

**BEREA MUNICIPAL PLANNING COMMISSION
DECEMBER 11, 2008**

The Berea Municipal Planning Commission met on December 11, 2008 and was called to order by Mr. Madzy. Present: Borowski, Draves, Fay, Madzy, Rump, Sawyer. Absent: None. Also Present: Tony Armagno, City Engineer and Gregory Sponseller, City Law Director.

This meeting was held in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and Chapter 109 of the Codified Ordinances of the City of Berea.

Moved by Draves, seconded by Borowski to approve the minutes from the November 6, 2008 meeting. Vote on motion was all ayes; no nays. The minutes were approved.

Mr. Madzy announced that this evening's meeting is being held in the Berea Room of Berea City Hall. Witnesses are usually sworn in all together at the beginning of each meeting, however, this evening he will swear each individual in separately as they approach the Commission to speak.

REQUESTS FOR VARIANCES/APPEALS:

Application#08-12-01

Petition/Appeal to Zoning Code Section 751.15

Tom Joy - 5 Parkview Drive

Mr. Madzy read the Administrative Review. The applicant, Tom Joy, was present this evening. Mr. Madzy swore in Mr. Joy.

Mr. Joy reported that he lives alone and buys and sells cars because he needs the income. He purchased this property a few years ago after a friend told him it was for sale and it was located on the corner of Parkview and Prospect, a heavily traveled area, which would be a good location to sell cars from. Mr. Joy stated that prior to purchasing this property, Paul Gilly from the City of Berea Building Department, told him he could sell vehicles from this property as long as they were parked on a hard surface.

Mr. Joy explained that he received a letter from Bob Burk from the City of Berea Building Department and that Mr. Burk reported him to the Bureau of Motor Vehicles (BMV) for illegally selling automobiles without a car dealer license. Mr. Burk told him that he had received complaints about Mr. Joy selling vehicles from his property. Mr. Joy said he then went to the former Mayor who was not opposed to him selling cars from his property. He noted

that City Hall has failed to return his telephone calls and “everybody” thinks it is ridiculous that he is being harassed for this.

Mr. Joy pointed out that there is a beverage store across the street from his house and a bar two doors away. He has had no one come to him to complain about this. He has been parking vehicles out front for the past two years, however, the City only started enforcing the ordinance a few months ago. He emphasized that he has made improvements to his property over the past few years. Mr. Joy said he is requesting an exemption to the ordinance so he can continue to sell vehicles from his property.

Mr. Madzy asked Mr. Joy what exemption from the code he is requesting and Mr. Joy indicated that on the average he is selling two vehicles per month and he would like to continue selling vehicles from his property indefinitely. In response to Mr. Madzy, Mr. Joy stated that the BMV only allows him to title five vehicles a year in his name so he uses friends and relatives names on the additional titles.

Mr. Madzy notified Mr. Joy that the ordinance states he can only offer one vehicle for sale at a time and Mr. Joy said he was aware of this and he has no problem with it. Mr. Madzy asked Mr. Joy when he uses other names on the titles, do these named individuals benefit from the sale of the car or does he benefit from it. Mr. Joy stated he benefits from the vehicle sales and he has told the BMV this.

Mr. Madzy clarified that Mr. Joy is requesting exemptions from two sections of the code. One exemption is that the vehicle titles would not have to be in his name and additionally rather than selling two cars per year, he would be selling roughly 24 cars per year. Mr. Joy is requesting that these exemptions be for an indefinite period of time.

Mrs. Draves stated that she recalls Mr. Joy coming before Planning Commission a few years ago requesting variances for an addition to his garage and at that time, Mr. Joy told the Commission that he would not routinely sell cars from his property. Mr. Fay agreed with Mrs. Draves and said he recalled the same thing. In response, Mr. Joy said he does not recall saying this. He thought he told them he would not run a car lot from his property. Mr. Fay replied he does consider this to be a car lot because Mr. Joy is selling cars on a regular basis. Mr. Joy emphasized he never sells more than one car at a time from his property.

Mr. Sawyer asked how close the vehicles are parked to the sidewalk and Mr. Joy replied he parks them as close as he can to the sidewalk without obstructing the sidewalk. Mr. Joy indicated that if this is an issue he could change this. He indicated that he is able to park three vehicles between the garage and the sidewalk.

Edward Wiles of 30 Parkview Drive was sworn in by Mr. Madzy. He felt Mr. Joy had told the truth in some ways. He has made improvements to the property, however, he does park vehicles on Parkview Drive. At times there are four cars parked on Parkview and four cars parked on Prospect. Mr. Wiles felt he was losing value on his property due to Mr. Joy's car sales. He reported that there was a three-car accident on Prospect due to a car slowing down to look at the cars on Mr. Joy's property. He indicated that he likes Mr. Joy and he is happy that he has made improvements to his property, however, he is losing money while Mr. Joy makes money. He expects the City to protect his property.

In response, Mr. Joy explained that the accident had nothing to do with him selling vehicles. It actually was a friend coming to pick him up that was involved in the accident. As for the vehicles parked along Parkview, this does not mean they are for sale if they are parked in his driveway.

Nancy Wiles of 30 Parkview Drive was sworn in by Mr. Madzy. Mrs. Wiles said Mr. Joy's property looks beautiful, however, she also recalled that when he appeared before the Planning Commission in the past, he said he would not be selling vehicles from this property or left the impression that it would not be occurring all of the time. Although only one vehicle has a for sale sign, there are multiple cars (between two and four) consistently parked at Mr. Joy's property.

Mr. Wiles asked Mr. Joy if he would sell multiple vehicles if a buyer approached him and Mr. Joy stated yes, although he did not feel this was advertising multiple vehicles for sale. Mr. Madzy explained how this was defined in the ordinance. In response, Mr. Joy noted that apparently he was not specific enough about his desire to sell vehicles the last time he appeared before the Planning Commission.

Mr. Wiles reported that there are usually a lot of white paneled trucks parked on Mr. Joy's property and people park their cars and look at the vehicles Mr. Joy has parked on his property. He emphasized he has seen vehicles sold both on the Parkview and Prospect sides of Mr. Joy's property. Mrs. Wiles raised safety concerns regarding Prospect Road being a two-lane highway and cars pulling in and out of Mr. Joy's property. There are children who live in their neighborhood.

Mary Brown of 599 Concord Circle was sworn in by Mr. Madzy. She stated that she was council person for Ward 5. She was here this evening on behalf of several of Mr. Joy's neighbors who do not want this here. In response, Mr. Joy felt that if Mrs. Brown is his council person, she should have talked to him about the complaints she has received from the neighbors. Mrs. Brown explained that Councilman Baker drove her around Ward 5 prior to her

taking office and he brought Mr. Joy's property to her attention and gave her the history on his property. Mr. Joy indicated that Councilman Baker never talked to him about complaints. Mrs. Brown told Mr. Joy that he could call her about this issue or any further issues in the future.

Beth Corrigan of 26 Parkview Drive was sworn in by Mr. Madzy. She stated that she has lived here for one and a half years and has never complained about Mr. Joy. However, she pointed out that one "For Sale" sign is all that is needed to attract people to a car lot. She has witnessed various vehicles for sale at Mr. Joy's property (Econoline vans and a boat on a trailer) and UPS trucks are always coming and going. She emphasized that this is a very congested area and she is concerned about safety and her property value decreasing. Ms. Corrigan felt that Mr. Joy is circumventing the law by not having a dealer's license.

Don Neely of 25 Parkview Drive was sworn in by Mr. Madzy. He reported that he has lived here for 26 years and he has observed five to six vehicles for sale in Mr. Joy's driveway. He does show vehicles parked in both driveways and this appears to be a used car lot which multiple neighbors do not appreciate.

Carmen Neely of 25 Parkview Drive was sworn in by Mr. Madzy. She emphasized that the uniqueness and cuteness of this corner has been stripped away with Mr. Joy's business-man concept. She discussed Mr. Joy's neighbor who is disabled and who also is present this evening. Mr. Joy has large white vans parked right up against this disabled neighbor's property which blocks her view. Mrs. Neely stated that Mr. Joy's property has totally changed the character of her neighborhood. She believed Mr. Joy purchased this particular property to use for used car sales, however, this is a residential area.

Mr. Joy stated that he now was sorry he purchased this house. He said his presence there is better than it being a vacant property like it was when he purchased it. Mrs. Wiles replied that there used to be roses at the corner and the neighbors miss that.

Mr. Madzy explained that the law states that the Planning Commission has the authority to grant a limited exception. The law permits a maximum of two sales per year and Mr. Joy is requesting to sell 24 vehicles a year. Mr. Madzy felt that this was far and above a limited exception. Additionally, the Commission is supposed to consider for how long the duration of the exception should be and Mr. Joy is requesting an unlimited duration. They are also to consider the number of drivers which are licensed living in the residency and there is only one licensed driver living here. Mr. Madzy stated that these factors should be considered by the Planning Commission when making their decision. Mrs. Draves added that she distinctly remembered Mr. Joy assuring

them in the past that he would not be selling cars from his property. Mr. Sawyer did not feel Mr. Joy has been candid with them.

Moved by Rump, seconded by Fay to approve a limited exception to Zoning Code Section 751.15 to sell 24 vehicles per year indefinitely with some of the vehicles sold being titled to individuals who do not live at this property. Vote on motion was ayes: None. Nays: Borowski, Draves, Fay, Madzy, Rump, Sawyer. The motion did not carry and the limited exception was not approved.

Application#08-12-02

Approval of Variances to Construct Addition

Berea Family Chiropractic – 44 W. Bagley Road

Mr. Madzy reminded the Commission that this came before them in the summer for a rezoning and the Commission recommended that City Council approve the rezoning from Residential Townhome (RT) to Residential Office (RO) and City Council did pass the rezoning ordinance. Mr. Madzy read the Administrative Review.

The owner, Chris Ciryak, and the agent, Ted Macosko, Architect, were present this evening. Mr. Madzy swore them in. Mr. Macosko explained that Dr. Ciryak owns Berea Family Chiropractic and he brought his practice to Berea approximately two years ago. He currently rents office space on Front Street. He has purchased the old Love Photography building located at 44 W. Bagley Road and would like to move his office there. This building has been poorly maintained over the years. Dr. Ciryak plans to completely renovate the interior of the building and will remove existing additions and add an addition which will slightly change the footprint of the building. He will also completely refinish the exterior of the building. This renovation will require four variances with three of these being setback variances.

Mr. Macosko explained the variances they are requesting and felt these variances are justified because they do not drastically change what is there now and they will not negatively impact the neighbors. Dr. Ciryak has already talked to the neighbor to the west, Mrs. Hovanek, who is here this evening. There will be no change to the existing parking lot which has eight spaces. This is more parking than he will need although there is additional parking on Daisy Avenue, if needed. In response to Mr. Madzy, Mr. Macosko said the renovation will make the building ADA accessible.

Mr. Sawyer asked how much of the building would be removed and rebuilt and Mr. Macosko indicated the new addition will add 450 square feet. Mr. Sawyer pointed out that if the applicant can demonstrate that they do not need 19 parking spaces, maybe they would require less of a variance for parking. Mr. Sawyer suggested that the ramp at the entryway be turned

inward to allow more room, however, Mr. Macosko pointed out that the proposed plan creates a more significant entryway creating a small gable.

Dr. Ciryak reported that including himself, there are three employees and there will be a maximum of six patients present at any given time. His employees will be parking their cars in the existing garage. Mr. Macosko noted that there is also street parking in this area. Mr. Sawyer did not feel the parking situation was a big issue. In response to Mr. Madzy, Mr. Macosko stated that they would return to Planning Commission at a later date for approval of the signage and landscaping.

Ann Hovanek of 48 W. Bagley Road was sworn in by Mr. Madzy. She lives at the property directly to the west of Dr. Ciryak's building. She has lived at this location for 35 years and she has seen Dr. Ciryak's preliminary drawings. She is excited that this building will once again be occupied. She raised concerns regarding the light from Love Photography's illuminated sign coming onto her property, however, she feels the proposed improvements to the property sound good. The building will be squared off and Dr. Ciryak has plans to stay here for a long time. She welcomes Dr. Ciryak who she believes will be a nice neighbor and who will take care of his property.

In response to Mrs. Hovanek, Mr. Madzy noted that approval of the signage will come before the Planning Commission at a later date and he encouraged Mrs. Hovanek to participate in this future meeting. Mr. Rump inquired about the applicant's ideas for landscaping and Mr. Macosko said they were not sure yet but they will bring a landscaping plan back to the Planning Commission in the future.

In response to Mr. Madzy, Gregory Sponseller, Director of Law explained the factors that the Planning Commission members must consider when granting or denying variances. Mr. Sponseller read the six criteria/factors into the record as follows: 1) That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other land or structures in the same Zoning District; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures or condition; 2) That literal interpretation or application of the Code would deprive the owner of rights commonly enjoyed by owners of other properties in the same Zoning District, and would deprive the owner of the reasonable use of this property; 3) That the special conditions and circumstances do not result from the actions of the owner; 4) That granting the variance requested will not confer on the owner any special privilege that is denied by this Code to other lands or structures in the same Zoning District; 5) That the variance requested is the minimum variance reasonably necessary to make possible the reasonable use of the land or structure; and 6) That the granting of the variance will not be inconsistent with

the general purpose and intent of this Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Moved by Fay, seconded by Draves to approve the 26' 2" side setback variance along the westerly property line, as submitted. Vote on motion was ayes: Draves, Fay, Madzy, Rump, Sawyer, Borowski. Nays: None. The motion carried.

Moved by Draves, seconded by Fay to approve the 37' 10" front setback variance (Bagley Road), as submitted. Vote on motion was ayes: Fay, Madzy, Rump, Sawyer, Borowski, Draves. Nays: None. The motion carried.

Moved by Draves, seconded by Fay to approve the 37' front setback variance (Daisy Avenue), as submitted. Vote on motion was ayes: Rump, Sawyer, Borowski, Draves, Fay, Madzy. Nays: None. The motion carried.

Moved by Draves, seconded by Fay to approve a 9 parking space variance due to using the existing garage for two parking spaces (original request was for 11 spaces) and that the applicant will come back to Planning Commission at a later date with the landscaping and lighting plans. Vote on motion was ayes: Sawyer, Borowski, Draves, Fay, Madzy, Rump. Nays: None. The motion carried.

NEW BUSINESS – GENERAL PLANNING MATTERS: None

OLD BUSINESS:

Application#08-09-01

Approval of Variances for Addition

United Methodist Church – 170 & 188 Seminary Street

Mr. Madzy reported that this application was tabled from the October 2, 2008 Planning Commission meeting. He reminded everyone that this meeting was being held in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and Chapter 109 of the Codified Ordinances of the City of Berea. Due to there being requests for variances, notices were given according to Section 807.2 of the City of Berea Zoning Code, a notice was printed in the Sun News as well as notices were sent describing the variance requests to all property owners within 200 feet of the property address.

Mr. Madzy stated that all Planning Commission members were present at the October 2, 2008 meeting as well as this evening's meeting (Borowski, Draves, Fay, Rump, Sawyer, Borowski). Mr. Madzy stated that he was here this evening as the Mayor's designee. He read the Administrative Review. Since tabling this on October 2, 2008, several meetings have occurred with the applicant, the architects, two residents from the surrounding neighborhood

and two members of the Planning Commission (Madzy and Sawyer) to discuss the project and potential changes to the project.

Mr. Madzy stated that this application came before the Heritage Architectural Review Board (H.A.R.B.) on November 13, 2008 and the H.A.R.B. recommended at that time, that the Planning Commission approve this application. Mr. Sawyer who is the Chairman of H.A.R.B. discussed this meeting as well as the satellite meetings held with the church and residents. Mr. Sawyer pointed out that tonight's meeting is the fourth formal meeting regarding the variances for the proposed addition and the second Planning Commission meeting.

Mr. Sawyer discussed the satellite meetings that were held with eight individuals present. Ken Martin presented a plan to the architects/church and at that time, Mr. Martin, indicated that the neighbors were essentially in agreement with his plan. Mr. Sawyer felt that these meetings produced results with the proposed addition being scaled back by the applicant. He emphasized that the H.A.R.B. granted one concession that the house located at 188 Seminary Street must be kept in place. This is the sixth meeting to try and resolve this issue.

Mr. Madzy thanked Sally Winter, Ken Martin, Chuck Dixon, Margaret Proctor, Tom and Rick Ziska and Mr. Sawyer for participating in these satellite meetings. All issues discussed at the October 2, 2008 meeting carry over to this evening's meeting and Mr. Madzy advised everyone that he would like more structure to tonight's meeting to allow everyone a chance to speak. He proposed that the applicant have 15 minutes to give a presentation, 15 minutes of presentation from the neighbors and then the floor will be opened to questions and comments by the Planning Commission members. At that time, there will be a 10 minute break and then 30 minutes of public comment with a three minute per speaker limit.

Chuck Dixon of 20377 Village Green, Strongsville, Ohio was sworn in by Mr. Madzy. Mr. Dixon was here this evening representing the United Methodist Church. He reported that on October 14, 2008 he and the architect met with Sally Winter, Ken Martin, Don Sawyer and Matt Madzy. They took Mr. Martin's drawing and tried to address the neighbors' concerns. He introduced the architects Tom and Rick Ziska. Mr. Madzy swore them in.

Tom Ziska reported that the main issue is whether or not the church can expand its building in order to maintain its vitality as a church in Berea. He distributed renderings of the proposed addition, information regarding Trane rooftop unit outdoor sound, a list of issues raised by the neighbors and the church's response to these issues (see attached information).

Mr. Ziska emphasized that the addition is essential to the church's existence. He discussed the recent sale of another Berea church due to dwindling membership and the cost of building maintenance. The church has been here for many years but back in roughly 1960 they built a three-story addition, totaling approximately 36,000 square feet. This proposed addition is 12,000 square feet. He felt that the church has done their very best in working this out with the neighbors.

Mr. Ziska explained that the neighbor to the north raised concerns regarding the closeness to their property so they moved the building back from 20 feet to between 45 and 50 feet. This was in compliance with Mr. Martin's sketch that he created. The church was very encouraged at that first meeting when Mr. Martin showed them his plan and he clearly indicated to the architects that if they were able to do something within the framework of his plan, he thought they would have a deal because he had shown his plan to the neighbors and the understanding was that the neighbors were ok with his plan.

Mr. Ziska said they went back to the drawing board and tried to be cooperative and open-minded regarding the community's concerns. He explained that one of the drawings actually shows the new plan they are proposing tonight as compared to Mr. Martin's drawing (indicated by red line on plan). He pointed out that the drawings are very close. Mr. Ziska indicated that the size of the addition is essential to the church because there currently is not a space large enough for the entire church community to gather. This is a direct result of 15 square feet per person and roughly a 4,500 square foot addition for their gatherings. When they showed the neighborhood representatives this drawing at the second meeting, they were supportive of at least the proposed elevations. They said it looked good to them.

Mr. Ziska discussed the various concerns the neighbors had including the northerly setback for which they pulled the building back from the alley line; the neighbor directly across the street from the church raised concerns regarding the proposed drop-off point so they eliminated the drop-off in front of the church and moved it further south on the property. There were concerns regarding delivery trucks blocking the alley so they changed this on the plan and provided a service area. The scale of the addition has been reduced in size; a concern that the detention basin will cause water problems – a detention basin is required by City code and has nothing to do with the sanitary sewer. It will be a shallow dry detention basin tied into a storm sewer.

Mr. Ziska urged the Planning Commission to allow the church to build this addition and asked them to think about what would happen if the church were to leave the City of Berea. They are not developers looking for a profit. The church wants to remain in this community. The church's goal is to install geothermal heating and cooling, however, if they financially cannot do this,

they will install rooftop units. He referred everyone to the information he distributed regarding how much noise would be produced by rooftop units (see attached information).

Dominic Franklin of 181 Seminary Street was sworn in by Mr. Madzy. He stated that the neighbors have a difference in interpretation of what was said at the previous meetings. He said he wants to discuss City codes, the contiguous neighbors would like to speak and they would like to know what will be done with the century home located at 188 Seminary Street.

Ken Martin of 63 E. Grand Street was sworn in by Mr. Madzy. Mr. Martin indicated that there was indifference to what has been said so far this evening. The plan itself did not resolve, however, Mr. Ziska agreed to take his plan and make it better. Mr. Martin said his plan was on the way to betterment. What happened was they took his plan and simply said what is the correct percentage of use that would be acceptable to the neighbors and the church and Mr. Martin's specific comment was here is a plan that they should be able to do better with.

Mr. Martin described his plan and said essentially he created a plan that was approximately 1,000 square feet less than Mr. Ziska's plan and a lot less than the 67% land coverage that is currently being proposed. Mr. Ziska came back with a larger plan that put the building closer to the alley and the neighbors in the back, and also closer to the neighbor to the north. Mr. Ziska's plan relocated a major turn-around at the front door of the church which Mr. Martin said he finds very problematic for the safety of the membership of the church, neighbors and people who are simply driving down Seminary Street. He felt this turn-around was very tight and they are expecting an awful lot from elderly people who are supposed to negotiate the tight turn, drop people off and attempt to go across the street for further parking in the church lot. He indicated that because two cars will be blocking the view to the south on Seminary Street that this will cause an accident because the driver will not be able to see clearly as they proceed across the street.

Mr. Martin explained that there is a problem that the City has only recognized ten variances for this proposed project. He has made a list of 17 variances that need to be recognized in order to achieve or permit this project to go forward. He emphasized that this is an unreasonable amount of variances being requested for such a small lot and considering it as a conditional use within a single-family residential district.

Mr. Martin stated that the neighbors are saying that the plan before the Planning Commission is almost there but unfortunately there are conditions that need to be addressed. He discussed a layout of the project and that everything in purple is over and above the 35% requirement. There is a setback that is not recognizing the front porch of the house that will be reused

for the conditional use. Also, at the front of the church where 50 feet is supposed to begin, a 22 foot variance has been recognized. However, the variance that is not being recognized is the drive in front of the church which is supposed to be 15 feet off of the property line. The rear parking area is lacking from a landscaping standpoint which is another code requirement. He thought the numbers that have been represented to the Planning Commission so far have been somewhat different and he said that Mrs. Draves clearly recognized that.

Mr. Martin presented the Planning Commission with a list of variances that he felt appear to be necessary for this proposed addition. He explained that the second page of the list is a scenario of square footages that the church has represented, however, it is somewhat different than what the church is actually proposing. Mr. Sponseller requested that all drawings and information being presented by Mr. Martin and Mr. Ziska be labeled as exhibits by the court reporters that are present.

Mr. Martin discussed the differences between his and Mr. Ziska's plans. Referring to his own rendering Mr. Martin explained that starting at the corner of Seminary and Spring Streets, there is a drop-off actually projected into the tree lawn and not coming across the front entry. This has made the secondary entry smaller with the whole building being shifted over and thus reducing the square footage of the building. In the back, the rear setback was set at 35 feet, with a complimentary setback of 12 feet for about the first 50 feet of the 106 square foot addition. This would allow the parking to work and the landscaping to be addressed.

Mr. Martin added that another part of his plan was that the house is to remain residential with additional landscaping in the front yard which would help preserve the neighborhood. He described his recommendation of a covered entry coming from Seminary Street with a drop-off directly into the building, and then a drive-thru drop-off. He also suggested that Spring Street be made into a one way street going west and to include handicapped parking spaces along Spring Street with direct access in through the chapel door.

Mr. Martin reported that aside from the various square footage differences which could be directly related to the code and the definitions in the code, he felt that 17 variances were needed instead of ten variances. He raised concerns regarding parking and said it clearly is an issue and should be discussed because in essence they are adding to a building that is already deficient in parking spaces. Mr. Martin said this is a problem and if Planning Commission is going to grant this variance then the parking variance should be granted on the basis of the original requirement of the code which basically says that you are supposed to have one car for every four seats and he guessed that the church sanctuary has approximately 600 seats. This is the kind of

basic evaluation that churches/religious buildings under conditional use requirements are supposed to meet.

Mr. Martin pointed out that storm drainage has been a focus by everyone. The Molmen's are having sewer back-ups in their basement and when he asked Mrs. Molmen how often this occurs, she told him that when they first moved here it would occur four times a year, however, now it occurs twice a year. Mr. Martin emphasized that he felt that more than once in a lifetime is too many times for this to happen. He stated that there is something going on with the infrastructure underneath the alley, Liberty Street or coming down Seminary Street that is creating this condition and essentially it is an antiquated system. He did not know if there was any engineering standard that would further protect the Molmen's with regard to the large expansion of this building and its use. Mr. Martin indicated last but not least, he did not think they are done in terms of a resolution.

For the record, Mr. Sponseller asked Attorney John Wargo, 30 Park Drive to introduce himself. Mr. Sponseller reported that Mr. Wargo is representing the neighbors and Mr. Wargo noted that he is also a resident of Berea. Mr. Sponseller stated that Mr. Martin's exhibits consist of two drawings and two-handwritten notes. Mr. Ziska's exhibits consist of an 11-page report relative to sound levels, a two page summary prepared by Mr. Ziska relative to issues that the neighbors raised and the church's response to those issues, and seven pages of drawings.

Mr. Rump asked Mr. Ziska if his plan was as small as he could make the addition. He noted several things he felt Mr. Ziska could change or eliminate including janitor closets, the parlor, a corridor and possibly making the fellowship hall 5 feet smaller all the way around which would make the building footprint a little bit smaller. In response, Mr. Ziska stated that there might be some room to adjust the plan but he would have to discuss this with the church. He reported that the main issue is the number of people the church would like to have this hall available for. Pulling the hall in 5 feet one way and 5 feet another way would only entail approximately a 1 or 2% change in the terms of ground coverage. It's not going to have a significant impact. However, if the Commission thinks that is something they should look at, they would look at it.

Mr. Ziska discussed the parlor and the spaces in the front and said these could be located elsewhere in the building, however, these help build a transition to the higher space. This really adds to the project rather than take away from it. Mr. Ziska explained that if they were to take it away there would be a wall approximately 15 to 20 feet high with nothing in front of it. He felt that this really adds to the aesthetics of the building but he stated that they were willing to entertain anything that the Commission would want them to look at.

Mr. Rump asked if the size of the kitchen could be decreased and Mr. Dixon explained that when he stepped into the position that he is in now (in early 2006) one of the first things he and his co-chair decided to do was develop a list of requirements. They identified the need for a large fellowship hall where a worshipping congregation could be seated for a get-together. They also identified the additional meeting rooms and additional storage space that was needed. Mr. Dixon emphasized that every “nook and cranny” of the church is currently jammed with stuff that they use seasonally. He stated that the church has already eliminated the offices that were originally on the front to try and shrink the space down. He reported that if they move a wall a foot or two, this would cut into their requirements further and they have already compromised on their requirements without significantly gaining lot coverage. Mr. Dixon indicated that he feels they are pretty much approaching the minimum of what the church can deal with.

Mr. Rump suggested that the church put a basement portion to the addition and use that as a facility underground. Mr. Dixon said they have not considered a basement because one of the issues they have fought with for many years as a church is having a ground-level facility. He noted that the church’s current social hall is in the ground. Mr. Rump recommended that they possibly move the storage spaces underground with a small freight elevator and then they could make the hall smaller. Mr. Ziska said this is just shaving at this point and in response, Mr. Rump said getting the space down to 50% of lot coverage would be a great concession.

Mr. Rump said he believes the church has made a lot of concessions already and he hoped that the neighbors would recognize that. After reading the letters, there seemed to be a lot of give from the church but there seems to be no give on the neighbors’ part. In response, Mr. Dixon told Mr. Rump that in his opinion, 50% lot coverage was not achievable to meet the church’s minimal objectives. Mr. Dixon stated that currently they are at 59.7% lot coverage.

Mr. Sawyer agreed with Mr. Rump and stated that he was now unsure of what the neighbors wanted from the church (not sure what their parameters are now). In response, Mr. Franklin stated that the neighborhood is actually looking for a settlement that does not impact them negatively. Whether it is the trashing of the R-SF-A agreement of which their neighborhood is a part of and of which the church is a conditional use within that neighborhood. They are asking that the investments that they have made in their homes over the last 20 years not be trashed and viewed as totally non-important as it relates to the mission of the church.

Mr. Franklin said that the neighbors do recognize the great work that the church does but at what price do they, as homeowners, have to acknowledge

this work. He reported that he has put a 20-year investment and about \$100,000 into his home as well as other people in this area. He stated that churches can do damage to neighborhoods and he referred to a report that he had distributed to the Commission members entitled "An Empirical Examination of the Externalities of Neighborhood Churches on Housing Values".

Mr. Franklin explained that he would try and break this report down as simply as possible. This study was commissioned by the Journal of Real Estate, Finance and Economics. It was produced by A. Quang Do, Robert W. Wilbur, and James L. Short. These gentlemen are part of the Department of Finance, College of Business Administration, San Diego State University. He indicated that basically in a nut shell, this item says that what they are trying to determine is do churches create externalities that could be detrimental to the property values of homeowners. This document concludes that neighborhood churches exhibit some of the characteristics found by other externality studies to produce measurable effects on nearby residential property values. These include potential negative effects in areas such as noise from services, bells, people arriving and departing, traffic and parking, pollution from automobile exhaust, architectural incompatibility with residential structures in the neighborhood and the loss of view amenities, furnishing meals and lodging for the needy which he stated was a great and a fantastic mission but it has been determined that this can have detrimental effects on the neighborhood's financial aspects and operating hours extended from early morning to early evening.

Mr. Franklin pointed out that at this project's core level as it relates to the neighbors in this neighborhood, it has many ramifications that can damage the emotional, financial and quality of life issues that they have all invested in over the years. He was here to say that this has some value to him and it has some value to everyone else in this room. The results of this study shows that the impact on single-family home prices is both significant and negative and it is marginally diminishing with given property distances from the church. What this is basically saying is that this study has included that a home 0 to 50 feet from a church is going to lose value. It also further states that a home from 0 to 850 feet, each home along that parameter is going to lose value. The homes at the closest point are going to lose the most value. This study quotes an estimated price of \$4,151 that homes closest to the church lose in value. This amount diminishes the further away from the church the property is.

Mr. Fay and Mrs. Draves inquired when Mr. Franklin purchased his property and he reported that he purchased it 20 to 21 years ago. Mr. Fay emphasized that the church was already there when Mr. Franklin purchased his property so the information is impertinent. Mr. Franklin said he disagrees because they are talking about an additional structure to this building which is going to have a financial impact on the housing stock in this neighborhood.

Mr. Franklin explained that the neighbors are also looking to have the R-SF-A agreement addressed. They are looking to have the size and scope of the renovation be reviewed and addressed. They are looking to have the variances that they view as being excessively extreme, to be reviewed and brought down to a reasonable scale. They are looking for the century home to be used/preserved as a single-family home within their neighborhood. They are looking to maintain the public space in front of the church. He said from his home he will be looking out at a big box with two handicapped parking spots in front of his house which when people who come to visit him, will not be able to park in front of his home anymore. The neighbors are also looking for the Planning Commission to realize that there are inherent dangers in this project as it is right now and that these dangers can have social and economic issues that will affect the neighborhood and the neighbors closest to the church. He urged the Planning Commission to consider some of these issues before the proposed variances are considered to be approved. In response to Mr. Franklin, Mr. Sponseller pointed out that the Planning Commission previously denied the razing of the century home.

Mr. Rump raised concerns regarding the parking issue and inquired where 300 people attending a church function will park if Baker's Funeral Home is having a large funeral at the same time as the church function. Mr. Dixon explained that the church's largest meeting space is the sanctuary and parking is not a new issue for the surrounding area. Parking is something the City of Berea has dealt with in the past and continues to deal with. The church already hosts groups of 500 people periodically. Mr. Madzy reported that in past meetings with the church and the neighbors, discussion occurred regarding the parking issue. He asked Mr. Dixon if the church would consider making an agreement with Baldwin Wallace College to use some of their parking areas as overflow parking. Mr. Dixon said, yes, the church would consider this.

Mr. Borowski raised concerns regarding the possibility of Baker's Funeral Home leaving their current location – if the church were unable to use Baker's parking lot, where would church visitors park. In response, Mr. Dixon stated that they would not schedule large events at the same time in the sanctuary and the fellowship hall. He explained that whoever would purchase Baker's Funeral Home, the church would try to get a parking agreement with the new owner or try to purchase the land where the existing parking lot is. In response to Mr. Madzy, Mr. Dixon stated that he was not aware of a written agreement with Baker's Funeral Home regarding using their parking lot across the street from the church. Mr. Madzy told him that may be beneficial for him to do to protect the church in the future.

In response to Mrs. Draves, Mr. Dixon reported that the existing building was built in 1952. Mrs. Draves indicated that several weeks ago another Berea

church appeared before the Planning Commission because they had been sold to Baldwin Wallace College because they were unable to afford the upkeep of their building. She asked Mr. Dixon if this would happen to their church. Mr. Dixon explained that they know they will not be selling to the college because the current R-SF-A Zoning District does not allow higher educational facilities in the district. Mr. Dixon stated that they are looking forward to being at their current location for 25 to 50 more years with this proposed addition.

Mr. Fay asked how often they anticipate using the fellowship hall. Mr. Dixon replied a couple of times a month for large-gathering type of events and then what they refer to as the large muscle space activities, he did not have any idea at this point, of how often they would use it for these type of activities. Mr. Madzy asked what the proposed fellowship hall will be used for and Mr. Dixon reported that they have dreamt of using it for fellowship dinners, indoor recreation space, possibly providing more space for children and youth activities, and mission outreach through the Girl Scouting program. Mr. Dixon emphasized that this is not set in concrete but they know there is a demand in various parts of their program that they feel they can take very good advantage of the fellowship hall. He explained that the church cannot serve alcohol so the fellowship hall would not be used for wedding receptions, etc. It would be used for church program activities, mission and outreach to the community (i.e. large funerals, etc.).

Mr. Madzy requested that Mr. Ziska explain the changes they have made over the past few months to their original plan. Mr. Ziska referred everyone to the drawings that he distributed at the beginning of tonight's meeting. The biggest thing they changed was moving the building away from the Molmen's property line where it is now shown to be between 45 and 52 feet. The first drawing had it within 20 feet of the Molmen property. The next thing they changed was instead of the backline being straight across, they pushed it back away from the property line especially in the area of the garage across the alley. The most significant change to the front was removing the turn-around and parking area in the front of the building which is directly across the street from Mr. Franklin's house. He had objected to this so Mr. Ziska took Mr. Martin's idea and moved it down and expanded on it a little bit but they moved it south. They moved the primary entrance to the building to the south so that becomes now the primary entrance. He said these were the big changes that were made.

Mr. Ziska reported that they did make some other changes with parking on the street. The neighbors mentioned a problem with the handicapped parking spaces and Mr. Ziska said there might be something that he could do about this. They could label these spaces for Sunday use only or on Sundays or during events when these handicapped spaces will be needed, maybe they could be marked with cones or something so Mr. Franklin would have accessibility to parking across from his home at all other times. Mr. Ziska

indicated that they also shrunk the size of the building to some extent and that pretty much summarized the changes that were made.

In response to Mr. Sawyer, Mr. Ziska reported that they studied and restudied the elevations of the building so that now they have two fronts to the building, one facing Seminary Street and one facing the north with both elevations being very delightful. He discussed the back elevations of the building and pointed out that it is an alley and spending a lot of money did not make sense. They were however, providing the opportunity to provide a living fence along the back and he emphasized that they have improved the elevations all the way around the building.

Mr. Madzy raised concerns regarding windows that appeared to be bricked in on the plan. He asked Mr. Ziska if he would consider using spandrel glass instead and Mr. Ziska said, yes, this would be workable. Mr. Fay noted that the fellowship hall looks slightly larger on the most recent plan and Mr. Ziska explained that they showed the volleyball court however, it is not an official volleyball court and if you start squeezing the size down it becomes a dangerous situation with players running into walls, etc.

Mr. Madzy asked if the janitor closet located along the back alley could be removed from the plan which would make the building 15 feet from the alley, instead of only 7 feet. In response, Mr. Dixon said he was very hesitant about losing anymore storage space from the plan. Mr. Fay suggested that the handicapped restroom facilities be moved to the skylight area on the plan and Mr. Dixon stated, no, this area is incredibly crowded. Discussion ensued and Mr. Dixon noted that this would cut into what they are attempting to do with their program by taking out space that they feel they need for fellowship-type activities. Mr. Ziska indicated that he could find another location for the janitor's closet.

Mr. Sawyer asked how many rooms have been lost since the original plan and Mr. Dixon reported that they originally had four offices across the front and they had shifted the offices and used more of the existing internal space and shrunk some of the meeting room space that they were going to have inside the existing space. They have probably lost one or two rooms but he has not taken an exact count on this plan. He stated that some of their meeting spaces are smaller than they otherwise would have been on the original plan.

At this time in the meeting, Mr. Madzy announced that there would be a ten minute break. The meeting was adjourned at 10:00 p.m. Mr. Madzy called the meeting back to order at 10:20 p.m.

Sally Winter of 112 Beech Street was sworn in by Mr. Madzy. She pointed out that it has been stated several times that the committee, Ken Martin and herself, representing the neighborhood, had agreed to the 60%

plan. She wanted to go on record and say she never agreed to the 60% plan. They looked at the 60% plan and they discussed the 60% plan. She noted that when she was asked point blank what she felt about the 60% plan, she stated 35%. She did not want to be misrepresented that she agreed to a 60% plan when she did not do that. She also stated that at that time, they would have to take it back to their community. She and Mr. Martin did take it back to their community and the community was not happy about it. Mrs. Winter reported that when they got to the end of the second meeting, they did not come to any resolution. She felt that Mr. Ziska believed and she apologized for whatever was said that led him to believe that the community was ok with the 60% plan. She emphasized that they never said that. She just wanted to go on record as saying that this was erroneous and that she personally never agreed to that.

In response to Ms. Winter, Mr. Sawyer said that when Mr. Martin presented his plan, he specifically asked Mr. Martin if his constituency essentially agreed with his plan and Mr. Martin told him yes. Ms. Winter replied that she did not recall him saying this at any time. Their community had endless meetings and not once did any of these good people say they were buying into the 60% plan. She did not recall that answer ever being given. She explained that they refer to Mr. Martin's plan as the 60% plan. It was presented as a starting place to look at. It was never presented as the percentage that they would go with. It was only presented as a place to reduce from 67%.

Laura Saylor of 173 Beech Street was sworn in by Mr. Madzy. She stated that she lives directly behind the church. She distributed photographs of the alley and of the view she has of the church from her property and also what her view will be if the addition is built. She stated that her property value will drop because of this.

Mrs. Saylor read the following statement into the record: Section 800.1 The Statement of Objectives in the Codified Ordinances of Berea, Article 8, the administrative provision states, in order to accomplish the purpose for which the code is adopted it is essential that its regulations be soundly and consistently applied and that this code vigorously administered and enforced. Section 200.1, Statement of Objectives in the Codified Ordinances of Berea, the residential district regulations states that the purpose of the code is to a) regulate the bulk and spacing of buildings or other structures in order to ensure proper light, air, privacy, and useable open space and part g), promote in accordance with a well-considered plan, the most desirable and beneficial use of the land and structures and the stability and protection of the character of the existing and future residential developments. With those two strongly worded objectives in mind, special attention should be paid to Section 701.5 Non-Conforming Lot or Structure, found in Article 7, Regulations Governing Nonconformities, part a) which states no such non-conforming structure may be structurally altered in a way which increases its nonconformity but such

structure may be structurally altered in a way which does not increase its nonconformity. The United Methodist Church of Berea is a nonconforming structure. It fails to satisfy the Berea Zoning Ordinance for lot coverage in an R-SF-A District. It fails to satisfy the code for setback requirements on both Spring Street and the alley and it fails to satisfy the existing code requirements for off-street parking. All of the current zoning variances being sought by the church increase its nonconformity.

Rob Shurrell of 132 Seminary Street was sworn in by Mr. Madzy. He discussed how this is the oldest neighborhood in Berea, being the very first subdivision. He said it has been a healthy community for a long time. He discussed the history and the protective zoning of this neighborhood. In the 1960's it was under attack and almost would not be here today. Baldwin-Wallace had a master plan to join the north and south campuses together at the expense of the neighborhood. They were buying properties and tearing them down. Finally, it came to the late 1970's when the residents, himself included, decided that they had to take action or the neighborhood would fall completely. So they organized a group and worked with the City to hammer out some protective zoning. This was accomplished with the City hiring a firm to do a land-use study.

Mr. Shurrell referred everyone to page 17 of the land-use study which gave specific recommendations as follows: Zoning – a new single family zoning district should be established which would permit exclusively one and two family dwellings and prohibit all institutional facilities as conditional uses. They presented this to the community and to City Council. City Council went to work on it and they put together the zoning that established the R-SF-A District. There were losses in that process for the neighborhood. The neighborhood became much smaller and they had to give up areas where BW would be able to expand but there was a fence put around their neighborhood.

Mr. Shurrell explained the intent of the R-SF-A Zoning District. City Council put together Ordinance 1979-176 which outlines the borders. He read the intent into the record as follows: Whereas it is the determination of this Council that certain sectors of the city require more restrictive regulations in order to preserve the residential character, stability, property values, promote the permanency and desirable home surroundings and to add to the security and comfort of the residents in those neighborhoods and by the exclusion of new uses structurally prejudicial to the character of those areas.

Mr. Shurrell stated that the intent was to not have large buildings put in this neighborhood nor did they intend to have residential homes converted to other institutional uses. He said no matter how the Planning Commission members look at this plan, there is a little house colored in and that house needs to be saved. There is no need to take that house and give it any other use but single-family use. That is what the ordinance intended to protect. He

said the Planning Commission had taken a good step in saving the house but it is the neighbors that are important. They need a family in that house.

Janet Harlarmert of 98 Harnagy Street was sworn in by Mr. Madzy. She stated that she has been a member of the church since 1964. She currently spends approximately four days a week at the church and sometimes she volunteers in the kitchen. Preparation space and dishwasher space are too crowded and they can only seat 120 comfortably in the existing fellowship hall. More space is needed in both the kitchen and fellowship hall to seat and feed 250 to 275 people. Because of her volunteer food and serving experience, she believes that they need a new kitchen and fellowship hall. She urged the Planning Commission to approve the variances for the new proposed fellowship hall and kitchen to provide space for activities like their strawberry festival, musical concert refreshments and other church dinners and gatherings. Currently they have to hold some of these activities in more than one room whereby everyone cannot all be together.

Mrs. Harlarmert reported that the United Methodist women hold two garage sales a year and a new fellowship hall would accommodate this sale much easier. The sale is too crowded and they now have to display items in the hallway. This garage sale is a great service to the community, church members and college students. She pointed out that she was chairperson of the previous renovation committee that was responsible for obtaining the desire of the congregation regarding the relocation of the church. The vote was 363 to stay at their current location and continue serving the Berea community, BW students and their church members. There were 16 votes to move. She believed that this showed a real commitment to the Berea community. Over 350 members of their church live in the City of Berea and she feels the church is like a second home to her.

Mr. Franklin affirmed that he was sworn in earlier this evening. He said it was his believe that this renovation will have far reaching ramifications and damages to the contiguous neighbors that are right across, around and beside this property. It is his hope that the Planning Commission would take a 360 degree look at the potential ramifications and also consider that they are in a Residential Single Family District and that the residents are the primary people in this neighborhood and their concerns should be addressed.

Pete Finefrock of 169 Beech Street was sworn in by Mr. Madzy. Mr. Finefrock stated that he and his neighbors are against this expansion. It is a hardship for them and it will affect their property values in a negative way. He stated that he has been a resident of Berea since 1948 and has lived in this house for 25 years. He and his wife rented the house for many years and one of the reasons they were able to purchase it was because it was in a protected historical district. He firmly believed that any positive vote on the part of the Planning Commission would tear down the existing R-SF-A agreement and it

would open the door for further problems down the road with other expansions in other places. Mr. Finefrock believed that the expansion the church is requesting should be scrutinized because the church cannot even police the alley during the garage sale. He also witnessed a high ranking city official blocking the alley to unload stuff for the garage sale. He said this happens all of the time.

Mr. Finefrock reported that the Boy Scouts blocked the alley for over 35 to 40 minutes and blocked one of the neighbor's garages while they were getting ready to go away on a retreat. The affect on the neighborhood is fairly profound. One week ago he watched a member of the church parallel park the end of the alley shut. He said these may sound like minor issues but to the neighborhood, the alley is their street, it is their driveway. It was his firm belief that with the expansion regardless of what the church may be saying or what they hope to do in the future, they will not be able to police it any better than they do now and in fact, he believed it would be worse. He emphasized that this is not acceptable to them and he declared a hardship for their families and how it will negatively affect their property values.

Judith Poole of 144 Seminary Street was sworn in by Mr. Madzy. She said she lives two houses south of the church on Seminary Street. She said she has listened to a number of issues and it was getting quite convoluted in her mind. She said she would like to have 10 to 17 variances to build a larger garage on her land due to her existing garage being overcrowded, however, she thought her request would be summarily dismissed. This would not fly in her residential neighborhood for her to build a large structure and yet here we are discussing at great lengths, the opportunity for the church to build a really large structure in a residential area.

Mrs. Poole asked if the church was being given extra due credit because of their fine and good works. Mrs. Poole said this may be valid, however, she knows missionaries that live behind her and she knows people who will snow blow and take out the garbage for the elderly. There are teachers and doctors who do good works but she felt they cannot get into the fact that the church is going to do better works than the neighborhood. This is not about who does good. This is about being a neighborhood, a residential area. She pointed out that the church has acknowledged that they have not figured out what to do with the hall because they have not built it yet but they want to build this large structure to use maybe a couple of times a month, however, she and her neighbors live in the neighborhood all of the time.

Mrs. Poole stated that the inconveniences created by the church may seem small, however, she did believe it was important to have a church there. She said it was unfortunate that she was in a group that will not compromise but in the same token, the church is asking for quite a bit and they do not want to compromise either. She said the neighbors understand that. It comes

down to whether or not to allow these variances for the church. The church is not asking for a few variances, they are asking for 10 or as many as 17 variances and as far as she was concerned this will actually shred and annihilate the zoning code and once that is done, they have shredded and annihilated a community, a group of people who want to live in Berea and want to do just as much good as the church. She urged them to keep the home residential single family. She said this plan is huge and the church needs to find another way. She urged the Planning Commission to not allow these variances.

Tim Morrison of 742 Merrimak Drive was sworn in by Mr. Madzy. He stated that he is the Associate Pastor for the United Methodist Church and currently is in his fifth year of serving the church. He explained that the church has had a long history as heard tonight, reaching out through its programmatic ministries to all ages and stages of life. This is one reason why they feel compelled to ask for the variances to build a large multi-use room connected to their facility. He has been working with the youth over the past few years and the consistent frustration that he has had is that there is no room for large group games where they do not have to worry about damaging property that they already have. He stated that it is exciting to think that with the new large space they will be able to play volleyball or other large muscle activities. It is the dream of the youth council to be able to offer after-school programming for middle-school students and having a space like this would truly enhance that dream.

Mr. Morrison reported that over the past few years they have been seeing an increasing number of college students becoming involved at their church. This year they have started a college fellowship for them. Having a space like this would mean that they can start to host larger activities than they have been able to do before. They have also been seeing a stream of young families coming into the church. They would like to provide these young families with a space where they can come in on weekdays with their children and have a safe climate-controlled environment where the adults can have a chance to fellowship, study and grow together while the children can play. Lastly, he said they have a large senior citizen population not only in the church but also throughout the City. It has been their vision to work with the City on ways that they can continue to serve this community through offering meals and activities. The Mayor himself has been interested in working with them on this.

Mr. Morrison stated that all of the dreams that they have for this space hinge on the variances for the lot coverage and the setbacks. If they do not receive these variances they will not be able to reach the dreams that they feel they are called to follow and that will start their downturn. He did not believe the church could live without this addition, not with any hope for the future. They want to learn lessons from churches like Lakewood United Methodist

which is literally dying on the vine after not being able to change. Over the past few years their attendance has dropped by 50% and they are no longer able to support their structure leaving another empty monster. They do not want to leave an empty monster on Seminary Street where even the college cannot use the property because of zoning. He urged the Planning Commission to please help them stay alive and help them to continue to reach out and offer a place of peace, an arm of social justice and a house of prayer to all people.

Dave Thureau of 191 Dorland Avenue was sworn in by Mr. Madzy. He thanked the Planning Commission members for their time and commitment. He said the church has tried to be good neighbors. The church has dropped their appeal regarding the century home and the church has made many concessions and accommodations to the neighbors. Secondly, the church understands and values the idea of more green space and so they pulled the building off of the northern boundary line, further away from the Molmen's property so there would be more space there. Also, the eastern boundary line, next to the alleyway, they have tried to make some accommodations there so the building would not be right on the alley. Also, the drop-off area was originally part of the building and they made some more concessions and accommodations there. They pulled the drop-off area to where the red doors are to try and make the neighbors happy again and now he hears there are some issues with that drop-off area now also. The height of the building is another concession/accommodation the church has made so the building would not be so overpowering. He reported that the kitchen has been incorporated back into the fellowship hall area and where it is right now on the plan, it is elevated which will be an additional expense for the church, but again they were trying to make as many accommodations and concessions as possible. The church has also moved some offices from the front part of the original design to try and downsize things a little bit. Mr. Thureau pointed out that the church has tried to make accommodations and concessions to be good neighbors and all they are asking for is the same in return.

Jill Bush of 26 Fourth Avenue was sworn in by Mr. Madzy. She reported that she is the Servicing Director for the Berea Girl Scouts and she discussed the dreams she has regarding the church facilities and a larger fellowship hall. She would love to hold the World Festival at the church. They currently hold this event at Roehm Middle School but the time there is restricted due to the very limited availability of the building. They have to rush through this event and not give it the justice it deserves. Another dream she has is to have a Service Unit Overnight at the church. This facility would provide activities and space for all of the Berea Girl Scouts to sleep. Still another dream is to allow all of the girls in the Berea Girl Scouts to attend their cookie sale kick-off dance which they now have to limit the number of girls who are allowed to attend it because of the space issue. With the fire code they can only have so many girls in there.

Mrs. Bush stated that she was also committee chair for Cub Scout Pack 107 for five years. She explained that eight years ago Pack 107 folded due to low enrollment. After a year with no Cub Scouts at Parknoll School, she and her husband, along with the help of the United Methodist Church of Berea, began recruiting to bring back Pack 107. Year after year this pack has grown. The church hosts their annual Pine Wood Derby and their Blue and Gold Banquet. At the Blue and Gold Banquet each boy is limited as to how many family members can attend due to the limited space of the current fellowship hall. A larger facility would allow all family members to attend this important event.

Mrs. Bush said she believed that the United Methodist Church of Berea is an invaluable member of our community. They provide a service to our community that almost no other facility provides. This church is truly the Berea Girl Scouts lifeline and we all know that the children are our future leaders and we really need to support a facility and organization that supports our children. She urged the Planning Commission to please grant these variances to give them space to grow pack 107 and to grow the Berea Girl Scouts.

Dave Proctor of 485 Wyleswood Drive was sworn in by Mr. Madzy. He reported that he has lived in Berea since 1960 (48 years) and has been a member of the Berea United Methodist Church all of that time. He stated that an important goal of the renovation planning for the United Methodist Church of Berea was improvement of handicapped accessibility to the main entrance of the church (the red doors). They are proposing a drop-off loop driveway to the main entrance of the church so that handicapped persons will not be demeaned by having to enter at other inconvenient entrances. The proposed driveway accomplishes the goal of safe and ready access for handicapped persons as well as others that wish to use it. Because of the concerns of the neighbors, the church has moved the main door access to the proposed location, incurring the need for the requested variances.

Mr. Proctor said this move has benefits that make the design a good solution to the handicapped access problem at the front doors. The exit from the loop is directly across from the entrance to a parking lot, making possible a minimum of congestion for those using this lot. The loop is not in direct view of the residents of the neighborhood, although the planned landscaping will make the view quite attractive. The proposal has a sidewalk around the drive for pedestrians to use, keeping them out of the traffic flow. The drive does cross the sidewalk along Seminary Street, a condition found in many places including, for example, the Smith School drop-off loop.

Mr. Proctor explained that the drop-off eliminates the street drop-off which forces passengers to either step down into the street gutter or up into the sidewalk, a maneuver that is a challenge to his wife and other handicapped

persons and even more so for those unloading wheel chairs. While it is true that access from Spring Street is available, this puts the handicapped person into the vestibule of the chapel and forces the negotiation of five doorways to reach the main worship area. This makes the entrance not only difficult, but also demeans the person. If the destination is the chapel, then this is of course the entrance to use. Mr. Proctor requested that the variances be granted to permit construction of the driveway, which enhances handicapped accessibility, and helps all who need to be dropped off, especially children. He pointed out that this variance is independent of the design of the fellowship hall addition.

Marcia Molmen of 194 Seminary Street was sworn in by Mr. Madzy. She stated that she opposes granting any of the church's ten requested variances because she believes this structure would damage her property and her quality of life. She and her family live next door to 188 Seminary Street. The former owners, the Neely's, were good neighbors for 17 years. Mrs. Molmen said they bought neighbors. If the proposed addition is built, they will be cut off from the neighborhood, sandwiched in between the super-sized Methodist Church and the parking lot of St. Thomas Church. If they try to sell their house it will not have the qualities that led them to buy it in 1990 even though it needed a lot of work. Namely, the residential character of the neighborhood and the abundance of large trees.

Mrs. Molmen stated that all of the changes that have been made to the plans have failed to do the one thing that concerns her the most and that is save the trees. They have also failed to leave 188 Seminary with a lot with the church behind the house so it doesn't look like a single family residence anymore and she doubted that a family would want to live there. She said she has talked before about trees but since then she has done some research and she wanted to present some of the scientific findings about the importance of trees in a neighborhood. She indicated that the church has said they will be cutting down 18 trees. To provide prospective, she explained that those 18 trees represent one half of all the medium and large trees on their side of the block. The United Methodist Church project more importantly, would remove 16 out of the 19 large trees on their block and one of those trees is on their property. She said to put it simply they now have a canopy of trees but if the United Methodist Church builds this addition, they will lose that canopy.

Mrs. Molmen reported that the Berea City website says that some sections of old Berea still feature century-style homes under a canopy of Maple and Oak trees. If the church gets their way, Berea will have one fewer of those sections. Losing their tree canopy will cause several kinds of problems involving water. She stated that Mr. Ziska has said that the detention basin would release water into the City drains at the same rate that it is released now. She reiterated what Mr. Martin discussed earlier that they already have problems with the sewers. Every time a heavy rain comes there is a danger

that the sewer will back up into their basement. The City of Berea has sent someone out to snake their drain many times. She questioned if after this addition goes up and their sewer problem gets worse due to the insufficiency of the antiquated sewer system to handle the situation, will the City continue to care for their sewer backups when it happens.

Mrs. Molmen also discussed problems involving air. She pointed out that everyone is familiar with the fact that it is hotter downtown than in a park during the summer time. Technicians from NASA have flown jets equipped with infrared cameras over cities producing block by block temperature maps. The hottest spots in each city were found to be rooftops that reach temperatures of 160 degrees. Urban parks and forests are coolest. Their tree canopy would be replaced by a rooftop if this addition is approved.

Mrs. Molmen stated that seven years ago they felt safe in investing \$140,000 in an addition to their house because the City of Berea had consistently enforced the R-SF-A agreement. They chose to make their addition handicapped accessible in hopes that they could spend the rest of their lives in this house. If the United Methodist Church is allowed to build this addition, she was unsure if they would want to live here anymore. She urged the Planning Commission to vote no on all ten requests for variances.

Randall Molmen of 194 Seminary Street was sworn in by Mr. Madzy. Mr. Molmen stated that he opposes the granting of any of the requested variances because he thinks variances should be considered in an entire package and he thinks this project needs significant redesign. He believes the proposed structure will damage the value of his property, the quality of his life, as well as the area around it. The requested variances are significant and the resulting building will be out of character for this residential neighborhood. The fact that it needs 10 variances, speaks to that, both in size and visual interaction with the surroundings. The proposed new building would leave no visual separation between it and 188 Seminary and according to some of the variance requests, would become differently purposed than it is now.

Mr. Molmen reported that this would leave his house at 194 Seminary Street as the only residential building between Spring Street and the Observatory at the north end of the north campus. This plan would cut the neighborhood in half with a long row of institutional buildings. It would leave the last two blocks of Beech Street and Seminary Street isolated, trapped between institutional uses and commercial uses.

Mr. Molmen said there were questions earlier in the meeting about asking the church to give up a storage closet and a statement was made by the church that these plans are pretty minimal. He explained that this is what happened 30 years ago when the R-SF-A District was created. Compromises were made and the neighborhood gave up regions of the neighborhood for

institutional use leaving what was left as a relatively minimal viable neighborhood. He stated that if they remove space, if the neighborhood is cut into pieces, and if they weaken the R-SF-A agreement that has protected these houses, he was afraid of several serious consequences.

Mr. Molmen discussed the current housing and financial situation which has created depressed housing values and pressures on this neighborhood. Low prices for houses have made them attempting targets for investors who want to convert them into apartments with as many occupants as they can possibly get in. He asked if they, as a community, want to exacerbate the problem by reducing the value of several houses directly and by weakening the court that has protected the value of the houses. He hoped that the financial circumstances facing the country right now are temporary and the housing market will recover but the changes that they make now, the damage, the viability of the neighborhood, will continue long after the financial crisis recovers. He inquired why they would take action to weaken a development tool like the R-SF-A agreement that has successfully protected the area for 30 years. This agreement helped pull the neighborhood back from the brink of a downward spiral years ago and have encouraged at little or no cost to the City, the improvement of the housing stock and the tax base of this area. He believed that this, coupled with enforcement of other existing regulations on the use of buildings in this area, could do this again.

Mr. Molmen explained that the plans do not address any of the current problems that the church causes in the neighborhood and he felt that this addition would exacerbate the problems they already have. He said he understands the church's desire to expand its mission. He has been a church member all of his life (54 years), and he has been on planning commissions many times deciding on what the church will do as a mission. He has been a part of these missions with him and his wife coming back from a year's tour as commission missionaries of their church in Africa and to find that their neighbor's house had been sold to the church.

Mr. Molmen said when he is on these planning commissions, he knows that churches have to make difficult decisions about what to do but he stated that they all have limitations on resources. When churches are faced with the question of what missions do they carry out, what ministries do they do, they have to weigh their time, their talents and their resources. They must ask themselves do we have enough to do it. Can they get the resources within the constraints that are upon them and if they cannot then there are ministries and missions that they cannot do. He said the world is good at providing any number of mission opportunities and things that can be done. There are so many needs in the world, any organization can meet whatever resources they have. They can put them to good use. He urged the Planning Commission to reject the requested variances.

Jennifer Darling of 24 W. Grand Street was sworn in by Mr. Madzy. She reported that she is 21 years old and prior to coming to Baldwin-Wallace College, she grew up in Amsterdam, Ohio. She indicated that she has seen eye sores in her hometown and she emphasized this addition to the church would not be an eyesore. She discussed the lack of activities in Berea for children and she felt the new fellowship hall would provide the young people and children something to do.

Marleen Shurrell of 132 Seminary Street was sworn in by Mr. Madzy. She explained that when she moved to Berea she was in her twenties and what she did with her time and her life, she and her husband decided to buy a house, fix it up and raise a family here. That is what they did with their life and their energy when they were in their twenties. She also has been going to the Methodist Church for 30 years. She raised her children in that church but she urged the Planning Commission to vote no for this current plan.

Mrs. Shurrell reviewed what was said earlier tonight when they heard Mr. Macosko present a very positive plan that was approved. One of the things that she heard him say was that he contacted the neighbor next door to the project. That was one of the first things he did before he even got started with his client. Mrs. Shurrell found this very interesting that in the four years that all of the church planning has been going on, she did not recall a single time when any of the neighbors were contacted about what they might think of the church expansion in their neighborhood.

Mrs. Shurrell said earlier they also heard Mr. Joy state that he started with the idea that he believed in complying with the code and maybe selling two cars a year from his property and all of a sudden now he is selling 24 cars a year. She heard Mr. Dixon say earlier that the new fellowship hall might be used two or three times a month. She asked what happens if the church grows like crazy and all of a sudden they are having meetings two or three times a week. She heard about the parking issues where they might have to annex parking lots over at the Sports Center and different places in the area. A nightmare came into her mind of cars circling around, picking up and dropping off kids. She thought that the program for the youth sounded wonderful but she hoped that it would be very well supervised. Middle school children need lots of supervision and care and she did not want yet another headache in their neighborhood as they have had with party houses and so many different issues over the years.

Mrs. Shurrell discussed the percent of land use issue. She stated that Mr. Ziska had brought up that the percentage had not significantly increased with their new plan but that was only because they purchased a single-family residential home and are converting it away from single-family use. She noted that it has been mentioned that the infrastructure is very delicate. She worries

about all of the pipes underneath their streets because they are among the oldest in Berea.

Mrs. Shurrell suggested that maybe there was another way for the church to meet its needs. She hoped that they would consider that maybe there is another way that would not enlarge their footprint so greatly and have such a negative impact on the neighborhood. She indicated that perhaps the church could consider a smaller footprint. One of the reasons that she has heard that a variance can be granted is that if it does not have a negative impact on the neighbors around it. She believed that one of the biggest negative impacts on the neighborhood would be if the R-SF-A agreement is broken by the Planning Commission's decisions tonight to let institutional encroachment happen because that was one of the points of the R-SF-A agreement. If this is allowed to happen, she thought more damage would be done tonight to their neighborhood than has occurred in 30 years.

Mrs. Shurrell said when she was in her twenties and moved here, there was a big movement with the neighbors having tons of energy to invest in their homes. They truly believed it was a promise from the City that their neighborhood would be protected. They truly believed that institutional encroachment would not be allowed in their neighborhood and she hoped the Planning Commission would uphold that agreement because she considered it a promise and a trust and she has spent her life here.

James Saylor of 173 Beech Street was sworn in by Mr. Madzy. He reported that he has been a Berea resident for 20 years and also has been a member of the church since 1974 and going to it since he was two years old. His father is on the building committee and his wife is on the committee against it. He has been trying to stay out of this and trying to get the two sides to talk to each other and unfortunately, has had very limited success with that.

Mr. Saylor said he was disturbed by what he has heard from some of the Planning Commission members tonight. He has heard the statement made that the church has made a lot of concessions and the neighborhood has not made any. He emphasized that the neighborhood has been making concessions for years and years. When the church first built their new chapel, the neighborhood lost three houses. When the church built the education wing, an entire half of a block lost privacy in their backyards. He stated that if there is going to be compromise, you expect two sides to lose and so far the only side that has been losing is the neighborhood.

Mr. Saylor reported that it has not only been this church but also St. Thomas Church has expanded from their original chapel and with this expansion, the neighborhood lost two more houses. When St. Thomas needed parking, the neighborhood lost three more houses. The Methodist Church needed parking and they made an agreement with Baker's Funeral Home and

the neighborhood lost three more houses. The neighborhood has lost houses to the BW Health Center and the parking lot there. The neighborhood has lost the privacy of their backyards when Walgreens went in. All that these neighbors' once private backyards face now is a well-lit Walgreen's parking lot. Less than a month ago, the neighborhood lost to the college again. The college took over the use of a church and the increase of the parking that is going to be required due to the additional office space there will all be taken up by the slack of their neighborhood. They will have that much more difficulty.

Mr. Saylor indicated that in their neighborhood they fall asleep to the lullaby of the Walk/Don't Walk signs on Bagley Road which goes on all night long. In the mornings they wake up to the chorus of dumpsters being emptied out, first at St. Thomas Church, then at the BW Health Center, and then at the BW Recreation Center. He said it is a very difficult neighborhood to live in and stated that people may ask why do they live there then – why not just sell. Well it is also a fantastic neighborhood to live in for a lot of other reasons. He discussed an interesting website called walksquare.com. He typed his address into this website and it tells you how walk able your community is. His particular address happens to be one of the most walk able communities in the entire country. They beat out Ohio City which everyone holds up as this great urban environment.

Mr. Saylor explained that it is a great place to raise kids and they have raised two kids. You can walk to concerts, you can walk to plays, you can walk to football games and their kids walk to music lessons. He emphasized that they love this neighborhood. But what makes it a neighborhood are the neighbors and he thought the biggest thing that could be changed on these church plans would be to bring the church off of the property that was formerly 188 Seminary Street, make this a single-family residence again and put the garage back so a family would want to move there because without a garage nobody would want to live there. He urged the Planning Commission to treat this as a neighborhood to save.

Mr. Saylor stated that the Planning Commission did a great thing when they saved this house from demolition but he said they did not save it to be an empty structure. He noted that this is not Hale Farm. There is no use in having this house as an empty shell to remind everyone of what a neighborhood used to be. They need to have a family back in there or at least the opportunity to put a family back in there. He urged Planning Commission to please encourage the church to change their plans so they can preserve this house as a single-family residence.

Reverend Skip Myers of 470 Waterbury Circle was sworn in by Mr. Madzy. He reported that he is one of the ministers at the Berea Methodist Church. Rev. Myers said he and Mayor Kleem were talking one time and the Mayor asked him what would happen if the church were simply to pull up

stakes and leave the neighborhood. He told the Mayor that he had not given that any serious thought. The Mayor told him if your congregation were to leave that neighborhood, the City would have an abandoned building on its hands. There just is not any real market for old churches. Rev. Myers stated that having an abandoned building would not be good for the neighborhood and would be a problem for the City as well.

Rev. Myers said he thought about what the Mayor was saying and realized that this might just happen. Not that the church would purposely abandon the building, they would not want to do that, but that they might not have any choice. He explained that there is a common fate for churches that cannot meet the needs of each new generation that comes along. They wither, eventually they die and their buildings are left empty and derelict. He reported this is what the Catholic Church is struggling with in the Cleveland Diocese as they close churches and merge congregations, leaving boarded-up buildings behind.

Rev. Myers stated that you do not have to go that far away and as some have already mentioned this evening, the old Congregational Church at the corner of Church Street and Seminary is being abandoned because its small congregation cannot maintain the building. However, there is good news for that church because BW has bought the building and has pledged to keep it up. Rev. Myers explained that this cannot happen with the Berea Methodist Church because neighborhood restrictions would stop it. So if their congregation were unable to meet the needs of the next generation and were to dwindle and die, the building would surely follow, quickly becoming a derelict and a target of vandals. This would not be good for the congregation, it would certainly not be good for the neighborhood and it would not be good for the City.

Rev. Myers indicated that the Berea Methodist Church wants to meet the needs of a new generation, a generation that seeks social and fellowship activities and sees these as vital to its faith's life. He said this is no secret, all one has to do is look at the successful contemporary congregations around. That is exactly how they administer to that generation. Rev. Myers said because of this, the Berea Methodist Church is preparing to invest \$3 million to upgrade their present building and enlarge it with a fellowship hall that will meet the social needs of that new generation and secure the church's health for the foreseeable future.

Rev. Myers said he believes that the addition that they are proposing is visually attractive. He believes that it is on an appropriate scale when compared to the rest of the building and he believes that unbiased observers will see that. He believes that within a year of its construction, passer-bys will all assume that the addition has always been there. He believes that the Mayor was correct and the last thing that anybody wants is a derelict boarded-up

church building in the neighborhood causing property values to plummet. He stated that this proposed addition is an attractive and effective way to keep all of this from happening. It will be an asset to the neighborhood and the community as well. He requested that Planning Commission grant the necessary variances.

Erica Cobal of 138 Seminary Street was sworn in by Mr. Madzy. She raised concerns regarding the proposed driveway in front of the church that will be used for handicapped parking. She believed this would cause undue hardship to people who continuously walk on the street. She asked the church to consider the fact that many of the homes on her street do not have driveways in front of the houses. The driveways are located behind the houses so that a person walking down Seminary Street does not have to go up and down and over driveways due to the way the street was constructed historically.

Terry Finefrock of 169 Beech Street was sworn in by Mr. Madzy. She lives in one of the properties immediately abutting the back of the alley. She felt that the best plan for the church has yet to be created and she urged everyone to keep working on this.

Jack Mills of 179 Beech Street was sworn in by Mr. Madzy. Mr. Mills said his house is shown on the plans as the one that you can no longer see from Seminary Street because of the addition. Currently, prior to the addition going up, you can see straight through to his back yard from the other street. He pointed out that it has been said by the Reverend and the church that if this expansion does not go through, the City may be stuck with one big vacant structure. It can also be said the other way, that if this expansion does go through the City may be stuck with many small vacant structures. He stated that the Planning Commission is presented here with a tough decision and obviously in these times nobody wants any vacant structures.

Mr. Mills said it should also be noted that the size of the church does not equal the size of the good that the church is going to do. If the church can accommodate more people, then albeit, however, the land that the church is on is limited. The City has laws and zoning ordinances to provide for instances such as this and they are there to be followed. Everybody is well aware of them and the City Law Director is here to keep us apprised of them. He stated that the Law Director had told them for a variance to be granted it has to be proven that the least intrusive plan has been presented. Just sitting here listening tonight, Mr. Mills said he does not think any of the Planning Commission members has not looked at this plan and composed small significant changes to it. Take away 1% here, 2% there – this adds up. To go from 60%, to 55%, to 54% is a significant change and he thought it was one that the neighbors would be very willing to entertain and he thought it was one that everyone could live with.

Mr. Mills stated that the parking for this addition is going to be a huge issue. Not only because it impacts the church and impacts the neighborhood but it impacts anybody that uses the streets and it provides for the safety of people driving and walking on the streets. He felt that having a turnaround on Seminary would be asking for danger especially with elderly people using it and especially when that would be the primary use. Mr. Mills thought that with a skilled team of architects such as the Ziska's who have designed 125 churches or so, they would be more than able to provide for a handicapped entrance on Spring Street. He was sure that they could remove five doors and be able to provide for a handicapped ramp entering into the church. He did not think this would demean anybody and he said it provides for a safe alternative for people getting in and out of their cars on Seminary Street and walking down the street. He felt this would be a better situation for everybody. He thought this was something that the neighborhood was in agreement with and nobody would have a problem with that.

Mr. Mills told the Planning Commission that they are deciding here if they want this neighborhood to remain residential so when they make their decision it will be a very significant one. He said the R-SF-A has been around longer than he has and it sounds like it has been working. He stated that the Planning Commission is entrusted with a tremendous responsibility of providing for the general welfare of the homeowners of the City of Berea. The homeowners look to the members of the Commission for protection in times like these when it is needed most. Throughout history, this Commission has admirably served those individuals who have chosen to make this city their home. Mr. Mills said he trusts that the Commission would continue to do so by rejecting the United Methodist Church's proposal, as it currently stands.

John Wargo, Attorney, was sworn in by Mr. Madzy. Mr. Wargo stated that the point that has been brought out here tonight is the duty that the Planning Commission has and Section 807.3 tells them very clearly that to pass this tonight they would have to make a finding that would give the minimal amount of variances needed to accomplish what the church wants done. He said the Planning Commission has been given an alternate plan and it has been pointed out very well by Ken Martin that the church is claiming 10 variances when there are actually 17 variances. He thought that the plan that Mr. Martin presented has seven variances and it would work and it gives the church a great amount of square footage.

Mr. Wargo told the Planning Commission that when they make their finding, they will have to make that finding the one that is going to involve the least number of variances. He indicated that some people may look at this and say, "Hey all of these neighbors are here, but the church has been here long before they ever got here. They knew it was there when they moved in". Mr. Wargo said this is classical. The church did not own that lot. They knew there

were restrictions on it yet they bought it anyway and now they come to Planning Commission and say they need variances to expand. They knew well, they had an architect and they had professionals working for them. In the legal profession this is the one where the kid goes and shoots his parents, goes to juvenile court and pleads for mercy because he is now an orphan. That is what you have here. They came in and bought it and they are claiming a hardship but it does not exist.

Mr. Wargo pointed out that the neighborhood is not saying that they do not understand that the church needs to expand. He said that they were in the same place in October and he asked then that the Planning Commission table this and get everyone together and make something happen. He said this is a church that everyone respects and yet they will not budge on this. You heard their own architect say tonight that they can make some changes yet others are saying they cannot.

Mr. Wargo said he was asking the Planning Commission to table this again tonight and to use the power of the Commission to make these people compromise. He stated that they do not need him or anybody else in a court of law fighting out what happens here tonight, if there are any mistakes or whatever. He urged Planning Commission to use the power that they have and make these people work this out before they are forced to make a decision that will only cost the City money and everyone in this room.

In response to Mr. Wargo, Mr. Dixon explained that when this was tabled on October 2nd, he said get together and they did. The church came with an open mind. Mr. Dixon reported that he has over 35 years of experience in corporate America and every time he has ever been in a negotiation, one side comes in over here and one side comes in over there and they try to find a common ground in between. The church walked into the meeting and Ken Martin laid a spot right here and they came right to that spot. That is how he learned to negotiate.

Mr. Dixon stated that this is a unique situation and this is a unique neighborhood. It is historic, the homes are historic and it is walk able. Their church has been there for 108 years. That makes them historic too. When the R-SF-A was passed by the Berea City Council roughly 30 years ago, they recognized that they were the only church in the District and City Council said that is ok, that is allowed, they belong, they add value. Mr. Dixon reported that it has been shown if you study the internet a little further, that churches do increase property values. There are more studies out there that say that rather than the one study that Mr. Franklin found. Mr. Dixon urged the Planning Commission to pass the variances and he agreed with what Pastor Skip said earlier in the meeting that they look at this as their lifeblood, it is their future and without it they are very concerned about their viability.

Mr. Madzy asked Mr. Sponseller to repeat the criteria that the Planning Commission should consider when they are reviewing a variance. Mr. Sponseller said he first wanted to ask Mr. Wargo if there were any mistakes in tonight's proceedings as he had indicated earlier in his closing arguments. Mr. Wargo said there were no mistakes in the proceedings, however, the mistakes could come when this Commission goes to vote on these variances and they must find certain findings and specifically spell out the variances they are giving. Mr. Wargo stated that the applicant says they need ten variances and here is what they are and you have another capable architect point out that the applicant is wrong on the number of variances and they have missed some. There may be as many as 17 variances that are needed. Mr. Wargo explained that when this Commission votes and assuming that they are in favor of granting the variances that the applicant has requested, however, there are variances that have been missed, Mr. Wargo noted that this would only set the stage down the road.

Mr. Sponseller said he only brought this up because the Planning Commission consists of all volunteers. They take their job extremely seriously. This chairman takes his job exceptionally seriously and is extremely diligent. They try to follow the law, both the City's code, the Ohio Revised Code, Federal Law, the whole nine yards. He asked for a court reporter to be here so the fairness is unequivocal and if anyone decides to exercise any right or further appeal, they have a clear record and everything is before them. Mr. Sponseller stated that it is a difficult position this commission is in but he wanted it clear on the record that if there is any error that anyone believes exists, he wanted to address it now and get it clear. He emphasized that as Law Director, the last thing he would want is a brand new hearing down in Commons Pleas Court. He said these people do not deserve that, these members of the Commission do not deserve that. He asked if there was anything else that anyone felt was procedurally lacking, to please bring it forth right now.

In response, Mr. Wargo reiterated that nothing has been done procedurally incorrect this evening. The dangers are going to come when it comes time to vote and determine what variances will or will not be granted. Mr. Sponseller clarified that Mr. Wargo has indicated that the proposed plan may have up to 17 variances, as Mr. Martin has submitted in his exhibit. Mr. Sponseller said he recognizes that but the Commission has before it the Plans Review from the Certified Building Department of the City of Berea which has been reviewed on a number of occasions, again reviewed after the plans were modified and the Certified Building Department of the City of Berea presented this Administrative Review before the Commission with the specific variances identified and they number ten. If the number of variances is incorrect and the Court of Appeals says so, then so be it. Mr. Sponseller stated that he respectfully submits that the City must rely on the Building Department's expertise as well, and proceed on the ten variances.

Mr. Sponseller explained that it was stated earlier by somebody that the church in its existing location is a non conforming use. This is not the case. It is a pre-existing permitted conditional use as it stands right now. There is a significant legal difference between a non-conforming use, such as a junkyard in a residential district, which is clearly not permitted. If a junkyard were there prior to adoption of the zoning code it would be a non-conforming use. It would not be permitted to be expanded. In the situation of a pre-existing permitted conditional use, a permitted conditional use can be expanded. So there is a big difference. This is a conditional use not a non-conforming use.

Mr. Sponseller stated with respect to the variances themselves, he referred everyone to 807.3 of the code which talks about the six factors that the Planning Commission members must consider when granting or denying variances. He once again read them into the record as follows: 1) That special conditions or circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other land or structures in the same Zoning District; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures or condition; 2) That literal interpretation or application of the Code would deprive the owner of rights commonly enjoyed by owners of other properties in the same Zoning District, and would deprive the owner of the reasonable use of this property; 3) That the special conditions and circumstances do not result from the actions of the owner; 4) That granting the variance requested will not confer on the owner any special privilege that is denied by the Code to other lands or structures in the same Zoning District; 5) That the variance requested is the minimum variance reasonably necessary to make possible the reasonable use of the land or structure; and 6) That the granting of the variance will not be inconsistent with the general purpose and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Mr. Sponseller reported that these were the criteria that the Planning Commission has always used in determining whether to grant or deny a variance. He pointed out that if the Commission grants a variance, this means that they have found those criteria have been satisfied. If they deny a variance, then they have found those criteria have not been satisfied.

Mr. Madzy said when the format for this evening's meeting was laid out, it would be at this point in the proceedings to allow the opportunity to have further questions and comments from the Commission both to the applicant or to anybody who spoke this evening. In response to Mr. Madzy, Mr. Fay stated that during conversation at the break, they talked about the handicapped spaces in front of the turn-around area. Mr. Martin had voiced a very strong concern on safety as to whether those two spaces could be eliminated and whether if approved, that those spaces could be marked as drop-off areas only.

Mr. Fay asked if legally, they would be able to do this. Mr. Ziska replied that he thought the point was a matter of inconvenience, not safety. Mr. Fay said safety from the standpoint of blocking people coming out of that turnaround area and he suggested possibly putting the handicapped spaces back on Spring Street. Mr. Ziska looked at the plan and said he supposed he could do that.

Mr. Dixon, using the plan, pointed out that currently there is parking on the street from basically this point on down; and there is actually room to park one car here today; and of course that would not be there; and then of course these are also cut in to some degree, not 100% cut in but there is some cut in so as you pull out you can look down the street. If those were vans it would be difficult. Mr. Madzy clarified that they are looking at applicant's drawing A1.1.

Mr. Madzy discussed the south drop-off point regarding the two handicapped spaces which are in front of the tree plaza and asked if the canopy comes up to the edge of the drop-off drive. In response, Mr. Dixon stated yes. Mr. Madzy inquired if the drop-off would be used for dropping off church goers or handicapped individuals who would exit their vehicles, go off under the canopy and then enter the church. Mr. Dixon replied yes and explained that after the drop-off, the vehicles would either go across or down the street. Mr. Madzy stated that there has been a lot of talk about this being a safety issue, having the two driveways crossing the sidewalk. Mr. Dixon reported this is the reason for the sidewalk. To make sure you are not forced to cross a driveway – you can stay safely out of the drive area by staying on a sidewalk. Using the plan, Mr. Madzy inquired about what would be concrete. It was confirmed that there would be concrete through the entry plaza and around to the access drive. Mr. Madzy said conceivably what someone could do is walk down the street then walk across the sidewalk or they could take the long way around. Mr. Dixon agreed and stated that the college students would probably take the short way.

Cornelia Franklin of 181 Seminary Street was sworn in by Mr. Madzy. She raised concerns regarding bicyclists using the sidewalk. Bicyclists are used to a solid sidewalk without having to crossover driveways. She noted that there are a lot of children who go up and down the sidewalk bicycling, roller skating, skateboarding and parents pulling their children in little wagons. Also, the college students are used to having the solid sidewalk.

Mr. Madzy indicated that at some point, Mr. Ziska had come up with some other plans, different renderings and different ideas about this. Mr. Madzy pointed out that essentially the goal is to drop off and pull in across the street in the parking lot, and drop off and give people the ability to get into the church there. Mr. Dixon added that one of the points that Dave Proctor made earlier this evening was talking about handicapped accessibility. While it may not look like a very far distance, when you are handicapped and Mr. Proctor does have a family member who is, it can be a very long distance. This is the

reason that they went with the cut in as significant as it was. Mr. Ziska and Mr. Dixon reviewed the plan and pointed out where existing handicapped spaces are located and whether they could eliminate the spaces near the drop-off area. Mr. Madzy thought there might be a problem when someone is pulling out through the access drive and they have to look southward due to Seminary being a one-way street and only being able to see handicapped vans parked there.

Mrs. Draves indicated that she has an issue regarding using Baker's Funeral Home's parking lot. If the funeral home were to expand into their back parking lot area or sell the property, the church would have a serious problem. She was concerned to learn that the church has no formal agreement to use the funeral home's parking lot. Mr. Dixon replied that the church does need to get something in writing with Baker's although he stated he was not sure if the church already had an agreement with them. He has been with the church for 35 years and this has always been the parking agreement. Mr. Dixon agreed that the church will need to protect this with some sort of formal agreement. Mr. Ziska pointed out that there are a lot of parking lots nearby if the church would need parking.

Mr. Madzy wondered if there was another way to rework the plan where maybe they do not have the access drive but instead have a cut out here and then that way people are not crossing the sidewalk. Mr. Ziska stated that Mr. Martin did have a proposal like this. Mr. Fay said this would also eliminate the need for a variance. Mr. Madzy noted that it would also eliminate two crosses of the sidewalk there. Discussion ensued. Mr. Ziska said they have studied this and it is feasible.

Mr. Madzy explained that there are a lot of things that the Commission has to consider and one of the first things they always consider is safety. He said he always has a concern when there are safety issues especially on sidewalks with children on bicycles. Mr. Madzy asked Mr. Dixon and Mr. Ziska if they would be willing to forego this drop-off and instead just do an area in here and do a drop off lane and not cross the sidewalk, essentially like a berm-type area. Mr. Dixon replied yes, they could do this. Mr. Fay said he would definitely feel more comfortable with this plan. Mr. Martin agreed to allow them to use this part of his plan in their plan.

Mr. Fay asked about relocating the storage and janitorial closet along the back alley to allow more space in the back which would eliminate the need for a variance there. Mr. Ziska stated that the flexibility that they have is minute in comparison to the whole plan. It is really insignificant so removal of something like that, he considered insignificant in terms of the overall plan. Mr. Madzy replied that he thought from a practical standpoint, if that was the closest they were to the alley and if they could get further off of the right-of-way, he thought this made a lot of sense.

Mrs. Draves inquired about the hallway between the existing building and storage. If they could cut this down a little bit, it may not sound like a lot, but every couple of feet would make the variances be less and make it fit more into the overall plan. In response to Mr. Madzy, Mr. Ziska said they could do a 10-foot variance rather than a 12 or 14 foot variance. He said this was with the understanding that being flexible is not held against them, get it one way to be flexible and then be asked if this is the minimum plan. He reiterated that again, these are very minor issues that are being discussed in terms of the overall plan. Mr. Ziska requested to use one of the plans to mark the changes on.

Mrs. Draves asked Mr. and Mrs. Molmen about their neighbors, the Neely's. In response, Mr. Molmen said as they understood it, the Neely's were members of the church. The Neely's entered into an agreement with the church who bought their house at 188 Seminary Street directly from them. The house never went on the market. Mr. Dixon clarified that the Neely's are members of their church and they did agree to sell their house to the church. He stated that the Neely's fully expected the church to remove the house and expand.

Mr. Madzy reported that the application has been submitted and the application has been changed and now reduction of the variances are needed. Specifically, the request for the variance regarding the 22 feet from the point of intersection between the public and private street on Spring Street is no longer necessary as that access driveway has been eliminated. Additionally, the setback from the alley side, 7 foot section - #3 - paragraph 4. Lengthy review of the plans occurred.

Mr. Sponseller said it appears that the applicant wants to work with the Commission and Mr. Martin right now. There is some discussion going on right now off of the record that they are not getting. He asked Mr. Madzy to consider adjourning for about 10 minutes to allow some of these things to be refined and then they can be precise on what changes are being considered. Mr. Madzy agreed with Mr. Sponseller to take a 10 minute break. The meeting was adjourned at 11:50 p.m.

Mr. Madzy called the meeting back to order at 12:16 a.m. on Friday, December 12, 2008. Mr. Madzy reported that during the break, discussion occurred with Mr. Martin and Mr. Ziska regarding some modifications to the plan. These modifications to the plan would include changes to the variances. So the variances should be as follows: Applicant proposes that, there is a 50-foot section of the addition which is 25 feet from the alley, it runs between Spring and Liberty Streets. Zoning Code Section 501.1 requires that religious facilities be setback 35 feet from a public right-of-way. Therefore to construct this addition as submitted, a 10-foot variance is necessary. Additionally,

beyond that 50-foot section, there is a 4-foot section which is 30 feet from the alley so that will require a 5-foot variance. So, this is an additional variance to consider. Additionally, the applicant proposes to have a section which is 33 feet long which is 15 feet from the alley. In response to Mr. Madzy, Mr. Ziska clarified that a section will be 11 feet from the alley which will require a 24-foot variance. Mr. Madzy stated that this is proposed under variance #2. Mrs. Draves questioned this change requiring a larger variance and Mr. Madzy explained that there it would be larger, however they were eliminating variance #3 (7-foot variance from the alley).

Mr. Madzy explained, as was talked about earlier, the variances which were necessary for the canopies. Canopy #1 is 14 feet from Seminary so it requires a 21-foot variance. He said now they could break variance #4 up into 4 and 4a. Mr. Madzy asked Mr. Ziska what their desire was for the canopy, would it come in from the front building line or be squared off with the building line. Mr. Ziska stated it would be symmetrical with the building. Mr. Madzy clarified that there would be no variance 4a then due to moving the canopy back which would be in line with the existing building. Variance #4 says there are two extensions, however, only one extends beyond the front building line. Mr. Sponseller stated that for the record, variance #4 will stand as is, as a 21-foot variance.

Mr. Madzy reported that there will be a slight modification to the setback of the house due to the porch on the house. Initially, the house was to be setback 17 feet from the front property line. Let's consider that it is 14 feet from the property line therefore a 21-foot variance is required in lieu of an 18-foot variance. This would be variance #6. In response to Mr. Sponseller, Mr. Madzy clarified that this variance would be 21 feet instead of 18 feet. Mr. Sponseller said for the record, they were talking about the Administrative Review which is measuring from the structure, the building itself, rather than from the porch which is not enclosed.

Mr. Madzy explained variance #7, the side setback which requires a 12-foot variance. Next, Mr. Madzy discussed variance #8, the 20-foot parking space variance. They would call this 8 and 8a. 8a will be the 100% landscaping variance. Mr. Madzy said variance #9 which talks about the access drive being setback from the right-of-way, has now been eliminated from the plans so this variance is no longer necessary.

Mr. Madzy said additionally, as Mr. Martin has pointed out, they talk about curbs being necessary on parking spaces. There are parking blocks there, however, they could consider a variance from code section 202.5(e) which requires curbs and they will consider this variance #10.

Mr. Madzy reported that the variance on the lot coverage is listed in the administrative review as 59.7%. That number is going to be a little bit different because they have shrunk the building down by decreasing the size of the hallway and also decreasing the size of the janitor's closet. The side setbacks on the north side will increase, and although the lot coverage will actually be a little bit smaller, they will go ahead and figure that the necessary variance will be for 59.7% lot coverage.

Next Mr. Madzy discussed the issue of the parking requirements which he and Mr. Martin had talked about. In their discussion and review of the main area, the sanctuary did not change. The code says that the parking spaces necessary for a development is based upon the primary worship area and since that has not changed, a parking variance will not be necessary and no additional parking spaces will be necessary. In response to Mr. Madzy, Mr. Martin stated that he did not agree with this but the Commission would be making the decision. Mr. Madzy replied that as far as the number of variances that they spoke about, Mr. Martin initially came in and questioned whether there were 17 variances or 10 variances. Mr. Madzy thought that they had put their heads together to come up with an agreement on most of them.

Mr. Martin stated that this was correct, however, there was one other item that in all of the negotiations they have had, they have said in order to grant all of these exorbitant variances, that the single-family residence be used by the church in a residential nature. He reported that he specifically said to the church that if they have a janitor on site, the janitor could live in the house. Also, there are many people who are in foreclosure in Berea and one of those could potentially be alleviated by living in the house. There are also homeless people as well as people who are visiting from the church's various missions from out of the country. All of these alternative uses are looking at putting a resident in the house rather than using it for office purposes, leaving it a dark hole for most of the time.

Mr. Martin pointed out that this was one thing the church could do to enable the R-SF-A Zoning District to actually stand alone. It would be helping them stand alone and it would say this is a reasonable way to use this home which would reinforce the residential qualities and aspects of the neighborhood. He hoped that the church and the Commission would agree with this. Mr. Madzy asked Mr. Dixon about a group within the church that is currently exploring how to use this home. Mr. Dixon replied that they have formed a group in the church and they have multiple ministry areas such as Christian education, mission outreach, worship and music and as pastor Tim Morrison mentioned, they have a very active college student ministry program. Representatives from all of those groups are together looking at how they are going to use the home from a ministry prospective. In response to Mr. Madzy, Mr. Dixon stated that it will have a religious use, however, he could not guarantee how that is going to come out.

Mr. Fay asked if there were monies for the church to restore the house and Mr. Dixon said they have identified that they will definitely need to make sure they paint the house and keep the exterior looking like it fits into the neighborhood. Structurally inside, it has some serious problems as he had mentioned at the May Planning Commission meeting. Mr. Dixon pointed out that the church is not sure to what degree the ministry they select will require investment inside the house. He said he could not commit to it being a residence because of the monetary issues and the ministry.

Mr. Martin told the Planning Commission members that they have the power to say that there are all of these extraordinary variances that the church is asking for and this is a reasonable way in saving the neighborhood. This is where the City now has to make a decision on what will save this neighborhood. They have heard the number of houses that have been torn down in this neighborhood over the years. The most minimal group is currently there and anything lost is a severe loss and anything like this that challenges the R-SF-A Zoning District. Mr. Martin stated that they can only hope that the Planning Commission takes it upon itself to say no. He emphasized that this is a residence and it belongs here. It is supposed to be used like one.

Mr. Madzy said one of the things he noticed especially driving through the alley is that this block is constrained. This block is kind of tied together. He said under the City's code there are corner lots which usually are the only kind of lots that have two frontages. However, some of these lots here have three frontages specifically in the section where they are planning to build the addition. The church has two frontages on either side of them so that is a unique situation over here. Mr. Madzy also stated that he noticed while going through the area that there are other structures that are closer to the alley specifically the church is very close to the alley as well as other garages and other structures in the neighborhood are very close to the alley. In response, Janet Harlarmert reported that the alley is a 16-1/2 foot right-of-way and she felt this was really big enough for two cars. She stated that other property owners have also encroached on the alleyway.

Mrs. Draves requested that this application be tabled this evening. She stated that they have all of these changes here that they have done haphazardly in the last few minutes. They do not have an official drawing that has been agreed on. She said they have made some great progress tonight but there is no way that she was going to vote on scribbled notes on a piece of paper. She indicated that they have worked on this too long and too hard. There has been a ton of concessions made tonight. She thought that they have made a lot of changes for the good for the neighbors. She thought the church has been phenomenal on working with this, however, until she has something in front of her that shows her in black and white what the plan is going to be,

she was not going to vote on it. In response, Mr. Madzy clarified that her concern is that the plans have changed too much tonight and Mrs. Draves stated that the plans have changed dramatically tonight. All of these variances have changed. She wanted to see plans that show what they have said they are going to do tonight. She insisted that official plans be submitted and on the record. These would then be the variances that go with the plan.

Mr. Sawyer asked the same question that he asked an hour ago – is there really a solution to this. He felt there was no sense in going any further if there was not going to be a solution. He emphasized that they have to agree on something. He asked what did they want and what are the parameters that they feel they can live with here.

Marleen Shurell said it was her believe that there is a solution. She thought that the reason they were here now is because, like she mentioned earlier, that for four years all of these plans were being made by the church and the neighbors were never, ever made aware of any of it. They were never asked what they thought about this. That is why they were here and that is why there has been polarization. She felt that if they could talk they could come up with a solution. In response, Mr. Sawyer stated that there have already been six meetings to talk about this.

Mr. Rump suggested that they amend the motion and set it to a date certain to the first meeting in January. He said they would all come into that meeting and make a decision rather than talking about it for hours and so forth. They will come in here, sit down, look at the new plans and then they will make a decision. Mr. Sawyer asked Mr. Dixon if he would meet again and Mr. Dixon said they saw a plan on October 14th that showed 60% lot coverage. This was not the church's plan and they said they could make it work and the church did. He said he needs to know what the numbers are so their architect can draw a plan to work within those numbers.

Mr. Madzy asked Mr. Ziska how many drawings he has come up with for this plan and Mr. Ziska said he has reviewed this project for a long period of time and has drawn probably a dozen plans for this project. Mr. Ziska said it sounds like they are close. Mrs. Draves agreed and stated she thought they were very close. Mr. Ziska said if it is a matter of just revising the drawing to this extent, they have talked and talked and talked. The church has said they are at a point that they feel they have given as much as they can and still do a project that is suitable to their needs and it seems like they have come to that point. He stated that if it is just a matter of just getting these drawings completed and if it makes everyone feel more comfortable to have a drawing without a bunch of scribbles on it, he could do that. But he was against starting all over again and beginning negotiations again.

In response to Mr. Ziska, Mrs. Draves emphasized that a ton of adults have spent a whole lot of time on this. If these were their children, they would say alright kids, let's move onto the next thing. She stated that she was not going to vote on a plan that has been scribbled on and the "he said/she said" comments. She wants to see a plan. Mrs. Draves pointed out that it was first said this evening that no changes could be made to the plan and they have made a ton of changes in just the last half hour of the meeting that they did not make in the previous five hours they have been here. She wanted to have one piece of paper that has all of the variances that everyone has agreed on that meets the code and then they can vote on it. She emphasized that there will be no discussion next time. This is what the plan is and go on. This has been discussed out. They are just trying to make a peaceful resolution here and this discussion stuff has been all of the same stuff. Mr. Madzy clarified that Mrs. Draves' concern is that when she votes she wants to be clear on what she is voting on. Mrs. Draves replied, exactly. There is not enough clarity to vote at this point.

Mr. Martin reported that the Planning Commission still needs to make a decision on the landscaping and lighting plan and also what the house located at 188 Seminary will be used for. Mr. Madzy replied that the church wants to use the house at 188 Seminary for religious purposes, however, the neighborhood is requesting that this house to be used for residential purposes.

Mr. Martin explained what was said tonight is that the church will be taking a slice off of the hallway that runs through the building. So there will be 3 or 4 more feet from the Molmen's property to the face of the most northerly wall of the addition. Mrs. Draves added that other changes discussed this evening were the back of the building and the janitor's space, the canopy in the front, the turn-around area and the driveway. Mr. Fay noted that there have been several variances that have been eliminated or reduced this evening.

Mr. Sponseller said it sounded like the Administrative Review and the application would vary at the next meeting, assuming this is tabled tonight. He wanted to incorporate into the record that the Administrative Review dated December 11, 2008 along with the plans should be added to the record and also the prior plans from the October meeting. Those plans should also be a part of this evening's record. The Secretary of the Commission will have these records on file as well as they will be marked to reflect the dates that they were considered. For the next meeting in January, there will be new plans. Mrs. Draves requested that nothing be handed out to the Commission the night of that meeting. Nothing should be put on the table with changes, etc. They will only consider the information that they receive in their Planning Commission packets. She emphasized that absolutely nothing new will be accepted from anyone the night of the meeting.

Moved by Fay, seconded by Sawyer to table this application to a date certain of January 15, 2009. Vote on motion was all ayes; no nays. The motion carried.

OTHER BUSINESS: None.

ADJOURNMENT:

There being no further business to come before the Planning Commission, moved by Fay, seconded by Sawyer to adjourn. Vote on motion was all ayes; no nays. The meeting was adjourned at 12:45 a.m. on Friday, December 12, 2008.

(signed copy on file in the office of Secretary to Planning Commission)

Matthew Madzy, Chairman

(signed copy on file in the office of Secretary to Planning Commission)

Attest: _____
Carol A. Hubler, Secretary

CERTIFICATE OF COMPLIANCE

The meeting of the Municipal Planning Commission held this 11th day of December, 2008, has been conducted in compliance with all legal requirements, including C.O. Chapter 109 and Section 121.22 of the Ohio Revised Code.

(signed copy on file in the office of Secretary to Planning Commission)

Carol A. Hubler, Secretary