

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: August 16, 2021

Time: 4:00 p.m.

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

Board Members Absent & Excused: Mr. Spence.

Staff in Attendance: Ms. Angela Byington, Director
Mrs. Arielle Blanca, Planner/Zoning Inspector
Mrs. Jessica Gladwell, Administrative Assistant

I. Pledge of Allegiance

Mr. Ted Kastor called the meeting to order and led the Board and staff in the Pledge of Allegiance.

II. Roll Call

Mr. Kastor asked for roll call to be taken.

Mr. Kastor, Here; Mr. Pitts, Here; Mr. Gast, Here; Mr. Bertsch, Here; Mr. Bixler, here.

III. Minutes

Mr. Kastor asked for a motion to approve the minutes from the July 19, 2021, meeting.

Mr. Pitts made the motion and Mr. Gast seconded.

Roll Call: Mr. Pitts, Yes; Mr. Gast, Yes; Mr. Bertsch, Yes; Mr. Bixler, Yes; Mr. Kastor, Yes.

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

Mr. Kastor welcomed everyone to the meeting. He said it will be held in two (2) parts. First will be the Public Hearing, where the Board will hear from the applicant. Then they will switch to the Public Meeting, where the Board will decide the fate of the application.

Mrs. Gladwell Swore in everyone that signed in.

V. Reading of the Request

APPLICATION #BZA2021-19 A conditional use permit was requested by Shane Francis on behalf of MEF Properties, LLC for their property located at 5500 Milan Rd. (PPN: 32-03494.009). The conditional use permit requested is to allow for outdoor entertainment and business. Section 17.2(5) of the Zoning Resolution requires Conditional Use Permits for properties zoned “C-2”/ General Commercial District in order to conduct outdoor entertainment and business.

Connie Roberts representing Ashley Home store – 1914 E Water berry Dr; Huron. Mrs. Roberts stated they were just looking to do some car shows and maybe some food trucks on Saturdays, nothing crazy, not rock concerts.

Staff Review

Mrs. Blanca stated that this application is located at 5500 Milan Rd. The proposed development is to allow car shows and food trucks in the Ashley Furniture parking lot on some summer weekends. It does require a conditional use permit to accommodate the outdoor business. The conditional use permit shall automatically expire if such conditionally permitted use has not been instituted or utilized within one year or if for any reason such use shall cease for more than two years.

Planning staff recommends the approval of this Conditional Use Permit based on the applications compliance with the zoning standards found in Article 9 and Article 1 with the following condition:

1. A site plan be submitted with location and number of vendors. If the location or number of vendors increases, the conditional use permit must be amended.

Comments from the Staff:

- Fire Chief comments:
 1. Food trucks should meet all relevant fire code requirements, specifically a working, certified and appropriate fire extinguisher.
 2. Food trucks should not be parked in dedicated fire lanes.
 3. Food trucks should not impair access to the structure, suppression system fire department connections, or any fire hydrant.
- Neighboring property comments:
 1. “Please note that I have no objection to the request of conducting a car show with food trucks on the stated-above property for a “special event” – a weekend or a week; however, we do object if the food trucks were to be allowed on the property for longer than a week. US 250 is filled with a large number of food related businesses (many of them affiliated to properties we manage) that

provide excellent food services to our community. If the food trucks are allowed for longer than a special event, it is a great disservice to these existing food related businesses that have made substantial investments in their facilities and provide jobs and pay taxes to this community year around.”

VI. Close Public Hearing/Open Public Meeting

Mr. Kastor asked for a motion to close the public hearing and open the public meeting.

Mr. Gast motioned to close the public hearing. Mr. Bertsch seconded. Mr. Gast, yes; Mr. Bertsch, Yes; Mr. Bixler, Yes; Mr. Pitts, Yes; Mr. Kastor, Yes.

VII. Discussion from Board

Mr. Gast motioned to approve Application #BZA2021-19. Mr. Bertsch seconded. Mr. Gast, yes; Mr. Bertsch, Yes; Mr. Bixler, Yes; Mr. Pitts, Yes; Mr. Kastor, Yes.

VIII. Reading of the Request

APPLICATION #BZA2021-22 Mac Building and Development LLC requested a variance on behalf of Mike Ivoska for a property located at 1113 E. Bogart Road. The variance requested was for front yard setback of 72 +/- feet whereas section 25.2(4) of the Perkins Township Zoning Resolution requires an 80 foot front yard setback.

IX. Staff Review

- Mrs. Blanca stated that this property is located at 1113 E Bogart Rd. Current Zoning is “R-1/ Single Family Residential District, the home is on Bogart rd. there is an 80 ft front yard setback, they are asking for a 72 ft front yard setback, so there would be an 8ft variance. This is because the property has fire damage and is required to be torn down to the foundation. They can keep the foundation and the garage; however, they’d like to be able to re-build on the existing foundation, which is what would require the variance. The Department of Community Development is supportive of this application and the granting of the variance will not negatively impact any surrounding properties and a hardship exists as the home was burned beyond repair and the owner wishes to use the existing foundation to rebuild.

Conor Whelan with Mac Building 1524 Central Ave; Mr. Whelan stated he doesn’t really have anything to add to it than what is stated. Mike doesn’t live in town; the fire damage was beyond repair had. It was a KIT home, so there was no saving it because 1/3 of the house burned so he just wants to build on the same foundation, add two bedrooms, increase the pitch of the roof, still one-story house more of a cape cod style now.

X. Close Public Hearing/Open Public Meeting

Mr. Kastor asked for a motion to close the public hearing and open the public meeting.

Mr. Bertsch motioned to close the public hearing. Mr. Gast seconded. Mr. Bertsch, yes; Mr. Gast, Yes; Mr. Bixler, Yes; Mr. Pitts, Yes; Mr. Kastor, Yes.

XI. Discussion from Board

Mr. Kastor asked for a motion to table this application.

Mr. Gast motioned Mr. Pitts seconded. Mr. Gast, Yes; Mr. Pitts, Yes; Mr. Bertsch, Yes; Mr. Bixler, Yes; Mr. Kastor, Yes;

XII. Reading of the Request

APPLICATION #BZA2021-23 A variance request was filed by Party Place of 4903 Milan Road Sandusky, OH (PP #32-01208.000.) The variance requested is to allow an inflatable sign to be temporarily located on the roof of a business building at this address whereas Section 28.C (5) and (8) would not permit such installation.

XIII. Staff Review

Ms. Blanca stated the property is located at 4903 Milan Rd. Current Zoning is "C-2" / General Commercial, the applicant is seeking approval to erect an inflatable sign (pumpkin) on the roof of the building. As in prior year, the sign would be displayed during the "Halloween Season". The appellant seeks relief from Section 28.C(5) of the Zoning Resolution which states no sign shall be placed on the roof of any building and Section 28.C(8) which states that inflatable signs are not allowed within the Township. The Department of Community Development is supportive of this application and the granting of the variance will not negatively impact any surrounding properties.

Greg from the Party Place: We're just back for our annual approval for the pumpkin for the roof.

Mr. Gast asked if we could just give approval for like 4 years, so he doesn't have to come back year after year.

Ms. Byington stated we were thinking the same thing and we asked Mr. Boyle, and he said no it's not possible, we must go through the procedure and then fire department must make sure its secured and its unfortunately something we must do. Now if the board is okay with it, maybe the applicant wouldn't have to come back every single time unless something changes, like the pumpkin gets bigger or more pumpkins something like that. Unfortunately, we do have to go through the process.

Mr. Gast stated that the process would be fine for us to discuss, but for him to attend each and every time for the same thing, it's crazy.

Mr. Bertsch stated that they could agree to not table it if there wasn't anyone here to represent that variance request.

Mr. Kastor stated were going to give you a little special treatment, normally if an applicant requests a zoning variance and they aren't represented at the meeting, we table it. But, with your situation were so familiar with the request and you've done it for several years, is the board in agreement that we would waive that you'd have to show up. Just submit your paperwork and pay your money.

XIV. Close Public Hearing/Open Public Meeting

Mr. Kastor asked for a motion to close the public hearing and open the public meeting.

Mr. Bertsch motioned to close the public hearing. Mr. Bixler seconded. Mr. Bertsch, Yes; Mr. Bixler, Yes; Mr. Gast, Yes; Mr. Pitts, Yes, Mr. Kastor, Yes;

XV. Discussion from Board

Mr. Gast motioned to approve Application #BZA2021-23, and a caveat of him not showing up to meetings every time, he just needs to submit his paperwork and pay his fee. Mr. Pitts seconded. Roll Call: Mr. Gast, Yes; Mr. Pitts, Yes; Mr. Bixler, Yes; Mr. Kastor, Yes.

XVI. Reading of the Request

APPLICATION #BZA2021-24 A conditional use permit was requested by Patrick O Fox for the property located at 306 Woodlawn Avenue. (PPN: 32-01233.000). The conditional use permit requested is to allow for a home occupation. Section 13.2(1) of the Zoning Resolution requires Conditional Use Permit for properties zoned "R-1B"/ Single Family Residential District in order to conduct home occupations and home offices.

XVII. Staff Review

Mrs. Blanca stated the property is located at 306 Woodlawn Avenue. The appellant proposed to use the property as a home office for his excavation business. The current Zoning is "R1-B" / Single Family Residential. There are two parcels that are in question, the owner does own two parcels to the right of that. Staff's review indicates that the proposed use would not comply with zoning regulation Section 13.2(1)(c) "There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two (2) square feet in area, non-illuminated".

Fire Chief comments:

- If structure is to be used as home business, all applicable building and fire code guidelines should be met.

This application has been reviewed from the perspective of the Zoning Resolution's standards as noted above. In this regard, it is noted that planning staff recommends the approval of this Conditional Use Permit with the following condition:

1. The conditional use permit will only allow for the home occupation on two lots: PPN 32-01234.000 and PPN 32-02399.000.
2. Equipment, vehicles, tools, and storage of materials related to the home occupation shall be enclosed in a privacy fence with a solid gate where access is provided.

3. All storage and fencing must be located outside of the required front yard setback of 35 ft. and side yard setback of 12 ft. on Woodlawn Avenue and Spencer Avenue respectively.
4. A site plan must be submitted for staff review and approval of the storage location and fencing. Staff may require modification for safety reasons, such as site distance clearance for vehicles exiting driveways.
5. A fence permit must be obtained prior to construction of the fence.
6. The lots used for the home occupation shall be combined with the parcel(s) that the residence is located upon.

Mr. Pat Fox 306 Woodlawn Ave: Mr. Fox stated they've been in business out there since about 1945 and I've never had an issue. Until I bought the property next door, tore the place down, cleaned the place up and put a little parking area over there so I could park my equipment so it could keep me off Woodlawn Ave for safety reasons. Now, as we have been out there for over 80 years without any issues, and then all sudden this.

Michael Knoll 407 Woodlawn: Like Mr. Fox said is correct, it has been there since I was a kid, his dad ran the business before he did. He's done more to clean up the neighborhood than a lot of people have. His property always looks excellent, his equipment always looks excellent, and parked well and is never a hazard. He tore down a crappy house and leveled it out to park his equipment on and I think we're making a big thing out of nothing out there. He's had his business, he should be grandfathered by all of this, and his property looks a lot better than a lot of properties out there and having to pay to do this is a travesty from what they're doing to Pat, a small businessman. You take his money away from him to have to do all of this you're going to almost put him out of business. This is a lot of money to have to put up a fence and everything else for what they've been doing since 1945. I don't think he needs a fence and everything else, he has been keeping it looking nice and neat.

Thomas Knoll 609 Woodlawn: He stated he thinks it's absurd were here today. He stated he's 66 years old and has lived on Woodlawn Ave all his life. So, I can safely say that business has been there at least 60 years. You know that should be grandfathered; it was here before the zoning. Anybody in this township that has a non-conforming use, that isn't grandfathered should be scared, if you guys go ahead and approve this. What you guys should really do is adjourn this meeting and give Mr. Fox his money back because there was no need for a meeting. The other thing I got to say if it has anything to do with the property on the corner of Spencer and Woodlawn, your zoning code says if the property is non-conforming (which it is because it's too small) then it's got to be combined by the other one, so it should be covered by the grandfathered one. I think it's a travesty were here, and you need to do the right thing, and whoever brought this whole thing up should have to apologize to Pat because it's wrong.

Ms. Byington: She stated first of all, on behalf of herself and the Township, we appreciate everything that you and your family have done over the years, and this is no way an attack on you personally. We have some other non-conforming properties, that you're going to have another one of these next month. We just have to make sure were fair and everyone is being treated the same way. As you can see our department is recommending approval, the

board can modify the recommendations anyway they want to but this will legalize it so there won't be any issues in the future. The reason this has come to light is because of the expansion, so even though the original property is grandfathered, once you knock down the next residential property and you expand it over that technically required a way to legalize it with this kind of conditional use permit. So, on behalf of the township, we are not in any way trying to come after you and your business and we appreciate everything, so we want to be as accommodating as we can. We put out our recommendations, but the board can modify them.

Thomas Knoll 609 Woodlawn: Mr. Knoll stated he totally disagrees with that assessment; your zoning code clearly says if an individual has a property that is non-conforming adjacent property the two should be considered one. So, the one is already grandfathered the other should be grandfathered.

Mr. Kastor asked what triggered this whole thing, him inquiring that additional parcel.

Ms. Byington stated we have been doing our code enforcement, multiple officers not just the most recent officer has sited it, and it has been in our system, and I think that you probably tried working with Mr. Richie in the past and were doing zone inspections and there are other properties that have similar situations, and they are not all as nice as Mr. Fox's. There are going to have to be some things done a little harsher with the other properties, were not as lucky with them. We can't bring the other properties forward if we're not bringing every property in the zone inspections, so were just trying to legalize it. The property that he has expanded onto does not have any sort of non-conforming legal status unfortunately, so that is why we're here. Even if it were narrower than it could be and it could be built on again and it had to be combined to something, that is a separate issue. This is all about the use of the property. Again, were trying to legalize it so there are no issues. Were just trying to make it right.

Thomas Knoll 609 Woodlawn: Thomas stated that the code said it is considered one property if it's an adjacent property owner.

Ms. Byington stated that not if it is separate ownership, and he has not owned that property since the 40's correct.

Mr. Fox stated that no he has not owned that property since the 40's. He bought the property, well he stated he did the township a big favor by buying that property and tearing it down, and saved everyone and everything else, and cleaned up the whole lot. The problem is Woodlawn Ave has gotten so busy, and you guys put sidewalks in on the other side of the street where he loaded up and everything so what he does is load up on Spencer Ave, which there is a car there every 4 hours and park his equipment there instead of running out on Woodlawn Ave around the corner to load up. All he's doing is parking his equipment there for loading and unloading.

Mr. Pitts (BZA Board)- Asked Mr. Fox going forward if he plans on expanding his business as far as equipment.

Mr. Fox stated that what he would like to do is prices are so high, his original plan was to build a pole barn to put his stuff in, but he would still have to load and unload on Spencer Ave. but prices with covid and everything is unbelievable, and he can't afford it, it's as simple as that.

Michael Knoll 407 Woodlawn: Stated that he thinks a privacy fence will take away from the area also, he thinks that it's going to look horrible. He doesn't have a huge lot to being with, he'd rather look at a dump truck and a backhoe than look at a privacy fence, its just basically going to be a wall.

Mr. Gast (BZA Board) stated that the privacy fence is only going to see the equipment over the privacy fence. The privacy fence is only going to block so much of the equipment.

Michael Knoll 407 Woodlawn: stated that's why he doesn't think Mr. Fox should have to get a privacy fence. He thinks a privacy fence will take away from the neighborhood more than his equipment does, he said Mr. Fox's equipment looks good.

Mr. Bixler (BZA Board): stated the conditional use is for a home occupation (that's what were here for), was it not a home occupation issue before, it's just been recognized.

Ms. Byington: Stated it was not an issue previously on the existing lot because it's been there since the 40's but when he tore down (thank you for tearing it down and taking care of that property) but once he expanded on, that was the issue, and again as were doing the zone inspections there are a few other properties that have been cited and will have to come in front of you, again and some of them are not as nice and Mr. Fox.

Mr. Fox stated if he combined that lot to his, it would automatically be grandfathered in anyways, would it not.

Mrs. Byington stated that no it would not, again we're trying to help you here and make it legal. We made recommendations, but the board can modify them.

Thomas Knoll 609 Woodlawn stated the township needs to be careful, there are all kinds of places in the township that are grandfathered clause for non-conforming use, and if you take and do this, you're putting everyone in jeopardy.

XVIII. Close Public Hearing/Open Public Meeting

Mr. Kastor asked for a motion to close the public hearing and open the public meeting.

Mr. Gast motioned Mr. Bertsch seconded. Mr. Gast, yes; Mr. Bertsch, Yes; Mr. Bixler, Yes; Mr. Pitts, Yes; Mr. Kastor, Yes.

Mr. Kastor stated he is going to state how he feels personal about this. He stated he has been on this zoning board for a long time, I put a lot of weight in what the adjacent property owners have to say on the variance request, and this gentleman who is conducting business there has some neighbors or people that are aware of Mr. Fox's business that said he hasn't been a problem and why are we here. So that means a lot to Mr. Kastor, he understands that we have potentially similar issues that will be coming in front of us, that the property isn't kept as well as Mr. Fox. Mr. Kastor likes to think that we look at everything on an individual basis instead of just saying it's good for everyone regardless of what is going on. Mr. Kastor stated he has some empathy here about forcing him to provide this fence and gate, which is a financial hardship and at the end of the day Mr. Kastor personally wasn't sure if it would approve the appearance of the neighborhood.

Mr. Gast stated that his feeling on this whole thing is that the fencing thing could be a slippery slope because there are other business's in this township that only have a chain length fence and they store similar equipment that Mr. Fox does. Now are we going to make those business's put-up privacy fences. Number 2, Mr. Gast stated he was in a similar situation a few years ago in the city of Sandusky with similar requirements and the business Mr. Gast had at the time decided to move out of Sandusky, because of the stipulations. Mr. Gast states he thinks the Fox family has done a lot for the community, usually when asked they help a lot of individuals. Mr. Gast thinks personally the township should exclude the fencing issue as long as Mr. Fox makes an agreement that he keeps everything in an orderly fashion, as far as equipment and any supplies/materials.

XIX. Discussion from Board

Mr. Kastor asked for a motion to approve Application #BZA2021-24. Mr. Gast motioned without a fence of any type, that he keeps the property in an orderly fashion with as far as equipment/materials/stone/piping anything like that, and of course stick with the 2x2 sign if he decides to put a sign up. This is only for the home occupation on the two lots. Mr. Bertsch seconded. Roll Call: Mr. Gast, Yes; Mr. Bertsch, Yes; Mr. Bixler, Yes; Mr. Pitts, Yes; Mr. Kastor, Yes;

XX. Reading of the Request

APPLICATION #BZA2021-25 and #BZA2021-26 Two variance and a conditional use permit request filed by CESO on behalf of Arby's for a property located at 3908 Milan Rd. (PP #32-00574.000). The first variance request is to allow for 35 parking spaces whereas Appendix B of the Zoning Resolution limits carry-out restaurants to one space per 200 sq. ft. of floor area and one for each two (2) employees. The second variance request is to allow for a flat roof whereas Section 25.15(1)(f) of the Zoning Resolution limits flat roofs to structures with two (2) stories or over 10,000 sq. ft. for single floor. The Conditional Use Permit is for a drive-in/thru business as Section 17.2(4) of the Zoning Resolution requires Conditional Use Permits for properties zoned "C-2"/General Commercial District in order to conduct any business of a drive-in/thru nature.

XXI. Staff Report

Mrs. Blanca stated that the property is located 3908 Milan Rd. Current Zoning is "C-2" / General Commercial District. Proposed Development: Arby's Drive-in/thru restaurant. The applicant seeks relief from Appendix B of the Zoning Resolution which states Carryout Restaurants require "one space per 200 square feet of floor area & one for each (2) employees" and from Article 25.15(C)(f) which states "flat roofs shall only be permitted for structures two (2) stories or greater, except that a flat roof may be permitted on a structure containing 10,000 square feet or more on a single floor". The applicant is requesting to have 35 parking spaces, whereas the Zoning Resolution would allow for approximately 15-17 parking spaces. The proposed parking spaces will be less than the current amount of parking on the property, which is currently 41 spaces. Additionally, the proposed building has a flat roof and will be a single-story building with less than 10,000 sq. ft. of building area, where the code states flat roofs are only permitted on two-story buildings or single-story buildings over 10,000 sq. feet. The Department of Community Development supports the requested variance for additional parking, as the applicant has stated that this is the standard amount of spaces for this size Arby's and has experience with numerous Arby's projects. Additionally, the amount of parking will be less than currently available at the existing property. Regarding the variance for a flat roof, staff would recommend the utilization of a pitched or faux pitched roof, however, the building elevations do create some roof height differentiation with the use of parapets, which will be more aesthetically appealing than a plain flat roof and appear to screen any mechanical equipment on the roof.

The applicant proposes to raze and rebuild the existing Arby's restaurant and include a new drive-thru area. Staff's review indicates that the proposed use would comply with zoning regulation Section 17.2(4). The property will be at least 60 feet from the right-of-way, ingress and egress points will be located at least fifty (50) feet from the right-of-way of the intersection of any two (2) streets and the property will not be abutting any residential areas so lighting and the addition of a six (6) foot opaque wall will not be necessary. Planning staff recommends the approval of this Conditional Use Permit because the re-development of the site will comply with zoning regulation Section 17.2(4).

Jeffery Loncher from CESO 2800 Corporate Exchange Dr Columbus OH stated the site plan you see reducing some of the parking, it is a larger lot and configured differently. They did increase some landscaping. Arby's typically have for this prototype around the mid 30's range, they did approve it they think it's a good fit and a good raise and rebuild opportunity. Drive thru, the one that is currently there is at the rear of the building, kind of funky with the cross drive that goes to Strub, this one will make it better because the drive thru is on the west side of the building. There is a little bit of separation as well with the amount of curb and the striping between the drive at the North as well as the drive thru, that should hopefully check the box to be an improvement overall. As far as the building as staff kind of stated there are a couple towers on each side to break up and different material and color to break up the aesthetics of the flat roof. He thinks were on par with the Culver's and Wendy's and some of the other similar uses in the corridor.

XXII. Close Public Hearing/Open Public Meeting

Mr. Kastor asked for a motion to close the public hearing and open the public meeting.

Mr. Gast motioned Mr. Pitts seconded. Mr. Gast, yes; Mr. Pitts, Yes; Mr. Bertsch, Yes; Mr. Bixler, Yes; Mr. Kastor, Yes.

XXIII. Discussion from Board

Mr. Kastor asked for a motion to approve this application.

Mr. Gast motioned to approve application #BZA2021-25 & 26. Mr. Bertsch seconded. Roll Call: Mr. Gast, Yes; Mr. Bertsch; Yes, Mr. Bixler; Yes, Mr. Pitts, Yes; Mr. Kastor, Yes.

XXIV. Old Business

None

XXV. New Business

Asked what was going on with Maui Sands.

XXVI. Adjournment

Mr. Kastor asked for a motion for adjournment.

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