

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

Held via YouTube Live Streaming

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

December 8, 2021
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

Francis Sweeney, Vice Chair
Chris Jarrell, Member
Brandon Dynes, Member
Todd Golling, Member
James Rowe, Alternate Member
Davey Rowan, Alternate Member

Also Present:

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

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

7:04 p.m.

1
2 VICE CHAIR SWEENEY: Good evening. Welcome to the
3 Concord Township Board of Zoning Appeals public hearing for
4 Wednesday, December 8th. My name is Francis Sweeney. I am
5 your substitute chair. I will introduce those involved: To
6 my far right is Heather Freeman; to my right, Todd Golling;
7 Chris Jarrell, also to my right; to my left, Brandon Dynes; to
8 my far left, James Rowe; to my far, far left, Counsel Mike
9 Lucas.

10 Under advice of legal counsel, we ask that anyone
11 speaking tonight must be sworn in. If you plan on speaking,
12 please stand now and raise your right hand.

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

14 VICE CHAIR SWEENEY: All right, thank you. Please
15 be seated. When presenting, when presenting your case before
16 the board, please come up to the microphone, state your name
17 and address for the record. Thanks.

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

20 MS. FREEMAN: Yes, they were.

21 VICE CHAIR SWEENEY: Thank you.

22 MR. ROWE: Mr. Chairman.

23 MR. DYNES: Make sure they were sworn in,
24 acknowledge they were sworn in.

25 VICE CHAIR SWEENEY: What do I acknowledge?

26 MR. DYNES: You want them to acknowledge they've
27 been sworn in. State that.

28 VICE CHAIR SWEENEY: Okay. You all can acknowledge
29 that you have been sworn in, correct?

30 MR. DYNES: No, when they come up and talk.

1 VICE CHAIR SWEENEY: When you come up, you will
2 acknowledge that you've been sworn in.

3 MR. ROWE: There you go.

4 VICE CHAIR SWEENEY: Thank you. Our first order of
5 business tonight is under Old Business, Amended Conditional
6 Use Permit Application Number 52. Powerhouse Retail Services
7 is requesting an amended conditional use permit in accordance
8 with Section 13.17 for the drive-thru facilities for Starbucks
9 located at 7639 Crile Road. Please approach and state your
10 case.

11 MR. REISSETTER: My name is Tyler Reissetter,
12 75 Edgerton Road, Akron, Ohio. I've been sworn in before this
13 testimony.

14 This is a simple project. Starbucks is looking
15 to -- I am sorry. I am a civil engineer with Kimley-Horn on
16 behalf of Starbucks. This is a simple project. Starbucks is
17 intending to move their order point and their menu board about
18 20 feet further ahead in the queue. Starbucks has done
19 extensive studies to find the best point in the queue for
20 their order point in order to reduce queuing and increase
21 drive-thru times. So really this is the intention of this
22 project.

23 No impacts to curbs, drainage or any ground
24 pavement. The only impacts will be moving the order point,
25 the menu board, and relocating an overhead light pole by about
26 3 or 4 feet. Any questions?

27 VICE CHAIR SWEENEY: Okay. Is that it?

28 MR. REISSETTER: Yep, that's it. Any questions?

29 VICE CHAIR SWEENEY: All right.

30 MR. ROWE: So this is a result of a study, just the

1 free flow of things. The only thing I looked at, without the
2 study, was that possibly they're going to make a little bit of
3 a problem with people that are walk-ins as far as noting an
4 area that maybe cars should be not occupy.

5 MR. REISSETTER: Yeah, so the area on that side of
6 the building is already paved. There is pavement markings in
7 that area for the queuing of the drive-thru ordering.
8 Typically, in the morning, we will see queuing through that
9 entire area because Starbucks can be quite busy in the
10 morning.

11 MR. ROWE: Sure.

12 MR. REISSETTER: The point of moving the order point
13 is to reduce that queuing so that it, basically, it can flow
14 better and there is less chance of any queuing to leave the
15 site or leave the marked areas for the queue for the drive-
16 thru.

17 MR. ROWE: Okay.

18 MR. REISSETTER: Yep.

19 MR. ROWE: Thank you.

20 MR. GOLLING: So you're just scooching it around to
21 the south side of the building.

22 MR. REISSETTER: That's right.

23 MR. GOLLING: And gives them more time to make
24 coffee.

25 MR. REISSETTER: Exactly.

26 MR. GOLLING: Got it.

27 MR. DYNES: So that's my question. Typically -- and
28 I don't go by there that often anymore necessarily -- but
29 there is a large stack of vehicles extending out almost
30 sometimes into the roadway, right?

1 MR. REISETTER: Yep.

2 MR. DYNES: So it's your -- I guess my understanding
3 is that Starbucks feels as though, by moving this back, that's
4 going alleviate that because they'll order faster and move
5 quicker? Is that the idea here?

6 MR. REISETTER: That's right. It reduces the
7 queuing and it improves the cycle time, basically, for every
8 customer by giving, like you said, Todd, them a little bit
9 more time from the point of order to the point of delivery at
10 the window so that you're spending less time just waiting.
11 And, that way, the queue moves faster as a whole and there is
12 less queuing overall.

13 VICE CHAIR SWEENEY: So you essentially fill up that
14 unused space quicker between the order, the old order point
15 and the window.

16 MR. REISETTER: Right, right. Basically, you spend
17 less time in that space. There is more cars that are waiting
18 for their coffee after they've ordered it versus waiting just
19 to order.

20 VICE CHAIR SWEENEY: Right.

21 MR. REISETTER: Yep.

22 MR. DYNES: Do you plan to do anything else,
23 anything else notifying pedestrians or -- I am sorry --
24 drivers of the pedestrian walkway there other than the marking
25 on the pavement?

26 MR. REISETTER: There is no plans for any changes at
27 this time to the, to the layout of the site other than the
28 moving of the order point and the menu board, as well as the
29 light pole. So the existing pavement markings would be
30 intended to be the method for the pedestrians.

1 VICE CHAIR SWEENEY: Any further questions from the
2 board?

3 MR. ROWE: Not here.

4 VICE CHAIR SWEENEY: Okay. Before I ask if there is
5 any questions from the audience for or against, or comments, I
6 should say, I neglected to announce to all applicants that a
7 three-vote majority is required of this board to either
8 approve or deny these applications you've brought tonight. If
9 any of these applications are denied, you have the right to
10 file an appeal. And if this is the case, Heather will help
11 you with that, with the details. So I neglected to say that.

12 So now are there any comments for or against this
13 application?

14 (No response.)

15 If not, I will entertain a motion to approve the
16 application for -- excuse me -- conditional use permit.

17 MS. JARRELL: So moved.

18 MR. GOLLING: Second.

19 VICE CHAIR SWEENEY: Second. So moved. All in
20 favor?

21 MR. GOLLING: Heather is going to call the votes.

22 MR. ROWE: Individual vote.

23 MS. JARRELL: Yeah, individual vote.

24 VICE CHAIR SWEENEY: Okay.

25 MR. DYNES: Are you going to have a discussion?

26 VICE CHAIR SWEENEY: No. All in favor of the
27 motion? Aye.

28 MR. GOLLING: Aye.

29 MS. JARRELL: Since when do we do that?

30 VICE CHAIR SWEENEY: I don't know, since I was told.

1 Heather, Heather, do you want to call the vote?

2 MS. FREEMAN: You guys are ready to vote on the
3 application or did you want to have a discussion?

4 MR. DYNES: We should have discussion.

5 VICE CHAIR SWEENEY: Do we have any discussion? I
6 didn't think there was any.

7 MS. JARRELL: I am sure if anybody studied this,
8 it's Starbucks. I just worry, I worry a little bit about the
9 pedestrians walking in that. It's kind of a close parking
10 lot.

11 MR. DYNES: Well, that was why I asked the question
12 if there was going to be some additional signage or something
13 there. It seems that might be a little bit helpful for
14 something on the sidewalk indicating there's a pedestrian
15 walkway.

16 MS. JARRELL: Yeah, some funny good morning signs,
17 "Wake up," you know. I don't know.

18 MR. REISSETTER: I think, am I allowed to speak at
19 this time?

20 VICE CHAIR SWEENEY: Sure.

21 MR. REISSETTER: Okay. One of the things -- I assume
22 you mean from folks who are parked on the south side of the
23 building to get over to the building. Is that the concern a
24 little bit? If that's the concern, I think it is a little bit
25 difficult to place signage in there. It is an entirely paved
26 area. Putting some sort of signage for either the vehicles or
27 the pedestrians would then be placing that signage in --

28 MR. DYNES: Well, let me ask you this. I don't mean
29 to cut you off.

30 MR. REISSETTER: No worries.

1 MR. DYNES: In my mind, I think, my estimation would
2 be that if you put a sign on the sidewalk identifying
3 pedestrian crossway there as opposed to just pavement
4 markings. We're really concerned about the people driving
5 through the drive-thru seeing pedestrians more than I am about
6 people parking and walking. I am concerned about them,
7 obviously. They're the ones who pose the risk, right?

8 MR. REISSETTER: Yep.

9 MR. DYNES: But I think if there was even some 4
10 foot sign, 5 foot sign that was coming up from the sidewalk
11 there just alerting drivers in the queue that there is a
12 pedestrian walk are there. I am sure they're anxious and
13 they're looking at the menu board because you're moving it
14 back closer now. They may not be seeing that
15 pedestrian-hatched walkway in the pavement.

16 MR. REISSETTER: Yes. I think we'd be happy to place
17 a sign there on one condition, that we check the ADA clearance
18 on that sidewalk. It doesn't look extremely wide to me right
19 there. So we'd need to make sure that we had ADA clearance
20 around the sign that would be placed to the west side of the
21 crosswalk on the sidewalk. But assuming that we do have ADA
22 clearance there, we would be willing to put in that sign.

23 MR. DYNES: And I have only been there a handful of
24 times. I am not a big Starbucks guy, for what it's worth.
25 But my recollection is that sidewalk actually is big enough
26 and that's an overhang that protrudes out that makes it look
27 smaller than it, essentially, is.

28 MR. REISSETTER: Yep.

29 MR. DYNES: The brown area, is that correct, that's
30 an overhang?

1 MR. REISSETTER: Yes, that is an overhang. But,
2 yeah, we would, we would need to take another look at it in
3 the office. It's not dimensioned here but it looks like it
4 could be about 6 feet based on the sidewalk that is
5 dimensioned. And if that's the case, that would be plenty of
6 room, ADA clearance being 48 inches.

7 MR. ROWE: Would we make review, review of that part
8 of the, of this situation before voting on it?

9 VICE CHAIR SWEENEY: I don't know. Brandon?

10 MS. JARRELL: It is conditional.

11 MR. DYNES: Personally, I think I would make it a
12 condition that the sign has to be subject to ADA approval and
13 otherwise. I think it makes sense. I think he's represented
14 to us that they're willing to look into it and do that. So --

15 Counsel, I will let you guide this and not me.

16 VICE CHAIR SWEENEY: Any other questions, inquiries
17 from the board? All right.

18 MR. LUCAS: Mr. Chairman.

19 VICE CHAIR SWEENEY: Mr. Counsel.

20 MR. LUCAS: The Board of Zoning Appeals has the
21 authority, under 13.17(G), which requires drive-thru
22 facilities to be located on lots so as to minimize
23 interference with an establishment's pedestrian traffic and
24 other parking areas. So what Mr. Dynes is suggesting as a
25 condition, and the motion should include that as a condition,
26 is permitted under the controlling resolution language in
27 that. So, and the applicant, subject to the ADA, which he has
28 to comply with anyway, has indicated a willingness to do that
29 on the record. So you want to, based on those factors,
30 include that within the motion itself.

1 VICE CHAIR SWEENEY: Okay. So --

2 MR. LUCAS: So you need to amend the motion, I
3 think.

4 VICE CHAIR SWEENEY: Right. I need to have a
5 motion.

6 MR. LUCAS: You have a motion and a second. You
7 would, perhaps, have one of the Zoning Commission members
8 or -- excuse me -- Board of Zoning Appeal members, whoever
9 made the initial motion, I would like to amend my motion to
10 include that specific sign as discussed.

11 MR. DYNES: Chris.

12 VICE CHAIR SWEENEY: Do you want to make the motion,
13 make the motion, Todd?

14 MS. JARRELL: I did the initial motion.

15 VICE CHAIR SWEENEY: Okay then.

16 MS. JARRELL: So we would like to --

17 VICE CHAIR SWEENEY: As a condition of.

18 MS. JARRELL: As a condition of this variance
19 request that we require that pedestrian, a pedestrian sign be
20 installed. I am not sure exactly how we want to word it but
21 it needs to be a condition of the approval of the variance.

22 VICE CHAIR SWEENEY: Okay, so moved. Second. Okay.

23 MR. DYNES: Wait.

24 VICE CHAIR SWEENEY: Right?

25 MR. ROWE: Good to go.

26 MR. DYNES: Did you just second it?

27 VICE CHAIR SWEENEY: I just seconded.

28 MR. DYNES: Okay.

29 MR. ROWE: All right.

30 VICE CHAIR SWEENEY: Okay. So the question on

1 approval is for the application for Amended Conditional Use
2 Permit Number 52 on the condition that the sign be subject to
3 ADA approval. A yes vote is for the approval of the
4 application and a no vote denies that approval.

5 Heather, do you want to take the roll.

6 MS. FREEMAN: Yes, I will. Mr. Golling?

7 MR. GOLLING: Yes.

8 MS. FREEMAN: Mr. Sweeney?

9 VICE CHAIR SWEENEY: Yes.

10 MS. FREEMAN: Mr. Dynes?

11 MR. DYNES: Yes.

12 MS. FREEMAN: Ms. Jarrell?

13 MS. JARRELL: Yes.

14 MS. FREEMAN: And Mr. Rowe?

15 MR. ROWE: Yes.

16 VICE CHAIR SWEENEY: Thank you very much.

17 MR. REISSETTER: Thank you.

18 VICE CHAIR SWEENEY: It's been approved.

19 The next order of business is, again, under Old
20 Business and it is Conditional Use Permit Application 2021-20,
21 Sheetz, Inc., is requesting five conditional use permits for
22 the property located on Capital Parkway, being current
23 Permanent Parcel Number 08-A-020-0-00-006-0 and
24 08-A-020-0-00-027-0, as follows:

25 (a) to operate a gas station in accordance with
26 Section 13.25;

27 (b) to operate a restaurant, counter service in
28 accordance with Section 13.20;

29 (c) to operate a car wash in accordance with
30 Section 13.26;

1 (d) for outdoor storage and/or display in
2 association with permitted or conditional use in accordance
3 with Section 13.32;

4 And (e) for outside dining in accordance with
5 Section 13.33.

6 Before I have you introduce yourself, I would like
7 to inform all those present that Mr. Dynes has abstained from
8 this application. His substitute is our new substitute board
9 member, Davey.

10 MR. ROWAN: Rowan.

11 VICE CHAIR SWEENEY: Davey Rowan. And we all
12 welcome Davey tonight.

13 MS. JARRELL: Welcome.

14 VICE CHAIR SWEENEY: Take it away.

15 MR. RINKER: Thank you very much. My name is Bruce
16 Rinker. I am from the firm of Mansour, Gavin. That's
17 1001 Lakeside Avenue, Suite 1400, in Cleveland. And we serve
18 as land use counsel for Sheetz. And to my side here is Ryan
19 Balko. He is the engineer and project manager.

20 And what I would like to do if we could -- Because
21 we know we have two basic parts to our presentation tonight,
22 the first being for the conditional use under Section 13 -- I
23 would like to try to set a little bit of the framework that I
24 believe is appropriate for review of both the general
25 conditions and then the specific conditions for each of these.
26 There are a number of them.

27 I think it's noteworthy that, under the Zoning
28 Resolution, consistent with Ohio law, when the resolution, the
29 code for a community specifies a particular use, it's presumed
30 to be permitted as long as you meet the conditions. And so

1 the challenge is, do we meet those conditions as you have
2 measured them objectively? We think we do, but I think it's
3 probably good for all of us to go through them. There is a
4 lot of detail here.

5 And if I can, Ryan, we've got a PowerPoint we can
6 show. We came in with a site plan, I think, probably around
7 May or June and worked with staff, predominantly, it was Ryan
8 with Heather. And you can see on the screen to the north, to
9 the top of the screen, is Capital Parkway, to the right is
10 Route 44. So this is in the southwest quadrant of that
11 intersection of Capital and 44.

12 And I know you are all very well acquainted with the
13 improvements that have been made to 44 for this whole
14 corridor. It's a very busy one. There has been extensive
15 development. In fact, per the Comprehensive Plan, one of the
16 keys for this development of this area is to promote new
17 investment.

18 There is a JEDD that Concord Township has with
19 Painesville. And I want to announce here, based on discussion
20 we've had with Sheetz corporate, Sheetz is amenable to joining
21 the JEDD. I think that's significant because they're bringing
22 in 36 some jobs, about half and half part-time and full-time
23 jobs. I don't know what the exact payroll is. But part of
24 the Comprehensive Plan amended in 2015 was to promote economic
25 development in this area. And we think at this hard corner,
26 it's adjacent to, it's outside of the Town Center area. But
27 also, per the Comprehensive Plan, the idea, it's kind of like
28 the Town Center is sort of the hole in the doughnut and then
29 the area around it is supposed to be development that's going
30 to promote ways that you can, essentially, repay the

1 infrastructure, justify the infrastructure improvements that
2 were made and overall provide economic development.

3 Under the JEDD agreement, 75 percent of income taxes
4 go to the township because, as you know, typically, you would
5 not collect income tax revenues for townships. That's why a
6 lot of people like to move to a township. So the JEDD
7 agreement has been a tool for economic redevelopment. And one
8 of the reasons Sheetz has come here, apart from the traffic
9 patterns, the preexisting patterns and future development, we
10 think that this will be an amenity that would serve the
11 adjacent development well.

12 Another thing that's important to understand, this
13 is a larger parcel. Sheetz is acquiring some 3, 3.2 acres.
14 Originally, and the site plan that -- Ryan, if you pull that
15 up again. Originally, it was smaller. I think it was about 2
16 and a half acres, which for a Sheetz development for a
17 convenience store, for a fuel pump with six islands, the
18 canopy typically would be fronting facing Capital for
19 visibility with the front of the store facing north as well.
20 And then to the south is an order point for the drive-thru
21 service and people can go to a drive-thru. It's all touch pad
22 ordering. They make the orders there. There is no intercom
23 unless there is some safety issues, someone needs help, but
24 otherwise it's very quiet, user-friendly touch pad format.

25 And this would be the site circulation. Sheetz has
26 extra wide drive aisles which are good for the servicing
27 vehicles. It's good for pedestrian/vehicular interactions.
28 Over 600 stores in about six states, and so Sheetz really has
29 had a lot of experience in this site development.

30 With all that said, staff looked at this and

1 indicated that there was some concerns under your Zoning
2 Resolution, and one of the conditions for the drive-thru, you
3 need 10 car stacking depth. In fact, you've just discussed
4 one stacking issue with Starbucks.

5 So if we have a new site plan, Ryan, the revised
6 site plan -- So Sheetz acquired an additional amount of
7 acreage, from about 2 and a half to get up to the 3.2. And
8 you can see on the southerly portion of that rectangle, that
9 now depicts -- I think you should have it in your plans -- the
10 ten queuing spaces that you need. So as part of the dialogue
11 back and forth, Sheetz added that for extra space on site.

12 You will also notice that the store has been flipped
13 now. It's been rotated 90 degrees. So now the front faces an
14 interior road that is stubbed. You can see to the west side
15 of the property and it's stubbed there. To the south of that
16 is the balance of the property owned by the seller to Sheetz.
17 And what Sheetz agreed to do is extend water and sewer
18 utilities along Capital to get to its property but also to
19 provide connection for future development of the southerly
20 portion of the property.

21 So, again, if you look at the Comprehensive Plan,
22 this is consistent with economic development. It's promoting
23 future development of adjacent property. Under the JEDD
24 agreement, typically, that kind of infrastructure development
25 would be the responsibility of Concord Township. It's one of
26 the reasons you get 75 percent of the income revenue. In this
27 instance, Sheetz is going to be doing that on its own.

28 You also have in the JEDD their incentive packages
29 for if you get some, if you bring something like 25 new jobs
30 within a three-year period, the JEDD would provide incentives.

1 Sheetz is not asking for that incentive. This is something
2 that Sheetz is bringing to the table. So I feel it's
3 important to understand that, from the standpoint of economic
4 development, of infrastructure improvement, what Sheets is
5 doing is trying to be a good investor in this whole new
6 development area.

7 You will notice the canopy now is on the west side,
8 front of stores is on the west side. And we provided some
9 visuals and we will get to them in a little bit. Sheetz has a
10 new generation canopy. It's a cleaner look. They have moved
11 away from what used to be a backlit red, very bright canopy.
12 It was a good way for advertising. They trimmed that down a
13 lot and we think that that also is a very good look. It's
14 consistent with newer architectural style.

15 So I think, with that, I wanted just to give you
16 that overview. Overall, this is an investment over \$6
17 million, again, economic development for this particular site.

18 If we go to Section 13, as I pointed out, there are
19 General Standards that all conditional uses must comply with
20 and then following that are the specific standards for the
21 individual uses. Again, the goal here is to demonstrate that
22 we can meet those criteria.

23 So Section 13.05 is the General Standards. I won't
24 read through them all but I would ask you -- I will read
25 through them kind of quickly. It's, generally, the proposal
26 should be harmonious and in accordance with general objectives
27 or any specific objective of the township Comprehensive Plan
28 and/or the Zoning Resolution. And as I endeavored to point
29 out just now, just from a standpoint of economic development
30 alone, from infrastructure improvements, this is to work.

1 By the way, that access road, in the original plan
2 it was just a curb cut onto Capital. We've added this access
3 road along the west boundary of the site so that it provides
4 that access for future development. It's as far away from the
5 intersection as you can get so that you don't have actual curb
6 cuts for the parking field of Sheetz onto Capital but you have
7 this access point. Again, that's intended to divert traffic.

8 Staff had requested that we provide trip generation
9 and some other traffic impact analyses. That was done. There
10 were revisions made per staff. My understanding is that the
11 township has accepted that, from a traffic impact standpoint,
12 this is not going to pose any problem, there is no need to add
13 any kind of traffic safety improvements or any other similar
14 impediment. Again, that's part of the development has to be
15 harmonious and not cause adverse impacts.

16 It's designed, constructed, operated and maintained
17 to be harmonious and in accordance with existing or intended
18 character. Well, this is new development. Part of the JEDD
19 in this whole corridor was to open up land for new
20 development. So for some people this may -- they may have
21 expected a different first use in this area, but Sheetz
22 believes that, from the standpoint of serving an existing
23 traffic pattern, this type of facility looks to existing
24 traffic. It generates some but it really is captive. It
25 captures what's already there. I believe it's something like
26 20,000 vehicles per day are traveling through this area. So
27 this is the type of service that motoring public, and we think
28 for future public in and around the Town Center, having the
29 facility that provides all of these amenities and basic fuel
30 service is significant.

1 Will it be served by essential public facilities?
2 As we pointed out, Sheetz is adding to the public
3 infrastructure in order to develop the site and that will have
4 a ripple effect for future development on down the road.

5 Does not create any additional requirements,
6 adequate fire and police protection. Again, this is a site
7 that's very spacious and so, for access for all vehicles and
8 certainly for any first responders, that works well. Sheetz
9 typically has some two dozen different cameras for its site,
10 so it monitors 24/7. There is realtime response if there is
11 any issue. We find a lot of times that safety forces will
12 actually ask Sheetz to look at cameras if they feel that there
13 has been something off site. It actually provides a service
14 in that regard. So from an operational standpoint, it
15 provides no burden but it actually can enhance existing public
16 services.

17 As I said, on-site circulation is good. There is no
18 traffic hazard or impact adverse.

19 In terms of destruction, loss of natural or scenic,
20 historic feature, we don't believe, certainly, there is
21 anything historic. This is an area proposing development.
22 And as Ryan will be able to go through, with a site of this
23 size, we try to enhance the landscaping so that from 44 and
24 from Capital this will look very, very attractive, not to
25 mention that all of the architecture, the materials, masonry,
26 stone and brick masonry, the color scheme, all of those are
27 consistent between canopy, store, pickup point, car wash. And
28 in all, I mean, it's really integrated to look very tasteful.

29 I think that, from the General Standards, I probably
30 have covered those and I will ask Ryan to clear up anything

1 that I may have misstated.

2 If we go through the specific requirements, and I
3 think I am taking them in order, the first one is for the fuel
4 service -- I am sorry -- for the restaurant service. So as
5 indicated, Sheetz has, part of its 24/7 operation is provide
6 full made-to-order food, as well as typical convenience store
7 items. So we felt that, and I think staff agreed, that it was
8 important to treat this as a restaurant. We provide for some
9 on-site seating, both indoors and outdoors. Again, that, I
10 will touch on the seating in a moment because there is some
11 outdoor dining. But, again, these are amenities that have
12 been very popular with our customers.

13 So for the restaurant, either counter service or
14 table service, this is 13.20, "All access drives shall be
15 located as far as practicable from an existing intersection in
16 order to maximize traffic safety and minimize congestion." As
17 I pointed out, again, pursuant to discussions, the early
18 informal discussions with the township, we reoriented the
19 site, added the access drive along the west boundary, and
20 overall have created as far away from the intersection for
21 traffic movement consistent with 13.20(A).

22 And then B, "The applicant shall demonstrate to the
23 satisfaction of the Board of Zoning Appeals the development
24 will have minimal impact on traffic in adjacent residential
25 districts." And Heather may be able to speak to it. I think
26 Ryan could as well. But as I pointed out, there was a traffic
27 analysis that was done, formal, by a traffic engineer that
28 meets all of those criteria.

29 So in terms of the restaurant, counter service, we
30 certainly feel we meet the specific criteria that are called

1 out in 13.20.

2 Next, 13.25, "Gas stations shall be conditionally
3 permitted in the...Capital District in compliance with the
4 following." And, again, we've got a laundry list of items but
5 I will go through them.

6 "Fuel pumps," that's A, "may be erected in the front
7 yard not less than 50 feet." We comply with that.

8 "Gasoline stations located on a corner shall not
9 have less than 150 feet of frontage." We meet that.

10 "Driveways...shall be designed in accordance with
11 regs adopted by the Ohio Department of Transportation."
12 Again, the traffic impact analysis addresses that, in
13 compliance.

14 "A canopy may be constructed over the pump island
15 provided that it's no closer than 40 feet to the right-of-
16 way." We meet that criterion.

17 All activities provided at gas stations, except
18 those required to be performed, performed at a pump or an air
19 dispenser or a vacuum, shall be carried on inside a building.
20 Again, that's the convenience store, a little over 6,000
21 square feet facility.

22 The use shall have a lot area of not less than 1
23 acre. We're at over 3 acres.

24 The use shall be located so as to front on at least
25 one street which is designed and used for major traffic
26 movements. And I would suggest not only 44 but Capital both
27 meet those criteria.

28 The board may limit the number of fuel pumps. We
29 think that six should not pose any problem, any concern. It's
30 a single wing. It's not a very complicated setup and there is

1 plenty of room.

2 Off-street parking shall be provided in accordance
3 with Section 29, and we'll address that. We think we've
4 provided certainly sufficient parking needed for the uses on
5 the site but in terms of their, a couple of variances, if we
6 get to that point, we would want to address some of the site
7 geometry. But, otherwise, off-street parking is certainly
8 adequate and sufficient.

9 Waiting spaces provided in accordance with 29.09.
10 As I pointed out for -- And I said drive-thru before. I meant
11 the car wash. I misstated that. But for the car wash, we
12 have 10 spaces that's designated to meet that criterion. So
13 that kind of overlaps with the section dealing with any
14 drive-thru.

15 Loading spaces provided on the site plan, we meet
16 that.

17 And I am sorry. Then L, "Any accessory uses to the
18 principal use must be reviewed and approved by the Board prior
19 to any construction or reconstruction." I am not sure how you
20 characterize the accessory use here. You've got the fuel
21 services, you've got the convenience store and restaurant and
22 the car wash. Those are individually called out. But I think
23 all of these as a full package, you certainly have ample
24 opportunity to review them according to these criteria.

25 13.26 Car Wash, again, trying to go through the
26 details. Again, a car wash is conditionally permitted. There
27 are three criteria here, three conditions:

28 13.26(A), "The area...shall be located on the lot to
29 utilize maximum amount of lot for purposes of containing the
30 waiting line." I think we addressed this. Again, that's the

1 queuing area. And, plus, the way the site geometry works, you
2 can see how that's bumped out to the south. So you really
3 separate quite well all other traffic in and around the site
4 for fuel pumps and store from the actual car wash area, so
5 those are separated effectively.

6 Off-street parking, again, we meet that.

7 And then the waiting spaces, again, I think we have
8 discussed that as well.

9 Outdoor storage, there are two items that Sheetz has
10 at its facilities, one is propane. There is no servicing of
11 propane. This is, simply, there is a cage outside. For the
12 obvious safety reasons, we wouldn't want it inside. But it's
13 well designed. It's kept secure. And when someone wants to
14 buy, then it's unlocked, you get the -- Basically, it's for
15 grills, the conventional propane gas tank.

16 And then the other is ice. Again, a similar thing,
17 you wouldn't want ice indoors where, summertime especially,
18 you spill ice, slippery floors, it's a hazard. So, again,
19 that storage is outside as well. That's contained in a secure
20 box. I mean, it's designed to keep the temperature where it's
21 supposed to be, a good freezer.

22 Those are the only two outdoor displays but, again,
23 we think they're tastefully done, they're really unobtrusive,
24 and they're practical for their functionality. And I think
25 there, again, 13.32, the variance criteria as I have outlined,
26 and you can read through these but I think these are small,
27 they're not obtrusive, and they're safe and effective.

28 Outside Dining, 13.33, again, there are almost, I
29 think, nine different conditions. Again, conditionally
30 permitted. It shall be the contiguous to the principal

1 building. These are. There's sort of a patio area outside
2 where there is some seating. I think, in all, maybe 24 seats.

3 MR. BALKO: No. We added some, so it's closer to
4 40.

5 MR. RINKER: Forty, okay. Again, Ryan will go over
6 that with the site plan for the number of tables that are
7 outdoors. And, typically, that's weather permitting.

8 "No outdoor dining areas shall be permitted to
9 occupy or interfere with traffic circulation." These
10 certainly do not. The experiences demonstrate that and I
11 think you can see from the site plan it meets that criterion.

12 There are no signs. It's just pretty obvious the
13 design of these fixtures.

14 (D) "Outdoor seating shall be used in conjunction
15 with, and under the same management." Well, again, we meet
16 that criterion under D.

17 Shall not compete 25 percent of the restaurant
18 seating capacity indoors. We meet that criterion.

19 Outdoor seating shall not interfere with the public
20 right-of-way. Again, meets that.

21 There is one parking space per 100 square feet of
22 outdoor dining are. Again, we meet that. We have provided a
23 floor plan where you can see the useable area, relative area
24 to see those ratios.

25 Will not generate excessive noise beyond the
26 premises. There are no speakers. I mean, this is people who
27 are there short term, maybe they grab lunch, they want to grab
28 breakfast, we just want to grab a quick bite. It's pretty
29 casual. It's not like you're sitting down at an outdoor
30 restaurant and having someone playing a violin, a dining

1 experience.

2 "Conditions may be established by the Board."

3 Again, if you have questions, I think Ryan can answer them.

4 And if they're conditions that you feel are appropriate, we
5 will certainly try to meet that.

6 And I believe I have covered all of those particular
7 examples. I only want to finish, before I turned it over to
8 Ryan, the purpose of the Capital District, and this is
9 Section 22.01(N), it's to maximize economic value and function
10 of the properties in the district, to ensure efficient use and
11 function of the new infrastructure. And as we said, this is
12 not only taking advantage of the infrastructure development
13 but we see that there is a payback mechanism to this by
14 joining the JEDD, by providing these utilities infrastructure,
15 and designed in such a way that's safe and efficient and
16 generating real capital improvement meets that criterion.

17 It's to promote uses and development that are
18 compatible with and supportive of the planned Town Center.
19 And as we have indicated, this is on the perimeter, the
20 periphery. This is an amenity that will serve not only
21 projected office development in this area but really just
22 about anyone who is traveling to, through and from this area.
23 It's a proven amenity, convenience.

24 "To require site improvements which promote
25 consistent and high quality function and appearance of the
26 District." And, again, I think Sheetz, Sheetz designs its
27 stores so they look on all four sides as if they could be
28 front of store. So it's not like just a facade and you've got
29 some, you turn and then you've got some very basic box. It's
30 all brick, stone, the same architectural treatments all the

1 way around.

2 And then, "Establish an area in which unique site
3 developments provide special benefits to the District."
4 Again, I think I have touched upon all of those.

5 So I appreciate your patience in that but I felt it
6 was important that we go through this because we have really
7 looked at these individual criteria very closely. We know
8 that when it's new development especially in this area, with
9 the investment that the township, city has made, this is
10 something that's important. It's important for us. We really
11 look forward to the opportunity to providing a good economic
12 development package and service for the community.

13 So, Ryan, if you want to take it through --

14 VICE CHAIR SWEENEY: Thank you, Mr. Rinker.

15 MR. BALKO: So, again, my name is Ryan Balko. I am
16 the engineering permit manager for Sheetz. I work alongside
17 the real estate group, who are both here as well. Really my
18 responsibility is to work with Bruce, get through this
19 entitlement process, work with the engineers, get all the
20 permits and hand it off to our construction group. So
21 intimately involved from the beginning and throughout the
22 project.

23 So I just want to point out that, you know, again,
24 that we did meet a couple times with the township, presented
25 our original site plan. And after leaving that meeting,
26 Heather shared both the Comprehensive Plan and the Town Center
27 Master Plan with us. We took a dive into that and tried to,
28 tried to see how we could fit it as much as possible. And
29 what, as a result of that was this revised site plan.

30 And a few things I just want to point out on this

1 that I think are not typical of a Sheetz layout, as Bruce
2 mentioned, was the canopy off to the left instead of out
3 front. Traditionally with a gas station, you will see the
4 canopy first thing that comes, that you see off the road.

5 The other thing is, with the way that we had to
6 orientate our building, this entire north side and east side,
7 we modified above and beyond our sort of prototypical building
8 elevations. Typically, we don't have outdoor seating on this
9 side, but the way that the building needed to be orientated
10 and the connectivity that we felt the township was looking for
11 with the public sidewalk and having an option for people to
12 sit out front, we did ask our architects to look at modifying
13 that.

14 The other thing is, with this back side of the
15 building sort of facing 44, typically, it's a, it's brick and
16 stone, you know, on all four sides, but that's the back of
17 house. We don't typically have window treatments or anything
18 like that. So we've added some faux windows and some
19 horizontal bump-outs to make it look like more than just a
20 plain wall. Those are on the elevations that we submitted and
21 we will go through here as well.

22 Landscape plan as well, we believe it meets code.
23 It's one of the items that will, obviously, have to be
24 reviewed in greater detail as part of our Zoning Commission
25 meeting, as well as Heather's review. You know, I think the
26 code requirement itself is pretty substantial compared to what
27 we typically see. So, you know, we did our best to
28 interpretate that and add it into the plans.

29 Here's some landscape details. These are all the
30 conditions that Bruce just ran through.

1 So these are our typical building elevations and,
2 again, this would be the facade of the building that was
3 facing towards the fuel island canopy early on and the north
4 side as well, stone at the bottom. Here is the ice
5 merchandisers that were mentioned as part of the outdoor
6 display. We do have "Sheetz" signs over the pedestrian
7 entrances to help signify that those are pedestrian entrances
8 and not employee entrances, and then we also have an
9 additional made-to-order sign on that building facade as well.

10 And then this is, this would be that side facing
11 Route 44. And, again, you know, typically, these windows and
12 overhangs aren't part of our typical design but we felt, with
13 it facing the roadway, that we would add that in. The red
14 displays in the windows, happy to work with the township with,
15 you know, if there is something that they feel is more
16 appropriate. We've done tinted glass. We've done reflective
17 glass. Unfortunately, because it's the back of the house, we
18 can't have any openings, so we do our best to dress it up.

19 And then another thing that I wanted to point out
20 here is off to left here, typically, we have our propane cage
21 on this building facade but we didn't want it facing the
22 roadway. So what we did was we had a custom wall built so
23 that the propane cage is on the sidewalk and it's kind of
24 blocked from view from the roadway.

25 Floor plan, again, Bruce mentioned a couple times
26 Heather and I worked -- The site plan that you see, we did a
27 breakdown of the parking requirements based on the floor plan,
28 based on the additional seating for the outdoor seating. So
29 we do feel that we comply with that.

30 These are the four sides of the car wash, same brick

1 that's on the, on the building. It's tucked in the back of
2 the, back of the site as much as possible. There is, you
3 know, existing forested area that will block it on the south
4 and east.

5 You know, Bruce mentioned our new fuel island
6 canopy. If anyone is familiar with the Sheetz in the area,
7 you know, you're familiar with the big red backlit canopy, and
8 then this truss canopy is a little less, you know, in your
9 face. So it's a cleaner look. It's something that we're
10 rolling out as a company on all new sites moving forward.

11 Monument signs, you know, I believe per code we're
12 permitted two monument signs. So we're showing one at our
13 entrance off Capital Parkway and we're showing our second
14 monument sign at the intersection.

15 These are some typical, again, these are just
16 standard prototype stores. It's not necessarily specific to
17 this site but just to give you a better perspective of what
18 these finished buildings look like. You can see the sidewalk
19 around the building is all flush to prevent any tripping
20 hazards, some of the outdoor seating, the bumper post to
21 protect pedestrians on the sidewalk.

22 Again, we're not proposing a drive-thru on this --

23 MR. RINKER: My bad. Sorry.

24 MR. BALKO: -- on this project. So, you know, these
25 would not be there but it's just to give you another
26 perspective that the stone and the brick go on all four sides.

27 And then this would be the customer entrance. So I
28 mentioned the propane is typically on this side. We didn't
29 want it facing Capital Parkway, so we have sort of dressed up
30 this facade more than what you would see here, bumped out the

1 sidewalk, added additional outdoor seating.

2 This would essentially be close to the perspective
3 that you see from Capital Parkway with the new fuel island
4 canopy and then, you know, other side, maybe from the south.
5 But, again, no drive-thru on this site. It's not permitted.
6 So I just want to kind of erase that from your scope.

7 Bruce touched on the JEDD, so I am not going to get
8 in too much detail with that.

9 But, yeah, you know, we're happy to answer any
10 specific questions that you might have on the site plan,
11 anything with the building. I do have, you know, read the
12 traffic impact study that was prepared for the township and, I
13 believe, approved. I don't know if it was formally approved
14 but, you know, there was some back and forth with the review
15 agency. So I am happy to answer any questions.

16 VICE CHAIR SWEENEY: Thank you.

17 MR. LUCAS: Just so we have it for purposes of the
18 record, would you just acknowledge that you were sworn in
19 before you came up?

20 MR. BALKO: Yes, yeah, I was sworn in.

21 MR. LUCAS: Thank you.

22 VICE CHAIR SWEENEY: Thank you very much. Questions
23 from the board.

24 MS. JARRELL: When you were looking at the Town
25 Center plan, you seem to emphasize that it's on the periphery
26 and so -- but it's not, it's a part of the plan. So can you
27 elaborate on how you feel that this is complimentary to that
28 plan?

29 MR. RINKER: Sure. Well, I think, again, you have
30 seen the visuals, but my understanding is that the Town Center

1 plan is area to the west of here, that this is adjacent to it.
2 So it's part of the Capital District. But when you look at
3 future development, for example, in a lot of office areas, it
4 will provide some type of food service use, some type of
5 amenity. This is included in the convenience store, so you've
6 got that component.

7 You've also got just for the motoring public, and
8 you are going to have a lot of people, I mean, you've designed
9 future development that's vehicle dependent. You will have a
10 walkability area within the Town Center itself but here out on
11 the highway, having this access point adjacent to the highway
12 as opposed to being something interior, we think it makes a
13 lot of sense. It certainly makes sense from a traffic
14 management standpoint.

15 And then, finally, I don't think it's wrong to
16 stress the fact that this is economic development, which is
17 something that the Comprehensive Plan and the JEDD
18 collectively promote. And I would challenge anyone to say
19 that a \$6 million investment, including extending future
20 development potential with utilities, providing jobs, all of
21 those fit.

22 So we don't see this as something that's within the
23 Town Center but adjacent to and it would be compatible with
24 it. And for the other uses that are in the Capital District
25 that are also going to be adjacent, we certainly think that
26 this fits very well.

27 And I would go back to the starting point with any
28 conditional use is, when it's specified, it's presumed to be
29 permitted as long as you meet those conditions. And when you
30 get into some of the more general aspirations, I think we can

1 all have differences of opinion but I would ask that, by an
2 objective measure, this meets so many good things, may not be
3 perfect, but we think it's very good development and we
4 certainly would like to be able to invest in the community
5 that way.

6 MS. JARRELL: I really like Sheetz. How far is this
7 site from the Chardon location?

8 VICE CHAIR SWEENEY: It's about six miles.

9 MS. JARRELL: Six miles, is it really? So can you
10 speak to some of the experience that you had from being open
11 24 hours a day and some of the problems that you may incur
12 because of that?

13 MR. RINKER: AC, is that something you --

14 This is AC Fownes, that's F-o-w-n-e-s. He's a real
15 estate site selector and may be able to have more insight on
16 the corporate aspect.

17 VICE CHAIR SWEENEY: Have you been sworn?

18 MR. FOWNES: I have been sworn in.

19 VICE CHAIR SWEENEY: Thank you.

20 MR. FOWNES: So we're a 24-hour operation. We have
21 over 630 units in six different states operating. Part of the
22 security that we have is 24-hour security. It operates just
23 like a Ring doorbell does where our safety operation can speak
24 directly to the store. It's manned 24 hours a day. We have,
25 I think, about 36 cameras on site, so we have full lot
26 coverage outside of the store and in the store and we run a
27 very tight ship.

28 MS. JARRELL: So there is somebody monitoring?

29 MR. FOWNES: Yes, 24/7 at corporate headquarters,
30 yes.

1 MS. JARRELL: Oh, at corporate headquarters.

2 MR. FOWNES: Yes.

3 MR. RINKER: But the response time, the coordination
4 between that site and on site.

5 MR. FOWNES: It's, they're wearable. The alarms are
6 wearable on our store clerks. And as soon as something
7 happens at the store, the cameras come up on there and the
8 appropriate first responders are dispatched to the store.

9 MS. JARRELL: So that's wonderful, but how
10 frequently does that occur? And I know every market is
11 different, I understand that. But if you could just speak to,
12 you know, some of the issues that, coming from being open 24
13 hours. I mean, it becomes a destination point. Nothing good
14 happens after midnight, you know, and so that's a concern.

15 MR. FOWNES: No, our stores are, our stores are
16 typically busy during the busiest, the peak traffic times
17 during the day, a.m. peak, noontime and p.m. peak is when our
18 stores are busy. When they aren't, there is very little
19 activity at the stores after 10:00 or so. And we do have at
20 least three employees on staff at all times.

21 MS. JARRELL: You are not answering my question.

22 MR. RINKER: Safety record.

23 MR. FOWNES: I don't, I don't have any specific
24 information about our safety record.

25 MS. JARRELL: Okay. So you don't see that there is
26 any problems? Like the Sheetz in Perry, for example, does
27 that -- Let's just speak to that location. Do you have any
28 issues?

29 MR. FOWNES: Not, no, we don't.

30 MS. JARRELL: So I did take it upon myself to call

1 the Sheriff's Office and I spoke with, actually, two different
2 sheriff's there and they both spoke highly of Sheetz. Let me
3 just clarify that. But they did say that, yes, there are
4 annoying misdemeanors going on, you know, noise, fights,
5 people are hanging out there. And so, I mean, this is the
6 information that I want to know because this is, this is the
7 primary concern that I have with it.

8 I, again, I think Sheetz is wonderful. It's clean.
9 It's attractive. But the, the sort of folks that is attracted
10 in the middle of the night, probably with younger people
11 hanging out, I think probably causes issues.

12 MR. FOWNES: Well, I think that those things are
13 addressed. That's why they may be on a police report, because
14 they've been called in to deal with that.

15 MS. JARRELL: I mean, I didn't speak to any specific
16 police reports. I just spoke generally with two of these
17 sheriff's.

18 MR. FOWNES: Right. So they would have been
19 familiar with the site and had witnessed that or whatever.

20 MS. JARRELL: So they did say that it is going to
21 create additional issues. They both said that. And so, but
22 they did confirm that it's not going to be anything that they
23 can't handle. But, you know, as far as the conditions go for
24 the conditional use, will not be detrimental or endanger the
25 public safety or general welfare, will not be hazardous, you
26 know, those, those are the things that I am concerned with.

27 MR. FOWNES: If we did have issues with security, we
28 would have, hire private security for that.

29 MS. JARRELL: Okay. But you --

30 MR. FOWNES: If it's an issue, I am just saying in

1 general over all of our stores, yes, you're right. There are
2 different stores that have different levels of that, but
3 anywhere that there is an issue that we would be made aware of
4 that we would have security on site.

5 MS. JARRELL: Okay. So you just have three people
6 there at night?

7 MR. FOWNES: That would be the minimum amount of
8 staffing.

9 MS. JARRELL: Three, the minimum amount.

10 MR. FOWNES: Yes, and as many as eight individuals.

11 MS. JARRELL: As many as eight. So you just don't
12 know what that requirement --

13 MR. FOWNES: It depends on how busy the store is.

14 MS. JARRELL: Right.

15 MR. ROWAN: Go ahead.

16 MR. GOLLING: So as God as my witness, I didn't --
17 Chardon, I thought it was a Speedway but now it's a Sheetz. I
18 just put that together.

19 But, yeah, I have been down to the Chardon Sheetz.
20 And one thing I noticed is -- I don't want to seem obtuse here
21 but it is a -- and I don't want to minimize the investment but
22 the gas station is a, it's more of a, "Hey, I'm here. I'm
23 going to get an MTO egg sandwich," versus, "Hey, kids, let's
24 hop in the car and go to Sheetz and eat."

25 But while I was there gassing up on the southern
26 most pump, I noticed just a, just trash, just garbage. It
27 was, you know, because they have the red tables outside with
28 the umbrellas out there. And I am sitting there looking at
29 this. I'm going, I really wish somebody would pick up this
30 trash. And, of course, then it blew into the parking lot next

1 door there.

2 So my concern is, like, is there any sort of
3 policing out there? Is there, as we've approved outdoor
4 dining before, it's been in an enclosed area. I will take
5 Burgers 2 Beer, for example, that they have an enclosed area
6 where it's policed, it's monitored. Is there somebody out
7 there like a server out there or is it just like, here is a
8 table, you go eat your egg sandwich at?

9 MR. ROWAN: It's just a sit-down area. There is no
10 service.

11 MR. GOLLING: So is, you know, given that sometimes
12 the transient nature of people that visit gas stations, you
13 know, they're going to sit down and eat, leave their stuff
14 there, it blows away. I mean, is that something that the
15 cameras would capture and corporate would say, "Hey, there is
16 trash all over the place. Get out there and clean it"?

17 MR. FOWNES: They would. We also have, at every
18 shift turnover, they're supposed to be out emptying the trash
19 and making sure the lot is tidy.

20 MR. RINKER: That certainly would be a condition you
21 could impose, make sure there is extra policing.

22 MR. GOLLING: Do you have one, Davey?

23 MR. ROWAN: Yeah.

24 MR. BALKO: Just to add, like, so we, we do have a
25 couple stores in the area that -- I don't want to say that was
26 an issue but, like, it was noticed that there was trash. And
27 we worked with, specifically, the City of Twinsburg and they
28 increased the number of times that they would, you know, walk
29 the lot and everything just because it was close to a highway,
30 the way the wind was, you know. If something got out of

1 somebody's hand, it was being blown into the --

2 MS. JARRELL: Who is increasing?

3 MR. BALKO: Sheetz.

4 MS. JARRELL: They're increasing the employees?

5 MR. BALKO: Yeah, the number, not the number of
6 employees but the number of times that they would walk the lot
7 to pick up trash so, that way, you know, to lessen that.

8 MS. JARRELL: Is that, is that standard protocol
9 right now? I mean, it seems to me, especially given the COVID
10 environment, I mean, I ride my bike from Concord to the
11 Chardon Sheetz and always grab something and the tables are, I
12 mean, I know I'm getting detailed but they should be wiped
13 off, and it's the same with the Sheetz in Mentor. It is, it's
14 kind of nasty out there and I think that there needs to be
15 just a higher level of care taken.

16 MR. BALKO: Yeah.

17 MS. JARRELL: Especially given where this is
18 located. And if you want it to be, you know, correlate to the
19 Town Center plan, then this has to happen.

20 MR. BALKO: Understood.

21 MS. JARRELL: It just cannot --

22 MR. BALKO: Yeah. And I think maybe what you are
23 seeing, especially over the last year with almost every retail
24 user, is, you know, issues with labor shortages, that, you
25 know, AC mentioned that, you know, we would like to have eight
26 people on our busiest shifts. But if we can, you know, if you
27 only have five, you're doing your best to check off all the
28 boxes with what you've got.

29 So there is the standards that are put in place,
30 there is the training, there is the managers that check

1 everything. But I think, in a perfect world, it's not an
2 issue.

3 MR. ROWAN: Can I ask a question about the labor
4 real quick? In the event you had less than three people,
5 would you have to close in that event? I mean, obviously, you
6 want to avoid that but I don't know if it's happened, but what
7 happens in that scenario?

8 MR. FOWNES: I think as just a general rule, that's
9 our minimum staffing at any one time. Whether there's ever
10 been a situation where there has been -- I can't imagine there
11 has ever been less than two but I can't promise you that it's
12 ever not got down to two. But I know we're not keeping stores
13 open. You know, the store managers, the district managers,
14 those folks do fill in if they have to, you know, in those
15 kinds of emergency situations.

16 MR. BALKO: Yeah, the answer is yes. I mean, in
17 this area there's been shifts where the store has been closed
18 because, because of that situation.

19 MS. JARRELL: So somebody is monitoring what is
20 happening at all times?

21 MR. BALKO: (Nodding.)

22 MR. RINKER: Answer out loud.

23 MR. BALKO: Yes.

24 MS. JARRELL: Thank you.

25 MR. ROWAN: A question on the parking. I know it
26 sounds like there is 4,000 square feet of dining space; is
27 that correct?

28 MR. BALKO: No.

29 MR. ROWAN: Maybe I misheard that.

30 MR. BALKO: Yeah.

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MR. ROWAN: No, there is a requirement for so many parking spaces per.

MR. BALKO: Yeah. So the way that that section reads, it says square footage of outdoor dining. So we took our best guess at what each table square footage was and worked that out with Heather. It came out to, I believe, ten additional parking spaces above and beyond what the building breakout was. But what we show proposed on the plan either meets or exceeds it by a couple spaces.

MR. ROWAN: I saw there was like 40 plus parking spaces here.

MR. BALKO: Yeah. And that's typically, I mean, you know, minimum, you know, there is always a minimum in a code. We always shoot for around 40 or 50 spaces. Again, peak shifts, seven or eight spaces for employees and then, you know, we know, based on the numbers that are run, how many people we can expect at a store on the peak hours.

MR. GOLLING: I have never taken the thought to count about it but how many cars a day are you expecting to go in and out of this driveway here on average?

MR. BALKO: Yeah, so our traffic engineers follow the ITE manual that's accepted by ODOT. Based on, it's all calculation based on size of the building itself. I think it comes out to like 2,100 trips per trip. And a trip is an in and an out, so half of that, 1,100. We can tell you from experience that it's less than that but that's what ODOT requires we use in our traffic generation study. So I don't have a specific number for you, especially, you know, again, it will vary based on location.

MS. JARRELL: So there is one ingress/egress, one?

1 MR. BALKO: That's, yeah, yeah.

2 MR. RINKER: There is one on Capital and then there
3 are two off of that street.

4 MR. BALKO: Yeah. So we certainly would've -- We
5 certainly prefer two. The way that that section of Capital
6 Parkway is set up, there is only one driveway permitted along
7 the entire section of Capital Parkway. That's per the
8 township and working with, I believe, the county traffic
9 engineer when they designed all that.

10 What we did add was, in, I believe, speaking with
11 the property owner of the remaining balance, is the reason
12 that we have that stubbed out is because if, when and if there
13 is future development, the idea is to keep extending that
14 roadway all the way to Auburn so, that way, it kind of links
15 in there but, you know, that's all we're permitted.

16 MS. JARRELL: That's seems crazy to me.

17 MR. BALKO: We have sites, yeah, we have sites that
18 -- We have extra large drive aisles. So, you know, typically,
19 the 24 minimum. We have 35, 36 feet. Not to say that
20 something could happen there that blocked the entire thing but
21 it's, you know, it's more than likely that there is still, you
22 know, room to get around because of that extra width.

23 MS. JARRELL: What kind of assurances can you give
24 us that these standards of cleanliness and keeping the
25 shenanigans to a minimum, I mean, what kind of assurance can
26 you give us?

27 MR. BALKO: Yeah. Again, our employees are, they're
28 all trained with the same standard of care. And, again, I
29 mentioned that we worked with other municipalities that, you
30 know, even in their conditions for our conditional use, you

1 know, mentioned the cleaning of the lots and everything. So,
2 you know, more than happy to, you know, make that, you know.
3 The township can, we'll work with the township, if it becomes
4 an issue, you know. We will work on either maintenance or --

5 MS. JARRELL: I don't like the reactionary aspect.

6 MR. BALKO: Yeah. Well, again --

7 MR. RINKER: To clarify, I think you put it in the
8 motion and make it a conditional. So I think what we are
9 trying to say is that, to the extent that you feel it's
10 necessary to specify or put those conditions in there, we're
11 trying to say we will comply. We will work with the township.
12 I am not sure exactly how the language would be phrased. But
13 to your point, from a safety standpoint, we want to make sure
14 that that's more aggressive, more on the ball, proactive, and
15 then with the cleaning, the same thing. Certainly, we would
16 want those to be reasonable but I think those are reasonable
17 conditions and they would be part of any approval that you
18 would be extending.

19 MR. BALKO: Yeah. And we put together, you know,
20 operation and maintenance agreements with other municipalities
21 that we can spell, you know, we can work and show you, you
22 know, here is the logs that they're supposed to fill out, here
23 is how often they're supposed to fill it out, and that, you
24 know, that can be a packet that's given, you know, to the
25 township.

26 MR. RINKER: It probably could be worked out with
27 legal counsel, with the township's attorney. So if you wanted
28 a specific document, incorporate that into the motion as
29 something that would have to be vetted by legal counsel.

30 MS. JARRELL: I love that idea.

1 MR. ROWAN: Is there like a minimum number of trash
2 cans you guys have or trash receptacles? I don't know that
3 that's in any of the requirements.

4 MR. BALKO: Yeah. I mean, there is, yeah, I mean,
5 there is always the one, one at each pump that you typically
6 see and then there is, you know, a number of them, especially
7 at, near the entrances.

8 MR. ROWAN: I am just thinking the dining area
9 outside, making sure that's close enough that people aren't
10 just leaving stuff. I guess that would be one way to look at
11 it.

12 MR. BALKO: Yep.

13 VICE CHAIR SWEENEY: Any other questions from the
14 board?

15 MR. ROWE: No.

16 VICE CHAIR SWEENEY: Jim?

17 MR. ROWE: No, nothing.

18 MR. ROWAN: Can I ask a question?

19 VICE CHAIR SWEENEY: Sure.

20 MR. ROWAN: So as far as the process, we can ask
21 questions specific, we want to ask questions specific to the
22 variances and the conditional use, correct?

23 MS. JARRELL: Correct.

24 MR. GOLLING: We're just doing the conditional use.

25 MS. FREEMAN: Right now, we're worrying, right now,
26 we're discussing the conditional use permit application.

27 MR. ROWAN: Conditional use, okay.

28 VICE CHAIR SWEENEY: That's all we're addressing.

29 MR. ROWAN: Okay. I think that's, I think that's
30 all I have right now then.

1 MR. BALKO: Can I just add one more thing? There
2 was a, just glancing at some of the social media out there on
3 this case, there was some claims that the Sheetz, some of the
4 Sheetz stores are franchises. All of our, every single one of
5 our stores is corporate owned. So there is no opportunity for
6 somebody to come in and, you know, follow a different
7 protocol, different management. So every single, you know,
8 standard that's put in place is at every single one of our
9 stores. There's no franchises.

10 VICE CHAIR SWEENEY: Okay, thank you.

11 Now, is there anyone speaking for or against the
12 appeal? Please approach, affirm that you have been sworn in,
13 state your name and address.

14 MR. KHAN: Good evening, everybody. I'm Mohammad
15 Khan and I am the owner of the Shell gas station and I am
16 sworn in.

17 VICE CHAIR SWEENEY: Thank you.

18 MR. KHAN: I am the owner of the Shell gas --

19 VICE CHAIR SWEENEY: Your address?

20 MR. KHAN: Pardon?

21 VICE CHAIR SWEENEY: What's your address?

22 MR. KHAN: 7635 Crile Road, Shell. I have been
23 serving this, I have been serving and helping the community
24 since 2006. I am a small business owner that cannot compete
25 with Sheetz. It is to my great regret and opposition that my
26 business is being threatened. There are ample gas stations in
27 Concord Township, two of which are within a mile radius.
28 There is no shortages of service within the area. There are
29 also already five Sheetz within 15 to 20 mile radius, which
30 implies the potential for a monopoly. The potential

1 congestion of traffic is alarming based on, based on many
2 accidents that have already occurred in this area.

3 I respectfully request that the board reject the
4 application to build a Sheetz within this area. Thank you for
5 your time and consideration. Thank you.

6 VICE CHAIR SWEENEY: Thank you.

7 MR. MIOCIC: My name is Dario Miocic. I live at
8 6993 Sturbridge here in Concord. I have been sworn in. I
9 just came to bring up a couple of points that I think should
10 be taken into consideration. I have talked to the trustees in
11 the past about the Comprehensive Plan and building up Concord
12 and the way it's going to look and discussions of two and
13 three, four, five hundred thousand dollar condos going in in
14 that area. I don't know if a giant gas station would be a
15 great gateway to that area.

16 I know, as you discuss and talk about different
17 areas like Chagrin Falls or maybe Crocker Park or those types
18 of things, you know, gas stations are not visible within that
19 area. So I think that should be taken into consideration. I
20 don't know if it has a positive impact on the look.

21 The other thing that I want the township to take
22 into consideration, I have talked to past and present members
23 of, or employees of the township looking for residents to
24 bring businesses to this township, and myself included
25 considering it. I think the township needs to consider where
26 they stand on supporting their residents. You know, as the
27 gentleman that was just up here a moment ago brings up, this
28 man lives in Concord and has a dealership here. Where is the
29 support that the township has for him and future businesses
30 coming in that have to worry about giant companies coming in?

1 Nothing against the company that's considering opening a
2 dealership. I am sure they're fantastic people. But I think
3 there is a responsibility the township has to its residents
4 first. That's all I have to say.

5 MS. JARRELL: Thank you.

6 VICE CHAIR SWEENEY: Thank you.

7 Is that it? No further for and against?

8 (No response.)

9 All right. If there is no further comments or
10 questions, the public hearing is now closed.

11 All right. The chair will entertain a motion to
12 approve the application for Conditional Use Permit Number
13 2021-20.

14 MR. LUCAS: Mr. Chairman, you've got an application
15 that is going to require five separate motions because there
16 is five separate conditional use permits.

17 VICE CHAIR SWEENEY: Correct.

18 MR. LUCAS: So you are going to have to identify as
19 such --

20 VICE CHAIR SWEENEY: Each one individual?

21 MR. LUCAS: Yes, vote on them separately.

22 VICE CHAIR SWEENEY: Vote on them separately.

23 MR. LUCAS: And keep in mind, if you want, after a
24 motion and second is made, if you wanted to discuss a specific
25 condition to be included within that, as was brought up by
26 several of the board members and that and also discussed with
27 legal counsel for Sheetz, that would be the time to discuss it
28 and try and determine what conditions, for instance for
29 cleanliness in the outdoor dining area, would be appropriate
30 for that particular application. So just a word to the wise.

1 VICE CHAIR SWEENEY: Thank you. We can probably
2 discuss those in our discussion but for now we need a motion.

3 MS. JARRELL: Do you want to state it?

4 VICE CHAIR SWEENEY: Well, I don't know. Do I state
5 it, Mr. Lucas, do I state a motion --

6 MR. LUCAS: The first --

7 VICE CHAIR SWEENEY: -- for each one individually?

8 MR. LUCAS: Yes.

9 VICE CHAIR SWEENEY: Or state them all?

10 MR. LUCAS: Yes, we are going to vote for each one
11 separately. So the first one would be, somebody should make a
12 motion to approve the application for a conditional use permit
13 to operate a gas station in accordance with Section 13.25 of
14 the Zoning Resolution.

15 VICE CHAIR SWEENEY: Okay. Do I have a motion for
16 that?

17 MR. ROWE: So moved.

18 MS. JARRELL: Second.

19 VICE CHAIR SWEENEY: Second, okay. Discussion?

20 MR. ROWE: I feel like there is so many things
21 needed to be looked at and whatever, I mean, there is a lot of
22 variances coming along to fit this in. I just don't get a
23 warm, fuzzy feeling that it's what's needed at that location.

24 MS. JARRELL: You do or you don't? I am sorry, Jim.

25 MR. ROWE: Don't, I don't think, I think, when you
26 look at all the numbers and so forth. And, again, is another
27 gas station needed within, within the parameters to be
28 additional to the township?

29 MS. JARRELL: Well, I don't think -- There is
30 nowhere in any of these conditions, you know, for a CUP that

1 says that there only can be a certain amount of gas stations.

2 MR. ROWE: No.

3 MS. JARRELL: So if -- What is, specifically from
4 the general standards for the CUP, is bothering you as it
5 pertains to Sheetz?

6 MR. ROWE: Well, I think that, as the one gentleman,
7 the second gentleman pointed out, it can be tough on people
8 that are already in the business here in this small area.

9 MR. GOLLING: You're not wrong about that. Will it
10 be tough? But, you know, our duty is to review the criteria
11 for the application for the CUP that says we have -- let me
12 see how many bullets, I don't know, like 13, 13 some bullets
13 that are on there -- that warm and fuzzy isn't on here.

14 MS. JARRELL: Right.

15 MR. GOLLING: And to Mr. Kahn's point, I mean, my
16 kid rides his bike to his gas station every summer, buys
17 stuff. I have probably crossed 44 to get gas once in the 15
18 years I have lived here. So as far as, I mean, I am a Shell
19 guy or a Pinky's, depending on where I am, right? But, you
20 know will, I -- The question doesn't, it's not my personal
21 opinion where I am going to get gas or where my kid rides his
22 bike to in the summer, because he is not allowed to cross 44.

23 MR. ROWE: Right.

24 MR. GOLLING: But with that, is the criteria that
25 was put forth to us in these 13 or so bullets, will it be
26 harmonious in accordance with the general objectives and with
27 the Township Comprehensive Plan? So to my own ignorance --
28 and it's not a bad word. It just means I didn't know -- I
29 took the time to review the Comprehensive Plan. I came in and
30 saw Mr. Andy, we sat down and I looked at it. And if the

1 trustees, at the time when this Comprehensive Plan was
2 developed, didn't want a gas station there, they had the
3 opportunity to exclude it.

4 MR. ROWE: That's a good point.

5 MR. GOLLING: And as much as, you know, will a car
6 wash over there take away from the Shell car wash? I mean, I
7 don't know. I don't know how that works out. But in these
8 bullets here, there is no review of the capitalism
9 requirements that will, if it will affect another business.
10 And, you know, like I said, as I said before, I am a Shell
11 guy. I love going to his gas station. It's not my personal
12 love of his gas station but what it is is, does Sheetz meet
13 the requirements as put forth on here?

14 The only thing I have, my question is, in reviewing
15 the Comprehensive Plan, right now, it's pastures and trees.
16 There ain't nothing there. So you go around the circle.
17 You've got a little "Concord" sign. But what the
18 Comprehensive Plan shows just west of that circle, that's
19 where the meat and potatoes are going to be. So now there is
20 nobody on Enterprise or Capital Parkway in the morning, right?
21 I drop my kid off at the bus, come up Capital Parkway and
22 there is six, seven cars there. At some point, there is going
23 to be a boatload more than six or seven cars waiting for the
24 red light in the morning, I mean, a ton more.

25 MR. ROWE: Yeah.

26 MR. GOLLING: And some of those people are going to
27 be, well, crap, I need gas or an egg sandwich, and they may
28 choose to go there. So when I review this, I am saying, is
29 there anything in here that says they want to put something in
30 there that doesn't meet our rules? And that's our job is to

1 decide not the warm and fuzzy, not the kid crossing 44, even
2 how many cars. I am concerned about, is Capital Parkway going
3 to back up eight miles in the morning? Maybe, because based
4 on the number of folks that are going to live there, based on
5 the company that wants to go back in there, if there is a
6 company that wants to go back in there, you know, could it get
7 busy there? Yeah. Will Girdled get bad? Probably. But will
8 it direct traffic all the way up to BP and will people try to
9 come out there? Maybe. But we have, traffic engineers went
10 ahead and looked at it and said it's cool.

11 So, you know, I just, I am looking at these bullets
12 and trying to decide, where is the violation in the bullets?
13 And some of them are subjective. So is it harmonious and in
14 accordance? You know, what's the definition of "harmonious"?
15 Well, I mean, we've already seen that they've had a, quite a
16 nice PowerPoint of what they want to put in there. I mean,
17 but if harmony is like, I don't want the Chardon Sheetz to
18 look like that -- or let me rephrase that. I don't want, if
19 there were a Sheetz to go in there, you know, because I go
20 down there and it's just a swirling vortices of trash and it's
21 dirty and I don't like it. So that's my, that's my two cents
22 there.

23 But if the rules are they want to put a, if they
24 want to put a gas station in there and they've got 38 cameras
25 with Sheetz police looking at this, saying, "I see a cup just
26 fell off. Send Gary outside to go police it again," and they
27 do it every 38 minutes and they keep doing that, they agree to
28 follow the rules, they agree to our rules here, I don't know
29 where, I don't know where the, you know, where -- I would be
30 remiss in my duty if I didn't follow these duties. I don't

1 see anything right now that says they haven't followed the
2 rules, at least, on the gas station portion.

3 MR. ROWE: Yeah.

4 MR. ROWAN: Can I ask a question? And I spoke with
5 Heather this morning or this afternoon to ask some questions
6 about the process. So after we make our decision, there is
7 still another -- is there another step in this process as far
8 as like a plan review or is this it? Like once this, I
9 guess --

10 MS. FREEMAN: Yes. Mr. Rowan, after tonight's
11 meeting, if the approvals are given for all the conditional
12 uses and the variances, then the next step for the applicant
13 would be to submit their plans to the Zoning Commission for a
14 site plan and design review. And along with that, then they
15 would have to also seek approvals from the other county
16 agencies.

17 MR. ROWAN: I'm assuming there would be public
18 hearings for those as well.

19 MS. FREEMAN: There will be public meetings with the
20 Zoning Commission.

21 MR. ROWAN: Okay. So this, so we're approving
22 what -- We're basically looking at the rules and saying, does
23 it fit the rules as they're presenting it for the conditional
24 use? But then after this, there is a whole nother process
25 that still has to go on, correct?

26 MR. GOLLING: Right. This is just a step to get to
27 the Zoning Commission.

28 MR. ROWAN: Okay.

29 MR. GOLLING: Because what they want to do, there
30 is, conditionally, we've got to permit them to do that.

1 MR. ROWAN: Right.

2 MR. GOLLING: So we've just got to say it's cool and
3 then they can go to Zoning.

4 MR. ROWAN: And I think that's, so basically --

5 MR. GOLLING: It doesn't mean they break ground.

6 MR. ROWAN: Right, right. And I guess where I am
7 going with this is I am agreeing with a lot of what you are
8 saying and that, like, looking at it by, you know, how we have
9 it written, are they violating those or not or do we grant the
10 conditional use, again, knowing that we're not saying, okay,
11 go ahead and start building, this is just one step in the
12 process that we're looking at.

13 MR. GOLLING: So if you had -- I know you're the new
14 guy.

15 MR. ROWAN: Yeah.

16 MR. GOLLING: But to look at the Comprehensive Plan,
17 I mean, when I looked at it, if you take the meat and potatoes
18 of what the Comprehensive Plan is, it's the circle west.

19 MR. ROWAN: Right.

20 MR. GOLLING: So where the old marble guy was, where
21 the Viviani building is and where the trees are right there as
22 far as the -- they're definitely within the curtilage of it
23 but it's, the actual Comprehensive Plan, it's west of that.

24 MR. ROWAN: And this would be the first thing in the
25 plan to be built.

26 MR. GOLLING: I think.

27 MR. ROWAN: If it's built.

28 MR. GOLLING: Yeah.

29 MR. ROWAN: How far south does that go, is it -- for
30 the Comprehensive Plan? I am trying to -- I know it goes

1 somewhat further south. I don't know off the top of my head.

2 MS. JARRELL: South, I am not sure what you are
3 asking.

4 MR. ROWAN: So like if you are looking at the lots
5 where the circle is, the Comprehensive Plan is everything
6 west. This is just one little piece right here. Now we're
7 talking about going west. Does it go -- They're talking about
8 running a road and sewer and water.

9 MS. FREEMAN: Mr. Chairman, if I could try to answer
10 Mr. Rowan's question, I would say, if you have a copy of the
11 zoning map with you, that you could see the area zoned Capital
12 District.

13 MR. GOLLING: That's the candy striped one.

14 MS. FREEMAN: It's the candy striped one. It would
15 include land that is part of the vision of the Town Center and
16 there is some additional land that is not currently zoned
17 Capital further west. So basically across, as far west --
18 south on Auburn Road where the assisted living facility is.

19 MR. ROWAN: Okay, yeah, yeah.

20 MS. FREEMAN: You know where I am talking about?

21 MR. ROWAN: Yeah. So, I mean, there is, definitely,
22 this could be a catalyst for other things, potentially, as
23 well. So I think there are some positives as well. Sorry. I
24 think there are positives as well to look at. But, again,
25 just looking at the rules, I am in agreement with you.

26 MR. GOLLING: We have to decide if what they want to
27 do violates any of the rules set forth for the conditional
28 use.

29 MR. ROWAN: Right.

30 MR. GOLLING: That's our job. And there is five of

1 those to go through, not to mention the variances.

2 MS. JARRELL: So I would just like to reiterate that
3 I love the idea of having an operations and maintenance
4 agreement with the township, you know, maybe perhaps talk with
5 Lake County Sheriff. I am not sure how far that needs to go.
6 But, in my opinion, I would really like to see that there are
7 certain standards upheld to protect the community and to keep
8 it as clean as possible.

9 You know, I would also contend that, you know, we've
10 got the vision for the Concord Town Center which was done in
11 2016, which was, you know, really awesome, kind of proposing
12 lifestyle areas, you know, catering to the predominant
13 demographics, blah, blah, blah, and we've issued RFPs for that
14 and nothing has happen. It's 2021. So, you know, maybe, I
15 mean, personally, I am not crazy about a gas station, I am not
16 crazy about the 24 hour, but I think that we can minimize some
17 of the risk associated with it.

18 I do like Sheetz. I think that it's going to be
19 very attractive. And as long as we can maintain the quality
20 and the safety there, that perhaps, with this economic
21 development, it is. It definitely is.

22 And having them do the development through to the
23 south side of the second parcel there, I think, is very
24 important. It's going to save the township some money. I,
25 the Sheriff's Department, you know, they're not crazy about
26 24-hour things but they said they can handle it, and they also
27 said that Sheetz is very cooperative with the local police
28 departments. So that, in itself, is comforting as well.

29 I think it's going to be very attractive. I am not
30 crazy about the red windows. But I think that it is, it may

1 be the catalyst that we do need. The Town Center vision
2 hasn't, hasn't brought forth anything. So, you know, let's
3 get this going. It would be nice, it would be nice to get
4 some development happening over there.

5 So I have to say with the, with an operations and
6 maintenance agreement with the township, I would definitely
7 want that to be a condition to approving these conditional use
8 permits.

9 And, sir, as far as the Shell, I must make a
10 comment. I appreciate you. I am a small business owner. I
11 know how much work -- You put your life, life blood into it.
12 But take a little solace in this. My father was a small
13 business owner. He opened a car wash on Mayfield Road just
14 west of SOM. There was a car wash right across the street and
15 it's the old K-Mart/Walmart thing. When Walmart started going
16 in, they wanted to be right by K-Mart. That's why capitalism
17 is beautiful. You make yourself as good as you possibly can.
18 I know you have a very strong following. So don't think that
19 there is going to be any monopolies created around here.
20 You're going to be fine.

21 MR. KHAN: Thank you.

22 MR. GOLLING: As far as the crime goes, I remember,
23 I mean, you were robbed a while ago. I think it was a couple
24 years ago now. And I remember that on social media, at least,
25 people were like, "We've got to find this guy. No one, no one
26 does this to us in Concord Township." They looked out for
27 you. And that's where, you know, when my kid, again, riding
28 the bike, he's like, "Dad, can I go up?" I'm like, "Of
29 course. It's a good place to go. Go ahead and go do it."

30 MR. KHAN: Thanks.

1 MR. GOLLING: So, yeah.

2 VICE CHAIR SWEENEY: Many good issues have been
3 discussed and I just happen to think that our role here, as
4 the board, is to do one thing and one thing only, and that is
5 to ensure that applications and variances meet the zoning
6 regulations. And as presented tonight, I honestly cannot see
7 any requirement that was not met to the T. And based upon
8 that, my job is done. And it's not that I don't sympathize
9 with all the other concerns. I do. But that's not our job.
10 And if it was our job, it would be placed in the regulations
11 they put before us.

12 In addition, I don't feel it's necessary to add
13 additional requirements and conditions when those are common
14 sense duties that any business owner or any private resident
15 should already have the pride enough to understand and follow
16 through and commit to. So I think it's, I just don't think
17 it's necessary.

18 MS. JARRELL: Mr. Chairman, with all due respect, I
19 like to think, especially in my daily activities, that people
20 have common sense, but let's face it, that is not the case. I
21 believe strongly that we need to have this O and M agreement.

22 MR. ROWE: I agree.

23 MS. JARRELL: Because I don't want to react. We
24 have to maintain certain standards.

25 And I would also like to get this on the record.
26 This is 44 and Interstate 90. There is a lot of crazy things
27 going on as far as human trafficking and drug, you know, sales
28 and what have you. Again, nothing good happens after
29 midnight. And being on Interstate 90, I have to think that
30 this is going to be a stop. This is definitely going to be a

1 stop. So that being said, I believe it's even more important
2 to have an agreement with Sheetz and the township.

3 MR. ROWE: I agree.

4 VICE CHAIR SWEENEY: All right. And how do we
5 enforce it?

6 MR. ROWE: Ask Mike Lucas to do it for us.

7 MS. JARRELL: Yeah. Mike, can you talk about that?

8 VICE CHAIR SWEENEY: Counsel, how do we enforce an
9 arbitrary condition like that, that what is being proposed?

10 MR. LUCAS: First of all, I want to make sure I
11 understand what you are asking them to agree to, specifically.
12 I understand, and I've got some language, perhaps, regarding
13 the outdoor dining area with reference to Todd's comments to
14 keep it clean and that. What are you talking about
15 specifically in terms of the, what you would like them to
16 agree to?

17 MS. JARRELL: As far as the cleanliness and safety,
18 I don't, I don't know what that is going to consist of
19 exactly.

20 MR. LUCAS: Well, I can, I can --

21 MS. JARRELL: But some guy sitting in Orlando
22 looking at the monitors for 600 Sheetz locations doesn't
23 really cut it. You know, it needs to be a realtime thing.

24 MR. LUCAS: Well, the condition regarding the
25 maintenance of the outdoor areas and the proper placement on a
26 regular basis, that can be put in as a condition. All right?
27 And I think Mr. Rinker has already indicated a willingness to
28 do that. It seems to me that would be a condition for all,
29 addressing your concern, for anything that has interaction.
30 So it would be part of a, I would think, the operation of the

1 gas station, the restaurant. Well, the restaurant, I mean,
2 you are going to clean up in there anyway. The car wash, it's
3 not necessary. The one I was primarily thinking of in
4 reference to what Todd was indicating was the outdoor dining
5 area. So, you know, some condition along the lines of, The
6 outdoor dining area shall be maintained to ensure cleanliness
7 and that all garbage and other waste shall be properly placed
8 in the available disposal receptacles provided on site.

9 MS. JARRELL: If we just say something like that as
10 a condition, how is that going to be enforced? I would, I
11 would contend that, if there was an actual agreement, I don't
12 know what the enforcement mechanisms would be but I have to
13 think that it's going to be, have a little bit more muscle
14 than just putting on, "Oh, you've got to keep it clean."

15 MR. LUCAS: No, it's just the opposite.

16 MS. JARRELL: That's speaking to Skip, what Skip is
17 saying.

18 MR. LUCAS: It's just the opposite.

19 MS. JARRELL: That, yeah, they should be keeping it
20 clean.

21 MR. LUCAS: It's just the opposite of what you said.
22 If they're in violation of one of the conditions, they are
23 subject to potential revocation of their conditional use
24 permit.

25 MS. JARRELL: Okay then.

26 MR. RINKER: It's going to be on the permit.

27 MR. LUCAS: Yeah. What is more powerful than that,
28 revoking the permit for not keeping it clean?

29 MS. JARRELL: Thank you. Thank you for clarifying
30 that. So why can't we put something in there that talks

1 about, you know, monitoring the safety? I don't know what you
2 want the wording to be.

3 MR. LUCAS: Well, the monitoring --

4 MS. JARRELL: That's, that's the issue that I have.

5 MR. LUCAS: Well, and I understand that issue. It's
6 hard for them. They control cleaning up the property. They
7 control the ability to make sure that waste is included in
8 that. You know, I don't know what their legal counsel thinks
9 but having an absolute condition that there won't be any
10 problems --

11 MS. JARRELL: No, no, no. As far as monitoring,
12 that it would be monitored, you know, maybe somebody does a
13 walk-around every 15 minutes or something. I don't know.
14 You're looking at me like I'm crazy. That's fine.

15 MR. LUCAS: No, I am not.

16 MS. JARRELL: I think that that is an issue.

17 MR. LUCAS: Don't let the record reflect that.

18 MS. JARRELL: That is a certain standard. Like I
19 said, Interstate 90 and 44, it's going to be a stop.

20 MR. LUCAS: I agree with that.

21 MS. JARRELL: Perhaps, perhaps Sheetz can recommend
22 something.

23 VICE CHAIR SWEENEY: Well --

24 MR. RINKER: If I may, I don't know if this is going
25 to help. I am talking with AC. But to reiterate, three dozen
26 cameras all around the site. Each employee has a button. So
27 I think the question may be, Is there a minimum staffing
28 number? And I guess we can say that the standard is no less
29 than three.

30 MR. FOWNES: That's my understanding from operations

1 but I can't make a declarative statement. I'm in real estate.
2 So that's my understanding of it.

3 MR. RINKER: Yeah. I mean, I think, at the end of
4 the day, the reason Sheetz has all of this investment in those
5 safety components -- And it's not someone in Orlando. I think
6 it's someone in either Altoona or thereabouts. But, I mean,
7 they do have realtime connectivity with local police, local
8 fire. I mean it really is, it's a pretty sophisticated
9 system. We can't keep people from being bad.

10 MS. JARRELL: Of course not.

11 MR. RINKER: And I didn't think that's what you were
12 asking. I am not sure what else Sheetz can do other than the
13 commitment is there and you can make a condition that they be
14 proactive in maintaining safety 24/7. I mean, if there were
15 some other language, I mean, we would be happy to look at it
16 but we're trying to do this in good faith.

17 MS. JARRELL: I appreciate that.

18 MR. ROWE: Is there a Sheetz that's ever gone into,
19 into an area and they only function from 6:00 a.m. to
20 midnight?

21 MR. BALKO: No, they're all, they're all 24/7.

22 MR. ROWE: Okay, i was just curious.

23 MR. BALKO: Yeah. Just a couple things to add.
24 Again, we can share with you what, you know, the logs that's
25 that they're supposed to fill out. I mean, it's broken down
26 on the walls in all the stores. Outside of that, I mean, if
27 it does become a nuisance, you know, more than willing to
28 increase that, the number of times that the logs are filled
29 out. Maybe Mike can speak to, I mean, if there is litter all
30 over the place, I believe the township probably has something

1 in the code that Sheetz can be fined for that already. So --

2 MR. LUCAS: Well, the condition I just kind of
3 briefly read --

4 MR. RINKER: I thought that covered it well.

5 MR. LUCAS: Yeah, I think -- Thank you. I think it
6 did, too. So that should be a condition. But, again, it's a
7 little more -- I am sure Bruce would agree -- it's a little
8 more difficult to get a condition where we're talking about
9 external events occurring, which I agree with. We're right on
10 90 and 44. So I am not suggesting for a minute that, you
11 know -- The possibility is there, somebody is going to zip off
12 there and cause a problem in a 24-hour, 7-day-a-week facility
13 and that.

14 You know, they can, as a condition, put down what
15 they can monitor, you know, the number of cameras, ensure that
16 the cameras are always being monitored but, you know -- I
17 don't know. It's a difficult --

18 MR. RINKER: Again, I apologize. Talking with AC
19 about it, we can provide, basically, the operations standards.
20 There is not a manual per se but we -- there is a whole safety
21 group. A couple times, we've had people come in who can
22 provide insight as to how operations are handled. And so I
23 think if a condition is that we will submit Sheetz operations
24 procedures that shows what, like the cameras, the number of
25 cameras, just that SOP, and then it can be handled
26 administratively, I think, by Heather and by Mr. Lucas if
27 anything stands out. Yes? No?

28 MR. LUCAS: Well --

29 MR. RINKER: I mean, again, we're saying we have to
30 comply because that's something that your conditions already

1 state within your Zoning Resolution.

2 MR. LUCAS: Right. Well, what would be the
3 regularity of that submission?

4 MR. RINKER: Well, I think we provide something up
5 front.

6 MR. LUCAS: Right.

7 MR. RINKER: And then there is -- So the idea is
8 that it's a system that's intended to be proactive. And if
9 there were some issue raised by law enforcement, Sheetz would
10 be responding anyway. They have to. So I don't know if that
11 addresses it specifically but it's --

12 MS. JARRELL: It helps.

13 MR. RINKER: Yeah.

14 MR. GOLLING: I mean, it states here, will not be
15 detrimental or to endanger public health, safety or general
16 welfare. Well, we've got 36 cameras and a promise we're going
17 to, we're going to look at it. We're going to, if something
18 goes south, we're on it. And if they, if the trash is blown
19 around, we're picking it. We've got maintenance logs. We're
20 supposed to do that.

21 So that's our job, is to determine that, if they
22 want to operate as a gas station, will they be detrimental to
23 the endanger the public health, safety and general welfare?
24 And I think, in good faith, they have put forth that they're
25 taking every step that they can foresee to prevent that.

26 MR. RINKER: And you still have that enforcement
27 right.

28 MS. JARRELL: Thank you.

29 VICE CHAIR SWEENEY: So where were we?

30 MR. GOLLING: Discussion.

1 MR. ROWE: We're at, we're still at (a).

2 VICE CHAIR SWEENEY: Well, you insist on having
3 conditions as to safety and cleanliness.

4 MR. ROWAN: So do we need an amendment?

5 VICE CHAIR SWEENEY: Well, we still need to know --

6 MS. JARRELL: We would just add, add the condition.

7 VICE CHAIR SWEENEY: What's the condition? Please
8 propose a condition.

9 MS. JARRELL: So as Mike had stated, something
10 similar to that. I don't want to belabor this. I am just
11 trying to protect our community.

12 MR. LUCAS: Yeah.

13 MS. JARRELL: And I believe that we should have a,
14 you know, an annual, you know, a couple years, some kind of
15 operations manual submitted just so we know what the
16 parameters are instead of us just sitting here, you know,
17 airing this many cameras, lights, you know, whatever it is. I
18 would like to see it written down and I think that it should
19 be filed with the township.

20 MR. LUCAS: Does the operations manual, is that
21 captioned with a title?

22 MR. RINKER: I can't answer the question. We don't
23 know. We just know that there are procedures that they
24 follow. So --

25 MR. LUCAS: Is it written though?

26 MR. BALKO: Yeah.

27 MR. LUCAS: In other words, what I am saying, what I
28 am suggesting --

29 MR. RINKER: Whatever is written, we will provide.

30 MR. LUCAS: -- is, you know, if you're indicating

1 that the procedures include safety and avoidance of criminal
2 activity, I guess, for want of better phrasing, we could
3 include that in its entirety as one of the conditions and
4 incorporate it therein. You would have to present it to the,
5 as part of that condition, obviously. And then I guess the
6 other thing would be, thinking aloud, providing, you know,
7 upon update, the updated.

8 MR. RINKER: Keep it current.

9 MR. LUCAS: Yeah.

10 MR. RINKER: Sure. Again, I mean, we will submit
11 and you can take a look at it. If it raises any issue, you
12 would let us know.

13 MR. LUCAS: Yeah. Well, I think we're trying to
14 kind of put this in a vote tonight.

15 MR. RINKER: Put in the motion the conditions is
16 understood that we are supposed to provide that.

17 MR. LUCAS: Yeah. Does that have a set number of
18 cameras contained within there or --

19 MR. RINKER: No.

20 MR. LUCAS: What does it, in terms of --

21 MR. FOWNES: It's not a set number of cameras.

22 MR. LUCAS: Okay.

23 MR. FOWNES: It's dependent on the lot, the size of
24 the lot.

25 MR. LUCAS: Yeah, that makes sense.

26 MR. FOWNES: The lot coverage we need, the way the
27 parking is. They're probably fairly standardized within the
28 store but --

29 MR. LUCAS: Tell me, in this operating manual, what
30 directly addresses the concern of the board member?

1 MR. FOWNES: I mean, I don't think it's any
2 different than any restaurant that has, in Bob Evans, they
3 have, you know, when the last time the bathroom was checked.
4 And if something was missed, then the management understands
5 that and moves and makes sure that on the next shift or
6 whenever it is, that it's addressed. I don't know that
7 it's --

8 MS. JARRELL: You mentioned -- We're not talking
9 about a Bob Evans. We're talking about a 24-hour gas station
10 open at Interstate 90 and 44. We are not taking this lightly.
11 So we would want to know what your plan, your specific plan
12 would be for that location. You mentioned that you do have
13 these agreements with municipalities. So I am just suggesting
14 that we have one of those here.

15 MR. FOWNES: We have operations and maintenance
16 agreements with municipalities but I don't think they directly
17 address safety issues at our stores. They're not talking
18 about the number of cameras we have to have.

19 MS. JARRELL: I mean, I don't even know what a
20 proper number would be. All I am asking for is a framework of
21 what your plan is to keep the township residents safe. What's
22 the plan?

23 MR. BALKO: So in Twinsburg, the one, they did make
24 that a condition to our conditional use there to keep the --
25 it was very generic -- keep the lot and property clean of, you
26 know, trash and debris. And I even want to say that it was
27 recorded, the operation and maintenance agreement. But what
28 we provided was the conditional use permit with that condition
29 and we attached to it the steps that all the employees are
30 expected to take on their rotations of the lot. And as AC

1 mentioned, there is logs of, you know, who did the lot, who
2 did the store, who did the bathroom, and the time, date and
3 time. That's, you know, typically, you know, stormwater
4 management operation, maintenance agreement, typically, here
5 is the steps to keep, you know, maintain it. Here is the log
6 that shows that we're doing all these steps.

7 So, I mean, we can give you something like that.
8 And then as Mike's mentioned, you know, if we're not doing
9 that and it's brought to our attention, you know, we'll, you
10 know, we addressed it in Twinsburg. We are happy to address
11 it. If it's a conversation of that it needs to be done at a
12 higher frequency, you know, we will continue to do that.

13 MS. JARRELL: I appreciate that.

14 MR. RINKER: Let me just -- And I apologize but in
15 site plan review, you do get, there is a certain devil in the
16 details. We can provide -- Thank you, Mr. Lucas. We can
17 provide -- We believe, at that point, we will know
18 dimensionally and we will have to make that request back but
19 provide for the Zoning Commission to see what the number of
20 cameras would be, for example, in other words, so you have a
21 better understanding of the physical plan.

22 I don't know if that helps but I think that that
23 would -- but, right now, it's more theoretical, how large this
24 site is, what the spacial relationships are going to be.

25 MS. JARRELL: Sure.

26 MR. RINKER: And we have to depend on internal
27 expertise on how that would be designed but I would think, for
28 site plan approval, that's something, that would be something
29 that could be produced.

30 MS. JARRELL: So perhaps a condition --

1 MR. RINKER: And a description of how the security
2 system works.

3 MS. JARRELL: Okay.

4 MR. RINKER: So that would be, we make that
5 commitment. That's a condition. That would be something that
6 could be provided.

7 MS. JARRELL: So you're proposing that it be
8 addressed at site plan review but become a condition of the
9 CUP?

10 MR. RINKER: Correct.

11 MS. JARRELL: I like it. I like it. So can we word
12 it something like, with the condition of having safety and
13 cleanliness standards per an O and M agreement and also
14 corresponding to the site plan review and the detail provided
15 for those items, something like that? I mean, help me out
16 here, people. I mean, if nobody is chiming in --

17 VICE CHAIR SWEENEY: Well, it's your proposal.

18 MS. JARRELL: Well, if you --

19 VICE CHAIR SWEENEY: I don't agree with it.

20 MS. JARRELL: Okay.

21 VICE CHAIR SWEENEY: So that's why I am not helping
22 you.

23 MS. JARRELL: Okay, okay. I mean --

24 VICE CHAIR SWEENEY: You asked.

25 MS. JARRELL: Yes, yes, I did. But if anybody has
26 some suggestions or if most of you think that I am just, you
27 know, blowing smoke or hot air, tell me. That's why we're a
28 board. Obviously --

29 MR. GOLLING: I think we're in good faith here and,
30 you know, we can't predict the future. But if we have a

1 company that's willing to spend one-sixth of their budget to
2 extend utilities, water, septic into a place where they really
3 don't have to, I don't think that picking up trash around
4 there or making sure that the folks at corporate on the
5 cameras are going to holler when things go south. So I am
6 just trying to -- I don't want to recreate the wheel here by
7 making it a little too difficult but it just seems like, it
8 just seems like that, absent of them just throwing caution to
9 the wind, saying, yeah, we are just going to stop inspecting
10 bathrooms and picking up trash today --

11 MS. JARRELL: Look, this, I don't know why this has
12 to be this difficult, I really don't, as for one, one item.
13 If you guys --

14 VICE CHAIR SWEENEY: Why don't we do this? Why
15 don't we do this? May I propose --

16 MS. JARRELL: Please.

17 VICE CHAIR SWEENEY: -- something to alleviate
18 everyone? Why don't we move for the approval of the
19 conditional use permit as it relates to the operation of a gas
20 station under the condition that an operations manual be
21 submitted reflecting safety procedures and to keep the lot
22 free of trash and debris.

23 MS. JARRELL: That, right.

24 VICE CHAIR SWEENEY: Is that good enough for
25 everybody on the board?

26 MS. JARRELL: Well, it sounds like what I said.

27 MR. ROWE: Sure.

28 MR. LUCAS: Now, wait a minute. First of all, the
29 operating manual doesn't deal with safety. I asked them that.

30 MR. RINKER: Right.

1 MR. LUCAS: Correct.

2 MR. GOLLING: Mike.

3 MR. LUCAS: So what good is that?

4 VICE CHAIR SWEENEY: I thought they explained that
5 the operations manual included the description of cameras and
6 placement and so on.

7 MR. GOLLING: No.

8 MR. LUCAS: No. He said just the opposite.

9 MR. BALKO: Yeah. So we had another project that I
10 asked our, basically, our lead security operations center to
11 write up a letter. Just bear with me but I think this could
12 possibly put the safety and security thing to rest for you.
13 So he wrote, "We take safety and security very seriously at
14 Sheetz. We do have a security operations center department
15 that is staffed 24/7/365 and is dedicated to providing a safe
16 and secure environment by assisting our stores and customers
17 through the use of security technologies. Every store is
18 assessed for camera needs individually and average 30-plus
19 cameras. This camera coverage includes interior shots that
20 cover both customer and noncustomer areas, such as floor area,
21 register area, food service, and employee-only areas. The
22 exterior camera coverage consists of lots, exits, pumps and
23 sidewalk areas. Through the use of dedicated technologies,
24 the security operations center can cover and monitor all
25 needed areas of our locations.

26 "Along with cameras, the stores contain an alarm and
27 audio system. Safety buttons are located on staff and
28 throughout key areas inside the stores that can deploy in an
29 emergency situation or if they feel they needed for
30 assistance. When an alarm is deployed, an alert with audio

1 and video notifies the security operations center immediately,
2 who will take the appropriate actions required to assist and
3 resolve the issue through internal means working with fire,
4 police or EMS. Audio is a key asset of the security
5 operations center. Two-way audio is used to assist" --

6 MS. JARRELL: I don't mean to interrupt you. It
7 sounds wonderful. Who wrote that letter?

8 MR. BALKO: He's our, he's our head security
9 operations center manager.

10 MS. JARRELL: Okay. So, I mean, can we just submit,
11 you know, that?

12 MR. BALKO: Yeah.

13 MS. JARRELL: That would be wonderful.

14 VICE CHAIR SWEENEY: All right. So --

15 MR. LUCAS: No, wait a minute. No. I mean, so the
16 condition would be for the safety -- And these are going to be
17 separate. I think everyone seems to know that, for the most
18 part. The cleanliness issue is an easy thing. It happens all
19 the time. I will state a condition relative to all of them
20 which I think is broad enough that, having said it the first
21 time, will provide a condition that's enforceable and can
22 result in the revocation of the permit if it's not complied
23 with.

24 This one, you're talking about it. To ensure safety
25 of the general public, there will be a security operations
26 center monitoring the site 24 hours a day with appropriate
27 technology to reduce crime, or something like that along that
28 line. We're not going to get into all the minutia about how
29 you're going to do that.

30 MR. BALKO: Right.

1 MR. LUCAS: You're saying you're going to call the
2 police. Well, of course you are going to call the police.
3 That's not a condition. That's, of course, you are going to
4 call the police. So I think fine-tuning that a little bit to
5 get it into a proper condition for the CUP would be along
6 those lines, although you definitely gave a lot of
7 information.

8 MR. RINKER: The only suggestion we have is then we
9 can send in that letter because it basically provides, it's
10 like the footnote to the condition.

11 MR. LUCAS: Okay, yeah. So the condition would be
12 to, in broad brush -- This was at, what city were you reading
13 that from?

14 MR. BALKO: Medina Township.

15 MR. LUCAS: Medina Township. So the condition would
16 be that, to ensure the safety of the general public, the
17 applicant agrees to have a security operation center
18 monitoring the site 24 hours a day with appropriate camera
19 number and to meet all the criteria it had presented to the
20 Medina Township, a copy of which is annexed and included as
21 part of that condition.

22 MR. RINKER: Sounds good.

23 MR. LUCAS: Yes?

24 MR. RINKER: Yes.

25 MR. LUCAS: And then the other one, again, we will
26 do it for each one, I'm thinking, Mr. Rinker. So the gas
27 station would be the outdoor -- The gas station area shall be
28 maintained to ensure cleanliness and that all garbage and
29 other waste shall be properly placed in the available disposal
30 receptacles provided on site, and that would be the other

1 condition that we're adding to the general conditions.

2 MR. RINKER: Yes.

3 MR. LUCAS: Okay?

4 MR. RINKER: So moved.

5 MR. LUCAS: All right. And you are in agreement
6 with those two conditions?

7 MR. RINKER: We are, yes.

8 MR. LUCAS: Okay.

9 VICE CHAIR SWEENEY: Do I have to state those or can
10 we --

11 MR. RINKER: Incorporate by reference.

12 VICE CHAIR SWEENEY: Incorporate by reference.

13 MR. LUCAS: Yeah.

14 VICE CHAIR SWEENEY: Thank you, Counsel, Counsel.

15 MR. GOLLING: What he said.

16 VICE CHAIR SWEENEY: What he said.

17 MR. LUCAS: And just so we're --

18 VICE CHAIR SWEENEY: So --

19 MR. LUCAS: Well, I was going to ask Mr. Rinker, so
20 because we're going to append that to the permit, when can you
21 get that particular document over?

22 MR. RINKER: This week?

23 MR. BALKO: Yeah, tomorrow.

24 MR. LUCAS: Okay, that's fine. I just want to make
25 sure we have that in the record.

26 MR. RINKER: Yes.

27 MR. LUCAS: Because we are going to append it to the
28 permit. Okay.

29 VICE CHAIR SWEENEY: Okay. So the question, the
30 question is, on approval of the application for conditional

1 use permit, subject to the incorporated conditions -- is that
2 good -- subject to the incorporated conditions. A yes vote is
3 for the approval of the application. A no vote denies the
4 application. Heather, please call the vote.

5 MS. FREEMAN: Just to be clear, this is voting on
6 the Section 13.25 for the gas station?

7 VICE CHAIR SWEENEY: 13.25, correct.

8 MR. ROWE: (a).

9 VICE CHAIR SWEENEY: (a) or, no, (a) 13.25.

10 MS. FREEMAN: Okay. Mr. Rowe?

11 MR. ROWE: Yes.

12 MS. FREEMAN: Ms. Jarrell?

13 MS. JARRELL: Yes.

14 MS. FREEMAN: Mr. Sweeney?

15 VICE CHAIR SWEENEY: Yes.

16 MS. FREEMAN: Mr. Golling?

17 MR. GOLLING: Yes.

18 MS. FREEMAN: Mr. Rowan?

19 MR. ROWAN: Yes.

20 VICE CHAIR SWEENEY: The application is granted.

21 The next order is a -- or the next question for
22 approval is on the application for a conditional use permit to
23 operate a restaurant, counter service in accordance with
24 Section 13.20. I will entertain a motion.

25 MR. ROWE: So moved.

26 MR. GOLLING: Second.

27 VICE CHAIR SWEENEY: Do I have a second?

28 MR. GOLLING: Second.

29 VICE CHAIR SWEENEY: Okay.

30 MR. LUCAS: Mr. Chairman, in the interest of time, I

1 would, again, request that the applicant agree, specifically
2 with reference to this use, that the restaurant, counter
3 service areas under this conditional use permit application
4 shall be maintained to ensure cleanliness and that all garbage
5 and other waste shall be properly placed in the available
6 receptacles provided on site, number one; and number two, that
7 for the interest of safety, the security operations center
8 monitoring the site will be available 24/7 and that the
9 additional safety points that were raised in the presentation
10 that was received by Medina Township be annexed as part of
11 that second condition. Is that all right, Mr. Rinker?

12 MR. RINKER: Yes, sir.

13 VICE CHAIR SWEENEY: The approval was moved and
14 seconded. Is there any discussion?

15 MR. GOLLING: I have no concerns.

16 MR. ROWAN: No.

17 VICE CHAIR SWEENEY: If not, Heather, can you please
18 call the vote.

19 MS. FREEMAN: Mr. Rowan?

20 MR. ROWAN: Yes.

21 MS. FREEMAN: Mr. Rowe?

22 MR. ROWE: Yes.

23 MS. FREEMAN: Ms. Jarrell?

24 MS. JARRELL: Yes.

25 MS. FREEMAN: Mr. Dynes -- I am sorry. Mr. Golling?
26 Pardon me.

27 MR. GOLLING: Yes.

28 MS. FREEMAN: And Ms. Jarrell?

29 MR. ROWE: No, somebody --

30 VICE CHAIR SWEENEY: Me.

1 MS. FREEMAN: Oh, I am sorry.

2 VICE CHAIR SWEENEY: Yes.

3 MS. FREEMAN: Mr. Sweeney?

4 VICE CHAIR SWEENEY: Yes.

5 MS. FREEMAN: Thank you.

6 VICE CHAIR SWEENEY: Next question on approval is a
7 conditional use permit to operate a car wash in accordance
8 with Section 13.26. Are we incorporating, Mr. Lucas?

9 MR. LUCAS: We should have a motion and second first
10 and then I will read what I think the two conditions will be.

11 VICE CHAIR SWEENEY: Okay. Do I have a motion for
12 the approval of the conditional use permit?

13 MR. ROWE: So moved.

14 MS. JARRELL: Second.

15 VICE CHAIR SWEENEY: Okay.

16 MR. LUCAS: Mr. Chairman, again, Mr. Rinker, are you
17 in agreement to two independent conditional uses, the first
18 one being the car wash area shall be maintained to ensure
19 cleanliness, and that all garbage and other waste shall be
20 properly --

21 MR. RINKER: You better hope the car wash is clean.

22 MR. LUCAS: Yeah, right, the cars will be anyway,
23 for sure. -- shall be properly placed in the available
24 receptacles provided on site; and secondly, to ensure safety
25 in the operation of the car wash, Sheetz agrees to a security
26 operations center monitoring the car wash area 24 hours and to
27 also incorporate by reference the Medina Township safety
28 features that were read into the record earlier by the
29 representative from Sheetz.

30 MR. RINKER: Yes, yes.

1 VICE CHAIR SWEENEY: The application being moved and
2 seconded with conditions, Heather, take the vote, please.

3 MS. FREEMAN: Mr. Golling?

4 MR. GOLLING: Yes.

5 MS. FREEMAN: Ms. Jarrell?

6 MS. JARRELL: Yes.

7 MS. FREEMAN: Mr. Rowe?

8 MR. ROWE: Yes.

9 MS. FREEMAN: Mr. Rowan?

10 MR. ROWAN: Yes.

11 MS. FREEMAN: And Mr. Sweeney?

12 VICE CHAIR SWEENEY: Yes. That application has been
13 approved.

14 The next matter is the application for a conditional
15 use permit application for outdoor storage and/or display in
16 association with permitted or conditional use in accordance
17 with Section 13.32. Do we combine this with, can we combine
18 it with (e) and the outside dining?

19 MR. LUCAS: No.

20 VICE CHAIR SWEENEY: Okay. Are the conditions
21 incorporated in this?

22 MR. LUCAS: Was there a motion and second made?

23 MS. JARRELL: No.

24 MR. LUCAS: You need to do that.

25 VICE CHAIR SWEENEY: Can I have a motion?

26 MS. JARRELL: So moved.

27 MR. GOLLING: Second.

28 MR. LUCAS: Now, with reference to it being motioned
29 and seconded, again, I will repeat the conditions and ask
30 Mr. Rinker if his client is willing to agree to that. The

1 outdoor storage and/or display in association with the
2 permitted or conditional use, in this case conditional use,
3 shall be maintained to ensure cleanliness and that all garbage
4 or other waste shall be properly placed in the available
5 receptacles provided on site. And the second independent
6 condition added would be, again, to ensure safety, that Sheetz
7 will agree to provide, through their security operations
8 center, monitoring of the site 24/7, and in addition to
9 which will include the safety features as read into the record
10 earlier by the Sheetz representative and presented to Medina
11 Township.

12 MR. RINKER: Yes.

13 VICE CHAIR SWEENEY: The application being moved and
14 seconded with conditions, Heather, take a vote, please.

15 MS. FREEMAN: Mr. Rowe?

16 MR. ROWE: Yes.

17 MS. FREEMAN: Mr. Rowan?

18 MR. ROWAN: Yes.

19 MS. FREEMAN: Ms. Jarrell?

20 MS. JARRELL: Yes.

21 MS. FREEMAN: Mr. Golling?

22 MR. GOLLING: Yes.

23 MS. FREEMAN: Mr. Sweeney?

24 VICE CHAIR SWEENEY: Yes.

25 Application approved.

26 And, finally, conditional use permit application for
27 outside dining in accordance with Section 13.33, do I have a
28 motion?

29 MR. ROWE: So moved.

30 MS. JARRELL: Second.

1 MR. ROWAN: Second.

2 VICE CHAIR SWEENEY: Second. So being --

3 MR. LUCAS: Mr. Chairman, I again ask that
4 Mr. Rinker express either agreement or disagreement that the
5 two additional conditions would be that the outdoor dining
6 area shall be maintained to ensure cleanliness and that all
7 garbage and waste shall be properly placed in the available
8 receptacles provided on site; and, secondly, to ensure safety
9 in the outdoor dining area, that the Sheetz representative
10 will, as indicated, provide security operations center
11 monitoring the site 24/7 and also incorporate by reference the
12 safety features that were read into the record earlier and
13 received by the Medina Township.

14 MR. RINKER: Agreed.

15 VICE CHAIR SWEENEY: Being so moved and seconded
16 with conditions, Heather, will you take a vote, please.

17 MS. FREEMAN: Mr. Rowan?

18 MR. ROWAN: Yes.

19 MS. FREEMAN: Mr. Rowe?

20 MR. ROWE: Yes.

21 MS. FREEMAN: Ms. Jarrell?

22 MS. JARRELL: Yes.

23 MS. FREEMAN: Mr. Golling?

24 MR. GOLLING: Yes.

25 MS. FREEMAN: And Mr. Sweeney?

26 VICE CHAIR SWEENEY: Yes.

27 Congratulations. Your applications have been
28 approved.

29 In conjunction with Conditional Use Permit
30 Application 2021 is our next order of business and that is

1 Variance Application 2021-94. Sheetz, Inc., is requesting
2 variances for property located on Capital Parkway in current
3 permanent parcel number 08-A-20-0-00 -- I lost my zeros --
4 006-0 and parcel 08-A-020-0-00-027-0 for the following:

5 Variance from Section 22.10(H)(4) to allow a row of
6 parking in the front yard of a corner lot, which is not
7 permitted.

8 Can we take these one at a time?

9 MS. FREEMAN: Yes, we'll need to do individual
10 votes.

11 VICE CHAIR SWEENEY: Okay, all right. So,
12 Mr. Rinker.

13 MR. RINKER: And I will be brief, not like a
14 lawyer's brief that has multiple pages. But in the letter I
15 provided to the Board on October 25th, I talked about the
16 distinction between area and use variances and you understand
17 that the practical difficulty standard applies. One thing I
18 point out, this is a corner lot, so you basically have two
19 frontages. How do you deal with that? For example, the
20 canopy was shifted to the west so it's not on a frontage as it
21 typically would be.

22 I am going to have Mr. Balko explain basically the
23 site functionality and the adjustments that have been made to
24 the parking field. But I will suggest right up front, there
25 are six spaces that are going to front on Capital Parkway. We
26 typically have parking all around the perimeter of the
27 building. That's one of the reasons we design it that way, so
28 that it's both easily accessible and that most of the, the
29 safest and most convenient parking is always close in. In
30 this instance, there is no parking that's facing 44. That

1 seems to be the more dominant thoroughfare that you would not
2 want to see that parking field. But in order to meet the
3 numbers, for the overall functionality to meet the ratios in
4 the Zoning Resolution, something has got to give. You always
5 try to make your least number and least intensive variances
6 when you're asking for area variances like this, and we
7 suggest that that's the case here.

8 So we're looking at six spaces only that would be
9 facing Capital. Similarly, we got rid of one row. We were
10 able to break up one row, but 13 spaces on the west side --
11 that's the canopy side -- that is the most, the highest used
12 portion, we're asking for 13 there. And we think, in the
13 scheme of things, that breakup that you try to achieve with
14 some landscaping to break up the monotony of a parking field,
15 that close in, we're suggesting it shouldn't be as critical.
16 We don't think it's significant but, nonetheless, those are
17 very functional spaces. It's practical consideration.

18 And then, finally, and we've seen this in other
19 codes where you put a planting area around the building. And,
20 again, I think the whole purpose is an aesthetic impression
21 that's very positive. We're not blowing smoke when we say,
22 when you look at the architecture of a Sheetz store, between
23 stone and masonry, the integration of the colors and the
24 materials themselves, it looks good.

25 Access into the, from the parking lot, as Ryan
26 pointed out, there is no curb. It's flush with the parking.
27 So there are bollards to keep vehicles from invading that
28 space. But experience has demonstrated that not having -- And
29 it gets trashy sometimes when you have that kind of
30 landscaping in close. It becomes more of an impediment than

1 it does an improvement. So we're asking for full relief. You
2 would need it on the three sides.

3 We would suggest that the landscape plan more around
4 the perimeter and the size of this lot should compensate for
5 that. And, again, I will let Ryan explain a little bit better
6 than the lawyer does. Thanks.

7 VICE CHAIR SWEENEY: Thank you.

8 MR. BALKO: All right. So, yeah, that first
9 variance, parking, parking row in the front yard, which is
10 defined as any space between the building facade and the
11 right-of-way line, it actually is permitted in the Capital
12 Parkway District but on a corner lot it's explicitly not
13 permitted. So we do have a minimum parking count that we have
14 to meet according to the code. I believe it was in the 40s.
15 I can't remember the number but I know we worked together to
16 get that.

17 But what we want to do is we want to get as much
18 parking as reasonably possible up against the building because
19 it eliminates any conflicts with people, you know, walking
20 across the lot and, you know, reduces any potential for
21 somebody to be zipping through the drive aisle. So, you know,
22 eliminating these six spaces here while still needing to
23 provide them somewhere else on the site would just increase
24 the potential for the number of conflicts. So that's why
25 we're asking for this variance.

26 VICE CHAIR SWEENEY: Okay. Thank you.

27 MR. RINKER: That's the first one. Did you want to
28 do -- Do you want them to discuss all three?

29 VICE CHAIR SWEENEY: Well, you did all three, so you
30 might as well.

1 MR. RINKER: Yeah, I did. Sorry.

2 MR. BALKO: You know, the second one kind of goes
3 hand in hand, same thing, you know. The code allows for 10
4 spaces continuous without an island breaking it up. We do
5 have 13 along this front row. Same concept, to increase the
6 number of spaces right up against the building where somebody
7 can get out of their car and walk onto the sidewalk. And same
8 reason, you know, if we put that space somewhere else, it just
9 increases the chances for those conflicts.

10 And then, you know, Bruce sort of touched on the
11 third variance with the minimum 5 feet. You know, we do have
12 these landscape islands at the end of all the parking rows.
13 We do have the, we have the exterior landscaping. The east
14 facade will be, you know, there is landscape along the entire
15 back of the building facing 44.

16 So we do have a brick paver sidewalk, so the
17 landscaping up against that does cause issues with the
18 long-term stability of that sidewalk when we're planting some
19 something right up against it. So, you know, that, and as you
20 can see here, it's a heavily landscaped site plan. We're
21 asking for that relief as well.

22 MR. RINKER: There is some fencing, too, right?
23 Don't you have an elevation?

24 MR. BALKO: Yeah, I meet, we meet the, whatever is
25 in the landscape code as far as that.

26 VICE CHAIR SWEENEY: Okay. All right, thank you.
27 Anyone speaking for or against these variance
28 applications?

29 (No response.)

30 If not, we will close the public hearing.

1 Discussion, if any. Jim?

2 MR. ROWE: Well, it looks like it's, you know, done
3 with a purpose and looks right. They've made efforts with the
4 plantings at the end and so forth and so on.

5 VICE CHAIR SWEENEY: Okay. Davey?

6 MR. ROWAN: I don't think I have any questions at
7 this time. I think what Jim said, I agree with. I do see the
8 advantage of having the parking spaces next to the building
9 versus you have some near the car wash and across the awning
10 but the majority are around the building to limit the
11 pedestrian traffic, so I think that's a good thing.

12 I don't know. Let me look at the landscape plan
13 real quick. I don't know if there is any, you know, if we're
14 giving a variance for the 5 foot on the three sides, I don't
15 know if there is anything we could do to add plants or
16 something just to add more. I mean, we've got corners where
17 they've done that. I don't know if there is any advantage to
18 that aesthetically or something to consider just, in lieu of
19 the 5 foot, just to add some greenery. But, again, I don't
20 know what everybody else thinks or what's possible here but
21 just an idea.

22 VICE CHAIR SWEENEY: Okay. Anything, anything else?

23 MS. JARRELL: No.

24 VICE CHAIR SWEENEY: Well, I think it all makes
25 sense. Todd, are you contemplating?

26 MR. GOLLING: I kill everything I touch green wise,
27 so I am probably not the best to talk about this.

28 VICE CHAIR SWEENEY: Okay, all right. If there is
29 no further discussion, do I have a motion?

30 MR. LUCAS: Mr. Chairman, you are going to have to

1 vote each of these separately.

2 VICE CHAIR SWEENEY: Correct.

3 MR. ROWE: All right. So moved on the first.

4 VICE CHAIR SWEENEY: Okay. Second?

5 MS. JARRELL: Second.

6 MR. GOLLING: Second.

7 VICE CHAIR SWEENEY: And this is on, just to be --

8 MR. ROWE: 22.10.

9 VICE CHAIR SWEENEY: -- specific, this is on the
10 22.10(H)(4) application variance to allow a row of parking in
11 the front yard of a corner lot. Motion being forwarded and
12 seconded, Heather, will you take a vote, please.

13 MS. FREEMAN: Mr. Golling?

14 MR. GOLLING: Yes.

15 MS. FREEMAN: Ms. Jarrell?

16 MS. JARRELL: Yes.

17 MS. FREEMAN: Mr. Rowe?

18 MR. ROWE: Yes.

19 MS. FREEMAN: Mr. Rowan?

20 MR. ROWAN: Yes.

21 MS. FREEMAN: And Mr. Sweeney?

22 VICE CHAIR SWEENEY: Yes.

23 Variance application passes.

24 The next application will be a variance from
25 Section 22.20(H)(7)(a) to allow 13 parking spaces side by side
26 in lieu of the maximum 10 permitted without landscape island
27 breakup. Do I have a motion?

28 MR. ROWAN: So moved.

29 VICE CHAIR SWEENEY: Second?

30 MR. ROWE: Second.

1 VICE CHAIR SWEENEY: Motion being seconded, Heather,
2 do you want to take a vote.

3 MS. FREEMAN: Mr. Rowan?

4 MR. ROWAN: Yes.

5 MS. FREEMAN: Mr. Rowe?

6 MR. ROWE: Yes.

7 MS. FREEMAN: Ms. Jarrell?

8 MS. JARRELL: Yes.

9 MS. FREEMAN: Mr. Golling?

10 MR. GOLLING: Yes.

11 MS. FREEMAN: Mr. Sweeney?

12 VICE CHAIR SWEENEY: Yes.

13 The application has been approved.

14 And, finally, application variance from
15 Section 38.04(A) to eliminate the required minimum 5 foot
16 planting area between the north, west and south building walls
17 and the paved area. Do I have a motion?

18 MS. JARRELL: So moved.

19 MR. ROWE: Second.

20 VICE CHAIR SWEENEY: Motion being seconded, Heather,
21 take a vote, please.

22 MS. FREEMAN: Mr. Rowe?

23 MR. ROWE: Yes.

24 MS. FREEMAN: Ms. Jarrell?

25 MS. JARRELL: Yes.

26 MS. FREEMAN: Mr. Golling?

27 MR. GOLLING: Yes.

28 MS. FREEMAN: Mr. Rowan?

29 MR. ROWAN: Yes.

30 MS. FREEMAN: And Mr. Sweeney?

1 VICE CHAIR SWEENEY: Yes.

2 The final application has been approved. Thank you
3 very much, gentlemen. Congratulations.

4 MR. RINKER: Thank you very much.

5 MS. JARRELL: Counselor, I appreciate you working
6 with us.

7 MR. RINKER: Thank you.

8 MS. JARRELL: And me.

9 VICE CHAIR SWEENEY: We appreciate all the input,
10 even yours.

11 MS. JARRELL: Thank you, Skip.

12 MR. ROWAN: What's the next one?

13 VICE CHAIR SWEENEY: We now move on to New Business.
14 The next is a Variance Application 2010-95. Mr. Jeffrey
15 McCann is requesting a variance from the Section 15.04(B),
16 Table 15.04-1, to allow for the construction of a single-
17 family dwelling with a 40 foot front building setback in lieu
18 of the minimum 50 foot for the property located at
19 7315 Highbluff Court, being current permanent parcel number
20 08-A-030-H-00-030-0.

21 Mr. McCann, good evening.

22 MR. TURK: Hi, my name is Gregg Turk. I am actually
23 Jeff's brother-in-law. I am just standing in for him. He is
24 out of the country right now.

25 VICE CHAIR SWEENEY: Okay.

26 MR. TURK: And I am a Concord Township resident as
27 well. I am at 6061 Nature View Court in Ellison Creek. I
28 have been duly sworn in.

29 As mentioned, we are requesting a 10 foot setback
30 variance for the new construction at 7315 High Bluff. And

1 really the reason is, as it's currently designed, the home,
2 with a current 50 foot setback would be about 2 to 3 feet from
3 a very steep dropoff. So, you know, to prevent, again, any
4 future erosion or even the possibility of any use of the back
5 area for --

6 MR. ROWE: Recreation.

7 MR. TURK: Right, yeah, for any type of small patio
8 or deck, he has to request a variance.

9 MR. ROWE: Gotcha. Any questions? Interesting
10 clarification on the site is, when facing the empty lot, the
11 house to the left is at the 50 feet, the house to the right,
12 which is under construction but looks to be about finished, is
13 at 40 feet for a similar reason as they're facing on that
14 center lot.

15 MR. TURK: Yes, yes.

16 VICE CHAIR SWEENEY: That's accurate.

17 MR. ROWAN: And I, actually, I walk, my wife and I
18 walk our dog on this street. You look back and it's a steep
19 dropoff. So I am very familiar with this area.

20 MR. ROWE: As I say, the existence of one has
21 already been done at the 40 foot. That's fine. I see no
22 reason --

23 VICE CHAIR SWEENEY: Okay. Has ground been broken?

24 MR. TURK: No.

25 VICE CHAIR SWEENEY: Okay.

26 MR. TURK: No, it has not.

27 MR. RODEHORST: I would like to make a comment, if I
28 may.

29 VICE CHAIR SWEENEY: All right. Hold on for a
30 second. We want -- What is your name again?

1 MR. TURK: Gregg Turk.

2 VICE CHAIR SWEENEY: Mr. Turk. We would like
3 Mr. Turk to complete his presentation and if there is any
4 questions from the board, then he can answer, then we will let
5 you speak.

6 MR. TURK: I have nothing further.

7 VICE CHAIR SWEENEY: Okay. Thank you.

8 MR. TURK: Okay.

9 VICE CHAIR SWEENEY: Wait a minute though, stay
10 right there.

11 MR. TURK: Okay.

12 VICE CHAIR SWEENEY: Questions from the board.

13 MS. JARRELL: None.

14 MR. GOLLING: No.

15 MR. ROWE: No.

16 VICE CHAIR SWEENEY: Okay. Is there anyone else
17 here to speak for or against this application?

18 MR. RODEHORST: That would be me.

19 VICE CHAIR SWEENEY: Please approach.

20 MS. FREEMAN: You can take a seat, Mr. Turk.

21 MR. TURK: Have a seat?

22 MS. FREEMAN: Yeah.

23 VICE CHAIR SWEENEY: Attest that -- You've both been
24 sworn, by the way?

25 MR. TURK: Yes.

26 MR. RODEHORST: I did say yes.

27 VICE CHAIR SWEENEY: Okay.

28 MR. RODEHORST: I am Damon Rodehorst,
29 7309 Highbluff. I have been duly sworn. I am the house to
30 the left that you were commenting on.

1 VICE CHAIR SWEENEY: As you looking at the --

2 MR. RODEHORST: As you are looking at it, on the
3 northerly side of the lot in question.

4 VICE CHAIR SWEENEY: Okay.

5 MR. RODEHORST: I am very happy to see a house going
6 there. I want to put that on the record. It is the last lot
7 in the development. So rather than living next to what would
8 likely be a vacuum for all the neighborhood yard waste, I am
9 happy to see a nice house go in there. I am one of the people
10 that do scatter my grass clippings there.

11 However, I do have some concerns and some
12 preferences. My primary concern is with the integrity of the
13 hillside because it is a very steep dropoff behind there. In
14 fact, two years ago it slipped, and it slipped pretty much on
15 the property line and it went equidistance northerly and
16 southerly across the ravine all the way down. So I certainly
17 appreciate the need for the request of the setback. So that
18 is my concern. My overriding concern is the integrity of the
19 hillside.

20 My second concern is with drainage because my lot,
21 as it was graded to put my house on about 15 years ago --
22 Dawson-Eye did it. Bill lives down the hill -- this lot in
23 question is about 5 feet higher than mine. And when they
24 basically scarfed off the lot to do mine, there was a slope
25 that came down so that the swale, the existing swale now is on
26 the property line and all the water, pretty much, goes into my
27 side yard, which is on the southerly side of my house. That's
28 my second concern.

29 My preference is aesthetic, so therefore subjective.
30 I do not want to be buried back but I also understand the need

1 for the setback. So although I accept the need for a setback,
2 whatever the minimum could be would be my preference just
3 aesthetically so that you don't have two houses up, mine back
4 and then the next one kind of goes down. So if they would
5 step back going from the south to the north, it might be a
6 little more aesthetically appealing. Again, aesthetics, not
7 critical.

8 My other concern with the house plans is, as
9 presented, the deck that they're proposing is completely to
10 the northerly side of the house, which puts it about, well, it
11 would be 30 feet from my bedroom window. Again, not a big
12 issue. Again, I would just ask that they be mindful that that
13 is my bedroom window. So I am not going to, you know, object
14 to you guys, your brother-in-law and your sister putting a
15 deck on there but bear that in mind, please.

16 VICE CHAIR SWEENEY: Be so warned.

17 MR. RODEHORST: So all that being said, I am very
18 concerned and I just want to have some assurances that -- and
19 I don't see this in the plans but, again, I am not an expert
20 and -- I don't know -- it may be presented and I am not seeing
21 it -- that the site preparation is going to take into
22 consideration the existing elevation. It is truly 5 feet from
23 that lot to my lot. I have been fighting water. In fact, I
24 think the water that has come off of that lot into my side
25 yard, it all drains back to the ravine and I think that that
26 is probably what precipitated the hill slide. In my opinion,
27 it sank through the subsoil and hit the shale underneath, went
28 out and then just basically drop it away. It just, it just
29 slid.

30 So it seems that it's stabilized as much as it's

1 going to stabilize now. I suspect it's going to continue to
2 slide at some point. I just -- Whatever happens next door is
3 his issue, not necessarily mine, unless it, you know, activity
4 on his lot then causes something on my lot to go or vice
5 versa. So, again, that's neither here nor there. I would
6 suggest perhaps some sample borings be done just to understand
7 what's going on with the ground there. Again, that's up to
8 them, not me.

9 Water drainage is my issue, is my concern. I just
10 want to know that, when the site is prepared, that the water,
11 as much as possible, drains to the front of the lot. There is
12 a storm sewer there. That's not going to be necessarily easy
13 to accomplish because you are going to have to move a lot of
14 earth to get that done. But any of the water that might come
15 down -- The lowest spot right now, actually, is in the
16 northeasterly corner of that lot. It's always wet there. So
17 that might be a spot for some kind of a retention drain, you
18 know, to a hose that goes down the hill.

19 MS. JARRELL: Sir, sir, I am very sorry to interrupt
20 you.

21 MR. RODEHORST: Don't be. I go on like this all the
22 time.

23 MS. JARRELL: We hear about water issues all the
24 time in here. The issue is, that's not what our function is.

25 MR. RODEHORST: Okay.

26 MS. JARRELL: Our function is just addressing the
27 variance request.

28 MR. RODEHORST: Understood, and I appreciate that.

29 MS. JARRELL: So I am very sorry.

30 MR. RODEHORST: No, no, don't be. I appreciate you

1 reining me in on that issue. That being said, it's only the
2 40 foot setback. My only comment is they're asking for 10.
3 If it could be less than that, I'd be happier.

4 MS. JARRELL: Do you think the 10 feet makes a
5 difference? Either way, I mean, you are 4 to 5 feet higher --
6 I'm sorry -- lower than this parcel. So you're going to have
7 issues, water issues.

8 MR. RODEHORST: No. Again, I am tabling that
9 because you are saying that, and I agree with you, that that's
10 not the variance in question. So I agree and I retract the
11 comments about my water drainage, although I would like to
12 have it on the record that I do think that's going to be a
13 problem at some point for another group, another meeting.

14 VICE CHAIR SWEENEY: And the deck?

15 MR. RODEHORST: The deck.

16 VICE CHAIR SWEENEY: You mentioned a number of
17 issues that aren't before us.

18 MR. RODEHORST: Again, I will draw back everything
19 because the issue before you guys is the 40 foot setback. My
20 only issue with that at this stage of the game is the
21 aesthetics of it being there. I can see, you know, I have no
22 other grounds to make a comment on that. If it could be,
23 instead of 40, if it could be 43, better. If it could be 44,
24 better.

25 VICE CHAIR SWEENEY: All right. So you're --

26 MR. RODEHORST: If it has to be 40 for the
27 integrity --

28 VICE CHAIR SWEENEY: So we need a specific objection
29 from you. You do not -- You object to us approving the 10
30 foot variance in setback and you would suggest what? Try to

1 be specific.

2 MR. RODEHORST: Forty-five.

3 VICE CHAIR SWEENEY: Okay. Anything else?

4 MR. RODEHORST: Nope.

5 VICE CHAIR SWEENEY: All right. Thank you very
6 much.

7 MR. RODEHORST: Yep. Sorry to take up your time.

8 VICE CHAIR SWEENEY: Anybody else here to speak for
9 or against?

10 MR. RODEHORST: The fact that I had to sit for two
11 hours to say that.

12 VICE CHAIR SWEENEY: If no one else is here to speak
13 for or against, I close the public hearing. Discussion?

14 MR. GOLLING: Yeah, a house sliding down a hill
15 scares the bejesus out of me. And, you know, I am, absent of
16 a site or geological survey that says it's cool to do that, if
17 it's something where they want to move forward because they're
18 worried about the hill, I mean, that would be my fear, too, if
19 that were my lot. But, you know, I am not comfortable -- If
20 moving it forward and the site plan people are like, "This is
21 where it has to be in order to make this house safe so it
22 doesn't slide down the hill," it makes sense to me, and
23 especially since the one just south of it looks like it
24 already has at a 40 foot setback.

25 MR. ROWE: It does.

26 VICE CHAIR SWEENEY: Yeah, Jim brought that up
27 earlier.

28 MR. ROWE: I checked the record.

29 MR. GOLLING: So, I mean, it's --

30 MR. ROWAN: So do we know, that 10 foot, was that

1 arbitrary? Is it from the county or is it --

2 MR. GOLLING: That's my question is like, did they
3 say, "You've got to move it forward 10 feet so you don't have
4 the danger," or is it just like, "We just want to put a deck
5 on, so we want to scooch the house forward"?

6 MR. ROWAN: Right.

7 MR. GOLLING: If it's scooching the house forward so
8 it doesn't slide down the hill, that's probably a good reason.

9 MR. ROWAN: Right.

10 MR. GOLLING: If it's scooching it forward to build
11 the deck to peek into his bedroom window, then that might be a
12 little different.

13 MR. RODEHORST: Boy, that would be a waste of time.

14 MS. JARRELL: And if you, also -- I took the liberty
15 of printing up the contour map and so you can see that the
16 subject parcel, as well as -- What is that, south?

17 MR. GOLLING: Yeah.

18 MS. JARRELL: The one to the south is a little bit,
19 see how it curves that way.

20 MR. GOLLING: Right, right.

21 MS. JARRELL: So it's a different geography, a
22 little bit different geography.

23 MR. GOLLING: How far down do you think it is? I've
24 never seen it.

25 MS. JARRELL: It's 35 feet.

26 MR. GOLLING: Thirty-five feet down?

27 MS. JARRELL: Yeah.

28 MR. RODEHORST: From where, from the bank?

29 MR. GOLLING: Your from your back yard.

30 MR. RODEHORST: To the creek?

1 MR. GOLLING: It's pretty steep?

2 MS. JARRELL: It's, it's --

3 MR. RODEHORST: From where the ridge breaks down to
4 the creek, 60 feet.

5 MR. GOLLING: Wow.

6 MS. JARRELL: It's 830 down to 764 at the creek.

7 MR. GOLLING: Okay.

8 VICE CHAIR SWEENEY: It's a lot.

9 MS. JARRELL: Got it right here.

10 VICE CHAIR SWEENEY: That's why we love Concord.

11 MS. JARRELL: Yeah.

12 VICE CHAIR SWEENEY: All right. Any further
13 discussion?

14 MR. ROWAN: So do we have any, like for a site plan
15 like this, does it go to the county or is it --

16 MS. FREEMAN: Mr. Rowan, so the engineering, the
17 grading plan will be reviewed and approved by the county as
18 far as the elevation of the home that's being proposed and,
19 also, Stormwater will review the stormwater plan and make sure
20 that the lot itself is going to contain all the water and not
21 spill over onto the neighbor's property.

22 MR. ROWAN: Okay.

23 MS. FREEMAN: So if you look at the site plan with
24 the grading plan that was submitted, you can see that there is
25 Ellison Creek at the back of these lots that has a 75 foot
26 riparian setback. So the grading plan they're proposing with
27 this stays out of that riparian setback, which is good because
28 it keeps the vegetation and the natural area there rather than
29 encroaching into that. They could be in front of you tonight
30 asking for a variance from the riparian setback --

1 MR. ROWAN: Right.

2 MS. FREEMAN: -- and keeping the house at 50 feet,
3 which would compromise that hillside even more.

4 But I think for your, some of your concerns as far
5 as the stormwater, it will be looked at closely. And I am
6 looking at the plan here and I can see the elevation of your
7 house at the corner of the home. You see these little
8 numbers? You can see that you're at 824 and that his side of
9 the house, of the proposed house currently is proposed to be
10 about 2 feet higher than yours. With the water, if you look
11 at the contours and the proposed grading, it does look like
12 it's going to go out to the street. It's higher in the back,
13 lower in the front. But that will be reviewed by Lake County
14 Stormwater.

15 MR. RODEHORST: So that I don't waste other people's
16 time, am I going to get a letter about that for a meeting on
17 that?

18 MS. FREEMAN: There won't be a meeting on that, no.
19 I mean, once these plans are submitted to the county, it is
20 public record, and you could ask and see if it's been
21 submitted. And I know that the engineer that works for
22 Stormwater is willing to take the time to talk to residents
23 about it and talk about your concerns. So --

24 MR. RODEHORST: Thank you. Thank you for your time.

25 VICE CHAIR SWEENEY: Thank you.

26 MS. JARRELL: Take care.

27 VICE CHAIR SWEENEY: All right. If there is no
28 further discussion, do I have a motion?

29 MS. JARRELL: So moved.

30 VICE CHAIR SWEENEY: All right. Second?

1 MR. ROWAN: Second.

2 VICE CHAIR SWEENEY: And this is for the application
3 for a variance from Section 15.04. Heather, will you take a
4 vote.

5 MS. FREEMAN: Mr. Golling?

6 MR. GOLLING: Yes.

7 MS. FREEMAN: Ms. Jarrell?

8 MS. JARRELL: Yes.

9 MS. FREEMAN: Mr. Rowe?

10 MR. ROWE: Yes.

11 MS. FREEMAN: Mr. Rowan?

12 MR. ROWAN: Yes.

13 MS. FREEMAN: And Mr. Sweeney?

14 VICE CHAIR SWEENEY: Yes.

15 All right. Your variance has been granted.
16 Congratulations.

17 MR. TURK: Thank you.

18 VICE CHAIR SWEENEY: Thank you.

19 Next on the agenda is Variance Application 2021-96.
20 Osborne Real Estate Services LLC is requesting the following
21 variances to allow for a building addition for the property
22 located at 7649 Crile Road, being current parcel number
23 08-A-019-0-00-025-0.

24 MS. JARRELL: Mr. Rowan.

25 MS. FREEMAN: Oh, you're shifting over there.

26 VICE CHAIR SWEENEY: Variance from Section 38.04(A)
27 to eliminate 5 foot of planting area between building wall and
28 paved areas; and (b) variance from Section 37.05(D), which
29 requires that all sides and rear walls shall incorporate the
30 same building materials, proportionally and texture as the

1 front facade.

2 MR. LUCAS: Mr. Chairman.

3 VICE CHAIR SWEENEY: Counsel.

4 MR. LUCAS: I just want counsel or -- I am sorry --
5 the record to reflect that Brandon Dynes has now returned as a
6 board member and Mr. Rowan has stepped down.

7 MS. JARRELL: And now I am going to recuse myself --
8 sorry, Rick -- and he can take my spot.

9 MR. LUCAS: Very good.

10 VICE CHAIR SWEENEY: All right. Musical chairs.

11 MS. JARRELL: Small world in Lake County.

12 MR. ROWE: I didn't hear the music stop.

13 MR. DYNES: No kidding.

14 VICE CHAIR SWEENEY: All right. Counsel, one at a
15 time for these as we have been doing?

16 MR. LUCAS: Yes, please.

17 VICE CHAIR SWEENEY: Thank you.

18 All right. Good evening.

19 MR. RICK OSBORNE: Good evening. Rick Osborne Jr.,
20 Osborne Real Estate Service, representing Mary's Diner. I
21 have the owner, Neil Larusch, here with me today, as well as
22 the owner of the plaza, Lance Osborne. And I have been duly
23 sworn in and I live at 7050 Jackson Street in Mentor, Ohio.

24 And today we are looking for two variances, one
25 related to the cooler that is going to be installed in the
26 back of the store, back of the restaurant. And when the
27 cooler gets installed, we have to eliminate the landscaping
28 that's around the back. We do plan on putting in decorative
29 stone in the areas where the landscaping's at where the cooler
30 will not cover. And the cooler, again, sits to back of the

1 building. There are similar coolers in the plaza that it's
2 going to look very similar to, and we're asking for those two
3 variances, please.

4 VICE CHAIR SWEENEY: Okay, thank you. Discussion.

5 MR. DYNES: Or questions?

6 VICE CHAIR SWEENEY: Questions or, either/or.

7 MR. DYNES: I don't know. You looked at me.

8 VICE CHAIR SWEENEY: You seem important.

9 MR. DYNES: Well, it's good to be back. Thanks for
10 having me. Those chairs are uncomfortable. I heard a
11 gentleman say that his -- he may be going numb in parts. I
12 echo his thoughts. I was going numb in parts, too. So to all
13 of you out there, Ms. Luhta, we know how it is. The struggle
14 is real. No, it's because you are a friend.

15 VICE CHAIR SWEENEY: Single her out.

16 MR. ROWE: For those additional parts on you?

17 MR. DYNES: I will just speak briefly and quickly
18 because we spent a lot of time. Like I said, it's good to be
19 back here. I think what Mr. Osborne is proposing makes a lot
20 of sense. It accommodates what he's trying to do and
21 accommodates the owners, which I believe he said are here. I
22 would have no problem with this, personally. I don't have any
23 questions for Mr. Osborne. It seems to be pretty clear-cut.

24 MR. ROWAN: I just have one quick question. You
25 said there are other coolers already there. Are they set up
26 the same way? I didn't get a chance to --

27 MR. GOLLING: Did you ever drive behind Pizza Roto
28 and all that? You can see it's basically employee parking
29 only back there.

30 MR. ROWAN: Okay, yeah.

1 MR. ROWE: The building next to it behind the bar or
2 whatever.

3 MR. GOLLING: Yeah, Burgers 2 Beer.

4 MR. ROWAN: This isn't anything new?

5 MR. GOLLING: No. It's just he's got to follow
6 through with it.

7 MR. ROWAN: Gotcha.

8 VICE CHAIR SWEENEY: All right.

9 MR. ROWAN: No other questions for me. Thank you.

10 MR. ROWE: One of the simpler situations we've
11 faced.

12 VICE CHAIR SWEENEY: Yes. Anyone speaking for or
13 against?

14 MR. LUCAS: Mr. Osborne, I am sorry. You may have
15 done this already. You acknowledge that you were sworn in,
16 correct?

17 MR. GOLLING: Yes, he did.

18 MR. ROWE: Yes.

19 MR. RICK OSBORNE: Yes, I have, yes.

20 MR. LUCAS: Okay. Thank you.

21 VICE CHAIR SWEENEY: If no one is speaking for or
22 against, that will close the public hearing on this matter.
23 We've had discussion. If no further discussion, do I hear a
24 motion?

25 MR. ROWE: So moved.

26 MR. GOLLING: Second.

27 MR. LUCAS: Well, just so we're clear, the motion
28 will be on --

29 MR. DYNES: There is two.

30 VICE CHAIR SWEENEY: Right, there is two motions.

1 MR. LUCAS: -- on the first one.

2 VICE CHAIR SWEENEY: This is for Application 2021-95
3 -- I am sorry -- 2021-96, (a) and (b).

4 MR. LUCAS: Well, you want to do each one
5 separately, please.

6 VICE CHAIR SWEENEY: Okay. So then as to the first,
7 do I have a motion?

8 MR. DYNES: I would move to approve variance from
9 Section 38.04 to eliminate the 5 foot planting area between
10 the building wall and the paved area.

11 MR. GOLLING: I will second that motion.

12 VICE CHAIR SWEENEY: So moved. Heather, do you want
13 to take a vote.

14 MS. FREEMAN: Mr. Golling?

15 MR. GOLLING: Yes.

16 MS. FREEMAN: Mr. Dynes?

17 MR. DYNES: Yes.

18 MS. FREEMAN: Mr. Rowe?

19 MR. ROWE: Yes.

20 MS. FREEMAN: Mr. Rowan?

21 MR. ROWAN: Yes.

22 MS. FREEMAN: And Mr. Sweeney?

23 VICE CHAIR SWEENEY: Yes.

24 That variance is approved. Next variance, do I have
25 a motion from Section 37.05(D)?

26 MR. ROWE: So moved.

27 MR. GOLLING: Second.

28 VICE CHAIR SWEENEY: All right, that's seconded.
29 Heather, do you want to take a vote, please.

30 MS. FREEMAN: Mr. Golling?

1 MR. GOLLING: Oh, yes.

2 MS. FREEMAN: Mr. Dynes?

3 MR. DYNES: Yes.

4 MS. FREEMAN: Mr. Rowe?

5 MR. ROWE: Yes.

6 MS. FREEMAN: Mr. Rowan?

7 MR. ROWAN: Yes.

8 MS. FREEMAN: And Mr. Sweeney?

9 VICE CHAIR SWEENEY: Yes.

10 That variance is also granted.

11 And our next variance application is 2021-95.

12 Ms. Amy Barnett is requesting a variance from Section
13 15.03(A)(6), Table 15.03-1, to permit two accessory buildings
14 in lieu of the maximum one permitted for the property located
15 at 10106 Chipmunk Ridge Drive.

16 (Whereupon, Ms. Jarrell returned to the board and
17 Mr. Rowan stepped down.)

18 Ms. Barnett.

19 MS. BARNETT: Hi.

20 VICE CHAIR SWEENEY: Hello.

21 MS. BARNETT: My name is Amy Barnett. I reside at
22 10106 Chipmunk Ridge Drive. I have been duly sworn in. And,
23 basically, all I am asking for on my property is, I have
24 previously built a brand new garage, three-car garage, and I
25 have an existing barn. I just want to be able to keep the
26 barn for, I have just lawn equipment, barn equipment, farm
27 equipment, and I just want to keep my new garage for my
28 vehicles.

29 I have a list of surrounding neighbors that live on
30 my street and off the street that would be able to see both of

1 them or not even see both of them at all and they don't have a
2 problem with me keeping the old barn. And, basically, that's
3 the short and sweet of that.

4 VICE CHAIR SWEENEY: And they were notified.

5 MS. BARNETT: Yes, they all did receive letters of
6 this tonight. And I guess that's it unless you have any
7 questions.

8 VICE CHAIR SWEENEY: Okay. I don't.

9 MR. DYNES: Just so I'm clear, the shed that is on
10 the parcel is in the very back corner; is that right?

11 MS. BARNETT: Yes.

12 MR. DYNES: What's the size of the shed? It's
13 probably here. Forgive me.

14 MS. BARNETT: I believe it is 20 --

15 MR. DYNES: 20 by 26?

16 MS. BARNETT: 20 by 26, yes.

17 MR. DYNES: Okay.

18 MS. JARRELL: So it's really, you'd have a total of
19 1,543 feet and so, I mean, it's almost a 50 percent request.
20 Is there anything -- I mean, typically, when we approve
21 variances, we have to go through these factors and one of the
22 burdens that you have is exhibiting a practical difficulty in
23 why you need this. So maybe you want to --

24 MS. BARNETT: Oh, yeah, sure. Because I decided to
25 build the new garage -- My dad passed away a year and a half
26 ago. He has classic cars. My mom lives in the property next
27 door at 10100. I, when my new garage was completely 100
28 percent built, I would like those cars to be over there,
29 including my own, and the barn strictly for like lawn mowers,
30 my wood chipper, actually, there is a lot of parts to the old

1 cars, just kind of equipment like that so it's not in the new
2 garage and just keep car stuff in the new one.

3 MR. GOLLING: So as a condition of you building this
4 originally, you agreed to remove the barn because you couldn't
5 have two. And now you want to just -- I am just checking
6 my -- now you want to keep the barn for the wood chippers and
7 whatnot?

8 MS. BARNETT: Right, just, yeah, all my equipment,
9 yes, so it's not interfering with my cars and having to move
10 them or --

11 MS. JARRELL: Why didn't you just build a bigger
12 garage?

13 MR. GOLLING: She couldn't.

14 MS. BARNETT: We weren't allowed.

15 UNIDENTIFIED SPEAKER: That's the biggest we were
16 allowed free-standing.

17 MS. JARRELL: I suppose, either way, you would be
18 asking for a variance.

19 MS. BARNETT: Probably, yes.

20 MS. JARRELL: But I think that the garage, building
21 a bigger garage might have been easier to accept versus having
22 two structures. I don't know. But, I mean, as far as the
23 difficulty goes, the only difficulty you're having is the
24 storage.

25 MS. BARNETT: Correct.

26 MS. JARRELL: And it's really not like, you know,
27 one of the considerations. It's something like, you know, the
28 parcel is extraordinary. Like the one we just had earlier,
29 the thing fell off, so, you know, we're giving a variance
30 because of the special attributes to that parcel. So is there

1 anything like that?

2 MS. BARNETT: Not to my, no, I don't have any
3 ravines in my back yard.

4 MS. JARRELL: Did you know you were going to have to
5 come back for another variance? I mean, was that --

6 MS. BARNETT: I didn't know. I was, I thought I
7 could keep both structures at first. Like, I didn't, I had no
8 clue. I was told I wasn't able to build a bigger garage.
9 And, plus, cost factor, too. If I would've gone another, that
10 would have cost a lot more.

11 MS. JARRELL: Yeah, that's true.

12 MR. GOLLING: You were approved on 7/1/2021 with
13 remarks "existing garage shall be removed upon completion of
14 new garage." So somebody, I mean, was notified here but --

15 MR. ROWE: That would have been kind of a specific
16 effect on the board at the time allowing the other building to
17 be built.

18 MR. GOLLING: Right.

19 MR. ROWE: Was the removal of.

20 VICE CHAIR SWEENEY: Any further discussion or
21 questions?

22 MR. DYNES: Well, no, I guess, no.

23 MR. ROWE: I do. That's all right.

24 MR. DYNES: I don't have anything.

25 MS. JARRELL: And this didn't come before us. It
26 was just approved that way when you approved the permit,
27 right, Heather?

28 MS. FREEMAN: Yes, it was. We have done this in the
29 past with homeowners who come in and they're building a new
30 garage or a shed and they've asked if we can keep that up

1 until, you know, to move the items that were in the old into
2 the new and we've approved permits on that condition that it
3 be done and really haven't had an issue with it. I think
4 there was, it sounds like maybe there was a misunderstanding
5 between Ms. Barnett and just Mr. Frazier, who came in and
6 submitted the application, as far as what was happening with
7 the existing shed, garage, barn, whatever you want to call it
8 that was on the property.

9 VICE CHAIR SWEENEY: All right. Thank you.

10 Anyone speaking for or against or against, for or
11 against?

12 (No response.)

13 If not, we will close the public hearing. I will
14 entertain a motion.

15 MR. DYNES: So moved.

16 MR. ROWE: Second.

17 VICE CHAIR SWEENEY: Heather, will you take a vote,
18 please.

19 MS. JARRELL: Are we not having discussion?

20 VICE CHAIR SWEENEY: I am sorry. Are we having
21 discussion?

22 MR. DYNES: Yes.

23 VICE CHAIR SWEENEY: Okay, go ahead. I am sorry.
24 Rushing things along.

25 MR. ROWE: Well, it's just the approval in July was
26 based on the thing leaving. And here we are five months later
27 and kind of -- I can't see, again, storage. I mean, you know,
28 we face these acquisitions or whatever, you know. It's kind
29 of, you know, in people's control, I mean, to a point and
30 just -- I don't know. That's the whole situation, I would

1 say.

2 MR. DYNES: Well, I guess, obviously, the condition
3 of the new garage was to remove the other one and that's
4 pretty evident that it was approved based upon that condition.
5 That condition hasn't been met and now they're here. What's
6 interesting to me is we do this, we have done this in the
7 past. And there is a number of people who have signed and
8 indicated they would have no objection to this. I'm
9 presuming, by virtue of their addresses, that they're
10 certainly the adjoining neighbors or the ones behind and no
11 one here to speak against it.

12 I think, in certain proper course in these matters,
13 it would be within our purview to deny it, for obvious
14 reasons. There was a condition placed. The condition was not
15 met. In absence of anybody speaking against it and everybody
16 speaking, perhaps, in favor of it, the adjoining landowners,
17 and in light of this board's prior precedent of granting
18 people to allow them, allowing them to have two structures, I
19 would be more than inclined in this particular instance to
20 approve it because I don't see any hardship necessarily to
21 anybody else.

22 Granted, she hasn't met the hardship factors, the
23 Duncan factors or otherwise to really allow for this, but I
24 will be interested to hear what everybody else has to say.

25 VICE CHAIR SWEENEY: I agree.

26 MS. JARRELL: I agree.

27 MR. DYNES: I don't know that I was that equivocal
28 in what I said that you can just agree but that's fine.

29 VICE CHAIR SWEENEY: I agree.

30 MS. JARRELL: I mean, personally, I hate that you

1 can't have two structures. I think it's ridiculous. But our
2 function is to uphold the Resolution and, you know, unless,
3 again, there was something extraordinary. But we have all
4 these neighbors all in the same cul-de-sac approving and if,
5 certainly, if somebody had a problem, then we would be more
6 inclined to have a problem.

7 MR. GOLLING: Just by the map, I mean, this thing is
8 a nine iron away from anyone else's house. I mean, it's not
9 even close, the shed. It is stuffed back where it's, yeah,
10 you're not seeing it. I am looking either from Hoose, from
11 Button, from Trotwood. It's not going to be visible from any
12 of those streets, so I don't think anyone is going to know
13 it's back there. I would encourage you to purge. It's very
14 cleansing, by the way.

15 MS. BARNETT: It is.

16 MR. GOLLING: But, yeah, so --

17 VICE CHAIR SWEENEY: All right. No further
18 discussion. Now do I have a motion?

19 MR. ROWE: So moved.

20 MR. DYNES: We had it.

21 VICE CHAIR SWEENEY: I jumped the gun.

22 MR. DYNES: It was already done.

23 MR. LUCAS: A motion was made and seconded and then
24 discussion --

25 VICE CHAIR SWEENEY: And second.

26 MR. LUCAS: -- discussion broke out like fire on a
27 tinder.

28 VICE CHAIR SWEENEY: Discussion broke out. Heather,
29 do you want to take a vote.

30 MS. FREEMAN: Sure thing. Mr. Rowe?

1 MR. ROWE: No.

2 MS. FREEMAN: Ms. Jarrell?

3 MS. JARRELL: Yes.

4 MS. FREEMAN: Mr. Dynes?

5 MR. DYNES: Yes.

6 MS. FREEMAN: Mr. Golling?

7 MR. GOLLING: Yes.

8 MS. FREEMAN: And Mr. Sweeney?

9 VICE CHAIR SWEENEY: Yes.

10 The variance application has been granted.

11 Congratulations.

12 Our final application is an appeal application,
13 Number 2021-98. Mr. Charles Vanac is requesting an
14 administrative appeal from the determination made by the
15 Concord Township Zoning Department on November 8th of 2021
16 that the use of properties located at 6773 Morley and
17 6731 Morley Road are in violation of the R-1 District
18 requirements set forth in Section 15.02(A)(4), Section
19 15.03(G)(1), Section 15.03(G)(2), Section 15.03(G)(4), and
20 Section 29.10(D)(2.)

21 Good evening.

22 MR. VANAC: Good evening. My name is Chuck Vanac.
23 I live at 6773 Morley Road. I grew up there my whole life,
24 and I have been sworn.

25 VICE CHAIR SWEENEY: You've been sworn.

26 MR. VANAC: This is my wife.

27 MRS. VANAC: Hi. I am the wife. I live at the same
28 address, 67 --

29 VICE CHAIR SWEENEY: What's your name?

30 MRS. VANAC: Sharon Vanac.

1 VICE CHAIR SWEENEY: Okay.

2 MRS. VANAC: 6773 Morley Road, and I have been sworn
3 in.

4 VICE CHAIR SWEENEY: Okay. You can make your
5 presentation.

6 MR. VANAC: Okay. To start with, I really don't
7 think I should be in front of you because I went to the
8 Zoning Department to argue my case and they told me that under
9 no circumstances was I agriculture because I am in a
10 residential area. Now, we've been there. My grandfather
11 bought the farm in 1934. We have 20 acres there all together.
12 My house is right next door to the farm, so it's always been
13 joined. We ran it together. My father ran it, my grandfather
14 ran it, and now I run it.

15 So I was told that, in the letters that you have
16 there, that from -- which was sent to me, that I don't think
17 is really true, any of it, because not until later, they, it
18 doesn't say anything about the residential in there. But when
19 I went in front of the zoning and asked them, they pointed out
20 that I was in a residential area.

21 Now, we've been agriculture our whole life. If you
22 look at the tax records from the, from the -- where we pay our
23 taxes, it says in there that we are agriculture. But Concord,
24 the zoning tells me they don't want to recognize that.

25 Above that, I am under CAUV, which if you're not a
26 farmer, you can't have that. Okay? So I want to read a
27 couple things to you tonight. My wife is going to read it.
28 She's got better eyes than I do. So the first one is under
29 your exceptions of agriculture use.

30 MRS. VANAC: This is from Concord Township Zoning

1 Resolution as amended through November 6, 2021. And this
2 says, at 6.01 Exemptions, and B is Agriculture Uses, and just
3 real quick it says, "Agricultural uses, and buildings or
4 structures that are incidental to agricultural uses, located
5 on lots with a lot area of 5 acres or more, shall be exempt
6 from the requirements of the Zoning Resolution and property
7 owners shall not be required to obtain a zoning permit for
8 such uses in accordance with ORC Section 519.21."

9 MS. JARRELL: Wait. What was the number that you
10 were reading from?

11 MR. GOLLING: 6.01.

12 MRS. VANAC: I printed it off the internet.

13 MS. JARRELL: Got it. Thank you so much.

14 MRS. VANAC: Absolutely.

15 MR. VANAC: So, basically, that's what's in your
16 guys' Resolution and I suppose you got it from the Department
17 of Agriculture's setup. So under that 519.21, Sharon is going
18 to read to you the whole letter that's there.

19 MRS. VANAC: Section 519.21, "Powers not conferred
20 on township zoning commission by chapter, Ohio Revised Code.
21 Except as otherwise provided in divisions (B) and (D) of this
22 section, Sections 519.02 to 519.25 of the Revised Code confer
23 no power on any township zoning commission, board of township
24 of trustees or board of zoning appeals to prohibit the use of
25 any land for agricultural purposes or the construction or use
26 of buildings or structures incident to the use for
27 agricultural purposes of the land on which such buildings or
28 structures are located."

29 MR. VANAC: So hand that. That's the full breakdown
30 of it. In here, we only see partial of it. It's never been

1 the whole thing. So right there, it says that I am
2 agriculture and I am allowed to do it.

3 And then we're going to go to the part of the
4 firewood. They tell me that I can't have sales of firewood on
5 the property. We've been selling firewood since my
6 grandfather was there in '34. It doesn't end. We have a
7 continuous supply. Okay? My father did it. He married my
8 mom in '56. He was married on the same farm. He went ahead
9 and made firewood there and sold it. In -- I can't think of
10 what year it was -- but in '76, I started cutting firewood.
11 Okay? So I want to get into that a little bit.

12 But the next thing I want to say is, they're telling
13 me that I'm residential. Okay? Well, I didn't understand
14 that. I can't figure out how I could being residential but
15 I've been agriculture all these years. So I did a little more
16 checking into it. There is more than one residential in
17 Concord.

18 So the letters that was sent to my neighbors wasn't
19 the same letter that I got. That letter says that I am in an
20 R-1 District, residential. Okay?

21 Sharon, would you please read what an R --

22 MRS. VANAC: This is your neighbors' letter.

23 MR. VANAC: This is -- Do you have the neighbors'
24 letter or would you like to have it? You can --

25 MRS. VANAC: Here you go.

26 MR. GOLLING: Sure.

27 MR. VANAC: See, my letter doesn't go anywhere near
28 that but she's --

29 MRS. VANAC: Here's our warning letter right here.

30 MR. VANAC: I'm sure you have my letter. I thought

1 we made copies of it. Okay.

2 So, Sharon, would you read R-1.

3 MRS. VANAC: With a half to three-quarter acre
4 minimum lot requirement for single-family dwellings.

5 MR. VANAC: Okay. I've got 20 acres. Is that a
6 half acre or three-quarter? No.

7 Sharon, would you read Number 2.

8 MRS. VANAC: R-2 District permits development of 100
9 acre lot that could have detached and attached single-family
10 house. That's not us.

11 MR. VANAC: That's not us.

12 Sharon, would you read Number 3.

13 MRS. VANAC: R-3 is apartment and condominium
14 buildings.

15 MR. VANAC: Which I am nowhere near that.

16 Sharon, would you read Number 5.

17 MRS. VANAC: 5, Senior Housing District.

18 MR. VANAC: Okay. I don't have any senior people
19 there other than my mom and my uncle still live on the farm.
20 My uncle was born blind. He's still there today. My mother
21 still lives on that farm yet today.

22 Okay. Now Number 6, R-6.

23 MRS. VANAC: "Created in 1987 and responds to the
24 desire of many Concord residents to preserve the semi-rural
25 character of the township according to the 1995 Township Plan
26 Report. The 1995 Concord Comprehensive Plan documents
27 numerous comments and previous plans in the 1993 Township
28 Survey advocating for 2 acre lots and the preservation of
29 farmland and other natural resources."

30 MR. VANAC: So I think that's what I fall under.

1 MRS. VANAC: Is R-6.

2 MR. VANAC: And I am a farmer and that's farmland.
3 Okay? Here, give that to them. This is your Resolution from
4 2004, I think it is, and that breaks down all the different
5 things.

6 The next letter was, in my letter it says I am not
7 allowed a truck over 10,000 GVW. To start with, I got into an
8 argument over that because my truck weights 9,100 pounds to
9 start with. Okay? I was told I can't have that because they
10 told me at the zoning you can't have that truck there. But I
11 says, "I am under the 10,000 GVW." Oh, no, GVW is gross
12 vehicle weight. He is trying to tell me the truck can haul
13 more than 10,000 pounds. I says he's wrong, but I didn't want
14 to argue anymore. I had enough and I went home.

15 GVW is gross vehicle weight. That's the weight of
16 that truck as it's weighed. Gross vehicle weight rating is
17 what that truck can haul. In here, it says 10,000 pound gross
18 vehicle weight. So that's wrong.

19 Now, my wife is going to read a section on here
20 about the trucks, what's allowed for commercial trucks in that
21 area, this one right here.

22 MRS. VANAC: "Parking or storage of a commercial
23 motor vehicle and related trailer as defined herein shall
24 comply with the following." And this is a Concord Township
25 Zoning Resolution, Off-Street Parking, 29.15. And at Number
26 5, it says, "Commercial motor vehicles strictly used for
27 agricultural purposes located on a lot where the agriculture
28 use is taking place shall be exempt from the requirements
29 outlined above," and then in parenthesis it says "4/1/2011."

30 MR. VANAC: So the thing I don't understand here is

1 I am not allowed to be agriculture but why would you put that
2 in there? Why was it put in there?

3 MRS. VANAC: Here is the thing on motor vehicles.

4 MR. VANAC: I don't think that's right. The letters
5 that was sent to me have no bearing on that. I just don't
6 understand. So that's where I am starting with right there.
7 Okay?

8 Sharon, would you read the 15 from the letter that
9 they sent us.

10 MRS. VANAC: I just gave it to them.

11 MR. VANAC: Oh, I am sorry. It's about selling the
12 items on your property. It says in there that you can't sell
13 anything on your property unless it's made there. I make it
14 there. The wood is made there, okay, and I am selling it off
15 the property. I am going to get into that a little bit
16 closer.

17 So the past zoning inspectors -- Now, you have to
18 remember, I grew up with Mr. Van Driest here and Connie Luhta.
19 We're the old-timers and we can tell you the stories. Mr. Van
20 Driest, his father was probably one of the best zoning
21 inspectors yous ever had. He was a fair man. He come out and
22 talked to the people and he was a good man.

23 But I am going to tell you, there was another one
24 after him, Mr. Marino, same way. He used to come out to the
25 farm, talk to us. "How is the firewood this year? Hey, could
26 you bring me a load?" He lived over on Fay Road. I'd bring
27 him a load of wood. Okay?

28 The last Zoning Inspector, which I don't know what
29 happened to him, Bruce Bullard, was very knowledgeable about
30 agriculture, so we had very good conversations with him. He

1 could come out and tell me about plants and everything.

2 I do run a produce farm there, too. I don't know if
3 anybody's ever drove by it on Morley. Every year we put a
4 sign out there, "Farmers Market." So we sell produce.

5 So he would come out and he knew all that stuff and
6 we would talk. He never had a problem with me selling
7 firewood there and he never had a problem with me storing
8 firewood there because he knew the history.

9 So as time went on -- I want to hold that part with
10 Mr. Bruce Bullard because there is a part of that that I want
11 to explain to you where he seen my side of what's going on,
12 but I have to get into it. So I thought there was such a
13 thing called "grandfathered in," like Howard is to his father.
14 He's still allowed to have his excavating company there. God
15 only knows how many years it's been.

16 How many years has it been, Howard?

17 MR. VAN DRIEST: I don't know. It's been a long
18 time.

19 MR. VANAC: I know it's been a long time. And I
20 worked with Howard.

21 MR. VAN DRIEST: I was probably 15 years old when
22 that thing started.

23 MR. VANAC: Oh, yeah.

24 MR. VAN DRIEST: And I'm 81 now. That will give you
25 an idea how long.

26 MR. VANAC: Yeah, and he is still there today. So
27 his father knew everything. But Howard is still grandfathered
28 in on this because he can still be in there because his father
29 did it. Connie Luhta here, same way, she's grandfathered in.
30 You can't go there and take her agriculture away from her

1 after all these years. It's like any business that you had.
2 Connie probably wants to hand that down to her daughter, that
3 property, and she hopes some day that her daughter would have
4 something there, but she don't want to lose it. Maybe she
5 doesn't -- She's kept the airport for all those years. Connie
6 doesn't want progress there but she wants to keep it. And I
7 think her daughters's got the same idea and they do the same
8 thing as we do.

9 So, you know, we're the history of Concord that's
10 left here and we can tell you stories that went on and things,
11 but it was agriculture back then when it was started, so being
12 grandfathered in since my grandfather in 1934. Was there
13 zoning? When, '55? '57? Concord had it. We was there way
14 before that. Okay?

15 So my grandfather cut firewood. I will tell you how
16 far back it was. In the early '50s they put in Route 44. My
17 grandfather went up there and bought all the timber off of 44,
18 had a sawmill put up at the end of the road there. Howard
19 probably can remember it. All that timber came into our farm.
20 We cut it up for firewood and sold it. We bought that. That
21 wasn't given to him. Okay? So my dad married my grandfather
22 in '56.

23 MRS. VANAC: No, no.

24 MR. VANAC: My father married my mother in '56. I
25 am sorry.

26 MS. JARRELL: We knew what you meant.

27 MRS. VANAC: I got so many things to tell you
28 tonight. I want to just keep going.

29 MR. ROWE: There's a lot going on here.

30 MR. VANAC: So she married in '56. My father helped

1 on the farm. I have pictures of him on tractors and
2 everything running the farm there. Okay? And he became -- He
3 cut firewood, sold firewood. He would go pick it up.
4 Somebody would have a tree, go cut it down, bring it in, cut
5 some firewood up. I helped him and stuff like that.

6 And then when I -- In '76, I started. Okay? We
7 started. I wasn't even driving yet but I had a good friend of
8 mine. He had a driver's license. His name is Mark Merrill,
9 sitting right here.

10 Mark, would you step up here for a second? Tell
11 them where we cut firewood.

12 MR. MERRILL: First of all, my name is Mark Merrill.
13 I was sworn in.

14 MR. VANAC: Tell them the story.

15 MS. FREEMAN: Your address, sir? Your address, sir?

16 MR. MERRILL: What's that?

17 MS. FREEMAN: Your address, please, for the record.

18 MR. MERRILL: 10129 Chillicothe Road, Kirtland,
19 Ohio.

20 MR. VANAC: How old are you, Mark?

21 MR. MERRILL: Sixty-two.

22 MS. JARRELL: How old were you when we was cutting
23 wood?

24 MR. MERRILL: It was early -- I mean, it was the
25 late '70s, so probably my teens.

26 MR. VANAC: Where did we cut firewood from?

27 MR. MERRILL: What happened is, at that time, there
28 was a lot of logging going on and -- in Concord. And what we
29 did, we went and went to the place where they were logging and
30 we would ask if we could go and get the tops, get permission

1 to get tops. Once we did that, we would go in with our
2 chainsaws, we'd load the pickup truck many, many, many, many
3 times. Then we would take it to his place, on his property,
4 unload it, stacked it and split it and then sold it on his
5 property.

6 MR. VANAC: Okay. Thank you, Mark.

7 MR. MERRILL: Okay.

8 MR VAN DRIEST: Hey, we did the same thing when
9 Farinacci went through back below us.

10 MR. VANAC: Yeah.

11 MR. VAN DRIEST: We brought it all up, cut it up on
12 our property and sold it.

13 MR. VANAC: Yeah. And a lot of us, maybe me and
14 Howard knows, Mr. Farinacci was one of the largest loggers in
15 this country.

16 MR. VAN DRIEST: Oh, yeah, he was..

17 MR. VANAC: And you know what? A lot of people
18 don't know this history. He died in the woods on the corner
19 of Viewmount.

20 MR. VAN DRIEST: Yeah, up on the mountain.

21 MR. VANAC: Up on the mountain there. They called
22 it The Nob up there.

23 VICE CHAIR SWEENEY: All right, sir.

24 MR. LUCAS: Excuse me.

25 VICE CHAIR SWEENEY: Sir, have you been sworn?

26 MR. LUCAS: Well, first of all, wait, stop, stop.

27 Mr. Vanac, with all due respect, you don't engage in
28 dialogue with these people. They will come up and speak for
29 you.

30 MR. VANAC: Oh, I am sorry.

1 MR. LUCAS: Yeah.

2 MR. VANAC: Okay.

3 MR. LUCAS: It also makes it, it also makes it
4 extremely difficult for the court reporter --

5 MR. VANAC: Okay.

6 MR. LUCAS: -- when both of you are talking at the
7 same time.

8 MR. VANAC: Right.

9 MR. LUCAS: All the information that you are
10 conveying -- and I am saying that respectfully -- should be
11 directed to the board.

12 MR. VANAC: I am sorry.

13 MR. LUCAS: All right?

14 MR. VANAC: I am sorry, everybody.

15 MR. LUCAS: That's all right.

16 MR. VANAC: But, anyways, Mr. Farinacci died in that
17 woods. A tree, they was pulling a log out, the top broke off
18 and killed him. So he was a famous man and he died up there.
19 So you can tell how back, how far back that I've been around.
20 I've been there for years. I might've even done business with
21 somebody here, you know. It's hard to tell.

22 But the next one is, I would like to bring up my
23 cousin, Barry Kelly, which he lived on the farm on the other
24 side from us and he was born and raised in the same area.

25 Barry.

26 MR. KELLY: Barry Kelly, 44292 State Route 154,
27 Lisbon, Ohio. I've been sworn in.

28 VICE CHAIR SWEENEY: Thank you.

29 MR. VANAC: Okay. Barry, give them --

30 MR. KELLY: Him and I were in business in '81, '82.

1 We cut firewood on Crile Road. We got permission to cut on
2 the lot next to the Ace Hardware there, in addition, other
3 areas that we logged and split wood on the farm and sold it.

4 MR. VANAC: Barry, how did we get that wood? Did
5 they give to us?

6 MR. KELLY: No. We paid for that and we also paid
7 for the other properties that we logged.

8 MR. VANAC: Any questions for Barry?

9 VICE CHAIR SWEENEY: No.

10 MR. VANAC: He lived on the same farm. He grew up
11 as a kid, too.

12 MR. KELLY: I did.

13 VICE CHAIR SWEENEY: Thank you.

14 MR. VANAC: Okay. So when 1983 came around, I
15 married my wife, Sharon, on the farm, same place my father was
16 married.

17 So one night, me and my dad was sitting in this same
18 place and we was sitting here and we was listening to them
19 setting up the R-1s, the R-2s, what have you, because,
20 originally, we was only allowed two acres to have a house lot.
21 We didn't have -- You weren't allowed a half acre. You
22 weren't allowed a one acre. It was two acres you needed to
23 build a house back then.

24 So a lot of us sat in that meeting and we didn't
25 like it because it sounded more like we was going to lose our
26 agriculture, we was going to lose our heritage of where we
27 been here with housing. So in that meeting, Connie Luhta sat
28 there, Mr. Howard Van Driest sat there, and they was the ones
29 in that R-6 that you have about the farming. Me and my father
30 spoke up at that meeting and says, "Hey, we want to be

1 recognized that we still have agriculture here," and that's
2 why that was written up on that night. So --

3 MS. JARRELL: Are you talking about the exemption?

4 MR. VANAC: Yeah, the R-6. The R-6 was developed in
5 -- What year was that, Sharon?

6 MRS. VANAC: I had it in the paper.

7 MR. VANAC: Oh, you've got the paper. It will say
8 on there what year that R-6 was made. I think it was like '85
9 or -- no, I take it back -- '75, '76, something like that R-6
10 was made up. And that was the reason, was to make us people,
11 the older ones, to understand that we still wanted to have
12 this as a rural agriculture place.

13 Today, Connie Luhta, to this day, me and her and
14 maybe one other in this county are the only ones that really
15 use the CAUV anymore. Connie sells firewood -- or not
16 firewood but sells hay off of her property every year. CAV --
17 CAUV isn't given to you. You work for that. It's a very hard
18 thing to get. You have to farm it and you have to make at
19 least \$2,500 minimum to fall under CAUV or they don't give it
20 to you. So that's what's on my taxes and the same on Connie.
21 Okay?

22 In the, under the farming thing there, I give it to
23 you -- it's in your packet there -- about the firewood.
24 Firewood is an agriculture product. It's regulated by
25 Department of Agriculture, it's measured by the Department of
26 Agriculture, and it's told how to sell it. It has to be a
27 certain moisture or you can't sell that firewood. Okay?

28 So when they came out with that, it falls under the
29 timber part of the agriculture, so you can make firewood. So
30 they had regulations. To this day, the Ohio Department of the

1 Trans -- or Ohio Department of Agriculture comes to me and
2 says, "Chuck," once every year they give me a paper and says,
3 "You need to look out for these logs." We had the elm disease
4 came through and it wiped them out. We had the, if we had any
5 of those logs, I need to put it off to the side because when
6 the ash borer came through, which wiped out tons and tons of
7 trees in this area and made them die and that. We was one of
8 the last counties in the state of Ohio that was not
9 quarantined. So I could take firewood from here and I could
10 take it to another county, but I wasn't allowed to go to
11 Ashtabula and bring it here because we weren't infestated with
12 that.

13 So I had to watch those regulations. So that shows
14 you that firewood is an agriculture product because they
15 regulate it, they take care of it and everything like that.

16 So, Sharon, would you please read the part in there
17 about Concord's resolution or, no, no, the firewood and
18 agriculture products which is regulated by the Department of
19 Agriculture.

20 MRS. VANAC: Which one? I gave them all my papers.

21 MR. VANAC: Well, that's fine. Let me see right
22 there. Yeah, this one right here.

23 MRS. VANAC: Agriculture, farming, ranching,
24 algaculture, meaning the farming of algae, aquaculture,
25 horticulture, animal husbandry, including but not limited to
26 the care and raising of livestock, the production of field
27 crops, tobacco, food, vegetables, nursery stock, ornamentals,
28 trees, flowers, sod, or mushrooms, timber, pasturage, any
29 combination of the foregoing, and the processing, drying,
30 storage and marketing of agriculture products when these

1 activities are conducted in conjunction with but are secondary
2 to such husbandry or production.

3 MR. VANAC: So in there it says "timber." Okay?
4 And then on the bottom, at the end, it says "processing,
5 drying, and storage and marketing of agriculture products." I
6 can't sell a piece of wood off of my property that was just
7 cut and split because it's not dry and it would never burn and
8 you'd never be happy. So that wood has to stay there and dry,
9 just like beans dry in the fields. We store it. It gets
10 stored there. And marketing, I sell it there. So --

11 MR. DYNES: Can I ask you a question?

12 MR. VANAC: Sure.

13 MR. DYNES: At any time, did you seek to have the
14 zoning for that parcel changed from R-1?

15 MR. VANAC: Never, because I didn't know it was R-1.

16 MR. DYNES: Okay. Are you harvesting -- You
17 mentioned Ms. Luhta. I know she harvests that hay from her
18 property and sells it. So are you growing firewood, trees
19 there and harvesting them from the property and selling them?
20 In your letter, everything, the written stuff that you've
21 given us indicates that that's all being brought to your
22 property.

23 MR. VANAC: No. We're going to get into that if I
24 can just finish here with all the -- what I am allowed to do.

25 MR. DYNES: Oh, you're allowed. I am just asking
26 you a question.

27 MR. VANAC: Yeah, because, yes, I am going to get to
28 that point.

29 MR. DYNES: Okay.

30 MR. VANAC: Because it gets very interesting. Okay.

1 So that's about the wood, the selling of it. Okay.

2 Sharon, read about the biomass, please.

3 MRS. VANAC: Biomass, special rules for on-farm
4 production.

5 MR. VANAC: It's this one right here.

6 MRS. VANAC: Several energy production activities
7 are not subject to local zoning if they occur on land
8 qualified for CAUV. These activities include biodiesel,
9 biomass energy, electric, and heat energy production.

10 MR. VANAC: Okay, that's enough. They added that
11 in. It's been added. I don't know when but it's a new
12 ruling. So biomass, do we know what biomass is? So everybody
13 here understands what biomass is, would you please read it.

14 MRS. VANAC: Can be burned directly for heat or
15 converted to renewable liquid and gaseous fuels through
16 variances processes. Biomass sources for energy include wood
17 and wood processing waste, firewood, wood pellets, wood chips,
18 lumber, furniture, so on and so forth.

19 MR. VANAC: Okay. So the next thing is we're going
20 to get to the firewood. I've got the strangest piece of
21 property you ever seen in Concord. My firewood, majority of
22 it is reproduced in six months. I can harvest it and, in six
23 months, it comes back. You think I am crazy, right?
24 Sometimes it's even more.

25 Here is what it is. Kellogg Creek goes across my
26 property. My property is split by two creeks, Kellogg Creek,
27 which you know now, I am sure you've heard, there is a lot of
28 problems with Kellogg Creek. That creek has gotten wider. We
29 get a continuous amount of trees that are falling in this
30 creek, coming down. Where the Route 90 bridge -- or Route 44

1 bridge is just pass 84, it was shut down for probably two
2 years -- or, no, two years ago it was shut down for quite a
3 while. Everybody thought, oh, they're repainting it or
4 something. No, they was redoing it because of the erosion
5 because the creek has got so big and the flooding. So the
6 wood jams at the bridge.

7 Ellison comes straight into Kellogg. I have Kellogg
8 here and behind me Ellison. It gets T'ed. So we have flood
9 -- We have problems there where all the wood collects
10 continuously. If we get a heavy rain, we get wood.

11 So this is one of the pictures of a wood jam that
12 I've been working on for three months. This is on my
13 property. You can take a look at it.

14 MR. GOLLING: Show it around, too.

15 MR. VANAC: Okay. Do you know what? That's not my
16 wood but I clean it all the time. I take it out so the water
17 runs. I've been to the counties. That's why I was going to
18 tell you about Bruce Bullard. I went to Bruce, telling him,
19 "Bruce, you've got to help me. I am one man. I can only do
20 so much and I've got to keep this creek clean."

21 He says, "Chuck, go to Corps of Engineers." They
22 don't want to listen to it. They ain't got the money. There
23 is no funding. Concord don't have it because where are we
24 going to get the right-of-ways to go into all these people's
25 back yards and dig this out of the creeks? We can't do this.
26 I go to the road -- Lake County engineers. We don't have the
27 manpower for that.

28 So I am one man. I am the one that's digging this
29 out of the creek. I am getting all this wood on my property
30 and it's a continuous thing. It's doesn't stop. Okay? So

1 one year, in 2010, I couldn't get the wood out of the creek.
2 Produce is coming in. They're burning up in the fields. We
3 had a drought that year. I am pumping water like crazy on the
4 fields to keep the produce from going bad. So I couldn't get
5 into that creek and get it cleared.

6 So that spring comes. Got a pile of wood back
7 there. I didn't get to it. I woke up to this in my back
8 yard. That's what we call an ice jam. This isn't -- This is
9 what my back yard looks like because the creek wasn't cleared.
10 It jams up. So, okay, an ice jam, it's going to melt off.
11 Well, behind an ice jam it builds up water pressure.

12 My neighbors up the street from me -- Hold on a
13 second. The neighbors up the street from me, the water's
14 backing up at their house. They call me and says, "Chuck,
15 something is going on in the creek." Why? "My 4 foot
16 swimming pool in the back yard is level with the creek."

17 I says, "Well, that's way up there." Daylight
18 breaks. I go outside. So from not cleaning the creek, this
19 is what my back yard looks like.

20 MR. GOLLING: So that's Ellison?

21 MR. VANAC: That's Ellison.

22 MR. GOLLING: Okay.

23 MR. VANAC: Okay. So what's an interesting thing --
24 You can pass this picture around. It's pointed out, just
25 happened when we took the picture, you can see the big logs
26 coming down the creek. This is the creek. This is what I
27 looked like. Okay? That's a pretty good picture. Here is
28 what I looked at, the side view of my property because I
29 didn't clean that creek.

30 MR. GOLLING: What year is this?

1 MR. VANAC: Ten years ago.

2 MR. GOLLING: Okay.

3 MR. VANAC: Because the creek wasn't maintained. I
4 can't get any help from anybody, so I have to do it. Here is
5 another one.

6 So the problem is, when the water gets high, we get
7 silt on the fields. Silt, you can't grow anything. You've
8 got to scrape that off. I've got debris and everything. This
9 picture here was taken on 44 at the bridge. You can see the
10 water going through my woods because it was backed up at the
11 bridge so bad.

12 So as you can see, I've got an endless supply of
13 firewood, okay, so I make firewood out of it. I use firewood.
14 My relatives have maple syrup production. We make maple
15 syrup. So we use that wood, too, for that. Half of the wood
16 I make, I use myself. The other half, yes, I sell it on the
17 property. Yes, I bring some wood in but there is a reason
18 why. I used to buy a couple loads of wood every year but, in
19 that picture, the big picture there -- Sharon, show it to
20 them. In the big picture, the wood that comes down the creek
21 isn't really a favorable wood. You see all the scrub wood and
22 the small pieces? So if I cut that up and bring it to you,
23 you ain't going to be happy, heck no.

24 So I buy some wood, I used to, which I don't
25 anymore. People bring it to me. Neighbor calls up and says,
26 "Hey, I got some logs, Chuck. Do you want them?" I go and
27 look at them. As long as they ain't these big nasty things --
28 I don't take them. I bring them down there. I split it up
29 with this junk wood and I sell it to get rid of it. I can
30 stop doing it. I can keep dragging it up in those fields.

1 Those fields, I'm not proud of them. I don't want to waste
2 that land but I have no where else to put the wood. I am one
3 man trying to split this wood and take care of it. There is
4 no help.

5 So here is a picture of my wood pile and, as you can
6 see it, there is big wood in there and there's a lot of rounds
7 split in it. I mix it in. I mix it in so that the people,
8 they don't complain when I bring it. It's a decent product.

9 It's just like the wineries are. A winery will tell
10 you that he produces wine there but there is not one winery
11 out there that's going to tell you that he grew all those
12 grapes to make that wine. He takes that, grapes, from
13 neighbors, he buys, he blends it to make his different flavors
14 of wine. It's the same thing I am doing there. I have to buy
15 it, a little wood, which I don't buy anymore. I am going to
16 scratch that. I get for free and I cut it, I split it and I
17 mix it in. I don't want to be in the wood business but I am
18 in the wood business because I have nowhere to get rid of it.
19 I can't afford to truck this stuff and get rid of it. Okay?

20 So I want to show you some pictures of the creeks.
21 So this is looking, nobody -- You know, it's a strange thing
22 that we don't really notice.

23 VICE CHAIR SWEENEY: Sir, I don't want to cut you
24 short. Okay? But I ask that you direct your arguments to the
25 appeal, and I believe you've already done that --

26 MR. VANAC: Okay. So --

27 VICE CHAIR SWEENEY: -- in terms of wood and
28 firewood and this wood and that wood and wood under the bridge
29 and wood over the bridge and floating wood. Okay? So if you
30 have any other arguments --

1 MR. VANAC: No. What I was just getting at was I
2 wanted to show you that, next time you're driving by a bridge,
3 just look down in there, especially at Prouty Road. I have
4 pictures here if you wanted to see them of where there is all
5 these logs that end up in my place. It doesn't make it past
6 me, so I have a process.

7 VICE CHAIR SWEENEY: Okay, we will do that but, sir,
8 we're only here to rule on a very specific --

9 MR. VANAC: Okay.

10 VICE CHAIR SWEENEY: -- issue regarding the Concord
11 Township zoning regulations.

12 MR. VANAC: Okay.

13 VICE CHAIR SWEENEY: So if you have anything
14 further, we are welcome to hear it.

15 MR. VANAC: Okay. So the other thing I just wanted
16 to mention, in your Concord resolutions is listed in there
17 what is exempt on your property. Under your residential
18 things, it says garden, wood piles and landscaping material.
19 So wood piles are under it, so I have it. They're telling me
20 in that letter you got that I am not allowed wood piles. I
21 have to have wood piles. What am I going to do with it? I
22 have to sell the wood. What am I going to do with it? That's
23 what I am getting at. Okay?

24 VICE CHAIR SWEENEY: All right.

25 MR. VANAC: So that's basically -- I am sorry I took
26 too much of your time here tonight.

27 VICE CHAIR SWEENEY: No, no.

28 MR. VANAC: I want to explain it to you.

29 VICE CHAIR SWEENEY: I want to make sure you got all
30 your arguments.

1 MR. VANAC: I just want to make sure that you
2 understand that this isn't some farm that just started 10
3 years ago. This is 80 years in the working here and I want to
4 hand it down to my next generation.

5 VICE CHAIR SWEENEY: Okay.

6 MR. VANAC: Okay?

7 VICE CHAIR SWEENEY: I think you made your point and
8 the history is fascinating, by the way.

9 MR. VANAC: Thank you.

10 MR. DYNES: I have a question. What produce are you
11 growing on the farm? You mentioned produce.

12 MR. VANAC: Tomatoes, tomatoes, potatoes, peppers.

13 MR. DYNES: Are those -- And you sell those or who
14 do you sell them to?

15 MR. VANAC: Well, here is what we do. If it comes
16 in heavy, it's donated. I donate it to St. Gabriel's Food
17 Bank. I donate to Salvation Army if it's heavy because
18 sometimes you get zucchinis in. If anybody's ever planted
19 zucchinis, when they come, they come hard and heavy. So I get
20 rid of it. We sell them off.

21 MR. DYNES: Okay. So let me ask you this. You're
22 harvesting these produce things, various items. And what's
23 the acreage under which those are being undertaken? I know we
24 talked about --

25 MR. VANAC: If I did the three fields, I would say
26 probably about, got to be about 10 areas.

27 MR. DYNES: Ten acres where you actively grow
28 produce?

29 MR. VANAC: Yeah.

30 MR. DYNES: Okay.

1 MR. VANAC: And the other is used for syruping.

2 MR. DYNES: For, I am sorry?

3 MR. VANAC: The wood, the wood is used for syrup
4 production.

5 MR. DYNES: Okay. And the produce, if it comes in
6 heavy, you donate it, but you're not selling produce from the
7 farm?

8 MR. VANAC: Oh, we sell all the time.

9 MR. DYNES: Okay.

10 MR. VANAC: If everybody's ever drove by there on
11 Morley Road, we start in June, we end the end of August when
12 the produce is gone.

13 VICE CHAIR SWEENEY: What does that mean, come in
14 heavy?

15 MR. VANAC: Coming in heavy is like you plant a
16 bunch of zucchinis --

17 MR. ROWE: More than you expect.

18 MR. VANAC: Right. And what happens is you get a
19 lot of rain, you get hot weather. They don't -- I can plant
20 them two weeks apart, four weeks apart, which I like to do
21 because it don't come in all at once. But if the weather
22 isn't right, you get a lot of water, they come in real fast
23 and you got a bunch of them and you've got to do something
24 with them.

25 VICE CHAIR SWEENEY: Got you.

26 MR. VANAC: Because you don't have very much time.

27 VICE CHAIR SWEENEY: Got you.

28 MS. JARRELL: Do you have a business entity that you
29 sell this, the wood from?

30 MR. VANAC: No. Oh, yeah, hey, where is that I can

1 show, my firewood stand. So I deliver firewood. If you call
2 me up, I will deliver you firewood.

3 VICE CHAIR SWEENEY: Like a corporation?

4 MS. JARRELL: Yeah, some kind of legal entity.

5 VICE CHAIR SWEENEY: Are you incorporated?

6 MR. VANAC: Heck no.

7 VICE CHAIR SWEENEY: Okay.

8 MR. VANAC: I am barely hanging on. I am one man.

9 VICE CHAIR SWEENEY: It doesn't cost much.

10 MR. VANAC: Yeah, I know. I am one man. I am
11 serious. I mean, if any of yous ever had a father that worked
12 hard, right here it is.

13 So this has been at the place for 30 years. We sell
14 it out by the road. There is our little thing and it's still
15 there today. It's been there for 30 years.

16 MS. JARRELL: What precipitated all of this? I
17 mean, you've been functioning over there forever. What
18 happened here?

19 MR. VANAC: In the farming business, it isn't the
20 money. It's the love of farming. You're not going to make
21 money farming unless you've got 500 acres.

22 MS. JARRELL: No. I mean, what prompted this
23 letter, Heather?

24 VICE CHAIR SWEENEY: A complaint.

25 MS. JARRELL: Just one complaint about wood being
26 sold there?

27 MS. FREEMAN: We received a recent complaint. Over
28 the years there have been several complaints. There was a
29 recent complaint that we inspected and followed up on and sent
30 a letter to Mr. Vanac. As a point of discussion, he came in a

1 couple days after receiving the letter to our office.

2 MR. VANAC: When Bruce Bullard was here, I discussed
3 the whole situation, which I just showed to you, and he told
4 me -- which was the last zoning -- that I was okay, what I was
5 doing. Keep it up. As long as I keep filing under the
6 agriculture, keep doing it.

7 MS. JARRELL: Is it -- Isn't it exempted? I mean,
8 it seems like it's exempted.

9 MS. FREEMAN: Ms. Jarrell, my opinion was that he is
10 not in compliance, per the letter, which is why he is here
11 tonight.

12 MS. JARRELL: No, I understand that.

13 MS. FREEMAN: Because he disagreed with my
14 interpretation.

15 MR. LUCAS: That's right.

16 VICE CHAIR SWEENEY: He got a violation letter.
17 That's why he is here.

18 MS. JARRELL: I get it. I just --

19 MR. VANAC: But the letter that's sent doesn't
20 pertain to what I am doing.

21 MR. LUCAS: The Ohio Revised Code, Section 519.21,
22 in part, exempts agricultural uses from township zoning
23 regulations. His argument is that the interpretation -- It's
24 a fact-finding exercise for the members of the board. He's
25 saying that he has an agricultural use and, therefore, that's
26 why it's an appeal as opposed to a variance. He is saying
27 there is an agricultural use and should be, therefore, exempt
28 from the zoning regulations.

29 The Administration's position is that it's not an
30 agricultural use. It's a home occupation. And in reliance on

1 that, there is a violation of all the home occupation
2 requirements. That's the Administration's position. Also,
3 there is, the last variance -- the last issue was about the
4 commercial motor vehicle parked with a gross weight over
5 10,000 pounds.

6 So that's his first argument, that it's an
7 agricultural use and, therefore, the township doesn't have any
8 regulatory authority over it, especially with the acreage he
9 has. You have to determine whether, in fact, factually, it is
10 an agricultural use versus a home occupation use to make your
11 decision.

12 The other issue is, as he brought up, whether he's
13 grandfathered and, even if it was a home occupation, because
14 he's been doing it for over 70 years, it's grandfathered in as
15 a nonconforming use and that, and that's the other issue you
16 need to decide. So --

17 MR. VANAC: Thank you for your time.

18 VICE CHAIR SWEENEY: Thank you.

19 Anyone speaking for or against? Come up one at a
20 time.

21 MS. LUHTA: Connie Luhta, 12361 Concord-Hambden
22 Road. I support him. I believe that --

23 VICE CHAIR SWEENEY: You've been sworn?

24 MS. LUHTA: Yes, I have been sworn. And just
25 remember the definition of "exempt" and "agricultural."
26 That's the important part.

27 VICE CHAIR SWEENEY: Thank you. Anyone else?

28 MS. HOLBEIN: Hi. I've been sworn in. My name is
29 Pam Holbein and I've been living next to Chuck and his wife
30 since 2006 and --

1 VICE CHAIR SWEENEY: What's your address?

2 MS. HOLBEIN: Oh, 6727 Morley Road. And he's been
3 the best neighbor anybody could ask for. He supplies me with
4 my wood. He cleans the creek out. And I actually had -- I
5 think it was some of you guys were out at my place. I had a
6 retaining wall put in. It took like two to three years to get
7 all the permits from the Army Corps of Engineers because I had
8 flooding problems. But he always, you know, keeps the creek
9 clean and he also repairs my lawn mowers and stuff for me. So
10 I like that, too. So he's very handy. But, yeah, he's just,
11 he should be left alone. He's been doing some for so many
12 years, it would be heartbreaking to take that from him.

13 VICE CHAIR SWEENEY: Thank you.

14 MR. VANAC: Thank you, Pam.

15 MR. SLANSKY: Hi, my name is Jim Slansky. I have
16 been sworn in. I live at 6817 Morley Road. I just bought a
17 house down there about two years ago. I've been living there
18 since. I just wanted to be here to state that he hasn't
19 bothered me in any way. And my wife's actually been working
20 from home for, what, a year and a half now because of the
21 whole issue going on. So even with that being said, nothing's
22 been an issue come up. So I just wanted to make you guys
23 aware of that.

24 VICE CHAIR SWEENEY: Thank you.

25 MR. SLANSKY: That's all.

26 MR. VANAC: Thank you.

27 VICE CHAIR SWEENEY: If there is no other comments
28 for or against, I will close the public hearing. Discussion?

29 MR. DYNES: What are you looking at me for? Well,
30 here, you're looking at me again. I will speak up --

1 VICE CHAIR SWEENEY: Maybe I can do this --

2 MR. DYNES: -- and acknowledge Ms. Holbein is a
3 client of mine for -- Let the record reflect that. That
4 doesn't impart anything upon me but just to be clear.

5 What we've heard today, my estimation now -- and I
6 am all over on this -- we have heard from multiple sources,
7 Mr. Van Driest, Ms. Luhta and others, that this has existed
8 for approximately 70 or 80 years. While there is an argument
9 to be made whether he harvests the wood from his property or
10 not, the fact that the wood seems to flow onto his property
11 from two separate creek sources would suggest that the wood is
12 there and continually harvested and brought to him such that
13 he has maybe the most unique farm circumstance that ever has
14 existed, as he indicated.

15 The produce issue, I am not sure how that works.
16 It's not, I don't think it's our place to determine if it's an
17 agricultural, if it's a CAUV matter. That's, obviously, for
18 parties and public entities other than ours. But if he's
19 given that, that gives it, I guess, another element to it.

20 Me, personally, as I first started hearing this, I
21 thought, well, you know, it doesn't make any sense. He is not
22 harvesting anything on his property. He is receiving wood
23 from elsewhere and he's selling it and it doesn't seem to fit
24 clearly within an R-1. I think we can all agree, none of this
25 really fits in an R-1. But after hearing from some of the
26 parties here and hearing from him, it sounds like this is, if
27 ever there were maybe a grandfathered case, the fact that this
28 has been ongoing, as evidenced by testimony from others, since
29 1930s would possibly subject it to that.

30 I am interested to find out why there wasn't -- and

1 I don't know and I don't want to pretend to be an expert at it
2 -- but why there wasn't a petition to change the zoning at
3 some point in time. Maybe that would or would not matter.
4 But those are my initial thoughts.

5 VICE CHAIR SWEENEY: I agree.

6 MR. DYNES: He agrees.

7 VICE CHAIR SWEENEY: You're the only person who
8 doesn't like when I agree with you.

9 MS. JARRELL: I mean, this --

10 VICE CHAIR SWEENEY: Go ahead.

11 MS. JARRELL: It seems to be a logical exemption.
12 It's a nonconforming property. It's been operating the same
13 way for all these years. I've been riding my bike past your
14 property for 15, 20 years and I buy things there and it's
15 stable. It's exempted. The Ohio Department of Agriculture
16 has deemed it a CAUV property and it's nonconforming. I
17 think, enough said. I think you just keep going.

18 MR. VAN DRIEST: It's agricultural, that's all there
19 is to it. You can't fault that.

20 MR. LUCAS: Well, Mr. Chairman, I just want to --
21 And perhaps I missed this. There is, in addition to the home
22 occupation components of this, there is also the truck issue,
23 which is the last notice of violation. And I don't --

24 Mr. Vanac, you may have addressed that.

25 This is your decision to make, Mr. Chairman. I
26 don't -- It could be me. I don't remember you talking about
27 that.

28 MR. VANAC: I did.

29 MR. LUCAS: Did you? Okay.

30 MR. VANAC: I told you about the 10,000 pound GVW.

1 VICE CHAIR SWEENEY: Yeah, yeah, yeah.

2 MR. LUCAS: Okay, very good.

3 MR. VANAC: And the part in there where Concord
4 says, if it was under agriculture, all trucks are exempted.

5 MR. LUCAS: Okay.

6 VICE CHAIR SWEENEY: Yeah.

7 MR. LUCAS: Okay, very good.

8 VICE CHAIR SWEENEY: I think we're all in agreement
9 that this is an historical sort of legacy property. And my
10 question would be to counsel, what is the easiest way for us
11 to -- I don't want to say grant the applicant's request but to
12 create, I think the easiest way is to create a grandfather
13 type situation but I don't know how to do that from an appeal.

14 MR. LUCAS: You're not creating a grandfather
15 situation. It's either there or it's not. He's here on
16 appeal on certain violations.

17 VICE CHAIR SWEENEY: So I address the appeal.

18 MR. LUCAS: And this, yeah, it's not a variance,
19 it's an appeal.

20 VICE CHAIR SWEENEY: All right, gotcha.

21 MR. LUCAS: So if you -- And this is one of few
22 times by a single motion, if you determine that this property
23 and the business that's the subject of the home occupation
24 interpretation, in fact, is agricultural and nonconforming and
25 it's an affirmative vote, that clears the entire appeal as
26 requested by Mr. Vanac, if you feel from the facts that were
27 represented that's the case.

28 VICE CHAIR SWEENEY: All right. So in granting the
29 appeal, how would we need to state it, is my question?

30 MR. LUCAS: You would, well, you would say you're

1 granting the appeal from the Notice of Violations from the
2 Administration based on the fact that, number one, it's exempt
3 as agricultural and -- if you believe this -- and also,
4 secondly, it's grandfathered as a nonconforming use in the
5 residential district because it's been in operation for over
6 70 years, as he's testified to.

7 MR. DYNES: You know, I guess I want to be clear. I
8 appreciate where the Administration comes out on this and I
9 don't want to suggest that they're necessarily wrong. I mean,
10 if you get a complaint, you investigate it and this is the
11 determination, right? I certainly didn't expect to hear that
12 the bulk of his wood, I mean, he, certainly, he brings it in
13 or gets it or gets it for free, whatever it is, but he's also
14 getting it as it ends up on his property, which is, again,
15 unique. And from what I am hearing from him and the pictures
16 he's showing, taking him at his word and taking the word of
17 the others in this room, it does seem to create a very odd
18 agricultural exemption, in the sense.

19 But, and then the other element of it is that,
20 again, while none of this is appropriate in an R-1, I think we
21 all agree with that and I agree with the Administration and
22 I would agree with the complainant who felt this was
23 inappropriate without having the knowledge that we have
24 learned tonight, at least I have learned, in my opinion, about
25 the use of this over the period of time. It's a nonconforming
26 use but it's been a nonconforming use. And I believe our
27 zoning code was established in the '50s, if I am not -- I
28 don't know if I am accurate on that. If this existed back in
29 the '30s, and we've heard from people here who have knowledge
30 of that, what we're provided with is a nonconforming use

1 that's been in existence for a long time.

2 So in my estimation, as the facts are presented to
3 us, it's a difficult one. I don't think in any way, shape or
4 form -- I want to be clear about this -- that this position of
5 ours is not necessarily not supporting the Administration or
6 disagreeing with the Administration because I think what
7 they're doing, acting upon this as they did, was appropriate.

8 Mr. Vanac's response, obviously, in my estimation,
9 is somewhat well taken by virtue of what he's provided to us.

10 But I seem to be the only one speaking on this and,
11 again, I am anxious to hear from other board members.

12 VICE CHAIR SWEENEY: I agree.

13 MS. JARRELL: Yeah, I think we have said it many
14 different ways.

15 VICE CHAIR SWEENEY: Yep, yep. Well presented, too.

16 MS. JARRELL: Yes.

17 MR. VANAC: Thank you.

18 MS. JARRELL: It's like you had Vanna White with
19 you. It was just smooth.

20 MS. FREEMAN: Mr. Chairman, if I could ask legal
21 counsel, I mean, we're talking about two separate properties
22 here. We've been talking about them collectively as one.

23 MR. DYNES: 6731 Morley.

24 MS. FREEMAN: Two separate residences, two separate
25 lots.

26 VICE CHAIR SWEENEY: Correct.

27 MS. FREEMAN: So I don't know if you need to make
28 two, two votes on that or consider these as separate parcels
29 or how the board is supposed to view that.

30 MR. LUCAS: Well, I think -- go ahead.

1 VICE CHAIR SWEENEY: Well, I was going to suggest
2 that, if we agree to grant the appeal, we would grant the
3 appeal on the, we would grant the appeal and state our
4 conditions or whatever and we wouldn't even need to address
5 that, the two individual parcels, would we?

6 MR. DYNES: And I might be a little off on this but
7 while he's thinking about that, in my analysis when I looked
8 at the overhead map, both properties encompass a creek. One
9 of the properties, 6731 Morley, is the convergence of two
10 creeks as they come together. His argument and what he stated
11 to us is that much of the wood he's getting is coming on the
12 creek and from the creek, certainly, at the convergence of the
13 two but I am guessing, because he showed us another dam in
14 some photos, that both properties then would essentially be
15 getting the same benefit, if you want to call it a benefit,
16 from the wood being disposed upon the property.

17 And from my, at least, what seems to be present here
18 is that both properties are listed as part of the appeal and
19 we're considering them together, right?

20 MR. LUCAS: Yeah.

21 MS. FREEMAN: Yes.

22 MR. LUCAS: I was just looking at, yeah, the notice
23 is on both in the aggregate.

24 MS. JARRELL: Can I ask a question? At any time
25 during all of this, did, Heather, did you guys go out and talk
26 with Mr. Vanac at all?

27 MS. FREEMAN: Are you asking me?

28 MS. JARRELL: Yeah. Anybody, did anybody --

29 MS. FREEMAN: Marty Pitkin visited the property
30 twice, left his card, and then -- but we never, he never ran

1 into anyone. And then we were not invited to the property to
2 view anything after he received the warning letter.

3 MS. JARRELL: Well, I mean, with all due respect, I
4 understand why you wrote the letter because, I mean, it's your
5 job to, you know, submit these kinds of letters. However,
6 your letter was, you know, stopping his livelihood. And I am
7 sure that you and Marty must have thought about these
8 nonconforming exceptions, all of these things; did you not?

9 VICE CHAIR SWEENEY: It's not her position to make a
10 decision on that.

11 MS. JARRELL: I am just asking. I understand but I
12 am asking. I am asking the question. It's just a simple
13 question, yes or no.

14 VICE CHAIR SWEENEY: Yeah, but she --

15 MR. DYNES: I don't think, with all due respect,
16 it's not in the purview of what we're considering here on the
17 appeal, right?

18 VICE CHAIR SWEENEY: Yeah.

19 MR. LUCAS: It's not.

20 MS. JARRELL: Okay.

21 VICE CHAIR SWEENEY: Yeah, it's not.

22 MS. JARRELL: Okay. Vote it down.

23 VICE CHAIR SWEENEY: All right. So if there is no
24 further discussion, I would desperately ask for a motion.

25 MS. JARRELL: So moved.

26 MR. DYNES: I thought we did. I thought we already
27 had our discussion.

28 MS. JARRELL: No, we didn't.

29 VICE CHAIR SWEENEY: Are we, are we finished?

30 MR. DYNES: No. Second.

1 VICE CHAIR SWEENEY: Are you sure?

2 MR. DYNES: I'm not. I thought we had already moved
3 and seconded but --

4 VICE CHAIR SWEENEY: Oh, we did?

5 MS. JARRELL: I don't think we did.

6 VICE CHAIR SWEENEY: No, I don't think we did.

7 MR. LUCAS: I don't think so.

8 VICE CHAIR SWEENEY: No.

9 MR. LUCAS: I don't think a motion was articulated.

10 VICE CHAIR SWEENEY: Nothing has been, nothing has
11 been.

12 MS. JARRELL: We need a second.

13 VICE CHAIR SWEENEY: Do I need to state --

14 MR. LUCAS: You don't. Somebody, whoever is making
15 the motion needs to state the basis.

16 VICE CHAIR SWEENEY: Here, exempting --

17 MR. LUCAS: Yeah.

18 MR. DYNES: Who made -- You made the motion and
19 I seconded.

20 MS. JARRELL: Oh, God, I didn't know I was going to
21 be put in this position again.

22 VICE CHAIR SWEENEY: Well, that's okay. Exempted as
23 agriculture and as a nonconforming use.

24 MS. JARRELL: Okay. So I have to --

25 VICE CHAIR SWEENEY: You move to grant the appeal.

26 MS. JARRELL: I make a motion to grant the appeal
27 and determine it as exempt as agricultural property,
28 grandfathered in as a nonconforming use.

29 VICE CHAIR SWEENEY: I don't know if you should use
30 the term "grandfathered" but just recognize --

1 MR. LUCAS: Yes.

2 VICE CHAIR SWEENEY: Can you use that term? Okay,
3 fine. So moved. Second? Second?

4 MS. JARRELL: Second?

5 MR. GOLLING: Second.

6 VICE CHAIR SWEENEY: All right. Any additional
7 discussion?

8 MR. ROWE: No.

9 VICE CHAIR SWEENEY: All right. If not, Heather,
10 can we take a vote.

11 MS. FREEMAN: Sure. Mr. Golling?

12 MR. GOLLING: Sure, yes.

13 MS. FREEMAN: Mr. Rowe?

14 MR. ROWE: Yes.

15 MS. FREEMAN: Ms. Jarrell?

16 MS. JARRELL: Yes.

17 MS. FREEMAN: Mr. Dynes?

18 MR. DYNES: Yes.

19 MS. FREEMAN: Mr. Sweeney?

20 VICE CHAIR SWEENEY: Yes.

21 The yeses have it. Your appeal has been granted.
22 Congratulations.

23 (Applause.)

24 VICE CHAIR SWEENEY: All right. We have one more
25 order of business, the approval of the minutes of --

26 MR. DYNES: Hold on.

27 (Whereupon, discussion was held off the record.)

28 VICE CHAIR SWEENEY: The meeting is still in
29 progress. Thank you.

30 Okay. We have one final order of business and that

1 is the approval of the minutes of -- I forgot what the date
2 was.

3 MR. DYNES: November 10th.

4 VICE CHAIR SWEENEY: Of November 10, 2021.

5 MR. GOLLING: So moved.

6 VICE CHAIR SWEENEY: All in favor?

7 (Five aye votes, no nay votes.)

8 VICE CHAIR SWEENEY: The ayes have it. The minutes
9 are approved from the November 10, 2021.

10 The next Board of Zoning Appeals meeting is
11 January --

12 MR. ROWE: Something or other.

13 VICE CHAIR SWEENEY: -- 12, 2022. So we will see
14 you next year. Meeting adjourned.

15 (Whereupon, the meeting was adjourned at 10:56 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 proceeding was 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 5th day of January 2022.

Melinda A. Melton
Melinda A. Melton
Registered Professional Reporter

Notary Public within and for the State of Ohio

My Commission Expires:
February 4, 2023

