



Cabarrus County Government – Planning and Development
Planning and Zoning Commission Minutes
March 12th, 2024

Ms. Holly Edwards, Chair, called the meeting to order at 6:35 p.m. Members present, in addition to the Chair, were Mr. Charles Paxton, Mr. Brent Rockett, Mr. Stephen Wise, Mr. David Hudspeth, Ms. Ingrid Nurse, Mr. Adam Dagenhart, Mr. Andrew Nance, Mr. Mohammed Idlibi and Mr. Michael Bywaletz. Attending from the Planning Department were, Mr. Phil Collins, Senior Planner, Ms. Sandy Howell, Planner, Ms. Susie Morris, Planning Director, Ms. Kendall Bolton, Clerk to the Commission, and Mr. Richard Koch, County Attorney. Mr. Jeff Corley and Mr. Chris Pinto were absent from the meeting.

Roll Call

Ms. Kendall Bolton, Clerk to the Commission, called the roll.

Approval of Minutes

The Chair asked if there were any corrections or additions to the minutes for the February 13th, 2024, Planning and Zoning Commission Meeting.

There being no corrections or additions to the minutes, Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Andrew Nance to **APPROVE** the February 13th, 2023, meeting minutes. The vote was unanimous.

The Chair said, I will take a minute to remind the audience, if you have not done so already and wish to address the Board tonight, please fill out a blue card. Is there anyone out there that wishes to do so that has not already?

The Chair said, for the audience and the Board tonight, I am going to read the suggested 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/or 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/or 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. Adam Dagenhart **MOTIONED, SECOND** by Mr. Brent Rocket to **ADOPT** the Rules of Procedures. The vote was unanimous.

The Chair said, anyone wishing to speak for the following Board of Adjustment cases or to testify during the public hearings for these cases must be sworn in. If you wish to speak, we need to have a completed blue card from you. Please provide the card to the Clerk.

It appears that we have everyone's card, I will now administer the oath. If you will please stand and raise your right hand if you will be testifying or if you think you may need to approach the Board of Adjustment to speak this evening.

Ms. Morris said, if there is even a chance you are going to speak, you need to be sworn in.

The Chair said, those standing please respond "I do" after the following oath is administered: Do you swear (or affirm) that the evidence you shall give to the Board in this action shall be the truth, whole truth, and nothing but the truth, so help you God?

Audience responded.

New Business Board of Adjustment Function:

SUSE2024-00009 - Special Use Permit request for Public Service Facility (Water Treatment). Applicant is KCI Associates of North Carolina, P.A. Owner is Aqua North Carolina, Inc. Address is 5301 Sapp Road (PIN 5643-46-3633).

The Chair called upon Senior Planner, Mr. Phil Collins, to present the staff report.

Mr. Phil Collins addressed the Board. He said, I would like to make a correction, there is a typo in the staff report. The property is actually 1.12 acres in size if anyone caught that.

The Chair asked the Board if anyone had any conflicts or information that needed to be disclosed related to the case. There being none, Phil Collins continued with his presentation.

Mr. Collins said, the purpose of this request is to add a new building and filtration equipment to the current community well site located on the subject property. The system currently serves the Country Knoll subdivision. Utilities are considered a Public Service Facility and requires issuance of a Special Use Permit. The current facility predates zoning in Cabarrus County. Therefore, no Special Use Permit was issued for the original project.

The subject property is located on the Northwest side of Sapp Road, approximately 1,000 feet South of the intersection of Sapp Road and Irish Potato Road. Based on property research, it appears that the well has occupied the site since approximately 1982. Zoning was adopted in Cabarrus County in February of 1982.

There is no floodplain or watershed within the property. The subject property is surrounded by residential and agricultural uses. The property is currently zoned Agricultural Open Space and is surrounded by AO zoned properties.

NCDOT reviewed these plans and commented they have no issues with the request. They spoke with the Engineer and let him know that they have no issues and that a paved apron will not be required. The applicant will need a construction entrance of stone during the work but afterwards it can be removed.

In conclusion, the limits of disturbance and proposed impervious area do not exceed one acre in size. Therefore, the project is not subject to NCDEQ review or permitting. There is an existing gravel driveway that extends from Sapp Road to the existing facility. Correspondence between the NCDOT and the applicant reveal that the NCDOT approves of the project, as long as entrance stone is placed at the entrance during construction. The applicant submitted a complete application including a site plan and the emergency response plan. The subject property is approximately 1.12 acres in size. The subject property is currently occupied by a Public Service Facility or community well that serves the adjacent residential subdivision to the Northeast and across Sapp Road to the South and East with drinking water.

The applicant is proposing to demolish the existing well house. A gravel area will be added around the existing driveway for parking and unloading purposes. A 420 square foot filter building, a 5,000-gallon backwash tank, and a backwash filter will be added to the rear of the well area. Several concrete areas are also being added. The applicant has submitted a site plan that is in accordance with the Development Ordinance.

Should the Board of Adjustment grant approval of the Conditional Use Permit, Staff requests the following conditions become part of the approval and case record: Zoning site plan review and approval is required subsequent to Board of Adjustment approval in order to ensure compliance with all applicable development requirements and conditions. The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed for the property and prior to zoning permitting. The applicant shall procure any and all applicable federal, state, and local permits prior to zoning permitting. Any proposed future expansion of the property, as well as modifications or changes to approved site specific development plan, must receive Board of Adjustment approval in the form of an amendment to the Special Use Permit. The applicant shall provide copies of all state, local, and federal permits for the permanent project file prior to zoning permitting. Applicant must address NCDOT comments as part of site construction.

I also want to point out that the staff maps are a little bit different than the site plan. That is because back in 2009 the property lines changed a little bit, that is why I brought up the current GIS. You can see this slight bump out on the Northeastern property line. That changed and GIS has been updated so the site plan is correct. With that I will try to answer any questions you may have.

There being no questions, the Chair called upon applicant to present. Please state your name and address for the record.

Mr. Tom Boch, 254 Hammond Road, Fort Mill SC. I wanted to clarify, the well has to have a 100-foot radius, that was the reason for the bump out. That was established back in 2009, when Aqua bought it from Heater utilities. If you have any questions or even technical questions, please let me know.

Mr. Bywaletz said, I guess question is, any of the improvements that are going in are they getting larger in regard to if it would cause an impact to an adjacent property?

Mr. Boch said, no. The building is getting larger because we're putting in an iron and manganese filtering system, which is going to improve the water quality out there. They really need it. We've got water quality data back and they made the decision to go ahead and add iron, and manganese removal. So, the building is getting bigger, but as you can see in the pictures, an example of it, it's much nicer to look at what's out there right now.

The Chair thanked Mr. Boch and asked the Board members if they had any comments or questions. There being none, The Chair opened the Public Hearing. No audience member wished to speak so the Chair closed the public hearing.

The Chair said to the Board, so in the staff report, are there any comments, questions, anything to support in favor or against?

Mr. Paxton said, I think it is in the public interest that by putting in a filter system, it will improve the quality of the water. Anyone who has ever been on well water certainly appreciates better water.

The Chair said, I would like to read some items from the Staff report. This request is to add a new building and infiltration to the current community well site located on the subject property. The system currently serves the Country Knoll subdivision. Utilities are considered a Public Service Facility and requires issuance of a Special Use Permit. The current facility predates zoning in Cabarrus County. Therefore, no Special Use Permit issued for the original project.

The subject property is currently occupied by a Public Serviced Facility that serves the adjacent residential subdivision (to the northeast and across Sapp Road to the south and east) with drinking water. The applicant is proposing to demolish the existing well house. A gravel area will be added around the existing driveway for parking and unloading purposes. A 420 square foot filter building, a 5,000-gallon backwash tank and a backwash filter will be added to the rear of the well. That should improve the water quality for the residences on the system.

The applicant has submitted a site plan that is in accordance with the Development Ordinance. Confirmed adherence to Section 8-4.17. Section 8-4.17 is the additional development standards for public service facilities.

Is there anything you guys want to add, make a comment or anything additional?

Mr. Bywaletz said, question in regard to the landscaping, is that going to be something that gets reviewed or maintained to make sure everything comes in over time? Since there is a residence there.

Mr. Collins said, yes.

Ms. Morris said, as part of the permitting process, there is also a COC process which is a certificate of compliance, not the CO for building, two separate things, the landscape would be inspected as part of that.

The Chair said, if there is nothing else to add, do we have a motion to approve or deny the six conditions proposed by staff?

Mr. Michael Bywaletz **MOTIONED, SECOND** by Mr. Brent Rockett to **APPROVE** SUSE2024-00009 – Special Use Permit request for Public Service Facility under the six conditions proposed by Staff. Vote was unanimous.

New Business Board of Adjustment function:

VARN2024-00001 –Variance request for thoroughfare buffer requirements in Chapter 4 and perimeter buffer in Chapter 9. PRESPRO, LLC is the applicant. Journey Investment Group, LLC is the owner. Address is 2339 Odell School Road (PIN 4682-41-7025).

The Chair asked the Board if anyone had any conflicts or information that needed to be disclosed related to the case. There being none, the Chair called upon Mr. Collins to present the staff report.

Mr. Collins said, the applicant is proposing an adaptive reuse of a site and structure that was historically used as an assisted living facility. The proposed use is professional office. When a change of use is proposed, the site must be brought up to the current standards of the Ordinance.

The applicant is seeking relief from the following standards of the Ordinance: Chapter 9, Section 9-4.1 Perimeter Landscape Buffer Yard. The existing driveway is located within the required landscape buffer (showing on map). It encroaches into the required perimeter buffer yard on the south site of the property for a distance of approximately 275 feet from the future right of way. The existing structure was originally constructed in 1960, prior to zoning in Cabarrus County. The original driveway made a loop and had two entrances on to Odell School Road. There is one access point proposed for the site using the current driveway location.

Chapter 9, Section 9-5. A Perimeter Parking Area Landscape. The Ordinance requires an eight-foot-wide landscape buffer yard around parking areas that are adjacent to public right of way or residentially used property. Because this property is adjacent to a major thoroughfare, a 15-foot Thoroughfare Overlay Yard is required (shown on site plan). The current right of way of Odell School Road is 40 feet. The Rowan-Cabarrus MPO Comprehensive Transportation Plan Index (CTP Index) shows a future right-of-way width of 110 feet (shown on site plan). The proximity of the front edge of the proposed parking area in relation to the Thoroughfare Overlay Yard and future right-of-way width currently does not allow for the required eight-foot perimeter yard or landscaping to be installed.

The applicant intends to provide the required plantings for the perimeter parking yard in other areas on site to mitigate not being able to accommodate this buffer around the front parking area (see landscape plan). The subject property is currently occupied by a professional office facility under construction. The structure is 17,044 square feet in size. Parking areas surround the building on three sides. A driveway is located along the southern boundary of the property which provides access from Odell School Road to parking areas in the front and rear of the facility. The subject property is wooded along the rear portions of the southern and northern boundaries. The total length of the western boundary is wooded. Most of the subject property is within the protected area of the Coddle Creek Watershed.

The subject property is currently surrounded by Residential, Agricultural and Vacant properties. Subject property is currently zoned Office Institutional. It is surrounded to the North, South and West by OI zoned properties. Agricultural Open Space zoning bounds the subject property to the East.

Cabarrus Health Alliance has reviewed the request and they had issued a relocation permit for the applicant to use the septic system in the back and make some repairs. They are abandoning the septic system in front of the building.

In conclusion, the subject property is located on the west side of Odell School Road. The subject property is approximately 3.09 acres in size. The applicant is in the process of changing the use of the subject property to professional office. The property was historically used as an assisted living facility. Odell School Road is listed in the Cabarrus-Rowan Metropolitan Planning Organization's Comprehensive Transportation Plan Index. The future right-of-way is listed as 110 feet and the current width of the right of way is around 40 feet. The future right of way is shown on the site plan that was submitted. The facility was originally constructed in the 1960's and included a driveway at the current location.

Should the Board of Adjustment grant approval of the requested variances, the following conditions should be considered as part of the approval and case record: The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed to the property. The applicant shall submit a site plan for review and approval that complies with the findings and conclusions of this variance request. Approved variances must be reflected on all site plan submittals moving forward. Any changes thereto would require additional review and approval from the Board of Adjustment. I will note they are proposing some landscaping in the buffer yard on the South side of the property to help mitigate some of that. Please let me know if you have any questions.

Mr. Bywaletz said, you said the surrounding zoning on this is already Office Institutional? Can you point out South and West?

Mr. Collins said, yes, showing directions on staff map directions.

Mr. Nance said, on the staff report it says 17,000 square feet and then on the site plan it says 14,800. Can you tell me the difference?

Mr. Collins said, if I am correct, there is a top portion that may not be shown in that 14,800. So that number would just be the bottom floor.

Mr. Nance said, okay thank you.

Mr. Idlibi said, Mr. Collins, you said the current right of way is 40 feet, but it is expanding to 110 feet. Is Odell School road expanding at any time?

Mr. Collins said, great question. I am not sure. I do not think this is on any funded list at this time. It is just on the CTP which is a universe of projects that the MPO puts together and will draw from that eventually.

Mr. Idlibi said, do we know how deep this lot is? Do we know where the 110 feet buffer is?

Mr. Collins said, on the site plan they are showing the 110 feet (showing on map) It says here, future right of way, the dark line here.

Mr. Bywaletz said, the existing right of way is right beside of that?

Mr. Collins said yes, this line here (showing on map).

The Chair called upon the applicant to speak. Please state your name and address for the record.

Mr. John Lambert, 6549 Morehead Road, Harrisburg. (Applicant is pulling up submitted PDF for the Board and audience to see). Mr. Lambert said, here is a couple of pictures of what we are working with from the existing footprint. You can see the existing footprint of the nursing home, that is what we inherited. We have not changed any of the footprint of the site at all. It came with 3 large septic areas because it was a nursing home. The front has been done away with. We have repurposed the back for septic and the back right. That area has been marked off by the Health Alliance.

As you can see, we kept the foundation and walls but pretty much built up from there. Showing pictures, this is what it looked like as we were starting work. Showing front facia of the building. You can see the architectural design, you can see the 2nd floor was added, glass front, corrugated metal, and brick. Just some nice aesthetic to the front of the building. You can see the changes in elevation a little here. This is where the additional square footage is. I took a couple pictures of the area just to say the front parking is congruent with the corridor on Odell School. Showing the Church down the road and the gas station on the corner, you can see the parking along the front. You can see another office building with parking in the front 2630 Odell School Road. Lastly the school on the corner of Odell and Highway 73.

You can notice in the back there the septic demarcation, all of that is off limits. This footprint is existing, we have not built anything beyond it. We are using the existing driveway. Because this is office use, we needed the parking up front. We also know that there potentially would be a road widening in the future. We sought some tradeoffs to mitigate the request for the variance. We have built that up along the sides here. We added circles in the parking area as well as landscape all around the building. In the future this (showing Board images) is what the completed office will look like. We are well on our way to finishing that up. You can see the back end of what the office will look like there. The elevation changes stays to the original look but does look a lot better with the glass and everything. An aerial view here, this is just the rendering only. The landscape is not showing what it will actually be, but this is showing what the "H" building will look like.

That is all I have to share with you all. I have Mr. Seth Mullis here who is our Vice President of Construction that can answer any technical questions about the site or applications. If you have any questions for me, I would be happy to answer.

Mr. Dagenhart said, you are saying none of this asphalt, curb or concrete has been installed yet?

Mr. Lambert said, the parking lot has been rough graded in the front and the existing parking is all still remaining to the side and the back.

Mr. Wise asked, what kind of permits have been obtained so far for this? Is this just a upfit permit or do you all have a site plan permit?

Mr. Lambert said, yes, we have a zoning permit.

Ms. Morris said, this is a change of use, so they have to go through site plan review and also as far as the use, whether or not the proposed new use the site can accommodate it. So that's where some of what you're seeing is happening, because they want to put in the new parking area. They were required to do roughly 70 parking spaces. Which is within the minimum and the maximum that we would allow, but it is considered a Change of Use because it was the assisted living facility and now, they're trying to go to professional office, which is actually a commercial use, but still allowed in the OI zoning designation.

Mr. Nance said, someone may have already said this but how many parking spaces have you added?

Mr. Lambert said, I would have to ask Seth. From audience Seth Mullis said, 14 spaces. Mr. Lambert confirmed 14 spaces.

Mr. Dagenhart said, you are showing 24.46 on your EP on your drive isle. Did that number come from the fire department or is that something you guys came up with?

Mr. Lambert said, we didn't come up with anything, We followed the directions that were given to us to obtain the zoning permit, we had to go through every person's input. We have been on this for four years.

Mr. Dagenhart said, that is just an odd number.

Mr. Lambert said, that number was not ours.

Mr. Dagenhart said, I am just curious why you didn't shift the driveway North.

Mr. Lambert said, it was told to us that it existed, and it predated everything. Also, it could remain where it was because it was built in 1960 and was an existing driveway. We're not changing the footprint of the facility.

Mr. Dagenhart said, you are also asking us to let go of 70% of the buffer from the South side.

Mr. Lambert said, that was the recommendation that was told to us that we could do that. We are just here four years later.

Mr. Dagenhart said, seems as if you have the cart before the horse.

Mr. Lambert said, just following the directions that were given to us.

Mr. Idlibi said, it says here that the maximum allowed impervious areas is 15%. Based off the aerial images it's approximately 32% impervious area. Where is all the surface run off water go?

Mr. Mullis approached the stand.

My name is Seth Mullis. My address is 440 Bridlewood Dr. Gold Hill. So, the calculations that our civil engineer had run, and we had seen, we were just barely under that allowed impervious to this point and the reviews with everybody, nothing's been presented that we were over that impervious area. I think it was like 1.9% or something with what was grandfathered in.

Mr. Idlibi said, so where is the surface water running here based on the site plan?

Mr. Mullis said, I don't know if I can pull up this, it's a little bit foreign to me here. I don't know if you guys have the ability to see the site plan. What's been proposed is an underground storm drain. You can see some catch basins and then you can see some drainage that daylight out to the front. That is where the water, you know, should go.

Right now, a lot of the water settles on that South side to the right kind of bordering our property line, and the neighbor on the South side and it just sits there. So, what we're going to do is we're going to take that, and we're going to push it to an area where it can actually, you know, not just sit there for forever, but drain off. So, you can see where it's kind of daylight on our private side just before it hits that right away.

Mr. Idlibi said, again, the drain off is towards Odell School Road. Correct?

Mr. Mullis said, yes, it is. There in the back, it's a little bit split. In the back, we're not changing the grade any and it already kind of goes off. That'll be the Northwest area where the septic is. It'll just kind of keep rolling off to that vegetation back there and I did want to answer your question that you had asked about losing, but what was it you were losing 70% of your buffer? So right now, there's already very thin areas, and we're proposing to bolster those by, you know, planting some things as much as possible in our property line is what we want to do. So, the intention is not to try to destroy that buffer, but ideally, and I can say this with certainty, that it would be larger whenever we're finished with this project than it is currently.

I don't know if there's a way to pull up any aerials to show it. We do have some stuff drawn in where we're planning on planting stuff and what I'm looking for is a compromise. You know, it's been a little bit of a situation with this whole project over the last few years, four years to be exact. So, we're looking to compromise as it sits right now, where that driveway is, is where it's always been, you know, we're just adopting that existing footprint. We're not expanding it further South into that buffer, those were some things that I'd be willing to entertain for sure.

Mr. Dagenhart said, to follow up with Mr. Idlibi's question, did NCDOT look at where you are discharging your storm water?

Mr. Mullis said, not yet. So, this is a proposal. I'm willing to, you know, make adjustments to that. That storm drain is not in yet, it hasn't gotten that far. It has really been kind of a herkie jerky process over the last, like four months where we've been trying to, you know, get things in, and get some revisions. It hadn't followed the typical process to where, you know, I've been able to send it out to everybody else following this. My hopes would be that we, you know, start trading things back and forth and get all those final approvals. Up to this point, the drainage has not been approved.

Mr. Nance said, one follow up question. Where the impervious materials considered for the driveway and parking areas that you are adding?

Mr. Mullis said, as far as like the materials being used as in asphalt?

Mr. Nance said, yes.

Mr. Mullis said, we are doing asphalt and concrete. I do not know if I am answering that question correctly.

Mr. Nance said, yes that's fine.

Mr. Mullis said, all of the traffic areas would be asphalt. All of your walkways would be concrete.

Mr. Bywaletz asked, did you say there was underground storage in the pipes?

Mr. Mullis said, no sir, just storm drain.

Mr. Bywaletz asked, is there any storage onsite at all?

Mr. Mullis said, there's no permanent storage. We just have construction storage right now.

Mr. Dagenhart said, so you are not required to do any detention?

Mr. Mullis said, not that I am aware of, no sir.

Mr. Dagenhart said, you stated earlier that your current water is pooling on the South side of the property, along the drive. I don't see how your water is getting from the drive to the storm drains. You have rims that are behind the curbs, I don't see any curb elements or anything. How are you going to drain that?

Mr. Mullis said, we have to take that area down where those rims are, and the water would flow into that parking area and then those would catch and have fall out to that private area in the front.

Mr. Dagenhart said, so you are going to drain your water from the Southeast towards your driveway and then it is supposed to turn the corner and go in front of the building before it gets picked up?

Mr. Mullis asked if he could pull up the site plan drawing. (Showing now on screen). If you can see my mouse, really from this area, the site has good existing fall and naturally pretty much from this area on the water already goes there and it has been for years and years. Our plan is all these other areas where we don't have that fall water does sit a little bit here and has been for a long time, not a tremendous amount, but obviously we don't want any sitting water in these areas would want to catch that have fall to this point. You can see our catch basins as they come around and then everything would join here, run to this last catch basin, and have fall out to this private area in the front there.

Mr. Bywaletz said, you are saying that the site plan hasn't gone under drainage review yet?

Mr. Mullis said, no sir. Now I will mention that we did get a zoning permit and we have been going vertical with this thing for a while and we realized in the rear, initially there is it a stamped plan for parking. It's a building stamped plan and obviously building is going to come after zoning and it just had one row of head facing and then it had some parallels. After meeting with CHA, we saw that we had some space with what was existing back there, and it would give better access for fire trucks and all those sorts of things to have two head facing rows. We proposed that and then at that point that's when it triggered, you know, that we hadn't met certain requirements.

Mr. Dagenhart said, I have a question for Staff. Is there going to be any required building landscaping between the drive isle and the building on the South side?

Ms. Morris said, there is not because we don't have a building yard requirement. Just to let you all know kind of where we are at on this, this project has been going on for about four years. It was submitted during the pandemic. Since that time, there have been multiple iterations of this plan, it has changed since the original plan. The plan that he is referencing, the stamped plans, that is the building plans. It's not a zoning site plan. When they turned the latest reiteration into staff, it was determined at that time we had no file of the project review, they did receive a zoning permit out of the building review essentially.

So, we are trying to get them headed down the right path. Mr. Dagenhart, to your question, when I asked NCDOT if, you know, I was looking for documentation to back up the support of that driveway. If you see in the application, there were on site meetings and the determination was made. I had asked the applicant, was that internal meetings or was that DOT and they had reached out to DOT. DOT did not have any meetings on the site.

This plan is to the point where it meets our ordinance. There are still some outstanding issues which could potentially cause changes to the plan, depending on what DOT says, because Odell is a DOT facility, but as far as you know, some of it for the storm water questions, some of it was grandfathered in under that 2007 date. There is a lot going on with it. We're trying to get the

applicant to where they need to be, to where they do have a site that is in compliance. The things that we found that were noncompliant are the things before you, I cannot answer your question about whether or not the Fire Marshal saw this plan. Typically, they want 20-foot access for commercial that bumps up to 22 and can be larger than that. I mean 24.

So, that is where we're at and trying to steer them through the appropriate process so that they would have a site that is in compliance with the ordinance as best as possible. That's why they're before you this evening asking for the variances.

Mr. Mullis said, I did send the site plan, it didn't have all the vegetation. Everything, but when it had the parking layout, it was the County Fire Marshal Jeremy. I believe is his name. I did send it to him via email and he said that he didn't see any conflicts on his end from fire code perspective. These are the areas where we're planning on trying to bolster these buffers around here on the Northeast side there. Then, also, as much as we possibly can here in the buffering in question, there is a large amount of vegetation around the side. I'm on the site quite a bit and you can't see anything through these trees, hardly obviously from an area where you can see it. There is a home, a good bit back here, but even in the wintertime, you know, I never even knew that there was a house until I saw the aerial.

Mr. Nance said, can you point out where those 14 spaces are being added?

Mr. Mullis said, there was some parallel areas that ran along here. Now we have head facing, so there's some in the rear because we expanded this and got a little bit closer to our septic because we realized after the meeting with CHA that we had that space. Then along the front, the original one that had the building approved, that parking stopped about in this area right here, right here where this peninsula is (showing on map). It would be this section here, and then we have some more now that we have head facing here.

There being no further comments or questions, the Chair opened the public hearing.

The Chair asked Mr. Mullis, since he is speaking in favor of the request, if he had anything else to add.

Mr. Mullis said, just the final things that I want to mention. You know we purchased this building. We're not changing that footprint at all. As far as the parking lot is concerned and along where that buffer encroachment is, it's not changing at all. With what we're doing here today, we're proposing bolstering that with more vegetation if at all possible as a tradeoff, we're open to compromises in other ways. As the Board sees fit and then the other variance with the 15-foot thoroughfare along the front. Obviously, I thought it was a 10, I've heard today that it was possibly eight. You know, we're not allowed to get two for one here or stack an additional 10 on top of that, 15 is my understanding, so that's why we're proposing these tradeoffs along the side and then along this Northside, this Northeast side obviously bolstering that as well with some vegetation. Thank you.

The Chair said, thank you. Is there anyone else here speaking for or against this project?

Mr. Bywaletz said, are we not seeing a previous plan? I have questions about the 14 spaces. There are tons of spaces out here, and we are saying when we added these, I just need to see the previous plan. Is there a previous plan that we are not seeing?

Ms. Morris said, now the only thing that we could provide to you would be aerial maps. There was more of a gravel type parking lot there and then this facility, unfortunately, it was actually shut down by the state, and so it sat vacant for a while. So, looking at aerials, you may see some of the gravel parking. You may see some of the paved parking. Staff primarily would park to the rear and to the side. The front was kind of for visitors and there's not really a plan available because it was so long ago, and we only keep plans as far as they're relevant. We don't have a plan, but if you wanted us to, we could pull up our Pictometry to go back to about 2007 if you wanted us to pull that up for you on the computer, because that's not something that the public has access to. It is only an internal program.

Mr. Bywaletz said, it more hinges on the 14 spaces, what I am counting is 28 or 29 in front. We are saying we are adding 14, there was never parking in the front.

Mr. Mullis said, so the building approved plan that has the building stamp on it, the parking ends about right here. All this here (showing on map) is on the building approved plan.

Mr. Bywaletz said, the previous plan that showed what was permitted previously and then you are adding additional parking onto whatever that previous drawing was?

Mr. Mullis said, that is correct. There was parking in the front also. I don't know if it is in the permit records. I mean, I can find it and send it up here, if need be, or I'm sure it can be accessed, and I don't know that it's in this file right here, but it is on record.

Mr. Wise said, back to my first question about the permits. I just want to be clear. You all are working off of a upfit permit through Cabarrus County. There seems to be some parking spaces that were shown but no full civil drawing was submitted to Cabarrus, right?

Ms. Morris said, they submitted it to building through Accela. The stamped plans are the building plans. It is not civil, and that's what I'm saying. What they submitted with that plan was a plan that went through one iteration of review. We cannot find where any of those comments have been addressed. They ended up with a zoning permit. Now they are trying to change the plan. This is the second time they've changed the plan. The first time they added a second story to the building. The assumption was that the first plan review had been done and that's how they got the second zoning permit. This time when the plan came back in for review, as we started reviewing it, Staff noticed that; number one is a Change of Use, these things should have happened on the front end. They did not, they then got the zoning permit, so this is where we are now.

Mr. Collins speaking to the board, would you like to see a couple years back? (Showing on maps)

Mr. Bywaletz said, I seen improvements along the way. The disconnect is what was either looked at or reviewed. This seems a lot further along.

Ms. Morris said, this is not something you all would have access to.

Mr. Dagenhart said, the vegetation that we see in that picture on the screen. Is that on your property or that on the adjacent property?

Mr. Mullis said, it is right on the line.

The Chair called upon audience member David Yawn to speak.

David Yawn, 2131 Odell School Rd. Concord. I am the co-owner of the property next door to this and being a little bit in the dark as far as what a variance is I thought I'd come in and see what it was about. I've lived here since 1995. My grandparents developed the property, so I have a pretty extensive knowledge of what it was like in the olden days I guess, and what it's like now.

I also majored in geology, so I have a little bit of experience in hydrology. I've been able to observe the water flow on this property and there is a very shallow ditch that borders Odell School Road, and I can attest to you when it rains, the water flow is quite good. Obviously also, it flows toward the field, through the trees and into the field that I have. It will also flow down the building toward Odell School Road and then flow south toward the corner of Odell and 73. I don't know exactly what it entails, you know, the border that needs to be had, but I can assure you that the water flow is good at least on that side of the building coming South toward the field and all of those trees I planted in my grandfather planted. So, we have a lot of experience with that.

Mr. Mullis is correct; they're not adding any real additional parking spaces that I can say, I don't look at the site too much but originally there was gravel. There is parking areas and then it was paved, and this was long after my grandparents sold the property. Then it was developed as an assisted living facility and halfway house. Really it was quite bad to have that there and that's when it was paved. I've never met Mr. Lambert before. I don't want to say that I'm in favor of this variance and have some kind of a conflict of interest with them. I've never met him before. I wouldn't know him from anybody. If there's any questions I can answer about the geology or hydrology or anything, I'd be happy to answer those.

Mr. Idlibi asked, is this the current image of the property?

Mr. Yawn said, yes, it is pretty current. I think it is just painted black now.

Mr. Idlibi said, the parking that is on the site plan, at the front of the building, that will all be new, is that correct?

From audience member, yes.

Mr. Idlibi said, based on your hydrology expertise, where will all of that water go?

Mr. Yawn said, it's going to flow toward Odell School Road. You are going to have the entrance there, I don't believe there is a culvert pipe, no there is not a culvert pipe there. You are going to have some flow come toward Odell School Road and then you're going to have flow coming down toward the corner of 73 and Odell. When we have a hard rain, it flows a lot. Of course, across the street, there are woods, a house, well two houses, one house right across from me and then there is on the other side, and you can see that in the photograph there. There's woods and it does dip down into a lower elevation. Down from there, toward 73 and the other homes, they have another good flow as well, toward the corner of 73 and Odell.

Mr. Idlibi said, I have another question for Mr. Collins. Going back to that 100-foot buffer. Looking at Odell School Road right there shown on the map. From the center line of that road, where would the 100-foot buffer be? Also, is the proposed parking from the building, I assume that is what we want the parking variance request for. The part that is in the buffer.

Mr. Collins said, the pinch was applied because of the 55 feet, it pushed it back and that 15 feet is almost up against that parking area. They don't have room to get that 8 feet to put those extra plantings in there. They are just spreading out those around the building and other areas.

Ms. Morris said, Mr. Idlibi to your question, the parking area does not extend into the future right away. The issue is that the parking pretty much butts up to where that future right away would be with that 15-foot buffer in between. So, you have the right of way, then you have the 15-foot buffer, then you have the parking. What they're saying is that they cannot accommodate the perimeter buffer that should be around the parking lot, and they're proposing to put those plantings in those other places.

Mr. Mullis said, just one quick thing that I wanted to mention, we didn't know that there actually is a culvert right here. There's concrete pipe that goes under the road. We didn't realize until we started maintaining the property and cutting the grass, but there is a concrete pipe that goes under the road, and it flows to this other side. It was already existing we didn't install it. It's been there for quite a while.

Mr. Idlibi said, you will install your storm water drainage into that culvert?

Mr. Mullis said, we will not connect to that, no sir. We will just daylight on our private property a distance away from that.

There being no further comments or questions, the Chair closed the public hearing and opened the floor for discussion.

The Chair said, for everyone in the room, so you all understand how the Board makes this decision and the standards of review for the variance request. 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:

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 general 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.

Those are the findings that we must agree with in order to approve. I will now open the floor for discussion.

Mr. Nance said, the landscaping doesn't bother me on this site and the additional parking doesn't bother me, but I do think there are some runoff issues we're not addressing. Seems like there is already a plan in place that may make the water run uphill. Which it doesn't like to do.

Mr. Bywaletz said, looking at the drainage, I know DOT may have a problem with it, with the increased runoff to the right of way. As it was mentioned, I do not have a problem with the landscaping. The site plan is what it is. You have a driveway on one side that is virtually against the property line. The front, they are doing as much as they can inside of their property limits with some proposed right of way of whenever that expansion may happen to Odell School Road. Which could be 10 or could be 50 years, we just don't know. That landscape could have been wider if that was allowed. I do not know what that site triangle looks like later on when Odell School is widened, I know it is fine right now with where the existing roadway is. Again, I would like to see more in regard to the drainage but that bridge may be crossed when you start dealing with DOT with the amount of runoff from the site you proposed.

Mr. Dagenhart said, my concern, along with Odell School, there is not much they can do but on that South side where they are asking for that variance, none of that water is going to the drainage. It will go right down the driveway, right to Odell School.

You are asking us for a variance on the landscape, your drainage isn't going to work. If you would consider moving your current line further North to match up where your storm system is, then that water has a chance to properly get into the pipes. The buffer that you gave them on the South side, we could at least get that along the entire property line. Instead of only 30% of what was required. At best they might lose 5 parking spaces, but they have 70.

Mr. Nance said, we haven't even talked about possibly using impervious materials for the parking areas. It seems as if that has already been decided even though they do not have the DOT permit for that.

Mr. Dagenhart said, I understand they are matching what was already there as far as the gravel. I think you are making the situation a lot worse and asking us for a variance for something, from the site plan perspective, this is not going to function right. I do not feel comfortable giving them the variance on this plan when there appears to be holes in it. It doesn't even have a civil review yet.

The Chair asked Ms. Morris, would this not be more productive for this to go back through with DOT and other reviews that have the knowledge to better make this decision? I am a little confused also about the cart before the horse.

Ms. Morris said, it's the pleasure of the Board as far as what you do with this, if you would like formal comments from NCDOT, we can send the plan over as it's currently proposed and ask for that. DOT probably, if they were to look at this site, they probably would want that driveway further North just because of sight distance. Again, that is to the pleasure of the Board. They got to a point where this is the plan that they would like to build, whether from that standpoint, you know, we're not engineers, we're just trying to identify the zoning for the site because the next step would be the actual site plan review. Operating under the assumption that they had their own engineering staff that was looking at this and whatever would work, we identified the shortcomings from the zoning side of things. This particular plan has not been to DOT.

Mr. Idlibi said, do we know if we access to utilities here?

Ms. Morris said, there are utilities available from Kannapolis, which is one of the things that we had talked to the applicant about because it would open the site up more for them. Buffers would be less. They did not feel like they wanted to annex into Kannapolis. I don't know if they had conversations with them because I think there have been some staffing changes on their side since then, but that was something that has been brought up to them and also their attorney.

Mr. Dagenhart said, I would assume this has a well then?

Ms. Morris said, yes.

Mr. Dagenhart said, what you are saying is there is local water and sewer available.

Ms. Morris said, yes, there are utilities that would be available.

Mr. Idlibi said, there is quite a bit of land being chewed up here from the septic system that could be used for more parking.

Mr. Mullis said, our understanding to this point is that there wasn't water and sewer. That we could not get water and sewer on this lot, which is why we went with the well and septic. Mr. Dagenhart you hadn't mentioned, I just wanted to get clarification on what you had proposed this

and a little bit ago. Were you talking about taking this and just essentially this area here (showing on map) is not as wide, just shrinking this down? Is that what you were talking about?

Mr. Dagenhart said, no, move your drive isle. You are using curb inlets to get your storm water into your storm pipe. Otherwise, you have it just riding the curb, it's going to get stuck in those 5 spaces basically. If it gets out of those spaces, it's going to go down your driveway. It is not going to turn the corner and go down to your front parking lot.

Mr. Mullis said, were you talking about shrinking this driveway width here?

Mr. Dagenhart said, in the back and the front your drive isles are 24 feet. You have 24.46 so, there is almost a half of foot that we could pick up if you pull that curb line back. What is that 5 feet?

Mr. Mullis and Mr. Dagenhart speaking over one another. (Inaudible).

Mr. Dagenhart said, it is in the existing buffer that you proposed, we could have that along the entire side.

Mr. Mullis said, just so that I understand completely. By no means am I an engineer or anything like that, but you're talking about right here where my cursor is, we would bring that closer to the building. Am I understanding that correctly?

Mr. Dagenhart said, yes, otherwise to be honest with you, you are probably going to have issues with drainage going forward. You are going to have water puddling in your parking lot. Or you will have it run out in the street.

Mr. Lambert said, one additional comment, our owner was involved in this 4 years ago he said that: we submitted for zoning and the notes from DOT said we do not have anything to do with them because we are not changing the access. It was very clear that we didn't need to go through them for any further than the original submittal and review. That is how it used to be done. I also have a document that was sent to him on 2/27 of 2020 during the pandemic from NCDOT. Marc Morgan, District Engineer's comment states "They will not need anything from us as long as they are not moving or changing the current access. If any utility changes are needed within the right of way, they will need to contact us also". So, Mark Morgan, District Engineer, NCDOT. 2/27/2020.

Mr. Dagenhart said, that is just about your access.

Mr. Lamber said, these are all the comments that were created by Cabarrus County. The metadata shows they were created on this date, by Phil Collins from four years ago.

Mr. Nance said, have you tried to add 14 spaces at that point?

Mr. Dagenhart said, you are essentially discharging your storm water right on top of the existing right of way.

Mr. Lambert said, it has been stated multiple times that the parking lot up front did exist. We only added a few spaces on the top right and a few spaces in the back that were basically a reorientation of the spaces that existed. So, it wasn't a massive change, especially in that area of the site.

Mr. Dagenhart said, I am looking at the 2015 aerial. There may have been gravel, but it is grassed over in 2015 along the front. Going back even further it is not clear in the aerials. It does look like at some point there was parking, but a second wing was added and went in its place.

Mr. Bywaletz said, that is what I saw, it was just the back of the building.

Mr. Dagenhart said, yeah so you didn't have any parking in the front since '05. Somewhere between '95 and '05.

Ms. Morris said, I am sorry, I thought I heard you say '15.

Mr. Dagenhart said, I did, it is in the staff report.

Ms. Morris said, this is the configuration in 2007. The parking configuration.

Mr. Dagenhart said, there is no parking in front of the building. There is roughly 30 something spaces you are putting in the front.

Mr. Bywaletz said, that is the disconnect, the previous site plans of what was the plan.

Mr. Dagenhart said, it may have been parking 20-30 years ago but it is grassed over.

Mr. Lambert said, it was on the initial plan we submitted which as well was reviewed in 2020.

Mr. Dagenhart said, but nothing was approved other than a building upfit.

Mr. Lambert said, we received a zoning permit, and the County cannot find records of their process. We have records.

Mr. Idlibi said, for our perspective there are some issues here. One is the perimeter buffer or landscaping buffer. I do agree with the two gentlemen here that is something if I had to vote on that now I wouldn't grant the zoning variance. This impervious area that is calculated based on this imagery of 32% of surface water runoff I think it is a challenge. I would like to make a proposal that we defer a decision on this and have them go through NCDOT, maybe talk to their engineer, and see if there is another way around figuring out where that surface runoff can be captured. Maybe even tying into utilities also. That is my motion.

The Chair asked, Board members, are we all in agreeance that this needs to go back through plan review?

Mr. Paxton asked if that was a motion that Mr. Idlibi provided.

The Chair asked Mr. Idlibi to please restate his motion.

Mr. Idlibi said, in the best interest here, obviously there is a hardship on this subject. If this was just one issue, like a land scaping buffer, that is one thing. Because we have multiple issues here, I am not an engineer, I cannot tell you if this is correct, I don't think that is the function here. The function here is the variance for this project because there is multiple issues. I would like to make a motion that we defer the decision on this until they come up with further review.

Ms. Morris said, just a reminder of what is before the Board this evening is 2 landscape areas, one for the perimeter buffer and one for the perimeter around the parking lot landscape. So, if the Board wishes to table, the Staff needs some direction as far as what you are looking for, for the next meeting in order to be able to make your decision.

The Chair said, just to be clear, we deny it or approve it. If we deny it, it goes back to you guys with what the Board requests.

Ms. Morris said, you could table it, which I think was the path you were headed down, but they're not asking for any variances at this point on the impervious area. It's just related to the parking lot landscape. Again, the next step, pending the decision here this evening, would be that for this, a new plan to go through site plan review the applicant was trying to move forward with. It was determined that it would come before you all in this fashion but there is another step, in that is where were not sure. If I personally had to say, I would think at a minimum DOT would probably require either an encroachment agreement or a modification agreement. As far as changing the location or what they would require, I can't answer that question. I could just tell you what standard practice typically is for them.

The Chair said, the motion really needs to be for us to table it and recommendations by the Board for it to go back through plan review.

Ms. Morris said, I mean that that is up to you all that is an option. You have it available, but as far as the actual variance request, there are only related to the landscape configuration at this time.

Mr. Koch said, I think Mr. Dagenhart was tying the one variance to the storm water, that was his issue he had.

Mr. Dagenhart said, correct. For them to ask us to make a variance request on the South Landscape buffer, when there appears to be stormwater issues, it is not what we should be doing. Now whether that ties to DOT and storm drainage is different verses DOT driveway access. That's not what we are here for. I think those are two separate issues.

Mr. Idlibi said, Ms. Morris, just to clarify, in section 5.5 B impervious area maximum calls for 15% impervious areas, are we not talking about that at all? Are we just talking about the landscaping buffer?

Ms. Morris said, property is zoned OI, so that's going to be a higher number. It is in the watershed, which is going to restrict it, but because a lot of this was developed before our magic July 2007 date, they kind of get a free pass on that as long as the overall site, as long as the overall site meets that. That magic number again is 1 acre or more cumulative disturbed and essentially with the new additions to the site the numbers that were given to us were less than one acre.

Mr. Dagenhart said, I am curious with that statement and what we have learned on this aerial, are those impervious numbers correct? Obviously, you guys have not looked at that because it has not gone through a site plan review.

Ms. Morris said, correct, this new plan came in and we started reviewing it. That is when these issues started coming up.

Mr. Lambert said, I do think this site has a particular uniqueness to it. I do think this situation also has a particular uniqueness to it. All of the review on this happened prior to the County using Accela and therefore it's likely that it may be thought that we didn't take proper plans. This is back in the day four years ago, and the pandemic when email and physical plan and permit submissions were done. Hence the word document that was sent back to us. That was a response from the County. So, we have a zoning permit predating that, which is proof of the protocol being found. We are asking, this is a simple landscape variance. I do think that we need to look at these things. We're hoping that in this review, we can go through the necessary processes to address.

Obviously, we don't want water spilling onto the road or onto our property and pooling, but it would be a hardship for us to have to go through another plan review and process that we've already gone through in order to get the zoning permit. We're asking for you guys to consider that and basically let staff work with us as we have been working with staff. We want to be good neighbors. We're trying to provide a reasonable tradeoff. We'd like to get this variance approved so that we can work on the other aspects of the site, since as you can see the site has been substantially almost completed and this has nothing to do with you. But you should know as a business, we do build houses from 2,000 square feet to over \$2,000,000 square feet houses.

We are building the affordable housing for the City of Concord for the We Build. We are their preferred contractor, and we are a local and private company building this on cash. So, the hardship of this process that we entered into in the pandemic should not be exacerbated by something that I think we can work with the staff on. I'm asking you to consider that before you make your final determination on this approval. Thank you.

Mr. Paxton said, I have a question. He seems to think that he can work with Staff on that, do you seem to think that?

Ms. Morris said, again, the things that you all are talking about are not things that we would do, zoning things. These are more engineering. With that comes, typically for a commercial site, depending on what it's being used, as you know, we would send it off to our engineering review.

Just to clarify, we adopted Accela in 2008, this was not a new process. Building handles everything through Accela. Zoning is a completely different process. They are two separate tracks. At this point they have submitted a revised plan that revised plan needs to go through the site plan review process with all of the applicable agencies. We did send the variance request out to get the comments back that are in your staff report that was not sent out as a site plan.

People would be looking at it from a different perspective. The Board has options. I think at this point. But again, this is at least the 3rd or 4th plan that has been submitted to us.

Mr. Dagenhart said, so typically you guys would see the site plan, see what issues there are, or if there needs to be a variance request, and then they would come before us. Is that not typically how that would operate?

Ms. Morris said, so in this case, they submitted a revised plan. Again, we don't know how the zoning permit was issued because the original plan was not compliant. This is a change of use. There were things that should have been happening. We are trying to help them work through the process, but it is a process so it's before you for the variance request. They kind of came up with that plan. Maybe we got the cart before the horse. They are pushing to try to proceed with the project.

As late as last Wednesday, I think it was or Friday. I can't even remember. We met with the applicant to try to help them through this process and direct them as far as what was needed. That's about all I can tell you about that, but there are things of that part of the process that have not been completed. That's the part that we started and identified these issues. So, they've got it to a point, I think where that's the plan that they want to try to move forward with, they can correct me if that's not right. That is why we brought the plan to you to try to identify we did a site plan review on it for zoning.

This particular plan hasn't been to the Fire Marshal's Office. It hasn't been to DOT because they are operating on that original set of building plans. So again, two different processes. We're trying to help, maybe we shouldn't have brought them as soon. If you feel like there are issues that need to be addressed, if you will just direct Staff, we would be more than happy to work on behalf of the Board.

Mr. Koch said, I would like to add a couple thing to that. The reason that it was put on this agenda was because their attorney asked for it. That is why it was put on for this month. They actually wanted them to go even earlier than this. I don't want to complicate this anymore, but one thing you could do is if you have no problem with the one variance, you could go ahead and approve it.

I will go back to what Mr. Dagenhart was saying, they do not have a full storm water plan for this property. I think that is what he is concerned about. That is the variance on the side where the driveway is. That still hasn't been answered because I don't think they have a full plan on it. That is one option you would have. Continue the one variance issue until they can either have their engineer here or have some sort of completed storm water plan that they can show to you. I

understand why you would grant a variance if it were going to create some other problem. That's what the issue is. I think that is something you could do if you would consider it.

I don't want to complicate this anymore than it is, but I think that might help to satisfy maybe some of their concerns about getting some things done and to put the focus on what really needs to be done in order to get the other variance.

The Chair asked Mr. Idlibi to rescind his motion.

Mr. Mullis said, in regard to the stormwater plan, what we've presented is what we believe is completed. After confirming with our civil engineer, if revisions need to be made to that, we are totally open to it. We've gone through plenty of jobs where we submit something, then revisions have to be made. What we're presenting today is what we think is a completed drainage plan.

Mr. Idlibi said, I will rescind my previous motion.

Mr. Dagenhart said, we have two options here. I think the buffer along Odell School is okay to work with. The South side, with what is proposed here, we have one of two options. We could deny it, or we could put a condition on it that the 82 feet, roughly, buffer that they gave us, that they are required to maintain that along the entire side. Then they work it out with Staff. Hopefully that will take care of the storm water concerns. Granted that isn't what we are here for.

Ms. Morris said, so if I understood you correctly, you're talking about this buffer (showing on map) being continued along that side of the property for 82 feet.

Mr. Dagenhart said, no, I think the ordinance requires 275 feet? If I read that right.

Ms. Morris said, it was the length of where they don't have that buffer. That was the 275.

Mr. Dagenhart said, basically it will be from the drive back to the dumpster.

Ms. Morris said, yes, (showing on map with cursor) it is from here, back to the dumpster. So, they are proposing in this area they have some existing wood, and one of the conditions of the approval that you all have is that if that is short that they do have to supplement it. Then here, they were proposing to go back in with the drive in essentially the location where it was previously, and then installed this. You're saying if they backed up the curb line to show this type of buffer along it, that would potentially correct the storm water, redirect it to where it needs to be.

Mr. Dagenhart said, I think that would resolve the issues. Other than what DOT would have from the drainage perspective. If you go back to that aerial, we noticed there was parking along the side. I think that is where this width has been gotten from. Its not the drive isle, they are just matching what was there. Technically, I guess the drive isle is further off the property line than what they were showing. Is that an existing curb where the cursor is on the screen?

Mr. Bywaletz said, that is an existing curb, so if they tore it out or moved it, you are going to destroy the vegetation on the adjoining property owner.

Mr. Dagenhart said, but that is not a current aerial.

Ms. Morris said, this is 2007 (showing on images). This is January of 2024.

Mr. Dagenhart said, there is nothing there.

Mr. Bywaletz said, there is, there is existing curb there and pavement.

Mr. Mullis said, it is all kind of busted up.

Ms. Morris said, there is no curb there.

Mr. Bywaletz said, will it get resurfaced?

Mr. Mullis said, it will.

Mr. Dagenhart said, it will have to be redone, it's all messed up.

Mr. Bywaletz said, on their current site, all they are going to do is resurface. They would probably want to go down into the roots of the trees that are on the adjoining property. From that square on the site plan, from there back, that will be new curb. Which is beyond, or just about beyond the building. It may disturb those trees that are back further on the property.

Ms. Morris said, this, here, is the area that they are talking about (showing on map).

Mr. Dagenhart asked, how many of those trees are theirs? We cannot use vegetation on another property for your buffer requirements. It has to be on yours.

Mr. Bywaletz said, I understand but I am thinking if we tear out that curb just to move it closer in, now the neighbors' trees are destroyed. Well at least maybe 2 of them.

Mr. Dagenhart said, they wouldn't have to be destroyed because they are going to move the curb closer to the building further from the trees. All they are doing is excavating the top.

Mr. Nance said, I would like to interject. It seems as if we are still discussing run off issues. At that point, if you are trying to keep your driveway where it is, and that curb where it is, lets talk about materials of this driveway and parking lot. Is there ways to try to make portions of it pervious to try to get that impervious percentage number down. Is that something you would entertain?

Mr. Dagenhart said, yes but I don't think that is something to discuss right now. We are discussing landscape buffers.

Mr. Mullis said, quick regards to the impervious. My understanding is what was existing and what was grandfathered in, we're like 1.9% under that allowable impervious area.

Mr. Dagenhart said, who gave you that permission? Was it the County or the State?

Mr. Mullis said, I am unsure.

Mr. Dagenhart said, obviously in 2005, there was no gravel, asphalt, or anything in front of that building.

Mr. Mullis said, other than the entry, you are correct.

Mr. Dagenhart said, other than the sidewalk to the front door.

Mr. Paxton said, did we eliminate Mr. Koch's idea?

Mr. Dagenhart said, we can do that. We can go ahead and knock that out.

Mr. Nance said, I think building design and site design are very complementary. You cannot do one with out the other. Right now, we are being asked to vote on one thing when other areas have not been addressed.

Mr. Wise said, that is my opinion also. Until this thing gets through the full plan review. It almost seems we are trying to make decisions for plan reviewers and that's not our job. It may go to County Fire, and they could change this whole site plan for firetruck access, we see that all the time. I think the two variances that Mr. Koch says, that at least gives the engineers direction. As a Board we approve the variances. That is my thoughts.

Mr. Dagenhart said, I guess my options are we table it and make them go through site plan review or we put a condition on it they have to meet that on the South side.

Mr. Nance said, I am fine with either of those options, but we have to figure out as a Board what way we need to go.

The Chair said, I think that is a good option, would you like to put a motion on the floor?

Mr. Dagenhart said, lets go ahead and clear up the one on Odell.

Mr. Dagenhart **MOTIONED, SECOND** by Mr. Brent Rockett to **APPROVE** variance request #2, VARN2024-00001 landscape buffer as shown along Odell School Rd. With all conditions set forth in the staff report by Staff. Vote was unanimous.

Mr. Koch said, would you like me to come up with the findings of facts that fit the four requirements you are supposed to meet?

Mr. Dagenhart said, yes, if you could. I'm sorry, looks like there is 3 conditions. Which one of the conditions are for site plan review?

Ms. Morris said, correct, then when we got to that point, we were going to ask for the additional condition about supplementing if they needed to, on the backside.

Mr. Dagenhart said, do we need to add that? Is that something we need to do, or Staff can do?

Ms. Morris said, I think it's a legal question at this point because if the site plan is subject to change, then at least those conditions are out there for if they have to come back.

Mr. Dagenhart said, I will amend my motion, if the applicant needs to supplement the buffer along the front, per Staff review that they will do so. That is a condition.

Ms. Morris said, the buffer that we're actually asking for them to potentially supplement is the North, West, and South side because they have a note on the plan that's talking about, to the contractor, to use existing. We don't know what's existing at this point and what they may have to supplement because as you all have talked about, some of this may actually be on the adjacent property owner's property.

Mr. Nance said, should we just say supplemental planning may be required for any and all sides?

Mr. Dagenhart said, variance request 2 is related to perimeter parking, not the current landscape.

Mr. Koch said, from what I thought I understood from the testimony was that front parking area is what we are talking about here. That's an area where they do have a little bit of room to plant. There just isn't enough room to have the full number of plants so instead they were going to put those somewhere else on the property. That is what I thought I understood.

Mr. Dagenhart said, yes, I think Mr. Collins said they were going to supplement.

Mr. Koch said, so whatever was required by the ordinance in the front, to the extent they cannot fit all of those in and put them somewhere else on the property. That would be the 4th condition on the second variance.

Mr. Dagenhart **MOTIONED, SECOND** by Mr. Michael Bywaletz to **APPROVE** variance request #2, VARN2024-00001 landscape buffer as shown along Odell School rd. With all conditions set forth in the staff report by Staff and additional condition that what is required by the ordinance in the front, to the extent they cannot fit all of the plantings in, they put them somewhere else on the property. Vote was unanimous.

Mr. Dagenhart said, I think we still have to address the other variance also. Variance one. The only thing is I don't know that existing measurement.

Inaudible discussion from multiple Board members.

Mr. Nance said, they called it a 10-foot variance request.

Mr. Dagenhart said, I guess they are calling it a level 3 buffer yard.

Mr. Dagenhart proposed a motion, variance request #1, VARN2024-00001 Make the level 3 proposed buffer yard shown on SE section along the property line continued along that buffer and is maintained back to dumpster pad location.

Ms. Morris said, just to be clear, they're not meeting the Level 3 buffer yard. If you all are looking for some type of a standard to go next to that driveway along the property line, I think you would need to articulate what that standard needs to be. Because the buffer there is going to be no different than the buffer on the North side of the property. It is based on the acreage and then the plantings.

Mr. Nance said, this is why I mentioned putting it elsewhere on the property if need be. Because we have ran into issues in the past trying to squeeze vegetation where it doesn't really fit.

Mr. Dagenhart said, I am looking and thinking we are supplementing the front and they are going to supplement the side. Where is it going to go because the other areas that it could go are the septic fields.

Ms. Morris said, let me try to walk you all through this one more time.

Mr. Dagenhart said, I almost feel it should go through site plan review first.

Ms. Morris said, as far as the landscape, they required a Level 3 buffer along the North and the South. To the rear, it was actually a level 2 because there is a house back there, so that is a different buffer. Initially the plan that we had that came in, it had parking, actual asphalt encroaching into that buffer. After Phil explained that to them, they went back, and they are meeting the 15-foot thoroughfare overlay yard buffer between that and this parking area. Because the parking area is visible from the road, there is supposed to be a perimeter buffer that would soften the look of that. In most cases, your parking area is not going to be right up at your thoroughfare yard. You're going to have some type of space, and then it's going to be back behind it.

So, what they are proposing is to take what should be here (showing on screen). If this parking was pushed back and that is going to go here and here and then they also are proposing to add landscape in as a building yard like you would see. For those of you who are familiar with using the UDO's, building yard in the front and in the back, and then here (showing on map). The first plan did not have the islands in it. So, the island is now part of the parking lot landscape. That is what is required. So, they're meeting that. As far as this, this was something that they added to try to have some landscape in that area, not necessarily related to parking, that's in their buffer yard. When Seth made the comment about not being able to count it twice, there's not enough room to accommodate the 15 foot plus the additional plantings and have it be able to survive. It would just be too crowded. If you all are looking for a buffer along this property line, which I think if I'm hearing correctly, that's what you're saying.

I think you need to determine how that happens because as you can see this is not a lot of distance here. It tapers off because they're trying to use that existing roadbed, for lack of a better word, I believe, and they can correct me if I'm wrong on that.

Mr. Dagenhart said, that should be up to their Engineer to figure that out, not us.

Ms. Morris said, initially they didn't have anything there. This came in for the final plan. If you are looking for something specific to happen there, I don't believe they can. They can't accommodate the three and the driveway at the same time. Either they ask for the variance from the Level 3 to not install it, or you all tell them what you would like to see over there, whether that's five feet, ten feet, whatever it is, and then they need to figure out where the driveway can be located at that point.

Mr. Nance said, again for the record, the vegetation on that South side doesn't bother me as much. You are not looking at parking there, that's the driveway. What I can't seem to wrap my head around is the runoff. I think once again, those are very integral to one another when we are talking about where that driveway is and how they are trying to wrap all the runoff back around to the buffer.

Mr. Dagenhart said, thinking back to all the other cases where we have had buffer variance requests, there is at least at some level site plan review by the County. I cannot think of an instance where we have given a condition and not... (trailed off). We have had people come back that were working with staff review and show us the direction that was given. I think that is kind of what we need to do here. We need to Table it, give them direction on what we would like to see, and then they need to go through a site plan review before they come back to us. Only problem is I don't know how we table it when we have to determine when it is tabled to.

Mr. Koch said, when you table it, you can table it to the next meeting, or you could go two meetings out. I think that one we had, not too long ago, we took it out at least two meetings, maybe three. If they are not ready when they come back, you can table it again. You have the absolute right to do that if that is what you want to do.

I think you do have to give them some sense of direction to where you would be headed to as a Board. That way they know what it might take in order for them to get the variance. I am not sure what that is either, I am not an engineer. You do want to have some buffer on that side and move the driveway in. That would take care of the runoff so that wouldn't create a problem. I know that's not what you are here to decide. One goes with the other, or one could go with the other. What I heard was the plans for all of that have not been fully developed. We do not have an engineer here to tell us from an engineering point of view what we are dealing with here. They might say that they have done all of that, but they really haven't. In terms of getting, you all to give a variance on landscaping requirement. The two do kind of go together based on your own experiences with dealing with this. They have got to prove to your satisfaction, 8 or 9 of you, there is not going to be a problem created by giving them this variance. I think that is kind of where everyone is tonight from what I have heard. You guys are not convinced.

The Chair said, does everyone agree with Mr. Koch's statement that it is our number one issue? Do we all agree that it needs to be tabled? I think time is of the essence, it has been a long process. Does everyone agree to table it for 30 days and it is really up to them to make that happen or not? They can come back and table it again if they need more time.

Ms. Morris said, just listening to your conversation, thinking this through, the adjacent property owner or one of the property owners is here. Our ordinance does allow for a landscape easement to be used if the adjacent property owner agrees to that. If you are looking for a certain distance for that landscape, would that be something that the board would consider or? If it was only an easement and didn't shift the property line just so that we as staff know whether that would be something that would be on the table or not?

No response from the Board.

Ms. Morris said, that's a no, okay.

Mr. Dagenhart said, I am not in favor on using someone else's landscaping for the requirements.

Mr. Idlibi said, well if its an easement then they are buying the rights to use that piece of land.

Mr. Koch said, I am not certain he wants to do that anyways.

Property owner from audience said, I would not be in agreeance with that.

Mr. Nance said, it still doesn't fix our runoff issue.

Mr. Dagenhart said, Susie, before we move on. What is the width that it should be for that level 3 buffer yard?

Mr. Nance said, 10 feet. That is what it says.

Ms. Morris said, it is way more than 10 feet. It would be whatever the buffer is shown on the top.

Mr. Dagenhart said, it is 24.

Ms. Morris said, so that's what I'm saying, to shift it over either you have to give them a number or they have to come back with some other plan to where they're asking to not have it, or they've had the storm water addressed.

Mr. Nance said, the driveway location does not bother me, the vegetation does not bother me, the runoff that we keep running back to is bothering me. In my mind there is a simple solution, to use pervious materials for parking and driveways. Not all of it, but at least in the areas that you know you over 15%. I don't want to make that decision for you, that is someone else's decision. If I were looking at this site design and the building design and what I had to do, that would be my suggestion.

Mr. Mullis said, in regard to the site review process, you're leaning towards tabling for the next meeting about 30 days. In my experience with projects like this, that plan review process has not really been 30 days. Is there some way to ensure that the timelines whenever something is submitted and then something's gotten back?

Mr. Dagenhart said, it looks like your plan is ready to submit now but whether it is going to be the number of comments you get back or whatever, that will be different. You can submit your plan tomorrow.

Mr. Mullis said, so if I submit it, you know it's not going to sit in a stack waiting necessarily. That is what I am getting at, would I get the adequate responses in order to be prepared on my end within those 30 days. Not looking for necessarily guarantees, but I just want you to understand my position because we've had some of these cases in various municipalities. These things can get crazy and go out a long time because of lack of response. That is the key point that I'm getting at here.

Mr. Nance said, I have a question for staff, how quickly do they need to turn this around to you all if they want to be heard at the next meeting?

Ms. Morris said, so again, you all are familiar with this timeline. 30 days is not a lot of time because the site plan review has to go to outside agencies, we give everybody a minimum of 10 days to get us comments back. From that time, it is back with the applicant and if you were trying to stay on the 30-day schedule, you have about two days to get it turned back around for us to get the staff report ready and out to you all, because it goes to you the week before.

Mr. Dagenhart said, so it would be wise for us to table this for 60 days. Otherwise, we will be back here again next month tabling it again because they are not ready to come before us.

Mr. Mullis said, I was hoping you would tell us we could get it in those two days.

Mr. Nance said, I say we do it for 30-days and if we table it next month to the following, that's fine with me.

Mr. Idlibi said, I agree.

The Chair asked if there was a motion.

Mr. Nance said, motion to table until the next meeting under the condition the applicant is required to go through some sort of engineering review, and review with the County to figure out what they can do for this run off and impervious issue. In order to better understand the variances, we have been asked to look at tonight.

Mr. Dagenhart said, Mr. Koch, correct me if I am wrong but we can't impose impervious restrictions because that isn't what we are here for.

Mr. Koch said, because of what Susie said, most of it is basically grandfathered on this property because it was developed before this ordinance. I think what we are looking at here is for you all to be satisfied about the problem. That really is going to be an engineer decision. From what I have gathered from this is you can't really impose a requirement on it in terms of how much the driveway may need to be moved. Then you are going to run into fire issues, maybe under the fire code. Secondly there may not be enough room. I don't know whether that is true or not. They really need to let their engineer look at this so they can see there are some issues on that end of the property that this Board is concerned about.

The Chair said, Mr. Koch, do we have to put any conditions on it? Can we not just table it for 30 days? I am sure they have the message by now what this Board has discussed.

Mr. Koch said, that's what I am getting at. You can't specify.

The Chair said, correct. Can we just table it and let them take it back to do what they need to do.

Mr. Dagenhart said, well we can't, we have to give Staff some direction too. They don't know what kind of buffer we are wanting. It is required 24, we have to give them some direction to what may be accepted by the Board.

Mr. Bywaletz said, I would like to add one more thing to this. I am going to pull the PE card; I am an Engineer. Looking at the rim here, I really don't want you to disturb that existing curb line. Looking at the last bush that you have in regard to landscaping, you have about 5 feet. Can we say we recommend a 5-or 8-foot buffer all the way down that side that would be planted, that would then set their curb and gutter behind. Also, check the grades. I think you do have some engineering you need to look at, but I am not telling you where those are.

Mr. Mullis said, just for my clarification, I've heard it mentioned, we're trying to get drainage to like wrap around and like go uphill, all of these catch basins where you we have fall towards these catch basins...

Mr. Bywaletz speaking over Mr. Mullis. (Inaudible)

Mr. Bywaletz said, where you have your drainage, you have a 5% grade on the driveway coming down. That is where it is going now, down the asphalt. That is draining fine and collecting how it should and making sure you are not adding additional run off to that area and getting it do that DOT right of way is fine also. I have looked at your numbers here, they are draining how they should.

Mr. Dagenhart said, but how are they getting it to the storm pipe? There is no curb inlets.

Mr. Bywaletz said, it is coming down the curb which is a problem with the drainage in regard to that you are sending it down the front of the driveway instead of it running off the curb. There is a curb along that right hand side of that. So, you are actually doing the same as you did before but on the inside piece of that, that piece that is going to come down, it used to run into the

property where there wasn't a curb. At least from what I think was previously there. Or is there a curb all along that front area?

Mr. Mullis said, Yeah, it does, it all settles in the front right now. There's a low spot where Odell and the driveway is and you know when you get a heavy rain, you get about a four-or five-foot-wide valley of water that just kind of sits there and then it disperses out left and right.

Mr. Bywaletz said, as mentioned, we are looking at the landscape and not the drainage. I would prefer a site civil review for them to go through. Then, have it come back to us and say they have had it reviewed and it is done. Now we can deal with the landscape piece of it. But would we accept a 10-or 8-foot buffer along that side to be planted along that edge.

Mr. Nance said, I think once the water gets into the pipe its fine. What we are really having an issue with is the surface drainage seems to want to go another way.

Mr. Mullis said, we would grade the lot to have fall towards those catch basins. That is the intention.

Mr. Dagenhart said, you don't have catch basins, you don't have drop inlets.

Mr. Mullis said, no, there is catch basins.

Mr. Dagenhart said, the only catch basins you have are in your two parking spaces which is in the back. You don't have anything along the side.

Mr. Bywaletz said, they are all just graded inlets sitting in a lot creating depressions around them.

Mr. Dagenhart said, those rims are higher than your curb line, its not going to get there.

Mr. Mullis said, so you are saying those aren't catch basins?

Mr. Bywaletz said, no, they are just graded inlets.

Mr. Mullis said, okay I understand.

Mr. Dagenhart said, I think we at least do a 12 foot. Not saying that is where they will end up, but it at least gives them some direction. That is 50%.

Mr. Nance said, so we are asking them to move the existing driveway at that point.

Mr. Dagenhart said, at this point it is not existing, it is gravel. The drive location doesn't need to change, once you get past the apron, they may have to move their drive isle along the side. As far as location in connection with Odell, it doesn't need to change.

Mr. Nance said, just to follow with you, they would most likely lose those 5 parking spaces.

Mr. Dagenhart said, potentially. I believe though they are above the minimum.

Ms. Morris said, so again, if you all could please be clear, because I've heard it needs to go through an engineering review. If you wanted to go through an engineering review, that's an outside agency, there's no way we're doing that in 30 days.

Mr. Dagenhart said, no, we said site plan review through the county. They need to submit a site plan for review to the County.

Ms. Morris said, okay, because engineering review with the engineer is different than site plan review because again site plan review, we're going to send it to those applicable agencies. Typically, the engineer is not included unless there is a storm water plan that's coming along with it. So, if the expectation is that you would get a stormwater plan as part of that to address the concerns that you're talking about, we just need some direction and we need clarification as far as what your expectation is with that plan review process.

Mr. Nance said, I would like to defer this to Mr. Bywaletz and Mr. Dagenhart since they have the expertise. I would like for them to be in agreement on this.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Adam Dagenhart to **TABLE #1**, VARN2024-00001 with additional site review with the hope to reach a 12-foot minimum buffer down the South side of the property for 30 days and see where it goes from there. Vote was unanimous.

The Chair asked if Mr. Koch was okay with the motion and verbiage.

Mr. Koch said, I think that is fine. The applicant just needs to understand that 12-foot might change, it might not be what this Board ends up approving. You all might settle upon a smaller buffer. I think a lot of it depends on what your engineer shows as it being the final word on how the storm water is going to be dealt with on that side of the property.

The Chair called upon Mr. Lambert or Mr. Mullis for any questions.

Mr. Lambert said, I just don't think we are going to get our turning radius with that requirement. It is going to get bounced around between agencies.

The Chair said, I think that is the whole point, to get the remarks back.

New Business Board of Adjustment function:

VARN2024-00002 – Request for variances from Section 5-5. B –impervious area maximums, Section 10-5.2 –parking requirement, Section 7-3.43. B– 100' setback for Automobile Repair in AO, Chapter 9, required perimeter buffer (encroachment), and Appendix A, Pavement Schedule. Keith Pepin is the applicant. Owner is 3209 Industry; LLC Address is 3930 Penninger Road (PIN 5632-81-8954).

The Chair asked the Board if anyone had any conflicts or information that needed to be disclosed related to the case. There being none, the Chair called upon Mr. Collins to present the staff report.

Mr. Collins said, thank you. The subject property is approximately 3.51 acres in size. The applicant is proposing to use an existing site in the AO zoning district for an automobile repair facility. This is considered a change of use to the subject property, which requires that the site be brought up to the current standards of the Development Ordinance. The proposed project is subject not only to the general development standards of the Cabarrus County Development Ordinance but also to supplemental design standards, listed in Chapter 7, for locating an auto repair facility in the AO district, which is a residential zoning district.

The Applicant is requesting relief from the following sections of the Ordinance: 5-5. B – Impervious Area Properties within the AO district are limited to 15% impervious area. The existing impervious area appears to be more than the 15% maximum allowed for the district. It is estimated, from the aerial photos, that the existing impervious area is approximately 49,000 square feet. The lot is approximately 152,769 square feet. This means the impervious area is approximately 32% for the site. The Applicant is seeking a variance to exceed the allowable impervious area.

Also, section 5.5.B – Front Setback Encroachment. A 50-foot setback for all structures is required. The existing well house encroaches in to the 50' front setback (showing on map). The Applicant is seeking a variance for the required setback for the structure.

Section 7-3.43. d Automobile Repair Garage in AO. A 100-foot setback for buildings and storage areas that are adjacent to residentially zoned and/or used properties is required (showing on map). The existing building encroaches in to the 100-foot buffer on the rear and left side of the structure. The Applicant is seeking a variance to allow the existing structure to encroach into the required 100-foot buffer specified in Chapter 7 for auto repair facilities locating in the AO zoning district.

Chapter 9, Table 4 Perimeter Landscape Buffer Encroachment. The proposed facility is required to maintain 43-foot undisturbed perimeter landscaped buffer along properties that are residentially zoned or used (showing on map). The existing driveway encroaches into the side buffer yard. The building and portions of the graveled area encroach into the required landscape perimeter buffer to the rear of the subject property. The Applicant is seeking a variance to allow the driveway, the building, and the parking area to encroach into the required landscape buffer areas.

Table 10-6 – Parking Requirements. The facility is required to provide between 24 and 47 parking spaces and 1 to 2 ADA accessible parking spaces. The applicant has stated that only four to five parking spaces are needed. One ADA accessible parking has been provided. This parking must be paved (showing on map).

Section 10-5.2 – Paved Parking Requirement. The area of the existing facility requires between 24 and 47 parking spaces for an automobile repair facility. The Ordinance also requires that parking areas with more than four parking spaces be paved. The applicant is proposing to use the existing graveled area for parking and does not intend to pave it. It appears the gravel area could accommodate up to 24 spaces using the general measurement of the square footage for a 9x18 parking space. One ADA accessible parking has been provided on the plan submitted. If only one space is being provided, the space must be van accessible. ADA parking area must be paved. The Applicant is seeking a variance to use the gravel area and not pave the parking, except for the ADA accessible space.

Section 9-5 – Parking lot area landscaping. The applicant is seeking relief from the parking lot area landscaping standards, which includes the perimeter parking area buffer and the interior parking area standards.

Residential Road Design/Non-Residential Road Design, Pavement Schedule, Appendix A. Because the subject property is in a residential area, access to the subject property was created using a 45-foot private right-of-way and an alternate design standard that allows for the use of gravel for residential access versus pavement. The alternate design may be used when there are 5 lots or less using the private road for access. Roads provided access to, and in commercial or industrial developments, are to be paved and follow the pavement schedule provided in Appendix A. The pavement schedule table further states that the cross-sections for roads serving non-residential uses shall first be classified and then the pavement schedule determined on a case-by-case basis. The pavement schedule for this project per NCDOT and the County Engineer is in your Staff report, I won't go through all of that.

The Applicant is seeking a variance to not upgrade or pave the road. When I say road, it actually goes all the way out to Penninger. (showing on map)

The subject property is currently occupied by a nonresidential building that is vacant. A contractor trade shop is adjacent to the property to the West. A church/cemetery is adjacent to the property to the North and East. The remaining adjacent properties are residential and vacant. The subject property is currently zoned Agricultural Open Space district and is surrounded on all sides by AO zoned properties.

NCDOT did make a comment on this, they stated that “we do not have a record of this site ever being permitted for access, so we would need a permit application to approve, and the expectation would be that the access be paved for a minimum of 25' from edge of pavement on Penninger. That is pretty standard with DOT, they usually require an apron when connecting to a facility that goes back 25 feet.

In conclusion, just a few points I would like to make; the subject property is located on a private gravel road that provides access to Penninger Road. The subject property is approximately 3.51 acres in size. An existing 6,412 square foot building occupies the subject property. Aerials show the existing building has been on the site since at least 1995, the tax card indicates that the structure was built in 1990. The subject property is in the AO zoning district, which is a

residential district. Because the subject property is in the AO zoning district, additional design standards are required for the subject property to be used as an automobile repair garage per Chapter 7, Section 7-5.43. More specifically, point B of this section states; in the event this use abuts residentially used or zoned property, buildings and storage areas shall be located a minimum of 100 feet from the property line. The proposed change of use of the subject property requires general upgrades to landscape, parking, and to the road.

Should the Board of Adjustment grant approval of the requested variances, the following conditions should be considered as part of the approval and case record: The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed to the property. The applicant shall submit a site plan that complies with the findings and conclusions of this variance request. Approved variances must be reflected on site plan submittals moving forward. Any changes thereto would require review and approval from the Board of Adjustment. The applicant shall provide an approved NCDOT driveway permit prior to zoning site plan approval. With that, I will answer any questions you all might have. Thank you.

The Chair said, thank you. Board members, do you have any comments or questions for Mr. Collins? There being none, the chair called upon the applicant for their presentation. Please state your name and address for the record.

My name is Keith Pepin. I live at 1960 Stonewyck Ave, Kannapolis, NC. So, for the proposed use. The company is called Gloss Works. We are a small family operated business, just me and my son, and that's all actually who is going to be occupying the building. Just the two of us. We are closed to the public; we are not open to the public. We are by appointment only.

As far as traffic coming down that very long roadway, that might be limited to one or two cars a day at the most. There's an existing industrial property that adjoins it, which they'll probably have more traffic coming down that road than we do throughout the day. We are in acceptance of some of the requests of that have been put through as far as the DOT permitting pulling process. I'm not sure why that wasn't done back in the day when this existing building was there a long time ago, but we will comply with that. We will pull a permit and we have no problem. Also paving as recommended that 25-foot apron, even though meeting with the fire department they indicated they didn't need it, but we still will comply with that. We have no problem with that. I don't think I have anything else to add, if there are any questions, please let me know.

The Chair asked the Board if anyone had any questions or comments for Mr. Pepin.

Mr. Bywaletz asked, what is the business?

Mr. Pepin said, the business is called Gloss Works and we do small automotive customizations. We do powder coating of some small automotive parts, so that's why it actually falls into the automotive group. We are not a repair facility, multiple bays, broken down cars. That is not the business at all. Hopefully that answers your question.

There being no further comments or questions, the Chair opened the public hearing. I will start with who would be in favor. Mr. John Jones? He did not approach the stand but said he is in favor.

The Chair said, moving to the ones against. Ms. Cline, if you would like to approach, please state your name and address for the record.

My name is Carolyn Cline, resident of 3029 Sapp Road and a lifelong member of New Gilead Church. I'm speaking in reference to the variances requested at 3930 Penninger Road. The easement to access the property at 3930 Penninger Road runs through our cemetery at New Gilead Church. 3930 Penninger Road is also adjacent to residential lots on Flower Field Drive. I noticed when you had the GIS earlier it says the vacant lot, Mr. Watts that is here, does not live on parcel 5632-81-4732, but he does own that. His house is on the lot next to that.

Areas of concern are increased traffic on the easement, possible accumulation of unfixable cars creating an eyesore and limited setback from adjoining residential areas. Several of the variances being requested would have a direct impact on these concerns because of its proximity to a residentially zoned area and a cemetery. Approving the variances that are proposed to use this existing site to allow an automotive repair facility seem irresponsible.

I guess you know, just adding automotive repair facility, I guess in my mind and a lot of peoples' minds throws up red flags. My main concern is, is this variance going to follow this property? Mr. Pepin and I've talked, and I also agree, and I mean I was born and raised there. I was baptized in that church. I know that there are other facilities adjacent to this property that obviously are not in compliance, they would have to come before this Board also.

My question is, if we approve this for automotive repair right now, he is renting, he is going to be leasing this building. He does not own it. Will that follow this property even when he moves out and goes elsewhere? That is the precedence, I guess that is what bothers me, is when you set a precedence and I don't know whether there would be conditions that the Board could put on it that it would only be for him or whatever the case may be. Basically, I would have to stand as opposed to it they way it sits on paper right now. Thank you.

The Chair called upon Mr. Watts, please state your name and address for the record.

My name is Mitchell Watts, I live at 1600 Flower Field Drive. I also own all the adjacent residential lots that join this property. They are an investment and I hope that at some point I'll be able to develop them and turn them into nice residential properties like the other residential properties that are here. My understanding is Mr. Pepin is planning on doing a lot of automotive painting, as well as whatever else goes along with repair and automobiles. Hopefully I will have families with kids and everything in there.

I don't know what all the setbacks are, but I am pretty close. My intent is to either find the right person to build on these lots that are allowed and sell it to them, or I will develop the lots myself and sell the houses and lots. Not knowing exactly what is going to happen there, I oppose it. I have not gone into it or hiring an attorney or anything to check out these requests, but they seem pretty extensive. Hopefully, it is for the betterment. We have an extremely nice residential area with no problems, and we would like to keep it that way. I have invested a lot of money in the

residential lots, and I certainly want to protect that and hopefully make a profit off of it at some point.

The Chair thanked Mr. Watts. She asked the audience if there was anyone else wishing to speak on this subject at this time. There being none, the Chair closed the public hearing and opened the floor for the Board to discuss.

Mr. Dagenhart said, I am just curious, what type of business was there before?

Mr. Pepin said, surprisingly it was actually an auto repair facility. It was a race team who occupied it several years ago. I think just recently there was a construction company that was using it to store building materials. I am not 100% sure that went through the proper zoning channels. But that is who was there was a commercial construction company that stored construction material in the building. If I didn't mention it there was a race team there as well.

Mr. Paxton said, just for clarification, you will be doing the automotive work inside, no work will be done outside the building?

Mr. Pepin said, that is correct. Just another thing to reiterate, there is no spray painting, there is no painting of any cars, no aerosols or anything of any kind.

Mr. Paxton said, what about storage of those cars outside?

Mr. Pepin said, there is no storage outside of any kind. I think we have talked to Phil with regards to that. There is no exterior storage of any kind. It is not a multiple bay; I don't know if we can pull up an aerial map of the building. Its not a multiple bay building, it has 3 garage doors, I think. It is in a heavily wooded area; I do recognize their concerns.

The Chair said, Mr. Pepin, give us a description of what you do during the day, like a good job description of yours.

Mr. Pepin said, yeah, so I have a couple of old cars. I belong in an old car club. I do work on old cars every now and then. I am going to be doing that, and my son will be powder coating some of those old car parts.

The Chair said, if you do not finish the job that day, where does those parts or cars go?

Mr. Pepin said, everything is inside, everything is within the perimeter of the building.

The Chair said, you are not taking on more than what the bays holds?

Mr. Pepin said, correct, well more than what the building holds itself. There is zero construction going on for the building. No permits are needed, no expansions, the footprint of the building is staying the same, and no modifications being done inside the building, it will all remain the same. The building and the property will remain as you see it now in the photographs.

Mr. Nance said, do you operate your business on the weekends?

Mr. Pepin said, we do not.

Mr. Nance said, have you added any gravel to the lot since?

Mr. Pepin said, we have not, if you take a look at the aerial, the gravel that is there, there are some areas like the main drive area, that is heavily graveled. In the back of the building, the gravel is almost gone. The grass has really grown up through it. That impervious area is really not as heavy as it seems.

This is the building here (showing on map) I believe this is the land that the gentleman earlier who spoke, that is what he owns. Along this property line (pointing to map) the elevation drops off very, very significantly. Well over probably 100 feet in elevation. This property down at the bottom, is very steep up to this property. There is a drive area that we discussed. That area comes down and it is shared by the industrial crane operating facility. They store and operate large mobile cranes. You can see on the maps that is why their parking lot is pretty heavy.

We will, like I said earlier, we will have one vehicle parking in the front of the building and one vehicle, maybe myself, parked in the back, depending on if I am using the back or the front of the building.

There is an existing gravel area that feeds this property back here (showing on map). It comes down to the loop turn around for the firetruck. The Fire Marshal has already come out and said it does meet all of the size requirements and turn around radius for his vehicles. Then here (showing map), is where it splits off and feeds this building. This is the shared access that feeds to the cemetery. That drive then comes out on Penninger, which we have agreed to pave even though there are multiple businesses back there and a couple residential buildings. We would agree to assume that responsibility and cost to pave the first 25 feet of this to help with gravel or any potential gravel that could end up on the road. Also, we would pull that DOT permit that was never pulled back in the day. Several tenants before that.

It is a heavily wooded area, there is an existing well up on top of the hill. That is in the setback requirements. We obviously cannot move the well, it has been there forever. I think someone said the well was there when she lived at that house, there was an existing house up on this hill. I think there is some setback requirements, but again, it is an existing building that was built back in 1990. The existing gravel area that is there or may be there since inception. We are not changing anything; we are just asking for a variance on the new standard requirements that weren't in place back when the building was there. There was an existing race team who occupied that building back in the early days. I don't know the name of the team.

Ms. Cline said from the audience, Ricky Craven.

Mr. Pepin said, there you go, Ricky Craven. They were doing similar stuff to what we will be doing.

The Chair thanked Mr. Pepin and asked the Board if they had any comments or questions.

Mr. Nance said, I have a question for Staff. I know in the past it was either DEQ or DOT had to standard where certain gravel lots could be impervious once they were installed a certain way. Is that something still allowed here in Cabarrus County?

Staff shook their head from audience.

Mr. Watts said, question, if he turns that into an automotive repair place, how does that affect residential lots starting at that line. (showing on map) That there is what I own. Does that affect any house that I might build? Or the setback on it?

Mr. Dagenhart said, no

Mr. Watts said, no cars will be parked on the outside, only the inside, correct?

Mr. Dagenhart said, he stated only their daily vehicles will be parked outside. No storage of vehicles

Mr. Watts said, what happens if that does not happen?

The Chair said, could we put those conditions on there?

Ms. Morris said, you could ask for those conditions, but the property owner would actually have to agree to those conditions because this will run with the property. Mr. Pepin is only leasing the building.

Mr. Pepin said, that's one of the reasons why John is here, he's actually here as the owner's representative and can speak on behalf of the owner. So, if there is some sort of alternate requirement that may be imposed. That's something that he can speak to and possibly agree or offer up a suggestion that that might be sufficient. I would like to add to that in the front of this building, although you can't see it, we will be adding a handicap space if that is needed.

Ms. Cline said, if you're putting things on the deed and conditions, I mean I don't know how much of that you can do as far as saying, you know, no cars parked outside.

The Chair said, then you might be in agreeance with this?

Ms. Cline said, I don't know, I'm not going to say yes or no, but the other thing would be is if this LLC out of Charleston, SC, decides to sell, all of these conditions will continue with the honor. That would be my main concern. I know that we're with the same conditions with the adjoining property owners that are probably out of compliance.

Mr. Koch said to the Chair, if you are going to be thinking about some conditions on the property, which is what it sounds like, you might need to have this other fellow come up and

identify. He isn't necessarily the owner, but he represents the owner. We need to determine if he really has the authority if you all are going to bind the property.

The Chair called on Mr. Jones to address the Board.

Mr. John Jones, I do represent the owner, I have a message that says I am authorized to speak on his behalf. I am his real estate agent. I am the president of Gibson Smith Realty; we do investment and industrial leasing. We would be willing to agree on the limitation that there would be no inoperable vehicles parked outside on the property. We would be willing to agree that we would get the proper permits approved by DOT for the apron for the 25-foot paved area that they have asked for.

The Chair said, at this time I will close the public hearing and will open for discussion for the Board.

Mr. Hudspeth said, I see we have several variances, are we going to take these one at a time?

The Chair said, yes.

Mr. Hudspeth said, impervious surface areas is first, right? This here is 32% vs 15%. That is a lot.

Mr. Dagenhart said, the only suggestion I had would be if the property owner would scrape it up and stockpile it. He could use it for upkeep if needed.

Ms. Morris said, so like was stated in your staff report, these properties were residential properties. It's AO, so some of the characteristics, like with the access with how many lots are off of that road, they are there because they were developed using residential and have kind of changed over the years as Mr. Pepin alluded to, sometimes people trying to get permits, sometimes people trying not getting permits. As far as the impervious, that would be something like Mr. Nance had asked, there are alternatives to that. Again, that's going to be up to the Board as far as how you handle that. To Mr. Jones, whether or not he can speak on behalf of the owner to those changes to their property.

The Chair said, Mr. Koch is that acceptable that he is here to speak on behalf of the owner?

Mr. Koch said, I didn't see anything in writing, but it is not uncommon that a real-estate agent or company such as Gibson Smith to appear for the owner. Who signed the application?

Mr. Pepin said, the owner himself signed the application.

Mr. Koch said, it's an LLC.

Mr. Bywaletz said, looking at your property, there is a paved driveway and the impervious of the house itself, that is about 15% on your own. That is without even getting access to the garage

where you are talking about with a gravel drive. I don't know if you can physically get it down to 15% with the asphalt, the house, and the access to the business next door with the turn around.

Mr. Dagenhart said, additionally the front driveway is theirs, the adjacent property. I am sure fire probably wants that gravel on both sides of the building.

The Chair said to Mr. Koch, looks like the owner signed to me.

Mr. Koch said, well it is an LLC, we don't know if it is the owner. All we can assume is that person is a member or manager of that LLC. It doesn't indicate it.

Mr. Jones said, yes, Leon, he is a managing member of that LLC. He is in DC right now so he can't make it tonight. You are right, a lot of the impervious areas are benefit of the neighbors, because that is a long road curving through the property. Really, we can't dig up the neighbor's road, therefor we need a lot of the gravel we have. Actually, the gravel we have is actually grown over in grass. So, it's not nearly what it seems.

The Chair said, thank you Mr. Jones. As far as variance one, any additional comments?

Mr. Bywaletz said, my suggestion on this would be to let it stay gravel. You will get a little bit of absorption since it is not actually impervious asphalt that gives runoff. As long as that doesn't grow or limit it to not become asphalt and leave it as gravel.

The Chair said, does everyone agree with variance one?

Mr. Wise said, yes.

Mr. Hudspeth said, I do have another question. If we ran with any or all of the variances, it would only be in place as long as it is leased by this particular business owner?

The Chair said, it stays with the property.

Mr. Hudspeth said, the reason we are seeing this before us tonight is because they are changing the use of the property, right? So, it wouldn't come back unless property changes use again?

Mr. Koch said, it was out of compliance before this. Most of these are based on the building already being there. No one ever brought this into compliance before this. Just something to keep in mind.

Mr. Hudspeth said, so, it has never been in compliance.

Mr. Koch said, Ms. Morris can tell you more about that.

Mr. Rockett said, it hasn't since '90 since the building was built right?

Ms. Morris said, our ordinance allows for race shops in the AO. That was something that used to happen a lot around here. People would have shops located where their house was. In this case, it

was developed as residential, and these parcels split off or whatever happened, located, and morphed over the years. One of the things that is coming into play, which is in your staff report, is not only is it the regular standards of the ordinance but we have supplemental standards in an AO zoning district for auto repair. That is some of what you are seeing and the rest of it is the general standards of the ordinance. Again, just like the one you had previously, when they are doing a change of use, there are upgrades that are required. In this case, not only are those upgrades required but they have additional developmental standards that have to be met.

Mr. Hudspeth said, I have another question, but it relates to another variance on this. Did the county approve a race shop, it says now they need 100 feet setback in the back, then we have a residential property next to it.

Ms. Morris said, again, so this is different, this is an auto repair shop. That race shop that was there, probably was a part of the residential property that was there, and it got subdivided off. These properties have had multiple owners over the years. Each time they have changed hands, they leased them out and sometimes they used them on their own. Now we have people who want to lease them out. If they are now leasing them there is a high probability that changes of use will come into play. I don't know what Mr. Pepin's lease is, if it's a year, if it's five, or if it's six months. There is a chance with these, depending on what it is, the race shop does not have the same requirements that an auto repair does. Again, it may not even have been permitted as a race shop because it was residential.

Mr. Hudspeth said, this usage is only permitted based on the standards. If it doesn't meet the standard, then it's not necessarily permitted.

Ms. Morris said, that is why they are here asking for the variance. They are not asking for a use variance. Auto repair is allowed in the AO but to be there, they have to meet the regular standards of the ordinance plus those supplemental standards. So, that 100-foot setback that is coming into play is specific to auto repair in the AO. Does that answer your question?

Mr. Hudspeth said, yes.

The Chair said, lets start with variance number one. Agree or disagree?

Mr. Rockett said, I do not think there is any way, without tearing down that building and destroying all of the existing drives, that we can get it under the 15%. That is a hardship that is just an impossibility at this point.

Mr. Nance said, there is grass growing through some of the gravel on the lot. To me, that lets you know that there are certain areas that are pervious. So that doesn't bother me as much.

The Chair said, so, everyone is good with variance number one.

Mr. Brent Rocket **MOTIONED, SECOND** by Mr. Andrew Nance to **APPROVE** variance number one, section 5-5. B – Impervious Areas. Vote was unanimous.

The Chair said, moving on the variance number two. Agree or disagree?

Mr. Dagenhart said, there isn't really anything you can do about a well.

Mr. Rockett said, the well has been there apparently for a very long time.

Mr. Stephen Wise **MOTIONED, SECOND** by Mr. Michael Bywaletz to **APPROVE** variance number two, section 5.5.B – Front Setback Encroachment. Vote was unanimous.

The Chair said, moving on the variance number three. Agree or disagree?

Mr. Hudspeth said, how far does this encroach? What is this encroachment of the 100 feet?

Mr. Pepin said, it encroaches 40 feet.

Mr. Rockett said, is that 40 feet in, or is that 40 feet remaining?

Mr. Pepin said, 40 feet in.

Mr. Rocket said, again it is a preexisting condition that the use appears to be here is perhaps less than what the facility has been used for before. Again, I believe it is a condition that can't be overcome given the layout of the property.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Michael Bywaletz to **APPROVE** variance number three, section 7-3.43. D Automobile Repair Garage in AO. Vote passes with 8 to 1.

The Chair said, moving on the variance number four. Agree or disagree?

Mr. Dagenhart said, well you have to access the property. You are going to have that in the buffer, there is no way around that. Take away the driveway then you can't access your property.

Mr. Rockett said, or the adjoining properties for that matter.

Mr. Adam Dagenhart **MOTIONED, SECOND** by Mr. Brent Rockett to **APPROVE** variance number four, Chapter 9, Table 4 Perimeter Landscape Buffer Encroachment. Vote was unanimous.

The Chair said, moving on the variance number five. Agree or disagree?

Mr. Dagenhart said, the leasee has agreed to pave an ADA parking space.

Mr. Rockett said, I believe enforcing 24-47 parking spaces on that property is going to worsen the situation that already exists.

Mr. Brent Rocket **MOTIONED, SECOND** by Mr. Stephen Wise to **APPROVE** variance number five, Table 10-6 – Parking Requirements. With conditions that there would be 4 - 5 parking spaces as well as one paved ADA space. Vote was unanimous.

The Chair said, variance number six. Agree or disagree?

Mr. Rockett said, back to my previous point. To require 24-47 paved parking spots on there you already have an impervious issue on the property. We certainly don't want to make that any worse.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Andrew Nance to **APPROVE** variance number six, section 10-5.2 – Paved Parking Requirement. Vote was unanimous.

The Chair said, variance number seven. Agree or disagree?

Mr. Dagenhart said, the site has a lot of existing vegetation that is pretty thick. You can't see the building from any of the roads.

Mr. Adam Dagenhart **MOTIONED, SECOND** by Mr. Brent Rockett to **APPROVE** variance number seven, section 9-5 – Parking lot area landscaping. Vote was unanimous.

The Chair said, variance number eight. Agree or disagree?

Mr. Dagenhart said, I think this one is talking about it should be paved instead of gravel.

Mr. Rockett said, again, we are already facing an impervious percent challenge on this property. To require additional paved areas is only going to make that worse. That seems to be a hardship that would be unnecessary.

Mr. Nance said, just to add, the request for firetruck turn around would also be a part of that since they share a lot with the adjacent property owner that needs those same turnarounds. They technically share the parking, so I feel better approving that.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Stephen Wise to **APPROVE** variance number eight, Residential Road Design/Non-Residential Road Design, Pavement Schedule, Appendix A. Vote was unanimous.

Mr. Koch said, is there not going to be a condition aside from the ones that are in the staff report. I know there was talk about it with concerning NCDOT's requirements.

Mr. Dagenhart **MOTIONED, SECOND** by Mr. Brent Rockett, to set **CONDITIONS** set forth by Staff that the applicant meet requirements by NCDOT and get their driveway permit to pave the 25 feet from the edge of the pavement. Also, put a condition on the property that there will be no inoperable vehicles stored outside of the facility. Vote was unanimous.

New Business Planning and Zoning Commission sitting as Design Review Committee.

ARCH2024-00001 – Architectural Design Review for address 2339 Odell School Road. Applicant/ Agent is John Lambert. Purpose is to convert the existing structure into office use. (PIN 4682-41-7025).

The Chair asked the Board if anyone had any conflicts or information that needed to be disclosed related to the case. The Chair called upon Ms. Morris to present.

Ms. Morris said, we will try to work through as much of this as we can, some of it potentially will depend on that last variance because there are some questions related to the landscape plan and you all haven't had one of these meetings in a while. I think the last one that we had; I can't even remember the last one we had. So, for some of you, these are probably something new.

As you're aware, Chapter 5 requires that all commercial uses in commercial districts and then commercial uses being proposed in other districts, anything that's in that list of commercial retail uses when they're locating, they have to go through an architectural review. In this case, just keep in mind the things that you can actually use to support your decision, you review it in relation to the architectural design of neighboring residential buildings, setbacks in relation to existing buildings, residential development, and then compatibility with neighborhood character context and scale.

Hopefully everybody is familiar. This project is near the corner of Odell and 73. It is like 2 parcels over from the little gas station that's been there forever. So, it's the gas station, then there are some vacant lots and then this property, and then the workshop is actually catty corner across Odell. For those of you who are familiar, there were actually two institutional properties located along this little section of Odell.

As far as from the ordinance, if there are exceptions that need to be made as part of this process, the Design Review Committee does have the ability to modify standards if one of the following four items is met; the first one is to provide for architectural design compatibility in relation to the existing neighborhood or structures where appropriate. The second one is to provide for adjusted setbacks and relation to existing buildings or residential development where appropriate. The third one is to request changes in architectural character or site design when the project is not compatible with the context of the surrounding neighborhood. The fourth is to request changes in scale where appropriate.

As you're already aware, this is an adaptive reuse of an existing building. They took it down pretty much to the foundation, they used some of the walls, but for the better part of the project, it is newer construction. So for the first one, and if you all want to kind of talk about these as we go through them instead of just going through the staff report, we could do that to try to expedite it because we have about 45 minutes left until we have to vacate the building.

For the first one as far as setbacks, the setbacks are being met. You saw the site plan earlier. That is fine. The set back along Odell is 75 because it's a major thoroughfare and then to the sides, they are meeting those standards as well. In this case the buffers actually become the setbacks and the next standard that we have to look at as part of the architectural review is the amenity area. You know that kind of is intended to be more geared towards retail where you might have several buildings together, more like a Birkdale where you're going to have some open space or some outdoor seating somewhere where people could gather.

In this case it is one building, those two buildings are connected. On the site plan, I think you can see it on this plan (showing on map), they're actually proposing to put some gravel down in between those two wings of the building and have a shade there, that would be a little common area for people who work there or are coming to have business at this location. So, they're meeting that because it's not multiple buildings as far as the connectivity and sidewalks. Those standards, again, are typically intended for developments that have multiple buildings to make sure that pedestrians are able to travel safely from one building to the next.

In this case, it's one building, but they are designating areas of concrete and sidewalk to get from the parking areas to the building. You know that has been shown on the plan. Again, only one building. So, this one you're looking at is more about are we getting from the parking spaces to the building safely?

As far as the parking requirements, they are proposing 70 spaces. They are in between that minimum and maximum. They do have 3 ADA accessible spaces, so they are meeting the general standards and keeping in mind the parking lot design and the parking requirements. They are proposing to install approximately 35 of those 70 parking spaces in front of the structure and that is visible from Odell. With the ordinance standard, it talks about parking should be located to the side or to the rear of the structure. That is something that you all will need to have some conversation about. Is that design acceptable? Does it blend in with the neighborhood character? Knowing what you know about Odell and that area, is it compatible?

Mr. Bywaletz said, I have a question. You stated 3 ADA spaces, I only see two.

Ms. Morris said, there are two on the side and one in the rear. Again, as far as the parking lot design, is it designed safely for pedestrians and then, does it have those safe travel ways? Part of your discussion needs to be is that parking area that is now located in the front, is that appropriate to be in the front? Is the design appropriate and that may be one that you want to table until the variance case comes back, or you can handle it because again it's more based on intent because the ordinance calls for it to be to the side or to the rear of the building.

As far as the landscaping, again of the landscape plan was submitted, they did have the thoroughfare overlay that was required. They are showing on some areas, where they know that they have to supplement because there are gaps that can be identified just by using GIS or Pictometry. They did ask for that formal variance, which you all approved as far as the perimeter for the parking area, so that is shown throughout there. The only part of the plan at this point that we are not sure about would be that southern area. Depending on what happens with that variance request or if they come back with that, we could handle that one outstanding item the same night. Or if you're comfortable with the overall concept as far as this process and the design review, you could also approve it, pending whatever happens with that case.

As far as the lighting. They are meeting the standards of the ordinance. We did not receive a lighting plan, but essentially the majority of the lighting is going to be back in that western corner here (showing on plan) and that would be for wintertime or the way that they explained it to us was if people were working late, this would be the entrance they would use, the back

entrance, not the front. The front, I think is more geared towards clients that would be coming to the building.

As far as the loading and unloading, based on their business model, they don't feel that that is warranted. They also did not really feel that loading docks were warranted. The most that they feel that they would have would be, like an Amazon truck that would come to a residential neighborhood.

As far as the solid waste storage areas they are proposing, they will have a dumpster located to the rear of the site. That dumpster, they're proposing to screen it was split face block and then they would have swinging wooden doors on it. That would be, I believe, in our updated application. It said that they that those doors would be painted black. We'll look at the at the drawings in a minute.

As far as the mechanical, there is no rooftop mechanical proposed. All of the mechanical for the HVAC is on the ground. There are two different pods where that will be located. The first pod is kind of in this area (showing on map). There's a concrete pad and then the other one is here. So, they're proposing to use landscape to soften that and to hide that and that is acceptable. You don't have to have a fixed structure for that. Do you all have any questions about those items?

Mr. Nance said, one question as it relates to the parking. Do we know the overall intended occupancy load of the building? I know the code switched a few years back. You don't have to put it on there anymore.

Mr. Mullis said, (from audience) maximum allowed is 51 per CHA.

Ms. Morris said, our parking calculations are based on square footage. So that is that is how they got to that. The minimum I think when we were looking at it was like 12 or 13 spaces and then it can go up to that, I think 70, 84 maybe was the max for the site. So, they fell on the higher end, but still in between those parameters. Are you all okay on the site part? Any questions on the site?

Mr. Bywaletz said, question in regard to the lighting or the hooded lamps. There are some kinds of security lighting in the back to where there is a hood, and the light is going down and not up?

Ms. Morris said, that is my understanding you can ask questions of the applicant whenever we finish our conversation for any specific questions. They will have the cut offs based on the ordinance and it will be your standard kind of parking lot lighting. Are you all good on those?

I think the one thing is the parking in the front, you'll need to talk about that. Also, what you want to do with that landscape buffer as far as the architectural design standards. They are within the height requirements, the proposed height of the building is 36.6 inches, and we allow 40 feet in that district. As far as the scale and roofline, so it does look different than the building that was there before. They added this more of an A-frame in the front and you can see now that it has a sloped roof. One way everything has pitch, so this is definitely different from what the

institutional facility looked like, if you remember that, a lot of that had just a flat mansard roof. That's not allowed by the ordinance. This is the actually the front the entrance and you see that there's a lot of glass that's been added to that front that was briefly showed in their presentation. This is the back entrance (showing on map). So, you can see now how that roof kind of slopes and then they have skylights along there to bring in some natural light and also how that peak in the front is giving it a different characteristic than it had before with those black roofs that were there.

As far as the fenestration, it does include several windows, glass doors and those will be like a storefront door. Then, there are multiple entrances, and that focal point is kind of that gable in the front where the primary entrance for people coming to the site would be. It kind of directs them to where they need to be going. As far as articulation, the requirements for that are change in plain, a change in materials, a change in texture or masonry pattern or windows. So again, you can see they have a lot of windows, and I don't know if you can tell, but if you can see it on your computer, they have some architectural metal, they have some block and they are changing those materials to try to give it again some character, some depth, so the appearance is more it is having those changes and stepping in and out where most of the building is just at that square footprint, that rectangular footprint, except for the section where they added that pitch.

As far as materials, our ordinance says the material that buildings are to be constructed of, should be quality materials, including stone and horizontal siding, and where any sloped roofs are utilized, the ordinance requires that they be covered with high profile asphalt shingles, natural clay tiles, slate concrete towels, ribbed metal, wood shakes or shingles. They are proposing, as you kind of saw in those in the aerials, the new ones and in the Pictometry, they are using an architectural shingle. So, all of that roof is black, and if you haven't been by this site, it doesn't exactly look like the picture. It is mostly black at this point, so painted black and then with that architectural shingle that is also black. But they do meet the standards.

The areas where they would not necessarily meet the standards for the for the Design Review Committee are the front parking, the landscape for the most part, except for some of that is yet to be determined. As far as the actual building, it is meeting the intent of the ordinance and again vastly different from what was there with just the white building with the flat black roof, little bit of a parapet I think it had on it, but you could still see the flat roof. So, it definitely looks different.

Also, they're adding in, it won't look exactly like this rendering, but you saw on the site plan, they will have a building yard that will help to soften some of that because now when you go by it looks like this massive structure, right? So that landscape will help to soften that, even though the footprint has been there. It's a lot different from what was there. I'd be happy to answer any questions that you have. We will need two different motions, one for the site plan and one for the architecture. The architectural drawings, which were included in your packet and then the renderings just so you can handle it with those two separate votes. I don't know if they wanted to make a formal presentation or if they're just answering questions.

Mr. Mullis said, I will spare you a presentation.

The Chair said, comments or questions for Susie?

Mr. Bywaletz said, only questions I have is in regard to lighting. The lights at the back of the building for egress, are they hooded lights or?

Mr. Mullis said, would you mind if we put the site plan up really quick just so we can point to the areas.

Ms. Morris said, so this is that back corner that I was talking about here.

Mr. Mullis said, near where the dumpster is, there will be a light in that location, and then there's an existing power line that has a pole over here and we'll have one light there as well. The intention is to not throw light out, but to keep it in, just on their parking for safety reasons. That's for when it's dark, not to throw light out to the surrounding properties or anything like that.

Mr. Nance said, are you putting wall packs on the building next to the egress doors or?

Mr. Mullis said, there will be some lighting on the walls itself, accent lighting and again it's just for an accent. It's not to necessarily illuminate large spaces.

Mr. Nance said, thank you.

The Chair said, do you know what your roof height is? At the peak?

Mr. Mullis said, at the peak is a 36.4.

The Chair asked if there was any further questions, there being none, the Chair opened and closed the public hearing.

The Chair said, lets start with number one for discussion. If there is no discussion, we would need a motion.

Mr. Nance asked, what page number are we on?

Ms. Morris said, so your staff report is set up just like we just went through. You do need to have that discussion, about the modification with that parking area. I think that they had some examples in their application so you would want to look at the application. They did do a comparison, I think. There was a church down the street. The gas station, the school, and some other things that they put as their reasoning in their application as far as why they proposed what they proposed for the site.

The Chair said, Ms. Morris, for the motion number one, which is to approve or deny the plans and the renderings right? But the second one would be where we would discuss the landscaping?

Ms. Morris said, yes ma'am.

Mr. Nance said, should we talk about the amenity area along with the building or?

Ms. Morris said, that is part of the site plan review, so that list of things, just quickly, related to the site is the height and setbacks, the amenity area, the connectivity and sidewalks, parking requirements, parking lot design, landscaping, lighting, loading, and unloading solid waste storage areas and mechanical. Those are all included as part of the site plan and then as far as the building that's height, scale, roofline fenestration, articulation and then the building materials.

The Chair said, I don't have any problems with the actual building plans if we can go with that one and then move onto the other one.

Mr. Michael Bywaletz **MOTIONED, SECOND** by Mr. Stephen Wise to **APPROVE** the building plans and renderings that have been submitted. Vote passes 8 to 1.

Mr. Nance said, the reason I opposed was, I would like to have a conversation about the amenity area and how it relates to the surface run off. That is a gravel lot that we are adding to the site.

The Chair said, that would be a part of the site plan discussion.

Mr. Nance said, in that case I would like to vote with the rest of the Board on that one.

Mr. Michael Bywaletz **MOTIONED, SECOND** by Mr. Stephen Wise to **APPROVE** the building plans and renderings that have been submitted. Vote was unanimous.

The Chair said, now to move onto the site plan.

Mr. Nance said, I really like the building, I will start there. There are some impervious issues, that amenity area is one of them. That is literally my only concern. Everything else looks awesome, I love the design. So, just run off and impervious area.

The Chair said, let me ask you Ms. Morris, the discussion we had earlier and the actions we took, could we not table this part as well?

Ms. Morris said, I think you could table it pending what comes back. You could have your discussion and kind of have everything teed up. Because ultimately, if they try to accommodate that buffer, the parking. I believe that they will still have parking in the front. It just may not be as many spaces, so I really think it's at the pleasure of the Board. However you would like to handle that. There will be some changes, but overall all, probably the same concepts.

Mr. Nance said, the only condition I would like to add is they need to get engineer to look at how the gravel area, or the amenity area will be addressed. There are ways of doing that with filter fabric, there are standards out there that I think we need to follow.

Mr. Mullis said, would it be possible to approve with conditions that the overall site impervious area is within ordinances?

Mr. Nance said, that should be fine.

Mr. Mullis said, with just this portion obviously.

The Chair said, does everyone agree with that? Are there any issues we need to discuss?

Mr. Bywaletz said, for the amenity area, is that meant for someone to actually be out there? I picture 57 stone and someone standing on top of it and that is not someplace I would like to hang out. Are you going to have some impervious pavers or something like that where you have a picnic bench or seating area.

Mr. Mullis said, I am not sure how familiar you are with these places but like Optimus Hall is one, that is where they have these outdoor gravel areas with tables and chairs for quick food or coffee. You will have like canopies or drapes or shades that are pulled over. It will be something that looks on trend with where construction is headed. It will be for people who work there, for people who pass by. As well as the middle corridor section. It will be an area with like a coffee cart, not a full restaurant obviously. It will have a rest area with tables.

Mr. Dagenhart said, you just opened a can of worms. You are showing a kitchen, can you tell me what that is for?

Mr. Mullis said, so all we have there is like a break room. We have a microwave then in a fridge.

Mr. Dagenhart said, it looks like a large area, that's the only reason I ask.

Mr. Mullis said, yeah, we don't have a dishwasher or a range in there.

The Chair said, breakroom would have been better verbiage probably.

Mr. Bywaletz said, would it be a bad idea for us to see a rendering of that area? Or a cross section of what that looks like?

Mr. Mullis said, would it need to be a rendering of that specific or could it be other sites?

Mr. Bywaletz said, just something of that site. Something to help us visually.

Mr. Mullis said, okay.

Mr. Dagenhart said, sounds like were headed to table this portion.

Mr. Koch said, I would suggest you table it unless you want to identify some of the issues or items you don't have any problem with. We don't want a situation where they were claiming that they had approval of everything. I don't want it to come back to where if this whole site plan were to be approved, on this part of it, that it would be claimed that it is taken care of. That would be the problem I would have with it. You can identify say, the lighting, or the loading and unloading areas, or what has been said about where the dumpster is. If there are some of those things that no one has a problem with then maybe you can go ahead and identify those and leave the landscaping and the parking lot and the other items that are still kind of open because of that

variance that they need. As well as that amenity area, which is a separate issue. You all haven't seen much on that.

Mr. Nance said, to be honest, I am not super concerned with the designs of the amenity area. It seems pretty straight forward what they are trying to do there. I guess I was just trying to visualize it a little. More or less ensure that we are not adding to the impervious issue at hand.

Mr. Bywaletz said, I don't know if there is anything else. I mean, connectivity and sidewalks I don't have a problem with.

Mr. Dagenhart said, I think it is appropriate.

Mr. Bywaletz said, parking may come out at their site plan review. Landscaping, that will all fall under that.

Mr. Nance said, fenestration, roof line, and the added gable on the front, I like all of that.

Mr. Rockett said, lighting seems to be appropriate for the site.

Mr. Dagenhart said, there is no loading dock. No unloading dock.

Mr. Rockett said, the mechanical layout is appropriate.

Mr. Koch said, some of those things are a part of the building plans. The only ones I see here are the amenity area, which you have talked about. You have mentioned the connectivity and sidewalks are fine. You still have parking lot design and landscaping; those could be contingent upon the variance. The lighting, loading, and unloading areas, the loading dock, solid waste, and mechanical are the only other things that relate to the site plan.

Mr. Nance said I would like to make a motion to approve everything we have seen tonight except for the items that we are having to table until further notice.

Mr. Dagenhart said, so number 3, parking requirements, number 4, parking lot design, and number 5, landscaping.

Mr. Andrew Nance **MOTIONED, SECOND** by Mr. Brent Rockett to **APPROVE** all items listed other than, parking requirements, parking lot design, and landscape pending site review. Vote was unanimous.

Ms. Morris said, when we are to the point where we have the revised site plan, we will update the staff report and bring that back to you, because we don't know what might change at that point.

Directors Report


Ms. Morris said, I sent an email out about the training. I did have some responses about that. So if you're interested in going to those, make sure you put a hold on your calendar. I was trying to offer up our lovely new EMS facility for that and then maybe we could all just kind of go, but I think it's probably going to be at Centrolina. They are still in that same complex where we've been before. I believe they're in a different building within that complex now, but over in the University Business Park or whatever they call that now and then they will also be having the virtual option. If you're interested in the virtual option, you can do that from home as long as you have access. One thing I did get, the school of Government finally put out the 2023 list of planning and zoning items. Those of you that are on the Text Amendment Committee, we may end up having to address some things in there. I know that we also need to address some changes that have been made to the fire code that are different from what is in our ordinance. That is all that I have.

Legal update

Mr. Koch said, there is no immediate business to address.

There being no further discussion, Mr. Brent Rockett **MOTIONED, SECONDED** by Mr. Stephen Wise, to adjourn the meeting at 10:09 p.m. The vote was unanimous.

APPROVED BY: Holly Edwards, Chair



SUBMITTED BY: Kendall Bolton, Clerk



ATTEST BY: Susie Morris, Planning Director