

**Brunswick Hills Township
Board of Zoning Appeals
Public Hearing Minutes
November 4, 2020**

Covid Meeting Location: Diamond Event Center, 1480 Pearl Road Brunswick

Open Public Hearing Meeting

Chair Kersten called the Brunswick Hills Township Board of Zoning Appeals Public Hearing meeting to order at 7:00 p.m. A roll call of the board was executed.

- **Board Members in Attendance:** Robert Murphy, Daryl Lucien, Ron Wetterman, Chris Schigel (Vice Chair, Cliff Kersten (Chair)
- **Alternate Board Members in Attendance:** Daryl Lucien
- **Others in Attendance:** Evelyn Czyz (Zoning Inspector), Anthony Strazzo (Fire Chief), Matthew Payne (Fire Prevention Officer), Tonya Rogers (Legal Counsel), Mary Jean Milanko, Secretary

Chair Kersten stated we have a quorum of a full board in attendance for this meeting so we will continue with the hearing tonight. Mr. Kersten explained the vote to the applicant(s); A YES simple majority with a quorum present is in favor of the applicant. A NO simple majority, or a TIE vote with a Board of four (4) will deny the applicant's request. Chair Kersten stated the Brunswick Hills Township Board of Zoning Appeals acts within the regulations of Section 519 of The Ohio Revised Code.

Continued Business – Public Hearing Terry Properties, Ltd. & Palmieri Builders

- (1.) **Variance Requests (094) & (095) by Terry Properties, Ltd. & Palmieri Builders, Inc.** for Permanent Parcel Nos. 001-02C-05-009 (4950 Center Rd/Golf Course) per Sec. 403-2(A) R-1 Residential Permitted Uses. PP# 001-02C-02-007, 001-02C-05-002 & 001-02C-05-003 (Bramblewood Inc.), 001-02C-05-004 (1654 Substation Road/Pospishil), 001-02C-08-004 & 001-02C-08-005 (1770 Substation Road/Loria) per Sec. 402-3 RR Rural Residential lot requirements and Sec. 402-4 yard requirements to allow for development in accordance with Section 406 Planned Mixed Use Development Overlay (PMUO), 406-5 (B) Size & Density Requirements and Sec. 406-6 Development Standards.

Chair Kersten stated we will hear **Case #094** and **Case #095** together because the presentations are similar with overlapping testimony. Chair Kersten called the applicant to the podium.

1. John Slagter, Attorney, 950 Main Avenue, Cleveland, Ohio 44113 was sworn in. Mr. Slagter distributed a large bound book to the board members and legal counsel. [Note for the record, a book was not provided to the Zoning Inspector or the Zoning Secretary for their records.] Mr. Slagter stated I was told by the township to provide six copies, but for the record I will provide two additional copies for the Zoning Office. Mr. Slagter said I am here tonight on behalf of the proposed developer which is Terry Properties, Palmieri Builders and I am also representing the property owners. Mr. Slagter said there are actually two variance requests before you tonight and because the evidence in both of the matters are very similar, we ask that the testimony we present will be meant to be incorporated into both requests. He said if not, we would have to repeat everything and we may be here for a significant amount of time. He said for the economy of time we would ask that you make your vote for both based on the evidence that we are presenting. Chair Kersten asked if anyone on the board had objections to the request. Mr. Schigel had no objection. Mr. Wetterman stated I question the fact that there obviously should be more than just two applications, but I will allow it to continue at this time. Chair Kersten stated we can bring that up after they make their presentation. Remaining board members had no objection. Chair Kersten stated we will hear Case #094 and Case #095 together.

Mr. Slagter stated we appreciate the opportunity to present to you a request for two variances and I serve as an Attorney to the property owners and to the developer. He said I've been practicing in the area of land use zoning

and litigation for about 30 years and I've also had the experience of working with many townships in the area. Mr. Slagter said I am here this evening with Dino Palmieri who is an experienced developer, home builder and businessman. He is intending on developing this property with his partnership with David Terry, who is the representative of Terry Properties and is also an experienced developer, home builder and businessman. He said also with us tonight is Keith Mitchell, who is the Director of Land Development for Palmieri Builders with over 30 years of experience in the industry. Kristin Hopkins who is a Professional Planner. Doug Jones, Ryan Homes is here and he is an experienced developer and a market expert. Mr. Slagter said we also have Travis Crane who is our engineer; and also, Eric Smith who is a Transportation & Traffic expert and engineer and they will all be here to testify tonight and answer any questions you may have.

Mr. Slagter said we are requesting two types of variances; one is an Area Variance and the other one is a Use Variance. He said the variances ultimately would allow the property which consists of approximately 200 acres, which is the old Brunswick Hills Golf course and now known as Cossett Creek, and it is the intent to develop the portion of the property that we have called Area A in the application, which is about 20 acres, into a Commercial area there, therefore, it is a Use Variance. He said then we have Area Variances to allow for changing the density permitted by the residential use of the balance of the property rather than have your RR-Rural Residential density, a density that would be consistent with the cited specific Section 405-B densities to be consistent with those densities, and we also have cited Section 406-6 of your Zoning Resolution which sets forth the development standards for your community. He said we are not here asking for a specific application plan tonight. If the variances are authorized, we would have to go through the normal approval process on this required by the county for site designs, Storm Water Management and traffic, so you are not approving a particular plan this evening – you are approving the density that would allow this type of a development for this type of residential housing.

Mr. Slagter said we have reviewed the requirements for granting these types of variances in your Zoning Resolution Section 1005 and specifically, the area requirements in Section 1005-1 in addition to 1005-2 which are the use requirements. He said under the law, we feel the granting of the variances is proper for the reasons set-forth in our application and based on the testimony you are going to hear tonight, which will include discussions about the unique characteristics of this property; the surrounding developments of the property; the fact that the area and character of this property has changed since you adopted your 2005 Comprehensive Plan and have had significant development in this area. He said and significantly most compelling is the surrounding development that has occurred in this area off Rt. 303 that has density consistent with what we are asking for this evening. To maintain that property as Rural Residential requiring one unit per 2-acres of property is not economically feasible; it's also not consistent with how the area has been developed. Mr. Slagter said you'll hear from a planning perspective and also from a development and market perspective on how it creates a situation and it leads to what we believe is an uneconomical viable use of the property and second of all we believe there are legal issues with that. He said specifically as you may be aware, we've already requested a rezoning request, which was denied and we are currently in litigation in Federal Court on this matter. Chair Kersten banged the gavel and said let's not get into anything whatsoever about any litigation, law suits and so forth; let's stay with what you want tonight. Mr. Slagter said I am just stating the fact that we're involved and you may be well aware, however, variances by their nature are a safety valve that are given to communities to allow for an exception to your zoning. They are not inappropriate or illegal and in fact the Revised Code as cited by your requirements specifically authorizes the granting of a variance in Section 519.14 of your code. It has to meet the standards of unnecessary hardship or practical difficulties. He said your code or Zoning Resolution actually has different standards than you typically see in granting an Area Variance or even a Use Variance; we will follow those standards that you set forth in the section of the code I cited. I'm just making you aware that the provisions in your Zoning Resolution differs slightly than the typical standards you see. Mr. Slagter said for example of an Area Variance, there is a case called Duncan Vs. Middlefield that sets forth seven (7) standards that are typically looked at and, in your case, you have more than seven (7). He said we are going to run through all of those for you with our experts and our application runs through them; I'm just making you aware of that.

Mr. Slagter said and again, unlike the rezoning, this process and procedure is what is considered Quasi-Judicial and that is why I was sworn in and there is a particular procedure for it unlike the decision of your Trustees in approving

or denying a rezoning which is a legislative function, this is tied to a determination of whether we provided you with sufficient evidence to establish as in this case these variances are probable. He said we believe that based on testimony they are probable. Mr. Slagter said I am going to run through somewhat quickly with you, and I will pull up a map on the screen that the individuals are speaking about so the individuals in the audience have the opportunity to see it. He said but I did provide you with our Exhibits we are submitting as being part of the record and I will run through them quickly. The first two tabs A and B have our actual variance requests, which you already have and we are just making them part of the record. We then have the property as Exhibit C, your zoning district map which I will pull up now. He said there is a closeup of the property that I will run through, but I'm just showing you what is in your packet. He said if you go to tab D you will see what I am referring to. Exhibit E is the amended background documents it's a copy of the proposed development site and an outline of it and on the second page you can see are the two areas that we are asking for rezoning. The one in yellow is for the Use Variance; the one in red is an Area Variance. He said and then you have multiple other exhibits that shows surrounding properties and zoning. We have photographs of the area and some other proposed site design and many of these exhibits Kristin Hopkins and some of the other experts are going to run through for you. Exhibit F is your 2005 Comprehensive Plan. Exhibit G is an update you did in I believe 2010 or 2015. I think it was 2015 but it was based on the 2010 Census. Then we have Exhibit H which is the Medina County Comprehensive Economic Development Strategy Plan. Your relevant township provisions are set forth in Exhibit I.

Mr. Murphy said are you expecting us to read all of this? Mr. Slagter said no, we are going to highlight these. We just have them for your benefit so if there are questions or if we are referencing something you can just look at it. Mr. Murphy said I would like to take some time and go through this stuff. He said I have not seen this until right now and you are saying this is for my benefit, but it's not to my benefit when you just say here's the thing. He said we should have had this a long time ago. Mr. Slagter said a lot of these documents are documents that exists within your zoning. Mr. Murphy said it's not, there is stuff in here that is different. Mr. Slagter said well some are photographs that were taken that are included and some of them are actually included in our application. Mr. Slagter said again if you need more time to make a decision that's within the curfew of this body to review if you need more time. He said there is no requirement that this be produced beforehand so that is why I am providing all of this to you so you each have the ability to review it to look at what we are talking about. He said so it wasn't meant at all to insult you, I apologize if I am and I hope you don't hold that against my client. Mr. Murphy said no, you're not insulting me.

Mr. Slagter said Exhibit M is the expert report of Kristin Hopkins and she'll review her report with you and refer to that. Exhibit N is our earlier proposed site when we were going through the rezoning. I also have the background information of the individuals that testify for Mr. Palmieri and Mr. Paul Mitchell, Mr. Smith as exhibits starting with Exhibit O-Exhibit Q. Mr. Slagter said and then we have some other site layouts that we looked at in terms of doing our analysis of the development of the ability of the site. Exhibit R. is The Medina County Ohio Planning report. He said when we went for the rezoning, the Planning Commission recommended that the property zoning be changed. He said if it would have happened, the development that we're proposing in terms of the residential area would have been permitted. He said and then finally, Exhibit T is just some market data and information showing average house sales in the area and some of the developments in the area and what type of sales have been averaging with sales prices or otherwise. He said so based on that, I am going to ask Kristin Hopkins to come up and she will have to be sworn in and she'll give her presentation from a planning perspective and why the variances she believes in her expert opinion are proper.

Questions by the Board

Chair Kersten said I have a few questions for you (Mr. Slagter) before we start if you don't mind. Mr. Kersten asked how many parcels are we talking about between the two cases; properties? Mr. Slagter said seven (7) total. Mr. Kersten asked and of those seven (7) properties, how many lots does that involve? Mr. Slagter asked existing in terms of what exists right now; or how many we are requesting? Mr. Kersten said how many lots are on these seven (7) properties? Mr. Slagter said there's seven (7) parcels on the land that I wouldn't consider a lot or parcel, so I take it as seven (7) and I may be misunderstanding your question. Mr. Kersten said you plan to build on these properties do you not? Mr. Slagter said yes, we will go through County subdivision approval, so there will ultimately

be a subdivision on this property consistent with the density if granted. Mr. Kersten said, but you have no idea how many lots are going to be involved here or the number of homes or anything of that nature if we change the variances of these properties? Mr. Slagter said it would be developed consistent with what your resolution would allow and our plan is to develop it consistent with the surrounding properties and density averages around three (3) units per acre. Mr. Kersten asked how many acres are on the seven (7) properties? Mr. Slagter said there is about 200 acres. Mr. Kersten said and are you going three (3) units per acre? Mr. Slagter said that is a rough estimate but the developers are here tonight to answer those questions. He said when we went for the rezoning, we had a concept plan with the total number of lots we thought were there. We may have some townhouses, single-family, and commercial on Rt. 303.

Mr. Slagter said near the industrial property near Rt. 303 we would have a higher density and then as you move to the back of the property that would be single-family. Kristin Hopkins will note in her report that is consistent with what you're Comprehensive Plan called for. A development like this would take about five to 10 years to develop out. Mr. Kersten said what exactly is it that you want? Mr. Slagter said we want the ability to develop the property under Sec. 406-5 (B) of your resolution which has three types of housing products that are permitted and we would develop under the density for those. He said and we also want the development standards that are set forth in Sec. 406-6 so we would still have to adhere to those setbacks. Chair Kersten said you just said zoning and this sounds more to me like a zoning problem than a BZA problem and asked the board for their thoughts. Mr. Murphy said I think he is looking for a Map Amendment, not a variance and if he is looking here for a Map Amendment he's going to the wrong place. Mr. Slagter said this is the Board of Zoning Appeals and that is what you do. Mr. Wetterman said we are the Zoning Board of Appeals; we are not the Zoning (Commission) board and we have not seen any of your plans at all. Mr. Slagter said we are allowed to come in and ask for an exception to your existing zoning regulations in R-R under the law. He said I don't know how many golf courses you have in your community, but there are a significant number of golf courses in NE Ohio that are being redeveloped because the market is not viable anymore. So, when you have a situation like this under the law, we did exactly what you are asking me to do. We went in and asked for a Zoning Amendment and your Trustees, despite the fact that the County Planning Commission recommended it, you denied it. And now we are here to ask for a variance under your standards and we believe the variance would be proper and if we would have gotten a rezoning I would not be here today. Mr. Wetterman said if that was a zoning issue and they rejected it, it's our job as the Board of Zoning Appeals is to weigh that and you never gave us any credentials on exactly what you wanted before you came here tonight. Mr. Slagter said that is what we are doing here tonight and if you want more information, we will provide it. Mr. Wetterman asked do you want to continue this until you can provide that for us? Mr. Slagter said I think it would be a good idea if you hear our presentation and if you want to continue it, we are more than willing to give you set plans if you want them. Mr. Wetterman said that is what our book calls for. Mr. Slagter said your book doesn't call for that and I read your book and standards.

Chair Kersten said you are asking for variances on properties and I don't even know what the size of the properties are. Mr. Slagter said we are going through all of that tonight. Mr. Kersten said that should have gone through the Zoning Office on your application on what exactly you wanted; not wait.... Mr. Kersten asked when the application was submitted. Mr. Slagter said in March and they refused to give us a hearing. Mr. Slagter said and if the application was somehow incomplete and wasn't ready for this we should have been notified. Mr. Kersten said that is not my job nor this board's job. Mr. Slagter said that is actually your Zoning Inspector's job. Mr. Kersten asked the Zoning Inspector to comment.

Mrs. Evelyn Czyn Zoning Inspector was sworn in. Mrs. Czyn said I did not accept the original application that was submitted, Mr. Humphrey my assistant did. Mr. Humphrey was not present at the meeting. Mr. Kersten said to the applicants, you can't come in here and just dump all of this stuff on the table for us to do tonight. He said when you submit an application to the BZA we have to know exactly what you are fighting that the Zoning Inspector said you can't do. Chair Kersten said as far as I'm concerned, this is complete nonsense tonight. Mr. Slagter asked to follow up to the Chairman's questions to the Zoning Inspector and asked Ms. Czyn if you denied the application because it was incomplete? Mrs. Czyn said again, I did not accept the original application, I was not in the office that day. Mr. Slagter asked if she saw the application. Mrs. Czyn said I did see the application and that is why I

rely on my assistant to check that application. Mr. Slagter said and when you did review the application you communicated with me and asked for additional information, correct? Mrs. Czyz said my position is to take and turn this over to the Board of Zoning Appeals and they have to make that determination. My job is not to make a determination as to whether this is complete or not. Mr. Slagter asked, did you actually review the application? Mrs. Czyz said I have. Mr. Slater said did you ask for more information? Mrs. Czyz said it's not my place to ask for more information, it is the Board of Zoning Appeals position to ask for more information. Mr. Slagter said then why did you ask for notarized signatures for the property owners? Mrs. Czyz stated that was done in the previous application where I said that the signatures needed to be notarized and therefore, I was going to return the initial \$400 check and I was told to hang onto the \$400 check and we will then resubmit with the notarized signatures. She said at the time when this application was submitted to my assistant, I held the \$400 check so you submitted another \$100 for the variance and then another \$500 check for the second variance. Mr. Slagter said which is what you requested we submit, correct? Mrs. Czyz said correct.

Mr. Kersten said on the advice of the board's attorney we will continue with the hearing so you may proceed. Mr. Slagter said on that particular issue, I am sure it is unusual that you received these types of request on such a large piece of property because there aren't that many of them. He said typically many of the variances you are involved in are swimming pools, fences and setbacks. These may seem unusual because they are larger but it is not improper, illegal or is there anything wrong with it. Mr. Slagter said if you need additional time, we have no issue with you having additional time to consider, or if you need additional information. Mr. Slagter said I am not trying to ram this through and I honestly provided these packets to you to make it easier to follow. If you need additional information or have additional questions, we are more than willing to respond.

Vice Chair Schigel said he wanted to go back to Mr. Kersten's question about the properties and number of lots involved and referenced Area B and asked how many acres that is. Mr. Slagter said it is 187 acres and Area A is 10 acres for a total of 197 acres. Mr. Schigel said I think what they are looking to do is utilize Area B as a PMUO (Planned Mix-Use Overlay) instead of R-R Rural Residential which would allow them to do up to three (3) houses per acre at 187 acres. Mr. Slagter confirmed that is correct and when we applied for the PMUO zoning there was a Concept Plan at the time we were proposing that which is Exhibit I in your packet. Mr. Slagter said because we would have to go through Engineering and Storm Water Management, traffic access and site design we don't have the final engineered plan. Our goal to develop under three housing types with the higher density next to the Commercial and adjacent from the Industrial Zone property and the single-family as we move south on the property.

(2) Kristin Hopkins, (presenter for applicants), CT Consultants, 1001 Lakeside Ave E, Suite 1005, Cleveland, OH 44114 was sworn in. Ms. Hopkins said I want to clarify one comment or question that was asked and that property in total is approximately 197.5 acres and its currently zoned R-1 along the frontage of Center Road and the remainder of the properties are zoned Rural Residential. Ms. Hopkins referenced to her report Exhibit M and a map that identifies Area A and Area B. Area A is 10 acres and that is the portion of the golf course that has frontage on Center Road. The request is for a Use Variance from the R-1 District to allow for commercial type uses that are similar to the kinds of uses that are permitted in the PMUOD. The remainder of the site, 187.5 acres is requesting Area Variances because R-1 and R-R already permit residential. She said the Area Variances are for the size of the lots and the density per the Development Standards in Sec. 406-6 which relates to the amount of open space and buffer space that's required. In 406-5 (B) it's the PMUO which specifically identifies three different types of dwelling units and the density associated with each type. The PMUO District does not put a maximum density on the whole project, it only identifies a maximum density of individual dwelling units. Mr. Wetterman asked if your intention is to rezone this property to a PMUO? Ms. Hopkins said the request is for a Use Variance which does not require a rezoning; it's a Use Variance instead of a rezoning. Mr. Wetterman sad but you mentioned commercial properties on a R-1 District. Ms. Hopkins said the request is to allow commercial in the R-1 District to vary what is permitted and allowing a use that is not already allowed in the area.

Ms. Hopkins gave her background experience to the board which includes being a Land Use Planner with 30 years of experience, works for CT Consultants, is a member of the American Institute of Certified Planners, has worked primarily in NE Ohio with townships, villages and municipalities. Previous experience includes 16 years with small

consulting firms and the Cuyahoga County Planning Commission and has experience with subdivision reviews and updating comprehensive plans, zoning amendments and advising. CT Consultants was hired 1.5 years ago by Mr. David Terry, the initial applicant on the PMUO (Planned Mix-Use Overlay) application. She said he was also the developer of the existing PMUO at the corner of Marks and Center Road and his request was to expand so that it would exist from the current district all the way up to Substation Road. In 2019 we submitted applications to the Zoning Commission and had several meetings and they recommended denial to the Trustees despite the Planning Commission recommending approval. She said the developer did submit a Concept Plan at that time, however, the way the Zoning Resolution is written, the PMUO must first be applied for and the property rezoned to that district. Mr. Murphy asked if the zoning right now for you is a hardship? Ms. Hopkins said yes and we will get into that. Mr. Murphy asked if it is an unnecessary hardship? Ms. Hopkins believed so. Mr. Murphy asked if it was because you can't get more sales from it, is it about cash? What is the unnecessary hardship? Ms. Hopkins said the predominate zoning is Rural Residential, which requires 2-acre lots. Mr. Murphy asked again to answer what the unnecessary hardship is. Ms. Hopkins said the unnecessary hardship is the density that you can achieve on the current district. Mr. Murphy said so what you are saying is that you want to put more houses on that which makes more money; you cannot use that as an unnecessary hardship. Ms. Hopkins said you can request a Use Variance and an Area Variance when the current zoning is not an economical viable use of the property. Mr. Murphy said no, that's not going to work. Mr. Wetterman asked Ms. Hopkins what book are you reading from? He said you started out with Area A and you pointed out zoning for commercial was a permitted use under R-1. Ms. Hopkins said that's not what I said. Mr. Wetterman handed Ms. Hopkins the zoning book page for permitted uses in R-1 and asked her to read it. She read, the permitted uses in R-1 include *single-family residential dwellings, roadside stands, accessory uses providing uses are incidental to the primary use, signs, parking, adult homes and Class I Home Occupations.*

Ms. Hopkins said the request is to allow the land that is currently R-1 to be developed as a Commercial Use by the granting of a Use Variance. Mr. Wetterman asked which lot? Mr. Schigel said Area A. Mr. Wetterman said I believe the golf course has four (4) lots. Ms. Hopkins said Area A if you pull up Exhibit 4 that highlights Area A and Area B, the golf course is about 128 acres which is the northern half of the property. The area highlighted in red and yellow is the total of the seven properties owned by three different property owners. The yellow area is currently the entrance to the golf course and that is where the request for the Use Variance is located. Mr. Wetterman said that is one specific lot. Ms. Hopkins said it is a portion of the permanent parcel #001-02C-05-009.

Mr. Lucien said something is becoming extraordinarily encumbering here because the factual part of the application was not followed. Mr. Lucien said you are applying for a PMUO and specifically in Subsection 7 of the application process it specifies that all of this was to be in hand when the application was submitted. He said we would have more targeted questions; we would have way more flexibility in allowing you to just state your peace without interruption, but because this not in hand we are handicapped sitting here and we cannot give the people in the audience their due, which is our job. He said to Ms. Hopkins, giving them their due is your job. Mr. Lucien said so I am going to submit that we need to discuss whether we are going to pursue any more discussion until we have all reviewed this book delivered tonight. Mr. Slagter said since you are represented by counsel tonight, why don't we take a 5-minute recess. **Motion:** Mr. Lucien moved we go off-line as a group and discuss what our next step will be. Chair Kersten stated we have a motion for private deliberation. Mr. Wetterman seconds. **Roll Call:** All in favor.

[Meeting recessed at 7:54 p.m. and back in session at 8:02 p.m.]

Chair Kersten asked Terry Properties to continue with their presentation. Kristin Hopkins, CT Consultants, continued referencing her report in the book with a summary of all of the parcels and what their current zoning is. The golf course is approximately 128 acres with the combination of R-1 (19 acres) and R-R Rural Residential zoning. South on Substation is a property owned by the Pospisil's (45.5 acres) zoned entirely Rural Residential. The Loria's own two properties which total 23.8 acres zoned Rural Residential. The golf course has a lot of green open area, trees, a creek that runs through it, a riparian corridor and some wetlands. Ms. Hopkins stated the riparian and wetlands have been taken into consideration with the design and layout. The Rural Residential is the bulk of it

with 178.5 acres. Page three identifies what the current zoning permits and said R-1 and R-R have a lot of the same uses and R-R does allow Conservation Development with a clustering and if you preserve 40% of the site then you are allowing to use one unit per acre as gross density so you are better able to get your density with the Conservation Development. The R-1 district requires 15,000 sq. ft. lots which ends up being approximately 2.14 units an acre when you take into consideration the streets and that all of the lots won't be the exact same size.

Ms. Hopkins stated the developer did do two different zoning layouts according to the Rural Residential zoning to test how many lots they could actually get given the natural features of the site and what was discovered under the current Rural Residential district the total number of lots permitted or achievable is approximately 49 lots. She said 49 lots out of almost 200 acres gives you a density of .26 units per acre so that is a significant reduction than what the R-R is intending. Ms. Hopkins said if you do the cluster development than it is easier to achieve the one unit per acre. The developer showed 95 lots. The reason it is .51 on figure 3 is because I deducted the 10 acres we are requesting for Commercial, so we are looking 187.5 acres for residential development and 95 cluster lots give you the .51 and we would be restricted to not go above that.

There are five (5) R-1 Residential zoning are lots directly in front of the property that have frontage on Center Road; all development across the street (north) on Center are all zoned R-1; the corner to the northeast on Center and Substation Road is zoned C-2 Community Commercial. Directly to the east across Substation Road there is a significant amount of land zoned I-1 Industrial. South and to the west at the bottom of the site is currently zoned Rural Residential. At the corner of Center Road and Marks is C-1 Local Commercial and multi-family. The zoning in Liverpool Township, not that Brunswick Hills Township has control over it, but it is important when you look at the whole picture. Ms. Hopkins talked about additional land in Liverpool Township zoned for Industrial and Residential and noted Redwood Apartments. Looking at the existing area and what has been developed there are four (4) sites on Substation Road to the east that are used for Industrial purposes and Commercial. There is multi-family in the Planned Mixed-Use Overlay District to the west with Crossings of West Valley at four (4) units per acre. There are small lot subdivisions such as Bramblewood Farms with density of 3.2 units per acre and Chelsea Greens at 2.6 units per acre. Subdivisions to the north of Center Road range in density from 1.7 units an acre to 2.7 units per acre. Subdivisions in the City of Brunswick within 900 feet with approximately 3 units per acre.

Ms. Hopkins referred to the zoning map of the township highlighted in orange and everything to the north that is yellow is the area of the township that is developed with 1.7 to 2.7 units per acre and is the most heavily developed area in the township and the majority of the houses in the township are located in this area. She referenced Center Road as a main road and acknowledged the developer is aware that there would have to be work done with ODOT and that he will undertake their recommendations.

Ms. Hopkins noted that the Comprehensive Land Use Plan is from 2005 and as Mr. Slagter pointed out there have been some updates, but to my knowledge the updates are the analysis of Census data and I do not see any updates to the maps in the plan. She said the plan does acknowledge that this northwestern corner of the township is the area that significant population growth has occurred primarily because of the development pressure by population migration of residents coming from the north. Looking at the plan and the Preferred Future Use along Center Road between Marks and Substation Road it is shown for Planned Mix-Use Commercial. She said that is not a one-to-one comparison with the current PMUO, but it is very similar with Mixed Commercial and possibly allowing multi-family in that area too. The designation of Mixed-Use Commercial on the Comprehensive Plan on the Future Land Use Map, the depth of that is approximately 1800 feet deep. So, when you consider the entire area of the proposed project development site, about 40% of that site is, according to the Comprehensive Plan, recommended for Mixed-Use Commercial which includes multi-family. The rest of the site is shown as Rural Residential, however, when you consider the other areas of the Land Use Plan and you consider what the purpose of the Rural Residential District is, there are some inconsistencies, in my opinion, as to whether the southern part of this proposed development site was really suitable for the Rural Residential development as a proposed land use. She noted there are different land uses in the vicinity of the property and the Comprehensive Plan talks about where the rural large lot development should go as described as 2-acre lots, but it says on page 27 of the Comprehensive Plan that the *large lot residential development should go in places "where a precedent for different land uses or more intense*

densities have not already been established.” She stated in addition the Comprehensive Plan recommends suburban designation with the minimum of quarter-acre lots to the east of the property in what is and what was at the time zoned Industrial. She said the plan recommended that this Industrial Area shown in purple on the zoning map as Suburban Residential so this was shown on the Planned Use Plan for the future and it was intended to be a buffer between the City of Brunswick and development within the township. She said it does not explain why that was recommended, however, at the time there was only one parcel that was designated as Industrial use. She said since that time there are now four properties that were developed for Industrial use as the zoning allowed, which in my opinion renders the Comprehensive Land Use Plan recommendation for that industrial use land to be Suburban Residential as obsolete. She said you cannot do that; you cannot achieve what the Comprehensive Plan recommends. When you consider the suburban residential at quarter-acre lots is appropriate along the edges as a buffer from more intensely developed land, then it is applicable and appropriate for consideration for that type of density on the golf course area.

Ms. Hopkins said there are a few other additional statements in the Comprehensive Plan in Chapter 8 that identify implementation strategies and one of them is to *re-examine the plan on an annual basis to determine if additional updates need to be made or if additional issues need to be addressed* and that is a quote. *Regular review and updating of the plan will ensure that the community’s policies match its needs and will give the community an opportunity to address any issues that cannot be foreseen at this time.* Ms. Hopkins said my opinion is that this Industrial development that has taken place in the Industrial zoned land is a condition that warranted reconsideration of the golf course area and the area that we are proposing for development. She said there is also a strategy that talks about aggressively pursuing these types of planned unit development methods which in the township is the Planned Mix-Use Overlay and the Conservation Overlay District is also a form of a PMUO. She said the recommendation is to utilize the planned unit development in order to ensure that new development is well designed particularly in regard to the amount, type and location of open space and the PMUO’s do require a certain number of open spaces; PMUO is 25% and in Conservation Development it is 40%.

Mr. Lucien said to Ms. Hopkins, you are way outside the scope with things that we are charged with considering. Ms. Hopkins said the purpose of me going over this is to make the case that the request for the Use Variance is in line with the Comprehensive Plan and the request for the Use Variance for application of chapter 406-5(B) and 406-6 is appropriate and that is the purpose of this background. Mr. Wetterman stated he would like to make a reference from our book and give the public a little knowledge that these 406 numbers she is referring to come right out of the PMUO Use in our zoning book. Mr. Slagter asked to interject to give a broad overview on why we are here and said I understand the frustration with it, but this is the process and it is a legal process. He said it seems that what we are here for tonight is not proper when you guys say you need to rezone. He said I’m telling you that under the law, specifically Revised Code 519 to change the zoning or allow use for area changes there are two ways to do it. He said one is a rezoning which is 519.12 of your code and that goes to your Zoning Commission, Planning Commission, Trustees and then potentially to a referendum. Mr. Slagter said we are also permitted under the law to ask for a variance which is an exception to your zoning. He said we are asking to allow us to develop densities that are more than what is set forth in your specific code of 406, which would allow housing uses and types which are the multifamily and single family without those density limitations. He said that doesn’t mean we can go and do whatever we want. We have also tied in your development standards and we will have to go through County Planning for stormwater approval and all of those other things with the PMUO. He said this is another method that we are allowed under the law to go through and I’m sure your legal counsel will advise you on that.

Mr. Kersten stated we are not disputing that. Mr. Lucien stated I will clarify for you; factual information – love it, but when you take factual information and then overlay it with your “opinions” of what someone eight miles down the road does in another township, that has deaf ears sitting here because that is called an “opinion”, that is not factual. Mr. Slagter said the fact is you are here to review under the standards that are set forth in your Zoning Resolution. Mr. Kersten said in our township, not York Township, Montville Township and that is what you were doing here and your comparing these other townships and we don’t care. The only one that matters here is Brunswick Hills Township. Mr. Slagter said one of the things you look at is the character of the neighborhood and we are not talking about eight miles down the road and then referenced the Redwood Apartments in Liverpool

Township and said that is multifamily right down the street across your border. Mr. Lucien said and we will be looking at Brunswick and say hey, let's put houses on top of each other. Mr. Slagter said this is one of the standards and you can't ignore how the area has been developed. The fact that you are close to the City of Brunswick that has high density residential is one consideration. Mr. Murphy asked the Chairman for another time out. Mr. Kersten said if you make a motion. **Motion:** Mr. Murphy made a motion that we take a five-minute break. Second by Mr. Kersten. **Roll Call:** Mr. Murphy-yes; Mr. Lucien-yes; Mr. Wetterman-yes; Mr. Schigel-yes; Mr. Kersten-yes.

[Meeting recessed at 8:29 p.m. and resumed at 8:35 p.m.]

Mr. Slagter said if you look at what Kristin Hopkins has told you about this area around the property and how it has been developed and the density, it's not Rural Residential. What the area is like is a suburban area and then she said specifically under your Comprehensive Plan that your zoning is supposed to follow. Your 2005 Comprehensive Plan said that that area in purple, right next to our property wasn't supposed to be Industrial it was supposed to be Residential and you didn't change it and now it's Industrial. Your plan said what you are supposed to have next to Industrial is higher Residential. He said based on the law and the standards we are supposed to prove we are giving you evidence to show that. He said this is going to take some time, this is a multi-million-dollar project and it's not about making more money it's about the unnecessary hardship that the current zoning of the property doesn't allow economically viable use. He said we are coming in here to explain the whole area is not Rural Residential and the purpose according to your plan is to protect the area and we are saying when you look at this property and location and everything around it this is a higher residential area and its Commercial. You may not like it but that's what you have to look at.

Kristin Hopkins returned to the podium and reiterated that I am giving you all of the background information so when we go through each of your specific standards, I will refer back to what I have already explained. She said one other piece of back ground information which I think is critical for understanding of our references and why we believe this is reasonable relates to a study that you have in the packet we gave you and that is the Medina County Economic Development Strategy. In some of our previous public hearings we have heard people comment on why big houses on big lots aren't appropriate. The Medina County Economic Development Strategy addresses houses as the key economic development need for the county to develop economically. The groups with the highest growth rate are empty nesters 65 years and older and the younger families who are looking for alternate housing alternatives and smaller housing units. She quoted the Medina County unemployment rate in 2018 and said part of the problem is finding sufficient workers and one of the ways to eliminate the worker shortage is to create new housing to attract new residents. She said the report noted there is a shortage of housing throughout the county and the number of starter homes is staggering. The report also noted that new housing that has become available in the county are over \$300,000 which are not the types of homes that new families and empty-netters are looking for. Ms. Hopkins said so this is why the developer is looking at this site as a prime site for development of housing units that are consistent with the economic development in the vicinity of the property. She said to reiterate, the request is for two types of variances: A Use Variance for the 10 acres that have frontage on Center Road to allow various Commercial uses listed in the Planned Mix Overlay District. The Area Variance is for the 187 acres to apply Sec. 406-5 (B) and 406-6.

Review of Duncan Factors and criteria for consideration:

Sec. 1005-1 Area Variances

- A. Whether the property in question will yield a reasonable return and whether there can be any beneficial use of the property without the variance.** Ms. Hopkins said there is a golf course and many golf courses have closed and the land has become development sites. She said the other two properties are primarily agriculture land. If you were to apply the Comprehensive Plan cluster units under the current Rural Residential, the number of units achievable would be approximately 95. She said when you take all of the construction costs for developing a subdivision on this site, the developer did lay out a concept with no water and no sewer. When considering all of the improvement costs and purchasing

the property, the sale price of improved lots would be at least \$175,000 just for a piece of land and you use that sale price to estimate the price of a house and the standard is about 20% so that land represents about 20% of the price of the house. Ms. Hopkins stated the lowest you would get at best is an \$800,000 house to develop the golf course and the additional properties to get 95 houses. Ms. Hopkins said there are no houses like this in the vicinity of this area so the ability of attracting a buyer is not likely. We are making the case it is economical infeasible, but the question is if the property right now yields a reasonable return and we are making the case no it doesn't based on the number of houses that we could have. She referenced the Greenfields development that abuts the property that is a 62-acre development with 26 houses with 40% open conservation area with lots from 1 acre to 1.88 acres with a price range from \$245,000 - \$450,000. She noted again the golf course property is not economically feasible to try and sell \$800,000 homes. She noted that the utilities are there but the developer would have to work with the county to bring in water.

- B. Whether the variance is substantial.** Ms. Hopkins stated a variance is needed to use the property and it is not substantial when you consider that the recommendation in the Comprehensive Plan for 40% of the site is for Mixed-Use Commercial development and said we are only asking for 10 acres for a Use Variance for Commercial and the rest would be some form of residential development. She said you also have to take into consideration the adjacent uses with Commercial on the corner and Industrial along Substation Road and higher density to the west.
- C. Whether the essential character of the neighborhood will be substantially altered and whether adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** Ms. Hopkins said the variance will not alter the essential character of the neighborhood because there is already a mix of uses and a mix of higher density. She stated that the majority of the traffic will go north and east and she did not believe the traffic would impact properties to the south or west. She stated the higher density housing will be off Center Road and won't affect the south or west side because the density will transition.
- D. Whether the variance will adversely affect the delivery of governmental services.** Ms. Hopkins said governmental services means will the police and fire and the Brunswick schools be impacted. She said there were comments that the Brunswick school system is overcrowded and bringing more children to the system would be a hardship. She said our research says the school district right now is underway with the construction of the new middle school and Superintendent Michael Mayell made a statement it is built for 2000 and it is built for growth. Ms. Hopkins said the school system is anticipating and hoping for growth and needing more tax revenue. She also stated since 2009 the school enrollment has declined by 13% despite an increase in the township's population. Ms. Hopkins stated it is our opinion that the schools will not be impacted or adversely affected. She said these properties will increase the property valuation and taxes for police and fire over a 10-year time frame and this would not affect them adversely.
- E. Whether the property owner purchased the property with knowledge of the zoning restriction.** Ms. Hopkins stated the 128 acres of the golf course has been in existence since 1967 and it predates from the records and the Brunswick Hills Zoning Resolution so there was no township zoning on the golf course at the time. She stated the other two property owners, however, purchased their properties within the last five years.
- F. Whether the property owner's predicament can be obviated through some method other than a variance.** Ms. Hopkins stated this was not the developer's first choice in terms of getting approval for this project as there was an application for the PMUO District.
- G. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** Ms. Hopkins stated the request is consistent with the Comprehensive

Plan's recommendation for the Mixed-Commercial Use and with the purpose and intent that Commercial and some form of higher density residential is consistent with that. Ms. Hopkins said the Rural Residential zoning is not reasonable for the southern section of the site.

- H. Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** Ms. Hopkins said if you look at the township and how other areas are zoned, this site is unique for four reasons (1) it has a golf course (2) it is located in the area of the most developed area of the township (3) it is located along with frontage on two major streets and (4) it's adjacent to higher density zoning such as the PMUO. She stated there is a demand for smaller house lots.

Sec. 1005-2 Use Variances

Ms. Hopkins stated that a number of the factors for a Use Variance are similar so rather than read through them all, I'd like to reference the following five:

- A. Whether uses permitted in the district may be reasonably established on the property and whether they are economically viable on the property in question without the variance.** Ms. Hopkins stated the Comprehensive Plan shows the Rt. 303 corridor as the Mixed-Use Commercial corridor and the proposed project with 10 acres and frontage on Center Road is consistent with the Comprehensive Plan. She said the R-1 designation is not reasonable based on the surrounding land use characteristics noted above. It is questionable as to whether you could develop that 10 acres for single-family with the frontage on Center Road.
- B. Whether the variance is the minimum variance which will afford relief to the property owner.** Ms. Hopkins said it's consistent with the Comprehensive Plan and it is not economically feasible to develop as currently zoned.
- C. Whether the essential character of the neighborhood will be substantially altered or adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** Ms. Hopkins said this area has a significant amount of Commercial development in the vicinity of the 10 acres so it would be consistent and not substantially alter the character of the neighborhood. She said given the concerns of traffic along Center Road, residential lots are inconsistent with the Comprehensive Plan and not likely to be marketable based on the traffic.
- D. Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** Ms. Hopkins stated this was noted earlier.
- E. Whether the hardship condition was created by actions of the applicant.** Ms. Hopkins stated this would be no because the developer pointed out this is the golf course that preexisted the zoning.
- F. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** Noted earlier.
- G. Whether the use requested is similar in character to the permitted uses in the subject district.** Ms. Hopkins said the requested use for the Commercial development is similar to uses that are the C-2 adjacent to the east and the Commercial zoning to the west and the Industrial zoning along Substation Road, so it is more similar to those than the R-1 District.
- H. Whether the subject property is adequate to meet the needs and requirements of the proposed use.** Ms. Hopkins said yes, the property is adequate because the water and sewer are there and because of any anticipated traffic improvements that are necessary will be provided by the developer.

John Slagter introduced the second presenter for the David Terry Properties request.

2. David Terry (Developer/Applicant), 1285 Marks Road, Brunswick Hills, OH was sworn in. Mr. Terry said I'd like to give you the background on how we got here tonight. I bought the Sunoco Gas Station, the car wash and the storage units in about 2001 and the man on the corner where the Drug Mart is owned about 50 acres and asked me to buy his land because he wanted to develop it. Mr. Terry said there were no sewers and the man said give me an agreement you'll buy it when we do get the sewers. He said in a few years the sewers were brought in, but I didn't know what I wanted to do with the land. The sale agreement was contingent on whether I could get it zoned. At the time it was Rural Residential, yet there was Commercial property right across the street. Mr. Terry said the township referred me to Medina County Planning Services and they said we feel this will fit a PMUO (Planned Mixed-Use Overlay) and we've been using these in other townships in the county. Mr. Terry said I hired a consultant company associate David Hart and we talked to Medina County Planning and my planner and Planning came to the conclusion that they would draft this PMUO to fit the township. He said with the Trustees it was drafted for what we are using today with Drug Mart, Chelsea Greens, Bramblewood and the Crossings (of West Valley) and they allowed for expansion of that PMUO. Mr. Terry said they only selected a few places in the township for the PMUO to fit; it required 15% Commercial and the rest Residential and a mixed-use form. Mr. Terry said the idea was it could stay residential or you could overlay it with PMUO zoning which is what we are asking here today which they agreed to the first time in early 2000. Mr. Terry said when I got an agreement to buy the Pospishil and the Loria's property I talked to Evelyn (Evelyn Czyz, Zoning Inspector) and she said you are going to have to be continuous to the existing residential and in turn the owners of Cossett Creek agreed to sell their land which made it adjacent.

Mr. Terry said I also went to the Medina County Economic Development and they said our Commissioners are encouraging developers to give us affordable housing within the county so that they can develop their industrial base. He said if you drive by all of these factories, they are all help wanted and if they want to bring in new industry, but there are shortages of labor. Mr. Terry said I am here as a developer, I only supply the demand, I don't make that demand. He said we have a population growth and when I was born in 1940 there were 110 million people in this country; today there are 330 million people in this country and in my lifetime (80 years) it has tripled. We need housing for the younger people and almost every one of us started out in a small home. He said the whole area fits into this; we are not looking to take this down Marks Road or Substation towards Sleepy Hollow. He said I agree that should stay Rural Residential as it fits the topography and the rest of the communities around it. Mr. Terry said this property right here falls into the nest of what's left – this is the last piece and if you look at it that way you can see it from the other side. Developers get a bad rap because they create too much traffic, they overload the school systems, but we don't cause that it's the population growth that causes this.

(3.) Keith Mitchell (presenter for applicants), Director of Land Development, Palmieri Builders, 5201 Richmond Road, Bedford Hts., OH was sworn in. Mr. Mitchell said I will be the guy should this deal move forward to putting it on the ground. He said I've been with Palmieri for about a year and my background is land development for over 30 years with major builders. I've held roles in site planning, site development and acquisition and management and I'm a licensed landscape architect and licensed realtor. He said I'm familiar with the two variance requests and this is how I look at it from a development and marketing standpoint. He referenced the factors for an Area Variance;

- A. Whether the property in question will yield a reasonable return and whether there can be any beneficial use of the property without the variance.** Mr. Mitchell said in my opinion from my background giving the conditions in the surrounding areas we see higher density homes and industrial to the east. He said to develop 2-acre lots here and bring buyers in is almost impossible basically because it is a price point as well as a cost issue. He said if you are developing 2 units per acre; land prices and construction for land are pushing up prices to where homes would have to sell for \$700,000 to get into this development. Cost for improvements in a Rural Residential section is roughly \$650 - \$700 per linear foot. I ran the scenarios that Kristin Hopkins mentioned and with the 95 1-acre lots, I am getting

a lot price of \$177,000. Doug Jones from Ryan Homes will speak more to housing costs increases, but from our calculations you will be in the \$700,000 range with that \$177,000 lot. He said if you go with the strict R-R at 49 lots the numbers skew even worse for a lot price of \$350,000 with a house over \$1 million dollars. He said given the market area in Brunswick over the first five years they produced 17 sales over \$500,000, so for us to be expected to sell 49 or 93 homes at those prices we would be there a very long time if we could even sell them at all. He said the current golf course, like many other golf courses in this area they are just becoming financially unviable. This year has been a little better for them because everyone is trying to stay outside and away from everyone else, but generally they are closing and selling the land.

- B. Whether the variance is substantial.** Mr. Mitchell said both variances would allow development with similar densities of surrounding developments if you look at West Chase, Autumnwood, Chelsea Greens, Crossings of West Valley, Westbury Place – they are all developed with higher densities and they are adjacent or directly across the street from our property. In my experience these variances are not substantial as they will match and be more in line to what actually around it.
- C. Whether the essential character of the neighborhood will be substantially altered and whether adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** Mr. Mitchell said the surrounding property right now is Rural Residential and it's located around Industrial and areas of higher density so it's not a question is it Rural – it's not Rural. Just because a piece of land was farmed does not mean its Rural, you have to look at what's around it, so we are proposing a development similar in character to what's around us.
- D. Whether the variance will adversely affect the delivery of governmental services.** Mr. Mitchell said we believe this will have no adverse effects on future development rights because obviously the homes are already there and the Commercial is there and we would be finishing up that particular corner of the community.
- E. Whether the property owner purchased the property with knowledge of the zoning restriction.**
- F. Whether the property owner's predicament can be obviated through some method other than a variance.** Mr. Mitchell said our requested variance to only zoning to PMUO would allow the property owner to develop this property. He said we made application and obviously we were denied, so given that we were denied we are back here asking for the variances to allow that. Given the land and development cost for any use we don't see another method to avoid going for a variance; anything that goes in there will need a variance.
- G. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.**
- H. Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** Mr. Mitchell said this location is the reason we are requesting a variance tonight; the property is located on Rt. 303, it's adjacent to another PMUO, it's adjacent to Industrial properties; it's located within close proximity to Commercial properties; it's located next to the border of Brunswick City with higher densities and it does not have that Rural feel.

Mr. Mitchell said it's interesting to note that the PMUO zoning code simply calls certain properties out for this zoning; being a location on a major thoroughfare. He said if you look at other areas that could be a PMUO they are off the fringes; they are on Marks Road and W. 130th and those have a Rural feel; this particular one does not.

Mr. Mitchell referenced the following factors for a Use Variance.

Sec. 1005-2 Use Variances

- A. Whether uses permitted in the district may be reasonably established on the property and whether they are economically viable on the property in question without the variance.** Mr. Mitchell said low density on Rt. 303 we do not think will be economically viable and the subdivisions across the street pulled their subdivisions back off Rt. 303 because housing on Rt. 303 just won't work. Traffic, Commercial uses, higher density, Rural Residential all have negative impacts given the cost of construction and other land uses are not financially viable.
- B. Whether the variance is the minimum variance which will afford relief to the property owner.** Mr. Mitchell said by limiting the Commercial to a small area along Rt. 303, we'll be able to minimize the impact of the surrounding area, match existing zoning to our east while affording the property the relief that it needs.
- C. Whether the essential character of the neighborhood will be substantially altered or adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** Mr. Mitchell said the proposed Commercial area will allow development similar to the character of other Commercial development along Rt. 303. There is already an existing Daycare, a small retail strip center down the street at the corner, so we would like to get some things in there similar to build that section of Rt. 303 in a uniform fashion. He said neighboring properties should not suffer interference with their future development rights because they are all almost already developed.
- D. Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** Mr. Mitchell said this is one of the last properties on Rt. 303 adjacent to Commercial that can be utilized as Commercial and the small size and location of the property lends itself to Commercial. He said the golf course operates a club house on the property as well as large parking lots so in affect, it is already representing a Commercial operation in its present form.
- E. Whether the hardship condition was created by actions of the applicant.**
- F. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.**
- G. Whether the use requested is similar in character to the permitted uses in the subject district.**
- H. Whether the subject property is adequate to meet the needs and requirements of the proposed use.** Mr. Mitchell said the location on Rt. 303 is of sufficient size to allow small Commercial establishment to take place. With 9-10 acres we would be able to accommodate many uses and named shopping strip centers, restaurants, convenient stores, etc. He said these are my opinions based on my experiences in development over 30 years.

Mr. John Slagter addressed Mr. Mitchell referencing Exhibit R in the handout materials and said there were several references to some site layouts that you looked at and said these are example layouts of what under the current Conservation zoning under R-R, this is what you came up with correct? Mr. Mitchell-correct. Mr. Slagter said you had an engineer help you put this together, correct? Mr. Mitchell-correct. Mr. Slagter said in Section T there is multiple market information, sales in the area and other information – did you put that together? Mr. Mitchell said I did by pulling up MLS real estate listings. Mr. Slagter asked him if he spoke to or considered Medina County Parks putting trails on this site? Mr. Mitchell said I did speak with the park director and he said he would be very interested in working with us to put a trail system in and include the Brunswick Hills Township property on the north side of Rt. 303 and make some type of

connectivity through our area and down to Farmstead in Brunswick. Mr. Slagter said Mr. Mitchell you are familiar with the subdivisions in this area, correct? Mr. Mitchell said yes, and in the packets, I put together a plan showing the subdivisions in the community. Mr. Slagter said that is Exhibit E. Mr. Slagter asked Mr. Mitchell if he heard the opinions of Ms. Hopkins and myself and Mr. Terry so based on your experience that both variances would be proper? Mr. Mitchell said I do.

(4) Dino Palmieri (Builder and applicant presenter), 5201 Richmond Road, Bedford Hts. 44146 was sworn in. Mr. Palmieri said I am the main developer for this project. Mr. Palmieri said I'm friends with David Terry and we've had projects all over NE Ohio with 15 subdivisions we are working on right now including Olmsted Township. He said we were the successful developer in Autumn Creek in Brunswick City. Mr. Palmieri said we have three products, the small cluster homes, single-family and the smaller lots. I understand where you guys are coming from but if you do the math and you look at 200 lots and multiply it by the numbers we talked about it is a lot of lots (200 x 3), but that is the only way we can make it work in terms of the financial because of the golf course. We hired Mr. Slagter's team and Ms. Hopkins. He said if we are successful with this you will have a great subdivision with a lot of houses, but you will have the empty-nesters and younger population in this community.

Mr. Slagter to Mr. Palmieri: how long have you been developing in NE Ohio? Mr. Palmieri- over 20 years and we are not here to offend anyone and I promise when we are done with this and if we are successful, you guys are going to look back on this and say it was right because we are going to do a great job. Mr. Slagter to Mr. Palmieri: In terms of developing under the current zoning, in your opinion as a developer, do you think that the property is viable or does the current zoning create an unnecessary hardship and why. Mr. Palmieri said it is simple math if you do 90 lots or 45 lots – lumber has gone up tremendously – so there will be no value for this. Mr. Slagter to Mr. Palmieri: Is it viable? Mr. Palmieri said it is cost prohibited and we think the houses for this project will be \$350,000 to \$400,000 for your community. Mr. Slagter to Mr. Palmieri: You have also developed homes for a \$1 million dollars or more. Mr. Palmieri said yes, you can look at my website. Mr. Slagter to Mr. Palmieri: In terms of your opinion and experience based on the character of the area being near Industrial, is this something you would be interested in or would ever develop for \$1 million dollars? Mr. Palmieri said \$1 million dollars will never work.

[Mr. Murphy, Mr. Chairman we've been sitting here for two hours and asked for a short break. Meeting recessed at 9:33 p.m. and resumed at 9:41 p.m.]

(5) Doug Jones, Ryan Homes (presenter for applicant), 6770 W. Snowville Road, Brecksville, OH 44141 was sworn in. Mr. Jones said I've been with Ryan Homes for 22 years in NE Ohio for the past 7 years. I've been the Division Manager and Vice President for the area of Medina County, southern Summit County and Stark County. We will sell and build over 400 homes in these areas. Since 2000 we've done 1200 homes in 18 different communities. He said I was asked by Dino Palmieri to share my thoughts on the idea of 2-acre lots vs. smaller lots. From our standpoint we want to meet the market and move through the community in a timely fashion. On analysis we look at three things: (1) depth of the market; (2) what does the resale look like in the market; and (3) what is the competition. Mr. Jones said for this project they want to have a mix of products and talked about different lot sizes and different price points. He said 60-foot cluster lots would have an average sale price of \$300,000 in the end from \$250,000 - \$275,000 for 1700 square feet to 2400 square feet. He said for first time housing we'd like to be at \$250,000 sales price anywhere from \$230,000 to \$280,000 for 1700 – 1900 square feet. He said for the larger 80 feet lots we'd like to get an average sales price of \$400,000 anywhere from \$350,000 - \$500,000 for 2400 square feet to 3200 square feet. Mr. Jones mentioned the rising development costs and said we are up in costs 10% over the last few years. He said it becomes a very thin market when you have to go above the \$500,000, but there are buyers for the \$200,000, \$400,000 and approaching \$500,000 range. Mr. Jones said the question is wouldn't people rather have a 2-acre lot and in many times they would, but it is not something that is affordable to them. He said affordability is number one and what they get in the house is second and we are seeing less and less of people wanting a bigger lot and people want less maintenance. Mr. Jones said so if I was asked if a 2-acre lot would be something we could perform to my answer is no, but we could meet the mix of lot sizes and move through the community that way.

(6) Travis Crane, Engineer (presenter for the applicant), 1310 Sharon Copley Road, Sharon Center, OH was sworn in. Mr. Crane said I'm a licensed Professional Engineer since 1999 and started my own Civil Engineering business in 2001 and have developed many projects in Medina County and Portage to Huron County. He said my experience in this business for 20 years I concur with the testimony that was given before me today by Mr. Mitchell, Ms. Hopkins and Mr. Slagter.

Mr. Slagter to Mr. Crane: You are familiar with the site? Mr. Crane-yes. Mr. Slagter: You helped put together some of the concept plans in Exhibit R, correct? Mr. Crane-yes. Mr. Slagter to Mr. Crane: So, based on the current zoning you would be able to yield 40 some to 90 some. Mr. Crane- that is correct. Mr. Slagter said you heard the construction costs and you helped put those together, right? Mr. Crane – correct. Mr. Slagter said and that is based on your experience for doing this for developers all over Ohio. Mr. Crane-yes. Mr. Slagter to Mr. Crane: You've done stormwater management and design, correct? Mr. Crane said yes. Mr. Slagter to Mr. Crane: Is there anything particular with this site that would prohibit it from being developed according to the county standards? Mr. Crane- not in my professional opinion. Mr. Slagter: In terms of water and the other relevant issues. Mr. Crane – water and sewer all doable.

(7) Eric Smith, (presenter for the applicant), 540 White Pond Dr, Akron, OH was sworn in. Mr. Smith said I am a Traffic Engineer registered in Ohio and have been doing this for 30 years. I have done traffic studies and projects for cities, for developers, for the State of Ohio and the Ohio Turnpike. He said ODOT will control traffic accidents and what's going to happen on Rt. 303 and I'm sure the township and the county will have something to say about Substation Road. Mr. Smith said this (project) is going to generate some traffic and will also generate some stormwater that Travis (Crane) is going to deal with. He said my job is to deal with the traffic and make sure it gets up and down the road safely. Mr. Smith said we can design a highway system that ODOT and the county will accept that will safely process the traffic.

Mr. Slagter said to Mr. Smith: with any project there will be traffic and is there something unique about this site that would make this prohibited? Mr. Smith – no.

QUESTIONS BY THE BOARD

Mr. Slagter stated that is the end of presentations and asked if there were questions. Chair Kersten asked the board if any members had questions for the presenters. Vice Chair Schigel had a question for Mr. Terry and asked Mr. Terry are you the current owner of all of the lots in question as of right now? Mr. Terry asked, do I own the land – no. Mr. Terry said all of the land is on option with contingencies, but the land owners are all in this with us and they have consented to us to represent them and until we finalize the approval process the land will transfer to our entity that develops it. Vice Chair Schigel said ok so you are not the current owner technically. Mr. Terry said no, it goes like that everywhere, we don't buy it unless we know we can develop it.

PUBLIC COMMENT

1. Rodney Hurkman, 5052 Center Road, Brunswick Hills, Ohio was sworn in. Mr. Hurkman said I'm sure they can bring all sorts of people here today to tell us how much money they can make. If we change our zoning and they can do whatever they want with it; I'm sure they can bring thousands of people that would agree with them. Just because they want it, doesn't mean I want it or the township wants it. Mr. Hurkman said part of our plan is the community has a voice in what we do, which is why we turned down the PMUO in the first place. He said they can come in and ask for a Variance that is exactly the same thing; it doesn't make it something different, they can call it whatever they want – it's the same plan as before and they are just calling it something different. Mr. Hurkman said they still have not addressed any of the issues any of the public has brought up. They have a traffic expert that says he can fix it. How? You haven't shown me anything. He said they are dividing it into two parcels, the front for Commercial 10 acres and they say that is not viable for residential single-family homes and I would say talk to the five properties that are directly left or west of that which I am one of. He said they are all single-family homes right along that frontage and there are five directly across the street for that matter. Mr. Hurkman said the amount of homes that they are trying to add to our community that is already struggling, with the school system that can't pass

a levy, they can't handle those kids regardless of how big of a school they build that was paid for by somebody else – none of that really matters. Nor do the people who are in that direct area, and when I say direct, I mean that's my backyard, want to be looking at a bunch of cookie-cutter homes that all look exactly the same.

(2) Cindy Wargo, 4195 Arlington Drive, Brunswick, OH was sworn in. Mrs. Wargo said I've been a member of this community for 27 years and how the township is developed directly affects me and my family. She said we talked a lot tonight about the Comprehensive Land Use Plan and I want to take a step back and look at that and see what the vision is in that plan. The plan included a vision statement from the community which reads:

In 2025, Brunswick Hills Township will have.... Well – planned and enforced development that implements the will of the community. Attractive and useful open spaces that link the community. Public water service available to all residents. A Rural Visual character dominated by natural open spaces. A Diverse and fiscally strong economic base that supports the health of the entire community.

Mrs. Wargo said what went into this plan was a study and they interviewed 1200 adult residents so I want to give a couple of highlights to that study. (1) they asked residents how they felt about maintaining 2-acre density of Rural Residential feel and an overwhelming majority, 78%, said they wanted the zoning to be kept at a minimum of 2-acres. She said there are some other questions in there that I don't want to go into, but basically the residents want Rural Residential, 2-acre lots and to maintain the goal of the Comprehensive Plan of the township. She said this brings us to where we are today and we can shape the community how we want. Look around the community, there is no loss of development. This means the township can be selective and enforce the current zoning laws and not allow developers to do whatever they want. Mrs. Wargo said there is competition here; people want to live here or the developers wouldn't be here in the first place. Mrs. Wargo said in summary, I ask the Trustees to deny the proposed zoning changes and the variances changes for three reasons: (1) The residents have clearly stated how they want the community developed with green space development, (2) the infrastructure is not in place to handle the housing density proposed for this mega-project; and it's not going to be in place anytime soon with Covid because it will require government funding, (3) and people who live here should be confident that the township follow the posted zoning map and the Comprehensive Land Use Plan that was put in place to make the zoning legally defensible. If you permit them to change the zoning it will be open season for every remaining undeveloped piece of property in the township and you will have set a legal precedence for the next developer to do what they want. Mrs. Wargo said it seems to me that if they can't make money somehow with the Greenfields as they said, then potentially we have the wrong developer here.

(3) Matthew Margosian, 5112 Hartwell Lane, Brunswick Hills, OH was sworn in. Mr. Margosian stated I took a few notes while we were listening and I heard a very long presentation on a \$226,000 median sale and I take issue with some of the numbers that fed into the argument in the first place. He said the whole idea of them trying to meet the Comprehensive Economic Development Strategy of Medina County, and I think I heard the words that a \$300,000 home was too much for an empty-nester and a starter. He said and then proposing homes backing up to Easton, Hartwell and Muirwood.... So, I pulled up Zillow and read off a few of the homes sales price: \$358,000, \$310,000, \$385,000, \$386,000, and across Hartwell now at \$354,000, Muirwood \$376,000, \$378,000 – so it is (1) definitely not in using comparable property values to bring up where we should be building and (2) if we are doing the cheaper, affordable houses on the front and the expensive homes in the back then we are back at \$380,000 which tying it together you will see *adjoining properties will suffer interference with their proper future development and change the character of the neighborhood.....* You understand, we don't like this.

(4) Mark Dachille, 5011 Barlow Drive, Brunswick Hills, OH was sworn in. Mr. Dachille said we've heard a lot tonight about the hardships they face trying to put in larger lots within the property in question. He said I live directly across the street from the golf course in West Chase Landings and I moved there about 2.5 years ago from Brunswick City for the sole purpose of getting into a more rural area. He said the area that's there, the golf course, I get it. They are talking about higher densities around it and there are some areas around there with more density, but that's been built up over time. He said if we continue to do that it will permanently change, in my opinion, of what Brunswick Hills looks like and you will have a number of other issues. (1) The corner and traffic patterns, and

they had an expert talk about traffic, but I believe that the corner of Rt. 303 and Substation Road as it stands right now, ODOT had made a decision a while back that it couldn't be widened. He said I believe it is because of the property on the NE corner of that road is too close to allow the road to be widened to put a turning lane in. Mr. Dachille said without that it will create an absolute chaotic mess for the residents that live in that area. As it stands now, there are some Saturdays where you can sit through four traffic lights because someone is trying to turn left going north on Substation as you are trying to head down Rt. 303 into Brunswick. He said I can certainly understand that they feel there is a hardship, but I think there is going to be a hardship all around for the residents that are surrounding that community if they are allowed to put 500 houses in. Mr. Dachille said another point, there is precedent in Brunswick Hills for developments with larger lots and the Landings is a prime example. He said I heard testimony tonight about the actual home values and I just went on Zestimate (Home Evaluation Rates) and looked at some of the houses on Roxanne Drive and surrounding that area and there are a number of homes and the lowest I saw was \$450,000, all the way up to over \$1 million dollars for a home that was recently sold. He said maybe that wasn't a sale value, but the homes that are being built on those larger lots I think is a testament if we want to develop like that.

(5) Samantha Brown, 1445 Muirwood Drive, Brunswick Hills, OH was sworn in. Mrs. Brown said they brought up the schools and spoke about Mike Mayell, but we are having issues of crowding in the schools already. I'm not sure if you watched the election results that happened last night, but Brunswick failed their school levy for the third consecutive time and because of that, in the letter that was sent out by Mike Mayell several times to the parents in the community, these are the things that are being changed: An elementary school building will close and redistrict all of those students into the other elementary schools. They will reduce transportation to state minimums meaning only students outside two miles will receive busing, which means all of the kids who live in the development across from the golf course now have to walk or be driven to school. She said if you've ever driven down Rt. 303, I don't think you are going to let your child who goes to elementary school walk to school. They are going to reduce, teachers, support staff and administration – approximately 70 positions, eliminate or reduce extra-curricular activities, which are imperative for students; discontinue building facilities for non-affiliated school organizations; eliminate course options for students and increase class sizes. Mrs. Brown said I am a teacher and a neighbor in the district and increasing class sizes negatively impacts the education of all students. She said and they are going to close an elementary school so that means we are going to have fewer rooms to house students. She said you're planning on putting in numerous houses and if I do approximate math, a property that is 187 acres at three (3) homes per acres is approximately 561 homes and townhomes will be much greater than three (3) homes per acre which averages just over two kids per house is 1500 kids. Where are 1500 kids going to go to school? I can tell you Brunswick does not have the room 1500 more students inside of our current buildings. Mrs. Brown said I would love to see how they are planning to educate and move those kids into class sizes with what we have now.

(6) Patricia Wetterman, 1085 Substation Road, Brunswick Hills, OH was sworn in. Mrs. Wetterman said I've heard several mentions of our zoning code, one was by Ms. Hopkins as 405-B and said there is no such thing in our zoning code. The zoning code was re-written in 2007 and the information they quoted is wrong. Secondly, Substation Road is not a main highway; it is not available to be used as linking property to a PMUO and it was written in the Comprehensive Plan. Mrs. Wetterman said the Comprehensive Plan is renewed every year at the annual Zoning Commission meeting and I suggest we keep it followed. She said putting that many homes on a golf course is not going to be a good idea because of the traffic. Mrs. Wetterman said we were promised when the old PMUO went in, that was written by David Hart, an attorney, that the traffic would be handled down there and it's not been done yet.

(7) Edward Kelly, 298 Substation Road, Brunswick Hills, OH was sworn in. Mr. Kelly said I wanted to bring up tonight water quantity and water quality. He said I am a board member of the Rocky River Watershed Council so I am familiar with all the rivers, streams and branches of the Rocky River. Mr. Kelly said the stream that has been discussed and not named is called Cossett Creek and just for those that don't know, the head waters are just in front of and surrounding the area and they are devolved 88%. He said in other words, the area surrounding that water that flows into the golf course has already been developed, road, streets, houses and things ok so now we are going to take a golf course that is all green and turn it into hard surfaces, roof areas, driveways, roads which are

things that are going to hurry up the rain water and send it moving faster to that system. Mr. Kelly said not only that, water quality impairments are going to happen to the west branch of the Rocky River and Crossett Creek district. Mr. Kelly said although it may not be important to a lot of people, it is an idea that should be tossed out there and thought about awfully hard. Mr. Kelly said the quantity issues may affect people more than the quality, but quantity is flooding issues could happen and probably will. Mr. Kelly said I have 2.5 acres at my house, water flows onto my property and off of my property and during the heaviest rains I don't get flooded with water that comes on nor do I contribute water that leaves my property. The reason is that I have several trees, vegetation and things that slow the water down. He said the properties that we are talking about being built here are going to have hard surfaces, driveways and roof areas and things that are going to speed that water and send it on its way to the next person downstream. I think this needs to be thought about very hard.

Mr. Lucien asked Mr. Kelly, can you address the impact to the water table. Brunswick Hills Township has a number of properties that use wells and so what you just brought up made my brain just go to the water table. Mr. Kelly said I can't speak to the water table of this area, but the surface water itself is an important aspect to all properties. He said again I have 2.5 acres now and that water stays on my property because I have trees and vegetation and I can't tell you what the water table is height-wise, but it is certainly an important factor and I'm not sure about the golf course area as far as the water table.

Chair Kersten turned it over to the applicant to address some of the issues brought up by the public.

Mr. Slagter returned to the podium and said we appreciate the comments from the public and a couple of items to note is that most of the individuals who spoke here, with the exception of the last one, do not live on 2-acre lots. Many are on much smaller and many are in the developments around here. He said that is not unusual and it's not uncommon that people don't want to see additional development occur. He said the main point with our issue and the testimony is because of the unique characteristics of this area, meaning, it is a large area of property, it is on Center Road, it's near Industrial zoned property, Commercial property and other higher density development, you're just not going to see it simply developed as a Rural Development. South of Laurel Road where you have more desire to have Rural Residential, that could be developed as that but as Mr. Terry said, it is really a nest egg in the area where it makes no sense to develop and that is why we are here for a variance. Mr. Slagter said the lady indicated that you need to stick with your Comprehensive Plan. He said your Comprehensive Plan has not been, even though you claim it is updated every year, there is no written update at all. He said if recommended, the property directly adjacent to our property be rezoned to Residential to protect this property and the township, it never was done; it's zoned Industrial and it was developed Industrial and therefore there is no transition as recommended by your Comprehensive Land Use Plan. Mr. Slagter said if for some reason we cited the wrong section in your Zoning Resolution, which I don't believe we did as we were provided by the township with the Zoning Resolution, I would just clarify the questions we are asking is to develop the property with Mixed-Use Residential on the back part, Section B, single-family detached dwellings, three units an acre or less, two-family dwellings maximum density not to exceed five dwelling units per acre and multi-family dwellings that shall not exceed density of eight units per acre. He said we are not out here asking to build 1,000 homes there. He said our Concept Plan has less than 600 units. Mr. Slagter said we are asking for Variances to allow us to develop at those densities or less and we would comply with landscape requirements to provide proper buffering in the area. Mr. Slagter said based on that we ask that the board grant the Use and Area Variances on the testimony that has been presented.

Discussion by the Board

Ron Wetterman stated the applicants have presented a long and lengthy discussion on why they should be able to proceed. But in fact, our board here has to deal with the facts presented in the application. They are asking for nine (9) different Variances on seven (7) parcels of property and that amounts to 63 Variances. I will read to you under Brunswick Hills Township procedures, Sec. 1003-1

Sec 1003-1 Applications

All appeals and applications made to the Board of Zoning Appeals shall be in writing and on the forms prescribed therefore. Every appeal or application shall refer to the specified provision of the Resolution involved, and shall exactly set forth the interpretation that is claimed, the use for which the Certificate or Conditional Certificate is sought, or the details of the variance that is applied for and the ground on which it is claimed that the variance should be granted, as the case may be. Appeals and applications shall be filed with the Zoning Inspector.

Mr. Wetterman said every word in that sentence or paragraph is in the singular form which means we need one application for each Variance for each lot. He said I know that the attorney complained about filing different application requests for \$1,000. Mr. Wetterman said if he had followed the procedure, it would have cost him \$31,500. He said next, these Variances that he's asked for are not in our current Zoning book and that is why I asked earlier what book was being referred to. He said if you prefer, I can hand you our book and allow you to look at the Permitted or Non-Permitted Uses. Mr. Slagter looked at the book and said for the record, that is what we've been working off of is a copy dated the same date August 10, 2007. Mr. Wetterman asked, are you re-reading our conditions? Mr. Slagter said we are quoting what is actually there. Chair Kersten said they said they are quoting what is there and you can dispute it but we don't have to argue it. Mr. Wetterman said based on that, in my opinion, the applications due to the fact that they were improperly submitted in the wrong amount of money, in my opinion, should be denied.

Vice Chair Schigel asked about the traffic and how the study would be done for an area like that with a development like this coming in. He said I am a resident and live very near Rt. 303 and Substation so I would be very interested in seeing how a study would be conducted. Mr. Eric Smith returned to the podium and said I would approach a study like this starting with ODOT's previous study on Rt. 303 that went along the frontage of this property and included Substation Road and I think when ODOT did that study they used a regional model from NOACA on future traffic and so forth. He said it is always a crap shoot when you look at everything in the future. He said NOACA has models that forecast traffic based on social economic data, Census track data, populations, etc. He said I would talk to them first to see what they are looking at and that's what ODOT did when they were looking at their initial study on Rt. 303. Mr. Smith said I don't think they took into consideration on what is being proposed here tonight. Mr. Smith said so I would start with the ODOT study and talk to folks at NOACA and we would forecast ways to estimate traffic generated by a house or a condo and these are nationally known based on imperial data cast over decades. He said if you have 10 houses it will generate this much traffic or 400 houses it will generate this much traffic in the morning and in the evening and ODOT has a very restrictive manual on what they will allow and they will tie us to what the study we want to see, ok so they will go from Rt. 303 to here or there because they have the control on Rt. 303 and with the county and the township on Substation Road but we felt all the same rules and they will do a study to apply to Substation Road and we will look at this traffic 20 years from now and it is a guess, but it is a guess just like the water guy who said you don't know how much water is going to fall off of that property. He said we do the same thing in traffic off that property and then you route it to ODOT and ask if you need that left turn lane as a resident said; do we need a traffic signal somewhere; do we need to change the traffic signal that is there now. He said I think I gave you a fair amount of detail, but we would do what ODOT would need and we would look at what improvements are needed. He said after 35 years I've done a lot of studies and they generally prove to be pretty right, if not more than right.

Vice Chair Shigel said you touched on a 400-house subdivision and in your expert opinion over the last 20 years, what kind of traffic patterns have you seen in those last 20 years with a 400-house subdivision? Mr. Smith said in general it is about nine (9) trips a day. A trip is leaving to take your kids to school and coming back; going to work and back is another, so we can generate those trips on a daily average, but we can move into the peak hours at night where traffic is not an issue out there – during the morning rush, the evening rush and on Saturdays. He said at 3 pm it is not a big deal and normally we wouldn't look at that but this time we will because that is a significant event for the road. He said so we would do that NOACA would do that and ODOT because it is a significant thing and they are strict on what they allow from my experience.

Mr. Murphy asked, when you use the number 9, are you telling me that is 400 houses? Mr. Smith said that is 9 per house. Mr. Murphy said and you think Rt. 303 and Substation Road are going to carry that? Mr. Murphy said they can't make it bigger. Mr. Smith said and that is why because there is a property on the corner? Mr. Murphy said there are four (4) of them. Mr. Smith referenced Arlington Road by 619 that had houses and said they took the houses and when there is a transportation need, they should be gone. Mr. Murphy said you are talking about possibly taking out houses and more down the road? Mr. Smith said I don't know what the improvements would be, Mr. Murphy said that is the only way possible. Mr. Smith said until this building is done and we go through the process with ODOT, I can't tell you exactly what would be done. Mr. Murphy said so you yourself have not done this study yet. Mr. Smith said no, I haven't done this study yet; it's not zoned for it so unless you folks say yes, go for it, we don't need to spend a lot of money on specific studies for this project. He said that is why Travis (Crane) has not done specific layouts and surveys and water and that is why it has not been done – why would you do that unless you folks are going to let this project move forward. Mr. Murphy said ok, I got it. Mr. Smith said ok so that is what I'm telling you and in Akron we moved five or six old buildings and I'm telling you that when roadways need to be improved, they can be improved, it seems impossible, you may not like it, but I've done it dozens of times in my career. He said it just depends on who has the will to do it.

Mr. Wetterman said to Mr. Smith, when you were speaking before, I got the impression that ODOT had already done a survey there. Mr. Smith said they did a study there along Rt. 303, but I'm not sure what prompted that study but I have seen it. Mr. Wetterman asked how long ago was that? Mr. Smith said I think it was the last year or two. Someone on the applicant team said in April. Mr. Smith said so that study was done and it is out there but the public may have not seen it. There were multiple discussions on the study but Mr. Smith said I've seen it. Mr. Wetterman said I was aware that a study was being done, but I was not aware that one has been published.

REVIEW OF THE DUNCAN FACTORS/AREA VARIANCE For Application #094: 4950 Center Road, (Bramblewood Inc./Golf Course), PP# 001-02C-02-007 / PP# 001-02C-05-002 / PP# 001-02C-05-003. 1654 Substation Road (Pospishil), PP# 001-02C-05-004 / 1770 Substation Road (Loria), PP# 001-02C-08-004, PP# 001-02C-08-005.

Sec. 1005-1 Area Variances

- A. Whether the property in question will yield a reasonable return and whether there can be any beneficial use of the property without the variance.** All board members stated yes.
- B. Whether the variance is substantial.** All board members stated yes.
- C. Whether the essential character of the neighborhood will be substantially altered and whether adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** All board members stated yes.
- D. Whether the variance will adversely affect the delivery of governmental services.** Mr. Kersten-no; Mr. Schigel-yes; Mr. Wetterman-yes; Mr. Lucien-yes; Mr. Murphy-yes.
- E. Whether the property owner purchased the property with knowledge of the zoning restriction.** Mr. Kersten said the question was not asked of the applicant. Discussion: Mr. Schigel said I clarified that with the applicant and he said they are looking to purchase or have a contract pending on approval, so they are aware. New Roll Call: All board members stated yes.
- F. Whether the property owner's predicament can be obviated through some method other than a variance.** All board members stated yes.
- G. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** All board members stated no.

- H. Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** Mr. Murphy-yes; Mr. Lucien-no; Mr. Wetterman-no; Mr. Schigel-yes; Mr. Kersten-no.

Chair Kersten stated any person adversely affected by a decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Medina County on the grounds that such decision was unreasonable or unlawful. They have 30 days from the date the decision letter is signed to appeal.

MOTION TO APPROVE AREA VARIANCES FOR CASE #094

Motion: Mr. Schigel made a motion to approve Case #094 for Area Variances for parcels named above. Mr. Murphy seconds the motion. **Roll Call:** Mr. Lucien-no; Mr. Murphy-no; Mr. Schigel-no; Mr. Wetterman-no; Mr. Kersten-no. Motion carries to deny the request.

Chair Kersten stated Case #094 has been defeated and the variances will not be granted.

REVIEW OF DUNCAN FACTORS/USE VARIANCE FOR CASE #095/ PP# 001-02C-05-009 Abutting Center Road Identified as Area A.

Sec. 1005-2 Use Variances

- A. Whether uses permitted in the district may be reasonably established on the property and whether they are economically viable on the property in question without the variance.** Mr. Murphy said yes and yes, there are two questions. Mr. Wetterman- yes and yes; Mr. Lucien-yes; Mr. Schigel-yes; Mr. Kersten-yes.
- B. Whether the variance is the minimum variance which will afford relief to the property owner.** All board members stated no.
- C. Whether the essential character of the neighborhood will be substantially altered or adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** All board members stated yes.
- D. Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** Mr. Lucien-no; Mr. Wetterman-no; Mr. Murphy-yes; Mr. Schigel-yes; Mr. Kersten-yes.
- E. Whether the hardship condition was created by actions of the applicant.** Mr. Lucien-yes; Mr. Wetterman-no; Mr. Schigel-no; Mr. Murphy-yes; Mr. Kersten-no.
- F. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** All board members stated no.
- G. Whether the use requested is similar in character to the permitted uses in the subject district.** All board members stated no.
- H. Whether the subject property is adequate to meet the needs and requirements of the proposed use.** All board members stated yes.
- I. Factor added per legal counsel: Has the applicant shown an unnecessary hardship? The definition of an unnecessary hardship is: *Unnecessary hardship results when there is no economically feasible permitted use of the property because of characteristics unique to the property.*** All board members stated no.

Mr. Kersten read the voting process: A YES, simple majority with a quorum present is in favor of applicant. A NO simple majority or a TIE vote with a board of four (4) will deny the applicant's request.

MOTION TO APPROVE CASE #095 USE VARIANCE For PP# 001-02C-05-009 Identified as Area A.

Motion: Mr. Schigel made a motion to approve the Use Variance on Case #095 for PP# 001-02C-05-009 for Permitted Commercial Uses under an R-1 Residential. Mr. Wetterman seconds the motion. **Roll Call:** Mr. Schigel-no; Mr. Murphy-no; Mr. Lucien-no; Mr. Wetterman-no; Mr. Kersten-no. Motion carries to deny the request.

Chair Kersten stated by a 5-0 no vote, the variance request has been denied.

Announcement of Next Meeting Date: November 18, 2020 @ 7 p.m. at the Diamond Event Center for Redwood Apartment request for Corner of Pearl and Sleepy Hollow Road.

Motion to Adjourn: Mr. Murphy made a motion to adjourn. Mr. Wetterman seconds the motion. **Roll Call:** All in favor to adjourn. Meeting officially adjourned at 11:02 p.m.

Respectfully Submitted,

Mary Jean Milanko, Zoning Secretary

Cliff Kersten, Chair

Date