MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

December 7, 2017

A. Call to Order – 7:00 p.m.

1. Roll Call - the following members were present: M. Coulter; B. Seitz; L. Reibel; and C. Crane. Also present were D. Phillips, Chief Building Inspector, L. Brown, Director of Planning & Building, and T. Lindsey, Law Director. DJ Falcoski was absent.

2. Pledge of Allegiance

3. Approval of minutes of the November 2, 2017. Mr. Coulter moved to approve the minutes, seconded by Mr. Seitz. All members voted "aye" and the minutes were approved.

4. Affirmation/swearing in of witnesses.

B. Items of Public Hearing – Unfinished

1. Parking Lot in C-5 & Variances – Lot Modifications & Directional Signage – **41 W. New England Ave.** (New England Development Co.) **BZA 46-17**

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is in the C-5 district. Parking is not required but if provided must be approved by the Board of Zoning Appeals. Directional signs are limited to a maximum height of 36 inches above the ground.

2. The applicant is proposing to expand the existing 6 space parking lot to 12 spaces, and provide 4 tenant parking signs at 48 inches above the ground. The requested variance is 12 inches.

3. The parking must comply with the *Ohio Building Code* and a correction letter has been provided to the property owner. It is anticipated the proposed parking will have to be modified to comply with the building code. Any variances from the building code must be granted by the Ohio Board of Building Appeals.

4. The property is subject to, and the parking and directional signs have been approved by, the Architectural Review Board.

The following conclusions are presented:

1. The requested variance is not substantial.

2. The essential character of the neighborhood should not be substantially altered.

3. The delivery of governmental services should not be affected.

Discussion:
Mr. Kevin Rohyans, 8 Sessions Dr., Columbus, explained where the additional parking would be located on the site, and explained the need for the additional parking and signage. Ms. Crane asked if there was anyone who wanted to speak for or against this application.

Motion:
Mr. Coulter moved:

THAT THE REQUEST BY NEW ENGLAND DEVELOPMENT CO. AND SNOW HOUSE FOR APPROVAL OF OFFSTREET PARKING IN THE C-5 DISTRICT, AND A VARIANCE FROM CODE REQUIREMENTS FOR SIGNAGE, AS PER CASE NO. BZA 46-17, DRAWINGS NO. BZA 46-17 DATED OCTOBER 30, 2017, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Ms. Reibel seconded the motion. All members voted, "Aye", and the motion was approved.

2. Variance – Side Setback & Accessory Building Area – Addition, Garage, and Fence – **158 Medick Way** (Nicholson Builders Inc./Gasser) **BZA 47-17**

Mr. Coulter moved to remove the item from the table, seconded by Ms. Reibel. All members. See comments below.

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is an existing lot of record in the R-16 district with a front yard requirement of 30 feet. Corner lots are permitted to reduce the adjacent side yard to 20 feet. Total accessory building area is limited to 850 square feet. Fencing is not permitted between right-of-way and the building line and cannot exceed 6 feet in height.

2. The applicant is proposing to reconstruct and add onto the existing, attached garage. The expanded garage will measure 22 feet by 22 feet. A new 22 foot by 22 foot detached garage is also proposed. Both garages are proposed 18 feet from the Evening Street right-of-way. The requested side setback variance is 2 feet.

3. Both the garages total 968 square feet in area. The requested accessory building area variance is 118 square feet.

4. Variances were granted on September 12, 2008 to allow the current fence within the side yard setback.

5. The applicant further proposes to construct a fence approximately 13.5 feet from the Evening Street right-of-way. Although the majority of the fence is 4.5 feet tall, 2 stone pillars about 5 feet tall with a light fixture atop it raises it to approximately 7.5 feet in height. The requested variance is 6.5 feet for side yard setback and 1.5 feet for fence height.

6. The property is subject to, and the project has been approved by, the Architectural Review Board.

The following conclusions are presented:

1. The existing garage addition disrupts less of the outdoor living area being east of the existing garage and into the side yard than if expanded to the west. The new garage then aligns with the expanded garage, and should be far enough away from an existing tree to not harm it. The expanded and new garages have their overhead doors facing each other to minimize the visual impact from Evening Street. The requested 2 foot variance request is not substantial.

2. The fence with the motorized gate is an open style and mostly 4.5 feet tall. This mitigates the substantial nature of the side yard setback variance.

3. The 2 stone pillars with the 2 light fixtures cause that portion of the fence to exceed the 6 foot maximum height, otherwise the height of the lighting fixtures is not substantial.

4. The essential character of the neighborhood should not be substantially altered.

5. The delivery of governmental services should not be affected.

Discussion:
Applicant was not present at the meeting. Ms. Reibel moved to table the meeting, seconded by Mr. Seitz. All members voted, “Aye,” and the application was tabled.

Mr. Brown interrupted the meeting to point out that the applicant arrived, and asked if the Board would you be willing to hear the applicant's request at this time. (Applicant arrived at 7:15 p.m.)

Ms. Crane asked for a motion to remove the item from the table. Mr. Coulter made the motion to remove the item from the table, seconded by Ms. Reibel. All members voted, "Aye," and the application was now up for consideration.

Britton Meyers, 5473 Rockwood Road, Columbus, said the motive for the side yard variance was to make the garage larger to be functional for two vehicles, and they also would like to move the garage further away to save a tree. Ms. Crane asked if the current fence already had a variance and Mr. Phillips replied, yes, the current fence already has a variance, but the applicant has proposed additional fencing with a motorized gate and needs a new variance. Mr. Brown commented that City staff worked with the applicant on the location of the garage addition and the detached garage, and mentioned that the staff asked for the tree to be protected and pushing the garage location into the setback would help to preserve the tree. Ms. Crane asked if there was anyone to speak for or against this application.

Motion:
Mr. Coulter moved:

THAT THE REQUEST BY BRITAIN MEYERS AND JANICE GASSER FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE SETBACK AND TOTAL ACCSSORY BUILDING AREA TO CONSTRUCT AN ADDITON TO AN EXISTING ATTACHED GARAGE, CONSTRUCT A DETACHED GARAGE, AND ERECT A FENCE AT 158 MEDICK WAY, AS PER CASE NO. BZA 47-17, DRAWINGS NO. BZA 47-17 DATED NOVEMBER 9, 2017, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Seitz seconded the motion. All members voted, "Aye," and the motion was approved.

3. Variance – Front and Rear Yard Setback – Addition – **261 E. Selby Blvd.** (Nathan & Kate Wasson) **BZA 48-17**

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. This property is an existing lot of record in the R-10 district with a required front and rear yard of 30 feet.

2. The East Selby Boulevard right-of-way is 100 feet wide at this property.

3. The applicant is proposing to construct a 41 foot long by 5 foot and 16 foot wide, single story addition, 25.9 feet from the East Selby Boulevard right-of-way and 8.6 feet from the rear property line. The requested variances are 4.1 feet for front yard setback and 21.4 feet for rear yard setback.

The following conclusions are presented:

1. The exceptionally wider than typical 50 foot right-of-way for this portion of the street and the existing dwelling located 8.6 feet from the rear property line create practical difficulties when attempting to construct an addition. In this particular case, the 100 foot right away reduces the visual impact of the encroachment into the front setback and the 5 foot wide addition proposed at the rear is modest. These factors mitigate the substantial nature of the front and rear variance requests.

2. The essential character of the neighborhood should not be substantially altered.

3. The delivery of governmental services should not be affected.

Discussion:
Nathan Wasson, 261 East Selby Boulevard, said he has difficulty with mobility and using stairs and that is why they need the addition on the main level instead of adding a second story to the house to meet the setbacks. Ms. Crane asked if there was anyone present who wanted to speak for or against this application.

Motion:
Mr. Coulter moved:

THAT THE REQUEST BY NATHAN & KATE WASSON FOR A VARIANCE FROM CODE REQUIREMENTS FOR FRONT AND REAR SETBACK TO CONSTRUCT AN ADDITION AT 261 EAST SELBY BOULEVARD, AS PER CASE NO. BZA 48-17, DRAWINGS NO. BZA 48-17 DATED NOVEMBER 9, 2017, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Seitz seconded the motion. All members voted, "Aye," and the motion was approved.

4. Appeal – Decision of Chief Building Inspector – **595 Fox Lane** (Steffanie & John Haueisen) **BZA 49-17**

Mr. Phillips reviewed the staff memo:

Findings of fact:

1. Parcel 100-000757, also known as 595 Fox Lane, was transferred from Lewis Thomas Comer, trustee and Debra Ann Comer, trustee to Robert W. and Deborah M. Tucker on February 24, 2017.

2. Permit 23526 was issued on July 14, 2017 to construct the foundation of a single family dwelling on the property. Not approved at that time were 3 window wells encroaching into the north side yard, and an attached garage that exceeded the 850 square foot permitted by the zoning code.

3. On September 7, 2017, the Board of Zoning Appeals granted variances for the 3 window wells and the larger garage. At that time the Board found 595 Fox Lane to be an existing lot of record with a minimum side yard requirement of 6 feet.

4. On September 27, 2017, Jerry L. Graves, Building Inspector, inspected the footing at 595 Fox Lane.

5. On September 28, 2017, Steffanie Haueisen called Donald L. Phillips, Jr., Chief Building Inspector, alleging 595 Fox Lane was not an existing lot of record and an 8 foot side yard is required for that property.

6. On October 2, 2017, Mr. Phillips rendered a decision that 595 Fox Lane was created on July 30, 1940 as Lot 2 of the Forrest R. Detrick Subdivision. On or before January 24, 1950, 595 Fox Lane's current lot dimensions were established. Existing on December 13, 1971, the lot was determined to be an existing lot of record with a 6 foot side yard requirement.

7. On October 20, 2017, Steffanie and John Haueisen filed an appeal of this decision. In their appeal they listed 3 properties in common ownership on December 13, 1971, including 595 Fox Lane. The other 2 properties are Parcel 100-000741 also known as 599 Fox Lane and Lot 1 of the Forrest R. Detrick Subdivision, and Parcel 100-002199.

8. Parcel 100-002199 was created on January 22, 1960 by Kilbourne Realty Co. from 3 lots in the Kilbourne Village #2 Subdivision, measuring 337.78 feet in width and 8 feet in depth, and transferred to Gerald M. and Nancy G. Gerhart. At

that time, Mr. & Mrs. Gerhart owned the 2 Fox Lane parcels and continued to own all 3 parcels until September 1, 1988.

9. Worthington Ordinance 1123.48 defines a lot as a portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for building development.

10. Worthington Ordinance 1149.08 reads, in part, "If three or more contiguous lots are owned by the same person, firm or corporation at the time of the adoption of this Zoning Ordinance, such lots shall be considered to be an undivided parcel of land for the purpose of this Zoning Ordinance, and no single lot or portion thereof shall be used in violation of the dimensional requirements of Sections 1149.01 and 1149.02."

11. Section 1149.01 requires a minimum lot width of 80 feet, minimum lot area of 10,400 square feet, a minimum 8 foot side yard, and the minimum sum of the 2 side yards of 20 feet.

12. Worthington Ordinance 1151.03 reads, in part, "If three or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance (Ordinance 51-71, passed December 13, 1971) and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Zoning Ordinance, and no portion of such parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Zoning Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance."

13. 595 Fox Lane is 68.83 feet in width, 599 Fox Lane is 73.9 feet in width, and neither comply with the lot width requirement of 80 feet. Parcel 100-002199 is 2,702.24 square feet in area and does not comply with the lot area requirement of 10,400 square feet.

14. All three lots not meeting the lot width and area requirements of the zoning code are considered an undivided parcel of land and no portion shall be used or sold in a manner which diminishes compliance with lot width and area, or creates a lot width or area below the requirements.

15. With this new information, Mr. Phillips revoked Permit 23526 on October 24, 2017.

The following conclusions are presented:

1. It appears Parcel 100-002199 is an 8 foot strip of land with a utility easement preventing any development, carved from the subdivision to the north to possibly prevent Fox Lane from being extended to the north to present day Blandford Avenue when the Kilbourne Subdivision was being developed in the late 50's and early 60's. This parcel was not combined with 599 Fox Lane and as a result, 3 substandard lots were in common ownership in December 13, 1971 and is therefore is a single undivided lot. Worthington staff not being aware of this 8 foot strip of land, and the Franklin County Auditor allowing the 3 lots to be separately listed resulting in the sale of one of the lots, made an error in determining 595 Fox Lane was an existing lot of record.

2. Restrictive covenants, also known as deed restrictions, are not enforceable by the City of Worthington and must be resolved between the parties.

Discussion:
Ms. Crane asked about the timeline for receiving these two applications. She asked why this Appeal was coming before the Board and why they needed to vote on this matter. Mr. Phillips replied his first decision may have been correct and his second decision could have been wrong about the revocation of the building permit. Mr. Coulter asked if the title company had been contacted yet or have they offered an opinion yet and Mr. Phillips said he did not know the answer to the question. Mr. Coulter asked Mr. Lindsey if he had an opinion. Mr. Lindsey said both parties are represented by counsel and there is also a second related Appeal. He said while there are two separate appeals that the members will eventually have to vote on, it would make sense to have both matters heard simultaneously. Both parties should present the arguments they have regarding the Code provision which deems the three lots to be a single lot, assuming the factual representation, and how the Building Official came to the conclusion that if in fact this was a single lot in 1971 then the setback would have been 8 feet and not 6 feet. The setback issue has come before the Board because of the decision of the Building Official. Staff has made their original determination, and the BZA Board was part of the decision for granting a variance in September which based on the indication this was a single and separate lot and the documentation showed a six foot setback. Mr. Lindsey said he did not want to take a position either for or against either party because they are represented by counsel. Both sides need to present their arguments because ultimately this is a question as to the transfer of the property between the Comers and the Tuckers and the involvement subsequent to that and the Board's decision. Mr. Coulter asked if the question boils down to whether there is an 8 foot setback or a 6 foot setback and Mr. Lindsey said yes, and the decision made by the Building Official with the information that was provided. The first Appeal deals with the 8 foot or six foot setback. Mr. Seitz asked for clarification related to the revoking of the building permit and Mr. Lindsey said the neighbors believed the setback was closer to their property line than they suspected

and did they not realize that until the foundation was built. Mr. Coulter stated that the property owner and builder were under the assumption that their project met the building code requirement for setbacks, besides the window wells which this Board previously approved a variance.

Ms. Crane asked if the applicant was present. Ms. Sandy Dickenson said she was an attorney representing her clients John and Stephanie Haueisen for the Appeal. Her address is 2570 Summit Street in Clintonville. She said her neighborhood is similar to that of the neighborhood of the Haueisens in that her area was platted in 1900 as the Indianola Parkview Addition which was one of the first suburb of Columbus and her house was built in 1905. She said she mentioned that because she lives in a historic neighborhood herself and has a personal affinity to what happens to historic neighborhoods near her. Ms. Dickenson said the most important question to be answered was how close somebody can build a house next door to them. She said the staff Memo explained Worthington's Zoning Ordinance and the provisions that applied to this matter very clearly, but based up the questions just raised by the Board members, she asked what counts as an existing lot and whether there is a 6 foot or an 8 foot side yard setback to be applied to this new home construction. When the Building Inspector issued his first decision on October 2, 2017, that is the decision that confirmed the lot known as 595 Fox Lane was an existing lot and was entitled to the 6 foot side yard setback exception established in the Code. She said her client is appealing the first decision by the Building Inspector, that this was not an existing lot of record and entitled to a 6 foot setback. The lot known as 595 Fox Lane does not qualify as an existing lot at the time, according to the Zoning Code, of the adoption of the Ordinance in 1971, and this property is not entitled to a 6 foot side yard setback. This lot was owned by the same owner since 1960. She said the basis of determining whether a lot is an existing lot, or not, depends on the interpretation of the expressed language of the Ordinance. The language says, "A lot existing at the time of adoption," and the Building Inspector's initial determination in October 2, 2017, was based on the fact that there was a lot created in 1950 with the same dimensions. Lot number two was transferred to Gerald Gerhart in 1953. Lot number one was transferred to Gerald Gerhart in 1949 and lot number three, the strip to the north was transferred to Gerald Gerhart in 1960. So as of 1960, Gerald Gerhart, the same person, owned all three contiguous lots. At the time of the adoption of the zoning ordinance, if there were three contiguous lots, owned by the same person, they should be considered as one undivided lot for purpose of application of the zoning ordinance and the side yard setback and required to meet an 8 foot setback as adopted in the Ordinance in 1971. Ms. Dickenson said her clients would also like to have a chance to speak.

Mrs. Stephanie Haueisen, 587 Fox Lane, said her family has owned their home since 1958 when she was 11 years old. She grew up in the house she still lives in, and her neighbors were her friends and family, and even as a child she enjoyed working in the yard. Mrs. Haueisen said she remember so fondly after working outside in the hot sun

one of the ladies usually across the street would come over for tea and cookies and chat time in her backyard. Both of Mrs. Haueisen parents worked all of the time so the neighborhood ladies sort of adopted her and they took turns sharing their lives and stories with her and became her other moms. Mrs. Gerhart at 599 Fox Lane, the original owner of that address, was really a special person. She taught Mrs. Haueisen how to make jam and jelly in her kitchen and they always had a garden in their big yard. Frequently her husband, Shug, went turkey hunting in southern Ohio with her father. Everyone called him Shug, which was short for sugar, because Mrs. Gerhart did. When the other side of Mrs. Gerhart's property was going to be developed they were going to call it Kilbourne Estates. She said the area was a short cut to State Route 161 and the community swimming pool where she used to spend her summers. She said Shug told her Fox Lane was going to be developed so people would be able to drive through the short cut. Shug was a very rich man, he owned a steel company and an island in Canada, but lived simply in his small home. She said most of all, Shug liked the peace and quiet of the neighborhood. This was at a time before homes had air conditioning and Shug liked to have the windows open in the evening, but the area would not have been quiet with so many cars driving past. She said he purchased three of the newly platted lots north of Fox Lane along with creating an eight foot strip in between the houses and lots. Then the three lots were divided into two, and had the two largest homes in Kilbourne Estates built there blocking off any access to Fox Lane and keeping the eight foot strip attached to our lanes, the lanes are private, and wanted to keep it that way. She said she learned from Shug the importance of protecting property rights and respecting tradition. Over the years, she said she got to know his daughter and her husband. The three women who were like her mother gave her a wedding shower in 1971. Big green trees, and big green spaces everywhere. After the Gerharts passed away, their granddaughter Rebecca lived in the house and even though they did not know them well, they still put out Mrs. Haueisen's mother's trash for her. She said she always enjoyed reading in the backyard which was full of trees swaying and the river in the background. She married her husband in the back yard in 1971, surrounded by her family, friends, and other moms. Her father passed away within a year, so they lived for another year with her mother to help her through difficult times. Her mother passed away in 1998, and they moved back to the house on Fox Lane in 2000 after living in Colonial Hills for years and taking care of her mother's yard. Mrs. Haueisen also said she serves as a volunteer with the Worthington Historical Society, and other organizations. On the Fourth of July, they invite friends to watch filtered fireworks through the trees and watch the river. She said they love their special neighborhood because the neighbors are just as kind as the neighbors she grew up with. Mrs. Haueisen said she had to protect her own property when the Ohio Department of Natural Resources (ODNR) wanted to declare the Olentangy River going through Worthington a "Scenic River" but with that designation, according to the Ohio Code, the ODNR would have had "dominion of 1000 feet of the banks of the river and all of its tributaries and more. She said their private land would have been confiscated, so they organized a campaign and saved the river. Ms. Crane

politely interjected that we needed to get back on track to the issue at hand. Ms. Haueisen stated that this past year the property next door to her was sold to the Tuckers. Mrs. Haueisen said Mr. Tucker knocked at her door and introduced himself as the new neighbor. She was surprised the lot had been divided but was accepting and figured the lot would have a house on it at some point. Mrs. Haueisen said she expected the new house to be built would be consistent with the other homes built on nearby lots in the neighborhood.

Mrs. Haueisen saw the sign posted for the hearing in September of 2017 for the Tuckers new home. Prior to the hearing she said she went to the City's Building & Planning Department to ask about the hearing. She was told that the variance request was for the north side of the lot and would not affect her property. She was also told the side yard setback to the south side of their property, next to her property, was 8 feet and met the zoning code requirements. Mrs. Haueisen said she trusted the information she was given and the structure would be 8 feet from her side yard so she did not attend the variance hearing. She and her husband were okay with 8 feet, but knew the house would be closer than any of the other homes in the area. Next, the footers were dug and by the placement of the rebar sticking up, the house looked closer than 8 feet. Mrs. Haueisen said she went out to measure the distance and the measurement was approximately 6 feet plus. She said she called the Building Inspector to ask about it and was told for the first time that since this was an existing lot the side yard setback could be 6 feet. She explained the lot was not an existing lot until February of 2017. Mrs. Haueisen said Mr. Phillips, the Chief Building Inspector, told her the steps she would need to take to file an Appeal regarding the 6 foot side yard setback. She filed her Appeal on September 29, 2017, and said she has lived in the area for a total of 33 years and she can still see her mom and dad and the other moms on how they enjoyed the open space.

Mrs. Haueisen said she believes she and her husband have a right to defend the enjoyment of their house and their yard. She is committed to the quality of life for everyone in their neighborhood and expects any new buildings to respect the open greenspace that has been characteristic of the neighborhood since it was established in 1940. She said defending her property rights and the rights of her other neighbors has been very stressful. Mrs. Haueisen said they live on a fixed income and this issue has been very difficult for her, but worth the trouble. When Mrs. Comer asked her husband what his goal was for this Appeal, her husband replied he would like the wall to be moved back because the new house is too close to their house and that is all they are asking for.

Mr. John Haueisen, 587 Fox Lane, said he wanted to explain why there should be an 8 foot setback is important. Ms. Crane explained the Board members were charged with deciding whether the Tuckers property was one lot, two lots, or three lots. Ms. Dickenson agreed and said yes, they are deciding whether this is one, two or three

contiguous lots that constituted the existing lot in 1971, and not entitled to the 6 foot setback. Ms. Crane asked Ms. Dickenson if the lots are entitled to be subdivided. Ms. Dickenson said the property has already been subdivided and she is not contesting that. Ms. Crane said she was confused and asked for clarification from City staff. She asked if older lots were given 6 foot setbacks and if newer lots were required to have 8 foot setbacks. Mr. Phillips replied any lot that existed in 1971 and was fifty feet or wider, is an existing lot of record and has a 6 foot setback requirement. She asked where the 8 foot setback came from. Mr. Phillips replied and referred to Chapter 1149.01 of the Codified Ordinances, which is a table. If a person is subdividing property you have to have a minimum of an 8 foot setback and the sum of the two side yards have to equal to 20 for new subdivisions. Mr. Brown explained that was from 1971 going forward. Mr. Phillips said when this lot was split off there should have been 8 foot side yard setbacks if it indeed was considered a new lot being created. Ms. Crane asked about Mr. Phillips most recent decision, which was the Appellant was correct, this is one lot, therefore, if they are to use the lot as a separate lot it would have to meet the 8 foot side yard requirement. Ms. Crane asked if there were any other questions or comments for the attorney before moving on. She asked if there was anyone else who wanted to speak. Mr. Haueisen said the Tucker's side yard should have been 8 feet to comply with Worthington's Zoning Code law. He wanted to quickly discuss the neighborhood and said he first heard about the Dietrich Subdivision from Jane Truxess, who was the late curator of the Worthington Historical Society and the historian of their neighborhood. He wanted to show some photos graphs of the other houses in the subdivision and how most of the houses have far more than an 8 foot setback. Ms. Crane said the setback question will be resolved if they decided whether the lot is one lot. Ms. Crane asked if there was someone present who was representing the Tuckers.

Mr. Donald Plank said he was the attorney representing the Tuckers. He said procedurally, he was not in disagreement. Once the Building Official revoked the building permit the Appeal became moot. His clients' Appeal is the decision of the Building Inspector. He was not sure how to separate the two appeals because the information is the same, but there were some things that still needed clarification as to what was said and moving forward. He said all of the lots were created before 1971, and there has not been any re-subdivision. These lots are on the County Auditor's website, there are two lots and one strip of land. Mr. Plank said without going into his presentation he was not sure how Ms. Crane wanted to proceed. He said he thought the facts meshed. Ms. Crane said she would like to proceed with this particular issue first and then move into his clients' issue which is an Appeal of the removal of the building permit. Mr. Plank said except for a finding in the first Appeal affects his Appeal. He said if the Board members find there were three lots, then his Appeal says there are only two lots and one strip of ground. Mr. Seitz said he would like to hear more from the City's Law Director.

Mr. Lindsey said the two Appeals are so intertwined that in an ideal world there would have somehow been one Appeal but because of the action taken and how this progressed between a variance granted, permit issued, construction started and an observation of what appeared to be a setback issue, a staff determination of that issue, and an Appeal of that determination and a reversal by staff of that determination while that Appeal was still pending and is before the Board tonight and meanwhile based on the reversal by staff as to that determination and the appropriate setback. Then there was the subsequent Appeal related to that. While the first Appeal is primarily concerned with the setback, and that was already stated, and counsel has already indicated they are not debating whether this is one lot that can be sold for the purposes of building and seem to acknowledge something might be built there. Their only concern is the setback. Mr. Lindsey said for the purposes of the second Appeal the issue is a broader one. Is this a single lot, two lots or three lots? If this is a single lot by operation of the city's Code then not only is there a setback issue there are other factors that weigh into that in terms of its buildability for multiple residential structures. It may boil down to whether or not the 8 foot strip was really a lot. He said it would be beneficial to hear the arguments from both sides, and then once the Board has heard those they should rule on the first Appeal and then rule on the second Appeal.

Ms. Crane said she thought if the Code read that there were three adjacent lots owned by the same person at that point in time it was to be considered to be one lot and if you divided it you could not do so under the old grandfathered lot restrictions and you had to have 80 foot frontages, certain area and they had to meet new setbacks. Ms. Crane asked for clarification if there was a question of whether the 8 foot strip was actually a lot. Is this actually a viable lot. Mr. Lindsey said he believed that is a question that Mr. Plank intends to raise. The information the Haueisens presented was viewed by City staff as possibly being three lots. If Mr. Plank is questioning that determination as part of his Appeal then that is important for the Board to hear that argument before making their determination of the first Appeal. Mr. Lindsey said he would like to hear Mr. Plank's presentation. Mr. Coulter said he had a couple of questions before moving forward with Mr. Plank's presentation for Mr. Phillips and Mr. Lindsey. He said he was looking at a drawing dated 1940 where the original plat showed a record of three lots he assumed were recorded in Franklin County and asked if at any point in time have those three lots been legally combined into a single lot or are they still recorded at Franklin County as three separate lots, perhaps under a single owner, or more than one owner. He wanted to know if these were three individual lots. Mr. Phillips replied yes they are three separate parcels. Mr. Plank said the plat had been subdivided multiple times, some lots were combined, and the subdivision no longer looks like that. Mr. Coulter said that lead to his second question. He asked if the three lots had changed their dimensions and if so, what date did that occur. Mr. Plank said yes, the lots have changed. Mr. Seitz asked to see on the map where the two lots and the strip of land were located. Mr. Phillips explained where the lots were located, and said in 1950 or 1953 the lot lines were moved around.

Lot one is no longer 87.5 feet, it is now approximately 68 or 78 feet. Mr. Phillips was interrupted by the applicant's attorney. Mr. Phillips states that lot one's property line was moved to the north and lot two's property line was also moved to the north. Lot number two is 595 Fox Lane. The 8 foot strip was not even part of this subdivision. The 8 foot strip belonged to the subdivision to the north, and was not considered to be part of the subdivision. Mr. Coulter asked for confirmation that these parcels were created prior to 1971. Mr. Phillips replied yes.

Mr. Plank said more than just an Appeal, they are trying to come to a resolution. He said his client has done everything right. He filed his building permit, the city reviewed that, and came to the conclusion that there were 6 foot setbacks. His client applied for variances for the six foot setbacks and provided notices to everyone and began building the house and here they are today. He said from a general objection, if you take a look at what really has happened the first action of the Building Official was the issuance of the building permit in July 2017. The Haueisen's objected to the Building Officials decision some ninety days after the original permit was issued. Mr. Plank said from his position on the record there is a twenty day Appeal time in the Worthington Code and they have by far missed that. The Appeal time was extended for the building permit for which his client relied and built on for ninety days, that is just for the record. He said the other thing he would like to point out, the Haueisens, the Appellants, are attempting to deny his client the very right that they have, their lot likewise was created before 1971. It is a substandard lot. They can build within 6 feet of the side yard setback. They have that right. So, when talking from an equity standpoint, they are asking his clients to give up something they have a right to.

Mr. Plank said we are really talking about two feet, is this going to be a 6 foot setback or an 8 foot setback. He said there are consequences to the decision if these are three lots versus two lots and a parcel. The parcels go beyond the 6 or 8 foot issue. It goes into the lot size, and could be that there are two houses on one lot if that is the decision. He said there are a lot of implications that there are three lots. There were exhibits to show the cost of complying with the 6 foot to the 8 foot, by removing the foundation of the building is $50,000.00 dollars ($47, 990.00 to be exact). Mr. Tucker could testify that is just for the removal of the wall and replacing the wall the total amount would be $75,000.00 dollars. Mr. Plank said what their request would be is one that they uphold Mr. Phillips original interpretation of the Code and that is there were two lots and therefore the 6 foot setback applies. In the alternative, we would like the Board to issue a variance to the lot size so that his clients can build as the building was planned, designed, building permits approved, variances granted, and construction had already started. Mr. Plank said his legal argument for the lot, parcel number 100-002199, 8 foot times 408 feet is not a lot as defined in the Code. Mr. Plank said if his clients came to him beforehand, he would have told them yes. He would have had the same conclusion as the Building Official did at the beginning of the process. Mr. Plank said if you read the

Code, the definition of lot, a lot means a portion of a subdivision or other parcel of land intended as unit for transfer of ownership or for building and development. He said if you look at the strip it is not anything we in the business would call a lot. It is a devil strip, a strip of ground, not from common use, it is not a lot. If you look at the definition, the definition talks about lot means a portion of a subdivision or parcel of land intended, but no one knows what the intentions were back then in 1960. He said the world intention is seldom used in zoning code, but more often in the criminal code because you would be dealing with intent, but typically not in the zoning code.

Mr. Plank said if you take a look at Section C, under the lot, it talks about lot occupancy and anticipates the lot can be built upon. He said he was not referring to code requirements but some method or possibility of building on the land. There is no possibility of building on an 8 foot strip. Mr. Plank said today, if he tried to split the property off, the Planning Commission would say you can split it, but you would have to combine it. The strip could not be counted as a separate tax parcel, and the County would not accept the split because they would also require the land to be combined. Today, that piece of property could not be transferred to anybody accept the adjacent property owners. Because of how this occurred, and because it does have a separate tax parcel number, the strip could be transferred. Mr. Coulter asked for clarification that we were talking about the 8 foot strip to the north. Mr. Plank replied yes. Mr. Plank said there are two sections in the Worthington Code that deal with nonconforming lots and he discussed Section 1149.05. There are conflicts in these two sections of the Code, however they will focus on the one adopted later.

Mr. Plank referred to Section 1149.05, and said it stated any lot of record fifty feet or wider, existing at the effective date of the zoning ordinance, then jumped to discuss the last sentence regarding if three or more contiguous lots are owned by the same person his argument is that same section has to be read three contiguous lots of fifty feet or more. He said he would also point out the BZA Board has the authority to grant variances as part of the Appeal as per your Code. Mr. Plank said he comes before the Board all of the time asking for area variances and he knows they have the seven standards and sometimes there is a struggle to get those variances to meet your situation. He said that is not the case in this situation. So even if the Board were to find there were three lots, his clients have significant hardship in this strict interpretation of the Code because he would not treat that 8 foot strip as a lot for purposes of imposing an 8 foot setback. Mr. Plank said he could discuss those standards if necessary, but he cannot justify his client spending $75,000.00 dollars for something they did not create. They did not buy the property with the knowledge of what was going on. They stopped the construction when they received the Stop Work Order. Mr. Plank said he would be available for further questions.

Ms. Crane said she was going to open up the discussion and asked people to be brief and try to limit their comments to two minutes.

Ms. Dickenson, the Appellants attorney, said she had a question of clarification and asked Mr. Plank if he was requesting a variance to be decided at the meeting. Mr. Plank said looking at the Code for Area Variances Section 1129.05(6)(c), "The Board shall have the power to hear and decide appeals and authorize variances from the provisions or requirements of this Zoning Ordinance." Mr. Coulter said he understood, anyone can ask for a variance anytime. Mr. Coulter said the variance request was not on record for the meeting, but is that something the Tucker's attorney could ask for or would they have to formally request the variance or would that be at another meeting to allow for advertising. Mr. Phillips replied he believed they could amend their Appeal to a Variance Request because all of the parties were present at the meeting that would be impacted by this. Ms. Crane said since the meeting was advertised for this property people were aware of the issues the before the Board.

Mrs. Debbie Comer, 599 Fox Lane, said she is currently moving into the house. They recently bought the house on lot one, actually three lots exactly one year ago in December 2016 with a dream of building a beautiful home on a half-acre lot in Worthington. They added onto the home they purchased and turned the home into a 2900 square foot home on the river. At the time they bought the three parcels from Greg Brightman for a considerable amount, they already knew they wanted to sell lot two to another family who wanted to build a beautiful home in Worthington. They sold lot two to the Tuckers in February 2017 with no mal intent, no malice, they had no indication at all that this would have ever crossed their path. They went to the banks, the title companies, the attorneys, the closing agents and everything went through smoothly. They had three lots that had been designated by Franklin County with their own legal description, their own parcel number, their own tax bill, and it had been that way for years and years. They excitedly sold the lot the Tuckers and they began building after they received their permit. She said she was not before the Board to give them a history lesson nor a legal talk, she was before the Board to Appeal to her City in which she has lived in for 67 years. She said the Tuckers have done everything right and will enhance the neighborhood. Mrs. Comer said she also wanted to point out that others have insinuated the house the Tuckers are building is giant, but the main floor of the house is only 2900 square feet, which is the exact same size of the house she built next door. No one in the neighborhood has come to her and said, "Oh, your house is giant you should not have built it there." The second floor will only be 900 square feet. The house is not monstrous, there is still plenty of land. This is almost a half-acre lot. The house will only add quality to the neighborhood. The fact that the hole has already been dug makes it seem bigger than when the house is actually built. When Mrs. Comer said she shared with the neighbors that the lot is the same size as hers the neighbors said the lot seemed so big, but it is not. There is seventeen feet between her house and the Tuckers house and

looks fine. There is sixteen and a half feet on the other side. She said she measured the area with Mr. Haueisen. Mrs. Comer referenced all the miscellaneous items that they have on the side of their house that most people store in their garage makes things look even closer. Mrs. Crane said, "So, you are saying the essential character of the neighborhood should not be changed?" Mrs. Comer replied, "Absolutely not." Mrs. Comer said this is a severe hardship to this family who have dreamed of living in Worthington, and have already invested $80,000.00 dollars and now somebody is asking them to spend another $80,000.00 dollars for this much space. Mrs. Comer held up a piece of string that was 18 inches in length for the Board to visualize the actual distance. Mrs. Comer said she would be so disappointed in her city if this wrong is not righted. She thanked the Board for listening.

Mr. Scott Whitlock, 6081 Olentangy River Road, said he also lives in a historic district in the oldest subdivision of the City of Worthington, on the west side of the Olentangy River. Mr. Whitlock said his subdivision was built in 1951 and he has been involved in many projects concerning preservation within the city. Mr. Whitlock said he has practiced law for over 50 years in Ohio and a substantial portion of his practice dealt with real estate law. Mr. Whitlock felt this was an important case in setting the direction of Worthington. Whether or not Worthington is going to enforce its Ordinances, he believed the Ordinances in this case were crystal clear. He said he was aware Mr. Plank has been practicing real estate in this area also for many years. He felt Mr. Plank was confusing the issue by saying the strip of land was not a lot because he said it is a parcel. Mr. Whitlock said if you look at Section 1151.03, (Nonconforming Lots of Record), what the paragraph speaks of is not lots, it speaks of lots or combinations of lots and portions of lots and that is what has happened here in this case, there are three separate parcels that prior to the adoption of the zoning ordinances in 1971, these were separate parcels and all of the frontage is contiguous, and for persons of the Worthington Zoning Code, they now become one lot and you cannot subdivide that lot unless you meet the requirements of the Worthington Zoning Code which includes an 8 foot side yard setback. He felt the language was clear that parcels were combined under the Worthington Zoning Code and what the County Engineer or the County Auditor does, does not affect Worthington's Zoning Code. Whether this is called one parcel or three makes no difference. The parcel was in common ownership in 1971 as a single lot and cannot be subdivided. He said he heard there was a sale, but said the land could not be sold unless there was compliance with the Worthington Zoning Code. Mr. Whitlock felt the Ordinances were violated if the land was sold and the lot was not compliant with the Worthington Zoning Code which requires an 8 foot setback. Mr. Whitlock said he is a friend of the Haueisen's and he and Mrs. Whitlock have been to the Haueisen's home many times. He said he was very aware of how their subdivision was set up, and a variance in this case, would say to the citizens of Worthington that any development, Worthington takes the sides of the developers and not the sides of the people who have invested in their property emotionally and monetary for many years. Mr. Whitlock said a mistake was made

because research was not done but who should bear the burden of that mistake? He said when his clients learned of the mistake they brought it to the City of Worthington's attention and when City staff examined the issue they determined the Haueisen's were correct and he believes the staff's report is correct. There should be an 8 foot setback. What did his clients do wrong? Mr. Whitlock said whether or not the Tucker's purchased title insurance he did not know. He heard Mr. Plank say if his client's asked him first, he would have told them the same thing, and we would have probably been hearing from Mr. Plank's malpractice insurer. He said if you take a look at the subdivision you would notice there is something wrong with this design. The house is too close. He said he did not come to the meeting to discuss a variance because that is another issue, but if they have to talk about it this evening, he does not want a variance granted in the historic district. He believes we need to enforce the laws of Worthington as it relates to an 8 foot setback.

Ms. Crane asked Mr. Whitlock what the frontage was on the Haueisen's property. Ms. Dickenson replied, "Sixty-nine feet." Ms. Crane said that is the same distance for lot number two, and a little smaller than lot number one. Mr. Phillips replied Ms. Crane was correct. Ms. Crane asked Mr. Phillips if the city requires eighty foot frontages and Mr. Phillips replied, "Correct." Ms. Crane said then there could not have been two eighty foot frontages so she said she is confused by the whole question of setback and asked if there was a question of whether or not there should have been a subdivision. Mr. Whitlock said what the Haueisen's filed an Appeal from is the decision of the Building Inspector that there was a 6 foot setback. They filed an Appeal saying there should have been an 8 foot setback. Upon review of the Appeal, Mr. Phillips correctly determined there should have been an 8 foot setback. Mr. Whitlock said he also felt there was an issue with the frontage. Mr. Coulter explained those were already the conditions of 75% of the properties in Old Worthington when that Code was adopted. Mr. Coulter said you cannot argue the width of the property as it exists today as a lot of record. Mr. Whitlock said the full parcel and the strip shown apparently met the full requirements and this zoning code says, in 1971, for purposes of the Zoning Code, they are combined and they are one single lot, and there is a question of whether or not the property should have been subdivided. Ms. Crane asked if this is found to be one lot can the lot be subdivided or a variance requested. Mr. Brown replied, yes, the applicant could ask for a variance for frontage and setbacks. He also said developments that have gone through the process through the Municipal Planning Commission (MPC), and City Council, several of the lots that have been created over the past four years have been granted variances from City Council for either lot size, frontage, or side or rear setbacks. The City was founded in 1803, developed in the 1960's, 70's and 80's and with a Code that was adopted in 1971, it's definitely not a one size fits all Code for the City.

Ms. Crane said her opinion, as a member of the Board, she would not be so sure she would define the 8 foot strip of land as a lot or a portion of a lot, but if the Board

determines the Building Inspector was in error with the original finding she believed it would be okay to grant the variance for size for splitting lots one and two. If the Board finds this is one lot now she felt it would not be inappropriate to require a nonconforming lot in the future and given the dimensions are similar to those in existence she did not feel the 6 foot setback would be inappropriate. Ms. Reibel said she would like to hear more information.

Mr. Whitlock said the Haueisen's have not talked about the split, they are only challenging the setback and no one would be able to find any two houses within their subdivision as close together as these two houses will be. Mr. Whitlock felt the distance between the houses was inappropriate for the subdivision. He is aware of the history of Worthington, and he was present at the meeting as a friend of the Haueisens. Ms. Crane thanked him for his testimony.

Mr. Plank asked if Mr. Whitlock was their attorney, because he was acting like their attorney. Mr. Whitlock stated that he was a friend and was familiar with neighborhood, and that he believed that he had a right to speak.

Ms. Jane Weislogel, 5935 N. High St., Unit 221, but she lived for forty-seven years in the Shaker Square area of Worthington. She said they had to follow the guidelines of the Shaker Square area as well as Worthington's Code. Ms. Weislogel asked if anyone had walked the sidewalk that goes in between the Haueisen's house and the ditch that goes in between. Mrs. Crane corrected her in the fact that it is a foundation for the house, not a ditch. She said she was at the Haueisen's house while the holes were being dug and the Haueisen's whole house was shaking. Ms. Weislogel said the Haueisens have been very cooperative and nice about this but the houses are too close together. She said where she used to live air conditioners were not allowed in the front yard, and lot number two has the air conditioner all the way up to the lot line. Mr. Brown explained there was a Code change and air conditioners are now allowed in the side yard with screening requirements. Ms. Weislogel said the air conditioner is not screened yet and recommended people to go look at the property.

Ms. Martha Grant, 545 Fox Lane, said she has lived in her house since 1973 so she has known the Haueisens for a long time. The neighborhood, up until now, has been very friendly until this recent controversy. She said she was concerned about fairness and have always welcomed new neighbors with a great deal of joy and inclusiveness and this new ordeal sets up a lot of antagonism. Ms. Grant said the Tuckers who want to be part of this neighborhood have done nothing wrong. They came in good faith to the city and go the building permit, they have a beautiful house they are trying to build, they dug the hole, and they poured the footer. The walls are also partially built. The fact that they are only talking about two feet seems unfair. The deed is done and the house should be built

and we should all just move on. Ms. Grant welcomed the Tuckers and the Comers to the neighborhood.

Ms. Donna Laidlaw, 575 Fox Lane, said she had written some comments because there has been some real concerns about the cohesiveness of their neighborhood. Their neighborhood has always been welcoming and she felt this situation has become more personal and that is an unfortunate thing because of confusing zoning laws and requirements and some errors have been made. She said they would like to see is a just future for all of them who live on the lane and those who will be arriving after them. One point she would like to make is the Haueisen's had a 10 foot easement because of their deed restriction from the 1940's, and the Tucker's have a 6 foot space, so that allows for 16 feet of space which is what you would have under normal subdivision zoning rules now in Worthington. Ms. Laidlaw felt everyone at the meeting was there in good faith and they have passionate people who want to make their home on the lane and asked the Board to put their thinking caps on and not only make a good decision for the City, but make a good decision for all of the parties involved.

Mrs. Crane mentioned that we are here discuss variances, and whether or not these are two lots and a strip, or actually one big lot of record. The two different appeals could sent it a variety of directions.

Mr. Coulter said he understood there are all passionate parties at the meeting and he did not feel that anyone did anything out of spite and what this comes down to is this an 8 foot or 6 foot variance. He continued to say as you get into older neighborhoods where lots sizes have changed over the years, and then building and zoning codes have been adopted, and whether the way it's filed with the Franklin County Auditor's Office or this is one lot, two lots, or three lots, gets muddied very quick. He said this situation has been seen in regards to commercial property coming before the ARB and MPC and will not be the last time this issue comes up, so he agreed with the last statement which was made about being fair to all parties involved. He stated is two feet really a big deal, when we look at the other variances that we have approved, this is why we are here. There are grey areas, it's not just not black and white.

Mr. Steve Rust, 584 Fox Lane, said he felt the real issue was whether Mr. Phillips made an error on the building permit in the first place. It seemed that that decision hinges on how you can consider that strip of land above lot one. Is that a lot, does it make that collection three lots, and does that make it subject to the 1971 zoning ordinance in terms of later subdivision. He said in his opinion, that strip of land is not buildable and in the spirit of the law, should not be considered as a third lot in order to force those three parcels to be combined into a single lot and then be subject later to subdivision restrictions. It was his opinion that lot number two is an existing lot and subject to whatever zoning restrictions there are for an existing lot and the decision should be made

on that basis and to his understanding that required a 6 foot setback. Mr. Rust said he was sympathetic to the Haueisens because the 6 foot setback puts the other house close to their house and he would not want to be in their position but that is not what they were here to talk about tonight. What are the zoning requirements and how should they be enforced. He was also of the opinion that the strip of land is not buildable and should not be included in order to make those lots be combined into a single lot and therefore lot two is an existing lot.

Ms. Reibel said this is a very difficult issue because she can see both sides and she respects the Haueisen's for their work for the Historical Society but she also believed there were some equitable issues having to do with the construction and the permit was already issued. She said you can tell the history of the property is somewhat unclear, the building permit was issued, and the new owners relied on the permit and started building. Ms. Reibel said in older neighborhoods, people have strong feelings about them and that is why people want to live in a historic neighborhood and as her colleague pointed out, the Board does grant quite a few variances. She said they do not always grant every request but they try to be discriminating but they keep in mind that a large percentage of the lots in Worthington are nonconforming before you do anything with them. Ms. Reibel said she also owns a nonconforming lot and this is a difficult decision. Procedurally she said she was troubled by the idea that the Board is going to decide on the Appeal and then also decide, if they go in that direction, grant a variance in the same hearing. She said she is troubled by the procedure because of all the issues.

Mr. Seitz said, "God Bless Shug." He said Shug did not want Fox Lane to go all the way through and he found a creative way to keep that from happening. How he wrestled eight feet form two or three of the properties from just north of the property and that it has been maintained and now is being argued whether or not the property is or is not a lot is a testament to that old guy. Mr. Seitz also said change is hard and they all live in historic neighborhoods, each of those neighborhoods are different, each has their own characteristics, has their own set of eccentric neighbors that we all love. Mr. Seitz said he agreed with Ms. Reibel, and that this is a very difficult decision. He said he struggles more with the procedure side of it than he does with how his vote will be cast. Mr. Seitz said he felt no one had done anything wrong so there is no opportunity for anyone to throw sticks. He said he believed it is time to be good neighbors and move on.

Ms. Crane said there is a recommended motion in the affirmative which they can vote either up or down. She said an approval of this motion means that Mr. Phillips original decision was wrong and that this is one big lot because this is an Appeal that lead to the issuance of the building permit. Ms. Crane said if the Board denies the motion it means that his original decision was correct and that the permit was issued correctly. Ms. Reibel asked the Law Director, "Since the permit was withdrawn, is the Appeal moot." Mr. Lindsey replied Mr. Plank in the beginning suggested the possibility of mootness. He

said he believed Mr. Plank said this was an appeal of the building permit which was issued in July 2017, and subject to the variance that was granted in September 2017, but he believed the actual Appeal was of the Building Official's decision rendered October 2, 2017, and that 595 Fox Lane was an existing lot of record. He believed that was what they were appealing, so therefore, he did not believe their appeal as framed by then was an appeal of the building permit and therefore the revocation of the building permit by the building official he did not believe moots their appeal. Mrs. Crane stated that it is really a matter of the lots. Mr. Lindsey stated that is this three lots or a single lot of land, or is this a single lot. Mr. Lindsey made reference to Section 1151.03 Nonconforming Lots of Record and read the definition. He said are all three parcels lots or portions of lots, do they have continuous frontage and were they single ownership as of December 13, 1971. Are all parcels lots, or are portions of lots have frontage and common ownership.

Ms. Reibel and Mrs. Crane stated that if we view this as one lot, then we approve the motion, if we vote it down then we view this as two lots with a small strip of land and that it can be built on.

Mr. Lindsey stated that the Franklin County Auditor's and Recorder's do not take action towards our zoning code, and is consistent throughout the County. They would never care if we consider it one lot of the several different parcels.

Mr. Brown said he has talked with other planning officials in other nearby regions such as Dublin, Upper Arlington, and Bexley, and one of the interesting things is this section of Worthington's Code is unique and most jurisdictions do not have the code language that talks about two adjacent, three adjacent, pieces, strips of lots. The county will list the lots as separate parcel numbers. Mr. Coulter asked if the motion before the Board fails, then would that confirm the original decision of the building official and the 6 foot setback would prevail and Mr. Phillips replied with an explanation that item #5 would be an action, or withdrawn by the applicant.

Motion:
Mr. Coulter moved:

THAT THE APPEAL BY STEFFANIE AND JOHN HAUEISEN OF THE DECISION OF THE CHIEF BULIDING INSPECTOR REGARDING THE PROPERTY AT 595 FOX LANE BE UPHELD, AS PER CASE NO. BZA 49-17, DRAWINGS NO. BZA 49-17 DATED OCTOBER 20, 2017, BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Seitz seconded the motion. Mr. Phillips called the roll. Mr. Coulter, nay; Mr. Seitz, nay; Ms. Reibel, nay; and Ms. Crane, nay. The motion failed.

5. Appeal – Decision of Chief Building Inspector – **595 Fox Lane** (Robert & Deborah Tucker) **BZA 50-17**

Withdrawn by the applicant's attorney Donald Plank.

D. Other

Mr. Brown explained there would be a reception for Dave Norstrom and Michael Troper on December 18, 2017, at 7:30 p.m., in the Council chambers, and that we were all invited.

E. Adjournment

Mr. Coulter moved to adjourn the meeting, seconded by Mr. Seitz. All members voted, "Aye," and the meeting adjourned at 9:13 p.m.