

PLANNING, ZONING & BUILDING COMMISSION

CITY HALL

December 14,

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The City of Cortland Planning, Zoning & Building Commission met on Monday, December 14, 2020 at 6:40 P.M. electronically via Zoom Video Conferencing. In attendance were the following board members: Chairman Curt Moll, Sally Lane, Don Bell, Don Fatobene and Brian Hodor. Also present were Mayor Deidre Petrosky, Law Director Patrick Wilson, Service Director Kim Blasco and the following individuals:

Jeff and Heidi Jardine	4494 Warren Sharon Rd.	Vienna
Kevin Piros	Councilman	Cortland
Lou DeSimone	4833 Darrow Rd	Stow
James Westbay	570 Fowler St.	Cortland
Guy Young	359 Deer Creek Trl	Cortland
Gerry Bayus	Lechrone	Cortland

Curt Moll: It's 6:40, I'd like to call to order **29-20 Public Hearing for Variance Request** – to build slabs on foundations at Hawks Landing. Who is here to speak to this?

Jeff Jardine: Thanks for inviting us here tonight, we appreciate it. My name is Jeff Jardine and this is my wife Heidi. We own the development Hawks Landing. We currently have 8 units built; that's 4 buildings completed. I say completed meaning, they are framed, have windows, are roofed, and have insulation and drywall going on in three of the buildings, leaving the fourth one for us to finish over the winter. What we have learned from constituents and a lot of people. Actually some coming up from your office, is that a lot of the folks are saying that they don't even need stairs to climb. Some of them definitely are for basements but some of them don't need basements. Me and Heidi had talked about that early on. Then, we have a wood shortage that has plagued us for the first 8 units. Basically, it's very difficult to get wood. It's 4 times the amount of money for the wood as when we initially started this idea. We just started thinking; we have half of them done with full basements. If we switch the other half to a full foundation slab, we wouldn't have to buy the joists, sheeting, the decking, the glass block windows, the block layer would only have to do half of the courses, and the project would move along faster. The second part as to why we started thinking about this was the elevation issue. Mostly, I'm concerned with the entranceway; having to bring in fill and create this mound to cover the basement in the front; the last two buildings. I think that it is not going to be as pleasing to the eye. Rather than the way it is now, sloping. I think that it is set up really nice and it complements the way the ground lays. We thought a half and half thing would work out best for us. That is why we made the application.

Curt Moll: So the primary reasons are because of the elevation and the availability of materials to build it in the conventional way?

Jeff Jardine: Well yes. I could solve each of those issues, I could mothball the whole thing and wait until the wood gets back and finish it next year. I didn't want that to be an option. We have our team put together, we have our sales booking up for this spring and summer. The whole idea was to get on this and get it finished. I think that the community deserves that. Also, if we don't have to dig the basements, we won't have to truck metric tons of mud and clay out of there like we did the first time. It was summertime and the dirt was dry. Now that it's winter, I think that it would create a very, very messy situation on the road down there for the first mile; past Ainsley's, Burger King and CVS.

Curt Moll: Thank you. I'd like to open it up to anyone that has something to say in favor of the variance.

Jeff Jardine: Can I interrupt for a second?

Curt Moll: Sure.

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Jeff Jardine: I want to clear up the difference of foundations that we are putting in here. I don't want anyone to think that we are going to throw in some gravel and pour cement on it. Heidi and I intend to dig down to the frost line and put in the same footer that we put on all the other houses. We intend to lay up to two courses showing so that you won't even be able to tell the difference between what we have there and what we are building. We would then put in premium fill, set up the plumbing up properly, tamp everything and then pour the slab. I was asked the question when we did the visit on site; how were we going to do the garages. The garages would still be down lower and we'd take the 2 steps up into the house. It would be set up exactly like we have it set up now. All of the water lines and drain pipes are going to be run in conduit so that everything can be pulled out and changed; nothing will be poured in cement. The modern way to do these foundations is that you put the lines inside of conduit so that you can change them if there is ever any kind of problem. That's all I have to say, thank you.

Mayor Petrosky: Mr. Chairman, may I make a comment please?

Curt Moll: Yes, please.

Mayor Petrosky: The trip to which Mr. Jardine is referring, was a fact-finding trip only. There was no discussion and no decisions made. Second of all Mr. Jardine, could you go through the 6 factors that are going to be considered so that we can have them on record please?

Jeff Jardine: I'm looking for the list.

Kim Blasco: Check your inbox, I emailed them to you.

Jeff Jardine: #1 – There are special conditions and circumstances that are peculiar to the lands, structures or building involved which are not applicable to other lands, structures or buildings in the same district. We can approach that in a couple of different ways. In other districts, like right down the road in Howland, they are building slab foundations on hundreds and hundreds and hundreds of homes. Second, I do have a land and structure issue which I have discussed with you. Kim Blasco warned me about that going in; of the elevation differences when we were trucking all of the soil out. I do have a low area when I am pulling in and I don't want to have to build a house really high there. I think that it would ruin the view of the place and it won't look right. I'd have to bring in a lot of soil in and make a big mound just to cover the basement foundation. #2 – a literal interpretation of the provisions of this zoning ordinance would deprive the applicant of the rights commonly enjoyed by other properties in the same district, under the terms of this zoning ordinance. I don't think that anyone is depriving me of anything. I think this is a common sense approach to this. Whatever you guys decide, Heidi and I are just going to tough it up. I don't feel deprived of rights commonly enjoyed by the same district. I didn't do any studies on if you guys have done any other slab building permits since the ordinance has been put in. I don't have anything for that one. I don't feel like I'm being deprived of any rights. #3 – The special conditions and circumstances do not result from actions of the applicant. I don't think that I caused anything to make me come to you guys. I'm asking this because the COVID-19 thing caused a huge shortage of materials and still does to this day. We are still trying to acquire wood. Some of it comes in but, when we need wood, we require wood for whole building structures. We went to Carter Lumber first, we went to 84 Lumber and those two companies turned us away because of the massive volume buying that we were doing. We ended up making a deal on 46 with Lowe's. They are the company in our town that can even deal with us for the truss package, the lumber package, the LVLs and everything needed because of the way the lumber situation is and it is very very costly. The second thing is covering up the basement on the one side. You might be able to get two of the buildings in without that the problem but the last two are going to be circumstance to that issue I have. #4 – Granting the variance request will not confer, on the applicant, any special privileges that

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is denied by this ordinance to other lands, structures, or buildings in the same district. I don't see that as being an issue. I don't see that I have any special privileges. #5 – The variance request will be in harmony with the general purpose and intent of this ordinance and not be injurious to the neighborhood or otherwise detrimental to the public welfare. I'd like to think that the work that Heidi and I have done up there will enhance the property and the area of Cortland. I think that it's an improvement of the lot that we have owned there for the last 11 or 12 years. I don't think that it's bringing the neighborhood down. I don't think that whether it has a basement or a slab foundation has anything to do with it. I don't think that you'll be able to tell the difference other than the glass block windows. #6 – The variance request is the minimum variance that will make possible the legal use of the land, building or structure. Yes, that's what we have put through. We are not changing any floor plans, any sizes of buildings, we are not impeding on any easements that have been created, it's the exact same building. The only thing is that there will not be a set of stairs down to a basement.

Curt Moll: Thanks Jeff, I appreciate you going through that list. Is there anyone else to speak in favor of this variance? Do we have anyone that wants to speak against the variance?

Kevin Piros: I request the floor, Kevin Piros, 244 Greenbriar. I have received calls from multiple individuals in other areas of the city that are subject to development, whether ongoing or future developments. They are concerned that if variances are done for non-engineering and structural purposes, that this sets precedence and that other contractors will come and request the same variances in other parts of the city. 1125.15 ordinance was passed in 1996 that specified out; crawlspaces and/or a full basement. I'm not sure why it was passed and implemented back in 1996. I don't think that anyone is against a variance for structural or engineering restrictions but if it's for anything other than those 2 reasons, I don't think that it should be granted because of the precedence that it sets. I will leave it up to you guys but I would encourage it to be for something other than cost reduction or for selling purposes or whether or not they feel that people don't want a basement or crawlspace. It should be on structural integrity or engineering. Thank you.

Curt Moll: Thank you Kevin. Is there anyone else that would like to speak?

Gerald Bayus: Gerald Bayus, I'd like to hear from a couple of commission members thoughts on this.

Curt Moll: I was going to go into the '96 issue that Kevin brought up. I looked up the minutes from those council meetings and know that there were some Canfield references that were corrected; that's where we got the information. I also did some research on Canfield's current regulations. There was no discussion on this issue in those council minutes. I'm not sure what the rationale was other than Canfield had it in their ordinances. In Canfield's, the section that deals with foundations was passed in 2018 and 2008. Canfield has removed this reference from their zoning ordinance. I just wanted to point that out. I did not have Zoning minutes from 1996, I only had Council minutes. Any other board member comments?

Gerald Bayus: I would like to comment then. To back up some of what Kevin said; I've lived in the city for 30 years. I've seen some developments around here illegally put up structures on slabs that were not allowed. If you do research, slabs are not the general consensus in Northeast Ohio and the northern region of the country because of freezing, earth shifting and so forth. The Jardine's, I don't know you, I'm sure that your buildings are fine but, the fact that you are asking for a variance... Your first statement says it all; it is to save costs. Variances shouldn't be issued to save costs. Variances are there for a specific building purpose that can't fit what our codified ordinances say. If this board grants a variance for cost for you then, any other contractor in this city, for whatever reason they want. They are going to come and expect a variance and the precedence is

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going to be set. Then everyone is going to be granted that variance which deviates and violates our codified ordinances. That affects the city as a whole, it doesn't just affect one particular development. With respect to the wood, the dirt in the road, having to haul stuff in; that's all part of the preplanning process. You don't build half and then change your mind. You get approvals and work out issues with the city and get the proper permits before the project is started. From my standpoint, you have started the project, now the project needs to be followed through and not say we're going to save a bunch of money, so we'll ask for a variance.

Jeff Jardine: That's not all that I said.

Patrick Wilson: Mr. Bayus gets to finish his statement and then we move on. The Jardines don't get to debate him.

Gerald Bayus: I've finished, that's my comments.

Curt Moll: If there are no other comments, I'd like to ask for a motion to close this.

A motion to close **29-20 Public Hearing** was made by **Don Bell** and seconded by **Don Fatobene**.

Curt Moll: I'd like to call to order **28-20 Public Hearing for Zone Change** – Parcels 30-000011 and 34-106877 from C-1 (Central Business District) to R-M (Residential Multi-Family District). Is anyone here for this?

Lou DeSimone: Yes. 25 years ago, we put up a manufactured home facility up there. We had 4 model homes; brought the water and sewer up 4,000 feet. Put our development in, we had it open for 8 years, was successful then shut it down after 5 years. I want to change it from what I call Commercial to Residential Multi-Family. In the back of the 75 acres that I own is zoned that. We are doing that right now. Walnut Run is going to expand and put another 46 homes in the back. So I just want to change that to be Residential or Multi-Family.

Curt Moll: Is there anyone else that would like to speak for this zone change? Anyone that would like to speak against the zone change? Kim, are there any problems with changing this that you can see?

Kim Blasco: No, I don't see any problems.

Curt Moll: It's in a residential area. The rest of the properties along that road are residential. I think that we had it Central Business District to accommodate the kind of business that it was. I ask for a motion to close the public hearing.

A motion to close **28-20 Public Hearing** was made by **Don Fatobene** and seconded by **Sally Lane**.

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The City of Cortland Planning, Zoning & Building Commission met for the regular meeting on Monday, December 14, 2020 electronically via Zoom Video Conferencing. In attendance were the following board members: Chairman Curt Moll, Sally Lane, Don Bell, Don Fatobene and Brian Hodor. Also present were Mayor Deidre Petrosky, Law Director Patrick Wilson, Service Director Kim Blasco and the following individuals:

Jeff and Heidi Jardine	4494 Warren Sharon Rd.	Vienna
Kevin Piros	Councilman	Cortland
Lou DeSimone	4833 Darrow Rd	Stow
James Westbay	570 Fowler St.	Cortland
Guy Young	359 Deer Creek Trl	Cortland
Gerry Bayus	Lechrone	Cortland

Roll Call: Brian Hodor, here; Sally Lane, here; Curt Moll, here; Don Bell, here; Don Fatobene, here.

A motion to approve **Commission Minutes from the November 23, 2020** regular meeting was made by **Don Fatobene** and seconded by **Sally Lane**.

Roll Call: Don Fatobene, yes; Sally Lane, yes; Brian Hodor, yes; Curt Moll, yes; Don Bell, yes. MOTION APPROVED.

Curt Moll: The first item is **30-20 Variance Request** – to build slabs on foundations at Hawks Landing. Can I have a motion please.

A motion was made for 30-20 by **Don Bell** and seconded by **Don Fatobene.**

Curt Moll: Thank you. Can we please have the Jardines explain briefly what they want to do here again, then we can get that in the minutes.

Jeff Jardine: We would like to construct a slab foundation. We'd like to dig down below the frostline, lay a standard footer, lay 5 to 6 courses of block, bring in premium fill, tamp it. Have the premium fill up to the second course, have our plumbing installed in there, premium fill, tamp all of that in and pour a slab for the foundation of the home. The garage would be on a garage level, everything will be exactly like we have on the first 8 units. The only thing that is changing from the way it looks from the street is on the staircase is where we will have our heater and hot water tank. We did not change anything about the home other than we are not going to put a full basement underneath it.

Curt Moll: Will you briefly state the reasons for this request.

Jeff Jardine: The reasons are lumber shortages, cost of lumber, time and the constituents. We are noticing as we build on, a lot of the people are saying that they don't even want to walk down a set of stairs. We are in competition with the people down the street. We are getting a lot of the flow from that department verses ours. And I have an elevation issue with the upper part of the level and the lower part of the level. It is going to cause me to have to truck in soil and mound a big mound up, right where you come in, in order to cover an 11-course basement.

Curt Moll: So really, it's a sight issue.

Jeff Jardine: It will look a lot nicer if we can have a nice flow. It's an idea that we came up with. To be honest, I didn't even know that you had an ordinance like this in today's world. Most of the people are moving to this type of foundation in the state of Ohio and

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all around us now. It is a very common thing. They have fixed a lot of the issues of the old days of just pouring a slab and slamming the wood on top of it. It's going to be on a foundation that is going to be insulated, tamped and not prone to cracking and moving around. If you need to repair any lines or any drains, we'll be able to because I'm going to put them inside tubes.

Don Fatobene: Can you explain how it would look from the street and to the neighbors if you had to build the basement?

Jeff Jardine: It will be a huge mound of dirt. In order to keep the house on that level, we would have to do the 11-courses of block and we would have to raise that level way above the neighbor. We would have a mound of dirt coming up against the foundation. Kim talked to me about this early on. I was faced with leveling that lot off. We trucked out 7 or 8 feet of soil out of that 1 side of the lot just to make it a building lot. The foundation will be up and when you pull in, you would be looking at a dirt mound that I construct there. Right now you have a real pleasing view. It would block the view and it's not conducive to the land. If you tell me that I can't do them, I'm not going to. I'll just start building basements, I won't have a choice. I just think that this will be a lot smoother move for us and it's not going to hurt the community at all.

Brian Hodor: At what point, from start of construction to now, did you realize that you needed to make this adjustment? Since this was not part of the original plan.

Jeff Jardine: I had 2 construction plans and the city worked with me on this. I had a massive amount of soil that I trucked out of there. If you want to take a look at it, it's at Candywood Golf Course right now. It looks like Mt. Everest. I trucked out soil for 3 weeks and sometimes, 10 to 15 trucks at a time just to get it to be a buildable lot. I had to stop at some point. It used to be straight up. I wanted a nice, smooth entranceway and a pleasing drive around without huge elevation changes. There was a little finesse with that lot. To answer your question; it came to me after. I remember having to deal with the letters and emails from Trumbull Water & Soil about the amount of soil on the road. It was clogging the ditch. It was summer and it really was a big mess. We were constantly cleaning the road. We rushed to get the drains & tile in. We brought the sewer lines down from the main road to clean up that whole area. I learned from trucking out all of the basements from the first four; it's daunting. I didn't know that there was an ordinance that you couldn't do slabs. I'm coming to you guys with what I've learned and what I think.

Curt Moll: Kim, do you have any comment on this?

Kim Blasco: I don't object to either. The way that they are building; I don't object to it. Not really understanding why that ordinance is there; But what and how they are building; I do not object to it.

Curt Moll: Did you get any feedback from the Building Commission since they are the ones that really control this part of the construction?

Jeff Jardine: When Heidi and I started this, I called down to Mike Sliwinski who has been my building inspector for everything up there. He said to get him a revised foundation print and then build away. Things look great up there and thank you for everything that you are doing. I asked; should I call the city and tell them that I'm going to do that? His reply to me was; you don't need to call the city, that's my jurisdiction, it's approved, do it. I was talking to a fellow from Cortland and he said that I better call Kim. I did and that is when I found out that there was an ordinance to not do that (build on slabs). Kim said that I could apply for a variance so that's what I did.

Curt Moll: Okay, thank you. Any other comments?

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Don Fatobene: Yes, I think that as part of our duty...it's how it affects everyone else. The way that it has been described to us; it truly will look better not to build up the mounds of dirt. It will be better for the neighbors and for those living there. For me it's how it affects the overall community and the neighborhood itself. That's how I am looking at this.

Don Bell: Yes, I think that Donnie hit it on the head.

Curt Moll: When you first brought this up, I was extremely concerned about the slab foundations for the same reasons brought up earlier by Councilman Piros. Then I discovered that it would be built on a foundation, below the frostline and the provisions being made for the plumbing, which was another great concern of slab homes. The ability to make changes or repairs, I feel that both of those have been addressed. I'm not an engineer but I recognize what Donnie was talking about with elevation issues. I would not want to see a 10 or 15 foot retaining wall right on the edge of Rte. 46. It's bad enough that we have that big hill. I think that it will be an eyesore, so I agree with that. Anyone else with a comment? Roll call.

Roll Call: Sally Lane, yes; Brian Hodor, yes; Don Fatobene, yes; Curt Moll, I will vote yes but only under the condition that the foundations are constructed as indicated in his discussion today and that the plumbing is handled in the way that he described; in conduit so that it can be repaired. I would like that in the provisions of the variance. Don Bell, yes with the same conditions that Curt stated. **MOTION APPROVED.**

Curt Moll: I'd like a comment from you Patrick about the provisions.

Patrick Wilson: They are consistent with the requirements of Trumbull County's building code so, yes.

Jeff Jardine: Just so that I am clear, if I stay with Trumbull County Building Codes, then we are all in agreeance?

Curt Moll: We needed this variance because of our ordinance. You *must* stay within Trumbull County's building codes because that is what our ordinances say.

Jeff Jardine: How do I prove the stipulation that I totally agree to? I believe that Trumbull County has the same thing. Do I take pictures and bring it to you or is the Trumbull County inspections good?

Curt Moll: The Trumbull County inspection will be okay. Kim can coordinate that.

Kim Blasco: The plans that were submitted to the building department, the things that you stated tonight, should be on your prints. That's what will be expected on inspection, materials and everything.

Jeff Jardine: Yes, I understand. I was talking about the conduit; I think that Trumbull County makes you have that these days. If I have that on the prints, is that as far as I have to go with this body?

Curt Moll: Yes.

Mayor Petrosky: If you call Kim and she can see it with her own two eyes that it's been done.

Jeff Jardine: Yes, okay. I invite all you guys up there, we'd be glad to show you around. Thank you.

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Curt Moll: Moving along, I'd like a motion for **31-20 Zone Change** – Parcels 30-000011 and 34-106877 from C-1 (Central Business District) to R-M (Residential Multi-Family District).

Don Bell made a motion for **31-20**, seconded by **Don Fatobene**.

Curt Moll: Mr. Desimone for the record, tell us again what you had told us during the public hearing. We lost him. We will table 31-20 until we get him back. I need a motion for **32-20 Zoning permit approval** - Triplex 4,5,6 Bayview Circle – Bayview, LTD. - James Westbay and remaining 2 triplex buildings as part of the final development plan approved June 10, 2019.

Don Bell made a motion for **32-20**, seconded by **Sally Lane**.

Curt Moll: Mr. Westbay explain what you are going to do.

James Westbay: I'm building a three-unit condo just like 1,2, and 3. I am building it across the street. The whole plot was designed to do exactly that.

Curt Moll: I drove down there and it looked pretty nice. Any questions for Mr. Westbay at this time?

Multiple no comments.

Kim Blasco: He is building another triplex like he did before. For the record; I brought this up to him, it has already been approved before. There is only one sanitary sewer connection. Usually for a triplex, I like to see separate sanitary connection. Especially if they are being sold. He only has one sanitary lateral that services all three. Will there be any problems? I can't say that there will be, it's my opinion. I feel that it's better practice to have a separate sanitary connection to each unit.

Curt Moll: You can't do that Mr. Westbay?

James Westbay: No, it's already set up in the development to do as such.

Curt Moll: Okay, I know that we have other situations in town like that. Any other questions? Can we have a vote please?

Roll Call: **Curt Moll, yes; Don Fatobene, yes; Sally Lane, yes; Don Bell, yes; Brian Hodor, yes. MOTION APPROVED.**

Curt Moll: Do we have the Desimones back?

Kim Blasco: Yes, I have him on speaker phone.

Curt Moll: Okay, we would like you to repeat the explanation that you gave in the public hearing so that we can have it on record for the Zoning meeting.

Louis Desimone: When I bought the property 25 years ago, we had our manufactured homes up there that we sold off of. We had the water and sewer brought up 4,000 feet and put in roads. It didn't go the way that we wanted it to go. Now I want to turn it to Multi-Family Residential which the back is zoned. A couple of people wanted to put a truck warehouse to fix semis. Another person was a landscaper that wanted to put a shed up and sell wood. Another person wanted to put up a place to babysit dogs. I don't want that going into my development, so I figure that Commercial is not going to make it work. If we put it back to Residential and Multi-Family, someone can put a home on there or an apartment so that the property is fully improved.

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Curt Moll: Thank you, I appreciate that. We discussed earlier. in the public hearing that this is in a residential area even though most of them aren't in the City of Cortland. They are properties that are immediately across the street and next to this property. I would support that. I would like to have a roll call.

Roll Call: **Curt Moll, yes; Don Bell, yes; Sally Lane, yes; Don Fatobene, yes; Brian Hodor, yes. MOTION APPROVED.**

Curt Moll: Thank you. The next item is **33-20 Home Occupation – 359 Deer Creek Trail** – on-line firearms business.

Don Fatobene made a motion for 33-20, seconded by **Don Bell**.

Curt Moll: Is there anyone here to talk about this?

Guy Young: Yes, that's my business. It's a secondary business. It's an online website so it's not really a home occupation. I run the back end of the business out of my home but I have a website that people can go to and purchase a firearm. We then have it shipped to a dealer close to them. It never hits the home.

Curt Moll: You don't have any deliveries there?

Guy Young: Nothing for someone to come and pick up, no.

Curt Moll: Any materials coming to your property on trucks?

Guy Young: If I would, it would be UPS. If I have anything delivered firearm related, it's for a close friend or a family member. I don't have anyone that I don't know, I don't have them come to my house.

Patrick Wilson: For sales to customers; it all happens off site?

Guy Young: Yes, that is correct.

Curt Moll: Why are we even considering this then?

Guy Young: I just recently moved to Cortland, at my old residence, I was able to do it. I have an active FFL license through the Federal Firearms...

Curt Moll: That's not my point Sir. I don't think that this needs to be brought before the Zoning Board because there is no business activity at the house.

Guy Young: The ATF just needs approval from the Zoning Board.

Patrick Wilson: If he is telling us in an application and now a public forum, that he is operating a business out of his home; I think that the Board needs to act on it.

Curt Moll: Okay, any other comments?

Kim Blasco: They *do* need approval. Before he can get what he needs from the Federal side, he needs approval from Zoning.

Curt Moll: Okay, I now understand why.

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Roll Call: Brian Hodor, yes; Sally Lane, yes; Don Bell, yes; Don Fatobene, yes; Curt Moll, yes. MOTION APPROVED.

Curt Moll: Any other concerns, discussions? I'd like a motion to adjourn.

Adjournment moved for by **Don Fatobene** and seconded by **Don Bell.**

Roll Call: Brian Hodor, yes; Sally Lane, yes; Curt Moll, yes; Don Bell, yes; Don Fatobene, yes. MOTION APPROVED.

Meeting Adjourned: 7:35 pm

Chairman

Date

Secretary