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

Concord Town Hall  
7229 Ravenna Road  
Concord, Ohio 44077

May 8, 2024  
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Zoning Commission members present:

Francis E. Sweeney, Jr., Vice-Chairman  
Todd Golling, Member  
Davey Rowan, Member  
Ashley Garcar, Member  
Brian Falkowski, Member

Also Present:

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

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on our agenda. We have no Old Business. And we'll  
get right to the New Business.

The first matter is a Variance Application  
titled 2024-151, Wixford Properties, LLC, on behalf  
of the property owners Edward and Karen Jividen.  
It's requesting a variance from Section 15.04(B)(1)  
and (2) and Section 15.04(A)(2)(d) to allow for an  
addition onto the dwelling that will have a front  
building setback of 33 feet in lieu of the minimum  
50 feet required from the side street. This is for  
the property located at 6820 Rolling Acres, and  
being permanent parcel Number 08-A-031-E-00-024-0.

All right, you may approach and present your  
case.

MR. CONTORNO: Absolutely. Good evening,  
people. So --

MR. SWEENEY: One thing I probably should  
clarify. We need a three vote majority to pass any  
measure or to deny any measure.

MR. CONTORNO: Okay.

MR. SWEENEY: Just so you're aware of that.

MR. CONTORNO: Okay. My name is Paul  
Contorno, owner of Wixford Properties. We're  
looking to get a variance approval for a third car  
extension garage, and also an extension of the back

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PROCEEDINGS

MR. SWEENEY: Good evening. Welcome to the  
Board of Zoning Appeals meeting for May 8th of  
2024. The meeting is now in session.

My name is Francis Sweeney. I am acting as  
the substitute Chair, and I will introduce our  
Board. Beginning on my far left, Brian Falkowski,  
Ashley Garcar, Davey Rowan, and Todd Golling. To  
my far right is Heather Freeman, our Township  
Zoning Inspector. And to my far left is our legal  
counsel, Bridey Matheney.

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

(Whereupon, the speakers were sworn en masse.)

MR. SWEENEY: Thank you. Please be seated.

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

Heather, were all the legal notices published  
in a timely fashion?

MS. FREEMAN: Yes, they were.

MR. SWEENEY: Thank you.

Okay, this evening we have a number of matters

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of the house for a laundry room.

MR. SWEENEY: Okay.

MR. CONTORNO: Okay?

MR. SWEENEY: Did you state your name and  
address?

MR. ROWAN: Name and address. I think we got  
your name. We just need your address.

MR. CONTORNO: My address?

MR. SWEENEY: Yes.

MR. CONTORNO: 7209 Gabriels Landing.

MR. SWEENEY: Okay. Go ahead.

MS. FREEMAN: One other thing, Mr. Chairman .  
I'm sorry to interrupt.

Can you confirm whether you've been sworn in?

MR. CONTORNO: Yes.

MS. FREEMAN: Thank you.

MR. CONTORNO: Yes.

MR. SWEENEY: Okay. Now you can go ahead

MR. CONTORNO: Okay. So right now, there's a  
50 foot setback existing. And after the addition,  
it will be a 33 foot setback. It's a corner lot on  
Rolling Acres that is adjacent to Brian Street,  
okay? I really don't know what else to say, other  
than -- I have the homeowners here. They have a  
letter that they have submitted, and they have a

5

1 letter with them. And they also have had -- also

2 neighbors that agreed that they're okay with this.

3 MR. GOLLING: You're the builder?

4 MR. CONTORNO: Yes, correct.

5 MR. GOLLING: Gotcha.

6 MR. CONTORNO: I am the contractor.

7 MR. SWEENEY: What's the total square footage

8 that's going to be added?

9 MR. CONTORNO: I think it's 700 square feet.

10 MR. SWEENEY: That's good enough.

11 MR. CONTORNO: Yeah.

12 MR. SWEENEY: Approximately.

13 MR. CONTORNO: Yeah. It's the garage, plus

14 eight foot by twenty foot of an extension of the

15 laundry room.

16 MR. SWEENEY: Okay.

17 MR. ROWAN: So if I'm facing the garage,

18 you're adding to the right of the garage, if I'm

19 looking at the garage?

20 MR. CONTORNO: It is facing Rolling Acres.

21 MR. ROWAN: And so the addition would be to

22 the right?

23 MR. CONTORNO: The addition is behind.

24 MR. ROWAN: Behind.

25 MR. GOLLING: It's behind and over.

7

1 name and address, and you can speak into the

2 microphone.

3 Have you been sworn in?

4 MR. JIVIDEN: Yes.

5 MR. SWEENEY: Okay.

6 MR. JIVIDEN: My name is Edward Jividen. I'm

7 the owner of 6820 Rolling Acres Court.

8 One of the problems I have with just a two-car

9 garage, I have a fully restored 1944 Willys Jeep

10 from World War II. And right now, it's taking up

11 space to the point we have to park our cars outside

12 all the time. So it's kind of rough in the

13 wintertime.

14 We also have two German Shepherds. And

15 unfortunately, in the early spring and late fall,

16 it gets muddy in the backyard, so we're constantly

17 mopping our floor two or three times a day. So one

18 of the intentions of this addition is to have a dog

19 wash put, where they can just come right in the

20 back door, and then I can hose them off and not

21 have to mop three or four times a day.

22 I'm a retired firefighter from the City of

23 Painesville. I was severely injured in the line of

24 duty in 2013. I caught a chimney basically off of

25 a roof, and I have a permanent hip injury that nags

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1 MR. CONTORNO: Correct.

2 MR. GOLLING: So he'd be going towards Brian

3 Drive?

4 MS. GARCAR: It's behind it, to the right.

5 Like it's an L shape, correct?

6 MR. CONTORNO: That's correct.

7 MR. SWEENEY: Approaching Brian Drive.

8 MR. CONTORNO: Correct.

9 MR. GOLLING: So this is the garage. So it

10 extends over.

11 MR. ROWAN: It goes towards Brian.

12 MR. GOLLING: So if it wasn't a corner lot,

13 it's just like a regular lot line --

14 MR. CONTORNO: Right. So you've got the

15 two-car garage, and then we're just adding a third,

16 and then behind that is the extension.

17 MR. GOLLING: Gotcha. Got it.

18 MR. CONTORNO: Correct.

19 MR. SWEENEY: Okay. All right.

20 Does anybody have any other questions?

21 Are you the homeowner?

22 MR. JIVIDEN: Yes.

23 MR. SWEENEY: Do you want to come up?

24 MR. JIVIDEN: Sure.

25 MR. SWEENEY: Okay. Come on up and state your

8

1 me.

2 So the reason we want to put a first floor

3 laundry room on, it's not easy for me to carry

4 laundry baskets from the second floor -- or from

5 the basement up to the second floor to put clothes

6 away.

7 And the same thing with my wife, she's not

8 getting any younger, either. She's got some aches

9 and pains from getting older.

10 So thank you for your consideration.

11 MR. SWEENEY: It looks like it's going to be a

12 nice addition, if we approve.

13 MS. GARCAR: Do we have any more --

14 MR. SWEENEY: Do you guys have any questions

15 of him, by the way?

16 Anybody else speaking for or against?

17 All right. With that, I'll close the --

18 MS. GARCAR: Public hearing.

19 MR. SWEENEY: -- public hearing. Thank you.

20 I'll entertain a motion to approve.

21 MS. GARCAR: I'll make a motion to approve.

22 MR. SWEENEY: Second?

23 MR. ROWAN: Are we going to have a

24 discussion --

25 MR. SWEENEY: Yes.

9

1 MR. ROWAN: Or we have to wait to do that.

2 MR. SWEENEY: Right.

3 MR. ROWAN: Gotcha.

4 MR. SWEENEY: Second? Can I get a second?

5 MR. ROWAN: Second.

6 MR. SWEENEY: All right, discussion.

7 We see this a lot.

8 MR. GOLLING: Well, it's a corner lot issue.

9 And but for the fact that -- if Brian Drive didn't

10 exist, he'd be well within his ability to build it

11 based on the setback of a side lot.

12 MS. GARCAR: Yeah.

13 MR. GOLLING: We don't have anything from any

14 neighbors either for or against.

15 Heather, do you know if we had any emails

16 either for or against?

17 MS. FREEMAN: I did not receive any

18 correspondence regarding this.

19 MR. GOLLING: Yeah, it's on my bucket list, a

20 dog wash. And a third garage, it would be nice.

21 Certainly, as far as the hardship goes, it

22 would make his life a little easier to not trudge

23 up and down the stairs so much. That's my two

24 cents.

25 MR. SWEENEY: Okay.

11

1 terribly substantial, either. We see this all the

2 time. And consistent with our reasoning in other

3 cases, very similar, if not exactly on point with

4 this. I don't see why this is any different.

5 All right. Okay, the Chair will now entertain

6 a motion to approve the application for a

7 conditional use variance.

8 Do I have a motion?

9 MS. MATHENEY: Mr. Chairman, you already

10 approved. You already did a motion to approve the

11 area variance, you just haven't voted yet. There

12 was a motion and a second. You just haven't voted

13 yet.

14 MR. SWEENEY: Okay. Heather, do you want to

15 call the vote?

16 MS. FREEMAN: Okay.

17 Ms. Garcar.

18 MS. GARCAR: Yes.

19 MS. FREEMAN: Mr. Rowan.

20 MR. ROWAN: Yes.

21 MS. FREEMAN: Mr. Golling.

22 MR. GOLLING: Yes.

23 MS. FREEMAN: Mr. Falkowski.

24 MR. FALKOWSKI: Yes.

25 MS. FREEMAN: Mr. Sweeney.

10

1 MR. ROWAN: I'm just trying to think of the

2 Duncan factors. I'm looking at the layout, and I'm

3 trying to figure out what the alternative could be,

4 if there is an alternative.

5 And I'm like, well, could you build the garage

6 on the back with the driveway going to the side,

7 but then you're adding another driveway, which

8 that's a whole other added cost. So from a

9 hardship cost perspective, like that's not really

10 viable.

11 I think it fits in with the house. It's

12 pleasing to the eye. I don't see issues with that.

13 It will add value to the neighborhood. I

14 think, obviously, it will because you're adding a

15 garage, three-car garage as opposed to a two. So I

16 think for those reasons, I'm in favor.

17 MR. FALKOWSKI: I agree with everything both

18 of you said. And I think it's a very high-quality

19 addition that will add to the neighborhood, as

20 well.

21 MR. SWEENEY: Absolutely.

22 MS. GARCAR: I think a three-car garage

23 instead of the car sitting out in the driveway is

24 certainly better for the neighborhood.

25 MR. SWEENEY: Yeah, I don't think it's

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1 MR. SWEENEY: Yes.

2 All right, thank you very much.

3 MR. CONTORNO: Thank you very much.

4 MR. SWEENEY: All right. For our second

5 matter tonight, we have another Variance

6 Application, 2024-152. Martin and Denise Babic are

7 requesting the following variances for the property

8 located at 7660 Hermitage Road, and being permanent

9 parcel 08-A-027-0-00-011-0, a Use Variance from

10 Section 15.03(A)(1) to allow an accessory building

11 to be constructed and used in violation of the

12 district requirements.

13 b., a Use Variance from Section 15.03(A)(4)

14 to allow an accessory building to be used as living

15 quarters.

16 c., a Variance from Section 15.03(A)(6) to

17 allow a 2,560 square foot accessory building in

18 lieu of the maximum 1,532 square feet permitted.

19 And d., Variance from Section 15.03(A)(8) to

20 allow the square footage of an accessory building

21 to exceed the square footage of the principal

22 building on the lot.

23 All right, you can come forward and make your

24 presentation.

25 MS. MOORE: Hi. My name is Christine Moore,

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1 12505 Woodin Road, Chardon. I'm here on behalf of  
 2 my sister-in-law and my brother, Martin Babic.  
 3 MR. SWEENEY: Okay.  
 4 MS. GARCAR: I apologize.  
 5 Have you been sworn in?  
 6 MS. MOORE: Yes.  
 7 Anyhow, we are here, well, first of all, to  
 8 apologize, and also ask for your forgiveness for  
 9 starting this apartment -- which is only 600 square  
 10 feet. I'm not sure what the -- I didn't read the  
 11 whole verbiage here. But we started this apartment  
 12 without permits.  
 13 And my parents, last year, were both on  
 14 hospice care. My mom was in and out of three  
 15 hospitals. My dad was failing with his  
 16 Parkinson's. And we got to the point where we're  
 17 like -- my dad is like, we're not going into a  
 18 home. They said, no way they're going to go into a  
 19 facility.  
 20 And so my dad said to my brother, would you be  
 21 interested in maybe putting an addition on your  
 22 house, your barn. And here nor there, my brother  
 23 says, how about we put it on the barn?  
 24 My dad says, great idea.  
 25 So it's actually a 600 square foot apartment

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1 Your first variance is asking for the building that  
 2 is currently constructed, that was constructed for  
 3 agricultural use, and is not being used for  
 4 agricultural use, and you're asking for a variance  
 5 for that?  
 6 MS. MOORE: We're asking -- the addition was  
 7 put on, the 600 square foot apartment, we did not  
 8 have permits for. So I'm not sure exactly all the  
 9 verbiages here, all these -- I'm not sure which  
 10 variance we need to get approved.  
 11 MS. GARCAR: The first variance --  
 12 MS. MOORE: I'm kind of --  
 13 MS. GARCAR: So the very first variance, when  
 14 this building, the original barn was built, it was  
 15 built with setbacks that were more lenient towards  
 16 the street because it was supposed to be built for  
 17 agriculture use.  
 18 After the apartment went on, and that was  
 19 found, it has been discovered that that original  
 20 barn is not being used for agriculture use.  
 21 MS. MOORE: Okay. I am only here on --  
 22 regarding the apartment, that we did not get the  
 23 permits for that addition.  
 24 MS. GARCAR: Okay. So who is here for keeping  
 25 the barn, then?

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1 that was put onto the back end of his barn. And  
 2 my parents live there. They moved in. They're  
 3 actually in the process of selling their house on  
 4 Morley Road.  
 5 And we moved everything out of their house,  
 6 had barn sales, sales, got rid of everything. We  
 7 moved them to my brother's house in August. And my  
 8 dad has since passed away, three weeks ago. And my  
 9 mom is still with us. And actually, she wants to  
 10 live her last days there, also.  
 11 So it's been tough on the whole family. It  
 12 has just been -- just overwhelming, really.  
 13 So I'm hoping you'll be lenient with us, and  
 14 please let the variance -- just the variance.  
 15 MR. SWEENEY: Okay.  
 16 MS. MOORE: Did I miss anything? I'm kind of  
 17 like getting nervous. But telling the truth.  
 18 MR. SWEENEY: Does anybody have any questions?  
 19 MS. GARCAR: Yes.  
 20 MR. SWEENEY: Okay. Let's start with that.  
 21 MS. MOORE: Okay. If I went too fast --  
 22 MR. GOLLING: There's a lot going on here.  
 23 MR. ROWAN: Yes.  
 24 MS. GARCAR: Okay. So the first -- I guess  
 25 I'll start with, I think, the harder question.

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1 MR. ROWAN: May I ask a question?  
 2 MS. MOORE: I guess I'm confused. I'm so  
 3 sorry.  
 4 MR. ROWAN: Let me ask some questions that  
 5 might maybe help steer this, what we're all trying  
 6 to get to.  
 7 The barn was built at some point.  
 8 MS. MOORE: Yes. I couldn't even tell you --  
 9 my brother -- it's my brother's property.  
 10 MR. GOLLING: 1955.  
 11 MR. ROWAN: 1955.  
 12 MS. MOORE: I couldn't even tell you when it  
 13 was built.  
 14 MR. ROWAN: 1955.  
 15 MS. MOORE: Okay.  
 16 MR. ROWAN: Built for agriculture.  
 17 MS. FREEMAN: No.  
 18 MS. MOORE: I'm confused.  
 19 MR. FALKOWSKI: The house.  
 20 MR. ROWAN: The house was built in 1955.  
 21 MR. GOLLING: Oh, the drawing. My bad.  
 22 MR. FALKOWSKI: Yes.  
 23 MS. MOORE: There's a house and there's a  
 24 barn. And the addition --  
 25 MS. GARCAR: In 2017, there is a permit pulled

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1 for a barn to be used in agricultural purposes, and  
 2 it indicated 1,920 square foot, and to be used for  
 3 storing animals, wine, and tractors. Since the  
 4 property is over five acres, the barn was exempt in  
 5 agriculture improvement, which meant it was not  
 6 required to conform to zoning setbacks and size  
 7 requirements.  
 8 MR. GOLLING: Got it.  
 9 MR. ROWAN: So piggybacking off of that, so  
 10 it was originally built for agriculture.  
 11 What is being stored there now?  
 12 MRS. BABIC: Farm equipment.  
 13 MR. ROWAN: Farm equipment, okay.  
 14 MS. MATHENEY: You would have to come up to  
 15 the podium.  
 16 MR. ROWAN: Were you sworn in? She wasn't  
 17 sworn in.  
 18 MS. MOORE: She didn't stand up. She didn't  
 19 stand up.  
 20 MR. SWEENEY: Well, I just want to -- I think  
 21 I want to address the process here, okay? Normally  
 22 the applicant who is most knowledgeable would come  
 23 and tell us why it is they have violated zoning  
 24 codes and why we should give them --  
 25 MRS. BABIC: The only reason I didn't --

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1 podium, you need to have them come up and get sworn  
 2 in.  
 3 MR. SWEENEY: Might I make a suggestion?  
 4 MS. GARCAR: Can we swear her in, now that  
 5 swearing in has been done?  
 6 MR. SWEENEY: All right, let's swear her in.  
 7 MS. GARCAR: Are we allowed to?  
 8 MS. MATHENEY: Of course.  
 9 MR. SWEENEY: Sure.  
 10 MS. GARCAR: Yes, okay.  
 11 If the owner of the building would like to  
 12 speak, if she could get sworn in, however that  
 13 is --  
 14 MR. SWEENEY: Have you been sworn in?  
 15 MRS. BABIC: No.  
 16 MR. SWEENEY: All right.  
 17 (Whereupon, Mrs. Babic was sworn.)  
 18 MR. SWEENEY: All right, thank you.  
 19 So before --  
 20 MS. GARCAR: Name, address.  
 21 MR. SWEENEY: What is your name and address,  
 22 ma'am?  
 23 MRS. BABIC: Denise Babic, 7660 Hermitage  
 24 Road.  
 25 MR. SWEENEY: All right, let me just state

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1 MR. SWEENEY: So I guess --  
 2 MRS. BABIC: -- was because I thought it was  
 3 pertaining to her parents.  
 4 MS. MOORE: Yeah. We thought we were just  
 5 here for --  
 6 MS. FREEMAN: She's not sworn in.  
 7 MS. GARCAR: Can we swear somebody else in?  
 8 MR. SWEENEY: So where is Martin?  
 9 MRS. BABIC: He's out of town.  
 10 MS. MOORE: Yeah.  
 11 MR. SWEENEY: He's out of town.  
 12 Okay, we need Martin. Or I should say, you  
 13 need Martin.  
 14 MRS. BABIC: Why?  
 15 MR. SWEENEY: Well, because we're starting off  
 16 in a very confused state.  
 17 MRS. BABIC: I'm an owner. I'm the owner,  
 18 too.  
 19 MR. SWEENEY: Well, that's fine. But it's my  
 20 understanding that Martin is a builder.  
 21 Is that true?  
 22 MRS. BABIC: Yes.  
 23 MS. FREEMAN: Mr. Chairman, please don't --  
 24 she has not been sworn in. So if you want to ask  
 25 the questions of somebody else who is not at the

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1 something, okay, before we go any further. It  
 2 might be very beneficial for you to have the  
 3 owner -- your husband here to address some of the  
 4 more technical things. Because he is a builder,  
 5 and I just think it would be much to your benefit  
 6 to have him present, okay?  
 7 Now, having said that, you have an opportunity  
 8 to table this and have him here, so we can address  
 9 it in a less confused state. But that's up to you.  
 10 If you want to go forward tonight, that's fine.  
 11 MS. MOORE: I think you're fine. I mean,  
 12 we're just telling the truth. I mean, this is  
 13 what -- we thought, honestly, we were only here for  
 14 the addition.  
 15 MRS. BABIC: We built the barn originally when  
 16 we bought the house. We raised pigs, we made wine,  
 17 did all that stuff. We have a Kubota, we have a  
 18 tractor, that is in the barn.  
 19 I thought it was about the situation where,  
 20 just in July, we threw this lean-to up for her  
 21 parents who were in dire straits.  
 22 MS. MOORE: Uh-huh. Yeah.  
 23 MRS. BABIC: We don't have setbacks. We sit  
 24 on seven and a half aches. We're clear back. You  
 25 can't see us from the road. So I don't know

21

1 that -- I know we didn't violate any setbacks or  
 2 anything like that. I mean, that was all done to  
 3 code.  
 4 So when we built the barn originally, we're  
 5 way back on the -- Interstate 90 is on one side of  
 6 us, the golf course is across the street on the  
 7 other side, and our next neighbor is probably  
 8 500 feet up the road. There's nobody behind us.  
 9 And there's our neighbor that lives way back  
 10 behind us on the other road. So you don't see us.  
 11 You can't see us from the road.  
 12 But when we built that, yes, we had pigs, we  
 13 had a horse, we had wine. That was done. There's  
 14 farm equipment and stuff in there.  
 15 MR. GOLLING: Do you have any of those now,  
 16 pigs, horse, wine?  
 17 MRS. BABIC: No. But we do the wine.  
 18 MR. GOLLING: But the tractor is --  
 19 MRS. BABIC: We have a Kubota, yeah, and a  
 20 dump truck.  
 21 MR. GOLLING: I'm sorry, are you two related?  
 22 MS. MOORE: Yes, this is my sister-in-law. My  
 23 brother is Marty Babic.  
 24 MR. GOLLING: And it's your --  
 25 MRS. BABIC: It's her parents.

23

1 MS. MOORE: Uh-huh.  
 2 MR. SWEENEY: But the fact still remains that  
 3 there were multiple violations of longstanding  
 4 zoning code that brought you here tonight. And  
 5 Martin, who is a builder, should have known this --  
 6 MS. MOORE: Uh-huh.  
 7 MR. SWEENEY: -- or at least that's what I  
 8 would tell him if he were here.  
 9 So we were hoping that Martin would show up  
 10 and he could give us some sort of explanation as to  
 11 why all of these violations occurred, and why he  
 12 shouldn't have to conform to the zoning rules, just  
 13 as every other citizen is.  
 14 So if you can't explain that, we're going to  
 15 go ahead and vote on it.  
 16 MS. GARCAR: Heather, can you --  
 17 MR. ROWAN: Who built the addition?  
 18 MS. MOORE: My husband.  
 19 MS. GARCAR: Can you give us a little bit more  
 20 clarification of maybe what you saw, and the other  
 21 inspector saw, then where -- so in my opinion,  
 22 right now what I'm looking at is a., c., and d.,  
 23 the variance a., c., and d. are referring to the  
 24 existing barn. The variance b. is for the  
 25 apartment that they believe is the only thing they

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1 MS. MOORE: My parents.  
 2 MS. GARCAR: So your husband's -- your  
 3 in-laws.  
 4 MRS. BABIC: Yes.  
 5 MS. GARCAR: The owner's in-laws.  
 6 MRS. BABIC: Yes.  
 7 MS. MOORE: My husband is Mark Moore,  
 8 R L Moore Builders. He's been in the building  
 9 business forever in Concord. Born and raised in  
 10 Concord.  
 11 My brother, Marty Babic, also many years in  
 12 the construction and concrete business.  
 13 It was done properly. It was just -- we were  
 14 in dire straits. We put it up. My parents were  
 15 very sick, and we did what we had to do for our  
 16 parents. And I --  
 17 MRS. BABIC: It's a 20 by 30.  
 18 MS. MOORE: It's just a little one-bedroom  
 19 little lean-to off the back of the barn. It's  
 20 nothing, like, extravagant. It's just a little,  
 21 teeny apartment for them.  
 22 My dad, you know, passed away on April 13th.  
 23 MR. SWEENEY: Well, ma'am, we understand your  
 24 exigent -- I mean, we're sympathetic to your family  
 25 situation.

24

1 are coming here to talk about.  
 2 So can you give some clarification on a., c.,  
 3 and d., of how that application came?  
 4 MS. FREEMAN: Yeah, sure. I've been sworn in.  
 5 I've been sworn in. So I'm acting in my Zoning  
 6 Inspector capacity at this moment. So I can give  
 7 some background to how we got to today.  
 8 As stated previously, the barn was originally  
 9 approved as an agricultural use. A permit  
 10 application was submitted by Denise Babic on  
 11 April 4th, 2017, shortly before they owned the  
 12 property. I issued it as an exempt agricultural  
 13 building based on the fact that the application  
 14 indicated that wine, tractor storage, and animals  
 15 would be utilized in that facility.  
 16 So with any agricultural use, you know, we  
 17 issue that exemption, and they do not have to  
 18 conform with zoning. In this particular case,  
 19 the size of the building exceeded what would be  
 20 permitted if it was a non-agricultural use  
 21 building.  
 22 MS. GARCAR: Okay.  
 23 MS. FREEMAN: Fast forward to February of  
 24 2024, it was brought to my attention that some kind  
 25 of addition was placed onto this barn. I could see

25

1 it from I-90. I could see it from Hermitage Road.  
2 I sent Mr. Babic a letter on February 21st,  
3 2024, inquiring about the addition, to see what was  
4 going on, if it was related to the agricultural  
5 use.  
6 Mr. Babic subsequently called me and admitted  
7 that he had put a living area onto the back of the  
8 barn for his parents to reside in, and was very  
9 open to coming in and applying for whatever permits  
10 he thought were going to be required. And at that  
11 point, he did submit a zoning permit application,  
12 which you have in your packets here, which I  
13 reviewed in compliance with all of the R-1 district  
14 standards.  
15 And based on my review, I issued a denial.  
16 Which, as an addendum to that denial, I provided a  
17 letter to Mr. Babic outlining all of the detailed  
18 sections of the Resolution that it was not in  
19 noncompliance with. And subsequently, he filed  
20 the variance application for all four of those  
21 non-compliant sections, to keep the structure that  
22 is there now.  
23 And during that zoning permit application  
24 process, on the permit -- let's see here. I should  
25 have it here.

27

1 MR. GOLLING: And use.  
2 MS. FREEMAN: And not permitting the living  
3 quarters. And also the fact that this building now  
4 is larger than the living area of the existing  
5 single-family dwelling on the home, which is also a  
6 violation.  
7 MS. GARCAR: Okay. And then also looking at  
8 the numbers, I think one of you two made a  
9 statement of 600 square foot, not understanding  
10 where this big number came from.  
11 The big number came from, the original barn is  
12 1,920.  
13 MS. MOORE: Gotcha. Yeah.  
14 MS. GARCAR: You add your 600, you get the  
15 2,520, which is larger than the house.  
16 MR. ROWAN: So if I can ask a question on  
17 there.  
18 To summarize, it was an agriculture building  
19 of 1,900 square feet. An addition was added of  
20 about 600 square feet or so. So we're at 2,500  
21 square feet.  
22 So now, because it's no longer agriculture,  
23 it's considered a dwelling, which makes it a  
24 2,500-square foot dwelling?  
25 MR. GOLLING: It's bigger than the current one

26

1 MR. SWEENEY: Take your time.  
2 MS. FREEMAN: I'm looking for it. There's so  
3 many papers here. Bear with me here a second here.  
4 Okay, yeah.  
5 So if you look at the denied zoning permit  
6 application Number 0324-2732, his project was  
7 submitted. The plans that were filed with me  
8 included the barn plus the addition. And on the  
9 layout plan and after conversing with Mr. Babic, he  
10 admitted that the wine area was not there, nor the  
11 animals, the bedding area, and that he was -- and  
12 the side door that was initially shown on the  
13 layout plan for the original barn was never  
14 constructed, and indicated to me that at this time  
15 they didn't have any agricultural use at present,  
16 and they were using the barn for storage.  
17 So in my opinion, that was where the use of  
18 that building was no longer for agriculture. It's  
19 more of a storage building with the in-law suite.  
20 And that is the basis of basically my denial.  
21 MS. GARCAR: So I also think I made a  
22 statement earlier that said setbacks. And it seems  
23 like that is not a problem, and I misspoke. It is  
24 all in square footage, not setbacks.  
25 MS. FREEMAN: Yes. Square footage and use.

28

1 on the property.  
2 MR. ROWAN: Which is bigger than -- and that  
3 changes the lot -- it changes everything, because  
4 it's no longer agriculture. It's an accessory  
5 building, but then it's also now become a dwelling.  
6 MS. FREEMAN: With living quarters in there.  
7 MR. ROWAN: With living quarters, right.  
8 MS. GARCAR: That has made it become a  
9 dwelling.  
10 MR. ROWAN: And that's why --  
11 MS. MOORE: That's why the square footage was  
12 so much, that variance. I gotcha. Yeah.  
13 MR. GOLLING: So to check my understanding,  
14 Heather, if they had built the in-law suite not  
15 attached to the barn, but attached to the house,  
16 everything would be copasetic, more or less?  
17 MS. FREEMAN: Yes.  
18 MR. ROWAN: Pending approvals.  
19 MS. FREEMAN: Yes, pending upon, yeah,  
20 submitting the proper zoning permits, and building  
21 permits, and all of that.  
22 MR. GOLLING: Providing it's attached to the  
23 barn now, it changes the barn's status, because the  
24 barn is --  
25 MS. FREEMAN: And also based on the

29

1 information that the property owner, Mr. Babic,  
 2 provided.  
 3 MR. GOLLING: Right. It's no longer being  
 4 used for agriculture, although it is being used for  
 5 storage, and now it has the residential component  
 6 attached to it, the square footage then comes into  
 7 play because it no longer falls under the  
 8 agricultural exemption.  
 9 MS. FREEMAN: Exactly.  
 10 MR. GOLLING: Perfect.  
 11 MS. GARCAR: And did I also hear --  
 12 MR. GOLLING: Now I understand.  
 13 MS. GARCAR: -- there was a couple statements,  
 14 including today, of a dump truck -- what kind of  
 15 truck?  
 16 MRS. BABIC: There's, like, the dump truck  
 17 that was in there --  
 18 MS. GARCAR: A dump truck.  
 19 MRS. BABIC: -- and a Kubota. Two Kubotas.  
 20 MS. GARCAR: I apologize. What are Kubotas?  
 21 MR. FALKOWSKI: It's a tractor.  
 22 MS. GARCAR: Thank you. Thank you.  
 23 MRS. BABIC: One is an excavator, and the  
 24 other one is like a yard utility vehicle --  
 25 MR. GOLLING: They're cool.

31

1 MS. MOORE: Yes. My -- separately. They have  
 2 their own --  
 3 MS. GARCAR: The construction company's  
 4 registered address is this seven acre lot. And  
 5 then this accessory -- this barn, whatever it is  
 6 right now, is currently storing some of the  
 7 construction business equipment?  
 8 MS. MOORE: There's two different businesses.  
 9 My husband is R L -- was R L Moore Builders in  
 10 Concord.  
 11 MS. GARCAR: Okay.  
 12 MS. MOORE: We don't live at that property.  
 13 MS. GARCAR: Okay.  
 14 MS. MOORE: My brother and my husband did the  
 15 project together with my dad.  
 16 MS. GARCAR: I'm asking about --  
 17 MRS. BABIC: About Marty's business?  
 18 MS. GARCAR: There is a construction business  
 19 that is registered at the seven acre property.  
 20 MRS. BABIC: Yeah.  
 21 MS. MOORE: Okay, that's his -- their  
 22 business. Okay, that's the address.  
 23 MS. GARCAR: Okay. That's what I mean by  
 24 that.  
 25 Some of that construction business vehicles --

30

1 MRS. BABIC: -- you know, that has a dump on  
 2 it.  
 3 MS. GARCAR: So that's more construction  
 4 equipment over farm equipment?  
 5 MR. GOLLING: It could be farm.  
 6 MS. GARCAR: It could be farm. Okay.  
 7 So there's also, I think I read in here -- and  
 8 please correct me if I read something wrong,  
 9 Heather, as well as you guys -- but Heather,  
 10 reading, there's some concerns that there is  
 11 construction business use storage in this building.  
 12 This barn is being used for the construction  
 13 business, storage of construction items.  
 14 MS. FREEMAN: I mean --  
 15 MS. GARCAR: Because you guys own a  
 16 construction company.  
 17 MS. MOORE: My husband, actually, was  
 18 R L Moore Builders from Concord. He oversaw -- did  
 19 all the drawings and everything. My brother is  
 20 also in construction. He does most of the  
 21 concrete, concrete construction. But he does do  
 22 construction. And between the two of them and my  
 23 dad, they built the addition.  
 24 MS. GARCAR: And this is a family-owned  
 25 business that is construction?

32

1 MRS. BABIC: What, the dump truck?  
 2 MS. GARCAR: Vehicles are being stored in the  
 3 barn; is that a correct statement?  
 4 MRS. BABIC: Sure.  
 5 MS. GARCAR: Okay.  
 6 MRS. BABIC: Yeah. If they're not on a job,  
 7 yeah, they're at home.  
 8 MS. GARCAR: Okay. Because I think that was  
 9 one of the variances that got brought up.  
 10 MRS. BABIC: Yeah. There's a work truck,  
 11 yeah. Then we have three other -- my son is at  
 12 home. So we have four other vehicles at home, too,  
 13 and a boat.  
 14 MS. GARCAR: Was there, Heather, something in  
 15 the staff report about construction business items  
 16 being in the barn?  
 17 MS. FREEMAN: There was a concern that there  
 18 could have been construction items stored in the  
 19 barn, yes. Because you can see them on the  
 20 property when you're driving by.  
 21 MRS. BABIC: No, you can't. They're up on a  
 22 hill.  
 23 MS. FREEMAN: You can see it on I-90 when  
 24 there's no leaves on the trees.  
 25 MRS. BABIC: I drive a school bus, and I don't



33

1 even see it when I drive by from Chardon --

2 MS. MOORE: Here nor there.

3 MRS. BABIC: -- so that's a stretch.

4 MR. SWEENEY: How did you get around the

5 water, sewer --

6 MRS. BABIC: I thought we were just talking

7 about --

8 MR. SWEENEY: Ma'am. Ma'am.

9 How did you get around the water, sewer, and

10 electric hookup? Didn't the county get involved

11 with that?

12 MRS. BABIC: No. He has an electrician.

13 MR. SWEENEY: Right. So he just basically --

14 MS. MOORE: It's a really --

15 MR. SWEENEY: So your husband connected with

16 county utilities --

17 MRS. BABIC: The barn.

18 MS. MOORE: There's a barn there.

19 MRS. BABIC: It's connected to the barn.

20 MS. MOORE: I have a picture if you'd like to

21 see it.

22 MS. GARCAR: Did the barn already have --

23 MR. SWEENEY: Okay, okay.

24 MS. GARCAR: -- electricity and water in it

25 when you originally built it in 2017?

35

1 pretty much do anything. Except we did not get

2 permits because we were in dire straits with my

3 parents being so ill. And we're just here to

4 hopefully take care of it.

5 MR. SWEENEY: Well, do you see what kind of

6 position it puts us in --

7 MS. MOORE: Yes.

8 MR. SWEENEY: -- as the board, to enforce

9 these zoning rules --

10 MS. MOORE: I understand.

11 MR. SWEENEY: -- when you just go ahead and do

12 whatever you want?

13 MS. MOORE: I understand. I apologize.

14 MR. SWEENEY: And then you come back to us

15 and it puts us in a very, very uncomfortable

16 position. Because I totally -- I sympathize with

17 the health issues in your family that you've spoken

18 about. And that's terrible, you know. But that's

19 not -- our job is to look at the violations and

20 rule on them.

21 And I'm not seeing any argument that was

22 presented to justify us allowing this to continue.

23 Do you see what I'm saying?

24 MS. GARCAR: Is the living quarters complete?

25 MS. MOORE: Yes.

34

1 MRS. BABIC: Yes.

2 MS. MOORE: I can show you a picture, if you'd

3 like.

4 MS. GARCAR: So you guys just tapped into

5 existing --

6 MS. MOORE: It's a lean-to off the back of the

7 barn.

8 MRS. BABIC: It has water, sewer.

9 MS. MOORE: There's a man door that goes into

10 the --

11 MR. SWEENEY: One at a time, please.

12 MRS. BABIC: The barn has water, sewer, and

13 gas. We just tapped into the barn.

14 MS. GARCAR: Okay.

15 MR. SWEENEY: Okay.

16 MS. GARCAR: So it was constructed in 20 --

17 water, gas, all the stuff needed.

18 MRS. BABIC: Yeah, Tim Smith and --

19 MS. GARCAR: Constructed it in 2017, with the

20 county.

21 MRS. BABIC: Yes.

22 MS. MOORE: It was all done properly, trust

23 me.

24 MRS. BABIC: It was all done.

25 MS. MOORE: The Moores and the Babics, we can

36

1 MRS. BABIC: They're in it. They've been in

2 it since --

3 MS. GARCAR: So they're living in it. Like

4 it's complete --

5 MS. MOORE: I want to say they got in there in

6 August. I don't have the exact date.

7 MR. SWEENEY: What is the tax status of this

8 seven acre property right now? Is it agriculture?

9 MRS. BABIC: No.

10 MR. SWEENEY: It's not.

11 MS. GARCAR: It's residential?

12 MR. SWEENEY: So if I looked it up right now,

13 it's going to give me a residential tax status?

14 MRS. BABIC: It's going to give a residential

15 tax status.

16 MR. GOLLING: It's R-1.

17 MR. SWEENEY: It's R-1. Okay. I mean, if

18 that's what you represent, that's fine.

19 MS. MOORE: I have to be honest with you,

20 reading all these variance sections, I am so -- I

21 don't really totally understand them.

22 MR. SWEENEY: Sure.

23 MS. MOORE: So --

24 MS. GARCAR: I'm going to ask a question.

25 MR. FALKOWSKI: I understand what you're

37

1 saying, Skip. Because with the knowledge of the  
 2 construction industry, too, that's also making me  
 3 struggle even more with this one.  
 4 MR. SWEENEY: Yeah. There's a lot of hurdles  
 5 you're asking us to either jump over or ignore.  
 6 MR. ROWAN: I'm sorry --  
 7 MS. GARCAR: I have a legal question.  
 8 If you could clarify, I'm almost seeing two  
 9 options, legally speaking. We approve it, let it  
 10 all go, or we deny it, and you force them to tear  
 11 down the barn and living quarters? What are -- are  
 12 there more options than that?  
 13 MS. MATHENEY: No, I mean, those are generally  
 14 options. You could also approve it with certain  
 15 conditions. You could give a timeline for how long  
 16 the living quarters can stay. There's other  
 17 options.  
 18 But yes, this is a use variance, and then  
 19 there's also area variances. So even though it's  
 20 convoluted and kind of confusing, but your options  
 21 are the same as any other case.  
 22 MS. GARCAR: Okay. And I think Skip had asked  
 23 this earlier. If the living quarters were attached  
 24 to the house, this would not be an issue?  
 25 MR. GOLLING: Probably not.

39

1 finding them. Go ahead.  
 2 MR. GOLLING: How is mom doing?  
 3 MRS. BABIC: She's doing okay.  
 4 Her mother also has Parkinson's. She's in  
 5 hospice. It's just been a disaster.  
 6 MS. GARCAR: Do you have a suggestion moving  
 7 forward? Do you believe there is more information  
 8 needed?  
 9 MS. MATHENEY: That's the role of the board.  
 10 If you guys feel there's more information needed,  
 11 you should definitely seek that. You could  
 12 postpone this.  
 13 MS. GARCAR: Okay.  
 14 MS. MATHENEY: I mean, Heather is here. She  
 15 definitely has a lot of information she provided,  
 16 great history.  
 17 MS. MOORE: That's what it looks like. That's  
 18 it.  
 19 That's the barn here. And Route 90 is over  
 20 here.  
 21 MR. GOLLING: Swipe over. Are there more?  
 22 MS. MOORE: Oh, yeah.  
 23 MS. MATHENEY: If you have additional  
 24 questions that can't be answered by the appellant,  
 25 feel free to move to postpone to bring them back.

38

1 MRS. BABIC: That wasn't an option.  
 2 MR. SWEENEY: You said it's a lean-to. It  
 3 sounds like it's kind of --  
 4 MRS. BABIC: It wasn't an option to put it on  
 5 the house, because Dad couldn't go up --  
 6 MS. MOORE: The steps.  
 7 MRS. BABIC: There would be too many ramps and  
 8 steps.  
 9 MR. SWEENEY: So is it insulated? What is it?  
 10 MS. MOORE: Yeah, it's a one-bedroom  
 11 apartment.  
 12 MRS. BABIC: You should come see it.  
 13 MS. MOORE: I can show you a picture, if you'd  
 14 like me to. I mean --  
 15 MR. GOLLING: I'm down. I'd like to see it.  
 16 MR. SWEENEY: If you have it.  
 17 MRS. BABIC: Actually, then he could pull in  
 18 the barn. We pull in the barn, and they can come  
 19 out the back door and get the cars out of the  
 20 weather.  
 21 MS. MOORE: Let me try and find the -- I'll  
 22 find it quick.  
 23 MS. GARCAR: As you're looking for pictures --  
 24 MS. MOORE: There's a lot of pictures here.  
 25 MS. MATHENEY: Let's wait until she's done

40

1 MS. MOORE: It's really just a --  
 2 MR. GOLLING: Do you have what it looks like  
 3 done?  
 4 MS. MOORE: I don't know. I'd have to really  
 5 search through my pictures.  
 6 MR. GOLLING: All right.  
 7 MS. MOORE: But that's my dad, supervising  
 8 that.  
 9 MS. GARCAR: So that would be something very  
 10 acceptable, of asking to postpone it until what  
 11 seems like the two husbands -- the construction  
 12 people that are potentially able to talk more about  
 13 it.  
 14 MR. FALKOWSKI: And you think that information  
 15 is necessary to make a decision?  
 16 MR. GOLLING: Do you guys want to see the  
 17 pictures of the lean-to? It's the construction  
 18 pictures, not the --  
 19 MR. SWEENEY: It doesn't matter to me.  
 20 MR. FALKOWSKI: I'm okay.  
 21 MR. GOLLING: I think we're good.  
 22 MR. SWEENEY: So Bridey, am I to assume that  
 23 if we deny the use variances, that the other  
 24 variances fall away?  
 25 MS. MATHENEY: I don't think so.

41

1 MR. SWEENEY: Okay.

2 MS. MATHENEY: Because you could still approve

3 the area variance on the square footage of the

4 accessory building.

5 MR. SWEENEY: Right, right. I see.

6 MS. MATHENEY: Right, I don't think it's in

7 the alternative. I think they're all separate.

8 MR. SWEENEY: Okay.

9 MS. MOORE: I'm just wondering, myself, if we

10 should have brought an attorney with us. Because I

11 don't really understand all the verbiage and all of

12 that. I thought we were going to come in here --

13 MR. SWEENEY: Well, as it stands --

14 MS. MOORE: I understand.

15 MR. SWEENEY: As it stands now, as it stands

16 now, the presentation that was given doesn't make

17 clear to me exactly why we should allow you to

18 continue doing something that no other resident

19 would be allowed to even start to do. Do you

20 follow what I'm saying?

21 MS. MOORE: Yeah.

22 MR. SWEENEY: In other words, what you're

23 doing is you're coming in here and you're asking --

24 I mean, with all due respect, you're asking for

25 forgiveness for something that you've already done.

43

1 MR. SWEENEY: Then both of them.

2 MS. GARCAR: Who filed the variances?

3 MS. MOORE: Hers.

4 MRS. BABIC: Me and Marty. Marty.

5 MS. GARCAR: It's the two of you, and both

6 husbands did it.

7 MRS. BABIC: Isn't that how it always is?

8 MS. MOORE: It was teamwork. They were, boom,

9 get it done.

10 MS. GARCAR: Who filed the variances?

11 MRS. BABIC: I think Marty did. Me and Marty.

12 MS. FREEMAN: Both Martin and Denise Babic's

13 names are on the application. It looks like,

14 accordingly to the auditor, just Martin Babic is

15 the actual property owner.

16 MS. GARCAR: Okay.

17 MR. SWEENEY: Do you understand --

18 MRS. BABIC: Actually, we just put it in a

19 trust.

20 MR. SWEENEY: Do you understand the options

21 you have here?

22 MS. MOORE: Well, I'm hoping we don't have to

23 tear it down.

24 MR. SWEENEY: Well, we're not even at that

25 point yet. Because my questions haven't been -- I

42

1 I wish your husband was here, because I would

2 have many questions for him regarding his knowledge

3 of what it is that you need to do before you do

4 things like you did, okay? And as a builder, he

5 would be number one on my list for a person who

6 should know these things. And it sounds to me like

7 he just didn't bother to do them.

8 MS. MOORE: Like I said --

9 MR. SWEENEY: I understand he had some time

10 constraints. I get it. But I just wish he were

11 here. And because he's not here, it may not -- it

12 may not answer my questions substantially enough

13 for me to grant these.

14 So again, if you want to table this --

15 Heather, do they still have the opportunity to do

16 that at this point?

17 MS. MATHENEY: Of course. And you can, also.

18 If you guys need more information, you certainly

19 are allowed to postpone it.

20 MR. SWEENEY: I would like to talk to your

21 husband.

22 MS. MOORE: My husband, or my brother?

23 MR. GOLLING: Whoever built it.

24 MR. SWEENEY: Whoever built it.

25 MS. MOORE: They both did.

44

1 can't even begin -- I would ask you, but I don't

2 know that you have the answers. No offense. So I

3 need the people who did this here.

4 MS. MOORE: Okay.

5 MR. SWEENEY: But, if you would like us to

6 move forward as is, we can do that. It's up to

7 you.

8 MR. ROWAN: Or we can table it, as well.

9 Which I think we should do.

10 MS. GARCAR: I was going to say, I --

11 MR. SWEENEY: Well, I don't know. Because

12 that doesn't mean he's going to show up next time.

13 They have to represent to us --

14 MS. MOORE: I just don't know if he's going to

15 give you any different answers than what we're

16 giving you. We're telling you the absolute truth

17 of what happened.

18 MRS. BABIC: I guess we have to get an

19 attorney. I don't know.

20 MS. MOORE: I just didn't think this would be

21 this difficult.

22 MRS. BABIC: We could just table it, then. I

23 mean, just talk to our attorney. I guess we have

24 to go a different route.

25 MS. MOORE: Do we have any hope here, or no?

45

1 MR. SWEENEY: I think that might be wise.

2 MRS. BABIC: Okay.

3 MR. SWEENEY: Just to give you the best

4 chance.

5 MRS. BABIC: Okay.

6 MS. GARCAR: To table until all parties are

7 able -- to table to the next meeting --

8 MR. ROWAN: The next meeting.

9 MS. GARCAR: -- for all parties to be present

10 to answer -- both parties that built it to be

11 present to answer the proper questions, is that

12 what --

13 MS. MOORE: That's what I'm saying. I just

14 don't think there's going to be any other answers.

15 MR. SWEENEY: Well, you need to represent to

16 us that you would like this tabled, meaning put on

17 hold, and that you also need to represent to us

18 that you're going to return with Martin, who is the

19 owner and co-applicant, and then the other

20 individual who helped build it.

21 Who is that?

22 MS. MOORE: My husband.

23 MR. SWEENEY: Okay. What's his name?

24 MS. MOORE: Mark Moore.

25 MR. SWEENEY: Okay. Can you do that?

47

1 month.

2 MR. ROWAN: So is that too long? Do we have a

3 limit on tabling?

4 MS. MATHENEY: If they're asking for the

5 postponement for another 60 days, I mean, you guys

6 can certainly approve that.

7 MR. SWEENEY: Okay.

8 MR. ROWAN: I guess the question is to you --

9 we need you to request to table it. And do you

10 need 30 days, and then come back and potentially

11 table it again?

12 MR. SWEENEY: Or 60 days.

13 MRS. BABIC: Sixty days would be perfect. We

14 already have it scheduled out (inaudible).

15 MS. GARCAR: Two months.

16 MR. SWEENEY: Okay.

17 MS. GARCAR: Given all of these variances that

18 are up here, Heather, with your Zoning Inspector

19 hat, do you have any suggestions of -- in 60 days,

20 do you think that -- I mean, obviously it's

21 everyone's right to ask for 60 days, and us to

22 approve or deny it. But do you have any

23 suggestions of something that should be on it, to

24 make sure this doesn't get dragged out for multiple

25 times, to get this taken care of in an appropriate

46

1 MRS. BABIC: Yeah.

2 MR. SWEENEY: Is that okay with you guys?

3 MS. MOORE: I'm hoping -- I was just going to

4 say, I was going to --

5 MR. SWEENEY: I don't see why they wouldn't

6 want to be here.

7 MRS. BABIC: They were called out of town on

8 business. Believe me, he would have been here.

9 MS. MOORE: So I'm just going to say,

10 depending on when the next meeting might be --

11 there's not going to be any other different answers

12 than what we're giving you. That's why I can't

13 understand --

14 MRS. BABIC: That's why you've got a bus

15 driver standing here, not --

16 MR. SWEENEY: Well, I don't know that they

17 would feel the same way if you told them what

18 happened tonight, okay?

19 MR. ROWAN: The next meeting is June 12th.

20 MRS. BABIC: What's after that one?

21 MR. ROWAN: That, I don't know. Is it the

22 second Wednesday?

23 MR. SWEENEY: The second Wednesday of every

24 month.

25 MRS. BABIC: The second Wednesday of every

48

1 manner?

2 MRS. BABIC: Oh, no, it will get taken care

3 of.

4 MS. FREEMAN: It's up to -- I don't know if

5 Bridey needs to chime in on this, but I think it's

6 in your board's discretion as far as what you think

7 is acceptable as far as a continuance.

8 MR. ROWAN: I would recommend --

9 MS. FREEMAN: I just want to point out that

10 the July meeting is July 10th. So that might be

11 more than 60 days.

12 MS. GARCAR: Yeah. I would say, two months,

13 not 60 days.

14 MR. ROWAN: Two meetings from now.

15 MS. GARCAR: Yeah, not 60 days.

16 MR. ROWAN: And I would say that at that

17 point, then we can reevaluate if things change.

18 You know, we can say, okay, we're going to vote

19 on this now or we're not going to table it. We can

20 vote to not table it. Or depending on situations,

21 we could table it again further. But I think for

22 now, we do two meetings from now.

23 MS. GARCAR: Okay.

24 MR. ROWAN: July meeting.

25 MR. GOLLING: What am I going to learn 60 days

49

1 from now that I don't already know right now?

2 MR. FALKOWSKI: See, that was my question.

3 What are the facts -- what are the facts that we're

4 going to learn?

5 MR. GOLLING: The facts are, forgiveness

6 versus permission. The place was built in an

7 emergency, to their point, without permits, without

8 permission. It's illegal. It can't be there.

9 The barn is bigger than the house, with the

10 addition now on it. The barn is no longer being

11 used as agricultural, and it's being used for

12 business storage.

13 Mom needs a place to live on the other hand,

14 right? And they're in dire straits.

15 So now we've got four things on our -- four

16 variances that are requested. I know everything I

17 need to know.

18 I mean, there's a lot of things that they did,

19 granted, in an emergency. But to that end, the

20 builder knows better.

21 MR. ROWAN: Can I ask -- and I don't know if

22 this is -- Heather, do you have anything to add

23 that we need to be aware of?

24 MS. FREEMAN: No.

25 MR. ROWAN: Okay.

51

1 there's no other questions --

2 MS. MOORE: Could I ask one question before

3 you --

4 MS. GARCAR: Yes.

5 MS. MOORE: -- give your answer?

6 So once you give your answer, yes, no, there's

7 no going back, to come back before you again?

8 MR. SWEENEY: I don't think so.

9 I mean, it's not our application, it's yours.

10 You have to decide.

11 MS. MOORE: I say we table it.

12 MRS. BABIC: No, I just want to be done with

13 it, Chris.

14 Just go ahead and vote. We'll handle it.

15 MS. MOORE: Okay. It's your property.

16 We just gave you the honest truth about

17 everything.

18 MRS. BABIC: Yeah.

19 MR. SWEENEY: I understand.

20 MS. GARCAR: Do we have any more questions for

21 the applicants?

22 MR. SWEENEY: No.

23 MR. GOLLING: I do not.

24 MR. ROWAN: I don't.

25 MS. GARCAR: Okay.

50

1 MR. GOLLING: I don't know that having the

2 builder here is going to teach me anything.

3 MR. SWEENEY: Well, that's not really the

4 point. The point is, do they want the opportunity

5 to table this for 60 days --

6 MS. GARCAR: Will we still have to vote on it,

7 and table it?

8 MR. SWEENEY: -- in order to supplement their

9 arguments and presentation?

10 MS. GARCAR: Even if they ask --

11 MR. SWEENEY: We can do that, or not.

12 MS. GARCAR: -- to table it, that doesn't mean

13 we grant the tabling, though.

14 MR. SWEENEY: Well, since I brought it up,

15 it's probably going to be granted.

16 MS. MOORE: Do you want to table it, and just

17 talk to the guys?

18 MRS. BABIC: I can't handle much more.

19 MS. MOORE: I know.

20 MRS. BABIC: Just make your ruling tonight.

21 That would be great. I really appreciate it.

22 MR. SWEENEY: All right. I'm sorry to add

23 confusion to this, and upset. I really am.

24 MRS. BABIC: No, that's not your problem.

25 MR. SWEENEY: All right. Well, then if

52

1 MR. SWEENEY: All right, thank you.

2 Is there anyone else here speaking for or

3 against these applications?

4 Anybody else speaking for or against the

5 applications?

6 All right. If not, we'll close the public

7 meeting.

8 All right, discussion.

9 Well, first, can I get a motion --

10 MS. GARCAR: I'll make a motion to approve all

11 four a., b., c., d. variances that are on the

12 agenda.

13 MR. SWEENEY: Second?

14 MR. GOLLING: You made a motion to what?

15 MS. GARCAR: I'm sorry.

16 MR. SWEENEY: Motion to approve.

17 MS. FREEMAN: Yes, Ms. Garcar, if you could at

18 least read off the variance application number in

19 full.

20 MS. MOORE: Can we just table it?

21 MR. SWEENEY: We just closed.

22 MR. GOLLING: We've already closed.

23 MS. GARCAR: You -- I apologize, Heather.

24 MS. FREEMAN: I was just going to say, when

25 you make your motion, to please read a little bit

53

1 more of what the agenda item is.

2 MS. GARCAR: Let me apologize. Let me go back

3 and read the number.

4 MR. SWEENEY: Bridey, so we just got a

5 request. So I'm going to reopen this.

6 Ma'am, could you approach the microphone? I'm

7 going to --

8 MS. MATHENEY: That's fine.

9 MS. MOORE: I think we should table it.

10 MR. SWEENEY: Okay.

11 MS. MOORE: I think there's too much emotions

12 going on here.

13 MR. SWEENEY: I understand.

14 MR. FALKOWSKI: But do we need the property

15 owner to make the request?

16 MR. SWEENEY: Well, ma'am --

17 MS. GARCAR: But also, do we need to reopen

18 the public hearing?

19 MR. SWEENEY: I just did.

20 MRS. BABIC: Can I table it, please?

21 MS. MOORE: Her mother also is sick, not too

22 good.

23 MR. SWEENEY: Okay.

24 MS. MOORE: It's a big mess in our family.

25 MR. SWEENEY: I know. But please understand

55

1 MR. ROWAN: You can second. I made the

2 motion.

3 MR. SWEENEY: All right, second.

4 All right, let's take a vote.

5 Heather.

6 MS. FREEMAN: Okay. Mr. Sweeney.

7 MR. SWEENEY: Yes.

8 MS. FREEMAN: Mr. Golling.

9 MR. GOLLING: What are we voting on?

10 MR. ROWAN: To table.

11 MR. SWEENEY: In favor of tabling or not.

12 MR. GOLLING: No.

13 MR. SWEENEY: Okay.

14 MS. FREEMAN: Ms. Garcar.

15 MS. GARCAR: No.

16 MS. FREEMAN: Mr. Rowan.

17 MR. ROWAN: Yes.

18 MS. FREEMAN: Mr. Falkowski.

19 MR. FALKOWSKI: No.

20 MR. SWEENEY: All right. So that motion does

21 not pass.

22 Now, do I have a motion to approve the use

23 variances and variances applied for, a. through d.?

24 MR. ROWAN: So we move to approve, but we're

25 going to discuss and then vote, correct?

54

1 our situation here.

2 MS. MOORE: I do. I do. I'm sorry.

3 MR. SWEENEY: So there has been a request to

4 table this matter for two months.

5 MR. ROWAN: To the second -- to the meeting in

6 July.

7 MR. SWEENEY: To the July meeting. So that

8 will be continued.

9 MS. GARCAR: We have to vote on the tabling.

10 MS. FREEMAN: You have to make a motion and a

11 second, and a vote --

12 MS. GARCAR: They requested it --

13 MS. FREEMAN: -- whether or not you want to

14 table it.

15 MS. GARCAR: -- so you still have to make a

16 motion to table.

17 MR. SWEENEY: So the motion is to table the

18 matter until the July meeting.

19 MR. ROWAN: Second.

20 MR. SWEENEY: Well, do I have a -- do I have a

21 motion for that?

22 MR. ROWAN: I move to table the matter to the

23 July meeting.

24 MR. SWEENEY: Second? Somebody give me a

25 second.

56

1 MR. SWEENEY: Correct.

2 MS. GARCAR: I will make a motion --

3 MS. MATHENEY: Before you make a motion for

4 that, can you separate at least the use variances

5 versus the area variances, since the discussion

6 will be different?

7 MR. SWEENEY: Okay, let's do that.

8 So do I have a motion to approve the two use

9 variances, a. and b.?

10 MS. GARCAR: I will make a motion to approve

11 Variance Application 2024-152, by Martin and Denise

12 Babic, for the property at 7660 Hermitage Road.

13 MR. SWEENEY: Right, a. and b.

14 MS. GARCAR: Item a. and b.

15 MR. SWEENEY: Yeah. Do I have a motion?

16 MS. GARCAR: So the use variance -- I'm making

17 a motion. So the use variance --

18 MR. SWEENEY: All right. Do I have a second?

19 MR. GOLLING: Second.

20 MR. SWEENEY: All right, discussion.

21 MR. ROWAN: So I'm going to touch base on the

22 allowing -- to allow an accessory building to be

23 used as living quarters as part -- you know, for

24 a. and b., that's what I'm focusing on first.

25 I know, Bridey, you said we could put

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1 conditions on our approval. Could we do something  
 2 like, you know, a two-year, and then they'd have to  
 3 come back? Or let's say their mother unfortunately  
 4 passes away. After that, then at that point it  
 5 would have to be torn down. Can we put conditions  
 6 like that on?  
 7 MS. MATHENEY: You can. However --  
 8 MR. ROWAN: Okay.  
 9 MS. MATHENEY: -- the applicant has to  
 10 agree --  
 11 MR. ROWAN: So we would have to ask, and  
 12 then --  
 13 MS. MATHENEY: -- to those conditions.  
 14 MR. ROWAN: Okay.  
 15 MS. GARCAR: Okay, so we can discuss this.  
 16 MR. ROWAN: We can discuss it.  
 17 MS. GARCAR: And potentially, to an extent,  
 18 agree and then reopen up public forum to ask to  
 19 make sure the applicant agrees?  
 20 MS. MATHENEY: You don't have to worry about  
 21 the format, as far as the procedure of the open and  
 22 the close with the public hearing. You can simply  
 23 ask.  
 24 MR. ROWAN: Okay.  
 25 MS. GARCAR: Okay. So we can discuss it, and

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1 situation.  
 2 MR. ROWAN: Right.  
 3 MS. GARCAR: Two different situations we're  
 4 addressing, correct?  
 5 MR. ROWAN: I think in order to accommodate  
 6 the living quarters, we have to approve everything,  
 7 with conditions. Because we can't tear the barn  
 8 down and leave the living quarters.  
 9 MS. GARCAR: No, but you can ask the barn to  
 10 be put back up to the original reason they were  
 11 allowed to have that large of a barn. You can ask  
 12 that to be put --  
 13 MR. ROWAN: Right. So that would be --  
 14 MS. GARCAR: -- like not having business items  
 15 in the barn and operating -- storing business items  
 16 in the barn while mother is living there.  
 17 MS. MATHENEY: I'm sorry, I didn't follow  
 18 that. I apologize.  
 19 MS. GARCAR: Sorry.  
 20 MR. ROWAN: I think -- go ahead.  
 21 MS. GARCAR: We can ask if the living  
 22 quarters, with conditional uses or --  
 23 MS. MATHENEY: Conditional approvals.  
 24 MS. GARCAR: -- conditional approvals stays.  
 25 We can ask the barn side of it be brought back up

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1 then ask if they would agree or not?  
 2 MS. MATHENEY: That's correct.  
 3 MR. ROWAN: And so in that vein, if we were to  
 4 go down that route, I think one other thing I would  
 5 look at is, also making sure that any necessary  
 6 county approvals are obtained.  
 7 MS. MATHENEY: That's correct, yes. And  
 8 again, they'd have to agree to that. But yes.  
 9 MR. ROWAN: Which if they agree to, I think it  
 10 gives compassion to this, but also says that, at  
 11 some point it has to be torn down. And at this  
 12 point, I'm only looking at the accessory -- for the  
 13 dwelling side of it --  
 14 MR. GOLLING: Not the whole barn.  
 15 MR. ROWAN: -- just right now. Not the whole  
 16 barn. That would be a whole other thing to look  
 17 at, at that time.  
 18 MR. GOLLING: So the idea is, mom can live out  
 19 her days, and then when mom is no longer there,  
 20 then we require to be back -- brought back into  
 21 full compliance with this.  
 22 MS. GARCAR: For the living quarters.  
 23 MR. GOLLING: For the living quarters, yeah.  
 24 MR. ROWAN: At a minimum.  
 25 MS. GARCAR: We still have to address the barn

60

1 to use correctly. It just so happens these two  
 2 buildings are connected.  
 3 MS. MATHENEY: Okay. So the barn usage  
 4 originally was for agricultural, so it's exempt.  
 5 Are you saying to bring it back to  
 6 agricultural use, or are you saying that --  
 7 MS. GARCAR: Yes.  
 8 MS. MATHENEY: -- it has to now comply with an  
 9 accessory structure, as far as square footage?  
 10 MS. GARCAR: I'm saying, bring it back up to  
 11 agriculture use of not -- of proving that  
 12 construction business vehicles are not being stored  
 13 in there, and it is being used for agriculture use,  
 14 then the living quarters stays as living quarters  
 15 until not needed. Like separate it, almost like  
 16 two different buildings.  
 17 MS. MATHENEY: I see what you're saying. You  
 18 can do that.  
 19 MR. GOLLING: Once the living quarters is  
 20 gone, doesn't the barn revert back to just a barn?  
 21 MS. GARCAR: Because then if we -- even though  
 22 technically there's one building.  
 23 MR. GOLLING: Yeah.  
 24 MS. GARCAR: When you look aerial, it is one  
 25 building.

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1 MR. GOLLING: Right.

2 MS. GARCAR: For this purpose, we split it up

3 in two separate buildings. We have the living

4 quarters and the barn. If the barn is brought back

5 up to code and being used as agricultural purposes,

6 the square footage is not an issue. There's a lot

7 of things that are no longer issues.

8 MR. ROWAN: This is after. Like if they were

9 to agree to our conditions and tear down --

10 MS. GARCAR: Agree to our conditions that the

11 barn is used for agriculture uses only, and prove

12 that it's only being used for agriculture uses,

13 which is what made this all exempt in the first

14 place, then the living quarters can stay until

15 mother no longer -- mother-in-law no longer needs

16 it.

17 MR. FALKOWSKI: Isn't the issue with that,

18 they're not using it for agricultural use, though?

19 MS. GARCAR: Half the barn is not being used

20 for agriculture use, correct. So if they can prove

21 that that barn is being used for agriculture use

22 and get the construction stuff out, then the living

23 quarters, until mom. Then the barn doesn't need to

24 be torn down. If you show that you're using it for

25 agriculture, then the barn doesn't need to be torn

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1 reading the staff report, and one of the concerns

2 was the fact that the barn seemed to not be being

3 used --

4 MR. GOLLING: As agricultural.

5 MS. GARCAR: -- as agricultural. So if we fix

6 the barn as agricultural, we can have a conditional

7 for Part A, which is the living quarters, with a

8 timeline.

9 MR. GOLLING: All right. So as you know, I

10 like to talk things out.

11 MS. GARCAR: Uh-huh.

12 MR. GOLLING: Much for me, sometimes for you

13 guys, too, so we can all understand this.

14 So we make sure that the barn is being used as

15 a barn and not to store construction equipment.

16 MS. GARCAR: For the business on the property.

17 MR. GOLLING: For the business on the

18 property, right.

19 MS. GARCAR: That's receiving mail on the

20 property.

21 MR. GOLLING: They can put tractors, they can

22 have Kubotas in it, anything that works the land

23 that's there.

24 While that is straight, mom has 600 square

25 feet of her own little place, treading water, until

62

1 down. The square footage doesn't matter.

2 MR. ROWAN: We're not talking about tearing

3 the barn down and leaving the dwelling. We're

4 talking about -- whatever conditions we put on,

5 it's temporary.

6 MS. GARCAR: Uh-huh.

7 MR. ROWAN: Once that condition is met, then

8 at a minimum, the living quarters would have to be

9 torn down, and then we would have to -- then it

10 would be reevaluated as, is this an agricultural

11 building, and if it is, then we're good. If it's

12 not, they need to come back and get the additional

13 variances for the square footage, and we can make

14 that all part of the condition, is that when that

15 time comes, and if we need to -- I don't know,

16 Bridey, if we say, you know, every two years, we're

17 going to check. I don't know how that process

18 works with this condition. Because we don't want

19 to say, you know -- we want to make sure that it's

20 followed through.

21 MS. MATHENEY: Sure. Of course. You can do

22 that, as well. Periodic review, inspection by the

23 Zoning Inspector in a certain amount of time.

24 MR. ROWAN: Yeah.

25 MS. GARCAR: I think my basis here, and with

64

1 the time comes. When that happens, the 600 square

2 feet shall no longer exist.

3 MS. GARCAR: No longer exist, or just not an

4 apartment. I mean --

5 MR. GOLLING: That's too big. It's gotta go.

6 MS. GARCAR: Completely gotta go.

7 MR. GOLLING: The 600 square feet has to go.

8 But the condition is, mom can stay there until mom

9 doesn't need to stay there anymore.

10 Does that make sense?

11 MS. GARCAR: It does. But countering back to

12 that, because it's being used as agricultural,

13 there is no limit of square footage.

14 MR. GOLLING: But it's not being used as

15 agricultural.

16 MS. GARCAR: Technically, when we say it can

17 no longer be a living section, they can just knock

18 out that one wall and just add that blank 600

19 square foot addition to the barn, though. We're

20 not saying, like, the outside structure has to be

21 done, as long as all of it becomes agricultural.

22 MR. FALKOWSKI: But I don't think there's a

23 counter for that, though.

24 MS. GARCAR: That would be up to them when

25 they come back and mom is not using the facilities.



65

1 MR. GOLLING: Right.

2 MS. GARCAR: Whether they completely tear

3 down, or they take that 600 and make it

4 agricultural, that's up to them.

5 MR. GOLLING: Given the fact we're dealing

6 with the forgiveness versus permission thing, I

7 would want to revert it. That's my feeling on it.

8 After mom is done with it -- I think it's fair

9 that mom should have the benefit of staying where

10 she is until her days. Glory days, right? She can

11 stay there as long as she needs.

12 When mom no longer needs it, gone, put it

13 back, because forgiveness versus permission.

14 There's a lot of things we're being asked to deal

15 with here.

16 MS. GARCAR: Uh-huh.

17 MR. GOLLING: And I think that we should

18 approach this with a little bit of compassion and

19 empathy, which I think we are, but also knowing

20 that the zoning code exists for a reason, and that

21 we're just -- we just can't shack stuff together

22 and pray no one sees it.

23 MS. GARCAR: I completely agree with that

24 statement. And I do believe that is -- as of right

25 now with our discussion, the main thing is

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1 let's say, a yearly check-in. After that, let's

2 say at one point, okay, now we need to revert back,

3 we tear -- the dwelling has to be torn down, and if

4 it's not being used for agriculture -- if it's

5 being used for agriculture, you're fine, it's torn

6 down, we're done, assuming all zoning regulations

7 are met for that use. If it's not being used for

8 agriculture, then they would have to come back in

9 for that variance.

10 And so I guess the question is, if we're

11 approving it with these conditions, we're not

12 actually approving anything that says, like, okay,

13 if you tear it down, this is still approved. These

14 approvals have like an expiration date.

15 MS. MATHENEY: Correct.

16 MR. ROWAN: Does that make sense to everybody?

17 MS. GARCAR: It does. But I do have a legal

18 question, or a Heather question, I don't know.

19 Is it possible, within what we are able to do,

20 to do an inspection to make sure that it's

21 agriculture use?

22 MS. MATHENEY: Absolutely.

23 MS. GARCAR: Yes.

24 MS. MATHENEY: Absolutely.

25 MS. GARCAR: Okay. I just want to make sure

66

1 putting -- whatever it is -- the 1,900 square foot

2 barn back into agriculture use and not using it as

3 a business storage.

4 MR. GOLLING: Right.

5 MR. ROWAN: But again, if they chose to not go

6 back to agricultural use, they would have to come

7 back and get new variances.

8 Because what we're doing right now, we're

9 essentially approving it on a temporary basis, for

10 the mom to be able to use it until she no longer

11 needs it. After that point, everything is back on

12 the table. It has to be torn down, it has to be

13 reapproved if they want to use it for something

14 other than -- I mean, that's what we're putting in

15 the condition, is that that --

16 MS. GARCAR: Well, they would switch the 1,900

17 to agricultural use only, and prove to the Zoning

18 Inspector that it is only agricultural use in the

19 barn.

20 MR. ROWAN: Right, right. At that point, they

21 wouldn't have to do anything.

22 MS. GARCAR: Right. And so that 1,920 stays

23 forever. There's no variances needed.

24 MR. ROWAN: At the end -- we can say in here

25 that the Zoning Inspector, there's going to be,

68

1 we're not approving something that Concord cannot

2 do. Okay.

3 MR. ROWAN: So I'm going to ask a question,

4 then. Is there any more discussion? Because what

5 I'd like to do is -- I've been kind of taking notes

6 on what the conditions are, and maybe I'll read

7 these back and we'll get them worded how we would

8 like them, ask the applicant if they agree to them,

9 and then we can move forward.

10 Does that work for everybody?

11 MS. GARCAR: Yes. I want to make sure legal

12 is agreeing with the way we phrase it --

13 MR. ROWAN: Exactly. Yeah, agreed.

14 MS. GARCAR: -- and it's done correctly. Yes.

15 MR. ROWAN: So what I have so far is, the

16 first condition would be getting county permits,

17 getting any necessary county permits that aren't

18 there; a yearly check-in with the Zoning Inspector

19 so that -- you know, Heather will check yearly, is

20 it still being used, if not, then everything kicks

21 in to tear it down; the expiration is when your

22 mother no longer uses it. And I assume we will

23 want to get her name on the record, as who that is.

24 And then once the dwelling is torn down, it

25 reverts back to agricultural use, which meets the

69

1 original application. If it's not being used for  
 2 agriculture, then all of these variances would have  
 3 to be filed.  
 4 MR. FALKOWSKI: When you say, dwelling, you  
 5 mean the living quarters --  
 6 MR. ROWAN: The living quarters.  
 7 MS. GARCAR: The 600.  
 8 MR. FALKOWSKI: -- on the accessory?  
 9 Sorry, I just want to --  
 10 MR. ROWAN: No, no. That's good.  
 11 MR. GOLLING: I get the permits thing, but  
 12 that's not our bag. I mean, we can't require them  
 13 to get permits.  
 14 MR. ROWAN: Can we require them to get county  
 15 permits?  
 16 MR. GOLLING: We can?  
 17 MS. MATHENEY: You can.  
 18 MR. GOLLING: Okay.  
 19 MS. GARCAR: Okay. So just to clarify, phrase  
 20 it a little different. Mom can live there. County  
 21 permits have to be pulled. I'm making sure that  
 22 all this stuff -- like we can ask for this.  
 23 County permits can be pulled. Barn goes back  
 24 to agriculture use. So we would have to figure  
 25 out, in the next 30 days, prove that it's

71

1 think. It would tie it in --  
 2 MR. GOLLING: The living quarters have to be  
 3 removed, and that's when you would --  
 4 MR. FALKOWSKI: -- to the use of accessory  
 5 building, is it for agriculture, or is it for  
 6 personal, which I guess kind of would be the same.  
 7 MR. GOLLING: I thought everything would just  
 8 tread water until mom doesn't need it, and then  
 9 it's hammer time.  
 10 Until then -- I mean, right now, it's just --  
 11 I think the compassionate thing is to let mom stay  
 12 there. But when mom doesn't need to stay there,  
 13 then the rest of this has got to be strict rules,  
 14 brought back in.  
 15 MS. GARCAR: So you're saying there's no  
 16 concern for currently operating a business in the  
 17 barn?  
 18 MR. GOLLING: I mean, is the guy parking his  
 19 construction truck in there --  
 20 MS. GARCAR: Business, I say that loosely.  
 21 MR. GOLLING: -- I don't know. Maybe. I  
 22 don't know.  
 23 But is that going to change the fact that mom  
 24 needs a place to live right now, temporarily? No.  
 25 MS. GARCAR: Okay.

70

1 agricultural use? Probably.  
 2 MR. GOLLING: That would be the Zoning  
 3 Inspector inspecting at her leisure. So that would  
 4 be up to her, when she inspects.  
 5 MS. GARCAR: I don't know if an inspection  
 6 can -- 30, 60 days, whatever.  
 7 MR. GOLLING: Whenever she wants.  
 8 MR. ROWAN: Do you have a preference on any?  
 9 MS. FREEMAN: I'm totally lost on what you're  
 10 talking about, me going and inspecting, to be  
 11 honest.  
 12 MR. ROWAN: I think what we're looking for is  
 13 that we would need to check in with them to say,  
 14 like, is this still being used? How often would we  
 15 want to check in? Six months, a year?  
 16 MS. GARCAR: I think just a one-time proving,  
 17 hey, this is agricultural, let us come in to show  
 18 that this barn is being used as agricultural use,  
 19 and not being used as a business property, then mom  
 20 can stay there.  
 21 MR. FALKOWSKI: That would probably tie in to  
 22 the inspection of the living quarters being  
 23 removed --  
 24 MR. GOLLING: Right.  
 25 MR. FALKOWSKI: -- at some point, I would

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1 MR. GOLLING: I mean -- again, I wish he were  
 2 here so we could address this with him, too. But  
 3 we've got the ladies here who are equally as --  
 4 MS. GARCAR: Qualified.  
 5 MR. GOLLING: -- able to convey the message  
 6 that you can't use the private lot for construction  
 7 stuff. The barn has got to stay for the Kubota and  
 8 hay. Maybe some goats. Who knows? I'm pretty  
 9 adept at chickens, if you were here at the last  
 10 meeting.  
 11 And then mom stays there until mom is gone.  
 12 Then, when that happens, we get notified. We  
 13 readdress the variances here, and we have to bring  
 14 those into compliance. That was my thinking on  
 15 this.  
 16 MS. GARCAR: That seems more simple than what  
 17 I was expressing. Sorry.  
 18 MR. SWEENEY: I think you guys, number one,  
 19 need to make a motion, and you need to state your  
 20 terms.  
 21 MR. ROWAN: Right. I agree.  
 22 Well, we have to make sure that the applicant  
 23 agrees to it first.  
 24 MR. SWEENEY: Go ahead and do that.  
 25 But I'm very concerned about the precedent --

1 see, when I look at this, when I look at the staff  
 2 report, when I look at the analysis of the  
 3 violations that are asserted here -- violations,  
 4 plural -- nowhere in the standards of review does  
 5 it say, oh, if there is a sympathetic plea that is  
 6 made by the family, then you may alter your  
 7 application of the standards and do whatever you  
 8 want to do, okay?  
 9 I understand the situation. I get it. I'm as  
 10 compassionate as the next guy. But I'm concerned  
 11 that because we're doing this, that it's going to  
 12 set a precedent, that if someone else comes in here  
 13 and does -- well, first of all, if someone else  
 14 does something without asking us, and comes in and  
 15 asks for forgiveness, all they're going to have to  
 16 do is say, well, you know what? My aunt was ill,  
 17 and I had to make that addition five feet from the  
 18 setback instead of 50 feet, I had to do that.  
 19 That's a dangerous precedent.  
 20 MR. ROWAN: What's the point of the board if  
 21 we don't look at things on a case by case basis?  
 22 MR. SWEENEY: Well, we are looking at things  
 23 on a case by case.  
 24 MR. ROWAN: No, I'm saying, though --  
 25 MR. SWEENEY: But the only reason I'm --

1 MR. ROWAN: We just want to know if the tenant  
 2 is still in the -- not dwelling -- the living  
 3 quarters.  
 4 MS. MATHENEY: Correct.  
 5 MS. GARCAR: I'm just going to make a very --  
 6 MR. ROWAN: So how are we supposed to --  
 7 MS. GARCAR: -- blunt statement here.  
 8 From my understanding, she's staying there  
 9 until she dies.  
 10 MR. ROWAN: That's what we said. But is that  
 11 ten years from now? Do we need to reevaluate?  
 12 Because, you know -- I guess we're just giving  
 13 it -- it's incumbent on them telling us, or us  
 14 checking records. This way, there's a constant,  
 15 like, we're going to make sure this is done, and  
 16 then the follow-up is relatively quickly, as  
 17 opposed to it taking years for us to figure it out.  
 18 And I guess I will defer.  
 19 Heather, how often do you want to check? Or  
 20 do you want to check?  
 21 MS. FREEMAN: I mean, I think I would put it  
 22 on -- I mean, if you were going to do something  
 23 related to the time where they don't need it  
 24 anymore, maybe within a certain amount of time of  
 25 that person passing, that they shall notify the

1 MR. ROWAN: -- but if everybody followed the  
 2 rules, we wouldn't need a board.  
 3 MR. SWEENEY: But the only reason I see that  
 4 you guys are moved to doing this is because of a  
 5 sympathetic plea. There's been no -- this is why I  
 6 wanted it to be tabled, so that it could come in,  
 7 and there could be a cogent argument made as to why  
 8 we should grant the variance, in addition to maybe  
 9 a sympathetic plea. But that wasn't done, so I'm  
 10 concerned about it.  
 11 MR. ROWAN: I don't think it changes anything.  
 12 MR. SWEENEY: All right. Well, then make your  
 13 motion.  
 14 MR. ROWAN: All right.  
 15 MR. SWEENEY: Make the motion.  
 16 MR. ROWAN: Then I will ask the applicant, do  
 17 you agree to the conditions of, in order for us to  
 18 pass these variances on a temporary -- essentially  
 19 a temporary basis, that you will get county  
 20 permits; there will be a check-in with the Zoning  
 21 Inspector every --  
 22 MS. GARCAR: I think we need to discuss the  
 23 check-in with the Zoning Inspector. Because I  
 24 think there's some confusion of how often, and what  
 25 they're inspecting.

1 township officially of that, and come into  
 2 compliance with the removal of the dwelling unit  
 3 completely, that area of the building, if that's  
 4 what you want to do, within a certain amount of  
 5 days of that event happening.  
 6 MR. ROWAN: Okay. That's fair.  
 7 MS. FREEMAN: It really needs to be tight, and  
 8 like very clear, so everyone understands what  
 9 you're asking.  
 10 MR. FALKOWSKI: 120 days?  
 11 MR. ROWAN: I'm fine with 90 days.  
 12 MS. FREEMAN: But my other concern would be,  
 13 you know, what if the property sells?  
 14 MS. GARCAR: This is not a grandfathered in  
 15 situation.  
 16 MR. ROWAN: If the property sells, then I  
 17 think we say that --  
 18 MS. FREEMAN: It still applies to future  
 19 owners?  
 20 MS. GARCAR: No, because it would be applied  
 21 to just one person.  
 22 MR. ROWAN: We're putting a condition on  
 23 there.  
 24 MS. MATHENEY: Right.  
 25 MS. GARCAR: It's a condition for one singular

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1 person.

2 MS. MATHENEY: But you would have to ask the

3 property owner to agree to that. In other words,

4 that it does not carry with the land if, in fact,

5 it gets sold or transferred.

6 MR. ROWAN: All right. So get county permits;

7 90 days after tenant is no longer there, notify the

8 township zoning, at which point they would have to

9 tear down the --

10 MS. GARCAR: Six hundred square foot.

11 MR. ROWAN: -- living quarters.

12 Do we want to put a time limit on that?

13 Within another -- I know this is getting

14 complicated. But I want to make sure --

15 MS. GARCAR: It is very complicated.

16 MR. ROWAN: -- that we get everything in here.

17 MS. FREEMAN: What if you just say, 90 days

18 within the passing, that all of it has to be done?

19 MR. ROWAN: Okay. That's fair.

20 MS. GARCAR: Yeah.

21 MR. FALKOWSKI: Yeah.

22 MS. GARCAR: It has to be taken care of within

23 90 days --

24 MS. FREEMAN: Ninety days of passing.

25 MS. GARCAR: -- of passing. This is for one

79

1 permits?

2 MR. ROWAN: We don't know that they have the

3 county permits for electrical, occupancy, things

4 like that. I mean, it's another level they have to

5 go through to get the approvals. Then it's up to

6 the county at that point.

7 MS. MATHENEY: I mean, keep in mind, these are

8 living quarters, right? Without permits -- I mean,

9 keep in mind how -- something catastrophic could

10 happen.

11 And again, I know that your husband is a

12 builder. I'm sure he did a fine job. That's not

13 the point. The point is that it could be liability

14 on the township and the county if these permits

15 have not been pulled.

16 MS. GARCAR: Okay.

17 MS. MATHENEY: So that is why there is that

18 concern. So to have a condition, at least go

19 through the process, I think is a very important

20 factor, if you're at all looking for my opinion.

21 MS. GARCAR: Okay. Is that something we can

22 ask, that they pull the permits and show -- pull

23 permits, and obviously bring back, show it to us

24 30 days, that the permits were pulled, and this and

25 that?

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1 particular person. And it is not connected to a

2 grandfathered in of the property. This is for one

3 person who is currently living there.

4 MR. GOLLING: Okay. Right.

5 MS. GARCAR: This is not grandfathered in on

6 the property at all.

7 MR. ROWAN: So let me go -- all right.

8 MS. GARCAR: This is an agricultural building.

9 MR. ROWAN: So we're going to say, get county

10 permits; 90 days after their mother's passing --

11 MS. MATHENEY: Or she no longer lives there.

12 MR. ROWAN: -- or she no longer lives there,

13 it has to be -- the living quarters have to be torn

14 down, and the building has to be reverted to

15 agriculture. Otherwise, everything is back on the

16 table. So all the permits have to be -- all the

17 variances would have to be reapplied for. It does

18 not carry with the property if the property is

19 sold.

20 Anything else?

21 MS. GARCAR: I'm going to ask a question. The

22 permits with the county, the fact that the building

23 already had water, and sewer, and all that stuff in

24 2017 when it was built, and they just tapped into

25 it, what is the purpose of asking for county

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1 MS. MATHENEY: You can ask for that. Sure.

2 MS. GARCAR: Okay.

3 MS. MATHENEY: I mean, that was one of the

4 conditions. It's just --

5 MS. GARCAR: No, but just to make sure the

6 permits are pulled within a timely manner, and it's

7 not just sat on for the next six months.

8 MS. MATHENEY: Yeah. You could certainly add

9 a --

10 MS. GARCAR: Okay. So permits be pulled in

11 the next --

12 MR. ROWAN: Yeah, let's say, come into --

13 start the process of coming into compliance with

14 the county within 30 days.

15 MR. GOLLING: Okay.

16 MR. ROWAN: I think that should have a quicker

17 timetable.

18 I think the official record should also state

19 the name of the tenant.

20 MR. GOLLING: I agree.

21 MS. FREEMAN: And can I clarify?

22 MR. GOLLING: Yes.

23 MS. GARCAR: Yes.

24 MS. FREEMAN: Not only getting the permits,

25 but following through with the inspections and

81

1 getting final approvals from --

2 MS. GARCAR: Yes. So as he phrased it, not

3 just pull the permits, but start the --

4 MS. FREEMAN: But actually get all the

5 appropriate approvals, as well.

6 MS. GARCAR: Yes.

7 What was the verbiage you used?

8 MR. ROWAN: Then should there be something

9 about coming into compliance within X number of

10 days, or is that too structured?

11 MR. GOLLING: That would be up to the county.

12 MS. GARCAR: The county could take longer than

13 what we say. And that's not fair to them.

14 MS. FREEMAN: You could throw out a time

15 frame. I don't know.

16 MR. ROWAN: Six months, they have to be in

17 compliance with the county?

18 MS. FREEMAN: Provide evidence to the township

19 within a certain amount of time, whatever you

20 say --

21 MS. GARCAR: That they start the process.

22 MS. FREEMAN: -- six months, that they have

23 all the proper approvals from all the county

24 agencies.

25 MS. GARCAR: Okay.

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1 the barn put back into agricultural use. If it's

2 not agricultural use, it will -- all required

3 zoning permits will have to be reapplied for.

4 Are we okay with that?

5 Okay. So I'm going to ask you, if you want to

6 stand up and come up here so that we can get it on

7 the record.

8 So what is your mother's name?

9 MRS. BABIC: Susan Babic.

10 MS. MOORE: My mom is Susan Babic.

11 MR. ROWAN: Susan Babic.

12 MS. GARCAR: And Susan Babic is the one

13 currently living in the 600 square foot?

14 MS. MOORE: Yes.

15 MS. GARCAR: And solely Susan Babic?

16 MS. MOORE: Yes.

17 MR. ROWAN: So do you agree with the

18 conditions, that you will get a county permit;

19 inspections and approvals within 30 days for the

20 property?

21 MS. FREEMAN: Can you clarify that? For the

22 entire building?

23 MS. GARCAR: The living quarters, right?

24 MR. GOLLING: Yeah, I would think for the

25 addition that wasn't approved.

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1 MR. ROWAN: Okay, so I'm going to read this

2 for us. We'll read it for you once we're all on

3 the same page.

4 So we're going to require them to get county

5 permits; inspections and approvals within 30 days;

6 and then show -- provide evidence of -- do we want

7 to say within 120 days, to the township?

8 MS. GARCAR: As long as they've pulled the

9 permits, I think, within the 30 days, and shown

10 that they started the process.

11 MS. MATHENEY: It's up to you.

12 MS. GARCAR: Is that sufficient, so we're

13 not --

14 MS. MATHENEY: I don't know what the county

15 requires. Again, the point is that they provide

16 evidence that they're meeting the conditions.

17 MS. GARCAR: Okay.

18 MR. ROWAN: Okay. So the county permits;

19 inspection and approvals within 30 days; and

20 provide evidence to the Zoning Inspector of such

21 within 30 days. Let's see. We'll need the

22 occupant's name; does not carry over with the sale

23 or transfer of the property; within 90 days of the

24 tenant no longer occupying living quarters, that

25 the living quarters will have to be torn down and

84

1 MS. GARCAR: Yeah. For the 600 foot --

2 MR. GOLLING: Living quarters.

3 MS. GARCAR: -- living quarters, within 30

4 days, get compliant.

5 MR. FALKOWSKI: Yeah, commence that process.

6 MS. GARCAR: Start the compliance process with

7 the county.

8 MR. ROWAN: All right, get county permits;

9 inspections and approvals within 30 days for the --

10 MR. GOLLING: 600 square foot living quarters.

11 MR. ROWAN: -- 600 square foot living quarters

12 addition to the barn. Ninety days after -- within

13 90 days after Susan Babic is no longer using the

14 living quarters, you will tear down the living

15 quarters, and at that time revert the barn back to

16 agricultural use. And if it's not being used for

17 agriculture, you will have to reapply for the

18 zoning permits that would be needed.

19 MS. GARCAR: Within 90 days bring the building

20 back up to code.

21 MR. ROWAN: Bringing it back up to code.

22 MS. GARCAR: Living quarters done, back up to

23 code. Simple. Done.

24 MR. ROWAN: And then also these conditions do

25 not carry over on the sale or transfer of property.

85

1 Do you agree to that?

2 MRS. BABIC: Yes.

3 MR. ROWAN: Is there anything I missed?

4 Okay. So now we can vote --

5 MS. MATHENEY: You can do a motion and a

6 second on those conditions.

7 MR. SWEENEY: So the motion will be for

8 approval with the conditions as stated, and

9 approved to by the applicant, correct?

10 MS. GARCAR: Temporary approval.

11 MR. ROWAN: And it's only on the first two,

12 correct?

13 MR. SWEENEY: Uh-huh.

14 MS. GARCAR: That's only the first two items.

15 MS. FREEMAN: Yeah. That's all you're talking

16 about right now.

17 You're probably going to have someone restate

18 the motion with the conditions, so everyone

19 understands what's being approved if you vote yes.

20 MS. GARCAR: So I'll make a motion --

21 MR. ROWAN: I can read the conditions.

22 MS. GARCAR: -- to temporary approve the

23 Variance Application 2024-152 by Martin and Denise

24 Babcock at 7660 Hermitage Road, referring to --

25 MR. ROWAN: Babic.

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1 into agricultural use only.

2 MR. ROWAN: And then it does not carry or

3 transfer with the sale -- does not carry --

4 MS. GARCAR: And this is only for Susan --

5 for current occupant of Susan, and will not be

6 transferred by sale of property.

7 Did I miss something?

8 MS. MATHENEY: I don't think so.

9 MS. GARCAR: Okay. That's my motion.

10 MR. ROWAN: Second.

11 MR. GOLLING: Second.

12 MS. GARCAR: I think that's right.

13 MR. SWEENEY: Heather, do you want to take a

14 vote?

15 MS. FREEMAN: Are you ready?

16 MR. SWEENEY: Yeah.

17 MS. FREEMAN: Okay.

18 Mr. Rowan.

19 MR. ROWAN: Yes.

20 MS. FREEMAN: Mr. Falkowski.

21 MR. FALKOWSKI: Yes.

22 MS. FREEMAN: Ms. Garcar.

23 MS. GARCAR: Yes.

24 MS. FREEMAN: Mr. Sweeney.

25 MR. SWEENEY: No.

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1 MS. GARCAR: -- .a and .b, which would be Use

2 Variance from Section 15.03(A)(1) allowing a

3 building to be constructed and used in violation of

4 the district requirements; and b., Use Variance

5 from Section 15.03(A)(4) to allow an accessory

6 building to be used as living quarters, with the

7 conditions that the 600 foot dwelling living

8 quarters would be occupied by only Susan --

9 MR. ROWAN: Susan Babic.

10 MS. GARCAR: -- Babic; within the next 30 days

11 county permits will be pulled and applied to, and

12 given proof over to our Zoning Inspector that you

13 guys are --

14 MR. ROWAN: With inspections and county --

15 with county inspections and approvals within

16 30 days.

17 MS. GARCAR: Within the 30 days, proving that;

18 with then 90 days after Susan is no longer in the

19 building and living quarters, that those living

20 quarters will be taken down and the original 1,920

21 square foot barn will be put back into the original

22 agricultural use.

23 MR. GOLLING: Meaning it cannot be used to

24 store the business equipment.

25 MS. GARCAR: Correct. The 1,920 be put back

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1 MS. FREEMAN: Mr. Golling.

2 MR. GOLLING: Yes.

3 MR. SWEENEY: All right. The application --

4 MS. FREEMAN: Then we have the other items,

5 c. and d., as well.

6 MS. GARCAR: And then I will make a motion so

7 we can discuss.

8 MR. SWEENEY: Well, the application -- I just

9 want to explain to them that the application was

10 successful with the conditions that were stated,

11 and we're going to move on to the next two

12 variances, okay?

13 MS. GARCAR: So I'll make a motion to approve

14 the Variance Application 2024-152 for the same

15 property, c. and d., Variance c. and d.

16 MR. SWEENEY: Second.

17 MS. GARCAR: Now we can discuss this.

18 I think this can be tabled until they have to

19 reapply. I don't see an issue with the square

20 footage at this point.

21 MR. GOLLING: Until the conditions are met.

22 MS. GARCAR: Yeah, until the conditions are

23 met for previous approval.

24 MR. ROWAN: Bridey, for these two, can we

25 somehow tie the same conditions? They're

89

1 different, but how do we --

2 MS. MATHENEY: You can. But you don't have

3 to. It's definitely an option for you. You can

4 tie the conditions.

5 MR. ROWAN: So these would be approved with

6 the same conditions that were approved for the

7 first two.

8 MS. MATHENEY: You can make a motion to that.

9 But again, living quarters are a little bit

10 different. The tenant is different. I mean, I

11 don't know that the same conditions apply.

12 MR. ROWAN: Okay. Gotcha.

13 MS. GARCAR: So this is all talking about

14 square footage of this building. So can we just --

15 MR. ROWAN: I feel like --

16 MR. GOLLING: Can we just vote on it?

17 MR. SWEENEY: Let me just ask a question.

18 MS. GARCAR: Can't we just approve it until

19 this other building is taken care of?

20 MR. ROWAN: If we approve it, then we've

21 approved, like, more square footage so they could

22 tear it down and make the barn bigger.

23 MR. GOLLING: It can't be approved, because we

24 have conditions that were made.

25 MR. ROWAN: I feel like if we did the same

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1 MR. ROWAN: And then it comes up again at that

2 time when Susan is no longer occupying the

3 dwelling, everything comes back.

4 MR. FALKOWSKI: Procedurally, it seems like it

5 relates the best, and it all ties in, then, for

6 consistency purposes. Because if you pass it just

7 as is, that seems contradictory to what you just

8 did in a. and b.

9 MS. GARCAR: Right.

10 MR. ROWAN: Because if it does -- when it does

11 get torn down, since they agreed to that, and they

12 revert it back to agriculture, none of these are

13 needed, right?

14 MR. FALKOWSKI: Hypothetically.

15 MR. ROWAN: But if they want to use it going

16 forward after that for storage of equipment, then

17 they would have to apply for these variances again.

18 By not putting the conditions on it, it's sort

19 of like saying, okay, well, now you have this

20 building, and we vote against c. and d., it kind of

21 defeats the whole purposes of what we just did with

22 the conditions. I mean, I think that's your point,

23 right?

24 MR. SWEENEY: Yeah.

25 MS. GARCAR: I think this is one that we can

90

1 conditions -- so then they have to reapply.

2 MR. SWEENEY: Let me ask a practical question

3 here. If c. and d. were not granted, what would

4 the applicants be required to do?

5 MS. MATHENEY: They would have their standard

6 appeal rights to the Court of Common Pleas.

7 MR. SWEENEY: But if they didn't choose to

8 appeal, what would they be required to do?

9 MS. MATHENEY: That would --

10 MR. SWEENEY: Like literally, what would they

11 have to do?

12 MS. MATHENEY: Right. They'd have to tear

13 down the building until it's actually to

14 compliance, the square footage.

15 MR. SWEENEY: Right.

16 MS. MATHENEY: Correct.

17 MR. SWEENEY: That's pretty severe.

18 MS. MATHENEY: Right.

19 MS. GARCAR: So can we just say that --

20 MR. FALKOWSKI: Apply the same conditions.

21 MS. GARCAR: -- they have to move it to

22 agricultural use?

23 MR. GOLLING: Go ahead, Brian.

24 MR. FALKOWSKI: I would just say, c. and d.,

25 same conditions as a. and b.

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1 say, you're using this agriculturally or not,

2 right?

3 MR. SWEENEY: Or you just grant it.

4 MR. ROWAN: Well, I think we're granting it --

5 again, I think it changes -- a. and b., like when

6 they tear down the dwelling, the living quarters,

7 then it allows them to -- because it's saying they

8 can have up to 2,500 square feet at that point.

9 So I think by putting the same conditions on,

10 it means at that point, when everything -- you

11 know, that 90-day window, everything reverts back

12 to agriculture. If it doesn't, then a., b., c. --

13 well, I guess c. and d. would come back on the

14 table.

15 And I think that's, Brian, what you were

16 implying, as well.

17 MR. FALKOWSKI: Yes.

18 MR. GOLLING: I didn't go to law school. I

19 don't know.

20 MR. SWEENEY: You don't have to.

21 MS. MATHENEY: Well, no, I don't think it's a

22 legal question.

23 MR. SWEENEY: Someone has got to make a

24 motion. You've got to make the motion.

25 MS. MATHENEY: Right. There you go.

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1 MR. SWEENEY: If you don't make a motion, then  
2 we're going to take a vote. So make the motion.  
3 MS. GARCAR: There is a motion on the table  
4 right now that we're discussing.  
5 MR. SWEENEY: All right.  
6 MS. GARCAR: So we're discussing c. and d.  
7 currently, because that's what the motion is on the  
8 table.  
9 So the base question is, as a board, do we  
10 want to allow this to sit until the conditions of  
11 a. and b. are followed through? Do we want to --  
12 MR. GOLLING: Aren't they tied together?  
13 MS. GARCAR: -- deny and it just goes to  
14 square one, or do we want to say, because c. and d.  
15 are talking all about square footage, the barn has  
16 to go back to agricultural use now?  
17 So is it, we wait until a. and b. are done,  
18 revert back to normal? Or currently, right now,  
19 you've got to go back to agricultural. Those are  
20 kind of our three options of how we do it.  
21 Do we wait until a. and b. are done?  
22 MR. ROWAN: So Bridey, from a procedural  
23 standpoint, do we need to move to -- so the motion  
24 was to vote on those two, correct?  
25 MS. MATHENEY: Right.

95

1 MR. ROWAN: -- in the use variances.  
2 MR. SWEENEY: That should work, for a motion,  
3 at least.  
4 MR. FALKOWSKI: Second.  
5 MS. FREEMAN: Should we confirm that they're  
6 willing to agree to that condition?  
7 MS. MATHENEY: Yes.  
8 MR. ROWAN: Are you willing to accept the  
9 condition for c. and d., you have to meet the  
10 conditions previously stated?  
11 MS. MOORE: To get the permits?  
12 MR. ROWAN: All the previous conditions we  
13 came up with.  
14 So in order to get the next two approvals,  
15 they're temporary, the same conditions apply as  
16 what we had for -- yes?  
17 MRS. BABIC: Yes.  
18 MR. SWEENEY: So take a vote?  
19 MS. GARCAR: Or discuss. Are there questions  
20 within the board?  
21 MR. SWEENEY: Any further discussion?  
22 If not, I guess we can go directly to a vote.  
23 Heather.  
24 MS. FREEMAN: Okay. Mr. Sweeney.  
25 MR. SWEENEY: No.

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1 MR. ROWAN: c. and d.  
2 Can we make an amendment to that motion? Or  
3 how do we -- what's the process to --  
4 MS. MATHENEY: Was it seconded?  
5 MS. GARCAR: Yes.  
6 MR. FALKOWSKI: Yes.  
7 MS. MATHENEY: It was?  
8 You can make an amendment.  
9 MR. ROWAN: I move to amend the motion to  
10 approve Variance -- do I need to read them?  
11 MS. MATHENEY: I think you probably do.  
12 MR. ROWAN: Move to amend the motion to  
13 approve variance from Section 15.03(A)(6) to allow  
14 a 2,560 square foot accessory building in lieu of  
15 the maximum 1,532 square feet permitted; and  
16 variance from Section 15.03(A)(8) to allow the  
17 square footage of an accessory building to exceed  
18 the square footage of the principal building on the  
19 lot conditionally on -- conditionally on --  
20 MR. SWEENEY: Conditioned upon.  
21 MR. ROWAN: -- conditioned upon the applicant  
22 meeting the conditions -- meeting the conditions --  
23 MR. SWEENEY: Previously stated.  
24 MR. ROWAN: -- previously approved --  
25 MS. MATHENEY: In the use variances.

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1 MS. FREEMAN: Mr. Golling.  
2 MR. GOLLING: Yes.  
3 MS. FREEMAN: Mr. Rowan.  
4 MR. ROWAN: Yes.  
5 MS. FREEMAN: Mr. Falkowski.  
6 MR. FALKOWSKI: Yes.  
7 MS. FREEMAN: Ms. Garcar.  
8 MS. GARCAR: Yes.  
9 MR. SWEENEY: All right. You have been -- to  
10 kind of put it simply, you've been successful with  
11 the applications that you presented. So you can  
12 move forward, but you need to pay attention to the  
13 conditions which were set forth and agreed to by  
14 you. And if you don't meet those conditions, you  
15 probably will be back here again.  
16 MS. MOORE: Okay. So it will be sent to us?  
17 MR. SWEENEY: It will be put in writing.  
18 MS. GARCAR: And public comment has been  
19 closed on this. So at this point, questions would  
20 go to either Heather -- no, just Heather.  
21 MR. SWEENEY: Yeah, you'll be made aware in  
22 writing of all of the conditions that you have to  
23 meet.  
24 MS. MOORE: There was so much confusion.  
25 MS. GARCAR: Yes --



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1 MR. SWEENEY: I know.

2 MS. GARCAR: -- it would be going to Heather.

3 MR. SWEENEY: Sorry about that.

4 And I hope your mother is with us for a very

5 long time.

6 MS. MOORE: Thank you for your time.

7 MR. SWEENEY: All right. We have the next

8 matter, which is Appeal Application 2024-153. Jeff

9 Marano is requesting an administrative appeal from

10 the determination made by the Concord Township

11 Zoning Department on June 28, 2023 and

12 February 29th, 2024 that the property located on

13 Fay Road -- is there an address for that?

14 MR. MARANO: It's adjacent to 11465.

15 MR. SWEENEY: Okay. On Fay Road, as being

16 noticed, and being permanent parcel Number

17 08-A-015-0-00-012-0 is in violation of Section

18 11.01(B), Section 11.01(D), Section 12.01, and

19 Section 15.02.

20 All right, before we proceed, I want to

21 clarify with counsel. I've been on this board for

22 twelve years, I've never heard an appeal. So I

23 want to clarify what the applicant must present in

24 terms of an appeal.

25 Can we do that? Is it possible?

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1 MR. SWEENEY: Thank you.

2 MR. MARANO: I used to own all of that

3 (inaudible).

4 THE STENOGRAPHER: I'm sorry. Can you keep

5 your voice up?

6 MR. MARANO: Yeah. I used to -- actually, I

7 was born and raised there.

8 MR. SWEENEY: Did you own the property across

9 the street?

10 MR. MARANO: No, but I worked on it, on my

11 hands and knees, for many years when the Pomeroy's

12 owned it, when it was a Christmas tree farm.

13 MR. SWEENEY: Yeah, it was a farm. Right,

14 okay.

15 MR. MARANO: Yes. I planted all those Taxus

16 plants that are over there. They didn't have child

17 labor laws then.

18 MR. RAE: Mr. Sweeney, you did a nice job of

19 boxing what we're trying to do here. I served on

20 Mentor's --

21 MR. SWEENEY: I'm just trying to clarify it

22 for myself.

23 MR. RAE: I served on Mentor's Zoning Board of

24 Appeals for over ten years, never had an

25 administrative appeal. What we're asking you five

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1 MS. MATHENEY: Sure.

2 MR. SWEENEY: I mean, just in a summary

3 fashion.

4 MS. MATHENEY: Sure.

5 MR. SWEENEY: So the appeal is essentially

6 stating that we don't agree with the decision that

7 was made by the Zoning Inspector.

8 MS. MATHENEY: That's what I understand. The

9 interpretation, the decision.

10 MR. SWEENEY: And our interpretation of the

11 proposed violations are different than the

12 interpretations from the Zoning Inspector which

13 lodged those violations, correct?

14 MS. MATHENEY: That's what I understand.

15 MR. SWEENEY: Okay. All right.

16 You may proceed.

17 MR. MARANO: First of all, my name is Jeff

18 Marano.

19 MR. SWEENEY: You've been sworn in?

20 MR. MARANO: Yes, I've been sworn in.

21 MR. SWEENEY: Okay.

22 And your address?

23 MR. MARANO: My residence is 890 Madison

24 Avenue, Painesville. And, of course, I own the

25 parcel.

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1 to do is say, Heather made a mistake.

2 Now, you've relied on Heather quite often

3 here. It's not an easy thing to do, but I think we

4 can conclusively show Heather made a mistake, and

5 we had to file an administrative --

6 MR. GERSON: I'm sorry, Mr. Chairman.

7 Could you state your name and your address at

8 this point?

9 MR. RAE: I'd be happy to.

10 My name is Michael Rae, R-A-E. I have been

11 sworn in. I'm an attorney, Attorney Number

12 0001986. I live at 6501 Durham Court, which is in

13 Mentor, Ohio 44060.

14 Again, it's hard to say, hey, this building

15 inspector, who has done such a good job for us,

16 made a mistake, but we feel she did.

17 And I do want to clarify for the record right

18 away, on the agenda, for Number 3, it says,

19 permanent parcel numbers in violation 11.01(B) and

20 11.01(D). It's not in violation of 11.01(D). That

21 deals with decks. She cited it wrong.

22 She also cited it wrong in the letter to the

23 residents, where she again referred to 11.01(D).

24 She wanted to refer to 11.01(C). But, again, a

25 mistake.

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1 MR. SWEENEY: All right, we'll go ahead and  
 2 correct that, if that, in fact, is the case.  
 3 MR. RAE: It is the case.  
 4 MR. SWEENEY: Okay.  
 5 MR. RAE: I appreciate that.  
 6 All right. To get to the history of this,  
 7 perhaps it's best to have the letter from the  
 8 next-door neighbor read, which I just gave to you.  
 9 She is an over-80 retired schoolteacher. She lived  
 10 next to Jeff and his family for over 50 years.  
 11 She says, I'm currently out of state -- which  
 12 is so unfortunate; she can't attend this meeting --  
 13 so I'm asking that Jeff or his attorney read this  
 14 letter to you on my behalf. For the record, my  
 15 name is Elizabeth Perkins, also known as Betty. I  
 16 live at and have owned the property at 11495 Fay  
 17 Road for more than 50 years.  
 18 MR. SWEENEY: All right, where is that? I  
 19 don't mean to interrupt you.  
 20 MR. RAE: If you're looking at the property  
 21 from the road, it's the lot to the right.  
 22 MR. SWEENEY: So the property in question, the  
 23 lot --  
 24 MR. RAE: Yes.  
 25 MR. SWEENEY: -- in question, from above,

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1 MR. RAE: Okay. So she says, my house is  
 2 closest to Jeff's lot. My bedroom windows face his  
 3 property. I'm the Concord resident who would be  
 4 most affected by any misuse of that property.  
 5 Let it be recorded I have no objection to what  
 6 Jeff has done to the property by clearing the years  
 7 of overgrowth, adding additional gravel to what  
 8 already was there, not even changing the original  
 9 footprint of that driveway. I also have no  
 10 objection to how he intends to use it.  
 11 Perhaps the history of the property would  
 12 provide some context to this situation. When my  
 13 husband and I purchased our home in 1973, Jeff's  
 14 father, Teno Marano, owned the many acres that  
 15 abutted our property. He lived in that house that  
 16 he built with his wife and his family. In the  
 17 1980s when Teno and his wife became school bus  
 18 drivers, Teno was also the Zoning Inspector at that  
 19 time the driveway in question was put down.  
 20 She's wrong on that by ten years. It was put  
 21 down in 1970.  
 22 And they had to put huge amounts of gravel to  
 23 support the weight of the two school-size buses  
 24 that were parked there.  
 25 So that driveway has been there for over 50

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1 looking north, it's to the right?  
 2 MR. RAE: From the road --  
 3 MR. SWEENEY: From that parcel --  
 4 MR. RAE: -- to the right. And it would be --  
 5 MR. MARANO: Yeah, the first house on Fay  
 6 Road, if you're going down off of Ravenna, would be  
 7 the 11465 house, the brick ranch that I grew up in.  
 8 MR. SWEENEY: All right. So it's the first --  
 9 right, that's the one you grew up in.  
 10 MR. MARANO: But it's the lot right after  
 11 that, and then Mrs. Perkins is after that. So  
 12 she's the lot really closest --  
 13 MR. SWEENEY: So the lot is sandwiched by your  
 14 property and her property?  
 15 MR. MARANO: Yeah.  
 16 MR. SWEENEY: This vacant lot that's --  
 17 MR. MARANO: Well, it was my property.  
 18 MR. RAE: It was his old property. That  
 19 property has been bought by another resident --  
 20 MR. SWEENEY: All right.  
 21 MR. RAE: -- who also supplied a letter saying  
 22 he fully supports the use of --  
 23 MR. SWEENEY: Okay. Fair enough.  
 24 MR. MARANO: Then I sold the rest of the  
 25 property to the Metro Parks.

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1 years.  
 2 Decades later, Teno sold the house to Jeff.  
 3 In doing so, he partitioned his land into two lots,  
 4 one with the house, and one as what he felt was a  
 5 buildable lot -- and that's the vacant lot -- as  
 6 per the standards at the time. Teno has always  
 7 talked about how that land was perfect for Jeff to  
 8 build a house overlooking the ravine, and the  
 9 woods, and the other side of the creek. Upon  
 10 Teno's passing, Jeff inherited the lot -- which by  
 11 today's zoning and septic requirements is not a  
 12 buildable lot.  
 13 And we have a letter in there from Lake County  
 14 that says, no, this is not a buildable lot, it's  
 15 too short of a frontage. If you put a septic  
 16 system in, there's a stream there that goes into a  
 17 creek and it would destroy it.  
 18 And this is riparian. This is R-4. And we  
 19 want to maintain the integrity of that beautiful,  
 20 beautiful parcel.  
 21 She continued to write, he intends to use it  
 22 as a driveway, periodically bringing in his new  
 23 self-contained RV for a few weekends during good  
 24 weather to enjoy the wooded property with his  
 25 son -- with his family. He does not intend to

1 park the RV on the property when he's not there.  
 2 I have no objection to it.  
 3 I have known Jeff all his life. He respects  
 4 the land and his neighbors. Please take this  
 5 information into consideration and dismiss the  
 6 violations against Jeff.  
 7 All right, the driveway has been there more  
 8 than 50 years. Section 17.03(F) allows for  
 9 maintenance or reconstruction of use that was  
 10 once lawful. That's what he did. Jeff merely  
 11 maintained or reconstructed the driveway.  
 12 At the top of his application, he asked each  
 13 of you to go out and visit the property. How many  
 14 of you were able to do that?  
 15 MR. SWEENEY: I run by there every day.  
 16 MR. RAE: Wonderful, Mr. Sweeney.  
 17 Anybody else?  
 18 MR. ROWAN: I did not.  
 19 MR. RAE: Did not.  
 20 Mr. Golling?  
 21 MR. GOLLING: I did ride my bike down there,  
 22 yes, last week.  
 23 MR. RAE: Very good. Very good.  
 24 Ms. Garcar?  
 25 MS. GARCAR: I physically did not drive. I

1 But if you go to Section 13.13, it speaks to  
 2 arboretum or camping. It requires at least 10  
 3 acres. Jeff's property is 1.25 acres.  
 4 It has to be on a major street. This is not  
 5 a major street. This is Fay Road.  
 6 You have to have refuse or garbage areas  
 7 enclosed. There's not going to be any garage  
 8 areas. Jeff's RV is self-contained. He has no  
 9 electrical hookups, he has no need for water. He  
 10 pulls in, he enjoys the night, cooks some s'mores,  
 11 cooks some hot dogs with his family, spends the  
 12 night, and enjoys nature over there.  
 13 It also says that for 13.13, the buildings for  
 14 lodging and camping shall be for temporary  
 15 occupancy. There's not going to be any buildings.  
 16 Jeff did not change the use of his property.  
 17 Sadly, it's not a buildable lot. That's what the  
 18 problem is. His dad really thought, hey, we maybe  
 19 could.  
 20 But if you look at the aerial view there, you  
 21 can see the frontage is very short. To build a  
 22 house there, you'd have to go into the ravine,  
 23 underneath, and Lake County is saying, there's no  
 24 way, that's not going to happen.  
 25 But let's protect that ravine. Let's protect

1 looked at aerial --  
 2 MR. RAE: You just drove by it?  
 3 MS. GARCAR: I physically did not drive. I  
 4 looked at the aerial views.  
 5 MR. RAE: You looked at the aerial views?  
 6 MS. GARCAR: Yeah.  
 7 MR. RAE: Mr. Falkowski?  
 8 MR. FALKOWSKI: The same for me.  
 9 MR. RAE: Okay.  
 10 There's letters of support. Six of the  
 11 letters mention the driveway, including one from  
 12 T. R. Hach, who is an Alternate Trustee for the  
 13 Board of Zoning Appeals.  
 14 Heather also referred to Section 13.13, which  
 15 speaks to an arboretum or a camp. Again, all Jeff  
 16 has is this driveway. It has a fire pit, it has a  
 17 picnic table. He wants to pull his RV in there a  
 18 couple of nights, five or six weekends a year, so  
 19 his family, grandkids, can enjoy the property as he  
 20 enjoyed it when he was young.  
 21 If you read through those letters,  
 22 Mrs. Perkins had written a letter last year saying,  
 23 hey, let the kids enjoy the frogs, the salamanders,  
 24 the animals and wildlife, let them enjoy nature.  
 25 That's what our wonderful area is all about.

1 the riparian nature of that neighborhood.  
 2 So Mr. Sweeney, you mentioned you haven't had  
 3 an administrative appeal. Nor did I.  
 4 So what happens? Heather issued that first  
 5 letter. Jeff went to another Zoning Inspector and  
 6 actually had that person write out a use variance.  
 7 He brought it here to Heather, gave the letters,  
 8 gave the use variance, and he had the \$300 at that  
 9 time. That was in June.  
 10 The letter came, and he brought the paperwork.  
 11 And Heather said, well, let me see what I have to  
 12 do, and did not take the \$300.  
 13 He came out, man, maybe I should have talked  
 14 to someone. And through a friend, he talked to me,  
 15 and I looked. I said, you know, she's not really  
 16 citing a violation here. You are not using this  
 17 campground for recreational camping or for public  
 18 camping. And that's what those sections refer to.  
 19 Heather referred to a chart in Section 15.  
 20 That chart specifically says, public or  
 21 recreational camp. That's not what's happening.  
 22 This is not -- or institutional. This is not a  
 23 Stony Glen. This is not --  
 24 MR. SWEENEY: Red Oak.  
 25 MR. RAE: Yeah, Red Oak, that's a campground.

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1 It's also not like a pay to come and camp here.  
 2 It's got one driveway with one RV that goes in  
 3 there.  
 4 So I wrote a letter thinking an administrative  
 5 appeal was an appeal to Heather and the  
 6 administration before we came to here.  
 7 Mike Lucas responded, but Heather gave him  
 8 30 days. We responded in a couple of weeks. Mike  
 9 did not respond for over six weeks. I'm like,  
 10 what's going on?  
 11 Now, the last people here, you said, hey, they  
 12 did it, and then they asked for forgiveness.  
 13 Jeff kept asking, can I use it, can I use it?  
 14 His son came home from the military. Mike, can I  
 15 spend the weekend with my son from the military?  
 16 I said, no, respect the process, respect the  
 17 process the board has to do, but the administration  
 18 has a role.  
 19 Well, in Mike's letter on July 17th, he --  
 20 I'm sorry. I want to make sure I have the right  
 21 letter.  
 22 MR. SWEENEY: So I want to keep this focused  
 23 in my own mind.  
 24 MR. RAE: Yes.  
 25 MR. SWEENEY: You don't believe it's a camp.

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1 chain that says, Private. He's the only one using  
 2 it.  
 3 When we wrote to Mike Lucas, he wrote back  
 4 finally at the end of July and he goes, your  
 5 problem isn't, per se, the driveway and the fire  
 6 pit, because in the code it specifically says that  
 7 fire pits and uncovered driveways do not need a  
 8 variance.  
 9 So he put the driveway in over a footprint of  
 10 what was already there. He put a fire pit there,  
 11 which your code says doesn't need a variance. And  
 12 there's a picnic table that doesn't need a  
 13 variance.  
 14 You look confused, Ashley. Do you have a  
 15 question you want me to cite where it's at in the  
 16 code?  
 17 MS. GARCAR: I was in my head, going over Mike  
 18 Lucas.  
 19 MR. RAE: What's that?  
 20 MS. GARCAR: I was in my head, registering  
 21 Mike Lucas.  
 22 MR. RAE: Did I say the wrong name?  
 23 MS. GARCAR: No, you were saying the correct  
 24 name.  
 25 MR. RAE: Okay. Yeah, he was your private

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1 MR. RAE: It's not. Not by your definition.  
 2 MR. SWEENEY: And I don't want to keep you  
 3 from referencing materials that we all have had,  
 4 and we've read.  
 5 Will you be presenting evidence as to why you  
 6 don't think it's a camp?  
 7 MR. RAE: It's not a camp, as defined by a  
 8 recreational camp or an institutional camp.  
 9 MR. SWEENEY: Will you be calling any  
 10 witnesses?  
 11 MR. RAE: I don't have to. Your definitions  
 12 are right in the code.  
 13 MR. SWEENEY: Okay. All right. I just want  
 14 to make sure.  
 15 MR. RAE: I read that to you.  
 16 MR. SWEENEY: I didn't mean to interrupt you.  
 17 Go ahead. You can resume.  
 18 MR. RAE: No, your questions would be great to  
 19 try to frame everything. But again, Section 13.13,  
 20 and then there's a chart, Section 15.  
 21 Heather issued another final letter in 2024,  
 22 and she prints out this whole chart. But if you  
 23 read the chart over Camp, again, institutional  
 24 camping. That's not what this is. It's not  
 25 public. Nobody is paying for anything. He's got a

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1 attorney -- your prior attorney.  
 2 MS. GARCAR: Correct, yes. In my head, I was  
 3 trying to figure out.  
 4 MR. RAE: Okay.  
 5 And that was 15.03(H) that says, no permits  
 6 required for driveways or fire pits.  
 7 Again, we issued the response. I thought that  
 8 Mr. Lucas would issue a final decision on the  
 9 administrative appeal. And it was that, what we  
 10 applied -- or appealed to you guys, instead of  
 11 having to ask you to say, no, Heather messed up on  
 12 this.  
 13 There was one time, at the end of September,  
 14 Mike was so hard to get ahold of -- I'm sorry,  
 15 beginning of September. And I said, listen, he  
 16 missed out all summer because you didn't respond to  
 17 this. You didn't give us a final decision on the  
 18 appeal process, the administrative appeal. He  
 19 missed out on all the weekends that he could have  
 20 had with his grandkids. His son came home from the  
 21 military. And I said, don't do it. I know what  
 22 you want to do. But he missed out on that, his son  
 23 went back to the military.  
 24 Finally, at the end of September, I said,  
 25 Mike, come on, it's Labor Day weekend, let him use

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1 it.

2 He told me, yeah, go ahead, use it. He goes,

3 I can't believe the Zoning Inspector is making a

4 big issue of that.

5 But the reason she made a big issue, because

6 Mike wouldn't make the decision that those sections

7 didn't apply. She relied on Mike. Mike relied on

8 her. And they went with the definition of

9 arboretum and public campground, and that's not

10 what this is.

11 I was on the phone, I was on speakerphone.

12 Martha Uhler is back here. She'll swear, if you

13 want her to, that Mike said, yeah, go ahead and use

14 that property, let him use it Labor Day weekend,

15 and he did.

16 Mike later issued a letter saying, oh, you

17 can't do that or we'll have the reinforcement

18 action, to cover his butt. I knew what he was

19 doing. But he gave us permission. And we

20 respected the process, and I want you to understand

21 that.

22 Well, again, November, I said, hey, Mike, if

23 you want concessions, we'll say five or six

24 weekends a summer, you know, whatever you want, but

25 what can we do to get this administrative appeal

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1 this situation at hand. It's a single driveway,

2 one person. It's private, it's not public, and

3 it's not for commercial use.

4 And then he would like to use it -- again,

5 it's not buildable -- he would like to use it a few

6 weekends in the summer for his family to come there

7 and enjoy the creek, and the nature, the riparian

8 nature, the place where he grew up.

9 MR. SWEENEY: Let me further try and clarify

10 where we are so far.

11 MR. RAE: Yes, sir.

12 MR. SWEENEY: More so for my purposes than for

13 yours, Mr. Rae.

14 MR. RAE: Yes. You're good.

15 MR. SWEENEY: Normally when a person comes

16 before us --

17 MR. RAE: Yes.

18 MR. SWEENEY: -- they don't claim that the

19 violations that they've been charged with don't

20 apply to them.

21 MR. RAE: I agree.

22 MR. SWEENEY: I think they're implicitly kind

23 of saying, eh, well, yeah, we -- yeah, we violated.

24 MR. RAE: Well, that's what -- for you guys.

25 MR. SWEENEY: Bear with me.

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1 going?

2 Again, couldn't reach him, couldn't reach him.

3 Finally get a letter at the end of December, I have

4 retired. Wonderful.

5 That's where Ms. Matheney -- is that how you

6 say it?

7 MS. MATHENEY: Matheney.

8 MR. RAE: -- Matheney stepped in. And I've

9 got to say, she's been wonderful and helpful.

10 She's the one who said, hey, Mike, the

11 administrative appeal is to the Board of Zoning

12 Appeals.

13 And I said, what? I've never heard that.

14 That makes no sense. You're asking the Board of

15 Zoning Appeals to say your Building -- your Zoning

16 Inspector messed up. Well, she did mess up.

17 There's a driveway there.

18 And Mike's letter -- but Mike did do one thing

19 in his very first letter. He says, the issue isn't

20 the driveway or the fire pit, and he conceded there

21 was nothing wrong with those. He said it was the

22 camping. But again, it wasn't the definition of

23 camping in your code.

24 So what I'm asking, for that first appeal, is

25 that you say, no, those provisions don't apply to

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1 MR. RAE: Go ahead.

2 MR. SWEENEY: But they usually say, we

3 violated it, however, it's because of this, this,

4 this, and this, or can you please give us a

5 variance.

6 MR. RAE: Uh-huh.

7 MR. SWEENEY: Your client has chosen to do

8 that, ask for a variance, which we haven't reached

9 yet --

10 MR. RAE: Yes.

11 MR. SWEENEY: -- but gone right to the source

12 and said, this doesn't even apply to us.

13 MR. RAE: Right.

14 MR. SWEENEY: Okay. And so I want to keep

15 this straight in my own mind here.

16 MR. RAE: Right.

17 MR. SWEENEY: So your client could have easily

18 just asked for a variance instead of the appeal.

19 But he's done the appeal, and then in lieu of that,

20 we have the variance, right?

21 MR. RAE: We've gone nine and a half months --

22 MR. SWEENEY: Right.

23 MR. RAE: -- for him trying to get to use his

24 property.

25 MR. SWEENEY: Right.

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1 MR. RAE: It's an administrative appeal.

2 MR. SWEENEY: It's almost like a problem in

3 search of a -- a solution in search of a problem.

4 MR. RAE: She told him -- we had to pay \$300

5 for the administrative appeal --

6 MR. SWEENEY: Right.

7 MR. RAE: -- and she says we can ask for that

8 back. And also \$300 more for the variance.

9 Again, I don't think Heather stated a

10 violation. And that's what I'm asking you to

11 decide, is that, no, this is not a campground,

12 public or commercial type campground.

13 MR. SWEENEY: Okay.

14 MR. RAE: That section doesn't apply.

15 MR. SWEENEY: All right.

16 MR. RAE: And the driveway has been there, and

17 you're allowed to repair it and fix it up.

18 MR. SWEENEY: Okay.

19 MR. RAE: And you've got 11 letters there,

20 neighbors saying this is a great use of that

21 property.

22 MR. SWEENEY: Right. So, again, Bridey --

23 MS. GARCAR: Can I ask a quick question, too?

24 MR. SWEENEY: Yeah, in a second.

25 Bridey, we're just dealing with the appeal,

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1 MR. RAE: That's not what this is. It's a one

2 driveway lot that's not buildable.

3 MR. SWEENEY: Okay. All right. Thank you.

4 MR. RAE: Thank you.

5 MR. SWEENEY: Now, questions from the board

6 for the applicant?

7 MS. MATHENEY: You can do that, sure.

8 MR. SWEENEY: Any questions? Anybody?

9 Ashley?

10 MS. GARCAR: We're talking about the appeal.

11 MR. SWEENEY: Only, yeah.

12 MS. GARCAR: There's a slight confusion on my

13 end.

14 MR. RAE: Go ahead.

15 MS. GARCAR: We're doing the appeal first.

16 MR. RAE: The administrative appeal.

17 MS. GARCAR: The administrative appeal first.

18 MR. RAE: Yes, ma'am.

19 MS. GARCAR: What is the reason of doing this

20 administrative appeal instead of just getting the

21 variance to put -- to camp on it?

22 MR. RAE: I'm glad you asked that question.

23 Again, it's been nine, ten months --

24 MR. SWEENEY: That's what I just clarified.

25 MR. RAE: -- since June. But, but --

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1 right, at this point in time --

2 MS. MATHENEY: Right.

3 MR. SWEENEY: -- as to the interpretation of

4 the terms in question, right?

5 MS. MATHENEY: Of what was cited by Heather.

6 MR. SWEENEY: Of what was cited.

7 MS. MATHENEY: Correct.

8 MR. SWEENEY: Right.

9 All right. Are you finished?

10 MR. RAE: I think so.

11 Again, just to maintain, you asked about the

12 definition or an expert from what a campground --

13 in your provision, 10 acres or more. He has 1.25.

14 It's got to have places for refuse, and it's

15 enclosed.

16 He's self-contained. He's taking care of his

17 property. His neighbors know he takes care of that

18 property.

19 Outbuildings. There's no outbuildings.

20 There's no electricity, there's no water.

21 It's all self-contained.

22 Those are the provisions for public and

23 commercial campgrounds. Like a KOA, that's what I

24 was looking for.

25 MR. SWEENEY: Right. Okay.

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1 MS. GARCAR: And that's where I'm confused.

2 I'm trying to --

3 MR. RAE: But for Common Pleas Court, if you

4 deny his appeals, we have a right to go to Common

5 Pleas Court. She'll tell you that.

6 And I want to make a record. And the record

7 is that we exhausted all our opportunities to get

8 this straightened out. And if you rule against

9 this, then we have to go to Common Pleas Court. So

10 I'm making a record in that regard.

11 So the first is administrative, which we tried

12 to do. And unfortunately, until she came along,

13 your new attorney came along and educated me -- but

14 I'm glad Mr. Sweeney said, hey, he's never seen an

15 administrative. I never saw one, either.

16 To me, administrative says, you go to the

17 attorney, you going to the administration, you work

18 with the Zoning Inspector, come up, and then issue

19 either a denial or a granting. And in fact, I

20 asked her, I go, his due process rights were

21 violated because there was no denial.

22 And that's when she says, no, you've got to

23 bring an administrative appeal to the board. So

24 that's why we're here.

25 MR. SWEENEY: Okay.

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1 MS. GARCAR: So why was there not a variance  
2 in the first place? That's what I'm missing, is  
3 why did we skip the administration, and not --  
4 MR. GOLLING: I think, from my  
5 understanding -- I talk out loud.  
6 MR. RAE: Yes. Go ahead.  
7 MR. GOLLING: My understanding is this, is  
8 that he doesn't think he should have been wrong in  
9 the first place.  
10 MS. GARCAR: That he didn't need to apply for  
11 that variance in the first place.  
12 MR. GOLLING: That he didn't need to. But he  
13 did apply for it.  
14 So if the administrative appeal -- play along  
15 with me -- if it doesn't go his way tonight, then  
16 he still can fall back on the variance, and then he  
17 can get the variance.  
18 Is that my understanding?  
19 MR. RAE: Yes.  
20 MS. MATHENEY: That's correct.  
21 MR. GOLLING: But -- and you kind of confused  
22 it with -- so if the appeal does not go your way,  
23 but you do get the variance, then what were you  
24 saying about the appeal now?  
25 MR. RAE: When you go to court, the court will

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1 MR. FALKOWSKI: Because this was about the --  
2 MS. MATHENEY: He wanted to make --  
3 MR. SWEENEY: Because that's what he wants.  
4 MR. RAE: I want to make the record.  
5 MS. MATHENEY: That's his right, to appeal --  
6 MR. GOLLING: I got it. I understand now.  
7 MS. MATHENEY: -- and say that there's been an  
8 interpretation error --  
9 MR. GOLLING: I get it now.  
10 MS. GARCAR: On Heather, the Zoning Inspector.  
11 MS. MATHENEY: So that is an administrative  
12 right and a due process right of theirs, and they  
13 have to exhaust, and if that's what they want to  
14 do, and that's what he's doing.  
15 So it has to be ruled on first. Because if  
16 you rule that, in fact, she did not err, then we  
17 have to go to the alternative of the use variance.  
18 MR. GOLLING: Which he's applied for already.  
19 MS. MATHENEY: Correct.  
20 MS. GARCAR: Okay, he's already applied.  
21 So this administrative appeal is basically  
22 saying, hey, we don't need the variance, we can  
23 just do it.  
24 MR. RAE: But what I would do is still ask for  
25 the variance, because I want to wrap this -- it's

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1 say, did you exhaust all your appeals.  
2 MR. GOLLING: Right.  
3 MR. RAE: She would say, he didn't make use of  
4 the administrative appeal process.  
5 I would say, I wrote letters and everything  
6 else.  
7 And she says, that's not the correct  
8 procedure, and she'd be right.  
9 MR. GOLLING: But if you get the variance --  
10 MR. RAE: If I get the variance, we're going  
11 home.  
12 MS. GARCAR: I guess -- so that's my question,  
13 why --  
14 MR. GOLLING: Let's go on the variance.  
15 MS. GARCAR: -- would you need a variance in  
16 the first place?  
17 MR. SWEENEY: It's a solution in search of a  
18 problem.  
19 MR. RAE: I would like first, though, to vote  
20 on this.  
21 MS. GARCAR: But why do we have to do the  
22 variance in the first place?  
23 MS. MATHENEY: Because --  
24 MS. GARCAR: Why did they not do the variance  
25 in the first place?

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1 been nine months.  
2 MS. GARCAR: Right. But the administrative  
3 appeal --  
4 MR. RAE: But it would give us a stronger  
5 position if the administrative appeal was granted,  
6 saying (inaudible).  
7 MS. GARCAR: So the administrative appeal is  
8 basically saying -- if we approve -- if we say that  
9 everything was wrong, and they are in the right in  
10 this administrative appeal, it's basically saying  
11 they don't need this variance in the first place.  
12 MR. GOLLING: Right.  
13 MR. RAE: Right.  
14 MS. GARCAR: That is why we went to the  
15 administrative appeal before --  
16 MR. RAE: Yes.  
17 MS. GARCAR: -- going straight to a variance.  
18 MR. GOLLING: Got it.  
19 MS. GARCAR: And it's because you're  
20 claiming --  
21 MR. RAE: Out of an abundance of caution --  
22 MS. GARCAR: -- that you don't need a  
23 variance.  
24 MR. RAE: -- we still are going to do the  
25 second.

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1 MS. GARCAR: Got it. That was my disconnect.  
 2 MR. RAE: Okay.  
 3 MS. GARCAR: Thank you.  
 4 MR. SWEENEY: Okay. Anybody else?  
 5 MS. GARCAR: I don't have any more questions  
 6 for them.  
 7 MR. SWEENEY: All right.  
 8 MR. RAE: So is there a motion to vote on it?  
 9 MR. SWEENEY: Well, there's no other questions  
 10 from the board for you guys. All right, so thank  
 11 you for your presentation.  
 12 MR. RAE: Uh-huh.  
 13 MR. SWEENEY: And we now ask if there is  
 14 anyone in favor or opposed to this matter that is  
 15 here to speak.  
 16 MS. FREEMAN: Mr. Chairman, I would request to  
 17 speak.  
 18 MR. SWEENEY: Okay. Thank you, Heather.  
 19 Please approach.  
 20 Have you been sworn?  
 21 MS. FREEMAN: One moment.  
 22 Heather Freeman, Concord Township Zoning  
 23 Inspector.  
 24 Yes, I've been sworn in.  
 25 MR. SWEENEY: Okay.

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1 as I believe they do.  
 2 So here I'm handing you Exhibit A. This is a  
 3 copy of the final notice that is dated  
 4 February 29th, 2024, from myself to Mr. Jeff  
 5 Marano, at 890 Madison Road.  
 6 MR. SWEENEY: Got it.  
 7 MS. FREEMAN: No, you do not. You do not have  
 8 this.  
 9 MR. SWEENEY: What's that?  
 10 MS. FREEMAN: No, you do not have this. These  
 11 are my exhibits. They are not in your packet.  
 12 MR. SWEENEY: Okay.  
 13 MS. FREEMAN: I'm entering these into the  
 14 record right now.  
 15 MR. RAE: For the record, it is identical.  
 16 MS. FREEMAN: Here is yours to review, if  
 17 you'd like.  
 18 Okay. So you will see that I've cited four  
 19 different violations in the Zoning Resolution,  
 20 Sections 11.01(B) as in boy; 11.01(D) as in David;  
 21 12.01; and 15.02. And I do have with me this  
 22 evening, as well, the copy of the entire Zoning  
 23 Resolution that was in effect at that time.  
 24 There was a statement made earlier that I  
 25 cited the wrong section. I'd just like to show the

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1 MS. FREEMAN: Okay. Thank you.  
 2 Okay, I just want to start out by saying that  
 3 this board's only decision for this appeal is  
 4 to determine whether or not I erred in my  
 5 interpretation of the Zoning Resolution as it  
 6 pertains to the property and the uses in question.  
 7 I will present to you tonight the facts that  
 8 pertained to the violations that I cited, and offer  
 9 an explanation as to why I feel they relate to the  
 10 property and the uses in question.  
 11 But I just wish to remind you that this is not  
 12 a conditional use permit. This is not a variance  
 13 application.  
 14 MR. GOLLING: Got it.  
 15 MS. FREEMAN: Personal desires, family  
 16 histories, while offering a glimpse into the prior  
 17 use of the land and the perspective of the property  
 18 owner, Mr. Marano, does not have any bearing on  
 19 this appeal.  
 20 I ask that you simply look at the violations  
 21 that I listed in the final notice that I sent to  
 22 Mr. Marano on February 29th, 2024, and review the  
 23 sections that relate to those violations with me so  
 24 you can determine whether or not they do, in fact,  
 25 pertain to the property and uses as I do believe --

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1 board, if you don't have your own books with you, I  
 2 did not cite the wrong section. 11.01(D) does  
 3 indicate -- is what I was pertaining to, not decks,  
 4 (E), as it was stated by the attorney.  
 5 MR. RAE: What is the date of that code,  
 6 please?  
 7 MS. FREEMAN: Okay, so Section 11.01 of the  
 8 Zoning Resolution states -- contains a list of  
 9 buildings, structures, and uses that do require a  
 10 zoning permit. Section 11.01(B) states that a  
 11 zoning permit is required when there is a change of  
 12 use of an existing building, accessory building, or  
 13 lot.  
 14 This lot was changed from virtually a vacant  
 15 piece of property to an area that would be used for  
 16 camping, without a zoning permit being issued.  
 17 As Mr. Marano's attorney stated, the  
 18 property -- well, he might not have stated it here,  
 19 but it was stated in some of the information that  
 20 he submitted, the property was mainly overgrown  
 21 until he recently improved the lot by installing a  
 22 gravel driveway and fire pit.  
 23 On June 28th, 2023, I received a phone call  
 24 with a complaint from a neighbor that the property  
 25 on Fay Road that we're speaking about tonight had a



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1 new driveway and parking area installed, along with  
2 a fire pit. The caller also stated that there were  
3 rumors that the owner had the intentions of  
4 bringing a 40-foot camper to the lot for camping.  
5 Upon an inspection conducted on that same day,  
6 June 28th, 2023, Mr. Marano happened to be there at  
7 the property. He told me about how he resurfaced  
8 the driveway and created an area to park his RV so  
9 that he and his family could use the property for  
10 camping on the weekends.  
11 Here is a photo -- this is Exhibit B that I'm  
12 turning into the record -- a photo that I took on  
13 June 29th, 2023, from the street, showing the  
14 recently improved gravel driveway and fire pit. So  
15 as you can see, there's freshly laid gravel, a  
16 little bit of -- and a fire pit over on the  
17 left-hand side of the photo.  
18 Additionally, I have another, Exhibit C. This  
19 is a Nearmap oblique view of the property that was  
20 dated March 8th, 2023. This came from the Lake  
21 County GIS navigator site. This shows an oblique  
22 view of the subject property about three months  
23 prior to the driveway being resurfaced.  
24 Now, it doesn't show -- the parcels are not  
25 outlined, but you can see the blue little kind of

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1 explained to me that his desire was to now use the  
2 property as a place to park his RV, and camp with  
3 his family at the lot for a limited number of  
4 weekends per year. He also informed me he spent  
5 roughly \$5,000 in gravel to resurface the driveway  
6 and parking area.  
7 While the existence of the driveway on the lot  
8 may have been considered a nonconforming use, it is  
9 clear that the use of the property has been changed  
10 to a different use. A campsite for Mr. Marano and  
11 his family has been created on the property. This  
12 change of a nonconforming use to a new use of  
13 property requires a zoning permit to be issued by  
14 the Zoning Inspector, as set forth in Section  
15 11.0(D).  
16 At this time, I'd like to give the board  
17 Exhibits D and E. These are both Nearmap images of  
18 the property with a date of April 6th, 2024. These  
19 were taken, again, from the Lake County GIS  
20 navigator site.  
21 Okay, I think if you look at these images, one  
22 being the oblique, Exhibit D, you can now see the  
23 location of that resurfaced parking, and drive, and  
24 fire pit, as it most likely exists today. This  
25 was, again, I indicated, April 6th, 2024.

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1 arrow there in the roadway. And if you compare  
2 that to Exhibit B, you will notice some of the  
3 markings on the street for the bike path, and that  
4 is right there in front of the vacant lot that is  
5 flanked by the two other homes that they spoke  
6 about previously, Mrs. Perkins to the east.  
7 So based on that image, I do not really see  
8 any kind of driveway or improved area. It, to me,  
9 looked overgrown.  
10 So it is my position that the property owner  
11 changed the use of the lot from vacant land, and  
12 improved it with an area that is to be used for a  
13 camp, which requires a zoning permit, as set forth  
14 in Section 11.01(B), which has not been issued by  
15 the Zoning Inspector.  
16 Okay, secondly, it is also my position that  
17 the property is in violation of 11.01(D), which  
18 states that any change of a nonconforming use to a  
19 different use, conforming or nonconforming, or the  
20 expansion or extension of a nonconforming use,  
21 requires a zoning permit.  
22 It was stated that the driveway previously  
23 existed on the site where a school bus was parked  
24 for years when his parents owned a house next door.  
25 It was also explained -- Mr. Marano had

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1 And then Exhibit E shows the approximate  
2 locations of the lot lines, those are outlined in  
3 red, and again, the resurfaced driveway and parking  
4 area and fire pit that's going to be used for  
5 camping.  
6 Furthermore, the property, I also stated in my  
7 violation letter, was in violation of Section  
8 12.01, which states, In any district it should be  
9 unlawful to use or permit the use of any building  
10 or premises, or both or part thereof hereafter  
11 created, erected, changed, converted, or wholly or  
12 partly altered or enlarged in its use or structure  
13 until a Certificate of Zoning Compliance has been  
14 issued therefor by the Zoning Inspector.  
15 A Certificate of Zoning Compliance is issued  
16 by the Zoning Inspector after personal inspection  
17 and determination that the use of the structure  
18 and/or land conforms to the approved plans and the  
19 use filed with the Zoning Inspector, and upon which  
20 a Zoning Permit is issued.  
21 The property owner does not have a Certificate  
22 of Zoning Compliance for this use of property.  
23 And the last violation I cited in my  
24 February 29th, 2024 letter is that the property is  
25 in violation of Section 15.02, Use Regulations.

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1 This section lists all of the principal and  
2 accessory uses that are allowed in the various  
3 residential districts.  
4 Additionally, 15.02 requires that any use be  
5 in full compliance with all the applicable  
6 standards and other regulations that apply to the  
7 specific use and parcel.  
8 As stated previously, the lot has been changed  
9 to a camp where the property owner intends to bring  
10 his RV to, and camp in it with his family a few  
11 weekends throughout the year.  
12 This use meets the definition of Camp/  
13 Campground, as set forth in Section 5.02(A)(36) of  
14 the Concord Township Zoning Resolution.  
15 This is Exhibit F, which is --  
16 MR. RAE: Can you repeat that code?  
17 MS. FREEMAN: -- Page 5.2 and 5.5 of the  
18 Zoning Resolution. You see at the bottom there,  
19 it's starred, the definition of Camp/Campground,  
20 and I'm going to read that into the record.  
21 So Camp/Campground, An area or tract of land  
22 on which accommodations for temporary occupancy are  
23 located or may be placed, including cabins, tents,  
24 and major recreational equipment, and which is  
25 primarily used for recreational purposes and

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1 if the property is used in this manner. The most  
2 pertinent would be the provision of Section  
3 29.10(B)(3), which prohibits recreational vehicles  
4 to be parked or stored on a residential lot from  
5 having fixed connections to utilities or to be used  
6 as living quarters.  
7 Also, Section 29.10(B)(4) requires a  
8 recreational vehicle or trailer to be parked or  
9 stored behind the building setback line of the  
10 district. And Section 29.10(B)(5), which requires  
11 recreational vehicles to be adequately screened  
12 from view from the adjacent property owners.  
13 Additionally, if you look at the 2024 ortho  
14 photo, which was Exhibit E, there could be a  
15 potential encroachment of that driveway onto  
16 neighboring properties.  
17 And that's all I have, unless you have any  
18 questions for me.  
19 MR. SWEENEY: Thank you, Heather.  
20 All right, is there anyone else here to speak  
21 for or against this application?  
22 MR. RAE: I do need to respond to her.  
23 MS. MATHENEY: He can.  
24 MR. SWEENEY: Okay.  
25 MR. RAE: Oh, yeah, I have the right.

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1 retains an open air or natural character.  
2 It was the only thing I could figure out it  
3 was.  
4 This is exactly what Mr. Marano was using the  
5 property for, and how he expressed to me how he  
6 intends to use the property. In fact, he admitted  
7 that on the weekend of Labor Day in September of  
8 2023, he and his family camped at the property in  
9 his RV.  
10 I also had a resident call me and tell me  
11 about that, who took photographs, as well.  
12 Camps in the R-1 district require a  
13 conditional use permit to be approved by the Board  
14 of Zoning Appeals as set forth in Section 15.02.  
15 The property owner does not have a conditional  
16 use permit approved by the Board of Zoning Appeals  
17 to use the property as a camp.  
18 Therefore, in my opinion, the property is in  
19 violation of 15.02, as it is being used for a camp  
20 without being in full compliance with the district  
21 requirements and does not have a conditional use  
22 permit approved by the Board of Zoning Appeals.  
23 Finally, I just would like to add that should  
24 the board find that I did err in my determination,  
25 that there would likely be other zoning violations

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1 MR. SWEENEY: All right.  
2 MR. RAE: All of a sudden, she's coming up  
3 with 29.10(B), 29 -- that's not in any of her  
4 violation letters. She's expanding.  
5 MR. MARANO: I've got the permits that I --  
6 MR. SWEENEY: Have you been sworn?  
7 MR. RAE: He has. Yes.  
8 MR. MARANO: Yeah.  
9 A year ago, in June of last year, it came  
10 up -- first of all, before I even get into this,  
11 it's never been my goal to make this an adversarial  
12 or confrontational situation, okay? That's not any  
13 fun for anyone. And through osmosis, or whatever,  
14 I know a little bit about zoning, just because my  
15 dad was a Zoning Inspector here.  
16 You know, I recognize Heather is trying to do  
17 her job. This is not a personal attack. I can  
18 look you in the eye and say that, okay? I'm just  
19 trying to defend myself.  
20 It's a driveway. When you left that day, you  
21 even asked me, did you put that culvert pipe there?  
22 I said, no, Dad and the Painesville Township  
23 School System did back in 1970-something.  
24 If you go there on your bicycle, look on the  
25 right side, you'll still be seeing the big, honking

1 construction grade gravel that I covered up with  
 2 the limestone, but some of it got kicked out.  
 3 That's what they drove school buses on.  
 4 That's how I grew up. The use hasn't changed.  
 5 My swing set was over there. My kids' swing sets  
 6 are over there, okay? We played on it. Me and  
 7 Mrs. Perkins' kids played on that lot, okay? The  
 8 culvert pipe is still there. The old rail is  
 9 there.  
 10 I just had to go over there last week,  
 11 hopefully before you went over there, I wanted to  
 12 make sure it was nice. Already, you know, the  
 13 helicopters come down, they're all in the gravel,  
 14 and I had to go over and clean that up last week.  
 15 I cleaned up the ditch last week. I went over  
 16 there last fall, and I've been trying to keep it  
 17 nice. Leaves blow over the whole lot. I'm keeping  
 18 it nice and clean.  
 19 I don't want -- is there gravel around the  
 20 fire pit? Yep. I don't want to be the guy that  
 21 burns the woods down, you know? But it's not  
 22 against the law to put gravel, and clean up the  
 23 driveway.  
 24 I taught my kids how to shoot over there. My  
 25 wife's son, my stepson, we shot -- that ravine was

1 maybe bring my RV over there. But, you know, it  
 2 needed to be cleaned up.  
 3 I'm not storing it there. I don't have  
 4 electric there. I have a whisper quiet generator.  
 5 I have 100 gallons of fresh water, and I have my  
 6 own septic. When I leave, it leaves with me. It's  
 7 that simple.  
 8 But it's a shame that a year later, it's come  
 9 to this. I'm sorry, I don't mean to get heated.  
 10 And again, I don't want to be confrontational, but  
 11 it's a driveway. It's a gravel driveway.  
 12 And I told Heather -- again, not official, but  
 13 as it comes up, the conversations that we had, and  
 14 it's all really running together over the last  
 15 year, that I'm not going to use it until you tell  
 16 me I can put the RV over there.  
 17 Right now, it's a driveway. And if you look  
 18 at the -- I had to go and measure, because you  
 19 know, pardon my limited high school sketching  
 20 skills -- measure it and draw it out. But one is  
 21 shorter, that's where Mom's bus went, and the other  
 22 one was longer, where Dad backed his in. So I  
 23 figured, okay, that's where I'll put the RV. I'll  
 24 put it on the long section, unhook my truck, and  
 25 put it in the short section. That way, I'm away

1 a perfect backstop, you know? Did I back my truck  
 2 in and the briars scratched it all to heck? Yes.  
 3 So it's just -- I don't want to have an  
 4 adversarial or confrontational situation.  
 5 But I did go up there in June, with these  
 6 permits, and \$600 bucks actually, to cross her Ts  
 7 and dot her Is -- and I get it -- with these  
 8 permits. One was for a conditional use permit.  
 9 But she said, let me check with Lee. So I left,  
 10 with cash in hand, and permits printed out.  
 11 MR. RAE: But you gave her the permit. You  
 12 gave her what you had in the file?  
 13 MR. MARANO: No, I don't remember if I did at  
 14 that time or not.  
 15 MR. RAE: I thought you said you gave her the  
 16 letters.  
 17 MR. MARANO: Yeah, that was later.  
 18 MR. RAE: All right.  
 19 MR. MARANO: You know, after I had been put in  
 20 contact with you.  
 21 Some of the residents were like, this is  
 22 nonsense. It's your driveway, it's your lot, you  
 23 should be able to do what you want.  
 24 I've always been honest, I've always been  
 25 transparent. I tell people, yeah, ultimately,

1 from the street, you know.  
 2 I don't know what else I can do. It's a fire  
 3 pit, a picnic table, and a gravel driveway. And I  
 4 can't believe it's come to this. It says in the  
 5 Zoning Resolution, things you do not need a permit  
 6 for. One is a driveway.  
 7 You know, I'm sorry I didn't fix it up soon  
 8 enough, but I was busy dealing with Dad's condo  
 9 after he passed away, and it took a year to clean  
 10 that all up. I'm only one person.  
 11 MS. GARCAR: I do have a question --  
 12 MR. MARANO: Sorry. I'll go sit down and shut  
 13 up now.  
 14 MS. GARCAR: -- for what you just stated.  
 15 You brought in a permit -- or you filled out a  
 16 permit.  
 17 MR. MARANO: I've still got them. They're  
 18 dated --  
 19 MS. GARCAR: No, you brought one in.  
 20 Something happened within discussions --  
 21 MR. RAE: She said she needed --  
 22 MS. GARCAR: -- that it was -- we need to talk  
 23 to legal, so you did not file that permit.  
 24 MR. RAE: Right.  
 25 MS. GARCAR: And that's where this

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1 conversation started with legal.

2 MR. MARANO: 7/10/23, literally a year ago.

3 MR. RAE: During her talk, she mentioned

4 resurface the driveway, resurface the driveway.

5 17.03 says it allows for the maintenance or

6 reconstruction or use that was lawful before. That

7 was the driveway. It was there.

8 Mike, your other attorney, in his letter,

9 Exhibit 10, the second page, he conceded that the

10 zoning violation, per se, is not that he's building

11 a campsite. So he conceded the driveway, fire pit,

12 picnic table, those were okay. That's the second

13 page of Exhibit 10. But he went on to say, rather

14 his clearly expressed use for the property for a

15 camp or campground, staying overnight, is what the

16 zoning page -- or zoning speaks to. But then they

17 cited again, commercial camping, camping for

18 profit. It doesn't meet any of the definitions.

19 MS. GARCAR: When was the property split in to

20 two?

21 MR. MARANO: When I bought the house from my

22 folks -- in 2003-ish, I think.

23 MS. GARCAR: Is when the property split into

24 two?

25 MR. MARANO: Yeah.

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1 exactly what you're allowed to do.

2 MS. GARCAR: Right. Because we're talking

3 about changing parcels of usage. When that parcel

4 was split, approximately 2002, prior to then, buses

5 and things, there was a driveway there, where stuff

6 was stored on it.

7 MR. MARANO: Uh-huh.

8 MS. GARCAR: After 2002, approximately, when

9 it was split, there were no longer buses or

10 anything like that stored on it. It was just

11 simply cleaning up a vacant lot.

12 MR. MARANO: It was messed up.

13 MR. RAE: And re-establishing, resurfacing the

14 driveway that was there, that had been there since

15 1970.

16 MS. GARCAR: Okay.

17 MR. MARANO: Are you talking about when I

18 moved in?

19 MS. GARCAR: No, I'm talking about the split

20 of the parcels.

21 MR. RAE: I understand.

22 MS. GARCAR: Because one of the things we're

23 discussing is changing what was used.

24 MR. RAE: Consistent -- now it did get

25 overgrown, so he cleared that out. And if you've

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1 MS. GARCAR: Prior to being split --

2 MR. MARANO: Dad wanted to keep that one

3 lot --

4 MS. GARCAR: Okay, to prior to it --

5 MR. MARANO: -- and maintained it's buildable,

6 it's buildable. It's not buildable.

7 MS. GARCAR: But prior to it splitting --

8 MR. FALKOWSKI: Prior to, it was one lot.

9 MS. GARCAR: -- when it was one lot, prior to

10 about 2003 or 2002, buses were on --

11 MR. RAE: The property, from 1970 on.

12 When did your dad buy the property --

13 MS. GARCAR: The question is --

14 MR. MARANO: Oh, back in the 1960s.

15 MS. GARCAR: -- when you split the property in

16 half, into two different parcels, after the point

17 of splitting it into parcels, was that driveway

18 being used? Were buses being stored on it? After

19 splitting in half, what was that parcel --

20 MR. MARANO: What was it designed for when I

21 was there?

22 MS. GARCAR: It just sat vacant?

23 MR. RAE: It was a vacant lot still, because

24 there's nothing built on it. But he would drive

25 his car there, clean some stuff out, which is

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1 been there, you're going to see.

2 And just like the next-door neighbor lady

3 said, he did a great job on it, made it look

4 wonderful, and it's private.

5 MR. GOLLING: So we can agree, he did a great

6 job. It looks awesome. I would camp there.

7 A-plus.

8 MR. MARANO: Not allowed.

9 MR. GOLLING: Not allowed. I'm not going to

10 camp there.

11 I think we're just talking about whether or

12 not Heather was right or wrong in going -- because,

13 as I mentioned, I rode my bike down there. If

14 there was a driveway there, it got grown over,

15 right?

16 MR. RAE: Uh-huh.

17 MR. GOLLING: And I'm not doubting that there

18 wasn't a driveway there. If he says it was there,

19 I believe him 100 percent, right?

20 So the Zoning Inspector's job, from my

21 perspective is, she goes down there and she sees

22 this guy down here, doing stuff on here, she's

23 like, oh, what's this guy doing?

24 And was there a driveway there? It's like, I

25 don't know. I can't see a driveway.

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1 I mean, I'm looking at my definition of  
 2 driveway, which is the awesome thing he built, and  
 3 not the -- from the aerials that she gave me, and  
 4 the overhead that she gave me, and I zoomed in on  
 5 my phone, I tried to find -- I couldn't find any  
 6 driveway.  
 7 So the question is, was she doing her job?  
 8 And in my opinion, it's like, well, yeah, she's  
 9 down there, she sees this guy doing something, and  
 10 she's supposed to say, I think he's doing  
 11 something, so we've got to bring him in and talk to  
 12 him about it, hence the appeal.  
 13 Now, he comes in for the conditional use. We  
 14 look at it and go, oh, camping is cool, he can camp  
 15 there. Totally sweet. Here's the conditions, or  
 16 whatever.  
 17 So now, the thing is, we just have to discuss,  
 18 is Heather -- did Heather -- and that's what I'm  
 19 guessing what he's here for. He doesn't think  
 20 Heather was supposed to do that on this parcel.  
 21 MS. GARCAR: Which is where I'm getting at --  
 22 MR. GOLLING: Got it.  
 23 MS. GARCAR: -- at the split of the parcel in  
 24 approximately 2002 from that split, it was a vacant  
 25 lot at that split.

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1 and the other, we listen to it. We're like, well,  
 2 you know what? It's pretty cool. Camping is cool.  
 3 Jeff made it great, the neighbors all think it's  
 4 cool. Rock on. Have fun. And then it's over,  
 5 right?  
 6 So I think the -- I don't want to besmirch the  
 7 legal process, but I just think we're wasting time  
 8 on going through what Heather did wrong, and we  
 9 just need to talk about camping.  
 10 MR. RAE: Do you want to go to the second  
 11 appeal?  
 12 MS. GARCAR: We need first -- we need to  
 13 finish this first.  
 14 MR. MARANO: The only question I have is, I'm  
 15 getting letters saying, remove the gravel, remove  
 16 the fire pit, remove the picnic table.  
 17 MR. GOLLING: Well, if you get the conditional  
 18 use, you don't have to.  
 19 MR. RAE: Right.  
 20 MR. MARANO: Right.  
 21 MR. SWEENEY: Do you want to waive your right  
 22 to further consideration of the administrative  
 23 appeal and go directly to the --  
 24 MR. RAE: Will you give him his \$300 back?  
 25 MS. GARCAR: That's not for us.

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1 MR. RAE: The footprint of the driveway was  
 2 still there, as the neighbor said, and the six  
 3 letters. Six letters, you have.  
 4 MS. GARCAR: And from my comprehension is,  
 5 that's part of the question is, a vacant lot, do  
 6 you need permits to take a vacant lot and have  
 7 camping there, have an RV there, have other things.  
 8 That's the questioning.  
 9 MR. GOLLING: I think she can't ignore it, if  
 10 that's what you're asking.  
 11 MR. RAE: But she can't classify it as a  
 12 recreational or commercial campground. It  
 13 doesn't --  
 14 MR. GOLLING: Well, regardless, she had to go  
 15 down there and say, there's something going on  
 16 here, so we've got to bring this cat in here to  
 17 talk to him about it.  
 18 MR. RAE: I've got no problem with that. But  
 19 citing that section is wrong. And that's a  
 20 mistake.  
 21 MR. GOLLING: Well, that's your opinion. But  
 22 if she thinks that -- if she thinks that that was  
 23 it, then that's the reason for the hearing. We  
 24 come in and we're like, hey, Jeff, we've got this  
 25 campground here, Heather says you did this, that,

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1 MS. MATHENEY: It is for you.  
 2 MS. GARCAR: The \$300 is for us.  
 3 MR. RAE: It is permissible.  
 4 MR. GOLLING: I don't know how that works.  
 5 MR. SWEENEY: Again, I've never refunded --  
 6 MR. RAE: Because you've never done something  
 7 doesn't mean you can't do it. I talked to your  
 8 attorney and she said we could ask. And you guys  
 9 have that in your discretion.  
 10 MR. GOLLING: Sounds good.  
 11 MR. SWEENEY: All right, well, we'll take a  
 12 vote on that.  
 13 But are you willing to forego your appeal and  
 14 move directly to the variance request?  
 15 MR. RAE: If you specifically say that section  
 16 on commercial campgrounds does not apply here.  
 17 MR. GOLLING: It doesn't say, commercial.  
 18 MR. RAE: It does.  
 19 MR. SWEENEY: All right, so then we have to  
 20 take a vote, is what you're saying. You're going  
 21 to force us to -- or you're going to ask us to  
 22 decide.  
 23 MR. RAE: That's fine.  
 24 MR. SWEENEY: Okay.  
 25 MR. RAE: But again, in order to protect our

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1 rights, when it's over I'm going to ask each of you  
 2 to explain your reasons for denying the  
 3 administrative appeal. I'm allowed to do that.  
 4 MR. SWEENEY: I don't know that you're allowed  
 5 to do that.  
 6 MR. RAE: I am allowed to do that. What I'm  
 7 doing is protecting the record should we have to go  
 8 to Common Pleas Court.  
 9 MS. MATHENEY: Just give your reasons during  
 10 your motion.  
 11 MR. SWEENEY: Exactly. Yeah, we're not going  
 12 to take any questions directly from you.  
 13 MR. RAE: That's fine.  
 14 MS. GARCAR: After public comment.  
 15 MR. RAE: You give your reasons. But once you  
 16 give your reasons, you're on the record, and then  
 17 we can show where the error was.  
 18 MR. SWEENEY: Absolutely, absolutely.  
 19 All right, so then is your presentation on the  
 20 administrative appeal --  
 21 MR. RAE: Administrative appeal, done.  
 22 MR. SWEENEY: -- completed?  
 23 MR. RAE: We're done.  
 24 MR. SWEENEY: Okay. Any further questions  
 25 from the board?

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1 come from?  
 2 MS. FREEMAN: That is straight from the Zoning  
 3 Resolution.  
 4 MR. ROWAN: Section 5.  
 5 MR. GOLLING: 5.01, 4. Yeah, it just didn't  
 6 say commercial in there.  
 7 MR. RAE: And it was never cited in any of her  
 8 letters --  
 9 MS. FREEMAN: Excuse me, sir. I'm up here  
 10 right now.  
 11 MR. SWEENEY: Yeah, you can't -- she's being  
 12 questioned.  
 13 MR. RAE: Okay. I'm finished.  
 14 MR. ROWAN: So I think the question was  
 15 around -- so we have the definition here of a Camp,  
 16 an area of land on which there is temporary  
 17 occupancy.  
 18 And so I think there's just some confusion  
 19 about a camp versus an institutional, requiring --  
 20 what is it, 10 acres minimum?  
 21 MS. GARCAR: Camp versus commercial camping  
 22 MR. ROWAN: Commercial camping.  
 23 MS. FREEMAN: So there is no -- this  
 24 definition of Camp, if you recall, does not  
 25 indicate whether this is commercial, nonprofit,

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1 MR. ROWAN: Can I ask Heather -- can I ask you  
 2 a question?  
 3 MS. MATHENEY: Of course.  
 4 MR. SWEENEY: Oh, for Heather?  
 5 MR. ROWAN: For Heather.  
 6 Can you --  
 7 MS. FREEMAN: Heather Freeman.  
 8 Yes, I've been sworn in.  
 9 MR. SWEENEY: Yes.  
 10 MR. ROWAN: All right, we're talking about the  
 11 commercial camping.  
 12 What section was that in? Or do you know?  
 13 Because when we look --  
 14 MS. FREEMAN: 15.02 --  
 15 MR. ROWAN: 15.02.  
 16 MS. FREEMAN: -- Camp is a Conditional Use  
 17 permit.  
 18 MR. ROWAN: Oh, Public and Institutional.  
 19 MS. FREEMAN: The definition of Camp is, I  
 20 read it to you, in Section 5.02.  
 21 MR. ROWAN: And then this is where the Public  
 22 and Institutional Uses are. That's where --  
 23 MR. GOLLING: Okay, I was just reading the  
 24 definition of Campground.  
 25 MR. ROWAN: And so Exhibit F, where does that

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1 private, anything. It does not allude to if it's  
 2 public, private, anything. The definition is, An  
 3 area or tract of land on which accommodations for  
 4 temporary occupancy are located or may be located,  
 5 including cabins, tents, and major recreational  
 6 vehicles -- excuse me -- recreational equipment,  
 7 and which is primarily used for recreational  
 8 purposes and retains an open air or natural  
 9 character.  
 10 MR. ROWAN: Do you have any questions?  
 11 MR. GOLLING: (Shaking head.)  
 12 MR. SWEENEY: Any other questions?  
 13 MS. FREEMAN: I guess, if I'm up here, if I  
 14 can take a moment to state, I'm not sure what  
 15 Section 17.07 is, that was referred to a couple of  
 16 times this evening. That's in regards to --  
 17 MS. GARCAR: Purpose and intent.  
 18 MS. FREEMAN: Oh, Riparian Setbacks, that's  
 19 what that is. Okay. I never cited him anything on  
 20 that.  
 21 MS. GARCAR: Do you know what part of 17.01?  
 22 MS. FREEMAN: I didn't cite any kind of thing  
 23 on Section 17 --  
 24 MS. GARCAR: Okay.  
 25 MS. FREEMAN: -- so I was confused by their

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1 statement.

2 MS. GARCAR: It is labeled in as Purpose and

3 Intent. I can read all of it.

4 MS. FREEMAN: That's okay.

5 MS. GARCAR: The bold is, Purpose and Intent.

6 MS. FREEMAN: All right.

7 MR. SWEENEY: All right.

8 Okay, so are you making further presentation?

9 MR. RAE: All I will say is that last section

10 she cited was never in any of her letters --

11 MR. SWEENEY: Okay.

12 MR. RAE: -- although the attorney did

13 reference it. And when I responded to him, which

14 he never sent a letter back --

15 MS. GARCAR: I apologize. The last thing she

16 stated, talking about 15 or 17?

17 MR. RAE: The --

18 MS. GARCAR: 15? What are you referring to?

19 MR. RAE: The section where you defined Camp,

20 where she defined Camp. What is that section?

21 MS. GARCAR: The definition is in our Zoning,

22 is what she defined Camp from. It's just straight

23 off our definitions in Zoning.

24 MR. RAE: Yeah.

25 MR. GOLLING: That's it.

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1 MR. SWEENEY: Well, I --

2 MR. FALKOWSKI: I'm sorry.

3 MR. SWEENEY: Yeah, I'm going to -- we're

4 going to get to that point.

5 MS. GARCAR: I'll second.

6 MR. SWEENEY: I just want to entertain a

7 motion for the administrative appeal.

8 Second?

9 MS. GARCAR: I'll second.

10 MR. SWEENEY: Okay. Discussion.

11 Now, Bridey --

12 MS. MATHENEY: Yes.

13 MR. SWEENEY: -- as far as I know, this being

14 my first appeal, I don't know of what board -- what

15 standards the board needs to review in making its

16 decision. Are there any standards?

17 MS. MATHENEY: There are. So in Ohio courts,

18 essentially the Zoning Inspector, through our

19 Zoning Resolution, is required to interpret the

20 Zoning Resolution --

21 MR. SWEENEY: Okay.

22 MS. MATHENEY: -- in her enforcement.

23 MR. SWEENEY: Now, a question for that.

24 MS. MATHENEY: Sure.

25 MR. SWEENEY: Is the Zoning Inspector's

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1 MR. RAE: Yeah, never got that. But when I

2 responded to Mike, I said, Mike, when you -- how

3 many of you are attorneys? Anybody?

4 MR. SWEENEY: Just continue, sir.

5 MR. RAE: All right.

6 When you look at a document, you look at the

7 four corners of the document. The only time camp

8 is referred to is the institutional and

9 recreational. That definition goes to them. And

10 that's what I told Mike, and he never rebutted it.

11 And again, in his letter, he stated the issue

12 isn't the driveway, it's not the fire pit, it's not

13 the picnic table, it's whether or not he stays

14 overnight. And then that goes to the definition of

15 an institutional campsite.

16 MR. SWEENEY: All right. Thank you.

17 MR. RAE: Okay.

18 MR. SWEENEY: All right, so if there are no

19 more questions from the board -- well, is there

20 anyone else speaking for or against? If not, we

21 will close the public hearing.

22 And I will entertain a motion.

23 MR. GOLLING: So moved.

24 MR. FALKOWSKI: Well, how does this work, for

25 an appeal?

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1 interpretation and decision presumed to be valid?

2 MS. MATHENEY: Correct.

3 MR. SWEENEY: Okay.

4 MS. MATHENEY: That's on an appeal.

5 So in other words, let's say you say that she

6 did not err --

7 MR. SWEENEY: Right.

8 MS. MATHENEY: -- and there's an appeal to the

9 court. The standard of review at the court is that

10 her decision is considered to be and presumed to be

11 valid unless --

12 MR. SWEENEY: Until proven by a certain

13 preponderance of the evidence.

14 MS. MATHENEY: Correct. It's like a rebuttal,

15 right? The presumption is valid upon --

16 MR. SWEENEY: But for our purposes here, it's

17 also --

18 MS. MATHENEY: You can, yes. At the end of

19 the day, you're just looking, is it a reasonable

20 interpretation in light of her position as a Zoning

21 Inspector.

22 MR. SWEENEY: Okay. Gotcha. All right.

23 MR. FALKOWSKI: I was asking --

24 MR. SWEENEY: Did that answer your question ?

25 MR. FALKOWSKI: I was asking procedurally --

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1 MS. MATHENEY: Sure.

2 MR. FALKOWSKI: -- just how it was going to

3 work. And I think that helped clarify that.

4 MR. SWEENEY: Right, that helps.

5 MR. FALKOWSKI: And then it sounds like there

6 is a typical roll call vote at the end.

7 MR. SWEENEY: If there is no further

8 discussion.

9 MR. FALKOWSKI: Once there is no discussion,

10 there will be a roll call vote.

11 MR. SWEENEY: Exactly. Yes.

12 MR. FALKOWSKI: Thank you.

13 MR. SWEENEY: Thank you.

14 Is there any other discussion?

15 MR. GOLLING: I think Heather did her job.

16 MR. SWEENEY: All right.

17 MS. GARCAR: Right.

18 MR. SWEENEY: Well, if there's no discussion,

19 then we'll take a vote?

20 MR. GOLLING: Sure.

21 MS. GARCAR: Before we do take a vote, I

22 think for all of our -- do we want to just simply

23 do yes/no? Or do we want on the record a little

24 thoughts of why we're going to go yes/no?

25 MR. SWEENEY: Well, I'll just tell you right

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1 appeal, which means the appeal is successful, and

2 that's a yes vote, or a denial of the appeal, which

3 means the appeal is unsuccessful, and that's a no

4 vote.

5 Is that good enough?

6 MS. MATHENEY: No. It would be a motion --

7 sorry. It's confusing.

8 A motion to approve the appeal, essentially

9 saying that the applicant has proven that the

10 Zoning Inspector erred in her interpretation.

11 MR. SWEENEY: Okay. All right, so the motion

12 is to --

13 MS. MATHENEY: So then it would just be a yes

14 or a no vote. You don't then do anything else.

15 MR. ROWAN: But is it an amendment to the

16 motion?

17 MS. MATHENEY: It is an amendment to the

18 motion. Thank you.

19 MR. SWEENEY: An amendment to the original

20 motion to approve the appeal.

21 MR. ROWAN: Okay.

22 MS. GARCAR: I'll second it.

23 MR. ROWAN: And so --

24 MS. GARCAR: A yes vote --

25 MR. ROWAN: A yes vote is for --

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1 now that I am going against the weight of the

2 evidence as presumed to be valid unless proven

3 otherwise. If my vote reflects that -- my vote

4 reflects that her decision was valid, then the

5 implication is that it was not rebutted

6 sufficiently enough.

7 MR. FALKOWSKI: So is a yes vote in support of

8 the decision that Heather made, or is it in support

9 of the appeal?

10 MS. MATHENEY: That's a great question,

11 because actually, you just made a motion. You

12 didn't say motion to approve the administrative

13 appeal or a motion to deny the administrative

14 appeal. So maybe we should go back and amend the

15 motion.

16 MR. SWEENEY: Okay.

17 MS. MATHENEY: And if you are to approve the

18 administrative appeal, I believe that you would

19 then be siding with the appellant, saying that, in

20 fact, she erred.

21 If you are denying, or voting no to the

22 approved -- to the motion approving, right, you'd

23 be saying that she did not err.

24 MR. SWEENEY: All right. So the new motion

25 is to entertain a vote as to the approval of the

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1 MR. SWEENEY: Approval.

2 MS. GARCAR: Approval, meaning they made a --

3 MR. ROWAN: Rebuttal.

4 MS. GARCAR: -- good case --

5 MR. SWEENEY: They win.

6 MS. GARCAR: -- in stating --

7 MR. ROWAN: And a no is saying that Heather is

8 correct.

9 MS. GARCAR: Or is a no stating that there was

10 not sufficient evidence to prove otherwise?

11 MS. MATHENEY: Which means she didn't err.

12 MR. SWEENEY: Right.

13 MS. MATHENEY: So it's the same.

14 MS. GARCAR: Okay. I just want to make sure.

15 MR. SWEENEY: Right.

16 MR. ROWAN: Right. No is, the appeal is

17 unsuccessful.

18 MR. SWEENEY: Correct. All right.

19 Having presented the motion, received a

20 second, take a vote.

21 MR. GERSON: Mr. Golling.

22 MR. GOLLING: No.

23 MR. GERSON: Mr. Sweeney.

24 MR. SWEENEY: No.

25 MR. GERSON: Ms. Garcar.



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1 MS. GARCAR: No.

2 MR. GERSON: Mr. Rowan.

3 MR. ROWAN: No.

4 MR. GERSON: Mr. Falkowski.

5 MR. FALKOWSKI: No.

6 MR. SWEENEY: All right, Mr. Rae, the appeal

7 has been denied.

8 Would you like to proceed to the --

9 MR. RAE: Yes.

10 MR. SWEENEY: Well, we will be proceeding to

11 the variance.

12 MR. RAE: Yes. That's fine.

13 MR. SWEENEY: All right, the second matter up

14 is Variance 2024-154. A variance is being

15 requested -- a use variance from Section 15.02 to

16 keep the existing driveway and fire pit and to

17 allow for the parking of his RV and sleeping in the

18 RV a few weekends during the period from May 1st to

19 September 30th, where said use is not a permitted

20 use.

21 MR. ROWAN: I don't know how to appropriately

22 ask this, but would it be possible to take a

23 five-minute break?

24 MR. SWEENEY: Yes.

25 MR. RAE: I think that would be great.

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1 MS. GARCAR: Yeah, Number 4.

2 MS. FREEMAN: Can we read it into the record,

3 the whole agenda appeal --

4 MR. SWEENEY: I did.

5 MS. FREEMAN: -- the variance application?

6 Read the whole thing from the agenda.

7 MS. GARCAR: Would you like me to read it?

8 MR. SWEENEY: Okay, I'll do it again.

9 This is a variance requested, Jeff Marano is

10 requesting a use variance from Section 15.02 to

11 keep the existing driveway and fire pit and to

12 allow for the parking of his RV and sleeping in the

13 RV on a few weekends during the period from May 1st

14 to September 30th, where said use is not a

15 permitted use.

16 All right, Mr. Rae, you may proceed.

17 MR. RAE: Basically, we've got so many people

18 here, we're just going to go through the Duncan

19 factors, and that's what we'll ask you to base this

20 on.

21 First, may the property be used for any other

22 use permitted in the zoning classification

23 district?

24 The answer is no. It's a non-buildable lot,

25 as represented by Lake County Engineers. You can't

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1 MR. SWEENEY: Let's take a five-minute break.

2 (Recess had.)

3 MR. SWEENEY: All right, the meeting has

4 returned in session.

5 All right, we stated the basis for Case Number

6 2024-154.

7 Mr. Rae, would you like to proceed?

8 MR. RAE: Basically -- we've got so many

9 people here.

10 MS. GARCAR: Do we make a motion for this one,

11 yeah, before we table --

12 MR. SWEENEY: Yeah, we do.

13 MS. GARCAR: -- 154. I don't think we made a

14 motion.

15 MR. RAE: To accept jurisdiction, is that what

16 you're asking?

17 MR. SWEENEY: No.

18 MR. ROWAN: No, no. We haven't gotten to that

19 point.

20 MR. SWEENEY: We just called the matter.

21 MR. GOLLING: We just called them up, and then

22 we took a five-minute break.

23 MR. SWEENEY: Right.

24 MS. GARCAR: Okay. Sorry.

25 MR. RAE: This is Number 4 on your agenda.

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1 build a house on it, you don't want to ruin the

2 riparian nature of that property. There's a

3 stream, there's a creek, and it feeds into Big

4 Creek, and you're trying to protect that.

5 Is it due to unique circumstances, particular

6 to the property and not to general neighborhood

7 conditions?

8 Yeah, it's a unique property because of the

9 two streams, because of it going into the creek.

10 Also, you can't install a septic system because you

11 have to go under the creek, and it would be cost

12 prohibitive. And again, with the soil the way it

13 is, it would ruin the riparian nature of that.

14 And Exhibit 4 is a letter from Dan Sinclair

15 that basically says that.

16 C, will the essential character of the

17 neighborhood be substantially altered or will the

18 adjoining properties suffer a substantial element

19 if a variance is granted?

20 The answer to that is no. The owner to the

21 left says, this is great, let him do it.

22 You read the retired schoolteacher's letter.

23 You've got people up and down the street who

24 support it. I put several letters in there.

25 There is, across the street, where the

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1 Christmas tree farm is, two new houses. One of  
 2 the new houses says, let him use the lot the way it  
 3 is. There's one who says no. It looks like he  
 4 left.  
 5 But he just put a swimming pool in. The  
 6 street was packed with cars. Yeah. He can do  
 7 whatever he wants, but a person who has lived in  
 8 your city for 50 years, on a non-buildable lot,  
 9 can't do it?  
 10 So will the character of the neighborhood be  
 11 substantially altered? No.  
 12 Will it adversely affect the delivery of  
 13 governmental services? The answer is no. It's not  
 14 blocking the street or anything else. The swimming  
 15 pool and all the cars might be blocking it across  
 16 the street, from the guy who objected. But as to  
 17 this property, no. He pulls up, everything is on  
 18 that property.  
 19 Did the owner purchase the property with the  
 20 knowledge of the zoning restrictions? It was  
 21 deeded to -- or granted to him, or left to him by  
 22 his father. His father, at the time he had the  
 23 property, felt it was buildable. It was not  
 24 buildable.  
 25 The lot is only 1.25 acres. So a public or

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1 of -- it's the 11th letter, or something, in there.  
 2 But she fully supports the use of the property in  
 3 this manner.  
 4 So you've got a long-time resident, the whole  
 5 street supporting him, with the exception of one  
 6 person. And that one person, he moved in two years  
 7 ago. And what did he do? He built a swimming pool  
 8 and he's got the street blocked with cars.  
 9 I think that Mr. Marano deserves the  
 10 consideration of this board.  
 11 I appreciate it.  
 12 MR. SWEENEY: Thank you.  
 13 MR. RAE: I think we keep it short.  
 14 MR. SWEENEY: Yep. Any questions?  
 15 MR. GOLLING: No questions.  
 16 MS. GARCAR: No questions here.  
 17 MR. SWEENEY: No questions.  
 18 Thank you, Mr. Rae.  
 19 MR. RAE: Thank you.  
 20 MR. SWEENEY: Anybody speaking for or against?  
 21 All right, come on up.  
 22 Have you been sworn?  
 23 MS. GUENTHER: I have.  
 24 MR. SWEENEY: Okay. State your name and  
 25 address.

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1 commercial campground has to be at least 10 acres,  
 2 we've already said that.  
 3 Also, if you look at the Campground definition  
 4 in there for the commercial, it says it has to  
 5 be -- the entrance has to be on a main road. This  
 6 is not a main road. This is Fay Drive.  
 7 Can the applicant's predicament be feasibly  
 8 resolved through some other method than a variance?  
 9 The answer is no. It's a non-buildable lot. He  
 10 pays taxes on it every year. He gets the benefit  
 11 of paying a few hundred dollars of taxes for  
 12 nothing.  
 13 Will the variance preserve the spirit and  
 14 intent of the Zoning Resolution and will  
 15 substantial justice be done? The answer is yes.  
 16 This is R-4, riparian. Think of the nice creek,  
 17 the ravines, the animals, all the nature. The  
 18 driveway is on the flat part of the property. It  
 19 actually enhances the stability above the ravine.  
 20 And he did not encroach into any way of the down  
 21 part on the ravine.  
 22 You've got people up and down the street,  
 23 including the lady next door, but also at the  
 24 bottom of the hill, the lady who would be affected  
 25 by any pollution. Holly is her name. It's one

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1 MS. GUENTHER: Lorrie Guenther, 10581 Hobbit  
 2 Court, Concord.  
 3 MR. SWEENEY: Okay. Hi.  
 4 MS. GUENTHER: Hi. I know we don't have to  
 5 get with every detail here, but I'm a grandma of 21  
 6 grandchildren, and I have two great-grandchildren  
 7 included in that total. And when I think of the  
 8 opportunity to bring my grandchildren into an area  
 9 like that, and have a place for them to play, that  
 10 they're safe, they're with a grandfather, and  
 11 parents, or whatever, I think of the other side of  
 12 the coin, they could be who knows where these days.  
 13 And I just think -- you know, it's a  
 14 grandmother's heart, or whatever. But I just would  
 15 like to say, I'm totally for it. I'm not sure I  
 16 understand the whole campground thing. But, you  
 17 know -- that's just what I wanted to say.  
 18 Thank you.  
 19 MR. SWEENEY: All right. Thank you.  
 20 Anybody else for or against?  
 21 If not, I'll go ahead and close the public  
 22 hearing.  
 23 And I will entertain a motion.  
 24 MS. GARCAR: I will make a motion to approve  
 25 Variance Application 2024-154 for Jeff Marano, who

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1 is requesting the use variance from Section 15.02  
 2 to keep the existing driveway and fire pit and to  
 3 allow for the parking of his RV and sleeping in the  
 4 RV for a few weekends during a period of May 1 to  
 5 September 30th, where said use should be not a  
 6 permitted use. This is for the property located on  
 7 Fay Road, being parcel Number 08-A-015-0-00-012-0.  
 8 MR. SWEENEY: Second?  
 9 MR. GOLLING: So moved.  
 10 MR. SWEENEY: All right. Discussion?  
 11 MR. GOLLING: Yeah, I mean, as long as we  
 12 are -- he wants to be there between May 1st and  
 13 September 30th. Good camping time. I think he  
 14 approved the area -- improved the area.  
 15 I'm a little worried about that offshoot. The  
 16 GIS might be off, where it looks like the driveway  
 17 is off of the neighbor's, but I don't know about  
 18 that.  
 19 But yeah, I think as long as it's only Jeff  
 20 there, and --  
 21 MR. SWEENEY: All right, so are you proposing  
 22 conditions?  
 23 MR. GOLLING: Yeah, yeah.  
 24 MR. SWEENEY: Okay. So why don't you then go  
 25 ahead.

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1 Wednesday?  
 2 MR. SWEENEY: Yeah, yeah.  
 3 MR. FALKOWSKI: Or a Tuesday or something.  
 4 MR. ROWAN: So, I guess, how many days -- no  
 5 more than so many --  
 6 MR. SWEENEY: No more than three consecutive  
 7 nights.  
 8 MR. FALKOWSKI: No more than four consecutive.  
 9 MR. SWEENEY: Four consecutive.  
 10 MR. FALKOWSKI: I guess I just want to also  
 11 make sure that there's not going to be storage of  
 12 an RV.  
 13 MR. MARANO: No.  
 14 MR. FALKOWSKI: So that's why I'm saying, like  
 15 three or four. I'm flexible on that.  
 16 MS. GARCAR: So we do no more than three, or  
 17 no more than four?  
 18 MR. SWEENEY: Keep an eye on this.  
 19 MS. GARCAR: No more than three nights, or no  
 20 more than four nights?  
 21 MR. ROWAN: I would say no more than four  
 22 nights.  
 23 MS. GARCAR: Consecutive nights.  
 24 MR. ROWAN: Yes.  
 25 MR. GOLLING: Sure.

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1 MR. GOLLING: Sure. So conditions are that  
 2 the variance is limited to Jeff Marano.  
 3 MR. SWEENEY: Okay.  
 4 MR. GOLLING: So should he sell it, it goes  
 5 back. So no future property owners.  
 6 MR. SWEENEY: Limited to current owner.  
 7 MR. GOLLING: Current owner, Jeff Marano.  
 8 MR. SWEENEY: Okay. The next one?  
 9 MR. GOLLING: Only one RV parked at a time  
 10 at -- let me try that again.  
 11 Only one RV parked at a time, on the weekends  
 12 between May 1st and September 30th. And as long as  
 13 he doesn't build any additional structures or  
 14 buildings on there, groovy.  
 15 MR. SWEENEY: All right. Anyone --  
 16 MS. GARCAR: I'll second that amendment.  
 17 MR. FALKOWSKI: I might have a question.  
 18 So weekends. So let's say it's the 4th of  
 19 July, and the 4th of July is on a Monday. Do you  
 20 want to say, no more than three consecutive nights  
 21 in a row, or four --  
 22 MR. GOLLING: Sounds great. Long weekends --  
 23 MR. FALKOWSKI: I'm just trying to give a  
 24 little leeway.  
 25 MR. ROWAN: And what if 4th of July is on a

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1 MS. GARCAR: Okay.  
 2 MR. SWEENEY: All right.  
 3 MR. ROWAN: Now, the question is --  
 4 MR. SWEENEY: Go ahead.  
 5 MR. ROWAN: -- we have to make sure the  
 6 applicant agrees to that.  
 7 MR. SWEENEY: Right, that's my next -- that's  
 8 going to be next.  
 9 Mr. Rae, Mr. Marano.  
 10 MR. RAE: Mr. Marano.  
 11 MR. MARANO: You want me to come up?  
 12 MR. SWEENEY: Do you agree to those  
 13 conditions?  
 14 MR. MARANO: Yeah. That's more than fair.  
 15 MR. SWEENEY: Okay.  
 16 MS. GARCAR: Got it.  
 17 MR. SWEENEY: All right.  
 18 MS. FREEMAN: Can we have him state his name  
 19 and address for the record, now that he's been  
 20 sworn in?  
 21 MR. GOLLING: Yes.  
 22 MR. SWEENEY: State your name and address for  
 23 the record.  
 24 MR. MARANO: Jeff Marano, 890 Madison Avenue,  
 25 Painesville, Ohio.

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1 MR. SWEENEY: Okay. Do you understand the  
2 conditions?  
3 MR. MARANO: Yeah. From May to September, no  
4 more than four consecutive nights.  
5 MR. SWEENEY: Only you. No other owners.  
6 MR. MARANO: You mean, my RV?  
7 MR. GOLLING: Yes.  
8 MR. SWEENEY: Only you, owner. The person who  
9 buys your property, if you sell it, can't use it.  
10 MR. MARANO: Oh, yeah, yeah.  
11 MR. SWEENEY: Okay.  
12 MR. GOLLING: The RV must be removed after  
13 it's done camping.  
14 MR. MARANO: Right. I'm not leaving it there.  
15 MR. SWEENEY: Right. That's implied.  
16 MR. MARANO: It won't be there when I come  
17 back.  
18 MR. GOLLING: That neighborhood?  
19 MR. MARANO: Real bad.  
20 MR. SWEENEY: Okay. Thank you.  
21 MR. MARANO: Okay. Thank you.  
22 MR. SWEENEY: All right. With those  
23 conditions as stated --  
24 MS. FREEMAN: You're going to have to amend  
25 your motion, because that was not included in the

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1 not to the future, we're talking about the RV  
2 thing? I don't have to take the driveway out if I  
3 sold it or anything?  
4 MR. SWEENEY: No, no.  
5 MR. GOLLING: No.  
6 MR. SWEENEY: No. Uh-uh.  
7 MS. MATHENEY: Wait. I'm sorry, I actually am  
8 confused. So I thought the condition was that --  
9 in other words, if this property were to be sold by  
10 Mr. Marano --  
11 MR. ROWAN: Transferred.  
12 MS. MATHENEY: -- or transferred to somebody  
13 else --  
14 MR. SWEENEY: Right.  
15 MS. MATHENEY: -- the use goes away.  
16 MR. SWEENEY: Correct.  
17 MS. GARCAR: Correct. But he doesn't have to  
18 pull up the driveway. The driveway is there.  
19 MR. RAE: The driveway, the fire pit, and the  
20 picnic table stay. It's the RV use.  
21 MR. SWEENEY: Right. The RV that's --  
22 MR. ROWAN: I think we need to be clear.  
23 MR. FALKOWSKI: Yeah.  
24 MS. GARCAR: I mean, the driveway can stay.  
25 MR. SWEENEY: It was clear.

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1 motion, and I'm not clear on what the conditions  
2 are.  
3 MR. SWEENEY: Okay. Go ahead.  
4 MS. GARCAR: Todd, you amended the motion.  
5 MR. SWEENEY: Yeah, let's amend the motion  
6 with the following conditions.  
7 MS. GARCAR: You said, do a new motion and  
8 amendments?  
9 MS. MATHENEY: I'd do an amendment with the  
10 conditions.  
11 MR. SWEENEY: I hereby amend the previous  
12 motion to include the following conditions:  
13 The variance is limited to the current owner;  
14 the variance applies to only one RV at a time; the  
15 variance applies between May 1st and September 30th  
16 for no more than four nights -- four consecutive  
17 nights; and no additional buildings or structures  
18 shall be constructed on the lot. Okay?  
19 MS. GARCAR: As well as not to future  
20 subsequent property owners.  
21 MR. SWEENEY: That was the first one I stated.  
22 Okay.  
23 So having stated that amended motion, do I get  
24 a second?  
25 MR. MARANO: Just one question. When you say,

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1 MS. MATHENEY: There's no use on it, right?  
2 So what's the driveway use, is the question.  
3 MS. GARCAR: I think the clarification is, if  
4 he sells it, the driveway stays. Like he doesn't  
5 have to rip up the driveway and put trees back.  
6 MR. RAE: They can cook s'mores on it during  
7 the day.  
8 MR. SWEENEY: They can do whatever they --  
9 MR. RAE: They can cook hot dogs during the  
10 day. They can go visit Big Creek.  
11 MR. SWEENEY: They don't get the benefits of  
12 the variance, okay?  
13 All right, having stated the amended motion,  
14 do I have a second?  
15 MR. GOLLING: Second.  
16 MR. SWEENEY: Okay.  
17 Heather, do you want to take a vote?  
18 MS. FREEMAN: Sure.  
19 Any discussion, or you guys are --  
20 MR. SWEENEY: I think we just did.  
21 MS. GARCAR: I possibly have a discussion.  
22 MR. SWEENEY: Oh, you have further discussion?  
23 MS. GARCAR: I do.  
24 Is that clear enough of what we are stating in  
25 our --

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1 MR. SWEENEY: I'm clear with it. The  
 2 applicant is clear with it.  
 3 MS. GARCAR: Legally, is that clear enough?  
 4 Or do we need to rephrase the way we said what  
 5 we're trying to intend?  
 6 MS. MATHENEY: No, I think the conditions are  
 7 there.  
 8 MS. GARCAR: Thank you.  
 9 I have no more discussion.  
 10 MR. SWEENEY: Okay. Heather, do you want to  
 11 take a vote?  
 12 MS. FREEMAN: Sure.  
 13 Mr. Sweeney.  
 14 MR. SWEENEY: Yes.  
 15 MS. FREEMAN: Ms. Garcar.  
 16 MS. GARCAR: Yes.  
 17 MS. FREEMAN: Mr. Rowan.  
 18 MR. ROWAN: Yes.  
 19 MS. FREEMAN: Mr. Falkowski.  
 20 MR. FALKOWSKI: Yes.  
 21 MS. FREEMAN: Mr. Golling.  
 22 MR. GOLLING: Yes.  
 23 MR. SWEENEY: All right. Thank you,  
 24 Mr. Marano. Thank you, Mr. Rae.  
 25 MR. MARANO: Thank you, guys. And thank you,

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1 evening. I've already --  
 2 MR. SWEENEY: Thank you for your patience.  
 3 MRS. DEIGHAN: -- forgotten what I'm going to  
 4 say, I got so involved with everybody else's  
 5 issues. I'll try to summarize this.  
 6 We're seeking a variance to the Section  
 7 15.03(A)(2) standards that accessory buildings  
 8 should be located only on lots with a principal  
 9 building.  
 10 The accessory building in question is a  
 11 20 by 40 pole barn. It was built in 1970. It's  
 12 in good condition. And it stores the equipment  
 13 used to maintain our fields and woods on both our  
 14 Morley and Hermitage Road properties.  
 15 We wish to tear down the principal building  
 16 located on the Hermitage Road property, but we need  
 17 to keep the barn.  
 18 And so at this point, it might be helpful if  
 19 you take a look at this map. And to the left, I  
 20 believe everything is outlined. You can see Morley  
 21 Road, and you'll see our roughly four plus acres.  
 22 And then we also have a two-acre lot right next to  
 23 us that is on Kellogg Road.  
 24 And if you go all the way to the rear of that  
 25 property, you'll see that it joins the property I

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1 all the people who were waiting.  
 2 MR. SWEENEY: All right, our next matter on  
 3 the agenda is Variance 2024-155, Kay Deighan -- did  
 4 I say that properly?  
 5 MRS. DEIGHAN: Yes, you did.  
 6 MR. SWEENEY: -- is requesting a variance from  
 7 Section 15.03(A)(2) to allow an existing barn to be  
 8 located on a lot without a principal building.  
 9 All right, you may proceed.  
 10 MRS. DEIGHAN: Hi, everybody.  
 11 Kay Deighan, 7393 Morley Road, and I have been  
 12 sworn in.  
 13 MR. SWEENEY: Okay.  
 14 MRS. DEIGHAN: Is it my understanding that you  
 15 have the map?  
 16 MR. FALKOWSKI: Yes.  
 17 MRS. DEIGHAN: And the boundary survey?  
 18 MR. SWEENEY: Yes.  
 19 MR. FALKOWSKI: Yes.  
 20 MRS. DEIGHAN: Okay, good.  
 21 And my letter is in front of you, too?  
 22 MR. SWEENEY: Yep.  
 23 MRS. DEIGHAN: All right.  
 24 MR. SWEENEY: Yep.  
 25 MRS. DEIGHAN: So it's been a very long

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1 grew up on, on Hermitage Road. So it's sort of a  
 2 unique setup. And if you read my letter, it's been  
 3 in the family since the early '50s, and we strive  
 4 to keep it that way.  
 5 You can also see on that map the three acres  
 6 that we gave to our son, who is here tonight. And  
 7 they just completed -- I don't know if you've gone  
 8 down Hermitage. They just completed a nice, little  
 9 home there.  
 10 MR. SWEENEY: Yeah.  
 11 MRS. DEIGHAN: So you can also see on the  
 12 white map here the buildings. You can see them on  
 13 the colored map. You can see the house on  
 14 Hermitage near the pond. And then if you go back  
 15 toward where my son's house is, you can see the  
 16 barn very faintly. But on the white map, you can  
 17 see it better.  
 18 I think I had it circled in red, the house on  
 19 Hermitage that we wish to tear down, and then it's  
 20 labeled, Existing Shed.  
 21 MR. FALKOWSKI: I don't think we have that  
 22 one.  
 23 MR. SWEENEY: I don't think we have that.  
 24 MRS. DEIGHAN: You didn't get this one?  
 25 Heather, did you have one?

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1 MS. FREEMAN: You didn't submit that.

2 MRS. DEIGHAN: I thought I did, that one day I

3 came.

4 If you want to look at this --

5 MR. SWEENEY: Maybe if you just point it out

6 to us on this large one. Where would it be here?

7 MRS. DEIGHAN: It's very faint, on Hermitage.

8 MR. FALKOWSKI: So Hermitage is here.

9 MRS. DEIGHAN: Yeah. And here's the pole

10 barn.

11 MR. FALKOWSKI: Okay. So right towards the

12 blue line.

13 MR. SWEENEY: Oh, I see it now. Yeah, yeah.

14 I see it.

15 MS. GARCAR: So this thing right here?

16 MRS. DEIGHAN: That's my son's property.

17 MR. SWEENEY: Yeah, I see it.

18 MR. FALKOWSKI: That's where the barn is.

19 MRS. DEIGHAN: So right here.

20 MR. SWEENEY: So that's what's going to

21 remain?

22 MRS. DEIGHAN: So here is the house.

23 MR. GOLLING: Right.

24 MRS. DEIGHAN: And I believe that's the pole

25 barn.

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1 in -- my dad built it in the '50s. It's in

2 deteriorating condition. My husband and I don't

3 want to renovate it to sell or rent. We simply

4 want to keep the property and return it to its

5 natural setting that will go along with all the

6 other property that's there.

7 Without the variance -- well, I'll get there

8 later. We just want to keep the property, raze the

9 house, and let it be a natural setting. However,

10 the barn is essential for equipment storage, and

11 maintaining both our property on Morley, because

12 there's a field and woods there, as well as the

13 bigger field and the woods on Hermitage.

14 And in my letter, I addressed what I felt were

15 relevant Duncan factors to justify the practical

16 difficulty facing us if the pole barn cannot exist

17 without the house.

18 So if you'd like to look at Page 2 of my

19 letter. I don't know if you want me to go through

20 those orally.

21 MR. ROWAN: I would think, for the record, it

22 would probably be beneficial. So if you could go

23 through them.

24 MRS. DEIGHAN: Certainly.

25 MR. SWEENEY: What's the total acreage?

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1 MR. GOLLING: This is what you want to tear

2 down?

3 MRS. DEIGHAN: Yes.

4 MR. SWEENEY: Okay. That's what's going to

5 remain?

6 MRS. DEIGHAN: We wish to keep the barn.

7 MR. SWEENEY: Okay.

8 MRS. DEIGHAN: Because it has all the

9 equipment in it.

10 MR. SWEENEY: Gotcha.

11 But that house in the picture, that's coming

12 down?

13 MRS. DEIGHAN: We'd like to.

14 MR. SWEENEY: Okay.

15 MR. ROWAN: And I believe that's where the

16 variance comes in, correct?

17 MRS. DEIGHAN: Yeah.

18 MR. ROWAN: Because then you'll have an

19 accessory building, that's an accessory to nothing,

20 essentially.

21 MR. SWEENEY: Right.

22 MRS. DEIGHAN: Exactly.

23 So my mother passed away in the fall of '22

24 and I inherited the property, which we want to

25 keep. Nobody in the family wants the house. It's

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1 MRS. DEIGHAN: Including ours on Morley?

2 MR. SWEENEY: Yeah.

3 MRS. DEIGHAN: Or the Hermitage?

4 The Hermitage property --

5 MR. SWEENEY: Including everything.

6 MR. GOLLING: All the Deighan stuff.

7 MR. SWEENEY: Yeah, all the Deighan property.

8 MRS. DEIGHAN: Thirteen on Hermitage, and then

9 roughly seven on Morley. So --

10 MR. ROWAN: Twenty acres.

11 MRS. DEIGHAN: -- twenty.

12 MR. SWEENEY: Okay. All right. Thank you.

13 Yeah, that would be a good idea, if you went

14 through those factors for us.

15 MRS. DEIGHAN: Sure.

16 MR. SWEENEY: And tell us where you're

17 referencing.

18 MRS. DEIGHAN: It's Page 2 of my letter that

19 accompanied the application.

20 MR. SWEENEY: Got it.

21 MRS. DEIGHAN: So number one, can there be a

22 beneficial use of the property without the

23 variance?

24 And I don't know if I understood these

25 perfectly. I know Heather couldn't coach me.

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1 But I said, our goal of keeping the property  
 2 undeveloped is what we perceive is beneficial use  
 3 of the property, and this goal cannot be achieved  
 4 with strict adherence to the zoning standard.  
 5 Without the variance, an undesirable option is to  
 6 leave the old house to deteriorate on the property  
 7 in order to keep the necessary barn.  
 8 And I live across the street from a house that  
 9 is not lived in right now, and it's really hard to  
 10 watch it just go downhill. You might know that  
 11 house on Morley, the old cat house.  
 12 MR. GOLLING: Kitty City.  
 13 MRS. DEIGHAN: Kitty City.  
 14 Number two, is the variance substantial?  
 15 And I felt the variance request involves a  
 16 barn already there and would be the minimum  
 17 necessary to continue use of the property. Nothing  
 18 would change except the removal of the house.  
 19 Number three, will the essential character of  
 20 the neighborhood be substantially altered or will  
 21 adjoining properties suffer a substantial detriment  
 22 of the variance if granted?  
 23 And we felt the granting of the variance would  
 24 have no effect on any adjoining properties since we  
 25 own the surrounding undeveloped area. Keeping the

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1 peculiar to our property, and it's not shared by  
 2 neighboring properties.  
 3 So in conclusion, we've explored for months  
 4 all options, and strict adherence to the standard  
 5 results in practical difficulty if a perfectly  
 6 functional pole barn cannot remain without the  
 7 house. There seems to be no reasonably feasible  
 8 and practical solution other than through a  
 9 variance.  
 10 MR. SWEENEY: Thank you.  
 11 MRS. DEIGHAN: So I thank you for your time.  
 12 MR. SWEENEY: Thank you.  
 13 Questions?  
 14 MR. ROWAN: I have a question.  
 15 Did you explore the option of shifting the  
 16 property lines of your son's property? And why was  
 17 that not an option, just out of curiosity?  
 18 MRS. DEIGHAN: Time. There was a time factor.  
 19 Cost, property taxes.  
 20 The three acres with the new house, that  
 21 wasn't feasible. We thought at a later date maybe  
 22 we could have a new boundary survey. But that was  
 23 explored.  
 24 MR. ROWAN: And if you want to speak, if you  
 25 want to come up and state your name and address.

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1 fields and woods maintained as we always have  
 2 continues to enhance the rural character of the  
 3 neighborhood. It's one of the only open pieces of  
 4 land left on that road.  
 5 If granted, the variance would allow us to  
 6 keep the equipment barn in order to seamlessly  
 7 continue maintenance of the property. And also  
 8 noteworthy is that the barn is so near our son's  
 9 new home -- and I've got a couple of photos I  
 10 thought might help you.  
 11 MR. SWEENEY: Thank you.  
 12 MRS. DEIGHAN: You can see the pole barn in  
 13 the background there, where his garage is to the  
 14 right.  
 15 If the variance is granted, this barn would  
 16 not be a lone structure on unoccupied land. The  
 17 close proximity to his house allows for convenient  
 18 monitoring of the building and its contents.  
 19 Can the problem be resolved by some manner  
 20 other than granting the variance? Our predicament  
 21 presents us with no -- key words -- reasonably  
 22 feasible and practical solution through methods  
 23 other than a variance.  
 24 Will substantial justice be achieved through  
 25 the variance? And this practical difficulty is

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1 MR. SWEENEY: Yeah. Have you been sworn?  
 2 CRAIG DEIGHAN: Yes, I have.  
 3 MR. SWEENEY: Okay.  
 4 CRAIG DEIGHAN: My name is Craig Deighan, and  
 5 I'm at 7406 Hermitage Road, which is the new house  
 6 that was built.  
 7 The main reason for not having the barn on our  
 8 property was the location of our driveway. We used  
 9 an old service drive that my grandfather had used  
 10 for his business. He had a dog training business  
 11 there for many years.  
 12 And our current driveway, we wanted to use the  
 13 old service driveway. So that's what we did. And  
 14 the property line was just to the -- if you're  
 15 looking at Hermitage, it's to the right of the  
 16 driveway, is where the property line went.  
 17 So we would have had to have a fourth acre  
 18 onto our lot split which, of course, would be more  
 19 money in property tax.  
 20 MR. SWEENEY: Gotcha.  
 21 MR. ROWAN: I guess I was just looking at it  
 22 from a -- you know, you've got the property line  
 23 here, you know, and just like shift it over, keep  
 24 it three acres, you know, shifting it over. But  
 25 again --

1 MRS. DEIGHAN: Yeah.  
 2 MR. ROWAN: -- just exploring options,  
 3 understanding --  
 4 MRS. DEIGHAN: I had a feeling you'd ask that.  
 5 Believe me --  
 6 MR. ROWAN: I just want to make sure we  
 7 understand.  
 8 MRS. DEIGHAN: -- I've got a paper that lists  
 9 all the options we looked at. It's sort of  
 10 complicated and expensive.  
 11 CRAIG DEIGHAN: A lot of it also was, the  
 12 location of where we wanted our current house to be  
 13 put on the three acres. Where it's built, it sits  
 14 up higher, on a little mound, instead of the low  
 15 spot. So our house is pretty much right in the  
 16 smack-dab middle of the three acres, which is where  
 17 it would be the perfect location, because of the  
 18 hill there.  
 19 MR. ROWAN: I don't have any other questions.  
 20 MR. SWEENEY: Okay. Anybody else?  
 21 MS. GARCAR: I don't have any questions.  
 22 MR. SWEENEY: All right. Todd?  
 23 MR. GOLLING: No.  
 24 MR. SWEENEY: All right.  
 25 All right, thank you very much.

1 MR. FALKOWSKI: For or against? Did you have  
 2 to ask if anyone was speaking for or against?  
 3 MR. SWEENEY: Yeah, I did.  
 4 MS. GARCAR: He did.  
 5 I would make a motion for approval of Variance  
 6 Application 2024-155 by Kay Deighan, who is  
 7 requesting a variance from Section 15.03(A)(2) to  
 8 allow the existing barn to be located on the lot  
 9 without a principal building. This is for the  
 10 property located at 7440 Hermitage Road, being  
 11 parcel Number 08-A-027-A-00-008-0.  
 12 MR. FALKOWSKI: Second.  
 13 MR. SWEENEY: Any discussion?  
 14 If not, Heather, do you want to take a vote?  
 15 MS. FREEMAN: Sure.  
 16 Mr. Sweeney.  
 17 MR. SWEENEY: Yes.  
 18 MS. FREEMAN: Ms. Garcar.  
 19 MS. GARCAR: Yes.  
 20 MS. FREEMAN: Mr. Rowan.  
 21 MR. ROWAN: Yes.  
 22 MS. FREEMAN: Mr. Falkowski.  
 23 MR. FALKOWSKI: Yes.  
 24 MS. FREEMAN: Mr. Golling.  
 25 MR. GOLLING: Yes.

1 MRS. DEIGHAN: Thank you.  
 2 MR. SWEENEY: Is anyone else speaking for or  
 3 against?  
 4 MRS. DEIGHAN: Do you want to say anything?  
 5 CRAIG DEIGHAN: You know, I also -- this is  
 6 Craig Deighan again, 7406 Hermitage Road. I have  
 7 been sworn in.  
 8 I just wanted to say, since our new house is  
 9 in such close proximity to the barn, it would never  
 10 be left unattended. I always help my parents with  
 11 upkeep of the fields and everything. You know, the  
 12 barn houses equipment in order to keep up with the  
 13 fields and everything, and it would never be left  
 14 unattended.  
 15 MR. SWEENEY: Okay. All right, thank you.  
 16 CRAIG DEIGHAN: Yes.  
 17 MR. SWEENEY: So if there is no one else  
 18 speaking for or against, I would entertain a  
 19 motion.  
 20 MS. GARCAR: Are you closing the public forum?  
 21 MR. ROWAN: Is there anybody speaking for or  
 22 against?  
 23 MR. SWEENEY: If there's no one speaking, I  
 24 will close the public meeting.  
 25 Thank you.

1 MR. SWEENEY: All right. Thank you.  
 2 MRS. DEIGHAN: Thank you very much.  
 3 MR. SWEENEY: Good luck with everything.  
 4 MRS. DEIGHAN: I appreciate it. I'm glad that  
 5 was easy for you.  
 6 CRAIG DEIGHAN: Thank you.  
 7 MR. DEIGHAN: I was hoping it would last a  
 8 little longer.  
 9 MR. SWEENEY: Until midnight?  
 10 MR. DEIGHAN: Yeah.  
 11 MR. SWEENEY: All right. So on to our next  
 12 matter, which is a Conditional Use Permit  
 13 Application 2024-248. A.M.P. Services LLC is  
 14 requesting approval for a conditional use permit to  
 15 operate an Adult Day Care Center in accordance with  
 16 Section 13.05 and 13.08. This is for the property  
 17 located at 7757 Auburn Road, Unit 6, and being  
 18 parcel Number 08-A-020-0-00-036-0.  
 19 Hi. Have you been sworn?  
 20 MR. HAMSHER: Hi. I have been sworn in. My  
 21 name is Matthew Hamsher. My address is 30417  
 22 Forestgrove Road, Willowick, Ohio. I am the owner  
 23 of A.M.P. Services LLC.  
 24 I'm here to ask for a Conditional Use Permit  
 25 for the site at 7757 Auburn Road, Unit 6, for an



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1 adult day care center, right? So let's talk about  
 2 what that is.  
 3 Okay, so myself, I work for Lake County Board  
 4 of DD, Developmental Disabilities/Deepwood, right?  
 5 Lake County Board, we serve about 780 folks in Lake  
 6 County who have a developmental disability, okay?  
 7 Out of those 740, 600 of them are 18 plus, right?  
 8 So they're adults.  
 9 So you think of DD, you think of somebody with  
 10 Down syndrome, somebody with autism, right, along  
 11 that line. A lot of -- I'm going to reference our  
 12 folks as somebody with a DD, right?  
 13 So somebody who typically has a disability,  
 14 when they graduate from school, 18, they have the  
 15 leisure of staying until they're 22, right, in law.  
 16 So when they graduate from school, what's next,  
 17 right?  
 18 A lot of the folks who are on the higher end  
 19 of the spectrum can work, right? They go get a job  
 20 out in the community, McDonald's, Home Depot. I  
 21 have a gentleman who works at Lake West Hospital --  
 22 well, what was Lake West Hospital.  
 23 Anyhow, the other folks who might not have the  
 24 skill or are trying to gain the skill of  
 25 interpersonal skills, taking demands from a boss,

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1 volunteer work there, as well, help stack the food,  
 2 right? Help my individuals, in this building I'm  
 3 looking at.  
 4 Randy is the landlord. Mr. Viviani, I believe  
 5 his last name is. We've chatted about this, he's  
 6 on board with it. He's given -- I think you guys  
 7 might have in your packet a letter from him  
 8 approving it, as well.  
 9 So my idea for this is to have -- at maximum  
 10 capacity, you're looking at 12 to 16 individuals in  
 11 this building, okay? Not all at once, because the  
 12 goal is to go out and do volunteer work, right?  
 13 Myself, I have one staff member, one employee  
 14 that is coming with me, as well, okay? So the goal  
 15 is to kind of get groups of four, right? We go out  
 16 and we do volunteer work. We help expose the DD  
 17 population, to integrate it, right, to the general  
 18 population, see if they can build relationships,  
 19 possibly earn a job, right, through volunteer work.  
 20 As far as emissions for the building and for  
 21 the company itself, there is no emissions. There's  
 22 no gas emissions. There's no light pollution.  
 23 There's no extra noise.  
 24 We're not going to be outside. I mean, we're  
 25 not going to be in the parking lot. If you guys

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1 right, learning those skills, they go to an adult  
 2 day center, okay? So my goal here is -- well, let  
 3 me back up here.  
 4 We have 17 adult day centers in Lake County.  
 5 A majority of them are in Mentor, off of Tyler  
 6 Boulevard. We have a handful in Madison.  
 7 Painesville has a couple. Willoughby has a couple.  
 8 There is not one in Concord. So I'm looking to  
 9 open the first one here.  
 10 Basically the day-to-day operations of what  
 11 we're looking at is we're building -- well, we're  
 12 building independent skills, okay, with the folks.  
 13 So we're trying to get them engaged in the  
 14 community.  
 15 So my goal is to do volunteer work, okay?  
 16 TriPoint has a good volunteer program that I'm  
 17 trying to get set up with over there, okay? End  
 18 68 Hours of Hunger, if you guys have heard of that,  
 19 it's an organization that is based for the school  
 20 systems. They collect food. Friday is the  
 21 distribution days, where the school systems come  
 22 to there, and they take food back to the school  
 23 systems to give to the kids who might not have  
 24 food Friday at 3:00 all the way until Monday  
 25 morning, 68 hours, right? So my goal is to do

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1 have drove past the 7757 Auburn Road, right, when  
 2 we go out, we're going to go to the parks around  
 3 here. We're going to go to -- I think it's The  
 4 Corduroy -- the path. I'm sorry, I don't know.  
 5 I'm not too familiar with the area.  
 6 MR. SWEENEY: The Greenway?  
 7 MR. HAMSHER: Yeah, there you go.  
 8 MR. SWEENEY: The Corduroy.  
 9 MR. HAMSHER: The Greenway.  
 10 So we're not going to be outside in the  
 11 parking lot, hanging out. There is a little area  
 12 over there for lunch breaks that I saw. They have  
 13 a bench or two there.  
 14 I kind of scrambled there.  
 15 MR. SWEENEY: It sounds great.  
 16 MR. HAMSHER: But that is a general synopsis  
 17 of what I'm trying to open up there.  
 18 MR. SWEENEY: Okay. All right. Thank you.  
 19 Does anybody have any questions?  
 20 MS. GARCAR: I have no questions.  
 21 MR. SWEENEY: All right.  
 22 MR. ROWAN: I might.  
 23 MR. SWEENEY: All right.  
 24 MR. ROWAN: Again, 13.05 is for -- Heather,  
 25 13.05?

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1 MS. FREEMAN: That's the general criteria.

2 MR. ROWAN: General criteria.

3 13.08 has to do with the security fence?

4 MS. FREEMAN: 13.08 are the specific

5 conditions that you should take a look at related

6 to the adult day care.

7 MR. ROWAN: Okay.

8 MR. GOLLING: Will there be food service in

9 there?

10 MR. HAMSHER: No.

11 MR. GOLLING: No.

12 I think that's the old Time Warner office, the

13 office that was there.

14 MR. HAMSHER: The gentleman, Randy Viviani,

15 shared that it was a pharmaceutical place before, a

16 medication storage unit.

17 It is current vacant. So there's no use in

18 there as it is.

19 MR. GOLLING: How would it be set up inside?

20 MR. HAMSHER: It's going to be set up as --

21 well, business supplies. You're thinking office

22 supplies, right?

23 So there's going to be a little bit of office

24 supplies. And then, essentially, like a living

25 room would be, right? So I'm going to have a

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1 MS. GARCAR: -- is there any outdoor activity?

2 MR. SWEENEY: Bridey, correct me if I'm wrong,

3 but this application is to determine whether or not

4 the use is an approved use through the zoning text.

5 Heather, right?

6 MS. MATHENEY: Well, I think he's asking for a

7 conditional use --

8 MR. SWEENEY: Right.

9 MS. MATHENEY: -- which is permitted as a

10 conditional use in this zoning district. But in

11 order to -- you still have to look at the general,

12 you know, standards for any conditional use, and in

13 addition, the specific standards that apply to the

14 adult day care center.

15 MR. SWEENEY: Okay, that answers my question.

16 Go ahead.

17 MS. GARCAR: So is there going to be outdoor

18 activity at the facility?

19 MR. HAMSHER: So referencing back to the

20 fence, the fence is only for day cares, for

21 children.

22 MS. GARCAR: No. All age -- all outdoor

23 activity areas for child or adult -- or adult day

24 care centers shall be adequately enclosed by a

25 fence at the height appropriate for the Board of

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1 couch, I'm going to have some TVs, I'm going to

2 have some activity tables, so we can learn basic

3 skills, counting money.

4 MR. GOLLING: What are your hours?

5 MR. HAMSHER: So the hours -- the program

6 hours are from 9:00 to 2:00, okay? I will be doing

7 transportation, as well.

8 So you're thinking 8:30 drop-off, right?

9 You're thinking unloading, dropping off between

10 8:30 and 9:00.

11 MR. GOLLING: Okay.

12 MR. HAMSHER: And then when you're leaving the

13 program, you're looking about 1:45 to 2:05, for

14 leaving the program.

15 MR. GOLLING: Gotcha.

16 MR. ROWAN: I think there was a question

17 about, like, the eating area, there's a common area

18 outside of there. And I think that's where the

19 question came in about 13, that would be H., with

20 the possibility of a fenced area and that.

21 So, I guess, is there any concern from Zoning

22 about that, since it was referenced?

23 MS. GARCAR: I think the number one question

24 is --

25 MR. SWEENEY: I think -- Heather, I think --

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1 Zoning Appeals. An entry gate shall be securely

2 fastened. Such fences shall comply with other

3 applicable fence requirements set forth in

4 Section 38.10 of the Landscape and Screening

5 Requirements, with amendments and dates.

6 So will there be outdoor activities at that

7 facility?

8 MR. HAMSHER: No, no.

9 MS. GARCAR: Any reason other than going in

10 and out of the building that you're --

11 MR. HAMSHER: Correct.

12 MR. ROWAN: Other than the common eating area

13 outside. And I guess the concern -- would there be

14 any concern there?

15 MR. HAMSHER: No.

16 MS. GARCAR: Is there a common eating area

17 outside? Did I miss that?

18 MR. HAMSHER: There's two benches that are in

19 the green space in the middle of the complex, I

20 guess you can call it.

21 MS. GARCAR: So that would be just --

22 MR. ROWAN: It's really anybody that uses that

23 building.

24 MS. GARCAR: -- your clients using public

25 property. That's not --

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1 MR. ROWAN: Or common property.

2 MS. GARCAR: Okay.

3 MR. FALKOWSKI: Common element to the

4 association.

5 MR. ROWAN: So I guess I'm just making sure

6 that there are no concerns from anybody, since it

7 was brought up in the staff report as a

8 possibility. But there's no outdoor activities,

9 outside of possibly eating out there.

10 MR. HAMSHER: Correct.

11 MR. ROWAN: So I guess that answers my

12 question.

13 MS. GARCAR: And you guys have looked into --

14 going through all that, then, real quick, you guys

15 have looked into protection and safety for everyone

16 who will be in there, with the building that's

17 currently built?

18 MR. HAMSHER: Yes, I had, sure, a million

19 dollar business policy, insurance. I'm approved

20 through DODD, which is Department of Developmental

21 Disabilities, and ODM, Ohio Department of Medicaid.

22 They have to sign off on approval. They will do a

23 building site inspection as part of the approval

24 process, as well.

25 MS. GARCAR: I have no further questions.

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1 MS. FREEMAN: Okay.

2 Mr. Falkowski.

3 MR. FALKOWSKI: Yes.

4 MS. FREEMAN: Mr. Rowan.

5 MR. ROWAN: Yes.

6 MS. FREEMAN: Ms. Garcar.

7 MS. GARCAR: Yes.

8 MS. FREEMAN: Mr. Golling.

9 MR. GOLLING: Yes.

10 MS. FREEMAN: Mr. Sweeney.

11 MR. SWEENEY: Yes.

12 Congratulations.

13 MR. HAMSHER: Thank you, guys.

14 MR. SWEENEY: Okay.

15 All right, our next matter before the

16 board tonight is Variance Application 2024-156,

17 EA Architecture & Design, Inc., on behalf of

18 Pacific Bells, LLC. And the property owner Madison

19 Real Estate Developers, Inc. is requesting a use

20 variance from Section 16.07(E)(2) to permit a

21 counter service restaurant with a drive-thru.

22 This is for the property located on Crile Road,

23 and being parcel Number 08-A-019-B-00-002-0.

24 State your name and address.

25 MR. ARBUCKLE: My name is Russell Arbuckle.

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1 MR. SWEENEY: Okay. Anybody else?

2 MR. GOLLING: No.

3 MR. SWEENEY: All right. If there's no

4 further discussion.

5 MS. GARCAR: Is there anyone else speaking for

6 or against?

7 MR. SWEENEY: No, we already -- oh, yeah.

8 Is there anyone else here speaking for or

9 against?

10 If not, I will go ahead and close the public

11 meeting, and entertain a motion from our new

12 chairperson.

13 MS. GARCAR: Yes.

14 I'd like to make a motion to approve the

15 Conditional Use Permit Application 2024-248 brought

16 to us by A.M.P. Services LLC, which is requesting

17 approval for a conditional use permit to operate

18 an adult day care center in accordance with

19 Sections 13.05 and 13.08. This is for property

20 located at 7757 Auburn Road, Unit 6, and the parcel

21 number being 08-A-020-0-00-036-0.

22 MR. SWEENEY: Second.

23 Any discussion?

24 All right. If not, Heather, do you want to

25 take a vote?

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1 I'm with EA Architecture & Design. I have been

2 sworn in. My address is 1906 Willowbridge, Normal,

3 Illinois.

4 MR. SWEENEY: Okay, you may proceed. Thank

5 you for your patience.

6 MR. ARBUCKLE: Sure.

7 As you stated, this is a variance application.

8 The proposed location currently is a portion of a

9 lot that has the Key Bank on it, right on Crile

10 Road. And it's vacant, a green space lot right

11 now. It does have a driveway on it, a gravel

12 driveway on it. It's the only thing that's there

13 now.

14 The issue with the variance, this is in a PUD,

15 and a restaurant with a drive-thru -- a restaurant

16 is allowed, a sit-down restaurant is allowed, but a

17 restaurant with a drive-thru is not allowed without

18 a variance.

19 So to get to the nuts and bolts of the

20 criteria, may the property be used for any other

21 permitted use in that zoning classification

22 district? That's difficult. In any commercial

23 property, it can be used for any number of things.

24 So that's difficult to say anything but yes, it

25 could be used for something other. But this lot

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1 has been vacant and unused for a period of time, so  
 2 the proposed use is currently the highest and best  
 3 use available at this time.

4 Is the requested use for the variance due to  
 5 unique circumstances particular to the property and  
 6 not to the general neighborhood conditions? I  
 7 would say yes, that this parcel is in a commercial  
 8 corridor. But it's in a residential PUD, a  
 9 residentially zoned PUD. And much of the PUD and  
 10 surrounding properties and parcels are already  
 11 light commercial uses. So that's a little bit of  
 12 a unique circumstance.

13 Will the essential character of the  
 14 neighborhood be substantially altered or will  
 15 adjoining properties suffer substantial detriment?  
 16 I believe, no, granting the variance would have no  
 17 detrimental effects on the neighborhood.

18 Is the problem self-created? No. The  
 19 drive-thru is a Taco Bell purported essential  
 20 element. It's not something that Pac Bells or the  
 21 owner of the property, either one, have much of a  
 22 say in.

23 Will the variance adversely affect the  
 24 delivery of governmental services? No, it will  
 25 have no effect on any of those things.

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1 guy.

2 The typical high hour output expected for this  
 3 location is below 35 customers per hour in their  
 4 peak hour. And the only reason I know that is  
 5 that's how they establish how many kiosks they have  
 6 to have at their front counter. So we have to have  
 7 three kiosks, because we're under the number for  
 8 four.

9 MS. GARCAR: What's the peak hour?  
 10 MR. ARBUCKLE: Lunch hour.  
 11 MS. GARCAR: Lunch is peak hour?  
 12 MR. ARBUCKLE: Yeah.  
 13 MS. GARCAR: Okay.

14 MR. GOLLING: I notice there was no traffic  
 15 study attached. So normally with a drive-thru, the  
 16 main concern is drive-thrus create cars. Cars on  
 17 Crile already are becoming problematic as the  
 18 corridor grows.

19 So I did a little ChatGPT today. It told me,  
 20 on a good day, 350 cars; on a really good day, 500  
 21 cars.

22 So my concern is, is it -- with a drive-thru,  
 23 tracking cars, of course we have 44, which is an  
 24 exit off of a major interstate -- which hence the  
 25 attraction for Pacific Bells, I would imagine. I'm

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1 Did the property owner purchase the property  
 2 knowing of the zoning restrictions? That's unknown  
 3 to me. But Pacific Bells is actually a tenant  
 4 entering into a leasehold agreement, and they  
 5 entered into the leasehold agreement without prior  
 6 knowledge of the zoning restrictions.

7 Can the applicant's predicament feasibly be  
 8 resolved through some method other than a variance?  
 9 No. As stated, a drive-thru is a Taco Bell  
 10 corporate element, essential element.

11 And will the variance preserve the spirit  
 12 and intent of the zoning resolution and will  
 13 substantial justice be done by granting the  
 14 variance? I believe, yes, it will allow the  
 15 establishment of a valuable business on an  
 16 otherwise vacant parcel while maintaining standards  
 17 consistent with those priorly established in that  
 18 PUD.

19 So with that, I'd entertain any questions  
 20 about the variance.

21 MR. SWEENEY: Okay. Thank you.

22 MR. GOLLING: How many customers does Taco  
 23 Bell serve, average, on a daily basis?  
 24 MR. ARBUCKLE: I can't answer on a daily  
 25 basis. I'm the architect. I'm not an operations

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1 interested in seeing Pacific Bells' input on the  
 2 traffic study and its impact on Crile Road.

3 MR. ARBUCKLE: A traffic study would be -- is  
 4 warranted, I think. But it wasn't my understanding  
 5 that was a part of this application. That was for  
 6 the zoning certificate --

7 MR. GOLLING: Uh-huh.

8 MR. ARBUCKLE: -- would be the thing for that,  
 9 is my understanding. I'd be happy to provide one.

10 MS. GARCAR: Has it happened yet?  
 11 MR. ARBUCKLE: It has not.

12 MR. ROWAN: Heather, does the county require a  
 13 traffic study, or is that a requirement of any  
 14 agencies they would need to get approval from? Or  
 15 is it a, nice to have?

16 MS. FREEMAN: So the Zoning Commission, during  
 17 site plan review, could request some kind of  
 18 traffic study. But also, the Lake County Engineer  
 19 could, because that does impact their county road.

20 MR. ARBUCKLE: We're planning to have one done  
 21 as part of the next month's proceedings, presuming  
 22 these proceedings go forward.

23 MR. ROWAN: And to piggyback off of his  
 24 question, I think the biggest concern with this  
 25 area is that anybody coming from the freeway would

1 turn left to get in there from 44, and then have to  
2 turn right. To get back on 90, they have to turn  
3 left. There's no way to get on -- making a right  
4 without doing a U-turn on private property,  
5 essentially. That's pretty common right now. And  
6 I've seen some illegal U-turns in that area, too.

7 So I think -- along these lines, I think, with  
8 the drive-thru -- and I don't know if this is for  
9 us to put on as a condition, or if it's something  
10 that the Zoning Commission would do, but I think,  
11 you know, making sure that we have very obvious  
12 signage. There are signs in some of those areas  
13 that tell you to go left for 90. But I think that  
14 would be something that we would want, is that as  
15 people are exiting, they know that if they need to  
16 get back on 90, it's a left turn, and that --  
17 again, I don't know if that's for us. But I think  
18 that would be a condition that I would want to put  
19 on there.

20 MS. MATHENEY: You certainly can ask for a  
21 traffic impact study. You could ask for more  
22 information, absolutely.

23 MR. ARBUCKLE: Yeah, the traffic impact study,  
24 like I said, that's on the agenda to have done.  
25 The signage, I would have to know more about where

1 are a ten-car stack.

2 MR. ROWAN: Yeah, I see that on this.

3 MR. ARBUCKLE: So we're showing that. But  
4 there's also a future -- it's not shown on the  
5 plan. A second drive-thru lane is an option.  
6 We're not showing it there, because we're not  
7 proposing to put it in right now. But it's  
8 available if it becomes an issue, that we have to  
9 be able to move more cars through faster.

10 MR. ROWAN: So would we need to get a second  
11 variance for a second drive-thru, or is it  
12 approved --

13 MR. ARBUCKLE: My understanding, it would be  
14 an approved use, but it would still need a zoning  
15 certificate to add it. I would need to add it.  
16 And that would be -- I mean, the intent is to do  
17 that down the road or at request. It's not to do  
18 it now.

19 MS. GARCAR: I have a question that might be  
20 for Heather, that she hopefully can answer.

21 Obviously a traffic study is going to have to  
22 happen at some point, throughout one of the  
23 multiple layers here. Is there a point within the  
24 traffic study, that a traffic study -- if we say,  
25 yes, we're cool with a drive-thru, that's fine.

1 that would need to be placed, whether it would be  
2 on the parcel in question, or whether we would have  
3 to get an easement to put signage elsewhere or if  
4 it's on governmental property.

5 MR. ROWAN: I mean, not that people are  
6 actually going to follow it, but at least it's  
7 there.

8 MR. ARBUCKLE: Understood. I understand. I  
9 drove it today. I went there today, to the site  
10 again, for the second time. I've been there. And  
11 so I fully understand your concerns about that  
12 intersection right there.

13 MR. ROWAN: Yeah. And I think that's where  
14 the stacking comes in. Because I know Starbucks  
15 can back up onto Crile, even after they made  
16 adjustments.

17 So I think the concern is because you even  
18 have a shorter runway there to the intersection,  
19 that, you know, we want to make sure that there's  
20 adequate stacking.

21 MR. ARBUCKLE: I mean, the stacking that we  
22 have proposed currently is more than we would  
23 normally propose. Typically, Taco Bell standard is  
24 an eight-car stack with the menu board being at the  
25 fifth car. I think that the township requirements

1 They go get their traffic study done. In the  
2 traffic study, is there a point that says, there  
3 is too much traffic and we will not let you put a  
4 drive-thru in because there's too much traffic?

5 MS. FREEMAN: I don't think that's what a  
6 traffic study would tell you. A traffic study  
7 would likely tell you whether or not Crile Road can  
8 handle the traffic, and any other lane improvements  
9 might be necessary, you know, and things like that.

10 MS. GARCAR: So there's another stopping  
11 point, I guess is where I'm getting?

12 MS. FREEMAN: Well, not really, no. I mean --

13 MS. GARCAR: If we say you can put it --

14 MS. FREEMAN: -- there's always ways to work  
15 it out. You add a lane, you --

16 MS. GARCAR: Well, if we say we can use a  
17 drive-thru, you can put a drive-thru in there, and  
18 the traffic study says it's too crowded --

19 MS. FREEMAN: Well, traffic studies were done  
20 for Crile Crossing, where Starbucks and Chipotle  
21 are. I mean, they don't anticipate necessarily  
22 backups on drive-thrus, is my understanding.

23 MR. SWEENEY: Right.

24 MS. FREEMAN: That's not what they're looking  
25 for. And maybe --

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1 MR. ARBUCKLE: If I may, in that same general  
2 area, there's already -- across the street, anyway,  
3 there's a McDonald's across the street with a  
4 drive-thru. There's a bank. The Key Bank has a  
5 drive-thru lane. And there's a 24-hour restaurant  
6 immediately adjacent.  
7 MR. SWEENEY: Huntington Bank has got a  
8 drive-thru.  
9 MR. ARBUCKLE: What's that?  
10 MR. SWEENEY: Huntington Bank has got a  
11 drive-thru.  
12 MR. ARBUCKLE: Key Bank does.  
13 MR. GOLLING: The Key Bank there.  
14 MR. SWEENEY: So does Key Bank. And so does  
15 the other -- the next bank down further towards  
16 Sunoco. There are drive-thrus.  
17 MR. ARBUCKLE: Yeah, they all have  
18 drive-thrus, granted. Now, they don't have a mad  
19 rush all at lunch hour, or dinner hour, or  
20 whatever. So it is slightly different. Maybe at  
21 5:00 p.m. and everybody wants to beat the rush  
22 before they close at night, they might have a mad  
23 rush and that sort of thing.  
24 MR. ROWAN: What are the hours anticipated ? I  
25 guess, what are the hours that they're proposing

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1 And that outlot behind us has a natural gas --  
2 I think it's a natural gas pump on it. And then,  
3 of course, Key Bank would be closed at the later  
4 hours.  
5 So I don't see our traffic conflicting with  
6 traffic otherwise there, except during -- perhaps  
7 during lunch hour. Key Bank, perhaps, has a run on  
8 their drive-thru and Taco Bell might have a run on  
9 their drive-thru.  
10 And they're really -- Taco Bell and Key Bank  
11 are the only ones that use that Crile access right  
12 there, because it's got a shared drive off of Crile  
13 Road right there. Key Bank and Taco Bell have the  
14 same shared access right there.  
15 MS. GARCAR: I have no further questions for  
16 him.  
17 MR. GOLLING: You what?  
18 MS. GARCAR: I have no further questions for  
19 him.  
20 MR. GOLLING: So do you know how many Taco  
21 Bells are within a 6.4 mile radius of right here?  
22 MS. GARCAR: I do not know, because I am  
23 geographically challenged of how far away the  
24 nearest Taco Bell is.  
25 MR. GOLLING: I'm geographically challenged

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1 that the drive-thru would be open? I don't know if  
2 that's in your purview or not.  
3 MR. ARBUCKLE: It's subject to change. But  
4 they're usually open late, I know, 2:00 a.m. or  
5 something, whatever the requirement, to be able to  
6 close. Because they have the -- Taco Bell has  
7 their, whatever they call it, fifth meal, or  
8 whatever they call that.  
9 MR. GOLLING: Live Más.  
10 MR. ARBUCKLE: What's that?  
11 MR. GOLLING: Live Más.  
12 MR. ARBUCKLE: Yeah.  
13 MR. GOLLING: Run for the Border.  
14 MR. ROWAN: Do we have a restriction on hours  
15 for restaurants?  
16 MR. ARBUCKLE: The hours really -- the late  
17 hours don't affect the traffic, because the bank is  
18 closed, and the other things are closed. So the  
19 hours are typically usually limited when it is an  
20 issue of noise. And in this particular case, we  
21 have nothing close by. We have -- behind us,  
22 there's tanks, storage tanks, gas storage tanks.  
23 There's the overgrown Waterway, whatever that is.  
24 I think that's Waterway behind the Waffle House.  
25 Waffle House is open 24 hours.

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1 here.  
2 MR. SWEENEY: Two.  
3 MR. GOLLING: Google says five. There are  
4 five Tacos Bells. There's one in Chardon, a couple  
5 in Mentor -- one on Mentor Avenue, one in Diamond  
6 Centre -- one over in Painesville, and the fifth  
7 one closer to Willoughby.  
8 But either way, my question is, I guess, are  
9 we -- I mean, our job is to look out for the future  
10 of Concord Township. And is approving this in the  
11 best interest of Concord Township, given the  
12 potential for the traffic that you may potentially  
13 receive as the result of a 2:00 a.m. drive-thru off  
14 an interstate?  
15 MS. GARCAR: So I think that would be a  
16 conditional use question, not a drive-thru  
17 question.  
18 MR. GOLLING: Right.  
19 MS. GARCAR: Just for the record.  
20 MR. GOLLING: Hence the conditional use,  
21 right?  
22 MS. GARCAR: I think that's a conditional use  
23 question.  
24 MR. GOLLING: Yeah.  
25 MR. ARBUCKLE: Just a variance --

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1 MS. GARCAR: The next thing that we're talking  
2 about.  
3 MR. GOLLING: Yeah. I tend to merge them  
4 together.  
5 MS. GARCAR: I know you do.  
6 I have no further questions for the applicant.  
7 I don't know if there's other people for or  
8 against.  
9 MR. SWEENEY: No questions.  
10 Anybody?  
11 All right. Thank you, sir.  
12 Is there anybody here speaking for or against?  
13 Or just spectating?  
14 MR. TRAFFIS: Spectating.  
15 MR. SWEENEY: All right. If there's nothing  
16 further, I will close the public hearing and  
17 entertain a motion.  
18 MS. GARCAR: I will make a motion to approve  
19 Variance Application 2024-156. EA Architect &  
20 Design Corporation, on behalf of Pacific Bells, LLC  
21 and the property owner Madison Real Estate  
22 Developers is requesting a use variance from  
23 Section 16.07(E)(2) to permit a counter service  
24 restaurant with a drive-thru. This is for the  
25 property located on Crile Road, and being parcel

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1 MR. SWEENEY: Yeah.  
2 MR. FALKOWSKI: Yes.  
3 MR. SWEENEY: That's all the way at the other  
4 end of Crile.  
5 MR. GOLLING: Almost like by Red Hawk.  
6 MR. ROWAN: Yeah, this is like Waffle House  
7 and Key Bank --  
8 MR. SWEENEY: Do you know where Waffle House  
9 is?  
10 MS. GARCAR: I do. Okay.  
11 MR. SWEENEY: Okay.  
12 MR. GOLLING: Right next to Waffle House.  
13 MS. GARCAR: Okay, that was my --  
14 MR. GOLLING: You are geographically  
15 challenged.  
16 MS. GARCAR: I am very geographically  
17 challenged.  
18 MR. GOLLING: You did not lie.  
19 MR. SWEENEY: All right, any other questions?  
20 MR. ROWAN: I would just -- again, my only  
21 condition that we would have to get approval from  
22 the applicant is just having signage about turning  
23 left for 90. I just want to make sure we include  
24 that.  
25 We've included the signage conditions for

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1 Number 08-A-019-B-00-002-0.  
2 MR. SWEENEY: Second.  
3 Discussion?  
4 MS. GARCAR: Yes.  
5 I think we've had multiple lengths of  
6 discussion on the property directly across the  
7 street, whether or not a drive-thru should be  
8 permitted in this area or not.  
9 MR. SWEENEY: What?  
10 MR. GOLLING: Directly across what street?  
11 MS. GARCAR: This is right --  
12 MR. ROWAN: Between Waffle House and Key Bank.  
13 MR. GOLLING: Between Waffle House and Key  
14 Bank.  
15 MR. ROWAN: Key Bank already has a drive-thru.  
16 MS. GARCAR: Correct.  
17 MR. GOLLING: Right.  
18 MS. GARCAR: And isn't this right here, on the  
19 other side, right near the area of the Victor  
20 property that we just denied?  
21 MR. FALKOWSKI: No.  
22 MR. SWEENEY: No.  
23 MS. GARCAR: So I'm very geographically  
24 challenged.  
25 MR. GOLLING: No. This is like right --

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1 crosswalks at the Starbucks. I didn't think -- I  
2 don't see a problem with it, if you guys don't.  
3 MR. SWEENEY: I'm not inclined to require that  
4 as a condition. So if you want to take a vote on  
5 the condition --  
6 MR. ROWAN: I'm just asking.  
7 MS. GARCAR: I'm sure we need the drive-thru,  
8 just in general.  
9 MR. SWEENEY: Wait, what?  
10 MS. GARCAR: We're talking about the  
11 drive-thru.  
12 MR. ROWAN: We're talking about the  
13 drive-thru --  
14 MR. SWEENEY: No, we're talking about his  
15 condition.  
16 MR. ROWAN: -- as a condition --  
17 MR. SWEENEY: To turn left.  
18 MR. ROWAN: -- for the variance. Or, I could  
19 not.  
20 MR. SWEENEY: Does anyone else want to put a  
21 condition on this, other than Davey?  
22 MS. GARCAR: No.  
23 MR. ROWAN: That's fine.  
24 MR. SWEENEY: All right. So we'll move  
25 forward.

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1 MR. ROWAN: I'm fine with that.

2 MR. SWEENEY: I think that might be addressed ,

3 though, at a later stage.

4 MR. ROWAN: Okay.

5 MR. SWEENEY: Any further discussion?

6 MR. FALKOWSKI: I think Key Bank has a

7 drive-thru, so the parcel directly next to it. I

8 don't see how it would be appropriate not to

9 approve a drive-thru for this parcel.

10 MR. GOLLING: I think it's apples and oranges,

11 though.

12 MS. GARCAR: A bank versus a restaurant is

13 completely different.

14 MR. GOLLING: I mean, I have, to Davey's

15 point, sat in a drive-thru at Taco Bell at 2:00 in

16 the morning, right? He knows what I'm talking

17 about.

18 MR. FALKOWSKI: See, I would have thought

19 those were the peak hours.

20 MR. SWEENEY: With how many in the queue?

21 With how many in the queue?

22 MR. GOLLING: Oh, you'd be amazed.

23 MR. ROWAN: Go to East Cleveland on any

24 Saturday at 2:00 a.m.

25 MR. SWEENEY: Well, how many in the queue?

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1 MR. FALKOWSKI: Yes.

2 MR. SWEENEY: All right, you have been

3 successful.

4 We move on now to our final New Business

5 matter for the evening, Conditional Use Permit

6 Application 1209-31. EA Architecture & Design,

7 Inc., on behalf of Pacific Bells, LLC and the

8 property owner Madison Real Estate Developers, Inc.

9 is requesting to amend conditional use permit

10 1209-31 for a commercial center in accordance

11 with Section 13.05. This is for the property

12 located on Crile Road, and being parcel Number

13 08-A-019-B-00-002-0.

14 All right. Mr. Arbuckle?

15 MR. ARBUCKLE: Arbuckle.

16 MR. SWEENEY: Okay.

17 MR. ARBUCKLE: The same project, the same

18 parcel. This is actually just to amend an existing

19 conditional use, as I understand it.

20 As I understand it, the original conditional

21 use was set for a strip center business use, I

22 believe, something along those lines, and we need

23 to amend that conditional use to allow for a

24 restaurant.

25 So specifically in regards to the general

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1 MR. GOLLING: Well, Bowling Green was a long

2 time ago. But I would say that we waited quite a

3 while at 2:00 a.m.

4 MR. SWEENEY: All right. So at 2:00 a.m., the

5 Waffle House and Taco Bell will have Crile Road all

6 to themselves.

7 MR. GOLLING: Potentially to themselves.

8 MR. SWEENEY: And Sunoco.

9 So I don't see that as being a problem.

10 MR. ROWAN: I'm not worried about it.

11 MR. SWEENEY: I'm not worried about it.

12 Anything else?

13 All right, if there's nothing further.

14 All right, Heather, do you want to take a

15 vote?

16 MS. FREEMAN: Okay. Sorry.

17 Mr. Sweeney.

18 MR. SWEENEY: Yes.

19 MS. FREEMAN: Mr. Golling.

20 MR. GOLLING: No.

21 MS. FREEMAN: Ms. Garcar.

22 MS. GARCAR: No.

23 MS. FREEMAN: Mr. Rowan.

24 MR. ROWAN: Yes.

25 MS. FREEMAN: Mr. Falkowski.

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1 standards to apply for conditional use permits, we

2 offer the following:

3 A Taco Bell restaurant we feel would be

4 harmonious use in the district as there is already

5 an existing 24-hour restaurant and a bank with a

6 drive-thru service immediately adjacent, similar to

7 what the Taco Bell would offer via -- as

8 Mr. Golling stated, though, it is a little bit of

9 apples to oranges, and we talked about that earlier

10 with the drive-thrus.

11 The general appearance and design and

12 construction is consistent with other facilities in

13 the district and is of similar or same character.

14 So I don't feel that that would be out of character

15 for the zoning district.

16 The Taco Bell is certainly not a hazard, nor

17 will it be disturbing to any other neighborhood

18 uses. All Taco Bell traffic will be relegated to

19 the Taco Bell lot, and the proposed drive-thru is

20 at the rear of the building protected from primary

21 views by the building itself and the adjacent

22 outlot to the rear.

23 The access to the facility is -- we feel is

24 exceptional. As was stated previously, it's

25 directly off Crile Road and adjacent to the local



1 highway. The utilities are adequate and  
 2 accessible. The development would require no  
 3 additional public requirements that we know of at  
 4 this date. The traffic study may change that.  
 5 The development would not create or involve  
 6 any activities or conditions of operation that  
 7 would be hazardous or harmful to the general  
 8 welfare of the community.  
 9 Proposed on site circulation is adequate for  
 10 fire and police protection, as well as safe and  
 11 efficient vehicular circulation. The development  
 12 is designed to minimize traffic congestion, putting  
 13 drive-thru traffic out of the way of all parking  
 14 spots.  
 15 Garbage enclosure is at the rear of the  
 16 building and backs up, as best we can make it back  
 17 up, to the one from Key Bank, fully screened cement  
 18 enclosed -- or cement block enclosed garbage  
 19 enclosure.  
 20 The development improves upon current natural  
 21 features by improving upon a vacant lot and helping  
 22 to shield from view the storage tanks existing at  
 23 the outlot to the rear.  
 24 And the Taco Bell is expected to enhance other  
 25 uses permitted in the district and the immediate

1 MR. SWEENEY: Second.  
 2 Discussion?  
 3 If no discussion, Mike, do you want to take a  
 4 vote?  
 5 MR. GERSON: Sure.  
 6 MR. SWEENEY: Oh, is there some discussion?  
 7 MS. MATHENEY: You don't want to go through  
 8 the, you know --  
 9 MS. GARCAR: I think there should definitely  
 10 be some discussion about this.  
 11 MR. GOLLING: We should go through the --  
 12 MR. SWEENEY: I think the applicant went  
 13 through them --  
 14 MS. GARCAR: What are you suggesting we go  
 15 through?  
 16 MR. SWEENEY: -- if I'm not mistaken.  
 17 MS. MATHENEY: That's fine. I mean, if you're  
 18 just going to accept those, that's fine. I didn't  
 19 know if you wanted to discuss this in general.  
 20 MR. SWEENEY: If anybody wants to discuss it.  
 21 MS. MATHENEY: Okay.  
 22 MS. GARCAR: I struggled with, everything was  
 23 in comparison of a bank drive-thru versus an eating  
 24 drive-thru, which I think is very different, as  
 25 well as 24 hours with no drive-thru, and closed to

1 vicinity.  
 2 So again, I'm willing to take any questions  
 3 the board might have.  
 4 MR. SWEENEY: No questions.  
 5 MR. ARBUCKLE: Thank you.  
 6 MR. SWEENEY: Anybody?  
 7 MS. GARCAR: I have no questions for him.  
 8 MR. SWEENEY: All right.  
 9 Anybody for or against?  
 10 All right, if not, we'll close the meeting and  
 11 we'll entertain a motion.  
 12 MR. GOLLING: You're doing so good, Ashley.  
 13 MR. SWEENEY: You are. You're good.  
 14 MR. GOLLING: We're very proud of you.  
 15 MS. GARCAR: Thank you.  
 16 I will make a motion to approve the  
 17 conditional use permit application 1209-31 for  
 18 EA Architect & Design, Incorporation, on behalf of  
 19 the Pacific Bells, LLC and the property owner  
 20 Madison Real Estate Developers, Incorporation in  
 21 requesting to amend the conditional use permit  
 22 Number 1209-31 for a commercial center in  
 23 accordance with Section 13.05. This is the  
 24 property located on Crile Road, and being parcel  
 25 Number 08-A-019-B-00-002-0.

1 24 hours of drive-thru, it's hard to compare that.  
 2 MR. ROWAN: There's a 24-hour restaurant right  
 3 next door.  
 4 MS. GARCAR: It's hard to compare a 24-hour  
 5 restaurant to a drive-thru 24 hours. I think  
 6 there's differences in how much is there.  
 7 MR. GOLLING: Although it's subjective, the  
 8 definition of harmonious, for me, it's just -- I  
 9 mean, I drive down Mentor Ave., and I see the Taco  
 10 Bell and went, eh, great. I just don't see the  
 11 harmonious.  
 12 MR. ROWAN: How do you feel about the Waffle  
 13 House?  
 14 MR. SWEENEY: Yeah.  
 15 MR. GOLLING: I don't like it.  
 16 MR. SWEENEY: Is that harmonious?  
 17 MR. GOLLING: No.  
 18 MR. ROWAN: I mean, it's a business district.  
 19 MR. SWEENEY: I love that place.  
 20 MR. GOLLING: Really? I'm more of a Sunny  
 21 Street guy.  
 22 MR. SWEENEY: I love them all. They all have  
 23 a right to be there, if they --  
 24 MR. GOLLING: True.  
 25 MR. SWEENEY: If they meet the criteria.

1 MR. GOLLING: Right.  
 2 MR. SWEENEY: So if you want to discuss that,  
 3 let's do it.  
 4 Harmonious? You were talking about that.  
 5 MR. GOLLING: I struggle with whether or not  
 6 do I feel the Taco Bell on Crile Road does -- I  
 7 mean, I don't think that's --  
 8 MR. SWEENEY: Okay.  
 9 MS. GARCAR: As well as the hazardous or  
 10 disturbing to neighbors. Like there's just a  
 11 difference in --  
 12 MR. ROWAN: What neighbors? What residents?  
 13 MS. GARCAR: You're referring to it as  
 14 residents, okay. But I'm also referring to more  
 15 just the traffic on Crile Road can be handled -- a  
 16 restaurant drive-thru right there, and would that  
 17 be considered hazardous. Maybe not to people  
 18 physically living there, because there's not one  
 19 living that's touching. But neighbors just in  
 20 general, people that are --  
 21 MR. GOLLING: I guess I'm just curious.  
 22 MS. GARCAR: -- in the area.  
 23 MR. GOLLING: I just want to know how much  
 24 more will it add? And I realize that more  
 25 businesses means more cars. I just want to know --

1 gets that busy, where they've got to pop in another  
 2 drive-thru over there, do a double drive-thru to  
 3 get through, I don't know.  
 4 I guess my subjectivity, I want some  
 5 objectivity to help me -- my brain kind of figure  
 6 out the numbers, you know? Like here's a  
 7 restaurant, how am I going to come through? I  
 8 don't know.  
 9 And right now, I'm working on, I don't know.  
 10 And ChatGPT told me 500 cars a day. So I don't  
 11 know. I just kind of -- I wish I had some more  
 12 information to make an educated decision, what's in  
 13 the best interest for Concord going forward. And  
 14 if we're going to allow this, is it because we've  
 15 done the homework and we've seen that the homework  
 16 supported, it's totally cool to put this here  
 17 because there's not going to be a gazillion cars.  
 18 Banks, on the other hand, I don't know who  
 19 uses bank drive-thrus. I've never gone through a  
 20 bank drive-thru.  
 21 MR. SWEENEY: I use them all the time.  
 22 MR. GOLLING: I just use the ATM. I'm sorry.  
 23 MR. SWEENEY: That's a drive-thru.  
 24 MS. GARCAR: That's part of the drive-thru.  
 25 MR. GOLLING: The bank drive-thrus are going

1 I just would have liked to have seen that, on  
 2 average, a Taco Bell will bring in, at this time of  
 3 day -- I mean, granted we're not going there at  
 4 2:00 a.m. But if lunch is the big rush, and lunch  
 5 is from 11:00 a.m. to 3:00 p.m., you know, is this  
 6 something that will negatively prohibit some  
 7 traffic on Crile?  
 8 MS. GARCAR: Uh-huh.  
 9 MR. GOLLING: Now, we've seen the sheriff  
 10 hiding out in the Red Hawk, catching the people  
 11 doing the thing, you know, the turnaround that  
 12 they're not supposed to do. But we -- will that  
 13 increase? Maybe. Probably.  
 14 Will we get more people off of the interstate  
 15 to come into Taco Bell? Well, that's kind of the  
 16 idea why -- I would guess, why they chose the spot,  
 17 is because it's adjacent to an interstate.  
 18 MS. GARCAR: Right.  
 19 MR. GOLLING: I have driven through the  
 20 Mickey D's across the street at lunch time, made a  
 21 bad choice to eat. It's always a better idea than  
 22 actually doing it. It wasn't horrible, like, the  
 23 wait, because they've increased the number of  
 24 drive-thrus over there.  
 25 But, you know, with two drive-thrus, if it

1 to last longer because people are doing  
 2 transactions and stuff there.  
 3 I just don't know how to make an educated  
 4 decision with -- I know Taco Bell, and I know Taco  
 5 Bell at 2:00 a.m., from college, and that's my  
 6 level of knowledge.  
 7 MS. GARCAR: Right.  
 8 MR. SWEENEY: All right.  
 9 MS. GARCAR: And just concerns of the extra  
 10 traffic that it will -- I mean, I understand that  
 11 we want more traffic, and we want more business in  
 12 Concord. I understand that. I'm balancing, is  
 13 that location the best for a drive-thru restaurant  
 14 with the infrastructure already set.  
 15 MR. GOLLING: Right.  
 16 MS. GARCAR: Balancing the two.  
 17 MR. SWEENEY: Anything else?  
 18 MR. ROWAN: The lot has been vacant for how  
 19 long? 2009?  
 20 MR. GOLLING: Forever.  
 21 MR. SWEENEY: Forever.  
 22 MR. ROWAN: The bank went under in 2009 so --  
 23 MR. GOLLING: Forever.  
 24 MR. ROWAN: Yeah.  
 25 MR. GOLLING: Good discussion, though.

1 MR. SWEENEY: Okay.  
 2 MR. GOLLING: I'm proud of us.  
 3 MR. SWEENEY: All right.  
 4 Okay, if there's nothing further, Mike, do you  
 5 want to take a roll?  
 6 MR. GERSON: Sure.  
 7 MR. SWEENEY: Or a vote, or whatever.  
 8 MR. GERSON: Whatever you want to call it.  
 9 Mr. Golling.  
 10 MR. GOLLING: No.  
 11 MR. GERSON: Mr. Sweeney.  
 12 MR. SWEENEY: Yes.  
 13 MR. GERSON: Ms. Garcar.  
 14 MS. GARCAR: No.  
 15 MR. GERSON: Mr. Rowan.  
 16 MR. ROWAN: Yes.  
 17 MR. GERSON: Mr. Falkowski.  
 18 MR. FALKOWSKI: Yes.  
 19 MR. SWEENEY: All right. Thank you very much.  
 20 You have been --  
 21 MR. GOLLING: Two hundred, give or take.  
 22 That's peak hour. But like for the day.  
 23 MR. SWEENEY: You're successful. You can  
 24 leave. You can actually go. You're free to go.  
 25 MR. ARBUCKLE: You said how many cars per day?

1 And the next Board of Zoning Appeals meeting  
 2 is June 12th.  
 3 MR. GOLLING: Is it Thursday right now?  
 4 MR. SWEENEY: We're all adjourned. Thank you.  
 5 You can all go home.  
 6 (Meeting adjourned at 10:53 p.m.)  
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 25

1 And what is peak hour --  
 2 MR. SWEENEY: Mr. Traffis, any --  
 3 MR. TRAFFIS: Well, you're not done yet.  
 4 MR. GOLLING: Thank you. I appreciate you  
 5 doing that.  
 6 MR. SWEENEY: Oh, we are. We have to --  
 7 MS. GARCAR: We have one more item on the  
 8 agenda and/or table, plus the minutes.  
 9 MR. SWEENEY: Well, all right.  
 10 MS. GARCAR: Which we'll need to table those,  
 11 too.  
 12 MR. SWEENEY: The next matter on the agenda is  
 13 the election of Chair and Vice Chair.  
 14 MR. GOLLING: We should wait for Yvonne,  
 15 again.  
 16 MR. SWEENEY: All right, we will table that.  
 17 MR. TRAFFIS: That's why I came.  
 18 MR. GOLLING: Well, do you have something to  
 19 say, Wayne?  
 20 MR. TRAFFIS: I was going to vote.  
 21 MR. SWEENEY: I don't think you can.  
 22 MR. TRAFFIS: I'm kidding.  
 23 MR. SWEENEY: We were not provided the minutes  
 24 for the March 13th and April 10th, so that will be  
 25 tabled, as well.


# CERTIFICATE

1  
 2 State of Ohio, }  
 3 County of Cuyahoga. } ss:

4  
 5 I, Ivy J. Gantverg, Registered Professional  
 6 Reporter and Notary Public in and for the State of Ohio,  
 7 duly commissioned and qualified, do hereby certify that  
 8 the foregoing is a true, correct and complete transcript  
 9 of my stenotype notes which were taken at the time and  
 10 place in the foregoing caption specified.

11 I do further certify that I am not a relative or  
 12 counsel of either party, or otherwise interested in the  
 13 event of this action.  
 14  
 15

16  
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Ivy J. Gantverg  
 Ivy J. Gantverg, Notary Public  
 in and for the State of Ohio,  
 Registered Professional Reporter.  
 My Commission Expires November 5, 2028.

**CRAIG DEIGHAN: [6]** 188/2  
188/4 189/11 190/5 190/16  
192/6  
**MR. ARBUCKLE: [27]** 203/25  
204/6 206/24 207/10 207/12  
208/3 208/8 208/11 208/20  
209/23 210/8 210/21 211/3  
211/13 213/1 213/9 213/12  
213/17 214/3 214/10 214/12  
214/16 216/25 223/15 223/17  
226/5 233/25  
**MR. CONTORNO: [22]** 3/15  
3/20 3/22 4/3 4/8 4/10 4/15  
4/17 4/19 5/4 5/6 5/9 5/11  
5/13 5/20 5/23 6/1 6/6 6/8  
6/14 6/18 12/3  
**MR. DEIGHAN: [2]** 192/7  
192/10  
**MR. FALKOWSKI: [68]**  
10/17 11/24 16/19 16/22  
29/21 36/25 40/14 40/20 49/2  
53/14 55/19 61/17 64/22 69/4  
69/8 70/21 70/25 71/4 76/10  
77/21 84/5 87/21 90/20 90/24  
91/4 91/14 92/17 94/6 95/4  
96/6 106/8 123/1 142/8  
154/24 155/2 156/23 156/25  
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[2] 48/10 234/24  <b>11</b> [1] 117/19  <b>11.0</b> [1] 131/15  <b>11.01</b> [14] 97/18 97/18  100/19 100/20 100/20 100/23  100/24 127/20 127/20 128/2  128/7 128/10 130/14 130/17  <b>11465</b> [2] 97/14 102/7  <b>11495</b> [1] 101/16  <b>11:00 a.m</b> [1] 230/5  <b>11th</b> [1] 167/1  <b>12</b> [1] 195/10  <b>12.01</b> [3] 97/18 127/21 132/8  <b>120</b> [2] 76/10 82/7  <b>1209-31</b> [4] 223/6 223/10  226/17 226/22  <b>12505</b> [1] 13/1  <b>12th</b> [2] 46/19 235/2  <b>13</b> [1] 198/19  <b>13.05</b> [6] 192/16 196/24  196/25 202/19 223/11 226/23  <b>13.08</b> [4] 192/16 197/3 197/4  202/19  <b>13.13</b> [4] 106/14 107/1  107/13 110/19  <b>13th</b> [2] 22/22 234/24  <b>15</b> [4] 108/19 110/20 153/16  153/18  <b>15.02</b> [11] 97/19 127/21  132/25 133/4 134/14 134/19  150/14 150/15 161/15 163/10  169/1  <b>15.03</b> [12] 12/10 12/13  12/16 12/19 86/2 86/5 94/13  94/16 112/5 178/7 179/7  191/7  <b>15.04</b> [2] 3/6 3/7  <b>151</b> [1] 3/4  <b>152</b> [4] 12/6 56/11 85/23  88/14  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<b>3</b>  <b>30</b> [17] 22/17 47/10 69/25  70/6 79/24 80/14 82/5 82/9  82/19 82/21 83/19 84/3 84/9  86/10 86/16 86/17 109/8  <b>30417</b> [1] 192/21  <b>30th</b> [6] 161/19 163/14 169/5  169/13 170/12 174/15  <b>31</b> [4] 223/6 223/10 226/17  226/22  <b>33 feet</b> [1] 3/9  <b>33 foot</b> [1] 4/21  <b>35</b> [1] 207/3  <b>350</b> [1] 207/20  <b>36</b> [1] 133/13  <b>38.10</b> [1] 200/4  <b>3:00 all</b> [1] 194/24  <b>3:00 p.m</b> [1] 230/5 </div> <div> <b>4</b>  <b>40</b> [1] 179/11  <b>40-foot</b> [1] 129/4  <b>44</b> [2] 207/23 209/1  <b>44060</b> [1] 100/13  <b>44077</b> [1] 1/9  <b>4th</b> [4] 24/11 170/18 170/19  170/25 </div> <div> <b>5</b>  <b>5.01</b> [1] 151/5  <b>5.02</b> [2] 133/13 150/20  <b>5.2</b> [1] 133/17  <b>5.5</b> [1] 133/17  <b>50</b> [5] 101/10 101/17 103/25  105/8 165/8  <b>50 feet</b> [2] 3/10 73/18  <b>50 foot</b> [1] 4/20  <b>500</b> [2] 207/20 231/10  <b>500 feet</b> [1] 21/8  <b>5:00</b> [1] 213/21 </div> <div> <b>6</b>  <b>6.4</b> [1] 215/21  <b>60</b> [10] 47/5 47/12 47/19  47/21 48/11 48/13 48/15  48/25 50/5 70/6  <b>600</b> [16] 13/9 13/25 15/7  27/9 27/14 27/20 63/24 64/1  64/7 64/18 65/3 69/7 83/13  84/10 84/11 193/7  <b>600 foot</b> [2] 84/1 86/7  <b>6501</b> [1] 100/12  <b>68</b> [2] 194/18 194/25  <b>6820</b> [2] 3/11 7/7  <b>6th</b> [2] 131/18 131/25 </div> <div> <b>7</b>  <b>7/10/23</b> [1] 141/2  <b>700</b> [1] 5/9  <b>7209</b> [1] 4/10  <b>7229</b> [1] 1/8 </div>
<div> <b>\$</b>  <b>\$300</b> [6] 108/8 108/12 117/4  117/8 147/24 148/2  <b>\$5,000</b> [1] 131/5  <b>\$600</b> [1] 138/6  ' </div> <div> <b>'22</b> [1] 182/23  <b>'50s</b> [2] 180/3 183/1 </div> <div> ' </div> <div> <b>.a</b> [1] 86/1  <b>.b</b> [1] 86/1 </div> <div> <b>0</b>  <b>0001986</b> [1] 100/12  <b>0324-2732</b> [1] 26/6 </div>			

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<p><b>yes [140]</b> 2/23 4/9 4/15 4/17 5/4 6/22 7/4 8/25 11/18 11/20 11/22 11/24 12/1 13/6 14/19 14/23 16/8 16/22 18/22 19/10 21/12 21/22 22/4 22/6 26/25 28/17 28/19 31/1 32/19 34/1 34/21 35/7 35/25 37/18 51/4 51/6 52/17 55/7 55/17 58/7 58/8 60/7 67/23 68/11 68/14 80/22 80/23 81/2 81/6 83/14 83/16 85/2 85/19 87/19 87/21 87/23 88/2 92/17 94/5 94/6 95/7 95/16 95/17 96/2 96/4 96/6 96/8 96/25 98/20 99/15 101/24 105/22 109/24 112/2 115/11 115/14 115/17 116/10 119/18 121/6 121/19 124/16 125/24 136/7 138/2 150/8 150/9 155/12 156/18 157/11 157/23 157/24 158/7 159/2 159/13 159/24 159/25 161/9 161/12 161/24 166/15 171/24 172/21 173/7 177/14 177/16 177/18 177/20 177/22 178/5 178/16 178/18 178/19 182/3 188/2 190/16 191/17 191/19 191/21 191/23 191/25 201/18 202/13 203/3 203/5 203/7 203/9 203/11 204/24 205/7 206/14 211/25 218/4 219/2 222/18 222/24 223/1 233/12 233/16 233/18</p> <p><b>yes/no [2]</b> 157/23 157/24</p> <p><b>yet [6]</b> 11/11 11/13 43/25 116/9 208/10 234/3</p> <p><b>you [600]</b></p> <p><b>you'd [9]</b> 33/20 34/2 38/13 107/22 127/17 158/22 183/18 189/4 221/22</p> <p><b>you'll [6]</b> 14/13 96/21 136/25 179/21 179/25 182/18</p> <p><b>you're [60]</b> 3/21 5/3 5/18 10/7 10/14 15/4 20/11 32/20 36/25 37/5 38/23 41/22 41/23 41/23 41/24 45/18 60/17 61/24 67/5 70/9 71/15 76/9 79/20 85/15 85/17 92/1 101/20 102/6 114/14 115/14 117/17 124/19 143/1 144/1 146/10 148/20 148/20 148/21</p>	<p>149/4 149/16 156/19 162/16 164/4 173/24 184/16 188/14 195/10 197/21 198/8 198/9 198/12 198/13 200/10 226/12 226/13 227/17 229/13 233/23 233/24 234/3</p> <p><b>you've [19]</b> 4/14 6/14 35/17 41/25 46/14 92/24 93/19 96/10 98/19 100/2 117/19 120/22 143/25 148/6 164/23 166/22 167/4 180/7 188/22</p> <p><b>young [1]</b> 106/20</p> <p><b>younger [1]</b> 8/8</p> <p><b>your [105]</b> 2/15 2/18 2/19 3/13 4/4 4/7 4/7 6/25 8/10 12/23 13/8 13/21 13/22 15/1 19/21 20/3 20/5 21/24 22/2 22/2 22/23 22/24 25/12 26/1 27/14 33/15 35/17 37/20 42/1 42/20 47/18 48/6 50/20 50/24 51/5 51/6 51/15 52/25 68/21 72/19 73/6 74/12 79/11 83/8 91/22 97/4 97/6 98/22 99/5 100/7 100/7 102/13 110/1 110/11 110/18 111/4 111/11 111/25 112/1 114/15 114/15 114/23 116/7 116/17 118/13 120/13 121/22 122/1 125/11 127/11 128/1 136/24 138/22 138/22 141/8 142/12 146/21 147/21 148/7 148/9 148/13 149/2 149/9 149/10 149/15 149/16 149/19 156/24 162/25 165/8 167/24 172/22 173/9 173/25 179/2 187/11 187/16 187/25 195/7 198/4 200/24 203/24 204/5 210/11 214/2</p> <p><b>yours [3]</b> 51/9 115/13 127/16</p> <p><b>Yvonne [1]</b> 234/14</p> <hr/> <p><b>Z</b></p> <p><b>zoned [1]</b> 205/9</p> <p><b>zoning [107]</b> 1/2 1/16 1/21 1/21 1/22 2/3 2/10 17/6 17/23 23/4 23/12 24/5 24/18 25/11 25/23 26/5 28/20 35/9 47/18 62/23 65/20 66/17 66/25 67/6 68/18 70/2 74/20 74/23 77/8 82/20 83/3 84/18 86/12 97/11 98/7 98/12 99/23 103/18 104/11 106/13 108/5 113/3 114/11 114/15 114/15 120/18 123/10 125/22 126/5 127/19 127/22 128/8 128/10 128/11 128/16 130/13 130/15 130/21 131/13 131/14 132/13 132/14 132/15 132/16 132/19 132/20 132/22 133/14 133/18 134/14 134/16 134/22 134/25 136/14 136/15 140/5 141/10 141/16 141/16 144/20 151/2 153/21 153/23 155/18 155/19 155/20 155/25 156/20 159/10 163/22 165/20 166/14 185/4 198/21 199/4 199/10 200/1 204/21</p>
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**Z**

**zoning...** [9] 206/2 206/6  
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