

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

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

October 9, 2019
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

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

Also Present:

Mike Lucas, Esq., Legal Counsel
Heather Freeman, Planning & Zoning Director/Zoning
Inspector
Marty Pitkin, Assistant Zoning Inspector

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

1 7:00 p.m.

2 CHAIRMAN VALENTIC: Good evening. The Concord
3 Township Board of Zoning Appeals meeting for October 2019 is
4 now in session. I would like to introduce my board. To my
5 left is Skip Sweeney and Brandon Dynes. I am Ivan Valentic.
6 To my right is Todd Golling and Blair Hamilton. To our far
7 right is Heather Freeman, our zoning inspector.

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

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

12 CHAIRMAN VALENTIC: Thank you. Please be seated.
13 When presenting your case and commenting, please come up to
14 the microphone and also state your name and address for the
15 record. Okay?

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

18 MS. FREEMAN: Yes, they were.

19 CHAIRMAN VALENTIC: All right. Thank you.

20 We have two variances tonight and we have some Old
21 Business. A three-vote majority is required to either approve
22 or deny a variance.

23 First, for Old Business, is Appeal Number 2018-41,
24 Mr. Randy Viviani, of 7757 Concord LLC, has requested that
25 that appeal be postponed to the next month. So we're going to
26 table that and continue that table and see when that comes
27 back. Hopefully, get that resolved sometime soon.

28 For New Business, we have Variance Number 2019-51,
29 Ms. Cynthia M. Albert is requesting a variance from
30 Section 34.04(A)(1) to allow a six foot high fence in the

1 front yard, in lieu of the maximum four foot, for the property
2 located at 7220 Morley Road.

3 Please come up and present your case.

4 MR. ALBERT: First, thanks for having us today. My
5 name is John Albert and my wife, Cindy. We're at 7220 Morley
6 Road.

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

8 MR. ALBERT: I have.

9 CHAIRMAN VALENTIC: Thank you.

10 MR. ALBERT: The variance we're asking for, pretty
11 much, I outlined it in the application for the variance. And,
12 simply, we're asking for six foot white vinyl fence as opposed
13 to four foot. I personally consider the fence on the sideline
14 but, technically, I believe that, because it's the front of
15 the house to Morley, it's considered the front yard. So for
16 that portion, again, we're asking from six foot to four foot.

17 There is no impede on any safety forces. There is
18 no sight line issues on Morley Road whether you're coming from
19 the east or the west. The fence is perpendicular to Morley.
20 So, technically -- or not technically -- it only affects two
21 properties that abut us, and for those properties it's their
22 very back yard. And if it were their fence in the same exact
23 spot, it would not require a variance. We took some pictures.

24 CHAIRMAN VALENTIC: And real quick -- Sorry. I
25 don't mean to interrupt.

26 MR. ALBERT: No. Go ahead.

27 CHAIRMAN VALENTIC: I want to just put into the
28 record, before the meeting, we got a -- We did receive an
29 email from Richard Peterson on Friday, October 4th, sent to
30 Heather in regards to this variance. In the letter, Rich and

1 Janet are supportive of your variance and their neighboring
2 property.

3 MR. ALBERT: Oh, thank you.

4 CHAIRMAN VALENTIC: This will be entered into the
5 record as part of your appeal.

6 MR. ALBERT: I appreciate that. I don't know who
7 they are but tell them thanks.

8 I did take some pictures. It's kind of hard to see
9 from here. If you want to see them, I could put them on the
10 easel, or if you want to pass them around, it might be a
11 little easier. What I tried to show was that fence,
12 basically, only affects the two properties whose back yard it
13 abuts to. So I can do it better way, whatever is easier for
14 you, if you wanted to take a look at it, if you don't want to
15 take a look at it.

16 MR. HAMILTON: Well, you went through the trouble,
17 yeah, put it on the easel for us, yeah. Thank you.

18 MR. ALBERT: So, clockwise, I tried to coordinate
19 the arrows that Heather gave us. So picture Number 1 would be
20 over here and that starts the variance, would be the west
21 southern end of the property, so going around. I just want to
22 try to show that the property really does only affect those
23 two back yards. So you can see in here, this is the very
24 back, and then the far right side of the property is just open
25 land and the pond.

26 MR. HAMILTON: And that fence only extends for a
27 portion of the property line.

28 MR. ALBERT: It does. It's a total of about 150
29 feet. About 100 feet would be what would be considered, per
30 your guidelines, the frontage of the house. The rest would be

1 considered sideline up to the front of the house.

2 CHAIRMAN VALENTIC: Any other questions from the
3 Board? Skip?

4 MR. SWEENEY: Where is your front porch?

5 MR. ALBERT: Our front porch faces Morley Road
6 entirely.

7 MR. SWEENEY: Okay.

8 MR. ALBERT: So our front porch would run parallel
9 to Morley Road. The fence runs perpendicular to Morley Road.

10 MR. SWEENEY: Okay. Thank you.

11 CHAIRMAN VALENTIC: The pictures are helpful. I
12 went and drove by the other day and took a look. I see why
13 you did what you did.

14 MR. ALBERT: I mean, what we did is, basically, it
15 comes down to a maintenance issue. We've been there for 28
16 years. So the trees, we've replaced them a number of times
17 and it's like it's a no-win situation. So we decided, with
18 the landscaper, that probably the best alternative in the long
19 run would be to do the fence.

20 CHAIRMAN VALENTIC: Blair, Todd, any other
21 questions?

22 MR. GOLLING: No questions.

23 CHAIRMAN VALENTIC: You good, Skip?

24 All right. Thank you. You can be seated.

25 MR. ALBERT: Yeah, thanks.

26 CHAIRMAN VALENTIC: Okay. With that, is there
27 anyone else speaking for or against that appeal that would
28 like to come up?

29 Okay. So if there's no further questions, the
30 public hearing for Variance Number 2019-51 is now closed to

1 the public. Can I get a motion to approve Variance 2019-51?

2 MR. HAMILTON: So moved.

3 MR. DYNES: Second.

4 CHAIRMAN VALENTIC: Second. Open for discussion on
5 the Board. I really don't have anything to add. I think it
6 makes sense to put the fence there. I see what they're trying
7 to do. I think it's a no-brainer.

8 MR. DYNES: I would degree.

9 MR. HAMILTON: Yeah. This is largely due to the
10 orientation of the home in relationship to Morley, so I don't
11 see a problem.

12 CHAIRMAN VALENTIC: Yeah. I am sure the neighbors
13 would appreciate it themselves.

14 Okay. If there's no other comments or discussion,
15 the question is the approval of Variance Number 2019-51. A
16 yes vote approves the variance, a no vote denies it.

17 Heather, please call the vote.

18 MS. FREEMAN: Mr. Hamilton?

19 MR. HAMILTON: Yes.

20 MS. FREEMAN: Mr. Sweeney?

21 MR. SWEENEY: Yes.

22 MS. FREEMAN: Mr. Dynes?

23 MR. DYNES: Yes.

24 MS. FREEMAN: Mr. Golling?

25 MR. GOLLING: Yes.

26 MS. FREEMAN: And Mr. Valentic?

27 CHAIRMAN VALENTIC: Yes.

28 Congratulations. Your variance has been approved.

29 MR. ALBERT: Thank you very much.

30 CHAIRMAN VALENTIC: Thank you. You guys can grab

1 your board and you guys can leave if you would like.

2 MR. ALBERT: You don't want the board, huh?

3 CHAIRMAN VALENTIC: It's a pretty nice board. We
4 like when people put in the effort.

5 MR. ALBERT: Thank you very much. Appreciate it.

6 MS. ALBERT: Thank you.

7 MR. DYNES: Take care.

8 MS. ALBERT: Thanks, Heather.

9 CHAIRMAN VALENTIC: Next is Variance Number 2019-52,
10 Hertz Corporation is requesting a variance from Section 22.03,
11 Table of Uses, to permit an automotive rental facility to be
12 located at 9670 Mentor Avenue. The property is owned by
13 Concord Investment Company and is located in the B-1
14 Restricted Retail District.

15 Please come forward and present the case.

16 MR. REDMOND: My name is Robert Redmond. I am a
17 commercial real estate broker and, actually, the Ohio
18 principal broker for Mohr, M-o-h-r, Partners based in Dallas,
19 Texas.

20 CHAIRMAN VALENTIC: And you were sworn in this
21 evening, sir?

22 MR. REDMOND: I was sworn in.

23 CHAIRMAN VALENTIC: Okay. Can you just state your
24 address for the record, too.

25 MR. REDMOND: My business address is 812 Huron Road,
26 Suite 315, Cleveland, Ohio 44115.

27 CHAIRMAN VALENTIC: Thank you. Go ahead.

28 MR. REDMOND: Just for background information, I got
29 moved here by IBM in 1972, and a few years later, went into
30 the real estate business and spent 16 wonderful years with

1 Ostendorf-Morris and 12 following years with CB Richard Ellis,
2 and I've been the principal broker with Mohr Partners for over
3 ten years.

4 As it turns out, our company only represents
5 corporations and tenants and buyers. We do not do landlords'
6 leasing work. So you won't see signs around, Mohr Partners.
7 And so about eight months ago, my Chicago office contacted me
8 and said we have a need in the Lake County area for a Hertz
9 rental car agency. Their lease is expiring at the end of
10 January, currently located on Center Street, Route 615 in
11 Mentor. The developer and owner of the property is not going
12 to let them hold over beyond the term of their lease because
13 they're going to demolish the building and redevelop the site.
14 Many of you may know where that is.

15 So it was a big rush to try to find someplace that
16 was suitable for them, roughly 2,500 square feet. I looked in
17 Willoughby, Willoughby Hills, Eastlake, Kirtland, Concord
18 Township, Painesville, and the Mentor area and examined over
19 30 or 40 different properties over the convening several
20 months. And for one reason or another, nothing seemed to be
21 appropriate.

22 We were focused on the Chase branch which is closing
23 down on Mentor Avenue. I think it's 1655 Mentor Avenue. They
24 just closed September 1st. The ownership responded to an RFP
25 with rents that were almost two and a half times what the
26 market rents were. People that are owners of bank branches
27 like to get the top dollar, bank branches, then drug stores.

28 So Hertz decided to focus on this particular
29 property that we're discussing tonight, and it was very
30 complex because part of the property is in Mentor, part of it

1 is in Painesville, and the part that we're discussing is in
2 Concord. It's Unit Number 10, which is an end cap on that
3 particular site.

4 So we've exchanged requests for proposals and letter
5 of intent with Ivan Sokolov, the owner. He is welcoming Hertz
6 to his site. I believe that he submitted a letter to Concord
7 Township indicating that he was in favor of this particular
8 tenancy. And so now we need approval for the use. Even
9 though the use is not permitted in this particular district,
10 this particular use is apparently all right in another
11 district in Concord Township.

12 So that's my story. We would like to get approval
13 so that we can get a letter of intent signed and have a lease
14 signed and begin construction to retrofit the space because it
15 was a pizzeria and now it needs to be a leasing office, so a
16 lot of work needs to be done on the property.

17 Does anyone have any questions?

18 MR. GOLLING: So it's going to be -- There was a
19 former restaurant that used to be there at the very end of
20 that plaza, the Beth, Bath & Beyond plaza.

21 MR. REDMOND: Yes. It's at the opposite end of Bed,
22 Bath & Beyond.

23 MR. GOLLING: You have Embers and then the card
24 shop -- I don't know if the card shop is still there -- and
25 then the restaurant at the end. It would just be in that one
26 where the restaurant was?

27 MR. REDMOND: Just where the restaurant was, that's
28 correct. There is a Lumber Liquidators also in that center.

29 CHAIRMAN VALENTIC: How many, how many parking
30 spaces are you -- I think I saw it before but how many parking

1 spaces?

2 MR. REDMOND: Well, Mr. Sokolov has indicated,
3 because Hertz wanted to park up to 25 vehicles on the property
4 at any given time, he has given them two designated spaces in
5 the regular customer parking area and he's allocated, I think,
6 on the drawing that you may have, it's called the "limited
7 parking area" and it consists of 22 spaces. And Hertz is okay
8 with that.

9 CHAIRMAN VALENTIC: So they'll only have two
10 designated parking spaces?

11 MR. REDMOND: Correct. There is ample parking in
12 the site. There is an additional 20 or 30 parking spaces in
13 the rear of the property which don't ever seem to be utilized.
14 But, of course, any of those spaces would be available to
15 customers or people coming in. They don't have a high volume
16 of inbound people coming to the leasing office because what I
17 didn't know until I started working on this project is Hertz
18 mainly services people who have accidents and need a vehicle
19 while their car is being repaired. They're not competitive
20 with Avis and Rent-A -- and some of the other rental car --
21 Enterprise. Enterprise is probably the biggest in the area.

22 CHAIRMAN VALENTIC: So will they have up to 25 cars
23 in those spots ready for, you know, to be leased or to be
24 rented?

25 MR. REDMOND: I believe, from what Hertz regional
26 manager is telling me, that would be a maximum but, at any
27 given time, several of those cars may be out. So they, on an
28 average, they may only use 10 or 12 or 13 of those spaces.

29 And the letter of intent that we've gotten to at
30 this point provides for the requirement for Hertz to plow that

1 particular designated area. And I believe, because of the
2 Bed, Bath & Beyond lease, that restricts certain parking areas
3 to be used near their building. There is an exhibit to the
4 proposed lease that indicates legally that Hertz only has the
5 right to exclusively use those 22 parking spaces, plus the two
6 that are designated on the map -- on the site plan.

7 MR. HAMILTON: So it appears that those limited
8 parking spaces fall outside of the Concord geographical area.

9 MR. REDMOND: I don't have the map that shows the
10 designated municipalities.

11 MR. HAMILTON: If this is correct.

12 CHAIRMAN VALENTIC: Maybe, yeah. It's hard to tell.

13 MR. REDMOND: It looks like maybe part of the
14 limited parking area.

15 MR. HAMILTON: This is the limited area here.

16 MR. GOLLING: So we've got the Massage Envy building
17 and FroYo. These are the 22 spaces right here.

18 MR. HAMILTON: Yeah.

19 MR. GOLLING: That's Mentor.

20 MR. HAMILTON: Yeah, exactly.

21 CHAIRMAN VALENTIC: Heather, did we receive any
22 comments from the City of Mentor or Painesville Township in
23 regard to this?

24 MS. FREEMAN: This was never submitted to them.

25 CHAIRMAN VALENTIC: Okay.

26 MR. SWEENEY: Do we know if they allowed the use?

27 MS. FREEMAN: I am not sure.

28 MR. SWEENEY: Either/or or both? Do you know, sir?

29 MR. REDMOND: I have not been aware that Mentor has
30 any jurisdiction over this particular site.

1 MR. SWEENEY: All right. But that wasn't my
2 question.

3 MR. REDMOND: Well, if they don't have any
4 jurisdiction over the site, there would be no reason to
5 request any permission from them.

6 MR. SWEENEY: Still, I'm just curious.

7 MS. FREEMAN: I'm not aware.

8 MR. SWEENEY: Okay.

9 CHAIRMAN VALENTIC: Do you guys have any other
10 questions?

11 MR. DYNES: I don't.

12 CHAIRMAN VALENTIC: Any questions over here?

13 MR. HAMILTON: No.

14 CHAIRMAN VALENTIC: Okay. You can be seated. We're
15 all set.

16 MR. REDMOND: Thank you.

17 CHAIRMAN VALENTIC: Anyone else speaking for or
18 against this appeal that would like to come up?

19 You guys good to close this public meeting?

20 MR. SWEENEY: Yeah.

21 CHAIRMAN VALENTIC: If there's no further questions,
22 the public hearing for application -- Variance Number 2019-52
23 is now closed to the public. I will entertain a motion to
24 approve Variance 2019-52.

25 MR. DYNES: So moved.

26 CHAIRMAN VALENTIC: Second?

27 MR. SWEENEY: Second.

28 CHAIRMAN VALENTIC: All right. Open for discussion.
29 My initial comment is that, I mean, that pizzeria has been
30 gone forever and it's a small space. It's got to be tough to

1 find something that fits in there.

2 MR. GOLLING: Last time, 2011, I think it closed.

3 CHAIRMAN VALENTIC: Was it?

4 MR. GOLLING: Yeah.

5 CHAIRMAN VALENTIC: So, I mean, it will be great to
6 see something fill in there. I think that parking lot and
7 that whole area is kind of a little odd and un-utilized.
8 Maybe it's because it's got retail in front of it as well.
9 The only thing --

10 MR. DYNES: It sounds --

11 CHAIRMAN VALENTIC: Go ahead.

12 MR. DYNES: Sounds like there's a lot of space in
13 the back, too.

14 CHAIRMAN VALENTIC: Yeah.

15 MR. SWEENEY: And there's a lot of space between
16 there and Lowe's, too, not that it matters but --

17 CHAIRMAN VALENTIC: And I know it doesn't fit, I
18 mean, it's not, you know -- we're allowing it -- He's here
19 because it's a use that isn't currently listed but it seems
20 like it could fit in this area. The only thing, the only
21 suggestion or thought is maybe we limit or talk about limiting
22 the conditional use, that if Hertz's lease is still not, you
23 know -- if somebody else comes in, if they'd want a
24 conditional use for rental, they'd have to reapply. That's
25 the only thing I could -- we might want to add to this. Is
26 that possible?

27 MR. LUCAS: Well, it's, first of all, if you permit
28 it, it's a use variance. So it's not a conditional use.

29 CHAIRMAN VALENTIC: Okay.

30 MR. LUCAS: So any consideration of a conditional

1 use would not be appropriate. So the variance runs with the
2 land and it just is another in a series of uses that are
3 permitted under the schedule independent of this particular
4 use. So unless somebody comes in with the exact same use,
5 they're just going to have to follow the permitted uses and
6 the conditional uses under the schedule that's in the
7 district. So --

8 CHAIRMAN VALENTIC: Okay. So there is no reason to.
9 All right.

10 Anyone else have anything? No? Okay.

11 All right. Then the question is on the approval of
12 Variance Number 2019-52. A yes vote approves it, a no vote
13 denies it.

14 Heather, please call the vote.

15 MS. FREEMAN: Mr. Sweeney?

16 MR. SWEENEY: Yes.

17 MS. FREEMAN: Mr. Dynes?

18 MR. DYNES: Yes.

19 MS. FREEMAN: Mr. Golling?

20 MR. GOLLING: Yes.

21 MS. FREEMAN: Mr. Hamilton?

22 MR. HAMILTON: Yes.

23 MS. FREEMAN: And Mr. Valentic?

24 CHAIRMAN VALENTIC: Yes.

25 Your variance has been approved.

26 MR. REDMOND: Thank you very much.

27 CHAIRMAN VALENTIC: Thank you.

28 MR. SWEENEY: Good luck.

29 CHAIRMAN VALENTIC: Next up --

30 MR. REDMOND: I do want to thank Heather, who has

1 been extremely helpful and professional in directing me with
2 the proper procedures, and she's been extremely communicative.
3 I've dealt in a lot of municipalities across -- I spent the
4 whole day in Westlake today. I've been at many council
5 meetings in Westlake and Mayfield. And I have to compliment
6 her on her extreme professionalism and helpfulness.

7 CHAIRMAN VALENTIC: Okay. On the record, Heather.

8 MR. SWEENEY: Great.

9 CHAIRMAN VALENTIC: All right. Next on the agenda
10 is the approval of our minutes from the last meeting on
11 September 11, 2019. Is there a motion to approve the minutes
12 from September 11, 2019?

13 MR. DYNES: So moved.

14 CHAIRMAN VALENTIC: Second?

15 MR. HAMILTON: Second.

16 CHAIRMAN VALENTIC: Okay. Is there any additions or
17 deletions to the minutes as written?

18 MR. DYNES: They look awfully good to me.

19 CHAIRMAN VALENTIC: Okay. Then for the approval of
20 the minutes from September 11, 2019, a yes vote approves, a no
21 vote does not. All in favor of approving the minutes as
22 written say "aye." I abstain.

23 (Four aye votes, no nay votes, one abstention.)

24 CHAIRMAN VALENTIC: The minutes have been approved.

25 Our next meeting for Concord Township will be on
26 November 13th. The meeting for tonight is adjourned. Thank
27 you.

28 (Whereupon, the meeting was adjourned at 7:21 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 1st day of November 2019.

Melinda A. Melton
Melinda A. Melton
Registered Professional Reporter

Notary Public within and for the
State of Ohio

My Commission Expires:
February 4, 2023