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

Concord Town Hall 7229 Ravenna Road Concord, Ohio 44077

March 13, 2019 7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

Ivan Valentic, Chairman
Francis Sweeney, Vice Chairman
Blair Hamilton, Member
Chris Jarrell, Member
Todd Golling, Alternate Member

Also Present:

Michael 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

7:08 p.m.

CHAIRMAN VALENTIC: Good evening. The Board of Zoning Appeals for March 2019 is now in session for Concord Township. I would like to introduce my Board. To my far left is Skip Sweeney and Todd Golling. I am Ivan Valentic. To my right is Chris Jarrell and Blair Hamilton. To our far right is Heather Freeman, our Zoning Inspector.

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

(Whereupon, the speakers were sworn en masse.)
CHAIRMAN VALENTIC: Okay. Please be seated.

When presenting your case or commenting, come forward to the microphone and state your name and address for the record.

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

MS. FREEMAN: Yes, they were.

CHAIRMAN VALENTIC: All right. Thank you.

We have some old business this evening, quickly, then we have two appeals and one conditional use permit. A three-vote majority is required to either approval or deny the appeal. If a request is denied, you have a right to file an appeal.

So first is old business. We are going to continue the tabling of Appeal Number 2018-41. A vote is not required. It's still tabled. We are going to leave it that way. They plan on coming back, hopefully, next month to take care of that.

But we did receive a letter that we'd like to put into the record. It was sent to Mr. Lucas on March 12, 2019, from Mr. Viviani and his legal representation. Correct?

MS. FREEMAN: Just for the record, the letter was requesting that we continue to keep it on the table until the next meeting.

CHAIRMAN VALENTIC: Okay. So, yeah, to summarize the letter, it is a request to table the appeal.

All right. Thanks, Heather.

All right. So then on to new business. We have Variance Number 2019-42, Eric Neate is requesting a variance from Section 15.04(B), Table 15.04-1, to allow for the construction of an accessory building with a 33 feet front building setback in lieu of the 50 feet required, for the property located at 12662 Girdled Road.

Mr. Neate, if you could come up and present your case. Again, please state your name and address for the record.

MR. NEATE: Thank you. My name is Eric Neate. I am at 12662 Girdled Road. I would like to request a variance for the setback to 33 foot from the original 50 foot. My particular property is a little bit unique in the way it's shaped. It runs a long distance the perimeter of the road, so I don't really have so much of a side setback. I just have a very long front setback. And with the riparian setback being 75 foot off the creek, it kind of makes the building area for an accessory building relatively small.

By putting it where it is, I am able to stay out of riparian setbacks but it puts it into the road setback. The nice thing also about where it is, it is right on a hillside

as well, so the hillside is going to, basically, it's going to 1 be tucked in there. I mean, you won't even be able to see the 2 building once the trees leaf in. 3 CHAIRMAN VALENTIC: Yeah, because of the way it's situated, the front yard setback would be 50 feet and, 5 thereby, it's essentially -- I don't know -- I guess it's kind 6 of your side yard, too, but it's your front yard as well. 7 8 MR. NEATE: Exactly. CHAIRMAN VALENTIC: And it's tucked. I did see the 9 site plan where it's tucked into the hillside there. 10 MR. NEATE: Yeah. The map that is there, you can 11 see there is two foot increments on the hill kind of right 12 next to where it will be set. 13 MR. GOLLING: Eric, where is it going to go on here? 14 CHAIRMAN VALENTIC: Right in there. 15 MR. NEATE: Yeah, exactly. 16 17 MR. GOLLING: Is it like right about here? MR. NEATE: Yeah. 18 19 MR. GOLLING: So you are kind of like squeezing it in? 20 21 MR. NEATE: Right next to the hill, yes. 22 CHAIRMAN VALENTIC: Are you clearing any trees for 23 this? 24 MR. NEATE: There is going to have to be a couple, 25 and this kind of minimizes that to a point. I am going to say 26 there is probably going to need to be about four or five taken down. And there is all different kinds of trees back there, 27 28 there is some scrubby brush, but I think it will probably be about three big trees. 29 CHAIRMAN VALENTIC: Anyone else have any questions?

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You good? 1 MR. HAMILTON: No, no questions. 2 CHAIRMAN VALENTIC: Okay. Todd, you good over 3 Do you have any other questions? 4 there? 5 MR. GOLLING: I'm good. CHAIRMAN VALENTIC: Okay. Thank you. 6 7 MR. NEATE: Thank you. 8 CHAIRMAN VALENTIC: Is there anyone else that's speaking for or against this appeal that would like to come 9 10 up? Okay. If there's no further questions, the public 11 hearing for Variance Number 2019-42 is now closed to the 12 13 public. Can I get a motion to approve Variance Number 2019-42? 14 15 MR. HAMILTON: So moved. CHAIRMAN VALENTIC: Second? 16 17 MS. JARRELL: Second. CHAIRMAN VALENTIC: We've got a second. Is there 18 19 any discussion for the Board? Anyone have anything they want to say before we vote? 20 No? 21 MR. HAMILTON: I think I will just note that the 22 other existing structures are within the 50 foot setback 23 already. Given the topography and where this is located, I think it's fine. 24 CHAIRMAN VALENTIC: Yeah. 25 26 MS. JARRELL: Agreed. 27 CHAIRMAN VALENTIC: He is avoiding the riparian 28 setback, which is, I quess --MS. JARRELL: Very nice. 29 30 CHAIRMAN VALENTIC: Yeah. Thank you so much.

MS. JARRELL: Yes, thank you. 1 2 CHAIRMAN VALENTIC: Okay. So, okay, the motion has been given, so the question is on the approval of Variance 3 Number 2019-42. A yes vote approves it. A no vote denies it. 4 5 Please call the vote, Heather. MS. FREEMAN: Mr. Golling? 6 MR. GOLLING: 7 Yes. MS. FREEMAN: 8 Ms. Jarrell? MS. JARRELL: Yes. 9 MS. FREEMAN: Mr. Sweeney? 10 MR. SWEENEY: Yes. 11 MS. FREEMAN: Mr. Hamilton? 12 13 MR. HAMILTON: Yes. MS. FREEMAN: Mr. Valentic? 14 15 CHAIRMAN VALENTIC: Yes. Your variance has been 16 approved. Thank you. 17 MR. NEATE: Thank you. CHAIRMAN VALENTIC: All right. Next on our agenda 18 is Variance Number 2019-43, Scott Royer, of Engelke 19 Construction Solutions, is requesting a variance from 20 21 Section 13.33(E) to allow for outside dining seating to be 22 56 percent of the indoor seating capacity in lieu of the 23 maximum 25 percent permitted for the future restaurant Beerhead Bar & Eatery, located at 8003 Crile Road. 24 25 Good evening. 26 MR. ROYER: Good evening. So I am Scott Royer. 27 address is 1565 Victoria Avenue, Lakewood, Ohio. I do have --28 CHAIRMAN VALENTIC: And you've been sworn in, sir? MR. ROYER: Yeah. I stood up, yeah. 29 30 CHAIRMAN VALENTIC: Okay.

MR. ROYER: Yeah, I can go.

MS. FREEMAN: I am sorry. This has to be --

MR. ROYER: So I put together a quick presentation. It's a combination of both the variance and then the conditional use permit that we're going through, but the majority of it is drawings that you have in your packet from both the buildout CDs and then as well as the existing structure civil drawings. Also, I have in there pictures of previous Beerhead patios that we've done and the site on Crile Road, just so you guys can reference that.

But feel free to interrupt me at any time with questions or clarifications as I kind of go through this to make it more of an open dialogue.

So, okay, so the variance statement: The variance request is related to Section 13.33, Item E, of the Concord Township Zoning Resolution. We are requesting that the full outside seating capacity is allowed for the future Beerhead Bar & Eatery exterior patio. The proposed patio will be 1,143 square feet, and the designed seating capacity is currently 70 seats.

So, in Item E, it states that the outside seating capacity cannot exceed 25 percent of the interior seating. The current design of 70 seats outside is 56 percent. So we're asking, in lieu of the 25 percent, that you approve the 56 percent.

So the allowed 25 percent seating capacity does not allow for Beerhead to take full advantage of warm whether months to provide quality outside atmosphere for clientele within the community. The patio is critical to Beerhead brand and business model, and without increasing the seating

capacity, this location is no longer viable for Beerhead to build. So that is our main reason for this variance.

Right there is a furniture and fixture layout, as

you can see the outside patio, how it's related and tied into the existing building and 70 seats that we have currently laid out.

So that's all I have for the variance as far as the seating. The rest of it goes to the conditional use permit.

I don't know if you want me to just continue going with the whole thing or if you have any questions about the variance itself.

CHAIRMAN VALENTIC: Heather, he can present them both but we just focus on the seating, because they are tied together, or should we just keep it separate?

MS. FREEMAN: It might be cleaner to keep it separate.

CHAIRMAN VALENTIC: Okay. We'll just keep it separate.

MR. ROYER: Okay.

CHAIRMAN VALENTIC: So you said you had pictures of other patios?

MR. ROYER: Yeah.

CHAIRMAN VALENTIC: There is the seating -- or there is the rendering or the plan in here but can you show us what you are thinking the patio is going to look like?

MR. ROYER: Yeah, absolutely. So I will just start going through here. I am going to have to go back at one point but --

CHAIRMAN VALENTIC: That's fine.

MR. ROYER: So this is one that we've done that's

really similar to this. There is a screen wall there that we won't have in place. It will just be the stone knee wall that will match the stone veneer pilasters that are on the building for the Discount Drug Mart building.

So this is basically what it looks like. We'll have two stationary community tables and then seating that goes around it. There is another view. You can see the overhead doors that come out to the patio. And it's all on grade, so it will be just a continuous slab from the interior slab. And that front kind of shows the gate, the wood gate that they'll have. This will be identical.

This is just a closer up look at the stone fire feature that we have, the sandstone cap to cap everything. There is another view will of it, and there is kind of the front.

So that's -- It's pretty similar to what you look like. There is the, there is the space on Crile Road, so it will be -- You can kind of get a feel for where the patio is going to be.

CHAIRMAN VALENTIC: Is that patio the same size, the one that you just showed pictures of, of what you are doing here?

MR. ROYER: The one that I showed pictures of is larger.

CHAIRMAN VALENTIC: Oh, it's larger?

MR. ROYER: Yes.

CHAIRMAN VALENTIC: Okay.

MR. GOLLING: So there's no, no shading and no outside bar service, just the patio and people can eat outside.

MR. ROYER: Correct. There will be no overhangs whatsoever and it's just kind of for additional seating during the warmer weather months.

MR. GOLLING: How far down that way? Will it go up to the doughnut store, the Beerhead?

MR. ROYER: No, no, it will just be two, two units over. There will still be, I think, three or four units in between. So we are just taking over 8003 and 8004, so the first two units.

MR. GOLLING: Okay. And then I am assuming right where the car is, according to the drawing, you lose a spot or two as you build back?

MR. ROYER: Yeah, we'll lose -- I'll have to take a look at it. I think we'll lose two or three spots but there will still be two in between from the edge of that ramp to the edge of our walkway, our four foot walkway. So we'll still have -- Well, no, there will just be one spot. So we'll still have about nine feet, nine to ten feet in there for about one parking spot left. So it won't take all of them up.

CHAIRMAN VALENTIC: What about outdoor entertainment, bands, music or speakers? That's one of the, kind of, stipulations in the --

MR. ROYER: Yeah. And I cannot -- There is a representative from Beerhead here. He can speak more to that. But we will have exterior speakers and it's just more background music.

But I don't know, Jim, if you want to talk about entertainment on the outside patio.

MR. McCLELLAN: Hi. My name is Jim McClellan, with Beerhead Bar & Eatery, at 2254 Sunrise Oval in Medina, Ohio.

As far as the entertainment --

CHAIRMAN VALENTIC: You've been sworn in, sir? I am sorry.

MR. McCLELLAN: Yes, sir.

CHAIRMAN VALENTIC: Thank you.

MR. McCLELLAN: As far as the entertainment that we have at -- This is our first location, in Avon. What our plan is to do the entertainment is going to be a Friday or Saturday, twice a month. And it's basically a one- or two-person acoustical background set, as we get into it.

It's been part of the brand. There's ten locations nationally and we've taken over the Ohio footprint. So background, they won't be outside playing. They will be inside on a stage, a small stage that we have.

CHAIRMAN VALENTIC: Okay.

MR. McCLELLAN: Just set up there but the music will translate out there as far as that's concerned.

CHAIRMAN VALENTIC: Okay.

MR. McCLELLAN: The design of the patio, and to conform with zoning and planning, there is a sidewalk that is allowing people to walk back for parking, as far as that's concerned, so they won't be in the drive lane. So we proposed that as part of our design around the entire patio, so from front to back you will be standing on a walk. That is part of the reason we took away the screen wall that was made of wood that you've seen out of Avon. That was a thought process that we had with the meeting here at planning so that, when you did round the corner, you had visibility of walking up the drive lane there on the sidewalk.

CHAIRMAN VALENTIC: Yeah, okay.

Anyone else have any other questions from the Board?

What about the tables and chairs in the winter or

fall, maybe when you shut down, where is that stuff going to

be stored?

MR. McCLELLAN: They would be stored in the corner

MR. McCLELLAN: They would be stored in the corner of the patio and covered.

CHAIRMAN VALENTIC: Okay.

MR. McCLELLAN: That's what's happened at other locations. Is there a thought to it or a concern?

CHAIRMAN VALENTIC: No, I don't know. Just would have maybe like to not see it out there stacked up because it is a visible corner but I don't know if there is another place for it, really.

MR. McCLELLAN: It would have to be offsite storage as far as that's concerned. The footprint that we have there, I think this location is 3,700 square feet.

MR. ROYER: Yeah.

MR. McCLELLAN: Yeah, that we have there. So as you look at the floor plan and the seating layout, storage is a limited space as far as that's concerned. It would be conducive to the number of seats and, you know, to hit the proforma that's built to let that happen.

CHAIRMAN VALENTIC: Okay.

MR. McCLELLAN: So if it did come down to a concern or thought as far as that's concerned, we would entertain a conversation of meeting any expectations that you have.

MS. JARRELL: I don't think it's a requirement, a zoning requirement.

CHAIRMAN VALENTIC: Skip, do you have any questions?

MR. SWEENEY: No.

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CHAIRMAN VALENTIC: Blair, do you have anything?
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               MR. HAMILTON: Nothing, no.
               CHAIRMAN VALENTIC: Okay. Thanks, guys.
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               MR. McCLELLAN: Thank you.
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               CHAIRMAN VALENTIC: You can be seated.
               Is there anyone -- Maybe just stay up. I don't
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    think anyone else is going to come up. Is there anyone else
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    speaking for or against this appeal that would like to come
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    up?
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               Okay. If there's no further questions, the public
    variance (sic.) for Variance Number 2019-43 is now closed to
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    the public. Can I get a motion to approve Variance 2019-43?
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               MS. JARRELL: So moved.
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               CHAIRMAN VALENTIC: Second?
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               MR. GOLLING: Second.
               MR. SWEENEY: Second.
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               CHAIRMAN VALENTIC: All right. Got a second.
    Discussion? No?
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               Okay.
                      The question is on the approval of Variance
    Appeal Number 2019-43. A yes vote approves it. A no vote
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    denies it.
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               Heather, please call the vote.
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               MS. FREEMAN: Mr. Hamilton?
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               MR. HAMILTON: Yes.
               MS. FREEMAN: Mr. Sweeney?
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               MR. SWEENEY:
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                             Yes.
               MS. FREEMAN: Ms. Jarrell?
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               MS. JARRELL:
                             Yes.
               MS. FREEMAN: Mr. Golling?
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               MR. GOLLING:
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                             Yes.
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MS. FREEMAN: And Mr. Valentic?
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               CHAIRMAN VALENTIC: Yes.
               MS. FREEMAN: You've been approved.
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               CHAIRMAN VALENTIC: Your appeal has been approved.
               Next on the agenda is our Conditional Use
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    Permit 2019-12. Mr. Royer, again, will be requesting a
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    conditional use permit for outside dining, in accordance with
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    Section 13.33, for the future Beerhead Bar & Eatery located at
    8003 Crile Road.
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               Go ahead, if you want to --
               MR. ROYER: Can I get the slides back up?
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               THE VIDEOGRAPHER: Yeah.
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               MR. ROYER: Thank you. Is there a way to go back
    to --
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               MS. FREEMAN: I can go back there.
               CHAIRMAN VALENTIC: We never had this technology
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    before.
               MS. JARRELL: I know. It's unprecedented, very
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    nice.
               MR. GOLLING: How many Beerheads will this be in
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    Ohio?
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               MR. ROYER: This will be the second one.
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               MR. McCLELLAN: This is number 11 in the brand as
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    far as through the franchisor. There are different
    franchisees, one the Rochester, one in Pittsburgh.
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                                                         This will
    be the third location in Ohio. There is one in the Flats, one
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    in Avon, one in Novi, Michigan, and then there will be four in
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    Chicago, one at Wrigley Field. Scott's working on that this
    week, closing that next week. So --
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               MR. ROYER: Okay. So conditional use permit, I am
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kind of following the application package here. I've got some terms from what's in your package, but I'll just go ahead and read it.

So the property's occupancy description is a retail center with Use Groups A-2, A-3, B, and M. The future Beerhead space is currently vacant. The Beerhead will be Use Group A-2 assembly area and be located at the northern end unit.

So this kind of shows you the footprint on the existing building civil drawings for the Drug Mart Plaza, so you can see it up there on the northern end. We're taking over the two units, like I previously mentioned, as well as the footprint of the patio.

So some of the items that were of concern were adequate parking, making sure that we have the 76 required spaces for the interior dining, as well as one space per every 100 square feet of outdoor dining.

And I believe, Heather, that we hit the parking requirements for the plaza.

MS. FREEMAN: Yes.

MR. ROYER: Another item was that the patio would not affect the traffic access or internal traffic circulation. So we maintain the 20 foot -- 5 foot drive. So the patio shrunk from the original design and you will see that on some of the next civil drawings, that we keep that 25 foot driveway so no traffic would be affected.

And then as well we added the four foot walkway, like Jim mentioned. So there is a four foot walkway around the entire patio to maintain the pedestrian walkway, as well as serve as a buffer between traffic and then patrons on the

patio.

Another, another area was the, maintaining the current amount of landscaping. So we have to relocate one tree but we are going to maintain the 27 required trees per the site plan.

So this is -- I am just going to go through all the site plans. You can see in that northern corner the demolition of the patio, where that will take place.

This is just another, another layout to our civil plans and you can see the 25 foot drive aisle maintained.

Oh, lost you there. I'll let it go. I think we are both fighting the mouse.

All right. So there is a zoom in of it. The drive aisle will be maintained, the four foot walkway, and then the 70 foot patio by 18 feet. That kind of shows you the footprint, what we have.

This is showing that, for the utilities, there is a fire, 4 inch fire line that comes through for the fire hydrant. So once we excavate, we will encase that line with concrete to make sure that it's protected and not affected.

And then here is the landscaping plan -- it's included in your packets -- just showing how we're going to relocate and lay out the required trees and shrubs.

There is the west elevation to kind of give you a feel. You've seen the pictures but that's what it's going to look like with the patio off to the left.

And then there is the northern elevation. You can see the knee wall. It doesn't have the screen wall, so there won't be any blind spots for pedestrians walking through, as

well as the two overhead doors we're cutting in and then the 1 2 egress door in the middle. And back to the pictures, so I can run through these 3 It will look like this with no screen wall, and there is the space. It's almost identical to what we have out in 5 So it will, it will match up. And there is another 6 view of that, a side view. 7 So that's all I have. 8 CHAIRMAN VALENTIC: Okay. 9 Anyone have any questions from the Board? 10 Okay. You can be seated at this time. 11 Is there anyone else speaking for or against this 12 13 appeal that would like to come up? 14 If there's no further questions, the variance -- or 15 Conditional Use Permit Number 2019-12 is now closed to the public. I would like to have a motion for the Conditional Use 16 17 Permit 2019-12. 18 MR. SWEENEY: So moved. 19 MR. HAMILTON: Second. CHAIRMAN VALENTIC: All right. Discussion for the 20 21 Board? I would just add, I think they did a pretty nice job. 22 MR. HAMILTON: They did. 23 MS. JARRELL: Agreed. 24 CHAIRMAN VALENTIC: It matches really well. I think 25 it will be a great addition to that plaza. So moving on --MR. LUCAS: Mr. Chairman, just for purposes of the 26 record, that conditional use permit for outside dining, under 27 28 13.33(E), does identify a restriction of 25 percent. And, again, I just want to put on the record that the condition

regarding that has already been, by the immediately preceding

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agenda item, been modified to 56 percent, just a housekeeping 1 2 item. Thank you, Mr. Lucas. CHAIRMAN VALENTIC: 3 All right. The question then is on the approval of 5 the Conditional Use Permit Number 2019-12. A yes vote approves it. A no vote denies it. 6 7 Heather, please call the vote. MS. FREEMAN: Ms. Jarrell? 8 MS. JARRELL: Yes. 9 10 MS. FREEMAN: Mr. Valentic? CHAIRMAN VALENTIC: Yes. 11 MS. FREEMAN: Mr. Hamilton? 12 13 MR. HAMILTON: Yes. MS. FREEMAN: Mr. Sweeney? 14 15 MR. SWEENEY: Yes. MS. FREEMAN: Mr. Golling? 16 17 MR. GOLLING: Yes. CHAIRMAN VALENTIC: All right. Your permit has been 18 19 approved. Thank you very much. 20 MR. ROYER: Thank you. 21 MR. McCLELLAN: Thank you. 22 CHAIRMAN VALENTIC: Next on the agenda is the 23 approval of minutes, if I could get a motion to approve the minutes from January 2019. 24 MS. JARRELL: So moved. 25 26 MR. GOLLING: Second. CHAIRMAN VALENTIC: Second, okay. Is there any 27 28 additions, deletions or changes to the minutes? Anyone have anything? 29 30 Okay. The question is on the approval for the

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minutes for January 2019. A yes vote approves the minutes, a
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    no vote does not. All in favor of approving the minutes say
    "yes."
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               (Five aye votes, no nay votes.)
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               CHAIRMAN VALENTIC: Okay. The minutes have been
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    approved.
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               Our next meeting is April 10, 2019. The Concord
    Township March 2019 meeting for Board of Zoning Appeals is now
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    closed.
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               (Whereupon, the meeting was adjourned at 7:35 p.m.)
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STATE OF OHIO 1 CERTIFICATE COUNTY OF CUYAHOGA I, Melinda A. Melton, Registered Professional 3 Reporter, a notary public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that, to the best of my ability, the foregoing proceedings were 5 reduced by me to stenotype shorthand, subsequently transcribed into typewritten manuscript; and that the foregoing is a true and accurate transcript of said 6 proceedings so taken as aforesaid. 7 I do further certify that this proceeding took 8 place at the time and place as specified in the foregoing caption and was completed without adjournment. 9 I do further certify that I am not a friend, relative, or counsel for any party or otherwise interested 10 in the outcome of these proceedings. 11 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 2nd day of April 2019. 12 13 14 15 16 Melinda A. Melton 17 Registered Professional Reporter 18 Notary Public within and for the State of Ohio 19 My Commission Expires: February 4, 2023 20 21 22 23 24 25 26 27 28 29 30