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CITY OF NORTH CANTON, OHIO
ZONING AND BUILDING STANDARDS BOARD OF APPEALS

IN RE:)
)
Zoning and Building)
Standards Board of)
Appeals Meeting)
ZBOA 2018-13) **TRANSCRIPT OF PROCEEDINGS**
ZBOA 2018-14)
ZBOA 2018-15)
ZBOA 2018-16)

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Transcript of Proceedings before the North Canton
Zoning and Building Standards Board of Appeals, taken by
me, the undersigned, Laurie Maryl Jonas, a Registered
Merit Reporter and Notary Public in and for the State of
Ohio, at North Canton City Hall, 145 North Main Street,
North Canton, Ohio, on Wednesday, May 23, 2018, at
6:00 p.m.

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APPEARANCES:

Clint Zollinger, Chairman

Daniel Griffith, Member

Brian Mihalcin, Member

Patrick DeOrio, Director of Administration

John Stigalt, Chief Building Officer

Christine Nadeau, Secretary

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1 MR. ZOLLINGER: All right. I'm going to call
2 the meeting to order. It's six o'clock. There are
3 three of five board members present. That
4 constitutes a quorum, so I'd rather get things
5 moving. It's kind of nice out there; I don't think
6 anybody wants to be here any longer than they need
7 to.

8 I'm Clint Zollinger. I'm the chairman of the
9 board of zoning appeals. For those of you who
10 haven't been at a meeting before, how it works is we
11 tend to conduct some preliminary business first. One
12 of the things we have to do is elect a vice chairman
13 of our board. Our chairman, Bill Cline, resigned
14 recently. I took his spot because I was vice
15 chairman. We have to elect another vice chairman.
16 That will be very quick. We'll approve the minutes
17 of our previous meeting and get on to the business
18 portion where we will discuss each application
19 individually.

20 Those of you who will be speaking will come
21 up to the podium and speak into the microphone. If
22 you do plan on speaking, if there's any chance you
23 think you might talk tonight, you will need to be put
24 under oath by the court reporter. We have a court
25 reporter that takes down everything that's being said

1 at this meeting. That's just so that our record is
2 preserved because there's -- you know, there's a
3 chance that things could be appealed to the court and
4 whatnot and we want to make sure the record is clear.

5 So and that's -- another thing I've mentioned
6 is, you know, when you come up and talk you can be
7 relaxed, you can be conversational just like you talk
8 in normal conversation. We're going to ask
9 questions, and that's not to intimidate you or scare
10 you or anything like that; it's because we're looking
11 for information. That's it. And but it's important
12 that we give our answers audibly, avoid shaking of
13 the head, nodding, uh-huh, unh-unh. It makes the
14 court reporter's job easier if you give all of your
15 answers and responses audibly, okay?

16 So I think -- I think the first thing we'll
17 do is we'll do the roll call. And then we'll have
18 the court reporter put everybody -- administer the
19 oath to everybody that's going to speak tonight. Go
20 ahead.

21 MS. NADEAU: Mr. Zollinger.

22 MR. ZOLLINGER: Here.

23 MS. NADEAU: Mr. Bacon. Mr. Griffith.

24 MR. GRIFFITH: Here.

25 MS. NADEAU: Mr. Mihalcin.

1 MR. MIHALCIN: Here.

2 MS. NADEAU: Ms. Clevenger.

3 MR. ZOLLINGER: Okay. Three of the five
4 members are present. That does constitute a quorum
5 so we can conduct business tonight. That's the good
6 news.

7 At this point, why don't we have the court
8 reporter administer the oath. So everyone who is
9 going to speak tonight, or may, or thinks they might
10 speak, if you will please stand and raise your right
11 hand.

12 (Whereupon, participants were administered a
13 sworn oath by the notary public.)

14 MR. ZOLLINGER: Thank you. Okay. Thank you.

15 The next item of business is to elect a vice
16 chairman of the board. That's somebody who will take
17 the reins and conduct board meetings in my absence or
18 the absence of whoever the chairperson might be. I
19 will make a motion to elect Dan Griffith as vice
20 chair of this board. Do I have a second?

21 MR. MIHALCIN: I'll second.

22 MR. ZOLLINGER: Any discussion? Okay. If
23 there's no discussion, we'll call the roll.

24 MS. NADEAU: Mr. Griffith.

25 MR. GRIFFITH: Yes.

1 MS. NADEAU: Mr. Mihalcin.

2 MR. MIHALCIN: Yes.

3 MS. NADEAU: Mr. Zollinger.

4 MR. ZOLLINGER: Yes.

5 And I don't know if any city officials are
6 here. I know Mr. Fox is on vacation. I don't know
7 if the mayor is here. We'll administer the oath at
8 some point. I prefer to do that in a meeting. If
9 somebody's here, we can do it at the next meeting if
10 that's what we need to do. So, but congratulations.

11 MR. GRIFFITH: Thank you.

12 MR. ZOLLINGER: Next item of business is the
13 approval of the April 24, 2018, minutes. These are
14 the transcript of the last meeting. We're provided
15 these several days ago. So we've had time, ample
16 time to review them. Are there -- I want to
17 entertain any changes, amendments to the minutes.

18 MR. GRIFFITH: I move to approve.

19 MR. MIHALCIN: Second.

20 MR. ZOLLINGER: Any discussion? Okay. If
21 not, please call the roll.

22 MS. NADEAU: Mr. Griffith.

23 MR. GRIFFITH: Yes.

24 MS. NADEAU: Mr. Mihalcin.

25 MR. MIHALCIN: Yes.

1 MS. NADEAU: Mr. Zollinger.

2 MR. ZOLLINGER: Yes.

3 Okay. Now we'll move forward to the business
4 portion of the meeting. If you would go ahead and
5 call the first application we're going to hear
6 tonight.

7 MS. NADEAU: Application No. ZBOA 2018-13,
8 1630 North Main Street. Owner Spirit Master Funding
9 and applicant Arc Vision, Incorporated. They are
10 requesting to maintain exterior lighting on upper,
11 front and side walls. All fixtures are below 25
12 watts and are intended solely as decorative
13 highlighting around the building.

14 MR. ZOLLINGER: Okay. Now, obviously you can
15 see I have access to the mouse, which can be
16 dangerous, but if you come up and speak, if there's
17 something, a page you want me to look at, let me know
18 and I'll do my best to page it and navigate around
19 here. These are materials we've all been -- we were
20 given last week, I think. We've all had a chance to
21 look at them. Some of us had opportunities to drive
22 around the properties that we're going to be talking,
23 you know, we're going over tonight and we're pretty
24 familiar with the situation.

25 But in any event, so what I would like to do

1 is we'd like to hear -- first hear from anybody who
2 would like to speak in favor of the application. And
3 usually it's the applicant, him- or herself, that
4 gets up first, so, and then we'll hear from anybody
5 who wants to speak in favor and then we'll hear from
6 other people after that. Yes, sir.

7 MR. RUMMEL: Dale Rummel. I apologize. Our
8 -- I thought somebody from the architect company was
9 supposed to be here. I don't know if he's stuck in
10 traffic or what, but I'm the third-party
11 representative for coordination. Oh, you're right
12 here. I didn't realize he's in here already.

13 MR. ZOLLINGER: Okay. Sir, are you going to
14 speak, too? Or do you --

15 MR. HOLDCRAFT: If need be, yes.

16 MR. ZOLLINGER: Okay.

17 MR. RUMMEL: Basically what we're asking for
18 is our lighting is on all of our Arby's buildings
19 with the new remodels and stuff, and not quite sure
20 how the ball got dropped with your zoning and stuff
21 because it was turned in on the prints as the
22 lighting that was there and stuff, so it sort of fell
23 through the cracks through our architects not
24 catching it in the code, the zoning stuff, and also
25 on your end also with approving our packet and

1 everything.

2 MR. ZOLLINGER: So let me stop you. This was
3 approved with this lighting at some point?

4 MR. RUMMEL: Yes. We have an approved set of
5 drawings.

6 MR. ZOLLINGER: Okay.

7 MR. RUMMEL: Because this is a completed job.

8 MR. ZOLLINGER: Okay. And --

9 MR. RUMMEL: And all of our lighting is
10 designed just to be accents on the walls. It's not
11 like floodlights shining up into the air or to -- or
12 signs or anything, it's just accents around the
13 building to, you know, illuminate the side of the
14 building. The lower lights are like a double-sided
15 light which shines down the sidewalk and then just up
16 the wall a little bit just to put a glow on the side
17 of the building for things. You know, it's not meant
18 to be used as advertising, as drawing attention or
19 anything, it's just mood lighting for the building to
20 make it light up at night, partially for safety of
21 the employees, safety of the customers coming in and
22 out.

23 MR. ZOLLINGER: Well, how is it then that
24 this got turned down, or you got told there was a
25 problem?

1 MR. RUMMEL: At our final inspection, John
2 was there, he realized it was in the code. That's
3 why we've got a temporary C of O right now until we
4 can get this straightened out and see if we got our
5 variance and stuff. And I guess even at that point I
6 was a little misinformed on how that was. I was
7 under the impression that since we were under the
8 25-watt limit of lights that we would be okay because
9 the lower lights are all 14 watts, the upper lights
10 are 21 watts, so everything is under the 25-watt.
11 But then it was stated that it was -- any uplighting
12 was not permissible. But then I guess my question
13 would be, like the picture you've got up here at
14 Goodwill, how a brand-new building newer than ours is
15 able to have the uplighting the same.

16 MR. ZOLLINGER: Yeah. Well, so was the
17 lighting installed then and it came in from -- the
18 building came in for the final inspection?

19 MR. RUMMEL: The lighting was installed.
20 When John came in for the final inspection, that's
21 when it was realized and caught.

22 MR. ZOLLINGER: Okay. Yeah. I want to focus
23 on this Goodwill, because this is new. It would
24 obviously fall under this ordinance; we don't have a
25 grandfather issue. How is your lighting different

1 than that?

2 MR. RUMMEL: It is not.

3 MR. ZOLLINGER: How about the spacing between
4 the lights? Any change there?

5 MR. RUMMEL: Ours are probably -- we have
6 less lighting around our building than that. We've
7 got three down each side, two across the front, I
8 believe, and then two on the upper front sides.

9 MR. ZOLLINGER: Okay.

10 MR. RUMMEL: The spacing is very similar,
11 probably. Ours has a red band that goes around the
12 building, which is the new Arby's look and stuff.

13 MR. ZOLLINGER: The lighting on the bottom
14 going down looks greater than going up.

15 MR. RUMMEL: Than going up, yes. And on
16 ours, the ones that are up high like that don't have
17 the downlighting because it is above the red band,
18 right where the red band goes around the building, so
19 there's not a downlighting there. That is the -- the
20 lower part there are canopies over the entrances that
21 which have lights under the canopy.

22 MR. ZOLLINGER: And you don't have a picture
23 of your building, do you?

24 MR. RUMMEL: No. I apologize. No.

25 MR. ZOLLINGER: Okay. Any other questions of

1 this person?

2 MR. GRIFFITH: No. So this was approved in
3 the planning, you guys have already installed it and
4 we've got a number of examples in the situation. I'm
5 inclined to approve it.

6 MR. ZOLLINGER: I'm not. I want to hear from
7 everybody else before I make my decision, but I hear
8 what you're saying. Okay. Any other questions?

9 MR. MIHALCIN: Has this ordinance been
10 adjusted for the LED accommodation? Because right
11 now current LED lighting below 25 watts is just about
12 everywhere as far as -- so I don't think this
13 ordinance has been adjusted. Other than that, I have
14 no other comments.

15 MR. ZOLLINGER: Okay. Okay. Anything else?
16 If not, we'll -- okay.

17 MR. RUMMEL: No.

18 MR. ZOLLINGER: Anybody else want to speak in
19 favor of the application?

20 MR. HOLDCRAFT: I'm Jim Holdcraft with the
21 architectural division of Arc Vision.

22 MR. ZOLLINGER: I'm sorry. Could you spell
23 your last name.

24 MR. HOLDCRAFT: Holdcraft.

25 H-O-L-D-C-R-A-F-T.

1 MR. ZOLLINGER: Thank you.

2 MR. HOLDCRAFT: We found this a little bit
3 surprising. We do these at such a pace that
4 oftentimes, as is this was the case, we did not
5 thoroughly research the local zoning ordinances. We
6 did research the code, the building code and the
7 electrical and plumbing codes. In this particular
8 case, we got no comments whatsoever on the submission
9 for building permit. So we found it a little bit
10 surprising that at the final inspection this issue
11 came up.

12 The -- the other buildings included in this
13 application were to illustrate other relative --
14 relatively close locations that have similar lighting
15 to what this Arby's building has. And as Dale
16 mentioned, the Arby's lighting is a -- I don't want
17 to say a trademark issue, but it is an image issue
18 with the Arby's corporation of what they're trying to
19 do with their new look. We do recognize that it's
20 not lighting signs as your ordinance requires for any
21 lights pointed that direction. It is just
22 highlighting the building. But on the positive side,
23 or on our side, it is all low-level lighting,
24 low-wattage lighting. So we believe it enhances and
25 produces a better look to the building, much as it

1 does for some of the other examples.

2 MR. ZOLLINGER: Are you able to tell, looking
3 at these other -- like let's look at Goodwill. I
4 know that one's new so let's focus on this one. Are
5 you able to tell, looking at Goodwill's lighting,
6 whether the wattage you have, or LED, I don't think
7 it matters, if your wattage is lower than that or
8 greater than that or --

9 MR. RUMMEL: This is not this particular
10 building, but it is a picture of an Arby's that
11 has -- see, they're above the red band. No, I don't.
12 This was just -- I apologize, I didn't have one. But
13 that's where they're located. There's -- like I
14 said, there's two on the side, two on the front, two
15 on the other side. And, again, they barely light to
16 the top of the building. I mean, it's just a -- and
17 that's not this particular store, but they're all --

18 MR. ZOLLINGER: Okay.

19 MR. RUMMEL: -- they're all very similar to
20 the locations and everything.

21 MR. ZOLLINGER: Okay. They go just to the
22 top?

23 MR. RUMMEL: Yeah. They barely light to the
24 top of the building.

25 MR. ZOLLINGER: Okay. All right. Thank you.

1 MR. RUMMEL: Yes.

2 MR. ZOLLINGER: Any other questions, guys?

3 MR. HOLDCRAFT: To your question, I could
4 make a guess that ours is the building -- the
5 lighting related to the Arby's building is certainly
6 not any brighter than what is illustrated there.

7 MR. ZOLLINGER: Okay. All right. Thank you.
8 Anybody else have any questions for --

9 MR. RUMMEL: Okay. Thank you.

10 MR. MIHALCIN: None.

11 MR. ZOLLINGER: Thanks.

12 Anybody else want to speak in favor of the
13 application? Anybody else want to speak regarding
14 the application one way or the other?

15 Okay. Then I think I'm ready to comment.
16 I'm in favor of granting this variance.

17 Well, I'll tell you what: Can you explain
18 why this -- why the Goodwill has this lighting and
19 Arby's didn't -- why that's in compliance?

20 MR. STIGALT: Well, Mr. Chairman, I have not
21 done the site plan review for the Goodwill, the final
22 one. They're still under -- trying to take care of
23 some site issues, so when I go out there, that is one
24 thing that is going to be noted.

25 MR. ZOLLINGER: But was that approved?

1 MR. STIGALT: No. Well, I'm not sure how the
2 lighting was approved, because when the lighting are
3 shown on the -- excuse me -- the plans, they just
4 show some symbol or, you know, a box or square or
5 something. The plan reviewer saw that. It doesn't
6 say this is an uplight, downlight.

7 MR. MIHALCIN: No.

8 MR. STIGALT: So he did not see that. He did
9 not see that on the plans that way. And when I went
10 out to do the inspection, we saw that the Arby's had
11 uplighting. And that our -- actually, Arby's came in
12 as an alteration and there was to be no zoning
13 issues, and he missed it on that drawing that --
14 misinterpreted the symbol as what type of light
15 fixture.

16 MR. ZOLLINGER: Who misinterpreted?

17 MR. STIGALT: The plan reviewer.

18 MR. ZOLLINGER: Okay. All right.

19 MR. MIHALCIN: I will go on the record to
20 disagree with that statement. When the drawings are
21 submitted for planning, there are electrical drawings
22 submitted with fixture types, wattage, wiring, panel
23 works. It's all submitted. It has to be.

24 MR. ZOLLINGER: And even if this wasn't
25 clear, I think it's the plan reviewer's

1 responsibility to ask the question, you know, what
2 kind of lighting is this? I mean, the plan reviewer
3 knows what the code is and should say, you know, is
4 this uplighting, downlighting?

5 So, yeah, I think this is a pretty good --
6 I'm inclined to grant this variance. It makes sense
7 to me. I don't know how, practically speaking, we're
8 going to go around to all these businesses now that
9 might have been submitted after this ordinance and
10 make them change everything. It doesn't -- it's not
11 a huge hindrance on the community. Nobody's come in
12 here and spoken, that, you know, that lives near
13 there that says the lighting is a big problem for
14 them. So that's how I feel at this point.

15 Anybody else want to chime in?

16 MR. GRIFFITH: I agree.

17 MR. MIHALCIN: I have nothing else.

18 MR. ZOLLINGER: I'll entertain a motion.

19 MR. GRIFFITH: So moved to approve.

20 MR. ZOLLINGER: I second that motion. Call
21 the roll, please.

22 MS. NADEAU: Mr. Griffith.

23 MR. GRIFFITH: Yes.

24 MS. NADEAU: Mr. Mihalcin.

25 MR. MIHALCIN: Yes.

1 MS. NADEAU: Mr. Zollinger.

2 MR. ZOLLINGER: Yes.

3 Okay. That variance has been granted. Thank
4 you very much.

5 MR. RUMMEL: Thank you.

6 MR. ZOLLINGER: Our next item of business.

7 MS. NADEAU: Application No. ZBOA 2018-14,
8 1228 South Main Street, Aaron Harding of Harding
9 Property Management; applicant Rice's Landscapes
10 Redefined. They're requesting a variance to change
11 the landscape plan originally submitted by moving
12 some of the evergreen trees, eliminating two rear
13 shade trees, changing screen plant types and
14 eliminating screen plants at rear parking area.

15 MR. ZOLLINGER: State your name, please.

16 MR. RICE: Kevin Rice. Rice's Landscapes
17 Redefined.

18 MR. ZOLLINGER: And, Mr. Rice, we have all --
19 we were given before today's meeting -- well, that's
20 inaccurate. All that's on the screen here is the --
21 is basically the layout of the street. We have your
22 drawings. I think what might be easiest is if I give
23 you this. I have a smaller copy here that I can look
24 at. You can put that on the table too. Yeah. If
25 you can explain what you would like to do here and

1 what the variance is.

2 MR. RICE: Yeah. Working with Aaron Harding,
3 the owner, and his wife, Stephanie Morgan, the
4 orthodontist, obviously they have built a new office
5 building, and for submittal drawings the architect
6 put together a landscape plan. Further requirements,
7 there are some things that are shown that are not
8 necessarily required. Aaron and Stephanie have
9 engaged us to do the landscaping, and there was some
10 questions about some of the landscaping and making
11 some changes.

12 So I guess what I would start with is the
13 evergreen trees that are on the north side of the
14 property. We've reduced two -- or we'd like to
15 propose to reduce two and move two. The dumpster
16 enclosure is a masonry enclosure, which is per the
17 city ordinance.

18 And secondly, there are two pear trees
19 located on the east side of the entry drive.
20 Dr. Morgan and Aaron are considering a future
21 expansion someday, and obviously this would be done
22 in accordance with the proper submittals, but that
23 might become parking someday so those trees are not
24 required. We'd like to forgo those trees at this
25 point in time.

1 MR. ZOLLINGER: You're talking about the east
2 side here?

3 MR. RICE: Yeah. The east side. The two
4 pears -- I'm sorry. They are called out as I'm
5 sorry, they are called out as a Norway, but we'd like
6 to eliminate these two trees.

7 MR. ZOLLINGER: And these bushes over here?

8 MR. RICE: And then the code requires
9 screening along parking, five spaces or more that is
10 in viewing distance of the street. Between the
11 parking and the right-of-way, this parking is at
12 obviously the east end. It faces the side of the
13 Kolp property and we really -- to us, it seems like
14 it's not --

15 MR. ZOLLINGER: It's not facing a street.

16 MR. RICE: Correct.

17 MR. GRIFFITH: Yeah.

18 MR. ZOLLINGER: Okay.

19 MR. RICE: So the other item that we did,
20 too, is if you look at the way you would plow the
21 parking lot, originally the architect had submitted a
22 plan where these burning bushes are right against the
23 parking lot, making it virtually impossible to plow
24 that parking lot. Even during daily occurrences when
25 they have patients there, it would be very -- it

1 would be an unsafe situation backing a truck up and
2 so forth. So we pushed the screening out, which I
3 don't think is a big deal, and then John had
4 mentioned -- John Stigalt -- I mentioned we wanted to
5 make some changes to the variety of plants because
6 it's all dwarf burning bushes, which get about 5 foot
7 tall. If you don't trim them they get 7 foot tall.
8 So we made some changes, still within the
9 requirements -- of the height requirements that are
10 made within the ordinance. So --

11 MR. ZOLLINGER: Okay. Yeah. What changes
12 are you making that are outside the 1155.03?

13 MR. RICE: That would really be eliminating
14 the back screening of the -- of the parking. Let me
15 see here.

16 MR. ZOLLINGER: On the east side.

17 MR. RICE: Yeah.

18 MR. GRIFFITH: On the south side.

19 MR. RICE: 1155.03B. It would be -- yeah, it
20 would be --

21 MR. GRIFFITH: Yes.

22 MR. ZOLLINGER: B. Yeah, the two -- the two
23 trees and then the burning bush on the east side
24 where the six lots -- six parking lots are?

25 MR. RICE: Yes. Again, the trees are not

1 required. It's not part of the ordinance, but that
2 was submitted originally. And as John Stigalt said,
3 if you want to remove the trees, he said it would
4 have to get reviewed. So it was --

5 MR. ZOLLINGER: Again, where is that?
6 Because I see the requirement is shrubs, and B, at a
7 minimum of 3 feet from the -- or maximum of 5.

8 (Mr. DeOrio entering chambers.)

9 MR. ZOLLINGER: So you're saying this needs a
10 variance here, this east side?

11 MR. RICE: Right. Uh-huh.

12 MR. ZOLLINGER: Okay. Because it's six
13 spaces.

14 MR. RICE: Right.

15 MR. ZOLLINGER: Visible from a public street.

16 MR. RICE: Right.

17 MR. ZOLLINGER: How is that visible from a
18 public street? I mean, you got the building blocks
19 it from Main Street. Is it from Waterside? You guys
20 have any questions --

21 MR. GRIFFITH: No.

22 MR. ZOLLINGER: -- while I digest this?

23 The rest of this modification is within
24 compliance with the ordinance?

25 MR. RICE: Yes. Yeah. Just John didn't

1 think the changing of the plans would be an issue as
2 far as changing the species. We want to keep them
3 back off the parking lot, again because of snow and
4 ice.

5 MR. ZOLLINGER: You're thinking if you put
6 these burning bushes in back here, and these two
7 trees, the guy would have trouble plowing.

8 MR. RICE: Well, not in the back. We're just
9 saying is that -- is that really necessary? We can
10 see where it's necessary where the parking lot is,
11 you know, between the parking lots and the
12 right-of-way where you have --

13 MR. ZOLLINGER: Yeah.

14 MR. RICE: -- visibility from the street.

15 MR. ZOLLINGER: Okay.

16 MR. GRIFFITH: I think they plow this up
17 here, isn't it?

18 MR. RICE: The plowing portion would be in
19 the far southwest corner. That's where we're --
20 prior, or the previous plan showing the burning bush
21 right up against the corner of the parking lot where
22 it would just be very difficult to load or place or
23 stacking snow.

24 MR. ZOLLINGER: Okay. I see. Okay.

25 Any other questions?

1 MR. GRIFFITH: I think you explained it well,
2 Kevin.

3 MR. RICE: Thanks.

4 MR. ZOLLINGER: Anyone else want to speak in
5 favor of the application? You can keep that there,
6 Kevin, unless you want it. I think that was the copy
7 I got. In case anybody wants to refer to it.

8 Anybody want to speak? Anybody else want to
9 have anything to say one way or the other on the
10 application? Okay.

11 I mean, I'm in favor of granting the
12 variance. I'm not sure that there is a real issue
13 here with 1155.03B. I'm not sure this is visible
14 from a public street. It's debatable it might be
15 visible from Waterside, but I don't see this being --
16 I just don't see this being a problem. I don't see
17 anybody having an issue with it and the rest of this
18 does appear to be in compliance, from what I can
19 tell.

20 MR. GRIFFITH: I would agree. I'm not sure
21 that the applicability is there but I will approve
22 the variance.

23 MR. ZOLLINGER: Was that a motion?

24 MR. GRIFFITH: I'm happy to. I didn't want
25 to cut in front of you.

1 MR. MIHALCIN: I'll second the motion.

2 MR. ZOLLINGER: Call the roll, please.

3 MS. NADEAU: Mr. Griffith.

4 MR. GRIFFITH: Yes.

5 MS. NADEAU: Mr. Mihalcin.

6 MR. MIHALCIN: Yes.

7 MS. NADEAU: Mr. Zollinger.

8 MR. ZOLLINGER: Yes.

9 The variance has been granted. Thank you,
10 gentlemen.

11 Any -- let's see. Next item of business,
12 please.

13 MS. NADEAU: Application No. ZBOA 2018-15.
14 196 Overridge Avenue, Southeast. Applicants Jason
15 and Adrienne Blackburn. They are requesting a
16 variance from the front lot line setback of 10 feet,
17 which is applicable for a driveway, which is not a
18 setback requirement or not applicable.

19 MR. ZOLLINGER: Okay. Whoever would like to
20 speak in favor of that should get up. Go ahead.

21 MR. BLACKBURN: I'm Jason Blackburn. My
22 wife, Adrienne Blackburn, is joining us. We're the
23 owners of the property at 916 Overridge Avenue,
24 Southeast.

25 MR. ZOLLINGER: For the record, you were here

1 before. You made an application back in November not
2 for the setback, though, but off-street parking. So
3 you're coming here for a different --

4 MR. BLACKBURN: That was the recommendation
5 of the board at that time, to come back to request a
6 variance for the setback versus what we had initially
7 attempted, which was, I guess had already been
8 defined and not able to be processed.

9 MR. ZOLLINGER: Right.

10 MR. BLACKBURN: Under that particular
11 request.

12 MR. ZOLLINGER: Right.

13 MR. BLACKBURN: Is this what you submitted?

14 MRS. BLACKBURN: Yeah. That one page is
15 different but --

16 MR. BLACKBURN: Yeah, so really it's only --
17 the only difference or additions would be --
18 obviously be the setback table that we're applying
19 against specifically in this instance, and we were
20 able to identify the surrounding parcels who have
21 driveways that are substantially the same as ours.
22 That was the question last time, whether those
23 properties were located in North Canton, and the
24 addresses are listed with the photos.

25 Another -- another item is that we had come

1 up with, or we had covered, is that there are
2 properties, specifically at 620 Woodside --

3 MR. ZOLLINGER: Okay. Let me see if I can
4 find that here.

5 MR. BLACKBURN: Yeah. That would be correct.
6 So this is the permit was issued in February of '17
7 for a driveway that is --

8 MR. ZOLLINGER: Tell me, is this it here?

9 MRS. BLACKBURN: That's 620 Woodside. It
10 says on the side.

11 MR. BLACKBURN: So if you keep scrolling,
12 you'll see --

13 MR. ZOLLINGER: Oh, here.

14 MR. BLACKBURN: That is a driveway that was
15 constructed in February of '17 that is actually
16 identical, if not more aggressive than what we have
17 proposed to -- to solve as part of our permit.

18 MR. ZOLLINGER: Where is the approval for
19 that?

20 MR. BLACKBURN: That's the --

21 MRS. BLACKBURN: Above.

22 MR. BLACKBURN: It was two pages above. That
23 was the application and that's the signed permit.

24 And I guess this is a follow-on to this line
25 of thinking. There's a property built in our

1 neighborhood also in '15, which is the next set of
2 documents, in which the driveway and/or accessory
3 parking was permitted and it also does not -- does
4 not contain a variance from the setback.

5 MR. ZOLLINGER: Is that the Edgewood
6 property?

7 MRS. BLACKBURN: Yes. I believe so.

8 MR. BLACKBURN: And I think the last page of
9 this paperwork is the permit description, and there's
10 a photo that follows along with that.

11 MR. ZOLLINGER: Okay. Bear with me here.
12 You did some research this time around.

13 MR. GRIFFITH: Yeah. Excellent.

14 MRS. BLACKBURN: A lot more research.

15 MR. BLACKBURN: We'll continue to do so.

16 MR. ZOLLINGER: Yeah.

17 MR. BLACKBURN: So it's attended to the
18 accessory parking that butts up directly against the
19 setback, which would be the sidewalk. In this case,
20 I guess it was our understanding that that's
21 basically what we're asking is to give way to that
22 cutaway that they did on the other side of the
23 driveway.

24 MR. ZOLLINGER: Okay.

25 MR. BLACKBURN: Then there's a street view of

1 that property at the next page. And I guess also we
2 listed, yeah, so that's the --

3 I guess anything that we would additionally
4 is that we tried to think about the genesis of this
5 particular code or why it would be placed or enforced
6 or is applicable to our property. And we can see in
7 the neighborhood where there would be curb cuts or
8 curb and gutter and/or sidewalks, I could see it
9 would be impactful possibly with a capital
10 improvement that you might have to replace a curb and
11 sidewalk, if there were to be something done at a
12 future time if it existed. In our particular
13 neighborhood there are no sidewalks, there are no
14 curbs or curb cuts, so from an aesthetics point of
15 view, and so forth, we feel like this is the
16 appropriate, most visually appealing accommodation of
17 the project.

18 MR. ZOLLINGER: Well, let me ask you in
19 particular, you've given us evidence. I'm going to
20 ask about that. The other properties here. But your
21 property, now, you also mentioned there's a big tree
22 like right here that makes it unsafe. There's a
23 hill. There's a downhill headed towards Schneider.

24 MR. BLACKBURN: Yes.

25 MR. ZOLLINGER: I drove by it again and this

1 tree is -- remind me. Is it on your property or is
2 it your neighbor's?

3 MRS. BLACKBURN: It's our neighbor's.

4 MR. ZOLLINGER: And so they're in charge of
5 it, because it's overgrown.

6 MRS. BLACKBURN: Our electricity, the road.

7 MR. BLACKBURN: Yeah. It's not as maintained
8 as you might.

9 MR. ZOLLINGER: It's not on your property at
10 all?

11 MR. BLACKBURN: No. It's on the other side
12 of the fence. It's been relocated in the process.

13 MRS. BLACKBURN: Some of the branches maybe,
14 but not the whole tree. It's not on our property.

15 MR. ZOLLINGER: Okay. Do you have any
16 information on these other properties where the
17 application was granted, like the one from early '17?
18 I know it wasn't you that granted it, but do you have
19 any information on that or --

20 MR. STIGALT: No. No information.

21 MR. ZOLLINGER: Okay. Any other questions,
22 guys?

23 MR. GRIFFITH: To clarify, no issue of
24 setback for this one because of the application of
25 the particular ordinance we're talking about.

1 MR. MIHALCIN: Right.

2 MR. GRIFFITH: Yeah. Which you are here,
3 great. Kudos to you on the research. Well done.

4 MRS. BLACKBURN: We learned our lesson the
5 first time.

6 MR. ZOLLINGER: You should go to law school.

7 MR. GRIFFITH: You even have pictures in the
8 rain. A hazard.

9 MR. ZOLLINGER: I think that the variance
10 makes sense. A lot of the evidence presented, the
11 other properties and nothing to the contrary as to no
12 other explanation.

13 I'm sorry. Does anybody -- thank you very
14 much. You guys can be seated.

15 Anybody else want to speak on the
16 application? Anything to say? I'm sorry. All
17 right.

18 I don't -- based on the evidence presented,
19 I'm in favor of granting this variance. It's a
20 unique situation. That tree on the neighboring
21 property is -- it is an issue. So I think they have
22 sort of a unique situation with the downhill and the
23 tree that the neighbor controls. And with the other
24 properties that have a similar where permits were
25 granted, I think it makes sense to grant a variance

1 here.

2 MR. GRIFFITH: I would agree. In light of
3 all the evidence, I think it makes sense.

4 MR. MIHALCIN: Motion to grant the variance
5 as submitted.

6 MR. GRIFFITH: Second.

7 MR. ZOLLINGER: If you can call the roll,
8 please.

9 MS. NADEAU: Mr. Griffith.

10 MR. GRIFFITH: Yes.

11 MS. NADEAU: Mr. Mihalcin.

12 MR. MIHALCIN: Yes.

13 MS. NADEAU: Mr. Zollinger.

14 MR. ZOLLINGER: Yes.

15 All right. The variance has been granted.
16 Thank you very much for your efforts. Makes our job
17 easier. Thank you.

18 Call the next application, please.

19 MS. NADEAU: Application No. ZBOA 2018-16,
20 Shiloh Run, SE, Monticello. Applicant AMC Land
21 Company. They are requesting a variance to not
22 extend to and/or connect to the existing Grassmere
23 Street, Southeast; a variance to not extend to and/or
24 connect to the existing Fieldcrest Estate, LTD land
25 located on the north side of the property to be

1 developed; a variance to construct two permanent
2 dead-end streets longer than 600 feet in length; and
3 a variance to not provide the minimum of 2.5 percent
4 of the gross area to be subdivided as a dedicated
5 public open space.

6 MR. ZOLLINGER: Thank you.

7 Whoever would like to get up and speak in
8 favor may do so.

9 MR. HARTMAN: Good evening. My name is Brad
10 Hartman. I'm an engineer representing the developer.

11 We're here for multiple variances associated
12 with the Monticello -- the remaining part of the
13 Monticello subdivision, which is Monticello No. 8.
14 We are proposing to extend Shiloh Run, as well as
15 Alexandria Parkway, and then end them in cul-de-sac
16 streets. We went through the variances; we're
17 requesting a variance to not extend or connect to the
18 existing Grassmere Street. Grassmere actually does
19 not extend to the property line. There's a small
20 portion of that vacated --

21 (Mr. DeOrio leaving chambers.)

22 -- in the past. That portion of vacated
23 property was given to the City of North Canton. I do
24 believe there's a history associated with that of not
25 connecting these two subdivisions together more along

1 the lines of residents living on Grassmere. So
2 that's the first variance that we're asking for.

3 The second variance, we're requesting a
4 variance not to extend or connect to the existing
5 Faircrest Estate plans to the north. The
6 Faircrest -- Faircrest property is presently a
7 commercial use. It's an inn used as an event center.
8 And the literal creating of that requirement says do
9 not -- so that it does not prevent the future access
10 to the Faircrest property. Faircrest property has
11 adequate access to Easthill Street. It does not
12 prevent access to that property. It is not
13 landlocked in any means.

14 The third request is to construct --
15 requesting a variance to construct two permanent
16 dead-end streets longer than 600 feet. Shiloh Run,
17 from the intersection of Halifax Way to -- the
18 intersection of Halifax Way to the Shiloh Run
19 cul-de-sac is approximately 1,780 feet. The
20 Alexandria to Halifax Way proposed cul-de-sac is
21 approximately 1,645 feet. The reason for ending
22 those, or creating the cul-de-sacs, is to provide
23 large estate lots within the development, provide
24 more of a private setting for the homes, a lot more
25 buffering creating new homes against the existing

1 adjacent residential properties, and will result in
2 increased traffic to make a safer, overall more
3 neighborly environment. Both cul-de-sacs have been
4 vacated, have been drawn up with a 50-foot radius
5 that would be adequate for turning of safety
6 vehicles.

7 The last variance is a variance requested to
8 not provide the minimum 2.5 percent of gross area to
9 be subdivided dedicated -- as dedicated open space.
10 At the time of the original approval, there was not a
11 requirement for open space on this development.

12 (Mr. DeOrio returning.)

13 Open space was not provided in the previous
14 seven phases of this development. Providing the
15 required dedicated open space for public use in the
16 final phase would be difficult because recreational
17 areas have not been planned in this development from
18 the beginning.

19 They, however, have proposed to provide an
20 open-space easement along the rear lots of 256, 261
21 and 262. This easement will be taken about
22 .66 acres. It's well in excess of the 2.5 percent
23 that's required. It would be a deeded restricted --
24 it would be deed restricted and not allowed for any
25 type of structure, grading, or tree removal in that

1 easement area and provide a good buffer between the
2 new homes and the existing residential homes that
3 back up against the development.

4 MR. ZOLLINGER: So first of all, I have to
5 say since I've been on board we've never had an issue
6 like this come up where we're asked to rule on a
7 subdivision issue. And I spoke to Mr. Cline, who
8 presided over this board before me, and he can't
9 remember this coming up either. And when I looked at
10 the ordinance, it looked like this is something that
11 needed to go to the planning commission. And then I
12 spoke, and what I found out was that the way the code
13 is written, it's sort of -- it's kind of like, well,
14 to get the planning commission to approve this you
15 need a variance from us, but, you know, if you go to
16 the planning commission first, you could appeal.
17 It's sort of like a chicken and the egg sort of
18 situation.

19 MR. HARTMAN: Correct, yes. We went through
20 this.

21 MR. ZOLLINGER: So I will tell you I don't
22 know what the board's going to do here, you know, we
23 have to hear from everybody, but if we -- if there is
24 a motion to approve, I'm going to suggest the motion
25 be approved on condition. You know, we would grant

1 the variance, but you would only get what you want on
2 condition of the planning commission then going ahead
3 and approving it also. I think that's the best way
4 to handle this. Because you'll need a variance from
5 us, then you go to the planning commission saying you
6 got the variance and they'll have to look at
7 everything and, you know, and decide.

8 MR. HARTMAN: Understandable.

9 THE WITNESS: Yeah. Because it doesn't sound
10 -- it sounds to me like right now you got these two
11 roads, they're not -- these cul-de-sacs, just the
12 roads are just cut off. There's just a dead end
13 right now.

14 MR. HARTMAN: There is a temporary cul-de-sac
15 on Alexandria going down to Grassmere.

16 MR. ZOLLINGER: Right. Okay. Yeah, I can
17 see that. I'm pulling the map as I look. And
18 Grassmere, there's like this little trail that goes
19 from Grass -- into Grassmere to this -- to what is
20 this? Halifax?

21 MR. HARTMAN: Yeah. From Grassmere to Shiloh
22 Run.

23 MR. ZOLLINGER: Shiloh Run, yeah.

24 MR. HARTMAN: Yeah, that trail is basically
25 utilities, but there are utilities in there.

1 MR. ZOLLINGER: Yes. Some idiot joggers who
2 like to run on a Sunday morning. Yeah. So there
3 will be no trail if you do this, it will be just the
4 properties?

5 MR. HARTMAN: No, sir.

6 MR. ZOLLINGER: Okay. And so the plat, this
7 plat, this northwest corner of the subdivision, the
8 planning commission has not ruled on that yet or
9 approved that part, that part of that phase of this
10 development?

11 MR. HARTMAN: No, sir. I agree with you.
12 We've had positive feedback based on what happens
13 here this evening.

14 MR. ZOLLINGER: Okay.

15 MR. HARTMAN: We went in front of the
16 planning commission in order to discuss this.

17 MR. ZOLLINGER: Okay.

18 MR. HARTMAN: And I thought that they would
19 be able to approve these variances to the subdivision
20 regulations --

21 MR. ZOLLINGER: Yeah.

22 MR. HARTMAN: -- since they weren't zoning
23 legislations per se, but however, I'm here this
24 evening.

25 MR. ZOLLINGER: Okay. So I wanted to let --

1 so it sounds like, yeah, whatever approval, if we
2 gave an approval tonight, and we'll have to talk
3 about it whether we're going to do that, if we did it
4 would be a conditional one where then you would take
5 that to the planning commission.

6 MR. HARTMAN: I believe that's acceptable,
7 yes.

8 MR. ZOLLINGER: That's just the way it's
9 going to happen. I believe that's the best way to go
10 because, you know, we have the ordinance to think
11 about and we want to make sure this is done right
12 and, you know, so everything is done correctly.

13 MR. HARTMAN: Sure.

14 MR. ZOLLINGER: And it's not you, it's us
15 navigating the ordinance and how -- how it works. Do
16 you have any -- you guys have any other questions?

17 MR. GRIFFITH: The common space that you
18 talked about on the corner here, you mentioned you
19 were going to enforce that through deed restrictions;
20 is that right?

21 MR. HARTMAN: Yes. And place an easement
22 over it and then we deed restrict that so that there
23 could be no, you know, no activities within that
24 easement as far as tree removal or grading or
25 anything like that, sheds, nothing like that would be

1 in the easement. Basically a buffer. Create a green
2 space buffer. Presently there are trees in that
3 area. That's one of the reasons we suggest that.

4 MR. ZOLLINGER: I guess just out of
5 curiosity, what would this hook- with Faircrest be?
6 Why would that be?

7 MR. GRIFFITH: Fieldcrest.

8 MR. ZOLLINGER: What?

9 MR. GRIFFITH: Fieldcrest, not Faircrest.

10 MR. ZOLLINGER: Fieldcrest. Why would you be
11 required to extend Alexandria to Fieldcrest? That's
12 not a public thoroughfare.

13 MR. HARTMAN: The only reason that it would
14 be required is because it's the only unplatted
15 property adjacent to it.

16 MR. GRIFFITH: To avoid any landlocked lots;
17 is that right?

18 MR. HARTMAN: Yeah. That's true. Avoid any
19 landlocked lots. Like if you did not have access, I
20 could not deny a neighbor access to a public roadway.

21 MR. ZOLLINGER: But you have -- there is
22 access going out.

23 MR. HARTMAN: They have considerable access
24 along --

25 MR. ZOLLINGER: Easthill.

1 MR. HARTMAN: Easthill, yes.

2 MR. ZOLLINGER: Right.

3 MR. HARTMAN: They have a considerable amount
4 of frontage there. Not only that, it has a present
5 use to it. It's not vacant land.

6 MR. ZOLLINGER: Right.

7 MR. GRIFFITH: Any changes to that require
8 considerable zoning replanning efforts that would
9 deal with the not in the landlocked issue.

10 MR. HARTMAN: Absolutely not. Extending a
11 street would not leave that property landlocked. And
12 at no point in the original development was it
13 ever -- in the original approved preliminary plan for
14 this development, it was never proposed to connect to
15 that property.

16 MR. GRIFFITH: Right. Which makes sense.

17 MR. HARTMAN: And at the same time, it was
18 never proposed to connect to Grassmere as well.

19 MR. ZOLLINGER: Yeah. That was never part of
20 the original discussion when this was developed?

21 MR. HARTMAN: No, sir.

22 MR. ZOLLINGER: That answers another question
23 I had. Okay.

24 MR. HARTMAN: Did you ask if it was part of
25 the discussion?

1 MR. ZOLLINGER: Yeah.

2 MR. HARTMAN: I believe it was discussed a
3 lot. I mean, I wasn't part of that. We do have
4 people here that were part of that original
5 development.

6 MR. ZOLLINGER: Okay.

7 MR. HARTMAN: And they could probably answer
8 that better. I do believe there was extensive
9 discussion about that. However, I do believe it had
10 fallen through because of resistance from the
11 neighboring development.

12 MR. ZOLLINGER: Okay. People over in the
13 Knolls area?

14 MR. HARTMAN: Yes, sir.

15 MR. ZOLLINGER: Okay. Anything else?
16 Anybody else want to speak in favor of the
17 application? Sir.

18 MR. HARTMAN: Can I add -- I just wanted to
19 show you --

20 MR. ZOLLINGER: Oh, yeah.

21 MR. HARTMAN: -- what the existing trees in
22 that area look like along the backs of those lots.
23 That would be where the building space easement would
24 consist of.

25 MR. ZOLLINGER: Go ahead and state your name.

1 MR. ASHMAN: My name is Brian Ashman,
2 A-S-H-M-A-N.

3 MR. ZOLLINGER: What's your address, sir?

4 MR. ASHMAN: 1884 Summerchase Road. That's
5 in Plain Township.

6 MR. ZOLLINGER: Okay.

7 MR. ASHMAN: I was the design engineer for
8 Monticello through the first phases -- basically all
9 seven previously designed phases, so I wanted to
10 provide some input. And I concur with what Brian has
11 indicated. With respect to, you know, this
12 development -- when was the development first
13 started? What year?

14 MR. AVENI: The land was purchased in 1997
15 and I think the first phase began in the fall or
16 December of '97.

17 MR. ZOLLINGER: Sir, what's your name so we
18 have that. Just so we have it for the record.

19 MR. AVENI: I'm Jim, Jim Aveni, A-V-E-N-I.
20 And --

21 MR. ZOLLINGER: Okay.

22 MR. AVENI: -- I'm the developer. And the
23 original plan, when we did the entire subdivision
24 back then, we planned out a master plan. And as we
25 moved along in phases there were modifications along

1 the ways. We did each phase and adjusted for things
2 that occurred. In the final phase, trying to
3 complete the development and turn it over to the
4 association, we're looking at the original plan,
5 which was 22 lots subdivision of that last phase,
6 last 22 acres, and from a development cost point of
7 view and from a practicality point of view it wasn't
8 cost effective to do the original plan, which I think
9 we're not sure if it's approved or submitted and
10 tentatively approved, but we had full engineering
11 drawings on it so I'm guessing it got approved at
12 least preliminarily.

13 When we looked at that, it didn't make sense
14 in today's dollars, you know, 20 years later. So
15 that's when we went back to the drawing board, looked
16 at the land, looked at the topography, looked at the
17 community itself, and realized that the best way to
18 finish Monticello is to finish with a bang and put in
19 13 three-quarters acre to an acre-and-a-half lots for
20 large estate-like homes and nice -- two nice, quiet
21 cul-de-sacs which would be very attractive to
22 prospective buyers and gives us lots of green space,
23 which also kind of lives to the fact that we have a
24 beautiful green property there, we're going to try to
25 keep as much of it as possible with only 13 homes

1 taking up 13 acres. Probably 12 homes.

2 MR. ZOLLINGER: Okay. Okay. Thank you. All
3 right.

4 MR. ASHMAN: I would like to continue with a
5 couple items. The residual properties located back
6 at the far northwest corner, it's immediately south
7 of the Fieldcrest area, certainly having public open
8 space like a park or something in its final phase
9 doesn't make sense. There is some public property
10 on -- not public property. There is some
11 recreational property in the development. It's over
12 where the existing barn is, which was in Phase 1 of
13 the development. Quite a nice area. Has a swimming
14 pool and has a fishing pond and some walking trails
15 and things of this nature. However, the point is, it
16 doesn't make sense to put the public open space back
17 there, so providing the -- providing the private open
18 space and setting this green space zone I think makes
19 a lot of sense.

20 One of the big issues on this application,
21 though, does have to do with the length of the
22 cul-de-sacs, which our cul-de-sac lengths are in
23 excess of what the zoning code has. And I'd like to,
24 if I may, I'd like to present something for the board
25 which wasn't available at the time the application

1 was turned in. What I have -- what I have here is a
2 packet of information that presents some other areas,
3 other cul-de-sac roadway lengths in the city of North
4 Canton that also do not meet the requirements of the
5 zoning code.

6 What I guess I'd like to do is let's just go,
7 if you can go to the picture on -- towards the last
8 page or go into the last page, it has a foldout. You
9 can see highlighted in the foldout are several
10 locations of various roads that I was able to quickly
11 pick out that exceed the cul-de-sac length of the
12 zoning code. Now, certainly some of these might have
13 been -- maybe they were before there was a cul-de-sac
14 length or anything of that nature proposed.

15 However, I do believe that the -- I mean, in
16 the regulation. But I do believe that over at Item
17 No. J and K, which is off of the Washington Square
18 development off of Market Avenue, we have a very
19 substantial development into the Washington Square
20 residential area that does exceed the cul-de-sac
21 length. Of course, the cul-de-sac length is defined
22 as being the length from the first alternative access
23 into the development to the end of the last -- to the
24 end of the last roadway or cul-de-sac area. And so
25 this one here was started at Market Avenue and go all

1 the way out to the end of Cheswold Circle cul-de-sac
2 there, just to give you this as an example, and this
3 isn't that old of a development. Washington Square
4 is not that old a development.

5 MR. ZOLLINGER: Can I ask you a question
6 about Shiloh Run and Alexandria Parkway now as they
7 exist?

8 MR. ASHMAN: Yes.

9 MR. ZOLLINGER: Do they already exceed the
10 length?

11 MR. ASHMAN: Yes. To be very upfront here,
12 at the time the preliminary plat was turned in and
13 most current preliminary plat filed and approved
14 prior to what we are submitting, the two roadways
15 were interconnected. Are you following me? So the
16 two -- the two roadways did have an interconnection
17 which eliminates them as being designated as
18 cul-de-sacs; all right? What we want to do, though,
19 is we want to try and create this very estate
20 scenario, and cul-de-sacs prevent us from installing
21 a lot of additional infrastructure, a roadway which
22 would become maintenance by the City of North Canton,
23 and things of this nature.

24 But let me go back to, real quick, one of the
25 concerns has to do with cul-de-sacs is for fire and

1 safety emergency services. I'm not positive, but I
2 did ask John, when we were making a submission in for
3 planning commission, or when we were first thinking
4 of doing this and we talked about making a submission
5 to the planning agency, that he contact the emergency
6 and safety forces with our drawing and see if they
7 had any comments or concerns with the length of the
8 cul-de-sacs. I did not receive a formal response,
9 but I did receive a verbal response from John that
10 they, the safety forces, had no concerns that they
11 brought up to his office; is that correct, John?

12 MR. DE ORIO: On behalf of the
13 administration, I address that I do have a letter
14 from Chief Bacon that he drafted yesterday in
15 response to this.

16 MR. ASHMAN: Okay.

17 MR. DE ORIO: I had asked him to look at this
18 agenda item, and I give that out to you whenever he
19 feels appropriate. I don't want to interrupt your
20 meeting, but he does --

21 MR. ASHMAN: I'll let you give that out in a
22 little bit. I have not been appraised of that
23 information.

24 On the Washington Square -- let me just give
25 you a real quick summary. One of the concerns has to

1 do with fire and safety is how many -- how many homes
2 are they -- are there to protect. And, for example,
3 on our Shiloh Run cul-de-sac, I think we're going to
4 have 32 single-family lots that are there. And
5 that's from the point of the interconnecting roadway.
6 So this includes existing lots that are in there
7 already, so there's 32 lots on the Shiloh Run.
8 Alexandria Street, which has about 1,600 feet of
9 cul-de-sac length, will be serving 31 lots after the
10 development is completed. On the -- on the
11 Washington Square development, Kingscote Circle,
12 that -- that dead-end cul-de-sac arrangement is about
13 2,890 feet long, which we're -- as I said, we're
14 proposing to be in the range of 16- to 1,700 feet.
15 And that development that's in there is 110
16 single-family homes. So you can see that I'm not
17 trying to -- I'm just giving this as an example.
18 There are conditions out there that exist in North
19 Canton that meet or exceed the conditions that we are
20 proposing with this development. So I would ask that
21 you give consideration to what I just presented, and
22 I'd be very interested in hearing about the response
23 from the safety forces. Thank you.

24 MR. ZOLLINGER: Any questions?

25 MR. GRIFFITH: No.

1 MR. ZOLLINGER: All right. Thank you, sir.

2 MR. MIHALCIN: I'm assuming these variances
3 would be voted on independently or separately.

4 MR. ZOLLINGER: We could do it any way we
5 want. We can try to, you know, if we think that --
6 we'll get a sense of what we want to do and then
7 maybe we can decide how we want to proceed with that.

8 Thank you, sir.

9 MR. ASHMAN: Thank you.

10 MR. ZOLLINGER: Anybody else in favor of the
11 application? Anyone else? Okay. Anyone else want
12 to speak?

13 MR. OSBORNE: Chuck Osborne. 307 Frederick
14 Street, Southeast, North Canton, Ohio.

15 I was chairman of the board of rules and
16 claims committee in 2003 when this document was
17 passed.

18 MR. ZOLLINGER: What document are you
19 referring to?

20 MR. OSBORNE: Your zoning code.

21 MR. ZOLLINGER: Okay.

22 MR. OSBORNE: This was five years in the
23 making. And dragged out years before I even got on
24 council. It was done by D.B. Hart, well-known
25 planner out of Cleveland. This was drafted and

1 reviewed very closely. Mr. Hart obviously went by
2 state law, county ordinances, and I see no reason to
3 just toss these requirements out the window.

4 Now, as far as my concern here is there's no
5 access into Monticello from the west or the
6 southwest. Any responses to Monticello, you're going
7 to have to come all the way down Main Street, all the
8 way out Easthill almost to Market and then work your
9 way back. And I don't think we should, as a public
10 policy, should be perpetuating and landlocking
11 developments of homes like this.

12 Now, talk about getting connected to
13 Grassmere, there was extensive discussion. Everybody
14 loves living on a dead-end street.

15 MR. ZOLLINGER: Well, can I ask you a
16 question, Mr. Osborne, because I wasn't there, but,
17 like, so they -- this plot was approved by the
18 planning commission back then; right? For the
19 neighborhood. Do you recall? With the dead-end
20 streets in the way they --

21 MR. OSBORNE: This all came -- came before
22 the zoning code passed. They mentioned '97. '90 --
23 yeah, '97 you said they were under construction;
24 right?

25 MR. ZOLLINGER: Yeah, it was before this

1 current version. Was there -- was there a variance
2 that was necessary back then, do you recall? And I'm
3 asking because I don't know.

4 MR. OSBORNE: I have no idea either. But
5 this is a total revamp of our code. It's now
6 effective. It's been effective since the mid-2003.
7 So as they continue to come back to the city, there
8 should have been review about this and somebody
9 should have been asking these questions. Now, I
10 guess they did mention and try to push through a
11 connection onto Grassmere and there were one or two
12 people there, I guess maybe the whole neighborhood, I
13 don't know, I just know of one or two that I work
14 with, we all want dead-end streets. But is that a
15 good public policy to make all safety forces, anybody
16 have to drive clear out to Market and work your way
17 back. And then when you want to leave the
18 development you have to go, and it's a very windy,
19 the terrain is up and down.

20 As far as the comment about the open space,
21 can we talk about open space? The discussion about
22 open space, the way the passage of this ordinance,
23 for a year and a half it was debated and debated and
24 debated and debated. I guess if somebody wants a
25 good workout to walk from the east side of Monticello

1 to the west side. Our recreation is all designed to
2 be accessible to -- for rich neighborhoods and areas
3 of the city. I know Monticello does have their pool
4 and their house, clubhouse and all that. But to just
5 blanketly approve all these variances willy nilly, I
6 don't even know why we have these bodies if we're not
7 going to uphold our ordinances.

8 Now -- I forgot my thought. So -- oh. And a
9 big thing, and, of course, I'm glad to hear you say
10 you're going to run this back through the planning
11 commission. There's a huge drainage problem over
12 there to the south of Monticello. There were
13 lawsuits. The people over in Canton were suing
14 because of a lot of water. And I don't know what
15 improvements have been made, so south of into Canton
16 there's been drainage issues, as well as in North
17 Canton here all around the Knoll area. And I've
18 encouraged one of the gentlemen on the planning
19 commission, I believe he has gone over there, so --

20 MR. ZOLLINGER: Do you have any evidence that
21 this development would cause more drainage problems?
22 I know we've been talking about, and I know that
23 building can do that. But do you have any evidence
24 to support that, that this would cause more drainage
25 problems?

1 MR. OSBORNE: I'm just bringing it to your
2 attention.

3 MR. ZOLLINGER: Yeah, I'm aware of that,
4 Chuck.

5 MR. OSBORNE: You can table this and do a
6 little more studying over there.

7 MR. ZOLLINGER: I'm not tabling it for that.

8 MR. OSBORNE: The requirement to maintain
9 open space would certainly help the drainage
10 situation over there. And you don't have to doubt
11 me. Just, I guess, each one of you should have gone
12 over there and walked the area.

13 MR. ZOLLINGER: I've been through that area
14 many times. I'm familiar with it.

15 MR. OSBORNE: Talk to the neighbors.

16 MR. ZOLLINGER: But, I mean, in terms of the
17 drainage assertion, I mean, I've been part of
18 lawsuits where building has caused drainage issues.

19 MR. OSBORNE: Uh-huh.

20 MR. ZOLLINGER: But, I mean, do you have any
21 evidence, like studies or anybody that says the
22 building on these lots is going to cause more of a
23 drainage problem. That's what I'm trying to find
24 out. Because I would consider that if we had it.
25 But I don't have anything.

1 MR. OSBORNE: It's been in the press back in
2 the early 2000s.

3 MR. ZOLLINGER: I know about the prior
4 lawsuit.

5 MR. OSBORNE: The lawsuits in Canton.

6 MR. ZOLLINGER: I'm talking about this
7 particular proposed development.

8 MR. OSBORNE: I didn't come here to spend
9 thousands of dollars and spend a great deal of
10 research. I'm just bringing this to your mindset
11 here. You should be aware that -- and then to
12 compare streets elsewhere in the area who have this
13 long dead end, are we just going to keep replicating
14 those? I'm very familiar with out there at
15 Washington Square. I had an elderly gentleman I took
16 care of for years that lived out there.

17 Again, these codes were drafted by people
18 much more qualified than me, and I would dare say
19 much more qualified than many of you. So to sit here
20 and casually just say, oh, sounds okay to me, all I
21 can do is just read the papers in the years ahead and
22 find out, well, this is what happened when this was
23 tossed and that was tossed.

24 So concerned about ingress and egress for
25 safety forces for your average citizen. If there was

1 an ingress and egress from the west side, which would
2 not bring 77 traffic down the streets, you could come
3 right out Knoll and get right on Main Street here,
4 and that should be considered. To have one entrance
5 into a huge development like this, I think there's
6 like 236 homes.

7 MR. ZOLLINGER: There are two entrances into
8 Monticello.

9 MR. OSBORNE: I'm sorry.

10 MR. ZOLLINGER: There's two entrances off of
11 Easthill.

12 MR. OSBORNE: I know, but you have to come up
13 from the same general area.

14 (Multiple unidentified people speaking.)

15 MR. ZOLLINGER: All right, everybody.

16 MR. OSBORNE: Heaven help me, there's the
17 information. You can take it for what you want.

18 MR. ZOLLINGER: All right. Thank you, sir.
19 Anything else? Anybody else?

20 I -- the one point that is made is the issue
21 with the safety forces. That is one that I do want
22 to hear about, so what -- Mr. DeOrio, what do you
23 have on that?

24 MR. DE ORIO: Thank you, Mr. Chairman.

25 We should say that it is the administration's

1 intent that, when issues come before the planning and
2 zoning boards, to try to have an appropriate
3 departmental personnel review those agendas, and if
4 there's something of concern to them to give them an
5 opportunity to put their concerns in writing. So in
6 talking with Chief Bacon, he had looked over the
7 agenda and someone from your group wants to see what
8 we're giving. Chuck. So everybody's -- I'm just
9 going to read a little bit in the record.

10 MR. OSBORNE: And I guess I'd like to add, if
11 I may have one more comment.

12 MR. ZOLLINGER: Can you just let him have his
13 say first?

14 MR. OSBORNE: Sure.

15 MR. DE ORIO: So this letter was written by
16 Chief Bacon yesterday, May 21. We've also,
17 Mr. Chairman, reviewed as to whether or not this was
18 going to go before planning or zoning, so the chief
19 in his first sentence is expressing that confusion.

20 "It is my understanding that the planning
21 commission will be reviewing Monticello Phase 8 on
22 May 30. I've had an opportunity to review these
23 drawings and have several comments pertaining to
24 them.

25 The fire department has always had a negative

1 view of cul-de-sacs, as they only provide one way in
2 and one way out.

3 Due to the size of our fire apparatus, any
4 type of fire event on a cul-de-sac results in our
5 units backing out all the way to the next
6 cross-street. An alternative would be back into
7 driveways to turn around, however this has resulted
8 in cracked driveways, which is upsetting to
9 homeowners as well as city administration when called
10 for repairs to be made. Parked cars in cul-de-sacs
11 make them almost impossible for us to use.

12 The main area of concern is the end of Shiloh
13 Run. As it is designed now, our fire apparatus,
14 engines, ladder truck, medic units have to navigate
15 neighborhood streets to arrive and depart from any
16 destination within that allotment.

17 I would like to suggest a connection with
18 Grassmere Street as a primary option. This option
19 solves all issues. I understand that the cut-through
20 traffic is a concern, so our second suggestion would
21 be to install a gate dividing the streets. This can
22 be locked by a fire department Knox Lock, therefore
23 only fire and police would be able to use this gate
24 since it requires a Knox Lock key. The street can be
25 maintained by city crews.

1 As we all know, during a medical emergency,
2 especially one involving the heart, time is heart
3 muscle, and having the option to go straight through
4 from this area to reach South Main Street would save
5 time in reaching the hospital. The alternative is to
6 go back through the allotment to Easthill and then to
7 South Main or Market.

8 I've had the opportunity to speak with the
9 police chief regarding this issue and understand that
10 he has no major concerns either way as his vehicles
11 can navigate the neighborhood streets with ease. The
12 police and fire work very close in the city but we
13 have different concerns on some issues.

14 As always, the City of North Canton Fire/EMS
15 Department strives to provide the very best in fire
16 suppression, emergency medical service and fire
17 prevention to our residents.

18 Sincerely, John Bacon."

19 MR. ZOLLINGER: Thank you, sir.

20 Okay. Mr. Osborne, you wanted to say
21 something?

22 MR. OSBORNE: Well, this sounds like it has
23 the same concern.

24 So I -- the point, the last point I want to
25 make is the whole area is in a state of flux with the

1 possible overlay zoning for Fieldcrest. I would ask
2 that we not cut off our options for maybe an eventual
3 connection to Fieldcrest if their business plans
4 don't work out, or they realize maybe a nice housing
5 development extended on into Fieldcrest would work.
6 By leaving an option open that they could connect
7 into the future I think would be very good. And then
8 that would solve your problem with connecting to
9 another ingress-egress on to Easthill.

10 So, anyway, I am -- and for the very little
11 traffic that would be flowing on Grassmere out to
12 Main Street, because even going from there, if you
13 ever travel the area, if you get on Grassmere and go
14 out, it kind of snakes its way out to Main Street
15 just like it does going back through Monticello. So
16 people aren't going to pick that like it's I-77.
17 Only people who have an immediate need or live in the
18 area like that ingress and egress. And like the
19 letter points out, it gives you quick access to Main
20 Street and get to the hospitals.

21 So anyway, thank you very much.

22 MR. ZOLLINGER: Thank you. Anybody else like
23 to speak? For or against.

24 MR. DAVIS: I have some visuals here.

25 MR. ZOLLINGER: Sir, can you state your name

1 and your address for the record.

2 MR. DAVIS: Brad Davis. 1678 Meadowlane
3 Drive, Southeast.

4 MR. ZOLLINGER: Thank you.

5 MR. DAVIS: As you can see from that photo
6 right there, we have a very nice neighborhood. We
7 don't have problems with run-throughs because we
8 don't have through streets in our neighborhood.
9 There's -- if Grassmere's connected, that's a dead
10 run from 55th Street to Cleveland Avenue. It cuts
11 off two lights. That's the last thing we want.
12 That's the last thing the residents of Monticello
13 want.

14 You notice on page 2 on their preliminary
15 plan they have a cul-de-sac. To the east on page 3
16 of the handout I gave you, to the east of Monticello
17 is Montebella. It has two ingress and egress.

18 MR. ZOLLINGER: That's in the city of Canton.
19 That's not part of North Canton. I know there's a
20 difference -- completely different code.

21 MR. DAVIS: Okay. I'm just using it as an
22 example. I'm just a old railroad --

23 MR. ZOLLINGER: Yeah, that's fine. I just
24 want to let you know that.

25 MR. DAVIS: In reference to your codified

1 ordinance, 1197.10, Area of Variances, "whether the
2 essential character of the neighborhood would be
3 substantially altered or whether adjoining properties
4 would suffer substantial detriment as a result of a
5 variance." We're all against it. That's one reason
6 why.

7 As far as safety goes, during the April 11
8 planning commission meeting there was a gentleman
9 here that lives in Parcel No. 7, or Project No. 7,
10 whatever they refer to, he said he's had them come to
11 his house and had no issues.

12 Now we come to address the ordinance, which
13 is the last attachment that I gave you. And I know
14 this board usually talks about lighting, signage,
15 parking spaces, so on and so forth. This ordinance
16 was written for a very specific reason: So Grassmere
17 wasn't a run-through street. And I understand that
18 when this ordinance was written the safety concerns
19 were addressed at that time. So all we're asking is
20 that Grassmere stay the way it is. I understand the
21 locking gate. Can deal with that. We just don't
22 want a run-through street. Anyhow, that's my
23 preference. I'm not speaking for everybody that
24 lives on Grassmere. We're just trying to keep our
25 neighborhood without traffic going through it. If

1 you're in our neighborhood, you're in there for a
2 reason.

3 Thank you very much for your time.

4 MR. ZOLLINGER: Thank you, sir.

5 MR. GRIFFITH: I guess, Pat, I have a
6 question relative to that. So there is a vacated
7 portion of Grassmere on the non-Monticello side, so,
8 I mean, that's this Ordinance 2303. So even if the
9 street is run all the way to the property line,
10 there's going to be a 50-foot space where the road is
11 not there; is that right?

12 MR. OSBORNE: The city owns that. It was
13 deeded to the city.

14 MR. DE ORIO: I think that's right.

15 MR. GRIFFITH: So the city owns -- so the
16 city could complete. Okay. That answers my
17 question.

18 MR. DE ORIO: Yeah.

19 MR. GRIFFITH: But currently there is not a
20 road there now.

21 MR. DE ORIO: That's correct. There's not a
22 road there now, but depending on what this board
23 does, if they are required to put it in on their side
24 up to the edge where the Monticello development ends
25 and there's still 50 feet that belongs to the city

1 then the city would be obligated to complete that in
2 order to put the Knox Lock gate in, if that was the
3 option that the board was pursuing. So we're just
4 here to provide information so that you guys can have
5 everything that you need to make the decision.

6 MR. GRIFFITH: Is there anything else?

7 MR. ZOLLINGER: Anybody else want to speak?

8 Go ahead, sir. Make sure you provide your
9 name and address.

10 MR. CZEKANSKY: My name is Ed Czekansky.
11 1209 Grassmere Street. Obviously you know which way
12 I'm going to vote. And we have a very, very
13 close-knit community on that street. The majority of
14 us have been there for over 36 years. I'm probably
15 the kid on the block at 36 years. I look out, and I
16 see from our window, I see young families pushing
17 strollers, pulling wagons with little children. I
18 see people just riding their bicycles. I've
19 expressed this concern to a very good councilperson
20 that we have here in the room today and she knows how
21 I feel. It sickens me to even think of that being a
22 through street. As Brad said, the safety concerns
23 were addressed back in, what is it? 2003? So I will
24 take exception with that. I look at my neighbors
25 sitting behind me; we're all opposed to this. We do

1 not want Grassmere cut through. Period.

2 My other question is: Why? Why disrupt this
3 community, not just here on Grassmere. You go down
4 Meadowlane, the same people that are taking the kids
5 on Grassmere are on Meadowlane but the cars go slow,
6 they go around them. We watch them. We have people
7 jogging through the neighborhood. We love it. We
8 smile while we're out there grilling. And we're
9 waving to them, they're waving back at us. You know
10 why? Because it's safe. And it won't be if this cut
11 through.

12 I thank you for your time. I am very
13 passionate about this.

14 MR. ZOLLINGER: Thank you, sir.

15 MR. CZEKANSKY: Thank you for listening. Any
16 questions?

17 MR. ZOLLINGER: I think you answered it.
18 Maybe if you can't answer this directly, but back in
19 2003 then safety concerns were like when they built
20 the extended Falmouth Way, Southeast, to where it is
21 now, I imagine safety concerns were evaluated then in
22 Monticello? I'm looking at a map. I'm not texting
23 while I'm talking to you, I'm looking at the map on
24 my phone of the neighborhoods. And Falmouth,
25 Southeast, is in the extreme southwestern corner of

1 Monticello and about as far away from the entrance,
2 the western entrance, as you can get. It might even
3 be farther from the entrance than the cul-de-sacs
4 would be, maybe. Might be a little bit closer. But
5 were safety concerns raised then when that was put
6 in?

7 MR. CZEKANSKY: Excuse me?

8 MR. ZOLLINGER: Falmouth, Southeast. You
9 said when Monticello was developed, were these safety
10 concerns discussed then about, you know, fire getting
11 back there and all that stuff?

12 MR. CZEKANSKY: I don't know. I don't
13 understand what you're asking.

14 MR. ZOLLINGER: Okay. Well --

15 MR. CZEKANSKY: I'm having trouble hearing
16 you. I'm sorry.

17 MR. GRIFFITH: Pat, do you know whether there
18 was any discussion?

19 MR. DE ORIO: Well, I would say that just
20 from what we've heard tonight, if Monticello -- this
21 is Phase 8, they have gone through seven of the
22 phases. If the engineer was here, or the architect
23 was here to put it all together, and it started in
24 the late '90s, I imagine it took a few years to get
25 there. So if at the time this safety consideration

1 was examined, Monticello may have not been as big as
2 it was now. Maybe it was still anticipated it was
3 going to get that big. But without the -- without
4 the chief being here to be able to answer that, I
5 don't think I can give you a definitive.

6 MR. ZOLLINGER: Okay. I'm just looking at
7 the map, I'm looking at the distance between the end
8 of Falmouth and the entrance to Monticello. I'm
9 comparing that to where these cul-de-sacs would end
10 up. It's not that much farther away from the
11 entrance from -- based on what I can tell looking at
12 the map. And somebody approved that at some point.
13 Without a cut-through somewhere else.

14 Anybody? I don't have any other questions
15 for you, sir. Anybody else have any questions?

16 MR. GRIFFITH: Thank you.

17 MR. ZOLLINGER: Thanks.

18 Anybody else? Sir.

19 MR. HARTMAN: Gentlemen, I'd like to speak
20 again.

21 Of all the preliminary plans that I've seen
22 approved of this development, it has never connected
23 to any adjacent properties in this area. The only
24 difference was it was a circular pattern that came
25 through that had more density and more roadway in

1 here. It was never connected to Grassmere and it was
2 never connected to Faircrest. So, I mean, I'm not
3 sure if it's a different -- different people,
4 different players involved at this point, which I
5 assume it is, being so long ago. I'm not aware of
6 any safety or any issues that have happened in here,
7 and I do agree with you that Falmouth is actually
8 probably a longer dead-end or cul-de-sac street, as
9 the definition would say, than any -- than what we're
10 proposing on Shiloh. And, again, even if you look at
11 the adjacent street to Alexandria, which is Pilgrims
12 Knob, it's comparable in length from its dead end all
13 the way to Halifax as well. I mean, you have the
14 same situation.

15 In rebuttal to the -- the safety issues
16 there, you know, cul-de-sacs are put in there for a
17 reason. You know, they are large areas to turn
18 around safety vehicles. If the cul-de-sacs aren't
19 adequate, then how big do they need to be to make it
20 to turn vehicles around? Because you can just, you
21 know, pan your map out a little bit further, they're
22 all over the place. They're everywhere. I mean, if
23 cul-de-sacs are a problem where fire trucks can't
24 turn around, then obviously they're not being made
25 large enough. But, however, I would rebut that

1 because I do know, as a professional engineer, that
2 this size of cul-de-sac is adequate.

3 I do understand that if vehicles are parked
4 there they become a problem, but vehicles parked on
5 the public street anywhere where you have fire trucks
6 or safety apparatus coming through are problematic,
7 regardless of whether it's on the cul-de-sac or on a
8 straight-through street or in an intersection. And I
9 understand the definition of a through street or a
10 cul-de-sac street being defined from the nearest
11 intersection, or the nearest through intersection.
12 But if you look at a fire truck and the turning
13 radius of a fire truck, a fire truck can do a T
14 turn-around at an intersection. Meaning that they
15 could do a turn-around at Shiloh Run and Falmouth
16 very easily. Well, not very easily but they can do
17 it. It would take the reverse motion rather than,
18 you know, a complete circular pattern, and you can
19 also make a turn, you know, at the intersection of
20 Pilgrims Run.

21 But back to my original point was the fact
22 that this was just a circular pattern of streets
23 through here. You know, by making these cul-de-sacs,
24 it doesn't change any type of response time than what
25 was originally approved with the street pattern going

1 in a circular route back in the property by putting
2 these two cul-de-sacs on here. It's just not
3 connecting those two streets. I don't feel it
4 changes any type of response time or, you know,
5 changes anything that was approved on the original
6 plan.

7 MR. ZOLLINGER: Okay. Thank you. Anybody?

8 Sir, how many variances are you requesting?
9 You're requesting -- it's Grassmere.

10 MR. HARTMAN: There will be five variances,
11 but we have two variances to the same ordinance. The
12 cul-de-sac one.

13 MR. ZOLLINGER: Okay. Okay. Thank you.
14 Anybody else?

15 MR. AVENI: I'm Jim Aveni, the developer
16 with the AMC Land Company.

17 It's interesting that they're only talking
18 about what happened in the whole Grassmere thing.
19 And I think if you look at the Grassmere Street and
20 recognize there are no sidewalks, okay, and you have
21 children playing and people walking on a road that is
22 actually, in most cases, narrower than the streets in
23 Monticello, that the concept of it being safer by
24 racing a fire truck through the Knolls development to
25 get to Monticello is the opposite of safety because

1 the Monticello subdivision has wide concrete roads
2 with adequate sidewalks connecting all the way down
3 on both sides so that all the people who live in
4 Monticello, are you guys walking the streets or are
5 you on the sidewalk? Okay? So the Monticello people
6 are utilizing sidewalks and are staying out of the
7 streets. They're staying safe. The Knolls people
8 don't have that option, so it's a walking community.
9 As a matter of fact, people back there say the
10 Monticello residents kind of wander up and wander
11 through their neighborhood too. You know, you can
12 walk across the dirt and get over to their streets.

13 So when we talk safety, safety is not a
14 literal, it's a perspective, okay? This will put in
15 perspective the Phase 7 development, which includes
16 Alexandria and Shiloh Run terminating at basically
17 straight dead ends, no cul-de-sacs, has existed in
18 excess of ten years. We finished that phase, we put
19 the roads in back in 2004 slightly after the revised
20 planning. So obviously we didn't need to meet.
21 There must have been some kind of thing brought up in
22 2004 -- well, I guess we got it platted in 2003 so we
23 didn't fall into that hole. But the reality of it
24 is, is that we're trying to do a good job of putting
25 a safe, secluded, private, safe neighborhood together

1 to complete the development and leave the quiet,
2 safe, wonderful neighborhood adjacent to us alone and
3 let them live their lives.

4 There's a big discussion about not having
5 Grassmere connect, to the point where I believe the
6 residents got enough pressure to get the city to
7 vacate that portion of Grassmere and buy the land, or
8 at least keep the land segregated to avoid it from
9 being connected at all. Even if we wanted to connect
10 it, we couldn't without the permission of the city.
11 So Grassmere being connected isn't our decision.
12 It's the city's decision.

13 MR. ZOLLINGER: Yeah.

14 MR. AVENI: And we don't believe, from our
15 point of view, it makes any sense, okay, because
16 there's been a lot of period of history where there
17 have been no events or issues dealing with the fact
18 that the roads terminate in a dead-end capacity.

19 MR. ZOLLINGER: Well, I got to tell you, sir,
20 I kind of -- part of the frustration with me, this
21 all concerns Chapter 1107 of the ordinance, and
22 everything in this chapter says this all goes through
23 the commission. You don't like what the commission
24 does, you come to us.

25 MR. AVENI: Okay.

1 MR. ZOLLINGER: Now we're being told, well,
2 the commission may not be able to do anything without
3 getting a variance from us first, so there's
4 confusion as to the wording. But I feel like we're
5 being asked to do something that we really -- it's
6 beyond our expertise and purview. It's -- you're
7 asking -- you're submitting issues that are typically
8 before the planning commission. So I think our job
9 is limited, it's very limited, and it's these
10 ordinances. And then if we approve them, then you've
11 got to go back to the commission and deal with a lot
12 of this stuff that you're talking about. But I hear
13 you. I hear the issue you're talking about so --

14 MR. AVENI: We did. We were at the planning
15 commission meeting. We did ask the law director,
16 Mr. Fox, why are we going to, you know, zoning for a
17 variance? We're planning -- this is a subdivision,
18 you know, why don't you grant it. I said -- and we
19 couldn't understand why they didn't have the power to
20 grant it. And the reality of it is, he said in the
21 city of North Canton, the bylaws in the city of North
22 Canton only provide you the power of --

23 MR. ZOLLINGER: It's a chicken -- it's his
24 word, the chicken and the egg situation. So we'll do
25 either one. Try to figure out something here.

1 All right. Anybody else?

2 MR. MIHALCIN: Correct me if I'm wrong, the
3 planning commission has the authority to overturn
4 decisions made here; correct?

5 MR. ZOLLINGER: We have authority to overturn
6 them.

7 MR. AVENI: It's backwards. Yeah, I do that
8 too.

9 MR. ZOLLINGER: That's why I question whether
10 we had jurisdiction on this. And I was told, well,
11 you can grant a variance contingent upon the
12 commission approving. So --

13 MR. AVENI: We can't go forward with anything
14 until we get the approval anyway, so ultimately they
15 do have a say and it will be a step to walk through,
16 you know.

17 MR. ZOLLINGER: Okay. All right.

18 MR. AVENI: Until we get past you, they can't
19 talk to us, to our understanding.

20 MR. ASHMAN: I understand your confusion
21 because I'm confused too. But maybe looking at this
22 as a layperson, I am a retired engineer and, however,
23 if your board does approve the variances conditional
24 upon planning commission, you are giving it back to
25 the planning commission. We do have to go through

1 planning commission. They do have to look at this.
2 But we were told -- we went to the planning
3 commission and were told no.

4 MR. ZOLLINGER: Yeah, I understand.

5 MR. ASHMAN: So I think that if you do
6 approve it conditionally, it goes back to planning
7 commission to make the ultimate decision.

8 Thank you.

9 MR. ZOLLINGER: Right. Right.

10 MR. ADELSON: Mr. Zollinger, I have a
11 question. I'm a resident of Monticello and I believe
12 when we bought our property --

13 MR. ZOLLINGER: Can you state your name for
14 the Record.

15 MR. ADELSON: Mark Adelson.

16 When we bought our property, and we looked at
17 the total plot layout of the entire allotment, this
18 was all covered. So I am wondering, hasn't this
19 already been approved way back from the beginning?
20 Like 1997?

21 MR. ZOLLINGER: Well, you know, that's a
22 question I asked earlier. I don't know the answer to
23 that.

24 MR. ADELSON: Because they had a layout of
25 the entire layout.

1 MR. ZOLLINGER: Somebody must have approved
2 something because there were roads and houses there.

3 MR. AVENI: There was a preliminary plan
4 approval of the entire --

5 MR. ZOLLINGER: On the phase we're talking
6 about?

7 MR. AVENI: Yes. The only difference was, is
8 like I said, it did not include the cul-de-sac
9 streets. Those streets connecting went around and
10 came back on its own. Basically what it was, was
11 Shiloh was connected to Alexandria.

12 MR. ZOLLINGER: Right.

13 MR. AVENI: That's the only difference is
14 that we are eliminating that piece of roadway and
15 putting cul-de-sacs on. There was never a connection
16 to any piece of property. And there was an approved
17 preliminary plan.

18 MR. ZOLLINGER: Okay.

19 MR. AVENI: I would assume that it's on file
20 with your department at someplace.

21 MR. ZOLLINGER: Okay. Anybody else?

22 MR. STIGALT: Mr. Chairman.

23 MR. ZOLLINGER: Yeah.

24 MR. STIGALT: What the applicant is referring
25 to is it was approved in 2000, Phase 8, preliminary,

1 and it's on the record with the engineering
2 department. The reason why they had to come back was
3 because 2003 our code changed.

4 MR. ZOLLINGER: Code changed.

5 MR. STIGALT: And now they made changes,
6 which now the entire plat of Phase 8 has to meet the
7 new subdivision regulations as if they're starting
8 from scratch, so to speak.

9 MR. ZOLLINGER: Okay. All right. Thank you
10 for clearing that up.

11 Anyone else?

12 Make sure you state your name and address,
13 please.

14 MR. DYE: Jason Dye. 1208 Grassmere Street.

15 I want to address that the issue of the
16 safety for the fire vehicles. I have had a fire
17 truck at my home before, and went off without a
18 hitch. They did their job, they left the road,
19 they're not still there. It was great.

20 I've also stopped on Main Street at a
21 flashing light and watched the fire trucks back into
22 the garage. I have every confidence in the world
23 that they can do their job.

24 Also, I would like to oppose the idea of
25 having the gate at the end of the road because it's

1 going to be much easier in ten years to remove a gate
2 than it is to put the road through, and I thought
3 this was finished back in 2003, and here we are
4 again. So I would like to state I am opposed to a
5 gate.

6 MR. ZOLLINGER: Okay. Thank you, sir.

7 Anybody else?

8 MS. HEARNE: Dawn Hearne, 1200 Grassmere.

9 I guess that's my question, too. Back when
10 this was already done once, do we have to come back
11 and continue to battle this issue of Grassmere going
12 through when it was already stated to us that it's a
13 done deal, no, it's going to stay this way? Yes, I
14 thought it was supposed to have a turn-around put in.
15 I don't know if it's the city or who is supposed to
16 do that part. But we battled this, we got
17 signatures, we did all this and now we're back. I
18 mean, I guess I'm worried, until Monticello is
19 totally done and then what? If Faircrest or somebody
20 else again.

21 And then the safety issues are that road is
22 narrow, so is the city going to come in and widen it?
23 Are you going to put the sidewalks in? I mean, we
24 all walk on streets. We have little children and
25 it's a winding road. It's not a straight shot

1 through, and I just -- I do worry that we're going to
2 continue to have this battle for something we thought
3 was settled.

4 Thank you.

5 MR. ZOLLINGER: Thank you, ma'am.

6 Anything else? Anybody else? Yes, sir.

7 Sir.

8 MR. SPERA: John Spera. I live on Shiloh.
9 Is it possible that we can -- the board can pass
10 variances in lieu of Grassmere and deal with that at
11 a later time?

12 MR. ZOLLINGER: Well, that's something we're
13 going to talk about, whether we want to deal with
14 each of these individually. That might be the way to
15 go here. We'll talk about that.

16 Anybody else?

17 MR. BLATE: Good evening. My name is Greg
18 Blate. I live at 1351 Shiloh Run in Monticello in
19 Phase 7. I actually live at the hub of the concern.
20 My home is actually where Shiloh Run currently dead
21 ends. And the front of my property faces all the way
22 down to Falmouth Circle, so I have a bird's-eye view
23 of activity down there.

24 I want to share a couple things. My wife and
25 I moved from the city of Canton very intentionally

1 because we were looking for a specific type of
2 development to move into, and that was Monticello.
3 Part of our consideration was that we wanted to live
4 in what we considered to be sort of an enclosed
5 community, and the plans that we were shown for
6 Monticello showed two ingress-egress roads. And I
7 understand that part of what we're talking about
8 today is some concern about not having more ingress
9 roads. That was never planned, and so again I echo
10 some of the sentiments of some of the previous
11 people, why is that, you know, an issue today.

12 A concern that I have, and maybe more of a
13 observation, is that when Monticello was planned,
14 too, and that was approved, there were more homes
15 planned in the community than what we are talking
16 about than today. For instance, on my street alone,
17 Shiloh Run, there are five homeowners in the
18 development that have purchased multiple lots and
19 adjoined those with their properties in order to have
20 larger lots. So those are going to be lots that
21 homes are not being built on. That's No. 1.

22 No. 2, what the developer has proposed for
23 the additions to Shiloh Run and to Alexandria provide
24 for additional -- less homes than what were
25 originally planned. So again, we're talking about

1 less traffic in Monticello, and so concerns about
2 traffic and ingress I would think would be reduced,
3 and it seems we're focusing on something in a
4 different direction.

5 Another observation that I wanted to share
6 with you, as well as I've had instances where I've
7 had to have police and fire to my home as well. I've
8 had no issues whatsoever. I have a bird's-eye view
9 of Falmouth, which is a circle. I've seen the fire
10 trucks in Falmouth, I've seen them operate, I've seen
11 them navigate the circle without any issues.

12 MR. ZOLLINGER: Do you know, what do they do
13 when they go around Falmouth? Do they have to, like,
14 stop, turn back a little bit and then go around, or
15 can they just go -- can they totally circle around
16 the cul-de-sac?

17 MR. BLATE: I've seen them, there's fire
18 hydrants along the road and they go out and bleed
19 those fire hydrants and I've seen them make the
20 circle and come back out.

21 MR. ZOLLINGER: Without backing up.

22 MR. BLATE: Without backing up, right.

23 And so, you know, I live sort of right at the
24 end there and I have sort of that perspective and
25 that view, so I wanted to make sure that you

1 understood that. I completely understand that from a
2 fire safety perspective our officials are going to
3 want the most ideal conditions, and so I understand
4 how a letter like that can be crafted and how it can
5 be interpreted, but I don't think it means that what
6 we have planned now and what is designed is
7 inadequate. It just might be the ultimate and ideal
8 situation.

9 I also would like to point out, too, that
10 what we are talking about is eliminating what I think
11 was a full circle for Shiloh and Alexandria and
12 creating a cul-de-sac, one of the things you're
13 asking for is more green space in this area, and I
14 think by creating larger lots with less homes in the
15 area we're going to have the prospective of
16 additional green space. So when you look at the
17 Monticello community as a whole, all phases, it would
18 appear to me that from when it was originally
19 designed, and even as they're looking to enhance the
20 development of Phase 8, we're going to have more
21 green space than what any alternatives might be as
22 well. So I wanted to share those perspectives with
23 you.

24 Thank you.

25 MR. ZOLLINGER: Thank you, sir.

1 Yes. Real quickly, please.

2 MR. CZEKANSKY: If I can just say one more
3 thing.

4 Tonight was the first time I actually saw the
5 plot that they're asking for as a variance with the
6 cul-de-sacs. As far as Grassmere and the residents
7 of Grassmere and Meadowlane and Knoll, that becomes a
8 nonissue if this is approved. It's going to be a
9 cul-de-sac at the end of the street, it's going to be
10 lots. Becomes a nonissue. All our concerns are
11 gone.

12 So thank you.

13 MR. ZOLLINGER: Thank you.

14 Anybody else?

15 I don't know how the board feels, but I think
16 we need to take these individually.

17 MR. GRIFFITH: That's fine.

18 MR. ZOLLINGER: I think the first one we
19 should look at, and I'm just going to go down the
20 application, would be, okay, a variance to not extend
21 or not connect existing Grassmere Street, Southeast,
22 so take that one first. I -- the safety concerns by
23 the chief I take seriously. I really -- you know,
24 that -- that causes me some concern whenever you hear
25 this. But I know this area very well. I run it a

1 lot. I've run from the end of Grassmere to the end
2 of Shiloh Run. I've run down Meadowlane and Knoll,
3 Hillbrook I don't know how many times. I know these
4 roads, and I don't understand how getting -- like if
5 we -- if you extended Grassmere through to Monticello
6 how that gets the fire department to this part of
7 Monticello any quicker than if they turned off of
8 Easthill and went down Lancaster Gate. Because I'm
9 looking at the map, and it's -- it's a windy route
10 along 25-miles-an-hour roads up and down hills.
11 Either way. It doesn't matter. It's about the same
12 distance. Maybe a little bit longer going through
13 Monticello, but it's about the same distance. And,
14 again, Grassmere is a narrower road, although the
15 other roads aren't in the Knolls. So I appreciate
16 the chief's concerns but I don't see this being a
17 much quicker route into Monticello. I appreciate his
18 desire to have as much access as possible, I
19 understand that, but I don't see that being -- being
20 an issue here.

21 And, again, in all the comments made that
22 seem to validate that this was approved, Falmouth was
23 approved at some point. It's there. There are
24 houses on that street. The end of Falmouth is the
25 farthest you can get from these entrances to the

1 neighborhood. Somebody approved it. I don't think
2 these cul-de-sacs would be much farther away from
3 those entrances; they might even be closer, based on
4 what I'm looking at on the map. So I, you know, I'm
5 inclined to vote for the variance based on what has
6 happened historically with the development of this
7 neighborhood and based on the access issue not
8 being -- it's not going to create quicker access, you
9 know, this way. And so I -- you know, in this --
10 from the self-interest standpoint, I like to run on
11 that trail and I'd hate to see it go away, but that
12 can't be a basis for how I vote on this.

13 MR. GRIFFITH: Let's be clear. It is not a
14 basis.

15 MR. ZOLLINGER: It is not. That has nothing
16 to do with how I'm going to vote here, but that's
17 what I'm thinking right now on that particular issue.

18 MR. GRIFFITH: I think one of the main
19 considerations for the variance is whether it changes
20 the character of the community, and we've got two
21 communities here saying that will create a
22 substantial change if we allow the cut-through so I
23 agree with this. I'm inclined to support the
24 variance.

25 MR. ZOLLINGER: Brian, anything?

1 MR. MIHALCIN: In the same context of your
2 points, Mr. Zollinger, I also, within under 1107.05,
3 I guess I also don't consider Grassmere Street a
4 major street in that context of the ordinance.

5 MR. ZOLLINGER: Okay. Okay. I'm going to
6 make a motion, because I have the language written
7 down that I want to use on this contingency. I'm
8 going to make a motion to approve the variance to not
9 extend or connect the existing Grassmere Street
10 contingent upon the applicant obtaining planning
11 commission approval of the plat's site plan, et
12 cetera. So that's my motion and that -- and I'll
13 explain what that means once we're done voting.

14 MR. GRIFFITH: I'm second that.

15 MR. ZOLLINGER: Call the roll, please.

16 MS. NADEAU: Mr. Griffith.

17 MR. GRIFFITH: Yes.

18 MS. NADEAU: Mr. Mihalcin.

19 MR. MIHALCIN: Yes.

20 MS. NADEAU: Mr. Zollinger.

21 MR. ZOLLINGER: Yes.

22 So the variances have been granted by us. So
23 that is, I guess, Step 1. And now you have to go
24 back to the planning commission and they'll do what
25 they're going to do and you're probably going to have

1 to discuss all these issues again, but I don't know,
2 that's their -- that's their call. So that
3 particular variance is granted. So now we'll move
4 on.

5 I don't know how you guys want to tackle
6 these, but we have the variance not to extend or
7 connect the existing Faircrest land located on the
8 north side of the property to be developed. I guess
9 we'll deal with that one by itself also.

10 MR. GRIFFITH: We talked about it. I hate to
11 jump in --

12 MR. ZOLLINGER: Go ahead.

13 MR. GRIFFITH: My inclination here is
14 obviously the intent of the ordinance is to preserve
15 property from being landlocked. I think Fieldcrest
16 is going to be developed without significant other
17 issues here so I think this is a good example of
18 where this is -- the exception is intentional. So I
19 would be inclined to support that.

20 MR. MIHALCIN: Also, it doesn't landlock that
21 property.

22 MR. GRIFFITH: Right. Right.

23 MR. ZOLLINGER: Okay. So I will make a
24 motion on -- to approve the variance to not extend
25 and/or connect the existing Faircrest Estate land

1 located on the north side of the property contingent
2 upon the applicant obtaining planning commission
3 approval for the plat site plan, et cetera.

4 MR. GRIFFITH: Second.

5 MR. ZOLLINGER: Go ahead and call the roll,
6 please.

7 MS. NADEAU: Mr. Griffith.

8 MR. GRIFFITH: Yes.

9 MS. NADEAU: Mr. Mihalcin.

10 MR. MIHALCIN: Yes.

11 MS. NADEAU: Mr. Zollinger.

12 MR. ZOLLINGER: Yes.

13 So that variance is granted.

14 Let's see. Yeah, okay. We'll do -- the next
15 one will be the variance to construct two permanent
16 dead-end streets longer than 600 feet in length. For
17 a lot of the reasons already expressed, I'm inclined
18 to grant this variance as well. I know there was
19 some evidence about other neighborhoods having longer
20 ones. That -- a lot of those neighborhoods were
21 pre-2003, including Washington Square, I believe.
22 I'm not taking that into account, but just for the
23 reasons already stated I think that in this situation
24 being what it is and the prior approvals it makes
25 sense to grant this variance. You guys have any

1 thoughts on that?

2 MR. MIHALCIN: In the same context of
3 1107.05, minor residential street shall be continued
4 to prevent dead-end streets, I don't agree with that.

5 MR. ZOLLINGER: Okay.

6 MR. GRIFFITH: So you would not support the
7 variance?

8 MR. MIHALCIN: I would not support that
9 portion of the variance.

10 MR. GRIFFITH: If you do all the numbers, I
11 think that forecloses this issue. At least it seems
12 to be. If not, it is something that needs to be
13 approved by the planning commission.

14 MR. MIHALCIN: And the runs are substantial.

15 MR. ZOLLINGER: Well, let me -- like when we
16 say 1,780, are we talking about 1,780 feet in length
17 total or are we including what's already existing on
18 those streets?

19 MR. HARTMAN: That's what's already existing.

20 MR. ZOLLINGER: So we're talking about
21 extending -- how long are we going to extend Shiloh
22 Run from where it already exists?

23 MR. HARTMAN: Approximately about 187 feet.

24 MR. ZOLLINGER: And then Alexandria. How
25 much longer is that going to be?

1 MR. HARTMAN: Alexandria is 200 -- about 310
2 feet.

3 MR. ZOLLINGER: All right. So okay. I guess
4 my response to that is they've already gotten most of
5 this already approved prior and it's not a
6 significant extension, in my opinion. But that's up
7 to you.

8 MR. MIHALCIN: Motion.

9 MR. GRIFFITH: Well, realistically, if Brian
10 is not inclined to support it, I don't know if a
11 motion makes sense.

12 MR. ZOLLINGER: If I make a motion, I don't
13 know how you're going to vote but you can second it
14 and then two out of three of us can approve it.

15 MR. MIHALCIN: That's a quorum.

16 MR. OSBORNE: No.

17 MR. GRIFFITH: No, it requires all of us to
18 approve.

19 MR. ZOLLINGER: Oh, okay.

20 MR. GRIFFITH: Yes. Right.

21 MR. ZOLLINGER: Well, I'll do this: I'll
22 make a motion and not second it or whatever.

23 MR. GRIFFITH: I'm happy to second it so we
24 have a vote on the record.

25 MR. ZOLLINGER: Okay. Yeah. Let's do that.

1 So I'll make a motion to approve the variance
2 to construct two permanent dead-end streets longer
3 than 600 feet in length contingent upon the applicant
4 obtaining planning commission approval for the plat,
5 site plan, et cetera.

6 MR. GRIFFITH: I'll second it.

7 MR. ZOLLINGER: And can you call the roll,
8 please.

9 MS. NADEAU: Mr. Griffith.

10 MR. GRIFFITH: Yes.

11 MS. NADEAU: Mr. Mihalcin.

12 MR. MIHALCIN: No.

13 MS. NADEAU: Mr. Zollinger.

14 MR. ZOLLINGER: Yes.

15 That variance is not approved because the
16 majority of the board, which would be three or more
17 to approve that variance, so that variance is not
18 approved.

19 The next variance, which is the variance to
20 not provide the minimum of 2.5 percent of the gross
21 area to be subdivided as dedicated public open space.
22 And I think the position of the applicant is open
23 space is not provided in any of the previous seven
24 phases of the development.

25 MR. GRIFFITH: Yeah, I guess if we're sharing

1 our thoughts, I think that the applicant has
2 sufficiently dealt with this one as well. Obviously
3 there is -- this is a development; overall there's a
4 great deal of public green space. They have added,
5 by doing deed restrictions which they propose,
6 they're actually well -- as mentioned, well in excess
7 of what would be required. And I think there would
8 be a hindrance not just to the landowners but to the
9 public by putting in space here that will actually be
10 a detriment to the city if we were -- if the city was
11 required to support it at that point. So I'm -- I'm
12 supportive of this variance.

13 MR. ZOLLINGER: I agree.

14 MR. MIHALCIN: I have no objection.

15 MR. GRIFFITH: I'll move. Well, go ahead.

16 MR. ZOLLINGER: I'll make a motion to approve
17 the variance to not provide the minimum of
18 2.5 percent of the gross area to be subdivided as
19 dedicated public open space contingent upon the
20 applicant obtaining planning commission approval for
21 the plat, site plan, et cetera.

22 MR. GRIFFITH: I'll second.

23 MR. ZOLLINGER: Call the roll, please.

24 MS. NADEAU: Mr. Griffith.

25 MR. GRIFFITH: Yes.

1 MS. NADEAU: Mr. Mihalcin.

2 MR. MIHALCIN: Yes.

3 MS. NADEAU: Mr. Zollinger.

4 MR. ZOLLINGER: Yes.

5 So that variance is approved. I believe that
6 takes care of all of them; correct, sir?

7 MR. HARTMAN: Can I say something? I just
8 want to put on the record that myself, as the
9 applicant, or the owner of the land, were not made
10 aware that there were only going to be three board
11 members out of five this evening. In that scenario,
12 we probably would have most likely waited until we
13 had more board members. Knowing that I would have
14 had to have you handle this vote, I most likely would
15 have told him --

16 MR. ZOLLINGER: You don't need a unanimous
17 vote, you need a vote of the majority.

18 MR. HARTMAN: The majority. There's five
19 members. Two are not present.

20 MR. ZOLLINGER: Correct.

21 MR. HARTMAN: I was not made aware.

22 Typically when that situation arises, in my 20-year
23 career I've always been made aware and given the
24 option to either table it and move to the next
25 meeting when they would have the majority of the

1 members. And no point --

2 MR. ZOLLINGER: At the beginning of the
3 meeting, sir, I said three of the five board members
4 were present. You can have the record read back to
5 you.

6 MR. HARTMAN: Okay. I understand that part.

7 MR. ZOLLINGER: Okay. You have the right to
8 come back in six months on that request, if you like.

9 MR. HARTMAN: Okay. Yeah.

10 MR. ZOLLINGER: You might have other options,
11 but that's one that I know of.

12 MR. HARTMAN: Okay.

13 MR. ZOLLINGER: Only that particular one.

14 MR. HARTMAN: I understand. I was not here
15 at the beginning. If it was stated at the beginning,
16 I understand that.

17 MR. ZOLLINGER: Yes.

18 MR. HARTMAN: I was not aware of that.
19 Typically you would be told prior to by staff that
20 there are only going to be three board members
21 present at the meeting.

22 MR. ZOLLINGER: Yeah, I mentioned that. I
23 mentioned the quorum is three of five are present.

24 MR. HARTMAN: Okay. Thank you.

25 MR. ZOLLINGER: Any other business that come

1 before the board? Yeah.

2 MR. REVOLDT: Mr. Zollinger, would it be
3 appropriate to ask one of your members for a motion
4 to reconsider that particular item? Is that allowed
5 under parliamentary rules?

6 MR. ZOLLINGER: You're more than welcome to.

7 MR. REVOLDT: I'm not. It would be something
8 that your body would do. You have to have a motion,
9 do a second and a vote to reconsider and then I would
10 say you table it.

11 MR. ZOLLINGER: We've already denied the
12 variance.

13 MS. NADEAU: We need his name.

14 MR. ZOLLINGER: What's that?

15 MS. NADEAU: We need his name.

16 MR. REVOLDT: Excuse me. Daryl Revoldt.
17 1565 Ambler, Southwest.

18 MR. DE ORIO: Mr. Chairman, are the
19 applicants precluded from going to planning
20 commission on this issue? I would think that what
21 you were voting on was everything going back to
22 planning contingent upon their approval, and there
23 was some debate as to whether or not it should go to
24 planning first is the chicken and the egg, but at
25 this point I think they can still make the argument

1 at the planning commission.

2 MR. HARTMAN: You now have a variance of the
3 plan is not valid. So whatever plan is submitted to
4 the planning commission, it's off the table because
5 it's not valid. And if I have the ability -- or we
6 have the ability to table that one night until we
7 have a full board, I will very much appreciate that.

8 MR. ZOLLINGER: I don't know that we have --
9 I mean, we already voted on it so I'm not sure
10 tabling it at this point is going to make -- it's
11 really -- I don't know that we have the ability to
12 table it.

13 MR. HARTMAN: I'm not an attorney.

14 MR. REVOLDT: Okay. These folks asking to
15 reconsider, is anyone aware whether that's possible
16 or not?

17 MR. GRIFFITH: So, Daryl, great idea, but
18 under Robert's Rules a motion to reconsider would
19 require a disposition of motion as opposed to tabling
20 the motion.

21 MR. REVOLDT: Excuse me. I was Googling it.

22 MR. GRIFFITH: That's all right. That's all
23 right. It would require us to dispose of the motion
24 again.

25 MR. REVOLDT: But the disposal would be a

1 decision to table. You could reject it, accept it or
2 table it. That would be the disposition. I would
3 argue, but I'm not a lawyer.

4 MR. GRIFFITH: I'm not -- I'm not sure that
5 that's true.

6 MR. DE ORIO: I would argue that.

7 MR. REVOLDT: I'm not either.

8 MR. DE ORIO: Tabling it would not be
9 appropriate. Given that it was disposed on a motion
10 for reconsideration would be, but it would need to be
11 made by the person that wanted their vote
12 reconsidered. So it would be the individual in the
13 negative that would have to ask for a motion to
14 reconsider.

15 MR. GRIFFITH: That was the other point I was
16 going to make.

17 MR. DE ORIO: That's how that works.

18 MR. GRIFFITH: Yeah, that's absolutely the
19 case.

20 MR. REVOLDT: So I guess the request is --

21 MR. DE ORIO: If I may just add also under --
22 if this is appropriate -- under 1107.08, Subsection
23 D, "Find that any modification granted will not be
24 detrimental." Is that what you want me to read? Oh,
25 "The commission may modify the application of these

1 regulations where unusual." I don't think that
2 applies. Never mind. Thank you, though.

3 MR. ZOLLINGER: Yeah, and I saw that before.
4 I saw that too. I don't know why they can't go
5 before the commission and have this all heard. And
6 if they don't -- the way I read the ordinance is they
7 can go to the commission, the commission can approve
8 or not approve it and then they could appeal that and
9 it comes back here.

10 MR. GRIFFITH: That's what I understood too.

11 MR. ZOLLINGER: I mean, you have the right to
12 appeal the commission's decision if they turn
13 everything down because of the one variance that was
14 denied. First of all, they have the right to make
15 modifications. I think they have more power than
16 just yeah or nay, I believe.

17 MR. DE ORIO: Yes.

18 MR. HARTMAN: Excuse me. What are you --

19 MR. ZOLLINGER: The planning commission has
20 more power to say yes or no based on the one thing I
21 do.

22 MR. DE ORIO: The commission may modify the
23 application if the recommendations or such other
24 factors or conditions require some modification.
25 Granting such --

1 MR. HARTMAN: I'm not sure. Like, if I come
2 to you for a housing setback and, you know, it's
3 50 feet and I want to put my house 35 feet and you
4 deny, the planning commission can't overrule you.

5 MR. ZOLLINGER: Not there. But this is --
6 like I said, this is not that issue.

7 MR. GRIFFITH: Right.

8 MR. ZOLLINGER: This is 1107. Check 1107 is
9 different than the rest of the ordinance because the
10 commission has a lot of -- they're the ones who
11 really go through and approve the plot plans.

12 MR. HARTMAN: I'd say it should have been
13 approved by them in the beginning.

14 MR. ZOLLINGER: Yeah. They can take this and
15 say the variances were granted here, here, here, this
16 one wasn't. We'll approve the plot, we'll modify it
17 based on what variance was not granted, or we could
18 even alter what the zoning board said. And then
19 anyone who feels aggrieved by that decision can
20 appeal it and comes right back here.

21 MR. HARTMAN: I don't think that's really
22 going to happen. Just my opinion.

23 MR. ZOLLINGER: Well, I mean, I can't speak
24 for them. That's speculation. But, you know, sir,
25 then if they say no to everything, you can appeal

1 that back to us. And then maybe, you know, and I'd
2 like -- you know, I don't know, hopefully all five of
3 us would be here but, you know, and I don't know what
4 the other two would think of this. But that's -- you
5 know, it's not like -- what I'm trying to say is
6 there's a lot of things that could happen based on
7 the decision that we made. And --

8 MR. HARTMAN: Well, I agree and I appreciate.

9 MR. ZOLLINGER: It's not just "no."

10 MR. HARTMAN: No, it's not "just no." It's
11 having the cul-de-sac streets is "no." At the end of
12 the day, having any type of cul-de-sac streets here
13 is "no." We'll most likely go back to some type of
14 original plan with smaller lots.

15 MR. ZOLLINGER: I think that, again, you're
16 going to have to go -- you know, we decided and how
17 we voted.

18 MR. HARTMAN: No, I understand that.

19 MR. ZOLLINGER: You're going to have to go
20 back to the commission and talk to them, see what you
21 can hash out there. And based on what they do, you
22 know, you even have recourse after that.

23 MR. HARTMAN: Okay.

24 MR. ZOLLINGER: I don't know, if there's a
25 motion to reconsider then it has to be made by the

1 person who voted "no." If he's not going to do that
2 then we're done here for tonight on this.

3 MR. MIHALCIN: The only reason I heard for
4 not -- for these long cul-de-sacs was to provide two
5 large pieces of property for two huge homes. That's
6 all I heard.

7 UNIDENTIFIED FEMALE: That's not it.

8 MR. MIHALCIN: What else is there?

9 MR. HARTMAN: What else is there?

10 MR. MIHALCIN: What other reason is there for
11 variation of the ordinance? Unfortunately, you are
12 telling me the reason to not tie this together was to
13 provide two luxury homes on two large pieces of
14 property. That's not a justification for a variance.

15 MR. HARTMAN: I understand your point.

16 MR. MIHALCIN: I can't perpetuate it,
17 regardless of whether these things were started
18 before.

19 MR. ZOLLINGER: Part of the problem here, I
20 think, that -- I don't want to speak for -- but I
21 think part of the problem is our -- we're limited
22 here by what we can grant variances for. The
23 planning commission powers are much greater on
24 modified plots and plans. They might look at this
25 and go, oh, that makes sense. But they don't have

1 the same legal constrictions that we have, and that's
2 why -- that's what makes this confusing for us,
3 admittedly. We had a lot of discussion about whether
4 we should be hearing this right now, because if you
5 come right back around to us after you go to the
6 commission. So I guess, you know, without a motion
7 to reconsider, I would go to the commission and see
8 what you can get done there and, you know, hopefully
9 you can get that -- that fixed up.

10 MR. HARTMAN: In the end, the motion to
11 reconsider is -- you're saying doesn't really take to
12 the next meeting with more members, it's just whether
13 he would reconsider his vote; correct?

14 MR. ZOLLINGER: Yeah. Practically speaking.

15 MR. GRIFFITH: Practically speaking, that's
16 right, yeah.

17 MR. HARTMAN: Okay. I don't think that's
18 happening.

19 MR. MIHALCIN: You received all but one
20 variance.

21 MR. HARTMAN: I understand. I understand.
22 I'm saying, my original statement was if I were there
23 prior and knew there were three and I needed all
24 three votes, I probably would have encouraged the
25 owner to not. And you know what? That's my fault

1 because I wasn't here at the beginning of the
2 meeting.

3 MR. ZOLLINGER: Again, that's not -- you
4 know, I don't want to talk any more about it but
5 except to say that, you know, you've got options.

6 MR. HARTMAN: Thank you. Yeah, we do. I
7 appreciate your time.

8 MR. ZOLLINGER: All right. Thank you.
9 Any other business?

10 MS. NADEAU: No.

11 MR. ZOLLINGER: Okay. I'll entertain a
12 motion to adjourn.

13 MR. GRIFFITH: So moved.

14 MR. MIHALCIN: Second.

15 MR. ZOLLINGER: I'll just do a voice vote on
16 this. In favor.

17 (Members voted "yes.")

18 MR. ZOLLINGER: We are adjourned. Thank you,
19 everybody.

20 - - - - -

21 (Hearing concluded at 8:08 p.m.)

22 - - - - -

23

24

25

C E R T I F I C A T E

STATE OF OHIO)
)SS
 STARK COUNTY)

I, Laurie Maryl Jonas, a Registered Merit Reporter and Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that this hearing was by me reduced to Stenotype and afterwards prepared and produced by means of Computer-Aided Transcription, and that the foregoing is a true and correct transcription.

I further certify that this hearing was taken at the time and place in the foregoing caption specified.

I further certify that I am not a relative, employee of or attorney for any party or counsel, or otherwise financially interested in the event of this action.

I do further certify that I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Canton, Ohio, on this 1st day of June, 2018.

Laurie Maryl Jonas

Laurie Maryl Jonas, RMR & Notary Public.
 My commission expires January 6, 2022.

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