

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

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

February 14, 2024
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Zoning Appeals Board members present:

Ivan Valentic, Chairman
Francis Sweeney, Member
TR Hach, Member
Ashley Garcar, Member
Todd Golling, Member

Also Present:

Heather Freeman, Planning & Zoning Director/Zoning
Inspector
Bridey Matheney, Esq., Legal Counsel

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<p>1 PROCEEDINGS</p> <p>2 THE CHAIRMAN: Good evening. The</p> <p>3 Concord Township Board of Zoning Appeals</p> <p>4 meeting for February 14, 2024 is now in</p> <p>5 session. I would like to introduce the Board.</p> <p>6 To my far left is Skip Sweeney and Ashley</p> <p>7 Garcar. On my right is TR Hach and Todd</p> <p>8 Golling. To my far right is Heather Freeman,</p> <p>9 our Zoning Inspector.</p> <p>10 Under the advice of our legal counsel,</p> <p>11 we ask that anyone who is speaking tonight</p> <p>12 must be sworn in. If you plan on speaking,</p> <p>13 please stand and raise your right hand.</p> <p>14 (Speakers sworn in)</p> <p>15 THE CHAIRMAN: Thank you. Please</p> <p>16 be seated. Just a reminder, before presenting</p> <p>17 your case or commenting, you have to come up</p> <p>18 to the microphone, state your name and</p> <p>19 address, and confirm that you've been sworn</p> <p>20 in.</p> <p>21 Heather, were the legal notices</p> <p>22 published in a timely manner?</p> <p>23 MS. FREEMAN: Yes.</p> <p>24 THE CHAIRMAN: Thank you.</p> <p>25 We have three items of old business and</p>	<p>1 Conditional Use Permit Application 2023-27,</p> <p>2 Ralph Victor Construction, Inc. is requesting</p> <p>3 approval for conditional use permit in</p> <p>4 accordance with Section 13.05 to have a</p> <p>5 commercial center in the planned unit</p> <p>6 development as required in Section 16.07(E).</p> <p>7 This is the property located at the corner of</p> <p>8 Crile Road and Hunting Lake Drive, parcel</p> <p>9 number 08-A-020-C-00-002-0.</p> <p>10 Mr. Victor has requested that we table</p> <p>11 this. It's already been tabled so we are</p> <p>12 going to leave this tabled for this evening.</p> <p>13 Next is a variance application</p> <p>14 2023-142 Ralph Victor Construction, Inc. is</p> <p>15 requesting the following variances for the</p> <p>16 property located at the corner of Crile Road</p> <p>17 and Hunting Lake Drive, parcel number</p> <p>18 08-A-020-C-00-002-0. A variance from the</p> <p>19 minimum 25 foot requirement of natural</p> <p>20 vegetation to be left undisturbed pursuant to</p> <p>21 the perimeter treatment narrative included as</p> <p>22 part of the master development plan for the</p> <p>23 Quail Hollow property for Quail Hollow</p> <p>24 Development, Inc., and approved by the Concord</p> <p>25 Township Board of Trustees with an effective</p>
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<p>1 two items of new business.</p> <p>2 The first is we need to -- the first</p> <p>3 old business is appeal number 2018-41</p> <p>4 Mr. Randy Viviani of 7757 Concord, LLC</p> <p>5 requests an administrative appeal from the</p> <p>6 determination by the Zoning Inspector that a</p> <p>7 zoning permit and certificate of zoning</p> <p>8 compliance are required for a new business to</p> <p>9 occupy a vacant commercial building pursuant</p> <p>10 to Sections 11.01 and 12.01 of the Concord</p> <p>11 Township Zoning Resolution, for the property</p> <p>12 located at 7757 Auburn Road, Unit 12,</p> <p>13 currently know as permanent parcel number</p> <p>14 08-A-020-0-00-036-0. I would like to -- we</p> <p>15 need a motion to untable this appeal.</p> <p>16 MR. HACH: So moved.</p> <p>17 MR. SWEENEY: Second.</p> <p>18 THE CHAIRMAN: Since it is open, we</p> <p>19 have received an email here from Mr. Viviani</p> <p>20 in regard to appeal number 2018-41. It was</p> <p>21 sent to Heather on January 17, 2024,</p> <p>22 withdrawing his appeal application. I know</p> <p>23 that's been on the docket a long time. We</p> <p>24 accomplished something.</p> <p>25 The next item of old business is</p>	<p>1 date of October 8, 1986, as part of the</p> <p>2 rezoning of 540 acres surrounding Quail Hollow</p> <p>3 Inn from R-1 Residential to R-2 Planned Unit</p> <p>4 Development.</p> <p>5 B, variance from Section 16.07(E) to</p> <p>6 permit a counter service restaurant with a</p> <p>7 drive-thru, which is prohibited.</p> <p>8 C, variance from Section 16.09(D) to</p> <p>9 permit fifty-three parking spaces in lieu of</p> <p>10 the minimum eighty required.</p> <p>11 He has also requested that we continue</p> <p>12 to table this variance application as well.</p> <p>13 We can address those next month.</p> <p>14 On to new business. The first is</p> <p>15 variance application 2024-143, Michael J. Gray</p> <p>16 Trust is requesting a variance from Section</p> <p>17 15.03(A)(6), Table 15.03-1 to allow a lot less</p> <p>18 than two acres to have two accessory buildings</p> <p>19 in lieu of the maximum one permitted. This is</p> <p>20 for the property located at 12313 Meredith</p> <p>21 Lane, parcel number 08-A-002-C-00-003-0.</p> <p>22 Please come to the microphone and</p> <p>23 present your case.</p> <p>24 MR. GRAY: Michael Gray. I am a</p> <p>25 resident at 12313 Meredith Lane. I have been</p>

1 properly sworn in.
 2 THE CHAIRMAN: Thank you.
 3 MR. GRAY: Sorry for the
 4 nervousness. I've never done this before.
 5 Please bear with me.
 6 I filed a variance. I had a utility
 7 building, garage I guess you could call it
 8 built this year. And by the rules here under
 9 the Township, if you have under 2 acres, they
 10 only allow one accessory building. There is a
 11 small shed I know on the Otter web page shows
 12 it being a 12 by 16. It's actually 10 by 16.
 13 Smaller than what they show.
 14 THE CHAIRMAN: 10 by what?
 15 MR. GRAY: 10 by 16. I measured
 16 that. I don't know if they go by ease.
 17 That's what I got from the bottom of it,
 18 across. A little smaller than what they said.
 19 It has been there about 21 years. I think it
 20 was put up in 2003. It's in very nice shape.
 21 It's vinyl sided, dimensional shingles. 2 by
 22 6 flooring, windows, man door. It's not an
 23 eye sore by any means.
 24 The reason I filed for it was I built
 25 this garage and I was only allowed 1020 or

1 1024 square feet in this garage and what had
 2 happened was my parents had both passed away
 3 recently. They left me a 3700 square foot
 4 home, almost full. 40 years of being married.
 5 I had already had a fully furnished home, all
 6 my own equipment and everything else. I built
 7 this garage to try to store it for the time
 8 being, because I don't have any place to put
 9 it.
 10 My father was quite a collector of
 11 equipment, and such like that. As you can see
 12 by the pictures that I provided, between that
 13 and my wife's parents had passed away years
 14 before, my basement is pretty full. The new
 15 garage would be the picture with -- well, you
 16 can see the utility shed is full with the snow
 17 blower and I had to build shelving and
 18 everything else like that. It's organized.
 19 It doesn't look like it. But it's all in
 20 there. I know where it's at.
 21 Same thing with the garage that has the
 22 four wheelers and things like that in it. As
 23 you can see that is pretty much -- I have
 24 three children. As you can see they are
 25 into -- I like to get them into power sports,

1 get them outside rather than being on video
 2 games and such.
 3 Then the garage would be two cars in
 4 it, the garage that is attached to the home.
 5 As you can see, I have industrial racking and
 6 in the back there is a walkie stack or
 7 forklift to get everything up in there. It's
 8 pretty much full also.
 9 Then the other garage bay you will see
 10 the four wheeler in the box, and the third
 11 bay, you can see it is pretty full itself.
 12 THE CHAIRMAN: Where is this one at?
 13 MR. GRAY: That is the third bay
 14 on the house. It is a three-car garage
 15 attached to the house.
 16 THE CHAIRMAN: Okay.
 17 MR. GRAY: So like I said, the
 18 property is also pretty large. Almost an acre
 19 and a half, 1.42 acres. It is pretty spread
 20 out, as far that.
 21 Also from the street, it is visible
 22 from the street right now, but the builder had
 23 destroyed a bunch of my pine trees, and those
 24 are going to placed back up near the garage,
 25 so you actually probably won't even be able to

1 see back there. I'm trying to block all that
 2 out anyway. They had piled all the dirt up
 3 when they put that accessory building up.
 4 They piled it 3 feet up onto the pine trees
 5 and killed all the pine trees. Those all had
 6 to come out. Of course he didn't replant
 7 them. It is going to be on me this year to
 8 replant them. Of course, get top soil, me and
 9 my wife will have that whole area has to be
 10 replanted, retreed and all that other stuff
 11 that goes back there in the back. So a lot of
 12 work. Not a lot of space right now until we
 13 can finish going through all the stuff from my
 14 parents and things like that. Which we've
 15 been working on for the past short while.
 16 Just it's hard. Three kids, sports, trying to
 17 get rid of stuff, you know, you don't really
 18 want to, but you kind of have to, because they
 19 were your parents, stuff like that. It's kind
 20 of hard I think more than anything to do.
 21 It's a priority. Between that, and everything
 22 else that is over there.
 23 THE CHAIRMAN: I thought you said,
 24 correct me, you said it was built this year,
 25 the garage?

1 MR. GRAY: Yes. The shed you
2 see that I'm trying to keep, I'm trying to keep
3 this small accessory building, it's a shed
4 that had been there for 20 years. The garage
5 was built this year. The permit was taken out
6 last year. They weren't able to get to it
7 until this spring. I believe they started
8 March 15th. They didn't finish it until
9 December because --

10 THE CHAIRMAN: December of '23.

11 MR. GRAY: Yes. I'm sorry, I
12 didn't mean this year. I keep getting that
13 wrong. Yeah.

14 MR. GOLLING: September of '22 is
15 when the permit was taken out.

16 MR. GRAY: They didn't start
17 until the following March 15th. They didn't
18 get done until mid December. There were some
19 issues between me and the builder as far as
20 the quality of the build, stuff. I tend to be
21 very picky. They put the cinder block
22 foundation in, and unfortunately the
23 excavating crew that came the next day never
24 let it set up so it cracked in about 11
25 different places. Then we had kind of a war

1 picture, going to be one of the first
2 pictures, you can see the cinder block walls
3 in the basement. I basically built it for
4 everything I had acquired. Not all the stuff
5 that looks like it would be my stuff is mine.
6 My father was quite a collector of lawn
7 equipment, things like that. He was pretty
8 much a collector for over 40 years. My mother
9 was a collector of nicknacks and furniture.
10 You can imagine a house about 50 percent
11 larger than my home and I had to find a way to
12 fit it all in there.

13 What had happened was I have a sister.
14 She wanted to close on everything. I put the
15 house up for sale. It was located in Mentor
16 near like Champaign, Chablis Court over there.
17 If you are related to the Valentics who live
18 over there also. But anyhow, I put the house
19 up for sale on Zillow by owner. It sold in
20 less than 24 hours. I didn't have very much
21 time to have garage sales, stuff like that.
22 They wanted to close on it in 30 days. I had
23 30 days to get rid of what I could. I got rid
24 of all the big stuff, the vehicles, the big
25 equipment, stuff like that. All the small

1 going back and forth as far as just wanted to
2 throw mortar inside of it, a steel rod. I
3 said I'm building a brand new garage, it's not
4 going to fly being cracked all the way to the
5 footers. So we had a little hold up there
6 with me getting the Lake County Engineers in
7 there. We actually had him get an engineer
8 drawing and have to tear it all out. I think
9 after that he wasn't too thrilled about that
10 so he made it kind of a side, when he had time
11 to do, because he was pretty upset about
12 having to redo that. Things happen. I get
13 it. We wanted in done right.

14 There were a few goof ups. If you
15 notice walls in that garage are double
16 studded. That's because they had built the
17 ceiling too low to what it was. They had to
18 figure that out. They had to pull all the
19 trusses and then build the walls to where they
20 were supposed to be for the permit.

21 THE CHAIRMAN: Did you build the
22 garage for the stuff that you got, or for the
23 stuff you already had?

24 MR. GRAY: A mixture of both.
25 The basement, as you can see in the one

1 stuff ended up in my home right now.

2 THE CHAIRMAN: When did you get all
3 the stuff?

4 MR. GRAY: About a year ago.
5 About a year ago, year and a half ago. I've
6 actually gotten rid of quite a bit. Since
7 then we got rid of two more vehicles, a bunch
8 of tractors, furniture. You would be
9 surprised actually how much I've gotten rid
10 of.

11 MS. GARCAR: Your original permit
12 for the garage that you built, was there
13 anything discussed about the existing building
14 on the property?

15 MR. GRAY: Yes, my building, I
16 believe I was told, may have said that I may
17 need to remove that building because I'm not
18 allowed to have two accessory buildings. He
19 had said that. I said that's fine. I am
20 pretty sure he had said that. There was a lot
21 of miscommunication with this builder. There
22 was a lot of stuff that wasn't said or talked
23 about. I believe that was.

24 I was under the assumption that
25 everything was going to fit in this being

1 organized, 10 by 12, but I guess at this point
 2 every little bit counts. There are still
 3 other things that are still out there, stuff
 4 on my patio, stuff like that. It is a very
 5 nice building. I planned if I was able to
 6 keep it to paint around the windows, replace
 7 the man door. Other than that, it's a very
 8 sound little utility shed. It has a lot of
 9 nice things to it; windows, man door, garage
 10 door, dimensional shingles.
 11 MS. GARCAR: Do you have any -- the
 12 documentation I'm seeing says that it was
 13 approved in '22 for the conditional use or a
 14 condition that existing shed to be removed.
 15 Do you have anything that states otherwise?
 16 MR. GRAY: I think, I mean I
 17 think that's just why I'm here to file a
 18 variance. I'm maybe not 100 percent clear on
 19 what you are saying.
 20 MS. GARCAR: There is an
 21 application that says you can have a garage if
 22 you, if you remove the existing shed.
 23 MR. GRAY: I think that may -- I
 24 shouldn't say may. I don't think there would
 25 have been any issue with that. I think the

1 only issue that I had now that I am at the
 2 point of filing a variance is just everything
 3 kind of happened at the end of the year. I
 4 kind of just don't have the room. I'm asking
 5 for a variance --
 6 MS. GARCAR: So if you knew that
 7 back in '22, why did you not take it down
 8 before you built your garage according to what
 9 was said needed to happen?
 10 MR. GRAY: I don't think a lot
 11 of the stuff that I had was quite over there
 12 yet. A lot was still in storage. When I
 13 started bringing everything out of storage and
 14 from my sister's, they have property in
 15 Painesville Township. They actually have five
 16 buildings on their property. Older home,
 17 grandfathered in a long time ago. There was a
 18 lot of stuff there. I think when I started
 19 bringing things back home, there ended up
 20 being a lot more than I realized I had to deal
 21 with.
 22 MS. GARCAR: Okay.
 23 MR. GRAY: As far as --
 24 MS. GARCAR: The question is the
 25 reasoning behind not taking the shed down

1 prior to building the garage like stated here.
 2 MR. GRAY: Because the garage
 3 wasn't finished until December. I couldn't
 4 get anything in the garage really until
 5 December, which was when we had gone through
 6 this. Then the gentleman from the Zoning
 7 Commission had come out and mentioned it. I'm
 8 not good at names, sorry.
 9 MR. GERSON: Mike.
 10 MR. GRAY: Mike. I should know
 11 that because my name is Mike. They had come
 12 out and mentioned something about it. Then I
 13 come down to the Township and said hey, what
 14 can I do. I had seen here I can file a
 15 variance. I filed the variance then at that
 16 time.
 17 At the time, nothing was done until
 18 December. So I really couldn't bring much in,
 19 bring much over, otherwise it would be out in
 20 the yard. Just a lot of stuff I didn't want
 21 to have out there, nice stuff, things like
 22 that. So that really didn't go on until the
 23 first week of December when everything kind of
 24 was able to get in there. Had some problems
 25 with the door, man door, everything else like

1 that. I believe when Heather came there was
 2 no garage doors on it maybe. Do you remember?
 3 Maybe it had the garage doors on it.
 4 MS. FREEMAN: I'm not sure what
 5 date you are referring to.
 6 MR. GRAY: I think when you came
 7 out and took measurements for it being built.
 8 THE CHAIRMAN: I don't think that
 9 matters anyway.
 10 MR. GOLLING: When did your mom and
 11 dad pass?
 12 MR. GRAY: My mother passed in
 13 2019, my father passed in 2022.
 14 MR. GOLLING: So when in '22 -- the
 15 permit was issued --
 16 MR. GRAY: I believe '21 or '22.
 17 January of that month, yeah.
 18 MR. GOLLING: So January of '22.
 19 Nine months, I'm just trying to check my
 20 understanding, make sure I get my timeline
 21 right. So dad's gone in January of '22.
 22 Permit is issued September of '22. Builder
 23 starts March of '23, finished December of '23.
 24 MR. GRAY: Correct.
 25 MR. GOLLING: When did the house go

1 for sale?
 2 MR. GRAY: House went for sale in
 3 July. It was end of July, sold in August.
 4 MR. GOLLING: Last summer?
 5 MS. GARCAR: '22.
 6 MR. GRAY: '22.
 7 MR. GOLLING: It went in '22?
 8 MR. GRAY: '22.
 9 MR. GOLLING: The house is gone and
 10 empty, all the stuff in -- where was the
 11 stuff? Did it go to your sister's?
 12 MR. GRAY: It went to my
 13 sister's and storage, yes.
 14 MR. GOLLING: I gotcha.
 15 MR. HACH: You're purging most
 16 of the stuff, or some of it?
 17 MR. GRAY: Yeah, there is no
 18 reason to leave my kids with all this stuff.
 19 We've been working on it quite a bit. I am
 20 going to be purging a lot of it. There is a
 21 lot more than what you see in the pictures
 22 obviously.
 23 MR. HACH: Long-term, do you see
 24 you needing that shed?
 25 MR. GRAY: I don't think I need

1 it long term. A few years. It takes -- it
 2 doesn't go as fast as everybody thinks you can
 3 just get rid of everything like that. I need
 4 to sell it.
 5 MR. HACH: I think you had some
 6 time.
 7 MR. GRAY: I don't really -- I
 8 think if I got to the point where I didn't
 9 need it, I would have no problem getting rid
 10 of it, have the extra room in the backyard.
 11 The main thing just right now, I just don't
 12 have very much. Everything is full. My patio
 13 is even full. As you see the basement is full
 14 completely. Bedrooms are -- one bedroom is
 15 full. Between that, kids, work, everything, I
 16 only have so much time to do it. I do plan on
 17 eventually possibly getting, yeah, if I don't
 18 need it, I could get rid of it. My neighbors
 19 have actually been bothering me to buy it. It
 20 would be real easy to sell it to him because
 21 his shed is in nowhere near as nice condition.
 22 His is falling apart. He's going to get a
 23 replacement anyway at some point.
 24 MS. GARCAR: You are, this
 25 property is part of Lilly Farms, correct?

1 MR. GRAY: Incorrect. Stanford
 2 Springs.
 3 MS. GARCAR: Maybe a question for
 4 Heather, Lilly Farms is --
 5 MS. FREEMAN: Lilly Farms is due
 6 north. Directly to the north of his lot.
 7 MS. GARCAR: So is a different HOA
 8 chiming in than what he is a part of?
 9 MS. FREEMAN: Yes. An abutting
 10 property owner.
 11 MR. GOLLING: That would be for the
 12 back of his property, that's Lilly Farms?
 13 MS. FREEMAN: Correct.
 14 MS. GARCAR: It's Lilly Farms
 15 saying that they don't approve of it. That's
 16 a different HOA than what his property is part
 17 of?
 18 MS. FREEMAN: Correct.
 19 MS. GARCAR: Do you have an HOA?
 20 MR. GRAY: We do.
 21 MS. GARCAR: What does your HOA
 22 say about two buildings and have you gone
 23 through the proper channel of asking for those
 24 variances of what those rules are?
 25 MR. GRAY: I mean I haven't.

1 The ladies that are in charge of the HOA I
 2 just don't think they would have a problem out
 3 there. Her and the owner of my company, all
 4 of them are very good friends. I think she
 5 would allow it. It's not an eye sore.
 6 MS. GARCAR: You haven't looked at
 7 the HOA rules if you are allowed to or not?
 8 MR. GRAY: I don't think it says
 9 anything about two buildings in the HOA rules.
 10 MS. GARCAR: Have you looked at
 11 the HOA rules?
 12 MR. GRAY: I haven't recently.
 13 I did when I moved in. I did.
 14 MS. GARCAR: So you're not 100
 15 percent sure if you are allowed two buildings
 16 in the HOA?
 17 MR. GRAY: I'm not 100 percent
 18 sure but I don't think what would be much of a
 19 problem. I park a commercial van in the
 20 driveway. I know that is not usually -- not
 21 commercial but it's my work van or whatever.
 22 I have to do that sometimes because of my
 23 work. That's been brought up once to her. I
 24 said hey, is this okay she says for right now,
 25 no problem with that. I'm going to be

1 transitioning jobs here in the next few years,
2 just being on the road, stuff like that.

3 THE CHAIRMAN: On the garage it's
4 got a pretty high pitch roof. Are you storing
5 anything on the upper like loft area of the
6 garage?

7 MR. GRAY: No, sir. It's just
8 an area up there, stuff like that. I think I
9 need to get a variance to do that; is that
10 correct?

11 THE CHAIRMAN: I'm not sure.

12 MR. GOLLING: That would be
13 someone at the county, the building permit,
14 not us.

15 THE CHAIRMAN: I just wanted to know
16 if there was stuff stored up there.

17 Skip, any questions?

18 MR. SWEENEY: No.

19 THE CHAIRMAN: Anything else? Do
20 you have anything else to add?

21 MR. GRAY: No, sir. I've never
22 done this before. I'm kind of new to all of
23 this.

24 THE CHAIRMAN: What we're looking
25 for is a hardship for why you need.

1 THE CHAIRMAN: Do you have a storage
2 unit with more stuff in it? That's an option.

3 MR. GRAY: I do not right now.
4 I pulled it out because obviously the cost and
5 things like that.

6 MR. GOLLING: The shed is 10 by 16,
7 right? You said 10 by 16 and if that's all we
8 have to do to come in compliance is the stuff
9 that is in the shed, I realize the snow blower
10 is in there, the stuff you need for the yard,
11 the agreement was in order to build this
12 garage, we agree to remove the little shed.
13 That was before -- post mom, pre -- I'm sorry,
14 post dad. So, we knew that there was a house.
15 We knew there was stuff in the house, and the
16 shed was agreed to be removed conditionally of
17 building that garage. But then something
18 happened where we couldn't get either the
19 stuff out, or couldn't get it -- find a place
20 to store it all in between dad passing and the
21 house being sold. So now we have a problem
22 that we have a shed that we agreed to be
23 removed, but we need that shed to store stuff.
24 So the solution would be getting an off-site
25 storage, sister, or something for enough of

1 MR. GRAY: The hardship for the
2 variance is just that I don't have enough
3 storage on my property. Everything outside
4 under tarps, things like that. The storage
5 building is a very nice storage building. I
6 don't have the room on the storage on my
7 property. I have a very wide property. I
8 have almost an acre and a half. It's not like
9 somebody has their pool and pool house and
10 everything is all combined in a smaller area,
11 or anything like that. The hardship is that I
12 have a lot of nice things I just don't have
13 the room to store. Just looking for
14 additional storage.

15 MR. GOLLING: Can you take some of
16 it back to your sister?

17 MR. GRAY: She has about as much
18 as she wants to handle right now. To be
19 honest, she has quite a bit over there too.
20 Her basement is full and everything else.
21 I've gotten further than she has as far as
22 getting rid of things, if you can actually
23 believe that or not. I've got rid of a lot of
24 vehicles, things like that that were over
25 there.

1 the 10 by 16 stuff, or somehow jam it into
2 this beautiful thing here, to remove the shed
3 to come into compliance, then all this goes
4 away.

5 MR. GRAY: What about just maybe
6 giving me a chance to have like an extension
7 at least through the year, then give a date to
8 get rid of it. It was just kind of hard
9 because everything happened in the middle of
10 December, you know. It wasn't like it
11 happened in the spring or the summer, fall.
12 Where I live, my yard is a mud pit. Just wet
13 over there until right around July almost. I
14 can't use my big mower until July because it
15 is so wet over there. Getting a lot of stuff
16 through, and trying to move a shed, worst case
17 scenario I can put it on my buddy's property
18 right in Williamsfield. He has things, we can
19 use it as a cabin to go ride four-wheelers,
20 something like that. If I can just keep it
21 for a predetermined amount of time, then have
22 it gone, at least that will give me some time
23 to really, I guess really scramble to just get
24 rid of whatever I need to get rid of to make
25 it work.

1 THE CHAIRMAN: So, how much time
 2 would you need? I'm not saying we're going --
 3 we could consider it, but I'm not saying
 4 that --
 5 MR. GRAY: I know that.
 6 THE CHAIRMAN: Give us a time
 7 frame.
 8 MR. GRAY: July 31st of this
 9 year it will be gone.
 10 THE CHAIRMAN: Then there is stuff
 11 outside of the shed, and in the yard.
 12 MR. GRAY: I'm working on that
 13 too, yes sir. I am.
 14 THE CHAIRMAN: That's need to go
 15 somewhere too.
 16 MR. GRAY: That's going to go
 17 somewhere too.
 18 THE CHAIRMAN: I'll be honest, I
 19 mean I don't have anymore questions. I'm
 20 struggling with this one to be honest with
 21 you. I kind of get having a lot of stuff. I
 22 don't know if that's necessarily a hardship.
 23 MR. GRAY: A lot if wasn't my
 24 stuff. That was the thing.
 25 MR. HACH: A lot of people have

1 garage sales. Every one handles it
 2 differently but a lot of people do.
 3 MR. GRAY: I had garage sales
 4 every week while the house was for sale. I've
 5 been putting stuff on Marketplace to get rid
 6 of it. I've actually gotten rid of quite a
 7 bit of stuff. You can imagine that, probably
 8 about a two or three car area of stuff I've
 9 gotten rid of.
 10 THE CHAIRMAN: You have a three-car
 11 garage with the existing house, a two-car
 12 garage you just built, right, a thousand
 13 square feet.
 14 MR. GRAY: It's 1,020 square
 15 feet, yes, sir.
 16 THE CHAIRMAN: And then the shed is
 17 10 by 16.
 18 THE WITNESS: Yes, sir.
 19 THE CHAIRMAN: Any other questions
 20 before we -- no? You can be seated.
 21 MR. SWEENEY: Thank you.
 22 THE CHAIRMAN: Is there anyone else
 23 this evening speaking for or against this
 24 appeal that would like to come up? If there
 25 is no further questions, the public hearing

1 for application number 2024-143 is now closed
 2 to the public.
 3 Can I get a motion to approve variance
 4 2024 --
 5 MR. GOLLING: Should we read in the
 6 folks that have wanted to voice their opinion
 7 but couldn't be here tonight?
 8 MS. GARCAR: I think just stating
 9 that --
 10 MR. SWEENEY: They are part of the
 11 record.
 12 THE CHAIRMAN: Can I get a motion to
 13 approve the variance for 2024-143?
 14 MR. HACH: So moved.
 15 MR. SWEENEY: Second.
 16 THE CHAIRMAN: Discussion for the
 17 Board? Who would like to start?
 18 MR. SWEENEY: I have a question for
 19 Heather. Heather, if the variance is not
 20 successful, procedurally, what sort of time
 21 frame is there involved with coming into
 22 compliance?
 23 MS. FREEMAN: Well, I think we
 24 treat that like we would any typical zoning
 25 violation. Usually start with a warning

1 letter, giving a couple weeks to comply,
 2 depending on what the violation is.
 3 MR. SWEENEY: Then what?
 4 MS. FREEMAN: Then the final
 5 notice. The Law Department sends a letter and
 6 ultimately file a minor misdemeanor in
 7 Painesville Municipal Court.
 8 MR. SWEENEY: From the beginning of
 9 the failure of the variance, to going, getting
 10 it referred to outside counsel is how long,
 11 approximately?
 12 MS. FREEMAN: I don't know, could
 13 be a couple months. Yeah, our goal really is
 14 not to take people to court. We rather work
 15 on getting them into compliance. It's costly
 16 for everybody.
 17 MS. GARCAR: I have a question for
 18 you, Heather. If granted with an exception,
 19 or a timeline of out by July 31st, the shed,
 20 if we can do it, the question though is, we've
 21 already granted a variance with a conditional
 22 use once. We already granted with the
 23 conditional use once and not been followed.
 24 What would be the next steps within Concord if
 25 it's not done by July 31st, the fact we

1 already had one that has not been followed?
 2 MR. SWEENEY: You can't
 3 conditionally grant a variance for a specific
 4 amount of time. Once you grant it, it's
 5 granted.
 6 MS. MATHENEY: The variances usually
 7 run with the land rights, go from land owner
 8 to land owner. They normally have no
 9 termination as far as timing. However, the
 10 applicant did ask for a specific time. As long as
 11 he would agree to it, I believe you guys can do
 12 variances with condition. The question is
 13 going to be whether in fact after say July
 14 31st the shed does not come down, it's now an
 15 enforcement issue we will be back to.
 16 MR. SWEENEY: Extended enforcement
 17 is really what it is.
 18 THE CHAIRMAN: If I can kind of
 19 summarize, if we could grant the variance, and
 20 say it expires on July 31, 2024, so he has
 21 that amount of time to remove his belongings,
 22 get rid of the shed by that date. If he
 23 doesn't, then the Zoning Department would have
 24 to issue enforcement letters and proceed that
 25 way.

1 MS. GARCAR: Have we already --
 2 not we, has the Zoning Department already
 3 issued a letter given the fact that this was
 4 approved in December of '22?
 5 MS. FREEMAN: Yes.
 6 MS. GARCAR: How far along are we
 7 within that? Would we start the process over,
 8 or have we already -- are we going to continue
 9 with the process that we already started of
 10 warning letters?
 11 MR. SWEENEY: The appeal suspends
 12 or holds in abeyance all of that, right?
 13 MS. MATHENEY: In other words, are
 14 you asking if in fact you approved the
 15 variance with a condition?
 16 MS. GARCAR: If we deny. Now
 17 we've already done it, because --
 18 MS. MATHENEY: He's already been
 19 cited.
 20 MS. GARCAR: Right, December of
 21 '22 the enforcement letter. Do you continue
 22 through that process, or because we're talking
 23 about it, do you start the process of a
 24 warning letter again?
 25 MS. MATHENEY: I think that is

1 really up to whatever you guys want to do.
 2 Honestly, I don't think you have to send
 3 another warning letter. The letter has
 4 already been sent. I think that is a courtesy
 5 though to maybe perhaps give him 15 days if in
 6 fact the variance dies tonight. Or let the
 7 appeal of course run through the 30-day appeal
 8 period. Also appeal the denial to the Court
 9 of Common Pleas. You would need that time
 10 frame, once it runs, then I think that
 11 actually the Zoning Department can go ahead
 12 and enforce immediately. Does not have to
 13 send anymore letters.
 14 MR. HACH: I always try to be
 15 reasonable about these things, and
 16 considerations. It's a two-way street.
 17 You've been through this, you've gotten some
 18 letters.
 19 MR. GRAY: I got a letter.
 20 THE CHAIRMAN: Please, we can't.
 21 It's closed. But you can say what you want
 22 to --
 23 MR. HACH: I do believe that
 24 this is a two-way street as far as respecting
 25 reasonable, being reasonable. I need to keep

1 it on a tight leash.
 2 MR. SWEENEY: Agreed.
 3 MR. HACH: 31st is reasonable.
 4 I'm comfortable with that. It's got to be
 5 administered.
 6 MR. GOLLING: I'm in a different
 7 camp. It is known, it was a known commodity.
 8 It was warned. Two years ago it should have
 9 been done. So with all due respect to having
 10 a parent, and absorbing an entire household is
 11 just horrifying and I'm grateful my parents
 12 down sized and got rid of all that stuff. But
 13 it is horrifying to think what he is going
 14 through right now with all this stuff from 40
 15 years. However, I feel that there has been
 16 ample time to not only to comply with this,
 17 but also get rid of, as I helped my own
 18 parents get rid of 50 years full of crap in
 19 their house. So it's not a mom and dad just,
 20 had just passed away two weeks ago and now I
 21 just absorbed this house. This is 18 months
 22 ago this happened. So, pardon my timeline,
 23 math. But it's to take TR's excellent salient
 24 point and go the opposite direction, it's in
 25 black and white, and it was known when the

1 garage was being built.
 2 MS. GARCAR: It would always have
 3 to be gone.
 4 MR. GOLLING: Right.
 5 MS. GARCAR: Heather, how many
 6 warning letters have been issued for this
 7 situation?
 8 MS. FREEMAN: There were -- one
 9 warning letter and one courtesy letter I sent
 10 regarding the shed.
 11 MS. GARCAR: Do you remember the
 12 timeline of the courtesy letter and the
 13 warning?
 14 MS. FREEMAN: The courtesy letter
 15 was I recall probably summer of this year. Of
 16 '23 rather. Then once it became very apparent
 17 that garage was finished, they were using it,
 18 then our warning letter went out late '23,
 19 probably in December. We were trying to give
 20 some time, understanding that the building was
 21 still under construction, the shed was still
 22 there, even though it was supposed to have
 23 been gone.
 24 MS. GARCAR: You are saying
 25 December '23 a warning letter was?

1 MS. FREEMAN: Yeah.
 2 MS. GARCAR: Then it looks like
 3 the variance was filed, make sure I'm reading
 4 this correctly, January 23rd, at least a month
 5 later after the warning letter?
 6 MS. FREEMAN: I don't have the
 7 warning letter with me. I apologize.
 8 Probably gave him 30 days to comply with the
 9 warning letter. Then he filed a variance
 10 application.
 11 THE CHAIRMAN: Do you have anything
 12 else to discuss with the board, Ashley?
 13 MS. GARCAR: No.
 14 THE CHAIRMAN: Skip?
 15 MR. SWEENEY: No.
 16 THE CHAIRMAN: Do we want to vote on
 17 the variance as-is?
 18 MR. GOLLING: Should we look at the
 19 Duncan factors first?
 20 MR. SWEENEY: I looked at the
 21 Duncan factors and Todd, I have to agree with
 22 you. I mean he's had a lot a time. I
 23 understand the situation. I get it, life
 24 happens. But if we push this off until July,
 25 I'm starting to think -- I've got a wet

1 backyard so I feel for you. It's going to be
 2 a mess in July. It's better to do it now when
 3 the ground is semi kind of hard or frozen.
 4 Not to tell you what to do.
 5 But in terms of the Duncan factors
 6 though, I think the only thing, the only
 7 argument that we can make under Duncan factors
 8 for granting it with an extension is that
 9 substantial justice will be done. That's kind
 10 of pretty lame, because the situation is not
 11 dire. Is it uncomfortable and is it
 12 frustrating, yes, it is. It's not a dire
 13 situation. The rest of the Duncan factors
 14 don't support the variance, so I agree with
 15 you.
 16 MR. GOLLING: I'm looking at 160
 17 square feet of stuff, which looks remarkably
 18 close to my shed, with all my summer stuff
 19 jammed in there. I purge once a year. Is
 20 there a way, as far as hardship goes, is there
 21 a way to take 160 square feet of stuff and put
 22 it in with the thousand? Maybe doing it and
 23 slamming the door and hoping it stays closed
 24 possibly, but as far as hardship goes, I think
 25 that's something we have to consider by

1 voting.
 2 MR. SWEENEY: Agreed.
 3 THE CHAIRMAN: TR, anything?
 4 MR. HACH: No.
 5 THE CHAIRMAN: So back to the
 6 variance. Do we want to add any stipulations
 7 to the variance?
 8 MR. GOLLING: No.
 9 MR. SWEENEY: No.
 10 THE CHAIRMAN: Okay. With that then
 11 the question is on approval of variance
 12 2024-143. Yes vote approves the variance, a
 13 no vote denies the variance. Heather, please
 14 call the vote.
 15 MS. FREEMAN: Mr. Hach.
 16 MR. HACH: No.
 17 MS. FREEMAN: Ms. Garcar.
 18 MS. GARCAR: No.
 19 MS. FREEMAN: Mr. Sweeney.
 20 MR. SWEENEY: No.
 21 MS. FREEMAN: Mr. Golling?
 22 MR. GOLLING: No.
 23 MS. FREEMAN: Mr. Valentic.
 24 THE CHAIRMAN: No.
 25 Unfortunately your variance did not

1 pass this evening. Thank you. If you have
2 further questions, you can touch base with
3 Heather later this week.

4 Next is variance number 2024-144,
5 Phillip and Amanda Snyder are requesting
6 variances from the following regulations for
7 the property located at 7768 Keystone Drive
8 parcel number 08-A-004-E-00-020-0.

9 Section 31.04(B) permanent pools, both
10 in-ground and above ground shall be enclosed
11 on the property by a fence of sturdy
12 construction not less than 4 feet in height,
13 as measured from the level of the ground where
14 located which shall be such design and
15 construction as to effectually prevent a child
16 from crawling or otherwise passing through or
17 under such fence.

18 B, Section 31.04(B)(2) each gate in
19 such fences shall be equipped with suitable
20 locking devices to prevent unauthorized
21 access.

22 C, Section 31.04(B)(4) a swimming pool
23 cover is not considered to be a suitable
24 alternative to the enclosure requirements set
25 forth herein.

1 that number is growing daily.

2 The current zoning law requires a
3 48-inch fence. It was implemented with the
4 best intentions to protect children. However,
5 times have changes and advancements in pool
6 safety have provided us with alternative and
7 more effective solutions. Many municipalities
8 have recognized this progress and updated
9 their regulations to adopt safer and more
10 modern approaches, such as advanced pool
11 covers.

12 These alternative safety measures not
13 only provide robust protection for children,
14 but also a more aesthetically pleasing and
15 practical solution for homeowners. It's
16 essential that we address and accept these
17 proven updated safety measures, to enhance the
18 overall safety of our community, while
19 respecting the evolving needs and preferences
20 of our residents. By embracing this
21 innovative solution we can maintain a balance
22 between safety and practicality, ensuring that
23 our community remains progressive and adaptive
24 to contemporary advancements. Let us not be
25 shackled by our outdated regulations when

1 D, Section 31.04(B)(5) temporary
2 fencing shall be erected during the
3 installation of an in-ground, which shall not
4 be less than 48-inches in height and shall
5 completely enclose the excavation area. Such
6 temporary fencing shall remain in place until
7 completion of the permanent structure.

8 If you want to stay you can. I know
9 you guys have got the kids. If you guys want
10 to hang out, that's up to you. If you guys
11 want to leave, we will give you a second to
12 get out of here. It's up to you.

13 State your name.

14 MR. SNYDER: Phillip Snyder, 7768
15 Keystone Drive. I was properly sworn.

16 THE CHAIRMAN: Thank you.

17 MR. SNYDER: So, today I'm here to
18 advocate for the variance for what I believe
19 to be, from my research, an outdated zoning
20 law, a 48-inch fence around an in-ground pool
21 for child safety.

22 While safety is paramount, it is
23 crucial to acknowledge that there are now more
24 effective and widely adopted measures in place
25 across more than 500 counties nation wide and

1 safer more efficient options are readily
2 available and widely accepted across the
3 nation. I urge you to consider the well-being
4 of our community, the preferences of your
5 residents, and the proven success of
6 alternative safety measures as we work
7 together on this. It's time to make a
8 collective decision that we not only
9 prioritize safety, but also reflect the
10 progressive and forward thinking nature of our
11 community.

12 The documents I provided, if you look
13 at this one, this was added late, so it should
14 be loose, not in the packet. This is the code
15 that is adopted through 37 states of the 50.
16 ISPPSC is the International Swimming Pool and
17 Spa Code. Every one of these municipalities,
18 there is 535, have adopted this auto pool
19 cover in replacement of a 48-inch fence. The
20 pool cover is not only safer than a fence, I
21 have two children, two boys, 4 and 7, they can
22 both climb over a 4-foot fence no problem. If
23 there was no cover, they can fall in the pool
24 and drown. There is no way when the cover is
25 closed, which is any time we are not in the

1 pool, that they can get in. It is under lock
2 and key and needs a four digit passcode to get
3 inside. They can walk on top of it. It can
4 hold up to 800 pounds. I've walked across it
5 many times, no problem.

6 So, the way our property is set up, we
7 live on quite a slope. So we have to dig down
8 almost four feet to get to a flat spot in our
9 back yard. If you look at the pictures for
10 the topographical drawing for the pool
11 company, there is a 40-inch retaining wall
12 around two sides of the pool, so there are
13 only two exposed sides. We do intend on
14 putting a fence up on those exposed sides.
15 Not to protect children or pets from getting
16 in, but to protect floats and things from
17 blowing out.

18 MR. SWEENEY: Where is that?

19 MR. SNYDER: This is the
20 topographical drawing, shows the retaining
21 wall.

22 MR. GOLLING: The pool is not built
23 yet?

24 MR. SNYDER: The pool is built.
25 There is a photo of it finished.

1 MR. GOLLING: Got it. I think I
2 can add a little seasoning to this. I've been
3 in the pool business since I was 15. Not that
4 I do that now. My neighbor has this exact
5 cover installed on his pool. It is under key.
6 You stick the key in, hit it. When the thing
7 is closed, it's locked. You can't open it.
8 There's no way to get in it. You can walk
9 across it. I have a picture of a car sitting
10 on top of one. But to Mr. Snyder's point, is
11 that our zoning code says you have to have a
12 4-foot fence because we want to keep critters
13 and kids out. However, this is -- I've walked
14 across it. There is nothing a fence will stop
15 that this thing won't. So, to his testimony
16 that it's an outdated zoning code, I tend to
17 agree with him. Is that this cover, which
18 I've seen and this has become the standard now
19 with many pool installers, and putting this
20 in, is seen as an alternative to putting a
21 fence in. I like fence. I think fences are
22 pretty darn swell around a pool for the reason
23 he just said, not chasing down your pool balls
24 running around the yard.

25 But this cover though, the only

1 asterisk here is what happens when you leave
2 it open. You have a party late at night, the
3 thing is open. That is where the fence
4 would -- that's your safeguard. Not that a
5 fence is going to stop them. If you've got
6 some guy stumbling through your yard at two
7 o'clock in the morning, falling in the pool
8 and drown because you forgot to close the
9 cover. I agree the cover is 100 percent
10 effective. It's awesome, when you close it.

11 MR. SNYDER: So not only do we
12 have the cover, we have splash sensors for
13 when we are not by the pool. If our dog, we
14 have a French bulldog, I don't know if you
15 know about French bulldogs but they just sink.
16 They can't swim. Their mass is larger than
17 their paws can move, so they just sink. We
18 got splash sensors in the event that we go
19 inside to grab something, and the dog is out
20 there and gets in the pool. We also have a
21 camera that is under surveillance and notifies
22 on our cell phone any time anybody is near the
23 pool.

24 MR. HACH: I certainly know
25 anything can malfunction, the power can go

1 out. Is there a reliability record on these
2 things?

3 MR. SNYDER: Yes, there is.
4 That's also in here. It goes by the code.
5 The ASTM F 134691 standard, which is the
6 industry standard for any sort of pool covers.
7 It's adopted and fostered by top agencies that
8 create pool covers and automatic safety
9 covers.

10 MR. GOLLING: This doesn't double
11 as a winter cover?

12 MR. SNYDER: No, there is a winter
13 cover over the top of it. Spring loaded
14 winter cover is on the top.

15 MR. GOLLING: Permeable winter
16 cover is the one when the snow gets on it, it
17 doesn't sit on this actual cover. Snow melts
18 and gets pumped off, there is a drainage
19 system on top of this cover.

20 MS. GARCAR: I'm going to agree
21 with what you are saying because I trust what
22 you say. What changed from agreeing to a
23 fence in --

24 MR. SNYDER: I'm glad you asked
25 this question.

1 MS. GARCAR: -- I think quickly I
2 read June of '23?
3 MR. SNYDER: Correct.
4 MS. GARCAR: You agree to more
5 than --
6 MR. SNYDER: This fence that was
7 on this drawing.
8 MS. GARCAR: What changed you?
9 MR. SNYDER: I had a fence company
10 come out and they put this drawing for
11 approval. This fence was no longer good
12 enough. Now I need to have a fence around my
13 entire yard, which I was not willing to do. I
14 was told this drawing changed and there is
15 nothing that changed in the pool design versus
16 this version.
17 MS. GARCAR: I'm confused with
18 that answer.
19 MR. SNYDER: I was confused as
20 well.
21 THE CHAIRMAN: Can you please
22 clarify. So that drawing was approved?
23 MR. SNYDER: This drawing was
24 approved. This drawing was submitted by
25 Lighthouse Pools and approved.

1 MR. GOLLING: Which one?
2 THE CHAIRMAN: The one that's in the
3 packet.
4 MR. GOLLING: Thanks.
5 MR. SNYDER: So you can see it is
6 very small but it says fence. Which is kind
7 of silly because it is a 40-inch retaining
8 wall and there is a 48-inch fence butted up
9 against it. So it really is providing zero
10 safety because it's just a fence that's
11 8-inches taller than the retaining wall. But
12 this is what Lighthouse told us we would have
13 to have to get approval. So that is what we
14 put on there. When that changed and my fence
15 went from being a \$10,000 fence --
16 THE CHAIRMAN: Hold on. You've got
17 to just slow down for me. I'm a little slow.
18 So when you say change, what changed?
19 MR. SNYDER: This was no longer
20 adequate as a fence.
21 THE CHAIRMAN: What were you told
22 was required?
23 MR. SNYDER: A fence around the
24 entire yard, attaching to the house and
25 multiple locks on the steps that go down.

1 THE CHAIRMAN: This fence, it's a
2 little hard to see.
3 MR. SNYDER: It's just around the
4 outside of the concrete, and literally is up
5 against the retaining wall on the -- what
6 would it be --
7 THE CHAIRMAN: It doesn't go on top
8 of the retaining wall?
9 MR. SNYDER: No. It literally
10 will stick up this high above the retaining
11 wall, up against the retaining wall.
12 THE CHAIRMAN: What does the grade
13 behind the retaining wall look -- let me look
14 at your picture. Doesn't really show. Can
15 someone walk from above the retaining wall?
16 MR. SNYDER: And jump down 4 feet,
17 sure.
18 MS. GARCAR: So this picture, this
19 --
20 MR. SNYDER: That is the pool.
21 MS. GARCAR: The fence, is that on
22 the retaining wall side or no?
23 MR. SNYDER: On the pool side of
24 the retaining wall.
25 MS. GARCAR: This picture though

1 has a fence, four sides around the pool.
2 THE CHAIRMAN: No, it doesn't.
3 MR. SNYDER: It does. It does.
4 You can see it. It's a very small dotted line
5 drawing. It literally runs against -- it says
6 new fence. It runs against the retaining wall
7 on the house side. Along side of the
8 retaining wall it runs against.
9 MR. SWEENEY: Dashes and dots.
10 MR. SNYDER: There are four sides
11 of fence on this drawing.
12 MS. GARCAR: This drawing was
13 approved in --
14 MR. SNYDER: Was approved. When
15 the fence contractor came to clarify, it was
16 not approved.
17 MS. GARCAR: Concord said that or
18 the fence people said it?
19 MR. SNYDER: Concord said it.
20 MS. GARCAR: Do you have
21 documentation of Concord saying no to this
22 fence?
23 MR. SNYDER: I was just told by
24 the fence company it would have to be much
25 larger. He said I would have to go around the

1 whole house.
2 MS. GARCAR: So that came from the
3 fence company, not from Concord?
4 MR. SNYDER: He came to Concord to
5 confirm.
6 THE CHAIRMAN: There was no email,
7 just a conversation -- who was your fence
8 contractor?
9 MR. SNYDER: I don't recall now.
10 One of the local, Able Fence or -- I don't
11 remember.
12 MS. GARCAR: Heather, is that a
13 rule in Concord to have it around the entire
14 property or just the pool?
15 MS. FREEMAN: The pool has to be
16 completely enclosed by a 4-foot tall fence
17 with locking gates.
18 MR. SNYDER: I think your issue
19 was the fence was up against the retaining
20 wall so the fence was literally only 8-inches
21 tall with the retaining wall.
22 MS. FREEMAN: Mr. Snyder, I was
23 never submitted any kind of formal revision to
24 your fencing plan from any fence company. So
25 there is no alternative plan submitted to me.

1 I had a phone call, conversation with
2 Shannon Fence, who was potentially going to
3 contract with Mr. Snyder about the fence.
4 They did not have a deal in place and he was
5 -- the contractor from Shannon Fence was just
6 reviewing the zoning enclosure requirements
7 with me, from just a discussion about what the
8 zoning resolution requires. Nothing specific
9 to this parcel.
10 MS. GARCAR: So the fence in
11 question that was not built, but this layout
12 talking about it, the 8-inches above or
13 whatever it is above the retaining wall, is
14 that a problem within Concord, the fact it's
15 against a retaining wall?
16 MS. FREEMAN: We don't have any
17 regulations for distance between a fence and a
18 retaining wall, no.
19 MR. HACH: It sounds like the
20 retaining wall is the fence.
21 MS. GARCAR: Right. It still
22 seems like the plan has a fence on the
23 retaining wall.
24 MS. FREEMAN: It's not on the
25 retaining wall.

1 MR. SNYDER: It's up against it.
2 MS. FREEMAN: It's near it but
3 there is no distance. There is not a distance
4 on here.
5 MS. GARCAR: It has four walls.
6 MS. FREEMAN: Yeah, this is a plan
7 submitted and what we approved because it met
8 the enclosure requirements.
9 MS. GARCAR: So this still meets
10 the enclosure requirements?
11 MS. FREEMAN: Yes.
12 MR. SNYDER: This was drawn and
13 submitted by the pool company. I didn't do
14 any this research until after we decided to
15 put the auto cover in, which was late in the
16 pool process.
17 MS. GARCAR: Timeline. You got it
18 all approved.
19 MR. SNYDER: Yes.
20 MS. GARCAR: You had the pool
21 started, you had the fence people come in.
22 MR. SNYDER: We had the fence
23 people come in once the pool was completed.
24 MS. GARCAR: The fence people say,
25 and at this point is word of mouth --

1 MR. SNYDER: Sure. All hearsay.
2 MS. GARCAR: -- that the fence was
3 not adequate according to Concord zoning?
4 MR. SNYDER: Correct.
5 MS. GARCAR: Supposedly, according
6 to the fence people.
7 MR. SNYDER: Correct.
8 MS. GARCAR: You personally did
9 not have any communication with Concord saying
10 we no longer approve this plan. You just
11 relied on the fence people saying that?
12 MR. SNYDER: I assumed the fence
13 people would tell me the truth.
14 MS. GARCAR: Your research, you
15 got this extra safety cover.
16 MR. SNYDER: Yes. We got the
17 safety cover before the fence people. It
18 wasn't -- we added it later after we decided
19 to build the pool. We wanted to have an extra
20 layer of protection for our children.
21 MS. GARCAR: So now the fence is
22 still not there. You are asking for?
23 MR. SNYDER: A variance, yes.
24 MS. GARCAR: To not build a fence
25 in general?

1 MR. SNYDER: Yes. Because it is
 2 not safer. The code talks about child safety
 3 and the fence is not safer than the auto
 4 cover. What I don't want to be punished for
 5 is being ahead of the game. Ohio has already
 6 approved this from the ISPCA. It's up to
 7 individual municipalities to grant it.
 8 So furthermore, which we can have
 9 another discussion about this, I believe
 10 Concord should follow the ISPCA, SPC, sorry,
 11 and also, do this. The majority of
 12 municipalities that do have this, do use auto
 13 covers in lieu of a fence, have much warmer
 14 weather than us, where pools are used much
 15 more than they are here in Ohio. If it's safe
 16 there, how is not safe here?
 17 THE CHAIRMAN: So do you know, I
 18 guess, is there data available, if you know,
 19 of anyone locally or northeast Ohio cover
 20 people that told you that someone has been
 21 able to get it installed without a fence and
 22 approved?
 23 MR. SNYDER: The only municipality
 24 in the State of Ohio that allows it at this
 25 point is Grove City.

1 THE CHAIRMAN: I understand that.
 2 Do you know, could you ask, or did you ask --
 3 MR. SNYDER: No. I mean honestly
 4 I don't care about anybody else's property
 5 except for mine.
 6 THE CHAIRMAN: I'm just looking for,
 7 you know --
 8 MR. SNYDER: I do know there are a
 9 half dozen pools in Concord that don't have
 10 any fence or auto cover. They were
 11 grandfathered in. It's not safe there,
 12 someone could drown in one of those pools. If
 13 I put a pond in my back yard, I don't have to
 14 have a fence. Somebody could drown in that.
 15 This is much safer than all of that.
 16 THE CHAIRMAN: Skip, do you have a
 17 question?
 18 MR. SWEENEY: Yeah. Had none of
 19 this occurred with this mysterious
 20 communication where it got back to you that
 21 the approved plan was all of a sudden not
 22 approved, okay, I still don't understand that,
 23 but had that not occurred, would you have a
 24 fence up right now?
 25 MR. SNYDER: No.

1 MR. SWEENEY: So you would have
 2 changed your mind, even though you didn't get
 3 any push back from the Township?
 4 MR. SNYDER: Yes.
 5 MR. SWEENEY: When would that have
 6 occurred?
 7 MR. SNYDER: Probably sooner than
 8 this.
 9 MR. SWEENEY: What I seeing going
 10 on here, there is some animosity here.
 11 MR. SNYDER: We've got to take the
 12 animosity out of it, sir, with all due
 13 respect. It's all about safety of children.
 14 MR. SWEENEY: I understand that.
 15 We have an about-face by you, the homeowner,
 16 the applicant, and I'm just trying to get to
 17 the bottom of it. I understand that and I get
 18 it. But I'm trying to understand, so I can
 19 make a proper decision here.
 20 MR. SNYDER: Sure.
 21 MR. SWEENEY: So you're telling me
 22 that had this not been challenged, you still
 23 would have gone ahead and got this cover?
 24 MR. SNYDER: The cover was already
 25 installed, yes.

1 MS. GARCAR: Is there a cover --
 2 MR. SWEENEY: Hold on a second.
 3 Hold on. You got everything approved, you're
 4 ready to go.
 5 MR. SNYDER: Yes.
 6 MR. SWEENEY: Application says
 7 in-ground pool fence.
 8 MR. SNYDER: Yes.
 9 MR. SWEENEY: You went to your
 10 fencer and said go to it. They come back and
 11 said we can't do this, something happened,
 12 blah, blah, blah, we can't do it, blah, blah,
 13 blah, you are telling that me you got the pool
 14 cover installed before that even occurred?
 15 MR. SNYDER: I got the pool cover
 16 installed for the safety of my children and
 17 dog, yes, before the fence. Before the fence
 18 company even came, yes, true.
 19 MR. SWEENEY: So wait a second.
 20 You had approval for a fence. You were all
 21 ready to go. But then you went ahead and put
 22 a pool cover on it?
 23 MR. SNYDER: I put a pool cover on
 24 for the safety of my children, yes.
 25 MR. SWEENEY: I'm not asking why

1 you did it. I'm trying to get a timeline
2 going here. You got the approval. Okay, I'll
3 put the fence in, signed on the dotted line
4 June of '23, whenever it was. Then you said,
5 no, wait, I want a pool cover. You did that.
6 Then your fencing company said we have a
7 problem with the Township? So I get this
8 straight.

9 MR. SNYDER: Yes. I didn't do any
10 research as pertains to the packet on the pool
11 cover, of how widely used it was, how much
12 safer -- well, I knew how much safer it was.
13 I didn't know that there were municipalities
14 that allowed it in lieu of the fence before I
15 put the pool cover in.

16 MR. SWEENEY: Understood. My
17 question is, do we have a picture of this pool
18 cover? I don't even know what it looks like.

19 MR. SNYDER: It's covered up but I
20 can Google a picture of it.

21 MR. SWEENEY: It's not that I don't
22 trust you. You've got one municipality in
23 Ohio approved it. I've never even seen what
24 this thing looks like. I don't know if deer
25 can come in. If you've got a deer hoof, deer

1 MR. SNYDER: I'm pulling up the
2 cover as you asked me.

3 MR. SWEENEY: That's fine. Is that
4 your cover?

5 MR. SNYDER: It looks exactly like
6 that.

7 MR. SWEENEY: Thank you. I'm just
8 trying to get to the bottom of this. I'm
9 trying to figure out what happened, and nobody
10 can tell me. Is it your understanding that
11 this retaining wall somehow created a problem,
12 or was there some other issue that we don't
13 even know about?

14 MR. SNYDER: There is another
15 issue that you don't know about.

16 MR. SWEENEY: All right, well, why
17 don't you --

18 MR. SNYDER: It would be hard for
19 me to explain it, because it is an issue with
20 a person that is sitting right here.

21 Heather came to my house when I wasn't
22 home. I don't know what was said because it
23 was between her and my wife. When my wife was
24 talking about where the fence was going to go,
25 she was told this isn't going to work, you

1 hooves are deadly things.

2 MR. SNYDER: They won't go through
3 it.

4 MR. SWEENEY: If you had a picture
5 there, it would be helpful.

6 So, my next and final question is, what
7 is it that seems to have been the problem
8 after the original fence was approved? I know
9 there is talk about retaining walls, but I'm
10 not perfectly clear about what the problem
11 was, because you were never told what the
12 problem was apparently. You're just surmising
13 what the problem was?

14 MR. SNYDER: I don't see how -- I
15 guess I need to understand to answer your
16 question properly how that has any bearing on
17 what I'm asking for.

18 MR. SWEENEY: All right. We can
19 vote.

20 MR. SNYDER: I mean I'm just
21 asking. It's your question. Tell me why that
22 has a bearing on --

23 MR. SWEENEY: Sir, if you don't
24 want to answer my question, that's fine. If
25 you want to continue looking at your phone.

1 should talk to a fencing company and they are
2 going to know better than I do. Yet, Concord
3 had already approved it, where my wife was
4 telling her where the fence was going to go.

5 Then I started looking at auto covers
6 because now I know that I'm going to be, lack
7 of a better term, fighting with Concord about
8 the fence. So I started looking at auto
9 covers, doing research on auto covers. I
10 found out how much safer auto covers are than
11 fences and leads me to be where I am here
12 today.

13 MR. SWEENEY: Thank you. That
14 helps me. No more questions.

15 MS. GARCAR: The conversation
16 between your wife and Heather.

17 MR. SNYDER: I wasn't there, so.

18 MS. GARCAR: I'm not asking what
19 was talked about. It can either be you
20 answering or Heather answering, timeline of
21 that. Was that before or after the pool was
22 in, and before or after the fencing company
23 arrived to say no?

24 MR. SNYDER: It was while the pool
25 was going in, and before the fencing company.

1 MS. FREEMAN: The pool as already
2 installed. All the concrete retaining walls
3 were done. I was there doing a zoning
4 inspection on the pool. The open zoning
5 permit gives the zoning inspector the
6 authority, opportunity to go over there and
7 inspect during a reasonable time. I engaged
8 with Mr. Snyder's wife. She was talking to me
9 about deviating from the fence plan. So the
10 plan, this is what I think was missing, is the
11 site plan Mr. Snyder showed you that the pool
12 company put together with the four sides, on
13 paper it works, right. It meets zoning, meets
14 all the enclosure requirements.

15 My conversation with Mrs. Snyder was
16 deviating from that plan, and asking me
17 questions about doing this, this or that. The
18 scenarios that she was kind of talking about
19 didn't provide that controlled access to the
20 pool. There were several areas where someone
21 could just walk right in. I think the
22 complication about the property is there are a
23 lot of different elevations and grades, things
24 like that. So, in order to approve a
25 different plan, you would have to submit a

1 revision to see what that's going to be.
2 My conversation with the fence company,
3 which was several months after this because
4 they hadn't chosen a fence company yet, no one
5 was hired to do the work, was trying to come
6 with an alternative plan that would make the
7 Snyders happy with what they needed to do and
8 still comply with zoning.

9 MR. SWEENEY: Thank you.

10 MS. GARCAR: Thanks.

11 THE CHAIRMAN: Do you have any other
12 questions for Mr. Snyder? No. All right,
13 thank you. You can be seated, sir.

14 Anyone else here this evening speaking
15 for or against this appeal that would like to
16 come up? If there are no further questions,
17 variance application 2024-144 is now closed to
18 the public.

19 Can I get a motion to entertain
20 approval of variance 2024-144.

21 MR. HACH: So moved.

22 MR. GOLLING: Second.

23 THE CHAIRMAN: Thank you. Open for
24 discussion by the Board. Skip?

25 MR. SWEENEY: Question for the

1 lawyer.

2 THE CHAIRMAN: Sure.

3 MR. SWEENEY: We have a zoning
4 ordinance that is in place. It's not
5 confusing. It's straightforward. We
6 understand it. We're being asked to
7 essentially abrogate it, okay.

8 MS. MATHENEY: Right.

9 MR. SWEENEY: What happens if we do
10 that? Does legal -- do you guys have to take
11 any action?

12 MS. MATHENEY: So I was going to ask
13 is this considered an area variance or a use
14 variance?

15 MS. FREEMAN: An area variance. It
16 should be the Duncan factors.

17 MS. MATHENEY: So practical
18 difficulty, not an unnecessary hardship.

19 MS. FREEMAN: Right. Pool fences
20 are permitted. Trying to not comply with the
21 regulations.

22 MS. MATHENEY: That's what variances
23 do all the time.

24 MR. SWEENEY: This seems a little
25 bit more black and white.

1 THE CHAIRMAN: This is substantial.

2 MR. SWEENEY: It worries me.

3 THE CHAIRMAN: It's a substantial
4 variance. It is one when we look at the
5 Duncan factors, it is a substantial variance.
6 It's a very substantial variance, right? Is
7 that fair to say? Going from a fence to no
8 fence.

9 MR. SWEENEY: By definition it is
10 substantial. I don't know that we have that
11 kind of power. Even though I understand your
12 arguments, I get it. I understand it. But
13 this is a big deal. I think we had one
14 recently that we denied a couple years ago.

15 THE CHAIRMAN: Same sort of.

16 MR. SWEENEY: Same exact thing.

17 THE CHAIRMAN: In front of the
18 Board, yes.

19 MR. SWEENEY: I felt we had to
20 follow the code, because it was so
21 substantial. I feel like our hands are tied
22 almost. I don't know, this issue apparently
23 is up and coming. I get it. But right now, I
24 think legally our hands are tied because I
25 don't know that any sort of argument or at

1 least the arguments that were made tonight can
 2 overcome any sort of hardship claim.
 3 THE CHAIRMAN: I don't know legally
 4 our hands are tied but I look at the Duncan
 5 factors.
 6 MR. SWEENEY: Procedurally they are
 7 tied.
 8 THE CHAIRMAN: The one that jumps
 9 out to me is that this is a substantial
 10 variance request. So, when it is something
 11 that is substantial, you have to take a closer
 12 look at it, decide if we think it really makes
 13 sense. I'm not sure.
 14 MR. SWEENEY: Not to mention the
 15 other Duncan factors aren't necessarily met.
 16 This was known beforehand.
 17 THE CHAIRMAN: Yes, this was known
 18 beforehand.
 19 MR. SWEENEY: It's not going to be
 20 a gigantic difficulty I think between fence
 21 and cover. Just all the other factors aren't
 22 met either. You know, I agree with you. I
 23 think the substantialness of this just makes
 24 me nervous is what it does.
 25 MS. GARCAR: I do have the same

1 concerns. I see the remedy. I see how safe
 2 this cover is. I'm not denying that. I just
 3 really struggle with us going over something
 4 that has not been approved by the Township in
 5 general yet, when it was already agreed upon
 6 the fence. I feel like extra safety, that's
 7 great.
 8 MR. GOLLING: I'm not denying that
 9 his cover is a brilliant invention. It's
 10 expensive as all get-out. Probably, I'm
 11 guessing, about 10?
 12 MR. SNYDER: 20,000.
 13 MR. GOLLING: I wasn't even close.
 14 I have seen it in action. Actually helped
 15 repair one that came off its track due to the
 16 install, not someone getting on it. Where I
 17 agree as a parent, and we've all seen the
 18 videos where you see the toddler fall into the
 19 pool. The parents jump in after it. He's got
 20 the motion alarms on the water, the camera,
 21 the automatic pool cover, but what happens
 22 when you leave it open.
 23 I think that's obviously you are going
 24 to be responsible. You are going to close it.
 25 Emergency calls you away from your house.

1 You've got to run, the cover is open now.
 2 Then what happens? Someone falls in, there is
 3 no fence. Not that, to his point, kids can
 4 scale a fence, right. His property is off
 5 Girdled. Look out of his house, look left,
 6 you see Lake Erie. He is at the top of a
 7 hill. He's on a pretty steep incline there.
 8 The chances of people just wandering through
 9 his yard are slim to none, and slim just left
 10 town. Not a whole lot of chance there.
 11 But my issue is not with I think it's
 12 again brilliant that he did this. It's smart,
 13 it's expensive, it's proactive. But the rules
 14 as they are written now say you've got to have
 15 a fence. And again, to his salient point, as
 16 antiquated as it may be, that those are the
 17 rules that are written. So do we have the
 18 authority to supersede the rules that are
 19 written. And which we can say yes, kind of
 20 silly, I like the cover. It could be worth a
 21 shot. Or it's heck no, we won't do it.
 22 You've got to build a fence.
 23 So I'm sure it was budgeted in and
 24 fences, we had a guy in here last -- the guy
 25 who wanted to build an 8 or 10 foot fence. He

1 was spending close to 20 grand on that fence.
 2 Fences aren't cheap either. I can't discount
 3 that the fence builder didn't see this as an
 4 opportunity to upgrade from the premium to the
 5 super premium platinum diamond fence, and not
 6 tell him that the Township real didn't say no
 7 to the fence.
 8 So, but that aside, is the variance
 9 substantial. Well, completely disregarding
 10 the fence would be, in my opinion, defined as
 11 substantial. However, the replacement, also
 12 in my opinion, I think is 100 times better
 13 than the fence.
 14 THE CHAIRMAN: The public meeting is
 15 closed.
 16 MR. HACH: Could we consider
 17 tabling it? I guess I would like to see some
 18 photographs of it, maybe even -- I don't want
 19 to walk the property but --
 20 THE CHAIRMAN: That's up to the
 21 Board. If you think it will help you, I
 22 guess.
 23 MR. HACH: I tend to like the
 24 idea of the cover. I think it might behoove
 25 us all to maybe see what we're dealing with.

1 MR. GOLLING: I can tell you go to
2 YouTube.
3 MR. HACH: My concern or thought
4 is if the topography of the lot is such that
5 this retaining wall is --
6 MR. GOLLING: Could someone fall
7 over the retaining wall?
8 MR. HACH: No, crawl up the
9 retaining wall. Is that almost like acting as
10 a fence already.
11 MR. GOLLING: For sure. I've cut
12 through his neighborhood once or twice. In
13 seeing the houses on the left as you go down,
14 yeah, they are on a pretty, I don't know the
15 grade.
16 MR. SNYDER: There is a 30 foot
17 elevation change from the top to the bottom.
18 MR. GOLLING: How many?
19 MR. SNYDER: 30.
20 MR. GOLLING: Thank you. With that
21 elevation change, he's got a retaining wall
22 because he's got to hold the dirt back. TR's
23 point, first off this retaining wall already
24 is a fence. But does our code say you've got
25 to build a fence on top of the thing that is

1 already four feet up in the air.
2 THE CHAIRMAN: But he wasn't even
3 doing that. What we approved was fence in
4 front of that wall.
5 MR. GOLLING: That doesn't make any
6 sense. Why would he do that?
7 THE CHAIRMAN: I'm just telling you
8 what was approved.
9 I don't know, I don't need to see it.
10 A cover is a cover. I'm here to present
11 anything saying the wall would help stop it.
12 It's his opportunity to make the case.
13 MR. SWEENEY: I feel very
14 uncomfortable entertaining any sort of
15 discussion that includes evaluations of
16 safety. That is not our roll. I'm not about
17 to talk about it, or use that as any basis for
18 any decision I might make.
19 THE CHAIRMAN: I'm with Skip on
20 that. I don't feel like I'm qualified to say
21 that this is as safe as a fence would be and
22 put my backing on. It may be. This
23 documentation might support that. But I can't
24 make that final. I don't feel comfortable
25 making that final determination.


1 MS. GARCAR: I agree with that.
2 It might be safer but that is not our
3 expertise. But our rules say a fence. Even
4 with all this documentation maybe it is
5 outdated, maybe it is silly, this is better
6 than a fence. Sometimes rules are a little
7 bit behind.
8 MR. GOLLING: Zoning would have to
9 address it. It would have to be brought up.
10 MS. GARCAR: That would be a
11 Zoning Commission workshop type thing.
12 THE CHAIRMAN: We only have one
13 city in the whole State of Ohio. I don't
14 know.
15 MS. GARCAR: There is nothing --
16 everything he gave us, there is nothing
17 requiring what type of cover. How do we prove
18 that there is a cover, all of those kinds of
19 different factors.
20 MR. GOLLING: Yeah.
21 THE CHAIRMAN: It would be great if
22 there was precedent like hey, in Rocky River
23 there are three people that got this approved
24 to their zoning appeals board without it. Two
25 over here, one here. Or something like that

1 to help us understand that maybe other boards
2 have looked at it, have seen it as that. That
3 data point wasn't available either. That kind
4 of is what I was looking for.
5 MR. SWEENEY: It's clear we have a
6 lag time between the pointy end of the spear
7 here and the early adopters and I get that. I
8 have a lot of concerns based upon what our
9 role is as a Board.
10 THE CHAIRMAN: Anything else for
11 discussion? The question is on the approval
12 of variance application 2024-144. A yes vote
13 is for the approval of the variance. A no
14 vote denies the variance. Heather, please
15 call the roll.
16 MS. FREEMAN: Mr. Sweeney.
17 MR. SWEENEY: No.
18 MS. FREEMAN: Mr. Hach.
19 MR. HACH: No.
20 MS. FREEMAN: Mr. Golling.
21 MR. GOLLING: Yes.
22 MS. FREEMAN: Ms. Garcar.
23 MS. GARCAR: No.
24 MS. FREEMAN: Mr. Valentic.
25 THE CHAIRMAN: No.

1 The variance has not been approved.
 2 Thank you.
 3 Next on our agenda is the approval of
 4 minutes. We have two separate minutes to
 5 discuss and approve this evening. The first
 6 is the minute from December 13, 2023. Can I
 7 get a motion?
 8 MS. GARCAR: Motion.
 9 MR. GOLLING: Second.
 10 THE CHAIRMAN: Is there any
 11 additions or deletions to those minutes?
 12 MR. GOLLING: My name is spelled
 13 wrong. That's a thing that kind of jumped out
 14 and bit me, that my name was spelled wrong.
 15 It's got two Ls, not one.
 16 THE CHAIRMAN: We will get that
 17 corrected. Anything else?
 18 MR. SWEENEY: Abstain.
 19 MR. HACH: On the January one I
 20 will.
 21 THE CHAIRMAN: December.
 22 MR. HACH: No, no, December I
 23 was there.
 24 THE ARBITRATOR: All in favor of
 25 approval of the December 12, 2023 minutes with

1 content being corrected say aye.
 2 MR. GOLLING: Aye.
 3 MR. HACH: Aye.
 4 MS. GARCAR: Aye.
 5 THE CHAIRMAN: Aye. The minutes
 6 have been approved. Next is approval of the
 7 minutes from January 10, 2024. Can I get a
 8 motion to approve?
 9 MS. GARCAR: Motion.
 10 MR. SWEENEY: Second.
 11 THE CHAIRMAN: Any additions or
 12 deletions to those?
 13 MR. GOLLING: I wasn't here.
 14 Abstain.
 15 MR. HACH: I'm going to abstain
 16 also.
 17 THE CHAIRMAN: All in favor of the
 18 January 10, 2024 minutes approval say aye.
 19 MR. SWEENEY: Aye.
 20 MS. GARCAR: Aye.
 21 THE CHAIRMAN: Aye. The minutes
 22 from January 2024 have been approved.
 23 That is it for this evening. Our next
 24 zoning meeting is March 13, 2024. The Board
 25 of Zoning Appeal meeting is now closed.

1 (Meeting adjourned at 8:21 p.m.)
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1 State of Ohio,)
 2) SS: CERTIFICATE
 3 County of Cuyahoga.)
 4 I, Constance Versagi, Court Reporter and
 5 Notary Public in and for the State of Ohio, duly
 6 commissioned and qualified, do hereby certify that
 7 the foregoing record was by me reduced to
 8 stenotypy/computer, afterward transcribed, and that
 9 the foregoing is a true and correct transcript of
 10 the record so given as aforesaid.
 11 I do further certify that this proceeding was
 12 taken at the time and place in the foregoing caption
 13 specified.
 14 I do further certify that I am not otherwise
 15 interested in the event of this action.
 16 IN WITNESS WHEREOF, I have hereunto set my
 17 hand and affixed my seal of office on this 28th day
 18 of February, *Constance Versagi* 
 19
 20 Constance Versagi, Court Reporter and
 21 Notary Public in and for the State of Ohio.
 22 My Commission expires January 14, 2028
 23
 24
 25

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