

PERKINS TOWNSHIP BOARD OF ZONING APPEALS MEETING

Held By: Perkins Township Board of Zoning Appeals

Place: Perkins Township Service Facility, Meeting Room, 2610 Columbus Avenue

Date: September 21, 2020

Time: 4:00 p.m.

Board Members Present: Mr. Larry Pitts, Chairperson
Mr. Michael Bixler
Mr. Gary Gast
Mr. Ted Kastor
Mr. David Bertsch, Alternate

Board Members & Staff Absent & Excused: Mr. Will Spence

Staff in attendance: Ms. Angela Byington, Community Development Director
Ms. Melanie Murray, Planner/Zoning Inspector
Ms. Melissa Vassallo, Administrative Assistant

I. Call to Order

Mr. Pitts called the meeting to order at 4:02 p.m.

II. Pledge of Allegiance

Mr. Pitts led the Board and the audience with the Pledge of Allegiance.

III. Roll Call

Mr. Pitts asked for roll call to be taken. Mr. Pitts, Here; Mr. Kastor, Present; Mr. Bixler, Here; Mr. Gast, Here; Mr. Spence, Absent; Mr. Bertsch, Here.

IV. Minutes

Mr. Pitts asked for a motion to approve the minutes from the August 17 meeting. Mr. Bixler made the motion. Mr. Kastor seconded the motion. Roll Call: Mr. Bixler, Yes; Mr. Kastor, Yes; Mr. Pitts, Yes; Mr. Gast, Yes; Mr. Bertsch, Yes.

V. Chairperson's Welcome and Explanation of Public Hearing & Public Meeting

Mr. Pitts welcomed everyone pertaining to Application #BA2020-09 to the meeting and explained how the meeting will progress. He said there are two (2) parts to meeting. The first part is a public hearing where the applicant gets to explain what they want to do, and second part will be the public meeting. The first part will be closed then open it for a public meeting where the board will make their decision.

VI. Reading of the Request

APPLICATION #BA2020-09 – A variance was requested by Milan III Company Ltd. at 6100 Milan Road for one variance to the Zoning Resolution on the east side of Route U.S. 250 (PPN 32-

04629.000). The variance requested is for a reduction of the front yard sign setback to twenty-three (23) feet whereas Section 28.12 (4)(a) requires a minimum of thirty (30) feet from all right-of-way.

VII. Staff Review

Ms. Murray told the Board that this application came around because they would like a free-standing sign for the new hotel that was built this year, 2020. It is a two (2) sided, illuminated free-standing sign on the southwest corner of the site. According to our code Section 28.12 (4)(a) of the Zoning Resolution, it has to be setback a minimum of thirty (30) feet from the Milan Road right-of-way. It is noted that surrounding properties are commercial and residential in nature and this sign is a total of eleven (11) feet wide at the top. The bottom portion is fully in the setback, the top ten (10) feet are what extend over the setback. They requested a seven (7) foot variance. There have not been any letters or any communication from any residents.

VIII. Open Public Hearing

Mr. Pitts said you are free to make your presentation at this time. Mr. Pitts asked Melanie if everyone has signed in and has been sworn in.

Ms. Murray said yes, we have signed in but not sworn in.

IX. Swearing In

Mr. Pitts asked can we swear them in? Mr. Pitts asked Do you swear to the truth, the whole truth, and nothing but the truth so help you God?

Mr. Leonard Longer, Mr. Gavin Longer, and Mr. Kwapich said I do.

Mr. Leonard Longer told the board his name. He said how he is happy to final get the hotel open. He went on to say that the contractor was building a couple hotels, one (1) in Michigan and one (1) in Pennsylvania and they both shut down. So, they are happy that they got the place open. He continued to say that the reason they are here today is because Hilton requires this kind of sign. He referred the board to the drawing. He explained the bottom of the sign is within the setback and that is the top of the sign that goes over the setback. The very top is seven (7) feet over the setback. Mr. Longer went on to say that they looked over the visibility of the drivers and when the public is coming to Bogart Road and Rt. 250, turning right, this sign is far beyond their line of vision. It is not in the way at all. When the people are going the other way, when they are leaving the hotel, going toward Beatty Lane, it is clear visibility there. He said they think it will be safe for the public and that it is going to help the hotel a lot because when people are traveling south, the hotel is set back. This sign lets people know it is there. When people are leaving Cedar Point or on the turnpike, they don't see it. Now with the sign, they will see it and have time to get over and pull into their driveway. Otherwise, they will go right by it. Mr. Longer continued to say it is a very important sign to them and they think it will add to the success of the hotel. He ended by saying if there are any technical questions, Rick from the Reason Sign Company can answer those.

Rick Kwapich asked the board if they have any questions, because he does not have anything to add.

Mr. Kastor asked Rick if it is illuminated.

Mr. Kwapich said Yes.

Mr. Kastor asked like it is internally lit?

Mr. Kwapich said correct.

Mr. Kastor said so the Tru blue logo would be illuminated?

Mr. Kwapich said yes, the Tru, the circle logo will be illuminated but the rest of the sign will not be illuminated.

Mr. Pitts asked if there are questions from anyone else.

X. Close Public Hearing/Open Public Meeting

Mr. Pitts asked for a motion to close the Public Hearing and open the Public Meeting.

Mr. Bixler said so moved. Mr. Bertsch seconded. Roll Call: Mr. Pitts, Yes; Mr. Kastor, Yes; Mr. Bixler, Yes; Mr. Gast, Yes; Mr. Bertsch, Yes.

XI. Discussion from Board

Mr. Bixler asked Melanie that according to her notes, they had no other options, other than putting it in the middle of the parking space. They were really limited with what they could do.

Ms. Murray responded correct; they were limited. She said no matter where they put it, it wouldn't fit in the setback. There are no regulations in the state regarding how close the signs can be to each other, so this was the best option.

Mr. Kastor asked Mr. Longer if they have enough parking spaces.

Mr. Longer responded yes.

Mr. Kastor asked even if they have busy weekends.

Mr. Longer said yes, it is working on well. They always have a few left over. They have had no problems and things are working out great. And by the way, the fence is just about done.

Mr. Kastor asked Ms. Murray if they have heard from any neighbors.

Ms. Murray said no, none, just about the fence.

Mr. Gast said he would like to make a motion to pass Application #BA2020-09. Mr. Bixler seconded. Roll Call: Mr. Gast, Yes; Mr. Bixler, Yes; Mr. Pitts, Yes; Mr. Kastor, Yes; Mr. Bertsch, Yes.

Mr. Kastor said that he would like to thank Mr. Longer and his family for investing in Perkins Township. It is a beautiful facility, as you head into the area, it is nice to see fresh lodging.

Mr. Longer said he are proud to be in Perkins Township.

XII. Swearing In

Mr. Pitts asked who will be speaking on behalf of this application so they can be sworn in. He tells them to stand and raise their right hand. Do you swear to the truth, the whole truth, and nothing but the truth so help you God?

Ms. Manion said I do.

XIII. Chairperson's Welcome and Explanation of Public Hearing & Public Meeting

Mr. Pitts welcomed everyone pertaining to Application #BA2020-10 to the meeting and explained how the meeting will go. He said there are two (2) parts to meeting. The first part is a public hearing where the applicant gets to explain what they want to do, and second part will be the public meeting. The first part will be closed then open it for a public meeting where the board will make their decision.

XIV. Reading of the Request

APPLICATION #BA2020-10 – A variance was requested by Margaret Manion for a variance to the Zoning Resolution at 6201 Milan Road (PPN 32-00066.000, 32-00065.000, 32-04971.000). The variance requested is for the reduction of a side yard setback to twenty-one feet and 4 inches (21.4) whereas Section 17.3 requires a minimum of thirty (30) feet from the right of way.

XV. Staff Review

Ms. Murray said as mentioned, this property is at 6201 Milan Road, on the corner of Bogart and Milan. It is zoned C-2. The applicant is proposing to put a one (1) story 864 sq. ft. accessory building on the lot and is proposing to put it in the side yard setback which requires thirty (30) feet in a C-2 property and they would like to set it back 21.4 ft. There is sixty (60) feet of frontage on Milan Road and currently developed with a one (1) story restaurant on the property. The applicant has proposed to build this accessory building because of the reduced capacity due to COVID. And without this accessory building the seating capacity is excessively reduced which makes operating the business hard. There were no departmental comments and no comments from any neighbors.

XVI. Open Public Hearing

Mr. Pitts asked for a motion to open the Public Hearing.

Mr. Bixler motioned. Mr. Bertsch seconded.

Ms. Manion said it is pretty much what Ms. Murray said. She is putting up a free-standing pavilion that they are going to modify to make up for any lose. Ms. Manion showed the boarding the site plan and drawings of what the pavilion will look like. She explained it is pretty much a picnic shelter, but they will modify it with sides to have open air but can close it in during the winter.

Mr. Gast asked if it will have a ceiling in it because of birds and things of that nature.

Ms. Manion answered yes. She said plans on using it in the wintertime so there will be heat in there. They will be putting on a slab.

Mr. Gast asked if it will be open space through the patio.

Ms. Manion said yes, they will be putting up a canopy. They cannot attach it to the building.

XVII. Close Public Hearing/Open Public Meeting

Mr. Pitts asked for a motion to close the Public Hearing and open the Public Meeting.

Mr. Gast made the motion. Mr. Kastor seconded. Roll Call: Mr. Gast, Yes; Mr. Kastor, Yes; Mr. Bixler, Yes; Mr. Bertsch, Yes; Mr. Pitts, Yes.

XVIII. Discussion from Board

Mr. Bixler asked Ms. Murray if this is the one corner going into the easement area and if it is, is that an issue?

Ms. Murray said it is not an easement anymore. It is now their property. They each got half of the road.

Mr. Gast made the motion to approve Application #BA2020-10 as submitted. He thinks she does a fine job, and this will just add a little bit of pizzazz to it. Mr. Bertsch seconded. Roll Call: Mr. Gast, Yes; Mr. Bixler, Yes; Mr. Kastor, Yes; Mr. Bertsch, Yes, Mr. Pitts, Yes.

XIX. Swearing In

Mr. Pitts told the gentlemen for the application that he needs to swear him in. He said please stand and raise their right hand. Do you promise to the truth, the whole truth, and nothing but the truth so help you God?

Mr. Brown said yes.

XX. Chairperson's Welcome and Explanation of Public Hearing & Public Meeting

Mr. Pitts continued to say there are two (2) parts to this meeting. The first part is his presentation then they will close that part and open their meeting where the board will make their decision.

XXI. Reading of the Request

APPLICATION #BA2020-11 – A variance was requested by Ace Lighting Services on behalf of Five Below at 4314 Milan Road (PPN 32-03119.000). The variance requested is for additional wall signage of 34.15 square feet whereas Section 28.10(3) of the Zoning Resolution are allowed two (2) square feet of sign area for each lineal foot of building frontage (110 square feet). A variance of 24.15 square feet is requested.

XXII. Staff Review

Ms. Murray said the applicant stated is in the mall at 4314 Milan Road. The property is zoned C-2 and they are proposing to install one (1) new building sign that is an additional 34.15 square feet wall signage. In 2019, they had applied for 120 square feet of signage and they came back in 2020 and applied for an additional 34 and they are allowed 110 square feet of signage because of the 55-foot building frontage. So, they are asking for a variance of 24.15 square feet. Ms. Murray went on to say she has no departmental comments and no comments from any surrounding neighbors.

XXIII. Open Public Hearing

Mr. Brown explained that this signage is for the new Five Below location. It is located at the southern end of the mall. They already got the front sign approved and they are looking to add a second sign, which would be on the southeast side of the building. Mr. Brown continued to say the reasoning for the sign is so there is better visibility of the store coming off of the mall access drive.

Mr. Brown told the board the details of the sign. It is individual Five Below letters in white and mounted in light blue background panel. He said only the Five Below letters will be illuminated, and the background panel will be just highlighted from the signage.

Mr. Bixler said this application said you consider this to be a corner or an end cab store. There for request two (2) signs. Is that correct?

Mr. Brown said yes, do you all have the site plan of the location? They would be southwest and southeast.

Mr. Gast explained one (1) would be facing Hobby Lobby and one (1) would be facing Planet Fitness.

XXIV. Close Public Hearing/Open Public Meeting

Mr. Pitts asked for a motion to close the Public Hearing and open the Public Meeting. Mr. Bixler so moved and Mr. Gast seconded. Roll Call: Mr. Bixler, Yes; Mr. Gast, Yes; Mr. Kastor, Yes; Mr. Bertsch, Yes; Mr. Pitts, Yes.

XXV. Discussion from Board

Mr. Gast motioned to approve Application #BA2020-11 as submitted because he thinks they need to help the mall and bring in a little more tax base. Mr. Kastor seconded. Roll Call: Mr. Gast, Yes; Mr. Kastor, Yes; Mr. Bixler, Yes; Mr. Bertsch, Yes; Mr. Pitts, Yes.

XXVI. Swearing In

Mr. Pitts let the audience members know that anyone speaking regarding the application he needs to swear them in. He said please stand and raise their right hand. Do you promise to the truth, the whole truth, and nothing but the truth so help you God?

Mr. Comparette and Mr. Mandeville both said I do.

XXVII. Chairperson's Welcome and Explanation of Public Hearing & Public Meeting

Mr. Pitts said there are two (2) parts to this meeting. The first part is the presentation by the applicant and then there is an opportunity for any others to speak if they so desire. They will then close that part of the meeting and open to the board where they will have their discussion and make their decision.

I. Reading of the Request

APPLICATION #BA2020-12 – A variance was requested by Dave Comparette on behalf of Donna Andres at 210 Douglas (PPN 32-00696.000). The variance requested is for a six (6) foot and eight (8) inches fence whereas the Section 26.10 (2)(a) of the Zoning Resolution allows a maximum of six (6) feet in height.

Staff Review

Ms. Murray said as mentioned this property is at 210 Douglas, it is zoned R1-B, single-family residential. The applicant has installed a fence made of doors, as you can see in the packet, and it is six (6) feet and eight (8) inches high whereas the zoning code only allows for a six (6) foot fence as a maximum in a residential district. All surrounding properties are R1-B and the lot is less than one (1) acre. Staff does not believe that this will create adverse impacts on any of the surrounding

neighbors. Ms. Murray went on to say that she did hear from one (1) neighbor, the letter is at the end of your packets. And there were no comments from staff members.

XXVIII. Open Public Hearing

Mr. Comparette began with saying he used regular house doors, which are six (6) eight (8). They are located at the rear of the property and part of the side. He said they are a little higher than normal but to cut steel doors off is not a good thing. It is to block sound and animals. They have had issues in the past and this helps to prevent that. He said the previous fence was three (3) foot and had been on the property since they built the place. It is a chain link fence. He just added the poles and put bracing to hold the doors.

Mr. Gast asked if he used the same posts.

Mr. Comparette said yes, the same posts. He just extended them up.

Mr. Bertsch asked if the owner of the previous three (3) foot fence, is this same owner.

Mr. Gast asked if the previous fence was dead on the property line.

Mr. Comparette said as far as he knows it was that way.

Mr. Mandeville introduced himself. He said his wife owns the house at 205 Randall. He said he measured the fence yesterday and it is 84" high. He went on to say they put a 2x4 across the top of the doors. Mr. Mandeville said when you look at it, it looks substantial. The doors are painted, and it looks nice and solid. He said most of the doors have window glass. He counted 70 pieces. He believes the glass is a hazard. Mr. Mandeville also said there is question where the fence is on the property line.

Mr. Comparette said the fence posts were there in '57.

Mr. Mandeville said when the neighbor behind him bought their house, they were told by their realtor that the fence is on their property.

Mr. Comparette said he is not aware of that.

Mr. Mandeville said he realizes the zoning code does not include what the fence can be made out of but that much glass is dangerous. Also, if you look at the neighbors on both sides, their privacy fences are six (6) feet high so he should have realized that was the requirement. He doesn't understand how the job was allowed to be finished.

Mr. Comparette said the glass in the doors are tempered glass. That is a requirement.

Ms. Murray explained that she sent the violation letter because Paul was out there regarding the neighbor. He was the one who measured the fence.

Mr. Kastor asked Ms. Murray if there is anything in the code that states materials that would disallow the use of doors with glazing in them?

Ms. Murray said no, there is no regulation on what it can be made out of. It just says it can be six (6) feet high.

Mr. Kastor said so we are strictly talking about an eight (8) inch variance. He asked Mr. Comparette if the 2x4 is how he secured the doors. Mr. Kastor also said the poles in the photo show the poles going higher.

Mr. Comparette responded that he put birdhouses on several of the poles.

Mr. Murray said the birdhouses would need to be removed.

Mr. Kastor explained that they try to find compromise here. He asked Mr. Mandeville if there is something Mr. Comparette can do to modify the fence to make it more acceptable for him.

Mr. Mandeville responded that Mrs. G is pretty adamant that the fence is hers. She will not be happy as long as they are using the chain link fence. He said he has not seen a property stake anywhere.

The Board, Mr. Comparette, and Mr. Mandeville went on to discuss who the chain link fence belongs to.

Mr. Bertsch said basically we are voting on the height of fence. And he asked Ms. Murray if she is requiring the poles be cut down to size.

Ms. Murray said yes. He will need to cut those. She went on Paul's measurement of 80".

Mr. Bertsch asked Mr. Comparette if Mr. Ricci spoke to him when he was out.

Mr. Comparette said yes, he didn't say anything about cutting the poles off.

Mr. Bertsch said so it is his understanding that the concerns are the location of the fence and who owns the fence.

Mr. Mandeville said that is Mrs. G's concern.

Mr. Bertsch said that is not for them to decide. They are only deciding on the height. There is not an objection on the height, it is who owns the fence.

Mr. Mandeville said their concern is that the surrounding neighbors have six (6) foot fences and they followed the rules and got a permit. He did not get a permit because he would not have been allowed to do.

Mr. Kastor asked so the fence was constructed and then the permit was applied for?

Ms. Murray said yes, the fence was constructed, we gave him the violation, so he applied for the variance and the fence at the same time. Ms. Murray said he hasn't recent the fence permit because the variance needs to be approved or denied first.

Mr. Kastor stated that from the picture the fence looks good.

Mr. Comparette said the glass is painted on both sides.

They go on to discuss the options of what could be done to fix the problem such as cutting the top or bottom of the doors, dig a trench, etc. None of the options are feasible.

II. Close Public Hearing/Open Public Meeting

Mr. Gast motioned close the Public Hearing and open Public Meeting. Mr. Bertsch seconded. Roll Call: Mr. Gast, Yes; Mr. Bertsch, Yes; Mr. Kastor, Yes; Mr. Bixler, Yes; Mr. Pitts, Yes.

III. Discussion from Board

Mr. Bixler stated that he is for uniformity. He agrees it should be six (6) feet high. Secondly, shame on us for not having better specs on what can be used for a fence.

Mr. Gast said since it is only concerning the height, he would like to approve Application #BA2020-12 as submitted being that they have no concerns regarding whose fence or materials.

Mr. Pitts asked if there is a second?

Ms. Murray said since there is no second, they now need a motion for denial.

Mr. Bixler made the motion to deny Application #BA2020-12.

Mr. Kastor asked Mr. Bixler if he would consider amending his motion of denial to give Mr. Comparette the opportunity to lower the doors. They aren't saying he has to take the fence down but he needs to bring it to code. Mr. Kastor said he seconds Mr. Bixler's motion. Roll Call: Mr. Bixler, Yes; Mr. Kastor, Yes; Mr. Gast, No; Mr. Bertsch, Yes; Mr. Pitts, Yes.

Mr. Kastor explained at this point the Township takes over to work with Mr. Comparette to come up with a solution. And he can tell Ms. G. that the location of the fence is a survey matter.

Mr. Mandeville asked if they know what type of survey do they need.

Mr. Kastor suggested a boundary survey.

Ms. Murray explained technically a fence can be on the property line so the survey could be inconclusive.

Mr. Kastor let Mr. Comparette know that he does have the legal right to contest the Board's decision.

IV. Old Business

Mr. Kastor asked what variance was approved for Mr. Ruta with the U-Hauls.

Ms. Murray responded that it was a variance to basically operate U-Hauls that his location. It was to have them, to rent them.

Mr. Kastor said so there were no specifics?

Ms. Murray said she did send him specifics. He cannot have them 30 feet from the right-of-way and 30 feet from the back of the property. She let them know she has sent several letters related to the other issues going on there. Ms. Murray said the Conditional Use permit can be revoked. And she will check if she has sent a recent letter to them regarding the U-Hauls.

Mr. Kastor said he was hoping she could get support from our Legal Representative.

Ms. Murray said she can only take them to court regarding the fence and sign issues. The Conditional Use permit can be revoked by this Board due to that he is too close of the right-of way. She said she will follow-up to verify if they are not within their limits.

Mr. Gast continued to say since they are talking about parking lots and trucks, he wants to know about Mr. Hoty job trailer.

Ms. Murray told him that she did email them to move it and they said it would be moved.

Mr. Bertsch asked where this job trailer is located.

Ms. Murray said it is at their 5003 Milan location. She will ask them again.

V. New Business

Ms. Murray told the Board there might be a meeting next month. Possibly Raising Cane's and maybe one involving an Air B&B. But no official applications yet.

VI. Adjournment

Mr. Pitts asked for a motion to adjourn. Mr. Bertsch motioned. Mr. Gast seconded. Roll Call: Mr. Bertsch, Yes; Mr. Gast, Yes; Mr. Kastor, Yes; Mr. Bixler, Yes; Mr. Pitts.