

Village of Lordstown Board of Zoning Appeals

August 9, 2021

The Lordstown Village Board of Zoning Appeals met in regular session on August 9, 2021, at 5:30 P.M. at the Lordstown Village Administration Building. The meeting was held to hear Case 21-01 Raymond Mashorda. The meeting was called to order by Chairperson Larry Tura followed by the Pledge of Allegiance.

In attendance: Larry Tura, Chairperson  
Bob Bond, Council Member  
Arno Hill, Mayor  
Paul Dutton, Solicitor  
Kellie Bordner, Planning & Zoning Administrator  
Denise L. Dugan, Assistant Planning & Zoning Administrator

Also Present: Raymond Mashorda, Pompano Beach, Florida  
Donald Reider, Council Member

**PROCEEDINGS**

**Lordstown Village Board of Zoning Appeals Meeting**

**(WHEREAS, the Lordstown Village Board of Zoning Appeals meeting commenced on Monday, August 9, 2021, at 5:30 p.m. and proceedings were as follows:)**

MR. TURA: I call the meeting to order. Welcome to the Village of Lordstown Board of Zoning Appeals meeting. We'll open with the Pledge of Allegiance. Please join us.

(Pledge of Allegiance to the Flag.)

MR. TURA: Denise, roll call, please.  
MS. DUGAN: Yes. Arno Hill?  
MR. HILL: Present.  
MS. DUGAN: Robert Bond?  
MR. BOND: Here.  
MS. DUGAN: Larry Tura?  
MR. TURA: Present.  
MS. DUGAN: Fred Bencivengo? (NO RESPONSE — ABSENT.)  
MS. DUGAN: Paul Dutton?  
MR. DUTTON: Present.  
MS. DUGAN: Kellie Bordner?  
MS. BORDNER: Present.  
MS. DUGAN: And I'm Denise Dugan.

**EXCUSE THOSE ABSENT:**

MS. DUGAN: Mr. Bencivengo did let us know that he was not available this evening.  
MR. TURA: I'd like a motion to excuse him, please.  
MR. HILL: So moved.  
MR. BOND: Second.  
MR. TURA: Motion carries.

**APPROVAL OF AGENDA**

MR. TURA: I'd like to make a motion to approve tonight's agenda.  
MR. BOND: So moved.  
MR. HILL: Second.  
MR. TURA: Motion carries.

**APPROVAL OF MINUTES OF OCTOBER 13, 2020**

MR. TURA: The next one here is I have a motion to approve the minutes of October 13, 2020. I believe that is the correct date.  
MR. HILL: I'll move.  
MR. TURA: Do I have a second?

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MR. BOND: Yes.  
MR. TURA: Second by Bond. Motion carries.

**CASE 21-01 Raymond Mashorda is requesting an area variance relative to the decision of the Lordstown Planning Commission rendered on June 14, 2021, requiring Appellant to pave approximately 9,664 square feet of the parking area at All Seasons Storage which is situated in a B-2 Zoning District which is located at 5787 Tod Avenue, Lordstown, Ohio.**

MR. TURA: The Scope and Jurisdiction of the Board is as follows:  
(1) Hear and decide appeals where it is alleged there is an error in the order, requirement, decision or determination made by the Zoning Inspector in the enforcement of a Zoning Ordinance.  
(2) Authorize, upon appeal, in specific cases, a variance from the terms of the Zoning Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of Zoning Ordinance will result in practical difficulties, and so that the spirit of this Zoning Ordinance shall be observed and substantial justice done. In granting a variance, the Board may impose such conditions as it deems necessary to protect the public health, safety and morals and in furtherance of the purpose and intent of this Zoning Ordinance (1127.04).  
(3) Issue Special Use Permits where there is found no justifiable reason not to issue it.  
(4) Render an opinion where the Planning & Zoning Administrator has determined that he/she needs a second opinion or clarification of a portion of the code. Your statements at this public hearing are not the only basis for determination of your request. This Board represents not only the vocal group at a public hearing, but also those many citizens who do not attend or speak at hearings. The decision of the Board shall not become final until the expiration of five working days from the date of the Board's approval. All speakers are sworn in by the Chairman by affirming the following oath:

MR. HILL: Stand up and raise your hand and take the oath.

(WHEREUPON, THE APPELLANT, MR. RAYMOND MASHORDA, WAS SWORN IN BY MR. TURA.)

MR. TURA: Very good. The procedure for the public comment aspect of our hearing is: all speakers must step up to the microphone and state their name and address for the record.  
All persons speak in order, one by one, no open discussion, no cross examination.  
The appellant makes the first statement.  
Those in favor speak first.  
Those against speak next.  
Rebuttal by the appellant is normally permitted.  
Members may ask for clarification or additional information.  
A last call for new information that has not been previously stated.  
So, at this time, I'd like to ask Kellie to read the case into the record and bring us up to speed.

MS. BORDNER: Yes, Mr. Chairman. Appellant, Raymond Mashorda, is requesting an area variance relative to the decision of the Lordstown Planning Commission rendered on June 14, 2021, requiring Appellant to pave approximately 9,664 square feet of the parking area at All Seasons Storage, which is situated in a B-2 Zoning District, located at 5787 Tod Avenue, Lordstown, Ohio.

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The meeting was set for today, August 9, 2021, at 5:30 p.m. The appropriate deposit was paid. A legal ad was run in the *Tribune Chronicle*, and the abutting property owners were notified by certified mail. Denise is going to give you some general zoning information on the parcel.

MS. DUGAN:

This is Case Number 2021-01.

The applicant's name is Raymond Mashorda.

His address is 657 W. Palm Aire Drive, Pompano Beach, Florida 33069.

The property owner is Raymond Mashorda.

The address for the appeal is 5787 Tod Avenue, SW.

The purpose of this hearing is a variance request.

Address affected is 5787 Tod Avenue, SW.

Size of the tract being affected: 2.33 acres.

Existing land use: Commercial Highway Business.

Presently zoned: B-2.

Surrounding zoning and land usage: B-2 primarily; R-1 mixed zoning.

What will be the future use of this land? Commercial Highway Business.

Public utilities available: Sewer, water, electric, natural gas.

Physical environment of surrounding land: Primarily flat valley area.

Elevations vary at Tod Avenue and to the west.

Past Zoning History: May 27, 1997 - Site Plan Review for All Seasons Storage for Mr. Chaney. June 9, 1997 - Appeal to the Board of Zoning Appeals. Granted the delay of paving for one year, exemption from parking stalls as long as site remains as storage only, and variance granted for rear set back from required 50 feet to 25 feet. February 16, 2021 - Consolidation of two parcels into one.

Was zoning changed recently? No.

Lordstown Village Zoning Ordinance affected: 1163.04, which states: All parking areas, passageways and driveways shall be surfaced with a dustless, durable, all-weather pavement, clearly marked for car spaces and shall be adequately drained.

MS. BORDNER:

So, based upon a review of the two-page appeal under the Zoning Ordinance submitted by Appellant, Raymond Mashorda, the Duncan Factors to be considered for an area variance are addressed as follows:

**1. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.**

Appellant's property at 5787 Tod Avenue is zoned B-2, Commercial Highway Business. It was purchased by Appellant on March 3, 2021, for \$140,000 from Glen Chaney. Mr. Chaney previously purchased the property in 1994 for \$130,000.

A beneficial use of the property, without granting a variance, is currently occurring. Appellant advised Lordstown Planning Commission that the main business for this location will continue to be All Seasons Storage, with some updates and improvements. Appellant additionally operates a small business selling plants and flowers out of the front (main) building.

Lordstown Codified Ordinance 1163.04 requires that the parking area for a business within the Village must be surfaced with a

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dustless, durable, all-weather pavement. The code also requires that the parking area have not less than three marked parking spaces, being 10' x 20' each in size.

At Appellant's site plan review approval request before the Planning Commission on June 14, 2021, the precedent established when the prior property owner came before the Commission on May 27, 1997, to seek site plan approval for All Seasons Storage was considered. A site plan review approval was granted in 1997; however, the issue of paving the parking lot and striping a certain number of parking spaces was directed to the Board of Zoning Appeals for consideration of variances. On June 9, 1997, the BZA granted Mr. Chaney a delay of one year on the code requirement to pave the parking lot and also granted him a variance from the number of required parking spaces so long as the business continued to be used solely for storage units.

The Planning Commission tried to stay true to the BZA's 1997 decision and granted appellant site plan approval for the continued use of the storage units and the additional business of selling plants and flowers. However, they found that appellant should pave the parking area on the south side of the main building within the blue lines set forth on an aerial map diagram, which they initialed. This was in an effort to resolve any vagueness or ambiguity concerning the size of the parking area - the paving area from the 1997 BZA ruling. The Commission gave Appellant one year to pave and further found that three 10' x 20' parking stalls must be marked within the paved area in accordance with the minimum required by Lordstown Codified Ordinance 1163.02.

## **2. Whether the variance is substantial.**

As stated above, Lordstown Codified Ordinance 1163.04 requires that a business in the Village of Lordstown have a parking area whose surface is dustless, durable, all-weather pavement. When Mr. Chaney was originally required to pave the parking lot, such paving was to include the entire area around what was then referenced as Building 1 and Building 2 and up to Building 3. This is based upon a review of the testimony provided before the Planning Commission and the Board of Zoning Appeals in 1997. No specific dimensions were set forth. In an attempt to determine what square footage that might have encompassed, the Lordstown Planning and Zoning Office made measurements using the Trumbull County Auditor tools available to us and taking the 1997 testimony into consideration. It appears that Mr. Chaney paved an area, which encompassed 34,108 square feet. Diagrams have been offered to substantiate this.

Appellant was, likewise, not provided exact dimensions of required paving. In his submission to the Planning Commission, Appellant committed to paving a 56' x 34' area. However, in testimony before the Commission, Appellant explained that it might end up being a smaller area at 56' x 25' or 56' x 30' in size. The Commission determined that Appellant was to pave within an area defined by the blue line markings already mentioned. Reducing that area to a more definitive number reveals that Appellant was ordered to pave an area that is 144' long, which is the entire length of the front building, by 76' from the northwest corner of the building to the

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southeast corner of the blue line - I'm sorry, by 76' from the northwest corner of the building to the southwest corner of the blue line and 60' from the northeast corner of the building to the southeast corner of the blue line, for a total of approximately 9,664 square feet.

In his appeal, Appellant is now offering to pave an area that is 56' x 40', which would be 2,240 square feet. Comparing this to the 9,664 square feet, which the Commission required Appellant to pave, it is clear that Appellant is asking for an area variance that would forgive him from paving 7,424 square feet. This would constitute an approximate 77 percent area variance.

Comparing Appellant's offered paving of 2,240 square feet with the original 34,108 square feet, which Mr. Chaney paved in 1997 and 1998, Appellant's request would constitute an approximate 93 percent area variance.

**3. Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a substantial detriment.**

The area in which Appellant's business is located is on a main thoroughfare, which runs north-south through the Village of Lordstown, being Tod Avenue, also known as State Route 45 and upon which numerous businesses are located. Appellant's property is bound on the north side by a railroad. To the south and the east, the property is bound by a 42-acre parcel owned by Ronald and Karen Krisher, who engage in agricultural activities on only approximately 24 acres of such parcel. To the west, Appellant's property is bound by Tod Avenue, State Route 45. Several diagrams are provided as an overview of the property in question. One of which will show the elevation of Tod Avenue, State Route 45, is higher than Appellant's property. Based upon reports from the Village Engineer, storm water in the Village historically sheet flows from west to east given the existing topography.

Appellant primarily claims, as justification for his appeal and request for substantial area variance, that paving the area required by the Commission will negatively impact any crops grown by Krishers to the north of his property. In other words, Appellant is arguing that an adjoining property will suffer a substantial detriment if his variance request is not granted. Appellant made this argument before the Planning Commission. Krishers were notified of the hearing before the Planning Commission, along with the current hearing. They have offered no concerns. Since Mr. Krisher previously served as a member of Lordstown Planning Commission and actually sat on the Commission on the May 27, 1997, Chaney site plan review hearing, he is uniquely aware of the requirements for Commission hearings and the decisions to be made by the Commission.

It should also be noted that Appellant was not required to pave the entirety of the parking area on his parcel, and the required paved area remains at least 50 feet south of the common property line between Appellant and Krishers. Additionally, Codified Ordinance 1163.04 states, in pertinent part: "All parking areas, passageways and driveways shall be surfaced with a dustless, durable, all-

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weather pavement clearly marked for car spaces and shall be adequately drained." In 1997, Mr. Chaney provided testimony before both the Planning Commission and the Board of Zoning Appeals that adequate drainage would be created on this parcel.

The essential character of the neighborhood would not be substantially altered by the required paving, nor would it appear that adjoining properties would suffer a substantial detriment as a result of the paving.

**4. Whether the variance would adversely affect the delivery of governmental services.**

This case does not present concerns relative to adequate delivery of governmental services.

**5. Whether the property owner purchased the property with knowledge of the zoning restrictions.**

Appellant states in his appeal that when he purchased the property, he had no knowledge of the zoning restrictions and what was required.

Appellant purchased the property on March 3, 2021, from Glen Chaney. According to the detailed daily notes, which were kept in the Planning and Zoning Office prior to that purchase date, Appellant, himself, first contacted the Lordstown Planning and Zoning Office on December 9, 2020, to offer his plans for the use of 5787 Tod Avenue should he decide to purchase the property. At that time, zoning requirements for signs, paving, parking and the necessity to come for site plan review were discussed in detail with Appellant. Thereafter, the realtor involved in the sale of this property, Mike Hodak, contacted the Planning and Zoning Office multiple times to question zoning requirements relative to 5787 Tod Avenue. These calls occurred on December 10, 2020; December 15, 2020; January 13, 2021; January 14, 2021; and February 10, 2021. Additional calls were placed by both Appellant and Mr. Hodak to Mayor Hill on December 17, 2020, who later met with both individuals to also explain the Lordstown Codified Ordinances concerning Appellant's proposed purchase of the property in question.

Given the foregoing, Appellant was fully advised, having received knowledge of the zoning restrictions and what was required prior to purchase.

**6. Whether the problem can be solved by some manner other than the granting of a variance.**

Originally, Appellant committed to paving a 56' x 34' section of the parking area at 5787 Tod Avenue. However, at the June 14, 2021, meeting before the Planning Commission, Appellant testified that he would like to reduce that amount. After testimony and considering all information presented, the Planning Commission determined that Appellant was to pave an area contained within the blue lines established on a marked and initialed aerial view diagram. Such area within the blue lines equates to approximately 9,664 square feet. This being 144' long by 76' deep on the west side and 60' deep on the east side. This square footage is approximately one fourth the amount required of Mr. Chaney in

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1997-1998 when he paved approximately 34,108 square feet. The Commission reached this solution in attempting to address any vagueness or ambiguity created by the lack of exact pavement dimensions being stated in 1997. This was done to favor Appellant.

**7. Whether the property in question has unique or exceptional circumstances or conditions that do not apply to other properties in the vicinity and within the same district.**

Appellant does not offer that there is anything unique about the property in question, nor that there is any exceptional condition relative to the land. The Lordstown Planning and Zoning Office, likewise, does not find anything unique or exceptional about the condition of the land or the area in which this property is located.

Appellant states in his appeal that he has only 15 units rented and the financial cost of upgrades will more than likely not be recovered. Under Lordstown Codified Ordinance 1102.03, a variance may be granted when the strict application of zoning regulations creates an unnecessary hardship. However, Lordstown Codified Ordinance 1102.03 also specifically states: "The hardship must be unique to the property for which the variance is sought and not applicable to any other property. The hardship must result from the strict application of these regulations as distinguished from one of inconvenience due to the owner's error, poor judgment or when the only supporting evidence is that the compliance would add to the development cost." An increased cost of an inconvenience in meeting zoning requirements does not constitute an exceptional hardship and an economic reason, unless it would prohibit any reasonable use of the property, does not offer reason to grant a variance.

**8. Whether the variance preserves the spirit and intent of the zoning requirement and whether substantial justice would be done by granting the variance.**

To determine whether the granting of a variance will preserve the spirit and intent of the zoning requirements, it is necessary to consider all concerns and information presented. Consideration must also be given to the precedent set by the 1997 decision of the Board of Zoning Appeals relative to this property and the Lordstown Planning Commission's fair interpretation of such precedent in its June 14, 2021, determination. Further, substantial justice will be served by considering all of the foregoing factors, along with any other relevant factors in determining whether a variance should be granted.

Respectfully submitted, Kellie D. Bordner, Lordstown Planning and Zoning Administrator.

Just to add two more notes. One, we have not had any comments or concerns presented by any of the adjacent property owners, including Krishers.

And, secondly, we have received questions from the Board of Zoning Appeals and Planning Commission members wanting to know whether the Board of Zoning Appeals could expand the ruling of the Planning Commission to require Appellant to pave an area greater than the approximate 9,664 square feet, which Planning

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Commission ordered be paved. After talking to Attorney Dutton about this, we have been advised that, yes, the Board of Zoning Appeals can expand the area to be paved.

MR. TURA: Thank you, Kellie. Well, Mr. Mashorda, would you mind stepping up and making your case about your variance, please.

MR. MASHORDA: Today I met with Eugene Butch. He used to own Butch and McCree Paving. He was in business for about 60 years. He's retired now, but he is an old friend and when I built my business, he did all the work over there. So, he met with me out there today, and we - I left all my stuff at home. I got up at 1:30 this morning because I had a 4:30 flight to get here. So, I'm a little tired, and I don't hear very well, so you've got to speak a little louder.

Anyhow, we took measurements and all that stuff, and what we decided to do, he said it would be better for me, was from this walkway where you walk in and there's a railing there to walk in the first two big glass doors, this is 56 feet to this corner (indicating on notebook). Well, we decided to go 60 feet across and 50 feet out, which would give me a 3,000 square foot area. And then it was about 300 square feet to finish the driveway to come into the - at 50 feet, there was like 10 feet over here because the driveway comes in like this (indicating). Come through the gate and the driveway is there. So, this would have left a little gravelly area, so we added that in. So, it comes to about 3,300 square feet, give or take a little bit.

We're looking at two different options on this. Whether to take everything out that's there now and put new base in, binder and then top, okay, or clean it up as best as we can put tack coat and then put blacktopping on top.

Because of the way the water runs, the elevations on this property runs the water from east to west. It runs it towards Tod Avenue, okay, because we kind of got on there and looked, and we were hoping to take the water this way but this area here, it's that way (indicating on notebook). So, we've been trying to make that so the water doesn't back up in the building.

So, originally, I had other plans, 25, 40 and different lengths out, but 50 is actually a better number for me anyhow all the way around. And that would give me probably three parking spaces and a handicap. I don't have any employees. I explained that to you in the meeting on June 14. I have one guy that worked for me for a long time. So, I bought him a car and he helps me out. So, I'm pretty much a one-man show in this. And I'm not selling really anything off this property. I take orders. I have fundraisers coming up in a month with garden mums. I have dance studios, schools and stuff. So, they give me the orders, and we deliver to them. It's fundraisers and stuff. At Christmastime, I bring stuff in and then I deliver about 90 percent of them. I have a few customers that pick up because they're far away and it's just a lot easier. And that's pretty much what my little side business is. It's about - I'm telling you. I didn't work - I added up all the days last year, and I only worked 67 days. That's all I was up here was 67 days and the rest of the time I was in Florida. So, Mahoning Avenue just sat quiet.

I bought this because I needed the building. I needed this close to 3,000 square foot empty building in the front that Glen has here -



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had here. This building. There's nothing in there. I have carts in there and stuff now that I put in there. But, you know, I needed something to continue working. We searched all over. I mean, I looked everywhere. And this came up.

I have 15 customers. I don't even get \$1,000 a month out of it. I don't even have any idea what this is going to cost. Eugene has to find somebody and then he's got to try to get somebody that can get it in a timely fashion. Because, you know, everything is so far behind.

I spent five months trying to get a gate - an electric gate. I finally got a quote a week and a half ago, and it's almost \$20,000. That's not cheap. So, if I have to spend 20 there and I don't know what this could cost. This could cost \$30,000 or \$40,000 or whatever. I don't know if I'll ever recover that, not even getting \$1,000 a month. So, it's a little bit of a hardship financially. And, like I said, I really only bought this for this building and the other was just like followed along.

In my statement there, I said that I felt that because I was in the nursery business that I had two acres of blacktop, and I know what the water runoff did to the nursery plants. We lost a lot of stuff when we'd get a lot of rains. The flooding comes. And, you know, looking at that situation out there and surmising that - I don't know Mr. Krisher. Is that his name? I don't know the man, but I do know a little bit about agriculture because I grew up in the business and this is what I've done all my life. And I know what too much water can do. He doesn't really have - you know, I walked over on that side of the fence, and I looked today and on heavy rains, he's going to get flooded in that part of that field. I don't know how much. I don't know how much damage it could cause or if it would cause any at all. I'm just going off of what my business, you know, what problems I had with plants and stuff.

So, I was just asking for the variance and thinking that, you know, this area here, this 50 feet out from the building, 60 feet across, was a nice size area of blacktopping. And there's no cars coming in and out on a daily basis unless they're coming in to get to their storage. Right now, I have the gate with the key. And pretty much I've gotten all the customers a key right now because I put a different lock on there and Glen is just - I talked to him today and he's not well. And he told me his wife doesn't even know anybody anymore, unfortunately. My guy James, his wife has cancer so he can't even get there that much because he's got to take her for chemo and radiation. So, I'm in a little bit of a quandary here. But, anyhow, that's kind of like my situation.

MR. TURA: Well, we actually heard your case with the Planning Commission. It's pretty much the same case you're making in front of us now.

MR. MASHORDA: I don't have any -

MR. TURA: The unfortunate thing is - I have a couple issues. One is I'm not really real familiar with dealing with - you're rattling off all kind of numbers and square footages, which we have no documents that we can make part of the record if we wanted to deviate from the original '97 documents - which I think is the inclination that we're going to go back to the square footage of asphalt of that factor. And that being said, I was up here the other day and the blacktop is

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- horrible.
- MR. MASHORDA: In front of the building it's really bad.
- MR. TURA: In front of the building, in front of where you got some campers parked there. No part of it looks good.
- MR. MASHORDA: The worst is in front of the main building.
- MR. TURA: - there's the gate so I could only do what I could see from the street. I had issues with a couple of things that are - you know, your case is unique. And, believe me, I understand -
- MR. MASHORDA: Can I see your map? Do you mind if I come up? I'm vaccinated, so -
- MR. TURA: I'm not worried about that but - it's kind of hard. We can't put anything on the record because we don't have documents that are clear enough and precise enough to say what 50 feet is. And where the 50 feet would be if we tended to lean that way.
- MR. MASHORDA: So, from this spot right here under that window (indicating on map), 60 feet is beyond the corner of the building. Because this is 56 from that white post to that corner. So four feet more and then 50 feet out was right about here (indicating on map).
- MR. TURA: I hate to interrupt, but that's really some piecemeal -
- MR. MASHORDA: It's really a nice piece to have done.
- MR. TURA: Well, it's a really small piece of a pie, so I kind of really don't feel like you really, you know, substantially, are complying with the Ordinance. And I know that sounds horrible. And, like I said, I sympathize with you on this because it's money, but I really don't see how we can make that work unless someone else here has an opinion that -
- MR. BOND: May I say something? The business you're establishing, I understand what you're talking about. We also have to look at this, what we do here follows the property, same as what was done in '97 follows. If we lower that down to - the code actually requires about 34,000 square feet, not 3,000 that you're proposing. But, they lowered it, the Planning Commission, down to 9,664. Whatever we do here tonight is going to follow this property. I don't know if you're going to be in business 25 years from now or not —
- MR. MASHORDA: Me? I'll probably be dead in 10 or 15 just from the stress alone on this.
- MR. BOND: But Mr. Chaney bought this in '97. That's been 24 years. I was giving you an extra year -
- MR. MASHORDA: I understand but I'm not Glen Chaney. I'm trying to at least do something -
- MR. BOND: I understand but -
- MR. MASHORDA: I don't have that much money.
- MR. BOND: What I'm saying is eventually it will probably be resold at some point in time. What we do here, at some extent, is going to follow the same as it did this time. I think a 93 percent variance lowering it from what it was in '97 is pretty fair. Also, you're getting a year to do it. I mean, this is not something -
- MR. MASHORDA: I don't have the finances. I won't have the finances in a year. Remember, I don't take that much money in.
- MR. TURA: Unfortunately, that isn't something that, on this particular case, really doesn't have a bearing. Believe me, we understand all about money. We're not trying to get in your pocket, but we just can't deviate that far from - for those circumstances that it's a financial burden. It's a burden to anybody that comes here and spends money on asphalt. Of course, nobody wants to put money in the ground. I just can't see how I could deviate from the earlier ruling, which I thought was fair then and I think is fair now. I think -

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MR. MASHORDA: So, this is the main building that I just showed you there (indicating on map). And then let's assume that this is the rest of the building that goes down. This is the main building I showed you where I'm going to do it and let's say this is the rest of the building that goes down towards the back, just for whatever (indicating on map).

There's no traffic that goes in and out of there. I mean, I've worked there multiple days when I've been here, and I've had other things going on and have been out there all day and nobody comes there. There's no traffic.

When Glen had it years ago, I remember him telling me he had a lot of units. He told me he was doing about \$3,000 a month, which means he probably had, I don't know how many units, maybe 40 units or so -

MR. TURA: And you likely can do that, too.

MR. MASHORDA: I don't want to. I live in Florida. And I don't think I'll probably ever get up that high, anyhow. I sit way below -

MR. TURA: You understand that's not really a good reason for us to make a variance because you don't want to work that -

MR. MASHORDA: No. It's not - listen, I have great work ethics, okay. I just don't have a human that can do this.

MR. BOND: You may need - you know, to get the occupancy up will require advertising and stuff, but that's not our problem here.

MR. MASHORDA: I understand that. I'm not trying to argue that. It's just that -

MR. BOND: When you buy a piece of property, you buy the zoning with it.

MR. TURA: And you'll sell it that way.

MR. BOND: It looks like, from what I see here, it had been discussed what the zoning was and stuff before the actual purchase had been made.

MR. TURA: Back in December and -

MR. HILL: I have a comment, which, you know, everybody has said that Glen paved it. I don't believe he paved it. I believe he put asphalt grindings down and rolled it down, but he didn't actually pave the property. And that's why it isn't paved now because all those asphalt grindings just disappeared into the ground and all the grass comes up. Now, you know, that should have been followed up. Kellie has inherited all this.

MR. BOND: Well, -

MR. HILL: She has inherited all this.

MR. BOND: I understand what you're saying, and I think that was compensated when they lowered it from 35,108 square feet to 9,664 square feet, which is between a fourth and a fifth of what Glen had to do.

MAYOR HILL: You know, I don't know whether Mr. Mashorda is going to be using more rental space or not. And, you know, we don't know. I don't think there's going to be that much traffic going in and out of there.

MR. TURA: No, but you won't get another bite at the apple if we want to say, okay, we're going to reduce this and then you get busy, we don't have no way of going back and imposing more asphalt. So, whatever we do today -

MR. MASHORDA: Listen, you don't know me from Adam -

MR. TURA: Well, I kinda do -

MR. MASHORDA: Let me say something. If my business was to pick up to 30 or 40 units, I'd have no problem spending more money for more improvements. When I started my little business in Austintown, it was this big (indicating with hands). And, as it grew, I kept blacktopping. And so as business improves, I have no problem spending money. But, at this point, with 15 units -

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- MR. TURA: I don't see how we can make a variance that complies with that philosophy.
- MR. MASHORDA: Well, I'm a man of my word, and that means a lot to me. And I've never lied to anybody when it came to business.
- MR. BOND: Nobody is talking about that.
- MR. TURA: We would never accuse you or make that accusation.
- MR. MASHORDA: I'm just saying if my business was to -
- MR. TURA: You've got to understand that you're one person coming in here and the next person is going to say, "Well, you guys reduced this for Ray." And that's where the snowball effect is. It's just not really something that's within our power to just go ahead and reverse it based on a financial burden. As sad as that sounds, I really feel like that's where we're at. I'm not sure what Bob is thinking over here. He's doing a lot of math.
- MR. BOND: What I'm thinking is I thought the Planning Commission was very fair when they cut it by as much as they did. Now, I think it's fair what they granted and granted the one year to do it and stuff. I think it's fair.
- MR. TURA: I think it's fair, too. It's more than you would like by three times, but I really don't see any way to get where he would like to be. I just don't see it.
- MR. HILL: I guess the way I look at it, there won't be much traffic, as far as we know. We don't know. It's the unknowns. But, you know, a lot of that is just the vehicles sitting out there in that area. Whether they're sitting on grass-filled gravel, whether they're sitting on paving or whatever, the main business the way I got sitting on the Planning Commission was when the cars came in and out or they made deliveries - and he had deliveries, so flowers, plants, or whatever - because there won't be that much traffic in there - in talking with the Solicitor, he told me that the only place - unless Mr. Mashorda wanted to go to Common Pleas Court - as far as the people who could change it, is right here. Now, whether we changed it and went and said, hey, better follow up with Kellie versus the follow up we had before, which was obviously non-existent. You know, I, personally, don't have a problem with what he's proposing and giving two years to get the rest paved or something like that.
- MS. DUGAN: Mr. Hill?
- MR. HILL: Yes.
- MS. DUGAN: The vote at Planning Commission was unanimous.
- MR. HILL: I know the vote was unanimous, but I also do not have a problem with what's being proposed right now.
- MS. DUGAN: Which is almost exactly what he proposed before, and the Planning Commission said no. I'm just saying.
- MR. HILL: That's fine.
- MR. TURA: He's moving numbers around a little bit but it's really not substantial enough. And I don't really know how to -
- MR. BOND: I think we pretty much covered here Number 7.
- MR. TURA: I thought it was, too -
- MR. MASHORDA: When I bought this property, I had no idea about this blacktop.
- MR. TURA: They claim that you did.
- MR. MASHORDA: I spoke with Kellie, and she told me -
- MS. BORDNER: Mr. Mashorda -
- MR. MASHORDA: - and she told me 20 times about looking at the rules. Go on and look at the rules. But, when I had spoken with her back in the winter, I had told her what I was thinking about putting a big portable garage out in front of the building for when we unload if it's

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cold, which I've scratched that idea. I had told her that I was going to put blacktop or concrete down. And I had a much smaller area. But, as time has gone on, I've said to myself, well, you know, this much area. And then when I was able to get ahold of Eugene, I knew I could get a little bit better deal than if I went to a stranger for blacktop. And that's why I increased it out as far as I did. But I never talked about or had no idea on the blacktop, whatsoever.

MS. BORDNER: Mr. Mashorda, with all due respect, that's not true. And -  
MR. MASHORDA: Listen, I'm not calling you a liar. I probably don't remember -  
MS. BORDNER: If you say that you don't remember, that's fine. I allowed you to speak and now if you'll allow me to respond. My notes are very detailed as to what we discussed in December, in January, in February.

MS. DUGAN: I also can verify the fact that Kellie and I sit in a very small office together. And I hear her side of the conversation. And many times, the phone is put on speaker so that I can hear both sides of the conversation. And I know for a fact that it was explained about the paving.

MR. MASHORDA: Oh, okay. I just don't remember. I'm being honest about that.  
MR. TURA: Do you have anything additional to add?  
MR. MASHORDA: No.  
MR. TURA: Otherwise, we're going to close the hearing up and come up with a decision and that will be that.

MR. MASHORDA: All right. Thank you very much, all.  
MR. DUTTON: You can remain. You don't have to go.  
MR. TURA: You don't have to go but you kinda know where it's heading.  
MR. MASHORDA: I don't know what else I can say. I got enough going on on my plate.  
MR. TURA: We understand.

(MR. Mashorda left the meeting at 6:15 p.m.)

MR. TURA: That was tough. That was very tough. As I said, the public comment aspect of the hearing is closed. Under the circumstances -

MR. HILL: No. That wasn't public comments. Public comments is somebody out there wants to speak.

MR. TURA: Okay. Would you like to speak?  
MR. REIDER: You want me to swear myself in or whatever?  
MR. HILL: There's a script there.  
MR. DUTTON: Follow the script.  
MR. TURA: Okay. Well, let's see here. Those against speak next. There you go.  
MR. REIDER: Okay. I never come to one of these meetings, but I sat on that Planning Commission and I thought that everything that the Planning Commission did was true. They gave us all the information we needed. When it was presented to the Board, the gentleman was in Florida. He was on a phone call. Everybody on the Planning Commission supported the changes. I think we did give him a substantial break. When you go from the original, you know, 34,000 feet, that he could have been made to pave that, we reduced it down to 9,600 - you know, a little over 9,600 square feet. I think that was quite a savings for him. I know that the vote came up 5:0, so I wish that you would take that into consideration. That's all I have to say.

MR. TURA: Thank you very much.  
MR. DUTTON: Now, you also have to say, are there any public comments in favor? Even though you are here and you can see there's only one

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- human being out there, the record doesn't recite that there are no human beings out here other than Don.
- MR. TURA: Are there any other public comments against? (NO RESPONSE.)  
None being heard -
- MR. DUTTON: Are there any in favor?
- MR. TURA: Are there any in favor? (NO RESPONSE.) None being heard -
- MR. DUTTON: Now, you should acknowledge, for the record, that the applicant left the meeting and is no longer present.
- MR. TURA: For the record, the applicant has left the meeting. So, this is last call for any new or additional information that has not been previously stated. So, we're past that now. The public aspect of the hearing is now closed.
- MR. DUTTON: Correct.
- MR. TURA: Moving on. There will be no more discussion from the floor. The Clerk will continue to take notes, so your silence is necessary. So please be quiet out there.
- (Laughter.)
- MR. TURA: I guess we're at the point right now that we need to make a motion. And I, quite frankly, would make a motion that we uphold the earlier decision of the 9,664 square foot of paving that was originally talked about in the Planning Commission meeting on the 14<sup>th</sup> - I believe that was the right date.
- MR. DUTTON: So, that motion would be a motion to deny the applicant's variance and to sustain the decision from the Planning Commission to grant a limited variance.
- MR. BOND: I'll second it.
- MR. DUTTON: I didn't make it.
- MR. TURA: I make the motion with the Solicitor's comments on the record as the motion. Then you can second it.
- MR. BOND: I'll second that.
- MR. TURA: All in favor?
- MR. HILL: No. There's comments first. Whenever there's a motion on the floor, after that there are comments. I've just got a brief one. Things like this come up because, in the past, there have been a lot of times when there hasn't been follow-ups on either planning issues or zoning issues. I can't say that's happened recently. But 1997 through whenever, there were several times when that did come up. And this wouldn't even be here today if there would have been a follow-up on paving because putting down asphalt grindings was not -
- MR. TURA: Adequate.
- MR. HILL: Adequate. I have always tried to work with the people. But, Kellie said that he was informed about the paving. He did give me a call because - his realtor gave me a call. Mr. Mashorda even came in and met with Kellie and I. I'll vote to go along with the Planning Commission's recommendation. But, like I said, there's always loose ends hanging out there, which should have been addressed years ago. And, unfortunately, they're still going to probably pop up here and there, which I don't like because that puts all of us in a bind, which is very uncomfortable for everyone.
- MR. TURA: I agree. For me either. I feel bad for the man, and I know him. I bought off of him in the past. He's a good guy. It's just I think he was a little bit too reaching in his request. And for that reason, I didn't feel financial was a good enough excuse, for lack of a better statement.
- MR. DUTTON: I want to make a couple observations here to make you feel better about what you've done here. Number one, you correctly informed

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him that we're confined to the property. We're not confined, nor should we consider, the financial wherewithal of the applicant. Some applicants have deep pockets; some applicants have no pockets. We're concerned with the property. And this property, a variance does run with the land and you intimated but didn't use those words. If you granted any variance - and a variance has been granted -

MR. TURA:  
MR. DUTTON:

Right.  
- that runs with the land. So, if this property is sold tomorrow or ten years from now, or 25 years from now, the only requirement to pave that surface is what has been granted in this variance. You can't enforce an expansion of it. You can't impose a change in that variance without the consent of the property owner - and we're talking about some unknown property owner. Even if the business has changed - not the zoning classification - but if there was a need for more parking, you couldn't impose an asphalt driveway beyond what is being held here.

Also, you are correct. You did a good job in pointing out that drawing something on a notebook, that's not evidence. This applicant, if he did meet with a paving fellow today, whether you were going to accept it or not, he should have had some kind of a photograph, some kind of dimensions or whatever and accepting, you know, shooting from the hip type of evidence is bad and it corrupts the record.

And, lastly, the application here - I mean, we have whole sheets of papers here. This is the application, the yellow. And this is what was prepared by the applicant. And all of the arguments that were made beyond Mr. Krisher's runoff is not contained in here. His arguments are essentially that because of, you know, for the following reasons. He didn't state economic reasons. He didn't state he wasn't aware of it. It was basically water runoff -

MS. BORDNER:  
MR. DUTTON:  
MS. BORDNER:  
MR. DUTTON:

Page 2, Paul.  
Page 2.  
At the bottom right before he signs off, he does mention -  
Oh. I see. Okay. He says when he purchased the property, he didn't have knowledge. Okay, that's a disputable thing. He can say he didn't know. Kellie can say you knew or should have known. Okay. And somewhere in between is the truth or the truth is that he did know or should have known. He seems like a seasoned and a knowledgeable businessman, and you're not going to buy a piece of property to use for commercial use without doing some due diligence. And minimal due diligence is you check what the zoning is, the use classification, and are there any restrictions or whatever. You also check whether there are delinquent taxes, etc. But, if, in fact - and, you know, this sort of intrigued me - if, in fact - and we all know Ron Krisher. And he's not a wallflower. And if he was concerned about asphalt, he would be here. And he would have called each one of you up before the meeting and said, hey -  
You're right. I agree.

MR. TURA:  
MR. DUTTON:

And the fact that he didn't even know who Krisher was, but he doesn't know that he owns half the Village. So, you know, it's this kind of stuff. You did a good job, even though you were -

MR. TURA:  
MR. DUTTON:  
MR. TURA:

I was a little sketchy. I agree.  
I just wanted to bring that to your attention.  
Well, I did want to say that in the 1997 original reading, that Dave

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Wilson was here, who was the current owner of that property in that day, him and his sister -

MR. DUTTON: You mean Krisher's property?

MR. TURA: Yes. Krisher's property was owned by Dave Wilson back in '97 because Dave was here that day and I was here that day. And Dave was more concerned about the water flowing away from his property, not onto his property. So, it was a little bit controversial as to his opinion about the runoff as it was to Dave Wilson's, which there's no better farmer than Dave Wilson. So, that being said, I conclude my comments to the Board.

MR. DUTTON: I just wanted to make those observations.

MR. TURA: I do feel much better now that you said that. Normally, you - never mind.

MR. DUTTON: Normally, I what?

MR. TURA: You give me heck.

(Laughter.)

MR. TURA: Okay, very well.

MS. DUGAN: I have to take roll.

MR. TURA: I think that's where we're at on this little thing here.

MS. BORDNER: So, you're back to denying the Appellant's variance and sustaining the decision of the Planning Commission, which, in itself, was a waiver of the strict requirements for paving of the Planning Commission.

MR. DUTTON: Yeah.

MS. DUGAN: So, it's a yes to deny?

MR. DUTTON: Yes to deny. The motion is to deny and sustain. So, a yes means it's denied. The expanded variance is denied and the granted variance from the Planning Commission is sustained.

MS. DUGAN: Thank you. Arno Hill?

MAYOR HILL: Yes.

MS. DUGAN: Bob Bond?

MR. BOND: Yes.

MS. DUGAN: And Larry Tura?

MR. TURA: Yes.

(VOTE: 3, AYE; 0, NAY; 0, ABSTAINED.)

MR. HILL: Now you ask for member comments. Follow the agenda.

MR. TURA: I wrote this all out nice.

MR. HILL: That's probably why it's not right. (Laughter.)

MR. TURA: Thank you.

MR. BOND: These are verbatim minutes, right?

MR. TURA: Can we go off the record?

(Laughter.)

MR. TURA: Okay. So, we have a vote three ayes; no nays. Motion carries. That's done. Now that we're past that there. According to my records, we ask for a motion to adjourn. That's the last thing on my notes.

MR. HILL: Yes, but look at the agenda, which is prepared, it says member comments.

**MEMBER COMMENTS**

MR. TURA: Member comments?

MR. DUTTON: You're down here. Member comments.

MR. TURA: Adjournment. Member comments, I thought that's what we had, that whole session.

MR. HILL: No. That was a discussion of the motion on the floor.



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MR. TURA: Okay. My bad. Any member comments?  
MR. HILL: No.  
(Laughter.)  
MR. DUTTON: And you say I give you a rough time?  
(Laughter.)  
MR. HILL: We have an agenda which has to be followed.

**ADJOURNMENT**

MR. TURA: Do I have a motion to adjourn?  
MR. BOND: So moved.  
MR. TURA: Second, Mr. Hill? Second by Larry. Okay, thank you.

(WHEREAS, THE PUBLIC HEARING BEFORE THE LORDSTOWN VILLAGE BOARD OF ZONING APPEALS ADJOURNED AT 6:30 P.M.)

Submitted by:

Approved by:

Denise L. Dugan  
Assistant Planning & Zoning Administrator

Larry Tura  
Chairperson