

**Brunswick Hills Township Board of Zoning Appeals
Special Meeting
Continued Public Hearing (From 6/2/2021 & 7/7/2021)
Township Hall
August 26, 2021 Minutes**

Call Meeting to Order

Chair Kersten called the Brunswick Hills Township Board of Zoning Appeals Special Meeting Public Hearing Meeting for August 26, 2021 to order at 7:00 p.m. Chair Kersten stated at tonight's meeting we will hear only the three cases submitted by Anthony Vacanti for Turnberry Partners. A roll call of the board was executed by the secretary.

- **Board Members in Attendance:** Cliff Kersten (Chair); Chris Schigel (Vice Chair); Ann Barron; Ron Wetterman; Linda Kuenzer
- **Alternate Board Members Not in Attendance:** Daryl Lucien (Excused Absence)
- **Others in Attendance:** Evelyn Czyz, Zoning Inspector; Fire Chief Anthony Strazzo; Matt Payne, Fire Prevention Officer; Trustee Christina Kusnerak, Zoning Liaison; Brian Richter, Medina County Prosecutor's Office (Township Counsel); Mary Jean Milanko, Zoning Secretary.

Mr. Kersten stated we have a quorum with five board members in attendance tonight and explained the vote. A majority YES vote would pass the variance requests. The Brunswick Hills Township Board of Zoning Appeals acts within the regulations of Sec. 519 of the Ohio Revised Code.

Mr. Kersten said if someone is up here testifying, there will be no comments or talking amongst yourselves in the audience; nobody is to get up and walk around from the audience while someone is testifying. Mr. Kersten said if the attorneys feel they have to talk to someone in the audience, please wait until no one is testifying. Mr. Kersten asked if any board member has had any communications with anybody connected with these cases. Board members stated no.

CONTINUED BUSINESS:

1. Findings of Facts, 4632 Boston Road, Brunswick Hills, OH 44212

Mr. Kersten asked the board if there were any corrections or additions to the document for 4632 Boston Road. Being none, the chair called for a motion to adopt the Findings of Fact for 4632 Boston Road, Brunswick Hills, Ohio. **Motion:** Mr. Schigel made a motion to accept the document as submitted by Madam Secretary for the Findings of Facts for 4632 Boston Road, Brunswick Hills Township. Mr. Wetterman seconds the motion. **Roll Call:** Ms. Barron-yes; Mr. Wetterman-yes; Mr. Schigel-yes; Mr. Kersten-yes; Ms. Kuenzer-abstain. Board members signed the Findings of Facts.

2. Continued Public Hearing from July 7, 2021 for 1595 Substation Road / Turnberry Partners

Swearing in of Township Officials: Chair Kersten swore in Fire Chief Anthony Strazzo and Evelyn Czyz, Zoning Inspector.

Case #1 (Zoning Receipt #2021-077) Anthony R. Vacanti, Esq, Counsel for owner, 950 Main Avenue, Suite 1100, Cleveland, OH 44113, Area Variance request for 1595 Substation Road, Brunswick Hills, OH 44212, PP# 001-02C-05-028. Current Zoning I-1 Industrial, for proposed self-storage unit facility consisting of nine self-storage structures with a total of 521 self-storage units. Subject to Sec. 804-9 (2) The minimum lot size shall be two (2) acres and the maximum lot size shall be (3) acres.

Case #2 (Zoning Receipt #2021-076) Anthony R. Vacanti, Esq, Counsel for owner, 950 Main Avenue, Suite 1100, Cleveland, OH 44113, Area Variance request for 1595 Substation Road, Brunswick Hills, OH

44212, PP# 001-02C-05-028, Current Zoning I-1 Industrial, for proposed self-storage unit facility consisting of nine self-storage structures with a total of 521 self-storage units. Subject to Sec. 804-9 (3) Maximum structure size shall be 5,000 square feet and the maximum size of any individual storage unit shall be 600 square feet.

TESTIMONY & EVIDENCE

(1) **Anthony R. Vacanti, Land Use Counsel for the firm Tucker Ellis LLP**, said I am representing on behalf of the property owner and applicant for the three applications before you. Point of Inquiry: Mr. Vacanti stated he wanted to be efficient and not waste anyone's time and said it's my understanding that you would like to hear the variance request first. Chair Kersten: Correct. Mr. Vacanti requested that both variance requests be heard first because the testimony is the same for both and then you won't have to go through the same thing twice and they are under the same section of the Zoning Code as well. Mr. Richter stated that is up to the board. Chair Kersten asked the board if there were any objections to hearing both variance cases at the same time. No objection. Secretary Milanko stated Case #1 Zoning Receipt #2021-076 and Case # 2 Zoning Receipt #2021-077 will both be heard together.

Mr. Vacanti said the two applications deal with two area requirements under your Zoning Resolution for self-storage units. The first area requirement is that the minimum lot size shall be two (2) acres and the maximum lot size shall be three (3) acres. We have a parcel that is approximately six (6) acres or a little more, so we are asking for a variance from that requirement and we will explain why. The second requirement that we are seeking a variance from is the maximum structure size shall be 5,000 square feet, which is subsection 3, and we are asking for area variances from that building size restriction as well.

Mr. Vacanti thanked the board and appreciated everyone's attention for a special meeting for the project to make use of this vacant property and provide some tax revenue for the township. Mr. Vacanti said I will try to be brief because we have several experts to testify as to why we are entitled to a variance to the Zoning Resolution and Ohio Law. He said you have before you a proposal for a self-storage unit; something we are all familiar with and my parents have one; I'm in the process of getting one; many people get one. With the increase of population growth, people are downsizing and have a lot of things, so sometimes you need a storage unit to do that, so that's what we are proposing. This property is in the Industrial Zoning District of the township and it's a conditionally permitted use.

Mr. Vacanti said we are here for variance requests and I think it is important to understand about the importance of variance requests under the law. In Ohio, unlike some other states, property rights are fundamental under the Constitution, so we all as Americans have property rights to use your property. Townships also have the right to regulation zoning as governmental authority and it's a balancing act. Variances were developed to strike that balance, because if government overly regulates, for an arbitrary or capricious reason, then that can constitute some constitutional challenges and can lead to some legal issues for the township. He said variances were developed as a mechanism to alleviate unique situations and those types of burdens that are called "practical difficulties" in regard to area variances. They are called unnecessary hardships for Use Variances, but we are here for Area Variances. Why do I make those distinctions? Area Variance standards are easier to obtain than a Use Variance.

Mr. Vacanti asked, what is unique about this property? You will hear from the experts here. It's in an industrial zone. It is surrounded by an electrical utility to the east and high-power lines. There is a commercial/industrial use adjacent to it and then there is a governmental use adjacent to it as well. So, it is surrounded and it is actually in an isolated part of the township that abuts the City of Brunswick. Not directly, Ohio Edison owns some property behind it. The uses are limited for this property and that's why it has remained vacant, so we have an economical viable use here and that is why we are requesting variances from this board to allow us to pursue a conditional use permit in an economically viable manner.

Mr. Vacanti said I have here with me Mr. Brad Steinberg who is a representative of Leader Storage with marketing and operations of what is going to be going in, hopefully, on this property so he will be testifying. Mr. Dave Lewis who performed the engineering of the plans you have before you and he is a licensed engineer. We have Mr. Tom

Vanover who is a building and zoning code expert and he is here to testify to some of the factors in his opinion and will conduct an extensive review. He said we understand there were some fire issue and concerns raised so Mr. Vanover and Mr. Charles Corcoran, are our fire code and fire suppression experts, are here to testify on what we are proposing, which in layman's terms, a fire pond is sufficient and should address any reasonable concerns that the township or others may have. He said finally, we have Ruthann Ann Zamo, who does marketing and operations. She is an accountant and runs the proformas and everything for Leader Storage and the self-storage units and she knows the economics side of it as well.

Mr. Vacanti asked, so why do I have these people here? He said as under the practical difficulties test, as this board is well aware, is the Duncan Factors. He said there are a number of factors that this board has to weigh and you don't have to check off every single factor; it's a weighing test, but if the weight of the evidence satisfies those factors, based on the evidence presented, then this board is obligated to grant the variances in its discretion. Mr. Vacanti said and if not, there are appeal rights and that is why I have the court reporter here and I'm hoping you don't have to do that, but we just want to make sure we have a full and complete record just in case and again just to protect the property rights here. Mr. Vacanti said our goal is to help this board and the community on what we are proposing and how it is safe and how it applies and to answer any questions you may have.

Mr. Vacanti said the various factors, the first one is, *Would it be harmonious in accordance with the general objectives of the Comprehensive Land Use Plan.* On page 25 of the township's Comprehensive Land Use Plan, it indicates that the goal of zoning is to provide a well-planned and enforced development that implements the will of the community. He said as the testimony will show, there is a high demand for this type of use as opposed to other uses that are permitted as right. He named manufacturing, laboratories, testing labs, firearm manufacturing, ammunition manufacturing and warehousing. He said this type of use is less impactful and there is a demand for it and that is why we can construct this and make productive use of it which is the ultimate goal.

Secretary Milanko asked a point of order and asked if the chair swore in Mr. Vacanti before he spoke. Mr. Kersten said I did not. Mr. Vacanti said I am legal counsel, so I am making legal arguments. He said it would be appropriate to swear in the experts. Mr. Richter said that is fine, he is just making his arguments and the board has to weigh what he is saying. Secretary Milanko apologized for interrupting and Mr. Vacanti said it was a very good point. He said as an attorney, I am obligated not to misrepresent anything ethically.

Mr. Vacanti said in the Comprehensive Plan, it also recognizes that the township is growing. He said the Comprehensive Plan is old, quite frankly, and the township has experienced a lot of growth since it was developed. In recognition of that growth, it is evident with the demand of this type of storage units. If you don't have people living here, you have empty units and as the testimony will show, that's not the case.

Mr. Vacanti said the second factor is, *Will it be designed and constructed and maintained to be harmonious and appropriate in appearance with the existing character of the general vicinity and it won't change the existing character.* He said I am paraphrasing and the testimony will show that the existing character is essentially industrial. There is an electrical utility, a transportation industrial use adjacent to it and a governmental use adjacent to this property as well. Obviously, it is an industrial zoned area, so this is an identified use in the industrial zone. Mr. Vacanti said also, the design is going to be consistent with the aesthetics unlike other types of permitted uses where we wouldn't even have to be before you. These buildings have lower profiles and are much more aesthetically pleasing than other warehousing or manufacturing uses that are permitted as of right, which we wouldn't even have to be here before you.

Mr. Vacanti said the third Duncan Factor, *It won't be hazardous or disturbing to existing or future land uses.* The testimony will show in the other locations in the township, and elsewhere, there have been no major uses or any other type of use. It's less impactful than the other permitted uses; again, *ammunition manufacturing, firearms manufacturing, lab testing, tin mills*, all of those are permitted uses and this is less intrusive. Unlike other industrial uses in the adjacent industrial uses, which are weekday type uses, this is primarily, as the testimony will show, a weekend type use, so you won't have traffic conflicts and that type of thing. Mr. Vacanti said the traffic counts aren't really that high at the other locations, which are similar, as the testimony will show.

Mr. Vacanti said, *Will it be served by essential public facilities and services such as highways, streets, police and fire protection, drainage, etc.?* Our experts...you know there was a fire concern addressed and I'm sure the chief will raise that concern, and we are hoping to elevate that concern with our experts in showing that we have designed the fire pond, which exists throughout Medina County, and we have a map to show you that will address any reasonable concerns.

Mr. Vacanti said, *it won't be detrimental to economic welfare of the township.* By allowing these variances, it will increase property tax revenue. It will allow a productive use of this land that's been vacant and dormant. Mr. Vacanti said there will be full compliance, as our engineer will say, in all township, county, state, federal, engineering and other regulations including building code regulations which deal with fire provisions as well.

Mr. Vacanti, *Is it consistent with the spirit and intent of this zoning resolution?* It is. Basically, under the zoning resolution, variances are allowed to elevate these special burdens and hardships and so that is why we are here. He said the square footage requirement is not economically viable. The other locations in the township where there are self-storage units, do not comply with either the acreage requirements or the square footage requirements. Our accountant who does all of the books will testify that the economics don't make sense to have a smaller. There is no reason to it to have it smaller because it doesn't make sense and it can't be built and be economically viable to have a smaller acreage and a smaller buildings size structure for these types of units. He said quite frankly, they are inconsistent with the area that already exists.

Mr. Vacanti said without further ado, what I'm going to do is introduce one of our first testifying experts to give his background, experience and then describe what we are proposing, but before I do that, I would like to distribute a packet of information. He said you already have 90% of it, but this way it will be easy to walk through it if we need to refer to something because I have them tabbed and organized in an efficient manner so I'd like to get the permission of the chair if I can distribute them to the board; I would appreciate that. Chair Kersten said please give them to madam secretary and she'll distribute it. Secretary Milanko asked Mr. Vacanti how many copies he brought. Mr. Vacanti said I have 15, but I will need two. Copies were distributed to board members, zoning inspector, prosecutor and secretary (**Index of Exhibits booklet / Exhibit 1-Vacanti/Turnberry**).

Mr. Vacanti briefly went through the contents of each tab of the exhibit book:

Exhibit Tab A: Site plan submitted with zoning application prepared by Mr. Lewis. **Exhibit Tab B:** Unit count and label. **Exhibit Tab C:** Trachte Building Systems examples of these structures. They are non-wood structures; they are metallic and non-flammable included with the application. **Exhibit Tab D:** Example of the lease. It is previous testimony shown before this board and I do incorporate by reference the previous testimony that we had given at the last previous three meetings over the course of the spring. I do incorporate all of that testimony not to be redundant, but it does prohibit hazardous materials in this lease and that will be testified to. **Exhibit Tab E:** Pictures of other locations so you can see how aesthetically pleasing it is and not industrial looking as opposed to other industrial uses. **Exhibit Tab F:** Aerial view of subject property and industrial zoned properties to the north and south. **Exhibit Tab G:** Pictures of the immediate area. For the record you see the electrical substation; the water tower; the governmental utility use, transportation use immediately to the north with large industrial use trucks. **Exhibit Tab H:** Zoning Map and highlights the purple industrial zone for our property. **Exhibit Tab I:** Is the marketing study submitted with the application showing the high 90% demand for these units in the five-mile area and our other location at Center/Marks Road. **Exhibit Tab J:** Deals with the fire pond question and shows a map of all of the fire ponds in Medina County and all of the townships with fire ponds. He said this shows this isn't something that we just made up. **Exhibit Tab K:** Activity report of the police department unit at the Center/Marks location. **Exhibit Tab L:** Activity report showing the traffic paths and activity in and out of the gate. **Exhibit Tab M:** Testimonial letters from the Brunswick Hills Police Department for storage unit. **Exhibit Tab N:** Mr. Vacanti said this was just slid in there and its' the site plan, but our engineer, Mr. Lewis did a CAD drawing which takes a fire truck and it ensures that it is able to maneuver around the facility without any issue. **Exhibit Tab O:** Aerial map from the Auditor's website of the Center/Marks location of the parcel ending in 026. Mr. Vacanti stated this is in

the township; it's more than three (3) acres and the building sizes are more than 5,000 square feet. He said that is one of three locations in the township. **Exhibit Tab P:** Auditor's record card for that location (1285 Marks) with the square feet and acreage, which is public record. **Exhibit Tab Q:** Aerial map of the two other locations of self-storage units in Brunswick Hills Township (1) Medina Self-Storage (parcel ending in 003) with an acreage greater than three (3) acres and the building sizes are greater than 5,000 square feet. **Exhibit Tab R:** Auditor card for R&B Storage; parcel ending in 043. The parcel size is greater than three (3) acres and the structure sizes are greater than 5,000 square feet. **Exhibit Tab S:** Auditor card for BFT Investments, which is the Medina Self-Storage. It shows that things are larger than 5,000 square feet. **Exhibit Tab T:** Mr. David Lewis, PE resume. **Exhibit U:** Charles J. Corcoran's CV showing expertise in engineering, building and zoning code matters. **Exhibit V:** Mr. Thomas Vanover prepared a brief report and will testify in regards to the zoning code and square footage limits as a building code expert.

Mr. Vacanti said that is the packet we have to work with that I submit and I incorporate all of the previous testimony on these matters by reference. At this time, I am going to introduce Mr. Brad Steinberg to testify with regards to his background and experience to our proposed use.

Questions by Brian Richter, Medina County Prosecutor

Mr. Brian Richter, Prosecutor, said I have a question to clarify; you are talking about incorporating testimony? Mr. Vacanti said yes. Mr. Richter asked what are you talking about, the hearing that you guys withdrew the variances on or are you talking about a specific hearing? Mr. Vacanti said the previous hearings. Mr. Richter said, so how do you intend on incorporating that? Mr. Vacanti said they are public record and they deal with the subject matter. Mr. Richter said when you say incorporating, do you have a record from that that you are bringing into this hearing? Mr. Vacanti said we do have the meeting minutes that will be on the township website and I do have a copy, but this board will take administrative notice that is generated by this board; it's public record. Mr. Richter said I get that and I just want to be clear that this is for a totally different hearing. Mr. Vacanti said it's the same subject matter. Mr. Richter said it is the same subject matter, but for a hearing that you withdrew the variances and requests on. Mr. Vacanti said correct and for all of the reasons I withdrew it for the testimony of the fire chief and otherwise as to why they were withdrawn. I'd like to incorporate that for my record by reference, if that is ok, it's public record. Mr. Richter said, well it is public record but you are talking about a totally new hearing. I get that it is the same subject matter, but it is a new hearing and I think you want a complete record, especially since you have a court reporter here, so how are you going to get that into the records? Mr. Richter asked, do you have those minutes that you are presenting today? Mr. Vacanti said I do have a set of minutes; the last set of minutes weren't available online, but I do have the meeting minutes I can provide. Mr. Richter asked, do you have the same people testifying or are you... Mr. Vacanti interjected and said some of the same people yes, and they are subject to cross examination and they are under oath. Mr. Vacanti said it is up to the board to accept it. Mr. Richter said I was just trying to clarify for the record as to how they want to handle it and the things that they are going to put into the record. Mr. Vacanti said absolutely, that is up to the board as to how much weight they provide to it; that's fine.

TESTIMONY & EVIDENCE

1. Brad Steinberg, 1285 Marks Road, Valley City, OH 44280 (Leader Storage corporate address) was sworn in. Mr. Vacanti asked Brad to give a little background and experience to the board. Mr. Steinberg said for the last 20 years or so, I've been involved in various business entities from ownership, development and operational perspectives. The last two to three years with Leader Storage in marketing, operational, development issues as well, and that is why I am here today based on some of the experiences we've had and I am involved with the Substation Road. I don't have a practice, but I've been a licensed attorney in the Commonwealth of Massachusetts for 26 years.

Mr. Steinberg said in regard to the actual property itself, as you've heard in the past, and you will continue to hear throughout the evening, we are talking about the development of self-storage units. It's become increasingly popular for a variety of reasons and it seems people now are keeping more and more of their own personal items and possibly having less and less place to store them. Mr. Steinberg said that is evidence by the fact that we have

tremendous occupancy rates, and that is not just with us, but other people we talk to. He said it is a scenario traditionally where the better run facilities are 90-95% occupancy and that is considered a very healthy facility because you have the scenario where you have turnover every month. He said you also have the question of economic occupancy; who's paying; who's late; how do we deal that. He said those are the two health measures on a facility, but lately, we are seeing things where we have 100% occupancy and we have to maintain waiting lists, and that is what we are hearing from everyone else we know throughout the industry, so it seems to serve that we are looking at continued development of additional facilities.

Mr. Steinberg said the property is in a very industrialized area. You've got an electrical substation; high tension wires right behind the subject property; the township utilizes the property directly next door, so it is a very industrial use. Mr. Steinberg said with our landscaping and how we do things, it will actually be one of the nicer properties on that land if you see how our properties look at other facilities that we own and operate.

Mr. Vacanti asked him to describe the other facilities and the sizes of existing to what we are proposing both acreage wise and square footage wise. Mr. Steinberg said in the vicinity that is closest to that, the Center/Marks facility as we refer to it, is a slightly smaller space, but it's the maximum we could utilize in that space. He said it becomes a question of viability there but that property has been around for quite some time. He said you see in excess of about 430 units at that location. We have another property in North Royalton, which was an odd scenario with 30 feet frontage from the road and goes back 300 feet. There is another facility more near businesses than consumers on Rt. 303 in Hinckley and they are all 18x36 feet minimum size units, they can be structured to be a little bit larger or smaller, but they are corporate use exclusively. So, it's a smaller number of units, but from a square footage perspective it is actually larger.

Mr. Vacanti asked if there have been any issues with governmental services or security issues at any of the other locations to your knowledge? Mr. Steinberg said not to my knowledge. The only issue you will have is occasionally somebody will hit something or hits a gate, but other than that there has been no known challenges and frankly we tend work very closely with the safety services in those communities and they appreciate the opportunity to have it. Mr. Steinberg said I'm going to be blunt and say we like it too and if the police department has a unit that we allow them to use without cost, they are going to be in and out of our facility that more often and it will be a safer environment.

Mr. Vacanti asked Mr. Steinberg to explain some of the security features as to what we are proposing to help mitigate any safety issue and how it will be more secure and safe. Mr. Steinberg said there is the gate and all the gates have the codes and each tenant has their own code so if there are any challenges or any concerns, we just remove that code and they have to address it with us. Mr. Steinberg said what's more important is the number of cameras we have throughout the facility; coupled with the width of the driveways. He stated he's heard of some problems in more rural settings where there is no gate, no cameras and no lights. Mr. Steinberg said in our environment, that is not how we choose to do things because we want people to feel safe and their goods to be secured.

Mr. Vacanti asked Mr. Steinberg to explain some of the traffic patterns with the proposed use compared to the adjacent industrial uses. Mr. Steinberg said I'm not an expert on the adjacent uses, but when you look back at our gate codes and you track every entrance to the facilities, at Center/Marks, we are talking about approximately 1.5 entrances per hour over the day. He said you could have busier periods with more folks coming in or out on the weekend, but our primary usage is on the weekends and we don't see that much traffic. In the first few years, we won't see that much traffic and it will take about two to three years before we are relatively full from an occupancy perspective.

QUESTIONS BY THE BOARD

Mr. Vacanti asked the chair if the board wants to entertain questions when everyone is done testifying? Mr. Kersten asked the board if they have questions for Mr. Steinberg.

Mr. Schigel asked, in your expert opinion on average, what occupancy is needed to turn a profit? Mr. Steinberg said that is a good question and it varies widely. He said there is a facility I was recently looking at on the Painesville/Mentor line and it is a completely different structure because it is three stories up, so you have a much longer payback period. He said we are probably looking at just a breakeven point is probably a 70% occupancy rate where we start to see breakeven. He said it takes a year or two years before you breakeven.

Mr. Kersten asked, if the variances were denied, how many units could you put on the property? Mr. Steinberg said I don't think I feel comfortable answering that question. He said the issue is, we feel that the only way we can make this a viable project is to have that size of a property, based on current consumption. He said respectfully we would probably have the next step from a legal perspective if the variances were denied. Mr. Kersten said you don't want to answer my question. Mr. Steinberg said I don't have a good answer to your question and my answer is I don't think we can make a viable profit from that small.

Mr. Wetterman asked, in the building sizes, I notice you have a fire wall built down the middle. Would it not be possible to eliminate 10 storage units, separate those buildings and come closer to the building size of our codes? Mr. Steinberg said I'm no expert in building codes or fire protection, so I can speak to my experience. Generally speaking, in the industry when you have a fire wall, you effectively have two separate buildings from a legal perspective. He said what you are also asking about is having us reduce the units and again, that goes to viability in general. Mr. Steinberg said I believe we have other experts here that could answer that question more directly than I can, so I will defer to them.

Testimony & Evidence Continued

(2). Ruthann Zamow, Controller, Leader Storage, 1285 Marks Road was sworn in. Ms. Zamow said I'm an accountant with a private practice for 30 years. I'm the controller for Leader Storage and have worked for them since 2011. This project is the third storage facility that we've built during my tenure with them. I calculate the financial feasibility of these projects, secure lending and manage the construction budgets. She said we considered several options for this site and the plan before you now is the best option. When I considered the Substation Road project with the current zoning, it just wouldn't be economically feasible to build. There is so much involved in just site preparation, the fire pond and setbacks and all that stuff that technically, our buildings are three (3) acres when you take out the setbacks and almost acre of fire retention pond. Technically the size of our buildings are three (3) acres.

Ms. Zamow said as far as viability goes, our census screams for more storage in our area. She said when I started working for them, I knew nothing about storage units. I just assumed that people had too much junk and needed a place to put it, but what I found is a huge percentage of our business is small businesses, guys that have a landscaping business and they can't keep their commercial vehicles in their driveway because their neighborhood won't let them, or they have mowers and equipment. She said we have restaurant customers that just store hard goods, we have companies that store files, so much of our business is small businesses. We also have home businesses and retail businesses, internet-based businesses; it's just a huge percentage of our census and the fact that all of these storage facilities are full speaks to that. She said 444 units are full all the time.

Ms. Zamow said I had some guidance from BKB Properties, the self-storage development consulting company that we've used since 2017 and for this project I worked with John Surrich, a market analyst with BKB who uses the ESRI which stands for Environmental Systems Research Institute to calculate the demographic summary. ESRI is the world's leading developer of geographical information systems software. She said his report proves the need for additional storage, which is outlined in the feasibility study. Mr. Vacanti noted that is the Exhibit I that I included in the exhibit package. Ms. Zamow said its weird how people will call and we never have enough units and the climate-controlled units are the ones that they want the most it seems. Ms. Zamow said it is just convenient for small business to rent space month to month without having to have the expense of a lease. She said the data in that report was calculated by BKB by calling all of the facilities in the area randomly and priced units and checked on availability. Ms. Zamow stated we feel this is just the best, and I'm sure all of our engineers and other experts will tell you why we can make this work and please everybody in the township and meet the zoning codes.

Mr. Vacanti said, Ruthann Ann, you're involved with the proforma and analysis as to whether these locations are economically viable, correct? Ms. Zamow said yes. Mr. Vacanti said you run the numbers and asked if she ran the numbers for this proposed facility site? Ms. Zamow stated yes. Mr. Vacanti said and based on the two requirements, the three (3) acre and the 5,000-foot requirement, would it be in your opinion economically feasible to have a self-storage use on the subject property with regards to those two area requirements? Ms. Zamow stated no; I just don't think it is economically feasible for us to do this. She said literally since we started talking about this project to now, everything has gone up about 35%. She said we have to be able to make a profit. I know nobody wants to think about that but when you borrow millions of dollars it's a big thing and I don't know how we can do it if it doesn't make sense. She said if you can't sell me, we can't sell a bank and we can't get financing.

Mr. Vacanti said, Ruthann Ann, when you are doing this, are you aware of the other locations in the area and did you take a look at the other locations and are you generally familiar with the similar locations? Ms. Zamow said I looked at the feasibility study and we do random checks usually once or twice a year where I have somebody in our office call the facilities just to see what people are doing and what our competitors are doing to keep a competitive edge. Mr. Vacanti asked, do a lot of those facilities comply with the three (3) acre lot size and the 5,000 square foot building size? Ms. Zamow said not at all; especially in our immediate area. Ms. Zamow said we are just basically trying to be a good neighbor and provide a secure and aesthetically pleasing facility that the community needs.

Questions by the Board

Mr. Wetterman said you keep mentioning economic viability. In other words, the profit margin just isn't there, but unfortunately, we can't consider whether or not it makes a profit. He said that is not an excuse for our variances. Ms. Zamow said we understand that but you were just asking me.....Mr. Vacanti interjected and said one thing I would like to clarify that it is a relevant factor under the Duncan Factors. He said one of the factors is whether or not the property in question will yield a reasonable return, which deals with profit margins and feasibility; whether there can be any other economically beneficial use of the property without the variance. What we are saying is a conditionally permitted use in this industrial district and based off of the competition, the demand, the cost of building supplies and when I say competition, I mean the three other locations in the township that are larger building sizes and larger acreage requirements than with what the zoning resolution requires. Mr. Vacanti said based off of those factors, it is not economically viable, so with all due respect it is relevant. Mr. Wetterman said I will also comment that the three other locations in Brunswick Hills were all built before 2000, before our current zoning code went into effect. He said they were allowable at that time and our Zoning Commission spent a lot of time talking to residents and other people and they decided to downsize that code.

Response by Mr. Vacanti

Mr. Vacanti said I appreciate that and the comment. He said zoning is intended to regulate the land use, not regulate the activities of businesses, or regulate competition. Mr. Vacanti said you are supposed to consider social justice and that is what is occurring. He said you can have a warehouse on this property and they don't even have to come before you and they could be storing who knows what inside that warehouse, permitted as a matter of right on this acreage. He said it is permitted to be much, much larger and it's not restricted to 5,000 square feet. He said you can have a firearms manufacturer or any type of manufacturer on this location without even appearing before this board. Mr. Vacanti said one of the factors in the Duncan Factors is, is substantial justice being done and is this really a substantial variance as well. Our position is that it isn't in light of those factors. He said I appreciate when you went through the process and maybe some of those, but I don't think all of those were before 2000. Mr. Vacanti said with all due respect, substantial justice indicates that we should be able to obtain this variance to have an economically viable use as a self-storage use or otherwise you are just regulating the competition. That is the practical application here. This an industrial property, it's unique and that is why we have variances. I understand they were passed, as discussed, two to three acres and I don't know as to why; it's a little arbitrary to me, which could raise constitutional issues. We don't want to fight with the township, that is why we are here before you asking to elevate this hardship that's being imposed by these two requirements.

Questions by the Board for Ms. Zamow

Mr. Schigel said I can understand the rationale of the economic viability and the hardship of how much you can build on there. In a world of min and maxes, what would you need to build there, because I know it's going to have to be reworked to turn a profit, but what is the minimum you could build on there to turn a profit? He asked Ms. Zamow if she looked at that? Ms. Zamow said I know I did, but I can't really answer that right now. I know I have that in notes and I went through this as I've been doing this for a year, but yeah, no, I don't have that information with me. Mr. Schigel said I know at the end of the day the goal is to turn a profit to utilize the property, I was just wondering to turn the profit, what would be the minimum you could do on it. Ms. Zamow said, well, again, our building sizes are three (3) acres. Mr. Vacanti said, and, I think it is in everybody's interest to have it economic viable; if it's not and it goes down the tubes, you don't want it sitting there vacant. Mr. Vacanti said based off of the demand, I don't think that is going to happen, but government should be promoting the economic viability use of the property and promoting private property rights. Mr. Vacanti said this is what we are proposing and it's consistent with the other locations and its less impactful than the other permitted uses, so that's the consideration we would ask this board to take into consideration and I do think it is relevant under the Duncan Factors.

Ms. Barron said so this was new information that we talked about at the first meeting about the feasibility study. Ms. Barron said, unfortunately, since it came in so late, I'm having to do a very cursory review of it, but I would like to ask Ruthann Ann Zamow questions. Ms. Barron asked if Ms. Zamow wrote the feasibility study, correct? (Submitted as Exhibit I). Ms. Zamow said no I did not write this, BKB Properties offered this. Ms. Barron asked, ok, and that's not you - because your name is under the header. Ms. Zamow said that is because they did it for me and I'm the one who worked with them to gather this information. Ms. Barron said, so, BKB Properties – do they have an interest in this project or no? Ms. Zamow said no, they do not. Ms. Barron said, so, they are a neutral party. Ms. Zamow said they are widely accepted and you can google them and see. There are companies that do these studies and they are just the one that we've worked with since 2017. Ms. Barron said I would have loved to do some research on this, but considering this came in so late, I won't have that opportunity.

Mr. Vacanti said this was submitted in May with the application, per your request I believe originally, so this was submitted with the zoning application and we made sure we got this done for your specific request so you had time to review. I know that was a concern to you. Mr. Vacanti said I don't know the disconnect, but please note this was submitted with the application, it wasn't just submitted today. Ms. Barron said first time I've seen it and these people are pretty good at getting everything that comes across their desk. Mr. Vacanti said I will represent on the record it was part of the full variance application that was submitted. Ms. Barron said okay. Mr. Richter asked, are you talking about this full variance or the prior hearing? Mr. Vacanti said this application for this variance; this marketing study because we knew it was important to the board so we made sure that we got it updated, copied and submitted. We have a copy of the receipt that is signed. He said it's of the public record from the Zoning Inspector. Ms. Czyz said whatever was submitted to me was also submitted to the board. Mr. Vacanti asked her if she had a copy of what was submitted and said I have mine. Ms. Czyz said my copy is the same as yours. Ms. Barron said well, we also got new information with the fire truck site plan, of the fire pond plans and other new information, so I'm only making the point that our board is here to protect the residents here in some sense and we need information to do that. Ms. Barron said if we have information that comes to us and we rapidly have approve or disapprove based on something we haven't yet seen, that's not a good place to put us and it's certainly not a good place to put your project.

Mr. Vacanti said, again, it was submitted in May with the original application and I apologize if it didn't get to you because that was not our intent. He said we are entitled to introduce new evidence as stated under the Ohio Revised Code and if this board needs more time to consider that evidence it is fully within your discretion. I don't want to rush you by any means, we want to work with you. He said so please know I don't know where the miscommunication came from, but that was not our intent and we just want to provide that information so we can be helpful. Mr. Vacanti said, again, if this board needs more time to consider it, that's up to this board. Ms. Barron said thank you.

Ms. Barron said she had a few more questions about this report which says “*The remote survey used in this limited report yielded only about 20% response rate on the data necessary to achieve high confidence in market occupancy.*” She said I don’t know how these things work generally, but 20% of any kind of a report seems really low to me, so I’m still questioning the necessity for all of these storage units and additional storage in an area when we already have a lot of storage units, personally. She said when I look at this it doesn’t help me feel confident that this actual project is needed. She said then it says “*A full feasibility study is recommended in this market to validate investment quality.*” and that has not been done I assume. Ms. Zamow said no, but we’ve used these limited studies before and ultimately, it’s a big investment; it’s not something you just do and don’t try to spend a lot of money for nothing. Our intent is not to build a facility and fail, and if we didn’t have confidence in the market from our experience, besides this third-party company, we wouldn’t be here today. Mr. Vacanti said you’ve utilized this company before in preliminary studies, correct? Ms. Zamow said correct. Mr. Vacanti asked if she found them to be accurate in the other locations? Ms. Zamow said yes, we’ve been successful with everyone we’ve done.

Mr. Kersten had a question for Mr. Vacanti and said when our attorney asked you about minutes and that, you said they were from previous meetings. Mr. Vacanti said yes. Mr. Kersten said, on your application filled out by you, it says “*Previous variance request on this property*” and you marked no on all three applications. Mr. Kersten said, now, if you’re saying there were no applications on this property before, then you can’t use anything from that property. Mr. Vacanti said when I checked that it was a Scribner’s error and as this board is well aware, we had the same variance applications before, so I’m not sure which application you are looking at. Mr. Kersten said all three of the applications for tonight. Mr. Vacanti said, ok, then for the record I would like to correct that as it was my Scribner’s error. He said if this board chooses to not recognize its own previous minutes on it, that’s fine. I’m not against you, we are supposed..... Mr. Kersten said I appreciate that and if it had just been on one application, I probably wouldn’t have said anything, but then I went back and looked and on all three applications you marked no previous applications on Substation property. Mr. Vacanti said I don’t think it’s relevant, but thank you for pointing that out and I apologize for the Scribner’s error on the second application submitted there was no ill intent and please don’t take it out on my client for my mistake. Mr. Kersten said, just so it is in the record that a mistake was made and we corrected it. Mr. Wetterman said in relevancy it has happened to us before with two or three other cases where they marked no and it was definitely conceding because they deliberately lied to us. Mr. Vacanti said I hope you don’t think that I would deliberately lie because you’ve seen me many times. Mr. Wetterman said I’m just telling you why the question was asked and yes, we know you’ve been here. Mr. Vacanti said most of this testimony is the same as before, I don’t want to get into the weeds on this and for the record, if we have to go to court on this, which again, I hope we don’t have to, that’s something that the court can consider because it’s all public record, so I hope this board does not think that I am trying to sneak something in. Mr. Kersten said I’m sure we don’t; let’s move on.

Mr. Vacanti introduced Mr. Dave Lewis the engineer who designed the site plan before you tonight. His resume in Exhibit T of the handout.

(3.) Dave H. Lewis, Engineer, 8691 Wadsworth Road, Suite 100, Wadsworth, OH 44281 was sworn in. Mr. Lewis said I am the owner and president of Lewis Land Professionals. I started my engineering and surveying business in 1998; I am a licensed professional engineer licensed in Ohio, Tennessee and Florida. I received my license in 1986 and I’ve been practicing civil engineering since. My expertise is in all types of land development, residential, commercial and institutional. I’ve been an engineer here in Medina County since the mid 80’s and if you recall Mr. Ken Cleveland, I was his primary engineer and engineered many of the residential subdivision throughout this area and the City of Brunswick.

Mr. Lewis said I did prepare the site plan that was submitted in the application and I also recently added some information to that site plan, which I will get into, but it is the exact same site plan that was submitted before. No dimension has changed, no driveways changed, no buildings, no setbacks have changed. It is the same site plan, the only information I added was pertaining to the ability to maneuver a fire truck through the driveway which I will get into. He said my office did prepare the site plans; the site area is 6.83 acres and that includes the road right-a-way, so the property goes to the center of the road. He said we don’t typically count the road right-a-way

in the acreage because that is a highway easement, so that site area is 6.83 acres. He said the site being developed with buildings and pavement, as Ruthann Ann stated, is 3.0 acres. He said we didn't try to do that for any reason, we are just pointing out that the area is exactly 3.0 acres. The remaining 3.5 acres is made up of lawn areas, landscaping, the fire pond, storm water management and green space. There are 11 buildings proposed on the site, the largest building is 7,800 square feet. Mr. Lewis said again, we've supplied those buildings with a permanent fire wall. They are viewed in the building code as individual buildings as one of our expert witnesses will testify later on. He confirmed 11 buildings with the largest at 7,800 square feet. The total combined building area is 78,800 square feet. The buildings are divided into 521 storage units and the majority of those are climate controlled. The drive aisles are 30 feet wide and that is fairly standard for these storage facilities. I've probably engineered about 10 storage facilities and I am a part owner of a facility in Wadsworth and we are at 99.9% capacity as well and looking to add an additional building; our square footage is about 46,000 square feet right now.

Mr. Lewis said the drive aisles are hard surface asphalt pavement. We use asphalt pavement for storage units and we orient the storage buildings to the north/south direction with the black asphalt on the north/south direction; in the wintertime we maximize the sun exposure to our drive aisles. We do get some frost and of course we have snow plowing and de-icing service companies that do that for the facility, but we found that orienting the buildings north/south with black asphalt tends to dry up that pavement quick and melt any thin layer of ice, which makes it safer for the tenants.

Mr. Lewis said the north entrance is the main entrance that will be gated and that is where the keypad will be for tenants with a signed lease to enter their code. The south entrance is also 30 feet wide and will be gated, but that is just for emergency uses and will have the fire department Knox box so that they have a key to that lock and can access it. Both entrances would be lighted; the majority of the lights will be on the buildings and direct down onto the driveways, but out at the gates we will have pole lights that direct straight down. It does a couple of things, it allows the person coming in to better see the keypad or the Knox box, but then also the security cameras can pick up license plates better. The office is located at the main entrance on the north; we do have seven parking spaces which exceeds the minimum requirement for the size of the office.

Mr. Lewis said a combination fire pond / storm water detention basin is proposed along the south property line area and that is the lower topography side of the site. Substation Road has slopes from the north towards the south there and there is a drainage area that goes under the road there. The fire pond and storm water management is approximately 100 feet wide and 400 feet long, so that is 40,000 square feet; it's almost an acre itself. The reason it is so big is to accommodate the available water storage. When we engineer a fire pond, and that map that you have referenced in your handout, I've probably engineered about 10 of those fire ponds on that map. Mr. Vacanti said that is Exhibit Tab J if the board wanted to look. Mr. Lewis said the key to engineering a fire pond is the elevation of the dry hydrant has to be within a certain elevation of the water source so that the truck can pull that water out of the pond. When we design a fire pond, we don't count the bottom two feet of the pond, that's just for sediment. We count the next layer of water and in this particular fire pond it's a layer two feet deep and then the next layer above that is four feet of water, which we are allowed to count in case we have an ice condition or a drought condition. I've never seen ice go four feet thick, but if it does, we will probably be having some other conversations, but that four top feet is not counted in our calculation for the fire pond design. Mr. Lewis said and then on top of that the permanent water is our storm water management layer and during a hard rain, the pond will fill up above the normal water and provide that storm water detention that is required by the Medina County Highway Engineer's office. The fire pond will supply a fire flow for 240,000 gallons at a 2,000 gallon per minute rate for up to two hours. He said I don't believe the township's trucks can pump that much water. I think the document I saw was about 1500 gallons per minute, but that's the fire code NFPA (National Fire Protection Association) Guidelines that we follow as well at the Medina County Engineer's.

The dry hydrant is located at the south entrance and also has to be designed to pull those 2,000 gallons per minute, so what we have is an eight (8) inch diameter pipe, and even though the truck now is much smaller than eight inches, we want to be able to serve so there is no friction or obstruction to pull that water into the pump. There is

a strainer on the dry hydrant so that the pipe doesn't suck up fish or debris, and that strainer has to be sized so that it doesn't get blocked off.

Mr. Lewis said the addition to that site plan that I referred to earlier is we do show the tracking of the actual Brunswick Hills fire trucks, 21-1 and 21-2. We were able to get the information from the manufacturer for the exact wheel base, front and rear overhang. Mr. Vacanti said that is Exhibit Tab N. Mr. Lewis said that document does show the wheels and how they travel, so that pumper truck can get in and around the buildings with six feet on the inside curb to spare. He said we set these sites up just like your city streets and said I've engineered 30 miles of streets in Medina County. We set them up so vehicles can maneuver and make the turns and said most of your township roads are probably 20 feet wide. We set these drive aisles at 30 feet so we knew we would have that ability. Mr. Lewis referenced the AutoTURN software template and said you put in the specific measurements in the software and then route it through the site plan.

Mr. Lewis said we talked briefly about the site lighting and the site lighting will be in compliance with the Brunswick Hills zoning codes; all lighting will be directed downward. The nearest residential house is about 400 feet east; you've got that 250 foot wide strip of Ohio Edison property with powerlines to those residential homes that's about 400 feet to the nearest light, so we don't anticipate any issues with light leaving our site. I mentioned we would post light the entrance, the gate and those would be directed down.

Mr. Lewis said adequate utilities, that's one of the Duncan Factors, the site does have adequate utilities to service this proposed storage facility. The office will have restrooms for the office staff as well as for the tenants. Sanitary sewer will connect directly to the Medina County sanitary sewer on Substation Road. Potable water will be supplied by the existing four (4) inch watermain in Substation Road, and again, the reason we can't hook a fire hydrant on to a four (4) inch is because of lack of capacity supplying the fire hydrant itself. We have enough drinking water and in running our bathrooms, but we don't have enough water for fire hydrants. Mr. Vacanti asked Mr. Lewis if that would apply to any other industrial use there like a warehouse use, you wouldn't be able to use a fire hydrant, correct? Mr. Lewis said that is correct and said I did place a call to the Medina County Sanitary Engineer who handles all of the watermain issues for the county and I specifically asked him if we would be permitted to install fire hydrants for this site and he said no, the four inch will not adequately supply water to those hydrants.

Mr. Lewis said electrical services will be provided by the existing Ohio Edison lines on Substation Road and natural gas will be provided by the existing natural gas lines on Substation Road. Adequate water for firefighting will be provided by constructing an on-site fire pond of 240,000 gallons of water and we have to actually calculate that amount of water based on the size of our buildings and all of that, so if we had much smaller buildings, we wouldn't need as much water to fight the fire, but that's where that comes from. All engineering design for the fire pond will meet the requirements of NFPA and the Medina County Highway Engineer. Storm water management will be provided by collecting all of the runoff from the roofs and the drive aisle, gutters, downspouts, catch basin, storm sewers and that will be piped to the fire pond storm water detention basin. The nice thing about doing that is, again, we mentioned the potential concern for a fire pond during drought conditions and we've built in an extra four-foot layer of water above for firefighting and that's for drought conditions and that's so that we always have that water in case we have a drought, we don't anticipate it ever going down below four feet. But tying in all of the roofs, parking lot and all of that into our fire pond will give us even more reassurance that we will have that water if it is ever needed. The storm water detention basin is provided on the pond, again, above the normal water surface so when you drive out there, you will see the normal pond, but then there will be quite a bit of free board (?) around the pond above that so when we get a heavy rain, the water will actually rise even higher to a controlled outlet.

Mr. Lewis said regarding traffic, I did use the actual gate stops that Brad Steinberg mentioned earlier and I looked at all of the gate counts for all of the facilities in the area and I took the highest ones from the Center/Marks facility and I adjusted to the gate counts to an equivalent to what it would be for this facility. He said keep in mind, the gate count is one car going in, we don't count the car going back out. In traffic engineering, we look at trips in and out, so basically, we doubled those numbers for traffic counts. Mr. Lewis said adjusting it for worst case scenario,

the site will have about 60-80 cars; 30 in or 30 out; or as high as 40 in and 40 out primarily on weekends as we mentioned. We use the Institute of Transportation Engineers ITE Manual for trip generations and projections, so it's a giant book and it has every type of use in it and you go through it and find comparable sites and you can make projections as to what a proposed use will generate in terms of the number of vehicles. He said this is the manual used by all of the traffic engineers for traffic studies.

Mr. Lewis said, again, so some of the other uses that were mentioned was manufacturing and if we were to put a general manufacturing building on this site, in accordance with your zoning code to meet the setbacks, meet the parking, I would anticipate that this manufacturing facility on the same 6.5-acre parcel would generate roughly 285 cars coming and going. If we were to have a FedEx or UPS facility on the same parcel, again, using the zoning code to come up with a building square footage, parking and FedEx terminal it would generate 340 tips, so with our 60-80 trips on the weekend compared to some of these other uses clearly this is not a high traffic generator. You've probably known that when you've driven past a storage facility, it's rare to see someone coming or going. Mr. Lewis said at my facility, I've actually counted the cars in Wadsworth, a very similar setup to what we are proposing here, and on a typical weekday there might be 10 cars that come into our facility; weekends we do get maybe 20 or 30 and again, some of our vehicles are bigger box trucks, like a U-Haul moving truck. For most of our units we see the need for people, especially in this crazy housing market, we see the need for people moving out of a house, their new house is being built and not quite ready yet to move in so they need a storage unit to keep their household items until they move into their new home. Mr. Lewis said, speaking about the need, I think that is a commendable need that storage facilities do provide for. Mr. Lewis said that is all I wanted to mention and I am happy to answer any questions.

Mr. Vacanti said to Mr. Lewis, I know you are part owner of a facility, but are you familiar with any other storage units in the area of that vicinity? Mr. Lewis said yes, I've engineered probably a couple dozen storage facilities. Mr. Vacanti asked if they are consistent with the acreage of our site and the square footage, or do they tend to be smaller than 5,000 square feet and less or three acres and less? Mr. Lewis said I would say somewhere around the 50,000. There are a few like the one we engineered out in Spencer and Homerville where they have 10,000 square feet. There are a few that small, but they are in a very rural area without much population nearby. Mr. Lewis said the majority of the facilities that I see are 50,000 – 100,000 square feet.

Secretary Milanko asked Mr. Lewis to verify the software used for the maneuvering of fire trucks as AutoTURN. Mr. Vacanti introduced Mr. Thomas Vanover and building and zoning code expert who provided a report in your book as Exhibit Tab V.

(4.) Thomas Vanover, 1388 Ridge Road, Hinckley Township, 44233 was sworn in. Mr. Vanover said I spent nearly 20 years in municipal government as a regulator. I spent a couple of years on that side of the table and have spent the last 10 years as a commissioner and a chief building official. I have a lot of zoning and building experience as well as a developer and property owner. Mr. Vanover said I want to talk about the zoning code and the buildings that we are proposing to build and what your zoning code actually says. There is a funny story floating in building and fire official circles that the favorite building is a one-story concrete box with no doors and windows and nobody can get in and there is nothing inside – that's the safest building you can build. He said as far as the buildings that we are proposing, they're not much more than that.

Mr. Vanover said in 2007 the Brunswick Hills Township adopted the zoning code that we are speaking of specifically, referencing industrial districts and the uses that can be in industrial districts and those that cannot. He said as you are aware, but I just want to state for clarity, there are several permitted uses; uses that are just permitted by right, we don't have to come here, we don't have to talk to the police, we don't have to talk to fire, they are just permitted that you can do them. Then there are conditionally permitted uses, so they're still permitted uses, they are just permitted under condition and those are put into a zoning code because people want to talk about them but they are still a permitted use. He said by statute, anything that is not a permitted use, or a conditionally permitted use is an excluded use. Mr. Vanover said self-storage units are not an excluded use, so they are a conditionally permitted use. One of the great things that there has been a lot of talk about is the section of the zoning code that requires us to meet specific things. One of the things we are supposed to prove is that our building, our structure,

our complex will not adversely affect the city services. That's fire services under Chief Strazzo and all of the police services under Chief Sopkovich and other services that the township has to put into our facility. Mr. Vanover said in looking through and doing my research, I think the best document for us to prove is that our facility will not negatively impact city services, is the Brunswick Hills Township zoning code. He said the chief can attest to this, there are two kinds of fire protection, there is active fire protection and passive fire protection, so the fire pond and hydrants, sprinklers and fire trucks are active fire protection. He said there is also passive fire protection so if there is a fire, the building itself can contain that. Mr. Vanover said I am not going to read to you, but under the report that I issued which is Exhibit V, it shows all of these things that are passive fire protection. That means that a firefighter never has to show up and if they do, the work they do is minute, or considerably easier than if these things didn't exist.

Mr. Vanover said going back to the point I'd like to reference, the Brunswick Hills zoning code gives us a list of permitted uses and if we review those permitted uses and build structures on our property as it sits, without coming to the zoning board, without talking to the fire chief, we can build four buildings on this site; 24,000 square feet each building with a max height of 50 feet tall. Built entirely out of wood and warehouse the same warehouse goods that we are putting in our self-storage units. He said if you look at the second page of the report there is a picture of a storage unit for supplies in Hinckley on the other side of Brunswick on Rt. 303. He said this is what a 24,000 square foot building looks like and it is huge. This building is built out of metal and steel, understanding that the building by right is permitted under the Brunswick Hills Township zoning code and using the Ohio Building Code for the size, the materials and the use. We can build this building four times entirely out of wood. He said if you do take the time to drive by and see the scale, even in this photo it really doesn't do it justice. Mr. Vacanti made reference that this building could be built on our site. Mr. Vanover said we could build a building 24,000 square feet, 50 feet tall, without sprinklers, without hydrants, without fire ponds, filled with household goods, we could do that four times on Substation Road 6.8 acres. He said the picture directly below that shows an aerial view compared to the two uses that are currently existing next to us, because you know how big those are because you are familiar to the site. There are four of these warehouses on there. My point shows, this four-building complex, filled with household goods, built entirely out of wood – that's something that is going to impact city services. He said but according to the Brunswick Hills Township zoning code, it doesn't because there is no requirement for this project to prove that it doesn't negatively impact fire service; that requirement doesn't exist in the code.

Mr. Vanover said if you turn to the next page, you'll see that same structure with our building superimposed over it. Our eight-to-nine-foot metal buildings, subdivided, which is one-third of the area of these large wood buildings that the Brunswick Hills Township zoning code has said will not negatively impact city (township) services, because they are permitted by right. He said because they are permitted by right, we can assume all those other uses don't need to prove that they are going to negatively impact services, so therefore, the township zoning code assumes they won't. He said and I will tell for the chief, these same buildings we are proposing could be filled with the same household goods that we are storing in our proposed project, could also be filled with tires because under the building code, an S1 use of this size, without sprinklers, built out of wood – tires are one of the commodities that you can store in there. Mr. Vanover said I think we can all agree that tire fires are the top of the top for hazardous chemicals, but the Brunswick Hills Township zoning code doesn't require and conditional use or a variance for that, so therefore, our application doesn't take additional services. He said so lumping it all together, if you take all of the buildings on our site and their relative heights and the way that they are subdivided with the firewall even though they exceed 5,000 square feet, we exceed three acres, we are still 17,200 square feet less area of household storage than the buildings we are allowed to build by right without any input from anybody. And the buildings that we build could be 42 feet taller than the building that we actually are building, so that matters when you have a wood building that tall how you fight that fire and how you get to it, even if the commodities aren't stacked that high. He said a building that large becomes considerably hard to fight. We are putting in a fire pond to assist with that, so one of the things I had the benefit of speaking with the fire chief in Hinckley after the Valleaire fire, which the footprint of the Valleaire building is roughly the same size as this footprint here and there was 10 fire departments there working on that with tanker trucks, so imagine a building three times the size. We are putting in the fire pond; we have to put in a pond for storm water retention anyhow, so Mr. Corcoran can explain how that works, but I want to make the point that the Brunswick Hills Township

zoning code says that we can build much larger buildings, a combustible material, store 17,000 square feet of more stuff than what we are doing; the only difference is the occupant load. One of the factors when you are determining building code and building size and paths of egress, and fire suppression and fire detection and all of those things – one of the key components is occupant load, but the number of occupants of a self-storage building compared to a warehouse that is 24,000 square feet is exponentially more. As Mr. Lewis said earlier, the number of people for manufacturing and even storage if this were a UPS or a tire dealership with four tire storages, the number of people in danger increases. So, the only difference between our buildings that we are actually building is that these other structures can be much larger, built entirely out of combustible material, 17,000 square feet more and less people; that is under the Ohio Building Code and what the Brunswick Hills Township zoning code says right now today.

Mr. Vacanti asked Mr. Vanover, in your expert opinion is the variance request substitutional in light of your testimony and review? Mr. Vanover said absolutely not, they are not substantial in going from 5,000 to 8,000 square feet. A 3,000 square foot difference is not substantial compared to the size of the building you could build by right. I wasn't here (at the last hearing) but many of you may or may not know why or when those numbers were chosen and I tried to research it. Sizes of buildings are typically done not as a zoning issue, but as a building code issue understanding that this whole thing will go through Medina County Building as well and those issues will be sorted out for the size of the building. I don't know where the size of the building actually comes from, but it's not substantial and the difference between the three (3) acres and seven (7) acres is apparent that it is not substantial, and under what we've got, we could build something more dangerous. And there has already been testimony that our asphalt building meets the intent of three (3) acres.

Questions by the Board for Mr. Vanover

Ms. Barron noted this is also a new section (Exhibit Tab V), so I didn't have time to really double check or verify any of these facts or anything in here, so we are going with what you are sort of saying and verifying or questioning some assumptions here. Ms. Barron said these are your words here (page 3 of Tab V): *“The fact that the 96,000 sf of warehouse on a 7-acre lot is permitted by right, one can assume that the authors of the zoning code believed that this use would not inhibit the Township's Fire service from serving the facility.”*

Ms. Barron said making the assumption, like you said you tried to research but you couldn't find the facts, but you're making assumptions. Couldn't you also assume that they would assume that water hydrants would be put in? Mr. Vanover said that is a great question and the answer is no. He said the answer is no because there is no requirement for hydrants and that assumption comes from there is no requirement for fire's input on it at all until it gets to building code review and then at that point, not at zoning, at building code review they would work with the Medina County Building Department. Mr. Vanover said so, it's actually not an assumption because your code doesn't say take it to the fire department and the police department – the zoning code does not say that. It says, you can build this without ever talking about it. Ms. Barron said well they couldn't build it with no water. Mr. Vanover said well, domestic water would be required, but there is no requirement for hydrants, there is no requirement for suppression at all on that facility. Mr. Vacanti said there is domestic water available for this location. Mr. Vanover said yes, I'm sorry, I'm speaking specifically about fire suppression and protection as required for the zoning variance. Mr. Vanover said I didn't get into it but the very last page of the report actually shows the portions of the Ohio Building Code where all of these measurements and things came from and they can be compared to the Fire Marshall's log to show that actually without suppression, of this size, built entirely out of wood.

Chair Kersten asked if other board members or the fire chief had questions. Chief Anthony Strazzo said I will save all of my questions to the end.

Mr. Vacanti introduced the last expert witness, Mr. Charles Corcoran, a fire and code and expert and his CV has been included as part of the materials Exhibit Tab U. Please tell the board your background and what you looked at.

(5.) Charles Corcoran, 34 Munroe Falls Avenue, Munroe Falls, OH 44263 was sworn in. Mr. Corcoran said as an educator having taught at the colleges and universities, I realized that after about 45 minutes when your butt

goes down and your head goes down, so we are going to keep this kind of brief and moving forward for you real quick. I'm a licensed architect here in Ohio and a few other states, a certified building official, master plan examiner and a residential building official here in Ohio. I have worked for and with multiple municipalities throughout the state in terms of the building official side, master plan examiner side and have also been working with multiple fire departments across the state. Specifically, right now, I am working with Brimfield Township, Rootstown Township and the City of Stow building department and fire departments there. Mr. Corcoran said having grown up as a fireman's son and living two blocks away from the fire department, I grew up in the fire stations and understand the processes and everything that goes through here.

Mr. Corcoran said so having to work with fire departments, we looked at these drawings and this complex is very similar to one we just reviewed for the Brimfield Township Fire Department. In looking at this I saw there were very similar situations with the sizes of the buildings and the construction and there are some comparisons and some differences to the one that I had just seen. He said with the one in Brimfield, we also had a fire pond that came about and we went through the Ohio Fire Code which also parallels a little bit with the Ohio Building Code. The benefits of this facility are very beneficial to fighting fires and to dealing with emergency services on the site. One of the things we look at when you look at the site is that we actually have two gates on this side. Most sites typically end up with only one gate, but the two gates now provide the city services to get in both gates if one become compromised. It also provides them with two abilities if they are dealing with an issue on the site, so that is really a big plus for city services. Mr. Corcoran said these two gates are sized so that any size truck can get through and they are going to be wide enough and controlled so that if something happens, whether it's in the middle of the night or the day that the gates can be overridden quickly to open up to allow vehicles to come through. The Knox box control, and again, Chief Strazzo, we are using the Knox Services and those are very secure systems that the fire department only has access to; the police chief doesn't have access to them, only the fire department. He said when they come onto the site, they will be able to access it, authorize it, get the key, open the gates, or through other ways could be able to open that up to secure. The gates themselves have the ability if the power goes down to open; they physically open, so, access to the site is very easy to get to.

Mr. Corcoran said the fire pond was sized per requirement out of the Ohio Fire Code and the NFPA (The National Fire Protection Association) which is an international company that sets the standards for a lot of design. So, by exceeding those pond requirements, we've got over two hours of fire water available for attacking on this site for any incident. The draft point itself for the truck is actually outside the gate, so at any time, the chief could come up and he could actually access that drafting point and be able to pull water out of that pond without actually having to get through the gates. So that's a major benefit to the community with everything. The drafting point itself is on a very level area, so the trucks themselves have to be set relatively easily to start that draft process. Mr. Corcoran asked the chief if they were at about 500 gallons per truck? Chief Anthony Strazzo said 750. Mr. Corcoran said at 750 gallons, the time factor to get in and deal with a situation in one of the units let's say, or the office area, most fires are put out with a minimal amount of water, so in that amount of time that's needed to get that draft started and primed and moving forward, the trucks are already arriving with 750 gallons or if there are two, that's 1,500 gallons of water available easy. He said of course we will be organizing with the chief as to how and what is needed to help to facilitate the easy access to make this thing start. The Knox box is a very secure box that's going to be available and accessed at the gates.

Mr. Corcoran said one of the other things we looked at also on the site is the apparatus access road. Now, pursuant the Ohio Fire Code, the apparatus access road starts at the chief's fire stations and so from that point, down the street, all the way up onto the site and be able to get to the buildings and so we looked at this and with the 30-foot wide we actually exceed the apparatus road requirements out of the Ohio Fire Code. As testified earlier here by one of our experts is that the turning radiuses on the site, with the 30-foot wide, actually allows the trucks to make the turns in and up and down the drive. So, if a truck does come in, he doesn't have to put it into reverse and back up. It is limited to 150 feet before we have to provide a turnaround, so every one of these aisles actually give the chief the ability to ride up and down these with his vehicles and it provides the ability to get him where he needs to go. This also couples into the requirement in the fire code that we have to be able to provide a hose link to every portion of the building within 150 feet, so even if we are parked out on the street, we can reach the sides of the building, the front and everything all around. The road itself is designed to actually support the weight of these

trucks in through there. Now, being asphalt, and anticipating not only the chief's trucks but other vehicles, like storage trucks and all of that, that heavy pavement is designed to work that. Mr. Corcoran said also, the site itself, as was testified by another expert, is that snow removal is very easy on the north/south route either through melting or being able to push the snow toward the pond and being able to get that up and out of the way to keep the site clear.

Mr. Corcoran said portable fire extinguishers in our new building falls within the auspice of the Ohio Building Code with input from the fire chief. So portable fire extinguishers will be located both in the buildings, in the corridors and outside the buildings because we have to reach within in 75 feet of an extinguisher, so theoretically the extinguishers are 150 feet apart. He said we have to reach everywhere on the building within 75 feet for a portable fire extinguisher. This would be available also to not just the fire department and constituents if something were to happen whether it is their own personal car that they just arrived in or possibly contents that's in the building.

Mr. Corcoran said the buildings themselves are classified as S1 storage units, so under the building code that is a moderate hazard meaning there are combustibles that can get in these buildings. They do have fire walls in them. Now those fire walls are going to be three (3) hour fire walls, so that would mean that the collapse of the structure could happen on either side, and that fire wall is still going to stand there for three (3) hours to allow the construction to fall. He said that is a benefit because that gives the chief an opportunity to go in through one building to get to another building and keep his people safe before having to go into the corridor of an active building. These buildings actually have three (3) access points, two from the outside and one from the fire wall side; those are the typical buildings out front. So, this fire wall, coupled with the size of the building, the S1 storage unit is required to be no more than 8,000 square feet in accordance with the Ohio Building Code. That 8,000 square feet limitation has been changed recently in the code because of the possibility of foam furniture, so the building code recognized the risk to the fire fighters and others and so they've been able to keep bringing this down to about the 8,000 square foot mark. He said so the mixture of other commodities that are in there, which is regulated by the contract of the storage facility, which stipulates you are not to have high hazardous materials in there because those are the things that go boom and burn rapidly. S1 storage materials, again, isolated inside a metal room typically only burn their own content before expanding into other areas within the building at the 8,000 square foot mark. If we were over the 8,000, we would have to suppress the building. Being under the 8,000 square foot mark, we don't have to provide water for the building code side and or the fire code. Now, the Ohio Fire Code and the Ohio Building Code are sister codes developed by the International Code Council, so the construction we are talking about here, the sizes of the buildings and the requirements are applicable not only to just here but whether it's in the City of Stow, or Kent or the City of Columbus – these are the same parameters that other facilities are being designed to. He said the safety of these buildings actually are – before the last couple of years, you could build up to 12,000 square feet, but now that number has been brought down to 8,000 square feet to create a much safer building. The interior corridors that are inside these units, if you look at your plan you will see they have interior corridors, and those corridors, because of the occupant load, do not have to be fire rated, but we have steel doors, steel walls coming down the corridors, which create a much greater and safer location for the people utilizing this building all the way through.

Mr. Corcoran said the buildings themselves are very safe. I quite often keep looking around, looking around and I cannot find when the last storage unit fire was or when it was. I hear of large warehousing fires, but a storage unit fire I am not familiar with one in the area. He said with that I will go to the board to see if there are any questions.

Questions by the Board for Mr. Corcoran

Mr. Kersten said it was testified earlier about landscaping equipment in these lockers and asked if these lockers are marked specially for hazardous material, which gasoline is, or can somebody or a landscaper just go in there and put 4, 5, 6, 7 mowers loaded with gasoline in these? Mr. Corcoran said pursuant to the Ohio Building Code and the Ohio Fire Code, certain materials are allowed to be stored in these buildings up to what we call the exempt amount. So, based upon what the material is, you could have up to, and I'm just going to produce a number here, you could have up to five gallons of gasoline sitting in that building. Now, gasoline that would be in a gas tank in

a car does not apply because that is considered to be in a ODOT approved container that is exempt from the Ohio Building Code and Ohio Fire Code requirements. Mr. Corcoran said, again, the contract should be clear as to what is allowed, what is not allowed, and I have not read that contract in detail. Mr. Kersten said you didn't answer my second question. Let's say I'm a landscaper and I've got gasoline in this locker and all of that, is there anything put on the door of that locker in front that when the fire department goes in there, they would know there is gas in that locker? Mr. Corcoran said I don't know. Mr. Vacanti said we have somebody who can discuss what is actually going to be held in these facilities to answer your question. Mr. Kersten said, well the lady that testified earlier stated they would have landscaping equipment. Ms. Zamow said those don't have outdoor storage though. Mr. Kersten said you didn't say whether it is inside or outside; you said landscaping equipment and furniture and that in the lockers. Ms. Zamow said storage facility encompasses inside and outside. Mr. Kersten said my question is – say the chief goes in there with his men down a hallway, is he going to be able to tell which lockers would have hazardous material in, or is he not? That's my question. Mr. Vacanti asked the chair if he could introduce Mr. Brad Steinberg who can answer this question? Mr. Vacanti said Charles (Corcoran) is our code expert, but under our contract and under the zoning what's required, Brad can talk about that and what the owners are actually allowed to store. Mr. Vacanti asked if there were any other questions for Charles (Corcoran). No questions.

Brad Steinberg returned to the podium still under oath and said Mr. Chair, to answer your question, no the units are not marked and we don't have an inventory of what our tenants are storing, just like you wouldn't have at a residence or in a residential garage, or frankly any other type of warehouse, so we don't know. Now in our contract we do not allow the storage of fuels; yes, on occasion you will have a vehicle or potentially landscaping equipment in a unit. Typically speaking, I think what she was primarily speaking of is at our Center/Marks facility we have external storage. We have a lot of trucks from small business or maybe just an RV or it could be a boat and those are external, we don't allow those in units. He said occasionally there might be classic cars inside a unit, but again, we do not allow storage of flammables like gasoline or fuels within our units as of themselves. Mr. Kersten said okay, that answers my question, thank you.

Closing Remarks on Variances by Anthony Vacanti

Mr. Vacanti thanked the board and said I realize this has been lengthy so we appreciate your attention. Just to conclude on the variance hearing based on the testimony today, this board has to weigh the Duncan Factors on the testimony here for these two area variances, which again is a lighter legal burden to satisfy. We've addressed whether the property will yield a reasonable return as a self-storage unit, which is a conditionally permitted as of right under your zoning. We've addressed that and indicated what these sizes are typical in the area and that the numbers work out to make it economically viable, otherwise this type of use, which is conditionally permitted, is not. We've had testimony talking about how the variances are not substantial in light of the massive permitted uses where we don't even have to come before you where you have warehouses full of hazardous materials, we are metal and smaller, we don't have those issues. In light of your zoning resolution, this variance is not substantial, also in light of the other competing locations within the township, all of which are larger than what we are requesting, so it's consistent.

Mr. Vacanti said whether the character of the area would be substantially altered or the adjacent properties will suffer detriment, we've already established it's an industrial area. All of the safety measures are put into place, according to our experts, so that's not an issue for these two minor area variances. Whether the variance will adversely affect the delivery of governmental service, the testimony indicated it would not. Whether the predicament can be obviated in some other method other than a variance. We are obligated to go through this administrative process before taking any other legal matters we don't want to do; we'd rather work with the township, so we are here and this is the minimum necessary to allow for this use which the township has already identified as conditionally permitted on this property. Whether the spirit and intent of this zoning resolution will be observed and substantial justice done. Section 301-2 Uniformity of Regulations of the zoning resolution, indicates that *all regulations shall be uniform for each class of building, structure or use within each zoning district*. We had testimony showing that other self-storage units exist in the township are the same size that we are requesting and we shouldn't be burdened with these requirements, especially given the uniqueness of this property. He said also, you could have massive warehousing with lots of goods, a lot bigger, a lot more combustible than what we are requesting, so I just ask for a little more uniformity in the spirit and intent of the zoning resolution. It

also complies with the purpose of the industrial zoning. It allows industrial uses such as this that aren't very impactful. This is the least impactful use that you can find, so it's appropriate given this isolated nature that it's not going to be detrimental from a traffic standpoint.

Mr. Vacanti said in light of all of the foregoing, will substantial justice be served, you know, given that warehousing uses, wholesale establishments, light manufacturing, vehicle repair, body shop, dry cleaning, research labs, testing labs, manufacturing of firearms, manufacturing of ammunition, adhesives, sealants, and chemicals manufacturing can all be done, permitted as a right, on this site, much more impactful to the township and to the community with many more safety concerns. He said also, sexually oriented businesses are permitted as a matter of right on this property.

Mr. Vacanti said, so what we are requesting – we believe we have satisfied the Duncan Factors based on the evidence. This is important for us; we want to work with the township and we do appreciate your interest and your attention and we ask that you uphold private property rights. We are entitled to request variances, so we are not asking for any special favors or anything like that. We are following the zoning resolution's provisions in doing that. Mr. Vacanti said without further ado if anyone has any other questions and again, I cannot tell you how much we appreciate your time and attention to this matter.

Testimony and Questions by Brunswick Hills Fire Chief, Anthony Strazzo for the Applicant

(6) Anthony Strazzo, Brunswick Hills Township Fire Chief said on your application you submitted the Land Use Diagram, but in your Exhibit A, it says nine (9) self-storage structures – you only have six (6) on the map, so are there nine (9) buildings or six (6) buildings is my question. Mr. Vacanti said it is six (6) structures, but eleven (11) buildings. Chief Strazzo said, well your application says nine (9), so is it six (6), nine (9) or eleven (11)? Mr. Vacanti said whatever was in the site plan submitted. Chief Strazzo said, ok, but that is not what your application says. Mr. Vacanti said it was the site plan that was submitted. Chief Strazzo said, so, your application is incorrect. Mr. Vacanti said no, no, it must have been a Scribner's error; the site plan is what....if there is a relevant fire concern, I'm open to.... Chief Strazzo said yes, if there are six (6) buildings or nine (9) buildings there could be a..... Mr. Vacanti interrupted and said the site plan that we ran the AutoTurn on. Chief Strazzo said I want to be sure of the clarity and that we are talking about the right thing.

Chief Strazzo asked, during the cost analysis, did you compare the cost of putting in hydrants versus sprinkling the buildings, versus the fire pond? Ms. Zamow said yes and the fire pond was the more economical option. Chief Strazzo said the fire pond installed, is that installed as designed for fire protection or was that at the request of the Medina County Storm Water District to meet their specifications? Mr. Lewis said he would answer that and said when we were bringing in.....Secretary Milanko asked who is speaking and said we need to know who is answering the questions. Trustee Kusnerak said it would be easier if they come up to the podium to answer the questions. Mr. David Lewis, Project Engineer, approached the podium. Mr. Kersten reminded him he is still under oath. Mr. Lewis said when we were importing, there was some road work done in the area and the contractor needed a site to place soil from the highway road work, so at that time we engineered a storm water pollution plan basically to contain any erosion that would occur and that soil being placed. He said and when that soil was placed, we submitted our plan to the Medina County Highway Engineer and he made the recommendation that we put in a sediment basin so the basin that is out there now is not as large as the fire pond; it's only about I'll say 60% and half the size that it will be, but it's set up for erosion control purposes currently.

Chief Strazzo asked Mr. Lewis if he submitted the map with the fire ponds in Medina County and the locations (Exhibit J)? Mr. Lewis said yes, sir. Chief Strazzo asked how many of those ponds are used in an industrial situation like yours? Mr. Lewis said the ones that I have engineered were primarily in residential subdivisions, there is nothing that would prohibit the fire department. The three that I engineered in Montville Township are located in a residential development, but there is no provision that would prevent the fire department from using that water and taking it to another use. Chief Strazzo said, but the primary use and location of a fire pond is for a residential subdivision and asked, do you know what the building code is for a residential single-family home is categorized as? He asked, is that a high hazard, a moderate hazard or a low hazard? Mr. Lewis said, uhh, I'll refrain to our code expert, but I can tell you that the way that we calculate the size of the fire pond is dependent on

the immediate structure, so the storage unit was sized specifically for these commercial ponds. Chief Strazzo asked, when you did your calculations, what did you use, 2000 gallons per minute for the fire force for the buildings? Mr. Lewis said yes, that is the requirement. Chief Strazzo said you're familiar with NFPA 1142 (Standards on Water Supplies for Suburban and Rural Firefighting), correct? Mr. Lewis stated I am. Chief Strazzo asked if that has any specifications in 1142 if there is an explosion hazard? Mr. Lewis said not that I'm aware of. Chief Strazzo said, ok, well there is and it says *if there is an explosion hazard, the minimum GPM is 3,000 gallons per minute*; and the spacing of your structures, and I'll read you the section: *"For structures with unattached structural exposed hazards, the minimum water supply in gallons shall be determined by calculating the total amount of cubic feet...minimum water supply supplied for structures with an explosion hazard is not less than 3,000 gallons."* Chief Strazzo said, so, that would make what your fire pond calculations not adequate for the structures that you are putting in. Mr. Lewis said, correct. If that in the case if.... well, again, I'll refer to... Mr. Vacanti interjected and said Mr. Vanover can respond.

Mr. Thomas Vanover said my question would be where the specific explosion hazards are.....Chief Strazzo said it's an exposure building that you are building. Mr. Vanover said correct, an exposure building as designed to be separated by either a three-hour firewall, which eliminates the exposure and building the building adjacent and 30 feet apart. Chief Strazzo said I believe it's 50 feet apart, not 30 feet. Mr. Vanover asked which section he is referencing. Chief Strazzo said I would have to look that up. Mr. Vanover said based on them being less than 50 feet apart is considered an exposure at 50 feet. Chief Strazzo said yes, I would have to double check that but I believe that is a 50-foot..... Chief Strazzo read the section: *"If the building is 100 square foot or larger in diameter or larger in area and is within 50 feet of another structure."* Mr. Vanover asked if he knew which section that was. Chief Strazzo said Section 4.1.5.

Chief Strazzo asked Mr. Lewis, also in your design, I am also referencing 1142 where it talks about the placement of the suction out of the pond and said it appears that it is only 30 feet from the building and I believe it needs to be farther than that. Would you like to comment on that? Mr. Lewis said yeah, I believe it is more that 30 feet if I can access my drawing. Mr. Lewis said that would be a simple revision to our drawing if it does need to move a few feet. Mr. Lewis said I've got it at 52 feet from the corner of the building. Chief Strazzo said, if you reference Section 8.4.4 it says: *"dry hydrants shall be located a minimum of 100 feet from any structure."* Mr. Lewis said okay, so we would just move it out to 100 feet.

Mr. Vacanti said Chief, if you will excuse me, these are building code issues and site design issues and not land use zoning issues. He said, so, I've been doing land use zoning for over 15 years and these building codes for the township are handled by the county in the review. Mr. Vacanti said, so, I want to make sure we stay on track and the board doesn't deviate off into other areas. So, this will be reviewed under the building code for all of the necessary provisions. We spent a lot of time here getting into the minutia of the building code; this is not the Board of Building Appeals. Mr. Kersten said, I'm going to stop you right there and said the chief was not finished, let the chief finish. Mr. Vacanti said just for the record, it's important.....Chief Strazzo said I will just check with our counsel, and said they brought these witnesses before that sited these areas of concern – is it appropriate for us to address those or rebuttal those? Mr. Brian Richter said I would say yes. Chief Strazzo said thank you.

Chief Strazzo said I can't remember who testified to it, but they spoke with the Sanitary Engineer about hydrants off the four (4) inch water line. Mr. David Lewis said that was me, I called him on the first one. Chief Strazzo said I completely understand that a four (4) inch water line cannot support fire hydrants as we noted. Did you ask about supplying a sprinkler system off of that four (4) inch line? Mr. Lewis said I did not. Chief Strazzo said, I believe that is a permissible use with a four (4) inch line for a sprinkler system, so, that could be an option. Chief Strazzo said none of those options were either discussed with the fire department or looked at; but that is another option. Mr. Lewis said I would be happy to make that call. Chief Strazzo, thank you.

Chief Strazzo said just a couple more things here. When we at the fire department look at a structure or any sort of hazard within a community, there are things that we need to look at as far as we can determine the hazard not only to the occupants of the building and the hazard to the community, but the hazard to our firefighters, and those things are what we follow like [1.] Limited fire department resources. We have three (3) firefighters on duty; it's

a limited number of resources. A commercial fire, according to the NFPA takes 21 firefighters to assemble. Even with mutual aid, it is a long period of time before we can assemble 21 firefighters. [2.] Extended fire department response time or distance. With including the City of Brunswick, that give us nine (9) firefighters – still a far cry from 21. The rest of the members that we would need come from volunteer departments meaning, they’re responding from home to their station, then to the emergency; it’s an extended response time that factors into that. Why is that important? Because of rule [3.] A fire. A fire grows exponentially for every minute that goes by. Next, [4] The potential for delay or discovery of the fire. As shown by their submission, they showed the gate activity reports, which thank you, that is great for me to reference so I’ll just pick out a couple here. The last gate entry on the one day was at 9:44 p.m.; 6:21 p.m.; 9:55 p.m.; 9:34 p.m. So, the last person on that property was after hours, so from those times until the next morning until somebody enters that property, a fire could potentially go undetected and undiscovered in any one of these buildings. As those fires grow, they become more dangerous to our firefighters; that is something that we have to weigh. [5.] Limited access. They did a good job actually with the two driveways, that is pretty nice. The one thing, though, that I would like to mention is they are quick to say they are willing to put a Knox box on this facility, but in the facility they currently own in Brunswick Hills, they have no Knox box. [6.] Hazardous vegetation, I don’t believe that is a problem here, it’s a paved area. [7.] Special structures not relevant. He said here there aren’t any decks or porches or anything like that. [8.] Special uses and unusual occupancies. So being that this is a storage unit, we all probably have in our basement those plastic totes to store goods and items. They are typically used when people move, also cardboard and whatever else, maybe. Chief Strazzo said I’m going to talk about the plastic totes for a second. What’s a plastic tote? It’s petroleum, its an oil-based form of plastic that readily burns. So, you have these small cubicles filled potentially with plastic totes. As their witness testified, lawn equipment – could be weed eaters, could be leaf blowers, edgers, lawn mowers that all have gas, they may not have 10 or 20 or 50 gallons of gas, but they all contain gas or oil. There are plastics that do combust and add to a fire.

Chief Strazzo, now, when we look at the history of fires in storage areas, I know they talked about that they have never heard of fires in storage areas, and asked Mr. Vanover if he is familiar with the NFIRS System (National Fire Incident Reporting System). Mr. Vanover said, no sir, I am not. Chief Strazzo said we are going to talk about NFIRS for a second. The NFIRS is the National Fire Incident Reporting System. This is a system that all fire departments that want to receive any grants has to report into; it’s a state requirement here in the State of Ohio. Our data is then assembled for national reference, so the last year available is 2019 and that’s the last year they had their data assembled and distributed. There were 16,800 fires in storage facilities. I’m just going to repeat a little bit of the data. There were 200 injuries. This is a pretty shocking number, there was \$608,400,000 million dollar loss in those facilities.

Chief Strazzo said we will talk about causes. While there are typically not too many...there is not an open pilot flame because there is no hot water tank in the building of a storage unit. There are a lot of potentials for fires, most are intentionally set. This is out of that 16,000, 14,000 were intentionally set, 1600 were electrical, coal malfunctions, 1800 were caused by open flames and then 4,500 were unintentional or careless. It could be they used that leaf blower, they put it in and it happened to be leaning against a box and it just caught fire at that point. Chief Strazzo said, so, while we want to paint a picture that they are not dangerous, there is a fire danger related to storage units.

Chief Strazzo said, also, they were nice enough to show the picture of the metal building in Hinckley and fortunately, due to our software that we use here in the county, I was able to look up how far the hydrants were from that building. They have one hydrant at 68 feet from that building and another is at 117 feet. So, the Ohio Fire Code does make mention that the authority having jurisdiction can require hydrants where the buildings are not located closer than 400 feet from a water source. So, if the building is over 400 feet, we can require hydrants in that area.

Chief Strazzo said and then, I would just like to point out to as far as their contract (Exhibit D) is concerned and what a hazardous substance is. They actually define the term “hazardous substance” in their contract and it says: “any petroleum, petroleum products, natural gas, natural liquid gas, liquified natural gas and synthetic gas, or any other substance deemed to be hazardous and dangerous, toxic, or a pollutant under any federal, state, local

code ordinance or regulation.” Chief Strazzo said we all know that people use storage units to clean out their garages, their houses, their basements. These areas are truly unregulated, folks that own them do not know what is going into them. They do not inspect the boxes to ensure that that is being met. They have them sign an agreement that says they are not bringing that stuff in. He asked, and why is that important? Well, because on #4. on their agreement, it says: “INSURANCE OBLIGATION: ANY INSURANCE PROTECTING THE PERSONAL PROPERTY STORED WITHIN THE SPACE AGAINST FIRE, THEFT, OR DAMAGE MUST BE PROVIDED BY THE OCCUPANT.” Chief Strazzo said it is not on the onus of the operator of the mini storage to protect them against fire.

Chief Strazzo Closing Comments

Chief Strazzo said there is a whole list of NFPA Standards that we can save for the Building Department as well that are applicable to this, but in summary, there are some discrepancies in their application that I think are significant. There are still some concerns that I have referencing fire protection. I would openly ask them to reach out to us and maybe we can come to an agreement. Part of our fire protection is that detection of fire. There is a long period of time where that fire is not going to be detected. He said an alarm system, a sprinkler system, all of those benefit, and to be honest, are on the table for us to discuss with them. The portable pond is not the option for an industrial occupancy. Thank you.

Questions and Discussion Following Chief Strazzo Remarks

Chair Kersten said he had a question for the gentleman that spoke about the fire pond and asked, if we have an extremely cold winter, how does that affect the fire pond? Chief Strazzo said I can actually answer that. The design of the fire pond is so that the intake, or the strainer as to what was referred to before, is below the freeze line, so it wouldn't affect the performance of the pond. The fire expert agreed.

(7) **Matthew Payne, Fire Prevention Officer** said I have a couple of questions. Secretary Milanko asked the chair has to swear him in. Mr. Vacanti interjected said I have some questions for the fire chief. Office Payne said let him go ahead. Chair Kersten said Officer Payne has some questions. Mr. Vacanti said I'll defer to you but normally when you are cross examining and going back and forth, its after they made their direct comments. Mr. Kersten said but he was talking, but we will give Mr. Vacanti the floor.

Mr. Thomas Vanover stated he has a couple of clarifying questions, if I may. Mr. Vanover took the floor and said one, just to get some clarity for the board and two, to also make sure that the record is clear, your data on commercial fires need 21 firefighters is that correct? Chief Strazzo stated correct. Mr. Vanover said, so, any commercial structure on this site at all is a hazard that requires 21 firefighters that you don't have? Chief Strazzo said correct, a commercial fire, yes. Mr. Vanover said commercial, so an industrial site, a commercial site, one of your concerns, and I just want to make sure I heard you because it's an argument that I've never heard, that one of your concerns is that we don't have enough people in and out of the site? Chief Strazzo said correct. Mr. Vanover said typically fire hazards are obviously, as the chief, and I work very closely with the firefighters, you have the responsibility of your firefighters as well. He said if you do the risk assessment that's in NFPA and in the Ohio Building Code on how many people can be harmed – non-untrained firefighters can be harmed is always the top number, occupant load, how many exits you have, how big your building is, when you need a sprinkler and all that, so the concern is that we don't have enough people in the building? Chief Strazzo said, no, the concern is the time to detect that there is a fire is delayed. Mr. Vanover said, ok, its delayed because we don't have enough people in the building if there is a fire. The NFIRS Reporting System, you said storage units, that's specifically self-storage units? Chief Strazzo said no, it says storage facilities. Mr. Vanover said, so, all storage, and to clarify the record, I was not, I never indicated that our building and the Hinckley building was the same. I referenced the Hinckley building and I think it was mis-characterized because if you stand next to that and imagine that as a wood building, four of those in the middle of this field, for people that aren't always in documents, I think it's important for you to get the massing. Obviously that building is stacked high with paper and pens, and it is closer to the hydrant. What my classification was a building that size of wood, doesn't have to be. We could build that building without the hydrants; they could have built that building without the hydrants, without the sprinklers had it not been for the stacked storage inside. Mr. Vanover said, so, that being said, that is why I go back to the umm...Chief Strazzo interjected and said, wait, just to clarify, does that building in Hinckley have sprinklers? Mr. Vanover said yes. Chief Strazzo said so it is sprinklered. Mr. Vanover said it is a metal building with high pile storage with

sprinklers next to it. Chief Strazzo said when you say that building can be built four times on that property, yes, sprinkled. Mr. Vanover said no, that's not accurate. The building in Hinckley was used as reference for size. We can build that building in wood, all wood, with no sprinklers, filled with household goods. The only thing we can't do that they do is put 40 feet of shelves and stack it. He said what we can do is put 12 feet of household stuff, including your flammable totes which are obviously petroleum, but I think that is mis-characterized as well because those are not considered flammable totes or considered a hazardous substance. They melt and they disappear once the stuff stops burning, the fire goes out. So, that being said, the NFIRS includes – those reports that he is speaking of includes the building in Hinckley, it includes the four buildings out of wood we can build here, so, just for the record, that's not an accurate depiction of self-storage. There are not 16,800 self-storage fires. Those numbers would count for any storage permitted under your code as well, and that includes the 200 injuries and everything else. Mr. Vanover said and finally, the Knox box, this facility is the one we are talking about with the Knox box, the fact that the other facility doesn't have one, nobody here knows the logistics around that one, but the reality is, testimony is, this will have a Knox box for access because there is a need to do so. Mr. Vanover said and finally, just to reiterate what Mr. Vacanti has said, all of these issues are reviewed by law under the Ohio Building Code, by the Medina County Building Department because they are the authority of having jurisdiction and I would just caution the board for the record that these things coming up in a zoning hearing is improper because it is in direct violation of 3781 of the Ohio Revised Code. There is a place to hear that; there is a place to do that without putting the township behind the eight ball, hearing these issues in this setting is improper.

Mr. Brian Richter said, but doesn't this testimony have to do with the affect of governmental services? Why is this not appropriate? Mr. Vacanti said we stipulated we would comply with the building code; the township doesn't have authority over the building code. Mr. Richter said, but the fire department has to provide services down there. Mr. Vanover said and I don't disagree that that's what it is, but that's not a catch-all to take and make building code interpretations in a zoning hearing. Mr. Richter said you are making an interpretation as to whether a fire pond is appropriate or not. He said, I mean you guys brought up the fire pond. I'm just bringing this up, you are telling the board that they are doing something that if they are listening and stuff it's incorrect. Mr. Vanover said if I can rephrase what I told them is that speaking specifics about fire protections systems... Mr. Richter said, but you guys brought it all up. Mr. Vanover said we did not bring up the sprinkler system, we did not bring up the NFIRS, we did not bring up the exposure, which I believe... Mr. Richter said but you are talking about how this fire pond is appropriate for this specific situation. Mr. Vanover said that is correct and the interpretation is because we brought up the fire pond, the fire official has the authority to then discuss all of these other code related fire issues as well as the fire pond. If that's the position, then our position is that we disagree. Mr. Richter said okay, disagree then.

Hearing Recess: Mr. Ron Wetterman asked the chair for 15-minute recess and said we've been sitting here for 2.5 hours. Chair Kersten called for a five-minute recess at 9:38 p.m.

Chair Kersten recalled the meeting to order at 10:00 p.m. by the township clock.

Mr. Anthony Vacanti said thank you for that break and thank you for the attention. I just want to wrap up on a few matters, redirect the board to the relevant items, and then conclude here. Just a reminder to the board, you know, this is a zoning hearing, not a building code hearing, alright? This board doesn't have jurisdiction, with all due respect to the chief, he doesn't have review jurisdiction, that's under the county. We did offer the fire pond on there. In our belief, the fire pond was not necessary but as an accommodation to the chief's noted concern, we designed it using our experts within the code's provisions; which will be reviewed by the appropriate authorities. We have stipulated here, I mean it's common knowledge we have to get code approval, so that's not before this board. I will submit the presentation and testimony has gotten off track and I would just encourage this board to focus as to what's in the zoning resolution. There aren't sprinkler requirements in the zoning resolution, there aren't hydrant requirements in the zoning resolution, there aren't fire pond requirements in the resolution. We did offer that out as an accommodation and our experts say that should not have an impact on governmental authorities and it will be approved under the code and we will make sure we do that. I do want to note the code 1142 that the fire chief was referencing and he doesn't have jurisdiction, or with all due respect, authority over it. Appendix B, which he was referencing isn't even applicable and hasn't been adopted, so it's not even a required requirement.

I would just ask Mr. Charles Corcoran to come up here briefly for one minute to explain why that is the case, just for the record and nothing against the chief, but we just have to preserve the record and make sure that you guys are focused on the zoning resolution, not code, as a township; and not these side issues because quite frankly they aren't relevant. Mr. Vacanti called Mr. Corcoran to the podium to briefly explain in one minute why that's not applicable.

Mr. Charles Corcoran said the Ohio Fire Code has some appendixes in the back of the code, and under Appendix B, which I have a copy here in my hand, this is fire flow requirements for buildings, doesn't say residential, doesn't say commercial, it just says "buildings." He said, but there is a paragraph right under Appendix B that says: "*The provisions contained within this appendix are not adopted as a part of the Ohio Fire Code. This appendix is published solely for informational purposes for political subdivisions that may seek to incorporate such provisions in a locally inactive fire code as described in OFC 103.1.*" He said and as part of that, under this Appendix B, Section B 103.B talks about areas without fire water supply systems available: "*For information regarding water supplies for firefighting purposes in rural and suburban areas in which adequate and reliable water supply systems do not exist, the fire code official is authorized to utilize NFPA 1142 or the International Wildland- Urban Interface Code.*" Mr. Corcoran said, so, jurisdictionally, chief, the use of Appendix B is not allowed unless it has been locally adopted as part of this in order to get to 1142, you cannot get to that unless Chapter B is. He said we have chosen as design professionals to utilize industry standard designs to work toward those standards. He said, and also within this document the Ohio Fire Code as part of this appendix has two charts; one is the required fire flow for 1, 2, 3 family dwellings; and then the next table down is a reference for tables for non-residential buildings. Within that table it indicates that there is a two-hour requirement, not a three-hour, as 1142 would indicate.

Mr. Vacanti, so just to conclude, we are happy to meet with you chief. We've indicated that before at previous hearings, we've tried, um, we didn't get responses; we reached out. Chief Strazzo said, could you show me the documentation? Maybe your email is getting blocked, or I don't know because I have not had any....there was an email probably a year and a half or two years ago. Mr. Vacanti said, two years ago? No, no, no, phone calls have been made and people have reached out. We are willing to do it, we absolutely are willing to do it, because honestly, we want county code approval as well. Mr. Vacanti said so, if there are legitimate issues that you have identified, we've already indicated we are going to be fully compliant with the county, so we are willing to meet if the variances are granted, I mean and conditional use is granted. We are happy to meet because we are going to face those issues, chief, at the county as that is the appropriate authority that has jurisdiction over that and obviously, we want to work with you and members of the community – we really do. So we will take you up on that offer assuming we get approval, but we need to get to that point and so, appreciate everybody's time this evening that's been taken and without any further belaboring, we respectfully request based on the evidence, the testimony, the documentation presented before you which you've been listening to, that the Duncan Factors for the 5,000 square foot area requirement for structures, and the 2-3 acre requirement for acreage for self-storage units be varied in this instance so we can proceed with the conditional use. Thank you, members of the board.

Questions by the Board

Chair Kersten asked Officer Payne if he had any comments. Officer Payne said he will pass.

(7) Ms. Evelyn Czyz, Zoning Inspector asked the applicants if there is going to be outdoor storage? She said at the May meeting it was clearly said no. Mr. Brad Steinberg said as you look at the plans submitted in the application, there is no provision there for outdoor storage. Ms. Czyz said thank you and asked for his name again for the record. Mr. Steinberg said, sorry, it's Brad Steinberg.

Mr. Chris Schigel said I just have a quick question to clarify for when we write our statement, because the application said nine (9) buildings, I want to make sure we clarify when we write that statement. There are 1, 2, 3, 4, 5, 6 buildings, correct? Or do you consider those buildings separate because there is a fire wall? Mr. Vacanti said it is counted as 11, but as reflected in the site plan that was submitted. Mr. Schigel said because of these fire walls, right? Mr. Vanover said the definition of a building; the zoning resolution has the definition of a building and it says basically anything under a roof, but the official definition of a building is defined by The Ohio Administrative Code Building Code and they are considered separate buildings.

Public Comment: None

Review of the Duncan Factors

Secretary Milanko asked if we are considering the Duncan Factors for both variances at the same time or separately? Brian Richter stated even though the evidence is the same, I would suggest that you consider them separately.

Duncan Factors for Variance Case #1

(Case #1) Review of Duncan Factors for Case 1 Zoning Receipt #2021-077 /1595 Substation Road. Area Variance request subject to Sec. 804-9 (2) The minimum lot size shall be (2) acres and the maximum lot size shall be (3) acres.

- A. Whether the property in question will yield a reasonable return and whether there can be any beneficial use of the property without the variance.** Mr. Schigel-yes; Ms. Barron-yes; Ms. Kuenzer-yes; Mr. Wetterman-yes; Mr. Kersten-yes.
- B. Whether the variance is substantial.** Ms. Kuenzer-yes; Mr. Wetterman-yes; Ms. Barron-yes; Mr. Schigel-no; Mr. Kersten-yes.
- C. Whether the essential character of the neighborhood will be substantially altered and whether adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** Mr. Wetterman-no; Ms. Barron-no; Ms. Kuenzer-no; Mr. Schigel-no; Mr. Kersten-no.
- D. Whether the variance will adversely affect the delivery of governmental services.** Mr. Schigel-no; Mr. Wetterman-no; Ms. Barron-yes; Ms. Kuenzer-no; Mr. Kersten-no.
- E. Whether the property owner purchased the property with knowledge of the zoning restriction.** Mr. Wetterman-unknown; Ms. Barron-yes; Mr. Schigel-yes; Ms. Kuenzer-yes; Mr. Kersten-yes.
- F. Whether the property owner's predicament can be obviated through some method other than a variance.** Ms. Barron-yes; Mr. Schigel-yes; Ms. Kuenzer-yes; Mr. Wetterman-yes; Mr. Kersten-yes.
- G. Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** Mr. Kersten-yes; Mr. Schigel-yes; Ms. Barron-yes; Mr. Wetterman-yes; Ms. Kuenzer-yes.
- H. Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** Mr. Schigel-yes; Ms. Kuenzer-yes; Mr. Wetterman-no; Ms. Barron-yes; Mr. Kersten-no.

Review of the Duncan Factors for Variance Case #2

(Case #2) Review of the Duncan Factors for Case 2 Zoning Receipt #2021-076/ 1595 Substation Road subject to Sec. 804-9 (3) Maximum structure size shall be 5,000 square feet and the maximum size of any individual storage unit shall be 600 square feet.

- A. Whether the property in question will yield a reasonable return and whether there can be any beneficial use of the property without the variance.** Mr. Wetterman-yes; Ms. Barron-yes; Ms. Kuenzer-yes; Mr. Schigel-yes; Mr. Kersten-yes.
- B. Whether the variance is substantial.** Mr. Wetterman-yes; Mr. Kersten-yes; Mr. Schigel-no; Ms. Barron-yes; Ms. Kuenzer-yes.

- C. **Whether the essential character of the neighborhood will be substantially altered and whether adjoining properties will suffer interference with their proper future development and rights as a result of the variance.** Ms. Kuenzer-no; Mr. Schigel-no; Ms. Barron-no; Mr. Wetterman-no; Mr. Kersten-no.
- D. **Whether the variance will adversely affect the delivery of governmental services.** Mr. Kersten-no; Mr. Schigel-no; Ms. Barron-yes; Mr. Wetterman-no; Ms. Kuenzer-no.
- E. **Whether the property owner purchased the property with knowledge of the zoning restriction.** Ms. Barron-yes; Ms. Kuenzer-yes; Mr. Wetterman-unknown; Mr. Schigel-yes; Mr. Kersten-yes.
- F. **Whether the property owner's predicament can be obviated through some method other than a variance.** Ms. Kuenzer-yes; Mr. Kersten-yes; Mr. Schigel-yes; Ms. Barron-yes; Mr. Wetterman-yes.
- G. **Whether the spirit and intent of this Zoning Resolution will be observed and substantial justice done by granting the variance.** Ms. Barron-yes; Mr. Schigel-yes; Ms. Kuenzer-yes; Mr. Wetterman-yes; Mr. Kersten-yes.
- H. **Whether the property in question has unique or exceptional circumstances or conditions that do not generally apply to other properties in the vicinity and within the same district.** Mr. Schigel-no; Mr. Wetterman-no; Ms. Kuenzer-no; Ms. Barron-yes; Mr. Kersten-no.

Motion for Case #1 Application Zoning Receipt 2021-077- Variance request subject to Sec. 804-9 (2) The minimum lot size shall be (2) acres and the maximum lot size shall be (3) acres.

- **Motion:** Mr. Schigel moved to approve the lot of size 6.83 acres for self-storage buildings on Parcel No. 001-02C-05-028. Mr. Kersten seconds the motion. **Roll Call:** Ms. Barron-no; Mr. Wetterman-no; Ms. Kuenzer-no; Mr. Schigel-yes; Mr. Kersten-no.

Secretary stated the motion is 4 no votes to 1 yes vote. **Chair Kersten stated for Parcel No. 001-02C-05-028, your variance is denied.**

Motion for Case #2 Application Zoning Receipt #2021-076/ 1595 Substation Road subject to Sec. 804-9 (3) Maximum structure size shall be 5,000 square feet and the maximum size of any individual storage unit shall be 600 square feet.

- **Motion:** Mr. Schigel moved to approve the variance request of the maximum structure size 5,000 square feet to the maximum square feet of 7,800 square feet at Parcel No. 001-02C-05-028. Mr. Wetterman seconds the motion. **Roll Call:** Mr. Schigel-yes; Ms. Barron-no; Ms. Kuenzer-no; Mr. Wetterman-no; Mr. Kersten-no.

Secretary Milanko stated the motion is 4 no votes to 1 yes vote. **Chair Kersten said application #2021-076 for Parcel No. 001-02C-05-028 is denied.**

Mr. Anthony Vacanti asked the chairman for two minutes to discuss with his client on how to proceed with the next application. Chair Kersten asked if he wants to continue with this third application? Mr. Vacanti said I need two minutes to confer with my client if that's okay.

---- Chair Kersten called for a short recess -----

Chair Kersten called the hearing back to order at 10:29 p.m.

(Case #3 Zoning Receipt #2021-075) Anthony R. Vacanti, Esq., 950 Main Avenue, Suite 1100, Cleveland, OH 44113 Counsel for owner Turnberry Partners, Conditional Use Zoning for property located at 1595 Substation Road, Brunswick Hills, OH 44212, PP# 001-02C-05-028, Current Zoning I-1 Industrial, for approval of a self-storage unit facility consisting of nine self-storage structures with a total of 521 self-storage units. Subject to Sec. 410-2 (B) Conditionally Permitted Uses (9) Self-storage buildings subject to Subsection 804-9.

Testimony & Evidence/ Presentation by Mr. Anthony Vacanti

(1) Mr. Anthony Vacanti said what I would like to propose if it is okay to you, Mr. Chair and the board, we would like to proceed on the record with the Conditional Use request. Most of the testimony, quite frankly, has already been presented, we would like for the sake of everyone's time and sanity, we would like to use that testimony if the board and counsel is okay with that. We may just clean up and clarify on a couple of items because I can't help myself in talking. It should be very brief if that's okay and that way we can all get out of here in a more reasonable time and the record is still protected. The board agreed to proceed. Mr. Vacanti asked, should I just run with it or how would you like to do that Madam Sectary and Mr. Chair. Secretary Milanko asked if the board had to swear everyone in again or all they still sworn in? Mr. Richter said they are all still sworn in.

Mr. Vacanti addressed the BZA and said you all know who I am, but we are here before you on a conditional use application for the site plan that has been submitted. You already have in your possession the packet of materials in addition to the application; I am not going to repeat it. I'm incorporating by reference all of the testimony and documents that have been presented before this same board, under oath, and the two variance hearings that preceded this one. Let the record reflect that the board, umm, and counsel for the township have agreed to utilize the same record with any additional testimony and argument that may be presented here. Mr. Vacanti said I've already introduced our team here and appreciate the board's consideration here.

Mr. Vacanti said we are here on a conditional use application to allow for self-storage. As this board is aware, self-storage use is permitted under certain conditions and under zoning, the board reviews those conditions to determine whether the self-storage use is appropriate. There are general factors and I am going to briefly review them under your zoning resolution. *The question is whether it will be harmonious with in accordance with the general objectives and with any specific objective of the Comprehensive Land Use Plan*; again, I won't delay with reference of the previous testimony and argument based off of page 25 of your Comprehensive Land Use Plan and based off of the purpose sections of the industrial zoning and also under the general that structures should be treated uniformly. We believe that our proposal is consistent for all of the reasons as we previously presented.

Mr. Vacanti said the second factor is *Whether the use is going to be designed and constructed, operating and maintained to be harmonious in appearance with the existing character of the general vicinity and won't change the existing character of the vicinity*. He said this is industrial zoned with electrical wires, electrical substation, transportation use and a county and township industrial, semi-industrial public use is in the immediate area. What we propose is light industrial, self-storage, that might be considered industrial use and it's consistent as the testimony has shown.

Mr. Vacanti said the third factor to be considered is *Whether the use will be hazardous or disturbing to existing or future or neighboring uses*. You've heard testimony on all of the security features, the lock gate, the lighting and all of the security features that are contained in here. You've also heard testimony how this use is actually less impactful than the permitted uses that don't even require us to be here before you this evening. So, for all of the reasons in the testimony, not limited to what I'm explaining, we are asking for approval on all of these factors for the record.

Mr. Vacanti said the next one, *Will not be detrimental to the properties in the immediate vicinity, or the community as a whole*. As has been established, there is demand for this use, there have been complaints about other locations. We heard the testimony on the landscaping, the lighting and how it won't be impactful on adjacent properties, in addition to all of the other testimony and not just the pieces and portions that I have identified.

Mr. Vacanti said the next factor is, *Whether the property will be adequately served by essential public facilities, streets, highways, fire protection, drainage, structures, etc., etc.* The testimony has established it will with the addition of the fire pond, with the security features, the reduced traffic counts compared to some of the other permitted uses as matter of right – we will not be impactful in this very isolated location of the township, quite frankly.

Mr. Vacanti – *Whether it is going to be detrimental to the economic welfare of the township.* It's a vacant lot right now and without the approvals, it is most likely to continue to be vacant and non-productive. So, by allowing the productive use, it will create tax revenues for the schools and for the community and that's always a good thing to have productive use of the property.

Mr. Vacanti – *Whether it will be compliant to the state, county and township regulations.* The testimony has shown all storm water, engineering and code provisions will be adhered to. We can't get approval from the county without adhering to all of those provisions.

Mr. Vacanti – *Whether the vehicular approaches to the property are designed so not to create an interference with traffic.* You heard Mr. Lewis testify as to how they are designed not to be in conflict. You heard Brad Steinberg testify as to the weekend uses as opposed to the weekday use and you heard additional testimony about the actual gate usages and how they are less than the permitted uses. So, for all of the reasons in the record, including the ones that I identified, that standard has been satisfied.

Mr. Vacanti – *Whether it is consistent with the spirit and intent of the zoning resolution.* The testimony has shown that this is a less impactful use than permitted uses, as you know, both in size, scale and intensity, so we do believe it is consistent with the spirit and intent of the zoning resolution. It is permitted as a conditionally permitted use, so that is what we are requesting. Under the zoning resolution and Ohio Law, property owners have a right to utilize their property without arbitrary interference by the government, including arbitrary application of rules and regulations. We believe that is all consistent with the spirit and intent of zoning laws.

Mr. Vacanti said those are the general criteria that we believe that the testimony has satisfied. There are some specific criteria found in Sec. 804-9 of the zoning resolution that just deals with self-storage units. The first criteria is, *804-9 (1) Storage will be limited to household and commercial use only. Storage of toxic or explosive materials as well as industrial materials shall be prohibited.* Mr. Vacanti asked Brad (Steinberg) to give testimony for the clarification of the record.

(2) Brad Steinberg, Leader Storage approached the podium. Mr. Vacanti asked, will the storage units be limited to household and commercial use only? Mr. Steinberg, yes. Mr. Vacanti said your lease provides for that correct? Mr. Steinberg, correct. Mr. Vacanti, and the board has that lease. Mr. Steinberg, correct. Mr. Vacanti asked, is there going to be, or do you allow the storage of explosives or toxic materials or industrial materials? Mr. Steinberg, we do not allow it. Mr. Vacanti, okay, thank you.

Mr. Vacanti said the next specific item is item number two, *804-9 (2) The minimum lot size shall be two (2) acres and the maximum lot size shall be (3) acres.* Mr. Vacanti said this is a six-acre site. I reserve the right to appeal the variance decisions that this board made, but that is the factor.

Mr. Vacanti, the third specific factor, *804-9 (3) Maximum structure size shall be 5,000 square feet and the maximum size of any individual storage unit shall be 600 square feet.* Mr. Vacanti said our structure sizes are larger than that. I reserve the right to unfortunately appeal to the Court of Common Pleas and take other action with regards that so we do reserve our right with regards to that factor.

Mr. Vacanti, the fourth specific factor, *804-9 (4) A minimum of four (4) parking spaces shall be provided for the leasing office. Parking turnoffs shall be provided from interior drives.* Mr. Vacanti called Mr. Lewis to the podium to confirm that on the site plan there will be a minimum of parking spaces and turnoffs shall be provided from interior drives.

(3) David Lewis, yes, the site plan does have proposed seven spaces, I believe, and a handicapped space and there is adequate pull off areas throughout the development. Mr. Vacanti, thank you Mr. Lewis.

Mr. Vacanti, the fifth specific factor indicates that 804-9 (5) *No door openings shall face a residentially zoned areas, provided however, that building may serve as visual barriers.* Mr. Brad Steinberg returned to the podium. Mr. Vacanti, do any of the door openings face a residential zoned area? Mr. Steinberg, no they do not.

1.

Mr. Vacanti, and the final factor is number six 804-9 (6) *Master key shall be provided for fire department inspections.* Mr. Vacanti asked Mr. Steinberg if a master key will be provided for fire department inspections? Mr. Steinberg said absolutely.

Mr. Vacanti said, so for all of the reasons that I've articulated, plus all the reasons that this board has listened to and the previous testimony that's been incorporate here, we respectfully request conditional use approval for our proposed self-storage unit use. Mr. Vacanti said we will entertain any questions the board may have.

Question by the Board – none.

Public Comment – none

Chair Kersten said we need to go through the Duncan Factors. The board indicated that you don't have to review the Duncan Factors for a conditional use. Mr. Richter said correct, but it is up to the board what they want to do and can review the factors if they want to. He said there are factors in there if you want to discuss those things and said Mr. Vacanti referred to a few of them; I mean some of those general conditions sound the same. Chair Kersten said we will waive the Duncan Factors and asked if the board had any other questions.

Discussion By the Board Before the Motion

Mr. Wetterman said the only question I might have is if we were voting on conditional use, storage buildings, but it also says on the second page, according to their plans. So, I want that clarified and said what if we said yes to the conditional use of the storage buildings, but we don't want it according to your plans? Mr. Vacanti said the proposal before you are our plans. He said that's what works on the property, that is what we have proposed, that is what you are reviewing. Mr. Wetterman said thank you.

Mr. Schigel said, well, we are just approving a permitted use of storage units; he would still need a variance for the amount he would want to do there because that was denied. So, we would just be approving the use of storage units. He could choose to build it within those confines if he wanted to at that point. Mr. Vacanti said you can refer to your counsel, but I will say..... Mr. Brian Richter said he is asking you to approve a conditional use based on the plans. He said he's explained the plans, so, you know, I mean you can certainly go through these general conditions if that is what you want to do and the board wants to discuss that. Mr. Richter said and you also have to look at Sec. 804-9 which has the specific conditions for self-storage units. Mr. Vacanti said and Brian, you can jump in if you disagree, the board can put conditional approval on it, you know, the board has discretion, I'll put it that way. So, what's before you what you are reviewing are the plans. If there is something that the board wants to add on conditional approval further on, you know, that is up to the board's discretion if you understand. Mr. Richter said I think what Tony (Vacanti) is saying is that you can put conditions on there, but I would suggest that the board have discussions with the applicant. He said I don't want to suggest and I don't know what Tony is suggesting, but if the board is suggesting approving it based on some of these conditions in Sec. 804-9, I would have some discussion with the applicant on that to satisfy. Mr. Vacanti said, yeah, I guess what I am suggesting is – obviously, let's just address the elephant in the room. I mean there are the two specific criteria that the board denied variances on: the three (3) acre maximum lot size and the 5,000 square foot structure size, which I reserve my right, you know, to appeal if need be to address those. Mr. Vacanti said if this board wanted to proceed, and let's be presumptuous, in granting the conditional use approval, but with compliance with those two factors, this board, in my opinion, can do that. He said I would object to it, but this board can do that, in my opinion, but it's up to the board, I'm not going to tell you what to do.

Chair Kersten stated, I am under the opinion that if we are going to give you a conditional use for that property, am I right, if we vote this in to put storage sheds up, but, under our zoning code because we denied your variances. Mr. Vacanti said on the two. Mr. Kersten said which you will appeal, which is your right, I understand that, but if we approve this conditional use, you could go ahead on there then and build to our zoning code – you just couldn't build to your plan. He asked, am I right? Mr. Vacanti said correct, unless on appeal it is addressed. Mr. Kersten said well, forget the appeal. ...Mr. Vacanti interrupted and said correct, I'm not trying to suggest – for the record, if you approve it including those two specific conditions, I understand that further action would be needed on appeal to relieve the burden those of those two restrictions. Mr. Kersten said, but if you didn't want to appeal, you could go in there and build to our zoning regulations. Mr. Vacanti said without a variance or modified variances; we are allowed to get variances. Mr. Kersten said without a variance, you are allowed, but you would have to be within our zoning code. Mr. Vacanti said without a variance, I understand what you're saying, I don't agree that that would be feasible, but I understand what you are saying; we are on the same page. Mr. Kersten said I just want to make sure if I approve this, or I vote yes on this.... Mr. Vacanti interrupted and said and we have the option if it's feasible. Mr. Kersten said the only option you've got is you can appeal to get the bigger, but you could go in and build to code. Mr. Vacanti said I understand; we are on the same page. Mr. Richter said, if the board does that, I would make that a specific condition that they build within the code. Mr. Kersten said make that a specific condition. Mr. Richter said I'm not trying to tell you how to vote either, but I would make that a condition. Mr. Vacanti said to make sure the record is clear, correct. Mr. Kersten said so that would be part of the motion. Mr. Richter, yes and any other conditions that the board felt would apply.

Chair Kersten called for a motion. Mr. Schigel said first we have to find out the specifics we are voting on. Mr. Wetterman said just the concept of the storage buildings, but no, I am not approving his plans. Mr. Wetterman said he can build it to code or come back with a new set of plans. Mr. Schigel asked if that is how he wanted it worded too? Mr. Wetterman said yes. Mr. Kersten said we are not approving the plan; we are giving them permission to put storage buildings there under the code. Board members agreed. Mr. Vacanti said I appreciate it; I know it's confusing and clarity is always good.

Motion for Case #3 Zoning Receipt #2021-075) Conditional Zoning for 1595 Substation Road, Subject to Sec. 410-2 (B) Conditionally Permitted Uses (9) Self-storage buildings subject to Subsection 804-9.

- **Motion:** Mr. Schigel moved to approve the conditional permitted use of property 001-02C-05-028 to conditionally put in 11 - oh no, self-storage buildings adhering to code 804-9 in the Brunswick Hills Zoning Resolution. Mr. Kersten seconds the motion.

- **Discussion on the motion:** Mr. Richter said so the condition is conditionally that they comply with 804-9 for the storage buildings. Mr. Schigel said yes.

Mr. Kersten said I second it.

- **Discussion on the motion:** Mr. Wetterman said I want to take out the number of buildings. Mr. Schigel said yeah, don't put in the number of buildings, just put in adhering to 804-9. Mr. Richter asked if that was all six (6) provisions under 804-9? Mr. Schigel said all six (6), yes. Secretary Milanko repeated to comply with 804-9 Self-Storage Buildings, Subsections 1-6.

Mr. Schigel asked a quick question and said so he can still go and argue the other things. Mr. Richter said he can appeal that. Mr. Schigel said, okay. Mr. Kersten said and I second it.

- **Revised Motion by Mr. Schigel restated by the Secretary: Motion to approve the conditionally permitted use for self-storage units at property 001-02C-05-028 parcel to comply with Section 804-9 Self-Storage Units, Conditions Subsections 1-6 of the Brunswick Hills Zoning Resolution.**

Secretary Milanko asked if that is correct. Mr. Schigel said make sure the parcel has the 02C included in the parcel number. Secretary Milanko stated she will make sure she has it right as she was just trying to keep up.

Secretary Milanko stated we have a second by Mr. Kersten. **Roll Call on the motion:** Mr. Schigel-yes; Ms. Barron-no; Ms. Kuenzer-yes; Mr. Wetterman-yes; Mr. Kersten-yes.

Mr. Vacanti said thank you members of the board I appreciate your time and attention. Secretary Milanko said so your conditionally permitted use was approved under the conditions. Mr. Vacanti stated, understood, and thanked the board.

Chair Kersten said you mentioned it several times, but I have to read it and said *“Any person adversely affected by a decision of the Zoning Board of Appeals may appeal to the Court of Common Pleas of Medina County on the grounds that such decision was unreasonable or unlawful and they have 30 days from the date the decision letter is signed to appeal.*

Announcement of Next Meeting Date: Chair Kersten said the next meeting of the Brunswick Hills Board of Zoning Appeals is on Wednesday, September 1, 2021 at 7:00 p.m. here (town hall).

Motion to Adjourn

Chair Kersten said if there is nothing else, the chair calls for a motion to adjourn. **Motion:** Mr. Schigel made a motion to adjourn. Mr. Wetterman seconds. **Roll Call:** All in favor to adjourn. Meeting officially adjourned at 10:55 p.m.

Respectfully Submitted,
Mary Jean Milanko, Zoning Secretary

Cliff Kersten, Chair

Date