

City of Novi - Zoning Board of Appeals Regular Meeting 7_14_15

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REGULAR MEETING - ZONING BOARD OF APPEALS
CITY OF NOVI
July 14, 2015

Proceedings taken in the matter of the ZONING BOARD OF APPEALS, at City of Novi, 45175 West Ten Mile Road, Novi, Michigan, on Tuesday, July 14, 2015

BOARD MEMBERS
Cindy Gronachan, Chairperson
Linda Krieger, Secretary
Rickie Ibe
Brent Ferrell
David Byrwa
Jonathan Montville
Jason Richert

ALSO PRESENT: Thomas Walsh, Building Official
Beth Saarela, City Attorney
Coordinator: Stephanie Ramsay, Recording Secretary

REPORTED BY: Jennifer L. Wall, Certified Shorthand Reporter

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Novi, Michigan.
Tuesday, July 14, 2015
7:00 p.m.

** ** *

CHAIRPERSON GRONACHAN: I'd like to call the July 2015 Zoning Board of Appeals meeting to order.

At this time, I would like to ask Member Byrwa to lead us in the Pledge of Allegiance, if you would all rise.

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(Pledge recited.)
CHAIRPERSON GRONACHAN: Thank you. Ms. Ramsay, would you please call the roll.
MS. RAMSAY: Member Ferrell?
MR. FERRELL: Here.
MS. RAMSAY: Member Ibe?
MR. IBE: Present.
MS. RAMSAY: Member Krieger?
MS. KRIEGER: Present.
MS. RAMSAY: Member Sanghvi is absent, excused.
Member Byrwa?
MR. BYRWA: Here.
MS. RAMSAY: Member Richert?
MR. RICHERT: Present.
MS. RAMSAY: Member Montville?
MR. MONTVILLE: Here.
MS. RAMSAY: And Chairperson Gronachan?
CHAIRPERSON GRONACHAN: Here. Good evening everyone. You will notice that in the back of the room there is an agenda along with a list of rules. I'm asking everyone at this time to please shut off all cellphones, and we will run the meeting, call petitioners, call anyone in the audience that has anything to say in regards to that particular case, then listen to the board members and the building department and proceed that way. So this evening, are there any changes amendments to the agenda?
(No audible responses.)
CHAIRPERSON GRONACHAN: Seeing none, all of those in favor of the agenda?
THE BOARD: Aye.
CHAIRPERSON GRONACHAN: The agenda has been approved. The approval of the minutes for June 9 of 2015. Everyone has had a chance to review those. Are there any changes to the minutes?
(No audible responses.)
CHAIRPERSON GRONACHAN: Seeing none, is there a motion to approve the minutes for June 9th?
MR. IBE: So moved.
MR. FERRELL: Second.
CHAIRPERSON GRONACHAN: It's been moved and seconded. All those in favor say aye.
THE BOARD: Aye.
CHAIRPERSON GRONACHAN: The minutes for June 9, 2015 have been approved.
At this time we are going to ask anyone in the audience that has comments to make to the board in regards to a matter that is not before us this evening, can come forth now, if they wish.

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Seeing none, no one in the audience at this time, we will move to our first case, Case No. PZ15-0015, Mark and Alison Dolin at 26382 Glenwood Drive.

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Mr. and Mrs. Dolin, would you like to come on down. The applicant is requesting a variance for the City of Novi to allow construction of a new square foot covered porch, an addition to an existing parcel. Good evening. Would you please state your name and spell it for our secretary and then raise your right hand and be sworn in.

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MS. DOLIN: Alison Dolin, A-l-i-s-o-n, D, as in David, o-l-i-n.

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MR. FERRELL: Do you affirm to tell the truth in the case you're about to give testimony?

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MS. DOLIN: I do.
CHAIRPERSON GRONACHAN: You may proceed.

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MS. DOLIN: My husband and I have lived at our residence for the past ten years and we have been wanting to build a screened-in porch for sometime.

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We have an existing decking there that we would like to -- our initial thought was just to screen in that deck,

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but for an esthetic reason, we probably need to push it a little bit to align it with the exterior wall of the building, existing home.

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In order to do that, we do need a variance.

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So the existing deck is already 25 feet, at one point it's been 25 feet of the back lot line.

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What we are proposing to do is just erect walls, ceiling, and be able to screen it in. For the past six or seven years, we have put up a screened in gazebo on top of the deck, occupying effectively kind of the same space that we are talking about.

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The permanent structure would make it a lot easier for us, it would look better, and it would just be much -- make our lives much happier, we wish we would have it gotten done last year, given this mosquito infested summer we are having.

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The variance we are requesting on the side is only one foot, it's a 25 feet requirement there. There is just one that

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would be within 24 feet, it's set at an angle, so it's not consistent along the way.

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As I said in the back, at the closest -- at the part closest to the back lot, it would be a 10-foot variance, and as

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requirement there. There is just one that

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you move along the deck, it would come closer to a five to six foot variance. Are there any questions?
CHAIRPERSON GRONACHAN: Anything else to add?
MS. DOLIN: No.
CHAIRPERSON GRONACHAN: Thank you. Mr. Secretary, is there any correspondence?
MR. FERRELL: Yes, ma'am, 25 notices mailed, one notice returned, zero approval, zero rejection letters, and there was a list of signatures that were received by -- strike that.
MS. DOLIN: There were a list of signatures that I submitted with the application. I apologize. I forgot to mention that. There was three neighbors that see our back.

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MR. FERRELL: Yes, 15 notices were mailed, zero notices returned, one approval letter received. Zero objection letters.
Approval letter is from Abdul, A-b-d-u-l, W-a-h-a-b, address is 26391 Glenwood Drive, just an approval.
CHAIRPERSON GRONACHAN: Building department?
MR. WALSH: No comments at this time.
CHAIRPERSON GRONACHAN: Board members? It's a quiet board tonight. Sometimes it is a good thing.
MR. IBE: Quick comment. Madam Chair, I have no problem with this. I think the variance as the parties requested is not -- it's not unreasonable. I think it's within -- (unintelligible) for them to accomplish. (Unintelligible) the sideyard setback only -- asking for a one foot variance, you know, it's not 25, 24, and with the exception of the rear yard setback, that is the bulk of the variance required.

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I have no problem supporting this application. Thank you.
CHAIRPERSON GRONACHAN: Thank you. I would like to add my comments. I think you did a great job in your packet. I think that your items for a standard two, three and four and five address actually what the board is looking for, which is why they are so quiet tonight.
It's not self-created. The house was built to an odd shaped lot. I mean, it's not very odd, but there is a different density to it.
Strict compliance definitely would prohibit you from doing that, and it's unfortunate in Michigan with the

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weather that we have, I don't think you're creating the mosquitoes.
You are, in fact, addressing the minimum variance. I think that you've -- looking at this, you have gone for the least amount that could -- I couldn't see any other way of doing it and still have the consistency of your house that you

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spoke of at the beginning when you talked about having everything equal.
And I think that's pretty important in a subdivision like yours. And I don't see any adverse impact. As a matter of fact, you may get more neighbors over to your house now that you have a screened-in porch.

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So I will be in full support. If anyone would like to make a motion.

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MR. MONTVILLE: Madam Chair.

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CHAIRPERSON GRONACHAN: Yes.

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MR. MONTVILLE: I'll take care of

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that.

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CHAIRPERSON GRONACHAN: Member

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Montville.

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MR. MONTVILLE: In Case No.

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PZ15-0015, I grant that we move -- grant the variances sought by Mark and Alison Dolin because the petitioner has established that the odd lot formation that they were working with and also the water next to you, which is the lot next-door, I'm sure isn't helping with your mosquito situation, is not created by the applicant.

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So the granted variances will not be a practical difficulty. The condition again is not a personal economic hardship that was created by the applicant.

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Strict compliance with the

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dimensional regulations of the zoning ordinance would cause an issue with the applicant to fully and properly be able to use their lot as she mentioned last several years has been an issue.

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Hopefully with these variances,

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they will get the full benefit of the property that they purchased here in the

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city.

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Again, the minimum variances have been requested, and as noted with the lack of negative correspondence coming back from neighbors, the requested variance will not cause adverse impact on surrounding property, property values or the enjoyment of the property in the neighborhood or the zoning district.

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MS. KRIEGER: Second.

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CHAIRPERSON GRONACHAN: It's been moved and seconded.

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Is there any further discussion?
(No audible responses.)

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CHAIRPERSON GRONACHAN: Seeing none, Ms. Ramsay, would you please call the roll.

MS. RAMSAY: Member Ferrell?
MR. FERRELL: Yes.
MS. RAMSAY: Member Ibe?
MR. IBE: Yes.
MS. RAMSAY: Member Krieger?
MS. KRIEGER: Yes.
MS. RAMSAY: Member Byrwa?
MR. BYRWA: Yes.
MS. RAMSAY: Member Richert?
MR. RICHERT: Yes.
MS. RAMSAY: Member Montville?
MR. MONTVILLE: Yes.
MS. RAMSAY: And Chairperson

Gronachan?
CHAIRPERSON GRONACHAN: Yes.
MS. RAMSAY: Motion passes seven to zero.

CHAIRPERSON GRONACHAN: Congratulations, your variance has been granted. I'm sure you will be seeing the building department.

MS. DOLIN: Thank you very much.
CHAIRPERSON GRONACHAN: Enjoy the rest of the summer.

MS. DOLIN: You, too.
CHAIRPERSON GRONACHAN: Our next case is PZ15-0017 Chris and Nancy Rovik, 1249 Equestrian Drive, would you like to come down.

The applicant is requesting a variance from the City of Novi, a variance of 4.5 feet and the required north sideyard setback in order to allow construction after of a new stairwell addition.

Good evening. Would you -- are you both going to be giving testimony this evening?
MR. ROVIK: I think maybe just myself.

CHAIRPERSON GRONACHAN: Would you please state your name, spell it and then raise your right hand to be sworn in.

MR. ROVIK: Christopher Rovik, C-h-r-i-s-t-o-p-h-e-r, Rovik, R-o-v, as in Victor, i-k.

MR. FERRELL: Do you affirm to tell the truth in the case you are about to give testimony?

MR. ROVIK: Yes, I do.
CHAIRPERSON GRONACHAN: You may proceed.

MR. ROVIK: So we moved into our home in Novi last year. When we moved in, we have an unfinished basement. We have two egress windows currently on the north side of the property, but we are looking at finishing the basement and we want to provide a safer egress from the residence,

14 and in order to do so, we would like to
15 change the egress window that is on the
16 east side of the north side of the house,
17 from a window to a stairway, so that it's
18 not necessary to climb up and out through a
19 window in order to evacuate the home in
20 case of an emergency.

21 So our proposal is to change that
22 window into a doorway and put the required
23 pad that's required at the bottom of the
24 stairwell and construct the stairs up into
25 the backyard.

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1 Currently the home is 15 feet
2 from the lot line, and in order to
3 construct that required path and the
4 retaining wall, we would need a variance in
5 order to maintain a 10.5 foot distance
6 between the retaining wall and the north
7 side of the property.

8 So basically, we are requesting a
9 four and a half foot variance for the
10 construction of that stairwell.

11 CHAIRPERSON GRONACHAN: Anything
12 else?

13 MR. ROVIK: I think that's it.

14 CHAIRPERSON GRONACHAN:

15 Mr. Secretary, is there any
16 correspondence?

17 MR. FERRELL: There was 17 mailed
18 notices, three notices returned, zero
19 approvals, objection letters, that were
20 received.

21 CHAIRPERSON GRONACHAN: Thank
22 you. Building department?

23 MR. WALSH: Yes. Just a couple
24 of comments. The first comment is the
25 proposed stairwell is going to be actually

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1 proposed in the 12-foot private easement
2 for the storm sewer.

3 So the applicant would have to
4 work with the association and get an
5 approval for any encroachment into their
6 easement.

7 And also with the minor type of
8 grade change, the city is going to require
9 a minor land improvement permit as part of
10 this proposal. Thank you.

11 CHAIRPERSON GRONACHAN: Thank
12 you. Just for clarification again, a minor
13 land --

14 MR. WALSH: Land improvement
15 permit.

16 CHAIRPERSON GRONACHAN: Thank
17 you. We will make sure that that's part of
18 our motion.

19 MR. WALSH: I appreciate it.

20 CHAIRPERSON GRONACHAN: Is there
21 anyone in the audience that wishes to make
22 a comment on this case? Come on down,
23 please.

24 MR. PAWLUSIAK: My name is Paul

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Pawlusiak. I'm the president of Mayberry

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1 Park Association.

2 MR. FERRELL: Excuse me. Can you
3 state and spell your name for the reporter.

4 MR. IBE: P, like in Paul,
5 a-w-l-u-s, like Sam, i-a-k.

6 MR. FERRELL: Are you an
7 attorney?

8 MR. PAWLUSIAK: No.

9 MR. FERRELL: Can you raise your
10 right hand to be sworn in.

11 Do you affirm to tell the truth
12 in the testimony you are about to give in
13 this case?

14 MR. PAWLUSIAK: Yes. I am the
15 president of the subdivision and I
16 represent all 105 homeowners, including the
17 Roviks.

18 So we have been working on this
19 back and forth the last couple of months
20 and the drawings we have indicated where
21 they're going to put it, and our responses
22 have been clear that we need a physical
23 engineer to draw the plan, not Mr. Rovik,
24 who is an electrical engineer.

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1 MR. ROVIK: I'm a professional

2 engineer, not an electrical engineer.

3 MR. PAWLUSIAK: That's what it is
4 stamped as on your --

5 MR. FERRELL: This has to be one
6 at a time.

7 MR. PAWLUSIAK: So you're a
8 physical engineer?

9 MR. ROVIK: I'm a mechanical
10 engineer.

11 MR. PAWLUSIAK: So now that we
12 have that established, he's not a physical
13 engineer for structural.

14 So what our concern is, three
15 things. We have had other neighbors that
16 have called us, in the homeowners
17 association, and they have voiced concerns
18 about, you know, the location of this and
19 that, but being good neighbors, they didn't
20 want to say who they are and who gives
21 their names, so that's where I'm at with
22 that.

23 Now, what our thing is these are
24 not regular six inch poured walls, these
25 are tilt-up walls so they are a little bit
thinner and they use a little bit of

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1 (unintelligible) as a structure to make it
2 more efficient.

3 Our concern is structurally that
4 it should be engineered by the company that
5 did this so it's safe and clear for
6 everybody and there is drainage involved.
7 With the amount of rain we have had we
8 wouldn't want the window well to fill up or
9 something to happen.

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There is an easement right there where that drain goes and along with some of these improvements that they are asking for, as far as moving the fence, that fence line will be on that drain easement.

Now I'm not saying that the drains we put in, are going to go bad in three weeks, or in two years, but if there is an easement issue, those fences are going to get torn up just like everything, so there is an easement issue where that drain goes.

And that takes the approval of two-thirds of the subdivision, according to our bylaws. So that's something we have to work with them on. And if we approve that

easement usage, that means the mortgagees of those 66 people who say yes have to approve that. We have had these other issues in the subdivision, it's in our bylaws.

So we would like to work with them on these things and get through these things, but we have a process that we go through. And we don't have set approved plans yet, that's what we have been trying to work on.

I spoke with the building department when we got this notice, I was noticed from the management company about this and, you know, I thought we would just wait until we get there. This is -- you know, to put it on, but we need a set of plans from the people that built the basement with those walls to do -- to engineer to make sure the lintel is correct, to make sure it's safe. That's where we are at with it currently.

As far as their request for the -- well, there is things on there that don't even effect you in this request.

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It's just the basement. Thank you for your time.

CHAIRPERSON GRONACHAN: Thank you.

MR. ROVIK: Can I respond?

CHAIRPERSON GRONACHAN: Hold on. Just everybody take a deep breathe.

We are going -- I have a question for you. So if you would come back. Everybody just -- let's -- we are going to work this out, okay.

This is a lot of information for the board to have come forward.

My first thing is that I'm going to say to you, the president of the association, is that it's a shame that your residents feel that way. They can always write a letter -- let me just -- they can always write a letter and let the city know. I'm just saying they should never

21 feel like they're going to be intimidated
22 or anything like that. That's what Novi is
23 all about and we are going -- we will work
24 it out together.

25 MR. PAWLUSIAK: Okay.

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1 CHAIRPERSON GRONACHAN: So does
2 the board have any questions for the
3 subdivision president?

4 MR. FERRELL: I'm a little
5 confused. So you guys are approving them
6 to do that?

7 MR. PAWLUSIAK: No, we haven't
8 had a set of plans that we can approve yet.
9 We need a set of plans that are.

10 MR. FERRELL: Sir, wait. I know
11 you like to talk, but hold on a second.

12 I need to know, if they gave you
13 a set of plans, is it something that you
14 guys would approve or are totally against
15 the whole idea of them --

16 MR. PAWLUSIAK: I can't answer
17 that now. We have an easement in there
18 that effects the rest of the community. I
19 have to present that to the rest of the
20 board. I can't make that statement, not
21 everybody is in town.

22 MR. FERRELL: Okay. That's all I
23 have.

24 CHAIRPERSON GRONACHAN: Thank
25 you. Anybody else? Member Byrwa.

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1 MR. BYRWA: It seems like -- I
2 don't know if you are a little confused
3 about the role of -- you know, it's up to
4 the building department to issue a permit
5 to make sure that this is structurally
6 sound and safe. They can request a drawing
7 by a structural engineer if it looks like
8 something is not right, or doesn't meet the
9 minimum loading of the building code, but
10 it's not for a homeowner or a president of
11 an association to demand that you have to
12 prove to them that it's structurally sound.

13 They have to prove to the
14 building department that it meets the
15 building code, not to you.

16 MR. PAWLUSIAK: Well, with our
17 bylaws actually, our registered bylaws and
18 our rules, that does have to go through us
19 first and if we don't approve it, they
20 can't approve it in our subdivision.

21 So ours is a little bit
22 different, the way our bylaws are written.

23 MR. BYRWA: Do you have somebody
24 in your bylaws that is a licensed
25 structural engineer that would know what

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1 they are looking at on the drawings?

2 MR. PAWLUSIAK: We would send out
3 that to somebody. We haven't received
4 anything yet from a structural engineer.

5 MR. BYRWA: That's the function

6 of the building department to make sure
7 that that's done. You are kind of, you
8 know --

9 MR. PAWLUSIAK: Well, that's
10 what -- you know, the people on the board
11 are in charge of upholding the bylaws. We
12 haven't agreed on a plan yet. And there
13 has been more than two or three comments on
14 the drawings that we have had and that's
15 where we are at.

16 CHAIRPERSON GRONACHAN: Anybody
17 else? Member Ibe.

18 MR. IBE: To the homeowner, I
19 understand your pain and obviously to the
20 president of the sub, I also understand
21 your position.

22 Yes, with all fairness, I feel
23 that the building department did make a
24 very prudent point when he spoke. I think
25 two points that were made was that the

0026 1 subdivision and association approval is
2 required. I think that was made clearly by
3 him.

4 Also talked about the land
5 improvement permit that would be required.
6 Those are the two things he stated.

7 Obviously I understand that the
8 subdivision has rules and that's the rule
9 that homeowners have to abide by. And not
10 something that has to do with this
11 particular place, but there is a case and
12 point that I know of that was out of Oxford
13 Estates in Farmington Hills, where
14 something similar like this happened, where
15 the homeowner thinks they can build and it
16 ended up in litigation. And I don't think
17 that's what good neighbors want. You don't
18 want neighbors, you know, against each
19 other.

20 I think that if there are rules
21 that need to be followed within the sub
22 association, it perhaps is the best avenue
23 to resolve this first. I'm quite sure that
24 if the homeowner who obviously signed on
25 when you buy in a subdivision, you must be

0027 1 part of the association. It's just part of
2 what you sign up for.

3 You may not like the rules, but
4 you have to follow the rules. And if
5 obviously that process doesn't solve it,
6 there is other avenues of what you use to
7 seek remedies.

8 And we all understand that we are
9 not in that state right now. And
10 perhaps -- in light of what I heard today,
11 I will tell you this, I would not vote --
12 if I'm asked to vote, I will it vote down
13 simply because of the fact that I like the
14 situation where parties follow the rules.
15 We can't skip the rules just so that we can
16 get, you know, what we think is best for

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us.
So unfortunately, if I am asked to vote on this today, I definitely would not be in support of it, but I think that this can be resolved between the homeowners as well as the sub.

MR. ROVIK: I think I have additional information that might that help.

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MS. SAARELA: Can I just point out just from a legal perspective from just a variance standpoint, that the condo bylaw issue is a separate issue from the variance standards we are looking at here, and one of them should not be dependent on the other.

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So in consideration of approval or denial of a variance, this factor of whether it's not -- it's legal under the bylaws, really shouldn't be a consideration. You're still looking at the same variance standards of whether there is a practical difficulty and everything under that.

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And then, you know, if you find there is a practical difficulty, you still have the right to grant a variance.

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If they still have an issue with the association regarding the bylaws, that is, you know, a civil issue between them that they would take up separately.

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So don't even consider this as something that would maybe fall the factor of whether it impacts surrounding

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properties. The fact of a dispute alone should not be a deciding factor, you still have to weigh all the variance factors when making a determination.

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CHAIRPERSON GRONACHAN: Thank you.

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MR. IBE: Madam Chair, in light of what was said, to be frank with you, my decision to vote, like I said, to vote it down is not based on what was said here. It's based on the factors.

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The key factor here, we don't discount the key factor of whether or not the requested variance will cause an adverse impact on surrounding property and property values and the enjoyment.

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(Unintelligible sentence.) I'm sure everybody wants to enjoy their properties. I'm sure this gentleman and his wife would love to enjoy their property, same as this gentleman and the rest of the other people who live in Mayberry Park.

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So if there is an issue where these parties cannot -- have not resolved their issues, they have not resolved that,

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how can they possibly enjoy their

2 properties. How are we going to know if
3 this is going to be an adverse impact where
4 parties have not been allowed an
5 opportunity to resolve their differences.

6 Certainly that is a factor that
7 I'm looking at and there is enough factors
8 simply to vote no. But I want them to
9 perhaps -- I don't know what the other
10 members think, but personally, the fact
11 that the subdivision association president
12 is here telling us about the potential
13 adverse impact which, of course, they don't
14 yet because they don't have all the facts
15 and there are other neighbors who have
16 concerns, it leaves me wondering whether or
17 not I should leap frog the association and
18 say, forget about the adverse impact and
19 the enjoyment and decide on this.

20 I simply cannot disregard that
21 portion of the factors that I have to look
22 at in making a vote.

23 CHAIRPERSON GRONACHAN: Thank
24 you. Member Krieger?

25 MS. KRIEGER: Also in lieu of the

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1 facts because of Mr. Walsh's statements,
2 the easement and the land permit, would you
3 be willing to table this until we get more
4 information to present?

5 MR. ROVIK: Of course we want to
6 do whatever is best. I just wanted to
7 point out that some -- there are
8 communication issues between us and the
9 association and the management company.

10 We were requested to get
11 additional drawings, which we have prepared
12 by a structural engineer. We have
13 attempted to submit those and, you know,
14 there is road blocks. So I have a copy of
15 those drawings here. Again, that we paid a
16 structural engineer to prepare. It's
17 really unfortunate that we're hearing about
18 objections from neighbors.

19 Honestly speaking, we live on a
20 cul-de-sac. The houses on either side of
21 us are under construction, the house across
22 the street is under construction. There is
23 only three inhabited houses on the
24 cul-de-sac on the far side of us.

25 So the fact that a few people in

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1 the neighborhood are complaining, I really
2 have a hard time understanding how that's
3 actually --

4 MS. KRIEGER: Is that documented?
5 Do you have -- were you able to submit that
6 prior to this or is that something that you
7 acquired recently and that you may --

8 MR. ROVIK: So after we applied
9 to put this on the agenda, and we submitted
10 the first plans to the association, they
11 came back and said they needed additional
12 plans, which again we have prepared, but

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like I said, there is communication issues, there is personal issues between members of the board and my family that unfortunately, I think are coming out tonight.

MS. KRIEGER: Thank you.

MR. FERRELL: Madam Chair, just commenting on fellow board member Ibe's comments.

I don't really think it's like leap frogging over the board. I think -- or the homeowners association. That's a whole separate issue. We are not a court of law. We shouldn't be really handling or

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hearing what has to do with that.

In my opinion, I think it's more of do we feel like the city attorney said, do we feel this is something that this is a hardship for them to have, something that's not self-created, rather than listening to the board members saying that they want -- he wants plans, he didn't do it, and then listening to him comment on saying that oh, well, now we have these bad feelings. That's not stuff I don't think this board really needs to hear. I think we are just here for zoning issues, not legal issues that has pertained to homeowners associations.

You're not allowed to talk.

CHAIRPERSON GRONACHAN: Hold off.

MR. FERRELL: I don't feel it's really leap frogging. I mean, I see your point, have the enjoyment and having some of the neighbors not feeling comfortable or happy with having this.

But again, that's -- if they wanted that, they should have been here to explain that and say that rather than be

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shy like the president had mentioned not wanting to have their names heard. I can understand that a little bit to a point, but if that was strongly -- information was given to the president, then she should have come as well to voice their opinions.

Again, I feel that should be just focusing on the zoning issue that they presented in front of us and the legalities or anything after that with the association should be dealt with strictly with them and in court. That's not what we are. Thank you.

CHAIRPERSON GRONACHAN: Thank you. Anyone else?

well, can we get back to the case.

So first I want to thank the city attorney for clarifying what you said because it brings it all home and sometimes we need wrangling in, so I appreciate that, those comments.

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Secondly, in our packet, there is

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a handicap sticker, that when I read this case, it made it seem like the reason for

1 this -- for this install, if you will, was
2 because there was some sort of handicapped
3 situation going on.

4 Is that part of the -- is that
5 true?

6 MR. ROVIK: That's correct.

7 CHAIRPERSON GRONACHAN: So when
8 you decided to do this, there is certain
9 steps that you went through, I'm sure there
10 was a lot of time.

11 Did you consult your homeowners
12 association at the time prior to coming to
13 the board?

14 MR. ROVIK: Absolutely. Like I
15 said, we have gone through the process with
16 the homeowners association, so we have
17 submitted plans to them, as was stated,
18 there were other changes that were being
19 requested in addition to the change that we
20 are asking the zoning board about.

21 So, anyway we have started that
22 process with them, and we wanted to get
23 this matter taken up by the city for the
24 items that required approval for a zoning
25 variance.

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1 CHAIRPERSON GRONACHAN: So I have
2 one board member that suggested, and I'm
3 going to go with it and if anybody has
4 anything to say, they can let me know.

5 I think this case should be
6 postponed. I don't want this case denied.
7 But I think that there is homework that you
8 could do that would bring peace to all
9 parties.

10 MR. ROVIK: I don't believe
11 that's possible at this point.

12 MR. PAWLUSIAK: I --

13 CHAIRPERSON GRONACHAN: Hang on.
14 You're out of order, okay. I'm making a
15 comment at this point, so you don't get to
16 talk. I'm sorry.

17 Somebody has got to work this
18 out. So we can vote and deny it, and the
19 homeowners association can be strong-armed
20 by this petitioner, but somebody is going
21 to have to arise above it and work with
22 this homeowner.

23 MR. PAWLUSIAK: Do you want me to
24 address you?

25 CHAIRPERSON GRONACHAN: No. I
1 want you to think about what I'm saying.

2 MR. PAWLUSIAK: I have an answer
3 for you --

4 CHAIRPERSON GRONACHAN: I don't
5 want an answer. I'm trying to get through
6 this case, sir.

7 This is the Zoning Board of
8 Appeals. We have a case in front of us and

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we have people that are irritated and not working together. So it's not going to get resolved.

I have board members that have questions and I have issues that are not resolved. So as the ZBA, we are trying to resolve with this resident, a resident of this city. And the easiest way to do that is to try to see if people can work it together.

My concern is about this 12-foot easement approval that you could get the waiver for it. If you go and try to work that out ahead of time before we look at this case, it isn't -- I'm going to back up a little bit.

Normally when we look at a

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variance, we will take into consideration what the homeowners association has to say if there is an approval.

It would be better if we could get that when you bring it to us along with the new plans that you have with us, and this other stuff that the -- you know the building department is going to ask for, otherwise you're not going to get the variance, the variance isn't going to go through. That's where I'm coming from in terms of the postponement.

If it doesn't work, then you can come back and say, Chair Gronachan, I'm sorry, but there is no peace in the valley, so I'm sorry to hear that, we gave it our best shot. That's my approach. You have neighbors perhaps the association would give you those names of the people and you could go talk to them and work it out, the three disgruntled residents. I don't want to see residents disgruntled either. And perhaps, they could come to the next meeting and voice their concerns.

These are ways of working it out.

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And then if that doesn't work out, then I honestly, as a peacemaker, I don't know what else to suggest. But that would be to me, if my fellow board members would agree to this, do I get any support on this about postponing it at this point?

MR. IBE: That's what I thought we should do in the first place. I said, these folks can work this thing out. I see no reason why that -- that the gentleman cannot submit the document. He said he has it.

MR. ROVIK: I'd love for them to receive it.

MR. IBE: If that is submitted, good for your process, look, this is not rocket science. We can always come back. I mean, there is no point in us making votes, voting down or voting opposite

20 because we -- this is not -- we don't want
21 litigation. I don't want people fighting
22 in court. Frankly, there are ways to
23 resolve this. The court is not the best
24 way to resolve it, you can resolve this
25 dispute yourself. It's very easy. So why

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1 should we have to vote so they can go --
2 makes no sense.

3 So I think if that the homeowner
4 and the association are willing at least to
5 take a look at this one more time and let's
6 come back, I think it's best for everyone.

7 CHAIRPERSON GRONACHAN: Thank
8 you. Member Byrwa?

9 MR. BYRWA: I'm not in favor of
10 postponing it. And I think we should
11 probably, city attorney's advice and we
12 need to separate ourselves from deed
13 restrictions, bylaws, covenants we don't
14 enforce that. And we shouldn't let that
15 cloud our issue, here of doing our job.

16 Petitioner came here and he
17 seemed like he spent a lot of time and
18 energy on what he wants to do, and he is
19 looking for a vote or an answer to what
20 he's doing, and we shouldn't get involved
21 with deed restrictions and things of that.

22 That's a completely separate
23 civil issue, as the attorney stated, and we
24 should give the petitioner a decision
25 tonight on what he's looking for.

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1 CHAIRPERSON GRONACHAN: Thank
2 you, Member Byrwa. In response to your
3 comments, I just want to clarify. This has
4 nothing to do with the deed restrictions.
5 That has nothing to do with anything else.

6 My suggestion of a postponement
7 is for him to get all of his homework and
8 for him to submit the rest of the paperwork
9 and information that he has.

10 He is going to have to get these
11 other two things, and we are going to have
12 to make them a part of the motion anyway.
13 And if he doesn't get them, he is not going
14 to get his variance at all.

15 As the building department
16 indicated, we have to have a main line
17 improvement -- I'm sorry, minor land
18 improvement permit, has got to be approved
19 by the building department, and the 12-foot
20 easement approval for the storm sewer.

21 MR. BYRWA: What type of easement
22 is that?

23 MR. WALSH: It's a storm.

24 CHAIRPERSON GRONACHAN: If he
25 doesn't get those, he's not going anywhere

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1 with this variance even if we grant it.
2 The only thing I'm trying to
3 do --

4 MS. SAARELA: I mean, I think he

5 could still get the variance, and again
6 whether or not he can get the approval to
7 go into the 12-foot easement, that's part
8 of the deed restrictions, that is part of
9 the civil issue, whether what approval
10 requirements they have under the bylaws, so
11 I don't necessarily think again that the
12 12-foot easement had to be conditional, you
13 know, our variance decision is that this
14 had to be a condition. That's something
15 again totally separate.

16 CHAIRPERSON GRONACHAN: So you're
17 saying the 12-foot easement does not have
18 to be a part of our motion?

19 MS. SAARELA: No.

20 CHAIRPERSON GRONACHAN: But the
21 minor land improvement --

22 MS. SAARELA: If he can't get --
23 that's, you know, possibly -- I haven't
24 seen their bylaws, a violation of their
25 bylaws, and then, you know, the association

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1 could file a civil action stopping him from
2 putting something in the easement.

3 CHAIRPERSON GRONACHAN: So --

4 MS. SAARELA: But that's not
5 really part of the variance criteria.

6 CHAIRPERSON GRONACHAN: So you're
7 not in support of --

8 MS. SAARELA: I'm not weighing
9 in, I'm just saying that they are two
10 separate issues.

11 CHAIRPERSON GRONACHAN: So would
12 it be your recommendation not -- to
13 postpone this, for him to do further
14 homework?

15 MS. SAARELA: If you believe the
16 postponement will help you decide on the
17 factors which are the practical factors,
18 which are, you know, the -- is there
19 something with the shape of the property,
20 that he's trying to figure out, you know,
21 whether or not this is --

22 CHAIRPERSON GRONACHAN: I think I
23 would actually like to hear from --

24 MS. SAARELA: Was it
25 self-created, is there something else that

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1 can be done? Is there a lesser variance,
2 is there -- I mean, those same factors, if
3 the postponement is to figure out something
4 of these other issues, and one of the
5 issues is adverse impact on the surrounding
6 property, you know, that is such an
7 overwhelming issue that you need more
8 information on that issue, you know, I'm
9 not trying to sway you one way or another,
10 I'm just telling you that the easement and
11 the variance issues are very dependent,
12 that that would be a separate issue, that
13 would be a private issue for them to
14 enforce under the bylaws. It's not a
15 public easement. We don't have any

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authority over it.
CHAIRPERSON GRONACHAN: Okay.
And so as far as the information from the residents that are complaining about this that are unhappy, we can't ask for them to come forward?
MS. SAARELA: We can ask, but again, it's a public hearing. They were noticed, you know, they had the same notice as anybody else. They could have been

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here, can we order someone to come here, no. If they want to, can we give them another chance, yeah, does that mean they are going to come, no. I mean --
CHAIRPERSON GRONACHAN: Okay.
Anyone else?

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MR. IBE: Madam Chair, I don't mean to belabor this issue. I think I have made my point quite clear. I don't think that what I'm saying is complicated. I don't think it's ambiguous at all. I think it's very, very clear.

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The factors that are required when we grant this kind of variance, is to see whether or not there is a practical difficulty. And you have to go through a of list of things to see if the property itself is unique, is it self-created, with strict compliance, prevent this body from doing what they're supposed to do, what they have the legal right to do, and then also we got to ask whether or not this is the minimum variance that would allow you to accomplish what you want.

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And this is one of the factors that says that whether or not the variance will cause an adverse impact to the surrounding property and property values and enjoyment of everything else.
My position is that that particular factor, based on the president of the sub, whom obviously I'm sure everyone elected as the president, so speaks for those people who are not here today.

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Obviously he speaks for the association and he says that there are issues that have not been resolved yet.

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Now, as a homeowner, we live in the subdivision, if someone in my sub decides they are going to build something, and the president of my sub shows up and says, we have not resolved these things, I think it makes sense that we allow these parties an opportunity to resolve their differences.

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And that's what I'm asking because the factor of adverse impact, because everybody paid money for their properties, I don't think he paid less so

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1 he does not want much, you paid more, that
2 isn't what this is about.

3 This is about good neighbors, not
4 about good neighbors, and not about the ZBA
5 sending people who come before us to go and
6 fight this case up in court. That is not
7 the purpose of the ZBA. It makes
8 absolutely no sense. This party shouldn't
9 have to sue and the association doesn't
10 have to sue the homeowner.

11 It makes absolutely no sense when
12 the parties can resolve this matter maybe
13 in the next few weeks and come back hoping
14 it's resolved.

15 And we will not have the issue
16 whether there is an adverse impact. I just
17 want what is best for the homeowner as well
18 as the rest of the homeowners who are --
19 obviously we heard only from the president
20 of the association. The adverse impact is
21 what I'm concerned about.

22 I mean, I have no problem voting.
23 But if I am forced to vote, it will be no.
24 Not because I don't want to approve it,
25 simply because I think we want to allow an

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1 opportunity for these parties to resolve
2 their differences.

3 It's up to the board to decide,
4 but obviously you don't have a position.

5 CHAIRPERSON GRONACHAN: I would
6 still like to move to the board, again, I
7 would recommend that we postpone this case
8 until next month, if that would give you
9 enough time, 30 days --

10 MR. ROVIK: It's been a long time
11 already, so my only concern is that it's
12 not going to get resolved before the next
13 hearing, and here we are again, this is
14 very chicken and the egg right now.

15 CHAIRPERSON GRONACHAN: So would
16 you rather have us vote on it tonight or
17 would --

18 MR. ROVIK: If you vote and deny
19 we can re-apply, correct?

20 CHAIRPERSON GRONACHAN: Correct.

21 MR. ROVIK: I mean, there is no
22 issue --

23 MS. SAARELA: That's not actually
24 completely true. There would have to be a
25 change of circumstances, such as a change

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1 in the plan, it couldn't be the exact same
2 variance request. If a variance request is
3 denied as proposed, you would have to be
4 coming back with something different or a
5 change in circumstances of some kind in
6 order to reapply for the exact same --

7 CHAIRPERSON GRONACHAN: For the
8 exact same thing.

9 MS. SAARELA: It couldn't be the
10 exact same thing again.

11 MS. ROVIK: Am I allowed to

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 speak?
 CHAIRPERSON GRONACHAN: Member
 Byrwa?

 MR. BYRWA: I think we need to
 look at the total picture here and the
 variance is just a part of the piece of the
 pie, and the approval of the association is
 another piece of the pie and getting a
 permit with sufficient structural drawings
 is another piece of the pie.

 And it seems like we are
 intertwining ourselves to try and make it a
 perfect world and work it out so
 everybody -- the other piece of the pie are

 happy and everything, and we need to, I
 think, focus on our piece of the pie and
 render a decision to the gentleman, either
 for or against and concentrate on our
 issues, not necessarily other people's
 issues.

 MS. ROVIK: Chairperson, can I
 speak? Is that a possibility that I can
 speak?

 CHAIRPERSON GRONACHAN: Yes, go
 ahead, just one moment.

 MR. FERRELL: Again, I agree with
 Member Ibe, but I also feel like his
 comments still kind of make me feel like
 the -- we are still combining both issues.
 And it's not.

 I don't honestly -- I mean, it's
 important that the neighbors get along, but
 that's not our responsibility to make
 neighbors happy, I don't believe. If it
 is, I guess I'm not clear what our function
 is then.

 It's more of the person that
 comes in front of us, I'm not trying to
 make them happy or make them sad, we are

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 trying to decide if what they're proposing
 is something that fits in the ZBA's realm
 or bag of tricks, so to speak.

 I feel like taking anything the
 homeowners association says into this case
 should be irrelevant. I don't agree with
 it. I think that whatever -- if we feel
 that what they are proposing is acceptable,
 then we vote for it. If not, then we say
 no. What happens after that, that has
 nothing to do with us. I don't know how
 that could be more clear to state that.
 It's two things. It's two separate
 entities. We are not both.

 We are only one part of that,
 like the other member said pieces of the
 pie. We are the only one, the part dealing
 with the variance that they are requesting.
 Whatever happens after that, that's not our
 responsibility.

 CHAIRPERSON GRONACHAN: Again, I
 appreciate your comments along with Member

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Byrwa's comments.

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Member Ibe and I have a few more years under our belt and we come from the

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school of thought that as the city attorney said, once you deny it, they can't come back. So I don't want this board to be known as we can't work things out.

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We haven't been that board in the past and we are not about to start it now.

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This isn't about anything else, but as Member Ibe said, adverse impact.

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It's not resolved, not in my mind. And that's why I'm suggesting a postponement. I want cold hard facts of what is out there and if the petitioner wants to do that, that's where I'm coming from. I'm not coming from the land of make believe that everything is going to be perfect in the world. I have been doing this for a long time, but I still come back from an easier approach, and to give the petitioner full right to do what he wants to do with his property.

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And like I said, a denial that's it, we are done. If we postpone it, he can work it out, granted sometimes it takes longer than others, and that's where I'm coming from.

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I don't care about this easement part. I'm worried about this adverse impact on the neighborhood. I do not have enough information here for me. That's where I'm coming from. I want that clear because I'm not walking in sunshine thinking that everything is perfect.

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MR. FERRELL: My comments to the adverse impact is that they had such a problem with it. You have the president of the association, yeah, he speaks for the people that are on the board, that's why he was elected.

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But if those people had much of a problem with it, then why aren't they here and why didn't they submit the letters back. Adverse impact, I mean, honestly, you are getting one man's version of it, regardless if he's the president of the association or not.

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If that many people are that disappointed and don't want it, then why are they not here? Is it really that much of an adverse impact? Like really. I don't see it because there is not enough

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people here, there is one person, the president of the association. Yes, he carries some weight because he's the president, he was elected by the homeowners, the co-owners right, so I don't understand if they really hate it that much, then why are they not here voicing

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8 their opinion and telling us they don't
9 want that. Line up 100 people saying they
10 don't want it, then maybe there is
11 something to it. You got one person who is
12 representing the community, why aren't the
13 rest not here? I don't agree with what you
14 are saying. Postponing it, I mean, I don't
15 know how I feel about that. I will have to
16 wait until you vote for it, but I don't
17 know if I feel --

18 CHAIRPERSON GRONACHAN: Does
19 somebody have a motion at this time?

20 MR. BYRWA: I have a quick
21 question for the city attorney. How much
22 of a change would have to be necessary for
23 it to come back?

24 MS. SAARELA: I mean, it could be
25 more information provided.

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1 MR. RICHERT: Like new plans?

2 MS. SAARELA: It could be more
3 background information as to, you know,
4 what the actual impact would be on the
5 surrounding property. How much of a
6 change? I mean, I would have to get out --
7 I can't tell you exactly how much of a
8 change because I'm, you know, an engineer
9 and I can't say if it was changed, you
10 know, two inches is that really
11 significant. I mean, that's not something
12 I could factually answer. You know it
13 couldn't be the exact same proposal. You
14 can't be coming back with the exact same
15 information. He's got a change in
16 circumstances, change in background
17 information, something new that wasn't
18 presented here today, that may, you know,
19 impact. There is all that to be
20 considered.

21 MR. BYRWA: So it could be
22 information, not just dimensional?

23 MS. SAARELA: It could be
24 informational.

25 CHAIRPERSON GRONACHAN: Building
0056 department?

1 MR. WALSH: Like also additional
2 information. Maybe, we did not see any
3 design standard worksheet with the
4 applicant scan. We have not heard, you
5 know, the standards. They haven't proven
6 those standards, I don't think, to you
7 guys, or at least provide those, or the one
8 you got -- a house in the back that's open,
9 we haven't heard from the applicant why
10 can't they put the stairwell at the rear of
11 the house. If it's finishing the basement,
12 what's prohibiting them to put it into the
13 rear of the home, coming out like an L type
14 stairs. Those are the things that I think
15 you guys should be asking questions. Or if
16 you table it, have them bring that
17 information back to you, explaining why
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can't you come back and outline the standards.
MR. BYRWA: I don't believe the petitioner had the opportunity to answer or we had the opportunity to ask any questions on floor plan, or necessity or how that handicapped thing enters into the picture.

You.
Know a lot of these questions are unanswered that should we have the opportunity to, you know, investigate if there is a hardship and to vote on that tonight, I think a lot of those questions would have been answered.

MS. ROVIK: I can answer everything.
CHAIRPERSON GRONACHAN: Would you please state your name though and be sworn in by our secretary.

MS. ROVIK: Sure. It's Nancy Rovik, R-o-v, as in Victor, i-k.

MR. FERRELL: Do you affirm to tell the truth in the testimony you are about to give?

MS. ROVIK: I do.
My husband was doing the talking because I don't like to talk in front of groups.

I've been the one dealing with the homeowners association this whole time, which has been over a year probably with this whole situation.

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We have a concrete backyard. We have a covered patio, we have a pool. The only spot to do a staircase is the existing egress window. It is literally taking steps, we already have the existing space that's there, and putting steps up, concrete steps going up against our house all the way up.

I think we are three inches over in our thing. They asked for more because of the retention wall a little bit. But we are literally going and taking up the least amount of space against our wall to create stairs from an existing four foot slab that's already got drainage or whatever, an egress window, to make access up. We have to cut down a little bit down to the drain.

I cannot physically get out of the basement as it is now, if there was a fire. We are finishing the basement. We cannot finish the basement and I cannot be down in the basement if we don't have this access, because if there is a fire I am trapped. I am not physically capable of climbing up, which is -- how it is now, is

probably this high, so we have to dig down to get the steps, you know, the egress is here, I can't physically get up to here to

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get out of the window and either can my 91 year-old mother.
So this is the reason why we need this. There is no change. That's the only spot that it can go. It's going -- we are taking out some of our back to get the stairs to grade because we are taking the least amount of space. And the egress is almost to the back of the house.
If we could go all the way to the back of the house we would, but we need that for the structural. We have plans from a structural engineer. First they wanted certain plans. Then they wanted something else. Then they wanted stamped plans. They never specified who they wanted stamped plans from, what kind of engineer. My husband happens to be a professional engineer, so he drew them, stamped them with his professional engineering. I have been talking to the board, the building department has come out

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numerous times, didn't see problems with it, told me what to do. We also have new engineering drawings from a structural engineer that is actually going to do it.
But I felt wholeheartedly that's what they wanted me to do because they kept saying they wanted plans, they wanted me to go spend five, \$6,000 on professional drawings.
MR. ROVIK: As punishment.
MS. ROVIK: As punishment and then deny it, so I would spend my \$6,000 to do it, and then they would still turn around and deny it because there was personal issues going on.
And as far as all the neighbors they were all over my house this weekend, they had no problem with it.
All the neighbors in the court, there is one neighbor in the court that I don't know and that's it. The other neighbor that's directly between me and the other has a walkout.
CHAIRPERSON GRONACHAN: I have a question for you in terms of what the

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building department actually gave us to ask us about the back of the house, why couldn't the stairs be in the back?
MS. ROVIK: There is a swimming pool and it's all concrete and the stairs will be going to the back of the house. We're going to be ripping up some of the concrete because the way -- I mean, can I show you these. I mean, am I allowed to approach and show you this.
MS. KRIEGER: You can put it on the overhead.
MS. ROVIK: I don't know how to explain it.

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MR. ROVIK: Literally the swimming pool is --

MS. ROVIK: It's too for big me to see.

CHAIRPERSON GRONACHAN: If you slide it up a little more.

MR. ROVIK: That remote control is basically where the swimming pool is, so we wouldn't be able to run stairs off the back of the house. It would interfere with the swimming pool to come up that number of feet.

MS. ROVIK: The stairs are actually coming -- protruding in the backyard like on the side, where it says --

MR. ROVIK: Where that dimension is two feet, ten and a half inches, that's all concrete patio.

MS. ROVIK: That we are ripping up to put the steps in because we are trying to get the least amount of trouble, but we need a certain amount of grade.

CHAIRPERSON GRONACHAN: Okay. Thank you. Board members, do you have any other questions?

MS. ROVIK: It just seems like it's been going on for a long time and they keep asking for different things. So at this point I don't know what they really want. I keep giving them the same thing.

CHAIRPERSON GRONACHAN: Thank you. Board members?

MR. IBE: Can you please allow the president of the homeowners to speak. He's had his hand up quite a bit. Maybe he has something else he has to offer that may sway us.

CHAIRPERSON GRONACHAN: Would you like to come up and -- is there anything additional that you wish --

MR. PAWLUSIAK: Absolutely. We never knew these plans existed. Mr. Walsh can verify that in the last four years we have built 50 houses, every house has had an approval we have looked at. We have had other people's plans go back five or six times for other questions that we have had. We have had two submissions. We have a folder for every homeowner for their submissions.

There is no reason that we wouldn't approve this. This is what we asked for. I could care less about personal issues. I don't have anything with the Roviks. My wife bowls with Nancy.

MS. ROVIK: No. I don't have anything with Paul.

MR. PAWLUSIAK: The issue comes to we have had not the correct plans. We have asked for them. Now that they're here, they just have to resubmit it. If I

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1 was you, postpone it. Don't turn anything
2 down. Because if we have the right plans,
3 it can resolve what our questions have been
4 between the people that are on board and
5 the people that confer with the board, it
6 will be very simple.

7 The plan that you have, this is
8 all we have, it's not acceptable. It
9 wouldn't matter if it was the Roviks or
10 Mr. Ferrell, we would say no. But if these
11 plans are there, I'll go outside and look
12 at them, on the table, it's not a big deal.
13 We need the right plans. It's very simple.
14 No more, no less, nobody gets anymore,
15 nobody gets any less than anybody. We have
16 turned down plans. We tell people, tear it
17 down and redo it. Your neighbors don't
18 like it.

19 It's real simple, here is the
20 plans. He stated he gave them to us after
21 he applied or he got them after he had
22 applied. We have never seen them before
23 today.

24 CHAIRPERSON GRONACHAN: Okay.

25 MR. PAWLUSIAK: Thank you.

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1 CHAIRPERSON GRONACHAN: Is that
2 true, that they haven't gotten those plans
3 or --

4 MR. ROVIK: As I said, we have
5 tried to submit. So when we submitted the
6 last set of plans, they provided them to
7 the builder -- a builder of homes, Lombardo
8 Homes, who has built many homes in the
9 neighborhood for their review and Lombardo
10 came back with concerns, about the
11 completeness of the plans.

12 And so again, like I said, we
13 paid a structural engineer to generate
14 these plans and we tried to resubmit them
15 and we have even gone directly to Lombardo
16 asking them to take the plans. And again,
17 do they have them, no, absolutely not
18 because I still have them here.

19 I am happy to give them a copy of
20 them tonight, that's no problem. But, you
21 know, my concern is this, you know, back
22 and forth, back and forth and how long is
23 it going to take. I want to do whatever --
24 I want to cause at least trouble as
25 possible.

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1 Like I said, I have lived in this
2 neighborhood for a year.

3 CHAIRPERSON GRONACHAN: Thank
4 you. Board members?

5 MR. IBE: Madam Chair. In light
6 of what has been said by both parties the
7 last few things, I think we are splitting
8 hairs here.

9 I have tried to give it to them,
10 we don't have it, just give it to him while

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you're here, so they can resolve the matter, let's postpone this.
I don't see how this is that difficult. If that's what they need, let them get it. You know, we have wasted 35 good minutes splitting hairs. I don't have them, I tried to give it to you. Well, why don't you give it to me. I'm sure he will accept it today.
Sir, would you be willing to accept it?
MR. PAWLUSIAK: I would love to see them.
MR. IBE: By all means, for goodness sake. If we can postpone this matter, let them decide on it, look, I'm sure the question would be answered.
CHAIRPERSON GRONACHAN: Is that a motion?
MR. IBE: I would motion to table this. I don't know how the board feels about it, the rest of the board. I think this is much ado about nothing.
CHAIRPERSON GRONACHAN: Is there a second?
MS. KRIEGER: Second.
CHAIRPERSON GRONACHAN: Ms. Ramsay, would you please call the roll for the postponement.
MS. RAMSAY: Member Ferrell?
MR. FERRELL: Yes.
MS. RAMSAY: Member Ibe?
MR. IBE: Yes.
MS. RAMSAY: Member Krieger?
MS. KRIEGER: Yes.
MS. RAMSAY: Member Byrwa?
MR. BYRWA: No.
MS. RAMSAY: Member Richert?
MR. RICHERT: No.
MS. RAMSAY: Member Montville?
MR. MONTVILLE: Yes.
MS. RAMSAY: Chairperson Gronachan?
CHAIRPERSON GRONACHAN: Yes.
MS. RAMSAY: Motion passes five to two.
CHAIRPERSON GRONACHAN: Thank you. We will postpone this. You will contact the building department on what the next date that you want to come. I believe.
MS. RAMSAY: August 11.
CHAIRPERSON GRONACHAN: Mr. Walsh, will they call you to pick a date or will they just assume August 11, would that be --
MS. ROVIK: Can you make a copy of this? Because we only have two copies and he took one, so can we -- can we give you another copy --
MR. WALSH: Bring a copy in

City of Novi - Zoning Board of Appeals Regular Meeting 7_14_15
tomorrow so we can -- we normally take it,
process all the plans and then get you
August 11th.

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1 CHAIRPERSON GRONACHAN: We will
see you next month.

2 MR. RICHERT: There was a woman
3 in the audience, I don't know if she had
4 some information.

5 CHAIRPERSON GRONACHAN: It's
6 already done. Thank you.

7 MR. BYRWA: Just procedurally,
8 the building department, isn't going to --
9 I don't believe they're going to send out
10 another mailing to everybody within three
11 feet. If you have people in the
12 association that have concerns, maybe you
13 can pass it along to them.

14 MR. PAWLUSIAK: After we see this
15 and address it, I'm sure there not going to
16 be a problem. This is what we have asked
17 for since day one. It's very simple.

18 CHAIRPERSON GRONACHAN: We will
19 go on next month. We will be back. Thank
20 you.

21 Our next case, Case No.
22 PZ15-0018, Joye T. Harris, 1256 East Lake
23 Drive.

24 would you like to come on down.
25 I'm sure you are ready to stretch your legs
0070
1 at this point.

2 To allow the construction of a
3 new second floor living area over the
4 existing foot of an existing non-conforming
5 lake front parcel.

6 Good evening. Are both of you
7 going to be giving testimony?

8 MS. HARRIS: Madam Chairman, I'd
9 just like to introduce my contractor. He
10 understands your lingo far better than I
11 do. It is my home. It's been in my
12 husband's family for over 70 years. I'd
13 like to keep it. I'd like to continue --

14 CHAIRPERSON GRONACHAN: Before
15 you go further, I need you to both state
16 your names, spell them for our secretary
17 and be sworn in. That's why I was asking
18 if you are giving testimony. Okay?

19 MS. HARRIS: Joye T. Harris,
20 J-o-y-e, T, as in Tom, Harris, H-a-r-r-i-s.
21 Do you want my address or no?

22 CHAIRPERSON GRONACHAN: No, we
23 don't need that. Thank you.

24 MR. JESHURUN: Matthew Jeshurun,
25 J-e-s-h-u-r-u-n.

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1 MR. FERRELL: Both of you raise
2 your right hands.

3 Do you affirm to tell the truth
4 in the testimony you are about to give?

5 MS. HARRIS: I do.
6 MR. JESHURUN: I do.

CHAIRPERSON GRONACHAN: You go ahead now.

MS. HARRIS: Thank you. All that I would need to do or would like to do is grow old in my house, grow older in my house and stay there, I don't want to have to move, I am getting older. And I need -- I was going to put in an elevator to facilitate my going up and down the stairs. I broke a foot at one time which gives me trouble every now and again and that would help.

My second floor goes sort of down the middle of my house, and I have two bedrooms that are very small, they are 70 feet, 70 square feet, it was a one bedroom that was divided into two at some point in time.

And I'm looking to make -- keep

the three bedrooms, but make them larger is what I would like to do on the second floor. And as I have no storage space, I would like to add attic storage space. I think Mr. Jeshurun can explain the terms to you that you best understand, that I don't.

MR. JESHURUN: Good evening, Madam Chair, Members of the Board.

As she already stated, obviously she is 69 years young and this is her primary residence. She is looking to have somewhere she can stay. She doesn't want to be in a nursing home, so she is thinking forward to possibly having some kind of care or caretaker for her in the future, to where she had an elevator to get between the floors, essentially, she has a walkout lower level, so it is three floors, in a sense, and if you grant her the variance, she will also have a fourth floor as an attic space for storage.

So I'm sure you guys have gotten copies of the plans and have seen what she is asking, I guess, that's somewhat self-explanatory.

Her current residence is basically barely over a one car garage. She really is lacking in storage in the house. So that's probably one of the most important things that she would be asking for.

Aside from that, I am sure you saw the small novel we gave you guys. I apologize. We are just trying to set some precedence and state the case of some of the recent houses that have been built in the past few years. One of which is the first picture -- first two pictures of the house immediately to the south of her, which I think was built in the past three or four years -- I apologize, north to the right side.

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That house was built in the past few years. I believe it got six variances, four of which are exact ones she is asking for, which were setbacks to the north and south, setback to the lake side and then lot coverage.

I believe they also got variances in height for it being height in the roof

and I'm not sure what the sixth was, but see in the picture we basically went down the street, almost every house on the street is on a 40 or 50-foot lot with these varying setbacks of 15 to 25 feet.

Obviously no one could build on these lots unless they got, you know, an accepted variance.

So we just ask that we can receive the same variance, it seemed like almost every house on the street has gotten.

I have talked multiple times with the building inspector, Mr. Walsh and tried to work as best I can with some of the building code issues we had with our first blueprints and we have made three or four revisions and, you know, tried to do everything we can to get what you guys need as well, give them the homeowner what she's looking for.

I guess the last thing I have to say is everything we are asking for is falling within the existing footprint of the house, and we actually are setting back

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in I think in 20 inches on one side, ten or eight inches on the other from the existing footprint.

So I don't know if that was your decision at all. I just want it to be said. Thank you.

CHAIRPERSON GRONACHAN: Thank you.

There clearly is no one left in the audience. I'm sure they left after the last case.

Secretary, is there any correspondence?

MR. FERRELL: Yes, Madam Chair. Twenty-five notices mailed, one notice returned, zero approvals.

We did receive a list of signatures from numerous residents that approved the variance.

MR. JESHURUN: I believe we got everybody within 500 feet each direction, with the exception of one or two people that weren't home.

CHAIRPERSON GRONACHAN: For the record, that's 24 residents that signed the

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approval.

Okay, building department?

MR. WALSH: No comments at this time.

CHAIRPERSON GRONACHAN: Thank you. Board members?

MR. MONTVILLE: Madam Chair, we are making different revisions while working with the building department, was there any consideration in trying to reduce the variance? It sounds like it's been a consideration to that -- the variance of each reiteration of the blueprints he had, did the variance request get bigger or smaller? Can we talk about that process a little bit.

MR. JESHURUN: It got smaller. Obviously to meet the actual ordinance, we probably have to leave the house as it sits or maybe even less as it sits because 15 feet on one side and 25 on the other, the lot I believe is smaller than 40 feet wide, it's like 39 and some change.

So no, originally we had planned to bill the second story exactly in line

with the first floor, but after having the survey and seeing the lot lines and speaking with Mr. Walsh, he had said there was some actual building codes that we had to apply to in being setback three feet on each side from the property line, so we went back into the provisions to pull each side of the second story in to meet that three foot fire rating.

MR. MONTVILLE: Thank you.

CHAIRPERSON GRONACHAN: Anyone else?

MR. IBE: Madam Chair, I think -- first of all, I must commend the homeowner and the builder for doing their homework. I think you have presented (unintelligible) what we have here in the past, in granting variances, such as the one you're requesting right now.

And this particular area has been the primary concern for most of the homeowners. The shapes of the lots there are just such that without a variance you really can't do much.

Historically, we have granted

variances in that part of Novi. It seems to be the norm or exception around here, and I'm sure you have been in the room for -- knowing that we don't grant every variance that comes through, however, there are some that obviously where the work has been done and where it meets what is required under the standards to grant a variance.

The other issue -- question I have is, with the building -- the fire department leaving -- have they taken a look at this, make sure there is no fire

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hazards and safety issues, just in case if this --

MR. WALSH: The existing first floor footprint exceeds. It encroaches that. However, everything above it, we have brought in to comply with that. So what exists exists, so everything is going to be brought in, capped off so it's waterproof and goes straight up.

MR. IBE: Very well. With that being said, I have no problem at all with it.

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In fact, I commend you for those signatures, making good neighbors, I like good neighbors.

MS. HARRIS: I have very good neighbors.

MR. IBE: This makes a difference where you live, that's where you call your home.

I will have no problem supporting this.

CHAIRPERSON GRONACHAN: Anyone else? Is there a motion on the table from somewhere.

MR. IBE: Absolutely. I have no problem.

CHAIRPERSON GRONACHAN: I thought there was one coming from that end.

MR. IBE: Madam Chair, it is with great pleasure that I will move to grant the variance in Case No. PZ15-0018, as sought by the applicant, Joye Harris, and the petitioner has established practical difficulty as it relates to this possible plan here, that will require us to give due consideration to grant it.

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Petitioner has established that the property is unique and we all know these lake properties, this is not the first time we get one of these that comes before the board.

The topography and the physical conditions of this property as such requires a variance. The need is not self-created. Ms. Harris has eloquently told us about she's 69 years young and wishes to stay at this property for the remainder of her natural life, which it's a great thing, to want to stay in one's home. Obviously you want to stay there and feel comfortable. The property is what it was when you bought it and when you live in it. And in order for you continue to live there, you may have to make some adjustments and the only best way to do it is get a variance.

So it is not such that you created it, so I think that there is no self-created problems here.

Strict compliance with

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1 ordinance will obviously make it
2 unreasonable to prevent the property owner
3 from accomplishing what she set out to do,
4 and she has established that the variance
5 is the minimum variance that is necessary
6 in order to accomplish the beautification
7 on the property.

8 And finally, she has also
9 demonstrated to us that any variance that
10 we grant and any modification on this
11 property, will not cause an adverse impact
12 on the surrounding properties, will not
13 impede on the enjoyment of the other
14 homeowners around there.

15 She has submitted, I think
16 everyone has a copy of it, signatures of 24
17 other residents who are within 500 feet of
18 the home, and then this tells me she has
19 done her homework.

20 All of this put together, and I
21 move that we grant the variances as
22 requested.

23 MR. FERRELL: Second.

24 CHAIRPERSON GRONACHAN: It's been
25 moved and seconded, any further discussion?

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1 (No audible responses.)

2 CHAIRPERSON GRONACHAN: Seeing
3 none, Ms. Ramsay, will you please call the
4 roll.

5 MS. RAMSAY: Member Ferrell?

6 MR. FERRELL: Yes.

7 MS. RAMSAY: Member Ibe?

8 MR. IBE: Yes.

9 MS. RAMSAY: Member Krieger?

10 MS. KRIEGER: Yes.

11 MS. RAMSAY: Member Byrwa?

12 MR. BYRWA: Yes.

13 MS. RAMSAY: Member Richert?

14 MR. RICHERT: Yes.

15 MS. RAMSAY: Member Montville?

16 MR. MONTVILLE: Yes.

17 MS. RAMSAY: And Chairperson
18 Gronachan?

19 CHAIRPERSON GRONACHAN: Yes.

20 MS. RAMSAY: Motion passes seven
21 to zero.

22 CHAIRPERSON GRONACHAN: Your
23 variance has been granted.

24 Congratulations. Good luck.

25 Are there other matters for the

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1 board this evening for discussion?

2 Anybody have anything else to --
3 seeing none. Would anyone entertain a
4 motion to adjourn the meeting.

5 MR. FERRELL: So moved.

6 MR. IBE: Second.

7 CHAIRPERSON GRONACHAN: It's been
8 moved and seconded.

9 All those in favor say aye.

10 City of Novi - Zoning Board of Appeals Regular Meeting 7_14_15

11 THE BOARD: Aye.

12 CHAIRPERSON GRONACHAN: Meeting

13 adjourned.

14 (The meeting was adjourned at 8:13 p.m.)

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1 STATE OF MICHIGAN)

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ss.

3 COUNTY OF OAKLAND)

4 I, Jennifer L. Wall, Notary Public within and for the
5 County of Oakland, State of Michigan, do hereby certify that the
6 witness whose attached deposition was taken before me in the
7 above entitled matter was by me duly sworn at the aforementioned
8 time and place; that the testimony given by said witness was
9 stenographically recorded in the presence of said witness and
10 afterward transcribed by computer under my personal supervision,
11 and that the said deposition is a full, true and correct
12 transcript of the testimony given by the witness.

13 I further certify that I am not connected by blood or
14 marriage with any of the parties or their attorneys, and that I
15 am not an employee of either of them, nor financially interested
16 in the action.

17 IN WITNESS THEREOF, I have hereunto set my hand at the
18 City of Walled Lake, County of Oakland, State of Michigan, this
19 4th day of August 2015.

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Jennifer L. Wall CSR-4183
Oakland County, Michigan
My Commission Expires 11/12/15