

1 BEFORE THE ORANGE TOWNSHIP
2 BOARD OF ZONING APPEALS
3 - - -
4 :
5 In the Matter of: :
6 :
7 Public Hearing - :
 Variance Applications :
8 :
9 :
9 - - -
10 PROCEEDINGS
11 before Members of the Orange Township Board of
12 Zoning Members; Chairman Aaron Shipley, Jr.,
13 Kelvin Trefz, Sue D. Ross, Stacey Neff and
14 Punitha Sundar, held at Orange Township Hall,
15 Moffett Room, 1680 East Orange Road, Lewis
16 Center, Ohio, called at 6:00 p.m. on Thursday,
17 October 19, 2023.
18
19
20 - - -
21
22
23
24

1 P R O C E E D I N G S

2 - - -

3 CHAIRMAN SHIPLEY: I'd like to
4 call the Orange County Board of Zoning Appeals
5 for Thursday, October 19, 2023 to order at
6 this time. Roll call, please.

7 MR. DUFFEE: Mr. Shipley.

8 CHAIRMAN SHIPLEY: Here.

9 MR. DUFFEE: Mr. Trefz.

10 MR. TREFZ: Here.

11 MR. DUFFEE: Ms. Neff.

12 MS. NEFF: Here.

13 CHAIRMAN SHIPLEY: Ms. Ross.

14 MS. ROSS: Here.

15 MR. DUFFEE: Ms. Sundar.

16 MS. SUNDAR: (Not present.)

17 CHAIRMAN SHIPLEY: All right. And
18 anyone who intends to testify, please raise
19 your right hand to be sworn.

20 Do you solemnly swear the
21 testimony that you give shall be the truth,
22 the whole truth and nothing but the truth?
23 Please state I do.

24 ALL: "I do."

1 CHAIRMAN SHIPLEY: And when it's
2 your turn to offer testimony, please step up
3 to the microphone, state your full name and
4 address and affirm that you have been sworn
5 in.

6 All right. The first variance
7 application tonight is VA-23-20. And we're to
8 start Mr. Duffee.

9 MR. DUFFEE: Thank you, Mr.
10 Shipley. This is an application for a
11 variance seeking an area variance from
12 Rezoning 7609 River's Edge for a concrete
13 patio to encroach into the 35-feet rear yard
14 setback. Again, seeking an area variance from
15 Rezoning Case 7609 River's Edge for a concrete
16 patio to encroach into the 35-foot rear yard
17 setback.

18 Presently a 580 square foot patio
19 exists to the rear of the home, which was
20 installed between 2008 and 2010. The
21 applicant is proposing to replace the existing
22 patio with a smaller concrete slab, topped
23 with pavers that will reduce the overall patio
24 area by 215 square feet. Also being proposed

1 is a roof structure that will share the same
2 footprint as the patio. The subject property
3 is a .426 acre corner lot located southwest of
4 River's Edge Drive and Creekwood Drive, and is
5 currently owned by James and Laura Wheeler.
6 James Wheeler is the applicant of record.

7 Surrounded off on all four sides
8 by Single Family Planned Residential
9 Districts. On the following page of the Staff
10 Report, you can see the aerial photo of the
11 property, and then a zoomed-out aerial on the
12 next page.

13 And as for our Staff Review, again,
14 River's Edge Allen Creek development text
15 requires a 35-foot rear yard setback, as shown
16 within Exhibit A below. The front property line
17 is established along River's Edge Drive to the
18 east, rear yard property line is established
19 directly to the rear of the home to the west.
20 The applicant noted in his application that
21 settling issues have been occurring with the
22 existing patio causing drainage problems at the
23 rear of the home. The applicant stated that
24 these would be

1 addressed through the installation of the new
2 concrete pad.

3 So the proposed patio would
4 encroach 9 feet 0 inches into the required
5 35-foot rear yard setback. This represents an
6 approximately 25 percent variance request from
7 Rezoning Case 7609. Again, I would emphasize
8 that it is -- the proposed patio is less, the
9 encroachment is less than what is currently
10 existing.

11 You can see on the next page of
12 the Staff Report the proposed site plan with
13 the current and projected structure. So the
14 current patio being that black outline there
15 where Andrew's mouse cursor is and then the
16 proposed would be the hatched area there.

17 That is all that I have for the
18 Staff Report. I believe the applicant is here
19 if the Board has any questions

20 CHAIRMAN SHIPLEY: Mr. Wheeler.

21 MR. WHEELER: Hey, good afternoon,
22 Team. I'm James Wheeler from 6438 River's
23 Edge Drive. I am the homeowner. I have been
24 sworn in and I'm here to answer any questions

1 that the panel may have.

2 CHAIRMAN SHIPLEY: So I'm
3 guessing, listening to Mr. Duffee, that the
4 existing patio that is there now is starting
5 to sag and water is coming back toward the
6 house and the intent is to put a concrete
7 patio there, which is water away from the
8 house.

9 MR. WHEELER: Yes, sir. And the
10 existing patio, it appears is only 20 feet
11 from the western boundary, which has been
12 deemed the rear property line, and no current
13 permit is on file for that.

14 CHAIRMAN SHIPLEY: And the
15 concrete patio, as I think Mr. Duffee pointed
16 out, is smaller than -- the existing patio is
17 smaller than the patio that you're here for.

18 MR. WHEELER: The concrete patio
19 will be smaller than the existing paver patio.

20 MS. ROSS: Does anyone have any
21 questions?

22 CHAIRMAN SHIPLEY: I don't have
23 any other questions.

24 MS. ROSS: Since there are no

1 questions, based on these factors, I move to
2 approve Case No. VA-23-20 for the property
3 located at 6430 River's Edge Drive, Lewis
4 Center, Ohio, seeking an area variance from
5 Rezoning Case No. 7609 to allow for a proposed
6 patio to encroach 9 feet into the required
7 rear yard setback in an area zoned Single
8 Family Residential District.

9 MR. TREFZ: Second.

10 MR. DUFFEE: Motion to approve
11 Case VA-23-20 made by Ms. Ross, seconded by
12 Mr. Trefz. Those voting:

13 MR. DUFFEE: Mr. Shipley.

14 CHAIRMAN SHIPLEY: Yes.

15 MR. DUFFEE: Mr. Trefz.

16 MR. TREFZ: Yes.

17 MR. DUFFEE: Ms. Neff.

18 MS. NEFF: Yes.

19 MR. DUFFEE: Ms. Ross.

20 MS. ROSS: Yes.

21 MR. DUFFEE: Motion carries and
22 the variance is approved.

23 CHAIRMAN SHIPLEY: Thank you, sir.

24 MR. WHEELER: Thank you, Team.

1 Have a good night.

2 - - -

3 CHAIRMAN SHIPLEY: And our next
4 variance case is VA-23-21.

5 MR. DUFFEE: Thank you, Mr.
6 Shipley. So this is Variance Case VA-23-21
7 for a property located at 444 Green Meadows
8 Drive. This is seeking an area variance from
9 Rezoning Case 746 Green Meadows Village to
10 allow for an accessory structure to encroach
11 into the 35-foot rear yard setback, as well as
12 an area variance to encroach into the
13 12.5-foot side yard setback in a Single Family
14 Planned Residential District.

15 So the storage shed had been
16 previously added to the property without a
17 zoning permit. As a result, a Notice of
18 Violation was issued to the property owners
19 dated August 28th of this year. Through a
20 site plan provided by the property owner, it
21 was discovered that the shed encroaches into
22 the side and rear yard setbacks. The
23 applicant is looking to bring the shed into
24 compliance through both area variance

1 requests. Subject property is a 0.190 acre
2 lot, No. 429, located west of Green Meadows
3 Drive West and Spicewood Lane and currently
4 owned by Jerry and Terry Douglas.

5 On the following page of the Staff
6 Report, you can see that the property is
7 surrounded by Single Family Planned
8 Residential District and Single Family
9 Residences. You can see the aerial site there
10 located on Green Meadows Drive.

11 The next page is the zoomed out
12 aerial, showing it within the Green Meadows
13 Subdivision.

14 Again, Green Meadows Village
15 Development Plan requires a 35-foot rear yard
16 setback and a 12.5-foot side yard setback.
17 The applicant also noted in his application
18 that the shed's side yard setback of 5 foot
19 and 3 inches is consistent with the 5 foot
20 side yard setback of the home, which you can
21 see on the following exhibit. Also, the
22 applicant has stated that the structure is
23 providing needed storage solely for lawn care
24 equipment. Also, for reference site photos of

1 the shed were obtained in Exhibit B and
2 Exhibit C.

3 On the next page, you can see the
4 site plan of the property, which shows the
5 structure in the rear of the property and also
6 the distances from the structure to the two
7 property lines. The following page, Exhibit B
8 and Exhibit C, shows photos of the structure,
9 as is currently existing.

10 The other thing I would note, so
11 this structure is a total of 196 square feet.
12 State of Ohio Building Code does not require
13 building permits for anything under 200 square
14 feet. Our Zoning Code says that structures
15 under 100 square feet do not require a zoning
16 permit, so this falls in that area between 100
17 square feet and 200 square feet, where a
18 zoning permit is required but a building
19 permit is not required. If that sheds any
20 light as to the procedure in this case.

21 That is all I have for now. I
22 believe the applicant is on, if the Board has
23 any questions.

24 CHAIRMAN SHIPLEY: Mr. Douglas.

1 MR. DOUGLAS: Good evening. So
2 four years ago --

3 CHAIRMAN SHIPLEY: State your
4 name, address and that you have been sworn in.

5 MR. DOUGLAS: Jerry Douglas. My
6 address is 444 Green Meadows Drive. And I
7 have been sworn in.

8 CHAIRMAN SHIPLEY: Thank you.

9 MR. DOUGLAS: Four years ago, I
10 started taking care of the grass for the
11 complex out off of Powell Road and I just
12 couldn't do that with a lawnmower the first
13 time so I got a small John Deere tractor,
14 riding lawnmower. And putting it in the
15 garage, these houses all have small garages,
16 so it just wouldn't work, so we decided to get
17 a shed. So I called the County and they, you
18 know, they said, well, how big is this going
19 to be; you don't need to have anything that's
20 going to be that size. Now, I don't remember
21 them telling me to call the Township. Today I
22 called like two weeks ago and they said that "I
23 said that". They said, but you need to call
24 the Township to find out if there's anything

1 else. Well, so four years ago I didn't do
2 that. So I went ahead then and put the
3 foundation in and it actually is actually a
4 foot in more than the houses on that side.
5 And then I came off the back of the yard and
6 just decided where to put it. I didn't really
7 think it mattered. So that's basically what
8 happened.

9 So, after I purchased it from a
10 place on 23, JD Construction, I believe, where
11 they have all of those. So it's a very nice.
12 And they came and put it up in five hours.
13 It's really just for storage of -- to get
14 things out of my garage so I have my garage
15 back. So that's basically it. So it was
16 actually my fault for not, I guess, looking
17 into it more. I didn't really realize you
18 needed to have two permits, a construction
19 permit, which they told me I didn't need, but
20 where to place it.

21 CHAIRMAN SHIPLEY: You mentioned
22 you have it on a foundation. What's it
23 sitting on?

24 MR. DOUGLAS: It's concrete.

1 CHAIRMAN SHIPLEY: It is sitting
2 on concrete now.

3 MR. DOUGLAS: Yeah. It's 14 x 14.

4 CHAIRMAN SHIPLEY: I'm a little
5 confused how it's inside if it's further away
6 from the property line than the house is.

7 MR. DOUGLAS: Well, my house is
8 actually 5 feet from the property line.
9 Actually, my sidewalk has my deed and the
10 neighbor's deed, and I think the sidewalk is
11 allowed to be where it's at because it's in
12 his yard. That's how close we are. But it
13 goes at an angle, if you look, that's an angle
14 right there. And probably where the exact
15 point you are to measure it at, it probably is
16 5 feet, because it's at an angle to the
17 property line. And actually, the fence is
18 actually a foot in front from the property
19 line as well.

20 MR. TREFZ: So you're telling me
21 the house is at 6 feet from the property line.

22 MR. DOUGLAS: It is 5.

23 MR. KOENIG: I can pull up the
24 aerial view from the Auditor's website.

1 MR. TREFZ: But it doesn't make
2 any difference. The house is sitting there.
3 I'm just curious how the house was built that
4 close to the property line.

5 MR. DOUGLAS: I find that
6 interesting, too.

7 MR. TREFZ: When did you buy the
8 house?

9 MR. DOUGLAS: I bought it in 2003.
10 It was built in '87.

11 MR. TREFZ: Long after it was
12 built.

13 MR. DOUGLAS: That's what I'm
14 saying, you can't even, with the fireplace
15 sticking out, the sidewalk is in his yard. So
16 that's why I placed it where I placed it to
17 sort of line up with the house.

18 MS. NEFF: So which sides of the
19 shed is the variance for?

20 MR. DOUGLAS: For the north side,
21 which is right there where he has the -- and
22 the backside.

23 MR. TREFZ: The backside of the
24 shed.

1 MR. DOUGLAS: It would be the west
2 side of the shed.

3 MS. NEFF: Okay.

4 MR. DOUGLAS: And the neighbors,
5 two of them are here, but I've not anybody
6 tell me that it was an issue.

7 MS. NEFF: I just want to state
8 for the record, this is my neighborhood, but I
9 don't know -- I don't think I know you and I
10 don't know anyone that --

11 MR. DOUGLAS: Do you know about
12 the Halloween house?

13 MS. NEFF: Do you own it?

14 MR. DOUGLAS: That's me.

15 MS. NEFF: Okay.

16 MR. DOUGLAS: Also going to store
17 that stuff.

18 CHAIRMAN SHIPLEY: There's a side
19 setback of 12 foot 6 inches, but the house is
20 5 feet from the side.

21 MR. DUFFEE: It's a bit of an odd
22 issue. So I mean, we would consider
23 essentially the house to be legally
24 non-conforming.

1 CHAIRMAN SHIPLEY: Okay.

2 MR. DUFFEE: It's an older
3 development plan that things have changed
4 since then.

5 CHAIRMAN SHIPLEY: Okay.

6 MS. ROSS: Robin, can you tell us
7 the correspondence that we have from one of
8 the neighbors that was okay with this, can you
9 tell us where they live?

10 MR. DUFFEE: Yeah, Andrew, can you
11 pull that up?

12 MR. KOENIG: This home here, is
13 that correct?

14 MR. DUFFEE: Yes, I believe so.

15 MS. ROSS: So they would actually
16 be the neighbor who would have the most
17 visibility of the neighbors?

18 MR. DOUGLAS: Yes. And that is
19 Chuck, he's here.

20 MS. ROSS: Thank you. Well,
21 typically when we see variance percentages
22 like this, we consider these significant
23 variances and that's one of the things that we
24 consider, but also one of the things that we

1 consider is if it would result in practical
2 difficulties, and it really would be a problem
3 for you if we don't pass the variances, so I
4 just want to say first thing, I'm okay with
5 it.

6 MR. DOUGLAS: I appreciate that.

7 MR. DUFFEE: I will revise my
8 previous statement. The email that you
9 received in advance of the meeting was three
10 houses to the south.

11 MS. NEFF: Have you received any
12 concerns about this?

13 MR. DUFFEE: I did receive a phone
14 call from the neighbor directly to the south
15 yesterday and he did have some concerns, yes.

16 MS. NEFF: And so which house
17 would that be?

18 MR. DUFFEE: The neighboring
19 property there.

20 MS. NEFF: Are they here?

21 MR. DOUGLAS: Yes.

22 CHAIRMAN SHIPLEY: Does anybody
23 else have any questions? Are there other
24 public comments? Would somebody like to make

1 a comment? Yes, sir, if you could step up to
2 the microphone, please.

3 MR. DANKY: My name is Curt Danky.
4 I live at 454 Green Meadows Drive West. I am
5 the neighbor on the south. I have concerns
6 with the fact that --

7 CHAIRMAN SHIPLEY: You have been
8 sworn in?

9 MR. DANKY: Yes, sir. I have
10 concerns with the fact that this -- and I
11 think I've talked to this gentleman regarding
12 this structure. Let me talk first about the
13 difference between the homes.

14 My house was built about a year
15 before this one was. I had a -- I have a
16 fireplace. The fireplace was put on the
17 inside of the house, the outside wall of the
18 structure to accommodate these regulations.
19 Now, the one that was built that Jerry is
20 living in, I would have assumed that they
21 would have done the same thing to make sure
22 that it fit on -- or met the recommendations.
23 Evidently not. This structure that he has put
24 back there is -- they had a concrete pad

1 poured about I think a couple of years ago. I
2 think somebody had gone out and checked on it
3 and nothing was done for a couple of years.
4 And then all of a sudden, there's this
5 two-story structure that's in there now that
6 is quite large, as you know by the square
7 footage.

8 I just don't understand how, if
9 you're looking for a variance, how this was
10 permitted, or how it was built before it was
11 permitted, or it was permitted and then it was
12 built. For the pad the same thing, was that
13 poured before it was permitted? I just don't
14 understand what the procedure is here.

15 MS. NEFF: So nothing has been
16 permitted?

17 CHAIRMAN SHIPLEY: Right.

18 MR. DANKY: So you've allowed them
19 to build without having a permit?

20 MS. ROSS: That's why we're here.

21 CHAIRMAN SHIPLEY: Right, that's
22 why we're here. And I think he explained that
23 the confusion with that was the building
24 permit verses the zoning permit. Calling about

1 a building permit and then saying you don't
2 need a building permit, but not at the time
3 realizing that he needed to come to the
4 Township to get permission.

5 MR. TREFZ: Okay.

6 CHAIRMAN SHIPLEY: I think that's
7 the way he explained it.

8 MR. DANKY: That's all I have to
9 say.

10 CHAIRMAN SHIPLEY: Thank you. Any
11 other public comments? Sir.

12 MR. DARUNA: My name is Mr.
13 Daruna. I live at 434 Green Meadows Drive.
14 And I've been sworn in.

15 When I heard about this issue, I
16 was a little confused personally. I live on
17 the other side. Right. I lived there for ten
18 years. When I live with somebody in my place,
19 we say you're a neighbor, it's your brother.
20 Jerry is my brother. When he told me about
21 these things, I said, well, I don't mind and I
22 don't care. If the City gives -- wants 12
23 feet from that structure, I could give you 6
24 feet in my side to carve it out and get your

1 12 feet, if that's what it requires.

2 Personally, I don't care. I really don't mind
3 putting that structure in there. It's not
4 obstructing my house. It's very close to my
5 yard, but I have no problem at all. So,
6 that's all I want to say. Anybody has
7 questions?

8 CHAIRMAN SHIPLEY: Thank you, sir.
9 Other public comments?

10 MS. DOUGLAS: Hello, my name is
11 Emily Douglas. I'm Jerry's daughter. I did
12 testify. I'm sorry, I'm still a little bit
13 under the weather. I did testify that I'm
14 here.

15 CHAIRMAN SHIPLEY: What's your
16 address?

17 MS. DOUGLAS: I actually live in
18 Liberty Township, but lived in this house from
19 2003 until 2013. My parents -- we live just
20 up the way from here right in Liberty. We
21 tried to buy the house two doors down from my
22 mom and dad and there were so many issues with
23 the home and the homeowner would not reduce
24 the price of the house. This was in 2015.

1 That we didn't feel like it was appropriate
2 for us to buy a house because there were so
3 many issues.

4 I think the important thing to
5 remember is this is an aging neighborhood
6 where there are many people who do not take
7 care of their homes. And my parents are two
8 people who take meticulous care of this house
9 and have had windows redone, roof redone
10 multiple times. They're always there
11 painting. The trees have been topped. I mean,
12 extensive care of this house. We asked them
13 to move north with us and they said no because
14 they love this neighborhood so much.

15 And one of the important things I
16 think is to know is that my parents, as they
17 have started to age, we've come very concerned
18 with things like my father mowing the grass,
19 especially up at the corner when no one would
20 mow the grass. Right. We'd pull into the
21 neighborhood and the grass would be almost hip
22 high, like, ridiculous. People driving up and
23 down 750 across from High Banks see that and
24 it looks horrible. And he's like maybe I can

1 do it. And we're all like oh, my God, he's
2 going to have a heart attack with this grass.
3 And so we're like please don't do this, please
4 don't do this. So my mom was like, look, he's
5 going to do it and he does it for free, as
6 long as he gets a riding lawnmower. So that's
7 where this whole thing started was with this
8 riding lawnmower.

9 My mom was then diagnosed with
10 cancer and takes immunotherapy drugs, which
11 have slowly deteriorated her knees, which
12 requires her to have cart with a big battery
13 on the back. So as things have kind of gone
14 through over time, they need somewhere to
15 store that and the garage is not an option.

16 I will say that both of my parents
17 are very involved in the community as well.
18 They actually received the I think 2017 Orange
19 Township Halloween contest, first place. All
20 of that stuff for that is stored in a shed
21 they pay for up the road here, but they needed
22 a space that was more accessible for that
23 cart, for that lawnmower.

24 My dad didn't tell you this. He

1 had a heart attack in January and the whole
2 time we've been like, oh, my God, can you
3 please reduce the amount of all the yard work
4 and all of the things. And they again have
5 paid many people to come and do lots of things
6 in the yard. But again, it's things that even
7 me with small kids and my husband, we're not
8 able to come over all the time and do that.

9 So I would say I think as you
10 consider this, they always try and buy some of
11 the nicest stuff and take very good care of
12 the plants and the trees. I mean, \$600 or
13 \$700 worth of plants went into that Green
14 Meadows Township front that they bought
15 themselves. Nobody gave them any money for
16 that. Those all just recently got pulled up
17 to put in all the big new brick signage and
18 it's there.

19 And so I think, as you consider
20 this, I would ask that you consider the fact
21 that these are two people who love this
22 neighborhood and who have taken great care of
23 this community and continue to. And the
24 number of children, if you live in the

1 neighborhood, you know, with the Halloween
2 house, right, the number of kids who are young
3 who come over and help with all those
4 decorations is pretty extensive. So it's
5 become kind of a place that people like to go.
6 And so like I said, as you consider this, I
7 would ask that you just think about two people
8 who, like I said, love Orange Township and
9 they've really tried to be proud and prideful
10 of the house that they bought. That's it.

11 CHAIRMAN SHIPLEY: Thank you.

12 MR. ZACK DOUGLAS: Hi, I'm Zack
13 Douglas. I live in 1907 Ginger Field Drive in
14 Sunbury. I have been sworn in. I'm Jerry's
15 son. I did live at this house for many years.

16 So, I wanted to tell you guys a
17 little bit about my parents. They come from a
18 small town in Southern Ohio called Ironton, if
19 you're familiar with it. Ironton, when I
20 spent a lot of time there as a kid, there's a
21 huge community of people at that time that
22 served in World War II. It's a very tight
23 community. And that's what I grew up seeing
24 was a community. And my parents taught me

1 that you have to be involved in your
2 community. It's a responsibility. You can't
3 -- my mom always used to say, you don't just
4 walk past someone and not speak to them. You
5 say hi, because it's crazy not to do that.

6 So, you know, speaking more of
7 that, my dad has been the President of
8 Olentangy Rotary. He's put on the Powell
9 Oktoberfest. My sister mentioned that they
10 take care of the front of the neighborhood.
11 They really try to make sure that they are
12 supporting their neighborhood because that's
13 what you're supposed to do as a human being,
14 and not just an American, but a human.

15 So, this is really a couple people
16 that are really dedicated to where they live.
17 And they tried to do what was right and make a
18 call and they didn't know what they're doing
19 and made a mistake and I hope that that can be
20 cleared up. Any questions you might have for
21 me?

22 CHAIRMAN SHIPLEY: Thank you. Any
23 final public comments?

24 MR. DOUGLAS: I didn't know they

1 were coming.

2 MS. NEFF: Robin, can I ask a
3 question real quick. So, the issue is not the
4 size of the shed, it is the location of the
5 shed?

6 MR. DUFFEE: Correct. Correct.

7 MS. NEFF: So if the shed were
8 within the proper area, they can build it as
9 big as they want?

10 MR. DUFFEE: We would require a
11 zoning permit. And it would have to follow
12 certain standards, yes.

13 MR. DOUGLAS: If it's over 208
14 square feet, then you have a construction
15 permit, but I don't know what the Zoning law
16 is on what size it can be.

17 CHAIRMAN SHIPLEY: One hundred
18 square feet.

19 MR. DOUGLAS: No, I mean, if it
20 passed all of the -- if it was to be put like
21 say in the center of the --

22 CHAIRMAN SHIPLEY: Right.

23 MR. DOUGLAS: I'm not sure how it
24 could be, but probably pretty big.

1 CHAIRMAN SHIPLEY: Right. So
2 again, the setback will come into play, is
3 what will come into play.

4 MR. DOUGLAS: You could meet the
5 setback.

6 CHAIRMAN SHIPLEY: Right. But
7 you've got -- go ahead.

8 MS. NEFF: So, if it were in the
9 center of their yard, we don't care how big it
10 is.

11 MR. TREFZ: If it's in the center
12 of the yard, it would be in the setbacks. It
13 would be outside of the setbacks.

14 MS. NEFF: But they can build it
15 as big as they want? I'm just making sure,
16 that was one of the issues that was expressed
17 that we don't need to consider.

18 MR. TREFZ: The size?

19 MS. NEFF: Yes. This gentleman
20 expressed an issue with the size.

21 MR. TREFZ: Yes.

22 CHAIRMAN SHIPLEY: Right, the
23 issue at hand is that we don't need to
24 consider the size.

1 MR. TREFZ: Right.

2 CHAIRMAN SHIPLEY: It's the
3 setback issues that we're dealing with right
4 now. It's sitting on a concrete pad so the
5 pad can remain.

6 MR. TREFZ: I don't think -- it
7 does not have a footer; is that correct?

8 MR. DOUGLAS: Do you mean the
9 concrete?

10 MR. TREFZ: The concrete is not
11 down to 3 feet, it's just a 4-inch slab
12 or 6-inch slab.

13 MR. DOUGLAS: It's a 6-inch slab.

14 CHAIRMAN SHIPLEY: Are there any
15 other questions?

16 MS. ROSS: If there no questions,
17 based on the factors, I move to approve Case
18 No. VA-23.21 for the property located at 444
19 Green Meadows Drive West, Powell, Ohio,
20 seeking an area variance from Rezoning Case
21 No. 746 to allow for an existing accessory
22 structure to encroach 16 feet 6 inches into
23 the required 35-foot rear setback and to
24 encroach 7 foot 3 inches into the required 12

1 foot 6-inch side setback in an area zoned
2 Single Family Planned Residential District.

3 CHAIRMAN SHIPLEY: I want to point
4 out that I think a good point was made earlier
5 in that we go through certain points here that
6 we have to look through, and the hardship
7 piece is substantial. The setback is
8 substantial. I think we go through the detail
9 that we have to go through here, I think what
10 we're dealing with right now, those hardships
11 are substantial. So I'll second that Motion.

12 MR. DUFFEE: Motion to approve
13 made by Ms. Ross, seconded by Mr. Shipley.
14 Those voting:

15 MR. DUFFEE: Mr. Shipley.

16 CHAIRMAN SHIPLEY: Yes.

17 MR. DUFFEE: Mr. Trefz.

18 MR. TREFZ: No.

19 MR. DUFFEE: Ms. Neff.

20 MS. NEFF: No.

21 MR. DUFFEE: Ms. Ross.

22 MS. ROSS: Yes.

23 MR. DUFFEE: Two, Two, Motion
24 fails. The variance is denied.

1 MR. DOUGLAS: So is there another
2 avenue we have?

3 MR. DUFFEE: Yes. So we can
4 discuss those. You do have the right to
5 appeal this decision to the Delaware Court of
6 Common Pleas.

7 MR. DOUGLAS: Okay. Now, Chuck
8 has actually said that he would sell me his
9 side of the property. What does that do?

10 MR. TREFZ: Takes care of one --
11 if it's legal to do that, that takes care of
12 one direction. Your neighbor behind you would
13 also have to sell some of the property out of
14 the 35 feet setback. Honestly, I was less
15 worried about the side setback than I was the
16 back, because your house is setting at 5 feet.

17 MS. DOUGLAS: Is there an easement
18 in the back? Are we sure there's not a sewer
19 easement?

20 MR. TREFZ: I can't hear you.

21 MS. DOUGLAS: I thought there was
22 a sewer easement in the very far back.

23 MR. TREFZ: There may be, but that
24 doesn't affect what we're doing.

1 MR. DARUNA: Point of correction,
2 I'm not going to sell him, but I'll give him
3 whatever he wants.

4 CHAIRMAN SHIPLEY: Yeah, I think
5 that's going to be an issue that's outside of
6 the scope of the Board of Zoning Appeals.

7 MR. TREFZ: Yes.

8 CHAIRMAN SHIPLEY: And I'm not
9 trying to make light of it, but I just think
10 that's not something that we can become
11 involved in.

12 MR. DOUGLAS: And I know you've
13 already had your vote so that's over. But
14 when you were talking hardships, what did you
15 mean by that?

16 CHAIRMAN SHIPLEY: I think it's
17 already there and there's a concrete pad under
18 it, so that's what I meant by that. It's not
19 easily moved.

20 MR. DOUGLAS: No, it will cost
21 thousands of dollars to move in to the center
22 of the yard. Okay. Thank you.

23 CHAIRMAN SHIPLEY: Thank you.

24 - - -

1 CHAIRMAN SHIPLEY: All right. So
2 next on the Agenda.

3 MR. DUFFEE: I believe we have
4 three sets of minutes for your approval.

5 CHAIRMAN SHIPLEY: Okay. We have
6 the July 20 minutes.

7 MR. DUFFEE: Before we start the
8 minutes approval, I would note that I did
9 receive corrections from Ms. Ross, Mr. Shipley
10 and Mr. Trefz, so those will be taken into
11 account. If there's any additional
12 corrections, then please let me know.

13 MS. ROSS: Can we do a Motion for
14 all three together?

15 MR. DUFFEE: Yes.

16 CHAIRMAN SHIPLEY: Let's do it.

17 MS. ROSS: I move for the approval
18 of the minutes of July 20th, August 17th and
19 September 14th, 2023, with the corrections.

20 MR. DUFFEE: Motion to approve all
21 three sets of minutes made by Ms. Ross.

22 MS. NEFF: Second.

23 MR. DUFFEE: Seconded by Ms. Neff.

24 Those voting:

1 MR. DUFFEE: Mr. Shipley.

2 CHAIRMAN SHIPLEY: Yes.

3 MR. DUFFEE: Mr. Trefz.

4 MR. TREFZ: Yes.

5 MR. DUFFEE: Ms. Neff.

6 MS. NEFF: Yes.

7 MR. DUFFEE: Ms. Ross.

8 MS. ROSS: Yes.

9 MR. DUFFEE: Motion carries.

10 CHAIRMAN SHIPLEY: Any other

11 business?

12 MR. DUFFEE: No.

13 CHAIRMAN SHIPLEY: Meeting

14 adjourned.

15 (Thereupon, the proceedings

16 adjourned at 6:40 p.m.)

17

18 - - -

19

20

21

22

23

24

1 CERTIFICATE

2 The undersigned do hereby certify that
3 the foregoing proceedings were digitally
4 recorded and transcribed via audible playback,
5 and that the foregoing transcript of such
6 proceedings is a full, true and correct
7 transcript of the proceedings as so recorded.

8 IN WITNESS WHEREOF, I have hereunto set
9 my hand and affixed my seal of office on this
10 6th day of November 2023.

11

12

13

14

15

16

17 Sandra D. Kin

18 Sandra D. Kin,
19 Registered Professional Reporter,
20 Certified Digital Reporter,
21 Certified Digital Transcriber.
22 Notary Public - State of Ohio.

23 My Commission expires May 14, 2027.

24

25

26

27