

BEREA MUNICIPAL PLANNING COMMISSION
SEPTEMBER 3, 2009

The Berea Municipal Planning Commission met on September 3, 2009 and was called to order by Mr. Madzy. Present: Borowski, Draves, Fay, Madzy, Rump, Sawyer. Absent: None. Also Present: Tony Armagno, City Engineer.

This meeting was held in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and Chapter 109 of the Codified Ordinances of the City of Berea.

Witnesses were sworn in by Mr. Madzy. He explained the structure of Planning Commission meetings. Variances come first, other items that do not require variances come second and any old business comes third on the agenda. Within each of these subsets, items are placed in the order in which they are received. This evening due to space, Mr. Madzy felt it might be advisable to alter the schedule a little bit. There are a lot of people here for the new elementary school as well as the height variance for a fence on Wayne/West Street.

Moved by Fay, seconded by Draves to amend this evening's agenda whereby the first application heard will be Application #09-09-04, Berea City School District, Variances for New School. The second item on the agenda will be Application #09-08-01, Daniel & Valerie Brass, 376 West Street, Height Variance for Fence. The remainder of the agenda will be in order. Vote on motion was all ayes; no nays. The motion carried.

REQUESTS FOR VARIANCE/APPEALS:

Application #09-09-04

Approval of Setback Variances for New Elementary School

Berea City School District – 191 Race Street, P.P. #363-29-026

Mr. Madzy read the Administrative Review. Due notification was made on this application pursuant to Section 807.2 of the City of Berea Zoning Code.

The agent, Rodwell King of GPD Associates, was present this evening. Mr. King displayed the proposed site plan. He explained that at the top of the plan is Race Street and he showed where the old school was located. This is an "L" shaped parcel. The new building is being setback further than the existing building, however, it will be closer to the east property line and that is one of the variances they are seeking.

Mr. King discussed the parking plan. They tried to separate the buses from the cars and showed the parking lot where the intent is to be used for staff parking, after-hour activities and when the buses run. Visitor parking will be in front of the building and this parking area could also be used for afterhours or when there is a big event in the building.

Mr. King described the building layout. The new building is essentially a U-shape on its side with two two-story classroom wings. The center portion of the building is essentially a higher volume space with a gym, cafeteria, stage, kitchen and some support space located in the rear. There will be a playground located at the back of the school with the intent to maximize as much green space against the neighboring properties. There is also a walking track included in the plan which will go around the outside of the building and will be for the community's use.

Mr. Madzy asked Mr. King to show the site plan to the audience as well. Harold Daniels of 432 Fair Street, requested that Mr. King explain the site plan to the audience as he did to the Planning Commission members. Mr. King reiterated the site plan information.

Mr. Daniels asked what the two-story area right behind his property would be used for. Mr. King stated that this area would be classrooms and would be located 38.6 feet from the property line. Mr. Daniels asked about the public walkway that would be near his property and raised concerns regarding people littering and making noise in the evening. In response, Mr. King indicated that this would be a management issue regarding how the facility is policed. He emphasized that this would be a state-of-the-art building and the exterior of the building would be equipped with close-circuit TV cameras where the police department would be able to watch the property from the police station. He added that the track is not only for people to walk around but also to be used for surveillance around the building.

Mr. Daniels voiced opposition to the school being 38.6 feet from his property line. He found it interesting that the bus locations would be diagonal. He felt doing this would move the footprint of the two-story building further east and considerably closer to his property and also put a walking trail to the side of his property. He questioned why the bus parking spaces would be diagonal and said he did not understand why the buses could not just pull in and have the children walk around to get in the school. He said the buses would only be exiting and entering a period of a few minutes each day. He felt the school would be placing a great deal of stress on the four or five property owners to the east.

Mr. Daniels questioned why they could not find a different configuration for the buses so the building could be moved further to the west. It bothered him a great deal that they are moving things around on a diagonal basis when they could take the green area instead of having a nice beautiful loop around there and move it to the left so buses can pull in, pick the kids up and then egress. He felt that if the school is so pressed for space then this area is not going to be used much during the day except for drop-off and pick-up. Barbara Daniels of 432 Fair Street questioned why the “whole school” had to be over to the Fair Street side.

Mr. Daniels said he had read in the newspaper that there were meetings held about the new school but this was the first time anyone along the primarily affected area had an opportunity to see the plans. He was aware of the meeting held regarding tearing down the old school, however, he was on vacation and was unable to attend that meeting. He thought other people were also not happy about this. He stated that the school was extending their property over and then asking the Planning Commission to approve variances to accommodate them.

Mr. Daniels explained that he has looked at a number of concessions and variances that the Planning Commission has approved and he believed that any variance that is placed within the City limits has an overall effect on the City itself. He asked to distribute photographs to the Commission of some variances that had been granted and showing the remaining amount of space. He indicated that the property addresses were listed on the back of each photograph.

Mr. Daniels stated “I am very upset with this”. He felt diagonal parking spaces for buses were a waste of “time” and he really was not interested in aesthetics. He felt the green space could be made smaller and all that is needed is a circle to get the buses out. He said move the school 38.6 feet and then there would be no objection from anyone because it would be 75 feet from the property line and there is not a thing anyone could do about it. He said this is going to affect the value of all of the properties on the east side. He commented that he did not know if Planning Commission would be making a decision on this tonight, however, if a decision is made he wanted to know what the collective period of time would be if an appeal action was going to be taken.

In response to Mr. Daniels, Mr. Madzy informed him that if a variance is granted, there is a 20-day waiting period after the variance is granted in which case a neighboring property owner could seek an appeal action. Mr. Daniels asked if this would require assistance from a lawyer and Mr. Madzy told him that would be up to him whether he does it on his own or hires an attorney.

Mr. Daniels pointed out that he was not arguing the aesthetics of the new school, however, he did feel they were wasting a lot of space for buses in what has been considered a compact area. He indicated that he had taught school for 33 years and they did not need that much area to park a bus. Buses are only being parked at the end of the school day and he has seen a large number of school buses in Olmsted Falls where they stop around and the kids can walk to them.

Mrs. Draves noted that children will be dropped off in the morning and picked up at the end of the day. She asked Mr. Daniels to remember that children will be coming to this new school from all over Berea. Over the course of the day, buses take students on field trips and the overall safety of the children must be first. This area needs to be big enough so that people can be out there protecting the children when they are walking off and on the school bus. This is about the 800 kids who will be going to this school and their safety.

Mr. Daniels said I guess you are looking at one end of the horse and we are looking at the other end. It comes down to the simple fact that you think you need all kinds of room to allow children to egress and move on. I do not think that school buses in the morning are going to stop there and just sit there and wait. That is not going to happen. They are going to drop the kids off and then take their routes.

In response to Mr. Madzy, Mr. King explained why they chose this style for the bus area. He stated that the School Board informed him that the layout would need to accommodate 14 buses at any period of the day, whether in the morning or afternoon they had to provide for 14 buses. If 14 buses are put end-to-end as in a traditional parking manner, there would be a long line of buses along the sidewalk. If buses are double-stacked, the children would have to walk between the buses which would not be safe. After many months of meetings which actually included bus drivers, they came up with this arrangement.

Mr. King discussed the diagonal parking arrangement. If 14 buses are parked diagonally all at one time, the way they are parked allows for the adults who are supervising the children to see all of the bus doors at one time so they know the buses are loaded. The buses can leave without any detriment to any student crossing the hard surface to the bus. Safety was the primary reason they came up with this type of bus parking layout. The building will be set back on that side so there will be a common area to which the children can leave the building, be dismissed to the appropriate bus and then the buses can all leave at one time. Also, this arrangement will allow for each bus to be in the same location each day which is a benefit to the elementary-school aged children.

Mr. King pointed out that there was a lot of thought put into the bus parking arrangement. He said during the committee meetings there was probably more discussion regarding the site circulation and the safety than anything else. In response to Mr. Madzy, Mr. King explained that the committee meetings were open to the public and held at Berea High School.

Mrs. Draves stated that these committee meetings were held regularly with the committee being comprised of people from throughout the school district, maintenance, the bus garage, administration and teachers. This committee met regularly to look at all of these things as well as touring state-of-the-art schools throughout Ohio with the architect and the builder to look at what is out there. She reported that she was probably at half of these meetings but she knew people that were meeting twice a week for a long period of time. She also indicated that there were meetings open to the public that were held at Polaris, Berea High and some of the elementary schools.

Mr. Madzy inquired about other locations that were studied. Mr. King replied that this bus arrangement is currently being used in Jackson Township and Mrs. Draves noted that this type of diagonal parking is really good because the children go to the same spot every day. Discussion ensued.

Cheryl Stine of 149 Race Street said she lives around the corner from the school. She asked Mr. King if his company actually designed one of the schools in Jackson Township and he replied yes. She indicated that she went to Jackson High School and they did have this type of bus parking set-up and it actually worked out very well. She pointed out that this set-up looks identical to the school in Jackson Township.

In response to Ms. Stine, Mr. King used the site plan to explain the traffic circulation. The green space in the center is really a function of the turning radius of the bus. This is about the tightest that a bus can make a turn and this has caused the green space. Ms. Stine asked about the picking up and dropping off of students. Mr. King explained that between the parking lot and the building will be a drop-off lane so cars will be able to come in, if buses are not there, and there will be a gate utilized across the second driveway when buses are there. There would be nine or ten cars along that sidewalk in front of the entrance and again, they are separating the cars and the buses.

Ms. Stine asked if parents would be able to park in the front and Mr. King stated yes. Ms. Stine discussed the way it used to be set up where all of the cars were lined up along the street and people would actually park in her driveway waiting for their children. She noted that this was a problem.

Ms. Stine asked about the memorial garden and Mr. King stated that the building will be shaped like a “U” and the memorial garden is intended to go in the middle and also function as an educational tool for the students. Ms. Stine commented that she personally loved the park-like setting of the school plan and she felt people would be able to accept this plan. Mrs. Daniels did not feel this plan was being fair to the owners along the eastern side of the school property. She felt the school building should be moved over 30 plus feet more. She urged Mr. King to find a way to do this.

In response to Mr. Madzy, Mr. King clarified that the entrance which is on the west side of the property where the school buses will be entering is a minimal distance from the neighboring property line. When the buses enter and make their turn, the green space created between the bus entrance lane and where the buses park is for the turning radius. Once the buses are in their parking spaces, when they depart there will also be a turning radius. This is part of the reason for the 45-degree parking of the buses for drop-off and pick-up of the children. The buses need to have this set distance in order to turn and they have to work backwards from the western property line to determine this distance.

Ms. Stine reported that she has a big problem with drainage due to the existing school being higher than her property. She asked if something could be done about this. Mr. King explained that when they design site development they must work within the requirements of the Ohio EPA, the Cuyahoga County Soil & Water Conservation District, Building and City Codes, etc. which probably were not in place in the 1950’s when the original school was built. He said things are a lot stricter now and one of the reasons for the green space is it can actually collect rain water with the bulk of the parking lot water gradually dissipating down into the storm sewer. He said all of this has been taken into account and currently the plan is being reviewed by the Cuyahoga County Soil & Water Conservation District. This will improve drainage matters.

Mr. Madzy pointed out that they were referring to the eastern property line, however, there were also backyard flooding concerns on Fairpark as well. He asked if there would be swales installed along this property line also. Mr. Daniels interjected and said that the drain for the public school is in his yard with the fence to the west of it and so the drain that Ms. Stine mentioned is actually not on his property, however, his property is just east of this drain and there are markings along where the school ran the fence on the west side of it and so the drain does actually end up on a piece of his property. He said he gets water in his yard but that Ms. Stine really gets a lot of water. He felt the drain does not drain fast enough to deal with the amount of water coming into it. The City and School have been “doing this to them for years”.

Daniel Vorell of 194 Race Street inquired if Race Street would remain a one-way street at pick-up and drop-off times. Mr. King said that this was something the City would need to deal with. Mr. Vorell noted that he lives directly across the street from the school and cars would park in his driveway a lot too. In response, Tony Armagno, City Engineer, reported that he has been in contact with GPD Associates and the City has asked the architect/engineer to perform a traffic study within the area of the school. Part of that study will include recommendations for things like additional signage, one-way streets based on the traffic pattern, based on where the buses will be coming from within different places in the city and based on where most of the traffic will be coming from different places within the City.

Jim Maxwell of 517 Race Street (Councilman Ward 3) reported that he had a recent conversation with the Mayor and Service Director regarding the current traffic signs that are posted. They will revisit this subject when they get closer to opening the school and even after the school is opened the subject will be open for debate. Even if every study says make it one-way or make it two-way, and they find out that it was the wrong decision, they can make a change.

In response to Mr. Sawyer, Mr. Daniels stated that he hoped that the Planning Commission would follow the City codes and make the side setback at 75 feet. Mr. Sawyer asked Mr. King if there was a way to swing the driveway over in order to allow for a larger setback on the east side of the property. Mr. King said he could look at this, however, if this is done, they would lose parking spaces. Mr. Daniels replied that five property owners would be bearing the brunt of the whole City with them willing to shove the whole school over on their property.

Joanne Hamrick of 255 Fair Street congratulated the School District and said she is very excited about this new school. She felt they have done an excellent job getting grants and federal money and she is glad it is in her neighborhood. It will be a \$23 million school that will be a community school still in that area. They will be getting new roads, new curbs and other updates. She thought it was a fabulous thing.

Mr. Madzy asked Mr. King about Mr. Sawyer's suggestion regarding moving the bus lane to the west in order to move the school further to the west and how much additional footage would this give to the east side of the property. Mr. King stated that he is an architect, not a traffic engineer, and he really could not answer this. He said anything is possible and it sounded logical to him. In response to Mr. King, Mr. Fay felt that if doing this would only gain 5 to 10 additional feet, he did not feel it was worth doing. They are putting in a walking area, additional green space and as Ms. Hamrick pointed out, new roads and curbs. If anything, he felt that this would improve the

property values in that area. Mrs. Daniels disagreed and stated that it will not improve the property values where they live.

Mr. Rump said everybody needs to keep in mind that the School District knows how many buses it will take to transport all of these kids from four other schools to one central location. Any changes you start making to the parking area, could result in the loss of one or two bus slots. The School District has said they will need 14 buses and when you start taking away spaces, there will be buses sitting out somewhere else and this would increase the safety problem. He pointed out that if his grandchildren have to go to this school, he wants them in a safe area.

Mr. Madzy discussed the factors to consider when making a decision on a variance. One factor to consider is whether the variance is substantial or not. He felt the School Board and Mr. King have done a great job in planning this school and to minimize the number of variances, if any, that are necessary. There are a few variances necessary and specifically, for the side setback it is more than 50% compliant with the code and he did not feel the side setback variance was substantial.

Mr. Madzy explained that additionally, they must look at whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. He felt that with any project there will be some benefit and some detriment and they must try to look at what the overall positives and the overall negatives are. Since there has been a school on this property in the past and the amount of the requested variance being 38 feet which is a significant distance, Mr. Madzy did not believe the essential character of the neighborhood would change and there would not be a substantial detriment to any of the neighboring property owners.

Additionally, Mr. Madzy stated that he did not feel the variances would affect the delivery of governmental services in the area and one of the things they are supposed to consider is whether the property owner purchased the property with knowledge of the zoning code. The School Board purchased this property far before the City's Zoning Code was in effect with the original Fairwood School being built in the 1950's and the City's Zoning Code going into effect in 1973. The school purchased this property without knowledge of the later codes and what later zoning restrictions would be placed upon them.

Also, Mr. Madzy reported that they must look at whether the spirit or intent of the zoning code would be observed if this variance is granted. He felt this project would be a large public benefit and although there is a concern from neighboring property owners, the project, as a whole, would be a benefit and it would be observing the substantial justice prescribed within the zoning code to grant such a variance.

Mrs. Daniels stated that they knew what the zoning code was when they were designing the new school and the setback should be 75 feet. Mr. Madzy explained that what they are supposed to look at is if the school took the property with knowledge of the zoning code and they did not because the zoning code did not exist in its current form when they took the property. Mr. Daniels said he did not understand this because they did know what the zoning code was prior to drawing up the plans for the new school. He said the school's attitude is "We'll get what we want and then we'll ask for a variance and we'll get it". Mrs. Daniels added, "Because all variances are always approved for the schools". Mr. Fay asked that the question be called to a vote.

Moved by Draves, seconded by Fay that the 36.6 foot side setback variance be granted, as submitted. Vote on motion was ayes: Borowski, Draves, Fay, Madzy, Rump, Sawyer. Nays: None. The motion carried.

Mr. Madzy reported that most of the discussion this evening has been about the side setback variance, however, there is an additional variance being requested regarding the size of the parking spaces. The members received two plans within their packets this evening, one is with 200 square feet of parking area per space and one is with 162 square feet of parking area per space. Mr. Madzy pointed out the increased amount of green space around the building when the size of the parking spaces is decreased. He felt that increasing the green space in the area was a benefit.

Moved by Draves, seconded by Fay to approve the 38 square foot per parking space variance, as submitted. Vote on motion was ayes: Draves, Fay, Madzy, Rump, Sawyer, Borowski. Nays: None. The motion carried.

Mr. Madzy stated that conditional use of the new building also needs to be approved this evening. Educational facilities are a conditional use within this district and there has been a school on this site previously since the 1950's. This would be an extension of the conditional use to the new building. Moved by Fay, seconded by Draves to approve the conditional use for the new school facility, as submitted. Vote on motion was ayes: Fay, Madzy, Rump, Sawyer, Borowski, Draves. Nays: None. The motion carried.

Moved by Draves, seconded by Fay to approve the site plan, as submitted which includes drainage swales being installed along the property line to the east as well as the property line to the south.

Mr. Jim Maxwell said he would like to follow-up with this further. He noted that some of the Fairpark and Race Street properties have some old drainage issues and this has been a long time coming and a long-term problem. He said he had some concerns that he shares with other people in this room as well as people who were unable to be here this evening. There is a

lot more concrete/hard surface in this plan than there is today which intuitively tells him there will be more water run-off. He wondered what these swales will do to impact these properties. He understood the reason for the swales is to handle the run-off from this property but wondered at what extent these people might see some relief.

In response to Mr. Maxwell, Mr. Armagno reported that he has looked at the grading plan for this site and they show some of the existing grades of some of the properties along Fairpark as well as Fair Street. They also show the proposed grades of the swales along various areas along the property lines. All of these elevations are lower than the existing properties so this has been addressed. They have taken a look at the elevations of each property and have addressed that on the proposed elevations of the school site. As one of the audience members had mentioned, this area was built up along the property line. Based on the plan that is in front of us that will no longer be the case.

Mr. Armagno continued that as far as the amount of concrete that is being added, as Mr. King had mentioned earlier, they will have to comply with the Storm Water Ordinance for the City of Berea. Based on the size of the site they will have to meet the full extent of the code because they are over 5 acres in size. They have an underground storage detention area planned along with some bio-retention areas which are like rain garden areas where some of the water will sheet flow off of the concrete into landscaping areas and then percolate through the ground and flow into the storm sewers and underground detention basin. Based on what he has seen so far, it looks like they are addressing all of the drainage issues within the site and along all of the property lines.

Mr. Jim Maxwell clarified that this will keep most, if not all of the water from the school property from entering the neighbors' properties but it will not address water drainage issues that these abutting properties are having today. Mr. Armagno replied that it may help based on the fact that some of the elevations are already raised and by lowering these they should lower the ground water level within the area based on some of the swales and drainage. However, this is not a guarantee. The school is not required to address the drainage on the adjacent properties. He believes, however, based on what he is seeing, it will help.

Stan Maxwell of 455 Lynn Drive asked if Lynn Drive would also be included in this and Mr. Armagno said yes. Lynn Drive along with the rear properties along Race Street which abuts the "L" shape of the school property as well as the side property lines on Race Street on both sides and along the entire property line.

Mr. Daniels said he would like to remind everyone that the drain that is at the back of his property is not on his property. It belongs to the school. There is a fence. Disregard the fence. That belongs to the school and that is their drain. It goes in that direction and it's on their property, not his. "I want that understood that when you get done here and get your variances and so forth, and all of your other goodies out of the way that you are interested in, I don't want you to forget the fact that that fence actually, I would be just as happy if you want to take the fence and move it to its proper location to be perfectly honest. Which is where it should be. We have lived in this house since 1968 and the fence existed at that point. I can show you exactly where our property line is and the fence is on the school's side and the drain is on school property. It is within that 3-foot area that they moved the fence to the west and hopefully they will address it. And it's something I don't want it overlooked. I want it taken care of. You talk about swales but this is actually a drain. I don't know what drains but the City has looked into it in the past and it has been on school property and has been mentioned to the school time and time again. Nothing has been done. And at this point, if we are spending a million dollars, you ought to be taking care of and addressing the drain that belongs to the school, not to us".

Mr. Madzy asked Mr. Armagno if he had seen anything on the drawings reflecting the drain that Mr. Daniels speaks of. Mr. Armagno pointed out that addresses are not listed on the plans. Mr. Daniels invited him to visit 432 Fair Street and said he would be very glad to show him the problem so that it can be alleviated. "People drop their land and we have to be on the bottom end of the land and the drain that is supposed to work, does not work".

Mr. Armagno replied that he would be willing to visit Mr. Daniel's property and see what he can do to get the drain working again over there. Jeff Grosse from the Berea City School District agreed to correct the problem if the City can diagnose the drain problem. He told Mr. Armagno to call him and they could visit Mr. Daniel's site together.

Tom Elliott of 143 Race Street reported that years ago they ran some dye into that drain and it came out way down on Anne Drive or someplace down there, because the area where they are going to build is all tile under that. He had a feeling that this drain is part of that tile system and is not connected to the City at all. He was unsure where it goes to the West or where it comes out, but he was sure this drain is on school property. Mr. Fay asked that the question be called to a vote.

Moved by Draves, seconded by Fay that the site plan be approved, as submitted. Vote on motion was ayes: Rump, Sawyer, Borowski, Draves, Fay, Madzy. Nays: None. The motion carried.

Moved by Draves, seconded by Sawyer that the building design be approved, as submitted. Vote on motion was ayes: Sawyer, Borowski, Draves, Fay, Madzy, Rump. Nays: None. The motion carried.

Moved by Draves, seconded by Fay that the landscaping plan be approved, as submitted. Vote on motion was ayes: Borowski, Draves, Fay, Madzy, Rump, Sawyer. Nays: None. The motion carried.

Moved by Fay, seconded by Borowski to take a five minute recess. Vote on motion was all ayes; no nays. The motion carried and a five minute recess was taken at 8:35 p.m. Mr. Madzy called the meeting back to order at 8:40 p.m.

OLD BUSINESS:

Application #09-08-01

Approval of Height Variance for Fence

Daniel & Valerie Brass – 376 West Street, P.P. #363-05-028

Mr. Madzy read the Administrative Review and reported that this application was first heard by the Planning Commission at their first meeting in August. After lengthy discussion, this application was tabled to this evening's meeting to allow Mr. Brass a chance to examine whether or not cutting the corner of the fence would improve the sight lines of the driveway of the adjacent neighboring property owner. Mr. Brass has submitted a slightly different proposal which is before the Planning Commission this evening.

The owner, Daniel Brass, was present this evening. He explained that currently there is an old chain-link fence right on the property line. He originally wanted to put the new fence essentially right over the top of this old one. Due to this possibly being a problem for his neighbor (first house on northeast side of Wayne) to actually see when backing out of his driveway, he thought he would cut the corner of the fence.

Mr. Brass said he would basically like to cut the corner off with the fence post being just past his neighbor's big tree so they would be able to see down the sidewalk as soon as they get past the tree. Instead of going all the way to the sidewalk with the fence, he would pull the fence in a couple of feet. He was concerned about the tree being close to the sidewalk and he wanted to put the new fence where the old fence is because he knows he could put posts in there without having any root problems (because there are already posts there).

Mr. Brass explained that at the last meeting, the Commission thought maybe he should pull the fence back a few feet so it would be easier for his neighbor to see out of his driveway. He raised concerns about doing the fence in 8-foot increments and then getting to where the tree is located and not being

able to put a post there because of a root from the tree being there. He said if this happens, he will put a gate there and he would not mind losing the 2 feet.

Mr. Brass discussed the concern that the fence would be fairly long on the west side (approximately 83 feet of continuous board-on-board fence) and he admitted that it would be an eye sore. He indicated that this was not his intention and stated that he has already begun replacing the existing chain link fence with a board-on-board fence and the way he constructed this was there are posts with the board-on-board fence going on the side of the post and to the side of the next post. This way it is not one long continuous train of board. He felt this looked a lot nicer.

Mr. Brass described what he would do with the 2-foot space that will be created between the fence and the sidewalk. He will tear out the grass and put some mulch there and try to find a plant that will grow with virtually no sunlight because this area will be blocked by his house, the giant tree and the fence. Doing this will eliminate seeing 83 feet of fence. You are going to see a post, 8 feet of fence, a post, etc. and in there a bush or plants with mulch. Down to within 10 feet of the property line in the corner that is where the fence will take a 45-degree angle off to the far northern part of his property. This will allow his neighbor to see at least 40 feet down the sidewalk along his property while backing out of the driveway. This will allow plenty of room for his neighbor to see if a pedestrian is walking down the sidewalk. And then when looking down the driveway, assuming there is no pedestrian, you can look and see if a car is coming down the street and will be able to see all the way to the stop sign at the corner. With this new design, Mr. Brass felt there will not be a safety issue when backing out of the driveway.

In response to Mrs. Draves, Mr. Madzy said he believed these changes have alleviated the problem of sight distance on the sidewalk and street. Mr. Armagno agreed with Mr. Madzy and said he used a leveling rod when he visited the site.

Jess Moenich of 279 Wayne Drive said even if the fence is pushed back 2 or 4 feet, the vision will still be restricted when backing out of an 80-foot driveway. He questioned Mr. Brass moving a gate by the tree when he said he would have trouble putting a post there due to the tree roots. Mr. Moenich suggested that this application be tabled tonight and Mr. Brass make a drawing and bring the drawing back to show them what he is going to do. In response to Mr. Madzy, Mr. Brass said he does have the revised drawing with him this evening.

Mr. Brass explained why he mentioned the gate because he was originally concerned that if there was a root in the way, then he would have to have posts that are not the same distance apart. If he has to do this he will put a gate here instead of putting it on the north side where he originally

wanted to put it. An odd break in the post spacing would be taken up by a gate. In response to Mr. Madzy, Mr. Brass stated that the gate would be 6 feet high. Mr. Brass clarified that with or without a gate, it would not change his variance request.

Mr. Fay asked what the minimum requirement is for fence height when installing a swimming pool. Mr. Madzy reported that a fence must be 5 feet high (60 inches from grade), made of sturdy construction, and have a self-locking gate. In response to Mr. Fay, Mr. Brass said he would like to put a pool in next spring. He will be doing the fence installation himself and he works a lot of hours and travels a lot. He would like to get the west side done and then when the weather warms up he can finish off the fence and come in for approval of the pool. The pool will be installed in the general vicinity of his existing shed.

Donna Frank of 272 Wayne Drive said it sounds like Mr. Brass has tried to address the aesthetics of his fence. She raised concerns regarding the existing fence on the other side of his property currently painted a brown color. She asked if this is approved would there be any way that he could change the existing fence to a more natural color. In response, Mr. Brass said it is a chocolate colored stain to match the other part of the fence, the swing set, the shed and the flower boxes which are all the stained the same color.

Tom Babbitt of 280 Wayne Drive stated that they feel this proposed fence would have a detrimental effect on the neighborhood and it would change the character of their neighborhood. Mr. Brass replied that this is a nice neighborhood, it is quiet and everyone takes care of their property. He disagreed that the fence would be detrimental to the neighborhood. Mr. Brass stated that he is only asking for a fence so he can have privacy when his child plays in the backyard and for a future pool.

Mr. Hoenigman of 231 Wayne Drive inquired about what Mr. Brass' hardship is. "I haven't heard a single word about what his hardship is. All that I've heard is that he wants to build a 6-foot privacy fence so his child can play in privacy". He felt that a 4-foot fence could give him this privacy. Mr. Hoenigman reported that at the corner of Edgewood and West Street he noticed there are two houses on the corner with 4-foot high fences that start at the back of their houses and go to the back of their yards. He reiterated that this is all Mr. Brass really needs. He questioned how much privacy Mr. Brass needed.

Mr. Hoenigman pointed out that the rental house across the street is a two-story structure and anyone who lives on the second floor of this house is going to be able to look into Mr. Brass' yard and watch his child playing with her friends. "If you build a 20-foot fence, they would still see in". He stated

that there is no hardship and there is no reason to build anything outside the restrictions setup by the Zoning Code which is a 4-foot fence.

Mr. Hoenigman said that Mr. Brass wants to build a swimming pool on the other half of his wide yard. He felt that Mr. Brass could install a 5-foot fence around the swimming pool as opposed to putting it right at the corner where Mr. Moenich would be backing his car out of his driveway. He did not believe Mr. Moenich would have clear visibility and that this would create a liability situation not only for Mr. Moenich but also the City of Berea for actually creating this nuisance by allowing this variance.

Mr. Hoenigman stated that this is a severe safety issue and it is a liability issue and he knows this because he has been an attorney for almost 40 years and has done defense litigation for almost 30 years. "So I know what you are creating and I know what the possible outcome can be. I think you need to think about what you are being asked to do and think about what you want to do for the City of Berea". In response, Mr. Brass explained that his hardship is that he has no privacy. He would like to get a pool and a 4-foot fence would not give him privacy.

Mr. Moenich stated that no one would complain if Mr. Brass put up a 4-foot fence and he suggested that Mr. Brass install a 5-foot fence just around the swimming pool. Lengthy discussion ensued regarding how Mr. Brass could enclose his swimming pool with a 5-foot fence.

Mr. Madzy reported that there are certain things that the Planning Commission must consider and as Mr. Hoenigman pointed out, the hardship question. One of the things to consider with hardship is how the land is laid out. This is a corner lot/unusual lot. It has two front yards, two side yards and no backyard. This makes it more difficult to build something in the front yard due to needing a variance because having two front yards but it essentially is what would be called a side yard.

Also, Mr. Madzy explained that the second question is whether the property in question will yield a reasonable return and whether there could be any beneficial use of the property without the variance. He said it was clear that the backyard could still be used without this variance and a compliant fence could also still be built without the variance. It was his opinion that there could be a reasonable return on the property and it could be of beneficial use even without the variance.

Next, whether or not the variance is substantial. Mr. Madzy said the variance is only asking for 2 feet so he did not feel it was substantial. Whether the essential character of the neighborhood would be substantially altered or whether adjoining property owners would suffer a substantial detriment as a result of the variance. Although Mr. Babbitt had spoken and felt that this

would change the character of the neighborhood and create a substantial detriment, Mr. Madzy did not feel the neighborhood would be generally changed and that the adjoining property owners would not suffer a substantial detriment now that the fence would be moved off of the property line and the 45-degree angle be instilled 10 feet off of the property line.

The next question is whether the variance would adversely affect governmental services and Mr. Madzy pointed out that there are no services that run through this area. Whether the property owner purchased the property with knowledge of the zoning restrictions. Mr. Brass had stated that he did not have knowledge of the zoning restrictions, however, the code was in effect prior to him purchasing this property so he did have constructive knowledge.

Whether the property owner's predicament can feasibly be remedied through some other method. The fence could be brought back, a 2-foot extension on top of the pool could be installed so there are other ways to achieve some of these goals without granting the variance. Whether the spirit and intent behind the zoning code would be observed and substantial justice done by granting this variance. Mr. Madzy felt that granting the variance would be in compliance with the spirit and intent of the zoning requirement.

There are seven factors to consider and it was Mr. Madzy's opinion that three factors go against granting the variance, however, four factors would go in favor of granting the variance. He pointed out that this may not be the feeling of everyone in the room and it is not necessarily the feeling of the other Commission members.

Moved by Rump, seconded by Sawyer to approve a 2-foot variance to construct a 6-foot high board-on-board fence 2 feet off of the sidewalk with landscaping to be installed between the sidewalk and the fence line and the fence along the sidewalk to stop 10 feet from the property line, proceed at a 45 degree angle and then join the fence along the northerly property line. Vote on motion was ayes: Madzy, Borowski. Nays: Draves, Fay, Rump, Sawyer. Four affirmative votes were needed in order for the motion to carry. The motion did not carry. The 2' height variance was not approved.

REQUESTS FOR VARIANCE/APPEALS:

Application #09-09-01

Approval of Complete Variance Business Identification Sign Giltz & Associates – 1350 W. Bagley Road, P.P. #361-32-012

Mr. Madzy reminded everyone that this applicant had come before the Commission in August for approval of two signs. This sign was not approved at that meeting. The agent is here this evening presenting a new plan for the

sign. Mr. Madzy read the Administrative Review. Due notification was made on this application pursuant to Section 807.2 of the City of Berea Zoning Code.

Carl May of Letter Graphics Sign Company was present again this evening representing the agent, Chris Butdorf, who was unable to be here. Mr. May stated that based upon what the Commission had asked for at the last meeting, the size of the sign has been reduced, the brick base has been removed and they will include some landscaping around the base of the sign. In response to Mrs. Draves, Mr. May indicated that the sign and base colors will match the color of the building and the other nearby signage.

Mr. Madzy explained what needs to be considered when granting this variance. Would the essential character of the neighborhood be changed or would this sign be a substantial detriment to the neighborhood. This is an industrial district with several other signs in the area as well so granting this variance would not change the character of the neighborhood. This variance will not adversely affect the delivery of any governmental services. The spirit and intent behind the zoning requirements will be observed and substantial justice will be done in granting this variance.

Jim Maxwell, Councilman Ward 3 asked if this sign will be internally-illuminated 24 hours a day. Mrs. Draves pointed out that this is not in a residential area. Mr. Madzy explained that it will be illuminated 24 hours a day and will be on a dusk to dawn switch. This sign will also sit back off of the right-of-way quite a bit so the illumination should not be an issue.

Moved by Fay, seconded by Draves that the total variance for the second free-standing sign be approved with the condition that landscaping be added to the base and that the base and the area which surrounds the sign be matched between the Powerhouse Gym building and color coordinated to match the other sign that was approved at a prior Planning Commission meeting. Vote on motion was ayes: Fay, Madzy, Rump, Sawyer, Borowski, Draves. Nays: None. The motion carried.

Application #09-09-02

Approval of Height Variance for New Garage

Patrick & Shirley Hart – 464 Eastland Road, P.P. #362-23-005

Mr. Madzy read the Administrative Review. Due notification was made on this application pursuant to Section 807.2 of the City of Berea Zoning Code.

The owner, Patrick Hart, was present this evening. Mr. Madzy distributed photographs that had been submitted by the applicant. Mrs. Draves asked if he would be selling items out of the new garage. Mr. Hart responded that he owns a couple of collector vehicles and a tractor and just needs storage space. He explained that the contractor came up with the wall

height and roof pitch. He referred everyone to the renderings they received in their packets. Mr. Hart reported that in the truss areas there will be plywood flooring installed to store seasonal items (lawn furniture, bicycles, etc.). In response to Mrs. Draves, Mr. Hart said that he would not be using the garage as living quarters for college students.

In response to Mrs. Draves, Mr. Hart reported that he has spoken to his two direct neighbors and one of them was going to come tonight to support this project. All other neighbors he has talked to have no problem with this. Mr. Madzy clarified that all property owners within 200 feet of Mr. Hart's property were sent a notice regarding this application and he has not received any opposition to this project. No audience members voiced any opposition.

Mr. Rump asked about what kind of siding will be used and Mr. Hart stated the garage will be a cedar-toned vinyl siding. The house is a darker brick so this will blend very well. This will also blend well with his neighbor's cedar board-on-board fence.

Mr. Fay inquired about extending the driveway because the rendering does not show this. Mr. Hart explained that the plan for the existing garage is to have it demolished. Once the existing garage is removed, he will extend the hard-surfaced driveway all the way back to the new garage. The new garage will have three doors and he will have the driveway right in front of the garage doors poured at the same time that the garage floor is poured and later in the year he will complete/connect the driveway.

Mr. Fay asked about lighting for the new garage and Mr. Hart reported that the electrical contractor will install motion sensor lights on the outside of the garage. The lights will all be standard outlets. In response to Mr. Fay, Mr. Hart clarified that he will complete the driveway with a hard surface and will not drive across the grass.

Mr. Sawyer asked who determined the roof pitch. Mr. Hart replied that the contractor who is from an Amish company in Wooster gave him a sketch and in order to make it easier to understand, Mr. Hart came up with the renderings on Autocad. He displayed the contractor's original sketch to the Commission. Discussion ensued regarding reducing the roof pitch.

Mr. Madzy explained what the Commission needs to consider when approving an area variance. He did not feel that this is a substantial variance nor would it substantially alter or cause a substantial detriment to the adjoining properties. This garage would not be higher than any houses in this area plus garages are quite common in this neighborhood. The variance will not affect any governmental services and additionally, the spirit and intent behind the zoning code would be observed in granting this variance.

Moved by Fay, seconded by Draves to approve the 2' 10-1/2" height variance for the new garage, as submitted. Vote on motion was ayes: Rump, Sawyer, Borowski, Draves, Fay, Madzy. Nays: None. The motion carried.

Application #09-09-03

Approval of Setback Variances for New Church

First Congregational United Church of Christ – between 301 & 325 Front Street, P.P. #362-11-020

Mr. Madzy read the Administrative Review. Due notification was made on this application pursuant to Section 807.2 of the City of Berea Zoning Code.

The agent, Tom Ziska of Ziska Architecture, was present this evening. He explained that the church has an agreement with Baldwin-Wallace College and it is a unique opportunity for the church to have a beautiful site on Front Street. He explained that in today's world, churches can no longer be placed anywhere in the neighborhood as they were in the past when people walked to church. Churches are found in neighborhoods scattered throughout the community. Today churches are more regional in nature plus people who live in the community need to be able to be aware that the church is there and that the church has something to offer them. This is why this site is unique and that is why it is valuable to the church as a location for the future. Mr. Ziska reported that the church has left their site on Seminary Street. He pointed out that there are members of the church, neighbors and a Baldwin-Wallace representative here this evening.

In response to Mr. Madzy, Mr. Ziska discussed the hardship letter that he submitted to the Commission. Due to the well established nature of the City of Berea, available land suitable for a church facility is at a minimum and a continued location within the heart of the community is essential to the mission of the Church. The existing width and depth of the available land is a given condition and cannot be altered due to adjacent properties. A literal interpretation of the code would necessitate that the new building features be seriously compromised and would require the Church to seek another less suitable location, thus depriving the owners of this opportunity and reasonable use of the property.

Mr. Ziska explained that the special conditions, i.e. the property dimensions, are not the result of the property owners as the lot size and dimensions have been existent for many years. They believe that these variances are minor in nature and they may not, in fact, be the minimum required. He pointed out that they can discuss how they can expand the green area by reducing parking sizes a little bit because the wheels would stop and the car would overhang a couple of feet. So they may propose to reduce the technical parking depth and use grass for that couple of feet so they would reduce the variance requirement.

Mr. Ziska indicated that there is one special condition in terms of parking. The Church will have a shared parking agreement with the College. There will be a total of 86 parking spaces which is well over what the Church would normally need. He said some communities actually encourage these types of parking arrangements. In response to Mr. Madzy, Mr. Ziska stated that an easement will be created and a written agreement signed regarding this parking agreement.

In response to Mr. Fay, Mr. Ziska displayed a rendering of the proposed church building. He explained that the Church had proposed a very interesting dilemma for him, design wise. They have asked for a progressive traditional church. He said he is going to try and bring these two things together and create an exciting building on Front Street that is going to meet the Church's requirements in terms of what they expect a spiritual space to be but also provide an interesting church that will invite the community into their building and create a dialogue between the inside of the building and the outside of the building.

Mr. Ziska discussed the south elevation of the building which would be facing the main drive as you come in. He said what we are looking at here is the main two-story entryway, administrative area and meeting space. They are creating a phased building and that is why this element is a little bit larger than what you might expect from a single-story entry because they are planning on adding a second story in the future. This element is a lot of glass and again the idea of the transparency of the community looking in as well as the church community looking out and inviting everyone in.

Mr. Ziska explained the elevation facing Front Street. He said it is quite progressive traditional. It is a combination of what he calls traditional, being a typical gable roof for a very traditional kind of church and taking that and adding a little twist and just modifying the two different slopes of the roof which then allow a skylight down the main peak of the roof allowing northern light to flood the church with light. The concept of this glass of course is that when you are driving by on Front Street you can see the activity in the church as well as people looking out into the community. This element actually runs along the entire length of the building and connects all of the parking from the front and connects all of the elements inside. So again, when you are passing down Front Street you will be able to look down the entire length of the building and see all of the wonderful activity that is happening inside.

Mr. Ziska stated that this becomes a very unique element and as everyone knows the building that the church left had a very interesting tower. It was very identifiable in Berea. They are going to recreate a new tower and this actually will be their prayer chapel. You will not see any glass. It is going to be a very spiritual and meditative space. There will be a skylight that will

rotate to the south and will have a motif of crystal and when light hits the crystal, it will explode the light and expand it throughout the Church. This is the Church's symbolism for "Christ's light shining through you and going out into the community". It is also angled 45 degrees so either way you are passing down Front Street you actually have frontage you are driving by.

Mr. Ziska described the front façade and said they will use a simple brick façade for now but because they are in Berea which is known for Berea Sandstone, they will add stone to add more texture to the front of the building. He explained that this element is actually a curving element and he displayed photographs of the new science building across the street at BW which also has a curved stone front. In response to Mr. Sawyer, Mr. Ziska reported that the new church will seat 200 people.

Mr. Madzy pointed out that the Daisy Street elevation almost looks like there are two structures there instead of one large structure. It almost has the feel of two residential homes as opposed to one large building across the back. Mr. Ziska replied that they paid attention to roof slopes and scaling. Although they may have a second story in the future, they are still putting a hip roof on with the scale down. He referred everyone to photographs of the two houses on either side of this property, one being a private residence and the other being a BW building. Both of these houses have a 12/12 slope pitch so they are trying to bring elements from the surrounding community into this building so that it fits nicely.

In response to Mr. Sawyer, Mr. Ziska explained that this is a conceptual plan. There are a lot of things they will be doing but this is the look and feel. This plan did receive approval from the Church Council. He said he could not guarantee that this is exactly what it will look like when it is built but the character and feel will be the same.

Mr. Rump felt that a green fence along the back along the properties on Daisy Street would look much nicer. He said with the openness that has been mentioned of being able to look right through the church, he felt that from the Front Street side looking through to a green fence along there would look much nicer than a chain link or board-on-board fence. He added that a green fence would also shield the headlights of the cars in the parking lot from the properties on Daisy Street.

Mr. Ziska noted that there is a part of the property that currently has a 6-foot high white vinyl fence and if the neighbors would like a solid fence, the Church would be happy to install that type of fence. If the neighbors want a living fence, they would substitute the vinyl fence for some lower and taller evergreens along the back. He stated that they would need to talk to the neighbors to see what they would prefer.

Mr. Rump stated that it was mentioned earlier to possibly cut the size of the 10 x 20 parking spaces down to 9 x 18 spaces which does seem to be more prevalent now. This would pick up additional parking spaces there but also give additional room against the property line and adding more green space. Mr. Ziska replied that the 25 parking spaces is one more than what the City code requires. He suggested that they could cut this down a little bit and then extend the green space close to 10 feet. Mr. Madzy agreed and felt that if this is done, they could really create nice space.

Mary Jo of 303 Daisy Avenue raised concerns regarding parking. Mr. Ziska said the City Code requires one parking space for every four seats. Based on this they would only need 50 spaces but they are adding the extra spaces so at Christmas and Easter time when more people come to church, they will not have to park on the street or in other parking lots. They will be able to park on site. Mary Jo asked if the existing BW parking lot will be labeled and Mr. Ziska said he was unsure how it would be labeled but pointed out that this parking lot will have an easement between the Church and the College. Mary Jo reported that students are always parking on Daisy Street and when evening activities are held at the Church, this parking problem will be much worse.

Tom Lee, Vice-President of Finance Administration at Baldwin-Wallace College stated recently the Center of Innovation and Growth was completed and when the science building construction is completed in June of 2010, they believe this will alleviate the parking demand on Daisy Avenue. Mary Jo raised concerns regarding construction noise and reported that while the CIG building was being constructed, construction would go late into the night. Mr. Lee replied that construction is not supposed to go on past dark. He stated that 86 parking spaces have been added at the new CIG building. Mr. Ziska pointed out that hopefully between these new facilities at BW and the new church, there will be parking relief on Daisy Avenue.

Kathy Manning of 316 Daisy Avenue said she lives directly behind the property where the church is being proposed. She reported that currently BW has a vapor light in the corner parking lot that shines on their backyards on Daisy Avenue. She questioned why the parking lot would be so close to their properties and Mr. Madzy replied that parking spaces are permitted to be closer to the property line than the building itself. Mr. Madzy explained that the parking lot has to be at least 10 feet from the property line if it is screened by vegetation or landscaping. It only has to be 5 feet from the property line if it is screened by a fence. Ms. Manning voiced concern and stated that this will destroy all of the woodland that they have as protection and the squirrels and birds are going to be gone. She felt that the new raised parking lot would add to their existing flooding problems.

Mr. Madzy explained that all new construction must comply with the City's Storm Water Ordinance. The water generated by the additional asphalt and roof space must be drained onto the site itself, so it will not be draining onto neighboring properties. Ms. Manning reported that the existing parking lots are higher than her property and the space between the parking lot and her property line fills with water and eventually floods her property. Mr. Madzy asked Mr. Ziska if it would be possible to slope this area from the property line towards the middle of the parking lot. Mr. Ziska said they could work with the City Engineer and possibly create a swale in this area to the detention basin which would relieve some of these water issues. The parking lot then could contain its own water.

Wendy Allison of 310 Daisy Avenue stated that this will be right in her backyard and it will affect her. She said her yard is her retreat and this project will be taking away woods and the privacy that she has from Front Street. This will be adding more concrete and another building right in her own backyard. She said she is concerned about the water issues. Her neighborhood has been before the Commission before about the water problems in this area. At one time BW wanted to put in a temporary parking lot on this property and Mayor Biddlecombe turned down this request and made the College put in drainage which really was not effective. Her yard floods every spring.

Ms. Allison also raised concerns regarding lighting from the parking lot. She said her bedroom and patio are at the back of her house and the parking lot lighting will prevent her from enjoying her own backyard. She asked what could be done to help keep their privacy, keep their property values stable and not take away the things that make their yards and homes feel comfortable. They would be losing their trees, animals, birds and squirrels.

Mr. Ziska addressed the lighting concerns and said that they will install lighting where she will not see the sources. They can install fixtures away from the building where they shine towards the building so she will not see any light sources. Ms. Allison requested that a row of arborvitae be planted along the property line to prevent light from coming into her backyard. Mr. Ziska said they could do this.

Mark McKeon of 307 Daisy Avenue stated that he did not want anything to be built here except maybe a couple of residential houses on Front Street. He felt there were already enough churches in this area and he urged them to let them keep their neighborhood.

In response to Mr. Madzy, Mr. Ziska indicated that they could modify the landscaping plan and add arborvitae instead of a fence along the back property line (Daisy Avenue). Also, Mr. Ziska stated that he would come back to the Planning Commission at a later date with a photometric plan showing the lighting being zeroed out at the property line.

Mr. Rump pointed out that if they shorten the parking spaces to 18 feet and make it 24 feet between rather than 25 feet, they will not need a variance because they will be 10 feet from the property line. This would allow for plenty of room to put landscaping in there. Mr. Ziska agreed to this. Mr. Madzy clarified that this would be the 10 feet of space between the parking lot and the property line along with the arborvitae in there and additionally the swale would run through there.

Ms. Manning inquired what their recourse would be if this is passed and they have water issues after the church is built. Mrs. Draves suggested that the City come take a look at this and then they can monitor it. Mr. Madzy noted that sometimes when projects like these go forward they can improve existing drainage issues. When a swale is properly installed and maintained, it can improve and help these problems.

Mr. Sawyer asked if there was any way to salvage some of the existing foliage along the back property line. Mr. Ziska replied that they could take a look at this.

Mr. Madzy reviewed some of the things that the Commission is supposed to consider when granting a variance. Regarding the 5' 6" northern side setback variance for the building: 1) Whether this variance is substantial - they are 80% compliant as they stand, so they are only looking at a 20% variance which is rather small. 2) Whether the essential character of the neighborhood would be substantially altered or have a detrimental effect on the neighbors - the neighbor on this side of the property is Baldwin-Wallace College who is obviously in support of this proposal. 3) Would this variance disrupt any governmental services - this variance would not disrupt any governmental services. 4) Whether the spirit and the intent of the zoning code would be observed and sustained by granting this variance - Mr. Madzy did believe that the spirit and intent of the Zoning Code would be observed if this variance was granted.

Moved by Rump, seconded by Draves that the 5'6" northern side setback variance for the building be approved, as submitted. Vote on motion was ayes: Sawyer, Borowski, Draves, Fay, Madzy, Rump. Nays: None. The motion carried.

Discussion ensued regarding the proposed parking area along the southern property line. Mr. Madzy clarified that rather than the requested 5' variance they would need a 3' side parking setback variance along the southern property line. Mr. Madzy reviewed the things that the Commission is supposed to consider when granting a variance. Regarding the 3' southern side parking setback variance: 1) Whether this variance is substantial - the parking area is required to be 10' from the property line and they are proposing it to be 7' from

the southern property line. They would be 70% compliant. 2) Whether the essential character of the neighborhood would be substantially altered or have a detrimental effect on the neighboring properties - there are other parking areas that are closer to the side property line in this general area, so it would not cause a detrimental effect on the neighboring properties. 3) Would this variance disrupt any governmental services – this variance would not disrupt any governmental services. 4) Whether the spirit and intent of the zoning code would be observed and sustained by granting this variance – Mr. Madzy did believe that the spirit and intent of the zoning code would be observed if this variance is granted.

Moved by Draves, seconded by Fay that the 3' side parking setback variance along the southern property line be approved. Vote on motion was ayes: Borowski, Draves, Fay, Madzy, Rump, Sawyer. Nays: None. The motion carried.

Moved by Draves, seconded by Fay to approve the conditional use for the new building. Vote on motion was ayes: Draves, Fay, Madzy, Rump, Sawyer, Borowski. Nays: None. The motion carried.

Moved by Draves, seconded by Fay to approve the building design that was presented by Mr. Ziska this evening. Vote on motion was ayes: Fay, Madzy, Rump, Sawyer, Borowski, Draves. Nays: None. The motion carried.

Moved by Fay, seconded by Draves to approve the site plan with the condition that along the western most edge of the property that consideration and due diligence be given to maintaining as much of the original foliage as possible and that the parking be setback 10' rather than the proposed 5'. Vote on motion was ayes: Rump, Sawyer, Borowski, Draves, Fay, Madzy. Nays: None. The motion carried.

Moved by Draves, seconded by Fay that the landscape plan be approved with the condition that the photo metrics (lighting plan) zero-out at the property lines, that the original foliage be maintained in that area and that within the 10-foot area on the western property line where the original foliage is not maintained, that arborvitae be installed in its place. Vote on motion was ayes: Sawyer, Borowski, Draves, Fay, Madzy, Rump. Nays: None. The motion carried.

Moved by Rump, seconded by Fay that the 38 square foot variance be granted for the size of the parking spaces (Zoning Code Section 202.3). Vote on motion was ayes: Draves, Fay, Madzy, Rump, Sawyer. Nays: None. Not Present: Borowski. The motion carried.

Moved by Fay, seconded by Draves to take a five minute recess. Vote on motion was all ayes; no nays. The motion carried and a five minute recess was taken at 10:25 p.m. Mr. Madzy called the meeting back to order at 10:30 p.m.

NEW BUSINESS – GENERAL PLANNING MATTERS:

Application #09-09-05

Approval of Business Identification Sign

Victory Arms – 172 Depot Street, P.P. #362-06-008

Mr. Madzy read the Administrative Review. The owner, William Jones, was present this evening. In response to Mrs. Draves, Mr. Jones explained that the proposed sign will be made of flat aluminum stock and it will be vinyl lettering. Mr. Jones distributed photographs. Mr. Rump asked about lighting and Mr. Jones said there is already existing lighting on the building.

In response to Mr. Madzy, Mr. Jones indicated that this proposed signage will mirror the other business signs located at this property. Mr. Sawyer asked how large the letters would be and Mr. Jones replied that they are 4 to 5 inches high. The overall height of the aluminum stock will be 8 inches high. Mr. Rump asked if this would be readable from the street and Mr. Jones stated yes.

Mr. Sawyer asked if this business would be a full-time operation and Mr. Jones said yes. Mr. Jones explained that he repairs firearms and he is also a licensed dealer. He does not manufacture firearms. He repairs, modifies and upgrades firearms. In response to Mr. Rump, Mr. Jones reported that he does buy and sell firearms from this business as a licensed dealer.

Moved by Fay, seconded by Draves to approve the business identification sign, as submitted. Vote on motion was ayes: Sawyer, Borowski, Draves, Fay, Madzy, Rump. Nays: None. The motion carried.

Application #09-09-06

Approval of Conditional Use & Business Identification Sign

People's Community Church – 634 Wesley Drive, P.P. #361-16-049

Mr. Madzy read the Administrative Review. The agent, Lamont King, was present this evening. Mr. Sawyer inquired what a 501 c 3 Foundation is. Mr. King replied that this is a non-profit foundation. Mr. Madzy noted that prior to the Church purchasing this property, it had been used as a rental property. The Church has already corrected several violations at this property and Mr. Madzy commended them for this.

Moved by Draves, seconded by Fay to approve the conditional use, as submitted. Vote on motion was ayes: Borowski, Draves, Fay, Madzy, Rump, Sawyer. Nays: None. The motion carried.

Mr. King explained that the Church has a youth program that has increased in number and a summer camp that they have put on the past two summers. The first year they had 27 kids show up and this year they had 45 kids. Mr. Madzy noted that this proposed signage matches other signage which is on the main building.

Mr. Fay asked where the sign would be located. Mr. King stated that it would be located in front of the house. He distributed photographs. It would be 12 feet from the right-of-way and it would include a base with landscaping. Mr. Fay inquired about lighting and Mr. King indicated that this sign would not include lighting.

Moved by Draves, seconded by Fay to approve the monument sign, as submitted with the condition that landscaping be added around the base of the sign. Vote on motion was ayes: Draves, Fay, Madzy, Rump, Sawyer, Borowski. Nays: None. The motion carried.

OTHER BUSINESS: None.

ADJOURNMENT:

There being no further business to come before the Planning Commission, moved by Fay, seconded by Rump to adjourn. Vote on motion was all ayes; no nays. The meeting was adjourned at 10:40 p.m.

(signed copy on file in the office of Secretary to Planning Commission)

Matthew Madzy, Chairman

(signed copy on file in the office of Secretary to Planning Commission)

Attest: _____
Carol A. Hubler, Secretary

CERTIFICATE OF COMPLIANCE

The meeting of the Municipal Planning Commission held this 3rd day of September, 2009 has been conducted in compliance with all legal requirements, including C.O. Chapter 109 and Section 121.22 of the Ohio Revised Code.

(signed copy on file in the office of Secretary to Planning Commission)

Carol A. Hubler, Secretary