

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

BOARD OF ZONING APPEALS

THURSDAY, MARCH 6, 2025
5:30 P.M.

MAYOR KEITH BENJAMIN, CHAIR
KAREN BRACE
DAVID KOZINSKI
FRED KREINER

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

3

1 recommendation that the BZA make a motion to
2 table this. We have asked for the fence
3 application to be submitted at the same time. So
4 if we could table it until our next meeting, that
5 would be staff's recommendations. We are
6 supposed to be approving this and approving the
7 fence application at the same time. So if you'd
8 be so kind to do that, that would end this matter
9 for this evening.

10 MAYOR BENJAMIN: Okay. Any conversation
11 from members of the Board regarding this issue?

12 MR. KREINER: No.

13 MAYOR BENJAMIN: Any comments from
14 members of the public?

15 Hearing none, is there a motion to table
16 12 West Hanna Lane?

17 MS. BRACE: I move to table.

18 MR. KOZINSKI: Second.

19 MAYOR BENJAMIN: Moved and seconded.

20 Roll call. Brace?

21 MS. BRACE: Aye.

22 MAYOR BENJAMIN: Kreiner?

23 MR. KREINER: Aye.

24 MAYOR BENJAMIN: Kozinski?

25 MR. KOZINSKI: Aye.

2

1 MAYOR BENJAMIN: It is 5:30. Are we ready
2 to begin? This is the Board of Zoning Appeals. It
3 is Thursday, March 6, 2025. I am Keith Benjamin,
4 the chair of the BZA. And we'll do a roll call.

5 Ms. Brace?

6 MS. BRACE: Here.

7 MAYOR BENJAMIN: Mr. Kreiner?

8 MR. KREINER: Here.

9 MAYOR BENJAMIN: Mr. Kozinski?

10 MR. KOZINSKI: Here.

11 MAYOR BENJAMIN: Mr. Molchan? And I am
12 here, Mr. Benjamin is present. Mr. Molchan is
13 out of town, I believe, so he will not be here
14 today.

15 So the first item of business on the
16 agenda is old business. It is 12 West Hanna
17 Lane, the Lucarelli property, proposed new
18 garage, request for a variance from Section
19 1162.06(f) requirement for 40-foot minimum
20 separation between living spaces.

21 Before we begin discussing this, would
22 our Planner, Kris Hopkins, or our Law Solicitor,
23 Mr. Matty, do you have any comments?

24 MR. MATTY: Yes, Mayor, I do. In
25 talking to our Planner, it's staff's

4

1 MAYOR BENJAMIN: And Benjamin is an aye.

2 MR. MATTY: Thank you, Mayor.

3 MAYOR BENJAMIN: Thank you.

4 Okay. The second item of old business
5 is 12521 Lakeshore Boulevard, the Weller
6 residence, a nonconforming use renovation and
7 reuse of existing guest house residential unit
8 located near the street. And request a variance
9 from Sections 1129.03 abandonment of use and
10 1129.02.

11 Before discussion, does Planner Hopkins
12 or Law Solicitor Matty have any comments
13 regarding this issue?

14 MS. HOPKINS: Yes. So this item was on
15 the BZA's agenda for December 4th. It was tabled
16 because at that time it was the expectation that
17 legislation would be presented to the Village
18 Council at the January meeting that would discuss
19 or have extended a text related to the rental of
20 an accessory dwelling unit, acknowledging that
21 there are nonconforming buildings like that,
22 houses and accessory dwellings in the Village.
23 And as recognizing that a nonconforming use, if
24 it's discontinued for more than two years, then
25 it loses its nonconforming status.

1 And it's been the experience of the
2 Village that there are some people who cannot
3 produce that sort of documentation, that the
4 legislation that was adopted in January includes
5 a one-year forgiven, I don't know do you have a
6 better term for that, but a one-year period from
7 the date of adoption that allows anyone who has a
8 nonconforming accessory dwelling unit to provide
9 as much information as they have possible to
10 document that they have had a rental unit on
11 their site. And that did pass.

12 And so now the request to the Board of
13 Zoning Appeals is recognizing that that now is in
14 part of the Village's legislation.

15 MR. MATTY: So, Mayor, there has to be
16 -- on behalf of the administration, you'll have
17 to see that there's a notice sent to all the
18 residents indicating what the Planner has just
19 discussed so that if people are out there and
20 they have rented a structure or a part of a
21 structure in the past, they need to come into the
22 Building Department to register so that they are
23 in compliance if they choose to register again.

24 This matter, if the Board approves this,
25 now that Council has approved that rental
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1 registry, this Board can recommend, if you wish,
2 for approval this evening and then this matter
3 will go to Council at the next meeting for their
4 approval if that's what the Board desires to do.

5 MAYOR BENJAMIN: Thank you. We had a
6 presentation at the last BZA meeting regarding
7 the plans for the Weller property. Are there any
8 questions from members of the Board?

9 Hearing none, any comments? Any
10 questions or comments from members of the public?
11 Name and address for the record, please.

12 MS. WELLER: Lucy Weller, 12521
13 Lakeshore. Does this mean if somebody forgets to
14 or doesn't hear about it or for whatever reason
15 doesn't register their house that they can't go
16 and there's an auxiliary house, that they can't
17 go ahead or they can't come to the Village and
18 say I'd like to rent?

19 MAYOR BENJAMIN: Yes. Most city that
20 have adopted and many cities have adopted a
21 rental registration ordinance, do allow, you
22 know, if a city or a community finds out that
23 you've not registered your property, then you
24 can't rent it out until you do register the
25 property.

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1 MS. WELLER: You can come back.

2 MAYOR BENJAMIN: Yes. Correct. You can
3 come back and register the property. I'm going
4 to have to do the same thing with my property as
5 well.

6 MS. WELLER: I wish I could give you all
7 the documentation, but that little cottage has
8 been rented out since the second World War.

9 MAYOR BENJAMIN: We saw some of the
10 documentation that showed it had been a rental at
11 some point. And obviously I believe you're
12 making some major improvements and adding a
13 garage --

14 MS. WELLER: Tell my husband.
15 (Laughter.)

16 MAYOR BENJAMIN: -- to the property. So
17 if there are no other questions, is there a
18 motion to approve the variance request for 12521
19 Lakeshore Boulevard?

20 MR. KREINER: I think we just need
21 clarification. Is there one variance requested
22 or two? I remember that we heard it last time,
23 but I don't remember and I'm not seeing it. Just
24 formalize it.

25 MS. HOPKINS: It's a variance to
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1 reoccupy an abandoned nonconforming use. In the
2 memo that I had written back in November, we did
3 talk about the conceptual approval of a
4 nonconforming building expansion, which I don't
5 believe the Board of Zoning Appeals has discussed
6 at this point, because my recollection is the
7 discussion was the idea that those plans should
8 go to the Planning Commission first and then
9 knowing that a variance is required to add on a
10 garage, that that would come back to the Board of
11 Zoning Appeals for that, for the construction.

12 MR. KREINER: I see. I think we heard
13 from the architect last time.

14 MR. ROBERTS: Daniel Roberts with
15 William Childs & Associates. So as I understand
16 it, since we're trying to reoccupy the building,
17 because it has been abandoned and not used for a
18 while. It was used before, as we kind of
19 mentioned, as a rental. It had a kitchen and a
20 couple other things and has been in somewhat of
21 disrepair, but one of the things we're trying to
22 do is make it like put a garage, add a little
23 screened porch just to make it a little bit more
24 appealing to those that possibly would want to
25 rent it and stuff as well as renovate the

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1 interior and then the exterior. So with that
2 being said is why we're in front of you to
3 discuss that and see if can get approval to move
4 forward.

5 MR. KREINER: And the request before us
6 today is a variance on the abandonment of use,
7 continuance of use?

8 MS. HOPKINS: Correct.

9 MR. KREINER: I don't need to hear
10 anything else.

11 MAYOR BENJAMIN: Is there a motion on
12 the abandonment of -- what's the --

13 MR. MATTY: Abandonment of use, Mayor,
14 and discontinuous of use. And that's according
15 to 1129.02 and 1129.03 of our code.

16 MAYOR BENJAMIN: Thank you. Is there a
17 motion?

18 MS. BRACE: I move to move forward.

19 MAYOR BENJAMIN: Motioned.

20 MR. KREINER: Second.

21 MAYOR BENJAMIN: There's been a second.
22 Roll call. Brace?

23 MS. BRACE: Aye.

24 MAYOR BENJAMIN: Kreiner?

25 MR. KREINER: Aye.

1 MAYOR BENJAMIN: Kozinski?

2 MR. KOZINSKI: Aye.

3 MAYOR BENJAMIN: And Benjamin is an aye.
4 Thanks.

5 Okay. Next on the agenda is new
6 business. And there are many items of new
7 business tonight. And almost all of them are
8 requests for variances to install generators.
9 I'm assuming this is an outcome of last August's
10 storm. I've been thinking about doing the same
11 myself.

12 So we will start with 10 West Mather
13 Lane, proposed generator in side yard, request a
14 variance from Schedule 1155.06(a) requirements
15 that a generator be located in the rear yard.

16 Just a reminder, anyone who speaks
17 tonight, if you are going to speak, I neglected
18 to swear everybody in. So if you plan on
19 speaking tonight, don't know if you're going to
20 speak tonight, if you can please stand and raise
21 your hand and we'll swear in you for public
22 speaking.

23 (Whereupon, all potential speakers were
24 sworn in.)

25 MAYOR BENJAMIN: 10 West Mather Lane,

1 Ms. Hopkins, do you have an overview of this
2 property?

3 MS. HOPKINS: Yes. West Mather Lane is
4 located in the Mather Planned Residential
5 Development. And as the case in most of the
6 Planned Residential Developments in Bratenahl,
7 they're smaller lots for the most part. And in
8 this case, 10 West Mather has a very small rear
9 yard. I think it's less than 10 feet or -- yes,
10 less than about 10 feet. It does back up to open
11 space, but the other feature or fact about the
12 orientation of the house is that the rear of the
13 house is filled with windows across the expanse
14 of the rear building wall.

15 They are requesting a variance to
16 install the generator in the side, the south side
17 yard, a considerable distance from the adjacent
18 house, which is actually -- it's like
19 kitty-corner to it. It's not even next to it.
20 And it is a sufficient distance from the house.

21 It is 22 feet 4 inches from the side lot line.
22 So the other requirement for generators is that
23 they must be 20 feet from the side lot line and
24 20 feet from the rear lot line. It complies with
25 the 20-foot setback from the side lot line, but

1 it's only 17 feet 5 inches from the rear lot
2 line. So in addition to the side yard, the
3 variance to put it in the side yard, it requires
4 a variance from the 20-foot setback, a
5 2-foot-7-inch variance.

6 The property does have a slight decline
7 or decent to the rear of the lot and then a
8 steeper decline at the rear of the house, so it's
9 approximately four feet or so, four feet or so
10 lower than the road, the height of the road.
11 However, there is no -- there's no substantial
12 vegetation or screening proposed.

13 So my recommendation is that there be
14 some sort of screening so that the neighbor to
15 the south, southeast -- or southwest does not
16 have a direct view of the generator, because they
17 do have windows that face the east and I believe
18 the generator would be visible from that house.

19 MAYOR BENJAMIN: Thank you. Any
20 questions from members of the Board?

21 MS. BRACE: Just so I understand. That
22 road behind the house, you said they're actually
23 below, the house is below the road?

24 MS. HOPKINS: No, the house is below the
25 road that the house fronts on. Behind the house,

1 the lot slopes to the rear and then it butts up
 2 against open space.
 3 MS. BRACE: How about I'm assuming
 4 that's Nine Mile Creek?
 5 MS. HOPKINS: Yes, it is.
 6 MS. BRACE: How about the neighbors
 7 across from Nine Mile?
 8 MS. HOPKINS: Nine Mile Creek, on page 5
 9 of my memo, it does show a neighborhood aerial
 10 view. So there is a house that is a considerable
 11 distance on the other side of Nine Mile Creek, so
 12 the open space is approximately 100-feet wide,
 13 something along those lines.
 14 MS. BRACE: Okay.
 15 MS. HOPKINS: And the open space is
 16 fairly well treed, so it should be pretty well
 17 screened.
 18 MS. BRACE: All right. I have no more
 19 questions.
 20 MR. KREINER: I have a question.
 21 Looking at this one photo that was submitted, it
 22 shows a generator superimposed next to where the
 23 air-conditioner is and where the electrical
 24 service under ground is. That's the proposed
 25 location?

1 MS. HOPKINS: That's right. I think in
 2 the application, they did identify the distance
 3 from those existing -- I believe there are
 4 manufacturers' requirements for a distance from
 5 the air-conditioning unit and from the meters.
 6 There is a five-foot distance, you can't be
 7 closer than five feet to a window, so the
 8 generator, I believe, is five feet away from the
 9 wall.
 10 MR. KREINER: And the recommended
 11 screening would be for the house that is
 12 essentially to the southeast?
 13 MS. HOPKINS: Correct. Or southwest,
 14 the house to the southwest. So if you're looking
 15 at the -- so on page 4.
 16 MR. KREINER: Page 4.
 17 MS. HOPKINS: So this is south and a
 18 little bit to the west. So north is up.
 19 MR. KREINER: That's fair, yeah. I see
 20 it. 015 is the house.
 21 MS. HOPKINS: 015 is the neighbor's
 22 house.
 23 MR. KREINER: Okay.
 24 MAYOR BENJAMIN: Any other questions?
 25 MS. HOPKINS: One other comment I would

1 like to make. The HOA did submit or review the
 2 plans and the applicant did submit the approval
 3 letter, so they did get approval from the HOA.
 4 MAYOR BENJAMIN: Thank you. Any
 5 comments from members of the public this evening?
 6 MR. JORDAN: If you have any questions,
 7 I'm the installer.
 8 MAYOR BENJAMIN: Thank you. Hearing
 9 none, is there a motion to approve the variance
 10 for 10 West Mather Lane to allow the installation
 11 of an emergency generator in the south side yard
 12 approximately 17 feet 5 inches from the rear lot
 13 line, which limits placement to the rear yard a
 14 minimum of 20 feet from the side and rear lot
 15 lines. I will add to the motion that the
 16 applicant shall install landscape screening as a
 17 part of the plan.
 18 MR. KREINER: Screening or vegetation.
 19 MAYOR BENJAMIN: Or vegetation.
 20 MS. BRACE: I move to approve this
 21 variance.
 22 MR. KREINER: Second.
 23 MAYOR BENJAMIN: Moved and seconded.
 24 Roll call. Brace?
 25 MS. BRACE: Aye.

1 MAYOR BENJAMIN: Kreiner?
 2 MR. KREINER: Aye.
 3 MAYOR BENJAMIN: Kozinski?
 4 MR. KOZINSKI: Aye.
 5 MAYOR BENJAMIN: And Benjamin is an aye.
 6 Thank you.
 7 OKAY. Next up is 18 West Mather Lane,
 8 proposed generator in the side yard, request a
 9 variance from Schedule 1155.06(a) requirement
 10 that a generator be located in the rear yard.
 11 Ms. Hopkins.
 12 MS. HOPKINS: So this lot is even
 13 smaller than the 10 West Mather. The major
 14 difference with this lot is that the house is
 15 adjacent to another house to the east where they
 16 propose to install the generator.
 17 It is a request to locate it in the side
 18 yard. It would be six feet from the side lot
 19 line. So that is a 14-foot variance from the
 20 side lot line requirement. It does comply with
 21 the rear yard distance. In this case, we had not
 22 received the HOA approval and HOA approval letter
 23 at the time that I wrote it. Since then, we have
 24 received a letter of approval.
 25 The HOA did not require any additional

1 landscaping. However, the Village code does
2 require screen and landscaping to screen the
3 visibility from the street. There was none
4 proposed, so in my evaluation, I did recommend
5 that some screening or vegetation be required to
6 screen the unit from the street.

7 The other unknown is where the generator
8 is being located or proposed location is up
9 against the garage, the applicant's garage. And
10 on the application form and the documentation
11 submitted, it was noted that the windows of the
12 garage are nonfunctioning windows. It looks like
13 the house to the east, the adjacent, the neighbor
14 to the east that it is adjacent to the neighbor's
15 garage as well. It is less than 20 feet,
16 proposed to be less than 20 feet from that, the
17 neighbors.

18 So it seems to be that it would be
19 important to also screen it from the neighbors if
20 those windows are functioning windows, which
21 maybe the contractor -- are you the contractor?

22 MR. JORDAN: Yes.

23 MS. HOPKINS: Do you know the --

24 MR. JORDAN: The neighbor's windows?

25 MS. HOPKINS: Yes.

1 MR. JORDAN: I believe they're
2 nonfunctioning, because it's also a garage. I
3 believe it's the same as the customers.

4 MR. MATTY: And your name, sir, for the
5 record?

6 MR. JORDAN: Zach Jordan.

7 MR. MATTY: Thank you.

8 MAYOR BENJAMIN: I think in most cases
9 it's a good idea for all of these generators that
10 there be some type of screening or landscape
11 buffer regardless if a window is functioning or
12 not.

13 MR. KOZINSKI: I agree.

14 MR. JORDAN: So if you look at the site
15 plan, there was some proposed landscaping. Some
16 of that didn't exist, those bushes there. The
17 tree and the small bushes existed, but the other
18 bushes for screening did not exist. They're not
19 there yet. So those other three bushes in front
20 of the smaller ones, that is what's proposed.

21 MR. KREINER: The blue.

22 MR. JORDAN: Yes. It's like a dark
23 blue, dark green.

24 MS. BRACE: Would that be adequate?

25 MS. HOPKINS: But that does not reflect

1 screening from the adjacent house.

2 MS. BRACE: Yeah.

3 MS. HOPKINS: So they are nonfunctioning
4 windows and that may be sufficient.

5 MAYOR BENJAMIN: Is there any objection
6 to screening it from the house to the east?

7 MR. JORDAN: No. No. It has to be
8 three feet from the generator. You have to have
9 three-foot clearance from the front and the sides
10 for any type of bushes or foliage.

11 MR. KREINER: And you've got six to the
12 line.

13 MR. JORDAN: Yes.

14 MR. KREINER: Okay.

15 MAYOR BENJAMIN: Thank you. Any other
16 questions or comments?

17 MR. KREINER: None for me.

18 MAYOR BENJAMIN: Is there a motion to
19 approve?

20 MR. KREINER: I move that we approve the
21 requested variance with respect to the side yard
22 location, as well as the distance from the side
23 yard line, and require screening or vegetation
24 with respect to the structure immediately to the
25 east. It is, in fact, to the east.

1 MAYOR BENJAMIN: Is there a second?

2 MS. BRACE: Second.

3 MAYOR BENJAMIN: It's been moved and
4 seconded. Roll call. Brace?

5 MS. BRACE: Aye.

6 MAYOR BENJAMIN: Kreiner?

7 MR. KREINER: Aye.

8 MAYOR BENJAMIN: Kozinski?

9 MR. KOZINSKI: Aye.

10 MAYOR BENJAMIN: And Benjamin is an aye
11 as well. Thank you.

12 Next on the agenda is 123 Hampton Court,
13 proposed generator in the side yard, request a
14 variance from Schedule 1155.06(a) requirement
15 that the generator be located in the rear yard.

16 Ms. Hopkins, please.

17 MS. HOPKINS: In this case, the
18 generator is being proposed in the side yard,
19 which is a variance needed from the rear yard
20 requirement, but it complies with the side lot
21 line and rear lot line setbacks being about 28
22 feet from the side lot line and 54 feet from the
23 rear lot line. The proposed location was
24 identified in the application. It is being
25 proposed behind what currently looks like a

1 flower bed along the side of the house, which is
2 facing westerly, somewhat southerly. It is a
3 significant distance from the neighbor's house as
4 well. And this application did receive the
5 HOA -- an approval letter from the HOA. And the
6 other note that I made was that it is being
7 installed behind existing bushes.

8 MAYOR BENJAMIN: So the screening is
9 already there.

10 MS. HOPKINS: Correct.

11 MAYOR BENJAMIN: Any questions from
12 members of the Board? Any questions from
13 applicants or members of the public?

14 Hearing none, would a member of the
15 Board like to make a motion?

16 MR. KREINER: The only required variance
17 is location?

18 MS. HOPKINS: Location, correct.

19 MR. KREINER: I move that we grant the
20 variance requested as to the location in the side
21 yard.

22 MS. BRACE: I second that motion.

23 MAYOR BENJAMIN: Moved and seconded.
24 Roll call. Brace?

25 MS. BRACE: Aye.

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1 MAYOR BENJAMIN: Kreiner?

2 MR. KREINER: Aye.

3 MAYOR BENJAMIN: Kozinski?

4 MR. KOZINSKI: Aye.

5 MAYOR BENJAMIN: And Benjamin is an aye.
6 Thank you very much.

7 Okay. Next is 46 Haskell Drive,
8 proposed generator in the side yard, requested
9 variance from Schedule 1155.06(a) requirement
10 that a generator be located in the rear yard.

11 Ms. Hopkins, please.

12 MS. HOPKINS: This is an unusual lot.
13 It is the end unit of three units attached. And
14 they are on very small lots. So the side lot
15 line is, I think, both 10 feet or so. And it is
16 even narrower where the generator is proposed at
17 the rear part of the lot, but still in what's
18 considered the side yard.

19 It is difficult to know exactly where
20 the generator is being placed in regard to the
21 lot line itself, because the county records, you
22 know, they're imposing the lot lines on aerial
23 photos, which are less than precise. So one of
24 my concerns is that it may or may not be located
25 entirely on the applicant's lot.

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1 However, this did receive approval by
2 the HOA. It is not on the applicant's lot and it
3 crosses over. It crosses over onto the HOA's
4 common open space. This is another instance
5 where there is not a house immediately adjacent
6 to it. It's another corner situation, so the
7 neighboring house is over 100 feet away.

8 And so this seems to be a reasonable
9 location and it complies with the three feet away
10 from the air-conditioning unit and within five
11 feet of the house, but there's no window on that
12 side of the house.

13 MAYOR BENJAMIN: Can we tell if the
14 generator will be located within -- there seems
15 to be a lot of vegetation there, some trees.
16 Will it be hidden or do we need to request
17 additional screening?

18 MS. HOPKINS: From what I could tell on
19 the aerial photos that I provided, I think there
20 is one that tries to show -- so if you look on
21 page 6.

22 MAYOR BENJAMIN: That last one.

23 MS. HOPKINS: That last page, it's
24 unclear. Let's say it's not 100 percent -- I'm
25 not able to say that it's entirely screened.

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1 This is also a gated community, so this is the
2 best I can do in terms of verifying the
3 environment. However, there does seem to be
4 quite a bit of vegetation in that area.

5 MAYOR BENJAMIN: Because the house on
6 the north looks like it does have some windows --

7 MS. HOPKINS: Correct.

8 MAYOR BENJAMIN: -- that look out onto
9 that corner there where the generator is, so it
10 may just -- we may just want to add to the motion
11 just to make sure that the generator is screened.
12 It looks like it could already be, but it looks
13 like it would be pretty easy to screen it in if
14 it's not.

15 MR. MATTY: So you'll use your usual
16 condition, Mayor, for landscape screening or
17 vegetation.

18 MAYOR BENJAMIN: Yes.

19 MR. KREINER: I think that's the most
20 reasonable location for a generator on that lot.

21 MR. KOZINSKI: On that property.

22 MAYOR BENJAMIN: Yeah. Any other
23 questions? Any questions or comments from
24 members of the public?

25 Hearing none, would someone like to make

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1 a motion to approve?
 2 MS. BRACE: Sure. I move to approve 46
 3 Haskell, the side yard variance on installation
 4 of the generator.
 5 MR. KOZINSKI: Second.
 6 MAYOR BENJAMIN: With the condition that
 7 screening --
 8 MS. BRACE: Yes, with the screening.
 9 MAYOR BENJAMIN: That the generator be
 10 screened with vegetation or screening. You
 11 seconded. Thank you.
 12 Okay. Roll call. Brace?
 13 MS. BRACE: Aye.
 14 MAYOR BENJAMIN: Kreiner?
 15 MR. KREINER: Aye.
 16 MAYOR BENJAMIN: Kozinski?
 17 MR. KOZINSKI: Aye.
 18 MAYOR BENJAMIN: And Benjamin is an aye.
 19 Thank you.
 20 Okay. Agenda item number 5 is another
 21 proposed generator at 112 Haskell Drive,
 22 requesting variance from Schedule 1155.06(a)
 23 requirement that the generator be located in the
 24 side yard.
 25 Ms. Hopkins, please.
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1 MS. HOPKINS: Yes, so the variance to be
 2 located in the side yard and it is proposed 7
 3 feet 11 inches from the side lot line. So that
 4 requires a 12-foot 1-inch variance from the
 5 20-foot setback. It is okay. It's being
 6 proposed approximately 22 feet from the rear lot
 7 line so that it complies with the 20-foot setback
 8 from the rear lot line.
 9 There is some screening along the
 10 Haskell Drive, not on the applicant's property,
 11 but along the street. And so the question is
 12 whether or not that is sufficient screening that
 13 the generator is going to be close to the
 14 adjacent house as well at 18 feet 3 inches. It
 15 was difficult to -- wait, I believe there is a
 16 picture in here. There are no windows in the
 17 neighboring house to the east.
 18 MAYOR BENJAMIN: Thank you. Any
 19 questions from Board members?
 20 MS. BRACE: No questions.
 21 MR. KREINER: No questions.
 22 MAYOR BENJAMIN: Any questions or
 23 comments from applicant or members of the public?
 24 MS. RANNEY: I had one thing, if we can
 25 confirm we didn't get --
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1 MS. HOPKINS: That's what I thought. So
 2 there is a mistake in my memo that I said the HOA
 3 had reviewed and approved it, so thank you, Mary.
 4 MR. MATTY: Well, understand, Board, the
 5 HOA approvals are not required.
 6 MR. KREINER: It's not relevant.
 7 MR. MATTY: It's not relevant to your
 8 decision. They have their own path of
 9 authorization that they have to enforce if they
 10 choose to do so, but Mr. Kreiner, no, it's not
 11 binding on the Board, either for or against.
 12 MAYOR BENJAMIN: Okay. Hearing no other
 13 questions or comments.
 14 MS. BRACE: I guess I just have one
 15 quick comment or question.
 16 MAYOR BENJAMIN: Sure.
 17 MS. BRACE: It does say that there's
 18 already existing bushes there, but I don't really
 19 see it in the photos. I just want to clarify.
 20 MAYOR BENJAMIN: Along the street.
 21 MS. BRACE: Oh, for behind, not to the
 22 side?
 23 MS. HOPKINS: To the front, in front of
 24 the house along the street. The pictures that I
 25 have given you on page 6 don't provide a very
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1 good view of that.
 2 MS. BRACE: Okay.
 3 MS. HOPKINS: There was another view
 4 that I had. I think the trees that you can see
 5 on figure 3 obscure the view of a row of bushes,
 6 but all along Haskell Drive in that section there
 7 are bushes all on that street.
 8 MS. BRACE: All right.
 9 MAYOR BENJAMIN: Is there a consensus
 10 with members of the Board that we would like to
 11 request screening regardless?
 12 MR. KOZINSKI: Yes.
 13 MS. BRACE: Yes, I agree with that,
 14 please.
 15 MR. KREINER: Yes.
 16 MAYOR BENJAMIN: All right. So I will
 17 make a motion to approve the requested variance
 18 for 46 Haskell Drive. 12 -- what is, 12 --
 19 MR. KREINER: Are we on 46?
 20 MS. HOPKINS: 12 feet 1 inch.
 21 MAYOR BENJAMIN: Sorry. Thank you.
 22 112 Haskell, proposed generator in the
 23 side yard requesting a variance from Schedule
 24 1155.06(a) for a 12.1-foot variance from the
 25 setback and also requesting that the applicant
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1 install screening or vegetation around the
 2 generator.
 3 MR. KREINER: Second. Is that a motion?
 4 MAYOR BENJAMIN: Yes, that was a motion,
 5 I guess.
 6 MR. KREINER: Second.
 7 MAYOR BENJAMIN: It's been seconded.
 8 We'll do roll call. Brace?
 9 MS. BRACE: Aye.
 10 MAYOR BENJAMIN: Kreiner?
 11 MR. KREINER: Aye.
 12 MAYOR BENJAMIN: Kozinski?
 13 MR. KOZINSKI: Aye.
 14 MAYOR BENJAMIN: And Benjamin is an aye.
 15 Thank you.
 16 Okay. Next is agenda number 6, 10494
 17 Lakeshore Boulevard, proposed generator
 18 installation in the rear yard, request a variance
 19 from Schedule 1155.06(a) requirement that the
 20 generator be located in the rear yard for Section
 21 1111.18(c) yards. Rear yard means the yard
 22 extending from the rear wall of the building to
 23 the rear lot line across the full width of the
 24 lot. For corner lots where there is a front yard
 25 on each side street, there shall be no rear yard.

1 And I'll turn it over to Ms. Hopkins for
 2 a more detailed explanation.
 3 MS. HOPKINS: Yes. Thank you. So this
 4 is an usual situation. There aren't many corner
 5 lots in Bratenahl where the house, first of all,
 6 sits so close to the street. But also, one other
 7 factor that's worth considering or noting on this
 8 application is that the house sits on one lot and
 9 then they also -- the owners also own the
 10 property, a vacant lot or yard area to the south.
 11 So their lot is a double lot.
 12 As was noted in the application, the
 13 generator will be 30 feet from the front lot line
 14 behind an eight-foot wall and a seven-foot gate
 15 and 102 feet from the side lot line to the south,
 16 and also screened by an eight-foot fence -- or a
 17 wall, excuse me.
 18 And it was noted there is -- per the
 19 zoning code and the definitions in the zoning
 20 code, there is no way the applicant can comply
 21 with the rear yard requirement, because there is
 22 no rear yard per the definition of a corner lot.
 23 MR. KREINER: So there are eight-foot
 24 walls on that. I was going to say the back lot
 25 line, but there's not one. And there's a wall on

1 Bratenahl Road.
 2 MS. HOPKINS: Yes. It's entirely
 3 enclosed by the wall, this yard area is.
 4 MR. KREINER: And it's adjacent to the
 5 existing garage?
 6 MAYOR BENJAMIN: Yes.
 7 MS. HOPKINS: Yes.
 8 MAYOR BENJAMIN: Yes, it is.
 9 MS. HOPKINS: Just to the south of the
 10 existing garage.
 11 MR. KREINER: I don't see that there's
 12 anything to question here.
 13 MAYOR BENJAMIN: Anyone else have any
 14 questions? Please.
 15 MR. OREL: Mark Orel, Burton Avenue.
 16 Just out of curiosity on this, not about -- since
 17 it's going to be placed on the secondary lot that
 18 they own, correct?
 19 MS. HOPKINS: No, that's not correct.
 20 It is on the property on which the house is
 21 located.
 22 MR. OREL: Oh, okay. Never mind then.
 23 Okay.
 24 MS. HOPKINS: It's only a few feet from
 25 the house.

1 MR. OREL: Okay.
 2 MAYOR BENJAMIN: Thank you. Would
 3 someone like to make a motion?
 4 MR. KREINER: We're doing a variance
 5 from what?
 6 MS. HOPKINS: Because it's in
 7 technically a side yard rather than the rear
 8 yard.
 9 MR. KREINER: Yeah, I so move on the
 10 application for 10494 Lakeshore Boulevard. We
 11 approve the requested variance to locate the
 12 generator in the side yard as shown on the
 13 application.
 14 MR. MATTY: With no contingency.
 15 MR. KREINER: No contingency.
 16 MR. MATTY: Thank you.
 17 MS. BRACE: I second.
 18 MAYOR BENJAMIN: It's been moved and
 19 seconded. Roll call. Brace?
 20 MS. BRACE: Aye.
 21 MAYOR BENJAMIN: Kreiner?
 22 MR. KREINER: Aye.
 23 MAYOR BENJAMIN: Kozinski?
 24 MR. KOZINSKI: Aye.
 25 MAYOR BENJAMIN: And Benjamin is an aye.

1 Thank you very much.
2 Okay. The next item is 10007 Lakeshore
3 Boulevard, proposed generator in the front yard.
4 Requests variance from Schedule 1155.06(a)
5 requirement that generator be located in the rear
6 yard.

7 Ms. Hopkins, please.

8 MS. HOPKINS: This lot is located in the
9 RLF District, which requires a two-acre lot and a
10 significant front yard setback. And there's some
11 significant restrictions on placement of
12 accessory uses and accessory structures in the
13 rear yard, which is called the Lakeshore area.

14 The code was amended not very long ago
15 to highly regulate what's in the -- what's
16 between the house and the shoreline. The
17 applicant has requested to locate, permission to
18 locate the generator in the front yard. The
19 front yard, as you can see from the materials
20 that I submitted, the front yard has a lot of
21 landscaping in it.

22 Unfortunately, the application that was
23 submitted did not provide a precise location for
24 where they would install the generator. However,
25 there are utilities in the front yard already

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1 that are -- from what I can tell when I drove by
2 the house today, they are near the driveway, so
3 some what in the center of the lot near the
4 driveway. And I believe that is the area where
5 the applicant has proposed locating it.

6 Because of the way -- right now without
7 leaves on the trees, you can see those existing
8 utility structures, so screening would be
9 required from the -- screening from the street.

10 It also is necessary to get a more precise
11 location. Mary reached out to the applicant and
12 we did not get something that was any more
13 precise than what was provided.

14 MR. KREINER: May I ask, is that
15 suggestion that it's 50 feet from the
16 right-of-way?

17 MS. HOPKINS: That is what this implies,
18 but it's unclear to me if that is the actual
19 location. And that provides the distance from
20 the street, but it doesn't provide its location,
21 you know, widthwise with the lot.

22 MR. KREINER: Right.

23 MS. BRACE: Are you referring to page 6
24 where the red box is then, that's just an
25 approximate.

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1 MS. HOPKINS: Yes, that's just an
2 approximate location.

3 MR. KREINER: Ms. Brace, I was looking
4 at this.

5 MR. KOZINSKI: So am I correct that this
6 placement would be closer actually to Lakeshore
7 than the house?

8 MS. HOPKINS: Yes. Correct.

9 MR. KREINER: I mean, it implies that
10 the electric and gas are 25 feet from Lakeshore
11 and this would be 50 feet, but it doesn't give an
12 exact location.

13 MS. HOPKINS: Correct.

14 MS. BRACE: Oh, I see.

15 MAYOR BENJAMIN: Is applicant or
16 representative here tonight, representative? I
17 guess my concerns would be screening.

18 MR. KREINER: I feel like we need a more
19 specific location.

20 MAYOR BENJAMIN: Yeah, and a more exact
21 location.

22 MR. KREINER: In side and --

23 MS. BRACE: They're out of town; is that
24 correct?

25 MS. RANNEY: Dr. Varghai, it was my
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1 expectation that he would be here. I don't know
2 why he isn't.

3 MS. BRACE: Yeah, I think I have to
4 agree with you that I think we need a more
5 specific location and verification of the
6 screening from the Lakeshore.

7 MR. MATTY: Hearing that, Mayor, my
8 recommendation would be you table this until your
9 next meeting with the instruction of asking the
10 Building Administrator to obtain from the
11 homeowner an exact location for the generator so
12 that you're not guessing.

13 MR. KREINER: I think it would be fair,
14 also, to have a photograph from the sidewalk to
15 see where the utilities are and then go from
16 there.

17 MAYOR BENJAMIN: Sounds good to me. Is
18 there a motion to table this item pending more
19 detailed information from the applicant?

20 MR. KOZINSKI: So moved.

21 MAYOR BENJAMIN: It's been moved.

22 MR. KREINER: Second.

23 MAYOR BENJAMIN: Seconded. Roll call.
24 Brace?

25 MS. BRACE: Aye.

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1 MAYOR BENJAMIN: Kreiner?
 2 MR. KREINER: Aye.
 3 MAYOR BENJAMIN: Kozinski?
 4 MR. KOZINSKI: Aye.
 5 MAYOR BENJAMIN: And Benjamin is an aye.
 6 Thank you.
 7 Okay. The next item of business is
 8 10322 Lakeshore Boulevard, a master suite
 9 addition, request a variance from Section
 10 1155.05(b)(2), Exceptions to Minimum Lot and Yard
 11 Dimensions, Schedule 1155.05(a) requirement that
 12 the front yard setback shall be 75 feet for a lot
 13 in an R2 District that fronts on the south side
 14 of Lakeshore Boulevard.
 15 Ms. Hopkins.
 16 MS. HOPKINS: As you can see from the
 17 photographs that are included in my memo, the
 18 house is located or the lot is located on a curve
 19 of Lakeshore Boulevard. And the existing house
 20 has a nonconforming setback already. It's an
 21 older house built in the 1900s, early 1900s,
 22 predates the zoning code. It's roughly 38 feet
 23 from the street.
 24 The applicant has proposed adding onto
 25 the house in the far -- at the rear of the house
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1 to the west between the house and a rather new
 2 garage that's in the rear yard. In my analysis,
 3 one of the things I pointed out is if the house,
 4 if the lot were a rectangular lot and you didn't
 5 have that curve, this addition would be
 6 conforming, but for the curve, it doesn't comply.
 7 It's 15 feet and a half inch short of the 75-foot
 8 setback.
 9 When you look at the analysis that I did
 10 on page 4, that shows the line of sight from the
 11 neighbor to the west, to the southwest, as you go
 12 around the corner, that from the corner of the
 13 neighbor's house to the west, to the corner of
 14 the applicant's house, that their addition is
 15 behind that line of sight.
 16 And so my recommendation is that this be
 17 approved based on it's not impeding, reducing the
 18 line of sight or the visibility for cars that go
 19 along, that are along Lakeshore Boulevard. And
 20 that they could alter it to be in compliance, but
 21 it seems to be it's a reasonable location given
 22 needing to be adjacent to the house.
 23 MAYOR BENJAMIN: I will -- I'm sorry.
 24 MR. KREINER: What's going to be the
 25 distance from the addition to the westerly side
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1 line?
 2 MS. HOPKINS: There is a 15-foot side
 3 yard requirement and I believe that it is 17
 4 feet.
 5 MR. MATTY: So Planner Hopkins, that's
 6 that dash line that you're showing there?
 7 There's a dash line that goes right by that
 8 corner and goes up?
 9 MS. HOPKINS: The red line.
 10 MR. MATTY: That's the red line, but
 11 this white line here that goes along?
 12 MS. HOPKINS: Yes, there's a dashed
 13 white line that is the side yard setback, yes.
 14 MR. MATTY: Do you see that?
 15 MR. KREINER: So it's compliant.
 16 MS. HOPKINS: It's compliant with the
 17 side yard setback, that's correct.
 18 MAYOR BENJAMIN: I will add that the
 19 Planning Commission reviewed and discussed this
 20 addition at their last meeting and unanimously
 21 approved with the condition of approval from the
 22 BZA and the Architectural Review Board.
 23 MR. KREINER: I have no questions.
 24 MAYOR BENJAMIN: Anyone else have any
 25 questions? Any questions from members of the
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1 public?
 2 MR. KASTELIC: There's no generator.
 3 (Laughter.)
 4 MAYOR BENJAMIN: Yet. Hearing none,
 5 would someone like to make a motion.
 6 MR. KREINER: I will. Regarding 10322
 7 Lakeshore Boulevard, I move that we approve the
 8 variance requested regarding the minimum 75-foot
 9 front setback in order to construct an addition.
 10 MR. KOZINSKI: Second.
 11 MAYOR BENJAMIN: It's been moved and
 12 seconded. Roll call. Brace?
 13 MS. BRACE: Aye.
 14 MAYOR BENJAMIN: Kreiner?
 15 MR. KREINER: Aye.
 16 MAYOR BENJAMIN: Kozinski?
 17 MR. KOZINSKI: Aye.
 18 MAYOR BENJAMIN: And Benjamin is an aye.
 19 Thank you.
 20 MR. KASTELIC: Can I ask a question? So
 21 where do you actually measure? Is it from the
 22 curb? Is it from the sidewalk, from the edge of
 23 the sidewalk?
 24 MS. HOPKINS: Well, you measure from the
 25 imaginary lot line. (Laughter.) Maybe imaginary
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1 is not the right word, but it's the edge of the
2 right-of-way, which is, I think, about 60 feet
3 from the -- it's 30 feet from the center line of
4 Lakeshore Boulevard typically. Because this is a
5 curve, the road might not sit specifically
6 centered in the right-of-way.

7 MR. KASTELIC: Okay. Thank you.

8 MS. HOPKINS: I believe the materials
9 that were submitted with the application show the
10 sidewalk outside of the right-of-way and I don't
11 believe that to be the case. When you look at
12 the aerial photos from the county, the sidewalk
13 seems to be the edge of the right-of-way and it's
14 within the right-of-way. So in this case, to get
15 like a rough estimate of the distance, it would
16 be from the edge of the sidewalk.

17 MAYOR BENJAMIN: Thank you.

18 MR. KREINER: Does Mr. Kastelic have a
19 copy of the recommendation? Can we at least give
20 him a picture? Have you seen this?

21 MS. RANNEY: It was emailed.

22 MS. HOPKINS: On page 3 it shows outline
23 of your lot and it's how it's associated to the
24 -- or where the sidewalk is.

25 MR. KASTELIC: Right. Got you. Thank
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1 you.

2 MS. HOPKINS: But, again, these are from
3 the county. And they're juxtaposing the lot
4 lines over the aerial photos, so they're not
5 always precise.

6 MR. MATTY: But it's sufficient to be
7 able to do process without an objection.

8 MR. KASTELIC: Thank you.

9 MR. MATTY: Thank you.

10 MAYOR BENJAMIN: Thank you.

11 Okay. And our last agenda item this
12 evening is 13511 Lakeshore Boulevard, second
13 story deck enclosure, requesting a variance from
14 Schedule 1155.05(a), Minimum Lot & Yard
15 Dimensions, minimum 30 feet, side yard setback in
16 residential R-LF District, expanding
17 nonconforming condition of existing house.

18 Planner Hopkins, please.

19 MS. HOPKINS: This lot is nonconforming
20 both in area and in width. And the house
21 predates the zoning code. The applicant is
22 proposing to just simply enclose their outdoor
23 deck. The deck is at the rear of the house. It
24 will add obviously sides to the deck, so that's
25 increasing a nonconforming building in some

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1 respects, because it's adding the walls along the
2 side lot lines.

3 I have recommended approval. Because of
4 their hardships, it's increasing what is
5 currently a nonconforming building in the sense
6 that in the RLF District on a two-acre lot, the
7 minimum size of the house is 4,000 square feet.
8 This house is only 2,064 square feet. By
9 adding -- by enclosing this deck, they are adding
10 additional square footage, so that the house
11 would be 2,432 square feet, so that reducing a
12 nonconforming situation.

13 So there is a section of the zoning code
14 that does allow for the expansion of a
15 nonconforming building if it is reducing another
16 nonconforming condition.

17 MR. MATTY: So Planner Hopkins, the
18 variance is from a minimum 30-foot side yard
19 setback. And what are the other variances?
20 Besides the minimum, the variance from the
21 minimum 30-foot side yard setback?

22 MS. HOPKINS: Oh, there's reference to
23 the 4,000 square foot size, but it's not a
24 variance from that. It is --

25 MR. MATTY: It's expanding a
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1 nonconforming use?

2 MS. HOPKINS: It's expanding a
3 nonconforming building, but there is a section of
4 the zoning code, Section 1129.05, extension of a
5 nonconforming building. It says, and I've
6 paraphrased the code, but that an extension or
7 expansion is acceptable when it reduces a
8 nonconforming condition.

9 And so by increasing the liveable space
10 by 17, almost 18 percent, it's bringing it closer
11 into compliance with the minimum 4,000 square
12 feet of liveable area.

13 MR. MATTY: Okay.

14 MAYOR BENJAMIN: This item was discussed
15 at the Planning Commission and approved
16 contingent upon the variance from the BZA. I
17 believe it went through ARB --

18 MS. RANNEY: A couple of times.

19 MAYOR BENJAMIN: -- a couple of times.
20 And they had requested that there be a gabled
21 roof; is that correct?

22 MS. RANNEY: Coming back the 11th.

23 MAYOR BENJAMIN: And that was approved.

24 MS. RANNEY: One more meeting.

25 MAYOR BENJAMIN: One more meeting.

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1 MS. HOPKINS: I would also like to point
 2 out that Mary did receive a letter from the
 3 neighbors who are in support of the construction.
 4 MAYOR BENJAMIN: Any questions or
 5 comments from members of the Board? Any
 6 questions or comments from members of the public
 7 and the applicant?
 8 Hearing none, trying to share the joy of
 9 making motions, but would you like to make a
 10 motion? (Laughter.)
 11 MS. BRACE: Sure. I move to approve the
 12 13511 Lakeshore Boulevard second story deck
 13 enclosure variance.
 14 MR. KOZINSKI: Second.
 15 MAYOR BENJAMIN: It's been moved and
 16 seconded. Roll call. Brace?
 17 MS. BRACE: Aye.
 18 MAYOR BENJAMIN: Kreiner?
 19 MR. KREINER: Aye.
 20 MAYOR BENJAMIN: Kozinski?
 21 MR. KOZINSKI: Aye.
 22 MAYOR BENJAMIN: And Benjamin is an aye.
 23 Thank you.
 24 Is there any other new business before
 25 the Board of Zoning Appeals tonight?

1 MR. KREINER: There's a suggestion from
 2 our Law Director that I want to take him up on,
 3 that we put in the record that we recommend to
 4 Council that they consider an amendment to the
 5 code regarding generator placement so that people
 6 don't need to get variances so frequently.
 7 MR. KOZINSKI: I'd agree with that.
 8 MAYOR BENJAMIN: Okay. We will consider
 9 that item. And, Mr. Matty, we can prepare
 10 something in the next couple of months.
 11 MR. MATTY: Mention it to Council on our
 12 next meeting and ask if they wish to pursue that.
 13 And if they do, Mayor, I'll get together with the
 14 our Chief Building Official and Building
 15 Administrator. And if they authorize it, we'll
 16 go forward with a draft of a code change so that
 17 these people don't have to come each time they
 18 want a generator.
 19 I'm thinking out loud, Mary, but we
 20 could put a permit process in place where
 21 landscaping would be part of it and those kind of
 22 things and see if Council wishes to do that, if
 23 that's what your motion is intended to do.
 24 MR. KREINER: It's intended that way.
 25 MR. MATTY: We can do that.

1 MAYOR BENJAMIN: Thank you. Any other
 2 comments or questions?
 3 Hearing none, is there a motion to
 4 adjourn?
 5 MR. MATTY: Mayor, before you adjourn,
 6 that recommendation need -- that recommendation
 7 should have a vote from Mr. Kreiner.
 8 MAYOR BENJAMIN: Did we vote?
 9 MR. MATTY: Did we vote on that, Nancy?
 10 THE REPORTER: Not on his.
 11 MR. KREINER: So what I just suggested
 12 regarding recommending an ordinance modifying the
 13 generator location, I'd like that to be a motion.
 14 MR. KOZINSKI: Second.
 15 MAYOR BENJAMIN: It's been seconded.
 16 We'll do roll call. Brace?
 17 MS. BRACE: Aye.
 18 MAYOR BENJAMIN: Kreiner?
 19 MR. KREINER: Aye.
 20 MAYOR BENJAMIN: Kozinski?
 21 MR. KOZINSKI: Aye.
 22 MAYOR BENJAMIN: And Benjamin is an aye
 23 as well.
 24 Okay. Is there a motion to adjourn?
 25 MS. BRACE: I move to adjourn.

1 MR. KREINER: Second.
 2 MAYOR BENJAMIN: Moved and seconded.
 3 Roll call. Brace?
 4 MS. BRACE: Aye.
 5 MAYOR BENJAMIN: Kreiner?
 6 MR. KREINER: Aye.
 7 MAYOR BENJAMIN: Kozinski?
 8 MR. KOZINSKI: Aye.
 9 MAYOR BENJAMIN: And Benjamin. Thank
 10 you very much.
 11 (Meeting adjourned at 6:29 p.m.)
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CERTIFICATE

I, Nancy L. Molnar, do hereby certify that as such Reporter I took down in Stenotypy all of the proceedings had in the foregoing transcript; that I have transcribed my said Stenotype notes into typewritten form as appears in the foregoing transcript; that said transcript is the complete form of the proceedings had in said cause and constitutes a true and correct transcript therein.

Nancy L. Molnar

Nancy L. Molnar, Notary Public
within and for the State of Ohio

My commission expires April 25, 2029.

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