

**CAUCUS PRIOR TO STRONGSVILLE BOARD OF ZONING &
BUILDING CODE APPEALS**

**Meeting of
April 11, 2018
7:30 p.m.**

Board of Appeals Members Present: Kenneth Evans, Richard Baldin, John Rusnov, David Houlé,
Tom Smeader
Administration: Assistant Law Director Daniel J. Kolick
Building Department Representative: Michael Miller
Recording Secretary: Kathy Zamrzla

The Board members discussed the following:

NEW APPLICATIONS

1) KEVIN AND MAUREEN WOLFE, OWNERS

- a) Requesting a 9.55' Side Yard Setback variance (West) from Zoning Code Section 1252.29 (b) (1), which requires a 15' Side Yard Setback and where a 5.45' Side Yard Setback (West) is proposed:
- b) Requesting an 8.44' Side Yard Setback variance (East) from Zoning Code Section 1252.29 (b) (1), which requires a 15' Side Yard Setback and where a 6.56' Side Yard Setback (East) is proposed in order to install an In-ground Swimming Pool; property located at 21396 Oakhurst Lane, PPN 393-11-051, zoned R1-75.

The Board was informed that the drawing is being revised due to there being a separate permit for the proposed patio and the outdoor kitchen. The drawing they have indicates an encroachment of the proposed patio into the side yard, but the Board was told that it won't actually be encroaching. The Board indicated that they will discuss this with the homeowner on the floor. The Board questioned why they need an 8' deck around their pool since they could reduce the width of the deck and not have as large of a variance if any, but they also specified that the topography limits their options.

2) RAISING CANE'S/Drew Gatliff, Representative

- a) Requesting a variance from Zoning Code Section 1272.12 (c), which permits one Wall Sign (East) and where a 56 SF second Wall Sign (East) is proposed;
- b) Requesting a 34.87 SF Sign Face Area variance from Zoning Code Section 1272.11 (a), which permits a 53.13 SF Sign Face Area and where an 88 SF Sign Face Area (East) is proposed;
- c) Requesting a 10.6 SF Sign Face Area variance from Zoning Code Section 1272.10 (c), which permits a 21.4 SF Sign Face Area and where a 32 SF Sign Face Area (South) is proposed;

- d) Requesting a variance from Zoning Code Section 1272.12 (c), which permits one Wall Sign (South) and where a 139.5 SF second Wall Sign (South) is proposed;
- e) Requesting a 150.1 SF Sign Face Area variance from Zoning Code Section 1272.12 (c), which permits a 21.4 SF Sign Face Area and where a 171.5 SF Sign Face Area (South) is proposed;
- f) Requesting a variance from Zoning Code Section 1272.12 (c), which prohibits a Wall Sign (North) and where a 32 SF Wall Sign (North) is proposed;
- g) Requesting a sign variance from Zoning Code Section 1272.12, which does not permit a Drive-Thru Menu Board Ground Sign and where two Drive-Thru Menu Board Ground Signs are proposed; property located at 14356 Pearl Road, PPN 393-19-033, zoned Restaurant-Recreational Services (R-RS).

The Board indicated that these are all sign variances, and that they have already given them several variances just to build the property. They then mentioned that they believed that given the location of this place and its great visibility that it does need more signs than what the Zoning Code already allows. They did though decide that maybe splitting the SF of the sign into two signs, like they've done in the past, would be appropriate in this case as well. They examined the drive-thru menu boards, and said that they are missing dimensions on their documents. They concluded that they should conform to the Code like everyone else has or at least split the SF into two signs.

PUBLIC HEARINGS

3) RYAN AND BETH PUZZITIELLO, OWNERS

Requesting a 240 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 432 SF Floor Area is proposed in order to construct a Pavilion; property located at 22517 Valleybrook Lane, PPN 392-13-086, zoned R1-75.

The Board indicated no difficulties with this variance request. They mentioned that it's a big pavilion, but it's a large house as well. The Board also indicated that the design compliments the property. They stated that it will be a nice addition to the neighborhood, but that they'd like to know what, if anything, the neighbors have to say about it.

4) HANA AND JEREMY HALLEEN, OWNERS

Requesting an 8' Side Yard Setback variance from Zoning Code Section 1252.17, which requires a 16' Side Yard Setback from the right-of-way and where an 8' Side Yard Setback from the right-of-way is proposed in order to install a 6' high Wooden Privacy Fence; property located at 10029 Prospect Road, PPN 391-23-008, zoned R1-75.

The Board indicated that the CIPTED Officer stated that the fence gates should swing in and not out toward the sidewalk, but that otherwise there were no difficulties with this variance. They specified that a typical-sized vehicle could fit inside the gate of the fence on the driveway. They Board discussed whether it would be a hindrance to others, but also considered that the driveway is large enough to turn around in the large apron and pulling out of instead of backing out of the driveway.

5) PSP DEVELOPMENT LLC, OWNER

Requesting a 361 SF Floor Area variance from Zoning Code Section 1252.22 (c), which permits a 1,000 SF Floor Area and where a 1,361 SF Floor Area is proposed in order to construct two Attached Garages on a New Single Family Dwelling; property located at 12328 Arbor Creek Drive, PPN 398-27-053, zoned R1-100.

The Board indicated no difficulties with this variance request. They mentioned that this is a new style that they are seeing more and more. The Board also noted that they received a letter from the homeowner's association who says it has no problem with the project.

6) BRIAN JUNGERBERG AND KELLY BECKER, OWNERS

Requesting a variance from Zoning Code Section 1252.16 (e), which requires a Patio maintain the same required side yard setback as the main dwelling and where the applicant is encroaching 6' into the side yard in order to construct a 1,350 SF Patio; property located at 12525 Saddlebrook Lane, PPN 392-02-095, zoned R1-100.

The Board examined their paperwork to see if they have the dimensions that they were missing from the previous meeting, and could not find them. They have the 6' length dimension of the patio, but they are missing the depth. The Board anticipated receiving that information during the meeting.

7) DAVID AND DIJANA OUTCALT, OWNERS

Requesting a 10' Rear Yard Setback variance from Zoning Code Section 1252.04 (f), which requires a 50' Rear Yard Setback and where a 40' Rear Yard Setback is proposed in order to construct a 430 SF Addition; property located at 19789 Kensington Court, PPN 397-28-068, zoned R1-75.

The Board was informed that the HOA had not yet seen the plans, but would like to review them. Unfortunately it couldn't be done before the meeting tonight. The Board debated if they should table the meeting until after the HOA had reviewed everything. They specified that they are not bound by what the HOA decides, but that is good to have their decision for

the record. The Board stated that the Zoning Codes have not changed since the house was built. They also commented that they thought it would be a nice addition.

OTHER BUSINESS

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC

Appeal from the decision of the Building Commissioner, pursuant to Codified Ordinance Sections 1414.07 and 1248.01 (b) denying a building permit for a proposed six (6) foot fence closing off a sidewalk connection; property located at 13451 Pearl Road, PPN 396-10-003, zoned General Business.

The Board indicated that the Building Commissioner issued a violation notice to the property owner indicating that he was denying the building permit for the fence that had already been built around his property. They stated that this was in regards to the decision that the Board made at their August 26th, 2015 meeting where they granted variances for the property with several conditions including that the variance was predicated on working with the corner parcel on a pedestrian walkway between the parcels. The Board mentioned that the letter issued by the Building Department on August 31st, 2015 indicated the same. They also acknowledged that their discussion on that project had a lot to do with the safety issues involved with moving people back and forth on Pearl and Westwood as it might be necessary if there was no connection between these two properties. Mr. Kolick added that the original construction didn't have a fence, and the pedestrian connection was in place for a period of time. He also added that a fence then appeared without approval which blocked the pedestrian walkway without getting a building permit from the City first. He mentioned that they did file for an application after the fact once they were issued a violation notice. He told the Board that the Building Commissioner would explain his reasoning behind his denial of the permit during tonight's meeting. He then pointed out that it is not about whether the Board wants or doesn't want the fence in place, it's about whether or not the Building Commissioner properly handled the situation in denying the building permit for the fence. He restated that tonight's decision is just about upholding or not upholding his decision on the fence, and nothing more.

STRONGSVILLE BOARD OF ZONING & BUILDING CODE APPEALS
MINUTES OF MEETING
April 11, 2018

The meeting was called to order at 8:00 PM by the Chairman, Mr. Evans.

Present: Mr. Baldin
Mr. Evans
Mr. Rusnov
Mr. Smeader
Mr. Houlé

Also Present: Mr. Kolick, Assistant Law Director
Mr. Miller, Building Department Representative
Ms. Zamrzla, Recording Secretary

Mr. Evans – Good evening ladies and gentlemen. I would like to call this April 11th, 2018 meeting of the Strongsville Board of Zoning and Building Code Appeals to order. Kathy if you would call the roll please?

ROLL CALL: ALL PRESENT

Mr. Evans – I hereby certify that this meeting has been posted in accordance with Chapter 208 of the Codified Ordinances of the City of Strongsville. We have no minutes before us tonight. Next, if there is anyone in our audience this evening that wishes to speak whether it is to present to the Board or to speak at a public hearing, I ask that you stand now and be sworn in by our Assistant Law Director, along with our Recording Secretary, and our Representative from the Building Department.

Mr. Kolick then stated the oath to those standing and anyone who participated including the attorneys.

NEW APPLICATIONS

1) KEVIN AND MAUREEN WOLFE, OWNERS

- a) Requesting a 9.55' Side Yard Setback variance (West) from Zoning Code Section 1252.29 (b) (1), which requires a 15' Side Yard Setback and where a 5.45' Side Yard Setback (West) is proposed:
- b) Requesting an 8.44' Side Yard Setback variance (East) from Zoning Code Section 1252.29 (b) (1), which requires a 15' Side Yard Setback and where a 6.56' Side Yard Setback (East) is proposed in order to install an In-ground Swimming Pool; property located at 21396 Oakhurst Lane, PPN 393-11-051, zoned R1-75.

1) **KEVIN AND MAUREEN WOLFE, OWNERS, Cont'd**

Mr. Evans – OK. First on the agenda tonight under our new applications is Kevin and Maureen Wolfe. Please come up to the microphone and give us your name and address for the record.

Ms. Wolfe – Maureen Michelle Wolfe, 21396 Oakhurst Lane, Strongsville, Ohio 44149.

Mr. Evans – Thank you.

Mr. Jones – I'm Robert Jones with Mr. Pools, Inc.

Mr. Evans – Thank you. You are here requesting two variances for the side yard. Please tell us what your plan is with this project, and why you need these variances.

Ms. Wolfe – We're putting in the in-ground pool, and our first understanding was that 15' setback was to the pool, so that was our intention. So now we're looking to add a significant amount of concrete around the pool to make room for some lounge chairs, tables, etc. We have three children in our family so we want some space. We're definitely very close to all of our neighbors, and we all have big families. I'm a teacher so I'm home all summer, so they are going to be coming over too I'm anticipating. We envision having some space and not being on top of each other. We're looking to add that concrete to do that rather than just having grass.

Mr. Evans – OK. Board members, some of you have been out to look at it, correct?

Mr. Baldin – I have been out to take a look at this, although it was difficult because it was all locked up. I was however able to get a good view of it. I have a question though, from where your patio is to your pool, how much room is going to be between there and your pool? Is that all going to be concreted? Or are you going to have stones and so forth?

Ms. Wolfe – From the patio to the pool, it'll be concrete.

Mr. Baldin – OK.

Ms. Wolfe – You'd step off the patio right onto the concrete.

Mr. Baldin – It's four, five, six feet? Do you have any idea?

Ms. Wolfe – I think it's in the plans.

Mr. Baldin – It's going to be awful close, that's what I was wondering about. It's hard to tell by our layout that we have in front of us.

Mr. Jones – This part of the patio is by a landscaping company. We're only proposing to do the pool and the cement around the pool. So I don't know how to answer that.

Mr. Baldin – Alright, I'm sure we'll get a more definite answer by the next meeting.

Mr. Evans – It would be helpful if we could get that measurement for the next meeting.

1) **KEVIN AND MAUREEN WOLFE, OWNERS, Cont'd**

Ms. Wolfe – So from the tip or the edge of where the patio ends.

Mr. Evans – Where the patio ends to the deck area.

Ms. Wolfe – To the start of the pool?

Mr. Baldin – Right, and I'm assuming the patio is going to be a little bit raised, it won't be flush.

Ms. Wolfe – Yes, they are anticipating 7". So it'll be a step down.

Mr. Jones – Mike Miller mentioned in the caucus that it's going to be behind the house. It's not going to encroach in that walkway area because that would be out of Ordinance.

Ms. Wolfe – We already submitted plans. It's a separate permit because it's a separate contractor. So we've already updated the plans for that. So the patio should not need a variance, it should be flush with the house.

Mr. Evans – OK. We talked in caucus about the fact that it's a trapezoidal shaped lot meaning it's narrower in the back and wider in the front. The question that we would ask though, since our primary objective here as the Board of Zoning Appeals is to hear what requests are from residents and try and minimize variances wherever we can. You're going to have 8' on the backside of the pool, and you'll have a lot of space on the front. Is there any reason that you couldn't narrow the side deck areas to maybe 4' or something like that so you have an area, but it's not necessarily an area for chairs?

Mr. Jones – We're putting an automatic cover on this pool, so it's going to take about 16" all by itself. That takes up some deck space.

Mr. Evans – It does.

Mr. Jones – We suggest not stepping on it as much as possible. So therefore when you want to put some chaise chairs in, they take up about 5' without even being laid down. Once that's in place that will leave adequate walking space off of that pool.

Mr. Evans – So it's almost a safety issue to have the 8' deck then.

Mr. Jones – Yes, and really it's only about 6' once you take the auto cover out of the equation, and then on the opposite side is an entrance and exit point to the pool. If you had a table or chairs over there, it would give adequate room to get around that way as well. That is why we suggested that larger patio.

Mr. Evans – OK.

Mr. Baldin – Are you taking down all those pine trees?

Ms. Jones – We're planning to move the pine trees.

1) **KEVIN AND MAUREEN WOLFE, OWNERS, Cont'd**

Mr. Evans – Is there anything else?

Mr. Rusnov – No.

Mr. Evans – OK. All of the members of the Board will be out to visit the property to take a look at it. There will also be a notice that will go out to your neighbors within 500 feet of your property. It will state exactly the description that is written in the agenda tonight. So if you have curious neighbors that will want to ask questions, you should get together with them before the next meeting to explain simply what your plans are. That may save everyone some time and the trouble. The public hearing is on April 25th. We will invite you back at that time, and that is when we will render our decision. It is not necessary that you stay for the rest of the meeting tonight. Thank you.

Mr. Jones – That's in two weeks, right?

Mr. Evans – Yes, that's two weeks.

Mr. Baldin – One more question. There was a padlock on the gate, and I'm not sure how everyone will be able to see it. Can you remove it?

Ms. Wolfe – The other side is open.

Mr. Baldin – OK.

Ms. Wolfe – The fence is open on the other side. We had that locked because of the dogs. You can get in on the left hand side.

Mr. Houlé – I went through on the left side.

Ms. Wolfe – Also, I know the HOA approved it, did you receive the letter from my husband?

Mr. Houlé – We have the letter.

Mr. Evans – Yes.

Ms. Wolfe – Our Board President, by the way, lives adjacent to us. He's right behind us. I don't know if that makes any difference at all. Since my husband goes out of town he wrote a letter. Would you like to see that?

Mr. Evans – If you want to give that to us for the record, that's fine.

Ms. Wolfe – OK.

Mr. Baldin – Nice typed copy there.

Mr. Evans – Thank you.

2) **RAISING CANE'S/Drew Gatliff, Representative**

- a) Requesting a variance from Zoning Code Section 1272.12 (c), which permits one Wall Sign (East) and where a 56 SF second Wall Sign (East) is proposed;
- b) Requesting a 34.87 SF Sign Face Area variance from Zoning Code Section 1272.11 (a), which permits a 53.13 SF Sign Face Area and where an 88 SF Sign Face Area (East) is proposed;
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Mr. Evans – Next on our agenda is Raising Cane's, do we have a representative? Please come up to the microphone and give us your name and address for the record.

Mr. Gatliff – Drew Gatliff, 1062 Ridge Street, Columbus, Ohio 43215.

Mr. Evans – Thank you. You are here with a number of requests for sign variances. Please take us through the package of sign requests.

Mr. Gatliff – What I have submitted initially, and I know this was spoken about when we were here for the other variances and site plan approval, was basically that we have submitted today for you our standard package. That doesn't mean that we don't have flexibility on that. I know that it was mentioned in caucus as well as by staff throughout our interactions with them that the allowable signage square footage is usually added together and dispersed around the building in multiple signs. We have a little flexibility if we stay within that. I understand that the mural is a large sign. What we're asking for is that with the allowable square footage of 55.1' along the front façade, and 21.4' along the secondary façade, also what we'd be allowed there with 50 SF. If we're allowed to have our proposed ground sign of 28 SF, then we'd like to ask for three wall

2) **RAISING CANE'S/Drew Gatliff, Representative, Cont'd**

Mr. Gatliff continues - signs on the three sides of the building, and we'd eliminate the mural. The other portion of this is regarding the numeric sign that has a #1 on it. We've gone back and forth on this internally on what exactly constitutes a sign versus an architectural feature, and decided that if it's a matter of color it doesn't need to have any color to it. We're just trying to understand, and in the way that we've kind of talked about it internally is that we consider it as something that we would take with us then we'd take that sign and it would go with us, so all the wall signs would come down and be removed versus the one that is the monument sign which is not removable or something we could take with us from the premises.

Mr. Evans – Is that done in brick?

Mr. Gatliff – It's in the wall but it could be the same color. If that were something that we could do, and the reason I ask is because we consider it an architectural feature. If it's something that is colored, then that's a different story if that's what defines it as a sign or whether it's the sign of it. We are trying to figure out what point establishes it as a sign.

Mr. Kolick – It is a sign under our Code whether it's carved into the brick or it's a painted on mural counts, so the color wouldn't have anything to do with it. It's signifying your business as #1 says something, and that is considered a sign under our Code.

Mr. Gatliff – That's the reason because of the shape of it.

Mr. Kolick – Because it's a #1.

Mr. Evans – It's what it is. It's a message.

Mr. Kolick – Right. Correct.

Mr. Gatliff – I just needed to understand that so I can explain this to Corporate so they know what our options are. If we were to propose adding the allowable signage together, I also cannot consider the #1 in the equation. So if we take that out, and we were permitted to have the three wall signs, and remove the mural, and the ground sign, then that would be right at the allowable 124.5 SF is where we would fall. So that's the request that we have before you today.

Mr. Kolick – This Board has in the past granted variances with the total square footage, but that's not set in stone or something that always occurs. It is only done in certain instances like we had over here where there was signage on the front and the back because the back was really the front that faced the parking lot. That's why they did that. It's not necessarily the sole criteria that they utilize for that.

2) **RAISING CANE'S/Drew Gatliff, Representative, Cont'd**

Mr. Gatliff – I understand that. Driving just from the highway to here I noticed Chick Filet has signs on all three sides, as well as Starbucks. So there are a number of examples just coming through town, but I'm not saying that it's a precedent that is set. It's just the request that we are making.

Mr. Evans – You also need to understand Mr. Gatliff that when we approve a variance it is also reviewed by Council, and they have the opportunity to overturn whatever we may decide. So it's not an iron-clad decision even once we make it. What you have proposed is a reduction from the materials that were presented to us. So what is going to have to happen is that because we have the numbers here, we'd have to make a decision based on these. So you're going to have to represent to the Building Department the adjusted numbers that you're describing tonight.

Mr. Gatliff – OK.

Mr. Evans – And the backup drawings for that and everything so that can come out to us and consider it on our April 25th meeting. The other thing you heard us talk about in caucus were the menu boards, and you have given us no information on them. We don't have the size, the location, we don't have what is going onto them, and because that is something that is not in the Code, we would need that to be able to consider the approval. The approval would be predicated on what you have submitted to us. So that information as well needs to come into the Building Department so we have that. Aside from that, gentlemen, do you have questions?

Mr. Rusnov – How about a grand total about what the allowable signage....

Mr. Gatliff – A tabulated...OK, perfect.

Mr. Rusnov – Tabulated. OK.

Mr. Gatliff – Yes.

Mr. Rusnov – That way there's no mistakes.

Mr. Gatliff – Understandable.

Mr. Evans – You'd want to be sure that the Building Department agrees with your total.

Mr. Gatliff – Agrees with my calculations?

Mr. Evans – Yes. That would be a good place to start.

2) RAISING CANE'S/Drew Gatliff, Representative, Cont'd

Mr. Gatliff – I understand.

Mr. Zamrzla – For the public hearing notice tomorrow morning, do you want it to go out as it is now?

Mr. Evans – I think it can go out as is, because it's going to probably end up being some variation of what we have in the agenda. I don't know that the square footages are going to be a big concern to people as much as the number of signs. We can deal with that and any reduction in what is being requested would be gladly accepted by anyone who might have a comment. Other observations gentlemen? OK. Then the same thing will happen. A notice will go out to everyone within 500', and it would be the same people who got one for the other variances that we approved. We'll see you on April 25th, but please get that info to the Building Department so that we have it and that way if anyone has a question in the meantime they'll have the correct information from the Building Department. OK? Thank you.

Mr. Gatliff – Thank you.

PUBLIC HEARINGS

3) RYAN AND BETH PUZZITIELLO, OWNERS

Requesting a 240 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 432 SF Floor Area is proposed in order to construct a Pavilion; property located at 22517 Valleybrook Lane, PPN 392-13-086, zoned R1-75.

Mr. Evans – Next and the first of our public hearings is Ryan and Beth Puzzitiello. We delayed this item for consideration because you were not available. Please give us your name and address for the record please.

Mr. Puzzitiello – Ryan Puzzitiello, 22517 Valleybrook Lane, Strongsville.

Mr. Evans – Thank you very much, you've asked for a variance of 240 SF for a pavilion. Please for the purposes of the public hearing, please describe the reasoning behind such a large pavilion.

Mr. Puzzitiello – I wanted to attach this to the house, but it couldn't be because of the windows on the back of the house. So we had to move it away from it. I have a large family and we entertain often. We thought it would be a great spot for the family to be at. We had to place it in the location it is at because of the limited topography. We also don't back up to anyone, just common space that goes for hundreds of feet. The only people that might see it is my brother who is also my neighbor. He's not here today.

3) RYAN AND BETH PUZZITIELLO, OWNERS, Cont'd

Mr. Evans – We have a letter from the HOA and they approve the plans. Are there questions or comments from the Board?

Mr. Baldin – I made my feelings known in caucus.

Mr. Rusnov – No.

Mr. Evans – It could be helpful for you to say them again for the record out here.

Mr. Baldin – I believe that the lay the land is set with the wetlands behind him and big mounds on the left, and there's lots of room there, so I think it'll be a nice addition to your lot for your family to enjoy. I have no problem with it.

Mr. Evans – Thank you Mr. Baldin. Is there no one else? Mr. Evans – This is a public hearing. I'll ask if there is anyone here this evening who would like to speak for the granting of this variance. Is there anyone here who would like to speak against the granting of the variance? Hearing none and seeing none, I will now entertain a motion.

Mr. Rusnov – I make a motion to approve a request for a 240 SF Floor Area variance from Zoning Code Section 1252.15, which permits a 192 SF Floor Area and where a 432 SF Floor Area is proposed in order to construct a Pavilion; property located at 22517 Valleybrook Lane, PPN 392-13-086, zoned R1-75.

Mr. Smeader – Second.

Mr. Evans – Thank you both. May we have a roll call please?

ROLL CALL:

ALL AYES

MOTION PASSED

Mr. Evans – The variances have been granted again pending a 20 day waiting period during which time Council may review our decision. You will get a notice from the Building Department when that time has passed.

Mr. Puzzitiello – Thank you very much.

Mr. Evans – Thank you.

4) **HANA AND JEREMY HALLEEN, OWNERS**

Requesting an 8' Side Yard Setback variance from Zoning Code Section 1252.17, which requires a 16' Side Yard Setback from the right-of-way and where an 8' Side Yard Setback from the right-of-way is proposed in order to install a 6' high Wooden Privacy Fence; property located at 10029 Prospect Road, PPN 391-23-008, zoned R1-75.

Mr. Evans – Item number four on our agenda is Hana and Jeremy Halleen. Please come up to the microphone and give us your name and address for the record.

Ms. Halleen – Hana Halleen, 10029 Prospect Road, Strongsville 44149.

Mr. Evans – Thank you, Hana. You've requested a side yard variance setback, if you could just describe for us the reasoning behind asking for the variance.

Ms. Halleen – We're looking for an 8' variance given that we are a side lot, and the way our lot is set up. The majority of our yard is open and not very private so the 16' setback would run into a few large, mature trees, as well as the additional paved pathway around the house that leads from the paved patio to the front of the house. We're putting up the fence for person reasons, privacy, and our dog. I also like to garden, and we are trying to keep the deer out.

Mr. Evans – If you could take the deer and put them somewhere else that would be great. We had the police department review it at our request, and their only suggestion is that the gate move toward the inside. We will make this as a condition of the granting of the variance, you have no problem with that?

Ms. Halleen – Correct.

Mr. Evans – We've all been out to look at it. Are there questions from the Board?

Mr. Smeader – You recently had new concrete work installed. Is there sufficient room for you to turn the car around so you can head out rather than back out onto the street?

Ms. Halleen – There is. The driveway comes in, turns in where we have room for two cars where either can swing back and go straight out of the driveway. I'm always the one pulling directly in, so there's always room for me to not have to back out.

Mr. Smeader – That was my concern because there's not a lot of space between where the fence will be and where the street will be. If you back out you'll literally be on the sidewalk before you can see anybody in either direction.

Ms. Halleen – Correct.

4) **HANA AND JEREMY HALLEEN, OWNERS, Cont'd**

Mr. Smeader – OK. Thank you.

Mr. Houlé – I think one of the other issues too is some of the large trees that you didn't want to have removed because of the aesthetics of having the large trees in your yard, correct?

Ms. Halleen – Yes.

Mr. Evans – Thank you, and anything else?

Mr. Rusnov – You want this conditioned that they won't back out of the driveway and also that the gates open inward.

Mr. Evans – I'm not sure that we can condition about them pulling out one way or the other, but the gates opening in are definitely a condition.

Mr. Smeader – Right, if they get too many cars in there, that won't work.

Mr. Rusnov – OK. Thought I'd ask.

Mr. Evans – Anything else?

Mr. Baldin – I think they covered it.

Mr. Evans – Alright. This is a public hearing. I'll ask if there is anyone here this evening who would like to speak for the granting of this variance. Is there anyone here who would like to speak against the granting of the variance? Hearing none and seeing none, I declare the public hearing closed and will now entertain a motion.

Mr. Rusnov – I make a motion to approve an 8' Side Yard Setback variance from Zoning Code Section 1252.17, which requires a 16' Side Yard Setback from the right-of-way and where an 8' Side Yard Setback from the right-of-way is proposed in order to install a 6' high Wooden Privacy Fence; property located at 10029 Prospect Road, PPN 391-23-008, zoned R1-75; conditioned to the gates opening inward toward the house.

Mr. Smeader – Second.

Mr. Evans – We have a motion and a second, may I have a roll call please?

ROLL CALL:

ALL AYES

MOTION PASSED

4) HANA AND JEREMY HALLEEN, OWNERS, Cont'd

Mr. Evans – The variances have been granted again pending a 20 day waiting period during which time Council may review our decision. You will get a notice from the Building Department when that time has passed.

Ms. Halleen – Thank you.

Mr. Evans – Yes, thank you.

5) PSP DEVELOPMENT LLC, OWNER

Requesting a 361 SF Floor Area variance from Zoning Code Section 1252.22 (c), which permits a 1,000 SF Floor Area and where a 1,361 SF Floor Area is proposed in order to construct two Attached Garages on a New Single Family Dwelling; property located at 12328 Arbor Creek Drive, PPN 398-27-053, zoned R1-100.

Mr. Evans – Next on the agenda is PSP Development LLC. Please come up to the microphone and give us your name and address for the record.

Mr. Moore – Steve Moore, representing 12328 Arbor Creek Drive.

Mr. Evans – You have asked for a variance of 361 SF for a garage. We had asked at the initial presentation whether there was going to be living space above that 2nd garage that is being added on, and I believe at the time you indicated NO, is that still the case?

Mr. Moore – No there will not.

Mr. Evans – Thank you, because we will most likely condition a variance if we were to grant it on there not being living space above that garage. We've run into those problems in the past. What is the reason for doing this in this particular way building such a large garage area?

Mr. Moore – First of all aesthetics, and the other if to just do something different. The other big reason is because the guy collects cars. It's very simple.

Mr. Evans – OK. Alright, are there questions gentlemen?

Mr. Baldin – We have a HOA letter from the Homeowner's Association approving the project.

Mr. Evans – Thank you, Mr. Baldin. This is also a new development where most of the homes have not yet been built so that makes this a little easier. Are there other comments?

Mr. Rusnov – No.

5) PSP DEVELOPMENT LLC, OWNER, Cont'd

Mr. Evans – Alright. This is a public hearing. I'll ask if there is anyone here this evening who would like to speak for the granting of this variance. Is there anyone here who would like to speak against the granting of the variance? Hearing none and seeing none, I declare the public hearing closed and will now entertain a motion.

Mr. Rusnov – I make a motion to approve a 361 SF Floor Area variance from Zoning Code Section 1252.22 (c), which permits a 1,000 SF Floor Area and where a 1,361 SF Floor Area is proposed in order to construct two Attached Garages on a New Single Family Dwelling; property located at 12328 Arbor Creek Drive, PPN 398-27-053, zoned R1-100; conditioned that there be no living area over the detached garage.

Mr. Smeader – Second.

Mr. Evans – We have a motion and a second, may I have a roll call please?

ROLL CALL: ALL AYES MOTION PASSED

Mr. Evans – The variances have been granted again pending a 20 day waiting period during which time Council may review our decision. You will get a notice from the Building Department when that time has passed.

Mr. Moore – Thank you.

Mr. Evans – Yes, thank you.

6) BRIAN JUNGERBERG AND KELLY BECKER, OWNERS

Requesting a variance from Zoning Code Section 1252.16 (e), which requires a Patio maintain the same required side yard setback as the main dwelling and where the applicant is encroaching 6' into the side yard in order to construct a 1,350 SF Patio; property located at 12525 Saddlebrook Lane, PPN 392-02-095, zoned R1-100.

Mr. Evans – Number six on our agenda is Brian Jungeberg and Kelly Becker. Please come up to the microphone and give us your name and address for the record.

Mr. Jungeberg – 12525 Saddlebrook Lane, Strongsville, 44149.

Mr. Evans – Thank you Mr. Jungeberg, you're asking for a side yard variance having to do with the patio that you propose for the back yard. We asked in caucus if you might be able to tell us what the SF of what the area is that sticks out into the side yard. Were you able to get that information? We believe its 6' wide by some distance long.

6) **BRIAN JUNGERG AND KELLY BECKER, OWNERS, Cont'd**

Mr. Jungerg – It's approximately 116 SF.

Mr. Evans – Thank you.

Mr. Jungerg – If you'd like this, I'd be happy to give it to you.

Mr. Evans – You can give it to the Building Department. We just didn't have those dimensions on what you submitted so we wanted to be sure what we were dealing with there. Are there questions from the Board?

Mr. Rusnov – The 116 SF clarifies it, and the topography and shape of the lot are the reasons for the variance.

Mr. Houle – We do have a letter from the HOA also concurring.

Mr. Evans – Thank you.

Mr. Baldin – I think my colleagues covered it all. With the topography, where else can he put it?

Mr. Rusnov – And its 116 SF.

Mr. Evans – Alright, anyone else? This is a public hearing. I'll ask if there is anyone here this evening who would like to speak for the granting of this variance. Is there anyone here who would like to speak against the granting of the variance? Hearing none and seeing none, I declare the public hearing closed and will now entertain a motion.

Mr. Baldin – I make a motion to approve a variance from Zoning Code Section 1252.16 (e), which requires a Patio maintain the same required side yard setback as the main dwelling and where the applicant is encroaching 6' into the side yard in order to construct a 1,350 SF Patio; property located at 12525 Saddlebrook Lane, PPN 392-02-095, zoned R1-100.

Mr. Rusnov – And the total amount of encroachment is 116 SF.

Mr. Baldin – We need that in it?

Mr. Miller – That's not true. It's only a six foot side yard encroachment according to our Zoning Ordinance.

Mr. Rusnov – So we don't need the 116 square feet? OK. Good.

Mr. Baldin – I didn't think so.

6) **BRIAN JUNGERBERG AND KELLY BECKER, OWNERS, Cont'd**

Mr. Evans – Thank you Mr. Baldin. Do we have a second?

Mr. Houlé – Second.

Mr. Evans – Thank you. May we have a roll call please?

ROLL CALL:

ALL AYES

MOTION PASSED

Mr. Evans – The variances have been granted again pending a 20 day waiting period during which time Council may review our decision. You will get a notice from the Building Department when that time has passed.

Mr. Jungeberg – Thank you.

Mr. Evans – Thank you.

7) **DAVID AND DIJANA OUTCALT, OWNERS**

Requesting a 10' Rear Yard Setback variance from Zoning Code Section 1252.04 (f), which requires a 50' Rear Yard Setback and where a 40' Rear Yard Setback is proposed in order to construct a 430 SF Addition; property located at 19789 Kensington Court, PPN 397-28-068, zoned R1-75.

Mr. Evans – Item number seven on our agenda is David and Dijana Outcalt. Please come up to the microphone and give us your name and address for the record.

Ms. Outcalt – Dijana Outcalt, 19789 Kensington Court, Strongsville, Ohio.

Mr. Evans – Thank you, you are asking for a variance for a 10' rear yard setback to construct an addition. You back up to the common area there. We've all been out to take a look at it. This is the only place where you can do the addition based on the layout of the interior of the house. We talked about that when you presented it the first time. Is there anything else you need to tell us?

Ms. Outcalt – No, not in terms of that, I think Kathy brought it up in caucus...

Mr. Evans – The HOA has punted on giving you permission, and what we'll do is conduct the public hearing this evening that would allow you then to have an indication of someone objecting to it. You would perhaps ask it to be tabled so you can go ahead and do the construction drawings that you could then take to the HOA, and hopefully bring back an approval letter from them. Then we'll act on it. We're not obligated to follow the HOA, but it's a strong recommendation in terms

7) **DAVID AND DIJANA OUTCALT, OWNERS, Cont'd**

Mr. Evans continues - of whether or not we give approval to a variance. So normally that would be the procedure to follow in this case.

Ms. Outcalt – OK. My question is that when I started the process, I started with the City making sure that everything was going to be fine for the City, and then in talking with the HOA he said that the two are independent of the other. He said that they approve the structure and the aesthetics of it, but they have nothing to do with the variance. That's what he said.

Mr. Evans – Your Covenants and Restrictions for the Homeowner Association for Deerfield Woods require that they have architectural review which would be the aesthetics and the other pieces of it, whereas the City is involved in the Code situation.

Ms. Outcalt – Correct. I don't know if I did it backwards, but I was trying to do it the easy way. I don't have the plans, but I thought before I went to that expense that everything would be in line. In talking with Kathy, I don't know if the correct procedure would be to table it or to get approval with a condition of the approval of the HOA.

Mr. Kolick – We can't grant a condition like that because then we'd be punting to the HOA to make the decision as to whether or not to grant a variance. So we can't do that. What we typically do is have the Homeowners tell us YES or NO, although we're not bound by that. I think it's the procedure best to follow though. Sometimes we find that neighbors don't want to come in and complain because they live next to someone seeking a variance, but the HOA might take a little more of an objective viewpoint of the situation and represent the neighbors. So we really like to get their input to see what they will say. I think what will probably be best for the Board is to hold the public hearing, and for you to go back to the HOA with plans, and then come back. If we can't get them to make any decision then we will act upon it. We won't hold it up indefinitely. If you do that for the next meeting though, hopefully they can tell us what they think so we can act on it at the next meeting.

Ms. Outcalt – I have to get plans made up and stuff within two weeks and then have them approve it all within two weeks, can I go longer?

Mr. Evans – You can table it until the plans are ready.

Mr. Kolick – You can go longer if you want.

Ms. Outcalt – So when I have everything I'll submit it to Kathy, and we'll go from there. That's fine.

Mr. Evans – Right, yes.

7) **DAVID AND DIJANA OUTCALT, OWNERS, Cont'd**

Ms. Outcalt – I guess that's the most efficient way to do it.

Mr. Evans – OK. So before you say anything else, let's go to the public hearing. Then you can ask to have it tabled. This is a public hearing. I'll ask if there is anyone here this evening who would like to speak for the granting of this variance. Is there anyone here who would like to speak against the granting of the variance? Hearing none and seeing none, I will now consider the public hearing closed.

Mr. Baldin – Excuse me, do you have a contractor that knows what you're going to put up? Does he have any ideas of his plans or pictures of what he's putting up for you?

Ms. Outcalt – I have a contractor, and we have not done the plans. We're working with the designer and with him. I spoke with him today to ask about getting it started on the plans. I feel comfortable enough to go to that expense. So no, I have nothing yet, and we've talked in concept and sketches, but nothing to please the HOA. I've submitted pictures of what I'm thinking of doing to them, but he said he wants to know the materials used, and the landscaping, etc.

Mr. Baldin – I was just concerned because normally you'd have a picture or something from your contractor of what they're putting up.

Ms. Outcalt – That's true, I guess. I have a sketch, but it's not good enough for the HOA.

Mr. Baldin – Thank you.

Mr. Miller – I think you should be able to talk to your contractor just to give you elevations and not full-blown construction drawings. That might save a step.

Ms. Outcalt – Is that good enough for the HOA? I don't know.

Mr. Miller – I can't believe an architectural review board is going to look at the structural integrity of your structure.

Mr. Evans – Elevations are usually a pictorial of what the outside is going to look like. The HOA will not care about the construction drawing. They will just want the elevations.

Mr. Miller – That would be part of your submission to the Department anyway so you can start the process.

Ms. Outcalt – That's what I thought, that's why today I was a little confused. I thought we were doing it in tandem and he said no. I assume I can get that fairly quickly.

Mr. Miller – Usually with the elevations they depict all the landscaping and all the materials they are using. That should be sufficient for the ARB.

7) **DAVID AND DIJANA OUTCALT, OWNERS, Cont'd**

Ms. Outcalt – I'm speaking in laymen's terms so I used drawings and elevations sort of, but yes, I'll get that. We can ask you for any guidance in the process?

Mr. Miller – Sure.

Ms. Outcalt – So I can request now to table the vote for my request until I have the drawings and the HOA approval?

Mr. Evans – Yes.

Ms. Outcalt – That would be great, thank you.

Mr. Evans – OK. Once you have that, you can notify Kathy and give her those materials. Then we'll move forward at whatever point that is, if it's two weeks that's fine, but if it takes longer than that, just let Kathy know.

Ms. Outcalt – Do I need to notify anyone if I'm not going to be at the next meeting?

Mr. Kolick – Keep in touch with Kathy so we know one way or another.

Ms. Outcalt – In terms of the process, once I submit everything then it'll go to the next upcoming meeting. Then the process starts with the City, so I'll be a little delayed.

Mr. Evans – Correct, but we've done the public hearing so that's out of the way, so all we have to do is act on the matter.

Ms. Outcalt – OK. Perfect.

Mr. Evans – OK. Thank you.

OTHER BUSINESS

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC**

Appeal from the decision of the Building Commissioner, pursuant to Codified Ordinance Sections 1414.07 and 1248.01 (b) denying a building permit for a proposed six (6) foot fence closing off a sidewalk connection; property located at 13451 Pearl Road, PPN 396-10-003, zoned General Business.

Mr. Evans – OK, next on the agenda is Cameron-Allie Development Group, LLC. This is an appeal from the decision of the Building Commissioner. So the first step in our process here is going to be that I will ask our Building Commissioner, then our Law Director, address the Board

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Evans continues - with the information regarding the denial of the Building Permit. Mr. Biondillo, or Mr. Jamison, which one of you would like to go first? Mr. Jamison, as Law Director for the City, you're welcome to present to the Board.

Mr. Jamison – Thank you, the anticipation was that I was going to ask Mr. Biondillo a series of questions and introduce various exhibits for the Board to consider in this appeal process. Let me just get organized for a minute, and then we'll get started if you don't mind.

Mr. Evans – Thank you. For the Secretary, before us we also have appearing Mr. Anthony Biondillo. As we organize our materials we'll be underway momentarily.

Mr. Jamison – Here are five sets for you, should I pass them out?

Mr. Evans – Kathy can do that.

Mr. Jamison – For the record, I'm Neal Jamison, I'm the Law Director for the City of Strongsville, thank you. I would basically like to start with the testimony of Mr. Biondillo, our Building Commissioner. Then I'll introduce some exhibits. After that, I think Mr. Hunt and his client will have an opportunity to present what they have for the Board this evening as well. With that, Mr. Biondillo, your name please.

Mr. Biondillo – Anthony Biondillo.

Mr. Jamison – What is your position with the City of Strongsville?

Mr. Biondillo – The Building Commissioner.

Mr. Jamison – How long have you held that position?

Mr. Biondillo – For approximately 18 years with the City.

Mr. Jamison – Did you work in the capacity of the Building Inspector or Commissioner for any other cities?

Mr. Biondillo – Yes I did.

Mr. Jamison – Where was that at?

Mr. Biondillo – The City of Medina.

Mr. Jamison – How long were you with the City of Medina?

Mr. Biondillo – It was about 12 years. I have a total of 30 years' experience as a Building Commissioner.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Jamison – What type of training have you received relative to being a Building Commissioner for the Cities of Medina and Strongsville?

Mr. Biondillo – Construction experience, I started off as a union Carpenter in Youngstown, Ohio, I attended apprenticeship training through their union apprenticeship program. I got involved with Mahoning County as the Building Inspector, and then over the last 30 years I've received Certifications from the State of Ohio for the various positions that I've held.

Mr. Jamison – OK. Now Asking a general question, when a person or business applies for a building permit to construct a fence, can you describe the process you go through to review that application?

Mr. Biondillo – We review the application to determine whether it's a residential or commercial property. If it's a residential property, we typically have a topographical survey with the property boundaries that we would look at the proposed location of the fence. If it's a commercial property, and we have an approved site plan and Planning Commission approval we review all those documents to ensure that the proposed fence is in conformity with the Planning Commission approval and any variances that may have been granted.

Mr. Jamison – OK. My next question is, does that include making sure that the application is in compliance with the site plan that was approved by the Planning Commission and signed by the City Engineer for the property in question?

Mr. Biondillo – Yes it does.

Mr. Jamison – OK. Does your review of any application for a Building Permit include making sure the application is in compliance with all pertinent Ordinances, State Statues, and State Administrative Regulations?

Mr. Biondillo – Yes is does.

Mr. Jamison – OK. Let's focus your attention to 2015, you were Building Commissioner for the City of Strongsville at that time, is that correct?

Mr. Biondillo – That's correct.

Mr. Jamison – Now in 2015, did two commercial projects come forward to the City of Strongsville to construct new buildings and develop sites in the area of Pearl Road and Westwood Drive?

Mr. Biondillo – Yes.

Mr. Jamison – Do you remember those projects?

Mr. Biondillo – Westwood Commons I, II, and III, and Architectural Justice.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Jamison – In your capacity as the Building Commissioner, were you and members of the Strongsville Building Department involved in the process to review and approve the plans for both projects?

Mr. Biondillo – Yes

Mr. Jamison – OK. Does that include taking part in the plans that were reviewed by the Architectural Review Board?

Mr. Biondillo – Yes it did.

Mr. Jamison – Did that include taking part in the variances that were requested before the Board of Zoning Appeals?

Mr. Biondillo – Yes.

Mr. Jamison – Did that include taking part in the approval of the site plans by the Planning Commission?

Mr. Biondillo – Yes.

Mr. Jamison – OK. Now in reviewing the application made before this Board today for the fence permit by Cameron-Allie, and your preparation for this hearing, have you reviewed the documents submitted and the site plans that were approved during the review and approval process for the Westwood Commons I and the Architectural Justice projects?

Mr. Biondillo – Yes.

Mr. Jamison – Did you also review the minutes of the various meetings of the Architectural Review Board, the Board of Zoning Appeals and the Planning Commission as they related to those projects?

Mr. Biondillo – Yes I did.

Mr. Jamison – At some point during the review and approval process for the Westwood Commons I project, was it proposed that the Westwood Commons I project be connected with the Architectural Justice project by means of a pedestrian sidewalk?

Mr. Biondillo – Yes it was.

Mr. Jamison – When did that come up to the best of your memory?

Mr. Biondillo – It came up throughout the initial design and discussion phase, there was a connection originally coming between the two properties between Square 22 and Architectural Justice, but due to the elevation changes was not practical to make that connection at that point

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Biondillo continues - because we couldn't comply with the ADAG Requirements for accessibility and meet the maximum grade requirements. So that connection was brought behind the back of the Square 22 or east of Square 22 up to and abutting the Architectural Justice property.

Mr. Jamison – What were some of the reasons or considerations for putting that connection between the two properties?

Mr. Hunt – Objection.

Mr. Kolick – He can go ahead.

Mr. Evans – Mr. Hunt, we'll give you an opportunity to speak after we're done with the testimony here.

Mr. Hunt – I have a right to object.

Mr. Evans – Thank you, Mr. Hunt, so noted.

Mr. Biondillo – I reviewed the discussions during the Board of Zoning and Appeals meetings and hearing, there were in depth discussions about that connection, actually the connection that I alluded to earlier, how it started between the two properties and the retaining wall, and given that the fact that Square 22 was going to be putting a patio on their southern property. It was going to be recessed and it made it impractical to try and make that connection at that point. Discussions were had about the synergy that this would create between all of those parcels and the communication of those clients, and visiting each of those, and the ability to be able to move amongst all of them and share that access.

Mr. Jamison – Were health and safety considerations?

Mr. Biondillo – Yes, I read discussions that were brought up in the minutes of the Board of Zoning and Appeals that conclude that it would reduce the requirement for people to have to go back out onto Pearl Road or Westwood Drive to commute with those multiple tenant buildings.

Mr. Jamison – OK. Showing you what we marked at City's Exhibit A, do you recognize this exhibit?

Mr. Hunt – Objection.

Mr. Biondillo – I do.

Mr. Jamison – What is it?

Mr. Biondillo – That is the caucus and the minutes from the August 26th, 2015 Board of Zoning Code and Appeals meeting.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Jamison – Does this exhibit show or contain anywhere the issue of connecting the two projects be at Westwood Commons I and Architectural Justice about connecting those two projects?

Mr. Biondillo – Yes it does. Throughout the meeting and various times in those minutes.

Mr. Jamison – Alright. Pointing your attention to page 21 of those minutes, in fact was there a discussion at some point between members of the Board, particularly Mr. Evans, and Mr. Greg Modic representing Westwood Commons about connecting the projects with a sidewalk?

Mr. Biondillo – Yes there was.

Mr. Jamison – In fact, after those discussions were had, and it was impressed upon Mr. Modic about connecting it, was a motion made to grant the variances requested by the Westwood Commons I project?

Mr. Biondillo – There was a motion made for the approval of the Westwood I project, subject to the reports of the Engineering Department, the City Planner, and subject to the pedestrian walkway between the two projects.

Mr. Jamison – OK. So now showing you what we have marked as City's Exhibit B, do you recognize this?

Mr. Biondillo – Yes I do.

Mr. Jamison – What is it?

Mr. Biondillo – That is the revision decision letter that comes out after the BZA meeting summarizing and outlining to the applicant what the decision of the Board was for that meeting.

Mr. Jamison – Typically this is the letter that is issued by your department after the variances would have been granted by the BZA, correct?

Mr. Biondillo – That's correct.

Mr. Jamison – In fact, in this letter dated August 31st, it basically sets forth that the variances requested by Cameron-Allie were granted for the Westwood I project, correct?

Mr. Biondillo – That's correct.

Mr. Jamison – Again in referring to Exhibit B, it notes that one of the conditions in granting the variance was that Cameron-Allie had to work with the corner parcel on a pedestrian walkway between the parcels, is that correct?

Mr. Biondillo – That's correct.

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Jamison – Showing you what we've marked as Exhibit C, do you recognize this?

Mr. Hunt – Objection.

Mr. Biondillo – Yes I do.

Mr. Jamison – What is it?

Mr. Biondillo – That is a blow up of what a revision was that was submitted by the Engineering firm to Planning Secretary.

Mr. Jamison – Was this submitted by a representative for Cameron-Allie in September of 2015 to the City of Strongsville?

Mr. Biondillo – I'm sorry, that was taken in by the Assistant Clerk of Council as a modified drawing.

Mr. Jamison – That's who made the copy Tony.

Mr. Biondillo – That's who made the copy? OK. It was a modified plan that came in.

Mr. Jamison – It came in after the BZA on August 26th, 2015 granted the variances, correct?

Mr. Biondillo – That's correct.

Mr. Jamison – And it came in before the September 24th, 2015 Planning Commission meeting, is that correct?

Mr. Biondillo – Yes that's correct.

Mr. Jamison – What if anything does this exhibit show that was on this plan as it relates to this project?

Mr. Biondillo – To extend the sidewalk to the property line for the adjacent tenant connection.

Mr. Jamison – That's showing in the upper third of the drawing, is that correct?

Mr. Biondillo – Correct.

Mr. Jamison – OK. Showing what is marked as City's Exhibit D, do you recognize this?

Mr. Biondillo – Yes.

Mr. Jamison – What is it?

Mr. Biondillo – It's the Site Development Plan for Westwood Commons I and II.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Jamison – Again, were these modified plans submitted by Cameron-Allie after the BZA hearing on August 26th, 2015 and before the September 24th, 2015 Planning Commission meeting?

Mr. Biondillo – Actually this one does not have a date so I don't know when it came in.

Mr. Jamison – OK. Again, does this drawing now show the sidewalk coming in?

Mr. Biondillo – My assumption was that the dates got cut off by the copier, but I believe this came in after the Board of Zoning and the Planning Commission as a revised set of drawings because it does make the notation to extend the sidewalk to the property line for the adjacent property connection.

Mr. Jamison – Handing what is Exhibit E, do you recognize this?

Mr. Biondillo – Yes. These are the minutes to the Architectural Review Board meeting of September 22nd.

Mr. Jamison – You were in attendance at that meeting, correct?

Mr. Biondillo – Yes I was.

Mr. Jamison – On page three is there a discussion between you and Mr. Tim Dean representing Cameron-Allie for the project in question?

Mr. Biondillo – Yes there is.

Mr. Jamison – OK. Is that discussion about connecting the two projects with a sidewalk?

Mr. Biondillo – Yes.

Mr. Jamison – OK. Thank you. I'm now handing you what is marked City's Exhibit F, do you recognize that?

Mr. Hunt – Objection.

Mr. Biondillo – Yes I do. These are the minutes from the caucus and meeting of the Planning Commission on September 24, 2015.

Mr. Jamison – OK. Is this the actual meeting in which the Planning Commission approved the site plan for the Westwood Commons I project?

Mr. Biondillo – Yes.

Mr. Jamison – OK. Pointing your attention to page 6, is there a report given at that point by Ms. Lori Daly from the Strongsville Engineering Department?

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Biondillo – Yes.

Mr. Jamison – What did she declare in that report as it relates to the variances that were granted by the BZA as it relates to the installation of a sidewalk for the connection between the two projects? Is there a discussion about that in there?

Mr. Biondillo – Yes there is.

Mr. Jamison – What was her statement about that?

Mr. Biondillo – It starts from the City Planner, and goes into the report from Lori Daly for the Engineer. From Engineering, “The plans are in approvable form, subject to a storm water pollution prevention binder being submitted and review of the revised plans. We have been in contact with the applicant’s Engineer, and they are working on those revisions now.”

Mr. Jamison – OK. Is there also a report given by the Law Department in those minutes also on page 6?

Mr. Biondillo – Yes there is.

Mr. Jamison – Those are from Mr. Kolick, correct?

Mr. Biondillo – That is correct.

Mr. Jamison – Is the report by Mr. Kolick in terms of again the applicant in that case Cameron-Allie meeting certain conditions imposed by the BZA about connecting the two properties?

Mr. Biondillo – Yes there were two conditions.

Mr. Jamison – In fact, on page 8, was there a motion made by Ms. Mary Jane Walker of the Planning Commission to approve the site plan for the Westwood Commons I project subject to the Engineering and Law Department reports?

Mr. Biondillo – Yes.

Mr. Jamison – OK. Was it your understanding then in making that motion, and it being approved by the Board that the reports of the Engineering and Law Departments which basically provided for the connection of the two properties is something that the applicant would have to revise their plans to show that sidewalk and the connection being made?

Mr. Hunt – Object.

Mr. Evans – So noted Mr. Hunt.

Mr. Biondillo – Yes.

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Jamison – OK. Alright moving on to Exhibit G, do you recognize this?

Mr. Hunt – Objection.

Mr. Biondillo – Yes. It's the Strongsville Planning Commission meeting of October 22nd, 2015.

Mr. Jamison – OK. In fact, this is the meeting where the Planning Commission where Architectural Justice's site plan was approved by the Planning Commission, is that correct?

Mr. Biondillo – Yes.

Mr. Jamison – Is it your understanding that in their plans submitted to the Planning Commission on October 22nd, 2015, they provided in their plans installing the appropriate sidewalk to make the connection via a pedestrian walkway with the Westwood Commons Project?

Mr. Biondillo – Yes.

Mr. Hunt – Objection.

Mr. Evans – So noted, Mr. Hunt.

Mr. Jamison – Showing you what we've marked collectively as Exhibit H. For the members of the Board, we had those reduced just because we didn't want to kill a tree over this. I think they are originally in an 11" by 17" form. Mr. Biondillo, looking at this exhibit, do you recognize this?

Mr. Biondillo – Yes I do. It's the approved site plan for Westwood Commons I, II, and III.

Mr. Jamison – How do you know it's the approved plan? Is this the final site plan for that project?

Mr. Biondillo – Yes, this has the City Engineer's approval stamp, and it's dated.

Mr. Jamison – Can you point to where that is on here? Thank you. Just for the record you're referring to 1 of 17 on the top part of that page, correct?

Mr. Biondillo – Yes.

Mr. Jamison – OK. Let's go to where the Engineer signed it. What is the significance of that?

Mr. Biondillo – That means they have met all of the design criteria laid out by the City Engineer as far as storm water management, curbing, setback requirements, and any conditions that may have been placed on it for Planning Commission approval as well as the Board of Zoning and Building Code Appeals.

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Jamison – OK. It's my understanding that when these are actually finally submitted and signed by the Engineer, he's making sure that all the various conditions and requirements that might have been imposed by the BZA and Planning Commission are incorporated into the final plans that are used by your department in going forward by the project.

Mr. Biondillo – That's correct.

Mr. Jamison – OK. This is the plan you would use in any application coming in to review a building permit for whatever might be done in this project particularly in this case, a fence.

Mr. Biondillo – That's correct.

Mr. Jamison – OK. Does Exhibit H before you contain any provision for installing a sidewalk to connect the Architectural Justice and the Westwood Commons project?

Mr. Biondillo – Yes it does.

Mr. Jamison – Where does it show it on here?

Mr. Biondillo – In the middle right hand side of the plan, its right at the property boundary between Architectural Justice and Westwood Commons I on page 1 of 17 of Exhibit H.

Mr. Jamison – In fact, there's some language in the middle that says extend sidewalk to property line for adjacent tenant connection, is that correct?

Mr. Biondillo – Yes.

Mr. Jamison – OK. We'll keep this out because we might need it later. I'm showing you what is marked as City's Exhibit I. Do you recognize this?

Mr. Biondillo – Yes. It's the approved site plan for Architectural Justice.

Mr. Jamison – OK. Again, how do you know it's the final site plan?

Mr. Biondillo – It's has the City Engineer's signature and approval date.

Mr. Jamison – And that is found on page C1 in the lower right hand corner of the first page?

Mr. Biondillo – That's correct.

Mr. Jamison – On page two of this, do these final site plans show the provision for installing a sidewalk for a connection between the two projects?

Mr. Biondillo – Yes.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Jamison – OK. You are pointing to page 2 in the upper section, is that correct?

Mr. Biondillo – Yes.

Mr. Jamison – Alright. At some point after the site plans for each project were approved by the Planning Commission and signed by the City Engineer, were these projects actually constructed?

Mr. Biondillo – Yes they were.

Mr. Jamison – As constructed, did the Westwood Commons I project contain a sidewalk connecting it with the Architectural Justice project?

Mr. Biondillo – Yes it did.

Mr. Jamison – Was this consistent and in conformity with the site plans approved by the Planning Commission and signed by the City Engineer?

Mr. Biondillo – Yes it was.

Mr. Jamison – As constructed, did the Architectural Justice project contain a sidewalk connecting it with the Westwood I project?

Mr. Biondillo – Yes it did.

Mr. Jamison – Was that consistent and in conformity with the approved site plan by the Planning Commission and signed by the City Engineer?

Mr. Biondillo – Yes it was.

Mr. Jamison – OK. Now I'm turning your attention to the actual permit in this case, I'll hand you what we've marked as City's Exhibit J. Do you recognize this?

Mr. Biondillo – Yes. It's the application from Colabianchi Construction to install a fence on the Westwood Commons property dated March 7th, 2018.

Mr. Jamison – When this application for a building permit came in in March of 2018, isn't it true that the fence had already been installed on the property in question?

Mr. Biondillo – That's correct.

Mr. Jamison – OK. In fact, it's contained in the pictures in that application, is that correct?

Mr. Biondillo – It is.

Mr. Jamison – To the best of your knowledge, when was that fence installed?

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Biondillo – Sometime prior to November of 2017.

Mr. Jamison – So last fall?

Mr. Biondillo – Correct.

Mr. Jamison – Was the building permit ever issued for that fence?

Mr. Biondillo – No.

Mr. Jamison – In your experience as Building Commissioner, is an individual or business allowed to construct a fence on their property without first obtaining a building permit?

Mr. Biondillo – No.

Mr. Jamison – When you became aware that this fence had been installed without a building permit, did you issue a violation notice to the owner of Westwood Commons?

Mr. Biondillo – Yes I did.

Mr. Jamison – Showing you what we marked as City's Exhibit K, do you recognize this?

Mr. Biondillo – Yes I do. It's the notice of violation that was sent to Mr. Catanzarite and Cameron-Allie Group.

Mr. Jamison – OK. What is the date on that letter?

Mr. Biondillo – November 11, 2017.

Mr. Jamison – Alright, what is contained in that letter? What were you telling them?

Mr. Biondillo – That the fence was put up contrary to the approval of the Planning Commission and the conditions agreed upon by the Board of Zoning Code of Appeals. They did not obtain a permit, and it was in violation of those.

Mr. Jamison – After this letter was sent, did you discover that there was an issue as to whether this was actually received by Mr. Catanzarite?

Mr. Biondillo – Yes I did.

Mr. Jamison – What was that issue?

Mr. Biondillo – It had been sent to the wrong P.O. Box because it was off by one digit.

Mr. Jamison – Was that letter ever returned to you by the US Postal Service?

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Biondillo – Not to my knowledge.

Mr. Jamison – OK. Part of your process in reviewing applications for a building permit is to review the site plans that were approved by the Planning Commission and signed by the City Engineer, isn't that correct?

Mr. Biondillo – Yes.

Mr. Jamison – Did you do that in this case?

Mr. Biondillo – Yes I did.

Mr. Jamison – What did you find when you went through the review of the site plans as it relates to the application made by Cameron-Allie in Exhibit J?

Mr. Biondillo – That the proposed fence would block that access.

Mr. Jamison – So Exhibit H, which we had looked at earlier, where it provided for that connection, that fence would make that now not in compliance with the site plan, is that correct?

Mr. Biondillo – Correct.

Mr. Jamison – OK. You testified earlier that a part of your process in reviewing applications for a building permit is to determine that it's in compliance with any pertinent statute, City Ordinance, or administrative regulation, is that correct?

Mr. Biondillo – That's correct.

Mr. Jamison – Did you do that in this case?

Mr. Biondillo – Yes I did.

Mr. Jamison – Based on your years of experience as a Building Commissioner, your training, and your review of the application in this case for a building permit to construct the fence in question, what was your decision regarding granting this application?

Mr. Biondillo – We could not grant it.

Mr. Jamison – OK. Showing you what we've marked as City's Exhibit L now, do you recognize this?

Mr. Hunt – Objection.

Mr. Biondillo – Yes I do. It's the letter of denial that was sent to the applicant, Mr. Frank Colabianchi for the permit application for the fence.

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Jamison – Mr. Colabianchi was the one who was the agent that had applied on behalf of Cameron-Allie for this project, is that correct?

Mr. Biondillo – That is correct.

Mr. Jamison – Does Exhibit L reflect your decision to deny Cameron-Allie the permit to construct the fence in question?

Mr. Biondillo – Yes it does.

Mr. Jamison – OK. Let's go through that letter. It basically cites certain reasons in support of your decision in this case. The first is that it doesn't conform to the final site plans that were approved by the Planning Commission and signed by the City Engineer.

Mr. Hunt – Objection.

Mr. Evans – So noted, Mr. Hunt.

Mr. Jamison – Please explain your rationale as it relates to that.

Mr. Biondillo – It states that it does not conform with the conditions imposed by the BZA from its meeting of August 26th, 2015 and it does not conform with the site plan approved by the Planning Commission on September 24th, 2015.

Mr. Jamison – Specifically again, would that be because it doesn't conform as the final site plan as reflected in Exhibit A?

Mr. Biondillo – Correct.

Mr. Jamison – OK. The second thing you just alluded to for denying it was that it doesn't conform to the conditions imposed by the BZA from its meeting on August 26th, 2015 when it granted certain variances to Cameron-Allie, correct?

Mr. Biondillo – Yes.

Mr. Jamison – The question might arise in this case by Mr. Hunt when he gets the chance, was it a condition of the BZA to work with the neighbor to meet the conditions imposed by the Board?

Mr. Biondillo – Did they meet that with respect to the construction of Westwood Commons I?

Mr. Jamison – Initially, yes, and did they?

Mr. Biondillo – Initially, yes.

Mr. Jamison – How about when they put the fence up?

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Biondillo – No they did not.

Mr. Jamison – What is the basis for you disagreeing with that?

Mr. Biondillo – It did not comply with the variances that were granted on behalf of Cameron-Allie for Westwood Commons I, it did not comply with the Planning Commission's approval, it did not comply with the notice of violation that I sent to them, and further more they did not receive a Certificate of Appropriateness due to that parcel being located in within our Town Center District. A fence was already installed.

Mr. Jamison – Another part of your denying it was because of the Violation Order you had issued on November 11, 2017 to them for not obtaining a Building Permit and then being in violation of the City Ordinances. That would be another reason to deny the permit at this time as well, correct?

Mr. Biondillo – Yes. Correct.

Mr. Jamison – Last thing I want to show you is Exhibit M. Could you tell the Board what that is?

Mr. Biondillo – That is Chapter 1212 from the Strongsville Codified Ordinances titled Town Center District.

Mr. Jamison – OK, and what is the purpose of that Chapter 1212 under our local Code?

Mr. Biondillo – To renew and try and retain that Town Center District, place certain architectural requirements upon that District for architectural features, elevations, fences, etc.

Mr. Jamison – It's another layer as it relates to certain areas in the center of Strongsville that an applicant or a builder would have to follow in order to either construct some sort of structure or in this case even a fence, is that correct?

Mr. Biondillo – That's correct.

Mr. Jamison – Now, in Exhibit J, does it reflect in there the permanent parcel numbers for the property in question?

Mr. Biondillo – Yes it does.

Mr. Jamison – What is that number on the application?

Mr. Biondillo – PPN 396-10-003, PPN 396-10-006

Mr. Jamison – OK, and that's from the applicants own application. Did your research in this matter confirm that those were the appropriate PPN?

Mr. Biondillo – Yes we did.

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Jamison – OK. Pointing your attention to Section 1212.02, does that Section define the parcel numbers that are included in the Town Center District?

Mr. Biondillo – Yes it does.

Mr. Jamison – Is it fair to say that PPN 396-10-003 and PPN 396-10-006 are in the Town Center District pursuant to Section 02?

Mr. Biondillo – Yes it is.

Mr. Jamison – OK. Pointing your attention to Section 7 of Chapter 1212. What does that section state as it relates to the construction of a fence in the Town Center District?

Mr. Biondillo – That section is titled the Certificate of Appropriateness, and it states that no person shall construct, alter, or demolish any exterior architectural feature in the Town Center District and no sign, light, fence, wall, or other pertinent feature shall be constructed without first obtaining a Certificate of Appropriateness.

Mr. Jamison – OK. In this case, did Cameron-Allie ever apply for an application for a Certificate of Appropriateness with the City of Strongsville?

Mr. Biondillo – Originally with the development, yes, but not for the fence.

Mr. Jamison – Not for the fence, correct?

Mr. Biondillo – Correct.

Mr. Jamison – In that, Section 7 specifically states that no fence shall be constructed without first getting a Building Permit from the Planning Commission, isn't that correct?

Mr. Biondillo – That is correct. Certificate of Appropriateness.

Mr. Jamison – Right. Certificate of Appropriateness. Nothing further Mr. Chairman for this witness.

Mr. Kolick – He should be subject to cross-examination by the property owner.

Mr. Evans – Mr. Hunt if you could come forward and give us your name and address for the record please.

Mr. Hunt – Todd Hunt, Attorney at Walter, Haverfield, LLP in Cleveland. I represent Cameron-Allie Development Group, LLC.

Mr. Evans – Thank you. We note your objection to Exhibit A, Exhibit C, Exhibit F, Exhibit G, and an objection to Exhibit L.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Hunt – I'll show you what your attorney has as Exhibit C. There is no specific date on this particular Exhibit, is there?

Mr. Biondillo – Not on this particular one, no.

Mr. Hunt – OK. That Exhibit D came in after, which has no date on it also, after the Planning Commission meeting and also after the Board of Zoning Appeals meeting with respect to Westwood I project on direct examination, is that correct?

Mr. Evans – Mr. Hunt, I believe the statement that was made was that the date was cut-off. I'm not aware of any Architectural drawings that would ever be furnished like this without a date. It's cut off from the copier.

Mr. Hunt – Mr. Biondillo did say, I believe on direct, is this correct?

Mr. Biondillo – That is correct.

Mr. Hunt – It came in after.

Mr. Biondillo – Can I expand on that?

Mr. Hunt – No, I didn't ask you that. Look at Exhibit G, which I believe is the minutes of Architectural Justice's Planning Commission meeting. The minutes don't say anything about requiring a connection with my client's property. Is that correct?

Mr. Evans – Mr. Hunt if I could speed up the process a little bit, under the caucus of those minutes, it says, "they have also incorporated steps to connect the walkway in the NE corner of the site." It is mentioned in there.

Mr. Hunt – But in the motion it does not require a connection, is that correct? No, so it's not required. The motion approving the site plans.

Mr. Biondillo – I'm reviewing that.

Mr. Evans – Mr. Hunt I'll offer the situation here that the site plan had that on it, so if they approved the site plan, and we already established it was a part of the final site plan therefore it would not have had to have been a part of the motion.

Mr. Hunt – It was part of the site plan.

Mr. Evans – The site plan that we have there that has the Engineering stamp has the sidewalk on it sir, we've established that.

Mr. Hunt –to that is the Engineering stamp and also the Planning Commission signed site plan.

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Evans – Then let me cut to the chase, when Mr. Modic represented Cameron-Allie at this Board, he agreed and we approved a motion based on that sidewalk being there. Are you saying that it wasn't the case? That he wasn't authorized to represent that?

Mr. Hunt – What I'm saying is that the condition that was placed by this Board to work with the neighbor, and that is not a mandatory condition.

Mr. Evans – It is a mandatory condition sir.

Mr. Hunt – Working with them, but not actually having to establish this.

Mr. Evans – No Sir, the discussions that took place during that meeting indicated that it was a requirement.

Mr. Hunt – The minutes speak for themselves.

Mr. Evans – Yes, the minutes do speak for themselves. That was a part of the minutes, sir.

Mr. Hunt – The part of those minutes says that is that it is not a mandatory condition.

Mr. Kolick – Let him go. He can make the argument.

Mr. Evans – The advice of council is that I let you go, but I firmly disagree with that statement for the record.

Mr. Hunt – You can testify against it if you wish, but I'll object to it.

Mr. Jamison – Objection.

Mr. Evans – Mr. Jamison, maybe you could step toward the microphone.

Mr. Hunt – Unfortunately I marked my Exhibits with letters so Client's Exhibit N is a signed...

Mr. Jamison – Can I see it?

Mr. Hunt – ...I only have one copy because I didn't think....

Mr. Kolick – Mr. Hunt, why don't you just label it 1 so we don't get it mixed up with the others. We can write over it a number 1. Let's do numbers so it doesn't get confused with which are from the City and which are from the property owner's exhibits.

Mr. Hunt – OK, I'll make this Exhibit 14. This is as it represents an approved site plan from the Strongsville Planning Commission, is that correct? It has the stamp of Charlene Barth, chairman on it. It says Strongsville Planning Commission approved 10/22.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Biondillo – It is not approved by Engineering....

Mr. Hunt – It is approved by the Planning Commission.

Mr. Kolick – If you would let him finish his answer please, Mr. Hunt, and then you can ask him a follow-up question. Go on Mr. Biondillo.

Mr. Biondillo – That is not the City Engineer's stamped site plan, which is the approval of the Chairman of the Planning Commission.

Mr. Hunt – So that is the site plan that was approved by the Planning Commission. Is that correct?

Mr. Biondillo – I didn't review the minutes of the Planning Commission in depth enough on Architectural Justice to know if there were any conditions that were placed upon that approval, so I can't answer that.

Mr. Hunt – Let's look at Exhibit H, submitted by the City. You stated in your direct examination that the City Engineer's checklist checks off that the conditions were met for Zoning Appeals or Planning Commission? Was it Planning Commission that you testified to on direct?

Mr. Biondillo – For the Planning Commission, yes.

Mr. Hunt – All of those checkmarks we can read through them. It says, putting elevation, verification, sanitary laterals, storm laterals, manholes, and basins, upgrade inspection of parking lots, driveways, and sidewalk areas, detention and/or detention basins, paving of parking lots, driveways, sidewalk areas, final grade inspection, property pins. It doesn't say anything about conditions of the Planning Commission or the Board of Zoning Appeals, does it?

Mr. Biondillo – No, not in that stanza, it does not.

Mr. Hunt – The basis that you stated in your letter to my client's representative in denying the Building Permit was that it does not comply with the Board of Zoning and Appeals decision of August 26th, 2015. Is that correct?

Mr. Biondillo – That is correct.

Mr. Hunt – ...and the Planning Commission's approval of the site plan, is that correct?

Mr. Biondillo – Yes.

Mr. Hunt – I don't have anything else at this time.

Mr. Evans – So Mr. Hunt that takes into account all of your objections for Exhibits A, C, F, G and L?

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Kolick – See if Mr. Jamison has anything with this witness. Let's get this witness finished.

Mr. Jamison – Thank you. There was a question by Mr. Hunt as it relates to Exhibit H, and he was going through the checklist, do you remember that question?

Mr. Biondillo – Yes.

Mr. Jamison – OK. Referring you back to Exhibit F, which were the minutes from the September 24th, 2015 Planning Commission meeting, and I'm pointing out to you the testimony of Ms. Daly where, and I'll read it just to speed this up. It basically says that at the end of the day proposed development plan for this parcel did require six variances. All those variances were approved by the Board of Zoning Appeals subject to appropriate cross-parking and access easements, proper screening, relocation of the dumpster, and a provision of a pedestrian walkway. Is that in those minutes?

Mr. Biondillo – What page are you on?

Mr. Jamison – Page 6 and 7.

Mr. Biondillo – Yes I do see that.

Mr. Jamison – At the end, Ms. Daly basically says that they're approval is subject to the applicant submitting the revised plans subject to what has gone on through the process.

Mr. Biondillo – That is correct.

Mr. Jamison – As your experience as a Building Commissioner for over 30 years, when you're going through the BZA or Planning Commission process its always that the documents that are being submitted happens in a fluid situation, isn't that a fair statement?

Mr. Biondillo – Yes it is.

Mr. Jamison – So when it comes before either the BZA or the Planning Commission and they impose certain conditions or whatever they may impose, those plans may not even be in front of that Board or Commission at that time, is that correct?

Mr. Biondillo – That is correct.

Mr. Jamison – What Ms. Daly is referencing is that when the final plans are done, they contain all the various conditions that were imposed by the various Boards and Commissions throughout the process.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Biondillo – That is correct, and then and only then can the Engineer sign off on the plans.

Mr. Jamison – So the fact that it doesn't have a little box that says BZA or Planning Commission, that doesn't matter in this case, correct?

Mr. Biondillo – That is correct.

Mr. Jamison – Nothing further, Mr. Chairman. We move to admit Exhibits A-N, I have certified copies by our Clerk of Council for being true and authenticated copies of all the documents in the possession of the City of Strongsville, so we move to admit all those at this time.

Mr. Kolick – Wait until the testimony is done, and then we can act on those.

Mr. Evans – Thank you.

Mr. Jamison – I just figured at this point I'd do that, so...

Mr. Kolick – Right.

Mr. Hunt – Objection.

Mr. Kolick – OK. Is there anything else with this witness, Mr. Hunt? OK. The City rests. Property owner?

Mr. Evans – Mr. Hunt...

Mr. Hunt – We already have provided Exhibits to everyone and they are lettered. So they're going to have to be numbered, I suppose.

Mr. Evans – Alright, we'll deal with it.

Mr. Hunt – I assumed I would go first since I was the Appellant, but I apologize for Mr. Jamison and me for using the same designations.

Mr. Evans – We'll take it under advisement.

Mr. Hunt – I've introduced myself and Ms. Trivisano also here tonight as client representative for Michael Catanzarite. He is the manager of the sole member of the LLC which is Cameron-Allie Development Group LLC. He is the authorized representative of my client. Our appeal is limited to what we received from the Building Commissioner with respect to the rejection of our building permit, and that was based on two things. One was the BZA's decision which is clearly set forth

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Hunt continues - in your minutes and in the decision letter that is sent out which is a formal notice to the client about what the decision was. Also in the Planning Commission's approved site plan which we will present to you this evening. Those are the two things that are at issue here and not whether we didn't apply for a permit, which we've now done, or whether we do or do not comply with the Certificate of Appropriateness requirement which we would certainly do moving forward for this particular fence. We're going to show you this evening that the Board's final decision on these variances that were granted back in 2015 for our client's property for development of Westwood I contain conditions. One of which was, as I pointed out to you, in those minutes it says working with the corner parcel, the Architectural Justice parcel, on a pedestrian walkway between the two projects. I will point out to you language that even Mr. Kolick advised at that meetings at the condition of the Board should say working with them which we understood to mean that it was not mandatory, but voluntary to try and work with the neighbor to do this. If it doesn't work, it doesn't work. Also the approved site plan by the Planning Commission which we will present, by the Planning Commission, does not have a pedestrian connection on it. That was approved by signature of the Planning Commission on September 24th. It's been extremely burdensome to our client to have this connection, and that's why the fence was put in after much discussion with the neighbor about the issues that were being raised and that's the use of our client's parking lot by the Architectural Justice customers as well as for deliveries to Architectural Justice. So, I'm going to start into the evidence and many of the Exhibits we have for evidence tonight were put into evidence by the City.

Mr. Evans – Which you objected to.

Mr. Hunt – Not all of them. Exhibit A, or I guess Exhibit 1, is the letter which sets out the reasons for the denial. It clearly says that the conditions imposed by the Board of Zoning and Building Code Appeals at its meeting of August 26th, 2015, nor the site plan approved by the Planning Commission at its meeting on September 24th, 2015. Go to Exhibit B, which is the revised decision letter of August 31, 2015 that was sent to our client. If you look at the next to the last line of the first paragraph, that decision has a condition in it working with the corner parcel on a pedestrian walkway between the parcels. These are all City records that we obtained from the City.

Mr. Kolick – So I don't keep interrupting you, we'll change each one of those, that will be Exhibit 2, and we'll just do that as you go. Refer to it as how you have it, and we'll change them to numbers, just for the record. Thank you.

Mr. Hunt – We go to Exhibit C, and there are really only things in Exhibit C that are important for the Board to look at and that is the minutes of August 26th, 2015. On page 28 of that Exhibit, Exhibit 3 now, Mr. Kolick said that when you're putting your motion together and putting conditions on, Mr. Kolick says, "and working with the corner parcel to connect with pedestrian traffic." Those would be on item number one of Westwood Commons' conditions of granting variances. That's all I want to do is say "working with them." You can't design this or locate it.

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Hunt continues - Of course the decision or motion that is made on page 29, which is amended and inserted by Mr. Houlé, says, “we do want to add a couple of things here as conditions to the variances,” and then they talk about the things that are not applicable for this particular proceeding this evening, and then it says, “also working with the corner parcel on a pedestrian walkway between the projects.” So, it’s our position of course that it is not a mandatory condition, it’s a voluntary condition of working with, and they attempted to work with them.

Mr. Evans – Let me interrupt, if that was your sole condition of denial then why would the plans that were submitted, I believe that Bohning and Associates submitted were the drawings that were submitted on behalf of your client that show the sidewalk connection.

Mr. Hunt – We’ll get to that, and there’s an explanation for that. We tried to work with them.

Mr. Evans – I’m just trying to cut off this from being a nightmare extended session here.

Mr. Hunt – I’m sorry about that, but my client’s property rights are being effected.

Mr. Kolick – You can continue, Mr. Hunt.

Mr. Hunt – We go to Exhibit D, which is now 4, and if you’ll turn to page 8, these are the Strongsville Planning Commission minutes of the September 24th, 2015 meeting. It simply says there that it was Walker that made the motion, “I move to give favorable consideration for site plan approval of a 10,887 SF multi-tenant building to be located at the address of 13451 Pearl Road and the PPN, it’s zoned (GB), subject to Engineering and the Law Department reports as given here this evening. As we heard the Law Department report was that this Board placed a condition of working with the neighbor for the connection. Then we go to Exhibit E, or 5, this is a City document. If you’ll look at this Exhibit E or 5, you can see that there is no sidewalk connection to the south end of my client’s property to the Architectural Justice parcel. In fact there’s a whole row of shrubbery shown there, and no connection. Then if you’ll look at the signature blocks on that document it says first Strongsville Town Center Commission Certificate of Appropriateness approved with a September 24, 2015 date, it’s also approved by the Strongsville Planning Commission on September 24th, 2015 and signed by the Chair of the Planning Commission. So our position is that it is the formal site plan that was approved by the Planning Commission and they signed off on that as the final and approved site plan. Now, we’ve also submitted Exhibit F, which you’ve seen. It’s now Exhibit 6. As you’ll see on the bottom right hand corner it says October 2015, so this was after September 24th, and my client will testify as to this particular document. You’ve already seen from the other side which I believe was City’s Exhibit H. Now if you’ll turn to Exhibit G which would be Exhibit 7, this is the minutes of your meeting of June 10, 2015. These are variances being requested by the neighbor. If you’ll look at page 12 of that document, it’s highlighted that Mr. Justice at that time said to the Board, “we also tried to make the café more for breakfast and lunch instead of the evening because we think that

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Hunt continues - the adjoining properties are going to be more evening based. That way we'll have our heavier times in the morning." If you turn to the next page, 13, Mr. Justice says, "we're not sure on that, but from my experience from our Medina location, there's usually not more than three or four cars there as customers. All the cars you see in the parking lot are employees for the most part. Other cars are there for maybe an hour at a time, and that's 20000 SF here. The café we're not familiar with so we don't know what to expect. So there it's limiting the cars to about 3-4 customers at any particular time." Then Mr. Kolick appropriately on the next page, 14, asked about that in terms of employees and maybe according to Mr. Justice there will be 5 spaces for employees needed, also the owner, and his wife, and possibly three others working at the café. So we've got 7 or 8 parking spaces that were represented by Mr. Justice as being needed, and then of course, whatever the café customers were. Then Mr. Baldin said, "Your café hours you're saying breakfast, lunch, maybe early evening. You don't really know that for sure yet." Mr. Justice replied, "Yes possibly." Then if you look at page 15, which is quite telling that there is not enough parking at the Architectural Justice site. We felt like when events were going on, people would park in all different areas, and not just our area. Looking then at the next Exhibit, which is Exhibit 8, if you'll look at initially page 4, this is during the caucus, it's noted that the Board itself said that they mentioned that no changes have been made since the last meeting, but the Board members discussed the smaller parking spaces being proposed as well as an insufficient amount of parking and problems that it will cause. It was further stated in that actual meeting on page 34, by Mr. Evans that there was a problem with the smaller spaces, and in the last paragraph at the bottom of it on page 9 it clearly says that you were reiterating what Mr. Justice has represented to you under oath, that the café would only be open for breakfast and lunch. Then if you'll look at Exhibit I which is now 9, you'll see your vote where there was a 17 space parking variance granted from the required 32 spaces leaving only 15 spaces for this particular use. That is represented to be a retail store with only 3-4 customers at most at any one time, and up to five employees at any one time, with a café that was going to be opening the morning and at lunchtime. At this point, I'd like to call Mr. Catanzarite and you are under oath, is that correct?

Mr. Catanzarite – Yes.

Mr. Hunt – Also, I'd like to say with respect to Exhibit 9 that there were really no conditions that were placed upon that variance for any kind of pedestrian connection between Architectural Justice project and Westwood I. Certainly I think if that were a mandatory condition, it would also be placed on the other property owner. Sir, would you state your full name for the record.

Mr. Catanzarite – Michael Catanzarite, 13330 Webster Road.

Mr. Hunt – What is your position with Cameron-Allie Development Group, LLC?

Mr. Catanzarite – I'm sole managing member.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Hunt – I would like to show you Exhibit 2, have you seen this before sir?

Mr. Catanzarite – Yes.

Mr. Hunt – What is your interpretation or your understanding of the language at the end of the first paragraph that's been highlighted?

Mr. Catanzarite – It was to work with the adjacent property owner to make it work.

Mr. Hunt – What does that mean to you.

Mr. Catanzarite – It means I make it work, and if by chance it doesn't work, then I have to take actions to protect my property and my tenants.

Mr. Hunt – Do you consider that condition as mandatory or voluntary?

Mr. Catanzarite – Voluntary.

Mr. Hunt – I'd like to show you Exhibit 5. Are you familiar with this?

Mr. Catanzarite – I am.

Mr. Hunt – Is this you're understanding of what the Planning Commission approved on September 24, 2015 for your site plan?

Mr. Catanzarite – Yes.

Mr. Hunt – Does it show a connection in here with the Architectural Justice property?

Mr. Catanzarite – No.

Mr. Hunt – So what was your understanding with respect to your obligation to provide that pedestrian connection going forward at that point?

Mr. Catanzarite – My understanding was to work with the adjacent property owner to see if we could make this situation work for both of us.

Mr. Hunt – If you look at Exhibit 6, please describe for the Board how this came about as established in October which was the following month from when the site plan was approved by the Planning Commission how this particular drawing came about.

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Catanzarite – We talked about working with the adjacent property owner, and we identified the only spot on the property where a sidewalk or connection could possibly work.

Mr. Hunt – Why did you do this?

Mr. Catanzarite – Because the mayor asked me to.

Mr. Hunt – Ever believe this was required?

Mr. Catanzarite – No.

Mr. Hunt – It is trying to show that you were working with the neighbor.

Mr. Catanzarite – Correct.

Mr. Hunt – Had you read the BZA minutes of their decision back in August from which you got?

Mr. Catanzarite – Yes.

Mr. Hunt – And their motion?

Mr. Catanzarite – Yes.

Mr. Hunt – It said, “Working with.” Is that correct?

Mr. Catanzarite – Correct.

Mr. Hunt – So it was your same understanding that it was voluntary or mandatory?

Mr. Catanzarite – Voluntary.

Mr. Hunt – After you tried to work with Mr. Justice, and the pedestrian walkway was put in, what happened?

Mr. Catanzarite – We had multiple parking problems.

Mr. Hunt – Describe those please.

Mr. Catanzarite – The site is set up with 17 parking spots.

Mr. Hunt – 15, I think, is what it said.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Catanzarite – OK. 15. When I agreed to work with them, it was what Todd just got to about the Exhibits that they would be open in the morning and afternoon, and then closed in the evening. What it turned into was that they have culinary classes at night, and that has nothing to do with the front of the building. There's 20 people in each class. Where are those people going to park? I'll tell you where they're going to park, they'll park in my lot. He's got no way to deliver anything, and we'll show you pictures. We've had lunchtime traffic where 40' semi-trucks come in and park in the middle of our parking lot in front of the restaurant, and then they take their deliveries up the steps. So when Mr. Jamison talks about safety, that's ridiculous. This is a safety hazard. That's where I'm at.

Mr. Hunt – How often do these issues take place? These parking spaces being taken, deliveries being made, how often does that happen?

Mr. Catanzarite – Constantly.

Mr. Hunt – Every day?

Mr. Catanzarite – Every day.

Mr. Hunt – How many tenants do you have?

Mr. Catanzarite – Nine.

Mr. Hunt – How would you characterize those tenants?

Mr. Catanzarite – They're good tenants, that pay prime dollars to be on the Square, and they need their parking.

Mr. Hunt – I assume that you have some parking requirements in your leases.

Mr. Catanzarite – Yes we do.

Mr. Hunt – If you'll turn to Exhibit J, which is now Exhibit 10. Would you identify this exhibit? I believe there's six photographs here.

Mr. Catanzarite – Yes.

Mr. Hunt – Just flip through those and identify each for the Board.

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Catanzarite – OK. These are taken from our manager, so we'd have examples for you. Number 1 is a truck for Joshen and Paper Goods stopping in the middle of the parking lot, which if you know the lot that blocks the entire lot. Number 2 is a different time with Joshen delivery there.

Mr. Hunt – That's in your parking lot?

Mr. Catanzarite – All of these are in our lot.

Mr. Hunt – Are they crossing parking spaces?

Mr. Catanzarite – Probably 20 parking spaces. It's creating a hazard.

Mr. Hunt – Where are these deliveries going?

Mr. Catanzarite – These deliveries are all going to Justice. There's no other...

Mr. Kolick – Mr. Hunt, if I may, we'll allow you a little leeway, but understand that as I stated in caucus in the beginning it's not up to this Board to determine whether the connection is good, bad, or indifferent. It's not up to this Board to make that determination. This Board is only here to determine if the decision of the Building Commissioner was correct. So we're not here to determine anything other than whether or not it was in fact made in the City's records. It's not about whether or not the situation is correct or incorrect. We'll give you a little leeway, but I don't want to spend a lot of time on the matter. It's not an issue before the Board to make that determination.

Mr. Hunt – I do think it's relevant to this proceeding. Highly relevant because we're taking the position that it's not a mandatory condition, I think Mr. Catanzarite should have the opportunity to say why it didn't work, and why he put the fence up because it didn't work.

Mr. Kolick – Again, the why it is or isn't working isn't an issue before the Board. Just get through it.

Mr. Hunt – OK, just let us finish. Alright we'll get through it.

Mr. Catanzarite – We don't want to take your time up.

Mr. Hunt – Let's look at Number 3.

Mr. Catanzarite – OK. This is another truck delivering to Justice. The next photo is a van parked in the middle of our driveway delivery to Justice.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Hunt – That's Number 5?

Mr. Catanzarite – Correct, the next photo is a delivery guy going through our parking lot, and then up the steps to deliver to Justice.

Mr. Hunt – Do they have to go across your sidewalk to get to Square 22?

Mr. Catanzarite – Yes.

Mr. Hunt – To get to those steps?

Mr. Catanzarite – Correct. The final photo is another delivery guy coming up the steps.

Mr. Hunt – How long have you been a developer?

Mr. Catanzarite – 40 years.

Mr. Hunt – You've developed lots of commercial properties like this one?

Mr. Catanzarite – Yes, over a million square feet.

Mr. Hunt – How many years have you been in Strongsville developing?

Mr. Catanzarite – Since 1966.

Mr. Hunt – Are the steps compliant with law.

Mr. Catanzarite – No.

Mr. Hunt – Why not?

Mr. Catanzarite – Because they're not.

Mr. Hunt – Why aren't they? Are they compliant with for example City Code? Or Federal ADA requirements?

Mr. Kolick – Mr. Hunt, I think you're going beyond what this witness can answer to unless he's going to indicate that he holds a license and a Certification as a Building Commissioner. He can't testify as being Code compliant. You can have him testify as to whether he likes them or not likes them, but you can't have him testify as to whether or not they're Code compliant.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Hunt – The Americans with Disability Act. You're familiar with that aren't you?

Mr. Catanzarite – Yes Sir.

Mr. Hunt – You have to make your stairs in your development comply with the American's with Disability Act, correct?

Mr. Catanzarite – Correct.

Mr. Hunt – Do these stairs comply with them?

Mr. Catanzarite – No.

Mr. Hunt – And why don't they?

Mr. Evans – Mr. Hunt, he is not qualified to say whether or not they do. He can express an opinion, but he is not qualified to render as to it professionally.

Mr. Hunt – I will proffer that into the record that he has already said that they don't comply based upon his experience. Did you ever ask Mr. Justice to remove those steps?

Mr. Catanzarite – Yes.

Mr. Hunt – When you asked them to remove that did you talk to the City about it?

Mr. Catanzarite – Yes.

Mr. Hunt – Who did you speak to?

Mr. Catanzarite – Tony.

Mr. Hunt – Tony who?

Mr. Catanzarite – Biondillo.

Mr. Hunt – And what did you ask Tony about the removing the steps?

Mr. Catanzarite – Would it matter? We'd be out of compliance without the steps.

Mr. Hunt – And what did he say?

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Catanzarite – He said no.

Mr. Hunt – I'd like to show you Exhibit 11-a. Would you explain to the Board what this is?

Mr. Catanzarite – That's the fence blocking the steps.

Mr. Hunt – That's right behind the bench is that correct?

Mr. Catanzarite – Correct.

Mr. Hunt – This is Exhibit K, a letter sent by the City. Is that your name in the address block at the top?

Mr. Catanzarite – Correct.

Mr. Hunt – That's dated November 11, 2017?

Mr. Catanzarite – Yes.

Mr. Hunt – Did you ever receive this letter?

Mr. Catanzarite – No.

Mr. Hunt – When did you first see this letter?

Mr. Catanzarite – I don't remember. You gave it to me, I think.

Mr. Hunt – It was sent to me by the City, was it not?

Mr. Catanzarite – Yes.

Mr. Hunt – About a month ago, you'd say?

Mr. Catanzarite – Correct.

Mr. Hunt – This is not your address, is that correct?

Mr. Catanzarite – Correct.

Mr. Hunt – The P.O. Box is incorrect?

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Catanzarite – Correct.

Mr. Hunt – You never received this Exhibit K?

Mr. Catanzarite – No.

Mr. Hunt – OK. Let's go to Exhibit L, which is 12, I believe. Can you tell the Board what this is?

Mr. Catanzarite – This whole exhibit is an example of the Justice website that gives the hours. It gives the culinary classes. I know Dan said it's not important to him, but basically it gives more information about what we're talking about here with the parking shortage that they have there.

Mr. Hunt – What was the date of that website?

Mr. Catanzarite – It was from today.

Mr. Hunt – What are the hours that are listed?

Mr. Catanzarite – Tuesday and Wednesday 9:00 – 5:00. Thursday, Friday and Saturday 9:00 – 9:00. Sunday 9:00 – 5:00.

Mr. Hunt – If you'll look at Exhibit 13, could you identify this?

Mr. Catanzarite – It's an example of the culinary classes.

Mr. Hunt – Those culinary classes go as late as what?

Mr. Catanzarite – I can't be sure, but about 10:00.

Mr. Hunt – If you look underneath the yellow it says 10:00 pm. Many of these or all of them highlighted are evening classes, correct?

Mr. Catanzarite – Yes.

Mr. Hunt – Are you familiar with how many persons attend these classes?

Mr. Catanzarite – I would assume if there's 20, then 20 would participate.

Mr. Hunt – You saw 20 somewhere right?

Mr. Catanzarite – Yes, I saw it on the website.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Hunt – OK. Some of these in Exhibit 13 are sold out already, is that correct?

Mr. Catanzarite – Yes, that's correct.

Mr. Hunt – From what you know in respect to this approval of this project, and the approval of Architectural Justice and discussions with City Officials with respect to that pedestrian connection to the parcel to the south of your property of the Cameron-Allie property at the corner of Pearl and Westwood is a mandatory agreement?

Mr. Catanzarite – Voluntary.

Mr. Hunt – Would you like to say anything else to the Board tonight?

Mr. Catanzarite – Yes, I apologize for keeping you late this evening. We've been here since 1966, I've never come to an appeal before and I've never brought an attorney. Now common sense if you drive there would tell you that this is a pure and simple property grab on my property. You can't have 15 parking spots, and I know it's not relevant Dan, but you can't have 15 parking spots and have 40 people come to play. Then you give me the answer that they'll find a place to park. I don't mind being the over-flow parking for the rib burn-off, or the yoga on Saturdays or the carnival, but it's not my job as a property owner to support them when my customers and tenants are paying money. It's just not right. So my contention is that was that the Mayor asked me to do it, and these pictures were sent to Tony, to the Mayor and asked how we're going to get help. I sent them to Dan, and everyone's answer was that the City's job isn't to regulate parking. The last thing I'll say is that if the City created it the problem, then you have to fix it. So we don't want to be stubborn, but there's no way that we can't continue this fight. No matter what your vote is. It is what it is. It's not right, and we've been taken advantage of. That's what I have to say about it.

Mr. Hunt – We reserve the opportunity to ask questions later, if there's questions from the Board, and also respond to comments.

Mr. Kolick – Mr. Jamison may have some questions.

Mr. Evans – Mr. Hunt, Mr. Jamison.

Mr. Jamison – How are you doing? Showing you Exhibit A, this is the packet that your attorney gave me. Do you recognize that?

Mr. Catanzarite – Yes.

Mr. Jamison – You talked about that earlier, correct?

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Catanzarite – Is that what the City approved with no connection?

Mr. Jamison – Well you tell me again what this shows.

Mr. Catanzarite – This is the approved plan by the City.

Mr. Jamison – Is it fair to say that this is a landscaping plan for your project for Westwood Commons I?

Mr. Catanzarite – No, it's a site plan.

Mr. Jamison – Well, its showing trees and bushes.

Mr. Catanzarite – If you ever developed you'd know that's not a landscape plan.

Mr. Jamison – Is this the only page you have for this?

Mr. Catanzarite – No I have a lot of them. Do you want me to get you one?

Mr. Jamison – You're the one that introduced this tonight.

Mr. Catanzarite – You asked me if it was a landscape plan. I told you no.

Mr. Jamison – Well that's what it says in here that it's a site planting plan.

Mr. Catanzarite – I don't know.

Mr. Jamison – So Exhibit H which is what we marked earlier.

Mr. Catanzarite – Yes.

Mr. Jamison – The plan is a signed plan you submitted that the City Engineer signed.

Mr. Catanzarite – OK.

Mr. Jamison – You've got the first page of Exhibit F, correct?

Mr. Catanzarite – Yes.

Mr. Jamison – OK. Those are 17 pages to show the details for the buildings, the drainage, and the utilities, correct? These are the final plans that are used.

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Catanzarite – I don't know what you're holding.

Mr. Jamison – I'm sorry, this is Exhibit H, which we introduced earlier.

Mr. Catanzarite – I'd have to study them so I could see if they are the actual ones. I don't know.

Mr. Jamison – Let's take a quick look. Isn't this a copy of this?

Mr. Catanzarite – I don't know, I'd have to study it. We could come back tomorrow after I'm done looking at it. But I can't say that.

Mr. Jamison – Fair enough, let's look at Exhibit H though, is Travis Coyne your Engineer for the project?

Mr. Catanzarite – He sure is.

Mr. Jamison – He signed this didn't he on December 10th, 2015, didn't he?

Mr. Catanzarite – It shows that.

Mr. Jamison – That's his signature on there, right?

Mr. Catanzarite – I don't know if he signed it. I wasn't sitting there with him.

Mr. Jamison – Well, does it have a Travis Coyne signature on it?

Mr. Catanzarite – Yes it does.

Mr. Jamison – As it relates to the fence being put up as it is reflected in your Exhibit K, that's the fence you put in correct?

Mr. Catanzarite – Yes.

Mr. Jamison – When did you put that in?

Mr. Catanzarite – I don't remember the exact date.

Mr. Jamison – Was it in the fall of 2017?

Mr. Catanzarite – Probably.

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Jamison – Did you get a building permit from the Building Department before putting that up.

Mr. Catanzarite – I hired a Contractor, and I would have thought he would so I guess the answer is no if we're standing here now about it.

Mr. Jamison – Did you ever file for what is called the Certificate of Appropriateness with the Planning Commission since this property is located in the Town Center District?

Mr. Hunt – I object.

Mr. Catanzarite – Yes, come on. Neal, the Town Center is a joke.

Mr. Kolick – We'll note it, but he can answer. Go on.

Mr. Jamison – That's not the question, Mr. Catanzarite.

Mr. Catanzarite – I don't have an answer for you.

Mr. Jamison – Thank you.

Mr. Evans – Thank you.

Mr. Catanzarite – The last thing, just for the record, when Neal insinuated that the P.O. Box was off one number that we maybe got it anyway that's a lie. The first person I called was Tony. So that's all I have to say.

Mr. Kolick – While you're on that subject, you did get that notice though at some point through your attorney you testified to?

Mr. Catanzarite – Yes.

Mr. Kolick – OK. And you have never appealed that notice, have you?

Mr. Catanzarite – I'm here to appeal the notice.

Mr. Jamison – You appealed the denial of the building permit, you never appealed the violation notice, have you? I think it's clear that he hasn't.

Mr. Hunt – We got this later. From the time that it was sent to me, I believe by you Dan do you want to count the dates?

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Kolick – Again so you are saying that there is an appeal from that notice? Have you filed an appeal to that notice or has Mike or someone done that?

Mr. Hunt – I filed for a building permit...

Mr. Kolick – OK. So there's been no appeal filed from that Notice of Violation ever, correct?

Mr. Hunt – We didn't get the Notice of Violation until later.

Mr. Kolick – He just testified that he got it a month ago. So you had at least a month to appeal it.

Mr. Hunt – To appeal, that's what we're appealing now.

Mr. Kolick – OK. Fine.

Mr. Evans – No, you're appealing the decision of the Building Commissioner, not the violation.

Mr. Kolick – Alright, let's go. We've heard enough.

Mr. Hunt – They never got the violation notice.

Mr. Evans – But you did receive it from Mr. Kolick is what you just said.

Mr. Hunt – I received it long after that date.

Mr. Evans – Long after, but you received it as their attorney.

Mr. Hunt - ...and it was at the time we applied for the building permit.

Mr. Evans – OK.

Mr. Catanzarite – Yes.

Mr. Evans – Right, but there was no action taken when you received it.

Mr. Hunt – We did reply by being responsible and applying for the building permit.

Mr. Evans – OK.

Mr. Kolick – Let's see what he'll do. Do you have any other witnesses here?

8) CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd

Mr. Hunt – No, I do not, and I move to admit all my Exhibits to the Board for the record.

Mr. Kolick – Before we do that, again, we'll see if there is anyone else who wants to testify.

Mr. Evans – We'll hold your exhibits here in the book. So then I believe we need to see if there is anyone else who wishes to speak on this issue. Please come up to the microphone and give us your name and address for the record.

Mr. Kolick – Come on up.

Mr. Justice – James Justice, 4404 Kingsbury Road, Medina, Ohio.

Mr. Evans – Mr. Justice what are your comments this evening?

Mr. Justice – I guess I'd like to say just to start that I had no idea that this is what this was going to be. I guess I'm just speaking from the heart because I don't have the legal assistance. One thing I do know is that we started this process a couple of years before Mr. Catanzarite bought the property. We have 17 spots, we had a huge parking detriment, which we talked to the City about and they seemed to think that the spots along the Commons, and the spots under the water tower would make up the difference. We didn't know exactly hours-wise what we were doing there, and it's dynamic. It's still moving and changing. We were open at 7:00 am, but we weren't getting any coffee or breakfast business. Our brunch business is doing very well. The cooking school is also doing very well. Getting back to the building, our parking was a huge detriment, but it felt like the other spots I mentioned would make up for that. When Mr. Catanzarite came into the picture and bought the property, as one of his developers, I would have told him that there's a building in front of you that has detrimental parking. You'll have a problem with it. People will park in your lot, and I hate that this is happening. I hate that the patrons are parking in his lot. We've put signs out, and we've tried different things. We were there first, and our parking was approved first. We know that we really had no idea what the parking situation would actually be like. So for someone to put a large parking lot around the back of our building, I don't know what else they could have expected. The patrons would park there. Really quick though, and I'll try and make this as quickly as possible. I just want to thank everyone for the amount of time that they've put into preparation for this. We bought the building I think back in 2013, and we had the design completed and approved. Then Mr. Catanzarite purchased the property adjoining our lot. We were very excited. He had expressed many times how he wanted to help us, and as you can see on page one that's what the building originally looked like. We had some initial approval done on that. That's what we were moving forward with. We were offered to join his project, and we even offered to work with their architect. In fact, we actually hired their architect to try and become a more cohesive project. As you can see in page two and three the layouts that we were given by Herschman Architects, which shows just awesome thing. We couldn't believe what was happening. We thought it was just great. We were tied together with big development now, and

8) **CAMERON-ALLIE DEVELOPMENT GROUP, LLC, Cont'd**

Mr. Justice continues - you can see the walkthrough on those plans tying the two building together with the common space. Then Darlene and I met with our group and we decided to spend the extra money which probably cost me another 10K to totally redesign the building. Then we moved our front patio to the rear to match the space that they had showed us that they were going to do. We felt like it was a worthwhile move. We wanted to be cohesive with their project, so we moved it to the back. When Darlene and I purchased the property, we liked it being on the corner, and when we thought of this neighboring building going two stories and how prevalent it would be going north and south, we didn't like that idea so much. That said, we felt that joining this grouping of buildings and having these common areas, made it worth not opposing his variance to move his building all the way to the street which completely blocks our building. That is instead of leaving it back where the setbacks should have left it. It's not like we weren't making concessions for these connections and the pedestrian walkways that we thought we were going to get. So if you can imagine, if Square 22 was moved back to where it was supposed to be, how prevalent our building would be sitting on that corner. It would be awesome. We felt that the connection and the pedestrian movement between the sites were worth giving up that visibility. So upon finding out last minute that we were blocked from the property completely, with no connection at all, and this was toward the very end of the project. That's the reason, I think for some of the plans being approved and then later the additional sidewalk put in. We came in with a strong opposition that we wanted their building moved back, and we didn't agree with that variance. Had we known all this, we had not agreed with the parking variances that were given to Mr. Catanzarite. We would have not agreed with parking variances that were given to Mitchells either because now if we're blocked from everything including the new massive signs that are put on the sidewalk, which I don't know if you've seen. It's in one of the pages there. We've had patrons come in that are afraid to park on the Commons because they think that's Westwood Commons properties, they don't know. They come in asking if they're going to be towed, and I say you can't park behind us. I tell them that they can park on the Commons, and they think that's part of Westwood Commons. Nobody knows that. Plus also anyone who parks who wants to go to Mitchell's, when they open, that's going to destroy the Commons parking. When Mitchell's opens and someone has an ice cream cone and they want to come over and come to us, more people would see that sign and be afraid to come over to us. If I knew that sign was going to be there, do you think I would have not been at that meeting screaming that you cannot allow parking variances for Mitchell's or Square 22? If I had known that I was going to be reduced to that small space, I was approved by the City to have the Commons, the water tower, and our parking. If I had known that there was only 15 spots, I would have known that this project cannot work. I called the City and asked for advice here, and everyone here said that I have 22 spots in the Commons, you have this there you have that there, and the City should look at that and say that we've already approved these spots for this guy and we know he's going to use them. How can we approve for 15 other people to park in the same spots? That doesn't make sense. If the signs and the fence are allowed to stay there, then it's a death sentence to our business. It really is. That's not originally what the City promised me. When we talked about variances, and this is new to me because I've never done anything like this, and with the parking variances, we always saw those 22 spots and the

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Mr. Justice continues - water tower spots as ours. Now there's a sign that says Police Parking under the water tower. Now it doesn't say Police Parking Only, but it might as well. Everyone including our employees are afraid to park there now. The patrons feel like they're going to get ticketed there. So now the water tower parking is gone too. Mitchell's is going to take the Commons, so we're done. Our business is done, and that's not right. We were the first ones in the development of all this. You guys knew what detriment the parking was, so where did you think we were going to park? It says we had a detriment of 17 spots which is probably pretty accurate. Where are they going to go?

Mr. Evans – Mr. Justice, I'll interrupt you for a little bit to answer some of your concerns. This Board erred in giving you the variances to the degree that we did because of what you presented to us. You said that you were going to have a breakfast and lunch business. You didn't mention two classes in the evening. You didn't mention having a wild successful restaurant in the evening. We erred because we never should have given you the kind of variances that we did. That is not necessarily, and that's only my opinion, to do with the fence considerations. At this point though if your delivery trucks are blocking another parking lot, then this is another problem that this Board created.

Mr. Kolick – If I may, for Mr. Justice, did you withdraw your objections based on the fact that this pedestrian walkway was being installed between the two parcels? Is that the reason you didn't object to the variances ultimately sought for by Cameron-Allie?

Mr. Justice – Sorry?

Mr. Kolick – Did you withdraw your objections to the variances sought by Cameron-Allie moving up their property based on the fact that there was going to be this pedestrian walkway?

Mr. Justice – Yes.

Mr. Kolick – OK. Did you construct your building and lot based on the fact that this walkway was going to be constructed?

Mr. Justice – I changed our project, definitely. It would have been much better off having our patio on the front corner where it's visible. We gave up a lot of concessions for that connection.

Mr. Kolick – So the back patio was located where it is now based on the fact that the pedestrian walkway was going to give those people access to that back patio?

Mr. Justice – Yes. If you look at the one print, it shows people walking through, and it shows the

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Mr. Kolick – Thank you. That's all I have. Does the City have any questions for the property owner? Do the attorneys have any questions? Mr. Justice?

Mr. Justice – I had just a couple more things. We have made all our employees sign that they will be terminated if they're caught parking back there. All our vendors know that we will not use them again if they make a delivery from that rear lot, and all the pictures you see are from before the problems happened. Every time a delivery person, and we can get statements from them, would get approval from Dan next door that if they were already delivering to Square 22 they could go ahead and deliver to us too. So if they got approval it was OK, if not they couldn't park there.

Mr. Kolick – Hold on a minute. Do you have common vendors that serve Square 22, and your business as well? When you say Dan you're referring to Dan Stroemple, the General Manager of Square 22. So if they can't serve that way, do those trucks have to go back out onto Westwood or Pearl in order to get to your place?

Mr. Justice – Pearl or pull in our parking lot, yes.

Mr. Kolick – Thank you.

Mr. Justice – One last thing. The wall got put up and I've twice gotten screamed at by customers saying that we built the wall because Square 22 told them that we put the wall up. Then numerous other times we're hearing complaints on our cards about why we'd put that wall up. Two customers actually screamed at me. Supposedly they went back over to Square 22 to talk to the person that told them that we put the wall up.

Mr. Kolick – Alright. Again, we've allowed you a little leeway, but we're not getting into whether or not the wall should or shouldn't be there. The same issue that I raised with the property owner I raise with you too. It's only whether or not the Building Commissioner did or didn't properly issue the permit. That's the only issue before the Board so please try and keep it limited to those issues.

Mr. Justice – OK. The last thing is just all the great things that we brought to this building, if you see all the different things that we put into our design. The paperwork there shows you the different awards and the different things, Cleveland Magazine named us Best Brunch Place, etc. We're getting all these people from northeastern Ohio so I think we bring a lot to the whole area there. I think that if these signs are allowed to stay, and the fence is allowed to stay, there will be a fire sale on the building. There just will. It can't make it otherwise. It just can't.

Mr. Kolick – Thank you. Are we getting anything else from Mr. Jamison or Mr. Hunt? OK.

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Mr. Evans – Thank you Mr. Justice. Does anyone else in the audience wish to speak? Mr. Hunt and Mr. Jamison, please summarize where they're at now then. Mr. Jamison you could go first with your summation.

Mr. Jamison – I move to admit Exhibits A through N. These are the originals or certified copies. I know there's objections to those.

Mr. Kolick – I think we could rule on that now and accept them as City documents because they are stamped with City Certifications so I think Mr. Chairman with your approval we can accept those.

Mr. Evans – Is there anyone on the Board that objects to accepting these as evidence. No? OK, accepted.

Mr. Jamison – Thanks Mr. Chairman, just to sum up in this late hour, as it was related earlier this is really about Mr. Biondillo rejecting the application for the building permit submitted by Cameron-Allie in March of 2018. He rejected that on March 9th, 2018. That's why we're here tonight. I know we've gone through some other issues, but at the end of the day the issue before this Board is whether he had reason to support the denial of that building permit for that fence. We would assert that there were four reasons. One is that the fence does not conform to the final site plans that were approved by the Planning Commission and signed by the City Engineer. I'd also point out that in Exhibit H that's also signed by Cameron-Allie's Engineer in December of 2015. The reason that's important is that if you look at Exhibit 5 that was submitted by the Appellant in this case, Cameron-Allie, they purport that what is signed by Charlene Barth back in the day who was Chairman of the Planning Commission that it is the site plan. With closer examination you can see that it's actually a landscaping plan. It's one page out of a whole number of different things that were presented, and it clearly cannot represent the entire breadth and scope of that project. It's a very complicated and substantial project in terms of constructing that building. So we assert that what is reflected in Exhibit 5 submitted by the Appellant is not the site plan. The site plan as the Building Commissioner testified is what is reflected in City's Exhibit H which were signed by the City Engineer, signed by Cameron-Allie's own Engineer in December of 2015. Those are what he, the Building Commissioner, has to rely on when he gets an application like you said for a fence. In this case, he determined that the placement of that fence did not conform to what is contained in that site plan because it blocks that walkway for the connectivity between the properties. The second part is the BZA's conditions imposed back on August 26, 2015. The Appellant would argue that those were voluntary conditions, and he didn't have to follow those because it didn't work out for him. I think the actions after that don't demonstrate that. His own representatives from the time the variance was granted up to the time that the Planning Commission approved it were submitting modifications to that plan to support the variance that was granted with the condition that work and put that sidewalk in. When the Building Department and the Law Department at the September 24th, 2015 Planning Commission meeting,

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Mr. Jamison continues - they referenced that those plans were changed to reflect that the sidewalk was going to take place. The important language is by Ms. Daly in her report that says that this Planning Commission approval is subject to all the revisions being made to the final plans. Those are what is reflected in Exhibit H. If you remember, when Mr. Biondillo was finished with Mr. Hunt, I asked about how we're going through this process with you and with Planning and the documents that are being presented are fluid. They are changing because of changes being requested either by you or by Planning, and the Engineers or Architects have to catch up to whatever has changed before it goes into the final site plan. They assert that the condition of putting the connection between the projects was voluntary, but I don't think that's supported by the evidence that is reflected in the minutes of the various Commission meetings, or by the actions of the applicant afterwards, particularly when in September 24, 2015 at the Planning Commission, they make it subject about it being done. Cameron-Allie had representatives there at that meeting, and if they felt like that was not what they wanted, they could have objected, but they never objected. In fact, the most telling thing is that they put it in. If they felt like it was voluntary then at that point, why did they even put it in? That was the most telling part about it. The third part, as Mr. Biondillo related, is that this was put up without a permit so there's a violation order, and apparently there's a question of when it was received or not. This fence was put up without a building permit ever being issued for its construction. Finally, it's not in conformity with Chapter 1212 of the Codified Ordinances for Strongsville for the Town Center District. That was done to protect the integrity of the buildings in the Town Center District so things weren't being put up not in conformity. That's why there are requirement for specifically a fence that before one is put up they have to apply for what's called the Certificate of Appropriateness with the Planning Commissioner. It was admitted that they never did that. We assert for those four reasons that the decision of the Building Commissioner should be upheld, and the Appeal denied. Thank you.

Mr. Evans – Mr. Hunt?

Mr. Hunt – Thank you. I'll make this quite brief. You know our position. That is when the Planning Commission signs off on a site plan, as they did with our Exhibit 5, that's what we count on.

Mr. Evans – That says site planting plan.

Mr. Hunt – That is the only thing that the Planning Commission signed off on in the City records. That's not a landscaping plan. Period.

Mr. Evans – Mr. Catanzarite, what is a planting plan?

Mr. Catanzarite – I have no idea. That is not a landscaping plan. Give that to a landscaper and see if he could do it. That would be a landscaping plan. What you've done is really placed the burden of a public use on my property.

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Mr. Hunt – It's good enough to say that they will work with their neighbor. No problem with saying try this, we'll put it in, and see what happens. So my client extended the sidewalk to the south property line to see if it works. After the fact, it was in October from the plans in Exhibit H, and our Exhibit 6 that it was done. After the Planning Commission had approved a plan that didn't require it. You as a Board better clean up your decisions and not put working within and make it a mandatory condition if that's what you wish to do. Even Mr. Kolick in the minutes said we're just use "working with" as the language. He didn't say that they were making it mandatory. He said it was about working with. What is a property owner supposed to think when it says working with? We're asking you to grant our Appeal, and we think if this goes to Common Pleas Court a judge will side with us based upon records that the City has over in the Building Department. This is clearly the plan that was approved by the Planning Commission. The fact is that my client tried to work with them, and he submitted plans to the City, although it was after the fact, to try to do that, and therefore this shouldn't be held against him. In fact putting this requirement on my client is really a taking under the Constitution so we'll pursue our rights if we have to. We're trying to exhaust our administrative remedies here. That's where we're at with this. Best not care to place that burden on my client to have to provide parking for the property next door when my client gets no benefit. All those patrons have to do if they want to walk over to the other areas of my client's tenants is go out the front door of Architectural Justice, walk down Pearl Road a very short distance and around the corner of my client's building, and you're there.

Mr. Catanzarite – It's late enough, make your vote. I understand Dan that it has nothing to do with the wall. The City made a lot of mistakes and we'll just keep working through it I guess. I could go on and on for hours about statements. Neal just made a statement that it was mandatory. I showed that plan, the mayor said to do him a favor and show the sidewalk and try to work with Justice. I worked with them, I showed you all kinds of pictures, and common sense...

Mr. Kolick – Mr. Catanzarite, we've got to cut off the testimony at some point here. These were closing statements of the parties, and we have to live that.

Mr. Catanzarite – Forget it.

Mr. Kolick – Mr. Hunt, I assume you want to renew your motion to at least accept your Exhibits into record? OK. Is there any objections from the City to anything? I see no reason not to accept them.

Mr. Evans – We'll accept them.

Mr. Kolick – They are accepted. We'll make sure they're renumbered.

Mr. Evans – They were referenced in our discussions.

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Mr. Hunt – Will you make sure they are renumbered?

Mr. Kolick – We referenced them. Alright. If there's nothing else, then it's up to the Board to make a motion to either grant or deny the Appeal. The motion should be to grant the Appeal so if you vote in the affirmative then you are granting the Appeal and overruling the determination of the Building Commission. If you vote in the negative you're denying the Appeal and voting to uphold the decision of the Building Commissioner.

Mr. Evans – Gentlemen, do you have any questions?

Mr. Runsov – No.

Mr. Evans – Comments?

Mr. Rusnov – No.

Mr. Baldin – I have no comments at this time.

Mr. Evans – OK, then I'll entertain a motion.

Mr. Rusnov – I make a motion to grant the Appeal the decision of the Building Commissioner pursuant to Codified Ordinance Sections 1414.07 and 1248.01 (b) denying a building permit for a proposed six (6) foot fence closing off a sidewalk connection; property located at 13451 Pearl Road, PPN 396-10-003, zoned General Business.

Mr. Smeader – Second.

Mr. Evans- Thank you Mr. Smeader for the second, thank you Mr. Rusnov for the motion. May we have a roll call please?

ROLL CALL:

RUSNOV – NO
HOULÉ – NO
EVANS – NO
SMEADER – NO
BALDIN – NO

MOTION DENIED

Mr. Evans – So Mr. Hunt the Appeal has been denied by the Board of Zoning and Mr. Kolick I don't think Council gets the chance to review that.


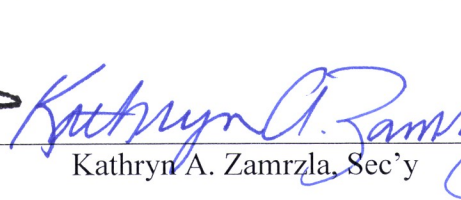
Mr. Kolick – No.

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Mr. Evans – We need to ask for Findings of Facts and Conclusions of Law from our Assistant Law Director. I believe that concludes our business for this evening. Is there anything else to come before the Board this evening? Then we stand adjourned. Thank you.



Mr. Evans, Chairman



Kathryn A. Zamrzla, Sec'y

Approval Date