

**BEREA MUNICIPAL PLANNING COMMISSION
OCTOBER 15, 2009**

The Berea Municipal Planning Commission met on October 15, 2009 and was called to order by Mr. Sponseller. Present: Borowski, Draves, Fay, Rump, Sponseller. Absent: Sawyer. Also Present: Tony Armagno, City Engineer and Paul Gilly, Chief Building Official.

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.

Moved by Draves, seconded by Borowski to approve the Minutes from the September 3, 2009 meeting. Vote on motion was all ayes; no nays; Abstained: Sponseller. The minutes were approved.

Witnesses were sworn in by Mr. Sponseller. He recommended that the Appeals be heard/moved to the end of this evening's agenda. Moved by Rump, seconded by Fay to revise tonight's agenda by moving the second item down to fifth. Vote on motion was all ayes; no nays. The motion carried.

REQUESTS FOR VARIANCE/APPEALS:

Application #09-10-05

Approval of Setback Variance for Shed

Patricia Hinkle - 208 Dorland Avenue, P.P. #363-39-017

Mr. Sponseller 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, Patricia Hinkle, was present this evening. In response to Mr. Sponseller, Ms. Hinkle stated that the existing concrete pad is in good condition.

Moved by Rump, seconded by Draves to approve the 10-inch setback variance for the shed, as submitted. Vote on motion was ayes: Borowski, Draves, Fay, Rump, Sponseller. Nays: None. The motion carried.

Application #09-10-02
Approval of Display Area Variance for Business Identification Sign
American International Construction – 1180 Berea Industrial Parkway,
P.P. #361-34-025

Mr. Sponseller 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, Lee Petrasek, was present this evening. Mr. Petrasek displayed samples for the brick and the foam board that they would like to use for the proposed monument sign. The foam board material is waterproof and will hold up in inclement weather. Mrs. Draves asked why they feel they need to double what the code allows for the size of the sign. Mr. Petrasek explained that due to the property's large frontage, they feel a larger sign is necessary. Their drive does not cut through all the way and it ends at the driving range. They are the last parcel on the left at the end of the street and they currently do not have ample signage for passing vehicles to see. A larger sign will allow people to know that the building is actually there.

Mr. Fay inquired if the size of the sign itself includes the pillars and Mr. Petrasek stated yes. Mr. Fay commented that the sign is not actually 32 square feet then. Mr. Petrasek reported that the sign is 96 inches x 24 and Mrs. Draves pointed out that the sign itself actually falls within the allowable limits of the code. What makes it bigger is the masonry and everything around it and she said this is something that Planning Commission has been encouraging people to do. The actual visual space of the sign is within the allotted code. Mr. Sponseller noted that according to the drawing, it appears that the two masonry pillars are each 24 inches wide which is 4 feet. This 4 feet is included in the actual sign approval.

Mr. Fay asked if they could do some landscaping around the sign and Mr. Petrasek said they have plans to include some landscaping (mulch and bushes) to both the right and the left of the sign. Mr. Fay asked if the sign would be lit and Mr. Petrasek stated that he was unsure and he would have to discuss this with the parties that be. He said there was the potential for this sign to be lit. Mr. Sponseller advised him that prior to installing any lighting, they would have to run this by the Building Department first.

Moved by Fay, seconded by Draves to approve the variance for 16 square feet of display area for the proposed monument sign, as submitted. Vote on motion was ayes: Draves, Fay, Rump, Sponseller, Borowski. Nays: None. The motion carried.

Moved by Draves, seconded by Fay to approve the proposed sign content, as submitted. Vote on motion was ayes: Fay, Rump, Sponseller, Borowski, Draves. Nays: None. The motion carried.

Application #09-10-03

**Approval of Front Setback Variance for Vestibule onto Porch
Ellen Kundtz – 285 University Street, P.P. #364-16-011**

Mr. Sponseller 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, Ellen Kundtz, was present this evening. She explained that she has a century home with an ornate door that sits on the inside of the porch that is not closed in. She would like to set up a vestibule so she can receive her mail and packages and be secure from the elements. She also has an electrical breaker box on the front porch that she wants to close in so if she needs to use the box she can come out at any time to use it. She said she also would like to enclose her porch in order to weatherproof her home from the elements.

Mrs. Draves referred to the magazine photograph that Ms. Kundtz had submitted with her application. She asked if she would be putting the door on the outside of the porch. Ms. Kundtz replied that it would be comparable to the photograph except the porch would be closed in on all sides with the front door sitting in the middle of that. She clarified that the existing front door will be moved out to the front of the new corridor. She will install another door leading from the enclosed porch to the house. Mr. Sponseller asked if she planned on heating the enclosed porch and Ms. Kundtz stated no.

In response to Mr. Fay, Ms. Kundtz reported that the proposed vestibule will probably be cedar shingles because this would be the closest match to the shake shingles that are already there. She stated that there will be at least three windows installed because she would like to have as much light as possible. The windows will be approved through the weatherization program with the rest of the exposed wood being shake shingles.

Mr. Sponseller said if he recalled correctly after looking at this site, as you are facing the house, to the right side is an existing living room that comes out to the end of the building line. Ms. Kundtz explained that originally the house was only on the right hand side and sometime in the early 1900's, they built onto the left side of the house and they built a porch. Ms. Kundtz clarified that the front porch is going to be just where it is now with only the new vestibule extending out 2 feet towards the street. She will be enclosing the existing front porch at the same building line as the existing living room and come out 2 feet with a canopy of sorts.

In response to Mr. Sponseller, Mr. Gilly explained that this home is a century home and it is one of the original houses on the street. It probably is the only one that sits that close to the sidewalk. Mr. Sponseller noted that there are varying setbacks on this street with at least one other house that appears closer to the sidewalk than this house. Ms. Kundtz submitted a petition from neighbors endorsing the proposed improvements.

Karen Stevens of 291 University Street stated that she lives next door to Ms. Kundtz. She reported that the house itself is not 16 feet from the property line. She asked if this improvement will be professionally done. Ms. Stevens raised concerns and stated that the previous owners had tried to add on to this home but were told the foundation was not stable enough to have any additional construction done. There have been a lot of repairs done to this home that were not professionally done and many remain incomplete. She pointed out that she just wants to make sure that if this addition is going to be right out in front where everybody has to see it, that it will be done correctly.

Mr. Sponseller asked Ms. Kundtz if she has a professional contractor lined up for this project and she stated yes. She also replied that she was unsure of what parts of the house Ms. Stevens is referring to because everything has been done. She also has checked to make sure everything had building permits. She has had engineers, the Berea Historical Society and the Cleveland Historical Society in her home prior to her purchasing this home to make sure that the things that she intended to do to the property were economical, the house would support them and that they would be part of the original century concept. Again, Mr. Sponseller asked Ms. Kundtz if she has a professional contractor (who does this for a living) lined up and she stated yes. He informed her that this would require building permits and would require Building Department inspections, as well.

In response, Ms. Stevens stated that she has taken photographs of some of the work that has been done to the house and she felt this house is a real eyesore. She said she does not want to have to look at it from the front of the home because she already has to look at it from the side and the back.

Ralph Heinberger of 276 University Street felt that ever since Ms. Kundtz has moved in to this house they have noticed a marked improvement in the quality of the property. The previous owners threw paint on the garage door and Ms. Kundtz has actually now made the garage look like a barn. He applauds any improvement that Ms. Kundtz wants to make to her property.

Jeff Neeper of 320 Eastland Road agreed with Mr. Heinberger and stated that anything that Ms. Kundtz can do to improve the appearance of her house would be a plus.

Moved by Rump, seconded by Fay to approve the 19' front setback variance for a vestibule onto the existing porch. Vote on motion was ayes: Rump, Sponseller, Borowski, Draves, Fay. Nays: None. The motion carried.

At this point in the meeting, Mr. Sponseller asked if Mr. McFadden and his client (Mr. Allen), Mr. Armagno and Mr. Powers and his client (Mr. Gertsma) would like to meet out in the hallway in order to try and expedite the discussion when they get to their application (Application #09-09-08). They agreed to talk in the hallway. Mr. Sponseller also announced that applicants were welcome to leave if their applications have already been heard.

NEW BUSINESS – GENERAL PLANNING MATTERS:

Application #09-10-06

Approval of Business Identification Sign

Verizon Wireless – 445 W. Bagley Road, P.P. #363-07-041

Mr. Sponseller read the Administrative Review. The agent, Laura Berjon of Morrison Sign Company was present this evening. Ms. Berjon reported that there has been a slight change to what was submitted for tonight's meeting. The sign will remain the same height and same length, however, there is a slight change with the wording of the sign. The sign will remain at 30 square feet which is allowed under the City's sign ordinance. The word "wireless" has now been added to the sign after the word "preferred".

Mr. Sponseller inquired if all of the sign lettering will be internally illuminated. Ms. Berjon explained that just the lettering as far as the check mark is concerned (the words "Verizon" and "Wireless") will be illuminated. The letters below are too small to be illuminated. These letters will be PVC non-illuminated letters.

Moved by Draves, seconded by Fay to approve the business identification sign, as submitted this evening (adding the word wireless after preferred). Vote on motion was ayes: Borowski, Draves, Fay, Rump, Sponseller. Nays: None. The motion carried.

REQUESTS FOR VARIANCE/APPEALS: continued

Application #09-10-04

Appeal to Zoning Administrator's Order to Remove Half-Pipe Ramp

Avril Sutherland-Wagner – 236 The Mall, P.P. #361-17-012

Mr. Sponseller read the Administrative Review. Due notification was made on this application pursuant to Section 806.2 of the City of Berea Zoning Code.

The applicant, Avril Sutherland-Wagner, was present this evening. Ms. Sutherland-Wagner submitted a petition signed by all of the surrounding neighbors and stated that she spoke to the neighbors prior to constructing the ramp and no one had any problems with it. She reported that the neighbors all come down and bring their children/grandchildren to skate on the ramp. The ramp is secure in a locked fenced-in area. No one can get into the area unlike trampolines and swing sets that she sees in yards where any child can just walk up and get on them and fall off.

Ms. Sutherland-Wagner stated that they have been fighting with the City for years to build a skate park. She distributed a newspaper article from 1988 when the very first skate park was built. She pointed out that her son, Brandon, and Brent Edwards whose brother was here this evening, were in the article. She said they fought and got the City to build a skateboard park back where the gazebo now sits.

Ms. Sutherland-Wagner indicated that there is nowhere to skateboard in this City. She commented that the City built baseball diamonds so baseball could be played. The City built soccer fields so soccer could be played. She reported that she has listened to Dora Lee ball field until 11:00 at night with yelling, screaming, noise and bright lights. She stated that there are no lights in her backyard with no skating on the ramp after dusk.

Ms. Sutherland-Wagner noted that these are not children using the ramp. They are pretty much adult men. She displayed a photograph from 1995 that was taken in Elyria where skateboarding is a passion, just like Tiger Woods or Lou Groza. She said that skateboarding may not be everyone's choice of enjoyment but this is something these men enjoy doing.

Ms. Sutherland-Wagner stated that the skateboard ramp is on private property and that they have not offended any neighbors. The neighbors come and commend them for this. Kids in her neighborhood are no longer skating in the streets with ramps constructed out of plywood. Skateboard companies have given them ramps, trucks and safety equipment which has kept the kids out of the street. She reported that the playground at the nearby elementary school is no longer a safe place for children to play. There is not one single parent who has an issue with their ramp and they have been commended for taking the kids in and teaching them to skateboard safely and not in the street.

Ms. Sutherland-Wagner commented that skateboarding is a passion like riding a motorcycle or playing golf. Some people enjoy doing these things and some people do not and that is what makes everyone different. She pointed out that the City had two skateboard parks in the past but they were taken down. People would come from all over to skate at these parks.

Ms. Sutherland-Wagner questioned if the City cannot supply a place to skateboard and it is illegal to skateboard down the City streets, where would they like them to skateboard. She apologized for not obtaining a building permit prior to building the ramp but she felt it was not a permanent structure with no concrete involved. She reiterated that they went to the neighbors who have to deal with this and not one of them had an issue with the ramp. She was unaware of who made the complaint against them but she did not believe this was any worse than her neighbors having swimming pools.

Ms. Sutherland-Wagner reported that she would never offend a neighbor and she has told her neighbors if they have a problem with her, they need to come to her and talk about it. If she cannot take care of it then they can call the police or the City. The police have never come out to her property because of a noise complaint. They usually use the ramp on Sunday afternoons until about 6:00 p.m. Now that it is getting dark earlier and with no lights in the backyard, they have stopped skating during the week. She said that she is just asking to be able to utilize her property.

Ms. Sutherland-Wagner stated that next door was a house that burned down and she had to fight with the City to board up two houses. The City paid a company to come out and landscape the lot. She displayed photographs of the vacant lot and stated, "This is what the City left me with. They want to talk about blight. I watch the City come out and cut grass over top of cups, foam everywhere. I took care of that property for years until the City came and they left concrete everywhere. The kids play there now. The County says there is a home there. I haven't seen that house. It is gone. They cut the trees down and left them this tall. You can't cut the grass. The grass grows this tall. If we're going to talk about a blight".

Ms. Sutherland-Wagner said this is her neighborhood and she has lived here her entire life. It is insane to say that somebody would build something that would bring bad to their neighborhood. She takes too much pride in her neighborhood, her home and the City of Berea. All that she asks is that she be allowed to utilize her property because that is why she lives in this City. It's her property and her property taxes are current. She asks if anybody has an issue with this that they come directly to her and tell her.

Ms. Sutherland-Wagner indicated that a neighbor had an open-house and asked them to keep the noise down so they did not skate that day. She said they are easy to get along with. "All the little kids and their parents – I have signatures, old, young, they get a kick out of it. They think it is unbelievable what these kids can do on this. You talk to guys like Tony Hawk – he did it once and somebody beat him down and he is one of the greatest skateboarders now". She submitted a petition with 18 signatures from all of the neighbors in support of the ramp. She noted that most of the neighbors did not know the ramp was there until they received a notice from the City of

Berea. She stated that it was never her intention to make her neighborhood look bad, demean her property or annoy her neighbors.

Mr. Sponseller asked if the half-pipe ramp is 6-feet in height at both ends and Ms. Sutherland-Wagner stated that the landing area is maybe a little less than 6 feet high. In response to Mr. Sponseller, Ms. Sutherland-Wagner reported that her son and some of his friends built the ramp.

Mr. Sponseller explained that they are here this evening to determine whether or not Ms. Sutherland-Wagner can demonstrate that the order of the Chief Building Official should be modified, reversed or affirmed. He said he wanted to get a better understanding as to what the ramp is made of and whether or not it should be deemed a structure under the law. He indicated that it was his opinion that it be deemed a structure even though it may not have any footers. He compared it to a garage, not necessarily being attached to the ground but still being a structure, a big structure being 6 feet tall. He additionally pointed out that the ends of the half-pipe ramp are open.

Mr. Sponseller indicated that there are two issues here. One being it is a big structure in a back yard and two is its use and the noise that may be generated from it. These are the issues that he would like to see addressed and also what they could do to eliminate what might otherwise be claimed to be a blighting influence. The City Code does not contemplate anything like a skateboard park or a half-pipe ramp in someone's backyard and certainly not something this size.

Mr. Sponseller explained that while he was preparing for tonight's meeting, he reviewed parts of the Zoning Code and the only thing that came close to something like this is what is called a minor amenity. A minor amenity is relatively something minor and is generally 3 feet or less in height. It does make reference to swimming pools as a potential minor amenity as well, however, under the code, there are also separate requirements for swimming pools.

Mr. Sponseller felt that there are safety issues that exist with the skateboard ramp, however, the biggest problem he perceives is the noise as well as the physical appearance of the ramp. Ms. Sutherland-Wagner replied that there is soundproofing that can be done, however, when they received the order from the City, they stopped working on the ramp because they might have to tear it down.

In response to Mr. Sponseller, Ms. Sutherland-Wagner described what they could do to soundproof the ramp. She explained that they could take soundproofing materials and place it underneath the ramp. She pointed out that the ramp is no louder than four or five kids playing on a big swing set or at the baseball diamond with the bright lights that she can hear until 11:00 at

night. She stated there is only noise from the ramp one or two days a week and it is never at night. Mr. Sponseller replied that it is not so much the noise generated by people laughing and having a good time, but it is the noise generated by the wheels on the skateboard ramp itself and the noise from skateboards coming down on the landings.

Mrs. Draves did not feel the skateboard ramp could be compared to baseball diamonds, etc. because these are on public property and the land is zoned for such things. In this case, they are talking about land that is zoned residential. She agreed with Ms. Sutherland-Wagner about the City having two really nice skateboard parks in the past, however, they were abused and removed because of the abuse and destruction. She did believe that on private property there would be more control over this type of thing, however, the City did offer two skateboard parks in the past, at a decent expense, but they were removed due to the abuse.

Ms. Sutherland-Wagner replied that her yard is fenced in and it is locked and chained and no one skates without safety equipment on. This is safer than the big, tall swing sets or trampolines located in yards with no fences where any child can just walk up to. She reiterated that they stopped working on the ramp when they received the order from the City. They were planning on finishing the ramp and make it look nice but discontinued this because they might have to tear it down.

Mrs. Draves asked when they started building the ramp and Ms. Sutherland-Wagner stated it took a couple of days to build. They just hammered, nailed and put it up. Mr. Fay asked when did they build the ramp and Ms. Sutherland-Wagner asked her son who was in the audience how long the ramp has been there. Her son replied that they started building it in May and Ms. Sutherland-Wagner pointed out that they have only been using the ramp for about two months and it is usually on Sunday afternoons and maybe one day during the week. She reported that she has little kids that live next door and have to be in early to get ready for school the next day. She reiterated that her yard is also dark at night with no lights present in the rear yard. She described her back yard and where the ramp is located.

Mr. Rump inquired if other individuals use the ramp besides family and Ms. Sutherland-Wagner stated that the little kids in the neighborhood whose parents have said it is ok come and use the ramp. She added that they have had decks donated and they are teaching the kids to skate with safety equipment, helmets, knee pads, etc. Just the kids in the neighborhood and a few friends of the family are the only ones who use the ramp. She reported that maybe four people can use the ramp at one time.

Mr. Rump raised concerns regarding her allowing other people to use the ramp and he hoped that she had some type of liability insurance. Ms. Sutherland-Wagner replied that she had never thought about this. She has had kids come over and play on a swing set and she did not have liability insurance for that. Mr. Rump said the skateboard ramp is a bit different and just because a parent tells you that it is ok for their child to skateboard on the ramp, if their child were to get hurt, he assured her that there would be problems. In response, Ms. Sutherland-Wagner said this is true and everybody does cry wolf but she could take care of this. This was not an issue that she was against. If this is something the City would like her to do then this would be no problem. Mr. Fay, Mr. Rump and Mrs. Draves all told her that it is not that the City would like her to have liability insurance, it would be for her own benefit to have it.

Mr. Sponseller stated that the liability issue remains to the extent that if the City approves this tonight, arguably they would be putting their blessing on this and he did suspect that if someone were to get injured, not only her but the City would be named in the lawsuit. He pointed out that the ramp was never inspected by anyone. Ms. Sutherland-Wagner agreed but said she was not against someone inspecting it but they "kind of got stuck right in the middle". Mr. Sponseller reiterated that arguably this creates a possible liability on the City's part. "Issuing a permit for such a structure in someone's backyard and knowing who it will be used by but we don't have any particular control. Now that might be a bit of a stretch but that is one additional thing against you is what I am suggesting". In response, Ms. Sutherland-Wagner stated that this is not like a free-for-all kind of thing.

Mr. Fay raised concerns about the ramp being built in June with a letter being sent out sometime in August. He felt that this means in June and July the City received numerous complaints about the ramp. Ms. Sutherland-Wagner advised him that she was told there was only one complaint received. She explained that when she went door-to-door to her neighbors, she told them if they were in opposition to this then they should write that on the petition. She had no problem with them doing this.

Mr. Fay referred back to the letter dated August 19th and he figured that in just a short period of time from the time the ramp went up in June/July and by the time the letter went out, the City received numerous complaints in this short period of time. As the popularity decreases, he felt that the potential of these complaints would then decrease also. Ms. Sutherland-Wagner said she thought the novelty of it had already died down. At first, her son was skating on it every day and now he skates on it every couple of days.

Ms. Sutherland-Wagner stated that she did not know which neighbor complained or why they complained because if someone would have said turn down the music in her home, she would have done that. She asked how can she fix something if she does not even know there is a problem. She apologized for not getting a building permit and said it never dawned on her that she needed one. She was not trying to be sneaky but it is her land and she just wants to use it.

A member of the audience asked how big her yard is and how close is the nearest house. Ms. Sutherland-Wagner replied that there is nothing around her and she reiterated that her neighbors did not even know the ramp was there until the City notified them about this meeting.

A member of the audience inquired about a skateboard park that is located in Brook Park. Her daughter had told her there is one on Snow Road. In response, Ms. Sutherland-Wagner stated that this park is called "Chenga World" and you have to pay to get into this indoor skate park. The audience member pointed out that if you are a golfer, there is a fee to play golf. Ms. Sutherland-Wagner replied, "It's just something that you just go out and you skate and you go on your merry way. It's not like it's an outing. You know it's like going for a bike ride or a job, I guess, for some people. It's not an everyday occurrence. He's not out there every single day".

Ms. Sutherland-Wagner pointed out that with the Cleveland weather right now they are done using the ramp. They were going to waterproof the ramp but they came to a stop because it just did not make any sense to do anymore to the ramp not knowing its fate.

Eric Becker, 2996 E. 66th Street, Cleveland stated that he is a friend of theirs and he helped construct the ramp. He said the one point that he wanted to make is that the ramp is very casual and he wished he had a chance to take some photographs so everyone could see that it is not an eyesore. He reported that he was 37-years-old, married with two children and has been skateboarding his whole life.

Mr. Becker discussed the noise issue. The sound from the ramp can be made next to nothing by enclosing the back of the ramp and putting in weatherproof insulation. He said if the City would allow him some time, he could make adjustments to the ramp and they would be able to see it is a quality structure. In response to Mr. Sponseller, Mr. Becker reported that for approximately \$200 he could seal the ramp and put some blue core insulation inside of it.

Brandon Wagner, 236 The Mall reported that he helped build the ramp and he has been skateboarding his whole life. He went around and talked to every neighbor and they said, "That's really nice that you are building something good there and we'll appreciate it". He explained that there is no house next to his property or behind it and he could not understand who would have complained about the noise because the police never came to tell them to quiet down. He compared this to someone playing their stereo too loud. The police would tell them to turn it down. They would not tell him he had 30 days to remove the stereo. Mr. Sponseller replied that there is a huge difference between those two things because the skateboard ramp is a big structure.

Mr. Wagner indicated that the only part of the ramp that causes the noise are the open ends and if he were to put up a privacy fence which he had intended to do, this would not be a problem. He explained that he was not going to spend a couple of thousand dollars installing a privacy fence when the City would just tell him to take the ramp down because one person complained. Mr. Sponseller inquired if the ramp is 6 feet high and Mr. Wagner stated that on one side of the ramp, a small portion is 6 feet high. Mr. Sponseller asked Mr. Wagner to clarify that the ramp is 6 feet high on the landing areas and the existing fence is 4 feet high. Mr. Wagner replied, yes but said he is going to put up a privacy fence in which the ramp would not be seen. Mr. Fay told Mr. Wagner that he would need to ask for approval prior to installing a fence and Ms. Sutherland-Wagner said she knew this.

Mr. Wagner pointed out that if allowing other people's children to use the ramp was a problem, he would stop allowing this immediately. Mr. Fay asked how close the ramp is to the property line/existing fence. Mr. Wagner replied, "probably 8 foot, 20 foot and another 15 foot. There's nothing next to us so, you know what I mean". In response, Mrs. Draves felt that it did not matter that currently there is nothing next to his property.

Mrs. Draves suggested that the City come up with specific provisions/set of rules for skateboard ramps similar to what currently exists for swimming pools. She pointed out that there are two appeals this evening for skateboard ramps and felt that this was an issue that they would be seeing more of in the future. She said each one of these ramps appear different with some having no neighbors and some with a lot of neighbors. She did feel that this particular skateboard ramp would have to come to Planning and Zoning because of its size.

Mr. Sponseller explained that the guidance that they have from the current zoning code is basically what was articulated by the Chief Building Official in his letter with respect to minor amenities and other impacts on neighborhoods. He did point out that the City's Zoning Code is currently undergoing revision so hopefully one year from now there will be a section of

the code addressing skateboard ramps specifically. However, even without any specifics they are still left with some guidance under the "Minor Amenity" section and under the "General Purpose and Intention" section of the existing Zoning Code. Among them is to protect residents from nuisances and objectionable influences.

In response, Ms. Sutherland-Wagner reiterated that every surrounding neighbor signed the petition. Mr. Sponseller asked if there were any other neighbors or anyone else in the audience who would like to testify in this matter. Ms. Sutherland-Wagner repeated that all of her neighbors have signed the petition.

Mr. Fay said he still keeps going back to the insurance issue. If anyone is injured on this ramp and the Planning Commission has signed off on it, he felt that it would be opening the City, as well as Ms. Sutherland-Wagner, up for a number of problems. Mr. Sponseller stated that he would not disagree with this. He explained that if the Commission were to entertain any reversal or modification to the Chief Building Official's order this evening, he certainly would want the liability issue to be addressed specifically.

Mr. Sponseller told the applicant that he understood their frustration and everyone knows what has happened to past skateboard parks throughout the area and the problems that are associated with them. He said he respected Ms. Sutherland-Wagner's right to own property and her right to utilize her property, however, they are in a community and can only utilize property with something that does not unreasonably interfere with the rights of the neighbors in the zoning district. In his opinion and in the opinion of the Chief Building Official, this skateboard ramp is a big structure. He felt it was a shame that the skateboard park that the City used to have had to close for a number of reasons. He was unsure what the solution was for this.

Mr. Sponseller explained to the Commission what the three choices were this evening regarding this appeal. They could affirm the order of the Chief Building Official and deny this appeal. They could modify the order of the Chief Building Official and grant approval of the appeal or they could grant the appeal in its entirety and reverse the order of the Chief Building Official. He stated that this body has historically tried to find compromises and has tried to "cut the baby in half" so to speak but sometimes when this is done, you end up with no baby in the end. In response, Ms. Sutherland-Wagner said she was willing to compromise.

Mrs. Draves felt that this skateboard ramp was huge and it is right in the backyard. Mr. Rump said it sounded like Ms. Sutherland-Wagner's property was in a unique spot with very few houses directly adjacent to her and he did not see any neighbors here this evening complaining about this. He pointed out that Ms. Sutherland-Wagner has submitted a signed petition from her

neighbors. He asked Mr. Sponseller if the Commission could grant a one-year conditional use for this ramp with the stipulation that soundproofing be done and the ramp be rechecked in one year. Mr. Sponseller answered yes and noted that the Commission has a lot of discretion here.

Mrs. Draves referred to Chapter 201 of the Zoning Code "Permitted Uses in Residential Districts, do not involve operations not in keeping with the character of a residential area and with the objectives set forth in Section 200.1". She felt that the character of a residential area does not include a big monstrosity like this ramp in someone's backyard. She then referred to the code under "Residential District Regulations, to protect residents from nuisances and objectionable influences such as abnormal vehicular traffic" which she pointed out there has not been a complaint about this that she is aware of. However, offensive noises, there have been complaints about this. She continued reading this section and stated that there have been no complaints about noxious fume, odors or dust. She clarified that the one item from this section that relates to this ramp is offensive noises.

Mrs. Draves next referred to Section 604.12 of the Zoning Code, "Yard Area Maintenance, exterior property areas of all premises shall be kept free of debris, objects, materials or conditions that, in the opinion of the Zoning Administrator or the Zoning Administrator's designee, create a health, accident or fire hazard, or are a public nuisance". She said the skateboard ramp creates a potential for an accident. She continued reading, "or a public nuisance, or constitutes a blighting or deteriorating influence on the neighborhood. Broken glass, stumps, filth, garbage, trash" and she did not feel the ramp fell under these. However, she believed the words accident, offensive noises and character of a residential area were huge in this section of the code. She did not find it significant that there were no neighbors present this evening because they could be afraid to speak out in public. Ms. Sutherland-Wagner disagreed that her neighbors were afraid of her.

Mrs. Draves asked Ms. Sutherland-Wagner if she owned the vacant lots on either side of her property. Ms. Sutherland-Wagner stated no, "they are owned by nobody. They are just run down". Mrs. Draves raised concerns regarding someone building houses on these lots someday and Ms. Sutherland-Wagner said their ramp would not affect the new houses because where the houses were located prior to being torn down. Mr. Fay agreed with Mrs. Draves and pointed out that the new houses would be looking down on the ramp in her backyard. Ms. Sutherland-Wagner disagreed and displayed a photograph and explained where the previous houses were located in conjunction with her property. She pointed out a dying tree in the photograph which she said was going to fall on her garage. She said they would not be able to see the ramp unless they were actually on her property which she stated they have no business being on her property anyway. She added that the existing fence is

slotted with green so it hides the ramp and she reiterated that they were going to soundproof the ramp.

As for the accident issue, Ms. Sutherland-Wagner felt that this was only an issue involving her son. They were just being nice letting kids use the ramp and likened it to someone allowing children to swim in their pool. She said that they could stop allowing other people to use the ramp and emphasized that this ramp was their dream. She urged the Commission to allow them to have their dream and reminded everyone that there is nothing in the "rule books" about skateboard ramps and it is time to do something about this.

Ms. Sutherland-Wagner asked the Commission where they should skate if they cannot keep the ramp. The police do not allow them to skateboard in the streets so where are they supposed to skate. She felt the City just cannot say they are not allowed to do this. She said she would never build something that was going to deteriorate her property or offend her neighbors. She reported that she does more for her neighbors than is imaginable and not one of her neighbors was in opposition to the ramp. She pointed out that most of her neighbors did not even know the ramp existed until they received notice of this meeting from the City. She emphasized "that's all I am asking is to work with us. Just let us skateboard. That's all we're asking".

In response to Mr. Rump, Mr. Sponseller explained that the code contemplates minor amenities and it talks about swimming pools, basketball hoops and those kinds of things. He said Mrs. Draves articulated exactly the criteria that the Commission is supposed to look at with respect to an appeal on this matter. They have the authority to reverse, modify or affirm the order of the Chief Building Official.

Mr. Sponseller reported that personally he has real concerns about setting a precedent here. He also realizes that the next item on tonight's agenda is another half-pipe ramp appeal. After visiting the site and also knowing the history of Berea in terms of skateboard parks, he has given thought to trying to compromise here and there. He stated that after listening to the criteria that Mrs. Draves stated earlier and also reviewing the code himself, he felt it was wishful thinking to conclude that this structure makes sense on a residential lot. It is big and you can see it from the street.

Mr. Sponseller said he does realize the impact denying this appeal will have on Ms. Sutherland-Wagner's son and some of their neighbors. The fun and creativity that they display while using the half-pipe ramp, he regrets that the City does not have a place for them to go and skateboard. He stated that his preference is to deny the appeal this evening. He felt that even if they allow this for a short time as Mr. Rump suggested, they will be back here again to revisit this. Sometimes the answer is no because it does not make sense and it sets a bad precedent and he did not believe that a skateboard ramp this size

makes sense in a residential neighborhood. Ms. Sutherland-Wagner asked him what size ramp would make sense and how could they work with the City since there are no guidelines at this time.

Mrs. Draves recommended that they meet with Mayor Kleem who has been very good about doing things in the City and discuss where they could put a skateboard park possibly on the north end. Ms. Sutherland-Wagner suggested they look at the old Roll & Bowl location as a possible indoor skateboard park. Mrs. Draves reminded her that the City used to have skateboard parks and the kids ruined them so it is not like the City did not try. She explained that you can have a basketball hoop in your backyard but you cannot have a regulation size basketball court in your backyard. Mrs. Draves felt that Mayor Kleem would be amiable to putting together a subcommittee to look at this overall.

Mrs. Draves mentioned that from a liability standpoint this is very scary and Ms. Sutherland-Wagner replied that the City is not liable for her son. Mrs. Draves told her that if they approve this tonight the City becomes liable. She agreed with Mr. Sponseller and stated that this sets a precedent but it has opened a whole new door for something that needs to be looked at by the City. She felt that Ms. Sutherland-Wagner could be a "pioneer" to getting something done and she would help her move this to the next level. She suggested that possibly they could transfer the ramp from their backyard to an approved public site that is fenced in. Ms. Sutherland-Wagner said she would like to see an indoor skate park and she recommended that the vacant space at the Rec Center be used for this.

An audience member commented that the Commission keeps bringing up the liability issue but building permits are issued for decks, etc. all of the time and if someone falls off of a deck, the City is not held liable. This is a whole new thing and there are currently no rules for skateboard ramps. In response, Mr. Sponseller pointed out that as the Law Director for the City, in defending the City in such a lawsuit, the possible liability of the City is more remote than the owner of the property but nonetheless, the City would probably be named as an additional party for approving this particular location. This is just one aspect.

An audience member stated that the children in this City need someplace to go and something to do rather than walking the streets, standing on street corners and harassing people driving in their cars. If kids had a place to go and something to do, they would be in less trouble. Mr. Sponseller replied that if the Commission were to say yes to this appeal, this would not eliminate kids walking in the street and harassing people.

An audience member suggested that the City have the owner of the ramp make people using the ramp sign a waiver. Mr. Sponseller said the City is not going to get into the position of making sure there are private waivers signed on private property.

Mr. Fay explained that he wanted to go back to what Mrs. Draves was saying earlier. The City has been open in the past to putting skateboard parks on public property and they met all the requirements from safety, noise, etc. Unfortunately, these were damaged. With the City reviewing the existing zoning code, he did not see why they could not update the code to include skateboard ramps. He said the City is also going through major changes on the north end and the Master Plan is being reviewed both short term and long term so he agrees with Mrs. Draves that this is something to be looked at not just for a limited group but for use by the whole City. He did agree that the children do need something and he did not like them skateboarding on the benches at Coe Lake.

Robert Edwards, 220 Vivian Drive stated that he was the next appeal on the agenda. He said in the past the City built skate parks yet there was nobody there to watch over them. The City has baseball parks and soccer fields with people maintaining them and watching over them. He asked why this was not the case with the skateboard parks. The City let kids come and play at the skateboard parks but had no one maintain or police them. In response, Mrs. Draves said maybe this is why they are talking about possibly setting up an indoor park somewhere within the City. Mr. Fay pointed out that an indoor park could be used year round and Mrs. Draves agreed.

Mrs. Draves reiterated that they need to set up a meeting with Mayor Kleem regarding all of this. Ms. Sutherland-Wagner reported that there is a Berea resident who builds skate parks all over the World. Mr. Sponseller noted that Mayor Kleem is open to just about any suggestion. He is a creative individual and perhaps a real solution citywide can be reached. This, however, needs to be discussed further in a different forum on a different night.

Ms. Sutherland-Wagner said she appreciated the Planning Commission's consideration of this and she urged them to not compare the next appeal to theirs because their ramp is something completely different than the one located at 220 Vivian Drive. These are two separate issues, located in two different neighborhoods and owned by totally different people.

Moved by Draves, seconded by Fay to deny the appeal and uphold the Chief Building Official's (Paul Gilly) order. Vote on motion was ayes: Draves, Fay, Rump, Sponseller, Borowski. Nays: None. The motion carried and the Chief Building Official's order was affirmed.

Mr. Sponseller suggested that they move to Old Business next and then hear the second appeal last this evening.

OLD BUSINESS:

Application #09-09-08

Approval of Revisions to Building Design & Signage

Sunoco Gas/Convenience Store – 871 N. Rocky River Drive, P.P. #361-24-043

Mr. Sponseller read the Administrative Review and pointed out that there have been modifications made to this application. He swore in all parties including the attorney for the applicant, Donald McFadden and Mr. Gertsma and his attorney, Donald Powers.

City Engineer, Tony Armagno, gave an update on what they discussed prior to being called forward. There was a revised plan submitted to the City earlier today regarding some of the issues that were brought up at the last meeting that was about a month ago, at which time this application was tabled. Some of the issues that were addressed in the plan that was submitted were the storm sewer and some of the drainage issues along the west property line. There were some concerns about the sump pump discharging into the swale along Sheldon Road. The applicant submitted new plans which include a storm sewer enclosed system which will drain to the storm sewer on North Rocky River Drive. The sump pump will discharge into that along with all four downspouts on the building and all of the roof drainage will flow into this storm sewer.

Mr. Armagno continued that also included on the revised plan were existing elevations along the south property line. There was some concern brought up at the last meeting on drainage along there. The change in grade will result in the flow of water onto that property to the south. So they have included these elevations and the grading there will remain as existing.

Mr. Armagno also reported that they spoke about other things that were brought up last time. There was concern from the neighboring property owner about the 20-foot high wall along the western property line. It was brought up at the last meeting about placing some arborvitae there. The arborvitae will be placed along the west property line all the way around the building. Also, they have agreed to put some pine trees, crab apple trees and rose bushes along the south property line which will hide the lights from vehicles shining onto the property. It was also agreed that there would be no fence along the west property line.

Donald McFadden, attorney for the applicant, was present this evening. Mr. McFadden clarified that his client (Mr. Allen) was basically here for a modification to materials and a signage application. The modification is to

change the red brick along the three sides of the building, including the back, to split-face block. He reported that they have come to an agreement to make the improvements to the storm sewer and to the landscaping. Mr. Gertsma and Mr. Powers have agreed to the improvements described by Mr. Armagno and in turn have agreed to not object to the modification in materials. He urged the Planning Commission to seriously consider their request and allow them to make this modification. He felt this would be a huge improvement to the site as well as to the City of Berea.

In response to Mr. Sponseller, Don Powers, attorney for Mr. Gertsma, explained that on the plans that they were shown in the hallway, the 2 to 3 foot concrete slab along the western wall would be removed and replaced with soil or some type of gravel to allow the planting of American Arborvitae along the entire back wall which will help shield some of the block wall from the neighboring property. A fence will not be installed along the western property line. In response to Mr. Sponseller, the applicant (Mr. Allen) acknowledged this and stated that he did agree to do this.

Moved by Rump, seconded by Fay to approve the revisions made to the brick building design where a matching split-face block will be used on the side and back walls of the building with the front of the building remaining brick. Vote on motion was ayes: Fay, Rump, Sponseller, Borowski, Draves. Nays: None. The motion carried.

Mr. Sponseller clarified for the record that approval has been given to the modifications that were submitted by the applicant and discussed with the neighbor (Mr. Gertsma), his counsel (Don Powers) and the City Engineer (Tony Armagno) with respect to the drainage, landscaping and lack of fencing along the westerly side of the property, in particular.

Moved by Rump, seconded by Fay to approve the LED monument sign, as submitted. Vote on motion was ayes: Rump, Sponseller, Borowski, Draves, Fay. Nays: None. The motion carried.

Mr. Sponseller read the Administrative Review for the business identification sign that will be installed onto the front of the building. Moved by Rump, seconded by Fay to approve the backlit canopy with a business identification sign onto the front of the new building, as submitted. Vote on motion was ayes: Borowski, Draves, Fay, Rump, Sponseller. Nays: None. The motion carried.

REQUESTS FOR VARIANCE/APPEALS: continued**Application #09-10-01****Appeal to Zoning Administrator's Order to Remove Half-Pipe Ramp****Robert L. Edwards, II – 220 Vivian Drive, P.P. #363-40-036**

Mr. Sponseller read the Administrative Review. Due notification was made on this application pursuant to Section 806.2 of the City of Berea Zoning Code.

The applicant Robert L. Edwards, II, was present this evening. He displayed photographs of his skateboard ramp. He addressed the noise issue and stated that his ramp has never been used outside of noise ordinance times. Normal use is at the earliest 10 a.m. and the latest 8 p.m. His son can use the ramp after school only when his homework is done and time allows. The ramp when in use is no louder than the turnpike that is heard all day long. He reported that his neighbors that live across the street never heard the ramp nor did they know that they even had the ramp until he asked them to sign a petition. The ramp is really only big enough for one rider at a time so that definitely keeps the noise down to a minimum.

Mr. Edwards indicated that when he went around and asked the neighbors to sign the petition, he told them that if they were ever having a family get-together or party, all they would need to do is tell him and he would shut the ramp down so it is not a noise issue for them. When they are riding on the ramp, it is not a constant, non-stop thing. They are back and forth from out in the cul-de-sac, back to the ramp and back and forth the whole time the ramp is open.

Mr. Edwards next discussed the issue of it being a blighting, deteriorating influence to the neighborhood. The ramp is private and it is not open to the public. There have never been or never will be skate parties or large groups of people using it. The ramp will be used by only seven people with most of these being his son and a couple of his close friends. He stated that the ramp is not a permanent structure. He built it in three sections so all he has to do is take the top layer off, undo four screws on either side and then he can move it as needed. The posts that he has are not in the ground. They are for keeping the ramp level.

Mr. Edwards explained that he has always told his son when it comes down to using the ramp and skating, school comes first and skating comes second. Good behavior brings good rewards. His son gets A's in school, is on student council and attends church twice a week. He likes to reward him for his good behavior. He thanked the Commission for letting him voice his opinion on this issue.

In response to Mr. Rump, Mr. Edwards said the ramp is small and is approximately 3-1/2 feet high. It cannot be seen over the fence. He was unsure on how long the ramp is but said it is 12 feet wide.

Brian Rinaldi, 6969 Pearl Road, Middleburg Heights, stated that he grew up skateboarding in Berea and lived in the City of Berea up until last year and he now has a 10-year-old son. He discussed the skateboard parks that were once in Berea. He felt that primarily they were never ruined by skateboarders. They were ruined by the people that came in from outside the City and he compared it to Groza Park, etc. They come in and vandalize the place. They drink and do things they should not do. He stated that for the most part, the majority of the skateboarders always respected the park and were happy they had a place to go. He reported that when he and his son are out in the street skateboarding, they are told to stop. He said there is no place for the kids to skate. He felt skating is a positive thing for the kids to do and his son and Mr. Edwards' son skateboard together. This gives them something positive to do and keeps them out of trouble.

Sarah Woodward, 216 Vivian Drive, pointed out that Mr. Rinaldi does not live in Berea. She stated that she lives next door to Mr. Edwards. She said she checked into what was permitted as far as codes go and it was her understanding that a building permit was not obtained to build this ramp and the ramp is less than 5 feet from the property line. She had a survey done of her property and indicated that the ramp is located very close to her bedroom on that side of the house. She can hear the skateboard wheels when they are using the ramp. She also raised concerns about this ramp being higher than what Mr. Edwards reported. Also, she was concerned that this ramp is very detrimental to her property value. She felt that no one would want to buy her house with a skateboard ramp that close to the property. She stated that the main issue is noise.

Mr. Edwards replied that he made the ramp into three sections so he would be able to move it if necessary. He could move the ramp further from the property line if needed. He reiterated that when they do use the ramp, it is within noise ordinance times. He said it is not an offensive noise and repeated that it is no louder than the turnpike that is next to their homes. When only one person is riding on it, it does not make a lot of noise. He said he could complete the soundproofing by boxing off the ends of the ramp but as Ms. Sutherland-Wagner noted earlier, he stopped putting money into the ramp when he received the letter from the City.

Ms. Woodward reported that the ramp is used by children, young children and also by adults. In response, Mr. Edwards explained that there are only seven people who have ever used his ramp. Heidi Edwards, 220 Vivian Drive replied that only three children have ever been on the ramp and they use helmets and pads. The adults use the ramp most of the time. She said they

have strict rules in their house and the ramp is not being used at night so she does not understand how the noise affects Ms. Woodward's bedroom.

Mr. Sponseller stated that this is really a tough decision to make. He applauded them for trying to take care of their kids and also help the neighbors. He agreed that there was no place for the kids to go and commended the idea to get a meeting with the Mayor about this. He again went back to the issue of a precedence being set contrary to what he thought the code really allows. He felt that they have to respect the impact this has on the neighborhood just as the Chief Building Official stated in his letter.

Mr. Sponseller said they have to look at this in two fronts. One is politically to see if there is funding available and if it makes sense to provide a place for these kids to be able to skateboard. The second order of business is to specifically address this issue when the zoning code is being reviewed in the next 12 to 14 months. Mr. Sponseller reported that he agrees with the Chief Building Official on this and does believe that the ramp impacts the neighborhood and that it is a structure. Mr. Edwards replied that you cannot even see the structure from behind the fence and asked if they could apply one of the other three options that they talked about earlier. Mr. Sponseller pointed out that he was just speaking for himself but has been thinking about this for a few weeks. He was not looking forward to having to make this tough decision.

Mr. Sponseller said he did not feel good about this decision but felt it was the right thing to do. He promised Mr. Edwards' son that they will talk about this and figure out if there is a reasonable solution. In response, Mr. Edwards asked what steps they would need to take to actually get this started because he did not think it was fair to his son that he does not have the opportunity to skate while other kids are playing basketball, baseball, football and they have places to go to do these things. He said his son does not have a place to skate and he is only 8 years old and too small to really go to the bigger parks where the bigger kids are.

Mrs. Draves pointed out that it is wintertime now so this is a good point to be discussing this issue. It is wintertime so over the next three to four months kids will not be using the baseball fields, etc. because we are in Berea, Ohio. She said this was in their favor right now. She reiterated that she will call the Mayor's office tomorrow and set up an appointment to discuss this and put together a group to do something about this. She said knowing the way that Mayor Kleem has worked on things in the past and how he promotes community and activities for children, she felt that by the time the weather is nice again, he will have figured something out some way or another.

Mr. Fay added that apparently there are more people in the community as Ms. Wagner stated earlier, that are interested in this. Getting this group together as one voice in support of skateboarding is important and the potential of getting something available through the City should be very good.

Ms. Sutherland-Wagner asked what they should do with their ramps in the meantime because she was told to tear hers down. In response, Mr. Sponseller said yes, her ramp has to come down. Mrs. Draves questioned what she would do with the ramp anyway during the winter weather months and Ms. Sutherland-Wagner stated that it can be treated with preservatives like what is used on ramps at outdoor parks. She felt these ramps could be used indoors.

Mr. Sponseller indicated that the order of the Chief Building Official is to remove the ramps. Ms. Sutherland-Wagner acknowledged this and said right. Mr. Sponseller pointed out that what makes this complex is these are hard financial times. Finding a location and monitoring, these are all things that will need to be discussed when they meet with the Mayor. Mr. Fay suggested that this issue be brought up to the Community Development Corporation as well, as there may be funds available in the future. Mr. Edwards stated that he definitely would like to attend the meeting with the Mayor and he gave his telephone number to Mrs. Draves.

Mr. Rump thought that they should also discuss the comment that was made earlier that "it wasn't the skateboarders that ruined the park" and he asked Mr. Gilly to address this. Mr. Rump noted that the skateboarders would need to police the park themselves and blow the whistle on someone who is destroying the property.

In response, Mr. Gilly explained that a concrete skate park was originally built where the Coe Lake pavilion now sits. This park was protected by a security camera that was kept in the police station at all times. There never was any vandalism at this location. Mayor Trupo decided to build the pavilion at this location and they removed the skateboard park. In the meantime, a new mayor came into office and decided to put the skateboard park behind the Water Plant. The metro parks protested this location because it is dark and in a place where they could not protect it and now there is a security fence in place. Mr. Gilly reported that it was children and adults from other cities that were using the skateboard park and causing all of the problems. They were throwing beer bottles, littering and damaging the park.

Mrs. Draves pointed out that there is a huge age disparity in individuals who will be using the skate park as seen tonight with Ms. Sutherland-Wagner's son being in his 30's and Mr. Edwards' son only being 8 years old. These issues will need to be addressed also and they need to start talking about all of this if they are going to get anywhere.

Mr. Rinaldi felt that if size was an issue that there should be some type of an exception for smaller sized ramps being allowed in yards so children can skateboard safely at home, especially the young kids so they are under supervision. He said skating is something the kids like to do on a daily basis like children who play ball in their yards, etc. He felt that they should be able to skateboard in their yards to some extent and said except for the noise, it is not really much different than any other yard activity.

Mr. Sponseller explained that under the City code, there is what is called a minor amenity. He told them that they would have to get approval for a minor amenity from the City's Building Department. Mr. Edwards said he would have a lot of wood from the ramp when he removes it and he would like to build smaller things for the kids to ride on with their skateboards.

Mr. Sponseller reiterated that there are two fundamental issues here. One is the visual impact that something has on a neighborhood and the other is the noise. It cannot become a nuisance as well. He told Mr. Edwards that he does have a right to utilize his backyard but there are reasonable restrictions that the law allows the City and neighbors to oppose which is for everyone's benefit. He once again told Mr. Edwards to run his ideas through the Building Department to see if they qualify as a minor amenity. Discussion ensued.

Moved by Rump, seconded by Fay to deny the appeal and uphold the order of the Chief Building Official. Vote on motion was ayes: Draves, Fay, Rump, Sponseller, Borowski. Nays: None. The motion carried. Mr. Sponseller thanked everyone for their input this evening. He announced that the appeal has been denied and the order of the Chief Building Official has been affirmed.

OTHER BUSINESS: None.

ADJOURNMENT:

There being no further business to come before the Planning Commission, moved by Rump, seconded by Fay to adjourn. Vote on motion was all ayes; no nays. The meeting was adjourned at 9:30 p.m.

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

Gregory Sponseller, Acting 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 15th day of October, 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