

ZONING BOARD OF APPEALS

CITY OF LIVONIA

MINUTES OF MEETING HELD TUESDAY, JUNE 14, 2022

A Meeting of the Zoning Board of Appeals of the City of Livonia was held on Tuesday, June 14, 2022.

MEMBERS PRESENT: Gregory G. Coppola, Chairman
James Baringhaus, Vice Chairman
Christopher Boloven
Tamara Oliverio
Martha Ptashnik
Michael Testa

MEMBERS ABSENT: Timothy Klisz

OTHERS PRESENT: Robert Stroble, Inspection Department
Mike Fisher, Legal Department

The meeting was called to order at seven p.m. Chairman Coppola explained the Rules of Procedure to those interested parties. Each petitioner must give their name and address and declare hardship for appeal. Appeals of the Zoning Board's decisions are made to the Wayne County Circuit Court. The Chairman advised the audience that appeals can be filed within 21 days of the date tonight's minutes are approved. The decision of the Zoning Board shall become final within five (5) calendar days following the hearing and the applicant shall be mailed a copy of the decision. There are four decisions the Board can make: To deny, to grant, to grant as modified by the Board, or to table for further information. Each petitioner may ask to be heard by a full seven (7) member Board. Six (6) members were present. No one chose to reschedule. Secretary then read the Agenda and Legal Notice to each appeal, and each petitioner indicated their presence. Appeals came up for hearing after due legal notice was given to all interested parties within 300 feet, petitioners, and City Departments. There were four (7) people present in the audience.

(7:00)

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APPEAL CASE NOS. 2020-04-08, 09, 10, 11 and APPEAL CASE NO. 2021-03-10, 11, 12, 13:

An appeal has been made to the Zoning Board of Appeals by Susan Michelle Long, 34695 Five Mile, Livonia, MI 48154, and Michael Malinowski, 1515 Aberdeen, Canton, MI 48187. Per Livonia Vision 21 Zoning Ordinance Sections 4.03(B) and 13.14(6)(A), the Petitioner seeks an administrative ruling waiving the 120-foot lot depth requirement set forth in Livonia Vision 21 Zoning Ordinance Section 3.05. The Board will consider and rule upon the City of Livonia ordinances raised by the Petitioner, including whether the Petitioner's property line constitutes an immovable physical boundary under the City of Livonia ordinances, thereby triggering the ordinance provision waiving the 120-foot lot depth requirement.

The properties are located on the west side of Fairlane (15235, 15251, 15273, 15287), between Five Mile and Lyndon, Lot. Nos. 082-99-0036-004, 082-99-0036-005, 082-99-0036-006, 082-99-0036-007, N-2 Zoning District.

BARINGHAUS Appeal Cases Number 2020-04-08, 09, 10 and 11, and Appeal Case Numbers 2021-03-10-12-13 by Susan Michelle Long and Michael Malinowski. An appeal has been made to the Zoning Board of Appeals by Susan Michelle Long, 36695 Five Mile, and also Michael Malinowski of Canton, Michigan seeking to construct a single-family dwelling with attached garage upon vacant land resulting in deficient depth. Lot depth required 120 feet. Existing 100 feet. Deficient 20 feet.

COPPOLA All right. Thank you. Mr. Stroble, anything to add?

STROBLE Not at this time.

COPPOLA Thank you. Mr. Fisher?

FISHER Yes, sir.

COPPOLA Is there anything special we need to do with these cases? This is not really a tabled case, but it's also not a fresh case. Is there anything we need to do for the record?

FISHER There are probably a number of things that we need to do for the record before all is said and done. But the first thing I want to make a little bit of a correction to the Public Notice, and that is that these cases are here on remand from a judge at the Wayne County Circuit Court, and that the specific reason for the remand is that the Board in its initial hearing of these cases, or at least its initial hearing of the second batch of cases, did not address a question brought by -- did not in its resolution address a question brought by the Petitioners. In fact, the principal question brought by the Petitioners, which was there is a provision in the Zoning Ordinance. Well, their problem initially is, as the notice says, they don't have sufficient lot depth. They have 100 feet where 120 feet are required. They asked at that time for the application of an exemption in the Zoning Ordinance that says if you have a -- I don't have it in front of me right now. It's a lot of words. If you have a physical permanent immovable etcetera

boundary that prevents you from complying with the 120-foot depth requirement, then you can be exempt from that requirement. So that's what they are looking to do is to be exempt from the 120 feet requirement.

COPPOLA Did we get any instruction from the Judge in regards to his or her interpretation of that particular section of the Ordinance?

FISHER No. The Judge left it to the decision of the Board. I unfortunately did not bring along a copy of the Public Notice, but the Public notice actually addressed what we're supposed to do tonight. We're simultaneously trying to learn a new system with these things. Well, in any event we're supposed to be addressing the issues raised by the Petitioner. This is what the Notice says. Per Livonia vision 21 Zoning Ordinance sections, 4.03(b) and 13.146(a), the Petitioner seeks an administrative ruling waiving the 120-foot lot depth requirement set forth in Zoning Ordinance Section 3.05. The Board will consider and rule upon the City of Livonia Ordinances raised by the Petitioner, including whether the Petitioner's property line constitutes, and here's that term I was telling you that has several words to it, constitutes an immovable physical boundary under the City of Livonia Ordinances, thereby triggering the ordinance provision waiving the 120-foot depth requirement.

COPPOLA So we've got a narrow issue, right? It's just a matter of interpretation or the definition of an immovable --

FISHER Yes. That is one thing I did bring was the Zoning Ordinance so I can quote you in more detail that definition if we need it. But yes. That's all we're trying to do, unless, of course, the Petitioners have some other issue they want to discuss with us, but that's what we're -- that was our mandates from the Judge.

COPPOLA Is there a certain process that we need to follow that's different than what we normally do?

FISHER Well, in terms of having the Petitioner speak and having the audience members speak and so forth, I think that's pretty much all the same.

COPPOLA Okay.

FISHER The only thing that's going to look different is the resolution will look different one way or another.

COPPOLA Okay. Will you help us through the resolution once we get there, because it will be different than what our standard formats we have?

FISHER We'll talk about it once we get there.

COPPOLA Okay. Mr. Testa first.

TESTA Mr. Chair, I have a couple questions for Mr. Fisher. So, what you were just reading referred to Livonia 21.

FISHER Yes.

TESTA When we judged these cases, it was prior to Livonia 21.

FISHER Yes, this is true, but this is the ordinance that's in place now, and the bonus is, nothing substantively has changed in this case between the two ordinances.

TESTA Thank you. And I do remember a detailed discussion at our last meeting, a rather testy Exchange between the two of you regarding immovable object. So, I thought we addressed that in the previous meeting. So how was it not?

FISHER The question was discussed during the previous meeting, but the resolution did not address the question, and that's why we're back.

TESTA Thank you.

COPPOLA Mr. Boloven.

BOLOVEN Mr. Fisher, I just want to clarify. So, we are only looking at tonight whether or not this is an immovable physical boundary, and if it is, that automatically waives the 120-foot depth requirement?

FISHER Yes. That's the principal issue before us this evening.

BOLOVEN So we are not judging the other four.

FISHER Well, you've already -- I guess what I'd say to that is you've already done that.

BOLOVEN Correct.

FISHER And unless you're going to change your mind about that, the only thing that would be appropriate is maybe reaffirm your earlier findings in that regard, but that's not principally what this meeting's about. As I understand it, that's not where the petitioner is headed with his arguments and so forth.

BOLOVEN Correct. But if this Board finds that it's immovable, if it is an immovable physical boundary, then that trumps the four-part test and automatically waives the requirement?

FISHER Absolutely.

BARINGHAUS Mr. Chairman.

COPPOLA Mr. Vice Chairman.

BARINGHAUS Yeah. Just for clarification, doesn't the previous denial of the variance request also in effect deny the argument of the immovable physical object argument as well?

FISHER Well, remember, you're asking a little bit different question when you're asking for a variance. You're talking about hardship, or the actual correct term is practical difficulty, and that's defined by those four characteristics you look for in these cases. This is different. If you find that this set of words means what they say it means, they don't need a variance. They are exempt from the 120-foot depth requirement.

COPPOLA Mr. Testa.

TESTA Mr. Chair. To Mr. Fisher. Then why are they here? Are we the ultimate judge of that definition, or can't the inspections office make their own judgment, if it's exemption, it's automatic?

FISHER Well, part of the reason that we're here is because this is the place it was appealed from to get to court in the first place, so the Judge doesn't remand it to Jerome Hanna or Mark Taormina, or somebody. The judge remands it to the tribunal that sent in the case in the first place.

TESTA Originally could they have gotten a judgement from someone else that wasn't a moveable object, the boundary, the lot line?

FISHER Well, there's no judicial officer in the city. I mean you're the closest thing we have to that, so. . .

TESTA And if you could take the time could you read the definition for immovable?

FISHER Certainly. This is from section 4.03(b) of the Livonia Division 21 Zoning Ordinance, but it's the same as the previous ordinance as well. 4.03(b). It says lot depth requirements need not be adhered to where immovable physical boundary limitations exist which prohibit meeting the lot depth requirements provided that all minimum area and width requirements are met. That part is true. All of the width and area requirements are met. So, if you -- again, if this property line constitutes an immovable physical boundary -- or constitutes immovable physical boundary limitations which prohibit meeting the lot depth requirements, then that's all you need. That's all they need.

OLIVERIO Mr. Chair, question.

COPPOLA Oliverio.

OLIVERIO Do we have anymore documented past cases where we've actually documented the definition of what that is, the limitation, physical limitation boundary or any existing past cases where that's been documented in the City?

FISHER I can tell you I started doing this in 1996, and not since I've been here has that term been defined by the Board. It's never come up.

OLIVERIO Have there been other cases that this has come up and that have been decided based on a predetermined definition of that?

FISHER I'm not aware of any case in Livonia, and this is a Livonia ordinance provision. I don't know of anyplace it's been defined. We've just, like in this case, we came to the conclusion that this is not, this is not, that seven-word term does not apply, or that doesn't apply here so otherwise we wouldn't be here.

COPPOLA Has the City briefed, submitted a brief to Court?

FISHER Yes, we have submitted a brief to The Court.

COPPOLA What was the position of the City?

FISHER The position of the City, well, like I say, if we agreed with them, we wouldn't be here tonight.

COPPOLA But I'd like a little more color to that.

FISHER Okay. Our position is that, among other things, exemptions under the law are supposed to be narrowly construed. If this exemption under the law was construed the way the Petitioner argues it should be construed, the 120-foot depth requirement would never ever apply. The exemption would equal 100% of the cases, and we don't think it was meant for that. We think it was a definition meant for a narrow set of circumstances.

COPPOLA Okay.

OLIVERIO Do we have a position what those narrow set of circumstances are?

FISHER Well, I guess you could have some hypotheticals. You might have a ravine. There are lots of those around Livonia that might make it impossible for you to get 120-foot depth, or you might have a situation where there are two streets that are not 120 feet apart and the land in between them cannot meet the depth requirement, something like that.

COPPOLA Okay. Any other questions? Sorry about that. We just wanted to make sure we were proceeding accordingly based on where this particular appeal is at. Can I get a name and addresses, please?

McHENRY Yes. Jeff McHenry, and I'm a broker with 4 Clover Realty, 5339 Kierstan Drive, Brighton, Michigan, 48114. I'm here on behalf of Michelle Long and Michael Malinowski. And representing them is Mr. Michael Wais, the attorney.

WAIS I'll give you my name and information. Michael Wais. I'm a lawyer at Howard & Howard in Royal Oak, Michigan. The address is 450 West 4th Street, Royal Oak, Michigan. I do appreciate if I can start.

COPPOLA We're all set. You can proceed. But again, we have a very narrow kind of agenda here, issue, that we need to address, so if you could keep your comments to the narrow.

WAIS I certainly intend to do that. I did not intend to go on any issue other than the immovable physical boundary. In fact, that is as far as I'm concerned. And the Judge that you guys didn't consider it, that's the only issue here.

The ordinance is very, very clear, and you interpret ordinances as they are written. Common sense meaning. That's how you interpret an ordinance. The ordinance says the lot depth requirement need not be adhered to where physical boundaries exist -- physical boundary limitations that are movable exist, which prohibit meeting the lot depth, provided all minimum area width requirements are met. Here it is understood every single area requirement, every single width requirement, every single setback on the house, every requirement possible has been met, everyone. So now we're just here as to what is an immovable physical boundary. The law is clear. You may not think that. You might not want to apply it. You may want to do as you think, but the property line by definition is an immovable boundary. I'm going to give you ten different places where that's been found, and Mr. Fisher did not give you a single one. He didn't cite you a definition. He didn't cite you to an ordinance. He didn't cite you to anything but his belief on what he thinks somebody may have meant when they wrote the statute. But you go by common sense.

First of all, I'll tell you what the common law is. The common law is if I cross somebody's physical boundary, I'm trespassing on the property if I don't have permission. That boundary line is not moveable. I don't have the right to set up and move it. I can't just say, you know what, I don't like where your property is. I'm going to expand my property onto yours. You can't do it. It is an immovable physical boundary. If I cross it, I'm trespassing. I'm committing a criminal offense, I'm probably committing a civil offense. So, it is clearly immovable under common law. I think even Mr. Fisher would agree to that.

Second, the boundary consists of stakes. It's registered with the Register of Deeds, and the physical boundary can't be moved. You just can't pick up the stakes and move them where you choose. It's a physical boundary that you can't mess with because it's recorded in the register of Deeds as well. That's the reason number two.

Reason number three is if you read the law, the Certified Surveys Act under Michigan Law says if lands are surveyed there will be permanent corners as monuments. The professional surveyor will prepare a certified copy with the Office of the Register of Deeds once the land is situated. That's Michigan Compiled Law section 54.212(1). Again, it says that it is, that it is a permanent corner. A permanent corner is exactly the same language issues. Immovable physical boundary, something that is permanent. It is, it is stakes. It is field. If you continue in the next section of the Act, the section continues by saying all corners shall be monumented with permanent markers which present a magnetic field unless previously monumented with iron stakes. And then it goes through and explains how that works, and in great detail. We've quoted you that in our summary.

So, you have the Michigan Certified Land Act which explains to you the physical -- that a property line is not movable. It is physical, and you can't just move it. That's three separate places that you have it.

I'll tell you a fourth. The Wayne County Register of Deeds, which again, is a county that this city is in, The Wayne County Register of Deeds defines the word lot as follows: a measured parcel of land having a fixed boundary. Fixed is permanent. Can't be moved. Again, they also define real property. Wayne County Register of Deeds defines real property as land and that which is affixed to it. So again, the property line is fixed. You can't cross it or move it. It's a boundary that is fixed. That's the fourth separate definition.

I'll give you a fifth. Wikipedia. The definition is an immovable property. Immovable property includes the land itself. Immovable property. You can't move the land. You can't move the property line. It is something that cannot be moved. That's the fifth reason. Black's Law Dictionary, a well cited to thing in the legal community defines immovable property. Includes the land and all of the property below the surface. Even the stuff below the surface is part of it. It can't be moved. The land doesn't move. It's a property line and property lines can't be moved. In the last hearing, not that it matters, but we discussed the Hesses, and the Hesses despite a contractual obligation to sell the property refused. We can't move their property line because they refuse. You can't force them to sell. They stood up at the last hearing and said there's no circumstances whatsoever they'll ever sell their property, therefore the property line is not movable even if you needed it. I've given you common law. I've given you the Wayne County Register of Deeds. I've given you the

Michigan Certified Surveys Act. I've given you dictionary definitions, all of which confirm what we already know is a property line simply can't be moved.

I'm going to give you three final reasons then ask you if you have any questions. The first of the three additional reasons, in your package of Papers that you received you have an April 1st, 2018 memo written by Jerome Hanna. And Mr. Hanna candidly writes the first time he was asked to write on this, section 404(b) allows the lot depth because both the width and the area has met all the conditions. So, he read the definition and he concluded the exact same way that we say which is in, again, simple English. If you meet the lot depth and you meet the lot width, you're fine. You don't need the setback. And he wrote that, and that letter is in your packets. Yes, he wrote something after being perhaps told something differently, but again, his letter is an admission by the City. I'll give you another one. Catherine Sitter's affidavit is also in your package, and if I mispronounce her name I apologize. If I mispronounced it, it was completely unintentional. In her package she says that in 2021, just a year ago, she taxed all these properties as buildable only. The only way those properties could possibly be buildable is if we're right. We don't need the setback, and she taxed them as buildable. Then she realized oops, and she wrote an affidavit. In her affidavit she says I made a mistake. Okay. My parents taught me, something I'm sure your parents taught you the same thing, that when you make a mistake, you do a couple things. First you apologize. Then you try to make it right. This is over a year ago. There's no apology for taxing incorrectly. And by the way there was no refund. If you taxed incorrectly, you really don't think it's buildable, why haven't you given us our money back, because you know it's buildable and that's why you tax it as buildable. And only when somebody said wait a second, we're doing this wrong because we're not going to follow our ordinances. Let's double back. For 2022 to we'll give them a tax break. The point is you still kept the money for 2021 which shows again another person in the City knows when you read something in plain English that physical boundary, and immovable physical boundary is a lot line. And again, those are nine different reasons. And when you do the ordinance written and you realize that Mr. Fisher still hasn't, and will never, give you a definition any different than I have, which is definitions out of the law dictionaries, definitions out of ordinances, definitions out of the Wayne County Register of Deeds, definitions from Black's Law Dictionary and everything else. There's no definition anywhere in the world that says the property line is not a moveable physical boundary because we all have common sense and we know that we can't trespass or move someone's physical boundary, someone's property line without permission.

So, we don't need this variance, so we ask that you enforce the law as written because you have to follow the law as written with a

common sense, common sense meaning, common sense. Common sense is you can't trespass on someone's property. You wouldn't let anybody trespass on yours, the Hesses won't let us trespass on theirs.

Unless you have any further questions, I apologize for my anger at some point, but I get kind of frustrated, my clients both screaming in my ear and wanting this done and finally moved forward. I do think it's simple. I think it would help this community to have four new residents come in, four new taxes, no more lawsuits. I don't want to sue the City again, I really don't. It's pointless. Improve the relationship with builders. Help people do what your laws say they can do. I think you really need to work on that. That's my personal opinion. I know probably nobody on this board agrees, but I do think when you have something as clear as the language that we cited to you, you need to follow it. Thank you for your consideration.

COPPOLA Thank you. Mr. Wais, you had mentioned a previous contract with the property owners to the west, the Hesses. What was the agreement for?

WAIS The Hesses were supposed to sell a certain amount of the land to Mrs. Long, and then she refused to sell it.

COPPOLA How much land would that have been? Would it have been the whole lot? Would it have been a portion of the lot?

WAIS It was intended, although I'm not sure it would have been sufficient, it was intended to be enough to get by the lot depth requirement if the house would have been a little bit different. It was the intent. I'm not sure it would have accomplished that. I'm being honest with you. I'm not sure it would have accomplished it.

COPPOLA, I understand. The intention was to add enough land to meet the requirement of 120 feet. Mr. McHenry, is that correct?

McHENRY Yes. The amount I believe would still have been short. We had talked to the Hesses about buying additional property other than what she originally agreed on. And at one point, she said make an offer. And after that, you saw from the previous meetings, she said she wasn't going to sell.

COPPOLA So let's take the scenario that she did agree to sell. Let's take the scenario that it was sufficient, it was 20 feet. So, you would have purchased the property. Then what would you have done?

McHENRY We would have gone and built.

COPPOLA How would you have done that? You have to do Something first, so what would it have been? What would you have to do with the property lines?

McHENRY We would have had to move it.

TESTA Oh, they're movable. Common sense.

WAIS It's not a joke. You can say that. And by the way, Mr. Fisher said that to the Court, and you want to know the Court's reaction? You can say that. I'd love for you to say that. It will make it easier for me to appeal to the City and win again. That's fine. But again, if they don't move it, you can't just get up and move it. It is immovable. You can move a ravine. You can fill it. You can do anything. But as is, it is by definition immovable. Without permission you can't move it.

COPPOLA So is there a difference between can't and won't?

WAIS We'll try it this way. You have over 60 lots in this general area. You have a hundred feet, exact same setback we have. Now in your package you point out that maybe 30 of them were done before the ordinance changed. There's at least ten that were done, 20 that were done after. This area has everybody with a hundred feet. And so, saying it doesn't comply, saying that whatever excuse you want to come up with, it meets the requirements. Only other ones that could have gotten through is the same way because it meets the requirements clearly. And can't or won't, whether you can negotiate to get something to be moved, by definition anything can be moved. You can remove a building, you can remove a ravine, you can remove anything, but until you do, it's not moveable. I can't cross that property line today if I wanted to and take her property. If I did, I'd be in jail in the morning. I can't do it period. As we sit here today, we take the facts as we see them, and without permission or without a court order or something, I can't go in, and you can't go in, and the City can't go in, and the police can't go in and take her property and move it. It's immovable until you get somebody telling you differently. A ravine is immovable until you fill it in, period. And you just can't change that. And as it sits today, and by definition, since she won't sell it, it is not moveable. But again, Mrs. Hess' house, is one of the ten reason I gave you, and the fact that you have 60 other lots with the exact same depth in this area, and you're going to tell me that somehow for us you can't do. I guess you can do that. I don't want to be in court again. I'm not threatening anybody. I don't want to do this. I don't need more work. I have plenty of work. I'm not looking for it. I'd love to find a way to work as professional through this. I think it will help the City. I'm on your side. I'm not trying to cause trouble. I swear to God, my kids' lives, okay? I don't know how else I can tell that to you.

COPPOLA Mr. Boloven.

BOLOVEN Question for you, Mr. Wais. Why are you not suing Ms. Hess on this agreement?

WAIS Even if I did as written, it's probably not enough land to make a difference, so it wouldn't do any good. And, you know, since it wouldn't probably do any good since it wasn't -- it was intended to be sufficient, but as negotiated it wasn't sufficient. So, therefore, to sue on a meaningless contract would simply make more legal fees and piss off a client. I don't do that.

BOLOVEN Thank you, Mr. Chair.

COPPOLA Mr. Testa.

TESTA I apologize for talking out of turn. Thank you. I'm not sure where I want to start. But with the Hesses, I think you're completely misrepresenting what they said last time. They said they were willing to sell. They wouldn't sell to you for the price that you offered. That is a big difference. Your client admitted when I asked questions that he never ever approached them. He assumed based on their comments in the meeting with Ms. Long that they wouldn't sell. They were on the phone. They said they would entertain offers. Your comment, or your reply back was, we're not willing to pay that.

WAIS Mr. Testa, I think Mr. Fisher will confirm what I'm about to tell you is true, and maybe you don't know these facts. After the meeting, both my office, both Mr. McHenry and Mr. Fisher, all approached the Hesses and tried to get an offer from them and nobody was successful. We made an offer. Never received a single response. Mr. Fisher attempted to get a response on behalf of the City. We attempted to get a response on behalf of Ms. Long, and Mr. Malinowski, and Mr. McHenry did the same. So, we made an offer and she refused to give an offer to any of the three of us. So, way before she may have said what you said. By the way, I don't agree with you, but even if I did, it's undisputed now, and Mr. Fisher will confirm for you that what I just told you happened, she will not sell. We asked, we made an offer, and the only answer no. No comment, no nothing. I'm not selling to you period.

TESTA She said no or didn't reply? There's a difference.

WAIS You set up a meeting. What happened when you set up the meeting after you met with them afterwards with Mr. Fisher?

McHENRY Attempted to go to her house. She wouldn't answer the door.

WAIS Mr. Fisher got her on the phone twice and he said he spoke to her, and she said that she wouldn't listen to us. We sent it to her in writing and there was no answer. No answer is by definition no. If you think any differently, I don't how. But again, if she would agree then we

wouldn't be here. But since she isn't, it isn't movable. Since she will not sell, it is immovable. So, if she would, then we'd have the property. We wouldn't need to be here. But since we don't have the property, and since it is immovable because she's ignored us, she ignored Mr. Fisher, it's not only me, she ignored him, and he was very helpful to try to work through this issue, and I don't typically say that, but I'll give Mr. Fisher credit. He did try his in my opinion to work through this with us, and he tried to contact her, and we worked together to try to get this to happen, cooperatively the way people should work between builders and cities. And it failed because of the Hesses. And again, we don't have that property.

So, sitting here today, despite every effort we could come up with, including making a reasonable offer, there's no offer encounter and there's nothing we can do. It is immovable period. Just like the definition is a property that stake is still there. You cannot move that property stake without permission. It's not movable by law.

TESTA Mr. Fisher, can you comment on anything he said?

FISHER Well, I will say this, the judge when we were before him urged us to settle this case. So, by way of settlement, we tried everything including speaking to Ms. Hess.

I did speak with her on a couple of occasions. This is the first I've heard that they actually made an offer to her. I have no idea what dollar amount that is or that it happened, but I'm not saying it didn't because, like I say, I don't know. She showed some receptivity to the idea and arguably a sale is in her interest because theoretically she could command, at least something of a premium price for this, this strip of land which makes a difference between whether they could build a conforming property or not. And if they get a variance or if they get the ruling of seeking tonight, and she doesn't have that, you know, property, she loses it. The negotiations never really got off the ground, so I gather she is willing to accept whatever consequence there was from not selling.

TESTA Mr. Wais, so Mr. Fisher's story is a little different. Do you have anything in writing that shows your offer to prove that you gave an offer?

WAIS, We sent her a letter. I don't have the letter with me, but I don't need it.

TESTA I'm asking for proof that you've made an offer.

WAIS I don't have the letter with me.

TESTA You told me he knew, and he's aware of this.

WAIS

I told him we made an offer. Maybe Mr. Fisher doesn't recall that, but we made an offer to buy the property. We tried to call her. She wouldn't answer her door. She wouldn't do anything. I don't know what you can possibly do when someone won't answer their door period. We called her at set times with the number that Mr. Fisher gave us because she said she'd take our call and she didn't take it, and she never returned it. I'm not sure what else we could possibly do. But again, sitting here today, Mr. City person, do you have something from her saying it's moveable? Do you have something from her saying hey, I'm willing to sell to these people? You don't. You have no evidence it's movable. I have no evidence it's movable. Nobody can tell you it's moveable. She's not here saying I'll take the offer. She's not here. She had public notice. She's not here. There's no evidence before this board period that she would agree to take an offer. She said she wouldn't. We tried, Mr. Fisher tried, and again, her answer is no. We don't have to buy it to make it movable. That was a solution that would have solved the problem because Mr. Fisher's right. The Judge Ewell was very vociferous in this. He wanted the two of us to take all efforts we possibly can to find a way to settle this case. He said that in so many words. And I think both of us understood it in those words. And when Judge Ewell says to do something, you certainly try to use your best efforts to do so. It's in your best interest to do that. And Mr. Fisher and I did that together. And we tried to get her to do that because we thought it would be helpful. I don't think we have an obligation to buy property to try to move it. That's not what the law says. The law says immovable physical property, this is immovable. We tried to solve the issue by buying it. But we tried to solve it because that's what the judge told us to do. And we tried to do it, and we were unable to do it. Just because we were unsuccessful doesn't mean the property suddenly is moveable. Since she didn't, it doesn't solve the problem. We still have a problem. We have a moveable physical property, and nobody here can tell me I can move that property line right now because I can't. It's staked with the Register of Deeds at Wayne County. And the Wayne County Register of Deeds defines that as moveable, and you're in Wayne County. And the Michigan Certified Act, Certified Act for Surveyors says the exact same thing when you're in Michigan. You need to follow those ordinances.

BOLOVEN

Do you have Exhibit 7?

WAIS

Yes. I do.

BOLOVEN

And you know this was presented to the Board, correct?

WAIS

Yes, I do.

BOLOVEN

So your statement that says we have no evidence presented to us an agreement to make this movable is false, isn't that correct?

WAIS No. She didn't abide by the agreement.

BOLOVEN Sir, you're choosing not to sue. There's a difference.

WAIS No. I told you beforehand, I said despite an agreement with her.

BOLOVEN Sir, I asked you the question, why aren't you suing. You said we're choosing not to sue. That's your choice.

WAIS Correct. Can I say something, because I think you're misinterpreting? When I first spoke. I said very clearly, despite a written agreement with the Hesses they refused to move forward. I said that, and that is the written agreement that I'm looking at right now, and so are you. She refused to move forward. And I said the reason we didn't sue is one, we chose not to, and two, even if I did, as I said, it wasn't going to give us enough property to solve the problem.

BOLOVEN That's a different question.

WAIS It was intended to solve the problem.

BOLOVEN That's a different question. The question is, did you present something to this Board, an agreement that would make this a movable property?

WAIS It doesn't make it immovable. It would allow the property to be moved if she said yes.

BOLOVEN She did say yes, and I'm reading your actual document.

WAIS You can't move the property line based upon that document.

BOLOVEN Sir, if you sued on this document. you can move the property line.

WAIS How do you know? Do you have a guarantee I'd win? And even if I win --

BOLOVEN I don't know why you're arguing and trying to talk over me. I'm just asking you the question. You presented this document. You presented evidence to this Board that made this a movable property. You're choosing not to sue on it. I'm not saying it's going to give you enough land or not. You guys presented this agreement. It specifically says in here. I'll quote it. If Laura Hess fails to cooperate a complaint for adverse possession, restrictive easement, acquiescence, and quiet title shall be filed by Susan Michelle Long and this agreement shall then be null and void. You're choosing not to file a lawsuit to make it movable.

WAIS Again, let me try to explain this to you. Let's say I filed that lawsuit and let's say I win. I still don't have enough property to move. I still

don't have -- I'm still short. I'm still short by 18 feet. So, you know what, to sue for nothing is pointless.

BOLOVEN You're talking about not having enough land here you're your presentation of evidence makes it movable.

WAIS No. The presentation of evidence is not giving me enough land. I need 120 square feet, and that presentation of land would give me 102. That's not sufficient. So, I'd be here again.

BOLOVEN If you won on this lawsuit, you could move two feet, is that correct?

WAIS Yes. Then I'm still 18 feet short and it's not movable.

BOLOVEN That's a different issue.

WAIS But that's the issue before this court. Is it movable, and it's 18 feet short.

BOLOVEN Two feet is movable.

WAIS It's only moveable if somebody says yes, and nobody said yes to move it the other 18 feet.

BOLOVEN She did say yes. You're choosing not to sue the court system.

WAIS No. She said yes for two. I need 20. You're missing the point.

BOLOVEN No, sir, you're missing the point.

WAIS No, sir. With all due respect, you're not even close. If I get two feet, I come back here in a year and I say guess what, I have 102 feet, I'm 18 feet short, I satisfied everything in the whole wide world. I'm short. The only thing I don't get is the back property line. I'm not two feet larger than the other 60 people who have the exact same lot depth, and you're going to tell me I need it. You're not following the law. I just took \$325,000 from the City of Livonia. It'd be my pleasure to take more and another lawsuit. If that's what you want, you're going to get it. I don't want that. I am busy enough. I do not want to sue the City again. I do not want to get a worse reputation for the City. I have clients who like to build here. I don't want to make things worse. But again, that property line, if it moves two feet, I'm still 18 feet short, and you have nothing that you can see anywhere saying I can get around that 18 feet. I'm still allowed to be here and still immovable by the Michigan Surveyor's Land Act, by the Wayne County definition, by the State of Michigan regulations, by Black's Law, by every dictionary in the world it's not movable. And if I try to go move it based upon that agreement, do anything else, I'm going to be in jail for trespassing. I don't desire to see the City.

McHENRY Let me add one more thing to clarify. That two feet that we originally asked for, it was because the house was almost two feet onto the Hesses property, the original house.

BOLOVEN I'm good, Mr. Chair.

COPPOLA Thank you, Mr. Boloven. Any other questions?

BARINGHAUS Yeah, Mr. Chairman. Can you give me any history on the property that was 34675 Fairlane?

McHENRY That belonged to Michelle Long's father. When he passed away, that became her house. The house when it was built, the original survey obviously was off. The house next door, the Hess' property was built I understand by -- it was built for a member of the Long family, and I don't know why it wasn't caught when it was, but when we discovered that the two feet was off, now it really made Hess' property unsalable as it was with the housesitting on their property, and I don't know why it wasn't caught. I thought I saw something was caught on the mortgage survey. I don't why it wasn't addressed at that time, but that was the reason for the two feet initially. So, it gets back to the same thing. We were going to meet our square footage on the lot. We were at one time hoping to get that two feet and I think a five-foot easement, I'm not positive, I think there's a five-foot easement for the purpose of someone to work on the house, to paint the side or clean it up or whatever, and we'd still meet the square footage of the lot. But at one time, the intent was to try to keep the house because it was her father's house and then build on the other lots. And after getting into it, then there was a lot of issues with it, so that's where that came from.

BARINGHAUS Okay. Very good. I guess when you started this project you assumed you would have this obstacle in front of you, correct, in terms of not being compliant with the setbacks for this project or this property.

McHENRY The property was cashed out so there was not a survey completed before. We were going off the boundaries that were presented to us from the original survey.

BARINGHAUS Have you looked at alternatives for building on this property that would be compliant with current Livonia ordinances?

McHENRY Not really. I don't know what --

WAIS We certainly could argue all those things if you want to. We were told not to.

BARINGHAUS Just a yes or no question.

WAIS We certainly examined other issues, but no matter what we did, we only have a hundred feet from the street to the back lot, so no matter how you do it, unless you turn the house sideways, you can't change a hundred feet. So, unless you want the house to face Fairlane, which is the street it has to face under the City ordinances because it's the shortest street as opposed to Five Mile, you have to face the shortest street if you're on the corner, and you have lots all of the way back clearly on Fairlane. So, unless you have the lot built sideways, their house built sideways, that would really look stupid in the area. No houses are built sideways, all houses face the street. It would fit. It just can't.

BARINGHAUS Okay. Very good. Thank you.

COPPOLA Any other questions?

TESTA Mr. Chair.

COPPOLA Mr. Testa.

TESTA To Mr. Baringhaus' point, when you bought the property, you had already been in Ms. Long's case and knew it was rejected. So, you knew the circumstances when you bought this property from her.

WAIS Just so it's clear, the appeal is brought on behalf of Ms. Long. Ms. Long first filed an appeal, and because of the Judge's ruling and the caption that you have, Mr. Fisher will tell you, we're here on behalf of both. Ms. Long's rights still survive. We took her rights. So, if Ms. Long is entitled to the ruling, then we're entitled to the same ruling that she'd be entitled to because we took her rights. That the rights we acquired. We didn't acquire any more rights than she had, and we didn't acquire any less rights, and the Courts ruled on that, and I think Mr. Fisher again agrees with me on that. So, telling us that we bought it knowing. We have her for all legal purposes.

TESTA Right. I'm not arguing that point. I'm arguing when he bought this land, he was in the meeting with Ms. Long, and he knew the case became before us and he knew the case was denied, correct? He was in that meeting. We voted to deny it. He heard the vote. He heard the judgment. He knew it was denied and still bought the property and came back to us with the same case. Is anything that I just said incorrect?

WAIS I do not believe so, but it's not relevant, because again, we bought her rights. And if Ms. Long is entitled to the relief we're asking for, you must give us the relief. And whoever owns it, your argument is a hardship argument, with all due respect. You're saying that there is no hardship because you knew what you were getting ourselves into. But Ms. Long didn't know when she bought the property before Livonia even existed as a city that he was going to somehow have

her property changed so he can't use it. She didn't know that, and we have rights. So, the hardship one doesn't work because Ms. Long is the one who's the petitioner. We have her -- we're suing in her name and the Courts already found that. Again, if you want to use that as your excuse, you can, it just gives me an easy appeal. So, I'm trying to avoid a problem. I mean again, I don't know why this Board is so reluctant to grant this. You have a chance to have four new pieces of property that are the exact same size in terms of depth as 60 others in the neighborhood, and it's going to be new and otherwise complies with everything. I don't know why this Board so wants to avoid those lots be built. I don't know why you're fighting against it in a manner that just doesn't make builders want to come here, just gets people sued. I don't know why. I wish I understood. I tried to ask Mr. Fisher and he says the Board is trying follow the law, so I do understand that. You're following as you see it. I got that. But with the ordinance as written says physical movable boundary, and you've seen every, you seen Wikipedia, Black's Law Dictionary, Wayne Counter Register of Deeds, Michigan State ordinances. When you've seen all that that all say I'm right, and you know I can't move that property line without permission, you know about trespass. I can't move your property line either. If I wanted to say you know what, I'm taking part of your property because I don't like you, I can't do it period. I can't do it with a gun either, by the way. So, I can't do it. And with a gun maybe you'd let me do it, but I still can't. It's not movable. You have every single law, every single definition saying you're wrong. The plain dictionary definitions. That's how you interpret an ordinance because the public has the right to rely upon plain and ordinary meaning of things when they buy Property. Ms. Long bought that property before the entire city existed. To say she can't develop it, it just sucks when you have 60 other people with the exact same lot setback, and they were able to do so, including at least 20 after the fact. That really sucks.

TESTA Okay. I'd like to revisit the point about the offer you made to the Hesses, so I'm checking the meeting minutes. I said Ms. Hess was on the phone. She was but speaking on her behalf was her son-in-law, Mr. Bacon. And they clearly said that the offer you made to them was too low. It didn't meet market value. They did say they were willing to sell the whole lot if fair market value was given.

WAIS We offered the whole lot at fair market value after that meeting, and she refused to respond.

TESTA Test until you have proof of that, I'm not buying it.

WAIS I don't care what you buy or not, to tell you the truth. It doesn't matter because I don't have to buy the property. It was a way to get out of the solution. The fact is it's not movable. Whether or not I could with humongous things, I can fill in a ravine and I can make it -- you now can move it. It's gone. But I don't have to do that. We look

at the property as it exists today. As it exists today, there's no evidence that it's movable. I can't move it. I don't have to buy it. The law doesn't say, the law doesn't say immovable physical boundary unless you can buy it. It says immovable physical boundary. If it wanted to say what you want it to say, that's what the orders would have said. But guess what, it doesn't say that. It says immovable physical boundary.

COPPOLA All right. Thank you. Any other questions? Seeing none, is there anyone in the audience that would like to speak for or against this petition? None. So, I guess do we have any correspondence?

BARINGHAUS Yes, Mr. Chairman. We have we have three letters. The first letter is from Karen Brennan, 15114 Riverside Street. Letter of rejection. I do not support this appeal. I believe this change in the lot requirement size helps to set precedent and cheapens the value of lots and Livonia in general. Letter of objection. Robert Anderson, 15212 Riverside. In the past, the lot had one house on it. One house would meet the zoning requirements without any variances. Building four houses on a lot that does not meet the minimal zoning requirements will have a negative impact on the local neighborhood, traffic and noise. PS, the other properties on Fairlane are large homes on very large lots. Letter of objection. John and Denise Forgiel, 15234 Riverside. This is the third time that we are noting our objections to this requested variance. Previous letters were submitted for the board meetings held on 10/27/20 and 3/30/21. We objected in the past and we still object for the same reasons. Building multiple houses on lots that are too small to meet zoning requirements will result in an increase in noise congestion and traffic. The project would have a negative effect on the open country like ambiance of the neighborhood. One house could be built on the lot without any need for a variance and would not affect, adversely affect the neighborhood. All the other lots in the area meet or exceed the minimum zoning requirements, and any new developments should be held to the same standards. Note section 4.03(b) refers to an immovable physical boundary and not to an existing property line.

COPPOLA Mr. Wais, do you have any final statement you'd like to say before we close the public portion?

WAIS I would just like to respond to the first three letters that said. The first person says devalue of the lot. That's not one of the issues before this Board because you're supposed to determine whether some physical boundary. But the value of the lots, if you have 60 lots the exact same size and they're all built in the '50s or '60s, building something the same, brand new improves the value. Traffic and noise from really, from four house right next to Five Mile. Traffic and noise doesn't make any sense. And it's a church across the street, a huge church. It has tons of people coming all the time, traffic and noise is not a reason. And saying it's too small she's just wrong. We

meet the lot requirement. We have the correct area. We meet the lot requirements period. So, it's not too small. None of them say that the boundary is movable. None of them provide you with any law that the boundary is movable, and nobody has, not Mr. Fisher either, nothing saying that that boundary is not moveable as we sit here today. Just because I tried and failed doesn't mean it's movable. I can try and fail to pick up a building and move a building, but if I can't, it doesn't make it movable. I can blow up a building it could be blocking it, it doesn't make it movable. There's a building there that stops you from doing something, it's immovable. Same thing as a property line is a matter of law by everything I've done. I don't know why this board would want to rule against it. It does not make any sense. You can say that you were ordered basically to focus on one issue, and you focused on the one issue the court told you to focus on, and on the definitions that you've been given, nine different definitions, I went under all nine. Thank you.

COPPOLA Thank you. I'm going to close public portion of the case. And let me just go to Mr. Fisher. Is there anything we need to do beyond what we've done before going to more comments?

FISHER I don't think there's anything you have to do before you take your comments. I would say, as I indicated before, you probably want to -- if you're -- well, no. I'll leave that till we have the comments in hand, which way the wind is going to blow.

COPPOLA Maybe I'll provide some clarity and some instruction again. The only issue before us is really in the sense the interpretation of the definition of a movable physical boundary. It's really whether we believe that the Petitioner has made a salient argument that changes our mind or puts our mind towards, towards their position away from our position. We read the comments because we got the comments from the neighbors and such. Really, that doesn't take into account. It's purely sticking with the issue at hand which is the immovable physical boundary. So, with that, and again, please just focus on that for the record. I appreciate that. So, I'll go ahead and start the Board's comments with Mr. Testa.

TESTA Thank you, Mr. Chair. So, I mean obviously from questions in previous meetings, I'm against this. I do believe the lot line is movable with you purchasing land from your neighbor or buying the whole land from them. This lot was originally four lots which was subdivided so that lot was moved. That bigger lot was part of the neighboring lot before and the previous owner split it off, and they split it off to a narrower lot and at the time maybe made sense. There wasn't 120 setback, but there is today. I would support a table motion to allow the Petitioner to work something out with the Hesses or come back to us with written proof, documented proof that they made an offer to the Hesses and they did not reply. Thank you.

COPPOLA Thank you. Ms. Ptashnik.

PTASHNIK Similar to Mr. Testa, I would like to see a good faith effort put forth towards purchase from the Hesses, or at least some sort of proof of a deal being made there. Looking at this, this is an owner, kind of an owner created issue here, and so that's why I also agree that the lot line would be movable if you could get purchase from the Hesses, or at least an effort, proof of effort there.

COPPOLA All right. Thank you. Mr. Boloven.

BOLOVEN Following up on my line of questioning, I do not think this is an immovable physical boundary which would trigger the ordinance provision waiving the 120-foot lot. That's evidenced by Exhibit 7 that was presented by the Petitioner that shows that there was a rezoning agreement, and if they sue on that agreement, even though it wouldn't be enough, they could still move at least two feet based on that agreement. So, with that being said for the specific issues that are presented today, I would be against a tabling, I would be in support of a denial in defining that this property line is not an immovable physical boundary.

COPPOLA All right. Thank you. Ms. Oliverio.

OLIVERIO I tend to agree. The primary issue at hand here is how are we going to define that immovable, what was it, property line, an immovable physical boundary under the City ordinance. That definition is not super clear, therefore, I don't know that I can say what it was one way or another, but I don't think it would be a property line simply because there are options to move the property line that we've already discussed in here, therefore, it is potentially moveable. Overall, I agree that I like the idea of having homes, all that, and improving the area, but unfortunately that's not the question we're looking at here so.

COPPOLA Thank you. You Mr. Baringhaus.

BARINGHAUS Thank you. Mr. Boloven, I disagree with the Petitioner's argument regarding immovable physical boundaries. Looking at the property itself once the Long's father's house at 34675 was removed, what happen, the boundaries changed, and four pieces of property were created with different boundaries. I mean boundaries are nothing more than the property line. They're changed frequently when needed. They're readjusted when necessary, as well. So based on that I would be in support of a denial. Thank you.

COPPOLA Thank you. Again, specifically to the narrow issue of immovable physical boundary, I did not find Petitioner's arguments to be compelling, I actually found them to be contortions of what was written to meet their needs. I don't see a property line as an

immovable physical boundary. Property lines are moved all of the time. Property lines are created when subdivisions are put in. In this case, property lines were changed twice, once to divide the property into three pieces of property, and then a second time to divide that one piece of property into four pieces of property. So, property lines move, but I think an immovable physical boundary, I just don't believe it to be a property line. Property line is kind of a manmade thing. Yes, you did make a comment about permanent markers. Yes, they put in permanent markers so that you know where your property lines are, and when you change those property lines, you pull up that permanent marker and you move it to a new place, and it becomes a permanent marker in a new place. I don't think it's considered immovable. Somebody actually picked it up and moved it. So, when I asked the question, and I think this is the difference here, you got a neighbor who won't agree to move the property lines. It's not that you can't move the property lines, there's nothing that stops anybody from moving the property lines if there's an agreement. So, I don't think it meets the definition and I am concerned that if we did agree to this, the point that Mr. Fisher bought up is that basically nullifies this restriction. There's no longer for a restriction because you're saying a property line is an immovable. So, this ordinance, 4.03(b) has no meaning anymore, and I don't think that was the intent of those that drew it up. So, from that perspective, my position is that I'll deny the request. From my perspective I do not believe that the issue brought forth here is an immovable physical boundary. I guess the question now, Mr. Fisher, is what type of motion do we make then?

WAIS

Can I ask a question?

COPPOLA

No, you may not. Please sit down.

FISHER

Yeah. Well, we might want to come back to Mike before we actually vote. But I think our first issue is to answer the question whether or not we're going to affirm the dollar administration position on the meaning of an immovable physical boundary limitations which prohibit meeting lot depth requirements. So, we've got to answer that. I think it probably makes sense just for procedure to reaffirm the Board with just one line, reaffirm the Board's previous finding that there's no practical difficulty justifying a variance here, and I'm not sure you have to do anything more than that. But I would want to defer to Mike, and the reason for this is that where our mandate is to address the issues brought by the Petitioners, and I want to make sure that we're satisfactorily doing that. So, I want the record to show that we are satisfactorily answering all their questions.

COPPOLA

You're suggesting we give Mr. Wais an opportunity to speak and comment as to whether we've addressed the issue that was remanded back to us by the Judge.

FISHER And if there's any other instruction from the Judge, that I've somehow overlooked, he can maybe share that because the situation I don't want to get into is I don't want to get back time Judge and say why didn't you do X.

COPPOLA And have to come back again. Okay. Understand. So, Mr. Wais.

WAIS Yes.

COPPOLA, I think you heard what Mr. Fisher had suggested. So, my question to you is have we addressed the issues? Do you believe we've addressed the issues that have been remanded back to us by the Judge?

WAIS No, I don't. And I did have a question because it sounded like three of you would say to table it until I come back with proof showing you it's not movable. I'm not sure if you made a decision on that or not.

COPPOLA I don't think that's what they said. They wanted you to come back in proof in regards to whether you made an offer. That has in nothing to do with whether the property line -- that's a red herring. We're going off in a direction that we don't need. The question is, is it basically an immovable physical boundary, and if there's other questions that you believe Judge remanded back to us. That's the question I have to you. Have we addressed the question that -- the questions --

WAIS No, I do not think you appropriately addressed the question, honestly. You're not going to agree with me, but I'm not stipulating that you did. Again, I said three of you said --

COPPOLA I didn't ask you whether we adequately addressed it, I asked you whether we addressed the issue the Judge asked for us few address that remanded back to us. Is there any other issue that we missed that we didn't discuss?

WAIS You discussed the issue. I do not think you addressed it. I'm not saying correctly.

COPPOLA, I didn't ask your opinion, I'm just asking you whether --

WAIS Well, you did. You said did you do it appropriately, and I'm not going to say you did.

COPPOLA That's not the questions I asked you. I'm asking you, the Judge remanded this back. There were issues we were supposed to address. Have we discussed and addressed the issue the Judge has asked us to address?

WAIS I do not believe so, no.

COPPOLA So what issue did we not address?

WAIS Can I have my paper back that you promised to give me back, Mr. Fisher?

FISHER Sure. And thank you for the use of your --

WAIS I'm sorry. What?

FISHER I said thank you for the use of that copy.

WAIS I do not think you adequately or appropriately addressed whether our property line is an immovable physical boundary under the law. I don't think you've done that. Again, if you think you did, that's fine. I'm not going to fight with you. I'm not trying to get you to change your mind, but I do not think that you did it -- I'm not trying to say that I think you're wrong, which I do. I'm saying I don't think --

COPPOLA What was inadequate with regards to our --

WAIS We're not going to get anywhere because you're not going to change your mind. So, it is pointless -- whatever, whatever's -- you know, I could tell you that the ordinance still has meaning because in order to have -- the ordinance still has meaning even if it's the property line because I still have to show we comply with everything else, which we do.

COPPOLA But we're not talking about everything else. We're talking about --

WAIS I know you don't -- you want to talk about what you want to talk about. That's what you said in your answer though. You said because otherwise the ordinance would have no meaning if it meets property line, and it does.

COPPOLA Specifically 4.03 immovable physical boundary. Don't twist my words. Don't change the record.

WAIS I on the record do not agree with what you're saying. I don't agree that you addressed it appropriately as the Judge indicates. We have a disagreement. I respect your opinion. I respect that we disagree. I respect that no matter what I have to say, you're not going to change your opinion, and I got that. I don't want to waste anymore of your time. I don't want to waste anymore of my time and my client's money. We don't agree. I believe the Judge should have made a decision initially what it means. He gave you a chance to make a decision. You've now made your decision and now he'll decide whether or not your decision is legally right or legally wrong, that's where we go from here. That's why we have Courts. We have Courts to determine whether or not a Board like this is write or wrong.

If the Board says you're right, or if the Judge says you're right, you're right. If the Judge says you're wrong, you're wrong, until the Court of Appeals makes the ruling. So, we with all due respect disagree. I'm not trying to argue with you. I respect your opinion, I just disagree with it.

COPPOLA I just want to ask a clarifying question because I'm still a little concerned what you're saying on the record. Is it that you don't agree with our opinion, or you don't think we've adequately addressed your concerns and your questions?

WAIS Both.

COPPOLA So what other concerns and questions do you have?

WAIS My job is not to tell you how to do yours.

COPPOLA You're missing my question because Mr. Fisher asked, because the Judge remanded this to us. We want to make sure that we checked the box that he's asked us to address the issue. Whether you like how we -- whether you like our response or not is not my question.

WAIS And whether you like my answer is not my problem. I told you we disagree. And Mr. Fisher's going to tell you I don't have to agree with you. The Judge will make a decision. He'll either say, you know, what you addressed it appropriately. What I think you addressed and didn't address is meaningless. There's only one person that matters. That's what Judge Ewell thinks. If Judge Ewell thinks you addressed it appropriately and he's willing to rule it the way you ruled, that's what matters. What I think, what you think, what Mr. Fisher thinks does not mean anything. What Judge Ewell thinks does mean something.

FISHER Mr. Chair, can we possibly just have a brief recess to discuss among the lawyers?

COPPOLA Yeah, if you would. Why don't we take a five-minute recess.

(Whereupon a brief pause was
Held in the proceedings)

COPPOLA Back on the record. Mr. Fisher.

FISHER Yes. Mr. Weiss and I have agreed that based on this record and all that's gone forward so far, we will encourage the Judge to make a decision and not to remand this case again. So, does that satisfy you? Is there anything you want to add?

WAIS Yes. Every issue previously raised is still raised, and every issue that we raised here is still raised, but we will both encourage the

Judge together to rule based upon what you have, make a decision based upon what you have because going back here is not going to change. Judge, it's your decision to make the law, decide what the law is. Please make the decision, and I think each of us agree that we're going to encourage the Judge to do that. So, I think that solves your question, at least we both think it solves your question. Hopefully it does.

COPPOLA Okay. Works for me. So, we are still in a position we have to make a motion, so why don't we talk about that again real quick.

WAIS Do I have to stay for this?

COPPOLA You don't need to stand there for that. You can sit or you can leave.

BOLOVEN Want to make a motion?

COPPOLA So the for the motion again, why don't you refresh us.

FISHER The motion answer the question does the exemption in Section 4.03(b) apply in this case. Just yes, no. And, like I say, you probably should just for this, for procedurally, if you're going to decide that the exemption does not apply, then you should also I think reaffirm your denial of their variance requests.

TESTA Do we need to do it eight times?

FISHER I think do it one time for all the eight cases. There's not much daylight between those.

COPPOLA Just reaffirming our denial, do we need to reference or go into detail in regard to the motion? Previously.

FISHER I don't think that's necessary. Just, you know, I think you can do that in one sentence.

COPPOLA All right. So, do we have a motion?

BOLOVEN Mr. Chair.

COPPOLA Mr. Boloven.

BOLOVEN Resolved that the variances sought in appeal cases number 2020-04-08, 2020-04-09, 2020-04-10, 2020-04-11 filed by Susan Michelle Long, as well as appeal cases numbers 2021-03-10, 2021-03-11, and 2021-0312, and 2021-0313 filed by Michael Malinowski be denied for the following reasons and finding of fact. First and foremost, that the exemption found in Livonia City Ordinance 4.03(b) does not apply to this case, specifically that Petitioner's property line does not constitute an immovable physical

boundary under the ordinance which thereby would not trigger the ordinance provision waiving the 120-foot lot depth requirement.

Furthermore, that Petitioner has not demonstrated to the board that a practical difficulty exists as the Board previously found in prior hearings on March 30th, 2021, and October 27th, 2020.

Further, that the denial of this appeal is in best interest of the City of Livonia.

COPPOLA Got a motion by Mr. Boloven, supported by Mr. Testa, the denial of eight recited appeal cases. Go ahead take a vote. Mr. Baringhaus.

BARINGHAUS Thank you.

Upon Motion by Boloven, supported by Testa, it was

RESOLVED: CASE NOS. 2020-04-08, 2020-04-09, 2020-04-10, 2020-04-11, 2021-03-10, 2021-03-11, 2021-0312, 2021-0313. An appeal has been made to the Zoning Board of Appeals by Susan Michelle Long, 34695 Five Mile, Livonia, MI 48154, and Michael Malinowski, 1515 Aberdeen, Canton, MI 48187. Per Livonia Vision 21 Zoning Ordinance Sections 4.03(B) and 13.14(6)(A), the Petitioner seeks an administrative ruling waiving the 120-foot lot depth requirement set forth in Livonia Vision 21 Zoning Ordinance Section 3.05. The Board will consider and rule upon the City of Livonia ordinances raised by the Petitioner, including whether the Petitioner's property line constitutes an immovable physical boundary under the City of Livonia ordinances by triggering the ordinance provision waiving 120-foot lot depth requirement

The properties are located on the west side of Fairlane (15235, 15251, 15273, 15287) between Five Mile and Lyndon, Lot Nos. 082-99-0036-004, 082-99-0036-005, 082-99-0036-006, 082-99-0036-007, N-2 Zoning District **be denied for the following reasons and finding of fact:**

1. First and foremost, that the exemption found in Livonia City Ordinance 4.03(b) does not apply to this case, specifically that Petitioner's property line does not constitute an immovable physical boundary under the ordinance which thereby would not trigger the ordinance provision waiving the 120-foot lot depth requirement.
2. Furthermore, that Petitioner has not demonstrated to the board that a practical difficulty exists as the Board previously found in prior hearings on March 30th, 2021, and October 27th, 2020.
3. Further, that the denial of this appeal is in best interest of the City of Livonia.

ROLL CALL VOTE

AYES: Testa, Ptashnik, Oliverio, Boloven,
Baringhaus, Coppola.

NAYS: None.

ABSENT: Klisz.

DENIED: 6-0

COPPOLA The motion -- the appeal has been denied pursuant to 4.03(b) on the movable physical boundary issue. Anything else in regard to this.

FISHER I think that's good, Mr. Chair.

COPPOLA Call the next case, please.

APPEAL CASE NO. 2022-05-11: An appeal has been made to the Zoning Board of Appeals by Jason and Jessica Ellis, 19847 Weyher, seeking to erect a six-foot-tall privacy fence upon a corner lot, resulting in the fence being proposed within the side yard (to the front line of the house) along the side street lot line. Privacy fences must not extend beyond the rear of the home to the front building line when no side door exists.

The property is located on the west side Weyher (19847) between Pembroke and Maplewood, Lot No. 002-02-0052-000, N-1 Zoning District, "Neighborhood District." Rejected by the Inspection Department under City of Livonia Fence Ordinance, Section 15.44.090 (B) "Residential District Regulations."

BARINGHAUS Appeal case number 2022-05-11. An appeal has been made to the Zoning Board of Appeals by Jason and Jessica Ellis, 19847 Weyher, seeking to erect a six-foot-tall privacy fence on a corner lot, resulting in the fence being proposed within the side yard to the front line of the house along the side street lot line. Privacy fences must not extend beyond the rear of the to the front building line when no side door exists.

COPPOLA Thank you Mr. Stroble, anything you'd like to add?

STROBLE Not at this time, Mr. Chair.

COPPOLA Any questions for Mr. Stroble. Seeing none the Petitioners step forward, name and address, please.

MS. ELLIS Hi. Jessica Ellis. 19847 Weyher Street.

MR. ELLIS My name is Jason Ellis. 19847 Weyher Street.

COPPOLA Why don't just give me a brief description of what you would like to do and what the practical difficulty you have that would suggest we would approve your variance.

COPPOLA You talking about the one with the green and the yellow, or the green and the purple?

MS. ELLIS Yeah. It's pretty fancy.

COPPOLA Yeah. It is. It is. So, tell me about the fence. What's the reason for going to a six-foot fence, specifically why you believe you need to go to that front portion of the building where the variance allows you to go to just past the window that's on that side?

MS. ELLIS It's actually not technically the front porch with the weird L-shipped '50s style home we have, but we have a large window right there and we've been in our home almost 12 years and we have consistently had issues being on a corner lot, which I think has a lot to do with it with people just either vandalizing or damaging our property, especially the windows are concerned because it scares me. It scares me to have people throwing their bodies and rocks up against my window late at night. And we've had to call out the police more times than I can count for the ten years that we've been there, and I'd like to feel safe in my home.

COPPOLA Understand. Anything else you wanted to add?

MS. ELLIS I don't know if you want this or not.

COPPOLA Mr. Ellis, looked like you were going to speak.

MR. ELLIS Basically because of the corner lot and the way that the path, all of the students too, they walk that, and they yell, and they spit at our dogs, and they, you know, those kids are kids. So, we pick up trash in our back yard and on the sidewalk.

COPPOLA Just wanted to work a little harder now.

MR. ELLIS Yeah. Just something to kind of keep a barrier.

COPPOLA I understand. The ordinance now allows you to put that six-foot privacy fence unjust past a window. So, you have a window on that side of the house.

MS. ELLIS They actually told us that we could not, and they were very firm on that. And they were very kind, let me say that Randy was so ridiculously kind and patient with me, ridiculously kind and patient with me.

MR. ELLIS So we asked for it to go up to that.

COPPOLA Up to the window?

MR. ELLIS Then they said we couldn't do that. We had to apply for a variance. So, we figured if we were going to go that far, why not go an extra two feet or three feet.

MS. ELLIS Two and a half or three feet, something like that form the window so it wouldn't be just at the window. That would be a little silly.

COPPOLA Because yeah, the owners might say side door and this is a window.

MR. ELLIS Correct.

COPPOLA I think our intent was when we proposed that was really any type of permanent opening.

MS. ELLIS I don't know if this sets precedent or not, and we're not trying to call anybody out, but we wanted to say even like the house that all have corner lots around us, they all got their variance if you'd like to see these.

MR. ELLIS Or if they didn't get a variance. We don't know.

COPPOLA Okay. Questions for Petitioners?

BARINGHAUS Mr. Chairman.

COPPOLA Mr. Baringhaus.

BARINGHAUS You may have mentioned this earlier, but you also have chain link fence around the perimeter of your yard?

MS. ELLIS We do currently. It actually only goes to the back of the house.

BARINGHAUS It looks like part of your property would have the chain link fence and the privacy fence?

MR. ELLIS We plan on having the whole back taken out and then the whole side, and then the one on the neighbors.

BARINGHAUS You have plans to remove the chain link.

MR. ELLIS Yeah. We don't have the cash to do the other side, but we figure if we can get that one, then next year we'll do the, you know, the --

MS. ELLIS Whatever needs to be done. This is what's going to keep our home safer we feel.

BARINGHAUS Question for the building department. I only saw one authorization form, and that was from 19848 Maplewood. It looks like there's some

adjoining neighbors, or is that the proper amount of forms written out based on what they want to complete?

STROBLE Unfortunately my computer is --

MR. ELLIS I believe that would be the house behind us that would sign off because we're a corner lot.

BOLOVEN Mr. Chair.

COPPOLA Mr. Boloven.

BOLOVEN Just a quick question for Petitioners. You currently have one gate or two gates on Pembroke?

MS. ELLIS On Pembroke we have two gates. I think it's probably original to the 1959 home.

BOLOVEN So you're doing the exact same layout, the only thing you're doing different is putting up the privacy versus the cyclone, correct?

MR. ELLIS Yes.

BOLOVEN Thank you, Mr. Chair.

TESTA Mr. Chair.

COPPOLA Mr. Testa.

TESTA Sorry. To Petitioner, I was looking at Google Maps when I should have just looked over Mr. Boloven's computer because he had it open. I did drive by your because you were talking about why you couldn't go to the midpoint. You talked about the big window, that's why I was going to Google Maps. Why couldn't you just go right in front of that window towards the front of your house?

MR. ELLIS We could. The building department told us we couldn't.

MS. ELLIS We would love to take it all of the way to the front, but they told us no.

MR. ELLIS They told us that we needed a variance, so we figured if we were going to go for that, we would just go for the extra two feet or three feet.

TESTA I understand. Thank you.

COPPOLA Any other questions?

PTASHNIK Mr. Chair.

COPPOLA Ms. Ptashnik.

PTASHNIK I actually also came by. If I would have known there were cookies, I would have stopped in. But anyway, my only concern when I was reading the petition was would this block the view of drivers.

MS. ELLIS Well actually, that is a great question, and we actually took a giant -- we measured it out for the 50 foot. We took like string and --

MR. ELLIS We took photos. We submitted it too.

MS. ELLIS String and photos. It's not only just a little bit clear, it's clear times three, you know, like with the 50 foot.

PTASHNIK I was trying to envision the six-foot there.

COPPOLA The police went out and viewed it. We have a signoff.

PTASHNIK Safety with the children in the area and the school I just wanted to make sure. Thank you. That was my question.

COPPOLA So question to the Petitioner. Would you be opposed to a modification where it just went past the window?

MS. ELLIS Well, the window is so close to that point that I would really like that two extra feet just so there's not like a bar on the window.

COPPOLA You kind of did a drawing, but I was going to say past the window towards the front of the house.

MS. ELLIS I'm sorry. I'm not understanding.

COPPOLA Again, I see your drawing and it may not be to scale, so I don't know if it was placed property, but right now I would suggest we put it past the window, be about half way.

MS. ELLIS Can I come up and see?

COPPOLA Sure.

MS. ELLIS Is that okay? Let me see what you have? Well, you have my original drawing that they rejected.

COPPOLA Going to just past the window, so it would like right here.

MS. ELLIS I would much appreciate if it went to here for safety, but we've had people mess with the brick, with the flowers. For the safety of the home and people still messing with the side of the house. And you know even we've had people throw paint and what else. I would

really much appreciate it if we could go to that two thirds way point of the home. And also not only that, but for visual issues.

COPPOLA Okay. Other questions?

BARINGHAUS Mr. Chairman.

COPPOLA Vice Chair Baringhaus.

BARINGHAUS How many incidents have you had at the home?

MS. ELLIS We've been there for ten years. Probably several a year. So more than 25.

BARINGHAUS You said you had paint thrown on the side of the House?

MR. ELLIS That was in the front.

MS. ELLIS We've had paint. We've come home to a nail spike into our house. We've had to call the police from kids throwing rocks. People try to break our windows. People standing on our front porch banging on the window. We've had our kids screamed at. We've had our dogs had stuff thrown at them. If I could put a mote around my home, I would. I've just kind of had enough and I want to feel safe in my home.

BARINGHAUS Two gates on that side, are you planning on adding those gates in as well? I think you had for a driveway.

MR. ELLIS We were just going to duplicate what was there.

BARINGHAUS Duplicate the two gates?

MS. ELLIS Yeah.

BARINGHAUS Okay. Who's going to install the fence?

MS. ELLIS Jake fence. I guess he's well known in Livonia.

BARINGHAUS I'll take your word for that.

MS. ELLIS I was hoping too.

COPPOLA So you had submitted this in your packet. You had circled this is what you were going to put in. I think you said it was going to be an almond colored?

MS. ELLIS Almond and adobe.

COPPOLA Clay filling boards with New England caps.

MS. ELLIS I don't know what kind of caps, but that's the color.

COPPOLA Okay.

MS. ELLIS Is that okay?

COPPOLA That's fine with us. We do our motion to approve and we're required you put it in as presented. So, this is your last chance to change your mind.

MS. ELLIS Color is hard to choose.

COPPOLA I'm kidding. Probably within reason you can change the colors if you wanted to. Okay. Any other questions? All right. Seeing none, does anybody in the audience that would like to speak for or against this. Seeing none we have correspondence?

BARINGHAUS Yes. We have two letters. Letter from Rebecca Kales, 28555 Pembroke. I definitely approve of the privacy fence of the Ellis home. My husband and I think it would look very nice. Please allow them to put the fence that they want. Thank you. Letter of approval from Chris Mornack. As a direct neighbor, we approve for two reasons, one their dog barks at everything that moves. Having a privacy fence that extends to the front corner of the house might alleviate the issue of dog barking at any pedestrian who walks down Pembroke Street past our house regardless of what side of the street the pedestrian is on. Second, the privacy fence between our property and theirs is highly desirable by both parties. We simply do not like each other due to varying views on responsible dog ownership, and if granting this variance will ensure that they actually put this fence up, we are all for it. I just ride them. Letter of approval, Genevieve Valesca, 19748 Maplewood. A privacy fence will add curb appeal to this corner property and to the neighborhood as well. Letter of approval, Grace Allasia, 19822 Weyher Street. I have no issue with this request. Letter of approval Maryland Tomzewski. We have a privacy fence along the sidewalk of our corner lot as well. It enables us to fully utilize our yard. The Ellises should also have that pleasure. Letter of approval Raymond Trupiano, 19846 Weyher Street. No comments. Letter of approval Debra McWhinnie, 19837 Maplewood. I don't blame them for wanting a privacy fence. They have children and a dog, and I wouldn't want people looking in my yard all of the time. I would never buy a corner lot for that reason. So yes, I approve them to have a privacy fence. Letter of approval, James L. Burr 19284 Maplewood. We have no problems with our neighbors enhancing their property with a privacy fence. We highly approve of their requested variance. That's it.

COPPOLA All right. Anything you'd like to add in closing. You didn't get a lot of support from the neighborhoods.

MS. ELLIS I think it's been the talk of the neighborhood for the last two weeks.

MR. ELLIS The fact that the kids run by, and they kick our fence and the dogs bark it just angers everybody, so it's understandable that someone complained about the dog barking.

COPPOLA All right. Thank you very much. You guys can have a seat. I'm going to close the public portion of the case and start the Board's comments with Mr. vice chair Baringhaus.

BARINGHAUS Okay. Thank you. Based on the hardship the Petitioners have outlined, I'm generally in support of the variance, and they do have very strong neighbor support for the fence itself. Basically, one thing I would like them to consider is moving the fence back to the midpoint on the side of the house just in front of the window. But base and conceptually I'm in favor of the variance. Thank you.

COPPOLA All right. Thank you. Ms. Oliverio.

OLIVERIO Thank you. I'm in support of the variance as requested primarily because one of the safety issues, the hardship that you said there. Also, you have overwhelming support from your neighbors, so that's fantastic.

COPPOLA Thank you. Mr. Boloven.

BOLOVEN I echo the Board's sentiment on this. I'd also be in support. The only additional item that I'd add is the neighbor kitty-corner on the northeast side, 19916 Weyher, identical to you, and their privacy fence goes all the way up to the door. So, with that being said, and having uniformity and consistency approve as presented.

COPPOLA Thank you. Ms. Ptashnik.

PTASHNIK I'm also in support of this. I want my residents here in Livonia to feel safe, and the hardships that you spelled out really come to light and I'm pleased to hear that you have so much neighbor approval as well on this.

COPPOLA Thank you. Mr. Testa.

TESTA I support. I have nothing new to add other than to Mr. Baringhaus' support, I would be in favor either way. I would make a point full length.

COPPOLA Thank you. I support as presented, so I will go ahead and open the floor for a motion.

BARINGHAUS Mr. Chairman.

COPPOLA Vice Chair Baringhaus.

BARINGHAUS Resolve that the variance on appeal case number 2022-05-11 filed by Jason and Jessica Ellis, 19847 Weyher be granted for the following reasons the finding of fact. Uniqueness required is met due to the location of the property on the corner lot, the need for privacy. Denial of the variance would have severe consequences for the Petitioner due to a history of disturbances on the property from pedestrians as well as a lack of privacy and security both for their children and family pet. The variance is fair in light of its effect on neighboring properties in the spirit of the Zoning Ordinance due to strong neighbor support for the fence itself. The property itself is classified as N1 zoning district under the Master Plan, and the proposed variance is not inconsistent with that classification. Further, that the variance be granted with the following conditions, that the fence be installed as present this evening.

BOLOVEN Support.

COPPOLA I've got a motion by Mr. Baringhaus, support by Mr. Boloven. Any discussion? I have just one comment. I'd like a clarity point for the motion is that we designate exactly which side of the house we're approving because they do plan on putting a privacy fence on the other side, and that will also go, they want that to go in front of the house too so they'll have to come back. They're not asking for that now, so I don't know. It should state the fact that it's for whatever the street facing or the north. Is the north? Which side does it face?

BARINGHAUS Pembroke.

COPPOLA North side.

BARINGHAUS Install fence on north side of property.

COPPOLA As presented. Just add as presented. Any other? All right. Take roll, please.

RESOLVED: APPEAL CASE NO. 2022-05-11: An appeal has been made to the Zoning Board of Appeals by Jason and Jessica Ellis, 19847 Weyher, seeking to erect a six-foot-tall privacy fence upon a corner lot, resulting in the fence being proposed within the side yard (to the front line of the house) along the side street lot line. Privacy fences must not extend beyond the rear of the home to the front building line when no side door exists.

The property is located on the west side Weyher (19847) between Pembroke and Maplewood, Lot No. 002-02-0052-000, N-1 Zoning District, "Neighborhood District." Rejected by the Inspection Department under City of Livonia Fence Ordinance, Section 15.44.090 (B) "Residential District Regulations," be granted for the following reasons and findings of fact:

1. The uniqueness requirement is met due to the location of the property on the corner lot and the need for privacy.
2. Denial of the variance would have severe consequences for the petitioner due to a history of disturbances on the property from pedestrians as well as a lack of privacy and security both for their children and family pet.
3. The variance is fair in light of its effect on neighboring properties and is in the spirit of the zoning ordinance due to strong neighbor support for the fence itself.
4. The granting of this variance will not adversely affect the purpose or objective of the Master Plan because this property is classified as N-1 Zoning District under the Master Plan and the proposed variance is not inconsistent with that classification.

FURTHER, the variance be granted with the following conditions:

1. That the fence be installed as presented to the Board.
2. That the fence be installed facing the north (Pembroke) side of the property.

ROLL CALL VOTE

AYES: Ptashnik, Oliverio, Testa, Boloven,
Baringhaus, Coppola.

NAYS: None.

ABSENT: Klisz

PASSES: 6-0.

COPPOLA All right. Your variance has passed. You'll be able to build your fence as you presented it on the north side up to the start of the house.

MS. ELLIS May I ask a question.

COPPOLA You can step up to make sure you're on the record.

MS. ELLIS Do you need any paperwork for you to submit our permit?

COPPOLA Do you want to waive the five days?

TESTA That's fine.

COPPOLA I support that. All in favor.

AYES Ptashnik, Oliverio, Testa, Boloven,
Baringhaus, Coppola.

COPPOLA So you can go down tomorrow and pull your permit if you'd like. They'll have that on record. Anything else. All right. Thank you. Next case, please.

APPEAL CASE NO. 2022-05-12: An appeal has been made to the Zoning Board of Appeals by Jeff and Heather Schoppert, 18071 Deering, Livonia, MI 48152, seeking to construct a covered front porch onto an existing non-conforming dwelling resulting in deficient front yard setback. Nonconformity is based on the existing front yard setback of the dwelling at 42 feet, where 50 feet is required.

Front yard setback:

Required: 50 feet
Proposed: 37 feet
Deficient: 13 feet

The property is located on the west side of Deering (18071), between Curtis and Lathers, Lot No.048-01-0006-000, R-U-F Zoning District, "Rural Urban Farm." Rejected by the Inspection Department under City of Livonia Vision 21 Zoning Ordinance, Section 4.02, Schedule of Regulations.

BARINGHAUS Appeal case number 2022-05-12. An appeal has been made to the Zoning Board of Appeals by Jeff and Heather Schoppert, 18071 Deering, Livonia, Michigan, seeking to construct a covered front porch onto an existing non-conforming dwelling resulting in deficient front yard setback. Nonconformity is based on the existing front yard setback of the dwelling at 42 feet, where 50 feet is required. Front yard setback required 50 feet, proposed 37 feet, deficient 13 feet.

COPPOLA All right. Thank you. Mr. Stroble, anything to add?

STROBLE Not at this time.

COPPOLA Any questions for the inspection department? Seeing none, if the petitioner could step up to the podium. Name and address for the record, please.

J SCHOPPERT Jeffery Schoppert, 18071 Deering, Livonia.

H SCHOPPERT Heather Schoppert, 18071 Deering.

COPPOLA Okay. Mr. And Mrs. Schoppert, if you could just kind of give me a feel for the project you're doing and kind of tell me the practical difficulty you have that would suggest that we could provide a variance.

J SCHOPPERT Five foot front porch mainly to change the approach in and out of the house to make it a little more safer for entering it for our elderly parents and groceries and whatnot in and out of the house.

COPPOLA So are you adding this porch or is it an existing and you're just covering it?

J SCHOPPERT Adding it. There is a three-foot overhang on the house on the roof. I'd like to go another two feet to make it a five foot. It has a two-foot porch in a little U shape if you have the drawings.

H SCHOPPERT Very hard to get in and out. We got to open up the door and step up close it.

COPPOLA So is there any other construction going on at the same time.

J SCHOPPERT The 24 foot, 24 by 24 addition in the back and they approved the permit for that, and we're just here to see if we can get the approval for the front.

COPPOLA The front of the house faces west, is that correct.

J SCHOPPERT Correct. I believe so.

COPPOLA You get the nice afternoon sun.

H SCHOPPERT We live right across the street from the state police.

COPPOLA Questions for Petitioner.

BARINGHAUS Mr. Chairman.

COPPOLA Vice Chair Baringhaus.

BARINGHAUS Thank you. It looks like by the space of your home your porch is more towards like the left side of the house. Will the proposed porch be actually more centered?

H SCHOPPERT Yes. Right in front of the window actually.

BARINGHAUS And then with the corresponding expansion of the overhang as well to cover it?

H SCHOPPERT Yes.

BARINGHAUS Terrific. And then Chairman Coppola's question, it looks like you're doing some additional work around the house.

H SCHOPPERT In the back.

BARINGHAUS	Primarily in the back, nothing in the front.
J SCHOPPERT	Just the porch.
BARINGHAUS	Just the port at this time. Okay. And then the materials for the porch. Can you describe those? Is it concrete?
J SCHOPPERT	It's cement block and a slab on the top.
BARINGHAUS	Are you going to be modifying the sidewalk to accommodate the new porch?
J SCHOPPERT	The answer is yes. Whatever needs to happen to make it more pleasing.
BARINGHAUS	Very good. Thank you.
BOLOVEN	Mr. Chair.
COPPOLA	Mr. Boloven.
BOLOVEN	Who's doing the work?
J SCHOPPERT	Me.
BOLOVEN	Personally?
J SCHOPPERT	Yep.
BOLOVEN	So the drawing that was submitted, did you do that?
J SCHOPPERT	No. My friend, he's a licensed builder. He's the one that drew it up.
COPPOLA	Any other questions? So just for clarity so I'm not missing something here. So, the proposed addition of the porch is going to move, and that's the front of the house out two feet? Is that what's going to happen?
J SCHOPPERT	I mess up when I drew, when I wrote the numbers down. It's actually the five feet from the actual house. I just said two feet from the overhang because the overhang is already three feet over, so I'm just going to extend that out.
COPPOLA	Two feet basically.
J SCHOPPERT	Yes.
COPPOLA	Mr. Stroble, the home is already nonconforming because the overhand is already in the setback.

STROBLE	Correct.
COPPOLA	We're nonconforming two more feet. Any intentions to enclose the porch?
H SCHOPPERT	No.
J SCHOPPERT	No.
COPPOLA	All right. Any other questions. Seeing none. There's no one on the audience unless your builder wants to. Do we have any correspondence?
BARINGHAUS	Yes. We have two letters. A letter of approval from Georgia Hunt, 27758 Bennett. I am for anyone in this neighborhood keeping up their property. The house is very attractive, very good neighbors. Can't say that about some of the nearby homes when they get ticketed for long grass and other violations. Where is the inspector? Sorry, Bob. Like I said, I just read them. Adrian Simula, 18107 Deering, and this is a letter of approval. I had to get a similar variance for our front porch two house over from Jeff and Heather's. Their front yard property line is still set back 15 feet from the road, so there is still approximately 50 feet of front yard. Also the porch is very similar to mine before the remodel and is very tight quarters for entry. The porch is a great add to the house and is very welcoming. And that's the letters.
COPPOLA	Okay. Anything you'd like to say in closing?
H SCHOPPERT	No.
COPPOLA	Okay. You can have a seat. I'm going to close the public portion of this hearing and start the Board's comments with Ms. Ptashnik.
PTASHNIK	We're just talking about two feet here. I'm leaning towards support on this.
COPPOLA	Okay. Thank you. Ms. Oliverio.
OLIVERIO	I would agree, especially in looking at the pictures, maybe it's the same petitioner or person who did the letter, but you can see there's a porch to that like two doors down. There's already -- fits with the neighborhood, it's upgrading it so I would be in support.
COPPOLA	Perfect. Thank you. Mr. Testa.
TESTA	I can support this as well for the reasons mentioned. Thank you.
COPPOLA	Mr. Boloven.

BOLOVEN	I also support it. I see the uniqueness of this property with no sidewalk and then the hardship with the entry of the door, so I'd be in support.
COPPOLA	Vice Chair Baringhaus.
BARINGHAUS	Thank you. I agree that Petitioner's definitely demonstrated a hardship due to the small size of the porch and safety issues involved with that. Also by redesigning the porch, this will actually add to the design of the house and make it more balanced and proportional for you and give you more street appeal as a result. So based on that, I'll support the variance.
COPPOLA	Thank you. I too am in support for all of the reasons already mentioned by the Board, so I will go ahead and open the floor for a motion.
BOLOVEN	Mr. Chair.
COPPOLA	Mr. Boloven.
BOLOVEN	Resolve that the variance sought in appeal case number 2022-05-12 filed by Jeff and Heather Schoppert be granted for the following reasons and findings of fact. The uniqueness required is met due to the property location and lack of sidewalk. Denial of the variance would have severe consequences for the petitioner due to the hardship of their current front door not having enough space for entry. The variance is fair in light of the of the neighborhood properties and the spirit of the Zoning Ordinance due to neighbor support. The property is classified for RUF under the Master Plan and the quote, variance is not inconsistent with that classification. Further, the variance be granted with the following conditions, that it be built as presented this evening and no more, sorry. There's normal terminology that we use for condition.
FISHER	No enclosure.
BOLOVEN	No enclosure and built as presented this evening.
TESTA	Support.
COPPOLA discussion?	I've got a motion by Mr. Boloven, support by Mr. Testa. Any
BARINGHAUS	Same question. When would like to start the project?
J SCHOPPERT	Already have started the back.
COPPOLA	We'll waive the five days. Anything else? Seeing none, go ahead and take a vote.

RESOLVED: APPEAL CASE NO. 2022-05-11: An appeal has been made to the Zoning Board of Appeals by Jason and Jessica Ellis, 19847 Weyher, seeking to erect a six-foot-tall privacy fence upon a corner lot, resulting in the fence being proposed within the side yard (to the front line of the house) along the side street lot line. Privacy fences must not extend beyond the rear of the home to the front building line when no side door exists.

The property is located on the west side Weyher (19847) between Pembroke and Maplewood, Lot No. 002-02-0052-000, N-1 Zoning District, "Neighborhood District." Rejected by the Inspection Department under City of Livonia Fence Ordinance, Section 15.44.090 (B) "Residential District Regulations," be granted for the following reasons and findings of fact:

1. The uniqueness requirement is met due to the location of the property on the corner lot and the need for privacy.
2. Denial of the variance would have severe consequences for the petitioner due to a history of disturbances on the property from pedestrians as well as a lack of privacy and security both for their children and family pet.
3. The variance is fair in light of its effect on neighboring properties and is in the spirit of the zoning ordinance due to strong neighbor support for the fence itself.
4. The granting of this variance will not adversely affect the purpose or objective of the Master Plan because this property is classified as N-1 Zoning District under the Master Plan and the proposed variance is not inconsistent with that classification.

FURTHER, the variance be granted with the following conditions:

1. That the fence be installed as presented to the Board.
2. That the fence be installed facing the north (Pembroke) side of the property.

ROLL CALL VOTE

AYES: Boloven, Oliverio, Ptashnik, Testa, Baringhaus, Coppola.

NAYS: None.

ABSENT: Klisz.

Passes: 6-0.

COPPOLA Just so you understand, you've got to build as you presented it. You are not allowed to enclose it, stay open and we waived your five-day waiting period so you can pick up a permit tomorrow.

BARINGHAUS	Mr. Chairman, motion to approve meeting minutes from the May 10th, 2022 meeting.
TESTA	Support.
COPPOLA	Motion by Vice Chair Baringhaus, support by Mr. Testa. I'm going to abstain, but all in favor.
BOARD	Aye.
COPPOLA	Okay. That passes. Is there anything we need for the good of the cause, anything that anybody needs to bring up? Seeing none, we need one more motion.
BARINGHAUS	Mr. Chairman motion to adjourn.
COPPOLA	Vice Chair Baringhaus.
BARINGHAUS	Motion to adjourn.
TESTA	Support.
COPPOLA	Motion by Vice Chair Baringhaus, supported by Mr. Testa to adjourn. All in favor.
BOARD	Aye.
COPPOLA	We are adjourned at 8:59.

There being no further business to come before the Board, the meeting was adjourned at 8:59 p.m.

Gregory G. Coppola, Chairman

Timothy Klisz, Secretary