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2 OLMSTED TOWNSHIP BOARD OF ZONING APPEALS  
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6  
7 ON WEDNESDAY, JANUARY 15, 2025,  
8 COMMENCING AT 6:25 P.M.  
9  
10 - - - -

11 BOARD MEMBERS: DAVID GAREAU  
12 ROBERTO PEREZ  
13 MARY VEDDA  
14 CINDY KELLY

15 ALSO PRESENT: JUSTIN REED  
16 JEFF JEROME  
17 - - - -

18 COURT REPORTER: CHARLES ARDERY  
19 - - - -

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25

1 that Jeff Jerome --  
2 MS. VEDDA: Is here?  
3 MR. JEROME: -- the Township  
4 Administrator and Justin Reed, Building  
5 Official is here.  
6 MS. VEDDA: Okay.  
7 MR. GAREAU: Thank you. I will  
8 place the December 18th, 2024 meeting  
9 minutes on the table for approval.  
10 MS. VEDDA: So moved.  
11 MR. GAREAU: All right. And do we  
12 have a second?  
13 MS. KELLY: Second.  
14 MR. GAREAU: All right. So I made  
15 the motion and she -- there you go. You're  
16 fine.  
17 MS. VEDDA: I'm trying to just --  
18 okay. Wait a minute.  
19 MR. GAREAU: Take your time.  
20 I made the motion --  
21 MR. GAREAU: Cindy --  
22 MS. VEDDA: And she seconded.  
23 MR. GAREAU: All right.  
24 MS. VEDDA: All in favor?  
25 Me, yes.

1 MR. GAREAU: It is January 15th,  
2 2025, meeting of the Olmsted Township  
3 Building and Zoning Board of Appeals. It  
4 is 6:26.

5 Can we please all stand for the  
6 Pledge of Allegiance.  
7 - - - -

8 (Thereupon, all stood for the Pledge of  
9 Allegiance.)  
10 - - - -

11 MR. GAREAU: Thank you.  
12 MS. VEDDA: I'll call the roll.

13 Mary Vedda? Here.  
14 John Phillips? He's not here.

15 Cindy Kelly?

16 MS. KELLY: Here.

17 MS. VEDDA: David Gareau?

18 MR. GAREAU: Here.

19 MS. VEDDA: Roberto Perez?

20 MR. PEREZ: Here.

21 MS. VEDDA: I also see something  
22 on your thing that says additional people  
23 present. Am I supposed to --

24 MR. JEROME: That's if there's  
25 anyone additional. I mean, you can state

1 Cindy Kelly?  
2 MS. KELLY: Yes.  
3 MS. VEDDA: Dave Gareau?  
4 MR. GAREAU: Yes.  
5 MS. VEDDA: Roberto Perez?  
6 MR. PEREZ: Yes.  
7 MR. GAREAU: Okay. Thank you.  
8 The minutes of the December 18th,  
9 2024 meeting of the BZA are approved.  
10 All right, folks, my name is David  
11 Gareau. I am the Chair of BZA. I want to  
12 welcome you tonight. I do apologize for  
13 that mix up. I feel horrified, very  
14 embarrassed about that. We had them at  
15 7:00 all the time, we moved it to 6:00, and  
16 I had it on my calendar for 7:00.  
17 Okay. For all business before the  
18 Board, each Board Member is familiar with  
19 the property involved in each case. Each  
20 case will be judged on the physical  
21 situation peculiar to itself. So that in  
22 no way is a judgment rendered considered to  
23 be a general policy affecting all  
24 properties and situations elsewhere in the  
25 Township. Each case is decided on its own

1 merits. Three votes are required for  
 2 approval. You will notice that we are  
 3 missing one member of the Board tonight.  
 4 You would require, therefore still three  
 5 votes for approval. A two-to-two tie would  
 6 mean that the motion or the matter does not  
 7 pass.

8         If either one of the two of you  
 9 wishing to ask for a continuance until the  
 10 next meeting, until we have a full panel,  
 11 you feel free to do so, we'll be happy to  
 12 grant you a continuance until the next  
 13 meeting if you'd like to have five people  
 14 on the Board instead of four, okay?

15         Meeting procedure: Cases are  
 16 called in the order they appear on the  
 17 Agenda. When your case is called, please  
 18 come to the podium and give your name,  
 19 including spelling and your address. And I  
 20 will swear you in before you speak. And  
 21 that goes for -- I'm not sure if all three  
 22 of you are eventually going to speak, but  
 23 anybody wishing to speak must be sworn in.

24         And with that, we have -- as a  
 25 matter of old business, we have an

6  
 1 application to reconsider made by the  
 2 Redwood Apartment Neighborhood and  
 3 Patricia -- I forgot your --  
 4         MS. RAKOCI: "Rakoci".  
 5         MR. GAREAU: Rakoci. Thank you.  
 6 That is Application No. 24OLMT-ZBA002. And  
 7 just as a matter of procedure, we will --  
 8 we have to first decide whether we are  
 9 going to reconsider, and then once we've  
 10 made that decision, if the answer is yes,  
 11 then we'll have you re-present whatever  
 12 additional information you'd like, okay?  
 13 So this is a two-step process, all right?

14         So on the motion to reconsider,  
 15 you may come forward and address the Board  
 16 as to why we should reconsider. And again,  
 17 this is not on the merits, it's just should  
 18 we reconsider?

19         MR. SLAGTER: Good evening. My  
 20 name is John Slagter. It's S-L-A-G-T-E-R.  
 21 My address is 950 Main Avenue, Cleveland,  
 22 Ohio. And --

23         MS. RAKOCI: Patricia Rakoci,  
 24 R-A-K-O-C-I, 7007 East Pleasant Valley,  
 25 Independence, Ohio.

1             MR. GAREAU: Okay. And if each of  
 2 you could raise your hand, please. Do both  
 3 of you swear to tell the truth, the whole  
 4 truth, and nothing but the truth?

5             MR. SLAGTER: I do.

6             MS. RAKOCI: I do.

7             MR. GAREAU: Okay. Thank you. So  
 8 you may proceed on the question of the  
 9 motion to reconsider.

10             MR. SLAGTER: Yes. First of all,  
 11 thank you for your time this evening, and  
 12 also placing us on the Agenda for  
 13 reconsideration. And we recognize that --  
 14 first of all, introduce myself. I'm legal  
 15 counsel for Redwood Living. I've actually  
 16 represented Redwood probably for the last  
 17 20 years, and my area of practice is  
 18 primarily land use zoning law. I've  
 19 represented and acted as special counsel  
 20 for townships in addition to other  
 21 governmental entities and many developers  
 22 or otherwise.

23             And I understand that this is not  
 24 a request you would normally get, but you  
 25 do have inherent authority to reconsider

1 the decisions that you have made.  
 2 From our perspective, you know, this case  
 3 involves some unique circumstances. And  
 4 specifically, you know, this is a case in  
 5 which we had gone through a rezoning for  
 6 this particular property -- and I do  
 7 understand that zoning doesn't approve of a  
 8 particular use, but clearly this rezoning  
 9 was requested by us.

10             The type of use was known at the  
 11 time the rezoning occurred, and we received  
 12 approval by the Township to rezone this  
 13 parcel to multifamily apartment. And as a  
 14 result of that, that's just one  
 15 consideration we think is important. You  
 16 may be well aware of that.

17             In particular, you know, our  
 18 concerns as to reconsideration are there's  
 19 multiple issues we wanted to raise. You  
 20 know, one of them just is, as a matter of  
 21 course, your zoning application identifies  
 22 what are known as the "Duncan Factors" for  
 23 that need to be complied with. There's  
 24 actually seven of them that are listed in  
 25 the application. Your zoning, however, has

1 nine different factors that are similar,  
 2 but they're slightly different. There are  
 3 really two different standards that are  
 4 there. We would like the opportunity to  
 5 review and run through both of those, so we  
 6 have an opportunity to present a record  
 7 under both of those.

8 I mean, there is some confusion  
 9 within your Code and on your application of  
 10 those two different standards that seem to  
 11 be there. Many communities have or follow  
 12 what are known as the "Duncan Factors",  
 13 which are based on a case out of the cases  
 14 Duncan versus Middlefield out of Geauga  
 15 County, but those factors are mutually  
 16 exclusive, they're not -- you don't have to  
 17 prove all of them, it's a balancing test.  
 18 But your Code actually has nine factors as  
 19 opposed to seven, which is a little  
 20 unusual, not unheard of though.

21 And I think the fact that you have  
 22 both an application and you have a Code  
 23 that has different sets of standards, we  
 24 want to ensure that consideration is made  
 25 of all those issues. We do have the right

1 to appeal this under 2506 and just want to  
 2 make sure we have a clear record what  
 3 standards were followed before a decision  
 4 is rendered. And we would like the  
 5 opportunity to run through both as -- both  
 6 of those sets of standards.

7 Second is -- and we recognize that  
 8 under the Ohio Sunshine Law, public bodies  
 9 are typically required to deliberate or  
 10 make their decisions, and their  
 11 deliberations are supposed to be public.

12 This was a hearing on our  
 13 particular matter, and we recognize that --  
 14 sorry about that, turn that off -- but we  
 15 do recognize that there are exceptions  
 16 typically for public bodies to go into  
 17 quote "executive session", there's a  
 18 listing of those items.

19 Quasi-judicial entities, which you  
 20 were acting under that authority, there is  
 21 some case law that supports that and allows  
 22 you to deliberate in private, however,  
 23 there's been a recent Supreme Court case  
 24 that just came out this year -- or late  
 25 last year, that calls into question, even

1 for quasi-judicial entities, to deliberate  
 2 privately.

3 So to the extent, and we realize  
 4 that happened here, you know, we would  
 5 raise an objection for the record to the  
 6 fact that the deliberations occurred  
 7 privately. We just think of -- as a matter  
 8 of justice, you know, this is unlike an  
 9 actual court -- and we understand you're  
 10 quasi-judicial in nature, but not purely  
 11 judicial.

12 And so that question of whether  
 13 BZA can do it hasn't been answered by the  
 14 Supreme Court, but it has been answered in  
 15 other quasi-judicial cases where they found  
 16 it was inappropriate.

17 So we just wanted to raise that  
 18 objection for the record. And to the  
 19 extent, my understanding is my client was  
 20 requesting specifications on, you know,  
 21 what exactly were the issues that might  
 22 have driven the decision. And as we sit  
 23 here today, we don't know that.

24 We worked with the community and  
 25 your Township Trustees to have the zoning

1 changed. We have an existing community in  
 2 this Township. We think that we provide,  
 3 you know, a, you know, much needed housing  
 4 option in this community -- even though I  
 5 know you have substantial diversity of  
 6 housing here, but to provide this type of  
 7 option. And this product has evolved over  
 8 time from when I first started representing  
 9 Redwood to the type of product and the  
 10 quality now, there's substantial changes in  
 11 that.

12 And so we want to be part of the  
 13 community. We would hope for these reasons  
 14 you at least consider these factors and,  
 15 you know, just that would -- you know, and  
 16 hopefully approve of this matter, so we can  
 17 move forward with the project.

18 We've invested significant time,  
 19 money and would like to be, you know,  
 20 welcomed by the community, so again, we  
 21 would ask for reconsideration of this  
 22 matter.

23 Again, depending on your decision  
 24 we do have a presentation that we would go  
 25 through the factors as I discussed.

1 MR. GAREAU: Do you have a site  
2 for the case that --  
3 MR. SLAGTER: I do. It may take  
4 me a second to find it.  
5 MR. GAREAU: That's fine. We do  
6 have an opinion from legal counsel that --  
7 MR. SLAGTER: Excuse me?  
8 MR. GAREAU: We do have an opinion  
9 from legal counsel that it's appropriate to  
10 go into private deliberation.  
11 MR. SLAGTER: Right. You know,  
12 it's unu -- I've seen it.  
13 MR. GAREAU: With respect to --  
14 yeah.  
15 MR. SLAGTER: So it happened to me  
16 in North Olmsted, actually, I believe on a  
17 carwash or something. And it's happened  
18 over the years, I've seen it, I've actually  
19 researched it, I always thought it was  
20 unusual, and recently Supreme Court came  
21 out and kind of questioned it and said,  
22 actually, in that type of case, it was --  
23 that was more of a discipline of a police  
24 officer -- still quasi-judicial  
25 administrative -- but they did not allow

1 MS. VEDDA: Dave?  
2 MR. GAREAU: Yes.  
3 MS. VEDDA: Roberto?  
4 MR. PEREZ: Yes.  
5 MR. GAREAU: All right. We will  
6 go into private deliberations at 6:40 on  
7 the question only of the motion to  
8 reconsider.  
9 - - - -  
10 (Thereupon, BZA went into private deliberations.)  
11 - - - -  
12 MR. GAREAU: Let record reflect  
13 we're back at 6:52 from private  
14 deliberation on the motion to reconsider --  
15 or application to reconsider -- pardon  
16 me -- I will make a motion that that  
17 application to reconsider be approved.  
18 MS. KELLY: I second.  
19 MS. VEDDA: Voting on the motion  
20 to approve. Dave?  
21 MR. GAREAU: So on the motion to  
22 reconsider.  
23 MS. VEDDA: I'm sorry --  
24 MR. GAREAU: Uh-huh.  
25 MS. VEDDA: -- voting on the

1 that exception to happen. And again, we  
2 think that would also apply here. It  
3 hasn't been decided by the Supreme Court.  
4 And so -- and that's -- I'm sure  
5 subsequent to the legal opinion, maybe it  
6 was, maybe not, but, you know, I think it's  
7 relevant. I can -- sorry about this --  
8 MR. GAREAU: Uh-huh.  
9 MR. SLAGTER: -- it's the  
10 B-A-R-G-A versus Village Council of St.  
11 Paris, 24 -- or 2024 Ohio 5293, so that  
12 should get you there. I can actually even  
13 forward the case. I just -- I'm looking at  
14 the memo, but I saw the case earlier.  
15 MR. GAREAU: Okay.  
16 Notwithstanding your objection, I'm going  
17 to make a motion that we go into private  
18 deliberation.  
19 MR. PEREZ: Second.  
20 MR. GAREAU: Please call the roll  
21 on the motion.  
22 MS. VEDDA: Okay. Mary Vedda?  
23 Yes.  
24 Cindy?  
25 MS. KELLY: Yes.

1 motion to reconsider.  
2 Mary Vedda? Yes.  
3 Cindy Kelly?  
4 MS. KELLY: Yes.  
5 MS. VEDDA: Dave?  
6 MR. GAREAU: No.  
7 MS. VEDDA: Roberto?  
8 MR. PEREZ: Yes.  
9 MR. GAREAU: Motion passes three  
10 to one. So the motion to reconsider has  
11 been granted. On the merits of your  
12 application you may be heard.  
13 MR. SLAGTER: Good evening. This  
14 is John Slagter. I'm legal counsel to  
15 Redwood Living, the Applicant. We are  
16 under contract to acquire the property.  
17 That is the basis of our application. I'm  
18 here this evening with Pat Rakoci, and  
19 we're both under oath to present the basis  
20 for why we believe the variances are  
21 appropriate.  
22 And as I indicated in my  
23 introduction -- and, first of all, thank  
24 you for at least giving us the opportunity  
25 to have this matter reconsidered, it's an

1 important project for my client, and we  
 2 believe also for the Township.  
 3 There are different standards that  
 4 are set forth in your Code and your  
 5 application, but I'll run through those. A  
 6 lot of them are very similar language, but  
 7 I'll kind of run from both and kind of  
 8 address each point.  
 9 First of all, under the Code one  
 10 of the standards identified that's not  
 11 necessarily in the standards for under the  
 12 Duncan or in your application, is whether  
 13 the special conditions and circumstances  
 14 exist which are peculiar to the land or  
 15 structure involved and which are not  
 16 applicable generally to other lands or  
 17 structures in the same zoning district.  
 18 Examples of such special conditions or  
 19 circumstances are exceptional regularity,  
 20 narrowness, shallowness, steepness of the  
 21 lot, or adjacency to nonconforming and in  
 22 harmonious uses, structures, or conditions.  
 23 And in particular, I know that in the  
 24 application during the prior meeting, there  
 25 might be some issues that were addressed

1 here, but just to go through the property  
 2 for you -- and again, my client can confirm  
 3 and I'll have her walk through and just  
 4 confirm what I provide to you. Because  
 5 I've done some of this analysis myself, but  
 6 also a lot of this has been communicated  
 7 with me from my client.

8 First of all, this parcel of  
 9 property is a 16-acre parcel property that  
 10 has been historically identified and zoned  
 11 as "light industrial" zoning. In  
 12 particular, it's on the border of North  
 13 Ridgeville, and it also borders on an  
 14 active railroad track. Both of those  
 15 circumstances are, you know, create some  
 16 uniqueness to this property.

17 You do look at external and  
 18 adjacent uses. It's next to our client's  
 19 business, which is the ice manufacturing  
 20 business, and we obviously worked with them  
 21 and they feel that we would be a good  
 22 neighbor to them, this type of project.  
 23 Also directly adjacent to this is another  
 24 Redwood project in North Ridgeville which  
 25 provides an opportunity for having joint

1 management or otherwise, but from a zoning  
 2 perspective, it provides some consistency  
 3 in use. Even though it's outside the  
 4 jurisdiction, there still is consistency of  
 5 use.

6 We believe this provides also a  
 7 nice transition from the multifamily  
 8 zoning, which has just been approved for  
 9 this site, applied for by our developer and  
 10 approved by the trustees unanimously,  
 11 correct?

12 MS. RAKOCI: Uh-huh, correct.

13 MR. SLAGTER: But it provides nice  
 14 transition to the zoning directly across  
 15 the street, which is single, which is  
 16 residential zoning. The rest of the  
 17 property is surrounded by light industrial.  
 18 So those are some unique  
 19 characteristics that if you look around the  
 20 overall -- the different zones in your  
 21 community, and overall, these are some  
 22 unique characteristics of the property and  
 23 are typically characteristics that would be  
 24 considered when a developer or planner is  
 25 looking at property. We believe having

1 consistent type of -- this type of  
 2 apartment and density is good.

3 What we wanted to note also is  
 4 that the zoning that was approved, the  
 5 multifamily allows 12 units per acre. Your  
 6 multifamily apartment zoning allows 12  
 7 units an acre. So we could have almost 200  
 8 units -- there are actually 192, if my math  
 9 is correct, and we are proposing a total  
 10 of, I think it's --

11 MS. RAKOCI: 93.

12 MR. SLAGTER: 93, and that's what  
 13 we would be at. And that -- so one from a  
 14 density perspective, your zoning indicates  
 15 that you could have much more dense, we're  
 16 less than I think 50% of that density,  
 17 which to the extent I know that someone  
 18 raised a concern about traffic at the last  
 19 meeting, I mean, the density here is half  
 20 of what's permitted, actually less than  
 21 half.

22 Second of all, you know, we  
 23 believe in looking at the zoning. They  
 24 don't distinguish between the types of  
 25 buildings that are going to be built on the

1 property. And so, you know -- and the  
 2 Redwood product is a unique product, it's  
 3 been around for some time, and there are  
 4 actually many other developers now that are  
 5 trying to build the same type of product  
 6 because there's a large demand for it.

7 It is unlike a typical apartment  
 8 that you would see multi-story, two or  
 9 three stories high. It is a single story  
 10 typically, Pat, so these are all  
 11 single-story low profile?

12 MS. RAKOCI: Yes. Uh-huh. Yes.

13 MR. SLAGTER: Some build in two  
 14 stories, but we're not doing that --

15 MS. RAKOCI: No.

16 MR. SLAGTER: -- on this site at  
 17 all.

18 MS. RAKOCI: One story.

19 MR. SLAGTER: Okay. Just to be  
 20 clear, because I've seen some other  
 21 products that are out there, but what's  
 22 important to note is, you know, the spatial  
 23 distance between these buildings where you  
 24 have a two- or three-story building and  
 25 require a certain distance. The need to

1 have that separation is much less than you  
 2 have a single-story product.

3 So we would agree as a condition  
 4 to approval to make sure that what gets  
 5 built there, so you don't approve these  
 6 variances and all of a sudden we have a  
 7 three-story building there. We would agree  
 8 as a condition to approval to have it the  
 9 typical Redwood single story.

10 And so again, when you're looking  
 11 at some of the factors here to consider,  
 12 you know, one of them is the type of  
 13 building that we plan on building. This  
 14 variance will be then to the extent you  
 15 grant that condition; it would be unique to  
 16 us. And you do have the authority to do  
 17 that.

18 Second -- and I don't know Ms.  
 19 Rakoci, why don't you again, state your  
 20 name for the record, some of your  
 21 background, kind of confirm what I  
 22 indicated was correct, and I don't know if  
 23 you want add anything about the uniqueness  
 24 of the property.

25 MS. RAKOCI: Okay. Again, I'm

1 Patricia Rakoci with Redwood. I've been  
 2 with Redwood doing Redwood Neighborhoods  
 3 for 20 years. And what we build I'm very  
 4 proud of, and we are a niche in the market.

5 We have a property, as you all I  
 6 know you know on Cook Road. We got that  
 7 approved in 2005. I know each use or each  
 8 variance is on its own merit. I understand  
 9 that. However, I do have a letter from the  
 10 BZA that was done in 2005 that gave pretty  
 11 much the same setbacks that we're  
 12 requesting now.

13 Again, I understand everything's  
 14 done on merit, but I will tell you that in  
 15 2005, we got those variances. I personally  
 16 was not here to do that, Dave Conwell was,  
 17 but we got the variances. And the type of  
 18 variances we're requesting now are pretty  
 19 much the same as we were granted in 2005.

20 I will also say that on Cook Road,  
 21 which was 20 years ago, when you drive  
 22 through it, you can see that our standards  
 23 and the way we maintain our property is  
 24 excellent. If you go through the property  
 25 right next to us in North Ridgeville and

1 you drove through those -- and those I got  
 2 approved starting I think in twenty -- oh,  
 3 I don't want to misspeak here, maybe 2013,  
 4 and then we had three phases. And again,  
 5 those are 100% leased out with at many  
 6 times a waiting list.

7 I feel very strongly that we've  
 8 worked well with Olmsted Township over the  
 9 years. And based off of your Comprehensive  
 10 Plan you want to have diverse housing, and  
 11 I believe -- and I'm probably biased -- but  
 12 I believe that Redwood brings that to your  
 13 Township. And we would very much like to  
 14 build another neighborhood in your  
 15 Township.

16 MR. SLAGTER: And as it relates  
 17 to -- and I'll run through some of these  
 18 other factors here. You know, one of the  
 19 other factors on the application talks  
 20 about will the property yield a reasonable  
 21 return or can there be a beneficial use of  
 22 the property without the variance. The  
 23 Code talks about whether the property will  
 24 -- in question will yield a reasonable  
 25 return, or whether there can be a

1 beneficial use of the property without the  
2 variance. So basically those two portions  
3 mirror each other.

4 But, you know, so the question  
5 becomes -- and again, these are mutually  
6 exclusive, you don't need to prove them  
7 all, but, you know, I know in your  
8 application you talked about you needed  
9 this in order to have a reasonable  
10 return --

11 MS. RAKOCI: Uh-huh.

12 MR. SLAGTER: -- on this  
13 development. If you could talk or explain  
14 about that, why, you know, it's necessary  
15 to have this number of units or otherwise,  
16 based on your background, your experience.

17 MS. RAKOCI: When we go to do  
18 projects, we do what -- we model it. And  
19 so we have all these different parameters  
20 that we have to meet that allow us to do a  
21 project that meets economically.

22 For Redwood, if it doesn't meet a  
23 certain model, we can't get a construction  
24 loan, and it just doesn't work for Redwood.  
25 So 93 units, I will say is not -- certainly

1 not our largest, we've done 200 and 300  
2 depending on the size of the property, but  
3 we only have 16 acres to deal with. To  
4 make it model correctly and to be able to  
5 move forward, these setback variances are  
6 critical that allows me to get the units  
7 that I need.

8 MR. SLAGTER: Right. And do you  
9 typically look for projects with less than  
10 100 units?

11 MS. RAKOCI: We do, but I guess  
12 our sweet spot's probably like 100, but 93  
13 in this case works well because we're right  
14 adjacent -- as we've already said, to North  
15 Ridgeville our property there. So,  
16 operationally, it works well. So I can  
17 have the same staff at North Ridgeville,  
18 helps me work with only 93 units in Olmsted  
19 Township.

20 MR. SLAGTER: Okay. Thank you.

21 MS. RAKOCI: Uh-huh.

22 MR. SLAGTER: Next whether the  
23 variance is substantial or not on the  
24 application, whether the variance is  
25 substantial and is a minimum necessary to

1 make possible the reasonable use of the  
2 land or structures is within the Code or  
3 resolution.

4 So as it relates to that issue, is  
5 there anything about -- why don't you talk  
6 through the variances that we're requesting  
7 and whether you think they would  
8 substantially have a substantial impact or  
9 whether they're substantial overall.

10 MS. RAKOCI: Okay. I was before  
11 you, I think it was on December 18th, which  
12 I could say was last year, part of my  
13 application was the set back requirements  
14 and variances. And if you look at that,  
15 which I'm hoping you do, it says  
16 specifically what I need that is all  
17 internal. Which are the -- between the  
18 main walls and the inner walls and the  
19 back-to-back.

20 I will also tell you that the only  
21 variance that really is external, at all,  
22 which I guess that could be talked about is  
23 Bagley Road. And with that case it's that  
24 your Code states 80 feet, my variance  
25 request is for 60 feet.

1 And again I think sometimes your  
2 Code is more for, as Mr. Slagter has talked  
3 about, is more for three-story buildings.  
4 And I think the setback at that point  
5 probably makes more sense, but since we're  
6 basically a single-story ranch unit, I  
7 think the variance that we're requesting on  
8 Bagley, I don't think that's -- I think  
9 that's reasonable.

10 And all the other ones are within  
11 our own internal neighborhood, which is  
12 exactly like what we did in Cook Road as  
13 well as in North Ridgeville. Understanding  
14 that that's two different areas, but just  
15 to let you know what I'm requesting on my  
16 variances is not atypical. It's typical of  
17 what we need to build our ranch units.

18 MR. SLAGTER: So in other types of  
19 developments in other communities, I  
20 understand they all have different  
21 regulations, it's not unusual for you to  
22 have the same distance between the  
23 buildings as you're requesting here; is  
24 that correct?

25 MS. RAKOCI: That is correct.

1 Basically what we are asking on these  
 2 variances so that we can build our  
 3 neighborhood in Olmsted Township is what we  
 4 have.

5 We have over 165 neighborhoods now  
 6 in seven states and these type of variances  
 7 we request because we can't go up, we're  
 8 all ranch units, so that's why we need  
 9 these type of variances.

10 MR. SLAGTER: And you comply --  
 11 other than these particular variances, the  
 12 ones you've described between the buildings  
 13 or how the buildings are separated --

14 MS. RAKOCI: Uh-huh.

15 MR. SLAGTER: -- from each other,  
 16 you comply with all the other requirements  
 17 in the Code?

18 MS. RAKOCI: That's correct.

19 MR. SLAGTER: And there's many of  
 20 them, correct?

21 MS. RAKOCI: Yes.

22 MR. SLAGTER: Okay. And you  
 23 indicated that these are internal. Just so  
 24 we're all clear, kind of what does that  
 25 mean and why is that relevant?

1 MS. RAKOCI: As far as internal,  
 2 it means, it's like within our own  
 3 neighborhood. There's nothing external --  
 4 except I did see about Bagley Road, which I  
 5 guess could be questionable, but everything  
 6 is internal. It's not affecting any other  
 7 property. It's all what we're building.  
 8 So it's not adverse to any, like, whether  
 9 it's like the ice company or the project in  
 10 North Ridgeville or the train tracks, it is  
 11 not adverse to any of that.

12 MR. SLAGTER: Okay. And in terms  
 13 of, did you look at, in terms of reasonable  
 14 use without it, if you didn't have the  
 15 variances, did you at least look at and try  
 16 to model whether this would work for you in  
 17 terms of how many units do you think you  
 18 would yield and would it work?

19 MS. RAKOCI: As I spoke on  
 20 December 18th, the question was asked to me  
 21 like, why do you need all these units? And  
 22 my response was back that we wouldn't model  
 23 economically for us. And if I didn't get  
 24 the variances, I could only get at the most  
 25 55 units, which is a stretch, I will say

1 that. And it just wouldn't work. So  
 2 without the variances we have to walk away.  
 3 MR. SLAGTER: And are you trying  
 4 to maximize the number of units on this or,  
 5 you know, in terms of -- from a -- your  
 6 perspective, or do you feel that this,  
 7 again is the reasonable number under the  
 8 circumstances to use his property?

9 MS. RAKOCI: It's totally  
 10 reasonable.

11 MR. SLAGTER: Okay. In fact, you  
 12 did modify the plan slightly initially, as  
 13 there was another variance you were going  
 14 to request, correct?

15 MS. RAKOCI: Yes.

16 MR. SLAGTER: And you actually  
 17 addressed that.

18 MS. RAKOCI: Yes. Before we did  
 19 our final application for the variances, I  
 20 worked with my engineer to see what we  
 21 could do to decrease the variances.

22 On Bronson Road, it's a county  
 23 road and you have to have, I believe it's  
 24 60 feet, a setback, and I was only at 40  
 25 feet. And so I worked with my engineers,

1 and we were able to move units farther from  
 2 Bronson. So I didn't -- that was one less  
 3 variance that I needed.

4 I looked at other variances that I  
 5 could not need, but because of the site  
 6 itself, the acreage, and then the proximity  
 7 to get 93 units, I could do nothing else.

8 MR. SLAGTER: So you actually have  
 9 planned some storm water basins that are  
 10 necessary --

11 MS. RAKOCI: Uh-huh.

12 MR. SLAGTER: -- correct? For  
 13 stormwater management?

14 MS. RAKOCI: Uh-huh.

15 MR. SLAGTER: Those have to be  
 16 placed in certain areas --

17 MS. RAKOCI: Yes.

18 MR. SLAGTER: -- is that correct?

19 MS. RAKOCI: Because of the topo  
 20 and the low points, yes.

21 MR. SLAGTER: So kind of moving  
 22 these units around there's some limitation  
 23 of that --

24 MS. RAKOCI: Uh-huh.

25 MR. SLAGTER: -- is that correct?

1 MS. RAKOCI: Yes.  
 2 MR. SLAGTER: And the next is,  
 3 will the essential character of the  
 4 neighborhood be substantially altered, or  
 5 will the adjoining property suffer a  
 6 substantial detriment if the variance is  
 7 granted. And then the corresponding is  
 8 whether the essential character of the  
 9 neighborhood would be substantially altered  
 10 or whether adjoining properties would  
 11 suffer substantial detriment as a result of  
 12 variance. So those are the same language.

13 And with respect to that, just  
 14 answering that question, you know, in your  
 15 opinion, based on your experience, do you  
 16 think that the character of the area is  
 17 going to be changed if these variances are  
 18 granted or, you know, will it cause some  
 19 type of substantial detriment to adjoining  
 20 properties?

21 MS. RAKOCI: No. The property  
 22 that we are going to be directly adjacent  
 23 to, again, it's North Ridgeville, is  
 24 exactly what we want to build here in  
 25 Olmsted Township. And directly in our --

1 like, attached to it, not attached, but in  
 2 our same area is Home City Ice Company,  
 3 which is light industrial, and we don't  
 4 feel that we're going to impact that in a  
 5 negative fashion at all.

6 MR. SLAGTER: You're actually  
 7 buying this property from them.

8 MS. RAKOCI: Yes, that is correct.

9 MR. SLAGTER: And they're aware of  
 10 what you're going to do there?

11 MS. RAKOCI: Yes. Yep.

12 MR. SLAGTER: And they --

13 MS. RAKOCI: Support it.

14 MR. SLAGTER: -- support it?

15 MS. RAKOCI: Uh-huh.

16 MR. SLAGTER: Okay. And then to  
 17 the south are single-family homes, correct?

18 MS. RAKOCI: That's correct,  
 19 across the street, uh-huh.

20 MR. SLAGTER: And again from, you  
 21 know, the density of your project is much  
 22 less than what's permitted under the  
 23 Code --

24 MS. RAKOCI: Uh-huh.

25 MR. SLAGTER: -- correct?

1 MS. RAKOCI: Correct.  
 2 MR. SLAGTER: You could have  
 3 almost 200 units; is that right?  
 4 MS. RAKOCI: Uh-huh. Yes. Thank  
 5 you. Yep. Uh-huh.  
 6 MR. SLAGTER: And, you know,  
 7 before I forget, I know that you've done  
 8 studies of the number of big average age of  
 9 residents -- and I know this is not an  
 10 age-restricted community, is it?

11 MS. RAKOCI: No, it's not.  
 12 MR. SLAGTER: Okay. But you've  
 13 done studies --

14 MS. RAKOCI: Uh-huh.  
 15 MR. SLAGTER: -- based on the  
 16 number of units that you guys have --  
 17 MS. RAKOCI: Yes.  
 18 MR. SLAGTER: -- correct?  
 19 MS. RAKOCI: Uh-huh. Uh-huh.  
 20 MR. SLAGTER: And by the way, how  
 21 many units do you guys have?  
 22 MS. RAKOCI: We're getting close  
 23 to 22,000 units in seven states.  
 24 MR. SLAGTER: Okay. And so you've  
 25 done analytics on typical individuals that

1 live here, correct?  
 2 MS. RAKOCI: Yes.  
 3 MR. SLAGTER: And these units, so  
 4 what is the average age that you have  
 5 found.

6 MS. RAKOCI: The average age right  
 7 now is about 54 years. And then as far as  
 8 children, for every -- we like companywide,  
 9 portfolio wide for every like 100 units, we  
 10 have maybe 10 children.

11 Because it's only two-bedroom,  
 12 two-bathroom, two-car garage, it doesn't  
 13 really lend itself to like a large home  
 14 with like a lot of children. We do not  
 15 discriminate, but that is our typical  
 16 people that live in our neighborhoods.

17 MR. SLAGTER: And these are --  
 18 provide and typically are geared towards  
 19 what type of individuals.

20 MS. RAKOCI: Seniors, empty  
 21 nesters and professionals.

22 MR. SLAGTER: Okay. They all have  
 23 long-term leases, is that correct?

24 MS. RAKOCI: Uh-huh. Yes.  
 25 MR. SLAGTER: You guys do credit

1 checks on them?  
 2 MS. RAKOCI: And background  
 3 checks.  
 4 MR. SLAGTER: Okay. Will the  
 5 variance adversely affect delivery of  
 6 governmental services? Whether variance  
 7 would affect delivery of governmental  
 8 services such as water, sewer, trash  
 9 pickup. So from that perspective, in your  
 10 opinion -- and again, you've been in the  
 11 industry for some time -- does this type  
 12 of -- actually, it's not really the use  
 13 because the use is permitted, correct?

14 MS. RAKOCI: Uh-huh.

15 MR. SLAGTER: Are the variances at  
 16 all going to, in your opinion, affect the  
 17 delivery of governmental services?

18 MS. RAKOCI: Not at all.

19 MR. SLAGTER: Can a problem be  
 20 resolved by some other manner or some  
 21 manner other than the granting of the  
 22 variance, whether the property's  
 23 predicament feasibly can be obviated  
 24 through some method other than the  
 25 variance, which is again, very similar.

1 MS. RAKOCI: No, we need the  
 2 variances to move forward.

3 MR. SLAGTER: Okay. And you've  
 4 spoken about that. It really comes down to  
 5 whether this would be a viable project at  
 6 55 units, correct?

7 MS. RAKOCI: Yes. And it would  
 8 not be.

9 MR. SLAGTER: Okay. And then will  
 10 the variance preserve the spirit and intent  
 11 of the zoning resolution and will  
 12 substantial justice be done by granting the  
 13 variance? And it's really similar in the  
 14 Code also.

15 MS. RAKOCI: I believe so, yes.

16 MR. SLAGTER: Okay. And in terms  
 17 of that you mentioned the -- well, first of  
 18 all, the Township actually changed the  
 19 zoning --

20 MS. RAKOCI: Uh-huh.

21 MR. SLAGTER: -- based on your  
 22 application, correct?

23 MS. RAKOCI: Uh-huh. Uh-huh.

24 MR. SLAGTER: And did they know  
 25 the type of development you were planning

1 on building?

2 MS. RAKOCI: Yes.

3 MR. SLAGTER: Okay. And that was  
 4 approved by the Township.

5 MS. RAKOCI: Yes. By the  
 6 Trustees, yes.

7 MR. SLAGTER: Okay. And then  
 8 second of all, you've looked at the  
 9 Comprehensive Plan?

10 MS. RAKOCI: Uh-huh.

11 MR. SLAGTER: And you had talked  
 12 about the Comprehensive Plan encourages --  
 13 MS. RAKOCI: Diversity housing.

14 Uh-huh.

15 MR. SLAGTER: Okay. And you  
 16 believe you provide that?

17 MS. RAKOCI: Yes. Yes, I do.

18 MR. SLAGTER: And you're familiar  
 19 with the housing in Olmsted Township?

20 MS. RAKOCI: Uh-huh.

21 MR. SLAGTER: And then finally,  
 22 this isn't in the application, but it's in  
 23 your Code. Whether the granting of the  
 24 variance requested will confer the  
 25 applicant any special privilege that is

1 denied by the regulation to other land  
 2 structures or buildings in the same  
 3 district.

4 And again, is there anything --  
 5 and we're just talking about the  
 6 variances -- so is there anything, you  
 7 know, a special privilege that's being  
 8 provided or otherwise, in your opinion?

9 MS. RAKOCI: No.

10 MR. SLAGTER: Okay. And that  
 11 covers the points. And again, we  
 12 appreciate your time and consideration. We  
 13 know when we came in here last time,  
 14 because the Trustees and the Township had  
 15 approved of the rezoning, in addition to  
 16 the, you know, working with us on it, we  
 17 thought there was a pretty good  
 18 understanding. We didn't go through in  
 19 complete detail, these particular items, so  
 20 hopefully this illuminates why a variance  
 21 would be appropriate in this type of case.

22 You know, I think in particular  
 23 with railroad tracks behind a similar  
 24 development next to it, and our neighbor,  
 25 which is the ice manufacturing company,

1 this would be -- it's a great transitional  
 2 type of use and an apartment type of use,  
 3 which would be consistent with your zoning.  
 4 So we're here to answer any  
 5 questions you have unless there's other  
 6 comments or otherwise.

7 MR. GAREAU: On the point -- thank  
 8 you. On the fact that you obtained a  
 9 rezoning from the Township, there's been  
 10 mention of that a number of times. Did  
 11 anybody at the Township, when you were  
 12 requesting rezoning, did they assure you  
 13 that you would receive a variance?

14 MS. RAKOCI: No.

15 MR. GAREAU: Okay. Did you make  
 16 it known to them that if they, in fact,  
 17 rezoned it, that you would be requesting  
 18 variances?

19 MS. RAKOCI: No, I did not.

20 MR. GAREAU: Okay.

21 MS. RAKOCI: At the time we did  
 22 show them a site plan, but a lot of  
 23 townships are different about this.  
 24 Sometimes when you rezone something, they  
 25 don't want to see a site plan because they

1 that.  
 2 MR. GAREAU: I think you put your  
 3 finger on what the problem was at the first  
 4 meeting. So with all due respect, there  
 5 may have been kind of an idea that maybe  
 6 everything was going to go smoothly because  
 7 the Trustees had done what they did, but  
 8 being an independent body, we have to deal  
 9 with what the evidence presented to us, you  
 10 know, where that leads us, so...

11 MS. RAKOCI: Uh-huh.

12 MR. GAREAU: Did you undertake any  
 13 analysis as to determine whether or not  
 14 some number of units between 55 and the  
 15 numbers you're requesting now would be  
 16 economically viable? You said 55 would be  
 17 your -- I'll let you describe, your  
 18 testimony, how's that?

19 MS. RAKOCI: That the most that I  
 20 would be able to get would be 55 units.

21 MR. GAREAU: Uh-huh.

22 MS. RAKOCI: And I did do modeling  
 23 on that, and it just doesn't work.

24 MR. SLAGTER: And I think the  
 25 question is, did you check whether 56 would

1 know that if once it's rezoned, anyone can  
 2 build something with that zoning. So did I  
 3 go into a lot of specificity about this?  
 4 No, because at the time I really wasn't  
 5 even sure how the end product would look.

6 Based off the Code, based off what  
 7 I needed, and going through the rezoning  
 8 process, that's just basically just a  
 9 rezoning of property.

10 MR. GAREAU: Uh-huh.

11 MS. RAKOCI: And that's so -- did  
 12 I tell the Trustees what I would need? No,  
 13 I did not. At the time, I did not know  
 14 what I would need.

15 MR. GAREAU: Okay. Again, I guess  
 16 I should say for the record, I'm David  
 17 Gareau because it's -- so that the  
 18 transcript is able to identify who's  
 19 speaking.

20 Have you done any -- and I will  
 21 say just as a bit of commentary that this  
 22 is a far more detailed presentation than  
 23 the presentation at the first meeting. And  
 24 I think you put your finger on what --

25 MS. RAKOCI: I would agree with

44  
 1 work or 57 and someplace up to that 90 that  
 2 we're requesting? You know, how far did  
 3 you take it, is what they're asking?

4 MR. GAREAU: Thank you.

5 MS. RAKOCI: I would say that I  
 6 did not do an analysis like what does 92,  
 7 91, 90 get me. I did like a range. And I  
 8 just know that based off modeling 93 works,  
 9 a few units less probably won't.

10 With what we do, you might not  
 11 think that, like, one unit or five units or  
 12 ten units makes a big difference, but it  
 13 does, because when we do -- we go through  
 14 our, our portfolio with our modeling and  
 15 all that, like when you're looking at, you  
 16 know, a return over 30 years for one unit  
 17 makes a big difference. And that's just  
 18 the way it is.

19 MR. SLAGTER: And in terms of  
 20 that, you're not -- you don't build these  
 21 to sell these, correct?

22 MS. RAKOCI: No, it's all leased.

23 MR. SLAGTER: You hold them on --

24 MS. RAKOCI: Uh-huh.

25 MR. SLAGTER: -- you have to go

1 through financing --  
 2 MS. RAKOCI: Uh-huh.  
 3 MR. SLAGTER: -- and you go  
 4 through lending requirements --  
 5 MS. RAKOCI: Yep.  
 6 MR. SLAGTER: -- correct, also?  
 7 MS. RAKOCI: Uh-huh.  
 8 MR. SLAGTER: And your -- this  
 9 model that Redwood's been using, you've  
 10 been able to sustain economically these --  
 11 I mean, the different developments that you  
 12 have throughout, it's not the entire  
 13 country, but I know you're in seven --  
 14 MS. RAKOCI: Seven states, yes.  
 15 MR. SLAGTER: I mean, is part of  
 16 the number necessary to maintain the -- you  
 17 talked earlier really about the quality and  
 18 how we try to keep these up, but --  
 19 MS. RAKOCI: Uh-huh.  
 20 MR. SLAGTER: -- to maintain these  
 21 neighborhoods.  
 22 MS. RAKOCI: Yes.  
 23 MR. SLAGTER: Is that --  
 24 MS. RAKOCI: Uh-huh.  
 25 MR. SLAGTER: Okay. So again, we

1 didn't specifically -- you didn't  
 2 specifically check whether, you know, you  
 3 could have less -- many more less than the  
 4 93 --  
 5 MS. RAKOCI: It's right. Uh-huh.  
 6 MR. SLAGTER: -- but you felt that  
 7 that was an appropriate place to be?  
 8 MS. RAKOCI: Yes.  
 9 MR. GAREAU: Any other questions  
 10 from the Board? No questions? Okay. Any  
 11 comments from the Building Commissioner or  
 12 the Township, generally?  
 13 MR. JEROME: I have no comment.  
 14 MR. REED: No comment.  
 15 MR. GAREAU: Okay. Just asking.  
 16 All right. I will make a motion  
 17 to -- again, notwithstanding the  
 18 objection -- make a motion to go to private  
 19 deliberation.  
 20 MR. PEREZ: Second.  
 21 MR. GAREAU: Go ahead and call the  
 22 roll.  
 23 MS. VEDDA: Mary Vedda? Yes.  
 24 Cindy?  
 25 MS. KELLY: Yes.

1 MS. VEDDA: Dave?  
 2 MR. GAREAU: Yes.  
 3 MS. VEDDA: Roberto?  
 4 MR. PEREZ: Yes.  
 5 MR. GAREAU: Private deliberation  
 6 at 7:22.  
 7 - - - -  
 8 (Thereupon, the BZA went into private  
 9 deliberations.)  
 10 - - - -  
 11 MR. GAREAU: Back from private  
 12 deliberations at 7:38. I will make a  
 13 motion to approve the -- I've got to find  
 14 the number, hold on -- I'll make a motion  
 15 to approve the Application No.  
 16 24OLMT-ZBA002, Redwood Apartment  
 17 Neighborhoods, and the variances, each of  
 18 the variances, we'll do it just in one vote  
 19 instead of -- is that all right with  
 20 everybody --  
 21 BOARD MEMBERS: Uh-huh.  
 22 MR. GAREAU: -- we'll do one vote?  
 23 Consisting of granting each of the  
 24 variances requested, conditioned upon if  
 25 it's granted, conditioned upon building in

1 conformity with the evidence and testimony  
 2 submitted tonight, including the plan  
 3 that's been submitted.  
 4 Do you understand that? Okay.  
 5 Just say yes for the record. You just say  
 6 "yes" from where you're at, he'll hear you.  
 7 MS. RAKOCI: Oh. Yes.  
 8 MR. GAREAU: Okay. All right.  
 9 The Applicant has acknowledged "yes".  
 10 So based upon that condition, I  
 11 will make a motion to approve the  
 12 application.  
 13 MS. VEDDA: I'll second.  
 14 MR. GAREAU: And you can call  
 15 roll.  
 16 MS. VEDDA: Voting on the motion  
 17 to approve. Mary Vedda? Yes.  
 18 Cindy Kelly?  
 19 MS. KELLY: Yes.  
 20 MS. VEDDA: Dave Gareau?  
 21 MR. GAREAU: Yes.  
 22 MS. VEDDA: Roberto Perez?  
 23 MR. PEREZ: Yes.  
 24 MR. GAREAU: Okay.  
 25 MR. SLAGTER: Thank you very much.

1 MS. RAKOCI: Thank you.  
 2 MR. GAREAU: Yep. All right.  
 3 So we are now on with Application  
 4 24OLMT-ZBA008, which is the Olmsted Falls  
 5 City School District seeking to -- the  
 6 variances in relation to the installation  
 7 on construction of a wireless  
 8 telecommunication tower.

9 Is there someone here to present  
 10 on that Application?

11 MR. BEDDOW: Yes.

12 MR. GAREAU: All right. You may  
 13 proceed. State and spell your full name,  
 14 provide your address. I'll swear you in  
 15 and you can talk.

16 MR. PEREZ: Excuse me, Mr --  
 17 Chairman. This is Roberto Perez and I will  
 18 have to recuse myself from this case due to  
 19 I'm a school board member for Olmsted  
 20 Falls.

21 MR. GAREAU: Okay. We note it.  
 22 You are recused. Now that you know there's  
 23 only three people on the panel, you would  
 24 have to have all three vote to approve.  
 25 Any vote "no" would mean that the matter is

1 not approved. And you can, if you wish,  
 2 ask to have this continued to the next  
 3 meeting or you can proceed, it's up to you.

4 MR. BEDDOW: I'd like to proceed.

5 MR. GAREAU: Fair enough. Okay.  
 6 So state and spell your name.

7 MR. BEDDOW: My name is Michael  
 8 Beddow, B-E-D-D-O-W. My address is 520  
 9 South Main Street, Akron, Ohio.

10 MR. GAREAU: All right. Do you  
 11 swear to tell the truth, the whole truth,  
 12 and nothing but the truth?

13 MR. BEDDOW: I do.

14 MR. GAREAU: Okay. You may  
 15 proceed.

16 MR. BEDDOW: Okay. As mentioned,  
 17 my name is Mike Beddow. I work for GPD  
 18 Group. We are a consulting engineering  
 19 firm working with AT&T. This tower is for  
 20 AT&T at the request of the school. They  
 21 have coverage and capacity issues there  
 22 that they specifically reached out to AT&T  
 23 to address that issue. I recognize some  
 24 faces here. I was actually here about a  
 25 year-and-a-half ago presenting the same

1 case that was approved.

2 We reached out to the Township  
 3 about five or six months ago asking for  
 4 extension to the approval here. There  
 5 aren't any provisions for an extension, so  
 6 we just had to go back through this process  
 7 again, which is why I'm before you today.

8 As mentioned, the school had  
 9 requested this and I'll just kind of dive  
 10 into the project a little bit just to  
 11 refresh everyone's memory.

12 So AT&T is looking to build a  
 13 60-foot monopole. It'd be similar in style  
 14 to like the light standards you see along  
 15 the highway, or there's actually a monopole  
 16 cell tower right across the road here, just  
 17 to give you an idea of what kind of tower  
 18 they're looking to build. There will be a  
 19 small fenced-in compound at the base of the  
 20 tower. It's 14 feet by 24 feet, which is  
 21 significantly smaller than any typical cell  
 22 site would be.

23 We're only looking to put AT&T  
 24 antennas on this tower, only have AT&T  
 25 equipment at the base of the tower. We're

1 not looking to have your T-Mobile's, your  
 2 Verizon's, it's just going to be single  
 3 carrier specifically to provide AT&T  
 4 coverage to the school.

5 There would be two equipment cabinets  
 6 within the compound. Those are just  
 7 housing all AT&T's baseband equipment,  
 8 batteries, their power cabinet. Those  
 9 don't make any substantial kind of noise.  
 10 Typically we would put a generator in, but  
 11 that is not the case at this site. So we  
 12 don't have to -- you know, there's no issue  
 13 there where we're going to be, you know,  
 14 creating any noise pollution, I guess.

15 There will be some landscaping  
 16 trees around the fence just to provide a  
 17 little bit of, you know, aesthetic that's  
 18 better than just the fence itself. There  
 19 will be a chain link fence, we're just  
 20 trying to make things look a little bit  
 21 better from that perspective.

22 Other than that, there's really  
 23 not a whole lot going into it. There's  
 24 going to be a single antenna up on the  
 25 tower, a few radios that could potentially

1 be expanded in the future.  
 2 I don't know what AT&T's plans are, but  
 3 currently it's just a single antenna. I  
 4 wouldn't expect there to be many more than  
 5 that, but I guess I can't speak to the  
 6 future, but that would have to go before  
 7 the Zoning Commission or whatever anyway.

8 So at this point we're just  
 9 looking to install a single antenna.

10 So as I mentioned, we did have the  
 11 previous approval. We would have loved to  
 12 have been in construction by now. There  
 13 were some unforeseen circumstances which  
 14 kind of pushed things to this point, which  
 15 is why we're, you know, seeking re-approval  
 16 here.

17 At this point we do have final  
 18 drawings. We're looking to complete kind  
 19 of the final phases of the project. We've  
 20 got the geotopical study scheduled, final  
 21 drawings are done. So at this point it's  
 22 just getting tower drawings.

23 We have a lease with the school --  
 24 or at least a lease approved, I don't know  
 25 if we've got final signatures on that, but

1 it was approved last month. So we are  
 2 quickly moving forward to finalizing  
 3 things. So hopefully this is the last time  
 4 we have to do this.

5 MR. GAREAU: Fair enough.

6 MR. BEDDOW: I can quickly go  
 7 through the Duncan Factors here, just so  
 8 we've got all of those addressed. I guess  
 9 I will kind of look at this -- it is kind  
 10 of an odd position here because this was --  
 11 it had to be signed by the school system,  
 12 even though this is an application for  
 13 AT&T, so it's kind of a balancing act,  
 14 trying to say, you know -- for example,  
 15 here, this first one, you know, will the  
 16 property yield a reasonable return? Well,  
 17 for the school, yes. For AT&T, you know,  
 18 maybe not. So there's kind of different  
 19 perspectives to take here.

20 So regarding the reasonable return  
 21 without the variance, certainly the school  
 22 doesn't need a cell tower. They don't  
 23 have -- you know, they're operating,  
 24 they're running a school, they're doing  
 25 what they need to do, so from that

1 viewpoint, you know, they don't need the  
 2 variance. Now, AT&T I would say does need  
 3 this variance to obtain a reasonable use.  
 4 There was this particular area of the  
 5 school where the property -- or where the  
 6 tower is going -- excuse me -- was  
 7 identified to be the best area for  
 8 coverage. So without that, we're not going  
 9 to be able to provide the best coverage to  
 10 the school, which is the whole point of  
 11 doing this project for them. So I would  
 12 say without that variance, we couldn't  
 13 really provide, you know -- or I guess  
 14 obtain a reasonable return that we're  
 15 looking for.

16 Regarding whether or not the  
 17 variance is substantial, it is substantial.  
 18 We're looking for a -- I guess to go into  
 19 it really quick, the Code requires 1,000  
 20 foot setback from the nearest residence.  
 21 We're only at, I think, 635 feet. So we're  
 22 looking for a 365 foot, you know, variance  
 23 from that requirement.

24 Likewise, the property setback  
 25 needed to be the tower height plus 20 feet.

1 So the tower is 60 feet. So that variance  
 2 would be -- we would need, excuse me, the  
 3 setback would need an 80-foot setback,  
 4 we're only at 45, so we're looking for a  
 5 35-foot variance there. So it is a  
 6 substantial variance.

7 And then getting into a little bit  
 8 more, the variance from the property line  
 9 setback. The property line that we don't  
 10 meet the setback from is owned by the  
 11 school. And the school, you know,  
 12 certainly is on board with this, they don't  
 13 have an issue with that particular  
 14 variance.

15 Regarding the essential character  
 16 of the neighborhood, I would say no, we are  
 17 not impacting that in a negative way. The  
 18 tower as mentioned is only 60 feet which is  
 19 significantly shorter than what is  
 20 typically seen for a monopole tower, but  
 21 there are trees providing some kind of  
 22 screening from the neighbors to the north  
 23 and east. The highway is due south, and  
 24 then there's just additional school  
 25 properties to the west. So I don't believe

1 that the essential character of  
 2 neighborhood is going to be substantially  
 3 altered in any negative way.

4       Regarding the adverse effect to  
 5 delivery of governmental services, I would  
 6 just say no. There's no water, there's no  
 7 additional traffic. Certainly there's  
 8 power and fiber going to the site, but  
 9 those are all public utilities, not  
 10 necessarily governmental functions. So I  
 11 would say that there's no impact to the  
 12 governmental services.

13       Regarding whether or not the  
 14 property owner purchased the property,  
 15 certainly AT&T didn't purchase the  
 16 property, so there was no, you know,  
 17 foresight that could have -- that they  
 18 could have had regarding whether or not  
 19 this would work for a cell tower. This is  
 20 strictly a function of the school reaching  
 21 out. And again I'm certain the school  
 22 couldn't have predicted whenever they  
 23 obtained this property decades ago, that  
 24 the cell towers would even have been a  
 25 thing that were necessary. So no, that

1 knowledge was not there.  
 2       Can the problem be resolved by  
 3 some other manner? Again, as stated, this  
 4 is the ideal location for the cell tower,  
 5 it provides the best coverage to the  
 6 school. Any other location is going to be  
 7 detrimental to the coverages and provide  
 8 what the school needs. There are a number  
 9 of other locations around the school that  
 10 have higher roofs such as the gymnasium.  
 11 If we were to put anything over those  
 12 areas, we'd have that providing a, I guess,  
 13 interference providing single schools. So  
 14 that would require a taller tower, which  
 15 I'm assuming the Township doesn't want, you  
 16 know, an 80, 90, a 100-foot pole out there.  
 17 You know, we certainly don't know what the  
 18 height would be, but off the top of my head  
 19 it certainly won't be more than 60 feet as  
 20 what we're requesting.

21       And then regarding the  
 22 preservation of the spirit intent of the  
 23 zoning resolution, again, I would say that  
 24 that is not here, not providing a huge  
 25 [unintelligible], we're providing a service

1 to the school to benefit the students, the  
 2 staff, and, you know, certainly having cell  
 3 coverage in circumstances of, you know,  
 4 some type of emergency or safety situation;  
 5 this would be a huge benefit.

6       So I think the spirit and intent  
 7 of the zoning resolution is met by  
 8 providing this variance.

9       And that is really all I have. So  
 10 I just ask that you would grant us approval  
 11 and we can get things done here and provide  
 12 good coverage to the school.

13       MR. GAREAU: Does AT&T's tower --  
 14 I don't know anything about how cell towers  
 15 work -- does that mean it's only deals with  
 16 AT&T traffic, cell traffic, or does it pick  
 17 up any signals like T-Mobile and whatever  
 18 relationship AT&T and T-Mobile and  
 19 everybody else has? Does that question  
 20 make sense? Is it just limited to AT&T or  
 21 is it just going to --

22       MR. BEDDOW: You know, it does  
 23 make sense. I guess I'm uncertain.

24       MR. GAREAU: Yeah.  
 25       MR. BEDDOW: My understanding is

1 it is for AT&T subscribers --  
 2       MR. GAREAU: Uh-huh.  
 3       MR. BEDDOW: -- but I guess I  
 4 don't know --  
 5       MR. GAREAU: Okay.  
 6       MR. BEDDOW: -- if other  
 7 subscribers can use that tower.  
 8       MR. GAREAU: One of the -- on your  
 9 submission where you have drawn where it's  
 10 going to be --  
 11       MR. BEDDOW: Uh-huh.  
 12       MR. GAREAU: -- one of the  
 13 questions that I had looking at it is if  
 14 you move the tower anywhere along the back  
 15 of the school building itself, you  
 16 alleviate the need for these variances and  
 17 you bring yourself into compliance with the  
 18 Code.

19       MR. BEDDOW: Correct.  
 20       MR. GAREAU: And is there a  
 21 particular reason why that can't be done?  
 22       MR. BEDDOW: Well, there's a few  
 23 things going on here. There's a lot of  
 24 underground utilities that aren't shown in  
 25 this map.

1 MR. GAREAU: Uh-huh.  
 2 MR. BEDDOW: We had to kind of  
 3 squeeze it in where it is right now. And  
 4 we still have some current, some fears that  
 5 we may impact some the utilities there.  
 6 They are new ground utilities that we were  
 7 trying to avoid. Additionally, there's  
 8 that drive along the south side there --  
 9 and I know it's kind of hard to see in the  
 10 photo here, but that eliminates a lot of  
 11 that south side from even being used.

12 Outside of that, there's windows  
 13 along the south side of the school there.  
 14 The school didn't -- certainly didn't want  
 15 a cell tower, you know, in the student's  
 16 view. This area here [indicating], there  
 17 aren't any windows, so from inside the  
 18 building, it can't be seen.

19 MR. GAREAU: Is there any  
 20 particular significance as far as the  
 21 signal strength and functionality of the  
 22 tower being located there as opposed to  
 23 anywhere else along the back of the  
 24 building?

25 MR. BEDDOW: I guess I can't speak

1 MS. KELLY: I'll second.  
 2 MS. VEDDA: Okay. We're voting on  
 3 a motion to go into deliberations.  
 4 MR. GAREAU: Yes.  
 5 MS. VEDDA: Mary Vedda? Yes.  
 6 Cindy Kelly?  
 7 MS. KELLY: Yes.  
 8 MS. VEDDA: Dave Gareau?  
 9 MR. GAREAU: Yes.  
 10 MS. VEDDA: Roberto Perez. He  
 11 abstained.  
 12 MR. GAREAU: We'll be back in a  
 13 couple minutes. Okay.  
 14 - - - - -  
 15 (Thereupon, BZA went into private deliberations.)  
 16 - - - - -  
 17 MR. GAREAU: All right. Back from  
 18 private deliberations at 8:09. Okay. So  
 19 there's a problem --  
 20 MR. BEDDOW: Okay.  
 21 MR. GAREAU: -- and I will hand  
 22 this to you so you can take it back. The  
 23 Chapter 350, which deals with wireless  
 24 communications towers, provides that if you  
 25 want to install a tower in other than three

1 100% on, you know, what the RF'S objectives  
 2 are -- excuse me, the radio engineer's  
 3 objectives --

4 MR. GAREAU: Uh-huh.

5 MR. BEDDOW: -- but this was --  
 6 they had two locations in mind. One of  
 7 them was like right in the middle of the  
 8 roof of the school, which isn't feasible.  
 9 The other was this location [indicating].

10 I don't know what the impact was  
 11 if we would've gone, you know, say 50 foot  
 12 to the west, but again, we've got --  
 13 there's an exit door right there  
 14 [indicating], there are windows that we  
 15 were trying to avoid. So if it's a  
 16 question of the impact of the signal, I  
 17 guess, I'm not 100% positive on it. I  
 18 wouldn't say that it would be a large  
 19 impact, but there were other factors that  
 20 created the need to have our tower in this  
 21 location here.

22 MR. GAREAU: Okay. Any questions  
 23 from either of you?

24 I'd like to go to private  
 25 deliberations on this to discuss it.

1 64  
 2 very limited permitted areas for  
 3 installation, if it's going to go outside  
 4 of that, you need to make an a Conditional  
 5 Use request instead of a variance.  
 6 MR. BEDDOW: Uh-huh.  
 7 MR. GAREAU: It's a different  
 8 process. The people who are neighbors to  
 9 the school have the right to appeal our  
 10 decision.  
 11 MR. BEDDOW: Uh-huh.  
 12 MR. GAREAU: And if we don't do it  
 13 right, they could. I expected someone  
 14 to -- yes. I'll recognize Mr. Reed.  
 15 MR. REED: All right. Justin  
 16 Reed, Olmsted Township Building Official.  
 17 I believe the Agenda does have  
 18 their -- they're requesting a Conditional  
 19 Use approval and variances.  
 20 MR. GAREAU: All right. It  
 21 wasn't --  
 22 MR. REED: If you look at the --  
 23 right after first --  
 24 MS. KELLY: Okay. It's in there,  
 25 it's just not on the application itself.  
 MS. VEDDA: It's not on the

1 application.

2 MR. GAREAU: Oh, okay.

3 MS. KELLY: Okay. We weren't  
4 looking at the Agenda. We were looking at  
5 the application.

6 MR. REED: Yep. Okay. Yep. And,  
7 and that was a -- that was an internal  
8 discussion of whether we received the  
9 application with the Applicant that they  
10 needed Conditional Use. They agreed to  
11 that they needed -- that it was a mistype.  
12 And so we did include that on the Agenda.

13 MS. KELLY: I have a question for  
14 you, Justin.

15 MR. REED: Yes.

16 MS. KELLY: Cindy Kelly, for the  
17 record.

18 Were the neighbors notified as  
19 part of this?

20 MR. REED: Yes. The neighbors  
21 were notified of this request per what's  
22 written here of the application.

23 MS. KELLY: Okay.

24 MR. REED: So they were notified  
25 of the Conditional Use.

1 Again, my only concern is -- we're  
2 on the record here, obviously -- my concern  
3 is that that presents a problem if somebody  
4 wants to appeal. A neighbor across the way  
5 could say wait a minute, you didn't apply  
6 for Conditional Use, you're supposed to  
7 apply for Conditional Use, you only applied  
8 for a variance.

9 Now is it -- is there a chance  
10 nobody objects? We want to make sure it's  
11 done correctly so that if somebody does.

12 MR. REED: We provided service to  
13 the neighboring property owners with  
14 this -- what the application was.

15 MR. JEROME: Advising as to the  
16 Conditional Use or advising as to the  
17 var -- like this --

18 MR. Reed: This language here was  
19 provided.

20 MR. JEROME: Okay. So the  
21 neighborhood property owners would've been  
22 provided notice that a Conditional Use is  
23 going to be heard this evening.

24 MR. REED: Correct.

25 MR. JEROME: Okay.

1 MS. KELLY: Okay.

2 MS. VEDDA: So let me just ask  
3 this -- this is Mary Vedda -- they should  
4 have had Conditional Use on this  
5 application also?

6 MR. REED: On the application,  
7 yes. But we had sent some emails back and  
8 forth to communicate with them and they  
9 understood that they needed the Conditional  
10 Use as well. After talking with them, they  
11 agreed, so we included that on the Agenda  
12 for them.

13 MS. VEDDA: Does that mean we're  
14 voting on two things, Conditional Use and a  
15 variance?

16 MR. REED: That is correct. We  
17 will be voting on -- they're requesting a  
18 Conditional Use --

19 MR. GAREAU: It's just they didn't  
20 request it in their application.

21 MS. VEDDA: Yeah.

22 MR. GAREAU: At some point it's  
23 like a -- it morphed from a variance in  
24 request in writing into a Conditional Use  
25 request.

1 MR. REED: And this is the  
2 language that was also publicized in  
3 [unintelligible] --

4 MR. JEROME: Okay.

5 MR. REED: -- the language on the  
6 Agenda.

7 MR. JEROME: Okay. I'm just  
8 trying to sort it out in some regards --  
9 not -- certainly it's not my position to --  
10 just trying to understand procedurally how  
11 we got to where we are.

12 MR. REED: I mean, is --

13 MR. JEROME: You said there was  
14 communication between internal Township  
15 with respect to --

16 MR. REED: Yeah. Yes.

17 MR. GAREAU: It's just a little  
18 commentary on the record here, going back  
19 and forth with the Township folks.

20 It's pretty clear that the  
21 Trustees, when they pass this section,  
22 place kind of a high hurdle on what needs  
23 to be done -- not an insurmountable hurdle,  
24 but a higher hurdle.

25 And just reading for you, in order

1 for the Board of Zoning Appeals to consider  
 2 the location of a wireless  
 3 telecommunications -- sorry, tower and  
 4 facility as a Conditional Use, the  
 5 Applicant *shall* demonstrate that.

6 So there is a -- shall means  
 7 must -- that must go through these and  
 8 demonstrate what's set forth in here,  
 9 right.

10 MR. REED: With regards to the B  
 11 1, 2 and 3 --

12 MR. GAREAU: Correct.

13 MR. REED: -- [unintelligible]  
 14 suitable space for the Applicant's antenna.

15 So is your concern that you want  
 16 them to demonstrate those three items, or  
 17 your concern is the application.

18 MR. GAREAU: I have two concerns.  
 19 One is it wasn't submitted as a condi --  
 20 technically it wasn't submitted as a  
 21 Conditional Use application. It was  
 22 submitted as a variance request. It may  
 23 have been published, but there's a -- the  
 24 lawyer in me says, wait a minute, there's a  
 25 -- it was submitted one way and it was

1 advertised another. And then if it's a  
 2 variance I think the standard might not be  
 3 as strict as what the Trustees have put in  
 4 the Code here, which is you have to prove  
 5 the following, right?

6 And we're not speaking to the  
 7 merits of your application yet, we're just  
 8 talking about --

9 MR. BEDDOW: Uh-huh.

10 MR. GAREAU: -- kind of the  
 11 procedure here, okay?

12 MR. BEDDOW: Uh-huh.

13 MR. GAREAU: And I want to make  
 14 sure that we don't have a problem,  
 15 procedural problem, with respect to --  
 16 because for some reason cell towers bring  
 17 out people, right -- even though there's  
 18 nobody here. So that's the only -- so I  
 19 mean, I guess what we may want to consider  
 20 is notwithstanding the desire to get this  
 21 moving, I want to make sure it's done  
 22 correctly. I'll leave it up to my  
 23 colleagues is maybe continue this for next  
 24 month, and then I can give you this and you  
 25 can work with the Township officials to

1 correct the application to reflect the --  
 2 that it's a request for Conditional Use.  
 3 MR. BEDDOW: Uh-huh.  
 4 MR. GAREAU: And then make sure  
 5 that we can answer all -- because it says  
 6 "you *shall* demonstrate", I just want  
 7 somebody to walk through whatever it says  
 8 has to be demonstrated -- and I'm not  
 9 saying it can or it can't, somebody has to  
 10 say on the record this is what, you know,  
 11 it's not possible that it go here, here, or  
 12 here, it has to go here, and get that  
 13 evidence on the record so that we properly  
 14 do this.

15 MR. BEDDOW: Uh-huh.

16 MR. JEROME: As a point of  
 17 procedure --

18 MR. GAREAU: Uh-huh.

19 MR. JEROME: -- merely a question,  
 20 not --

21 MR. GAREAU: Yeah.

22 MR. JEROME: -- interjecting.

23 MR. GAREAU: No, you're fine.

24 MR. JEROME: Would the Applicant  
 25 going through that analysis here this

1 evening alleviate that issue? Or is the  
 2 issue the paper not having that analysis --

3 MR. GAREAU: That --

4 MR. JEROME: -- [unintelligible].

5 MR. GAREAU: -- that's the  
 6 fundamental issue, yes. And then I'm not  
 7 -- I can't -- I can weigh the evidence  
 8 because I sat in here, I'm not making a  
 9 decision, but there were some questions  
 10 that I asked that were along those same  
 11 lines that with all due respect, we didn't  
 12 necessarily have the answers to those  
 13 questions. And I'll give them to you and  
 14 then you can --

15 MR. BEDDOW: Uh-huh.

16 MR. GAREAU: -- you know, whatever  
 17 study it for next time maybe. With all due  
 18 respect, I'm not suggesting that it's not  
 19 something you can't get your fingers on.  
 20 So I think there's a technical problem on  
 21 the notice.

22 MR. REED: And I can just state

23 that, you know, although I am not an  
 24 attorney, I would need to reach out to our  
 25 legal team --

1 MR. GAREAU: Uh-huh.  
 2 MR. REED: -- to get that  
 3 information, if that's a concern or not.  
 4 MR. GAREAU: Uh-huh.  
 5 MR. REED: I can say in the many  
 6 years of dealing with variance applications  
 7 and other jurisdictions, there are many a  
 8 times where an Applicant will have  
 9 information on their application and they  
 10 need a little bit of guidance. And I've,  
 11 you know, in other jurisdictions have had  
 12 other interpretations from those legal  
 13 departments that have allowed for  
 14 assistance in adjusting the way the Agenda  
 15 was written based upon their language.  
 16 Because many times their language isn't  
 17 necessarily proper, and we have to work  
 18 with that. But, you know, I'm not an  
 19 attorney, so I have to reach out to our  
 20 legal team in regards to that.  
 21 MR. GAREAU: My only issue is it's  
 22 a different application altogether. It's a  
 23 different thing. I mean, it might resemble  
 24 what our application is, but it's different  
 25 request.

1 MR. REED: Okay.  
 2 MR. GAREAU: And different  
 3 standards.  
 4 MR. REED: Sure.  
 5 MR. GAREAU: You know, the legal  
 6 standards for variance are not the same  
 7 standards as a Conditional Use.  
 8 MR. REED: Sure.  
 9 MR. GAREAU: So, I don't want to  
 10 go back into another private deliberation.  
 11 I will make a motion to continue  
 12 your pending application for a variance  
 13 because I don't want to -- we don't want to  
 14 rule on that administratively and then  
 15 somehow preclude you from coming back with  
 16 another request.  
 17 So I'll make a motion to continue  
 18 the matter in its entirety until the 6:00  
 19 meeting on February 19th, 2025 in the same  
 20 location, in the same building. So I'll  
 21 make that motion.  
 22 MS. KELLY: I second.  
 23 MS. VEDDA: In favor. Mary Vedda?  
 24 Yes.  
 25 Cindy?

1 MS. KELLY: Yes.  
 2 MS. VEDDA: Dave?  
 3 MR. GAREAU: Yes.  
 4 So this is -- and I get it, it's  
 5 seems like it's technical, you saw the last  
 6 guy we had to deal with here, we make sure  
 7 that he followed the rules. I just have  
 8 to -- we have to follow the Code so we  
 9 don't end up having -- because it could  
 10 lead to an appeal from somebody, a  
 11 bordering neighbor, and then you're a year  
 12 in court.  
 13 MR. BEDDOW: No, that's fine.  
 14 MR. GAREAU: So this is the  
 15 section -- and you may have looked at this  
 16 already, I'll hand it to you, I just  
 17 printed it off. It's the specific things  
 18 you have to prove when you come here.  
 19 MR. BEDDOW: Uh-huh.  
 20 MR. GAREAU: Because it looks like  
 21 the Trustees were quite specific about --  
 22 again, because people have issues with cell  
 23 towers, I guess, and they wanted to make  
 24 sure that you walk through these steps. So  
 25 that's the section. And you've probably

1 seen it, okay?  
 2 So your matter is concluded for  
 3 tonight. And with that, is there any other  
 4 matter before the Board?  
 5 MS. VEDDA: No, sir.  
 6 MR. GAREAU: No. Okay. I'll make  
 7 a motion to adjourn --  
 8 MS. KELLY: Second.  
 9 MR. GAREAU: -- at 8:21.  
 10 Seconded. Motion, second.  
 11 MS. VEDDA: Yes.  
 12 MR. GAREAU: And we're all going  
 13 to say "yes", right?  
 14 MS. KELLY: Yes.  
 15 MR. GAREAU: Okay. All right.  
 16 Meeting's adjourned. Thank you.  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1

2

3 C E R T I F I C A T E

4

5 I, Brian Kuebler, a Notary Public within  
6 and for the State of Ohio, do hereby certify that  
7 I attended the foregoing hearing in its entirety,  
8 that I wrote the same in stenotypy, and that this  
9 is a true and correct transcript of my  
10 computer-aided notes.

11 IN WITNESS WHEREOF, I have hereunto set my  
12 hand and seal of office, at Cleveland, Ohio, this  
13 7 day of FEBRUARY A.D. 2025.

14

15

16

17 Charles Ardery - e-signature

18

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Charles Ardery, Notary Public, State of Ohio

19 My commission expires June 12, 2027

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