

CONCORD TOWNSHIP BOARD OF ZONING APPEALS
LAKE COUNTY, OHIO
MEETING

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

September 14, 2011
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Zoning Commission members present:

Blair Hamilton, Chairman
Chris Jarrell, Vice Chair
James Rowe
Gerald Reis
Brandon Dynes

Also Present:

Kathy Mitchell, Zoning Inspector/Secretary
Michael Lucas, Esq., Legal Counsel

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

1 7:00 p.m.

2 CHAIRMAN HAMILTON: Good evening. I would like to
3 welcome everyone to the September 14th, 2011, Concord Township
4 Board of Zoning Appeals meeting. The meeting is now in
5 session.

6 I would like to introduce my fellow board members.
7 To my far left is Jim Rowe, Brandon Dynes. To my immediate
8 right is Gerry Reis, Chris Jarrell. And to my far right is
9 Planning and Zoning Director Kathy Mitchell, and I am Blair
10 Hamilton.

11 There are six items on the agenda for tonight. The
12 meeting format requires any audience member conducting business
13 before the board is sworn in. If you are intending to speak
14 tonight, I ask at this time that you please stand and raise
15 your right hand to be sworn in.

16 (Speakers stood up. Mr. Lucas arrived.)

17 MR. ROWE: He gets a standing ovation.

18 (Speakers were sworn en masse.)

19 CHAIRMAN HAMILTON: Thank you. Please be seated.

20 Business before the board will be conducted from the
21 podium. Those wishing to speak tonight will be asked to
22 approach the podium, state their name and address for the
23 record, and verify that you have indeed been sworn in.

24 It takes a quorum of the board, that is three votes,
25 to approve or deny each variance. Your request for variance is
26 denied — If your request for variance is denied, you have the
27 right to file an appeal, and Kathy can help you with the
28 details if you choose to pursue this option.

29 Kathy, were the public notices published in a timely
30 fashion?

1 MS. MITCHELL: Yes, they were.

2 CHAIRMAN HAMILTON: All right. We did some
3 introductions. We have a late arrival. To my far left,
4 Mr. Michael Lucas, our counsel.

5 MR. LUCAS: Thanks for not calling attention to my
6 late arrival.

7 MR. REIS: It's duly noted.

8 MR. ROWE: It was on film anyway.

9 MR. LUCAS: Yeah. No disguising, I am afraid.

10 CHAIRMAN HAMILTON: The first item on the agenda,
11 Conditional Use Permit Number 38, Ms. Christine Phillips, for
12 Verizon Wireless, proposes to replace three existing antennas
13 with three new antennas on an existing cell tower located at
14 7928 Morley Road, R-1 Residential District. Wireless
15 communication facilities are permitted as a conditional use in
16 the R-1 District, when in compliance with the applicable
17 conditional use permits (sic.) set forth in Section 13.19 C of
18 the Concord Township Zoning Resolution.

19 Do we have someone to speak to the matter?

20 MS. PHILLIPS: Good evening. I am getting — I had
21 laryngitis, so I may have to shout but it will sound like a
22 loud whisper.

23 I am Christine Phillips. I am with FMAC
24 Corporation. We're a consultant for Verizon Wireless. And we
25 are working on a number of projects where we are upgrading
26 antennas to the newer and the lighter — I think you heard of
27 4G, the fourth generation. So their —

28 CHAIRMAN HAMILTON: Excuse me. You have been sworn
29 in?

30 MS. PHILLIPS: Yes, I have. I am sorry. You saw

1 me. I was —

2 And the purpose today is to acquire conditional use
3 permits to remove three of the old, outdated antennas and
4 replace them with the three new of the 4G type antenna. They
5 are smaller in size and weight.

6 What we did do, we did make an application to the
7 county for a building permit and we were approved subject to
8 your approval here. And I know, lots of times, people go,
9 "Well, okay. How do we know it's okay?" Well, this is a
10 structural analysis of this tower with our proposed loading,
11 and the county has reviewed it and approved it. The pole is at
12 80 percent capacity, which is very good.

13 So, basically, that's what we would like to do, swap
14 out three antennas for three and get your opinion.

15 CHAIRMAN HAMILTON: Thank you.

16 MS. PHILLIPS: Any questions?

17 CHAIRMAN HAMILTON: Questions? I see no questions.

18 Thank you.

19 MS. PHILLIPS: I am glad I wasn't with my grandkids.

20 They have a lot.

21 CHAIRMAN HAMILTON: Is there anyone else who wishes
22 to speak in favor of the appeal tonight? No one. Anyone
23 wishing to speak against the appeal? Again, no one. Do I hear
24 a motion for approval —

25 MR. ROWE: So moved.

26 CHAIRMAN HAMILTON: — of Conditional Use Permit
27 Number 38?

28 MR. ROWE: Still so moved.

29 CHAIRMAN HAMILTON: Second?

30 MR. DYNES: Second.

1 CHAIRMAN HAMILTON: Very good. And discussion?

2 MR. ROWE: It's just a trade-out of equipment.

3 MS. JARRELL: Even exchange.

4 MR. ROWE: Enough said.

5 CHAIRMAN HAMILTON: Okay. Enough said.

6 Kathy, please call the roll.

7 MS. MITCHELL: Mr. Dynes?

8 MR. DYNES: Yes.

9 MS. MITCHELL: Mr. Rowe?

10 MR. ROWE: Yes.

11 MS. MITCHELL: Ms. Jarrell?

12 MS. JARRELL: Yes.

13 MS. MITCHELL: Mr. Reis?

14 MR. REIS: Yes.

15 MS. MITCHELL: Mr. Hamilton?

16 CHAIRMAN HAMILTON: Yes. The appeal is approved.

17 MS. PHILLIPS: Thank you.

18 CHAIRMAN HAMILTON: The ayes have it.

19 The second item on the agenda tonight is Appeal

20 Number 0811-1000, Mr. Joey A. Walker proposes to construct a

21 single-family dwelling at 8180 Rainbow Drive, R-1 Residential

22 District, to be located 33 feet from the side property line, in

23 lieu of the 50 foot setback required for corner lots, as set

24 forth in Section 6.11 A of the Concord Township Zoning

25 Resolution.

26 Do we have someone to speak in favor of the appeal?

27 MR. NOVAK: Good evening. My name is Dave Novak,

28 from Barrington Consulting Group, 9114 Tyler Boulevard, Mentor,

29 Ohio, and I have been sworn in.

30 This lot in Nature Preserve South, Mr. Walker came to

1 me and he brought me a house plan and so forth and proposed it
2 for this lot, and it proposes some real difficulties because of
3 the current condition of the lot. The lot, just the grade on
4 Moonbeam Drive drops 18 feet. And if you go from the southwest
5 corner to the northeast — I am sorry — the southeast corner
6 to the northwest, it drops 20 feet.

7 So what we did is we — And I believe we provided you
8 guys with copies — we looked at three different options. The
9 first option was — And, again, these were, Option 1 and 2,
10 would be to comply with the current zoning regulations. And so
11 what we did is we took the garage and we stuck it out in front
12 of the house. And in doing so, it really pushes the house
13 back. It hides the front of the house from the street. But
14 because of the topography of the lot, the basement floor on
15 Option 1 would be a little over 4 feet above the existing
16 ground there, so that would entail bringing in 4 feet of fill,
17 plus fill behind the house. So that was the first option that
18 we looked at.

19 And, again, because of the fill and the additional
20 cost to deepen the basement, we looked at Option Number 2,
21 which what we did is we took the garage and we put the garage
22 behind the house. And in doing that — Excuse me. I have a
23 little bit of a cold. When we worked out the grading plan for
24 this, the basement was still 2 feet, 10 inches above existing
25 ground, but the garage floor is 11 and a half feet above
26 existing ground and the driveway has a 15 and a half percent
27 grade, which the Lake County engineer's department will only
28 let you go to a maximum of 10 percent.

29 So, again, that didn't appear to be feasible for us.
30 So the next option we looked at, which was Option Number 3, and

1 this works real well. We put the house — the garage on the
2 side. It's a side load garage. The driveway works out to be
3 10 percent. The basement floor ends up to be right at existing
4 grade. So it works very well for this lot.

5 The only other option that we didn't really present
6 here was to actually take the garage and put it in front of the
7 house and make it a front load off of Rainbow, and that really
8 wasn't an option. At least, we didn't feel it was an option
9 because this is a four-car garage and you have a — the current
10 lot is only, building area, is only 50 feet wide. So if you
11 have a 40-foot garage, all you would see in the front of this
12 house was 40 feet of garage and the 10 foot front door and
13 maybe a little one window. So you wouldn't have any light
14 coming into the house from the front and so forth because the
15 garage would be basically taking the entire front of the
16 house.

17 So that's why we're asking for the variance of 17
18 feet, so that we would be at — the side setback on Moonbeam
19 would be 33 feet.

20 MS. JARRELL: And what's wrong with Option 1, that
21 the 4 feet required premium fill under the basement floor?

22 MR. NOVAK: Right. You would have to fill, under the
23 entire empty basement floor, 4 feet, plus bring in additional
24 dirt outside. And it really blocks the view of the house
25 because, again, that garage sticks so far out in front of the
26 house.

27 CHAIRMAN HAMILTON: Other questions? We're trying to
28 absorb all this. We had some late —

29 MS. JARRELL: Yes. We had a ton of information here.

30 CHAIRMAN HAMILTON: — information come in that none

1 of the board has seen.

2 MR. NOVAK: I know a lot of the residents were in
3 favor of what was going on here and I know there was some
4 conversations with one of the residents about even being
5 allowed to access onto Moonbeam. But it's my understanding
6 Dave Radachy presented Kathy with a letter or a note or
7 whatever explaining that we can legally go out onto Moonbeam.

8 MR. ROWE: On Option 1, also, you have the problem
9 with the driveway grade exceeding the engineer's allowance?

10 MR. NOVAK: Yeah. It's very close. I mean, it's
11 10.22 percent.

12 MS. JARRELL: It seems like there are some other
13 driveways in that development that are greater than 10 percent.

14 MR. NOVAK: And I would say you are correct.

15 MS. JARRELL: And how is that? How does that happen?

16 MR. NOVAK: Well, it's really an odd way that the
17 county engineer looks at it. And what they require you to do
18 is they require you to propose a site plan that has a driveway
19 that meets the 10 percent grade. And then you go and you start
20 the construction of the house or build the house and you say,
21 "Oops, it's too high. Now I have a 14 percent grade." And
22 then you can apply for a variance on the driveway grade. So
23 you cannot get any variance or any acknowledgment prior to the
24 construction.

25 MS. JARRELL: So if you're building and you say
26 "oops" —

27 MR. NOVAK: I am using the word "oops."

28 MS. JARRELL: — what are they going to do? I mean,
29 it's after the fact if you can't apply before the fact.

30 MR. NOVAK: Again, there is no guarantee. And a

1 couple of the houses that I know that are in that development,
2 I believe there is one on Sublot 7 and Sublot 8, that both of
3 these driveways exceed the 10 percent. But the difference in
4 this case is that those driveways are very long and it gives
5 you a lot of opportunity to come up and create a flat spot up
6 at the top to get into the garage.

7 MS. JARRELL: Agreed.

8 MR. NOVAK: And, in here, if look at — Of course, I
9 am going to point out the worst case. But if you look at
10 Option 2, where you have the 15 and a half percent driveway,
11 you're going to be coming up at a pretty steep incline, then
12 you probably wouldn't even be able to see the back wall of your
13 garage and then pull into this garage. And so it's going to be
14 difficult because you can't provide any relief at the top of
15 the driveway.

16 MS. JARRELL: And they — I mean, it's a beautiful
17 house. But they didn't look at anything where you could have
18 the driveway going out onto Rainbow?

19 MR. NOVAK: Well, again, Mr. Walker is in the
20 audience if you would like to speak with him but, again, he's
21 looking at a four-car garage. So to put a four-car garage in a
22 buildable area of 50 feet, all you would have is 10 feet on the
23 front of the house that you would actually see. And realizing
24 that that whole front facade of the house would be covered by
25 garage, so you wouldn't have any windows. Whatever rooms would
26 be in the front, bedrooms, dining room, whatever else, family
27 room, that might be in that front of the house, all those
28 windows would be blocked by the garage.

29 MS. JARRELL: What about putting the garage — And I
30 looked at the lot and I know it's somewhat downgrading, but

1 what about putting it behind and bringing the driveway and
2 doing a side load?

3 MR. NOVAK: Well, I guess I am not quite sure where
4 you are talking about putting the garage, I mean, because the
5 garage is in the back on Option 2. Are you saying taking that
6 and turning the garage 90 degrees and entering the garage from
7 the back?

8 MS. JARRELL: I don't know. Call me crazy but I am
9 just using this one. Just flip the garage back here, have the
10 driveway on Rainbow and do a side load.

11 MR. NOVAK: Well, let's say — That would resolve, if
12 you look at Option 2, basically, that's what you're talking
13 about except bringing the drive in off of Rainbow.

14 MS. JARRELL: Right, right.

15 MR. NOVAK: Now, that would be an option to solve the
16 driveway grade but the garage floor is 11 and a half feet above
17 existing ground, so you would basically be building almost
18 another basement below your garage, putting premium fill in.
19 We'd probably have to do an engineered slab because anything
20 over 2 feet of fill, the building code requires that you have
21 an engineered, a designed slab for the floor of the garage.

22 MS. JARRELL: And I suspect you're talking about
23 significant increase in cost —

24 MR. NOVAK: Definitely, yes.

25 MS. JARRELL: — that I can't even imagine.

26 MR. ROWE: So it comes back around, Dave, if I
27 understand from your treatise about the grade, Option 1 at
28 10.22, pretty much, is probably going to fly as far as that
29 part. Now, granted, there is fill.

30 MR. NOVAK: Right. There is still a considerable

1 amount of fill, 4 feet under the basement floor still. Again,
2 you would probably have to do some type of — I know, in a
3 garage floor, they require that anything over two feet that you
4 have to have an engineered slab designed. And I would imagine
5 they would probably have to do something similar to that for a
6 basement floor, especially when you're exceeding 4 feet.

7 MR. ROWE: But if there are certain desires to match
8 a house to a lot, I mean, sometimes things cost more.

9 MR. NOVAK: And I appreciate that but, again,
10 inherently, it's a difficult lot.

11 MR. ROWE: Yeah.

12 MR. NOVAK: Being that you have the topography issues
13 and so forth.

14 MR. ROWE: Nowhere in Genesis were we guaranteed that
15 all lots are developable.

16 MR. NOVAK: And I agree again with that.

17 MR. ROWE: Thank you.

18 MR. REIS: Can you give me the variance differential
19 that you need to do this, the —

20 MR. NOVAK: It's 17 feet.

21 MR. REIS: You need 17 more feet.

22 MS. JARRELL: 33 percent.

23 MR. REIS: 33 percent, that's what I want to
24 understand.

25 MS. JARRELL: How much more cost does Option 1, I
26 mean, how much more cost does that add?

27 MR. NOVAK: You know, I am not a builder. I really
28 couldn't tell you that.

29 MS. JARRELL: Well, it would be nice to quantify that
30 so that we have more — a clearer picture as to what the

1 difficulty is.

2 MR. ROWE: That's not our job.

3 MR. NOVAK: I mean, there is a builder in the
4 audience. I don't know if he could come up and attest to that
5 but, again, I couldn't tell you. I just know, again, it is not
6 just a matter of taking dirt off the site and throwing it in
7 the hole under the basement floor. It has to be premium type
8 fill that's compactible and you are going to have to have some
9 type of an engineered slab. Your footers for any of your posts
10 and so forth are going to have to go down to virgin ground so
11 that you have solid bearing for all of those things.

12 MR. REIS: But it is a sizeable variance.

13 MR. NOVAK: You mean the 33 percent, yes.

14 CHAIRMAN HAMILTON: More questions?

15 MR. ROWE: Not that I can come up with right now.

16 MR. REIS: Mr. Chairman. Kathy, when you guys, you
17 all looked at it, did you have any particular findings over
18 beyond what you saw as far as this variance size and what it
19 would mean to the rest of that development?

20 MS. MITCHELL: You know, the only that we pursued,
21 based on some concerns that a couple of the residents raised,
22 was the location of the driveway coming off of Moonbeam rather
23 than Rainbow. A couple of the residents were concerned that if
24 they put it on Rainbow, it would solve the problem.

25 And then there was a plowing issue. Currently, the
26 stub street isn't plowed but there is no driveway on there.
27 There is no need to plow it. Which is why we — I inquired to
28 the Planning Commission because they approved the stub.

29 A variance was proposed by the developer and it was
30 granted, and as it was explained to me, in large part, because

1 of the short depth of the street. It's very difficult to put a
2 temporary cul-de-sac on that little amount of street. And if
3 there were a couple more lots added, it would be a different
4 scenario and they would more easily be able to.

5 And now — This was done a few years back. Now they
6 require, with new variance requests, that if they're not going
7 to do a temp cul-de-sac, they do some sort of — they call them
8 hammerheads so there is a better turnaround.

9 But that all being said, the Planning Commission
10 approved the variance. It is a legal public right-of-way. The
11 road will have to be plowed and there is no reason that the
12 driveway could not access off of Rainbow.

13 MR. REIS: That's what I was trying to get at.

14 MS. MITCHELL: And there is no — And that's why they
15 provided some examples. There are other stub streets in the
16 township where we have these scenarios.

17 And, clearly, the corner lots do have this width
18 disadvantage that the interior lots don't have.

19 CHAIRMAN HAMILTON: Have we experienced any problems
20 with those other examples?

21 MS. MITCHELL: No. A lot of them have gone through.
22 Some of them are still there. You know, the service department
23 and the fire department aren't crazy about them but,
24 ultimately, the county approved it, so we have to deal with
25 it. And if it's our road then it's our road to maintain.

26 MR. REIS: I get it.

27 MR. NOVAK: One other point I would like to bring up,
28 again, with all the other lots within the development — I
29 shouldn't say all the lots but a normal lot that's not a corner
30 lot. The current zoning requires a lot to be 100 feet wide, so

1 you have a 15 and 15 foot side yard which gives you an
2 effective width, building width of 70 feet.

3 And with these corner lots, when you have that 50
4 foot on the side line, it really cuts down. Now, this lot in
5 particular is actually 115 feet wide, so it's better than
6 some. But, again, to get that overall effective width that you
7 can put on the rest of the lots, that's where, really, where I
8 think there is a deficiency here.

9 CHAIRMAN HAMILTON: All right. Thank you.

10 Do we have anyone else in the audience who wishes to
11 speak in favor of the appeal? No one. Do we have anyone who
12 wishes to speak against the appeal?

13 Please come forward. Can we have your name,
14 address?

15 MR. DOMAN: Yeah. My name is Dave Doman. I am at
16 8146 Rainbow Drive, Sublot 35. This subplot is 32.

17 CHAIRMAN HAMILTON: And you were sworn in?

18 MR. DOMAN: Pardon me?

19 CHAIRMAN HAMILTON: You were sworn in?

20 MR. DOMAN: I was sworn in, yes, sir.

21 First of all, I feel that this will affect our
22 property value if this is approved. I am strongly against
23 this.

24 MR. REIS: I'm sorry. Could you speak just a little
25 bit louder, sir?

26 MR. DOMAN: I said that I feel this may affect our
27 property value. I am strongly against the Plan 3 of Agenda 2
28 and for these reasons: If the board approves this, the
29 remaining vacant lots on Rainbow may follow and/or ask for the
30 same variance as — may. I am saying the word "may." This is

1 a possibility.

2 This will create an eyesore with a difference in site
3 plans with already — what's out there already. Everyone is at
4 the 50 foot from the road.

5 I would like to say that our house is located three
6 houses from Moonbeam. We're on the west side. In the back of
7 our house, we have a screened in porch, of which we look out
8 and we will see this possible eyesore, all right, in the future
9 if it's built that way, Plan 3.

10 There is a thing about the service, the service. The
11 mailman, if the mailbox is put at the driveway, like all the
12 rest of them are at, he will have to make a special trip down
13 there. There is a big grade down there. Last year, the plow
14 went down there and he got stuck. He has to pull it out in
15 reverse. Okay? That's an issue. That's the immediate problem
16 for him, along with the mailman and having to go down.

17 The tote, where he puts the tote. If he puts the
18 tote, the guys that come through there, Major, or whoever they
19 are, pick up the garbage, they come through, they just run down
20 the street. They're going to have to make a right turn or
21 maybe back down there and they may get stuck, all right, in bad
22 weather.

23 About a week ago, there was a meeting over at the
24 Massie's house and I think there are 20 — I am saying the word
25 "think." There are 23 families living there, of which, 5
26 families were invited to this. We were not invited. I felt
27 that we should have probably all been invited.

28 MS. JARRELL: What was the purpose?

29 MR. DOMAN: To discuss this situation about this.

30 MR. REIS: Could you walk me through that? Rewind

1 again.

2 MR. DOMAN: All right. About a week ago, there was a
3 meeting over at the Massie's house.

4 MR. REIS: Okay. Is that a house —

5 MS. JARRELL: Where they live.

6 MR. DOMAN: Right next door. It would be on the
7 north side.

8 MR. REIS: Okay.

9 MR. DOMAN: And I think there are some 23 families
10 living there, of that, 5 attended that meeting. We were not
11 invited. I felt that we should all have been invited. And
12 those people, whatever was talked about, maybe approved or
13 liked what they saw. I don't know exactly, okay, what was
14 said. I get some tail end words of what was said but I don't
15 know if I can speak for them or whatever.

16 Here is another thing, too. I believe that this
17 would be a four-car garage. This may cause in the future — I
18 don't know what this gentleman's business is. It's none of my
19 business. Maybe he might work out of his house, maybe he
20 won't. You might see additional cars parked on Moonbeam down
21 there, on Rainbow.

22 When we had the house that was — What was the house
23 that went up?

24 MS. JARRELL: The Dream House.

25 MR. DOMAN: The Dream House, that was quite a problem
26 for us. There was cars parked all the way down the street past
27 mine. They went all the way to Moonbeam.

28 MS. JARRELL: Well, that was kind of a public thing.

29 MR. DOMAN: Right. We just kind of, like, put up
30 with it. We were just waiting for that to get done and get out

1 of there. People were backing into my driveway. I had to put
2 out a cone. They were leaving their tire marks.

3 MR. DYNES: It's a one-time thing though, right?

4 MS. JARRELL: Right.

5 MR. DYNES: That's not expected to occur in the
6 future.

7 MR. DOMAN: That's done, so that's a done deal. We
8 kind of celebrate. It was a nice thing, a money maker for the
9 Y, and so that's done.

10 MS. JARRELL: What eyesore are you referring to?

11 MR. DOMAN: We are going to be able to see the
12 eyesore.

13 MS. JARRELL: I don't know what eyesore.

14 MR. DOMAN: See a four-car garage back there.

15 MS. JARRELL: It is going to be a similar structure,
16 I suspect, to the rest of the development. You think that's an
17 eyesore?

18 MR. DOMAN: I think, yeah. Why should we have to —
19 Okay. If everybody is in compliance with the 50 foot that's
20 out there now and then we have this, we give this — You know,
21 he wants 17 feet. Why? I mean, he issued this. He told his
22 reasons for that. If he gets this from the board, you approve
23 it, and then maybe the rest of the lots there, they're going to
24 ask. They can say, "Well, he can do it. Why can't — Maybe we
25 want this, you know." And it is going to look like a
26 hodgepodge mess out there.

27 What we have out there is a nice, scenic view of the
28 way the lots, the houses are placed.

29 CHAIRMAN HAMILTON: I will just say every appeal is
30 taken on its own merits.

1 MR. DOMAN: Right.

2 CHAIRMAN HAMILTON: It would have no bearing on other
3 requests.

4 MR. DOMAN: Maybe it would, maybe it wouldn't. Okay.
5 Yes, sir.

6 Now, what's going to happen? Maybe that deadends
7 down there. What happens in the future if this should go on,
8 go into the woods? Maybe more houses will be built, you know.
9 I don't know.

10 MS. JARRELL: Is that a problem?

11 MR. DOMAN: It's not a problem. The property owner,
12 he has a right to do what he wants. I met the property owner,
13 a nice gentleman.

14 MR. REIS: Is it really coming down, if I were to
15 summarize your comments, it's really the view of what the
16 structure will look like from a location where your screened in
17 porch is as you look out? Is that the biggest —

18 MR. DOMAN: That's one thing. And I think some of
19 the other people might — maybe I won't speak for the gentleman
20 right across the street but then he'll have to see that.

21 MR. REIS: And you think this will affect the
22 property value?

23 MR. DOMAN: I think so, yes, sir.

24 MS. JARRELL: Negatively?

25 MR. DOMAN: Yeah. I think it will bring down
26 property value.

27 MR. REIS: Okay. I hear you.

28 MR. DOMAN: And I also mention about the utility,
29 whatever — not the utility but the service. I think they're
30 going to have a lot more problems. That's a steep grade

1 there. Like I said, last year, the guy plowed down there and
2 he got stuck. He had to get a tow truck to get him out of
3 there. It's something to think about.

4 I guess I said my peace. Enough said.

5 CHAIRMAN HAMILTON: Thank you. Any other questions?
6 Thank you very much.

7 Do we have anyone else who would like to speak in
8 opposition to the request? Seeing none, the public portion of
9 the meeting the closed. I will entertain a motion for approval
10 of Appeal 0811-1000.

11 MS. JARRELL: So moved.

12 MR. ROWE: Second.

13 CHAIRMAN HAMILTON: Discussion among the board?

14 MS. JARRELL: I have a general comment in regards to
15 all these corner lots that keep coming before us. It seems
16 like there is a conflict, just a global conflict between our
17 resolution and what the Planning Commission continually
18 approves and we keep getting these requests, and it seems like
19 something beyond us needs to occur.

20 CHAIRMAN HAMILTON: We have had these discussions
21 over and over. We've had similar situations with similar
22 percent setback requirements and they continue to come in front
23 of the board.

24 MR. ROWE: Yeah. But that's a double-edged
25 situation. I am not an architect but I would say that this
26 lot, there certainly could be a house suitable to the size that
27 is built up there that would fit that lot within parameters.
28 I mean, I think it's a combo that, yeah, it's a situation but
29 I think it's not the right house for the wrong lot or the
30 wrong —

1 CHAIRMAN HAMILTON: You could say the difficulty is
2 self imposed. They knew the dimensions of the lot when they
3 purchased it.

4 MR. ROWE: Yes.

5 CHAIRMAN HAMILTON: Would you like to say something
6 else?

7 MR. NOVAK: Yes, if you could.

8 CHAIRMAN HAMILTON: Yes, you may.

9 MR. NOVAK: One thing I would like — What this
10 gentlemen had to say, one thing about the setback, I hope that
11 he understands that the homes along Rainbow, this house will be
12 conforming to those setbacks because the house is off of
13 Rainbow, just so that that's clear.

14 And even, again, when you talk about the style of
15 house, being that there is only 50 feet — Now, granted, this
16 is a 40-foot wide garage, but even if you did a three-car
17 garage, you would still be in the range of 36 feet for a
18 garage. When you only have 50 feet, again, you would see very
19 little of that, of the front of that house.

20 So if you go down through the development now, you
21 will see that most of those garages are either side load or
22 they're off to the side where you're seeing a nice portion of
23 the front of that house because you have that extra width. You
24 have 70 feet to work with versus the 50 that you have on this
25 one. Thank you.

26 MR. DYNES: The rear setback in all three plans is
27 consistent at 50 feet, so what you're suggesting to him then
28 is —

29 MR. NOVAK: No. The front setback off of Rainbow is
30 50 feet. Yes. It's consistent on all three options that we

1 proposed.

2 MR. DYNES: Right. Gotcha. And your rear setback
3 then up against the woods —

4 MR. NOVAK: Well, we're not even close. I don't know
5 what —

6 MR. DYNES: That's what I am saying.

7 MR. NOVAK: That's not an issue.

8 MR. DYNES: He is talking about his view to the rear
9 as he looks from his house, and he is Number 35. I think his
10 concern is looking down —

11 MR. NOVAK: To be honest with you, if we had the
12 variance, okay — I question whether he could even see this
13 house but let's say he could. Okay? The best option for him
14 not to see the house would be to get the variance because the
15 overall depth of the house, whether we put the garage in the
16 front of the house or in the back of the house, the depth of
17 the house grows by 40 feet.

18 MS. JARRELL: That's true.

19 MR. NOVAK: So he would have less of a chance of
20 seeing that house from his viewpoint. Again I question whether
21 he would anyway but that's without actually looking at the —

22 MR. DYNES: That's what I was getting at. That
23 doesn't —

24 MR. NOVAK: Right. So the variance would help him.
25 If that's an issue, the variance would solve his problem.

26 MR. DYNES: I understand. Thank you.

27 CHAIRMAN HAMILTON: Thank you.

28 MR. NOVAK: Thank you.

29 CHAIRMAN HAMILTON: Additional discussion?

30 Yes. You may approach. I will just remind you, we

1 have covered your comments, so please don't repeat any of the
2 comments that you've already made.

3 MR. DOMAN: Okay. The way the garages are, we will
4 see the house from our screened porch. Ours sits back. He
5 said, possibly, we wouldn't. We know we will. The garages are
6 back towards the back of the house, that's one thing. I know
7 we will see it.

8 CHAIRMAN HAMILTON: Okay. Thank you.

9 MS. JARRELL: Thank you.

10 CHAIRMAN HAMILTON: Additional discussion with the
11 board?

12 MS. JARRELL: I don't think that it's going to reduce
13 the property value, by any stretch of the imagination, based on
14 my experience. It's a beautiful development. The corner lots
15 are always more difficult. I hate the stub street. I mean, it
16 is going to add cost to the community. It's a tough, tough
17 thing but it was approved, so it's moot to discuss it, I
18 suspect.

19 CHAIRMAN HAMILTON: To Jim's comment, I mean, the
20 home is, in terms of square footage, in keeping with the rest
21 of the neighborhood. It is not that this house is an outsized
22 structure.

23 MS. JARRELL: What is the total square footage?

24 MR. NOVAK: It is 3,300 square feet.

25 CHAIRMAN HAMILTON: Yes. They could build a smaller
26 home that would fit.

27 MR. ROWE: Well, it could be done.

28 CHAIRMAN HAMILTON: Yes.

29 MS. JARRELL: Can we talk again?

30 MS. MITCHELL: It's the chair's call.

1 MS. JARRELL: Mr. Chairman.

2 CHAIRMAN HAMILTON: Yes?

3 MS. JARRELL: Is it okay if we ask a couple more
4 questions?

5 CHAIRMAN HAMILTON: It is fine.

6 MS. JARRELL: You need four garages why?

7 MS. MITCHELL: Ask the applicant to come up.

8 MR. WALKER: Joey Walker, 608 Fiddler's Way,
9 Painesville, Ohio 44077. I have been sworn in.

10 After looking through thousands and thousands of
11 house plans online the last several years, that's one of the
12 houses my wife and I had fallen in love with. And to fit a
13 house, any house on that lot, any 50-foot wide house on that
14 lot, to still look correct and in line with, in par with the
15 other houses in that neighborhood, it's very, very hard to find
16 a 50-foot wide house to fit in that neighborhood.

17 I mean, I think, out of 10,000 house plans I looked
18 at online doing a search, there is, like, maybe four houses
19 that came up that you could put 50 foot wide on that lot. I
20 mean, that was just one website.

21 MS. JARRELL: And you need a four-car garage why?

22 MR. WALKER: I own three cars currently and I've got
23 two daughters. When they get a car, I'll need another bay for
24 one of their cars.

25 MS. JARRELL: And we don't have any ideas to the
26 added cost with the first plan, Option Number 1? Do we have
27 any clue?

28 MR. WALKER: I am an insurance adjuster. I know, to
29 bring in premium grade and stuff like that, probably, an
30 additional probably 15 to 20 thousand dollars for premium grade

1 for that, to bring that up to —

2 MS. JARRELL: Thank you.

3 CHAIRMAN HAMILTON: Other discussion?

4 MR. ROWE: No.

5 MR. DYNES: I don't have any.

6 CHAIRMAN HAMILTON: Comments?

7 MS. JARRELL: No. I was hoping somebody else would
8 say something.

9 CHAIRMAN HAMILTON: Kathy, would you please call the
10 roll?

11 MS. MITCHELL: Mr. Rowe?

12 MR. ROWE: No.

13 MS. MITCHELL: Mr. Reis?

14 MR. REIS: No.

15 MS. MITCHELL: Mr. Hamilton?

16 CHAIRMAN HAMILTON: Yes.

17 MS. MITCHELL: Mr. Dynes?

18 MR. DYNES: Yes.

19 MS. MITCHELL: Ms. Jarrell?

20 MS. JARRELL: Yes.

21 CHAIRMAN HAMILTON: The aye's have it. The request
22 is approved.

23 The next item on the agenda is Appeal 0811-1001,
24 Mr. John Wiertel (Wur' til) — Do I have that pronunciation
25 correct?

26 MS. WIERTEL: Wiertel (Wur tel').

27 CHAIRMAN HAMILTON: Wiertel. Thank you. — of
28 11525 Girdled Road, R-1 Residential District, proposes to
29 construct a garage and house addition totaling 1,764 square
30 feet, which exceeds the 10 percent maximum expansion allowed

1 for a non-conforming structure, as set forth in Section 7.05
2 of the Concord Township Zoning Resolution. The existing
3 dwelling is setback approximately 52 feet from the center of
4 the road right-of-way.

5 MS. WIERTEL: Am I too premature in coming up here?

6 CHAIRMAN HAMILTON: No. You're fine.

7 MS. WIERTEL: I'm Holly Wiertel. I'm John's wife.

8 And it's — Do you want our current address or the address of
9 the home?

10 CHAIRMAN HAMILTON: Your current address.

11 MS. WIERTEL: 6011 North Arden, Mentor, Ohio 44060,
12 and I have been sworn in.

13 CHAIRMAN HAMILTON: Thank you.

14 MS. WIERTEL: What we're looking to do — The
15 existing home was built in 1880, I believe. So our variance,
16 we're trying to add on an attached garage and a 20-foot
17 expansion. Well, it really is only 10 foot off the back. They
18 have a 10-foot addition that is not on there. There is, sort
19 of, a lighter footprint that is the current home, then the
20 darker is the addition.

21 So we're going to be adding out 10 feet on the back,
22 taking off the addition that they had, the homeowner, had built
23 in about 1950. I think we found out it was just really not
24 built to the quality that we would like for our home, so we
25 want to tear that off and put and additional — the 20-foot
26 addition on the back.

27 CHAIRMAN HAMILTON: Understood. And as an existing
28 non-conforming structure, you're just carrying the face of the
29 home over to incorporate the new garage.

30 MS. WIERTEL: Correct. So we can have a side loading

1 garage, and it's just a two-car.

2 CHAIRMAN HAMILTON: Right. So we're not making the
3 condition any worse but extending what's already there.

4 Questions?

5 MR. ROWE: No.

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

7 CHAIRMAN HAMILTON: Thank you.

8 Do we have anyone else who would like to speak in
9 favor of the appeal?

10 MR. CROSBY: I am George Crosby. I live on diagonal
11 across Girdled Road. I personally think that the addition will
12 improve the neighborhood.

13 CHAIRMAN HAMILTON: Excuse me. Have you been sworn
14 in? Were you here during the swearing in?

15 MR. CROSBY: Okay. How do I get sworn in?

16 MR. REIS: Were you here in the beginning?

17 MR. CROSBY: Yes.

18 MR. REIS: When the chairman asked everybody to raise
19 their hand, were you there?

20 MR. CROSBY: Okay. Yes.

21 CHAIRMAN HAMILTON: Did you stand and raise your
22 hand?

23 MR. CROSBY: The house is a farm house —

24 CHAIRMAN HAMILTON: Did you stand and raise your hand
25 at that time?

26 MR. CROSBY: I did.

27 CHAIRMAN HAMILTON: Okay. Thank you. Proceed.

28 MR. CROSBY: I think the addition would really
29 improve the house. And I can't see, with the square footage
30 they're adding on, that it would be any bigger than the monster

1 houses they're building in the developments right either side
2 of us. So the wife and I have no objection to it.

3 CHAIRMAN HAMILTON: Very good.

4 MS. JARRELL: Thank you.

5 CHAIRMAN HAMILTON: Do we have anyone else who wishes
6 to speak in favor? Seeing no one, do we have anyone who wishes
7 to speak in opposition to the request? Again, no one. The
8 public portion of the meeting is closed and I will entertain a
9 motion for approval of Appeal 0811-1001.

10 MR. REIS: So made.

11 MR. ROWE: Second.

12 CHAIRMAN HAMILTON: Further discussion?

13 MR. DYNES: I think it's a good plan. It would
14 certainly enhance the area and I have no problem with it
15 whatsoever.

16 MR. REIS: I concur.

17 MS. JARRELL: I agree.

18 CHAIRMAN HAMILTON: Kathy, would you call the roll,
19 please?

20 MS. MITCHELL: Mr. Dynes?

21 MR. DYNES: Yes.

22 MS. MITCHELL: Ms. Jarrell?

23 MS. JARRELL: Yes.

24 MS. MITCHELL: Mr. Rowe?

25 MR. ROWE: Yes.

26 MS. MITCHELL: Mr. Reis?

27 MR. REIS: Yes.

28 MS. MITCHELL: Mr. Hamilton?

29 CHAIRMAN HAMILTON: Yes. The appeal is approved.

30 Thank you.

1 MR. REIS: Good luck.

2 MS. WIERTEL: Thank you.

3 MR. REIS: It looks like it is going to be a pretty
4 nice looking place.

5 MS. WIERTEL: We will be excited to get in there.

6 MR. REIS: It was built when, did you say, 18 —

7 MS. WIERTEL: I think it was 1880, the original
8 structure, and then they had a small portion that they added
9 onto the back.

10 MR. REIS: Thank you.

11 CHAIRMAN HAMILTON: The fourth item on the agenda
12 tonight is Appeal 0811-1002, Mr. Dan Muzic — Do I have that
13 correct?

14 MR. MUZIC: Yes. That's right.

15 CHAIRMAN HAMILTON: Thank you. — contractor for
16 Mr. Don Cimaglio of 6939 Chairmans Court.

17 MR. CIMAGLIO: Ron.

18 CHAIRMAN HAMILTON: I am sorry. — Ron Cimaglio of
19 6939 Chairmans Court, R-1 Residential District, proposes to
20 construct a three season room on the rear of the home to be
21 located 26.8 feet from the rear property line, in lieu of the
22 40 foot rear setback requirement, as set forth in
23 Section 15.07 A of the Concord Township Zoning Resolution.

24 MR. MUZIC: Phyllis would like to speak first about
25 this. She is the homeowner.

26 CHAIRMAN HAMILTON: Yes.

27 MS. CIMAGLIO: We are the homeowners. I am —

28 CHAIRMAN HAMILTON: You defer.

29 MS. CIMAGLIO: Yeah. I am Phyllis Cimaglio. I live
30 at 6939 Chairmans Court, and I was sworn in.

1 CHAIRMAN HAMILTON: Phyllis, I apologize for
2 mispronouncing your last name.

3 MS. CIMAGLIO: I've been married for 42 years. We're
4 used to it. I am used it to by now.

5 Seven years ago, we went through this and it's been a
6 seven-year saga of wanting to put this room on our house.
7 Seven years ago, we had just built the home and our builder had
8 told us no problem with getting a variance to put the room on.
9 And when I came, you questioned the 60 foot setback on the
10 house as one of the reasons why this couldn't be done.

11 And I had discovered later that the 60 foot — or 60
12 foot setback was the original plot for the development on the
13 cul-de-sac, as opposed to 50.

14 I then talked with Mrs. Henninge, who owns the
15 property behind, to see if I could purchase because it is my
16 rain forest. It's a swamp and it has the water easement
17 through it but it does present privacy in the back of the
18 house. And she expressed no objection to the building of the
19 room but she was afraid, at the time I made the offer, that I
20 wanted to remove the trees, which she did not want to do.

21 So she told me that she would discuss this with me.
22 At the time, she was in a nursing home with a broken hip. When
23 she returned to the property, she said she would be happy to
24 discuss buying the portion that I needed from the back.
25 She never did get to come home to her property. That house has
26 been vacant for the seven years that I've lived in my house.

27 She was then moved to Wooster, near her niece and her
28 husband. And two years ago, I approached the niece and was
29 referred to a realtor, who had appraised the property and the
30 property was planning to be listed. That was two years ago. I

1 talked, earlier in the summer, with the nephew on a couple of
2 occasions and he was working on the house, which is not, not —
3 It's adjoining this property. It's not a part of this separate
4 lot.

5 MS. JARRELL: Which one is it? I am sorry. Can you
6 tell me which one it is?

7 MS. CIMAGLIO: Which one is my house?

8 MS. JARRELL: Which one is the one — This one or
9 this one that belongs to this? You said that little ranch.

10 MS. CIMAGLIO: It's a little ranch. Where is Old
11 Johnnycake?

12 MS. MITCHELL: Her name is on it.

13 MS. CIMAGLIO: Henninge, Rose Henninge.

14 MS. JARRELL: There we go. Okay.

15 MS. CIMAGLIO: And this is the lot and this is her
16 little outbuilding. Okay.

17 MR. DYNES: Pardon me one second. For the rest of us
18 who didn't have the benefit of your description there, the lot,
19 as we look at it, there is two Rose Henninge lots, correct?

20 MS. CIMAGLIO: Right. The Rose Henninge lot that
21 backs up to mine —

22 MR. DYNES: The one that backs up to yours —

23 MS. CIMAGLIO: — is a landlocked lot. Yeah.

24 MR. DYNES: There is a building in the corner of
25 that. That's not a home, that's an outbuilding?

26 MS. CIMAGLIO: No. That is a little tiny — It's
27 about the size of a garage, yes.

28 MR. DYNES: Thank you.

29 MS. CIMAGLIO: Yeah. Okay. I talked with the nephew
30 earlier in the summer and we discussed the fact that he was

1 putting the property on the market and he said he would hold
2 that property for two years, if he needed to, until the market
3 improved.

4 So I talked again with the realtor, who said that she
5 had no idea when they were going to list because the two houses
6 next to them were on the market and they had been on the market
7 for a while.

8 Now they say, in this letter that we got — or you
9 all got today, right, that they plan to list in 30 days. But
10 two years ago, it was going to be soon and so —

11 But, anyway, Mrs. Henninge had no objections to my
12 building the room but the nephew-in-law seems to think that
13 this will be a deterrent in someone buying that landlocked lot
14 behind him.

15 We developed the back of the yard. We were told we
16 couldn't build a deck because a deck required a permit but a
17 patio did not, so we put a patio in. We have put some
18 blocks — some trees and that to block an undesirable view of
19 the adjacent lot to this.

20 So we still would like to enclose that room. The
21 mosquitos are very bad this time of year.

22 MR. REIS: Are you — The patio portion is what you
23 are going to close in?

24 MS. CIMAGLIO: Yes.

25 MR. REIS: Is that — It's already existing?

26 MS. CIMAGLIO: Yes.

27 MR. REIS: All it is is closing it in?

28 MS. CIMAGLIO: Correct. Correct.

29 CHAIRMAN HAMILTON: There are actually two portions.

30 MS. CIMAGLIO: There is a lower one and a raised one,

1 yes.

2 CHAIRMAN HAMILTON: An upper patio with the footers
3 and that would be the area that's enclosed.

4 MS. CIMAGLIO: The raised one, yes, right off the
5 family room and our bedroom.

6 CHAIRMAN HAMILTON: The other patio extends further
7 out into the back yard.

8 MS. CIMAGLIO: Yeah.

9 CHAIRMAN HAMILTON: Thank you. That brings us up to
10 date.

11 Do we have any questions for the owner? Any
12 questions? No.

13 MR. MUZIC: Can I add something?

14 CHAIRMAN HAMILTON: Please come forward.

15 MR. MUZIC: Thank you. I am Dan Muzic from Dordan,
16 Inc. I was the contractor that was mentioned. My address is
17 12400 State Route 86 Concord Township, Ohio. I was sworn in.

18 Two things I would like to add is there is no new
19 dirt work here, if there was any question. Also, did you see
20 the pictures?

21 CHAIRMAN HAMILTON: Yes, we did.

22 MR. MUZIC: From the pictures, both side neighbors
23 also weren't here today but they approved of it. The lot
24 behind us is just complete woods. You will not be able to see
25 this at all from the other house even if this is built. That's
26 all I wanted to say.

27 The raised patio was constructed in a fashion that it
28 will support this sunroom. It had footers and done properly,
29 so there will be no dirt work involved. Thank you.

30 MR. REIS: Thank you.

1 CHAIRMAN HAMILTON: Thank you.

2 MR. MUZIC: Any questions? No.

3 CHAIRMAN HAMILTON: No. Do we have anyone else who
4 wishes to speak in favor? Do we have anyone who wishes to
5 speak in opposition? We do not. The public portion of the
6 meeting is closed and we will entertain a motion for
7 Appeal 0811-1002.

8 MR. DYNES: So moved.

9 MR. REIS: Second. Second.

10 CHAIRMAN HAMILTON: And we're open for discussion.

11 MS. JARRELL: I just want to understand what's going
12 on here. When the house was originally constructed — I am
13 looking at the minutes from the last time this came before the
14 board — they set it back 10 more feet than it should have
15 been?

16 CHAIRMAN HAMILTON: Correct.

17 MS. CIMAGLIO: The plot for the cul-de-sac is 60 feet
18 and we are on the cul-de-sac. The rest of the street is 50
19 feet. The plot for the — because I went back to my builder
20 immediately about that. The plot, the original plot for the
21 cul-de-sac had the houses 60 feet.

22 MR. ROWE: That was set by the developer.

23 MS. CIMAGLIO: Was it?

24 MR. ROWE: Wouldn't it be?

25 MS. CIMAGLIO: Well, the initial plot plan for the
26 development had the cul-de-sac houses and they are all back 60
27 feet.

28 MS. MITCHELL: There were a couple different versions
29 of the plan before it was recorded and that's what she is
30 referring to, is there were some different setbacks. She was

1 one of the early owners that acquired and it was presented with
2 one of the earlier versions of the plan rather than the final
3 version that was recorded, and the earlier version had a
4 different setback which would have enabled her to have a little
5 more room.

6 MR. ROWE: Yeah.

7 MR. REIS: Had they had the new version when they
8 made the appeal, this wouldn't be —

9 MR. ROWE: It would still be a variance.

10 MR. REIS: It would be a variance.

11 MR. ROWE: But a little less.

12 MR. REIS: Yeah, 10 feet less, kind of.

13 MS. CIMAGLIO: Our house is on, yeah, on the —

14 Because the room was on all the plans with the builder and the
15 builder is the one that led us astray.

16 MR. REIS: This has been going on seven years.

17 MS. CIMAGLIO: Seven years.

18 MR. REIS: I commend your patience.

19 MR. MUZIC: The builder told them they could — he
20 could get this done, it wouldn't have been an issue.

21 MS. CIMAGLIO: Yeah. Well, then obviously —

22 MR. MUZIC: He made it sound like it was a slam dunk,
23 so they trusted him.

24 MR. REIS: I understand.

25 MR. MUZIC: They went with the money, they signed, he
26 got his money, he left, he is living happily, and they still
27 don't have their sunroom.

28 MS. CIMAGLIO: But we do have a filled four-car
29 garage.

30 MR. REIS: Was that humor, ma'am? You made my day.

1 MS. CIMAGLIO: I was laughing when you said that. I
2 was going, oh, man, oh, man.

3 MR. MUZIC: With no business.

4 MS. CIMAGLIO: There is no business out of the house,
5 no.

6 MR. MUZIC: A nice Corvette.

7 MS. CIMAGLIO: Sorry.

8 CHAIRMAN HAMILTON: So our decision last time turned
9 down the amount of the variance and that's really where we are
10 still. The situation hasn't changed.

11 MR. ROWE: Okay.

12 CHAIRMAN HAMILTON: We are in the same position. The
13 only new thing to come up is the possibility of the sale of the
14 adjacent property.

15 MR. ROWE: Which could go on.

16 MS. CIMAGLIO: Yeah. It's been for, at least, two
17 years that they —

18 MR. MUZIC: He never listed it.

19 MR. ROWE: It's still a significant —

20 CHAIRMAN HAMILTON: Primarily, that's my concern, is
21 the amount of the variance.

22 MS. JARRELL: But if everything had gone right with
23 the builder, we would only be asking for less than a 10 percent
24 variance.

25 MR. REIS: That's, kind of, where I am. I mean, I
26 think the circumstance — I listen to the circumstances and
27 apply —

28 MR. DYNES: Are we in the discussion?

29 MS. JARRELL: We are in discussion, yes.

30 MR. DYNES: Okay. Thank you.

1 MR. REIS: I know the issue is the amount of
2 variance. Given — I have no problem with this.

3 MR. DYNES: The question here, I think, I can glean
4 from what I am reading here in the prior transcript, again, so
5 that I am clear, there is no change on what was voted
6 previously by this same board, other than the fact now we're
7 talking about the sale of the home or sale of the adjoining lot
8 but we're not talking about any structural difference of what
9 was proposed or anything else. Correct?

10 MR. ROWE: Right.

11 CHAIRMAN HAMILTON: That's correct.

12 MS. CIMAGLIO: Except the patio now is the structure
13 base at this point.

14 MS. JARRELL: Well, it seems like, in the letter from
15 the power of attorney, they're pretty set on selling that, both
16 of the — well, that whole big lot, thinking that they're going
17 to garner a substantial benefit from keeping it all intact
18 instead of selling a bit of it off because they're against the
19 variance, so it probably would be difficult to get a little bit
20 of the land from these people since they want to benefit.

21 MS. CIMAGLIO: We spent two years trying to do that.

22 CHAIRMAN HAMILTON: But up to this point, you know,
23 it hasn't been stated that the property was going to be put on
24 the market. It now is going to be put on the market, so those
25 same efforts may yield a different result than they did in the
26 past.

27 MS. JARRELL: Perhaps. But the house has been
28 sitting there for six years.

29 MS. CIMAGLIO: And they have been telling me for two
30 years that it is going to be on the market very soon. The 30

1 days, I have this feeling, is because of the variance.

2 MR. DYNES: A large part of my concern lies, for lack
3 of a better term, standing by the prior position of this same
4 board.

5 MR. ROWE: Agreed.

6 MR. DYNES: Regardless of the —

7 MS. JARRELL: If I was on the board at that time, I
8 would have approved the variance because it was a contractor
9 issue and they would only be asking for 3 percent and they were
10 misled. And there is, really, there is not going to be — The
11 chances of somebody purchasing the adjacent property behind
12 them and building a house right there where it would become an
13 issue is slim to none.

14 MR. ROWE: Well, it's, pretty much, none because it's
15 wetland back in there.

16 MR. REIS: That's the other thing that struck me.

17 MS. JARRELL: Why they wouldn't sell a piece of it
18 is —

19 MS. MITCHELL: Mr. Chairman, with the question that
20 you asked regarding the difference in the two, there is a
21 slight difference in the two. In the previous appeal, it was a
22 25 foot rear yard clearance and now it's a 26 foot, 8 inch rear
23 yard clearance, so there is a slight difference in the rear
24 yard setback.

25 MR. ROWE: Okay.

26 CHAIRMAN HAMILTON: One option would be to table this
27 appeal to allow the owner to attempt to make an offer on the
28 property.

29 MS. CIMAGLIO: That has been done.

30 CHAIRMAN HAMILTON: Recently?

1 MS. CIMAGLIO: Recently.

2 CHAIRMAN HAMILTON: Which is when?

3 MS. CIMAGLIO: Well, when I talked with the realtor
4 who is going to eventually list this, I offered to buy 16 feet
5 or 60 feet or whatever portion of that they were willing to
6 sell. And she went back to them and they don't want to sell
7 any of it except in its entirety. They feel that that little
8 ranch on Old Johnnycake and this unbuildable landlocked lot are
9 more valuable pieced together and that I can then approach the
10 new owner.

11 CHAIRMAN HAMILTON: When you say "entirety," you mean
12 the entirety of the second lot?

13 MS. CIMAGLIO: Both lots.

14 CHAIRMAN HAMILTON: Both lots.

15 MS. CIMAGLIO: Both lots.

16 CHAIRMAN HAMILTON: Together.

17 MS. CIMAGLIO: And then they said that I could
18 approach the new owner of that property with the possibility.
19 So I don't know if they're going to try to sell it saying there
20 is a person who wants to buy the lot or what.

21 CHAIRMAN HAMILTON: Understood. But I don't know.

22 MS. CIMAGLIO: I mean, they live in Wooster, so I
23 have to catch them when they're up, you know, in town. But I
24 have talked with the realtor and she has talked with them.

25 MS. JARRELL: When was this conversation?

26 MS. CIMAGLIO: With the realtor?

27 MS. JARRELL: Yes.

28 MS. CIMAGLIO: Within the last two months. She
29 has been frustrated because she appraised the property two
30 years ago with the thought that they were going to list it

1 right away. Now they have two houses next door to it that are
2 also on the market and have been on the market for a while.
3 And so I would question their 30 days planning on this, but I
4 can't —

5 CHAIRMAN HAMILTON: Other discussion? Kathy, would
6 you please call the roll?

7 MS. MITCHELL: Mr. Reis?

8 MR. REIS: Yes.

9 MS. MITCHELL: Mr. Rowe?

10 MR. ROWE: No.

11 MS. MITCHELL: Mr. Dynes?

12 MR. DYNES: No.

13 MS. MITCHELL: Ms. Jarrell?

14 MS. JARRELL: Yes.

15 MS. MITCHELL: Mr. Hamilton?

16 CHAIRMAN HAMILTON: No. The appeal is denied.

17 The fifth item on the agenda is review of the
18 Findings of Fact for Appeal 0611-0995 with Mike Lucas, Concord
19 Township legal advisor.

20 MR. LUCAS: These Findings and Conclusions of Fact
21 are necessary as part of the administrative appeal to present
22 to the court. They're based on what was presented for
23 consideration by the board at the time of the hearing on July
24 — I don't know whether it was July 13th —

25 MR. ROWE: 14th.

26 MR. LUCAS: 14th. I am sorry. — July 14, based on
27 not only the testimony that was presented at the time of the
28 hearing itself but also, correspondingly, the documentation
29 that was presented both at the time of the application by
30 Mr. Novak, as well as what was presented at the meeting

1 itself.

2 It is probably constructive for the board to know
3 that, in addition to the Findings of Fact, all the evidence,
4 including the minutes themselves and, possibly, the
5 videotape — which I need a discussion with Kathy — but,
6 certainly, the minutes are all going to be submitted as well
7 for consideration by the court.

8 So I am here to ask for your approval as to these
9 findings.

10 MR. DYNES: Do you need a motion from us for
11 approval?

12 CHAIRMAN HAMILTON: First, I was going to ask if
13 there were any comments to make sure everyone on the board is
14 familiar with the Findings of Fact. If there were no questions
15 regarding the findings —

16 MS. MITCHELL: Kathy Mitchell was invaluable in
17 catching an error that I made which, Dave, you will
18 appreciate. At one point when I was working on this very late
19 in the evening, I used the name Ray Dawson rather than William
20 Dawson, which is his father. So I must have been going back in
21 time as I finished them up.

22 CHAIRMAN HAMILTON: Hearing no comments, everybody
23 has read it.

24 MR. ROWE: Yeah.

25 MR. DYNES: I read them. I think Mr. Lucas and
26 Ms. Mitchell have done a fine job.

27 MR. LUCAS: Thank you.

28 MR. DYNES: Very accurately and adequately reflecting
29 the meeting minutes.

30 CHAIRMAN HAMILTON: So, Kathy, do we need a motion

1 for this? Is this an aye, a yea or nay vote simply?

2 MS. MITCHELL: Yes.

3 CHAIRMAN HAMILTON: All in favor, say aye.

4 (Five aye votes.)

5 CHAIRMAN HAMILTON: Those opposed?

6 (No nay votes.)

7 CHAIRMAN HAMILTON: Approved.

8 MR. LUCAS: Kathy, we're going to mail those to the
9 applicant but also to — actually, the property owners that
10 appealed it and their attorney. I will talk to you after the
11 meeting about it.

12 MS. MITCHELL: Okay.

13 CHAIRMAN HAMILTON: Thank you, Mike.

14 MR. LUCAS: Thank you.

15 CHAIRMAN HAMILTON: The final item on the agenda
16 tonight is approval of the minutes from the August 10th, 2011,
17 meeting. Any comments as submitted?

18 MR. ROWE: Yes. The only one — just to prove I do
19 read them — page 10, line 11, I think it was meant to say
20 "poses a safety issue" and came out like "possess" or
21 something like that. Obviously, other than that, they look
22 okay.

23 CHAIRMAN HAMILTON: All right. Everybody in favor of
24 approval, say aye.

25 (Four aye votes.)

26 CHAIRMAN HAMILTON: Opposed?

27 (No nay votes.)

28 MR. DYNES: Abstention. I was not present at the
29 meeting, so I will abstain.

30 CHAIRMAN HAMILTON: So noted.

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This concludes the September 14th, 2011, meeting of
the Board of Zoning Appeals.

(The meeting was adjourned at 8:17 p.m.)

1 STATE OF OHIO)
2) CERTIFICATE
3 COUNTY OF CUYAHOGA)
4

5 I, Melinda A. Melton, Registered Professional
6 Reporter, a notary public within and for the State of Ohio,
7 duly commissioned and qualified, do hereby certify that, to
8 the best of my ability, the foregoing proceeding was reduced
9 by me to stenotype shorthand, subsequently transcribed into
10 typewritten manuscript; and that the foregoing is a true and
11 accurate transcript of said proceedings so taken as
12 aforesaid.
13

14 I do further certify that this proceeding took
15 place at the time and place as specified in the foregoing
16 caption and was completed without adjournment.
17

18 I do further certify that I am not a friend,
19 relative, or counsel for any party or otherwise interested
20 in the outcome of these proceedings.
21

22 IN WITNESS WHEREOF, I have hereunto set my hand and
23 affixed my seal of office this 21st day of September 2011.
24
25
26
27

28 _____
29 Melinda A. Melton
30 Registered Professional Reporter

31 Notary Public within and for the
32 State of Ohio
33

34 My Commission Expires:
35 February 4, 2013
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