

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD _____ December 7, 2021

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Council was **CALLED TO ORDER** in Regular Session by Council Vice President Harwood at 8:00 P.M. in Ralph W. Biggs Council Chambers.

CALL TO ORDER

Following the **PLEDGE OF ALLEGIANCE**, members of Council answered to **PLEDGE OF ROLL CALL** as follows:

Members Present:	L. Carouse, Jr., D. Caruso, D. Kingston, L. Redinger, K. Veras.	ROLL CALL
Members Absent:	M. Harwood, A. Koepke.	
Others Present:	Mayor Jerry N. Hraby, Law Director D. Matty, Assistant Law Director DiGeronimo, Engineer G. Wise, Finance Director L. Starosta, CBO S. Packard, Purchasing Director R. Riser, Fire Chief N. Zamiska, Police Chief S. Korinek, Service Director R. Weidig, Recreation Director R. Engle, Myles Rapkin, Council Clerk T. Tabor.	

MINUTES OF THE NOVEMBER 16, 2021 REGULAR MEETING: Motion by Carouse, seconded by Caruso, to dispense with the reading of the November 16, 2021 regular meeting minutes and to accept same as presented.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.

REGULAR MEETING MINUTES OF 11-16-2021 APPROVED

MOTION CARRIED 5-AYES, 0-NAYS.

Amend the agenda to include a Resolution appointing Lisa Sabol as Prosecutor.
Motion to amend by Redinger, seconded by Caruso.
Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.

AMEND AGENDA TO ADD RES. 5197

MOTION CARRIED 5-AYES, 0-NAYS.

RESOLUTION 5197 re: a Resolution confirming the appointment by the Mayor of Lisa Sabol as part-time prosecutor and setting compensation; and declaring an emergency, was read by title.

RES. 5197 APPOINT LISA SABOL AS PROSECUTOR FOR THE CITY OF BRECKSVILLE

Motion by Veras, seconded by Caruso, to suspend the rules and place Resolution 5197 on third and final reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to suspend the rules and place Ordinance 5197 on third and final reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Mayor Hraby administered the Oath of Office to Lisa Sabol.

OATH

ORDINANCE 5455 re: an Ordinance amending Section 145.13 of the Administrative Code and the exempted employees of the City of Brecksville; and declaring an emergency, was read by title.

ORD. 5455 AMEND 145.13 EXEMPT EMPLOYEES

Motion by Veras, seconded by Caruso, to suspend the rules and place Ordinance 5455 on third and final reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Ordinance 5455.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

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ORDINANCE 5456 re: an Ordinance amending Ordinance No. 5454 as it relates to employee compensation; and declaring an emergency, was read by title. **ORD. 5456 PAYROLL ORDINANCE**
Motion by Veras, seconded by Caruso, to suspend the rules and place Ordinance 5456 on third and final reading.

Ayes: Carouse, Caruso, Kingston, Veras.

Nays: None.

Abstain: Redinger.

MOTION CARRIED 4-AYES, 0-NAYS, 1-ABSTAIN.

Motion by Carouse, seconded by Caruso, to pass Ordinance 5456.

Ayes: Carouse, Caruso, Kingston, Veras.

Nays: None.

Abstain: Redinger.

MOTION CARRIED 4-AYES, 0-NAYS, 1-ABSTAIN.

Law Director Matty asked Council to reconsider the vote on Ordinance 5456. A vote to suspend the rule of three readings requires a vote of five (5) Councilmembers. Madam Vice President may not vote on the Payroll Ordinance No. 5456. **RECONSIDER VOTE**

Motion to reconsider the vote on Resolution 5456 by Caruso, seconded by Carouse.

Ayes: Carouse, Caruso, Kingston, Veras.

Nays: None.

Abstain: Redinger.

MOTION CARRIED 4-AYES, 0-NAYS, 1-ABSTAIN.

ORDINANCE 5456 re: an Ordinance amending Ordinance No. 5454 as it relates to employee compensation; and declaring an emergency, was read by title. **ORD. 5456 PAYROLL ORDINANCE**
Motion by Caruso, seconded by Veras, to move Ordinance 5456 to second reading.

Ayes: Carouse, Caruso, Kingston, Veras.

Nays: None.

Abstain: Redinger.

MOTION CARRIED 4-AYES, 0-NAYS, 1-ABSTAIN.

ORDINANCE 5457 re: an Ordinance to make appropriations for current expenditures and other expenditures of the City of Brecksville and declaring an emergency, was read by title. **ORD. 5457 2022 APPROPRIA-**

Motion by Veras, seconded by Caruso, to suspend the rules and place Ordinance 5457 on third and final reading. **TION**

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Ordinance 5457.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

ORDINANCE 5458 re: an Ordinance authorizing the purchase of various grades of gasoline and diesel fuel through its membership in a Joint Municipal Purchasing Consortium; and declaring an emergency, was read by title. **ORD. 5458 PURCHASE GAS AND**

Motion by Veras, seconded by Caruso, to suspend the rules and place Ordinance 5458 on third and final reading. **DIESEL FUEL 2022**

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Ordinance 5458.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

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MOTION CARRIED 5-AYES, 0-NAYS.

Finance Director Starosta read the Fiscal Officer's Certificate

**FO
CERTIFICATE**

ORDINANCE 5459 re: an Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$1,400,000 for the purpose of paying costs of improving State Route 82 by reconstructing, paving, grading, draining, curbing, replacing guardrails, repairing slopes, replacing ADA ramps, and constructing storm sewers and related drainage facilities, together with all necessary related improvements and appurtenances thereto ; and declaring an emergency, was read by title.

**ORD. 5459
2022 BONDS -
ST. RTE 82
BONDS
(RETIRING
2021B NOTE,
PHASE I**

Motion by Carouse, seconded by Veras, to suspend the rules and place Ordinance 5459 on third and final reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Ordinance 5459.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Finance Director Starosta read the Fiscal Officer's Certificate

**FO
CERTIFICATE**

ORDINANCE 5460 re: an Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$1,710,000 for the purpose of paying costs of improving State Route 82 by reconstructing, paving, grading, draining, curbing, replacing guardrails, repairing slopes, replacing ADA ramps, constructing storm sewers and related drainage facilities, and, in connection therewith, acquiring rights-of-way, together with all necessary related improvements and appurtenances thereto ; and declaring an emergency, was read by title.

**ORD. 5460
2022 BONDS -
ST. RTE 82
BONDS
COMBINED -
RETIRING
2021B NOTE**

Motion by Veras, seconded by Caruso, to suspend the rules and place Ordinance 5460 on third and final reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Ordinance 5460.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Finance Director Starosta read the Fiscal Officer's Certificate

**FO
CERTIFICATE**

ORDINANCE 5461 re: an Ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$8,600,000 for the purpose of paying costs of designing, developing, constructing, installing, equipping and improving an athletic fieldhouse to be located on the Blossom Hill property on Oakes Road, and otherwise improving the site therefor, together with all necessary related improvements and appurtenances thereto, in connection with an agreement with the Brecksville-Broadview Heights City School District; and declaring an emergency, was read by title.

**ORD. 5461
2022 BONDS -
FIELDHOUSE
BONDS
(RETIRING
2021A NOTE).**

Motion by Veras, seconded by Caruso, to suspend the rules and place Ordinance 5461 on third and final reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

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Motion by Carouse, seconded by Caruso, to pass Ordinance 5461.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

ORDINANCE 5462 re: an Ordinance authorizing a residential tax increment **ORD. 5462**
agreement with DiGeronimo Development LLC, VA Vesta II, LLC and VA Vesta III, LLC **TIF**
to develop a portion of the Valor Acres and Dalad Land sites for a residential development **AGREEMENT**
and to create and retain jobs in the city; and declaring an emergency, was read by title. **ORDINANCE**
DIGERONIMO
RESIDENTIAL

5462.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Caruso, seconded by Carouse, to pass Ordinance 5462 to second reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

ORDINANCE 5463 re: an Ordinance authorizing a mixed-use development tax **ORD. 5463 TIF**
increment agreement with DiGeronimo Development LLC and VA Land LLC to develop a **AGREEMENT**
portion of the Valor Acres and Dalad Land sites with a mixed-use development and create **ORDINANCE**
and retain jobs in the city; and declaring an emergency, was read by title. **DIGERONIMO**

- MIXED USE

5463.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Ordinance 5463 to second reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Finance Director Starosta read the Fiscal Officer's Certificate

FO
CERTIFICATE

ORDINANCE 5464 re: an Ordinance providing for the issuance and sale of bonds **ORD. 5464 -**
in the maximum principal amount of \$1,000,000 for the purpose of paying costs of expanding **2022 BONDS -**
the interchange at Miller Road and Interstate 77 by constructing, reconstructing, widening, **MILLER RD.**
paving, grading, draining, curbing, installing and replacing guardrails, adding lighting and **INTER-**
signalization, relocating utilities, constructing storm sewers and related drainage facilities, and, **CHANGE**
in connection therewith, acquiring rights-of-way, together with all necessary related **BONDS**
improvements and appurtenances thereto; and declaring an emergency, was read by title. **(RETIRING**

2021A NOTE)

5464.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Ordinance 5464 to second reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

ORDINANCE 5465 re: an Ordinance authorizing a Job Creation Incentive **ORD. 5465**
Agreement with DiGeronimo Development LLC to provide for the construction of one or **JOB**
more office buildings with at least 150,000 combined square feet of space on a portion of the **CREATION**

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project site in order to provide for the further redevelopment of said site and create and retain jobs in the city; and declaring an emergency, was read by title. **INCENTIVE AGREEMENT DIGERONIMO**
Motion by Veras, seconded by Caruso, to authorize the first reading of Ordinance 5465.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Ordinance 5465 to second reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

ORDINANCE 5466 re: an Ordinance authorizing a development agreement with DiGeronimo Development LLC and VA Land LLC to provide for the construction of a mixed use development on a portion of the project site in order to provide for the further redevelopment of that site and create and retain jobs in the city; and declaring an emergency, was read by title. **ORD. 5466 DEVELOPMENT AGREEMENT ORDINANCE DIGERONIMO**

Motion by Caruso, seconded by Veras, to authorize the first reading of Ordinance 5466.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Ordinance 5466 to second reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

RESOLUTION 5193 re: a Resolution making necessary transfers and advances between certain funds and return an advance of funds for the fiscal year ending December 31, 2022 ; and declaring an emergency, was read by title. **RES. 5193 TRANSFER FUNDS #1 2022**

Motion by Caruso, seconded by Veras, to suspend the rules and place Resolution 5193 on third and final reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Resolution 5193.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

RESOLUTION 5194 re: a Resolution authorizing the Mayor to enter into a Sub-Merchant Application and Agreement with Addendum with Vermont Systems for PayTrac software for the Recreation Department; and declaring an emergency, was read by title. **RES. 5194 SUB-MERCHANT APPLICATION AND AGREEMENT WITH ADDENDUM**

Motion by Veras, seconded by Caruso, to suspend the rules and place Resolution 5194 on third and final reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Resolution 5194.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

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RESOLUTION 5195 re: a Resolution authorizing the Mayor to enter into a Subdivision Agreement and Escrow Agreement with DiGeronimo Development LLC for the CANVAS AT VA Subdivision Phase I; and declaring an emergency, was read by title. **RES. 5195 SUBDIVISION AGREEMENT AND ESCROW AGREEMENT-DIGERONIMO**

Motion by Carouse, seconded by Caruso, to suspend the rules and place Resolution 5195 on third and final reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Resolution 5195.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

RESOLUTION 5196 re: a Resolution accepting an Easement for installation and maintenance of sanitary sewers over property owned by VA Land LLC, The Sherwin-Williams Company, Brecksville Community Improvement Corporation and VA Vesta II LLC and known as PPN 604-09-016, 604-08-008, 604-09-017, 603-21-088; and declaring an emergency, was read by title. **RES. 5196 ACCEPT SANITARY SEWERS EASEMENT - VA LAND LLC, SHERWIN WILLIAMS, BRECKSVILLE**

Motion by Veras, seconded by Caruso, to suspend the rules and place Resolution 5196 on third and final reading.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Carouse, seconded by Caruso, to pass Resolution 5196.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

BOARD OF ZONING APPEALS: Councilmember Caruso reported the next meeting of the Board of Zoning Appeals will be Monday, December 13th at 7:30 P.M. **BD. OF ZONING APPEALS**

PLANNING COMMISSION: Mayor Hruby reported the next meeting of the Planning Commission will be December 9th at 7:00 PM. **PLANNING COMMISSION**

RECREATION COMMISSION: Councilmember Redinger reported the Recreation Commission met on December 6th with Brecksville Recreation Director Rachele Engle. **RECREATION COMMISSION**

DEPARTMENT OF HUMAN SERVICES: Councilmember Veras reported the next meeting of the Human Services Advisory Board will be December 14th at 3:00 P.M. **DEPT. OF HUMAN SERVICES**

TELECOMMUNICATIONS COMMISSION: No Report. **TELEC. COM.**

SAFETY-SERVICE COMMITTEE: Councilmember Caruso reported the committee met earlier today and has one item for Council consideration. **SAFETY-SERVICE**

POLICE EQUIPMENT - MICROPHONES - Approve a Purchase Requisition to Southeast Security in the amount of \$6,551.38 for Upgrading the Microphones in the Detective Bureau Interview Rooms. Account #110210 2501 **POLICE EQUIPMENT - MICROPHONES**

Motion by Caruso, seconded by Veras.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

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STREETS & SIDEWALKS COMMITTEE: Councilmember Carouse reported the committee met earlier today and has (2) items for Council consideration. **STREETS & SIDEWALKS**

NOISE VARIANCE REQUEST - Approve a variance to allow overnight construction on the I-77/Miller Road Project. **NOISE VARIANCE REQUEST I-77 MILLER RD. PROJECT**
Motion by Carouse, seconded by Caruso.
Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.
MOTION CARRIED 5-AYES, 0-NAYS.

CONCRETE MATERIALS - Approve an increase to Blanket Purchase Order #BL216911 for Concrete Materials in the amount of \$2,500.00. This increase is for an emergency repair required at the entrance of Carriage Hill. Account #C201410 3501 **CONCRETE MATERIALS - CARRIAGE HILL**
Motion by Carouse, seconded by Caruso.
Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.
MOTION CARRIED 5-AYES, 0-NAYS.

UTILITIES COMMITTEE: No Report. **UTILITIES COMMITTEE**

BUILDINGS & GROUNDS COMMITTEE: Councilmember Veras reported the Buildings & Grounds Committee met earlier this evening and has one item for Council consideration. **BUILDINGS & GROUNDS COMMITTEE**

REPLACEMENT LIGHT POLES - Approve an Increase to Purchase Order #P211126 to Mars Electric Co. in the amount of \$692.50 for Replacement Lights & Poles due to a change in the poles being ordered resulting in an increase in cost. Account #110150 2125 and Account #110171 2606 to be charged \$346.25 each **REPLACE-MENT LIGHT POLES**
Motion by Veras, seconded by Caruso.
Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.
MOTION CARRIED 5-AYES, 0-NAYS.

LEGISLATION COMMITTEE: No Report **LEGISLATION COMMITTEE**

FINANCE COMMITTEE: Councilmember Redinger reported the committee met earlier and has two items for Council consideration. **FINANCE COMMITTEE**

WEBTRAC & REC TRAC - Approval of a purchase requisition to Vermont Systems in the amount of \$6,716.12 for the 2022 Annual Maintenance Agreement for RecTrac & WebTrac. **WEBTRAC & REC TRAC**
Motion by Redinger, seconded by Carouse.
Ayes: Carouse, Caruso, Kingston, Redinger, Veras.
Nays: None.
MOTION CARRIED 5-AYES, 0-NAYS.

PROFESSIONAL BILLS: Payment of bills for professional services, as follows: **MONTHLY BILLS FOR PROFESSIONAL SERVICES**
Matty, Henrikson and & Greve in the amount of \$11,135.83; Sergio I. DiGeronimo in the amount of \$5,775.00; Roger Wadsworth in the amount of \$350.00; Squire Patton Boggs in the amount of \$8,154.00; J Neusser, LLC in the amount of \$2,000.00; Donald G. Bohning & Associates in the amount of \$30,141.00 and Sixmo in the amount of \$731.25. Total of all invoices \$58,287.08.

Motion by Redinger, seconded by Carouse.

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Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

REPORT OF LAW DIRECTOR: No Report.

LAW

REPORT OF ENGINEER: No Report.

ENGINEER

REPORT OF FINANCE DIRECTOR: No Report.

FINANCE

REPORT OF SERVICE DIRECTOR: No Report.

SERVICE

REPORT OF PURCHASING DIRECTOR: No Report.

PURCHASING

REPORT OF POLICE DEPARTMENT: Police Chief Korinek thanked Prosecutor DiGeronimo for his many years of service to the City of Brecksville and the Police Department.

POLICE

REPORT OF FIRE DEPARTMENT: No Report.

FIRE

REPORT OF RECREATION DEPARTMENT: Recreation Director Engle reported Santa's calling will take place on December 14th and 15th. Director Engle reminded residents to check the website for the Holiday Break-a-thon events at the Community Center December 19-31.

RECREATION

REPORT OF THE MAYOR: Mayor Hruby asked the audience to remember Pearl Harbor Day and honor and thank the Veterans that remain.

MAYOR

REPORT OF BUILDING DEPARTMENT: C.B.O. Packard reported in November the Building Department issued 57 permits with a valuation of just over \$1.9 million and total receipts collected of \$35,813.93.

BUILDING

See attached transcript of discussion.

**DESIGN AND
CONSTRUC-
TION REVIEW
BOARD
RECOMMEN-
DATION 8035
PERSHING
DR.**

Accept the recommendation of the Design and Construction Review Board for plans and specifications for construction of a new home at 8035 Pershing Drive, submitted by Avatony LLC.

Motion by Redinger, seconded by Kingston.

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

Motion by Redinger, seconded by Carouse, to adjourn the regular meeting at 10:28 P.M. **Adjourn**

Ayes: Carouse, Caruso, Kingston, Redinger, Veras.

Nays: None.

MOTION CARRIED 5-AYES, 0-NAYS.

VICE PRESIDENT OF COUNCIL

CLERK OF COUNCIL

CBO Packard: Also, the Board of Design and Construction Review met for their public hearing on July nineteenth twenty twenty-one and subsequent meeting and November 15th, 2021 to hear the objection to the issuance of a single family dwelling permit at 8035 Pershing. The board recommends approval to the issuance of said permit with the following. Mr. Pintner moved, to approve what has been presented here tonight and the prior meeting to approve and forward to Brecksville City Council for review and necessary decisions they would make.

Redinger: Thank you, Mr. Packard. We know we have folks in the audience here that would like to speak on this topic and I would just ask that for those that do wish to speak, that you approach the podium and give your name and address for the clerk. And we can, we certainly are ready for that. We will have discussion first and then decide if there is a motion to be made at the end of discussion.

Good evening. My name is Sandy McNair.

Clerk: Please turn on the microphone.

McNair: My name is Sandy McNair. I live at 8028 Pershing Drive. The subject matter of my discussion with you is the joint letter that many of us submitted regarding this issue. But my first request of Council is to table consideration of this issue until after the city gets to us the documents that we requested. The letter was sent to all of you on November 28th, which was a Sunday. My understanding is that the city delayed us gathering that's starting to gather the documents until the following Friday, December 3rd. Most of the requests that are made in that letter relate to the city's efforts to comply with code sections regarding the proper constitution of the Design and Construction Review Board whose recommendation is now before you. Section 1327.05 provides that quote In so far as it is practicable, the board shall consist of one architect, one engineer, and one real estate salesman broker or appraiser, close quote. And then section 1327.02 makes provision for the city to have alternate members. As is aware at the first meeting there were two members of the Construction and Design Review Board. Both members from real estate. No one was an architect. No one was an engineer. At the second meeting, those same two real estate individuals were present plus an engineer but still no architect. We are entitled to have a member from each of these three disciplines if practical. That's what your statute says. That's what your code says and therefore, a question arises for us regarding the extent of the city's efforts to comply with Sections 1327.05. That's what the document request goes to and we have no documents from the city. The remaining document request related to unspecified instances referenced by Chairman Pinter after the fact gathering part of the meeting on November 15th and are necessary to test the accuracy of his claims. In summary, all of these document requests relate to whether or not the residents received the hearing that we were due. As required by the code, we should and Council should have those documents before Council proceeds with considering and voting on this matter. So, that's the first issue I'd like you to consider. If you're going to table it until we get the documents of withhold the remainder of my comments.

Matty: Scott,(CBO Packard) can you fill me in on your search for these documents?

CBO Packard: As of today, we have the documentations to all the Design Construction Board Meeting s and applicants on file. We're waiting for the rest of the information from other departments at this point.

Matty: Okay, do you have any other information that's been submitted to you to date?

CBO Packard: No, sir.

Matty: Okay, to answer those other questions other than the Design and Board design and Construction Board of Review minutes.

CBO Packard: That's correct.

Matty: Okay, so those are available for mister McNair to review.

CBO Packard: Yes.

Matty: Okay. I will address the issue on the composition of the board. Madam Vice President the code says, in so far as it is practicable, the board shall consist of one architect, one engineer, and one real estate salesman, broker, or appraiser. The board did consist of an engineer, a real estate salesman, and an appraiser. The composition of the board is legal. The first hearing held by the board had a quorum of two. That's also legal under the code. Mister McNair, you can pick up the minutes of the Design and Construction Board at your convenience at any time. At this time, the City has no records as it relates to the other request that you made concerning documentation. Council, you can go forward.

Redinger: Did you have more Mr. McNair?

McNair: well, Madam Vice president, I guess I'd like first to know if you're going to consider tabling this. Until I get a chance to, we all get a chance to look at the documents we requested. It's just a minute. That's all we have.

Redinger: Mr. McNair, it was our intention to discuss and see if there's an opportunity to vote on a motion this evening. So, at this point, we are not tabling.

Matty: Let me say this for the record. I instructed Mrs. Tabor, beyond what the code provides, to notify everyone who signed in and appeared or listened or spoke at the Design and Construction Board of Review and she did so. I also instructed Mr. Packard to provide to Mr. McNair everything that was being provided to this Council and I believe he did that.

McNair: Yes, yes, he did, Mr. Matty. I have that.

Matty: The information that you have in your packet, Mr. McNair has, it's relevant to this hearing. Now, if there's an issue on some other issue that Mr. McNair has raised, if we find records, we'll provide that to him but that should not prevent you from going forward. We have tried through staff beyond Mrs. Tabor and beyond Mr. Packard to find records if they existed and so far, they don't. He can review the minutes of the Design Board and if there are instances that he thinks are relevant as to what Mr. Pinter said, he can find them in the records. It's not our job to find them in the records. He's made a request. We'll comply. And I think that time frame for reply is reasonable and I do think as Law Director, you can go forward this evening. So, Mr. McNair, if you have other issues, please address Council.

Mr. McNair: Thank you, Mr. Matty. I have two other issues. The first is I would like Council to address the joint letter, the issues in the joint letter, that we all provided to you and then the last issue although I don't really think it's perhaps germane to tonight. I do want to point out that the storage water maintenance agreement at least as in its current form as I understand it. Does not have the owner as a signatory to that document. Does not bind any subsequent owner and provides for no bond in case that water retention system is not maintained. So, Madam Vice President, I'm happy to yield, yield with the understanding you're going to discuss the issues in our letter. Thank you.

Redinger: Is there?

Matty: If I may, Mr. McNair is raised this issue and I don't want this to lost and Mr. Viola, Counsel for the applicant is here. I reviewed this stormwater manage, or maintenance agreement this afternoon, Mr. Viola. I don't know who prepared this. But it was submitted to me as far as what was submitted to the city. I would ask you to take a look at it because if Council does go forward this evening, I am going to request the Council and of course, it's their prerogative but this agreement is actually an agreement for water quality, not really storm water maintenance or management. So, I would like to see some water quality language in this agreement. I would also like to see instead of the actual cost of annual inspections by the engineer will be billed pursuant to Summit County Court Codified Ordinance. I have no idea what that is. That should be Brecksville Co Chapter thirteen thirty-one. So that needs to be corrected. And Mr. McNair I did find in Section 4, part 3, this agreement shall be a covenant that runs with the land, shall endure the benefit of, be binding upon the parties here to. Their respective successors and assigns and all subsequent owners of the property. The problem Mr. Viola is the agreement has a signature of Tony Anselmo and not the owner of the land. If the owner of the land is an LLC, I want the name of the owner of the land put on this and I also want this recorded with the Cuyahoga County Recorder's Office so that Mr. McNair's point about succession is actually a recorded document in the real estate records of Cuyahoga County. Thank you.

McNair: And Mr. Matty, you would agree with me. There's no bond required to be posted in case whoever is supposed to comply with it, fails to comply.

Matty: I would agree with you there.

McNair: Okay, so I would just ask that that be considered. You know, we had a problem in Daventry that the city didn't get an adequate and there was real problems with the swell there and the city. The city made right by it but there was no bond to do that and it was kind of a hassle. Took a pretty long time to get that done. So, I'm suggesting a bond would be helpful. So, but I obviously leave that to you. Madam, Vice President, are you going to consider our joint letter, the issues in our joint letter?

Redinger: Yes, we're going to have discussion.

McNair: Okay, thank you all you.

Redinger: Thank you. So, we have other speakers at this time or do we want to obtain discussion, Council?

Klipfell: I would like to speak.

Redinger: That's fine.

Thank you. Thank you for letting me speak. My name is John Klipfell, 136 Regent Court, Broadview Heights, Ohio. I grew up about eight tenths of a mile from Pershing Drive and so I'm very familiar to that area. My daughter, Elizabeth Klipfell behind me, was at 8045 Pershing Drive. It is, as her father, I have been working with her and for her to help her with this issue and on that basis, I'd like to discuss with you the letter that we wrote and you all received copies. One of the things that I made, one of the points I made when we made our presentation last week. So, we had done a great deal of homework and research about all kinds of facts. We could only overview them at that time. And so we ask that everybody present, consider that and give some thought to actually getting down and getting down into it and understanding what the facts were. In fact, one of the things that I and that was pretty much disregarded by the committee. They just went right ahead and charged ahead and finalize their approval. Without taking money, the effects into

consideration. They weren't even brought up. Furthermore, I requested, as I understand how this works, that the Council is the ultimately one responsible for making this decision. I, the question I'm going to raise to you in general, and I want to talk about a little bit more in specific. In as much been said about the rights of the property owner. Out all the rights of all those other property owners who live in around there. I think that one of the questions is, who stands up and represents the property owners who the existing property owners in this city? Particularly this this relates to my daughter who is most affected by this situation. And so with that in mind, I propose to you in a packet of materials I sent out to you earlier this week. That you go through a process yourself. Of research this stuff, reviewing this stuff, and coming to some conclusions and just don't quickly approve it. To that end, hold on one second. To that end, I propose that you take a look at and review the presentation that I had made and I highlighted that and provided that to you. Also propose that you take a look at a document that we that we presented at that meeting which was not even considered or discussed which is one that showed the real comparison to real estate parcels on Pershing Drive including among other things, percent of lot occupancy which is one of the primary things that's mentioned early in the code and one of the things that's the responsibility of the Building Code in the city is to determine there is a reasonable level of lot occupancy. Third, I'd like you to look at a document that we prepared. And I say we because, Pat Coleman, who is one of your firefighters, knows the City like the back of his hand, and I drove up and down virtually every street in this town, every street that has R-20 lots on. When we looked at all the larger houses, some of which were highlighted by (2) lots. Determined whether or not there percent of lot occupancy was. We did a great deal of research with the county records and I provided you a summary of all those properties. What that shows is that the property that is 8035 was being proposed on that is by far the most massive structure in the City of Brecksville by a factor of almost two times. And on a basis of that, I think it's something that should be denied on that basis alone. Now, one of the documents I compared was a percent of lot occupancy for each of these groups is different. It's a document (4) what that shows is there's great disparity in this. By the way, when you talk about land occupancy, we are not talking about the living areas, the building, we're talking about the area that's occupied on the land and that generally speaking is the area of the building and all accessory structures. One of the things that at Avatony LLC is apparently done as they've constructed a foundation wall all the way around the structure such as the entire structure and everything in it is now part of that structure. Without any doubt, in my mind. That's how it works. As a result of that, the total area of that structure is thirty-five point, can't see it, 35.3% of the total area that compares to the next largest comparative number is 17.9 point nine. So, there's almost 1.97 %, 197% more. It is such a tremendous disparity. I don't think there's any issue here. It's really not this property is massive. It is so massive. It just stands, it's an outlier, an incredible outlier and so, we put this all together. We ask you to take a look at this thing. As part of your review and I'd ask you, have you done that? Have you had a chance to go through all that stuff and look at it, all of you?

Redinger: I will answer, yes or I have, counselor?

Caruso: Yes.

Veras: Yes.

Kingston: Yes. I mean, I think the majority of us were at your initial hearing and you know, we sat through that and I think we've all been researching this quite a bit.

Klipfell: Okay. Yeah. So any questions? Comments?

Redinger: I would, were, are you, do you have more presentation or do you understand that we have a discussion but I wanted to give people the ample time to present first.

Klipfell: So, in the process of this, I brought up, I brought up three or four major points of contention. One of those points of contention and some of these things are being addressed as saying that they are being there within the code. Well, all these things can't be in the code simultaneously. You can't have it always, all the time. One of those points I brought up was, so almost here. First of all, these are all R-20 lots. They're not R-30 lots, R-40 lots or otherwise and so that it is a class group of lots that I think have to be looked at together and with that, there's an issue of accessory use and the code is very specific on what is an acceptable use. How big different structures can be? And certainly, all these individual things collectively respond to some like 3000 some like I'm just memory 3,500 square feet of accessory use and the argument that's been made on that one, if it were to be sustained by you, was that all that is not accessory use because it's part of the structure. Structure is the relevant term here but I would argue that certainly that the intent of that law had those provisions are to prevent huge structures like this from being put up. The second topic I brought up was the, was the fact that this that this property is owned not by an individual, a natural person but it's owned by an LLC. It does not say, there's nothing in a code that says that you can't own a property by an LLC. There's plenty of business uses. I'm aware of numerous situations where you have companies that have business, have they have houses here in a in a they house their part-time people, the people come in from out of town and so on. But if you are an LLC and you have a business and this in fact, is a profit-making business. And is subject to other conditions. Those conditions among others are things that are things that I think this this is going to be in violation of. And some of that spelled out such as the numbers of cars that can be involved and that there can be no there can be no interruption. I don't have it right in front of me at the moment. But there can be no just noise in the neighborhood. There's very specific. The intent there is to not have a business that is disrupting everything. In this day and age and you have all kinds of different businesses out there including Air BnB's people using this entertainment facility to see them as seems to look like that. I think that question has to be asked and so on that basis alone, I think this is something that could be and should be denied. The third question I brought was up this brought up was this case of the lot occupancy. And this I think is the most relevant piece because one of the things that that Avatony LLC has been saying is there's no quantifiable basis in the code for rejecting this is in too largest structure. Well, That's why we went out. We did all the research. We found thirty some properties which are the largest in the in the R20 lot, R20 group of homes. And including some that are the Building Department manager told us we're obviously prone such as the homes that are up on the adjacent street at Daventree. You look at those homes though. They're on large lots. In some cases they bought two lots and they put them together. So there was they didn't have the density of the lot. It was it has nothing to do with this site. The poem has the density of the lot. Why that's relevant here is because in this situation, if one takes out the mandatory vacant land that's required by the setbacks, it's a thirty-foot setbacks in the side and a sixty-foot setbacks in the front. 75% of every available inch of this property is

accounted for. This is essentially a huge structure. It's more like a Kmart down there. A one side and the north side of the property. House, the residents, the structure holds 192 feet in length and the site is adjacent to my daughter's property. It's holding 102 feet in length. There's no windows on there. It's all just brick. It's going to be back like the back of an arc when back of a Kmart. And so, this is just a huge structure and I think on that basis alone, this thing should be denied. Furthermore I would recommend it to city, take this some of my research and actually use it to encourage development of a code that would prevent this from happening in the future. Probably such a I would recommend a surprise. Some like 15 to 20% be the maximum occupancy of any property in this city without a code or without a variance. The fourth area is the overall concern I have for the sale ability of my daughter's property. And this I think is just crazy what took place that meeting. Because it wasn't even addressed at all. And I know one of the new people on there said that they had seen this thing and they had no issues with it. But here I'd like to read to you just to give you some idea of what these board members are saying about this thing because they were cheerleading this thing. They were looking forward to putting up this massive structure that they would then someday at some point they could sell. I prepared a direct transcript of their three closing comments. Like to read to you just one paragraph from Marie Pachnowski's quote closing comments. Your property is giving me your properties. Give me a call if you're looking to sell them. I would love to. The new property going up is definitely going to add to your value and you may not be thinking about selling it today but it can come up in the future and it usually does. She actually recruited these people to sell their homes at that. How in the hell can that possibly, pardon my French? How could that possibly be objective? And you go on from there. But here's the situation in my daughter's home. She is on a lot that is 58 feet wide. Why it was done like that. Why it was laid out that way in nineteen twenty-one? I have no idea. It was just done that way and her driveway is now according to the latest survey, is only like 23 inches off of their off of the property line. When I back out of that driveway, I ask you all to come over and back out of that driveway and see. The story is I can't, I barely can get out of there without driving on a neighbor's property and as the neighbors now telling us in other court filings that we are now frequently trespassing in that property, I think it's something that one should be concerned about. Anybody who's selling that property is going to look at that thing and says, how in the world can I trust this situation where there's no, there's no clearance anybody to drive. The code requires that there be a certain distance off the property line for of driveway. That can't be met and so that there's no way that this structure could actually be torn down and built up again. I mean, you'd have to sell it as is In that process, that home is not going to have any value. Furthermore, because all these trees that are on this property and as my daughter said in her comments, both in the first meeting and in this letter. This was, has been viewed at by the neighbors right along as a tree farm. Some years ago we guess about that time they put up a fence around this property that was intended to be the tree farm. That was intended to be the property. Now, today, with GPS, apparently, they can do that much more accurately and we are still, my attorneys with us here. They're still trying to get our results to that survey which I think is coming in shortly but the point is, is that what started, what was done 75 or 70 years ago and that property is hers is now being reversed. And it just can't be done that way. It's not like she can tear this building down and put up another one because on the other side of her property, her home, there's a stream that virtually

runs to do which is the water issue. So she is stuck. So, no matter what these people said and have designed this construction, they've never seen a property. He just said, all property is going to go up. Hers is not and anybody who thinks that it is, you just tell me about it. The only person who might have an interest in this property is Avatony LLC just to get rid of it. Which an awful position to put us in. We do not want to sell it. Trust me. My daughter does not want to sell and so on the basis of all that stuff, we ask you to, number one, pay closer attention to this thing. This is an issue that is relevant to the entire city of Brexitt. I've also been in discussion with three other cities about this this lot occupancy percent because this is the common issue across Greater Cleveland and it's something that I think you need to take in consideration. So, I'd ask you to reject this thing right now and basis of it's just too dense, it's too huge, it is totally out of place in the neighborhood. Thank you.

Redinger: Thank you for your comments, mister Klipfell. I would just like to point out that we all have been reviewing these materials since we started hearing this this summer. So, I just want to assure you that we are all reviewing it with earnest and it's not something that we take lightly. So, I appreciate your comments, your research, and all of the efforts of the information that you've provided. I would like to ask if there are any comments from the applicant or from others in the audience.

Matty: Madam Vice President, before the architect speaks, may I speak?

Redinger: Please.

Matty: Mr. Klipfell has raised some points and Mr. Anselmo, I don't know if you wish to respond or you wish to have your consultants respond but I being a lawyer would like to hear from Mr. Viola if it's permissible by you and I'd like to hear from him on these topics. I'd like to hear from him on the issue being raised of lot occupancy, or what some planners call lot coverage in the R-20 district in our community. I'd like to hear your position on a response to his accessory use question that he asked. I'd also like to hear although I believe I know your position, but I would like Council to hear your position on the LLC ownership, and if there is an issue that either you or one of your consultants can address on the sale ability and driveway issue. I think since it's he's raised those four points, it would be appropriate for Council to hear what your position is on those four points because they have reviewed the documentation submitted which has been extensive. But I don't know that other than receiving today, I believe, we received today a letter from attorney, I don't think last week, we received anything on those kind of issues. So, if that could be addressed before your architect speaks as to whatever he was going to present, I'd appreciate it at this time. Thank you.

Steibe: Hello, thank you Council. My name is Lucas Steibe. I'm with AODK Architecture and Modern Smart Homes. Here is the applicant on behalf of Mr. Anselmo. I can speak to two of those points requested potentially three and maybe Matt Viola wants to speak to the LLC comment. As far as percentage of lot occupancy or lot coverage goes, as is in our understanding of the City of Brecksville's zoning ordinance, there is no stated maximum law occupancy specified. Mr. Klipfell's point, it is our reading that the Design and Construction Review Committee has the ability to weigh in on if a proposed structure is in excess of a percentage of lot occupancy and as you know, they gave their approval at last week's meeting. On top of that, we believe that the percentage calculated by Mr. Klipfell in his presentation is incorrect in regards to our proposed structure. If you go through each of the houses that he has listed, existing houses, you'll see the he includes

a first floor plan, a potential second floor plan if the house has it. I believe he includes garages if they have it. Those are what we would consider the structure that Mr. Klipfell has included. He added other items from our proposed designs that as an architectural professional, we would not consider part of the structure. For instance, courtyards. Patios, stuff of that nature that would not have been calculated as part of the existing homes in order to get their percentage of lot occupancy. In our quick calculation, we assume we would count the first floor and second floor of the proposed structure for Mr. Anselmo which is approximately 5,498 square feet. We'd also include the garage space which is two attached garages, one on the front and one on the rear of the home. The total of those garages being approximately 3,598 square feet. The total of those two would be approximately 9,096 square feet and that would bring you to an approximate lot density of 10.4, which is much closer. Yes, I'll be it higher than some of the existing homes but not the 35 or so percent calculated. That being said though, back to my first point, there is no specified lot density maximum spelled out in the city ordinance. So, we are not in violation of that nor we requesting any variances for our proposed structure. To address the item of the accessory structure we paid close attention to make sure that the proposed structure in Mr. Anselmo's drawings are considered attached structures and there's no proposed accessory structures. We are doing that by foundations and walls and roofs that are all connected as the primary structure. So, there is no accessory structure. We are not seeking a variance for accessory structures on this proposed design. One other item discussed. It wasn't a request by Council but to be addressed, the southern wall, the proposed design does indeed have windows in it. Total of seven windows and a door on the southern exterior elevation of this house. I'll let Mr. Viola comment on the LLC. The driveway issue I believe it was in relating to existing driveway. It is indeed very close to the existing property line. But you know that falls on the neighboring property not on Mr. Anselmo's property. He does not intend to interrupt the existing neighboring property and we are within all setback requirements of Mr. Anselmo's property.

Viola: Matt Viola attorney for the applicant. The only thing I think on the LLC ownership issue is the prop, this is kind of a red herring. The property was put in an LLC for specific reason. The house was purchased at a sheriff's sale. It had asbestos. It had animals living in it. It was pretty disgusting. For liability reasons, it was put into an LLC. If it would make anyone come more comfortable first of all, let me back up. There is no business going on here. It will be Mr. Anselmo's home with his eighty-four-year-old mother. There is, if it would make everyone more comfortable, we'd be happy to convey the property to him individually or a trust that he owns.

Matty: Scott if I, before you respond, Mr. Klipfell, if I may, Scott, if you would, please, would you either deny or confirm in R-20, do we have currently a lot occupancy percentage requirement, or what you and I know as a lot coverage, requirement, in our code.

CBO Packard: At this time, there's no requirement for lot coverage.

Matty: And what would be the procedure if you would request who would be reviewing such a requirement if you were to insert that in our code.

CBO Packard: The Building Department part of the plan review process would review that as well as the City Engineer.

Matty: And would you need to go to Planning Commission first in this Council to set forth such a percentage?

CBO Packard: Planning Commission and City Council would have to authorize or enact additional ordinance requirements.

Matty: Okay and on the issue of accessory use are you in agreement with what has been stated that there is no accessory use.

CBO Packard: That's correct. The swimming pool would be considered an accessory use but not an accessory structure.

Matty: Thank you. That's all I wanted to make sure Council heard so that we know what's been submitted. I know you had a lot to review and since we just got a letter today, I wanted to make sure that you had the position of both parties, Madame. Vice President.

Redinger: Yes, sir.

Klipfell: First of all, it's all due respect for LLC. They do, they are not understanding how I computed this lot occupancy. It is the first floor, it's the first floor and not the second floor. It doesn't count. In this particular case, the first floor area of the structure is 4600 square feet. Front detached garage is 1,200 square feet. This eight-car garage in back is 2,000, 2,398 square feet and the other structure there and you know, they're talking about accessory use. Frankly, the there's wording in the code that says that structure in residence or building are one and the same and as such, when he took that, he took that foundation. He put it around everything including by the way the outside patios. That in fact, incorporates it into the structure which is why I include that in that area that is within this, within the foundation walls is, let's see here, 3,522 square feet and that includes the three walkouts of 1758 square feet. The total of all that is 13,878 square feet. Now, one of the things that I did because there has to be some consistency within all these measurements and most of these lots are set up across the city. They don't count the bowling alley nature of a lot. I mean, the back part of the lot, nobody ever uses. So, this is the part of the lot that is that is out front. So, what I did is I included the first 250 feet of the lot, depth, and not the whole 550 feet of the lot depth. Typically, speaking is I understand some of the people in the building department told me. There R-20 lot is basically 100 by 200 square feet or 100 by 200, which is twenty thousand square feet, 30,000 square feet, and so on. Up, as you go up to different levels. Now, one of the things to his advantages that lot is 158 foot wide or something like that. So, he's got much more space. So, this is the area that is 100 starting area is 158 feet times 250. And that being the case, the part of the lot that everybody sees, the part of lots that everybody uses is in fact, so dense, it's incredible. As far as, as far as the driveway goes, you know, it's an interesting thing. My attorney will probably kick me when I say this. but you know, they huh? Go ahead. I'm going to say it anyway. You know, mister the Avatony LLC is making a point that they're leaving those bushes there. Okay, the same token their attorney is also making a point in another court case that we are that we are trespassing every time we do that. So, which way is it? Which way is it? When I back out of that driveway, am I going to be on his property? I mean, he, in one hand, you can't, you can't have it both ways, guys and so that property is effectively his. If he, if he gets claimed, if he gets claimed as his property and so, we're going to be in violation. Nobody on god's green earth is going to buy this house. If that violation is there. Now, the other reason why we are in litigation is because of this adverse possession which we understand is rare that it ever, ever works. In this particular case, and my attorney would be happy to explain this to you if you want to. Because this property has essentially been laid out this way for some 60, 70 years within that fence. That is the property. What we are seeing is

clarification in court. As to who owns that property. Adverse possession would say that property is my daughter's property. Why that's relevant is this, because if that, if, if what, if it's, if the, court does not hold that the property within that fence is hers, is always been agreed for the past 60, 70 years. All those trees are going to come down. It's going to further destroy the backyard of her home. If they are there, then, he can, if he can cut him down, he's going to be subject to a lawsuit for damages. That's not worth trying to go. We don't want this thing so big. As far as it goes with the windows on the side, there's also going to be a foundation across the bottom of that, that is going to be essentially a wall that she's going to see and because this house is set back so far, all this is behind her house. So, when she sits out on her porch, she's all she's going to see is this wall and that's I mean, this is nuts, guys. And so, this comparison I've done is a legitimate comparison. I am a CPA. I do know a little bit about what I'm doing here and I try to do my damnness to do be fair and honest about this thing but realistically speaking, this home is at least twice as dense as anything else in this city and that in itself should be enough of an outlier to say, no, you can't do this without further adjustments to this home. Look, if he wants to build there. Tony wants to build there, that's fine. But he has to build there and sit away that does not damage her value and neighbor's value. In particular, in my case, I'm interested in standing up for my daughter. I do not want to see her home destroyed her value home. And I don't want to see being forced to sell to this man because he's the only person around who would ever want to buy this thing. Which is a crazy position for the city to put us in. So go back to the original account I made at the beginning of my talk. Who stand up for the residents of the City. Who stands up for the current residents of the City? Current residents matter too. Not just those who are coming in there. And you know, I also gave you all a copies of the transcripts of the of the comments on the various Design Construction Review Board members. Those people there, two of them in particular, were hardly objective. Because all they talked about is divided at home. They want to see this home go up because they'll raise the value of everything around in the City of Brecksville. But you know what? It's not why the neighbors are interested in this thing. You don't want to see this thing there. So who's standing up for them? That's my question to you Council. And I think you should take some time and just defer this thing. Take some time. Figure out what, you know, find out what other residents in the City think because you're setting a policy here. You're setting a direction here that's going to have value, it's going to have a long-lasting impact on this city. I understand there are six or seven other properties right now that are probably going to fall into this category of people tearing them down and putting in huge structures. I have no problem with them putting up a structure. Just keep it in a relevant range of it does not destroy neighborhood. This house does not, period.

Redinger: Thank you. I can't see you but I hear you.

Thank you.

Coleman: My name is Patrick Coleman. I live on Pershing Drive at 8072 for the last 40 years. Many of you know me. And I already expressed to you how I feel about this large complex going in on our street. But what I want to present to you tonight is just my concern as former fire inspector and fire official. The 8 car garage in the rear of this building is what I'm most concerned about if it's allowed. That's quite a fire load. And it's quite a hazard for if it does catch on fire for the firefighters, they have to go in there and fight that fire. The fact that it will be connected, the roof will be connected to the rest, other structure.

Also, it increases the possibility or likelihood of fire spread to the home. So, my question tonight is, will this building, this storage building, eight-car garage is a storage building in other use groups. Will it be required to be sprinklered? Will there be an early detection system involved, required in this building. I think that that's very important. I think the Fire Department should be included in this design, this structure for the safety of everyone on the street and the firefighters that have to go in there if necessary. Thank you very much.

Redinger: Thank you, Mr. Coleman. Yes, sir.

McNair: I want to address my question to Mr. Matty because it was his comment. I wasn't clear about. The last sentence in 1327.05. Is it your view that any one of those equally could be members so you could it would be properly constituted if you had a real estate salesman, a broker, and an appraiser. That would be proper.

Matty: Yes, because it actually cites one, two three, four, five individuals. So, you can't have five individuals on a three-member board. So, any three of those five would be proper. This is a three-member board, not a five-member board. So, that's my opinion.

McNair: Okay. So, thank you for that. I just want to note to Council. I very much disagree with that interpretation. I think a plain reading of that sentence says it shall consist of one architect, one an engineer, and one real estate salesman, broker, or appraiser. That last group is a group of three. So, I frankly, I think Mr. Matty with all due respect and I do have great respect for you. I completely disagree with your interpretation. I think it's an unreasonable interpretation of the code. Thank you Madam Vice President.

Matty: Madam Vice President, if I may ask Mr. McNair, if he could if he has a position, I have spent the time to review Mr. Klipfell's entire presentation and could I hear if you have a position as to, is there any difference between an intent and a purpose section in the code and the actual sections that I will call objective sections, that are actually examples setbacks. And other objective sections that come after the intent or purpose sections. If you have a position under the law, if they're the same or there's any difference, please. I do think that's very important.

Unknown: I don't know what section you're referencing here.

Matty: Well, I'm your client sites 1131.02. It's a purpose section. He cites 1151.01 is another purpose section and I can't tell from his present if he considers those the same as an example, if there should be a 25 yard rear yard setback. And there's a setback section in the actual code stating that. Is there a difference under the law or are they the same? In your opinion.

Unknown: I'd have to look at the entire code. I'd have to look at those entire code sections before I give you a statement on that. I'm happy to send you something in writing but. Well, I. Putting me on the spot.

Matty: I gave, I gave Mr. Viola the chance and he didn't know that I was going to give him an opportunity to speak. I wanted to give you an opportunity. I appreciate that. Because I think, the residents and I think Council should know that under the law, an intent or purpose section in a municipal zoning code is what I will call a preamble or an introduction and I'm sure if you do your homework and you check the case law, you will see that both the Common Pleas Court and the Courts of Appeals have held that those kind of aspirational sections or intent sections or purpose sections. The actual implementation of those is to be by the following sections of back, use, those type of regulations. If those type of regulations don't exist in the following sections of the code, the intent and purpose section is not the actual effectuating section. So, the reason why I asked Mr. Packard if

there's a lot occupancy requirement, I understand your client's research. I understand his hard work. I understand what he is presenting to Council but there is a lot occupancy section.

That's conceded. I think he's indicated in his statement that that we all know that that's the case. That you are correct. That there is no code. He's making an argument. However, to try to persuade Council to consider changing that in the future. So, he's not debating on that. Nor would I.

I understand his point of trying to persuade Council to change that in the future but I do think he's also stating that to get counsel to make a decision here on lot occupancy which is not in the code and I will not permit this Council. They can do what they wish but if they ask my advice, they have to follow the code. We have an applicant who my Building Commissioner is saying, meets the code and I have a great deal of respect for my Building Commissioner. He would tell me if it does not meet the code. If he tells me it meets the code, I have a very difficult decision to tell applicant, he is denied because his property rights and his use meet the code. According to my Building Commissioner. I'm asking you the difference here to see if there's some argument that I don't know of that an intent section or a purpose section can overrule the substance or the objective sections of a municipal code. I can't find that case. In fact, the cases that I find say otherwise and if you had cases, we're here to hear this. I would assume you've done some research if that exist. I haven't heard that. I haven't heard that from Mr. Viola. I haven't heard that from you. And your client is the one making the objection which is why I ask you the question. Unknown I appreciate that. And the obviously the intent section of a code is in the context in which we're talking. Of course, Mr. DiGeronimo, I'm sure is going to tell you, if you look at intent and purpose clauses and criminal statutes, that's a completely different thing. But I appreciate what you're talking about in this context that yeah, it gives a context to the statutory reading or the, in this case, an Ordinance is reading. So yeah, at least we can look at this for context. But yeah, I appreciate what you're saying. There is no specific code section. In the ordinance that says that there's a lot occupancy requirement. Nobody's arguing that. Nobody has argued that. But I think that given the intent and purposes as you're talking about these code sections that the committee that heard the issues that we're discussing previously that they did have some subjective authority to determine whether or not there were concerns with the structure and then to offer requirements or suggestions for how the structure could be changed in order to meet some of the concerns that that board could have raised and should have raised and we're arguing that they should have raised those things. If they didn't, then they must have had some other kind of perspective which they were looking and that perspective as Mr. Klipfell I think has articulated is that they had some bias based on the profession of being in the real estate market continually. So, looking at that, they're looking at, jeez, did the, are these values going to go up and if the values went up, we should allow this structure because everybody's going to benefit. But they would only benefit, I think whatever by here is going to argue on this side is that they're only going to benefit if they sell and nobody here is looking to sell. They're looking to live in their homes. They're looking to live in the places they've made into their homes for a very long time. So, that's the concern is they want to continue to live in those homes in peace and quiet and enjoy what they've known to be their homesteads.

Matty: And I appreciate your comment about a subjective analysis and perhaps we'll hear from Council after they hear from all of the residents that maybe they have some subjective ideas that they can impose on this development. But that may come at a later point in time. I just wanted to hear your position on those differences in the code. Thank you.

Unknown: Thank you.

Klipfell: Mr. Matty can I make one comment. It's up to chair.

Redinger: Yes, yes, sir.

Klipfell: I appreciate what you're saying about the lack of subjective things that are in the code. I do think what I'm asking here is I'm asking the Council to get some backbone and stand up for the residents of this city. And I think that is the issue here because my daughter is going to suffer for this thing. And I don't think that she should. Period. Who stands up for her? I appreciate that the Avatony has property rights. Doesn't she? And at the end of the day, does the Council's responsibility to decide whether this is equitable or not? And the issue is really equitable. And I don't think it's equitable and that's what I'm really asking you to do. Stand up and make a case here. Let's first of all, let's take the time and figure it out. Listen, listen to all the stuff and listen and let's just don't rush to this thing. You know, your urgency and I don't mean this if it comes out wrong. Your urgency to get this thing done is nothing compared to the problem my daughter is going to have. And as her father, I'm going to stand up for every day of the year, every day of the week.

Redinger: Thank you. Do we have any other comments in the audience?

Mr. Anselmo: Yeah, I mean, I as an approach and talking about you know, I sit here pretty quietly and let everybody vent and let them listen and I listen to everybody's rights to have their home and what about my rights? They have my home that I want, that I work hard for. I used to own Klipfell's house. The reason I sold it was because the lot was only fifty feet wide. I'm sure when she bought it, she knew it was 50 feet wide. I'm sure when she put up the new garage in the back, she probably had to get, you know, her property lines and knew that it was 50 feet wide. It doesn't grow over time. It's pretty much what you bought it at. And as far as you enjoying your home and enjoying the city of Brecksville, I lived here for a long time too. And my brother lives here. My aunt lives on the corner. My intention of building this home was so my mother can live with me. It's not a party house. You can watch entertainment tonight when you go home and think that P Diddy's moving in on Pershing Avenue. It I'm just building a house for my family to enjoy. My hard work that I've done, my entire life since I've been seven years old, I've been working. are you to tell me the house that I'm allowed to build in Brecksville? So, I mean, I listen to you multiple hours. I'm just saying, I just want, I did everything inside code, hired an incredible architect, an organization here to help me build my house and it just seems like roadblock after roadblock after roadblock. So, that's all I want to say. Are there any other comments?

Redinger: I had a couple of questions. I think we'd like to open up to Council. Can I ask one just quick question of Mr. Packard before we open it up to Council. Mr. Packard, can you comment on Mr. Coleman's discussion relative to fire safety and challenges with the garage structure.

CBO Packard: The residential code of Ohio for private residential garages has no fire suppression requirement nor fire alarm requirement within that code. Thank you. Do we have questions on Council? Chief Zamiska want to weigh in on that too? Potentially? Alright, thank you. Okay. Thank you.

Mr. Kingston: Thank you Madame Vice President. I have a question for the for the applicant. The initial plans that I saw one of the issues that stuck out to me or one of the possible concerns is that wall, I believe Mr. Klipfell mentioned it, the hundred-foot wall in between your proposed structure and Ms. Klipfell. That that wall when I first looked at it seemed a little harsh. I don't know of the proper word for it. Is there a way to possibly soften that somehow? Wet weather. I mean, I did, did you say there was seven windows in that wall.

Stiebe: I do understand that in the submittal packet, you're looking at exterior elevations which are pretty flat, 2D items the and they are seven window units in that wall. It is when we're saying wall two, it again, because it appears to be a 2D flat image. It is not just a wall. This is the south exposure of the house. The proposed design is in a nice masonry brick, accustomed homes. There are seven openings. There is a door and in the landscaping packet, you'll see and you know, which is yet to be evolved as the design goes through the permitting. Tony (Mr. Anselmo) will, you know, keep that as a nice landscaping, a nice lawn. I just want to make sure there's no misconception This isn't a wall as a private privacy fence or something dividing properties. This is the southern exposure of the home which does indeed have windows, nice high materials and is highly designed as part of the overall composition of the house.

Okay, I appreciate you clarifying that.

Carouse: Madam Vice Chairman to Councilman Kingston's question. And I appreciate that explanation that you gave. Can it be again softened with landscaping so that the appearance that somebody is going to see isn't just a brick facade but it has a much more natural blending in kind of feel to things. Yes, absolutely.

Were there other questions?

Caruso: Yes, madam. Chairman, Mr. Anselmo, your attorney offered up that you'd be willing to take this out of an LLC and transfer it into your own personal name or trust in the spirit of good faith. Are you willing to do that?

Mr. Anselmo: Absolutely. Thank you.

Redinger: On that topic, I know we've said it. I think I heard it at the last meeting but confirming you're residing there with your mother and then I just a couple more questions about the garage. Well, well, before we go there, I mean, there's no Air B&B issues. I know there's a lot of communities have those problems. We certainly don't. This is your residence. This will not be used as an Air B&B. Can you please confirm that?

Mr. Anselmo: Yes.

Refinger: Thank you. And then, relative to the garage, I know that there was concern with the doors, I believe the garage doors having a significant glass component to them and light concerns. Is there, if you can address how those, you know, is there anything that can be done to help that situation relative to the residents?

Stiebe: Absolutely. The specification on the exterior elevations call for a frosted glass garage doors. That's both for Tony's (Mr. Anselmo) privacy. He doesn't want clear glass. Anyone seeing into his garages also would prevent the light pollution that was brought up as part of the concern. Those garage will be a frosted glass and also just to bring up the previous point of the landscaping buffer. In further review of the proposed landscaping plan, there are some proposed a line of softening a landscape buffer along that southern exposure in the submittal packet.

Caruso: Would it be out of question to add more windows to that south facing wall? We could explore that.

Stiebe: Right now the design of the windows are transom windows for the privacy of Mr. Anselmo. That is a private wing of his house. But he does want to get light natural daylight in there. So are openings designed for that.

Redinger: Thank you. Are there other questions from Council? Mr. Matty, did you have any other comments?

Matty: I am wondering if there's any and I guess I would have to ask Mr. Packard and Mr. Wise do we, do we have any other residential parcels where we have made part of the approval process. A bond going into the future. as it relates to this this Gerry. A Wise: As far as the residential structure, we've never done that and as far as I'm aware, there's no code requirement for that.

Matty: Thank you.

McNair: My understanding is this is the only residence in Brecksville that would have such a structure. So, it's not surprising that there bond required of previously. I don't know that's accurate because.

Matty: Gerry, do we have other ponds on a private residential property in the City?

Wise: We have ponds that are on private residential properties. Subdivisions that have been built. Sometimes originally, put the pond on a single person's property versus common open space and there are areas where back in the day that wasn't assigned to the entire homeowner association. It was assigned to the property owner. So, we definitely have ponds that are storm water ponds that are on private individual properties.

Matty: Okay and don't, isn't and I may be wrong, but isn't in, our work on Miller Road. Isn't there a private home on Miller Road that has its own pond? Close to that proposed development which was denied.

Wise: There are, yes, there are.

Matty: Isn't there a mayor? I thought, so. I mean, what I'm trying to see is if we have other ponds, not in, subdivisions that act as retention for the whole subdivision but on somebody's own land. And if they have a pond on their land, do we, do we do anything with that, Scott? As far as require bonds?

CBO Packard: No, sir. Okay.

Matty: That's what I'm trying to get my hands around before I say, you know, yes or no, to that issue.

Wise: I mean, in the storm water ordinance, in the storm water ordinance, there are provisions that if it is not maintain does give the city the ability The current one actually says that the city could go and do it if it had to be maintained and assessed the property owner. That would have, that's in our current storm water ordinance.

Matty: Without a bond?

Wise: Without a bond.

Matty: Thank you.

McNair: My understanding is that this is not going to be a pond. Is that right? Pond analogy makes no sense to me. My understanding is this is going to have to be cleaned every so often it gets silt in it.

Wise: In our storm water section of the code, it includes the, which this is not, storm water volume and it also includes storm water quality. This is a stormwater quality pond that is

the only requirement that they were obligated to fulfill but they fall under the same section of the code.

Matty: So, if it's a stormwater quality issue and Mr. Anselmo owns the property and he doesn't do what you think should be done upon your inspection, you can tell him to do it and if he doesn't do it, we can do it and charge his charge the property owner.

Wise: Yes

Matty: Okay. Thank you.

Carouse: Do we need an easement for that?

Matty: No.

Wise: No.

Carouse: Okay.

Redinger: Was there another comment? I sir, I thought I saw you.

David Lewis, I'm the Civil Engineer that designed the basin. It is designed for storm water detention and storm water quality. So, two components, both tension and water quality treatment.

Wise: The only requirement that he's obligated is for the water quality. He's not obligated for the basin. I guess, what they're saying is because they designed the pond, they were able to prove that it did volume, had volume, benefits also. So, they turn something in but it's not, it's not following that requirement.

Redinger: Thank you, Jerry. There any other questions or comments from Council?

or any other questions or comments from the audience? Council, are there other questions? Are we ready to make a motion?

Carouse: Mrs. Vice President, is it your intention that after a motion, we'll have discussion?

Redinger: We can make a motion and have discussion, yes, sir.

Matty: If I may, madam vice president, let me just, let me just suggest at least from what I've heard this evening, if, if, let me just suggest this, it's easier for the record so that you all don't get confused. If Council makes a motion to approve the plans and specifications, for this application, then you can vote yay or nay on that and if that's turned down, then, we may have to have another motion but unless the unless there's an objection, by the applicant, I think I've heard agreement on some conditions that can be placed on that motion. And if the motion is to approve, I know I've heard an agreement from the applicant that he will place this property in his name or in a trust. Which would be an estate planning tool if he chooses to use rather than this LLC since he's building his home for himself and his mom. I think I've heard an agreement from the applicant through the architect that landscaping would degree necessary to I believe Mr. Carouse's term was soften that wall would be done and that he would look at additional windows if I was if I heard correctly. You can investigate it.

Stiebe:I'd have to defer to the owner on that.

Matty: Okay, to also soften the look of this wall. If there's anything else that the applicant has agreed to that has been requested by some of the residents, I I'd like to hear it. My comments in the record on the Stormwater Management Agreement should be a condition. I believe Mr. Viola was nodding his head in agreement on those suggestions and that he would revise that document and get it to Gerry Wise so that it meets what I requested and what the engineer needs to have in that document. Those would be the

conditions that I'm aware of if there are others we should discuss them before you make that kind of motion.

Carouse: Mr. Matty, I think the other one that was raised was regarding sprinklers or other fire mitigation in the garage area.

Matty: I know that was it's not required. I know that was raised but that's not required by code. I don't know if there's an agreement on that. If there's not an agreement, I can't enforce that. You have a position on that, Mr. Viola? Or Mr. Anselmo?

Anselmo: It is not something that we (in audible)

Matty: Okay, thank you.

Kingston: I've got a question, Madam, Vice President. Is there, I mean, I have no doubt that Mr. Anselmo is going to be a good neighbor and do what he has to do if we condition this wall between him and Ms. Klipfell. Is there a way to quantify somehow the softening other than will take a look at adding windows or putting up a couple, you know, arborvitae. Not that I don't think he would do enough but you know, just so maybe we can get some piece of mind. From some neighbors.

Matty: I guess the only objective item I could suggest is that there's going to be landscaping as approved by the city arborist. On the window issue if there's no requirement for that I don't know what we could do.

Kingston: Okay.

Matty: Unless somebody has an idea.

Carouse: Mr. Matty, we have made similar requests in Board of Zoning when variances have been requested and been specific or said that to the satisfaction of somebody within the city to add those things that Councilman Kingston is asking for to quantify. Is there something there that we could use as a means of doing this?

Stiebe: Again, I guess the only difference there is starting to interrupt is we are not requesting a variance, you know.

Matty: Correct.

Carouse: Right.

Stiebe: We are agreeing to landscape it and it is and like I said, in the current submittal, there is a landscape proposal. We're happy work with the City Arborist to meet some of their objectives. But as far as requirements, we are meeting all the requirements.

Ms. Klipfell: Can I make a comment about landscaping.

Redinger: Yes, ma'am.

Ms. Klipfell: If you're talking about softening the look of this wall with windows or some arborvitae, you're failing to take into account that he's planning on cutting down an entire row of what I believe are my trees because they're on the fence line. They're on the property line. Those trees now create a nice block of my backyard and all of those trees, they're planning on coming down probably as soon as you approve this. And no matter how many little arborvitae that you put in, it's not going to replace 100 foot tall trees. It's not going to soften the look of the fact that my entire house is in front of his house. So, every time I walk out of my backdoor to get into my car, drive down my driveway, even look out my sunroom windows in my front yard. I'm going to see his house. I'm going to see this wall. I'm going to see the water being backed up that nobody seems concerned about except me because it's my property that's going to flood. Softening 100 foot brick wall cannot be done. When that wall is, you're blocking in my yard. I don't remember the exact case but soon after our first meeting there was a zoning, something that came

before City Council for an existing resident that was trying to get approval to put in addition like a bedroom or something on their home and it got denied. This was a house somewhere overlooking the Cuyahoga Valley National Park and I watched that meeting on Facebook and I saw the backing of the entire neighborhood come up and was against the building of this tiny room on this existing house that these people wanted. They bought a house. It was too small. They needed an extra bedroom. They wanted to buy in Brecksville. This was the house that they could get. And Council denied it because all of these residents were talking about how it was going to affect their view. Their back windows, out their porch of the park. So, I guess I'm a little confused why something like that gets denied where it seems like something like this where you're planning to allow a hundred foot brick wall after chopping down a whole bunch of the natural environments. How that is acceptable yet some family that wanted to add a small addition that maybe you know one of the neighbors out of the corner of their eye were going to see a small part of this wall and it was going to affect their view out and enjoy the livability of their homes. Why is Pershing different?

Caruso: Madam, Vice President, if I could speak to that as the Representative on Zoning for Council. First, I am sympathetic to your situation. That is not an apples to orange comparison. That was a situation where they did need a variance. They were asked to make some minor adjustments to the size and placement of that addition. They complied with it and then were granted a variance. Unfortunately, we're not in a situation where they're applying for any variances. So, if it's actually caused the kind of changes that I'm sure you would like to see happen.

Ms. Klipfell: So, if those people were to tear down that house and rebuild it, a mansion like is being proposed here, then, the City will allow that.

Caruso: If it's built within code, we don't have much choice. I do think that the work that your father has done, I personally very much appreciate because I think we, as a Council will all take a hard look at some of these zoning and ordinances for future situations but in terms of specifically this situation, you were mentioning, they were not building something that was specifically within code because of one certain setback. So, they needed a variance and so there was a discussion. They ultimately made some concessions and it got approved as a result. So, unfortunately, this is not an apples to apples comparison. You're not in that situation, not asking for any variances.

Ms. Klipfell: I think there's a lot that needs to be done with the Brecksville Code. If there's not regulations on things and everything's up to subjective if this is a law and this is the way that Brecksville supposed to be run. I mean, even if you, I'll be carefully watching to see how Brecksville handles whether or not they're actually going to take any of this into consideration to modify the code. If there are six, seven other properties right now that this is potentially going to affect. I petition those people of Brecksville perhaps people should not be buying in Brecksville unless they're able to tear down a house and build a new one. Because the city doesn't seem to have the current residents back. That seems to be to me, the point, that's what I've taken away over the last six months is, welcome. Please come in and tear down all of these heritage homes. These homes with character. This is a great city. There's nothing in the code that is going to keep it a great city. This Design and Construction Review Board didn't take anything in consideration as to what they're supposed to do. Maintain the character of a neighborhood. I mean, I bring these things up. I'm just, I'm, extremely disappointed in Brecksville right now. And I feel for

all the other people that are going to be going through this and good luck. Hopefully Brecksville changes the code by the time you were dealing with these same issues. Hopefully all the water retention issues I mean, who's going to back that when they fail and my house floods when it hasn't before. Is that something that the city is going to back up? When the water issues fail because I'm the only one that's concerned about that. Perhaps, if there's all these other issues with water, maybe the City should put in some storm water. Isn't there storm water on the other side of the street? That they put in. Why can't it extend to my side of the street? Or there's once again the existing residence. It doesn't matter. I guess that's all I have to say.

Redinger: We appreciate the challenges associated with this and we do take, have taken all of everybody's concerns very seriously. So, just wanted to make sure that you knew that. So, are there any other comments in the audience?

McNair: So, just know, you know, a letter through in some detail of the people do we have to address that?

Kingston: Actually, I don't mind making a comment if I could Madam Vice President. I think it's specifically and I forgot her name.

Carouse: Mrs. Pachowski:

Kingston: Yeah. When she said that about offering to list the house, I, that was a little cringe, it was a cringe moment. I do think it was bad attempt at humor or some levity. But I do agree with that with what you mentioned earlier that was not an appropriate comment.

Mr. Matty: The well, before you do, Mr. McNair, if I may just say something so that Council understands, this Board is no different than Planning Commission or BZA. They don't have authority to make approvals. They have authority to make recommendations. So, I understand the comment that Mr. McNair is concerned about. I understand Councilman Kingston's comment about what was said and whether it was said or not. I understand it. That kind of comment should not have been said but it was. This Council has to concentrate on what's before it, the code says plans and specifications. That's what you approve. You can have a recommendation from the Design Board. You can accept it. You can deny it. You can tear it apart if you wish. But this Council needs to look at the plans and specifications. That's the specific language in Section 1327 for your approval. So far this evening, I've heard comments where you're doing that. I've heard comments that you've reviewed all the materials that you have. You certainly reviewed the minutes, you reviewed the plans, and to the architect's credit, he has revised those plans to meet what Mr. Packard indicated must be done to meet the code. And I don't think there's any concern with you, Scott (Packard), at least as far as what's finally presented meets the code.

Packard: Not for the structure now.

Matty: Not with the structure. Okay. So, you have to concentrate on that. That's the real issue before you. If you see something in those plans and specs that you cannot live with, we need to hear it. If you're going to make a motion for approval or denial, whatever you wish to do, if you're going to put conditions on it, Scott (Packard) is here. He will enforce the conditions in his arena. Mr. Wise is here. He will enforce the conditions in his arena. I have given the legal counsel conditions that I want to see in that stormwater and no permit will be issued until those conditions are satisfied. So, that's why I say you might want to do this one way or another by with conditions.

Kingston: So, yeah, I would be, I'd like a condition for softening that wall if that's the term. Definitely.

Matty: Scott, I'll leave that to you. I mean, I use that term. I don't know if that's a planning term or not or there's a better term to use.

Packard: I believe that the comment you had made about review by the City. Makes the most sense and consistent with other sections of our code.

Caruso: I think a stipulation should definitely be that the property is moved out of an LLC and into either individual ownership or a trust. I obviously agree that Mr. Matty and Mr. Wise's recommendations on the stormwater management agreement be updated to their satisfaction. Before any permits are issued. As far as the additional windows, I don't know if there's any way to really enforce that but I think in the spirit of goodwill, if the property owner would consider that in a serious fashion, it would, I'm sure be appreciated by the neighbors.

Redinger: Alright, I'm just trying to make sure I have everything. Yup. So, here are the modifications that I have for the motion. So, let me just review them first and then, we'll make sure we have them right and then we'll make the motion. (1) the modification to have the property transferred to an individual or a trust. (2) a landscape plan. presented and approved to the city arborist, and approved by such and then (3) a revised stormwater agreement provided to and accepted by the Law Director and City Engineer. Did I miss anything, Council?

Caruso: I don't believe so.

Redinger: For the applicant, Mr. Anselmo or are you, those are the three things that you're sat with? Okay. Then if there are no other comments.

Carouse: Madam Vice President. Just to perhaps address one of the questions and concerns you had regarding the comments that were made by the Board of Design and Construction Review members. When I heard them, I was there and as I've reread them, I kind of took their comments as being they were giving reasons to rationalize, justify the opinion that they were giving. Not that they were trying to sell or take any kind of opinion other than that was what their opinion was based upon what they had heard. And they were just trying to give some examples of justification that's way that I interpreted it. Whether that helps or not.

Redinger: Thank you Mr. Carouse. Is there any other comments? Okay. Then I move to approve the plans recommended by the Design and Construction Review Board for the property at 8035 Pershing Avenue with the following modifications and conditions. (1) the property shall be transferred from the LLC to an individual or trust. (2) a landscape plan to be developed and approved by the city arborist to specifically address the South Wall and (3) a stormwater agreement shall be revised and provided to the city and except which will be acceptable to the Law Director and the City Engineer. Is there a second?

Kingston: Second.

Matty: And before you vote on that, Scott, all of that should be done before you issue a permit.

Packard: they'll comply. We'll make sure it's all in there.

Redinger: Okay. Yeah, I would add that. I would add that that those terms should be done before a permit is issued. Thank you and I would like to revise my motion to make sure that these modifications are completed before the final permit is provided. So, second,

Kingston: Second.

Moved by Redinger, seconded by Kingston, discussion, roll call:

Carouse: I'm going to make a few comments before I make my vote if I may Madam. First of all, I very much appreciate the opinions of both the applicant and the folks on purchasing that are concerned with this and I share that concern having lived here 65 years in the city of Brecksville. If I was going to vote on this impure motion, I would say absolutely not. I do happen to live across the street from one of the properties that was mentioned before on Highland Drive which is Highland Manor which is a huge, huge home and it's in a neighborhood of all. Ranches for the most part. But what I'm coming back to and everything that I have done in my years on Council as I've always turned to the recommendations that we get from our Boards and Commissions and here we have the Board of Zoning Appeals, the Planning Commission, and the Board of Design. Each one of them having vetted this in detail coming back with the recommendation to City Council that you know, that this is something that they vetted and they can approve and as well I've gotten the same opinion from the Law Director in terms of giving us direction as to how we're supposed to view this. I agree with the modifications that we've made and like I said, if it was emotional, I'd say no way. But I do think that the City needs in the future to consider this because I do agree that we're going to have more and more of these issues and how they're going to impact neighborhoods and but all we can really go on right now is the law that we currently have and with that, I will vote to approve. I will give a yay answer.

Caruso: Yeah, I just would say that I concur with a lot of Councilperson Carouse' comments but given the current laws or rights as written, I would have to approve yes. Vote yes.

Kingston: Yes.

Redinger: Before I vote, I just want to make a clarification Mr. Carouse. This did not this did not go to BZA and the Planning Commission, it went to the Planning Commission for the setback. So, just for clarification. And with that comment, I will also vote, yes.

Redinger: Motion passes, 5-Ayes, 0-Nays. Thank you everyone for your time and energy this evening. I move to adjourn the Council meeting at 10:28 PM.

Caruso: Second.

Redinger: Motion by Redinger, second by Caruso.

Discussion, roll call.

Carouse: Yes.

Caruso: Yes.

Kingston: Yes.

Redinger: Yes.

Veras: Yes.

Thank you. We are adjourned.