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BOARD OF ZONING APPEALS MEETING

MONDAY APRIL 25, 2016

7:00 P.M.

• •

Transcript of proceedings held at
the Russell Fire-Rescue Station, 14810
Chillicothe Road, Novelty, Ohio, 44072.

KIMBERLY K. GIEL, RPR

(440) 655-2066

1 MR. GOKORSCH: Roll call please.

2 MS. DORKA: Mr. Boucek?

3 MR. BOUCHEK: Here.

4 MS. DORKA: Mr. Grassi?

5 MR. GRASSI: Here.

6 MS. DORKA: Mr. Downing?

7 MR. DOWNING: Here.

8 MS. DORKA: Ms. Moore?

9 MS. MOORE: Here.

10 MS. DORKA: Mr. Gokorsch.

11 MR. GOKORSCH: Here. Any

12 announcements?

13 MS. STEFFEN: I did do a Sunshine
14 notice for tonight's meeting since we changed the
15 date from April 4th. It was sent out to three
16 newspapers and was posted at the administration
17 building and the notice of public hearing was
18 published in the Chagrin Valley Times for Appeal
19 492 tonight and that was on Thursday, April 14th,
20 and it was sent out to owners of properties that
21 are adjacent and opposite side of the street to
22 this property.

23 MR. GOKORSCH: Anything else?

24 MS. STEFFEN: No.

25 MR. GOKORSCH: Tonight we have a

1 little bit different hearing than usual. Usually
2 it's area variance requests. Tonight we have a
3 different kind of a hearing. This is really a
4 court of law, and I want to make sure before we
5 begin, I want to make sure that we're clear on what
6 Ohio law is regarding your testimony. So I've
7 asked the prosecutor here to please brush us up on
8 what Ohio law says regarding perjury.

9 MS. JACOB: The perjury statute,
10 2921.11, the perjury statute in Ohio is Ohio
11 Revised Code 2921.11. I'm going to read subsection
12 A just because I think that's the most important
13 part for everyone to hear. And that subsection A
14 provides that no person in any official proceeding
15 shall knowingly make a false statement under oath
16 or affirmation or knowingly swear or affirm the
17 truth of a false statement previously stated when
18 either statement is material. I think that can
19 help us moving forward, just having those. If
20 anyone has any questions, I haven't done criminal
21 for a few months, but hopefully I can still answer.

22 MR. GOKORSCH: All right. Also to
23 give a little protocol here, anybody that wants to
24 speak, I'd ask them to give their name and address
25 slowly for our secretary here to make sure we get

1 it correct, all right?

2 All right. With that, we'll have a
3 motion here.

4 MR. BOUCHEK: I'd like to open the
5 public hearing for Appeal Number 492 for the
6 property at 8380 Kinsman Road.

7 MR. DOWNING: I'll second.

8 MR. GOKORSCH: All in favor?

9 MR. BOUCHEK: Aye.

10 MR. GOKORSCH: Aye.

11 MR. DOWNING: Aye.

12 MR. GRASSI: Aye.

13 MS. MOORE: Aye.

14 MR. GOKORSCH: Okay. The floor is
15 yours.

16 MR. EVENCHIK: Thank you. Good
17 evening. My name is Aaron Evenchik. I'm an
18 attorney with Frantz Ward in downtown Cleveland.
19 Our address is 200 Public Square, Suite 3000,
20 Cleveland, Ohio.

21 We're here tonight because my client,
22 Mr. and Mrs. Rogers, received a notice on January
23 18th, 2016, regarding the property they own at 8380
24 Kinsman Road alleging that the property was being
25 rented out to more than one family, that Mr. Rogers

1 had told the zoning inspector that there were two
2 families in separate apartments, and that
3 permission had been refused to inspect the
4 apartment.

5 We maintain that the people living
6 there are living there together as a group and that
7 any issues about two separate apartments have been
8 resolved and that these issues were looked at
9 almost over a decade ago. I'm going to present the
10 board with four exhibits, some of which we've seen
11 in prior hearings.

12 The first are two articles, and the
13 first article is dated Thursday -- I'll do the
14 first one first, July 18th, 2012. It's an article
15 titled Multi-Family House is a Matter of Dispute.
16 This is from the Chagrin Valley Times, copy of this
17 was in the zoning inspector's files.

18 The second article is from The Sun
19 Herald dated August 8th, 2002, entitled Butters'
20 Zoning Change All Wet. I'm passing this out. I
21 would just ask that the BZA read these.

22 MS. JACOB: Mr. Evenchik did you want
23 these marked as exhibits?

24 MR. EVENCHIK: Sure, you can mark for
25 the sake of the record the July 18th, 2012 as

1 Exhibit A, and the August 8th, 2002, as Exhibit B.

2 If everybody could just mark those on what they
3 have, we can keep it all. Are you looking for the
4 date? The date's located on the side or the top.

5 The gist of these two news stories --

6 MS. MOORE: Can you hold on, counsel,
7 so we have an opportunity to read them.

8 MR. EVENCHIK: Yes, absolutely. Tell
9 me when you're done.

10 MR. GOKORSCH: Do either of these
11 people -- are either of them here, Joan Marusic or
12 Joan Demirjan, are they either here?

13 MR. EVENCHIK: I don't believe either
14 one is unless they raise their hand.

15 MR. GOKORSCH: Thank you. Should be
16 noted for the record both the articles provided
17 mention Charlie Butters, who is in attendance.

18 Is the board ready? Proceed.

19 MR. EVENCHIK: So the reason I passed
20 these articles out isn't so much that the articles
21 are any official act of the township certainly.
22 They're what exactly they purport to be, newspaper
23 articles about what went on in 2000. But the
24 reason I pass them out is to show you that you've
25 been here before. The BZA and the zoning inspector

1 have been here before. They've investigated these
2 allegations before and they've said that what the
3 Rogers are doing over there is acceptable. The
4 reason that this home -- this home has an odd
5 history in case you don't know it. I can have
6 Mr. Rogers come up just to confirm the things I'm
7 telling you are accurate.

8 MR. GOKORSCH: So just to make sure
9 I'm clear, you're stating for the record that the
10 BZA said --

11 MR. EVENCHIK: The zoning inspector
12 reviewed allegations --

13 MR. GOKORSCH: You said BZA.

14 MR. EVENCHIK: I'll correct myself.
15 As far as I know, just the zoning inspector.

16 The building on the property on
17 Kinsman Road is actually two houses that were
18 combined together. I don't know exactly what year,
19 Mr. Rogers probably could tell us, but he moved two
20 homes from Solon together onto the lot and combined
21 them into one. So the current home there is 3,600
22 square foot plus a basement. Is all that accurate,
23 Mr. Rogers?

24 MR. ROGERS: Yes, it is.

25 MS. STEFFEN: I don't think Mr. Rogers

1 was sworn in for this hearing.

2 PETER ROGERS, of lawful age, called
3 for examination, being first duly sworn, as
4 hereinafter certified, testified as follows:

5 MR. EVENCHIK: Mr. Rogers, what year
6 were the two homes moved together onto the
7 property?

8 MR. ROGERS: 1995.

9 MR. EVENCHIK: Okay. And did you --
10 why did you put the two homes on the property? Who
11 was your initial intended tenant there?

12 MR. ROGERS: My mother.

13 MR. EVENCHIK: Okay. Who was going to
14 live with your mother?

15 MR. ROGERS: Caretaker.

16 MR. EVENCHIK: Okay. And I believe
17 that the zoning inspector has even been to the
18 house. If you go to the house you'll see when you
19 walk in --

20 MS. MOORE: Before you move on, did
21 you hire a caretaker for your mother at that time?

22 MR. ROGERS: Yes, I did.

23 MS. MOORE: What was that individual's
24 name?

25 MR. ROGERS: It was Richard Petite and

1 Sarah Jean Petite.

2 MS. MOORE: Can you spell the last
3 name please?

4 MR. ROGERS: P E T I T E, I believe.

5 MR. EVENCHIK: Did the Petites or your
6 mother ever move into the house?

7 MR. ROGERS: No.

8 MR. EVENCHIK: So who did move into
9 the house in 2000, start in about 2000.

10 MR. ROGERS: There is -- the years
11 have gotten cloudy in my memory, but in the year
12 2000 was right after my son and daughter-in-law got
13 married and they lived in another place for a
14 while, and that was the year that they moved into
15 that space because they had objectives in their
16 business and things like that.

17 MR. EVENCHIK: And when your son and
18 daughter-in-law lived in that space, did your
19 daughter-in-law have relatives or friends that
20 would come stay with them for extended periods?

21 MR. ROGERS: Yes.

22 MR. EVENCHIK: Do you recall there was
23 a complaint filed against you -- was complaint
24 filed on the property in 2000?

25 MR. ROGERS: I believe so, yes.

1 MS. MOORE: Can we back up a second?
2 From 1995 until 2000 were there any tenants or
3 individuals living on the property?

4 MR. ROGERS: Yes.

5 MS. MOORE: And who was living on the
6 property from '95 to 2000?

7 MR. ROGERS: There was a woman, and I
8 can see her face, she had a little dog, but I can't
9 remember her name.

10 MS. MOORE: Okay. Anyone else?

11 MR. ROGERS: No.

12 MR. GOKORSCH: So just to make sure,
13 there was a single woman living in this combined
14 3,600 square foot house by herself.

15 MR. ROGERS: That's correct.

16 MS. MOORE: In 2000 when your son and
17 daughter-in-law moved in, did that woman still live
18 there?

19 MR. ROGERS: No.

20 MS. MOORE: Did the woman move out
21 before your son and daughter-in-law moved in?

22 MR. ROGERS: Yes.

23 MS. MOORE: What are your son and
24 daughter-in-law's names?

25 MR. ROGERS: Robert Rogers and Kelly

1 Rogers.

2 MS. MOORE: How long did they live
3 there?

4 MR. ROGERS: Until '94 -- '04, I'm
5 sorry.

6 MS. MOORE: From 2000 to 2004 did
7 anyone else live on the property with your son,
8 Robert, and your daughter-in-law, Kelly.

9 MR. ROGERS: Yes.

10 MS. MOORE: Who lived there?

11 MR. ROGERS: They had relatives
12 working, helping them. They were college students,
13 interns, and they -- it's no secret, they do work
14 for the township. They do computer consulting, my
15 son and daughter-in-law. And I say they do
16 computer consulting to the stars, corporate
17 executives and people that live out here and they
18 put together different software and so on, set up
19 computers that they use for these executives.

20 MS. MOORE: Mr. Evenchik, I didn't
21 mean to disrupt your presentation. Were you about
22 to go into this?

23 MR. EVENCHIK: Yeah, a little bit.

24 MS. MOORE: I'll let you proceed.

25 MR. EVENCHIK: If you are guys have

1 questions as you're going, I can work --

2 MR. GOKORSCH: I think before you
3 leave this thought she was getting to, there was
4 other people living there? Do you have their names
5 please?

6 MR. ROGERS: I don't have their names.

7 MR. GOKORSCH: How many were there?

8 MR. ROGERS: They were college
9 interns. Most of them were Kelly's cousins, some
10 of them were other people that were only there for
11 a week or two weeks if they had a special project.
12 They would come and go. They weren't --

13 MR. GOKORSCH: So they were working
14 there for them?

15 MR. ROGERS: Yes.

16 MR. GOKORSCH: They were employees.

17 MS. MOORE: Yes.

18 MR. GOKORSCH: They were running this
19 consulting business and they had their employees
20 there?

21 MR. ROGERS: That is correct.

22 MR. EVENCHIK: Is anyone working there
23 as a computing business currently?

24 MR. ROGERS: No. One of their clients
25 was the Russell Police Department.

1 MR. EVENCHIK: So in 2000, we were
2 walking through, in 2000 I asked you and I believe
3 you had confirmed that a complaint was filed on the
4 property and investigation. I want to hand out
5 what we can mark as I think I'm up to Exhibit C,
6 and I know I handed this out at the last meeting as
7 well. I don't know if I have enough copies.

8 MR. GOKORSCH: We'll share.

9 MR. EVENCHIK: I did make enough
10 copies. And I will tell you that this is a
11 document that I received from my public records
12 request regarding use of this property.

13 Mr. Rogers, have you ever seen this
14 letter before, this June 12th, 2002 letter?

15 MR. ROGERS: Yes.

16 MR. EVENCHIK: So when we look at this
17 letter, it responds to a Mr. and Mrs. Stephen
18 Cholewa. Do you know who those people are?

19 MR. ROGERS: I believe they're the
20 people next door, I'm not sure.

21 MR. EVENCHIK: Do they still live next
22 door?

23 MR. ROGERS: No.

24 MR. EVENCHIK: So they lived next door
25 in 2000 and 1999?

1 MR. ROGERS: I believe that's who it
2 is, yeah.

3 MR. EVENCHIK: Okay. And so they had
4 complained; is that what you recall?

5 MR. ROGERS: I remember the complaint,
6 yeah.

7 MR. EVENCHIK: And do you recall that
8 the zoning inspector at the time came out and
9 inspected?

10 MR. ROGERS: Yes.

11 MR. EVENCHIK: And was it his
12 conclusion from his inspection the residential
13 building is not a duplex or multi-family structure
14 for the following reasons: One, there's only one
15 front door. Is there still only one front door?

16 MR. ROGERS: Yes, there is.

17 MR. EVENCHIK: Two, there is one
18 electric meter. Is there still only one electric
19 meter?

20 MR. ROGERS: Yes, there is.

21 MR. EVENCHIK: Three, there's only one
22 gas meter. Is there still one gas meter?

23 MR. ROGERS: Yes, there is.

24 MR. EVENCHIK: Four, there's a passage
25 between the two main sections of the house without

1 going outside. Is there still passage between the
2 two main sections of the house without going
3 outside?

4 MR. ROGERS: Yes, there is.

5 MR. EVENCHIK: We'll come back to that
6 one in a second. Five, where there's two out I
7 would consider one door a patio door opening onto a
8 deck and the other door a back door to the
9 residence. Are there still those two back doors,
10 they still there?

11 MR. ROGERS: Yes.

12 MR. EVENCHIK: Have you modified the
13 building at all to remove that passage between the
14 two main sections of the house?

15 MR. ROGERS: No.

16 MR. EVENCHIK: Is it still there?

17 MR. ROGERS: It's still there.

18 MR. EVENCHIK: When you moved the
19 homes over, did each have a kitchen?

20 MR. ROGERS: Yes, they did.

21 MR. EVENCHIK: Did you add a kitchen
22 in the basement?

23 MR. ROGERS: Yes.

24 MR. EVENCHIK: Do you recall when that
25 was, what year?

1 MR. ROGERS: 2001.

2 MR. EVENCHIK: 2001. Was your
3 daughter living there at the time you added that
4 kitchen?

5 MR. ROGERS: My daughter-in-law.

6 MR. EVENCHIK: Excuse me, your son and
7 daughter-in-law?

8 MR. ROGERS: Yes.

9 MR. EVENCHIK: Why did you add that
10 kitchen in 2001?

11 MR. ROGERS: Well, the nature of their
12 data business is such that they can get into
13 extensive routines and they -- it's only running
14 upstairs to get a cup of coffee or snack or
15 something can interrupt all that. And they had the
16 little kitchen there, it's a kitchenette really, so
17 that they didn't have to do that. They could make
18 coffee, they could have some Krispy Kremes, they
19 could keep some stuff in a little refrigerator.
20 That's what that was there for.

21 MR. EVENCHIK: Do you recall, sir --

22 MS. MOORE: Before you go there,
23 please don't lose your thought, the third paragraph
24 of the letter states, According to Mr. Rogers there
25 are only two people living in this house.

1 At the time of this letter, June 12th,
2 2000, were those two people your son, Robert, and
3 your daughter-in-law, Kelly?

4 MR. ROGERS: Yes.

5 MS. MOORE: Go ahead.

6 MR. EVENCHIK: Mr. Rogers, do you
7 recall another complaint being filed in the year
8 2002?

9 MR. ROGERS: Yes.

10 MR. EVENCHIK: Was that complaint
11 filed by Mr. Butters?

12 MR. ROGERS: I believe so.

13 MR. EVENCHIK: Okay. I'm handing you
14 out what we'll mark as Exhibit D, and I believe you
15 saw this at the last meeting. Once again, I hope I
16 have enough copies. If not I'll take you up on
17 your offer to share.

18 Mr. Rogers, do you recall Rick
19 Machnics?

20 MR. ROGERS: Machnics, yes.

21 MR. EVENCHIK: Do you recall him
22 inspecting again in 2002?

23 MR. ROGERS: Yes.

24 MR. EVENCHIK: Do you recall what his
25 conclusion was regarding the allegation that it was

1 being used as a multi-family residence?

2 MR. ROGERS: His conclusion was that
3 it was acceptable under the zoning.

4 MR. EVENCHIK: And if I'm showing you
5 this letter, this letter marked July 18th, 2002, do
6 you recall seeing that letter?

7 MR. ROGERS: Yes, I do.

8 MR. EVENCHIK: I'm going to read it.
9 It's been determined from my inspection of
10 7/17/2002 that the residence at 8380 Kinsman Road
11 is being used as a single-family dwelling and not
12 as a duplex or business for the following reasons:
13 One, there is only one front door. Two, there's
14 only one electric meter. Three, there's only one
15 gas meter. Four, there's passage between the main
16 two sections of the house without going outside.
17 Five, whereas there are two doors in the back, I
18 would consider one door a patio door and the other
19 door a back door.

20 According to the owner, Peter Rogers,
21 there are only three people living in the house.
22 Our zoning defines family as any group containing
23 up to but not over five people except that all
24 people in the group who are related by blood,
25 marriage, or adoption shall be counted as one

1 family. By this definition there would be one
2 family.

3 Mr. Rogers, is there still only one
4 front door?

5 MR. ROGERS: Yes.

6 MR. EVENCHIK: Still only one electric
7 meter?

8 MR. ROGERS: Yes.

9 MR. EVENCHIK: Is there one gas meter?

10 MR. ROGERS: Yes.

11 MR. EVENCHIK: Is there passage
12 between the two main sections of the house without
13 going outside?

14 MR. ROGERS: Yes.

15 MR. EVENCHIK: Whereas there are two
16 doors in back, I would consider one door a patio
17 door and the other door a back door to the
18 residence. Have either of those back doors been
19 changed?

20 MR. ROGERS: No.

21 MR. EVENCHIK: How many people
22 currently live within the home?

23 MR. ROGERS: Four.

24 MR. EVENCHIK: And I want to paint a
25 picture if we can for the --

1 MS. MOORE: Before you go there, in
2 the July 18th, 2002 letter it reads, According to
3 the owner, Peter Rogers, there are only three
4 people living in the house.

5 Who were the three people living in
6 the house on or about July 18th, 2002?

7 MR. ROGERS: Robert Rogers, my son,
8 Kelly Rogers, my daughter-in-law, and one of
9 Kelly's cousins whose name I forget.

10 MS. MOORE: Am I correct that Robert,
11 Kelly, and the cousin are all related by blood or
12 marriage?

13 MR. ROGERS: That is correct.

14 MR. EVENCHIK: I'm going to paint a
15 picture and I'm going to ask you to confirm for me
16 that I have accurately painted it. I'm going to
17 ask the BZA to kind of bear with me. Imagine two
18 homes that were set down right next to each other
19 about 10 feet apart; is that fair?

20 MR. ROGERS: That's fair.

21 MR. EVENCHIK: So then you build an
22 entrance, a front door, and you finish what was the
23 exterior with drywall so you have a door in front,
24 a door in back, and then the two homes going out on
25 either side. Is that kind of an accurate picture

1 of what the home looks like?

2 MR. ROGERS: Yes, it is.

3 MR. EVENCHIK: And is that how it
4 looked in 2000?

5 MR. ROGERS: Yes, it was.

6 MR. EVENCHIK: Is that how it looked
7 in 2002?

8 MR. ROGERS: Yes.

9 MR. EVENCHIK: Is that how it looks
10 today?

11 MR. ROGERS: Yes, it does.

12 MR. EVENCHIK: Now, you mentioned that
13 your son and daughter-in-law moved out around 2004.
14 Who moved -- did you get a new tenant in 2004?

15 MR. ROGERS: Yes.

16 MR. EVENCHIK: And was it a -- can you
17 tell us who that was? Maybe you don't recall the
18 name but can you describe for us who it was?

19 MR. ROGERS: Yeah. The -- I get these
20 in sequence here. There was a large family that
21 lived there.

22 MR. EVENCHIK: Okay. Do you remember
23 how long they lived there for?

24 MR. ROGERS: About four years.

25 MR. EVENCHIK: Okay. And then after

1 they moved out, who moved in?

2 MR. ROGERS: That would be 2008.

3 MR. EVENCHIK: Okay. So in 2008, do
4 you have a recollection of --

5 MR. ROGERS: Pat moved in.

6 MR. EVENCHIK: Pat moved in, okay.

7 And when Pat moved in, were there other people who
8 moved in with Pat?

9 MR. ROGERS: No.

10 MR. EVENCHIK: So is Pat living there
11 by himself now. You testified before there were
12 four people?

13 MR. ROGERS: He's still there, but
14 there are people in other -- there with him.

15 MR. GOKORSCH: Could you clarify Pat,
16 I'm sorry, Pat --

17 MR. ROGERS: Pat is a fellow living
18 there right now.

19 MR. GOKORSCH: Last name please.

20 MR. ROGERS: G E I T H.

21 MR. EVENCHIK: I'm sure the board will
22 want to know. Can you tell me the name of all
23 four, if you know, of the house mates who are
24 living there now?

25 MR. ROGERS: There's Laura Gabriel,

1 there's Jim and Sue, and I'll have to punt on Jim's
2 last name, I can't think of it right now.

3 MR. EVENCHIK: That's okay.

4 MR. ROGERS: It will come to me.

5 MR. EVENCHIK: During a period from --

6 MR. GOKORSCH: One second please. Do
7 Jim and Sue share a last name?

8 MR. ROGERS: You know, I really don't
9 know that for sure. I don't know whether they're
10 common law or whether they're actually married.

11 MR. GOKORSCH: And Laura's last name
12 is what?

13 MR. ROGERS: Gabella.

14 MR. GOKORSCH: So we have Pat, and
15 Pat's last name is.

16 MR. ROGERS: Geith?

17 MR. GOKORSCH: Thank you.

18 MR. EVENCHIK: As they're living there
19 right now, do they all have access through the
20 entire house?

21 MR. ROGERS: Yes, they do.

22 MR. EVENCHIK: Is there any portion of
23 the house that's segregated so that, for example,
24 you mentioned Pat, is there any part that Pat can't
25 get to within the house?

1 MR. ROGERS: No.

2 MR. EVENCHIK: Is there any portion --

3 MS. MOORE: Can we back up a second?

4 When did Laura move in?

5 MR. ROGERS: Eight months ago, maybe
6 it was seven months ago.

7 MS. MOORE: When did Jim move in?

8 MR. ROGERS: Been three or four years.

9 MS. MOORE: What about Sue, when did
10 she move in?

11 MR. ROGERS: Jim and Sue moved in
12 together.

13 MS. MOORE: Now back in 2008 did you
14 advertise to rent the house?

15 MR. ROGERS: I did advertise, but I
16 can't remember who moved in that year. It's -- I
17 mean, these people are friends and I enjoyed them
18 being there, and they enjoyed living in the
19 property. And it's like, I mean, I was a boy scout
20 too and do I remember all the other scouts' names,
21 I remember their faces, I remember things. I
22 remember people I used to work with, but I don't
23 keep that structure in which year who came and who
24 went.

25 MS. MOORE: When Pat came, do you

1 recall if he responded to an advertisement?

2 MR. ROGERS: Pat came from the old
3 Allen Bradley Company and the Allen Bradley Company
4 was one of my primary customers during the years in
5 the '90s and the mid 2000s and I believe he came by
6 word of mouth.

7 MS. MOORE: Do you recall if anyone
8 was living there when Pat moved in?

9 MR. ROGERS: It wasn't Jim and Sue,
10 certainly wasn't Laura.

11 MS. MOORE: Had the large family moved
12 out by then?

13 MR. ROGERS: The large family moved
14 out in sections, and I don't know how pertinent the
15 details of their relationships were, but they
16 involved --

17 MR. EVENCHIK: Just answer her
18 question. Was the large family out before other
19 people moved in?

20 MR. ROGERS: I believe so, yes.

21 MS. MOORE: When Pat moved in, do you
22 recall if anyone else was living there at that
23 time?

24 MR. ROGERS: I don't believe there
25 was.

1 MS. MOORE: And then three to four
2 years ago you indicated Jim and Sue moved in.

3 MR. ROGERS: Yes.

4 MS. MOORE: At the time they moved in,
5 was only Pat living there?

6 MR. ROGERS: I believe that's true
7 too.

8 MS. MOORE: And do you recall whether
9 anyone else lived there between the time Pat moved
10 in and the time Jim and Sue moved in?

11 MR. ROGERS: I'm sorry, I really don't
12 recall.

13 MS. MOORE: Okay. When Jim and Sue
14 moved in, do you recall if they responded to an
15 advertisement that you placed?

16 MR. ROGERS: I probably did place an
17 advertisement, but I don't specifically recall it
18 either because Jim is a tradesman and during that
19 period of time I was working in a structure
20 downtown in a management position and I believe
21 that that it is how I came to know him. I don't
22 recall placing an ad, but I could have.

23 MS. MOORE: So either an ad or word of
24 mouth?

25 MR. ROGERS: Yes.

1 MS. MOORE: Were Jim and Sue related
2 to Pat?

3 MR. ROGERS: I'm sorry?

4 MS. MOORE: Were Jim and Sue related
5 to Pat by blood or marriage?

6 MR. ROGERS: Not that I know of.

7 MS. MOORE: Are they related right now
8 by blood or marriage?

9 MR. ROGERS: Not that I know of.

10 MS. MOORE: Do you know whether Pat
11 knew Jim and Sue prior to Jim and Sue moving in?

12 MR. ROGERS: I don't believe so.

13 MS. MOORE: Did you have a monthly or
14 a yearly rental arrangement with Pat at the time
15 that Jim and Sue moved in?

16 MR. ROGERS: Yes.

17 MS. MOORE: And what was that
18 arrangement?

19 MR. ROGERS: In dollars?

20 MS. MOORE: Approximately.

21 MR. ROGERS: Thousand.

22 MR. EVENCHIK: \$1,000 a month?

23 MR. ROGERS: Yeah.

24 MS. MOORE: Did that include
25 utilities?

1 MR. ROGERS: Yes.

2 MS. MOORE: And then when Jim and Sue
3 moved in, did you have a monthly or annual rental
4 arrangement with Jim and Sue?

5 MR. ROGERS: Well, Jim and Sue pay me
6 when they can and there are weeks and months when
7 he gets laid off and there are things he does for
8 me because he's a union licensed plumber. So I
9 don't really know how to answer that.

10 MS. MOORE: Was the arrangement with
11 Pat verbal or in writing?

12 MR. ROGERS: I believe it was verbal.

13 MS. MOORE: Was the arrangement with
14 Jim and Sue verbal or in writing?

15 MR. ROGERS: That was verbal.

16 MS. MOORE: Did Jim and Sue pay
17 utilities?

18 MR. ROGERS: No.

19 MS. MOORE: Did you place an ad
20 approximately seven to eight months ago that Laura
21 Gabriel responded to?

22 MR. ROGERS: I probably did.

23 MS. MOORE: Do you recall where you
24 placed that ad?

25 MR. ROGERS: I placed it on one of the

1 Internet services.

2 MS. MOORE: Did anyone else cause that
3 ad to be placed other than you?

4 MR. ROGERS: Do you mean did I go
5 through a third party, is that what you're asking?

6 MS. MOORE: We can start there. Did
7 you use a third party to advertise?

8 MR. ROGERS: No.

9 MS. MOORE: Did anyone help you put
10 the advertisement together?

11 MR. ROGERS: You mean from the
12 standpoint of the verbiage or something like that?

13 MS. MOORE: Yes.

14 MR. ROGERS: No.

15 MS. MOORE: Did anyone else pay for
16 the advertisement?

17 MR. ROGERS: No.

18 MS. MOORE: Do you recall what you
19 said in the advertisement?

20 MR. ROGERS: I'm sure I described the
21 premises a little bit and that we were looking for
22 house mates.

23 MS. MOORE: Who is the we that you
24 were referring to?

25 MR. ROGERS: Eileen and I. Eileen and

1 I have been we for 50 years.

2 MS. MOORE: Congratulations.

3 MR. ROGERS: Thank you.

4 MS. MOORE: When Laura responded to
5 the ad, did you show her the property.

6 MR. ROGERS: Yes, I did.

7 MS. MOORE: And where did you enter
8 the property with Laura when you showed it to her?

9 MR. ROGERS: There is an egress door
10 that enters the section where the hallway between
11 where the one home was placed from Solon and the
12 other home was placed from Solon.

13 MS. MOORE: Is that the hallway that
14 Mr. Evenchik referred to earlier?

15 MR. ROGERS: Yes.

16 MR. GOKORSCH: I'd like to elaborate
17 on that to make sure I understand. Growing up on
18 the east side, I used to deliver papers to a lot of
19 apartments and they'd have a hallway down the
20 middle of the apartment and there would be three,
21 four little suites, three or four doors off of
22 that. So are the doors onto this hallway locked or
23 open?

24 MR. ROGERS: They're open.

25 MR. GOKORSCH: There's no interior

1 locks?

2 MR. ROGERS: Right.

3 MR. GOKORSCH: So anyone can go from
4 one end of the house to the other end of the house
5 without a locked door?

6 MR. ROGERS: Yeah.

7 MS. MOORE: So when you entered the
8 hallway with Laura, where did you take her?

9 MR. ROGERS: You're talking about when
10 I showed her the property?

11 MS. MOORE: As best you recall, yes.

12 MR. ROGERS: Well, how can I say this.
13 Nobody ever comes to the front door there except
14 Jehovah witnesses and people that are running for
15 political office. It's accessible by a wheelchair
16 ramp which puts people off. Put there that there
17 for my mother. She never got to use it. There's
18 no parking in front. So I took her around to the
19 patio door and walked her in.

20 MS. MOORE: Where did you take her
21 inside of the home?

22 MR. ROGERS: I showed her what was off
23 the hallway and around and up into the space that
24 she would be the person using for her personal, you
25 know, her personal when she takes a shower and all

1 that kind of stuff.

2 MS. MOORE: Mr. Evenchik, do you have
3 a layout of the inside of the property that you
4 were going to enter into evidence?

5 MR. EVENCHIK: I don't, but perhaps if
6 it was helpful we could -- you have a white board
7 behind you -- do, if Mr. Rogers is up to it, do a
8 very basic drawing.

9 MR. GOKORSCH: I don't think we can do
10 it on the white board.

11 MS. STEFFEN: Excuse me. After my
12 inspection on Friday -- do you want me to be sworn
13 in.

14 DIANA STEFFEN, of lawful age, called
15 for examination, being first duly sworn, as
16 hereinafter certified, testified as follows:

17 MR. GOKORSCH: Your name please.

18 MS. STEFFEN: Diana Steffen, zoning
19 inspector.

20 After my inspection there on Friday,
21 the 22nd of April, I did use a layout from Geauga
22 RealLink and I have very roughly tried to explain
23 how, where the doors are. Would that be helpful?

24 MS. MOORE: Could you provide to that
25 to Mr. Evenchik so he can share it with Mr. Rogers

1 and see if that would be useful?

2 MS. STEFFEN: Sure. And I have more
3 copies if you need it.

4 MR. EVENCHIK: Is this first?

5 MS. STEFFEN: One is the basement
6 level.

7 MR. EVENCHIK: To the extent the word
8 apartment is written on here, obviously we object
9 to use of the word apartment and conclusions that
10 come with that. But according to Mr. Rogers this
11 looks accurate. And do you mind if I use this?

12 MS. STEFFEN: No, I've got more
13 copies.

14 MR. GOKORSCH: We can put that in as
15 an exhibit too.

16 MR. EVENCHIK: We can mark Exhibit E,
17 again just noting my objection to the use of the
18 word apartment.

19 What you have, the one side marked
20 west side, one side marked east side and this hall
21 in between, west side, east side, and this hall in
22 between. The west side was one house, the east
23 side was another house, and the hall in between is
24 where they kiss and where they built in those other
25 doors?

1 MS. JACOB: Do you mind if I ask a few
2 questions? What year exactly was that? I know
3 Mr. Rogers said '95. The article said '94 that you
4 have gave us.

5 MR. EVENCHIK: Do you know if it was
6 '95 or '94 or was it approximately within the
7 '94-'95 time frame? Can you remember that detail?

8 MS. STEFFEN: I can answer that if
9 that helps.

10 MR. ROGERS: Yeah, permits were
11 pulled, I don't --

12 MS. STEFFEN: The permit was obtained
13 in 1994. I've got a letter here to Mr. Rogers from
14 the zoning inspector back then actually dated April
15 28th, 1994, and it says this is to document that
16 the new residence being installed at 8380 Kinsman
17 is to be used as a single-family dwelling and not
18 as a duplex or multi-family dwelling. Any other
19 single-family would be a violation -- sorry, any
20 owner a single-family would be a violation of the
21 Russell Township Zoning Resolution as well as a
22 violation of deed restrictions of the Hackamore
23 Woods Homeowners Association.

24 MR. GOKORSCH: Thank you.

25 MR. EVENCHIK: And then the second

1 drawing here I believe is the basement, and there
2 are steps. When you walk into this center hall as
3 you come in, right there there are steps that go
4 down from there to the lower level.

5 MR. GOKORSCH: To the basement, sure.

6 MR. EVENCHIK: When you moved those
7 two structures, did you have a basement essentially
8 dug and built so you could place the structures on
9 top of that? Do you recall.

10 MR. ROGERS: I do recall and the
11 answer to your question is not exactly. And I can
12 explain if you want me to.

13 MS. MOORE: Before you move on, could
14 you have Mr. Rogers come up here with you?

15 MR. EVENCHIK: Sure.

16 MS. MOORE: On this document there's a
17 front door, correct?

18 MR. ROGERS: Yes.

19 MS. MOORE: That goes to the exterior
20 and here's the back door that you and Mr. Evenchik
21 were referring to that goes to the patio?

22 MR. ROGERS: Yes.

23 MR. EVENCHIK: Is there a separate
24 door -- when they were talking about sliding glass
25 doors, does the west side of the home have an

1 additional man door going out somewhere?

2 MR. ROGERS: The west side was
3 arranged as a story lower than the east side. The
4 ground goes downhill.

5 MS. MOORE: Can you take this pen,
6 could you put a 2 where the exterior man door is to
7 the hallway off of the patio?

8 MR. ROGERS: (Complying with request.)

9 MS. MOORE: You put an X. Can you
10 circle the X. Okay. Now, inside this hallway are
11 there doors that go into the east side apartment,
12 what's labeled the east side apartment?

13 MR. ROGERS: Right here there's a
14 door.

15 MR. EVENCHIK: And the door is drawn
16 on here. You're pointing to where what's labeled
17 east side apartment there's a swing over the number
18 2053. There's where you're saying there's a door?

19 MR. ROGERS: Right.

20 MS. MOORE: Does that door have a lock
21 on it?

22 MR. ROGERS: The front door to the
23 outside, yes.

24 MS. MOORE: No, the door that goes
25 into what's labeled east side.

1 MR. ROGERS: The door to the east does
2 not have a lock.

3 MS. MOORE: Does it have a latch?

4 MR. EVENCHIK: What does latch mean?

5 MR. ROGERS: I don't understand what
6 you mean.

7 MS. MOORE: Is there any means of
8 securing that door to prevent someone from going in
9 or out?

10 MR. ROGERS: There are no keys
11 anywhere inside the building. The doors are like
12 you would have in a home that you go from one room
13 to another room. There's doors that are used for
14 different purposes, there's doors to bathrooms,
15 there's doors to bedrooms, there's doors to rooms
16 where there may be a nursery for a young child or
17 things like that. Those are the doorknobs that are
18 inside. There are no keys inside the building.

19 MR. GOKORSCH: Some of those doors
20 have locks?

21 MR. ROGERS: You mean like hook locks?

22 MR. GOKORSCH: Where there's a button
23 and you push the lock.

24 MR. ROGERS: Well, I mean everybody's
25 bedroom has one of those and some --

1 MR. DOWNING: Basic question is, is
2 there any way the person inside that dwelling can
3 perform anything other than propping a chair under
4 the doorknob to secure that door?

5 MR. ROGERS: There's the common
6 passageway doorknobs like you have in any home.
7 Some doorknobs have a little button if you want
8 privacy or something like that, but all the doors
9 that I have had like that, you just take a ice pick
10 or something like that and pop it open so the kids
11 can't lock themselves in. There's no locks inside
12 the building.

13 MS. MOORE: Are there any interior
14 doors that you are able to lock from one side and
15 unlock from that same side?

16 MR. EVENCHIK: You've listed out, you
17 said there are doors, you mentioned bathrooms, some
18 of the other doors might have some of those, for
19 lack of a better term, push button locks that
20 probably aren't going to secure you against --

21 MR. ROGERS: Came with the building.
22 I mean, there's no keys required inside the
23 building. That's something that I put there when
24 my mother was going to go there. It's there for
25 the fire department, it's there for the police

1 department.

2 MR. EVENCHIK: But there may be doors
3 that have that kind of push button lock?

4 MR. ROGERS: I know there are.

5 MR. EVENCHIK: Meaning there's not a
6 key on the other side, but somebody could lock it
7 on one side.

8 MR. ROGERS: On bedrooms, there used
9 to be bedrooms, doors to bathrooms, things like
10 that too.

11 MS. MOORE: On the east side of what's
12 labeled as the east side apartment, who lives in
13 that area?

14 MR. ROGERS: Patrick.

15 MS. MOORE: Does Laura live in that
16 area at all?

17 MR. ROGERS: No.

18 MS. MOORE: Do Jim or Sue live in that
19 area at all?

20 MR. ROGERS: No.

21 MS. MOORE: Is there a kitchen in that
22 side?

23 MR. ROGERS: Yes.

24 MS. MOORE: Where is the kitchen
25 located in the area called east side apartment? If

1 you can put an A?

2 MR. ROGERS: Yeah, this isn't totally
3 accurate here, but --

4 MS. MOORE: Approximately.

5 MR. ROGERS: The kitchen, it came with
6 the building, is right there.

7 MS. MOORE: Okay. And on what's
8 labeled the west side apartment, who lives on -- in
9 that area?

10 MR. ROGERS: Laura.

11 MS. MOORE: Do Jim or Sue live in that
12 area?

13 MR. ROGERS: No, they live below that
14 area.

15 MS. MOORE: Is there a kitchen area in
16 the place called west side apartment, that's
17 labeled west side apartment?

18 MR. ROGERS: Yes.

19 MS. MOORE: Can you mark with a B
20 where the kitchen is located approximately in the
21 section labeled west side apartment?

22 MR. ROGERS: (Complying with request.)
23 Again it came with the building.

24 MS. MOORE: Okay. There's a second
25 document here labeled basement. Do Jim and Sue

1 reside in any area on that document?

2 MR. ROGERS: Yes, they reside in this
3 area.

4 MS. MOORE: So they reside in the area
5 labeled basement apartment?

6 MR. ROGERS: Yes.

7 MS. MOORE: Is there a kitchen in the
8 area labeled basement apartment?

9 MR. ROGERS: Yes.

10 MS. MOORE: Could you write a C
11 approximately where the kitchen is located in the
12 basement apartment area?

13 MR. ROGERS: P as in my name?

14 MS. MOORE: C as in Charlie.

15 MR. ROGERS: C, I'm sorry. It's not
16 much of a kitchen down there, but it's there.

17 MS. MOORE: Do you know who uses the
18 kitchen that is marked C in the area labeled
19 basement apartment?

20 MR. ROGERS: Yes.

21 MS. MOORE: Who?

22 MR. ROGERS: Jim and Sue.

23 MS. MOORE: Do you know who uses the
24 kitchen that is labeled A in the area labeled east
25 side apartment?

1 MR. ROGERS: Patrick uses that, and of
2 course the house mates get together. I don't know
3 if it's appropriate to talk about when Patrick
4 shared his life, but I mean --

5 MS. MOORE: Does Patrick primarily use
6 the kitchen labeled A in the east side apartment?

7 MR. ROGERS: Yes.

8 MS. MOORE: Who uses the kitchen in
9 the area labeled west side apartment that's kitchen
10 B?

11 MR. ROGERS: Laura does.

12 MS. MOORE: Do you have follow-up?

13 MR. EVENCHIK: Is it possible for any
14 of them to use any of the other kitchens?

15 MR. ROGERS: Certainly.

16 MR. EVENCHIK: And if you've
17 identified certain people generally occupy certain
18 spaces. If they wanted to switch spaces, could
19 they do that without asking you?

20 MR. ROGERS: Of course.

21 MS. MOORE: Would you have any
22 objection to them switching different areas that
23 kind of dwelling?

24 MR. ROGERS: These people are my
25 friends and I trust them.

1 MR. EVENCHIK: Okay.

2 MS. MOORE: Mr. Evenchik, I'm going to
3 label the one that's made for Exhibit E-1.

4 MR. EVENCHIK: Okay. And the bottom
5 for E-2. I would just ask that eventually I get a
6 copy of those exhibits.

7 MS. STEFFEN: You can have, I brought
8 them.

9 MR. GOKORSCH: I have a similar
10 question before we leave this. On the east side
11 apartment and west side apartment and the basement
12 apartment as so labeled, are there living spaces in
13 each of these areas, a living room, a place where
14 you would sit, put your feet up, watch the
15 television, a living area?

16 MR. ROGERS: I'd call it a great room,
17 yes.

18 MR. GOKORSCH: Okay. In each of the
19 places?

20 MR. ROGERS: Yes.

21 MR. GOKORSCH: In each of the three
22 places is there a bathroom?

23 MR. ROGERS: Yes.

24 MR. GOKORSCH: In each of the three
25 places is there at least one bedroom with a door?

1 MR. ROGERS: Yes.

2 MR. GOKORSCH: Okay. Thank you.

3 MR. EVENCHIK: Let me ask you a
4 question, Mr. Rogers, and the chair of the BZA just
5 asked you in each space if there was a great room,
6 in each space if there was a kitchen, and each
7 space a bathroom, and you answered affirmatively
8 yes. So let me ask you, in 2002 when the zoning
9 inspector at the time whose name was Rich Machnics
10 went in, in each of those spaces in 2002, was there
11 a great room, a kitchen, and a bathroom?

12 MR. ROGERS: Yes.

13 MR. EVENCHIK: Thank you.

14 MS. JACOB: Mr. Rogers, may I ask you
15 a question about the keys? You said that no keys
16 are required internally. Externally is there one
17 key that works on every external door?

18 MR. ROGERS: No.

19 MS. JACOB: So can you explain, I
20 guess?

21 MR. EVENCHIK: You should come over.

22 MS. JACOB: Can you just tell us which
23 doors have keys externally in terms of like does
24 one key work on this door, this door, the west side
25 apartment and the front door?

1 MR. ROGERS: That's the main floor.

2 MS. JACOB: You're pointing to E-1.

3 MR. ROGERS: Okay.

4 MS. JACOB: Maybe you should show on
5 the zoning inspector's or the zoning board map.

6 MR. ROGERS: This is easier.

7 MS. JACOB: Maybe I should rephrase
8 that. How many external keys are there? How many
9 different keys are required externally to get into
10 this building?

11 MR. ROGERS: You know, there's --

12 MS. JACOB: I don't mean how many
13 are --

14 MR. ROGERS: Yeah, there's locks I
15 don't have keys for, such as the front door.

16 MS. JACOB: You don't have a key to
17 the front door?

18 MR. ROGERS: No. Like I said, only
19 Jehovah's witnesses come to the front door. I
20 don't go to the front door. I never tried to come
21 through the front door. I never knock on the front
22 door.

23 MS. JACOB: Which door do you use?

24 MR. ROGERS: I use whatever door is
25 convenient to wherever the issue is that I have

1 been called to analyze, like a leaking faucet or
2 plumbing or why this is happening.

3 MR. EVENCHIK: When you go there do
4 you use the closest door?

5 MR. ROGERS: A qualified yes.

6 MR. EVENCHIK: Let me ask you, in 2002
7 when the zoning inspector came and inspected the
8 property, did it have whatever type of locks you've
9 described to the BZA, the push button that you can
10 use an ice pick without a key, were those locks on
11 the doors, whatever doors they were on, were those
12 locks on the doors at that time?

13 MR. ROGERS: Yes, they were.

14 MR. EVENCHIK: Okay. And when the
15 zoning inspector came in 2002, perhaps you had the
16 key to the front door then, you've lost it since,
17 but were the exterior doors, the front door, this
18 hallway, the back door of this center hallway and
19 any other exterior door, were there multiple keys
20 to those doors at that time also?

21 MR. ROGERS: Say that again.

22 MR. EVENCHIK: In 2002 you testified
23 that each door on the outside might have a
24 different key and you lost the key to the front
25 door. So I'm asking in 2002 when the zoning

1 inspector came, was it keyed identically? However
2 it's keyed today, was it keyed that way in 2002,
3 the center exterior doors? It's a yes or no.

4 MR. ROGERS: Wherever it was keyed in
5 2002, it's keyed the same way today.

6 MR. EVENCHIK: Have you made any
7 substantial changes or improvements to the property
8 since 2002?

9 MR. ROGERS: I replaced the hot water
10 heater.

11 MR. EVENCHIK: Okay.

12 MS. JACOB: May I follow up? Do all
13 of your tenants, do they have keys to all the
14 external doors? Can they enter in any of those
15 doors by a key?

16 MR. EVENCHIK: Mr. Rogers, stay over
17 here next to me.

18 MR. ROGERS: I will answer that this
19 way. There are doors that no one uses. I'm not
20 sure -- and not even me, I don't use them. I'm not
21 sure whether I have keys to those doors anymore or
22 not.

23 MR. EVENCHIK: Talking about the front
24 door?

25 MR. ROGERS: The front door, there's a

1 door that goes into one of the garages.

2 MR. EVENCHIK: Is there an additional
3 way to get in the garage beyond that door?

4 MR. ROGERS: Yes, you push the button,
5 the garage door goes up.

6 MR. GOKORSCH: There's a patio door in
7 the basement?

8 MR. ROGERS: Yes.

9 MR. GOKORSCH: Is that an ingress
10 egress area, is that door used?

11 MR. ROGERS: Yes.

12 MR. GOKORSCH: So that's a private way
13 down to the basement?

14 MR. ROGERS: Well, yes.

15 MR. EVENCHIK: Is there a patio
16 outside that patio door?

17 MR. ROGERS: Yes.

18 MR. EVENCHIK: Patio furniture on it?

19 MR. ROGERS: Yes, there is.

20 MS. JACOB: Do Laura and Pat have the
21 key to get into that basement patio door?

22 MR. ROGERS: From the outside?

23 MS. JACOB: Yes.

24 MR. ROGERS: I'm not sure. I know I
25 must have a copy of it somewhere, but I can just go

1 in through the garage. The other garage, the
2 basement garage.

3 MR. BOUCHEK: I have a question about
4 if you enter into the hallway and then from the
5 hallway you go downstairs, along that path is there
6 any doors along the way down to the basement?

7 MR. ROGERS: No.

8 MR. BOUCHEK: There's a clear path
9 without any door obstruction of any kind?

10 MR. ROGERS: Right down to the
11 concrete of the basement floor.

12 MR. GOKORSCH: To be clear, there's no
13 door at the bottom of the stairs.

14 MR. ROGERS: That's correct.

15 MR. GOKORSCH: It's wide open.

16 MS. STEFFEN: Excuse me, I do have
17 some testimony.

18 MR. EVENCHIK: Let me clarify that.
19 When you say the bottom of the stairs, when you get
20 to the bottom of the stairs, what's at the bottom
21 of the stairs?

22 MR. ROGERS: There's a hallway.

23 MR. EVENCHIK: And are there doors in
24 that hallway?

25 MR. ROGERS: There is a door in that

1 hallway.

2 MR. EVENCHIK: If you go through that
3 door, where does it lead you to?

4 MR. ROGERS: Leads you into the
5 basement garage space, which is considerable, and
6 that's a fire door because it's a garage.

7 MR. EVENCHIK: Is there, for lack of a
8 better term --

9 MR. ROGERS: Required by code.

10 MR. EVENCHIK: -- a path through that
11 garage space that goes to the other living space in
12 the basement?

13 MR. ROGERS: Yes, and that's a fire
14 door too required by code.

15 MR. EVENCHIK: I wanted to clarify. I
16 know you asked the question, I'm not sure he
17 painted a picture that you could see so I wanted to
18 kind of clarify it.

19 MR. GOKORSCH: It's a very different
20 picture. Thank you for the clarification. The
21 picture was it's wide open, you go down the stairs
22 into a big open place.

23 MR. EVENCHIK: Well, it is. It's a
24 space.

25 But let me ask you on all that, the

1 way it is today, when you go down to the bottom of
2 that stairs and you see the door that goes through
3 the garage and leads you to the downstairs finished
4 space, is that how it was in 2002 when it was
5 inspected by the township zoning inspector at the
6 time?

7 MR. ROGERS: Yes, it is.

8 MR. DOWNING: I just need
9 clarification, Peter. The common door that comes
10 into this hallway that you joined the two
11 structures together with, is that lockable? I
12 mean, do these people have any security at all?

13 MR. ROGERS: You mean to the outside?

14 MR. DOWNING: Yes. Do they have keys
15 to get into that one door? It's a common hallway
16 but somewhere you've got to lock something.

17 MR. ROGERS: Yes, yes. Yeah.

18 MS. MOORE: If we can go back for a
19 second, we covered Pat, that there was a verbal
20 month to month for \$1,000 a month that did not
21 include utilities. Did that rental amount ever go
22 up?

23 MR. EVENCHIK: I think he did say it
24 included utilities.

25 MR. ROGERS: I'm sorry, I thought that

1 you were saying that what he paid me did not
2 include utilities. Aaron is thinking that what I
3 was saying was that it did include utilities and I
4 was charging them for. I do not charge extra for
5 the utilities.

6 MR. GRASSI: It's in your rent.

7 MS. MOORE: I understood Jim and Sue
8 paid an amount that included utilities. You're
9 saying that Pat also, utilities were included in
10 his rental amount.

11 MR. ROGERS: There's a dollar amount
12 every month and the utilities go up and down and I
13 don't charge extra or give money back.

14 MS. MOORE: What is the dollar amount
15 now for Pat's rent?

16 MR. ROGERS: 1,000.

17 MS. MOORE: What is the dollar for Jim
18 and Sue?

19 MR. ROGERS: 600.

20 MS. MOORE: How about Laura?

21 MR. ROGERS: She's 1,000.

22 MS. MOORE: Now, Laura also isn't
23 charged utilities?

24 MR. ROGERS: No. I think if I may
25 say -- use the word extra, she's not charged extra

1 for utilities. They pay the same amount every
2 month, the utilities go up and down and I pay them
3 without letting anybody know what the bills are.

4 MS. MOORE: I want to make sure I'm
5 clear. The amount of rent that Pat pays, the
6 \$1,000, that includes utilities or is it just for
7 utilities? That's where I'm confused.

8 MR. ROGERS: No, no, no. I only get
9 one dollar amount every month and I pay the
10 utilities myself out of those dollar amounts I get
11 from the people. So you can say they're paying for
12 utilities because they're giving me an even dollar
13 amount month after month after month, but I'm not
14 charging them for it anything extra. It comes out
15 of my pocket, not theirs.

16 MS. MOORE: Has Pat's rent increased
17 since 2008 when he started living there?

18 MR. ROGERS: No.

19 MS. MOORE: Has Jim and Sue's rent
20 increased at all since they started living there
21 three to four years ago?

22 MR. ROGERS: No.

23 MS. MOORE: Has Laura's rent increased
24 at all since she started living there?

25 MR. ROGERS: No.

1 MS. MOORE: Have any of the tenants'
2 monthly rent decreased during the time that they've
3 lived there?

4 MR. ROGERS: No.

5 MS. MOORE: So when Jim and Sue moved
6 in, Pat's rental amount did not go down?

7 MR. ROGERS: No.

8 MS. MOORE: So they were not treated
9 as a single economic unit?

10 MR. ROGERS: Well, I mean what was I
11 going to do, charge the man extra? I mean, these
12 are house mates living together and it's my
13 responsibility to bring enough funding to keep the
14 building running. And otherwise I would be accused
15 of running a free hotel or something like that, I
16 suppose, I'm not sure. Was that what your question
17 was? I'm not sure that I really understood it.

18 MR. GOKORSCH: I understand the
19 question. Thank you very much. That makes good
20 sense. Any other questions from the board here?

21 MR. GRASSI: Why was one tenant paying
22 600 and 1,000? Was the space different? I'm just
23 curious.

24 MR. ROGERS: Well, there's a little
25 bit of caretaker capability there.

1 MR. GRASSI: With the person paying
2 the 600?

3 MR. ROGERS: Right. He has a license
4 and he works for a contractor that's bonded and all
5 that.

6 MR. GRASSI: He does some of your
7 repairs is what I'm hearing?

8 MR. ROGERS: Right.

9 MS. MOORE: Is he employed on the
10 property.

11 MR. ROGERS: You mean in that he gets
12 a paycheck? What do you mean by employed?

13 MS. MOORE: Is he an employee living
14 on the property?

15 MR. ROGERS: No.

16 MR. BOUCHEK: I have a couple
17 questions about the time frame of 1995. You took
18 two homes and you put them on the property and you
19 basically put them side by side and you placed an
20 area between the two homes that ended up to be a
21 kind of a common hallway?

22 MR. ROGERS: Yes.

23 MR. BOUCHEK: When you put the two
24 homes together or when you got advice how to move
25 the homes there and to put them on the property

1 that way, what was your original intent for the
2 hallway?

3 MR. ROGERS: Well, if you saw the
4 homes where they came from and the way they were
5 laid out in 1957 or '59 or whenever they were
6 built, both of these homes had a garage that was
7 attached. And when you take the home away from the
8 garage you have a raw end that's not weatherproof
9 and has only an internal kind of door access. And
10 then when you put these together, what do you do?
11 Do you slam them together and try to chainsaw
12 openings? And the purpose of the home was for my
13 mother to be there and be on one level and not have
14 impediments, so when she did have her wheelchair
15 she could get around and then caretakers could
16 come, whether they were from our family or they
17 were others, like Richard and Sarah Jane, they
18 would have someplace they could be out of the
19 weather, be separate from Grandma, who could be
20 eccentric at times and so on. Does that answer
21 your question?

22 MR. BOUCHEK: I was trying to ask what
23 the original intent of the hallway was and I think
24 you -- I'm not quite sure if you answered that, so
25 let me ask you it another way. Why didn't you just

1 butt the two homes up to each other and finish them
2 off and went that route?

3 MR. ROGERS: How could I do that?

4 They had different floor plans and there are
5 different spaces internally in the structure that
6 don't line up. First of all, it may not be
7 apparent from the drawings, but when they were in
8 Solon the houses were like those two tables side by
9 side. They were on separate lots and they were, if
10 I recall correctly actually mirror images of one
11 another. The garage on one house was on one end of
12 that house, I'll say the north end, and the garage
13 on the other house was on the south end. Now, when
14 I brought the homes over here I didn't put them
15 together like that or like that. I put them
16 together like this. (Indicating.)

17 MS. MOORE: Like a T?

18 MR. ROGERS: Yes. Well, it's kind of
19 like a lazy T. The purpose for that, number one,
20 was Russell zoning, side yards, setbacks, where I'm
21 going to have parking, where does the ambulance go
22 if it has to come and pick up Grandma, where are
23 the other people going to go, where are the
24 caretakers going to park, are they going to block
25 the ambulance, are they going to block the fire

1 department, the fire trucks. So I put them
2 together like that. And there was no convenient,
3 simple way to do that and I spent a lot of time
4 thinking about that and then I said, well, I'll
5 just put them about that far apart and continue the
6 roof across and that's what we did.

7 MR. BOUCHEK: Did you have any design
8 input from somebody else to help you with that
9 task.

10 MR. ROGERS: You mean like an engineer
11 or --

12 MR. BOUCHEK: Engineer or designer or
13 architect or anything like that?

14 MR. EVENCHIK: I was in high school,
15 don't look at me.

16 MR. ROGERS: I had a professional
17 engineer.

18 MR. EVENCHIK: What are you
19 presenting, is that your professional engineering
20 card?

21 MR. ROGERS: This is my professional
22 engineering license registered with the State of
23 Ohio. My license expires on December 31st of 2017.

24 MR. BOUCHEK: Okay.

25 MS. MOORE: I had a few follow-up

1 questions. Do you provide cable?

2 MR. ROGERS: Cable TV? Yes, I do.

3 And the reason I do that is because it gives the
4 building access to the Internet and if people want
5 to communicate with me they can communicate
6 directly if they want. Nobody has abused that
7 privilege, but --

8 MS. MOORE: How many cable boxes do
9 you have inside the home?

10 MR. ROGERS: One.

11 MS. MOORE: Where is it located?

12 MR. ROGERS: It's in that hallway that
13 goes around through the garage into the rest of the
14 basement.

15 MS. MOORE: Are there any splitters
16 coming off the box?

17 MR. ROGERS: It's all WiFi.

18 MS. MOORE: So all of the tenants can
19 access the cable through the WiFi?

20 MR. ROGERS: Right.

21 MS. MOORE: How about trash service?

22 MR. ROGERS: I have a dumpster there.

23 MS. MOORE: One dumpster?

24 MR. ROGERS: Yes.

25 MS. MOORE: All tenants can use

1 dumpster?

2 MR. ROGERS: Yes.

3 MS. MOORE: What about mail service?

4 MR. ROGERS: Everybody is expected to
5 have a post office box.

6 MS. MOORE: Is there any regular U.S.
7 Mail delivery to the property?

8 MR. ROGERS: Not that I'm aware of.

9 MS. MOORE: What is the address of the
10 property?

11 MR. ROGERS: Street address?

12 MS. MOORE: Yes.

13 MR. ROGERS: 8380 Kinsman.

14 MS. MOORE: Is there only one U.S.
15 Mail address to that property?

16 MR. ROGERS: No one's ever asked me
17 that.

18 MS. MOORE: I'm assuming the answer is
19 yes given that you just gave the address?

20 MR. ROGERS: Yeah.

21 MS. MOORE: Now, when Pat pays you
22 rent, does he pay cash or check generally?

23 MR. ROGERS: They put their money
24 together and put it into a direct deposit to a
25 special account I have for them.

1 MS. MOORE: What do you mean by that?

2 MR. ROGERS: It's an account at -- I
3 forget the name of the bank. I don't have any
4 other accounts at that bank. It's an account where
5 you go on the Internet and you transfer the money.
6 Or sometimes Pat takes all the money and cash and
7 takes it over there and deposits it.

8 MS. MOORE: Okay. So you have an
9 account that the tenants can tender their rent to
10 each month?

11 MR. ROGERS: Yes.

12 MS. MOORE: And your testimony is that
13 sometimes they do it separately and sometimes they
14 do it together?

15 MR. ROGERS: I really don't keep track
16 of that. I don't know whether they go over there
17 in cash or whether they direct from a checking
18 account. It's immaterial to me. I look on the
19 Internet for what the balance is in that account
20 and I know whether it's there or not. I also have
21 an ATM card I can go there and check it.

22 MS. MOORE: So as you're here today
23 you don't know for certain whether they deposit
24 together or whether they deposit separately?

25 MR. ROGERS: I'm under the impression

1 that sometimes they do it separately, but most of
2 the time they just give it to Pat.

3 MS. MOORE: For Pat to take it in?

4 MR. ROGERS: Yeah.

5 MS. MOORE: And did Laura, to your
6 knowledge, know Pat, Jim, or Sue before she lived
7 there?

8 MR. ROGERS: I have no idea. I assume
9 not, but I have no idea.

10 MR. GOKORSCH: Excuse me one second, I
11 want to go back to a statement here. This direct
12 deposit account, do you own this account, this is
13 your account?

14 MR. ROGERS: Yes.

15 MR. GOKORSCH: Do you get statements
16 from this account? Do they provide you either
17 online --

18 MR. ROGERS: I can see it on the
19 online.

20 MR. GOKORSCH: Do the statements show
21 deposits going in or out?

22 MR. ROGERS: Yes.

23 MR. GOKORSCH: When the deposits are
24 going in and out, do they go in in a \$2,600 chunk
25 or do they go in 1,000, 1,000 and 600 chunks or in

1 a mix?

2 MR. ROGERS: Sometimes they do and
3 sometimes they don't. It depends on --

4 MR. GOKORSCH: So the answer is it's a
5 mix?

6 MR. ROGERS: -- who is home at what
7 time. And Pat works for Rockwell Automation, they
8 send him all around. He's an advanced computer
9 software security programmer, he's kind of quiet,
10 closed lips --

11 MR. GOKORSCH: But to be clear, right,
12 you said -- the question is, does the ledger
13 entries into the account go in 2,600 January; 2,600
14 February; 2,600 March? Or do they go in 1,000,
15 600, 2,600, is it a mix?

16 MR. ROGERS: It depends. Sometimes it
17 does and sometimes it doesn't. If they give it --
18 if Pat doesn't have it all at once, then he doesn't
19 make it all at once. Or if Pat's out of town then
20 they go put it -- they have the access to go put it
21 in there. Every once in a while they give me cash.

22 MS. MOORE: When it's all together
23 there's no way for you to know whether it's
24 deposited in one deposit check, three separate
25 things, or whether it's all one lump sum, is there?

1 MR. ROGERS: Probably not.

2 MS. MOORE: Now, based on your
3 testimony it appears as though none of the current
4 tenants lived there in either 2000 or 2002; is that
5 correct.

6 MR. ROGERS: I guess so.

7 MR. GOKORSCH: Any other questions
8 from the board?

9 MR. GRASSI: I was curious, do you
10 have a problem with one not paying or one being
11 late and the others put them in or -- you know,
12 it's great that they all can get together and pay
13 the rent on time. I didn't know if that would be a
14 problem, you know, with one paying late or one not
15 having it. I'm just asking, you know, it's pretty
16 nice they all put it together and deposit it.

17 MR. ROGERS: You know, they're pretty
18 good.

19 MR. GRASSI: Okay. If it's working,
20 it's working.

21 MR. DOWNING: Peter, so then are you
22 telling us that when the deposits go in, you don't
23 really know who made the deposits? How do you keep
24 track of who paid and who didn't?

25 MR. ROGERS: When it adds up to the

1 total I know everybody paid. When it doesn't add
2 up to the total I have to make some phone calls.

3 MR. GRASSI: Who do you just -- who do
4 you know to call?

5 MR. ROGERS: I call them.

6 MR. GRASSI: All three of them?

7 MR. ROGERS: Usually I call Pat first.

8 MS. JACOB: If I might, just to
9 clarify, you've mentioned Laura, Pat, Jim and Sue.
10 Does anyone else live on this property?

11 MR. ROGERS: No.

12 MS. JACOB: So are there any children
13 living on this property?

14 MR. ROGERS: No.

15 MS. JACOB: Okay. Just so it's on the
16 record, and I'm not sure, somebody might have
17 already said this, are Jim and Sue related to Laura
18 by blood or marriage?

19 MR. ROGERS: Not that I know of.

20 MS. JACOB: Is Laura related to Pat by
21 blood or marriage?

22 MR. ROGERS: Again, not that I know
23 of.

24 MS. JACOB: You mentioned, if I might
25 go back, that you put the property, the two houses

1 together so that your mother might live there. And
2 you did this in around '94, '95. Did your mother
3 ever live at that property?

4 MR. ROGERS: No.

5 MS. JACOB: When did your mother live
6 at 8230 Fairmount Road?

7 MR. ROGERS: She moved in there when
8 the building was built and I helped build it.

9 MS. JACOB: Which was roughly?

10 MR. ROGERS: 1959.

11 MS. JACOB: And how long did she live
12 there?

13 MR. ROGERS: I lived there six years.

14 MS. JACOB: How long did your mother
15 live there?

16 MR. ROGERS: You know, she lived there
17 all the rest of her life, let's see, from 1959
18 until 1997.

19 MS. JACOB: May I ask why didn't she
20 move into the property at issue today?

21 MR. ROGERS: Well, her health changed
22 and it was no longer an advantage to have the
23 wheelchair ramp because she couldn't get in and out
24 of the wheelchair, couldn't wheel herself around.
25 And we determined it was better to leave her at

1 Fairmount, and then she ended up living in the
2 hospital a lot. My mother stopped smoking when she
3 was 26 years old and she died of lung cancer at age
4 80 and it took her eight years to die.

5 MS. JACOB: So your mother never lived
6 though at this property?

7 MR. ROGERS: No.

8 MS. JACOB: Just again you said only
9 those four people that you have mentioned live in
10 this property, no children?

11 MR. ROGERS: Her cat lived there.

12 MS. JACOB: Okay. Thank you.

13 MR. GOKORSCH: Any other questions?
14 Do we have any input from the zoning inspector?

15 MS. STEFFEN: Yes, I have one or two
16 things. When I did my inspection on Friday, the
17 22nd of April, I did observe some locks inside on
18 doors in the house. That door that goes from a
19 hallway to the east side area, there was a lock on
20 that door. I thought there was a lock. I did take
21 photos, and I can pass them along. You can't tell
22 very easily on the one that it is a lock, but I'll
23 pass them on, on page 3.

24 MR. BOUCHEK: When you say a lock,
25 keyed lock?

1 MS. STEFFEN: I would say a keyed
2 lock.

3 MR. EVENCHIK: Do you have photos that
4 I can see as well?

5 MS. STEFFEN: The other door I did
6 observe a lock was the lock from the basement area
7 between the basement apartment or living space into
8 the garage area.

9 And then some of the testimony about
10 when people lived there, in 1999 Mr. Rogers said a
11 single woman lived there alone. 1999 was when we,
12 the zoning office, received a complaint from the
13 neighbor, Mr. and Mrs. Cholewa saying that there
14 was another second family I guess moving into the
15 house, and this was dated November 3rd, 1999. So
16 they were complaining because they understood that
17 there were two families now living in that
18 building.

19 In 2000 Mr. Rogers said that his son
20 and daughter-in-law were living there until 2004.
21 In 2002 we received a complaint from Mr. Cholewa
22 and also from Mr. Butters that there were more
23 families there. And that was when the zoning
24 inspector, Rick Machnics at that time, did go and
25 inspect. And I did go with him actually at that

1 time. We were told that there was no tenants there
2 when we went in there, but we were told that there
3 was, I believe, a mother and daughters living
4 there. One of the daughters was an adult and had a
5 separate space, but everybody had the same name. I
6 was certainly never aware at that time that
7 Mr. Rogers' son and daughter-in-law were there.
8 Their names were never brought up. There was
9 nothing in our record on that. They may have been
10 using the office that was then in the basement, I
11 don't know about that.

12 Also in 2002 when we went there the
13 living space that's now in the basement was not set
14 up as that. It was set up as offices.

15 MR. BOUCHEK: What year was that?

16 MS. STEFFEN: That was in 2002.

17 MS. MOORE: Before you go on, the
18 document with the pictures, can we mark that
19 Exhibit 1.

20 MR. BOUCHEK: Can we see the photos
21 please.

22 MS. JACOB: May I ask a question while
23 you're looking at the photos? Just to follow up,
24 Diana, you said that in 2002 the living space, what
25 is now the living space in the basement was set up

1 as offices. Can you describe what changes you
2 witnessed when you were there Friday?

3 MS. STEFFEN: Well, at that time it
4 may have been one room and another room off it. It
5 just had a few desks in there. It was basically
6 empty. I don't know that it was being used for
7 office at that time. Since then when I went and
8 inspected on Friday I would say that the kitchen
9 area, I'm not sure if that was there before or not.
10 I didn't notice it before. We didn't notice a
11 refrigerator or anything like that at that time,
12 but it's there now. And of course there's the
13 bedroom set up there and a bathroom, and I don't
14 know if there was any sort of bathroom or not.

15 MS. JACOB: To your recollection those
16 items weren't there in 2002?

17 MS. STEFFEN: I can't say they were or
18 weren't there. I can't tell you, but I would say
19 that the kitchen was not set up like that.

20 MS. JACOB: Was there a bedroom?

21 MS. STEFFEN: No, I don't believe so.
22 The room was there, but I don't believe there was a
23 bedroom set up.

24 MR. GRASSI: May I ask, was there a
25 table to eat in that area, like a kitchen table in

1 the basement?

2 MS. STEFFEN: Now?

3 MR. GRASSI: Now when you observed
4 when you went Friday or whatever day it was.

5 MS. STEFFEN: I don't know that there
6 was a kitchen table. There's a living -- big
7 living room and a bedroom and bathroom and the
8 kitchen is on the side going towards the garage
9 part. So it's sort of set off in a corner, it's
10 very small.

11 MS. MOORE: Did it appear that there
12 were three separate living areas within that
13 structure?

14 MS. STEFFEN: That's how I would
15 interpret it, yes, that there were.

16 MS. MOORE: What led you to have that
17 impression?

18 MS. STEFFEN: Because the west side
19 apartment, Mr. Rogers told me that the lady that
20 lives in that one, Laura, uses the back door from
21 the hall to come into that one. And then she has
22 what I would call a sort of glass and wood door to
23 go actually into her part, that apartment. There's
24 the door going into the east side one that
25 certainly can be locked. And Mr. Rogers told me

1 that the gentleman in there, Pat, he uses the upper
2 garage that's there and so he comes in that garage
3 door and that's his entrance and exit. And there
4 was also -- in fact, on that, you'll see it on that
5 drawing that I gave you, but on the back of the
6 whole building off the corner of the garage door,
7 off the -- facing north, there's a man door which
8 actually is a very nice red, looks like a front
9 door, has a nice lock on it and a doorbell and it
10 looks like a front door. So I assume that visitors
11 would come to that one whereas he would drive
12 straight into the garage.

13 MS. MOORE: Does it appear that all
14 three kitchens were in use or were any of the
15 kitchens not being utilized?

16 MS. STEFFEN: I would say they were
17 all being used. Oh, and the basement apartment,
18 the only way it appeared that you could -- when I
19 went there to try and hand the tenants the legal
20 notice so they would know about this hearing, I
21 knew there was somebody downstairs in the basement
22 because I could hear music, but the only way that
23 we could find -- I could find any way to get there
24 was to go around to the side to those patio doors.
25 I don't know how you would go in otherwise without

1 going through the storage area.

2 MR. GOKORSCH: That was the basement
3 exterior patio door?

4 MS. STEFFEN: Right, facing west.

5 MS. JACOB: Did you knock on other
6 doors?

7 MS. STEFFEN: Yes, knocked on -- yes,
8 all of the doors, in fact, that go outside except
9 the one that's going to the big garage in the
10 basement.

11 MS. JACOB: Did you ring a doorbell?

12 MS. STEFFEN: Tried to, yes, yes.
13 Nobody was home except the person in the basement.

14 MR. GOKORSCH: Did you talk to the
15 person in the basement?

16 MS. STEFFEN: Yes, briefly, yes. He
17 said, you know, I think he said he and his wife, I
18 can't remember, but certainly a couple living there
19 because he said they wouldn't be able to make the
20 meeting tonight, they both work. He did mention he
21 thought there were people living upstairs. He
22 didn't -- it didn't seem like he knew them
23 particularly, didn't give names.

24 MR. GOKORSCH: This was the basement,
25 Jim and Sue?

1 MS. STEFFEN: Yes.

2 MR. GOKORSCH: They said they didn't
3 know who was living above them.

4 MS. STEFFEN: He just said that there
5 was a woman up there and a man, you know, they were
6 away a lot.

7 MR. GOKORSCH: He didn't say it was a
8 relative or anybody that he knew?

9 MS. STEFFEN: No.

10 MR. GOKORSCH: Okay. Anything else
11 from the zoning inspector?

12 MS. JACOB: May I ask a follow-up?
13 Were there any indication anyone else lived at the
14 property besides Jim, Sue, Laura and Pat?

15 MS. CALTA: The only indication was
16 that there were a few children's sort of toys, one
17 of those turtle sandboxes I think maybe, and there
18 were a few toys outside, maybe some chalked areas I
19 think, you know. Just looked like there was a
20 little area on the grass that children played.

21 MR. GOKORSCH: Okay. Any other
22 comments from the board? Any comments from the
23 audience?

24 MR. EVENCHIK: Can I ask the zoning
25 inspector a couple questions since she just

1 testified?

2 MR. GOKORSCH: Of course.

3 MR. EVENCHIK: So you were actually
4 down there in 2002, so I didn't realize you've been
5 with -- when did you start with Russell Township
6 Zoning?

7 MS. STEFFEN: 1992.

8 MR. EVENCHIK: When you were down
9 there in 2002 you said it was set up as a basement.
10 Does that mean that space was finished in 2002?

11 MS. STEFFEN: Where the basement
12 living area is now?

13 MR. EVENCHIK: Yes.

14 MS. STEFFEN: Yes, it was finished.

15 MR. EVENCHIK: And is there access if
16 you come down -- we've all talked about this kind
17 of center corridor when you come in. If you go
18 down those stairs, go through the garage, cul
19 through the garage, there is access to that
20 finished area in the basement level, correct?

21 MS. STEFFEN: Yes, there's a door
22 there.

23 MR. EVENCHIK: And was that door there
24 when you inspected in 2002, that same access was
25 available in 2002?

1 MS. STEFFEN: I don't remember.

2 MR. EVENCHIK: You don't remember,
3 okay. And the doors that you testified about the
4 locks, do you recall if those sorts of what
5 Mr. Rogers testified to, kind of the push button
6 with the ice pick key locks, do you recall those
7 being there in 2002?

8 MS. STEFFEN: We weren't looking at
9 locks at that time. I don't know, no. I was just
10 accompanying the zoning inspector.

11 MR. EVENCHIK: But the zoning
12 inspector in 2002 was there because the allegation
13 was there were multiple families living in the
14 unit, correct?

15 MS. STEFFEN: Right.

16 MR. EVENCHIK: And the zoning
17 inspector in 2002, seeing whatever condition it was
18 in then, concluded that the zoning was not being
19 violated, correct?

20 MS. STEFFEN: Well, you're right, yes.

21 MR. EVENCHIK: Okay.

22 MS. STEFFEN: We were told that the
23 people living there had the same last name and
24 were, in fact, all living together. But we were
25 not told that it was Mr. Rogers' son and

1 daughter-in-law.

2 MR. EVENCHIK: Okay. But if you had
3 been told in 2002 when you inspected that there
4 were four people, each with a different last name,
5 but they weren't related, but they put their rent
6 together at the end of each month, deposited over
7 to Mr. Rogers, and they each have access to the
8 whole building, that would have agreed with the one
9 economic unit definition in the zoning code,
10 correct?

11 MR. GOKORSCH: Sounds like conjecture.

12 MS. STEFFEN: We were never told that.

13 MR. EVENCHIK: You guys have asked
14 Mr. Rogers a lot of questions, I've given you a ton
15 of leeway. I think I need to be given the same
16 courtesy.

17 MR. GOKORSCH: So to be clear, you're
18 asking her if back in 2002 if she didn't know if
19 something was true?

20 MS. MOORE: I would have her read back
21 the question.

22 MS. JACOB: She was not the zoning
23 inspector at that point; is that correct?

24 MS. STEFFEN: Right.

25 MR. EVENCHIK: When you were there in

1 2002 were there multiple kitchens at the time, at
2 least two kitchens that you can recall?

3 MS. STEFFEN: Yes, I believe so.

4 MR. EVENCHIK: Okay. And all -- when
5 you were there in 2002 you could walk through, even
6 though you had to walk through the halls, you could
7 walk from space to space up and downstairs and
8 around to get to all the finished space, correct?

9 MS. STEFFEN: Yes, there were doors.
10 I don't remember the configuration. I'm sure it
11 was as it is now, but there were doors to get
12 through. So it did look like two different living
13 spaces, but again Mr. Rogers said it was all one
14 family, same name that were living there. And the
15 basement, of course, wasn't a living space at that
16 time.

17 MR. EVENCHIK: But if the basement had
18 been a living space at that time and it was all one
19 family, that would not have been a problem,
20 correct?

21 MS. JACOB: Objection. She was not
22 the zoning inspector.

23 MR. EVENCHIK: If it was one family
24 living there now, would it be a problem?

25 MS. STEFFEN: If it was one family,

1 no.

2 MR. EVENCHIK: It wouldn't be a
3 problem.

4 MS. STEFFEN: If it was according to
5 our definition.

6 MR. EVENCHIK: If there was one
7 mother, nuclear family, mother, father, and two
8 kids and each had their own section or however they
9 wanted to allocate it, that wouldn't be a problem,
10 correct?

11 MS. STEFFEN: Correct.

12 MR. EVENCHIK: Based on all the things
13 you see?

14 MS. STEFFEN: Correct, yes.

15 MR. EVENCHIK: Including potentially
16 whatever the push button ice pick locks on the
17 doors, that would also not make it a problem if one
18 family nuclear family was living there, correct?

19 MS. STEFFEN: If it was the push
20 button type lock.

21 MR. EVENCHIK: But you don't have any
22 photos that show it's not the push button type
23 lock?

24 MS. STEFFEN: One photo I did take I
25 would say, you know, I did see that I would say

1 that was a lock with a key that you would need a
2 key to use.

3 MR. EVENCHIK: But did you actually
4 see -- did you actually look at the doorknob and
5 see a place for a key?

6 MS. STEFFEN: Yes.

7 MR. EVENCHIK: You did. So if
8 Mr. Rogers was able to go take a picture of
9 whatever that lock is, if we went and looked at it
10 now and it wasn't a key, would that surprise you?

11 MS. STEFFEN: Yes.

12 MR. EVENCHIK: Okay. The same
13 situation now, we have four people living there,
14 they all pay rent at the same time, what's
15 different between four people living there and the
16 family that you said would be living there? What's
17 the difference?

18 MS. STEFFEN: The difference is the
19 people living there, there was one family living
20 there right now in the basement, a married couple
21 as far as we understand. And then there are two
22 single people living there. According to our
23 definition, if two of the people living there are
24 related, they are one family. So you can have that
25 family can be there, but the other people cannot.

1 MR. EVENCHIK: But under your
2 definition, your definition also, correct me if I'm
3 wrong, defines family. It says family includes a
4 number of people but not exceeding five living as a
5 single economic unit, right? So they don't have to
6 be related by blood, marriage or --

7 MS. MOORE: If you could read the rest
8 of that?

9 MS. STEFFEN: It goes on further.

10 MR. EVENCHIK: It says cooking
11 together as a single housekeeping unit, though not
12 related by blood, shall be deemed to constitute a
13 family under your zoning code, correct?

14 MS. STEFFEN: I believe there's more
15 to the definition.

16 MR. EVENCHIK: You can look it up,
17 that's fine.

18 MS. STEFFEN: I've got it here.

19 MR. EVENCHIK: I'll read the whole
20 thing. Number of persons, but not exceeding five,
21 living as a single economic unit and cooking
22 together as a single housekeeping unit, though not
23 related by blood, adoption, guardianship, or
24 marriage, shall be deemed to constitute a family,
25 exclusive of live-in hired employees.

1 MS. JACOB: Is that a question?

2 MR. EVENCHIK: Did I read that
3 correctly?

4 MS. STEFFEN: Yes, you did.

5 MR. EVENCHIK: So in this house when
6 this house was put together, you acknowledge there
7 were multiple kitchens from the get-go in this
8 house, correct?

9 MS. STEFFEN: I'm sorry --

10 MR. EVENCHIK: There were multiple
11 kitchens in this house from 1995 when those two
12 units were moved or whatever year it was when they
13 were moved from Solon, correct?

14 MS. STEFFEN: Well, I don't know from
15 that time except the plans do show two kitchens.

16 MR. EVENCHIK: Okay.

17 MR. GOKORSCH: I guess the question
18 for the zoning inspector is in your discussions
19 with the people downstairs, did you feel that this
20 is one economic unit and one family living in this
21 structure?

22 MS. STEFFEN: No.

23 MR. GOKORSCH: Thank you.

24 MS. JACOB: Diana, earlier you read a
25 1994 letter that I believe was from the then zoning

1 inspector to Mr. Rogers.

2 MS. STEFFEN: Yes.

3 MS. JACOB: Perhaps the BZA would like
4 to get that into evidence.

5 MR. EVENCHIK: 1994?

6 MS. STEFFEN: That was when the permit
7 was issued for the property.

8 MS. JACOB: She read that earlier.

9 MS. MOORE: If you can mark that as
10 Exhibit 2 for the record.

11 MR. DOWNING: Downing Exhibit 2?
12 What's 1?

13 MS. MOORE: 1 is the photos. Mr.
14 Evenchik, do you have a copy of the photographs?

15 MR. EVENCHIK: Yes.

16 MS. MOORE: Do you have a copy of
17 Exhibit 2, Diana?

18 MS. JACOB: Would you like to see it?

19 MS. STEFFEN: It would be in the
20 public records that I gave you.

21 MR. EVENCHIK: Is that what you read
22 in before?

23 MS. STEFFEN: Yeah, should be.

24 MR. EVENCHIK: I can get a copy.

25 MS. JACOB: There was a copy with the

1 materials we provided earlier.

2 MR. EVENCHIK: That's fine.

3 MR. GOKORSCH: Are there any other
4 questions from the board? Prosecutor, anything
5 else from the zoning inspector?

6 MS. STEFFEN: No.

7 MR. GOKORSCH: Do we have anyone else
8 in the audience that has anything to add to this
9 discussion? Please identify yourself.

10 MR. KAMINSKY: My name is Daniel
11 Kaminsky. I'm the treasurer of Hackamore Woods
12 Homeowners Association.

13 DANIEL KAMINSKY, of lawful age, called
14 for examination, being first duly sworn, as
15 hereinafter certified, testified as follows:

16 MS. DORKA: What's your address.

17 MR. KAMINSKY: It's 8430 Martingale
18 Lane, Novelty, Ohio, 44072. I didn't know exactly
19 what all these procedures are about, didn't know it
20 was a hearing. I was just given a letter saying to
21 come tonight if I had any questions or wanted to
22 listen to what you folks were going to talk about
23 today. Mr. Rogers bought the property back in
24 1994, '95, and at that particular point in time he
25 knew that there was -- this property was part of a

1 homeowners association and that it was -- had
2 certain deed restrictions within it, and one of the
3 restrictions was lot use. And it says according to
4 these deed restrictions that it was to, except as
5 otherwise specified provided in these covenants, no
6 lot shall be used for any other purpose than that
7 of a single-family residence and purposes
8 customarily incidental thereto. The intent of
9 that, of course, was to have a single family. What
10 he's described in his oral testimony today is that
11 he has three agreements with three people that
12 aren't related, okay. That sometimes they make
13 their rent together, sometimes they don't. It
14 doesn't really matter. He has three agreements.
15 He even did ads obtaining that information about
16 these people to rent to them separately. The fact
17 that they have a common space, if they do, is
18 irrelevant. It's in violation of his deed
19 restrictions of a single-family home.

20 It also says in the deed restrictions
21 that all leases need to be in writing. He's
22 testified that they're all oral agreements. And
23 part of the provisions in that lease has to say
24 that no sex offender will be allowed to occupy
25 those properties at any point in time.

1 It has come to my attention through
2 these proceedings that we as a homeowners
3 association will have to further our restrictions
4 and will take action to do so to make sure that all
5 leases are approved by the trustees prior to, but
6 that is not part of our deed restrictions as of
7 today. So I can't make that particular item.

8 So everything I hear today basically
9 says that this is a multi-tenant facility in
10 violation of his deed restrictions, and I ask this
11 board to rule against this type of use from
12 continuing. As my counterpart indicated at the
13 last meeting, this property is in violation of its
14 dues and hasn't paid I think going on nine, ten
15 years worth of dues, which is in violation of our
16 agreement which we have a lien against the
17 property. So I don't understand -- you know, I'm
18 just a poor little southern boy from southeast Ohio
19 in the Appalachians. When we had saw a duck, we
20 said, okay, must look like duck, if it quacked
21 then, by golly, it was a duck. This is definitely
22 a clear indication to me that this is a
23 multi-tenant, not a single-family property and
24 needs to be corrected as quickly as possible. I'm
25 glad that the zoning inspector let us know these

1 particular situations so that we can take
2 additional action if necessary.

3 MR. GOKORSCH: All right. I want to
4 make sure I understood from the homeowners
5 association. You said there are deed restrictions
6 on lot use, single-family only. You also said that
7 all leases must be in writing.

8 MR. KAMINSKY: Correct. I can give
9 you these as exhibits.

10 MR. GOKORSCH: To be clear, the BZA
11 does not enforce the homeowners association's deed
12 restrictions, right?

13 MR. KAMINSKY: Right.

14 MR. GOKORSCH: You'll have to take
15 that up independently.

16 MR. KAMINSKY: Correct.

17 MR. GOKORSCH: Okay. Thank you for
18 your input. Are there any other?

19 MS. MOORE: Did you have any
20 questions?

21 MR. EVENCHIK: No, I think the
22 chairman got it 100 percent.

23 CHARLIE BUTTERS, of lawful age, called
24 for examination, being first duly sworn, as
25 hereinafter certified, testified as follows:

1 MR. GOKORSCH: Name and address?

2 MR. BUTTERS: My name is Charlie

3 Butters, 14818 River Glen Drive, Russell Township,

4 44072. I ran for trustee in 2001, got my name all

5 over the papers, shot my mouth off, whatever.

6 Mr. Steve Cholewa, however you pronounce his name,

7 he contacted me in 2002 and said I need help. So

8 Steve contacted me and he was a little agitated.

9 He said he was not having any success going to the

10 trustees about this situation next door. He said

11 the thing that kicked it off was the Hackamore

12 Woods Homeowners Association prohibits any sort of

13 utility poles and his next door neighbor,

14 Mr. Rogers, was putting in a utility pole. And I

15 said, well, you know, I'd been involved with the

16 township for a while there and I said I know that

17 the township can't do anything about homeowners

18 association restrictions and all that. You're on

19 your own. He says, well, yeah, that's what I've

20 been hearing. He says, but another thing is I went

21 to -- he says he went to Adelphia, the cable

22 company at the time -- and I have three copies of

23 this. He says he got a copy of the work order that

24 had been given to -- over the phone to Adelphia.

25 MR. EVENCHIK: I've got a public

1 records and I think the article you have describes
2 exactly what Mr. Butters is talking about.

3 MS. MOORE: Do you want to see it?

4 MR. EVENCHIK: I don't want to see it.
5 I know exactly what he's talking about.

6 MR. BUTTERS: The service rep wrote
7 down, three-unit apartment, apartment unable to get
8 modem due to damaged cable. So he says, you know,
9 right here in black and white is Mr. Rogers
10 admitting it. I said okay. I said, I'll see what
11 I can do. I'm not afraid to go ahead and raise the
12 issue.

13 Meanwhile, I was looking into it and I
14 had the November 2001 election, I got a CD from the
15 board of elections at that time that gave the voter
16 lists, and I've got copies of these too. Here you
17 go, sir.

18 MR. EVENCHIK: What year is this from?

19 MR. BUTTERS: This is November
20 election 2001.

21 MR. GOKORSCH: Please mark it as
22 Exhibit 3.

23 MR. BUTTERS: At about the same time.

24 MS. JACOB: Mr. Butters, do you mind
25 if I backtrack? What year, when exactly was this?

1 MR. BUTTERS: November 2001 election.

2 MS. JACOB: Thank you, sorry.

3 MS. MOORE: Before you go there, what
4 is this document?

5 MR. BUTTERS: This is just a listing
6 of the voter records of registered voters.

7 MS. MOORE: Is this from a fuller
8 list?

9 MR. BUTTERS: Geauga County Board of
10 Elections from November of 2001.

11 MS. MOORE: Did you copy just a
12 portion of it to create this document?

13 MR. BUTTERS: Right. I asked them to
14 just print out this section from just on the other
15 side of Mr. Cholewa or whatever all the way up to
16 the corner to see who was registered in those
17 properties to vote.

18 MS. MOORE: Who is them that you asked
19 to print this out?

20 MR. BUTTERS: Geauga County Board of
21 Elections.

22 MS. MOORE: So an individual at the
23 boards of elections ran this list after you asked
24 for certain addresses to be run?

25 MR. BUTTERS: Correct.

1 MS. MOORE: This is the document that
2 you received?

3 MR. BUTTERS: This is the document
4 that I received.

5 MS. MOORE: Were there handwritten
6 marks on this document at the time you received it?

7 MR. BUTTERS: Yes.

8 MS. MOORE: Do you know whose
9 handwriting that is?

10 MR. BUTTERS: No, it's somebody at the
11 board of elections. And it just shows several
12 people, the 8380 to 8398 numbers, and I brought
13 this up to the board of elections, any address of
14 8398, that is not a building that has tenants, it's
15 not set up -- doesn't have a permit to have people
16 living there. And so you see there's a Laura
17 Barnett, James Becker, Pilar Mata and Sandra A.
18 Mata. And so those four people were registered and
19 I brought this up, that's why the board of
20 elections responded to me. I said, here is a
21 violation of election law to have somebody
22 registered with an improper address.

23 MR. GOKORSCH: Is this information
24 here in public record at the board of elections,
25 Charlie?

1 MR. BUTTERS: Yes.

2 MR. GOKORSCH: Okay.

3 MR. BUTTERS: And at the same time I
4 had just signed up with Huntington Bank to get a
5 terminal for my business for credit card
6 processing. And there was a woman named Sarah, I
7 believe it was Roth, and she came and did the
8 install at my house in my office in the house. And
9 I would take credit cards occasionally over the
10 phone from some of my customers. And I was talking
11 to her and she says, oh, yeah, I live up there at
12 8380. So that's one of the reasons why I ran this,
13 to see if she was registered to voted. So I knew
14 that her -- she was living there at the time. This
15 was early 2002, late 2001, and then I got another
16 phone call from a lady that lived there named Mari
17 Mata. And she was very agitated, and I said, well,
18 what's going on? And she said she lived there with
19 her at least one daughter, maybe two daughters, and
20 she says that they've had problems with their
21 phones, their phone line, and sometimes they pick
22 it up and there would be a modem tone like
23 something was going on. She said she went down the
24 basement and checked and somebody had tapped onto
25 her phone line. I said, Wait a minute, you know,

1 call the police, get this on record. There's
2 nothing I could do about this. So there was all
3 this stuff going on at that time and so then I
4 wrote the letter to the zoning inspector, you know,
5 on behalf of Steve to see if there's anything that
6 could be done, and so he wrote back the letter that
7 he had.

8 Now, one thing that I noticed earlier,
9 the definition of a family back in 2002 is
10 different than the definition of family today.
11 There was nothing about economic unit mentioned in
12 the definition in 2002. Because I also went to the
13 zoning commission and I said we have a problem
14 here, our definition according to -- everybody
15 knows that that's a multi-family apartment building
16 over there, and yet the zoning inspector can do
17 nothing. Is there anything we can do? They spent
18 some time in the zoning commission discussing this,
19 and I'm sure they'd be happy to chat with you about
20 that.

21 MR. GOKORSCH: On this point of the
22 zoning, we do have someone here tonight. Do we
23 know when the zoning law was changed, where it was
24 changed?

25 MS. STEFFEN: 2012, I think.

1 MR. GOKORSCH: There was a
2 modification to definition of family in 2012?

3 MS. STEFFEN: Yes.

4 MR. GOKORSCH: Thank you.

5 MR. BUTTERS: So that's just my
6 experience with it. Like he said, it walks like a
7 duck, quacks like a duck, it's a duck.

8 MR. GOKORSCH: Thank you, Charlie.
9 Anything else?

10 MS. MOORE: Mr. Evenchik, any
11 questions?

12 MR. EVENCHIK: When you sent your
13 letter in 2001 or submitted stuff in 2001 you
14 submitted whatever this Adelpia exhibit was back
15 then as well, correct?

16 MR. BUTTERS: Yes.

17 MR. EVENCHIK: So that was something
18 that whoever was in charge of making decisions back
19 in 2001, 2002 would have had potentially in their
20 files at the time they sent out whatever letter
21 they sent out in 2002 to you, correct?

22 MR. BUTTERS: Correct.

23 MR. EVENCHIK: You're not a lawyer; is
24 that correct?

25 MR. BUTTERS: No.

1 MR. EVENCHIK: I don't have any other
2 questions.

3 MR. GOKORSCH: Just for the zoning
4 secretary, do we have a copy of this in our files?

5 MS. STEFFEN: Yes, we do.

6 MR. GOKORSCH: Thank you.

7 MS. STEFFEN: The exhibit that
8 Mr. Butters gave should be a separate exhibit from
9 him, not part of the township.

10 MR. GOKORSCH: Yes, we're going to
11 mark that as Exhibit 4.

12 MS. STEFFEN: If it's Exhibit 4, isn't
13 that part of the township exhibits rather than a
14 separate one from him?

15 MR. DOWNING: We have BZA Exhibits 1
16 through 3.

17 MS. STEFFEN: But it's not a BZA.

18 MR. GOKORSCH: You're right.

19 MS. STEFFEN: It needs to be neighbors
20 or Mr. Butters.

21 MS. JACOB: Butters Exhibit.

22 MR. GOKORSCH: Let's clear that up.

23 MS. STEFFEN: So Exhibit 1 --

24 MS. JACOB: You can do Roman numeral 1
25 or something.

1 MR. GOKORSCH: Okay. Any other input
2 from the --

3 MARY SULLIVAN, of lawful age, called
4 for examination, being first duly sworn, as
5 hereinafter certified, testified as follows:

6 MR. GOKORSCH: State your name and
7 address.

8 MS. SULLIVAN: Mary Sullivan, 1307
9 Haverston Road, Lyndhurst, Ohio, phone number is
10 440-364-9590.

11 MR. GOKORSCH: Yes.

12 MS. SULLIVAN: I just wanted to say
13 that I actually responded to an ad for this address
14 for an apartment at this address, and when I met
15 Eileen at the house she actually used a key to get
16 into the apartment from the front entrance.

17 MS. MOORE: Back up just a little bit.
18 When was the advertisement that you responded to?

19 MS. SULLIVAN: When was it? Probably
20 maybe May or June of 2015.

21 MS. MOORE: Do you recall what the
22 advertisement said?

23 MS. SULLIVAN: Just that it was an
24 apartment in a country setting, blah, blah, blah,
25 two bedroom.

1 MR. GRASSI: Where was it advertised?

2 MS. SULLIVAN: Craigslist.

3 MS. JACOB: You said the advertisement
4 referred to two bedrooms?

5 MS. SULLIVAN: Yes, referred to a
6 two-bedroom apartment.

7 MS. MOORE: Did it talk about house
8 mates?

9 MS. SULLIVAN: No.

10 MS. MOORE: Did it talk about a
11 commune?

12 MS. SULLIVAN: No.

13 MR. GOKORSCH: You were going to say
14 something about reviewing or looking at the
15 apartment?

16 MS. SULLIVAN: So I met Eileen at the
17 house and we went through the front door and Eileen
18 used a key to get into the apartment and showed me
19 the apartment from -- we walked in from the
20 hallway.

21 MR. BOUCHEK: Can you clarify which
22 part of the house.

23 MS. SULLIVAN: It would have been on
24 the left from the center hallway, so I think that
25 would be the east apartment.

1 MS. STEFFEN: That would be the west.

2 MS. SULLIVAN: Yeah, that would be the
3 west, right.

4 MR. GRASSI: Which door did you enter.

5 MS. SULLIVAN: Front door faced 87.

6 MR. GRASSI: The one that's not been
7 used?

8 MS. SULLIVAN: Yeah, the one that
9 Jehovah's Witnesses.

10 MR. GOKORSCH: Let me be clear here,
11 you entered the front door of the hallway, right?
12 Into the hallway?

13 MS. SULLIVAN: Right.

14 MR. GOKORSCH: Then you used a key to
15 enter the apartment?

16 MS. SULLIVAN: Correct.

17 MS. JACOB: You said that Eileen
18 Rogers used a key on the front door; is that
19 correct?

20 MS. SULLIVAN: Yes.

21 MS. JACOB: Did she use a separate key
22 for the door to the apartment?

23 MS. SULLIVAN: I don't know if it was
24 a separate key, but it was a key to get into the
25 apartment. And I was shown the apartment and then

1 afterwards I was shown, you know, like through the
2 hallway and where the washer and drier were which
3 were down in the basement on the lower level and
4 told that, you know, who lived in the other
5 apartments. I was not told that I would be sharing
6 meals with them or any other communal living.

7 MR. GOKORSCH: Did you remember who
8 you were told who lived in the other apartments?

9 MS. SULLIVAN: I knew Patrick lived
10 there because Patrick was allergic to dogs and I
11 have dogs, so that was a problem. Besides him, I
12 didn't remember who else was there.

13 MR. GOKORSCH: Okay. And you decided
14 not to rent the apartment?

15 MS. SULLIVAN: Yes. Well, Patrick was
16 allergic to the dogs which might have been in the
17 hallway, which might have affected his allergies I
18 guess.

19 MS. MOORE: Can we have the actual
20 exhibit?

21 MS. JACOB: Exhibit 1-E, 2-E, or
22 excuse me E-2 rather.

23 MS. MOORE: Okay. Looking at Exhibit
24 E-1, you testified you came in the front door,
25 what's marked front door, correct?

1 MS. SULLIVAN: Correct.

2 MS. MOORE: Key was used to get into
3 that front door?

4 MS. SULLIVAN: Correct.

5 MS. MOORE: Then you turned left to go
6 into area labeled west side apartment, correct?

7 MS. SULLIVAN: Correct.

8 MS. MOORE: You testified that a key
9 was used to open that door to get into the west
10 side apartment, correct?

11 MS. SULLIVAN: That's correct.

12 MR. GOKORSCH: Thank you. Any other
13 comments? You didn't rent the apartment.

14 MS. SULLIVAN: No, I did not.

15 MS. MOORE: Was rent discussed with
16 you.

17 MS. SULLIVAN: Dollar amount?

18 MS. MOORE: Yes.

19 MS. SULLIVAN: Yes, it was.

20 MS. MOORE: Can you tell us what was
21 discussed with you in terms of the rent.

22 MS. SULLIVAN: Only the dollar amount
23 which was \$1,200 a month.

24 MS. MOORE: Did that include
25 utilities?

1 MS. SULLIVAN: We didn't get into it.

2 MS. MOORE: No discussion of
3 utilities.

4 MS. SULLIVAN: I wasn't that
5 interested.

6 MR. GRASSI: Was it in the ad, the
7 amount?

8 MS. SULLIVAN: I don't remember. I
9 don't think the dollar amount was in the ad. I
10 can't remember.

11 MS. MOORE: Was the space vacant when
12 you went into it?

13 MS. SULLIVAN: Yes, it was. Well, it
14 was totally furnished, so I don't know if somebody
15 was living there or not.

16 MR. GOKORSCH: Were you looking for a
17 furnished apartment?

18 MS. SULLIVAN: No.

19 MR. GOKORSCH: It was shown to you as
20 furnished, but you weren't expecting it to be a
21 furnished place.

22 MS. SULLIVAN: I guess I just assumed
23 somebody was still living there and ready, you
24 know, going to be moving out.

25 MR. GOKORSCH: It appeared like

1 someone was there?

2 MS. SULLIVAN: Yeah.

3 MS. JACOB: Did you know Pat prior to
4 that?

5 MS. SULLIVAN: No, I never met Pat
6 either.

7 MS. JACOB: You met him -- you heard
8 about him?

9 MS. SULLIVAN: Yeah.

10 MS. MOORE: Have you met Jim or Sue?

11 MS. SULLIVAN: No.

12 MS. JACOB: Safe to assume you're not
13 related to any of them by blood or marriage?

14 MS. SULLIVAN: No, I'm not.

15 MR. GOKORSCH: Any other questions?

16 MR. EVENCHIK: I don't have any
17 questions for Mrs. Sullivan, but when everyone's
18 done I would like to make some final remarks.

19 MR. GOKORSCH: Thank you. All right.
20 If there's no other input from the audience,
21 nothing other from the neighbors, past renters.
22 Would you like closing arguments?

23 MR. EVENCHIK: I would, yes. Thank
24 you.

25 We keep hearing the phrase, If it

1 looks like a duck and talks like a duck, it must be
2 a duck, right? So the question is, under your
3 code, what's a duck? You have a provision in your
4 code that as it exists today uses the concept of
5 one economic unit. As it existed, as we just heard
6 back in 2002 and is quoted in the letters here in
7 2002, what I marked as Exhibit D, it says, Any
8 group containing up to but not over five people
9 except that all people in the group who are related
10 by blood, marriage, or adoption shall be counted as
11 one family. So in 2002 your definition didn't have
12 any concept in there of one economic unit.

13 We've heard testimony today, and I
14 don't think anyone disputes it, that these two
15 homes came together somewhere between '94 and '95.
16 At the time they did, they had multiple kitchens.
17 So at the time the zoning was changed to include
18 the requirement in your definition of family that
19 they all cook together as a single household. This
20 building was already existing with two kitchens and
21 already in use with both of those kitchens, and so
22 I'm going to argue that that's a preexisting
23 non-conforming use to the extent that it existed
24 prior to the change in the zoning code.

25 But more importantly, you have

1 Mr. Rogers back here who in 2002, both in 2000 and
2 2002, had people look at his property. Complaints
3 were raised. The zoning inspector at the time came
4 out. The current zoning inspector was out there
5 even as part of that, although I understand she's
6 not the zoning inspector at the time, and they
7 looked and they issued letters and they gave
8 Mr. Rogers additional guidance. The question was,
9 what did it take to make a duck in 2000 and 2002,
10 and he got an answer. It's got to be a duck with
11 one front door, one electric meter, one gas meter,
12 passage between the two main sections of the house
13 without going outside, and whether a door's in
14 back, one door is a patio, whatever was placed in
15 these letters in 2000 and once again in 2002, the
16 identical criteria for a duck was put in there.

17 The 2000 letter was from the Zoning
18 Inspector William Mason, the 2002 letter was from
19 Zoning Inspector Rick Machnics. So you have two
20 different people giving this citizens other than of
21 property information on what it means to be a duck.
22 What it means to be able to operate this property
23 when you have people who are living there who are
24 unrelated. And he gave them those criteria. And
25 you haven't heard any testimony that these criteria

1 have been violated.

2 So at some point you guys are
3 responsible for crafting the zoning code -- I know
4 the BZA is not, but the township is, and when a
5 citizen looks at and tries to understand what the
6 code means and he gets this additional guidance in
7 the form of two letters and operates consistently
8 on that basis ever since, when the door gets
9 knocked on again in I guess 2016 with complaints,
10 but he's been doing the same thing, it's unfair.
11 It's inequitable. But he's not violating the
12 zoning code and he's not doing anything different
13 than in these two letters. So on that basis I
14 would ask that you affirm or grant his appeal and
15 find that the current living situation that you
16 heard testimony on with four people living there
17 doesn't violate the zoning code and that he can
18 continue to operate it as he has. Thank you.

19 MR. GOKORSCH: Anything else? One in
20 the back, if you could please raise your hand.

21 EILEEN ROGERS, of lawful age, called
22 for examination, being first duly sworn, as
23 hereinafter certified, testified as follows:

24 MR. GOKORSCH: State your name and
25 address, please.

1 MS. ROGERS: Eileen Rogers at 13965
2 Chillicothe Road, Novelty, Ohio.

3 MR. DOWNING: Could you step up a
4 little closer. You have a soft voice.

5 MS. DORKA: Could you give me your
6 address again.

7 MS. ROGERS: 13965 Chillicothe Road,
8 Novelty, Ohio.

9 When I showed Mary the space we did
10 come in through the front door and I did use a key
11 and I think we had a key on that door at that time
12 that matched that door. So it did have a key and I
13 fumbled with the keys. So we have lots of property
14 and I'm quite sure that that was the key that it
15 was, it was the front door key. So I don't know
16 how that fits with anything, but I should say that.

17 MR. GOKORSCH: Just to be clear,
18 you're saying you did indeed use a key to get into
19 the apartment as well as the front door and you
20 fumbled with it which is why you remember it. Is
21 that what you're saying.

22 MS. ROGERS: Right. I remember using
23 the same key on the door that was the front door
24 key.

25 MR. GOKORSCH: Okay. Thank you.

1 MS. ROGERS: Because we have lots of
2 keys, it's difficult to know which key goes where
3 and that's, you know, that is a problem. And I'm
4 sure that's why Peter doesn't have the key for the
5 front door because we can't keep all the keys
6 straight. That's why we don't have keys, so --

7 MR. GOKORSCH: One more question. The
8 reason you have lots of keys is?

9 MS. ROGERS: We have other properties.

10 MR. GOKORSCH: Oh, okay.

11 MS. MOORE: Mr. Evenchik, any
12 questions?

13 MR. EVENCHIK: No.

14 MR. GOKORSCH: Okay. If there's
15 nothing else, I think we'll move to close the
16 public hearing.

17 MR. DOWNING: I need you to come up
18 and sign your exhibits if you would please.

19 MR. EVENCHIK: Sure.

20 MR. GOKORSCH: Sign and date them.
21 Charlie, you need to sign and date these.

22 MS. MOORE: Your client marked on
23 them.

24 MR. EVENCHIK: He did mark on them but
25 they're BZA, they're zoning inspector exhibits that

1 he marked on. I can't authenticate. I don't know
2 where they came from. I'll acknowledge on the
3 record that he marked on those two exhibits, but I
4 didn't create those exhibits. Your zoning
5 inspector created those exhibits.

6 MS. STEFFEN: Normally we would call
7 those our exhibits.

8 MS. JACOB: So the exhibits previously
9 marked as E-1 and E-2 --

10 MR. GOKORSCH: Bear with us, folks.
11 We want to get this right.

12 MS. JACOB: These will be 3-A and 3-B
13 then.

14 MR. DOWNING: We have two exhibits
15 submitted by Mr. Charles Butters, Exhibit Number I
16 is a partial board of education voter list.

17 MS. JACOB: Board of elections.

18 MR. DOWNING: Board of elections from
19 November 1st, 2001, for addresses 8330, 8398, 8430
20 and 8310. And his Exhibit Roman Numeral II is
21 Adelphia Cable work order for the subject property
22 variance request 8380 Kinsman Road.

23 MR. GOKORSCH: Go through them all.

24 MR. DOWNING: Do you want to move each
25 one?

1 MR. GOKORSCH: No, we'll approve all
2 of them.

3 MR. DOWNING: Next exhibits are
4 Applicant's Exhibit A, which is a newspaper
5 article, Multiple Family House is a Matter of
6 Dispute. Exhibit B, Butters Zoning Charges All
7 Wet, newspaper article. Exhibit C-1 is a memo,
8 Peter Rogers file, from William Mason dated
9 February 3, 2000. C-2 is a letter from Mr. Mason
10 to Mr. and Mrs. Stephen Cholewa regarding property
11 8380, 8398 Kinsman Road.

12 MR. GOKORSCH: That's dated when.

13 MR. DOWNING: That's dated 2/3/2000.
14 February 3, 2000. D is a letter dated July 18th,
15 2002, from Zoning Inspector Rick Machnics to Peter
16 D. Rogers that he found no zoning violations during
17 his inspection and it's a two-part exhibit.
18 Attached to that is a letter to Charlie Butters
19 summing up his results of that inspection.

20 Chairman, I'll move --

21 MR. GOKORSCH: Don't we have anything
22 else?

23 MR. DOWNING: BZA Exhibit Number 1 is
24 photos taken by the zoning inspector of her, shall
25 we say, inspection, Diana, of the subject property

1 dated when?

2 MS. STEFFEN: 4/22. The date is on
3 the top, isn't it? Date should be on the top of
4 the pages.

5 MR. DOWNING: 4/22/16, showing photos
6 of the exterior and some interior shots of the
7 subject property, three pages consisting of 12
8 photographs. Too many exhibits today.

9 Exhibit 2 is the letter dated April
10 28, 1994, from William Mason to Peter Rogers
11 relative to the 8380 property being used as a
12 single-family dwelling. Exhibit 3-A and 3-B are
13 Diana's zoning inspector sketches of the floor
14 plans for the first floor and basement of the
15 subject property.

16 MR. GOKORSCH: It should be noted that
17 the Mr. Rogers annotated Exhibit 3.

18 MR. DOWNING: That's correct.

19 MS. MOORE: Just for the record, those
20 two documents had previously been marked as
21 Exhibits E-1 and E-2 and have now been relabeled as
22 Mr. Downing indicated.

23 MR. DOWNING: Okay. Mr. Chairman,
24 I'll move that we accept the subject exhibits.

25 MR. BOUCHEK: Second.

1 MR. GOKORSCH: All in favor?

2 MR. BOUCHEK: Aye.

3 MR. GOKORSCH: Aye.

4 MR. DOWNING: Aye.

5 MR. GRASSI: Aye.

6 MS. MOORE: Aye.

7 MR. GOKORSCH: Thank you. Okay. If

8 there's no other input, we'll close the --

9 MR. BOUCHEK: Mr. Chairman, I move to
10 close the public hearing for Appeal Number 492.

11 MS. MOORE: I'll second.

12 MR. GOKORSCH: All in favor?

13 MR. BOUCHEK: Aye.

14 MR. GOKORSCH: Aye.

15 MR. DOWNING: Aye.

16 MR. GRASSI: Aye.

17 MS. MOORE: Aye.

18 MR. GOKORSCH: At this time we'll
19 entertain a motion.

20 MS. MOORE: I'll move to deny the
21 appeal by Peter and Eileen Rogers for the property
22 at 8380 Kinsman Road, Novelty, Ohio, 44022, Appeal
23 Number 492, which alleges error by the zoning
24 inspector in determining that the use of the
25 residential property in the R-3 zone is in

1 violation of section 5.2.A.1, permitted uses in all
2 residential zones, a single, one-family dwelling
3 per lot.

4 MR. GOKORSCH: So to be clear here, an
5 affirmative vote says we deny the appeal.

6 MS. MOORE: Correct.

7 MR. GOKORSCH: Okay. I'd like to have
8 a roll call vote please.

9 MS. STEFFEN: Do we have a second?

10 MR. DOWNING: I'll second.

11 MS. DORKA: Mr. Boucek?

12 MR. BOUCHEK: Yes.

13 MS. DORKA: Mr. Grassi?

14 MR. GRASSI: Yes.

15 MS. DORKA: Mr. Downing?

16 MR. DOWNING: Yes.

17 MS. DORKA: Ms. Moore?

18 MS. MOORE: Yes.

19 MS. DORKA: Mr. Gokorsch?

20 MR. GOKORSCH: Yes.

21 As you're well aware, we have minutes
22 to be made available to you and we'll have findings
23 of fact made available. We will have the
24 transcripts made available. I want to thank
25 everyone that showed up tonight. This has been a

1 long night. I do appreciate the neighbors showing
2 up. It really does help. It really does matter.
3 I do appreciate Mr. Butters bringing in some data.
4 Sometimes you amaze me, Charlie. You must be a
5 packrat. Thank you all. Thank you all for
6 attending. We have other business. You don't have
7 to stay for our business.

8 MS. STEFFEN: Mr. Chairman, do you
9 need the court reporter to be here any longer?

10 MR. GOKORSCH: No, I do not.

11 (Off the record at 9:13 p.m.)
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C E R T I F I C A T E

I, Kimberly K. Giel, Registered Professional Reporter, do hereby certify that the above proceedings were taken down in stenotypy and transcribed by me using computer-aided transcription and that the above is a true and correct transcript of said recording.

So certified this 9th day of May, 2015.

Kimberly K. Giel, RPR
Notary Public - State of Ohio
Commission expires July 16, 2016.