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THE VILLAGE OF HEBRON
BOARD OF PLANNING AND ZONING
PUBLIC HEARING

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Monday Evening Session
November 7, 2022 at 6:30 p.m.

Municipal Complex
934 Main Street
Hebron, Ohio 43025

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Board of Planning and Zoning:

- Rick Stoner, Chairman
- Mike McFarland, Vice-Chairman
- Scott Jacobs, Secretary
- Jim Layton, Mayor
- Annelle Porter, Council Member

- David Moser, Esq.

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REBECCA A. GAUSE
COURT REPORTER
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November 7, 2022

- - -

MR. STONER: All right. I'm going to call the meeting to order. It's 6:30. Would you please join us in the pledge of allegiance?

(PLEDGE OF ALLEGIANCE.)

MR. STONER: All right. We are going to do roll call.

Ms. Porter?

MS. PORTER: Yes.

MR. STONER: Mr. McFarland?

MR. MCFARLAND: Yes.

MR. STONER: Mr. Jacobs?

MR. JACOBS: Yes.

MR. STONER: Mr. Layton?

MR. LAYTON: Yes.

MR. STONER: And Mr. Stoner is a yes. The Board acknowledges that the minutes are recorded and transcribed. Is there a motion to approve the September 6, 2022, public hearing meeting minutes?

MR. LAYTON: So moved.

MS. PORTER: Second.

MR. STONER: Moved by Jim and seconded

1 by Annelle. Is there any discussion on the minutes
2 of the previous meeting as presented? All right.
3 Let's do roll call.

4 Ms. Porter?

5 MS. PORTER: Yes.

6 MR. STONER: Mr. McFarland?

7 MR. MCFARLAND: Yes.

8 MR. STONER: Mr. Jacobs?

9 MR. JACOBS: Yes.

10 MR. STONER: Mr. Layton?

11 MR. LAYTON: Yes.

12 MR. STONER: Mr. Stoner is a yes.

13 (MOTION IS APPROVED.)

14 MR. STONER: Before we move onto the
15 items requiring action, I want to make a note as to
16 a change on the agenda. When the agenda was
17 printed, we had an item that wasn't supposed to be
18 on the agenda that is now on the agenda. So the
19 discussion topic on East Cumberland will be moved
20 to the end of the agenda after the items that are
21 requiring action that are on there currently but
22 before the motion to adjourn. It won't be after.
23 It will be before.

24 So our first item requiring action is
25 Phil and Barb Watts, High Street lot split

1 application. Planning and Zoning Code Section
2 1173.02, lot split. A lot split, otherwise known
3 as a minor subdivision maybe approved by the
4 community development coordinator if the proposed
5 lot split complies with all of the following
6 requirements, the proposed lot split is located
7 along an existing, dedicated, public right-of-way
8 and does not involve the opening, widening or
9 extension of any street road or easement and does
10 not involve the creation or extension of public
11 utilities, or, B, no more than three lots including
12 the remainder are created from the original
13 property, or, C, the proposed lot split complies
14 with all of the applicable subdivision and zoning
15 regulations.

16 An application was received for a lot
17 split. The applicant wants to split one 6.058 acre
18 lot into two lots. A review application and
19 survey. The property is zoned M-1 manufacturing.
20 The seller wants to retain a 75 foot parcel for
21 access across the railroad.

22 So if anyone is here that wants to
23 speak on this item before we take any action,
24 please step up to the podium and state your name.

25 MR. LAYMAN: Thank you. My name is

1 Steve Layman. I'm a broker with Shai Hess
2 Commercial Real Estate and we represent Phil and
3 Barb Watts, the property owner. They've received
4 an offer to buy about 5 acres that is to the south
5 of the mini storage. I'm assuming -- north, north.
6 Thank you. I'm assuming you have a drawing of
7 this. It's kind of an U-shaped property. There's
8 a 75-foot strip on the south side of the mini
9 storage, that they believe should be reserved or
10 saved to provide access to the 100-plus acres that
11 they own on the west side of the railroad to give
12 access to -- that access to that farm is not very
13 good. It comes through the neighborhoods and if it
14 could come out to High Street it would work a lot
15 better.

16 So while they want to sell the one
17 parcel, they want to reserve that 75-foot strip.
18 It's pretty simple, even if I can't tell my north
19 from my south.

20 MR. STONER: So the two areas that are
21 highlighted White Tail Property Management, those
22 are the storage buildings, correct?

23 MR. LAYMAN: Yes.

24 MR. STONER: And the 75 foot is south
25 of those, and then the rest of the property is

1 behind and on to the north side?

2 MR. LAYMAN: Yeah. And the property
3 that is behind is probably suitable for a detention
4 basin. The property to the north is pretty
5 functional, usable.

6 MS. PORTER: I didn't quite catch your
7 comment when you said it's suitable for a possible,
8 what? Did I hear basin?

9 MR. LAYMAN: The land that lays behind
10 the mini storage, that's probably going to be water
11 retention, stormwater retention.

12 MS. PORTER: Okay. I didn't hear the
13 water catch. I just heard basin. Okay.

14 MR. LAYMAN: So that 5-acre parcel
15 would utilize that ground for however they want,
16 but likely stormwater. It depends on the engineer,
17 I guess.

18 MR. MCFARLAND: If I may?

19 MR. STONER: Uh-huh.

20 MR. MCFARLAND: I notice to the north
21 of that, that it looks like Southgate is kind of
22 surcharging that property there. I use that term,
23 you know, I assume everybody else knows --

24 MR. LAYMAN: They are playing in the
25 dirt.

1 MR. MCFARLAND: Well, it appears to
2 me -- yeah, they're playing in the dirt. No
3 question about that. But it almost looks to me
4 like they're compressing, you know -- they did that
5 out behind some of their other properties before
6 and they called it surcharging, to kind of
7 apparently squeeze the water out and stuff.

8 MR. LAYMAN: I don't know.

9 MR. MCFARLAND: I don't know if they do
10 that there, if there is any chance of pushing that
11 water onto this acreage.

12 MR. LAYMAN: My property owner that we
13 represent has raised no concerns.

14 MR. MCFARLAND: No concerns, okay. And
15 this is zoned M-1?

16 MR. LAYMAN: Right. There is a
17 contract. The Mayor might know what the buyer is
18 intending to do. I don't. We don't. I just
19 represent the seller. So a simple lot split is all
20 I'm asking for. Thank you.

21 MR. STONER: Anyone else in the
22 audience here to speak on this topic? Any other
23 questions from the zoning members?

24 MR. MCFARLAND: Having no -- if this is
25 appropriate -- having no other information in any

1 sense, I would make a motion to approve the lot
2 split.

3 MR. STONER: Okay. Do I have a second?

4 MR. JACOBS: I'll second.

5 MR. STONER: All right. Roll call.

6 Ms. Porter?

7 MS. PORTER: Yes.

8 MR. STONER: Mr. McFarland?

9 MR. MCFARLAND: Yes.

10 MR. STONER: Mr. Jacobs?

11 MR. JACOBS: Yes.

12 MR. STONER: Mr. Layton?

13 MR. LAYTON: Yes.

14 MR. STONER: Mr. Stoner is a yes.

15 (MOTION APPROVED.)

16 MR. STONER: The next item on the
17 agenda is a discussion topic about the East
18 Cumberland street sidewalk. Anyone that's in the
19 audience that wants to come and speak on this
20 topic, please step forward to the podium and state
21 your name and address.

22 MR. JACOBS: Do they need to take the
23 oath or anything?

24 MR. STONER: We're not -- it's not a
25 hearing. It's just we're having a discussion.

1 MR. LOWE: I think they are a hearing
2 honestly. I think these are considered adjudicator
3 hearing.

4 MR. STONER: We already had a hearing
5 on this and already had a ruling on this. This is
6 not a hearing. This is just to talk. We're just
7 here to talk.

8 MR. LOWE: Okay. Rather than keep
9 coming up here, here are some things I want to talk
10 about.

11 MR. MCFARLAND: Thank you, sir.

12 MR. LOWE: Thank you. My name is Doug
13 Lowe. I'm in attorney in Newark, Ohio, 23 East
14 Church Street is where my office is located. I'm
15 here tonight to talk on behalf of the Samsals, the
16 Browns, the Freemans and the Klines to urge you to
17 let them not build sidewalks, I guess, and set
18 forth the reasons for that.

19 And in that regard I wanted to have
20 Katie Kline, who knows maybe more about this than
21 anybody, speak to the council and ask some
22 questions that I would have for her. So I don't
23 know how you want to do that if you want me to
24 bring her up there and me sit back or stand here
25 beside her. How else would you like to do it?

1 MR. STONER: She can come up and speak
2 and you can stand there if you want or you can sit
3 down and come up. Whenever you like.

4 MR. LOWE: I just wanted to make sure
5 the microphone --

6 MR. STONER: This is informal.

7 MS. KLINE: Katie Kline, 424 East
8 Cumberland Street, Hebron.

9 MR. LOWE: How long have you lived in
10 Hebron?

11 MS. KLINE: I have lived in Hebron my
12 whole life, so 31 years.

13 MR. LOWE: And so I take it you are
14 very familiar with the area?

15 MS. KLINE: Yes.

16 MR. LOWE: When did you purchase your
17 lot?

18 MS. KLINE: 2018 or 2019.

19 MR. LOWE: And did you -- who was your
20 builder?

21 MS. KLINE: Diyanni Homes.

22 MR. LOWE: Were plans submitted to the
23 city for approval?

24 MS. KLINE: By Diyanni Homes, yes.

25 MR. LOWE: And I think, they are marked

1 here as Exhibit 2 if you look in your packet. Are
2 these your -- Exhibit 2, are those your plans?

3 MS. KLINE: Yes. These are our house
4 plans.

5 MR. LOWE: Look at -- I think, it's the
6 last page.

7 MS. KLINE: Uh-huh.

8 MR. LOWE: And do you see on there
9 where it shows your driveway and your driveway pad
10 and everything?

11 MS. KLINE: Yes.

12 MR. LOWE: Is there any indication on
13 these plans that there's going to be a sidewalk in
14 the front?

15 MS. KLINE: No, there's not.

16 MR. LOWE: Were you ever told you need
17 to put in sidewalks before you built your house?

18 MS. KLINE: No.

19 MR. STONER: Can I interject for a
20 second? What page are you talking about?

21 MR. LOWE: The last page of her plans
22 on Exhibit 2. Actually, I think the last two
23 pages, as I look at the exhibit, seem to be the
24 same thing, but that's how they were presented to
25 us in the city records. So I don't know why

1 Diyanni put two of the same page. You can see
2 arrows that say driveway, driveway pad. It has
3 various other things on it.

4 MR. STONER: Okay.

5 MR. LOWE: When your home was built,
6 did you have to do some drainage work because of
7 the way the water lay in your property?

8 MS. KLINE: Yes. We have spent roughly
9 \$20,000 to \$30,000 on drainage for our yards. And
10 adding more drains, French drains to the back. At
11 the council meeting, Rookie also noted that our
12 yards -- he's seen it for decades. Our yards are
13 known to flood.

14 MR. LOWE: If you have to put in
15 sidewalks along the front, will that adversely
16 affect your drainage?

17 MS. KLINE: Yes. It would block the
18 drains from the rest of our property.

19 MR. LOWE: And, again, because of the
20 water, is that important -- big problem for you if
21 the drains get blocked?

22 MS. KLINE: Absolutely.

23 MR. LOWE: If you had known up front
24 you needed to put sidewalks in, would you have done
25 the drainage differently?

1 MS. KLINE: Yes, we would have.

2 MR. LOWE: Would it be easy for you to
3 do that now?

4 MS. KLINE: No. Our driveway is a
5 heated driveway and all of our lines are buried,
6 like our sump pump and our gutters. So I got a
7 quote and if our driveway was to be disassembled at
8 all, it would cost \$100,000.

9 MR. LOWE: And your neighbors, are you
10 familiar with the Samsals?

11 MR. KLINE: Yes.

12 MR. LOWE: Do they have the same kind
13 of water issues?

14 MS. KLINE: Yes, they do.

15 MR. LOWE: What about the Browns and
16 the Freemans?

17 MS. KLINE: Yep.

18 MR. LOWE: The whole area is kind of
19 wet right there?

20 MS. KLINE: Yeah. We've all spent a
21 lot of money and time on these, getting them dry.

22 MR. LOWE: Do people walk along your
23 street just out walking, take walks?

24 MS. KLINE: Yeah, families do.

25 MR. LOWE: Do they walk in the street

1 or on the sidewalks? There are some sidewalks
2 there?

3 MS. KLINE: They all walk on the
4 street.

5 MR. LOWE: And at my request did you
6 take some pictures?

7 MS. KLINE: I did.

8 MR. LOWE: Are those Exhibits 1A
9 through 1I?

10 MS. KLINE: Yes.

11 MR. LOWE: And you are the one that
12 took these?

13 MS. KLINE: Yes, I am.

14 MR. LOWE: And let's just walk through
15 them real quick. What does 1A show?

16 MS. KLINE: So that shows starting at
17 Carol Rhea driveway, and then the four homes.

18 MR. LOWE: Okay. And there is a grassy
19 area.

20 MS. KLINE: That's Carol Rhea front
21 yard and there is no sidewalk.

22 MR. LOWE: And then this looks like --
23 I don't know what this is, gravel?

24 MS. KLINE: I think this is her gravel
25 driveway.

1 MR. LOWE: Okay. And flip to the next
2 page. What are we looking at there?

3 MS. KLINE: We are looking at a broken
4 sidewalk. I think -- it's not even -- I don't
5 think a sidewalk, maybe an old driveway.

6 MR. LOWE: And this is in front of the
7 garage that sits there?

8 MS. KLINE: The Maslowski's home, yes.

9 MR. LOWE: And as we look down the
10 street, this is 1C. This driveway looks a little
11 better.

12 MS. KLINE: Yes.

13 MR. LOWE: I'm sorry, the sidewalk.
14 And you know where that's at?

15 MS. KLINE: Yes.

16 MR. LOWE: Where is that?

17 MS. KLINE: So it's almost three houses
18 down from the Freemans.

19 MR. LOWE: Okay. And then what are we
20 looking at on 1D?

21 MS. KLINE: So this would be the
22 Maslowski's house, which is two houses down from
23 the Freemans.

24 MR. LOWE: Okay. And then I know
25 that -- it looks like the same view. This driveway

1 on 1E -- or sidewalk, where does it dead end?

2 MS. KLINE: That ends right into their
3 garage and driveway.

4 MR. LOWE: And as I look at these
5 pictures, there wasn't a sidewalk that picked up
6 beyond?

7 MS. KLINE: No.

8 MR. LOWE: What are we looking at in
9 1F?

10 MS. KLINE: Her driveway in front of
11 her garage.

12 MR. LOWE: And then the same thing for
13 1G?

14 MS. KLINE: That is an unsafe pathway
15 on East Cumberland Street towards High Street.

16 MR. LOWE: Did you also do a film?

17 MS. KLINE: We did.

18 MR. LOWE: And you can play that. What
19 is this that we're looking at?

20 MS. KLINE: So this is the sidewalk
21 that is on East Cumberland towards High Street.

22 MR. LOWE: And that's below your homes
23 or how is this in relation to your houses?

24 MS. KLINE: Like direction-wise?

25 MR. LOWE: Uh-huh.

1 MS. KLINE: So it would be west. I'm
2 directionally challenged. I'm sorry.

3 MR. LOWE: And this is a recent film?

4 MS. KLINE: Yes. And half of the time
5 there is furniture on the sidewalk or cars parked
6 so nobody can walk on it, essentially.

7 MR. LOWE: This is kind of the same
8 where you showed the picture where the sidewalk
9 comes and goes?

10 MS. KLINE: Yes.

11 MR. LOWE: What street is this?

12 MS. KLINE: South High Street.

13 MR. LOWE: Okay. Show the other one,
14 Hart, if you would. It shows a different
15 perspective. This is Hart Main, by the way, from
16 my office so we have a record of who I'm talking
17 to, I guess.

18 What is this?

19 MS. KLINE: It's that same sidewalk.

20 MR. LOWE: You're just walking to the
21 end, I take it?

22 MS. KLINE: Uh-huh.

23 MR. LOWE: There is this furniture
24 you're talking about?

25 MS. KLINE: Uh-huh.

1 MR. LOWE: Yes?

2 MS. KLINE: Yes, sorry.

3 MR. LOWE: And is it typical for cars
4 to be parked on the sidewalk like this one is?

5 MS. KLINE: Yeah. That's how it is
6 every day. So when my family and I walk to
7 Hayman's or downtown, we just walk on the street
8 until we get to the crosswalk. You can't ride a
9 bike. You can't push a stroller on it.

10 MR. LOWE: Okay. I think you can stop
11 that, Hart.

12 If you and your three neighbors are
13 required to put in sidewalks, will they connect to
14 anything other than each other?

15 MS. KLINE: Nope.

16 MR. LOWE: Where is your house at?

17 MS. KLINE: We are the last house on
18 the dead-end street.

19 MR. LOWE: Where would your sidewalk
20 then end?

21 MS. KLINE: Right in the backyard of
22 the Lake Forest residences.

23 MR. LOWE: And the Freemans are the
24 fourth house of the four of you, correct?

25 MS. KLINE: Yes.

1 MR. LOWE: Would their sidewalk connect
2 to anything?

3 MS. KLINE: No.

4 MR. LOWE: So if someone wanted to use
5 your sidewalk, if I understood your pictures, they
6 would have to walk in the street, then walk over
7 and get on the sidewalk, walk on the sidewalk and
8 then presumably get off and walk in the street
9 again?

10 MS. KLINE: Correct.

11 MR. LOWE: Any sidewalks on the other
12 side of your street?

13 MS. KLINE: No, there is not.

14 MR. LOWE: If the Village's goal is to
15 get sidewalks by requiring new homes to build
16 sidewalks, are there any empty lots on your street?

17 MS. KLINE: I don't think, no.

18 MR. LOWE: Are there a lot of empty
19 lots in the Village in general?

20 MS. KLINE: I don't believe so.

21 MR. LOWE: Did you know of other homes
22 that have been built in your neighborhood lately?

23 MS. KLINE: Yeah. There is a house on
24 Mound Street, one street over. And then one across
25 town.

1 MR. LOWE: Do they have sidewalks?

2 MS. KLINE: The home that was built on
3 Mound Street, no, nor a hard surfaced driveway.

4 MR. LOWE: If you and your four
5 neighbors don't build a sidewalk, will your homes
6 look any different than the other houses in the
7 neighborhood?

8 MS. KLINE: No.

9 MR. LOWE: Do you know what the cost
10 just to build the sidewalks is going to be?

11 MS. KLINE: Well, our quote back in
12 June was \$40,000 for the four homes.

13 MR. LOWE: That's all I have.

14 MS. KLINE: Thank you.

15 MR. LOWE: And then if you would pull
16 up the power point, which we will talk about some
17 of the documents that you have in front of you.
18 One of the things I wanted to talk about is how we
19 got here. I don't mean this as a criticism, but I
20 do mean it to explain kind of from a layperson's
21 point of view that it's hard to find in your Code
22 where sidewalks are needed if you're just a normal
23 layperson and not a zoning person.

24 For instance, the property is zoned
25 R-2. And if you look at R-2, there is no mention

1 of sidewalks at all. It talks about lot lines,
2 areas, setbacks, garage required, things of that
3 nature.

4 So the next place you kind of probably
5 logically would look would be additional zoning
6 standards. And, again, there is no mention of any
7 sidewalks there. It talks about parking and hard
8 surface driveways and things like that. It doesn't
9 talk about sidewalks.

10 Where you find sidewalks is in your one
11 section where it's defined but that's in the
12 subdivision section. And even that's not easy if
13 you're just a layperson. Because if you look at a
14 minor subdivision, which, this, I think was, its
15 plans don't talk about the need for sidewalks or
16 what your plan has to submit. It's in the major
17 subdivision that it says you will have a plan and
18 put sidewalks in.

19 And, again, that's just kind of -- they
20 didn't do this intentionally or they didn't start
21 out to say, oh, we're just going to ignore this
22 sidewalk requirement. It's just kind of difficult
23 to find it. And it got more confusing when you
24 look at the documents they were given. You have
25 them in front of you.

1 Their certificate of occupancy, after
2 their homes were built, obviously, but the Browns,
3 their certificate doesn't cite any zoning code.
4 The Samsal's cites a number that I can't match to
5 any of your ordinances, 1101.16. The Klines had a
6 completely different form that has different
7 information on it, and the Freemans did get a
8 reference to the correct ordinance.

9 But if you jump back when the houses
10 were being built, the Browns, their's cites to R-3
11 district. They're in an R-2. The Samsal's cites
12 to R-3. They're in an R-2. The Kline's is R-3.
13 The Freemans is the correct one. So there was
14 confusion all over the place, which made it hard
15 for them to figure out, oh, I need a sidewalk.

16 So that's why they asked for a
17 variance. And if you look at your factors at why
18 there should be a variance, let's talk about what
19 those are. The property will yield a reasonable
20 return absent the variance. Is the variance
21 substantial? Is the essential character of the
22 neighborhood going to be altered by the variance,
23 will adversely affect governmental services, did
24 they purchase the property with knowledge of this
25 restriction. Would the property owners'

1 predicament feasibly be obviated by a different
2 solution? And is the spirit and intent of the
3 zoning code observed by the variance?

4 So I wanted to cover each of those in
5 general. I thought it was \$30,000. She said
6 \$40,000 tonight. So my slide is wrong. But if you
7 talk reasonable return, they are talking about
8 \$40,000, maybe more if the Klines have to do their
9 driveway. It won't increase the value of their
10 property. So is that reasonable to require of them
11 that?

12 Is the variance substantial? In your
13 decision of 8/9, which is in front of you there.
14 I'm sure you have it otherwise. It says it's not.
15 That was your determination. This is not a
16 substantial variance. And that would make sense
17 because the surrounding sidewalks -- or properties
18 either don't have sidewalks or their sidewalks are
19 completely falling apart and unusable and on the
20 other side of the street has no sidewalks. So it
21 won't make them not in conformity.

22 The same thing by the next factor.
23 Would the essential character of the neighborhood
24 be substantially altered by not having sidewalks?
25 No. In fact, their house will look more like the

1 rest of the neighborhood by not having sidewalks
2 than if they do have sidewalks. They don't have
3 sidewalks on the other side of the street. Many of
4 the properties don't have sidewalks. Those that
5 do, are impassable, so really not something that
6 counts as a sidewalk in a usable sense.

7 Would the variance adversely affect the
8 delivery of governmental services? Well, it's
9 going to adversely affect them in the sense it's
10 going to change their drainage. Clearly you're
11 going to be able to give them governmental
12 services. You're already doing that. You do it to
13 the rest of the street and the other side of the
14 street. So whether there are sidewalks there or
15 not won't prevent you from giving them governmental
16 services. Though, conceivably, depending on where
17 the sidewalk went, you could and dam water against
18 the road, I guess. Depending upon where that set
19 back is because it will cut the drain off in one
20 direction or the other. I've been out there and
21 walked and I know some of the members did too.

22 Did the property owner purchase the
23 property with the knowledge of the zoning
24 restrictions? Katie said she didn't know about it.
25 We talked about why it's difficult. You have all

1 of the site plans there in front of you. None of
2 them talk about sidewalks. So it's hard to figure
3 this out.

4 Can you solve this by some other
5 solution? No. Sidewalks are not -- sometimes I
6 come in with council on variances and say well,
7 we'll nudge it this way or nudge it that way.
8 That's not really a possibility here. It's kind of
9 a yes or no answer.

10 Is the spirit of the zoning code being
11 observed? Well, the spirit seems to be to try and
12 get sidewalks through the Village, which I
13 understand. But, this won't get sidewalks through
14 the Village. It won't even get sidewalks
15 consistently on that street. The current sidewalk
16 ends in a garage. The other sidewalks down the
17 road are falling apart as we saw. Sidewalks end at
18 the end of a dead-end road. So I would presume
19 that anybody walking down that sidewalk would
20 probably cut back out on to the street to go around
21 the corner and wouldn't just walk to the end of the
22 dead-end road to go nowhere.

23 So we believe the variance should have
24 been granted. I know you had said earlier it was
25 denied but at that same time there was an

1 indication that the Village would change and
2 address the drainage issue. And my clients have
3 been told that that is no longer going to be true.
4 So the conditions have changed. I think if you
5 change the conditions, that's a grounds to
6 reconsider what you are doing and we would ask that
7 you do that and find that their houses look like
8 the rest of the houses in that neighborhood, no
9 sidewalks.

10 Thank you. And if anyone has any
11 questions we'll be happy to answer it for you.

12 MR. STONER: Yeah. I've got some
13 questions. You covered a lot. Let's start with
14 R-3. You brought up R-3 it was somewhere in these
15 documents. I've looked through all of these
16 documents three times now and I don't even see the
17 word R-3 anywhere.

18 MR. LOWE: No, it says -- it references
19 Section 27 instead of 25.

20 MS. PORTER: It's the density.

21 MR. LOWE: And if you see --

22 MR. STONER: You did mention R-3,
23 right?

24 MR. LOWE: Yes. But section 27 is R-3.
25 And the certificate of occupancy -- I'm sorry. Is

1 it occupancy or --

2 MR. STONER: Stamp date.

3 MR. LOWE: The applications reference
4 27 and that's an R-3 district -- or 1127. It
5 should have been 1125. So that's why I say R-3.
6 It doesn't say R-3, but it points you to the R-3
7 code, which is 1127 under your code book.

8 MR. STONER: A couple of things that
9 you mentioned in your conversation that aren't
10 entirely true that I'm just going to throw out
11 there and we can talk about them one at a time.

12 MR. LOWE: Sure.

13 MR. STONER: You mentioned -- and I
14 don't want to put words in your mouth but you said
15 something to the affect that the homeowners did not
16 know that they needed to build a sidewalk. That is
17 completely untrue. They knew that they needed to
18 build a sidewalk. It's in the zoning code. Linda
19 told them that. She also told them that they could
20 apply for a variance if they wanted to and if the
21 zoning board approved it that they may not have to
22 build sidewalks, but they were aware that they were
23 supposed to build sidewalks whether that plan shows
24 it or not.

25 MR. LOWE: I understand -- and we can

1 have --

2 MR. STONER: We have it on record.
3 They spoke about it.

4 MR. LOWE: And that was -- they were
5 made aware on that after their houses were in, not
6 before. I have read your record. I'm happy to --
7 I don't have it with me tonight, but it's in there.
8 It was, yes, after the houses were in, they said,
9 hey, you have to build sidewalks. And they said,
10 what? And she said well, you can ask for a
11 variance to see if you can get away from it.
12 That's kind of -- the horse is out of the barn
13 by that point.

14 MR. STONER: Okay. The other thing
15 that you mentioned is you said that the sidewalk at
16 the end of the street would go to nowhere, and the
17 people would have to get back on the street to
18 walk. The sidewalk at the end of the street goes
19 to nowhere because the street ends.

20 MR. LOWE: Right. I'm talking about as
21 you go down there in the front of, I believe, the
22 Samsal's house, there is another street that comes
23 in. So presumably if you are out taking a walk
24 through the neighborhood you will cut across
25 whatever section of yard there is and go back down

1 that way. I don't think --

2 MR. STONER: Well, there is a street
3 before that, too. They could go up that street.
4 There is a perpendicular street that intersects
5 that because everybody keeps saying it's a dead-end
6 street. It is a dead-end street at the last house
7 but there are perpendicular streets.

8 MR. LOWE: That's what I was saying
9 though. If you're going to walk down the street.
10 Maybe we're saying the same things and I'm being
11 inarticulate. If you walk down the street, you'll
12 walk down -- you'll come over off of the street and
13 get on their sidewalks and walk less than the full
14 length of the sidewalk, presumably, if you're
15 walking through the neighborhood and you cut back
16 and go down that perpendicular street.

17 MR. STONER: Right. Okay. So as you
18 all know, Hebron has been here a long time. Lots
19 of houses don't have sidewalks in front of it. The
20 Village is aware of that. We changed the Code
21 several years ago to require sidewalks be built on
22 new subdivisions. New housing that's built, new --
23 so basically, new houses that's what we've done.
24 We've had new homeowners build sidewalks in front
25 of their property.

1 The fact that the sidewalks down the
2 street from their property are falling apart, has
3 no bearing here. That's a whole different topic
4 that is not part of this conversation. It's part
5 of a conversation that has to be dealt with zoning
6 enforcement to get those homeowners to repair their
7 sidewalks.

8 MR. LOWE: I would disagree with you
9 because in your balancing act under your reasons
10 for a variance, one of things is, will them not
11 building the sidewalk change the character of that
12 neighborhood, and it won't because of the
13 conditions of the sidewalk down the road. Then if
14 they don't have sidewalks in front of their houses
15 and some of the houses down there don't have
16 falling apart sidewalks, they have none. Them not
17 having a sidewalk won't say, oh, wow, this looks
18 really out of place and different in this
19 neighborhood. It will look just like the other
20 houses there. So that's where I think that's
21 important because of the factors that are set forth
22 in your ordinance.

23 MR. STONER: Right. We have many
24 different things we look at. Variances are put out
25 there so that people can make modifications to the

1 zoning code. We try to enforce the code in Hebron.
2 Variances, not all of them get approved. Some do,
3 some don't. I've asked for a variance on my
4 property before.

5 MR. LOWE: I understand that.

6 MR. STONER: Other people have also.
7 They don't always get approved. There is nothing
8 set in stone that says your variance is going to
9 get approved. That's why you apply for it and
10 that's why you appear in front of this Board.

11 MR. LOWE: I understand that. But it's
12 not -- but the Board is supposed to evaluate it
13 based on the factors in the thing. And I know --
14 and this Board's job is to look and see if there is
15 a reason to go away from the strict code
16 enforcement.

17 I just had a case in court where we
18 were in Etna Township and that Board said we would
19 like to grant you this variance, but we don't think
20 we have the power. So we had to appeal it and the
21 court said, that's what Boards like this are for,
22 they inherently have the power to grant variances
23 away from the code or otherwise they don't have a
24 purpose.

25 So, you have that power. We are just

1 asking you to exercise it. I go in front of
2 variances that don't get granted. Sometimes they
3 do. Sometimes they don't.

4 MR. STONER: So on the topic in the
5 list of things about the variances, you mentioned
6 the question about if it's substantial. I would
7 like to know what your definition of substantial
8 is.

9 MR. LOWE: Well, first --

10 MR. STONER: Regarding those homes.

11 MR. LOWE: Your ruling says it's not
12 substantial. Read your finding.

13 MR. STONER: I read my finding. I'm
14 asking you the question.

15 MR. LOWE: That's not my definition.
16 Substantial in my mind, if it alters the character
17 of the neighborhood in away that's negative.

18 MR. STONER: But you brought up
19 the dollar amount. That's what I'm trying to get
20 at right here. You said the dollar amount. You
21 only got one quote and the one quote was for
22 \$40,000.

23 MR. LOWE: You're right.

24 MR. STONER: We haven't got any other
25 quotes. So you have one quote for \$40,000.

1 \$10,000 per homeowner. How much are those homes?

2 MR. LOWE: I don't know. But in terms
3 of that goes to another factor which says about
4 economic will. Now, will they be uneconomic? No.
5 Will they tell you it's not going to accomplish
6 anything for the economic value? I mean, is that
7 house suddenly going to be -- wow, it's worth a lot
8 more because it has a sidewalk in front of it, when
9 the other houses around it don't? I don't believe
10 it will.

11 MR. STONER: When you remodel your
12 kitchen, does your house have more value?

13 MR. LOWE: Yeah. But all of the houses
14 on the street have kitchens, too, I would presume.

15 MR. STONER: Right. But what I'm
16 saying is --

17 MR. LOWE: And we would use the
18 kitchen.

19 MR. STONER: The house -- a property
20 that has a driveway or a property that has a
21 sidewalk is going to be more valuable, whether you
22 think it is or not.

23 MR. LOWE: Well, I guess, you and I can
24 disagree on that because I don't think it will be
25 automatically. Because if your sidewalk doesn't go

1 anywhere, I'm not sure how that adds value.

2 MR. STONER: It's what, a block?

3 MR. LOWE: No, not a block. It's not
4 that long. But the sidewalk is for the use of
5 other people not for your own use. I don't think
6 most people walk on the sidewalks up and down the
7 street in front of their house. Maybe they do.
8 It's not been my experience.

9 MR. STONER: Do you live in a small
10 town or a big town?

11 MR. LOWE: I now live out in the
12 country in the middle of nowhere. So nobody around
13 me has sidewalks. But yes, I have -- I lived in
14 Newark for years. So I don't think that's a big
15 town. It's bigger than Hebron.

16 MR. STONER: It's a city. We're a
17 village. But Newark has sidewalks. People walk on
18 sidewalks in Newark.

19 MR. LOWE: That's right. But I'm
20 saying you said it adds value for the homeowner. I
21 don't think it does. People don't walk on their
22 own sidewalk up and down in front of the street.
23 It would be other people that are walking on their
24 sidewalk. I mean, my office has a sidewalk in
25 front of it. People walk down that sidewalk. I

1 don't walk down that sidewalk. I come in and out
2 the of front door across the street and come in the
3 front door.

4 MR. LAYTON: Somehow we need to focus
5 on the sidewalks in front of those four houses.
6 We're getting off track a little bit here. The
7 discussion is whether we go in and reevaluate our
8 ruling from the other day and have them apply for
9 another variance or stand fast on the ruling that
10 we had the other day. That's the at hand, correct?

11 MR. LOWE: Yes.

12 MR. MCFARLAND: May I?

13 MR. STONER: Sure.

14 MR. MCFARLAND: I have a few questions.
15 But not for you, sir.

16 MR. LOWE: Okay.

17 MR. MCFARLAND: Mr. Moser.

18 MR. MOSER: Yes, sir. Here I come.

19 David Moser, Board counsel. Hi, everybody.

20 MR. MCFARLAND: One of the things that
21 I'm not inclined to do is to engage in a
22 justification with another attorney who has been
23 able to -- brought their presentation and stuff and
24 I have not. It is -- it seems for me that he has
25 raised some issues here. Some of them I'm

1 wondering what your view might be on them. And I
2 don't want to press you on that tonight.

3 I'm wondering if it is appropriate and
4 looking for your advice in public, the attorney has
5 presented some reasons why he believes that we
6 should grant a variance that they wouldn't have to
7 build sidewalks. I think that's fair to say. What
8 I don't know is how valid those are. I know he
9 believes they are valid. And I'm sure that the
10 property owner believes they are valid. But a lot
11 of them, it seems to me are based on supposition.
12 Who walks on a sidewalk? Who is going to use it?
13 What are you going to do with it? Those kinds of
14 things. To me, those aren't very subjective
15 approaches.

16 So I'm wondering if it would be fair to
17 ask you to take the minutes of this meeting and
18 look at the position that the attorney has put
19 forward and evaluate each of those as to your
20 thoughts on their validity or not as we try to move
21 forward with an assessment on this? If you could
22 do that and then come back to us, one of the
23 questions I would have in essence where are the
24 requirements that we're using to say that they have
25 to have a sidewalk? That's got to be in writing,

1 right?

2 MR. MOSER: Right.

3 MR. MCFARLAND: It's got to be part of
4 the code?

5 MR. MOSER: Right.

6 MR. MCFARLAND: And one of the
7 questions I would have about that is, does the code
8 take into account -- as the chair said, this is an
9 old town. We've got a lot of places, not all of
10 them are new builds. As a matter of fact, most of
11 them are not new builds and we are trying to
12 improve the Village by having sidewalks put in when
13 and where appropriate.

14 Consequently, we have an ordinance on
15 the books part of the zoning ordinance that says,
16 here it is, and it's pretty cut and dry. I think.
17 My question to you would be -- and you don't have
18 to answer it now -- exactly what legal issues are
19 we looking at to require a sidewalk? And if they
20 are valid, okay, then are we obligated to enforce
21 those?

22 I heard him talk about four different
23 documents for each of the homeowners. I guess, one
24 of the questions I would have, does an
25 inconsistency in the documents provided by the

1 Village of Hebron somehow invalidate the need for
2 them to be in compliance? And does that lead us to
3 something where we say, we've got to improve our
4 process or our process is okay and is enforceable?

5 I'm wondering about who is actually
6 responsible for the sidewalks there. Were the
7 drawings submitted by the builder or were they
8 submitted by the owner?

9 MS. KLINE: Our builder submitted our
10 plans.

11 MR. MCFARLAND: Okay. So who gets held
12 responsible, the builder or the owner? And what's
13 the legal issue involved in that? That's just a
14 question that occurs to me there. And as I look at
15 some of the documents, it looks like some of them
16 were turned in by the builder and some of the
17 permits were issued by the Village to the builder.
18 It doesn't look to me like a lot of these that the
19 owner got any of them. I would ask you to take a
20 look at that.

21 MR. MOSER: Okay.

22 MR. MCFARLAND: Another question, it
23 says, if you put these sidewalks in and they don't
24 go any place, then would we ever put sidewalks in
25 areas? You got to start someplace.

1 What would happen if we said, no, you
2 don't have to put these sidewalks in and next year
3 the Village gets a big windfall with some grant and
4 we go down there and start putting sidewalks in?
5 Would we hold the property owners to that, the
6 builder to that, to connect to those sidewalks? I
7 mean, is the fact that there are no other
8 sidewalks, is that an issue there that we don't
9 build new sidewalks because there aren't any old
10 ones? But it seems like you got to start
11 someplace. Okay.

12 These are some of the things that kind
13 of occurred to me. And I'm sure that the
14 gentleman's comments are in the record. Is it
15 appropriate to ask you -- and I ask the members
16 here also, is it appropriate to ask you as our
17 attorney to prepare, I guess, it would be a -- I
18 don't want to call it a rebuttal.

19 MS. PORTER: A response.

20 MR. MCFARLAND: But a response to the
21 issues that the gentleman has brought up and tell
22 us how many of these are potentially legal issues,
23 where we need to comply with Hebron Zoning and we
24 need to enforce it? Or how many are simply, I
25 don't know -- something else. So what I'm trying

1 to look at here is trying to understand the points
2 that have been made and do a fair evaluation of
3 them.

4 MR. MOSER: Sure.

5 MR. MCFARLAND: What are your thoughts?

6 MR. MOSER: That was a lot of
7 questions. But I appreciate them as always. You
8 know that and I know -- I can't recall. I don't
9 think you were back on our Board at the time this
10 variance application was under consideration.

11 MR. LAYTON: He was not.

12 MR. MOSER: I didn't think so. I'm
13 going to answer your question a little bit.

14 MR. MCFARLAND: Well, you don't have to
15 answer them tonight.

16 MR. MOSER: I'm not going to. Here's
17 what I would say. Here is what I would like the
18 Board to take into mind. You know this is a
19 discussion item. As I understand, it was added to
20 the agenda tonight. The Board allowed it to be
21 added to the agenda. You know this, but just as a
22 reminder, this was decided over the summer. The
23 notice of decision was finalized in August. By my
24 review and I would be happy to stand corrected but
25 any time to appeal under the zoning code or the

1 Ohio Revised Code has expired. So I want you to
2 know that. I want to provide context as to what we
3 are doing tonight. This is just a discussion item.
4 Nothing formal is or ever was going to happen.
5 This has been decided. I will note as a reminder,
6 there was an accompanying motion following the
7 denial of this variance, as I recall, that provided
8 a year from June 27 --

9 MS. PORTER: I was going to bring that
10 up.

11 MR. MOSER: -- to do the construction.
12 So I want all of that to be a reminder and also a
13 reminder for our record as we're here tonight. Of
14 course, I will look and evaluate things. You said
15 one thing that I want to make sure I'm clear on.

16 MR. MCFARLAND: I hope I am.

17 MR. MOSER: And you're not going to
18 like it. Because I'm shifting the ball a little
19 bit. It's not my job to evaluate the merits for
20 you. It's my job to make sure you stay within the
21 realm of your code and the Ohio Revised Code to the
22 best of my ability. That's when we were here the
23 last time.

24 MR. MCFARLAND: Okay.

25 MR. MOSER: So I'll take a look at

1 those bigger picture issues in terms of owner,
2 builder and provide kind of an analysis for you
3 through the Mayor so he can dispense it to the
4 Board for your thoughts in terms of what, if
5 anything, the Board would decide to do with
6 response to this information. It's really up to
7 you.

8 It's a little bit -- how should I say
9 this. I think if you would like to reconsider and
10 take a look at this application, I think you should
11 ask the applicant to resubmit an application. As a
12 courtesy, I think it's fair to waive any sort of
13 application fee for this issue, since we discussed
14 it before and we're very familiar with it, submit
15 any and all information that the applicant would
16 like you to consider in terms of any new
17 information that has become known since we reviewed
18 this initially.

19 I'll, of course, advise you through
20 that. We need to go through the process of
21 reconsidering. So for instance you would need to
22 do public notice again for neighboring property
23 owners if you decided to do that, so they have a
24 chance to -- I know there was input from neighbors
25 last time as well. They didn't have an opportunity

1 to be heard tonight or know about tonight -- and go
2 from there.

3 So I'm passing the buck on to you a
4 little bit because unfortunately you're charged
5 with making those hard decisions as to if this
6 application, based on your good discussion -- and
7 you had a lot of feedback at the prior meetings
8 before. I know several if not all of you visited
9 the site as we continued the public hearing last
10 June. So I know that it is not short of due
11 diligence on anybody's part here, that this was
12 looked at closely.

13 It still remains your job and I am not
14 going to be able to nor am I going to tell you on
15 the merits if the factors weigh one way or another
16 on this, if that makes sense.

17 MR. MCFARLAND: It does.

18 MR. MOSER: It is solely your
19 opportunity and solely your decision. But from the
20 mechanics and procedures standpoint, if you would
21 like to reconsider it, that's what I would suggest
22 you do to comply with the law and what our
23 requirements are, and then I'll offer my
24 perspective on the big ticket issues, the big
25 picture issues in terms of what your authority is,

1 what it isn't, and that sort of thing.

2 MR. MCFARLAND: Thank you. That's all
3 I have.

4 MR. STONER: Anybody else?

5 MS. PORTER: Yes. I have a question.
6 Back to -- when did you all become aware of this
7 situation? And did not your developer know, your
8 builder, your developer know?

9 MS. KLINE: So we were told that our
10 house had to be 35 feet from the setback and that
11 we had to have a hard surface driveway.

12 MS. PORTER: Who related this to you?

13 MS. KLINE: Linda Nicodemus told us
14 that because our house -- she kept telling us that
15 the 424, that our house was too close to the road.
16 After seven times of her measuring it and Diyanni
17 coming back, my husband met her out there and she
18 was measuring our house with a rock and a tape
19 measure, and her measurement was over a foot off
20 and so that delayed our build.

21 Well, when we -- I actually didn't
22 find -- we didn't find out about the sidewalks
23 until this past winter when Tom Marietta called us
24 and said hey, we have to -- you have to put
25 sidewalks in. So that is when I called Linda and I

1 confirmed. And we had lived in our house over a
2 year at this point.

3 I said, do we need sidewalks? And she
4 said, yes, but you can apply for a variance, go
5 before the Board and they will typically grant it.

6 MS. PORTER: So you occupied the
7 home --

8 MS. KLINE: We occupied --

9 MS. PORTER: -- for a year prior to
10 your being advised of a variance?

11 MS. KLINE: Yes.

12 MS. PORTER: You did not know of a
13 variance prior to that?

14 MS. KLINE: No.

15 MS. PORTER: And Mr. Marietta did not
16 know?

17 MS. KLINE: I do not know what he
18 knows.

19 MS. PORTER: And if he did, he did not
20 relay that to you? That is the more appropriate
21 question to you.

22 MS. KLINE: Yeah. And Mr. Marietta was
23 no longer a homeowner nor is he representation for
24 the Village, so I would have called Linda if he did
25 say that to me. Linda and I've spoke multiple

1 times over --

2 MR. STONER: Your properties were
3 purchased from Mr. Marietta, right?

4 MS. KLINE: Correct, yes. And that was
5 back the end of 2018, 2019 and our builder
6 submitted all of our plans.

7 The only thing my husband and I had to
8 come get a permit for was the water and sewer tap
9 and then we -- our builder actually called or
10 someone said we needed an occupancy permit and we
11 were in the house for months at that time.

12 And Linda, said, oh, yeah, you do need
13 that, but with COVID going on I'm not pushing it.

14 MS. PORTER: So let me understand this
15 correctly, and again, you were in your home?

16 MS. KLINE: Yes. Living in our home
17 for over a year before I was told.

18 MS. PORTER: And what about the other
19 three households, were they occupying the home at
20 the time?

21 MS. BROWN: Ashley Marietta-Brown, 412
22 East Cumberland Street. Our house was the first
23 one built.

24 MS. PORTER: So you were in the home
25 too?

1 MS. BROWN: We were in there for about
2 2 years before -- oh, we were in there for a year
3 before they built.

4 MS. PORTER: And occupied it for a year
5 prior to this?

6 MR. LAYTON: Who built your home?

7 MS. BROWN: Wayne Homes. The same that
8 built the other two homes.

9 MR. LAYTON: And when they built the
10 home for you, they were charged with meeting all
11 the standards of the building code, correct?

12 MS. BROWN: As far as I know, yes.

13 MR. LAYTON: Okay.

14 MS. BROWN: Can I add on to the --

15 MS. PORTER: Certainly.

16 MS. BROWN: Tom is my dad. I can say
17 that Linda called him to tell them about the
18 sidewalks and he then relayed the information to
19 us. He was not aware of it beforehand.

20 MS. PORTER: But he was not the builder
21 of either of your properties?

22 MS. BROWN: No.

23 MR. STONER: And he didn't own the
24 property when he relayed the information, is that
25 what you're saying?

1 MS. BROWN: Correct. Any time Linda
2 had a question about my property, she would contact
3 my dad instead of contacting us. In fact, she even
4 asked Katie at one point when we were going to put
5 our driveway in, instead of calling us or
6 contacting us directly.

7 MR. STONER: Are you the home that
8 doesn't have the driveway?

9 MS. BROWN: No, we have a driveway.

10 MS. KLINE: All four homes have hard
11 surface driveways.

12 MR. STONER: Oh, they do now?

13 MS. KLINE: Yep.

14 MS. PORTER: But they are not all
15 concreted?

16 MS. KLINE: They are concreted. I do
17 want to make it known that the reason why I came to
18 the council meeting last month was because CJ Ward
19 was at our house and they were surveying the
20 property.

21 And I said, oh, you guys are starting
22 the drains? Because originally in the meeting
23 minutes -- at the meeting it was supposed to start
24 in September.

25 And then CJ came and said, oh, that's

1 going to be a bigger project than I thought it was.

2 I was like, oh, yikes, well just
3 remember our driveway. So I went and I got a quote
4 for our driveway and then I called him the day of
5 the council meeting that we came and I spoke to you
6 guys, and he told me that they were no longer
7 moving the drains and that we would have to put the
8 sidewalk 12 feet into our yard. And then when I
9 came and spoke to you -- or council and they said
10 that it would be brought back up tonight. So since
11 it was possibly changing the variance, that's why
12 we came back to talk to you.

13 MR. STONER: Mayor, do you want to
14 speak to that?

15 MR. LAYTON: Well, I brought V-3
16 engineering firm in, and they went down and did
17 some studies on it. Nothing -- they didn't go in
18 and survey anything but he went and looked and
19 checked where the lines are. And it's his opinion
20 that 12 feet off of the street, the sidewalk is
21 going to be between the storm sewer and the water
22 sewer and we don't have to tear your driveway up.
23 We can go to the driveway and stop. Go on the
24 other side of your driveway and continue the
25 sidewalk. Your driveway virtually would be part of

1 the sidewalk.

2 MS. KLINE: And I was told that we
3 would have to dig the driveway up.

4 MR. LAYTON: Most -- a lot of them in
5 town are like that.

6 MS. KLINE: Yes. And the reason why
7 the driveway got brought up is because CJ mentioned
8 having to tunnel under or just tearing it up.
9 That's why I got that quote. But I guess, is Route
10 40, 12 feet off of the road? Their sidewalks? I
11 don't think they are.

12 MR. LAYTON: I think a lot of them are.
13 I think North Street is.

14 MS. PORTER: Route 40 has been there
15 for 100 years.

16 MS. KLINE: I guess, I'm a little
17 confused, 12 feet, that's kind of far back.

18 MR. STONER: The drainage on Route 40
19 is curb drainage, most of it.

20 MS. KLINE: Correct.

21 MR. STONER: So the other three or four
22 foot space between the road and the sidewalk in
23 most places.

24 MR. LAYTON: I didn't go out and
25 measure. They tell me that the other section of

1 sidewalk that you guys say are not serviceable are
2 12 feet off the roads.

3 MS. KLINE: They have on street --
4 well, I guess their driveways are right in front of
5 that where as we have proper driveways.

6 MR. STONER: Anyone else in the
7 audience want to speak on the topic?

8 MS. SAMSAL: I'm Tammy Samsal, 418 East
9 Cumberland Street. My main concern, again, is the
10 flooding and if you put the sidewalks 12-foot into
11 our yards and everything else is on the other side
12 of the sidewalk, the sidewalks are going to have to
13 be built up because there is no room, you're going
14 to angle the dirt down, it's going to dam up and
15 we're going to have flooding again.

16 Katie has spent \$20,000. We spent
17 \$30,000 to get our property where it doesn't flood
18 anymore.

19 Linda, she told us about the sidewalks
20 after the house was built, but she called it a
21 service sidewalk. To us a service sidewalk is from
22 your driveway to your home, which is what she made
23 it sound like. You know, we were putting our
24 driveway in. Are you going to be putting in a
25 service sidewalk? And we said yes. She came out

1 and looked. We put the sidewalk in from the
2 driveway to our house and she acted like that was
3 the greatest thing in the whole world.

4 But she never said anything about a
5 sidewalk going down the road like a pedestrian
6 sidewalk. She never even mentioned that. She
7 called it a service sidewalk.

8 But, I'm really concerned about the
9 flooding. She had us, all of us, build our
10 basements 4 to 5 feet out of the ground because of
11 how wet that property is. So we've had our houses
12 built out of the ground 5 feet. We had to back
13 fill all of that from the backs of our houses to
14 the road. We've had to completely bring in -- we
15 have -- we have personally brought in 22, 20-ton
16 dump truck loads of topsoil.

17 And I just don't -- the flooding is
18 such a big issue because there is a lot of clay and
19 it doesn't drain. It will lay there forever before
20 it finally goes away. Not like a week, I mean,
21 months. We had an area in our back that was 4
22 months through the summer before it finally was
23 down to a little puddle. So that's my big
24 concern -- is that we have that flooding issue.

25 And I'm really worried that the

1 water -- because right now the water between
2 Katie's house and my house, when it rains, the
3 water just goes down through there and it goes
4 right to that catch basin that's right there by the
5 Park Street sign.

6 MS. PORTER: So are you saying that
7 what you have now works?

8 MS. SAMSAL: What we have now works and
9 I'm really afraid that if the catch basins and
10 everything are on this side of the sidewalk and our
11 property, the water is not going to be able to flow
12 across it to get to where it's got to go.

13 MR. LAYTON: One of the things the
14 engineers brought to our attention is catch basins
15 and additional storm sewer reform water stuff put
16 in without destroying driveways and without
17 realigning the stormwater. In other words, if
18 there's an area where there is a drain problem, you
19 can put a catch basin there and run it to the storm
20 sewer, the current storm sewer.

21 MS. SAMSAL: I have three catch basins
22 on my property. We are the ones that applied for
23 the two lots to be made into one. So when you talk
24 about the cost of the sidewalks, ours was a lot
25 more because we have two properties that are a

1 couple hundred feet, where everybody else is 100.
2 But I'm just really worried about the flooding.

3 MR. LAYTON: Who built your home?

4 MS. SAMSAL: My home was built by Wayne
5 Homes also.

6 MR. STONER: Do you know if the builder
7 worked with Linda at all on this process or was it
8 strictly you who worked with Linda?

9 MS. SAMSAL: I know that when the plans
10 were submitted, which is funny because when we came
11 -- I came down here to get all of my paperwork. I
12 said, give me everything that you have on our
13 property. I don't have any plans. So what did she
14 approve? I have no plans. I have a picture that
15 my husband drew when he got the permits. And
16 that's all there was.

17 And there was maybe a driveway. I
18 don't even know if there was a driveway drawn on
19 there but there was no sidewalk drawn on there and
20 she just approved everything and then she did deal
21 with my project manager. I do know that. And she
22 came to the property several times -- but she came
23 to the property several times in concern of the
24 water issue, the drainage issues. And, I mean,
25 that was really all we ever seen her about was the

1 drainage issues.

2 MR. STONER: I'm definitely sympathetic
3 to you on the drainage thing. Hebron has a bad
4 drainage, flooding problem.

5 One thing I did want to say because
6 I've heard this over and over again about sidewalks
7 and water laying and the sidewalk creating a dam
8 and all of that. Generally, when sidewalks are
9 built they don't just pour the sidewalk on top of
10 the ground. You dig down into the ground, pour it
11 so that the sidewalk is level with the ground so to
12 speak or within, you know, an inch or so. So the
13 water, it doesn't normally create a dam if it's
14 built right.

15 MS. SAMSAL: But the thing is -- and my
16 husband does concrete work, so I know all about
17 this. The problem is where our pipes are coming up
18 and different things, there is no fall. There is
19 very little fall. Where the sidewalk should be
20 being put or where they was wanting to put it last
21 time, where the Freemans and the Browns live, there
22 was less than 6 inches before you were hitting
23 water lines -- or drain tiles. And when you get to
24 my house and the Kline's house, it's about 6 inches
25 to 8 inch, it's a little bit --

1 MR. STONER: When you say drain tiles,
2 our drain tiles or the ones you put in?

3 MS. SAMSAL: Both. The drain tiles
4 that run down the front of the property, which we
5 did not put in, and then the drain tiles coming
6 from our house to those.

7 I know we -- when the people came in
8 and installed our carpet, they actually were
9 driving across our front yard and the excavator was
10 there and he was having a fit because he told the
11 guy, he says, you can't drive that across this
12 front yard like, he says, because their drainage is
13 only less than a foot under the ground.

14 So just the way the land falls and
15 because of having the house out of the ground so
16 far and then where the road is, there is no fall
17 there. We have very shallow drains. That's a good
18 way to -- thank you.

19 MR. STONER: Hello.

20 MR. FREEMAN: Hi there. I'm Bruce
21 Freeman at 408 East Cumberland. Now, if we do put
22 the sidewalk in, there is a big dip between us and
23 the Brown's house. It goes down pretty
24 significantly. And if you would actually take
25 where they have the drainage itself, and make it

1 level, you probably have to come up 6 to 8 inches
2 to even get it to the surface. If we are going to
3 put a sidewalk across it. We're going to have to
4 fill that all in with dirt and that pipe is going
5 to have to come up to meet the grade of the road if
6 you are going to do that as well. But that's the
7 only place where I have any drainage on my land.
8 It doesn't go past my driveway to the west of me.

9 MR. STONER: So are you saying is
10 that -- are you saying what we were originally
11 proposing or what the Mayor just brought up about
12 the --

13 MR. FREEMAN: What we are saying, it
14 would be blocked off and I'd have to figure out --
15 we'd have to do something to ensure that we get the
16 water between our house and Ashley Brown's house to
17 get in that. Because I have no drain on the west
18 side of my driveway at all.

19 MR. STONER: All right.

20 MR. FREEMAN: And, you know, if I have
21 any water that comes from the back, well, that's
22 irrelevant in this case. It won't drain from right
23 there in between our houses if that's the case.

24 MR. STONER: Okay. Thank you.

25 MR. FREEMAN: That's my only concern.

1 MR. KLINE: I'm Trevor Kline at 424
2 East Cumberland. I guess, the whole reason that we
3 even showed up this evening was because when you
4 denied the variance the first time there is a
5 stipulation in place that the catch basins were
6 going to be moved, correct?

7 MR. STONER: We said it on the record
8 at that time that we were going to look into moving
9 the drainage --

10 MR. KLINE: CJ came here and said that,
11 yes, we will move the storm drains and then we'll
12 give them one year to put the sidewalk in.

13 MR. STONER: Which is what we are going
14 to hold you to until we move --

15 MR. KLINE: Until the storm drains were
16 moved, right? And now the storm drains it doesn't
17 sound like are going to be moved. So that's why we
18 are here.

19 MR. LAYTON: Part of what we talked
20 about doing with the engineer was to address the
21 issues that came when you put your sidewalk in.
22 And it's probably going to involve some additional
23 storm drains and maybe some of them that are there
24 relocated or put the storm sewer pipe -- the
25 stormwater pipe under the ground. It's going to

1 stay where it's at. Now, we may attach some stuff
2 to it but, again, that's all engineering and we
3 have to go in and look at it and see where we're
4 at. He did just a visual look at it and walked the
5 property and spent some time down there.

6 MR. KLINE: We haven't been relayed any
7 of that information whatsoever.

8 MR. LAYTON: I just got the
9 information.

10 MR. KLINE: The only information we
11 have is from CJ.

12 MR. LAYTON: I hesitate telling you
13 this because I don't have any solid information.

14 MR. KLINE: I understand that. But we
15 were denied the variance based on the fact that
16 those storm drains were going to be moved.

17 MR. STONER: No.

18 MR. KLINE: Yes, that was in --

19 MR. STONER: You weren't denied it
20 based on that fact.

21 MR. KLINE: No, but that was the
22 stipulation within the denial and now, those are
23 not being moved currently. They are supposed to be
24 moved in September. This is all on the paperwork.
25 The storm drains were supposed to be moved in

1 September. CJ came out and said this is going to
2 be a bigger project and we're not sure if the storm
3 drain basins can be moved. So that is why we are
4 here now because those stipulations are now
5 changed.

6 MR. STONER: They haven't changed
7 because we haven't made a firm decision on anything
8 yet.

9 MR. KLINE: That's not what we've been
10 told because we were told by CJ that him and John
11 Trujillio made the decision that the sidewalk was
12 going to be put 12 feet back into our yard on the
13 other side of the catch basin. That's what we were
14 relayed. So that's why we are here now.

15 MR. STONER: Okay.

16 MR. KLINE: Because the catch basins
17 according to our variance denial were going to be
18 moved to the house side of our driveway -- or the
19 sidewalk. That is now not the case from what we
20 have been told.

21 MR. STONER: So you keep saying that
22 it's a stipulation. The way the record read was we
23 denied your variance.

24 MR. KLINE: Yes.

25 MR. STONER: First off. Denied, you

1 have to put a sidewalk in.

2 MR. KLINE: I understand.

3 MR. STONER: But we put a stipulation
4 in that said that the Village would investigate
5 moving the storm drains so that we could possibly
6 have it where your sidewalks are closer to the
7 street instead further off of the street so that
8 you wouldn't have the issue of having a sidewalk
9 closer to your house, which many of you complained
10 about at the meeting.

11 MR. KLINE: No. Our main concern was
12 the water issue.

13 MR. STONER: The water issue doesn't
14 have a bearing here. We're not trying to flood
15 your property. We're trying to make you observe
16 the code.

17 MR. KLINE: I understand that. All
18 right. We'll cross that bridge when we come to it
19 then.

20 MR. LAYTON: We need to go back and
21 review all of that. My recollection is that we
22 were going to work with them as far as any issues
23 that the sidewalk caused with water. And he
24 specifically mentioned today that moving the storm
25 drains, the storm sewer things on the other side

1 probably didn't make any sense, that we can add
2 them to the house side of the sidewalk and address
3 the issue if there is an issue.

4 MR. STONER: Okay.

5 MR. LAYTON: And we did, I think. We
6 have to go back and look at the thing, but I think
7 we did commit to working with them on any kind of
8 water drainage issue it created.

9 The problem is CJ came to me and told
10 me that it was going to be an exorbitant amount of
11 money and when I had the engineers go down and look
12 at it, they said, no, I don't think we're really --
13 we're not going to have to spend that kind of
14 money. The reason we are going 12 feet back is
15 that's because that's between the storm sewer and
16 the water pipe and that's where it fits.

17 MR. STONER: And matches up with where
18 the sidewalks are.

19 MR. LAYTON: And the other sidewalks
20 are 12 feet off the road.

21 MR. STONER: Okay. Any other
22 discussion from anyone in the audience or any Board
23 members have questions?

24 MS. PORTER: So what are our next
25 steps?

1 MR. STONER: Well, the first step is to
2 let David review the questions that Mike had for
3 him. And then we can get together and discuss what
4 the next steps are. Whether we have them submit a
5 new variance application or whether we just stick
6 with the ruling that we had.

7 MS. PORTER: I would like to see this
8 done in a coherent timely manner.

9 MR. STONER: As would I.

10 MS. PORTER: Because this has been
11 going on for a long time. Our property owners have
12 been patient and I'm amazed. And what I would like
13 to see is something that accurate, reasonable,
14 doable, and do it before next year this time.
15 That's what I would like to see.

16 Now, whether that can all be
17 accomplished, I don't know that. But we can try to
18 do that because there is a lot of angles and a lot
19 of things to be considered. We have attorneys. We
20 have engineers. We have our own thoughts, you're
21 input, and I would really like to see this moved
22 along so that whatever steps are taken are
23 appropriate.

24 MR. STONER: I think those are good
25 points and I concur.

1 MR. MCFARLAND: I do, too.

2 MS. PORTER: Let's take a vote.

3 MR. MCFARLAND: I don't know if it's
4 vote appropriate.

5 MS. PORTER: I don't mean to be jocular
6 about it but there is an awful lot of things and a
7 lot of materials, and a lot of things that are
8 probably not exactly accurate. When conversations
9 occur, they're not always relevant. Sometimes they
10 get embroidered. I don't think that's a good
11 position to be in. So that's my angle.

12 MR. MCFARLAND: Is it -- I'm asking for
13 your view, Mr. Chair, your's, sir, and the
14 attorneys. It seems that this has gone on for
15 quite a while and as was pointed out I wasn't on
16 the Board when this first happened. So I'm kind of
17 getting to the party a little late. But, just on a
18 personal level and it may not be appropriate
19 personally, but, I'm going to go here anyway. The
20 holidays are coming. They are not far away. I
21 would like for our residents who have invested in
22 our village with their homes and other things, to
23 be able to put their heads down and sleep well at
24 night without having to worry about this issue.

25 My suggestion would be, is that any

1 action on their part or required on their part
2 would be put in abeyance until we hear from our
3 solicitor here, attorney, if I'm using the right
4 words, David. And, and we find out what we can do
5 with the drainage and that the drainage is actually
6 done -- and so we put any requirements on the
7 property owners in abeyance until we reach that
8 point where those two issues have been resolved.

9 Did I go too far?

10 MR. MOSER: So I'll add one thing.

11 MR. MCFARLAND: You're going to tell me
12 I did.

13 MR. MOSER: No. I just want to make
14 sure everybody is clear. I always let you -- I
15 want you all to talk, but if I'm hearing it
16 correctly and let me know if I misinterpreted
17 anything. Of course, I'm going to get back to your
18 questions. We definitely would like more
19 information from our engineering department about
20 the drainage. It seems like there has been updates
21 since then. So some new information that's
22 formalized would be very helpful to you as a Board.

23 Is the Board inclined to want to
24 receive a new variance application with additional
25 documentation from our property owners back here

1 and their attorney? I think that's the kind of
2 last hanging item.

3 MS. PORTER: I would like --

4 MR. LAYTON: I think we need a new
5 variance request application. I'll get with the
6 engineer and we will figure out what it's going to
7 cost to find out what it will take to go down and
8 do the survey and look at the property and find out
9 what it's going to take to make it, address any
10 kind of drainage issues there are. I'll find out
11 what it's going to cost us to do that, and I think
12 we can probably commit to get that -- to spend that
13 money. But I think they need to put another
14 application in so we have a record of what we are
15 doing.

16 MS. KLINE: I know you mentioned
17 possibly waive the application fee. So at the last
18 variance, Linda told me it would cost \$350 and I
19 ended up paying almost \$900. Between the four of
20 our homes, so I didn't know if you would consider
21 waiving that application fee with the holidays and
22 we all have small children.

23 MR. LAYTON: I'll make a motion that we
24 waive the application fee.

25 MR. MCFARLAND: I'll second that.

1 MS. KLINE: We really appreciate that.
2 Thank you so much.

3 MS. PORTER: When we do engage, and I
4 expect there will be an engineer and engineering
5 firm -- I deal in pretty much in specifics instead
6 of out here someplace that it expects me to
7 interpret it. I don't have an engineering mind but
8 I do know -- yes and no -- so if we do go that
9 route, and I suspect we will, or we should in our
10 due diligence to try to resolve this whole thing, I
11 would like to see accurate information and I would
12 like to see it in a manner in which a layperson can
13 understand.

14 MR. LAYTON: We have a motion. We need
15 to vote on it.

16 MS. PORTER: You're right.

17 MR. STONER: We have a motion to waive
18 the application fee. I believe it was made by the
19 Mayor?

20 MR. LAYTON: Yes.

21 MR. STONER: And seconded by Mike?

22 MR. MCFARLAND: Yes.

23 MR. STONER: So let's take a roll.

24 Ms. Porter?

25 MS. PORTER: Yes.

1 MR. STONER: Mr. McFarland?

2 MR. MCFARLAND: Yes.

3 MR. STONER: Mr. Jacobs?

4 MR. JACOBS: Yes.

5 MR. STONER: Mr. Layton?

6 MR. LAYTON: Yes.

7 MR. STONER: Mr. Stoner is a yes.

8 (MOTION APPROVED.)

9 MR. LAYTON: To get to that point, the
10 engineer will be here to explain how he reached his
11 decision.

12 MR. STONER: Okay. Now that we voted
13 on that I just have a question to make it
14 completely clear with what we are doing here.
15 We're asking them to submit a new variance before
16 we have a decision made by the engineer?

17 MR. LAYTON: At the recommendation of
18 the solicitor.

19 MR. STONER: But why are we having them
20 --

21 MR. MCFARLAND: You didn't recommend
22 that did you?

23 MR. MOSER: No, no. I think you can
24 have the engineer -- I think you can have two
25 things happen at once. I think you can have our

1 property owners, our neighbors here submit their
2 new variance application. Simultaneously I think
3 Village staff --

4 MR. LAYTON: Maybe I misunderstood but
5 I thought you recommended that that would be the
6 first part of the process, to submit a new request
7 for a variance, and then we can work with the
8 engineer and find out where we are at.

9 MR. MOSER: Yes. That's what I'm
10 saying. I think you can have the variance
11 application ongoing and have your Village engineer
12 incorporate and include his updated recommendation
13 in depth, in layman's terms in a way that's
14 explainable. So in terms of timing, I know we have
15 our December 5 meeting. We have an early January
16 meeting. We can talk about that depending on when
17 the materials come in and how much time the
18 engineer has, but it sounds like this is very
19 doable.

20 MR. LAYTON: I will just say right now,
21 it'll be the January meeting would be the earliest
22 it would happen.

23 MR. STONER: And the variance is going
24 to be similar to the previous variance where they
25 are asking not the build a sidewalk?

1 MR. MOSER: I would imagine so. I'm
2 not advising them but I would imagine so, and
3 including any and all additional new information,
4 some of which has been discussed tonight.

5 MR. MCFARLAND: I'm trying to keep up
6 here a little bit as to the timing on some of these
7 things. They have a variance in front of the Board
8 at this point?

9 MR. MOSER: No, they do not.

10 MR. STONER: It was turned down.

11 MR. MCFARLAND: The one that I'm seeing
12 here?

13 MR. STONER: Yeah, that was declined.

14 MR. MCFARLAND: That's the one that was
15 declined. Okay. Well, what I was thinking seems
16 reasonable to me is that they not be required to do
17 anything at this point. Unless and until the
18 drainage issue is resolved. And once that's
19 resolved and in the ground -- is that going too
20 far?

21 MR. LAYTON: We're trying to make a
22 record that we had them here tonight and we're
23 going to try and address the issue. And if they
24 submit another variance request, at least that's on
25 the table. We don't have to act on it. They don't

1 have to push us on it. If it gets to the point
2 where the engineer comes back and says it's going
3 to cost you a million dollars to fix it, we're
4 probably not going to fix it.

5 As mentioned he has not -- without
6 going in and doing the due diligence and all of the
7 things that he needs to do to make sure it works,
8 that's what we are going to try to do and get him
9 to do that. Then he tells us what the money is.
10 And if we decide that's the money we can spend then
11 we go back to them and apply -- and address the
12 variance that they have submitted. Correct?

13 MR. MCFARLAND: Seems reasonable.

14 MR. LAYTON: Does that make sense? We
15 got to have some piece of paper on the table that
16 says we are working on this.

17 MS. PORTER: Yes.

18 MR. MCFARLAND: You're right. I think
19 because otherwise nobody has asked us to do
20 anything.

21 MR. MOSER: Right. And if and when
22 there comes a point where the Board is taking new
23 action on this same issue again, we need to make
24 sure that the process for the Village is in place
25 so everybody is notified. And the way to do that

1 is a variance.

2 MR. LAYTON: This tonight was just a
3 discussion because they told me what the price was
4 going to be to move the drain and we had to find a
5 resolution to that.

6 MR. MCFARLAND: Got it. Thank you.

7 MS. PORTER: And since we are looking
8 winter in the jaws, it seems to me that even though
9 we have the information, I don't know that we're
10 going to be in a position to dig, shall we say.

11 MR. LAYTON: I'm not going to get
12 anything out of the engineer until January anyway.
13 I can tell you that right now.

14 MS. PORTER: So it would probably be --
15 whatever happens, if it's the physical thing that
16 has to be done, and I suspect that no matter what
17 happens, there will be some installation or some
18 kind of thing happening and that I would think
19 would be likely not until really late winter. And
20 that would -- well, that's another chapter. So
21 I'll let that one go. But that would be my
22 thought. We're not looking at activity until late,
23 early next year at the earliest.

24 MR. LAYTON: Any other concerns or
25 comments, Mr. Chairman?

1 MR. STONER: None from me. Anyone else
2 have any questions, concerns, comments? Anyone
3 else? Last chance from the audience.

4 MR. LOWE: The only thing I want to do
5 since we played the film. I will give you the
6 film, so if you need to -- if anybody wants to see
7 it again you will have the record complete.

8 MS. PORTER: Thank you.

9 MR. LAYTON: Motion to adjourn.

10 MR. MCFARLAND: Second.

11 MR. STONER: Ms. Porter?

12 MS. PORTER: Yes.

13 MR. STONER: Mr. McFarland?

14 MR. MCFARLAND: Yes.

15 MR. STONER: Mr. Jacobs?

16 MR. JACOBS: Yes.

17 MR. STONER: Mr. Layton?

18 MR. LAYTON: Yes.

19 MR. STONER: Mr. Stoner is a yes.

20 (MOTION APPROVED.)

21 - - -

22 (Thereupon, the hearings concluded at 7:50 p.m.)

23 - - -

24

25

CERTIFICATE

- - -

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, November 7, 2022, and carefully compared with my original stenographic notes.

Date this Transcript certified

Rebecca A. Gause,
Notary Public in and
for the State of Ohio.

My Commission expires May 21, 2024.

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\$40,000 [5] 20/12 23/6 23/8	53/11 64/23	59/24 61/17 61/21 63/16 65/15
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1	20/18 21/1 21/7 21/9 21/15	allowed [1] 40/20
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12 [3] 60/12 62/14 62/20	58/20 61/10 64/6 64/24 65/19	altered [2] 22/22 23/24
12 feet [5] 49/8 49/20 50/10	69/16	alters [1] 32/16
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12-foot [1] 51/10	Absolutely [1] 12/22	65/14
1A [2] 14/8 14/15	access [4] 4/21 5/10 5/12 5/12	am [4] 14/13 41/16 43/13 43/14
1C [1] 15/10	accompanying [1] 41/6	amazed [1] 63/12
1D [1] 15/20	accomplish [1] 33/5	amount [3] 32/19 32/20 62/10
1E [1] 16/1	accomplished [1] 63/17	analysis [1] 42/2
1F [1] 16/9	according [1] 60/17	angle [2] 51/14 64/11
1G [1] 16/13	account [1] 37/8	angles [1] 63/18
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20-ton [1] 52/15	acre [2] 4/17 6/14	35/22 38/22 43/15 66/13 70/24
2018 [2] 10/18 46/5	acreage [1] 7/11	72/20
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2022 [4] 1/6 2/2 2/21 74/6	across [8] 4/21 19/24 28/24	40/13 40/15
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