

**NORTH RIDGEVILLE BOARD OF ZONING & BUILDING APPEALS
MINUTES FOR THE REGULAR MEETING HELD SEPTEMBER 28, 2017**

TO ORDER: The meeting was called to order at 7:00 P.M. with the Pledge of Allegiance.

ROLL CALL: Present were members Mario Cipriano, Martin DeVries, Planning Commission Liaison Tim Anderson, and Chairman Shawn Kimble. Absent was Vice Chairman Linda Masterson. Also present were Chief Building Official Guy Fursdon, Council Liaison Bernadine Butkowski, Assistant Law Director Morgan, Mayor David Gillock, Safety-Service Director Jeffrey Armbruster, and Deputy Clerk of Council Donna Tjotjos.

MINUTES:

Chairman Kimble asked if there were any corrections to the minutes dated August 24, 2017. Hearing none and with no objection, those minutes are approved as presented and will be placed on file.

REPORTS:

Chairman Kimble asked if there were any reports from Planning Commission.

Member Anderson responded no.

Chairman Kimble asked if there were any reports from the Board of Flood and Drainage.

Member Cipriano stated no report.

OTHER REPORTS AND CORRESPONDENCE:

Chairman Kimble noted an email that everyone should have received. He then moved the meeting on to the public hearings and asked the Clerk to read the first application.

PUBLIC HEARING:

APPLICANT: Adam Wujnovich, NVR, Inc. 6770 W. Snowville Road, Suite 100, Brecksville, OH 44141

OWNER: Robert Stearns, 7300 Westerns Avenue, Chevy Chase, MD 20815; City of North Ridgeville, 7307 Avon Belden Road, Sara Coven, David Wald, Abigail Glick and Susan Klarreich, 3311 Richmond Rd, Suite 200, Beachwood, OH 44122

REQUEST: A 65 percent cluster lot variance making it a 100 percent cluster lot subdivision under Chapter 1282 of the North Ridgeville Codified Ordinances.

LOCATION: Chestnut Ridge in an R-1 District
Permanent Parcel Nos. 07-00-025-101-079, 07-00-025-101-080, 07-00-026-105-006, 07-00-026-105-008, 07-00-026-105-009, and 07-00-025-101-081

Application was read along with comments received from Chief Building Official Guy Fursdon.

Chairman Kimble asked if there was a representative present. He asked if they would step to the mic and state their name and address for the record.

Applicants Kevin Kwiatkowski with Ryan Homes, 6770 West Snowville Road, Suite 100, Brecksville, OH and Adam Wujnovich also with Ryan Homes, 6770 West Snowville Road, Suite 100, Brecksville, OH were sworn in.

Chairman Kimble stated that he understands the applicant has an amended application that they wanted to present. He stated that since it did not meet the original cloture date, the Secretary will have to read the comments received after the deadline.

Deputy Clerk read the comments received from Chief Building Official Fursdon referencing the amended variance request.

Chairman Kimble asked the applicant to explain his amended request.

Applicant Kwiatkowski handed out copies of the drawing to the audience. He stated that the property consists of approximately 107 acres of land. This property he showed on the drawing was owned by the Wald, et al property and around that property is Schartman properties and the City Park. He showed the US 10 interchange and the community gardens on the drawing. He clarified that they are here seeking a variance and not a plan approval. That will be their next step for them depending upon the outcome of this meeting. He showed the area of wetlands they have on the parcel shown on the drawing. They originally proposed 187 lots and reduced it down to 176, which is shown on the amended plan presented. He showed the cluster lots on the drawing stating that they are roughly 55 feet wide by 140 feet in depth. He showed the single family lots that are 85 feet wide by 155 feet deep. Those lot sizes comply with the ordinance. As Mr. Fursdon wrote in his report, the area of land allows them to be able to propose 246 lots; they are only proposing 176 lots. Interesting hardship for this property is that the city has a plan for a collector road to come off of the interchange, go through the property and eventually through the Schartman property then up Waterbury all the way to Sugar Ridge. The section that is in Waterbury is going to be built by another developer and builder under their requirements and development agreements. They are proposing 1,595 linear feet of collector road with no lots fronting on it on behalf of their development to the city, which is shown on the plan. That isn't for tonight's meeting, he stated, however, it is for the Planning Commission, but he wanted the Board to hear the story. They do have a 42 inch high pressure water main that comes up the eastern side of the property. They have 14 or so acres of wetland. They were the winning bidder for the former right-of-way that 83 was supposed to come up in the area; all the way to Sugar

Ridge and he showed the property. As part of that bid, there is a five-acre parcel that they have on Butternut Ridge that is being donated to the city for its use. As a result of some of those things that don't allow them to maximize their density or put any lots on the collector roads at the city's requirement, they come to the city to seek a variance to do more clusters than just the 35 percent than what the ordinance allows. They are proposing to be double the open space than what the 1282 ordinance requires. They are at 70 percent of the density that is allowable and so, as a result of doing some of these improvements and bringing the sanitary sewer that is currently located in the area; he showed on the drawing, to service that whole quadrant, they asked for consideration from the city to allow for smaller lot sizes. They aren't asking for an increase in density and they are way above the open space required and given the public improvements they are donating to the city, they thought they would ask to use whatever space they had left not fronting on the collector road to be able to build cluster lots that will comply with the city's code in size. This is the same size lots you would see down the street at Winfield Farms. The first three sales at Winfield Farms have been cluster lots and they averaged \$270,000 in price and the Hampton Place cluster lots averaged \$292,000 in price. He stated that sometimes people believe that smaller lots bring down the value, but those are pretty strong prices. They aren't seeking to do 100 percent clusters. They are asking to do 62 percent of what is allowable as cluster. Again, he reiterated that they are here about the variance and not necessarily the plan approval. At Planning Commission, they will go over the storm water, detention, etc. at that meeting.

Chairman Kimble asked the representative to restate his amendment to the original variance request.

Applicant Kwiatkowski formally requested to amend the application to read their request is for 62 percent of the allowable clusters under section 1282, which would be a 27.2 per variance from the code.

Chairman Kimble stated that he understands the layout proposed and the property is unique as it is not the typical development plot. There is a jag with substantial amount of wetlands in the back. The developer is limited to where they could put roads. He understands that. He asked what the actual hardship to receive the approval is. He understands the collector road they are putting in for the city and he thinks that is great, but in his opinion, the developer needs that collector road in order to get to the streets in the development. He asked the developer to walk him through this concern.

Applicant Kwiatkowski stated that the collector road is a wider road that they have to build, set aside that land area that they can't use and furthermore, they can't put any lots on it. They are essentially building a no load road which is pretty inefficient in the development industry. That road cost about one million and thirty-two thousand dollars, which they are bearing that cost. If he were to go do the code of the 1282, with 35 percent allowable clusters and the rest of the development being 85 feet wide, his unit count drops and he can't afford to bear the cost of the collector road. At that point, the Board could say just build it per the city regulations and then

he can ask the city to pay for the collector road, but in this situation, he was offering to pay for the collector road to be built by their development, not putting any lots on it and build it as part of their community.

Chairman Kimble stated it is a larger road than what would be built for the rest of the subdivision.

Applicant Kwiatkowski stated in a typical design they would put lots fronting on that roadway. The city has requested this collector road to go from Route 83 to Sugar Ridge, which they cannot build homes fronting it. That is their true hardship and it is economic as well.

Chairman Kimble stated he understands the economic standpoint of it probably more than anyone else in this room. He stated in fact, he has put in subdivisions with his family's construction company within this city.

Applicant Kwiatkowski stated if he was here asking for more density that would be a different question. They are well below the density.

Chairman Kimble stated he thinks that is an important fact to point out is the difference between density and what the request is here tonight. He explained the lot sizes again. He added the difference in the amount of lots he would have if this was done traditionally R-1 with lots at 85 versus 55 is only a third of what is being proposed in this plan. There are 176 lots now and it isn't like the lots would be reduced down to 35.

Applicant Kwiatkowski stated that the collector road will cost his current proposal roughly \$5900 extra on development cost than what he typically would experience at Winfield Farms per lot. He could go back to the 65/35 percent 1282 ordinance and wait for the city to pay for the road.

Chairman Kimble stated that he understands his financial commitment with the collector road and he personally thinks that aspect is a benefit to the city. The point he was making was if the applicant built under section 1282, R-1, they would still need access in and out of the property. If they ended the road, they would still need to put that in.

Applicant Kwiatkowski stated it would be a different design road. It is important to point out that they have a fixed point they have to connect to. The geometry of this is designed as such to connect and will eventually go through the Schartman property and connect to the existing stub that is at the end of Terrell Drive and Waterbury Blvd. so it has to have a certain tangent to make it there; otherwise, they would do a different layout.

Chairman Kimble asked if the entire design was for the collector road to be at one end of the development and then passed through to the other.

Applicant Kwiatkowski stated correct.

Chairman Kimble stated that makes a 100 percent difference and he was glad he pointed that out.

Applicant Kwiatkowski stated that it is featured in the City's thoroughfare plan and that is where they started this process many months ago.

Chairman Kimble stated that it is a paper street as of right now.

Applicant Kwiatkowski stated it is on the City's plan as to how they want the road to go.

Chairman Kimble asked if there were any other questions from the Board.

Member DeVries asked for clarification in the number of lots. He asked if this was still 246 lots all together.

Applicant Kwiatkowski stated he is proposing 176.

Member DeVries asked how many of those lots will be single family.

Applicant Kwiatkowski stated on the amended plan, it shows 23 single family and then 153 clusters. He showed on the plan which homes were the single family lots. He showed the area adjacent to the parcels proposed to be developed stating that area is currently zoned RS-2. They laid the development out transitionally from that and he knows some of the folks in the audience are from that neighborhood. Those lots in that area are 20 foot lots and some are combined to make up some of the residence. When he did the notice, he gave every single parcel. They could have gone the route in rezoning this to RS-2 since it is abutting that but they chose this path first because being a former City Planner, the city may open itself up to other RS-2 zoning and given the case they have presented with the collector street, the high pressure water main, the former right-of-way and road alignments and since they were so far below the density, this was worth going this route first than rezoning and then having the city having to worry about additional RS-2 zoning going forward.

Chairman Kimble agreed.

Member DeVries stated that there are a total of 176 lots with 153 clusters. That is a total of 87 percent.

Applicant Kwiatkowski stated that the percentages are measured off of the total allowable. The total allowable is 246 and of that, 35 percent is 86 and they are seeking a variance to allow for up to the 153 units, which puts them at a total of 62 percent cluster lots.

Member DeVries stated that as he is looking at the total of 176 units and sees that 153 are cluster units that is a lot. For a whole development to have that many cluster lots is a concern to him for safety reasons and practical reasons. He is not making a decision yet because he still wants to hear what the applicant has to say, but that is a lot from what he is looking at in the code.

Applicant Kwiatkowski stated he sees his point but the allowable units are 246. So, they could be skipping this step and going to the Planning Commission for 246 units but they aren't. They are here first and proposing a lower density than what is allowable.

Member DeVries stated he understands but the other option is that the applicant is making the city pay for the road if the applicant doesn't. He doesn't like the feeling of how that is going as well.

Applicant Kwiatkowski stated that the Mayor is here. He never said "Mayor, pay for the road", but he is here first offering to pay for the road.

Member DeVries stated okay.

Audience members spoke out.

Chairman Kimble explained to the audience that this is a semi judicial Board and he promised that he will give everyone in this room a chance to speak no matter how late we are here. He will call on everyone who would like to speak, but the one thing that will not be tolerated is people yelling out from the audience. He asked everyone to respect that and he will give everyone a chance to speak. He asked that they refrain from comments until that time.

Applicant Kwiatkowski stated that they have done similar situations where they contributed to the light at Lorain and Bagley Road.

Member DeVries stated he is aware of everything they have done for our community. He also appreciates them scaling this back. He stated for practical means where he sees a development with more of the focus on clusters especially for those who will live there is a concern of his.

Chairman Kimble asked what the total maximum number of units he said he could build.

Applicant Kwiatkowski stated 246 lots. The acreage times the 2.3 density in the 1282 ordinance and zoning classification.

Member Cipriano stated at 27 percent roughly, the Chief Building Official concludes that the variance is 27.2 percent. He asked if that was for density and if not what that is for.

Chief Building Official Fursdon stated percentage of cluster units to be built. The density is at 1.78.

Member Cipriano asked on a particular project with this land size that is the maximum density allowable for this type of cluster lots so, with the variance of 27 he is extended and is asking to allow those additional clusters.

Chairman Kimble asked the applicant if they had any idea of what they could build if they stuck to the 1282 requirements. As the applicant stated, the max could be 246. There is no way they could get 246 lots on this property.

Mayor Gillock stated part of the requirement to make this project happen is they have to purchase 24 acres that the city owns in that area. The city would not sell it to them if they were not putting that connector road in. If they were doing regular R-1 there would be cookie cutter shaped streets to get in as many as they could. They can't do that. One of the things they could consider is rezoning to RS-2. With RS-2 there is a density of 7. The Administration recommended that they not do that as we don't like it. He didn't think it would be approved, but that is another way of going. The Administration believes that the difficulties with the property that are there in terms of the water line, with the substantial 5 acres of wetlands that they are buying from the city, that are useless, and the land that the collector street will take up, it makes sense to consider something like this. They are only at 70 percent of the allowable density and they are well below the total number of lots. Keep in mind a cluster home is a smaller lot. That doesn't necessarily mean a smaller home. These homes average 2300 to 2500 square feet and as Kevin just pointed out similar ones are selling in the \$280,000 range. They are pretty nice homes.

Chairman Kimble stated that part of the condition in the applicant being able to buy the property from the city is to install that road. That collector road is part of the hardship. From the Board's standpoint, the decision is not based on who pays for the road. If it is part of the agreement that the applicant has to do that, then that definitely does handcuff what the applicant could, from a design standpoint, develop on this property. Looking at it from his experience, he didn't see any other way they could do it especially now knowing that this road is in a fixed location. He stated with all that in mind, it seems that this is a well-designed project the applicant is presenting.

Chief Building Official Fursdon stated that the beginning of this collector street is going to help move traffic more efficiently in the city and more importantly it is going to give the safety forces better accessibility.

Chairman Kimble asked if this collector street will tie into the back of Terrell.

Chief Building Official Fursdon stated it ties into the Waterbury subdivision. The last phase of the Waterbury subdivision will tie into the street we know now as Waterbury Boulevard all the

way to their southern property line. This will connect with whoever develops the Schartman property and it will put the link from this connector to there. This gets us one step closer to that connection that is specified in the Master Plan because we just can't build everything as isolated on its own. We have to be able to move traffic within the city. If we don't do that, then you better build Center Ridge Road twenty lanes wide to move traffic.

Chairman Kimble asked if there were any other comments from the Board members.

Member Cipriano addressed the Mayor and asked what would happen if they chose not to develop this property. He asked if the city would be putting in that road.

Mayor Gillock stated that it is in the Master Plan to do it. He didn't know how the city would do it as the city doesn't have funds to do it at this time and so it would remain on the wish list. The portion between Sugar Ridge Road and Terrell is already committed to be built. That is a requirement of the developer in Waterbury. He has to build that section and then it is planned to be taken down Chestnut to 83.

Council Liaison Butkowski stated that she believes that 153 clusters are just too many in one area. If there are small lots, it just creates too many problems. Houses just don't pay for themselves and so, we have lots of people concentrated in one area which requires a lot more city services that we have to pay for along with the roads. She can't see why they can't put in more single family houses and spread this out a little bit. If they put in bigger lots, they could get more money for them. They could have the ability to recoup much of the funding that they are losing by taking the smaller lots out and putting bigger ones in. The city doesn't need any more of this type of building. We can't afford to keep servicing this much property and this density.

Chairman Kimble asked if there were any other comments from the Board members.

Member Cipriano stated not at this time.

Assistant Law Director Morgan addressed the Chairman and stated she wanted to be clear in that we are talking in terms of hardship here and the applicant has talked about the line that goes down the property and the wetlands but technically speaking, this is an area variance and so, we are really looking, for our purposes, at not a hardship, but a practical difficulty. It is a little lesser standard and so, she wanted the members to keep that in mind.

Council Liaison Butkowski addressed the Chairman and stated that when the applicant purchased this property or planned to purchase the property, all that was there and they knew what our ordinances were. We have had those ordinances for a long time and that is what was here. They come in and expect the city to agree that they have the great and wonderful plan. The city spent a very long time doing those ordinances and now, the applicant comes in and says we have a stupid plan and that they can make a whole lot more money jamming all these houses in there.

She stated that the applicant is giving the city a hardship. The applicant doesn't have a hardship. The city has a hardship if the applicant puts 153 clusters in here. That will be our city's hardship to try and serve them because our finances. She stated that the city doesn't need to have anyone else put that much burden on what we already are paying for.

Mayor Gillock clarified that they have not bought the property yet. The city put the property up for bid. They were the highest bidder at \$100,000 for 24 acres of which five of it is wetlands. We won't sell it to them unless we can make that connector road. That is the only reason we would sell that property was to make that connector road happen. We have talked about all of these houses. The applicant is at 70 percent of their allowable density. That is well under the number of houses that absence of any wetlands; we would allow them to build. They could come in here with no variances or anything and build 246 houses. They could still do that if they wanted to mitigate the wetlands. They could go R-1, mitigate the wetlands, forget the collector road and go ahead and build 246 units and all they would have to do is go to Planning. We are holding the density down to 70 percent of what it is and getting rid of land that is not being used for any purpose and not drawing any taxes and get a collector road to help move traffic and as Chief Building Official stated it would also help the safety forces move more quickly into Waterbury.

Chairman Kimble stated that it is far better than if it was hypothetically rezoned to RS-2 and someone can build seven units per acre.

Mayor Gillock stated that RS-2, which allows for density of seven on similar size lots.

Chairman Kimble stated this is 1.78, versus 7 and is definitely an extreme difference.

Chief Building Official Fursdon stated another thing the Board wants to keep in mind is everyone seems to be focused on these cluster lots and how small they are. The professional land planners are telling us now that for future generations, you have to curtail the size of the lots as the population is growing. You have to have some place to house them and you can't grow more land. You still have to get your food from the land and your natural resources and so, the day of the big lots is rapidly coming to conclusion just like the day the big automobile ended and that is a harsh reality that we have to plan and prepare for our future generations.

Chairman Kimble asked if there were no other comments from the Board or Administration, he opened the floor to the audience and asked if anyone would like to speak to go ahead and form a line. Each person will need to state their name and address as they will be sworn in. If there is anyone that would like to speak on behalf of this matter, please line up behind the podium. This will not be a forum where there will be questions and answers. The Board may address the applicant at some point.

Cindy Firak of 38625 Sugar Ridge was sworn in and she asked where Sugar Ridge was located

on the plan.

Applicant Kwiatkowski showed where Sugar Ridge is on the map.

Ron Wiseman of 36114 Shaw Drive was sworn in and stated his concerns regarding traffic on Shaw Drive. He asked if there would be access to the subdivision from Route 83 through Shaw Drive. His concern is the traffic. He explained his concern regarding the sanitary sewers noting that everyone within Homecrest is on septic systems.

Chairman Kimble stated that those are all extremely valid questions, but those are perfect examples of questions that need to be addressed to Planning Commission. The duty of this Board is to vote on the request of variances at hand. The location of the sewer, the Board has no clue where that will be. However, he did note from the map provided that it does look like there is a temporary access off of Shaw Drive into his development. That is a matter for Planning Commission and it is not an item that this Board can discuss or bear into the decision making process.

Ron Wiseman asked if they would be notified if this goes to Planning Commission.

Chairman Kimble stated that if this does go to Planning Commission adjacent property owners directly adjacent will be notified. He asked where he was located on Shaw Drive.

Ron Wiseman showed him on the drawing.

Chairman Kimble stated he would not be notified because his property does not abutt the property in question.

Ron Wiseman stated that maybe the city should rethink that because the people that live up and down Shaw may be affected by a lot more traffic.

Dan Jaram of 36192 Shaw Drive was sworn in and stated that it seems as though this is more about the city getting a road in order to make this cluster variance. His question was how much did the developer profit from putting in the road. He stated that the profits made in this development that would include all the cluster lots would far exceed what it costs to put that road in otherwise the developer would not be willing to pay for it. He noted the safety concern in regards to the close houses. He noted the statement made by the Chief Building Official regarding the trend in housing and stated that there is an abundance of land left in Lorain County and he didn't believe there is a shortage with the reduced population in the State of Ohio in the last several years. He didn't believe that comment was really a factor in the matter. The rest of his concerns will be for the Planning Commission.

Tom Cobler of 36155 Shaw Drive was sworn in and stated his concern is with traffic on Shaw

Road and asked if construction equipment will be driving down that road all the time. He explained that it is hard enough to get in and out of Shaw Drive right now. This might not be the subject for Planning Commission but he wanted to voice his concerns regarding the traffic and the children in that area.

Chairman Kimble stated those are extremely valid concerns and understand as he lives off Jaycox and understands the traffic concerns. He stated that is an extremely valid point, but will need to be addressed to Planning Commission.

Sarah Jaram of 8981 Lakeside Drive was sworn in and stated she lives across the field from where this is being built. Her concerns are related to the sewer lines and the burden of more children in the school system. Her other concerns are regarding Shaw Drive as it is a one and half car lane road and is difficult to pass one another driving it now. She asked how they could make it an access road to this housing development when the road isn't wide enough now. She stated it would be a ridiculous amount of people moving into that small area.

Chairman Kimble stated that the business at hand tonight is about the variance and everything that has been said is extremely on point and if he lived there he would have the same questions and comments, but as far as the Board is concerned tonight, the overloading of schools or the traffic moving in and out has zero bearing on the Board's decision. If the Board were to use those issues to make a decision, the members would be breaking the laws of the Board. Even though they are valid.....

Sarah Jaram stated even if it involves safety and the traffic amount.

Chairman Kimble stated that the temporary access has absolutely nothing to do with this Board's decision on what is in front of them. He stated if he lived there he wouldn't want it either. He stated he has been dealing with it currently where he lives but from the Board's standpoint, everything that she has mentioned has absolutely nothing to do with what can be considered in the decision process. Even though they are valid questions, those are questions he would ask that they bring up to the Planning Commission if this does go to the next step.

Sarah Jaram asked what the concerns of this Board are.

Chairman Kimble stated that it is the amount of cluster lots that are permitted for this parcel of land. That is all they are talking about this evening.

Sarah Jaram stated that it is a lot of homes for this area.

Chairman Kimble stated that a valid point to remember is this developer can build 246 homes and they are only asking to build 176 homes. He addressed her and stated she opened the issue of the schools and the roads. A couple children in each house times 246 is far more than what

would be in here currently. By doing what is allowed by city ordinance, they would not need to come to this Board to be able to build the 246 units. That would be a far greater impact on the concerns she has mentioned. The only item that is being considered this evening is the amount of cluster lots.

Sarah Jaram asked what about the sewage.

Chairman Kimble stated that is all a Planning Commission. He stated as a member of this Board, he has no knowledge of the sewer and it means nothing in this decision.

Brendan McCool 38733 Sugar Ridge Road was sworn in and asked if this plan will be in front of the Planning Commission. He stated that they were told they couldn't discuss anything that had to do with the plan until the city had a plan. He asked if it goes to Planning would they be allowed to discuss the subject matters brought here tonight.

Chairman Kimble addressed the Assistant Law Director.

Assistant Law Director Morgan stated she understood the concerns that people have. The reason everyone gets sworn in here as it has been indicated, is that it is a quasi-judicial type hearing. They are tasked to listening to the developer and other concerns but their decision has to be judged by courts at some later point the courts are going to look at whether the Board considered something that is more like evidence; not like what might happen or how many children may be there. They can't use that information for this kind of decision. So it makes it difficult. They have to look at what our ordinances are and what the requirements are. There are seven factors built into their application called practical difficulties and they have to weigh those factors and the decision is made in large measure based on that sort of thing. They have to take evidence. It is quite different than that of Planning Commission. They have a broader respective that they can look at.

Brendan McCool stated that his question was whether this is a submitted plan.

Chairman Kimble stated regardless of whether it is a submitted plan or not, the questions are relevant to Planning Commission.

Assistant Law Director Morgan stated that there could be changes after this meeting. After they hear what the decision of the Board is and it may be similar to this but it might not be exact. When they do an application to Planning, they can submit what may be their final plan at that time.

Brendan McCool asked if this plan had been submitted to Planning.

Assistant Law Director Morgan stated she didn't know the exact answer to that. Whether this

has been submitted.

Mayor Gillock stated he believes they are scheduled for the October 10th Planning Commission meeting and at Planning, they can ask those types of questions such as the sewer line.

Brendan McCool stated that they have been told for their issue over on Sugar Ridge that the Fire Chief wants a third fire station for the city. He asked if the increase in population will be the catalyst for that or is this going to fall under what is already there. He asked if Shaw Drive gets torn up because of all the construction trucks, who will have to pay to fix that. He asked where the connector road will connect to.

Mayor Gillock stated he knows that we are off topic, but asked if he could answer some of these questions. The Fire Chief is talking about as we grow, when we grow, whether it is on the west end or east end, we are going to need more fire stations. We already know that and we have already bought property at the corner of Stoney and Barres to put a satellite station there. The city is looking at grants to buy equipment. One of the big things is we would have to add staffing and it is something we are looking at way down the road where we would like to have four stations. He stated that Shaw Drive would not be a permanent access. Right now they are in the planning stages in working where construction traffic would be. Those aren't even issues that have been addressed yet. He explained where the connector road would be located and he stated that you would be able to drive from Sugar Ridge down to the alternate Route 83 along the edge of the baseball complex.

Brendan McCool stated that they were told in Planning Commission meeting that the whole intent of the Waterbury/Beckett road was to serve the industrial land to make it for truck traffic. He asked if it would be able to support the truck traffic as it is going all the way through.

Mayor Gillock stated it wouldn't be at this time because it doesn't go anywhere. Sugar Ridge is a no truck route.

Brendan McCool asked if the road that is being put in would be a truck traffic. He stated that is what they were told that route would be serving is the truck traffic.

Mayor Gillock stated that there is a Master Plan that someday if we could, we would continue to take it up to the railroad track and then west to Beckett Parkway and that would keep all the traffic off of Sugar Ridge but also allow Beckett a way to get out.

Brendan McCool asked if it was built now, will it be able to support the trucks in the future.

Mayor Gillock stated that by ordinance all streets have to be built to ODOT standards to be able to support truck traffic, whether it is a truck route or not.

Karen Toich of 36765 Chestnut Road was sworn in and spoke regarding the lot sizes. She understands it would give them a hardship if they have to have fewer lots and build a road, but what about the people that have lived here and paid taxes. She explained that they experienced this with Community Health Partners leaving the area with a bare lot with weeds growing. They don't maintain it. She spoke about traffic concerns and drainage concerns. She asked who it benefits by building smaller lots. She stated there are too many homes in this town already.

Albert Krage of 37903 Sugar Ridge Road was sworn in and stated that the road they are putting in is going to be a designated truck route and the traffic and safety of those individuals who will live there concerns him.

Chairman Kimble stated that when it goes to Planning Commission, there is a traffic study that has to be submitted. As far as truck traffic and issues of that nature, it is not even something this Board can discuss. He restated the fact that this Board is a quasi-judicial Board. This is very unique. Council can over turn something that goes to Planning Commission. The only Board that can over turn a decision made by this Board is the Court of Appeals.

Albert Krage asked what the date of the Planning Commission meeting is.

Chairman Kimble stated he believes it is October 10.

Karen Pawlicki of 36390 Chestnut Ridge Road was sworn in and stated that she understood the subject matter is the number of cluster units and so she counted the number of these units that are directly behind her house and there are 66 of them. She found that horrifying. She expressed her concerns with home values in that area and the increased traffic.

James Firak of 38625 Sugar Ridge Road was sworn in and stated that he couldn't believe the limited amount of information they can use to make these decisions. He explained his concerns with the collector road and the bypass road.

Donna Wiseman of 36114 Shaw Drive was sworn in and stated she lived on Shaw Drive for 30 years. She stated her concern is with the zoning laws and what they are allowed to do by ordinance. Her concerns are more with the ordinances and how they are written to allow something like this.

Chairman Kimble stated that the ordinances that are put in place is what this Board has to go by and from their zoning standpoint, they have the unique position to find either the hardship or depending upon the variance, the practical difficulties to make a decision that meets a certain criteria that has been presented by as high as the Ohio Supreme Court. When he explained that they could build 246 units versus the 176 they are showing here.....

Donna Wiseman stated that is what she is talking about and how they can go about changing

these laws so that in the future the city doesn't keep getting more and more people, more and more traffic on our streets and schools.

Chairman Kimble stated she can discuss that with their City Council member. Thankfully, this Board is not responsible for making the ordinances. He suggested they call their Council person.

Member Cipriano stated that this Board is not unique in the sense that this is what happens in most cities. You have a Board of Zoning and Building Appeals for people to come forward and make their case particularly when the code most often doesn't directly address what people are asking for. Other times it is something they are asking for an exception to. The reason the Board exists is to evaluate those exceptions based on the criteria that has been explained.

Council Liaison Butkowski stated that this 153 clusters that they want to build, which is why they are here. Our ordinances do not allow them to build that many. They are over quite a percentage of what we would normally allow them to build on that property and that is why they are here tonight, to change our ordinance so that they can build these things.

Chairman Kimble disagreed and stated that comment is not entirely accurate. They are not here to change the ordinance. They are asking for a variance to it. They are not asking to build more homes, they are building less. They are allowed 246 and only proposing 176. The discussion tonight is the amount of cluster homes versus the traditional residential R-1 lot size. It is not an accurate statement to state they are looking to build more homes because in fact they are building substantially less than what they could.

Council Liaison Butkowski stated that there are wetlands here which would have to be mitigated and she didn't believe that 246 single family homes could go in that area. The issue we are talking about tonight is the 153 cluster lots that are over our ordinance. It is over the ordinance. We do have ordinances for this and that is the reason they have to come here to get permission for this.

John Tipple of 36655 Chestnut Ridge Road was sworn in and stated that his family has been in this community for over 100 years and they have been waiting since 1969 for the connector road to go through. He stated it has been stopped by Avon and stopped by the State. Back in 2001, Mayor Hill and Administration paid \$169,000 for that 19.6 acres and we are going to give it away for \$100,000 with a promise of a road. He stated that he has a pretty good idea it is not going to happen. He spoke his concerns regarding the cluster homes and the schools. He stated that its been mentioned that the property is supposedly worthless; he asked how much Bobby Ternes pays to rent that property to farm it. It is not worthless and it is getting income to the city.

Someone from the audience spoke out.

Chairman Kimble stated that we aren't having an inter conversation. All comments will be addressed to him.

John Tipple stated that the city rents that property out and asked if Bobby Ternes farms it. Mayor Gillock stated part of the 19 acres but none of the five acres that have been mentioned.

John Tipple spoke of the drainage issues and more roof tops will not help that.

Jennifer Comnira of 36185 Shaw Drive was sworn in and explained that they moved from Cleveland out of the cluster life style. She stated that she likes the country life and believes that by adding more homes would be a disaster. She spoke regarding the school issues, busing and traffic.

Kim Stermole of 37872 Sugar Ridge Road was sworn in and spoke regarding the density and the collector road stating that if they reduce the size of the collector road to standard road size, the city wouldn't get their truck route to Mr. Beckett. She stated that is what this whole thing is about is tying that exchange at 480 to Mr. Beckett. She stated she has been here 32 years and likes the density that currently exists.

Chairman Kimble stated for clarity, that if the developer were to redo this design and conform to our ordinances, they could actually have a higher density than what is being designed now. They are permitted to build more units than what they currently have planned.

Kim Stermole stated that might be better than having a truck route going passed Shady Drive Complex. She stated it isn't the area to put this in.

Chairman Kimble addressed the Mayor and stated that he is hearing this collector road is potentially going to Mr. Beckett. He asked him to clarify the location of this collector road.

Mayor Gillock stated as he mentioned earlier, the long range plan would be to go from Alternate 83 right at Chestnut bring the road up in parallel with the baseball complex and goes up to where Shady Drive is currently to Sugar Ridge. Then it ends. He stated the city does not own any more property. Someday, he added, the city would like to see that go on north to the railroad track and then over to Beckett Parkway. He stated the city does not own that land and there is nothing in the works for it. The piece that K. Hovnanian has to build is from Sugar Ridge to Terrell and was in their developer's agreement which was signed before he was Mayor. That will be built. They are required to build it. They don't have a choice. The piece from Alternate 83 that we are talking about today will be built if they get the variance and it goes to Planning. That will leave a short piece from their property to Terrell as Mr. Kwiatkowski mentioned earlier, the Schartmans own that piece for now and he is working with them as he would like to buy that in order to finish the connector road at that time. But those two sections will be built. They don't have a choice. It is in their developer's agreement that has been in effect for 15 years and we are

now talking about this piece.

Kim Stermole stated the way she understands this is that it is being built as Mr. Beckett has a chance to expand and build back where he is or he will build in Strongsville. She stated this is part of the density problem with this plan. She stated that the city has had one person after the next stating that they like it the way it is.

Brendan McCool of 38733 Sugar Ridge Road asked for clarity on what is allowed in the number of homes.

Chairman Kimble stated it is 246 homes.

Brendan McCool asked for clarity on the variance.

Member DeVries stated that it is a total of 176 homes all together with 153 homes being cluster lots and 23 would be single family. He stated 153 cluster homes would be 83 percent of the project. The single family lots would be 13.1 percent of the total project.

Brendan McCool stated that because they are asking more than 65 percent of cluster homes that is their variance.

Member DeVries stated that the ordinance says you can have up to 35 percent to be total cluster lots of a project.

Mayor Gillock stated that is incorrect. They are allowed 246 total homes on the total parcel and that would be 35 percent of the total, regardless of how many they build. 35 percent of the 246 can be clusters, which gives them about 86. To make the project work, they want to go to 153 cluster lots. That takes them from 35 percent of the total to 62 percent of the total. They are still going to build fewer homes with less density and more open space. They want to build homes on smaller lots.

Brendan McCool asked if that would be the practical difficulty the developer is facing. He asked if that is where the unnecessary hardship comes in.

Chairman Kimble stated that the Board does not factor in anything that has to do with financials as part of their decision. He is sure that is what Mr. McCool was getting at.

Brendan McCool read a portion of Section 1244 of the codified ordinances. He asked if this is detrimental to everyone, than he believes this should stop. He didn't see how sticking 66 houses behind someone in the audience would be beneficial to the property value.

Mayor Gillock stated that the Assistant Law Director Morgan spoke to this earlier. This is not

necessarily a hardship issue.

Assistant Law Director Morgan asked to reiterate. The Board has with them from the Ohio Supreme Court a list of seven factors and there are other things they can consider, but the Ohio Supreme Court wants them to look at seven. They have to look at the practical difficulty standards. She continued to state that what practical difficulties are there for them to grant this variance or if they don't find there are enough practical difficulties then they would decide the other way. From what she is hearing this evening a couple of things seem to weigh heavier than the others. The decision of whether or not that this is a substantial variance and then the other one that was mentioned briefly is whether the adjoining properties would suffer substantial detriment and the word substantial is important and not just any detriment. The city cannot tell a developer no just because a neighbor doesn't want it. There has to be an actual detriment to the property and that is what they are listening for from the comments which will help guide them to make a decision. It is a practical difficulty and not an unnecessary hardship which is a higher standard.

Chairman Kimble stated that the applicant mentioned that it is going to cost him a lot to develop this. He stated he didn't care. From this Board's standpoint, it is not their concern whether or not the developer makes a million dollars or loses a million dollars on this project. It means zero to this Board.

Brendan McCool explained why he was asking if it was hardship and whose hardship is it, the developer or the surrounding neighbors.

Chairman Kimble stated that the applicant has a duty to prove to this Board the practical difficulties in why this project should go through. It is not for this Board to make a decision of what it is for. He needs to be able to prove it to this Board. In return, the Board makes a vote and if it is not agreed upon, it can be appealed to the Court of appeals. That is a much higher board than the four volunteers that appear before you this evening.

Nancy Schartman of 8576 Avon Belden road was sworn in and explained that she and her husband own the two properties west of this property. They own the two farms. She asked for clarification as to the procedure is if the residents don't agree with the decision made tonight.

Assistant Law Director Morgan stated that it is an appeal and will actually go to the Common pleas Court first and that would be the decision of this Board, but that doesn't mean that this won't go before the Planning Commission which is a public meeting. It will be in front of Council as well. There is plenty of more public dialog. We are talking about the decision tonight to either grant the variance which is about 27 percent or not and that is the single decision and they are looking for information to make that decision.

Nancy Schartman stated she has lived in North Ridgeville for over a half century. She spoke

about what was to happen with Route 83 back in 1969 and continued to speak about all the developments that have been put in and the traffic problems that have occurred. She stated she doesn't want more homes. She spoke about the services that will need to be increased and the lack of consumer goods for sale in North Ridgeville.

James Molchan of 36844 Chestnut Ridge and 36850 Chestnut Ridge was sworn in and spoke regarding the easement between his property and the development that is a water way. He asked if creating more hard surface would be a detriment in not allowing this variance. He stated that Waterbury promised four acres for a school and promised to take care of Bender and nothing happened. He is opposed to this.

Chairman Kimble asked if there were any other comments from the audience.

Dennis Boose of 6405 Denise Drive was sworn in and stated that he is not one on being in favor of very many variances. He explained the differences in variances and which one he likes to see versus ones he does not. He stated here, he has a couple of issues. He spoke of the applicant saying that they talk about if this variance isn't approved, that they could build 246 houses on this property. He stated that these gentlemen and their company are much smarter than this. If they could, they would and they wouldn't be here because they can. Technically, they can but there are some reasons that they can't. He went on to explain that one of the land owners is going to require them to put this collector road through that will take up part of their land and basically split the property in two. That is one reason they couldn't come back and build 246 homes. In addition, once you start planning all of this and though we are not here to talk about storm drainage and things like that, they can't build that many homes practically because they will most likely have to build some detention basins or do some other sort of storm water management that will take away some of that buildable land where they could build some of these 246 homes. As the Mayor has suggested in order to get that 246, they would have to mitigate the wetlands. That is not free. That costs money. If they didn't mitigate the wetlands, there is five acres that they couldn't build on, which is less and decreases that 246 number down. Again, he doesn't agree with the argument that if this doesn't happen, then we will see 246 homes. He was glad to hear that financial gain or loss isn't a question of this Board because it really shouldn't be. Again, he restated that the applicant knows that if they could build per the ordinance and they could make that money, they would. He doesn't begrudge them, but the property is currently R-1 and the property currently has an allowable number of homes that can be built with a percentage of smaller lots. He suggested that when they buy the property, they build their project to what the ordinance and zoning provides and leave it with that. He doesn't see where there is any practical difficulty here to be considered.

James Molchan of 36844 Chestnut Ridge stated that they are going to build this connector road that will connect to Waterbury. He asked if it sounded like Mrs. Schartman was going to sell that property to them.

Chairman Kimble asked if there was anyone else that would like to speak on behalf of this

matter.

Mike Babet of 38601 Sugar Ridge Road was sworn in and stated that he doesn't live adjacent to this property, but he does travel that corridor every morning and every evening. He spoke regarding the traffic problems in that area. He stated in the Master Plan that area is specified as a Special Business District. He spoke regarding the Master Plan and read a suggestion made in the Special Development District/Special Business District section of which it states that a consultant should be hired that specializes in zoning code and ordinances. He asked if the city has hired a consultant to actually change this from a Special Business District to allow for more density.

Chairman Kimble stated that the Planning Commission takes care of that and not this Board.

Mike Babet stated that it says in the Master Plan that in order to do these recommendations that you must hire a consultant who specializes in zoning code and ordinances. He asked if anyone has been hired since 2009, a special consultant to tell whether they are good or bad or whether they are workable with Master Plan.

Chairman Kimble addressed the Clerk.

Deputy Clerk Tjotjos stated that along with the Planning Commission application that comes in, the application and drawings are required to go to a City Planner for review. It is now in review. She asked if that was the consultant he was referring to.

Mike Babet stated he was just reading words written from the Master Plan where it states that in order to invoke any of these recommendations, which have been cited in the past for reasons to rezone or zoning changes, it says that the city needs to hire a consultant who specializes in zoning code and ordinances.

Chairman Kimble stated that everything he just mentioned is not what we are doing here this evening.

Mike Babet asked if anyone has been hired since 2009 to interpret those recommendations and directly report to the Mayor.

Mayor Gillock stated no.

Mike Babet spoke regarding drainage and his concern is with all these homes being put in will cause more problems.

Chairman Kimble stated that he will not discuss ditches. That is purely Planning Commission. This has zero bearing on the decision here tonight.

Mike Babet continued to explain the ditch issues.

Chairman Kimble asked if there was anyone else that would like to speak on behalf of this matter. He asked if there were any other comments from the Board.

Chairman Kimble stated that he had some concerns and thoughts on this matter. He asked the applicant to clarify that this is designed to line up with the drawings on our Master Plan or a theoretical paper road, whichever you wish to call it and we are here looking at our cluster numbers. He asked what is the actual number of lots he could put into this development per this plan in R-1. He stated that with the total density and the maximum number of homes that he could build is 246. He stated that he believed that number would have been impossible to meet based on the wetlands and collector road. He agreed with Councilman Boose in that if they could get 246 homes in there, they would. He asked with all that is said, what is the possible number of homes that could be built in this area with complying with the traditional R-1 lot size and dealing with the wetlands, etc.

Applicant Kwiatkowski stated that they didn't lay it out that way.

Chairman Kimble stated the original plan showed complete clusters. Then Street F was made with the traditional R-1 lots. There are 23 single family lots now. The street lengths remained the same and he asked if that was correct.

Applicant Kwiatkowski stated that the original plan called out for 187 total lots. The change in the plan calls out for 176 total lots.

Chairman Kimble stated if you removed the 27.2 percent variance and made that all R-1. He asked what would be the number of lots we are looking at versus what you show on the plans.

Applicant Kwiatkowski stated he hasn't done that plan.

Chairman Kimble stated that Street F alone went from 36 to 23. What is important for everyone to remember is that it is not even the number; it is that it is 27.2 percent more clusters versus what is currently allowed by ordinance. That is the number of homes he is looking at to see what exactly that would come out to be. He didn't think it would be a devastating amount in reduction. He didn't believe it would go from 176 lots to 85 lots. He believes it would be minimal when we are only talking 27.2 percent.

Applicant Kwiatkowski stated that there is a time and money equation and he understands that the Board does not consider the money. He stated could they mitigate the wetlands, of course they could. It takes time and money. They could fit as many of the rectangles on the plan as they could. They have a contractual obligation to the underling land seller and they have a

contractual obligation to the city that they bid upon and there are timelines associated with that and so, if they wanted to mitigate the wetlands and spend the money and that time. So, putting that all together and figuring out a happy medium amongst the timelines and stakeholders involved and so forth, they came this path first.

Chairman Kimble stated that he believes that they made the right decision coming here first versus trying to rezone to RS-2, which would be absolutely the worst for this property. There is a full room tonight and this is the first time that every single chair has been used at one time. If this was going for rezoning to RS-2, there would be a line going down Route 83.

Applicant Kwiatkowski stated that is just another way. They just don't willy-nilly go into a proposal to this Board or any other Board as part of their business strategy.

Chairman Kimble stated that it would be nice to know what that number is for this Board and for the folks in the audience. The point he is getting at is that he didn't believe it was that big of a difference. He believes that it is going to be a small enough amount from what they could do without even coming to this Board. Forget the max of 246 in theory. He believes it is a small difference versus what they could do versus what is being asked to do, where if anyone, drove through that development, they would say there is a 27.2 percent increase in lots in here. He didn't think visually it would stand out. Now the folks did mention the detriment of the property and those are things that the Board definitely needs to consider. Even though the number within the 27.2 percent doesn't sound staggering, plenty of the people in this room do not want this in their back yard. However, he doesn't think it is going to be that large of a number. It will be much smaller than people would realize.

Applicant Kwiatkowski stated that he originally wrote this deal with greater density when he made the deal with the underling landowner before the city. They had to negotiate that piece first otherwise buying the city's piece, which is the old right-of-way for Route 83 is insignificant in its shape and form buy itself alone. When he originally approached the landowners to purchase the property, it was written under an anticipated higher density. His original application was at that go-to-no-go decision and after counsel with the Law Department, it could have been interpreted as subordination to the zoning. He understood that and so, he modified the request to something that he felt could be reasonably demonstrated as a practical difficulty given the items he mentioned earlier. So, the question is would he go down to 140 units and do a 50/50, the answer is no. He wouldn't do that.

Chairman Kimble stated that he isn't asking that, he just wanted to know what the difference in numbers was.

Applicant Kwiatkowski stated that there have been numerous discussions before they arrived at this point and it seems like it is new to everyone. At Ryan, they have been living this a little longer because it has taken this long to figure out how to proceed given the different factors

associated with this unique property and the situation with the city owned parcels, water main, collector road, etc. It wasn't like Winfield Farm, which was under the R-1 cluster option where they went right ahead and went to Planning Commission with a traffic impact study and all those things that were required of them. This one has a unique shape, unique circumstances and so forth and that is why they started here first.

Chairman Kimble stated that the practical difficulty the applicant is hanging his hat on is the unique shape of the property and being forced to put in the collector road as part of the agreement. Those are his aspects of practical difficulty in requesting the 27.2 percent cluster increase variance. He asked him if there was anything else.

Applicant Kwiatkowski stated that he can only ask the Board for the variance. He can't say to them and they can't restrict him to the density. He has already showed the Board the plan. That is going to be his plan to the Planning Commission. He is already proposing double the open space they require. He is already proposing to be at 76 percent of the density. If he was here at 100 percent of the density and asking for 27 percent variance in clusters, he would be a fool. He put a tremendous amount of thought and consideration in the petition he put before the Board given the circumstances that he mentioned earlier. He is not here trying to fatten his pocket in maximizing.....

Chairman Kimble interrupted and stated that he is taking what is being said the wrong way. He is not trying to break this down. From a developing standpoint, it is a well thought out plan. He has laid out several developments. He does have concerns and he is just asking him to explain what other practical difficulties he might have.

Applicant Kwiatkowski stated as he mentioned earlier the collector road and its size as it is actually a wider road and they are not permitted to put lots on it. He is building a structure and building in setbacks that he can't use for lots. He has a 42 inch high pressure water main that runs along the eastern side of the property. Obviously he had to submit his bid to the city in the bid process to purchase the property and given the constraints of the wetlands. That is their interpretation from their consultants that it is the perimeter. They could go further and do what they call a mosaic delineation to see if there are small pockets within that wetland. They show all of that.

Chairman Kimble asked if there were any other comments or questions from the Administration. He asked if there were any other questions or comments from the Board members.

Council Liaison Butkowski reminded everyone that the ordinances state you can build 35 percent cluster lots in the development. He is asking for 62 percent in his development. There are ordinances that were set up by this city for the reason that this is the type of development the city would like in this city and she didn't know if there was anyone that has received this high of a variance at 62 percent.

Chairman Kimble stated that the variance is only 27.2 percent not 62 percent. He asked if there were any other comments.

There was a member of the audience who spoke and it was inaudible.

Applicant Kwiatkowski stated that you can't buy dry lands. You have to buy wetlands in similar water shed and it has a different ratio depending upon the classification of that water shed based upon a number of factors. The plan that is being seen and it is the plan that is being submitted to Planning Commission. Once that plan is approved, he cannot change the plan without them voting on it. He could not come back because he already would have received a permit from the Army Corp stating that land was delineated. Same situation happened in Winfield Farms where they had some small wetlands that they delineated and left. It is actually in the developer's agreement. One last thing, they show a lot with an asterisk saying temporary road. After meetings with the Administration, they adjusted one of their lots to line up with Shaw. Obviously, there is an opinion of what that should be. He is sure that the Mayor and the Administration has heard that. He will leave it a lot with no connection or he will make a connection. To him it doesn't matter, but that is what he shows on the plan. It is flexible enough to be a lot or take the street through. He is not the person to decide that as he looks toward the Administration and Planning for that. Obviously, they have heard the resident's voice and it was never his intent to be an entrance road to his neighborhood to drive truck traffic down that road. None of that.

Chairman Kimble asked if there were any other comments from the Board or Administration. Hearing none, he entertained a motion.

It was moved by Cipriano, seconded by DeVries to deny the request for the variance as stated.

Chairman Kimble asked the Clerk to call the roll.

Yes, 4 No, 0

Deputy Clerk announced the motion was approved by a vote of four to zero.

OTHER BUSINESS:

ADJOURNMENT:

Chairman Kimble noted there was no other business to be brought before the Board this evening and therefore, he adjourned the meeting.

The meeting was adjourned at 9:06 p.m.



Chairman



Secretary Donna Tjotjos

October 26, 2017