

## MINUTES OF THE BOARD OF ZONING & BUILDING APPEALS, 1-5-22

WEDNESDAY, JANUARY 5, 2022, COUNCIL CHAMBERS, AVON CITY HALL

The meeting was called to order at 7:00 P.M. by Chairman Chauncey Miller.

Present: Michael Bulger; Bill Hricovec; Bruce Klingshirn; Mark Ladegaard; Chauncey Miller; Pam Fechter, Planning Coordinator; John Gasior, Law Director; Duane Streator, Safety Director; and Jill Clements, Secretary.

Not Present: Bill Hricovec; Pam Fechter

### MINUTES OF THE REGULAR MEETING – DECEMBER 1, 2021

A motion was made by Mr. Miller, seconded by Mr. Bulger to dispense with the reading of the regular minutes of Wednesday, December 1, 2021, and to approve said minutes as amended. The vote was: “AYES” All. The Chairman declared the motion passed.

### ADDITIONS/DELETIONS

#### FIREHOUSE SUBS APPEAL

Jennifer Bradley of Wagner Signs representing Firehouse Subs is requesting a 14.6 sq. ft. variance from C.O. 1290.05(e)(1) Schedule of Maximum Sign Area to allow the installation of wall signage for the proposed Firehouse Subs to be located at 35862 Detroit Road.

Dan Beeman of Wagner Signs is sworn in by Mr. Gasior. Mr. Beeman says the property is on Detroit Road, it's a new location for Firehouse Subs where Williamsburg Cleaners use to be. Mr. Beeman says the customer is asking for the variance because number one, the building sits down a little bit and it's a highly congested area with traffic. They would like to have visibility as it's important for the sub shop. Mr. Beeman says the reason he is asking for this size sign is with the pandemic, the owner has had to close a location, so he is trying to establish himself and reuse the sign from another location. Mr. Bulger says he noticed a couple areas on the application and the drawing show different numbers and wants to make sure of the exact sign. Mr. Ladegaard says the math works out for the 3'7" sign and that is confirmed.

A motion was made by Mr. Miller, seconded by Mr. Klingshirn to approve a 14.6 sq. ft. variance from C.O. 1290.05(e)(1) Schedule of Maximum Sign Area to allow the installation of wall signage for the proposed Firehouse Subs to be located at 35862 Detroit Road. The vote was: “AYES” All. The Chair declared the motion passed.

#### MARK AND JEANNE HASSEL APPEAL

Mark Hassel is requesting a 39.4 sq. ft. variance from C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings to allow an addition to the existing tool shed located at 36785 Kinzel Road.

Mark Hassel is sworn in by Mr. Gasior. Mr. Hassel says he wants to add onto the existing building going 14' instead of 12' wide.

A motion was made by Mr. Miller, seconded by Mr. Klingshirn to approve a 39.4 sq. ft. variance from C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings to allow an addition to the existing tool shed located at 36785 Kinzel Road. The vote was: “AYES” All. The Chair declared the motion passed.

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### ASTRIT HAJDARI APPEAL

Astrit Hajdari is requesting a 5' rear yard setback variance from C.O. 1478.03Swimming Pool-Location to allow the installation of a 15'x24' in ground swimming pool to be located at 2441 Muirwood.

Astrit Hajdari is sworn in by Mr. Gasior. Mr. Hajdari says he would like to build a swimming pool in the back yard and according to City code, the pool must be 10' from the property line and 15' from the house. Mr. Hajdar says if he builds the pool based on those requirements that would bring it closer to the outdoor kitchen, so he is requesting to put it closer to the back property line. Mr. Hajdari has no back neighbors, that is Homeowners Association. He has applied to the HOA but with the holidays, it's been delayed, he also has a letter from his neighbors with no objection to the variance.

A motion was made by Mr. Bulger, seconded by Mr. Miller to approve a 5' rear yard setback variance from C.O. 1478.03Swimming Pool-Location to allow the installation of a 15'x24' in ground swimming pool to be located at 2441 Muirwood. The vote was: "AYES" All. The Chairman declared the motion passed.

### ROPAS APPEAL

James and Deborah Ropas are requesting a 6' side yard setback variance from C.O. 1262.04(d)(3) Lot and Yard Requirements to allow the construction of a 16'x28' garage addition to the existing garage located 3657 Truxton Place.

James and Deborah Ropas are sworn in by Mr. Gasior. Mr. Ropas says they came initially they got approval for a 16'x24' garage to the right side of house as you look at the house. Their original request was 16'x28' and the Homeowners Association approved the original request, and they neighbor each side approved that as well and they came before the Board and one member said as his rational for not approving it was this. Mr. Ropas continues to say if a truck needed to drive around the property to the back of your yard, it would cross over onto the neighbor's property, and he had concern about that and he requested the 24' feet instead of the 28 feet. Mr. Ropas tells him not having the expertise of any of the Board members, that's what go approved. Mr. Ropas said he was a bit confused in the rational to him he still questions as why the truck can't go to the left side of the lot and wouldn't impact the neighbor's property, but he will leave that alone. Mr. Ropas says he has a solution for that as he is willing to install a 8'x8' door in the back of the garage. That will allow you to pull in the front and straight out the back of the garage. So based on the installation of the door in the back they are asking for the original variance request of 16'x28' for the garage addition. Mr. Ladegaard says still being 6' off the property line and Mr. Ropas said yes.

A motion was made by Mr. Klingshirn, seconded by Mr. Miller to approve 6' side yard setback variance from C.O. 1262.04(d)(3) Lot and Yard Requirements to allow the construction of a 16'x28' garage addition to the existing garage located 3657 Truxton Place. The vote was: "AYES" All. The Chairman declared the motion passed.

### JOHN AND KATHLEEN GORBACH APPEAL

John Gorbach is requesting a 230 sq. ft variance from C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings to allow the existing garage to remain at 34625 Detroit Road.

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John Gorbach is sworn in by Mr. Gasior. Mrs. Clements asked that this be tabled to the February meeting as the original variance request sent out was less than what they need. Re notice will be sent out for February meeting.

A motion was made by Mr. Miller, seconded by Mr. Klingshirn to table to the February meeting. The vote was: "AYES" All. The Chair declared the motion passed.

### JOHN AND KATHLEEN GORBACH APPEAL

John Gorbach is requesting a variance to allow existing accessory building to remain in its location to be located on the newly created flag lot east of 34625 Detroit Road.

Mr. Gorbach is still sworn in. Mr. Gorbach says this is his wife's family home with about 5 acres and they are looking to do a 4.5 to .5 acre split to build a single-family home on the flag lot. Mr. Ladegaard asks if they have any plans to build. Mr. Gorbach says he is working with the builder and architect, and they should be done within the next 6 weeks or so. Mr. Ladegaard asks when he was hoping to start the house? Mr. Gorbach says if everything goes through, they would like to break ground in March. Mr. Miller asks if we need to deed restrict anything if the lots are sold. Mr. Gasior says they approved the lot split and Council approved the flag lot and will vote next week. Mr. Gasior says the understanding is he owns both parcels of land right now and clearly the one barn will be in the front yard of the flag lot. Mr. Gasior says he doesn't think that's a problem for the Board if you own both pieces of property. Mr. Gasior says what Mr. Miller was pointing out, in many cases we try to deed restrict or by affidavit ask as a condition as the variance be granted that the barn be torn down or moved if either of the lots sell to a different owner since you can't have a barn in the front yard. Mr. Gorbach asks if he could come for an additional variance if it gets to that point. Mr. Gasior says yes you can come in and say the lot was sold and then they can decide. If Mr. Gasior says if it's him staying in the back, that would not be a trigger and would be ok. If they sell to a stranger, they will see it and buy it and they know. Mr. Gorbach says the way the barn is positioned its, on the flag lot and he says he doesn't know what the future would hold for the detached garage in many years ahead. Mr. Gasior says if the property is owned by the same person, then the Board doesn't have an issue with that. Mr. Gasior says there is so much space in the back yard for it to be moved. Since there isn't any issue now since they are both owned by same owner, he would recommend that the Board pass this with condition that the barn be moved or removed when one lot sells. Mr. Gorbach says he thought the variance was for the having the barn in the front yard. Mr. Gasior says they are willing to grant you that variance, his assuming if you own both parcels of land. Mr. Gorbach says ok. Mr. Gasior says if you sell it and want to come back and ask to keep it in the front yard you can do it. Mr. Gorbach says ok, he has no crystal ball to see if or when that could be, and they will cross that bridge if or when they get there. Mr. Ladegaard says another thing they do is set time limit on when they build the house. Mr. Ladegaard says he would at least like to see plans or a footer within a year. Mr. Gorbach says that's not a problem only concern would be completion. Mr. Ladegaard says that's not an issue if we have good faith with it started and Mr. Gorbach says that's not a problem.

A motion was made by Mr. Miller, seconded by Mr. Klingshirn to have a barn in the front yard. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Miller, seconded by Mr. Klingshirn to have a building on a lot without a primary residence contingent a footer is in the ground within one year of today's date. The vote was: "AYES" All. The Chair declared

### SHARON ZILKA APPEAL

George Zilka is requesting a 109 sq. ft. variance from C.O. 1262.08(a)(2) Maximum Area Number of Accessory Building, a variance from C.O. 1262.08(a)(3) Maximum Area Number of Accessory Building and a variance from C.O. 1262.08(b) Accessory Building Setback Requirements to allow the construction of a 50'x50' garage to be the 4<sup>th</sup> accessory building to be in the front yard at 4827 Stoney Ridge Road.

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George Zilka, 1720 Halls Carriage, Westlake, OH is sworn in by Mr. Gasior. Mr. Zilka said his mom couldn't be here, so he has a signed letter from her. Mr. Zilka says he is waiting on the City of North Ridgeville to give him clarification on what their plan is right now. Mr. Gasior says if you recall when Mr. Zilka was here end of the year, we were aware of the roundabout. Mr. Gasior says we felt we needed to get a better idea of where that right of way will be before you acted on any variances for this property. Mr. Gasior says he thinks that is where we are still at, he is not involved in any engineering and refers to Mr. Streater. Mr. Streater says we met with representatives of North Ridgeville and based upon the information they present to us (Avon) the right of way will change. Mr. Streater says by this board granting the variance, in his opinion it wouldn't be proper to grant a variance knowing its going to change. Mr. Streater says at this time, he would request that it be tabled indefinitely until North Ridgeville works out with the property owner where the new right of way will be existing. Mr. Zilka says he doesn't know that that means but he would like them to keep in mind he doesn't want to spend another \$500 on variances and all that. Mr. Zilka says he was told it would be within 2 weeks. Mr. Gasior says they must get all the property rights resolved before they can go out to bid. Mr. Zilka says he talked to the Engineer and within a couple weeks they will be putting out for purchasing the property. Mr. Gasior says that's right, they usually hire someone to do property acquisitions. Mr. Zilka says he contacted him and is waiting to her back. Mr. Gasior asks if he knows who it is. Mr. Gasior says they give you an appraisal and then you can accept their offer or negotiate, that is the first step. Mr. Gasior says when that happens, we will be in a better position to know how its changed. Mr. Gasior says when that happens get in touch with us and we can get the plans and put you back on the agenda. Mr. Gasior says we won't table indefinitely, we could allow you to withdraw the appeal then we can refund a portion of the fee, then when the time comes you can reapply. Mr. Zilka says he doesn't know what they prefer, he would rather keep it on the books. Mr. Gasior suggests that they withdraw the appeal and seek the partial refund and once they are settled and the exact right of way is then reapplied. Mr. Zilka asks to push it another month. Mr. Gasior says you will have to go through the process, so he suggests that it be tabled until the April meeting.

A motion was made by Mr. Klingshirn, seconded by Mr. Miller to un-table. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Klingshirn, seconded by Mr. Miller to table until the April meeting at the applicant's request. The vote was: "AYES" All. The Chair declared the motion passed.

### KEITH RIEGELSBERGER APPEAL

Keith Riegelsberger is requesting a variance from C.O. 1262.08 Accessory Use Regulations to allow the existing pole barn to remain on a lot with no primary dwelling to be located near 35800 Riegelsberger Road.

Keith Riegelsberger is sworn in by Mr. Gasior. Mr. Riegelsberger said he did not bring a drawing since they saw it at the last session, and he was told to us would respond to him in a week and never heard from anybody, so he just heard about the meeting. Mr. Gasior said we have some information on that parcel and its his understanding that the property is a farm, and it is actively being farmed and Mr. Riegelsberger says yes. Mr. Gasior says if its an active farm he can maintain that outbuilding to store anything related to the farm. If you decide to put your boat or classic cars in there, that is not what it is for. Mr. Gasior says he doesn't know that he needs to be here for a variance if he does the split and has a farm and the barn is there for farm purposes, he is legal. Mr. Gasior asks if he has split this yet and Mr. Riegelsberger say he has not. Mr. Gasior says for purposes of tonight, an opinion is being given, if you split it in such a way the barn stays on the 35 acres or so of farmland and you use it to store farm equipment to farm, you don't need a variance for that. Mr. Riegelsberger says the long-term thing he is asking a month ago was, he's been in discussions with developers about the farm and he's been in discussions with the city. If he can buy his sister out and keep it, he will, if he chooses not to do that then it might get sold to the city or a

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developer and at that point, he will want to keep the barn and his father's house but put the barn on its own lot. Mr. Riegelsberger says he understands if he keeps it a farm and keep all 35 acres and he sells his dad's house, he can keep both pole barns if it is an active farm. Mr. Riegelsberger says if he decides he doesn't want to be a landlord or keep his dad's house, what are his options. Mr. Gasior says you will have a problem obviously at that point, it could be 3 years from now, it could be a month from now but its not tonight. Mr. Gasior says your asking this body to give a legal opinion, they are not going to do that, they are going to grant variances yes or no based on an application. He continues to say, he is sorry he didn't get in touch with Mr. Riegelsberger with the holidays come around everyone wants things done by the end of the year and people take time off, but he would be happy to talk to him about his options. Mr. Gasior says you don't need to be here until you have a proposed lot split sitting in front of Planning Commission when you will need a variance or whatever. Mr. Gasior says if you are not farming the land, you saw tonight people are given a timeline to build a house on the one parcel and that's it. If he doesn't get the house built, it is coming down because you can't have an outbuilding in a residential district with no house. Riegelsberger says the barn has been sitting there 20 years next year, but he doesn't know when the law came and said you can't. Mr. Gasior says the law has always been there, the problem is no one enforced any of the laws against the barns because the property is being farmed. Mr. Riegelsberger says even if he chose to not lease it tomorrow to a farmer but held on to all of it, are you telling me (Mr. Riegelsberger) he must take the barns down if its not being farmed? Mr. Gasior says he doesn't know where the lot lines are or where the barns are in relationship to the house. Mr. Riegelsberger says one barn is right next to the house, the other is about 500 feet behind. Mr. Gasior says if you abandon farming, the barn that is on the farm, Mr. Riegelsberger says there's two barns on the farm. Mr. Gasior says they will have to come down or they will have to be included in the house. Mr. Riegelsberger says if he owns 35-36 acres, Mr. Gasior says he can't answer the question, he will have to go to the code and look up the law what is allowed, but this isn't the place. Mr. Riegelsberger says if he holds onto his father's house and keep all the acreage, and don't farm it, you don't have a problem. Mr. Gasior says probably not. Mr. Streator says because of the acreage, it depends upon the number of acres owned by how many outbuildings you could have. Mr. Streator says currently if you don't split that off, as Mr. Gasior says we would have to look at the square footage of the barns. Mr. Riegelsberger says they both are 40'x40'. Mrs. Clements says currently there is a home on the land, so it is compliant. Mr. Gasior reads the code to the Commission. Mr. Ladegaard says if you don't split the house but as soon as you split the house, that when the game changes. Mr. Riegelsberger says if he split the house on its own parcel and keep the land, you're telling me I can or can not have both pole barns on the land if he splits the house off. Mr. Streator says you can not if you stop farming. Mr. Riegelsberger asks if he can be shown where it says that in the city code. Mrs. Clements says that falls under the agriculture property. Mr. Gasior says this is not the right forum and would be happy to meet with you some day and he will pull the book out and answer all his hypothetical questions, but this is a judicial body up here, it's not what you do, you're looking for legal opinions. Mr. Riegelsberger says he is asking to interpret the code and Mr. Gasior suggests he get a lawyer. Mr. Riegelsberger says he was the one told to come back, and he would get answers for him. Mr. Gasior says he apologizes he doesn't but would be happy to meet with him and they can sit down and answer all the hypothetical questions, but again, this is not the forum. Mr. Riegelsberger asks then why he came back. Mr. Riegelsberger says please let the mayor know he is not interested in selling the farm to the city for a park, thank you. Mr. Gasior says ok, he is sorry about that and thinks it's a mistake too but. Mr. Riegelsberger says he goes to his meetings prepared in his job and apparently you guys don't. Mr. Gasior says were prepared but all he is trying to tell him (Mr. Riegelsberger) is the questions he's asking he would need to sit with him for another hour or so, its all-legal opinions. Mr. Riegelsberger says he will make an appointment. MR., Riegelsberger says it appalls him to think you can tell a resident of Avon who spends \$60,000 of their hard-earned money to clear the land build two barns

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that they need to come down that are filled with equipment- it would take him a year to have an auction and get rid of the stuff. Mr. Riegelsberger says you don't care about your \$60,000 bucks that you spent, take them down because that is what the code says. Mr. Gasior says we can work through things like that, he needs to know all the facts and sit with you. Mr. Gasior apologizes again, we just went through the busy holidays, and he is doing the best he can and is willing to sit down with him and go through all the hypotheticals you want to come up with, but this body has no ability to give you a legal opinion that is binding. Mr. Gasior says he can give the legal opinion. Mr. Riegelsberger asks if Mr. Gasior is a full time City employee, and he will try to get an appointment. Mr. Gasior gives Mr. Riegelsberger his card and they will sit down and go through everything. There seems to be a lot of issues and they will try to work things out. Mr. Gasior says you call me, and I react, Mr. Riegelsberger says he understands, he travels 50 weeks a year for his job, he handles his dad's estate, he takes care of the house, he takes care of the barns and his own home, he's busy too. Mr. Gasior says let's work it out, you have a lot of contingencies as one is if you are going to buy your sister out or not and what that meant in terms of the lot split, those are all great questions depending on where you want to draw the property lines. Mr. Riegelsberger says thanks for your time, and he will be in touch. Mr. Ladegaard says so what's next. Mrs. Clements says because of right now the way it is its compliant with the code, until a lot of splits is done, that is what will trigger the variance. Mr. Gasior says to Keith's point, why would we be here if he hasn't applied for an actual lot split. Mr. Riegelsberger say he was told to come to the meeting to see if you would approve the variance then after that if it was approved the way he wanted to do things, then he would go for the lot split. Mr. Gasior says let's talk and get together. Mr. Gasior doesn't know what the variance is because he doesn't know where the split is going to be. Mr. Riegelsberger says the whole thing right now is his dads house, the farm and two pole barns are one parcel, and he was originally requesting on the variance to take the barn next to this dad's house to put that on its own parcel big enough to be a buildable lot for a home. Mr. Riegelsberger says that was the original request and the rest of the 30 some acres and his dads house would all stay together. Mr. Gasior says variance is like the earlier application, but the difference is that Mr. Gorbach will be building a home on that lot within a mater of 18 months, you are not able to do that. Mr. Gasior says where we were the last time you were here was why don't you wait until your plans are solidified and you know if you will have that lot split off and will be for sale for someone to build on then it would be a lot easier to grant the variance knowing a house will be coming. Mr. Riegelsberger, say he thinks for him, long term if he doesn't sell farm but wants to sell his dads house, what's going to have to happen, if he has 35 acres and wants to go ride a motorcycle over there or has a barn on it. Mr. Gasior says and not farm it. Mr. Riegelsberger says he doesn't understand what farming has to do with it. Mr. Gasior says that's part of the Ohio Revised Code that takes agricultural property and puts it in its own category which allows certain things that city's zoning makes it exempt. Mr. Riegelsberger says we both know he can take it out of CAUV and pay higher taxes to keep the land as it is and not a farm. Mr. Gasior says and that is where the city zoning comes into play and says you can't have barn on piece of property with no principal residence. Mr. Riegelsberger says again please let the mayor know he is not interested in selling the farm. Mr. Ladegaard says what motion do we have? Mr. Gasior says he doesn't know what he wants to do and asks Mr. Riegelsberger if he wants to withdraw? Mr. Riegelsberger asks why they don't meet then he will decide with what to do. Mr. Gasior says we will table it one last time for February and they will talk and see if they need to amend the request.

A motion was made by Mr. Miller, seconded by Mr. Klingshirn to un-table. The vote was: "AYES" All. The Chair declare the motion passed.

A motion was made by Mr. Miller, seconded by Mr. Klingshirn to table until the February meeting at the applicant's request. The vote was: "AYES" All. The Chair declared the motion passed.

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### SAFOS CARWASH APPEAL

Clarence Watkins of Bramhall Engineering is requesting a variance to allow lot split to occur leaving the remainder parcel less than the required acreage and frontage in a C-4 District located at Nagel Road.

Clarence Watkins of Bramhall Engineering is sworn in by Mr. Gasior. Mr. Gasior asks if the letter is the one from the attorney. Mr. Watkins asks if the affidavit and it was confirmed yes. Mr. Gasior says they want to do the lot split and they need a variance for the creation of the 9/10<sup>th</sup> of an acre lot or they can't do the split and leave that parcel left alone. Mr. Gasior says that parcel will only have 113-115 feet of frontage and they will need 150 feet. Mr. Gasior says they have proposed a document called Affidavit of Facts relating to title. This is something the attorneys put together and the key element to it is the owner of the property who is Drug Mart, will sign this document knowing that this is an unbuildable lot and the other thing it will call out there will not be a curb cut 150 feet north of the north property line of the split parcel. Mr. Gasior says they haven't gotten back to him as of yet to let him know if those conditions are good or not, it sounds like they could agree to it but they need to talk to Drug Mart. Mr. Gasior says if this body is good with that, he can see a motion being made to approve the lot split allowing for 9/10<sup>th</sup> of an acre lot to be created with the conditions spelled out. Mr. Gasior says if those conditions fail, you will need to come back. Mr. Watkins says that is what they request, if the document meets the requirements it will need to be executed by the property owners. Mr. Gasior says the only hang up could be the 150 feet, but they want to eliminate any out parcel there. Mr. Klingshirn says on the application you're saying you're buying an acre and a half but, on the lot, splits the 2 lots come to 2.3 acres. Mr. Watkins says they are buying parcel E which shows 1.29 acres and then there is a right of way split, the City is requiring additional right of way so that's your 1.5 acres. Mr. Watkin says the 1.5 acres will be for the car wash and the remainder is .9059 and its too small. Mr. Klingshirn says its additional right of way and that's ok. Mr. Watkins says they are giving the city they right of way they have requested. Mr. Gasior says the lot would be unbuildable and eventually it will be consolidated all the land to the north when that land ends up being rezoned which could be in the next few years. Mr. Gasior says that .9.59 acres will be consolidated into the north and when that property becomes commercial. If it decided it should be residential, then they can come back and rezone that .9 acres and we will deal with whatever at that point. Mr. Ladegaard says this would be unbuildable. Mr. Gasior says the affidavit would be signed by the owner and then recorded and reads a portion of that. He says they have not signed that as they haven't been in touch with the owner yet. Mr. Ladegaard says if that zoning is changed, it will have to be on the ballot right. Mr. Gasior says yes, it goes to Planning first for a recommendation, then to Council and ahs to get an affirmative vote then it goes to the ballot. If Council votes it down, it doesn't go to the ballot. Mr. Ladegaard says to make it clear, if they approve it, it would be on condition that being signed and recorded.

A motion was made by Mr. Miller, seconded by Mr. Klingshirn to un-table. The vote was: "AYES" All. The Chair declare the motion passed.

A motion was made by Mr. Miller, seconded by Mr. Klingshirn to approve the variance to allow lot split to occur leaving the remainder parcel less than the required acreage and frontage in a C-4 District located at Nagel Road contingent upon the lot is declared unbuildable and the curb cut will not exist for at least 150 feet to the north. The vote was: "AYES" All. The Chair declare the motion passed.

### JEFFREY AND DEBRA MITCHELL APPEAL

Michael Cloud representing Jeffrey and Debra Mitchell is requesting a variance from C.O. 1270.03(b)(3) Schedule of Permitted Uses to allow a drive-up interactive teller branch for Commstar Credit Union to be located at 1022 Center Road.

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A motion was made by Mr. Bulger, seconded by Mr. Miller to un-table. The vote was: "AYES" All. The Chair declared the motion passed.

Mr. Gasior says he spoke to Pam earlier and they have had talks with the bank, Commstar and that they needed to go in front of Planning to get a code change. The way the code is written there is no way a variance can be granted. They would need to go in front of Planning, propose a code change then they will decide and move it Council if they deem it appropriate make the change if not then the code will not change and its not permitted. Mr. Gasior says there is no need for them to come back and would recommend they withdraw their application.

A motion was made by Mr. Miller, seconded by Mr. Klingshirn to table until the February meeting. The vote was: "AYES" All. The Chair declared the motion passed.

### COMMENTS

### ADJOURN

A motion was made by Mr. Bulger, seconded by Mr. Klingshirn to adjourn. The vote was: "AYES" All. The Chair declared the motion passed. The meeting was adjourned at 8:06P.M.