. And to
25 answer your question specifically, he's making a unique
26 residential zoning type classification. This is not something
27 that you find somewhere else in the township. He's making,
28 he's making up something unique and it is definitely not the
29 minimum.

30 The next, fifth, whether the variance would be

1 inconsistent with the spirit and intent of the Zoning
2 Resolution. In 2009, the creation of the Town Hall
3 Neighborhood District was approved by the Trustees with the
4 express intent to not allow any residential uses. And I will
5 go into that in time in more detail.

6 And, fifth, whether the variance is substantial.
7 The addition of a residential use into a commercial and
8 industrial district would have a profound effect on the zoning
9 text and revenue generation by the township. This use
10 variance for the Spear's property would be precedent setting
11 and could be applied to other Town Hall Neighborhood property
12 on the north side, which comprises 19 additional acres, thus
13 decreasing the generation, revenue generation.

14 Next page on your packet is Ohio Revised Code.
15 Again, the summary, as you know well, that with the -- owing
16 to special conditions, a literal reinforcement -- enforcement
17 of the Resolution will result in unnecessary hardship, so that
18 the spirit of the Resolution shall be observed.

19 The next page is what I just referred to, the intent
20 of the Town Hall Neighborhood zoning district. In 2009, this
21 was, this was given to the Zoning Commission. They approved
22 detached single-family cluster development in the, in the
23 zoning text, so it was approved by the Zoning Commission. And
24 then after the Zoning Commission, it went to the Trustees.
25 The Trustees removed the residential use zoning text. In
26 fact, they had to redo their vote in order to remove one of
27 the uses because it appeared in two sections of the zoning
28 text.

29 So the pertinent quotes: "Mr. Galloway: I would
30 like to amend the motion to remove the definitions of

1 'detached single-family cluster development.'

2 "Chairwoman Luhta: All in favor?" Three ayes.

3 Mr. Lucas says, "Based on the amendment which you
4 made to the proposed amendment regarding the elimination of
5 the detached single-family cluster development under 3b, I
6 think you want to go back and revisit 1c then which, by adding
7 that text, already had in there the detached single-family
8 cluster development. So I would suggest making a motion,
9 number one, to reconsider Amendment 1c in light of the
10 subsequent modification you made to Amendment 3b. And if that
11 approves, then pass Amendment 1c again with the modification
12 that the attached single-family cluster development under the
13 Town Hall Neighborhood District is deleted, consistent with
14 your subsequent -- or prior amendment, rather."

15 "All in favor?" Three ayes.

16 "Mr. Lucas: Thank you."

17 "Chairman Luhta: Thank you."

18 "Mr. Galloway: Good catch."

19 Mr. Galloway says, near the end after the vote's all
20 taken, that, "just to say a quick few words about what we did,
21 we agree with you on cluster housing and the detached cluster
22 housing option within that zoning text. You eloquently read
23 statements that I made in the past with respect to preserving
24 the commercial area. I think you can see that we've done
25 that."

26 So you can see that what happened was that the
27 Trustees' intent, clear intent for the Town Hall Neighborhood
28 was not to have the town -- was not to have any residential
29 in. Mr. Lucas was able to catch one of the usage changes but
30 no one caught the fact that the purpose statement left in the

1 words "residential" or "emerging land use patterns." Okay?

2 So with that, you understand that the bar so high is
3 because it's precedent setting if you are changing zoning and
4 that it can allow for spot zoning and, in this case, a brand
5 new residential zoning clarification -- classification and
6 density. And if it's approved, the owner on the north side
7 might also want to take part in this as well.

8 Heather sent over, over the five-year period, the
9 BZA, all your BZA actions and I looked through them and you
10 only had one use permit in the last five years, from what I
11 read, and it was for Walden Development and you did deny that.
12 And the applicant requested a use variance for storage
13 buildings on this property. Use is not a listed use in the
14 Concord Township Resolution. I'd ask that you be consistent
15 with this application before you tonight and also deny it.

16 I did want to tell you and I did explain -- well, we
17 haven't even gone through this one -- that the applicant
18 submitted the very questions that you have tonight, the
19 zoning, to the Zoning Commission, the zoning text, which is
20 what this is based on, the plat that you see before you
21 tonight. And they were -- went through the whole process and
22 the Trustees denied the request. So it already was denied
23 through a rigorous zoning process, looking at everything.

24 So the question is, what is the remedy? So I feel
25 that the property -- proper remedy is that the Zoning
26 Commission do what they started to do on their March 6th
27 meeting. It's an active agenda item still. It was Number 4,
28 work session, Town Hall Neighborhood and Town Hall Commons
29 district. It's been tabled since April though because the
30 applicant has gone through the Zoning Commission, Trustees,

1 and now the Board of Zoning Appeals. The whole idea of the
2 work session is to work through some of the exact things that
3 you're talking about here tonight.

4 And some of those things that, Chris, you mentioned
5 are very valid. What, you know, is a residential use a good
6 residential use? Is it good for both the north and the
7 southern parts of Town -- the Town Hall Center? Is -- What
8 should be the density for residential? Are there any other
9 emerging land patterns we should see? What is the current
10 percentage of housing stock that we have? All of these kinds
11 of things are really critical and they should be addressed
12 through the appropriate body, which is the Zoning Commission
13 and then through to the Trustees because right now, before
14 you, you are acting like the Planning Commission, the Zoning
15 Commission, the Trustees and the Board of Zoning Appeals, in
16 essence, and it's an awful lot to ask of you and I don't think
17 it's really right or fair for people to have that, where I
18 think it would be much better, especially if there is going to
19 be a huge residential zoning change, use change, for this that
20 there be two public hearings, one for Zoning Commission and
21 one for the Trustees, that gets the people plenty of time to
22 discuss and the community to discuss the uses.

23 CHAIRMAN VALENTIC: And we're, Vanessa, we are aware
24 that that's, you know, when that comes to the Board, you know,
25 when we even approve conditional use permits at that time
26 we're approving the site plan that comes with it.

27 MS. PESEC: Yes.

28 CHAIRMAN VALENTIC: So we have to weigh all that and
29 the Board is aware of that.

30 MS. PESEC: Okay, good.

1 CHAIRMAN VALENTIC: Is there anything else you want
2 to add?

3 MS. PESEC: The final is this chart. I did want to
4 just address the density of this proposal as there is some
5 confusion regarding, regarding that. The proposal before you
6 tonight is for single-family detached homes. And so when you
7 look at this, you can see that, in the whole vicinity for
8 single-family detached homes, it is the highest density of
9 all. The properties along Ravenna and the one that was
10 newly -- the couple of acres that was newly zoned is all R-1,
11 which is two homes per acre. All of the Quail Hollow PUD is
12 three homes per acre but requires 40 percent open space. So
13 when you do the calculations, that comes out to like 1.9 homes
14 per acre, very close to two.

15 There is discussion that there are condominiums to
16 the west. That's true. They're not part of Quail Hollow and,
17 again, they are condominiums. They are not single-family
18 homes.

19 CHAIRMAN VALENTIC: Yes. But they are -- yeah,
20 yeah.

21 MS. PESEC: So but they -- So they are different.

22 CHAIRMAN VALENTIC: Yeah, and they're very dense.

23 MS. PESEC: Yes. And so I just wanted to, to have
24 you recognize that those are different.

25 CHAIRMAN VALENTIC: Okay.

26 MS. PESEC: And so for all of those reasons, I ask
27 that you deny the use permit.

28 And, additionally, oh, I have a letter from Denise
29 Brewster, a couple paragraphs on why she feels that this is
30 not an appropriate use and --

1 CHAIRMAN VALENTIC: Who is Denise Brewster?
2 MS. PESEC: Denise Brewster is someone in the
3 community.
4 CHAIRMAN VALENTIC: Okay.
5 MS. PESEC: A resident, a Concord resident.
6 MR. ROWE: Used to be on, used to be on the BZA.
7 CHAIRMAN VALENTIC: Okay. So we --
8 MS. PESEC: So I'd like to submit --
9 CHAIRMAN VALENTIC: You can submit that to --
10 MS. PESEC: -- this for the public record, right.
11 CHAIRMAN VALENTIC: Okay. So she is against it?
12 MS. PESEC: She is definitely against that, yes.
13 CHAIRMAN VALENTIC: All right. Thank you. We will
14 enter that into our record.
15 MS. PESEC: You can pass this, pass this to you so
16 you would have a chance to read it if you can for a second. I
17 won't read it out loud.
18 CHAIRMAN VALENTIC: Yeah. No.
19 MS. JARRELL: So this is why I asked about what had
20 transpired across the street because I knew something happened
21 over there. Mr. Lucas, can you please explain what happened
22 here? There was -- They did change the district; did they
23 not?
24 MR. LUCAS: They didn't change the district. They
25 changed that one parcel, didn't they?
26 MS. JARRELL: Okay. So what, what is this dialogue?
27 What happened here?
28 MR. LUCAS: I can't read it from here.
29 MS. JARRELL: I am sorry. I didn't know you didn't
30 have it.

1 MR. LUCAS: No, I don't.

2 MS. PESEC: That's from the 2009 --

3 MR. ROWE: This is from a 2009 meeting.

4 MR. LUCAS: Oh, okay. They were, yeah, they were --
5 I didn't know what it was until I was able to look at it.

6 So they developed this district and one of the
7 permitted uses within the district was the cluster housing.
8 And it went up, it was a new text amendment, a map amendment,
9 so it went up through the Zoning Commission. It went over to
10 the Planning Commission for review. The Zoning Commission
11 made their recommendations and then it was brought up for a
12 second and required public hearing under 519.12 before the
13 Trustees. And after the public hearing before the Trustees
14 and in voting on the new district, the Trustees modified the
15 original text presented for consideration by striking out the
16 dwelling, the cluster dwelling. So --

17 CHAIRMAN VALENTIC: Hence, the reason we have some
18 conflicting text because they didn't strike --

19 MR. LUCAS: Well, I am not so sure it's a
20 conflicting text. I mean, I understand the argument. That's
21 a purpose clause versus the schedule in the table and that.
22 So, you know, I don't necessarily agree with that but I
23 understand the argument. All right?

24 CHAIRMAN VALENTIC: Okay. Fair enough.
25 Okay. Does the --

26 MR. SWEENEY: I have a question.

27 CHAIRMAN VALENTIC: Yeah.

28 MR. SWEENEY: Ma'am, is your objection, is it
29 centered on the fact that it's a residential use, period, or
30 that the density is too great?

1 MS. PESEC: My objection in front of your Board is
2 that it is not a use, it is not a use variance that should be
3 passed because it does not meet any of the criteria for the --
4 for a use variance mainly because I feel that it is something
5 that, you know, as the state does, should be brought up that
6 the appropriate zoning and -- channel and then the Trustees.

7 MR. SWEENEY: But your concern is also density?

8 MS. PESEC: Yes, it is.

9 MR. SWEENEY: Okay. What if the proposal included
10 eight houses on the eight acres or 16 houses? Do you have a
11 problem with that?

12 MS. PESEC: At the Zoning Commission level, I would
13 not have a problem with it. I would have a problem with any,
14 any proposal that you would try and pass in a use that -- in a
15 use variance before this Board because of the requirements for
16 a necessary hardship.

17 MR. SWEENEY: Okay.

18 MS. PESEC: You know, he has six -- There are six
19 things he would have to pass and none of them are -- does he
20 pass. So in front of the Zoning Commission, I think that
21 probably something that is similar to an R-1, which are two
22 homes per acre, might be something. But, again, it's a
23 question of does the township want to give up the acreage of
24 commercial for residential? It's just a very large question
25 and one that requires a lot of discussion over a lot of
26 bodies.

27 MR. SWEENEY: Thank you.

28 MS. PESEC: No. Thanks for asking.

29 CHAIRMAN VALENTIC: Okay. Thank you. I'm all set.
30 Is the rest of the Board all set?

1 MR. SWEENEY: Yes.

2 MR. LUCAS: Well, wait a minute. There is other --
3 Hold on a minute, please. Hold on a minute, please. I am
4 aware. No shenanigans. You've got to ask other people if
5 they want --

6 CHAIRMAN VALENTIC: Yes, that's where I was going.

7 MR. LUCAS: Okay.

8 CHAIRMAN VALENTIC: I wasn't --

9 MR. LUCAS: All right. It sounded like --

10 CHAIRMAN VALENTIC: I was making sure everyone was
11 set with Vanessa.

12 MR. LUCAS: Okay. All right.

13 CHAIRMAN VALENTIC: Everyone is going to get their
14 chance.

15 MR. LUCAS: All right.

16 CHAIRMAN VALENTIC: So who else would like to come
17 up next to either speak for or against this appeal? Okay.
18 She's quick.

19 MS. WILSON: I will not take up much your time.
20 I've not been sworn in, Heather.

21 CHAIRMAN VALENTIC: Okay. So we will get you sworn
22 in. Please raise your right hand.

23 (Whereupon, Ms. Wilson was sworn in.)

24 CHAIRMAN VALENTIC: Thank you. Now, please, your
25 name and record -- name, address for the record and confirm
26 you've been sworn in.

27 MS. WILSON: My name is Fran Wilson, W-i-l-s-o-n. I
28 live at 11365 Saddlewood Lane in the Hunt Club. I am the
29 treasurer of the Quail Hollow Master Owners Association. And
30 as an officer of that particular board, I am speaking for the

1 304 homeowners who own the adjacent property to the Spear
2 property. We own the common area as a corporation. That is
3 304 homeowners.

4 Our main concern with this variance request is that
5 there will be detrimental drainage issues to not only our
6 common property abutting the subject property but also to the
7 property owners on the Hunting Lake Drive to the south of our
8 common area. We also own the property immediately to the west
9 of them.

10 Mr. Sommers has indicated in his application for a
11 variance that he would like to put in 24 sublots on this
12 property. For every cubic foot of dirt that is removed to
13 install a foundation, a cubic foot of water needs to find a
14 new route. The only hardship that I, who represent the 304
15 homeowners of the abutting property, can see here is that
16 Quail Hollow Master Owners Association will be, once again,
17 inundated with water.

18 The township stormwater district and Lake County
19 spent several hundred thousand dollars in the last couple of
20 years to correct a drainage situation that was very serious in
21 the Hunt Club area. Granting a variance for residential
22 construction of this type may cause the same situation. And I
23 know that there was a Zoning Commission text request and that
24 it was voted down by the Board of Trustees. And, at that
25 time, Trustee Paul Malchesky specifically mentioned the
26 drainage in that particular area, which is very low.

27 So, actually, the property that abuts the Spear
28 property belongs to the entire Quail Hollow Master Owners
29 Association PUD. So thank you very much for considering it.

30 CHAIRMAN VALENTIC: Thank you.

1 MR. MARKOWITZ: Can I ask her a couple questions?

2 MR. LUCAS: He's allowed to cross-examine the
3 witnesses.

4 CHAIRMAN VALENTIC: Okay.

5 MR. LUCAS: Under the Ohio Revised Code.

6 MR. MARKOWITZ: Was there an association board
7 meeting authorizing you to speak on their behalf?

8 MS. WILSON: Yes, there was.

9 MR. MARKOWITZ: And did they vote on this request?

10 MS. WILSON: We've discussed it at our meetings.

11 MR. MARKOWITZ: Was there a vote taken to --

12 MS. WILSON: Not necessarily, sir, no.

13 MR. MARKOWITZ: Okay. And on what basis do you
14 believe or what engineering studies or information do you have
15 to believe that the stormwater retention that we will install
16 on site will be inadequate to provide for stormwater
17 management?

18 MS. WILSON: Mr. Markowitz, my consideration here is
19 not your retention basin or what you might do. My
20 consideration here is that you're requesting a variance which
21 could, could possibly pose a hardship to our homeowners'
22 association.

23 MR. MARKOWITZ: Okay. But that's what I'm asking
24 you.

25 MS. WILSON: I do not need to provide you with an
26 engineering study.

27 MR. MARKOWITZ: No, but you're telling the Board you
28 are worried about the draining. And I'm asking you --

29 MS. WILSON: That's an opinion.

30 MR. MARKOWITZ: Okay. But I'm asking you, have you

1 had an analysis done of our stormwater --

2 MS. WILSON: Of course not. I haven't done an
3 analysis because you don't have a plan that's been approved
4 yet. How could you possibly do an analysis on an unapproved
5 plan?

6 MR. MARKOWITZ: Fine.

7 MS. WILSON: Thank you.

8 MS. JARRELL: Ma'am, I do have a question for you.

9 MS. WILSON: Yes?

10 MS. JARRELL: If it was, say, an assisted living
11 facility that was being proposed there, would you have the
12 same statement?

13 MS. WILSON: Most likely not only because it would
14 probably most likely not have 24 foundations that are being
15 dug and dirt that is being removed that is already absorbing
16 water. I mean, we had nothing but trouble up there in the
17 Hunt Club over the years until many hundreds of thousands of
18 dollars were spent to correct that. So that's our main
19 concern because we do represent the homeowners' association.

20 MS. JARRELL: So is there some kind of letter or
21 anything from the majority of the homeowners that are --

22 MS. WILSON: Well, that's a very difficult thing to
23 do because that would take probably two or three months to get
24 here and that was not an option. Heather did provide the
25 homeowners' association with a letter, which unfortunately --
26 through no fault of Heather's own -- did not get to us until
27 two days ago. So thank you very much for your consideration.

28 CHAIRMAN VALENTIC: Thank you.

29 Sir?

30 MR. GLIEBE: Good evening. It's been a long

1 evening. My name is Ron Gliebe, 7223 Hunting Lake Drive. I
2 have been sworn in. Fran Wilson spoke to most of my concerns.
3 We are one of the 12 neighbors who abut the common area that
4 abuts Spear's property. As far as I know, none of those
5 neighbors were talked to by Mr. Sommers. I may be wrong. I
6 was not talked to. There is three or four other neighbors
7 here that live on those 12 homes that abut Mrs. Spear's
8 property. I don't think any of them were talked to about
9 his -- what his statement was.

10 To continue with what Fran was saying, our biggest
11 concern as homeowners is indeed, if that property is developed
12 with the high density kind of homes chewing up the majority of
13 the land, we will be inundated with flooding water.

14 CHAIRMAN VALENTIC: Mr. Lucas, tell me if I am
15 stepping out of bounds. I understand the drainage issues. We
16 have them all over Concord Township.

17 MR. GLIEBE: Okay.

18 CHAIRMAN VALENTIC: And I don't -- We understand
19 that's a concern. We are not here to address the drainage
20 issue. That would have to be done separately by, you know,
21 the engineers to make sure that there is no impact. So we are
22 here just do talk about the land use and --

23 MR. GLIEBE: Who would do that, sir?

24 CHAIRMAN VALENTIC: That goes through the review
25 process when they submit their plans for, for the improvements
26 that --

27 MR. GLIEBE: Does stormwater management get involved
28 in that?

29 CHAIRMAN VALENTIC: Stormwater management, the
30 county engineer, all those folks get involved with that. So

1 we're here to understand what the hardships are for -- or if
2 they've proven a hardship to use the land for something that
3 is not specifically dictated in our code and if you support or
4 don't support it, and why, and tie it to --

5 MR. GLIEBE: I don't support it because my concern
6 is that we will be inundated with flooding problems.

7 CHAIRMAN VALENTIC: Okay.

8 MR. GLIEBE: Enough said?

9 CHAIRMAN VALENTIC: Enough said. Perfect.

10 MR. KOHUT: I was going to say the same thing.

11 MS. JARRELL: Of you want to be on the record, sir,
12 you need to --

13 CHAIRMAN VALENTIC: You've got to get up there
14 and --

15 MR. KOHUT: Bill Kohut, I live at 7243 Hunting Lake
16 Drive. And the last commissioners' meeting, we did talk and
17 it was all negative about this housing development, which you
18 made it sound like we approved of it. But the reality of it
19 is, I moved here to have a small lot. I just couldn't imagine
20 three houses per acre, with cement to the left, to the right,
21 north, south. As a senior citizen, which I am, I wouldn't
22 want to life there.

23 CHAIRMAN VALENTIC: I'm sorry. You --

24 MR. LUCAS: Sir, you were already sworn in, right?

25 MR. KOHUT: Yes.

26 MR. LUCAS: Okay. I just wanted to get it for the
27 record.

28 CHAIRMAN VALENTIC: Thank you.

29 MR. KOHUT: And, again, you know, it's a matter of
30 taste. I think it would look awful.

1 CHAIRMAN VALENTIC: All right. Thank you, sir.

2 MR. KOHUT: A couple houses per acre would be a
3 different kind of --

4 CHAIRMAN VALENTIC: Okay. Understood. Okay. You
5 have waited patiently.

6 MS. DELBANE: I am Jeanette DelBane. I live at
7 11411 Labrador Lane. I was at the Trustees' meeting. I spoke
8 at length against this project.

9 CHAIRMAN VALENTIC: And you've been sworn in, ma'am?

10 MS. DELBANE: Yes, I have been sworn in.

11 CHAIRMAN VALENTIC: Thank you.

12 MS. DELBANE: I will speak briefly against this in a
13 moment. I have some questions that might sound off the wall
14 to the Zoning Board. At the meeting of the Trustees, it was
15 mentioned that grave sites were found on this property. If
16 that is the case, and if that is true as it was presented at
17 the township meeting, what are the rules, what are the
18 regulations for the development of a property that has, that
19 has grave sites on it?

20 And where? It was not, not presented to us in great
21 detail. Where, if there are grave sites on this property,
22 where are the grave sites? What are the rules and regulations
23 regarding the development of a grave site?

24 CHAIRMAN VALENTIC: Mike, do you want to answer
25 that?

26 MR. LUCAS: Well, I was at that Trustees' meeting,
27 too, and I don't think it was stated definitively there were
28 grave sites on the property. I think --

29 MS. DELBANE: Well, it was mentioned.

30 MR. LUCAS: It was, absolutely, somebody mentioned

1 that they had heard --

2 MS. DELBANE: No, that they had actually seen them.

3 MR. ROWE: They're shown on the drawing.

4 MR. LUCAS: Oh, really?

5 MS. JARRELL: Three headstones.

6 CHAIRMAN VALENTIC: So, Mike, what --

7 MR. LUCAS: Oh, no. It shows existing headstones,
8 yeah.

9 MS. DELBANE: All right. So it was not discussed at
10 length. I would like to know, where are the headstones on
11 that property? How does that --

12 MR. LUCAS: It's identified on the map.

13 MS. DELBANE: How does that affect any development
14 of that property?

15 CHAIRMAN VALENTIC: That development would be above
16 and beyond what we do. That would -- They would have to
17 follow separate regulations.

18 MR. LUCAS: Whatever -- Yeah. The Board of Zoning
19 Appeals doesn't have any regulatory authority over that.

20 MS. DELBANE: Well, but my point would be here, the
21 Board of Zoning Appeals would be making some decisions there
22 without having any, any further facts regarding this that
23 might affect this property and the development of it. So
24 nobody here can, can give me any further information?

25 MR. LUCAS: Well, this map here from Polaris
26 identifies three headstones by location, to answer the first
27 part of that.

28 MS. DELBANE: Okay. But where on the property?

29 MR. LUCAS: I am saying, it's on this map right
30 here.

1 MS. DELBANE: Okay. But nobody in the community has
2 seen the map. I have not seen the map.

3 MR. LUCAS: Well, you are welcome to come up and
4 look at it right now.

5 MS. DELBANE: Can I? Can I come up and see it?

6 MR. LUCAS: Absolutely.

7 MS. DELBANE: Okay.

8 CHAIRMAN VALENTIC: Heather has one right there for
9 you.

10 MS. DELBANE: Heather has one? So this corner back
11 here, okay. And then this right here would be the nursery.
12 That would be the nursery. So it's back there, so that would
13 have no real bearing on it then. Okay. That was, that was
14 the question I had because it had been mentioned in --

15 CHAIRMAN VALENTIC: Sure.

16 MS. DELBANE: -- in passing and I wanted to know.

17 Now, I am going to speak very briefly. I spoke at
18 length at the Trustees' meeting. I am going to get to the
19 nitty-gritty. The request for the variance, the 24 homes on
20 nine acres, three homes per acre, 15 percent open space, that,
21 point blank, is just a maximization of profit for the
22 developer. It would be nice if we could have some homes
23 there. I know there are people here who would prefer to keep
24 it commercial. But if we had homes, two per acre with, with
25 more open space, I don't think anybody in the Hunt Club would
26 object because, when you get the maximum 24 homes on nine
27 acres, you are dealing with water problems. I mean, that's
28 just -- There is water problems there now.

29 So perhaps the developer in question, maybe he ought
30 to go back and maybe think a little bit more, well, maybe I

1 can get this through if I only do fewer houses, if I have more
2 open space. The plan presented right here, right now is
3 really just a maximization of developer profit. And I really
4 don't think that should, should be a reason for going ahead
5 with this zoning. I think something else can be done with
6 this property that would be much nicer. You can put smaller
7 homes, you can put cluster homes, but you can have open space,
8 you can have a much nicer development.

9 CHAIRMAN VALENTIC: There's a lot of things they
10 could do with the parcel but what we have to vote on is, you
11 know, have they shown a hardship? And then they're making
12 this the condition. We are not. So if this is the condition
13 that they're proposing, this has to be also included in our
14 approval. So if we all agree on what they're presenting or
15 disagree or whatever, it's not just the, the hardships but
16 it's also the plans. So that's going to be up to this Board
17 to determine if we feel like that's the best that they can do
18 or can't do on that property. Unfortunately, that's in front
19 of us now.

20 And we understand your opinion and happy to hear it
21 but, I mean, they've already presented it and we've, kind of,
22 got to vote on what they suggested that they want to do there.

23 MS. DELBANE: Well, and I am suggesting that what
24 they want to do is not the best possible thing that they can
25 do and that is my objection to it.

26 CHAIRMAN VALENTIC: Okay. Thank you very much.
27 Okay. Who is next?

28 MR. MARLOWE: I've been sworn in. My name is
29 Richard Marlowe. I live at 7282 Hunting Like Drive. I am a
30 certified residential real estate appraiser living in the

1 neighborhood. I am also on the board with Fran for Hunting
2 Lake. And I am confirming what our meeting was about, that
3 Fran, as well as the rest of the board, discussed this and
4 came to the same conclusions that Fran stated.

5 I agree with everyone who has spoken. I also am
6 looking at high density units that are backing up to Concord-
7 Hambden Road, that are also backing up to our properties.
8 And, again, it's a utilization of the land that is at the
9 highest possible density. And I think, if it's going to go
10 residential, it should be at a higher density -- or a more
11 land density, put it that way. And there is plenty of need
12 for one acre parcels or half acre parcels.

13 The houses that are selling right now in this area
14 are selling within 20, 30, 40 days. As Chris can say, it
15 doesn't matter if it's one acre, two acres, three acres.
16 There is a need for housing. So this housing at this density
17 is going to affect the look of that neighborhood, as well as
18 the look of our Hunting Lake neighborhood. And that's all
19 that I have.

20 CHAIRMAN VALENTIC: All right. Thank you, sir.

21 MR. WEIGAND: Good evening, all. Bill Weigand, from
22 11895 Girdled Road. With all of the conversation --

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

24 MR. WEIGAND: I was sworn in, yes.

25 CHAIRMAN VALENTIC: Thank you.

26 MR. WEIGAND: With all of the conversation going on
27 about this development, I haven't heard one word about how the
28 sewage is going to be handled. And from what I've heard,
29 there is plenty of water there and it's all over Concord.
30 We're inundated with springs. It sounds to me like there is

1 going to be storm sewers involved.

2 And I represent the church here and we have spent a
3 bundle on our -- we can, we could, we were -- put in a
4 facility there that would, that would handle a small factory,
5 the thing that we had to put in, our septic system there. But
6 I am concerned now. What happens with all of these, if there
7 is 21 or 24 or whatever? They develop a lot of water and
8 you've already got surface water. So I am really concerned
9 about what happens with that.

10 I don't think we need another restaurant. I would
11 rather see one or two homes on that or how many homes are you
12 representing?

13 AUDIENCE MEMBER: Twenty-four.

14 AUDIENCE MEMBER: They want 24.

15 MS. WILSON: They want 24.

16 MR. WEIGAND: No. How many are you representing?

17 MS. WILSON: Three hundred and four.

18 MR. WEIGAND: Three hundred and four. It might
19 behoove them to buy that property and end this whole thing.

20 CHAIRMAN VALENTIC: Yeah. Just, Mike, for the
21 record, any stormwater, sanitary issues, all that stuff,
22 they're going to -- I mean, we approve the land use and we
23 approve the plan. They are going to have to go through other
24 approvals to get that stuff approved by other folks.

25 MR. LUCAS: That's correct.

26 CHAIRMAN VALENTIC: All right. I just wanted to
27 make sure everyone is clear.

28 MR. LUCAS: That's correct.

29 CHAIRMAN VALENTIC: Okay. Anybody else? All right.
30 Come on up.

1 MS. GLIEBE: I've been sworn in. Donna Gliebe,
2 7223 Hunting Like Drive. I just want to back up what my
3 husband was talking about.

4 CHAIRMAN VALENTIC: Sure.

5 MS. GLIEBE: He says I shouldn't show you this but I
6 am going to anyway. These are pictures that we took of what
7 is behind our properties on Hunting Lake Drive. And you are
8 welcome to look at them if you like. But that's a big concern
9 of ours.

10 CHAIRMAN VALENTIC: Yeah, I bet. Those pictures are
11 pretty dramatic.

12 MS. GLIEBE: I had to tell you that.

13 CHAIRMAN VALENTIC: Yeah.

14 Is there anybody else that would like to come up and
15 add anything to the conversation we've had this evening from
16 the public?

17 MR. MARLOWE: Can I just add one thing that I didn't
18 say?

19 CHAIRMAN VALENTIC: Sure. Come on up again.

20 MR. MARLOWE: It's just, as I was thinking about it,
21 I just don't believe they proved their hardship. That's --
22 They haven't. All that they've done is say that this is
23 something that we can do and that laundry can't go in there
24 and this can't go in there and that can't go in there, but
25 they haven't really proved a hardship. Thank you.

26 CHAIRMAN VALENTIC: All right. Thank you, sir.

27 Anybody else from the public want to say saying
28 anything? Mr. Sommers, is there anything else that you want
29 to add before we close this to the public, or legal counsel?

30 MR. SOMMERS: No.

1 CHAIRMAN VALENTIC: No.

2 MR. LUCAS: Dale, did you want to add anything --

3 CHAIRMAN VALENTIC: If so, come on up and just --

4 MR. LUCAS: -- in response?

5 MR. MARKOWITZ: The only thing that I would add is
6 that, if we were trying to maximize profit or development, we
7 could have gone with a higher density development or townhomes
8 or something like the property near us that's eight to the
9 acre. It's not our intent. Mr. Sommers and I had a number of
10 conversations, why 24 units? And, essentially, it is that
11 this project, with the streets you have to put in, the
12 utilities and stormwater retention, it's not profitable unless
13 you have that kind of density.

14 My firm, which I'm very proud of, did the
15 development for all of Quail Hollow. We represented the
16 original developer for decades. And the development and the
17 density here is no different than the overall density.

18 The lady had indicated -- I forgot her name -- that
19 you had 40 percent devoted to open space. That's true because
20 of the golf course. But you still had overall density of
21 three units per acre. So we're not asking for anything
22 different. Thank you.

23 CHAIRMAN VALENTIC: Okay. Thank you.

24 All right. If there's no further questions, the
25 public hearing for Variance Number 2018-32 is now closed to
26 the public. I am going to entertain a motion to approve
27 Variance Number 2018-32.

28 MS. JARRELL: So moved.

29 MR. HAMILTON: So moved -- second.

30 MR. SWEENEY: Second.

1 CHAIRMAN VALENTIC: Okay. We got a second and a
2 third. All right. It's open for discussion of the Board. I
3 don't know. I want to try to organize the discussion and not
4 have a free-for-all. You guys tell me how you want to handle
5 this. We can take turns. One thought I had is maybe we kind
6 of go through these list of items and talk through them first
7 and, as a Board, kind of weigh in what other people kind of
8 think.

9 MR. HAMILTON: So that would be the eight items
10 under the use variance.

11 CHAIRMAN VALENTIC: Yeah.

12 MR. ROWE: Right.

13 CHAIRMAN VALENTIC: Then, after that, maybe we just
14 then start a conversation.

15 MR. HAMILTON: Sure.

16 CHAIRMAN VALENTIC: Okay. So I am going to read
17 them and then if somebody wants to chime in first and then
18 others can agree or disagree. So may the property be used for
19 any other use permitted in that zoning classification
20 district?

21 MS. JARRELL: Yes.

22 MR. ROWE: Yes.

23 CHAIRMAN VALENTIC: Okay. I think I agree with
24 that.

25 Is the request for the use variance due to unique
26 circumstances particular to the property and not to the
27 general neighborhood conditions?

28 MR. ROWE: No.

29 MS. JARRELL: No.

30 MR. HAMILTON: I would say no.

1 CHAIRMAN VALENTIC: Okay. Will the essential
2 character of the neighborhood be substantially altered or will
3 adjoining properties suffer a substantial detriment if the
4 variance is granted?

5 MS. JARRELL: No and yes.

6 MR. HAMILTON: Yeah, I'm not sure. I'm not sure we
7 can definitively --

8 MS. JARRELL: Right.

9 CHAIRMAN VALENTIC: That's a tough one.

10 MS. JARRELL: Yeah, it is a tough one.

11 CHAIRMAN VALENTIC: Because we don't know what
12 the --

13 MR. HAMILTON: Right.

14 CHAIRMAN VALENTIC: -- you know, which trees are
15 being saved and what's being put back in place.

16 MS. JARRELL: Right.

17 MR. ROWE: Indefinite maybe.

18 CHAIRMAN VALENTIC: Yeah. You know, there may be
19 other uses that could be more detriment, too, than even the
20 residential.

21 MS. JARRELL: Correct.

22 CHAIRMAN VALENTIC: You know, if they build
23 something, too. So, okay, we are kind of --

24 MR. ROWE: Is the problem self created?

25 CHAIRMAN VALENTIC: Yeah. Is the problem self
26 created?

27 MS. JARRELL: Yes.

28 MR. HAMILTON: Yes, it is.

29 MS. JARRELL: Yes.

30 CHAIRMAN VALENTIC: Will the variance adversely

1 affect the delivery of government services?

2 MS. JARRELL: No.

3 MR. ROWE: No.

4 CHAIRMAN VALENTIC: Did the property owner purchase
5 the property with the knowledge of the zoning restrictions?

6 MR. ROWE: Well, he hasn't purchased it.

7 CHAIRMAN VALENTIC: Well, he hasn't purchased it but
8 he knows.

9 MS. JARRELL: He's doing his due diligence now.

10 CHAIRMAN VALENTIC: Yeah. And he's saying that he
11 has this, so --

12 MR. HAMILTON: So the answer is yes.

13 CHAIRMAN VALENTIC: So he understands that he has to
14 go through this process.

15 Can the applicant's predicament feasibly be resolved
16 through some other method than a variance?

17 MS. JARRELL: Change of zoning.

18 CHAIRMAN VALENTIC: Change of zoning.

19 Will the variance preserve the spirit and intent of
20 the Zoning Resolution and will substantial justice be done by
21 granting the variance?

22 MS. JARRELL: I hate that question.

23 CHAIRMAN VALENTIC: Yeah. It's --

24 MR. HAMILTON: Yeah.

25 CHAIRMAN VALENTIC: You know, you know, it sounded
26 like residential wasn't intended to be in there but, you know,
27 we don't -- that was back in 2009. We don't know if maybe,
28 maybe residential, you know, if they went back and looked at
29 the zoning code, maybe that would be a better use for that
30 one. I struggle with that one myself.

1 MR. HAMILTON: Part of the argument was, you know,
2 in 22.01, the purposes, it does mention residential but --

3 CHAIRMAN VALENTIC: The table.

4 MR. HAMILTON: But, yeah, does that trump 22.02, the
5 actual specific uses that are spelled out?

6 MR. LUCAS: I understand the argument. As I said
7 earlier, the table provides the permitted uses and the
8 conditional uses. The purpose clause is the purpose clause.
9 All right? So --

10 MR. HAMILTON: So it's not only the purpose --

11 MS. JARRELL: They should -- But they should
12 coincide though, I mean.

13 MR. HAMILTON: Well --

14 MR. LUCAS: Well, it provides for additional
15 amendments to the Town Hall.

16 MR. HAMILTON: Right. But it's even not only the
17 purposes that are listed but also other purposes that aren't.

18 MR. LUCAS: Right. Well, in the future that have to
19 be added to the table then.

20 MR. HAMILTON: It doesn't have to be in there.

21 MR. LUCAS: The table provides the schedule of uses
22 that are permitted either by right or by conditional use.

23 CHAIRMAN VALENTIC: So this is the one. So, again,
24 I struggle with that because it probably is a no, but I don't
25 know if the spirit and the intent is still what the township
26 probably envisions for that area. They did change the area to
27 the north to residential, so maybe residential, if we went
28 back and looked at it, maybe would be -- I mean, I think if
29 you technically look at it, it's kind of a no.

30 MR. HAMILTON: I agree with that.

1 MS. JARRELL: I agree.

2 CHAIRMAN VALENTIC: Okay. You know, the other thing
3 with these bullet points -- And I know I struggle. We kind of
4 talk about them when we think about them. Some are weighted
5 differently than others as well, you know. So a yes for, Does
6 it impact, does it impact government services is a no,
7 probably isn't as important maybe as some of the other ones.
8 So I just tell the Board maybe keep that in mind as we, we
9 think of these.

10 So can the property be used permitted for -- used
11 for other permitted service -- zoning classification
12 districts? Yes.

13 You know, is it a unique circumstance? No.

14 The character of the neighborhood? Maybe.

15 You know, is the problem self created? Yes.

16 Will the variance -- government services? No.

17 Did the property purchase -- no, yes. He knew that
18 this was going to be an issue.

19 Feasible to resolve? He could, yes, through a
20 zoning change.

21 Will the variance preserve the spirit and intent of
22 the zoning code? I think, no, but, I mean, I'm kind of iffy
23 on that one.

24 So, I mean, I just wanted to say one thing from my
25 perspective on the Board. And we hear the drainage thing all
26 the time. And I know I live in Concord. I have plenty of
27 drainage issues myself that I deal with on a daily basis. And
28 is this project going to create, you know, change to drainage?
29 Any development would, in my opinion, impact drainage in the
30 area. But is that a hardship for not approving this project?

1 Me, personally, I don't think so. I think, you know, if we do
2 approve it, again, the stipulations is that they need to go
3 through all the approvals through engineering and stormwater
4 to handle those issues and address them so folks aren't
5 affected in the future and currently affected. Just something
6 I heard and it kind of jumped out at me.

7 And the one, Chris, that jumped out at me, too, that
8 I heard, one of the comments I wrote down, the need for
9 housing, I get it. There is a need for housing and there is
10 plenty of housing, but I don't know. It sounds like there's a
11 need for this type of housing and we don't have this type of
12 housing. So, I mean, I don't know if that's a hardship that
13 there is plenty of housing either.

14 MS. JARRELL: Well, I think that you hit it right on
15 the head. I mean, I think we were asking Mr. Sommers, from
16 his initial presentation, what is the hardship? And really in
17 granting a use variance, we really have to hone in on that.
18 That's the underlying factor here. You know, that's, in my
19 opinion, that's the most important thing in looking at these,
20 at these factors. And I don't, I don't know that the hardship
21 is there.

22 And there is nothing wrong with making a profit. I
23 just want to be clear about that. There is nothing wrong with
24 it.

25 CHAIRMAN VALENTIC: No.

26 MS. JARRELL: Personally, I don't like this
27 district, this zoning district at all. I don't think it bears
28 well. So I get it. I totally get it. I know the market
29 factors are for a residential district but I also get the
30 drainage thing. We've had that in here so many times. But

1 will -- A commercial development is going to have the same
2 kind of effect. So we're always going to be, you know,
3 discussing this.

4 CHAIRMAN VALENTIC: Here is the --

5 MS. JARRELL: Always.

6 CHAIRMAN VALENTIC: Here is the other wrinkle that I
7 am going to throw out to the Board. I mean, I'm not opposed
8 to a residential district here but what I am having a hard
9 time with, I am having a hard time approving this plan, and I
10 really am, just from looking at it and what can be done there.
11 That's -- and we're -- That's part of our approval,
12 unfortunately, for this Board right now is not only approving
13 residential but approving this residential district, this
14 layout, with the restrictions that they've, kind of, they've
15 put out there that they're going to put on there.

16 And when we get into this zoning code and that there
17 isn't specific requirements for it because it wasn't an
18 intended use there, then it falls on us, or Mr. Sommers has
19 done it for us here, to say these will be the restrictions or
20 this will be the zoning that we're going to follow. I don't
21 know if this is the best zoning to follow for this area or
22 not, and I'm not sure if I know if this is the best zoning to
23 follow for this new type of use that you're developing. And
24 it may be but I am not a hundred percent sure of that, and
25 that's kind of where I struggle with it.

26 MR. ROWE: One drawback to the, just to the overall
27 look of it is all the houses on Concord-Hambden are the back
28 yards, just a little untraditional.

29 CHAIRMAN VALENTIC: Yeah, but we --

30 MS. JARRELL: I mean, there is developments going in

1 all over. It's always somebody's front yard, back yard. I
2 mean, you always have that issue.

3 CHAIRMAN VALENTIC: Where is the area over, the
4 area -- What's it's called, Aria's Way.

5 MS. JARRELL: It's mostly residential over there.

6 CHAIRMAN VALENTIC: And it's not great, Jim, but we
7 don't know and we can add the stipulation that they've got to
8 do something about that if we want to approve this. Again,
9 that's where we are getting into design specifics on the
10 Board.

11 MR. ROWE: Well, as I say, this -- I don't agree
12 with it, that exists in a lot of areas. It's mostly more
13 traditional, the backs of houses.

14 CHAIRMAN VALENTIC: But there's a couple areas on 84
15 where we do see this in Concord. And I agree, it's not the
16 greatest appearance we want from a road for a subdivision, in
17 my opinion, but this is what we're going to get if we approve
18 it.

19 MR. ROWE: Right.

20 CHAIRMAN VALENTIC: And unless you add a stipulation
21 in here, unless we add a stipulation that says the yards can't
22 back to it or we've got to have landscaping, I don't know if
23 we want to get into writing --

24 MR. ROWE: No, no.

25 CHAIRMAN VALENTIC: -- stipulations and zoning code.

26 MR. LUCAS: You're not, you're not able to do a
27 stipulation without the consent.

28 CHAIRMAN VALENTIC: And we would need consent on top
29 of it.

30 MR. ROWE: Yeah, you know, handle it with a little

1 -- okay.

2 CHAIRMAN VALENTIC: There's a lot of conversation
3 from the audience. I don't know, you know. I don't want to
4 kind of run this whole thing here but I want to see what
5 everyone else on the Board thinks.

6 MR. ROWE: I mean, certainly, the drainage things,
7 I mean, that could --

8 CHAIRMAN VALENTIC: Well, yeah, you've been through
9 it.

10 MR. ROWE: I can talk to that. But the thing is
11 that you -- that that's not our purview. I mean, it's up to
12 the stormwater and all the other people to take care of that
13 part it if this goes, you know, through approval. But I say,
14 it's a converted situation. There is drainage but now,
15 hopefully, with stormwater involved and county engineer
16 involved and so forth, it will be less and less. But that's
17 neither here nor there.

18 So I say there is certainly, I mean, it's, at some
19 time, point, there are other uses for this property. It's
20 been allowed. I mean, whether, whether more traffic is going
21 to change things sometime and whatever --

22 CHAIRMAN VALENTIC: Okay. Skip, anything you want
23 to add?

24 MR. SWEENEY: I just, unfortunately, I think this
25 hardship is primarily self created.

26 MR. HAMILTON: I'll just echo that. I mean, I don't
27 think we have to drag it on.

28 CHAIRMAN VALENTIC: Okay. Chris, do you want to add
29 anything.

30 MS. JARRELL: I mean, yeah, I have to, as much as I

1 don't want to, I do agree with that.

2 CHAIRMAN VALENTIC: Yeah, yeah.

3 MR. SWEENEY: Take a vote?

4 CHAIRMAN VALENTIC: Yeah. So the question then is
5 on the approval of my missing sheet on Variance Number
6 2018-32. A yes vote approves the variance for the land
7 permit, a no vote denies the variance for the land use permit.
8 Heather, please call the --

9 MR. LUCAS: Well, hold on a minute because I want to
10 make sure this is on the record in terms of what you are
11 voting for. This is a use variance based specifically on what
12 the applicant has presented regarding the development that he
13 intends to put in there.

14 CHAIRMAN VALENTIC: So, yes, Mike, thank you. I
15 jumped the gun there. So the question is on approval of
16 Variance Appeal Number 2018-32, with the stipulation that the
17 plan, if approved by the appropriate agencies, would be based
18 on the conceptual plan provided today in the meeting and
19 the -- What do we want to call these?

20 MR. LUCAS: And the conditions and the modifications
21 that the applicant presented to the Board in conjunction
22 therewith.

23 CHAIRMAN VALENTIC: Okay. Just what Mike said.
24 Okay? A yes vote is for the approval of this variance, a no
25 vote denies the variance.

26 MR. ROWE: That's what he gets the big bucks for.

27 MS. FREEMAN: Mr. Rowe?

28 MR. ROWE: No.

29 MS. FREEMAN: Ms. Jarrell?

30 MS. JARRELL: No.

1 MS. FREEMAN: Mr. Sweeney?

2 MR. SWEENEY: No.

3 MS. FREEMAN: Mr. Hamilton?

4 MR. HAMILTON: No.

5 MS. FREEMAN: Mr. Valentic?

6 CHAIRMAN VALENTIC: No. Your variance has been
7 denied. Thank you for spending the time and coming in this
8 evening.

9 MR. MARKOWITZ: Thank you.

10 CHAIRMAN VALENTIC: Okay. Next on the agenda is
11 approval of the minutes. I call for a motion to approve the
12 minutes from May 9, 2018.

13 MR. ROWE: So moved.

14 CHAIRMAN VALENTIC: Second? Is there a second?

15 MR. HAMILTON: Second, second.

16 CHAIRMAN VALENTIC: Okay. I wasn't there. Is there
17 any discussion regarding the minutes, additions or deletions,
18 Jim?

19 MR. ROWE: No. I read them all. They're fine.

20 CHAIRMAN VALENTIC: Okay. The question then is on
21 the approval of the minutes from May 9, 2018.

22 MS. JARRELL: For the record, I was not at the
23 meeting.

24 CHAIRMAN VALENTIC: Okay. A yes vote approves the
25 minutes, a no vote denies it. Chris is going to abstain.

26 MS. JARRELL: Correct.

27 CHAIRMAN VALENTIC: So then I will abstain from the
28 vote as well. All in favor of approving the minutes as
29 written, say "aye."

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

1 CHAIRMAN VALENTIC: Okay. The minutes have been
2 approved. Thank you. The Concord Township Board of Zoning
3 Appeals meeting for June 13th is now closed.

4 (Whereupon, the meeting was adjourned at 9:59 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 3rd day of July 2018.

Melinda A. Melton
Registered Professional Reporter

Notary Public within and for the
State of Ohio

My Commission Expires:
February 4, 2023