

Violet Township Board of Zoning Appeals

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Ms. Schirtzinger called the meeting to order at 7:30 p.m. and roll was called.

Members present: Mr. Dellinger, Mrs. Cole, Mr. Kluczynski, Mrs. Gillette, Mr. Rector, and Ms. Schirtzinger. Also present were Kelly Sarko, Zoning Inspector and Jennifer Huber, Township Legal Counsel.

Ms. Schirtzinger swore in those wishing to speak. It was noted for the record that Ms. Sarko had also been sworn in.

Case Number 16-VA-2018

An application for variance filed by Jay Harris, 13305 Pickerington Road, Pickerington, for property located at 8755 Refugee Road, Pickerington, owned by Jerry Shriner. This application requests a variance from the provisions of Violet Township Zoning Resolution Section 3L2-04 to allow the construction of an addition in the S-1 District to be placed closer to a district boundary line than permitted.

Ms. Sarko reported the property is located on the south side of Refugee Rd and is zoned S-1, Professional and Commercial Services.

Mr. Harris is requesting a variance to allow the construction of an addition that is 10 deep along the rear of the building and 12 feet wide on the east side of the existing building. In review of Fairfield County Aerial Images, it appears the proposed addition will be approximately 29/30 feet from the south property line and approximately 20/21 feet from the west property line.

She reported that Section 3L2-01 states that the Code, requires that no structures can be placed no closer than fifty (50) feet to the road side line, nor closer than fifty (50) feet to the district boundary line. That is the setback for the S-1 District in relationship to a district boundary line. She noted that the building is an existing one-story structure used for commercial purposes.

Mr. Harris provided a parking layout based upon the number of teachers versus students using the building.

Mr. Jay Harris, 13305 Pickerington Road, said that he has been a resident of Pickerington for over 15 years and wants to provide a child care facility for the growing Pickerington population. He would like to be able to provide care to more children than this building can currently accommodate so he would like to expand it. To address concerns about noise and traffic, he explained that the addition would be at the rear of the building. He said there is adequate space and it would be inconspicuous, as you cannot see that area unless you are at the rear of the building. The area is used as a yard now and he thinks the addition would still be conducive to adjacent properties.

Mr. Kluczynski asked for clarification of the drawings showing the addition and the parking. Mr. Harris said that the addition would take up two of the current parking spaces and would be constructed to the south and southeast of the existing building.

Mr. Kluczynski questioned the loss of two parking spaces. He thinks more will be lost, as there needs to be room to turn around. Mr. Harris said that they are willing to lose parking as the existing 20 spaces is more than what they will need. He based this on the calculation of 15 students per space and their plan to have 48-50 children on site.

Mr. Dellinger asked what business is currently using the building. Mr. Harris said it was an accounting firm and confirmed that there were no children there at this time. He added that there is an existing privacy fence in the back and evergreen trees for a screen and noise barrier. They plan to provide care to infants and toddlers, many of whom do not speak, as opposed to preschoolers and older children.

Mrs. Cole asked where the outdoor space for the children would be located. Mr. Harris said it would be behind the proposed addition. It would be fenced and extend twelve feet from the addition.

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Mr. Kluczynski asked if licensing was required for the childcare center. Mr. Harris said there is, but they are an existing business moving to a new location. They are currently a home-based day care business that does not require licensing, but they have started the process to acquire the necessary licensing for the new location.

Mrs. Cole asked if Jobs and Family Services would be doing the licensing. Mr. Harris said yes. They have been in talks with Jobs and Family Services, but the licensing agency has to inspect the facility before a license is issued.

Mr. Kluczynski asked if the purchase of the property was contingent upon approval of the variance application. Mr. Harris said not necessarily, but it would help, as they would be able to have more children in the day care.

Mrs. Cole asked how many children would be permitted in the building now. Mr. Harris said he thought about 20-25 with the existing square footage. Mr. Kluczynski asked if there were different square footage requirements per room based upon the age of the children. Mr. Harris said there were and they would have children six weeks to three years old. One Board member asked if Mr. Harris were going to proceed with the project with fewer children if the variance was not approved, noting a variance would help the business by allowing more children. Mr. Harris said yes, and added that it would not only help his business, but Pickerington, too.

Mr. Kluczynski asked if a conditional use permit would be required for this use. Ms. Sarko said no because the property is zoned commercial.

One Board member asked if the setback was fifty feet on the rear and side. Ms. Sarko said yes, noting the building is existing and meets the setback on the east side, but not the west side. Mr. Harris commented that he and Holly (Mattei) had measured the distance from the back of their building to the building behind them and it was 271 feet. The distance from the Goddard School to the building directly behind it is 283 feet. He would like it noted that there is quite a distance separating the buildings and would like that taken into consideration.

One Board member asked if the new construction was going to be connected to the existing building by cutting doors in the existing wall. Mr. Harris said no, the existing wall would be pushed out ten feet on the south side to make an open room with more floor space. The same would be done on the east side and be constructed per code.

Mr. Dellinger asked if the township had looked at any traffic studies. Ms. Sarko said no. Mr. Dellinger was concerned about a large number of cars coming at the same time. Mr. Harris said that there is already a heavy traffic flow on Refugee Road and that he does not believe his business would add anything significant to it. Mr. Dellinger asked about the operating hours. Mr. Harris said 7:00 a.m. to 5:30 p.m. Mr. Dellinger commented that this timeframe would encompass times of high school traffic. He asked if the township looks at additional traffic burden. Ms. Sarko said that would happen if it were being rezoned.

Mr. Kluczynski asked if the applicant would need a variance if he were not adding onto the building that may or may not lead to additional traffic.

One Board member asked if there was anything about the existing structure that is out of compliance that they might suggest be corrected. Ms. Sarko said the structure is too close to the west property line. Ms. Huber told Mr. Harris he could ask to amend his application to include a variance for the west side setback which would bring the entire property into compliance with the zoning code. Mr. Harris asked the Board to include a variance for the side setback for the west property line.

Mr. Kluczynski asked if Mr. Harris was in contract to purchase the property. Mr. Harris said that he was in contract to lease the property for three to five years. He said he hopes to buy the property eventually.

Ms. Sarko asked if the property was originally a private home before being converted to a business. Mr. Harris said he thought that was the case.

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Mr. Jerry Shriner, owner of the property, 540 Longview Street addressed the question about increased traffic. He explained that his accounting business has been in this building since 1982 and they have many customers coming in and out of the property. He said they have never had any traffic issues except in the morning with high school traffic. He does not think the daycare business would have as much traffic as he has now and it would fit with the current surrounding traffic patterns of customers during the day and quiet at night.

Mr. Kenny Orr, 8115 Hill Rd, said he owns the duplex at 8735-8737 Refugee Rd, which is next door to the property, commented that when he purchased the property on Refugee Rd, he was aware that there was an office building next door with an accounting business. He and his wife were fine with that and Mr. Shriner has been a good neighbor. He agreed with Mr. Shriner's assessment of the traffic coming in and out of the building and does not think there will be a change. He said that the surrounding properties are residential and he is concerned about the noise when the children are outside. He thinks it will affect his renters, especially the rental unit closest to the proposed addition on the east side. Losing a tenant would hurt them financially even if it would be vacant for a month.

Ms. Schirtzinger asked if Mr. Orr's property was the duplex on the east. He said that was correct and the patio on his property is 20-25 feet from the property line.

Mr. Kluczynski asked if additional plantings would help with the noise. Mr. Orr said yes, but he was not sure how much. He said that he does not have any problem with kids, but his wife used to work next door to a daycare and many times had to retrieve balls for kids when they went over the six-foot high privacy fence. She also noted that there were children screaming when they were outside during recess.

Mr. Kluczynski commented and clarified for Mr. Orr that even if the application was denied, the applicant could still have a day care center on the property. The variance application is to allow him to construct an addition.

Mr. Orr said that his only objection is changing the business from an office building to a daycare center with more noise that would affect his tenants. Mr. Kluczynski and Mrs. Gillette explained that the BZA could not stop that from happening because the property is already zoned commercial and the only thing they have jurisdiction over is whether to allow the extension of the building.

Mr. Gerald Eisner, 8060 Refugee Road said his wife runs a home daycare center next to the high school. He said that they have six sets of parents coming in and out of their driveway at various times during the rush hour traffic on Refugee and they really have no impact on the traffic. He does not expect a daycare with more children to have an impact either. Five or ten more cars per hour would be insignificant. Mrs. Cole asked how many children he had at his daycare. Mr. Eisner said six is the legal limit for a home daycare without licensing.

Mr. Harris said that, in order to address the noise issue as well as to obstruct the view, he would put up a 6-foot tall, solid wood fence around the playground and add more plantings along the property line. He explained that the playground would be quite a distance from Mr. Orr's property because the play area would be behind the southwest corner of the building.

Mrs. Cole asked if it was possible that the daycare could change their business model in the future and have older children there, too. Mr. Harris said, hypothetically, yes, but he does not believe they would go that route. The demand they are seeing at their existing home daycare is for younger children and the increase in housing expected here in the next two years would mean even more demand.

One Board member asked how the parking needs were calculated. Ms. Sarko said that it depends on the number of students and teachers in the building. Mr. Harris said it is based on one parking space for every fifteen children. One Board member asked if the existing parking lot is adequate for emergency response needs. Ms. Sarko said the fire department would do a new inspection with the new use of the building.

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Another Board member asked for clarification about the size and location of the play area. Mr. Harris explained that it would be behind the building along the southwest corner and extend approximately 40 feet along the back of the building. He confirmed that it would be enclosed by a privacy fence.

Mr. Kluczynski made a motion to approve Case Number 16-VA-2018 a variance from the provisions of Violet Township Zoning Resolution Section 3L2-04 to allow the construction of an addition in the S-1 District to be placed closer to a district boundary line than permitted, specifically, the west and south property lines. With the condition that additional evergreens be planted to fill between the existing evergreen trees along the east property line to help create a noise barrier. In addition, the applicant will provide a six (6) foot tall privacy fence to enclose the playground. Mrs. Cole seconded the motion. Roll Call vote: Mr. Kluczynski, yes; Mrs. Cole, no; Mr. Dellinger, no; Mrs. Gillette, yes; Ms. Schirtzinger, yes. Motion carried.

Case Number 17-VA-2018

An application for variance file by Carl and Christina Togni for property located at 8911 Shady Woods Street, Canal Winchester. Pursuant to Violet Township Zoning Resolution Section 3V3-01(D)(1), this application requests a variance from the provisions of Section 3V3-01(B) to allow the construction of an addition that is to be placed closer to the rear property line than permitted in the Woodstream Planned Residential District.

Ms. Sarko reported Mr. and Mrs. Tongi are requesting a variance to allow the construction of and 18'x18' three-season room addition. The required rear setback in the Woodstream subdivision is thirty feet. The proposed addition will extend ten feet beyond the existing home into the building setback. The encroachment appears to be 3.33 feet. Mr. and Mrs. Tongi were present with their contractor, Chris Blackmon of Emery's Maintenance.

Mrs. Gillette commented that she and Mr. Blackmon are long-time, amicable neighbors and have never done any business together. She offered to recuse herself if anyone had an objection. No objections were heard.

Mr. Chris Blackmon, 13375 Pickerington Road, explained that the homeowner has built an expensive stamped concrete patio and they want to build the three-season room around the perimeter of the patio. The addition would look almost exactly like the existing structure. Two existing walls would remain and they would add a rear wall, a wall to the right and a short wall to the left. The homeowners really like the stamped concrete and want to make it the floor of the three-season room. The existing door to the patio will remain. The downspouts will be tied back into the existing underground system. The ground cover will remain the same with the same elevation. The building materials will match the existing home.

Mr. Kluczynski asked how the new roof would tie into the existing home. Mr. Blackmon used a photo of the existing home to illustrate the attachment and planes of the new roof. He confirmed that the existing gutters would be removed and the new gutters tied back in underground.

Mrs. Cole asked which walls of the existing house would remain and if the floor would be lower than the house. Mr. Blackmon said the back wall of the home and a side wall would remain. The door to the existing patio would remain, too. The floor in the three-season room would be 16-18 inches lower than the floor in the house.

Mr. Kluczynski asked if the existing footprint of the patio would be the footprint of the three-season room. Mr. Blackmon said yes, and he has spoken with Don Day, township building inspector, about putting the 32-inch foundation around the perimeter of the patio.

Mr. Kluczynski asked for clarification about the setback. Ms. Sarko explained that the current setback from the house is 36.67 feet. The addition will project out ten feet making the setback 26.67 feet from the rear property line.

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Mrs. Cole asked if the new room would have electric and heat. Mr. Blackmon said yes. The heat will be from a through-the-wall unit that may not be adequate in sub-zero temperatures, hence the three-season room.

Mr. Kluczynski asked if the new walls were going to be all windows. Mr. Blackmon said there would be three windows and the half-moon window, the same as are in the house now. There will be a cathedral ceiling, the existing siding will be removed and drywall installed.

Ms. Schirtzinger asked about the side yard setback. Ms. Sarko said that Woodstream is ten (10) feet.

Mr. Kluczynski asked if there would be windows on the side. Mr. Blackmon said there would be one and all the new windows would be consistent with the size of the existing windows.

Mr. Kluczynski made a motion to approve Case Number 17-VA-2018 a variance from the provisions of Section 3V3-01(D)(1) and Section 3V3-01(B) to allow the construction of an addition that is to be placed closer to the rear property line than permitted in the Woodstream Planned Residential District as shown in the application. Seconded by Mr. Dellinger. Roll Call vote: Mr. Kluczynski, yes; Mr. Dellinger, yes; Mrs. Cole, yes; Mrs. Gillette, yes; Ms. Schirtzinger, yes. Motion carried.

Case Number 18-VA-2018

An application for variance filed by Jimmy and Janet Poff for property located at 8395 Carroll-Northern Road, Carroll. This application requests a variance from the provisions of Violet Township Zoning Resolution Section 3AA4-05(A)(4) to allow the height of a detached accessory building to exceed the height of the home's highest peak or ridge.

Ms. Sarko reported this property is located on the west side of Carroll-Northern Road. Mr. and Mrs. Poff are requesting a variance to construct a 22' x 24' detached accessory building that is taller than their home. They have applied for Building and Zoning permits and it was determined that the structure will exceed the height of the home by approximately three (3) feet. Section 3AA4-05(A)(4) states the height of an accessory structure shall not exceed the height of the principle use's roof's highest peak or ridge. Mr. and Mrs. Poff were present to answer questions.

Mr. Jimmy Poff, of 8395 Carroll-Northern Road, stated that they wish to build a garage. The prefabricated garage they purchased only has an eight-foot deck and they need ten feet. By raising it two feet, it puts the height of the garage higher than the house. He said it is a nice building that will be raised on concrete block with white siding to match the house. The house shutters are all being changed and will match the green shutters on the garage. The garage will have a metal roof and three windows. The building will not have electric, as it will be used to store tractors and riding mowers. It will be placed to the southwest, rear of the house. The finished height of the garage may not be as much as three feet. He said it cannot be seen from the neighbors.

One Board member asked if it were possible, the height of the building would be more than three feet higher than the house. Mr. Poff said "No". He realized when the trusses arrived that it might be too high, so he came to Ms. Sarko for advise on a variance to be sure he didn't run into a problem after building it. He does not think it will be as much as three feet higher.

Another Board member asked why the extra height was needed. Mr. Poff explained that he needed ten feet to get his tractor in the building.

Mr. Kluczynski asked if everything else, other than the height, met the zoning code. Ms. Sarko said "yes".

One Board member asked if there was going to be electric. Mr. Poff said "No", not right now, but maybe later. The building is to be used to store riding mowers, farm tractors and wood splitters.

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Another Board member asked if three feet is going to be enough height. Mr. Poff said that he does not think it will be more than three feet, but requested that the application be changed to allow the garage to be as much as four feet higher just to be sure.

Mrs. Cole made motion to approve Case No. 18-VA-2018, a variance from the provisions of Violet Township Zoning Resolution Section 3AA4-05(A)(4) to allow the height of a detached accessory building to exceed the height of the home's highest peak or ridge by no more than four feet. Mrs. Gillette seconded the motion. Roll Call vote: Mrs. Cole, yes; Mrs. Gillette, yes; Mr. Dellinger, yes; Mr. Kluczynski, yes; Ms. Schirtzinger, yes. Motion carried.

Case Number 19-VA-2018

An application for variance filed by George and Sandy Tootle for property located at 8301 Willowbridge Place, Canal Winchester. This application requests a variance from the provisions of Violet Township Zoning Resolution Section 3AA4-05(A)(5)(b) to allow the construction of a detached accessory building which is to be located closer to the rear property line than permitted; a variance from Section 3AA4-05(A)(4) to allow the height of a detached accessory building to exceed the height of the home's highest peak or ridge; and Section 3AA4-05(A)(1) to allow the floor area of a detached accessory building to exceed the area permitted for an accessory building on a lot containing one acre or less in area

Ms. Sarko reported this property is in Jefferson Woods Subdivision and is zoned R-2, Single-Family Residential. Mr. and Mrs. Tootle are requesting a variance to erect a detached accessory building which consisted of a 16' X 40' woodshop with a 32-foot wide semi-circle gazebo on the front. The total area of the proposed structure is 1064 square feet. The home on the property contains, per the county auditor's office, 2512 square feet. It appears meets the applicable square footage requirements for lot less than one acre. The structure is proposed to be placed one (1) foot from the rear property line, 40 feet from the east property line and 50 feet from the west property line. The Zoning Resolution requires accessory buildings and structures to be located in the rear yard, at least ten (10) feet from the main building and shall not be placed closer than fifteen (15) to the rear property line.

Mr. Tootle has indicated the structure itself is one foot lower than the height of his home, but because the proposed structure has a cupola, the cupola will make the structure three (3) feet taller than his home. Mr. Tootle was present to answer questions.

Mr. George Tootle, 8301 Willowbridge Place, commented that the main gas line goes through his back yard and there is a permanent easement. During the process of replacing the gas line, the gas company needed temporary space and was granted a temporary easement. He said ten, 55'-70' tall Norway spruce trees were removed from the temporary easement area. Mr. Tootle said he wants to make his backyard usable again. He is unable to build in the permanent easement area that is why the building is near the rear property line.

One Board member asked about the size of the building. Mr. Tootle said the shop is 16'x40' and the gazebo is 32'x16'.

Mr. Dellinger asked what the distance is from the rear of the home to the permanent easement. Mr. Tootle said it was 10 feet. Mr. Dellinger asked if the temporary easement was definitely temporary. Mr. Tootle said yes, that was in the contract.

Mr. Tootle said that the building would give them some privacy and he likes to do woodworking.

Mr. Rector asked if the project needed to be approved by the homeowners association and, if so, had that been done. Mr. Tootle said that the president of the association had seen the drawings, but he and Mr. Tootle agreed that approval of the variance should be done first.

Ms. Schirtzinger asked if he was planning to put up a fence and plant. Mr. Tootle said yes, in the temporary easement area only. He is not allowed to plant anything in the permanent easement. The only thing he could do in the permanent easement would be paver bricks that could be easily

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removed in the future. Ms. Schirtzinger asked where the plantings would be if the building was so close to the rear property line. Mr. Tootle said on both sides of the building.

Ms. Schirtzinger asked Mr. Tootle why he chose to locate the building so close to the property line instead of closer to the side property line where he could move the building closer to the house. He said that, because of the access to their patio, the architect recommended the proposed location.

Mr. Kluczynski asked if there was any way the building could be moved further away from the rear property line. He said he is concerned about a setback of only one foot. Mr. Tootle said he understands the concern and could probably move the building forward to allow a 2-foot setback, but prefers the building to be at the back of property so he has more yard and does not have any issues with the gas company. The fence would come up to meet the corners of the property line.

Mr. Dellinger asked what is going to be in the one-foot space. Mr. Tootle said nothing. There are pine trees on the property behind and he would probably just use his weed eater on the narrow space. Mr. Dellinger also expressed concern about having such a small setback. He asked if the gas company has commented on the building. Mr. Tootle said they have seen the drawings and there is not a problem. He noted that the gas company had removed a tree in his yard when half the trunk infringed on the permanent easement. This experience has caused him to be very sensitive to the gas company's easement.

Ms. Sarko asked if Mr. Tootle would be willing to move the building further to the west where there is more room between the easement and the rear property line allowing him to move the building closer to the house. Mr. Tootle said he would be willing to do whatever the Board told him he needed to do. Mr. Kluczynski suggested, that Mr. Tootle situate the building at whatever location was needed to allow for a three foot rear setback and keep the building out of the permanent easement. This would allow enough room for maintenance behind the building without being on the neighboring property. Mr. Tootle said that he would like to amend his application to say that he would build no less than three (3) feet from the rear property line. He will move the building far enough to the west to make sure that he does not infringe upon the gas company easement.

Mr. Rob Bruno, 1225 N. High St, Lancaster, with Ace Fence and Deck, stated that the placement of the building centered in the yard was chosen to allow a grand entrance to the gazebo as you come out of the house. If the building is not lined up with the patio area that is planned, it takes away from the look of the building. He noted that the gas company is very strict in the use of their easement and the foundation of the gazebo would need to be considered in the building placement with regards to the easement. He thinks a two- foot rear setback would give Mr. Tootle adequate room for property maintenance and allow him peace of mind in dealing with the gas company.

One Board member asked if it would be noticeable if the building were to be moved a couple of feet to the west even though it would be 60 feet from the house. Mr. Bruno said yes, the archway on the building, as designed, is centered on the back of the house. Another Board member noted that the walkway that comes off the patio would meet up with the archway on the gazebo. Mr. Bruno said that moving it would considerably change the enjoyment and view of the building and he thinks a two- foot setback would be fair. He thinks moving the building to the west would look like the contractor had made a mistake in layout the building. Mr. Tootle showed a drawing to better illustrate the placement of the building and said, yes, he could move the building, but it would not be as good.

Mr. Kluczynski said that the Board was trying to find a compromise that would satisfy everyone. He would like to see a minimum setback of three feet. Mr. Bruno offered the suggestion of shortening the building as a way to meet the setback requirement.

Ms. Sarko asked if Mr. Tootle planned to have the property surveyed to be sure the placement was correct with regards to the gas line easement. He said "Yes". .

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Mr. Tootle said that he was willing to go with a three-foot setback. One Board member said that Mr. Tootle could adjust the placement of the building anyway he wished and he may already have enough room to center the gazebo, have a three foot setback and stay out of the gas easement. The drawings look like there is enough room, but the board does not want there to be a problem with the easement. Mr. Tootle said they would make it work at three feet and reiterated his request to amend the application.

Mr. Tootle noted that the height of the cupola was still at issue. A Board member said that at 60 feet from the house, it would hardly be noticeable. Mr. Tootle agreed and said that you would have to be 15 feet tall to see it from across the street. The cupola provides ventilation as well as adding to the aesthetics of the building. Another Board member asked if it would be three feet higher than the house and Mr. Tootle confirmed this. Ms. Schirtzinger asked if the cupola would be lighted and asked what type of light would be used. Mr. Tootle said a subtle light.

Mr. Kevin Luckhaupt, 8687 Otterbein Trail, spoke on behalf of his parents who live at 8312 Willowbridge Place, which is across the street from the property in question. He said they are completely in favor of the project. Mr. Luckhaupt's father is on the homeowners' association board and has been reviewing the plans with Mr. Tootle. He said that he does not know that any of the other neighbors, even the ones behind, have commented on the plan.

Ms. Sarko asked where the fence would be located in light of the amended application. Mr. Bruno said he would like to build the fence as close to the property line as possible. He will suggest to Mr. Tootle that the fence overlap the back of the building leaving a pass through opening so a gate is not necessary.

Mrs. Gillette made a motion to approve Case Number 19-VA-2018, an application for variance filed by George and Sandy Tootle for property located at 8301 Willowbridge Place, Canal Winchester requesting a variance from the provisions of Violet Township Zoning Resolution Section 3AA4-05(A)(5)(b) to allow the construction of a detached accessory building to be located no closer than three (3) feet to the rear property line; and a variance from Section 3AA4-05(A)(4) to allow the height of a detached accessory building to exceed the height of the home's highest peak or ridge not greater than three (3) feet. Mr. Kluczynski seconded the motion. Roll Call vote: Mrs. Gillette, yes; Mr. Kluczynski, yes; Mr. Dellinger, yes; Mrs. Cole, yes; Ms. Schirtzinger, yes. Motion carried.

Case Number 20-VA-2018

An application for variance filed by Gerald Eisner for property located at 8060 Refugee Road, Pickerington. This application requests a variance from the provisions of Violet Township Zoning Resolution Section 3AA4-05(A)(5)(b) to allow the construction of a detached accessory building at the side of the existing residence and Section 3AA4-05(A)(1) to allow the floor area of a detached accessory building to exceed the area permitted for an accessory building on a lot containing one acre or less in area.

Ms. Sarko reported this property is located on the north side of Refugee Road and is zoned R-1, Single Family Residential. Mr. Eisner owns two parcels; 8060 Refugee Road, which is a one-acre parcel that contains his home and immediately east is another one-acre parcel that he owns.

He is proposing to construct a 30' x 36' detached accessory building on the property. The proposed structure is proposed to be constructed at the side of the home, opposite the attached, side loaded garage for the home. Section 3AA4-05(A)(5)(b) requires accessory buildings, structures, and uses which are not a part of the main building must be located in the rear yard at least ten feet (10') from the main building, shall be located no closer than fifteen feet (15') of the rear lot line.

As mentioned previously, the property is divided into two parcels of one acre each. A variance is required from Section 3AA4-05(A)(1) which requires on lots of one acre or less in area, the total floor area of all accessory buildings on the property, when added together, shall not exceed fifty

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percent (50%) of the actual gross floor area of the home. Mr. Eisner was present to answer questions.

Mr. Gerald Eisner, 8060 Refugee Rd, Pickerington, said that one of the challenges he faces is that the Whiteheads who built the home placed it far back from Refugee Road. They owned about 80 acres and it was a pay-as-you go fishing business. The back yard is narrow with the house placed near the rear property line. It takes about five passes with the lawn tractor to cut the back yard. It is not deep enough to build an accessory building and maintain any kind of a back yard. The driveway is shaped like a lollypop and the plan is to put the detached building on the east side of the head of the driveway so the garage doors will line up with each other. This would allow them to use the driveway to access the two-car garage on the right or the detached garage on the left. They currently have an antique firetruck and another antique car in the attached garage. The desire is to build the detached garage to house the antique vehicles and free up space in the attached garage for the family vehicles. The detached pole barn is 36 feet from north to south and 30 feet deep. The southernmost two-thirds would be used for the antique vehicles and the northern third would house lawn equipment and daycare toys. On the west side would be an eight-foot tall, two-car garage door. The height is to accommodate the firetruck. On the east side of the building toward the north will be a seven-foot-tall door for access to the lawn equipment.

One Board member asked what the area was that should not be exceeded. Mr. Eisner said that the house is small because the Whiteheads built it before they raised their children. It is comfortable for Mr. Eisner and his wife. The home is 1680 square feet and the accessory building would be bigger than that.

Another Board member asked if the other accessories building currently on the property would be removed. Mr. Eisner said yes, both would be removed.

One Board member asked if there would be heat, air conditioning, plumbing or electric in the building. Mr. Eisner said that, as they can afford it, they will likely put electric, but no heat, air conditioning or plumbing. Mr. Eisner said the building is close enough to the house that if they need to wash something, they can run a garden hose.

Ms. Sarko explained that on the one-acre lot with a 1680 square foot house the maximum size of an accessory building would be 840 square feet. Mr. Eisner is asking for a variance because the building proposed is 1080 square feet. If the two adjoining parcels he owns were combined, he would not need a variance. Mr. Eisner stated that the second parcel is unimproved and acts as a buffer between their home and the high school. They have no plans to improve it.

One Board member asked if the setback was within zoning limits. Ms. Sarko said yes, the rear setback would be 27 feet and the side setback would be 31 feet. She confirmed that the required setback on both is 15 feet.

Mr. Eisner commented that another concern he had discussed with Ms. Sarko was the location of the water lines. The county water line comes into the back of the house and is about 15 feet from the front of the proposed pole barn.

Mrs. Gillette made a motion to approve Case Number 20-VA-2018, a variance from the provisions of Violet Township Zoning Resolution Section 3AA4-05(A)(5)(b) to allow the construction of a detached accessory building at the side of the existing residence and a variance from Section 3AA4-05(A)(1) to allow the floor area of a detached accessory building to exceed the area permitted for an accessory building on a lot containing one acre or less in area as submitted. Mr. Dellinger seconded the motion. Roll Call vote: Mrs. Gillette, yes; Mr. Dellinger, yes; Mrs. Cole, yes; Mr. Kluczynski, yes; Ms. Schirtzinger, yes. Motion carried.

Case Number 21-VA-2018

An application for variance filed by William and Stephanie Peterman for property located at 9990 Winchester Road, Canal Winchester. This application requests a variance from the provisions of Violet Township Zoning Resolution 3AA4-05(A)(2) to allow the floor area of a detached accessory

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building to exceed the area permitted for an accessory building on a lot larger than one acre in area.

Ms. Sarko reported the property located at 9990 Winchester Road contains 1.86 acres on the north side of Winchester Road, north of Diley Road. The property is zoned R-1 Single Family Residential. Mr. and Mrs. Peterman are requesting a variance in order to construct a 40'x52' pole barn on the property. The county auditor's office indicates the home was built in 1925 and contains 2628 square feet of living space. There is an existing 26'x36' detached garage on the property that appears to have been constructed in 1997 at the side of the home. The area of the proposed structure is 2080 square feet and the existing detached garage is 936 square feet for a total of 3016 square feet. As previously mentioned, on lots larger than one acre, the total area of accessories buildings when combined, cannot not exceed the total gross floor area of the principle building. Mrs. Peterman was present to answer questions.

Mrs. Stephanie Peterman, of 9990 Winchester Road, Canal Winchester, commented that the house was built in 1925 and several modifications have been made over the years prior to their purchase of the property. They have a three-car garage that is considered an accessory building because it is detached. Given the location of their propane tank, water well and septic system, they need to locate the proposed building toward the back of the property. They would like to build a 40'x52' pole barn, but since the garage is considered an accessory building, the total square footage would exceed that of the home. In the three-car garage, they store one car and use two bays for storage of other items. They have five children and would like to fully utilize the garage for vehicles. They would move the other items currently stored there to the proposed pole building.

Ms. Schirtzinger asked for clarification about the design of the building with regards to an enclosed overhang depicted in the submitted plans. Mrs. Peterman said that the overhang would not be enclosed and would be like a carport or porch. It would be a six-foot overhang that extends 24 feet along the side of the building.

One Board member asked about a building shown in photos submitted with the application. Mrs. Peterman clarified that it was a photo of a horse barn on the adjoining property to the rear and was submitted to show that their proposed building would not change the look of the neighborhood or be an eyesore. Their building would be white with a green roof that would match their house color.

Another Board member asked if the building would have a concrete floor. Mrs. Peterman said at this point it would be gravel, but they are considering concrete. He asked if there would be a driveway. Mrs. Peterman said no because of the location of obstacles in the backyard.

Mr. Dellinger asked if there would be any electric or plumbing. Mrs. Peterman said not at this time. They have considered future uses, but there will be none this year.

Mr. Dellinger asked where rain runoff would go. Mrs. Peterman said there would be gutters and downspouts that would drain into the yard to the east. He asked if all the water would drain onto the neighbors' property to the east. Mrs. Peterman said no because the neighbor's property is higher in elevation.

Mr. Dellinger asked if any part of the building would be two-story. Mrs. Peterman said no. The roof is a 4:12 pitch.

Mrs. Cole made the motion to approve Case Number 21-VA-2018, a variance from the provisions of Violet Township Zoning Resolution Section 3AA4-05(A)(2) to allow the construction of a detached accessory building on a lot larger than one acre to exceed the gross floor area of the home by no more than 532 square feet as shown on the construction drawings submitted in the application. Mr. Kluczynski seconded the motion. Roll Call vote: Mrs. Cole, yes; Mr. Kluczynski, yes; Mr. Dellinger, yes; Mrs. Gillette, yes; Ms. Schirtzinger, yes. Motion carried.

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Case Number 15-VA-2018 (continued from May 24, 2018)

An application for variance filed by Greg Grove/The Ugly Mug for property located at 9645 Basil Western Road, Canal Winchester owned by DLP Properties LLC, 1349 Poppy Hills Drive, Blacklick. This application requests a variance from the provisions of Violet Township Zoning Resolution Section 3AA4-05(A)(5)(b) to allow the construction of a detached accessory structure, which is to be placed at the side of the principal structure.

Ms. Sarko reported Mr. Groves is proposing to construct a 12'x20' outdoor bar. The structure would be placed at least ten feet from the main building. The area would be enclosed with an 8-foot tall privacy fence. The fence is a modification of the application as it was considered last month. The CEDA Land Use Committee reviewed the application on May 8, 2018 and recommended approval with the following conditions:

1. The structure is to be placed 10 feet away from the main building
2. An additional exit shall be provided;
3. The plan review verify the wind load for the structure;
4. An exit sign be placed in the area of the proposed structure;
5. Panic hardware be provided on the exit gate;
6. The roof be charcoal or black metal;
7. Roof thatching be ANSI (American National Standards Institute) rated.
8. 8 foot minimum clearance beneath the roof of the structure;
9. A variance needs to be obtained for an 8' privacy fence.

A variance needs to be approved for the eight-foot privacy fence. As previously mentioned, Section 3AA4-05(A)(5)(b) requires accessory buildings and structures be located in the rear yard at least ten feet away from the main building. The application was continued last month in order to allow Mr. Groves to try to communicate with the neighbors regarding potential noise issues.

Mr. Groves was present.

Ms. Schirtzinger noted that the members of the board at this meeting are slightly different from the members present at the last meeting. Mr. Groves said he had no issue with that. It was noted that Ms. Schirtzinger had made a disclaimer at the last meeting that she had patronized the business subject of the application in the past and no one had an objection.

Mr. Greg Groves, of 6600 Brick Court, Canal Winchester, OH 43110, addressed the Board about his proposal to address potential noise complaints from the neighbors. He would like to add a double-sided, eight-foot-tall privacy fence to the request. It would be located along the front of the patio (north side). He said that his business declines in the summer months and the patrons have said they want to be outside during the warm weather. One request from patrons was to have something on the patio and they would like to have live music. In the past, the entertainers have performed facing the neighbors across the street. The new plan is to have them face the rear, toward U.S. 33. Mr. Groves believes that the proposed privacy fence will block most of the sound. Along with the privacy fence, he would like to install an outdoor weather sound barrier matting inside the fence that is made to reduce the amount of airborne sound. He would also plant shrubs outside the fence. The current wrought iron fence does not provide any type of sound barrier. He said that even though he and his mother - his business partner, monitor the sound level from off the property - they received another citation. He thinks that the new fence should help tremendously. The new fence would be stained a gray color to match the existing building.

Mrs. Cole asked how the sound barrier would be installed. Mr. Groves said the 3.2mm rubber matting would be stapled inside the fence. She asked if the privacy fence would be installed around the tiki bar and questioned the number of openings. Mr. Groves said that the new eight-foot-tall privacy fence would face Basil-Western Road and the existing six-foot-tall wrought iron fence would remain to enclose the rest around the tiki bar. There would be two openings, one toward the rear parking lot.

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Ms. Sarko asked if the fence around the tiki bar would have sound proofing, too. Mr. Groves said no, they did not feel the need for it in the back and confirmed that the sound barrier was only in the fence along Basil-Western Road.

Mr. Dellinger asked if Mr. Groves had talked to the manufacturer of the Peacemaker sound barrier and if it could be used outside. Mr. Groves said no, but he had read up on it. It is a product made from recycled tires and is waterproof.

Mrs. Cole asked if Mr. Groves had reached out to any of the neighbors to discuss his proposal. He said "No". She asked if there was a reason for that. Mr. Groves said that he was a little intimidated. The neighbors are not mean to him, but they have made it clear that they did not like his business from the beginning and do not think he is trying to cooperate even though he thinks he is doing everything he can. Everything he has is invested in this business and he is just trying to make it work. Ms. Schirtzinger asked if he was advised by legal counsel not to communicate with the neighbors. Mr. Groves said that due to a previous letter, he had received threatening a lawsuit if the noise was not controlled; he was advised to communicate through his attorneys.

Mr. Dellinger asked if the trees would be installed at the same time as the fence. Mr. Groves said "Yes". He asked how tall the trees would be. Mr. Groves said that they would be smaller than the picture shown when planted and would probably be around six feet tall.

Mr. Dellinger asked if the tiki bar was just going to be a bar. Mr. Groves said yes, the tiki bar would just be a bar area and confirmed that any entertainment would be moved to help alleviate the noise problem.

Mr. Dellinger asked if there would be any special parties with outdoor grills. Mr. Groves said no, and said it has been a nightmare getting out from under the shadow of the previous nightclub that was in this location. He wanted a bar and grill with Ohio State games and classic rock and country music on the weekends and said for the most part, they have done that. They are attracting an older crowd, most over age 50, rather than the younger crowd that brings the wrong atmosphere. He confirmed that the outdoor area is just a bar area; they will bring food out to the picnic tables like they do now, but there will not be big outdoor grills.

Mr. Kluczynski asked if Mr. Groves or the manager had a meter to measure the noise level. Mr. Groves said he has an application of his phone to measure that. He has tried to get the township to give them a specific decibel level that would be considered acceptable, but the issue is the traffic noise on U.S. 33 is already higher than the acceptable level. It does not matter what time of day; there is always traffic on U.S. 33. He went outside his business when the music was playing to test the noise level and it registered about that of a library.

Mr. Kluczynski asked if there had been any noise complaints since the last meeting. Mr. Groves said yes, just two weeks ago. They had music outside, just one guitar player, when they saw a sheriff's deputy across the street. They went out to see if the music was too loud, and had to wait for the traffic to slow down on U.S. 33 and for people to stop talking before they could hear the music at the edge of their property. In the past, deputies had told him to keep doing business as he was while monitoring the noise level and if there was a complaint, the deputies would let him know so he could reduce the sound. If he did not reduce the noise after the warning, they would give him a citation. On June 7, he waited outside for the deputy to let him know if the sound was too loud, but instead of getting a warning first, he received a citation immediately.

One Board member asked if this was the first citation he had received. Mr. Groves said no, this is the second in four years. He received the first one in September 2017.

He was asked how the deputy determines the noise level. Mr. Groves said it is by ear. He noted that at the bar, they try to keep the sound at a level where people can talk, and outside they try to keep it to a level where you cannot hear it at the property line.

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Mr. Dellinger asked if there is a difference in the noise depending on weather conditions. Mr. Groves said yes, the wind makes a difference and if it is raining, you cannot hear anything. It was noted that if the wind conditions were right, the neighbors might be hearing more than Mr. Groves thinks. Mr. Groves said that is definitely a possibility.

He was asked if there was a musician playing outside when he received the citation June 7 and if so, which direction was he facing. Mr. Groves said yes, there was a guitar player that night and he was facing toward U.S. 33 because he was already trying to take steps to address the noise issue, however, there was no sound barrier along Basil-Western Road. He has hired deputies to be at the bar when there is outdoor music and asked their opinion of the sound level. The deputies have never said that it was too loud.

One Board member commented that request for variance was for an accessory structure beside the principle structure and the neighbors brought up the issue of the noise level. He noted that the Board should focus on what the variance was requesting.

Mrs. Sonya Poff, 9632 Basil-Western Road, , said that they received a letter from Mr. Groves on March 5, 2018 stating that he was willing to abstain from having the truck and motorcycle events out of respect to the neighbors and although he would not advertise for them, he could not guarantee the patrons would not show up. Mrs. Poff presented an advertisement for bike night every Thursday night. She said since he has not abided by the letter he sent stating that he wants to be a good neighbor, she does not trust that he will do what he needs to do for the fence. She does not have a problem with the tiki bar, but she does not want him to have music outdoors. She said that the day of the noise citation, June 7, the deputy was standing on her porch when a train was going by on the other side of U.S. 33 and he could still hear the music over the train. She said that is why they got a ticket. If the music was facing toward U.S. 33, then that did not help with the noise level and the noise was still going to come through the wrought iron fence.

She said that her research on the internet indicated that there needs to be a thicker sound barrier so the sound is absorbed, not bounced off, and the rubber Peacemaker sound barrier isn't very thick. If the fence were going to be double-sided, she thinks the sound barrier inside would need to be thicker because the fence is thicker. She noted that the rubber Peacemaker sound barrier is used indoors.

She said she has kept a log of when the music was too loud, but acknowledged that she had not called to report it. She noted that Mr. Groves said that he does not have special events, yet he had a birthday party and a 4x4-truck event and is still advertising to get motorcycles to come. She asked how the neighbors could trust that he will put in a sound barrier fence so they do not hear the noise. She noted that in an advertisement for one of the bands it said that it would be a "high-energy band...with thumping beats". The "thumping beats" is what she hears at her house. All she is asking is to live peacefully in her home; not to play the music loud outdoors or indoors; respect her rights as a neighbor and property owner; and see to it that her right to peaceful enjoyment of the property is respected. She commented that when the Board members go home at night they want to have a good night's rest and would be offended if their neighbor was playing thumping beats that would disrupt their sleep. This conduct is disrespectful to her and is impacting her ability to live in her home peacefully. Mrs. Poff submitted a copy of the letter she received from Mr. Groves and a copy of the band advertisement.

Ms. Schirtzinger entered Exhibit "A", five pages from Mr. Groves into the record as well as Exhibit "B", which are 4 pages from Sonya Poff.

Mrs. Poff commented that, with regard to the decibel meter, the deputies do not use it because it is very expensive to recalibrate. If it were used, it would not hold up in court because it would be checked for its last recalibration. As for the noise level registering at the level of a library, she said the deputies told her the noise from U.S. 33 is louder, but the noise was probably about 70 decibels, which is more than a library.

A Board member asked if the noise from U.S. 33 affects them on days when there are not bands across the street. She said no, the cars are more of a constant hum, not a thumping bass noise

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like comes from the band. She plans to begin calling the Sheriff's Office to report when it is too loud instead of just keeping a log. If the deputies can hear the music while standing on her front porch, which is more than fifty feet from the property line, that is what is in the noise control resolution and they will get a ticket.

Ms. Schirtzinger asked Mrs. Poff if she had seen the applicant's Exhibit "A". She said yes. Mr. Groves was offered the chance to review the Exhibit submitted by Mrs. Poff.

Ms. Michele Poff, 9704 Basil-Western Road, commented that the noise is a problem and she has to take a sleeping pill to get to sleep. Thursday night is louder, and if there is anything more than that, it will be out of control. She thinks there is enough going on across the street without bringing it outside. She has children and they are all trying to sleep.

Mrs. Gillette asked what it was that happens on Thursday nights. Mr. Groves said that he has a bike night on Thursdays and that is when he usually has the singers on the patio. Mrs. Poff said the motorcycles revving are also a problem and cannot imagine what it would be like if there was noise like that every night of the week.

Mr. Robert Poff, of 9704 Basil-Western Rd, said he has been dealing with this problem since 2002 and it has been a roller coaster ride. He said he has three fans running to drown out the noise because he gets up at 2:00 a.m. to go to work. He just wants to live peacefully and does not need any more music. He can hear it when the music is indoors and does not think that adding a privacy fence outside will make it quiet.

Michele Poff, said that the wrought iron fence along the side does not help with the noise coming toward her house and she does not want to hear it. Mrs. Gillette asked for clarification about the relationship of Mrs. Poff's house to the bar and how far the house is from the road. Mrs. Poff confirmed that she lives next door to Mark and Sonya Poff and said the house is 80 feet from the road, across from Diley Road Animal Hospital. The whole Thursday night thing is bad and she does not think they need more going on with music outside.

Mrs. Sonya Poff, commented that the double-sided privacy fence in front would not block sound to the side that affects Michele and Robert Poff's house. She asked if Mr. Groves could be required to have the double-sided fence around the side, also. She also requested that Mr. Groves be required to install a thicker type of the Peacemaker sound barrier. Mr. Groves pointed out that the thicker product was for under floors and the 3.2mm thickness was better for deadening sound in walls. Mrs. Poff said that she had found a very thick sound barrier wall on the internet and is hoping that Mr. Groves will do what he says he is going to do to be a good neighbor.

One Board member asked if the Poff's bought their house before or after the bar establishment was there. Mr. Poff said he built the house in 1988 when there was a pond across the road, long before there was a building there.

Mr. Groves said that he has tried many different things to get customers to his business including indoor corn hole during the winter and karaoke. The Thursday bike night is one of the only things that has really stuck and brought customers out. They have had a few good Fridays and Saturdays where it may appear they are making money, but the Poff's don't see the rest of the week when they have a building that will hold 320 people and there are only 7 customers inside. The monthly costs are about \$65,000, and they are going to fall way short of that this month. They are cutting back wherever they can to make ends meet. In regard to his letter stating that he would get rid of bike night, he said he would promise to get rid of bike night if they could come to an agreement on a decibel level that might be acceptable on Friday and Saturdays. He makes about 70% of his income on Friday and Saturday between 8:00 p.m. and 12:00 a.m. Mr. Groves noted that when he spoke to Deputy Churchill, he was advised that he was not liable for the motorcycles. He also noted that the Poff's did not get back to him about trying to figure something out about Friday and Saturdays. He is just trying to do everything he possibly can to get more business. He wants the Poff's to be able to live peacefully and is more than willing to meet with any of them to come to a mutual understanding of what is acceptable and what is not. He does not know what they are hearing in their houses and he is not sure about the term "plainly audible" in the noise resolution. When he goes to the edge of his

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property, he does not think it is very loud and some of the deputies have thought it was OK as well. He has had over 1000 shows in four years with only two citations so he thinks he can make it work. He would love to sit down with the neighbors to come up with an acceptable decibel reading. He has invested in a new sound system inside and insulated the windows with soundproofing. He said he is willing to spend thousands more on the patio, which will not happen this year because it is too far into the season to justify the expense. He cannot afford to do it without enough outdoor season left to recoup his investment. He has already invested quite a bit in architect fees and the costs to file for a variance. He has a ten-year lease with an option after five years to buy, continue to lease or leave. Because of the issues with the noise, they may decide to leave and find another location.

Ms. Schirtzinger asked if Mr. Groves had a chance to review the exhibit submitted by Sonya Poff. He said yes, and explained that in regard to the advertising on bike night, he goes to the band's webpage and uses their description of their music. It does not matter what type of music the bank is playing, they try to keep the level of the bass the same.

Mr. Dellinger asked if there are other neighbors in the area who can hear the music. Mr. Groves said that there may be one about 400 yards down the road but agreed that they could not hear anything.

Mr. Kluczynski made the motion to go into private deliberations at 11:00 p.m. Mr. Dellinger seconded the motion. Roll call vote: all ayes.

The Board returned from private deliberations at 11: 18 p.m.

Ms. Schirtzinger asked if anyone in the audience had further comments. Hearing no further comments, Mrs. Gillette made a motion to close this matter. Mrs. Cole seconded the motion. Roll Call vote: Mrs. Gillette, yes; Mrs. Cole, yes; Mr. Dellinger, yes; Mr. Kluczynski, yes; Ms. Schirtzinger, yes. Matter is closed.

Ms. Gillette advised the applicant that the Board would take the material submitted tonight and previously into consideration and a written decision would be forthcoming.

Ms. Sarko asked when she could tell the Poff's and Mr. Groves a decision could be expected. Ms. Huber said that Ms. Sarko could advise interested parties by phone or email about the possibility of a decision.

Ms. Gillette asked what the township usage of the Wigwam was going to be. Ms. Sarko advised that the township offices would be moved there. She said the banquet facility would remain and would be available for rent. The theater on the property will remain and would be used for performing arts groups and large public hearings. She said the front portion of the property would be used for open space and walking trails and the back portion will be transferred to the Port Authority. The Port Authority could sell that portion for commercial uses to offset the cost. One Board member inquired about the operation of banquet facilities. Ms. Sarko said she did not know the management aspects of the banquet facility.

Mr. Kluczynski made a motion to adjourn at 11:25 p.m. Mr. Dellinger seconded the motion. Roll call vote: All ayes. Meeting adjourned.

Respectfully submitted,

Donald Rector, Secretary

Cathy Schirtzinger, Chair

Date: _____