



MINUTES OF THE ZONING & PLANNING BOARD OF APPEALS

MONDAY, OCTOBER 17, 2022, 4:30 PM
Virtual Meeting. Public may join via Zoom.

A. ZOOM MEETING INFORMATION.

I. This item contains Zoom information, instructions, and a link to the Virtual Comment Form.

B. ROLL CALL.

I. Members: Tommy Everman - Chair, Noel Halvorsen - Vice Chair, Barb Dorff, Tom Hoy, and Steven Schuchart

Alternate: Corey Bogenschutz

Present: Tommy Everman, Noel Halvorsen, Thomas Hoy, Barbara Dorff, Corey Bogenschutz

Excused: Steven Schuchart

Alternate Corey Bongenschutz became a voting Board member.

Others Present: Lindsay Mather and Logan Wood, City Attorneys

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

Tommy Everman asked the following questions:

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

Was anyone out to see any of the properties? Thomas Hoy stated he was out at the property on St. Anthony Drive. Barb Dorff stated she went to all the properties.

Did you speak to anyone regarding this variance request? Thomas Hoy stated he told the home owner of St. Anthony Drive who he was.

C. APPROVAL OF THE AGENDA.

I. Approval of the Agenda for the October 17, 2022, meeting of the Zoning & Planning Board of Appeals.

Moved by Tommy Everman, seconded by Barbara Dorff to approve the agenda. Motion Passed.
Yes- Tommy Everman, Noel Halvorsen, Thomas Hoy, Barbara Dorff, Corey Bogenschutz , No-None, Abstain- None.

D. APPROVAL OF MINUTES.

I. Approval of the minutes from the September 19, 2022, meeting of the Zoning & Planning Board of Appeals.

Moved by Barbara Dorff, seconded by Thomas Hoy to approve the minutes. Motion Passed.
Yes- Tommy Everman, Noel Halvorsen, Thomas Hoy, Barbara Dorff, Corey Bogenschutz , No-None, Abstain- None.

E. REGULAR BUSINESS.

1. (Appeal 22-31) Robert J. Kendall Jr, applicant, on behalf of Ingeborg V. Kendall, property owner, proposes the addition of a carport in the front of a single-family home in a Low-Density Residential (RI) District at 2871 St. Anthony Drive. The applicant requests to deviate from the following requirement in Chapter 44, Green Bay Zoning Code: Section 44-590 Table 44-4, placement of an accessory building in the front yard setback (Ald. S. Campbell, District 6).

Moved by Thomas Hoy, seconded by Corey Bogenschutz to open the floor. Motion Passed.
Yes- Tommy Everman, Noel Halvorsen, Thomas Hoy, Barbara Dorff, Corey Bogenschutz , No-None, Abstain- None.

SPEAKERS:

Jon LeRoy - Staff
Robert Kendall - Citizen
Ingeborg Kendall - Citizen

Moved by Barbara Dorff, seconded by Noel Halvorsen to grant the variance as requested as the applicant met the criteria of Preservation of Property Rights; Absence of Detriment and Hardship. Motion Passed. (4-1; No-Tommy Everman)

Yes- Noel Halvorsen, Thomas Hoy, Barbara Dorff, Corey Bogenschutz , No- Tommy Everman, Abstain- None.

2. (Appeal 22-35) Mike Leifker, Integrated Community Solutions, applicant and property owner, proposes a dumpster area which is not fully enclosed at 1240 University Avenue. The applicant requests to deviate from the following requirement in Chapter 44, Green Bay Zoning Code: Section 44-1917 (c): For a rectangular trash area, walls or enclosure gates are required to be fully enclosed. A rectangular trash area requires a 4-wall fence type enclosure. The applicant is seeking a 3-wall enclosure (Ald. R. Scanell, District 7).

SPEAKERS

Jon LeRoy - Staff Member
Matt Carlson - Citizen

Lindsay Mather - Staff Member

Moved by Corey Bogenschutz, seconded by Noel Halvorsen to deny the variance as requested.
Motion Passed.

Yes- Tommy Everman, Noel Halvorsen, Thomas Hoy, Barbara Dorff, Corey Bogenschutz , No-None, Abstain- None.

3. (Appeal 22-36) Christopher and Pamela Clough, applicants and property owners, propose building an accessory building within the minimum side yard setback in a Low-Density Residential (R1) District at 1000 Cornelius Drive. The applicants request to deviate from the following requirement in Chapter 44, Green Bay Zoning Code: Section 44-590 Table 44-4, placement of an accessory building in the side yard setback (Ald. J. Grant, District I).

SPEAKERS:

Jon LeRoy - Staff Member

Christopher Clough - Citizen

Dave Dahl - Citizen

Moved by Noel Halvorsen, seconded by Barbara Dorff to grant the variance as requested as the applicant met the following criteria: Preservation of intent, Exceptional circumstances, Preservation of property rights, Absence of detriment, and Hardship. Motion Passed. (3-2; Noes-Tommy Everman and Corey Bogenschutz)

Yes- Noel Halvorsen, Thomas Hoy, Barbara Dorff, No- Tommy Everman, Corey Bogenschutz , Abstain- None.

F. INFORMATIONAL.

1. Quasi-Judicial Hearings Training.

Lindsay Mather went through training regarding Quasi-Judicial Hearings with Board members and staff.

Moved by Barbara Dorff, seconded by Noel Halvorsen to close the floor. Motion Passed.

Yes- Tommy Everman, Noel Halvorsen, Thomas Hoy, Barbara Dorff, Corey Bogenschutz , No-None, Abstain- None.

Board member Thomas Hoy left the meeting at 6:42 PM.

2. Discussion on procedural items related to the Zoning & Planning Board of Appeals.

Jon LeRoy gave a brief overview of changes that will be coming to the BOA process.

3. Next meeting date: November 21, 2022.

G. ADJOURNMENT.

Moved by Noel Halvorsen, seconded by Corey Bogenschutz to adjourn. Motion Passed.

Yes- Tommy Everman, Noel Halvorsen, Barbara Dorff, Corey Bogenschutz , No- None, Abstain-None.

VERBATIM MINUTES

- I'm doing good. Thanks, everybody. Thanks, everybody for being here. It's 4:30, so I figure we should jump on it pretty quickly, so we're expedient with everything. I think we have enough for a quorum. Let's go ahead and take roll real quick. Tommy's here. I don't see Noel yet. Barb, I see you. Hi Barb.

- Hi.

- Tom Hoy.

- Yes sir.

- I know Steven asked to be excused, and so I see Corey is here as well. So Corey, you're able to be involved in vote tonight, or listen to cases and vote? Was that a yes, Corey?

- Yes, yeah. Good, okay.

- There's Corey.

- Okay, great. So let's jump right in. So this is the October 17th meeting of the Board of Appeals. We did roll call. Before we jump in, we have three items. Does anybody need to abstain from voting from any of the agenda items that they've seen on the agenda tonight?

- No.

- No.

- No.

- No, okay. So four nos. We'll double check with Noel when he gets on board here.

- He's here.

- Was anybody. Is Noel here?

- I'm here.

- Hey Noel. What's up, buddy? How are you? Good. Any abstentions for you? Okay. I don't see when it's full screen. You don't see all the lists on the thing. So sorry about that, Noel. Hey, there we go. I see you too, Jon. Thanks, Jessica. I see you as well. Thanks for being here, Steph. Thank you, all. Okay, anybody been out to see the properties on the agenda this evening?

- I was at the one, St. Anthony Drive.

- I was out to three. Oh, sorry.

- It's okay. Go ahead, Tom. One more time. You said which one?

- I was saying St. Anthony Drive.

- St. Anthony Drive. Okay, great. Barb, you said you went to all three?
- I did.
- Great. Thank you for that. Anybody else?
- I just made it back in town this past weekend. I just looked on them online and read the notes and such.
- Okay, great. And then those and well, I guess visited or through email chains or anything like that. Has anybody spoke to anybody that they need to disclose about these properties?
- I told the lady on the property who I was, and that was the extent of the conversation.
- Great. Okay, perfect. I think those are the ultimate questions we need to go over. We should look at the agenda. I didn't see any adjustments on the agenda. Does anybody have any adjustments before we move to approve the agenda for the evening?
- Make a motion to approve.
- Thank you, Tom. Motion by Tom to approve.
- Second.
- Seconded by Barbara. Thank you, Barbara. All those in favor are approving the agenda. Go ahead and signify by saying aye.
- Aye.
- Aye.
- Aye. Any oppose? Okay. Agenda's approved. All right. Let's jump into minutes from last month. Were there any changes or any notes from the minutes from last month's meeting that people wanna make note of? If not, a motion to approve the minutes.
- Move to approve.
- Second.
- All right, I have a motion to approve by Barb, a second by Tom to approve the minutes from last month. Any objections or discussion? All those in favor, say aye to approve.
- Aye.
- Aye.
- Any oppose? Great, minutes are approved. Okay. Let's jump into the business. Before we do that, let us just give a quick thing. For those that are on the call, I would like to look at just a quick overview of what the board appeals is. So we are non elected officials. We are appointed by the mayor. We are here to basically provide a listening, almost a judicial view of these cases. The applicant's job is to basically present a court case. And we are the judge and jury if so being to listen to the case. And then we will make a judgment. It is a five-person vote tonight. So three-two gets approved, two-three does not get approved. So just keep that in mind as we're going through. Ultimately, on the application, there's a three-question test on there. And the goal for you as you're presenting your case to us is to articulate why your variance would be approved and why those

three questions have been answered and thought out. And so we'll ask questions around that. Jon will present, we'll open up the floor, we'll open up the floor for tonight in a minute, but then we'll discuss that. We'll hear your case and then we'll go through the process there. Ultimately, my ask as the chair is, it's odd in a virtual environment. Sometimes, there are people on the call that are maybe against your variance. Everybody, be respectful. We're all just trying to listen. Present facts, not opinions. It's not personal either. So if that starts to happen, we'll put a time clock on people or we'll close the floor and this is an official meeting so we will run it that way. But we do try to make it personal as well. Any questions on that? Let's go ahead and I'll take a motion to open the floor for the meeting. We'll close it if necessary or we'll close it at the end.

- Motion to open the floor.

- Thank you, Tom.

- Second.

- Thank you, Corey. All right. Motion to open the floor by Tom and seconded by Corey. Any discussion? All those in favor, say aye.

- Aye.

- Aye.

- Any oppose? Okay, great. So the floor is opened for now. Again, as the chair, we will vote to close the floor if we feel we need to, if the discussion isn't being productive. Alright, Jon, how you feeling, buddy? You ready?

- Let's do this.

- All right, buddy. If there's anything you need to cover as well, I kinda jump through all the stuff, but if there's anything you need to cover too, just let us know.

- Will do.

- All right. Oh, sorry, I have to jump, I have to introduce it, right? Sorry. So we'll go into the first, thank you. Sorry about that. First agenda item, it's appeal, 2231. Robert Kendall on behalf of... Ingeborg Kendall, property owner. Proposed the addition of a carport in the front of the single family home at 2871 St. Anthony Drive. And they are requesting to deviate from accessory building in the front yard setback.

- Thank you, Chair. Just as we get going here today, taking on some of the cues from last week or last month, we were discussing at the end. I'll go ahead and be given some extra information for background for each one of these cases. And then keep in mind that if the board agrees that there should be a variance, we'll need to have findings of the variance. Keep in mind that for that to be the case, you need to have preservation of intent, exceptional circumstances, preservation of property rights, absence of detriment, and a hardship. So our first case here is on St. Anthony. As you can see, they are looking to go ahead and have a carport in the front of the property. This right here is an image of what they're looking to go ahead and have as a carport. Some 16 feet long and 24 feet wide. This is the property. A picture taken back in September of the property itself and the driveway. Now this item came up last month, but the applicants couldn't be on board. So we did discuss this in part last month. There's some questions that were raised then. So I wanna give some background on the property itself. Going back to this image, you can go ahead and see a house and a driveway with three stalls in front of the house and then a garage. This was taken back as an aerial photo back in 2020. Looking at this property over the course of time, this is a street view of the property back in 2013 when it was just a gravel drive. You can note the garage that is in the back of the property. It appears though that garage came into being on the property back in 1979. This street view was taken from back in 2016 when the apron was placed in. And finally, you can see a street view from back in 2019 with apron and concrete drive, as well

as some gravel along the side of the property. Going back through aerial views. This is an image from 2020. Clearly, you can see the garage that exists. You can also see what looks to be a circular drive right here, most likely gravel that occurred in the property. And throughout time, you can see the, the property change up a bits. This is from 2010 with the gravel driveway. In 2017 with the pavement put in along in the apron itself. It's still gravel. And finally 2020, which in gravel drive and concrete pavements. So they are requesting to have a carport in the front of the property.

- Okay, thank you, Jon. Barb, you have a question for Jon?

- I do. Jon, I went out and visited the property and I was not able to figure out exactly where, is the carport gonna be over the driveway? Is that where they were asking for it to be over where the current driveway is or to the side?

- Right. If you look where that overview, where those cars were on right there, it would be over those vehicles?

- Yes, correct, yup. So that is an indication as far as they would be placed in this area right here. Some 20 feet wide and some 16 feet long.

- Okay.

- Not connected to the house. It'd be based back a little bit.

- So just a note here, just wanna go ahead and ask the questions as speaks here. As far as alternatives to this site itself for what could be done legally, we need to keep in mind that one, there already is an accessory building on the sites with the garage itself. The driveway can come in from the legal drive and come out towards an accessory garage, make a drive. However, that drive must be paved. It cannot be gravel as shown right here. Additionally, part of the issues right here is having an accessory building in the front yard setback. Accessory building could be placed attached to the house in the side yard, like a side garage. Just can't go in the front. Part of the issue with this is this is already an existing block with a number of different front yards. On average, they come up to be 24.5 feet off of the right of way. That's your limit as far as where you can place extensions of this existing building and add on to, that would be away from the front yard itself. This building itself is about 33 feet or so from the front right of way.

- Okay. And Jon, I have a question. The green line that we're looking at in that aerial, is that technically the property line?

- Correct, yup. The green and the teal line. The red line's a section corner.

- Okay. And then, let's say, see this old photo here that has that drive, looks like a gravel drive going back to that garage. You were there. Go back. That one right there. If they were to use a driveway to go back to that driveway there, like you were saying as an alternative, that would be within code there, it couldn't go on that green line, correct?

- Correct.

- It would have to go beyond that because of the property line, right?

- Yes.

- So is there any limitations there in terms of being able to do that?

- Right. This is a weird lot in so far that it's just brand new. The driveway wouldn't go in front of the building itself because code states you can't have just drives entering the front of a building unless you're leading to an actual garage. The driveway would come instead out this way. But I believe 'cause of circumstance throughout time, since you can tell, over the past 25 years and where this has gone to, the city allowed to go ahead and turn into the driveway right here. It's concrete spaces in front of house itself, not leading to a garage. Because of that in mind, the driveway can extend then up to the accessory garage and go into the front yard setback, but it can't go into the public right of way.

- Can I mention something?

- We'll call on the applicant in just a second. Usually, the process, we'll let Jon tee it up. Last questions from city perspective, any historical, then we'll have the applicant present case or answer any questions that maybe have been misspoken. We'll get there. Any other questions for Jon before we go to the applicant?

- I do, just one more. Jon, so as you were explaining, that the driveway could possibly go to that garage, but it almost doesn't look like it would meet code if it went to that garage. Would it meet the setback if a driveway came off of that where the current driveway is?

- Right. So right now, this is nonconforming the way that it is right now. Because the driveway itself that is there is not leading to a garage space. So it's not leading to a legal parks. It's even the parking in the front of the property, which is not legal or it's not conforming because it has already existed. When discussing with staff as far as getting to the legal parking space back here for the garage, there has to be a way to go ahead and get to from the legal drive that already exists. So there could be a paved drive that can lead to the existing accessory garage off of the existing driveway itself.

- And it would legally fit or it would within code fits?

- Yes, yeah. It would legally fit. It would not be our first choice here to go ahead and do. If this was a blank slate, yes, but because it's non-conforming right now, off of a non-conforming driveway, yes, it could fit.

- I'm just looking at my three questions, so I'm just trying to find out. That's all I'm doing right now. Okay.

- Thanks, Barb. Corey, I see your hand up.

- I was just wondering why is the non-conforming driveway there to begin with? Obviously over time, it started as gravel. I mean, it's a corner lot so it's an odd situation to begin with. So I mean, it certainly looks like the apron was first put in by the city or maybe not, I don't know. So I guess, do we have any history as far as why the nonconforming driveway went in the way it did?

- Right, and this is where the applicant in part maybe go ahead and say some words to this in the future, but I look back into our records here for what has been done on this property. The April went back in 2014, there has been one bearance request that has been on this property over the past few years. That was back in the 2000s and it had nothing to do with the driveway itself. And it was eventually pulled. So nothing has gone through with this. Just state it though, as far as the driveway goes, gravel is not the appropriate paving with code.

- Okay. All right. Well it looks like there the applicant might be able to fill in some of those gaps there. Thank you Jon, for all the information.

- One more quick question for Jon if you don't mind.

- Oh, okay, go. I'm sorry. Go Corey. My apologies.

- So, considering that the property being the age that it is and the gravel used to be there, at what point in time did it become nonconforming to not to, basically, when was required to replace the gravel with a hard surface? 'Cause obviously going back and look at this images, they had gravel up until like 2014 or even coming sooner. So when would that change over? When was that required for them to switch over from the gravel to the pavement?

- Right, the changeover occurs when it's deemed at the gravel driveway is not sufficient to be in appropriate surface. To keep up over the course of time, you need to make sure your gravel driveway stays in order and if at some point, you do not put enough, you don't go ahead and fill those divots, those holes, you keep the gravel in line and it's a known gravel drive, you can keep that. But once it starts to go ahead and spread, not really have any form at that point, at that point's discretion to go ahead and say it needs to be improved to become up to standard code.

- Okay. Any other questions for Jon? We will move over to Mr. Kendall. Okay. Mr. Kendall, thank you for being here. So again, our goal is to hear, we've got the layout, so if there's anything in terms of the layout or ideas, go ahead and clear us up and then just take us through the case as far as the application says. What is the uniqueness of the property? How does it not harm public intent? Where is the hardship in terms of the property? Those type of things.

- Okay. I'm on be here on behalf of my mother. They purchased a property in 2019 and then sometime in 2020, she was advised that she had to remove that gravel driveway. Excuse me. And one thing that wasn't mentioned was if you look to be left of the house from the street, there's quite a bit of drop off there. There's almost like a cliff. So the only way down to that back part of the property is way over to the left along the fence line where that old driveway was. And there's also a hill there, which becomes very icy in the winter. So without an existing driveway and with the slope of the land, you can't get down there with a vehicle. So with both my brother and my mother, my brother being disabled and my mother having the carport right here where they would be able to walk right out the front door and the vehicles would be out of the elements in both the summer and the winter. But there's no place over on the left of the house because it's literally a drop off. If anyone was out there, you'll see you can't even mow the side of the grass there because the slope is so steep.

- And to clarify, the driveway that you're speaking to is the gravel one, that off to the left here that went back down to the garage, that's what you're saying?

- Right. There was an older one that was there when my mother purchased it, but she was advised she had to remove it. So now from the front of the garage door, that building down there all the way up to the front, the gravel has been all removed. So it's all grass now.

- Okay. You were saying you're here for your parents, correct? To be clear.

- My mother, she's here.

- Your mother.

- She's in the back.

- Okay. And then, was your mother the one that put the apron in, in that concrete driveway or slab or when they purchased it, was that there when they bought it?

- No, that was already there.

- Okay.

- The apron was there in 2014, Jon said And the concrete got added in 2020 for the background, correct? And they purchased it 2019.
- It looks to be about some type of 2019, but after 2014.
- Okay.
- Okay. This might be a silly question, Jon, and forgive my ignorance here, but can anybody cut in a curb anywhere they want? Or is that something that has to go through the city.
- It has to go through the city and you cannot have two separate drive entrances to a property unless you're making a circular drive. That goes back to what we had back here in around 2000 when there may have been from the area view, something like that happening here back in the past where you might see two curb cuts there for a circular drive.
- So at some point that.
- Where that black vehicle was previous photo, my brother had temporarily parked there and someone had called in right there on the left. So we he couldn't even use this as a parking area.
- Yeah, correct. That's not on the payment is not a legal parking spot.
- Correct. So all my mother's asking for is this where these vehicles are about 16 feet back, just a carport so the vehicles can be out of the elements.
- Real quick. When you say that grade is steep, is it something that could be graded that if they needed to put the driveway back to that garage? And then also, how many cars can fit in the garage?
- Only one.
- Okay. And the grade, so it's something that with the proper equipment, it could be graded that it would be more safe? Or is it that steep like where it's like a 10-foot drop or something?
- Well, I'm not a heavy equipment operator, but even with that slope in the winter, that's gonna be all ice.
- Okay.
- Yeah, I think it's interesting as far as the house on the left, the lower left-hand corner, the profile of the building and what looks like an extension of the house there as far as the setbacks go, the house that we're looking at is much deeper on the lot than the one on the left.
- Jon, I'm trying to wrap my head, sorry Tom, were you done? I'm so sorry.
- No, that was just my observation is the house that's looking for the variance appears to be set back further than the one that's on the left. And when I looked at the property and looking up and down the block. I think this is a really old home and back in the day, it was where the garage was placed and where the house was placed. There might have been a different standard. That's all.
- Yeah. Jon, what I'm trying to wrap, I think the goal of this board right, is to say, okay, cool, what does conforming look like? Is conforming possible? And then from there, conforming is not because of these, and what I have not gotten a clear picture on this specific property, 'cause ultimately, the car port that's being requested, in my head, what I'm hearing is a solution that's being presented based on a faulty property. Does that make sense? So what I'm trying to do is, okay, say considering, how do you... They bought it this way.

That's what I'm saying. Someone cut a curb, put the driveway in the wrong spot, there's so many different layers here. So how does this property end up conforming to code? I mean the curb would have to be cut potentially, recut? Is that right?

- No, so right now, it's nonconforming, so it's meeting the code. The alternatives that could be used to get to that existing accessory garage would be to put in a drive which is similar to what you're seeing right now, which was gravel that you paved though to get to it. Additionally, and this might be a challenge here with the grading, you could put an attached carport to the building on the side of the building itself and have a drive leading to that because it wouldn't be in the front of the built environment. You just can't have an accessory detached within 55 feet of the front yard. That's the goal is to go ahead and not have things like sheds and smaller buildings be in front of the existing primary and it does not have parking in the front yard.

- Sorry, I'll get back to you one second. So a solution to have a carport closer to the house. If that's the goal. Is to have a carport closer to the house, not walk all the way back to the garage or whatever. There could be a way to solve that by extending the driveway to the side and having a carport on the side of the structure on the house. That is an alternative solution that could work, correct?

- Correct. You can attach a carport to the side of the house like you'd see with many attached one or two small garage places in suburban form where you see the garage on the side of the building essentially. You'd be doing that. That is an alternate idea for this property, which would work within code, yes.

- Hi.

- Barb, let's go to Corey. Let's go to Corey and then Barb real quick.

- So in this case the carport that's being added is looking to be detached from the primary structure. Could they attach it to the front of it and what would be the code related to an attached structure to the front?

- So even with the attachment, the built front yard setback for this block is approximately 24 feet. That's going back to what Tommy said as far as the building off to the west right there. That's approximately 17 feet off the right of way. What you do as far as the code is you average up all of the existing fronts and then from there, if you happen to be a building like this where you setback a bit, you can go ahead and add onto it to the front. However, that would only leave about 24 1/2 feet from the right of way that you add on. With the math, that would be about nine feet you can add onto the front of that building and still be within code. Beyond there, now you're going into the front setback.

- And so really we're looking at the variance of the difference in the front yard to the setback?

- We're looking at putting an accessory building itself in the front yard setback right now. That's the request. But as far as alternatives go, if you were to put a carport that still met architectural standards to the front of the house and it only extended 9.5 feet, that could work. Yes.

- So I think, Barb, you had something and then we'll get back to the actual case being presented. Go ahead, Barb.

- So back to what you were saying, I think Tommy, or whoever asked, if there was a car port on the side of the house, would that original driveway then have to be removed or would it be very, very, very wide and then three cars across could fit under the carport on the side of the house? Would it be this hugely wide driveway. And then that doesn't look like that would be within code too either, right?

- So right now, we're talking about this hardscape 24-foot wide driveway essentially.

- We are, but then, the thought was that, well a car port could go off to the right side of the house. Is that-

- Not the right side? No, that it's something in the front yard. It had to go to the left side.
- Oh, the left side. The left side.
- It would be impossible to go on the left.
- That's steep hill right there. Literally.
- Let's just pretend. That's not even the point whether it would or not. But the point I'm trying to make is if you put a carport on the either side of that building, how huge of a driveway or we have to tear off that whole other driveway and put in a new driveway? Is that what would have to happen?
- Well you can come from the existing nonconforming driveway. Kind of like what you see right here at the gravel that was put right there. If that was paved the way it's right now, withstanding having to go ahead and move it a bit to be off the proper line, that'd be legal to go ahead and get back to the existing garage.
- Yeah, but I'm not talking about the existing.
- You can go off the existing driveway that is there right now and make another driving lane to get to an attached carport on the side of the building. Yes, but notwithstanding any sort of gravel issues that might be occurring then.
- Right. Because the physical characteristics of the property might keep you from being able to do that. I was just trying to figure out if really, could you have that big, big, big, huge, wide of a driveway. And that would be yes, but it's not gonna work 'cause of the physical characteristics. So thank you.
- Yeah, okay. So let's go back to the applicant. Ultimately, what we intend to do is we try and work through solutions. But ultimately, Mr. Kendall, what we're looking for you to do is to answer, so step one, do the unique physical characteristics of your property prevent the compliance with the ordinance or prevent you from doing any of the alternatives that are being listed that will fit within the code? I mean, is that a yes and if so, explain to us that portion. That's question one.
- Well, the question is, no. Characteristic of the slope in the property, adding it to the side of the house is not an option. I still believe down here is not an option as well because of the slope of the land. So I would say no to the answer to your question. I believe the only option is the carport right here.
- You would say yes actually.
- Okay, yes. There are no alternatives in our point of view.
- Any other questions from the board on that question there? Okay. Would granting the variance be contrary to the public interests?
- Are you asking me?
- Yes sir. Yeah, this is kinda how we want the case.
- Okay, well I would say-
- Physical characteristics, public interest? Yeah.

- Well if we're talking about aesthetics, no, 'cause it would be professionally done and it would look nice. It's not gonna be one that's gonna blow over. It'd be permanently anchored into the driveway. So I don't know how it would affect anyone else.

- Is there safety concerns in terms of sight lines, things like that, Jon, that are public interest there if it was approved and how far it's coming out or is that okay?

- No, from that distance off the corner should be okay.

- Okay. Any questions or concerns about public interest from the board? Corey.

- I'm just thinking if this fits into there as far as like, does that affect the future of the property as far as if that carport being there, future owners or anything like that, how does that affect possibly, the property and parcel itself? Does that fit into that category? I mean, in my view, I'm almost thinking like, putting a solution of a carport in the front there might make the property more attractive in the future.

- Are you asking me?

- I guess in general.

- Well, yes, I agree because that would be a bonus because if you've ever tried even going down here in the winter, you might wanna have a sled or you're gonna be on your backside. So, and right here, you can just walk out your front door and your vehicles are covered and like I said, it's not gonna be something that I just purchased and throw in a driveway. It's gonna be anchored, it's gonna be with treated stained wood with a nice roof on it. So it'll look attractive and it will match the existing structure.

- Okay. Any other questions there? And then the last question is, why would not getting the variance unreasonably prevent you from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome?

- That's slightly confusing to me, but if we don't have it, it makes it difficult in the winter with my brother, like I said, mentioned before, disabled and my mother who's older coming out, taking the snow off the vehicles and just moving vehicles around. The heat in the summer, being there with no coverage on the vehicles. So obviously for us, with the cart port, that eliminates all those problems. Yeah.

- Any thoughts or comments or questions on that area? Yes, Barb, go ahead.

- So I was thinking that my answer to that about the hardship being able not to use your property the way it was intended to be used because that driveway was already put in there, that's where the cars are, their physical limitations to getting on the property because of the slope of the hill to putting that carport on the side of the building. So I was just more thinking of the property as the hardship and that one of our measures was can you use your property the way that it was intended to be used or that most people can use it and most people could have a garage. I don't know if that makes sense, but I'm just trying to figure out my answers to my questions here.

- I think I see where you're going with Barbara. Most people would like to have a garage right up next to the house, but given the history of this property and where that driveway got put, they can't conform to do it the proper way.

- Right, right.

- Yes, and then another thing too, even like this is a one-stall garage, I know with the carport, but I keep stressing, especially the winter. But if you have two vehicles down here, you either slide into one or you can't

even get up the hill. So it's just having a garage way back here, yes, it would've been nicer to be up closer but when they purchased the property, that's where it was.

- Tom, you were out to see the property, correct?

- Yes.

- How the slope, were you able to see the slope in person?

- I wouldn't wanna drive down it in January. I think he's fairly presenting the concern here as far as the angle down. And the amount of money, I think when you purchase a home, I don't know that you'd anticipate making that kind of improvement if that's a reasonable expectation. I really think that having a garage in Green Bay, Wisconsin is a quality of life issue. Particularly when we get to folks who are a little bit older. It's tough scraping that ice off the windshield and when we talk about any kind of future and hopefully not, but if you need any assisted living or therapists coming in, you gotta gotta make sure they can get in and out too. So I'm inclined to go along with the request just even based on the shape of the lot and the configuration of the slope.

- Okay. Any other questions for the applicant? All right, thank you, Mr. Kendall. We'll come back to you if we need to hear anything else from you. At this point, we'll move on unless there's anything you would like to add?

- No.

- Okay.

- You you want me to stay on or are you asking me to leave?

- No, yeah, you could stay on. We're gonna discuss and then we'll take a vote and then you either get approved or denied and work with the city either way, yay or nay. Is there anybody else on this call that is here to speak for or against this application? Okay, not hearing anybody. All right. Board members, I think to Jon's point earlier, he is looking for a bit more from us when we get to approvals. Our job as a judiciary board is to say, hey, I'm approving this and here's my reason and logic. He went through it from our code. Jon, I'm not sure if you wanna repeat that, but me and him discussed a bit of it. It was more of really answering those three questions. And again, our goal is we need to hear that case from the applicant has been presented in those three ways. And we'll get into a little bit more of this in our discussion later, but ultimately, what I'm looking for as a chair is do we, can you, here it is. So these are technically, we to get bit more formal on what we're trying to do. We're supposed to be speaking to these ideas, preservation in a tent, exceptional circumstances, next page, preservation of property rights, absence of detriment and hardship. So the hardship, it's explaining, complying if it's not self-imposed or based on economic grounds. So a hardship cannot be something they've done to themselves and it can't be economically driven. So there's one thing. Again, we're gonna go into that a little bit more detail. Ultimately, if we answer those three questions where we're at, we should be able to answer this indirectly for the record.

- Can you put that first slide back up? Okay, thank you.

- So are we now looking at five things, Tommy, instead of looking at the three questions? We should maybe-

- Yeah, we're gonna get. We're gonna later on as far as why there's three here. Essentially, if you can answer those three questions, you'll find the five findings of facts within the net itself. This is more legalese that we're not trying to put on to the applicants as far as legalese stuff. But it is on to the BOA as far as saying, okay, we're trying to meet these five different findings right here.

- Yeah, we'll discuss it at the end. And we'll get this email to you as well, Barb. We didn't wanna implement it tonight.

- I did the same thing, Barb.

- What?

- I did the same thing. I took pictures of those screens.

- I need the next page, so I can get the picture of the next page now. I believe you'll email it to me, but then, I'll have this.

- Ultimately, again, what we're trying to do is get us a bit more into... A bit more organized and proper way of running our board. So again, we're gonna discuss that in information stuff. But yes, I think for tonight, if you could answer, if you feel that the case had been made for those three questions, to Jon's point. One that's further than maybe where you were last month. And if you say yes to all three of those things, then that means that your yay vote makes sense. If it's nay, you don't really need to explain yourself if you don't want to. Fair, Jon?

- Fair.

- And Tommy, so Barbara's out to the property too as far as looking at the slope.

- Oh, I'm so sorry, Tom. Yeah, you're right.

- It's okay.

- Barbara, what-

- He spoke for me. I mean he he was exactly right, Tommy. Tom was right.

- Okay, great. Okay, thank you, Barb. All right, so let's discuss this and then get a sense of where we're at and then we can call for a vote and see where we're at. So anybody wanna kick us off and talk through their thoughts and their findings?

- Well, I thought initially, I mean, one of the things that's challenging when we're dealing with variance requests, I think are not just the physical characteristics of the property, but the built environment at the property. And in this case, we've got that garage that's down the hill. If that garage wasn't there, I don't think we'd be saying, "Oh, and that's a reasonable place to put a garage, put it at the bottom of a hill that you go to get out in winter time." Right? We wouldn't be saying that yet at the same time, because there's a garage there, we're trying to think of all these convoluted ways to get a car back to that garage. And so, that's just one of the things and I'm not sure exactly how that plays in with some of this stuff in terms of the unique property conditions, but it's not like the one where it's like, "Oh, my family's growing and I need a four-stall garage that's gonna go encroach in the setback or something because I want more toys." That sort of argument that we hear sometimes in variance requests. I know that's not the hardship. But in this case, the buyer has inherited a weird building as part of this property and can they be reasonably expected to have to use that for their parking even though it's at the bottom of a steep hill. And for me, I guess I wanna lump that built environment on that parcel into my thinking that this is a weird lot. I mean, we know it's weird. It's got some significant slopes, it's a interesting shape, some other things like that. And I think that's constraining and I don't know if we consider trees to be part of the character of the lot or the unique characteristics of the lot, but if you were gonna build a garage or a carport off to the left, you're cutting down all the trees that are there and that sort of thing. I don't know if that's something that is a reasonable thing for us to expect of folks. So I just wanted to share, that's kinda what's been cooking in my head as we're looking at this is some of that.

- Go ahead Barb.

- I just step away for a quick second. I'm so sorry, guys. Something's happening. I'll be back in one second. Noel, if I'm not back in 30 seconds, you've got it. Folks, I'm so sorry.

- Okay, so I can say yes I believe, Jon, all three of the questions and this is my thinking. Do the unique characteristics prevent you from putting the carport anywhere else? And I can easily say yes to that. It can't go on either side of the house. And why would not getting the variance create a hardship? Well, again, because you're not being able to use your property the way most people can, having a garage or a carport to protect your cars in winter in Green Bay. Because of the shape of the lot and the configuration of the slope and those things, you can't use it the way you should. So my answer to that will be yes. And it's the public interest. Would there be harm to the public? Well I think it's a backwards statement. Is it not contrary to the public interest? The answer is yes, it is not contrary to the public interest. Because it probably would make the property more attractive and maybe even make it more attractive to purchase in the future. It addresses safety concerns, it doesn't harm the sight lines. So I can say yes to all three. And I'll make a motion when we get to it to approve it.

- I'm in agreement as well. I mean, I'm looking at the characteristics of where the property has gone historically. I mean, I still question why was that cutout put out there for the driveway in 2014 and to expect a new owner to then incur the cost to have a new driveway cut in to fit to where that garage is, it doesn't make sense. I think from my perspective, being in home insurance, the carport would probably be better attached to the dwelling from a standpoint, from just different risks that are associated with it. But it would not deter them from doing what they would like to do with the property, but I would at least entertain like, is it possible to be attached to the house? 'Cause aesthetically, that also would be better from that standpoint as well as far as water drainage and all sorts of other aspects of the maintenance of the property. But I'm along with Barb. I think I'm on board with this one.

- Sorry about that, everybody.

- My comments except that the board has already said it all, it's said better than I probably could so, leave it for you, Tommy.

- Okay, Noel, any thoughts?

- No, I think that there are some unique property conditions here and that complying with the code could create an unnecessary hardship for the property owner and I don't see any harm in the public interest in the solution that they're proposing, that being the carport at the end of that driveway.

- Okay. Any other thoughts?

- I said I would make a motion.

- Yeah, I mean, I'll be honest.

- Oh, you're gonna talk, sorry.

- I'll put my thoughts on the record? No, yeah, no, just, I'm torn. I wasn't out to see the property. It seems like that's probably a big part of this. It makes me go, well there's other properties that have slope and they have garages attached. So at some point, I just don't understand how we got to this situation. There's a lot of question marks here. It doesn't look like my vote's gonna much matter anyway, but I feel like I would've liked to see in the case a bit more exploration of the alternative. Look, this is property is not conforming. Starting there. This is how we get it to conform and here's how we can get there. This is a simple solution. And I don't

feel that I saw a big case being presented in that way by the applicant, but ultimately I do think the property characteristics are extremely unique. It's an unfortunate situation 'cause you don't wanna have driveways that go to the front of a house. It wants to lead to a garage, yet this property wasn't built that way. So it's definitely a unique thing. I can answer two of the questions. The third one is the one I'm really struggling with. So that's where I'm at. I'm not committing to a vote yet.

- Okay, well then I make a motion to approve.

- Okay, so I have a motion to approve the variance request as requested by Barb and then seconded by Noel. Any other further discussion on this?

- I just have one comment as far as like, if it makes your mind at ease, Tommy. For looking at like what they would incur from a cost standpoint to put a garage or something else on that side as far as like rating and whatnot, they probably would have to look at like a basement garage, which would then incur possibly happening added on there. So if that slope is extreme as they're describing, just excavation, adding onto that home to make it a secure location for our garage, it would be basically the cost of what that house is right there. So it wouldn't make sense.

- Okay, all right. Well, thank you for that comments, the conversation. Let's go ahead and take a vote. We have a motion on the floor to approve. All those in favor say aye.

- Aye.

- Aye.

- All those oppose. Nay. So it's four one vote so that means it's approved. So Mr. Kendall, you're on behalf of your mother. Just work with Jon moving forward. The city team is great and they will help walk through necessary steps, any permits that might need to be pulled before construction started. Please do that. Make sure you've got a good plan that they've approved that with the variance being approved, but continue to partner with the city, okay? Oh, you're muted. We can't hear you, I'm sorry.

- Okay. No, I said thank you. I appreciate your time and your consideration and my mother wanted to say thank you.

- Thank you, thank you.

- Oh.

- You're welcome.

- You're very welcome. Thank you for your time. Okay. All right, let's move on. You can stay or you can go. If you wanna watch the next ones, that's great. If you're done, go ahead and log off. Again, just partner with Jon and his team at the city for moving forward, okay?

- Okay, we'll do it. Appreciate it and thank you again.

- Thank you.

- Great, thank you. All right, let's move on to number two on the agenda. My windows have moved around. All right, so we have appeal 22-35, Mike Leifker, Integrated Community Solutions applicant and property owner proposes a dumpster area which is not fully enclosed at 1240 University Avenue. They wanna deviate from the following requirement. Rectangular trash area, walls, enclosure gates are not required to be fully enclosed. So they're looking for a four-wall enclosure versus, or sorry, a three-wall enclosure versus a four-wall enclosure.

Same thing, same process. We'll have Jon walk us through. He'll talk about maybe some alternatives potentially and then we'll hear the case as to why those alternatives don't work and how we're meeting that test. All right, Jon, go ahead.

- Yup. So the reason I got a bit wordy with that right there is it's all the board appeals to go ahead and deviate from dimensional standards. And so the code itself says it needs to be fully enclosed to say rectangular trash area. That would be four walls. Applicant is asking for three walls. So this is over off of university. The area where they're looking to go and place a bin is over in this area. This is the existing trash bins you can see right here. This will be the three-walled enclosure right here. As noted in the application itself, this is to go ahead on their belief that this will go ahead and help the folks who are living at this facility to easier access the trash area based off of their circumstances at living at this facility. Noted right here, this would be the variance that's requested. In 18 by 10 foot dumpster area. show it 18 by 10 with double y gates. That's your alternative is the code itself to go ahead and house the gates. Other than that, this site goes ahead and meets all the different qualifications as far as placement and things of that sort. It's fine.

- Okay. Any questions for Jon at this point? Sorry, I my wife walked behind me and scared me, so sorry about that a minute ago. Fun about being on the online meeting stuff. Any questions for Jon before we hear from the applicant?

- Just real quick, are there other gated options related other than the dual swinging gates? Are there like motorized ones where that they could go up and above or other options that fit into that category?

- Right, so the code essentially just says it needs to be fully enclosed. How it's done, that's up to the applicant. But this would go ahead, if it was approved, would remove the need to have a third wall itself.

- Okay, and the location of where they're proposing it, no issues there? Really, literally, it's just the fourth wall.

- Correct?

- That's what the variance is about right now, Jon, according to you, right?

- Yup, everything else, they'll have to go ahead and meet the standards for any sort of typical fencing. That's not an issue. The only question that's in play here is the fully enclosed for rectangle beam down to three walls rather than four.

- And Jon, the current dumpster's just sitting in the parking lot naked, right?

- I believe so, yes. From aerial footage from before, yup. They are back towards the alley itself. Not close to the university, but yes.

- Okay.

- This one seems to me like a variance request that maybe ought to be a code thing, like a tweak to your code, not just a request. 'Cause I think this is like the screening of your garbage cans that a single family home. It's like, it shouldn't be visible from the street, stick it behind something and I don't know. I think a U enclosure with its back to a right of way, in a side yard to me seems like a huge improvement over just having the dumpster sitting in the middle of the parking lot.

- Yeah, understood. Just talking to some folks who have been doing this for a while around here. I questioned myself here. Part of the reason for the enclosure itself would be to go ahead and try to keep white paths who might be entering the area, but could there be some changes potentially?

- Yeah, yeah. And just for the record, I have yet to see a dumpster enclosure that is not easily accessed by any sort of pest.

- Barb, did you have something for Jon before we go to the applicant?

- Just wanted to say, Jon, is it okay for the... They have the dumpsters just sitting out right now, not enclosed and that's okay, right? So I mean, pests could get to those very easily.

- It's okay insofar, it's not to code. You are required to have dumpsters inside of a fully enclosed structure unless you go back to nonconforming itself.

- Okay, that's all I needed.

- I think I believe, a lot of it's aesthetically, right, Jon? So even like our house cans, they have to go in and go out. And they're supposed to be hidden away from public view. So same kind of idea, right? For commercial?

- Right. Remember, this conjecture as far as just different things have happened over the course of time and hearing reasoning why people have said this being a problem. One, being the past two being aesthetics to go ahead and block the view from where people were at. Three, safety and security. Could the dumpsters or trash go ahead and if it wasn't properly put in place, go ahead and blow places. Things of that sort. Those are the main things. And when the applicant can speak, it can go ahead and say why they need to have this in general. A lot of times, it does happen to go ahead and be, I would say cost savings to go ahead and just not have that, it's not like a not want that and not want to incur costs to say the trash company picking up the trash itself and the time taken to go ahead and open the gates, take out the trash, close the gates back up. It does add up to the course of time. But those are the reasons we've had here in the past when it comes to why the code probably wanted to have be fully enclosed and why some folks have wanted to go ahead and stray away from it being fully enclosed.

- Okay. All right, thanks, Jon for all that. Let's jump to the applicant. Who is on the call currently to speak to this variance request.

- Matt Carlson.

- Hey, Matt. Matt, do you mind just, your address for us?

- It's 1240 University Avenue.

- Oh, you're speaking for the actual.

- Yeah, Mike is no longer employed with ICS.

- Ah, there we go. That was the disconnect. All right, thanks, Matt. Go ahead. And ultimately, you've heard the last one, we've walked through potentially an alternative, so why does not complying with the code answer those three questions there? I can go over those again if you'd like.

- Yeah, the reason for the variance request is basically, it's just one reason. Because it's an ICS-owned property, so it provides housing for specifically wheelchair-disabled people. So if we were to do a four-walled enclosure, we feel like it would be very difficult for all of our wheelchair tenants to get in and out of the dumpster area to dispose of their garbage. So that's basically the reason for the three-wall variance request.

- Yes, Barb.

- Does the Americans with Disability Act play any part in this? Because this is for a group of people, specifically built for this group of people. And to try to make their lives as easy as possible, like we have the slope down from the sidewalk into the street for wheelchairs, etc. Would ADA have something to do with this particular variance?

- Not that I am aware of. This is just strictly from speaking with the tenants that are there. 'Cause they have the tenants that are in this building are required to be wheelchair-bound. So we could provide housing for low or no income disabled tenants.

- I was trying to make a case for you. You just said it wasn't a case.

- Yeah, yeah. Well, yeah.

- Okay, nevermind. Maybe it is. Maybe I should be asking that of Jon LeRoy.

- Mr. Chair, if I could. Yes.

- Lindsay Mather, assistant city attorney. I apologize for being late. I just wanted to respond to Barb's question. The ADA might require accommodations, however, that would be something that the property owner, like the residents would have to take up with the property owner and they would be the entity responsible for providing the accommodations requested by whomever the disabled individual is. As far as the city's obligations are, the ADA would not play into whether something like this is up to our code or whether our variance should be granted.

- Okay, thank you.

- Okay.

- Thank you, Ms. Mather. I mean, the case is pretty simple. We either agree with this or comply with code and put a fourth wall up. So looking for some discussion around this. Obviously, the presented case is the use of the property, the current tenant of the property. A lot of times we are not supposed to consider that. We're supposed to consider the property itself, the property can conform with code. Ms. Mather, you're back. Is it fair to assume when your face pops up, you have a comment or that was just 'cause you needed to step away?

- I just needed to step away.

- Oh, okay. It was new to me, so I saw you.

- Poor timing on my part.

- She's back on. I said something wrong. Uh-oh abort.

- Not at all. But you just a reminder, I'm sure Jon covered this earlier, but you do just need to stick to the elements of when a variance can be granted and not take into account things that don't fall within those factors. Since you threw the floor to me for a second.

- You can take it any time you'd like.

- Thank you.

- Okay, great. Thoughts, board members.

- Am I frozen? Their proposal is certainly an improvement over what is existing. I have a hard time not seeing some sort of gate there, just from a security standpoint with the comments noted that they have people dumping trash in it in its current location. With it still being open, what would still prevent people from dumping trash in there?

- Is that a question for the applicant?

- I guess both. That's my concern with regard to not having that security there where it can be locked. If there's people still dumping in there right now, if it's still open, you're concerned with extra expenses with people dumping garbage.

- Just a little bit. I mean, the building is set up in a way that there's an open carport almost, or a doorless garage at the end of the building near these dumpsters where I think people get dropped off in vans maybe, and it's out of the elements. And right now, those dumpsters being across the parking lot, you could have somebody come up from the alley or park in the alley and dump and not be visible. But here, they've gotta bring whatever they're dumping into a place where they're gonna be visible from anybody that's in that garage area. They gotta go further into the property, if you will, I guess. The location change itself might be sufficient to decrease some of the illegal dumping that's going on in there, the neighbors dumping or whoever it is that's doing that. But unfortunately, I'm really seeing a tough way for us to see this in a unique property condition or an unreasonable, unnecessary hardship through compliance of the regulation. Because we're not looking at this from a standpoint of who lives there. We're looking at this from a real estate itself and the use and the dimensions and those sorts of things. I want this to be a no brainer for Jon to just say, "Yeah, go ahead and put up your three wall enclosure. That makes sense for us as a city to allow that." But from the standpoint of, well, I can't do that. So it's gotta be a variance request. I'm gonna have a tough time saying yes to this one.

- Thanks, Noel. Barb?

- And I also really wanna say yes to this because it makes a lot of sense. And I can say yes to, it's certainly not contrary to the public interest. But I don't know how to say yes to the other two. The physical limitations of the property, the hardship self-created would be. And so, I don't know how to say yes. I hope someone comes up with an argument to convince me that there's a way.

- Corey's got it. That's what I was gonna say.

- I don't have, I don't have an easy way, but I'm just trying to think through solutions as far as within the code, can they remove like that third wall say, during business hours from like eight to 4:30 or something like that, as long as it's then secured at night with a fourth wall or it's something like that? Is that a solution where, your residents there most likely are gonna be using it during the daytime or right after dinner. Is it something where they could put a movable gate that is locked up at say, 17 hours a day, but it's open just for the certain timeframe? Does it have to be permanently? 'Cause that's where I'm like, a gate, if you're not locking it is still useless 'cause you could still open the gate in and out. So where is that line between requiring that fourth wall?

- I think you bring up a good point, Corey. But ultimately, I think our job, and this is where I love us. We have this deep community heart where we want to try and solve problems and we want to come up with solutions. Well what if we did this? What if we did that? But ultimately, I think, where we need to maybe lean in a bit more is we just need to answer those three questions where judiciary. We don't write the code. Remember, last month there's this discussion about hey, referring legislation up to other people and it was like, that's the no no. Our job is to enforce and discuss the code as is. Doesn't mean we have to like it, doesn't mean that we have to do it. And if you wanna change those things, like our old friend who left and now is an alder. He's in that position now to be able to do some of that stuff. So I think Corey, I love it, what you're trying to do. Ultimately, that's a use case they can work with Jon on maybe some of those suggestions. The property owner can come up with some of those solutions. What we have to ask ourselves, does it pass those three questions? And for my sense, as much as I do wanna say yes and I hear cases all the time in terms of the use of certain

things, I feel that there's a very easy way to conform with the code currently with the solution being proposed. There are potentially operational options, Corey, that you're talking about but that's not for us to solve. So those are my thoughts. I'm gonna vote to deny the variance, but I'll hear from the other board members. Tom.

- I'm still listening.

- Okay. Fair. Corey, you have any thoughts?

- Yeah, as far as the three questions, I can't answer a positive to them. So I'm on the nay side as well.

- Okay. Anybody want to make a motion yet? We can have as much dialogue as we want though.

- I'll move to deny the request for variance.

- I have a motion on the floor to deny the variance request. Is there a second to that motion?

- I'll second it.

- Thank you, Noel. All right, so I have a motion on the floor to deny. So reminding again. The motion is to deny. So a yes vote is to deny. Sometimes we get those backwards. So any other discussion, thoughts, concerns, Tom? Last chance for discussion or thought?

- My only thought is if University Avenue and the way that the property's structured, if that doesn't define it as an irregular configuration of parcel. That's where I kinda... The city's done some different things on University Avenue and I think that throws a little bit of consideration and in perspective. That's where I'm coming from.

- Okay. Any other thought? Oh, sorry Tom, I interrupted.

- I'm just thinking that I would be inclined to approve the request based on the university part of it.

- Okay. Any other discussion or thoughts on his comments before we take a vote?

- I think Corey came up with the operating solution on this. Build the enclosure per code, but leave the gate open during the day.

- Okay, all right. Let's go ahead and take a vote. So again, reminder a yay vote is to deny. A nay vote is to do the opposite. All right, so all those in favor of denying the motion as requested, say aye.

- Aye.

- Aye.

- All those opposing the denial. Okay, so Mr. Carlson, So the board has voted to deny the request. Doesn't mean that there's not a continued conversation with the city trying to maybe come up with alternatives, but at this point, we've decided to not grant the variance. As much as we want, I always move back as much as we want saying, no, we understand the situation, but our role per prevents us from doing that.

- Yup, thank you.

- All right. We appreciate your time. Thank you for staying. Again, continue to work with Jon and his team. They're great. The city's great at trying to come up with things for people. So thank you for your time for coming. Please stay if you wanna hang out for the third one. If not, have a have a great night.

- Yeah, thanks guys.

- Thank you. Okay, last one on the agenda here we have, I keep forgetting you put it up on the screen so I can just read from the screen 'cause I keep going back into my notes here. So thank you for that, Jon. So item number three, Christopher and Pamela Clough, I always screw up last name so I apologize if I'm screwing that up. Applicants and property owners propose building on accessory building within the minimum side yard setback at 1000 Cornelius Drive. The applicants request the deviate from the following requirement. Which is placement of an accessory building in a side yard setback. All right, Jon, take it away.

- All right. So you're looking at the property right now over on Cornelius. This building itself, you'll know it in the backyard starts to have some, well it's definitely deep backyard. The actual buildable space in this due to terrain is somewhat limited in the backyard itself. And while you can't really see it that well in this photo, that's the most current photo, is an existing accessory building that is right here up along the property line. Applicant shared what they wanna go ahead and do. You'll note the house itself, a rock wall wooded hill and the current shed, which is 12 by 10. Applicant included many photos with the property. This is the existing street view. You can go ahead and see the shed that is on the property line itself. These are some views of the property near the shed with a pond that's nearby it. Here's on the view on the side view, looking back towards the backyard of the shed itself. Here's the side view of the opposite side with that pond we happen to see from few photos before. And where the pond is located at along with the rock wall. And then one more view here with the existing structure for the deck and the 10 by 12 foot shed that they're looking to go and replace on the same spot. I'm showing this few right here because this is from 2000. And when we get to, I'll go ahead and look to confirm that this is what the property looks like. 'Cause this is a 22-year-old photo, but it was the best that was available for aerial shots for you can go and see a structure that was there at least 22 years ago, pond and deck. So with that in mind, they're looking to go ahead and relief to be into the side yard setback. The side yard setback is four feet as far as alternatives go. There could be spots back here in the backyard that would be a spot that could fit a 10 by 12 foot shed. They could move the shed closer towards that artificial pond that's right there. Or they could go ahead and make the shed a bit smaller to go ahead and stay within the setback.

- And Jon, real quick. Remind us all the setback requirement is what and how far are they? I mean the visual looks like they're on it.

- They're on it, it would appear. And the setback is four feet.

- And so the same shed could go there, but it would just have to go over four feet to comply. I mean that's basically what we're talking about, right?

- Right. If you're putting up a new shed right there, so the existing shed is fine right there 'cause it's nonconforming. But they're looking to go and replace it with a new one. So with that in mind, it needs us go and be within the current regulations, which would be a four-foot side yard setback. And so if you're gonna take the same and move it over to the west four feet, it would comply.

- Or shrink it and make it six feet wide.

- Correct, yes.

- Yup, okay. Just wanna make sure I understand the alternatives. And then you said obviously, depending on how the rock wall on the back goes anywhere, just as long as it's going to the side, that's the problem, right?

- Correct, the issue is being with side yard step back.

- Correct, copy that. I think I've got my questions. Anybody have questions for Jon? Okay, go ahead and we'll hear from the applicant. Is there a Christopher or a Pamela here? Oh, I see Pam, is it Clough? Did I say that right?

- It's Clough.

- But nobody gets it right on the first try anyway, so-

- I'm sorry.

- English majors or something like that because that's where it comes from.

- It's probably my least favorite part of chairing a board is trying to guess last name. So I try to avoid it. Anyway. All right, let's go ahead and hear from you and take us through this.

- Okay, well, we're looking to replace the existing shed because it's old and dilapidated and breaking down. The shed was there when we bought the property, which was in August of 2002. So it's been 20 plus years and I suspect it was pretty old at the time we bought the property. And it's just really in a major state of disrepair right now. You can probably see on some of the photos where the wood is splintering away, rotting away in a couple spots. The shed's not long for this world. The reason that we're looking for the variance is we don't believe there's any place reasonable or even within code where we could move the building. Moving it closer to the pond isn't really feasible because that pond is within about three feet, three feet and a couple inches of the shed. And there's a waterfall that comes down the hill, an artificial rock waterfall that was built also prior to us moving in there, that leads into the pond. So in order to just simply move the location of the shed four feet farther to the left, we'd have to move the pond, we'd have to move the waterfall. And it also would basically run not quite up against the corner of the shed, but you'd have to stand sideways to squeeze yourself in between the corner of the deck and the corner of the shed. So I don't believe that's a real viable option. As far as putting it elsewhere in the backyard, it's very narrow. At its widest point, would be just off the deck as you're looking at it there. At the far end of the deck, if you're looking at just off the deck, the widest point is 22 feet, I believe it is. And also, the rail you see going away from you there, that's the ramp that my wife uses. She just has a physical disability, so she uses either crutches or wheelchair to get around. So you wouldn't even be able to put the shed right there next to the deck. If you go farther back to the far side of the house, the distance between the house and the rock wall is 13 feet. And plus there's the aesthetics as well. I mean, I don't think anybody wants to have a giant shed sitting right outside their dining room window when they have a yard with a bird feeder and other things to look at. Like I said, basically, we've explored alternatives, we've talked them over with Jon when I was there. I discussed them very briefly with Pete O'Connell, I believe it is, when we talked about the need to apply for a variance. And honestly, I just don't see any other real solution as far as where to place a new shed. Any other reasonable solution, I should say.

- Okay. Quick question for me. You had mentioned in your application the neighbor where it's sitting on 930 Cornelius Drive?

- Correct.

- And that's your neighbor to the, if I'm looking at, well, it's hard online, but like the one that's sitting on the property line. In my way, it's this way. Have you spoken to that in individual? Is there testimony from them you have?

- Yes. And well, he sent me a text saying that he has no objection to doing it. He's never said anything about the shed being there all the years that we've been here. But he's known that we've been looking to replace the shed and I asked them directly when we applied for the variance and he said that he has no objection and in fact, I think he's actually in on this call.

- Oh, okay. We usually get to that after, but I will ask that question for sure. But thank you for clarifying that for me. I have one more question then I'll leave it to the board if that's okay.

- Sure.

- Or the rest of the board. Right now, the idea is to build something 10 feet and then based on the drawing here, if I'm reading it correctly, between the pond and the current edge of the shed, it looks like there's an approximate three feet. Is that correct?

- Three feet and a few inches, yeah.

- So my question is to get it to comply, has been a thought about doing maybe a nine-foot shed and moving it over to the edge of the pond?

- Well.

- Then it fits, then there's no issues. That's an alternative that I haven't heard yet.

- Well, the other problem is that we store all our yard stuff in the shed for the winter. The deck has a fairly large round table. It has chairs, we have a two-burner gas grill, we have all the yard deck decor, we have all the equipment that goes into running the waterfall and the tarps that cover the waterfall in the off season. Although the yard decor in the front yard, really, the shed is pretty darn close to full when we close up our backyard for the winter. So we talked about going smaller, but I don't really see a good way to do it without having things just totally jammed to the rafters and trying to figure out where to put other stuff that doesn't fit in there.

- Does the physical ability of the lot... I get the use. And my garage is packed. I have two kids and so I want a bigger garage. So I totally get that. But does the actual property itself not allow you to come up with that type of solution that is conforming?

- As far as putting the shed elsewhere, doing a small shed or?

- I just wanna be really clear for you, 'cause again, our job is to hear the presented case. So you're in court, you're answering questions and we're gonna grill you on it. And so, does the property itself limit you to being able to build a shed that conforms and still lets you have use of the property?

- Yes.

- Okay. So explain that a little bit more to me beyond the use of what you're gonna put in the shed. Like the property itself?

- Correct. Well again, looking at the layout, is any place else good to go with the shed? If I put it on the side of the house, it's still gonna be up against the property line or it's gonna be up against the house. If we put it in the backyard. I believe isn't there something saying that of a free-standing shed has to be a certain distance away from the house as well? And I think that distance is seven or 10 feet or something like that. It physically would not fit in the backyard and be in compliance back there.

- Okay, I'm done with my question. Thank you.

- Basically at least putting it on the curb in the front yard and I don't think that that's an option that anybody wants.

- Okay, I'm done. Thank you. And looks like Noel might have some question.

- Sure.

- Oh, and then Dave Doll just lit up too on the screen here. I don't know if they've got something to say, but.

- Is Dave the neighbor?

- Yes, Dave's the neighbor.

- We'll get to neighbors. Yeah, we'll get to those. Let's just get through questions for the applicant and then we'll open up the floor for other people that wanna speak for or against. Okay, Dave, just give us one minute. All right. Noel, were you having any question?

- Question for Jon on that comment about the distance between a shed and the main structure. Is there a minimum distance there?

- Yes. So the minimum distance is three feet. between structures. Now, when it comes to building code, which we're not discussing here as far as variances go, there are more codes that come into play as far as firewalls and amount of light they can get into your primary structure. That may require, if you don't put up the necessary to say rock shooting inside of a shed to go ahead and make fire prevention happen to where 10 feet comes into play then to where you have separation. But the code allows for three-foot difference.

- I have two questions for Jon. The first is, did I understand correctly that what they have now can remain in place?

- No. I'll take that back. What they have right now, as long as it's standing, can stay there because it's non-conforming. It was there in the past before the code into place. The structure is allowed to be right there the way that it is currently speaking without having native repairs to it, yes. But if you were to go ahead and put the exact same building right there, no that is not allowed. You can't go ahead and replace that and put the building right in the exact same spot.

- Constitutes an abandonment of the nonconforming use and then any future building has to comply.

- So there's no such thing as like a legacy experience from an existing structure?

- Not when you're making that improvement, no, you're not. No.

- Okay, thank you.

- Any other questions for the applicant? Barb, go ahead.

- So he's disappeared from my screen now. He was there, but I'll pretend I'm talking to him. Sometimes, we look at compromises. I mean, what's at risk here is we could deny your request because we really can't answer the questions that by law, we have to answer. We can't answer those yes, possibly. So we might have to deny this request and you have this old shed or no shed. Or could we look at possibly an eight-foot wide moving over one foot and then maybe talking about a variance of one foot because of the physical characteristics of the yard. So maybe I shouldn't be asking this of the applicant or is that right to say, are you willing to compromise?

- If that's the best solution that the board can offer, I would consider it. It would not be a preference. And again, the main reason is that we fill up that shed.

- I hear you.

- Very much when we close down the backyard and take everything down for the fall and winter.
- Right, you said that and I heard.
- It's something I would consider, but...
- I'm just saying. I'm not sure which way the board can go. I'm struggling to answer my questions yes. I'm struggling to stay within the law. But I'm just throwing out a possibility, maybe the rest of the board can react. We'd still have to grant a variance of a foot though, board. So maybe then that's not a good solution.
- I guess I'm most curious to hear from the neighbor right now, 'cause I think that's the last piece of information I need to move forward with articulating some views on this.
- Okay, any other questions? Corey, Tom, for the applicant before we go to the neighbor?
- Only question I had is, is there currently a cement foundation for that shed or is it just a dirt foundation or gravel?
- It's dirt. It's not cement.
- Okay, so there's no permanent structure other than the building itself?
- Correct.
- Okay, thanks, Corey. All right, let's go ahead and hear from Mr. Dave Doll, if you're there.
- [David] Yes.
- Dave Doll. I'm assuming it's Dave Doll. If it isn't, then state your name and your address for the record.
- [David] David Doll. 930 Cornelius Drive.
- Thank you, Dave. Go ahead and provide us your testimony.
- [David] Just on some of the pictures, it doesn't really show very well that the backyard has a very steep hill that goes up, so there's limitations there as well on where he can put that shed. And like Chris had said, I don't have any objections to what is there right now, if he just wants to replace it. I mean obviously, that's up to you guys, but me as a neighbor, I have no objections.
- Okay, Noel, did you have a question for the neighbor?
- Yeah, I don't have a question. Just ready to make some comments here and see if the pasta sticks to the wall here for some of my-
- Okay.
- I just have one quick one, if you don't mind. So when you said there's a slope, so I can see that it goes to the back of the property. Is that same type of slope go, like in this picture looking into the distance, which way does that slope run? Is that relatively level or does everything run which direction?
- It goes up away from us to the right.
- Yeah.

- [David] Yeah, it's a hill.

- A hill to the right, yeah, I understand that. But going backwards, so like your backyard, is that all up and down right there where the arrow was just going? Is that relatively level or what's the incline there?

- [David] No. Once you get actually about 12 or 15 feet past where the end of the deck ramp is there, it slopes pretty severely down toward my neighbor's prop, next house down the street.

- So you would have some additional grade that you'd have to worry about as far as placement in any other location is what you're saying?

- [David] Correct.

- Okay. Any other questions for the applicant or the neighbor before we get to our board discussion? Okay, thank you to you two. You can go ahead and mute. If we need any questions, we'll pop you back on. We're gonna discuss and we'll see if it leads to a vote and how it goes.

- All right, board members.

- [David] Thank you.

- Yeah, thank you for your testimony. Any thoughts, concerns, thoughts? Where we at?

- Thank you for putting that up.

- Oh, that's great. Is that you, Jon? You're so resourceful. Thanks, buddy.

- I think that a previous property owner found the ideal location for the shed, given the constraints of the site. It's got a really steep hill in the back. It's a very limited footprint. There are alternatives where the owner could put a shed of similar dimensions and I think it's reasonable for a person to have an accessory building like a shed in this neighborhood, but they would have to do it in a way that would limit the use of their deck, their house, their view. Other things that just don't quite make sense to me. Not necessarily saying there should be a grandfathering of a nonconforming views as maybe Tom was going after, but I think in practice, the reason that shed is there is because that was the best place to put it before and it's still the best place for it to be located today and in the future. And so I think that the unique property conditions are there. We heard from the neighbor, I can see there's no harm to the public interest to have a shed in the back of that property and I intend to support the variance requested.

- Okay, thank you, Noel. Any other? Jon, actually this could for us, and not to put you on the spot, Noel, but do we feel, again, we're not gonna be perfect, so I don't ask Noel to be perfect. But based on kind of this idea of speaking to the three questions, you feel like you got what you needed? And I don't know if I should be asking you or the attorney, but is that headed in the right direction in terms of his reasoning and his explanation or is there anything more you need from Noel to kind of speak to that? I wanna make sure we're, we're working that muscle.

- So we're gonna wanna go ahead and when it comes to our minutes, we want to note preservation of intent, exceptional circumstances, preservation of property rights, absence of detriment in hardship. And I gather there might be some wins here that wanna go ahead and prove this. If you're gonna go and try to approve something, we need to get something, be it three words or three sentences or three paragraphs, however long you wanna go ahead and say it. That go ahead and address those five issues and I'll pop it back up here on the screen to just, for somebody, it doesn't need to be every person, but just know those five issues come into play with this.

- Okay.
- Noel.
- She is, she's there, she is again.
- I'm here. I did pop up again.
- She's on.
- Sometimes, it will happen that way. I was just going to say basically the same thing. It is certainly helpful for each of you to provide your thoughts with respect to each of the five elements, but ultimately for purposes of the minutes and everything else, we need the board as a whole to make specific findings as to those five things. So those can contribute to the discussion, but you certainly don't all need to go individually through each of the five, if that makes sense.
- That's great.
- So from that perspective and it'll stop share. Can I say, I do not believe a variance would be inconsistent with the spirit purpose and intent of the regulations for this district because sheds are allowed, they're a normal thing you'd wanna have. I think the site, the lot has some unusual or extraordinary circumstances in its topography that would make it a challenge to comply with the regulations, the reservation of property rights. I don't think we're denying a use here. That there's no detriment created to the adjacent property, we've heard from that neighbor and it's not gonna impair the public interest. And I think complying, putting that shed or putting us shed in the little bit of backyard that he's got that's available that's flat is an unnecessary hardship in limiting the use of that property. And I think we should allow this variance. I so move that we do.
- I second it.
- Oh. We're moving right to motion here. Any discussion from the other board members? My thoughts is I appreciate where the other two board members are in terms of the vote, but to me the hardship seems self-imposed. I think there is alternative solutions to the shed. While it is unique, most of them are physical things that have been built to the house. And I think there are solutions in terms of maybe moving it over making the shed. I was Google searching typical shed sizes, I get it. Everybody needs more space. Everybody needs more storage. But again-
- He's not asking for more.
- He's asking for something-
- Paving the driveway without the permit is the self-imposed hardship.
- The size of the shed is the self-imposed portion for me. He could build a smaller shed, move it over, and it would conform to the code.
- If the storm knocked this existing shed down, current code will allow him to rebuild it exactly as it is.
- But that's not happening.
- But what we're saying then is wait until your shed falls down and then you can replace it with one just like it 'cause that's currently permitted.

- Yeah, but it's not my job to...

- No, I'm just saying that as an argument against your argument about it being self-imposed. I don't think it's self-imposed.

- Well what's self-imposed is the way the items are being stored. Do all of them have to go in a shed like that? Understanding the constraints with regard to the garage uses in the winter and Mrs. Clough's disabilities, that was one of the comments that's in there. But really, self-imposing where things are stored. I think that's part of where I'm in my mind is, there's other ways of storing things in a smaller ones. Do all the items that are currently in that shed have to go back in that shed? But understand, yeah, if that did fall today, yeah they could just replace it as is just because of that way. But I'm on the side of a nay.

- May I speak to that comment?

- We'll let you go before we vote. How about?

- Fair enough. Thank you.

- I'll allow it for a moment after I hear from Tom, but briefly 'cause we're long already. So brief comments. Go ahead, Tom. Any thoughts?

- I would echo Noel's comments with an additional comment that his backyard beginning at that stone fence is unusable and we're that geography to be flat. I don't think he'd have any problem putting that shed in the flat part. So the height of the hill behind him where stone fence starts is a special circumstance in my mind. So I would vote to approve.

- Okay, and then the applicant, you had a comment you wanted to make or do you wanna not make that comment considering there's potentially enough votes for your approval?

- No, I just wanted to clarify on the hardship thing. My wife does have a physical disability. She also drives herself, she works full time. It's really a necessity to have both cars in the garage during the winter so that she's able to get into either car without having to go to extra lengths to have to navigate rough weather in the winter. The two vehicles fit in the garage. Not much else does, we keep the snowblower in there. We do keep other things in there that don't fit in the shed, but the garage is pretty full up as it is too. So we talked about the possibility of putting some stuff in the garage, some smaller things could, but the big things, not really. It would be very much of a hardship to have to try and figure out how to do that.

- Okay. I think we're ready to vote though. So I have a motion by Noel to approve the variance as requested and seconded by Barb. Is that correct to remind me?

- That's correct. And the reason I am seconding this motion and not going for a smaller shed is I think six feet is way too small. There's no way. And I can understand why it can't be moved over and if we went with an eight-foot shed, seven-foot shed, we still have to grant a variance. We'd still be in the same position we are. So that's why I'm really okay with what Noel explained it with saying yes to this. Because even a smaller shed, unless it was that tiny little shed, you'd have to grant a variance.

- If it shrunk, just to make sure I'm clear, the math is, it's four feet, right? And there's three feet on the side.

- And you have to have access to the pond. You can't just build a shed right up to the pond, right?

- Even if you moved it, if you went to an eight-foot shed and moved it over two feet, you would still have four feet, right? Is my math wrong?

- But you'd also still be, then, you'd be interfering with the deck that's there. We're creating more of a hassle.
- Is the deck. That's the first time I've heard the deck being an issue if they've moved the shed over. Is that a real thing? I've not heard of that testimony.
- The deck goes off the back of the house. You saw it in the photos I think.
- Yeah, but I haven't heard anybody testify to.
- Well let's just vote on the motion that's on the floor, Tommy.
- I'm the one that caused this, but.
- Yup, uh-oh, Lindsay's back.
- All as well. I just wanna clarify, when you do vote, essentially, because Noel made the motion, you would be voting to basically adopt the findings that he articulated with respect to each of those elements.
- Yeah, we don't need to say that in every motion, do we?
- You will, ultimately. You'll need to make the findings on every variance application. But for this one, as long as you have, if after the motion is made, if any of the findings that Noel articulated, if you need to change any of them, if you think you need more clarification on any of the particular findings or make them conform more to the ordinance or anything like that, it would be appropriate for you as a board to do that. You just need to make sure that before you vote, you as a body, have articulated which of those, if you're changing any of them, otherwise, just the findings as indicated by whoever made the motion. In this case, Noel. Does that make sense?
- Yes? In fact, in theory, in practice, virtually, if I'm gonna be honest, that's gonna be an uphill stroke for us. But we'll get there eventually. But that's gonna be muscle we're gonna have to develop. 'Cause that is extremely different than, I mean I've been on board for, I don't know, three years, Tom, you've been on for a long time. And it's gonna be a very new behavior for us.
- Understood.
- But we'll work towards it. I think Noel did a good job. And Barb, you have no considerations or changes on what he articulated in his motion 'cause he walked through all of those and then he made the motion.
- I don't have any, no. I was just wanting to explain why I was willing to second this motion 'cause I felt we would need to do a variance anyway.
- And I would like to thank Jon for showing the slope of the gradient with respect to the lot. That was pretty critical to my decision-making.
- Okay. So we have a motion in a second on the floor with recorded findings, which I think is maybe not perfect, but a good step in the right direction for us to continue to move forward. Any other discussion? All those in favor of granting the variance, go ahead and signify by saying yay or aye or yay.
- Aye.
- Yay.
- Aye.

- Thank you. I couldn't remember what we said. Literally, my brain went sideways there. By aye. Let's do that again, say aye.
- Aye.
- Aye.
- Aye.
- And those opposed nay.
- Nay.
- Nay. Okay, so we have a three-two vote to approve the variance. So, oh, this is so bad. I'm gonna script the last name of Mr. Clough.
- Think of enough.
- Think of enough.
- Barbara is right, but it's sloped, Clough.
- Oh, see? I asked and then I totally screwed it up again. I apologize. I'm so bad at that. Thank you for being here. You got approval for the variance. So continue to please work with Jon and the team. As I've said before, they're great. They'll work with you on, again, anything, Make sure you get a permit even though it's approved, you still wanna make sure you check to see if you need a permit to make sure you rebuild the structure. So don't screw up the process now.
- No, I've already been talking with Jon about that when we filled out the variance. So I'll be see him this week.
- Okay, well thank you for your time again, sticking with us. Last agenda item is always the longest, so we appreciate your time, thank you.
- Thank you.
- Okay. All right. And you can stay, we're gonna get into a bunch of discussions so feel free to stick around. It's super exciting. Or you can go and enjoy dinner and have a good night.
- Okay, thank you.
- Dave, same thing. Neighbor Dave. Thank you for being here as well. You can stay or you can hang up if you'd like. All right, Jon, I'll let you take this section if that's okay for a bit and then I'll offer my 2 cents in terms of our discussion we had as well.
- Good. So to start out this informational, Lindsay's here. Thanks so much. I'm gonna go ahead and toss onto her for the quasi-judicial hearings training portion of this.
- That was like flea flicker.
- Yeah.
- I give you the ball, you throw it back.

- I just double reverse. I get back. I'll be right back.
- Okay.
- Do you need to wait for him, Lindsay?
- Nope, she's just getting up right now. All good.
- Okay.
- Should there be a hyphen in between quasi and judicial?
- We're gonna get this picky?
- Actually, yes.
- I can't pay attention anymore. And Noel just ruined it. It's over.
- You know what's really funny? My colleague Logan is on the call as well. We had this conversation last week and then I didn't save the changes but yes, it absolutely should be hyphenated.
- I love it. Logan's on the call?
- What's that?
- I said Logan's on the call? We can't see Logan.
- Yeah, he doesn't have his camera on.
- There he is.
- Hey, there we go. We should put everybody's camera. Steph and Jessica. Everybody's camera should go on at this point. Hi Logan, great to see you. Okay, anyway, you were saying Barb? I'm sorry?
- See, this is really a game changer because if we're doing this, like the quasi-judicial hearings that I've been involved in with you, Lindsay, they take a lot longer. It takes a lot longer. And I wonder if we can have sometimes limits on the number of items. I mean we only have three tonight and look. But when we have eight, holy cow.
- Right.
- Yeah. I think Jon and I had a long, and I'll speak to this, maybe he's gonna speak to it a little bit later. We had a two-hour, three-hour conversation the other day. I don't know, it was long. And I think what we've been talking about is ultimately, we're just seeing too many. We're just seeing too many variances and there's a myriad of different reasons why that's occurring. And so it's not gonna happen overnight, but I think us getting more educated, understanding exactly what our role is, Jon and the team at the city, really, really working through alternatives, trying to keep people on the path of conforming. And finding those alternative solutions. And again, he can speak to that, but I think you're not wrong in saying adding all this process, but again, if you look at it in terms of eight agenda items, we'd be until midnight.
- It would.

- But I think the goal is to reduce the amount of variances because what we've done, if we've done better education, we've created a better application process, the city's being more helpful. And if those three things on the front end can occur, then us as a board is gonna be better in a position to really recognize those that are really cases. It's not like, sometimes, we see people where the city in the past, Barb, you're a little bit newer, but sometimes in the past, people would be basically saying like, hey, this isn't gonna work, whatever. And they're like, well I'd rather pay the \$50 and take my chances. And we don't wanna see things like where they're just kind of hoping they can win with the three-two votes. So I think you're not wrong, I just think after tonight, I think we'll have a bigger picture of what we're trying to head to and we'll see where that lands.

- Well the only other comment is that we need to really educate each of these people on what a hardship consists of. It doesn't consist of a person with a physical disability not being able to get into a car in the garage 'cause the garage is too full. That's not what we're talking about, right? Hardship has nothing to do with the people who has to at the property, right? I mean, don't we so many times hear people talking about hardships that were like, "Yeah that's pretty crummy." But that's not the kind of hardship that we're talking about. I don't know.

- Correct. I hear what you're saying. And so, I'll be talking about this more here when it comes to how we're gonna change up the application process right here when it comes to this. But first, I'll throw over to Lindsay as far as what legal wants to go ahead and put forth.

- Thank you. And before I throw the presentation back up on this screen to ease Ms. Dorff's concerns more than anything else, these will be somewhat different than the quasi-judicial hearings that you're used to in other boards like the Ethics Board or Personnel Committee because these are... I would generally expect them to go more quickly. And you also won't need to go into closed session every time unless that you choose to make that something that you start doing. So that's all. We can get into more detail on that later. Did you have a question for me before I start? You're muted.

- Sorry, so we forgot to close the floor procedurally, so we should probably motion to close the floor.

- Move to close the floor.

- Second.

- Thank you. All those in favor?

- Aye.

- Aye.

- And opposed? Okay, great. Sorry, procedural's done. Go ahead.

- Well done. I appreciate it. So the training that I'm going to show you is the one that we use for all of our different boards and committees that do quasi-judicial hearings. Some of it, like I was kind of alluding to, won't necessarily apply specifically to this committee simply because the way that you structure, how you hear the variances is different than how quasi-judicial hearings are heard or conducted in front of other boards. That being said, the Board of Appeals is within its rights to create its own procedure for any of these hearings. So that's certainly something that you can talk about as a larger board. But for now, I'm just going to run through the training and I'll try to skip over the parts that don't really apply here, but just bear with me 'cause it is lengthy and as Barb knows, I am not short-winded. So, . All right, just one second here. I did fix the hyphen at least where I could see it. So the primary concern about a quasi-judicial hearing is, you know what? I'm gonna move it to the other screen because I'm looking away from my camera and it's bothering me. So sorry. Just bear with me here. I don't actually know. Okay,. Now I was gonna start it without sharing. I apologize, everyone. It's been a day. Okay, so nope. Here we go. I'm still gonna be looking off to the side. We're just all

gonna have to be okay with it and it really is just me. So a quasi-judicial hearing is necessary to ensure that due process of law is afforded to any of the applicants that are before the board. So just a really quick overview. Due process is required whenever you might be depriving someone of a life, liberty or property interest. And so the property interest is what comes into play here with respect to the board of appeals. It's also to something that we need to be aware of when a decision affects just a small number of people. And when you're making factual determinations about an individual and then applying the law in an ordinance to the facts of the particular case in front of you. So in a hearing like this, as I know you've discussed earlier and you chair has made a reference to several times, you are acting as a quasi-judicial body. Essentially, you are the court for purposes of these hearings, I'll call them hearings for lack of a better term, but it's just whenever you're hearing somebody's application, whether you conduct it as a more formal hearing or not. Essentially all of the elements are going to be the same. And the hearing is necessary, as we said, for when you're affecting the rights of an individual or a small number of people. Which are that their rights are protected. These are the three elements required to satisfy due process. Written notice to the parties, an opportunity to be heard and a decision that is not arbitrary or unreasonable. So written notice of the parties goes beyond the open meetings notice. It specifically informs the applicant in this case of the reason for the hearing and the specific facts that they will be asked to address at the hearing. And this usually takes place on the staff side, so not something that you as a body will actually do, but primarily, Jon will be doing this or anyone in the planning office. I'm not sure exactly how the division of labor will work, but primarily Jon will be responsible for the notice part of it. The opportunity to be heard is really where the board comes into play. You are the place where the applicant gets to come and make their case. And so, the requirements are that the opportunity, a meaningful time, meaning that as soon as practical after the application is submitted, it should be heard by the board. And then also in a meaningful manner, meaning that the board provides an opportunity for the person to make their case and provide evidence, refute evidence or the factors articulated by staff, those kinds of things. And then of course.

- If you time limits on that area, we can impose those no issues. So if I say.

- Yes-

- Three minutes to-

- Yup.

- Okay. Yes. And well, there's a slide a little bit further on about procedure, but yes, as far as what the actual hearing looks like, what the opportunity to be heard looks like, you can impose limits on the applicant. You could even impose limits on staff and you can impose limits on witnesses. Just not your attorney. So the decision then is the findings of fact and conclusions of law that the board adopts in determining whether to grant or deny, in your case of the agenda tonight, the variances, but it could be whatever else you're considering as well. So whatever your decision is has to, go ahead and just interrupt me. I might see your hands. I might not, so go ahead.

- Okay, Lindsay. So it's based solely on the information gathered at the hearing, which means we really aren't supposed to prep too much to be coming up with what we might be thinking are gonna be our findings of fact before the hearing? I mean, does that preclude us from doing it or can we still think about those things?

- So, it doesn't preclude you from reviewing whatever's been submitted along with the agenda or what's in the agenda packet. But what we're concerned about is, for example, going out to the property by yourself and communicating with the property owner. Those kinds of things are not appropriate. What you're actually considering needs to be limited to what you hear during the hearing. So reading the materials, even pulling up a map, although I know the planning department's really good about including maps and images and stuff in the packets, but those types of things that are just provided to you in advance, they're also, by virtue of the agenda being published, they're provided to the party as well. So both of the parties have it. And then so you as a board, you're not going beyond what's being provided to you. Does that make sense?

- It makes sense particularly from the communication standpoint or talking to other parties. But I think there's oftentimes, somebody might look at the property or lay eyes on the property. It seems given that a big part of our test is about the physical, unique characteristics of particular property, laying eyes on that in the real world as opposed to looking at a 2D map or something like that might be really helpful for us. So we're not saying we shouldn't do that if we think we need to lay eyes on something, just not conduct anything beyond that.

- So that's really going to come down to each of you as individuals determining whether your previous interaction with either the applicant or the property is something that would bias you one way or the other against the issue. And I'll get into that in a little bit. By and large, I do understand the impulse to do that, to visit the property. And I think that's not uncommon, particularly because sometimes, you'll have properties that you just drive by on a regular basis, so you already know what they look like. Sometimes, you'll have those things. In general, I would discourage making special trips to take a look at the property because it would fall under the category of independent investigation if it's not being presented in the form of the hearing. And the particular concern isn't necessarily that you just viewing the property as you drive by or something like that. But for example, what we've seen in the past is alders coming to committee meetings and saying, "Well, I drove by the property and this is what I saw." And at that point, you're no longer the neutral decision-maker. You're actually advocating one way or another about the property and the issue before all of you. So that's really what we're trying to avoid, if that makes.

- So I completely misunderstood my role. I thought it was an expectation that if at all possible, we were supposed to go out and look at the properties. So I have been making myself go out every single time and look at every single property because I thought that was part of our job. But it isn't part of our job? We don't really need to do that?

- In general, no. If you are finding.

- What is shared to us.

- Correct. If you're finding that on a regular basis, you need more information from staff or something like that, perhaps this is something that you can revisit more specifically as a body as far as you know.

- That's not why. That is not why I was going out there. I was going out there because at the beginning, the chair asks has anybody see the properties? And I always wanted to be the good girl that raises her hand and goes, "Yes sir, I did. I saw them all, sir. I'm good." So I go out-

- I was under that impression too, Barb. So this is news.

- So it's the opposite actually. The reason that you ask if anybody has been out to see the property is specifically for this point, right? To make sure that nobody's done independent investigations.

- Bias before we hear the-

- Correct. And so like I'll get into, when I talk a little bit more in depth about bias, the reason that you ask those questions at the beginning of every meeting is to make sure that you have made a record of any potential bias you might have with respect to any of the issues before the board. So that's why that question is there. Not necessarily as like, did you do your homework? But like, I hope you didn't do this, if that makes more sense. It's okay. We're clean slate, we're starting now. This is why we're doing the training. So it's all good.

- I kinda disagree with this perspective and I kinda question my future participation with this board based on how you're dealing with things. I gain quite a bit of information when I go visit the neighborhood. For example,

there was the one on St. Anthony Drive as far as the setbacks go in understanding that, yeah, there were other homes in that area who had a closer build to the street. I'm not gonna get that unless I go there.

- And I certainly don't want to start a debate right now, but I do wanna emphasize that's part of the reason why you're not supposed to do these things. Because when we're talking about a variance, we're talking about the characteristics of the property in question. It's not a question of what do the properties nearby look like. That can factor in under the question of the intent or the purpose of the zoning regulations, but whether other properties have variances and those kinds of things is not something that you can consider when you're considering a variance for a particular property. So that's really why, when you're examining these requests, we want you to be examining the property before you and only that and only the information that's been provided to you by staff and by the applicant. All right.

- I'm gonna seriously reconsider-

- Any other questions on that before we move on?

- I'm gonna seriously reconsider my participation with this board.

- I'm sorry to hear that. I hope that you stay. I am going to keep moving. So in the other elements of the decision really get to why we make the specific findings. We wanna make sure that the decision itself adequately describes how the decision was made. In other words, that you considered the factors in the ordinance and also that the decision isn't arbitrary or unreasonable. And so this is questions of fairness and bias come in again here. But also, most importantly, it has to be based on the facts and the law. And so like you saw with one of the variance, at least one, I apologize, I came in a little late to the meeting today, but like you saw with at least one of the variances this evening, everybody seems to really want to grant the variance, but there really wasn't, it would've been arbitrary or unreasonable to do that because under the factors that you have to consider in the ordinance, there just weren't grounds to grant the variance. And so that's what we mean by not being arbitrary or unreasonable. We wanna make sure that it's based on the actual facts and law as applied to those facts. Ex Parte communications kind of goes along with some of what we were just discussing. But in this case, we're talking about actual statements or discussions had with anybody about any matter before the board that is not part of the record. So if you've talked to any witnesses, if you've talked to the property owner, if you've had a specific conversation with someone else on the board or on a member of staff, and this is a little bit different than some other boards and commissions where you are a little bit more free to have conversations with staff about particular issues on an agenda. In this case, like I've said, the decision really needs to be based on what's put on the record at the hearing, which is just the meeting. And so we wanna make sure that you're not even communicating with staff because staff is technically one of the parties. And then of course, no one else in the community. So if you hear from, if anybody reaches out to you, just a friend of yours who happens to know something is on the agenda or something like that, really make sure that you're letting those people know, I'm not allowed to discuss this. Because that would be an ex parte communication. I mean, you don't have to tell them that part of it, but it would be, so make sure that you're not discussing it prior to the hearing.

- So I have a question for you.

- Okay.

- In the past when I visited properties, I brought a camera on and I provided photos to staff to present at the meetings. Am I understanding I'm not supposed to do that?

- That's correct. That would be considered independent investigation.

- I think I'm gonna leave the meeting now. I've made a decision to leave.

- Okay. I can't do anything about that, unfortunately.

- Okay, Tom, we'll touch base. I understand where you're at. I was having, just for those that are on the call, I was talking to Jon about some of this stuff as well. And for my brain, the way it worked, Barb, you probably have more experience, but for me it was like, okay, cool, we're kind of acting as a board judge and jury, so we need to stay neutral. And the reason why we can't talk to staff is she just said they're one of the parties. So like in my head, I was like, okay, the city's like the plaintiff and the applicant is the defendant or vice versa. But in my head, it worked out that way. That the city is saying, look, here's the ordinance, this person's not complying and they're appealing to us, that decision by the city, the law. And so for me, that worked in my brain when I was discussing it, which then started to make sense of a lot of things we were doing and what we weren't doing that we needed to clean up because we are judge and juries. So if you were on a jury, they would be like, hey, you can't talk to anybody. In fact, you have to go, depending how sensitive it was, they tell you can't even leave. So that's kind of where we're at. We need to stay as neutral as possible. Staff is on one side saying, and that's why Jon tonight, you saw him listening alternatives 'cause to me, that made sense. Well then on the application, it talks about alternatives. Then what I would like to hear from is here's the case, here's alternatives we've discussed that can comply or can get closer. And they've decided to not do that and here's their case as to why. And if you actually read the current application, it kinda flows that way. I think we were missing in some of our presentations that alternative side that we were hearing from the city. Hey, we've been trying to work with this individual. Here's everything we've come up with that could have worked. They've said no to all of that. And here's why. So they're gonna present their case of what they want. And that feels for me, I'm hearing one side and I'm hearing the other side. And so I think that's helped my brain get a little bit. And Lindsay, if you need to correct anything I'm saying. But that's where my brain was headed when I was talking to Jon.

- I think that's pretty much spot on. That's what I'm after. Any other questions before I move on? I did not create this PowerPoint, so please forgive to just say no reference. So this is just kind of elaborating a little bit more on the ex parte communications that we were just talking about and some reasons why those types of communications should be discouraged. And the first two are some of the more important ones in my view. You don't wanna be improperly influenced. And you also run the risk of being inaccurately informed if you get the information from someone who is not directly involved in the issue.

- Lindsey, does that mean we should maybe avoid having communications with the alder in that district prior to the hearing?

- Yes. I think that would fall under, I think there's just a general reference to members of the community, but I think alders would fall under that as well. They may be neutral, they may not be. And so that's not something that we can, hang on a second. Sorry, thank you.

- I think well many times, I think they're advocating for.

- And that sometimes-

- They're never neutral regardless of- I've never seen.

- A girl can dream.

- But I mean too, one of the members of the board, for example, emailing alders and saying, "What is your opinion on this?" That's not something we should do, right?

- No. If the alder has a very strong opinion that they wanna weigh in on, I suppose they could come and be a witness, but they would need to be like a witness and not just providing an opinion because they're not members of the board.

- But it would certainly seem to be that their testimony as somebody who is familiar with the conditions in the district.

- Correct.

- And their opinion as to whether this is a problem or against the public interest or something like that in terms of the solutions we're considering. That's fair game for them to say that at the hearing itself, right?

- Absolutely. Absolutely. All right. Thank you so much. I had Logan go get me more water. So now we move in to what happens if you have had an ex parte communication. And for purposes of this part of the discussion, I'm including independent investigation in the same vein as an ex parte communication. So if you have this type of communication, The question becomes, what do you do now? And the question that it really comes down to is are you biased? And whether or not your bias comes down to whether you have prejudged the matter or whether you can remain neutral in the face of the rest of the discussion. So it may be that you did drive by the property and you saw what it looks like and now you just need to say on the record, I drove past the property, I didn't talk to anybody. I feel like, I mean, it's helpful to clarify that, that you didn't talk to anybody. Establish the limit of whatever investigation you did or if you did speak with someone. I had the alder approached me and I had this conversation or whatever. Put that on the record and state for the record whether you believe you can still make a decision that is unbiased and whether you are still a neutral decision maker. Meaning that you haven't gone into the hearing with your mind made up. If you feel like you can't fairly and impartially participate in the hearing any longer, you do need to recuse yourself from the item.

- What is involved with recusing oneself? Are you going to get into that? 'Cause I'm not sure everyone understands that.

- Sure. Oh that slide was in there twice. So recusal is just as simple as saying "I am not going to be participating in the discussion or the vote on this particular issue." And it's important that you do both. If you have a conflict of interest, which I'm going to discuss in second or you're bias, not only can you not vote on the matter, but it's very important that you not participate in the discussion of the matter. Because you also can't be advocating for one side or the other. You need to be that neutral decision-maker. And if you can't be that, you need to just not participate and sit out the whole item.

- I would even say probably turn your camera off too 'cause I mean I can eye roll or shake my head or micro nod or do other things that that will get folks, yeah, right? Get folks to think about my thoughts on the matter even if I'm not talking. So I think if we're recused.

- Uh-oh.

- He's just recused himself.

- Well done.

- I have a question on that 'cause it's happened to me in the past and I think it was brought up a meeting or two ago. I've had to be a person, as a business owner at the Board of Appeals applying for a variance. In this instance, I would have to then hire someone or have someone speak in my stead. I could not present as an applicant because I'm on the board?

- Nope, you absolutely can. You just cannot participate in any way in the board's consideration of the matter. So you can be there just like any other applicant applying for whatever you're applying for. But someone else would be, basically, you would step back from your position on the board entirely. So someone else would chair that item, someone else would run the discussion, someone else would do everything that you would normally do on an item. Someone else would do that for you. And you could not participate in the discussion or obviously vote. You would actually just be like any other applicant. So in fact, if there's discussion happening

and you wanted to participate, you would need to get permission from the chair to be recognized and then speak that way as well. So basically, you would just be entirely in the position of the applicant and not a board member.

- Got it, yup. Okay, that's good. I'm glad we clarified that. Sure.

- Okay. So we were talking about a business or a property that you specifically own, then we're no longer talking about bias, we're talking about conflicts of interest. And that's anything in which you have a direct monetary or other material benefit. So if it's a business, if it's a property that you own, those kinds of things, you have a direct interest in those matters and the board's decision will directly affect you materially in some way. So you absolutely understate ethics rules cannot participate in any matter in which you have a conflict of interest. You can't participate as a board member on any matter that you have a conflict of interest. And so this would be direct financial interest or an interest that tends to impair independence of judgment. So that for example, if you're in a budding property owner next to your property is before you for a variance and the variance that they want is somehow going to affect your property, even if you can say to the board, "Well no, trust me, I can remain neutral." That would be an example of something that tends to impair independence of judgment. So you would still have a conflict of interest and you would still need to recuse yourself.

- What are we gonna do when the packers come before the board? Everybody's biased. just kidding.

- That's a fair question. Okay, I think I went over this already. I'm not going to go into it in too in depth. Does anybody have any questions on bias or conflict of interest? Or the difference or clarification on any of the use points, anything like that? It looks like there's another slide on bias here.

- I think those questions are ones that are... I mean if, if somebody came in who was a business partner of mine that I had a contract with and that getting the variance was necessary for their performance of some work that they were under contract with me for, obviously, I've got a conflict of interest, I can't participate. But what if it's somebody who I have done business with in my day job, but it's bay towel or for example and they do the floor mats at the office. I mean that doesn't seem to me to be, my impartiality is probably pretty easy to maintain in something about their facility just because we've gotten floor mats from them or something doesn't mean that we're not gonna be able to be impartial, right?

- I agree. The important thing is that you make a record of it one way or the other. So any time, whether it's because they do the floor mats at your office or because it's your buddy's cousin or something that like your friend told you that their friend is going before the board, whatever it is, put it on the record. It's always better to have a record than to not disclose something and we find out later that it becomes a problem because it can in fact invalidate a decision if somebody is participating in the decision that has a conflict of interest. So we always urge you to put any connection with the item, whether it's through business or whatever. Put it on the record. And if it's potential for bias, but like you said, you believe, yes I'm connected with this person sort of in a business way but not in the way that's related to the variance and I do believe that I can still remain neutral. Put that on the record. And then we have a record of your disclosure. And for the record also, I know, Tommy, you had raised your hand but just before I forget, the conflicts of interest are your mandatory, you have to recuse. But when it comes to bias, it's an independent question. So each of you has to make that determination for yourself whether you can remain impartial. Barb can't say to Noel, "I think you're biased, you can't participate." That has to be Noel's decision. Does that make sense? Okay.

- Why is Bart being mean?

- Just the first two names I saw.

- I think the thing for that always helps too is again, that's why we're five. So again, during an appeal, someone could appeal our decision and if that was a one-vote swing, they could claim this person was being biased and they're gonna base, it's a court. We're literally court. And then they would say, this is why the voting should be

kicked out. I have two procedural questions. One, this is more of a training and so I have no clue, but is this part of the formal meeting? We're still recording? Is that something we should be recording for the record, this training?

- Yes. It is technically still part of the record.

- Okay. And then two selfishly, by no means am I asking to end, but do we have any concept of how much longer we have? My brother-in-law was in town and they're all eating dinner and they keep texting me and I keep saying, "Guys, eat without me." So do we have any idea of how much longer we think we're gonna be on the call? I will stay as long as I need to. I just wanna be able to give them a time.

- I have just a hand. I can't give you a specific amount of time 'cause I know I'll blow right past it, but I just have a handful of slides left and actually most of it is detail about how the hearing will run. So my part can go relatively quickly, but I know that Jon has more as well.

- Right. Let's say about thirty more minutes.

- I think that's reasonable.

- 30 total? Okay, all right. Thank you.

- Sorry, I shouldn't speak for you Jon. That's reasonable from my point of view.

- I can go through it quickly. I'll speak fast. I know I do.

- Well and I think it's important, Jon, and we'll talk about this procedurally. This is really important. We've lost a board member. We're changing things, we're getting things buttoned up. So I know as board members, I'll speak on behalf of myself. It's sometimes difficult because we're on the call for 2 1/2 hours. But again, all of this discussion, all of this training, everything, the end goal is to try and make it more efficient, more effective, better for everybody involved. It's just gonna be a process to get there. And so I will say thank you to everybody for the extra time here that we're giving and for Lindsay and her team to be here to explain all of this for us.

- I guess I'm gonna say something. Steve isn't here, right? So he could be encouraged to watch this and if Tommy needed to leave, Tommy could watch the rest of it too. I'm just trying to give you an out.

- I thank you for that. I am totally not gonna leave. It was more of like, okay, it's personal, I'll just tell my wife, hey. I'll get there when I get there kind of thing.

- Okay.

- I appreciate that though.

- But to that point, we do need three of you for a quorum. So if anybody else needs to leave, I do understand. I would absolutely request that you watch the training later if you're not able to stay. But I do appreciate that all of you have stayed so far and I will get back to it. Okay, so at the hearing, the person that in this case, the applicant must have the opportunity to present their claim or defense. In this case, most frequently, I think it's variance requests is what you see most frequently if I'm not mistaken. Witnesses should be sworn in and their testimony should be under oath. I know, I see all of your faces. I know that you don't do that. That's okay. We're gonna start now. Just very quickly, the actual oath is on the next slide or a couple slides down, but we just wanna make sure that because it's like a quasi court thing, we wanna make sure that we're taking testimony like they would in court, which means that we do ask them to swear or affirm that whatever they're about to tell you is true. And I see some of your faces, I just wanna say, what's in the past has already

happened. We're not concerned about that. We wanna make sure that going forward, we're getting all of this right. And so, let's not worry about how things have been done, let's just, here's how we're gonna do it going forward. And then both sides have to be given the opportunity to be heard, which in this case, is the applicant and staff. The individual parties are able to present witnesses. You are free to, Well, you can ask if there are other interested parties, although that's slightly atypical from how these hearings would typically proceed. We would typically expect that they would be a witness for one party or the other. So if just somebody in the community wants to chime in, that wouldn't typically be something that the board would allow. I'm sorry, that a board sitting in a quasi-judicial hearing would allow, although I don't know specifically if there are certain items that you ask for input on from the community. I guess, Jon, that's a question for you. I know that's probably more of a Planning Commission thing.

- Yeah, that's more of a PC thing type of thing right there. In the past year, when it's come down to testimony, we do put out our notices as a public as far as folks who are nearby if they wanna participate in this. And I think that was a pretty good representation of you'll get it every now and then, but it's not every case.

- Okay.

- I think my concern there is as the chair, we had one a couple months ago where you sent out a notifications to the whole neighborhood and the whole neighborhood shows up and each neighbor wants to speak. Is there a fair way to... Hey, if you're on the call, I mean, again, it's harder also when we're not in person, but if you're on the call, you need to register as a witness for this one case. Ultimately, if it was running correctly, me as the plaintiff or defendant would come to the table, I would bring my witnesses and I would say, okay cool, I'm gonna present my case. And I have two people that are here to speak on my behalf. But if we're inviting the entire public, are they just there to wit? It's not the process, the organization of how we do this is not effective yet.

- I'm gonna give the answers that. Oh, sorry, I didn't mean to cut you off.

- No, no, no, no, I cut you off. I was just saying I don't even know if I had a question in my thing. It was more of a stream of consciousness of like, okay, how do we solve that procedurally? Because right now, there is no process to me or as a chair or future chairs better identify who's on the call. Is there an education for the person with the application to say, if you are bringing witnesses, you need to submit those as part of your application and the public is here not to comment, but to witness. Is that fair?

- I don't have a definitive answer for you right now and if it's okay with everyone, I would prefer rather than opining on the fly here, I think that's something that we should take under advisement as staff and Jon and I can talk. It could be that maybe we provide for some sort of, 'cause the, like I said, the board can set its own procedures. And so maybe it is appropriate to provide for community input in support or against at some point during the hearings. But I think that's something that Jon and I should discuss before we nail anything down with you as a board, if that's okay with everybody.

- Yeah, I think there's two, I mean, there's folks that are speaking sometimes in favor of, or not in favor of some requested variance, but sometimes, there's folks just saying things like, "I don't have a problem with this." Which isn't necessarily one or the other. Or others saying, "Well, Bob's a jerk and Mary never cuts her lawn." Or all these other things that are not necessarily facts related to the question at hand. So I mean, I think yeah, there's a lot of different ways to carry this stuff out here. And we may need to figure out how to do that in a way that maintains the fairness and impartiality, which we're trying to do, but at the same time, recognizes that some folks are gonna speak who don't know actually what they're contributing or whether it's going to favor one side of or the other. They're just trying to say, yeah, there's always a lot of cars parked on the street or whatever. They're not telling us anything about whether or not they actually support the request and I don't know how we deal with that. Or do we force everybody to pick a side?

- I think, I'm sorry, Jon, did you wanna chime in?

- No, no,

- I was just gonna say, we'll talk about it on the staff side and then I think also it probably merits a bigger decision among all of you as board members as far as what you want the procedure to be, because that is something that you certainly do not have to nail down tonight as we go through. There's a suggested procedure, but even that varies from board to board. And so that's I think a conversation that can take place at a different time.

- Sure.

- Okay. Any questions on the requirements for the hearing?

- The last bullet point?

- Oh, sorry. Yes. So the chair presides as, so you could make determinations as far as whether someone should speak or these witnesses like we're talking about. If we're going to have other witnesses, you can decide whether to allow witnesses, you can decide to cut somebody off if they've been talking past their time limit, those kinds of things. But if the board to allow the person five more minutes to talk, that would be the kind of decision that could be overturned by a vote of the board during the hearing. Something like-

- That would be a vote that someone like say I said, okay, cool, we're moving on. Someone of the board would make a motion to say, hey, I wanna overrule that decision and then the board would vote, not me obviously, or the chair, I'll say.

- You could still vote.

- You could still vote against it.

- Yup.

- You would just be on the nay side.

- Okay, great.

- Yeah.

- But yes, a motion would be appropriate if that was part of the question. So I think I've mentioned, time limits are something that you can establish as far as your actual procedure for the hearings. The caveat of course, is that when you're giving time to the applicant and staff, you need to provide them the opportunity for equal time. That doesn't mean that if Jon only speaks for five minutes, the applicant can't speak for longer than five minutes. But if you've given Jon 15 minutes and he only uses five minutes, you need to give the applicant 15 minutes and they can use the whole 15 minutes. Those are just examples of times. Again, that'll be part of a longer conversation.

- That's why like when you watch these committee hearings, they always say, "I yield the balance of my time." That's why they're saying that?

- Yes.

- Or, "I reserve the balance." Same thing. I know I have 10 minutes left, but I wanna be able to come back to it if I need those 10 minutes. That's why you would reserve time, but we don't get that technical here.

- Or they give their time to someone else.

- Exactly. "I give my five minutes to that person."

- Exactly.

- Who knew I was gonna get a law education too?

- I do what I can. And then it's the chair who will swear in the parties and staff and if for whatever reason, the vice chair needs to step in, for example, if Tommy's got a conflict of interest or something like that, the vice chair would then just step into the role of chair. If neither is here, then you would just appoint from whoever is actually here. You would appoint someone to serve as chair in that instance.

- So wait. Does Jon LeRoy have to be sworn in every time?

- Yup.

- Every time for each individual case?

- Yes.

- Oh.

- I realize it seems like a lot, but let me just... That italic part, that's the whole swearing in. So it's just a statement on the record that you're going to tell the truth and you.

- Can he just swear in for the whole meeting? You just have to. 'Cause he presents at the keys every time. Okay, yes.

- It would be my preference that you swear him in every time. I do understand you'd do something similar with just opening the floor at the beginning of the meeting. So you don't have to do it each time. It's a little bit different when we're talking about the content of the actual hearing on each item.

- I'm satisfied with your answer. Feel free to go on.

- Thank you.

- Oh, Tommy's not.

- I'm so sorry. Real quick. I'm gonna forget. So can I just ask Steph, Jon, Jessica, someone, as we move forward, and maybe this is in this slide or whatever, I think it's critical that I or the chair get some sort of quick paragraph they can read at the beginning of the thing. I was trying to write it the other day. I am not in any way, a good writer, but something that allows the chair to open the meeting and say, Hey, this is who we are, this is what we are, this is why we're gonna do it this way. Please be respectful. This is a quasi-judiciary, whatever. That's something that person could read that is very formal. And I've been meaning to ask for that for three months after I tried to write it and then I realized that is not my thing anyway. So if someone has that as an example from another municipality, I think that would be so critical just to set the tone and also kind of give the why and the how of what it is we're doing. So I'm not trying to make it up every month 'cause I fail. I'm not super good.

- Good.

- Makes sense to probably do that.

- No problem, we can work on that.

- Thank you, guys.

- All right. So just really quickly, the order of presentation, this is typical again, if it makes more sense for the board to do it in a different order. There's some flexibility. Especially because on this slide, like I said previously, it's written for all boards that are quasi-judicial. So you won't necessarily have an opponent's presentation. That'll just be staff and the appellant. And so kind of three, four. Well, three and four kind of you. It would just be modified a little bit. So it'd be the staff presentation as you already do. Staff presentation, hear from the appellant or the applicant. If you want, you can give staff rebuttal time. But then again, you also have to give the applicant rebuttal time. You can as a board, choose whether you are going to ask questions of staff during staff's presentation and excuse me. Or wait until you've heard everybody's presentations and then ask staff questions and ask the applicant questions as a separate item after you've heard everybody's initial presentation. Again, that's a decision that the board can make and that can be part of the larger discussions about procedure. Pardon me a second.

- We don't typically have somebody making an appeal and then having somebody opposing the appeal necessarily in any formal way, right? We got a staff presentation, we've got the appellant making a presentation, now we got some Q&A time. And then we close the floor or we stop the discussion and then we we discuss amongst ourselves and make an action.

- Right. So all of these steps won't be there for you all necessarily because you do operate differently than some of our other boards where we do have two parties that are opposing and staff kinda talks in addition to that.

- Right. And so if we are in a meeting where there is somebody who's like, carrying the pitchfork or whatever against the request, we don't have to give them 15 minutes. If Jon got 15 minutes and the appellant got 15 minutes, but we said all witnesses are limited to three minutes, that person-

- Exactly.

- Get a three-minute testimony. Not a 15-minute testimony.

- Exactly. That's exactly correct.

- We can also limit the number of times people speak, right? Usually, we limit it to two with city council. And I think, Tommy, you usually do limit it, don't you?

- Oh, you mean board members?

- No, not board. I mean, I'm talking to the, because people wanna come back and add this and then they wanna add this and then they wanna add that. Eventually, Tommy says it's enough, right?

- Yeah, so that's why we-

- That happened to me in the past. I was like, all right, look, let everybody talk as long as they want. And then tonight, I was even like, I don't really think you need, I was kinda angling like, hey, you probably shouldn't talk since you got three votes.

- On the floor, we shouldn't be hearing from the petitioner.

- We didn't close the floor. We don't close the floor in between. See, that's the problem, but.

- We will kind of put, oh, I'm so sorry.
- Locked up Tommy.
- Oh, I thought it was me.
- No, it's just him.
- My internet's going all wonky right now. I don't know what's going on, so.
- We can decide.
- Off my train of thought.
- I was asking, can we say, you'll be allowed to talk up to two times. Or we don't even have to say that, but when they come back and try to talk, this will be the second time. 'Cause people do go on and on and repeat themselves so much.
- Yeah. And that's typically why you provide for those rebuttal times. That's basically your two times to talk. You get your initial presentation. The other person goes and then you get rebuttal and they get rebuttal. Somebody's always gonna get the last word, but that's down to the chair to just cut it off there. And obviously, witnesses get their three minutes and they're done. They don't get a second three minutes. I mean that can be up to the board. But as a general practice, if we're not doing it as witnesses, if they're truly witnesses, you should give them as much time as it takes for them to submit their testimony on the actual item. But if they're just community members wanting to chime in, that should be that established time period that you've created. Whether it's three minutes or something else and you should hold them to it and they get one. All right, I'm gonna keep going.
- Sorry, one more question. I'm not sure how stable my internet is real quick, but.
- Oh, not stable.
- It's not stable at all?
- Start over.
- Stable my internet is.
- Oh, is there a way digitally until we get back into person that we decide to implement time? To keep track of that? Or is that something I should be keeping track of at home on my phone?
- Normally, whoever's running the meeting would be able to do that for you. And we've done that at different meetings before. So we would be able to make that happen.
- Put the clock right up on the screen and then everybody can see it. And it's not like arbitrary at all. But not you. You're not doing it. You're running me as the chair but you're not running the meeting. Staff is running the meeting.
- Right. I don't know if it'll help, Tommy, but sometimes, turning off your video will help with your connection a little bit. Totally up to you. We all love seeing your smiling face. Really quickly about evidence. The rules of evidence that apply to formal court proceedings don't apply. The evidence that you accept just needs to be believable, relevant, and probative. Probative meaning that it actually goes to the merits and is not just, "Mary

doesn't mow her lawn." Something like that isn't probative to the discussion of whether a variance should be granted. And then the three types of-

- Everybody remembered that when I applied for a variance at some point a couple years from now 'cause I can remember had a neighbor who doesn't like my lawn grooming.

- So when we're talking about types of evidence, the three or well, the two main ones we're talking about are witness testimony and exhibits. You are one of the few bodies that might actually have site visits if it actually becomes essential. If for example, you're discussing an item and you all decide collectively that you just can't get what you need from all of the different resources that staff is able to present to you, theoretically, you could go and have a site visit. The important thing to remember is that that's not just the members going individually, that's all of you going as a body. Notice is part of the public meeting and the parties are allowed to go as well. So it's very complicated, not something that happens very often.

- But it could be, like we were saying, sometimes, I think that's why members have had inclinations to drive by some of these things because especially when terrain, or the topography of a site is critical to making the decision, we've got that question. And so if we ever get completely noddled up in a discussion about something because we don't have the same interpretation of the physical site, I suppose we could then hold it over till the next meeting and actually schedule then a site visit as part of that and go lay eyes on it, right?

- Yes, in theory, yes. I would encourage that these be used incredibly sparingly. In fact, I don't know that I've ever seen one happen. I mean, I'd say that like I've been here forever, I've only been here a few years, but I would be shocked if in my career, I see one of these. It's not something that happens very frequently. And typically, if you need more evidence or more photos or something else that it's within staff's ability to get you without having to go to the site, you would just hold it over to the next meeting and wait for staff to present that to you. But it might happen. Now that I've said it won't, it'll happen like every week or every month for the rest of my time here. When we're talking about witness testimony, just really quickly, he should be sworn. It's not a strict requirement. So the fact that you haven't been doing it doesn't mean that past decisions are invalid or anything like that. But it's good practice, particularly if something gets appealed, one of the things that will not be in question is whether the witnesses were being truthful because you had them swear or affirm that they were going to tell the truth. And anytime that a witness testifies more than once, you just remind them much like that you would do in court if you've seen hearings or anything law and order probably at some point. They just remind the witness when they come back on the stand that they're still under oath. The chair would just briefly mention that before a witness starts speaking again. And then part of the record should be a list of the witnesses, which I know you already do because you already ask people to state their name and address for the record.

- That's fairly new, so that's good.

- What's that?

- I said that's fairly new so that's good that we're implementing that.

- Excuse me. You've already made important progress and I respect that. Exhibits would include anything tangible. Photos, charts, those. And I say tangible, but I realize that we're talking about digital images in some circumstances. Those would still be considered exhibits. As part of the record of the meeting, exhibits should be accepted by the board, which is just a matter of the chair asking if I'm so sorry. I'm running out of voice here. It's swear I'm almost done. The chair just asking if the party would like the board to accept whatever evidence they've provided, whether it's photos or anything else. And to the extent possible, copies should be kept by the board as part of the record of the meeting. And exhibits can be admitted either at the beginning of the hearing or one by one as they're introduced. Anytime anyone objects to certain evidence that is, even though we're not using the rules of evidence, the parties can still object for one of those three reasons. If it's not relevant, probative or geez, I should know this. Credible. A party can object to the evidence and if one

side opposes, then you have to hear both sides as far as whether that should in fact, be admitted. If the board is not able to rule on the admissibility at that time, you can note the objection and get legal advice during closed session. The ruling on the objection should be, if you don't rule immediately, if you rule after deliberations, then you need to include the ruling on the objection in the final decision.

- Okay, so how do we get legal advice or do we get to have an attorney at all of our meetings?

- For the foreseeable future, I will be at your meetings.

- Okay, good.

- So that's a very good question that I hadn't considered. So let me get back to you. I'll take advisement and get back to you.

- Okay, because yeah.

- No, that's a very good point. As a general rule, as you all know, we haven't had an attorney staff this meeting regularly, but I will find out if it's something that our city attorney would like us to begin doing.

- Again, in the sense of these conversations, these hearings, the objection would be either between the petitioner probably and Jon. One or the other saying, "No, you're wrong. That's not how it is or how it was." Right?

- So yes, but it's important to distinguish. So an objection isn't the same as debate. So any disagreement between the parties as to whether something is factual or not, that's not something that there really should be objections to. Because it's up to the board to make a determination as to what the facts are and then how the law applies to that. What we're talking about here is objections to evidence. So for example, let's just use the example of an alder wants to come and talk about their opinion about whether the variance should be granted, staff could object and say that that's not relevant because it's not part of what the board should be considering. On the other hand, the person opposing the objection could say, well, the alder's not going to testify to their opinion. They're going to actually talk about their knowledge of the property. And so then it would be up to the board to determine whether the alder should testify and if there are any limits on that testimony, such as you have to provide only facts, not opinions. But again-

- I was getting into a lot deeper water than I was thinking, but yeah.

- I would say it's not likely to be super common in your proceedings. This is typically when we're talking about, this comes up more frequently I would say in like personnel hearings where you might have an attorney representing an employee that's bringing a grievance or something like that and they have actual evidence that they're actually seeking to admit in a more formal way or they are more concerned about what the actual content of the testimony is because it's... I told you guys, I'm not short-winded. I can't provide short answers to anything, but essentially, in all cases, it's up to the board to discern what is actually factual and relevant bit among the evidence that's being offered. It is possible for the parties to object based on any of the reasons that particular evidence shouldn't be accepted. But it's not something that happens frequently because if it is just a matter of, well, I object because that's not factual, that's not a proper objection, that's something that the board's going to take under advisement. So I know that was a really long answer to that question and I'm still not sure I answered it but.

- I'm willing to move on.

- Hopefully, it won't come up very often.

- I do think really quick noting because of last month, there was the like discussion about alder engagement and all that stuff. And so I think she's kind of indirectly talking about alders coming on and offering maybe an opinion. And what we're looking for with alder engagement is an understanding of what's happening and then they can be the ones that make the changes legislatively. 'Cause they're the ones that write the code in theory or approve the code as written by staff. We can't be changing the code. So I think the alders being involved in two ways I think is actually beneficial is one, seeing pain points within the code and the rub between the people and the law. And that can be adjusted or massaged, whatever. We shouldn't be proposing that stuff. And then too, I think also, and you can correct me if I'm wrong, Lindsay, is them offering evidence in terms of I've spoken to neighbors. And the public is, I've spoken to these different neighbors and everybody seems to be okay. I think that's admissible evidence, correct? By the alder? That's kind of their role, right?

- When, well when we start talking about, I've spoken to these other people, we get into the realm of hearsay. Which is the very next item. So thank you for the segue. Just to clarify, I was not specifically trying to allude to last month's meeting or anything like that. I just don't want anyone to think I'm singling out. That was an example that I happened to just pull out of the air. But just with respect to alders weighing in because I know that it's something that they might have multiple perspectives that only some of which might be counted as evidence. I just don't want anyone to think that I was trying to single out anything that happened previously or anything like that.

- No, the reason I brought it up is because me, even as a member of the board, has been trying to encourage alders to be involved because we're stuck seeing the same things over and over and over. And at some point, you either continue to deny people or approve people or they change the code. But I think that was kind of the goal is like, that's an angle in which we can reduce these applications if there are certain neighborhoods where, okay, you know what? The world has moved on, we need to just widen driveways. So just change the code. I think that was the reason why that pressure or idea was coming into fruition. I think there's value there somehow.

- Sure, I appreciate that. So just circling back to hearsay. So hearsay is any out of court statement that is made to basically talk about the truth of a matter. So any time I say, well, Jon and I were talking the other day and he told me blank. That's hearsay because I'm saying what Jon said and Jon's not here in court to say it to you. It's not technically admissible in court unless there's a relevant exception. But because this is a quasi-judicial hearing, hearsay is allowable. But you should be careful of how much weight to give hearsay if you don't have corroborating evidence. So if I say Jon told me this out of court or out of outside this hearing and Jon doesn't pipe in and say, "Yup, that's what I told her." Then there's no corroborating evidence and take that with a grain of salt. Any questions about that? I promise I'm almost done.

- Yeah, just to clarify, so then what Tommy mentioned, the alder coming in saying I spoke with X, Y, and Z. If the alder has a written statement that says, I talked to Joe, Bob and Billy and they said this, that would be the corroborating evidence to what they're stating.

- That's actually whether the statement is written or oral, that's still an out-of-court statement. so what I'm talking about would be, Joe told me that the backyard has a really steep slope. And then Jon pulls up the topographical map like you looked at tonight and you can see that the backyard does in fact have a really deep slope. That's corroborating evidence for that statement.

- So a statement is made but there's something else that supports it.

- Correct. And like I said, hearsay is allowable. So if somebody does come in and say, well all the neighbors told me blank. It's technically allowable. But again, it's just a question of how much weight do you give that, given that all of the neighbors aren't there to basically say. 'Cause otherwise somebody could be in any court could be saying, well Barb told me this and Barb's not there to say whether or not she actually did. Okay. So typically, your deliberation takes place in open session. If you are getting advice from an attorney, that is always privileged and that can take place in closed session. So for example, if you wanna consult with the attorney

present as far as whether the elements or the requirements for a variance are actually met before you make a public statement to that effect. That is something that should take place in closed session because my advice to you as an attorney is protected by attorney-client privilege. And it's not something that should be made public because you may or may not do what your attorney is advising you to. Or your attorney may give you more information than you wanna make part of the public record. So for those reasons, you are able to go into closed session if you want to discuss or get advice from your attorney. There are some other reasons you can go into closed session, but that is likely to be the most applicable to this body. However, if you're not noticing on your agendas for each item that you may go into closed session on that item, you can't go into closed session on that item. It has to be noticed prior to the meeting and on the agenda.

- So are you advising us on the off chance that each item, we just have the closed session language in? How would we know?

- I think that's certainly the safest course of action. Otherwise, if you don't do that as a matter of course, and you choose instead to just keep it without the language. 'Cause I know it makes the agenda really long and wordy. What you could do, if you decide that you'd need to go into closed session to deliberate with counsel, you could hold an item and have it be put on the next agenda with closed session language. So either way, both are our possibilities and I see the merits of both. It's probably going to most likely come down to a staff decision or a board decision as far as whether you wanna see that on every item just as a matter of course.

- Well it may be a function too of the availability of somebody from the law department to be at the meetings regularly.

- Absolutely.

- Right, right.

- Okay.

- Can I ask silly question real quick? How do you go to close session virtually?

- Question, we'll handle that side of it. We basically put everybody who's not on the board in a waiting room and just the board gets to be in the meeting and we don't record that part of the meeting.

- Got it, okay.

- So the deliberations if necessary can take place in closed session. You have to do that of course with the appropriate motion to go into closed session. You have to come out of closed session to make the decision of the board. So you have to motion to come out of closed session and then there has to be motion and a second for the decision of the board. And you should be voting by a roll call vote rather than a voice vote for each of these items. So I know that's a little bit different than what you've been doing.

- Well we used to use the Gizmo and we could go back to doing that, but that was a little clunky at times, right?

- Yes. Sometimes it-

- I mean, we can just say Barbara Dorff, yes. Noel Halvorsen, yes. 'Cause those Gizmos often don't work. Even at council meetings didn't work.

- Would that be the chair calling for the vote or would that be someone on staff saying? 'Cause I know like in judicial congress stuff, the clerk reads the vote or whatever.

- You can do it however is most, if you as chair prefer to call out the names, you can absolutely do that. If you prefer to have staff do it because the staff is who's actually going to be recording the votes in the agenda. A civic clerk, goodness, I couldn't think of the word. You can have staff do it for that reason. It's completely up to you and staff and whatever works best for everybody. And then as we talked about during the hearing, the decision must state the findings, the fact and conclusions of law. So in the variance, the last one that was granted Noel's motion went through each of the factors and said it didn't really distinguish between the facts and the law, but you did go into, for each factor, this is what the factor is. This is why I believe it does or doesn't support a variance. And within the statements on each of those elements, there was information about the facts that supported that particular requirement, if that makes sense. You can do it in a more bifurcated fashion where you do a brief statement of facts and then you do a summary of the conclusions of law. That can also be something that you, as a board, discuss at a later time as far as how detailed you want to make your decisions. For now, I'm just going to leave it at that. So this is just a summary. I'm not actually going to do a summary because I feel like I've given you enough information. If you do have any specific questions, please do reach out to me. I am happy to share the slides with you if that would be helpful. And like I said, if you have any specific questions about how the hearing should work, feel free to reach out to me. Thank you, all for your indulgence.

- Thanks Lindsay. I have an idea, Chair. What would we think about maybe having Jon do his presentation next time?

- I agree. If Jon is amicable to that, it's been long and I know this is gonna be a longer journey. Jon, are you okay with maybe buttoning some of stuff, like maybe covering a brief thing and then talking about it a little bit more in depth next week, next month?

- Yes, yup, yup. That would work. Sure, I'll give a brief one-minute overview and we'll go ahead and be a lot more detailed then. Yeah, I'll get one minute. That's it.

- We are timing people.

- Looking at the application process as far as making this more of an issue where folks can go ahead and get every last bit of information, knowing they're gonna go up against these findings and facts and this is a process that maybe a bit more in-depth than what they're expecting. We're looking at changing the application itself. With that as six pages long. And so the first page is an intro page. We're looking gonna go ahead and make that an easier, more basics, this is what a variance is. We're gonna note site plan review that's required as part of the code itself that we have to review the site plan in general. As we've been doing here for this past meeting or so, we're gonna eliminate the user putting in alternatives, but put it on the staff to go ahead and show alternatives. Additionally, we'll go ahead and add the information. 44-141, that's the findings that could be written out. You will see them. And once again, pushing the applicant for more information. There have been times you've seen in your packets where the applicant may just leave places blank or say not applicable. We're not gonna answer those applications until there's actual information with that to where they need to go ahead and think about that. So I can give you more details next month, but that's the overview of it.

- And Jon, you showed slides earlier that had that, I'm assuming it was the 44-141 or whatever one Barb and I were trying to take photos.

- Yeah.

- Yeah.

- Would you please email that out even before next time? 'Cause I just wanna make sure I'm thinking of that stuff.

- That would be nice. Yeah, no problem. Yup, will do.

- You can also find it online. I just did a search for some basic words. City of Green Bay and it took me to a PDF. Anyway, I found it on there and I've screenshotted, I have it, but you can find it too. The one thing I wanna say on what Jon's doing, what we're trying to do, and I thought, I think this is an interesting statistic that might not be or maybe he's okay sharing, is that when we are having our conversation about all of this and having eight agenda items and the time and all of that. All of this is built around the idea of, when this person shows up, they should be ready to present a case. They should understand where they're going, what they're doing, are they prepared to present a case? And if that hasn't happened, then we've kind of failed on the upstream. And I think Jon, if you're willing to share, there was a different local municipality that does similar to us. And you had mentioned to me how many appeals they've seen in a year. Do you mind sharing that?

- Yeah, it's no problem. So when talking with the folks over in De Pere, they had a fair share of a lot of different applications coming in. They went through a process, we went through here tonight when talking to their attorneys and noting the need to go ahead and actually find the findings that's written in their code, which is similar to ours, but it's not the exact same thing. And in this past year when they used to go ahead and give a lot of different variances. In this past year, they've had one approved variance and they've limited their number now down to between zero and one a session. When it used to be more like three or four or five a session. It's because they've put it out there to the folks, this is what the variance is. We're expecting this out of you rather than less information. So, it's not as though you can't get the variance in the peer, it's just, you have to go ahead and really prove it. And that's what our coaches, we need to go and do as well.

- Go ahead.

- If think if it makes us see less, oh, I went and paved my driveway twice as wide as it was before without a permit. So give me a variance and let that be permitted. I'll be happy.

- And I think contextually what that helps, hopefully given that information is I think that reduces the overwhelming feeling that I have. Because now if we have one case before us, we have time to actually deliberate and really talk through the facts and the findings. When we look at an agenda and there's eight and it is similar. And we're also reducing our amount of care. We have big hearts, and we're solving the problem for them. You present a case, moving on. You didn't even fill out that, you know what I'm saying? Now hopefully that won't happen if people come prepared, but we shouldn't be solving the problem for the applicant and coming up alternative solutions. So there's this entire kind of process that we're gonna go through hopefully within the next couple months. And I think the long term goal is to provide us more information to better make informed decisions and reduce the burden that we're seeing. And I think that's a great goal for us. Yeah, no.

- And a great place to stop. Move to adjourn.

- Can I second? I don't know if as a chair, can I second things?

- Yeah, but Corey already get I got it.

- I got it, don't worry.

- Oh, my Internet's doing all weird again. All right, so I have a motion to adjourn. Thank you, everybody. Thank you, Lindsay. Logan, staff, Jon, lots of progress. Thank you to the board members. I sent an email to Tom, I'll follow up with him. But thank you all for being here and let's take a vote. All those in favor of adjourning.

- Aye.

- Aye.

- Aye.

- Aye. Yeah, that's a better word.