

**LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT
MAY 16, 2005**

DOCKET NO. B-74-05W

[time notes are based on video excerpt for above case]

[0:00 - 3:33] **VIDEO PRESENTATION**

KEVIN ORR TESTIMONY

3:56

ORR Good morning. My name is Kevin Orr. I live at 3911 Leland Road. I represent Highland Restoration as a General Contractor and a partner in this project. As a bit of history, I moved to Louisville 20 years ago. I lived on Castlewood Avenue. I served on the Tyler Park Board. I'm very familiar with the neighborhood and lived there for a number of years.

Rosewood Avenue is a mix of single family as well as multi-family dwellings. We try to be very sensitive to neighborhood concerns. We try to minimize disruptions in the neighborhood while we're building. All of you are very aware, when you build in an urban area, there are disruptions.

4:26

We purchased 1505 Rosewood last fall and invested about 1.5 million dollars, turning a rundown transient rental property into owner occupied condominiums. There'll be eight there when we're done. That's the big building that you saw. The rear of the building has been developed into garages to provide off-street parking. And as well we will be paying for a new sidewalk along Rosewood for the entire length of the property.

4:54

The variances and waiver we come to you this morning for are to develop the side property in the condominiums - 3 of them, **with off-street parking that compliment the neighborhood and add to the neighborhood property value.**

5:06

I had an opportunity this morning to speak with Steve Thomas from the Tyler Park Association who indicated to me that there is almost unanimous support for building -- the existing building as well as the proposed building in the neighborhood.

I'd like to introduce Merrill Moter from Joseph & Joseph for any specific details you may have about the product.

MERRILL MOTER [JOSEPH & JOSEPH ARCHITECTS] TESTIMONY

5:35

MOTER I'm Merrill Moter. My address is 550 South Fourth Street. We're asking for three items: one is the garage on the alley, which we need a waiver on for the 3-foot side yard. There will be no side yard in the proposed addition of the garage. The garage is on a --

FRANCIS -- it's a variance that you need.

MOTER I'm sorry, a variance, in that there was a garage on that piece of property that ran to that property line at one time. You can see in the video that there was -- had been a structure there that had been torn down, or burned, I'm not sure which.

6:30 The garage will provide off-street parking for the condos in the large building, so we will keep - follow the pattern in the neighborhood of having as much off-street parking as possible. Right now -- when it was an apartment building there was quite a bit more on-street parking then will exist when the conversion is completed.

7:16 The new building that will be in the side yard is shown here [presents drawing] I believe you have it in your packet. And it will have - it will need a curb cut off of Rosewood to get into the basement level, which will have parking in the basement level under the 3-story building. The new building will be a 3-story structure. It will align with the fronts of the existing structures. By providing the off-street parking for the three units that will be in this building, we needed to get the parking in the basement level.

8:03 We also need a variance on the open space requirements to obtain that.

8:18 And I have a drawing that shows the proposed new building between the existing structure and the existing neighbor's structure. The new building will provide a transition from the taller building - the original building in the neighborhood - which is about 42 feet to the eaves area [whereas opposed] to the adjacent property owner's building is about 26 feet. And this I think will be about 35 feet. So it provides a transition from the large structure built in the 1860s to the newer buildings that's next to it. Any questions?

9:12

FRANCIS My question to council was we didn't do a height variance, then, because of the 35. Yeah. Questions? Mr. Anderson? Can we see that rendering closer, sir? Do you have a copy of this rendering that you can submit for the record?

MOTER You can have that copy.

10:00

FRANCIS Okay. [pointing to rendering] it's going to be 0 here.

10:22

QUEENAN Madam Chair, may I ask a question? So you're having a smaller yard or asking for a reduction. So can you tell us what you're going to do with that green space?

10:29

MOTER The space between the required side yard between the new building and the neighbor's property is only required to be 3 feet. We're making that side yard 5 feet.

10:45

QUEENAN But you've asked us for this variance of 2,800 for the private yard area instead of the 3,500.

10:50
MOTER It's the open space requirement, yes. Now the open space requirement between the two buildings on that are on the 1505 lot will be a landscaped terrace area that will be above the parking that's down below on the basement level. So there will be

11:13
QUEENAN Trees, brick, grass... how are you going to use it?

11:18
MOTER A combination of grass and paving - brick paving, patio type area for the resident's use. It won't be parking or asphalt paving.

11:34
FRANCIS It'll be to courtyard type, seating area and so forth [gestures with hand to prompt his agreement]. Mr. Rhodes?

MOTER Yes.

11:40
RHODES In regards to the waiver, are there any other curb cuts off Rosewood in this block?

11:48
MOTER Yes there are. There are six other properties that have curb cuts at 1401, 1405, 1442, 1444, and 1506, and 1335 Castlewood.

FRANCIS Any other questions? Ms. Stewart?

12:13
STEWART We're struggling a little bit here with where the cars are going. In the back, are there 8 parking spaces in the back?

12:36
ORR There are actually 9 parking spaces in the back. There are 3 in this building. There are 2 existing right here, besides the existing building. And then prior to our purchase of the building, the City required the prior owner to tear down these 2, and we'll be replacing 2 here and 2 here. So there will be 2, 4, 6, and 3 - so 9 for the existing building. And then there will be proposed 6 underground for the new building.

13:18
ANDERSON Will there be ample parking under the new building? I mean, how are you getting six out of --

FRANCIS -- yeah, I mean what kind of turn-around ? I mean ...

13:25
MOTER It is straight on parking. So there's a turn in the back. So you back out here and go back out the same way. It's 90 degree parking in the basement.

13:43
FRANCIS So the maneuvering is back, and then come back around.

STEWART The maneuvering is inside?

MOTOR Yes. Have you all seen this -- I don't know if you all have this basement level.

STEWART The parking extends here, under the courtyard?

MOTOR Yes.

STEWART Okay. That's the part I didn't get. Thank you very much.

FRANCIS There wouldn't have been any maneuvering the other way.

14:05
STEWART Why did the City have you tear down the garages?

MOTOR They didn't have -- the previous property owner - I think they were in a state of disrepair. Is that the reason? I think they were falling down.

FRANCIS Just for my information. I saw a lot of used brick for the buildings from the garage being torn down. Are you saving that?

MOTOR Yes.

FRANCIS Good. Any other questions?

14:30
ANDERSON This is a point of clarification. You're saying six cars, but five are shown on the plan.

14:38

MOTER Yes, it's really 5 cars [unintelligible] because of the elevator.

14:48

ANDERSON Oh ok. so this needs to be 5.

FRANCIS Any other questions? Thank you very much, sir, Mr. Motor. Is there anyone else here that would like to speak in support of the applicant?... Is there anyone here that's an interested party who is neither in support of or in opposition to the applicant? Are you a neutral party, sir, that wants to speak or are you in opposition? Is there anyone here in opposition that would like to speak? Yes sir. Now it's your turn.

JOE LEIST - OPPOSITION TESTIMONY

15:36

LEIST My name is Joe Leist. I live at 1509 Rosewood Avenue. My wife and I have lived at 1509 Rosewood for ten years. We have two children - one 7 and one 5. I applaud most of the work that the owners have done to 1505 Rosewood. It was apartments. We had a lot of people coming in and out , not stable renters that are going to make it into condos, so we do appreciate that part of their effort.

However, I am concerned with one of the variances and one of the waivers - or the sole waiver. I think variance #2 is probably ok. It's adding the 0 space of feet in between the back alley to add some garages. And that seems very reasonable to myself and others that we've talked to.

16:31

Variance #1 on the docket is very confusing, so maybe you can help address some of it. One of it was - by passing that variance allowing for the building space, is that also allowing that the complex be built or is that not even up for discussion, and you can always build a 3-plex complex there?

16:53

FRANCIS The variance there is for the yard.

CROWDER -- the variance is for - that first variance is for the private yard. Since it's in a Traditional Neighborhood, they are required to have a certain amount of yardage. And since with the configuration of the existing building and the proposed, they weren't able to meet that. So that's that request for Zoning 1.

LEIST So the building of the new proposed 3-plex, that's not even into play? They can do whatever they want and they can build that?

CROWDER Correct.

LEIST Ok. The concern there is the yard is there and it's in the way? The amount of space is not really enough and that's why they need the variance?

17:35

FRANCIS Well, since they adjoin the other property - the only other property - in getting the 2,835 square foot variance, it meets - that then meets the code for what is required for private yard area, the amount of yard area between them.

STEWART Now I'm getting confused. They own both properties?

FRANCIS Yes.

STEWART But the proposed is on an existing lot? There are not two lots here. Have the lots been consolidated?

CROWDER It was . It was --

FRANCIS -- it was two lots.

ANDERSON It was consolidated down to one?

STEWART It was two lots? Have they been consolidated?

FRANCIS Well, we'll have to ask them that. Go ahead. We'll go back. I was assuming it had been. Does that explain?

18:38

LEIST Well, kind of. It sounds to me like you have a yard space, and by building a new unit, you're taking away most of the yard. Therefore, you're not leaving enough that fits into code. My concern wasn't really the left over minimum amount of yard space. My concern was more so the building of the 3-plex. I think we have enough building already there, but I don't even know if I have a say-so in allowing the building or not building of a new additional 3-plex. So that's why I was confused on the variance.

19:10

FRANCIS You would like to have a say-so on whether the building can even be there or not?

LEIST I think the Neighborhood would, yeah. That's correct.

STEWART So if we require - if we deny the variance here and require a larger yard --

FRANCIS -- this building could not --

STEWART -- there's not enough space for this building. Is that where we're at?

FRANCIS -- would not give the total use of the lot in building additional...

19:31

LEIST It just seemed confusing to me, the way I was reading it. And what I thought I was going to come here today and discuss - I thought we were going to discuss whether or not we could have a 3-plex or not 3-plex. And then when I read the variance in detail, it looks more in terms of that's not even in the question. It's just that there's a yard there and it's going to be too small. I don't have a concern with small yards. I have a concern probably with just too much space - or too many units in an area and too many people within an area.

20:06

FRANCIS Even though they have the underground? Most of the folks that have concerns on Rosewood and Castlewood and in that area is parking. And when any of the homes that have been converted into apartments --

LEIST -- we love what the owners are doing with the back parking lot.

FRANCIS -- but they have underground parking for this new building, which alleviates, you know, what normally has been a concern that we've heard.

20:27

LEIST I'll discuss the parking on the waiver. Because that's where I think the parking gets to - when I'm ready to talk about the waiver portion. But I was still just talking about the unit above and keeping the parking out of it for the moment.

FRANCIS Now you have me confused.

ANDERSON Well, I thought, Madam Chair, is that the bottom line --

LEIST -- I thought this variance looked so odd --

20:52

ANDERSON -- the bottom line is that the unit - the three apartment unit building is allowed --

FRANCIS hmmm (affirmative).

ANDERSON -- in an R7 zoning district.

FRANCIS Right. Correct.

LEIST And you can just go build it.

FRANCIS Right.

LEIST ... Okay.

FRANCIS And the only thing that we're looking at is the private yard area in a Traditional Neighborhood zoned area.

21:20

LEIST Ok. Thank you for answering that part of the question. The part regarding the waiver - I'm very opposed to the waiver probably more than any piece of the whole thing. One, from an aesthetics standpoint to the Neighborhood in general. I know we're talking about curb cuts. But if you look at the map of where their building is, there's no curb cuts from the top of Rosewood Avenue from Baxter almost all the way down to Castlewood, I think it is. The corner of Castlewood is our first curb cut. So you have the whole block of Rosewood. And part of the beauty of Rosewood is there are no curb cuts. The sidewalks are available for the kids to run up and play and so forth, so I have some concerns about that. But I've got some more points in general that I want to talk about.

22:10

It there's underground - If their unit is allowed, and we have no say-so, and they're going to build that, I would prefer not to have the underground garage coming in off of Rosewood. We have an alley on Rosewood. Everybody uses the alley. We have no curb cuts on any of the area that we're talking about. Haven't been there for a hundred years. And all of the kids play up and down there. So I probably think there ought to be some type of redesign to be able to use the alley. From the unit all the way up to Baxter, there's about 8 children all under the age of 7 that ride bicycles, skateboards, tricycles. They're all down low like that. And I'm concerned with having a curb cut with people coming in and out of parking, that they've lost their beautiful, wide sidewalk to go play on. We have an alley. Everybody else uses it. There's no curb cuts on any of that area. It just doesn't seem to make sense to me.

23:12

The photo with the garage below on the front of Rosewood - there's 41 properties, I guess, on Rosewood, and not one of them have an underground garage. It's totally brand new. Totally different than looking from the old structure that we've had forever. It just doesn't make any sense to me to have that type of garage on that type of structure on a street with 41 properties, no one else has underground garages. If you go look at the properties that have them in the community, they don't look that nice. There's some on Eastern Parkway and there's some disbursed throughout. They look terrible.

23:49

FRANCIS They're all over the Highlands, with garage doors in the front.

LEIST Not on Rosewood. Not in Tyler Park. They might be outside of Tyler Park but they're not in Tyler Park. Tyler Park is a unique community in and of itself.

FRANCIS Any other concerns, Mr. Leist?

24:18

LEIST The only other one was just a small comment: I'm not certain that most of the Neighborhood, or most of the Tyler Park group and then our neighbors really know of the details of the variances and the waiver. The mailing was just sent out to a few surrounding, and my neighbors didn't know about it and they live one house over. One of them is actually on the Tyler Park Neighborhood Association and they spoke to the owners about the building in general, because they were going to do an article, and they didn't know about the actual variances and the waiver. And it wasn't mentioned at that time. So I'm just saying that I don't think a lot of people know about the document. Thank you.

FRANCIS Can you just wait a moment, Mr. Leist? I want to see if the Board has any concerns or questions for you. Any questions or concerns of Mr. Leist? Is there anything to ask? No? Okay, thank you, sir. Is there anyone else who would like to speak in opposition to the applicant?

DAVID THOMAS OPPOSITION TESTIMONY

25:32 THOMAS My name is David Thomas. I live at 1508 Goddard, which is directly behind the new development. And I guess I came into this meeting being one of the undecided. But I was not aware that there was going to a 3 -- an additional building built on top of the underground parking. It appears to me that that's kind of subterfuge. You don't need underground parking if you're not going to be in violation of the existing space requirements of the lot. To my knowledge, it's one lot. It's never been two.

And if you look on [drawing] where you have this thing [points] that shows you how much space you're really talking about. And I think this rendering here is a little confusing because it looks really open. If you turn to the printout you can get off the internet [indicates] you can see what I'm talking about. You've got a really large building in R7. They're going to build an additional building next to it.

26:40 And then they're going to burrow - essentially build a basement for garages. I mean it's kind of a development out of control. I would agree that these are vey upscale. I think the reason that they're talking about underground parking is because they're so upscale. I think the two top ones are over half a million dollars and the other ones are over a quarter of a million. And I think two of them have already been sold. I'm not sure even --

FRANCIS -- two have already been sold of this building that we're going to...

THOMAS -- if they're committed. They can tell you about that. It's just the rumors.

FRANCIS Ok, we'll ask.

27:05

THOMAS

Anyway, I don't know if those people - if they're aware a building is going to be built there. Just the people around me thought we were talking about parking structures or underground parking. And I wouldn't have a problem with lining the whole back with garages because that's what alleys are for.

But really I think the whole purpose of requesting this is not for parking. It's for making a real small piece of property very dense. Because right now in this building they'll be eight people. If there's another apartment over the garage, that's 9. If they add three more, that's 12. And if you're selling quarter million dollar homes, you want your own garage space. So I can kind of understand the garage thing. The underground parking is just, in my mind, unnecessary. And I guess the reason it bothers me - and I don't represent anyone else in the Neighborhood. But just people I've talked to - the one thing that's an issue is: are they just going to blast through the rock? You know, they've been putting an elevator in, and I know he's had trouble with getting down deep enough. Are there any limits on how much - can they use dynamite, or can they just break it open or what? That was one concern.

And the other concern is if you give the variance on the one the neighbor has approved, you pretty much lose all those trees. And that's probably the biggest deal to me. Particularly because I had a tree that was 14 feet around and it was gargantuan, it was about 80 feet. And I really wouldn't have even noticed the building behind because the tree was so big. But I had to cut it down a couple years ago because half of it split off.

And the building is just very large and very old. And to get rid of the trees, there's a Magnolia that's probably 60 feet. You know, three or four either Cherry - I don't know what they are.. they're just gorgeous trees. And I think you'd just lose all of those if you approved - if you approved a building that close to them, they just can't withstand it. Because if you're talking underground, you're digging down. So the trees are one issue.

And then, like I said, parking isn't going to be a problem unless you build a new structure. And the reason why the existing law says you have to have this much green space is so that people don't do what they're asking to do. You know, just put as many buildings as you can and then build an underground parking structure. And the structure, you know, 4,000 square feet, that's pretty big, or 3,500.

29:46

The last thing I have to say is if you look on this part [holds up page], 21 feet is the amount of space between the two buildings, it look likes. It probably gets bigger as you go over, probably to about 30 feet. But how wide is this room? Probably 50 feet? I mean, does anyone know? I'm not a good -- I look at the builder because you know measurements. We're talking about essentially preserving the lot that's smaller than this room. It's just not a big area. And there's a reason - whether he wants a courtyard or garage, that's all fine, but I'm just opposed to the big part.

And I'm not aware of how Steve Tompkins got this unanimous approval of it. But he's the Tyler Park Neighborhood Association President.

The only other thing I wanted to mention: the letter that was in here from the next door neighbor, it says: "the consent is given that you will be building a new one-story garage structure along the same line as the former structure." Well, that consents for - unless there's something after this -- I just wonder if the guy that's consented next door really knows there's going to be a three-story building with underground parking...That's all I have. Thank you.

FRANCIS Is there anyone else here that would like to speak in opposition? Okay sir, would you like to come up for rebuttal?

KEVIN ORR REBUTTAL

31:33

ORR A couple things just to address both gentlemen. There are, as Mr. Moter noted, numerous driveways off of street and curb cuts off of Rosewood. There's one directly across the street from the existing building and there are another half dozen as you go down Rosewood.

I am the father of young children. I understand very well the safety issues. We have agreed after consultation with Tom Owen to completely replace that sidewalk in front of the building. The sidewalks right now are really unfit for walking and probably wouldn't be for much anything else. I'm also a Councilman in the City of Bellwood. We had speed bumps put in our street at my request just because of the children issue. So I'm very concerned about that as well.

32:18

The First Tier neighbors, there were eight of them all together, they were all notified by letter of this. And I've spoken to most of them. There are three on the alley, along with Mr. Thomas, I spoke to all three of them and they're all in favor of what we're doing, understand what we're trying to get to - from turning transient rental property into owner-occupied property. And what we got from them was, you know, "you do it."

And the letter in there from Mike Bratcher is the gentleman who has the property on the other side, where we're proposing to put up a garage on an existing property line. I told Mr. Bratcher about our plans for the big -- for the new building as well as the parking garage, and he said he'd be glad to write a letter for that.

33:09

ANDERSON Mr. Bratcher is -- facing the building, is he on the left or right?

ORR Facing the building, he's on the left. Mr. Leist, who I think is still here is on the right. I believe from our calculations that we're allowed up to 17 units on that property. We're proposing a total of 11. And we are putting underground parking in specifically for aesthetics. Specifically for it being upscale property. And in order to provide that parking off-street, we have to go underground.

33:43

FRANCIS Mr. Orr, I have just have a couple of questions, if you don't mind, sir. For the clarity of the Board, there is an existing curb cut there on that property?

33:53

ORR No, there is not on Rosewood. There is no curb cut on Rosewood, and that's one of our requests - is to put a curb cut on Rosewood, like six others on Rosewood.

FRANCIS Ok. You have offered for sale condominiums in the existing building as well as this new building?

ORR Nothing on the new building yet. But we have offered for sale and have sold and have deposits for two of the units in the big building.

FRANCIS Ok. But you do not have a contract on any unit in this proposed building?

ORR No.

FRANCIS It was stated that you did, sir.

ORR Not by me.

FRANCIS Ok, sir.

34:38

ANDERSON Mr. Orr, I have several questions. One, the property that you said Mr. Bratcher owns, which is on the left, facing your property on Rosewood, this drawing that we have, it shows part of that building -- it says "approximate location of adjacent building", which looks, I don't know, like 20-something feet from your West property line. And on our Zoning District map, it makes the building look like it's almost on the property line. Is this map here relatively accurate?

35:12

ORR I'm not sure which maps you're referring to exactly.

ANDERSON Staff Report [holds up page].

ORR Which page is it?

ANDERSON I'm sorry, the LOJIC Map.

ORR Yeah, I'm not sure why that LOJIC Map shows that. The property line between our property and Mr. Bratcher's property is I would say approximately 5 feet. It runs from Rosewood straight back and then makes a jog at the back.

ANDERSON It's not the property line I'm questioning. I'm questioning the location of --

ORR -- of his house?

ANDERSON -- of his building to the adjoining property line.

35:47

ORR When we had the surveyors come out it appears that Mr. Bratcher's property -- home -- is approximately five to six feet from the property line. It doesn't look --

35:57

ANDERSON -- then it's significantly less than what's shown on this plan.

ORR It doesn't look like -- on this -- on this drawing, the LOGIC Map --

36:03

ANDERSON -- no, I'm talking about this drawing that we have. The one that we have from Joseph & Joseph. The site plan.

ORR Uh huh.

ANDERSON Here [holds up large site plan].

ORR Right.

ANDERSON Do you have that?

ORR Yeah, I have a copy of that. What we're -- there's going to be -- what we're proposing is put 5 feet -- we have -- we're only required to do 3 feet off his property line. We're proposing 5 feet off his property line.

36:29

ANDERSON Right. But is his house, the location shown here [pointing on Joseph & Joseph site plan] relative to the property line, is this accurate?

ORR Uh, no. Probably not. It's -- it's probably closer to that property line than it appears there.

ANDERSON Do you know how close?

ORR I said approximately five to six feet.

FRANCIS So there will be 10 or 11 feet between the two buildings?

ORR Easy. Which is also very --

FRANCIS -- which is very typical for the --

ORR -- typical for the Highlands.

FRANCIS -- for the area.

ORR Right.

37:00

ANDERSON Okay. My second question, and I'm not sure if it should go to you, Mr. Orr or Mr. Moter. But this landscaped brick courtyard that's indicated here on this site plan, rectangular in shape, which appears to be over the parking stalls of the subterranean parking lot. Is that at grade level or is it higher than grade level?

ORR We anticipate that that will be at grade level.

ANDERSON That's a grade level?

ORR Right.

37:35

ANDERSON You just mentioned that you thought there were 6 other curb cuts along Rosewood.

ORR Yes, sir.

ANDERSON To residential properties? Are those curb cuts to subterranean garages?

ORR The one directly across the street is not. The - I would say that four or five of the other ones off Rosewood, when they cut - they come down {gestures} into the garages. Specifically, I would say, on the even numbered side of the street, they go down in. On the odd side of the street, which is the side we're on, I'd say one of the two may go down. One actually goes up.

38:20

ANDERSON Are they as close to the front property as your proposed development?

ORR I think they're probably about the same.

ANDERSON And then lastly, to the point that one of the gentlemen made in opposition, I think his concern was why the curb cut off of Rosewood and why didn't it come in from off the rear. Was that explored? Is that at all a possibility, to do this from the alley rather than from Rosewood?

38:50

ORR No, it's not possible at all. In order to do that, we'd have - we would not be able to put garages in the -- in the building. We would not be able to meet - we would not be able to put garages to meet the requirements of the large building. And would further - would significantly reduce the viability of selling that building and those units. It would cut into - it would cut into the number of garages we could offer for sale.

STEWART So, you're going to have a total of 11 units and 12 garages, is that correct?

ORR We're going to have a total of 11 units - eight and three. And then on the back there'll be 9 spaces - 9 garages - space for 9 cars along the back on the alley. And then there'll be 5 underground in the second building.

STEWART 14?

ORR Correct.

STEWART There will be 11 units and 14 garage spaces?

ORR Right. We also get space on Rosewood.

39:37 STEWART But you can't sell that.

ORR That's not -- I don't need to sell it.

STEWART I know. That was my point.

ORR That's ok. What we're doing is we reduce significantly the parking on Rosewood -- significantly, by putting the garages in the alley and by proposing to put these garages underground. And that really was one of the complaints that I think may actually go to Mr. Leist's concern about kids and cars and dogs and bikes and all. By getting the parking off Rosewood, you enhance the value of the property and you cut down on the chance of accidents.

40:20 ANDERSON The fact that you just mentioned accidents, let me ask you a question related to that. But before I do - on our site plan that we have here, it says 9 units on the existing building. Is that incorrect?

ORR That's incorrect.

ANDERSON It's 8?

ORR That's correct.

ANDERSON The safety concern issue I guess I would have, looking at the elevation here, the architectural rendering, it looks like you're going to need to have concrete, or concrete blocks, retaining wall on either side of that driveway going down into that subterranean garage. I guess what my concern is what the gentleman mentioned about it being a residential neighborhood, kids going up and down the street on bicycles and tricycles and so forth. The concern of someone coming out of that subterranean garage, going uphill, and not being able to see down at the sidewalk level. How would they be able to come out safely out of that garage and see kids moving back and forth across the driveway?

41:33

ORR I think they'll actually be coming -- the way we understand it, there's enough of a run on that driveway that when you hit, in essence, the sidewalk you'll be at grade level. And make sure that we understand, too, that sidewalk ends. That sidewalk does not run all the way to the end of Rosewood. That sidewalk ends about halfway through Mr. Bratcher's front yard. It stops cold. It doesn't turn onto the street. It does nothing. It just stops dead right there. So the sidewalk does not run all the way up and down Rosewood. It ends basically very close to our property line.

42:06 ANDERSON But be that as it may, it still wouldn't stop kids from going across your driveway.

ORR Probably not. Right now, I don't think there -- I haven't seen kids on bikes on that street very often. I have seen young children on bikes up on the flatter end of Rosewood, up towards Baxter. But for the most part the ages and the parental supervision and control has kept them from coming -- sort of Rosewood dips down to Castlewood -- has kept them from going down there. Not to mention the condition of the sidewalk. The condition of the sidewalk is not conducive to walking or riding a bike right now.

ANDERSON That's all I have.

FRANCIS I have some concerns about the blasting that's going to be -- are you going to have to do blasting?

ORR I think that's an unsupported supposition by someone.

43:44

FRANCIS Well could you clarify -- to your knowledge?

ORR I'd be glad to. We did drill an elevator shaft for the existing building. And there was some rock that was hit at about 30 feet or so. It has to be about 35 feet shaft. We hit rock at 35 feet. And the problem was they couldn't -- when they drill down that far they usually can get

the rock to just snap off, then they lift it up, just sections of the core rock, if you will. They couldn't get it to come up. But from about 0 feet to 20 feet all they had hit was mud and fill and that kind of stuff.

FRANCIS OK. How far down are you going to have to go for this basement?

ORR 14 feet.

FRANCIS If you went 35 for the elevator, what are you going to have to do for the parking?

ORR 10 or 12 feet, according to our architect. He said we wouldn't have to blast --

FRANCIS -- 10 or 12 feet? So there's a distinct possibility that you won't be hitting rock?

ORR Distinct possibility we will not be hitting rock.

FRANCIS What if you do?

ORR We'll dig it out.

FRANCIS No blasting?

MOTOR No.

ORR No, no blasting. I mean, people hit rock in the Highlands all the time. I mean, you know that. There's rock everywhere there. But so far we haven't -- had hit anything at all like that. The first 20 feet of that elevator shaft, all we hit was mud and dirt. So I wouldn't anticipate hitting any kind -- blasting rock or anything like that. It would be a great surprise to us.

FRANCIS Mr. Anderson, do you have any other questions?

ANDERSON No, I don't think I have any other questions. I think it was my understanding that within certain areas of the City limits, you cannot blast anyway. So they can't blast -- or they wouldn't blast -- they wouldn't be allowed to even if they wanted to.

FRANCIS Questions? Any questions? Thank you very much. That was our rebuttal. We'll go into Business Session.

BUSINESS SESSION

45:23 FRANCIS All right folks, we have two variances and a waiver. What do you want to discuss?

45:31 STEWART I will comment that the first variance calls for a humongous reduction. Just percentage wise, we're talking about lots of lost green space. I'm stating the obvious, right?

45:55 FRANCIS The 3 foot variance from the West side property line. Anybody have any problems with that? It's pretty simple. We have them all the time. I mean, it's typical for there.

Anyone else have any concerns with the amount of square footage that is needed for the #1 variance? Ms. Queenan, Mr. Rhodes, Mr. Crowder? Concerns?

46:18 RHODES Well, I have some concerns. But the improvement that they're making to the neighborhood with owner occupied residents versus rental I think will offset my concerns.

46:42 FRANCIS Anything else?

ANDERSON I'm saying that even though it is a big reduction, if it's properly landscaped and paved and made to be a real nice sort of.... unintelligible] well, potential to be nice.

46:56 FRANCIS You know what? At a half a million dollars, it better. I would imagine - I mean, I'm just assuming that at a half a million dollars I'm assuming that we're going to have landscaping that is not only code but aesthetically nice.

ANDERSON [unintelligible] but it has the potential to be a very nice [unintelligible]

47:16 FRANCIS Yeah. And you know, it's typical of the neighborhood. I mean, it's not as if it's something new. This is typical of the Highlands. We have zero property lines with buildings all over the place. There are a lot of garages that go down into the front. I know we heard from Mr. Leist that there aren't any that he knows of in the Tyler Park area. But if not there, they certainly are one block over. And again, this is an old, old established neighborhood. This is I feel a great improvement.

Anyone ready for some motions for any of it, all of it? We need to get on with it.