

BEFORE THE BOARD OF ZONING AND BUILDING APPEALS

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IN RE: BZA-0001-2003:

- - -

PROCEEDINGS

in the above-captioned matter, before the City of Gahanna Board of Zoning and Building Appeals, taken before Robin E. Allen, a Registered Professional Reporter and Notary Public in and for the State of Ohio, at the Gahanna City Hall, 200 South Hamilton Road, Gahanna, Ohio, commencing on Thursday, April 3, 2003, at 7:00 p.m.

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BOARD MEMBERS

Timothy W. Pack, Chairman

Debra Mecozzi

Michael Moran

Robert Fischer

Michael F. Schirtzinger

Isobel L. Sherwood, Clerk

Thomas Weber, City Attorney

Jennifer Chrysler, Deputy Director of Development

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Newark, Ohio  
(740) 345-8556

Main Office  
8036 Smoke Road  
Pataskala, Ohio 43062  
(740) 927-3338  
(800) 852-6163  
Fax (740) 927-3436

Columbus, Ohio  
(614) 228-0018

e-mail: [FraleleyCooper@earthlink.net](mailto:FraleleyCooper@earthlink.net)

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CHAIRMAN PACK: I call this meeting of  
the Gahanna Board of Building and Zoning Appeals  
to order. Let us stand and give the Pledge of  
Allegiance.

(Pledge of Allegiance.)

CHAIRMAN PACK: Madame Clerk, will you  
please call the roll?

MS. SHERWOOD: Fischer?

MR. FISCHER: Here.

MS. SHERWOOD: Mecozzi?

MS. MECOZZI: Here.

MS. SHERWOOD: Moran?

MR. MORAN: Here.

MS. SHERWOOD: Pack?

CHAIRMAN PACK: Here.

MS. SHERWOOD: Schirtzinger?

MR. SCHIRTZINGER: Here.

CHAIRMAN PACK: Any additions or  
deletions to the agenda for tonight's meeting?

MS. SHERWOOD: No, there are not.

CHAIRMAN PACK: Good evening. My name  
is Tim Pack and I am the Chairman of the City of  
Gahanna Board of Building and Zoning Appeals.  
This proceeding is to hear docket No.

1 BZA-0001-2003, the appeal of James and Janet  
2 Worlin of 681 Tim Tam Avenue, Gahanna, Ohio, the  
3 denial of variance application V-0031-2002 by the  
4 City of Gahanna Planning Commission.

5 This hearing will be conducted in accordance  
6 with the Gahanna City Charter, Chapter 2506 of the  
7 Ohio Revised Code, the City of Gahanna Codified  
8 Ordinances, and this Board's Rules of Procedures.

9 A stenographer is recording this proceeding  
10 at the expense of the City and, as always, this Board  
11 wants our proceedings to be fair and in the spirit of  
12 community service.

13 I would ask that all cellphones be placed  
14 off at this time.

15 On January 16th, 2003, this Board voted to  
16 recess the public portion of this appeal having heard  
17 oral presentations by both the proponents and  
18 opponents of this appeal all within the allotted time  
19 governed by this Board's Rules of Procedure.

20 On February 27th, 2003, this Board  
21 reconvened and after questioning of witnesses, voted  
22 unanimously to remand this variance application back  
23 to the Gahanna Planning Commission with instructions  
24 to reevaluate variance application V-0031-2002 in  
25 light of the February 6, 2003, memorandum by the

1 attorney for the City of Gahanna to the Gahanna City  
2 Council regarding proposed changes to Chapter 1123 of  
3 the Gahanna Codified Ordinances.

4 On March 12, 2003, the Gahanna Planning  
5 Commission acknowledged receipt of those instructions.

6 A successive denial of variance application  
7 V-0031-2002 by the Planning Commission occurred on  
8 March 26th of 2003, and therefore has resulted in this  
9 application being returned back to this Board awaiting  
10 further disposition.

11 Tonight we have the benefit of the presence  
12 of one of our Board members who was absent during this  
13 appeal hearing on January 26th (sic) and February  
14 27th. Mr. Moran, have you received and availed  
15 yourself to the presented evidence of this appeal and  
16 are comfortable in participating in this evening's  
17 meeting as a member of this Board?

18 MR. MORAN: Yes, I have read the  
19 transcripts of the testimony and I have looked at  
20 the exhibits from the two prior meetings and I am  
21 comfortable and I will be participating in the  
22 hearing tonight.

23 CHAIRMAN PACK: Fantastic. Given that  
24 the public portion of this appeal was closed on  
25 February 27th, is there a motion to reopen the

1 public portion of this appeal?

2           There being no motion to reopen the public  
3 portion, we will go on to the questioning phase.  
4 Therefore, the Board may resume asking questions of  
5 the witnesses should they choose to do so.

6           May I remind those that who were sworn in  
7 initially on January 16th, that you should consider  
8 yourselves still under oath.

9           And having said all that, Mrs. Mecozzi,  
10 would you like to start the questioning session should  
11 you have any?

12           MS. MECOZZI: I don't have any further  
13 questions for witnesses at this time.

14           CHAIRMAN PACK: Mr. Schirtzinger?

15           MR. SCHIRTZINGER: Mr. Chairman, I  
16 don't have any questions at this time.

17           CHAIRMAN PACK: Mr. Fischer?

18           MR. FISCHER: I don't have any  
19 questions either.

20           CHAIRMAN PACK: And Mr. Moran?

21           MR. MORAN: I don't believe I have any  
22 questions for any of the witnesses at this point.

23           CHAIRMAN PACK: Okay. I guess that  
24 leaves it down to me. I have some questions.

25           It was a big -- one of the things that drove

1 me, particularly in light of Mr. Weber's appeal that I  
2 was in receipt -- or Mr. Weber's memorandum to City  
3 Council, I thought there was some things in there that  
4 I had interest in and I would like to ask some  
5 questions of Mr. Weber, who is the city attorney.

6 Mr. Weber, in your opinion, are there  
7 portions of your February 6th memo to City Council  
8 regarding proposed changes to Chapter 1123 that are  
9 relevant to this case?

10 MR. WEBER: To the extent that I  
11 made -- well, not as to the actual code  
12 amendments because those were denied because  
13 although Council passed the original ordinance  
14 changes four to three, the Mayor vetoed the  
15 ordinance and the override motion failed because  
16 it takes five votes to override and there were  
17 only four votes. So the ordinance is as it was  
18 prior to the proposed code changes so my opinion  
19 of course -- a large portion of my opinion did  
20 involve the proposed code changes but I did make  
21 some comments in my opinion about the variance  
22 process and how I -- one reason why I had  
23 suggested code changes is I began to question the  
24 efficacy of the variance process especially as to  
25 Rose Run since there have been 23 to 25,

1 apparently, variance requests that were made. My  
2 concern was that the exceptions, which a variance  
3 of course does mean, were in a sense swallowing  
4 the Rule. In other words, if you have that many  
5 variance applications, just what is the status of  
6 a no-build zone and what you can build in a  
7 no-build zone?

8 So to the extent that my opinion does touch  
9 on my concern of the use of the variance process, it  
10 may have relevance. Of course the irony is that we  
11 are back here on a variance. I understand that.

12 One of my concerns that I voiced is that  
13 although the Planning Commission has a lot of  
14 discretion as to how they do render or how they  
15 determine from a factual basis when a variance under  
16 1131.04 should be granted, my concern is, you know, is  
17 there really a consistent thread that can tell this  
18 body as to why some variances are granted and some  
19 variances are not? I don't think you have to make  
20 this decision in a vacuum, meaning that I think you  
21 can -- you could look at some of the variances that  
22 were granted by the Planning Commission -- and I think  
23 part of those were of the record at one point -- and  
24 you can say is this particular variance request, is  
25 the Worlin variance request qualitatively different?

1 Are the reasons advanced in the variance request, are  
2 these qualitatively different from some of the reasons  
3 advanced in situations where variances were in fact  
4 granted? And I think that is something that you  
5 can -- that you can consider. I mean you don't --  
6 because there have been a number of variances and/or  
7 permits granted there are a number of fences in Rose  
8 Run. As I said, this is not some sacrosanct pure  
9 preservation zone. There are fences there and that  
10 was, of course, the reason why I suggested the code  
11 change. So although that failed, there is still --

12 CHAIRMAN PACK: I'm sorry. You mean  
13 fences that are located in the no-build zone?

14 MR. WEBER: Yes. There are fences in  
15 the no-build zone and 23 or 25 -- I've seen  
16 various numbers, but there are a number of them.  
17 And there are various reasons that the proponents  
18 of these variances gave.

19 Of course the Planning Commission does the  
20 best job it can when they apply 1131.04, which they  
21 have to do. They have to look at the factual context  
22 and then -- and apply the elements of the ordinance  
23 and it's not easy to do so it's no fault to them. But  
24 I think you have a totally independent process here  
25 and when you are reviewing what to do with this



1 particular variance request I think you can look at  
2 some of the other reasons why they were -- why some of  
3 those were granted. And I think you can also look to  
4 the issue as to whether there were any others denied.  
5 I am not sure there were. So I think that's relevant.

6 And another -- I mean I am just sort of  
7 going ahead with my comments now -- but the other  
8 thing I believe you can do on top of the trying to  
9 consider whether the Planning Commission properly  
10 applied the test under 1131.04, you should take stock  
11 in the fact that Section 1203(c) of the Charter says  
12 that, "The BZA shall decide its cases to afford  
13 justice and to avoid unreasonable hardship to  
14 citizens." That is an overarching right that you have  
15 that is put in -- that is placed in the Charter.

16 So when you are interpreting whatever  
17 section of the Code that you are being asked to  
18 review, you can take this particular Charter section  
19 into consideration as part of the process.

20 You know, I -- that may not make your  
21 decision-making process any easier but I think all  
22 these points are highly relevant and should be part of  
23 your consideration.

24 CHAIRMAN PACK: I have a question  
25 regarding the variance. Once a variance is

1 issued for a residential property owner, is  
2 there -- if it's unconditional, is there an  
3 expiration to the original variance?

4 MR. WEBER: Usually not. I think there  
5 have been times when -- I think there have been a  
6 few where they have been conditioned. I think  
7 you can do that but --

8 CHAIRMAN PACK: If the property owner  
9 would move, the variance doesn't go with the  
10 property owner? The variance stays with the  
11 property?

12 MR. WEBER: Yes, the variance stays  
13 with the property. For example, if you granted a  
14 fence variance and the property was in fact sold  
15 and the fence is still there, so the variance  
16 still does apply to any successive owners.

17 CHAIRMAN PACK: Okay. Mr. Weber, thank  
18 you.

19 MR. WEBER: You're welcome.

20 CHAIRMAN PACK: Any questions of  
21 Mr. Weber?

22 MR. MORAN: I have a question about  
23 your legal opinion that you wrote, dated February  
24 6, 2003, and it was written to the Council  
25 regarding proposed code changes in Chapter

1 1123 --

2 MR. WEBER: Yes.

3 MR. MORAN: -- so it really wasn't  
4 addressed to the members of the BZA?

5 MR. WEBER: No, it was not addressed to  
6 BZA. It was given to Council because I was asked  
7 to give my views on the proposed code change. As  
8 I said, some of the things may go beyond the  
9 proposed code change. Yes, it was written to  
10 Council. It was not addressed to BZA or Planning  
11 Commission, just to Council.

12 MR. MORAN: I guess my question to you  
13 then is if you look at page 2, in your second  
14 paragraph you talk about stringent restrictions  
15 and then there's a sentence that says, "Thus the  
16 City is placed in the position of imposing  
17 limitations upon the reasonable use of private  
18 property by homeowners that arguably have no  
19 factual or legal justification." Are you opining  
20 there is no factual or legal justification or are  
21 you saying people could argue that?

22 MR. WEBER: People can argue that  
23 because there are times when -- the point I was  
24 making is you have got situations where because  
25 of the way the code is currently drafted there

1 are situations wherein because of our enforcement  
2 of that -- of the law, that a builder or  
3 developer may not have proscribed fences or even  
4 intended to proscribe fences but because of the  
5 way the law now exists the fences are, in fact,  
6 not permitted. My concern was are we in a sense  
7 interfering with private property rights or  
8 arguably interfering with property rights in  
9 situations wherein we don't have a real -- I mean  
10 what is our basis for saying people can't do what  
11 they could in fact do in order to enjoy -- in  
12 order to have the full enjoyment of the property  
13 right? That's what I was really trying to say  
14 here.

15 MR. MORAN: Just to cut back to the  
16 original question, you are saying people could  
17 argue that? You weren't saying there is no legal  
18 justification for this restriction?

19 MR. WEBER: Once the City says -- the  
20 City can always impose these kinds of  
21 restrictions and say there shouldn't be fences.  
22 That is legally permissible.

23 My point is why are we doing something by  
24 code that the developer or the -- I mean no-build  
25 zones, the reason -- there's plat language or deed

1 language that says don't do this and we are actually  
2 in the position of imposing additional restrictions  
3 sometimes that I question that we should be doing  
4 because, you know, I think the presumption is that a  
5 private property owner should have the reasonable use  
6 of his property and should be able to enjoy the  
7 benefits of the private property unless there's some  
8 strong public purpose argument to the contrary.  
9 That's really what I was saying there. That's the  
10 point I was trying to make.

11 CHAIRMAN PACK: I have a question for  
12 Mr. Worlin. Is there a civic association in Rose  
13 Run?

14 MR. WORLIN: Not an active one.

15 CHAIRMAN PACK: Not an active one?

16 MR. WORLIN: No.

17 CHAIRMAN PACK: And my question was if  
18 it was active, what was the attitude with respect  
19 to the no-build zone fencing?

20 And one last question: The fence that you  
21 wanted to put in your rear property area in the  
22 no-build zone, what kind of fence was that?

23 MR. WORLIN: It was the same fence that  
24 is currently in our yard except, at the back of  
25 our yard, that we currently have. It's an open

1 picket fence.

2 CHAIRMAN PACK: About four feet high?

3 MR. WORLIN: Uh-hum.

4 CHAIRMAN PACK: Four feet high?

5 MR. WORLIN: Uh-hum.

6 CHAIRMAN PACK: Thank you very much. I  
7 don't have any additional questions.

8 There being none, would anyone like to make  
9 a motion to approve appeal BZA-0001-2003?

10 MR. FISCHER: Mr. Chairman, is --

11 CHAIRMAN PACK: Or another way of  
12 saying it is we can affirm or we can approve  
13 the --

14 MR. WEBER: Granting -- the positive in  
15 this case is a motion to grant the appeal on the  
16 variance. In other words, to overturn the  
17 Planning Commission. That's the positive and  
18 that's how I -- put the motion in the positive  
19 and then if you wish to approve the appeal, you  
20 vote yes; and if you wish to deny the appeal, you  
21 vote no. That's a --

22 MR. MORAN: The code says we may  
23 affirm, reverse, modify or remand with  
24 instruction, so if you said you move to affirm  
25 the decision of the Planning Commission, that

1 would be in the positive; wouldn't it?

2 MR. WEBER: Yeah, I try to keep a  
3 consistent way of doing this. There has been a  
4 few times in the past when there has been  
5 confusion even among the Board members as to how  
6 they are voting. We are here on an appeal so if  
7 you say -- so the appeal is the -- the appellant  
8 wants a certain action and if you say that you  
9 are granting the appeal, then that is yes; and if  
10 you are sustaining the Planning Commission, then  
11 that would be no. I just think that makes more  
12 sense and once we are -- if you do that  
13 consistently, there's no confusion among Board  
14 members or anybody else as to what you are doing  
15 or how it's being framed because there are a  
16 couple of times in the past where it got to be an  
17 issue.

18 MR. MORAN: For the sake of getting  
19 into discussion, Mr. Chairman, if I may --

20 CHAIRMAN PACK: Absolutely.

21 MR. MORAN: I would move to grant the  
22 appeal of James Worlin, which would have the  
23 effect of reversing the decision of the Planning  
24 Commission in this matter.

25 CHAIRMAN PACK: Okay. Is there a

1 second?

2 MR. SCHIRTZINGER: Second.

3 CHAIRMAN PACK: Any discussion?

4 Mr. Schirtzinger, would you like to go first?

5 MR. SCHIRTZINGER: I don't have any  
6 discussion.

7 CHAIRMAN PACK: Mrs. Mecozzi?

8 MS. MECOZZI: I would just like to say  
9 part of my discussion points last week before we  
10 made a motion to remand back to the PC was that I  
11 felt our primary charge was to look at the  
12 actions of the Planning Commission and to make  
13 sure that they had given the variance request due  
14 process, that they had considered the factors in  
15 1131 and in the case of granting a variance,  
16 specified the reasons for why they were doing so,  
17 that they considered the definitions and the  
18 development standards and followed their charge  
19 in accordance with ordinance (sic) 1125. I  
20 understand they are not a legislative body, they  
21 are making recommendations on code changes, and  
22 that they are -- their responsibility is to  
23 interpret and apply the current code. Council  
24 did not approve the legislative changes.

25 In looking at the I believe the November 6th



1 minutes of the Planning Commission, the notes where  
2 they took action on this request indicated to me that  
3 they did abide by their charge and consider those  
4 factors that are required in 1131 and I am ready to  
5 vote no.

6 CHAIRMAN PACK: Mr. Fischer?

7 MR. FISCHER: You know we had a lot of  
8 talk about the 20 or so variances that were  
9 approved and why this one is singled out. And  
10 the hardship that comes to light with me is  
11 that -- I don't live in Rose Run but if I was a  
12 neighbor, and we heard from some of the neighbors  
13 here that it is detrimental to them to put a  
14 fence up. I mean you have got to look at both  
15 sides.

16 There is a clause in the code and basically  
17 it shouldn't pose any undue hardship for the -- that's  
18 not the right word -- but that it's not detrimental to  
19 the public welfare or injurious to the property in the  
20 neighborhood.

21 Other than that, I don't see any other  
22 reason that this variance should go down but we sent  
23 it back and had the Planning Commission take a look at  
24 it and Mr. Weber provided us with his proposed changes  
25 and they were voted down. Obviously people in Gahanna

1 like the way it is open in Rose Run and want to keep  
2 it that way.

3 We heard from the neighbors. They object to  
4 the fact that it's injurious to them to look out the  
5 door and see a fence when they can look out into what  
6 is a no-build zone.

7 In light of that, I've got to vote -- I will  
8 be opposed to granting the appeal in this case.

9 CHAIRMAN PACK: Mr. Moran?

10 MR. MORAN: Well, first I want to tell  
11 you again, Mr. Worlin, I think I told you a year  
12 ago that I commend you for taking the time and  
13 trouble to go through the process. I know you  
14 have spent a lot of money and time to do this and  
15 I respect the fact that you respected the process  
16 and you have done what you are supposed to do to  
17 try and resolve this dispute properly.

18 That said, I feel that my role on this Board  
19 is to make sure that you are afforded due process  
20 below and that there is a presumption that the  
21 Planning Commission -- a presumption of regularity in  
22 their proceedings and the burden will always be on the  
23 appellant to uphold their burden of proof to show  
24 there was some irregularity or that they weren't  
25 afforded justice and that they needed to avoid an

1 unreasonable hardship.

2           You have made some good arguments as to why  
3 you should have this fence. I don't want you to think  
4 that I don't think you have. You have made good,  
5 logical arguments and you have presented some  
6 evidence. What I don't think has happened is I don't  
7 think that you have proven an unreasonable hardship by  
8 the preponderance of the evidence which is the legal  
9 standard that we have to follow here. And for that  
10 reason I think I will be voting against the motion and  
11 I would not be in favor of granting the variance at  
12 this time.

13           CHAIRMAN PACK: I guess it's down to  
14 me. Let me start by referencing Mr. Weber's memo  
15 to City Council with regards to the proposed code  
16 change.

17           As a member of a board or a commission, we  
18 get the regular mailing of transcripts that occur out  
19 of the City Council meetings and one week I got my  
20 mailing and in the packet was also Mr. Weber's  
21 memorandum to City Council. I read it. It was not  
22 evidence that was entered in as -- on behalf of  
23 proponent or opponent but I read it. I mean that's my  
24 job. I am not going to sit there and throw it in the  
25 trash or ignore it. I read it and I felt it had

1 relevance to this case and therefore that is why I  
2 brought up the subject matter to be discussed.

3 I have been in Rose Run many times and I  
4 have driven through just about every section of Rose  
5 Run. There are not an overwhelming amount of fences  
6 in no-build zones but there are a lot of fences in  
7 no-build zones and, of course, that's a defining  
8 number that's up to the person who thinks a lot is a  
9 lot.

10 One time I managed to talk to a property  
11 owner in there who had a fence in a no-build zone. I  
12 talked to this property owner as to how the fence  
13 was -- came on the property and it was there when they  
14 bought the property. I was surprised as to somewhat  
15 the indifference with respect to this person that had  
16 a privacy fence -- it was a privacy fence -- and they  
17 said, well, it was here when we bought the house and  
18 we can take it or leave it was basically the attitude  
19 I got from them. And I was thinking at the same time  
20 at least I know a family that would love to have a  
21 fence in a no-build zone.

22 And I think over the years, 14 years to be  
23 exact, in my opinion, with variances that were heard  
24 by BZA and as well as the Planning Commission, there's  
25 been a lot of fences approved in no-build zones in

1 Rose Run. And I have had trouble differentiating or  
2 identifying the parameters by which the Planning  
3 Commission identifies the need to warrant or justify  
4 the variance.

5 I have read cases about dogs and pitbulls  
6 and children for public safety from their part. I  
7 have read one case also where one address was -- the  
8 address was 564 Dark Star Avenue. The variance was  
9 approved by simply the property owner coming before  
10 the Planning Commission and their argument was, for  
11 lack of a better phraseology, their hardship was that  
12 they couldn't use the back half of the property and  
13 that the property owners to the left and to the right  
14 of theirs had a fence and basically they wanted to  
15 connect the dots and that was all the evidence that  
16 was presented during that case. The Planning  
17 Commission did approve it.

18 And which as far as the argument with  
19 respect to the Worlins not being able to essentially  
20 for their own identified purposes they can't use the  
21 back half of their property, well, these people made  
22 the same argument and the appeal was -- or the  
23 variance was granted. The -- so I have looked at  
24 many, many different variances that were approved.

25 I think it's just been a liberal

1 interpretation of the Code, a liberal granting of  
2 variances. I don't think it's the fault of anyone.  
3 It's just the way it's occurred through BZA and the  
4 Planning Commission. And also I think the people of  
5 Rose Run have to take a little bit of responsibility  
6 in the sense that I haven't really seen a big outcry,  
7 other than perhaps in this case and there was one  
8 other case that I read where people objected to fences  
9 being -- a variance being approved for fences in the  
10 no-build zone of Rose Run. I would think that if it  
11 was sacrosanct, for lack of a better word, there would  
12 have been a lot bigger outcry, but I haven't  
13 identified that in the references that I have read for  
14 many years, the references to variances being approved  
15 in Rose Run.

16 The other question that I had was with  
17 regards to variances that were approved, when the  
18 people left and moved the fence stayed and most of  
19 the -- most of the cases that I read about it were  
20 cases that were identified with the people that were  
21 living there but once they moved, the fence stayed.  
22 There wasn't any movement or any identifying action by  
23 the Planning Commission or BZA to say, look, you guys  
24 have to go back to the original genesis of your idea  
25 and move the fence out of the no-build zone.

1 In fact, Commissioner Turley pointed out in  
2 one of the appeals last year -- and I did vote no for  
3 this appeal so my represent -- the things that I am  
4 saying are basically things that have come up in the  
5 last 14 months. She brought out an interesting point.  
6 It was there were two variances that were approved  
7 conditionally. That once, in one case, a pitbull  
8 left, that the fence had to come down. And the other  
9 was if the people moved, they promised they would take  
10 the fence down.

11 So finally last year in 2002 there was at  
12 least some wisdom on the part of a Planning Commission  
13 member -- this is contrary to what has been happening  
14 in the last 14 years -- to stop the increase of fences  
15 in no-build zones in Rose Run. And I thought that was  
16 actually a great idea. And there was an identified  
17 case and the people moved out, then take the fence  
18 down and get it back to the original idea of what was  
19 intended by the developer and by the City.

20 So I go back to the case where the fence was  
21 approved, the variance was approved in the no-build  
22 zone by simply the virtue of that they couldn't use  
23 the back half of the property. And I believe that was  
24 on that residence at 564 Dark Star Avenue.

25 I find great relevance with that case as

1 with this and I think that it has been a controversial  
2 issue. I have gone into this with not any type of an  
3 identifying that the Code needs to be changed or not.  
4 That's not my job and people a lot smarter than I am  
5 can figure that out. But I have gone into it with  
6 respect to have the Worlins, for whatever reason, have  
7 they fallen through the crack with respect to being  
8 able or allowed to put a fence in their yard? And I  
9 think they have and I would vote in favor of the  
10 variance and in favor of the appeal and in favor of  
11 the motion.

12 Therefore, anything else to be said?

13 Madame Clerk, let's take a vote to approve  
14 the --

15 MS. SHERWOOD: To grant the appeal of  
16 BZA-0001.

17 CHAIRMAN PACK: You said it better than  
18 I can. Would you please call the roll?

19 MS. SHERWOOD: Moran?

20 MR. MORAN: No.

21 MS. SHERWOOD: Schirtzinger?

22 MR. SCHIRTZINGER: No.

23 MS. SHERWOOD: Mecozzi?

24 MS. MECOZZI: No.

25 MS. SHERWOOD: Pack?



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CHAIRMAN PACK: Yes.

MS. SHERWOOD: Fischer?

MR. FISCHER: No.

MS. SHERWOOD: Motion fails.

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The hearing of this matter concluded at 7:30

p.m.

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