

# **Minutes**

## **Clark County Board of Zoning Appeals**

Regular Meeting ~ 2:00 pm.  
Thursday, February 23, 2017

Springview Government Center098  
3130 East Main Street  
Springfield, Ohio 45505

Mr. Tim Greenwood, Chairperson of the Clark County Board of Zoning Appeals of Clark County Ohio, called the meeting to order at 2:00 pm. and asked for the Roll Call.

Present For Roll Call: Mr. Tim Greenwood, Mrs. Jerri Taylor, Ms. Janie Riggs, Mr. Rick Smith, Mr. Paul Hazlett and Mr. David Minard.

Absent For Roll Call: None.

Also in Attendance: Mr. Allan Neimayer, Mrs. Jennifer Tuttle of Clark County Community and Economic Development.

Chairperson Greenwood explained how the meeting will be conducted.

Chairperson Greenwood asked if there are any comments regarding the minutes. Hearing no comments, Chairperson Greenwood asked for a motion.

### **Approval of the January 26, 2017 Minutes**

Motion by Mr. Minard, seconded by Mr. Smith, to **Approve** the minutes as presented.

**VOTE: Yes:** Mr. Minard, Mr. Smith, Ms. Riggs and Mr. Hazlett.

**No:** None.

**Abstain:** Mr. Greenwood and Mrs. Taylor.

***Motion carried.***

**#BZA-2017-02 ~ Property Owners: Tim and Brandy Juday ~ Applicant: Tim Juday ~ Location: 12389 Milton-Carlisle Rd.; Bethel Twp. ~ Request: Variance under Chapter 5, Section A, 1, b) to allow gravel parking areas and aisle instead of required asphaltic material.**

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Neimayer stated the subject property is located at 12389 Milton-Carlisle Rd. in Bethel Twp. He said the property was zoned R-1 (Rural Residence District) on the original zoning map for Bethel Twp. adopted on November 3, 1964, and it continues to be zoned R-1. He stated the use of the property had been for Tom's Deli and is currently the 571 Grille & Draft House. Mr. Neimayer stated the property consists of 0.706 acres and is Lot 5 and part of Lot 6 of the Oakridge Acres subdivision recorded on May 29, 1952. He pointed out that per Protective Covenant #1 of the subdivision, all subdivision lots shall be used for residential excluding Lots 5, 6, 7 and 8, which may be used for business locations.

Mr. Neimayer stated according to the County Auditor's records the building was constructed in 1964. He stated the Applicants would like to modify their off-street parking area to include an additional parking spaces. He stated Zoning Regulations require non-residential parking areas to be a hard surface and, although the Applicants may pave this "new" parking area in the future, their short-term

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plans are for gravel parking. Because it appears that current parking does not meet the 10 ft. setback requirement, Mr. Neimayer stated it should also be addressed. The Applicants have received a Variance from the Clark County Combined Health District concerning the location of the septic in relation to the "new" parking area. He noted that the Health Department voiced its concern about driving over the septic tank lid. Mr. Neimayer referenced two letters received from neighbors and a comment letter from the Clark County Engineer's Department, all received after the Board packets were mailed.

Chairperson Greenwood asked if the Board had questions for Mr. Neimayer.

Mr. Smith asked about the other septic area on the map. Mr. Neimayer stated he was told it was no longer going to be used.

Mrs. Taylor asked about the parking located at the front of the business. Mr. Neimayer deferred to the Applicant to explain.

Mr. Hazlett asked if the establishment was a sit-down restaurant. Mr. Neimayer answered yes.

Hearing no further questions, Chairperson Greenwood opened this portion of the public hearing at 2:11 pm. and asked if anyone would like to speak in favor of the case.

Tim Juday was sworn in. Mr. Juday, Applicant, 1015 Steven Circle Dr., New Carlisle, stated he was requesting the variance to allow for the parking lot to alleviate the parking issue on State Route 571. He stated the business had outgrown available parking so needed to expand the parking area down the side and the back of the property. Mr. Juday stated he wished he had more room, but he did not. He felt the only option is to gravel the side and rear area proposed on the plan. He stated it was the quickest and safest solution.

Mr. Hazlett asked how many spaces would be added. Mr. Juday stated 19.

Mrs. Taylor asked if the issue was gravel versus blacktop. Mr. Juday answered yes. He stated not all of the area would be gravel because of storm water and runoff. He stated just the area shown on the map.

Mr. Hazlett asked if there were any above ground run off collection solutions. Mr. Juday stated he did not know.

Ms. Riggs stated the area is a little hilly and at different levels. Mr. Juday stated there was four ft. difference in slopes in some areas.

Mr. Hazlett asked if the right (east) side of the lot area on the map was current parking. Mr. Juday answered yes and explained it was angled to get more in and to allow a one-way aisle.

Mr. Hazlett asked if the Applicant had a good relationship with the neighbors. Mr. Juday answered yes.

Mr. Hazlett asked if there was a fence around the property. Mr. Juday stated no, but he had already asked for bids for fencing. He stated he realized there is no perfect solution for the parking. He stated he is running a good business that is just growing.

Mr. Neimayer stated a buffer (fence or landscaping) is required for the off-street parking.

Chairperson Greenwood asked if anyone else would like to speak in favor of this case.

Lowell McGlothin was sworn in. Mr. Lowell McGlothin, 327 S. Main St., stated his concern was to get the parked cars off of SR571. He stated it is a real problem. Mr. McGlothin stated this off-street parking will allow the cars to be parked off of the road.

Ms. Riggs asked Mr. McGlothin if ODOT could do anything about the parked cars on SR 571. Mr. McGlothin said he was not sure.

Mr. McGlothin stated water and sewer connection would also help the Applicant, but there is no plan to extend those public utilities at the subject property.

Chairperson Greenwood asked if anyone else would like to speak in favor of this case. There were none.

Chairperson Greenwood asked if anyone wised to speak against the case.

Irene Hofe was sworn in. Ms. Irene Hofe, 12346 Milton-Carlisle Rd., stated that parking on both sides of SR 571 is a huge problem. Ms. Hofe stated she had lived in her home 30 years and the business was once just a carry-out. She stated the owners are wonderful, but she felt they have outgrown the property. Ms. Hofe stated she felt the septic system was also a problem. She stated gravel vs. non-gravel was an issue due to noise and dust. Ms. Hofe acknowledged that a fence may help with the dust, but she said she did not want gravel.

Sue Bisceglia was sworn in. Ms. Sue Bisceglia, 12433 Milton-Carlisle Rd., stated she lived two doors down (west) from the property and she felt there is a huge traffic issue that sometimes keeps her from getting to her property. She stated she felt the parking area will not eliminate the parking on SR 571. Ms. Bisceglia stated she was concerned about privacy and dust. She stated a fence was a good start, but it has to be maintained. She stated she did not want to see noisy customers hanging out in the parking lot. She also mentioned that gravel was too dusty. Ms. Bisceglia stated the property worked as a carry-out, but today it has out grown the property. She stated she feels it has also affected property values.

Vickie Lucas was sworn in. Ms. Vickie Lucas, 12413 Milton-Carlisle Rd., (direct neighbor to the west) stated she has people parking in her yard and lights shining in her windows. She stated the area is very noisy and the property does need a privacy fence. She stated the business was okay as a carry-out, but not a bar. She stated she was concerned about dust and gravel on her property.

Hearing no further testimony, Chairperson Greenwood asked if the Applicant wished to rebuttal.

Mr. Juday stated he understood the concerns. He further stated his business was not a bar and explained that 80 percent of his revenue is from food and not beer. Mr. Juday stated he has had a few nights of entertainment, but was not going to do entertainment any longer due to licensing issues. Mr. Juday stated he was going to put in a 6 ft. privacy fence to help with the dust. He stated the stormwater runoff would not affect the neighbors. Mr. Juday stated he was trying to find a solution to the parked cars parking on SR 571. He told the Board he would take suggestions and guidance.

Mr. Hazlett asked Mr. Neimayer to show the properties on the map of each person that spoke. Mr. Neimayer pointed each out on the map.

Ms. Riggs stated she did not feel the Applicant had enough room to address stormwater if they chose pavement at a later date.

Mr. Hazlett stated gravel helps with water runoff, but it was not a cure all.

Chairperson Greenwood closed this portion of the public hearing at 2:42 pm. and asked for discussion among the Board.

### **Request for Executive Session.**

Motion by Mr. Hazlett, seconded by Ms. Riggs, to go into Executive Session and requested Mr. Neimayer join the Executive Session.

**VOTE: Yes:** Mr. Hazlett, Ms. Riggs, Mrs. Taylor, Mr. Smith and Mr. Minard.

**No:** None.

***Motion carried.***

Time Out: 2:46 pm.

Chairperson Greenwood noted the Time In at 3:00 p.m.

Hearing no further questions or comments from the Board, Chairperson Greenwood asked for a motion.

### **Action on #BZA-2017-02 ~ Property Owners: Tim and Brandy Juday ~ Applicant: Tim Juday ~ Location: 12389 Milton-Carlisle Rd.; Bethel Twp. ~ Request: Variance under Chapter 5, Section A, 1, b) to allow gravel parking areas and aisle instead of required asphaltic material.**

Motion by Mrs. Taylor, seconded by Mr. Hazlett, to **Approve** the Variance request as presented with the following conditions: 1) any future parking enhancements including asphalt must be approved by the Clark County Engineer's Department, and 2) any building additions and/or accessory buildings must be approved by the Zoning Department prior to constructing.

**VOTE: Yes:** Mrs. Taylor, Mr. Hazlett, Mr. Smith, and Ms. Riggs.

**No:** None.

***Motion carried.***

Mrs. Taylor explained that she felt the approval was due to the huge traffic concern and safety issues. She acknowledged the approval may not be the best thing for the neighbors, but it was the best solution for safety.

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Mr. Neimayer informed the Board that they will need to act on electing officers for the remainder of 2017. The Board decided to elect officers at this meeting.

### Election of Officers

Motion by Mr. Hazlett, seconded by Mr. Smith, to **Re-Elect** Tim Greenwood as Chairperson and Jerri Taylor as Vice-Chairperson for the remainder of 2017.

**VOTE: Yes:** Mr. Hazlett, Mr. Smith, Ms. Riggs, Mr. Minard, Mrs. Taylor and Mr. Greenwood.

**No:** None.

***Motion carried.***

### Staff Comments

Mr. Neimayer stated the next scheduled meeting is Thursday, March 23, 2017.

### Adjournment

Motion by Mrs. Taylor seconded by Mr. Smith, to Adjourn.

**VOTE: Motion carried unanimously.**

The meeting was adjourned at 3:07 pm.

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Mr. Tim Greenwood, Chairperson

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Mr. Thomas A. Hale, Secretary