

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: June 21, 2022

Time: 4:00 p.m.

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

Board Members Absent & Excused: Mr. Spence, Mr. Gast

Staff in Attendance: Mrs. Angela Byington, Community Development Director
Mrs. Arielle Blanca, Planning/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. Bixler, here; Mr. Bertsch, here;

III. Minutes

Mr. Kastor asked for a motion to approve the minutes from the May 16, 2022, meeting.

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

Roll Call: Mr. Pitts, 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 #BZA2022-10 A variance request filed by Primos GM for the property located on the corner of Columbus Avenue and Industrial Parkway. (PPN #32-00906.002) The variance request is to allow a parcel zoned "C-2"/General Commercial to be .6815 acres whereas Section 17.3 of the Zoning Resolution requires that any parcel zones "C-2"/General Commercial to have a minimum lot area of 1 acre.

VI. Staff Review

Ms. Blanca stated that Kevin D Didion with Primos GM has submitted an application for the property located on the corner of Columbus Avenue and Industrial Parkway. Current Zoning: "C-2" / General Commercial District. The Proposed Development: Existing Dog Grooming Business. The variance requested is to allow a minimum lot area of 0.6815 acres, whereas section 17.3 of the Perkins Township Zoning requires a minimum lot area of 1 acre. It is noted that the property in question is located on the northwest corner of Columbus Avenue and Industrial Parkway. The subject property is surrounded by residential uses to the north and east, vacant commercial land to the south and industrial use to the west.

The subject property is currently 2.474 acres large. The applicant would like to split the lot and make two smaller parcels. The front parcel would become .06815 acres, while the larger parcel in the rear would become 1.7926 acres.

Township staff has reviewed the plans has no objections to the proposed variance, Fire Department has stated if there is new construction, there may be a requirement for hydrants in the future.

The Department of Community Development is supportive of this application since the variance will allow for the existing dog grooming business to remain on the front portion of the lot while also allowing for a new business to purchase the larger rear lot.

Mr. Kastor Asked who was there to represent the applicant.

Mr. Kevin Didion (Of Taylor Rd) Approved of the staff's recommendation.

VII. Close Public Hearing/Open Public Meeting

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

Mr. Bixler motioned to close the public hearing. Mr. Bertsch seconded.

Mr. Bixler, Yes; Mr. Bertsch, Yes; Mr. Pitts, Yes; Mr. Kastor, Yes.

VIII. Discussion from the Board:

Mr. Kastor stated he would entertain a motion or approve or deny the request.

Mr. Bertsch motioned to approve Application #BZA2022-010, with the conditions the Township has recommended. Mr. Bixler seconded. Mr. Bertsch yes; Mr. Bixler yes; Mr. Pitts, yes; Mr. Kastor, yes.

IX. Reading of the Request

Application #BZA2022-11 A variance was requested by Stephen L. Cremean on behalf of Marlene S. Cottier, Trustee for the property located at 704 W. Perkins Avenue (32-00018.000). The variance requested is to allow the extension of a nonconforming structure whereas Section 6.7 of the Zoning Resolution requires Board of Zoning Appeals approval for the extension of a nonconforming structure.

X. Staff Review

Ms. Blanca stated that Stephen L. Cremean on behalf of Marlene A. Cotter Trust has submitted an application for the property located at 704 W. Perkins Avenue. Current Zoning: "C-2" / General Commercial District Proposed Development: Existing Dwelling. The variance requested is to allow the extension of a nonconforming structure, whereas Section 6.7 of the Perkins Township Zoning Resolution requires the Board of Zoning Appeals approval for the extension of a nonconforming structure. It is noted that the property in question is located on the south side of Perkins Avenue. The subject property is surrounded by industrial and commercial uses on all four sides. The subject property is currently 6.45 acres. This property is currently zoned "C-2"/General Commercial and is surrounded by commercial and industrial uses. The applicant would like to purchase the property and increase the size of the existing 600 sq. ft. dwelling unit by 2,000 sq. ft. or less to accommodate a family. Township Police and Fire Departments have reviewed the plans have no objection to the proposed variance. The Fire Department has stated they have no issues with an addition for a structure as long as it does not pose an access issue or is too close to a neighboring structure.

In conclusion the Department of Community Development staff are unable to recommend approval for this applicant as the applicant has not shown a true hardship for the extension of the nonconforming structure. Further, the Comprehensive Plan's Future Land Use map shows this property as commercial and surrounding properties as commercial and industrial. Extending the nonconforming residential use may lead to future land use incompatibilities with future development.

Mr Kastor—Asked who was in attendance to represent the applicant?

Mr. Cremean—Rose and stated that he had no more to add, and that the dwelling, similar to the neighboring speedway, is compatible. He also stated that his remodeling business will be next door, and that he was hoping to combine commercial and residential on the property.

Ms. Cottier—Stated that zoning occurred next door solely for the purpose of development.

Mr. Kastor—Asked if nearby property owners were notified?

Ms. Blanca responded that they were.

Mr. Bertsch—Wished to receive more clarification on the definition of a ‘hardship’.

Ms. Byington—Responded that since Mr. Cremean was not the owner, the staff could not consider him as having an actual hardship, but that future use complaints could be considered.

Mr. Cremean—Stated that he would have no objection to any future use.

Mr. Kastor—Asked if Mr. Cremean would be willing to sign an affidavit to that.

Mr. Cremean—Yes.

Mr. Pitts—Asked if there was a sewer system and not a septic system on the property?

Ms. Cottier—Yes. The original system was replaced about 15 years prior.

XI. Close Public Hearing/Open Public Meeting

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

Mr. Bertsch made a motion to close the public hearing and Mr. Bixler seconded the motion.
Mr. Bertsch, Yes; Mr. Bixler, Yes; Mr. Pitts, Yes; Mr. Kastor, Yes.

XII. Discussion from Board

Mr. Kastor—In favor of Mr. Cremean signing an affidavit and asked if the staff would be comfortable with no complaints?

Ms. Byington stated that the staff would be comfortable with that and that the size could work.

Mr. Cremean—Stated that he would also be in favor of an affidavit to not subdivide the property as well.

Mr. Coppler—Stated that he would have no issues with that either.

Mr. Bixler—Asked if the deed restriction to bind would carry more weight than an affidavit? Or if the matter should be tabled.

Mr. Kastor—Moved to approve on the condition that the staff’s needs were met. He also asked for a motion to approve as stated and to approve the contingency.

Mr. Pitts made a motion to approve BZA2022-11 as stated to approve on contingency on a deed restriction of affidavit, and Mr. Bertsch seconded the motion.

Mr. Pitts, Yes; Mr. Bertsch, Yes; Mr. Bixler, Yes; Mr. Kastor, Yes.

XIII. Reading of the Request

Application #BZA2022-12 A conditional use permit request filed by Robert Bajkom HSB Architects on behalf of 5020 Milan Road, LLC for the property located at 5020 Milan Road (PPN: 32-03494.013). The Conditional Use Permit is to allow a Medical Marijuana Dispensary whereas Section 17.2(14) of the Zoning Resolution requires Conditional Use Permits for properties zoned "C-2"/General Commercial District in order to conduct a Medical Marijuana Dispensary.

XIV. Staff Review

Ms. Blanca stated that Robert Bajko with HSB Architects has submitted an application on behalf of 5020 Milan Road, LLC for the property located at 5020 Milan Road. Current Zoning: "C-2" / General Commercial District. Proposed Development: Medical Marijuana Dispensary. It is noted that the subject property is located along the east side of Milan Road. This property formerly housed Pier 1 Imports. The property has an approximate frontage of 121 feet on Milan Road and the area is approximately 1.13 Acres. Vehicular access to the site is provided by one access driveway, which comes off the entrance to the Park Place Shopping Center. Land use north, south, east, and west of the property is commercial in nature.

Planning Staff received a letter from an attorney this morning stating that the United Church has a location located 858.8 feet away from the proposed Medical Marijuana Dispensary. Perkins Township Zoning Resolution requires that Dispensaries are to be located no closer than 1,000 feet from any parcel on which sits a school, church, public library, public playground, or public park.

Therefore, planning staff recommends the application be tabled with the following conditions:

1. **Either the applicant provides documentation from a licensed surveyor that the parcel line of the subject property is at least 1,000 feet away from the United Church property parcel line.**
OR
2. **A variance application be submitted and approved by the Board of Zoning Appeals to allow a reduced distance.**

Additional Conditions when application is reconsidered:

3. **If the parking lot is to resurface a new parking lot site plan and landscaping plan must be submitted for staff approval.**
4. **All Building permits will need to be applied for and approved.**
5. **A security plan will need to be submitted and approved by the Perkins Township Police Department.**
6. **Outside sales or storage is not permitted.**

Mr. Kastor—Asked for any representation for the applicant.

Andy Miley—Attorney for the applicant, James Andress. Have the architect with him as well. Asked that the application be approved. Understands that the township used to ban dispensaries but rescinded the ban for a 1200-foot restriction, but then rescinded that to aid healthy competition. Also need a license to run the business, but his client has said license and has been in business for a few years thus far. Recognized the letter submitted to the township. Hopes that the body would embrace competition, despite a supposed church addressed in a letter by his client's competitor's attorney. There is no church within 1000 ft of our client's facility, even if there were I think you should still approve our application. Miley defined church as any mosque, synagogue, temple, or building that is used primarily for religious purposes. Therefore, his opposing attorney's letter is invalid. What our competitor which is presumably taking their very best shot to stop our project, which is much further along than theirs. This letter actually proves why you should approve our request; they took their best shot. What they're claiming is that basically a nursing home or living facility is a church because there is some room inside that might be used as a Chapel. This definition takes great care to define the definition of a church, it mentions Mass and Synagogue not Chapel, but if a Chapel somehow qualifies it is the whole building that must be used primarily for church activity, not some room within a building. If we took their logic an airport would be a church because they have a chapel inside, or a hospital would be a church because there are chapels inside. This is completely absurd; no speaker of the English language would look at what is out at this site and be like "oh look at that Church". Even if it were a church, we aren't trying to get into a fight with the Township, we have a state license to operate a dispensary as long as we are not 500ft within a church, so if this were to be opposed against this it would be the Township prohibit it, which is permitted by our license which the Ohio Supreme Court said is not allowed. Again, there is nothing in their letter that shows this is a true definition of a church. To him a nursing home or living facility cannot constitute a church.

Mr. Jared Maloof - Lawyers, right? I can say that because I am one as well. I am the CEO of Standard Wellness and The Forrest and we employ 14 people in Sandusky, we run a compliant highly regulated business there. Our sister company Standard Wellness employs 80 people in Sandusky County. We are proud to be great partners with the City of Sandusky. We have informed them that we would like to seek to relocate the dispensary. I believe that the 14/15 employees we have now will reach to 20 employees by the time we open. As our architect will tell you, we are already ready to submit for building permit, we were going to do so today before the meeting but the letter we received made us take a step back. We are proud to be in this town and want to work with the Township. Our competitor is someone I know well, and we have done a lot together over the years and we welcome the competition. We think it'll make everyone stronger. Maybe when your body decided that 12,000 ft was an issue, I think that came from a place where you didn't want a dispensary on every corner of the Township, and I totally understand that. The reality is that there are 2 licenses and there will only be two for the foreseeable future. I can tell you we are years away from significant expansion in this program.

Mr. Kastor asked what the hours of operation were?

Mr. Maloof stated that we operate from 10am-7pm on most weekdays and then 10am-7pm on Saturday & 12pm-5pm on Sunday. We would expect to expand those hours.

Mr. Bertsch—Does this application need to be considered by the board or by the state?

Mr. Miley—No, the state has approved the property and have all blessings to begin business since there's no church; therefore a 500 sq. Ft. Rule has no merit.

Architect (Didn't state name) --Argued that the purposing of the vacant building seems to be a quality project.

Mr. Kastor—What does the proposed exterior look like? What type of finishes?

Architect—Not that far yet.

Mr. Maloof —Not much difference. Hope that the roof would be green instead of blue. Forest is the name of the company.

Mr. Miley—Statute is Ohio Revised Code 37.96.29 that discusses the 500-foot regulation for marijuana dispensaries.

Mr. Kastor—Anyone here like to further comment on this?

Mr. Dean Napiro—Sent the letter, opposing attorney. Represents Ohio Patient Access. Patient Access partners with a residence within Perkins Township. John Pardee is a resident of Perkins Township and when the lottery occurred at the state, he was part of a team that applied for a lottery and applied for a permit. They were the first to receive a permit, the Township smartly had in place a moratorium and put two good protections in place. The first was the 12,000 sq ft for competitors and then had the 1,000 ft restriction that talks about parks, churches, and playgrounds etc. You got rid of the 12,000 ft restriction that was your prerogative to bring on more competition, and that's why you have more than one license, but we were the first to obtain one in this area. I want to address the 500ft state min as opposed to the 1000 ft. The Ohio Constitution absolutely gives you home rule authority to put in place a restriction more or tougher than 500ft, so your 1,000 ft restriction is very well thought. Let's talk about the Church, we have done quite a bit of research on this and the two folds that actually run the Chapel The second marijuana dispensary present actually received a permit first. The statute (protection) listed earlier was originally 1200 feet but became 1000. The church: He thinks that the folks who run the two chapels would be highly offended by the earlier comments that were made by the previous attorney. The applicant's dispensary is only 858 feet away from the two chapels that he is representing. Both have long-time affiliations with the United Church of Christ and offer two services per week, as well as offering communion. Perkins Township resolution defines church very broadly; therefore, these are both clearly churches; employs two full-time pastors and a part-time chaplain. Founded in 1916 and maintained an unwavering commitment to serve its mind and body of its residents. Clearly an injustice to claim that these facilities are not churches. Sometimes see churches in strip sites—these are

still considered to be churches. Ask for compliance of the township resolution. Need a variance or need to find another location that complies with the local ordinance.

Mr. Kastor—That's a senior living center with a Chapel, there is no denomination. Now discussing a mere 150 feet. Be specific. How is this dispensary negatively impacting the chapel in that senior living facility?

Mr. Napiro—The township trustees enacted this resolution, this ordinance whether you like the 1000 ft ordinance or you don't that's the law that's been put into place. Obviously, there was a rationale to zone them properly. No negative effect: just what the township trustees decided and what the law is.

Mr. Kastor—So you can't tell me a specific item that would negatively impact?

Mr. Napiro—No studies to prove that.

Mr. Kastor—A move to delay the inevitable? Reduce competition? What is the purpose?

Mr. Napiro—Client was the first to receive a permit, once the 12000 ft restriction went away, they came in and we favor that. They just want their competitor to comply and the township to uphold the ordinance. We are here to just ask them to uphold the guard rails put in place.

Mr. Maloof – We received license on May 2. Competitors on May 17. I was unaware that they applied in January as well. I know there is 858 ft but it is 5-minute drive and a 36-minute walk from the desired parcel to the nursing home.

Mr. Kastor—Any other questions?

Ms. Hoty- Lynch --Property of the nursing home is owned by United Church Homes. Is tax exempt. Look at the state's definition of tax exempt. Sake of argument.

Don Habinelle—Owner of another group complaining about this group joining the community. Record straight: Standard Wellness petitioned to move their facility. Second round of applications is where we came in. Applied in November, won in January. After that Standard Wellness applied to move two blocks away. They were licensed first but moved second. Frustrated.

Mr. Kastor—Anyone else?

Mr. Miley—Allowed to apply. Nothing restricting that. Nursing home isn't tax exempt because of being a church, rather for being a charitable living center. Not meaning to offend, merely not a church in its entirety.

Mr. Maloof—First made an offer on the building in November. Reached an agreement with the property owner in mid-January. Didn't know that Ohio Division Access was the winner of that. Eyeing that property in 2021.

Mr. Kastor—Any other notes or information received by the staff?

Ms. Blanca—No.

Mr. Kastor—Any other comments from the board?

Mr. Kastor—Mr. Coppler, anything?

Mr. Coppler—Only thing is if the township does require 1,000 feet, there is an opportunity for the applicant to request a variance to be approved by the BZA.

Mr. Kastor—Would probably need time to look into the church matter.

Mr. Coppler—Will look into it.

Mr. Kastor—Tax exempt...maybe look into the claim? Religious exemption?

Mr. Coppler—Will do.

Mr. Kastor—Table it? Is timing, okay? We could accommodate and have a special meeting to rule on that. Any questions? Entertains a motion to close the public hearing and open the public meeting.

Mr. Bixler made a motion to close the public hearing and Mr. Bertsch seconded the motion.

Mr. Bixler, Yes; Mr. Bertsch, Yes; Mr. Pitts, Yes; Mr. Kastor, Yes.

XVI. Staff Close Public Hearing/Open Public Meeting

Mr. Kastor—Hate these grey cases. Going from no medical marijuana to two. Went from 0 mattress stores to 5. They'll weed themselves out with the market. Any other comments?

Mr. Bertsch—Definition is primarily for religious worship. That's what I'm focusing on, not 1000 feet.

Mr. Bixler—Must follow the township law. Need to grant a variance.

Mr. Kastor—Will accept accommodations...move to table the issue.

Mr. Pitts made a motion to table the issues and Mr. Bixler seconded the motion

Mr. Pitts, Yes; Mr. Bixler, Yes; Mr. Bertsch, Yes; Mr. Kastor, Yes.

Mr. Kastor—Yes. Thank you so much. Will make a ruling on whether or not it's a church.

XV. Discussion from Board

Mr. Kastor stated he would entertain a motion or approve or deny the request.

Mr. Pitts motioned to table application #BZA2022-012, with the conditions the Township has recommended. Mr. Bixler seconded. Mr. Pitts yes; Mr. Bixler yes; Mr. Bertsch yes; Mr. Kastor, yes.

Ms. Byington—Set the date here so that we don't have to send letters and reduces advertising. Consider that for a special meeting, let's set a date.

Mr. Pitts—One week is too short?

Mr. Kastor—Two weeks; July 5th, not July 4th.

XVII. Reading of the Request

Application #BZA2022-13 & 14 Two conditional use permit requests filed by Eric Kmetz on behalf of 250 Bogart Corner, Ltd. For the property located at 6019 Milan Road (PPN: 32-03793.000). The first Conditional Use Permit is to allow a Medical Marijuana Dispensary whereas Section 17.2(4) of the Zoning Resolution requires Conditional Use Permits for properties zoned "C-2"/General Commercial District to conduct any business of a drive-in/thru nature.

XVIII. Staff Review

Ms. Blanca stated that they originally applied for 2 applications, but they have pulled the drive thru one at this time. Eric Kmetz has submitted an application on behalf of 250 Bogart Corner Ltd. for the property located on 6019 Milan Road (PPN 32-03793.000) for a Medical Marijuana Dispensary. The current Zoning: "C-2" / General Commercial District. Proposed Development: Medical Marijuana Dispensary.

Planning staff recommends this application be tabled and that a new site plan submitted showing the following:

Removal of the Drive-thru Dimensions of setbacks, parking spaces, access drives and driveway aisles.

Further, Either the applicant provides documentation from a licensed surveyor that the parcel line of the subject property is at least 1,000 feet away from the United Church property parcel line.

OR

A variance application be submitted and approved by the Board of Zoning Appeals to allow a reduced distance.

Additional Conditions to be considered when plan is resubmitted:

- 1. All three parcels will need to be combined prior to the start of the project. The minimum required lot size for commercial properties is 1 acre, a variance may be required for lot combination approval.**
- 2. Final façade plan shall be submitted for and approved by Community Development Staff.**
- 3. A landscaping plan shall be submitted and approved by Community Development Staff.**
- 4. A lighting plan shall be resubmitted showing lumens.**

- 5. The applicant will need to work with Erie County Stormwater Management and submit an approval letter to Perkins Township Community Development.**
- 6. All Building permits will need to be applied for and approved.**
- 7. A security plan will need to be submitted and approved by the Perkins Township Police Department.**
- 8. Outside sales or storage is not permitted.**

Mr. Kastor—The applicant.

Robert Bajkom—The project manager. Updated drawing packages that were sent through. I can hand these out. Here on behalf of the resubmission. Do support the tabling for this week. Questions. This is all about the market and getting adjusted under the current laws as they exist.

Mr. Kastor—Don't need a surveyor; beyond 1000 feet.

Mr. Bertsch—Some of these items on the list seem to have been settled with the drawings, such as the drive-thru.

Mr. Bajkom—Do we need to be prepared? Just below an acre.

Ms. Byington—They've addressed most if not all issues. As for the variance, may want to apply just so that it can be approved at the same time at the next meeting.

Mrs. Hoty-Lynch—Would that include the set-back variance?

Ms. Byington—I'd apply to fix that within the variance.

Mr. Bajkom—This would push us back from the highway by more than 50 ft and give us an appropriate lot within town.

Mr. Kastor—Anyone like to comment?

Mr. Dean--On the issue of a church, my mother lived at that nursing home for ten years and it is very much a church. Our definitions differ, but where people worship that's a church.

Mrs. Hoty-Lynch: This parcel isn't on there, so I'm unclear on the actual parcel and where it is.

Ms. Byington—I've reviewed the parcels and you're not on there?

Mrs. Hoty-Lynch: No. We're more than ten feet from 250 now, and we do not want to create any conflict. Again, clarification on the specialized setbacks for 250 properties would be nice.

Ms. Byington—We'll let you know what the setbacks would be and if you'd need a variance.

Ms.--I have a letter from the township.

Mr. Address—Number six on the list...can I have clarification?

Ms. Byington—This is speaking strictly to the building for new construction. Plumbing isn't through us, but you'd need to work with the county for that and with environmental services, but we can provide the information on those. All general permits for building are through us. A general phrase.

Mr. Kastor—A two-step process. Zoning first, then planning/permits.

Mr. Miley—There's actually a deadline of May 27th for those permits. Not to make an issue of it, but just ask these gentlemen to withdraw their objections to our project.

Mr. Bajkom—We look forward to working with them and would even close down our business on their opening day.

Mr. Kastor—Can we withdraw?

Ms. Byington—Yes, because we tabled it.

Mr. Bajkom—The nursing hom ehasn't made these objections.

Mr. Pitts—So we've established everything?

XIX. Close Public Hearing/Open Public Meeting

Mr. Kastor—A motion is needed to close the public hearing.

Motion made by Mr. Bertsch to close the public hearing and open the public meeting. The motion was seconded by Mr. Bixler.

Mr. Bertsch, Yes; Mr. Pitts, Yes; Mr. Kastor, Yes; Mr. Bixler, Yes.

Discussion from Board

Mr. Kastor—Would anyone like to table the applicant since he'd actually like that?

Mr. Bertsch made a motion to table BZA2022-13 application and Mr. Pitts seconded the motion.

Application #BA2022-15

Please see attached minutes from Court Recorder Marlene Lewis.

XXIII. Adjourn Meeting

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. Kastor; yes,

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PERKINS TOWNSHIP

BOARD OF ZONING APPEALS

TUESDAY, JUNE 21, 2022 4:30 p.m.

MEETING ROOM, TOWNSHIP SERVICES FACILITY
2610 COLUMBUS AVENUE, SANDUSKY, OHIO

CARMELO RUTA, RUTA, INC. (U-HAUL)
5918 MILAN ROAD, SANDUSKY, OH 44870

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Board members present:

Ted Kastor, Chairperson
Larry Pitts, Vice Chair
David Bertsch, Member, Mike Bixler, Member

Staff present on behalf of the Board:

Arielle Blanca, Planning
Angela Byington, Planning
Jessica Gladwell, Planning

ALSO PRESENT:

Sandra Fillmore, surrounding property landowner;
Beverly DiClaudio, surrounding property landowner;
Lori & Chris Harris, surrounding property
landowners

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Taken stenographically and later transcribed by
Marlene S. Lewis, Registered Professional Reporter
and Notary Public in and for the State of Ohio.

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7	filed by Peter J. McGory, on		
8	behalf of Carmelo Ruta, Inc., for		
9	the property located at 5918 Milan		
10	Road (PPN: 32-01503.000). The		
11	appeal, pursuant to Section		
12	25.14(5) (b) (iii), permits the		
13	applicant to submit a site plan,		
14	that was denied by staff, to the		
15	Board of Zoning Appeals for review.		
16	Staff denied the proposed access		
17	drive connecting the parking lot of		
18	5918 Milan Road to Beatty Drive.		
19			
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1 MS. GLADWELL: Application
2 BZA2022-15, an appeal request filed by Peter J.
3 McGory on behalf of Carmelo Ruta -- Ruta, Inc. for
4 the property located at 5918 Milan Road, Permit
5 Parcel No. 32-01503.000. The appeal, pursuant to
6 Section 25.14(5)(b)(iii), permits the applicant
7 to submit a site plan that was denied by staff to
8 the Board of Zoning Appeals for review. Staff
9 denied the proposed access drive connecting the
10 parking lot of 5918 Milan Road to Beatty Drive.

11 MR. KASTOR: Okay. Staff?

12 MS. BLANCA: Like Jessica said,
13 this is an application for an appeal request at
14 5918 Milan Road. The current zoning for this
15 property is PUD, which is Planned Unit
16 Development. They currently have a Conditional
17 Use Permit on the property for a U-Haul operation,
18 and they applied for a parking lot expansion.
19 This site plan was denied by the staff for the
20 access -- because of the access drive connecting
21 the parking lot to Beatty Lane.

22 As you can see here, this is the location of
23 the parcel. The applicant is seeking an appeal
24 pursuant to Section 25.14(5)(b)(iii), appealing
25 staff's denial of the site plan. Specifically,

1 denial of the proposed access drive connecting the
2 parking lot to Beatty Lane, and it is noted that
3 the property in question is located on the east
4 side of Milan Road. The subject property is of
5 PUD. The properties to the south and west are
6 zoned C-2 general commercial. Properties to the
7 east are zoned R-1 single family residential, and
8 properties to the north are zoned agricultural and
9 PUD. Further, properties located north, south
10 and west are commercial in use; the properties to
11 the east are residential in use. These are some
12 pictures of the current property. This is their
13 site plan that they had submitted.

14 The subject property's located on the east
15 side of Milan Road, approximately .2 miles south
16 of State Route 2. In August of 2018, the property
17 owner received a zone map amendment to rezone the
18 property from C-2 general commercial to PUD,
19 Planned Unit Development, to allow for transient
20 and extended stay lodging at the hotel; then in
21 June 2020, the property owner received a
22 Conditional Use Permit to allow the outdoor
23 storage of goods and merchandise on the property
24 for the U-Haul rental service.

25 The applicant applied for a site plan review

1 for an expanded parking lot and access on to
2 Beatty Lane in April of 2022.

3 Community Development Staff conditionally
4 approved the site plan in May of 2022. The
5 conditions included access to Beatty Lane was not
6 permitted and the existing parking space that does
7 not meet parking standards must come into
8 compliance when the parking lot is repaved. A six
9 foot high privacy fence on the rear of the
10 building must be extended towards Beatty Lane and
11 end at the property line and a revised site plan
12 shall be submitted for review showing compliance
13 with Numbers 1 and 3.

14 Staff also noted in the letter that if the
15 conditions were unable to be met, then the site
16 plan was denied. The applicant then submitted an
17 application to appeal the denial to allow access
18 to Beatty Lane. Perkins Township staff
19 did not-- did submit comments regarding this
20 application. Those can be found in your packet.

21 Access currently provided through a curb cut
22 on U.S. Route 250.

23 The request for access to Beatty Lane for
24 U-Haul rental operations.

25 The Conditional Use Permit provided for U-Haul

1 rental operation for the trucks and trailers to be
2 located approximately .2 -- or approximately --
3 sorry, I think it's supposed to be 50 feet off of
4 250 with no trucks or trailers to be located
5 behind the main structure or adjacent to the
6 residences.

7 Recent inspection has shown that parking of
8 the U-Hauls and trailers are not in compliance
9 with the conditions of the Conditional Use Permit.

10 In conclusion -- sorry... an application for
11 site plan approval is required whenever there's a
12 change to a property in commercial use including
13 the design of a parking lot. The applicant has
14 submitted an application for site plan approval
15 and that application seeks the approval of the
16 driveway connection to Beatty Lane. The proposed
17 change to the site conditions requires the need
18 for site plan review and approval.

19 The site plan application has been reviewed
20 for compliance with the Zoning Resolution's
21 standards and regulations.

22 As a result of that review, staff is of the
23 opinion that the site plan does not comply with
24 the intent and purpose of Zoning Resolution's
25 Chapter as provided in the staff report.

1 Further, it is noted that the applicant now
2 has access to U.S. Route 250/Milan Road through a
3 driveway connection that is significantly wider
4 than that of Beatty Lane. The truck access to the
5 subject property through the applicant's existing
6 driveway connection to U.S. 250 is considered to
7 be the preferred planning approach based on the
8 Zoning Resolution's standards and regulations and
9 observations of the Police Department.

10 Lastly, permitting an additional commercial
11 access point on Beatty Lane, which leads to a
12 residential neighborhood, will cause an increase
13 in traffic, cause additional wear and tear on
14 Beatty Lane and exacerbate the existing conflict
15 between this property and the adjacent neighboring
16 properties with the current noncompliance of the
17 conditional use.

18 MR. KASTOR: Thank you.

19 MS. BLANCA: I think that's it...

20 MR. KASTOR: All right.

21 MS. BLANCA: Yeah, (chuckle).

22 MR. KASTOR: So we've had a site
23 plan -- an amended site plan that was submitted to
24 the Township, which was not approved, and so we're
25 here because the applicant is appealing that

1 decision by Perkins Township; so who's here to
2 represent the applicant.

3 MR. MCGORY: Mr. Chairman, Pete
4 McGory.

5 MR. KASTOR: Hello, Mr. McGory.

6 MR. MCGORY: I'm here for the
7 applicant. I have Dario Mormina, who's a family
8 member here with me just to represent the Ruta
9 family; actually, it's a corporation that owns the
10 subject property -- excuse me.

11 Essentially, what's being appealed here is
12 just the denial of the access drive on to Beatty
13 Lane, and with the Chairman's permission, I know
14 that there's going to be some audience comments.

15 MR. KASTOR: Uh huh.

16 MR. MCGORY: What I'd like to do is
17 to reserve or hold off on applicant's
18 presentation, try to be as brief as possible, but
19 let -- let the audience make comments on this, and
20 then I can, perhaps, reply to some of those
21 comments.

22 MR. KASTOR: Yeah, I think that
23 would be fine, but I think we're talking a little
24 more than just that access, because in that staff
25 report, it talked about the operation of the

1 facility wasn't conforming to the request and path
2 as far as the vehicle. Can you bring that slide
3 up?

4 MS. BLANCA: Uh huh.

5 MR. MCGORY: I'm not aware that --
6 that it's currently non-conforming.

7 Is that a -- is that a complaint, a continuing
8 complaint?

9 MS. BYINGTON: So, through you, Mr.
10 Chairman, yes, staff went out to prepare this
11 report, they noticed that their -- the location of
12 the U-Hauls are in violation of the Conditional
13 Use Permit. They're too close to 250, and they're
14 located behind the hotel, so those are the -- the
15 main noncompliant issues, and we'll send
16 notification tomorrow on that.

17 MR. MCGORY: Okay. Based on that
18 information to me, I would request that this
19 matter be tabled in -- in order to allow us to get
20 in compliance with that issue, if, in fact, there
21 is current noncompliance.

22 MR. KASTOR: Okay. We'll consider
23 that, but that was part of your denial, wasn't it?

24 MS. BYINGTON: So through you, Mr.
25 Chairman, the majority of the reasons are listed

1 in the report are very technical in regard to the
2 Board of Zoning Appeals authority to allow
3 additional curb cuts on secondary -- on secondary
4 roads, but then, yes, we were recommending denial
5 also because the existing Conditional Use Permit
6 is for the U-Haul service, the -- or operation and
7 the curb cut being requested and the access on to
8 Beatty is for the Conditional Use Permit use of
9 the U-Hauls --

10 MR. KASTOR: Uh huh.

11 MS. BYINGTON: -- so since the
12 U-Haul's operation is not in compliance, one of
13 our major concerns was that this would only
14 further exacerbate the issue of the noncompliance
15 with the U-Hauls on the property.

16 MR. KASTOR: Okay.

17 MS. BYINGTON: That's it -- sorry.

18 MR. MCGORY: Mr. Chairman, what --
19 what I received initially from the Township was an
20 indication in writing that the application for --
21 or the plan -- site plan for the expansion for the
22 parking lot was approved --

23 MR. KASTOR: Uh huh.

24 MR. MCGORY: -- with two -- three,
25 really, conditions denying the -- the access, the

1 entranceway on to Beatty Lane --

2 MR. KASTOR: Uh huh.

3 MR. MCGORY: -- on the condition
4 that the privacy fence be extended to the edge of
5 the lot and also on the condition that the
6 existing parking spaces, which are significantly
7 older be brought up to local -- current code upon
8 any repaving --

9 MR. KASTOR: Uh huh.

10 MR. MCGORY: -- and my client is in
11 agreement with all of those things except still
12 asking for the drive access on to Beatty Lane.

13 I might add that the operation of the U-Haul,
14 the rental and the -- the entrance egress is
15 really out of the front and still would be
16 continued out of the Milan Road access. It's
17 really -- there's a hotel operation there as well,
18 and the intent is to try to move hotel guest
19 parking to the rear of the hotel, much like occurs
20 next-door to the south at the two hotels there and
21 utilize the front of the hotel for U-Haul rental
22 operation coming and going. It's also a safety
23 issue, but it -- I was not under the impression
24 that there was a current complaint about
25 compliance with the U-Haul operation, and if there

1 is, I'd like the time to deal with that.

2 MR. KASTOR: Okay, fair enough.

3 Okay. Per Mr. McGory's request, we would
4 like to hear from anyone else who would like to
5 comment on this issue.

6 SANDRA FILLMORE: I'd like -- could you
7 bring up that other picture of Carl's hotel?

8 MR. KASTOR: Okay. You're going to
9 have to --

10 SANDRA FILLMORE: I'm Sandra Fillmore.

11 MR. KASTOR: Good to see you good
12 again.

13 SANDRA FILLMORE: Good --

14 MR. KASTOR: Okay. All right.

15 SANDRA FILLMORE: Right behind the
16 U-Haul sign is my house.

17 MR. KASTOR: Right here,
18 (indicating)?

19 SANDRA FILLMORE: Yep. Go back to -- a
20 couple more pictures, I think it's one or two.
21 Not that one; the one where the fence is -- you
22 can see the fence --

23 CHRIS HARRIS: I don't think there
24 was one.

25 SANDRA FILLMORE: Yeah, there was.

1 MS. BLANCA: Just one?

2 SANDRA FILLMORE: Keep going. Right
3 there. You see how that house comes out towards
4 that fence up on top?

5 MR. BERTSCH: Right here,
6 (indicating)?

7 SANDRA FILLMORE: Yep, that's my house.

8 MR. BERTSCH: That's your house?

9 SANDRA FILLMORE: Okay, here, hold
10 this -- and then, we've been having issues with
11 the U-Hauls at night -- two, three, four, five in
12 the morning, and then right there, (indicating),
13 where the fence is, you see my trees? They've
14 already been driving through there. Then --

15 MR. BERTSCH: Is that -- is that
16 there?

17 SANDRA FILLMORE: Yeah, those are my
18 trees, and on this side is where they've been
19 driving through. Supposedly, that's where he
20 wants to put a paved road. I don't want the road
21 there, and then we get a thing saying that he
22 wants to put a drainage ditch right next to my
23 fence... no. That's what I said, he hasn't
24 mentioned anything about the drainage ditch or the
25 paved road, but it's on the plans. We have

1 trouble all the time. We -- my grandkids used to
2 play in my trees. They don't, because we get
3 people from the hotel doing bad things, but I
4 don't want that drive there, and then my house is
5 weird, because it goes -- like, that corner piece,
6 like, where it's across, my waterlines go right
7 through his property; right up there to 250 is
8 where my meter is, so if he does any digging, any
9 paved road, he's going to hit my lines, so
10 somebody can move on to Beatty Lane, and then,
11 like I said, we already have -- we got from two
12 hotels coming out here, (indicating), and then the
13 Hampton runs, vice versa, comes out here,
14 (indicating), he wants to put one right in the
15 middle. I can't tell you how many times I've
16 been almost hit, then you guys put up a yield sign
17 for us, they don't listen. You put up left turn
18 only, they don't listen. We've got semis pull
19 out that have to back up on the cemetery, and the
20 main thing is that road with Ruta is going to
21 cause nothing but trouble, and, like I said, I
22 don't want no drainage ditch because he's not
23 going to take care of it. Go look at his
24 property. As it is right there, (indicating),
25 around the corner on Beatty where it always lays

1 water, it's about this tall, (indicating). He
2 won't weed eat it, nothing; so don't tell me he's
3 going to keep that drainage ditch from weeds and
4 mosquitos. I mean, it's bad enough, she's got a
5 cement pond by her house from the two hotel that
6 they don't take care of, and the grass is taller
7 than me, and it's nothing but weeds, people throw
8 garbage in it. It stinks. That's exactly what's
9 going to happen with Ruta. You know, we've been
10 nice. We've gave him -- it took us four years to
11 get that fence. He got to do everything he
12 wanted to do, and it took me four years to get
13 that fence, and then he rigs it. It's against my
14 chain-link with a couple wires, and then he's
15 got -- you know, those cement things for parking?
16 He's got a couple here and there, and it's already
17 falling over, so I do not want the drive. I do
18 not want the drainage, and, like I said, this man
19 over here, (indicating), has not mentioned none of
20 that stuff to you. No, it's everything. I'm
21 done. We have tried with Carl. We've talked to
22 Carl. We went over there and talked to him, and
23 pretty much throughout all these years, we let him
24 do what he wanted, and then now, we're just done.
25 We have a nice community. The house next to me

1 is her mother --

2 BEVERLY DiCLAUDIO: (Indicating).

3 SANDRA FILLMORE: -- that's 91-years-old
4 that was there when it was first a road -- by the
5 way, it's not Drive, it's Lane.

6 MS. GLADWELL: I was reading off the
7 paper.

8 SANDRA FILLMORE: Okay. And she's
9 91-years-old. She was there when it was a dirt
10 road, and then she was living on the other side,
11 so it's the whole family thing, and her mom does
12 not need this -- to listen to that music blaring,
13 and we all know when the wrong person comes late
14 at night and comes through there, and you see them
15 all coming out like ants. We know what's going
16 on, but, like I said, the worst mistake if you
17 guys approve a paved road, it -- between that and
18 all of this other crap, we're just done. We have
19 a nice little place. Nobody knew we were back
20 there until everybody was cutting down trees, you
21 know, but it's quiet, it's nice. We want to be
22 there, you know, for a long time, and we just --
23 we all live there -- so thanks for hearing me out.

24 MR. KASTOR: Well, thank you.

25 SANDRA FILLMORE: Okay, Bev, your turn,

1 (chuckle).

2 MR. KASTOR: Anyone else?

3 BEVERLY DiCLAUDIO: I'm Beverly DiClaudio.
4 I live at 5919 Beatty Lane. I'm the furthest one
5 away from all this crap going on --

6 MR. KASTOR: Okay.

7 BEVERLY DiCLAUDIO: -- but we do hear the
8 noise all the time, and I feel there is no need
9 for another road off of our road. We -- we just
10 got two more when the other motel went up, and
11 there's only five houses back there. It was
12 beautiful before, and -- and it all got changed
13 with that hotel, and, now, they want to put
14 another road on there when they have a huge
15 entrance at the front that two semis can go
16 through, but, yet, they want to disturb our road
17 some more. That's ridiculous. And like she
18 said, my mom is 91-years-old. I believe they
19 built the house in 1954. She's been there ever
20 since, and I'm 67; I've been there about 60 of the
21 years. I moved away for about seven years, and
22 so I've been there all that time, and it was a
23 beautiful little street; like she said --

24 SANDRA FILLMORE: Uh huh.

25 BEVERLY DiCLAUDIO: -- nobody knew it was

1 back there --

2 SANDRA FILLMORE: It still is.

3 BEVERLY DiCLAUDIO: -- and it was
4 peaceful, and I feel like we have had such an
5 invasion of privacy for our street, and this is
6 going to be more, and he doesn't take care of
7 anything like she said, so I'm totally opposed to
8 all of it, and I hope you guys do -- I don't think
9 any of you would want this going on in your
10 backyard --

11 MR. KASTOR: Okay, thank you.

12 BEVERLY DiCLAUDIO: -- and I have a
13 letter -- a statement from my mother signed, too,
14 if you would like it.

15 MR. KASTOR: Yeah, sure.

16 SANDRA FILLMORE: One more thing, he's
17 been told over and over and over about those
18 U-Hauls in the back. He was told that they
19 cannot be 10 foot near the fence. We sent
20 pictures, they're up against the fence. They've
21 been for a year now, and we've said stuff and said
22 stuff, and it doesn't do no good. We've sent you
23 guys pictures. I've called the police. What
24 more can we do? We have people running from the
25 cops and hiding in the U-Hauls. I don't want that

1 the next to my fence where my grandkids are --

2 MR. KASTOR: Thank you.

3 SANDRA FILLMORE: -- and he knows it,
4 too.

5 MR. KASTOR: Anyone else?

6 LORI HARRIS: Yes, my turn. Thank
7 you. I'm Lori Harris. This is my husband, Chris,
8 (indicating). We've lived on Beatty Lane for
9 14 years. I'll have to show you where I live.
10 Chris and I reside here, (indicating) --

11 MR. KASTOR: Okay.

12 LORI HARRIS: -- next to the parking
13 lot that was put up. Ruta's property, of course,
14 we know, (indicating).

15 Conditional Use Permit for the U-Hauls, you
16 guys say we're -- we keep on hearing we agreed to
17 the U-Hauls because we wanted to get the sign and
18 the fence put up, 'cause we've been fighting
19 before that -- before the U-Hauls even came into
20 play --

21 MR. KASTOR: Uh huh.

22 LORI HARRIS: -- so you guys kind of
23 attached that to the U-Haul agreeance. Yet, you
24 guys -- when you guys or you guys or whoever, I
25 can't remember, I've been in front of you guys a

1 lot, agreed to it.

2 Did you agree to how many are allowed, because
3 they're just all over; I mean, they're just like
4 pushed in.

5 MS. BYINGTON: That wasn't part of
6 it, no. I don't have a record --

7 LORI HARRIS: So there was no
8 notation --

9 MS. BYINGTON: I've never seen a
10 record looking through the files that had listed a
11 certain number or a maximum number.

12 LORI HARRIS: That could be there --

13 MS. BYINGTON: It just said that this
14 is where they have to be and a certain distance
15 off of 250. They weren't allowed to be back
16 behind the hotel; of course, they had to be on a
17 paved surface, otherwise, they're in violation,
18 and they have to have enough parking spaces left
19 for the uses that are -- that are on the property,
20 so the hotel is --

21 LORI HARRIS: They access -- the
22 property was there first before this conditional
23 use.

24 MS. BYINGTON: So that limits the
25 number of trucks, because you have to have parking

1 spaces for them to use.

2 CHRIS HARRIS: Chris Harris --

3 LORI HARRIS: So now he's in
4 violation of it --

5 CHRIS HARRIS: -- he has no rights --

6 LORI HARRIS: Once again, these
7 U-Hauls have been up against the residential fence
8 more that 20 times, yeah, I mean, we have
9 pictures.

10 CHRIS HARRIS: Who -- who monitors
11 those U-Hauls that they can be there, how many can
12 be there, what can be there, what parking
13 spaces -- is this posted somewhere?

14 LORI HARRIS: That's what she was
15 saying.

16 MR. KASTOR: I'm sorry, sir.
17 What's your name?

18 CHRIS HARRIS: Chris Harris.

19 MR. KASTOR: Okay.

20 CHRIS HARRIS: That's my wife.

21 MR. KASTOR: Okay. All right, so
22 I remember we tried to control this --

23 SANDRA FILLMORE: Yes.

24 MR. KASTOR: -- and there's only so
25 much we can do. We can't limit a number of

1 vehicles. We can kind of designate the spaces
2 and --

3 LORI HARRIS: Okay, but he already
4 had enough spaces to take care of his hotel
5 transients, so there was, technically, no space
6 for U-Hauls to be over there, because it covered
7 people staying there.

8 MR. KASTOR: Right. The recent
9 inspection and the photos that document what they
10 saw, they're all over the place.

11 LORI HARRIS: They are all over the
12 place, and along with everything else which --
13 that goes on in that hotel, which is horrid, the
14 transient, now we have another issue. We have
15 criminals running from the police and hiding in
16 the U-Hauls, which are unlocked, which there are
17 juveniles living in there -- could easily get
18 locked in there and suffocate, so that's from the
19 Perkins Police report.

20 MR. KASTOR: So do you have this?

21 MS. BYINGTON: No, I don't.

22 MR. KASTOR: No. It's a copy --

23 LORI HARRIS: Along with --

24 MR. KASTOR: -- along with the
25 police report.

1 LORI HARRIS: -- a pile of police
2 reports. Just different things going on in the
3 building at all times.

4 MR. KASTOR: Okay.

5 SANDRA FILLMORE: And we put up with
6 living there.

7 LORI HARRIS: I know it doesn't
8 concern U-Hauls, but when it's criminals or bad
9 guys are hiding from the police inside of a
10 U-Haul, and it states that right there,
11 (indicating), we got problems.

12 MR. KASTOR: Okay.

13 LORI HARRIS: We just caught two
14 gentlemen on our --

15 CHRIS HARRIS: On our street.

16 LORI HARRIS: -- home video cameras.
17 They park over here, (indicating). We have a
18 camera here and here, (indicating), and they
19 walked over here, (indicating), and couldn't get
20 through, so they hurried up and scattered around
21 and walked back here, (indicating). You know, I
22 don't think that's very --

23 CHRIS HARRIS: And that's every other
24 day, I bet.

25 LORI HARRIS: It at night.

1 CHRIS HARRIS: Every other day,
2 somebody's coming down that street from
3 somewhere --

4 LORI HARRIS: Because of --

5 CHRIS HARRIS: -- smoking --

6 LORI HARRIS: -- the --

7 CHRIS HARRIS: -- doing something.

8 LORI HARRIS: -- what's going on in
9 the hotel --

10 CHRIS HARRIS: I'm telling you, it's
11 bad --

12 LORI HARRIS: -- then the calls --

13 CHRIS HARRIS: -- and then to add a
14 road, it does not help matters at all.

15 LORI HARRIS: They're all over the
16 place.

17 I want to know, did Mr. Ruta apply for a
18 variance with ODOT to expand the front entrance?
19 Did he apply for that to see --

20 MR. MCGORY: I don't know the
21 answer to that question.

22 LORI HARRIS: Okay. Well, why
23 didn't you ask that first instead of trying to go
24 on to our lane? That doesn't make sense. This is
25 250.

1 MR. MCGORY: Well, I will say that
2 ODOT -- that Ruta parcel used to be three separate
3 parcels, and when they were combined years ago, I
4 think the prior owner took the current, Mr.
5 Ruta -- ODOT closed off a couple of entrances on
6 to 250 to Milan Road.

7 LORI HARRIS: Okay, well, it's 2022,
8 so --

9 SANDRA FILLMORE: You're allowed to
10 have --

11 LORI HARRIS: He can ask to see if
12 maybe they can open up another entrance/exit or
13 maybe expanding this one, because Lord knows
14 there's enough traffic. They definitely need it.
15 I mean, that would be a good thing besides -- I
16 mean, can you tell me exactly where, because I
17 know the site map you guys have is not
18 up-to-date --

19 MR. KASTOR: Yeah, so --

20 LORI HARRIS: -- and no parking was
21 behind the building --

22 MR. KASTOR: Yes.

23 LORI HARRIS: Where is this lane
24 supposed to come out --

25 MR. KASTOR: Right.

1 LORI HARRIS: -- 'cause we have here
2 and here, (indicating), already --

3 MR. KASTOR: Okay.

4 LORI HARRIS: -- for other hotels.

5 MR. MCGORY: That is negotiable
6 depending on where the best place would be for the
7 Township or the residents. It's -- it's Mr. Ruta
8 or the Ruta Corporation doesn't need it to be at a
9 certain place. It's whatever would work best for
10 the Township and the residents.

11 SANDRA FILLMORE: Well, all five
12 residents and the houses on our lane don't want
13 it.

14 LORI HARRIS: We don't need another
15 one. We already have --

16 MR. MCGORY: No, you -- you
17 asked -- you asked where -- where did --

18 LORI HARRIS: Where do you propose
19 this drive to be --

20 SANDRA FILLMORE: He doesn't know.

21 LORI HARRIS: -- or do you want this
22 drive to go on to Beatty Lane?

23 MR. MCGORY: I'm saying we're
24 flexible on where that would go.

25 MR. BERTSCH: There's a drawing in

1 the packet shows, there it is.

2 MR. MCGORY: It was initially
3 submitted at a place --

4 LORI HARRIS: But this isn't
5 updated, because the -- the girl said that, you
6 know, there's not supposed to be any parking or
7 drive behind --

8 MS. BLANCA: No, that is staying
9 there.

10 LORI HARRIS: Oh, the parking is
11 staying there?

12 MS. BLANCA: It's just car parking.

13 LORI HARRIS: It's what?

14 MS. BLANCA: It's just car parking.
15 It's not U-Haul parking.

16 LORI HARRIS: Okay. Well, I was
17 told -- I'm pretty sure I have an e-mail where you
18 said absolutely no drive or parking would be
19 behind the building --

20 SANDRA FILLMORE: The hotel, and that's
21 my house. That's grass --

22 LORI HARRIS: -- dealing with, you
23 know --

24 SANDRA FILLMORE: -- and I don't want
25 it.

1 LORI HARRIS: So -- okay. So that
2 changes things. So --

3 SANDRA FILLMORE: That's her house and
4 her mom's house.

5 LORI HARRIS: Well, oh, so -- so
6 this is the correct site plan?

7 Sandy, were you told this was the correct site
8 plan today?

9 SANDRA FILLMORE: Nope, she just handed
10 it to me and gave it to me, and I told the other
11 one to have her call me, and she never did.

12 MS. BLANCA: I left you a
13 voicemail.

14 MS. BYINGTON: It's the only one
15 we've gotten. This is the most up-to-date one.
16 We never got -- we denied it and said they needed
17 to submit a new one showing the revisions with no
18 Beatty access, and we've never received another
19 one.

20 SANDRA FILLMORE: Can I ask a question?
21 With this one --

22 LORI HARRIS: But we were told --

23 SANDRA FILLMORE: -- don't you have the
24 drainage ditch in the road?

25 LORI HARRIS: -- there would be no

1 parking behind.

2 SANDRA FILLMORE: I don't want none of
3 that at all; like I said, my waterlines go right
4 on to 250; I'm the only one on that whole road.
5 Their water stuff is in front. Mine goes out on
6 250, and if he digs anything, he's going to hit
7 mine, and I'm so tired of giving in to him --
8 them.

9 MR. KASTOR: Okay. All right, I
10 think you've stated your cases pretty well, and so
11 I wanted to give Mr. McGory, now that he's
12 listened to this, an opportunity to address
13 things.

14 MR. MCGORY: Thank you, Mr.
15 Chairman. As far -- I don't know that the issue
16 of the parking of the U-Haul, if that's in
17 violation of the Conditional Use Permit, that
18 needs to be corrected, and -- and I'm going to
19 accept that -- that if there is some current
20 violation based on the allegation that there is,
21 but I want to correct that.

22 As far as people parking in the adjoining
23 hotel and then walking into the residential area
24 and then walking behind my client's mo -- hotel, I
25 don't know who that person is --

1 CHRIS HARRIS: I do.

2 MR. MCGORY: -- or what they're

3 doing.

4 CHRIS HARRIS: They are drug dealers

5 in the hotel.

6 SANDRA FILLMORE: Yup.

7 CHRIS HARRIS: That's who they are.

8 I've watched them.

9 SANDRA FILLMORE: And they have called

10 the police.

11 CHRIS HARRIS: So that's who they

12 are.

13 SANDRA FILLMORE: And your client's

14 hotel opens their arms to this --

15 CHRIS HARRIS: And I don't mean to

16 get blaring, but I'm over this. I'm so over

17 this.

18 SANDRA FILLMORE: I got needles in my

19 trees.

20 CHRIS HARRIS: You don't realize how

21 many drug dealers we got walking behind that

22 hotel, but you want to put a drive back there...

23 LORI HARRIS: Yeah, so they can use

24 that.

25 CHRIS HARRIS: Drug dealers coming

1 down my street every day... they carry stuff down
2 the street, through the back of the hotel, and now
3 you want to put a drive down there.

4 MR. MCGORY: I'll let you finish
5 and then I'll respond. Go ahead.

6 CHRIS HARRIS: I'm over it.

7 SANDRA FILLMORE: Now, they're throwing
8 needles over in my trees.

9 CHRIS HARRIS: I'm over it.

10 SANDRA FILLMORE: That's why I don't
11 allow my kids -- my grand kids back there no more.
12 I have picked them up. I have talked to the
13 police. I have told these guys.

14 MR. KASTOR: Okay.

15 SANDRA FILLMORE: I'm tired of it.

16 MR. KASTOR: Please let Mr. McGory
17 respond, okay?

18 MR. BERTSCH: And refrain your
19 comments 'til he's done.

20 MR. MCGORY: I'm going to make an
21 observation that putting a parking area in the
22 back and not a grass area, that -- that there's no
23 people that are supposed to be there going --
24 coming and going would probably improve
25 situations.

1 LORI HARRIS: I doubt it.
2 CHRIS HARRIS: I don't say nothing.
3 LORI HARRIS: You won't listen.
4 MR. MCGORY: Difference of opinion
5 on that.

6 As to a drainage ditch, I don't know anything
7 about a drainage ditch, and I'm not an engineer,
8 but I'm sure that as part of that parking lot
9 plan, that expansion and there does need to be
10 additional parking on this property even just for
11 the hotel. I'm sure that there has to be
12 drainage as part of that plan. I -- I'm sure
13 it's underground drainage. I don't know -- I
14 don't know what it is, but -- but I don't know
15 about an open drainage ditch, and I doubt that
16 that's part of the plan, so -- and I wouldn't
17 think the staff would approve an open drainage
18 ditch, so I don't know where that came up or who
19 said what about that.

20 LORI HARRIS: That's in regards to
21 the site plan.

22 SANDRA FILLMORE: It's right there,
23 (indicating).

24 LORI HARRIS: The run-off, what's it
25 called? The detention --

1 MS. GLADWELL: Detention pond.
2 SANDRA FILLMORE: It's open.
3 MR. MCGORY: I mean, that has to --
4 SANDRA FILLMORE: It's open.
5 LORI HARRIS: Yes.
6 SANDRA FILLMORE: We don't want it.
7 MR. MCGORY: Okay. All right,
8 well, that -- that's a requirement of --
9 LORI HARRIS: If the plans are, you
10 know --
11 SANDRA FILLMORE: That's why we're
12 fighting it, for it not to happen, none of it.
13 LORI HARRIS: We don't want any of
14 it to happen.
15 SANDRA FILLMORE: No.
16 MR. KASTOR: Okay.
17 LORI HARRIS: First, it needs to be
18 cleaned up --
19 SANDRA FILLMORE: 'cause it's nasty
20 there.
21 LORI HARRIS: -- because right
22 now -- and I would just like to hand another piece
23 of -- yeah, what -- what's not -- it's not safe.
24 The U-Hauls are concealing extra things, extra
25 parking. I have tons of those you can check with

1 your Chief, if you'd like.

2 MR. KASTOR: So you're saying
3 that's another police report?

4 LORI HARRIS: Yeah.

5 MR. KASTOR: So, you know --

6 LORI HARRIS: We're having lots of
7 issues, and I just think it needs to be -- the
8 issues of the property needs to be addressed
9 instead of the stupid U-Hauls and wanting an extra
10 drive so the druggies and people can drive up and
11 get their drugs instead of, you know, parking and
12 walking to where our cameras pick them up, and,
13 like I said, unlocked U-Hauls, criminals hiding in
14 them. It's in the police report. You can't deny
15 that fact.

16 MR. KASTOR: So -- so, Mr. McGory,
17 can you help this Board?

18 So our staff thoroughly investigated the site
19 plan and made -- and -- and denied it and so --

20 MR. MCGORY: Approved the parking
21 lot expansion with three conditions; denial of
22 the -- the access on to Beatty Lane, extension of
23 the privacy fence and bringing the existing
24 parking spaces up to current code when those are
25 repaved, and all of that is acceptable to my

1 client with the exception -- he's still asking for
2 an appeal or reconsideration of the denial of the
3 entrance on to Beatty Lane, and I'm not -- don't
4 mean to imply that that's going to be for U-Haul.

5 MR. KASTOR: Okay.

6 MR. MCGORY: I believe the U-Haul
7 is going to be operated out of the front. The
8 U-Haul office is in the front. Those vehicles
9 come and go from the front. What -- what is
10 being intended is generally hotel parking just
11 like the ones to the south behind the hotel
12 buildings, and there's two entrances on those
13 south hotels on to Beatty Lane. We're asking for
14 one, but that's -- that's totally -- totally
15 separate and apart from what's being brought up
16 here, and I think these are legitimate complaints.
17 I don't know that that -- all of that is Mr.
18 Ruta's fault, but it needs to be addressed.

19 SANDRA FILLMORE: (Chuckle),
20 (indicating).

21 MR. MCGORY: You can -- you can
22 make -- make a noise if you want.

23 LORI HARRIS: Oh, we will. We have
24 been.

25 MR. MCGORY: I don't know that he

1 has total control over that. I mean, it -- I'm
2 sure he doesn't want that to occur anymore than
3 these neighbors do, so --

4 MR. KASTOR: Okay.

5 MR. MCGORY: -- but, in any event,
6 there's really two issues here. All these other
7 things -- really, three issues -- compliance with
8 the Conditional Use Permit and the parking lot
9 expansion. The Township staff has approved the
10 parking lot expansion with those conditions.
11 We're appealing the -- their denial of the drive
12 access on to Beatty Lane. We still would like to
13 pursue that, but I'm asking that it be tabled to
14 address some of the -- to give us time to address
15 some of these other things, so... I'd like to
16 make a good faith effort to become in compliance
17 with the Perkins Township requirements and also
18 the neighbors' complaints.

19 MR. KASTOR: Okay.

20 SANDRA FILLMORE: No offense, we've done
21 this before with you and it got us nothing.

22 LORI HARRIS: He's not in
23 compliance.

24 SANDRA FILLMORE: We've tried, we tried
25 getting him to comply. We've tried everything --

1 tried getting the U-Hauls off out of the back,
2 tried to get him off the fence. He does nothing.
3 We have tried, and we're done trying. I don't
4 want the updated drive in the back, I don't want
5 that. I don't want the drainage ditch in back,
6 and I don't want the drive coming out on our road.
7 Plain and simple. We have gave and gave and gave
8 to Carl. We've been letting him do it. No
9 offense to you -- I swear to God, no offense to
10 you.

11 MR. KASTOR: All right, so we're
12 very clear, okay, on your position here, and,
13 really, during public participation, there's,
14 like, a three-minute thing, and I don't want to
15 put anybody on the clock.

16 SANDRA FILLMORE: You're fine.

17 MR. KASTOR: You were here
18 previously and expressed similar --

19 SANDRA FILLMORE: Yeah.

20 MR. KASTOR: We're well aware of
21 your position, and thank you for coming and
22 expressing that. The documentation is helpful.
23 You know, we're a Zoning Board of Appeals. We
24 have a site plan that was submitted and denied.
25 We're here to look at that denial. They're

1 appealing the decision of our staff, and so a lot
2 of this peripheral stuff, it's not really
3 zoning --

4 SANDRA FILLMORE: Right.

5 MR. KASTOR: -- and, I'm sorry,
6 because I wish we could be more helpful to you.

7 SANDRA FILLMORE: Well, I understand
8 that, but --

9 MR. KASTOR: We're just zoning
10 people.

11 SANDRA FILLMORE: -- like I said, we're
12 just trying to stop --

13 MR. KASTOR: Yeah.

14 SANDRA FILLMORE: -- what he's wanting
15 to do now --

16 MR. KASTOR: Okay.

17 SANDRA FILLMORE: -- 'cause that's right
18 behind my house, her mom's house, and her house.

19 BEVERLY DiCLAUDIO: And by what he's done,
20 that is what's causing all the problems.

21 SANDRA FILLMORE: Yes.

22 BEVERLY DiCLAUDIO: I've lived there for
23 60 years, and I've never been scared to go out.
24 I have a dog that is almost blind. I have to
25 carry him out sometimes at two, 3:00 in the

1 morning. I don't feel safe in my own
2 neighborhood.

3 MR. KASTOR: Okay, thank you. All
4 right, so --

5 MR. BERTSCH: So for the staff, Mr.
6 McGory mentioned that the parking portion of this
7 is approved, that includes the detention swale?

8 MS. BYINGTON: So the plan that was
9 submitted was conditionally approved, that did
10 have the parking swale there.

11 MR. BERTSCH: Uh huh.

12 MS. BYINGTON: Architect Alex Etchill
13 is aware he has to work with the County on that.
14 We don't -- we don't run the calculations on that
15 or do anything. He knows he needs to talk to the
16 County on that, but, then, yes, it was
17 conditionally approved with the conditions that
18 were stated that Mr. McGory told you about, but we
19 never received a revised site plan because they
20 decided to appeal the --

21 MR. BERTSCH: So it's only
22 preliminary. We can't talk about that then.

23 MS. BYINGTON: Yeah.

24 MR. KASTOR: Okay. I would
25 entertain a motion to close the public hearing and

1 open the public meeting.

2 MR. BERTSCH: I'll make the motion
3 to close the public hearing and open the public
4 meeting.

5 MR. BIXLER: Second.

6 MS. GLADWELL: Mr. Bertsch?

7 MR. BERTSCH: Yes.

8 MS. GLADWELL: Mr. Bixler?

9 MR. BIXLER: Yes.

10 MS. GLADWELL: Mr. Pitts?

11 MR. PITTS: Yes.

12 MS. GLADWELL: Mr. Kastor?

13 MR. KASTOR: Yes.

14 (BRIEF PAUSE).

15 MR. BERTSCH: The issue at hand
16 is -- is the fact that the Township has denied the
17 site plan that exists with the driveway access.
18 It's up to us to either agree with that, table it,
19 or disagree with it, so that's --

20 MS. BYINGTON: Uh huh.

21 MR. BERTSCH: -- so that's our
22 options, right?

23 MS. BYINGTON: Uh huh, correct.

24 (BRIEF PAUSE).

25 MR. PITTS: I guess I'd like to

1 just add something. I -- I think the whole
2 situation on both -- you know, on who -- we've had
3 these meetings before, and I think the entire
4 situation on both sides is out of control. I
5 think it's out of control for your neighborhood --
6 you have no control over your neighborhood, and I
7 think that Mr. Ruta has not stepped up to the
8 plate totally as it should be, as a
9 businessperson, and I think the result is that now
10 that we've reached a point of diminishing returns
11 for everybody, and it's a very -- it's not an easy
12 situation, it's -- it's a complex situation, and
13 it's -- and, for me, it's a frustrating situation.
14 We shouldn't be coming back and say, well, we'd
15 like to address these needs, because I feel like
16 your needs have not been addressed, and it's,
17 like, you know, to me, this is like beyond where
18 it should be for a U-Haul business and a hotel or
19 whatever you've got going on there. It's very
20 frustrating, and I just feel like everybody's
21 reached a point of diminishing returns. You just
22 can't get to it, so, you know, I just wanted to
23 clarify that for myself.

24 MR. BERTSCH: Well, and we've been
25 through this before on this nonconformance with

1 the parking of the U-Hauls.

2 MS. BYINGTON: Uh huh.

3 MR. BERTSCH: At one point, Melanie
4 painted a red line on the parking lot in front of
5 which they were not supposed to be parked. That
6 didn't last long --

7 MS. BYINGTON: Huh uh.

8 MR. BERTSCH: -- so it just keeps
9 coming back to the same problem; again, that's not
10 the problem at hand here.

11 MR. MCGORY: I know you're in
12 public meeting -- or, meeting; could I just
13 respond to one point?

14 MR. KASTOR: You can.

15 MR. MCGORY: Aside from all the --
16 the issues that the neighbors are complaining
17 about, and those are maybe police issues; on the
18 issue of parking, one of the goals of this parking
19 lot expansion is to move vehicles to the rear and
20 leave more room in front, and, perhaps, become
21 compliant, or more room to become compliant in the
22 front for the U-Haul operation. I mean, that was
23 a goal of this parking lot expansion to -- to
24 get -- they need more room -- they need more room
25 for the entire operation. The hotel parking lots

1 to the south are much bigger than what exists
2 right now on the Ruta property, and so I don't
3 mean to imply that this parking lot expansion is
4 going to solve every problem, but I think it's
5 going to help at least some of these issues that
6 are raised today whether it's just parking or
7 activity in a grassy area behind the existing
8 hotel buildings, so... that's my comment, so...

9 MR. KASTOR: All right. Mr.
10 Chair, can the -- Mr. Coppel, can the Chair make
11 a motion?

12 MR. COPPELER: Yes, you can.

13 MR. KASTOR: On -- on a variance
14 request?

15 MR. COPPELER: Yeah.

16 MR. KASTOR: Okay. Well, I'd like
17 to make a motion to deny the appeal and maintain
18 the staff's position on the site plan that was
19 submitted.

20 MR. BIXLER: Second.

21 MR. BERTSCH: Second, (indicating).

22 MS. GLADWELL: Mr. Kastor?

23 MR. KASTOR: Yes.

24 MS. GLADWELL: Mr. Bixler?

25 MR. BIXLER: Yes.

1 MS. GLADWELL: Mr. Bertsch?
2 MR. BERTSCH: Yes.
3 MS. GLADWELL: Mr. Pitts?
4 MR. PITTS: Yes.
5 MR. KASTOR: Okay. Thank you.
6 MR. MCGORY: Thank you.

7

8 THEREUPON, the hearing was concluded at

9 5:55 p.m.

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CERTIFICATE

STATE OF OHIO)
) ss.
COUNTY OF HURON)

I, Marlene S. Lewis, Registered Professional Reporter and Notary Public within and for the State aforesaid, duly commissioned and qualified, do hereby certify that the foregoing, consisting of 44 pages, plus the Word Index, was taken by me in stenotype and was reduced to writing by me by means of Computer-Aided Transcription; that the foregoing is a true and complete transcript of the proceedings held in that room on the 21st day of June, 2022 before the Board of Zoning Appeals.

I also further certify that I was present in the room during all of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office at Wakeman, Ohio this 15th day of June, 2022.

Marlene S. Lewis, RPR
Marlene S. Lewis, RPR
Notary Public
3922 Court Road
Wakeman, OH 44889-9102

My Commission expires 4/07/2024

My Commission License
No. 2019-RE-777555

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