



CITY of MEDINA
Board of Zoning Appeals
Regular Meeting Minutes
June 12, 2025

Meeting Date: June 12, 2025

Meeting Time: 7:00 PM

Present: Steve Cooper, Bert Humpal (Board Chair), Logan Johnson, Paul Roszak, Mark Williams, Andrew Dutton (Community Development Director), Greg Huber (Law Director), Todd Hunt (Representing the Board of Zoning Appeals), and Sarah Tome (Administrative Assistant)

Absent: Kyle Funk

Approval of Minutes

Mr. Williams made a motion to approve the minutes from May 8, 2025, as submitted.

The motion was seconded by Mr. Roszak.

Vote:

Cooper	<u>Abstain</u>	Humpal	<u>Y</u>
Johnson	<u>Y</u>	Rozsak	<u>Y</u>
Williams	<u>Y</u>		
Approved	<u>4-0</u>	with Mr. Cooper abstaining	

The Court Reporter swore in all attendees.

Applications

1. Z25-09 Majeed Makhlof 999 Lafayette Road Appeal

Mr. Williams made a motion to enter into executive session for the purpose of obtaining legal counsel.

Mr. Roszak seconded the motion.

Vote:

Humpal	<u>Y</u>	Johnson	<u>Y</u>
Rozsak	<u>Y</u>	Williams	<u>Y</u>
Cooper	<u>Y</u>		
Approved	<u>5-0</u>		

The executive session was adjourned and the meeting continued at 7:21 pm.

Mr. Dutton stated that the Planning Commission had reviewed a application for Site Plan and Conditional Zoning Certificate approval for a convenience store with a drive through in the center of the site, a passenger vehicle fueling station on the south side of the site, and a truck fueling station on the north side of the site. He added that Conditional Zoning Certificate approval was necessary due to the drive through and filling station.

Mr. Dutton stated that the application also required variances for the number and size of the access drives proposed for the site. He noted that, at their March 13, 2025 meeting, the Planning Commission had approved the application for Site Plan and Conditional Zoning Certificate approval with the following conditions:

1. The approval of the requested variances by the Board of Zoning Appeals.
2. The proposed public sidewalk shall connect with the existing curb ramp at the corner of Lafayette Road and Lake Road.
3. Two trees shall be located adjacent to Lafayette Road in the area marked "LAWN" on the Landscaping Plan.
4. A light fixture detail shall be submitted in compliance with Section 1145.09.
5. Semi-trucks shall be prohibited from turning into the property at the Lafayette Road entrance.

Mr. Dutton stated that the Planning Commission reviewed and approved the Final Decision and Conclusions of Fact regarding the application on April 10, 2025. He added that the Planning Commission's approval had been appealed to the Board of Zoning Appeals by an attorney representing an adjacent property owner. He noted that the following information had been provided for the Board's review of the subject appeal:

- The appeal request submitted by Majeed Makhlof.
- Document provided by Anthony Vacanti representing the applicant of P25-02 and the city's response.
- Final Decision and Conclusions of Fact adopted by the Planning Commission on 4/10/25.
- Documents submitted to the Planning Commission for their review on 3/13/25.
- Transcripts from the 3/13/25 and 4/10/25 Planning Commission meetings.
- Meeting minutes from the 3/13/25 and 4/10/25 Planning Commission meetings.

Mr. Dutton stated that the Board had also been provided e-mail correspondence between the attorneys and city staff, which had been received that day.

Mr. Dutton stated that Section 1107.08 designated criteria applicable to appeals. He noted that the Zoning Code stated that:

The Board shall reverse an order of a zoning official only if it finds that the action or decision appealed:

- A. Was arbitrary or capricious; or
- B. Was based on an erroneous finding of a material fact; or
- C. Was based on erroneous interpretation of this Ordinance or zoning law; or
- D. Constituted an abuse of discretion.

Present for the case was Majeed Makhoulouf of Berns, Ockner & Greenberger, 3201 Enterprise Parkway, Suite 220, in Beachwood, representing Minute Mart LLC, the property owner of 1010 Lafayette Road. Also present was Anthony Vacanti of Tucker Ellis LLP, 950 Main Ave #1100, in Cleveland, representing the applicant of application P25-02.

Mr. Hunt stated that he had been asked to frame the issue based upon what the parties had submitted to the Board, himself, and the City Law Department. He noted that the first issue raised was whether the Board of Zoning Appeals had jurisdiction over this appeal. He continued that the second issue raised was whether the hearing should be an appeal de novo, an evidentiary hearing. Mr. Hunt invited both the appellant's attorney and the applicant's attorney of P25-05 to give brief statements.

Mr. Makhoulouf stated that he believed the appeal should be heard de novo by the Board, as it was required by the city's Zoning Code. He argued that the code did not distinguish between the application process and the hearing process of variances and appeals. Mr. Makhoulouf stated that he had objections to the evidence that was before the Board. He contended that if the Board was restricted to the record that was before the Planning Commission, then the Conclusions of Fact adopted by the Commission on April 10 should not be considered as evidence on appeal, as they were adopted after the Commission lost jurisdiction. Additionally, he averred that the summary provided to the Board of Zoning Appeals included information that was outside of the record. Mr. Makhoulouf also stated that the Board did not have a complete transcript of the Planning Commission case, as there was discussion between Commission members that was outside of the hearing of the court reporter.

Mr. Vacanti stated that the Zoning Code treated variances differently from appeals. He attested that the code stated that an application for appeal must be notarized. Mr. Vacanti continued that counsel for the objecting business had signed the application as agent, but as it was not notarized, the appeal was not perfected pursuant to the codified ordinances and should be dismissed. Additionally, Mr. Vacanti argued that only an aggrieved person could appeal a decision from the Planning Commission, and that the appellant was not an aggrieved person. He noted that Mr. Makhoulouf had appeared before the Planning Commission with the store manager for Minute Mart and asserted, as a lawyer, that the impacts of the project would devalue his client's property, create potential traffic issues, and cause possible visibility issues. Mr. Vacanti stated that Mr. Makhoulouf's statements did not establish why the proposed project had a special impact on his client, nor did the photographs of trucks stacking up at the rail line on Smith Road, almost two miles away from the subject site. He concluded that Mr. Makhoulouf did not have the ability to appeal the case.

In response, Mr. Makhoulouf stated that the ordinance specified that the appeals application must be on a form approved by the Planning Director. He added that the form approved by the Planning Director used a certification authorization, and that it was confirmed in writing that the application had been determined to be complete and accepted. Additionally, he stated that his client's property was within the purview of properties that received notice of the Planning Commission case. Mr. Makhoulouf argued that the fact that a property owner attended and spoke at the hearing showed that they were entitled to appear.

Mr. Vacanti stated that it was the duty of the applicant to make sure that the application conformed. He continued that the objecting business owner should have appealed the Law Director's May 7th written opinion, which stated that the Board's review should be based on the record before the Planning Commission. He added that the appellant's ability to appeal and challenge the determination of the Law Director had been waived, as they had not appealed prior to the deadline for such an appeal. Mr. Makhoulf stated that he had immediately objected to the Law Director's opinion.

Mr. Hunt stated that he had decided that the Board had jurisdiction over the appeal and that it should be a non-evidentiary hearing, which was supported in the city's code. He added that he was unaware in the United States jurisprudence that a party could have a second evidentiary hearing without a finding of error committed by the tribunal below. Mr. Hunt stated that the appeal was being held to determine if there had been an error on the part of the Planning Commission.

Mr. Hunt stated that the appellant also had the right to appeal the Board of Zoning Appeals' final decision to the Court of Common Pleas of Medina County. He noted that there was already an appeal pending in regards to the Board's decision on a variance case.

Mr. Hunt added that there had been a full quasi-judicial hearing on this matter during the Planning Commission meeting in March of 2025. Mr. Hunt stated his decision, which was that this was not an evidentiary hearing and that the Board had jurisdiction, had been public since May, if not earlier.

Mr. Williams made a motion that, based on counsel's advice, the Board of Zoning Appeals did have jurisdiction.

Mr. Roszak seconded the motion.

Vote:

Johnson	<u>Y</u>	Rozzak	<u>Y</u>
Williams	<u>Y</u>	Cooper	<u>Y</u>
Humpal	<u>Y</u>		
Approved	<u>5-0</u>		

Mr. Cooper made a motion that this was not an evidentiary hearing.

Mr. Williams seconded the motion.

Vote:

Rozzak	<u>Y</u>	Williams	<u>Y</u>
Cooper	<u>Y</u>	Humpal	<u>Y</u>
Johnson	<u>Y</u>		
Approved	<u>5-0</u>		

Mr. Makhlouf objected to the Board's decision not to hold an evidentiary hearing, arguing that there was nothing in the code that prevented the applicant from presenting any evidence. He noted that he had two witnesses with him at the meeting: Andrew Pierson, a traffic engineer with Langan Engineering, and Greg Soltis, a professor at Cleveland State University's Urban Planning, whose testimony they would proffer into the record. Mr. Hunt stated that it would be appropriate that after the oral argument of the case, based on the Planning Commission record, the appellant have the opportunity to make the proffers to the Court Reporter. Mr. Vacanti requested that the proffer occur after the vote of the Board of Zoning Appeals, as it was evidence outside of the record. This was agreed upon.

Mr. Makhlouf formally moved to strike the Planning Commission's Conclusions of Fact from the record, as he indicated that the Planning Commission did not have jurisdiction to enter those Conclusions of Fact when it did. Additionally, he moved to strike the June 3rd memo from the Planning Director to the Board of Zoning Appeals, as it relied on the Conclusions of Fact and had information that was outside of the record that was before the Planning Commission.

Mr. Hunt advised the Board not to strike the Conclusions of Fact, stating that he could cite many occasions where a Board had filed Conclusions of Fact to the Court of Common Pleas after an appeal to the Court had been filed. He stated that it was not a jurisdictional issue, but rather an act that was taken in aid of the appeal. Likewise, Mr. Hunt did not advise the Board to strike the June 3rd memo from Mr. Dutton. Mr. Hunt advised the Board to make a motion as to whether or not to strike the Conclusions of Fact from the record.

Mr. Williams made a motion to not strike the Conclusions of Fact, nor the letter from the Zoning Official.

Mr. Roszak seconded the motion.

Vote:

Williams	<u>Y</u>	Cooper	<u>Y</u>
Humpal	<u>Y</u>	Johnson	<u>Y</u>
Roszak	<u>Y</u>		
Approved	<u>5-0</u>		

Mr. Makhlouf made an objection indicating that the city failed to issue notice of the current hearing to the neighboring property owners as required by the Zoning Code. The Board noted the objection.

Mr. Makhlouf made an objection to a pattern of ex parte communication between the applicant with the city without copies to the appellant, citing the initial request to table the hearing from May to June, as well as a letter submitted to the City on June 12th. Mr. Vacanti stated that there was no ex parte communication between himself and the Board. He avowed that his client had a constitutional right under the Ohio Rules of Professional Conduct to

communicate with its government. Mr. Vacanti argued that he had communicated with the Law Department, which was entirely proper under the Ohio Rules of Professional Conduct. He noted that the record showed that Mr. Makhlouf had emailed with the Law Department and with Mr. Hunt and had not copied him. Mr. Humpal noted the appellant's objection and Mr. Vacanti's response for the record.

Mr. Makhlouf stated that the applicant had to prove its case beyond a reasonable doubt. He contended that the applicant presented no evidence to the Planning Commission. He argued that the Planning Commission had effectively done the work of the applicant, and the Commission's decision was contrary to the criteria of the code. Mr. Makhlouf stated that Section 1153.03 of the Zoning Code included criteria which the Planning Commission and the Board of Zoning Appeals had to consider and stated that the use:

1. Will be harmonious with and in accordance with the general objectives or with any specific objectives of the Land Use and Thoroughfare Plan of current adoption;
2. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;

Mr. Makhlouf noted that a traffic impact study or traffic analysis had not been required by the Planning Commission, an issue that he had raised repeatedly at the meeting. Mr. Makhlouf argued that these types of businesses often located next to each other to draw customers into the area.

Mr. Vacanti objected to Mr. Makhlouf's statements, stating that Mr. Makhlouf was testifying and that none of the points he had raised were part of the record. Based on legal counsel's advice, Mr. Humpal overruled the objection.

Mr. Makhlouf contended that the site was effectively a bowling alley, and the applicant was trying to sandwich a use into a site that did not work. He noted that the Planning Commission had prevented trucks from turning into the site from Lafayette Road, but had not limited semis from leaving the site that way. He argued that Smith Road was a more industrial area, while Lafayette Road was more of a business office use, rather than industrial.

Mr. Vacanti objected to Mr. Makhlouf's statements, contending that none of Mr. Makhlouf's points had been testified to in the record. Based on legal counsel's advice, Mr. Humpal sustained the objection.

Mr. Makhlouf contended that having the proposed use sandwiched on the site would create traffic issues that would be detrimental to his client's property values and would inhibit his client's use of its property. Mr. Makhlouf stated that Mr. Deluca had testified that the use would create hazards and would interfere with the traffic on the surrounding streets, including Smith Road.

Mr. Vacanti objected and stated that traffic on Smith Road being affected by the proposed use was not in the record. Mr. Makhlouf stated that he felt Mr. Vacanti's objection spoke volumes as to the error that occurred in the Planning Commission's hearing and why the decision would be reversed.

Mr. Makhlouf asked the Board of Zoning Appeals to reverse the decision of the Planning Commission and to allow an administrative hearing. He continued that he wanted to put on the record to the Board that his concerns were not about competition, but rather a project that would have a real detriment to his client's property.

Mr. Makhlouf stated that the use was not harmonious with the area and the approval failed to comply with Sections 1109 and 1137 of the code. He averred that the Zoning Code required that all development features, including the principal buildings, open spaces, service roads, driveways, and parking areas, be located to minimize the possibility of any adverse effect upon adjacent development. Mr. Makhlouf argued that the case before them showed there would be adverse effects from the proposed development.

Mr. Makhlouf stated that there was a constitutionality issue with the city ordinance, as there were no criteria for when a traffic impact study was required. He indicated that he had requested the Planning Commission not make a decision that night and to table the application to give him an opportunity to provide more evidence. Mr. Makhlouf declared that he had offered to bring a traffic engineer and a land use planner, but was denied the opportunity to do so. He then moved to proffer the evidence of his witnesses.

Mr. Vacanti stated that Mr. Makhlouf cited that the case had to be proven beyond a reasonable doubt under the city's codified ordinances. Mr. Vacanti noted that there were two issues, Site Plan review and Conditional Zoning Certificate review. He stated that under Chapter 1109, which governed Site Plan review, there was no mention of a "beyond a reasonable doubt" standard. Additionally, he noted that Chapter 1153.03 did not state that the burden was on the applicant to prove beyond a reasonable doubt, but rather that the Planning Commission shall establish beyond a reasonable doubt. He contended that the Planning Commission's decision was not just based on his client's testimony, but also on the architect's stamped plans and surveys that had been submitted, the application and its narrative, the staff report, and review from the fire department and City Engineer. Mr. Vacanti argued that overwhelming evidence supported the Planning Commission's decision beyond a reasonable doubt based on the evidence on the record.

Mr. Vacanti added that no probative, reliable, or substantial evidence had been presented to the contrary. He noted that legal counsel of the objecting business indicated that the site wouldn't work, but it was only the opinion of legal counsel and was not in the record. Mr. Vacanti stated that Mr. Makhlouf was not an engineer or a planner, and added that, per case law and Ohio Evidence Rules, attorney statements were not considered evidence.

Mr. Vacanti stated that Mr. Deluca, the store manager for Minit Mart, had testified that there would be increased traffic, based on pictures from two miles away. Mr. Vacanti added that the City Engineer, who had expertise, had reviewed the application and had not required a traffic study.

Mr. Vacanti stated that the criteria for reviewing an appeal only made sense if reviewing the record, which was what the Board of Zoning Appeals was doing. He noted that Mr. Makhlouf's client had objected to both the Site Plan and Conditional Zoning Certificate approval because of the variances that were needed. He added that the Planning Commission had stated that they were allowed to issue conditional approval, to which Mr. Makhlouf had agreed. Mr. Vacanti

contended that Mr. Makhlouf had thereafter not objected to the Site Plan, other than the fact that it was being approved. Mr. Vacanti argued that the objections his colleague was raising had not been raised before and were now waived under Ohio law.

Mr. Vacanti stated that Exhibit A of the letter he had submitted to the record dealt with Site Plan criteria and evidence that had been presented in the record. He read through many of the Site Plan criteria and the supporting evidence.

Mr. Vacanti noted that Exhibit B of his submitted letter dealt with Conditional Zoning Certificate criteria and the supporting evidence in the record. Mr. Vacanti stated that the issue was a case of a competing business without legitimate concerns over the public health, safety, and welfare. He contended that if the appellant had legitimacy, they would have been involved earlier in the process. Mr. Vacanti asked the Board to affirm the decision of the Planning Commission, arguing that the Commission had the expertise and had taken the time to review the application, as had city staff. Mr. Vacanti also stated a continuing objection over the jurisdiction of the Board.

Mr. Makhlouf stated that he had not seen Mr. Vacanti's letter on the city website, and that the only time he had received notice of it was when he had walked into the building. Additionally, Mr. Makhlouf noted that the Planning Commission application had been dated February 21, not November, and that the hearing had been on March 13. He stated that he had requested that the Planning Commission, which had 45 days to review an application, delay their decision to allow him to bring in traffic experts who would testify as to the impact of the proposal. Mr. Makhlouf contended that the variances had been substantial and that he had requested that the Commission wait until after the Board of Zoning Appeals had ruled on them to make a final decision on the Site Plan application. Mr. Makhlouf asked the Board of Zoning Appeals to reverse the decision of the Commission, or at the bare minimum, to remand it back to the Planning Commission for further review.

Mr. Vacanti drew attention to the record that application P25-02 had a date of application of November 20, 2024.

Mr. Hunt recommended that the Board go into executive session for the following reasons:

1. There was an imminent threat of court action;
2. To obtain legal advice from the Board's counsel;
3. Case law in Ohio was clear that quasi-judicial boards had the authority to deliberate in private.

Mr. Williams made a motion to enter into executive session for the reasons stated by Mr. Hunt.

Mr. Cooper seconded the motion.

Vote:

Cooper	<u>Y</u>	Humpal	<u>Y</u>
Johnson	<u>Y</u>	Roszak	<u>Y</u>
Williams	<u>Y</u>		
Approved	<u>5-0</u>		

At this time, the evidence of Greg Soltis was proffered to the Court Reporter in the presence of Mr. Makhlouf, Mr. Vacanti, and Mr. Pierson.

The executive session was adjourned, and the meeting continued at 8:37 pm.

Mr. Williams made a motion to deny the appeal and confirm the Planning Commission's decision, with the decision being finalized upon special legal counsel submitting draft findings that support the decision of the Board for its review and adoption at the Board's next regular meeting on July 10th, 2025.

Mr. Cooper seconded the motion.

Vote:

Humpal	<u>Y</u>	Johnson	<u>Y</u>
Roszak	<u>Y</u>	Williams	<u>Y</u>
Cooper	<u>Y</u>		
Approved	<u>5-0</u>		

At this time, the continued evidence of Greg Soltis and that of Andrew Pierson was proffered to the Court Reporter in the presence of Mr. Makhlouf and Mr. Vacanti.

2. Z25-14 Lisa Reau 1161 Newell Court VAR

Mr. Dutton stated that the applicant was proposing to construct an 8 ft. tall fence, including a 6 ft. solid lower section and a 2 ft. lattice upper section. He noted that the proposed fence was located in the rear yard, side yard, and corner side yard, 20 ft. from the right-of-way.

Mr. Dutton stated that in side and rear yards, Section 1151.01(c)(1) limited fences to 6 ft. in height, though the height may be increased to 8 ft. when the top 2 ft. was at least 50% open. He noted that the proposed fence was therefore permitted in the side and rear yards.

He added that, in the corner side yard, between the home and the Continental Drive right-of-way, fences may be 6 ft. in height when located at least 15 ft. from the right of way. Mr. Dutton stated that the proposed fence was located 20 ft. from the Continental Drive right-of-way, but was proposed at 8 ft. in height, including a 2 ft. top lattice section.

Mr. Dutton stated that the applicant had indicated the following regarding the Standards for Variances and Appeals:

- The variance was not substantial as the requested 2 ft. increase in height only included a decorative lattice.
- The essential character of the neighborhood would not be altered as the fence enhanced neighborhood aesthetics and added privacy.
- The spirit and intent of the zoning requirement would be observed as the variance would support privacy, safety, and visual appeal.

Present for the case was Jake Zehnder of Apollo Fence, 3075 Ridgewood Road.

Mr. Humpal opened the public hearing. There were no questions or comments from the public. Mr. Roszak stated that he did not have an issue with the 6 ft. fence with 2 ft. of lattice on top. He added that he felt it would look odd if the fence transitioned from 8 ft. to 6 ft.

Mr. Williams asked why the homeowner didn't put the fence in line with the house on the Continental Drive side, which could be 8 ft. tall without a variance. Mr. Zehnder stated that the homeowner wanted to fence to be farther out to better use the property and provide space from the pool deck in the backyard. He noted that the fence would be slightly less than 8 ft. tall and that the lattice would not inhibit visibility.

After discussion, Mr. Roszak made a motion to approve the variance to 1151.01(c)(1), stating that the variance was not substantial, the character of the neighborhood would not be substantially altered, and the spirit and intent of the Zoning Code would be observed in granting the variance.

Mr. Williams seconded the motion.

Vote:

Johnson	<u>Y</u>	Rozzak	<u>Y</u>
Williams	<u>Y</u>	Cooper	<u>Y</u>
Humpal	<u>Y</u>		
Approved	<u>5-0</u>		

3. Z25-15 Tim Pelton 1101 Wadsworth Road VAR

Mr. Dutton stated that a Site Plan application for this project had been heard by the Planning Commission earlier in the evening and had been conditionally approved. He added that the property had previously contained a church, followed by a daycare, and had been vacant for many years. Mr. Dutton stated that the lot currently featured an existing institutional building and a parking area. He noted that a sanitary sewer main ran east and west through the northern part of the property.

Mr. Dutton stated that the applicant was proposing to construct 14 attached single-family dwellings, one detached single-family dwelling, an L-shaped internal private street, and one access point off of Wadsworth Road.

Mr. Dutton stated that Section 1127.05 included a table of lot development standards which required a 40 ft. front yard setback, 30 ft. rear yard setback, and 25% of the site for usable open space. He noted that Units 1 and 4 were proposed at a 30 ft. front yard setback and Units 11, 14, and 15 were proposed at a 15 ft. rear yard setback. He added that usable open space was area that could be used by all residents, which did not include the front yard setback area. Mr. Dutton stated that the project's calculated usable open space was 23%.

Mr. Dutton stated that the applicant had indicated the following regarding the Standards for Variances and Appeals:

- The property could not yield a reasonable return or have a beneficial use as much smaller unit sizes would be needed to comply with the site's requirements.
- The essential character of the neighborhood would not be altered and there would be no negative impact on the surrounding area.
- The predicament could not be feasibly obviated without a variance as the proposal was the best alternative to develop and improve the site.

Present for the case were Travis Crane and Tom Ludwig of Davey Resource Group, 1310 Sharon Copley Road in Sharon Center, and Rob Root of Landmark Homes, 125 South Broadway Street. Mr. Crane stated that the variance request was driven by the odd shape of the property. Mr. Root noted that the building envelopes shown on the plan did not necessarily represent the actual footprints of the buildings and there was the potential for there to be more open space on the property. He added that Landmark Homes was a custom builder and the envelopes provided more flexibility to construct homes that their customers wanted. Mr. Root noted that he believed the zoning allowed for 22 or 23 units, but that they were proposing 15 because they wanted to construct a quality product.

Mr. Humpal asked if there would be a greater percentage of open space if the buildings were smaller than the footprint indicated on the plans. Mr. Dutton stated that it would probably increase the open space, but that it was hard to calculate without exact figures.

Mr. Humpal noted that the Board had received an email in regards to this case. Mr. Dutton stated that the email had also been presented to the Planning Commission. He noted that the property owner, who lived in a condominium south of the property, had concerns about the rear yard setback. He added that the south side of the subject property was not the rear yard, and was compliant with the 5 ft. setback requirement for side yards. Mr. Dutton stated that the property owner also had concerns about the landscaping. Mr. Crane stated that Landmark Homes had a vested interest in screening between the subject property and the property to the south. He added that if a tree was damaged or died as a result of their work, Landmark Homes would replace it.

Mr. Humpal opened the public hearing. There were no questions or comments from the public.

Mr. Cooper noted that the plan showed stormwater management pond. He inquired if the larger pond's size was based on volumetric calculation and how deep it was proposed to be. Mr. Crane stated that the size of the stormwater ponds was unknown at the time, as he had not yet done the calculations. He noted that his client wanted the ponds to be a feature of the site and at least 6 ft. in depth. There was a discussion about stormwater management on the site.

Mr. Cooper asked what the size of the driveways was for units 12 – 15. It was established that the driveways were approximately 20 ft. long.

Mr. Williams stated that he was a little concerned about the 15 ft. rear setback. He asked the applicant how ownership of the property would be handled. Mr. Crane stated that homeowners would own what was within the envelope and open space would be managed by an HOA. Mr. Williams asked if there were any plans for fencing or additional screening along the rear property line. Mr. Root stated that there were no plans for a fence and screening was provided with plants. Mr. Williams stated that he had fewer concerns with the rear yard setback with an HOA owning it, as opposed to individuals.

There was a discussion as to the proposed front and rear setbacks and the size of the homes. It was established that units 1 and 4 were partially within the 40 ft. front setback and units 11, 14, and 15 were partially located within the 30 ft. rear yard setback. There was further discussion concerning the size of homes that would be needed to meet the setback requirements for the R-4 zoning district. Mr. Dutton stated the R-4 Zoning District would allow for 27 units on the site and the applicant was only requesting 15 units.

After further discussion, Mr. Williams made a motion to grant the variances to Section 1127.05, stating that the variance was not substantial, the essential character of the neighborhood would not be substantially altered, and adjoining property owners would not suffer substantial detriment as a result of the variance.

Mr. Roszak seconded the motion.

Vote:

Roszak	<u>Y</u>	Williams	<u>Y</u>
Cooper	<u>Y</u>	Humpal	<u>Y</u>
Johnson	<u>Y</u>		
Approved	<u>5-0</u>		

Adjournment

Having no further business, the meeting was adjourned.

Respectfully submitted,

Sarah Tome

Bert Humpal, Chairman