



**BOARD OF ZONING APPEALS
REGULAR MEETING MINUTES
July 20, 2021 at 6:30 PM in Council Chambers**

A. CALL TO ORDER – Mr. Jaskiewicz called the meeting to order at 6:30pm.

1. ROLL CALL

Members present – Tom Jaskiewicz (Chair), Diana McCoy, Michael Terry, Randa Prendergast

Members absent – Janika Adler

Staff Present – Taylor Brill, Paul Michael LaFayette, Haley Lupton

Mr. Lafayette swore in new member Randa Prendergast.

2. APPOINTMENT OF VICE CHAIR

Mr. Terry nominated Ms. McCoy to serve as Vice Chair, seconded by Mr. Jaskiewicz. All in favor.

3. APPROVAL OF MINUTES

Mr. Terry motioned to approve the Board of Zoning Appeals-Findings of Fact- May 25, 2021 meeting minutes, seconded by Ms. McCoy. All in favor, Mr. Jaskiewicz and Ms. Prendergast abstained.

4. SWEARING IN OF SPEAKERS

Mr. LaFayette swore in all attendees present who wished to speak at the meeting and reminded everyone to send evidence to Ms. Brill if they want it entered into the record.

B. COMMUNICATION

1. Zoning (Ms. Brill)

Ms. Brill reported that the Zoning Code rewrite is underway. There is a meeting tomorrow with the consultant to talk through the results of the Steering Committee meeting and to identify districts, zones, and the start of the regulations. An administrative draft should be done in the next couple of months.

C. PUBLIC COMMENT

None.

D. OLD BUSINESS

No old business.

E. NEW BUSINESS

1. CU-21-2; 0 US 42: Conditional Use (ER Auto Care); Applicant- William Pizzino, P.E.

Ms. Brill confirmed proper notice was sent to surrounding properties. She explained the current use of the property and the conditional use request. The applicant is requesting the Board of Zoning Appeals' approval for a conditional use for the construction of a new automotive service center on 6.75 acres of vacant commercial land. The new building will be situated east of US 42 and south of Alcott Dr. The primary entrance will be off of Alcott Dr. The development will be subject to Major Site Plan Review in addition to the Conditional Use Certificate.

William Pizzino (applicant) is the Engineer for the ER Auto care. Per Mr. Pizzino, the building will be 10,000 square feet, taking up 50% of the property. The property owner plans to follow all guidelines, have extra landscape screening, and will exceed all setbacks. The property is in the Big Darby Accord, so water retainage will be focused on. The construction will also include a bio recharge retaining pond and storm drainage retention will be under the parking lot. The building is only open five days a week and is local to Madison County.

Eric Raber is the owner of ER Auto Care. He currently lives in Hilliard and has a passion for auto care. ER Auto Care is a family operated business, has two current locations and employees around 14 people. The business is closed on weekends and services mainly cars, not heavy-duty trucks. The business does not do hot rod repairs, custom car builds, or paint or body work. Used tires and parts will be kept in the dumpster enclosure, per zoning requirements, and the property will be kept in the most pristine condition possible. They are aware of potential environmental impacts and are careful to avoid waste. He is aware that the parking lot of the current location is messy, and they are working with the shop in the back of the property to get it cleaned up since they are mostly theirs. There is no storage of cars on their lots, and on average the cars are there for 36 hours or less. Exterior lighting will be built to code. ER Auto Care will do everything they can to keep a high quality of work.

Mr. Terry asked Mr. Raber if the building in Upper Arlington was built or taken over. Mr. Raber explained that they took over that building.

Ms. Prendergast asked how often the garage doors will be open. Mr. Raber stated that in winter the doors are closed and will be closed in the bulk of the summer. He added that sound deafening features will be installed.

Ms. McCoy asked about the holding tanks mentioned. Mr. Raber stated that they are above ground but covered up.

Ms. McCoy asked about the potential volume at this location. Mr. Raber stated that, on average, they work on 30-35 cars a day.

Ms. McCoy asked about the trees, and if the sizes of trees had been determined. Mr. Pizzino responded that zoning codes would be followed. Ms. Brill added that they must be 6 foot high and maintain a continuous hedge.

Ms. Prendergast asked how many cars stay on the lot. Mr. Raber said it depends on the customer's availability.

Mr. Terry asked about the entrance to the property. Mr. Pizzino stated that ODOT regulations were followed, because these regulations stated that there cannot be an entrance on Route 42. Ms. Brill confirmed these regulations for traffic management and safety concerns. If they wanted an entrance on Route 42, they would have to talk to ODOT about that issue.

Mr. Jaskiewicz asked about the cars left on the lot. He sees cars left on current auto shop lots because costs outweigh what the customer was expecting, so they leave their cars. How do they handle this issue? Mr. Raber responded that they give customers 3-4 days but then offer to tow the car to the owner's home or the tow lot. Mr. Jaskiewicz asked about the current situations. Mr. Raber responded that over a period of a month, there will be two or three cars in this situation.

Ms. McCoy asked about the landscaping, and where the grass would start. Mr. Pizzino explained that there would be 25 feet of landscaping before you get to pavement. Mr. Raber added that a lawn care company would be on staff to maintain the property.

Ms. Prendergast asked how many loaner cars would be on the lots. Mr. Raber explained 12-13.

Mr. Jaskiewicz asked how many parking spaces. Mr. Pizzino explained that there will be 75 parking spaces, based on the code.

Mr. Jaskiewicz opened the public hearing.

The following residents spoke in favor of denying the Condition Use application, as presented:

Tyler Herriman – 6411 Dickens Lane

James Skaggs – 10779 US Route 42

Mark McClish – 10750 US 42

Jill Smith – 6407 Dickens Lane

Kari Hehmeyer – 6409 Dickens Lane

Josh and Jessica Barry – 6403 Dickens Lane

Cindy Money - 6707 Hawthorne Drive

All residents live in the area, believe the new business will have a direct impact on their property, and believe it will cause noise and safety issues. A petition was presented, signed by 65 residents.

Mr. Pizzino (applicant) does not disagree with the decibel levels but did note that no repairs are done outside. The repairs will be held inside and with doors closed. Also, the lighting will be designed per the code and there will be no light pollution.

There was some discussion about written testimony and whether it could be read aloud. Per Mr. Lafayette, under the Ohio Revised Code, testimony can only be taken under oath. The written testimony will be distributed to the Board of Zoning Appeals. The miscommunication will be corrected for the future.

Mr. Jaskiewicz motioned to close the public hearing, seconded by Mr. Terry. All in favor.

Mr. Lafayette explained to the crowd that the formal public hearing is closed, and the Findings of Fact to deliberate and vote on this issue next Tuesday.

2. APL-21-3; Notice of Appeal from Zoning Violation 21-82; Applicant-Mark Troyer

Ms. Brill explained the applicant's Notice of Appeal. The applicant was unable to be present at tonight's meeting. b. The applicant is requesting the Board of Zoning Appeals hear an appeal regarding the decision made by the code enforcement officer violation notice.

It has been determined that the true intent of this Code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of the Code do not fully apply, the requirements of this Code are adequately satisfied by other means, and/or the strict application of any requirement of this Code would cause an undue and unnecessary hardship.

Ms. McCoy asked if there were renters in this home. Ms. Brill said yes.

Mr. Terry asked about the language "incorrectly interpreted". Ms. Brill stated that this is what the applicant stated, and the Board must agree that the Code Enforcement Officer incorrectly interpreted the code.

Mr. Lafayette stated that this violation falls under Ordinance 1182.11 and that the Board can deliberate on the issue.

Mr. Terry discussed about how the applicant's budget defense does not really have a basis to not fix a code violation.

Ms. McCoy asked about the applicant's argument – Ms. Brill responded that the applicant was arguing the timeline and explained that typically what happens is the Village makes a discretionary call on timelines for correction. If they cannot make the timeline, they let the Village know and they are put on a plan of action on a tighter timeline.

Mr. Terry does not agree that a November 2022 timeline is acceptable.

Mr. Jaskiewicz explained that the timeline is not part of an appeal and should be done administratively and believes the decision should be upheld. Village staff can set a timeline to work with the owner if they choose.

Mr. Terry would like this issue to be addressed in the Zoning Code update if possible.

Mr. Jaskiewicz read through the Codified Ordinances.

1182.04 MAINTENANCE OF PREMISES.

(a) The owner, lessee, agent or tenant of the owner having charge of the premises shall keep the exterior of all buildings and other structures on the premises, including, but not limited to, walls, gutters, downspouts, roofs, cornices, chimneys, drains, towers, porches, landings, fire escapes, stairs, store fronts, signs, windows, doors, awnings and marquees, in good repair, and all surfaces thereof shall be kept protected for the purpose of preservation and avoiding a blighting influence to adjoining properties. All surfaces shall be maintained free of broken glass, loose shingles, crumbling stone or brick or other conditions reflective of deterioration or inadequate maintenance, to the end that the property itself may be preserved safely, fire hazards eliminated and adjoining properties and neighborhoods protected from blighting influences.

1182.03 MAINTENANCE OF BUILDINGS AND FENCES.

(a) All buildings and structures shall comply with the applicable provisions of Part 13 - Building Code, of the Village Codified Ordinances. The exterior and condition of all buildings and structures on any premises shall be maintained so that the appearance thereof reflects a level of maintenance in keeping with the standards of the Village as set forth in this Chapter and so as to avoid blighting influences and hazards to health and safety.

With these ordinances and the evidence on the screen, Mr. Jaskiewicz would like the Board to vote on this issue tonight.

Mr. Terry motioned to deny the appeal, seconded by Mr. Jaskiewicz. All in favor.

Ms. Brill will work on the timeline of the correction with the appellant.

F. DISCUSSION

1. Signage-Miller's Furniture

The applicant's request was recently denied, and they are looking for further discussion on how to move forward.

On April 27, 2021, the Board of Zoning Appeals heard VAR-21-2: 300 S Jefferson Ave; Area Variance for a Digital Image Sign. Based upon the Board's decision the application was denied, and the variance was not granted. I have attached the findings of fact to better outline the decision. The Millers have requested a discussion with the board to garner a better understanding of the decision and help with steps going forward. They had requested information on all digital image/changeable copy signs approved in the Village.

The Millers presented a presentation (included in meeting record) on all types of signage in the Village, and what kind of ideas they were leaning towards with their electronic signage. They explained that a consultant has helped them generate more business, but they need a better way to let customers know when they are having sales.

Mr. Terry asked when the Comprehensive Plan was passed. Ms. Brill responded that it was passed in 2018, but it does not dictate the sign code. Mr. Terry agreed but it does layout designs and what we want the area to look like.

Mr. Terry asked why the bank changing signs did not need a variance. Do they stay with the property, or the owner? Ms. Brill explained that if a business takes over for another business, the nature of the sign can stay, as long as the nameplates are the only thing changing.

Mr. Terry asked if the Board of Zoning Appeals sets precedent with decisions on appeals. Mr. Lafayette explained that it does not.

Mr. Jaskiewicz recapped that the sign code explicitly restricts electronic signs, but a variance can be granted. The Board needs to find a balance since the signs have not be allowed, but exceptions have been made. The Board needs to consider where the line is drawn. He is pro-business, but a balance needs to be made. Approvals need a tangible reason to be allowed.

Miller's Furniture asked the Board if there was any location that a variable text sign can be installed. The main concern of the business is how to show sales. They were confident that a variance could be passed because there is so much electronic signages on Route 42 already. They were caught off guard when their appeal was denied.

The owners explained some sales information and data. In past year, sales were declining, and a consultant was brought in. They recommend having an event each month, and advertising it to the public.

The owner emphasized several times that the yard/realty signs are causing more clutter than an electronic sign ever would.

Mr. Lafayette noted that he appreciated the additional information. Since the owners are now looking at a different type of sign, they can either submit a new application with a different style, or they can petition to the Planning and Zoning committee to change the code to remove the variance requirements.

Mr. Jaskiewicz personally feels very uncomfortable talking about options since they cannot decide on anything without an application. He does not feel that the board should steer what is and what is not acceptable. He reiterates that a tangible reason to approve the variance must be included for board consideration the next time. Mr. Jaskiewicz asked Ms. Brill to consider the sign code during the Zoning Code rewrite process. Ms. Brill noted that there is a reason why signs are prohibited, and mostly the reasons are due to aesthetic quality. Other communities do not typically outwardly permit them. When there are a lot of signs on one corridor, the aesthetic value can drop since the messages cannot be permitted. She does not see them being allowed through the code. Signs must be regulated, but maybe the Temporary Sign Code can be updated to add more exemptions for things like banners. But whatever is not included in the code is hard to regulate.

Mr. Jaskiewicz agrees that the overall aesthetic needs to be considered. The Miller Furniture building follows high standards and is a standard for other businesses to maintain their

properties. He added that maybe other considerations could be added, such as the number of electronic signs per block.

Mr. Terry noted that it is obvious that residents care about the community and their opinions should be considered on how the aesthetic of the sign. The current sign looks very nice, but he is understanding that a business needs to generate interest.

The owner emphasized that the brightness and transitions should be regulated, and the business would be happy to follow those. Monitoring these items would help to prevent the loud aesthetics.

Mr. Terry asked about the instances where limits on brightness and transitions were approved. Ms. Brill responded that the variance could set conditions, but you have to be careful about what you're regulating. Mr. Lafayette added that the conditions can be set and then discussed and approved with the applicant. Ms. Brill asked about arbitrary decisions. Mr. Lafayette confirmed that decisions must be based on factual support.

Mr. Jaskiewicz emphasized that he understands the business owner's frustrations with dealing with inconsistencies.

Ms. McCoy complimented Miller's Furniture on their classy building and understands why a digital sign may be needed. She does believe that it may be opposed to the overall look that the business currently has. The owner reiterated that a high pixelated sign is their preferred option because it matches more of their aesthetic.

Mr. Lafayette added that the Zoning Code rewrite has a long process left, and will have public hearings as well that anyone is welcome to participate in.

G. ADJOURNMENT

Meeting adjourned at 9:10pm.