



MINUTES OF THE ZONING & PLANNING BOARD OF APPEALS

MONDAY, APRIL 17, 2023, 4:30 PM
City Hall, Room 604 - The Harry Maier Room.
Virtual attendance is also available 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, Steven Schuchart, Corey Bogenschutz, Joshua Koch

Present: Tommy Everman, Barbara Dorff, Corey Bogenschutz, Joshua Koch, and Steven Schuchart (arrived 4:55 p.m.)

Excused: Noel Halvorsen

Alternate Corey Bogenschutz became a voting member.

C. APPROVAL OF THE AGENDA.

I. Approval of the agenda for the April 17, 2023, meeting of the Zoning & Planning Board of Appeals.

Moved by Barbara Dorff, seconded by Joshua Koch to approve the agenda. Motion Passed.

Yes- Tommy Everman, Barbara Dorff, Corey Bogenschutz, Joshua Koch, No- None, Abstain- None.

D. APPROVAL OF MINUTES.

I. Approval of the minutes from the March 20, 2023, meeting of the Zoning & Planning Board of Appeals.

Moved by Corey Bogenschutz, seconded by Barbara Dorff to approve the minutes. Motion Passed.

Yes- Tommy Everman, Barbara Dorff, Corey Bogenschutz, Joshua Koch, No- None, Abstain- None.

E. REGULAR BUSINESS.

1. Exceptional Circumstance Discussion with City legal staff.

2. (Appeal 23-04) Consideration with possible action on the variance request submitted by Joua Moua, property owner and applicant, to create a parking stall within the sideyard setback at 1696 Deckner Avenue. (Ald. C. Stevens, District 5)

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any quasi-judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

Chair Tommy Everman affirmed and swore in the Hmong translator, the Board members, staff, and the applicants. None of the members have a conflict of interest.

Speakers:

Dea (Translator)

Jon LeRoy

Lindsay Mather

Joua Moua

Donny Moua

Jia Moua

Moved by Barbara Dorff, seconded by Steven Schuchart to grant the variance to create a parking stall within the sideyard setback at 1696 Deckner Avenue. The applicants did satisfy the required variance findings by the Board of Appeals: Preservation of Intent, Exceptional Circumstance, Preservation of property rights, Absence of Detriment, and Hardship. Motion Passed 4-1.

Yes- Tommy Everman, Steven Schuchart, Barbara Dorff, Corey Bogenschutz, No- Joshua Koch, Abstain- None.

3. (Appeal 23-08) Consideration with possible action on the variance request submitted by Jose Maciel, property owner and applicant, to allow a front yard parking stall with dimensions exceeding maximum dimensions. (Ald W. Morgan, District 3)

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any quasi-judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

Chair Tommy Everman affirmed and swore in the Board members, staff, and the applicants. None of the members have a conflict of interest.

Speakers:

Lindsay Mather

Jon LeRoy

Jose Maciel

Ricardo Maciel

Moved by Corey Bogenschutz, seconded by Joshua Koch to deny the variance. The applicants did not satisfy the required variance findings by the Board of Appeals: Preservation of Intent, Exceptional Circumstance, Preservation of property rights, Absence of Detriment, and Hardship. Motion Passed

5-0.

Yes- Tommy Everman, Steven Schuchart, Barbara Dorff, Corey Bogenschutz, Joshua Koch, No- None, Abstain- None.

4. (Appeal 23-09) Consideration with possible action on the variance request submitted by Josh Depouw, Green Bay Area Public Schools, applicant and property owner, to reconstruct a parking lot at Preble High School at the 200 Block of North Danz Avenue (Parcels 21-2285 and 21-2678-D-9). (Ald. C. Stevens, District 5)

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any quasi-judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

Chair Tommy Everman affirmed and swore in the Board members, staff, and the applicants. Joshua Koch has a conflict and abstains.

Speakers:

Jon LeRoy

Lindsay Mather

Josh Depouw

Ryan Barz

Moved by Corey Bogenschutz, seconded by Barbara Dorff to approve the variance to construct a parking lot at Preble High School at the 200 Block of North Danz Avenue (Parcels 21-2285 and 21-2678-D-9). The applicants did satisfy the required variance findings by the Board of Appeals: Preservation of Intent, Exceptional Circumstance, Preservation of property rights, Absence of Detriment, and Hardship Motion Passed 4-0.

Yes- Tommy Everman, Steven Schuchart, Barbara Dorff, Corey Bogenschutz, No- None, Abstain- Joshua Koch.

5. (Appeal 23-10) Consideration with possible action on the variance request submitted by Josh Depouw, Green Bay Area Public Schools, applicant; Atonement Lutheran Church Green Bay, property owner, to construct a triple jump recreational area within the rear yard setback at 2214 Deckner Avenue. (Ald. C. Stevens, District 5)

The Board may convene in closed session pursuant to Section 19.85(1)(a), Wis. Stats., for purposes of deliberating concerning a case which was the subject of any quasi-judicial or quasi-judicial trial or hearing before that governmental body. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

Chair Tommy Everman affirmed and swore in the Board members, staff, and the applicants. Joshua Koch has a conflict and abstains.

Speakers:

Jon LeRoy

Lindsay Mather

Josh Depouw

Ryan Barz

Moved by Steven Schuchart to delay action on the variance. Motion failed for lack of a second.

Moved by Barbara Dorff, seconded by Corey Bogenschutz to approve with the following conditions:

-GBAPS must acquire approximately 10,000 square feet of property from Atonement Lutheran Church.

-A rezoning of said approximate 10,000 square feet of property must occur, changing this area of property from R3 to P1.

The applicants did satisfy the required variance findings by the Board of Appeals: Preservation of Intent, Exceptional Circumstance, Preservation of property rights, Absence of Detriment, and Hardship. Motion Passed 3-1.

Yes- Steven Schuchart, Barbara Dorff, Corey Bogenschutz, No- Tommy Everman, Abstain- Joshua Koch.

F. INFORMATIONAL.

I. Date of next meeting is May 15, 2023

G. ADJOURNMENT.

Moved by Joshua Koch, seconded by Steven Schuchart to adjourn. Motion Passed.

Yes- Tommy Everman, Steven Schuchart, Barbara Dorff, Corey Bogenschutz, Joshua Koch, No- None, Abstain- None.

VERBATIM MINUTES

- Are we feeling good? Hi, everybody.

- [All] Hello.

- I'm gonna do some formal stuff and then we'll get into all of your agenda items and all of that stuff. So just bear with us for a bit. Go ahead and call the board of appeals meeting on four 17th 2023 to order. How's everybody doing? I'll wait till I get the thumbs up. We have to wait. I got, can you hear me all online? Phil, gimme a thumbs up. Barb, how you doing Barb?

- [Barb] Doing good. The heat's now on, in the cottage. Just water is.

- Oh lovely. Very good to carry over from the weekend. Corey, you doing well? Are you actually in San Francisco or that's just what you chose today?

- [Corey] No, it's just the background I can choose.

- I love it man.

- [Corey] Its my best background. It looks great man. Thanks for all for being here. Looks like we do have a a quorum but we still should do an official roll call if that's okay with everybody. So we got the chair here, Tommy here. I know our vice chair is not going to be with us today so I'll skip him. I got Barb Dorff.

- [Barb] Here.

- Here virtually Steven, I'm gonna brutalize people's last name. Schuchart. He's not here? Okay, not

yet. Corey. I'm not, Corey B.

- [Corey] It's easy, Bogenschutz.

- We've done this before. See remember I told you how bad I was at that last names Bogenschutz.

- There we go.

- Here and Joshua--

- Don't bother here.

- Dang it. Okay, I'm just gonna give up on all of that. So we do have enough for a quorum to move forward. We're all in agreement with that. We'll see if Steven comes on board. Corey, are you gonna be in, we do have three so you don't need to, but what's that?

- We should still fill any, any vacancy regardless of whether any vacancy to get you up to five.

- Okay, you're in Corey, you have no choice. You're in buddy. All right, so we've got four, which is still enough. So let's get into kind of a couple different things before we do, just wanna kind of read this. We've been asking for like a general overview for the public and the record of kind of who we are, what our goals are, what we're trying to do. Cause a lot of people come in contextually and not have an understanding of kind of what we're trying to do. So I'm gonna read this through cause it's something we're working with legal to see how it goes. So thank you. The zoning and board of zoning and planning board of appeals hears and acts on appeals for variances from city zoning code requirements. The members of the board are appointed and the board acts as a quasi judicial body during these appeals, which means the appeals are presented like a case is presented in court and the board acts as the judge and determines whether it's a grant, the appeal by majority vote. For each item we will hear from the appellant or the applicant and staff. John. As well as any additional witnesses were appropriate. So if you're coming up to, to have your case be presented and there are other people as part of your case, you can bring them up as well as witnesses. If they're not needed, you don't need to bring them up. If you are the appellant for an item on tonight's agenda, please come take a seat at the table when your item's called. If you're virtual, obviously you can't come and take a seat, so we will just call upon you virtually and then we will, we'll swear everybody in because again, quasi judicial. So we'll ask for everybody to take a a small oath about testimony that it's accurate and we'll go through all that. So there's a bit of formality with this board because it is quasi-judicial and we as a team in transparency have been working with legal to work on those behaviors to get better. We've been a bit loose in the past and so we want to get better in those areas. So if we're asking lots of questions about, hey, do we do that right? Or hey, are we doing this correctly? It's because we're also trying to get better as a board. So work with us as well, okay? Any questions or comments on any of that? Doing good so far?

- So far so good.

- Great. So we're gonna jump into a couple agenda agenda items and then we'll get into the actual cases, okay? So first things first, we need to get an approval of the agenda for tonight. Anybody have any conflicts or not conflicts? Any issues with the agenda? Anything they need to make an adjustment on? John yes, go ahead.

- We do have one, we're asking that's item two. Appeal 23 dash oh four, yes?
- We can actually leave it.
- Okay alright.
- All good.
- Any, any other questions or concerns, comments on the agenda? If not, I'll take it, a vote for approval. All right, do I have a second?
- Second.
- Okay, motion to approve and second. All those in favor of approving the agenda item C for the agenda, say aye.
- Aye.
- Aye.
- Any opposed? Great. All right, next thing. Minutes. Any issues or meetings of approval for the minutes from March 20th or last month's meeting? If not, a motion to approve those minutes would be in order.
- I still can't seem to find the minutes from the meeting, but--
- Motion to approve the minutes.
- Okay, we'll talk about that later if that's okay. Don't lose sight of that. Okay so I have a motion to approve by Corey, a second by Barb. Any other discussion around the minutes besides yours? Okay, approve the minutes. All those in favor say aye.
- Aye.
- Aye.
- Any opposed? Okay, minute referred. Alright. There is nothing else except for now regular business, which we're gonna get to the cases, we'll call you up in order. Again, if you are called up, feel free to bring up yourself. Who is the, the person that is making the case. If there's any additional testimony needed from anybody else that that is with you, bring them up as well. But you don't need to bring the whole group up if they're not gonna testify. Just come up here, we'll get some names, some information, we'll go through some formalities and then we'll get into the discussion and we'll walk through a bit of all of that as well. First item of business though is exceptional circumstance, discussion with city legal staff. So hi. You'd like to discuss some, some exceptional circumstance discussion things.
- Yes, Logan's driving the bus tonight.

- Yep, so I'm just gonna jump right into it. Exceptional circumstances is one of the factors that we would consider the board would consider for hearing these appeals. The term exceptional circumstances is not statutorily defined. So it's often seen to be circumstances that are unique to a specific property and not generally properties in the area as a whole. It's also something that the property owner did not create himself or herself. Just wanna make sure, am I being heard by everybody online as well?

- [Corey] Could you speak just a little bit louder.

- Sure.

- [Barb] I would agree, it's a little bit different code.

- He's gonna move to the middle to see if it's a bit better from like the mic. Where are the microphones by the way?

- I think it's the round thing in middle.

- So I'm gonna sit over here. Hopefully that's better. If if not, please let me know. That's why I wanted to stop to make sure that everybody could understand and hear me. So is this better?

- [Barb] Yes, it's good.

- Okay. So as I was saying, exceptional circumstances is not statutorily defined, but it's often seen as circumstances that are uniquely specific parcel for property. It's also something that the property owner did not create themselves. So we don't consider that an exceptional circumstance. So conditions that are personal to the property owner's own personal situation is not something that we're considering and it's also something that's not found on the existing properties surrounding it.

- [Barb] Can I clarify a point Logan?

- Sure yes.

- [Barb] So when you're saying not conditions related to the property owner's personal situation that many times we get in our appeals that I have teenage children, I need more room to park cars so therefore that's why I need this driveway expansion. Is that, is that would be related to the personal situation?

- Hypothetically in that scenario, if it's just because they need more parking because of their own circumstances, that is not an exceptional circumstance. It's not tied to anything that's related to the property. There certainly could be an exceptional circumstance that would fit that scenario, but based on your back pattern alone, that would not be an exceptional circumstance.

- [Barb] Okay, thank you.

- Sure. And so to move into another point of what maybe might fall into an exceptional circumstance, unusual topography or natural conditions that exist in a land, think of slope, think of the condition of

the soils if it's unique to that particular property, things of that nature. And so I'll, I'll leave you. Ultimately what it boils down to is what are the property owner is the pride of their rights entirely based on the conditions of the property. So that's kind of a, you know, we want to take into just the factors of the property itself when we're thinking about exceptional circumstances and like I said, this is just one of the factors that we consider. But just highlighting this one specifically, these are what we want to focus on is just the physical characteristics of the property.

- May I ask you to peel out a little bit, so the bullet 0.2 on number, the third bullet point, but the second one, conditions do not generally exist on surrounding properties. Can you kind of pull that out a little bit and explain that?

- Sure, yeah. So I think the, what this is trying to get at is that if all the properties are experiencing the same type of condition, then it's no longer exceptional to just one property. That's just the way that area is. If we all have soil then, then we can't really blame the soil as our exceptional circumstance.

- Got it.

- If there's something very unique about the soil, if that's specific to your property, then that could be different.

- So everybody around me has soil X and I happen to have soil Y and that soil Y is creating a condition that makes whatever I want to do difficult. That's an exceptional circumstance.

- Yep. If everybody else has Mollisol soils and you have Vertisol soils and that's terrible for building, then yeah you probably have an exceptional circumstance for that.

- I'm like X and Y man you said Vertisol and Solisol?

- Vertisol and Mollisol.

- You're so much smarter than me. I love it. Okay, go ahead.

- Oh no I was, that was a, a good example. I don't have the jargon but I was just gonna say if you remember a few meetings ago we had all the properties in the area. There was like a, all the backyards, there was like a steep slope in the backyard. So that applies to like all those properties. So that's not necessarily a condition that's exceptional for that property. That's all of 'em.

- So for me, if we're not able to go look at properties okay and that the information's not being presented, how do we consider that information if we're only seeing that individual's property being the thing that's being presented, for example, in that case I have a giant slope, right? And if we're not being presented with information that the entire street or the entire, you know, one mile thing has that same thing, are we supposed to ask that question and where do we get that information?

- It's appropriate to, if you don't mind, it's appropriate to ask staff that question. I believe in that particular instance John was able to bring up like a topography map and so we were able to kind of see that that was similar on surrounding properties. In some cases we might not have the information in front of us or at our fingertips to be able to do that. I think we talked about this way

back when we most recently did the quasi judicial training. But if there are circumstances where the only way to really figure out what's going on on a property is to go there, then all like the board is entitled to do that. We just have to notice it as a public meeting and all go at the same time.

- Field trip.

- Exactly.

- Can we rent a bus?

- I do. That sounds expensive.

- Okay, great. Anybody question? Cause again this is one of five factors I missed last meeting so I'm a little, but five factors that we're considering, right? In terms of what we're looking for, right? And this is one that we're kind of peeling out to look at. Because the use the idea of like does not stop them from the general use of the property is a different bucket as well that kind of maybe rubs into that one as well, right?

- Yep. Another point too is how you're gonna find out some of this information is that we are relying on the applicant to provide some of this information as well in terms of what makes their, their request. Why they should satisfy the exceptional circumstances. So you may be able to elicit some of that information, either whether the, all the neighbors are experiencing the same type of slope or if theirs is unique to their property alone. So you might get some coming out as well.

- Okay, got it. Does anybody have any more questions about this or is everything clarified? Corey, is that a hand?

- [Corey] It kind of is. I'm just trying to think through that one 'cause I'm looking through like as far as an exceptional circumstance. So say we have that slope in the back, say it affects 10 property orders, well that's 10 property orders out of a total property orders there are in the entire city for those 10 property orders, that's still exceptional circumstance for those minus 1% or whatever it is. So what that mean, can we look at it in that context?

- So in that scenario we wouldn't be looking at it any different because what we're looking at is the surrounding properties and whether or not they have an exceptional circumstances from those that are similarly situated to them.

- [Corey] So we'd only be looking similar this case it to them in their same same geo location basically.

- Yeah, yeah. We won't, we, we wouldn't be considering properties that are across town essentially.

- One other thing that I would point out, if I can just interject you see that it, the, the bullet point itself is, is worded as they do not generally exist on surrounding properties. So just as with most of what lawyers will tell you under any circumstances, this isn't necessarily a hard and fast rule. There will be some situations in which like three or four properties having a slope in the back might be an existing, an exceptional circumstance, but most likely that slope's not gonna be the only reason there's gonna be other stuff going on. So it's not, I don't want you to think of it as like, oh well the

two neighboring properties have the same condition so it's automatically not an exceptional circumstance. That might be true. It might not be it really. It's gonna depend on the totality of what's going on in any given circumstance.

- And that's a great point that totality of the circumstances kind of pulling that all together too. We're just looking at one factor right now.

- Yeah. Right. And that goes back to kind of the stuff we've been saying, you know, just considering all the different things. That's why we have to kind of go through all of those different points. So it's a good reminder on this one, but at the end of the day we're still here to, to hear this and make a decision based on majority, hopefully finding all the facts and everything and covering all of those different biases. So this is good. Thank you. I will just point out one more thing because again, I know that we sit here, we're hearing cases from people, right? Who are trying to live in their places. And so I just want to point out bullet 0.2 cause we run into a lot and I know we're all heartfelt circumstances that are unique to this property that the property owner did not create. And so again, those ones a lot of times where we see where people have already poured concrete are already done work, you know, it's hard for us. It puts us in a difficult position when the people are presenting their case. It's hard to say no to people, but our goal as a board, as I've learned in the time that I've been on the board, is to look at the property in perpetuity with six different owners down the road. Not just this one specific owner. We're dealing with zoning code for a city zoning code for properties and we're looking for unique situations that a broad zoning code can't take care of for this one individual parcel of land or property. And it's not about the individual using it as much as it is this property in the land. I mean that's what we're trying to find. Is that just a reminder there. Cool, any other questions? Thank you. I love this, this is great. This is kind of like bridging that gap with some of that training or discussion stuff. So is this something we can kind of help, you know, move forward and do again?

- Yeah, so the plan ultimately is to do each of the five elements separately. We might bundle one or two together if they're shorter ones, but just to make sure we have delved into each one a little bit more deeply than just the really brief overview that you get from the statute or the ordinance.

- This is duly beneficial I think. So not only reminders for us and the ongoing training for us to kind of remember or recall why we're here. But I do think it's good for the public as well because again, they're getting insight into kind of why these rules and these things are created so they can be reminded of like, oh, why we are quasi-judicial, what rules we're using to factor in. So if people decide to watch the YouTube videos that are records of these meetings, they're getting a bit of insight into absolutely all of it. So more transparency is better and I think it's great. So thank you for doing this.

- Yeah, absolutely. And thank you to the public for their time as well.

- Yes, thank you public for that. All right. We were trying to work on ways to get a bit of discussion going within our meetings or exactly what I said for us to kind of remember why we're here, but also for the public to kind of hear why this group exists and kind of clear a bit of that up. So thank you for your time. We're gonna actually get into the next step, which is actually hearing some cases. So again, I will call up the applicant number. We're gonna go through some stuff where we have to declare, you know, hey, I don't have a conflict of interest or I don't have to recuse myself from voting, we'll swear you in. I'll have to swear John in each individual item as well. Again, just to kind of document

that we're all here telling the truth. We're all here to try and get the, the right information and facts out there so that like it said at the beginning, as a judge hearing a case, we can feel that we have all the information to move forward with a approval or denial of the request, okay? So let's go ahead and jump in. We're gonna be doing, thank you for letting me use this item number two under E regular business appeal 23 dash oh four consideration with possible action on the variance requested submitted by again, I'll say this every time, please forgive me on names and everything. I'm horrible at it. So Joua Moua? Is that, am I close?

- Yes.

- Okay, property owner and applicant to create a parking stall within the sign yard setback at 1696 Deckner Avenue in District five is so that, that's your guys' case. Go ahead and come up whoever wants to testify and sit here. This is.

- Yes, so everyone is aware we're going to be attempting to use a language service to do the interpreting, so I'm going to try to get them on the phone so everybody please just bear with me.

- I love this.

- Gonna do the best that we can.

- This is great progress. Hi, how you doing?

- This is little better than waiting for interpreters to.

- Yes.

- [Woman] Hello?

- Hi.

- [Woman] Hi, how can I help you?

- So I'm calling from the city of Green Bay. We have a hearing that, a board meeting that's happening that we have an applicant that only speaks mon and we were hoping that you might be able to translate the meeting for us so that. Okay. I'm going to, sorry, there's, there's a couple different people in the room. I would just wanna make sure that you're able to hear everybody. So we're gonna have everybody speak really loudly and I'm going to put the, I'm actually calling through the computer so we'll put that as close as we can to the applicant. I just wanna make sure Tommy, that you can speak loudly enough to make yourself heard as well. So first of all, if we can swear you in as the interpreter, can we do that?

- Should I try and call him off my phone?

- Sure. Or do you, do you mind with the users?

- Yep, that's fine.

- Sorry. One moment everybody we're trying to get the interpreter on, on the line.

- Yes. Hi, my name is Lindsay Mather, I'm calling from the city of Green Bay. We're in a board meeting and one of our committee meetings and we have an applicant here who needs an interpreter services. I'm hoping you might be able to help us out with that during our, it's a public meeting. Perfect. Okay, so I've got you on a cell phone. I am gonna put you on speaker phone if that's okay, but we'll try to pass the phone as much as we can to make it as easy for the applicant to hear who we can. Okay, Arch I'm gonna give you to the chair of the committee first to just have you briefly sworn in and then we'll get started if that's okay. Okay, thank you.

- Hi, this is Tommy. I'm the chair here, what's your name?

- [Dia] Hi Tommy my name is Dia.

- You said Dia?

- [Dia] Yes sir.

- Hi Dia, because we're a quasi judicial board here, I'm just gonna have you, I'm gonna read something to you and just say, you know, yes or no at the end if that's okay. So Dia do you swear or affirm that you will make an accurate, complete and impartial interpretation from the English language into Mon and vice versa of all communications during this proceeding using your best skill, judgment and ability in accordance with the standards prescribed by the law. Any other applicable code of ethics?

- [Dia] Yes sir.

- `Thank you so much Dia. All right, we are, we are here at, we're a zoning and board zoning and planning board of appeals and so we have a, an applicant here--

- She needs to start translating let's have John.

- Oh, okay. Well context, I'm gonna give you guys give you to the, the applicant, but basically we're just trying to go over a variance request for their property. Just so you have context of what we're doing here, I'm gonna hand you off to the applicant now.

- You shouldn't have to talk too much, just that should be your--

- Should I just put it here in the middle?

- That's--

- Is that okay? Let's do that John.

- Are you able to come closer?

- Are you able to move down? We're just trying to find the best place for the phone. So the, the first person you'll be hearing from is going to be from English to Mon and then we will hear from the applicant, okay?

- [Dia] Okay.

- All right. First things first. I already read the agenda item. It is the goal of the board of appeals to provide and conduct the hearing that is fair and form, appearance and substance to ensure that this hearing satisfies these goals, each member of the board of appeals. Please confirm the following of following for this appeal by stating I confirm. One, I do not have a conflict of interest and two, I have not received any communication from any person or party about this matter.

- I confirm.

- I confirm.

- I confirm.

- Okay, sorry, I, I gotta get used to the, the translation thing so I will do smaller chunks next time, but if you want to try your best at translating that large chunk or I can repeat it.

- [Dia] Please repeat for me sir.

- Repeat.

- Okay. It is the goal of the board of appeals. To provide and conduct a hearing that is fair in form, appearance and substance to ensure that this hearing satisfies these goals. Each member of the board of appeals. Please confirm the following for this appeal by stating I confirm. One, I do not have a conflict of interest in this matter. Two, I have not received any communication from any party or person about this matter. And every member of the board stated I confirm. And so we got that done. How are we doing so far?

- Good.

- Good? Okay, great. So now we're going to move to John who is going to let us know about the appeal.

- Okay, do you swear and affirm that the testimony you're about to give will be the truth, John?

- I do.

- All right John, go ahead.

- Okay, so what you are seeing right here is a aerial photo from around 2020. What you see right here is an image from this past winter with a residence and detached garage. The applicant is seeking to create a single stall garage alongside the side of the garage. This deviates from section 44-1747, subsection B, subsection three C. So the property itself is 60 feet wide with the single detached garage. The has worked with the city for a handful of site plans, which have been denied in the past. The property owner is seeking to create a legal parking stall at eight feet wide by 16 feet deep at the side of the garage stall. 18 by 16 foot side yard stall is allowed.

- However, this does not leave the required 2.5 feet between the property line and the parking stall. So the applicant is looking to create an eight by 16 foot stall, which goes directly against the proper line. They are requesting a triangle taper off of the parking stall at the side of the garage. The rest of the driveway would be in conformance if the variance is granted. So that is my statement. Does the board have any questions?

- Okay, because we're dealing with a translator, let's try to be as thoughtful about our normal general discussion where we're kind of whipping around thoughts. Hey Steven, just as a note of record, Steven has joined us now.

- [Steven] I've been on.

- At 4:57.

- Oh well I totally missed that. Sorry, Steven.

- Remember she still needs to be interpreting this part.

- Yeah.

- So stop pausing.

- Don't, don't worry about that part, it was just greetings.

- Oh, she still has to translate it.

- Oh my gosh. Okay. Okay, any questions?

- Just so I'm clear, the driveway expansion it up to the point of the garage is, would be in conformance, correct?

- If a legal parking stall is created, then yes it is. It is not leading to an actual stall, no, it would not be.

- Any other questions for John before we hear from the applicant?

- [Steven] I have one question.

- One second Steven. She was translating my, my thing. Go ahead Steven.

- [Steven] This is an within the last five or six years.

- Yes it is.

- Is there any, are the applicants the first orders of this property?

- Yes, they are. This was a habitat house that was built.

- [Corey] The only portion is the, along the fence line in between the garage that it would be where

the variance is, like the grayed out section on the map? I mean everything else is legal once the parking spot is legal.

- [Dia] Interpreter speaking. Can the person who just spoke re say the message again?

- Could you hear that Corey? Can you say what you said again please? Just a little bit louder.

- [Corey] It be the parking spot. Basically the grayed out section on the image is really the only portion that really requires the barriers because once that's approved everything else is legal.

- [Dia] Thank you.

- Yes, that's correct.

- No other questions for John? Okay, we will hear from the applicant. I'm gonna need to, sorry, go ahead.

- [Dia] Sorry.

- So do you swear or affirm--

- Oh, we don't need to.

- Can you please state your name and address for the record?

- I'm Joua Moua. 1696 Deckner Avenue.

- Okay.

- I'm Danny.

- Danny? Okay.

- Danny Moore.

- Great. Thank you for being here. Do you swear or affirm that the testimony you are about to give will be the truth?

- Yes.

- Yes. Thank you. Okay, so now we will hear your testimony for the application.

- Go ahead. If you can look at the camera on that computer so the board can see you.

- Oh so what's the question?

- Just state your case. So yep, he explained kind of what we're looking at, but if you can state kind of the reason, the reasons why we should approve.

- Okay. I'm a bit nervous about this.

- All good.

- So we have a narrow driveway, it can like only fit one car at a time, but if we like request for like a bigger driveway just to at least get two cars in it and get out safely and then to like a little bit more safer because like we live in a busy street too and it's dangerous for us to.

- Is there anything else they would like--

- Now we already pulled the fence to brag the my neighbor, so if we do a little bit bigger would be no battle my neighbor become, we already put the fence already so.

- That that fence there, okay. Any other testimony that you would like to provide.

- No.

- [Dia] No more.

- Okay. Does anybody from the board have questions for the applicant? Okay, hang tight. We will typically go into discussion, but I need to check to see if there's anybody else from the public that it might want to speak for or against this variance. Is there anybody here present or online that is here to testify on the record for or against this variance? Okay, hearing none the board will have general discussion when granting or denying a variance. Considering five factors. One, preservation of intent. Two, exceptional circumstances. Three, preservation of property rights. Four, absence of detriment. And five, hardship. Those are the only elements which we as a board should be considering. Okay.

- And before you all start, this is attorney Mather. If I can just remind you to please make sure you are speaking one at a time. Ideally, if you can have the chair recognize you before you start speaking, that will be the easiest way to make sure that the interpreter's not missing anything.

- Okay Barb. Okay Barb go ahead. I saw your hand first.

- [Barb] Thank you. I looked at this request last time we met and then I've looked at it again this time and you can translate that if you wish.

- [Dia] I apologize, Ms. Barb can you re say your message again?

- [Barb] Certainly I looked at this appeal the last time we met and have reviewed it again this time.

- [Dia] Thank you.

- [Barb] I am able to answer yes to each of the five facts and conditions that we must look at. I am able to answer yes to each of the facts and conditions that we must look at items one through five. Do I need to give any further explanation? I'm asking this of the attorney.

- You should provide some detail as to each element, however, the, how detailed is up to you.

- [Barb] Item one, preservation of intent. I believe that this item, that I believe this variance would not be inconsistent with the intent of the regulations in this district. For number two, the property is quite narrow and I, I believe that is an exceptional circumstance and that is the reason I would say yes to number two. And that aside, do any of the other board members wish to address any of the other ones or would you like me to continue with three, four and five?

- Barb, I think the best way to do this, since you feel that you can make a case for one through five is to do that and then at the end ask the board if there's any discussion on any of those specific items, but let you go through one through five first. You comfortable with that?

- [Barb] Yes. Number three, preservation of property right. I believe many of the properties in the district and vicinity have an adequate parking and therefore I believe this, it should be granted on that basis to preserve their property right. Number four, absence of detriment. I believe I read the neighbor does not object. There is a fence that would separate and I do not think there will be any detriment by allowing this variance.

- [Dia] Interpreter speaking. Ms. Barb, can you re share this message again?

- [Barb] I shall try. I believe there's an absence of detriment translate.

- [Dia] I apologize, I'm sorry. I have my headset on and I'm on this message. It seems like you're very far.

- I got it, Barb.

- [Barb] You got it? You go for it. Yeah she said I believe there is an absence of detriment.

- [Dia] I'm not familiar with the term of abstinence. Would you help to elaborate for accuracy.

- Absence, or lack of harm to the adjacent properties.

- [Dia] Thank you, I appreciate that.

- No problem. All right, Barb, you're good.

- Okay, number five, Hardship. Because this is a habitat built on a narrow property. I believe that the difficulty is not self-imposed and therefore I can approve the variance.

- [Dia] I apologize, interpreter speaking, I'm struggling on the term that was used in here.

- No worries.

- [Dia] Would, can you help me for elaboration, for accuracy?

- Yep, no problem. That, that their plan for the property is not self-imposed or is based solely on economic grounds.

- [Dia] Thank you.
- So therefore.
- [Dia] Oh, go ahead.
- No, my fault. Sorry, go ahead. I thought you were done.
- [Dia] No, I apologize. It's okay with you. May I hear the whole word double area? The paragraph, sorry.
- Yep, I will do it again. Their plan is not self-imposed, nor is it based solely on economic grounds. Therefore Barb is recommending approval of the variance.
- [Dia] Thank you sir.
- So far so good. Okay. Thank you, Barb. Good job.
- [Dia] Thank you Barb.
- Does anyone else on the board have a counterpoint on any of those items that Barb listed or additional information they want to provide for any of those five items? Steven? Don't go yet, Steven. Do you want me to repeat that translator? Dia?
- [Dia] I apologize sir, can you re say that again, was it just the, Steven, you said?
- Does any other board members have discussion on those points?
- [Dia] Thank you.
- Steven, go ahead.
- [Steven] I find that the request presentation of a intent to keep driveways from the property line.
- [Dia] Interpreter speaking, I did not get the message clear. The gentleman that is helping me. Tommy, can you re share it again?
- Yeah, I will.
- [Dia] I apologize.
- Steven said, I find that the application violates number one, which is preservation of intent.
- [Dia] Thank you.
- Steven, did you want to elaborate on that?
- [Steven] Not the first point.

- I'm having a little bit more difficulty in a couple of the other elements here. Given the age of the home, I think that this was a foreseeable issue and I have a hard time finding that this wasn't a self-imposed hardship under the circumstances. I'm not, I also didn't hear this afternoon that there was, that this property was significantly narrower than other properties in the neighborhood. And for record purposes, based on the email we received from the legal department today, I don't know that we have information in hand to say that that other property neighbor, neighboring property owners agree with the proposed variance.

- [Steven] I have more to say too, but I don't know if we need it.

- Go ahead Steven. If you, if you feel compelled. I don't think that the translation pace should deter us from any typical discussion we should, we would typically have.

- [Steven] Alright.

- Wait one second, wait one second Steven. Go ahead Steven.

- [Steven] For number two, this is not exceptional circumstances as this is new instruction.

- [Dia] Interpreter speaking, I apologize. Can you re-say the message? Can you please share the message?

- He said these are not exceptional circumstances because this is new construction.

- [Dia] Thank you.

- [Steven] For number three. Preservation of right, the driveway holds substantial number of cars and single car drivers are common in the neighborhood.

- Steven, say that one more time. Interpreter one second. Say it one more time.

- [Steven] For number three. The driveway holds multiple cars and single car driveways are in that neighborhood.

- [Dia] Interpreter speaking, sir, that single driveway is common in that neighborhood. Is that the ending of the paragraph? I'm sorry.

- Correct. Correct yes.

- [Dia] Thank you.

- Was that it Steven?

- [Steven] Number five. There was no hardship. This the applicant states on their application it would be easier. That's not a grounds for variance.

- [Dia] Interpreter speaking, can you re share the message closer?

- Sure. He, he said number five, hardship. He said that the applicant stated in their a application that it would be easier as a convenience to have this variance requested.

- [Dia] Thank you.

- Anything else Steven?

- [Steven] No.

- Thank you. Josh? Josh, Josh, Josh, Josh. Did you, did you have anything else Josh?

- No, I, I apologize for interrupting you Steven. I've got nothing further beyond what I said previously.

- Okay. Corey, any thoughts?

- [Corey] I only had one question for the city. When Steven mentioned the preservation of intent, the question being when the fence was built, typically fences are required to be one foot off of the property line--

- Pause there Corey.

- [Corey] Do we know if this fence was installed to that specification?

- [Dia] Interpreter speaking sir, could you repeat it?

- Do we know if this fence was installed to that specification?

- [Dia] Thank you sir.

- Fences can be directly on the property line as long as they do not encroach.

- [Dia] Interpreter speaking, I apologize. I'm not familiar, what did you say was in? In growth?

- Yeah, the fence can be on the property line as long as it does not cross the property line.

- [Dia] Thank you sir.

- Applicants made a fence plan that showed this new fence directly on the property line. Based on such plans, we presume this fence to be directly adjacent to the proper line.

- Did that answer your question Corey?

- [Corey] Yes.

- Okay, any other discussion amongst the board members? Barb?

- [Barb] I disagree with several points. This is a habitat house. I've been involved with some habitat

house building as may others of you have been also. You don't get to have entire say over what kind of garage that you get with a habitat home. Therefore I don't think this anticipated.

- Wait, let her catch up real quick.

- [Barb] I also believe I read in the application that there the neighbors did not object so I'm trying to find that part.

- [Dia] Interpreter speaking, sir can you re say the message?

- She said. Say it again Barb. She's looking in the application for a place where she thought the neighbor had stated that they do not have a problem with the encroachment. And then she said I'm wrong.

- [Dia] Yes okay, thank you. Go ahead interpreter.

- [Dia] Okay, sorry. Go ahead.

- [Barb] Okay. I would like to see if John could please put up that overhead aerial shot of the neighborhood again. The reason I ask for this is in the application it states that there are neighbors that have wire driveways where they can fit two cars across, so I just wanted to see if that's accurate. John does not look accurate to you that there are neighbors that have larger, wider driveways?

- Yes, there are a mix of single and two stall driveways along the stretch.

- [Barb] Overall, I don't change my opinion on any of the items. I'm still saying that I say yes to them all. Oh sorry. Can you translate what John said which is yes, there are neighbors with two car wider driveways.

- [Dia] Okay, thank you. Sorry, I will say it again.

- So I don't, do not change your opinion on any of these items and when appropriate I make a motion to approve.

- Thank you Barb.

- [Dia] Sir, can you repeat what Barb said for accuracy?

- She said I don't change my opinion on the items and would when appropriate present a motion to approve the variance, which means take it to a vote.

- [Dia] Thank you.

- [Barb] With the variance being 2.5 feet, that's really what we're talking about, correct?

- We are discussing it is a 2.5 side yard setback for properties 60 feet and over for the driveway. If this property were 59.99 feet, the setback is 1.0 feet for a driveway. To clarify for me is going to a zero side yard setback. With this plan.

- Approximately zero. You don't need to translate this portion, just for those on the call, Lindsay's on the thing just to kind of maybe help visually to like the start and stops of talking. So that's why she's putting her hand up, not because she wants to talk. She's basically trying to help us like hey stop talking. They're translating. Okay, go ahead and go. So she's trying to help virtually for us to kind of maybe speed up a little bit. That's why Lindsay's on. So if you see her, that's what she's trying to do. Like a a start stop red signal. You don't need to translate that.

- [Barb] Here she is. Can I ask for clarification?

- Yes, you can.

- [Barb] In order to be legal, the driveway has to be eight feet wide at that point. That's the law, they can't make it any smaller. So we have two laws conflicted, right?

- So any driveway needs to lead to a legal parking stall. To create an illegal parking stall, it must be at least eight feet wide. Yeah, so the applicant is requesting the variance because they do not have the 10.5 feet. They need to like leave eight feet for the stall and 2.5 feet for the buffer. The rest of the driveway would be legal if there is a legal parkinsol because that would equal a 17.5 foot driveway, which is over 16 feet.

- Also to be very clear with the drawing that is here, all other areas if approved, the triangle, taper, the setback, all of that stuff is in compliance. It's just the striped area up top.

- You'll note the existing driveway is 11 feet wide. This extra expansion to make it total of 17.5 feet wide would not be legal and will not be legal up to the garage unless there's legal park install up there, which is why we're in this variance request. So the rest of the expansion is not on the board right now without the stall at the garage.

- Okay, I think we've had enough discussion in, unless there is something glaring. Oh Steven, did you have your hand up?

- [Steven] I did.

- Okay, thanks Steven. Let's back up for the translator. We have a motion by Barb to approve the variance as requested and then a second by Steven. Any other discussion? All those in favor say aye.

- [All] Aye.

- All those oppose?

- Me.

- The aye's have it, four, one. Thank you to the applicants thank you to the board for this first journey with the translator. Your variance has been approved, so please work with John and the city to make sure whatever is built is complying with the variance approval and existing code. Okay, thank you Dia.

- Dia, before you go.
- [Dia] Thank you sir.
- Can I just get your number again just for ID purposes?
- [Dia] Oh sure. Yes.
- You did, I just didn't write it down. You were too fast for me. Thank you so much for all your help. We really appreciate you.
- Thank you.
- Thank you. I appreciate your patience.
- Thank you.
- Have a good evening.
- Thank you.
- You too thanks, bye-bye.
- All right, we are gonna move on to number two three. The second agenda item, well the third agenda item, the second appeal, it's gonna be appeal 2308 consideration with possible action on variance. Requested submitted by Jose Masiel, property owner applicant to allow a front yard parking stall with dimensions exceeding maximum dimensions in district three. Jose, are you here in person or online?
- I'm here.
- Oh, hi.
- Hi.
- Go ahead and grab a seat up front here. Same process but maybe a little bit faster. Do you swear we're gonna hear from the staff first but I might as well just swear you both in.
- Real quick Tommy, if I'm understanding correctly, you are going to help with any language issues. Is that accurate? Okay.
- Yeah, I want to.
- Just in case.
- Just in case.
- I love it and if we need to speak slower let us know as well.

- Okay.

- Okay, thanks for being here. John, do you swear that the testimony you are going to provide will be the truth?

- I do.

- I'm just gonna do this at the same time it gets outta order. Is that okay? Can I do it right now?

- Sure. Name and addresses.

- Your name and address for the record.

- Jose Masiel at 1826 Denver lane.

- Thank you. And you both swear that the testimony you will give will be the truth today?

- Yes.

- Great, thank you. All right, John's gonna go first then we'll go to you and then we'll same thing. Questions and then discussion.

- So the property you're seeing right here is at 1826 Denver Lane. They're looking to deviate from 44 dash 174 sub seven subsection three sub section E. This is in regards to putting in an extra parking stall in the front yard when you have an attached garage at a single stall. So the property itself will see is 68 feet wide and the setbacks for this property would not ever allow for any sort of side yard entry for a parking stall unless you took down part of the house itself. So the Afghan property owner came to city staff saying, you know, I'd like to go ahead and put in some more parking. I want to put it in along the side of the garage. You'll note the left side is the east side of the property pretty close to the prop line has some vegetation and it would not have the a bonus space to go ahead and put a a park install there, variance or not. There's just not enough room there unless the stall itself was substandard and it went right directly adjacent to the prop line. So within the code, if you happen to have an attached single stock garage, you are allowed to put in one front yard parking stall adjacent to said garage. So you'll see right here some of the this is what staff showed, which is completely legal. You can put in an eight foot wide max garage stall past the garage door opening with this particular property there would be a need to go ahead and put in some triangle tapers to make it work with the apron itself. But that's all legal to go ahead and do. What the applicant is requesting here is to go ahead and go off this garage 13 feet or so past the existing driveway and walkway into the manor of the garage, go eight feet past the existing concrete to have a stall going right there. And then you'd have a triangle taper that would go ahead and access that. That would, in both situations would create two legal parking stalls. Right now there is one legal parking stall outside of the garage itself, so just notes that is their know their walkway to go ahead and get into the garage man door. The code itself states you cannot have a parking stall in the front yard that would block entry into your primary doorway for the residence. This request would not do such a thing. And then just for some more reference, these are some photos of the area looking from essentially the neighbor's property or will be extending out the street and then one a few more, more feet on the road itself of the property as it sits here today.

- Okay, let's peel back one second real quick. To be clear, the first photo you showed is a complying option. If they did this, everything's in compliance.

- Yes.

- However they would like to go five feet beyond that.

- Correct.

- And that would then not be in compliance.

- Correct.

- So that's literally what we're discussing right here.

- Right. So you are allowed to by right when you have a single stall attached garage have another front yard parking stall that goes eight feet from directly from the garage door itself.

- Got it.

- And so that's when you're seeing that red line that's out in the grass itself, that's approximate what the vantage request is. Entailing here is rather than starting from the garage door, you can start from the existing concrete itself. That would equal about 13 feet or so approximately from the garage door rather than the eight feet that the code allows.

- Copy that. I am clear. Does anybody else on the board have questions or clarification before we hear from the applicant? From John? Yes, Steven?

- [Steven] So lemme this and Meaning I didn't provide any other parking, meaning I assume that this is for people who have a garage that's built, which I've seen before, the city that they create in this front yard that have a parking, so I dunno how those applies.

- So it applies in this sense, let's go back to the folks in this first go round. If you happen to have Ruben to go ahead and take a drive either into the side yard or the rear yard, that would establish the extra parking. This facility does not have that without tearing down a part of the existing residence. So the exceptional circumstance in this case is the only extra place they can put it. An extra stall would be in the front yard in this situation.

- [Steven] Okay, but I mean that doesn't make such a, that is true, right? Listed that way, unable to provide the parking as regulated in the disturbs. The parking is regulated in the arguments. So the exception doesn't apply, dose it?

- Right, so it meets the minimum standard right here. It does. You only to have an enclosed garage space and one outdoor parking space that is your minimum door. A house. As far as you will note with other places in this our city itself, there are places that are similar to this to where, go back to this image that there are front yard parking stalls and that's allowed to happen right there if you have the single attached garage. It's just, it's been the policy as far as interpreting that that way that if you

do not have the space in your, your property to go ahead and create that legal stall on the side or to the rear of the primer residence, that this is allowed as this situation right here is an acceptable application of that rule. The difference being this goes beyond that to where it's now five feet further than the rule else for.

- [Steven] There's no problem without the city's tree or?

- That is right. That is the property owner's tree.

- [Steven] Okay. I know sometimes it all sets up.

- Yeah.

- [Steven] Okay, thank you.

- Any other questions for John before we hear from the applicant? Okay, so he's kind of trying to tee it up and give us alternative options and everything. So state the case as to why the need, you know, considering those five factors we're considering your case for needing this variance.

- Yeah, I want to make it because all the time when I parked my car we block in my main door, you know, so this is the reason and want to go spend the eight feet and angle and the second the tree is almost gone, I got be behold and in eighth. So we need to cut it down anyways so, and I want to, you know, see what I, right now it's like 16 feet wide. So we expanded like eight feet is 24 I think is under normal 25 feet where at like a concrete or driveway from that normal house. So we under that, so near only eight feet. So say make an eight feet. So I got space parking, my car we live in, open my main door for the street for emergency. You know, he need the ambulance, we need the fires, you know something happened. So we park in one car on that side, one car on the other side, leave it open my whole main door. And so we, when I park my car on the right in the right side, we parked in the car in the middle. So I got room for walking in the front around the car with my, with my, my door. Yeah.

- Okay. What is the need? So my first question is going to be there is an option. Go back to the other one, your drawing John. This one, this, this option here for me gives you extra length and width and is and fits code. So what I want to hear is why is that extra five feet beyond the extra here that fits a hardship? Why is that something that is not self-imposed?

- So he wants to, so he doesn't block the door when he parked, when he parks his vehicle, he doesn't want to block the main door.

- This door or this door?

- The main door.

- This door?

- Yes this door.

- Okay.

- Because all the time we blocking that, that door and when there's like a storm from the snow storm, I got big problem two and we parked my two cars in one side and last week the one of the truck we hit the car in the back with the snow when it's cleaning. So this is the main and one go expand it and park it. One car and one in each side.

- So you want, sorry guys, I'm using a visual aid. I'll catch you guys up in a second if it's not making sense. But what you're saying is you wanna be able to park a car here, leave a gap here, right there and then a car here.

- Yeah, car right there.

- So that you have a clear walkway to this door.

- Walkway to that door.

- In between the two cars?

- Yeah, between, yeah.

- Got it. So just to catch you guys up, cause I know I'm using my screen, but what are you saying? I'm not sure if you guys caught that. Is that he wants to be able to park a car completely on the other side of the door, the white door so that he's got a clear walkway in between the two cars. That's why he wants the extra eight, the extra five feet. Whether we agree with that or not, I'm just explaining his, his reasoning so you guys can see the visual aids. Does that make sense to all of you online? What I was asking, what he was clarifying. Okay. That's my, my question, I don't have any other questions for the applicant. Does anybody have any, any questions or clarifying questions for the applicant? Otherwise we can see if there's anyone in the public and we can choose to either open up the floor for that discussion or not. Okay, not hearing none, hang tight. Is there anybody here in person or online that has wants to voice their thoughts or concerns for approving or denying this variant before we go to discussion and deliberation? Okay, hearing no one vocalizing that at this point. Let's go ahead and move forward some discussion from the board, does anybody want to kick us off? Corey?

- [Corey] I mean personally, I, I mean because they can comply with, can comply with the goal. There doesn't really need to see a need to actually expend for or expand further. It's gonna accomplish the goal of being able to put two vehicles side by side in the driveway.

- Okay. Does anybody agree or disagree with Corey's kind of assessment? I think what you're kind of doing is the exceptional circumstance, number two, kind of what we were discussing a bit earlier and a bit of number five, the hardship, which is the self-imposed.

- [Corey] I can't agree.

- Okay, does anybody disagree or with that? Okay, Barb, you had your hand up. Do you have anything you want to add to that?

- [Barb] I just, I wanted to agree with what Corey said.

- Okay. Is there any other comments before we go to a potential vote here or a motion that anybody wants to discuss or throw out or thoughts? I tend to agree as well, just so I'm on the record. I think complying with the code, while it might convenience right, might be to extend it past and I completely understand that need, you know, back to what we were talking about with exceptional circumstances, looking at the property and per perpetuity, I think there is a option that is laid out that can comply, that gives some needed expansion. And I do not see that a case being made that this is an exceptional circumstance to go beyond what is potentially complying. So I, I will lend, tend to vote to deny.

- [Steven] Directly in front of my house like that when order means it's not, you know, hardship affect.

- Okay. I think a motion would be in order.

- [Corey] I'll move to decline the request.

- I'll second. So I have a motion by Corey to deny the variance. And then I have a second by Josh. Any other discussion?

- Just as a point of clarification, I don't know that we confirmed that the lack of conflict before we started this.

- Oh, thank you Noel. I apologize. I did skip that. Good catch. We're a bit past that now, right? Unless I still need to on record.

- You should still get it off the record.

- Does anybody have, yeah, does anybody have a need to ensure this hearing? Hearing satisfies the goals? Each member of the board appeals. Please confirm the following by stating I confirm I do not have a conflict of interest in this matter and I have not received any communication from our person or party about this matter.

- I confirm.

- I confirm.

- I confirm.

- Okay, Dude I love it. Thank you for holding me accountable. It's great. Okay, so we have a motion to deny again, let's go ahead and take a vote. All those in favor remember? In favor of denial, say aye.

- Aye.

- [Steven] Aye.

- Anyone oppose? Okay, so no opposition there. Unfortunately it did not pass the board for the complete change the full 13 feet. I think if you heard kind of overwhelming what everybody was

saying is that if you still wanna move forward with it, with, with expanding the driveway, there is an option that you can work with John on in getting some of that space and potentially working. But for the full 13, we, we, we said no and I'm sorry. Okay? So feel free to work with John though again, it sounds like there's still an option to get some of that relief within complying with the code for that specific property, okay? Thank you. Thank you for your time. All right, we'll move on to agenda item number three. No, sorry, number four, right? Yeah okay. Appeal 2309 consideration with possible action on the variance request submitted by Josh Depouw. Yes. Green Bay areas public schools applicant and property only to reconstruct public lot on Preble High School at the 200 block of North Dan's Avenue. Yep, sorry about that. John's just stepping out of the room for one quick sec. Let's take a two minute stretcher 'cause he's gotta come back anyway. Thanks for your guy's patience, by the way.

- No problem.

- I know it's always fun to be the last agenda item. And you guys are doing presentations on the next two, is that correct?

- Yes.

- We'll handle them both separately, if that's all right. This is the formalities that come along with all of that. But I've been the last agenda item on some things and I appreciate your patience.

- If you want, you can do the conflict waiver for this one right away. While we're waiting for John to come.

- Oh yeah, well there we go. So on this agenda item is there, let me read it again. So I'm, I'm thorough.

- I don't know if maybe Corey and Steven slept away though.

- Well, there you go. See I gave him a little, little breaker.

- Well I do have a conflict.

- Okay, so are you from this one specifically?

- Oh, from this one and the next.

- Okay.

- What was the.

- Pebble High School.

- Oh, I thought you said I went to Preble.

- No, no, no, no. She works in Pebble High School. She's a teacher works on the football field quite regularly.

- Oh, very cool.
- That's not right. My in-law's gonna about a foot up mic this morning. It looks better up there.
- All right, Corey, Steven, we're gonna do the conflict portion just by concern. Confirm saying I confirm. One, I do not have a conflict of interest in this matter and two, I have not received any communication from any person or party about this matter.
- Can you tell them separately, because Josh is gonna say no, whatever.
- You have to say I confirm.
- And the second. Nope, I, you everybody can say I confirm at once, but you do still have to do them as two separate questions.
- Okay. So one, I do not have a conflict of interest in this matter. I confirm.
- [All] I confirm.
- I have a conflict.
- Okay, so Josh has a conflict. Two, I do not, I have not received any communication from any person or party about this matter.
- [All] I confirm.
- So given that you have saying I, I don't confirm for one. Are you recusing yourself?
- I am.
- Okay. From this one we're gonna have to go through this again it sounds like for the second one, no worries. So Josh will not be voting or speaking on this matter, but we're not gonna excuse him he can stay. Alright, any thoughts there everybody?
- [Steven] This, are you talking about the north traffic right now?
- Yes, that's the item we're gonna be going on right now.
- [Steven] And you're gonna show a lot map that also, right?
- Yeah, we're gonna go over, just like we've done before, we'll go over the whole lot and John will tee it up in terms from a city's perspective, what the actual thing is, where the variance applies, why the variance applies, we'll hear from the applicant and then I'm assuming you're here to, to either listen in or if you have something you wanna speak about.
- [Steven] Correct, but I'll to the process.

- Yep and then I'll call upon, we'll have to like formally open the floor, stuff like that to, it's a formal process. So, okay. To you sir, do you swear or affirm the testimony you're about to give on this matter will be the truth John?

- Yes, I do.

- Great.

- And so just to clarify in this, so there's two items that are plate or two separate appeals of plate here. This first one is for the southern parking lot of the stadium. The second item will be for the area that the existing church property right now that is looking to convert into a triple jump area. So that'd be the second item once we're done with this one.

- There to be, to be clear, we are handling these two applications completely separately.

- Right. We are doing that because there're different property owners and different properties right now. The triple jump area that we'll have in play here, it's all part of the same overall project, but right now it's on church property and so we're gonna hand that as a separate item.

- Got it.

- And we'll then take, take on these that are part of the Green Bay School district property for the southern part of the stadium. So we saw this last month, the schools have been working to go ahead and get plans and then at the time they didn't have alt their plans to go for this parking lot structure. So last month this board did approve a variance for a setback for the improvements with the stadium, the bleachers and that area, this girl around were focusing on the parking lot that is south of the stadium itself. With that there are a handful of variances that the district is looking for for the property. Part of this is triggered insofar that with the stadium reconstruction they need to go ahead and entrench into the existing parking lot. Want to exceed 500 square feet of improvements. You need to go ahead and apply with our existing code. And so that helped facilitate where we're at right now. So I'm gonna go a list one by one. Each of the individual variance are request for the property. So first one, at least 10% of the interior area of parking lots. So 25 or more spaces shall be devoted to landscape parking areas. So this is the updated plan that the school district is pursuing. It is similar nature to what is out there right now. The additions that come into play would be this landscape island on the west and this smaller one that's south of it. The school has kept the same amount of stalls that are out on this site by rearranging the stalls and taking advantage of compact stalls on the site itself. So while the district is adding in some more islands, they'll keep the same amount of stalls in this proposal. However, they do not meet 10% of the surface area within the parking lot being landscaped with the addition of these two islands. Next landscape islands shall be provided at the end of each parking row and within the row said no more than 15 spaces effectively without landscape violence. So as noted, these plans do call for a book end at the western end of the lot itself. However, the amount of stalls that occur in between exceed 15 stalls in, they're not looking to go ahead and put in an extra island in the middle. Three, permanent parking lot landscaping landscape areas shall be at least 15 feet wide along each frontage of a public street or sidewalk. So what's coming into play right here is the distance that is between the actual sidewalk or property lane is less than 15 feet to the parking lot itself in both the south end here and the east end right here. So they do plan on landscaping it, but the actual width of that area is less than 15 feet.

- Width being the distance. Like this way?
- The distance being from where you parked the front of your car. To last to the sidewalk.
- Got it, okay. Just width to me is like.
- Yeah it's stiff down always this way. Next, number of driveways, multiple two-way drives may be permitted on one street frontage provided the distance between the center lines is not less than 200 feet. So the schools right now currently has and would like to keep on having two-way drives. You'll note the two drives that are on the east side of the property, those are less than 200 feet apart and do not meet code.
- Those are the current driveways?
- Those are the current ones.
- On the right side of this image?
- Yes. Current driveway's in the same spot they're asking for.
- Okay.
- Finally driveway throwing the permitted throat lift access drives, serving parking lots must be minimum 18 feet. So that's being accomplished down here with this, a new bump out on this side, that's not an issue. If the issue comes into play over on the eastern part of the property, the space that is between the property line and where the throat bumps out and becomes a parking stall is less than 18 feet. I will note the property line itself goes back quite a bit from the actual sidewalk. If you take it from the sidewalk right there to the third length where it ends, that would be 18 feet. It's just the proper line is a bit a normal compared to where you typically go ahead and see a proper line pretty close to the actual back of walk here. There's about a five foot difference. So with that, those are the five different variances that this board has to consider for this product.
- This specific item, not this specific one.
- Yep. Be the second item or second item with one item addressed in the following agenda.
- Have you, cause again, this is what I like to hear from you before we hear from the applicant. Alternative options have been explored or talked about before came to the board.
- Right. So we've gone back and forth with the schools.
- Yep.
- There were other variances that were put forth to go ahead and when the get sounded having five.
- Oh so more.
- There were more before we're down to five. So you know, other options that could be considered.

If we go to, for instance, number of driveways, multiple two-way drives. If this parking lot were to go ahead and become a one-way drive, then the distance between the drives would be allowed. Now the rollback of that would be you're doing diagonal stalls and you would lose a number of parking stalls at that point, approximately 20 or so based on the calculations that we were given. So you couldn't go ahead and do it in that fashion. But to keep the, so right now they're without, sorry, they do not have, let's go back to the first image in the back of this. They don't have any of those islands that they put in. So they have kept the same one of parking stall that, that currently exist in this configuration that they've provided. If you've made a diagonal, you would lose about 20 more stalls. So those are trade offs with this.

- And I I, they can probably address this as well. So you can tell me whether I should hear that from the applicant or not. Compliance is an option for this. It's a matter of the need of the amount of stalls. Is that fair? Fair act like framing here. Is that, is that.

- It's a fair framing 'cause they could go ahead and do a one-way drive. You would lose the amount of stalls that you have.

- And add more landscaping and add all these different--

- Right, yes with those as well yes.

- So all the five could be met, but the problem is you would go from X amount of spots to maybe half.

- To, if you went ahead and put in all the different ones. If you say you got to 10% for your landscaping. And we met our, we would probably get her 10% if we put it on us under landscaping islands. Big enough. But yeah, you would, you would lose a number of stalls by doing that situation. Yes.

- Any other questions for John before we go to the applicant? Corey?

- [Corey] When you mentioned the one way drive is require to be those stalls or can they keep this configuration with the one way?

- Oh.

- [Corey] 'Cause that was the first thought I had when I'm looking at this, I'm like, why can't you just go one way and avoid that one variance? I mean is there some other code that requires those valuable stalls?

- Right. Part of that is that when it's a diagonal stall, we inherently as drivers and users know which way the flow of traffic is supposed to go and whether or not we put up a sign that says do not enter right here for a parking lot that's been in place for 40 years where people have used it as it's two-way drive, it still wouldn't go ahead and necessarily act in that function. In reality, if you said this is only a one-way drive.

- [Steven] I mean people don't, things do change. I mean it's not, you know, I'm actually, and this may have one to do with you just edify me. So it seems to me that the school district doesn't spend

amount money parking because they have trench. And I understand absolutely. Why is this one considered just a repair? Because somebody could just say, Hey, this is just repair some lines on for a bit of, instead of having.

- Sure, so there's, they're gonna go ahead and actually repair the whole, the entire parking lot at this point. That will happen so. Sure, sure. And don't me wrong, we've considered that as far as the 500 square foot and what it means as far as non-conformity's staff had considered this as far as addressing it in the future. 'Cause we hear what you're saying right there.

- [Steven] Well, yeah. I assume everybody going through that module, I was just trying to work that out my own edit. So thank you for that. I don't have any more questions.

- Thanks Steven. Barb, anybody else have questions before we hear from the applicant? We're good? Okay, thanks Barb. All right. So for the record, first and foremost, state your name and address. I'll do that from each one of you guys.

- Which address would you like?

- Their living address or working address?

- Either one is fine.

- Josh Powell, 200 South Broadway is where I work.

- Ryan Bars, Rettler Corporation. 88-88, Old I8 Road and Junction, Wisconsin.

- Thank you. Okay, and then the second question is, do you swear or affirm that the testimony you brought to give will be the truth?

- Yes.

- Yes.

- Okay thank you. All right. Dive in. So I think well walk us through, you've been through this.

- Well, you're right.

- The whole goal of this is to maintain as many parking spots as we can. We're very limited on whole site as far as parking. So that, that is the goal in trying to comply as much as we can without losing those parking stalls. And yes, we could put in diagonal stalls on that lot, but there would be a lot of confusion. We're dealing with teenage kids. It, it might not be so pretty if that's what we're asking 'em to do. And it might just be used and then as a two-way lot anyway, as two angles anyway, no matter how many arrows we put down there. So that's why we'd like to maintain it as it is.

- Yeah. And as far as the number of stalls, I actually have 105 existing and with adding the landscape islands and maintaining kind of the compact stalls there, I have proposed as 98. So we are losing seven stalls with the current layout. But yes, obviously if we had the, had to add the additional islands to get the intermediate islands and also the 10% along with adding the additional buffer, I think it's

about 10 feet right now as far as that south buffer.

- Right the bumpers are approximate 10 feet on both sides.

- Yeah. So if we had to expand that 15 feet, one of the only options to maintain the four, if the four rows of parking would be to make it one way with the one way layout. You can get narrower aisles and narrower spaces, but you just do lose so much. We did a, a layout that has diagonal parking with one way, but it gets down to 76 stalls. So from the existing 105 to the proposed 98, we're losing seven stalls already. But if we had to do that, then we get down to 76.

- And to be clear, in walking through what you just said, if I wanna make sure I, I heard you correctly. If I came forward and said here's a complying record and it checks all of these boxes, they're all gone. And your Honor, in here you go down to 77.

- I had 76. Just to get that would probably clear the, the two driveway variance, right John? And then it would clear the south buffer variance that does not yet address the 10% or the intermediate islands at 15 stall max.

- Got it. Which would then you would lose even more by adding.

- Yes.

- Got it. There's a, there's a likelihood where you can be down to 60, 55 spots to completely conform. Is that a fair guess?

- I think so.

- I don't wanna over exaggerate or whatever. And then just for my clarification beyond, because I, I do think Steven made a good counterpoint about things and dealing with teenagers, you've got a, a short window of reeducating 'cause they're all gonna be graduating in a couple years anyway. What would happen if you did do the one way and not worry about any of the other variances, but the one way with the diagonal spots, how many spots would you lose?

- If we did.

- The one way so roundabout and then you had the diagonal spots, would you lose spots in that scenario?

- Yeah, when you go to the diagonal stalls, that's really what eats up a lot. So that's where you're, you're going down to that.

- 70.

- That's 70?

- Yeah. And as far as, is there an option to mark the aisles as one way put up signs and pavement marking, but put in 90 degree stalls legally? Yes, I think you can do that operationally from a traffic perspective, I would say absolutely not. I would never want to design or construct a parking lot in

that fashion. Because you're, you're telling them to go this way. But when you pull into a stall and then you get, oh, I'm backing out and I'm going, you know, east instead of west. And just natural reaction when you're parked perpendicular, you're not thinking about, oh, I need to go that way when I back out.

- Got it. From a school perspective, again, I'm dominating right now, so I will give up the conk in a second here. From a, from a use case, I'm not quite sure I know what's, what's this? Is it student parking? I'm assuming since we've made a--

- It's student and staff.

- Student and staff.

- Limited staff, but mostly students.

- And from a higher level, there's a parking need, right? Otherwise you wouldn't be.

- Yes.

- So there's no other parking solutions that would say, Hey, we lose 30 here, we can make this staff parking lot, but there's ample parking on the other side of campus or whatever.

- We're dealing with that same issue on the other side with our main parking lot over there is getting redone this summer also. And we had to go through that to see how we could accommodate, we had a variance last meeting that was approved to limit the amount of green space that we needed to put in that lot so we could maintain the amount of spots we had over there. And that variance that went through last year?

- Last month.

- Last month.

- Oh, I wasn't here for that. Okay. Just for my, what was the, what was the.

- [Steven] It was basically to change things.

- Got it, okay. All right, I'm done for my questions. Thank you. For entertaining my questions.

- [Steven] You don't have any room, you have nowhere to go. You don't have more money to buy, there is nothing left. I think you guys gonna work with the city and raise main mind. You've gone through as far as as much as you can and there's, there was no bad options and at least from my opinion, this is the least bad option. So that's my piece.

- Any other questions for the applicants? Before we get to Steven's, bridging that gap, which I appreciate. Any other comments? Phil, I know you had mentioned a minute ago that you would, were potentially here to, to speak on it. If that's the case, I have to open the floor, correct?

- Yes.

- All right. So Phil, is that the case you'd like to speak? 'Cause before you say anything, I have to technically open the floor.

- [Phil] No, I was, so we were discussing the document parking lot that adjoins my property and I was in Florida at the time. So I notice basically that I'm hundred feet from that property, but I'm really not.

- Okay.

- Kind of distance from there.

- Well thanks for being here. I appreciate it. I should have opened the floor for that.

- That's okay.

- Okay. So let's keep moving then. General discussion from the board.

- Before you get started. Can I make your comment?

- Yes.

- Hi everyone, here to deliver bad news as usual, just not actually bad news. Just try and add a little levity. Cause I'm about to tell you that because there are five variances being requested, you should make sure that any motion you're discussing why all of the elements are met for each of the five variances. So if you wanna do them as five separate motions, you can do that. There may potentially be overlap between some of them. So you might be able to give the same five elements for some of the variances, but there are likely to be differences that apply to different ones. So just bear that in mind throughout your discussion and when any motions are ultimately made and try to keep the record as clear as possible.

- [Steven] Can you explain why the difference from five from two?

- It should be, it should be any time that there are multiple variances on a property.

- [Steven] Okay.

- Keep in mind this is an ongoing process where we're trying to make sure we're, you know, looking at, at everything that, that the board does and making sure any gaps are being filled in. And this is just a gap that honestly I didn't even think of until Logan and I were sitting here right now talking about it, so.

- [Steven] I'll say discussion done for later.

- Okay. So we have five different variances within one overarching project request. Does anybody want to take us through, we can go one by one and talk about each variance. That can be a way to go and then be able to parcel out any potential debate on any one of those issues, specifically addressing that issue with all five variances and then kind of just work our way through as a general discussion,

then we'll work towards a motion to, to deny or is that okay from a process perspective? Barb, you okay with that?

- [Barb] I'm gonna try.

- Well, let's start with number one and then we'll think about the project as a whole and then speaking through the different variances. I hear what Lindsay's saying and I'm not disagreeing, but I think if we speak in, in, in terms of the project and the application and the different pieces, right? We'll be able to pull out, well I think all five I can make a case for it except for this one, I can't see it. So I think we'll get there indirectly by just having discussion if we go through each one individually. Is that okay? Hearing none, I will move forward. All right, preservation of intent, a variance would not be inconsistent, which.

- [Barb] So, so excuse me. You're saying we should do all five on preservation of intent, is that what you're saying? Or just.

- I'm, what I'm saying is I don't necessarily think we need to go through each specific variance because I think it'll naturally in conversation come out and we'll either say yes or someone will say no, right? Within that one variance, right? So if specifically we can make a case or like all of it. Except for the border, right? Like the border one that he was talking about. I don't have it.

- [Steven] So, so.

- Can I make a suggestion?

- It's getting too complicated guys. Like I, I just want to go forward. We don't need to do, I will, we can have a discussion after this and it'll fall on me from a legal perspective, I'll be totally okay. But it's, it's getting so complex now. So I hear you. I take the advisement as the chair. I'm gonna move forward. We're gonna discuss each one individually considering the pro project in, in total. Okay?

- Yes. All I was gonna say was if you get to variance number two and three of the elements are the same, you can say for one, three and five. It's the same reasons as the first variance. Just to expedite where you can.

- Yep. Everybody good with that?

- [Barb] Sure. Let's try it.

- Or do you want to do it variance by variance?

- [Barb] No, let's just try.

- [Steven] I mean ultimately we're considering this as a project, not as individual variances. Otherwise they each have their own application.

- [Barb] Right.

- [Steven] So go ahead and tell me.

- Okay. Number one, preservation and intent of variance could be not, would be, not be, would not be inconsistent with the spirit purpose and the intent of the regulations for the district in which its requested. Anybody want to take a stab at that one?

- [Steven] I'll take a stab.

- Thank you.

- [Steven] High school in this school district, in that particular neighborhood that's done and school district has done the, to preserve the intent of the city more asking for spaces by asking this for more exceptions in this particular case. And I think that that shows in, in my mind, that shows a positive witness. And then the, what's the word I'm looking for here? Intent to, so that's what I would say about this as a whole. All of these, all of these exceptions that we're asking for.

- Thank you Barb. Anybody have any counterpoints with that or wants to appeal out a specific variance where they go? I don't agree with that on this specific variance. Number two, exceptional circumstances.

- [Corey] I think based on the expectation that they have the existing parking lot as it is and they want to maintain the existing there, the constraints that they have within the city block that they're living in are with the, with the parking lot being in. I can see that the exceptional circumstances applying to one to two with regard to both of those happen. Landscaping issues as well as the four, four and five. Even with regard to the driveways, it actually number three also has a landscaping piece to fit within there that in order to maintain what they have to Steven's point on preservation of tent, there are except circumstances fit into meeting less need.

- Okay, number three.

- [Barb] I'll try that one.

- Look at us, team effort I love this. Thanks Barb.

- [Barb] Preservation of property rights, it is necessary for the preservation and enjoyment of the same sustain property rights which are possessed by other properties in the same district. People that have driveways have the right to park their cars there. We definitely, they need these parking spaces for the preservation and enjoyment of being able to park for gaining this and for school. So based on that, I would say all five of these variances are needed and will preserve the property rights of Preble high school in the school district.

- Okay.

- Well I think you're bridging the gap into number four, perfectly, huh. Absence of detriment will not create substantial detriment to adjacent property or materially impair or be contracted as spirit purpose and intent of the chapter of public interest. So Steven, you want to take a stab since you were alluding.

- [Steven] Essentially, standpoint works keeping same other parking spots, keeps the on school

property, keeps up parking of the neighborhood.

- [Corey] I'll also add to that as well, kind of going along the lines of that teenage driver and our discussion on the runway way versus the two-way. If you did go to the one way with regard to it and the teenage driver's learning were have a higher likelihood of Federal Bend and potential police calls. So you would be assisting the police department that that means you have accidents, reporting and all sorts of insurance needs. So that's my 2 cents. Absence of judgment for the rest of the community.

- Anybody else on that one? Okay, number five. Hardship. Alleged difficulty in complying is not self-imposed nor is it based solely on economic grounds.

- [Barb] I did try, I, the difficulty in complying is, is based on the area that can be allotted to parking. I don't know how to put it, but it's like an enclosed area that they can't branch out anymore. There is no other way for them to fit these parking spaces in. And it is, it's been there all the time. We're not sure good enough case, but.

- [Steven] Especially considering this parking up to this point.

- [Barb] Yes, exactly Steven. Exactly.

- [Corey] And to piggyback on the one that we did last month with regard to the size of a lot compared to the size of the property, I mean if you look at the entire piece of the hole as far as like what the entire complex is, we would, we have the difficulty last month of why do we have to treat that parking lot based on a different code with, with the issue with it. Because as a residential code versus a commercial code, this is a need because they have the need for that many parking spots.

- [Steven] Yeah.

- Yeah. Okay, good. I would say in, in total, my thought on all this is similar to like the stadium, whether this is the right filter or not, there are certain properties within the city that have unique characteristics and use unique uses, use cases. And this board, as long as I've been on it, has looked at those, some of those things. So some of those situations and said, look, you know, yes complying with this code could be possible, but then it's deterring from the actual use of what that specific property is. And that specific property is different than adjacent commercial property A, there's a school, it's got needs parking for students, for staff, whatever. And so for me, I am inclined to vote yes based on everything everybody said. But at the same time we also have to remember that, that within a general code of an entire city, there are unique properties within that code that require maybe some, some additional consideration. And so I'm inclined to vote yes based on the historical, which is not necessarily some reason why I should be voting, but I'm gonna just state it for the record.

- [Corey] I will approve.

- Any other discussion? All those in favor of voting yes to approve this application for variance of the five different variances. All those in favors say aye.

- [All] Aye.

- Oppose? No, none okay. All right. This one we can move forward with number five on the agenda appeal 2310 consideration with possible action on the variance request submitted by Josh Depouw, Green Bay Area Public School District's Atonement Lutheran Church Green Bay, property owner to construct a triple jump recreation area within the rear yard setback at 2214 Deckner Avenue in District five. Since they're the same people, do I need to swear them again?

- Yes and please do the conflict waiver.

- Okay. All right, so based on this specific agenda item, you're back in now, so you have to redo it again.

- I'm, I'm back in for a minute, that's fine.

- I do not have a conflict in the interest. Please confirm by saying I confirm I do not have a conflict of interest in this matter. I confirm.

- [All] I confirm.

- I have a conflict.

- Okay, Josh says I do not confirm. Two, I have not received any communication from any person or party about this matter.

- I confirm.

- [Steven] I confirm.

- [Barb] I confirm. I confirm. So Josh, being that you have stated I do not confirm for item one, would you like to recuse yourself from this item?

- Yes please.

- Okay, perfect. John, we're gonna start with you staff on preparing us for this one. Do you swear that the information that you'll be presenting is the truth?

- Yes.

- Okay.

- Okay, thank you chair. Moving on. So this is the northern part of this whole complex itself. So why we're, we're in play right here is the area in question is currently a part of the Atonement Lutheran church area. It's just north of the existing track area for the stadium. So you can see up here where it's a site area. That's the approximate area as far as where we have the spot where Preble's gonna go ahead and put in a triple jump area for the track and field facility. This is a street view of the area in question. You can tell the existing defense and private line that separates the per track and then a reading space for the church itself. And then this is a approximate proposed property area for this triple jump itself. So with this in mind, the district has gone ahead and looking to purchasing a portion

of the property. This chunk right here is approximately 165 feet by 55 feet by 162 feet by 40 feet or so. They're looking to go ahead and purchase from the church. The church is a different zoned from PI, it's actually R three that should go ahead and get changed. And they've already put in the, yes?

- Can I just interrupt you? So is the church still technically the property owner?

- Church is the property owner. And they have, they are at the actual property owners who signed on for this.

- They're the applicant, are they here?

- The applicant is the school district itself. The church is not here tonight. That's not uncommon for property owners themselves to not show up, especially in these situations where somebody's purchasing the land itself. But they have signed off on this. We've got written notification that they're okay with it.

- Thank you.

- So with this in mind, they're looking for some relief right here because they're looking to go ahead and place this triple jump area in the rear yard setback. We established a sign yard setback at our last meeting with the stadium expansion off to the west. This will be the rear react of this corner property. And because it's triple jump in the nature of it does not meet the qualified improvements that can be within the setback itself. So they're gonna place the triple jump far than the actual 15 foot side yard setback is a request. So with this in mind, if this board were to go ahead and approve this variance, staff would recommend two conditions on this. One, that the Green Bay area public school, schools acquire approximately, this is a change from your packet itself. Like I have actual numbers here. Approximately 165 feet by 55 feet by 162 feet by 40 feet of property from Atonement Lutheran church and then a rezone of said 165 by 55 by 162 by 40 square feet of or feet of property must occur change in this area from R three, which is a church zoning down to or over to PI, public institutional zoning as well.

- You're gonna have to for me go over that whole thing again 'cause everything you said I was like, we shouldn't be doing any of that. So help me get there.

- So here's what, the church property itself right now is zoned R three.

- Yep.

- Okay? And so the school district is looking to go ahead and acquire that approx, let's just call it 10,000 square feet of property. They're looking to go ahead and acquire that. That's currently right now zoned R three. In R three, you can't go ahead and do triple jumps. This part your, your uses on the property. We wanna go ahead and change this property itself to be encompassing the whole of the property, which is public institutional. So that's a normally a and is it's a plan commission action which they have applied to go ahead and beyond the plan commission to rezone that property that this 10,000 square feet or so.

- So let me make sure so you don't have to go any longer. What we would do if we approved it, it would, it would be conditioned on that approval. If they did not get approval for that, then our

request would not matter.

- Correct, it wouldn't matter. 'Cause we would not want that to go ahead and happen if for some reason the plaintiff said no, we want to keep this as R three, then they came to the triple jump at that point. So there'll be another stuff that the school district has to go ahead and do here, but it'll be through the plan commission and common Council to go ahead and get that zoning change to occur.

- In the past we've been in these situations and we have punted because we didn't want to be in positions like that where we are conditionally approving things based on things that have no, we have no say or control over. We should be seeing the end result of that action stuff. Is that a timing thing? Is that why that's happening now?

- Right. I think it's appropriate in a sense that if for some reason this board did not allow this to happen as far as the variance goes, there's no need for this to go have a reason to that point then too.

- Right but that, that's putting us in a position where we are now indirectly approving and giving guidance to planning to say go ahead.

- If I interject, the existing property owner is the one that has filed the variance request. So it is signed by the church.

- Yep.

- Right. This is more of the dot honors and draws and RTs right here as far as adding in this, you know, it has not reached the plant mission level just yet.

- Yep. What you're saying is that if we say no right now, it's not even going to plan commission.

- Oh correct, yeah. We could be no point in that yes.

- Yeah.

- Correct. Yes. If you say no. But at that point there's no, there's no actual.

- Am I being too, now? Because I feel like we've been in, in situations like this in the past and what we've decided as a board, we do not want to be in front of those type of situations. We've done it in the past where we've done conditional audit but what we've decided maybe even prior to you guys attending some of these meetings is that's not a good position for this board to be in because we're indirectly approving or denying a plan commission decision. Because what will happen is the plan commission then goes, well it's already approved there so we can go ahead. Which is not, I don't feel like the process.

- Sure, so the, the plan commission will still have to do its whole renewal as far as the giving its own reasons for, for rezoning a property and the, the fact that this would be conditionally approved. So it's not going to, it, it's the approval here with the condition. I'm sorry, what was the first one? That it'd be purchased by the school and then the second that it'd be rezoned. So those are exactly the conditions that we would want to see on something like this. The, because if you think about it in

reverse zoning is this is, you know, specific to two properties. The zoning of the city generally is a much larger project. And so there's no, bless you, no circumstances under which the planned commission would conditionally change zoning 'cause you can't put a condition on changing zoning. So like what I'm saying is it couldn't happen in the reverse. It couldn't go to plan commission as like, we'll rezone this condition upon them getting a variance. Because you can't do that.

- So the purchase will not happen of this property would not happen unless the variance?

- Variance will not exist unless they purchase it and the property that's that piece of the property gets resolved.

- Right. But what I'm saying is if we said no tonight, then they then the church and the school district would not even move forward in terms of the purchase of this property.

- I'm not sure there'd be a point.

- Yeah, the whole per and I can explain a little bit more about why are we going about this. 'Cause obviously it's a little bit convoluted.

- Well let me swear you guys in, right?

- Go through some formalities.

- Sorry.

- I would suggest that we make sure John's presentation is finished first. I would also say that that's whether or not the property or the purchase of the property goes through is not something that would be for the board's consideration. That's a private, that's a matter between two private parties and not something.

- But you're making us condition a response based on we approve it if they purchase. So then it is becoming our problem. You just say that we would approve it conditioning that they do buy it and that they city rezones it.

- Right, so what we're trying to avoid is this, if this got rezoned, sorry, if this got you, you approve the variance itself and the rezone. This will be part of recognitions here with the, the actual rezone itself. If, if the school, wait, if they didn't actually go out and purchase this property itself and now we did the whole rezone as well, that was for nothing at all because the church is not gonna put up a triple jump and there's no point in split zoning a property to be PI in R three when it's not that. Cause right there, this is a pretty typical situation where we'd have conditions on where the plant commissions also say there's other boards. So we have economic.

- I cannot see a scenario and maybe I'm being difficult right now. But like if, if we were saying a completely different property and someone was representing that property owner and they wanted to build a triple job on their property.

- Yeah.

- That's what we should be discussing. And so the conditional pieces of all of it, like you are forcing us to be involved with those two things. The purchase of the property by saying conditional on all of this. If we approve it right, it would make sense without those conditions.

- You can go ahead and add, you can add a 40 conditions, you can take 'em both off. It's the will of this board to that was just a staff recommendation. But if you don't feel comfortable with that, if you want to approve this, feel free to.

- [Steven] I put this position again. Guess what I don't wanna do? I don't wanna have to make decisions like this.

- There's nothing inappropriate about granting a variance with conditions on it. And this, this is not, this is not an unusual or atypical request. This is the board's not being put in any kind of position. This is.

- Excuse me please.

- All right, hold on, hold on. Let her finish.

- Thank you. The board is being asked to grant a variance by the church that as was pointed out, the church has submitted the variance application, the board's being asked to grant that variance. The staff's recommendation, because we know what the intended usage of that property is, is planned to be, is to make everything easier for the city. Because as John pointed out, if the rezone happened first, then you would be split zoning a property, meaning one property would have two different zoning categories on it. And it may or may not be used for that effect depending on whether a variance is granted. This is the proper way, the proper order for things to happen because things that occur here can be conditioned upon things like future purchases. And the, I've now I've forgotten the second, the second requirement. Oh, the reason happening.

- Okay, man. Well, Barb, go ahead.

- [Steven] What exactly is been, so the action hearing is, is a very written setback?

- Correct, yeah, Barb, go ahead.

- [Barb] I'm, I'm very comfortable with this because of the years that I attended claim commission and I completely understand why it's happening. And I also understand that we're the board of last resort in their, their, this is an exception. I think that we can talk through whether or not we grant the variance and then decide is the one to put conditions on it, but it, what attorney matters saying makes sense to me partly because of attending so many planning commission meetings. So I'm, I'm comfortable doing this at just myself as a board member. That's all I need to say.

- Any other questions for John on, on this, regardless of the conditions he recommended or not?

- [Corey] Just I have one as far as like why are they only set at that amount? Why can't they purchase enough property to accomplish the setback would be my only question. Or is it possible to buy enough property to get to that setback spot?

- Right. So I'll let them go ahead and expand on this, but the triple jump area has a certain width and length itself that happens to conform with where the existing parking lot is for a drive lane and then the existing edge of a walkway to access the bleachers off to the south and west. That triple jump area happens to go ahead and fit within it to where it would have to, the triple jump can't go ahead and essentially elongate to go ahead and make the property. This isn't say a building that you would go ahead and why can't you just go ahead and shrink the building? A triple jump area is a minimum required width, kinda like a football field.

- [Corey] So basically the, the width based on where the parking lot exists, they can't accomplish that. And then is in that diagram, is that adding curb and gutter onto that side or other factors and stuff like that? Other construction?

- Yeah so, what you're seeing in this diagram itself is a proposed fence and then their existing driveway itself for the church. So it would be driveway, small grass base fence, small grass base, triple jump area itself.

- [Steven] Can you show me.

- Yep. Right. And I'm gonna go ahead and have to change mine so I can, there we go. So the variance, right? Yeah, it's this area right here. So the property line that exists is on that fence itself. Essentially. And so it would take up the approximately 165 by 40, sorry, 162 is on the north by 40 by 165 by 55 on the east. It's that kind of mostly rectangular piece right there.

- [Steven] So the variance is on the north side?

- Correct yeah. Right. The variance variances of the on, well on the south side of the church property, the, of the existing church property, but it be, it would be the north side of the future all-encompassing Preble stadium property.

- [Steven] It's too close.

- That's just too close right there, yes. Yeah. Yep.

- [Steven] Why can't you, enough the church easement.

- I can explain that a little bit more. I know that that's get to talk through some of that.

- Yeah, I think we've got the layout. Let's get to the applicant and swear them in. State their name again.

- Sure, you can skip your address please.

- State your name for the, are are you testifying in this one?

- If I need to, sure.

- Okay, go ahead.

- Josh Depouw.

- Ryan Bars.

- And do you swear and affirm that the testimony you're about to give will be the truth?

- Yes, I do.

- Okay, take us, take us through the reason why.

- Yeah, John, can you just go to the overall plan view that shows, you know, as much of the track facility as possible. You'll see here the, the long jump triple jump is actually in a vertical configuration there, right along the right side of the track. It's inside the track and sorry, just as far as track meets go and student athletes competing in all these different events, having these field events operating at the same time of all the running events with all the athletes and different competing activities going on, we try to separate that as much as possible if we have any opportunity to remove those events from inside the track and get them out. That's what we try to do just from a safety and track meet operation it functions much better. We do have in our proposed the triple jump long jump configuration to the north like John is showing here. So we are trying to remove that. The other factor there is a, there is an option of installing it inside the track again, but the other deterrent other than just what I mentioned is that the new surface of the field itself is gonna be synthetic turf. So we're gonna have rubber in fill versus, you know, the existing grass situation. And with the jumping events of the long jump triple jump, you often end up with sand spray as well and spraying that sand out into the turf area we like to try and avoid. So it's another reason we're trying to get outside of the track. So because of the existing geography out here and the, the lack of space that is here, the only option was to go to the north and there's been a long standing relationship and agreements with the church just regarding use of some of that land to the north. So to try and clean some of that up, the school district was hoping to actually acquire that piece. And then if you flip to the one that does show the property line. Now John, what we were working with was a, a 10 foot required Pavement setback there.

- So we did.

- Is that correct?

- It's 15 exhibit identify either a rear or a side and we've done the side for the west side. This becomes a rear lot then.

- So it would be a 15 yard pavement setback requirement for that green line wherever we do establish it. And like as stated, that's what we're trying to, to do is establish how much property should the school district purchase from the church then go through the rezone process and along with getting this approval here. So what we are hoping to do is not have to go through this variance process, you know, establish enough of a setback so that we can stick, skip this stuff. We were hoping to put that green line far enough north, but it would be like right at the pavement edge of the church parking lot. And the issue with that was that if and when the church wants to do anything with their parking lot, then all of a sudden their pavement is right at their property line and they would have to come to this board and request the variance for anything they do. So we did not want to make the church hindered in any way. So what we tried to do was to give them 10 feet from this

new property line where that green line is being established to their existing pavement so that they have a 10 foot pavement setback for anything that they need to do. So that's why we came up with that green line there. And we knew that the green--

- Would be zero? I just wanna track, so the, so the green line would be a zero setback?
- So we're basically setting yes, we're setting our field events there and setting that new property line right off of that so that we can allow the church to have their 10 foot set back.
- So in theory, if both properties were compliant, there would be 20 feet in between.
- Well there's a 15 foot requirement for the, the school side and 10 feet for the church side.
- And I want to step back, I don't know for sure would to be for the church self it be about that. We're going back into the same issues we had with the last variance, with new buffer guideline regulations to where you would actually be even a little bit more with that for a church and a PI right there. I don't have the number top head, I mean right now though. So, but we're talking at least 25 feet. Yes. As far as the distance between the improvements in that area.
- Okay, keep going. I'm sorry, I just wanted to make sure I was.
- No, so I think.
- All these lines happening. So at the end of the day we're dealing with a theoretical property line that doesn't exist, but theoretically would exist and we get to determine where that property line goes. Just to be clear.
- You could determine how bunch of setback and go ahead and be off of set property line.
- But if we say it's 10 feet, we're determining economic decision making for the city of Green Bay or the school district. And we're determining a new property line for a property, correct? By approving whatever we decide here.
- No, so they've come forth as far as asking right here with this to make the, that 165, approximate 165 by 55 by 162 by 40. Which makes, cause it's a little bit, right here with the, the parking itself. They want to add that chunk to it right here. So with that, they're now setting up that north line itself. Right now they're requesting it to be a zero foot setback for their triple jump area. And the code required to go ahead and be 15 feet right there for any improvements of that nature.
- Okay.
- If I could, just respond directly to your question time.
- Sure.
- So if the board says you have to have a 10 foot setback, you wouldn't actually be dictating the terms of any sale that went through the parties independently, privately would then have to determine whether they'd be willing to purchase the church would be willing to sell up to the property line,

whether the school would be willing to buy up to the property line so that that part of it, that economic part of it would still be resolved by the parties outside of this matter.

- Theoretical.

- [Steven] Just when, when I'm hearing here. So the danger of those, the reason came first is the danger later and the fact that you have the property that has two zones.

- Well I think if this board says that there is a 10 or 15 foot setback requirement of green space between this property line and these new field events, the only way for the school district to accomplish that is to slide that new property line to the north, that 10 feet. Otherwise we have to vacate this design and not move forward with this option at all.

- [Steven] So I guess what I'm saying is what it wants. First because honestly again, I've, I've only this for two years, but nobody put us first before and.

- It just feels very conditional. That's all. It feels like what it, if it was, hey, the parties have agreed this is the purchase, this is what we need, this is what we're willing to do. This is like, it, it just, it doesn't feel like we're, we're just kind of, of a, I don't know, maybe I'm wrong here if, if Corey and Barb were willing to move forward, but I'm, I'm whether again my brain's messed up right now. Like I'm getting to the point where I just want to abstain 'cause I don't, I don't like whether it's appropriate or not. It feels like this board is in the middle of a, of a deal involving a school district. And I don't feel like that's super.

- Well we have agreed, like with the church, we, we agreed that we will be purchasing this land from 'em like that's agreed upon. It just hasn't been finalized yet.

- [Steven] And so a again answer the question. You enter the process first and then whether may turn away, which, and you know, I think if you've seem want supporting this board for it. So I now what's the point?

- I believe we thought this was the process.

- Right so. We I don't think it's, I don't, Steven, I don't think it's the applicant. I think this is, I if I'm hearing everything correctly, I think the city has said this is the most efficient way to get this done. So I don't, I think it's a question for the applicant. Is that fair?

- That's fair.

- So go ahead.

- Yeah, this is gonna go in front of the plan commission here for a rezone, I believe on the first May item. And then it has to go in through the common console, the two following meetings. Unless they happen to go ahead and suspend the rules and pass it as one vote, they probably won't do that to this 'cause that's the only conceptual item in, I don't see that being the case here. So we could go ahead and bring this back and have it when, when an if the PC were to go ahead and approve it. I think the PC may have a similar question as to could this go in front of various board first? It's possible think that the same thing.

- [Corey] I have, I have a quick statement. I mean I can understand everybody's place with regard to the how it feels that yeah we are being put in that position to kind of make a decision on where should this go and what should we do with it. But holistically, I'm trying, I've been trying to figure out like what makes the most sense with regard to these two adjacent properties and what maybe a buffer would make will like, or between the properties because they expressed a concern with regard to, well what if Lutheran Church had told church has to do something with their parking lot in the past. They don't want us, 'em coming back to us with regard to an appeal for getting their her parking lot done. Is there a way that we could condition something like that with regard to, okay, this property needs to maintain a 10 foot green space buffer between the two of them and then we can figure out where that line fits within there.

- [Steven] I, I guess. I'm trying approve the sense I don't actually have a problem with, I have a problem with being put first when, I don't think this is the way things should work. You should be coming to us first.

- Yeah, and I.

- [Steven] This specific or other companies in this city, just because it's the school district. I don't see why you get special treatment.

- Well I'll, I'll jump for the, this is a decision by staff right here to go ahead in just an order of progression as far as how timelines are, you know, the stat has not actually written the report here for this approval of a rezone from R three to P1. But I am very, very confident staff will fully recommend that change because it would make sense in the scheme of the stadium and its areas with the school district and then the church and being separated based off of their mutual decision to go ahead and sell the property to one another.

- Again, let's, let's, let's move on. Cause at the end of the day, whether we feel we, it's it's still here. I will say you're getting a bit of a brunt of a process thing. I don't think that the, the school district came here asking for special treatment. I do not think the school district has, has expressed that. I think there's a process discussion cart, horse. You guys are convicted in the middle of.

- No, and we all struggled with this because this was a very unique circumstance where, you know, all of a sudden we're trying to get onto someone else's property to build something and it's obviously very non-traditional. And that's why we were working with staff to try and figure out what are the 3, 4, 5 different variances and rezoning requests and everything that we need. So, and then it did kind of work out where the rezone is a longer timeframe with plan commission and then this kind of fit in order. Along with the fact that we didn't know, you know, if we'd be able to get this variance request and if, if not, then this design is kind of shot in the foot and we need to go back to plan B. So that's kind of why it's here. Overall project schedule, you know, this was what, this is, this summer's construction. I mean it's, it's out for bid. We're gonna be building this thing as soon as we can get all the approvals in place. So I mean, I, I don't want to have that added pressure, but that's kind of where we're at.

- No, and again, I, I appreciate all the discussion. I want to be very clear, is I feel that I am being put in a position to make a decision based on theoreticals. A theoretical situation where the church might want to extend their parking lot in the future. That's not a fact, right? It's just an assumption. We're

making a decision based on an assumption, right? That this is going to be purchased, right. We're gonna condition it that this is going to happen. It's all, it's all just theoretical stuff. And I think that's a for, for a board that is supposed to be dealing with facts. This is what we're, the plan is this is the purchase, this is what we're going to do and we are looking for an approval for this. Now I'm in a position where I go, cool, but, but the minute it's like, well you approve this, that condition's this, and then this person goes here and then this potentially might happen here and then if you approve this, it's just whether it's appropriate or not. Legally it's not a good position. That's all because it's based on.

- [Steven] Compromise, this so that we can better get down from this. Because at the end of the day, I like what you doing, I want you to do it, okay? I didn't, I can go down and decide and to approve all this, what to do is if the two divisions that staff suggested, you know, proven awareness, but also I think we have discussion with staff. We can't have this happen. I think very uncomfortable and I and mind that screws everything up or that we below it does. I don't like this.

- Yeah.

- [Steven] But I will be willing to, to put forward for approval if insurance.

- I don't think we can do that Steven. I hear what you're saying and I want. We can't make a approval. But I think that's separate from I hear what you're saying, but in the flip side, what we're feeling uncomfortable about is the exact same thing we're doing to staff right now, which is, is hey, we will move forward conditional on this. And that's where it starts to feel weird. So I hear you. I am on the same page as you in terms of that general discussion, but I think at this point for us to move forward, I'm willing to let go of my uncomfortableness to try and look at this open-ended or with, with open eyes and with a lot of assumptions so we can move forward. But I agree that we should have a larger after this case so they can go home whatever discussion about process. 'Cause I think that's what I've been working on for the last two years is trying to improve process and I, I don't think this takes us there. So let's move on from that. I hear you Steven. I don't want you to feel like I'm not hearing you. I just wanna move forward. Okay, is there any person that wants to shake through this variance request conditional or not conditional and go through the five things. Okay, do we have a second for that motion? Okay, hearing that we'll move forward with general discussion.

- [Barb] I tried, that be good?

- It could be a group effort like we did before. If you wanna start, that's great.

- [Barb] All right.

- [Corey] I just wanna make one, make one quick statement before you go in there. So with my job with regard to being under hand, I live in the grid a lot, so making assumptions and understanding like the broader picture as far as like what the goal is with regard to this project. It is helping me as far as like frame what I'm comfortable with regard to this. So I just say going into these statements, I would say take a holistic look from the broad perspective with regard to yes, we have the school district as well as we have the church and the limitations that they have with regard to everything else that we've talked about and accomplishing what they want to get to like bring themselves up to like standards of other newer schools. I think that, I think that is helping me in my mind. But I'll, Barb, go ahead.

- [Barb] So I, I think there's just one. Is it just one variance this time?

- Yes.

- [Barb] Did do you say yes? I couldn't hear.

- It's one.

- [Barb] All right, so I'll start preservation of intent. I don't think it would be inconsistent with the intent of the regulations for this, for this district in which it's being requested to allow less than 10 pavements set back from the property line. I can say yes to that. Does anyone else want to talk on that one?

- [Steven] No agreed.

- [Barb] Exceptional circumstances. Absolutely, I think that they do apply to this lot and they're trying to come, come up with a way that will help the church and will help the school and will allow this track and field area to be built and there just isn't any other room. It's, it's definitely, and it's not a, it is certainly, I don't think they're gonna be recurrent in nature to suggest that the zoning ordinance should be changed. So I would say yes to exceptional circumstances.

- [Steven] I agree. In this particular case, you know, there's been for this space.

- [Barb] Great. Preservation of property rights, it is, it isn't necessary. And the point that was, that was made before for the preservation in joining, the same substantial property rights that other properties such as this, such as newer schools in the same situation we have for their tracking field. I don't, can I stretch? Can I, is that stretching in too much for the preservation of property rights? Cause there isn't anything else in the same district or vicinity, but, but.

- [Steven] I think that works. I mean, and alternatives that are pretty.

- [Barb] And their absence of detriment certainly is not creating a detriment to the adjacent park. They're agreeing to it. They're asking for it. And as far as hardship, it, it's not something, it's not based in economic loans. It's based on.

- Real quick, your statement, you said because they signed an application for a theoretical property line that we don't know exists and potentially could have a parking lot that expands, which narrows that gap under a theoretical, like I, like I don't, I you have to build a case.

- They're the one asking.

- They're not here, so they haven't made a sale. We don't know whose life this is, who's process.

- [Steven] I was gonna say we can't, we can't just assume that, that somebody, you know, has the document.

- The church. Right. The church came forward here with their signature for the property owner. As

far as, this does happen quite a bit as far as somebody who might be selling a property. Once they sell the property and somebody else develops it, you know they're gonna take to whatever the cues are for what the new people who are taking over this, this property, they'll design and build that, that situation. Okay, so the church, the church itself is the property owner and is part of the application for this right here. They're not here. The applicants themselves are here, but they don't have to be here for it.

- Testimony was given that, that the property owner and the gap in which we are voting for, which is 10 feet currently, right? If we had approve this would be off of this new property line. Like a 15 for the, right now it's, it's going past the 15 foot rear yard setback.

- So it would be at the end of the day from parking lot to new property line where the end of a triple jump would be, would be 15 feet.

- Now so I'm gonna go back to this right here. So this green is a new property line?

- Yep.

- Okay. This is a fence that's the parking lot itself. So they would move the parking, the this, this property line up to the triple jump itself.

- How much, how much space, right? If the goal of, of this ordinance is to create space between property owners, right? That's the goal, the spirit of this. At the end of the day, whoever's selling whatever at the end of the day, if we approve what's drawn right here, what is the final number of feet in between their parking lot and the new property line.

- Their existing parking lot is 10.19 feet to the new property line.

- Right so 10 feet. Testimony was given about, well the church wants to come and expand their parking lot. They're coming and getting a variance now. Correct?

- If they wanted to go ahead and take I'm, I haven't looked for their parking lot to see how many changes they have, but they're an older parking lot. I presume they would not, they'd be in a situation of many folks here where they would need to go ahead and do upgrading of their parking lot.

- If they decided to repave their entire parking lot, 10 feet or are they within a setback?

- For that right there, give me a moment. I'll let you know what that is for sure. Yeah, for what they have right now, it is fine for what they have at the moment. They are conforming to what they have.

- No, no. But earlier when we, someone did a certain percentage over a repave then it had to comply within code. So if they decide to repave the existing parking lot they have with this new property line is 10 feet from the property line complied.

- One moment please. There are two parts of the car there and play right here. It's the off streets separation tree uses and then are up to the landscape code itself as far as the distance between them. Yeah, 10 feet sufficient yes. Between those in these stitchers, the way they were done right now, yeah.

- So if they repave their entire parking lot, they would not be a variance.
- Not for that specific standard. No, for the setback area. They might need one here for something else like we discussed in the last--
- No, I'm saying between the 10 feet within the property line or whatever. If they repave their entire thing. They're not gonna come and say, oh no. If they did not decide to expand, right?
- From their current existing footprint itself. And they kept it that time yet they'd be okay in that aspect, yes.
- That's okay, let's move forward. Go ahead Barb.
- [Barb] Okay, so I think the final one is hardship. And I don't, it's not a self-imposed hardship. It's not based on economic grounds, it's based on the fact that the property can't expand anymore. There isn't anywhere else for this to go. Does anyone else have a better argument for hardship? So I make a motion to approve.
- Okay, there's a motion on the floor to approve the variance request. Is there a second?
- [Corey] I'll second.
- Okay, I have a second by Corey. Any other discussion before we go to a vote on this variance application?
- [Corey] Am I able to add the conditions or how do we have the conditions to the, for the, with regard to that motion? Cause I would add with regard to the seconded motion to add in the condition that the property sale is completed as well as the area is rezoned. I'm trying to think if there's any, is there any other conditions we wanna add onto it?
- [Steven] John, can you repeat the conditions?
- Yes, will do.
- Do we need to be that specific with the area?
- I can say approximately 10,000 square feet if we want to do that. Cause that's what I'm taking approximation right now is approximately that area.
- Are you guys okay with approximations or you want it to be exact?
- [Barb] I'm okay with that.
- [Corey] 40 Feet by 165 by 52 by 162. I think that's what the dimensions were.
- Yeah 165, 55, 162, 40 are the numbers. Yeah, approximately.

- Okay so Barb, you made the motion. Do you agree to have those conditions added to your motion?
- [Barb] Yes, I accept those conditions. Do we need to board on this as an amendment Lindsey?
- Yes.
- Vote on.
- [Barb] So Corey has to move to amend that.
- [Corey] Move to amend the conditions with regard to the rezoning as well as condition of the property.
- [Steven] I'm sorry.
- [Barb] The amendment first.
- The amendment on the motion?
- Yes, because I made the motion and so Corey's adding the condition so he has to do that by amending the motion.
- Okay, all those in favor of amending the motion, say aye.
- [All] Aye.
- All is opposed. Okay, so we have an amended motion on the floor to approve the variance request with the certain conditions of the sale and the dimensions as listed. Is there any to the discussion? Okay, all those in favor of approving the motion with the conditions or the variance with the conditions say aye.
- [All] Aye. Oppose, nay. Okay, so it's three one. So you guys have the, the variance. Requested with those conditions, obviously there's conditions on it, so stay in touch with John. I would suggest, obviously I'm assuming you're on the agenda for those, the plan commission and all that different stuff. So that can give you the schedule for when those meetings are so you guys can test testify there as well. And then common counsel after that for court approval, okay?
- Cool.
- Awesome.
- All right, great. Thank you for your time.
- Thank you.
- Appreciate it. All right, moving on to section F. Date of the next meeting, May 15th. Does everybody have that on their calendar. Yeah, I don't believe you were here for that. Is there any

alleged? It's four 30.

- [Steven] My apologies.

- All good. It's not on the agenda. So again, this is where do we want to put anything direct staff to put anything on the agenda so it's formal discussion about anything 'cause we can't just have open discussion right now. Is there anything that we want a to direct staff to have on next week's agenda?

- Nope. So it's not actually appropriate for the board to even have that much of the discussion as we've discussed previously. Any suggestions can be emailed directly to staff.

- So we can't even make verbal suggestions anymore?

- That's correct.

- But last, two months ago they said that we could do that.

- Unless they come up in the context of one of the various discussions.

- All right.

- [Steven] I would like you to say ready because that doesn't sound, to me if you watch videos of other people's court appeals and your, this is supposed to be so controversial. It's becoming difficult to be on this board every week has more and more restrictions.

- I was actually, I will be sending a detailed email to all of you about this specific issue following tonight's meeting. So there'll be plenty of information in there about that legal authority for it.

- Okay. Do we need to talk about my situation or whatever? 'Cause you were saying elections, all that stuff?

- Right so next month if we have a full group here, we'd like to go into elections here. That until happens once a year and it's been over a year since we do election for the chair and vice chair. So just putting that out there that we'd like to go into elections here next month. Okay, this meeting starts.

- Any other thoughts before I guess we can't have any so I'll take a motion to adjourn.

- [Steven] Motion to adjourn.

- Steven, I got one here first so you can be second.

- [Steven] I'm second.

- Any oppose or approve? Say aye.

- [All] Aye.

- Opposed say nay. Okay, we're adjourned. See you guys next month.
- Thank you all.
- Have a good night Barb. I didn't expect you have a picture bankers car in the parking lot too.
- Oh, brilliant.