

## MINUTES BZA 2/14/2022

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1 **MINUTES FOR THE REGULAR MEETING OF THE CHESTER TOWNSHIP BOARD**  
2 **OF ZONING APPEALS HELD MONDAY 10 JANUARY 2022, IN THE TOWN HALL**  
3 **MEETING ROOM**

4 Mr. Barton Ziganti called the February 14, 2022, Chester Township Board of Zoning  
5 Appeals meeting to order at 7:15 pm.

6 Mr. Ziganti requested that Board members and audience stand and recite the Pledge of  
7 Allegiance.

8 Mr. Ziganti: I would also to request that all adults that are present have signed in at the  
9 lectern with their name and address.

10 Mr. Ziganti: Will the Secretary please call the roll.

11 Secretary: Mrs. Fadorsen/present; Ms. Klemm/present; Vice-Chairman Pona/present;  
12 Mrs. Sritalapat/present; Mr. Wittine/ present; Chairman Ziganti/present. Galina  
13 Berglund, Zoning Inspector, was also present.

14 Mr. Ziganti: I would like to start this meeting with recognizing Cynthia Kovach, she has  
15 been our Board of Zoning Appeals secretary for a number of years and she will be  
16 finishing up this evening with being present at our meetings and with that Kathleen  
17 McCarthy will be taking over in the near future with responsibilities as secretary for the  
18 Chester Township Zoning Coming Commission and the Board of Zoning Appeals. With  
19 that, I just wanted to make that announcement and let you know that we are very  
20 grateful for your service to the community for all these years.

21 Secretary: I am also grateful for your patience. It has been fun.

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23 Mr. Ziganti: This evening we are going to have two appeals in front of us: Appeal 2022-  
24 01 and 2022-03. We had another appeal that has been delayed to next month and that  
25 will explain why the variances are out of order. We will probably see the third variance  
26 next month. We don't have any requests in front of us for a continuance and with that  
27 what I would like to do is take a couple minutes and present the purpose and  
28 procedures of the Board of Zoning Appeals for some of you who might be here for the  
29 first time.

30 Mr. Ziganti: I will begin with giving you a background on the purpose and procedures of  
31 the Board of Zoning Appeals. We are a quasi-judicial board chartered to hear the case  
32 of an individual or organization seeking a conditional use certificate or the citizen  
33 wanting to establish, relocate or grow a business, or the citizen with a request to build  
34 on or alter their property in the Township any of which conflicts with the zoning

## MINUTES BZA 2/14/2022

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35 requirements of our community. The members of the board measure the request using  
36 the information provided by the applicant as well as additional information the applicant  
37 presents at the meeting. The Board of Zoning Appeals is especially required to focus on  
38 the responses the applicant gives in the Notice of Appeal, either Form #4 or #5, and the  
39 questions that they answer on page 3, known as the standards. For example, the  
40 responses are used to establish a practical difficulty in the case of an area variance.  
41 Only if a practical difficulty exists is the Board of Zoning Appeals charged with granting  
42 an area variance. For a variance or conditional use to be granted it requires the  
43 affirmative vote of three Board members. If the request is rejected the applicant can  
44 appeal to the Township Trustees. The specifics in hearing an appeal are: first, we will  
45 swear in any person who will be offering testimony in the case as well as members of  
46 the audience wishing to question the applicant at that given time during the meeting.  
47 Next, the applicant is asked to present the information that supports their request for a  
48 conditional use or variance. After the presentation, the individual Board members may  
49 ask the applicant for further information or to clarify that which was presented.  
50 Following, any sworn audience members may question the applicant on the matter of  
51 the appeal and specific only to the appeal. The Board does not have the time or the  
52 authority to handle unrelated matters. The applicant is asked to respond to the  
53 questions posed to them by the audience. Last, the Board may wish to follow up with  
54 further questions of the applicant. This will conclude the public presentation portion of  
55 the appeal. The Board will then deliberate on the specifics of the case later in the  
56 evening and hold a vote on the appeal. The applicant is free to contact the Zoning  
57 Inspector tomorrow morning to get this result. Please know that if the applicant's  
58 request is granted they cannot move forward with their plan until the next monthly  
59 meeting of the Board of Zoning Appeals when the minutes from that meeting and  
60 findings of facts are approved by the Board members. That again is the purpose and  
61 procedure of our Board here.

62 Mr. Ziganti: Our first appeal is going to be 2022-01, Nicolas Berardinelli. They are  
63 asking for a variance for a smaller than allowed for frontage which is associated with a  
64 request for a lot split. I will begin by asking the Zoning Inspector to fill us in on the  
65 specifics of this case and why we have an appeal in front of us.

66 Zoning Inspector: The occupant is requesting an area variance for his property located  
67 at 12380 Chillicothe Road. The applicant is seeking an area variance for the lot split  
68 from Section 5.01.17 of the Chester Township Zoning Resolution. That section sets out  
69 the dimensional requirements in our district is 150' lot width and frontage should be 150  
70 feet and in this case width and frontage on Sherman Road frontage is 109.09 feet.  
71 Applicant is seeking a 27% area variance.

## MINUTES BZA 2/14/2022

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72 Mr. Ziganti: We can now have the presentation by Mr. Berardinelli. Any audience  
73 members who may wish to question the applicant please stand and be sworn in.

74 Mr. Pona: Anyone who wants to be heard on this case needs to stand and raise your  
75 right hand. Do you swear to tell the truth, the whole truth and nothing but the truth under  
76 penalty of perjury of the laws of the State of Ohio. Thank you and you may all be  
77 seated.

78 Nicolas Berardinelli: I currently live at 12380 Chillicothe Road and I want to split this lot  
79 to be on Sherman Road. My parents right to the west and I'm close to them where I'm at  
80 now, but I would like to be a little closer and actually build something a little smaller than  
81 what I'm in currently so. When I filled out the application it was denied for the frontage  
82 and I'm here for that. I'm not asking to build a home in the area that is 109 feet. What  
83 happens at that one point there, I think it's 163 feet deep, and it opens up to 253 feet  
84 wide. My proposed location is to be in the line somewhat with my parents and they are  
85 at about 185 and I'm looking at being between 190 and 200 feet off the edge of the  
86 road. At that point the lot becomes 253 feet wide. I think that's about it. I think I would  
87 have maybe 77 feet from the west line and 108.6 feet from the east line and 121.41 feet  
88 from the rear line which would be the south line at that point. That's all I'm asking to do.

89 Mrs. Sritalapat: Are you looking to split the lot into two plots or three?

90 Mr. Berardinelli: Eventually it would be three total with my house. There's one I could  
91 make on Chillicothe Road. That one is a little over 1.5 acres and the frontage is 150 feet  
92 wide. The one that is on Sherman that would be the issue I guess.

93 Mr. Ziganti: To clarify, we have in front of us a variance request to allow for access to  
94 this large piece of property Sherman Road. What is in the Zoning Resolution is where  
95 you have to require 150 feet frontage for a given lot. So it is 109 feet in front of us right  
96 now. This is about a 27% area variance request. However, what that means is for that  
97 driveway to go in, you are planning on building a home to which that driveway connects.  
98 You are looking at doing a lot split when?

99 Mr. Berardinelli: Whenever I get the variance, then as soon as I can. In my mind I'm  
100 trying to figure out where this process begins. If this is passed, then you are able to go  
101 forward with the lot split. I spoke with Linda Crombie, the Planning Director, and that is  
102 what she told me. In this case, I would have to get the variance before they can help me  
103 do anything else that needs to be done.

104 Mr. Ziganti: The Board is considering that indeed the purpose of this variance is to go  
105 forward with your proposal to cut this large block into three different properties and one  
106 of the properties will have the existing home that is on Chillicothe Road. Do you own

## MINUTES BZA 2/14/2022

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107 that home? That is your home? And then you're thinking that if you get this lot split you  
108 would build a new home.

109 Mr. Berardinelli: Right and my daughter wants the one that I'm in now.

110 Mr. Ziganti: Just for the audience members and just to help you out. Basically the  
111 property, that large block, would be sectioned out with lines horizontally into three  
112 different pieces referring to the overhead display. One, indicated there by Galina, and  
113 then another on the top, one in the middle and one on the bottom.

114 Mr. Berardinelli: Right. The one on Sherman is 1.5 acres which is the requirement and  
115 the one on Chillicothe would be 1.5 acres and then the house that I'm in ends up being  
116 2.2 once all the splits are done. 2.14 once all the splits are done.

117 Mr. Ziganti: For my fellow Board members, those include property that are part of the  
118 right of way that is on Chillicothe Road and then if you take that out of the equation, it's  
119 a little over 1.5 for the middle section and about 1.97 acres for the proposed property  
120 that has the existing house. Questions from the Board?

121 Ms. Klemm: 1.638 is what you estimate for the middle lot?

122 Mr. Ziganti: 1.5 acres.

123 Mrs. Fadorsen: You don't have any plans to build on the middle one?

124 Mr. Berardinelli: No.

125 Mrs. Fadorsen: That is your parents' house?

126 Mr. Berardinelli: Right, that is my parents' house on Sherman and then to the north of  
127 me on Chillicothe is my brother. I would actually be right in the middle of my brother and  
128 my parents if I am able to get this variance on Sherman Road.

129 Mr. Pona: I have a question. To the east of your property off Sherman, that is owned by  
130 a separate individual. Is that correct?

131 Mr. Berardinelli: Yes, that is Kolsom Tires.

132 Mr. Pona: Is there a likelihood, and I maybe I am addressing this to our Zoning  
133 Inspector, is there a possibility that if we grant this variance that the lot split may not be  
134 approved?

135 Zoning Inspector: Not according to Linda Crombie. What she told me is that all the lots  
136 in this area are about 1.5 acre. Whatever the probability of splitting this 5 plus acre lot  
137 would be in character of the neighborhood. Also there is no way for the owner of the  
138 property to get anywhere to buy any more property from this lot from here because it

## MINUTES BZA 2/14/2022

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139 only has 1.5 acre and there is no more land to sell to be within 1.5 acres and the same  
140 thing on the other side. That would not be good if not a straight line. That was what  
141 Linda said.

142 Mr. Pona: My one concern as a member of this Board is that we are being asked to  
143 grant a variance on the if come that the lot will be permitted to be split. Am I the only  
144 one that has that concern?

145 Mr. Ziganti: For instance, my understanding is that a residential property is supposed to  
146 have one driveway access. So this purpose of granting a diminished frontage is to allow  
147 for another driveway to be put in and then perhaps a lot split to go forward.

148 Mr. Ziganti: Right now we're in the section of the meeting where we do not take  
149 questions from the audience. Other questions from the Board?

150 Mr. Pona: Mr. Chair, correct me if I'm wrong. We cannot grant a variance contingent  
151 upon this lot split or can we?

152 Mr. Ziganti: We are granting a variance based upon a "what if." That is my opinion.

153 Mr. Berardinelli: The "what if" from the county?

154 Mr. Ziganti: In the past this Board has considered one lot split and it did not involve an  
155 issue like frontage. It was just allowing for a lot split, . It came before the Board to okay  
156 that lot split. That is my experience. Right now, instead of discussing a lot split, what  
157 we're doing is a discussion allowing for a certain frontage that doesn't meet zoning  
158 requirements to get that variance. We assume this purpose is for putting in a driveway  
159 to a new home. But a new home can't be placed on that big block of property, which  
160 looks exactly like Geauga County. You can't put another house on there unless there is  
161 some property split off. It's the cart before the horse.

162 Mr. Berardinelli: Actually when I started out with Geauga County and I spoke with Linda.  
163 I emailed her what was in question. Then she emailed me back and what she is saying  
164 is in order for me to move forward with the County I need a variance from the Township.  
165 I have that email here.

166 Mr. Pona: Can we see that email here, please.

167 Mr. Berardinelli: Then she directs me as to what to do with the Health Department and  
168 all that for septic and soil.

169 Ms. Klemm: The lot doesn't have to be split in exactly that way.

## MINUTES BZA 2/14/2022

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170 Mr. Ziganti: No, it can be split in half and then you could have access off of Chillicothe  
171 Road because the proposed lot split shows that middle section would be 150 feet which  
172 doesn't need any variance to put in the drive.

173 Ms. Klemm: That was my question. If we grant the variance and for some reason the  
174 County says oh no, we can't do that. Obviously, we have to split the lot at least once for  
175 the residence but you have so much acreage there it can be issued, but then you  
176 decided on the 1.9 or 1.51 because it is in character with the neighborhood. Eventually,  
177 this center lot could be sold and somebody could build on it, because the variance goes  
178 forever.

179 Mr. Berardinelli: But I don't need one for Chillicothe Road.

180 Ms. Klemm: I know, but once the lot split is done. That's all.

181 Mr. Ziganti: Other questions? In the meantime we will open the meeting to the public.

182 Margaret Muehling: I reside at 993 Sherman Road. I have in front of me a flow chart  
183 which is the flow chart that is used for lot splits and I believe Mr. Berardinelli received  
184 some information that is not quite accurate.

185 Mr. Ziganti: I was looking for such information. May we make a copy of this so that it can  
186 go in front of the Board.

187 Mrs. Muehling: While Bart is looking at that, it shows the steps that you go to get a land  
188 split which has nothing to do with the BZA, it has to do with the County subdivision  
189 regulations. And there are steps 1, 2, 3, 4, 5, 6, that go to and there are 1, 2, 3, 4 that  
190 he goes through before he comes to the Zoning Inspector. I don't have it memorized but  
191 Bart is going to. Number 1 is an accurate and current legal description approved by the  
192 County tax map department. This is to make a lot split. Second is a survey map  
193 approved by the County tax map department. Three, the County health department  
194 report showing whether the lot can support a septic tank. Then it goes to compliance  
195 with zoning after that so you are quite right those of you who say this has got the cart  
196 before the horse. You're quoting numbers there and in effect no matter how he splits, if  
197 he splits with that 109 foot front he is presenting to you a lot which is a nonconforming  
198 lot. That is why he has to come to you because one of the lots is going to be  
199 nonconforming. You quoted some figured and I understand from them that those other  
200 two lots would be conforming to all our necessary things. You are in a position of  
201 looking at lots which have not been split so I don't think it's ready to come before you.  
202 He doesn't have to make the entire split that have been looking at to my knowledge but  
203 he does have to make the split with the 109 foot frontage and you are looking at a  
204 noncompliance lot. If you decide that you will grant that variance then you are granting a

## MINUTES BZA 2/14/2022

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205 noncompliant lot with the right to build it changes to a buildable lot. Up to that point and  
206 until you grant the variance it remains a noncompliant lot. Have I cleared anything up?

207 Mr. Pona: Yes.

208 Mrs. Muehling: Basically it goes through four steps before it gets to you.

209 Mr. Pona: I think what you're saying is consistent with this email that we're looking at,  
210 because the email references all these steps.

211 Mrs. Muehling: But they have to come first. I don't think it says that, does it?

212 Mr. Berardinelli: The County comes first if I don't need a variance. So on Chillicothe  
213 Road, like we're talking about that 1.5 acres, I go to them first, but until I would be able  
214 to get a variance for Sherman Road that has the 109 frontage they can't move any  
215 further unless I have a variance.

216 Mrs. Muehling: Those departments do not care anything about Township zoning. They  
217 look at the land split. Their last step is to check with the Zoning Inspector and then they  
218 give approval. They will split the lot anyhow, they don't care, because it is different for  
219 different townships. The Township zoning approval or nonapproval is step number 4,  
220 not 1, 2, 3. You could find yourself in a position of approving this lot split and then  
221 finding that the Health Department says that it cannot sustain a septic tank. That would  
222 not be a good position to be in. Personally I would be nervous unless the BZA had in its  
223 files numbers 2, 3, and 4, which are an accurate and current legal description, a survey  
224 map and approval of the Health Department. Once you have those in your file then you  
225 can determine whether you want to grant the variance. Reason being that once you do  
226 a Findings of Facts and your minutes are approved, if anybody should challenge your  
227 decision and it goes to court we would look negligent if we had looked at those ahead of  
228 time I think. Experience has taught me that.

229 Mr. Ziganti: Are there any sworn in members of the audience who wish to take this time  
230 to question the applicant?

231 Linda Gifford: The problem that I have is that this shows back and then I think Galina  
232 has this in her office. Why did you do this instead of going straight back? If this is  
233 Chillicothe Road and this is \*\*\*\*

234 Mr. Berardinelli: It was to achieve the amount of acreage.

235 Mrs. Gifford: Then why is there an angle instead of straight back is what I'm asking.

236 Mr. Berardinelli: Because if it goes straight back then this one wouldn't have enough.

## MINUTES BZA 2/14/2022

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237 Eric Wittine: 9371 Wilson Mills Road. I have a question for the appellant. Can you just  
238 walk me through why you selected to split into three instead of two? I ask this question  
239 within the context of some things that were already expressed such as approving the  
240 septic and things like that.

241 Mr. Berardinelli: Well, I do have more kids so we just wanted to keep the corners close  
242 to our family and with our children. We are at four. I have a sister that might want to  
243 move out this way and she can take Chillicothe Road. It would be more for family this is  
244 not for profit to build homes and sell them.

245 Mr. Wittine: My personal perspective that is the underlying point of the question is it  
246 does impact the density and it does put a strain on both well and septic for the area.

247 Mr. Berardinelli: I'm told that I needed 1.5 acres in that area for a septic. The Health  
248 Department told me that they need to do their soil tests and all that and septic today  
249 are designed for various sized lots and they will find one that will work as long as the  
250 soil will accept it.

251 Mr. Wittine: May I ask a follow up question. So if you had an opportunity to do those  
252 tests.

253 Mr. Berardinelli: I can't. I mean they want a variance before they do anything else  
254 further.

255 Mrs. Fadorsen: They come highly recommended and they want the variance before  
256 they do anything else, in case it was denied. I think they're talking about saving you  
257 money.

258 Mr. Ziganti: Yes ma'am.

259 Mrs. Muehling: I want Mr. Berardinelli to know that this has nothing to do with him  
260 personally. This is for his protection, as well as for the protection of the township. He  
261 would be in a very awkward position if he were to grant a variance that could not be  
262 pinned down by specific regulations.

263 Mr. Berardinelli: I think if I was asking, if that 109 and it went back to however you would  
264 make an acre and a half, 500, 550, and I'm asking for a variance that is 109 feet all the  
265 way back, I can see that being problematic. But, like I said, where the placement of the  
266 home would be it opens to 250, 186.47, by 255.60. And even so I get the setback in our  
267 one residential 70 feet off the edge of the road. I'm not sure. I'm not asking to build 70  
268 feet off the road where it's narrow. I'm asking to be in line with the home to the west  
269 where I think there is ample room around that dwelling.

270 Mr. Ziganti: Other questions from sworn in audience members to the applicant?

## MINUTES BZA 2/14/2022

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271 Mrs. Muehling: Do you have a drawing with specific dimensions on it?

272 Mr. Ziganti: We have in the file a surveyor's drawing that has a stamp and shows the  
273 proposed lot split.

274 Mrs. Fadorsen: I have two copies.

275 Mr. Ziganti: We can pass that around. Are we done with questions from the audience  
276 members?

277 Ms. Klemm: It just appears that the County has put Mr. Berardinelli in a position where  
278 he's being asked to get this variance first before he jumps through these other hoops.  
279 It's not a requirement, it's a recommendation. It might be possible for him to go ahead  
280 and go individually to the Health Department if we could maybe assist him with some  
281 concrete information to do that. Mr. Berardinelli, have you gotten a resurvey or an  
282 approved tax map or any of those other things?

283 Mr. Berardinelli: No, I was under the impression that when I had these surveys done  
284 that they were approved and just planned to get .....

285 Mr. Klemm: When were the surveys done?

286 Mr. Berardinelli: They were done in Ohio in 2007.

287 Mr. Pona: Mr. Chair, I think it behooves both the applicant and the BZA to continue this  
288 matter to get a legal opinion from our prosecutor as to the order of the steps necessary  
289 to grant this request or to determine if we can grant this variance contingent upon a lot  
290 split.

291 Mr. Ziganti: The latter I don't believe is allowed.

292 Mr. Pona: So we can't make it contingent upon the lot split?

293 Mr. Ziganti: I am in total agreement that in my opinion this is putting the cart before the  
294 horse and I think one of the main concerns as came up in the discussion has to be the  
295 approval from the County Health Department relevant to the septic. I think that could be  
296 one of the major issues. As we know, granting a variance goes with the land forever. I  
297 would be inclined to have an opinion from the County Prosecutor or can this application  
298 be rejected "without prejudice" so that Mr. Berardinelli can come before us again? Or  
299 do we ask if the applicant would be willing to withdraw at present and then come back to  
300 us in the future. These are all options available.

301 Mr. Pona: Or he could simply ask for a continuance which is probably the easiest thing  
302 to do.

## MINUTES BZA 2/14/2022

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303 Ms. Klemm: That way he wouldn't have to pay the fee again.

304 Mr. Ziganti: Same as without prejudice. Who is going to communicate with the county  
305 prosecutor?

306 Mr. Pona: I think it would be you, as our liaison.

307 Mr. Ziganti: So what do you Board members think?

308 Mr. Ziganti: Sir, the Board members believe that it would be in your best interests and  
309 the Township's best interests if you ask for a continuance. What that means is we would  
310 put you on the schedule for next month's meeting to go forward with this variance  
311 request. In the meantime, you would be in touch with the Zoning Inspector who is well  
312 aware of the situation and you two will get an opinion or ask for an opinion from our  
313 County Prosecutor as to how we go forward and who starts the ball rolling so to speak.  
314 Is that an agreement?

315 Mr. Berardinelli: Sure.

316 Mr. Ziganti: So, ask for a continuance please.

317 Mr. Berardinelli: Can I have a continuance?

318 **MOTION:** Mrs. Fadorsen moved that Mr. Berardinelli's request for a continuance  
319 be granted. Ms. Klemm seconded. Vote unanimous. Motion passed.

320 Mr. Ziganti: It looks like March 14<sup>th</sup> will be our next meeting and hopefully we will have  
321 an answer from our County Prosecutor. Certainly, if not, the Board will be very willing at  
322 the next meeting if the Zoning Inspector indicates that we don't have an answer from  
323 the prosecutor will be willing to go forward with giving you another continuance to the  
324 next month. How's that?

325 Mr. Berardinelli: Sure.

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327 Mr. Ziganti: Next on the agenda is Appeal 2022-03, Howard Feuer/HLF Homes, Inc. on  
328 behalf of Property Owner of Record, Karen Kossman, seeking two area variances for  
329 building a proposed garage and we will begin with swearing in everyone who wishes to  
330 participate in that appeal.

331 Mr. Pona administered the oath. Do you swear to tell the truth, the whole truth and  
332 nothing but the truth under penalty of perjury of the laws of the State of Ohio.

333 Mr. Ziganti: To the Zoning Inspector, can you tell us about this variance?

## MINUTES BZA 2/14/2022

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334 Galina Berglund: In this case the applicant who is the general contractor is requesting  
335 two area variances for Karen Kossman. The applicant is seeking two area variances for  
336 the garage addition and the drive extension from Section 5.01.17 of the Chester  
337 Township Zoning Resolution. First area variance is dimensional requirements for R  
338 district, R3 district and R5 district. R5 district there are exceptions for lots 150 feet in  
339 width to require 15 feet each. This is an R5 district, 5 acres minimum, but this street is 1  
340 acre lots. There is an exception for lots less than 550 width and in her case her case it  
341 100 feet. The property owner is requesting an area variance to add an addition to the  
342 garage, changing minimum size yard district from 16.1 feet to 5.3 feet. Because the side  
343 addition to the garage would be 10.8 feet wide. The second area variance is 5.01.06  
344 permitted building structures and uses in required yards. The Section F under driveways  
345 in accordance with the following regulations states the driveway shall be back a  
346 minimum of 10 feet from any side or rear lot line. For this property requesting an area  
347 variance to extend part of the driveway to be in a line with the new garage entrance will  
348 change the driveway setback in that particular area from 6.1 feet from the side lot line.  
349 The only question that I have that I found the driveway would be in line with the garage.  
350 The blueprints it is over so that part I am not sure. In my calculations I thought that the  
351 garage, that the driveway will be in line with the garage. The application is seeking 67%  
352 area variance from first section and 39% variance for the driveway.

353 Mr. Ziganti: My first question before we begin is Karen Kossman here and Howard  
354 Feuer? The first question is because we typically have a letter that indicates that Mr.  
355 Feuer can speak on your behalf. Will he be doing that today?

356 Mrs. Kossman: Yes.

357 Mr. Ziganti: You agree that is permissible?

358 Mr. Feuer: Yes and she is also going to speak.

359 Mr. Ziganti: The next question is that typically we read into the record your application  
360 and the information that is provided there. We offer you the chance to waive the reading  
361 of that as long as you are in agreement with what has been submitted and is in the file.

362 Mr. Feuer: Yes, I agree.

363 Mr. Ziganti: The reason why we ask that is because that is information that the Board  
364 members use to look at what is being asked of us tonight. With that, you have been  
365 sworn in and please begin with your presentation.

366 Mr. Feuer: Obviously I am Howard Feuer and I live in Beachwood. Obviously we are  
367 looking for a larger variance than what just happened prior to us. This is something that

## MINUTES BZA 2/14/2022

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368 she needs basically for what she has gone through in the last year and why she needs  
369 it. I can let her speak on that.

370 Ms. Kossman: My name is Karen Kossman and I live at 12811 Kenyon Drive. Last  
371 January my ex-husband died of leukemia and he left his Grand Prix to my daughter. We  
372 met and our first date was at a wedding, he took me to the hospital to have my kids. It's  
373 been like a family member. While we were married we acquired my car, which is a 1972  
374 Grand Prix for a parts car. It was too nice to part out so I had my 72 at my residence.  
375 When my ex-husband passed away he left his to my daughter. She is in her last year of  
376 college and she intends on going to grad school. She did write you a letter stating the  
377 need for the garage space. Now my daily driver is a rear wheel drive. I have trouble  
378 getting out of my driveway from the garage. It sits out all year round. Today I could not  
379 get the door to close until I got to the bottom of Mayfield hill because it was frozen. I've  
380 waxed part of the backs of my tires getting stuck in the driveway. I've slid into sister's  
381 car and had to pay damages. It is a hardship to me. Next year I'll be 60 and my sister is  
382 62 and we're out there trying to shovel out the cars because the plow can't get up to the  
383 two cars in the front of the driveway. I would very much appreciate being able to have  
384 garage space again. It would be very helpful to me.

385 Mr. Ziganti: Would you like to make any presentation on the technical aspects?

386 Mr. Feuer: No, I mean you guys see what is there.

387 Mr. Ziganti: We typically ask you to present that so we can go forward with questions.

388 Mr. Feuer: Like Galina said it's 5 foot 3 inches and it has to be 15 feet on the side. The  
389 only thing we're doing is on the driveway just extending to the garage doors. The  
390 addition itself is 10 feet 8 inches. Maybe you want to let the people have the letter that  
391 she sent.

392 Mr. Ziganti: Is that what you want to present? We already have it.

393 Mr. Feuer: I don't know if anybody wants to hear it? Is anyone interested?

394 Mr. Ziganti: My first question to you then, sir, on the drawings that have been submitted,  
395 the architectural drawings. By the way these are A1, A2 and A3, separate from the  
396 surveyor's drawing. First issue that I see is the orientation of the house to the property  
397 line, if we look at the surveyor's drawing, the large sheet. You can see that what would  
398 be the eastern corner of the existing attached garage is actually 15.8 feet away from the  
399 property line so indeed the proposed addition would bring the addition to within 5 feet of  
400 the south property line. Typically when we look at these structures, these situations we  
401 also take into account things like overhangs etc. of the proposed structure. So in  
402 actuality if this proposed garage was to be built you would be closer than 5 or 4 feet to

## MINUTES BZA 2/14/2022

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403 the property line. That is something that we have to consider. Going to the architectural  
404 drawing that I first mentioned, A1. It shows that the concrete driveway is flaring out and  
405 coming even closer than 5 feet to the property line, A1.

406 Mr. Feuer: You have it going past it.

407 Mr. Ziganti: I'm showing what is drawn here.

408 Mr. Feuer: Here's the garage ....

409 Mr. Ziganti: Here's the existing drive and it's this curvature of the concrete.

410 Mr. Feuer: This is like, I don't even think it's concrete on the side. This is asphalt. It's  
411 already there.

412 Mr. Ziganti: What is already there?

413 Mr. Feuer: Asphalt.

414 Mr. Ziganti: What is the request for a driveway extension?

415 Mr. Feuer: Like I said, the driveway is going to be 10 foot 8 inches is the building and  
416 we're just going to make sure that the concrete is going to be a foot on each side,  
417 something.

418 Mr. Ziganti: What is a foot on each side?

419 Mr. Feuer: I'm just saying when the garage comes in this concrete should just be  
420 basically where the corner of this garage is.

421 Mr. Pona: So, not be additional concrete?

422 Mr. Ziganti: So, we actually have conflicting drawings. Just clarify for the Board. Do we  
423 go by the site plan that is on A1 or do we go by the statement that it is just you're asking  
424 to extend the driveway up to the corner of the proposed garage? Okay, that was my first  
425 question for clarification. Board members, please.

426 Mr. Pona: If that's the case, Galina, what is the distance between the proposed  
427 driveway and the side yard? I just want to make sure. I think I see a number here but I  
428 just can't be sure.

429 Galina Berglund: So the distance is 16 foot 1 inch and is going to be 5.3 from the side  
430 yard because the proposed addition is 10.8. So 16.1 minus 10.8 leaves us with 5.3 from  
431 the side line.

432 Mr. Pona: Galina, I have a question.

## MINUTES BZA 2/14/2022

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433 Mr. Ziganti: Right now we're looking at the garage addition drawing that was included in  
434 a December 21, 2021 email.

435 Mr. Feuer: I was showing on that December 20<sup>th</sup> the garage with the concrete going up  
436 to the corner of the house.

437 Mr. Pona: Galina indicated this was 5 foot 3 inches but this says 6 foot 10 inches.

438 Mr. Wittine: I don't know why she said 5 foot 3 inches because I see over here it's 6 foot  
439 6 inches.

440 Mr. Ziganti: She said 5 foot 3 inches from the property line.

441 Mr. Pona: Yes, they were doing that from the property line.

442 Mr. Ziganti: But the drawing is saying different.

443 Mr. Pona: But you have this, this is the one you were looking at and it's on the 20<sup>th</sup>.

444 Mr. Ziganti: Okay, here's the drawing dated the 20<sup>th</sup>. Do you see 6 foot 10 inches. This  
445 is the property line, P.L. and it is 6 foot 10 inches. And we know that the distance  
446 between the proposed garage and the property line will be 5.3 so we need to correct the  
447 drawings. Whatever dimension you're asking for is what we are considering. Just for the  
448 audible record we are looking at correcting some dimensions on the supplied  
449 architectural drawings.

450 Galina Berglund: This is the survey that was done and according to the survey it is 16.1  
451 which is here. The garage extension ought to be 10.8 which leaves us with 5.3.

452 Mr. Ziganti: That is not the discussion. The discussion is it is showing 6 foot 6 inches  
453 from the property line. It is showing 6 foot 10 from the property line to the proposed  
454 concrete driveway. So what dimensions are we considering here? That is the question.  
455 We need to change this. Then we will have this initialed. That is 5.3 or 5 feet 3 inches?  
456 Initial here and date it please. Any other questions from the Board before I open it up to  
457 the audience?

458 Mrs. Sritalapat: Yes, I have a question. Do you happen to have any other options on  
459 where to store the cars such as a storage facility?

460 Mrs. Kossman: My daughter is in college and she has no means to pay a monthly bill  
461 and she is a little worried about the car being stored somewhere else if there would be a  
462 fire or ... Periodically I start it up and I wash it, I back it up and wax it. I take care of it as  
463 though it were my own because at one point it was my own. It's really not an option.

464 Mr. Pona: The existing garage that is attached to the house. That is a two car garage?

## MINUTES BZA 2/14/2022

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465 Mrs. Kossman: Yes, it is.

466 Mr. Pona: Have you considered building deeper in the rear lot?

467 Mrs. Kossman: The property slopes dramatically and there is a stationery shed right  
468 behind it that cannot be moved because it's in the ground with pillars. We have pictures  
469 of that, I think that shows the grade of the land. It isn't a shed that you just buy and set  
470 on the ground and move somewhere else.

471 Mr. Ziganti: The attached garage is a two car garage. So what is the difficulty with  
472 putting two cars into the garage?

473 Mrs. Kossman: There are two cars in there. My 72 Grand Prix and her 71 Grand Prix  
474 which leaves my Challenger out in the weather.

475 Mr. Ziganti: Any other questions before I open it up to audience members that have  
476 been sworn in. Questions directed to the applicant please.

477 Mrs. Muehling: Did I understand you to say that you have two cars in storage in your  
478 present garage?

479 Mrs. Kossman: That is correct and we drive them in the summertime.

480 Mrs. Muehling: I was looking at this and I drove by and it was with Chuck. I thought that  
481 she could possibly extend her garage to the rear. Not only would she not need a  
482 variance but that she would be in compliance. Kenyon Drive is like an acre street in a  
483 five acre zone which means that you have to be a little bit careful. Did the Board receive  
484 a site plan for the whole drawing of the house and garage and shed? A site plan with  
485 everything, the whole house and all dimensions on it because as I look at this my  
486 understanding has changed a little bit. Believe me I am in sympathy with people who  
487 save things, but we have houses on a small lot here and a request for a 67% variance  
488 on a five acre lot and it is better to do some out of the box thinking than to grant such a  
489 significant variance I would think. This is a self-imposed hardship. Two cars are already  
490 in the garage. The car she drives daily is parked out in front.

491 Mr. Ziganti: May I interrupt? Why don't you explain for some of the audience members  
492 who you are and your experience because typically the audience directs questions to  
493 the applicants. But you are giving us information based upon your many years of  
494 service to Chester Township. In case there are a few of us here who aren't familiar with  
495 how you were involved with zoning, please, can you give that to us?

496 Mrs. Muehling: Yes. I served for over 25 years as a member of the Zoning Commission  
497 in Chester Township and I'm not only very concerned that our residents be taken care  
498 of, but that the Township as an overall picture should not suffer. A lot of my experience

## MINUTES BZA 2/14/2022

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499 has to do with lots that are nonconforming, like this one. We have to look not only at the  
500 picture to see not only the lot but I looked at the lot and I thought where could she move  
501 the garage. Where is the septic tank, where is the septic system, where is the  
502 replacement? Would there be any runoff problem with a neighbor? Stuff like that that  
503 you wouldn't normally think of. I don't want to take your time, but I saw that there was  
504 not a runoff problem. I saw that there was not a significant drop off from the back of the  
505 garage to the shed and it raised the question to me that if you went to the back and  
506 increased the size of the garage to the back, would the shed even be necessary?  
507 Because if you increased it going backwards, a double garage, that would be an  
508 increase of 22 feet for whatever depth you wanted. There is not a significant drop off  
509 there. The significant drop off is where the contour lines are closer together. So the  
510 shed may not even be necessary. Perhaps it could be sold. I don't have answers, I just  
511 have suggestions and questions. Another possibility would be to perhaps move it  
512 farther. I don't know what the specs are, but I suspect that the minimum is 70 feet from  
513 the right of way or 100 feet from the centerline, but I'm not sure. Maybe there is some  
514 motion where it could be moved sideways, or if you took down the existing wall that  
515 would pick up some feet and you could still extend but you would have a lesser  
516 variance. I think that you have to consider in a small situation on a lot like this how many  
517 cars can be parked outside and in garages for storage.

518 Mr. Ziganti: Thank you. Any other questions?

519 Eric Wittine, 7193 Wilson Mills Road: I certainly can appreciate the sentimental value of  
520 this and what you are trying to accomplish. Miss Margaret is a tough act to follow.

521 Mr. Ziganti: Give it a try.

522 Mr. Wittine: Everything that she said I found very interesting, but I feel that looking at the  
523 back of this garage if there could be some creative solution. I've seen where there have  
524 been garage doors on the back and then an extension out. I didn't think of removing the  
525 shed but actually that's not a bad idea. I am looking at these pictures here that were  
526 provided, as well as the shed. The other question to think about is thinking about  
527 serviceability and by extending to what would be the south creates a choke point and so  
528 if there is anything that has to be taken care of in the back then you're crossing over the  
529 neighbor's line which leads to my next question. Is the neighbor to the south here?

530 William Beucler, 12821 Kenyon Drive: One thing that I have a question about is the  
531 width of the driveway that is currently there, is that going to go from the roadway all the  
532 way back?

533 Mr. Feuer: Here's the drive.

## MINUTES BZA 2/14/2022

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534 Mr. Ziganti: Any other questions from audience members? Okay, with that I will bring it  
535 back to the Board. Board members, any other questions?

536 Mrs. Muehling: When you consider this variance remember to consider the Duncan  
537 Factors.

538 Mr. Ziganti: Okay, that was on my discussion point here. With regards to what we call  
539 the standards or the Duncan Factors, I always look at these as far as how the applicant  
540 answers and your answer to #1 is that you feel that the zoning requirements  
541 unreasonably deprive you of a permitted use of the lot. That was your answer. And will  
542 the lot in question yield a reasonable return without the variance and you said no.  
543 Basically your property is used as a residence so you would certainly be able to  
544 continue living there if you didn't have this garage. You answered no that there isn't any  
545 beneficial use of the lot without the variance but again you would still be able to live  
546 there. One of the major factors to consider when you're requesting an area variance is  
547 looking at the practical difficulty. The practical difficulty has to do with how the house is  
548 situated on the land and then the reason or purpose that you're requesting the variance.  
549 So obviously on a piece of residential property your main purpose is to have a place to  
550 live and so we, the Board, have to look at whether or not you wanting to store another  
551 historical vehicle is actually a practical difficulty. Now I am speaking for myself and I am  
552 listening to your testimony and you are indicating that this was a gift to a daughter who  
553 will be in college for a year. So in a year that practical situation that you consider is  
554 going to be eliminated because she will then be able to take her vehicle and go  
555 elsewhere.

556 Mrs. Kossman: No, she'll be out of college. She is going to grad school and so she will  
557 probably be overseas for at least four years. It's going to be quite awhile before she  
558 gets her own place. I also have my sister who lives with me and she could use a place  
559 out of the weather also because she is older than me.

560 Mr. Ziganti: Anything else to present before the Board members will begin discussion  
561 amongst ourselves? Okay. That portion of the meeting is over with as in input from the  
562 audience. Do you, the appellant, have anything else that you wish to present?

563 Mrs. Kossman: I don't believe so.

564 Mr. Ziganti: I'm just looking at the paperwork that we had for the file. I want to make  
565 sure that the dimensions are correct. No other questions, then thank you very much. We  
566 are going to deliberate on this and we will come to a vote.

567 Mr. Ziganti: May I have a motion on Appeal 2022-03?

568 **MOTION:** Mrs. Fadorsen moved to approve the variance. Mr. Pona seconded.

## MINUTES BZA 2/14/2022

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569 Mr. Pona: Again, we've all talked and we've referred to the factors that we are permitted  
570 to consider and I've got problems with three. The two requests here are substantial  
571 variance requests. Number two, I think this predicament can be obviated through some  
572 other method other than granting a variance. Number three, I consider adjoining  
573 property owners and I think there would be a substantial detriment given that we're  
574 going down to a 5 foot distance between this proposed building and the property line. I  
575 think that is a significant detriment to the adjoining property owner. For these reasons I  
576 can't support this request.

577 Mrs. Sritalapat: I am going to agree with you for the same reasons. I think the area, the  
578 way the houses are laid out, they are already rather close to each other. Those side  
579 yards, the area between the property line and where you can build, is not only to give  
580 breathing room but I think as someone mentioned, to provide things like run off. Think  
581 of that as buffer space around your property. And because you already do have a two  
582 car garage, it's not that there's not a place to put it. You already have vehicles in there,  
583 but it could be solved another way off site.

584 Ms. Klemm: I would be in agreement.

585 Mrs. Fadorsen: I am too.

586 Mr. Ziganti: I am in agreement with my Board members. I will stand on the fact that I do  
587 not think this is a practical difficulty. The encroachment on the neighbor's property is  
588 very direct and the size of the variance requests are very large and, last but not least, I  
589 think a member of the audience brought up the point that closing off access to the  
590 backyard of this individual's property might make it difficult for them to service things in  
591 the back of the property. I guess they have a septic system. I don't know, but things like  
592 that have to be considered in the future for having access to the back of the property.  
593 Any other thoughts from the Board members before we vote? Okay, call the roll please.

594 **VOTE:** Mrs. Fadorsen/no; Ms. Klemm/no; Mr. Pona/no; Mrs. Sritalapat/no; Mr.  
595 Ziganti/no. Variance denied unanimous.

596

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### 597 FINDINGS OF FACT

598 Appeal 2022-03, Property Owner of Record Karen Kossman and Howard Feuer,  
599 General Contractor, were seeking two area variances from Section 501.17 and 501.06  
600 for constructing a garage addition to an existing two car garage. Plans were presented  
601 for a 6 foot 8 inch addition to the south side of the residence to create a third carport  
602 area. That variance request was 67% and would have placed the exterior wall of the  
603 garage addition within 5 foot 3 inch of the south property line. As well, there was a

## MINUTES BZA 2/14/2022

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604 variance request for increasing the existing concrete drive in such a manner that it  
605 would extend the driveway to meet up with the southwest corner of the new proposed  
606 addition which would have been a variance request of approximately 50%. Concerns of  
607 the Board involved having the residence encroaching within approximately 5 feet 3  
608 inches of the southern property line. A Board member indicated that no practical  
609 difficulty was exhibited for requesting this proposed garage addition.

610 Motion for Findings of Fact:

611 **MOTION:** Mr. Pona moved to approve the Findings of Fact. Mrs. Fadorsen  
612 seconded.

613 **ROLL:** Mrs. Fadorsen/yes; Ms. Klemm/yes; Mr. Pona/yes; Mrs. Sritalapat/yes;  
614 Mr. Ziganti/yes. Motion approved unanimous.

615 Mr. Ziganti: You can contact the Zoning Inspector in the morning if you wish to have  
616 further discussion and to get the results of the meeting. Please be aware that our  
617 meeting minutes for this meeting won't be available until next meeting where we  
618 actually review them and vote to accept. Thank you very much.

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### 620 **MINUTES:**

621 The Board of Zoning Appeals then moved on to review the minutes from the 10 January  
622 2022 meeting.

623 Mr. Ziganti: We had a failure of our recorder again and so I took it upon myself to come  
624 up with that little synopsis there in the middle and then added in all of our votes on our  
625 motions and decisions on how we were going forward. Please take the time to review  
626 the synopsis.

627 Mr. Pona moved to approve the minutes as presented. Ms. Klemm seconded. Roll was  
628 called and the minutes were approved as presented. Mrs. Sritalapat abstained.

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### 630 **NEW BUSINESS:**

631 Mr. Ziganti: What I would like to do is begin our new business by again giving you the  
632 opportunity to greet our newest secretary for the BZA and as well thank Cynthia for her  
633 service.

634 Mr. Pona: Do you go by Kathleen or do you prefer something else?

## MINUTES BZA 2/14/2022

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635 Ms. McCarthy: Actually, Kathleen is my proper name but my nickname is Kitty and I go  
636 by Kitty. I recently retired from Tri-C where I was Director of the Automotive Technology  
637 Program. I've been doing many different things since I retired. We bought a house here  
638 four years ago to be closer to my daughter.

639 Mr. Ziganti: Your family was in front of us to seek an area variance.

640 Ms. McCarthy: My daughter and son-in-law Terry, were in front of the BZA last month  
641 for an accessory building request.

642 Mr. Ziganti: You won't text me. I'm carrying the Star Trek flip phone still.

643 Mrs. Fadorsen: I own the coffee shop in Chesterland, Coffee Works, and I've been in  
644 Chesterland since 2006.

645 Ms. McCarthy: What brought you here?

646 Mrs. Fadorsen: The coffee shop basically. We grew up in Mentor and we were out of  
647 the state for probably 25 or 30 years and we moved back in 2006 and moved here  
648 because we bought the coffee shop in Chesterland. So we moved Chesterland and we  
649 live off of Wellswood. In 2006 it was Arabica but Arabica never did anything for me, at  
650 all, except as much as texting me for years. So I stopped paying them, took the sign  
651 down. But they did nothing, not even a text or an email or anything so I said what am I  
652 doing this for. So I took their sign down and put the new sign up and here I am.

653 Ms. Klemm: How long have you been on the Board?

654 Mrs. Fadorsen: Six years.

655 Ms. Klemm: I'm Tina Klemm. I have lived in Chester Township since about 1987. I lived  
656 on Ranch Drive for a long time and then I moved to Rust Drive. I taught in the West  
657 Geauga School District for 34 years.

658 Ms. McCarthy: What grades?

659 Ms. Klemm: I was an art teacher so I taught art for kindergarten through sixth grade and  
660 I'm recently retired from there and I substitute a lot. I was teaching a fifth grade class  
661 this morning. I'm part time working there and decided I wanted to give service to the  
662 Township. It's kind of a family tradition to be active in zoning and that kind of stuff for my  
663 family and so here I am. I really enjoy it. I've only been on the Board for a little over a  
664 year.

665 Mrs. Sritalapat: My name is Deana Sritalapat and I've lived in Chester for about five  
666 years now but I grew up in Geauga County.

## MINUTES BZA 2/14/2022

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667 Ms. McCarthy: Where in Geauga County?

668 Mrs. Sritalapat: My parents live in Montville so it's a little more rural, but I grew up out  
669 there and then I was out of state for a while. I lived in Miami for a while and Salt Lake  
670 City for a while and came back here. I'm an architect and I have a little family, an eight  
671 month old at home and a two year old.

672 I'm Eric Wittine: You can call whatever you want just not late for dinner. I've got  
673 probably almost twenty years of experience in international business ranging from  
674 chemistry, engineering materials. I spent some time developing surgical tables and back  
675 to chemistry. We've been out here for nine years and we're out here because of the  
676 rural nature and lots of green scenery. That led me to become more active in our  
677 Trustee meetings and so I ran for Trustee this year and subsequently got asked to be a  
678 participant on the Board which I'm delighted to do. It's great to know everybody but I,  
679 too, look towards giving back to the community and this is a great way to do it.

680 Galina Berglund: I'm new here. I do not live in Chester Township, I live in Lyndhurst. My  
681 background is construction. I'm also marketing, sales and human resources. You name  
682 it I've probably done it. That's about it. I also have two dogs, two German Shepherds.

683 Mr. Pona: Chuck Pona, I'm an attorney. My wife and I moved here sixteen years ago.  
684 We came from Mayfield Heights. In Mayfield Heights I served on the Board of Zoning  
685 Appeals for a number of years. I served on City Council for a number of years. We have  
686 three children and I have been on this Board since 2016.

687 Mr. Ziganti: Galina comes from the far east and I come from the far west, all the way on  
688 the west side of Cleveland. Anyway, west is the best and east is .... Anyway I love the  
689 snow and I'm retired. We moved here in 1988 because she wanted all of her daughters  
690 to go to Notre Dame Academy, an all-female school. As soon as we moved here they  
691 brought in the boys from Cathedral Latin. That's why our son went to St. Ignatius, just to  
692 make things hard.

693 Ms. McCarthy: How long have you been sitting on the Board?

694 Mr. Ziganti: Seventeen years? I don't know. Anything you'd like to say, Cynthia?

695 Cynthia: Just that I have enjoyed working with all of you and I will miss you. You've just  
696 been great. Working here has been a delight. It's had its bumpy moments but all in all  
697 I've enjoyed it tremendously I hope I'll see some, if not all, of you again. I've been  
698 working for the Board for six years and I was retired. Well, actually I've tried retirement  
699 twice and it didn't take. So this is the third time and it's the charm.

700 Mr. Pona: Thank you for all your years of service.

## MINUTES BZA 2/14/2022

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701 Cynthia: You are more than welcome. It has been a pleasure.

702 Mr. Ziganti: We actually have some other new business. I'm going to start with the  
703 easiest. We were given something by Mike Joyce who had his thoughts about what to  
704 do for the BZA going forward and I had asked him to do it. Considering that we've gone  
705 as long as we have, perhaps we can put this off until next month. I'm ready to discuss it  
706 now and I've lots of thoughts. It's very important that we look at this because we have  
707 had some problems with not having complete information in front of us and we need  
708 that. This not only addressed that but as well as putting away files for the record. You  
709 know what I'm speaking of, right. Do you want to discuss it now or next month?

710 Mr. Pona: Give us your thoughts.

711 Mr. Ziganti: We'll be here forever. Page 1. Basically, an overview here. A lot of this we  
712 already do and I think that some of the ideas in here, almost everything in here we do.  
713 It's just taking on a different kind of format. For instance, on the first page, items 1  
714 through 10. These are the things that should be in front of the Board for every appeal.  
715 The very first sentence says use the existing comb binding machine for the Town Hall to  
716 bind and produce a bound copy for each and every member. This would be great but  
717 then the practical difficulty we have is that we have large engineering drawings. Maybe  
718 that's what we consider for the final version, but then the problem is overfilling the filing  
719 cabinets. Now we're going to have these little rolls on them and it's going to take a lot of  
720 space. So I think the practical solution is to have one of those big staples that can staple  
721 right through all of the paperwork and that could be what then goes into the file. What is  
722 stated there I don't think is very practical. Number 2, that has a form name already and  
723 it is called the 7-CTA so we already do that. Number 5, published legal notice for the  
724 meeting. Also we have to indicate that it is to be displayed on the front window of the  
725 Town Hall so that everyone who wants to know in the community can come up and see  
726 exactly what is on the agenda.

727 Mr. Wittine: I have a question. Maybe you just said it and I missed it. Posting on our  
728 website, as well.

729 Mr. Ziganti: My understanding is we do like the Trustees do and the Zoning  
730 Commission. On the website, we just have our calendar. Just an aside, that is what we  
731 the Board decided a couple years ago was the reason why we didn't have to publish an  
732 agenda in the newspaper because we looked at the Sunshine Laws and we considered  
733 the information given to us by the County Prosecutor. Mr. Pona can fill you in on that  
734 better than me. We made the decision that we could do just like everybody else in the  
735 Township. Then the Trustees hammered us down. Right, Mr. Mazzurco? The Trustees,  
736 can figure out if that is a Zoning Secretary's job or Zoning Inspector's job to make sure  
737 that the meeting agenda is published.

## MINUTES BZA 2/14/2022

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738 Ms. McCarthy: So, the Zoning Commission is sending an agenda every two weeks to  
739 the residents that ask for that agenda. For instance, Linda Gifford gets the ZC agenda  
740 every two weeks automatically. I just send it to an Outlook group. It is very simple to  
741 post an agenda on the front window although I struggle with the antiquity of something  
742 like that and I am able to publish to the web.

743 Mr. Ziganti: We can do that; however, this is a legal requirement. We're talking about  
744 with the newspapers.

745 Ms. McCarthy: The agenda doesn't have to go, does it?

746 Mr. Pona: So on March 17, 2020 our prosecutor responded to an inquiry of mine and I  
747 will read it to you verbatim:

748 *"Pursuant to Ohio Revised Code Section 121.22 for regular meetings the Board*  
749 *is required to establish a reasonable method for alerting the public to the time*  
750 *and place of regular meetings. This has usually been interpreted to mean the*  
751 *time and date is publicized in a newspaper of general circulation, although most*  
752 *Boards also post it on the township website. For a special or emergency meeting,*  
753 *basically any meeting other than a regular meeting, the purpose (agenda) of the*  
754 *meeting also has to be included in the notice."*

755 So I think it's plain that the only time we need to publish our agenda is for a special or  
756 emergency meeting. This is directly from the Prosecutor.

757 Ms. McCarthy: And publicized means in the newspaper?

758 Mr. Pona: In the newspaper or on the website.

759 Mr. Ziganti: So that was shared a couple of times with the Trustees and they indicated  
760 that they want it to be published in the newspaper. So we approached it from that  
761 opinion as well as from the standpoint that it costs us money every time we publish the  
762 darn thing and we, the Board of Zoning Appeals, are the only ones that are required to  
763 publish an agenda. We thought it was a logistical problem as well as an expensive  
764 problem to have but we are following the direction from our leadership.

765 Ms. Klemm: My question to you is who is the webmaster? Who has access?

766 Ms. McCarthy: Mary Lou Florentine does that and I have the ability to do that.

767 Ms. Klemm: So you could technically put public notices in the drop down or whatever on  
768 the website. That is my question.

## MINUTES BZA 2/14/2022

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769 Mr. Ziganti: I think that would be a great idea. So will you convey that to Mary Lou and  
770 our Trustees that we, the Board of Zoning Appeals, think it would be a great idea if our  
771 agenda was included on the website however that happens.

772 Ms. McCarthy: The public notices.

773 Mr. Ziganti: The agenda, the public notices.

774 Ms. McCarthy: They are two different things.

775 Mr. Ziganti: No, that is the addendum. The public notice is this. That is our agenda as  
776 well as the public notice. Cynthia will be able to show you that.

777 Cynthia: Kitty, they call that semantics.

778 Ms. McCarthy: So, the BZA thinks that the agenda should be posted to the Township  
779 website?

780 Mr. Ziganti: Or the public notice however you want. Agenda/Public Notice.

781 Cynthia: The agenda goes to individuals and then there's a page, Township Meetings,  
782 in the paper.

783 Ms. McCarthy: There's a calendar on the website that says all the dates.

784 Mr. Ziganti: In this matter for the BZA posting on March 14<sup>th</sup> it could have a little note  
785 that says please see the agenda. Indeed a public notice on the agenda could be a little  
786 bit different. Our agenda might have a little bit more detail in it. It's the idea that counts.

787 Ms. McCarthy: Can we finish that so I have it perfectly straight. So the BZA thinks that  
788 the agenda/public notice should be on the website. Do you want to put a time frame on  
789 it. I'm not asking you to. Like 48 hours before our meeting or?

790 Mr. Ziganti: Zoning Inspector, you probably can answer this better because you  
791 sometimes get last minute stuff that isn't supposed to be in front of us but we, being the  
792 very gracious Board that we are, take in that information and so what time frame is our  
793 BZA agenda in cement/concrete.

794 Galina Berglund: We sometimes have, not always, but sometimes we have additional  
795 information to the case but the case is set in advance. So somebody might drop off, like  
796 it happened this time, just because the surveyor died and they had to start all over again  
797 to get through everything that they need for the meeting. I would say that I'm good to go  
798 a week before the meeting.

799 Mr. Ziganti: Continuing, so on the second page, Mr. Joyce put in his thinking that 17  
800 days before the BZA meeting the Zoning Inspector is talking to the BZA secretary about

## MINUTES BZA 2/14/2022

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801 what cases have been confirmed. Then it goes to 12 days the notice of our meeting is  
802 published in the newspaper. It sounds to me like everything has to be finalized 17 days  
803 before.

804 Galina Berglund: So when is the publishing in the paper?

805 Mr. Ziganti: Ten days before the scheduled meeting.

806 Ms. Klemm: Postmarked eleven days is what it says on #4.

807 Mr. Ziganti: That's where the notice is mailed out to the surrounding property owners.  
808 So we can treat them special by having them get it one day ahead of time. So then the  
809 request is 10 days on the website.

810 Ms. McCarthy: 10 days prior to scheduled meeting.

811 Mr. Ziganti: Right. Just for you to know, our scheduled meetings are almost always the  
812 second Monday of the month and the only change then based upon if a number of  
813 members can't make it or it falls on a very important holiday like Valentine's Day. Boy  
814 are you in trouble.

815 Mr. Mazzurco: I cooked already.

816 Cynthia: You're a man in a million, Joe.

817 Mr. Ziganti: Anything else on the topic? Back to page 1, going backwards. Okay, I'm  
818 trying to figure out what I meant by this. Number 7, this is something I have asked for for  
819 a long time and that is the marking of exhibits. The system I came up with was  
820 surveyor's stuff should be an "S" and a letter can be an "L" and photographs can be a  
821 "P" and architectural drawings can be an "A" and so the idea is that on this audible  
822 recording, we the Board members can, when we make a reference of "on this drawing"  
823 we can say A-3 and then when we go through our minutes we know what we're talking  
824 about. Anyway, right there when he's talking about having a different numbering system  
825 for the applicant versus us, I don't really see a need for that. We're using letters and  
826 they're using numbers, because I think just labeling an exhibit as a certain type of  
827 exhibit like A1, means the first architectural drawing versus P1, referring to photographs.  
828 The appellant has to agree to and actually sign off any changes we make to the  
829 exhibits. Why would we have a different exhibit numbering system?

830 Mr. Pona: Bart, can I interject. I don't know if it fits here or not, but tonight was an  
831 example where the property owner was represented by someone else and you had  
832 asked her verbally if she approves this or authorizes that. We should probably get that  
833 in writing so that we have something in the record besides just your question of the  
834 property owner.

## MINUTES BZA 2/14/2022

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835 Galina Berglund: When they fill out application I have to be sure that they have a letter  
836 or they have a contract. In this case they have a contract.

837 Mr. Pona: Okay, so we just didn't get a copy of that but you have it.

838 Galina Berglund: It's here, it's actually here.

839 Mr. Ziganti: The reason why I asked is because I saw on the application there was a  
840 gentleman's name and the owner was different so it was just a matter of formality to ask  
841 the question.

842 Mr. Pona: I think we have had that situation.

843 Mr. Ziganti: We've had all situations. We could have a new form.

844 Mr. Pona: So that is something that you always ask.

845 Galina Berglund: Yes, I always ask.

846 Ms. McCarthy: So, do you have copies of that in your packet?

847 Galina Berglund: Yes it was presented.

848 Mr. Ziganti: My question is, is that crystal clear?

849 Mr. Pona: Is what crystal clear?

850 Mr. Ziganti: That sheet of paper.

851 Mr. Pona: It was fine with me.

852 Mr. Ziganti: I mean is that reasonable to show? All right, so let's see next down from  
853 that section 1, 2, 3 there, all that should be identified in the Zoning Inspector's letter for  
854 Addendum. I can't tell you how wonderful it is to have an addendum with your thoughts  
855 clearly spelled out. Way at the bottom that's where I talked about getting a big old  
856 stapler and putting things together.

857 Cynthia: We have one of those.

858 Mr. Ziganti: I bet we do.

859 Ms. Klemm: I agree that the comb is a lot of extra plastic. I've worked with those as a  
860 teacher who had to put stuff in and take stuff out. If you have to add stuff at the last  
861 minute it's just better to have a 3 ring.

862 Mr. Ziganti: Page 2, again Item 1 that big paragraph has to do with the timing for things  
863 and we, the Board, should be getting our packets 7 days ahead.

## MINUTES BZA 2/14/2022

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864 Ms. McCarthy: Your minutes?

865 Mr. Ziganti: Yes.

866 Ms. McCarthy: You mean the packets that you got today.

867 Mr. Ziganti: The minutes as well as the cases because all that information is what we're  
868 supposed to have 7 days to review.

869 Ms. McCarthy: So let's stay with that. How would it best be delivered to you? I'm not  
870 offering to do it but in your mailboxes? So it might be helpful to have an email that says I  
871 put it in your mailbox.

872 Mr. Ziganti: On that, one of the issues in front of us right now is draft minutes. I sent the  
873 Trustees some information. I went through my old files here and found out that in 2019  
874 we had a discussion about draft minutes with our legal experts, we had two at the time,  
875 that would be Linda and Chuck. Both looked at this discussion and Ms. Betzer gave us  
876 a good description of what draft minutes are. Draft minutes are something that (if I can  
877 paraphrase) are a working document that is the property of the Board until we actually  
878 vote on those minutes for a final copy. Now we had an individual request draft minutes  
879 for our last January meeting and we didn't have any draft minutes because of the  
880 recorder failure so we couldn't supply those and in the past, getting back to what we  
881 discussed in the past, because we were concerned that our draft minutes aren't actually  
882 a good record of what was said because, as you know, many times we have ellipses  
883 and the dot dot dot and we don't know what was said. What four letter word was used  
884 by some of us and so we need to clarify those things taken from the audible record. So  
885 we, the Board, at that time said that the audible record is available until the final minutes  
886 are approved. That being said, we will not be distributing draft minutes via email.  
887 Because if we don't distribute them by email that is because they are not available by  
888 email.

889 Ms. McCarthy: We haven't even created them. They're just draft minutes and  
890 watermarked as such.

891 Mr. Ziganti: Well, no. The secretary creates the draft from the audible record. But that  
892 draft hasn't met our approval yet so, therefore, they are a work in progress. That is how  
893 we got around this and so I sent that information to our Trustees. Not the discussions  
894 we had in 2019, but some other thoughts about the problem with draft minutes and so  
895 what are your thoughts? Shall we continue with that?

896 Mrs. Fadorsen: I think so. I agree with your decision. I don't think we should supply the  
897 draft minutes. If they want the minutes beforehand they should go to the audible  
898 recording until we approve the final written minutes.

## MINUTES BZA 2/14/2022

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899 Mr. Ziganti: Okay. That was put to the Trustees and they said “please ask the County  
900 Prosecutor for her input on this.” So I’m waiting for that response. So that’s the story on  
901 draft minutes and that is why we put them into mailboxes, a hard copy.

902 Ms. McCarthy: Also, we don’t email draft minutes ever, not even as a PDF. Once you  
903 email something it becomes public record.

904 Mr. Mazzurco: It doesn’t have to be emailed to become public record.

905 Mr. Ziganti: Correct. So I went through the Ohio Sunshine Law information that was  
906 supplied to me by the Trustees and I sent a copy of that to Mr. Pona and it says may,  
907 not shall. Ergo it means that we are making a decision that we may not do it because it  
908 doesn’t say we have to do it. It is in the Ohio Sunshine Laws. I have this booklet and I  
909 can find it. It basically says :may” instead of “shall. So we the Board are going to stand  
910 on that position until the County Prosecutor gives us clear unambiguous information,  
911 which is not typical. We, the Board, can read English and we have been given  
912 information from the County Prosecutor and we have made decisions based on our  
913 ability to understand plain English and we think that we have made the right decisions  
914 and if we’re wrong then it needs to be told to us in a clear fashion because in that book  
915 it says “may” and not “shall”.

916 Secretary: With the ORC and the Sunshine Laws what takes precedence?

917 Mr. Ziganti: The ORC. It’s right here. So that is what I conveyed to the Trustees and if  
918 they didn’t answer that’s okay. So that’s the case with the draft minutes.

919 Ms. McCarthy: So the draft minutes, when they are done, what I should do then is put it  
920 Word and then put it in mail slots and send an email saying that the draft minutes are in  
921 your mail slots? And may I then share the printed copy of the draft minutes with the  
922 Trustees, if they ask me for it?

923 Mr. Pona: What is the question? Should you supply the draft minutes to the Trustees?

924 Ms. McCarthy: May I?

925 Mr. Pona: I wouldn’t have an objection but whatever Bart says. They are the Trustees.

926 Ms. McCarthy: It’s a ton of paper.

927 Mr. Ziganti: Upon request.

928 Ms. McCarthy: Yes.

929 Mr. Mazzurco: Just a thought it is work product, it is not file product so there may be a  
930 correction that the Board wants to make before so rather than propagate something that

## MINUTES BZA 2/14/2022

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931 may not be correct or clear, you may want to hold back until we get clarification. Just a  
932 thought.

933 Mr. Mazzurco: Right, so I would wait for a final product.

934 Ms. McCarthy: In Word you can publish something that has draft on it.

935 Mr. Pona: I know I would be upset if I was a Township Trustee and I requested a draft  
936 copy. Somebody tells me I can't have them. I would have a problem with that. As an  
937 official of the Township. That is just my opinion, though.

938 Mr. Ziganti: The watermark print, you know.

939 Ms. McCarthy: So then staying with that because as we go into this new stage, we want  
940 to bring the Zoning Commission, the Board of Trustees and the BZA all on the same  
941 page. So we started sharing the Zoning Commission agenda with the BZA. Or maybe  
942 we should wait until the draft is done.

943 Mr. Ziganti: They don't get drafts.

944 Ms. McCarthy: The Zoning Commission would be very interested in what happened  
945 here tonight.

946 Mr. Ziganti: They get it in the final copy which should be less ambiguous because we  
947 have gone through and removed any kind of errors.

948 Mr. Pona: I think a reasonable distinction can be made between a Trustee and  
949 appointed official.

950 Ms. McCarthy: Okay, I've got it.

951 Mr. Ziganti: So Board Members gets mad, Trustees get even. Okay, so guess what, we  
952 have more and we're not done. Number 7 was all about draft minutes. Next page. I feel  
953 like a North Carolina football player. All right, number 9 I have concerns. BZA secretary  
954 to record the revised and approved BZA minutes. The final recording to be sent to all  
955 BZA members within 14 days. Actual time limit to be voted upon by the full BZA  
956 membership. This may be done by email to the members. I think this last point should  
957 be struck.

958 Ms. McCarthy: What does he mean by record? Is there a sound recording?

959 Mr. Pona: No, I don't want that.

960 Mr. Ziganti: I would think the reference to "recording" means minutes uploaded to the  
961 server.

## MINUTES BZA 2/14/2022

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962 Ms. McCarthy: Then it shouldn't say recording, it should say uploaded.

963 Mr. Ziganti: No, what Chuck is saying is we don't need an email of the final minutes. I  
964 don't need that.

965 Cynthia: You can obtain it from the website.

966 Ms. McCarthy: Save paper.

967 Mr. Ziganti: So the final recording means the record. I don't even know where that  
968 audible record goes. Now back to draft minutes and I forgot to mention this. Our present  
969 secretary does not maintain draft minutes as an electronic copy. I'm okay with that.

970 Ms. Kovach: May I speak?

971 Mr. Ziganti: That's the idea.

972 Ms. Kovach: The audible goes to the server and it is there in perpetuity. The draft  
973 minutes I keep until we have the finished minutes. There is nothing worse than having  
974 two, three, four copies of the same document because it's called a cluster. I do the  
975 finished copy off of a draft copy and then I remove the line numbers and everything else  
976 and save it as BZA minutes blah blah blah. Another point, Bart, you will recall that a few  
977 years ago I used to put a watermark banner diagonally across the pages that said  
978 "draft" and you did not like that because you said it sometimes interfered with the  
979 reading.

980 Mr. Ziganti: That was because it wasn't a watermark and it was too bold.

981 Ms. Kovach: No, it was a watermark and that is why I began indicating in the heading  
982 "draft".

983 Mr. Ziganti: That is because if it is being distributed to the Trustees upon their request  
984 there won't be duplication handed out. It will always say draft across all of the verbiage.  
985 That is the importance there. I'm making that distinction since it is now leaving our  
986 control. I have a question. When minutes are approved they are sent to the appellant  
987 the following month. Where is that description of how that information is distributed and  
988 to whom.

989 Ms. Kovach: I don't send minutes to the appellant. I send them an approval letter and to  
990 the back is attached a copy of the Findings of Fact. Within the body of the letter it says  
991 "you will find the minutes on the website."

992 Mr. Ziganti: So where is there a description that says exactly what is supposed to be in  
993 there, that's what I'm asking. It should exist. So we are supposed to distribute the  
994 Findings of Fact to the person affected. Now today we had not only the property owner

## MINUTES BZA 2/14/2022

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995 but we also had the architect. So are we required to send findings to both the  
996 contractor and the property owner? I don't know. It should be written down. That was  
997 my comment. There should be something that we, the Board, get to look at, the Zoning  
998 Inspector gets to look at, the Trustees get to look at and say yes, this is good.

999 Ms. McCarthy: Before it's sent out.

1000 Mr. Ziganti: Just so that we have a process, that's all.

1001 Ms. McCarthy: There is something still on the table that you mentioned. You want to see  
1002 the draft kept as a file and the final?

1003 Mr. Ziganti: No.

1004 Ms. McCarthy: Okay, I can get rid of the draft once it's final and approved?

1005 Mr. Ziganti: Right. Because the draft equals the audible record. Back to Mr. Joyce's  
1006 letter. I am not sure what the "further" meant there. I think he was saying that if we  
1007 review our meeting minutes and there are some ellipses (dot dot dot) for the property  
1008 owner we can't fill in what they said.

1009 Mr. Pona: That is typical.

1010 Mr. Ziganti: That makes sense and I think that's what he's referring to here. Last, was  
1011 something that we need to ask the Trustees for. We would like a laser pointer so that  
1012 the appellant can point to something on the overhead screen that we are starting to use  
1013 now. And it can be available to the Zoning Inspector. Maybe the Zoning Inspector can  
1014 have her own color. I would suggest that it be her color. Then, Mr. Mazzurco, I hope I'm  
1015 not overstepping myself but how about we discuss it?

1016 Ms. McCarthy: How about I help you start on that process.

1017 Mr. Ziganti: I didn't say it loud enough.

1018 Mrs. Fadorsen: How about an exhibit ink stamp?

1019 Mr. Ziganti: We don't need that. When Mr. Claypool was around he and I had a  
1020 discussion about transcription software. Transcription software is pretty cheap and  
1021 couldn't we try it to get a set of draft minutes that is 90%? It will happen automatically  
1022 and then we go through and figure out where "there" and "their" need to be changed.

1023 Ms. Kovach: I haven't worked with that software since John Carroll but I don't think it  
1024 can differentiate between voices.

1025 Ms. McCarthy: That is where we have to speak.

## MINUTES BZA 2/14/2022

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1026 Mr. Ziganti: That's where you're going to be adding your human touch.

1027 Ms. Kovach: That will be very effective. Like when I ask will you please speak one at a  
1028 time. Right?

1029 Mr. Ziganti: We spoke about draft minutes and then we did the review of Mr. Joyce's  
1030 letter. All in all we're doing almost everything that was in Mr. Joyce's thoughts with  
1031 some clarification on timelines for getting out the draft minutes, getting our files together  
1032 and now we're asking to put something on the web. Anything else?

1033 There being no other business before the Board, Mr. Ziganti adjourned the meeting at  
1034 9:45 p.m.

Approval Date March 10, 2022

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\_\_\_\_\_  
Kathleen McCarthy, Zoning Admin.

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Barton Ziganti, BZA Chairman