

January 14, 2009

Concord Town Hall  
7229 Ravenna Road  
Concord, Ohio 44077

7:00 p.m.

**TRANSCRIPT OF PROCEEDINGS**

Board of Zoning Appeals members present:

Blair Hamilton, Chairman  
Gordon Hanford, Vice Chairman  
Richard Smith  
Claudia Hemphill  
James Rowe

Also present:

Kathy Mitchell, Board of Zoning Appeals Secretary  
Zoning Inspector

**King & Melton Court Reporters**

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

7:00 p.m.

CHAIRMAN HAMILTON: Good evening. I thank everyone for coming out on this cold and snowy evening. Welcome. This is the January 14th, 2009, meeting of the Concord Township Board of Zoning Appeals. The meeting is now in session.

I would like to introduce my fellow board members. To my left is Gordon Hanford; Claudia Hemphill; Richard Smith to my immediate right; Jim Rowe on the far right; Kathy Mitchell, who is over there on the very far right; and I am Blair Hamilton.

A couple housekeeping items. Any audience member who intends to speak tonight and conduct business before the Board must be sworn in. If you are intending to speak tonight, at this time, I would like you to stand, please raise your right hand. Do you swear that the testimony you present to the Board of Zoning Appeals will be the truth, the whole truth, and nothing but the truth?

(Speakers sworn en masse.)

CHAIRMAN HAMILTON: Thank you. Please be seated.

Business before the Board will be conducted from the podium. Those wishing to speak tonight will be asked to approach the podium, state their name and address, and verify that you have been sworn in. It takes a quorum of the Board, that is three votes, to approve or deny each variance. If your request for variance is denied, you have a right to an appeal. Kathy can help you with the details if you choose to pursue this option.

Kathy, were the public notices printed in a timely manner?

MS. MITCHELL: Yes, they were.

1 CHAIRMAN HAMILTON: Thank you. The first item on the  
2 agenda is continuation of Appeal 0908-939, Agile Signs, on  
3 behalf of University Hospitals, UH, proposes to construct the  
4 following signs at UH's new Concord Health Center, located at  
5 7500 Auburn Road, Gateway Business District, with specific  
6 variances from Section XXX of the Concord Township Zoning  
7 Resolution, as follows:

8 A. Sign 2, freestanding sign proposed at the corner  
9 of Auburn Road and State Route 44, to replace the existing  
10 Ricerca sign. A four-sided pylon is proposed and further  
11 revised to 328.7 square feet from 389.5 square feet, with a  
12 revised height of 20 feet from 25 feet. Variances are  
13 requested for the number of sign faces, per section 30.02 L,  
14 type and size of sign, per Section 30.04 C 1.

15 Do we have someone to speak for the variance?

16 MR. BELKNAP: Good evening. Lou Belknap, Agile  
17 Signs, for UH Hospital Systems.

18 CHAIRMAN HAMILTON: Excuse me.

19 MR. BELKNAP: I was sworn in.

20 CHAIRMAN HAMILTON: You have been sworn in. Thank  
21 you.

22 MR. BELKNAP: What we do have before you is revised,  
23 kind of, taken some of your suggestions as far as getting rid  
24 of some of the base and have increased the ground area of the  
25 sign by making it 3 foot 9 rather than 30 inches, at the last  
26 go-round, I believe it was, and also stacked one of the bottom  
27 copies so it says "Health Center" instead of having the four  
28 lines of copy. So we were able to crop that area up and  
29 shorten that black area, if you would.

30 Also, you have, by your request, you had asked about

1 the vault itself. I am not sure if you have received  
2 information on that or not.

3 MR. SMITH: Yeah.

4 CHAIRMAN HAMILTON: Yes, we did.

5 MR. BELKNAP: In case you did not have the photos, I  
6 had the actual photos of the interior of the evaluate. Okay?  
7 By Albert Higley's comments, it's not even in the real world  
8 feasible to change, so we're kind of stuck working around that,  
9 which we had assumed before. Clarification was good. We went  
10 through that process. So we weren't sure what was in it  
11 either, so it was good field data to check that thing out.

12 So, with that, this is what we've asked in the specs,  
13 for the size to be changed. This is not a typical layout for  
14 any of the signs, nor is it going to be typical for any of the  
15 signs that have already been approved. Normally, it's a  
16 stacked copy. So we have already deviated the way the copy is  
17 laid out but is approved by their corporate entity, if you  
18 will, to layer that last line of copy.

19 So that's really what I have for this evening. Any  
20 questions?

21 CHAIRMAN HAMILTON: Questions?

22 MR. SMITH: Thank you for confirming the vault can't  
23 be resized. It is what it is.

24 MR. BELKNAP: Right. It was a good question because  
25 none of us really knew.

26 MS. HEMPHILL: I'd like to say thank you for all the  
27 compromise back and forth.

28 MR. BELKNAP: We're here to try and make things work,  
29 so we appreciate your time.

30 CHAIRMAN HAMILTON: Good. I hear no other questions.

1 MR. ROWE: No questions here.

2 CHAIRMAN HAMILTON: We have discussed this two  
3 previous times. Thank you, Lou.

4 MR. BELKNAP: You are welcome.

5 CHAIRMAN HAMILTON: Do we have anyone else who wishes  
6 to speak in favor of the variance? And do we have anyone who  
7 wishes to speak against the variance? I see none. The public  
8 portion of the meeting is now closed and I will entertain a  
9 motion —

10 MR. HANFORD: I make a motion.

11 CHAIRMAN HAMILTON: — for approval of Appeal 0908.

12 MR. SMITH: Second.

13 CHAIRMAN HAMILTON: And second. Discussion?

14 MR. HANFORD: I think we thoroughly have discussed it  
15 previously and come back to, pretty much, what we have  
16 discussed.

17 CHAIRMAN HAMILTON: Agreed.

18 MR. ROWE: Same.

19 CHAIRMAN HAMILTON: Very good. Kathy, please call  
20 the roll.

21 MS. MITCHELL: Ms. Hemphill?

22 MS. HEMPHILL: Yes.

23 MS. MITCHELL: Mr. Rowe?

24 MR. ROWE: Yes.

25 MS. MITCHELL: Mr. Smith?

26 MR. SMITH: Yes.

27 MS. MITCHELL: Mr. Hanford?

28 MR. HANFORD: Yes.

29 MS. MITCHELL: Mr. Hamilton?

30 CHAIRMAN HAMILTON: Yes. Appeal 0908-939 is

1 approved.

2 MR. BELKNAP: We thank you very much.

3 CHAIRMAN HAMILTON: Thank you for your cooperation.

4 MR. BELKNAP: I know they appreciate your cooperation

5 on not just this but the other things they have worked with

6 you, they have expressed that. Thanks.

7 CHAIRMAN HAMILTON: Our pleasure. Thank you.

8 The second item on the agenda tonight is Appeal 1208-

9 944, Big Creek Veterinary Hospital Land Holdings LLC requests a

10 variance from the minimum 50-foot buffer zone requirement for

11 properties adjacent to residential districts, as set forth in

12 Section 38.09 of the Concord Township Zoning Resolution. A

13 septic system is proposed to be located in this buffer zone for

14 a new veterinary hospital proposed on Permanent Parcels Numbers

15 8A-4A-16, 8A-4A-18, and 8A-4A-19, B-1, Restricted Retail

16 District, and located on Girdled Road. A tree save area is

17 proposed to the east of the existing 24-inch storm pipe that

18 runs within the 50-foot buffer zone.

19 MR. PERCIVAL: I'm Joel Percival from Big Creek and

20 I've been sworn in. I guess, I will just be real brief and

21 then I'll let the engineers take it from there. We have a

22 handout from everybody that explains, has our site plans,

23 explains what we're trying to do with the piece of property we

24 have, with the building and the storm water management area and

25 the septic system. We had quite a struggle fitting everything

26 in, and we've been back and forth for months and months trying

27 to fit everything in as best we can and this is the plan that

28 we came up with.

29 The septic system will be in the buffer zone just a

30 little bit. And then, as far as the trees, it explains it all

1 in the pamphlet. But I should probably let George explain it a  
2 little better than I do, so —

3 MR. HESS: Hello. I'm George Hess, Hess Associates  
4 Engineering, and we are here tonight to request a variance. As  
5 far as pointing to —

6 CHAIRMAN HAMILTON: George, excuse me. I just need  
7 you to confirm that you have been sworn in.

8 MR. HESS: Yes, I have, sir.

9 CHAIRMAN HAMILTON: Thank you.

10 MR. HESS: Sorry about that.

11 CHAIRMAN HAMILTON: Please proceed.

12 MR. HESS: All right. I don't know what's the best  
13 way to present the information to the Board. We've got large  
14 boards here, as well as the handouts we gave you. I don't know  
15 what's the best way to interact and, kind of, point out what  
16 we're talking about as we're going.

17 CHAIRMAN HAMILTON: I think, for the TV audience, it  
18 may be beneficial for them to see the visual, if you have —

19 MR. HESS: Okay. I mean, I think it would help  
20 though, to point something out to the Board, how does the Board  
21 know what I am doing, I guess, is my concern.

22 CHAIRMAN HAMILTON: Well, we'll be able to follow.

23 MR. HESS: Okay. Just a, kind of, introduction to  
24 the project, we have a convenient store on the corner, everyone  
25 is aware of, and then there is a proposed vet clinic detention  
26 pond and then the septic drip fields disposal of the  
27 wastewater.

28 As part of this design process we had to go through,  
29 we have to get approvals from the storm water folks as well as  
30 the EPA folks for the septic. The lay of the property is such

1 that the detention pond has to go in the lowest point of the  
2 site so that we have gravity flow to that location to collect  
3 all the storm water. That information has all been prepared  
4 and submitted to the storm water folks to review.

5 Then the next step on the site is to look at the  
6 soils because we're relying on the soils to dispose of the  
7 wastewater from the wastewater stream system, and we had soil  
8 borings done. There were several borings in the area to the  
9 east of the proposed building. That was also the best soils on  
10 the site.

11 According to EPA regulations, they want you to pick  
12 the location of the site that is best suited to dispose of the  
13 liquid wastewater. So that, pretty much, dictated to us the  
14 pond at the low point, the leach drip fields in the best soils,  
15 and then we have in the center is the building and proposed  
16 parking.

17 MS. MITCHELL: Excuse me. Wasn't there a  
18 modification made by the health district in terms of isolation  
19 distances?

20 MR. HESS: On the property, which I don't know if we  
21 have a better depiction, but there is a storm line and there is  
22 also an existing drainage course that runs through the  
23 property. Thank you. The leach, the drip zone area, which is  
24 this area on the east side of the site, there is an existing  
25 storm line that comes across Girdled Road that runs to the  
26 north, which is a disturbed area. The drip fields cannot be in  
27 an area that has been disturbed. The health department  
28 required a 10-foot offset from that, from that line.

29 There is also an existing swale area that runs  
30 through the site in this location. So that, again, the health

1 department and EPA do not want the drip zone fields in an area  
2 that was, had water running through them. So that left us with  
3 this corridor in between those two areas as the only place to  
4 put the drip zones. So that's what, where we ended up or why  
5 we ended up the way we did.

6 And one thing to show you what these fields are going  
7 to look like, in your package are photographs of the area, as  
8 well as a photograph of a, another project that we've done  
9 which it would help you to see it.

10 MS. HEMPHILL: On Mayfield Road? Mayfield, that's  
11 the church.

12 MR. HESS: Yeah, that is a picture of a drip field  
13 that we designed that has been installed for several years,  
14 Mayfield Church on the corner of Caves Road and Mayfield Road  
15 in Chesterland. So that's what that area will look like once  
16 it's been constructed. In the Mayfield picture, you will see  
17 the dark green where the wastewater is being disposed of.

18 Also, on the drawing and in your package, there is a  
19 cross-section view of what the drip mound is going to look  
20 like, approximately 12 inches of soil where the tubing goes.  
21 And then we did a, sitting in a car on Girdled Road, looking  
22 down over these mound areas, what you would see, which is, as  
23 you'll see in this, the trees and then the small base, small  
24 mound a foot high is where the drip zones would be.

25 CHAIRMAN HAMILTON: Can you walk me through the  
26 perspective? We haven't seen these photos prior to tonight.

27 MR. HESS: Okay.

28 CHAIRMAN HAMILTON: Can you show me, on your larger  
29 plan, what perspective each of these photos is taken from?

30 MR. HESS: In your package, there is one drawing that

1 has circles with letters on them.

2 CHAIRMAN HAMILTON: Okay.

3 MR. HESS: Pointing back to the pictures.

4 CHAIRMAN HAMILTON: Okay. Point me in the right  
5 direction.

6 MR. HESS: You have the 8 1/2 by 11 piece of paper.

7 CHAIRMAN HAMILTON: I got it.

8 MR. HESS: Then each number or letter correlates back  
9 to a photograph, to give you an idea of what —

10 CHAIRMAN HAMILTON: Very good.

11 MR. HESS: Please feel free, if you have any  
12 questions while we're going here, we are here to address the  
13 Board, concerns of the Board.

14 MS. HEMPHILL: Okay.

15 MS. MITCHELL: I see on page, one of the back pages,  
16 that there is a percentage of drip zone area that is actually  
17 located in the buffer. Is that correct that it's about 15.9?

18 ENGINEERING ASSISTANT: That's for total, that's  
19 everything including the replacement zones and the drip zones  
20 that are either in the landscape buffer or in the 50-foot side  
21 yard buffers.

22 MR. HESS: I want to add, too, our drawing, the EPA  
23 and health department required us to lay out not only the three  
24 primary zones but also three zones for replacement in the  
25 event — they always ask you to design for duplication. If  
26 something happens or the lifetime, life cycle of the current  
27 zones is exceeded, we have an option to go to a second  
28 location. So we've planned for all six zones, as you can see  
29 from the drawings.

30 MS. HEMPHILL: What is the lifetime of a drip

1 system?

2 MR. HESS: If cared for properly, I don't know.

3 MS. HEMPHILL: They're too new?

4 MR. HESS: They've been around 20, 30, 40 years.

5 The, kind of, rule of thumb for the old-fashioned leach field,  
6 trench systems has been 20, 25 years. These systems, if  
7 it's — they're much higher, they're higher technology and  
8 they're much more, much more ground friendly because they  
9 spread the water out much better.

10 In this area, we've had them in the ground for close  
11 to 10 years that had no problems. So what the lifetime, we  
12 don't know what the lifetime is going to be.

13 MS. HEMPHILL: Thank you.

14 MR. HESS: Also, in your package, we've included the  
15 landscaping plan to show you some plantings and things like  
16 that. We understand there is going to be some green space  
17 within the tree zone, you know. The clinic has tried to show  
18 you with some plantings to make up for some of the trees that  
19 were lost due to the drip zones.

20 CHAIRMAN HAMILTON: Any questions?

21 MR. SMITH: One question, Mr. Chairman. The tree  
22 save area, I understand that those are going to be new trees or  
23 are those trees that are existing?

24 MR. HESS: The tree save area, I don't quite  
25 understand. There are trees now in that, in that area. Where,  
26 you know, the drip zone, to construct them, you have to remove  
27 the trees in the zone area itself.

28 MR. SMITH: On the appeal, it notes tree save area is  
29 proposed to the east of the existing 24-inch storm pipe that  
30 runs within 50 feet of the buffer.

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MR. HESS: Those will stay.

MR. SMITH: Okay. Those are all existing trees.

MR. HESS: Yes. If I have a good picture for you —

MR. SMITH: That's the I, Photograph I?

MR. HESS: Basically, everything east of the storm pipe, this way, will be saved, the other will be untouched. Then you have, the areas have to be cleared is the zones themselves.

MR. SMITH: The line that goes straight up, this is the property line?

MR. HESS: This is the property line. This is the existing storm water, which, it must have been there for quite a while because we were out there and we can't see any old trench lines or clearing lines or stuff like that.

MR. HANFORD: So Photo I is the one that represents what would be east; am I correct?

MR. HESS: That is correct. No. That's looking from the base of the, standing on the storm line itself and looking east, yeah.

MR. HANFORD: Okay.

MR. HESS: If you look at Picture B, also, would give you a good impression of what it looks like here.

MR. HANFORD: All treed.

MR. HESS: Yes. It looks like it was a farm, a field not too long ago.

MR. HANFORD: Yes. So the field is, because there is going to be the three that you're going to build and three for the future.

MR. HESS: Correct.

MR. HANFORD: That will look like this?

1 MR. HESS: Correct.

2 MR. HANFORD: Okay.

3 MR. ROWE: Excuse me. Having — excuse me. Having  
4 been by the site and understanding that there is quite a stand  
5 of trees there and a certain, certain portion would have to be  
6 removed to accommodate the drip areas, do you have any feel for  
7 distance or whatever of the removal of those standing trees?

8 MR. HESS: I am trying to think how — What was the,  
9 16 percent of the drip zones are actually in the, 15  
10 something?

11 ENGINEERING ASSISTANT: 15.9 percent.

12 CHAIRMAN HAMILTON: The percentage of the drip zone.

13 MR. HESS: That are actually in that 50-foot buffer.

14 CHAIRMAN HAMILTON: 50-foot buffer is what  
15 percentage?

16 MR. HESS: 15.

17 MS. HEMPHILL: 15.9. It's in the back.

18 MR. HESS: To answer your question, I don't know  
19 exactly if we have that number and what percentage of trees of  
20 that area that would have to be cleared. I don't know if we  
21 have that on the top of our heads.

22 MR. ROWE: It would be interesting. I mean, you see  
23 the thing, we look here. We see photos. But, you know, it  
24 just seems like you would have some idea that you're coming  
25 over 20 feet, 40 feet, 10 feet. I mean it's just —

26 MR. HESS: Do we have a brush line; do you remember?

27 MR. SMITH: It looks like right along the existing  
28 storm line is where the trees with stakes would be cleared.

29 MR. HESS: I think the aerial photograph may be the  
30 best help there.

1 MR. HANFORD: Yeah.

2 MS. HEMPHILL: Right here.

3 MR. HANFORD: Let's go back to the original statement  
4 that this was really, in essence, picked for the height.

5 MR. HESS: Picked for the best soils.

6 MR. HANFORD: Best soils and the height to get into  
7 the detention pond.

8 MR. HESS: No, that's two different. The detention  
9 pond is storm water.

10 MR. HANFORD: Okay.

11 MR. HESS: Where that is, the best place for a storm  
12 water pond is the lowest point so it will run off from the  
13 building and parking.

14 MR. HANFORD: Okay.

15 MR. HESS: The EPA requires you to treat that water  
16 before it goes off site.

17 MR. HANFORD: Yeah. So this is the spot that was  
18 picked by you?

19 MR. HESS: Soils. We had soil studies done and  
20 that's the highest point of the site, which is the driest, best  
21 soils for the leach field.

22 I think, getting back to your previous question, I  
23 think you can look at this and see the tree line through  
24 there —

25 MR. HANFORD: Yes, yes.

26 MR. SMITH: Yeah.

27 MR. HESS: — to see where clearing will take place.

28 MS. HEMPHILL: You can see it really well in this  
29 one, that does get even better.

30 MR. HESS: Yes. So that kind of gives you an idea.

1 MR. ROWE: Okay, fine.

2 MR. SMITH: Is there any possibility that this, the  
3 drip zone that's nearest to Girdled Road, be moved west? It  
4 seems like there is a great deal of space between the parking  
5 lot. As an example, the last drip zone from the driveway looks  
6 to be maybe 20 feet, if I can judge by eye, but this one — as  
7 a matter of fact, the first two drip zones from Girdled appear  
8 to be 70 or 80 feet.

9 MR. HESS: Those were pushed over because there is an  
10 existing swale that runs through there.

11 MS. HEMPHILL: If you go to the third page, Richard,  
12 you can see the swale. Well, I don't know.

13 CHAIRMAN HAMILTON: You can see it here.

14 MR. HESS: Based upon our meeting with the health  
15 department on the site, because they didn't want to have the  
16 drip zones in the swale or over that storm line, that kind of  
17 gave us our window where that, where those would fit.

18 MR. SMITH: So the health department didn't want any  
19 fill in the swale there?

20 MR. HESS: You can't put the drip zones in disturbed  
21 soil or in a wet area.

22 By the way, the health department has reviewed  
23 everything and we have received approval from the health  
24 department.

25 MR. HANFORD: That's what I was getting at. This is  
26 really no choice but to put them in there because of the lay of  
27 the land.

28 MR. HESS: Correct. That's, the EPA tells us the  
29 first thing they want us to do is to basically look at the site  
30 from property line to property line. Where is the best soils?

1 Where are the best, where is the best location? And this is  
2 that location.

3 CHAIRMAN HAMILTON: Any other questions?

4 MR. ROWE: Not at this time.

5 CHAIRMAN HAMILTON: Very good. Thank you.

6 MR. HESS: Thank you.

7 CHAIRMAN HAMILTON: Thank you very much.

8 Is there anyone else here tonight who would like to  
9 speak in favor of the variance? I see none. Do we have anyone  
10 in the audience who wishes to speak against the variance?

11 MR. JOE LAZUKA: My name is Joe Lazuka and I live at  
12 11755 Girdled Road, and I have been sworn in. My property is  
13 directly east of the lots in question and I would like to say I  
14 oppose this request for a variance. I believe these zoning  
15 laws are made for a reason. And if it says there should be a  
16 50-foot buffer zone then there should be at least 50 feet.  
17 They're meant to protect residential property owners and I  
18 believe that should be considered here.

19 Anyone building in Concord should be aware of these  
20 rules and design their plans accordingly so that they don't  
21 infringe upon the rights of other landowners. All I am asking  
22 is that the existing laws be enforced. Thank you.

23 CHAIRMAN HAMILTON: Thank you.

24 MR. WALTER LAZUKA: My name is Walter Lazuka. I live  
25 at 12987 Girdled Road and I have been sworn. Again, I would  
26 like to repeat what Joe said about, I believe the number one  
27 thing here is the zoning laws were made for a reason, to  
28 protect all the citizens in Concord Township. We moved out  
29 here 35-some years ago and we'd like to try to keep as much of  
30 it as rural as possible, semi-rural. At least the eastern end

1 anyway is still considered semi-rural, in my view anyway.

2 But, also, I'd like to comment on something that was  
3 said earlier here, that there was, as a backup, an alternative  
4 site to put this. I believe he said that, didn't you, there  
5 was an alternative site?

6 MR. HESS: For what?

7 MR. WALTER LAZUKA: If the first one failed.

8 CHAIRMAN HAMILTON: Sir, if you would just please  
9 direct your comments to the Board.

10 MR. HESS: Yeah. Anyway, I believe that's what he  
11 said. I feel that, you know, this buffer zone is meant there  
12 to protect residential from the commercial. And if there is an  
13 alternative site, let's look at that one.

14 The mounds that I've seen in the past — and I don't  
15 recall, I didn't catch what, how high the mounds were going to  
16 be. Is that something that —

17 MS. HEMPHILL: 12 inches.

18 MR. ROWE: 12 inches.

19 MR. WALTER LAZUKA: 12 inches, a good height, because  
20 the ones I have seen are anywhere from 3 to 4 feet. I've got a  
21 son that's got those and —

22 MS. HEMPHILL: Kathy has a picture.

23 MR. WALTER LAZUKA: Oh, okay. All right. This is  
24 similar to what is going in over there.

25 MS. HEMPHILL: Yes.

26 MR. WALTER LAZUKA: Thank you. I had been advised  
27 earlier today that there was going to be some kind of revisions  
28 on the existing plans. I am not aware of those or I haven't  
29 seen them and I don't know what kind of revisions they are to  
30 this mound.

1 MS. MITCHELL: I think I had asked that earlier  
2 because the distances pushed the one drip zone a little bit  
3 further into the property as opposed to closer.

4 MR. WALTER LAZUKA: Further west?

5 MS. MITCHELL: Yes, like a 7-foot difference, I  
6 believe —

7 MR. HESS: Yeah.

8 MS. MITCHELL: — from the original.

9 MR. WALTER LAZUKA: I want to refer to the tree line  
10 that's been talked here. I think, if people would go out there  
11 and see that tree line, we had a — the tree, the forest that  
12 was there was thinned out dramatically. I believe it was the  
13 previous owner did that, so that the tree buffer of 10 feet, or  
14 whatever it's going to be, is pretty thin, so you can see it  
15 from the easterly property no matter what. It is not buffering  
16 the two properties at all, especially when most of that is  
17 going to come down or half of it is going to come down to put  
18 this in here.

19 MR. HANFORD: Could I ask you just a quick question?

20 MR. WALTER LAZUKA: Certainly.

21 MR. HANFORD: Is that what you're concerned about  
22 seeing?

23 MR. WALTER LAZUKA: No, I am not concerned about  
24 that. I am just relying — See, I didn't catch how many feet  
25 high that was going to be because I was going to make a comment  
26 on the ones that I have seen previous. My son has got one here  
27 off of Orchard and it's, it's not a good looking mound at all.  
28 If you go out in his back yard, it's at least 4 feet high and  
29 goes a long distance back. It runs east-west in the back  
30 there. So you go out and he's got this beautiful lawn over

1 there, and off to the right of it is this huge lawn mound.  
2 It's not good looking at all. This, if it's anything like  
3 this, this is reasonable.

4 So if there are — Also, as far as any landscaping, I  
5 don't know if there was something mentioned about landscaping.  
6 I don't know if the landscaping was going to be on Girdled Road  
7 to east, to the north. I mean, was something said there?

8 MS. HEMPHILL: It is on that drawing behind you, I  
9 believe.

10 CHAIRMAN HAMILTON: Look behind you. You can see the  
11 planting locations.

12 MS. MITCHELL: On Girdled.

13 MR. WALTER LAZUKA: So it's mostly along Girdled  
14 Road, so there is nothing proposed about — If you would just  
15 like to take a, you know, maybe a casual drive and take a look  
16 at that, the trees that he's talking about here, there is not  
17 many of them on there. I mean, they've cut most of them out of  
18 there. I don't believe they did it. I think the previous  
19 landowner did. But, you know, there is not that kind of a  
20 buffer. I mean, you could see right through from when you're  
21 driving up the driveway on Joe's land. You can look over there  
22 and see all this.

23 MR. HANFORD: Again, this is your concern, seeing  
24 this?

25 MR. WALTER LAZUKA: No, no, not my concern now, not  
26 that I see that now.

27 MR. HANFORD: Okay, okay.

28 MR. WALTER LAZUKA: Getting back to what I — And I  
29 will close here. I believe that the zoning laws should be kept  
30 the way they are. And if they need to be modified, I think a

1 little bit of revision of moving those, I think, the first  
2 mound next to the road could be moved over a little bit, you  
3 know.

4 MR. HANFORD: Then you're in the swale, which means  
5 they can't put one there.

6 MR. WALTER LAZUKA: Yeah. Once again, the way I  
7 heard it — maybe I was hearing it the way I wanted to hear  
8 it. I am not sure the health department is saying that it has  
9 to be that way. If you covered it in or covered over it and  
10 you're saying there is loose gravel, well, then there is a  
11 point there. But I wonder if that could be shortened, that  
12 first one, and moved away from the east a little bit.

13 MS. HEMPHILL: You also asked if there was an  
14 alternative site. I believe what you were hearing was there  
15 was accommodation made to put in new mounds in between the ones  
16 they'll put in.

17 MR. WALTER LAZUKA: Oh, they're going north?

18 MS. HEMPHILL: They go north, yes. They go parallel.

19 MR. WALTER LAZUKA: So they stay in the same area.

20 MS. HEMPHILL: Stay in the same area. Am I correct,  
21 sir?

22 MR. ROWE: Yeah, they're shown here. The exist, the  
23 original ones would be these and then the alternates for the  
24 future would be here, here, and here.

25 Actually, that, on this, the number of trees removed  
26 compared to the number of trees existing is relatively small.

27 MR. WALTER LAZUKA: Well, you're looking at it from  
28 the top. I mean, you've got to go by and see it, how thin it  
29 is.

30 MR. ROWE: I saw it this morning, I mean.

1 MR. WALTER LAZUKA: Well, compared to what it was,  
2 maybe many of you don't remember what it used to be like there  
3 before it was thinned out.

4 MR. ROWE: We can only deal with —

5 MR. WALTER LAZUKA: With what's there.

6 MR. ROWE: — with what's there.

7 MR. WALTER LAZUKA: Well, I do request the Board to  
8 reject this appeal or this variance. Thank you for listening  
9 to me.

10 MR. HANFORD: Thank you.

11 CHAIRMAN HAMILTON: Thank you for your comments.

12 MS. HEMPHILL: Thank you.

13 MR. HESS: Excuse me. Will I have a chance to  
14 respond to his comments? Is that appropriate?

15 CHAIRMAN HAMILTON: You may come back to the podium.

16 MR. HESS: Thank you. I think you already talked  
17 about the alternative sites as far as the mounds, in between  
18 the mounds kind of thing.

19 MR. ROWE: Um-hum.

20 MR. HESS: Mound height, there is, the mound height  
21 is depending on the soil types at the site. And the mounds  
22 we're using are drip mounds, which allows you to have the  
23 shortest mound possible using drip technology rather than  
24 different kinds of technology. The other mounds in area, yes,  
25 there are mounds out there that are taller. They use different  
26 technology and, also, could be in soils that are much poorer,  
27 not as good.

28 So, I mean, the mound height varies from site to site  
29 based on the technology you use. Our choice here was to use  
30 the best technology to make those mounds as small as possible

1 for the aesthetics of that.

2 MR. HANFORD: Just a comment. When you say "out  
3 there," not on the property but in the community?

4 MR. HESS: Correct, correct, because there is mounds  
5 all over the northeast Ohio area.

6 Also, the discussion about the trees in the  
7 landscaping plan, I mean, the landscape architect noted that,  
8 try and leave as many of the natural trees there as possible.  
9 Our original design, when we met with the health department,  
10 our goal was to keep within the envelope the zoning provides  
11 and that's when we had this swale and the storm line came into  
12 effect, which then forced us to push these drip zones out into  
13 the 50-foot line. So our starting point was not to encroach on  
14 that and we were forced to do that based upon EPA and health  
15 department regulations.

16 MR. SMITH: Sir, do you have anything in writing from  
17 the health department?

18 MR. HESS: We just received a verbal today but they  
19 have all the plans and they have accepted everything and that  
20 should be coming. We asked them for today but it wasn't a fair  
21 request that they could get the letter out that quick.

22 MS. MITCHELL: I did receive an e-mail from them that  
23 they were in the process of reviewing and they received the  
24 revised plans and it was looking like it was ready.

25 MR. HESS: Their last request was to move that one  
26 zone away from that storm line to the 10-foot buffer and we  
27 accommodated that.

28 MR. ROWE: So this one here?

29 MR. SMITH: Is that drip zone 3, nearest Girdled  
30 Road?

1 MR. HESS: Correct.

2 MR. SMITH: Moved it over how far?

3 MR. HESS: We actually shortened it 10 feet so it  
4 would be — The storm line, obviously, when it was installed,  
5 the soil was disturbed. The health department has a regulation  
6 of a 10-foot offset from that so that you're not installing  
7 this field within the disturbed soils. Thank you.

8 CHAIRMAN HAMILTON: All right. Thanks for the  
9 clarification.

10 Do we have anyone else who wishes to speak against  
11 the variance tonight? I see no one. I thank you all for your  
12 comments. The public portion of the hearing is closed and I  
13 will entertain a motion for approval of the variance.

14 MS. HEMPHILL: So moved.

15 MR. SMITH: Second.

16 CHAIRMAN HAMILTON: Moved and seconded, and we're  
17 open for discussion.

18 MR. ROWE: The first thing that comes to mind is,  
19 given the property size and, certainly, the strictures of  
20 handling drip zones and detention ponds and so forth, it comes  
21 to mind that, perhaps, this project in total is a bit large for  
22 the site as it is. I mean, some day, there will be something  
23 on that site but I just don't know that this is the approach.

24 MR. HANFORD: Look at the neighboring aspect of this  
25 whole program. You've got a property line, which is, all this  
26 is being built and that's why we're here. It is not giving the  
27 proper side yard clearance, right?

28 On the other hand, how many feet have we got? I  
29 think we're going to be looking at trees and this. I mean,  
30 yes, I know something is under the ground there but it

1 certainly is a —

2 CHAIRMAN HAMILTON: The difference between a field  
3 and a forest.

4 MR. HANFORD: Pardon?

5 CHAIRMAN HAMILTON: I mean, they're going to see a  
6 field and a forest.

7 MS. HEMPHILL: A field and trees.

8 MR. HANFORD: These trees will grow and the forest  
9 comes into play because there is forest on this side, too.

10 MS. HEMPHILL: It is not like they weren't intending  
11 to move it over closer. They do have the physical space to put  
12 it. It's just that the topography doesn't accommodate it.

13 MR. HANFORD: And that's a hardship. They can put  
14 this thing in here. I am saying, whether there could be other  
15 locations, I am just saying that was a hardship aspect.

16 CHAIRMAN HAMILTON: I think we also have to  
17 consider the amount of the variance. How much does this  
18 infringe in the buffer area? How big of a variance are we  
19 granting if we were to grant this? And I think the assessment  
20 of the 15.9 percent, depending on where you stand on the  
21 opinion of the forest versus the field, it's really not a huge  
22 variance.

23 MR. HANFORD: No.

24 CHAIRMAN HAMILTON: That 15.9 percent. I mean,  
25 anybody else would be able to come in there and clear that area  
26 right up to those buffer zones regardless.

27 MR. HANFORD: Yes, and put a building in there.

28 CHAIRMAN HAMILTON: And put anything they want there.

29 MR. HANFORD: That's right. And the other thing,  
30 too, if you draw the 50-foot side yard all the way down, it

1 just clips the second one down, right? And, really, it's  
2 affecting half of the third. So the first one is in, the other  
3 one is not quite in, and the other one is half in.

4 CHAIRMAN HAMILTON: The zone closest to Girdled is  
5 primarily out of the buffer area.

6 MR. HANFORD: Yeah.

7 CHAIRMAN HAMILTON: The other zones being within it,  
8 largely.

9 MR. HANFORD: See this on here.

10 MS. HEMPHILL: All right.

11 CHAIRMAN HAMILTON: Any other discussions,  
12 considerations that you want to take up?

13 MS. HEMPHILL: No.

14 MR. SMITH: I think we're restricted on the location  
15 of the drip zones by requirements of the health department and  
16 EPA due to that existing swale on the property because they're  
17 right up against the edge of the swale on the west and —

18 CHAIRMAN HAMILTON: Storm sewer.

19 MR. SMITH: Obviously, the capacity of the drip zone  
20 is based on engineering that says a building with this many  
21 plumbing fixture units has to have this particular size of a  
22 drip zone area for this particular design. And so you plug all  
23 the numbers in and you have an area you can put it in but that  
24 area is impacted by two things, actually, three things: You  
25 have the setback, which is one; but you also are impacted by  
26 the location of the existing storm line which is in the buffer  
27 area, so that is a moot point; but the ravine takes out a good,  
28 it looks like, probably 40 feet of area that they could have  
29 put, moved it over west and still impact a little bit in the  
30 setback area but not as much as here.

1           So the topography of the site is a limiting factor on  
2 this, making it difficult for them to comply. In my opinion,  
3 it is a practical difficulty without redesigning the entire  
4 project.

5           CHAIRMAN HAMILTON: Other comments?

6           MR. ROWE: No.

7           CHAIRMAN HAMILTON: Hearing none, Kathy, would you  
8 call the roll, please?

9           MS. MITCHELL: Mr. Smith?

10          MR. SMITH: Yes.

11          MS. MITCHELL: Mr. Rowe?

12          MR. ROWE: No.

13          MS. MITCHELL: Mr. Hanford?

14          MR. HANFORD: Yes.

15          MS. MITCHELL: Ms. Hemphill?

16          MS. HEMPHILL: Yes.

17          MS. MITCHELL: Mr. Hamilton?

18          CHAIRMAN HAMILTON: Yes. Appeal 1208-944 is  
19 approved.

20          MR. HESS: Thank you.

21          MR. PERCIVAL: Thank you.

22          CHAIRMAN HAMILTON: Next on item on the agenda is  
23 approval of the minutes of the December 10th, 2008, meeting.  
24 Do we have any comments?

25          MR. ROWE: The only one was on the very opening  
26 statement where the date was noted as December 11, it was  
27 actually December 10. Everything else is fine.

28          CHAIRMAN HAMILTON: Thank you for the correction.  
29 Anything else? All in favor of accepting —

30          MS. HEMPHILL: Aye.

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MR. ROWE: Aye.

MR. SMITH: Aye.

MR. HANFORD: Aye.

CHAIRMAN HAMILTON: Aye.

This concludes the January 14th, 2009, meeting of the  
Board of Zoning Appeals.

(The meeting was adjourned at 7:50 p.m.)

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

CERTIFICATE

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 25th day of January 2009.  
24  
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28 \_\_\_\_\_  
29 Melinda A. Melton  
30 Registered Professional Reporter

31 Notary Public within and for the  
32 State of Ohio

33 My Commission Expires:  
34 February 4, 2013  
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