



**MINUTES REGULAR MEETING
REYNOLDSBURG PLANNING & ZONING BOARD
May 7, 2026**

CALL TO ORDER

ROLL CALL

PRESENT: Barnhart, Benner, Conley, Tuwamo, Furst

ABSENT: Brusk, Ward

APPROVAL OF MINUTES

Planning & Zoning Board - Regular Meeting - 04/16/2026

The regular meeting minutes of 04/16/2026 were approved as submitted.

APPROVAL OF AGENDA

Mr. Furst: Next item has approval of the agenda. I'm aware that we need to make an adjustment to the agenda and remove item C1 under unfinished business. Are there any other changes necessary to the agenda at this time? All right, hearing that, the agenda is approved as amended.

SWEARING IN OF SPEAKERS

Speakers were sworn in by Mr. Furst.

PUBLIC COMMENT

UNFINISHED BUSINESS

App# 2026-0161; MI Homes of Central Ohio c/o Steve Peck; Variance

NEW BUSINESS

App# 2026-0159; 8400 E. Main Street; Lamar Builders c/o Jack Reynolds for Ann Taylor of Plaza Properties; Variance

Ms. Cepek: Thank you, Mr. Chairman. This is application number 2026-0159. It is a variance. The applicant is Lamar Builders, care of Jack Reynolds for Ann Taylor of Plaza Properties. The address is 8400 East Main Street. It consists of one parcel in the EMD East Main Street District. They are requesting two variances. The first one to section 1105.11.A.iii.1 to increase the permitted height of four feet to five feet along East Main Street, and to six feet along reserve drive. The second one is to section 1105.11.A.iii.7 to allow chain link as a material for the proposed fence. Before you is an aerial of the subject site. The parcel is 7.74 acres. Here is a zoning map of the site. Here is a Google street view of the subject off of E. Main Street. Here is the site plan provided by the applicant of the site showing the location of the proposed fencing. Here is the proposed fencing. As you can see, the applicant is proposing both a 5-foot vinyl fence, and a 6-foot chain link fence. The property owner is requesting variances for a taller fence to restrict public access to the retention basin area and address safety and liability concerns associated with trespassing. The owner believes the maximum permitted 4-foot fence would not provide adequate security. The applicant is requesting chain link fencing to maintain visibility into the site for security purposes while also preserving views of the pond and wooded area for the surrounding neighborhood. For a clearer understanding, the yellow line represents the 5-foot vinyl fence that is proposed, and the red line represents the 6-foot chain link fence that is proposed. The first variance that is requested is to increase the permitted height of 4 feet, to 5 feet along East Main Street and 6 feet along Reserve Drive. As you can see, per the code, there is a maximum height of 4 feet in the EMD for front and corner yard fences. This standard correlates to the fencing along East Main Street and Reserve Drive, which as you can see is proposed to be 5 feet and 6 feet, which exceeds the maximum permitted 4 feet. The second variance is requesting to allow chain link as a fencing material. As you can see, chain link is not permitted in any district in the city. This would apply to the fencing everywhere except along E. Main Street, which is proposed to be vinyl, which is a permitted material. Here are the variance findings of fact. And bear with me, this is a long recommendation, so here we go. The applicant is requesting 2 variances. The first one is to increase the maximum permitted height of the fencing along a road, and the second one is to permit chain link fencing as a material, which is not permitted within the city. The first variance request is to increase the permitted maximum height of fencing from 4 feet to 5 feet along E. Main Street and 6 feet along Reserve Drive. The second variance requested is to deviate from the permitted materials list, to allow chain link fencing. The zoning code requires that all fencing that is considered to be located between the front setback line for structures, and in front of the front facades of the principal structure, that fences are not permitted to exceed 4 feet in height. Since there is no

principal structure, but the fence is located 3 feet from the property line, the maximum fencing height of 4 feet would apply. The applicant states safety reasons for wanting to increase the height of the fencing on the site along E. Main Street and Reserve Drive, to prevent people from trespassing onto the property, but specifically to address the safety concerns of people trespassing onto or in the existing retention basin. The applicant has not addressed why this site is unique, as many other sites within the city have retention basins, or how they have tried other approved fencing materials other than chain link to address their concerns. The applicant has stated they want to protect the owner from liability and keep trespassers away from the retention basin. Staff is of the opinion that perhaps signage, and an approved fence material in the zoning code at a height of 4 feet, could achieve and address the applicant's safety concerns without needing a variance. While the site plan does not show how far the retention basin is located from E. Main Street or Reserve Drive, if the location of the fence were to be at least 20 feet from the property lines along E. Main Street and Reserve Drive, then the fencing could be as high as 8 feet, since it would be located behind the building setback area. If the retention basin was within the 20-foot building setback, and the Board felt that there were special circumstances to permit a fence at 5 and/or 6 feet in height, then staff would recommend that the following conditions below be met if the Board were to grant the height variance. However, staff is not sure if the placement of the fence is possible outside of the building setback area along road frontage. That the variance requested made by the applicant for an increase in height and the use of chain link as a material is one of convenience since there are no unique or peculiar circumstances cited in the applicant's application, other than it being a retention basin, which is not unique within the city. Staff also believes that approving chain link as a permitted material for fencing would set a precedent for all properties in the City of Reynoldsburg, especially when the applicant has provided a portion of the proposed fencing material to be vinyl, which is permitted. Finally, staff believes that if the variance for the height of the fence were increased, that unless the Board identified unique and special circumstances as to why it should be permitted and was not a matter of convenience, that this too could set a precedent for all fencing within the city. Based on these reasons, staff recommends denial of both requested variances. If the Board voted to approve the maximum height variance from 4 feet to 6 feet for street frontage, then staff would recommend the following conditions, that the applicant provides a fence material that is permitted within the Zoning Code. That the fencing be located around the retention basin within 10 feet of the retention basin. That a gate be provided to access the retention basin. That the gate be located in an area that is easily accessible for safety personnel to access. That a tree survey, tree removal plan, and if necessary, a tree replacement plan be provided to staff, meeting all landscape requirements to staff satisfaction, prior to the fence permit being approved. That the applicant provide documentation to ensure Section 1105.11.E.iii is met to staff's satisfaction, prior to the fence permit being approved. And here is

that section, it is about proper drainage, primarily for engineering reasons. Mr. Chairman.

Mr. Furst: Thank you. I now invite the applicant to the podium to give whatever presentation they may wish at this time. Just reminding you to please give your name and address for the record before speaking. Thank you.

Mr. Reynolds: Good evening, commissioners. My name's Jack Reynolds. I'm an attorney with Smith and Hale. My address is 172 East State Street, Columbus, Ohio, 43215. And I have Steve Herrmiller, who is a civil engineer, that will present first. And then Larry Ruben, who is a principal with Woodland Plaza, who is the owner of the property itself, will make a presentation. And then I will follow it up. And add some more discussion for the granting of the variances. Here's Steve.

Mr. Herrmiller: Hi, my name is Steve Herrmiller. I'm with HCC, address 9650 Imes Road, Plain City, Ohio. I'm a civil engineer and we're gonna pass out some materials that suggest the drainage area. I'll pause for a minute. All right, so just to speak to the drainage area, a little bit about the watershed that is going in and through this pond area, I can't speak to the history, I know Mr. Ruben can, and he can elaborate on what it was back years ago. My job as the civil engineer is to look at what is going in and out of the basin, what is its relevance today versus how it's functioning today. And in one of the photos that shows this map here that looks like it's got two comparables on it, you can see the greater watershed in the yellow area. And it reaches and gets closed up to Broad Street as it heads north and over onto Mink Street over there. But that area alone is about a 705-acre watershed that goes through that one pond. And I know back in the day when Mr. Ruben was a young man, he said it was much smaller and very different. I think that parcel is noted as about seven acres. And on some of the other exhibits there, you'll note that the one that's in the aerial, it's got the acreage in the middle, it says currently that where the water's edge is at is about 2.3 acres. Then in the black and white area, that was the original as built of the plans. So that was 1.7. So clearly, you know, with development and things that are happening in the community over the evolution of time here, things have changed and there's about a new half acre of area that's been expanding on that water surface. And so it's grown a bit and, you know, for no fault of Mr. Ruben and his property, I think just, you know, development of the upstream watershed area as it drains down to this confluence at the pond in this retention area. Things start to, they just expand, and he wants to protect that. And so therefore, he's looking at ways to keep people from getting in there and vandalizing or doing it ever on the pond. I've looked at trying to respect the area of the the water surface table and where the detention the hundred-year floodplain is and as this thing is starting to you know, it gets bigger over time what we hope is, the hope for us is that if we do do a fence if you allow a fence around here to protect the asset It doesn't I guess we want to make sure that we can get

into it, maintain it, and do things that owners rightfully would do, but at the same time, I guess there would be a measure of, we did look at trying to develop the property, and now he's got an asset that basically benefits the rest of the community as it passes through water, and he really is troubled by trying to do anything or develop on the property. So we're looking at creative means to try and do a fence along here and protect the asset, but at the same time allow it to function in the proper way that it was originally intended to. I will say, too, that Mr. Ruben is trying to do the rightful thing by, you know, it was suggested about the perimeter of the circumference or the lineal footage of enclosing the pond with a fence. And the reason it goes up to the outer boundaries is I think he was trying to put it more towards the property line so that way, you know, you can protect the majority of the asset rather than right on the pond limits itself where the water surface edge is at. And knowing that the pond has grown a half acre over time here, it could grow more. So we don't want to install one fence and all of a sudden it's going to grow even more. So please respect that fact. And I will say too, I mean, Mr. Ruben is not trying to cheap out on any measure of this, because the fence in itself, I think, is about 1,300 feet long or so. And, or no, I take that back. He's installing 2,100 feet of fence, and the pond itself is only about 1,300 feet. So he's going above and beyond to protect the asset. So if you have any questions on the engineering, unless there's anything else I need to say on the engineering side. Any questions from the board? Okay, thank you.

Mr. Reynolds: I think it's important to note that the pond itself doesn't benefit the property. The pond is there because it benefits the rest of Reynoldsburg as a community because the watershed flows down into the pond and the pond holds the water. So I think the exhibit number one that we gave to you shows you the area that is served by the pond, Larry's actual use, he can certainly state that the property itself doesn't utilize the pond. It's a very small property in terms of maintaining water on site. This is actually serving the city of Reynoldsburg in the upstream properties that released their water into this watershed. So again, what we're trying to do is benefit the City of Reynoldsburg by allowing the water to flow into the pond. And what Larry again, will get up here and tell you is that, and maybe Steve can say, is that we're not allowed to in the pond, because basically it's there for other people, we're legally bound. Maintain the pond since the water flow goes into it. So that's our problem right off the bat, is that we've got a pond, it can't go away, and somehow or another, we have to deal with it. And why don't we get Larry to come up here.

Mr. Furst: And please raise your right hand. Do you swear or affirm that the testimony you give to this board is truthful? If so, say I do.

Mr. Ruben: I do.



Mr. Furst: Thank you. And please state your name and address for the record.

Mr. Ruben: My name is Lawrence G. Ruben "Larry", and my official address at the office is 3016 Maryland Avenue, Columbus, Ohio.

Mr. Benner: Mr. Ruben, could you pull the microphone down.

Mr. Ruben: I'd sure be happy to. Thank you. Well, this room's not new to me. A lot of your faces are. I haven't been here in years. You know us as Plaza Properties. You know as Woodview Plaza, Rose Hill Plaza, Briarcliff Plaza. We've started building apartments in Reynoldsburg in the 1960s. My father before me, unfortunately, he's been gone about 19 years. I don't want to date myself, but I was 75 years old on Monday, and I've been 52 years in the family business. Reynoldsburg's been a great partner with the Ruben Family Plaza Properties for many years. In central Ohio, we were known in both shopping center and the apartment business, 24 apartment communities, 24 shopping centers, 8 million square feet. Dad and I did a lot of work and the benefits of those are in many communities, many buildings to still be seen, quality construction and quality management. When Bernard died 19 years ago, a trust took over, a Trustee, and unfortunately the Trustee was not a real estate person. It was a relative and unfortunately that person was not versed well in development management principles. So sites like 8400 East Main Street were not on the trust radar. To worry about liabilities, to worry about taking care of the property. They tore down the house that was used many years to oversee the property, they tore down the barn. We had a tree farm out there in the mid-80s for about 15 years, and we had a garden center out front. We grew over 300,000 trees and shrubs on that site, including the 40 acres that Dominion Homes purchased from us after the tree farm was no longer needed. Places like Lowe's and Home Depot took over that business, of course. This property has been stagnant for many years. As Steve said, and as I saw where they said it's not unique, I want to profess it is unique. And I'm not an engineer, Steve is. But with all the developments I've done and such, retention basins that are on apartment communities like ours are just retention for that property. We don't take watershed from anywhere else, not the 700 acres that we're taking here. We use them as good-looking entrances. We put little fountains in them, even lights sometimes. And we don't fence them. We make an amenity to the entrance of the apartment community. And sometimes they lose their water in the summer, especially with drought. They just dry up. Those are retention basins that we're required to do in the engineering necessary to build these apartment communities. This is not that kind of retention basin. This is municipal. This is taking water from streets, Reserve Drive particularly. It's taking 700 acres, taking the Kroger store to the east of us. It's taking all of the homes behind us. It's gonna take the future. It's going to take the new M/I if they get this done. I'm already a half acre more than I was when I started. We can't develop this

property. I can't build apartments. I'm not building a shopping center. Not sure what the highest and best use is anymore. But it's really a municipal type of situation where I am strapped with a pond that is acting as a large area of retention. And I think we all have a responsibility to it because it's not just my water. I'm only about eight acres. There's 700 acres that's transferring here. So I wanna make that clear. Steve mentioned it. I will tell you in all the projects that I've done, and I just did one at the corner of... Cassidy and Fifth Avenue. They did a take and they needed more land from a corner we have, two corners to widen Cassidy and Fifth Avenue just now. It's a joint of ODOT and the city of Columbus. They put a retention pond in this new expansion on the north east corner and they fenced it in for safety, for families, for children living in the area. I can tell you that most of the municipalities that have retention basins put fence around them just for the liability's sake. This is larger than those retention basins generally. This is a really big sore. And I can't tell you enough my concern about liability. When we had the business there of the tree farm, when we had the house, and we had security and we have live on site, it wasn't really an issue because we could manage it. And back in those years, in the 80s and 90s, we didn't have all these new home developments or apartments or this watershed problem. With development, it's created an exacerbation of the site. Now we are saddled with an insurance issue. Because this site was included in a very large 8 million square foot insurance package, that has since all been sold. Our apartment communities have been sold, our shopping centers have been sold, except for a dozen of them maybe. This particular site isn't in a master insurance program anymore, and liability insurance, because of this pond, is now a problem. And I do have a letter in file from February from Frank and London, our insurance agent, who they've insured us for 40 years, that we're going to have difficulty getting liability insurance. I will say this. All the apartments, swimming pools, I've experienced drownings, double drowning. That's a \$7 million liability settlement. I had insurance, thank God. They climbed the fence, seven and eight years old. It was still the end of April. The pool was not open. The winter signs were up, pools closed, but the pool was ready. Two little brothers went down the slide, bumped their heads, they drowned. I don't want to go through that again. The signs have been torn down. People are getting on the property. They've torn down the signs. We keep putting them up. We ran two kids off in the winter when the fence guys were there. They were on thin ice. It was cracking. They were in the middle of a pond. They probably came from the back 40. Someone drove through the gates. We put new gates on with a pickup truck and were using it at night. Don't know what they're using for. Again, I've got a liability here, more so than a real scenic piece of property. And it is beautiful piece of a property, but I got a big liability. I can't control this. We did a little study here and what we did, and I gotta apologize, and I should have started this. Had no idea I should've gotten a fence permit or if the fence was even legal to put on this property. So by the way, I was not here to buck any code because that's not what we do. We've never been reprimanded in Reynoldsburg or anywhere. So I apologize for that. We stopped it immediately. We

have \$30,000 of fencing sitting on site currently. We need to buy probably another \$25,000 of fencing to complete the fence job. This will only do the east side and the north side of the property. The west side and the north site, that's what we have done so far. All said and done, by the time the labor is done, we buy the additional fence for probably into \$75,000 or \$80,000. I'm not asking Reynoldsburg to help me with this. We're taking responsibility for everything. I did get concerned about what does this fence look like from the public eye. On Main Street, duplicating a fence, like you'll see in New Albany and some of the other areas in town, a four rail fence versus a three rail fence. Main Street's a big wide road. It's certainly faster than Reserve Drive. And and I thought a four-rail would look better there. We used for many years, we had a frontier fence on there, frontier style. It rotted, we took it down. So that fence is on site ready to be built. We installed a new gate. But here's what we did. We figured out a way to make 90% of this fence go away from the public sight. The west property line, you will not see the fence anywhere to the west. We have an A-frame that's been over on the Dean's property for many years. Nice people, they can't even see the fence. They don't even know we were in there trying to put up a fence. So the entire west property you will not see a fence. You will see on the West property line about 15 or 20% of the fence because it's being hidden through trees. And when you get over to reserve, again, it's going through the trees, you're not gonna see the fence. When I heard that there are a few areas that could impact a couple of houses on the north side of the property, I said, okay, move the fence in some. Let's get white pines. We'll put them every 20 feet on center and we'll put those pines on the outside of the fence to go ahead and restrict the view of the chain link and have the trees. I would think that would be a real good improvement for the homes and be very fair to them. Again, the fence is hidden. 90% of this fence is hidden. Now, if you'll give us the time, we have a presentation that we had forwarded to Emma. We did it two ways. We walked it with a cell phone. Thank you, Ann Taylor, who's with our company. And she walked all the path in the trees where the holes are dug and the poles are sitting in the holes, but they're not cemented. And we ran caution tape, yellow and red. Real wide, real bright so you could see it. And she walked it with her phone, taking a video of the pathways, where the fence goes, through the woods, around the property, and recognizing where the pinch points were, back on the north side of the property. We then flew a drone, and we did it from the air, and wanted to see if we could find the caution tapes from the air. Again, inconspicuous camouflage. So on that behalf that's what I'm asking. I do think it's unique situation. I understand the code. I understand chain link is not it. We're not going to see the chain link. I can't tell you, wrought iron aluminum fencing, wood would just rot, the wind would probably blow it over, It would not be a good use with this many lineal feet, would be impossible. Because it is of a municipal nature of a retention pond and this is a deep pond and it is getting wider and wider. It overflowed the banks with the rain last week. I'm asking, I'm requesting, I am pleading because of liability, injury, that we be allowed to proceed with any comments, any direction, any

recommendations.

Mr. Furst: Thank you.

Mr. Reynolds: This is a, and I'll proffer for the record, but basically this is a letter from O'Frank and London Insurance Agency. "Our office received a request to cover \$50,000 of fencing at the above address, 8400 East Main Street. We will endorse a transportation floater and start a builder's risk policy to cover the fence being erected. Lamar's Builders policy covers the fence and liability for its erection. Traveler insurance ensures the location for liability coverage last year their loss control team conducted a site visit and recommended measures to address liability exposure related to the pond. We have since contacted travelers lost control and confirmed that a solution will be implemented to mitigate some of these risks. No timeline was given, however, travelers will re-inspect this year. Without proper loss control measures, insuring the property in the future will be very costly. Please let us know when this project is completed. We will delete the builder's risk and return to the unearned premium. As always, if you have any concerns or questions, please contact me directly." And by saying, when I looked at the code, I will hand this out. We are requesting a variance from 1105.11.1, which has the limitation of four feet. Although we do not have a structure on site, I would argue that number four of the section of the code actually pertains to the areas that says rear and side yard fences. You know, when you look at... When you look at the setback, the property itself. 100 foot setback there. Setback that, you know, shows the Commission, you know, a 200-foot setback is kind of a normal building setback off of East Main Street. If you look at that setback, we are, the total area of the fencing that we're proposing would be within the side and rear yard areas of the site. And, so, what I would like for you all to consider in that we could, under the code for a commercial piece of property, we could go up to 8 feet under the Code rather than 4 feet. So again, I would like to make that argument that instead of number one, that would be 1105.1.A.ii instead of one it would be four for at least those areas to the rear and side of the property so in that instance I believe that at least in those areas we don't need the height variance we would need the height variants along East Main Street for the four rail fence. Again, that will add an attractive front to the property. I think the idea behind Larry is he would like to, again, create a nice amenity for the property, and then we are asking for the variance, when Larry talks about 1,600 linear feet of fencing, that's a very high cost for anybody to bear for encircling the entire site. I don't even know, I don't think we went out and even put a price on doing a fit like that. So again, there is a high cost. We went through variance requests. I think we made valid arguments. Again, when you look at six-foot fences around those areas that were shown in red around the site, four feet, the six feet, four feet fencing really does no good. It won't keep kids out. Signage won't keep kids out. We need to protect the property. I'm here, Steve's here, Larry's here. I would like to think that we've made valid arguments for granting the

variances for the two elements. And that's what we've got for you this evening. So it would go across there. And kind of match what you see on. [video plays on screen] So it would go across there, and kind of match what you see on Reserve, just an extra board. And again this kind of shows you the poles and where the poles are in terms of how wooded the area is for the majority of the site. Camouflage, you can't see it back in there. You can see the one all the way over here on my right that kind of gives you an idea of the height and what the fencing would be like in that area itself. And here's Ann walking down the area and how close it is to the pond itself. And that shows you what the coverage is. And then there obviously is Reserve. And so I think there's, do we have the drone? And now you're coming up on the area where Larry has offered to do plantings of white fir, white pine, in order to create a buffer, an opaque buffer between the single family houses and the fence. That must have been a fun walk. It was in the rain. So again, when you look at the height of the poles, it's not that out of character with the fence that is behind us to our north. And again, showing the wooded area where the fencing would go. And then the pond that's been overflowing its boundaries.

Mr. Furst: If you wouldn't mind, sir, allow me to kind of explain how our decision making is structured so you can, you know, further tailor your arguments. So a lot of the arguments you've been making are perfectly fine arguments, but they're not germane to our decision-making power here. So we are constrained by the – would you mind, Emma, putting back the variance findings of facts, please. So we are constrained by Section 1109.15, and we can only consider those factors as it relates to your variance application. So some of the comments that you've made regarding the property and the fact that what some people may characterize as an eyesore of a chain-link fence and how it wouldn't be seen because of the the growth on the property and things that that's just not germane to our decision-making. So in nowhere in our decision-making as authorized by the code are we allowed to consider aesthetic considerations. So you know I would just ask for the sake of efficiency in everyone's time that perhaps you don't continue with those sort of arguments.

Mr. Reynolds: You know, as a response, we did respond to the items that are the finding of fact, and I do believe that we addressed all of those issues, and I believe that we made valid arguments for the granting of the variances based on those 10 items.

Mr. Furst: And of course, you know, I do certainly appreciate that you're trying to be a good neighbor, trying to be a property owner here in the city, and of course in an ideal scenario we would want to be able to solve everyone's problem. The issue, I think there's two issues here, and I'm just speaking in my individual capacity here. I mean, one is the matter of the chain link fence just as a fencing material. We are not a legislative body. As you heard during staff's presentation, chain link fence is

not authorized in any district in the city. It would absolutely be beyond our power to grant you that variance. We would consider that a legislative matter. So the way to address that particular aspect would be to petition city council to make the change to the law. This body here recommends changes to council but you or anyone else in the city can also do so directly. Any changes to the law would have to begin with them and then we provide our recommendations, but ultimately, it's their decision as to the contents of the zoning code. So I don't think it is within this board's power for us to grant a variance for the material. Now regarding the height, the way you would address this is addressing these variance finding of facts here. So you speak about how the retention pond is really functioning more as a municipal pond, right? Not just for the property itself. There are multiple municipal retention ponds here in the city. There's there's one actually just a couple hundred feet away from here on city property and it functions very similarly to this. It's not at the scale of this, but it does take water from many neighboring properties. There is no fence around it. And perhaps that's a difference between the city's coffers and a corporation's coffers, but that was not a liability concern there. I appreciate the liability concern, but perhaps you could educate me a little bit. The four to five feet, that doesn't seem like it's a really a meaningful difference to me if I was a kid trying to hop a fence. Or really anyone trying to hope a fence.

Mr. Reynolds: I myself, again, the fence out front we were asking for the five feet is more, again it's out front, it's visible, you know, people probably wouldn't be trying to get into the site from East Main Street. So, again, that one, again Larry felt that five feet would be adequate. In terms of keeping people out from the East Main Street. The idea of doing the six feet for the remainder was, again, to keep people out. Now, the difference between four and six and trying to keep young children out of an area, I think it's much more of a deterrent than a four-foot-high fence and signage because children are not going to respect the signage. And then the four foot is really not adequate to keep them out of a location like this. So that's why we're going with the higher heights of the fence, again, is, and I would like to think that six feet is adequate to people out. And I think the argument that we're behind the setback and I think staff even acknowledge that, you know, once you get 20 feet back and you're set back behind the building set back, there might be the argument for a higher fence. And so I too would make that argument that given, you know, once you get a certain distance back from the right of way of East Main Street, that the height of the fence is allowable in the East Main Street district. Again, this is in the East Main Street District. It is a commercially zoned property. Again, the application of A to the entire site, I think, is an overreach. I would like to think that this is the rear of the property behind the pond and along the side. It does qualify for sub-area four that would allow for a greater height. And again I simply gave you all a 200 foot setback for, and I doubt if a building needed to be set back 200 feet from the center line, I just picked 200 feet to give you all an idea of where it is on the property. So therefore, my argument to you would be, there is an

argument that the six foot high would be qualified for the section four as a height that is permissible under the code and therefore you all might take it under advisement that there are simply areas in front of the setback that would qualify for a variance for the four foot to six foot and from the four to the five foot.

Ms. Buathier: Mr. Chairman and the board members, just for clarification from staff's interpretation, the four-foot would apply for the fencing that is three feet from behind the right-of-way line along East Main Street and Reserve Drive and that the four feet would only apply within that front building setback which is the twenty feet so if the fence was placed at twenty and a half feet it could have a six-foot, I'm sorry, an eight-foot height fence. However, there are also was no setbacks to show where that would be on this plan. So we could not make that determination that if it was even possible, especially in that right side along the Reserve Drive where it's obviously much closer to the road than anywhere else on the site.

Mr. Furst: So, staff, if I'm hearing you correctly, is it possible that if the applicant just submitted some adjusted drawings and they were amenable to a slightly different, you know, fence layout and height as you described that there may not be a variance necessary to accomplish their intention here?

Ms. Buathier: Potentially but without something showing that one they can do it and that they know they can do it, and without showing that, I have no way of knowing.

Mr. Meyer: That would be just for the height issue to be clear. That wouldn't address the material issue.

Mr. Furst: Right, right, right. You know, I think I've been very clear here that the material is beyond the matter of this board.

Mr. Reynolds: We understand the material, it would just be the height.

Mr. Furst: Considering the remaining variance is the height, frankly, and instead of us trying to litigate the nature of the property, maybe that's an easier solution.

Mr. Reynolds: What maybe we out to do is to say, can we table this?

Mr. Furst: You certainly can.

Mr. Reynolds: And go back and find the 20 foot, show the 20 foot and then come back and show which areas need the variances with the understanding that the fencing material is off the table, but we can come back and consider those areas that are within the 20 and 20 and a half feet back.



Ms. Buathier: It would have to be set, it could be like 20 feet and one inch, but it just needs to be more than 20 feet.

Mr. Reynolds: I would appreciate an opportunity to work with staff and come up with a site plan that shows that, and then we can deal with the remaining areas at that time.

Mr. Furst: Well, how much how much time would you like for that? I think we'd be amenable to table it, but we just, you know, like to know a time window so we can...

Mr. Reynolds: When do we need materials back?

Mr. Meyer: We're looking up right now. We have a three weekly time for meeting. So our staff is just looking up right now deadlines. I believe my staff just told me that for the next meeting, which is the next meeting in May, you would have been passed that deadline. So we're just looking at deadlines for the next one. So just, I'm going to hand it over to Phoenix to say those.

Ms. Buathier: A week from today is the deadline for the June 4th meeting and the May 28th is the deadline for June 18th meeting.

Mr. Meyer: When we say deadline, that means new documents submitted that we build a review in time for the, to put in the board packet.

Mr. Reynolds: We'll do as quickly as possible.

Mr. Benner: Mr. Meyer would you repeat that? I'm not sure, they were talking amongst themselves and I want to make sure they understand.

Mr. Meyer: I also have a deep monotone voice, so that's usually tough to understand anyway. Just to, I'll try to enunciate it better too, but so we have a three-week lead time for meetings and what that means is you're perfectly free to do what you did today and hand out stuff at the meeting, but we didn't have a chance to review it. In order to review things and analyze it, we have three-week lead time in advance of the meeting. So I believe I heard May 28th is the deadline for the June 18th meeting. And then-

Ms. Buathier: May 14th is for the June 4th meeting.

Mr. Meyer: So you'd have a week to get us anything if you wanted to be in that first meeting of June or you'd have to wait, or you could get stuff to us by May 28th for that second meeting in June.

Mr. Reynolds: We'll do it, we'll get this material to the staff in the week period so we can be on that meeting.

Mr. Meyer: So I believe that meeting is June 4th, if my memory is correct. So it sounds like if I'm analyzing this correctly, they would want to keep this hearing open through, to return by June 4, if I am hearing that correctly.

Mr. Furst: Well, hearing that, the applicant requests that we keep the hearing open, but table this matter until the June 4th regular meeting. This is Mr. Furst, an I so move.

Mr. Benner: I second.

Mr. Furst: Thank you, Mr. Benner. Would you please call the roll staff?

RESULT:	5-0
MOVER:	Furst
SECONDER:	Benner
AYES:	Barnhart, Conley, Tuwamo, Benner, Furst

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