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BRUNSWICK HILLS TOWNSHIP  
BOARD OF ZONING APPEALS  
PUBLIC HEARING MEETING  
1918 PEARL ROAD  
BRUNSWICK HILLS, OHIO

APRIL 3, 2024  
7:00 P.M.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals Members Present:

- Chris Schigel, Chairman
- Ron Wetterman
- Gregg Timura
- Cliff Kersten
- Ann Barron

Also Present:

- Evelyn Czyz, Zoning Inspector
- Wes Humphrey, Assistance Zoning Inspector
- Trustee Trica Murphy, Zoning Liaison
- Linda Kuenzer, Zoning Secretary
- Brian Richter, Medina County Prosecutor's Office
- Gregory Bartoe, Medina County Prosecutor's Office
- Anthony Strazzo, Fire Chief

## 1 PROCEEDINGS

2 CHAIRMAN SCHIGEL: I'd like to call this  
3 meeting of the Brunswick Hills Township Board of  
4 Zoning Appeals on Wednesday, April 3rd, 2024, at  
5 7:00 p.m.

6 Secretary, if you could call the roll.

7 MS. KUENZER: Ms. Barron.

8 MS. BARRON: Here.

9 MS. KUENZER: Mr. Kersten.

10 MR. KERSTEN: Here.

11 MS. KUENZER: Mr. Wetterman.

12 MR. WETTERMAN: Here.

13 MS. KUENZER: Mr. Timura.

14 MR. TIMURA: Here.

15 MS. KUENZER: Mr. Schigel.

16 CHAIRMAN SCHIGEL: Here.

17 MS. KUENZER: Also in attendance we have a lot  
18 of people. We have Zoning Liaison Mrs. Murphy; we  
19 have Zoning Inspector Evelyn Czyz; we have our  
20 Assistant Zoning Inspector Mr. Humphrey; our Fire  
21 Chief Strazzo; we have Assistant Prosecutor Brian  
22 Richter and Assistant Prosecutor Greg Bartoe; and a  
23 lot of people.

24 So make sure everybody signs in, please, on  
25 the sign-in sheets. Other than that, that's it.

1           CHAIRMAN SCHIGEL: All right. Tonight we do  
2 have a quorum present. With a quorum present, a  
3 yes simple majority with the quorum present is in  
4 favor of the applicant.

5           This meeting is properly advertised and is  
6 being taped for the record. The Brunswick Hills  
7 Township Board of Zoning Appeals acts within the  
8 regulation of Section 519 of the Ohio Revised Code.

9           Madam Secretary, I believe we have approval of  
10 some minutes first. We have the approval of the  
11 organizational meeting minutes from January 11.

12           MR. WETTERMAN: I see no errors.

13           MR. KERSTEN: I make a motion that we approve  
14 the January 11th minutes as submitted by Madam  
15 Secretary.

16           MR. WETTERMAN: I'll second that.

17           MS. KUENZER: Ms. Barron.

18           MS. BARRON: Yes.

19           MS. KUENZER: Mr. Timura.

20           MR. TIMURA: Abstain.

21           MS. KUENZER: Mr. Wetterman.

22           MR. WETTERMAN: Yes.

23           MS. KUENZER: Mr. Kersten.

24           MR. KERSTEN: Yes.

25           MS. KUENZER: And Mr. Schigel.

1                   CHAIRMAN SCHIGEL: Yes.

2                   All right. And then we do have the approval  
3 of the minutes for the regular meeting minutes from  
4 January 11th, 2024.

5                   MR. KERSTEN: I make a motion that we approve  
6 the January 11th minutes as submitted by Madam  
7 Secretary.

8                   MR. WETTERMAN: I'll second.

9                   MS. KUENZER: Ms. Barron.

10                  MS. BARRON: Yes.

11                  MS. KUENZER: Mr. Timura.

12                  MR. TIMURA: Abstain.

13                  MS. KUENZER: Mr. Wetterman.

14                  MR. WETTERMAN: Yes.

15                  MS. KUENZER: Mr. Kersten.

16                  MR. KERSTEN: Yes.

17                  MS. KUENZER: Mr. Schigel.

18                  CHAIRMAN SCHIGEL: Yes.

19                  All right, before we get going with our first  
20 case this evening, I just want to kind of set the  
21 tone. We have a lot of people in a very small  
22 room. It's very important for our Board to be able  
23 to hear all the testimony of everyone that's going  
24 to come up and discuss with us the facts of their  
25 part of the case. So we do need the crowd, the

1           Inspectors, and anyone else, to please make sure  
2           that we're silent as we're hearing these  
3           testimonies. If you have something that you do  
4           need to say, you will have an opportunity to come  
5           up to the stand and have your testimony heard,  
6           also.

7           The first thing I would like to do, though, is  
8           swear in our Zoning Inspectors, just so they're  
9           here.

10           Wes, we'll do you first.

11           (Mr. Humphrey was sworn in.)

12           CHAIRMAN SCHIGEL: Evelyn.

13           (Ms. Czyz was sworn in.)

14           CHAIRMAN SCHIGEL: Thank you.

15           All right, tonight's case is an appeal by Gary  
16           Bewley on the issuance of a Zoning Certificate,  
17           Permit Number 2024010, ATOS, LLC, 360 Pearl Road,  
18           Brunswick, Ohio 44212, Parcel ID is 001-02A-13-231.

19           If I could have Mr. Bewley or his  
20           representative kind of come up. And before anyone  
21           talks, we will be asking everyone to be sworn in.  
22           You're going to be stating your name and address,  
23           and please spell your last name just for the  
24           record.

25           State your name and address.

1           MR. MOELLER: My name is Jeffrey Moeller. I'm  
2           an attorney, and I represent Gary Bewley. My  
3           address is 26600 Detroit Road, Suite 300, Westlake,  
4           Ohio 44145.

5           CHAIRMAN SCHIGEL: And if you can just spell  
6           out the last name for us.

7           MR. MOELLER: Moeller, M-O-E-L-L-E-R, like the  
8           high school.

9           CHAIRMAN SCHIGEL: Okay. And Jeffrey, if you  
10          don't mind.

11          (Mr. Moeller was sworn in.)

12          CHAIRMAN SCHIGEL: Thank you. Go ahead and  
13          state your case.

14          MR. MOELLER: Thank you. We are the appellant  
15          in this matter. And I'm a little surprised that  
16          what I think is a pretty straightforward matter has  
17          drawn such a large audience. But I'm not here to  
18          debate the merits or lack of merits of a variance  
19          request that hasn't been filed. So I'm also not  
20          here to debate the merits or lack of merits of what  
21          is going on, on the property in question. I'm here  
22          to make the point that a C-2 certificate was issued  
23          without a required Area Variance.

24          The property, 360 Pearl Road, is a  
25          60 foot-wide strip of land. It runs off of Pearl

1 Road and runs straight back. It's 60 feet wide  
2 throughout. And up until 2021, there was no  
3 permanent structure built upon it. It was being  
4 operated by its prior owners, the Hudsons, under  
5 the guise of an agricultural exemption, and the  
6 uses that they were making of it was a seasonal  
7 farm stand.

8 In 2021, the Hudsons built a pole barn within  
9 the bounds of the 60 foot-wide right of way. They  
10 did so without -- again, without obtaining a zoning  
11 permit. When they applied for the building permit,  
12 they represented that it was for agricultural use.  
13 It wasn't.

14 And I think, or at least I hope, that we're  
15 past that now, because when they recently  
16 transferred it to a company, ATOS, owned by their  
17 daughter, who is operating a grocery store out of  
18 the property, they acknowledge at this point, I  
19 think, that it's a grocery store. And they're also  
20 operating a U-Haul rental, renting great, big  
21 U-Haul trucks in and out from the 60-foot-wide  
22 strip.

23 When the Hudsons went to transfer the property  
24 to their daughter, the daughter's company, with  
25 respect, the Zoning officials made a mistake. They

1 treated it as though it was only an assignment of  
2 ownership. In fact, it was change of use.

3 The reason that it was a change of use is  
4 because before that paperwork, it had never had a  
5 C-2 zoning permit. It was always defended as being  
6 a "agricultural use."

7 And so what happened, in fact, when the Zoning  
8 Inspectors issued the C-2 permit, they determined  
9 for the first time -- because it had never been  
10 determined before -- that that 60-foot-wide strip  
11 with U-Hauls coming in and out, and a pole barn  
12 occupying the width of the property, was a C-2 use.  
13 It isn't. And it can't be. You can't have a  
14 building on a 60-foot-wide strip in a C-2 area,  
15 because it has to be 80 feet wide to have a  
16 building. It's that simple.

17 Now, what do you do about that? Well, there's  
18 a whole procedure that -- it's up to you guys,  
19 actually, eventually, after a variance application.

20 There's people here who want to talk about how  
21 this isn't fair, they're being denied the use of  
22 their property, they should have an exemption,  
23 there's extenuating circumstances. Great. That's  
24 great. File a variance application, and get an  
25 engineer, get a parking plan, get a safety



1 analysis, and go through the process. Put out a  
2 public notice, let the neighbors comment on the  
3 adequacy of the variance plan, and have a hearing  
4 on it. Don't just get a C-2 zoning permit from the  
5 Zoning people under the guise of a change of  
6 ownership.

7 With that, my client, Mr. Bewley, would like  
8 to talk about -- testify about some of the things  
9 that are the reasons why we're concerned about  
10 this, and I'll sum up before Mr. Bewley does.

11 Come up, Gary.

12 It's dangerous. Somebody is going to get hurt  
13 with the way that the -- the lack of parking is  
14 impacting Mr. Bewley's property, the neighborhood,  
15 people parking, driving into the driveway with  
16 their rear ends sticking out onto Pearl Road  
17 because there's nowhere else to park. It's  
18 dangerous.

19 If I may approach, Mr. Bewley took some  
20 photographs.

21 MR. KERSTEN: Let me stop you a minute. Is  
22 the gentleman next to you going to testify?

23 MR. MOELLER: Yes.

24 MR. KERSTEN: He has to be sworn in.

25 CHAIRMAN SCHIGEL: Go ahead and finish.

1           MR. MOELLER:  If I may approach, I have a lot  
2           of copies of some photographs.  It probably would  
3           be most efficient for Mr. Bewley to walk you  
4           through it, so you can see what the parking  
5           situation is, how it's impacting him.

6           CHAIRMAN SCHIGEL:  Was it part of our packet?

7           MR. MOELLER:  There's some in the packet.  
8           These are more recent.  These are as of mid March.

9           CHAIRMAN SCHIGEL:  Go ahead and give them to  
10          Ms. Linda.

11          MR. MOELLER:  They're stapled.

12          MR. WETTERMAN:  Mr. Chairman, I make a motion  
13          that we recess for a short time to review this late  
14          minute evidence.

15          CHAIRMAN SCHIGEL:  You want to do what again?

16          MR. KERSTEN:  Do you want to use an Executive  
17          Session?

18          MR. WETTERMAN:  Yes.

19          MR. RICHTER:  Well, first of all, you can't  
20          have an Executive Session.  You can adjourn to  
21          deliberate, but there's really no reason at this  
22          point.

23          But I do have a question.  I have a question  
24          for Mr. Moeller.

25          Is it Moeller or Moeller?

1 MR. MOELLER: It's Moeller.

2 CHAIRMAN SCHIGEL: Brian, do you mind if I  
3 swear you in real quick?

4 MR. KERSTEN: No, you don't swear him in.

5 CHAIRMAN SCHIGEL: Oh, okay.

6 MR. RICHTER: You might not have had to swear  
7 Mr. Moeller in, because he's not really testifying,  
8 he's making an argument.

9 CHAIRMAN SCHIGEL: Okay.

10 MR. RICHTER: He's the attorney. But I let  
11 that go.

12 But it's my understanding that this is -- that  
13 a change in owner certificate was issued.

14 CHAIRMAN SCHIGEL: Correct.

15 MR. RICHTER: And now there's pictures of the  
16 U-Haul. And this had to do with, I guess, the farm  
17 market/grocery store. So what do the U-Hauls have  
18 to do with it?

19 MR. MOELLER: That's a good question. They're  
20 operating out of there, too.

21 MR. RICHTER: Out of the same property?

22 MR. MOELLER: (Nodding.)

23 MR. RICHTER: Well, have you brought that to  
24 the attention of the BZA?

25 MR. MOELLER: Yes.

1           MR. RICHTER: I mean, because you appealed the  
2 Zoning Inspector's decision.

3           MR. MOELLER: Correct.

4           MR. RICHTER: Which I don't see, in that  
5 decision -- and tell me if I'm wrong -- that that  
6 decision had anything to do with the U-Hauls. I  
7 mean, correct me if I'm wrong.

8           MR. MOELLER: I can spend -- Brian, I can  
9 spend as much time on impact and standing as I need  
10 to. My point is that Mr. Bewley's property is  
11 being impacted, and that's why he has standing to  
12 appeal.

13           MR. RICHTER: He has standing. But you  
14 appealed the Zoning Inspector's decision.

15           MR. MOELLER: Correct.

16           MR. RICHTER: And what decision of the Zoning  
17 Inspector did you appeal?

18           MR. MOELLER: Authorizing the operation of a  
19 seasonal business on a 60-foot-wide strip.

20           MR. RICHTER: There's nothing that says --  
21 well, the C-2 grocer.

22           MR. MOELLER: Right.

23           MR. RICHTER: Not the U-Hauls.

24           MR. MOELLER: Okay. Fair enough.

25           MR. RICHTER: I mean, the farm market/U-Hauls.

1           Because the way I read this application --

2           MR. MOELLER:   Yes.

3           MR. RICHTER:  -- is that the application was  
4           for a change in owner, and it says, for a farm  
5           market on there.

6           MR. MOELLER:  Uh-huh.

7           MR. RICHTER:  As well as, it does mention a  
8           grocer on there.

9           MR. MOELLER:  Right.

10          MR. RICHTER:  So I'm just trying to --

11          MR. MOELLER:  Okay.

12          MR. RICHTER:  I don't know how this -- what  
13          this has to do with the appeal.

14          MR. MOELLER:  In that case, I'll stop --

15          MR. RICHTER:  Okay.

16          MR. MOELLER:  -- and I'll let Mr. Bewley  
17          testify.

18          MR. RICHTER:  Okay.  I'm just trying to focus  
19          in on what we're here for.

20          MR. MOELLER:  I understand.

21          CHAIRMAN SCHIGEL:  I appreciate that.

22          Mr. Bewley.

23          (Mr. Bewley was sworn in.)

24          CHAIRMAN SCHIGEL:  Thank you, sir.

25          Go ahead and state your name and address for

1 the record.

2 MR. BEWLEY: Gary Bewley, 336 Pearl Road,  
3 Brunswick Hills, Ohio 44212.

4 CHAIRMAN SCHIGEL: All right. Go ahead, state  
5 your case.

6 MR. BEWLEY: As best as I can describe the  
7 case, and to maybe further clarify the U-Haul and  
8 farm stand, they are both working out of both the  
9 north and south driveways. They are driveways.  
10 They were never anything other than driveways.  
11 From the moment they were conceived -- I personally  
12 put them in myself many years ago, when I was in  
13 high school. I worked with the surveyor, Tom Hood,  
14 to put in the north driveway and the south  
15 driveway.

16 The south driveway was put in largely so it  
17 could access my father's property to the rear.  
18 That property was sold. That property was supposed  
19 to go to Skyview parking. It did not, because the  
20 north driveway was not developed.

21 So to completely state the case, cars and  
22 U-Haul trucks park directly in my closed and gated  
23 entrance and exit areas because they do not have  
24 enough room to park anywhere else on the north or  
25 south driveways that adjoin my property. You can

1 clearly see that when you drive down Pearl Road.

2 The corn stand cars and U-Haul trucks block my  
3 business traffic as they are using what are  
4 supposed to be -- again, I will emphasize --  
5 driveways, not parking lots or business property.

6 I will emphasize, again, the north and south  
7 parcels are driveways. Everybody seems to lose  
8 sight of that, over many years ago, and I'm talking  
9 in the '70s, when I was working on both the north  
10 and south driveways.

11 When my gates are open, currently unwanted  
12 U-Haul and corn stand traffic park in my parking  
13 lot. My parking lot is reserved for Skyview Lodge  
14 clients.

15 The north driveway is supposed to be a  
16 driveway to the Hudsons' property, not the business  
17 property, not with U-Hauls parked on it or  
18 buildings on it. A building was never even  
19 supposed to have been built on the south driveway.  
20 I can't figure out how that happened.

21 The south driveway was supposed to be a  
22 temporary driveway until the north was developed  
23 and completed. That did not happen. Development  
24 of the driveways just happened recently with curb  
25 cuts. You can clearly see that.

1           Now the Hudsons, they think they can turn the  
2 driveways into business properties and do whatever  
3 they want to do, without parking, and without  
4 permits, and they are certainly not agriculturally  
5 exempt for a driveway to do whatever they want.  
6 I'm not sure how all this got through.

7           The driveways clearly do not meet Zoning  
8 regulations to operate any business on. Darrell  
9 Sigmon, for those of you that may remember him from  
10 a long time ago, the previous Zoning Inspector,  
11 made this very clear to me. He said, this is why  
12 nothing permanent was ever to be put on either  
13 driveway, north or south. They are driveways.

14           Somehow a building was built on the south  
15 driveway without going to the Board of Zoning  
16 Appeals approving it. Of course, I'm curious how  
17 that can happen. My attorney has gone down several  
18 paths relating to that.

19           In conclusion, the Hudsons continue to do  
20 whatever they want on properties that are  
21 driveways, and were never, and I will repeat, never  
22 intended to be used for anything else but a  
23 driveway, driveway to the property, driveway to  
24 the -- my father's property, and was supposed to  
25 be -- and I have prints, signature signed prints



1           stating that it was supposed to be Skyview parking.

2           Basically what needs to happen, the Hudsons  
3           need to purchase another piece of property that  
4           fits their needs and abide by the Zoning rules,  
5           regulations, like any other business owner would  
6           do, and have adequate parking, and setback, and get  
7           all the right approvals and permits in the process,  
8           not try to convert driveways to business property,  
9           creating traffic problems for my business, and  
10          traffic problems and safety issues on a State  
11          Route, Pearl Road.

12          By the way, and in conclusion, I won't take  
13          any of more of your time, ODOT stated, no  
14          business -- directly stated this to me on the phone  
15          and email -- was to be built on either property,  
16          especially without a traffic survey, which never  
17          took place. And they were told, oh, it's just  
18          driveways, we're putting our curb cuts in.

19          No one ever submitted any state registered  
20          architect prints, permits, or otherwise. And  
21          somehow everything got watered over the dam.

22          The Medina County Building Inspector also  
23          stated, no building should have ever been built on  
24          the south driveway. Now the mistakes are there.

25          My opinion is simple. I've been there since

1 1969. I played on the property since I was nine  
2 years old. And the answer is clearly not a  
3 variance to fix a mistake.

4 Any questions?

5 CHAIRMAN SCHIGEL: Mr. Bewley, I appreciate  
6 your testimony. And while you have very valid  
7 arguments of what's been happening to your  
8 property, I just want to make sure we focus on what  
9 we're here for today, and that is to challenge what  
10 we put forth in January or February of 2024, and  
11 that's the change of owner.

12 MR. BEWLEY: Understood.

13 CHAIRMAN SCHIGEL: So everything that happened  
14 prior, our focus, as the Zoning Board, is to just  
15 focus on that one certificate, change of owner.

16 MR. BEWLEY: Right. And that change of owner  
17 certificate has U-Haul and a corn stand on it  
18 directly affecting my property.

19 CHAIRMAN SCHIGEL: Okay. I appreciate it.

20 MR. BEWLEY: Any other questions?

21 CHAIRMAN SCHIGEL: Do you guys have any  
22 questions?

23 MR. KERSTEN: I find it -- how is this  
24 business -- I was down at your property. I  
25 couldn't get on it because of the gates and that,

1           so I went on the Hudsons' property, and talked to  
2           no one. There was nobody there.

3           I'm trying to figure out how -- if he puts a  
4           business on the other side of that fence, you've  
5           got all the way down that driveway. How is that  
6           going to hurt your business?

7           MR. BEWLEY: The people currently park in my  
8           parking area.

9           MR. KERSTEN: How do they get in there?

10          MR. BEWLEY: They pull in and they stop right  
11          there. Jeff has a bunch of pictures he can show  
12          you. They pull in and stop there.

13          And in addition, I open the gates, they pull  
14          in and park there. I have a bunch of pictures on  
15          those. He has oodles of pictures.

16          MR. KERSTEN: They park in front of the gates?

17          MR. BEWLEY: Yes, sir.

18          MR. MOELLER: And stick their tail ends out  
19          onto Pearl Road.

20          MR. BEWLEY: I probably have at least 15  
21          pictures here.

22          MR. KERSTEN: Is that the Hudsons' fault?

23          MR. MOELLER: Yes.

24          MR. KERSTEN: If I take my car down there and  
25          I pull up in front of your gate, and my butt end is

1 sticking out in the road, it ain't the Hudsons'  
2 problem.

3 MR. BEWLEY: I disagree.

4 MR. KERSTEN: It will be my problem when you  
5 call the police. But it's not the Hudsons'  
6 problem.

7 MR. BEWLEY: I disagree.

8 MR. KERSTEN: Well, you can disagree with me.  
9 I'm making a statement.

10 MR. MOELLER: If somebody operates a business  
11 without a parking -- without proper parking,  
12 they're inviting people to do exactly what that is,  
13 and it's not safe.

14 MR. KERSTEN: I drove in that driveway, and I  
15 counted the signs. They're posted, parking,  
16 parking, parking, on the Hudsons' property.

17 CHAIRMAN SCHIGEL: Unfortunately, what I want  
18 to add is that it's based on an opinion whose fault  
19 it is, whether it's him putting up the fence, or  
20 the Hudsons'. We just want to stick to the facts  
21 of the case.

22 MR. MOELLER: Again, ultimately, I think the  
23 questions that are being asked are proper questions  
24 if there was a variance application in front of the  
25 Board, and there's not.

1 CHAIRMAN SCHIGEL: There's not.

2 MR. BEWLEY: Any other questions?

3 CHAIRMAN SCHIGEL: Any questions?

4 MR. WETTERMAN: Yes.

5 How long has the Taste of Summer building  
6 been there?

7 MR. MOELLER: Since 2021.

8 MR. BEWLEY: 2021.

9 I objected to the building going up at all.  
10 And I do believe Brunswick Hills was aware of it.  
11 I don't know why it was permitted, when the first  
12 Zoning Inspector told me no.

13 MR. WETTERMAN: You made a comment a little  
14 while ago about it not being a C-2. I beg to  
15 differ with you. Any of the properties along  
16 Route 42, which is a State Route, is C-2.

17 MR. BEWLEY: I'm aware of the 80-foot setback.

18 MR. WETTERMAN: So why did you call it not  
19 C-2?

20 MR. MOELLER: Well, it is C-2. It's simply --  
21 that's a legal question, if I can address it.

22 It is C-2. It is C-2. But because of its  
23 size, it requires either a variance or an exemption  
24 to be built upon. That's the issue.

25 MS. BARRON: Sir, your fence -- I just was

1 kind of looking at Google Maps. And that fence, is  
2 that new? When did that fence go in?

3 MR. BEWLEY: It doesn't show on Google Maps  
4 yet. It's newer.

5 MS. BARRON: And when did that fence go in,  
6 approximately?

7 MR. BEWLEY: Two years ago.

8 MS. BARRON: And it also looks --

9 A VOICE: Can I say something about that  
10 fence?

11 CHAIRMAN SCHIGEL: No, actually. We have to  
12 swear you in. We'll give you an opportunity to  
13 talk.

14 MS. BARRON: Actually, it looks like some  
15 pieces are maybe missing in the fence. Is it  
16 secure on the one side that faces the property  
17 we're discussing, the subject property?

18 MR. BEWLEY: Yes, it's secure.

19 MS. BARRON: Okay. So there's no missing --

20 MR. BEWLEY: No missing pieces, no.

21 MR. MOELLER: You just walk around it.

22 CHAIRMAN SCHIGEL: The last question I have  
23 for you, Mr. Bewley. Is there a reason why you did  
24 not request an appeal in January of 2021 when they  
25 filed for what they were working on then?

1 MR. MOELLER: Because they didn't apply for  
2 a zoning permit. They simply asserted it was  
3 agricultural and that they didn't need one.

4 CHAIRMAN SCHIGEL: Okay.

5 MR. BEWLEY: Any other questions?

6 CHAIRMAN SCHIGEL: You have one more?

7 MS. BARRON: Sorry.

8 Have you granted permission to them to use the  
9 parking lot in any way, shape, form, written or  
10 verbal?

11 MR. BEWLEY: No. They were evicted from the  
12 parking lot and premises.

13 MS. BARRON: Okay.

14 CHAIRMAN SCHIGEL: All right, Mr. Bewley,  
15 you're good.

16 All right, Wes, if I can call you to the  
17 stand, or the podium.

18 MR. HUMPHREY: Sure.

19 Do you want my name and address?

20 CHAIRMAN SCHIGEL: Go ahead and give your name  
21 and address.

22 MR. HUMPHREY: Wes Humphrey, Assistant Zoning  
23 Inspector, 1918 Pearl Road, 44212.

24 CHAIRMAN SCHIGEL: All right. Wes, if you can  
25 take the Board through your process of putting the

1 certificate together, your thoughts, and kind of  
2 how you went through it.

3 MR. HUMPHREY: Yes. I'm going to stick with  
4 this certificate, it's 010, year 2024. It's the  
5 one we're talking about.

6 In our software, the options -- I'm going to  
7 have to work with iWorks, because it comes up as  
8 zoning, change in use. But if you look on the  
9 receipt, I'm able to type different items in there.  
10 And it's not a change in use, it is a change in  
11 owner. Even though the certificate -- it's a  
12 zoning use certificate, but above it, it says,  
13 change in use. That's not -- that's part of that  
14 program that came out.

15 On the receipt, which you should have for  
16 that, I printed them out, and it should say, change  
17 in owner, not in use.

18 CHAIRMAN SCHIGEL: Correct. I do have that.

19 MR. HUMPHREY: Right. And when I issued this,  
20 it was changing from the owner before, to this new  
21 LLC company. So being out there prior, in '21, and  
22 that -- what am I trying to say?

23 It was ag exempt, okay? And technically, they  
24 don't even have to file for a permit. But a permit  
25 was filed for the building under ag.



1           But this, on the front of the certificate,  
2           it's just change of owner, not change in use. I  
3           just want to make sure you understand that. And  
4           with prior -- the prior uses, with it being a farm  
5           market, I see no reason -- the people, you know,  
6           they came in, they had the proper documentation.

7           CHAIRMAN SCHIGEL: So in 2021, they had the  
8           proper documentation to show it was agriculture.

9           MR. HUMPHREY: It was there. I seen a couple  
10          huge gardens in the back and that.

11          CHAIRMAN SCHIGEL: Did we ask that question at  
12          the time, if that's what they were selling, or if  
13          they were bringing in import products from other  
14          farms or whatnot?

15          MR. HUMPHREY: I just -- no, I did not ask  
16          that. It might have been a small oversight.

17          CHAIRMAN SCHIGEL: And to the best of your  
18          ability, was it still an agricultural exemption in  
19          2024?

20          MR. HUMPHREY: To my knowledge, yes.

21          MR. TIMURA: Can I ask why or where or how it  
22          still qualifies as agricultural exempt?

23          MR. HUMPHREY: I haven't found any reason for  
24          it not to be. It's kind of like -- some people,  
25          you know, they have, you know, a farm, and you look

1 at it, you drive by it all the time, you know what  
2 I'm saying? This is, well, is the product still  
3 coming from down below?

4 I haven't been down there in quite a while,  
5 okay?

6 CHAIRMAN SCHIGEL: Is one of the parts -- and  
7 I want you to know, I'm naive on this next part --  
8 an agricultural exemption, like a CUAUV, or a CAV,  
9 I've never heard that terminology before.

10 MR. HUMPHREY: Do you know what that is?

11 MS. BARRON: CAUV, Current Agricultural Use  
12 Value.

13 MR. RICHTER: That has to do with the  
14 Auditor's Office. That's how they value the  
15 property.

16 CHAIRMAN SCHIGEL: Okay. I wasn't aware. It  
17 was just something I heard.

18 MR. WETTERMAN: Mr. Humphrey, do you know who  
19 issued the agricultural status? Would it have been  
20 the state, the county, or the Zoning Office?

21 MR. HUMPHREY: I'm not 100 percent sure, but  
22 it was not from the township Zoning Office. But  
23 it's stated on the Auditor's website. I don't know  
24 if it came from the county or the state. I think  
25 there might have been a copy of that --

1 MR. WETTERMAN: Well, I'll tell you --

2 MR. HUMPHREY: -- in with that. I could be --

3 MR. WETTERMAN: Okay.

4 MR. HUMPHREY: I don't know.

5 MR. WETTERMAN: Is this what you're referring  
6 to, as a copy of that?

7 MR. HUMPHREY: No.

8 MR. WETTERMAN: That is not it?

9 MR. HUMPHREY: No.

10 MR. WETTERMAN: Because I can't tell what this  
11 is, either.

12 MR. HUMPHREY: That is the outline of the  
13 properties, with the parcel numbers on it.

14 MR. WETTERMAN: Oh, is that what that is?

15 MR. HUMPHREY: Yes. Yes, sir.

16 MR. WETTERMAN: Do you have a clearer copy?

17 MR. HUMPHREY: I don't know.

18 MR. WETTERMAN: Does anybody else on the Board  
19 have a copy of this, that might be a little bit  
20 clearer?

21 MR. HUMPHREY: Right there.

22 CHAIRMAN SCHIGEL: Go ahead and take a seat.

23 Do you have a question based on that copy?

24 MR. WETTERMAN: I asked what it was, and I got  
25 my information.

1                   CHAIRMAN SCHIGEL: Okay.

2                   Is there a process that an Inspector can go  
3 through to validate that it's agricultural, or is  
4 it just based off of eyesight?

5                   MR. HUMPHREY: I just did one on Substation  
6 Road. I went out to the property, and I took my  
7 forms with me, the ag exempt form, and I went over  
8 the property with the owner. It's right behind  
9 the -- the next one north on the fire station side.

10                  And I says, do you have animal husbandry,  
11 because they have a kennel.

12                  She says, no.

13                  I said, that's not ag exempt.

14                  And they went to this other storage building.  
15 And then they had another one, another building on  
16 the property, is where they washed duck eggs. They  
17 don't sell them there. They sell them somewhere  
18 else.

19                  And then they had another place where they  
20 spin honey, because they're going to put up 20 or  
21 25 beehives. Then they had a corral. Then they  
22 had a barn. And of course, those are. They had a  
23 greenhouse. The greenhouse, yes.

24                  I says, do you occupy anything inside the  
25 house?

1 Not really.

2 So I said, well, the house isn't. And I went  
3 over and highlighted.

4 And with that, I says, you need to get this  
5 filled out, and then you need to get it notarized.  
6 And then I went and did it.

7 And that's how the process went.

8 CHAIRMAN SCHIGEL: So a lot of it is visual, I  
9 take it, then.

10 MR. HUMPHREY: I had one on Boston Road. It  
11 was chickens. And if you recall right, the  
12 building was -- a newer building was in front of  
13 the house on that Boston Road, if you recall right,  
14 okay? So I went through.

15 And I went through, you know, and I had to  
16 kind of visually, you know, calculate. And I took  
17 a tape measure. But they had -- that building was  
18 more than 51 percent ag.

19 And then I come back and I talked with two  
20 other people, Evelyn, and I wasn't sure whether it  
21 was -- it might have been Chris at the time. I'm  
22 not 100 percent sure.

23 CHAIRMAN SCHIGEL: Now, when you say, more  
24 than 51 percent ag, is that more than 50 percent of  
25 their gross income?

1           MR. HUMPHREY: No, it was actually a use of  
2 the building.

3           CHAIRMAN SCHIGEL: Okay.

4           MR. HUMPHREY: We use that calculation.  
5 Because they had chicken feed, they had -- you know  
6 what I'm saying? They had a bunch of other stuff  
7 that was in there pertaining to chickens.

8           Then they had a lawnmower in there, which that  
9 doesn't, you know. And a gas can, and stuff like  
10 that, you know.

11           CHAIRMAN SCHIGEL: So when you went and  
12 visited here in 2024, you still felt that  
13 51 percent of that building was still --

14           MR. HUMPHREY: I did not go, because it was  
15 only a change of owner, not of use. Like I said,  
16 in 2021, I seen big gardens. So --

17           CHAIRMAN SCHIGEL: You assumed that it was  
18 still the same.

19           MR. HUMPHREY: I was assuming, correct.  
20 Because it was a change of owner. It wasn't,  
21 like -- they didn't ask for a change of use.

22           CHAIRMAN SCHIGEL: Correct.

23           MR. HUMPHREY: So a change of use would have  
24 been something different.

25           CHAIRMAN SCHIGEL: It would have been.

1           But when there's ever a change, especially on  
2           a nonconforming lot, you do have the ability to  
3           relook over the property. So I was just wondering  
4           if you did.

5           MR. HUMPHREY: Oh, yeah, yeah. Right. But if  
6           it's still ag exempt, there is no -- they don't  
7           abide by Zoning, okay? We don't regulate ag  
8           exempt.

9           MR. TIMURA: At what point does it not become  
10          ag exempt, and who is making that decision?

11          MR. HUMPHREY: Well, it's actually -- it  
12          would be the Zoning Inspectors going out to the  
13          properties. And you've got -- you go by someone's  
14          word. Because, you know, unless you want to get --  
15          what's that called -- an administrative search  
16          warrant, check their books and that, for the  
17          51 percent on that property, or another farm, or  
18          farms, I believe is what the ORC says.

19          MR. WETTERMAN: If you're going by ORC,  
20          wouldn't it be up to the state or the county to  
21          do those inspections?

22          MR. HUMPHREY: No, I believe it's local. I  
23          don't believe that the state goes out.

24          CHAIRMAN SCHIGEL: Mr. Richter.

25          MR. RICHTER: Let me clarify. You're kind of

1           confusing the two processes.

2           The CAUV would be the Auditor. And the  
3 Auditor would come out, and there's some, I  
4 believe, reports and various applications, and so  
5 forth, that are filed with the County Auditor.  
6 Now, that could give a discount on your taxes for  
7 the CAUV.

8           But we're talking about a building here. And  
9 if that building is agriculturally exempt, the  
10 township doesn't have the right to zone or regulate  
11 that property. If it's not agriculturally exempt,  
12 of course, your zoning code would apply. So you're  
13 kind of, you know, mixing the two terms together.

14           So you've got CAUV, you might want to just --  
15 you know, that's for the Auditor's Office, and  
16 that's a different process.

17           MR. WETTERMAN: Okay.

18           MR. RICHTER: Because I suppose they might not  
19 be entitled to a CAUV reduction, and you could  
20 still have an ag -- agricultural building. That's  
21 up to them. That's a different process.

22           Or vice versa. They could get the reduction,  
23 and the building may not be an agriculturally  
24 exempt building. It's going to be dependent on  
25 the facts.



1 Does that make sense? Do you understand?

2 MR. WETTERMAN: It does.

3 MR. RICHTER: Okay.

4 MR. WETTERMAN: However, I did have a  
5 discussion with an employee of the Tax Department  
6 at the county.

7 MR. RICHTER: Okay.

8 MR. WETTERMAN: And he explained to me that  
9 agriculture exemptions was totally the control of  
10 either the county or the state, and they would  
11 trump anything the township did. Maybe I'm  
12 using --

13 MR. RICHTER: I'd have to know who you're  
14 talking about. But I think we should focus in on  
15 the facts of this case.

16 MR. WETTERMAN: Okay.

17 MR. RICHTER: This is an appeal of the  
18 Zoning -- the Assistant Zoning Inspector's decision  
19 as to the change of use of the property.

20 MR. WETTERMAN: Okay.

21 MR. RICHTER: And at some point, I could come  
22 down and explain those differences.

23 MR. WETTERMAN: Okay.

24 MR. HUMPHREY: But like I said --

25 MR. RICHTER: I'm sorry, change of owner, not

1 change of use. I apologize. I misspoke.

2 MR. HUMPHREY: Like I said, right now, I've  
3 got to work with iWorks and get it changed so that  
4 there's check boxes, just like on the application,  
5 you know. It may involve more than one check box,  
6 change in use, change in owner. And it could be,  
7 you know, for both of them. But if there's a  
8 change in use, then you have to get the fire  
9 department to inspect the building.

10 CHAIRMAN SCHIGEL: No, you're absolutely  
11 right.

12 Yeah, it does get confusing. Because on the  
13 original one, when they did it back in 2021, it  
14 talked about agricultural outbuilding, and then on  
15 the new one, in 2024, it says, C-2 grocery retail.  
16 So it does read like there may have been a use  
17 change, if you look at the wordage.

18 MR. HUMPHREY: Yeah.

19 MR. MOELLER: If I may interject, that's  
20 exactly the problem. If the township --

21 CHAIRMAN SCHIGEL: We'll have to let you speak  
22 when you come up to the podium.

23 MR. HUMPHREY: Do you want me to get out of  
24 here?

25 CHAIRMAN SCHIGEL: Does anyone else have any

1 more questions for Wes?

2 MS. BARRON: I do. And I don't mean to -- I  
3 don't want to prolong. I just have to understand,  
4 because I've got different exhibits, with different  
5 applications, and I want to try to understand about  
6 how this parking situation kind of happened.

7 And also, like -- so originally, there's an  
8 application. I think the first one was July 15,  
9 '21, and that's for building the outbuilding,  
10 right? Accessory building.

11 MR. HUMPHREY: Uh-huh.

12 MS. BARRON: So what's the principal? If  
13 that's the accessory building, what's the principal  
14 building? Is there a principal?

15 MR. HUMPHREY: No, there isn't. It would be  
16 just the market.

17 MS. BARRON: So there's no house, there's no  
18 place that they have a working farm out of where  
19 they're washing produce or --

20 MR. HUMPHREY: As far as I know, they don't  
21 wash it up there. They may. I don't know. But  
22 there was -- on the other property below, like I  
23 told you, there was two large -- very large  
24 gardens. Sweet corn. I think sweet corn was the  
25 one closest to Skyview Lodge, if my recollection is

1 right.

2 MS. BARRON: Okay. So we've got an accessory  
3 building that they want to put in. And then would  
4 you not have thought to speak about the parking  
5 situation at that point?

6 MR. HUMPHREY: Well, it's like, if they get  
7 the ag -- the ag exempt, we basically don't  
8 regulate.

9 Now, there is parking behind, and I think  
10 three or four in the front. So for that size  
11 building, I mean, there's got to be ten, at least.  
12 Six behind, and four in front. At least six  
13 behind, I think.

14 MR. KERSTEN: I believe there was six. I  
15 counted them when I was up there, and I think there  
16 was six. There was six posts behind the building,  
17 I believe.

18 MS. BARRON: And on that application, again,  
19 for the accessory -- building of the accessory  
20 dwelling back in January of '21, it didn't look  
21 like there was any indication of parking in that --  
22 at least in the exhibits that we got. I don't know  
23 if that's everything that we got. But I didn't see  
24 anything.

25 But what I did see is sort of like a sidewalk

1           that looked like it was going to -- I don't know, I  
2           guess the neighbor's. So that's troubling.

3           MR. HUMPHREY: Yeah. But like I said, you  
4           know --

5           MS. BARRON: It's ag, and you can't question  
6           that?

7           MR. HUMPHREY: Ag exempt, you know, to hold  
8           them to zoning.

9           MS. BARRON: And then the one that's in  
10          February does show some parking behind. So at  
11          least that was kind of brought into the --

12          MR. HUMPHREY: And there again, if they're  
13          still ag exempt, what are you going to do?

14          MR. WETTERMAN: I'd like to clear up a little  
15          bit about this driveway on the south side of  
16          Mr. Bewley's property. Is that not only for the  
17          use of the store, and also for the Hudsons' home  
18          behind it?

19          MR. BEWLEY: Exactly.

20          MR. HUMPHREY: Okay.

21          MR. WETTERMAN: Because that's a pretty long  
22          driveway that leads back to a house.

23          MR. HUMPHREY: Right. The fire department  
24          will regulate where those turnouts need to be for  
25          passing.

1           MR. WETTERMAN: The last time I used the  
2 driveway, it wraps around the building, makes a  
3 U-turn, and goes out the other side of the  
4 building.

5           MR. HUMPHREY: Right.

6           MR. WETTERMAN: So it's not a two lane,  
7 passing each other, driveway.

8           MR. HUMPHREY: I think we're getting something  
9 confused here. You talked about a long driveway,  
10 and then you talked about around the building.

11          MR. WETTERMAN: Right.

12          MR. HUMPHREY: Well, there's two separate.  
13 The long driveway that goes back to the  
14 residence --

15          MR. WETTERMAN: Right.

16          MR. HUMPHREY: -- if they -- I forget. After  
17 about, what is it, 200 feet, you've got to have a  
18 pull-off so they can have passing.

19          MS. CZYZ: Yes.

20          MR. HUMPHREY: And there was a couple of  
21 houses that Matt Payne went out and had that  
22 happen, where there weren't. All right?

23          CHAIRMAN SCHIGEL: Any more questions for Wes?

24          MR. HUMPHREY: Anything on this?

25          Okay, thank you.

1                   CHAIRMAN SCHIGEL: Take a seat.

2                   MR. MOELLER: I do have a question.

3                   CHAIRMAN SCHIGEL: If I could have the lawyer  
4 step up real quick to the podium.

5                   MR. MOELLER: So here's -- I'm trying to cut  
6 to the chase. Here's what I'm starting to hear. I  
7 have a -- we have a permit at issue, that at least  
8 on its face seems to authorize the operation of a  
9 grocery store on that property zoned C-2. I'm  
10 starting to hear -- although that wasn't really  
11 what we meant. Is that not what we really meant?

12                  MR. HUMPHREY: Sir, I explained, it was a  
13 change --

14                  CHAIRMAN SCHIGEL: Hey, Wes, we'll call you  
15 back up to answer that. That way, everything gets  
16 told to us, as we're talking.

17                  MR. MOELLER: Because if that's not what that  
18 piece of paper is meant to say, and their position  
19 is, well, we didn't mean to approve that as a C-2,  
20 we didn't mean to approve that as a use, and as far  
21 as we're concerned, it's still agriculturally  
22 exempt until somebody says otherwise, then why are  
23 we here?

24                  We should just clear that up, and we'll deal  
25 with the lack of agricultural exemption, and a

1 grocery store, and a U-Haul rental at another time  
2 and place.

3 CHAIRMAN SCHIGEL: Okay, thank you.

4 Come on up, sir.

5 MR. KASSOUF: I'm a neighbor. I live at 302  
6 Pearl. I'm Rich Kassouf.

7 CHAIRMAN SCHIGEL: Let me swear you in.

8 (Mr. Kassouf was sworn in.)

9 CHAIRMAN SCHIGEL: Just state your name and  
10 address, and spell your last name, please.

11 MR. KASSOUF: Richard Kassouf, K-A-S-S-O-U-F,  
12 302 Pearl Road, Brunswick.

13 CHAIRMAN SCHIGEL: Okay.

14 MR. KASSOUF: I live on the adjacent property.  
15 And I can shed a lot of light on what was just  
16 talked about.

17 So a couple of things. One, the property is  
18 agricultural. It's forestry, right? It's  
19 noncommercial forestry, which really doesn't have  
20 anything to do with the farm stand or anything  
21 else, and there is definitely regulations on all of  
22 them.

23 Technically, for any kind of a farm stand or  
24 any building to be agriculturally exempt in a  
25 township, it has to be used for animal husbandry or



1           it has to be used for a farm stand, as an example.  
2           They have to produce 51 percent of the actual  
3           produce on the land that the farm stand is sitting  
4           on.

5                     And I don't believe any is produced there.  
6           It's coming from Richardson Farms down towards  
7           Amish country. So I have pretty intimate knowledge  
8           of that.

9                     Now, as far as the lots go, right -- I've been  
10          there for about 12 years now. And I only -- so let  
11          me start by saying, Billy and Linda have been great  
12          neighbors. They were good to us.

13                    Everything that we've ever seen there, from  
14          the time that we moved in -- they have the whole  
15          area. They were a family operation. Everything  
16          that was on Skyview was shared with the Hudsons.  
17          People were parking there for the farm stand prior  
18          to it being a building, and it was always kind of  
19          recognized as one property, even though they are on  
20          three separate parcels.

21                    Only when, as Gary said, he evicted them from  
22          the Skyview proper wedding venue location did most  
23          of this come up. The fence went up. And I believe  
24          that was after -- that was after the building was  
25          already in place. So again, it was always viewed

1 as one property.

2 Now, there are -- there's always been a  
3 driveway, kind of where the farm stand is now.  
4 That has always been their access. As many times  
5 as I've gone down to their house, I have always  
6 used that as the driveway.

7 So that's just kind of always been, as long as  
8 I've been there, the way to access their house.  
9 And it was never really an issue when they had  
10 access to the parking lots. But since that's been  
11 taken away, some things have changed, right? The  
12 fence went up.

13 I guess the reason my wife and I are here is  
14 because we're concerned, as Gary had mentioned, the  
15 north and south driveways. Again, the south  
16 driveway has always been a driveway, as long as I  
17 have known. The north side of the property, which  
18 is where I'm adjacent to, is a landfill, right?  
19 They had brought in, in the 1970s, tons, and tons,  
20 and tons of spent casting sand and other things  
21 from the Ford plant, and built that property up  
22 where there is now a 40-foot hill on the side of my  
23 property.

24 And what Gary had mentioned about the north  
25 driveway, and saying that driveway never got

1 developed, I can tell you that they may have had a  
2 bulldozer down there when they were keeping that --  
3 when they were filling that in, but it's never been  
4 a driveway. It is a swale. I have video of it  
5 from yesterday when it was raining. There is a  
6 river that runs through it.

7 I guess my big concern is, I've been told that  
8 a driveway is going to be run down there, and it --  
9 it violates pretty much everything in your  
10 ordinance, saying that it has to have a 10-foot  
11 setback off of the property line, and it has to  
12 have a 10-foot driveway, and then it has to have  
13 turn-offs if it's over 200 feet long. I'm not sure  
14 if there's 10 feet total at the bottom, let alone  
15 20. There's vegetation on the side of that 40-foot  
16 hill that is a landfill. We're concerned that if  
17 any of that is taken off, that's going to start to  
18 erode.

19 And I'd be glad to show anyone that's willing  
20 to see it, the amount of water that travels down  
21 that path. Because I would really like to know, if  
22 anything is put in there, where all of that water  
23 is going to go. I can tell you where it's going to  
24 go. It's going to go on my property.

25 And, you know, since this all changed, we have

1 had a lot of trees cut down up towards the front, I  
2 guess, where they're now parking the U-Haul  
3 vehicles that you heard referenced earlier. And  
4 so now, for my front yard view, I see U-Haul  
5 trucks, that used to be, you know, very shielded  
6 from everything else there.

7 But my property is a combination of regular  
8 commercial in the front, and then it goes to  
9 residential in the back. And the commercial  
10 property for the Hudsons does go back further.  
11 There's actually 190 feet of commercial property  
12 that abuts my residential property, which,  
13 according to your ordinances, would require, in a  
14 side yard, an additional 25 feet of landscaped area  
15 if anything was developed there.

16 But I think, if anyone wants to --

17 CHAIRMAN SCHIGEL: I don't think we need it.  
18 And that's just not me turning it around. I just  
19 want you to understand that.

20 MR. KASSOUF: Right.

21 CHAIRMAN SCHIGEL: As a Board, we're just here  
22 to vote on whether or not Wes filled out the  
23 certificate correctly.

24 MR. KASSOUF: I understand that.

25 CHAIRMAN SCHIGEL: And anything else that

1           happened, unfortunately, it's not really -- it is  
2           part of it, because if I was the person living next  
3           door --

4           MR. KASSOUF: Right.

5           CHAIRMAN SCHIGEL: -- I would probably have  
6           the same exact concerns.

7           MR. KASSOUF: Again, I like the Hudsons very,  
8           very much. I would do anything to help them out,  
9           but unfortunately, I cannot at the risk of  
10          destroying or really lowering the value of mine.

11          As far as the other property goes, again,  
12          that building was there when the entire thing was  
13          used. You know, I don't know that it had been  
14          surveyed, I don't know that Wes would have had  
15          any ability to actually go over and say, here  
16          are the lines, yes, the property is absolutely  
17          agricultural, it's not -- it's agricultural for  
18          forestry, noncommercial forestry, meaning that it  
19          has to have had at least 10 acres of trees that  
20          are -- you follow a plan to maintain them.

21          And I don't think that that building would  
22          fit the agricultural exemption based on -- Ohio  
23          State University, they have all of the information  
24          available that gives you -- I'm looking to  
25          potentially do that myself.

1                   CHAIRMAN SCHIGEL:   Okay.

2                   MR. KASSOUF:   But yeah, so that's it.  It's  
3                   121 agricultural zoned for noncommercial forestry.

4                   CHAIRMAN SCHIGEL:   Okay.  Does anyone have a  
5                   question for him?

6                   MR. KERSTEN:   No.

7                   CHAIRMAN SCHIGEL:   All right, thank you so  
8                   much for your testimony.

9                   Does anyone else in the public, Linda or Billy  
10                  Hudson, or a representative, want to come to the  
11                  podium and discuss?

12                 MR. OBERHOLTZER:   Yes, if it would please  
13                 the Board, I'm John Oberholtzer.  I'm an attorney,  
14                 39 Public Square, Medina, Ohio.  I'm here on behalf  
15                 of the corporation, ATOS, LLC.  They are the party  
16                 that went in front of the Zoning Inspector and  
17                 filled out the Change of Use/Home Occupation/  
18                 Temporary Zoning Use Certificate and checked the  
19                 box, Change in Owner.  And as a result of that, a  
20                 zoning certificate was issued by your Zoning  
21                 Inspector.

22                 We'd like to say to the Board that we  
23                 categorically believe that the Zoning Inspector  
24                 did absolutely the right thing.  About 80 percent  
25                 of what you've heard this evening has really

1 nothing to do with what the Zoning Inspector did,  
2 and I think maybe it's even more than that.

3 The zoning certificate is interesting. The  
4 issuance of this permit does not allow the  
5 violation of Brunswick Hills Township Zoning  
6 Resolutions or other governing regulations.

7 I would submit to you that the township is  
8 allowed to have any kind of certificates that they  
9 want concerning their zoning. You have a  
10 certificate that allows the township to keep track  
11 of who owns property, which they're perfectly  
12 allowed to do, and which is exactly what happened  
13 here.

14 Jessica Frazier, who signed the application,  
15 that's her signature there at the bottom, is the  
16 daughter of Mr. and Mrs. Hudson. They conveyed to  
17 her the property that this farm stand, farm market,  
18 whatever you wish to call it, sits on. And then  
19 she went and incorporated that property as ATOS,  
20 LLC, A Taste of Summer, LLC, and has become the  
21 sole owner and operator of the business. That was  
22 the purpose of what she was doing, and that's what  
23 she did.

24 This whole matter with Mr. Bewley has been  
25 involved in no less than at least three Common

1 Pleas Court decisions over the last five years, and  
2 that bleeds into what you're hearing, and we would  
3 submit to you it has no relevance at all.

4 We're here to say that the Zoning Inspector  
5 did the right thing. He was asked to show that  
6 there was a change of ownership, and this is what,  
7 as I understand it, the computer grinds out as the  
8 forms, and that's what he issued. And I don't know  
9 that that changes anything. It just says there's a  
10 change of ownership. And that's absolutely  
11 correct, nothing more, nothing less.

12 Now, all of these other issues may be  
13 significant and important, and I don't mean to say  
14 they're not, but I don't think they're before this  
15 Board to decide, at least at this point. And we  
16 have plenty of arguments on both sides of this  
17 issue. Obviously three Common Pleas Courts does  
18 generate a lot of arguments. So we've had our  
19 share of those.

20 But we're here to say that the actions of the  
21 Zoning Inspector are absolutely correct. He did  
22 the right thing. And if there's future problems  
23 down there that need to be addressed -- Mr. Bewley  
24 makes this very clear. He's more concerned about  
25 parking. He's concerned about U-Haul trucks. None



1 of that has anything to do with what happened here.  
2 This is very narrow.

3 I need to say this for the record, so I don't  
4 want you to read it the wrong way. I have a lot of  
5 trouble with the ability of somebody coming in and  
6 challenging an administrative action such as  
7 issuing a change of ownership. I'm not convinced  
8 that that is something within the purview of the  
9 law or the statute, that somebody can just come in  
10 and challenge that.

11 I think there are a lot of things in zoning  
12 that an individual can challenge. You know, I  
13 guess my clients asked me a very important  
14 question, what if this is an issue, do they still  
15 have the right to transfer the property? Well, we  
16 would submit they do.

17 I think this whole certificate idea is merely  
18 a method for the township to keep track of what's  
19 happening to the property, and that's what the  
20 Zoning Inspector did. He has every right to do  
21 it, and he did it. And I don't know that it goes  
22 beyond that.

23 So we would ask that his decision be approved,  
24 and if there are these other issues, I think they  
25 need to be developed by whatever that course of

1 action will be.

2 Now, I'm here to answer questions. My clients  
3 are very happy to stand here this evening and  
4 double or triple the amount of time I've talked, to  
5 talk to you about all of the various problems and  
6 issues there.

7 We submitted a drawing to the Zoning Inspector  
8 this evening. We also submitted that drawing at  
9 the time of the application. So he had that.

10 We have a notebook, a 15-page notebook with  
11 notes, and pictures, and diagrams of this whole  
12 thing. And we're happy to submit that to you, if  
13 you'd like to see it. But I feel that, too, gets  
14 us off the issue. The issue is pure and simple,  
15 can the Zoning Inspector do this? This answer is,  
16 yes, he can.

17 Did he do it right? Yes, he did.

18 End of story.

19 So we'd ask that you confirm his decision.

20 Thank you very much.

21 Do you wish to hear from either of my clients?

22 CHAIRMAN SCHIGEL: I can ask you the question,  
23 if you have the answer. If not, we can call them  
24 up.

25 MR. RICHTER: Except Mr. Oberholtzer's

1 statements are statements and arguments only. If  
2 you want testimony, you probably should --

3 MR. OBERHOLTZER: I could swear myself, if you  
4 would like.

5 MR. KERSTEN: He's an attorney.

6 MR. OBERHOLTZER: That's all right.

7 CHAIRMAN SCHIGEL: I have to do it, if I want  
8 to question, though.

9 MR. OBERHOLTZER: That's all right, I'm sworn.

10 MR. RICHTER: Well, you just have to weigh  
11 what he's saying, you know. If he's making those  
12 legal arguments, that's fine. But if you want  
13 testimony, you know, you have to --

14 MR. OBERHOLTZER: I'm happy to --

15 MR. RICHTER: Go ahead.

16 CHAIRMAN SCHIGEL: Okay. Thank you.

17 (Mr. Oberholtzer was sworn in.)

18 CHAIRMAN SCHIGEL: Okay, very good.

19 I understand everything you brought up, and  
20 that we're here to look at the Zoning Inspector.  
21 He does have the ability to cut these certificates,  
22 and then anyone in the public does have the  
23 opportunity, within 20 days, to challenge one of  
24 the certificates that they do.

25 But the question I do have is, when they came

1 forward to do the change of name, which he has the  
2 ability to do, it gives him the opportunity, but he  
3 does not have to revisit the property and check to  
4 see if all the uses are the same.

5 Is there a way that you can tell me, just  
6 through the testimony that we've had, that the  
7 sales from that property is more than 51 percent  
8 from owned or operated farms that they have, that  
9 they're selling through that property?

10 MR. OBERHOLTZER: My clients -- in that I  
11 don't do it personally, I can't answer that  
12 question personally. But I can tell you my clients  
13 would assert that they are agricultural use, and  
14 they do meet that standard.

15 And I might point out to the Board,  
16 independent of this certificate, I think a Zoning  
17 Inspector in a township has a right to ask those  
18 questions at any time.

19 Now, my clients maintain that the use didn't  
20 change. They're doing nothing differently than  
21 what they did before they got the change in  
22 ownership.

23 But I think that's a question for your Zoning  
24 Inspector. In enforcing the zoning ordinances, he  
25 can ask that at any time. And as I said, I think

1           it's way beyond this proceeding.

2           CHAIRMAN SCHIGEL:   Okay.  Does anyone else  
3           have any questions?

4           MR. WETTERMAN:   Not at this time.  I think he  
5           summed it up pretty well.

6           CHAIRMAN SCHIGEL:   All right.  You can go  
7           ahead and take a seat.  Thank you for your  
8           testimony.

9           MR. OBERHOLTZER:   Thank you all very much.  I  
10          appreciate it.

11          CHAIRMAN SCHIGEL:   Would you like to come  
12          forward to the podium?  Go ahead.

13          MR. KASSOUF:   Just a statement for the record,  
14          just because -- and it has to do with kind of the  
15          general portion of what we're talking about.  I  
16          just want to make note that -- so now that I  
17          understand, the Hudsons have conveyed or  
18          voluntarily given away the driveway, the only  
19          access to -- the only feasible, viable access to  
20          their property, and what that's going to, in turn,  
21          mean for my family.

22          So they have created a landfill, a 40-foot-  
23          tall wall, and then conveyed the only access to  
24          that back property to someone else.  So I just want  
25          that to be noted, so that when this comes up, all

1 of these variances, all of this water flow, all of  
2 these things -- because it will undoubtedly come  
3 up -- that my family should not have to suffer  
4 because of a voluntary action where this property  
5 has been given away, that is currently able to get  
6 to their property, to make some sort of a pathway  
7 without the proper clearances, setback, landscaping  
8 needs, and a retaining wall would have to be put in  
9 place to make that happen with substantial cost for  
10 it to even be a possibility, and possibly open up  
11 an encapsulated landfill.

12 And for someone, myself, that was formerly an  
13 Assistant Environmental Engineer at the Ford Motor  
14 Plant, that has data on spent casting sand, I can  
15 tell you that there will be a lot of EPA studies  
16 necessary to even consider opening that  
17 encapsulated landfill. That's all.

18 CHAIRMAN SCHIGEL: I appreciate that. Thank  
19 you.

20 Is there anyone else that would like to speak  
21 on the merits of this case today?

22 MR. MOELLER: If I could.

23 CHAIRMAN SCHIGEL: Come up to the podium.

24 MR. MOELLER: If I could just refocus the  
25 Board on a question I asked earlier, and try to get

1 an answer from the Zoning Inspector about what your  
2 intention was in issuing this piece of paper.

3 Is it their intention that this was simply a  
4 change of ownership and they were not passing upon  
5 the compliance of the property with C-2 zoning, or  
6 were they saying, no, it's located within C-2  
7 zoning? Because, again, I think that's what it  
8 boils down to.

9 If they're going to say, no, no, no, we didn't  
10 mean that that is now a property operated in  
11 compliance with C-2, I'm getting out of your hair.

12 CHAIRMAN SCHIGEL: Okay. I appreciate it.

13 MR. WETTERMAN: If I may, Ms. Evelyn, was this  
14 a property split, or was it a complete exchange of  
15 ownership of the Hudsons' property?

16 MS. CZYZ: I really can't remember. I don't  
17 know offhand. I would be lying if I told you.

18 MR. WETTERMAN: Wes, can you answer that  
19 question?

20 MR. HUMPHREY: The only thing is, there's  
21 something in here that states the transfer of  
22 property is a deed to -- where did it go? I just  
23 had that, too. It's a warranty deed, and it  
24 states -- it's from -- the signature is on Page 2.  
25 Oh, boy. Oh, here it is. It was transferred on

1 the 1st of 2024, the property.

2 MR. WETTERMAN: Property. It was not a  
3 property split.

4 MR. HUMPHREY: No, no.

5 MR. WETTERMAN: So that means they own the  
6 north side, the south side, and the west side.

7 MR. HUMPHREY: No, you've got to look at  
8 the map. It's split up into like four different  
9 parcels, if I'm not mistaken.

10 The only one is out -- this is out by the  
11 road, where the market is, and then so many feet  
12 behind it, there's a portion of that property.  
13 That's one property. There's another property  
14 behind it. There's one next to it.

15 MR. WETTERMAN: So they have three different  
16 properties.

17 MR. HUMPHREY: There are three or four. Three  
18 or four.

19 MR. WETTERMAN: Mrs. Hudson, can you come up?

20 MR. KERSTEN: Mr. Chairman, we're getting this  
21 testimony, 40-foot walls. I would like to see the  
22 people coming up here and talking about what this  
23 man did wrong, if he did anything wrong, and not  
24 this other. I don't think it has anything to do  
25 with what Wes did, and the appeal is to what Wes



1 did.

2 CHAIRMAN SCHIGEL: Correct.

3 Is there a rationale for the line of  
4 questioning, Ron?

5 MR. WETTERMAN: I understand it completely,  
6 and I do agree. I just wanted to --

7 MR. KERSTEN: Don't get me wrong.

8 MR. WETTERMAN: I wanted to --

9 MR. KERSTEN: I'm not criticizing what you  
10 did. I think it's just time to stop it.

11 MR. WETTERMAN: And I have no problem with  
12 that.

13 MR. RICHTER: If I may, for some consistency,  
14 Mr. Moeller has the right to cross examine any of  
15 these witnesses that are testifying, and  
16 Mr. Oberholtzer also has the right to cross examine  
17 any of the witnesses that are testifying.

18 CHAIRMAN SCHIGEL: Okay.

19 MR. RICHTER: And the Board keeps jumping over  
20 Mr. Moeller's question to Wes.

21 So just as a suggestion, the Board may want to  
22 have him cross examine and ask Wes any questions  
23 that he wants, and then move on, you know, witness  
24 to witness. It's just my suggestion, so the  
25 record, if this ever gets appealed, it's not

1 convoluted.

2 CHAIRMAN SCHIGEL: I appreciate that.

3 MR. KERSTEN: I understand that. I understand  
4 that.

5 MR. RICHTER: Right.

6 MR. KERSTEN: But the testimony, to me, is  
7 getting off.

8 MR. RICHTER: And that could be. And that's  
9 the Board's decision. But --

10 MR. KERSTEN: It's getting off. So if we  
11 don't have -- if we stop the testimony that does  
12 not relate to what our Zoning Inspectors did, then  
13 sure, their lawyer can cross examine, I understand  
14 that. But it will be on the subject that we're  
15 here for --

16 MR. RICHTER: Right.

17 MR. KERSTEN: -- not for 40-foot retaining  
18 walls, and flooding, and all that.

19 MR. RICHTER: I would agree. I would agree  
20 with that.

21 MR. KERSTEN: Thank you.

22 CHAIRMAN SCHIGEL: Ron, do you need me to  
23 swear her in real quick?

24 MR. WETTERMAN: We'll stop. I'll let you sit  
25 back down. Thank you.

1 MR. RICHTER: He's sworn in.

2 CHAIRMAN SCHIGEL: Hold up, Wes.

3 Can I have Mr. Bewley's lawyer come up, if  
4 you'd like to cross examine Wes with your question.

5 MR. MOELLER: Again, it's a real simple  
6 question. Good afternoon, Mister -- good evening,  
7 at this point.

8 What did you mean to do when you pulled that  
9 permit?

10 MR. HUMPHREY: Well, with the program the way  
11 it did, it was just to change the ownership, not to  
12 change any ag exempt to C-2, or whatever. But the  
13 underlying district is C-2, and I believe -- I  
14 don't believe there's an ag exempt on our zoning  
15 district, C-1, C-2, C-3.

16 MS. CZYZ: I don't think so.

17 MR. HUMPHREY: I don't believe there's that.  
18 So it was just change of ownership.

19 MR. MOELLER: Just so I'm clear, the zoning  
20 permit was not intended to give the seal of  
21 approval to their activities on that property as  
22 being compliant with C-2?

23 MR. HUMPHREY: No. You're right, you're  
24 correct. If I understood it right, yeah. It was  
25 the status -- whatever they were doing, they were

1           doing.

2           MR. MOELLER: I think we're fine.

3           CHAIRMAN SCHIGEL: All right.

4           Are you good with that, then?

5           MR. MOELLER: Yes.

6           CHAIRMAN SCHIGEL: All right.

7           MR. MOELLER: What I don't want -- what I  
8           can't have is somebody coming around waving around  
9           that piece of paper saying, oh, Brunswick Hills  
10          Township said we're compliant with C-2. That's why  
11          we're here.

12          Thank you.

13          CHAIRMAN SCHIGEL: All right. Do any other  
14          lawyers want to cross examine before we move  
15          forward?

16          Do we have anyone else that would like to give  
17          testimony on the case?

18          All right, with no other testimony -- we  
19          haven't quite had a case like this before, but we  
20          do need to just vote on if we feel that the zoning  
21          certificate was filled out accurately by Wes, or if  
22          I may ask the lawyer if he's withdrawing the whole  
23          case.

24          MR. MOELLER: No, but I think that that  
25          clarification was necessary, Mr. Chairman.

1                   CHAIRMAN SCHIGEL: Okay. All right, so we  
2 will vote on whether or not we felt Wes accurately  
3 filled out the Zoning Certificate 2024-010.

4                   MR. WETTERMAN: Are you making that motion?

5                   MR. KERSTEN: What?

6                   MR. WETTERMAN: I'm asking Chris if he's using  
7 that as a motion.

8                   CHAIRMAN SCHIGEL: No, I'll have one of you  
9 guys make the motion.

10                  MR. KERSTEN: You can make the motion.

11                  MR. WETTERMAN: Okay. Let me get my facts in  
12 front of me.

13                   Have you got your facts in front of you? Go  
14 ahead.

15                   Pertaining to this case, I make a motion that  
16 we say that our Zoning Inspector acted in the  
17 proper manner and that the case on the zoning  
18 permit was correct.

19                  MR. KERSTEN: Give the permit number.

20                  MR. WETTERMAN: Permit Number 2024-010.

21                  MR. KERSTEN: I'll second that motion.

22                  CHAIRMAN SCHIGEL: Ms. Linda, take the roll.

23                  MS. KUENZER: Ms. Barron.

24                  MS. BARRON: No.

25                  MS. KUENZER: Mr. Timura.

1 MR. TIMURA: No.

2 MS. KUENZER: Mr. Kersten.

3 MR. KERSTEN: Yes.

4 MS. KUENZER: Mr. Wetterman.

5 MR. WETTERMAN: Yes.

6 MS. KUENZER: Mr. Schigel.

7 CHAIRMAN SCHIGEL: No.

8 Any person adversely affected by the decision  
9 of the Board of Zoning Appeals may appeal to the  
10 Court of Common Pleas in Medina Court on the  
11 grounds that such decision was unreasonable or  
12 unlawful. They have 30 days from the date the  
13 decision letter is signed to appeal.

14 Is there any further business?

15 MR. HUMPHREY: What was the vote, 3-2?

16 CHAIRMAN SCHIGEL: 3-2.

17 MS. KUENZER: Three noes, two yeses.

18 CHAIRMAN SCHIGEL: For the record, it was  
19 three noes and two yeses.

20 MR. KERSTEN: There were two noes?

21 CHAIRMAN SCHIGEL: Three noes. Three noes and  
22 two yeses.

23 MR. KERSTEN: Were there three noes? Oh,  
24 okay.

25 CHAIRMAN SCHIGEL: Any other further business

1 or inquiries for the Board?

2 Evelyn, do we have any new business for the  
3 upcoming meeting?

4 MS. CZYZ: Yes, you do. And Mrs. Kuenzer will  
5 be distributing the packets.

6 CHAIRMAN SCHIGEL: Say that again?

7 MS. CZYZ: Mrs. Kuenzer will be distributing  
8 the packets.

9 MR. KERSTEN: What's this one here?

10 CHAIRMAN SCHIGEL: That was the old stuff.

11 MR. KERSTEN: I just got it.

12 CHAIRMAN SCHIGEL: All right, with no other  
13 thing, do we have a motion to adjourn the meeting?

14 MR. KERSTEN: I make a motion.

15 CHAIRMAN SCHIGEL: I'll second that motion.

16 MS. KUENZER: Ms. Barron.

17 MS. BARRON: Yes.

18 MS. KUENZER: Mr. Timura.

19 MR. TIMURA: Yes.

20 MS. KUENZER: Mr. Wetterman.

21 MR. WETTERMAN: Yes.

22 MS. KUENZER: Mr. Kersten.

23 MR. KERSTEN: Yes.

24 MS. KUENZER: And Mr. Schigel.

25 CHAIRMAN SCHIGEL: Yes.

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The meeting of the Brunswick Hills Township  
Board of Zoning Appeals is adjourned as of  
8:16 p.m.

(Meeting adjourned at 8:16 p.m.)



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CERTIFICATE

State of Ohio,            )  
                                  ) SS:  
County of Cuyahoga.    )

I, Ivy J. Gantverg, Registered Professional Reporter and Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the foregoing is a true, correct and complete transcript of my stenotype notes which were taken at the time and place in the foregoing caption specified.

I do further certify that I am not a relative or counsel of either party, or otherwise interested in the event of this action.



*Ivy J. Gantverg*

Ivy J. Gantverg, Notary Public  
in and for the State of Ohio,  
Registered Professional Reporter.  
My Commission Expires November 5, 2028.

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