

VILLAGE OF BRATENAHL
10300 BRIGHTON ROAD
BRATENAHL, OHIO 44108
(216) 383-0468

BOARD OF ZONING APPEALS

JANUARY 17, 2023
5:30 p.m.

MAYOR JOHN LICASTRO, CHAIR
KEITH BENJAMIN
KAREN BRACE
FRED KREINER
JEFF MOLCHAN

DAVID J. MATTY, ESQ.
NANCY L. MOLNAR, RPR, CLR

3

1 "from the Village" and the next sentence should
2 start with "On August 15th, that revocation
3 request was denied."

4 The record would reflect that and I'm
17:31:09 5 sure both parties agree to that, because that's
6 the fact that occurred. So I want to make sure
7 that's in the record, because this transcript may
8 go elsewhere and I want to make sure it's
9 correct. Thank you.

17:31:20 10 MAYOR LICASTRO: Thank you, Mr. Matty.
11 So is there a motion to approve as amended?

12 MR. KREINER: So moved.

13 MR. BENJAMIN: Second.

14 MAYOR LICASTRO: Discussion? All in
17:31:29 15 favor of the motion?

16 Ayes: 5. Nays: 0.

17 MAYOR LICASTRO: Thank you. We have a
18 couple items on the agenda. Mr. Matty, please
19 proceed.

17:31:41 20 MR. MATTY: Mayor, first item is a
21 continued item from your meeting in September of
22 last year. I first want to thank both parties
23 for their consideration. We had a Board member
24 who had a serious medical condition and could not
17:31:56 25 attend the meeting. I thought it was prudent and

2

1 MAYOR LICASTRO: Okay. It's 5:30. I'm
2 going to call the meeting of the Board of Zoning
3 Appeal of the Village of Bratenahl to order and
4 call the roll. Mr. Kreiner?

17:30:07 5 MR. KREINER: Present.

6 MAYOR LICASTRO: Mr. Benjamin?

7 MR. BENJAMIN: Present.

8 MAYOR LICASTRO: Ms. Brace?

9 MS. BRACE: Present.

17:30:12 10 MAYOR LICASTRO: Mr. Molchan?

11 MR. MOLCHAN: Here.

12 MAYOR LICASTRO: And I'm John Licastro.

13 We have minutes that were offered for the last

14 meeting. Can they be approved as offered or

17:30:23 15 amendments?

16 MR. MATTY: Mayor, I have one amendment.

17 This will be for the transcript meeting that we

18 had. The transcript that's been distributed to

19 the Board for this evening's meeting. There is

17:30:35 20 one mistake on page 8. And it is an important

21 mistake, unfortunately. It's a small paragraph

22 that reads, "On July 20, the Appellants requested

23 revocation of the permits from the Village." But

24 then that sentence continues and it says "on

17:30:54 25 August 15th." That sentence should end with

4

1 fair to both parties to make sure we had a full
2 Board if we were going to continue this matter.

3 And I thank both parties for the kind words that
4 they sent in. That's about all I'll say about

17:32:12 5 the Board member. That's all that's needed to be
6 said.

7 We have two continued appeals this
8 evening for the Board. You see them on your
9 agenda and in your packets. And I asked Mary to

17:32:26 10 send to you, and I believe she did, and for you

11 to review the transcript of the evidentiary

12 hearing that we had in the fall of last year.

13 The memos that have been drafted, which were

14 drafted by both parties and the memo that I

17:32:49 15 drafted concerning my recommendation. And late

16 last night we received an 11th hour filing that I

17 instructed Mary to follow her normal procedure of

18 sending it to you and for your review.

19 So I know you've got a lot of

17:33:07 20 documentation for review for this hearing or for

21 this meeting, I'm sorry, but I think it's also

22 important, if I may, I would like to read the

23 letter that was voluntarily circulated by Mr.

24 Kreiner, a Board member, to not only the Board,

17:33:28 25 but to the parties, because I think it's an

1 important item that should be in the record.
 2 And the letter reads as follows:
 3 "Hi Mary. Thanks for forwarding this
 4 last-minute filing by Ms. Miller. I've read the
 5 attached opinion once. I feel the need to read
 6 it a few more times as well as to rereview all
 7 the relevant ordinances after rereading all five
 8 opinions that have been submitted. I do not find
 9 this to be a simple matter.

17:33:42

10 This receipt of the fifth "allegedly
 11 independent" opinion at the 11th hour does not
 12 afford me sufficient time to take the additional
 13 steps now necessary to make a well-reasoned
 14 decision. Therefore, this note is my request
 15 that the "Corning Drive path to the lake" matter
 16 be removed from tonight's agenda and pushed out a
 17 minimum of 10 days. I understand the parties
 18 have endured delays, but I do wish to take the
 19 necessary steps to make the best decision and the
 20 most correct decision under the circumstances.

17:33:58

17:34:16

21 Finally, I would ask who paid for the
 22 latest opinion and if Ms. Miller is a client of
 23 Seeley Savidge with respect to this matter.
 24 Thank you for your assistance. I am copying all
 25 of you on the email."

17:34:34

17:34:48

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1 I wanted that made part of the record so
 2 that there is no misunderstanding that it was Mr.
 3 Kreiner's request to the Board. There were no
 4 responses to this request as is appropriate by
 5 law, but tonight if you have any responses,
 6 that's why we're here publicly.

17:35:04

7 I also feel it necessary to make a
 8 comment on the record, because attached to this
 9 last opinion that you received was an inaccurate
 10 letter by a Candace Miller. I want the record to
 11 reflect that it is my statutory duty to represent
 12 Mary Ranney. It is my statutory duty to
 13 represent Scott Packard. And it is my statutory
 14 duty to represent you and advise you in these
 15 types of matters. I would like that to be put on
 16 the record, because some of what was in the
 17 letter is not acceptable.

17:35:20

17:35:41

18 Now, tonight is your chance. You have
 19 these memos. It's your discussion. This is not
 20 public participation. This is not public input.
 21 It's your discussion amongst yourselves as to
 22 which you wish to do on the issue of jurisdiction
 23 and going forward. And if you read my memo, you
 24 would see that at the end of the memo are the
 25 steps that you can take, but we need to have

17:35:57

17:36:16

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1 discussion from you. It can be brief, it can be
 2 lengthy, that's up to you. If you have
 3 questions, now is your time to ask those
 4 questions amongst yourself.

17:36:31

5 So I would open it up at this time,
 6 Mayor, to the Board.

7 MAYOR LICASTRO: Thank you, Mr. Matty.
 8 Anyone on the Board want to comment?

9 MR. BENJAMIN: I concur with Mr. Kreiner
 10 that I worked all day. I just got this memo. I
 11 have not had time to review this new legal
 12 opinion. And so I would be doing nobody justice
 13 by sitting here trying to figure this out now.

17:36:41

14 So I would concur that we delay discussion of
 15 this issue. I'd also like to note it's signed by
 16 the law firm. It's not signed by an attorney.
 17 And if possible, I'd like to know which attorney
 18 drafted this memo.

17:37:06

19 MAYOR LICASTRO: Thank you, Mr.
 20 Benjamin. Ms. Brace and Mr. Molchan?

17:37:21

21 MS. BRACE: I agree with having the
 22 possible delay to have the opportunity to go
 23 through all these documents thoroughly and
 24 fairly, because I felt like things were a bit
 25 rushed today. And I would like to have the

17:37:39

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1 opportunity to sit down and really examine all
 2 these documents again and have a better
 3 understanding.

17:37:50

4 MAYOR LICASTRO: Thank you, ma'am.
 5 MR. MOLCHAN: I concur.

6 MAYOR LICASTRO: As I do. This is
 7 obviously a well-attended meeting. There's a lot
 8 of interest in this. We need to do it right.
 9 Getting stuff at nine o'clock the night before is
 10 not helpful to anyone. So that being said, I'd
 11 like a motion from the Board to continue this to
 12 a date in the future to be determined.

17:38:05

13 MR. MOLCHAN: I'll make the motion.

14 MS. BRACE: Second the motion.

17:38:18

15 MAYOR LICASTRO: Discussion? Mr. Matty,
 16 anything to add?

17 MR. MATTY: The only thing I would add,
 18 Mayor, is Mary, will you circulate a calendar or
 19 a receipt from the Board some dates that we can
 20 send to the appropriate attorneys so that they
 21 are aware of when the Board can meet?

17:38:36

22 I know we're running into vacation
 23 season for some and we're running into timing for
 24 others as far as their own schedule. So if you
 25 could do that, Mayor, the motion is fine, but if

17:38:54

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1 the Board can get back to Mary as soon as
 2 possible, we would see -- I'm going to estimate
 3 that this continued hearing won't happen until
 4 sometime beginning of March at the earliest. And
 17:39:09 5 we can see if we can do that, but that's all I
 6 would add to the record.
 7 MR. BENJAMIN: Mr. Matty, have you had
 8 time to review the new legal opinion in detail
 9 since we got it? And if not, would you be able
 17:39:27 10 to provide any, you know, as our legal
 11 representatives, over the course of the next few
 12 weeks be able to provide maybe any clarifications
 13 that need to be written in your legal opinion?
 14 MR. MATTY: Yes, I can do that, Mr.
 17:39:43 15 Benjamin, at your request.
 16 MR. BENJAMIN: Thank you.
 17 MR. KREINER: I have a comment, Mr.
 18 Mayor. We're here to do justice, not to rush to
 19 anything. And with a significant substantial
 17:39:54 20 opinion coming in that I saw it for the first
 21 time at 2:00 p.m. today, there's no way to be
 22 fair to all the parties without giving us time to
 23 review that opinion and to put it alongside the
 24 law over the various ordinances that are at
 17:40:14 25 issue.

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1 So I apologize to all the parties that
 2 this thing keeps getting extended, but it was not
 3 within our control that we got a fifth opinion
 4 last night. We didn't see it until today at
 17:40:29 5 various times.
 6 MAYOR LICASTRO: The motion before the
 7 Board is to delay this until a date yet to be
 8 determined. It has been seconded. Any further
 9 discussion on that motion? All in favor of the
 17:40:41 10 motion?
 11 Ayes: 5.
 12 MAYOR LICASTRO: Anyone opposed? Okay.
 13 Thank you. So we will move from this item to the
 14 second item on the agenda. If you're interested
 17:40:51 15 to stick around, please do. Do we need a minute?
 16 Let's take a minute so if people want to leave,
 17 they're free to do so.
 18 (Discussion off record.)
 19 MAYOR LICASTRO: All right. So we're
 17:42:24 20 back in session. The second item on the agenda
 21 is old business for property at 10211 Lakeshore
 22 Boulevard owned by Mr. Borkey, who is in the
 23 room. We also have a Ms. Hopkins here, our
 24 Village Planner. The original submission given
 17:42:40 25 to the Board at our last session that pertained

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1 to this has been revised by Mr. Borkey. Ms.
 2 Hopkins did give us an updated memo with the
 3 changes to her original memo in bold.
 4 So Kris, why don't you run through that
 17:43:01 5 with us, if you will, and then we'll hear from
 6 Mr. Borkey if he has anything to add. Would you
 7 be so kind?
 8 MS. HOPKINS: One additional point to
 9 make is that the table that was distributed
 17:43:12 10 tonight corrected -- made one change that I had
 11 overlooked. It's the garage spaces have been
 12 reduced from four spaces to three, so that's
 13 three that's highlighted in yellow.
 14 And then because I was distributing this
 17:43:26 15 table to you, I also added the row number 15,
 16 which gives you the percentage of the minimum
 17 required yard as a percentage of the total lot
 18 width, so it's for an RLF lot that's required to
 19 be two acres in size and 200 feet wide. It's
 17:43:48 20 required to have a minimum of 70 feet of side
 21 yard. So that's 35 percent of the total lot
 22 width. And so the percentages that go across
 23 indicate the percentage of yard, side yard total,
 24 so that's the number 6, line six, that number
 17:44:08 25 divided into the lot width, so to give you a

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1 comparison.
 2 MAYOR LICASTRO: So for clarity, Ms.
 3 Hopkins produced a table that shows the adjoining
 4 properties. I think there's eight of them, eight
 17:44:22 5 or nine of them.
 6 MS. HOPKINS: There are seven.
 7 MAYOR LICASTRO: Thank you. And she
 8 made note on here which of the other parcels have
 9 nonconforming issues, which do not, and that has
 17:44:37 10 been very helpful for our edification, Ms.
 11 Hopkins. Thank you for doing that. But if you'd
 12 be so kind.
 13 MS. HOPKINS: I will continue.
 14 MAYOR LICASTRO: Yeah, please.
 17:44:50 15 MS. HOPKINS: I also wanted to point out
 16 that the numbers on the chart, they correspond to
 17 the properties that are numbered on the last
 18 page. So at the end of the last meeting, the
 19 meeting where you heard this last, there were
 17:45:04 20 some discussions as to a request as to the
 21 applicant as to some changes that you might
 22 consider.
 23 The one change that was made to the
 24 proposed house was the length of the garage. So
 17:45:22 25 the garage went from being a four-car garage to

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1 being a three-car garage, which reduced the
2 length of the garage north to south by six feet.
3 So that is the one change that has been made to
4 the site plan.

17:45:42 5 In reviewing the comments, I just would
6 like to point out then that on page 3, I added a
7 few more comparisons or summary notes regarding
8 these eight parcels and how the proposed house on
9 this lot compares with the rest of the other
17:46:06 10 seven houses, as well as the house that used to
11 be on this lot. So item 2 at the top, the
12 30-foot minimum and the 70-foot total side yard
13 requirement based on a 200-foot lot width, as I
14 mentioned, is 35 percent of the lot width.

17:46:27 15 The location of the proposed house
16 equals 34 percent lot width -- I'm sorry, side
17 yard as a percentage of the lot width. The
18 previous house was only 24 percent of the lot
19 width. So the applicant has increased the side
17:46:47 20 yard, the width of the side yards by 10 percent
21 or increased it up to 34 percent.

22 MR. KREINER: I have a question. May I
23 interrupt?

24 MS. HOPKINS: Certainly.

17:46:58 25 MR. KREINER: So was the prior house,
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1 which has since been razed, significantly closer
2 to the lake than this one sits?

17:47:23 3 MS. HOPKINS: Page 6 does indicate the
4 location. This aerial photo is before the house
5 was demolished. You can see where the previous
6 house was located. So the proposed house is in
7 about the same location.

8 MR. KREINER: Thank you. Thank you.

17:47:38 9 MAYOR LICASTRO: And if I may, Mr.
10 Kreiner, we were careful from day one to make
11 sure this met the tenets of the code and would
12 line up with the adjoining properties as well.

13 MR. KREINER: With the site lines.

14 MAYOR LICASTRO: Yes, that's correct.

17:47:50 15 MR. KREINER: I missed that on page 6.
16 All right. Thank you.

17 MS. HOPKINS: So the last time this
18 matter was before you, there were comments on the
19 size of the house, the size of the yard, where
17:48:08 20 the garage was located, et cetera. So the bold
21 on page 3, I just would like to go through and
22 indicate how this proposed house on this site
23 compares with the other seven houses on their
24 lots.

17:48:25 25 And in general, when you look at this
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1 proposed house, it's in the middle. It's
2 somewhere in the middle. It's not on the extreme
3 as either a small place or a large place or the
4 yard width, so you go from the minimum lot -- I'm
17:48:42 5 sorry, the minimum side yard is zero percent of
6 the lot width on two of those lots to upwards of
7 74 percent. So again, it's right somewhere in
8 the middle. And it seems to be the case on all
9 of these that it's somewhere in the middle. It's
17:48:57 10 not an extreme size or location or anything like
11 that.

12 In addition, line 17 identifies the
13 total number of nonconforming conditions on each
14 of these lots. So the proposed house has a total
17:49:16 15 of four if it were to be approved as it's
16 designed. There's only one other house and
17 that's the house immediately to the east that has
18 only four. You can see that four out of the
19 eight, or 50 percent, have five. And then
17:49:34 20 there's one house that has six nonconforming
21 conditions and the house immediately to the west
22 has seven. That's for your consideration.

23 MR. MOLCHAN: Can I ask a question?

24 MS. HOPKINS: Certainly.

17:49:50 25 MR. MOLCHAN: Is the reason that the
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1 number of nonconforming conditions because all
2 the other properties were constructed prior to
3 the zoning.

17:50:01 4 MS. HOPKINS: Yes, that is correct, so
5 you can see on the -- there is the year built
6 that's noted at the top. And so all of these
7 houses have been there for a very long time and
8 preexist or existed before the zoning was put in
9 place.

17:50:21 10 MAYOR LICASTRO: So if you go under lot
11 acreage, it's no in all the columns, which means
12 there's no variance, correct? And lot width, all
13 the seven have a no. The lot on the front
14 street, one is no, the others are all yes,
17:50:43 15 including this property as offered. The
16 nonconforming -- the conforming front yard, four
17 of the properties are no, three of them are yes.
18 For the conforming three for the minimum smallest
19 yard, side yard, all of them are no. For the
17:51:00 20 conforming total side yard, only two are yes, the
21 remaining are no. For conforming lot depth, two
22 of them are no, the remaining lots, including
23 this one, are yes. For the conforming house
24 area, two of the properties are no, the others
17:51:17 25 all are yes, including this submittal.

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1 Conforming lot coverage, all of them
 2 except one is no and it's a yes on this as
 3 submitted. And the attached garage, only one
 4 property designed attached garage. This is
 17:51:32 5 proposed to have one as are the other six. Then
 6 the others, as you mentioned, are all further
 7 down. This table is very helpful for comparison,
 8 Ms. Hopkins.
 9 So what exactly are the nature of the
 17:51:45 10 variances as requested, if you would be so kind.
 11 MS. HOPKINS: The two requested
 12 variances are for the minimum side yard width of
 13 30 feet. So either one of the proposed side
 14 yards are 30 feet. One is 15 and the other one
 17:51:59 15 is 19. So there's one variance that's required
 16 for a 15-foot side yard variance from the minimum
 17 30 foot. Then the second variance relates to
 18 line 6, where the minimum of the total side yards
 19 is 70 feet. When we total the proposed side
 17:52:23 20 yards 15 and 19, that's 34 feet for the two side
 21 yards. So there's -- it requires a 21-foot
 22 variance on top of the 15-foot variance, if that
 23 makes sense. So 21 feet, instead of it being 19,
 24 in order to equal the 70 feet, the 19 should have
 17:52:51 25 been the 30 feet.
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1 MAYOR LICASTRO: And you mention that
 2 this submittal --
 3 MS. HOPKINS: I'm sorry, 40 feet.
 4 MAYOR LICASTRO: You said 40 feet?
 17:53:00 5 MS. HOPKINS: 40 feet instead of 19.
 6 MAYOR LICASTRO: You mentioned that
 7 after the last meeting we had, the applicant did
 8 reduce the size of the garage from four to three
 9 and move the structure a little bit further over
 17:53:13 10 from the properties to the west.
 11 MS. HOPKINS: No. No, the location of
 12 the house has not shifted east or west. The
 13 front of the garage has shifted towards the lake
 14 by six feet.
 17:53:27 15 MAYOR LICASTRO: I'm assuming, Mr.
 16 Borkey, that was done as a reaction to what you
 17 heard from the neighbors.
 18 MR. BORKEY: Yes.
 19 MAYOR LICASTRO: Any questions for Ms.
 17:53:38 20 Hopkins from the Board members?
 21 MR. KREINER: Is that the extent of the
 22 two variances, the 21 feet on one side and what
 23 was it, 15 on the other?
 24 MS. HOPKINS: And 15 on the other.
 17:53:50 25 MR. KREINER: That's it, the two side
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1 yards?
 2 MS. HOPKINS: That's it. Let me say
 3 that is because the two nonconforming conditions
 4 that are the lot size and the lot width do not
 17:54:04 5 require a variance. The code already addresses
 6 that if you have a smaller size lot or a smaller
 7 lot width, that you can build on that lot
 8 provided you comply with all of the other
 9 requirements or obtain a variance for those
 17:54:29 10 others.
 11 MAYOR LICASTRO: So the other two
 12 nonconforming issues are not before this Board.
 13 What's before this Board are the two side yard
 14 setbacks as stated.
 17:54:40 15 MR. MATTY: So for the record, Mayor,
 16 since Council meeting is tomorrow, if the Board
 17 does approve these two variances, Mary, you can
 18 send this to us, but it will not be on the agenda
 19 tomorrow. It will be on the agenda for February,
 17:54:54 20 the February Council meeting, just so that Mr.
 21 Borkey understands he doesn't need to come to
 22 Council if you approve this tomorrow. He will
 23 need to come on the 15th of February.
 24 MAYOR LICASTRO: Again, for process,
 17:55:07 25 this Board recommends Council approves. So
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1 whether or not we approve or deny the
 2 application, Council will be the final force and,
 3 again, won't be on the agenda before the February
 4 meeting, which I believe is the 14th.
 17:55:22 5 Mr. Borkey, do you want to add anything?
 6 MR. BORKEY: Just the whole premise for
 7 me building and what I do for the last 30 years
 8 is to develop land and make the process of
 9 developing a building a better process for
 17:55:43 10 everybody in the community and for the particular
 11 parcel that's involved.
 12 So really, at the end of the process,
 13 all that matters is how does this fit into the
 14 community and how does this structure look on the
 17:55:55 15 property and was it an improvement from what was
 16 there?
 17 I did another rendering. I took it back
 18 closer to the neighbor that's up in front of the
 19 neighbor to the west so you can see how much more
 17:56:15 20 of the lake you can see. This is what we were
 21 looking at before. This is pretty much what
 22 we're going to be looking at now. I've reduced
 23 the garage down to six feet as we discussed.
 24 MAYOR LICASTRO: We're appreciative of
 17:56:36 25 that.
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1 MR. BORKEY: Also one thing we didn't
 2 mention too much is the neighbor to the east, we
 3 had to give consideration to them with regards to
 4 the grading for the walkout. We started running
 17:56:50 5 the numbers and the slope, it worked out better
 6 where it was.
 7 MAYOR LICASTRO: Thank you, Mr. Borkey,
 8 we appreciate you being flexible. Anyone in the
 9 audience? Yes. By the way, our condolences.
 17:57:14 10 MS. DORNBACK: I'm Julie Dornback. And
 11 I'm joined by my sister-in-law, Liz Dornback, who
 12 lives in the adjacent house. We had a pretty
 13 productive meeting last time. And Mr. Borkey
 14 indicated, referencing the minutes from the last
 17:57:39 15 time, that he would -- I would consider taking
 16 down four car to three car, which would take
 17 approximately eight to 10 feet off the garage
 18 in-depth.
 19 The actual change he made, which is the
 17:57:53 20 only change he made, was to reduce it by six
 21 feet, so he still has a garage that is 43-feet
 22 long. He also indicated in that meeting after we
 23 had pretty extensive creative discussion about
 24 how to solve this problem and so, Mayor Licastro,
 17:58:16 25 one of which is to reduce the size of the garage,
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1 which would affect the side yard setback and
 2 slide it further east so that the side yard
 3 setback on the west would now be 20 feet; is that
 4 correct, Mr. Borkey? Mr. Borkey, yes.
 17:58:32 5 And that's correct, that the garage --
 6 at the garage and 25 at the house? So he
 7 indicated he'd be willing to create a side yard
 8 setback of 20 feet to the garage and 25 feet to
 9 the house.
 17:58:49 10 Now, I've reviewed these materials and
 11 he hasn't moved the house an inch. And in fact,
 12 the new site plan is at best misleading, because
 13 the graphics on the site plan, I just have a
 14 small printout here, but the 15 feet was removed.
 17:59:13 15 The dimension said 15 feet was removed and the
 16 graphic of the house actually shows the house
 17 being flush with the garage now and being five
 18 feet closer than the earlier presentation.
 19 MR. BORKEY: Here's a bigger one you can
 17:59:26 20 see.
 21 MS. DORNBACK: I can see it just fine.
 22 That's the old one. 12/5/22. All right.
 23 MAYOR LICASTRO: If I may, indeed we had
 24 a spirited discussion at the last meeting. And
 18:00:05 25 from that Mr. Borkey has submitted what he thinks
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1 is reasonable. It's up to the Board to determine
 2 if, indeed, they agree.
 3 Mr. Matty, do you have a comment?
 4 MR. MATTY: No, the only comment I have
 18:00:17 5 is the Board is a recommending Board as it
 6 relates to this. Council has the final say on
 7 the variances. I did wanted the Planner to
 8 indicate either yay or nay on the record, is this
 9 compatible with what you have found to be in the
 10 neighborhood on that side of the road as to a
 11 nonconforming lot and what is existing in other
 12 nonconforming lots?
 13 MS. HOPKINS: Yes, I would say it's
 14 compatible.
 18:00:56 15 MS. DORNBACK: So was there a reason why
 16 the house couldn't move over five feet?
 17 MR. BORKEY: Yes, as I mentioned in the
 18 last meeting, I will get back together with my
 19 civil engineer and my surveyor. One thing we
 18:01:06 20 didn't bring up is consideration to the people to
 21 the other side of the property. And once we move
 22 it that way, that's where all the mass grading is
 23 being done. On our side it's a lot more lax over
 24 there, so I wasn't able to move it here as I
 18:01:20 25 wanted to, but it wasn't good for the property to
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1 the east. That's why I shrank the garage.
 2 MS. DORNBACK: You're maintaining a
 3 19-foot setback on the east and 15-foot setback
 4 on the west where there's supposed to be 30 feet,
 18:01:36 5 and not going to move that.
 6 MR. BORKEY: It's 20 at the house, 15 at
 7 the garage, it does jog in. It makes a
 8 significant difference. From the side view, you
 9 can see the colored rendering as compared to what
 10 was there, you couldn't see anything. You
 11 couldn't see one bit of Lake Erie.
 18:01:49 12 MS. HOPKINS: If I may clarify one
 13 thing, so currently, what Mr. Borkey has proposed
 14 is a 19-foot set back to the east, which would
 18:02:04 15 about the house to the east that has a six-foot
 16 side yard. So the difference, the separation
 17 between the two walls would be 25 feet. On the
 18 west side, his proposed setback is 15 feet and
 19 the house to the west is 15 feet for a total of
 18:02:23 20 30 feet.
 21 MR. BORKEY: May I add the distance from
 22 my house to their house is significantly more
 23 than what it is to the neighbor to the west.
 24 MR. KREINER: Can I hear that again, Ms.
 18:02:40 25 Hopkins?
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1 MS. HOPKINS: The position of the house
 2 as it is shown on the proposed plans, the setback
 3 to the east is 19 feet, which when you add it to
 4 the setback of the house to the east, the
 5 separation is 25 feet to the east.
 6 MR. KREINER: So the house to the east
 7 is six feet off the line.
 8 MS. HOPKINS: Right. So moving it five
 9 feet would make the separation between the two
 10 houses to be 11 feet.
 11 MR. KREINER: Okay.
 12 MS. HOPKINS: Currently the way it's
 13 proposed to the west, there's a 30-foot
 14 separation between the existing house and the
 15 proposed house.
 16 MS. BRACE: But not to their house.
 17 MS. HOPKINS: Their house is far in
 18 front.
 19 MAYOR LICASTRO: Their house is further
 20 south on the property, the house to the west.
 21 MS. BRACE: But it impacts their view
 22 though, correct?
 23 MAYOR LICASTRO: Don't forget there was
 24 a house there before. I'm not sure -- I mean,
 25 now it's vacant.

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1 MS. BRACE: That house is closer to the
 2 street though.
 3 MAYOR LICASTRO: Did you say, Ms.
 4 Hopkins, that the location of the new house is
 5 pretty much where the old one was?
 6 MS. HOPKINS: Yes.
 7 MS. BRACE: Not on the drawings.
 8 MS. HOPKINS: It actually sets back a
 9 little bit closer to the street.
 10 MAYOR LICASTRO: Ms. Brace, did you hear
 11 that? She said it's actually closer to the
 12 street than the existing home used to be.
 13 MS. BRACE: This new one.
 14 MAYOR LICASTRO: Yeah, so it's further
 15 away from the lake.
 16 Hold on. So if you have a side bar, you
 17 need to speak clearly to the court reporter can
 18 hear you.
 19 MS. BRACE: So I was referring to this
 20 other photo that's a little bit misleading,
 21 because it says subject site house demolished
 22 here.
 23 MS. HOPKINS: Page 6, this is the house
 24 that's been demolished.
 25 MS. BRACE: I was referring to figure

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1 one and I didn't understand it, but now when I
 2 look at figure two, it makes it's clear to me.
 3 MAYOR LICASTRO: Good.
 4 MR. BENJAMIN: So is the new house going
 5 to be built further to the north than the
 6 previous house that was demolished?
 7 MS. HOPKINS: It's shifted to the south.
 8 MR. BENJAMIN: And when the previous
 9 house was on site, what were the setbacks of the
 10 previous house compared to the homes to the east
 11 and the home to the west?
 12 MS. HOPKINS: I'm not aware what the
 13 setback -- you mean what was the distance or what
 14 was the requirement?
 15 MR. BENJAMIN: Yeah, what was the
 16 distance? Obviously it was nonconforming
 17 compared to today's standards.
 18 MS. HOPKINS: I would estimate that the
 19 northern part of the house was probably five feet
 20 further north than the existing house to the
 21 west, their garage, but then there's a portion of
 22 the house that was further, so it's probably --
 23 when you look at the garage to the house for the
 24 house to go east and compare that, the proposed
 25 house is in about the same location as that front

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1 wall of the house that used to be there, but then
 2 you have the garage that extends further to the
 3 south.
 4 MR. BENJAMIN: Okay. So the side yard
 5 distance.
 6 MS. HOPKINS: The side yard?
 7 MR. BENJAMIN: Yes, compared to the old
 8 home was you probably don't have it, but can you
 9 estimate what was the number of feet?
 10 MS. HOPKINS: So on page 2, the third --
 11 the sixth paragraph down that starts out in
 12 addition all seven of the neighboring parcels,
 13 the last sentence talks about the previous house
 14 demolished in 2019, was about three feet from the
 15 east and 21 feet from the west.
 16 MR. BENJAMIN: Okay. So it was only
 17 three feet.
 18 MS. HOPKINS: And only 24 feet for the
 19 two side yards.
 20 MAYOR LICASTRO: This is a better
 21 position on the property, no doubt, because it
 22 was three feet from the east. You said the house
 23 is only six feet, has only a six-foot setback, so
 24 it would only be nine feet between the
 25 structures, correct?

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1 MS. HOPKINS: Right, that's what was
 2 previously.
 3 MAYOR LICASTRO: And are the Myeroffs
 4 here? They are not here. So just for the
 5 record, to my knowledge, the Myeroffs, who are
 6 the house immediately to the west, have not had
 7 any objection to what's proposed, at least of
 8 which I'm aware.
 9 Again, the way the house is positioned,
 10 the Myeroffs are to the west, Alberhasky is to
 11 the east. The Dornback house is further south on
 12 the property.
 13 MS. BRACE: And the family on the east?
 14 MAYOR LICASTRO: They didn't respond to
 15 our request nor have we heard anything from them.
 16 MR. KREINER: Dr. Alberhasky is
 17 deceased.
 18 MAYOR LICASTRO: But Myeroffs are not,
 19 and they haven't voiced an objection to the best
 20 of my knowledge. We can certainly -- they're
 21 more directly affected at least in proximity
 22 because of where their house is.
 23 MS. DORNBACK: Mayor, can I weigh in?
 24 MAYOR LICASTRO: Please.
 25 MS. DORNBACK: So the Myeroffs were very
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1 to move it but we'll see how the grading works
 2 out. It doesn't work out to the people to the
 3 east. It works out fine for us on the west.
 4 MS. DORNBACK: Can you explain that a
 5 little bit more.
 6 MR. BORKEY: Because I have to make
 7 grade between that wall and the side of that
 8 walkout and grade gets down to walk out level.
 9 MS. DORNBACK: So when you guys were
 10 surveying the other seven houses --
 11 MR. BORKEY: I have pictures of what was
 12 there. I don't know if you want to see them.
 13 The view was substantially from pictures. I'd
 14 love to move it over.
 15 MAYOR LICASTRO: One second, please.
 16 Mr. Matty, you had a comment?
 17 MR. MATTY: No, Mayor, I just have to
 18 leave.
 19 (Whereupon, Mr. Matty left the meeting.)
 20 MAYOR LICASTRO: Yes, please. Identify
 21 yourself.
 22 MR. MACKOVAK: Ben Mackovak. I live on
 23 Lake Shore, three houses down and at one point
 24 owned this property. And there was a giant house
 25 on that property before it was knocked down.
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1 much onboard with moving the house over five
 2 feet. And I would maintain that this does have
 3 substantial impact on our -- on my
 4 sister-in-law's property because of the view.
 5 It's the view between the house is a very
 6 throttled down view. So I think it's equally
 7 important to us as it is to the Myeroffs.
 8 MAYOR LICASTRO: And I appreciate that.
 9 MS. DORNBACK: I would like to know --
 10 MAYOR LICASTRO: And wasn't the old
 11 structure presented pretty much on the same site?
 12 MS. DORNBACK: The old structure was
 13 smaller and the pieces on the end was coming
 14 down. It was not a massive house like this.
 15 This is a massive house. And it has a 48 foot
 16 garage that is now 49 foot, which has been
 17 changed to 43 feet, so it's much more of an
 18 impact. And it's closer to our house.
 19 I just -- I would like to know is the
 20 reason that you don't want to move it, you agreed
 21 to move five feet, the reason that you don't want
 22 to move five feet anymore, does it have anything
 23 to do with your walkout basement?
 24 MR. BORKEY: As I expressed last time, I
 25 said I'll check with the surveyor and would like
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1 Actually the whole front yard was woods, too. So
 2 we kind of went through half of this process.
 3 It's a nonconforming lot. It's going to be
 4 impossible to agree with all these variances.
 5 That seems like a reasonable plan. Get the house
 6 there and get the property taxes and develop it
 7 right now. It's just kind of a wasteland. It's
 8 concrete and sticks and trash, so we would not
 9 have an objection to what was presented.
 10 MAYOR LICASTRO: Thank you, Mr.
 11 Mackovak. Yes, sir.
 12 MR. PEPOWSKI: Hi, my name is Michael
 13 Peplowski. I'm a new resident here in Bratenahl
 14 and live right next to Ben and Catherine. I
 15 concur with that. I would like to see the place
 16 developed, because it's a vacant lot. It raises
 17 everybody's home values, adds to the tax base.
 18 I've been to two of these meetings. Mr. Borkey,
 19 in my opinion, I've seen his -- his flexibility
 20 has been reasonable. We all have -- I mean, Ben
 21 and I and Dennis Schwartz, we have zero lot
 22 lines. We seem to make it work. So I would
 23 think that this would be good not only for the
 24 neighborhood, but also for the city.
 25 MAYOR LICASTRO: Would you state your
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18:12:09

1 name again for the record?
 2 MR. PEPLOWSKI: Mike Peplowski.
 3 MAYOR LICASTRO: Yes, Mr. Borkey.
 4 MR. BORKEY: The whole issue in
 5 improving is based off of photos and based off of
 6 renderings. I tried to do it the right way. All
 7 I want to do is show that one picture and put it
 8 side-by-side with this and how can anybody
 9 possibly say it hasn't been improved
 10 significantly? Might I have those?
 11 MAYOR LICASTRO: Could you show the
 12 Board, sir?
 13 MR. BORKEY: I don't know what else to
 14 do. I've been doing this for 30 plus years.
 15 It's the house I want to put on there. I mean, I
 16 bought it. I have a right to build. I did it
 17 for a reason. I want you guys to be happy, too,
 18 but I don't know how many more times I have to
 19 come back and forth and how many more renderings
 20 I got to make. That looks -- if anybody agrees
 21 what's in this side doesn't look better than
 22 what's on this side, you know, the whole idea is
 23 to improve the property. I thought of you doing
 24 that. That's why I had him do a rendering of
 25 what you could see through that property line.

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1 five feet, you see what I'm talking about, five
 2 feet is very important to us because we came with
 3 the spirit of compromise. We could have just
 4 said no way, 30 feet, you know, we came in and
 5 said 25 feet, you said 25. 20 feet, we said
 6 okay. We started at 15 and 30. We compromised
 7 all the way down to 20 and now you're saying you
 8 can't even move it five feet.
 9 MR. BORKEY: Well, I changed the house
 10 from the original design and shrank it down
 11 initially. And this is in realtime a rendering
 12 of what that walkout is going to look like in a
 13 month, M O L. I put it hundreds of walkout
 14 basements. I know how to grade them.
 15 MS. DORNBACK: It's a fragile cliff. We
 16 don't have to keep mentioning it.
 17 MR. BORKEY: It's a gradual grade down
 18 to the slope. This is realtime. These are real
 19 renderings.
 20 MAYOR LICASTRO: There has been
 21 compromise, that's why we're here. This is a
 22 change from the way it originally was. I'm not
 23 sure that it will ever be perfect given the
 24 nonconforming aspect of the lot. He has, in my
 25 opinion, made an effort to acknowledge your

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1 You will be able to see Lake Erie. I want you to
 2 be happy. I'm doing the best I can and not
 3 compromise the house.
 4 MS. DORNBACK: I was working down a
 5 particular path of logic. That will be probably
 6 be really valuable to the ARB and, you know,
 7 everybody wants you to succeed, but where I was
 8 going with the you can't move it five feet
 9 because of the basement, I wanted to know from
 10 the Planner, do any of these other homes have
 11 basements?
 12 MS. HOPKINS: I did not check that.
 13 MS. DORNBACK: Okay. The fragile cliff,
 14 we talked about this before, the engineer weighed
 15 in, I'm not so sure that you're going to get that
 16 basement approved. And so we're letting this
 17 basement be a tail that wags the dog, because you
 18 say, well, it's too difficult to move it five
 19 feet because of your excavation. This excavation
 20 might be not happening.
 21 MAYOR LICASTRO: And the process would
 22 make that known as we go forward. If the
 23 engineer had an issue with it, we would certainly
 24 know that sooner than later.
 25 MS. DORNBACK: If we didn't move it the

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1 concerns and do what he could based on what he
 2 needs to do as a builder to build a home on that
 3 lot. So again, I'm not sure it will ever be what
 4 you want it to be, but what the Board is here to
 5 consider are the two variances with side yard
 6 setback as stated. The other two nonconforming
 7 issues are really not part of our purview.
 8 They're not in our authority.
 9 So the question at some point in time
 10 we're going to have to rule as a Board is either
 11 accept or deny the request for variances, which
 12 will then go to Council as a recommendation for
 13 them to consider. So any other comments?
 14 MS. DORNBACK: Can I make one more
 15 statement and then I'll sit down and shut up, I
 16 promise.
 17 MAYOR LICASTRO: No problem. Go ahead.
 18 MS. DORNBACK: He bought the property in
 19 full knowledge of what the zoning setback
 20 requirements were. He is not demonstrating undo
 21 hardship. That clause that let's you bail on
 22 the -- reduce your side yard setback refers to
 23 undue hardship. Please keep that in mind when
 24 you vote.
 25 MAYOR LICASTRO: So as a matter of fact,

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1 the Planner mentions practical difficulties on
 2 page 3 in that bottom paragraph. So in her mind,
 3 he has addressed the fact that he'll experience
 4 practical difficulties, which meets the tenets
 5 of -- what's the code?
 6 MS. HOPKINS: The Duncan versus
 7 Middlefield.
 8 MAYOR LICASTRO: The Duncan versus
 9 Middlefield. And I appreciate that. We're
 10 listening.
 11 Okay. So is there a motion by the
 12 Board -- any other comments by the Board? Yes.
 13 MS. BRACE: I would like to comment.
 14 MAYOR LICASTRO: Please.
 15 MS. BRACE: I appreciate everybody's
 16 input here. And I feel for both parties and I
 17 think it's a lovely house. It will really look
 18 great and it will increase the value, et cetera,
 19 but I also feel that based on your comment, Mr.
 20 Borkey, initially that you said you wanted to
 21 make sure that you build homes to make sure the
 22 community around you is happy, it goes with the
 23 community, everybody is satisfied.
 24 And I'm just wondering based on the
 25 feedback here, is there anything else that can be
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1 done to make a neighbor, who's been in this
 2 community for generations, satisfied, because I
 3 think the house is lovely. It is. It will
 4 really improve that property.
 5 MR. BORKEY: This is Walter, my
 6 architect. We have shrunk the house down already
 7 from the initial design, so I thought I
 8 compromised when I did that.
 9 MR. KREINER: May I ask, has that
 10 shrinking of the design occurred prior to the
 11 last meeting, or no?
 12 MR. BORKEY: Yes.
 13 MR. KREINER: Yeah. So at the last
 14 meeting it was a smaller design than initially?
 15 MR. BORKEY: Yeah, than initially.
 16 MAYOR LICASTRO: Okay.
 17 MR. MOLCHAN: I had a question. I'm
 18 going to ask you to talk about this again. At
 19 the last meeting we had also talked about the
 20 fact that if you were to flip the garage to the
 21 other side, that would have alleviated the
 22 problem and I thought that was at least under
 23 consideration. I don't know if you guys still
 24 feel that if the garage had been on the other
 25 side so you wouldn't have the long wall
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1 obstructing the view, would that ease your
 2 concerns?
 3 MAYOR LICASTRO: Mr. Molchan, I think
 4 that Borkey thought that to be untenable. I'm
 5 not sure it's still a viable option, am I
 6 correct?
 7 MR. MOLCHAN: I don't think it's been
 8 explored.
 9 MAYOR LICASTRO: I'm sorry?
 10 MR. MOLCHAN: I don't believe it was
 11 ever explored.
 12 MAYOR LICASTRO: Well, thank you for
 13 that opinion.
 14 MR. MOLCHAN: And that is my opinion,
 15 that's all.
 16 MAYOR LICASTRO: And I appreciate that.
 17 I think that he indicated he looked at that and
 18 didn't think it feasible, but he's sitting right
 19 here.
 20 MR. BORKEY: I talked to the surveyor
 21 about moving the thing over, because the walkout
 22 is on that side, the other side. I don't know,
 23 if it was me, I wouldn't want to look at the
 24 garage with the cars pulling in the garage.
 25 Plus, the placement of the garage, like if you
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1 have the garage doors facing to them, they're
 2 going to see garage doors opening and closing
 3 every single time they go up and down. Not only
 4 that, grading the walkout is on that side.
 5 MR. MOLCHAN: I realize that, but the
 6 garage is on the front of the house and doesn't
 7 affect the grading in the back, so if we allowed
 8 the side yards as you've got them proposed, but
 9 we move the garage to the other side, then would
 10 that alleviate your concerns?
 11 MS. DORNBACK: That would have
 12 alleviated our concerns. And in the spirit of
 13 compromise, we have not raised any objection to
 14 his failure to study that side. We really think
 15 we're being very reasonable. We're letting go of
 16 all the demands. We're just saying move the
 17 house five feet. And all of your lack of
 18 feasibility has to do with that walkout basement,
 19 which you have an engineering report already that
 20 talks about the lack of feasibility of that
 21 walkout basement. It should not be the tail
 22 that's wagging the dog.
 23 MR. BORKEY: It's not lack of
 24 feasibility. Once it's in, you'll see it's as
 25 feasible as it can be. That's why I demonstrated
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1 on the realtime renderings and along with the
2 topography and the grade showing how it's going
3 to be graded.

18:21:42 4 MAYOR LICASTRO: So these meetings are
5 really intended to look at the nature of the
6 variance as stated in code and get input from the
7 neighbors. We have done that several times now.

8 And there's been a spirit of compromise, perhaps
9 not as much as one party or the other would
18:22:00 10 prefer. The home has been changed, perhaps not
11 substantially enough to please everybody, but it
12 has been changed in the spirit of compromise.

13 Mr. Borkey has stated that flipping the
14 garage is not an issue. That's his statement,
18:22:16 15 not mine. Is not feasible. So I'm not sure he
16 will change his opinion on that at this time or
17 in the future; is that correct?

18 MR. BORKEY: Yeah. I mean, the garage
19 door where it's in place now, in my opinion, is
18:22:35 20 better.

21 MS. BRACE: That's your opinion whether
22 she would want to look at the cars coming in or
23 get a better view, I guess.

24 MR. BORKEY: I'm just trying to think
18:22:45 25 when you're looking at the line of sight.

1 MAYOR LICASTRO: You're putting in a new
2 driveway as well.

3 MR. BORKEY: I'm just trying to figure
4 out if this is five feet right here, even with
18:22:54 5 the garage shrinking this way, it doesn't really
6 change much of the sight of view. And if I flip
7 that house over to the other side, I see that you
8 don't see the garage coming out, but you're also
9 going to look at it over here and you're going to
18:23:05 10 look at doors every time they go up and down.

11 MAYOR LICASTRO: So right now that
12 property has a shared driveway. The proposed
13 plan puts in a separate driveway completely.

14 MR. BORKEY: Comes straight up.

18:23:18 15 MAYOR LICASTRO: So there won't be any
16 shared driveway, which has been there for
17 generations, which goes right by the Dornback
18 house and right by the house that was there. The
19 fact he's moving the driveway over is something

18:23:27 20 we can't ignore. It will be right in the middle
21 of the property, not on the west side of the
22 property, correct?

23 MR. BORKEY: Correct. It will go up the
24 center of the drive -- center of the property.

18:23:39 25 And then when construction is all completed and

1 everything, I did agree to vacate the shared
2 driveway agreement after construction. I did
3 make that agreement to do that after construction
4 is complete.

18:23:52 5 MR. BENJAMIN: So I'm still trying to
6 understand what the engineering excavation issue
7 is with moving the house five feet? What comes
8 into play.

9 MR. BORKEY: Well, there's going to be
18:24:06 10 more grading to do over there if I have more
11 structure over there.

12 MR. BENJAMIN: How much more?

13 MR. BORKEY: I mean --

14 MR. BENJAMIN: Does it become a burden
18:24:17 15 to do that?

16 MR. BORKEY: You can make anything work
17 out with trackhoes and dozers and drains and
18 swales, you can make drains and we don't have any
19 issues. The issue is moving the house over and
18:24:28 20 having the structure on that side. I'd have to

21 get the opinion of the neighbor, too. I don't
22 really want to do it that way. I like the house
23 where it's at. I like to have the driveway come

24 right up center like it is. I like the design of
18:24:42 25 the circular driveway coming in. I think it

1 provides a little more privacy.

2 MS. DORNBACK: Well, and candidly Randy
3 didn't want it flipped, so we're not pursuing the
4 flipping thing. We're just pursuing a measly
18:24:57 5 five feet, that's all.

6 MR. MOLCHAN: Was that the flipping of
7 the entire house or just pushing the garage to
8 the other side of the property?

9 MS. DORNBACK: So his issue is that he
18:25:06 10 wants the design to have -- the garage has to be
11 on the opposite side of the walkout basement
12 because of something architectural.

13 MR. MOLCHAN: Can we ask the architect?

14 MR. KOSHKALDA: My name is Walter
18:25:25 15 Koshkalda. A couple things here is that the
16 neighbor that's towards the lake behind your
17 house, we talked about this, I don't think they'd
18 like to see the garage doors, you know, cars
19 coming in and out.

18:25:38 20 The other thing is that the -- I believe
21 the sight line from the point of your house to
22 the west part of your corner, the sight line of
23 the lake is between the house that is behind
24 yours and the back wall, back corner of your
18:25:59 25 house. So the garage really doesn't take

1 anything in consideration, because it's not in
 2 the sight line for the lake at least.
 3 As far as the walkout, that's a topo
 4 type of matter that has to do with civil
 5 engineering of the house and the neighbor next
 6 door and the swales, whatever has to be done. So
 7 I really can't speak to that. The walkout, I
 8 think, is certainly a plus in any house if you
 9 can do it. So that's basically -- I'm not sure I
 10 answered your question, but I can't speak to
 11 whether it can be moved or not because of the
 12 civil engineering.
 13 MAYOR LICASTRO: Again, the process will
 14 make that determination. If our engineer rules
 15 it's not feasible, it's not feasible. Ms.
 16 Ranney.
 17 MS. RANNEY: I'll just remind everyone
 18 there was an engineer's report from Don Bierut in
 19 your packets from the September 12th meeting,
 20 which is still on file. It wasn't in your packet
 21 this time, but it's pretty extensive.
 22 MS. BRACE: For ARB?
 23 MS. RANNEY: For your first BZA meeting.
 24 MS. BRACE: I wasn't at that meeting
 25 there. I didn't see that.

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1 MR. KREINER: May I?
 2 MAYOR LICASTRO: Please.
 3 MR. KREINER: I think I may have just
 4 heard the most significant comment I've heard,
 5 one of the most, that if you draw a line from the
 6 corner of the Dornback house to the west most, I
 7 guess, corner of the proposed house in terms of
 8 maximum sight line, the garage does not impede
 9 the sight line at all.
 10 MS. DORNBACK: That's correct. We're
 11 asking the entire building to move five feet. So
 12 the house would move five feet and the garage
 13 would move five feet.
 14 MAYOR LICASTRO: Ma'am, if you move it
 15 five feet further east, then it becomes an issue
 16 with the home to the east. It's gets much
 17 closer.
 18 MS. DORNBACK: Well, it's currently 19
 19 feet setback on that side and 15 feet setback on
 20 our side. And there was a lengthy discussion at
 21 the last meeting, which everyone seemed to
 22 concur, that moving the house five feet to the
 23 east would not be a hardship for anyone. Since
 24 the house, Alberhasky house has a garage on that
 25 side, it's not their front. It's the garage.

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1 Moving five feet closer to their house, the sense
 2 at the last meeting was that that was a logical
 3 thing to do.
 4 MAYOR LICASTRO: Again, that was the
 5 discussion, but the house to the east is only six
 6 feet off the property line, so moving it five
 7 feet closer to that house makes the
 8 inter-building distance even smaller.
 9 MS. DORNBACK: Okay.
 10 MAYOR LICASTRO: I'm not trying to
 11 debate it with you. I'm just trying to raise a
 12 point that needs to be considered. Moving the
 13 whole house further east makes the inter-building
 14 distance between the Alberhasky home and the
 15 existing home to the east quite small and a lot
 16 smaller.
 17 MS. DORNBACK: I think that's
 18 immaterial.
 19 MAYOR LICASTRO: Well, I appreciate
 20 that.
 21 MS. DORNBACK: And we disagree about
 22 that.
 23 MR. BORKEY: Also, if you look at the
 24 grade contours to the east, I'm trying to get 621
 25 down to 614. Where she's at, we're at 621

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1 carrying that garage across, one percent, then I
 2 start hitting the 620s and dropping back down to
 3 the walkout. It's definitely going to be better
 4 grading that has that more distance to work with
 5 to make that grading.
 6 MR. KREINER: You're saying a five-foot
 7 move of the proposed house to the east would
 8 significantly steepen your grading on the east
 9 side?
 10 MR. BORKEY: Yes. Here's the numbers in
 11 realtime by the surveyor. 621 down to 614 to hit
 12 walkout level. And then based off of renderings
 13 you can see the finished products. I took the
 14 time to make it look exactly how it's going to
 15 be. I don't know what else to do. You see the
 16 wall, you see the guardrail, you see the grading.
 17 MR. KREINER: If I may ask, what is the
 18 actual depth from the high point of that yard to
 19 the lowest point to the walkout or the elevation
 20 I should say?
 21 MR. BORKEY: 621.8, we go back up this
 22 way, by the time you get down there, yeah, seven
 23 feet, about seven feet maximum, but that's the
 24 idea of this. That's the idea of keeping the
 25 grading in. That's the idea of having a walkout

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1 right there. And you see the distance from
 2 backyard setback to where the total slope, real
 3 total slope starts down to Lake Erie. You can
 4 make anything, but it wouldn't be better for the
 5 people to the east or for the grading of this
 6 lot, it would not. Definitely would be --
 7 MAYOR LICASTRO: Moving these has
 8 consequences. I don't think that's arguable. So
 9 it's for this Board to acknowledge as a practical
 10 difficulty, it was acknowledged in the document
 11 from of our Planner, who went over the details.
 12 We've heard from the applicant. We've heard from
 13 neighbors. We've heard from the most adjacent
 14 neighbor.
 15 The question for the Board, is it
 16 reasonable to grant to recommend that a variance
 17 for side yard is granted to this individual to
 18 build a home. Again, this has to go to Council
 19 for final approval, but I'm not sure how much
 20 more we can accomplish tonight.
 21 So is there a motion to recommend for
 22 approval or disapproval the side yard setbacks?
 23 MR. KREINER: I'm going to make a motion
 24 to approve. I think overall considering all the
 25 residences in this lineup, they're reasonable

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1 CERTIFICATE
 2
 3
 4 I, Nancy L. Molnar, do hereby certify that
 5 as such Reporter I took down in Stenotypy all of
 6 the proceedings had in the foregoing transcript;
 7 that I have transcribed my said Stenotype notes
 8 into typewritten form as appears in the foregoing
 9 transcript; that said transcript is the complete
 10 form of the proceedings had in said cause and
 11 constitutes a true and correct transcript therein.
 12
 13
 14
 15 Nancy L. Molnar
 16 Nancy L. Molnar, Notary Public
 17 within and for the State of Ohio
 18
 19 My commission expires July 15, 2023.
 20
 21
 22
 23
 24
 25

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1 variances.
 2 MAYOR LICASTRO: Is there a second?
 3 I'll second. Any further discussion?
 4 I'll call the roll. Mr. Kreiner?
 5 MR. KREINER: Yes.
 6 MAYOR LICASTRO: I'll vote yes. Mr.
 7 Benjamin?
 8 MR. BENJAMIN: Yes.
 9 MAYOR LICASTRO: Ms. Brace?
 10 MS. BRACE: No.
 11 MAYOR LICASTRO: Mr. Molchan?
 12 MR. MOLCHAN: No.
 13 MAYOR LICASTRO: It carries by a three
 14 to two vote. It will go before Council in
 15 February of either approval of our recommendation
 16 or denial. Anything else? Anything else coming
 17 before this Board? Then I ask for a motion to
 18 adjourn.
 19 MR. KREINER: Move to adjourn.
 20 MR. MOLCHAN: I'll second.
 21 MAYOR LICASTRO: All in favor?
 22 Ayes: 5.
 23 MAYOR LICASTRO: Thank you.
 24 (Meeting adjourned at 6:32 p.m.)
 25 ~ ~ ~ ~ ~

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