



City of Gahanna

200 South Hamilton Road
Gahanna, Ohio 43230

Meeting Minutes Board of Zoning and Building Appeals

Lorne Eisen, Chair
Paul D. Bryson, Vice Chair
Ross Beckmann
Mike Burmeister
Obie Stillwell

Jeremy A. VanMeter, Clerk of Council

Tuesday, October 14, 2025

6:30 PM

City Hall, Council Chambers

A. CALL TO ORDER: Pledge of Allegiance & Roll Call

The Board of Zoning and Building Appeals met in Regular Session on Tuesday, October 14, 2025, in Council Chambers. Chairman Lorne Eisen called the meeting to order at 6:33 p.m. Board Member Michael Burmeister led members in the Pledge of Allegiance. The agenda was published on October 10, 2025.

Present 3 - Michael Burmeister, Lorne Eisen, and Paul Bryson

Absent 2 - Ross Beckmann, and Obie Stillwell

B. ADDITIONS OR CORRECTIONS TO THE AGENDA:

None.

C. APPROVAL OF MINUTES:

[2025-0048](#)

Board of Zoning and Building Appeals Minutes 1.14.2025

A motion was made by Burmeister, seconded by Bryson, that the Minutes be Approved. The motion carried by the following vote:

Yes: 3 - Burmeister, Eisen and Bryson

Absent: 2 - Beckmann and Stillwell

D. ADMINISTERING THE OATH:

City Attorney Priya Tamilarasan administered the oath to all individuals presenting testimony before the Board for the evening's appeal hearing.

E. APPEALS - PUBLIC HEARINGS:

[BZA-0002-2025](#)

To consider an appeal of Planning Commission's denial of V-0019-2025, a Variance Application to vary Section 1103.07(e) - Large Lot

Residential of the Codified Ordinances of the City of Gahanna; for property located at 400 Braemer Court; Parcel ID 025-011408; Current Zoning R-1 - Large Lot Residential; Corey Schoo, applicant.

Chairman Eisen introduced Appeal No. BZA-0002-2025, which concerned the Planning Commission's denial of Variance V-0019-2025, an application requesting relief from Section 1103.07(e), Large Lot Residential, of the Codified Ordinances of the City of Gahanna. He stated that the property at 400 Braemer Court, Parcel ID 025-011408, carried R-1 Large Lot Residential zoning and that Corey Schoo served as the applicant. Chairman Eisen asked the Clerk to confirm for the record that the applicant had satisfied all requirements of Chapter 147 of the Codified Ordinances regarding applications, paperwork, and fees. The Clerk confirmed that the applicant had met all requirements. Chairman Eisen thanked the Clerk and explained the hearing procedure under Rules 6.4 and 6.5, including the allotted speaking times for the appellant and appellee, as well as opportunities for board members to pose questions throughout the hearing. He then invited the appellants to the microphone.

Appellant Presentation

Mr. John Esterby stated that he owned the property and that his contractor, Corey Schoo, appeared with him. He explained that they had attended a variance meeting on November 7 regarding a height variance. He stated that the minutes would show that the issue involved six inches, as their structure measured 17 feet while the code allowed 15 feet. He stated that the head of the building committee told them during that meeting that he could administratively approve a variance of 1.5 feet or 10%. He stated that during the meeting, Mr. Schoo modified the drawings by pulling the top roof back approximately eight inches, which lowered the overall structure by six inches. He explained that they left the meeting believing that, if they filed an appeal, the approval would occur administratively.

Mr. Esterby continued and stated that they had already run six months behind schedule. He stated that they decided to begin the project because they believed the appeal would receive a "rubber stamp." He stated that they possessed stamped building permits and therefore built the structure. He stated that they received no notification from the City, even though documentation claimed that calls were made. He stated that they completed a public records request that provided a document from November 7, 2024, and another document dated January, 2025. He stated that they submitted a second variance request after their initial denial and that they had expected administrative approval. He stated that they heard nothing until January 26, 2025, when the public record showed

that staff updated the variance to indicate the structure was out of specification, based on a drive-by inspection that determined it was too tall.

Mr. Schoo asked whether he could supplement Mr. Esterby's comments, and Chairman Eisen allowed him to continue. Mr. Schoo stated that they would have submitted the design at 16.5 feet had they known it would have been acceptable. He stated that all parties agreed to modify the drawings, and he submitted revised plans immediately after the November 6 Planning Commission meeting. He stated that he submitted the revised application on November 7, completed the drawings the same day, and submitted the full package on November 8. Mr. Schoo stated that they built the structure and completed it on December 19. He stated that he attempted to schedule inspections after receiving plan approval, noting that different permit offices use different systems for zoning and building stamps. He stated that he believed they had done everything required, but no inspections occurred. He stated that the property already had foundation work in place, so only framing and final inspections remained. He stated that after calling in inspections with no response, he eventually learned that Mr. Esterby received a code violation notice on January 28, 2025. Mr. Schoo stated that he resubmitted the Rev. 5 drawings on January 29, and staff approved them again. He stated that further code violations followed on March 18 and April 1 and that he repeatedly resubmitted the same drawings previously approved during the zoning process. He stated that he felt confused and shocked because he believed they followed instructions and acted within the guidance provided. Mr. Schoo described his documentation, which contained 220 line items. He stated that line item 114 represented the first code violation and line item 118 documented his resubmission. He stated that his correspondence showed a continuous cycle of violations and resubmittals. He also stated that during the original meeting, an architect suggested reducing the upper rafter overhang. He stated that he modified the design in CAD by pulling back the upper overhang approximately eight inches, reducing the height from the original 17 feet, 3/16 inches to approximately 16.5 feet.

Mr. Esterby stated that they never received communication that the plans could not be approved and that he believed this lack of communication influenced the second variance hearing.

Mr. Schoo added that the head of zoning told them during the meeting that they could grant up to a 10% administrative variance and that this statement led to a collaborative attempt among everyone present to solve the issue. He stated that when he later received no responses from the department, he visited the front desk. He reported that the staff

member told him that the rule had changed and that the head of zoning “shouldn’t have said that.” She reportedly stated that her supervisor was present during the meeting and that he still should not have made that statement. Mr. Schoo stated that he found this surprising because he believed the zoning representatives and board members told them they were “good to go,” only to learn later that the information was incorrect.

Chairman Eisen asked Mr. Schoo about his understanding of the inspection process and requested that he explain what occurred when he attempted to call in inspections, come in, or otherwise make contact.

Mr. Schoo stated that he typically used an online portal for inspections when available, noting that the Columbus and Delaware portals were easy to use. He explained that he did not recall using a portal for this project and had instead called the building department. He said he identified himself as Corey from Cedar and Stone, provided the parcel number and permit number, and requested framing and final inspections. He reported that he called in the framing inspection once and then again, and after that, he continued requesting “framing and final.” He said nothing appeared in the portal to indicate the department had received his requests, and he never received a return call. He described ongoing silence from the department. He stated that he and another individual on-site discussed the lack of response daily, and that the project took a month to build, so it had not been a quick process.

Chairman Eisen noted that Mr. Schoo had indicated he came in once for another matter when he was not receiving responses through the portal or by phone. He asked whether Mr. Schoo made any attempt to come in and speak to the building department directly to request a final inspection.

Mr. Schoo replied that if he did, the record would show it. He stated that he completed the project on December 19, which the documentation identified as the completion date. He referenced line 113 for the completion and asked about the start date.

Board Member Bryson stated that he saw a “shop to site” note at line 105 dated November 18, along with a “site one” entry, and asked if that reflected the start date.

Mr. Schoo confirmed that the “site one” entry on November 18 marked the start date and that the project took 30 days. He added that he had submitted drawings because the structure had been pre-built at his shop in July 2024, aside from the bottom of the posts. He stated that after resubmitting the drawings and receiving stamped plans, he placed them

in plastic and posted them on-site with the green inspection card. He explained that he would have waited until the frame was completed, likely on day three or four, before calling in framing. He also noted that, because his projects often required both framing and final inspections, he typically tried to avoid unnecessary trips for the inspector by arranging for a single visit at the end. He stated that he normally used online portals because they were efficient and faster, and that the record should contain these details.

Chairman Eisen said he had additional questions but would wait until after hearing from Mr. Roth. He asked whether Board Members had questions at that time.

Board Member Burmeister stated he would wait until after hearing from the appellee. Board Member Bryson agreed, noting that some questions might be answered during the remainder of the presentation.

Chairman Eisen asked Mr. Esterby if he had concluded his portion of the presentation. Mr. Esterby stated that he had. Chairman Eisen thanked him and invited Mr. Roth to proceed.

Appellee Presentation

Assistant City Attorney Matt Roth addressed the Board and clarified the process that led the application to the BZBA. He stated that the Planning Commission heard the application twice. He explained that in November 2024, the Planning Commission reviewed the project at a proposed height of 17 feet. During that meeting, the appellants reported that Mr. Blackford, Director of Planning, told them an administrative approval could be granted if the height were reduced to 16½ feet. Attorney Roth stated that the comment occurred in November 2024, shortly after the City's new code took effect in May 2024, which allowed administrative approvals for de minimis variances up to 10%. He added that although such administrative variances could apply to setbacks, they did not apply to building heights. He confirmed that Mr. Blackford told the appellants that an administrative approval might be possible, but he had been mistaken. He also stated that no one told the appellants they did not need a building permit. Attorney Roth explained that the appellants applied through the portal for a building permit but never received one. He clarified that the appellants had stamped plans, not a stamped permit. He stated that the plans were stamped because the structure met building code requirements, but the City did not issue a building permit because the height required a variance. He reported that when the matter returned to the Planning Commission in August, the Planning and Zoning Offices stated they had attempted to contact the appellants and had not

received a response. Attorney Roth acknowledged the appellants' claim that they did not receive such contact. He noted that the City issued a denial on November 6, and the appellants began construction on November 18 without a permit. He stated that he found it difficult to understand why they believed they could begin construction simply because someone had stated in a meeting that an administrative variance could be granted when they had never received such approval.

Attorney Roth summarized the Planning Commission's concerns during both hearings. He stated that the Commission found no circumstances unique to the property that would warrant a variance. He explained that variances typically relate to unique property conditions such as slopes or floodplain issues and that this project involved a backyard pool cabana without any unusual site constraints. He referenced the current code, which requires that a variance be necessary for the economical use of the property and that such use cannot be easily achieved by another method. He stated that before construction, no economic hardship existed because the structure had not yet been built. He noted that the appellants now claimed it would be expensive to reduce the height, and he recalled that Mr. Schoo said during the last Planning Commission meeting that he would need to jack up the entire building to shorten it. He then stated that the Planning Commission also considered the surrounding neighborhood. He noted that no other accessory structures in the area exceeded 15 feet and that approving this variance would change the character of the vicinity. He concluded that the Planning Commission acted properly when it denied the application.

Chairman Eisen thanked Attorney Roth and returned the floor to the appellants for five minutes of final comment.

Appellant Rebuttal

Mr. Schoo stated that he worked with many permitting offices and that each office managed its processes differently. He explained that when he received the green building card and the plans in a packet, he printed everything, placed the packet in plastic, and posted it on-site as he did on all projects. He said he understood that portal verbiage varied between jurisdictions and that, despite his experience, he had never made a mistake like this. He stated that he likely assumed too much. He explained that he asked at the meeting whether he needed to apply for another variance or resubmit the drawings. He stated that City staff told him to submit revised drawings and that the office would handle the matter internally if he reduced the structure to the required height. He said he believed he submitted the correct materials and that staff sent him a permit packet. He stated that he posted the packet and built the structure

as he always did. He emphasized that he had no ill intent and no desire to circumvent the process. Mr. Schoo stated that he could have lowered the beam clearance by cutting the posts further if the City had informed him that he still needed a variance. He explained that the structure was large and could not be concealed, and he believed the issue could have been avoided had the City provided clear feedback or updated instructions if its position had changed. He stated that he believed he followed the direction given and attempted to do the right thing. Mr. Schoo also described the work required to reduce the height of the structure. He stated that he would need to bring in a crane to relieve the load, lift the structure, approximately 30,000 pounds, and cut several inches off the bottom of the posts, because he could not reduce the 8x12 beam without compromising its engineering requirements. He stated that the repair was possible but expensive and that he preferred not to perform it unless necessary.

Chairman Eisen asked Mr. Esterby if he had anything to add. Mr. Esterby stated that he had nothing further.

Appellee Rebuttal

Chairman Eisen asked Attorney Roth if he had any final comments. Assistant City Attorney Roth stated that he had nothing further.

Board Questions and Deliberation

Chairman Eisen thanked the participants and opened the questioning period. He recognized Board Member Burmeister.

Board Member Burmeister stated that he reviewed the appellants' correspondence exhibit and thanked them for providing it. He noted that the appellants identified November 8 as the date they resubmitted drawings to zoning and that they listed November 18 as their start date and December 19 as the completion date. He said he did not see any notification confirming that they received an approval packet after November 8. He asked when they actually received the packet and how they obtained it if the building department or zoning had not issued an approval. He asked by what method they received the packet.

Mr. Schoo stated that he believed he received the building plans approval through the portal. He said he saw the approval repeated and then noticed that the green building card appeared in the portal, which he had not seen before. He explained that he interpreted the release of the green card as an indication that they could proceed, because the card served as the inspection card for the site. He stated that he mistakenly

believed the building plans approval and the green card together constituted the complete packet, so he printed them and posted them on-site.

Board Member Burmeister said he often worked with the building and zoning departments and understood that the portals could be frustrating. He stated that, in his experience, applicants usually received an email notification when plans were approved, rather than discovering it only by checking the portal. He asked whether Mr. Schoo received a formal email stating that the plans had been approved.

Mr. Schoo stated that he received emails that contained links to the portal, which was his typical indicator. He said the emails always stated “plan approval,” and when he logged in and found the green card, he assumed they had full approval. He acknowledged that he made the wrong assumption.

Board Member Burmeister asked again whether he received a formal notification from the portal or the City that the plans had been approved, or whether he had simply checked the portal regularly.

Mr. Schoo stated that he did both. He referenced Column C of his exhibit, which showed communication between him, Mr. Esterby, and the office. He acknowledged that the amount of information was substantial.

Board Member Burmeister restated his question in short form: did Mr. Schoo receive formal notification that the plans had been approved and could be downloaded, or did he base his assumption solely on the appearance of the green card?

Mr. Schoo reviewed item 101 and attempted to recall his process. He said he usually received an email titled “plan approval” and then clicked into the portal. He explained that he also saw a release of the green building card, which he rarely received access to, and the combination of those two items led him to believe they had approval. He added that he began calling in inspections through the hotline, which he assumed would alert the department if something was incorrect. He stated that he believed he had followed the directions given at the earlier meeting and thought the staff was simply busy.

Board Member Burmeister acknowledged his explanation and apologized for extending the line of questioning. He asked whether, during the zoning process, Mr. Schoo usually received separate emails from the zoning department notifying him of approval to proceed or notifying him of any required variance. He noted that the appellants

resubmitted drawings on November 8 and asked whether they received any follow-up communication indicating zoning approval beyond the green card.

Mr. Schoo stated that they did not. He said the system simply displayed “building plans approved,” which he interpreted as a general approval. He explained that he typically built detached accessory structures and had followed his usual process. He stated that this was the first time he had been significantly wrong. He recalled that in previous projects, including the first one he completed in this jurisdiction, he received the plans-approved email and assumed he could proceed. He said that earlier projects included additional comments or messages afterward, but he had still interpreted the initial approval notification as authorization to begin. He stated that seeing the inspection card reinforced that belief. He explained that he printed the drawings without reviewing them closely, placed them in plastic, and posted them on-site. He ensured the plans remained accessible every day, including during inclement weather.

Board Member Burmeister concluded his first set of questions and turned the floor over to the other members.

Board Member Bryson stated that Mr. Burmeister had already addressed several questions he intended to ask. He said he had a question about a note in the record at line 45 that he did not understand in light of the other information presented. He noted that the exhibit showed a portal entry dated September 24, 2024, indicating “residential building permit was issued.” He asked for clarification.

Mr. Schoo explained that the heading shown in the exhibit came directly from an email sent through the Gahanna system and that it appeared to be the first email he received in that sequence.

Board Member Bryson stated that the remainder of the entry appeared to list reasons that a permit had not been issued. He said he saw the statement “residential building permit was issued,” but also saw a comment from Mike Frey requiring action due to zoning comments. He said that, based on his understanding, this suggested the permit had not actually been approved and that the subject line appeared misleading. He asked whether he interpreted the record correctly or whether the permit had in fact been approved but delayed due to a zoning issue. He added that, unlike the other Board Members, he did not work in construction and wanted to ensure he understood the process.

Mr. Schoo stated that the system produced two separate emails. He explained that the first email displayed the typical heading that normally

indicated the project was approved to move forward. He said the second email was a comment letter, which he described as common in jurisdictions like Upper Arlington and Muirfield, where setbacks and lot restrictions frequently prompted additional review. He stated that in this case the comments related to setbacks, but noted that the property had a previous variance granted during the pool project. He explained that they gathered all necessary documents, addressed those issues, and moved forward. He stated that a third email addressed the height issue, which required a new variance because the earlier variance covered only the other zoning matters. He referenced line 48 as an example of his communication with staff, explaining that he included all correspondence in the exhibit to provide a complete record. He then noted that line 49 reflected his review of the comments and line 50 reflected his updated drawings. He added that he also communicated with the City to ensure the previous variance was applied correctly so that the setbacks were properly addressed and grandfathered.

Board Member Bryson stated that the explanation gave him a clearer understanding. He said that no permit had been issued at that time because zoning clearance remained outstanding, and zoning approvals had to be completed before a building permit could be issued.

Mr. Schoo stated that this situation involved his first variance. He said that in the past he had obtained variances only after construction when the permitting office had initially approved a project and a separate issue later arose. He explained that he had never been in the position of seeking a variance before construction. He stated that he may have assumed they were approved to proceed because he saw the application listed as "building approved and pending zoning," and believed zoning was being addressed through the variance. He said he viewed the packet as complete with boxes left to check. He stated that he would be more diligent in the future.

Mr. Esterby asked Mr. Schoo whether the green card had been received later and not at the time shown on line 45. Mr. Schoo asked whether the inspection card was mentioned in the exhibit.

Board Member Burmeister stated that he did not see the green card in the record and confirmed that its absence was part of the reason he had raised the earlier questions.

Mr. Schoo stated that he initially believed the permit had been issued because he received an email indicating that a residential permit had been issued. He explained that when he submitted the Revision Five drawings, he understood that he and the Board had reached agreement

and that the project was ready to proceed. He later noticed an inspection card within the documents and acknowledged that it might have always been there, but he only noticed it at that time. He recalled thinking, "Finally, we got through. We're good to go. We've got everything we need. We can post on site and we can build this thing."

Board Member Bryson concluded his questions and noted that Mr. Eisen also had questions.

Chairman Eisen asked whether Mr. Schoo served as a design-builder and whether someone in his firm was a licensed architect in Ohio who could have sealed the plans.

Mr. Schoo explained that he handled all load calculations and much of the timber framing. He stated that he employed two master carpenters and used three different engineers depending on the project, particularly for commercial work such as projects for Cameron Mitchell, including Cento Italiano. He clarified that he could obtain stamped drawings but could not stamp them himself.

Chairman Eisen confirmed that the drawings for this project were not stamped by a licensed architect.

Mr. Schoo replied that they were not, and that in his experience accessory, detached, or attached residential structures typically did not require stamped drawings.

Chairman Eisen asked whether he had previously worked in the City of Gahanna.

Mr. Schoo stated that he had and that his prior experiences had been phenomenal.

Chairman Eisen then addressed the permit documents. He noted that although the drawings might have included a plan-approval stamp, the building department indicated that Mr. Schoo did not possess an actual building permit document. He asked whether Mr. Schoo believed he should have received a document labeled "building permit," or whether he had assumed something based on past practice.

Mr. Schoo stated that he had not received a document like that in seven to nine years, since rule changes had gone into effect. He explained that he rarely received paper documents anymore. Instead, he typically received stamped, approved building drawings and an inspection card, which he posted on site. He stated that no one had told him otherwise for

nine to eleven years. He recalled only one instance, while working in Powell, when he received a letterhead document, and that occurred when the jurisdiction printed it for him during the era of paper submissions.

Board Member Burmeister noted that he had printed the materials himself and that the order might differ from what had been submitted. He referenced the statement of variance and an attachment showing drawings labeled with a plan-approval date of March 24, 2025.

Chairman Eisen invited Mr. Schoo to look at the document, and Mr. VanMeter assisted with the in-Chambers display.

Mr. Schoo suggested that the document might show the earlier revision.

Board Member Burmeister stated that the label showed Revision One with an issue date of June 27, 2024.

Mr. Schoo responded that Revision Five had been the stamped revision on site, and that he believed he had supplied that version. He explained that Revision One represented the initial submission after receiving comments, while Revision Five reflected the final version.

Clerk VanMeter asked for clarification on the requested document to display and projected the referenced materials.

Board Member Burmeister confirmed that the document still showed the March 24, 2025 date and Revision One. He noted that he had been reviewing page A.06, a side perspective view of the framing.

Mr. Schoo stated that the original framing dimension was likely 17 feet, 3/16 inches.

Board Member Burmeister replied that the drawing showed an overall dimension of 16 feet.

Mr. Schoo acknowledged that the drawing showed that dimension.

Board Member Burmeister stated that he had noted that discrepancy, but that the primary concern involved the stamp dates, which showed March 2025 instead of November 2024. He stated that they were trying to understand the timeline, as much of their work involved sorting through details that the applicant had lived with for a year, while the Board had only researched them for a few weeks.

Mr. Esterby agreed and added that they were all trying to recall events

from a year earlier. Board Member Burmeister confirmed.

Chairman Eisen stated that he sought to understand a point referenced in the video and minutes of the Planning Commission meeting. He noted that staff had attempted to contact the appellant in January by phone, text, and email to state that the structure could only reach a maximum height of fifteen feet. He recalled that Mr. Schoo had previously stated he did not receive text messages, did not see an email, and did not receive a voicemail message. He acknowledged that the construction had already been completed in December 2024 and asked Mr. Schoo to explain what happened.

Mr. Schoo stated that when staff raised that issue, he told them that he had received nothing. He explained that he asked staff for documentation and that they told him to request their records, which would prove the communications. He said that the records request produced no evidence that anyone had contacted him. He stated that he had expected at some point to receive communication about a framing final inspection and assumed staff had been busy. He said he felt confident they had not received any of the attempted communications and expressed surprise that staff claimed they had made multiple attempts without producing evidence.

Chairman Eisen stated that he could not resolve the discrepancy and could only refer to what had been presented at the prior meeting by the appellee and the appellant.

Mr. Schoo stated that he had a PDF of the green building card, which he opened on October 3, 2024. He noted the created, modified, and last opened dates in case they held relevance.

Board Member Burmeister asked whether the appellant had designed the structure knowing from the beginning that it was not compliant.

Mr. Schoo stated that he had no idea and that he simply designed the structure. Mr. Esterby agreed. Mr. Schoo stated that he expected the design to be approved.

Board Member Burmeister asked whether they had performed due diligence on local codes or ordinances before designing the structure.

Mr. Schoo stated that he had performed due diligence on past projects, primarily regarding lot coverage, but had not encountered height issues before. He said he worked on a current project in Muirfield at eighteen feet and approached it differently by conducting pre-planning with zoning

before submitting anything. He explained that he had taken this approach to streamline the process and avoid similar issues.

Board Member Burmeister noted that the structure began at seventeen feet and that correspondence later indicated it would not be compliant. He asked whether the appellant would have simply made the structure fifteen feet tall if the city had not offered the possibility of a ten-percent deviation.

Mr. Schoo stated that he would have determined what adjustments were possible at that point. He explained that he typically designed structures with proportional aesthetic considerations and then adjusted them if required. He stated that he had since changed his process to avoid wasted time by contacting offices earlier and confirming rule sets in advance.

Mr. Esterby stated that although the height variance was no longer under consideration, he wanted to explain the original intent. He said the structure's height related to the entrance of the pool, where his daughters and girlfriend liked to sunbathe. He stated that they insisted on maintaining sun exposure in that area, which influenced the design height. He said they could have explored options such as lowering the roof or pulling back rafters if they had been told the limit was fifteen feet, and if necessary, they would have lowered the structure.

Mr. Schoo stated that he wanted to clarify that point because Mr. Esterby had repeated it in every meeting. He explained that the structure had been pre-cut, and the posts were already fabricated at their original lengths. He noted that he could have shortened the posts to reach fifteen feet. He described discussions with the architect about preserving the beam clearance and stated that he determined through CAD work that he could adjust the rafter placement to maintain the desired clearance while satisfying the design goal. He stated that if he had received any communication before the start date, he would have shortened the posts accordingly.

Chairman Eisen stated that he understood the aesthetic intent, but as an architect, he emphasized that designers must first review local zoning and building codes, including height, setbacks, and footing requirements. He said that failure to research local code contributed to the current situation and asked why reviewing building code had not been considered a necessary step.

Mr. Schoo stated that he understood the common denominators among permitting offices and learned which jurisdictions had specific

restrictions. He noted that he previously built a tall structure in west Gahanna without receiving comments about height or variances. He stated that most of his structures were not tall and were often built over existing hardscaping, which limited the need to address lot coverage or height issues. He explained that only larger and more complex structures required additional research, and he had since learned more about height limits and lot-coverage requirements. He stated that he now approached projects fully prepared to avoid repeating this situation.

Chairman Eisen stated that the answer appeared to be that the appellant had not researched the code for this project but would do so for future work. He asked if there were further questions.

Board Member Bryson stated that he had no further questions.

Board Member Burmeister asked whether the appellant had researched any alternative approaches to modifying the structure beyond lifting it with a crane and cutting it down.

Mr. Schoo stated that his only alternative involved using house jacks. He explained that he would build a temporary stud-frame structure to relieve pressure by an eighth of an inch and then cut the nails at the sills with chainsaws or track saws. He noted that the structure included a stud-frame sill plate wall assembly in the back room between the posts and beams. He said that if the structure were solely post-based, it would be less difficult. He stated that he could support the structure, cut it, and lower it, and that he would bring a crane on site for additional safety. He added that he had experience removing large items from restaurants with crane assistance, although he did not want to take that approach. He said he still had a few options.

Mr. Esterby commented that he and his neighbor worked with such equipment almost every day.

Board Member Burmeister clarified that he sought alternative, out-of-the-box solutions that might bring the structure into code compliance without major reconstruction. He referenced the Revision One drawings showing the side elevation and asked staff to display page A.006. He noted that the earlier version showed sixteen feet, the structure began at seventeen feet, and it now measured sixteen and one-half feet.

Mr. Schoo stated that Revision One originally showed seventeen feet, three-sixteenths of an inch.

Mr. Esterby said the drawing displayed did not reflect the correct

clearance.

Mr. Schoo acknowledged the discrepancy and attempted to locate the correct version.

Board Member Burmeister asked whether the rafter tail above the large beam near the peak could be modified to run flat and potentially bring the structure below fifteen feet while maintaining nine feet of clearance below the beam.

Mr. Schoo stated that he was reviewing Revision Five.

Board Member Burmeister noted that such an approach would retain the majority of the structure while only modifying the tails.

Mr. Esterby stated that the top of the beam measured approximately fifteen feet, three inches.

Mr. Schoo confirmed that the top of the beam measured fifteen feet, three and nine-sixteenths inches.

Mr. Esterby asked whether the beam could be dropped and the beam on the smaller roof eliminated to replace it.

Mr. Schoo explained that such a change would alter all bird's-mouth notch angles. He said that he could jack up the roof, remove the beam, and bevel-cut it, but noted that the structure already measured sixteen and one-half feet at its highest point.

Board Member Burmeister asked for confirmation of the height at the highest element.

Mr. Schoo confirmed the height and stated that the architect had proposed cutting the rafters back. He explained that staff had asked them to lower the structure, but Mr. Esterby did not want to do so. He said he had demonstrated options in CAD and later provided renderings for approval. He emphasized that they could have lowered the structure but instead removed rafter length to reduce the height.

Mr. Esterby stated that although the height was the height, staff had noted that only five percent of the structure exceeded fifteen feet.

Board Member Burmeister referenced that percentage and reiterated that he was exploring alternative ideas the appellant might not have considered to achieve full compliance.

Mr. Schoo explained that their efforts focused on reaching sixteen and one-half feet because they had been told that sixteen and a half feet was acceptable.

Board Member Burmeister stated that he understood but noted that zoning minutes from August 13 indicated that Planner Maddie Capka had explained that the proposed seventeen-foot height exceeded code by two feet. He stated that Capka had reported that staff incorrectly stated that sixteen and one-half feet could be administratively approved. He noted that Capka explained this could only occur under a de minimis variance, which did not apply. He said the Board sought compliance at fifteen feet rather than focusing on sixteen and one-half.

Mr. Esterby stated that they had never received notification that the earlier interpretation was incorrect.

Mr. Schoo stated that zoning staff had agreed to approve sixteen and one-half feet and had advised him to resubmit the drawings without a variance. He said he resubmitted Revision Five in the portal for administrative approval. He stated that he did not understand why full compliance at fifteen feet was now required when staff had initially stated that sixteen and one-half feet would be approved.

Board Member Burmeister stated that they had already explored that issue in detail.

Chairman Eisen stated that the Planning Commission meeting notes indicated that the ten-percent deviation could not apply to structure or building height. He acknowledged the resulting confusion.

Mr. Esterby asked why the variance had not been updated the next day.

Mr. Schoo stated that no one informed him of any change and that he later learned details from the secretary. He stated that everyone in zoning, including the board representative, had told him that the sixteen-and-a-half-foot height was the direction they were taking.

Board Member Bryson stated that it appeared they had been told that plans submitted at sixteen and one-half feet could be approved through the in-house review process. He asked if that understanding was correct.

Mr. Esterby stated that the meeting itself reflected that.

Board Member Bryson then asked whether they ever received formal

notification that the height had been approved.

Mr. Schoo stated that he received stamped drawings and believed Board Members did not have the stamped Revision Five drawings he submitted. He stated that he had printed those drawings and placed them on site and believed that Revision Five was the final agreed-upon document.

Chairman Eisen stated that the Board did not have that document.

Board Member Burmeister then directed questions to the appellee. He stated that the appellant had said they requested records but had not received anything showing that staff attempted to contact them beyond the original meeting minutes from the first variance hearing. He asked whether the appellee had documentation verifying that staff reached out prior to issuing the violation notice.

Assistant City Attorney Roth stated that he had not seen the communications staff claimed to have sent. He explained that staff stated at the last Planning Commission meeting that they checked the provided West Jefferson address and used phone and email. He stated that he had not requested those communications and did not know whether they existed. He noted that the appellant said they requested them and received none. He stated that he relied on the Planning Commission record, which stated that staff attempted multiple contacts and received no response.

Board Member Burmeister stated that he sought to understand the process. He noted that the appellant believed they had received verbal approval at the zoning meeting and proceeded under the impression that the variance had been granted. He stated that the appellant never received direction to the contrary.

Assistant City Attorney Roth stated that the appellant took comments made during the Planning Commission meeting, possibly including hallway conversations, as approval. He stated that nothing was approved until the building permit was issued. He explained that plan approval differed from a building permit and involved engineering, fire, and several other reviews. He emphasized that the building permit also considered zoning requirements and variance approvals.

Chairman Eisen noted that Mr. Blackford explained this distinction at the last meeting to ensure the Planning Commission understood the difference between plan approval and a building permit.

Assistant City Attorney Roth confirmed that point.

Chairman Eisen stated that the opinion remained that no building permit had been formally issued.

City Attorney Roth confirmed that conclusion.

Mr. Schoo asked who Mr. Blackford was and whether he served as the office representative.

City Attorney Roth explained that Mr. Blackford was the Director of Planning, though his title may have changed.

Mr. Schoo stated that Mr. Blackford had not been present at the last meeting.

Assistant City Attorney Roth confirmed that he was not present at that meeting.

Mr. Schoo stated that this caused confusion.

Assistant City Attorney Roth clarified that he referred to the 2024 meeting.

Mr. Schoo confirmed that and acknowledged the timeline.

Chairman Eisen stated that his recollection from the August meeting video showed both Maddie Capka and Michael Blackford present.

Assistant City Attorney Roth stated that he did not recall Mr. Blackford's presence, although Ms. Capka was present.

Board Member Burmeister noted that Mr. Blackford was not listed as present.

Chairman Eisen reviewed the August 13 Planning Commission meeting minutes. He read a portion stating that Mr. Schoo said he had stamped building plans on site, that a commissioner asked whether such plans constituted permits, and that Director Blackford stated they were separate items. He noted that Director Blackford explained the difference between plan approval and a building permit and reiterated staff's attempts to contact the applicant. He stated that, regardless of Mr. Blackford's presence, the minutes supported the appellee's statement about the distinction between plan approval and permit issuance. He stated that he did not agree that a building permit had been issued.

Mr. Schoo asked whether this discussion pertained to the second variance hearing about the code violation.

Board Member Bryson explained that the variance was applied for after the code violation, but the variance hearing itself concerned the request to eliminate the existence of the violation.

Mr. Schoo acknowledged that.

Board Member Bryson stated that the text referenced was from that meeting and might indicate that someone mistakenly identified Ms. Capka as Director Blackford or vice-versa.

Chairman Eisen stated that both individuals sat together during that meeting.

Assistant City Attorney Roth stated that he had not reviewed the video but explained that Mr. Blackford sometimes sat at the table or in the front row. He stated that Ms. Capka took the lead on the presentation.

Chairman Eisen confirmed that she led the presentation that evening.

Mr. Schoo stated that he remembered Mr. Blackford not being present during roll call at that meeting. He stated that he had expected him to attend because he participated in earlier discussions and had expressed support. He stated that he was disappointed that Mr. Blackford did not attend.

Board Member Bryson explained that roll call would have included only Planning Commission members.

Mr. Schoo acknowledged that he may have misunderstood but maintained that he remembered Mr. Blackford not being present and felt disappointed because he believed Mr. Blackford supported the initial direction.

Chairman Eisen acknowledged his comment and asked whether Board Members had additional questions. Board Member Burmeister stated that he had none. Board Member Bryson stated that he had none.

Chairman Eisen stated that the next step in the process involved explaining the Board's available actions. He stated that under Section 12.22 of the Rules of Procedure, the Board of Zoning Appeals could: (1) find in favor of the appellant, (2) find in favor of the appellee and amend

the modification, or (3) remand instructions to the applicable city official, employee, or body for further consideration or action. He explained that the motion would be phrased in positive form, with members free to vote either way. He stated that after a motion and a second, Board Members would have the opportunity to offer final thoughts prior to Mr. VanMeter conducting a roll call vote. He then asked for a motion related to the appeal of Planning Commission's denial of V-0019-2025.

Board Member Bryson moved to find in favor of the appellee.

Board Member Burmeister asked for confirmation that this meant a vote in favor of the appellee.

Board Member Bryson stated that the motion affirmed the denial.

Chairman Eisen asked for clarification to ensure the motion allowed members to vote as they wished. He stated that members could vote either way regardless of who made or seconded the motion.

City Attorney Tamilarasan confirmed this and explained that finding in favor of the appellee supported the City and upheld the Planning Commission's denial. She reminded the Board that the question before the BZBA was whether the appellant proved by a preponderance of the evidence that the Planning Commission erred in weighing the statutory variance factors. She noted that although much discussion focused on how the parties arrived at this point, the Board's task was to determine whether the Planning Commission appropriately weighed those factors in denying the variance. She stated that she could review the statutory factors if helpful.

Chairman Eisen asked whether granting the variance would supersede the building department's position that a permit could not be issued because the structure violated code.

City Attorney Tamilarasan explained that compliance and the code violation for building without a permit were separate issues. She stated that the Board's task was solely to determine whether the structure should be allowed to exist as built at sixteen and one-half feet. She stated that if the variance were granted, it would allow issuance of the building permit even after the fact. She stated that any code violation issues would be addressed separately in Mayor's Court. She emphasized that the variance decision focused only on whether the structure could exist outside the code.

Chairman Eisen stated that he also saw in the prior meeting presentation

that Section 1117.02 listed eight requirements relevant to issuing a variance, which the Board could consider.

City Attorney Tamilarasan confirmed this and stated that Section A through H contained the required findings. She stated that if the Board believed these factors were present and that the Planning Commission did not give them sufficient weight, it could find that the Commission erred by a preponderance of the evidence.

Mr. Esterby asked whether “de minimis” was one of the factors.

City Attorney Tamilarasan stated that it was not because that section addressed de minimis variances, which did not apply to building height. She then reviewed the eight variance factors at the Board’s request, and Clerk VanMeter displayed the relevant code section on the screen. She explained each factor, identified as A through H.

Chairman Eisen asked whether all eight factors needed to be met to grant a variance.

City Attorney Tamilarasan confirmed that all eight were required.

Mr. Esterby asked why de minimis could not apply when they had been told it would.

City Attorney Tamilarasan stated that staff mistakenly told them a de minimis variance could apply to building height when the code expressly stated otherwise. She stated that this incorrect information could be considered by the Board as context when weighing the factors.

Chairman Eisen asked whether any further questions remained. He thanked the city attorney for the clarification and asked Board Members whether they had questions regarding the eight criteria or anything else discussed.

Board Member Burmeister stated that he had no further questions.

Board Member Bryson stated that he appreciated the clarification.

Chairman Eisen acknowledged the strong language in the criteria and noted that a motion was on the floor.

Board Member Burmeister seconded the motion in favor of the appellee.

Chairman Eisen asked whether there was any discussion prior to Mr.

VanMeter conducting the roll call. He stated that comments would proceed in the opposite direction.

Board Member Bryson stated that although many topics were discussed, the central question was whether the Planning Commission erred in not granting the variance, based on the eight required factors. He stated that several factors appeared favorable to the appellant, such as not interrupting city services, not creating greater environmental impact, and representing minimal variance from code. He stated that the Planning Commission focused most heavily on whether the variance substantially differed from the land-use plan and whether it was necessary for the economical use of the parcel. He stated that he did not believe those factors were met and concluded that the Planning Commission made an appropriate decision in denying the variance.

Chairman Eisen asked Board Member Burmeister for his thoughts.

Board Member Burmeister stated that he felt for the appellant regarding the process and hoped it did not damage their willingness to work in Gahanna. He stated that he agreed that the original variance request was properly upheld by the City, particularly regarding Item H, which addressed whether a practical difficulty could be remedied through another method. He stated that regardless of any erroneous direction the appellant may have received, the issue could have been corrected at the time. He stated that the Board was obligated to follow the applicable statutes and uphold the City's process.

Chairman Eisen stated that his thoughts aligned with those of the other board members. He acknowledged confusion in November but reiterated that building code review should have occurred before design began. He stated that if the appellant had followed that step, the variance process likely would not have been necessary. He noted that the appellant acknowledged this and stated they would follow that procedure in the future.

Mr. Schoo asked whether he could add something.

Chairman Eisen stated that he could not.

Mr. Schoo proceeded to state he had undergone medical treatment for two years and that the treatment caused brain fog. He stated that although he relied heavily on his notes, it was possible he missed something during the process.

Chairman Eisen expressed sympathy but stated that the hearing had

progressed to a point where additional comments were not part of the record, although they were captured by the recording. He stated that he continued to have difficulty reconciling whether emails or texts had actually been sent, but that issue did not affect his overall conclusions. He stated that beginning construction without a permit was inexcusable and that proper permitting would have prevented the situation entirely. He stated that he did not believe all eight variance criteria were met. He stated that Board Member Bryson's comments supported this conclusion and that he would vote in favor of the appellee.

Chairman Eisen asked for any remaining comments. Both Board Members stated they had already spoken.

He asked whether the motion needed to be reread.

Mr. VanMeter stated that the motion was to find in favor of the appellee.

Chairman Eisen directed the roll call.

A motion was made by Bryson, seconded by Burmeister, that the Appeal BZA-0002-2025 be Found in Favor of Appellee, affirming the denial of V-0019-2025. The motion carried by the following vote:

Yes: 3 - Burmeister, Eisen and Bryson

Absent: 2 - Beckmann and Stillwell

F. UNFINISHED BUSINESS:

Chairman Eisen stated that there was no unfinished business.

G. NEW BUSINESS:

Chairman Eisen stated there was no new business.

H. POLL MEMBERS FOR COMMENT:

Chairman Eisen asked whether his fellow board members had any additional comments.

Board Member Bryson stated that they might need to address a member's repeated absences and suggested checking whether any attendance-related action was required.

Mr. Schoo asked whether he could comment and stated that during the second variance hearing, a member present at that meeting, who had not attended the first hearing, stated that he would have approved the request had he been present earlier. He stated that he believed this,

along with Mr. Blackford's absence, might have extended the process.

Board Member Bryson acknowledged that the comment appeared in the Planning Commission meeting minutes.

Mr. Schoo asked whether he should stop speaking if he was not permitted to continue.

Chairman Eisen stated that at that point in the meeting, the Board could not take additional comments.

I. ADJOURNMENT:

With no further business before the Board, Chairman Eisen adjourned the meeting at 8:02 p.m.

Jeremy A. VanMeter
Clerk of Council

*APPROVED by the Board of Zoning and Building
Appeals, this
day of 2026.*

Lorne Eisen