

1 Stone Trail. They will put sidewalks in over
2 here, but that's not what we're talking about,
3 Howard.

4 MS. MYRLA: If you could please address
5 the Board.

6 LEE JENIOR: They will put the sidewalks
7 in over here when they are done, but that's not
8 what we're talking about right now. So let's just
9 get back to basics.

10 MR. STEINER: Right, thank you.

11 For the record, on Leonard's property,
12 what was there before vehicle-wise?

13 JOHN SARCHIONE: You mean like boats and
14 motorcycles and stuff, too?

15 MR. STEINER: Anything that was there.

16 JOHN SARCHIONE: He stored a couple
17 boats back there. There was two motorcycle
18 trailers, of course he kept all the equipment you
19 see running across the street there was back
20 there.

21 ATTORNEY MOHR: What else did he put
22 there?

23 JOHN SARCHIONE: Tractor, bulldozers,
24 backhoes, everything you need to be an excavator,
25 and a good excavator, a successful business there.

1 Everything that he needed to run a business was
2 there.

3 I would say he has two backhoes,
4 bulldozer, a tractor. And on the back corner of
5 the property kind of abutting into ours he stored
6 some boats, motorcycle trailers, dump trucks. He
7 had two dump trucks, then a semi for his lowboy
8 and stuff.

9 So he thankfully got a lot more space
10 where he's at because everything was super crammed
11 in there to where -- he had no room, the entire
12 parking lot was packed full of stuff. Let me take
13 my coat off, excuse me.

14 But thankfully he was able to better
15 himself and got more space, because he was
16 partially taken up with heavy operating equipment,
17 you know. He's got a tandem truck, too, that
18 hauls the heavy loads of dirt for off-use. He's
19 got 10, 12 nice pieces of equipment, plus the
20 semis and dump truck. You know, it was an
21 excavating company.

22 MR. STEINER: All right, thank you.

23 ATTORNEY MOHR: If I may, just a couple
24 more points. Kind of a point of interest, without
25 us putting any lighting or anything like that,

1 there is no additional cost or any additional
2 requirements for public utilities or things of
3 that nature.

4 You know, we're just putting some
5 vehicles back there, so it's not like we're going
6 to have smoke, loud noises or things like that.
7 We're not running a body shop back there.

8 And then in terms of traffic, there's
9 not going to be any changes to the actual traffic
10 pattern. So, again, there's the existing
11 driveways that are back there. There is no
12 intended -- no intent of putting any additional
13 driveways back through there or trying to change
14 or create a difference in the traffic pattern
15 through that area. It's simply going to be used
16 for holding vehicles as the previous owner had
17 done previously.

18 MR. STEINER: All right. Thank you.

19 MS. MYRLA: I would like to make a
20 motion to go to private deliberation.

21 MR. STEINER: We had a motion to go to
22 private deliberation.

23 MR. WISE: I'll second.

24 MR. STEIN: Motion by Myrla, second by
25 Wise. Roll call vote. Moledor?

1 MR. MOLEDOR: Yes.

2 MR. STEINER: Wise?

3 MR. WISE: Yes.

4 MR. STEINER: Bonecutter?

5 MR. BONECUTTER: Yes.

6 MR. STEINER: Myrla?

7 MS. MYRLA: Yes.

8 MR. STEINER: Steiner? Yes.

9 So we will go to private deliberations
10 and be back as shortly as possible.

11 (Recess for private deliberations.)

12 MR. STEINER: Everybody be quiet.

13 Okay. With regard to the subject at
14 hand in this portion of our hearing, we would like
15 some more information. And, Erin, do you have
16 those written down?

17 MS. MYRLA: I do.

18 The Board requests the following
19 information be submitted: Section 401.02 C2, A,
20 B, E, F, G, H, P and R. Do you want me to read
21 them, the whole thing?

22 MR. STEINER: Yeah, read each one.

23 MS. MYRLA: My pleasure.

24 "A, general vicinity map at a scale of
25 one inch to 1,000 feet or one inch to 2,000 feet

1 and it shall show proposed development in relation
2 to existing streets, subdivisions, landmarks and
3 community facilities.

4 B, property boundary lines. E, adjacent
5 streets and roads, width of right of way. F,
6 parking and loading plan including dimension,
7 location and numbers of all parking and loading
8 spaces.

9 G, landscaping plan including parking
10 lot landscaping. H, grading and erosion/sediment
11 control, surface drainage/storm water management.
12 P, open spaces proposed clearly delineated. And
13 R, location of all existing and proposed public
14 and private sidewalks, driveways and paths."

15 MR. STEINER: Okay, is that
16 understandable for you guys?

17 ATTORNEY MOHR: Yes. We'll get that to
18 you ASAP. Do you guys have a time frame in which
19 you'd like it submitted?

20 MR. STEINER: We would like to -- that
21 was my next question. How soon can we meet on
22 this again, Bruce, do you know?

23 ZONING INSPECTOR WAGNER: However soon
24 you'd like. We have to advertise ten days.

25 MR. STEINER: Do we have to advertise

1 for a continuance ten days?

2 (Inaudible discussion.)

3 MR. STEINER: If we do it tonight and
4 we're on the public record, does that shorten
5 that? Can we do that?

6 ZONING INSPECTOR WAGNER: Yeah.

7 ATTORNEY MOHR: Just so we're not back
8 here lacking information, you know, I think two
9 weeks would probably be reasonable just so we can
10 make sure we can acquire everything in case maps
11 have to be drawn up.

12 I know that the documentation was
13 already submitted and should be of record for the
14 previous conditional use permit. So it will
15 probably be a quick amend for that stuff.

16 But just so we're not running back in
17 here in ten days and we don't have the requisition
18 information, I think two weeks should be
19 sufficient. And if not, can I contact Bruce I
20 guess?

21 MR. STEINER: Yes, that's perfect. So
22 can we propose May 11th, Bruce?

23 ZONING INSPECTOR WAGNER: Do you have an
24 alternate date than May 11th?

25 (Inaudible discussion.)

1 ZONING INSPECTOR WAGNER: All right,
2 we'll change the commission meeting. It will be
3 May 11th.

4 MR. STEINER: May 18th?

5 ZONING INSPECTOR WAGNER: Stick with the
6 11th if that works.

7 MR. STEINER: Stick with the 11th?

8 ZONING INSPECTOR WAGNER: Yeah.

9 MR. STEINER: May 11th. Okay, so can I
10 have a motion?

11 MS. MYRLA: I move to continue this
12 hearing to May 11th, 2015, 7:00 p.m., same
13 location, with the expectation that all of the
14 requested information is obtained.

15 MR. STEINER: Do I have a second?

16 MR. MOLEDOR: I second that.

17 MR. STEINER: All right. The motion was
18 brought up by Myrla, second by Moledor.

19 Roll call vote. Moledor?

20 MR. MOLEDOR: Yes.

21 MR. STEINER: Wise?

22 MR. WISE: Yes.

23 MR. STEINER: Bonecutter?

24 MR. BONECUTTER: Yes.

25 MR. STEINER: Myrla?

1 MS. MYRLA: Yes.

2 MR. STEINER: Steiner? Yes.

3 Okay, with regard to our next subject,
4 Bruce, would you like to read that?

5 ZONING INSPECTOR WAGNER: The next will
6 be an application for a variance for
7 storage/sales, parcel number 28-065-00-00-034 and
8 number 28-065-00-00-032-000 in Town Center
9 District. This would be a land use variance.

10 I believe the attorney would like to
11 interject at this time.

12 MR. STEINER: Okay, anyone that's
13 suspecting that they may want to speak with regard
14 to this particular subject and has not been sworn
15 in already this evening, please stand up.
16 (Thereupon, a collective oath was administered.)

17 MR. STEINER: Thank you. Okay, did you
18 have something?

19 ATTORNEY MOHR: Yeah, sorry. Okay, bear
20 with us one second.

21 I apologize, folks. In terms of the
22 application for variance, it was submitted without
23 opportunity to review this. We wanted to make an
24 amendment as to the application itself in terms
25 of, first of all, one of the parcels that's named

1 in here, which is still currently owned by William
2 Bunker. William Bunker is still the title holder
3 and titled owner of that property.

4 SAS Properties, Jonathan Sarchione, is
5 not the record owner of that property. Therefore,
6 we would like to amend and strike that parcel
7 number being the 28-065-00-00-032-000 parcel
8 number from the application.

9 Also, the inclusion of *sales* in the
10 nature of the variance requested was improperly
11 added there as well. It should simply read
12 vehicle storage.

13 MR. STEINER: Okay. And that is in Town
14 Center District?

15 ATTORNEY MOHR: Yes, sir.

16 MR. STEINER: So let's review.

17 Okay, so in the Town Center District
18 there is not a permitted use nor a conditional use
19 that allows for automotive usage or storage of any
20 type. So this is strictly a use variance.

21 And we have a set of parameters that we
22 must go by in granting or entertaining a use
23 variance. So on application for the use variance,
24 the Appeals Board has to review the evidence
25 that's submitted at the hearing in light of the

1 standards to find out if we can even grant a
2 variance.

3 So if I can ask or go through these
4 guidelines that we have and try to establish
5 whether we can grant a variance or not, I would
6 appreciate that.

7 That's page 411 in the book, 40203,
8 number 1, "The variance is necessary due to
9 special conditions."

10 ATTORNEY MOHR: I'm sorry, do you want
11 us to address that as you go down through them?

12 MR. STEINER: Yes, if you could.

13 ATTORNEY MOHR: John, would you explain
14 why if it's special conditions and why?

15 JOHN SARCHIONE: With us agreeing to
16 forward to build the new building, across the
17 street there is eventually going to be a new Ford
18 dealership. And kind of like similar to Chevy's
19 EBE program, the Essential Brands Element, when
20 you enter into Ford's called the Trust Mark
21 Facility, that means that you're going to have a
22 continuing franchise agreement with Ford, okay?

23 When we enter into that they go by our
24 territory that we have. They tell us once we
25 entered into that, and we entered into that about

1 six months ago, when you enter into that program
2 they put a whole bunch of parameters that you have
3 to do per your market share that you have and the
4 size of the facility it's going to be, the amount
5 of cars that you're selling, they tell us how many
6 cars they are going to give to us at this point
7 now, okay?

8 So once we entered into that, our
9 allocation I wouldn't say doubled, but you went up
10 30, 40 percent probably. So with the amount of
11 vehicles that we have to take now, now that we're
12 in the Trust Mark, we needed that extra space.

13 When we added onto the back of the
14 property that we put the gravel lot in behind the
15 payment there, we thought that was going to be
16 enough space back into there.

17 With all the commercial stuff, part of
18 being in the Trust Mark is you have to be a VPN
19 dealer, which means you're going to be selling the
20 big trucks and stuff, too, now. And there is no
21 one in our territory that has that. So you see
22 the more commercial stuff up there. There's
23 nothing down at Chevy on the commercial side, it's
24 Ford putting that on, so we will, too.

25 With us getting the ramped up Ford

1 inventory we are -- it would be nice if we'd just
2 sell them all as they come in, but with needing
3 more space, we needed that parking lot there until
4 the new facility goes up there and we raze the old
5 facility across the street, which would then be
6 the flip flop of the trucks going across the
7 street over there in the parking lot there.

8 On Bunker's house, why he pulled that is
9 we don't think we're even going to need that right
10 now I don't think. The agreement I made with
11 them, they are staying there until the new house
12 is built, okay. So that's something we're not
13 even going to talk about I don't think for the
14 next year.

15 I mean, really I didn't even need their
16 property. I kind of told them that at first and
17 then they kept coming to me and telling us we're
18 this, we're that. At this point it's a good
19 investment for me, it's a rental house. So I
20 don't need that changed right now, okay.

21 It was kind of brought to my attention,
22 hey, if you're going to do it, do it all at once.
23 From that I don't see any further need of their
24 house. That's why I told them they could stay
25 there for a year.

1 The parking lot that you see they put in
2 here, it's where we're going to put the excess
3 vehicles to sell, you know. In a way I wish I
4 didn't need the parking lot, but if we do need the
5 parking lot, that's what we need right there.

6 I don't think on Ford's project, I don't
7 need any more land for Ford's project, the
8 building will fit on that property. And that's
9 down the road, you know, a year.

10 Like when Chevy had all the drainage,
11 all that stuff that they paid a civil engineer to
12 do all that stuff. When that happens, we're good
13 on the property we need. We don't need any more
14 property there.

15 Bunker's is kind of an option if I'm
16 going to buy that or not either. I gave him my
17 word I would, so I'm not going to back out of that
18 deal, but I don't really need their property,
19 okay? What we have here now is going to be for
20 the same as right beside there, parking the cars,
21 displaying the cars.

22 ATTORNEY MOHR: And I think to add to
23 that, especially in the sense -- and I guess it
24 kind of plays in with the rest of these, but it's
25 a situation that was created due to the

1 contractual relationships with Ford. It was
2 something that was imposed upon us, not
3 necessarily that -- I mean, it's nice that we had
4 the opportunity to grow as large as we have, but
5 in the same breath it's created problems for us
6 also.

7 It's kind of special to us being the
8 only -- I guess the only retailer in this area
9 that's able to service this kind of contract,
10 which is why Ford kind of put it on us to meet
11 these mandates and to take on this excess
12 inventory.

13 Again, it would be nice if we didn't
14 have these burdens. It's kind of a burden and a
15 benefit in the same breath, special in and of
16 itself due to the contractual relationship and
17 Ford kind of not necessarily imposing their will
18 on us, but saying, here, this is what you're going
19 to take.

20 JOHN SARCHIONE: They want stronger
21 single points. And Russ is in the room back here,
22 Lee is here. When Chevrolet did away with 1,000
23 of their dealers, when Chrysler did away with
24 several hundred of their dealers, they are all
25 going towards that.

1 If we're going to have an open point,
2 you're going to support the other points that used
3 to be open. You go back 30, 40 years ago and each
4 small town had a Chevy and Ford dealership. Every
5 one of these small towns 50 years ago probably had
6 a Ford/Chevy dealership in history. They are
7 slowing going down. If you're going to stay being
8 a dealer, you've got to service everybody in the
9 area.

10 And everyone remembers when they wound
11 down all 2,000 dealers in a matter of six months,
12 you know. So we're making a commitment to stay
13 with both manufacturers. And I need -- the space
14 we got now, Chevy, we're done, plenty of space
15 down there. You'll see that project will be
16 finished by spring of next year. The beautiful
17 landscaping and everything that I'm doing there,
18 the same with the Ford dealership.

19 But until we get to that point, I'm
20 going to need this parking lot. That's all I'm
21 going to need it for right now. I'm not putting
22 any lights over there, I'm not putting any loud
23 speakers over there, I'm going to be parking cars
24 on it.

25 MR. STEINER: Okay. So the next point

1 is, "The literal enforcement of this resolution
2 will result in an actual unnecessary hardship to
3 the application in the reasonable use of their
4 property."

5 ATTORNEY MOHR: Again, I think this kind
6 of goes hand-in-hand with what we were seeking
7 with the conditional use certificate, having
8 acquired the variance for property. This is
9 essentially trying to append it to the same like
10 and term and use that we've been using the
11 property across the street right now.

12 Again, I guess it comes down to just
13 what we're required to comply with essentially our
14 boss here, who is Ford, telling us what we're
15 going to do and what we're going to take.

16 And we understand the Town Center zoning
17 and districting. But in the same spirit, you
18 know, this is to append with property that we're
19 using for the similar like and kind and to make
20 sure that we can meet our demands put on us by
21 Ford.

22 MR. STEINER: Okay. Another point is,
23 "If the use variance is granted, the spirit and
24 intent of this resolution would be observed and
25 substantial justice done."

1 I don't know that you can really even
2 answer that from your aspect or from your
3 perspective.

4 ATTORNEY MOHR: Well, I hate to throw
5 the term justice around lightly here but, you
6 know, we like to think that we're trying to infuse
7 some good back into the community here and we're
8 employing a lot of people. I know we're kind of
9 creating a mess across the street, here and there.
10 But I'd like to think with our growth, with our
11 growing pains we're doing a lot of good.

12 And this will add to the size of our
13 fleet, taxable income derived from the sale of the
14 vehicles. And essentially not just the justice
15 for us being able to make sure we can meet our
16 demands imposed upon us by Ford, but also for the
17 community at large as well.

18 MR. STEINER: Now, the next point is,
19 "The granting of the variance will not have an
20 adverse impact on the immediate neighborhood,
21 community land use or be contrary to the
22 township's comprehensive land use program."

23 Have you spoken to the neighbors at all
24 in the immediate area there --

25 JOHN SARCHIONE: I have not.

1 MR. STEINER: -- to discuss with them
2 what the impact will be on them?

3 ATTORNEY MOHR: We haven't.

4 JOHN SARCHIONE: You mean the direct
5 neighbors beside there?

6 MR. STEINER: Right.

7 JOHN SARCHIONE: No, I haven't.

8 ATTORNEY MOHR: It's not something we're
9 opposed to. We're trying to be good neighbors.

10 JOHN SARCHIONE: Yeah, I figure they
11 would have reached out to us.

12 ATTORNEY MOHR: I know that one of the
13 things here that we want to look to fulfill
14 requirements of as to the buffer zone there. If
15 we would be granted a variance and the
16 availability would be for us to put some vehicles
17 on this lot, it would be adjacent to some
18 residential properties, at which point then we'll
19 fulfill the requirements of putting a nice
20 either --

21 JOHN SARCHIONE: Now the property is
22 separated by a wooden fence with a chain link
23 fence on the other side of it. So I don't know
24 whose fence it is, my fence or their fence. I
25 just kind of kept away from it, made sure we

1 stayed on our side, you know.

2 I didn't even ask, whose fence is that?
3 I don't even know who put the fence up there, but
4 there's got to be -- it's their liking, if they
5 wanted something better in the future, I can
6 understand the expense on my part. But like I
7 said, at this point I don't even know whose fence
8 it is.

9 ATTORNEY MOHR: But it's among
10 consideration we have for if the variance is
11 granted, the requirements we would be required to
12 meet.

13 MR. STEINER: Right. And the last point
14 is back to the question of hardship, whether the
15 hardship was self-created. For example, "If the
16 property owner purchased the property with the
17 knowledge of the zoning restrictions on use of the
18 property, is it a self-created hardship."

19 JOHN SARCHIONE: With this building
20 here, the idea was to bring the architect in and
21 try to get something done with it, but the
22 building is unremodelable(sic) to Ford Trust Mark.
23 And with certain parts of that being a house that
24 was added onto a house -- how many additions are
25 on that building, five?

1 There is no way of confirming that to
2 what we need. So I can't do anything from that
3 parcel of land because it's too small. It makes
4 sense to do it on the other side of the street.
5 Would I be just fine? You know, does Ford/Chevy
6 wish that me and him wore suit and ties to work
7 every day? Yes, but that's not required.

8 Do I think if they would just let me be
9 a Trust Mark dealer in that old facility would we
10 still have our customers buying from us? Yes, but
11 I don't have a choice to have the shiny front on
12 that and what they need. It's not feasible there.

13 I mean, we're literally -- I think the
14 last time we had the state person out there where
15 they showed us where literally the front door
16 right when you walked out you walked into the
17 easement. So it's not -- you know, I didn't
18 design where the easements are at. I didn't
19 design how that building was going to be.

20 When we bought it from Lee we had no
21 idea we were going to have to do this, Ford came
22 up with this. The EBE's been around since right
23 after the bankruptcy of GM, so I did know that
24 down the street.

25 But up here I didn't know. And I can

1 show you drawings from two years ago that we had
2 drawn and it just wouldn't fit on that property
3 without Kuntz's property. Kuntz brought the
4 property up for sale and I'm thinking all these
5 pieces of the puzzle are coming together and we'll
6 fit the facility over there.

7 MS. MYRLA: But typically regarding this
8 lot though, were you aware of the zoning district
9 prior to purchasing it?

10 ATTORNEY MOHR: Because of the variance
11 we inquired next-door, I think we would be aware.
12 I think the hardship here is --

13 MS. MYRLA: I'm sorry, I don't mean to
14 be rude, but either, yes, you were aware or, no,
15 you were not aware, that's what the Board is
16 asking.

17 JOHN SARCHIONE: I was confused when --
18 I didn't know -- I thought in the past Kuntz when
19 he was in there years ago with having his trucking
20 company over there and stuff that it was already
21 like -- I'm not 100 percent up to speed on all of
22 the zoning stuff, that's why I have him here and
23 you guys up there.

24 But when Kuntz was running his trucking
25 company out of here and I remember from Doug and

1 them filling me in on the past, that the neighbors
2 had fought him tooth and nail on the semis over
3 there and running his trucking business out of
4 there. Again, with it, 50 percent of it was
5 already put in for parking, his semis and running
6 his business out. In a way I thought that was
7 already part of being able to do that. Then we
8 find out that it's not.

9 So I thought it was okay, you know, he's
10 running a business out of there, I'm running a
11 business beside here. And I'm not studying up on
12 zoning all the time, but I knew he was a business
13 owner. And selling vehicles and stuff, you know,
14 and having to -- he's a business owner running a
15 trucking company out of there that, you know, I
16 thought it would be okay to park cars there,
17 display cars there if he was running a trucking
18 company out of there.

19 MS. MYRLA: So then, no, you weren't
20 aware?

21 JOHN SARCHIONE: I would say more no, I
22 wasn't aware.

23 MR. STEINER: Again, with the
24 application it wasn't very explanatory, didn't
25 have too much data really to work with here.

1 Can you show me which piece of property
2 exactly this is on this picture?

3 JOHN SARCHIONE: This one
4 here(indicating).

5 ATTORNEY MOHR: This section here is
6 going to be the Chevy store, here's our Ford right
7 here. So this one is the one currently on the
8 application.

9 MR. STEINER: Okay, and that's it right
10 there?

11 ATTORNEY MOHR: Correct.

12 MR. STEINER: This one is stricken off.

13 ATTORNEY MOHR: That's withdrawn, again
14 he still has title there.

15 (Discussion had off the record.)

16 MR. STEINER: Okay. So any questions,
17 any other questions from the Board? Did I see a
18 hand up? Yes, ma'am.

19 BETH KLEIN: Yes. My question is
20 similar to what Ms. Myrla asked, is did you enter
21 into the business agreement with Ford with full
22 knowledge of the Town Center zoning regulations?
23 And to me, any business I would not purchase a
24 property as an individual if I didn't know the
25 zoning laws. That's a question.

1 And very clearly the zoning says that no
2 variance would be allowed if the property owner
3 purchased the property with the knowledge of the
4 zoning restrictions. It clearly states that any
5 resident or business must prove hardship. And
6 this hardship is clearly self-created because they
7 would have knowledge of the zoning restrictions on
8 the property, so that's a self-created hardship.

9 And further, that granting the variance
10 would have an adverse impact on the immediate
11 neighborhood. I do not believe it's the
12 township's responsibility to make the Ford
13 dealership aware of what the zoning is.

14 MR. STEINER: Thank you. Okay.

15 ATTORNEY MOHR: If I may, I think there
16 were a couple questions in there.

17 I guess first and foremost the Ford
18 contract, I think they would have been about the
19 same time when the Ford contract came down, but we
20 didn't necessarily know what the requirements
21 would be imposed on us at that time by Ford. We
22 did not know the burden of which we were -- I'm
23 not saying we were taking off more than we could
24 chew here, but essentially we entered into the
25 contract and Ford now delivers what they deliver

1 and they tell us what to take.

2 So this is in a sense a growing pain of
3 that opportunity we have with Ford. And Joe just
4 testified that we do own property in the area, but
5 as to this, based upon the previous use we were
6 unaware that it was under any different
7 regulations or zoning restrictions at that time.

8 I apologize if there was another
9 question there I missed.

10 MR. STEINER: Was there another question
11 that we missed?

12 BETH KLEIN: Just another comment is I
13 understand the comments made by Sarchiones about
14 the Kuntz's trucking business. But the property
15 not in discussion that was adjacent to that, the
16 Sue Mackey property, never had any trucking on it
17 and it's still the same. And it's all this
18 contiguous, it's adding on and on and on. And
19 clearly part of the zoning is Township Center.

20 MR. STEINER: Okay. Thank you.

21 ATTORNEY MOHR: If I may just for
22 clarification, the Sue Mackey property, is that
23 what we previously had the variance on? I
24 apologize, I'm not from the area.

25 JOHN SARCHIONE: Yes.

1 MR. STEINER: Yes.

2 BETH KLEIN: Can I ask one more
3 question? Is it also the case that a variance is
4 made prior to the changes being made against the
5 zoning, it changes it?

6 MR. STEINER: Prior to the usage?

7 BETH KLEIN: Correct.

8 MR. STEINER: It's supposed to be, yes.

9 BETH KLEIN: Then I also submit it was
10 not done according to zoning.

11 MR. STEINER: Okay, thank you. I'm
12 sorry, go ahead.

13 SAMANTHA MITCHELL: I have two
14 questions.

15 THE REPORTER: Please state your name
16 and address.

17 SAMANTHA MITCHELL: Certainly. I'm
18 Samantha Mitchell, 1902 State Route 44 here in
19 Randolph.

20 First of all, as someone who was
21 recently approached by a neighbor concerning
22 possibly buying part of my property, my first
23 phone call went to my attorney. My attorney
24 immediately advised me to contact Mr. Wagner. I
25 contacted Regional Planning.

1 I find it hard to believe that anyone
2 could even begin the process of purchasing any
3 property without knowing whether that property is
4 residential, agricultural, commercial or business.
5 I mean, that was the starting foundation.

6 My question is actually I'm concerned
7 with a statement, it was the final statement in
8 today's article in today's Record Courier, so this
9 would be on the record.

10 And the statement was made by Bruce.
11 And he stated, his final statement was, "The
12 Sarchione family isn't perfect, but I think their
13 intentions are good. We're going to do this, do
14 the right thing."

15 Now, to me in context of the article,
16 that almost implies that the decision has already
17 been made for this evening. I'd like a little
18 further clarification on that statement.

19 MR. STEINER: Well, I mean -- I'm sorry?

20 PATTY WILGARD: Patty Wilgard(phonetic).
21 While there's no decisions being made, it was
22 strictly just a preview the meeting.

23 MR. STEINER: Yeah, there are no
24 preconceived decisions or anything of that sort
25 prior to the public hearing.

1 BETH KLEIN: I would like it to be noted
2 that I'm not questioning the motives behind the
3 Sarchiones and I really do understand that
4 business needs to work in conjunction with the
5 people that live in Township Center.

6 My point is that much has been done
7 that's against the zoning that was worked very
8 hard against the land use program that's been in
9 place since 1997.

10 The zoning, this is not a new thing.
11 It's been firmly written and firmly known in this
12 township at least since 2005 and revised. And I
13 just think we need to honor that.

14 MR. STEINER: Right, thank you.

15 GARY HORNING: Gary Horning. I just
16 want to ask the Board a question. This is what
17 you received, this variance here (indicating)?
18 This is the application.

19 Do you have that in front of you by any
20 chance that you can look at it?

21 MR. STEINER: Sure.

22 GARY HORNING: Okay. On item B it
23 says -- and I, again, want to see this community
24 grow and that's what we make zoning for, so we can
25 grow together.

1 It says that, "Such variance is
2 necessary for the preservation of property rights,
3 even to those of other similar properties in the
4 same zoning district."

5 Now, does that apply to this here? What
6 are they -- let me just ask the question here,
7 give me a second.

8 What are similar properties in S
9 district? We're talking Town Center, because
10 that's what this is applied for; correct? Could I
11 get a response maybe?

12 MR. STEINER: Yes, it's Town Center
13 District that's in question.

14 GARY HORNING: So it's saying, "Such
15 variance is necessary..." But anyhow, it's
16 similar property in the township in the same
17 zoning district. So I'm asking the question what
18 do we have in Town Center?

19 MR. STEINER: In Town Center District?

20 GARY HORNING: Yes.

21 MR. STEINER: I don't know that I
22 completely understand the question.

23 MS. MYRLA: What other types of uses are
24 in Town Center; is that correct?

25 GARY HORNING: That's correct.

1 MR. STEINER: Well, off the top of my
2 head there is a trucking company right on the
3 property that's in question right now.

4 GARY HORNING: Well, just to back up, I
5 don't want to get -- put anybody on the spot here,
6 I'm just trying to clarify things.

7 That use, he was allowed to have one
8 truck and that goes throughout the area. As far
9 as clarification for the zoning, and let's not
10 beat this dead horse because it's getting late,
11 but he was allowed to have one truck over there.

12 UNIDENTIFIED VOICE: He had five trucks
13 over there.

14 MR. STEINER: Please.

15 GARY HORNING: Yes, please.

16 MR. STEINER: I know that he had more
17 one truck over there.

18 GARY HORNING: Okay, we won't go into
19 that other than the Town Center, which is this
20 district that this variance is supposedly granted
21 for, does it allow for car/automobile sales?

22 MR. STEINER: That's correct, it does
23 not allow for it in the book. But we're still
24 trying to decide if we can even get to this point
25 of even entertaining the thought of a variance

1 right now.

2 GARY HORNING: Okay. My thing is, and
3 I'm not trying to be difficult here, it's just the
4 mere fact that in the past things get counted on
5 rather -- they get done quickly and it seems like
6 we don't get these questions answered.

7 I have one intent and I hope that
8 everybody else in this room has the same, is we
9 have the zoning so we can grow together. And if
10 we adhere to it, everybody can live together. So
11 that was one of my questions.

12 So my contention is it's not allowed in
13 this district, Town Center. I was just trying to
14 make this clarification. And I'm sure you all
15 know this, it's not allowed in the township.

16 So the only way you can do that is by
17 going, which was told to them two years ago, going
18 to the Zoning Board and ask for a zoning change.
19 It is not according to our zoning book the
20 authority of this Board to grant variances to
21 change the zoning.

22 Now, having that said, I'll let you guys
23 move on from that.

24 MR. STEINER: Thank you. I'll have to
25 swear you in.

1 GLEN ENGLEHART: Glen Englehart, P.O.
2 Box 39.

3 MR. STEINER: Please raise your right
4 hand.

5 GLEN ENGLEHART: I already did.

6 As far as a trucking company over there,
7 I went to zoning when that was brought in there.
8 As a matter of fact, I don't know, none of you
9 others was on this Appeals Board when that
10 happened but Moledor. But I went to the zoning
11 about it.

12 And he started to put a driveway in
13 right on the property line. And we stopped it
14 because it was not allowed. He had to be like 15
15 foot off the property line.

16 Well, when he tried to do that, the tree
17 line was in the way, so he had to move over
18 farther yet. And that was the reason why he
19 was -- and as far as trucks, he was actually only
20 allowed one truck, but he ended up with five for a
21 period of time. And then he lost them and he
22 ended up with one truck, that was it.

23 MR. STEINER: Okay. Yes, ma'am?

24 CAROLINE SANDERS: I have not been sworn
25 in, so I apologize for that.

1 (The oath was administered.)

2 MR. STEINER: Thank you.

3 CAROLINE SANDERS: I'm Caroline Sanders,
4 (inaudible).

5 A question was asked earlier by the
6 Board as to whether or not neighbors had been
7 approached regarding this proposal. I really
8 would like to have it on the record that my mother
9 is directly impacted by this, her address is 1690
10 State Route 44.

11 She is unable to be here. She's so
12 upset about the situation that she literally
13 became physically ill. But she is opposed and if
14 you're allowed to take my statement on her behalf
15 I would like it on the record that she is very
16 much opposed to this proposal. Thank you.

17 MR. STEINER: Thank you.

18 ATTORNEY MOHR: If I may, if I could
19 briefly address one statement that was made in
20 regards to the application for the variance,
21 Section B, for the variance necessary to preserve
22 property rights equal to those of similar
23 properties in the same zoning district.

24 We're presenting this in light of each
25 property owner having the full right, use and

1 enjoyment of their property to their like. I
2 understand that we're a commercial property, but
3 if you look at the properties that are in Town
4 Center, to some extent it is a bit of a mixed use
5 type of zoning district at this point.

6 With our variance previously being
7 there, you know, if you consider all properties in
8 that same zoning district, there is current use
9 being done and being used by our property directly
10 across the street.

11 So just a quick point on that in
12 consideration of the full use and enjoyment of
13 that section, it is consistent with that. We're
14 simply attempting to append that.

15 MR. STEINER: Okay. All right.

16 HOWARD KLEIN: Yeah, Howard Klein.

17 I would suggest that Sarchiones go
18 through our zoning regulations which includes
19 buffer, square footage allowed on the lot, how
20 much land is needed for setbacks.

21 Now, just in case by chance this
22 variance is okayed, I don't want them though to
23 come back and say we didn't know that there was a
24 20,000 foot lot area and you can only build a
25 6,000 square foot building. They need to go

1 through the zoning laws, read them precisely and
2 understand them, because I don't want to come back
3 again, like I said, we didn't know there was only
4 6,000 square foot limit on the building. We
5 didn't know there was a 30-foot buffer zone, we
6 didn't know that you had to plant evergreens to
7 block out 25 percent, 6-foot high, twelve months
8 out of the year.

9 You guys are aware of all those buffer
10 laws in there. And I think that's something down
11 the line that should be addressed now so we don't
12 have to hear somebody is not aware of it.

13 MR. STEINER: Okay.

14 MARY ELLEN HORNING: Mary Ellen Horning,
15 189 New Milford Road. When I read this
16 application for variance, my impression was that,
17 and I don't mean to sound rude or anything, but
18 I'm not sure that this Zoning Board of Appeals has
19 the responsibility to amend the zoning, nor the
20 authority. Because this is not some kind of minor
21 variance where you say, okay, my property is here
22 and I want to put a building here, but it's a
23 little too close to the line, so I need three
24 extra foot or I need two feet here or, you know, a
25 couple inches there, to where this Board -- that's

1 the kind of things that you have the
2 responsibility and authority to allow variances
3 on.

4 This is a complete amendment of the
5 zoning. What you're saying is that the Town
6 Center isn't going to be used for Town Center
7 uses. Where does that stop?

8 I mean, they know that they purchased
9 Town Center because that was the first property
10 that they added to their lot over here. Then they
11 bought the house next to it, which is also Town
12 Center. So I'm not understanding how they can say
13 they didn't know. So I don't see the hardship.

14 I'm not even sure that the variance
15 process applies to what they are asking for. I
16 don't see that. I don't see that you have that
17 responsibility or authority. You're basically
18 amending the zoning.

19 And if they need to amend the zoning,
20 then that's a different process, not an
21 application for variance. If you're considering
22 this application for variance, I think it has the
23 same set of problems as the conditional use
24 application that they provided you.

25 It says here there will be written plans

1 and there's none. It says there will be a written
2 descriptions answering questions A, B, C and D and
3 there is none. There is even a funky little note
4 at the bottom that says, "This variance is to
5 serve as conditional use upon any resolution,
6 text, map or rezoning amendment." And this is the
7 part of the application that you're supposed to
8 write on. To me it's just not kosher.

9 MR. STEINER: Thank you.

10 BETH KLEIN: And also, not knowing when
11 you'll close the meeting and if I'll have another
12 opportunity to question, and on behalf of my mom
13 again also, it has been very difficult. We used
14 to be able to find information like the zoning
15 minutes of the zoning meeting online. I can't
16 find that anymore.

17 And my question to you is where can I
18 find the minutes of the zoning meetings, the
19 applications that come in for any conditional
20 zoning or variances and the vote of each member
21 upon each question as it says it will be
22 available. I can't find it if it's there.

23 MR. STEINER: I'd go to the
24 administration office. Bruce has them on record
25 there. You can go there any time and get that

1 from --

2 BETH KLEIN: And where is that?

3 MR. STEINER: What's the address?

4 ZONING INSPECTOR WAGNER: 3636 Waterloo
5 Road.

6 BETH KLEIN: And the hours?

7 ZONING INSPECTOR WAGNER: Part-time open
8 Mondays, 3:00 to -- 7:00 a.m. to 3:30 p.m.

9 BETH KLEIN: On Mondays from 7:00 to
10 3:30?

11 ZONING INSPECTOR WAGNER: Yes.

12 BETH KLEIN: And is it going to be
13 posted online anymore as it was in the past?

14 ZONING INSPECTOR WAGNER: We are in a
15 transition right now with a part-time Zoning
16 Inspector, so it has not been published yet
17 online.

18 BETH KLEIN: Do you anticipate that it
19 will be again?

20 ZONING INSPECTOR WAGNER: Probably the
21 next couple weeks.

22 BETH KLEIN: Do you anticipate after the
23 next trustee meeting?

24 ZONING INSPECTOR WAGNER: I think May
25 1st is the effective date of the new Zoning

1 Inspector, Assistant Zoning Inspector.

2 BETH KLEIN: Thank you. It's just very
3 difficult to follow --

4 ZONING INSPECTOR WAGNER: The zoning
5 resolution is online, randolphtownship.gov. There
6 is a whole span of zoning, the whole resolution is
7 online.

8 BETH KLEIN: Thank you.

9 GLEN ENGLEHART: I'm not sure you can
10 issue a variance on somebody that went beyond it
11 and started their work before they even got the
12 variance.

13 I mean, I don't understand why they
14 don't wait until they get the variance and do it
15 by this right here(indicating).

16 THE REPORTER: State your name, sir.

17 GLEN ENGLEHART: Glen Englehart, P.O.
18 Box 39.

19 MR. STEINER: Okay, any other questions
20 or discussions from the Board?

21 HOWARD KLEIN: I have one more issue.

22 Everybody, zoning, trustees, we've all
23 made mistakes over the last couple years, all
24 along the board. And there is no sense in going
25 back and blaming and rehashing.

1 I think now is the time for everybody
2 cool down, look at the zoning laws and look at the
3 regulations and just start over now and do it the
4 way that we wrote it. Because we just seem to --
5 as people we seem to be frustrated because it
6 feels like we're fighting with our own elected
7 officials trying to get our laws taken care of.

8 You know, that's kind of the frustration
9 the way we feel, we have to fight with trustees or
10 the zoning, when realistically it's written in our
11 zoning laws and we just follow them. I think we
12 should work together as residents and trustees to
13 follow those regulations.

14 MR. STEINER: Any other questions from
15 the Board? Discussion from the Board? Any
16 motions?

17 (Discussion off the record.)

18 MS. MYRLA: There is a motion by Wise
19 for private deliberation.

20 MR. STEINER: Motion by Mark Wise for
21 what?

22 MR. WISE: Private deliberation.

23 MR. STEINER: To go to private
24 deliberation. Do I have a second?

25 MR. BONECUTTER: Second.

1 MR. STEINER: Second by Bonecutter.

2 Roll call vote. Moledor?

3 MR. MOLEDOR: Yes.

4 MR. STEINER: Wise?

5 MR. WISE: Yes.

6 MR. STEINER: Bonecutter?

7 MR. BONECUTTER: Yes.

8 MR. STEINER: Myrla?

9 MS. MYRLA: Yes.

10 MR. STEINER: Steiner? Yes.

11 (Recess for private deliberations.)

12 MR. STEINER: Okay, we're going to go
13 back into our meeting now.

14 Do we have a proposal or a motion?

15 MR. WISE: I'd like to make a motion to
16 approve variance number 42715B.

17 MR. MOLEDOR: I second it.

18 MR. STEINER: So motion to approve by
19 Wise, second by Moledor. Discussion from the
20 Board?

21 MS. MYRLA: I would just like to state
22 that it is the opinion of this Board that the
23 matter at hand is not a valid variance request,
24 that the applicant would be best served to pursue
25 a zoning change.

1 MR. STEINER: Any other comments from
2 the Board?

3 Okay, roll call vote. Moledor?

4 MR. MOLEDOR: No.

5 MR. STEINER: Wise?

6 MR. WISE: No.

7 MR. STEINER: Bonecutter?

8 MR. BONECUTTER: No.

9 MR. STEINER: Myrla?

10 MS. MYRLA: No.

11 MR. STEINER: Steiner? No.

12 So the variance application is not
13 approved. And I would like a motion to adjourn
14 the meeting.

15 MR. MOLEDOR: I make a motion to
16 adjourn.

17 MR. STEINER: Motion to adjourn by
18 Moledor. Any second?

19 MR. WISE: Second.

20 MR. STEINER: Second by Wise. Roll call
21 vote. Moledor?

22 MR. MOLEDOR: Yes.

23 MR. STEINER: Wise?

24 MR. WISE: Yes.

25 MR. STEINER: Bonecutter?

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MR. BONECUTTER: Yes.

MR. STEINER: Myrla?

MS. MYRLA: Yes.

MR. STEINER: Steiner? Yes.

This meeting is adjourned.

(Meeting adjourned at 9:21 p.m.)

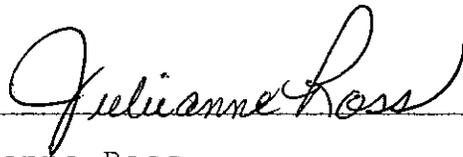
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CERTIFICATE

I, Julieanne Ross, do hereby certify that as such Reporter I took down in Stenotypy all of the proceedings had in the foregoing transcript; that I have transcribed my said Stenotype notes into typewritten form as appears in the foregoing transcript; that said transcript is the complete form of the proceedings had in said cause and constitutes a true and correct transcript therein.

I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D), or otherwise interested in the outcome of this action.



Julieanne Ross

Notary Public within and for the State of Ohio

My commission expires 11-19-19.



Julieanne Ross
Resident Summit County
Notary Public, State of Ohio
My Commission Expires: 11/19/2019