

CONCORD TOWNSHIP BOARD OF ZONING APPEALS
LAKE COUNTY, OHIO
MEETING and PUBLIC HEARINGS

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

April 13, 2011
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Zoning Commission members present:

James Rowe, Chairman
Blair Hamilton
Chris Jarrell
Gerard Reis
Brandon Dynes

Also Present:

Kathy Mitchell, Zoning Inspector

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

7:00 p.m.

CHAIRMAN ROWE: Good evening. My name is Jim Rowe, and the Concord Township Board of Zoning Appeals public hearing is now in session. To begin the meeting, I would want to introduce the fellow members of the board. To my extreme left, Blair Hamilton; to my immediate left, new member joining the group tonight, Brandon Dynes; to my immediate right, Gerry Reis; next to Gerry is Chris Jarrell; and to my extreme right is Kathy Mitchell, zoning inspector for the Township.

The law advisor to the Township tells us that all people who will be addressing the board this evening must be sworn in, so those who are preparing to speak in any — whatever side of the game, stand and raise your right hand.

(Speakers were sworn en masse.)

CHAIRMAN ROWE: Thank you very much.

The meeting, the way the format of the meeting runs is the person, the appellant, would please use the microphone, for the benefit of the television audience. When you come to the microphone, please identify yourself by name, mailing address, and also, at that time, affirm that you were sworn in. After the appellate and anyone in support of the appeal speaks, then anyone that might be in opposition would have their say. And, obviously, with the five members, three votes are required for approval. Should the appeal not be approved, there is a right to have an appeal, and Kathy would be able to help you with the procedures on that.

Kathy, the notices were filed on a timely basis and advertised?

MS. MITCHELL: Yes, they were.

CHAIRMAN ROWE: Thank you very much.

1 The first appeal this evening is Number 0311-0987,
2 Mentor Two LLC proposes to construct a dwelling at
3 6987 Chairman's Cove, an R-1 Residential District, 25 feet from
4 the side property line, in lieu of the 50 feet minimum setback
5 required from the side street for corner lots, and that is set
6 forth in Section 6.11 A of the Concord Township Zoning
7 Resolution.

8 So if there is someone here, I presume, to present
9 this —

10 MR. STRAUSS: Is anyone here about this? I want to
11 make sure so I didn't block you with this.

12 MR. BULLARD: You might want to turn it just a little
13 bit so they can get it on camera.

14 MR. STRAUSS: Mr. Chairman and members of the Board
15 of Zoning Appeals, my name is Marc Strauss. I am the managing
16 member, managing partner of Mentor Two LLC. Mentor Two LLC is
17 a real estate and land development limited liability company
18 formed for the purposes of acquiring land in Lake County, Ohio,
19 and also for constructing single-family and multi-family
20 housing in and about Lake County, Ohio.

21 I affirm that I've been sworn in this evening, and my
22 address is 2433 Michelle Court, Willoughby Hills, Ohio 44094.

23 Before I begin this evening with my presentation, I
24 would like to approach the board and hand out some information
25 with regards to my presentation, if I may.

26 CHAIRMAN ROWE: Sure.

27 MR. STRAUSS: Members of the Board of Zoning Appeals
28 of Concord Township, I'd just like to give you a brief history
29 of how Mentor Two came into title to this piece of property.
30 We acquired a — Mentor Two acquired a loan portfolio from PNC

1 Bank in January, late January, early February of this year —
2 there was a number of improved single-family lots, some
3 undeveloped land, residential land in Lake County — and for
4 the sole purpose of completing subdivisions, for constructing
5 new subdivisions and providing new housing in Lake County,
6 Ohio.

7 It wasn't as if Mentor Two sought this piece of
8 property out and now is before this board asking for some
9 variation, as most Board of Zoning Appeals I've been in front
10 of say, "Well, you bought it. You knew what it was. This is
11 what you get."

12 The reality of the situation is that, in reviewing
13 the records of Concord Township, we have seen and been provided
14 with information that this project, this subdivision, has been
15 ongoing since probably, in its planning stages and through
16 construction and development, since 1995 and that's a period of
17 16 years. This is one of those odd lots. It's one of those
18 lots that probably has just not fit within people's ideas or
19 wants or needs and wanted to get something into the subdivision
20 where they were — had a little more privacy.

21 When this subdivision was originally proposed, the
22 zoning code for Concord Township allowed for a 25-foot setback
23 on this lot from a main road, a corner lot. Since that time,
24 the zoning code, obviously, has changed and the subdivision was
25 approved and the plat approved for a 50-foot setback on a
26 corner lot.

27 Unfortunately, in these times, and as we have
28 developed over even the last 16 years of what people's wants
29 and needs are for their single-family residential homes, for
30 their homes that they want to live in, they like open spaces,

1 more room and things of that nature.

2 The purpose that we're here today is to ask for a
3 variance, not merely because of the fact that we, as the
4 builder — and, obviously, we all like to get as much as we can
5 and build for as much as we can, and it's not to the detriment
6 of the community or the detriment of Concord Township, but the
7 restrictions in the building envelope for this lot, in
8 particular, would only allow for a 40-foot wide home.

9 I think we certainly can build a 40-foot wide home
10 but then, again, that home would probably be in the high 190s,
11 low 2s. We do have someone who is interested in the lot,
12 someone who is interested in the home that I have presented to
13 you today. That home was just recently completed by us in
14 Streetsboro, Ohio. It is on the market currently, with no
15 landscaping and no finished basement, for \$298,000.

16 The person who would be constructing this home in
17 Concord Township, without the landscaping and finished
18 basement, would probably be about \$390,000. It's a 2,500
19 square foot home. I can get you the address. We just put on
20 Howard Hanna's website an actual virtual tour of the home and
21 you can see the features that have been in it, a large
22 greatroom with large bay windows, a large dinette with a bay
23 window, granite countertops, stainless steel appliances, all
24 the things that everyone wants at this time in their homes.

25 So I invite you — And I can get you that address
26 later. I was going to, actually, show it to you this evening,
27 because I have it on my laptop, but I guess we're not — We
28 don't have afforded the opportunity of the projector this
29 evening for a PowerPoint presentation.

30 And the house you see, while we had requested a

1 25-foot — well, a 50 — 25-foot setback, a 50 percent variance
2 from the current setback, the house that these individuals have
3 chosen at this point in time, assuming that this evening we get
4 the variance, is 54 feet wide. While we can certainly ask for
5 a 14-foot variance, one of the reasons why I would like to keep
6 it at a 65-foot building envelope and ask for the 25-foot
7 variance is because of the fact that we may have an opportunity
8 to do a side entry garage with this particular home, and as a
9 result of which, it's not that the home would basically take up
10 the entire 65 feet we're asking for but it would be the
11 driveway, the turnaround, which is about 26 feet, 24 to 26 feet
12 of that 65 feet.

13 So that's one of the reasons why we, while this—
14 again, and if you look at the plans, and I have a full set of
15 drawings and plans for the home, which is the one we
16 constructed in Streetsboro, Ohio. I have this for your review
17 as well this evening. We would still be requesting, even
18 though it's 54 feet wide, the 60 — the 25-foot setback and the
19 variance.

20 We also understand that, in developing what we've
21 done in the past, some of the issues may be a safety concern,
22 cars traveling down Johnnycake, meaning, the 50 foot was in
23 case a car went off the side of the road. If you've gone by
24 the lot and you've seen the lot, one of the things that is
25 unique about this is that the developers or the homeowners'
26 association built a large mound off of Johnnycake, which we
27 intend to maintain at that point in time.

28 We believe that, while on the inside of the mound, we
29 will have to do some excavating and some reshaping of the
30 mound, we believe that most of the mound will remain intact and

1 will not affect the building itself, so — And even if it does,
2 the depth of the house is only about 40 feet. The lot is — I
3 think the lot is over 200 feet deep. And so only about a
4 quarter of that mound would be affected by the house itself if
5 we pushed it all the way to the 25-foot setback on the south
6 side of the lot.

7 So having said that and giving you the history, the
8 price points, it fits within the homeowners' documents as far
9 as the minimum square footage required for that subdivision,
10 completing the subdivision and allow — Again, I know one of
11 the concerns that some of the homeowners had was the size of
12 the home and the price of the home. And considering the 399
13 price range, the 2,500 square feet, it's probably consistent
14 with and right in the middle of what's taken place there at
15 Chairman's Cove.

16 So I would respectfully request, as the managing
17 partner of Mentor Two, that this Board of Zoning Appeals
18 approve the variance requested to construct this home at this
19 particular point in time.

20 CHAIRMAN ROWE: In reviewing it myself, visiting it
21 and so forth, certainly, we understand the fact of the timing
22 and everything as far as it used to be 50 — or 25 and now 50
23 and so forth and it makes a lot of sense.

24 I guess, the first concern that came to my mind was
25 that screening, certainly, visible from 84 — or Old Johnnycake
26 side stays screened. That would definitely be a point. And, I
27 guess, when you say you may have to do some excavation on the
28 back side, the other thought I had was if you were going to end
29 up with a slope right into the basement —

30 MR. STRAUSS: Right. Correct.

1 CHAIRMAN ROWE: — for the existing home.

2 MR. STRAUSS: I mean, I would tell you that, in the
3 absolute worst case scenario, as I reviewed it — and I
4 reviewed it with my engineers and surveyors — is, even if I
5 had to take out 50 or 60 feet of the mound, we would be
6 planting there or replanting the very large and mature pines
7 that are there. We can take them out, put them back in place.

8 The other thing is that, if you think about it, if a
9 car is coming — I apologize. The directions, and I always get
10 turned around in Lake County, what's east, west, north, south.

11 CHAIRMAN ROWE: I've lived here and I get — That's
12 all right.

13 MR. STRAUSS: If you were coming from Mentor Avenue
14 and coming down Old Johnnycake —

15 CHAIRMAN ROWE: Right.

16 MR. STRAUSS: If a car were to veer off the road, and
17 we built the house there, it would collide with the brick wall
18 that wraps around Chairman's Cove. If you're coming from the
19 other side, going towards Mentor Avenue, the only way to
20 actually have any interference with the home in any way is to
21 come directly perpendicular to the house because it's coming
22 down around the bend. You would still come into the mound,
23 which from that point to the end of the lot is, at least, 112
24 feet, we have found.

25 So it would all be protected in that sense and,
26 again, putting back the mature trees. But that's if we had to
27 completely take that out and, like you said, Mr. Chair, about
28 the fact of drainage issues or things like that.

29 But, also, at the bottom of that landscape mound,
30 there is also a natural swale, so it would take the water away

1 from the house and we have that as well. But, again, it
2 wouldn't be the — We would never think to, in any way, shape
3 or form, to take out the entire 215 feet of the mound. I will
4 only be, you know, like I said, 40, 50 feet, just the distance
5 of the home and replanting the trees in that area and mounding
6 and shaping of the mound so that they came naturally down to
7 where the trees would be planted.

8 But I don't think that we're going to have to do much
9 in the way — with the natural swale. There is not much in the
10 way that we would have to affect that mound. So we could — In
11 fact, one of my exhibits that I have provided to you depicted
12 that, what the house would look like on the topo. We did it on
13 the topo. And the area itself, where the house would be, would
14 be almost on the beginning of the mound, on the inside, so you
15 see how it narrows as it goes further back.

16 Do you have that in front of you? It was the exhibit
17 that we submitted with our application. That's correct.
18 That's correct. So you see the actual — The front of the
19 house is almost where that mound begins. And we've also put
20 where the trees are. So it really would be almost like, to
21 have any motor vehicle have any detrimental effect to the house
22 would have to crash through that brick wall because you can see
23 the brick wall goes into the mound slightly.

24 And, again, you're only talking about 40 feet and
25 it's right where that mound begins, where that curve is that
26 would have to be shaped and redone.

27 CHAIRMAN ROWE: Okay. Thank you.

28 MR. HAMILTON: Mr. Chairman, if I may.

29 CHAIRMAN ROWE: Sure.

30 MR. HAMILTON: While I can certainly understand the

1 practical difficulty associated with the changes to the zoning
2 over time and associated with this area variance, you did
3 mention different house sizes. Now, the home directly across
4 on the development is also a corner lot. It does comply with
5 the 50-foot setback. It is a house that is some 56 feet wide
6 at that point.

7 Is there a reason that you really need the 64 feet?

8 Part of the consideration for the area variance is always how
9 substantial the variance request is, and you're asking for a 50
10 percent variance.

11 MR. STRAUSS: Right. Well, I would, Mr. Hamilton, I
12 would simply say that, you know, given my experience in land
13 development and residential land development, I would tell you
14 that the fact that this lot, in particular, has sat for 13
15 years isn't a coincidence. And what can and can't be
16 constructed on it, I think that there are issues with the lot
17 in particular. I think that the house across the street has a
18 much nicer lot. In fact, I believe that lot backs up to that
19 pond and has a dock and things of that nature, so that may
20 be — have been their motivation to go with the home that they
21 could go with at the time because there were other benefits
22 that that lot had that this lot doesn't have.

23 But, again, the other issue is that, you know, as
24 long as — The other thing is that, as long as that lot sits
25 there, there is an opportunity to take away a sale from someone
26 within the community. I think you eliminate that and then you
27 provide those within the community of Chairman's Cove to have a
28 better opportunity to resell their home. And I think that — I
29 know that there is another lot in the back of the cul-de-sac.
30 But there is a — We looked into it but there are some issues

1 with that lot as far as, you know, wetlands and it being a wet
2 lot.

3 Again, the issue, in my opinion, was the change of
4 the corner lot, and it may have been for the entire — it was,
5 obviously, your zoning code but part of it may have been a
6 safety reason. I think that we present a proposal and a plan
7 that eliminates that concern with regards to safety.

8 Other than that, I don't understand, in all of my
9 developments, why a corner lot should have a wider — Sometimes
10 they do a wider setback because the developer wants to put a
11 landscape mound in, like, in here, or they want to put a sign
12 or they want to — who knows — Old Johnnycake would want to
13 widen some day, for whatever reason. That may have been an
14 issue where, you know, they take into consideration, you know,
15 we want to widen our road. We need more road. We need a
16 turning lane some day. We are thinking ahead, you know. But
17 we're never going to be here, you know, 15, 20, 30 years,
18 someone is going to widen Johnnycake and they can't because,
19 you know, they don't have the room. Those are the reasons that
20 we find for the corner lot issues.

21 I think that, again, it's giving someone an
22 opportunity to move into the community, to be supportive of the
23 community, for a home to be consistent with the values that are
24 there right now and to be consistent with other homes and the
25 aesthetics of the community.

26 As I said before, you know, we can certainly put in a
27 40-foot wide home but then it comes back to the guy next door,
28 whose house is \$650,000 and comes back and says, "Hey, you put
29 a \$195,000 home next to my house. Really?" And that's what
30 you come up with. So it's a balancing of the community's

1 interest and the safety interest.

2 And I understand zoning codes better, probably,
3 better than anyone that I've dealt with over the last 15 years
4 in development. But, again, it takes some creativity, some
5 ingenuity and, also, the timing of it all.

6 Again, like I said, this was part of a portfolio that
7 we purchased. If it gets built, it gets built. If it doesn't,
8 I'm sure I can find someone to buy a \$195,000 home in
9 Chairman's Cove to live in Concord Township. That's not why
10 I'm here. I'm here to keep the consistency of the community
11 and to keep the community, as a whole, what they strive for.

12 MR. HAMILTON: My question really centered around the
13 fact that you put in front of us a plan for a home that
14 requires 10 less feet variance.

15 And the other point is that that home across the
16 street, you mentioned being able to access the garage from the
17 side, does have that access and that's on a 56-foot wide home.
18 So our question is —

19 MR. STRAUSS: But that's a courtyard home.

20 MR. HAMILTON: — why not consider some design
21 changes that would have you ask for less of a variance than
22 what you're asking?

23 MR. STRAUSS: Well, again, if we go with this home
24 and it's approved tonight — Again, I apologize. I don't know
25 this answer based upon your zoning code, as far as the driveway
26 is concerned, whether the driveway can sit within a setback.
27 But if I get this variance and I take a 54-foot home and put it
28 up, up against the setback line, I then can go to the
29 homeowners and say, "We can now do a side entry garage."

30 If I come in and say, "I only got 14 foot variance.

1 I have to do a front entry," now the question becomes, well,
2 can I do a three-car front entry? Well, I need 10 feet for a
3 three-car front entry garage, so I would be at, you know, 24
4 feet, asking for a three-car.

5 MS. JARRELL: Do you have a buyer right now?

6 MR. STRAUSS: Yes. We have a buyer.

7 MS. JARRELL: Do you have a buyer right now for this
8 particular house?

9 MR. STRAUSS: Yes.

10 MS. JARRELL: And the driveway can be outside that
11 setback?

12 MS. MITCHELL: Yes.

13 MR. STRAUSS: The driveway can be in the setback, you
14 mean? The driveway can be in the setback. That means the
15 driveway has to be — In your code, let's say even the driveway
16 has to have a 5-foot setback for the property line.

17 MS. MITCHELL: 3 is the standard that the engineer's
18 office requires.

19 MR. STRAUSS: 3, okay, okay. So I can be 3 foot off
20 the property line and I would have enough room, with this
21 variance request, to do a side entry. I would also have enough
22 room, if they said, "You know what? We don't want a side" —
23 Also, that's a cost factor because, if I do a side entry, it
24 bumps up the cost of the driveway because you need — it is
25 more concrete, so you go from a drive that's probably \$7,500 to
26 a driveway that's \$17,000.

27 MS. JARRELL: What kind of square footage
28 requirements are contained in the deed restrictions over
29 there?

30 MR. STRAUSS: 1,800 square feet for a two story, I

1 think it's 12 or 14 hundred square feet for a ranch.

2 MS. JARRELL: Okay. And this house is 2,500 square
3 feet?

4 MR. STRAUSS: That's correct.

5 MS. JARRELL: So it is possible, I mean, since deed
6 restrictions allow for it, to build a smaller house that would
7 be complimentary to the rest of the development. And that's
8 one of the things you're trying to achieve, right?

9 MR. STRAUSS: I couldn't do that, not complimentary
10 to the development. I would be \$150,000 less than any other
11 house right now that's transferred or been built in that
12 development in the last ten years. You're going to have a
13 house that's \$150,000 less.

14 MS. JARRELL: Are there 1,800 square foot houses over
15 there?

16 MR. STRAUSS: No, no. I mean, the only reason why
17 that's ever put in a homeowners' document, only because, you
18 know — and I have done that on many occasions in subdivisions
19 that I have developed — so that you can never go — if we were
20 to sell a lot to someone who would build their own home, that
21 they couldn't build a home that is that much less than what
22 others in the development would be. You have to put some kind
23 of a restriction on the size of the home that you're going to
24 build and you're going to allow to be built in your
25 subdivision, and developers do it all the time.

26 I will tell you that I think — and don't quote me on
27 this — but the average square foot of the home in Chairman's
28 Cove is 3,200 square feet, the average home. And the home next
29 to this one is almost 4,700 square feet.

30 MS. JARRELL: Well, it's interesting because the deed

1 restrictions have a much lesser amount, so if somebody wanted
2 this property — Do you have a contract, by the way? Do you
3 have a contract for this?

4 MR. STRAUSS: No. I won't have a contract until we
5 see what happens tonight.

6 MS. JARRELL: Okay. So you —

7 MR. STRAUSS: I have a deposit.

8 MS. JARRELL: You have a deposit.

9 MR. STRAUSS: I don't have a contract.

10 MS. JARRELL: And you're saying that this exact
11 house, built on 54 foot width, was built in Streetsboro for
12 \$300,000. And what are you saying the value would be for this
13 proposed house?

14 MR. STRAUSS: 399.

15 MS. JARRELL: 399. And do you know what some of the
16 transfers have been over there lately?

17 MR. STRAUSS: In Chairman's Cove?

18 MS. JARRELL: Yes.

19 MR. STRAUSS: No. I don't have that information this
20 evening. I do not.

21 MS. JARRELL: It just seems to me that no matter — I
22 understand what you're saying and what the resolution was when
23 Chairman's Court came to be, but the resolution is what the
24 resolution is.

25 MR. STRAUSS: No. I understand.

26 MS. JARRELL: And I have to agree with my fellow
27 board member that it is a 50 percent variance request, and this
28 is only one style of home. And I just believe that we can
29 praise the spirit of the resolution by coming up with some
30 options instead of just coming here before the fact and asking

1 us to just give you the variance, a 50 percent variance right
2 off and not giving us some options.

3 We've had people come in here before where they've
4 given us, you know, another design and we have sent them back
5 to come up with a new design. If it was only a 10 percent
6 variance, I think that, perhaps, in my case, I might be more
7 amenable to approving something like this.

8 MR. STRAUSS: A 10 percent variance is 5 feet.

9 MS. JARRELL: But I don't know what the transfers
10 have been over there. I can understand that you want to, you
11 know, keep the community the same market value. I am a
12 realtor, so I can completely appreciate that. But the deed
13 restrictions are the deed restrictions, and if someone —

14 MR. STRAUSS: It is not the deed restrictions. You
15 are confusing. It's not the deed restrictions, it's your
16 zoning code. It's not the deed restrictions.

17 MS. JARRELL: No, no, no. I am talking about the
18 1,800 square feet. You said you could build an 1,800 square
19 foot house there. You could.

20 MR. STRAUSS: Oh, I could do that and I am sure that
21 you'd have 50 homeowners in here tomorrow saying, "How did you
22 let them build a \$150,000 home in my community where my house
23 is \$650,000?"

24 MS. JARRELL: And we would say to that person that
25 you purchased a house, you had deed restrictions and you saw
26 what those requirements were. You knew what was in this
27 community. So —

28 MR. STRAUSS: I'd be hard, I'd be hard —

29 MS. JARRELL: But we can't base our approval —

30 MR. STRAUSS: I understand. I understand.

1 MS. JARRELL: — approval on speculation.

2 MR. STRAUSS: On speculation of what?

3 MS. JARRELL: On speculation of your value, on
4 speculation that, if somebody proposed an 1,800 square foot,
5 that the rest of the neighborhood would be in here airing
6 grievances.

7 MR. STRAUSS: I already heard that there were a
8 couple homeowners in here looking at the documents and asked
9 that particular question. How big is the house, and what is
10 the cost going to be? And I, you know — Ms. Mitchell can
11 attest to that. I called yesterday and talked to the person in
12 the office. I mean, that was their only concern. How big is
13 the house, and what's it's going to cost at?

14 MS. JARRELL: I can totally appreciate, if you have a
15 buyer that wants this exact house, selling corner lots is more
16 difficult than selling a lot within a development, always, and
17 so I can understand from where you're coming.

18 MR. STRAUSS: Well, it's not that difficult because,
19 to be truthful with you, I've done 1,200 lots in northeast Ohio
20 since 2002. And as a developer — And I don't know who
21 developed this project. I don't. But I will tell you this,
22 that we put our model home on a corner lot, so we know that
23 that's first because you don't sell the best lots first. You
24 sell the lots that are less desirable to get to the more
25 desirable because, as you move forward, you pay more for the
26 lot, the home costs more. So I would tend to disagree with
27 you.

28 MS. JARRELL: That makes sense.

29 MR. STRAUSS: I mean, the only point here is that you
30 have a lot that's been sitting for 13 years. There is no

1 harm. There is no — The purpose of a variance or denying a
2 variance is that it affects some health or safety or — health
3 or safety issue. There is no health or safety issue. And we
4 provided for the safety concerns and we provided for a home
5 that's consistent with what's done in Chairman's Cove.

6 I don't have a problem with it because it's not a
7 threat. If I don't receive the variance, that development is
8 going to get a \$195,000 home. Now, I don't know that this
9 board — This board can certainly rely upon, look, that's our
10 zoning code. That's what our zoning code is. This is what
11 your deed restrictions say. This is that.

12 I mean, I need to move the lot.

13 CHAIRMAN ROWE: I'm sorry.

14 MR. STRAUSS: I have someone who wants to live in
15 Concord Township and live in this home.

16 CHAIRMAN ROWE: We're coming around —

17 MR. REIS: May I ask a question, Mr. Chairman?

18 CHAIRMAN ROWE: Absolutely.

19 MR. REIS: I guess, I appreciate what my colleagues
20 are saying. I am less distressed on whether it's 50 percent
21 variance but I have a couple of questions.

22 MR. STRAUSS: Sure.

23 MR. REIS: A, is this the last — Is this the last or
24 two lots left in this development?

25 MR. STRAUSS: There is this lot and there is one, if
26 you go in and to the left, there is a cul-de-sac where there is
27 a pie-shaped lot that has some — We looked at it.

28 MR. REIS: Is this the wetland that you were just
29 talking about?

30 MR. STRAUSS: Yeah. The wetland lot.

1 MR. REIS: Do you own that lot?

2 MR. STRAUSS: No, we do not.

3 MR. REIS: Okay.

4 MR. STRAUSS: In fact, I will tell you this, that we
5 made — The gentleman has it for sale. It's been for sale for
6 four years at \$85,000. We offered him 50 for it and he turned
7 it down, and it's been sitting for sale for four or five years,
8 and I will tell you that.

9 MR. REIS: I think my other question is to the
10 barrier which the chairman spoke to on the safety. And I
11 would, if this were to pass, I would want assurances from your
12 company that the mound and that would be restored and that the
13 barrier would be intact and all that.

14 MR. STRAUSS: Oh, absolutely. I would — Actually, I
15 would say, make it a condition of the variance. And when we
16 come with the plans and we come with the topo and how we're
17 going to set the house and how it is approved by the Lake
18 County engineer and the Lake County Building Department, I have
19 no problem with that. I have no problem with those conditions.

20 MR. REIS: I think the other thing that strikes me —
21 And I am somewhat new but I hear the two sides. I guess, if I
22 had to weigh — I understand what you are saying. I, pretty
23 much, agree with what you're saying. I guess, if I weigh the
24 community and taking your facts at face value, maintaining
25 consistency of the price or whatever of the home, for the rest
26 of the homeowners, would be of a paramount effort than putting
27 a smaller home in there.

28 Although, I mean, it's easy to see the other side
29 because, I mean, these are the regulations that have been put
30 in and the fact that it is 50 percent. But I am not —

1 Assuming those other pieces would be in place and then —
2 Kathy, my question to you, from health safety, fire, do we have
3 any — Is there any concern from the zoning group as far as
4 your perspective to this?

5 MS. MITCHELL: Well, I guess, to that comment and to
6 the comment you made, the Board of Zoning Appeals has to view
7 it on practical difficulty, so there are more than one factor
8 than health and safety, so there is a list of factors to
9 consider.

10 There is a couple other items to consider. Bruce
11 just printed out the square footage of the homes, which I am
12 happy to pass out. The first number is the house, the second
13 number is the garage. They do vary in size.

14 In going back to the history of when the subdivision
15 was originally at 25 and then switched to 50, we pulled the
16 minutes of the meeting as to, what were the merits of changing
17 the setback and increasing it to 50 feet? One of the concerns
18 at the time was that, should there be an opportunity to expand
19 Old Johnnycake, they wanted to have that ability to have that
20 room to widen without any kind of encroachment. So not that
21 there is any immediate plans to widen Old Johnnycake but that
22 was the logic behind increasing the size from 25 to 50.

23 And, I guess, to the other point, if you went with
24 the 38 foot setback, which is what this house is at 54 feet
25 versus 67 feet, you are at a 12 foot variance versus a 25 foot
26 variance.

27 MR. REIS: There is going to be, either way, there is
28 some variance that you would need, regardless of what house you
29 built.

30 MS. JARRELL: What is the problem with the

1 difference, the 54 feet versus the 60 some feet?

2 MR. STRAUSS: The ability to do a side entry garage.

3 MS. MITCHELL: And we would say that, probably, there
4 are some lots that have a front entry and there are some that
5 have a side, so it is a mixture. There are probably more that
6 have a side load but there are some that have a —

7 MR. REIS: Are you comfortable on the health, on the
8 safety issue, Ms. Mitchell, as far as the restoration of the
9 mound? And is there anything that has been discussed or
10 brought forward related to an expansion of the — of Old
11 Johnnycake?

12 MS. MITCHELL: Nothing brought forward on the
13 expansion of Old Johnnycake. As far as that, you know, as far
14 as the mound being intact, that would be a concern from a
15 visual impact to the neighbors, although they haven't expressed
16 any concerns, but that visual impact is already there.

17 MR. REIS: Okay. I'm comfortable. Thank you.

18 MR. STRAUSS: Thank you.

19 CHAIRMAN ROWE: Any other questions?

20 MR. HAMILTON: No.

21 CHAIRMAN ROWE: Okay. Thanks very much.

22 MR. STRAUSS: Thank you.

23 CHAIRMAN ROWE: Anyone in the audience involved in
24 this thing as far as — Okay. Just wanted to check.

25 Having heard the presentation, I will now close the
26 public portion of this and open things up for a discussion
27 amongst the board members.

28 MS. JARRELL: Well, I personally think that it's a
29 substantial variance and it's not — I understand it's not
30 going to affect the safety. I think that the developer still

1 has an opportunity to garner a reasonable return on his money
2 by presenting us some alternatives and not requesting such a
3 large variance. I just think that there could be — It could
4 be resolved in another manner, and that's what I would like to
5 see.

6 I understand that there is a buyer and there is an
7 opportunity to construct a beautiful home in this nice
8 development, right on Johnnycake in our community, but I just
9 think that we need to uphold the spirit and intent of our
10 resolution and ask for an option to be presented.

11 CHAIRMAN ROWE: Thank you.

12 MR. HAMILTON: And I'll add, regarding the area
13 variance and the practical difficulty, we do have seven
14 criteria set forth by the Ohio Supreme Court establishing how
15 to judge the use, the amount of the area variance to be given.

16 And Criteria 1, Will the property yield a reasonable
17 return or can there be beneficial use of the property without
18 the variance? I think there is an argument that can be made
19 that, yes, it can have a beneficial use without the variance or
20 a bona fide variance.

21 Is the variance substantial? Definitely.

22 Will the essential character of the neighborhood be
23 substantially altered or will adjoining properties suffer a
24 substantial detriment if the variance is granted? Well, I
25 think, from what's been presented with some of the options,
26 there are options.

27 Will the variance adversely affect the delivery of
28 governmental services? No.

29 Did the property owner purchase the property with
30 knowledge of those zoning restrictions? Yes.

1 Can the problem be resolved by some manner other than
2 granting of the variance? Well, there could be an option to
3 the variance. There could be other models put on that land.

4 Will the variance preserve the spirit and intent of
5 the Zoning Resolution, and will substantial justice be done by
6 granting the variance?

7 I think those all need to be considered as you make a
8 vote.

9 MR. REIS: I would — The point is well taken. If
10 this was a — I would be more inclined to not necessarily grant
11 the variance if this were not the last lot or the second-to-
12 last lot and it stays within the spirit of what the rest of the
13 community set. I mean, that's, kind of, where I am.

14 But I well appreciate what the group — what my
15 colleagues are saying. And if it's, you know, if it's — what
16 you're suggesting is, show us some other opportunities or
17 modifications, I could live with that. But I think there is —
18 I mean, I see a compelling case enough, based on what — the
19 maturity of the lot and what is being done, that I would have
20 less of a concern. But you guys, you all have been at this a
21 lot longer than I have, but that's my comment.

22 MR. DYNES: I guess, I am somewhat intrigued. When
23 the portfolio was originally purchased, there is clearly an
24 opportunity to review different portions of that and it's
25 accepted as it is. Different, I guess, options are there for
26 examination prior to purchase or with the purchase, so I think
27 there is a level of knowledge going into it, or should be, at
28 least, by due diligence examination.

29 But I'm also intrigued by the 25 foot, where it was
30 originally, then being moved to 50. And we talked about some

1 speculation. Clearly, there is some speculation whether Old
2 Johnnycake expands or not. So do we know if that's going to
3 happen? No. Do we have any definitive answer on that? I
4 really don't think we do.

5 So I see that there is a little bit, initially, where
6 this was, obviously, contemplated at a different amount and
7 then it's increased, and I appreciate the minutes of that and
8 why that discussion was had. We don't have the privilege of
9 going back in time and being there and knowing what else was
10 discussed at that time other than, perhaps, they were
11 speculating on Old Johnnycake being widened.

12 But I, also, I concur with a lot of the opinions and
13 I also, I guess, I'm partly — I'm interested, I'm interested
14 in some more proposals as to what else could be done. I'm also
15 interested and I would like to hear from some other homeowners,
16 which is something that may or may not come to fruition. We
17 may see, we may not see. I can understand that, putting myself
18 in the position of another homeowner there or somebody else
19 with a lot.

20 CHAIRMAN ROWE: Thank you, Brandon.

21 All right. Basically, at this point, I will
22 entertain a motion for the granting of the Appeal 0311-0987.

23 MR. HAMILTON: So moved.

24 MR. REIS: Second.

25 CHAIRMAN ROWE: Moved and seconded. Kathy, would you
26 call for a vote?

27 MS. MITCHELL: Mr. Hamilton?

28 MR. HAMILTON: No.

29 MS. MITCHELL: Mr. Reis?

30 MR. REIS: Yes.

1 MS. MITCHELL: Ms. Jarrell?

2 MS. JARRELL: No.

3 MS. MITCHELL: Mr. Dynes?

4 MR. DYNES: Yes.

5 MS. MITCHELL: Mr. Rowe?

6 CHAIRMAN ROWE: No.

7 The second item on this evening's agenda, Appeal
8 0311-0988, Mr. Walter Ackley, for Mr. George — Is it Palaic?

9 MR. ACKLEY: Palaic.

10 CHAIRMAN ROWE: Pardon?

11 MR. ACKLEY: Palaic.

12 CHAIRMAN ROWE: — Palaic of 6836 Fairfield Road,
13 that's an R-1 District, proposes to construct a deck with 10
14 percent of the deck encroaching 10 and a half feet from the
15 side line, in lieu of the 15 foot side line clearance required,
16 as set forth in Section 15.07 A of the Concord Township Zoning
17 Resolution.

18 MR. ACKLEY: I am Walter Ackley, 7539 King
19 Memorial Road, Mentor, Ohio, for George Palaic, who lives at
20 6836 Fairfield Road.

21 CHAIRMAN ROWE: And you were sworn in?

22 MR. ACKLEY: Pardon?

23 CHAIRMAN ROWE: And you were sworn in?

24 MR. ACKLEY: Yes, yes. I was, yes.

25 CHAIRMAN ROWE: Okay. Nice and loud for the court
26 reporter, please.

27 MR. ACKLEY: Yeah, I know. I was sworn in.

28 CHAIRMAN ROWE: Thank you, sir.

29 MR. ACKLEY: And he's requesting to build a 16 by 16
30 deck in the rear of his house, close to the south property

1 line. It encroaches about 4 and a half feet onto that side
2 setback line. I've included a site plan showing the deck
3 location. If we don't push it out, it interferes with his
4 sliding glass door in the back of his home. It fits in nicely
5 with the landscaping and it's — The lot is sloping, as you
6 notice on my cross-section of the house, on 84 down to the two
7 houses on Fairfield.

8 The deck sort of, like, blends right into the slope.
9 The one end is going to be about 23 inches high and the other
10 end, the north end — the south end is going to be 23 inches
11 high. The north end is going to be, like, 6 feet, 6 to 7
12 feet.

13 The reason why it's sloped, I mean, the lot slopes on
14 the front property line about 20 feet from one property pin to
15 the other property pin.

16 And I have included the plan of the deck. And on my
17 site plan, I show you —

18 MR. REIS: Pardon me, sir. Is your phone on or
19 something?

20 MR. ACKLEY: Yes.

21 MR. REIS: Could you turn that off?

22 MR. ACKLEY: It's off now.

23 MR. REIS: I wasn't sure if it was me or —

24 CHAIRMAN ROWE: The voices.

25 MR. REIS: — the voices. I didn't want to be
26 accused of that. Thank you. I apologize.

27 CHAIRMAN ROWE: I've gotten used to that.

28 MR. REIS: Thank you. Please continue. Thanks.

29 MR. ACKLEY: I am sorry about that.

30 I show, on my site plan, the encroachment area. It's

1 about 10 percent of the deck, which is 256 feet. The
2 encroachment area is about 26 feet. It tucks into the slope.

3 The adjacent neighbor, when they look out their
4 kitchen window, they would be — they look, right now, at my
5 roof, at the roof of the house on 6836. That's the difference
6 in elevation of the two properties.

7 I've included a plan of the deck. I included a plan
8 or a picture of the deck material and the railing. And I also
9 have a letter from the adjacent property owner that has no
10 problem with the variance. And then I include four photographs
11 of the — looking at the house from the back yard so you can
12 see the slope of the land and you can see how it's going to fit
13 in with the house.

14 And it's hard to visualize but there is two stakes
15 there. One stake is the property line. If you're looking at
16 the bottom picture on the right, the stake on the right is the
17 property line. The stake on the left — it sort of blends with
18 the stair, the existing stairway — is the corner of the deck.

19 CHAIRMAN ROWE: Gotcha.

20 MR. REIS: Okay.

21 MR. ACKLEY: So if you've got any questions, I am
22 glad to answer them.

23 MR. HAMILTON: Mr. Chairman, if I may.

24 CHAIRMAN ROWE: Absolutely.

25 MR. HAMILTON: Let's start with the usual question.
26 Were there any other designs considered for this deck that
27 would obviate the necessity for a variance?

28 MR. ACKLEY: Yes. We considered — I talked to the
29 owner about sloping the deck to blend with the property line,
30 with the radius from the pin, the radius so that the deck

1 would, you know, so the deck would be —

2 MR. HAMILTON: Skewed.

3 MR. ACKLEY: It wouldn't come out at 90 degree from
4 the house, it would come out at, like, a pretty steep angle.

5 He wasn't too happy about that. I mean, it makes the deck,
6 part of the deck not useful. I mean, it just — it doesn't
7 look good and it's not useful. You know, when he comes out the
8 door, he loses all that space. Plus, he can't put anything
9 there.

10 This way, he would be able to look out his window,
11 his sliding glass door window, and see the deck, the full deck
12 and furniture, whatever. But it doesn't fit anything he wants
13 to put there, you know, like furniture, so that's the reason
14 why he didn't want to do that, you know, bend it out — you
15 know what I mean — slope it out.

16 MR. HAMILTON: So this is self inflicted. I mean, he
17 wants to have this just because he wants to have it that way?
18 It's not that there aren't options and there isn't an ability
19 to do that.

20 MR. ACKLEY: He has options but it's, you know,
21 aesthetically, it's more useful and it's more — the use of the
22 deck, to bring it straight out and to encompass the entire
23 sliding glass door.

24 MR. HAMILTON: And easier to build.

25 MR. ACKLEY: Pardon?

26 MR. HAMILTON: Easier to build, also.

27 MR. ACKLEY: Economics in there, too, yeah.

28 MR. HAMILTON: Okay. I had to ask. Thank you.

29 MR. DYNES: Mr. Chairman.

30 CHAIRMAN ROWE: Certainly, Brandon.

1 MR. DYNES: I presume you're aware of this other
2 letter we have from the Updikes, Steven and Lynn Updike.

3 MR. ACKLEY: No.

4 MS. MITCHELL: We just received it.

5 MR. DYNES: Just received it. Fair enough. You
6 haven't been provided a copy of this from the homeowners to the
7 other side?

8 MS. MITCHELL: We will make a copy.

9 MR. ACKLEY: Is it good or bad?

10 MR. REIS: Maybe you should read it.

11 MR. DYNES: Yeah. I will let you read it.

12 MR. HAMILTON: It's not really germane to the
13 variance request.

14 MR. DYNES: Yeah.

15 CHAIRMAN ROWE: I am not sure that it's —

16 MS. JARRELL: Relevant. I don't think it's relevant.

17 CHAIRMAN ROWE: — relevant. There are some issues
18 with the contractor that built the house, which that's not part
19 of this, and so forth. We have seen this before where the deck
20 was not within limitations of zoning, so the home was sold with
21 no deck. Well, a lot of houses are sold without a deck. These
22 come up not that infrequently, that all of the sudden, you
23 know, you get a little twist or a bend or something like that.

24 And he's got some issues about drainage but I don't
25 see, I don't see — Doing the deck, you're not changing
26 drainage or whatever.

27 MR. ACKLEY: I didn't know there was any drainage
28 issues.

29 MR. DYNES: That was going to be my question. In the
30 construction of the deck, is there going to be anything

1 underneath to impact the drainage?

2 MR. ACKLEY: As far as I know, there isn't any
3 drainage issues. I mean, the land slopes from George's
4 property, on his one property line to the other, like, 20
5 feet. And then Steve, the next-door neighbor, his property
6 slopes not quite as bad but maybe 5, 6 feet across his
7 property.

8 CHAIRMAN ROWE: Well, he's the one that sent the
9 letter.

10 MR. ACKLEY: This is all sand. There is, like, 20
11 feet of sand there. Both lots are all sand. All the way up to
12 84 is all sand.

13 CHAIRMAN ROWE: All right. As I say, I don't think
14 it's really germane to the variance situation.

15 Any other questions?

16 MS. JARRELL: And the neighbor in the blue house is
17 fine with this, the encroachment?

18 MR. ACKLEY: Right.

19 CHAIRMAN ROWE: Yeah. That's the letter that's
20 attached. There is quite an elevation difference there. He
21 does basically, kind of, look over, so that's okay.

22 All right. Thank you very much, sir.

23 MR. ACKLEY: Okay. Thanks.

24 CHAIRMAN ROWE: You're for the next appeal?

25 MR. HAYER: Yes.

26 CHAIRMAN ROWE: Okay. That's fine. Since there is
27 no more commentary about this particular appeal, I will close
28 the public portion of Appeal 0311-0988, open it for discussion
29 amongst the board members.

30 MS. JARRELL: The neighbor that the encroachment is

1 affecting is okay with the, what is it, 4 feet, 4 and a half
2 feet.

3 CHAIRMAN ROWE: Correct.

4 MS. JARRELL: I understand that it is almost a 30
5 percent variance. And while that could be seemingly
6 significant, if you propose to build the deck out of that door
7 and put it on an angle, it seems, in my opinion, kind of crazy
8 to do it that way.

9 CHAIRMAN ROWE: It is.

10 MS. JARRELL: So, I mean, I see it coming straight
11 out and I can understand the design issue. And, you know,
12 since the neighbor is okay with it, it's just my opinion that
13 it should be okay.

14 CHAIRMAN ROWE: And it's not unlike — There was an
15 appeal similar to this a couple meetings ago or so, another
16 location where they had a portion of the thing, which —

17 MR. REIS: Was that granted, Mr. Chairman?

18 CHAIRMAN ROWE: Yes, it was. I mean, not that all of
19 them are going —

20 MR. REIS: No, no. I appreciate that.

21 CHAIRMAN ROWE: It saved a little twist, a sloping
22 lot line, slanting lot line or whatever.

23 Anybody else?

24 MR. HAMILTON: No. It is an unusual lot, just the
25 general configuration and the way it comes about.

26 MS. JARRELL: It is.

27 CHAIRMAN ROWE: Okay. I will entertain a motion for
28 the granting of this appeal.

29 MR. REIS: So made.

30 MS. JARRELL: Second.

1 CHAIRMAN ROWE: Moved and seconded. Kathy, would you
2 call a vote?

3 MS. MITCHELL: Ms. Jarrell?

4 MS. JARRELL: Yes.

5 MS. MITCHELL: Mr. Reis?

6 MR. REIS: Yes.

7 MS. MITCHELL: Mr. Dynes?

8 MR. DYNES: Yes.

9 MS. MITCHELL: Mr. Hamilton?

10 MR. HAMILTON: Yes.

11 MS. MITCHELL: Mr. Rowe?

12 CHAIRMAN ROWE: Yes. It is approved.

13 MR. ACKLEY: Thank you.

14 CHAIRMAN ROWE: The next appeal on this evening's
15 agenda is 0311-0989, Mr. James Hayer, of 7355 Morley Road,
16 R-1 District, proposes a third car addition to be located
17 7.8 feet from the side property line, in lieu of the 15 foot
18 minimum side yard clearance required, as set forth in
19 Section 15.07 A of the Concord Township Zoning Resolution.

20 MR. HAYER: Yes. Good evening. My name is Jim Hayer
21 and this is my wife, Gail. We live at 7355 Morley Road. The
22 easy way to locate that property is, we are at the end of the
23 Hoose Road where we intersect Morley. If you were to come down
24 Hoose Road — Yes, we were sworn in.

25 CHAIRMAN ROWE: Yes.

26 MR. HAYER: I'm sorry.

27 If you were to come down Hoose Road in a, basically,
28 easterly direction, you would drive right up in our side yard.

29 We are proposing the garage to be 12 foot in width,
30 with a 9 foot door and 18 foot depth, actually, to house our

1 Gold Wing motorcycle trike. We are bikers. As a result of the
2 topography of the property, the only feasible place to put this
3 addition would be on the north side of the house.

4 We have a letter from our neighbor to the north
5 approving it. And I think, if you look at the pictures that we
6 have sent, and if you look at the topography of the property —
7 I don't know whether you were by there or not.

8 CHAIRMAN ROWE: Oh, yeah.

9 MR. HAYER: But the house, kind of, sits up on a knob
10 and it slopes to the rear, it slopes to the south — or the
11 east, slopes to the south and, of course, you will see that it
12 slopes to the street. And because of that, we have a
13 horseshoe-type driveway.

14 The building will be built to look as if it had been
15 there all along. It will match the house. It will be a 2-foot
16 setback from the existing garage and 18 feet deep, which is as
17 far back and as deep as it can go because of the structure of
18 the house presently — of the garage.

19 The pictures, I think, that we've sent you in the
20 packet show the slope of the side yard. I think you can see
21 the stakes.

22 CHAIRMAN ROWE: Yes.

23 MR. HAYER: The property stakes. We had that staked
24 out by Babcock and Jones, and I have a copy of the full survey
25 of that line. I haven't gone any further with regards to
26 building plans. It costs us enough to get a survey of that
27 line. I don't want to spend any more money if we're going to
28 not be able to have the zoning variance.

29 CHAIRMAN ROWE: So the — You said you were bikers.
30 In fact, your Gold Wing was sitting out there the other

1 day when —

2 MR. HAYER: Was it? It's a trike. It's a three
3 wheeler.

4 CHAIRMAN ROWE: Trike, yeah. How have you been
5 dealing with this?

6 MR. HAYER: Well, actually, for the last ten years, I
7 have been putting my motorcycle in the basement. If you notice
8 the picture of the back of the house, it is a walkout basement
9 with a double, like, doors.

10 CHAIRMAN ROWE: Oh, okay.

11 MR. HAYER: I can open the doors up, drive the bike
12 in the basement. But my problem is, I can't get the bike out
13 until, oh, the middle or late April. It's out now and we have
14 to put it away while the ground is still soft enough to take it
15 around the house and down the hill and into the basement. And
16 that's —

17 CHAIRMAN ROWE: And it —

18 MS. HAYER: And it doesn't slide down the property.

19 CHAIRMAN ROWE: So this is basically an off season
20 situation.

21 MR. HAYER: Yes. Pretty much, to operate the vehicle
22 from April — excuse me — through the end of October. We're
23 getting too old to ride when it's too cold but we do ride a
24 lot.

25 CHAIRMAN ROWE: I think, an obvious question I have,
26 versus this situation, is, have you looked into off-site
27 storage for that period of time?

28 MR. HAYER: I looked into it, yes, and that certainly
29 is an option. In fact, I have a motorcycle trailer where we,
30 if we're going to leave town — Last year, we went to Florida

1 earlier. We trailered the bike down to, in this case, to South
2 Carolina, where we have a friend. We leave the truck or the
3 trailer in South Carolina and rode the bike the rest of the way
4 down to Florida.

5 But I, kind of, like to have it right there where
6 I can polish it, to be honest with you, change the oil, do the
7 maintenance things to get it ready to go in the spring.

8 MS. HAYER: And know it's safe.

9 MR. HAYER: Yeah, and know it's safe. And it's
10 heated. Yes, there are options for off-site storage.

11 CHAIRMAN ROWE: Okay.

12 MR. REIS: Question, Mr. Chairman.

13 CHAIRMAN ROWE: Absolutely.

14 MR. REIS: You know, I understand. I read the
15 letter. You have, obviously, support from your neighbor.

16 MR. HAYER: Yes.

17 MR. REIS: But when I first looked at this, I was a
18 bit taken back just how much room is then left between your
19 neighbor, even though they're fine with it now and it's
20 seasonal, but this will be a permanent structure for time on
21 end.

22 MR. HAYER: Yes, it will.

23 MR. REIS: And I don't know. It just looked —

24 MR. HAYER: Well, I gave him the option of changing
25 his mind several times, knowing, you know, that it will be
26 permanent. So I didn't — I don't think I coerced him or tried
27 to —

28 MR. REIS: I am not suggesting that at all.

29 MR. HAYER: I know you're not. I know you're not.

30 MR. REIS: I just —

1 MR. HAYER: They're a young couple.

2 MR. REIS: I am just looking at the — in the
3 pictures in your packet. I mean, you were very thorough in
4 what you have shared with us.

5 MR. HAYER: Part of his answer to us was the fact
6 that they just had a young son. And our pictures show his
7 little patio he's got there, probably, a 12 by 12 patio.

8 CHAIRMAN ROWE: Yes.

9 MR. HAYER: he's going to somehow fence that in.
10 It's either going to have a row of arborvitae trees coming down
11 to go along the property line, because it is very much open to
12 us. We look right in his, you know, his family room down there
13 and it's his intention to make some kind of a barrier there.

14 MR. REIS: More of a privacy thing.

15 MR. HAYER: Privacy type of thing where there is
16 going to be a fence or bushes. He wasn't sure.

17 MR. REIS: Thank you.

18 MR. HAYER: You're welcome.

19 I tried to figure out a way to build it on the south
20 side of the house but it just was not appealing and I couldn't
21 convince Gail here to even let me think about that. I tried.
22 My brother is in the building business. He's lives in Columbus
23 but he come up, tried to stake it out and tried to do
24 something. It looked like a sore thumb sitting there. And we
25 maybe attempted to build, like, a 20 by 22 garage, only we
26 tried to just make it look a little better but it was not —

27 MR. REIS: Where you are, sir, are there any other
28 homes that have the three type — or the added-on garage?

29 MR. HAYER: Well, the neighbor, the neighbor, the
30 second neighbor to the north has a side load garage which is a

1 three car. That would be the little ranch.

2 MR. REIS: Okay. I know where you are.

3 MR. HAYER: It belongs to Kish. Now, the big house
4 right next to us has only got a two car garage and he's
5 thinking about building another garage straight off to the east
6 of his, where he comes in his yard, in other words, go straight
7 into the garage instead of having a side load. So he has
8 mentioned that but —

9 MR. REIS: Thank you.

10 CHAIRMAN ROWE: Okay. Thank you.

11 MR. DYNES: One question.

12 CHAIRMAN ROWE: Sure.

13 MR. DYNES: Do you not have options, because of the
14 topography of the land? An out building, is that an option?

15 MR. HAYER: One of the other problems with building
16 in the back is that, I think, if you look at one of the
17 pictures that were taken from the back, you will see a stream
18 runs through there. And in order to — In order to go across
19 that stream — You can see where the one picture that shows
20 the deck in the back garage door and —

21 MR. DYNES: The ridge and — yeah.

22 MR. HAYER: Do you see where that little pond of —

23 MR. DYNES: Yes.

24 MR. HAYER: There is a stream there about 18 inches
25 wide that runs through, and you would be going downhill to get
26 there. The cost of putting in a driveway would be a little
27 more than I would wish to handle with my Social Security
28 check.

29 MS. HAYER: And you would have to cross water to get
30 there.

1 MR. HAYER: You would have to cross it, and it's
2 pretty damp there, on occasion, because it all drains in that
3 direction.

4 MS. JARRELL: It would be the same issues of getting
5 the bike out as you have now with the basement.

6 MR. HAYER: Exactly.

7 CHAIRMAN ROWE: Unless he put a concrete —

8 MR. HAYER: A concrete drive but you'd have to plow
9 to get it out. But the problem being, I get — I wait for a
10 good frost to come in April and then I drive the bike out then,
11 so that it won't sit down into the mud, and put it up in the
12 garage. Then I leave either the car or the truck out. I can
13 put the bike in the garage if I back it in up against the
14 stairs into the house and then park the truck and the car
15 pointing to the corners of the garage but that's really, really
16 inconvenient. Gail can get by there but I certainly can't

17 MS. HAYER: I can just get around to get on the
18 steps.

19 CHAIRMAN ROWE: Okay. Any other questions while we
20 have them at the microphone?

21 MS. HAYER: And then if we want to get the bike out
22 early, like we did last year, I mean, we were very, very
23 fortunate that we had one day — I think it was in March —
24 that the ground was hard enough that we were able to get the
25 bike out of the garage because we were going to go to Florida.
26 Otherwise, we couldn't even get the bike in the trailer to
27 trailer it anywhere.

28 MR. REIS: I understand.

29 MR. HAMILTON: There is one other question,
30 Mr. Chairman. Is it accurate that you want to be able to park

1 the trailer in the garage, also?

2 MR. HAYER: No, not necessarily. I've got a place
3 that I can park the trailer.

4 MR. HAMILTON: Have you considered something other
5 than a full garage where you might just bump out enough?

6 MR. HAYER: Say that again.

7 MR. HAMILTON: Did you consider a different design
8 that might allow you just to bump the garage out a small amount
9 on that side but still can give you room for the bike?

10 MR. HAYER: We could but I thought that, if we build
11 it out enough and put a 9-foot door on the garage, it will be
12 12 foot with a 9 foot —

13 MR. HAMILTON: Standard, right.

14 MR. HAYER: — that it would look better than just a
15 little — if you are going to have, at least, 6, 7 feet to get
16 the bike clear to get it in through the door. It's a tight
17 fit. The trike is pretty wide. It's over 5 feet wide.

18 MS. HAYER: And, also, if we were maybe, down the
19 line, ever wanting to sell the home, we would want that big
20 enough so that, if somebody had three cars or whatever, that —

21 CHAIRMAN ROWE: Just advertise it to another bike
22 owner.

23 MR. REIS: There you go.

24 MS. HAYER: Well, the bike could be a issue there.
25 Maybe that will go with the house.

26 CHAIRMAN ROWE: Uh—oh. Thank you very much.

27 MR. HAMILTON: Thank you.

28 MS. HAYER: Okay. Thank you.

29 CHAIRMAN ROWE: Obviously, we have run out of
30 audience, so we can safely say we're closing the public portion

1 of this appeal, opening the discussion among us.

2 MR. HAMILTON: I will log the neighbor's agreeability
3 to allow this variance. However, this is 50 percent of the
4 setback. It does stay there forever and, you know, it could
5 impact the next neighbor or owner of the next home. It's a
6 large variance.

7 CHAIRMAN ROWE: It's a daunting difference.

8 MS. JARRELL: Well, I think that there is, you know,
9 a practical — for these folks, there is no other place on the
10 property in which to build it because the topography doesn't
11 allow for it. And then there is a safety issue and, that, I
12 can understand as well. And there is also a financial burden
13 if they would have to build something down and put in concrete
14 or asphalt.

15 It is a large variance, I do understand, but I am not
16 sure where else they would possibly put it.

17 CHAIRMAN ROWE: Well, true. But there are
18 alternative ways of storing and so forth, just kind of
19 telegraphing my view. I would entertain a motion for the
20 granting of this appeal.

21 MR. DYNES: So moved.

22 MR. HAMILTON: Second.

23 CHAIRMAN ROWE: Moved and seconded. Kathy, will you
24 call for a vote, please?

25 MS. MITCHELL: Mr. Dynes?

26 MR. DYNES: No.

27 MS. MITCHELL: Mr. Reis?

28 MR. REIS: Yes.

29 MS. MITCHELL: Ms. Jarrell?

30 MS. JARRELL: Yes.

1 MS. MITCHELL: Mr. Hamilton?

2 MR. HAMILTON: No.

3 MS. MITCHELL: Mr. Rowe?

4 CHAIRMAN ROWE: No.

5 The next item on the agenda is election of new chair
6 and vice chair. And, I guess, for the edification of the
7 television audience and so forth, we have, kind of, a unique
8 situation this year, that Gerry Reis, to my right, just
9 finished his second meeting on the board and Brandon, on my
10 left, just finished his first meeting on the board.

11 So what I am proposing, versus the normal, you know,
12 down the road where we nominate some people and see how it goes
13 on a vote, I would like to place a nomination for chairman for
14 the coming year, Blair Hamilton, and at the same time, place a
15 nomination as vice chairman, Chris Jarrell.

16 And, further, because of the uniqueness of the timing
17 and the situation, we would hope that the board would affirm
18 that nomination with an acclamation by voice vote of aye. How
19 say you?

20 MR. REIS: Is there a particular reason,
21 Mr. Chairman, you are not considering staying as chair? Is
22 there a process of rotation?

23 CHAIRMAN ROWE: Well, we try to rotate.

24 MR. REIS: Okay. I vote aye.

25 (All aye votes, no nay votes.)

26 CHAIRMAN ROWE: Thank you. Years ago, other board
27 members thought it quite humorous and I think I was chairman
28 for — I don't know — three years running, but I got to be
29 almost — It was, you know, just one of those things but we do
30 try to rotate.

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Blair, congratulations.

MR. HAMILTON: Thank you, Mr. Chairman.

MR. REIS: And Chris, also.

MS. JARRELL: Thank you.

CHAIRMAN ROWE: And with that, we move to approval of the minutes of the February 9th meeting. I went through them. I couldn't find any problems at all. Anybody else?

MR. HAMILTON: Page 3.

CHAIRMAN ROWE: Okay.

MR. HAMILTON: Line 14, I believe —

MR. REIS: Now I know why you're the chairman.

MR. HAMILTON: — referenced Chairman Hanford on line 14 by mistake. It should be Chairman Rowe.

CHAIRMAN ROWE: That's happened another time. I am glad I retired.

MR. REIS: Well done, sir.

CHAIRMAN ROWE: Okay. But other than that, can we approve those minutes with that correction?

MR. HAMILTON: As corrected.

MR. REIS: So moved.

(Five aye votes, no nay votes.)

CHAIRMAN ROWE: The meeting is adjourned.

(The meeting was adjourned at 8:16 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 29th day of April 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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