

ZONING BOARD OF APPEALS

CITY OF LIVONIA

MINUTES OF REGULAR MEETING HELD NOVEMBER 17, 2020

Due to COVID-19 A Regular Meeting of the Zoning Board of Appeals of the City of Livonia was held on-line via ZOOM on Tuesday, November 17, 2020.

MEMBERS PRESENT: Gregory G. Coppola, Chairman
James M. Baringhaus, Vice Chairman
Michael Testa
Joel Turbiak

MEMBERS ABSENT: Timothy J. Klisz, Secretary
Christopher N. Boloven
Lisa Fraske

OTHERS PRESENT: Michael Fisher, Chief Assistant City Attorney
Bob Stroble, City Inspector
Marilyn Mootsey, Recorder

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. Four (4) members were present this evening. The Chairman asked if anyone wished to be heard by a full Board, but no one wished to do so. The 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 11 people present in the audience.

(7:03)

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APPEAL CASE NO. 2020-09-23 (Tabled on September 29, 2020): An appeal has been made to the Zoning Board of Appeals by Jason Patterson, 32610 Ohio, Livonia, MI 48150, seeking to maintain an above ground swimming pool, erected without a permit, resulting in the pool being deficient in setback from the west property line.

Pool Distance:

Required:	10.0 feet
Proposed:	4.5 feet
Deficient:	5.5 feet

The property is located on the north side of Ohio (32610), between California and Colorado, Lot. No. 135-03-2126-000, R-1 Zoning District. Rejected by the Inspection Department under Code of Ordinances, Section 15.40.530, "Modification of Requirements - Appeal Procedure."

APPEAL CASE NO. 2020-09-24 (Tabled on September 29, 2020): An appeal has been made to the Zoning Board of Appeals by Jason Patterson, 32610 Ohio, Livonia, MI 48150, seeking to maintain an existing six-foot tall privacy fence, erected without a permit, without the adjoining property owner's approval and erecting the fence to nearly the front of the existing residence. Privacy fencing must not extend beyond the rear of the residence toward the front of the property.

The property is located on the north side of Ohio (32610), between California and Colorado, Lot. No. 135-03-2126-000, R-1 Zoning District. Rejected by the Inspection Department under City of Livonia Fence Ordinance, Section 15.44.090(B), "Residential District Regulations."

Coppola: Thank you very much, Mr. Baringhaus. Mr. Stroble, anything you'd like to add?

Stroble: Not at this time, Mr. Chair.

Coppola: Alright, thank you. Any questions for Mr. Stroble? Alright, seeing none, Mr. Patterson – I'm going to –

Baringhaus: Mr. Chairman.

Coppola: Yes.

Baringhaus: I would like to make a motion to remove –

Coppola: Oh, yes.

Baringhaus: -- Appeal Case No. 2020-09-23 and Appeal Case No. 2020-09-24 from the table.

Coppola: Do we have support?

Testa: Support.

Coppola: Are you going to do both of those, by the way, Vice Chair Baringhaus?

Baringhaus: Yes.

Coppola: Okay, I've got a motion by Vice Chair Baringhaus, support by Mr. Testa to remove Case No. 2020-09-23 and -24 from the table. All in favor?

Board: Aye.

Coppola: You are off the table. And Mr. Patterson –

Patterson: Yes, sir.

Coppola: Okay - welcome back. So, we tabled a couple of your requests, the pool, and the fence. Both of those would have impacted your customer – I mean – your neighbor on Ohio Street. Why don't you – we were asking you then to get in contact with that neighbor and get the approval of the neighbor. He had previously objected and when you were before us before he had filed an objection with his comments, so why don't you go ahead – I saw that you did submit your efforts, but for the record, why don't you tell us the efforts that you've made to try to make contact with your neighbor and get his consent.

Patterson: Well, since our last meeting the very next day I did send him a text message asking if he was present for our last Zoom meeting. He responded with, "No, he was not." He had – he said he was tied up and wasn't able to attend. And then I responded with, "Well, the fence and the pool was tabled per the Zoning Board. They would like us to come to some agreement and work it out amongst ourselves, so when you get a chance, I'd like to talk to you." And he never responded to that text message. I gave him another day and then I went and knocked on his door, no response. I don't remember the exact dates off hand, I submitted those –

Coppola: Uh-huh.

Patterson: -- with my – my new proposal because of the deadline that was issued to me for the new – the new proposal, but since then I've knocked on his door a few times – he's never answered. About a week ago I was outside raking my leaves, I noticed that he had some food delivered to his house, so once he got his food I went and knocked on his door, again he did not answer. I sent him one more text message about three days ago, informing him of this meeting, I got no response, so I've had zero contact with him, he won't answer the door, he won't return text messages or phone calls. I've maybe seen him outside one time and that was -- I was in the house, I went outside and by the time I went outside to speak with him he was already back in the house. So, like I said, I've had zero contact with him, I haven't been able to work anything out. As he stated before he requested that I finish the privacy fence going the rest of the way of our yard. I have since purchased those pieces – those pieces are at my house waiting to be erected and installed, but again, like I said, I've had zero contact with him regarding these matters.

Coppola: Okay, and then, I noted on – on your re-submission for the fence you had proposed moving the fence back about what, about three or four feet it looks like?

Patterson: Yeah, 36 inches. It would make it even with my bedroom window that's on the side and it would make it even with the front of his house. I know he had stated in his objection letter that he didn't like the fact that the fence went past the front of his house and then after looking at it I kind of agreed with him. I wouldn't like that either, so, I proposed to move it back 36 inches. That brings it right even to the windowsill of my side bedroom window and even with the front of his house so he won't be able to visibly see it out of his front window.

Coppola: Okay. Alright, anything else you wanted to add?

Patterson: No, that's -- I mean -- I wish I had more to add. I wish I could say I have had some contact with him and that we worked it out, but for whatever reason, he just doesn't want to return messages or answer the door or anything like that -- I mean -- he still has the original authorization form that I gave to him back in July and I still haven't gotten that back.

Coppola: Okay, and then moving -- putting the fence to the end of the property, as he asked for, there's a chain-link there now, you'd have to take the chain-link out? Is that correct?

Patterson: Between the two properties?

Coppola: Yeah.

Patterson: Yes, there's -- there's roughly about 45-47 feet left of chain-link fence left in between the two properties and like I said, I have the pieces here, the fence post here, just waiting and ready to be installed.

Coppola: Okay, questions for the petitioner?

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Yeah, in the event that you need to remove the privacy fence from your backyard, would your plans be to replace it with chain-link fence?

Patterson: No, sir. I -- I would like to keep -- you know -- the privacy fence that -- you know -- being on -- being on the corner that gives us just a little bit of more privacy from the road.

Baringhaus: Currently you don't have the -- your neighbor's permission, correct?

Patterson: That is correct.

Baringhaus: Okay, that's required by Ordinance.

Patterson: Right.

Baringhaus: Okay.

Patterson: I – I – I –

Baringhaus: So, back to my original question is that if that -- your privacy fence needs to come down what would your alternative plan be for fencing around your pool?

Patterson: Well, I – I guess I would have to resort back to the chain-link fence. Just take down the privacy fence that I have, return the pieces that I recently purchased, and I guess just use that to replace the chain-link fence.

Baringhaus: And just – just to kind of refresh my memory from your last meeting, the condition that your neighbor placed on you regarding the fence was that you complete the fence to the back of your yard – the privacy fence – and then at that time he would sign the authorization form?

Patterson: That's what he stated to me via text message, so that's – that was my understanding from the last time we spoke is that – you know – he would – you know – cause he wouldn't be able to see the pool from his yard with the – the privacy fence – you know – all the way up the rest of the way. That was the understanding that I got from our brief conversation via text message.

Baringhaus: Okay, thank you. I do have a question for the Inspection Department, Mr. Chairman.

Coppola: Yes, go ahead.

Baringhaus: Great. Yes, question for Mr. Stroble. I was reviewing the pool guideline book that was on the City website and I found a paragraph I just wanted to get some additional explanation on it. It has to do – it's a section called Pool, Fences, Barriers to create an enclosure and it says, "All residential swimming pools (and hot tubs and spas not provided with a protective cover) shall be protected by fences/barriers to create an enclosure to make the area inaccessible to small children. Enclosures may include approved fencing, the walls of a house, the walls of above-ground pools, gates, and door and window alarms." Just -- I guess my question is this, looking at an above ground pool – I guess – you know – naturally, we assume – you know – that the fence would provide the barrier or the enclosure, but it looks like, based on the way this paragraph reads, that the walls of the above ground pool would also create a barrier?

Stroble: That's correct. If – if the walls – if they don't sink it in the ground and the walls are 48 inches, it's a self-barrier and doesn't require fencing.

Baringhaus: Okay, in a situation like that does the ladder have to be either lockable or –

Stroble: That is correct.

Baringhaus: Yes, it has to have –

Stroble: Yeah, they make those safety ladders that lock or if it has a wood deck attached or built on the side of it, it would need the same thing, a lock and then the high pole latch on the gate.

Baringhaus: Okay, so basically, naturally the fence would qualify as a barrier, but also the pool wall, provided that it's 48 inches tall would also –

Stroble: Correct.

Baringhaus: -- be a barrier. Okay, thank you for the clarification.

Stroble: Yes.

Coppola: Okay, other questions?

Testa: I do have a question for the petitioner.

Coppola: Mr. Testa, go ahead.

Testa: Yeah – Mr. Patterson, regarding the fence line where you're proposing to move it back 36 inches, I – I understand what you're saying it relates to your window and to the - your neighbor's house, how does that relate back to the original chain-link fence that was there? Is it the exact same position or is it moved from – from that chain-link fence position?

Patterson: The current – the current location of the fence is the exact same location as the old chain-link fence was in. I didn't add any footage to it, all I did was take the old poles out, replace the new poles – replace it with new poles and put up the fence. I didn't add it – I didn't add any footage, I just – like I said, took the old fence down and put the new fence up in the exact same spot.

Testa: Okay, so it stuck out in front of your neighbor's house originally? --

Patterson: Yes, it did.

Testa: -- that chain-link fence?

Patterson: Yes, it did.

Testa: Okay, thank you for that clarification.

Coppola: Any questions?

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: Yeah, to the Petitioner, to the Chair, Mr. Patterson, I appreciate all the efforts that you described to us to reach out to your neighbor, and forgive me, but I was
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wondering if you had possibly done some of these other ones I'm about to mention and – and maybe forgot to mention them or if you guys considered them and chose not to for whatever reason. Had you considered either texting him with a proposed solution to compromise or left a voice mail with a similar message or possibly considered sending certified mail that requires a signature?

Patterson: You know, I – I – I -- the – the certified mail I thought about, but by that time it was – it was too late. I did once – once I – I've had this new fencing now for probably almost a month. I sent him a text saying, "Hey, I've got the new fence," – you know – because he had stated before like he – you know – he – he wanted me to finish the fence before he would give me the written authorization because he said, "Not that I don't trust you, but I basically don't trust you to not finish the fence." So, I finished the fence, I put it in a place in my yard so he can visibly see it if he ever came outside. I sent them a text that said, "Hey, I got the new fencing," and I got – I got zero response. Like – like I said –

Turbiak: Did you make it –

Patterson: Go ahead.

Turbiak: Oh, sorry, didn't mean to interrupt you, I was just gonna ask if it – if you, in your opinion, if it was clear to him – I know you had mentioned it once, but do you think it's clear to him that – that he understood that you could not actually install the fence, even though you had the pieces, until he signed the waiver form?

Patterson: I had mentioned that to him before, so I would assume that he still would know that up to this point.

Turbiak: Okay, but you didn't by chance mention it in any of your texts to kind of emphasize that?

Patterson: I did not, no.

Turbiak: Okay. Do you have any comments about the other suggestions I had about – you know – either texting a – a more detailed message that kind of leads him to be able to just kind of reply with a yes, that sounds good or a similar type of voice mail?

Patterson: I – I mean – no, I haven't cause I guess – you know – with – you know – the fact that I've knocked on his door several times, sending him the text messages – you know -- when he's home. I don't know why he won't respond; I don't know why he won't answer the door. For – for whatever reason it seems to me like he's being very uncooperative and difficult. He – he knows what the situation is. I – I mean –

Turbiak: No, I understand that and – you know – I – I – I could come up with several – I'm sure we both could come up with many different reasons to guess his motives and his thoughts, but – you know – it's just been my experience or -- or maybe I just have this – this gut feeling that if it was laid out to him – you know – clearly and – and there was no need to kind of have a discussion or negotiation, maybe if it was just a simple yes / no type of – you know – a lot of details and then kind of at the end like a – "Is this good for you? Can you – you know -- please sign the – the fence permit allowing me to continue

with this?" Just some – some simple things like that – you know – I just have a feeling that that might make it simpler for him to – to kind of give his response.

Patterson: Yeah, but with – with something of this nature, I kind of wanted to talk to him in person, because – you know – sometimes text messages – I guess – could be misinterpreted the wrong way – you know – and I just – I just, like I said, with something like this, I kind of just want to hear it in person and be 100% clear with – you know – what – what is going on.

Turbiak: Uh-huh. No, I whole heartedly agree with you. Text messages, emails, they have some deficiency. It might be a good momentum though – you know – for steps to – to kind of help him to see how easy the conversation would be and maybe it needs to be kind of clarified, like you said, verbally over the fence or over the phone – you know – whatever works out best. Okay, that's – that's really all the kind of the questions that I had for – for this – you know what – I actually – I have to apologize, I have one more question, so I – it kind of goes without saying, but I just kinda wanted to ask. If – if the fence ends up moving back to whatever location, would you then therefore remove the privacy fence that's along the property line that's in front of that fence?

Patterson: I – I'm sorry -- I'm – I don't quite understand. What? Like move --

Turbiak: Well, this is -- you're right, it's kind of a paltry word question, so I apologize for that. Cause, it's – it's kind of – I didn't touch on – on whether or not the – you know – there's an agreement for the privacy fence that's on the property line that's shared with your neighbor, right? Cause that's the other part of the equation. So, let's – let's just say hypothetically that he were to approve that, and it's – it's kind of a goes without goes without saying type of question, but I just want to point out that the privacy fence would have to be removed from the property line that's in front of that whatever portion – wherever it may remain along Ohio Street.

Patterson: Oh, yeah – yeah, well that was – that was part of my new proposal was to move the fence back 36 inches so then it would be – yeah, the new fencing would get moved back 36 inches. It would make it even with his house and even with my side bedroom windowsill.

Turbiak: Okay, oh, you know I have another question. I – I think you had, at the end of last meeting, asked about – you know – the location of that fence that's parallel to Ohio and you had asked if the midpoint, just street side of the chimney, would be acceptable and I see that you proposed something different. Can you just give your thoughts on why you chose that location verses the proposal at the end of the last meeting?

Patterson: Well, once I – after our last meeting, I went to the side of my house and I was looking, because then I have my bedroom window, which is 36 inches from the front of my house, and then I have roughly about another two and a half feet maybe and then I have the – my bathroom window, and then about 12 inches to the left of that is my chimney, and then I have my – right next to my chimney I have my central air unit, which is right there, and then there's about maybe – and then my – my son's window is almost directly above my central air unit, and then you got about another two and a half feet from my son's windowsill to the edge of the back of my house.

Turbiak: Okay, so you chose that so you could enclose as many windows as possible?

Patterson: Yes.

Turbiak: Yes. Okay, thank you, Mr. Patterson. That's all I have, Mr. Chair.

Coppola: Alright, thank you. Do you have anything else?

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Yeah, Mr. Patterson, can you describe the ladder that you use with your above ground swimming pool?

Patterson: It is a very hard plastic – you know – typical ladder, but I have a removable – I have clips that clip into the top that connect the ladder to the stand, so when the pool is not in use, I unhook the actual ladder part and remove it off the ladder stand and put it in the shed or in the garage, when the pool is not being used. So, you have – and the pool itself is 52 or 54 inches above the ground, so – and then, a lot of times I take the whole ladder itself out, but if we're gonna be in and out I take – I just unclip it and take the actual ladder portion of it off.

Baringhaus: Okay, thank you very much.

Coppola: Okay, thank you. Anything else? Alright, seeing there is no more questions, we'll go to – to the audience – audience comments section. Is there anyone from the audience that would like to speak for or against this petition? If you raise your hand and then I will select you and then we'll give you an opportunity to speak. Alright it looks like there is no one in the audience, so Mr. Vice Chair, if you could read the correspondence please?

Baringhaus: Okay, thank you. First, I'll read the correspondence for number 2020-09-23 regarding the pool. Now it looks like there were three letters read from the previous meeting, which I could re-read again, they're pretty brief, and then continue with the newer letters? Or just focus on the newer letters, whatever – whatever you choose.

Coppola: On 23?

Baringhaus: Yeah.

Coppola: Hold on one second, let me make sure I got my right one open.

Baringhaus: I'm looking at screens 13, 14 and 15, and these are letters up earlier in the package?

Coppola: No, they seem to be – they're page 13, 14 and 15 and dated November for the meeting today, so those are –

Baringhaus: Okay -- okay, we'll read those then. Here we go.

2020-09-23 (pool) - Letter of approval, Melissa Davies, 9221 California. (Letter read.) Letter of approval, Vicki Lynn Szaal, 9206 California. (Letter read.) Letter of objection, Mike Shaver, 32484 Maryland. (Letter read.)

2020-09-24 (fence) - Letter of approval, Melissa Davies, 9221 California. (Letter read.) Letter of approval, Vicki Lynn Szaal, 9206 California. (Letter read.) Letter of objection, Mike Shaver, 32484 Maryland. (Letter read.)

Coppola: Okay, I think that's it, right?

Baringhaus: Yes.

Coppola: Those are the three? Okay, thank you. Okay, Mr. Patterson, anything that you'd like to add? You get a chance for a final statement and if you would, I'd like you to respond somewhat to -- to the objecting comments and there was a comment in regards to a travel trailer, so if you could just talk a little bit about that too.

Patterson: Well, that, that gentleman lives -- he lives around the corner and about six houses down. My travel trailer -- we own a camper -- my family does, and when we go camping, I bring it home, I pull it in my driveway, I load up our things, roughly two days before we leave to go camping and then we -- we pull it out. When I come home, I pull it back in the driveway, I back it in the driveway, we unload it, I clean it and it's pretty much gone either the night of we get back or the next day we get back from camping. It's never in my driveway for more than, I would say max, three days at a time. It is a 34-foot-long camper, so it does stick out a little bit past the sidewalk. I do put cones around the tip of the trailer, so they are visible, so -- you know -- if somebody's walking at night they don't run into it. I also plug the camper in at night and leave the lights on so it's also visible, so nobody sees it at night. With regards to my -- my lawn cutting trailer. I cut lawns as a side job when I'm not at the -- at the Fire Department. I cut lawns -- one day I'll leave it attached to my truck -- I'll leave it in the street, I'll get up the next morning, leave to go cut my other lawns, and then when I'm done for the day, I take it to a storage yard and store it there till the following week when it's time to cut grass again. It's never -- it's never at my house for more than three days at a time, cause if I have to cut grass on Monday or work at the Fire Department on Tuesday, then I cut grass on Wednesday -- you know -- it's -- it's gone within a matter of days. So, I'm not -- I'm not storing any travel trailer or storage trailer at my house. I have storage facilities for those, but I -- I do keep them at my house for a couple of days while we're loading or unloading and to clean it up. This past October it was in my driveway -- my travel trailer was in my driveway for about four days because I had to winterize it and it's a little bit of a process to winterize it yourself.

Coppola: Okay, where do you store your -- your lawn trailer when you're not using it?

Patterson: A friend of mine owns a granite shop in Plymouth, at Ann Arbor Road and Lilley, and he allows me to store my trailer there on the side -- side of his building. That's where it's at right now, locked up for the winter.

Coppola: Okay, anything else? Mr. Patterson, is there anything else you'd like to --?

Patterson: Oh, no -- you know -- no, sir -- just -- you know -- I -- tried my best to make this right with the neighbor to no avail -- like I said -- for -- for whatever reason he didn't want to respond to -- you know -- me knocking on his door, or text messages or anything like that. So, I -- I -- I did my very best to try and make this right with him, but I got no responses from him.

Coppola: Okay, thank you.

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Yeah, could I ask Mr. Patterson one more question?

Coppola: Sure.

Baringhaus: Thank you. Yeah, Mr. Patterson, we had discussed the location of your pool relative to some power lines at the September 29th meeting. Were you to -- if you were to move that pool five and a half feet over to bring it into compliance, with the ordinance, would you be moving that pool closer to the power lines that are overhead?

Patterson: Oh, yes. It would be -- it would be -- it's roughly 28 feet right now from the power lines. If I moved it over it would -- it would -- it would be closer to the power lines, yes.

Baringhaus: Okay, about 23, 22 feet from the power lines?

Patterson: Roughly, yes.

Baringhaus: Okay, thank you.

Coppola: Okay, I'm going to go ahead and close the public portion of the case and Mr. Patterson, I'm going to put you on mute for right now while we do the -- the Board's comments and I'm going to start the Board's comments with Mr. Turbiak.

Turbiak: Thank you, Mr. Chair. Yes, so I would like to start by commenting on that last question from Vice Chair/Secretary Baringhaus filling many roles tonight, thank you. When I looked at the -- the drawing, and I understand it's not to scale and what not, it looked like to move the pool further from the neighbor's would be basically moving it parallel to the power lines so, and I understand that it would -- the pool would then get close to the house. I think it was stated at the last meeting it's about six feet gap between the pool and house as is, so I understand that if you move the pool -- you know -- parallel to the -- to the lines, you're probably going to be closing that gap and you might want to move it a little bit towards the power lines, but I don't -- I don't think it would be the full five and a half feet, just as a point of reference since that was a very good question from Chairman -- Vice Chairman / Secretary Baringhaus. As far as these cases, we have two in front of us. I, in my mind, unpacked them to three and then repacked them to two

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different ones. Basically, cause we have the fence case and the pool case, but the fence is kind of broken into two. We have the – the fence that's along the – the neighbor's property line, which requires the – the neighbor's approval and then we have this other piece of fence that's parallel to Ohio Street, so I would repackage the – the pieces of fence that's, in my mind anyways, that's along the property line with the pool, right? Like we said in the last meeting, those kind of go hand-in-hand. So, that's how I'm going to look at them, so without the neighbor's consent to have the privacy fence there and his previous expressed disapproval of having it so close – you know – without the privacy fence – I'm a little bit torn – you know – it sounds like Mr. Patterson has – has made some significant efforts to – to reach out to him and in his closing comments there it almost sounded like he was – you know – throwing in the towel, however – you know -- I would be willing if the Board agrees, to consider tabling that combination, I know, it's kind of messy, because that's not how the cases are written up, but maybe tabling that portion to give him one more chance to maybe take some of the advice from the – the Board, at least my advice, I thought, might be able to – to move the ball, if you will, and kind of get some momentum there. If – if – if not, then it seems like that one's probably going to fail. And then the one with the fence along the front of the street, I – I do not support the location proposed. I'm willing to support some other point along the house that is not the rear of the house, and my thoughts are – you know – just in front of the chimney is – is the right spot. I will mention though if other Board Member's feel – you know – maybe between those windows is – is a compromise, that's as far as I can go in my mind because of the – the appearance from the street. I understand that it – it would be – you know -- no longer parallel or in front of the neighbor's house, but it's – it's still so close to that and it – it really, in my opinion, does not look good for the neighborhood and for those reasons that's how I would likely vote. Thank you, Mr. Chair.

Coppola: Alright, thank you, Mr. Turbiak. Mr. Testa.

Testa: Thank you, yeah, I agree with Mr. Turbiak in the sense of proposing a table. I would like to see Mr. Patterson, I know he's obviously made some attempts to talk to his neighbor, but it – it may be wise to follow Mr. Turbiak's advise of actually writing up some proposals of what you're planning to do with that fence line and dropping that off to your neighbor either by certified mail or his mailbox and try to get him to reply to your actual proposal instead of just asking him to – to talk. I have driven by there since we – we last talked to you on this case and I do think that it does stick out, that – that front – that front most part of the fence, a bit much relative to – to his house, so I can see why he doesn't like that. I think if you show him some proposals of what you would like to do and how it would improve that situation for him, I – I would assume you'd probably get a better chance of a reply from him. And I – I also do see the pool going hand in hand with the fence on the shared – shared line with him, so I think it's best to table these instead of trying to approve them – or likely one failing, one approving type of thing and then you're – you're kind of stuck again.

Coppola: Alright, thank you, Mr. Testa. Vice Chair Baringhaus.

Baringhaus: Alright, thank you, Mr. Chairman. First to the pool, having basically grown up in that general area where Mr. Patterson lives, I can understand the challenges that he's had with overhead power lines and placement of an above ground pool relative to the – you know – the side property lines, some of those do get a little tight. As he

mentioned, moving the pool would actually move it not only closer to his home, like within a six-foot gap, as Mr. Turbiak indicated, but it would also move it closer to a hazard or – which is the overhead power lines itself. In terms of the fence, that – that's – I'm inclined to probably split that, look at it in two different pieces, sort of like what Mr. Turbiak outlined. I think the fence running parallel to Ohio Street – I think that's a – that's probably a workable solution at this point, but I am troubled with the side fence and no neighbor approval as well. I guess my inclination at this point is to follow the recommendations of Mr. Testa and Mr. Turbiak and propose tabling both variance requests to give them one last effort to work it out. Thank you.

Coppola: Alright, thank you, Vice Chair Baringhaus. So, it looks -- sounds like you've got, Mr. Patterson, you've got three of the four – you don't – definitely don't have enough to – to get an approval – I mean – you have three that are offering tabling. I'll – I'll give you my -- my comments, but it looks like we're moving towards another table. I apologize if we confused you with the timeline. What I was suggesting – when I was suggesting potential times to reschedule or come back in with your tabled petition, I didn't necessarily mean that you had to do it quickly or you'd – or you would lose your opportunity. So, I think we'll be a little more clear this time on the timeframe so you understand – understand that, but from my perspective – I'll give you my two cents. I'm not that – I'm not that offended by the pool, I think especially if you were to get the neighbor's approval for fencing, it's kind of a non-issue because I think being close to the property line is – is because it basically encroaches on – theoretically encroaches on the – the neighbor. I do – while I appreciate you accommodating the fence on Ohio Street, I still think it's too far forward and I agree with Mr. Turbiak and Mr. Testa in regards to bringing it probably back to – back to the – to the chimney line there – I mean – you're going to move it anyway now, so you might as well do it – do it right, cause that way it doesn't block off so much of the neighbor's house, but I think in regards to getting the neighbor's approval, unfortunately the neighbor doesn't have to respond per se, you are required to get their approval and by not responding is kind of sometimes is a – is a person's way of not providing their approval. I am always extremely hesitant to approve a privacy fence over a neighbor's objection or non-approval, except for extreme circumstances. We've seen that recently where we had a next-door neighbor that had a backyard that anybody would want to fence off. I'm not sure that's true in this case, so I think a tabling is a good – a good compromise, it gives you a little more opportunity to hopefully work with – with your neighbor and I do understand the frustration. We also sent him an – sent him letters asking him to respond and he didn't respond to us either this time. He did respond last time with an objection, so I think a tabling is a good compromise for now. Timing wise maybe what we can do is give a period of like six months to get approval before you have to – have to rectify anything. That gets you through the winter and then we'll see where things – where things stand in that point in time. So, I'll go ahead and open up the floor for a motion.

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Upon motion by Baringhaus and supported by Testa, it was:

RESOLVED: APPEAL CASE NO. 2020-09-23 (Tabled on September 29, 2020): Jason Patterson, 32610 Ohio, Livonia, MI 48150, seeking to maintain an above ground swimming pool, erected without a permit, resulting in the pool being deficient in setback from the west property line.

Pool Distance:

Required: 10.0 feet

Proposed: 4.5 feet

Deficient: 5.5 feet

The property is located on the north side of Ohio (32610), between California and Colorado, Lot. No. 135-03-2126-000, R-1 Zoning District. Rejected by the Inspection Department under Code of Ordinances, Section 15.40.530, "Modification of Requirements - Appeal Procedure," **be tabled to allow additional time for the petitioner to work out a solution regarding the pool."**

Coppola: I have a motion by Vice Chair Baringhaus, support by Mr. Testa to table Petitioner 2020-09-23. If you would take roll please, Vice Chair Baringhaus.

ROLL CALL VOTE:

AYES: Turbiak, Testa, Baringhaus, Coppola

NAYS: None

ABSENT: Fraske, Boloven, Klisz

Baringhaus: Motion to table approved.

Coppola: Alright, we move on to the next one then. Do I have a motion on 2020-09-24, the fence?

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Upon motion by Baringhaus and supported by Testa, it was:

RESOLVED: APPEAL CASE NO. 2020-09-24 (Tabled on September 29, 2020): Jason Patterson, 32610 Ohio, Livonia, MI 48150, seeking to maintain an existing six-foot tall privacy fence, erected without a permit, without the adjoining property owner's approval and erecting the fence to nearly the front of the existing residence. Privacy fencing must not extend beyond the rear of the residence toward the front of the property.

The property is located on the north side of Ohio (32610), between California and Colorado, Lot. No. 135-03-2126-000, R-1 Zoning District. Rejected by the Inspection Department under City of Livonia Fence Ordinance, Section 15.44.090(B), "Residential District Regulations," **be tabled to allow the petitioner time to work out a solution with his neighbor regarding the installation of a six-foot-tall privacy fence.**

Coppola: I have a motion by Vice Chair Baringhaus, support by Mr. Testa. If you would please take the roll, Vice Chair Baringhaus.

ROLL CALL VOTE:

AYES: Turbiak, Testa, Baringhaus, Coppola

NAYS: None

ABSENT: Fraske, Boloven, Klisz

Baringhaus: Okay, motion to table approved.

Coppola: Alright, Mr. Patterson, I'm sure this is more frustrating for you, but it is, from our perspective, difficult for us to – to override a neighbor's approval especially on items such as a fence. I think we can all, and I'm speaking for myself, but I think pool side we could probably get past, but a fence with a neighbor, adjoining neighbor, is something we very cautiously override and then in regards to bringing the fence back from the front of the house, I think you heard some comments from Mr. Turbiak, Mr. Testa and myself that we thought that it still needs to come back a little further, and probably, –

Patterson: Okay.

Coppola: -- from our perspective, back to the – I think, and correct me if I'm wrong, Mr. Turbiak, like the front section of the – in front of the – of the chimney, not the back. So you can bring it up – you know – past the chimney towards the front – towards Ohio, so that's the recommendations we have. One thing we didn't do is I didn't add, and generally we don't add a condition to it, but you can – we'll leave it open for six months –

Patterson: Okay.

Coppola: -- and that will give you time, first of all get through the winter, hopefully give you an opportunity to – to talk to the neighbor and maybe give him a chance to think a little bit longer, harder maybe, catch him over Christmas when he's in the Holiday spirit or something and get him to sign off for you, but again, we're always very hesitant to – to override a neighbor's objection or and we consider a non-response an objection unfortunately from – from your perspective, so let's – we'll give it six months and hopefully we'll see you sooner than that with a piece of paper in your hand –

Patterson: Okay.

Coppola: -- an approval for that. If you have the approval for the fence, you won't need to come back to us, except for we still need to approve the placement on the – running off Ohio, and we'll still need to sign off on the – on the pool, but if – I – I guess from my perspective, if the neighbor signs off on the fence, I – I would consider that would kind of resolve the pool issue.

Patterson: Okay.

Coppola: Alright, well thank you, Mr. Patterson. I apologize. I'm sure you would have liked a better outcome, but hopefully next time we see you we'll have one.

Patterson: Alright, I appreciate it. Thank you for your time and – and try to enjoy your Holidays.

Coppola: You too, sir.

Patterson: Thank you.

Coppola: Alright if you could call the next case, please, Vice Chair Baringhaus.

APPEAL CASE NO. 2020-11-31: An appeal has been made to the Zoning Board of Appeals by Joan Canagan and Timothy Funchar, 33503 Capri Court, Livonia, MI 48152, seeking to construct an uncovered rear yard deck, resulting in deficient rear yard setback.

Rear Yard Setback:

Required: 20 feet

Proposed: 11 feet

Deficient: 9 feet

The property is located on the south side of Capri Court (33503), between Farmington and the west end, Lot. No. 013-05-0011-000, R-1 Zoning District. Rejected by the Inspection Department under Ordinance 543, Section 18.28, "Yards Encroachments."

Coppola: Alright, thank you. Anything to add, Mr. Stroble?

Stroble: Not at this time, Mr. Chair.

Coppola: Alright, thank you. Any questions for the Inspection Department? Mr. Stroble, just a quick question for you. It looks like this development has a, I don't know what the right term is, a large section behind the property is open space, which is what for – for drainage and detention perhaps?

Stroble: That's correct – water retention.

Coppola: Do you know how long – how big that is?

Stroble: I do not.

Coppola: That could –

Turbiak: Mr. Chair. I measured it and I can remeasure it again on the GIF system, so don't quote me until I remeasure, but I think it was 60 feet. I should have that in a minute.

Coppola: 60 feet to the next – to the neighbor's behind them property line?

Turbiak: Correct, yes.

Coppola: So, from the two property lines it's 60 feet between the two?

Turbiak: That – yeah, I'll double check, but that's my understanding.

Coppola: So, it's a large – it's a large – it's a – it's a – it's a pretty large distance.

Turbiak: Yes.

Coppola: Okay. That's helpful.

Turbiak: Yeah.

Coppola: Thank you. It looked large, so that's why I wanted to ask the question. Alright, Mr. Funchar, I know I'm probably destroying your name here, and I apologize.

Funchar: Okay, can you hear?

Coppola: I can hear you. Is there anybody else with you or are you the only one?

Funchar: I'm the only one.

Coppola: Okay, cause I have a bunch of other people on and I just wanted to make sure I – you've got all your participants there.

Funchar: Okay.

Coppola: I'm sorry, how do you pronounce your name?

Funchar: Fun-char.

Coppola: Alright, Mr. Funchar, just for the record, name, and address.

Funchar: 33053 Capri Court.

Coppola: Okay. Is there a way you can get a little bit closer to your microphone?

Funchar: I'm on the phone. Actually, I said my address wrong to you. It's 33503 Capri Court. Can you hear me now?

Coppola: It's – we can hear – you're clear, you're just a little – little distant, that's all.

Funchar: Oh. I couldn't get the audio to work on the laptop -- I don't know – it's my first Zoom connection.

Coppola: Well, you're not the only one who's had that issue, so don't feel – feel alone.

Funchar: Okay.

Coppola: So, why don't you tell us a little bit about your deck and what the practical difficulty you have that would suggest we would approve a variance.

Funchar: Well, it looks like they're saying I only have, what, 11 feet to build a deck? Is that correct?

Coppola: Yes, you only get 11 – you only have 11 feet to the setback – the rear setback.

Funchar: Right – right. Well – you know – with a wheelchair, and – you know – a couple of adults, furniture, and a barbecue, I just find it's a little – could be tight, so that's why we're asking for a little bigger deck. Also, the chimney – the gas fireplace impedes into the deck two and a half feet. I'm getting a lot of feedback on this phone.

Coppola: Yeah – so, unfortunately you get that. Make sure that you’ve – you’re on your phone, turn off – turn your speaker and all your audio off on your computer if you’re still on your computer.

Funchar: Alright.

Coppola: As a matter of fact, I just turn my – I just turn my computer off, but I definitely get all the sound shut off.

Funchar: Okay.

Coppola: Did I lose you?

Mootsey: I think we lost him.

Coppola: Yeah, we lost him. Let’s give him a minute to dial back in, otherwise we’ll jump to the next case and we’ll catch him when he gets – shows back up. He said he was on the phone though, so would it have shown up as a phone number?

Mootsey: It showed up as his name on there.

Coppola: Yeah, that was – but he said he was on the computer and on his phone, so Mr. Funchar, if you’re on your phone, you hit star nine on your phone I’ll know which phone is yours and I can unmute that phone.

Mootsey: I don’t think he’s on right now. I think we lost him.

Coppola: Here he is. This must be him. He might be having some --

Testa: I think he –

Coppola: Mr. Funchar, if you’re on your phone and you can hear me, hit star nine so that I know that it’s you. Okay, I got him. I think. Alright, I need to get him unmuted. There you go.

Funchar: Okay, got it.

Coppola: I think I can hear you now, Mr. Funchar.

Funchar: Oh, good. Sorry about that.

Coppola: Technology is great, isn’t it?

Funchar: Yeah, I thought we had this licked, but I guess I didn’t, so anyways.

Coppola: No worries. No worries, we didn’t lose too much time.

Funchar: Okay.

Coppola: So, you're – you're stating that you – you have someone with a wheelchair is one of the issues, and then you have a lawn furniture and equipment and such that would require –

Funchar: Yeah, my mom doesn't live with me, but – you know – she likes to come on – in the summer. We love the outdoors. We – you know – I've been here since 1982, and we just love being outside – she loves being outside and when she comes on the weekends, it would just be nice for her to – you know – move around a little bit and we have the furniture there, couple adults, a barbecue. A 10-foot deck or 11-foot deck is gonna be pretty tight. That's just the way we feel about it. Maybe we can come up with a compromise on it or?

Coppola: Are you living in that – in the house now?

Funchar: Yep, I live here two months.

Coppola: Oh, you been in already two months, wow.

Funchar: Yep – yeah. Got the landscaping in, landscaping's done.

Coppola: Got in quick.

Funchar: Oh yeah.

Coppola: Okay, questions for Mr. Funchar? Anybody? Vice Chair Baringhaus you're on mute.

Baringhaus: Thank you. Yeah, Mr. Funchar, where would – the approximate dimensions of the deck, I think you mentioned it's 24 by 20?

Funchar: Let's see – it's 20 deep and like I think it's more like 18 to 20 wide.

Baringhaus: Okay.

Funchar: Yeah -- I'm not sure exactly where he was going to stop it at out there, because that chimney comes out – it's a – yeah, it kinda impedes out there. I'm not sure exactly where he'll stop it, but between 18 and 20 wide, yeah.

Coppola: Yeah, the plans do say 24.

Baringhaus: 24.

Coppola: Yeah.

Funchar: It says 24 on the blueprint?

Coppola: Yes, it does.

Funchar: On there?

Coppola: Yes, it does.

Funchar: Okay – alright.

Baringhaus: Okay, where is the fireplace located on the patio?

Funchar: So, it's like the bay window, the sliding door would be to your right about I'd say about six feet down from the sliding door – about six feet – yeah.

Baringhaus: You – you have about 46 feet – your house is about 46 feet wide. Did you ever consider making it more rectangular as opposed to –

Funchar: Yeah, I can't go – I can't go any more out past the chimney thing, which is like, what, 23, 24 feet, because underneath there is the windows for the basement, so they're above ground windows and we don't want a deck going over the windows – that would be silly to block all that sunshine out.

Baringhaus: What, do you have a walkout basement?

Funchar: I do not have a walkout basement, but the – I did notice that lot 14 has a walkout basement that is in the variance as well – the setback about seven feet on lot 14. I know it's not my house, but I'm not sure why they allowed them to go out so far in the setback.

Baringhaus: So, basically where your deck ends is – then you're going to have a series of windows for your basement at that point.

Funchar: Exactly, yep. Right before those windows it's going to end right before those.

Baringhaus: Yeah, that's not really that evident on the drawing.

Funchar: Oh, okay.

Baringhaus: Okay, great. Thank you.

Funchar: Okay.

Coppola: Other questions? No other questions?

Testa: Yeah, I do have a question to follow up on Mr. Baringhaus' question. I was thinking along the same lines of making the deck longer.

Funchar: Longer?

Testa: Obviously, I couldn't tell from the picture. Yeah, as we're just talking about, you said there's windows below there?

Funchar: Yeah.

Testa: I do understand that. I do have a friend with a house that does have windows down below. He's blocking some of them. Your – your main concern and only concern would be blocking the light?

Funchar: Well, it just seems silly to have a deck going over the windows from the basement. I – I just – I've never seen a house that had a deck go across the windows and block the light. I guess that's the only thing I have.

Testa: The deck would be above the window, right? It wouldn't be going like right through the window, correct?

Funchar: No, it would – it would be above it, yeah – yeah.

Testa: Yeah, okay.

Funchar: Yeah, we could do it above it – you know.

Testa: Okay.

Funchar: I have a patio – hold on a minute – I have my patio is there now above the – I have a patio right now that goes below those windows. I already have it put in this – this Fall.

Testa: Okay, that's not in the picture.

Funchar: Well, no, cause they -- they just built it like a – like a month ago -- this patio. It's a patio like right where the deck would stop, and the patio would pick up.

Testa: Okay, yeah, I've seen decks that kind of cover a patio partially, but I – I do understand your point. And you're going already as far as you can in the other direction, correct?

Funchar: Correct, yeah, I'm going right to the end of the house and he said – "You know I can't go past the house because of code," and we said, "Oh, okay," so – you know, yeah, so. I have plenty – I mean – I – I understand the setback. They have already run – DTE has already run the wires under there in the – in that zone area there where they bury the wires – you know? They did that like about a month ago, so that's taken care of and it didn't even – even if the deck was there it didn't even come – you know – it was like three feet from that area at least, three of four feet.

Testa: Okay, thank you.

Funchar: Okay.

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: Thank you, I have a question to Mr. Stroble in the Inspection Department. Mr. Stroble, do we know what the easement is? Mr. Funchar just mentioned that there was some cables buried there and I know it's typically six feet either way of the property line, is my understanding. Do we know – first of all, is that – is that true that my understanding is it's typically six feet? And do we know if this is any different for any reason?

Stroble: Looks like they have a ten-foot easement in the back, but an easement and a setback are two different issues, so he does have – there are setbacks to this house and there also is a ten foot utility easement in the back.

Turbiak: Is the easement split across the property line or is that just a ten foot of easement on his property?

Stroble: It goes ten foot across his back, the – the back of the property, and then five feet up the – the west side -- if this is north and west or north and south – I'm looking at the Arpee / Donnan Site Plan.

Turbiak: Okay, so the – if the deck was built as proposed it would be only one foot from the easement -- but the deck supports would probably be another foot or two?

Stroble: Correct.

Turbiak: Because they're offset

Stroble: Yeah, I see what you're saying. Yes.

Turbiak: Okay, so they'd be like approximately two or three feet from the easement where they're buried. So, it wouldn't encroach on the easement, right?

Stroble: Correct.

Turbiak: Okay, thank you. I have a question to the petitioner. Mr. Funchar is this – if this was built as proposed – I mean – I don't see anything but would this be enclosed at all or – you know – you mentioned you have a patio on the other side. Would this just be grass? What would be under the deck?

Funchar: Yeah, the deck builder says that he uses this heavy rock under the deck. It's like a heavy rock, cause you know grass won't grow under the deck, so he put the rock. I can enclose the bottom of the deck with – you know – if you want to make it look a little nicer, I can go around it with, I forgot what they call it, it's just a paneling – you know – with a little –

Coppola: Lattice.

Funchar: Yeah – there you go, lattice to make it look nice, if we – if we need to do that.

Turbiak: Okay, and I think I – I heard you say at the beginning that you might be willing to compromise – you know – so, obviously this is your preferred size in dimensions –

Funchar: Preferred, yeah.

Turbiak: -- but what is -- what is your -- your --

Funchar: Well -- you know -- it's going out 20 feet, but I marked it with a flag and a stick and it's like another 11 -- it's like -- it measures out to be another like 10 feet to my prop -- the end of my property. So, it's pretty -- I'm not -- it's not like I'm pushing it right to the -- you know -- last foot there, but I don't wanna bend any rules -- you know -- I'm not a rule breaker, so if -- if you say -- you know -- back off two feet, then -- then I'll back off two feet -- you know.

Turbiak: Okay, so you don't have any alternate plan B's in your mind or anything like that that would be your compromise minimum?

Funchar: No, because it -- I went out there and I did -- and I looked at it really good -- I mean -- if -- if you want to you can send somebody out, but there's plenty of room for the easement and setback.

Turbiak: I understand -- I understand, it's just -- it sounded like you -- you had mentioned that you had thought about it -- it seems -- it was the impression I got, so -- okay, that's all the questions I have, Mr. Chair.

Funchar: I always think about things -- double check it with me, but -- you know -- I don't -- I don't wanna step on anybody's feet here. I understand -- you know -- it's a new construction, so I don't know, but as far as I can see I don't see a problem with it. I don't know.

Turbiak: Okay, actually, one -- one more question. You mentioned what you can see, it's a good segue. I -- I know it's tough to imagine, because the deck doesn't exist, but it's -- I wasn't able to make it out to the site, unfortunately for a few reasons, but as far as site line to the neighbors I think the neighbor directly behind you has a pool and I -- I think there's some shrubs there, some kind of -- you know -- greenery --

Funchar: Right.

Turbiak: -- Do you -- can you comment on what you think the potential for obstructing on their privacy might be if this deck was built to the limit that you proposed?

Funchar: It's like -- it's at least three, I'd say two, three hundred feet -- I mean -- the end of my deck to where their pool would be. It's -- there's a lot of room there. That drainage -- there's a drainage thing there, I don't know if you see on the blueprint, but there's plenty of room there.

Turbiak: Yeah, that drainage -- sorry to interrupt you -- that -- that drainage retention area is about 63 feet from the end of your property line, so you add the other 11 feet, that's 75 feet. That pool looks like -- just eyeballing it -- maybe another 15 feet, so it's less than 100 feet, but my question wasn't the distance. It was more about the site line, like if you were on the deck, standing at the rail, looking out towards pool -- cause you're going to have an -- an elevated vantage point from -- from that deck, right? What -- what are your

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thoughts on how that might impact their privacy that they've – they've built with their shrubs and –

Funchar: I don't see a problem, cause their shrubs are – they're taller than me – I mean – they're – they're up there.

Turbiak: Okay.

Funchar: They're like ten feet – I mean – those are older – older shrubs and trees – you know – in that subdivision. Yeah – yeah.

Turbiak: Alright, thank you. That's all, Mr. Chair.

Funchar: Okay.

Coppola: Alright, thank you. Any other questions?

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Mr. Funchar, can you describe the materials you're going to use to construct your – your deck?

Funchar: So, the deck is Trex, so that's mostly what, composites? And I suppose they use a four-by-four post and what else? I – I guess that's it. I just -- I'm going – you know – with something – the maintenance free as long as I can of course – you know – something that's maintenance free for 20 years –

Baringhaus: Absolutely.

Funchar: -- yeah – I mean – I'm trying to go all – you know – put my best foot forward on this house. It's my last house and I'm going to retire here and – you know -- I'm doing the best I can as far as the materials and the deck to make it look really nice. It's definitely gonna look nice, that's for sure.

Baringhaus: One other question. Does your neighborhood have a homeowner's association and if it does, did they review the plans for the deck?

Funchar: So, the home – I contacted my real estate agent for – you know – about that, cause I was wondering, and the construction man was wondering the same thing, and it – it's not come together yet, cause I'm the first person here. In the future there -- he said there will be for now there's not, so I – I –

Baringhaus: Okay, very good, thank you very much.

Funchar: Okay – okay.

Coppola: Okay.

Funchar: Okay.

Coppola: Alright, thank you.

Testa: Mr. Chairman.

Coppola: Mr. Testa.

Testa: Yeah, sorry. I wanna go back to the discussion point about extending the deck the length of the house. We – we talked about the windows being underneath. Mr. Funchar, in the pictures you submitted to us on page 19, I'm not sure if you have the exact page numbers, but it's the – you have two pictures on one page, one showing the lattice – you know – kind of – kind of the paneling underneath the fence, and then the picture under that – under that actually shows a house that has windows underneath the deck.

Funchar: Okay.

Testa: I just wanted to point that out to you to kind of give you a visual – visual reference.

Funchar: Okay.

Testa: So, yeah, your light is going to be blocked a bit, but maybe you could consider – you know – a deck that's 11 feet wide and then the whole length of your house might be better than what you're proposing.

Funchar: Alright, 11 feet wide and then – you – you realize I have a patio now under there, right?

Testa: Yeah, you did have kind of patio space underneath that's covered.

Funchar: Yeah. I don't think anybody is gonna want to sit on the patio though under a deck, that's – I don't know – I don't know.

Testa: Okay, I just wanted to point out the – the picture there because you had said you weren't familiar with what that would look like, and I – and I had noticed it as I was scrolling through the package.

Funchar: Okay.

Testa: Thank you.

Coppola: Alright, are there other questions? Alright, I'm going to go and mute you Mr. Funchar and we're going to go to the audience participation. Is there anybody in the audience that would like to speak for or against this petition you can either raise your hand, or if you're on the phone hit *9. And you have to raise your hand by hitting the raise hand icon if you're on – on Zoom, and if you're on your phone it's *9. Alright, there is nobody I guess, so Vice Chair Baringhaus, if we could read the correspondence, please.

Baringhaus: Sure, thank you, Mr. Chairman. Letter of objection, Edith Szubeczak, 33561 Pondview Circle. (Letter read.) Letter of objection, Scott Pennington, 33638 Norfolk. (Letter read.) And those are the letters.

Coppola: Alright. Mr. Funchar, I'm going to un -- unmute you and give you an opportunity for a final statement. If you like to, you can respond to the comments specifically the objection that was received from your neighbor to the rear -- I think it was a neighbor to the rear and to the west of you -- probably behind the retention pond.

Funchar: Oh, okay, because I did speak with the neighbor that has the pool, directly behind me, the -- the one that you were concerned with if I could see on the elevation of the deck into the pool. He didn't have a problem with me going a couple feet in the variance -- 20 feet deck. I even marked a stick out there where the deck ends and a blue flag. Yeah, he didn't tell me he had a problem, so I didn't know. This must be another neighbor.

Coppola: Okay, anything else you'd like to add or respond to?

Funchar: Well, it sounded like they were talking about a pool of water -- the back of the -- back of the property?

Coppola: Yeah, the retention -- the retention pond, I think is her concern that's to your -- to your --

Funchar: Oh, well, it's just -- I'm the last house next to the retention pond, so I don't have a neighbor to the west of me, but behind me that's -- wow -- that's like 600 feet from me -- that house. I -- I guess I don't understand that. This is just a few feet into a var -- a setback, so I guess I just -- I don't understand that reasoning behind that.

Coppola: Okay. Anything else?

Funchar: No, that'll do it.

Coppola: I'm going to put you on mute for a second, cause we're going to close the public portion. I'm going to put you on mute and I'm going to start the Board's comments with Mr. -- Vice Chair Baringhaus.

Baringhaus: Thank you. Yeah, looking at the property itself I think -- I can understand the hardship that Mr. Funchar is having with the windows along the -- along the lower level of the house. My first thought was to have the deck go more rectangular, but apparently this would cover the windows and his point nobody would really want a patio -- you know -- underneath the deck and then also have those windows blocked from sunlight, cause that's the purpose of those windows, which is to allow sunlight into his basement. I think the area itself has more than sufficient space between the neighbors to actually accommodate the deck. Mr. Funchar took the initiative and spoke to the neighbor directly across from the proposed deck, the owner of the home that has the pool, and that owner hasn't expressed any concern with it at all. I think -- I think the design of the deck is very well thought out and he's chosen a very, I think, high level of materials to construct the

deck with, so I think based on that, I think it will be a very positive addition to the neighborhood and based on that I would support the variance. Thank you.

Coppola: Thank you. Mr. Testa.

Testa: Thank you. So, I am torn on this. On one hand I would like to have a deck like this and I would probably want to build it exactly as it's – as it's shown or proposed. I like the materials and I do like the size of it even though I was kind of questioning him making it longer or more rectangular than the square, but the objection letters – you know – does give me pause especially the one neighbor that pointed out the way this was zoned and that they had concerns about it originally, got a compromise, the builders agreed to build the way they did and now we'd be moving forward with variations from that. While that's always a possibility, at the same time when Mr. Funchar bought this house, anyone who lives in these newer houses, kind of new when they bought this house what those setbacks and easements were and kind of what they were limited with. So, like I said, I'm torn. I – I don't want to be the – the vote that doesn't approve this, so I – I'm willing to be swayed by the – the other members on – on the Board.

Coppola: Alright, thank you. Mr. Turbiak.

Turbiak: Thank you, Mr. Chair. Yeah, so it wasn't until, actually – honestly – during this meeting that I caught the glimpse of the objection letters and so coming in to this I thought, "Okay, 60 feet of retention – you know – not – not really a big issue," and also, like I mentioned, I hadn't had a chance to go out to the site and I think the – one of the letters mentioned an elevation change, so I don't know if – if Mr. Stroble has any way to help us understand the elevation change from the property in question to let's say – you know – Norfolk, behind them -- directly behind them, and I know I'm kind of putting him under the gun here, so I'll just try and draw out my answer a little bit, but really what I think the way this case will end up is tabling unfortunately. Like I said, there was kind of a change in – in my understanding of the case and I know we need four yes votes. I think this one probably benefits from more time to study it and understand it and see what other kind of compromises might be possible. My fear is that if there's a really significant elevation change that – that pushing that deck out – you know – even though it's – you know – level with the – the ground floor, you know that – those houses on – on Norfolk to the south – you know – if they're whatever significant amount below that grade, then that really does add to the diminishing of the privacy of those people and it sounds like that was a prime concern and I – and I can see that if I lived in that house, I could definitely see that – I mean – it's great that he got one of the neighbors, talked to them directly and – and they didn't object. We didn't get a letter of objection from them, but we also haven't heard from them or – or any of the other neighbors, so I'll – I'll check real quick to see if Mr. Stroble has anything to – to share. A simple head shake no or yes might be – oh, maybe? You – you got some information?

Stroble: Sure –

Turbiak: Okay.

Stroble: -- well, I don't have their elevation –

Funchar: I got a video if that helps.

Stroble: What's that?

Turbiak: You can't share, unfortunately.

Funchar: I can take a video of this during the day of the back of the yard. The area is just huge, so I took a video if you want me to send it to you.

Stroble: The only point of reference I would look at is some of the photos, Joel – it shows – if you look at the one prospective arial shot, if you look at the street, I believe that's Farmington, those trees that are wrapped around the property are all seem to be pretty level at the same elevation, so I think these houses are probably close to the same elevation, except for now the property, but now these houses have day lights in the back, so they're probably up four or five feet higher when you walk out of the first floor.

Coppola: No, this is Chairman Coppola, I did watch them develop the property and they did build it up. They actually raised the elevation –

Stroble: Yeah.

Coppola: -- at least the front of it, I did not see the back, so I don't know if they did that for drainage purposes or not, but it definitely – it definitely – they definitely built it up as you went into – into the subdivision – again – I never went in the back, so I don't know if it leveled off as it went to the back, but it did get built up in the front.

Stroble: Yeah, the – the front elevation of the house would be raised, the back property lines are probably pretty close.

Coppola: So, they built like the – built up the middle of it, but not the –

Stroble: Correct.

Coppola: -- the outsides.

Turbiak: Right, like you said, it's probably for retention – water retention and drainage purposes, but the point is that that deck would still be at the height of the ground floor, which is off the front of the house, which is gonna be -- well I think the actual drawing showed it like six and a half feet above the grade at the rear of the deck, but that really doesn't tell us the exact grade to the houses, right? Cause it's gonna go down cause of the drainage, but maybe comes back up again, so – you know – all – all I can say is I think I'd be in support of tabling this. Thanks. Thanks for your help, Mr. Stroble.

Coppola: Okay, thank you. Yeah, I'll – I'll support tabling this, but for somewhat of a different reason. This is gonna – this is the first – this is a new development – this is the first house we are going to see, and I think we need to be very mindful of the precedents we set on a go forward basis, so while I think – you know -- generally you got the 60 feet after the property line and all that, I think we need to really, really think about what we're approving and understanding the precedents we're going to set, because once we give
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someone x amount, everybody's going to come in and say, "Well, you gave that guy x," and – you know – we basically theoretically rubber stamp every other variance that comes in front of us. And – by the way – the elevation looks like, when you get to the back twenty feet out, it's – it's almost nine feet tall off the ground when you get to the end of – of the – of the deck, so I – I agree with the – the tabling. What I would suggest is – look, he could put a deck 10, foot deck on, and it would be probably seven feet – six to seven feet above grade level and he could do that without our approval, and he will had the relatively the same line of site that he had on a 20 foot deck, but I would -- my feeling is we kind of a little bit split the baby, drop it down to a – to a 16 foot deck, which would put you only a five foot – only a five foot variance, which I – it just seems to me to be a reasonable number, but I think we should table it, petitioner can listen to our comments. I think I would really like to have this in front of a larger Board, because again, I think we are setting precedents for this development and these are really nice houses and people are spending a lot of money on these houses and they're going to want to build decks, and they're gonna want to build other things and we want to make sure that what we do we're mindful with because we are going to have to live with it on every other petition we see, so again, I'll support the tabling -- bigger, larger Board to review this and have comments and then I'm looking for a little bit of a compromise, maybe a 16 foot deck, which gives you only a five foot deficiency. So, I'll go ahead and open up the floor for a motion.

Baringhaus: Mr. Chair.

Coppola: Vice Chair Baringhaus.

Upon motion by Baringhaus and supported by Turbiak, it was:

RESOLVED: APPEAL CASE NO. 2020-11-31: An appeal has been made to the Zoning Board of Appeals by Joan Canagan and Timothy Funchar, 33503 Capri Court, Livonia, MI 48152, seeking to construct an uncovered rear yard deck, resulting in deficient rear yard setback.

Rear Yard Setback:

Required: 20 feet

Proposed: 11 feet

Deficient: 9 feet

The property is located on the south side of Capri Court (33503), between Farmington and the west end, Lot. No. 013-05-0011-000, R-1 Zoning District. Rejected by the Inspection Department under Ordinance 543, Section 18.28, "Yards Encroachments," be **tabled to allow the petitioner an opportunity to return with an alternative plan for a smaller dimension deck.**

Coppola: Okay, I have a motion by Vice Chairman Baringhaus. Do I have support?

Turbiak: Support.

Coppola: Support by Mr. Turbiak. Go ahead and take the roll, please.

ROLL CALL VOTE:

AYES: Turbiak, Testa, Baringhaus, Coppola

NAYS: None

ABSENT: Fraské, Boloven, Klisz

Baringhaus: Okay, petition is tabled.

Coppola: Alright, Mr. Funchar, I'm going to unmute you here real quick, or try to anyway. So, what we've done is we've tabled the petition. Two things, at least from my perspective, and then you've heard the comments from the other Board Members, there's some hesitancy on it due to the impact to the other neighbors and I think it'd be helpful, especially – unfortunately you being the first one in the subdivision – in a very nice subdivision, with some very nice homes and I'm assuming that we'll see a number of your neighbors come before us before it's done being finished, we want to be sure we're very mindful we're doing the right thing, and I want to make sure that all the Board Members, all seven, have an opportunity to discuss it. I think also, with that perspective, I'm looking for a little – I am, personally, looking for a little bit of a compromise and maybe dropping it four feet, so that the deficiency is not – not as large, so it's more of a five foot and not a nine foot deficiency, so you take that back as – as council to you and when you're ready to come back, we'll have our – you can call the Inspection Department and talk with Marilyn and – and once we get our meeting set up for next year, you can get in next year. Unfortunately, you're not going to get the deck in before the ground freezes this year. So, the positive news is it's not a no, the bad news it's not a yes and we're looking for – for you to think – to reflect on the comments and come back with a revised plan.

Funchar: Okay, just – can you hear me?

Coppola: I can now, yes.

Funchar: Okay, so just keep in mind that my house sets back seven feet more than all the other houses, if you come and if you look at the blueprints of this, my back of my house is back farther – it was the first house built so it sets back, so everybody else is going to get a 20 foot deck but me, but I understand that's not the City's problem, that was the builders problem, but I just want you to take that into consideration.

Coppola: Okay.

Funchar: So, when I come back you're going – you're going to go – and also when I bought the house the – the one Councilman said that I knew about the tightness of the backyard. I did not. I thought I would be able to build, the realtor said I could build a 20-foot deck, there was plenty of room, your property ended here – you know – he didn't tell me about this setback information or anything.

Coppola: Yeah.

Funchar: I looked at the blueprint – I looked at the blueprint and I said, "Yeah, there's plenty of room there," – you know – plenty of room in the back there, so I was a little

misled there, also but if we can come up with something, I will get the deck builder to cut it back a few feet and then I'll stop there – you know -- in January.

Coppola: Alright, that sounds good.

Funchar: Okay.

Coppola: And one Board Member's not here, Ms. Friske, said, "Never believe a realtor. Always do your own work."

Funchar: Okay. So, a couple of feet – a couple of feet -- back it off a couple feet would be – would do it?

Coppola: Well, my proposal – my proposal was – I don't think anybody else made a specific proposal – my suggestion was cut it to 16 feet.

Funchar: Okay.

Testa: Mr. Chairman, can I – can I make a comment?

Coppola: Sure, Mr. Testa.

Testa: Yeah, sorry. I – I was the one that made the comment that when you bought the house you probably knew, so that was an assumption on my part, so I apologize.

Funchar: That's okay.

Testa: One comment you did make after that I think is key for me when you come back that you stick back further, or your setback further – your house in general compared to the rest of the subdivision, so to speak. If you could more visibly show that –

Funchar: Okay.

Testa: -- and I drove out there. I didn't pay too much attention to the elevation, so I will go back out there to check that, but I will also check out the – the lines of how far you – you set back versus the other neighbors and I think that should be taken into consideration –

Funchar: That should be.

Testa: -- about the size of the deck.

Funchar: I can give you an aerial – I mean – I have a really fancy – my wife is a photographer, so I can give you a drone overhead view of the place if you want.

Testa: Yeah, it would –

Coppola: It would be nice to see the layout that they did in the subdivision that has each of the houses platted on the property with the measurements. I'm not sure that'd be available right away, but – but it should be by now –

Funchar: Okay, I'll – I'll get that for you and then we'll just meet up – I'll set the appointment for some time in January and we'll – I guess we gotta review it again, okay –

Coppola: Okay. Well, thank you. We need to move on but thank you.

Funchar: Okay, thank you. Thank you so much. Goodbye.

Coppola: Okay, if we could call the next case, Vice Chair Baringhaus.

APPEAL CASE NO. 2020-11-32: An appeal has been made to the Zoning Board of Appeals by St. Jude Nursing Center, Inc., 721 Elmwood Drive, Troy, MI 48083, seeking to erect a new two-story senior care living facility, resulting in deficient west side yard (Stark Road side) setback and excess floor area in percentage of lot area.

<u>West Side Yard Setback</u>	<u>Usable Floor Area in Percentage of the Lot Area</u>
Required: 25 feet	Allowed: 45%
Proposed: 16 feet	Proposed: 66%
Deficient: 9 feet	Excess: 21%

The property is located on the north side of Ann Arbor Trail (34350), between Norwich and Stark, Lot. No. 132-01-0001-001, OS Zoning District. Rejected by the Inspection Department under Ordinance 543, Section 9.05a, 9.05b(2), "Establishment of Area, Height, Bulk and Placement Regulations for OS Districts."

Coppola: Alright, thank you. Mr. Stroble, anything to add?

Stroble: Not at this time, Mr. Chair.

Coppola: Any questions for Mr. Stroble? I do, since no one else jumped in. This is a little different. Generally, we -- we run into a -- into a lot usage variance, but this is a usable floor area, compared to the lot usage. Can you explain that a little bit more, so everybody understands exactly what -- what the difference is?

Stroble: I cannot at this time. I'm still waiting for my computer to load. I haven't read the next case yet.

Coppola: No worries --

Stroble: I apologize.

Coppola: Just for that, I'm going to pick on Mr. Fisher.

Fisher: You know, the idea is not unlike lot coverage, and the idea is that you have a certain amount of green space all the way around the building, is the -- what you're sort of driving at with this particular requirement.

Coppola: Is it -- is the intent really to -- to -- to limit the -- the height -- I mean -- how many floors you have in essence then? Because it counts each floor in that -- square footage of each of those floors, right? It's a combined total square footage of the -- of the building.

Fisher: Yeah, it has the effect of sort of increasing the setback as you go vertical -- as you go higher vertically.

Coppola: Does it --

Fisher: That's one of the effects anyway -- vertically.

Coppola: So, in this case it's not, but again just to be clear, it's not the lot coverage that's the issue, it's the fact that they've got a second floor and when you add the first floor and the second-floor square footage, the usable floor area exceeds the lot area.

Fisher: Right, or another way to – another way to describe it is this is a different computation of lot coverage than we use for residential – you know – R-1 type property. This is a – a special formulation used for this sort of quasi commercial situation that we're talking about.

Coppola: Alright, but the case of let's say just for general lot coverage, if that was the requirement, they'd be okay, but it's because it's the usable – usable space. Okay. Okay.

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: Yeah, that's actually a great question. I'm glad you asked that, because it crossed my mind as well and if I recall correctly, when I looked at the – that section of the Ordinance – nine, that is – if it was for Office Services, and I think it only allows two stories, maximum 35 feet, so it – it kind of befuddled me – you know – why they calculated it that way. In my mind you could achieve the same aesthetic detriment, if you will, by – you know – just creating a border of the second floor that – you know – goes around the whole perimeter of the building and you wouldn't exceed the floor area because your second floor would be – you know – relatively small, but it – you know – I – I didn't understand the intention of – of the Ordinance as it was written to – to focus on percentage of usable floor space versus lot coverage – you know – because they – they obviously – you know – have no problem with the greenery requirements or the lot coverage unless the objective is assuming some kind of intensity of use and – you know – cars coming and going in parking lot requirements, but I think in -- in a use like this, a convalescent home – you know – those are not a factor – I mean – there's not a lot of people coming and going, there's not a lot of need for a lot of parking spots, so those are some of my thoughts when – when I considered earlier, and then – and then thanks again for bringing it up, because that – that was puzzling me.

Coppola: That brings up a – just another question, Mr. Fisher. So, this – there's also a use variance, so the use variance I think is different than what it's zoned right now, so which – which zoning is – is that property beholden to when it has a use variance?

Fisher: I didn't see anything on here about a use variance. I thought this was –

Coppola: Really? I thought it was. It's zoned Office and its use is being it as a use variance for –

Fisher: Oh, I see. OS zoning does have provision for certain other uses. This is similar, I guess, the decision this was similar impact to an office building.

Coppola: So – so, if it was zoned, and then again, I'd have to go back at all of the stuff that went through – paperwork that went through the Council when it got its use variance. So, you're – you're suggesting that – that the zoning – the use variance of the zoning for

whatever use it's now allowed isn't different than OS, so we wouldn't provide a different

Fisher: It's not a use variance at all. It's just an OS – I don't – I'd have to go back over it now, cause it's been a while since I've looked at this for this – for this – for this question

Coppola: Yeah, I thought – thought I read a use variance, but maybe I mis – mis read it. I thought there was actually a use variance out there. There were some – there were some letters going back asking for an extension for a use variance.

Fisher: I don't – I don't think if it were a use variance, we'd have all these dimensions. Anyway, no, I can't see anything – this is not written up as a use variance case at all.

Coppola: No, I thought that there was some type of variance provided by the Council.

Fisher: Oh, it's possible this might be a waiver use, if that's what you're --

Coppola: Yeah, waiver, I guess that's what I meant. Yes, I apologize for the wrong terminology.

Fisher: Okay.

Coppola: So, if you have a waiver use, does that – does that change – theoretically change the zoning for that particular --

Fisher: No, a waiver – the concept of a waiver use is that there are certain uses that are sort of similar to what the heart of this district does, but they might become problematic in certain circumstances, so we give them a little higher level of scrutiny, so car dealerships for example are use – waiver use required. There's another example of something that's obviously commercial, but it has its additional set of issues that you want to look at before you say okay, plop your car dealership there.

Coppola: Gotcha. Okay, I understand. Sorry to go off on a snipe up there. Alright, I see Mr. Mali has raised his hand, and Mr. Van Ryn has raised his hand. So, let me see if I can see you guys here. There you are, so Mr. Mali, if you go first you could give me your name and address and then your relationship to the case.

Mali: Sure, great, hi, thank you Mr. Chair. My name is Roger Mali, and we are the – the purchasers of this St. Jude Nursing Center property. We're located now, we've actually changed our address since filing this application. We're at 30700 Telegraph Road, in Bingham Farms, Michigan. And I could just – you know – tell you a little bit about this project and --

Coppola: Just real quick. Is Mr. Van Ryn going to be speaking or? --

Mali: Yes, Mr. Van Ryn is the engineer on the project, so go ahead Jason.

Van Ryn: Good evening. My name is Jason Van Ryn, I work for Nederveld, our address is 3 -- 317 Miller Road, Ann Arbor, Michigan.

Coppola: Okay. Just a -- just a real quick question. Do you own the property right now?

Mali: No, we have the property under contract to purchase it, so this is -- we have already gone through the City, what would it be, The City Council approval and the Site Planning Commission and now we're requesting this variance for the ZBA in order to complete the development.

Coppola: Is there -- is there a representative from owner -- the ownership of the property here?

Mali: I -- I would be the representative from there. I'm sorry -- we're -- we're -- there's two -- I guess there's entities on both sides, I'm -- so, I apologize, but yeah, I'd be representing the ownership.

Coppola: So, you also are an officer or a representative for St. -- St. Jude?

Mali: Correct, yes.

Coppola: And what was your -- what was your capacity at St. Jude?

Mali: So, I was a manager.

Coppola: Okay, I just want to make sure, because we do require -- you know -- that we either have a property owner or we have some type of documentation allowing another party to represent that owner, so but you were -- you weren't an actual owner, you're just a manager.

Mali: Yeah, we were the -- yeah, I'm the authorized agent on behalf of St. Jude. We were the management company.

Coppola: And I apologize, I didn't see -- I went through here real quick. Did you -- did you have -- did you submit documentation for being an authorized representative?

Mali: I -- I know that we -- we had through the course of this -- I think -- I -- I don't know specifically with this, but --

Van Ryn -- I mean -- the -- the application -- sorry Roger -- the application was signed and notarized by -- by you, so I don't know -- I'm trying to pull it up -- the application that we submitted.

Coppola: Yeah, the application was signed by a Bradley Mali.

Mali: Yeah, that's my brother.

Coppola: Oh, it is Mali, sorry. Bradley Mali, that's your brother?

Mali: Correct.

Coppola: And he was the owner of the property?

Mali: Correct.

Coppola: Okay, alright, I apologize. You can proceed.

Mali: Great, so thank you, Mr. Chair. So, what this project involves is the complete demolition and will be razing completely the existing or the former, I should say, St. Jude Nursing Center. So, I think, as it was spelled out in the application – you know – St. Jude had been around for several decades in the Community, has – you know -- certainly fallen into disrepair, and at the end of its functional life. This particular facility is a – is a 64-bed facility, so 64 licensed beds, and the intention is to build a first class – you know – modern, updated – you know – completely harmoniously looking building with the neighborhood - - 64 beds, previously 64 beds, after construction. What we're going to be doing as part of this project, and I don't know if it's in the package, the plans, but I think you can see the property. It's – it's going to be – it's a beautiful design and it's going to just tremendously enhance the – the life and I guess I should say – you know – lifestyle enrichment of our residents. We're looking at, what was it going to be, there's going to be eight double, so what does that come down to? So, 56 private rooms with private baths, first class amenities, common areas throughout – you know – therapy, salon, so just – you know – really just a very nice facility all the way around. We're going to be improving the lot tremendously and Jason can talk more about this. One of the things that we'll be doing as part of this project is bringing the – the entire lot up to code from a utility, from a drainage – drainage perspective. There has been a history, from what I understand, of drainage issues along Stark Road, so one of the – you know – conditions of this development is to put in a very sophisticated drain tile system, which is going to clear that. We've met – you know – had many, many meetings – you know – with fire safety, the Engineering Department at the City of Livonia, so the site plan that you have in front of you is a product of – you know – several public hearings, a lot of work with various departments at the City of Livonia, a lot of feedback, we've made a lot of changes to the site plan as far as – you know – moving the configuration, the size in order to accommodate a lot of the requests, in fact, all of the requests of the City of Livonia, and then certainly concerns from -- from some of the neighbors. So, I think – you know – as far as the use, I know that question came up, so the use is the same, and I – I – forgive me, I don't know exactly all the technicalities for the waiver use, but – but we're – we're not going to be changing the use at all. So, the building was a 64-bed nursing facility previously, it's going to continue being a 64-bed nursing facility after. We're not increasing the – the amount of people. There's going to be no increasing in terms of the number of employees, there's not going to be an increase in terms of the numbers of residents at the facility, so I guess the – the – maybe that's the wrong word – the density or the traffic or the business, I guess, of this will – will remain the same as it was before – you know – a couple of things -- that the reason for the bigger footprint is essentially we had to balance the need to have all 64 beds in order to make the project feasible because – you know – ultimately it does need to, of course, generate money, but – but it's – it's more importantly that the bigger footprint is just the need and the amenities now for – you know – for residents in a – in a – in a skilled nursing setting are different than they were 30-40 years ago, like – you know – private rooms, private bathrooms, the common areas, the dining

areas and that's the need for this larger building. We've also, one of the requests is for the variance and – I'm sorry – is for the setback variance and that was – you know – really as a result of going through the various meetings with the City – you know – hearing from neighbors and then wanting to provide more privacy to the neighbors to the east, if I have my orientation right, and then moving it closer to Stark Road, so we're – we're – I guess encroaching, maybe that's the wrong word, I'm sorry, we're – yeah, I guess encroaching on the variance along Stark Road, but at the same time providing – I guess – more room for the – the residents on the east. Part of this, and I don't know if it's in the package, and Jason can talk about it, is we've got – you know – I think – you know -- just a tremendous landscaping plan in place – you know – relandscaping the entire lot, putting a lot of – you know – trees and different – you know – vegetation in there, as requested by the City, which is going to provide privacy -- I think shelter it even more than the building was now and – I think – maybe even most importantly or maybe what really came up a lot is just changing that entrance, so we're going to be, and that's at the – you know – the request of Fire and Safety or I think – maybe the Traffic Department, I'm not sure which one, but we did rework the parking and the entrance area as a – as a safety – you know – for the facility for the traffic in and out and that was at the request of the City, so I – I think it's going to be a terrific project. If Jason, would you like to add anything in there?

Van Ryn: Yeah, yeah.

Mali: Especially if there's more questions, I'm sure I skipped a lot.

Van Ryn: No, you did a great job, Roger. I think Roger touched on – on most everything – I mean – tonight we're here before you for requesting two things. The larger building – you know – usable floor area, I think Roger explained that that's a result of providing more amenities within the building, so we're not increasing the number of beds, we're just providing bigger rooms – you know – common space, so that required a larger building. I think that's a good thing for the City too, I think that's a valuable asset – you know – this project brings to this. And the second thing was the setback from Stark Road. We had – you know – through the planning process, the site plan process, we had a lot of conversations with neighbors surrounding this project – you know – they -- they brought their concerns to the table, we discussed the larger building footprint. One of the items that came up was providing some additional space from the east property line. The – the setback that we would be allowed to do would be 15 feet from the east property line, but we're at – we're at over 25 feet and by pushing our building to the west, we are encroaching into the Stark – the Stark Road setback – you know – by nine feet, but – but Stark Road is not a very developed road, it's a dirt road, and there's still over 40 feet of separation between our building and the edge of the road so, I still feel like there's an ample – you know – area of green space and as Roger mentioned, we're going to be doing – you know – a lot of landscaping improvements to help soften the building and screen it along the east side and the west side, so I don't feel like – you know – that we're still providing a 40 foot green space between the road and our building, it still feels like a pretty substantial – you know – setback, so I think those are the two big things and I'd be happy to answer any questions that you may have.

Boloven: You're on mute, Mr. Chair.

Coppola: Were you expecting anybody else to join your group, Mr. Mali?

Mali: No.

Coppola: Okay. A couple of questions for you as I was reading through the packets. So, what's the status of taxes?

Mali: So, as a condition of this development we are going to be paying – this property had gone through a bankruptcy and there are a number of years of past due taxes, and I think, as a condition for us even pulling the permits on this, I think it's in the – you know – all of the approvals, will be to make sure that all the taxes are paid 100% in full, and that's – you know – again, another motivation for doing this, as you can see, to us, it's a significant demolition. We're going to be investing a lot of money into this project, so all – you know – all said and done it's gonna be nearly 14 million dollars – you know – in this site and of that – you know – a significant portion of course is going to the City of Livonia, and we think that – you know – this is the best way – I mean – the building alone, the demolition, is a million dollars just to take the building down on this property, so we're – we're putting a lot into the site itself.

Coppola: Okay, and do you have your financing all arranged and committed?

Mali: We do – we do, I'm pleased to say that we – we are – yes, yes, we are moving along with the financing. It's been a real slug here through Covid and this project was on hold for nearly six months, and as you guys can imagine, in March when we were – you know – sorta getting ready to do this and talking to lenders about would you like to build a new skilled nursing center in Wayne County, Detroit, Michigan in March and April was a pretty tough conversation, but just as a company we've done some great things just – you know – as far emerging through this Covid and – you know – our handling of the crisis overall, and so right now we have a lot of confidence from the – the backers and the investors and we've got a – a commitment right now through White Oak Capital out of California, so we're very happy to be moving forward with this project.

Coppola: Congratulations on that. In regards to your neighbors to the east Trillium Court, what – it looks like there's some incremental potential landscaping. Can you describe what you're going to be doing, because you're going up a story, so you're kind of looking into their property now compared to what was existing before even though it was closer, it was only one floor, now you're up two floors.

Van Ryn: Yep, absolutely, that's something I can –

Mali: You got it, Jason?

Van Ryn: Roger, yeah.

Mali: Okay, great.

Van Ryn: So there – there's an existing five foot – is it five-foot or six-foot, Roger? I – concrete wall, I can – I can verify, hold on – hold on one second. There is an existing wall that will remain in place. I think – I think it's five feet tall, concrete wall that's gonna remain in place. We're gonna – we're gonna fix – you know – fix it up a little bit. It's in – it's in

fairly good condition. We're probably gonna change the color of it to compliment the building, but that's -- that's one thing, so that -- that will help, but as you said there is another story that we're proposing, so we will be planting I believe it's 18 arborvitaes along our side of that fence adjacent to our building, so that -- there's really one neighbor on Trillium Court that -- you know -- is fairly close to the site and that's something that was discussed with him during one of the Planning Commission meetings, so yes -- so I think we're going to be putting 18 arborvitaes along the base of the wall on our side of the site and those -- those can grow -- you know -- fairly tall, so, I think -- I think that will help.

Coppola: Okay, good, thank you. I think -- I guess just one more question from me more out of curiosity than anything. I'm trying to understand if this is assisted -- what's the concept of a two-bedroom unit?

Mali: Oh, sorry, it would be -- it would be a -- it would be a shared unit, so it's a -- it's a skilled nursing, so the -- one of them or I guess the major reason for doing this is -- is -- you know -- of course just providing a better, more enhanced environment for the residents and as a result of that we'll be attracting a lot more short term rehab type residents, so you'll see -- you know -- a lot of people that are coming there -- you know -- knee replacement, they need x number or a hip or a back or those type of things. The predominantly the market right now is in skilled nursing, is either going to be -- you know -- private -- fully private room with a private bath and then a lot they're building is a semiprivate room, so two beds -- you know -- kind of more like a hospital style there, so we still will have within there, there's one, two, three, four semiprivate rooms, and then -- you know -- doing the math, what is that? 56 private, which is just really -- you know -- fantastic -- I mean -- fantastic. I -- I think -- you know -- if you look at -- you know -- other skilled nursing, for us to get that many privates in is just gonna be an excellent thing, but we still -- I shouldn't say unfortunately, we still will have some semiprivate rooms, which also have their advantages because -- you know -- certainly there are residents who like the companionship and like -- you know -- having a -- you know -- having a roommate.

Coppola: Okay. Okay, so questions?

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Okay, thank you. Yeah, you seem to be showing considerable concern for the neighbors on the east side, in terms of their privacy and proximity to the proposed building. Have you had similar discussions with the neighbors on the west side? The side that you've moved the building closer to those neighbors.

Mali: We -- we -- we have -- I mean -- through -- I mean -- through this entire process this development's been going along -- you know -- a while. There have been a number of public -- you know -- Public Hearings. We have had -- you know -- conversations with them through the years and I think that there are -- you know -- some neighbors on there that -- the -- the biggest concern we heard from the neighbors along Stark Road was with respect to the drainage and that their concern was that -- you know -- are we gonna build this building here and then suddenly is it gonna wash out the road and -- and that -- Jason's here and he can surely talk to that point and that was the -- the number one concern we

got from the neighbors there and I feel like we addressed that concern as far as the – the road condition and then, which also see as – you know – we did get concern from the neighbors along Stark Road – actually – you know -- all in the area just about the – the entranceway and – and I think as I said before – you know -- we're not increasing the traffic, 64 beds before, same number of employees, it's gonna be the same number of residents, so the traffic isn't going to change, but at the request of the – the – I can't remember which department, the Traffic or the Safety Department, as we are moving that entrance away, which is – you know – you know -- according to the City or at the request of the City is going to be the safer place for that – you know – for entrances in and out.

Baringhaus: Okay. So, I guess to summarize it up if you look at the homeowners on the west side, east, yeah, the, no maybe the east side -- the one side they're more – where the neighborhood is located, they're more concerned about privacy and then on the Stark Road side they're more concerned with drainage issues with that particular piece of property.

Mali: That – I – I – I think – J – I mean, would you say that's fair, Jason?

Van Ryn: Yeah – yeah, I would agree. I think they had – you know – we sent plans, and I – I apologize, I don't remember. There's – first of all, there's not a lot of neighbors on the west side of Stark Road, there are a few across from our property and then a few farther north. They – they did express concerns about traffic, and they didn't want the road – you know -- they didn't want our main entrance to be – you know – at the back of our site, because they didn't want a bunch of traffic on that road to tear up the road and they didn't – they didn't want the road to be paved – this is my recollection – again, this was a couple years ago, but they wanted it to stay – you know – have a feel of – you know – you know – a rural feel, I guess, to it, so we – you know – we made sure that any – you know – our entrance to our front parking lot, we – we're gonna be paving that section of – of Stark, but we're not going to be improving – you know – the rest of it, other than improving drainage. So, I think – I think that's -- that was it – I mean – I know they had some concerns about the height of the building, but we sent them renderings showing that it has a residential feel to it – I mean – it has two stories, but it's not like a – you know – this ominous thing, it's – it's a – you know – has a nice residential feel on the outside, so I think – you know – we didn't hear a lot from them after the initial Planning Commission meetings, but again I – you know -- I could be wrong tonight for calling it --

Mali: And Jason, thank you for – and actually in hearing this – this – this Committee speak through the night, I think it's important that – you know – through this process of Public Hearings Jason and the architect did – you know – present full sets of plans, the site plans, to all the neighbors in the surrounding area in addition to the notices so that everybody – you know – was – you know -- fully informed and we've had – you know -- meetings with them and – and stuff through the – through the years of getting this development to this point.

Baringhaus: I noticed in some of the documentation that the Livonia Fire Department had requested an access road around the perimeter of the building. How did that impact your – your plans for the setback for the building?

Van Ryn: Yeah, so that certainly – that certainly weighed in on – on the decision to move the building further to the west, so we are currently providing a 15-foot access around – so – so, let me back up, so, we have paved access through our parking lot in the front on the south side, and through most of the building on the north side we have parking and then on the east and the remainder of the north side we are providing a 15-foot wide grass paver access for the Fire Department. So, it will look like grass and feel like grass, but it'll support the loads of a fire truck, but that did come in to play – I mean – that – we – we could have squeezed that in. We could have pushed the building – I guess we could have pushed it farther to the east and still squeezed it between the wall, the existing wall in our proposed building, but by moving it further to the west, moving the building to the west allowed us to plant -- I was mistaken, we are actually going to be planting 27 arborvitaes along that east property line just to provide some buffering from the neighbors.

Baringhaus: Okay, very good. Thank you.

Testa: Mr. Chairman, I have a question for Mr. Fisher.

Coppola: Yes, go ahead.

Testa: So, I apologize in advance for not reaching out to Mr. Fisher and my apologies to Marilyn as well. I guess reading through all the notes attached to the package, basically City Council and the Planning Commission, is it fair to say that this was approved by them knowing that it would then be coming to us for variances?

Fisher: Yes.

Testa: Okay, so that is a normal part of the process.

Fisher: It's not unusual.

Testa: Okay, and so they know it could get hung up here and rejected – or rejected, and then maybe it's back to them again?

Fisher: Yes.

Testa: Okay, thank you.

Fisher: You're welcome.

Testa: Okay. That's all I have.

Fisher: Yeah, a lot of times you'll see in their resolution they'll specify, this goes to ZBA for X, Y and Z, so, I'm sure that's in this one too –

Testa: Yeah, it is. I was surprised by it, but now I – now I understand better, thank you.

Fisher: Sure.

Baringhaus: Mr. Chairman.

Coppola: Vice Chair Baringhaus.

Baringhaus: Yeah, I just wanted to confirm the proposed size of the building. I had seen in some earlier documentation it was listed as 44,200 square feet, and then there was a subsequent email that expanded the size of it to 45,763 square feet, so maybe this is a question for the Inspection Department. It looks like they added the calculation of some additional areas on the building, like dumpster enclosures and porte cocheres. Is that kind of standard for calculating building size? There's an email from Randy Abrahamson from October 14, 2020. It was used in deriving the 66%.

Stroble: Well, any -- any structure that's lot coverage will -- will go into that formula. I'm trying to find his email.

Coppola: It's on page 21.

Baringhaus: Yeah, there you go.

Stroble: Hold on a second. Yeah, sorry about that. I see it. He's just taking -- it's -- it's just structure on the lot coverage -- the -- the porte-cochere that has a roof where you'll drive through and drop off, and then the dumpster enclosure, 147 square feet, so it's about the size it will take up of -- of non-permeable material, so it won't be -- it'll be a solid structure.

Baringhaus: So, they just expanded it, basically structures that would cover the property that --

Stroble: That's correct.

Baringhaus: Okay, real fine. Thank you.

Coppola: Alright, do we have any other questions from the Board?

Turbiak: Mr. Chairman.

Coppola: Mr. Turbiak.

Turbiak: Yes, through the Chair, to the petitioner, in that same email thread that was just mentioned a minute ago, there was communication through June and then I think around June 22nd it kind of stopped. It sounded like things were on a fast track and it didn't pick up again until October 7th. Can you explain what the reason for that apparent pause or delay was?

Mali: You mean in -- in moving this through -- through City Council?

Turbiak: Well, it sounded like it was on track to get in front of the ZBA here where we are tonight -- you know -- that was being discussed in June, and then the email kind of went dead until October 7th and then it kind of -- you know -- here we are today. Got on the Agenda and --

Mali: Yeah, so as – so as part of this process – so – so the larger aspects of this, it is extraordinarily complicated project, not just from the approvals at the City of Livonia levels, but also for the approvals at the state level, because we have to seek certificate of need approval from the department of health and human services, we need to get the building approved, just the concept approved by the Department of Licensing and Regulatory Affairs, and then now it's also being sent to the State of Michigan Health, was it HFES Health, Fire – I don't – you know -- the Health Department and then the Bureau of Fire Safety, so what happened during the summer is – you know – really as a result of the Covid, the project getting bogged down. We had to get extensions on all of our approvals including the City of Livonia approval and – and then – and then working that through the process with the State of Michigan, so we had to get an extension on our Certificate of Need and we had to get an extension on our approved building program with the State of Michigan, in which I – I'm pleased to tell this group is that we do have all of the approvals required from the State – the State of Michigan to move forward with this, which is just – you know -- really – you know – it's just tremendous and – and it's huge that we – we got to this point and – and then – you know – so that's why we're here now and – and just sort of the – the – the urgency of it is we – we have obligations under our Certificate of Need to keep the project going and to get this built and to start demolition on this – you know – really right away, but certainly as soon as it – you know – as soon as Spring comes and the frost laws allow it, we'll want to be demolishing this otherwise we risk losing – you know – the Certificate of Need and the ability to do the – the project at all – you know – at all. Sorry for the long answer.

Turbiak: No, no worries. That's great. That – that covers it, and I – I do recall now that I think the approval from the Council – City Council here expired in late August and I think you guys came around early September for an extension, so that fits in with – with what you said there, which if I recall, that – that said that there was a chance of closing by November 15, but obviously that – that would have still required ZBA access – or sorry, approval, which is why it sounds like you probably haven't closed yet, is that correct?

Mali: Correct – correct. We're – we're – you know -- anxiously awaiting this meeting, and – and of course presenting to this group, but we're in a position right now that – you know – we – we have sort of everything in place to move this project forward. This is – you know -- essentially the last hurdle, we'll – you know – certainly get some comments back from the State of Michigan. They won't be – you know – anything as far as changing the – you know – nothing in terms of changing the footprint or the site plan, but – you know – they might – you know – they'll have comments on what sort of equipment we can have in the place and – you know – fire suppression systems, those sort of things, but we're – you know -- really at a point right now where we're ready to proceed with the project and – and actually required to do so, so we're – we're – that's why we're here.

Turbiak: Thank you, Mr. Mali. I – I have a couple of questions about the landscaping. I'd like to change gears. The landscape plan that I looked at, I'm sorry, I can't cite the – the page, but I believe the date was the May 3rd revision. It showed about five, if I'm not mistaken, trees along Ann Arbor Trail. I think it was mentioned that there's an intention to try and keep as many of the – you know – well established trees there, although when I look at Google maps, there seems to be closer to like 11 trees. Can you just clarify what that apparent discrepancy is?

Van Ryn: Yeah, I can – I can look at that. So, there are several large trees. I think they're Siberian Elm that are along the frontage there, and – and several of them are not in very good condition. So, we are proposing basically a hedge row along the entire parking – parking field – you know – that runs kind of north – northwest and southeast along Ann Arbor Trail and the goal there is to – you know – block headlights or – or things like that. To create – create a barrier from those parked cars and then the cars traveling on Ann Arbor Trail. And like you said, we are going to be planting, I think – I think, toward the southeast corner of that lot, we are proposing five additional trees to replace some of the Elms that are not in good condition, and that's where the old entrance to the existing parking lot is so there were no trees there so we're gonna fill that gap in. And then we're leaving, I believe, five trees – you know – to the northwest of that. We're gonna trim the trees up and do some things to try to improve their health, but we're leaving – you know – I think there's several 24 inch, or 28 inch, so they're fairly significant trees in size, so we're going to be leaving those. I don't know if your plan shows, but we're also going to be adding a sidewalk or connecting the sidewalk to the development to the Trillium Court Development to the east of us and extending it to Stark Road where it will end. There is actually no sidewalk on the other side, but if something happens down the road, they can concede to pick that up and move the sidewalk to the west.

Turbiak: Thanks for that answer, and actually it covered one of – my next question, which was about the hedge – potential for hedges to block lights from the parking lot, cause actually we have a letter from one of the neighbors with that and I didn't know if that had come up in any of the previous discussions, but on the site plan – I'm sorry, the landscaping plan that I have in my packet here, unless there's another one, doesn't seem to show any shrubs there. So, can you clarify if there's a newer revision than the May 3, 2019 revision that I'm looking at?

Van Ryn: Yeah, so our current plan – we – I'm trying to think if we met with Mark Taormina after that initial submittal, I don't know, does your plan show a sidewalk? Because I know we added – we did a bunch of improvements in the right of way for – you know – meetings with planning staff. One was to add a sidewalk, we added a guardrail between the sidewalk and the road, and we added the hedges, so on our current plan – our current plan is actually dated earlier this month, because we submitted to the State for review, but yeah, I don't know how we could update that, but that was something that came out of our meeting with the City.

Turbiak: Okay, yes it does have a sidewalk on my plan, and there's a line that says OH, I didn't get to look at the legend, maybe – no, maybe that's not the guardrail, because I see that somewhere else here on the plan that would not make sense to have a guardrail in that location. So, I don't know --

(inaudible)

Turbiak: Oh, okay. Thank you. No, I appreciate that. So, I don't see a guardrail, I don't see the bushes. Can you submit that to – to this Board?

Van Ryn: Sure, Yeah.

Mali: Definitely.

Turbiak: Okay, I mean, we'll wait to later when we get there, but I think that's going to be a – a – how do I – justified concern that we need to make sure is addressed in any potential approving resolution, so that's all the questions that I have, Mr. Chair. Thank you for your time, Mr. Mali, and Mr. Van Ryn.

Coppola: Alright, thank you. Last call for questions. Alright, seeing there is none, gentlemen, I'm going to put you on mute.

Ward: Yeah, I have some questions.

Coppola: Hold on one second.

Ward: Yeah.

Coppola: I'm not sure how you keep getting unmuted, but I guess we're into audience participation. So, I need a name and address, please.

Ward: Yes, my name is Craig Ward. My address is 34302 Trillium Court, I am the house right next to this property.

Coppola: Okay, go ahead, Mr. Ward.

Ward: So, I just have a few questions. So, I – I've been at all the hearings, I have a copy of the site plan, all the drawings, the landscape drawings, and I guess my – my question is have they changed it all since the ones I received back in, I believe it was June? Cause there were some stipulations at the – at the hearing. Number one, were the arborvitaes being planted? Number two is there's is a very, very, very large pine tree that actually abuts the wall, it's right up against the wall, and Detroit Edison had lopped off our half of the tree. So, it's a very unsightly, unattractive tree. It's literally got – you know – the foliage on the St. Jude side and our side is nothing. It's just unsightly and it's messy, so part of the provision was that would be removed.

Coppola: Okay.

Ward: So, I just want to make sure that's still valid.

Coppola: Alright, they will get a chance to respond to all the questions from the audience at one time.

Ward: Okay.

Coppola: So, I got – I got the arborvitaes, and they are on the plan that they've – that they've submitted to us, but I will let them respond to that question.

Ward: Okay, and it would actually – they're supposed to start about midway down that wall and go all the way to the back.

Coppola: Okay.

Ward: Next, I – I heard the gentlemen describing the – the – the entrance to the building, or the front of the building as being to the north. I just want to make sure that is valid, so that would be behind – you know what? What currently is the – the back of the current building?

Coppola: Yeah, he probably misspoke, because I'm looking at the plans and it would face south, but I'll let them respond to that.

Ward: Okay, because actually the plan was that they'd be coming in off of Stark Road towards – you know – entering to the back of the building and there would be no parking lot in the front. Currently, the way it's laid out right now, the parking lot is in the front.

Coppola: Correct.

Ward: And then last, I just want to – you know – to say – you know -- in – in response to some of the questions, that everything that was presented is fairly accurate in terms of the concerns with the other – other neighbors over to the west side – you know – the concern was the access coming in off of Stark Road, but I – but I also want to note that one of those houses is set pretty far back into the park – you know – they're not directly across from – from St. Jude's, they're . – they're close – I don't know if you're familiar with the area, but there's a foot bridge that goes across the river three –

Coppola: Uh-huh.

Ward: -- and they're like almost right next to that bridge.

Coppola: Right, no, I've seen – I've not driven down that road, but I've seen the overheads.

Ward: And then regarding the trees along Ann Arbor Trail, again, the gentleman is correct, some of them are very, very in bad shape.

Coppola: Okay.

Ward: So, and I'm just lending support to – to what the gentleman had said. And lastly, let me just say that – you know – I fully support the – the petition, cause it's been over a year and this thing has been deserted and I desperately them to do something with this building, so – you know – I'm pleading with you all to – you know – I'm – I'm pleading with you all to – you know – to go ahead and grant the petition.

Coppola: So, do you prefer the proposed building to what exists there today?

Ward: Yep.

Coppola: Okay.

Ward: I mean – you know – and I don't mean to make it – you know -- sound bad, but there are literally bed springs sitting outside on the sidewalk there that have been there
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for the last year. People continuously going – you know – going around there. Somebody told me the doors were open in the place and they had gone inside, so that just – causes a lot of concern cause I – you know – I see lots of people walking around there – you know -- mostly are just curious. Everybody's waiting to see what happens, but so –

Coppola: Okay. Anything else, Mr. Ward?

Ward: I think that's it.

Coppola: Alright, listen – thank you for your input. I appreciate it. I'll have them answer the questions in regards to the arborvitaes and pine tree and the park.

Ward: Oh, one more question

Coppola: Sure.

Ward: The gentlemen had made a comment about changing – or painting the wall, and I – I just want to know, is that the entire wall? If they're going to be doing any sort of work on that, I imagine it's gonna be the entire wall or just their side of it?

Coppola: Now, let me ask you a question. From your perspective, what's the – what's the condition of the wall?

Ward: Well, right now – I mean – the condition on my side is – is beautiful, but there are a number of trees, again, like that pine tree and some other – some other trees that are growing very close to the wall and my fear is that when they take those out and they're grinding out the stumps or excavating, that they may end up damaging the wall.

Coppola: Okay.

Ward: So, but I don't really know what the condition is on their side, but again, on our side it's – it's pristine.

Coppola: And – and to your question on painting the wall, do you want them to paint your side of the wall or do you want them to leave it alone?

Ward: I – you know – I would prefer they leave it alone actually.

Coppola: Okay.

Ward: I – I just -- so, there's a – a common property that leads into the park from there –

Coppola: Right.

Ward: -- and – you know – I just spent a lot of money pulling poison ivy and all kinds of brush. Edison had come cut down trees because of the power lines –

Coppola: Uh-huh.

Ward: -- and unfortunately, they left all of the logs sitting inside the -- the bushes there. So, I had to spend like \$1500 of my own money to have somebody to come and haul it away, cut out all the bushes and -- and rip out the poison ivy and then I spent the summer digging out roots and -- and stumps myself, so I finally planted grass and -- and I'm working on creating a -- a nice entrance into the park from there and I just -- I don't want a painted wall that somebody would have to -- you know -- maybe years from now chip away the old paint and repaint and --

Coppola: Is it painted now?

Ward: No.

Coppola: Okay. Okay. Anything else?

Ward: Nope.

Coppola: Alright, thank you.

Ward: Uh-huh.

Coppola: Alright, I'm going to unmute -- there's someone on the phone with a phone number 734-45 -- 734-536-3066, I'm gonna unmute you, or try to anyway. You had your hand raised. There you go, you're unmuted now. 734-536-3066 you had your hand raised. I need a name and address first. You're unmuted. Can you hear us person on the phone? Again, 734-536-3066? You are currently unmuted; you have your hand raised.

G. Walters: Okay, can you hear us?

Coppola: I can now, but if you have more -- if you have a computer on too you need to mute the computer so there's no sound. You're getting feedback.

G. Walters: That's what I'm trying to do.

J. Walters: This is John and Gwen Walters. 34415 Wallace Court. We're on the west side of Stark Road, just kitty-corner from the proposed site.

Coppola: Okay.

J. Walters: First thing, I'd like to correct the gentleman that was just on. He said the parking's in the back. That's incorrect. The parking is in the front. In the back is a service entrance and some employee parking.

Coppola: Okay.

J. Walters: Our main concern is the setback.

Coppola: Okay, the setback on Stark Road? Okay.

J. Walters: Correct. We object to the 16 feet.

Coppola: Okay. Can you – can you expand on what your objection – what's the basis of your objection?

J. Walters: If you change the six – change the setback to the 16 feet that basically makes Stark Road an alley.

Coppola: Okay.

J. Walters: And with that – and earlier on we objected to the traffic load on Stark Road because the way it's laid out on the drawings it's paved to get into the front parking lot, then dirt, and then paved to get into the back-service lot, leaving the rest of Stark Road dirt and everybody has been completely wrong about the amount of traffic on Stark Road. There's traffic coming down there daily to go into the park and park.

Coppola: Okay.

G. Walters: And the height of it.

J. Walters: You can't change that.

G. Walters: I know – I know – the facility is just two --

Coppola: Okay. I'm going to need you to give me your name and address.

G. Walters: Gwendolyn Walters –

Coppola: Okay.

G. Walters: 34415 Wallace Court, and yes, we are the neighbors to the west.

J. Walters: One set.

G. Walters: Yes, one set, and we have been here since the mid 40's. We've seen a lot of changes and this is – this is encroachment and that's all I have to say.

Coppola: Okay, so how do you feel about the current status though of the property. So, what would you suggest as an alternative if there was one?

J. Walters: Oh, you mean the vacant building?

Coppola: Yeah.

J. Walters: The owner needs to do something about it. The other neighbor has – as he has indicated – there is traffic in and out of there. If you need a window air conditioner you probably could go in there and get one.

Coppola: And back when it was operating, was there traffic on Stark Road from employees and vehicles --

J. Walters: No.

Coppola: -- coming out of that property?

J. Walters: Well, except for they had a small back entrance, but all the main traffic went in the front off of Ann Arbor Trail -- and they do, when operating, if you're familiar with like Gordon Foods? Their delivery trucks are the -- the big trailer ones, and they had trouble getting in the front, and they're gonna have trouble getting in the back. There just isn't that much room.

Coppola: Okay, anything else?

J. Walters: No, that probably is most of it.

G. Walters: Yeah, I -- I just feel that the facility being the fact that it's a two story and it's too massive for the size of the property. They're trying to squeeze too much in.

Coppola: Okay. Appreciate your comments.

J. Walters: Appreciate you listening.

Coppola: Thank you. Is there anyone else that would like to speak in regards to this petition?

Ward: Yeah -- I would -- this is Craig Ward again. Can you hear me?

Coppola: Yes, I can.

Ward: So -- so, the gentlemen is right. The -- the parking is, in the front, is just over towards Stark Road as oppose to up against the wall.

Coppola: Okay.

Ward: And -- you know -- honestly -- you know -- when St. Jude's was operational we would have to put up with -- you know -- the -- the people that worked there, sitting out in the parking lot with their stereos really loud at two in the morning sitting out there smoking and it would come into our windows -- you know -- we would have the garbage truck that would show up at five in the morning picking up the dumpster right next to our bedroom window, so the fact that they moved all of that into the back -- I mean -- while that -- that's great for me and I -- believe me I would be putting up a big fight if it wasn't, I could certainly sympathize with the other people because that moves it closer to -- you know -- to their home, although it's not right next door to them like it is here for me. That -- that --

Coppola: Alright, is there -- thank you very much -- okay, is there anybody else that would like to speak for or against this? Okay, Mr. Mali -- Mr. VanRyn -- Bryan -- I'm gonna put you guys now back off on mute. You've got an opportunity to make a final statement. I think you probably want to respond to some of the comments and questions you had. I think Mr. Ward had -- had asked some questions about the Arborvitaes and Pine trees

and painting of the wall I think were the main – the main questions from him and then the concern from the Walters in regards to setback.

Mali: So – this is Roger Mali speaking. I'll let Jason address the – the landscaping issues. I just want to, on the setback issues and the traffic, I just want to emphasize again that we are not increasing the – the traffic at this site. That there are going to be – there are no more residents than there – there were before. As far as the – you know – that – that service area, and even the employees that are coming into the back, it's designed in a such a way that those would-be employees that would be coming in for a – you know -- an all day – a normal day. It's not going to be a high traffic area where the visitors are coming. And – and the way that the dumpster and those areas are tucked behind the building and in Jason's firm they did a turn-a-round study on – you know – making sure that trucks could get in and out and we will be getting a smaller truck on – there are different sizes of trucks that could come in for the deliveries – you know – when we're getting food and such, so I just – you know – just – you know – I – and we have heard this concern and it's come up a lot and we're – we're being very sensitive to the fact to not increase traffic on Stark Road, to not increase the traffic in and out of the building. I know moving the entrance way was with part of our working with the City – you know – based on what they thought was the safest or safer entrance in and – in and out of that particular site and so I think I'll just go with that and Jason can speak to the setback, but I think even with – you know – going to the setback, I think there's 40 feet to Stark Road, but Jason jump in and correct that. And then -- and there's a couple of other things to that have come up just as part of the operation, so this will be a non-smoking campus. So, the entire campus, employees and residents, there will be no smoking at all, so – you know – sorry, Mr. Ward to hear that that was happening, but I can – I can assure you that there will be no smoking – you know – even in the cars of the parking lot going forward, because – you know -- we're moving that way in all our facilities and in all our new facilities so they'll be no employees congregating outside. And then, Jason, can – can you address the actual dimensions and the setback and the – the landscape questions?

VanRyn: Yes, yes absolutely. So, I mentioned it previously, it is – it's almost 42 feet – you know – from the face of our – the western face of this building, to the edge of the gravel road of Stark – you know – so that's still a significant green space. We're going to be improving that green space with the additional plantings, foundation plantings, additional trees on the property. We're not – we're not planting in the right of way but will be doing all that on our property. To address Mr. Ward's comments – I mean – I remember discussing this with Mr. Ward. He is correct with the Arborvitaes – they will be going, they basically start in the north core of the wall and they go about halfway down basically along the building wherever there's building there's going to be 47 Arborvitaes all along our side of the wall. We are showing the removal of that tree that he brought up – the pine tree, that is on the plan to be removed as part of the demolition and – you know – the whole thing with – with trying to improve the existing wall – you know – we feel that structurally it's in very good condition, we've looked at it and structurally – you know – it's – it's solid. We're just trying to think of ways that we could – you know – dress it up a little bit, but if he – you know – if he's happy with it, the appearance on his side – you know – that's certainly something that – you know -- we're fine with that, so – you know -- that's a non-issue.

Coppola: Okay. I think you've addressed all the issues, I guess the only question I have is has there been any thought to paving – or has – has there been objection to paving Stark between the back and the front entrance?

Mali: Yeah, that – that – that had – had come up and – and the – the general consensus was to not pave it because it – it would – the thought was that it would increase traffic but the concern was the drainage as to make sure that – that we wouldn't be increasing and washing that road out, so I think we preserved – I guess – the quality of the aesthetics of Stark Road by keeping it as the dirt road. We're going to have that capped, which will be a paved area as you come into the front parking lot and then – and then Jason can talk about the drain tiles – it's a – I think it's a pretty remarkable system in just what they're doing in terms of the drainage and the storm water retention to keep it from – you know – washing out into Stark Road, so we – you know – I feel like we made sure that we did not effect the road adversely and kept the aesthetic the way that the neighborhood wanted.

Coppola: Okay, thank you.

Mali: And – and – and also, I'm sorry, there – there will not be a lot of traffic to the back of the property. It's just not going to be a high traffic. There are some employee parking spots there and if at all that would be designated more like the administrator, medical director – you know – people that are coming there and parking – you know – for the entire day, but it's not going to be – you know – in and out type of – type of traffic. And then certainly deliveries and that sort of things will be scheduled at – you know – we'll make sure they are normal business hours and they're not in the frequency that disturbs the neighborhood.

Coppola: Perfect, thank you. Anything else?

VanRyn: Can I just bring up one more thing and I feel bad about even saying this right now, but, when I was talking to Randy Abrahamson, he said that we could request, that if – if the Board were to approve this variance, they could waive the five day – five day waiting period and that would allow us to proceed with our Engineering submittal to the City Engineering Department right away –

Coppola: Could you get closer to your mic? You're breaking up.

VanRyn: -- I'm sorry, so – so Randy just mentioned that we could request a waiver of the five-day waiting period so that if you – if the Board was to grant us approval tonight, we could proceed immediately with Engineering submittal.

Coppola: You have not closed on the property yet, right?

VanRyn: We could still proceed with getting – you know – Engineering review – getting the Engineering review process started with the Engineering Department.

Coppola: Okay. Alright – alright, thank you gentlemen. I'm going to go ahead and put you on mute and I'm going to start the Board's comments with Mr. Testa.

Testa: Thank you, so I – I appreciate the – detailed explanation and the detailed plans. I – especially because we're not increasing the number of people there and the number of employees, there shouldn't be an increase in traffic. I'm inclined to approve this. I agree – or I like the proposal here and – and I agree why they want to -- to increase it, because the amenities of the needs of their customers or clients today is more than what it was in the past in terms of space, so I – I am inclined to approve this.

Coppola: Alright thank you. Mr. Turbiak.

Turbiak: Thank you, Mr. Chair. Yeah, I agree with my fellow Board Member, Mr. Testa, in that I'm inclined to approve this as is – I mean – I hear several of the concerns, both verbally voiced and – and captured in the objection letter, so I think that all have been addressed. I would condition any approval on – you know – a submittal of the updated landscaping plan and the agreement by the, just so it doesn't have to come back to this, by – just an agreement by the – what is Mark Taormina's office? The Planning Department – that they agree that it – it addresses the concerns of the – of the neighbors and as far as the – you know – I understand that the one neighbor that the Walters called in were concerned about the nearness to the road. It is my understanding that that was kind of a misunderstanding. I think that they were believing that that meant that the building would be 16 feet from the road, where it is going to be 16 feet from the property line and that property line itself is roughly 24 to 26 feet I think from the road itself, so you got to – you know – include that 24 feet plus the 16 feet, so it's my understanding that that concern was a bit of a misunderstanding what the situation was and which is easy to understand and I don't see that the 40 feet is – is any kind of a concern for the area, and then the other side of the road is – you know – very wide open as well, so – so for those reasons I would be likely in support of this.

Coppola: Alright, Vice Chair Baringhaus.

Baringhaus: Thank you. I think that the Petitioners have done just an amazing job of definitely updating the property itself. I – I think the need for the increased size of the building is justified due to the fact that I think the property was really basically under utilized at St. Jude's. Going forward to make it competitive, they'll have to have those amenities, which will require the additional floor space as well. I think they have given enough concern to the neighbors, both on the east in terms of privacy and then on the west in terms of drainage and – you know – maintaining the – you know – the amenities of the area itself. I would approve the – I'll support the variance, but I would basically approve on two conditions, probably actually three. One would be that – that 100% of the taxes should be paid in full in order for the variance to be granted, also, as Mr. Turbiak suggested an updated landscaping plan should be included in that and then also, I would have no problem supporting the waiver of the five-day waiting period for the permit. Thank you.

Coppola: Alright, thank you. I too will be in support of – of this variance approvals. I think it's a vast improvement to the property and it's – I think – doing anything else with it would be rather – somewhat challenging. I think this is probably – it's been the use of this property for quite sometime and I think it makes sense that it be updated and renovated to – to the same use. I think that they would – I think they did a good job of addressing, not only the City's concerns, but the neighbor's concerns with the landscaping, the water

retention, the flow – the flow of traffic around the building if needed and such, so from that perspective, I'm – I'm in support in regards to conditions, I agree with the conditions – again, I – a couple things I would suggest is that there be a limit on this just in case time wise, just in case something were to happen and – and the project didn't go forward immediately as suggested, so maybe it's a six month window on – on approval. Again, we need to make sure we incorporate all of the Council's recommendations as conditions and then – I'm fine with the taxes being paid, but I think that becomes a little bit of a challenge for these guys, because it sounds like they want to get started before they purchase the property and the taxes would not get paid until the property was purchased, so it's a little of – you know – what comes first here in regards to that, but I'm in support of the taxes, so that kind of – that kind of puts the petitioner in a little bit of a different predicament, but I will go ahead and open up the floor for a motion.

Testa: Sorry, Mr. Chair.

Coppola: Mr. Testa.

Testa: I – I think there was a letter from a neighbor that maybe we didn't read.

Coppola: Oh, we didn't read the letters. Yes, I'm sorry, you're absolutely right. So, Vice Chair Baringhaus, if you could just read in the record, I apologize -- the correspondence.

Testa: It starts on page 25 in my packet.

Baringhaus: Let me go – I was looking toward the back of it; I apologize for that.

Testa: I see only one, but I'm not –

Coppola: That's all I -- It's only one in here.

Baringhaus: Is there like a? Oh, here it is. Yeah, thank you for pointing that out.

Testa: Sure.

Baringhaus: A letter from Michael and Mary Ciolino, 34355 Ann Arbor Trail. (Letter read.)

Coppola: Alright, thanks for – for taking that. Before we go to the motion, I just would like the petitioners to respond just real quickly for the record to the issue of the headlights from the parking and what you're doing to mitigate that. So, I'm going to go ahead and unmute you real quick.

Mali: Sure, and again, Jason do you want to talk to – to the plantings along Stark Road?

VanRyn: Yes, yep. So –

Mali: I mean Ann Arbor Trail?

VanRyn: Yeah, so I apologize that – so – you know -- when we submitted our plans for this variance – you know – we had been – I guess – working on the evolving this
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landscape plans. I apologize that you don't have the most recent version, I guess we just didn't realize that this was going to be a topic for discussion, but as we mentioned, the final plan, the plan that we're going to be submitting for construction, actually we shifted the parking lot back a little bit to provide some more green space between the right-of-way along Ann Arbor Trail and front parking area and that allowed us to plant a hedge row basically the entire length of that front parking area. And I – and I apologize, I don't know how many hedges there are, I – I am not the architect that prepared this plan, but yeah, there's a lot. There's probably three for every space, for every parking space on average maybe? Two and a half for every space, so there's a long row of them all along there and then as your work your way – you know – they kind of work their way into the existing trees that we're going to be saving along the northwest side of that lot and then as you go southeast, we're planting five trees and then those hedges will work in between those trees. So, there's a – there's a tree and then they'll be five hedges, and a tree and five hedges, so hopefully that – you know – provides a buffer from – from headlights shining across Stark – I'm sorry, Ann Arbor Trail into the – the neighbors across the street.

Coppola: That's great.

Mali: And I would say, just in terms of the traffic and the density, for lack of a better word, is – is there is no increase in bed size. The building is bigger, there's no increase in – in number of employees or bed size at this location.

Coppola: Okay, alright, thank you gentlemen. I appreciate your comments. I'm going to put you back on mute. Alright, did anybody want to add any – any of the Board Members want to add any additional comments to their – their discussion points based on these new facts?

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: Yeah, just read – reading that letter reminding me that I failed to comment on the excess floor area portion of the variance request tonight and I kind of touched on it in the opening question that you had raised, so I – I just want to echo those same sentiments that I mentioned earlier, that – you know – this is not – you know – it's the second – it's the fact that it's a second story that's pushing it over the requirement and if we looked at it strictly as a lot coverage I think it would be just under 35%, which is – you know – well within the means. I think it says the green space requirement is 15 and – and the proposed is 26, so again, it-- it's just as –as was mentioned just by the petitioner that it's not an increase to the usage it's just giving more amenities and more space to the residents there -- and also, I want to take this opportunity just to touch on the – the taxes conundrum as far as having it as a condition. I don't know who can help me confirm this. I think Mr. Mali mentioned it tonight, and maybe it's captured in our paperwork in our package, but I think that some of the other processes or steps in the process are hindered already by the question of the taxes. I think that stop gap is already in place and if we tried to put it at this point a process, I think we do create a cart and a horse situation or – you know -- kind of a circular issue for them, so if – I don't know if Mr. Fisher knows about that or if one of the other Board Members have spotted that document and then maybe we can just clarify if that's an appropriate condition or not --

Fisher: My understanding –

Turbiak: -- (inaudible) once the taxes get paid.

Fisher: It's my understanding they have to pay the taxes before they pull any permits so, the – the actual construction.

Turbiak: So, for clarification, what does their five-day waiver allow them to do? Just get the engineering review, but it's not related to the permits or –

Coppola: Gives them five day sooner to pay their taxes.

Fisher: You know, I'm – I'm not familiar with this use of the five days – the engineering or you – I thought they did that anyway, but apparently that's what they're – what they're getting with the five days.

Turbiak: Okay, so, it's your understanding that the five days gets them five days sooner to pull the permits and they can't pull the permits without the taxes so, it's kind of a moot point there.

Coppola: That's not moot – I mean – if they – I guess if they want to pull permits to get started, they just gotta pay their taxes sooner, that's all.

Turbiak: Okay.

Coppola: I think there was – Mr. Mali wanted to comment. I'd like to actually hear what he has to say. I think it will be helpful, so Mr. Mali go ahead.

Mali: I – I'm – I'm sorry, I raised my hand before you – you captured – captured it, Mr. Fisher. There is a – a condition in the City Council Resolution that conditions the pulling of permits. We can't pull permits until the taxes are paid, so it's – anyway, the point was already made, I'm sorry, I should have lowered my hand, but yeah – so, the – the taxes have to be paid before we can pull building permits.

Coppola: So, are you still looking for a waiver then of the – of the five days?

Mali: Maybe Jason can comment. I think what the five-day waiver is -- is it just accelerates the time by which we can submit the plans for review. We won't be pulling permits, but -- but Jason comment, I think that's what the -- what the note was -- was that it just gives us an -- it means we can submit our -- our architectural plans to the City -- you know -- this week instead of next week, but we won't have permits yet, but it's -- it's so that the City -- I -- I -- Jason, jump in -- I'm -- I'm confusing this --

VanRyn: Nope -- nope -- you're correct -- you're correct, so -- so we have a site plan approval, and City Council approval with a site plan, but we still need to submit to Todd Zilincik at the City Engineering Department for engineering review. He reviews all the storm water management system, our utility design, our lead connections, all that -- that -- that can go back and forth, that can take a month or more that back and forth and then

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once you get all that done then you can start pulling your permits – your soil erosion permit – you know – and your utility pack permits and all that, so we just want to – that's why I said I almost feel bad asking for it, but it just allows us to get our plan submitted this week versus like next week – just to start that process.

Coppola: Okay. Alright, thank you. I'm going to put you back on mute. Alright, I think we're where we need to be unless anybody else had comments or questions on the Board. Seeing none, I'm going to go ahead and open up the floor for a motion.

Baringhaus: Mr. Chairman.

Coppola: Busy person tonight, Vice Chair Baringhaus. It's appreciated.

Baringhaus: Thank you.

Upon motion by Baringhaus and supported by Turbiak, it was:

RESOLVED: APPEAL CASE NO. 2020-11-32: St. Jude Nursing Center, Inc., 721 Elmwood Drive, Troy, MI 48083, seeking to erect a new two-story senior care living facility, resulting in deficient west side yard (Stark Road side) setback and excess floor area in percentage of lot area.

<u>West Side Yard Setback</u>	<u>Usable Floor Area in Percentage of the Lot Area</u>
Required: 25 feet	Allowed: 45%
Proposed: 16 feet	Proposed: 66%
Deficient: 9 feet	Excess: 21%

The property is located on the north side of Ann Arbor Trail (34350), between Norwich and Stark, Lot. No. 132-01-0001-001, OS Zoning District. Rejected by the Inspection Department under Ordinance 543, Section 9.05a, 9.05b(2), "Establishment of Area, Height, Bulk and Placement Regulations for OS Districts," **be granted for the following reasons and findings of fact:**

1. The uniqueness requirement is met due to the unique shape of the property and the long history of this site as a senior care facility.
2. Denial of the variance would have severe consequences for the petitioner due to the fact that the current property would not be competitive as a senior care center in today's market.
3. The variance is fair in light of its effect on neighboring properties and is in the spirit of the zoning ordinance due to the measures that the petitioner has taken in meeting with the neighbors and working to attain their requirements for the new facility 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 "Low Density Residential" 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 conditions imposed by the City Council be followed.
2. That a limit on this variance be set at six months from date of approval.
3. That the five-day waiting period be waived.
4. That an updated landscaping plan be provided.
5. That the facility be built as presented with the exception of the parking lot relocation and the landscaping.

Coppola: So, I've got a motion by – motion for approval by Vice Chair Baringhaus, supported by Mr. Turbiak. Conditions updated landscaping plan, variance is good for six months, you have six months to pull a permit, incorporate Council requirements and a five – and remove the five-day waiting period. Discussion? Anything else?

Turbiak: Mr. Chair.

Coppola: Mr. Turbiak.

Turbiak: I'd like to propose that another condition – that it be built as presented.

Coppola: Good point.

Baringhaus: Good.

Turbiak: And I don't know if –

Coppola: Except the only problem is I know they're changing the – they're changing the parking lot.

Turbiak: They're changing the parking lot? I must have missed that. You mean the shrubbery? Because that's covered in the landscaping.

Coppola: Yeah, they're actually moving the parking lot back a little bit to add space – green space – to add the – the hedges, so –

Turbiak: Oh, okay – that's also a deficiency on our plan, got it. Makes sense. Yeah, I did hear that, but I – I missed that it was on -- a deficiency on our plan. The other question that I have is a potential condition. I don't know if the Pine Tree that I believe it was Mr. Ward had mentioned that needs to be removed, if that's captured anywhere? If that's already covered in the landscaping plan or if we need to call that out separately or if we wanted to address any of – of his – you know -- interest in having the wall not painted on his side. Do we need to put those as conditions here if they're not captured somewhere else?

Ward: I believe I'm unmuted. Am I?

Coppola: We're – we're – the audience portion of it is no longer –

Ward: Okay, I just want to provide clarification. That was captured in the – the initial approval in terms of having the tree removed.

Coppola: Alright, thank you.

Turbiak: Okay, thank you.

Baringhaus: Mr. Chair. Mr. Chairman just one quick question for Mr. Turbiak. Based on the fact that the parking lot is planned – is going to be relocated to accommodate the new green space, do you still want the requirement as built as presented?

Turbiak: With that exception.

Coppola: Yeah, I think we should do that – carve out – carve out the parking lot, that's all.

Baringhaus: So, we'll leave that in – built as presented?

Coppola: Yeah.

Baringhaus: Okay, real good. Thank you.

Coppola: With a carve out for the – for the – an adjustment for parking lot and landscaping.

Turbiak: That with the exception of the parking lot location.

Baringhaus: Thank you.

Coppola: Any other discussion? Seeing none, Mr. Vice Chairman, if you would please take the roll.

ROLL CALL VOTE:

AYES: Turbiak, Testa, Baringhaus, Coppola

NAYS: None

ABSENT: Friske, Boloven, Klisz

Baringhaus: Variance is granted.

Coppola: Okay, I'm going to unmute you guys real quick here. So, Mr. Mali and Mr. VanRyn, so you've been approved. Your variance has been approved. The variance is for the setback and usable floor area have been approved with the conditions that you're going to submit an updated landscaping plan as we discussed today and, in that update, – in the landscaping plan I'll assume it will also show the new location of the parking lot

and the additional landscaping to be put in to – to offset headlights and stuff like that. The – the variance is – you need to pull permits within six months. Hopefully, that won't create an issue for you on beyond, if not we'll need to see you again to get – just to get an extension just to make sure there's no issues. We incorporated all the Council requirements that were in their approval, so you'll have to – you'll be -- still be bound to those approvals – those requirements. We've waived the five-day waiting period and then again, we ask that it be built as presented. In other words, where the building is shown on – on the plans that you provided as – you know -- basically the façade's structure – all that as presented, with the exception of the parking lot, which we understand you're going to move slightly to allow for additional landscaping. Any questions?

Mali: No, I'm – I'm fine – thank – thank – thank you everyone. We appreciate your time.

Coppola: Well, we're looking forward to that property being upgraded, so thank you for doing that. I think that will improve that area substantially and we wish you luck and hopefully the weather behaves so you can get it done quickly.

Mali: Thank you.

Coppola: Alright, thanks gentlemen.

Coppola: Alright, I don't think, Marilyn, we have any minutes.

Baringhaus: I didn't see any, no.

Mootsey: No, we don't have any minutes. She didn't finish them yet.

Coppola: Okay, I just wanted to make sure we weren't missing something. Just a little housekeeping. I did circulate a – an email a few weeks back in regards to the petition and any comments for any suggested changes? I know Vice Chair Baringhaus provided a – provided his comments. I have done a poor job and have not provided my comments yet, although I have very few once I do get a round to it, so, but if anybody else has comments, if you can get those to Mr. Fisher, I'd appreciate that. Then, I'm just thinking we only have one more meeting in December, we'd be voting on the – hopefully we'll be voting on the agenda Marilyn for next year?

Mootsey: Yeah, I hopefully will get it. I'm waiting for Stephanie in Planning to get it to me so I can put ours together.

Coppola: Well, worst case scenario let's – let's – let's vote on whatever we can vote on – I mean – even if it's only a few months, just so we can get – get stuff on – on the record and get it moving forward.

Mootsey: Okay.

Coppola: Okay, alright. Besides that, I guess I'll just – I'll wish everybody a Happy Thanksgiving. Hopefully, you've picked your ten most favorite relatives to attend with you, so that you'll have a good Thanksgiving. But I guess I'm in need of one more motion now.

Baringhaus: Mr. Chairman, motion to --

Coppola: Well, you're on a roll – might as well finish it up.

Baringhaus: Mr. Chairman, motion to adjourn.

Coppola: Do I have support?

Testa: Support.

Coppola: Okay, motion by Vice Chair Baringhaus, supported by Mr. Testa to adjourn. All in favor?

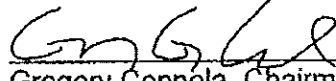
Board: Aye.

Coppola: Alright, thank you everyone. Great job. Appreciate it.

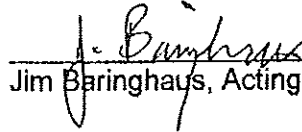
Baringhaus: Thank you very much everyone. Take care.

Coppola: Have a good Thanksgiving.

There being no further business to come before the Board, the meeting was adjourned at 10:05 p.m.



Gregory Coppola, Chairman



Jim Baringhaus, Acting Secretary

/mm