

1 APPEARANCES:

2 Worcester Hearing:

3 Winthrop Worcester
4 Rhonda Worcester

5 ALSO PRESENT:

6 Eric Fischer, Development
7 Planner
8 David Betz, Director of
9 Development
10 Susie Ross, City Clerk
11 David Beyer, Suncraft Corp.
12 Janice Hitzeman
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P R O C E E D I N G S
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MR. COOPER: Good evening. I hereby call to order the Board of Zoning Appeals meeting of the City of Powell, Ohio for July 7, 2008. May we have a roll call, please?

MS. ROSS: Ed Cooper?

MR. COOPER: Here.

MS. ROSS: Robert Hiles?

MR. HILES: Here.

MS. ROSS: Joseph Jester?

MR. JESTER: Here.

MR. COOPER: Thank you. First order of business is approval of some minutes. Now, these -- you were not involved in a whole bunch of these, but we do have one. The meeting from February 20th, which was the McCutcheon -- resolution of the McCutcheon deal with the fence; do you remember that, Joe?

MR. JESTER: Oh, yeah.

MR. COOPER: This one has been corrected. We sent corrections to Susie and

1 she's corrected this one. I don't know -- we
2 just got this sitting here. I don't know if
3 you want to take time to read through it or I
4 think maybe we should trust her that she made
5 those. I'm sure she did, made those
6 corrections that I requested before.

7 MR. JESTER: Well, the corrections
8 you requested, you've seen them in here?

9 MR. COOPER: I have not had a chance
10 to look at this. I got it just this evening
11 just like you did. So if you guys --

12 MR. JESTER: If you want to wait
13 till --

14 MR. COOPER: If you'd like to table
15 this while we look through this again, I'm
16 sure this will be -- that will be fine. Is
17 that all right with you, Bob?

18 MR. HILES: Yeah. I haven't had a
19 chance to look at it at all.

20 MR. COOPER: Okay. So we'll table
21 the February 20th minutes until the next
22 meeting. April 14th, I have not had an
23 opportunity to look through this yet, and
24 this was our final meeting prior to the

1 hearing of the Target zoning issues. This
2 meeting had to do with the format of our
3 future meetings. I've not had a chance to
4 look at this either. I would feel more
5 comfortable tabling this one also till you
6 and I have a chance to look at it.

7 The rest of them, Bob, May 12th,
8 13th, and 22nd, we've submitted changes on
9 those three -- or I did, and so they're not
10 available yet. And the June 4th, I guess,
11 just came in today so nobody's seen it yet.
12 So we're just going to table -- do we need a
13 motion for that, Susie?

14 MS. ROSS: Yes, please.

15 MR. COOPER: Okay. I'm going to
16 make a motion that we're going to table all
17 six of these meetings' minutes until the next
18 available time to take care of that business.

19 MR. JESTER: I'll second it.

20 MR. HILES: I'll second it.

21 MS. ROSS: Ed Cooper?

22 MR. COOPER: Yes.

23 MS. ROSS: Robert Hiles?

24 MR. HILES: Yes.

1 MS. ROSS: Joseph Jester?

2 MR. JESTER: Yes.

3 MR. COOPER: Okay. Next order of
4 business is an application for a variance by
5 Suncraft Builders and Winthrop and Rhonda
6 Worcester at 317 Winter Hill Place. This is
7 a planned residential district and the
8 request is for a variance to allow an
9 encroachment into the side setback yard for
10 the addition of a bay window.

11 Would everyone who is going to be
12 testifying, I assume that would be at least
13 one of the Winthrops -- maybe not, maybe I'm
14 wrong -- and I believe Sundance -- Suncraft
15 is represented here. If you guys will be
16 talking, I'd like you to raise your right --
17 whoever is going to be speaking this evening,
18 raise your right hand.

19 MS. WORCESTER: Our neighbor also
20 will be -- she's not here yet.

21 MR. COOPER: Well, she needs to get
22 here. But you need to raise your right hand.

23 (Prospective witnesses are sworn.)

24 MR. COOPER: Let the record show

1 everyone said "I do." Okay. Mr. and Mrs.
2 Worcester or Mr. Suncraft Builder, whoever
3 would like to go first, please step up to the
4 mike. Please identify yourself and tell us
5 what you want to tell us.

6 MR. BEYER: Yeah. I'm David Beyer
7 with Suncraft Corporation. I'm the designer
8 working with the Worcesters on their room
9 addition on the back of the house. This is
10 Rhonda and Win Worcester and they may have
11 some comments in addition. And their
12 neighbor is forthcoming, the one that's
13 adjacent to the property we're doing the
14 addition on.

15 A few things I want to point out. I
16 did look at the staff report, which we have a
17 few things we have questions on in terms of
18 --

19 MR. JESTER: Could you pull that
20 mike back up to you?

21 MR. BEYER: Oh, I'm sorry.

22 MR. JESTER: Thank you.

23 MR. BEYER: Is that better? Again,
24 their neighbor will be here shortly. We had

1 a few questions on the staff report that need
2 to be clarified, a few things that were a
3 little off.

4 The Worcesters have a unique
5 condition. Their house was built with a
6 third car garage originally with the
7 construction of their home and that allows an
8 opportunity in the back of a space where an
9 addition can be built.

10 And this addition we're looking at
11 is a living room addition, pretty much on the
12 back of the house, side rear of the house,
13 for a living room space, very long addition,
14 design-wise. We're trying to break that up a
15 bit to have a bay, which to minimize its
16 impact it will be cantilevered over the
17 setback that we're looking at.

18 And the only way to achieve that, in
19 this condition for a cantilever to happen is
20 actually have an addition where the floor
21 joist system runs perpendicular to the side
22 of the house. There's really very few
23 conditions. Their neighbors can't be able to
24 do that where they can have a cantilevered

1 bay, because they don't have the same setup
2 as what the Worcesters have in their case.

3 The few questions I had, first of
4 all, the bay I think is going to have minimal
5 impact. It is cantilevered across there, has
6 the front part that's designed and angled to
7 soften its look. It's only four feet in the
8 front part. It's a very long wall the
9 addition.

10 We know that the addition
11 foundation, the main part of the addition,
12 there's no issue with that. It's even point
13 one back from where it needs to be. We're
14 looking in the middle of that addition for a
15 very small cantilever that goes across that
16 area.

17 We did take field measurements of
18 the existing house, did check the surveys
19 there. We understand what you're saying
20 about ten-foot setback. One question I have
21 looking at the original deed, it was deeded
22 with the lots to have the setbacks ten on
23 each side and a twenty-foot total.

24 The whole idea on those lots is when

1 houses were built that there be a twenty-foot
2 space maintained between the houses. That
3 was the reason -- main reason to have that.
4 We look at the setup of the house now. The
5 Worcesters have got a little bit of area to
6 work with.

7 The house next to them does not have
8 that third car garage, has a very long facade
9 where an addition could be built but it will
10 not be the size you stated. It stated seven
11 feet approximately. It's all been measured.
12 It's only about -- a little over five feet,
13 about five point four feet. So it's not five
14 foot four inches, it's five point four. You
15 have to figure the point four in your inches
16 there.

17 It's unrealistic the addition could
18 be done there. I understand about the what
19 if they did want to do an addition there, but
20 I'm talking about ours is a cantilevered
21 addition. Only could happen in certain
22 instances and this is very much aesthetically
23 a nice way to break up the long facade, which
24 we have pictures of between the garage and

1 the new addition.

2 It will blend harmoniously with the
3 existing house. Side bays are common. They
4 have a bay on the back of their house. I
5 don't know if you have a picture of the back
6 of their house, but they have a bay on the
7 back of their house which would be very
8 similar to what we're doing here. It is also
9 cantilevered.

10 I read also through the staff report
11 about the fire separation. Fire separation
12 per code from the building sideline, if you
13 do anything within three feet, has to be a
14 full fire wall. Five foot is the required
15 distance you should maintain.

16 Now, the ten-foot, to be able to see
17 the ten-foot on each person's -- neighbor's
18 property, you'd have to build a fence which
19 is not allowed in this subdivision. So
20 visually, you're still maintaining what you
21 want, the twenty-foot, and we're actually
22 23.6 feet.

23 We're maintaining more than even
24 some of the neighbors directly behind them

1 that are at 21 feet, slightly over. So
2 visually, we're still farther than we need to
3 be there.

4 I just wanted to clarify a few
5 things we had in staff report. Rhonda has
6 gotten signatures from the neighbors on the
7 whole area there and also some pictures that
8 she can give to you.

9 MR. HILES: Sir, I'm sorry, I didn't
10 -- your name, I'm sorry?

11 MR. BEYER: David Beyer, B-e-y-e-r.
12 And my background is in architecture, my 17th
13 year with Suncraft, and I'm very familiar
14 with the building codes and the zoning codes
15 if you have any questions.

16 MR. COOPER: Thank you, sir.

17 MS. WORCESTER: Hi, I'm Rhonda
18 Worcester, I'm one of the homeowners. I just
19 wanted to state a little bit of background.
20 We're original owners to the home, that's
21 Phase I of Grandshire. We picked that area
22 because we did love the way Grandshire was
23 set up. We liked the 20-foot space between
24 the houses because we would drive through

1 other neighborhoods and see the houses fly
2 past. So that's one of the reasons we picked
3 that neighborhood.

4 We don't feel that the bay window is
5 actually going to encroach in that we take a
6 lot of pride in our house. If you drove past
7 it, you'll see flowers planted. You know, I
8 take a lot of pride in it. We plan on
9 staying there, we don't plan on moving. Our
10 kids started kindergarten there. We hope for
11 them to graduate from Liberty High School.

12 We're friendly with all the
13 neighbors. I went around and got signatures
14 from every single person that was home. I
15 went to every house that got a postcard. If
16 they weren't home -- a lot of people are on
17 vacation -- but I got a signature and not one
18 person had any inkling of problem with it.
19 They thought a bay window sounded like a nice
20 addition.

21 One of the points that I wanted to
22 make that David didn't make, when you think
23 of a room addition to a family room, you
24 probably think, well, it's just going to make

1 the room a lot longer, and so what's the
2 difference if the bay window is brought in or
3 not. But actually what we're doing with the
4 room, when we built the house originally, we
5 did not put a fireplace in because we had the
6 intention of pushing out and putting a
7 fireplace in.

8 And since then, after going to
9 Parades of Homes and seeing different ideas,
10 what we're doing with this room addition is
11 we're actually putting in a two-sided
12 fireplace in the existing wall and that's
13 going to be an additional room. So it's not
14 like it's just going to be a longer room.

15 This is actually going to be a
16 room -- I have three children, two going into
17 sixth grade, one going into fourth -- it's an
18 extra space for them. My vision for that
19 room is that bay window will have a window
20 seat in it where they can sit and read, work
21 on their homework, just an extra space for
22 them.

23 We're going to have a little sink
24 and craft area in there and a table and

1 chairs. Just a very simple room, but it is
2 going to be a very narrow room and the
3 addition of that bay window, for me, is
4 really how I've envisioned that room always,
5 to be able to have that window seat there as
6 an extra place for the kids to sit.

7 Let's see. I have the signatures
8 here of people. I don't know if there's
9 anything else.

10 MR. HILES: I'd like to see them.

11 MR. JESTER: Are the people that
12 live right next to you, is their signature on
13 --

14 MS. WORCESTER: Yeah. She's here.

15 MR. JESTER: You're the one in the
16 white house there --

17 MS. WORCESTER: I got the house --

18 MR. JESTER: -- to the north?

19 MS. WORCESTER: Right, right. I got
20 the signatures of the people behind us, which
21 they actually can't see it because of the
22 landscaping, but the people catty-corner
23 which actually can see it, the two people
24 across the street which actually can see it.

1 I went -- I got everyone who
2 basically can see it, with the exception of
3 the house right behind us. I could not find
4 them at home. I tried. It's hard in July.
5 But, again, every single person that I talked
6 to -- I mean, they didn't even have an
7 inkling of a problem with it.

8 They actually agreed that a bay
9 window would be more aesthetically pleasing.
10 You know, we plan on putting a little -- I
11 want to have a little arbor -- I mean, I have
12 my landscaping already in my head. I've been
13 thinking about this for a long time. And I
14 honestly feel that it would make the area
15 just look so much nicer than just another
16 long wall with a window on it.

17 MR. HILES: Mr. Beyer, you put this
18 up here. What -- would you like to --

19 MR. BEYER: Yeah. Rhonda had a good
20 point about the fireplace. You'll notice the
21 location of the fireplace. When you have a
22 fireplace, obviously you lose space, usable
23 space right in front of that fireplace. And
24 on the plans you can see it relates to the

1 bay there.

2 So we're trying to maintain about a
3 ten-foot usable zone on the inside so we can
4 have the fireplace, but that obviously eats
5 up that area there. So that keeps a
6 consistent area if we do that bay, because a
7 fireplace is combustibile and you have to make
8 about two feet in front of that for safety.

9 MR. COOPER: Thank you.

10 MR. WORCESTER: And just to add
11 another comment about the fireplace --

12 MR. COOPER: You need to identify
13 yourself, sir. We're being recorded.

14 MR. WORCESTER: I'm sorry. Win
15 Worcester. One thing about the fireplace,
16 the fireplace is going to have to be shifted
17 into that room so we can have room for the
18 direct vent up out that wall. So we lose
19 probably at least a foot of that space just
20 because of that. Otherwise, we'd have it
21 shift to the other side, but we can't do
22 that.

23 MR. COOPER: Thank you. Anyone else
24 that would like to speak? Would you please

1 raise your right hand for me, please?

2 - - - - -

3 JANICE HITZEMAN

4 being first duly sworn, testifies

5 and says as follows:

6 - - - - -

7 MR. COOPER: Would you identify
8 yourself for the recorder, please?

9 MS. HITZEMAN: Yes. My name is
10 Janice Hitzeman. I live at 307 Winter Hill
11 Place.

12 REPORTER: Would you spell your last
13 name, please?

14 MS. HITZEMAN: H-i-t-z-e-m-a-n. And
15 we are the property owner to the north. And
16 I think based on the staff report, I think
17 the concern was mostly regarding our house
18 and if we would want to expand onto that side
19 and any restrictions that would place on our
20 home.

21 We have no concerns with the
22 addition and the variance as they've applied.
23 You see that their garage is already bumped
24 out. This would only go minimally past where

1 the garage is now. It's not really usable
2 space for us. There was another picture that
3 showed the back of our house. If we were
4 looking to expand -- yeah, back one -- back
5 two -- yeah.

6 If we were looking to expand, we
7 would actually expand on the back where our
8 deck is now. We would look to expand maybe a
9 sunroom -- right, right there -- and that
10 portion of our house that would -- that abuts
11 to the side is a dining room, it's not our
12 living room. We have no plans to expand in
13 that portion. I would imagine we never
14 would.

15 MR. HILES: I'm sorry. Are you
16 saying this wall facing is your dining room
17 area?

18 MS. HITZEMAN: Yeah. Who has the
19 pointer? Where's that?

20 MS. WORCESTER: Just basically
21 across from where the bay would be.

22 MS. HITZEMAN: Yeah, yeah. To the
23 south there, yeah, that wall there is a
24 dining room and it wouldn't make sense to

1 expand that portion. The inside is a dining
2 room. If we would expand, it would be on the
3 other side or to the back because that's
4 where the living room and fireplace is. So
5 we have absolutely no problem.

6 The Worcesters have been excellent
7 neighbors. Like they stated, I mean, their
8 yard is kept fantastically. You know, if
9 anything, the way they keep their yard really
10 improves the value of the neighborhood and
11 the value of our lot. So I have absolutely
12 no concerns with the variance as applied for.

13 MR. COOPER: Thank you, Ms.
14 Hitzeman. May we have staff report, please?

15 MR. FISCHER: Gentlemen, good
16 evening. Staff has pointed out in a report
17 --

18 MR. COOPER: Mr. Staff, would you
19 identify yourself, please?

20 MR. FISCHER: Eric Fischer. The
21 staff simply wants to point out all of the
22 issues in regards to this particular
23 application. One of them -- the first issue
24 that's pointed out in the staff report has to

1 do with 1127.06E3&4 in regards to we need the
2 applicant to show some form of unique
3 conditions and/or some form of hardship. In
4 this case we find that they're -- even with
5 what's been pointed out by the applicant,
6 there is no hardship or unique condition to
7 the lot in this case just from a technical
8 overview and reading.

9 Our primary concern, of course, as
10 pointed out by the neighbor to the north, is
11 simply that we're worried about diminishing
12 or impairing property value to either her or
13 future generations of homeowners in this
14 case. It will be required on any addition,
15 even if this particular homeowner does not
16 wish to expand at the time she's in the
17 house, there is a seven-foot up to her
18 ten-foot setback, side yard setback.

19 There is a seven-foot -- she can
20 work seven feet into her area before she hits
21 her ten-foot setback or anyone to that area
22 before they're required with this particular
23 variance is granted -- before they're
24 required to do what's known as a structural

1 separation in Rule 1145.14.

2 David has some additions after
3 speaking to our chief building official to
4 our staff report. It wasn't entirely
5 correct. There will be some windows allowed.
6 They will touch on that real quick.

7 MR. BETZ: Yeah. The issue with the
8 --

9 MR. COOPER: You would be David
10 Betz?

11 MR. BETZ: David Betz -- sorry --
12 City of Powell. The issue with the 1145.14
13 is that they could have a structural
14 separation with windows. It's just ten
15 percent or less of a wall space if you add
16 windows. And the issue isn't with any one
17 particular home.

18 For example, this home could have
19 this addition with a bay window, but that
20 wall area couldn't have a two-hour firewall
21 placed on it versus the neighbor next door.
22 It just has to be one of the homes, not both.
23 So, after clarification with the building
24 inspector, that explains that two-hour fire

1 separation.

2 It will impair a little bit about
3 the impact of how much addition could be
4 placed on the home next door and that's the
5 biggest concern, I think, that we have, is
6 that how it affects the neighbor. Not the
7 neighbor now, but the neighbor in the future.

8 MR. COOPER: And you're talking
9 about the -- well, not only the ten-foot
10 minimum setback, but the minimum of 20 feet
11 between the two structures?

12 MR. BETZ: Yeah, exactly. And so in
13 Eric's bracket it would be five and a half
14 feet -- or David's bracket, five and a half
15 feet to the bay but seven and a half feet
16 total. So you're actually restricting with
17 the bay window two feet for an addition for
18 the neighbor.

19 Not that that's a big deal, but it
20 does affect how that neighbor can use their
21 property. And the variance to be granted
22 should not be granted if there is some affect
23 to a neighboring property in that regard
24 according to the code.

1 Now, seeing that the existing
2 neighbor is fine with it, that might
3 influence your decision. There could be a
4 regular window placed instead of a bay
5 window -- they explained why they wanted a
6 bay window -- but a regular window flush to
7 the wall would be appropriate and they could
8 do the addition without the variance with a
9 normal window in there.

10 The definition for a side yard does
11 go to the side. It means the side of the
12 principal building. We've always enforced
13 that with bay windows or any other intrusion
14 into the side yard. Fireplaces, etc. cannot
15 protrude into the side yard setback. So,
16 wanted to add that for your -- to our staff
17 report.

18 MR. COOPER: Thank you, sir. Any
19 other comments that -- David, was there
20 something else you wanted to say?

21 MS. WORCESTER: Rhonda Worcester,
22 homeowner. I'm wondering if there's some way
23 that we could put in there that if that ever
24 became an issue in the future that we could

1 take the bay window out if there was a
2 problem with the neighbor needing to do the
3 addition.

4 I mean, it seems that, okay, the
5 odds of it happening seem really, really,
6 really, really nil. Knowing that house and
7 having the neighbor here, again, it's not off
8 of a room that most people would do an
9 addition on. But with a bay window being
10 cantilevered, as the homeowners, we would be
11 willing to put in there that if it ever did
12 cause a hardship that we could take the bay
13 window out.

14 I mean, I'm guessing -- again, for
15 me that bay window means a place for my kids
16 to sit and read and play games and we're
17 talking about another ten years here. And if
18 somebody needed me to pull that bay window
19 out after that, I would be -- I could put
20 that. If you wanted to put that in there,
21 that we could pull the bay window out and
22 stick a window in there in the future if that
23 would help, I would -- we would certainly
24 sign off on that.

1 MR. COOPER: Thank you.

2 MR. JESTER: Would you build the
3 room without the bay window? Are you
4 planning on going ahead?

5 MS. WORCESTER: I'm not crossing
6 that bridge till I get to it. I haven't
7 decided. That's how important it is to me.
8 That's just how I've always envisioned the
9 room.

10 MR. COOPER: Let me say a couple
11 things here. Approving a variance, the law
12 has laid down some very specific items which
13 must be met. And one of those items is a
14 hardship -- a deprivation so suffered, legal
15 proof of hardship suffered as a result of
16 this ordinance has not been self-created and
17 cannot be self-corrected.

18 Hardship cannot be established on
19 the basis of having purchased the grounds or
20 buildings without the knowledge of
21 restrictions. It also mentions in here that
22 the -- all the other owners in Grandshire
23 fall under these same restrictions. The
24 variances -- and you have a very typical lot

1 in Grandshire. There's nothing unique about
2 your lot.

3 We've had some lots where we've
4 granted variances where they were on a
5 cul-de-sac and because of the positioning of
6 the house and the different setbacks that a
7 cul-de-sac has that we've allowed some minor
8 changes in some of those. But you are --

9 MR. BETZ: Those were all rear yard
10 variances. Excuse me.

11 MR. COOPER: Yes. Rear yard
12 variances also. And I personally don't see
13 here any hardship that's being caused that
14 would allow us by law, by the ordinances that
15 we're sworn to uphold, that would allow me,
16 at any rate, to grant a variance in this
17 situation.

18 As far as your suggestion that, you
19 know, maybe you put in the document that in
20 the future you could tear it out if it became
21 a problem, that becomes extremely problematic
22 in itself. And although I know your
23 long-term plans are to be here in this
24 property, I think you said for ten more

1 years, anything could happen.

2 None of us know what the future
3 holds and I just -- I would have a problem
4 with any kind of agreement like that. That
5 becomes binding on future owners. It's just
6 not a good situation, but in my opinion that
7 granting this variance would be against the
8 code as I understand it. I'd certainly defer
9 to my fellow members to voice their opinions.

10 MR. HILES: Well, unfortunately, I
11 have to agree with that statement. There's
12 certain guidelines that we have to follow and
13 have you meet those. And I can understand
14 it's a very unique situation and I would say
15 the bay window would probably be
16 aesthetically the best idea, but based on
17 what we have to do up here, I think Mr.
18 Cooper's statements are correct.

19 MR. JESTER: I concur. I think it's
20 outside and I think we've got to stay by what
21 the code puts forth.

22 MR. COOPER: Would one of you two
23 like to make a motion then in the
24 affirmative?

1 MS. WORCESTER: I'd like to make a
2 statement.

3 MR. COOPER: Yes, ma'am.

4 MS. WORCESTER: I'd like to say that
5 I would like to think you're here to
6 represent the people of Powell and I don't
7 feel you're doing that. Every person that I
8 talked with thought it was almost ridiculous
9 that I went around, was getting their
10 signature for a bay window. Target is okay,
11 is friendly, pedestrian, but yet my bay
12 window is not good for Grandshire. You live
13 in Grandshire --

14 MR. COOPER: Yes, I do.

15 MS. WORCESTER: -- and you know that
16 that actually would enhance that house and
17 would enhance the houses around it and make
18 it look nicer.

19 MR. COOPER: The problem --

20 MS. WORCESTER: I feel that you're
21 not representing the people. You're just
22 trying to hold up a law and we know that
23 laws -- that's why we apply for variances,
24 that I'm a real person and this is a

1 heartache for me, and I'm sorry that you
2 don't see that and I wish that you did.

3 And it really breaks my heart to
4 think that I am such an advocate for Powell.
5 I have fought for issues in the past to
6 uphold Powell as a great community, and to
7 think that you think that my bay window is a
8 hardship and is going to cause problems, it
9 really breaks my heart.

10 MR. COOPER: Ma'am, you're taking
11 this -- and I understand why -- but you're
12 taking this personally --

13 MS. WORCESTER: Absolutely, I'm
14 taking it personal. This is my home.

15 MR. COOPER: We are looking at a
16 legal proof of hardship and --

17 MS. WORCESTER: I'm showing you my
18 legal hardship.

19 MR. COOPER: -- a hardship cannot be
20 established based upon the information that
21 we've been given here tonight. And it goes
22 on to specifically say that this cannot --
23 this hardship cannot be self-created and
24 cannot be self-corrected. And you have

1 created this hardship on your own by wanting
2 the bay window there. I'm sorry, but we have
3 the zoning codes that we must uphold.

4 I will make a motion to approve the
5 variance to allow the encroachment into the
6 side yard for the property at 317 Winter Hill
7 Place. May we have a vote, please?

8 MS. ROSS: We need a second.

9 MR. HILES: I second.

10 MS. ROSS: Ed Cooper?

11 MR. COOPER: No.

12 MS. ROSS: Robert Hiles?

13 MR. HILES: No.

14 MS. ROSS: Joseph Jester?

15 MR. JESTER: No.

16 MR. COOPER: Thank you.

17 MS. WORCESTER: I don't thank you.

18 MR. COOPER: Is there any other
19 additional business, Ms. Ross, that we've got
20 coming up other than the cell tower, which I
21 understand now is going to be months down the
22 road?

23 MR. BETZ: We have a technical
24 zoning issue with regard to the underlying

1 zoning of the property. The property will
2 have to be rezoned into a Powell category.
3 It's currently in a Liberty Township category
4 that was banished [ph] through the Powell
5 eight years ago or ten years ago and was
6 never zoned into the Powell category.

7 Therefore, the --

8 MR. COOPER: Who was the zoning
9 person then?

10 MR. BETZ: It was me. But the city
11 had every intention of not having anything
12 done with the property except build a road.
13 So, you know, there was no reason for it to
14 be a problem until now.

15 MR. COOPER: Is this in the same
16 area -- we never got the packet. Is it in
17 the same area where the extension for Murphys
18 Parkway is supposed to be?

19 MR. BETZ: Yes, yes. And it's
20 avoidable, but it is in the same area for
21 that. But the technicality point is that our
22 telecommunications ordinance under the zoning
23 code does not apply because it's frozen in
24 time in the Liberty Township category at that

1 point. So we'll go through a zoning process,
2 have it zoned to a Powell category through
3 P&Z and council, and once that's done then
4 the condition of the use permit will be
5 right.

6 MR. COOPER: Okay. And the city --
7 and the notices will be all sent out to
8 everybody in the area so they can go and
9 complain at those meetings instead, right?

10 MR. BETZ: Yes. But it's not --
11 those won't be for specific, the cell tower.
12 It will be establishing the Powell zoning
13 category so that our laws will be in place
14 rather than those in Liberty Township in
15 1998, which actually are not compliant with
16 the Federal Telecommunications Act of 1996.
17 We do not want to enforce those laws. If we
18 do, we would be -- yeah.

19 MR. COOPER: All right. So then
20 we'll see you in a matter of months then?

21 MR. BETZ: Yeah.

22 MR. COOPER: Except for a little
23 Target thing we've got to finish up, but then
24 we won't -- nothing going on there. That's

1 it.

2 MR. HILES: Make a motion to
3 adjourn.

4 MS. ROSS: Do we have a second?

5 MR. COOPER: Second.

6 MS. ROSS: Ed Cooper?

7 MR. COOPER: Yes.

8 MS. ROSS: Robert Hiles?

9 MR. HILES: Yes.

10 MS. ROSS: Joseph Jester?

11 MR. JESTER: Yes.

12 MR. COOPER: We're outta here.

13 - - - - -

14 Thereupon, the meeting was
15 concluded at 7:02 o'clock p.m.

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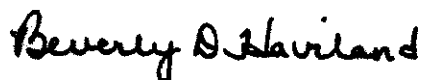
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The undersigned do hereby certify that the foregoing proceedings were digitally recorded, electronically transmitted, and transcribed via audible playback, and that the foregoing transcript of such proceedings is a full, true and correct transcript of the proceedings as so recorded.



MICHELLE K. SALINAS
Certified Digital Reporter



BEVERLY D. HAVILAND
Certified Digital Transcriber

1 ORIGINAL

2 MEETING: Board of Zoning Appeals, City of

3 Powell

4 DATE OF DELIVERY:

5 City of Powell
6 47 Hall Street
7 Powell, Ohio 43065
8 By Ms. Sue Ross

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10 _____
11 Sue Ross

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