

Cabarrus County Government – Planning and Development



**Planning and Zoning Commission Minutes
June 10, 2025**

Mr. Charles Paxton, Chair, called the meeting to order at 6:30 p.m. Members present, in addition to the Chair, were Mr. Adam Dagenhart, Ms. Holly Edwards, Mr. Chris Pinto, Mr. Brent Rockett, Mr. Stephen Wise, Mr. Michael Bywaletz, and Mr. Mohammed Idlibi. Attending from the Planning Department were, Mr. Chris Chapman, Planner, Ms. Susie Morris, Planning & Development Director and Ms. Lisa Johnson, Clerk to the Commission. Also, in attendance was Mr. Douglas Hall, General Counsel. Absent from the meeting was Mr. Andrew Nance, Mr. Jeff Corley and Ms. Ingrid Nurse.

Roll Call

Ms. Lisa Johnson, Clerk to the Commission, called the roll.

Approval of May 13, 2025 Meeting Minutes

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Michael Bywaletz to **APPROVE** the minutes. The vote was unanimous to **APPROVE**.

Approval of Rules of Procedure

1. The Cabarrus County planning staff person(s) shall first present the staff report and answer questions from the Commission. There will be no time limit on this presentation.
2. The Applicant may make a presentation to the Board (optional) and will then answer questions from the Commission. There will be a 15-minute time limit on the presentation if the Applicant chooses to make a formal presentation. There will be no time limit on questions from the Board following the presentation.
3. When the Board is ready to proceed, the proponents (those speaking generally in favor of the case) will have a total of 15 minutes to speak and present documents

in support of their position. The 15-minute time limit does not include questions directed to the proponents by the Commission.

4. After the proponents finish, the opponents (those speaking generally against the case) will have a total of 15 minutes to speak and present documents in support of their position. The 15-minute time limit does not include questions directed to the opponents by the Commission.
5. Each side will then have 3 minutes for rebuttal, with the proponents going first. Again, questions directed to the speaker will not count against the time limit. This will conclude the public hearing portion of the meeting and the Commission will proceed to deliberation.
6. Each side is strongly encouraged to use a spokesperson to present the positions commonly held by each. Each side is also strongly encouraged to organize their speakers and presentations to ensure that all persons wanting to speak will have time to do so.
7. If a speaker has questions of a person on the other side, such questions shall be addressed to the Commission members to be redirected to the person to be asked. There will be no direct questioning of one speaker by another except through the Commission.
8. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being removed from the building. Anyone speaking out of order shall likewise be subject to removal.
9. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Michael Bywaletz to **APPROVE** the rules of procedure. The vote was unanimous to **APPROVE**.

Mr. Charles Paxton, Chair, asked anyone wishing to speak to stand to be sworn in. The Chair administered the oath to those wishing to speak and the crowd responded with "I do."

VARN2025-00003

Variance request related to zoning district setback and impervious requirements of Chapter 5. John & Ellen Tretow are applicants/owners. The address associated with the subject property is 5139 Navion Place (PIN: 5559-67-0264).

The Chair called on Mr. Chris Chapman, Planner, to present the Staff Report.

Staff Report

In the fall of 2024, the property owner came to the Planning Department to obtain a permit for an accessory building. Staff noticed that a carport had been installed on the property without a permit. The carport was noted to be potentially encroaching on the side setback. In early 2025, updated aerial imagery had been uploaded the Cabarrus County GIS webpage. At this point, staff noticed a significant portion of the property had been covered by a concrete driveway, leading staff to believe there may be excessive impervious surface coverage. A single-family dwelling unit was built on the property in 1995. A 43x35 accessory structure was constructed in 1995 as well. A 16x40 carport with a concrete pad, a concrete driveway and a smaller accessory structure were added in 2024. The property is zoned Countryside Residential (CR). It was originally zoned Medium Density Residential (MDR) when the Heritage Springs subdivision was recorded on August 23, 1994. The property was subsequently rezoned to Low Density Residential (LDR) sometime between 2003 and 2005 and rezoned to Countryside Residential (CR) in 2009.

The primary residence and larger accessory structure were constructed prior to 2001, when the property was zoned MDR. The carport, a smaller accessory structure, and the additional concrete and driveway have been constructed since January of 2024 and are clearly visible on December 25, 2024, pictometry imagery. You can see this in Exhibit B. The subject property does not have any regulated special flood hazard area and is not located in a watershed area. There are no streams, wetlands or other notable geographical or topographical features that would hinder the use of the property. Navion Place is not listed on the Cabarrus-Rowan Metropolitan Planning Organization's Comprehensive Transportation Plan Index. Therefore, widening of the facility is not scheduled for the foreseeable future.

The application states the reason for the variance request is to allow the carport used for the storage of an RV to remain in its current location. The carport is in the required 20-foot setback for the CR district and is 5-feet from the property line. The applicant is requesting 15-feet of relief from the side setback requirement for the carport housing

the RV. With the installation of the driveway and additional structures, the property currently exceeds the impervious surface coverage maximum allowed in the CR district. The subject property is currently limited to 12,527 square feet of impervious area. The survey dated April 8, 2025, shows a total of 12,619 square feet or 20.146 percent coverage.

The applicant acknowledges placement of the carport, additional concrete and a smaller accessory structure, without consult of the zoning department or obtaining permits. Permits will need to be obtained for the carport, as well as the new accessory structure towards the rear of the property. Should the Board of Adjustment grant the approval of the variances, the following conditions should be considered as part of the approval and case record:

1. The Granting Order stating restrictions and applicable conditions of approval shall be recorded with the deed of the property.
2. The site exceeds the allowable amount for the CR zoning designation. No additional impervious area may be added.
3. The applicant must obtain after-the-fact permits for the structure as needed.

Are there any questions for me?

Mr. Charles Paxton, Chair, said, before we ask any questions, we need to ask if there are any conflicts from the board at this time?

There being none, Mr. Charles Paxton asked if there were any questions?

Mr. Michael Bywaletz said, what was the impervious coverage again; of allowable and what they have?

Mr. Chris Chapman said, the CR zoning designation would allow 20 percent. The property currently stands at 20.146 percent coverage.

Mr. Michael Bywaletz said, the old structures, which were the building and the slab next to it, that were built in 2023, were okay?

Mr. Chris Chapman said, the house and the additional accessory structure were built in 1995, and they were permitted.

Mr. Michael Bywaletz said, the rest was not?

Mr. Chris Chapman said, I'll bring up the updated imagery. (Showing on map) The carport, this accessory building and this driveway were added in the last year or so.

Mr. Michael Bywaletz said, is the accessory building in the back in a good position or is it also too close to the property line?

Mr. Chris Chapman said, (pointing to map) this one can be permitted and is not encroaching on the rear setback or side setback.

Mr. Michael Bywaletz said, the other one is? It's only 5 feet instead of 20?

Mr. Chris Chapman said, the carport? That is within the side setback of 20 feet.

Mr. Adam Dagenhart asked, does a carport require a permit from the County?

Mr. Chris Chapman said, it does.

Mr. Charles Paxton asked, is that due to size or just any carport?

Mr. Chris Chapman said, it would be considered an accessory building.

Ms. Holly Edwards said, did they do it themselves or did they have an actual builder do it?

Mr. Chris Chapman said, I'll defer to the applicant to answer that.

Mr. Chris Chapman asked if there were any further questions for him. There being none, the Chair called on the applicant to speak.

The applicant said, my name is John Tretow, and this is my wife, Ellen. My address is 5139 Navion Place, Concord, NC 28025. Just to follow up with what Chris said, everything he said was 100 percent accurate. We got in this situation because I didn't get permits for the carport or shed. What I've learned in this process is that any structure over 12x12x12, needs a permit. The carport is 16x40; the accessory shed is 14x24, so they both exceed limits that need permits. They are both professionally built. I bought them from a barn supplier; I bought both items from the same vendor. In a conversation with the vendor, we talked about permits, but he didn't seem to think it was really important and I didn't pursue it. So basically, I rolled the dice and what we're trying to do now, is just make it right.

Depending on the outcome tonight, our intent is to keep whatever is existing on the property. Primarily, to keep the carport intact, where it's at. Then go through the permitting process for both of those structures, if we get the variance for the carport. The shed is within the parameters of the property, the setbacks and all. I just need to get

a permit for that, too. We're going to pursue that next. I haven't done that at this point because I can't handle all of that and I want to do one thing at a time. I want to get through the variance process first, then we'll pursue the permitting stuff. The shed was built and delivered intact and leveled and is anchored. The carport was actually assembled onsite by the manufacturer of the building. Are there any other questions?

Mr. Adam Dagenhart said, I want to understand where your septic is. Does it go all the way to the rear property line?

Mr. John Tretow said, if you look closely at the photo, you can see it kind of hooks around the back of the house and crosses perpendicular to the driveway. It does go almost all the way to the end of the line of shrubs. Knowing that I couldn't cover the septic lines with a solid surface, I chose to put pea gravel in there, but it's also in a 18,000 PSI grid to help support the weight. My logic in that was the garage was built around 1997, but there was never a driveway built that connected the house or garage to anything. There are GIS photos of cars in the backyard that have crossed over the drain field. I wanted to put a driveway in to connect the two. You can see the garage in the backyard, it is maroon. We bought the property in May of 2023. The driveway was also professionally done. We contracted that, too. We determined the length of the driveway and put the gravel grid over the drain field for the septic. The contractor was assuming that pea gravel was pervious and would allow water to run through or primarily evaporate.

After talking to Martha in the office, she told me that gravel would compact over time and therefore, it is considered impervious. When we had the survey done in April, the surveyor did not consider that as impervious, so were under the 20 percent threshold. Upon getting clarification, in the planning and zoning office, that was added back in, which put us over by 92 square feet. We had to add that to the variance request. If we go back to the original plot map in 1995, the side setbacks were 5 feet. There was a survey provided when we bought the house in 2023, that was done in 2016. I also indicated a 5-foot setback. In preparation of planning out the carport and driveway location, that was the number we went with, figuring it was okay.

I wasn't aware that Countryside Residential zoning was changed in 2009. The setbacks, I assume, were changed at that time. I wasn't aware of the setback change, so I never considered it until I got a notification regarding the carport. Somebody complained, so a county inspector came out and measured the height of the carport because it exceeded 12 feet, therefore I needed a permit. I came to the office and talked to Phillip. He recommended we apply for a variance to keep the carport where it's at, because I

didn't know about the 20-foot setback. I'm not a contractor; I'm a machinist, but that doesn't matter. I'm not familiar with building codes and that kind of thing. I guess I was relying on the vendors I selected. They do this stuff every day for a living, and I was following their guidance on the permits and setbacks. That influenced my decision to approve everything that exists on the property now.

Mr. Charles Paxton, Chair, asked, when you were relying on these people and walking the area, they looked at it and said 5 feet. Did anyone at that point say, that looks awful close, or you knew that it was close and moved on? You said you rolled the dice. What does that mean?

Mr. John Tretow said, I rolled the dice as far as the permits. My vendor wasn't really insistent on getting the work done to get the permit and I didn't make an effort to go get the permit myself. Even the paperwork clearly states, it's the buyer's responsibility to get all permits. It was my impression that he wasn't really concerned about the permitting process. We're out in the country and sometimes you need one and sometimes you don't. In this case, he didn't seem very concerned at all about me getting a permit for the carport or the shed. His influence was just "roll the dice". That's the best way I can explain it. I didn't feel it was necessary to ever get a permit.

Mr. Charles Paxton said, what about when they laid the concrete driveway. Was there any discussion then?

Mr. John Tretow said, no, not really. He was under the impression as well that the 5-foot setbacks were good. As a guy that does this for a living, I would've thought he would encounter something like this prior to my experience, but it never came up in conversation with him. At that time, he didn't know about 20 feet or 20 percent coverage. These are all things we learned after I got the notification and talking to Phillip about the zoning. Again, we're just trying to make it right. I learned a lot through this process, and I just want to make it right, so if and when we ever have to sell, there are no issues with the property. I'm not trying to pull the wool over anyone's eyes, just pay the price, whatever that will be.

The Chair asked if there were any other questions.

Mr. Adam Dagenhart said, this came into fruition because of the height or because you tried to pull a permit for something else?

Mr. John Tretow said, I'll show you the notification. We did not try to pull a permit, but this is the tag that was left on the door.

Ms. Susie Morris, Planning and Development Director, said, for those of you who are not aware of what that is. That is from Construction Standards. That is not a zoning violation. Just a couple points of clarification; you always need a zoning permit for any structure that goes on the property. The 12x12x12 that is being referenced, is actually the building code. As far as a structure being added, there are always going to be setbacks. Any structure requires a zoning permit. Whether Construction Standards requires a building permit or not, is something different. We have to go by what the current zoning is, not what it has been previously, which is where that 20-foot setback comes in. If you look at the survey that is in your packet, you will see that the 20-foot and the structure is right on the line.

Mr. Adam Dagenhart said, but that one was built during the old zoning and was permitted at that time.

Ms. Susie Morris said, the house and that structure actually had permits, but it could've been a different setback then. That particular structure does meet the 20-foot setback. In the ordinance, it says you can do some administrative adjustments if a building is less than 15 feet. We can only adjust the rear setback, not the side setback. Anything that is over 15 feet, is subject to whatever the primary setbacks are.

Mr. Michael Bywaletz said, and that applies to the structure not the driveway, for setback purposes?

Ms. Susie Morris said, yes, to the structures.

Mr. Adam Dagenhart said, there's really two issues here. There are two buildings without permits, a building in the setback, and exceeding the impervious.

Mr. Steve Wise said, just to clarify, concrete is considered in the setback, if it is horizontal?

Ms. Susie Morris said, we don't necessarily apply setbacks for concrete and parking areas, unless they're commercial. The owner does that at their own risk if they don't maintain that side setback line. The impervious is the more relevant piece in this particular application.

The Chair asked if there were any other questions.

Mr. Stephen Wise said, the storage building or the accessory building, that was a pre-fab built on skids? It wasn't stick framed?

Mr. John Tretow said, yes, it was not built on site.

Mr. Adam Dagenhart said, is the reason you chose the location for the carport more for aesthetics than function.

Mr. John Tretow said, I would say it more for function. Just so I can back the camper straight down the driveway.

Mr. Adam Dagenhart said, I'm just curious why you didn't put it on the other side of the driveway?

Mr. John Tretow said, I didn't want to consume the whole backyard with a garage, a feature that would stick out in the middle of the yard. I felt that it was a camper that's not being used full-time. It was off to the side of the property and the neighbors didn't really care; I did ask them prior. In my case, it was just for ease of parking the camper and not consuming the rest of the backyard.

Mr. Charles Paxton asked if there were any other questions or if staff had any additional comments.

Mr. Chris Chapman, Planner, said, I would like to clarify that the gravel that was in question, was included in the impervious coverage. We felt it would make more sense to include it in the variance application, rather than delay the application any further, to have respective agencies evaluate the gravel for how pervious and not pervious it is.

Ms. Susie Morris said, that is where the state defines impervious and pervious. Even with what our applicant is speaking of, that is not the right kind of gravel or the right type of installation to be considered. That is why we advised them to go ahead and include it with the application. If you're familiar with pea gravel, it compacts. There might be a cage underneath it, but even so, ultimately, that surface would be considered impervious because it is not constructed to NCDEQ's standard that's considered pervious for stormwater calculations.

Mr. Charles Paxton, Chair, asked if there were any other questions. There being none, the Chair opened and closed the public hearing, since was no one present speaking in favor or against the application.

Mr. Charles Paxton said, at this point, we need to discuss the reasons for granting or not granting a variance. I'm going to read Section 12-20 Application of the variance power:

A variance may only be allowed by the Commission in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports all the following findings.

Mr. Charles Paxton asked, should we vote on each of these at one time, Susie, or independently of each other?

Mr. Adam Dagenhart said, I think we have our discretion on that.

Ms. Susie Morris, said, that's correct. You can either split them up and talk about each one independently and vote on them or you can talk about them both together and vote on them together. Just keep in mind that there were some conditions of approval proposed with this one. If there is something else the board wanted to add, you are free to do that. If you don't agree with the proposed conditions, you may also alter them.

Mr. Charles Paxton said, I suggest we read them first. Then, make a decision on how we're going to vote. Our first consideration should be:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

All of these findings of fact shall be made in the indicated order by the Commission. At this point, we can decide whether we're going to vote individually or as one. Do I have a motion either way?

Mr. Adam Dagenhart said, I don't think we need a motion, just a discussion about it. I understand that this happened by mistake, and they didn't realize it, but it is a part of their responsibility as a property owner. I don't have a lot of heartburn on the impervious, but asking for 75 percent of their encroachment is giving me a little heartburn. I don't really see a concession from the property owner to try and mitigate that.

Looking at number one, unnecessary hardship would result in the property basically not being used. It's still a residence, whether a carport is there or not. That's not really a

hardship that applies here. There is some constraint on number two, as far as the septic is partly in the way, for the property to be utilized.

Mr. Michael Bywaletz said, in planning the driveway, they could have put it at 20 feet and then did the driveway with the gravel around it.

Mr. Adam Dagenhart said, as far as the impervious, there's ways to fix that, if we want it to be less than 20 percent. Depending on what we decide on the others, he may have to make some changes. In number three, the owner created the issue, so I don't think that one really applies. Their actions created it.

Mr. Charles Paxton said, number four?

Mr. Adam Dagenhart said, I don't see how it is consistent, one and three doesn't seem consistent. Number two, you could potentially make an argument for. I think it does have to pass on all four. If we have one of these four that we don't agree with, as far as the hardship, I don't think legally it can pass.

Mr. Douglas Hall, General Counsel, said, you need to find that each of the four points exist to grant the variance.

Mr. Adam Dagenhart said, so if one point doesn't exist?

Mr. Douglas Hall said, and by doesn't exist; for example, on number one, if you find no unnecessary hardship would result, that knocks you out of granting a variance. If you found in looking at it, for example, you're limited as to where you can put the carport, because you can't drive the RV over the drain field area. That would be an example of how unnecessary hardship would result from strict enforcement.

Mr. Adam Dagenhart said, but the primary use of the property is for a residence. So, an RV should not change whether you can live there or not.

Mr. Douglas Hall said, I want to be careful with my words because you're still deliberating. I don't want to taint your deliberations, but this section you're looking at doesn't call for what you just recited. I think you were saying that you all would have to find that unnecessary hardship would result from strict application and that he could not use it as a residence. I think this would be an allowed use of the property, to build the carport there, if everything had been complied with. For example, you can find that an unnecessary hardship would result from the strict application of the ordinance and that he cannot erect or keep a carport that's in a usable place because of these constraints. The house is where it is, and the drain field is where it is. You can drive a passenger car over the pea gravel, but we can't drive an RV, something that heavy. Those are examples

of how you can find that either unnecessary hardship exists or find that it does not exist. I think in that context, we're not talking about residential use. We're talking about him being able to make other appropriate uses that are allowed under the zoning ordinance which would include accessory structures or a carport.

Mr. Brent Rockett said, I know number one was given as the example, but to me, it's number three that is perhaps the more significant, which is hardship did not result from actions taken by the applicant or the property owner.

Mr. Douglas Hall said, I don't know if you have a question about that, but I will step down.

Mr. Brent Rockett said, no.

Mr. Charles Paxton asked, do you have any other comment on that?

Mr. Brent Rockett said, the only thing I would say is ultimately, whether anyone could come in here and say it was a mistake, I'm not saying in any way they're being untruthful. That's not my intent at all. I think where the danger exists is when you allow someone who makes a mistake to get a variance, how do you not allow the person who lies and said they made a mistake? To me, you set a precedence when you start allowing some of these things. I hate it for the property owner in some cases more than others, but the fact still remains that it seems dangerous to me to create a precedence of approving this. Again, it is number three that gives me the most heartburn. Admittedly, from the property owner, they made the choice to move forward with this particular construction project without pulling the permits, which would have caught this and probably would've found some solutions. It likely would have led to more expense and more time and I understand all that. I can understand fully trying to be wise with your money, but sometimes it creates these types of circumstances where errors occur. I guess if someone had not taken the time to complain about the carport, maybe we wouldn't be here, but it all starts somewhere and now we know.

Mr. Stephen Wise said, I would like to agree with what Brent said. My thoughts are that both of these could be fixed with a permit. The shelter could be easily moved. You might could gain back some of your impervious area by removing some concrete. I think there's a lot of options here is my personal thoughts on this piece of property.

Mr. Charles Paxton said, what about the carport?

Mr. Stephen Wise said, it could be moved easily. It's on skids; take it apart and replace it out of the 20 feet.

Mr. Adam Dagenhart said, can staff pull up the survey, please?

Mr. Douglas Hall, General Counsel, said, if I can just touch on what Mr. Wise said. I may be misunderstanding, but I want to make sure you all aren't mislabeling the storage unit and the carport. I thought I heard you say the carport was on skids.

Mr. Stephen Wise said, it looks like it is. It's anchored to the concrete, but the anchors can come out fairly easily.

Ms. Susie Morris said, is this what you were looking for?

Mr. Adam Dagenhart said, yes. I think what Steve is alluding to is that the carport could slide to the left edge of the driveway.

Mr. Michael Bywaletz said, as long as you're careful with the impervious.

Mr. Adam Dagenhart said, if you move it, you're going to cut it. You could certainly remove the gravel and do permeable pavers to do reduce his footprint. If he cuts out the same and moves the same, we could potentially say, you're not getting anything else impervious on this property if you slide it over. I don't know the applicant's intent for the existing garage in the back. I don't if he's got vehicles that he stores there. I think there's ways to fix it, but unfortunately, like Brent said, it's time and money.

Ms. Susie Morris said, just so I understand, are you suggesting that it go from the right side of the driveway to the left side of the driveway?

Mr. Adam Dagenhart said, that should be just below the septic field so that shouldn't be a concern.

Mr. Michael Bywaletz said, I think what we're getting at is to deny the variance for allowing the carport to be in there. It needs to get moved. The option of where the owner wants to place it with a permit is up to them. If they're going to have to move it, you may as well get into the 20 percent with the relocation.

Mr. Adam Dagenhart said, right. I wouldn't want to leave the impervious where the carport is currently and have it relocated somewhere else in addition, because then we're going even more above the 20 percent. If it was a net gain of zero, I wouldn't care.

Mr. Brent Rockett said, just for clarity, while I understand the need and desire to have the carport there, the concrete and the RV is not the problem. Ultimately, the carport itself, is the problem. Technically, if you want to be without the carport, you could leave it as is.

Mr. Charles Paxton asked if there were any other comments.

Mr. Adam Dagenhart said, we can either deny it or we can approve it with conditions contingent upon what we've discussed with the applicant. It's either denied and you get permits and remove the carport or get a permit for the shed and find somewhere else to put your carport and permit it properly. We're still going to have to address the impervious area, so I think we're going to have to go toward the conditions on the impervious and vote separate on that.

Mr. Charles Paxton, Chair, said, at this point, do we want to have a discussion and a vote on variance request #1, request for relief from the 20-foot setback for a carport that is located in the side setback? Do I have a motion to approve or deny this request for a variance.

Ms. Holly Edward **MOTIONED, SECOND** by Mr. Brent Rockett to **DENY** the request. The vote was unanimous to **DENY** variance request #1.

Mr. Charles Paxton said, we now move on to variance request #2. Do we want to have some discussion before we take a vote?

Mr. Brent Rockett said, I don't feel that strongly about 92 square feet of impervious. Again, I know this might be more complicated if the desire is to have a carport structure somewhere on that property and that's where it gets dicey. Theoretically, if we were to approve the variance for the impervious and they go to pull permits to move the carport, it's going to be denied because it's going to be additional impervious beyond the 20.146 existing, or they would have the option at that point to remove some of that impervious to add back to stay within the 20.146?

Mr. Adam Dagenhart said, I think the easiest way is to approve it with the condition that the impervious shall not exceed 12,619 and let them figure out how to do that. If they have to remove the existing concrete, then they can try to use permeable pavers to get that down. Ultimately, when they move the carport somewhere else, it's going to increase the impervious, so they're going to have to come up with a net zero.

Ms. Susie Morris said, I think depending on what your decision is, we would have to handle that by survey. That is not something that staff would be able to estimate using GIS or any other resources.

Mr. Adam Dagenhart said, unless they took out a 40x16 area and just moved that 40x16 to another area. It should be the same.

Ms. Susie Morris said, I think they would have to provide a new survey with that information.

Mr. Charles Paxton asked Mr. Douglas Hall, General Counsel, if he had any comments.

Mr. Douglas Hall said, I just wanted to point out another possibility. I want to make sure I'm on the same page with you all, depending on what your decision is in the end. What about if they move the carport and just have it over grass?

Mr. Adam Dagenhart said, it's still going to be impervious, though.

Mr. Douglas Hall, said, it's impervious because of the roof? Okay, I just wanted to make sure we're all on the same page.

Mr. Brent Rockett said, so again, we could approve variance #2 with the condition that it would never exceed 12,619.

Mr. Adam Dagenhart said, the allowable is 12,527. It's a 92-square foot difference.

Mr. Mohammed Idlibi said, so is that a motion?

Mr. Adam Dagenhart said, we could deny it, but I think then the applicant has to come back. I think that's just ridiculous for this. I think the easiest solution is just the 12,619 is approved here and forever.

Mr. Charles Paxton asked Ms. Susie Morris if she had anything that she wanted to add?

Ms. Susie Morris said, if they have a good relationship with their neighbor, they could purchase additional property to come up with that additional 20-foot setback. I don't know if that is even an option based on the lot size next to them. That might be an option for them to be able to keep it if the board decides this is not something that is in favor of the applicant, as far as the carport.

Mr. Adam Dagenhart said, is that something they would like to explore? If that's the case, then maybe we should table this.

Mr. Michael Bywaletz said, on the first part it wouldn't matter, if they could buy more property. It's still been denied that it can't be there.

Ms. Susie Morris said, so two things happen. One, the setback would go away. Number two, with the additional property, so would the impervious.

Mr. Douglas Hall said, I think if you approve the variance on the impervious, that maybe they've got a variance, they eventually don't need if they go back and purchase the property.

Ms. Susie Morris said, I think the applicant would like to speak if the board would allow that.

Mr. Ellen Tretow said, we've only been there two years, and we have great relationships with our neighbors, but not to the point of walking up to their door and asking them for 15-feet of their property.

Mr. John Tretow said, I don't know what that would cost legal wise, to go through another survey, a plot map, plus the cost of the land per square foot. That's just more added expense. I'm just trying to limit the damage at this point.

Mr. Charles Paxton said, do you have any comments about the carport?

Ms. Ellen Tretow said, it's like I told Chris. We are honestly rule followers. It doesn't sound like it, but we are. We've put other things on this house, too, and we've done permits on what we thought we were supposed to. We've learned a lot. It's been extremely expensive for that silly carport, but that's learning and that's just what it is. He's not that kind of guy. I know it kind of sounded like that when he was talking. I just wanted you to hear that and know that. We went by the 5-feet, we didn't just come up with a number. Even our first survey had to be done three times. I didn't understand that. We paid a lot of money for a survey, and it kept coming back wrong. That made no sense to me, but it is what it is.

Mr. John Tretow said, the carport is sitting over concrete, so that gets into the impervious. I would not put it in the middle of the backyard.

Mr. Brent Rockett said, would you be more likely to use that "as is" without the carport and still park the RV there just without the cover?

Mr. Adam Dagenhart said, what are your intentions with the garage in the back?

Mr. John Tretow said, it's a 3-car garage. Right now, it's full of our kids' crap. We got married two years ago. Ultimately, I would like to park my truck in that garage.

Mr. Adam Dagenhart said, there's always more than one way to skin a cat. What if you move the carport over the driveway to the garage and park your RV and when you need to pull in a car, you pull the RV to where the carport is currently. Then you don't have to relocate it as far, you don't have to pour new concrete, and we can approve the impervious. It meets the setbacks, and you can stay out of the drain field.

Mr. John Tretow said, my only issue with that is if we move it onto the other portion of the existing driveway, it's currently on a curve. If I were to drive through it with another trailer at some point, that's just one more obstacle. It's only 16-feet wide and I'd have to turn a truck and trailer in that width, if I were to put it on the curve in front of the area that's marked gravel. I don't want to put it behind it because if I use that garage for a

car, I need that space for the car to make a wide turn to get into the garage because it's a side-entrance garage.

Mr. Adam Dagenhart said, right, I understand that. My suggestion was putting it just below the gravel and move the carport there. The RV is stored there and when you need to get in and out, you just move the RV. You could back it into where the carport is now.

Mr. Michael Bywaletz said, or onto the slab that's there.

Mr. Adam Dagenhart said, I think you're good with the impervious that's there. I think you're going to get that approved. You're going to have an expense; I'm just trying to come up with some ideas to help you out. I know that it's not ideal, but that's better than moving it to the other side and pouring another pad and removing concrete. That's ultimately something you guys are going to have to figure out, but I think we just need to move forward with the motion on the impervious.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Mohammed Idlibi to **APPROVE** variance request #2 to allow the 12,619 square feet of impervious to remain on the property, but not to exceed 12,619 square feet. The vote was unanimous to **APPROVE**.

Mr. Brent Rockett said, do we have a third vote?

Mr. Michael Bywaletz said, we kind of put the conditions on there already.

Mr. Adam Dagenhart said, but we also need to approve the conditions from staff as well.

Mr. Douglas Hall said, the impervious can remain as is, but never to exceed the 12,619 square feet?

Mr. Brent Rockett said, correct.

Mr. Charles Paxton said, do we have any discussion on vote #3 before we make a motion?

Mr. Adam Dagenhart said, let's look over those real quick, just in case.

Mr. Charles Paxton said, I will read them out:

- The Granting Order, stating restrictions and applicable conditions of approval shall be recorded with the deed of the property.
- The site exceeds the allowable amount for the CR zoning designation. No additional impervious area may be added.
- Applicant must obtain after-the-fact permits for the structures as needed.

Mr. Brent Rockett said, that would be for the carport and the accessory building?

Mr. Mohammed Idlibi **MOTIONED, SECOND** by Mr. Brent Rockett to approve the staff's conditions. The vote was unanimous to **APPROVE**.

Mr. Douglas Hall said, I do have a question. On the impervious, I've got that it's allowed to remain as is, but not to exceed 12,619. Are they allowed to make changes to the driveway as long as it doesn't exceed the 12,619 square feet.

Mr. Adam Dagenhart said, yes, as long as there is net zero.

Mr. Charles Paxton told the applicants they were free to leave.

LEGAL UPDATE

Mr. Douglas Hall, General Counsel, said, I don't really have anything specific. Susie and I continue to talk. If I don't hear from her every couple of days, I send out a search party or walk down and look for her. That's a good thing; it's helped to move some things along and get some closure on things when we each have an open-door policy. We're just continuing to plug along.

DIRECTOR'S REPORT

Ms. Susie Morris, Planning & Development Director, said I negotiated with the School of Government, and I now have a link to use for training. My experience with Doug is that he has a little bit of a different background, than what we've seen previously. So maybe, we can start doing some training. He may have a different perspective on things, going over some of those conflicts of interest, board expectations, what you need to be looking for, what you can talk about and can't talk about. It has been quite some time since we have done that, just kind of as a refresher.

We do have some reappointments coming up, so you might see some shuffling. The Board of Commissioners are taking a different look at things, from how it had been done historically. We will put forth the people who want to be reappointed and we will see where it lands. Hopefully, they will look at the expertise and the dedication that this group has, and we will see those reappointments. We have not been through this process before. So hopefully, we won't see a lot of changes.

Good job, with the discussion this evening. I want to put that on the record. You guys have been doing a lot better with your discussion. We need to build the record; you always hear me talk about building the record. If the judge gets an appeal, the meeting transcript and the materials that were presented, are all that they get. At this point, parties to appeals very rarely have the opportunity to even get in front of the judge to

do any further explaining. They're just reviewing the record, especially with the amount of cases they have nowadays. So, good job.

Mr. Charles Paxton, Chair, asked if there was a motion to adjourn.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Adam Dagenhart to **ADJOURN**. The vote was unanimous to **ADJOURN** the meeting at 7:34 p.m.

APPROVED BY: Charles Paxton, Chair

Charles Paxton

SUBMITTED BY: Lisa Johnson, Clerk to the Planning & Zoning Commission

Lisa Johnson

ATTEST BY: Susie Morris, Planning & Development Director

Susie Morris