



MINUTES OF THE ZONING & PLANNING BOARD OF APPEALS

THURSDAY, APRIL 8, 2021, 5:30 PM
Virtual Meeting. Public may join via Zoom.

A. ZOOM MEETING INFORMATION.

I. This item contains documents which provide call in information and instructions for the Zoom Meeting.

B. ROLL CALL.

I. Members: Don Carlson - Chair, Gregory Babcock - Vice Chair, Tommy Everman, Noel Halvorsen and Jim Hutchison

Alternate: Tom Hoy

Does anyone need to abstain from voting? Was anyone out to any of the properties? Did you speak to anyone regarding this variance request?

Present: Tommy Everman, Don Carlson, Gregory Babcock, Jim Hutchison, Thomas Hoy,
Excused: Noel Halvorsen

Chair Don Carlson asked:

Does anyone need to abstain from voting? All stated no.

Was anyone out to any of the properties? Tom Hoy stated he was out to both properties. Don Carlson stated he drove by both properties.

Did you speak to anyone regarding this variance request? All stated no.

Others Present: Ald. Barb Dorff, Ald. Lynn Gerlach, Ald. Craig Stevens

C. APPROVAL OF THE AGENDA.

I. Approval of the agenda for the April 8, 2021, special meeting of the Zoning & Planning Board of Appeals.

Moved by Tommy Everman, seconded by Thomas Hoy to approve the agenda. Motion carried.
Yes- Don Carlson, Gregory Babcock, Tommy Everman, Jim Hutchison, Thomas Hoy, No- None,
Abstain- None

D. REGULAR BUSINESS.

I. (Appeal 21-005) Nate Zepnick, on behalf of Greater Green Bay Habitat for Humanity, property owner, proposes to retain the building footprint for a single-family home located in a Low Density Residential (RI) District at 1696 Deckner Avenue. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-604, Table 6-2, front yard setback-footnote c (Ald. C. Stevens, District 5).

Moved by Tommy Everman, seconded by Jim Hutchison to open the floor for discussion for the duration of the meeting. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Jim Hutchison, Thomas Hoy, No- None,
Abstain- None

Moved by Greg Babcock to table the request to allow for applicant to retain counsel. No second to the motion. Motion failed.

Moved by Thomas Hoy, seconded by Gregory Babcock to Deny the variance as requested. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Jim Hutchison, Thomas Hoy, No- None,
Abstain- None

2. (Appeal 21-009) Nate Zepnick, on behalf of Greater Green Bay Habitat for Humanity, property owner, proposes to construct a single-family home located in a Low Density Residential (RI) District at 1692 Deckner Avenue. The applicant requests to deviate from the following requirement in Chapter 13, Green Bay Zoning Code, Section 13-604, Table 6-2, front setback-footnote c and rear

yard setback (Ald. C. Stevens, District 5).

Moved by Tommy Everman, seconded by Thomas Hoy to grant a variance to reduce the front yard setback to 40 ft. and a reduction of the rear yard setback to meet the placement of the home relative to the geometrics of the lot. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Jim Hutchison, Thomas Hoy, No- None, Abstain- None

Attorney Lindsay Mather asked for the Board to go on record stating the hardships for the approval this variance.

Greg Babcock stated the hardships for this request would be the placement of the house due to size and shape of the lot.

Moved by Tommy Everman, seconded by Thomas Hoy to close the floor and return to regular order of business. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Jim Hutchison, Thomas Hoy, No- None, Abstain- None

E. INFORMATIONAL.

I. Next Meeting Date: April 19, 2021

F. ADJOURNMENT.

Moved by Tommy Everman, seconded by Thomas Hoy to adjourn. Motion carried.

Yes- Don Carlson, Gregory Babcock, Tommy Everman, Jim Hutchison, Thomas Hoy, No- None, Abstain- None

VERBATIM MINUTES

- We have Greg, we have me, and we do not have Nole. Is that correct? Okay, that makes sense. Nole was gonna not be here tonight. Let me ask my three questions of the members of the board. Did any of you speak to anyone regarding the issues before us tonight?

- No.

- [Board Members] No.

- Were any of you out to see the two lots that we are considering tonight?

- No.

- No.

- Yes.

- And I have driven past it several times. I have not stopped in to look at it specifically. Finally, do any of you anticipate needing to recuse tonight?

- No.

- [Don And Greg] No.

- All right. We can move on to the agenda. It's a very limited agenda. This is a special meeting, so we have two items on it. We do need to approve it. So if I can hear a motion and a second, we can move on with our business.

- I'll motion to approve the agenda.

- [Tom And Jim] I'll second.

- We've had a motion made, and seconded to approve the agenda that we will consider tonight. Finally, before we get started we should open the floor for discussion.

- Motion to approve the opening of the floor for the discussion.

- I'll second it.

- Okay, we have a motion made and seconded to open the floor for discussion. I believe we are all set to go. You wanna make some introductions, Paul?

- Yes.

- The need for this meeting, the resolution of whatever was discussed at the city council, et cetera.

- Sure, thank you, Mr. Chair. This request was before the Court of Appeals I think they're meeting on March 15th. At that time, the item was tabled for up to 90 days for additional options to be considered by staff and the applicant. So again, what I have on the screen is the subject property 1696 Deckner Avenue. It's a vacant lot. There is an existing home that is on that, or a home that's under construction that doesn't meet current setback requirements. And again, we treat this lot as an infill lot, as well as the adjacent lot. We look at an average of existing homes in that particular block. In this case, the homes are set back approximately 45 feet. The home that is under construction and received a permit was approved at 25 feet. So it's again, before the board for your consideration for that front yard setback. What staff has done since the last meeting is we've met internally with our director and assistant director, and consulted with our law department. We also met with the applicant last week to discuss the circumstance and the issues. Unfortunately, we were unable to come to a resolution based on the situation. And that's kind of the reason why this has been brought back so quickly to the board for your consideration. I'm gonna defer to the applicant at some point here to maybe explain their reasoning, and their timelines, and why it's come back so quick, in their kind of unique circumstances. There was also talk at the last meeting about the creek that runs behind these two properties. There is a waterway, but that a creek is far enough away from these two properties so that it doesn't impact any decision or consideration. And there is a letter that we received from the Department of Natural Resources that concurs with that. The stream itself is regulated on our zoning code. There's a 50-foot setback and this property, both of these properties are well away from that watercourse. We did renotice property

owners. We tried to find a balance to allow neighbors to re-engage and be available for the meeting. And we also wanted to be respectful of the time for the applicant and their timeframes with the renoticing of the adjoining property owners. We did receive two new written objections to this request, one actually across the street. So there are three single family homes on the south side of Deckner Avenue. And we have two written objections from those property owners, and the Foellers I know have participated in the meeting last time. I believe they're also in opposition, and I believe they're also on this call as well, so. Also on this call is Assistant City Attorney Lindsey Mather. So if the board has any questions for her from a legal perspective she's available to address those questions. There is a sister request at 1692 right next door to this property, which has similar issues but of course there'll be treated as two separate items. But we felt that they should be brought forward for consideration because they have similar issues and similar timing. Again, I just wanted to review that, you know, for the site a permit was issued at 25 feet. This is a copy of the site plans and building permits that was issued. A street view of prior to the construction of the two vacant lots, and then the image of the western most home, and then the applicants construction project appear. So with that, that's all I have to share at this point.

- Okay, good, thank you, Paul. I think at this point we can hear from the applicant to explain the case that they have.

- Okay, thank you. The situation that we are in is we had pulled the permit in November for this project. We began digging on it prior to Christmas, the foundation had been poured prior to Christmas. We continued to work on it with volunteers, not knowing any any issues were with the setback, anything like that. We proceeded to continue building it. Once we got the roof on it, I received a phone call from the city asking me to go down and apply for a variance for this house. That was on February 23rd I was told not to do any more work on this house. We went to the Variance Meeting on March 15th. No resolution was agreed upon. It was tabled for 90 days. And we have since been working to find a resolution to our issue there. In the meantime, while working with Habitat, we have now run out of volunteer opportunities for all of our volunteers. We've told them, "We don't have anything left for you "until we get this resolved." So time is of the essence for not only our volunteer base in this hard time, but also for our sponsors as well. And that's not even including the family who has been sitting for two months wondering why there's no more progress on their house when they're planning to move out of their current place. You know, it should have been a couple of weeks from now, and now we don't have any resolution to this project. So we have been sitting in limbo since February 23rd waiting for a resolution to an issue that was not our fault in any way. We did the permitting as we were supposed to. We were granted the permit and that's just that's the tough situation we're in. We received a stop work order on when they were trying to hook up power to the property. And that's the last that we've been able to step foot on the property.

- Okay. Mr. Zepnick is there anything new that you wish to introduce, perhaps with regarding to 1692, at least that we haven't considered before, or that we did not discuss at the last meeting?

- There is. 1692 previously had a house on it with a setback that is closer than, or at least 25 feet, or closer, front yard setback that was previously there and torn down before we bought this property. Aerial photos show that that house did not have a 45-foot setback previously. And that's approximately where 1692, the new property, the new building that has not begun yet would be sitting.

- To be clear, sorry, I'm confused right out of the gate here.

- Yep?

- We are not dealing with both variances at the same time, so, or are we? Because 1692 is the new one, the triangle lot. 1696, just so I'm tracking, 1696 is the one that we already talked about on the 15th of the 13th, whenever the March, mid-March date was, is that correct?

- That's correct.

- Are we supposed to consider each one individually, or is this all kind of a group effort?

- I was also told to file a variance for 1692 right away because I had put the permit in for 1692. The permit application was submitted on March fifth, and it's been over a month. It typically does not take more than a week, or so, to get the permit after application. Reason being is that they said it was just put on hold and set for the Variance Meeting. So we have two properties that we have not been able to make progress on simply because we're waiting for a resolution on one of the properties.

- Yeah, I think it's impossible for us to consider these totally independently. So Tommy, I guess an answer to your question, I believe that the decision that we would make on one would definitely cause some implications for the decision we would make on the other. So unless it becomes impossible for us to extricate ourselves, I think we should consider the possibility or we should consider that we have two applications and talk about them, and discuss them together. Both of these, am I wrong Mr. Zepnick, both of these entail a 25-foot setback from the property line?

- Correct.

- Right, okay. Mr. Zepnick could you-

- Mr. Chair?

- Yes, go ahead.

- Yes, I'm Assistant City Attorney Lindsay Mather. I just wanted to point out-

- Hi, Lindsay.

- Hello, haven't had the pleasure of meeting most of you yet. I just wanted to point out that there are two separate agenda items to talk about each of these things. And so in order to make sure that we're going through the meeting in conformance with our open meetings requirements, they do need to be taken up separately. I understand that some of the facts will cross over. And so I'm not asking that you completely separate the two conversations but just make sure that the focus of this first part of the conversation is on 1696. And then when you move on to item number two on your regular business, you can focus on 1692.

- We will, we will do that, thank you. And we will definitely vote individually on the two issues before us.

- Mr. Chairman, Cora Haltaufderheide from Greater Green Bay Habitat for Humanity. I just wanted to mention Nate covered what had been covered, and what we've talked to with the city about. One of the things that has not come up is, I mean, besides the fact that we have followed every rule, and we're probably one of the largest builders in the city, on an average of eight homes a year for the last 10 years. I see the neighbors sitting here that are in this, and I feel horrible that we're even infringing on somebody who doesn't want us in the neighborhood, because our job is to really, you know, at least to bring people together, and this doesn't help a neighborhood or neighbors to start that, so we did nothing wrong as Habitat. It really does, we did nothing wrong. I purchased these two lots. One of the thing that we're forgetting here is as of February, we had \$84,000 in materials. On January 13th, I was standing there and it was kept. And the gentlemen in my staff was there, and we were full force, we were completely legal. I want to go on record saying we've done everything we are supposed to do as an organization. We are here trying to take care of a problem that two weeks ago I was talking to the entire city about, because we have a whole need for housing, and our affordable housing. Now I'm being stopped in my tracks. When I say to you, and when Nate says to you, he has nothing to do. I'm in the process of after this meeting I don't have things. I lay off people, starting next week. I have houses that need to go, and we don't have our permits for that week. We have two houses we were planning. That is almost seven months of work for us. We're now stopped on that process. So what we have done here

it's now put us in a situation there, and at the last meeting. And I was really appreciative of all of the city employees the Paula Markell, and the Sherilynn, and all of those people that came together on a call and asked us to come on this call because we need to operate. So I don't know where we go, other than the fact that we've done nothing wrong, we pay our bills, we're a large builder in town. We didn't build large homes. I don't ever wanna give you the fact that we build large homes. The price of our homes are going up, but it's because the cost of materials that we're all fully aware of. When I bought these lots I knew about where the previous homes were because we looked at the aerial maps that are out there to show you where the previous home that was torn down was. That was a 45-foot setback. And I sent those pictures over to the city, and you also have access to all the land records. So that's what I wanted to say. And I do not think that that came up at the meeting that Nate was in the last Planning Zone Committee. Thank you.

- Thank you. I'd like to ask Ms. Haltaufderheide and Mr. Zepnick what consideration you gave to viewing the city ordinances before you called the builder's permit to do this?

- We reached out to our surveyors Mau and Associates to do the site plan on this. That site plan was submitted, and that site plan was approved. When I submitted the plan for 1692, Decker, on March fifth, I asked the Inspections Department, review it and please let me know how far you want us to set it back on the lot, and we would comply. Based on the knowledge from the previous 1696 Decker, which is the big issue that we're addressing today. So we don't have an engineering or surveyor department. That's all done by professionals that we submit whatever they give us.

- I guess my question gets to the issue of how much did you investigate the feasibility of the 25-foot setback? Was there any review, or was there anything in there to you that other than the approval of the builder's permit, that 25 feet would be okay?

- That's not- In other words, did you review the city's ordinance and it say, well, there may be a problem here?

- It was submitted to the Inspections Department, and the Inspections Department is supposed to review that and approve, or let us know where it should be. It's not our expertise to rezone code. We rely on the city's departments to do that, and approve or adjust whatever needs to be done.

- Okay.

- And just to go on record here. I think it's confirmed, that 25 foot is a common setback in the city of Green Bay. And that is our norm, if I'm not mistaken. I don't know if that is a regulation, but Mr. Carlson, I believe that is the common setback in the city of Green Bay.

- Well, it is a normal setback, but in this situation we have a different situation that we have to consider. Before we get too far into this, I'd like to hear from the other people online, any comments, questions, concerns. We have the Foellers online. We have three alderpeople online. I'd like to hear from them. And then I want to get Tommy and Tom, and Jim and Greg a chance to ask questions as well. But if we could, perhaps we could start with the Foellers first, if they have anything that they would care to bring up at this point, in addition to what they may have discussed with us last time.

- Thank you, Chair Carlson. I'm very respectful of Habitat for Humanity, money to your organization. Still we're very pro Habitat for Humanity. It has nothing to do with your organization. We have been in conversation with our alderman on several occasions. So I hope that Alder Stevens is perhaps one of those alders that are actually calling in right now. As far as the previous home, I guess it all depends at that point what ordinances were in place of the setback. So obviously we're in 2021, things need smart plans at the city, and the standard ordinances as far as setback is concerned. So I just wanted to... I remember the house. We've been here since 1997. It was in pretty sore shape once it was torn down. My question though is like what options were considered when you did meet with the city? Did you talk about, you know, moving the foundation, and then literally picking up the house and moving it? I'm just curious that there's no resolution,

but I don't know what options were even discussed. So that's one of my questions. If Mr. Zepnick or Ms. Haltaufderheide could respond or maybe .

- Mr. Zepnick?

- I can respond to that. So during the meeting I had reached out to a house mover to get a quote and find out what is all encompassing with moving a house. The determination was that it would be well north of \$50,000 to pick the house up, basically remove the foundation, dig a new hole, pour a new foundation, and move the house. The problem with that is that we are not at fault with putting the house where we were told we could put it, and we don't have, we're a nonprofit that builds simple homes, we don't have the funds. The family cannot afford an extra \$75,000 on top of what their mortgage is gonna be, just because the house wasn't placed where it eventually should have been.

- Are there any suggestions on the city's side, since it seems like that was an oversight that they missed the 45 versus a 25-foot setback.

- We have not heard anything further. They said they were going to get together and talk about it. And then my next conversation with them was that we were gonna be here tonight.

- As you know, that this is a permanent structure. I know Alder Dorff had tested, perhaps some landscaping, and you know, this is a permanent structure, landscaping can always be removed. And I'm not sure my husband actually did speak to the Hispanic couple that lives right next door. And I'm not sure if they did contact Mr. Neumeyer or not, but they're very disenchanted with where the placement of that house is, as I'm sure you could completely understand if you had actually taken a ride past that property. I really don't have anything else to add at this time.

- I do.

- All right, very good, thank you.

- Well, excuse me, my husband would like to make a comment.

- Oh, yes, sir.

- Rod Foeller.

- Yes, thank you. I did speak to the gentlemen at that house immediately to the east, two days ago. He said, he told me that he spoke to two different realtors, and they both told him that between the two it could be devaluing our properties by 10 to \$20,000. I did not ask him who those realtors were. He said he was gonna email. I don't know if he did contact anyone with the city.

- However, it being, I know that you had said that they did have concerns of being a Hispanic family of whether or not their opinion would be respected. So I just wanna let you know that we have been in contact with our next door neighbor, and let them know let you know their thoughts.

- All right, thank you. Yes, Alder Gerlach?

- Just two quick questions, please, for one of the folks from Habitat. Why was the 25-foot setback decided upon?

- The 25-foot setback was decided upon from our surveyors giving us a conditional site plan that was submitted with the building application, and that's what was approved. I think it should be noted that the three

inspections were done from the time that we started digging, until the time I got this Stop Work order. So inspectors were out on the site three separate times and never brought it up to me, until February 23rd.

- If I may follow up on that, please?

- Please, go ahead. So what I'm wondering is why the surveyor chose to put the house there, because I saw in the packet that there was also a concern about that creek behind the house. And I'm wondering was there a need to move it because of that? Does anyone know why this decision was made? No?

- Why the decision was made by the city?

- To do it, yes, to why the surveyor, no by the surveyor. Why did the surveyor said put it here at only 25-foot setback. What was the reason for that?

- Sure.

- A 25-foot setback in the city of Green Bay is very standard. When I talked to the building inspector that approved it, he said that he saw 25-foot setback on the permit application. And didn't think twice of it because it's such a common setback in the city of Green Bay.

- Okay, thank you.

- And the only other comment I would add to that is Mau and Associates are licensed, they're permitted. They have all the degrees. We paid them 950,000, or \$950 to tell us where to put that house. Then it goes to the city.

- Yeah.

- It's not that they do this pro bono. We pay them to tell us where to put this house. Then it's the city's response. Yeah, well, we pay them, right?

- The site plan is a conditional plan that is an application that gets submitted

- Okay.

- to the city for approval. At the time that the application was submitted it would have been simple for the inspection department and the zoning to look at that and say, "Hey, move it back a little bit." That's an application that we submit with a suggested setback.

- I think Alder Gerlach was getting to the issue of was it, what was there a reason why you could not put the house at let's say 45 feet or whatever the setback would be, it would be consistent with the adjacent properties?

- There is not, and if it would have, if the inspection department would have asked us to put it back at 45 feet, we absolutely would have complied.

- Yeah. All right, we... Oh, is there any other property owners online before we, I'd like to hear from the alderpeople first if there are no more property people. Ah, sorry, you're trying, I see your picture but I don't hear you talking.

- [Barry] Hello, can you hear me now?

- Yes.

- [Barry] Okay, my name is Barry McRae. I live on 1697, right across the street from the house in question.

- Okay.

- [Barry] And just so everyone knows, I speak Spanish, and I spoke to both of the Hispanic neighbors today. The one on the east side said that they were not in favor of the construction, and that they had sent an email last night. And I also spoke to the neighbor on the west side who was also not in agreement. When the construction was started I was amazed that the foundation was being dug so close to the adjacent house. And I said, I'm sure, that they're not gonna be very happy about that. But then I saw that it continued, and, so I said, well, they must be within standard, 'cause I'm sure that Habitat has applied for a permit and received an approved permit. And then I was really surprised to receive the first letter about the Variance Meeting. I don't care for the way that it looks but I agree with the lady that was on the last meeting. Seems to me that the city of Green Bay is responsible for this mess, and the city of Green Bay should foot the cost of relocating it.

- Okay, thank you, sir. For the benefit of my colleagues on the board, I'd like us all to avoid trying to make some sort of prejudgment as to who may or may not be responsible for whatever needs to be done to rectify this situation ultimately. We're here to decide a variance. We're going to let people's, far above us on the pay scale, decide who has to pay whatever on this, assuming that we do not grant the variance.

- [Barry] Right, I understand.

- I appreciate your concern, sir. Is there any other property owner, before we hear from anymore of the alderpeople?

- Press it again.

- We do have another neighbor with us because I was able to post a hook on a Zoom, here he is.

- Yes.

- Get over a little bit further. Right this way.

- Okay.

- I think...

- Can I make a point of order.

- There's some-

- Hold on!

- Someone is doing feedback.

- Wait.

- Someone with the initials ALD there's feedback coming through, and it's real hard to hear. So that person could mute. Now it's muted, perfect. Thank you.

- Perfect.

- Thank you.

- Good call.

- Go.

- I live at 1711 Decker Avenue, and my request was that the board members or the council should drive down here, and my main concern is the neighbor that lives right next to that place, it is like halfway into his front yard. And when you do this, you should think about your own home. And if you'd like somebody to build a house right next to yours, look out your window, and look at the site of your neighbor's house 'cause it doesn't even look right or correct. I was surprised too. Like the other neighbor said about how close it is in relevance this way, you know, sideways, but then as they built and the constructed, and then it was like, this thing is like halfway out and passes in front of his house. You should, everybody on this meeting should drive by there and look at it because I guarantee you you would not like it in your yard. Now I don't know who made the mess of this, but it ain't fair to that guy that lives there. And I'm just live across the street. Now, I don't get the letters because supposedly this 100-foot thing, but this is our neighborhood. And I don't know how to go on these Zoom meetings. That's why all the community right here, our neighbors, are talking. So just so I'd like to voice my concerns and it's not very good. And I respect that Habitat for Humanity, and everything else. And then that lot over there is almost unbuildable. It's been sitting there forever. And I think somebody got sold a bill of goods with it, and got a cheap deal. That's my opinion. I've been working construction for 30 years. And when you make a mistake, you fix it. And whoever made the mistake should be responsible.

- All right, thank you, sir. I appreciate your input.

- Thank you.

- Could we hear from one of the three alderpeople on. I don't know if Alderperson-

- Alder Stevens is here.

- Yeah, so Alder Stevens, could you speak to the issue, if you care to.

- [Craig] Yes, yep, good afternoon. How is everybody?

- Excellent.

- Sorry for all the feedback. I'm actually in Nevada. So it might be my phone causing all the issues. I did speak with Wayne at 1700 Deckner Avenue this afternoon. He was going to try to get on this call, but he was unsure because of the technology, he's unfamiliar with it, so. So I'll explain the conversation that I had with Wayne. As all of the neighbors around there are explaining, Wayne is also the same way. He's very displeased with the location of that building. He also thinks that it should be set back. He did state that when he looked out his window now he sees a house. And also he's also having some other issues with his property, but that needs to be taken up with inspections, not during this call. So during that conversation he definitely wants to see the building moved.

- Okay, thank you.

- Alder Dorff, did you care to speak at all regarding the issue here, or have already said?

- Yeah, I do. I do care to speak. Alder Stevens, can you mute yourself, please?

- [Craig] Yeah, hold on.

- Okay. I have a couple of things to say. Yeah, I went out to the house. I walked around it a few times. I know where it's situated. One question I have, first of all, Chair is it's hard for me to understand hardship. You grant variances based on hardship. What is that definition? Can you help me understand that a little bit better?

- Well, I can give you my interpretation. It has to do with the burden that the applicant is claiming he or she will bear due to the need for the variance. In this case, so we, in all cases like this, we are always warned that we can't consider a self-imposed hardship. These have to be hardships in particular that are particularly associated with the shape, the size, the position of the property, and not a general inconvenience to the owner.

- And so was this self-imposed, or was this not self-imposed, since all of the rules were followed?

- The case can be made, and Attorney Mather has allowed us to have some of her insight on this, a case can be made that it is self-imposed. That issue, that question will have to be brought up and considered by the board members as to how strong that appears to them, as to whether that is sufficient to grant the variance. I think all of the five, the other four board members on have seen the letter that attorney Mather sent to us regarding the issues before us tonight. And so we're aware of the concerns, and we're aware of the argument that could be made that this was self-imposed. We don't necessarily have to agree with Attorney Mather. We all had our own opinions, and I'm just one of the five opinions, but we all are familiar with what that reasoning would be.

- Just to clarify, I was just telling you the standard, you guys get to make the decision. I wasn't advocating one position or another. Just wanna be real clear about that.

- Right, and we will be clear, we will be clear. The staff has not and will not make definitive recommendations to us. Much to our distress sometimes, unfortunately, we're out here on our own, that's what we're here for. Thank you, Attorney Mather, but you did provide a very good letter for us, and I appreciate that.

- So, the issue is not that Habitat for Humanities is building a house there that the neighbors have no objection to a Habitat house being there. That was my understanding from listening to Dawn, who I know from a past life, speak. I guess I am concerned about the anger that I've heard in people's voices talking today. I'm concerned about whoever that family is that would be moving in there. And so that's just, I guess, that's just the human part of me, that's the, or, you know, educator piece that makes me very, very worried. I'm worried about the family from the point of view of not knowing, I don't know who they are, and I don't know where they're gonna live now. It depends, I guess, if there's a variance or not. I'm concerned about Habitat for Humanity. I mean, years ago, we helped a couple with their four or three children get a Habitat home, and were there when they moved into it, and I actually was supposed to make a little speech and I just broke down in tears. I couldn't even talk because it was so emotional and so overwhelming. And these were two people that were physicians in their former country, and coming here, or have not been able to be physicians again because the grasp of the English language. But so Habitat it's pretty close to my heart. And this is an important service that the volunteers and that Habitat does for our community. And maybe you can't take any of that into consideration. You guys have a really really hard job today. This is awful. You know, part of me wondered, is there a right, and is there a wrong? If all neighbors, a 100% of the neighbors say, "Hey, this is a great idea, we'll take this." Then is it right to grant the variance? Or is it wrong to grant the variance? Because that's not what's official, it's not 70 or 45 feet back. I mean, is there... These are just all questions that have been in my head. So if people are against it then that weighs into it. But if people are for it and that weighs into it. Is that right, Chair?

- We have five people on the board, all who will consider exactly the kinds of issues you're bringing up, and we all have our own separate opinions. I thank you for your comments. Before we get to-

- Thank you for listening. Before we get to the members of the board's questions and concerns, we'll hear from Alder Gerlach again.

- I'm sorry, but I have another question, if I may?

- You may.

- So I've heard comments about the fact... By the way, I did go and speak to the people who live directly next door to this house. I live about six blocks away. And so I've heard a couple of comments about the lady at the house said this. And I heard someone say it on this call, that when they look out their window now, all they see is a house. But as I said, I live about six blocks away. And when I look out that window, all I see is a house. And when I look out that window, all I see is a house. That's Karen and that's Mary. And I'm thinking if they set the house back, they'd still just be looking out the window and seeing a house. So my question is, is that house too close to the property line, or is that part of the situation correct and accurate?

- Paul, as I understand it, the side yard variants for the proposed construction is, or could be proposed is all right, is that correct?

- Correct, yeah, I believe it's at six feet. The only issue here is the front yard setback.

- Yeah, I think it's an issue, Alder Gerlach, of their view as they go out their front door, let's say, is taken up by a very large construction to their left. And that's about all I can say on it. Yes, Cora?

- Yes, I just wanna make one comment. I am the last time or last week when we talked to the city staff... I just wanna go on record saying I'm very disappointed because at that time I asked if I should bring legal counsel to this meeting, and be prepared to have legal counsel with me. And I was told that it wasn't necessary for me to do that. And right now I don't feel it's a level playing field right now. And I feel very saddened by the comment that I'm sitting here doing everything right, and yet you people are referring to legal counsel. And I just wanna let you know that it is not in the best interest right now of what's happening to our organization. And by having a legal counsel opinion, and we were told that we didn't need one. I just think it's a little bit tainted.

- I appreciate your comment. All right, at this point, I believe we've heard from everyone and I've taken up an awful lot of time on the microphone. I turn it over to Tommy, Tom, Greg, Jim, for questions, comments that we are at the point where we need to make a decision and deliberate upon what we've heard.

- I have some questions.

- Go ahead.

- Sure. I would like to ask the applicants if they're alleging a hardship, I got a couple of questions, hardship that's outside of financial concerns?

- We have some hardships with our volunteers and our sponsors right now. You're talking about people that were 320 hours of volunteer labor and their time, what's their time worth, to come out and help us do this. Sponsorship. sponsors are looking at a house right now that's sitting there with no progress for two months now.

- Also I have a family, three or four children that are waiting to move into their home, waiting to give notice to their, I've asked them to stop, their landlord or somebody else coming in behind them. That's a hardship for that family. I have a hardship that my organization will be shut down after tomorrow with whatever the decision is made, and we will not be ramped up again, as far as the construction end of it. So those are some of the hardships that I'm facing right now. Along with the funding that nobody's even talking about moving this house, and what it will cost, and what we have into it now, and what that puts us by behind the eight ball right now. I have a schedule that goes on for 18 months of homes. And I have shown that to everybody on your staff. And what that does is that shuts us down. This is 18 months of homes, four months, four and a half

months per home, we're shut down now into our third week. What you're doing is we're just pushing these families back but it's not one family, it just keeps going.

- Yeah, I understand what your response is, and we to-

- That's my hardships, those are my hardships.

- Yeah, you don't need to be confrontational, I'm just asking you to try to get an understanding of it. The other question I have is if you were to move it back to comply would the lot be usable?

- I would assume so, but that's a decision that the zoning and planning, you know, we'd have heard of that's why we're in the situation we're in though. In my opinion, I don't have one. I don't know.

- The other question I have is when you say you defer to others as property owner do you believe you have some sort of obligation to know some of these things or not, in terms of the ordinances and so forth?

- Of course we would love to comply as long as... There's no pushback at all from us as far as complying, as long as we know upfront. I mean, absolutely. We're here to be partners and do this together. It's not something we're trying to fight, or this. We wish we would've been asked to just put it back a little bit farther from the get go, and not after three inspections were done, and a permit was given to us.

- Thank you. Tommy, Jim, Tom?

- I'm good.

- Just to kind of, I think dive in, for me, I'd like to get a clear answer from Mau and Associates, you know, it sounds like what I'm hearing from Habitat was we hired them as the experts to do a site plan for us and kind of build out the vision of what this looks like. Was there any first questionnaires? Was there any alternate lands that were drawn up, or any other alternative ideas that have been coming up that could have made the property a little bit different? Or was this the only plan that came up?

- This was the only plan that came up. The reason I say that we defer to Mau And Associates is 'cause they do our site plans. The bottom line is that the city of Green Bay has, they have employees that specifically look at this stuff and approve it so that we can get the building permit for it. I mean, that's why I say we defer to the city in this because there are several people that look at this to decide if it's right or not, and we were told it is right.

- Right, I think that's the reason why I asked for the record to clarify that is because as an overall project there should be knowledge of the code, whether it was Mau and Associates, or the land owner. And so those are the partnerships that we've created in terms of the design. Yes, we've all agreed there was a mistake, I think, made in terms of the plan. But I do wanna kind of get that kind of, just for me, fleshed out just a bit, that what I'm hearing is Mau and Associates where the one from you as the land owner that that relied on their expertise to know the code when you submitted it, and the fallback, the check back for all of that would've have been the city saying, "Hey, this doesn't comply, send it back." But you didn't know the code, you relied on Mau to know, is what I'm trying to clarify.

- Yeah, and I understand what you're saying. I think the reason that this got brushed over is because 25-foot setback is pretty standard from what I heard from talking to the build inspectors that that's pretty standard for everywhere in the city of Green Bay.

- Right, okay, and then a follow-up question is, all of the... So it's very important to guide. We deal with this and the board, and you've gone through training as well. And so I just wanna make a comment on the record that hardship is not individually based. It doesn't live with the land owner. It's supposed to be removed from

the landowner because this property will live, beyond multiple sales, multiple property owners. So it is a property-based decision. So I agree with everybody, that this is a difficult situation. No one, I think from Habitat for Humanity came in and doing anything ill will. And I think that's really important for everybody, and I think everybody understands that, and I don't personally hear that from anybody right now. So I wanna make sure that regardless of what decision I make, like I'm not making a decision based on all that. What I'd like to ask is that if we take the moving the house out, all of those other hardships that are not supposed to be part of our consideration, in terms of how we train, is the property that you're building whether it's reconfigured, like we were talking about last time with the driveway maybe on the other side, is there a way to build a good size house, and use the land in a way that you can to make a usable property for? Do you believe that's possible to do that. regardless of where we're at currently, is there a way to do that? And I'm gonna be listening, my computer's gonna go to sleep. So I got my AirPods in, but I do have to plug in 'cause I don't wanna jump out. So I'll take the answer, but I might move. Or if you don't mind waiting 30 seconds I'll just plug this in real quick. Sorry, bad timing. My computer has warned me.

- It's all right. Mr. Zepnick, did you get a reply? I think-

- Sure!

- I think Tommy kind of left it hanging there, and-

- Sorry, did I?

- That's okay.

- Just what I'm saying is can, again, there's all of these considerations in terms of where we currently are. If we're able to remove that stuff, and we now know that there's a 50 or 45-yard setback, can we design a house and a property that makes sense without needing any very variants of this specific variance?

- Let me just end, let me just touch on one thing here. And I believe that part of the reason why they set this house forward is because we don't, we're in a different situation than all these other neighbors with a 45-foot setback. The church on the corner has got a, not even close to a 45-foot setback. The building that was there on 1692 had much less than a 45-foot setback. And our properties, these two are different than everybody else because there's a creek that runs through the backyard that turns these lots from a rectangle into essentially a complete triangle. So we have to look forward in my opinion than the other houses because we have the creek running through the backyard. Now I don't know where things could have been placed at this point for 1696. I feel like it's too late for that. But I feel like with the next house it's gonna have to be farther forward than 45 feet because it's a triangular lot that has the creek running through the backyard. So I think they took into consideration that 1692, the corner lot is gonna have to be closer to the street. And the one that is there currently is not gonna look like such an outlier when our project is complete.

- Right, I understand, 'cause I saw it with the new one. That's why I clarified earlier. My feeling is that we should be making decisions. This is my feeling and I'm open to feedback or discussion with my board members, but they should be, this is a singular thing and this property, again, because it doesn't live with you, it doesn't live with Habitat for Humanity. It doesn't live with the family that you're selling it to. It lives forever, right, as this permanent structure. And so I want to look at this property and make decisions about this. So I don't feel like I got a straight answer and I'm gonna kind of press to get a straight answer on this one for me to make a decision. Do you believe that the house that you were intending to do regardless of the approval, the mistake of the city, that if you went back knowing there was a 45-yard setback

- Sir, could I speak

- with Mau, with Mau's expertise, would you be able to build on this lot appropriately?

- If we would have been, yeah, if we're talking today is November 16th I'm submitting a permit and I bring it to the board, I bring it to the city, the building application and they say, "Hey, you got to move it back." I believe that it would have been possible, absolutely, to move it back. But I was never told that until three months after beginning.

- Right. Yeah, and again, I think that's the difficult part for all of this, so I appreciate all that. I just wanna get these other points move forward. Last thing, Mau and Associates, no one from them is on this call, they didn't speak. No one's listening in, they're not present at all currently. Is that correct?

- No.

- Okay, I don't think I have any more questions. Chair, I'll leave it up. it looks like someone's raising their hand. I'll leave it up to you to facilitate that.

- Okay, thanks Tommy. Was there someone else? Did you care to speak?

- I'd like to speak, Chair.

- Yes, please.

- This is James went again from 1711 Deckner. If you drive down Decker Avenue, I don't believe all these things about setbacks and stuff, what he's talking about, like the church on the corner. If you drive directly down the road there is not a house halfway in somebody else's yard. So if this passes, I'd like to get a variance. And I'd like to build my garage halfway to the street.

- Okay, honey, chill now.

- You might run into a different variance requirement but I take it-

- You know what I mean?

- I take your point.

- I mean, this is almost ridiculous.

- Okay, .

- No, it's just like very easy.

- We're pretty familiar with that, thank you, sir. I'd like to hear from Tom or Jim.

- I've got a question on the house that was taken down, and I guess I got two questions. One, is what is the setback exactly on this street for the front?

- Paul you wanna weigh in?

- Sure so the question has to do with the former structure that was on the property?

- No, wait, I guess I... What is the existing setback right now for that street, for the front of the building that's gonna be built.

- Yeah, so again, there are two vacant lots, and we're talking about 1696 at this point, right, so it's considered an infill lot. So we had existing homes in that block. The code requires that in an infill situation that an average

of the homes in that block be taken to determine the setback for the infill lot. In this case, when we look at the homes in that block, there's three of them, three singles, they're setback, almost identical. They're about 45 feet from the right-of-way line. So they're average is approximately 45 feet. So we would apply that distance to this lot as well as the adjacent lot. So we have to look at the average of the homes in that block to determine the setback for a vacant lot throughout the community, not just this site, but all vacant lots.

- Okay, thank you. So the house that was there what was the approximate setback of that before it was taken down?

- Yeah, let me take a look. I would estimate it... So I'm looking at, I didn't bring it up, but I was looking at an aerial photo from 2000 and 2005. It was removed between that time, that structure was. It approximately had a setback of 15 feet from the right-of-way line

- 15 feet, okay. So if that house were still there that would come into this equation, or was that how it was taken down, for some reason?

- I don't know the full history of the house except that it was removed again between 2000 and 2005. It would if it was standing today, yes, it would be counted as part of the calculation. Yes.

- Okay. So the fact that that house is no longer there goes to a 45-foot setback. That's why we have such a big one. and does impact

- I didn't check.

- that having a structure closer to the road, isn't new. It actually was that way some time ago, but now it's gone. So now we do have a 45-foot setback based on the existing buildings.

- Right, so I'm gonna speculate that that structure was probably the oldest one in the block possibly. The other three homes that are standing were built in, what was it, '28, '38, and '51. So they're quite old for that, but I suspect that the one that was removed was even older than that. So again, I think that, you know, that's the reason why we have those setbacks as to why the code requires that to have some consistency in a neighborhood where maybe there isn't consistency, we need to take the average.

- Okay, and I just wanna make sure we're looking at everything here because we've been kind of walking down a narrow hallway here, in a sense. Hey, can you show the plan view of that street? Because it looks like to me across the street, it's a different deal. So we don't have to be concerned what the setback is on the other side of the street we're looking at just the south side of the street.

- Correct, so when we looked at,

- Okay.

- at the infill situation we're looking at the south side of Deckner Avenue between Henry and Main Street. In this case we only have three single, or three residential homes.

- Okay.

- So that counted toward calculation. As far as the church,

- Okay.

- that's in residential use. It's set back

- Okay.

- approximately 34 feet if it was to be considered. But when we do the calculation we're looking at like properties.

- Okay, that's very helpful. Thank you, Paul.

- I have a question. I have a question. With Habitat for Humanity homes, does the ownership always stay with Habitat for Humanity, in terms of that property? Or does, somehow, it get transferred? I mean, how does that work with the people who reside there, do they take ownership? I just want a little background on that.

- Within 30 days-

- Cora, do you know that? Okay.

- Within 30 days of that order that, the handing over the keys mortgage starts. Habitat provides an interest free mortgage.

- I understand, but are they the title owners? Do they hold the deed to the property?

- Yes, we have a hold on the deed, we're the second title holder, but yes, the deed is in their name.

- Okay. Okay, so are they, I mean, they're the applicants of this variance or are you?

- We are.

- Okay? They're not the homeowner. We own the property until it's turned up, until we go and we go to the title company and turn it over to them it's ours. And,

- Okay.

- then we start paying taxes.

- It's kind of unique situation...

- Very unique situation.

- Yeah.

- That's why we're so successful. We give him a hand up, not a hand out, and they pay taxes, just like everybody else.

- Right.

- Mr. Hoy, we haven't heard from you yet. Do you have any questions or concerns? I'm a little stunned by all the happenings. I've been on the board for close to 10 years. Never been to an emergency meeting before. And with remarks made, and Cora I can't see your last name, so I'll use your first name. In regards to her comment of not having an attorney present. I'm wondering, do we need to move it down another week? And if they feel that an attorney is appropriate to indeed make a doctor and level playing field. I'm gonna make the comment that I'm the person who wrote the DNR. I in regarding the setback from a creek because I wanted pretty much to just get the scoop straight from a DNR in regards to Mr. Foeller's comment of being a contractor, and being aware of things like that. I just wanted to be sure we were on the straight and narrow, and not expose Paul to any second guessing. And we've got the answer from the DNR. I almost think we need

to allow them an attorney, I really do. I don't, I'd step in on that Tom. And that the board of appeals does not have... Let me see. You're proposing that there's two parties here. What we got was the type of of legal advice that the board is always able to get from the city attorney that is a given. They are in the same position with regard to us, and this decision is let's call it. So I don't necessarily agree with the applicant that they're at a disadvantage, and that somehow the city has an attorney, and they don't.

- Don, can I step in.

- Yes, please do Greg.

- You know, being an attorney myself I would agree with Don, Tom, sorry, that I would like to see a legal argument on it, to be honest with you, and to see if there is an attorney that can come here and provide some legal arguments with the facts, because I think we would be... And just to allow them to have a week. I don't think that's, you know, given her concern. I think they should have that opportunity, to be honest with you, because if I were to vote today looking at just the factors I would say no, but you know, if they have some legal counsel that can assist them to provide it in a certain way, maybe I would have a different position. And so I would agree with Tom, that if it was my vote today, I would side with let's let a little advice in and potentially have someone here to advocate their position.

- I'm amenable to that.

- May I ask a question that maybe kind of folds into this? I'm not for or against another week. I guess where I'm confused that we give another week is what happened in the last two weeks. This is exactly what we did prior is we punted for 90 days so that there could be, you know, legal counsel, there could be conversations with the city. If I'm being honest I haven't seen a new piece of evidence provided. I mean, we're having the same conversation we had prior. I was ready to vote, then I'm ready to vote now. But I just wonder if we give another week, you know, what happened in the last two weeks? I guess that hasn't been clarified to me at all in terms of who was discussing what, did it go to council? I haven't heard that yet. So I'm super confused as to why we're back here two weeks from now, except for we get it going.

- I guess, Tommy, my thought is maybe there's something that hasn't been explored yet that would fit into the factors that maybe that they would present to us that would change the outcome. I don't know, maybe not, but I think at least that affords them the opportunity from my perspective.

- Jim, Tom, you know what Tom thinks. You know what Tommy's kind of in there somewhere. What do you think, Jim?

- Well, I respect Greg's counsel on this. I think I as well, respect Tom and Tommy's. I guess it's a tough nut. And if the vote is no, I almost feel obligated as a board to have a side note where it... We're putting the onus now on the applicant to go forward and somehow make this work, money-wise. I don't know what that is. I'm talking out loud. If we vote, yes, then they're fine. They can go gangbusters but the whole neighborhood's gonna be kind of upset, and both things are kind of upsetting. So we're gonna have to make a tough call on this one. It's just what we do, but I don't know. Is there a structure, if there's a no vote can we make a recommendation or can that be made during the vote with regard to a monetary something to help the applicant, if it's a no vote?

- Mr. Chair?

- Before we answer your question, Jim, I think we'll hear from Mather.

- Okay.

- So I wanted to address a couple issues, and I will also answer your question, Jim. First of all, just to underscore what Mr. Chairman said, my role here is an advisor to the board. I am not here or to the city. There aren't, like, it's not an adversarial proceeding. So my role truly is to advise the board. If it would make the, obviously it's the board's decision, but if there's been any suggestion by any city staff that an attorney was not needed, we always want anyone who's coming before any board or for any proceeding like this, to know that they are always free to bring their own legal counsel, no matter what their interaction with the city is going to be. And I certainly don't want it to, don't want any kind of discouragement on that account to have come from the city. And I don't know anything about that interaction. I wasn't in on that meeting. My other comment was to Tommy's question, the city, historically the city's policy has been not to take a position in support against a variance. That is something that is within the purview of this board. And so if city staff were to get involved in trying to mediate some sort of intermediary solution it would essentially be the city taking sides. And that's not that the city will do at this juncture because it's entirely up to the board whether to grant the variance. And we can't have any suggestion that we're taking a position on this variance, but we don't take any position on other variances. So we're not treating people equally or anything like that. So I just wanted to-

- Can I just comment- Can I just comment on that? 'Cause my impression, and again, I just want clarification, this is a tough decision for everybody. I just wanna make sure I'm clear eyes, full heart, right? Like I felt like we left it because there needed to be some alternatives discussed between resolution, and our hope was within 90 days the parties that are involved could have a conversation, and it would get resolved in a way that we didn't have to be in, you know, in this position, I think is what we were doing.

- I don't-

- To clarify, if you are saying, look the city's position is we're not there yet, let's deal with the variance first, then I'm clear, and I understand why we're back here.

- So ultimately what it comes down to is that the variance is necessary regardless of any other attempted solution that the variance would still be necessary. Otherwise the property would not be compliant with the zoning code. So while it was the intention to look for additional alternatives, when we met as a staff, and we really dug into this, the only options really are for them to either get the variance, or not get the variance, and go from there. And with respect to, the suggestion has been made, I believe at the last meeting. I think somebody might've mentioned it about this potentially going to council. This is not something that's within council's jurisdiction. That'll be under the board's jurisdiction, is whether or not the property is compliant with the, is going to be permitted to have a variance from the zoning code. Your decisions are not sent to council for appeal, or review or anything like that. And therefore it is entirely in your hands to make the decision. And I do understand that's not a place that you may want to be. Also along those same lines, it would not be, if you do hold the item it would not be appropriate to make any suggestions as to potential actions that the city should take. The board's jurisdiction extends only to, in this particular situation, extends only to whether or not to grant the variance. Any the other action taken by the city is not something or suggested to be taken by the city is not something that falls within this this board's jurisdiction.

- Yeah, I think that answers you.

- Oh, okay.

- Yeah, just to weigh in here,

- Hear me.

- we are allowed to make qualifications to a decision but I sure wouldn't want us to audience of who is at fault and who isn't. And how this should be dealt with in any way. I would like to restrict our decision to the variance requests that we have before us. I think Greg has brought up an interesting thought and before we go

too much further we should hear from the applicant. Do they wish to have us delay to some extent and allow you time to prepare, to get an attorney to present an opinion or an argument to us?

- I can just speak first of all, Lindsay, please tell them about it. I don't know, and to all of the people that are attending here, I take this personally at times and I need to step back from it because I'm fighting for my family. So I respect the fact that you're here being here because you're supposed to be representing them as legal counsel, and that's understandable, and I'm not, like we didn't get to bring that to her. So if I came off like that,

- Not at all.

- I apologize. But at this point, I'm gonna need to take a step back, and I'm really feeling that we do need to get legal counsel because right now I don't feel our organization did anything wrong. And I cannot afford to absorb this 150+ loss that I'm going to take on this. So I'm gonna ask that we do, and I respect Mr. Babcock's suggestion that we do because I'm gonna go have to find, I'm gonna need a lawyer. We're gonna need a lawyer, and we're not gonna find it in a week.

- Yes, Alder Dorff?

- Cora, let me just say something. At some point, you might need a lawyer, you might. I'm not sure this is the point where you need a lawyer. That what happens here is not necessarily the end. I hope they're gonna say yes but that's just me, you know, and then everything is great. But if they say, no, it's not the end. There is a step, perhaps Attorney Mather could explain what other steps there might be.

- That would be appreciated.

- Absolutely, so if the allegation is that the city is at fault then the Habitat can file a claim against the city, and that would go through our Claims Committee. And that step has to be taken before any legal action can be started. But I believe that there is a dollar amount limit as to what our Claims Committee has the authority to if the damages exceed that amount, it may go to... Barb, do you ever

- We'll get court

- get these in finance? Do you ever get these in finance?

- We get the claims. We get claims

- Okay.

- and at that level, that would go to finance. And 50,000 is

- Yip. my understanding of this. That does not mean...

- Yeah.

- That means that the city can do at that level. That does not mean then that that's the end. Then my understanding is

- Yeah.

- Circuit Court take it to

- You could take it to Circuit Court, correct.

- This is next. So this is just... Like I really feel that a decision should be made so that because this is gonna be horrible to wait two weeks and then come back here. We will be no further than we were. I too, Tommy, understood that the staff was gonna go out and they were gonna find it. And there was gonna be ideas and shrubbery, things like that. No, then found out they couldn't do that. Nobody did that. There wasn't that. Alders tried to talk to people, a pastor I know, tried to talk to people, but what you expect, what I expected to happen too at this meeting, that didn't happen. And in addition, this doesn't go, if we go to council, it doesn't, it's just on you guys. So I'm gonna just pray for a good outcome here, and then if there's not, hopefully move to the next level. That's my opinion, thank you.

- Thank you.

- Hi. I was just suggesting the attorney they'll allow them... I mean, my suggestion only is, it would put me in a better position to make the best decision as a board. And just because this is not the final stop, I take the job, you know, I wanna do the right thing. So, and make sure I have everything in front of me to make an informed decision. And if we're voting today, I feel like maybe I wasn't gonna vote based on all the facts, and maybe this is all the facts, I don't know. I mean, maybe there's more to it that hasn't been explored, and I don't wanna cut it short because I feel it's like it's too important of a decision. So that's where I'm at.

- At this point to move us forward, Greg, Grant, and somebody why don't we vote on whether or not we're going to step back and allow the applicant to get an attorney to make a case to us?

- I think, can I ask? 'Cause I think there was some clarification questions. I think we did a good job of asking like those steps and Alderman Dorff, like walk through. But did any of those questions change your mind, in terms of asking for that request? Because at first it was, and then there was clarification questions in terms of steps. Are you still in that same position? That would be to Cora? Is that something you want to delay? 'Cause if after those clarification questions, or the advice from the aldermen, are you still in a position where you're saying, yes, that is something that you are requesting whether it be a granted or not? Is that something that you're asking for still, or, no, you'd rather have a decision tonight?

- You know, I'm just, you know, last time I read in your note this, you know, is kind of like above your pay grade. I got a board to report to, and I'm wondering if this is, you know, I don't mean to make light of this but I guess I look, and I look at Barb and what she said, either way, I'm gonna. I mean, right now I can tell you other than the fact that I see, we're kind of looking at Mau as somebody that may have been our, you know, our hiccup, and we don't want to talk about fault and that every one of our home in three years has been the hands of Mau and made those decisions for us. And the errors in, you know, wherever it was we got our permit in November and today is in, you know, it's April and the house has got a foundation and a footing, and it's got a home. We came to the meeting with talking about moving the home and what it would cost, so. I'm confused as to now I think, you know, if we vote, I think farther ahead if you vote, but I know what way I have to go. I'm almost thinking that and I, I gotta text into my because I'm confused. I guess I don't...

- I detect Alder Stevens would like to speak.

- Chairman, please.

- Please do.

- Listening to everybody, there's one piece of this puzzle that we're missing Mau Associates. I don't think they're on this call. Wouldn't it be permutive for us to have a conversation with them as well?

- I can answer that.

- I can say that that is-

- if that's okay?

- Okay.

- That would be... Really not... That would go more to the question of liability and who's actually liable for whatever mistake was made, and not necessarily to the question of whether or not the variance should be granted.

- Like I think I would add is that I think the goal of this is that, you know, the applicant presents a case based on the facts, you know, that are about the property. And if they wanna bring their facts or, you know, "Hey, here's this person," but if Mau's not on the call, I wouldn't move the meeting a week to then wait for her Mau, because that's part of, you know, the fact digging and and presenting a case to us as the board, so we have everything we can to listen to all parties, neighbors, community members, alderman, people involved. And so this is the second time we're hearing it, you know? And there was two weeks to better prepare for this meeting, and we're in the same spot, I feel.

- Yeah, let me say this. We, we seem to have wandered off into this issue that we need to wait and let the applicant have a chance to discuss things and present a better case. I haven't had a motion or a second yet that we should do that. And if I don't get one, I'd like to move on.

- Do you see any call coming in? There's a gentleman that's trying to call in. Do you see the number that as we're running this?

- I don't see anyone at this point, if they do call in, we'll admit them right away.

- The green phone was Alderperson Stevens.

- Oh, okay.

- Was easily identifiable because he has feedback, chirps. I don't believe there's an extra person that wants to get in on the call. Let me make sure we're clear. We've got, and this I'm directing to the board. We have a suggestion that we should consider delaying and allowing the time to present a case. The applicant has argued that they're not sure, and they're not convinced, and they're, and then if I can put words in your mouth, Cora, I don't believe you're looking hard to get us to make you get an attorney, at this point.

- Well, I think I have to ask for one now because I'm simply at the point where we just don't understand the ramifications of what it is. And I can't sit for six, eight months with those two lots and those families. So they have money invested, I think I would come back to you with legal counsel, present my case, if I can.

- Mr. Chair.

- but now Lindsay says I can't then.

- Well, the whole thing is, the whole discussion here is predicated on us saying you don't get the variance. If you get the variance if we say you get the variance, the Foellers and some of the other people may have the same kind of concerns, but you had been, you wouldn't be the one defending the variance, in that case. If we say that you get the variance, and the Foellers then take us to court, then the city has to get involved with defending the decision that the board made.

- Okay.

- I don't know if that's something we really wanna get into but that's kind of where this goes but we do have a good issue here that I want to address. And if there's not a motion and a second for us to even vote on the

question that has come up regarding a delay, then I think we should move along. I like to withdraw on suggestion for additional counsel.

- I'll make it up. I wanna make a motion for delay for counsel. And the reason being is I think it will be very, very for our board to have the assistance, in this particular case it's a unique property. And in dealing with the Habitat for Humanity property where we have some sort of transfer ownership, which was talked about a little bit at the meeting. And so, you know, we have the owner being Habitat, but at some point it becomes these property owners who are gonna be kind of left in the dust. If this is not approved. So there's some exceptional circumstances that are one of the factors we've got to consider, but then also some of these other factors maybe lean towards not approving, and so there's a mix. I don't know, you know, I don't know which way I would wanna vote because of that. If this was a different situation, and not Habitat, I think it would be a little more clear cut but I would move that we get some assistance from legal counsel on this, you know, that Habitat have the opportunity to do that.

- Can I offer a, a different point of view on that? Or we need you to kind of have a second on your first? Because I don't think, and again correct me if I'm wrong, Don, we should be delaying so specifically for legal counsel. We can make a decision to delay a week, and they can bolster their case however they choose, you know, but for us to say, "Hey, we're delaying for legal counsel. "I don't think is within our purview."

- Oh yeah, it would be. This would be a decision that we could make

- Specifically for them to go get legal counsel, or just, "Hey we'll see you in a week, "come present a different case."

- We'd be saying, I believe we're gonna delay consideration on this to allow you time to bolster your case, if you believe it's necessary.

- I think that's a point of distinction in the motion, that's all.

- We have a motion, do we have a second? Hearing none, I guess we'll proceed with the vote. At this point, we would proceed with the vote, if we have a motion to approve or disapprove the variance being presented to us.

- May I make a quick statement? We have two agenda items. I do not personally see the second is the same as the first, because of the shape of the lot, because of the physicalness of that lot. So I just wanna make sure that there are only one right now?

- That is correct.

- Okay. But I will need a motion and a second for us to even vote on the first one.

- I make a motion to deny.

- Do I have a second.

- I will in a second though, hold on. Can I I don't want to gum up the system and delay this process anymore, but I think Jim brings up an interesting point, as a question for you, Paul. And again, it doesn't matter in some schemes. So I just wanna again theory a bit of this out real quick. I would tend to lean towards what Jim is saying, and if we change the agenda items, okay, and we let's say we did approve a variance for a setback there, would that setback immediately be calculated into the overall setback? And at that point, would that then change where if, if and where the house needs to move, or change what's going on? So that's a question for Paul before anybody else jumps in. If we made a variance approval for that one does that immediately, based on approval, go into the overall setback of the 45, does that impact that?

- I would like an easier question. So, yes, I think it would. I mean, officially the variance doesn't kick in for like 30 days, but yes, we would consider that in the calculation. Again, there's not a precedent either. I mean, they're both independent requests, and should be treated as such, and both lots are buildable, It just comes down to design. But I wouldn't count that, yes.

- Yeah-

- And I'm asking these questions because I might make a different motion here.

- If I may interject, you know, I think you've heard from multiple people, the neighborhood, and the people, the direct neighbor right next door, I mean, just this isn't fair. I just have to speak on their behalf. It's-

- Yeah. I think we should make a, and I thank you for the comments, but I think we've heard, like I don't know if we need to close the floor. or whatever, but I understand the situation we're in. We're trying to get to a resolution. I understand neighbors are upset. I know and understand Habitat for Humanity is upset. There's a lot going on. To go back and rehash, I think we're trying to move forward. So I appreciate it. But for me, I'm trying to figure out step one, step two. If we go to step two, Jim brings up a great point. That property is very unique, and the property fits within what I deem is a hardship different. And if that one gets approved at whatever distance that should go into the calculation and might change future decisions, and it might even change the decision we're making right now. We might approve a 30-yard setback or a 35-yard setback because the average changes. Now, whether they wanna move their building or not, you know, five feet, the economics of that, isn't our job. We shouldn't decide based on economics.

- I think-

- So-

- I think-

- I'm wondering if we wanna take option two up first, make a decision there, and then come back and vote on this one. I mean, I don't know where the board's at with that, but that's interesting to me.

- Let's not... Right, I mean, the ordinance doesn't refer to properties that may yet be constructed in termination of this setback that we're supposed to look at.

- Okay, however, if the agenda was put together two alert was first then one, we would be in a different position, and we miss the opportunity to change the agenda earlier on. So I don't wanna-

- 60. 1696 is the first one on the agenda, isn't it, Paul

- But if the agenda was put together

- Yes.

- with 1692 first we'd be discussing that one, and we'd be making decisions. And that decision would directly impact the next thing on the agenda.

- I think we're getting caught up in our socks here.

- 1692 is first on my agenda here.

- We know the situation, and I-

- Well.

- Let's make sure you're voting the right property, but Tommy doing a quick calc. If we went with 25 feet on the second one or then we might approve,

- Yeah.

- then the setback would be 40 feet, an average of the four lots then. So we would not be vastly improve it.

- We'd be in the same boat.

- Yeah.

- So, what about the church?

- Of the church,

- We-

- the church setback?

- It's not a residence.

- It's not a residence.

- Yeah, and just a point of clarification, I checked the agenda item one is 1696. Item two is 1692.

- Yeah.

- So just so you know. I just thought I'd throw it out there again. It's something we can talk about. I make a motion. I can make a motion if I don't get a second, that's fine. I make a motion to change the agenda order, and pause where we're at, and discuss the other one, and make a mote on that one, and then come back to this one, that's my motion.

- Well, you can't make a motion. We've still got Mr. Hoy's motion to consider. And if I don't get

- Dang.

- a second, then we'll get to yours. Hot dang it.

- I'm still waiting for a second to Tom's motion. Tom made a motion to deny.

- I think I'm gonna have to second it, and just based on today, and where we're at. And if I had to vote today based on the factors, and what's been presented, and lack of hardship, and based on mainly financial, and the ability to still use that lot this is not something I wanna be in a position in. I feel terrible, but, for today that's the way I'd vote. And I would much prefer that to give the Habitat an opportunity to have more time but that's not what anyone else wants to do. So I'll second it.

- Okay, we have a motion made and seconded to deny the variance request for the 1696 property. I would like each of us when we give our vote, and I'm gonna call according to the counterclockwise motion on my screen, I'm gonna call on each of you to give a reason why you are voting yes or no. This is important. As I've mentioned to you before I'm not looking for unanimity. I'm just trying to make sure we don't get reversed. We

have to have a good reason, and we have to explain our reasons why we're voting the way we are. Greg already started a little bit, but since Tom introduced the motion, and we now have a motion made and seconded before us to deny. I'll let Tom explain what his vote is and why. Tom-

- Tom, I think you're muted.

- Your vote, you're muted.

- I voted to deny the variance on two reasons. And the first goes to preservation of intent. I do believe that the variance would be inconsistent with the spirit, purpose, and intent of the regulations within a district. Particularly with the existing setbacks of the current neighborhood. That to me it gives me a flavor for what exactly the spirit, purpose, and intent of that setback is. In addition, folks brought up the comment in regards to the realtors. And this is probably, I guess, in attorney land hearsay that it would create a detriment in regards to the property values to the adjacent property. And that would be, I think, pretty clear, or in reference to having a house situated where it is. I also do see the denial is a pathway for the folks at Habitat to find some sort of path to move it back. So those are my two reasons.

- Okay, thank you, Tom.

- I'm up.

- Tommy, you're next.

- I'm gonna vote to deny as much as that is a difficult decision. And I know that impacts not just the neighbors in this area but Habitat for Humanity, and the spirit of what they wanna do. It's a horrible situation. My reasoning, I agree with some of my colleagues, and what they've said, but I also wanna go back to the application. We spent a lot of time working on this application based on our training we went through. And in order to approve a variance the applicant must demonstrate a three-step test. And the three-step test is does the unique physical character does it prevent the compliance with the ordinance? And when I ask that question, it sounded like there is, there's alternative solutions regardless of how it happened, or whatever, that property can be built correctly, and fit within the current zoning. Would granting the variance be contrary to public interest. I think it's been demonstrated, you know, the public interest expressed itself. It's not a great situation. And the public interest is not in favor of what's happening right now. So that it doesn't pass that one. And in order for it to pass, it needs to pass all three. I don't feel that a case has been presented to, for those two, again, recognizing how difficult the situation is. And then step three is, why would not getting a variance unreasonably prevent you from using the property for permitted purpose. And I don't think that's been demonstrated. Again, the reasons why on the application are financial hardship, and where we're at within the process. And again, whether I agree with that or not, it's not within my purview to vote on that. The three-step process has to be all three, and I don't think any of the three at this point has been presented to me in a way that I understand. Again, those comments are not reflective of how horrible this situation is. It's more of the property and there's solve.

- Thank you, Tommy, Greg.

- Yes, I'd say some of the reasons before, but, I mean, clearly the public interest is affected with the neighboring properties, or the neighborhood is not in support of it, and that's a huge factor in the way that the property is going to look, and so forth, and how the neighbors are gonna feel about it. This is a very tough decision. The thing that just, you know, makes me hesitant is Habitat for Humanity family. And so, you know, that is an exceptional circumstance in my mind, but it doesn't overrun the other factors that say to me that this should be no. You know, the public interest, they're fighting mostly financial concerns that I get where the Habitat's coming from on, you know, this is, you know, we rely on these people and they're supposed to do this. And yeah, and we're just following this, and all of a sudden this happens and we're not at fault, you know. And the swallowing, and maybe there's some, you know, something outside of this from them, you know. But

when we look at it just from a variance standpoint what we gotta follow it's an unfortunate way to come down but I think that's the way it has to come down, just based on what we need to follow. Yeah, it's just a, it's a terrible situation. Which there could be a different alternative, but I just don't see how there is based on what standards we need to follow.

- Thank you, Greg, Jim? I'm going to vote Yae, or no to the application, to that proposal, right. And I vote as a no, is that correct?

- That's a great point because the application is denied. So I wanna be clear. My vote is a yes to deny.

- Very good.

- Yeah, that was a great, good call out, Jim. So to clarify, without rehashing my comments I'll say yes to deny.

- Okay.

- Okay.

- It makes me sick to my stomach, I'm gonna would vote yes to deny because they did nothing wrong, and I would vote no to this, if the overwhelming neighborhood presence wasn't such as it is. But I'm going to vote aye or no to the application.

- Thank you, Jim

- My consideration on this is what would be my decision, and if I were presented with this variance request without there being a house built already. If this were just a vacant two vacant lots, and the first one was coming before us with the variance request that the house be at 25 feet instead of 40, I think that we would say, that I would have no problem saying no to that request on the basis that we would have we, knowing what we know from the applicant at this point, and knowing what the ordinance says, and knowing what the burden that is on us to defend our decision, there would be no way if this were not the fait accompli that had already is, to say yes to a variance request on to bare lots, in my opinion. Secondly, it seems to me that this is so obvious and so obvious and just by driving by that something isn't right here, that I think there was a slight burden on the applicant to somehow double check. And I just don't see the reasons that have been presented to us tonight to be sufficient, to overcome the requirement of the ordinance that we obey the setback rule on this case. So I hear, and if I'm not right here, correct me guys, but I hear a five zero that we are unanimous in our decision to deny the variance request for 1696? And now we move forward to 1692. I would be interested to hear from my own board members if in light of what you, we have just decided, with a unanimous vote to deny the variance on 1696, if we can do anything else but deny it on 1692. I'm raising it this way because I don't want us to get bogged down in a bunch of discussion that ends up being unnecessary.

- Right, my viewpoint is done that it's a separate issue. The shape is different. The physicality is different. And my view on that property is different than my vote that I just took.

- Very good, I appreciate your comment.

- I would concur with that, While I do have some questions about this application.

- Okay, well, let's let Paul remind us exactly what our decision on 1692 is. and what the issue is regarding the variance.

- Sure, I mean, we haven't presented this one though, before, correct, this is brand new? This is new business. This is not an appeal.

- This is new.

- This is new, yes. Right, so, you know, after our discussions with Habitat last week, and the time sensitivity to the second lot we encouraged them to apply and take this again as kind of a sister request. So this is the property that's to the west. It's the triangular piece, I have 1692. And which did at one point have a former single family home up in this corner here. As I mentioned before, that was set back approximately 15 feet. This is a site plan that was provided as part of the application, much like the other adjoining lot. The setback is set at 25 feet here because of the triangular nature of the lot, obviously your setback's kind of mirror that. And when we look at the rear yard setback we have an issue there as well, where we have right now a 21-foot setback from that rear property line. So the variance request is two-fold, same section of the code, but a two-fold with the front yard setback, again, with the averaging of the homes in that block, and applying that to this lot but due to the placement of the home here, again, in its footprint that there is also a need for a step back on the rear yard of four feet from the required 25-foot rear yard setback. Again, I have examples of the adjacent lots, but that is the request before you, again.

- Paul, I've asked this before, but maybe you can help me clarify. Were these one lot originally, or were there always two lots here?

- I suspect they were two individual lots. I don't, I mean, we didn't do research on that from a staff perspective, but I think they've been two lots for some time. Maybe the applicant can speak to when they acquired them. But I think they were most likely two lots, but I think that's the case.

- Okay, so they've always been independent. They weren't a large lot split in two to provide extra development.

- At least not recently, no. Again, we'd have to go back and research that but based on the size of the lots I think those might be original lot sizes.

- So Paul, if we had been presented with this without a house built on 1696. If 1696 was vacant, how would that, or would that affect the way that the calculation is made for 1692?

- I don't think it would have affected the calculation. I think it would have been identical. So we would apply that same 45-foot front yard setback.

- Okay, so the fact that you're not taking a spatial consideration into effect, if I'm far enough away, I can get away with 25 feet, that isn't what comes in here.

- Not necessarily, I mean, each case is unique, when we see these infill lots come forward at a staff level. Sometimes we find blocks that are 900 or 1200-feet long. It's maybe not relevant to go all the way down the block but in this case there was a good sampling of homes that we have. So those are all reference points, those three existing homes.

- Now I'll ask the applicant a question. Without these, you need both of these variances, is that correct for a house on this lot?

- Correct. So am I fair in saying that without these variances the two it's not buildable?

- Correct.

- Paul, there was a house on 1692, correct? And you've already explained that it was 15 feet away?

- Correct, yes.

- Let's stipulate that it's 15 feet, well less than 25. If I were to acquire lot 1692 and base my judgment to you or my argument to you on what was there before, and the fact that the city had essentially allowed this lot to exist, would I have any to you? And I realize I'm putting you in a horrible position but trying to draw out the city's concern, or the city's interest, or the city's predetermination of the validity of a lot based on what was there before, and how long it has been an independent lot. Because it gets to the point of whether or not the owner of 1692 then has damn good reason to it that that's a buildable lot. And therefore he has some owners rights and expectations that this board needs to consider regarding that lot.

- I think I get asked that question almost monthly. You know, is a lot buildable, and my typical response is yes. You know, when I look at lots, even lots that are maybe, you know, 3000, 4,000, 5,000 square feet in size. Sometimes they may need a variance, but in many cases they are buildable in the sense that it comes down to the design, and there are some limiting factors on setbacks, and with some homes and so forth. But in many cases they are a buildable. I think, you know, what was there previously? I don't know, like from a staff perspective, I don't know if it's relevant. I think the slate's been wiped clean, so to speak, that it's now an infill lot. I think the home that was there was built under some standards at that time that could have been 70, 80, a 100 years ago, which, you know, we barely had zoning requirements at that time. So I think the challenge with anytime with the zoning code is matching up to unique situations. And then obviously the board sees a lot of those, right? So, again, I believe the lot's buildable. It comes down to design, but I wanna give consideration to what was there previously, I think that's a moot point that's in the past.

- Okay, I have a question for, and I'm gonna pose it to Alder Dorff, since she's the only one who is still on board here, at least as far as I can tell. The city-

- Alder .

- Well, Alder Stevens

- Alder Stevens is still here.

- is still there.

- Is still here.

- Oh, I'm sorry.

- Right.

- Well, let me raise my question to the both of you. The city has, I know in the past purchased lots at various places in the city, because I assume they believe that there was no feasible development of those lots.

- Many times when we purchase a lot, it's because the taxes have been paid, and we get a good deal on the lot. And then sometimes we sell them to places like Habitat 'cause they can build on them

- Okay.

- Yes, that's one reason I know that we purchase lots. Paul is nodding his head. So I got that right, all right.

- Okay, Alder Stevens if you care to comment further on that?

- You muted yourself, Alder Stevens.

- Yes.

- Do you wanna comment further?
- There you go.
- Oh, there you go. I agree with Alder Dorff.
- Okay.
- Okay, so the city is not... Let me, maybe, it's my misinterpretation. The city's not in the business of acquiring lots to create some new green space, are they? Have they ever gotten that?
- Not for the most part? Unless there was a planned development, you know, adjacent to a park or something. The city is in the business to keep taxes as low as possible. That's one of our businesses.
- Right!
- So I don't know that we just acquire lots for green space but Paul might have a different point of view.
- Well, sure, certainly when they're related to park purposes, but this is not a park cave.
- Right. And I think Alder Dorff is correct. Sometimes we acquire lots. We get them on a fire sale, so to speak, or tax foreclosure, because they're just remnant personal, or they go tax delinquent. I don't think that's the case here. I think these are viable lots but we have partnered with Habitat in the past. And they've been a very good partner in situations like this, where they can get maybe a smaller home on a lot to provide housing for a family.
- Now, I've got a question for Cora. I apologize to refer to you as so familiarly, but I do have a hard time saying your name without making a mistake. So, if you could explain to me the, interest that Habitat has in developing this lot, and why you've gone to the point of trying to develop this lot?
- Because I have a long list of homeowners that are willing to take this lot. I take lots and I average out every lot I buy whether I get them for these lots for \$18,000, or whether I get them for \$5,000. I have a waiting list of families, up to 10 to 12 a year, waiting for a lot that we actually, we vet out these families quite heavily. We get 50 to 75 applicants at a time, every six months. So we take lots, our lot size, and Nate, I know the only thing I'm pretty sure. I know we have to foot. And about a 50 foot to 75 foot sidewalk on the back wall, or the sidewalk. I know I can't look at a lot if it doesn't have 50 foot of frontage, 'cause Nate would not be able to build on that lot. We build all over the city. We build in Howard, we have 132 homes to date, and put over \$13 million back in the tax base, average of \$250,000 a year at the taxes. So when you say people, the people I serve are low to moderate income families that can afford a house. And in three years, we've had four foreclosures. I pay the taxes. All the SLO comes here. I go to the courthouse twice a year and pay their taxes, so they never miss they're never late. As garbage payment if they had done something wrong. The city bills us, I take care of it, and it comes off their mortgage. We are the best neighbor. And in every plot we go in we improve the value, and I will stand behind that statement. If you look at the corner of Walnut and Baird, if you go down the street on Western, Western Avenue by Notre Dame, Notre Dame High School. Put seven homes up on that street in the last two years. The value of that neighborhood in those homes have increased by five to 7% on a neighborhood that had some pretty sad apartment buildings on it. So I think Don, I hope I answered your question. We will build wherever we can fit a home in, and we feel comfortable putting in the neighborhood. We have people that want to live exactly where that corner is.
- Thank you. We'll turn it over to Tom, Tommy, Greg, Jim, further questions?
- I've got-

- A point of order though, do we hear from, 'cause it's a separate thing, do we need to hear from all the people again, I don't know. I have kids and dinner, you know what I mean? But from a meeting perspective, do we need to hear from the people on the call before we jump into our discussion?

- You know, what Tommy I'd rather not do that. And in all-

- Okay.

- in all due respect to the property owners that may be still on in the area. I don't want to put them in the spot of potentially being the people or the factor that causes us to approve or disapprove because they have to live with the neighbors, have to deal with this in the future. And it's really not up to us all of the property owners in the area to try to get an attitude on what this all means. So that's a long-winded answer. If you wish to... If there's a feeling of the board that it's dipped from that I'm certainly amenable to changing my mind, but I think we've heard enough, and know enough about the interests of the neighbors for 1696 to the extent that it applies to 1692 as well.

- One comment on that, I can tell you that I have diverse families going in there, and that will also reflect on the notes as well because whether they're Spanish, whether they're Latino or whether they're American, or Black, we cover every spectrum, and go on record in saying that. And I mean, I know there was a point about Spanish neighbors or I just wanna go on record in saying we have a diverse family that's set to go in, was set to go in 1696.

- All right, but we're trying to keep it to 1692, but I appreciate your comment.

- So I can go first. So I'm gonna ask you similar questions to before. So when the design... Was this designed submitted at the same time to Mau as 1696? I know we're not talking about 1696, but for me, I can clarify why I wanna know.

- Yes, they were. So the design was built based

- Yes.

- on an assumption that was already done incorrectly. Correct?

- I can't speak, I don't know. I mean, I don't wanna-

- Well, we had said earlier on the previous one that they, Mau, what was said was well 25 is a fairly common thing, and so that's why we didn't question it, or whatever. So my concern right now is that this is gonna, if they were designed at the same time one of the questions on the application is have there been any alternative designs that would be considered? And we see so many people skip over that. And for me, it helps me make a decision, when I say, wow, they really have looked at here's the design that they came up with, it doesn't work, or here's a design that does work but there's a different, and here's why we landed on this design. And right now in the application, I don't see that at all. I look at the design of the house. I'm not a home builder, but I look at it and go, oh, I can make a case to move that house back 40 feet. And 40 feet is easier for me to approve then, you know, 25, but I'm not a home builder. So that's where I would say, you know, has Mau put together alternative layouts or plans to make this less dramatic. And my guess is, and on 25 feet, I wonder if you went back to them and said, "Hey, we have to get as close to 45 feet as possible. "What can we design here?" And I would be more apt to then listen to a case 'cause I don't see an alternative plan.

- So as it sits right now, we would need a variance for the rear yard setback as the house is. So we're at 21 feet, I believe, to the back of the hypotenuse of the triangle. So we're centered basically where the house would need to be. If I had a different design, all of our footprints for our houses on the... Basically the footprint is 1100 square feet. That's not gonna change whether you turn it left, right, front, or back, you're still gonna

need a driveway to pull around to the back of the garage on this design. So whether or not the garage is attached, or if it's on the side of the house, there's still gonna be a need for a driveway going behind the house and a garage setback. This-

- I'm looking at a design, maybe it's the wrong one, but it goes directly from the street into a garage, not going behind. So do I have the right?

- Correct. Well, we have... How we operate, we have a family that is selected for this home. They have needs where this house meets their needs, that's why this house was chosen for this lot. It meets the family's needs. How we operate is our families select the lots, we tailor the house to their needs, and then we move forward from there.

- So you've got people lined up for 1692.

- Yes.

- In no way is that a spec?

- Nope.

- Got it, okay.

- And I just wanted to make a point now that Mr. Everman's talking about, you know, Mau does our work, but for the, I think Nate has built probably 30 to 40, maybe 50 homes with us at Habitat already. We worked very closely with the city on a regular basis, very closely, and they look over every one of our site plans. And if we ever have a problem, they give it back to us. So I wanna say, while we do pay Mau to do that. We also work closely with the city. So for us to see down the line and be surprised of this variance needed. And again, at the previous one, we were talking about it was a surprise to us. So I know we wanna keep saying that there was fault, that we don't... We do put a lot in our partnership with the city. So I just wanna say that we're not, I mean, yeah.

- I just wanna-

- Thank you.

- I'm asking you very specific questions and I'm not, I understand all of that stuff, we've already gone over all of that stuff. I get it. But what I'm hearing is a design was made based on assumption of 25 feet being okay. We've already agreed that it wasn't, and we're about to make another call on another property when there's potentially a different solve, if Mau goes back and says, "Hey, how close can you bring the family considering everything," that step hasn't been taken. And there might be a different alternative solution where now the neighbors might be more amicable, everything might be good, 'cause we're only a five foot front yard setback. It doesn't stick out 20 feet. And yeah, maybe the back is a little bit closer, but that's because the lot's cut in half. So again, on the application, it says, has heard of the proposals looked at, and I'm not hearing that there has been, is that correct?

- Alternative proposals for what?

- To make the property fit within the code. So right now

- I think- it's set at 25 feet. Has there been a conversation to say, "Hey, we realized that you can't be 25 feet. "Can we design the same home, "and maybe we're only at a five foot setback in the back, "in that back left corner, "but we're at 40 feet at the front." And now were-

- Yeah, but- the farther you go back on the property the skinnier it gets. So that's essentially as far back as we can place this house or any of the other three house designs that we have. This one fits best.

- Got it.

- Maybe I'm missing something, but, and maybe Paul, or someone else

- Can you pull up

- can help explain it.

- the sitemap?

- But there's 21 feet on the back end, and 22 feet on the left in the smallest point, correct?

- To the corner, but it gets shorter as you go back.

- Yeah, so, we're still approving a variance for the back of the building against the back setbacks. Correct?

- Correct.

- Don, that's correct. Yeah, okay.

- Yep. So instead of approving a 20 foot, what if we approved a 10 foot then we've got 11 feet back on the front, can that work?

- I'm a 100% on board with that When I submitted the billing application on March third, I said to Paul Martel, please let me know how far back you'd like us to put this house. And he said, he's just gonna table it until it goes to the board for a variance.

- Mm, so I don't know,

- So he netted for-

- who Paul is. Paul, I don't know who that is.

- Paul Martel the a building inspector that approves these plans.

- I agree, but hold on. I really just wanna slow this down. We're about to approve something, or have a debate about something that, nothing has been built on this, correct? Am I, on the new site,

- Correct.

- is that, okay.

- It's a vacant lot.

- So if we already know that we created a quagmire over here wouldn't it be best to slow down, regardless of the building inspector who is okay with what we did in the previous one that's created this bad situation to stop and say, "Hey, we need to get as close to 45 "on this because now we know, because before we didn't know. "Now we know, here's an alternative proposal." And what we'll need then for a variance is we'll need a five-yard back setback and a seven-foot side setback on this one corner. But from a street perspective, which just seems to be the issue with a lot of the building owners that are vocalizing their concerns of the previous

one being so far out. Now we're in a situation where everything is getting resolved regardless of the other property. We're in a spot where we're getting this. And that's an alternative solution that is being proposed based on new facts, and I don't see that happening right now.

- That's correct, Tommy. I'm 100% on board with setting that back to whatever requirements they ask of us, and then getting a variance for that rear yard setback. My issue is if he would have told me put it at 30 and then go for a variance. I would have done that. What he said was, "I'm tabling, take it to variance," without any solution. That what you said

- Right.

- is a great solution. I'm onboard with that a 100%.

- Okay, Paul, before I move forward, and I'm done and thank you everybody for the time. I apologize, I know it's late. Paul, is there anything that I am saying that is incorrect considering the river, and the back or side setbacks? If there was, if we wanted to make a decision tonight on this, where we propose, hey, we'll adjust the application to say, we will approve this. We've done this before, where we approved this distance from the front, and this distance from the side, which might be slightly different than the application. Is there anything that will, from a design perspective, from the river or the, that I'm not understanding?

- I don't think that, again, the trick is I didn't play here, so I don't think that's a concern. I don't know if you wanna do that on the fly or not. You might wanna consider more of a concrete design, but yeah, that's all I can really contribute, I guess.

- Those are my thoughts guys. I'll punt it up to everybody else, but I'm trying to make a highlight of I think there's some alternative solutions that gets me to a more significant yes, rather than the current proposed design. I think there's some solutions out there, and whether we decide on motion, you know, to table, or we do it tonight, I'll leave that up to discussion of the parties involved. And we tend to not try and get into the design elements but I do know time is of the essence, and we've done this in the past. So I'm open to hearing your guys' thoughts, and that's kinda where I'm at with this.

- I just wanted...

- Go ahead, Paul.

- No, I just want to clarify that, you know, we don't dictate where structures are placed. You know, we provide guidance from a zoning code perspective, generally, you know we react to proposals. So, and then beyond that we work in a collaborative fashion with the applicant. So I don't want the board to have an idea that we tell people where to put their structures. It's really what the zoning code says what we enforce.

- I'd like to, in light of what you said, Mr. Zepnick, I'm a little puzzled now. You've got three house designs that you would even consider putting on here. Correct, is that what you said?

- No for this family. This design is what we had come up with with the family, for their needs.

- Okay, okay, I misunderstood that there were only so many templates that you had to apply to a property.

- No, we based it on the number of children, how old the children are. If they have two children and their ages are less than three years apart, they share a room. If they're farther than four years apart, they can have their separate room. Everything is based on the size of the family, and the income.

- Okay.

- They don't get air conditioning unless they have a doctor's permission. I mean, it's a simple, decent, affordable home.

- Okay, before we get to my thoughts, I wanna hear from Jim, and Tom, and Greg.

- Yeah, I wanna follow up on what Tommy said. I'm totally behind what he said with regard to shifting the building south, as far as we're comfortable. And I think if this footprint is kind of set for that family, then we merely have to just move it back. Since the closer it is to the street, I think there's more angst from the neighbors, and the further we get away from the street, the better. And so I would throw out, and if the applicant is okay with it, we give that dimension in the back that we will permit. And then we would permit that remaining on the street side. So if it's 30 feet or 35 feet offset with the reduced back offset, I'm willing to go with that based on the fact that this is a weird property, it's gonna be difficult. Anyone who builds there is gonna need a variance just about. So I'm all open to that.

- Tom.

- Well, I think it's unfortunate that we have a property that is basically unbuildable without variance. I almost feel like Habitat was taken advantage of when they were presented the opportunity to buy the lot. And that doesn't sit well with me as far as that perspective goes. Paul, if you could pull up the slide with the star on it. Actually, no, the other one. That actually had a yellow star. Yeah, okay. So if you look to the far left, that's the, I think it used to be the old Ground Round right. And at the very top, there on top of that building, and you kind of draw a line from there to the residences. Yet, that's kinda like where the setback was.

- [Woman] That's long.

- Would you be able to do, you know, put your builds in there, Nate?

- [Nate] Maybe that's fine.

- If we're looking like in a, you know, basically a 35 or 40 foot setback,

- [Nate] Yeah, we can if there was a line.

- You're on mute Nate.

- Sorry.

- That's okay.

- Now, you're essentially looking at the bottom left corner of that star is where a building would approximately sit.

- You know, where the star's going horizontally, like to the street.

- Yep!

- That line in the star.

- Yep!

- Can you put your house there?

- Yes, we can, and that what I was hoping to get results from, you know, inspections when I submitted it. I just said, "Let me know how far back "you want me to put it, and we'll do it." So if you propose that we just move it back to 30 feet, we are totally on board, whatever that dimension might be.

- Well, that's my question.

- Can I just clarify on that since we're talking about that, and again it sounds like we're going down that path tonight a bit. Nate, how far, and Paul, how far can back can that structure go without... Again, right now if you took all 20 feet on the back, it would leave you with one foot on that little back angle there, and I'm assuming it would probably be a foot and a half or two feet, depending on how that triangle squares itself or skews itself down. Is that, I just wanna get to you, is that a concern? Because right now you can move the whole structure back and approve a back in the side yard setback, and not even have to deal with the front setback and get it at 45 because there's 21 feet there. And there would be a one foot gap there on the property line. But if you look at the actual physical map there is some green space there that doesn't sit on the property line. It keeps it open. You know, obviously it impacts fencing decisions, things like that, property views, but how far back is everybody comfortable?

- It has to be...

- You know, as a property owner.

- 50 feet from the high water mark of that river is where it needs to be a minimum.

- Do we know where that is?

- Not off hand, no.

- Hey, it doesn't impact the lot. The creek is maybe 80 some feet away from the property line.

- I don't think that's a problem.

- Okay, so in theory, Paul, if the applicant was okay with it that whole structure, exactly as designed, could go back 20 feet, and then all we'd be looking at, was the variance around side yard and back setback in that one corner, correct? Is that right, Paul?

- I think so, yeah. I'm trying to exactly understand the situation again. We're kind of designing on the fly, and I don't,

- I get it.

- I don't know if we have a comfort level with that.

- Well, does anybody on the board, are we in a spot where we wanna either continue to, I mean, Nole's really good at this stuff, and it's a shame that he's not here, 'cause he can speak to it really quickly, but I'm trying to pull a Nole out of a hat here. Are we in a position where we want to get this done tonight, if the applicant is willing? Or we want to do another thing where we say, "Hey, come back in a week." If the applicant's willing, but come up with an alternative design, and push that as far back as you feel comfortable, and then let us make a decision on front side or rear setbacks based on trying to get as close as possible, hearing all the neighbors concerns all of that. So I think that's a question we need to answer so we can move.

- Yeah, no, I think Nole would appreciate that you're trying to pull them out of a hat. I think that would be admirable. But let me ask the the applicant, how critical is a decision tonight on 1692, given what we've just done on 1696?

- We have no more work for our staff or our volunteers. I don't feel like we can delay this project any longer.
- So you would, and I'm putting words in your mouth, time may be well of the essence on I692.
- Yes! It certainly is.
- If we said yes tonight, you're ready to go. This isn't...
- Mm-hmm.
- Okay, so, if we threw a wrench, if we have thrown a wrench in your plans at I696, that doesn't affect the way you would proceed forward on I692
- It has already delayed us a month on the start of this build. But moving forward, it would not, no.
- I'm in, I'm all for the kind of solution Tommy's proposing. It's not something we ordinarily like to do, but there's an interest here on the part of the applicant who has acted in good faith throughout the process. And I think it behooves us as a group to come to a conclusion on what we think the back setback variance that we'll accept is, and then let them work from there. Here's the way I'm proposing it. I know it's late. Right now, we've got a variance request on the front, and we've got a variance request in the back. We can deny the variance request on the front, and we can say that we will accept something or other in the back.
- Does that need to be any specific, or it doesn't matter if they got one, we can say we approve a variance in the back and the side, have at it, or does it need to be specific, is my question.
- Or we could say, we'll accept... We'll grant the front yard variance with the qualification that it not be 25 feet but it would be 35 feet. We can specify one of those two variances and let them proceed from there, instead of us trying to design their house. I think in light of the discussions that we've had so far we should try to make some conclusion on the front yard setback, and let them work from there.
- Right.
- I don't think we need to go all the way back as far as I696. I don't think we can go as close as 15 feet. I don't think we can go as close as 25 but we can do something like 30 or 35, and let them go from there.
- I think we can go, I think we can go up to 40. That would be my motion is approve motion, I don't know if it's time for that or whatever, but give him five yards or five, is it feet? I don't know. It's late. Five feet. So up to 40 feet. If they wanna go further back, great. But up to 40 feet as far as the setback, and then approve, you know, the side and rear setback, but 45 feet with this lot to me, I think it's all doable. I think they can go 45, but 40 is a good compromise.
- Well, let's make sure we know what these numbers are, could you put the site plan up again, Paul?
- [Craig] Chairman? Chairman, I have a comment.
- Yes, Alder Stevens would like to speak. Well go ahead and speak.
- [Craig] Okay, so I've been listening to you and you know, you guys are throwing numbers out regarding this lot that were being discussed now. If you were to give a variance I think a number needs to be in play, you know, 30 feet, 35 feet back, because that will affect the setback on the lot that we just denied. And then we're at time is the essence. They would need to know that either tonight, or fairly soon, so they can redraft the layout of the other property.

- Fair enough, Paul, what was the decision you made regarding the three existing properties and their implied setback for 1692 and 1696? What was that number?

- Yeah, 45 feet.

- 45 feet. Okay. Absent another number. I think that's what we say the setbacks have to be on 1692 and 1696. Can you go back 20 feet, Mr. Zepnick on 1692?

- I would suggest... I think 20 is pushing it. I think if we're at, I think if we're at 40 feet, I'll feel comfortable. I'm a little concerned that we're running out of room in relation to the 50 foot DNR regulations to the river there.

- Let me see that site plan again, Paul.

- Sure.

- No, the one that has the, there we go. So if you went back 20 feet, you'd be right on the lot line.

- Correct, and I have no problem with that, as long as we are 50 feet. I don't wanna get into any issues with the DNR later, 'cause we're too close. That's my only concern. The setback does not matter to me from the road as long as we're good distance from the river, the minimum requirement of 50 feet.

- Okay, Paul, you're suggesting that the 50 feet from the river is not an issue here regardless.

- Correct.

- Okay. All right, gentlemen, hope how much of a backyard variance do you wanna have there? I'm a little unsure that one foot makes any sense but I can see six feet.

- I think the six feet and the five, you know, the five foot variance on the front, and the six feet on the back and the side, that variance applies with hardship. But designing the property, I-

- Yes!

- Using the property as whatever, not the economics that we were talking about before. This is exactly... It's a unique lot. This is exactly why the board's here. To me, I'll make a motion to approve a front yard setback to 40 feet, so a five yard variance there, Ah, forgive me my trigonometry brain is not working right now. So I have no clue how that's gonna end up for approving the side and the back in terms of how that ends up. But however we need to structure that, I wish I had Nole right now, but I will already achieve the side and the back variance. I'm motioning to approve that based on moving everything back 15 feet. And sorry that's a really vague motion, but if anybody wants to help clear it up, thank you.

- All right, guys, we're negotiating a front yard setback. Tommy's put his hand in. I'd like to hear what the rest of you-

- I'll second the motion. I'll second the motion, and what we could say is whatever the offsets are determined to be based on the 40 foot offset in the front should be used, whatever when our word geometry says. So if it's 17 feet, whatever the geometry dictates using a 40 foot offset in the front we'll approve.

- Well, let's not grant carte blanche here. I know it's late but let's go back to that site plan, Paul. Right now the setback is 25 feet on the site plan.

- Oh right, right. I was wrong on that. So it'd be six feet or seven feet, right?
- I just can't in my brain right now, figure out what the side setback's gonna be, if you just move the whole thing back 21 would turn into six. I just don't know what the side within it turning into. If anybody can do geometry math right now it would be super helpful.
- Well, if you take the site plan we have before us, and go straight south 21 feet, use that house plan that that's a six foot setback, and you're on the land line in the back.
- Right.
- That seems a bit much, but...
- See I think we're proposing just 40, and leaving it at six behind, and 40 and five.
- Just say 40 feet.
- 40 in front
- Whatever the side it may be.
- and six in the back? I'm good with that.
- Yeah. And then whatever
- Okay.
- the side one ends up being
- Now-
- we approve it without us trying to do math right now.
- Right.
- That that's my emotion. And Jim, you second.
- That's what I second.
- Right.
- Yeah, 40 foot offset in the front, and six foot in the back, and whatever the side is.
- I think we need-
- All are we good with that?
- I think we need to be
- Unless there are more questions.
- more precise. Let me- Can I rephrase it? You wanna-

- By all means!
- You wanna move 15 feet back.
- Yes.
- That's what your proposal is?
- Yes. The site plan we have presented to us but the house is 15 feet South.
- [Woman] That means you're gonna use in there.
- Correct, and that would still need a variance approval because it would still be five yards within the setback. So we'd still need to vote on approval for the front setback for five yards. And then a side and rear.
- And the thing is
- For three.
- five feet, five feet.
- I mean that's five feet.
- Well, 'cause we move it
- You said Garret's tough-
- back 40 it's still supposed to be 45.
- Is that so?
- So we're still approving
- Right.
- a five foot variance in the front.
- Five foot variance, yes.
- Hey, do we have a second on that?
- Yeah.
- I'll second.
- Okay.
- Okay. I think we've got three.
- We got three seconds.
- Okay.

- Mr. Hutchison, you're an engineer.

- Yeah, please state the motion as you understand it.

- Okay, I think the motion is to approve a setback that is 15 feet longer than the proposed 25 feet, or a total of 40 foot setback, with the other dimensions falling in place with the footprint we have in front of us for the house.

- Bingo, I think that nails it. I think we have a motion and we have at least second or third at it, and it's been clarified to us by Mr. Hutchison. So I propose we vote. All in favor with that motion, say, aye.

- [Board Members] Aye.

- Opposed?

- Greg, you're opposed

- I said aye.

- I'm sorry. Then we have five zero, is that correct? We are in unanimous agreement with the proposal that on the triangular lot, we will accept 40 feet in the front, and whatever the back has to be assuming the host design that we have had presented to us in the site plan. All right. I think that's it guys.

- If I could just trouble you really quickly to just make a brief record as to why the variances are being granted, with specific regard to the hardship, and all those of things.

- I can do that.

- Go ahead.

- So just looking at the factors for granting a variance at least from my perspective, it's the shape of the lot with the triangle-shape lot is much different than the rectangle-type shape lot that is consistent with that neighborhood, and where you're gonna put that pro, where you'RE gonna put that house is very difficult given the shape of the lot. So I think that the variance is necessary for the owner to enjoy that property, otherwise the owner would not be able to enjoy it. There is some public interest in that, which we considered, with moving that from the 40, from the, I'm sorry, from the 25 to the 40, to be more consistent with the public interests in the neighborhood. And certainly it's a hardship given the fact that it's a unique lot size and the triangular shape, and certainly in extraordinary circumstances exists that most of the other properties in that area don't have that type of shape lot. So under those factors I think the variance should be approved based upon those factors and the fact that we consider the public interest with moving those dimensions 'cause it's more consistent with the neighborhood. Did I say that, okay, Don?

- You did, and I'd add that the board recognizes that the public has an interest in the successful development of these lots by Habitat for Humanity. That they are providing good to society. There is one unspoken question that may come up, in Alderman Stevens kind of alluded to it. Does this mean that it's 40 feet on 1696? Is that's something we want to consider. We just denied 1696. We didn't provide any guidance like we're doing for 1692.

- I-

- I just wanna make a point that I did bring that up. I'm just saying, make sure that

- Well then I-

- how we would vote right now, and now it's coming back around, which is a bit-
- Yes, yes. But some of us aren't as quick Tommy,
- See it's-
- and I wasn't as quick on the nuances. So anyway-
- So would it be, it would be an average, correct, Paul,
- Right, so it kinda works
- for now?
- in a reverse rated point, yeah. It works in reverse, and the point you made before on the previous side item. We would take into consideration in the calculation, but I don't know whether it would change a setback very much, where it's now one at 40. I don't know, let's see. I wasn't able to, Paul, sorry. I don't know if I was the only one but I wasn't able to hear most of that.
- Oh.
- Yeah, I didn't hear
- Yeah you were breaking up.
- Sorry. Sorry, no I was just saying it works in reverse. Like we were discussing on the previous item that it would be part of the calculation, but it wouldn't matter much when you run the numbers.
- Okay, so despite my confusion I'll claim age on all the implications that Tommy was trying to draw. What you're saying, Paul, is that at present with the houses that are there you've got X, and you're gonna recalculate something Y for 1696, based on our 40 feet for 1692? Good, okay.
- Right. Yeah, we will apply that new setback to 1696 but we're talking to matter of feet or inches.
- If everything's at 45 feet, it'd be 43.75 based on a floor property average. So it's a foot-
- Right? Okay.
- So what if they were to move the house, it could go 43.75?
- Correct. Based on whatever that new calculation is.
- Yep.
- All right, does everybody think they know what we've decided tonight?
- Yes.
- Does the applicant feel comfortable moving forward with their next steps on these two different properties?

- I mean, I feel comfortable with 1692. I understand what's going on with 1696. I just don't know where we as an organization go from here knowing that we've now got 85 grand into this house, and it's gonna have to be moved.

- I think Alderman Dorff was articulating earlier some good next steps. So I'm not sure if she's willing but I think there was some next steps that I think would help.

- Okay.

- Yeah. I don't wanna put

- Do you care to volunteer you Alderman Dorff?

- I don't want-

- Yes, but-

- I don't wanna put, I don't want the city to weigh in on any issues regarding the variance requests here. Those arguments and suggestions will have to be made separate from this,

- Okay.

- 'cause I want us to be completely separate and I don't want the city to feel that they're obliged to weigh in on any issue here.

- Sure. Yeah.

- So I can

- I just, can I just,

- call it off-

- could I just say call, he should call Attorney Mather. Nate should call Attorney Mather tomorrow. Okay?

- Yeah, it's Lindsay's problem.

- How's that? Okay. I'm making a motion to close the floor.

- [Jim And Tom] I'll second.

- All in favor?

- [Tom And Tommy] Aye.

- Jim and Greg] Aye.

- Five, zero, we've closed the floor.

- Is there any housekeeping things that we need to go over, or can we adjourn? Okay, I make a motion to adjourn.

- I'll second.

- All in favor?
- [Board Members] Aye.
- Aye.
- We're done, thanks guys. Good job.
- Good job, guys.
- Thank you.
- Good night.
- Have a good night.
- Thanks to all. Nice to meet you.