

## MINUTES BZA 5/9/2022

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1 **MINUTES FOR THE REGULAR MEETING OF THE CHESTER TOWNSHIP BOARD**  
2 **OF ZONING APPEALS HELD MONDAY, MAY 9, 2022, IN THE TOWN HALL**  
3 **MEETING ROOM**

4 Chairman Barton Ziganti called the May 9, 2022, Chester Township Board of Zoning  
5 Appeals meeting to order at 7:10 pm.

6 Chairman Ziganti requested that Board members and audience stand and recite the  
7 Pledge of Allegiance.

8 Roll Call

9 Present: Ms. Fadorsen, Ms. Klemm, Ms. Sritalapat, Ms. Muehling\*, Mr. Ziganti

10 Absent: Mr. Pona

11 \*Ms. Muehling (alternate) served in place of Mr. Pona

12 Zoning Inspector: Ms. Berglund

13 Admin Assistant: Ms. McCarthy

14

15 Chairman Ziganti: Requested all adults that are present have signed in at the lectern  
16 with their name and address.

17 Mr. Ziganti welcomed everyone to the regular meeting of the Chester Township Board  
18 of Zoning Appeals, explained the public hearing process and stated that anyone who  
19 wishes to testify will be sworn in.

20

21 Application 2022-01 (Continuation)

22 Nicolas Berardinelli/Owner

23 12380 Chillicothe Rd

24

25 Applicant is requesting an area variance for a lot split from Section 5.01.17. The  
26 property is located in an R district.

27

28 Mr. Ziganti supplied the Board with a Flow Chart (Attachment A). Referred to February  
29 24<sup>th</sup> letter sent to County Prosecutor by Galina Berglund, Zoning Inspector.

30 Mr. Ziganti asked Ms. Berglund if she had received a response.

31 Ms. Berglund: Yes. Sheila Salem (County Prosecutor) responded in an email saying, it  
32 is customary to grant a variance before the lot split.

33 Mr. Ziganti opened it up to Board member discussion.

34 Ms. Muehling: They are asking, is the order correct in this flow chart correct?

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36 Ms. Klemm: I am under the impression that as long as the points are met, the order  
37 doesn't matter as long as point 1 – 4 are met before 5.

38 Mr. Ziganti: For the benefit of the appellant, Requirement Number 5 is Compliance with  
39 Zoning per the Township Zoning Inspector. 1 – 4 have to do with matters that are  
40 outside of the BZA responsibilities.

41 Ms. Muehling: Presented from the Geauga County Subdivision Regulations, ARTICLE  
42 III: PROCEDURE FOR SUBDIVISION REVIEW; Section 301: Procedure for Review of  
43 Minor Subdivisions, D. "Written proof of compliance consisting of a copy of an approved  
44 lot evaluation form from the County General Health District, Department of Health". At  
45 this point, we have not seen that written proof. The County Health Department has a  
46 history of doing informal reviews on proposed lot splits. They will ascertain if the lot has  
47 properties that may support septic tanks.

48 Mr. Ziganti: Ms. Berglund, do we have a copy of that compliance?

49 Ms. Berglund: That works for lots that exist. For lots that do not exist, without a subplot  
50 number, they are unable to evaluate. The Health Department tells us they will not do  
51 anything without a lot number.

52 Ms. Muehling: The history of the Health Department is the property owner goes to the  
53 Health Department with a proposed split. The map shows that proposed split. It does  
54 not make sense that the Health Department won't do that. They have a history of doing  
55 it on proposed lot splits. Continuing on, if we didn't have that information ahead of time,  
56 the BZA would be put in a precarious situation. Granting a variance, without knowing in  
57 advance that the lot can support a septic system, that's why the flow chart is written the  
58 way it is. I do not consider the information you (Galina Berglund) are getting to be valid  
59 information. (Ms. Muehling was chairperson for the Geauga County Planning  
60 Commission at the time the subdivision rules were written.)

61 Ms. Berglund: I understand this is very confusing. I'm not trying to take anyone's side.  
62 My understanding is if you allow a split, then the person goes to all the departments to  
63 see if it can be built or not. You're not losing anything by giving them permission to  
64 build on that lot because then they have to go through all those steps to see if the lot is  
65 buildable.

66 Ms. Sritalapat: For clarification, if we go ahead and grant a lot split, we're not saying the  
67 lot will be buildable, we're just saying we allow dividing this parcel. If it becomes  
68 somewhere where you are building a house, it will have a smaller amount of frontage  
69 and the variance would be a component of it.

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71 Ms. Berglund: Correct

72 Ms. Sritalapat: So, it's really putting the appellant at risk.

73 Mr. Ziganti: I would agree, but what if you split the lot and you have acreage you can't  
74 sell?

75 Ms. Fadorsen: We're not just approving a variance to split the lot.

76 Ms. Muehling: I think it puts the resident at risk. By putting a non-conforming lot, after  
77 we approve the non-conforming lot, it would be non-conforming if we approve this  
78 variance. It would be non-conforming because of the frontage on Sherman Road. In  
79 addition, he may find out his systems will not be approved. It's not a good position for  
80 the land owner and it's not a good position for the Board. I think the written word is  
81 what should be attended to as the Planning Commission put together.

82 Ms. Sritalapat: Would it be a true statement to say, if this lot was split and he had  
83 house plans drawn up, is it in the non-conforming lot if it goes outside the box as written  
84 here? If it comes to us in a different form to see if this house would be approved?

85 Ms. Ziganti: I would think a septic system would have to be determined to work on that  
86 site for a house to be built there. I don't think we could offer any variance to allow this.

87 Ms. Fadorsen: If he wants to split the lot and it's his property, then they can go through  
88 all the Health Dept. stuff and all the other stuff, pay thousands of dollars and come back  
89 to us and we could say, no, we're not going to do it. It's really just a precautionary thing  
90 for him. We're not giving him a building permit to build a house. We're just saying, OK,  
91 you can make the frontage smaller.

92 Ms. Sritalapat: If in the future a house were to be built and it had an abnormally shaped  
93 lot, I'm sure if anything were out of compliance, they would have to come back.

94 Mr. Ziganti: We're asking for a lot split and allowing for a non-conforming lot.

95 Ms. Fadorsen: We don't do lot splits, do we? All we're approving is the variance for  
96 reduced frontage. If we say yes, then he can get all the rest of the stuff done. I don't  
97 see what the big deal is. –In my opinion.

98 Ms. Muehling: We're looking at this map (the Surveyor's plan) and the house was  
99 roughly located where the house might be. If I look at it, it satisfies everything except  
100 for two things. The major thing is the frontage on Sherman Rd. There's no doubt he  
101 could put a house there. If the variance is granted, then that variance covers one place  
102 where he does not meet that condition. Naturally, the Health Dept. and the Building  
103 Dept. would have to approve it.

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- 104 Ms. Muehling: Referring to the form (Geauga Public Health – Lot Evaluation and  
105 Design Instructions and Checklist) that should be completed. We're looking for a lot  
106 evaluation. It's \$170.
- 107 Ms. Fadorsen: How can they get a lot evaluation if he doesn't have a lot yet?
- 108 Ms. Muehling: But you do have a proposed lot.
- 109 Ms. Fadorsen: According to the form, they will not come look at it.
- 110 Ms. Berglund: They don't! That's what they told us.
- 111 Ms. Muehling: I can't argue with what it says there. I am not a lawyer, I just know what  
112 happened in the past, and that is not what happened. I am reluctant to have an  
113 applicant placed in that position.
- 114 Ms. Fadorsen: It's going to cost him more than \$170 to have the Health Dept. come out  
115 and say he can have a septic system put there.
- 116 Ms. Muehling: It's a proposed lot. It's not going to be any different if/when the lot split  
117 goes through. It's a proposed lot.
- 118 Ms. Fadorsen: That's not our job. We just have to determine if he may build a house  
119 with reduced frontage. If we grant a variance and he can't build a house on the  
120 proposed lot, for whatever reason, it isn't going to make a bit of difference.
- 121 Ms. Muehling: I grant you that you are right. Our decision is what it says in the  
122 regulations. The regulations say there should be a letter from the Health Department.  
123 That's not what our assistant county prosecutor says, so we have a conflict. We have  
124 to deal with that conflict somehow.
- 125 Mr. Ziganti: So, what is the cost for the Health Department to come out?
- 126 Ms. Fadorsen: Pointing to the ZI, she says they're not even going to come out and do  
127 it. It really doesn't matter.
- 128 Ms. Berglund: We're talking about thousands of dollars for a lot split.
- 129 Ms. Fadorsen: The only question he's putting in front of us is, can he have a smaller  
130 frontage?
- 131 Mr. Ziganti: I think as a board, we need to determine if we go ahead with this frontage  
132 issue. What are your thoughts?
- 133 Ms. Fadorsen made a motion to move forward with the hearing. Ms. Sritalapat  
134 seconded it.
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135 Ms. Sritalapat/yes; Ms. Klemm/yes; Ms. Fadorsen/yes; Ms. Muehling/no; Mr. Ziganti/no  
136 Motion passed

137 Mr. Ziganti had the appeal read by the Zoning Inspector.

138 Ms. Berglund summarized case with appellant. Applicant is requesting an area  
139 variance for a lot split from Section 5.01.17. The property is located at 12380  
140 Chillicothe Rd in an R district. This will result in Sherman Rd frontage of 109.09'. He is  
141 seeking a 27% area variance.

142  
143 Mr. Berardinelli: In speaking with Health Department about septic systems, Eric Robb  
144 said this should not be discussed at a Township meeting. We're trying to get a lot split.  
145 The variance requested is for a driveway. The home would be where the lot opens up.  
146 I wouldn't place the home in the minimum setback area. I've spoken with the Geauga  
147 County Planning Commission and they directed me to come to the BZA and request a  
148 variance first. Mr. Robb tells me I need to enter a subplot or parcel number on the Health  
149 Dept form. They won't come out and evaluate the property without a parcel number.

150  
151 I've spent weeks calling people to get this moved forward. Still waiting to hear back  
152 from a soil company, but when I leave a message with what I'm looking for, no one calls  
153 me back. That's all my information. I'm just asking for a variance to put in a driveway to  
154 have access to the home.

155  
156 Ms. Muehling: Did you happen to check with the Fire Department to find out if there is  
157 any trouble with the length of the driveway?

158  
159 Mr. Berardinelli: The driveway would be the same length as the house next door. I  
160 wouldn't ask the Fire Dept that question. I'm trying to keep the symmetry of the houses  
161 on Sherman Road. It wouldn't be any longer or shorter than the house next door.

162  
163 All persons wishing to speak on this matter were sworn in. Opened up to those who  
164 would like to speak on this matter.

165  
166 Mr. Mike Joyce: I was former Zoning Inspector here and I believe there is a basic  
167 miscommunication in this room that really needs to be straightened out. You are  
168 comparing two different documents on one case. What is in front of this board, can I  
169 reduce the frontage on Sherman Rd. for the existing lot? Is there a technical need for  
170 that reduction? The lot split has nothing to do with it.

171  
172 I agree with virtually everything said here tonight except for one thing. The Planning  
173 Commission is showing how the county does a lot split. That is not the same  
174 documentation that the Township uses to come before the BZA. They're asking for  
175 reduced frontage along Sherman by 40'. Is there a technical need to reduce that  
176 frontage? If yes, then the Board should vote for it. Personally, I don't see a need for it.  
177 If you do a lot split, the county will send that to the Township and at that time the  
178 township will say, ask the ZI if they comply with all positions of the needs of the lot. It

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179 does not. At that point, the variance from the BZA would be necessary and there would  
180 be a technical difficulty for the proposed property. At this time, there is no proposed  
181 property.

182

183 If I had a recommendation, I would say it should be put back on hold, properly applied  
184 for as a lot split with the county and it would then come before the BZA with a technical  
185 difficulty they do not currently have. Currently as the lot sits, there is no technical  
186 difficulty.

187

188 My suggestion would be, go on hold, apply at the county, wait till they send it to Galina  
189 and Galina says you don't have enough frontage. It then comes before the BZA with a  
190 technical difficulty.

191

192 Mr. Ziganti: Considering you (Mr. Joyce) were our former Zoning Inspector and have  
193 some insight, please make sure you direct your comments to Mr. Berardinelli.

194

195 Mr. Joyce: What is your technical need as the lot exists now for a variance? If you  
196 don't continue the case, chances are the Board will vote it down. You need to apply to  
197 the County for a split. There currently is not a need for a driveway on Sherman Rd.  
198 The lot needs to be split first.

199

200 Ms. Berglund: My understanding is that may be the case, but it is also possible for Mr.  
201 Berardinelli to ask for variance based on info he already has.

202

203 Mr. Joyce: I absolutely agree. The difference is, is there a need for it now? If you were  
204 to create a new property, would you need it? Yes!

205

206 Mr. Berardinelli showed Mr. Joyce the letter from the county dated January 31, 2022.

207

208 Mr. Joyce: The township would require a variance on that frontage if you were to go for  
209 three lots. This board can only grant a variance once there is a technical need. Until  
210 there is a request for a lot split, there is no technical need. The existing lot is fine as it  
211 sits right now.

212

213 Mr. Berardinelli: So, the stamped drawing means nothing.

214

215 Mr. Joyce: You will need that drawing when you go to the county. Whether or not, the  
216 board grants the variance tonight is irrelevant.

217

218 Ms. Klemm (addressing Mr. Joyce): I understand what you are saying, but it just does  
219 not seem to line up with this email from Alysson Kobus, (Geauga County Planning  
220 Commission). According to her email dated January 31, 2022, she recommends they  
221 apply for the variance first. But here we are recommending they get the lot split before  
222 they get the variance, because we do not see a hardship. I think there is a  
223 misunderstanding as to what the BZA does and the factors we need to consider in order  
224 to grant a variance.

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225 Mr. Berardinelli: I'm trying to do this the right way. It's like you say, it seems to just  
226 keep going back and forth.

227  
228 Mr. Joyce: In the first sentence of paragraph 3, it says if the Township BZA approves  
229 the variance, it doesn't say when. At what point do they approve it? It's not so much an  
230 issue of what, it's more an issue of when. At what point does it become a technical  
231 difficulty for the property owner?

232  
233 Ms. Muehling: Mr. Berardinelli, if you will allow me to digress for a bit. The Subdivision  
234 regulations are written so lots do not create problems. The county Health Department  
235 should make an informal lot review. We do know the number of the proposed lot that  
236 you want to use. Technically, you should have no problem following the order of 1 – 5.  
237 Once that is done, that is when we look at why you need a deviation from the standards.  
238 You have my sympathies. I think you've been given bad information and I am sorry  
239 about that. But, those regulations are in the book and they're in the book in a certain  
240 order. Technically, those people should not be giving you a hard time. If step 3 were  
241 done, this board would be looking at your particular problem. That's what we are  
242 designed to do. We are not entitled to by-step regulations.

243  
244 Mr. Ziganti: I am in agreement with what Margaret has indicated. Indeed, the county is  
245 going to get involved with splitting the lot so there are procedures that need to be  
246 followed. We looked at this flow chart and at that time, it was obvious that we would be  
247 acting out of turn if we by-stepped this process. I do believe we would be acting to  
248 produce lots that potentially have no benefit of construction for the residents. My  
249 recommendation would be for the appellant to ask for a continuance to do just that.

250  
251 Ms. Klemm: Would it be possible of this board to draft a letter on behalf of Mr.  
252 Berardinelli?

253  
254 Mr. Ziganti: I don't think that it is our position to insert ourselves on one side or the  
255 other as a quasi-judicial board.

256  
257 Ms. Klemm: OK

258  
259 Mr. Berardinelli: Since February I have made multiple calls. I'm going to have to ask for  
260 a continuance. Would it help if I took a ride out there? I just don't know what else they  
261 need.

262  
263 Ms. Sritalapat: Are we able to vote with a contingency?

264  
265 Mr. Ziganti: No

266  
267 Mr. Berardinelli: I really don't know what else there is to do.

268 Ms. Fadorsen: We know what he wants to do. We know we can approve it or  
269 disapprove it. I don't understand why we are getting stuck on back and forth between  
270 the county and here.



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271 Mr. Ziganti: Because there is a process and we have evidence that it exists.

272

273 Mr. Ziganti: addressing Mr. Berardinelli, so, I ask, would you like to request a  
274 continuation on this matter?

275

276 Mr. Berardinelli: I don't think I will get any further, but sure.

277

278 Ms. Fadorsen made a motion to approve a continuance for Application 2022-1. Ms.  
279 Klemm seconded.

280

281 Ms. Sritalapat/yes; Ms. Klemm/yes; Ms. Fadorsen/yes; Ms. Muehling/yes; Mr.  
282 Ziganti/yes – Motion passed

283

Application 2022-05 (Continuation)

284

Applicant – Brad Petro / CESCO Imaging Co.

285

Property Owner – Bremec Florian aka Robert

286

12265 Chillicothe Road, Chesterland, OH 44026

287

288 Applicant is requesting an area variance, Section 5 – Sign Variance and  
289 Sign Variance for LED message board within existing monument sign from Section  
290 9.02.0 Prohibited Signs in all Districts and Section 9.06.0 – Signs permitted in the  
291 Commercial and Shopping center Zoning Districts.

292

293 All those intending to speak on this matter were sworn in.

294 The BZA secretary read into the record Form # 4, Notice of Appeal. Appeal No. 2022-  
295 05 Requesting an Area Variance Chester Township.

296

297 Mr. Ziganti: The reason for reading Form # 4 into the record has to do with the  
298 applicant also inputting Form # 2 dealing with signage. On page 4, it states what a sign  
299 variance refers to. Times have changed. Everything has to do with the size or location  
300 of the sign. The only thing that does not have to do with measurement is illumination  
301 which had to do with glare that may be created by sign and detrimental for night drivers.  
302 This has to do with an LED sign.

303 We looked at the Duncan Factors in Form # 4. The first thing that strikes me is, being  
304 able to generate business. Not to be like an order board from McDonald's. This has to  
305 do with advertising and generating business. It's almost as if this is a Use Variance.  
306 We're asking for an LED sign to be used in our community as an additional use. I think  
307 we should consider this as a Use Variance and not an Area Variance.



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308 Ms. Sritalapat: Within the information submitted, it says the LED sign will be going into  
309 the existing sign that is already there. But in looking at the aerial site plan on the Cesco  
310 drawing, it says replacing existing monument sign. Is it just going in the same location  
311 as the existing sign?

312 Mr. Ziganti: The Zoning Inspector has indicated that the sign area meets the criteria  
313 that allows for signage as well as location and this is a replacement of the existing  
314 monument sign with an electronic version.

315 Ms. Berglund: That is correct.

316 Ms. Klemm: Would it be appropriate for you (Mr. Ziganti) to tell us where the Zoning  
317 Commission is on that matter?

318 Mr. Ziganti: No, it's not possible. My understanding is, "we're working on that."

319 Ms. Muehling: When I read this was an Area Variance, I took it literally. In the  
320 Resolution, I looked up 9.02.0. 9.02.0 is what prohibits signs in all districts. The  
321 following signs shall be prohibited in all districts and (G) is electronic reader boards. If  
322 you look at the definition of electronic boards, an LED qualifies as an electronic boards.

323 Ms. Muehling: This is a request for a Use Variance. A sign is a structure. A sign is a  
324 Use, so we should be looking at a prohibited use. Nevertheless, we don't allow  
325 electronic boards. Are they coming? That's not the issue. The issue is, are they here  
326 now? We cannot put conditions on these.

327 Ms. Muehling: I checked other townships in Geauga County. Most townships do not  
328 permit them. Frankly, I think we are looking at a Use Variance, 9.02.0 (Prohibited signs  
329 in all districts). Not an Area Variance.

330 Mr. Ziganti: What struck me was 9.02.0 – the word is prohibited. When we talk about  
331 Area Variances – like with accessory buildings – the word is permitted. Here the word  
332 is very strong – prohibited.

333 Ms. Muehling: If it says it is permitted, we have some regulations to look at. Then we  
334 can judge if we want to change them. Now we have no regulations to look at because it  
335 is prohibited. That is what makes it a Use Variance.

336 Mr. Ziganti: We're in a dilemma. I'm not sure we should be moving forward with an  
337 Area Variance when this seems to be a Use Variance. We as a Board need to make a  
338 decision if we are handling this correctly.

339 Ms. Fadorsen: I think we set a precedent when we approved McDonald's because  
340 they're electronic.

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341 Mr. Ziganti: The HonkyTonk Saloon wanted to do an LED sign. One of the arguments  
342 at the time was it was a problem as it could distract traffic.

343 Ms. Klemm: It would be helpful to us if the Zoning Commission would look at signage –  
344 especially at LED signage.

345 Ms. Muehling: Here are things we cannot control at this time. How long a message is,  
346 how much of a change can be made in a certain time period, what is the intensity of the  
347 light, signs should not emulate traffic control devices, that they have a default if anything  
348 goes wrong with the sign. There are things that are legal and proper that would  
349 promote good use of an LED sign. If we grant a variance for an LED sign, we have  
350 absolutely no control on that sign. The fact is, we have to be careful on what we can  
351 control and what we can't. My feeling is, we should err on the side of caution and we  
352 should look at this as a Use Variance.

353 Mr. Ziganti: As Board members, do we go forward with this as an Area Variance or do  
354 we get an opinion if it should be a Use Variance. May I have a motion on this?

355 Ms. Muehling made a motion to move we suggest to the applicant he resubmit his Area  
356 Variance as a Use Variance.

357 Ms. Fadorsen: I make a motion we ask the Zoning Commission for their input and the  
358 Zoning Inspector to speak with the County Prosecutor to see if this should be done as a  
359 Use Variance. Ms. Klemm seconded the motion.

360 Ms. Sritalapat/yes; Ms. Klemm/yes; Ms. Fadorsen/yes; Ms. Muehling/yes; Mr.  
361 Ziganti/yes

362 Motion passed

363 Mr. Ziganti: (Addressing the two gentlemen from Bremec's) What the Board is allowed  
364 to do when they don't have enough information, we are allowed to continue an appeal to  
365 figure out if what is in front of us is correct. It's the Board's belief that this signage  
366 request should be handled as a Use Variance. If it is to be handled as a Use Variance,  
367 we would ask you to reapply on Form # 5 and we will not ask you to incur any additional  
368 expense to resubmit.

369 Mr. Bremec and Mr. Petro: Understood

370 Ms. Fadorsen made a motion to continue this case to the June 13th meeting. Ms.  
371 Sritalapat seconded.

372 Ms. Sritalapat/yes; Ms. Klemm/yes; Ms. Fadorsen/yes; Ms. Muehling/yes; Mr.  
373 Ziganti/yes Motion passed

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374 New Business

375 Mr. Ziganti talked about Zoning Commission meeting of May 18, 2022. Talked about  
376 proximity issue of a structure with appellant, then appellant is asked to get a response  
377 from the Fire Department. Discussion on who is responsible for Zoning Forms. We  
378 should ask for one Zoning Commission member, one Board of Zoning Appeals member,  
379 the Zoning Inspector and the designated BOT member for Zoning. Just a thought, we  
380 may want to create a Sign Variance form moving forward. We also talked about height  
381 of structure. We, the BZA said just let us know how you want to do it and we'll abide by  
382 that. We also talked about the Accessory Building amendment. Mr. Wittine and I were  
383 tasked with going through the Zoning records and finding out what is the issue. Is it size  
384 or location. He came up with 30 some data points. Mr. Wittine thinks the real problem  
385 is location, location, location. The Zoning Commission came up with some changes  
386 where, the bigger the lot, the larger the allowed accessory building should be and for  
387 permitting accessory buildings in the side lot.

388 Minutes of April 11, 2022 reviewed

389 Meeting called to close at 9:52 p.m.

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Approval Date June 13, 2022

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Kathleen McCarthy, Admin. Assistant

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Barton Ziganti, Chairperson