



AGENDA

BOARD OF ZONING AND BUILDING APPEALS THURSDAY, DECEMBER 17, 2020 6:30 PM

**PLACE: COUNCIL CHAMBERS
7232 EAST MAIN STREET, REYNOLDSBURG, OH 43068**

A. CALL TO ORDER

1. ROLL CALL
2. APPROVAL OF MINUTES
 1. Board of Zoning and Building Appeals – Regular Meeting – November 19, 2020
3. APPROVAL OF AGENDA
4. SWEARING IN OF SPEAKERS

B. PUBLIC COMMENT

C. UNFINISHED BUSINESS

D. NEW BUSINESS

1. Application #2020-5499; 1792 Brice Road; Applicant Brian Carter/Bright Futures Learning Center; Conditional Use - Child Daycare Center
2. Appeal; 6669 Rocky Den Road; Applicant Barbara Giannopoulos

E. OTHER BUSINESS

F. ADJOURNMENT



MINUTES

BOARD OF ZONING AND BUILDING APPEALS THURSDAY, NOVEMBER 19, 2020 6:30 PM

PLACE: COUNCIL CHAMBERS
7232 EAST MAIN STREET, REYNOLDSBURG, OH 43068

A. CALL TO ORDER

PRESENT: Rettke, Linder, Furst, Barnhart
ABSENT: Bulls

2. APPROVAL OF MINUTES

1. Board of Zoning and Building Appeals – Regular Meeting – September 17, 2020

3. APPROVAL OF AGENDA

Agenda Stands Approved

4. SWEARING IN OF SPEAKERS

Speakers for the evening sworn in by Mr. Rettke.

B. PUBLIC COMMENT

Mr. Rettke: Under public comment, is there any public comment to come before the board? I do have one email. This was from Mark Wing. Received Thursday, November 19th, 2020 at six pm printed up by Emily Wheeler. Says, hi, can the following questions be addressed, please? What impact will application number two zero two zero five four nine two have on the downstream properties? What mitigation is planned? Thank you, Mark Way. So that's addressing item the three, the 750 Rosehill Road. So we'll have to keep that in mind when questioning comes up.

C. UNFINISHED BUSINESS

None

D. NEW BUSINESS

1. Application #2020-5483; 1397 Terry Drive; Applicant Jerry Sargent; Residential Variance

Mr. Rettke: Under public comment, is there any public comment to come before the board?

Mr. Rettke: Can we please have an application 2020-5483 for 1397 Terry Drive?

Ms. Wheeler: Thank you, Mr. Chair. This is for the property at 1397 Terry Drive, this is within the suburban residential zone and the applicant, Mr. Jerry Sargent, is requesting BZBA approval for a residential zoning variance to convert an attached

Minutes Acceptance: Minutes of Nov 19, 2020 6:30 PM (APPROVAL OF MINUTES)

garage to the living space. Our zoning code does require one enclosed and one unenclosed off street parking space for detached single family dwellings. Then Section 1105.01 does stipulate that a residential garage shall not be converted to another use unless enclosed parking is provided for elsewhere on the site. The applicant, as I understand it, does not wish to construct a detached garage. Hence the request for a variance. I believe the application is here this evening.

Mr. Rettke: OK, so we had the presentation, would you please state your name and address for the record, please?

Mr. Sargent: Jerry Sargent 1397 Terry Drive, Reynoldsburg, Ohio.

Mr. Rettke: Is there any changes or anything you wish to elaborate on the presentation by the zoning director?

Mr. Sargent: The only thing I didn't put in there, but since we've moved in there, I've tried to do several upgrades as time and finances permitted, you can see I extended the driveway. You can't see from this picture, but we also improved the chain link fence and put a new gate on the property. We've also enlarged the patio in the back and the concrete slab back there. I someday hope to be able to put a garage up but at this time that's not financially possible.

Mr. Rettke: Is there any witnesses or individuals wishing to speak in opposition to the application? Seeing none I will move on any questions from board?

Mr. Furst: Mr. Sergeant, I do want to say I'm sympathetic to the scenario you presented here in the application, that there is a requirement in our zoning code that special conditions exist on the property that aren't generally applicable to other properties in the surrounding area. You did talk about some of the improvements you made to the property and things like that. One of the reasons for the requirement to have one enclosed parking space and one open parking spaces so everyone doesn't park their cars on the street, frankly, you know, as I'm sure you're aware of, the driveways are very short in your neighborhood. Do you feel that the additional driveway space that you have there would mitigate any parking concern that that might arise by closing your garage?

Mr. Sargent: Yeah, we've never used the garage as a garage, it's basically been a storage place for us since we moved in. That's why we enlarge the, the driveway and we can park for cars on there. And we only have three. So we've not parked cars on the road for a number of years.

Mr. Rettke: Any additional questions by any board members?

Mr. Bowsher I'd like to note for the record that this is a decently common practice for the Huber neighborhood. Mr. Sargent, do you happen to know just because we have not surveyed it and it's actually a question city attorney and myself were

discussing earlier. Is any of your adjacent neighbors or anybody in view of the property has also done this similar thing, converting their garage into additional living space?

Mr. Sargent: Yes, on the other side of the street, there's one further down on the street, it's not that big of a road, but here's another one further down.

Ms. Wheeler: Thank you. I'll just confirm I did look on Google Street View and I did find four property addresses on Terry Drive, 1314 to 1418, 1417 and 1444 that have all enclosed their garage space.

Mr. Rettke: Emily, do you know if these were variants approved or prior to?

Ms. Wheeler: I don't know. They were not variances since the time I have been here, so I believe at some point we did allow homes in the Huber neighborhood to have garages converted.

Mr. Rettke: I know this isn't our first request that I can remember on the board, but I don't, has something changed in the new code that requires the garage. I thought previous ones we've heard just required the additional parking, where he kind of met that where he added the extra parking lane of concrete on the side of the house.

Mr. Bowsher: Yeah, it's interesting that you bring that up because we were just discussing that about the potential of taking a look at that and revisiting that currently right now and states that you need to have one off street uncovered and one off street covered parking space that doesn't necessarily call out a garage. I think the city attorney can elaborate in as well as Mr. Furst. We were we've been discussing this for the last couple of days.

Mr. Shook: Yeah, I mean, well, we're discussing the whole goal and certain, you know, smaller provisions such as that, obviously that's still a process that's ongoing and the Planning Commission will conduct their public hearings coming up, I think, on December 3rd. Is that correct? And then council still has to read after that. I do have one question for the applicant, and I think it's relevant to what Mr. Furst was discussing with respect to how your property might be unique in this neighborhood. One thing that I noticed, and I just want to get some clarification on this, is that it looks like your driveway at some point was widened from its original dimensions. Is that correct?

Mr. Sargent: Yes.

Mr. Shook: OK. Can you tell me when that took place or did?

Mr. Sargent: I think we've been in there probably two or three years, but everything that I've done, we've contacted the city and gotten approval before we've done it, even the fence, you know, we've tried to be good citizens and do whatever was

required.

Mr. Shook: So could you estimate for me and for the board approximately how many vehicles you could have parked in your driveway that are not on the street?

Mr. Sargent: At least four.

Mr. Shook: Is that common in this particular neighborhood or is that unique to your particular driveway?

Mr. Sargent: Well, most of the as you can see on the overhead, most of the driveways don't have widened driveways like myself. So I would say mine is unique in that you can get four cars on the property without having to park any on the street.

Mr. Shook: OK, thank you.

Mr. Furst: Yeah, I mean, Mr. Sargent, I live in a different neighborhood, but it seems to me that kind of the average parking, you could maybe fit two very small vehicles in the driveway, but a truck or anything like that, you just get one.

Mr. Rettke: Yeah, I'm thinking. Do you know what setback is Huber's? Is it thirty or twenty five? OK, I think things we're fairly tight there and there was only twenty five. I meant to look before, thirty you can barely get two cars but twenty five you definitely can't get two. So he's definitely helped on that aspect. Many other discussion comments?

Ms. Wheeler: Well, looks like it's about twenty three feet.

Mr. Rettke: Yes, probably twenty five. I thought it was fairly tight there.

Ms. Barnhart: So just to confirm that this variance request is to basically waive the requirement to have an enclosed parking space on the property. Is that right?

Mr. Shook: That is correct.

Mr. Rettke: Back to the original zoning question, the new rules did add the enclosed?

Mr. Shook: No, that was that was also a requirement under the old zoning code. I don't think we could say definitively how, at least not right now, how far back that particular requirement goes. This neighborhood is obviously quite old. I think it was constructed in the 50s or 60s. And so there's really no way to necessarily date or determine whether some of those other houses that have converted garages are grandfathered in under this code or its predecessor.

Mr. Rettke: I just; we had one, what, two years ago? And the only thing that stuck

out in my mind was known he was required to meet the stacking requirements for vehicles for us.

Mr. Bowsher Yeah, I'm trying to remember I think maybe when I came on we had one, but it's been very, very few. M

Mr. Rettke: I don't remember the enclosed portion being an issue.

Mr. Shook: We researched it and the old code did require enclosures as well, this language is almost actually identical to what the old code required.

Mr. Rettke: I think we granted that on what conditions that he had to finish it because he didn't seek approval first. Any other questions, concerns, comments, discussion?

Mr. Furst: Mr. Sargent, you've made a written statement here, but just for the record and for everyone present, our code does require that a hardship be created by the strict application of the code. If you could just it's clear to me that there's a hardship here, but if you could just go to maybe a little more detail about the hardship for the record.

Mr. Sargent: Well, currently, where I work at the office is closed, and so we're having to work from home and so I've been working since March on our kitchen table and then every night I have to take everything down and put it back up again the next day. Am I also some years ago. It's been about four years ago, I contracted Legionnaires disease and so I have some scar tissue in my lungs. And my doctor said even when the offices are open to go back to work, that it may be some time before I'm able to go back to an office setting. The other reason I'd ask is because I currently am one of three caregivers for my father and my stepmother. She's bedridden and he's eighty nine and he's suffering dementia and we care for them in their home on the west side. But we're looking at it probably in the near future that one of us will have to take them into our home to care for them and with our current facilities and our house that that would not be a possibility to move to people like that in. But if I was able to enclose the garage, that would give us enough space to bring somebody else in if we would need to.

Mr. Rettke: What's the terrain like behind your house that would limit you from potentially putting an enclosed structure back there?

Mr. Sargent: Well, it gets pretty soft back there, our yard is like most of the yards in the neighborhood, that if you get a lot of rain back near where you can see the trees at the back of the property, water tends to puddle back there. We've got good drainage, you know, to the front, to the side. So everything runs down onto the road and into the storm sewer. Not say it's a flood zone, but if it rains very hard, there's puddles back in our back yard.

Mr. Rettke: And the price and cost and engineering to put a structure back there would be significant, I would imagine. Any other questions, concerns, comments? Well, I'll move for approval then of item D-1 application 2020-5483.

Mr. Furst: I second.

Ms. Wheeler: Ms. Barnhart. Yes. Mr. Furst. Yes. Pastor Linder. Yes. Mr. Rettke. Yes.

RESULT:	APPROVED [UNANIMOUS]
AYES:	Rettke, Linder, Furst, Barnhart
ABSENT:	Bulls

2. Application #2020-5493; 1840 Brice Road; Applicant David Wessinger; Non-Residential Variance

Ms. Wheeler: Thank you, Mr. Chairman. Our second case this evening is for 1840 Brice Road. This is a property within the innovation district and the applicant, Mr. David Wessinger, is requesting BZBA approval for a non-residential zoning variance to use the property as a staffing office for the job center L.L.C. office. Professional Services is not currently listed as a permitted or conditional use in the innovation zone there. Therefore, a variance is required. Previously, the space was used as an office auto title loans. However, it was vacant at the time of adoption of the city's new zoning ordinance in April of 2020r, and is therefore not a not considered illegal nonconforming use at this point. And I believe the applicants are here if we have any questions for them.

Mr. Rettke: Would you state your name and address for the record, please.

Mr. Wessinger David Wessinger, 11935 Mason Montgomery Road. Cincinnati, Ohio.

Mr. Rettke: Was the information presented accurate or is there any additions, corrections you'd like to make?

Mr. Wessinger No, I believe that was presented very accurately. Yes, sir.

Mr. Rettke: Is there any opposition to the variance requested?

Mr. Furst: I'll jump in here, would you mind explaining a little bit more detail about the nature of business, the sort of staffing that you provide to what industries and things like that, and then also maybe explain a little more detail about how you're going to use that building, because it is a kind of unique layout for an office.

Mr. Wessinger Yes, it is a unique layout. Absolutely. It's a very old and unique building. As you had said, we are a staffing company. We provide light, industrial and entry level clerical type positions for the warehouse distribution, automotive

industry, things like that, so we provide seasonal temps, we provide permanent temps, we provide a lot of variances for those companies to allow them to meet their employment needs during the busy times.

Mr. Bowsher Can you describe the working conditions over here? I'm sorry to I know it's got kind of hard this year. Can you describe sort of the working environment inside the building and how many employees would be located there during a typical workday?

Mr. Wessinger Absolutely. Typically, or most of our offices are manned anywhere between like two and five people. We would envision that being about a three or four person office. So it would they would each have their own desk. We would have things segmented out where the applicants would come in and fill out their applications on computer kiosks, do the paperwork there, and then they would be assigned, provided they meet the proper criteria to the various locations that we have in the area.

Mr. Bowsher I appreciate it. For the record, as it will be eventually submitted to the planning commission and already what's been briefed to city council, the city attorney and I have already discussed some of the minor changes that are coming forthcoming with the zoning code. One of the changes is to include a variety of different office uses to the innovation. This would fall under one of those uses. So granted, if it was to continue and become an ordinance and law and amend it, this would already be an acceptable use for the district.

Mr. Furst: Yeah, I mean, I think it's clear that an office space such as this does kind of meet what we envisioned for the innovation zone. We're looking to be able to enable office and light industry and other types of uses similar to that, s this seems to be in harmony with that use.

Mr. Rettke: Any other questions, concerns, or comment? Can you can you just briefly outline what the innovation zone was supposed to represent?

Mr. Bowsher Yeah, absolutely. So the innovation, certainly the two biggest ones that we have in the city is LBrands. So it's a combination of flex office type use, flex industrial and sort of tech innovation. So LBrands being the largest one that we have. Also the Agricultural Department and fire marshal's academy, those are the two biggest parcels. But then we also wanted to pull out and say that Brice Road into the future could be a great mix of light industrial logistics space office park type space, bringing jobs back into an area that has been severely, I think, down ridden for a while. So our goal was not to continue bad retail in an area that has been full of vacancies, as this one is, but to bring more of an industrial service component to the area. And that's sort of the idea behind it. So there's some uses that are there that are being changed to conditional. Then we're adding in a lot of the office uses where we'd like to see. So I think a good idea of what is already existing that fits that character would be the national truck company where they do a lot of fabrication

type work that's kind of light industrial. They also sell those vehicles that are there, the two white buildings that are off of East Green and Brice, those are two office complex buildings. Those are absolutely in line. Also, the call center type building that sits behind it there on screen is another great use of that space. So we're trying to replicate those uses as well as bringing in some other flex tech type industries. Lobe Electric is another great user. So you can envision Goodale Avenue where they've got like high banks distillery and some other light industrial uses and maybe an architecture firm and things of that nature. We think those are really great mixes of uses that we'd like to see on Brice Road into the future and to continue what we already have there.

Mr. Rettke: But potentially in a matter of months or so, this would be a permitted use by your recommendation?

Mr. Bowsher: Likely and hopefully, yes.

Mr. Rettke: Individually, could this parcel support that or would it take the effort of acquiring additional parcels to conform?

Mr. Bowsher: Say that one more time, I'm sorry.

Mr. Rettke: So it looks like it's a very small lot to get what you really want, I don't know that this parcel would support it so they would have to get the shopping center and make it a bigger effort.

Mr. Furst: No, Mr. Chairman, I think as a professional services building, this is the use that they're asking for. That's a permitted use under the changes that Mr. Bowsher is suggesting.

Mr. Rettke: Yeah, if it passes.

Mr. Furst: Sure, if it passes.

Mr. Rettke: We have to go on existing right now. We can't say, well, that's going to pass.

Mr. Bowsher: That's correct. I think based on the current plan and based on the ideal of the innovation district office type uses are what was envisioned for the space continued.

Mr. Furst: And there are some permitted office uses already there.

Mr. Rettke: Any other discussion, questions, concerns, comments. Mr. Shook.

Mr. Shook: Just looking at the application and I know that I've had some conversations with Matalan Holdings and the owner of this property is, in fact,

Matalan Holdings LLC, is that correct?

Mr. Wessinger Correct.

Mr. Shook: OK. And are you here today as a duly authorized representative on behalf of the property owner?

Mr. Wessinger Yes, we've been in conversation. Yes, sir.

Mr. Shook: OK, are you at all familiar with the history of this particular property dating back, let's say, to the last April and what uses have been there since last April?

Mr. Wessinger My understanding is it's been vacant since last April.

Mr. Shook: And that's based on your conversations with the owner.

Mr. Wessinger Yes.

Mr. Shook: Did she explain to you what efforts that she had engaged in to try and obtain occupants for this particular property before you guys were able to come together?

Mr. Wessinger No, she had not indicated that there were any other options at that point in time.

Mr. Shook: Did she discuss with you at all any outstanding or pending property maintenance issues with this particular property?

Mr. Wessinger No, she is not brought up anything that there were any major issues.

Mr. Shook: No, I don't think there are major issues, but I do believe that there have been some notices of violation that have been issued this year to that particular property. Were you familiar with that?

Mr. Wessinger No, sir.

Mr. Shook: OK. Have you properly inspected this particular property to ensure that it's in compliance with the city's property maintenance standards?

Mr. Wessinger We have looked at it, it meets what we have done, I'm not familiar with what city standards would be, but it is in conformity with what we've done in most of our other offices. If that makes sense to you, I guess.

Mr. Shook: It does. And I want to make sure we're clear on this. Are you expressing your intention to this board that in the future you and the property owner intend to

work together to ensure that the property is, in fact, up to our property maintenance standards?

Mr. Wessinger Absolutely. We're actually improving it. We're putting money into it. We're going to make sure that it's a nice place. And we like to have an image that portrays that we are a quality company. We're not a fly by night, you know, rinky dink type operation. We want to make sure that we are perceived as being quality. And that's important to us. We have 18 different or 20 different offices in eight different states. So this would be the second one in the Columbus market. We have one and we're trying to grow our brand and make sure that we're presenting our brand in the right way, and you want to make sure that the spaces we go into.

Mr. Shook: Thank you.

Mr. Furst: Could you could you indulge me and describe some of the improvements that you're suggesting?

Mr. Wessinger Well, provided things go through, we're putting in LED lighting, new bathroom facilities in the back. It's being carpeted. It's being repainted in the inside and outside. And then obviously the signage and everything. Upon inspection, she's done a good job with keeping up with the grounds maintenance in the parking lot, and the interior. You know, she's put forth the efforts.

Unknown: The parking lot has been redone since this picture was taken?

Mr. Wessinger Yes.

Mr. Rettke: So we're always going to go eventually. Any other questions? Concerns?

Mr. Shook: I do want to make one particular comment. I think this goes to; so this is what I would consider to be a particularly unique application and that this is a use that we are currently considering for updates to the zoning code. And there's a reason for that. You know, we had a comprehensive master plan that was passed and approved by city council back in 2018. As we've gone through some of the changes that we're trying to make to the zoning code, we identified this kind of use as consistent with what was anticipated and expected by that comprehensive master plan. And so that's why it's a use that's being proposed for this particular district. Now, the reason I say that is because when it comes to variances and I think some members of the board are familiar with some of my concerns when it comes to variances, is that we are usually worried about creating precedent and saying that there is a use now that we're going to allow in a district. And then how do we say no to that same use in that district later on. If as we anticipate the zoning change is made, we don't have to worry about that same precedent with this particular use. And so my ordinary concern is alleviated by that.

Mr. Rettke: Hearing none move for approval of Item D2 application 2020-5493 for 1840 Brice Road.

Mr. Linder I'll second.

Mr. Rettke: OK, can we have the roll call, please?

Ms. Wheeler: Ms. Barnhart. Yes. Mr. Furst. Yes. Pastor Linder. Yes. Mr. Rettke.

3. Application #2020-5492; 750 Rosehill Road; Applicant Rose Hill Ohio, LLC; Conditional Use

Mr. Rettke: Moving on to item three, application 2020-5492 for 750 Rosehill Road. Can we please have the presentation?

Ms. Wheeler: Thank you. Our final case this evening is for parcel number 0600004577. The site is actually vacant, so there is technically no property address as of yet. The parcel is within the suburban residential zone. The applicant, Mr. John Spagnolo of Rose Hill Ohio, LLC, is requesting BZBA approval of a conditional use for the construction of a new residential development consisting of 76 town home units. And to clarify, the development will be constructed on actually two parcels. And this request this evening is specifically for the parcel to the north, which is currently zoned suburban residential, while the parcel to the south is already zoned residential medium. The development did receive major site plan approval at the November 5th Planning Commission meeting, and just to give an overview of the question this evening, the proposed use, which is dwelling attached single family, is listed as a conditional use in the SR zone. And so BZBA approval is being requested this evening for that specific use on that specific parcel. I do believe the applicants are here, if there are any questions, and I'll pull up some of their site plans as well, just to add to that for clarification.

Mr. Bowsher: So we're talking about two parcels here, the south parcel being the more L shaped parcel that is residential medium. This is already a permitted use, which is why it was through planning commission. They reviewed the entire site as if the conditional use was already granted. They also did put a condition on there that gets approved tonight. So your conditional approval will be for the northern parcel, which, as Emily had just mentioned, it's a conditional use. Basically, you can't see it on this very well, but it's basically the second drive to the north is where that parcel starts. And it basically goes adjacent with their roadway to the east. It's a smaller piece of the entire site development plan. With that, I'll hand it over. Thank you.

Mr. Rettke: There are any information regarding the application or notice is accurate or if there's changes, you'd like to be reflected on the record?

Mr. Spagnolo: No, sir.

Mr. Rettke: Are there any opposition to the application please come up to the mic

and speak.

Mr. Wayne: Well, I wouldn't have known that this was occurring if I didn't see a little teeny sign buried on Rose Hill under the trees. So how is it that all of these people are going to be impacted by this and there's no notification? It's in your; you know, us, we're all listed. The thing you got from Franklin County. That nobody knows we're in there in a 100 year flood plain. They're taking away all the vegetation, all the ground and putting in cement. I'll tell you that hundred year flood plain is already a yearly flood plain. What they'll do is put my house on my neighbor's houses and everybody downstream into multiple flood events a year. Has anybody looked at that impact?

Mr. Bowsher: We have actually. I'm happy that you came out tonight, actually, there was a few other neighbors that came out for our planning commission meeting and the applicant brought their storm water engineer and they provided a full survey analysis and explanation of what they were doing. I'm sure that they could give you all of the highlights tonight as they sort of go through this and explain the storm water quality as dictated by the EPA and the state of Ohio on what they have to do to ensure that there's not additional flooding to the neighboring properties. So with that, I'd probably just allow the experts to answer those questions and hopefully alleviate some of the concerns that are legitimate concerns that I know that you have. And I know that there is already existing flooding in the area to the back there of a Blacklick Creek. Thank you.

Mr. Wayne: So you're going to be able to demonstrate that. You're not going to cause any extra floods, all the water that can come down there is that it could normally run off that land is going to be captured in your little drainage pond there?

Mr. Bowsher: Well, not my drainage pond.

Mr. Wayne: If that's a fact then I'm listening. Because that's already, the dark green is already under water with a mild rain. So you're going to take out the one part of that's pretty low land, too, because they had floods early. And you're going to just dig a deeper hole.

Mr. Spagnolo: No, I'm waiting my presentation. The presentation is going to answer it also as a matter of course.

Mr. Wayne: So a couple of people made it to the fifth. Is that just luck that people find out that? Their properties are being impacted by your choices.

Mr. Furst: By law, this property cannot impact neighboring properties.

Mr. Wayne: Excuse me?

Mr. Bowsher: Mr. Furst, I think he was talking about notification.

Mr. Wayne: Yeah, I mean, if you can impact my property.

Mr. Furst: Well, that's not a matter of fact that. I'm sorry I'm speaking. That's not a matter of fact that it is impacting your property.

Mr. Wayne: See that little green thing on there? That's my property. So when those things flood. I'm one of the first to flood. You're messing with the flood plain. You've got all of the residents from my house down that street named in your application, why weren't any of those residents contacted?

Mr. Rettke: Can one of you go through the process so we could just get that out of the way?

Mr. Shook: Yeah. So this is on a conditional use application for BZBA purposes and separate that from planning commission purposes. The obligation of the city is to conduct a public hearing, as we are conducting now. And the notification requirement is for a public hearing is that we are to publicize that in a newspaper of general circulation within the city and post notice on the property at least seven days in advance of the public hearing. I believe in addition to those two prerequisites, the city also publishes their agenda, an agenda packet online on the city's website. And in addition, we promote Planning Commission and BZBA hearings on the city's Facebook page.

Mr. Wayne: OK, so I don't have Facebook, I don't get a newspaper.

Mr. Bowsher: We additionally also post the applications and the agenda at the front of the lobby for anybody to come into.

Mr. Wayne: So this is covid-19 world. Old folks like me don't go wandering around. How am I supposed to know I've got to walk into your building to find something for something as big as this? I mean.

Mr. Rettke: No offense here, but you're here.

Mr. Wayne: I'm raising to you guys a major deficit in your communication. Because I went to three neighbors, none of them were notified. If you didn't drive down Rose Hill and just happened to see that little sign. You're toast.

Mr. Rettke: I can appreciate that, but I think we're well within the statute.

Mr. Shook: Yeah, I can only give you the legal standard whether the city could or should do more. I can't give you an idea on that.

Mr. Rettke: So they've met the statutory requirement. Your word obviously got out because we saw Facebook explode over this particular issue. Could more be done?

I say yes. We had a discussion last time about the size of the sign. I think that's being addressed. Correct?

Mr. Bowsher: Is a pretty sizable sign that's out there.

Ms. Wheeler: It's the largest one we have.

Mr. Bowsher: That's the larger it's not one of the smaller ones.

Mr. Rettke: OK. I drive up and down there every day and I missed it. So I'll be honest with you, I didn't see it, but I'm not looking for it.

Mr. Wayne: So again am I supposed to look on the side of the road every time I drive to see what's happening? This is serious and I'm going to and I've wondering what to do with my retirement. Gave me an issue. Thank you.

Mr. Rettke: OK, so we have the concerns. Yeah, I'm sure you're going to be able to talk us through.

Mr. Speroute: I'll go through as much or as little as you like. My name is Jimmy Speroute. I'm not John Spagnolo. John's my partner. He's with us here tonight. I'm at 108 Deer Lane, I live in Harmony, Pennsylvania, 16037. I've been doing this for about 30 years just to make sure we're absolutely, positively clear. We were performing no work in the floodplain, the property that is here. Please let me speak, I let you speak.

Mr. Rettke: Let's keep the interaction between the two of you separate and address the board.

Mr. Speroute: So there's a difference between a flood plain and a floodway. We are not impacting the flood plain at all. We are impacting the floodway, which requires approval from FEMA that will take place and that will happen. That allows us to do minor grading at the flood fringe, but not impact the floodway. We are turning over no shovels of dirt in the floodplain. I just want to make that clear before we get too far into this. Mr. Bowsher, can you go back to the overall plan, please? Again, the reason we're here tonight is because we are purchasing two parcels of property, both are under agreement with Rosehill, Ohio, LLC. Liana Goetz is the property that is to the north. It's about 2.96 Acres. That is, the property is zoned SR and therefore we are here seeking conditional use approval for townhomes in the district. The property to the South is owned by Triple T. Investments. That is Ted Lemon. He owns approximately 10.5 Acres of ground that is zoned RM. It is our intention that when we go through this process that those properties will be consolidated and allow us to proceed with this plan. It's just common practice that we don't do those things till we hit a certain milestone. And as these milestones get kicked down, then we'll go ahead and take title the property, consolidate that property and then proceed with our subdivision. What we're proposing is a 76 unit town home building. These

townhomes will be fee simple. Each owner will own the property in front of and directly behind their unit and down through the walls. The end units will split the common property between the two buildings. This is not a condominium. The property will be maintained by the homeowners association that includes snowplowing and landscaping. We're proposing an asphalt sidewalk on the northernmost in the southernmost outer limits, I would say, of the plan and an eight foot walking trail that will kind of meander along the front with some landscaping and probably a landscape mound and some buffering there. One of the things to control our storm water runoff, I know this is a concern, would be the pond that we're going to put to the east. This is directly behind the school. That pond is oversize by one hundred percent. It's actually it's two hundred percent. It's twice as big as it needs to be. And that is by design. One of the things that we had hoped to do by doing that was to actually make it somewhat of a feature. So it's not just a storm water pond that's going to collect a little bit of water and turn into a nuisance. So we want to make a feature out there. We want to make sure it is sized accordingly and by sizing it twice is what it needs to be, which is supported in the storm water management report that we presented earlier this afternoon to the city. That should be easily achievable. One of the things to realize when you're doing storm water management, it is our duty as the developer to control the water that comes off this property and not release it any faster than what it's going off of there today. I'm actually happy that the neighbor came up in front of you and made testimony that he already has flooding problems. So that way in two years, if he has another flooding problem, he can't blame it on us. But what we're going to do is we're going to control all of the storm water that hits the streets, every impervious surface, which includes the asphalt, the sidewalks, the driveways and the rooftops. And all of that will be contained and funneled to the storm water system. So as that water is funneled to the system, it is released at a rate greater than or no greater than or equal to what is currently coming off of there today. So in theory, we should be improving somewhat of the situation there by being able to control that water and release it at that rate, in addition to the pond, is twice as big as it needs to be. So being able to capture water, funnel it and direct it to the storm water facility rather than having all of that water just shed across the back of the floodplain to the creek, where we're not making the situation any worse. You know, everybody could argue whether we're making it, we're making it better or not, but we feel that we've done our due diligence and everything should work out the way it is. This is something that we've done. We take pride in doing these things and taking that little bit of an extra step to make sure that we don't get those phone calls or the social media blasts that seem to happen. What is being shown on the screen right now, just for clarification, is the floodway and the flood. The floodway is one it's hard to see on that drawing. There's the property that is hatched out there. You can see our property, the pink line which is the development area and the green hatched area in the back is the storm water pond. Both of those are out of the black. Maybe it's purple. I'm not good with those dark colors, but the area that's called the floodway, the zone AE, that is the FEMA defined floodplain. And as you go through there, you'll see cross sections along that floodplain that delineate what the height of that floodplain is. Everything that we intend to do is above that floodplain, the cyan blue shaded area. That is the

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floodway. We are permitted to do work in that floodway provided that we have all the applicable approvals from the agencies that regulate that, which is the next thing that we're going to be doing. A couple of the things I heard earlier in the meeting that we're talking about driveways I'll hit on that to. If you don't mind going back to the site plan. Our buildings are supposed to be built by Ryan Homes, they will have a two car front entry garage and a two car driveway that leads out to the street. The driveways are a minimum of twenty five feet in length. So you'll have two cars in the garage, two cars out in the driveway. And we've provided for some additional off street parking. They'll be centralized mail delivery here as we've come to find out with other projects in the area here, the post office is almost impossible to deal with. So we're going to be providing centralized mail delivery. There's a lighting plan in the plans that we've provided. There will have some street lighting on along the street and every unit will have a dusk to dawn light controlled by a photocell. So there's no need to have larger lights other than in the common area around the mailbox by the parking area and some down along the edge near the cul de sac. The buildings vary in configuration from two units, which is all the way to the east for five and six And there is one, I believe, one just one seven unit building that is shown on there. Again, they would be fee simple to give you an idea on the building itself. Garages on the first floor, mechanicals are on the first floor, there's a powder room option on the first floor and a small living space, a family room, if you will. And then on the second floor is the kitchen powder room as well. And then the living room and on the third floor, three bedrooms and at least two and a half bathrooms. This is the cottage elevation that they're proposing. It's a combination of stone and siding. And you can see the different variations in roof types, colors, textures and so forth. One of the things that allows a little bit of variation in the front landscape will be the offsetting units, the offset by two feet, so each unit will have a staggering it, which kind of breaks up the monotony of just one very, very long building. The site is fairly flat. It's about one percent is our street grades one to one and a half, maybe two percent in some spots. So the elevation that you're seeing right there is fairly accurate as far as how it'll look left or right in terms of elevation change between unit to unit. Sanitary sewer will be connected to the sewer, the public sewer systems at the East water will be connected to Rose Hill Road to the West. One of the things that we have been in contact with. Can you go back to the site plan, please? If you're familiar with the site at all along the southern property line, the red line that you see there, there's a drainage ditch that kind of just sits there and lingers. It doesn't connect anything. It is taking on water from the parking lot of the school. And Rose Hill Road Storm when Rose Hill Road was widened a number of years ago. The storm surge were improved. We've been in contact with the school district. And what we're proposing to do is capture that water and tie it into a storm sewer pipe and pipe it all the way down through the end of our project, not beyond the project limits, but basically to the south of the duplex unit that you see all the way to the east. We're capturing that. That'll be the only water on this site that we don't capture in our storm water pond, because right now it doesn't go through our pond. We're just trying to clean that ditch up. It's a little bit it's in disrepair. It just kind of lay stagnant and it doesn't go anywhere. So we want to clean all that up in. The school district has given us the thumbs up to be able to kind of help them out and do that there as well. We are

proposing a right in right out entrance to the South that is specifically in relationship because of the relationship with the school entrance. We don't want people trying to turn left out of there and messing with the school traffic. So that was by design. And the upper entrance will have a full access left turn, right turn. And that is the entrance that has pretty remarkable sight distance there. We've got a pretty good sight line in each direction. So like I said, we're here tonight because of the issues related to the conditional use for the townhomes in the SR, as your planning director had mentioned, we had we have received fight site plan approval from the planning commission or the recommended approval. And we're here specifically related to conditional use in the SR for townhomes. One of the other things I just want to point out to we've talked to the town and when we get to a point further down the road here and we can make a determination, we're willing to give the property in the back, maybe not all of it, because of the issues related to with the pond and liability and so forth. But we'd like to donate that to the town for use in their park system and with the trails. So a very good chunk of the dark green that you see at the top above the pond access road has the potential to become city owned property in the future. That is the property that is down in the floodplain, which we don't intend to touch. We're not planning on taking any trees out of there or doing really anything with that. And then one of the options that we are going to discuss, too, is using that gravel access road to the detention basin as a possible connection for into the trail system. So but we'll be willing to work with the town on those things as they come to light. If you haven't figured out, I can talk all night, so jump in and shut me off, I got a three and a half hour ride home, so I'll do as much or as little as you want me to know.

Mr. Rettke: I was very impressed with the presentation. I thought you came very well prepared for discussion. So I just got a couple of things to get started. This is going to be subdivided by subdivision, is that correct?

Mr. Bowsher: Yeah.

Mr. Rettke: That will be a dedicated public street or all private?

Mr. Bowsher: All private and to note, only 17 units, roughly 17 units are actually in the SR are out of the total 76 units..

Mr. Speroute: It's the first two buildings coming into the north in about a half of the next one or three quarters of the next one there. Yeah, there's Ms. Goetz's property.

Mr. Rettke: And these are two different owners completely willing to.

Mr. Bowsher: Correct, they're already in contract.

Mr. Speroute: We are in the contract with both owners.

Mr. Rettke: Yet pending the outcome of rules? Did try to reach out to those maybe further?

Mr. Speroute: Well, we've looked at that. And the gentleman that has purchased that property, it doesn't seem like he's. Acquire that property all that long ago. He is making some renovations and improvements to the property, we've tried to give him a little, as much buffer as we can up there and provide some landscaping. But the configuration, his property, the encroachment into the flood plain in the floodway, it doesn't yield enough to actually incorporate it. And it actually makes the property a little bit funnier shape just because of not so much the property itself, but what you're able to do outside the floodplain, the floodplain kind of cuts across there and it's really tight.

Mr. Rettke: I don't think you would have gained anything, but you would have made more open space.

Mr. Speroute: Correct. We have a net gain on that was zero for us.

Mr. Rettke: But you did speak with them.

Mr. Speroute: We had not spoken with him.

Mr. Rettke: Can you just elaborate on a little bit of FEMA's responsibility in the review?

Mr. Speroute: And our intention would be to file a letter or map amendment or letter of map direction with FEMA. What that will do is that it will allow us to do the filling activity in the floodway, again, not touching the flood plain. And then what that does ultimately by default, if we don't do that letter of map correction, let's say we go through and we get permission from FEMA to actually do the flood plain or floodway grading. If we don't do that map correction and one of you go out to buy that home, the first thing they're going to do is say you need flood insurance. So our intention is to get the permit to fill in the floodway and withdraw that property from the floodway. So when you go to get your mortgage, you don't need the flood insurance. So there's two separate steps. We don't necessarily have to do to the letter of map revision provision or letter of map amendment. But it's the best thing that we can do to make sure that they have marketable title when they go to sell these homes.

Mr. Rettke: Yeah, because I'm going to get a call saying, hey, why do I have to have it?

Mr. Speroute: And usually there's a little bit of an overlap through that whole process. Being at that property is all the way at the back. That letter of map will have the permission to do the grading most likely before we have the actual letter of map amendment. So when we get to that point, hopefully there might be a little bit of an overlap or somebody gets a goofy phone call because they don't have an updated map or a website or something, but we intend to take care of that through the appropriate agencies.

Mr. Furst: Can you describe that grading a little more, particularly because there has been some concern with the neighboring properties that your intent with the grading is to raise the grade such that watershed's from your property to adjoining properties.

Mr. Speroute: Do we have the entire plan that is part of that?

Mr. Bowsher: I will make it known to we did have a meeting with the developer earlier with the city engineer and the storm water superintendent to go over this, and they have provided more documents than we requested or require, according to a lot of the storm water requests. And so we were very pleased with the amount of work that's already been done to ensure a lot of the concerns that we have heard over the last month or so.

Mr. Speroute: I don't know if we have a drawing that shows that doesn't look like, but if you look at our grading plan and the grading analysis that was done, we intend to feel right.... If you we can go back to the original plan. And I can I can kind of wing it. I should have brought a pointer, but I didn't. This low water access road will say, as you progress. There we go. Perfect. That's actually that's perfect. The shaded area to the north is the flood plain. And there's a note in there that says the flood plain floodway finally made it. The shaded area there.

Mr. Bowsher: Floodway, floodway that your checks.

Mr. Speroute: I'm sorry, I'm looking at two different things here. We're moving around what I didn't realize you moved. The dashed line over to it's just off the screen to the left, if we can pan over there that dashed line that goes down through there is the edge of the flood plain. So we are going to fill from that line to the other dash line, and that's what we need permission to do. So at the back of that line, I want to say we're going to have about six feet of fill in there, maybe 10 in certain spots. But then it will it'll be graded down at a two to one slope to the match existing ground outside of the hatched area.

Mr. Furst: That's with the intent to send all of that water to your retention pond.

Mr. Speroute: Well, obviously, the water that we can't capture won't make it that far, but we should be overcompensated for that. When we do that, the water hits the ground is going to shoot down over the hill and we can't capture that. But all the water from the impervious surfaces are. So when we're all said and done, we could probably do an analysis as to what that is. But it will be a reduction. It may be that may have been included in the summary of the storm water report. So we are right now, we are handing off the information to the engineers. It was well known today in the meeting that we had that that will be looked at with great scrutiny. The book that we provide them was a good inch, inch and a half thick with a lot of data, so we're looking for them to go through their analysis, look at what we have to do and provide

any comment or modifications if necessary. But we're comfortable with the design that it should address anybody's concerns.

Mr. Rettke: Any questions concerns discussion?

Pastor Linder I wanted to add my voice to saying I appreciated the thoroughness of the presentation, and you did make a comment. And because it's not my area of expertise, just explain in very simple terms about that elevation. You made a comment about elevation in passing that your properties would not be either below or above on purpose. There was a statement about elevation and I'm sorry, I can't remember it more clearly.

Mr. Speroute: Maybe something I'm not sure exactly what you're referring to.

Mr. Rettke: I think it's the baseline elevation.

Mr. Speroute: Yeah. On the original storm one more year ago, the baseline elevate. If you if you're looking to compare our site plans with the flood information. What I was pointing out is if you look at that drawing that was in part of the presentation, the lines that run across there are cross sections that are included in the flood insurance rate study that dictate what the flood elevation currently is today. So if you're looking at plans and you're saying, hey, they're building this at this elevation, you're able to compare those two and determine whether you are above or below it. And indeed we are above it.

Pastor Linder: Yeah, I just was going to comment on you were very emphatic in that. And I think staff, my impression is the engineers and those that look at this on behalf of the city are incredibly diligent about understanding what the ramifications are. And in partnership with this developer, that's the goal here.

Mr. Bowsher: Correct.

Pastor Linder: And I take that just to say, sitting here, I acknowledge that as being factual in my mind. I don't have any reason to believe that that's not the case. And it matters to me that that is the case. And thanks for your presentation.

Mr. Speroute: Thank you for the comments.

Mr. Rettke: Can we elaborate a little bit on the role the city has to ensure that the calculations or what he's presenting here are factual as far as handling the water, what extents we go through?

Mr. Bowsher: There's a very large extent and it's a lot of it is well beyond me. I'm not a certified engineer, and so I'm not going to talk like it. But we have some of the best engineers in central Ohio that are going to review this. One, Ryan Andrews from EMH&T who is our city engineer and his entire storm water team that's

dedicated to review these types of documents as well as our storm water superintendent that does get calls, you know, yearly when there is flooding that happens. And I think there's a combination of things. One, its wetter and we're getting more rain than we ever have before. And that has to be factored into it. Two, back in the 60s, when schools and other entities were built the same storm water quality, then storm water retention laws and regulations are not the same, it's much more stringent than it was. So a lot of the flooding that probably some of the residents are viewing, at least back in the Briarcliff neighborhood, is because of developments that have happened to the north. And certainly this site, as it stands right now, you get a lot of sheeting. And I explain this, the planning commission, when the rain is coming down on this sheet, these two parcels, a lot of it is sheeting and going right into the floodway, which is during storm surges, is causing it to flood. And a lot of the homes that are back there because the regulations were not as stringent as they are today. Some of those homes are actually built in the floodway, which the developer has stated that you really can't do. You really can't make those map change provisions, so you can't allow them to build there. But back in the day when those homes were built, they were allowed to do that. Now we're seeing the consequences of a lack of regulations and requirements that we have currently today. So currently right now, when you're looking at the parcels, you see a sheeting effect, the rain comes down. It's not catching because of the elevation and the gradation all the way to the creek itself. So it surges. It fills up. It's getting a lot of water from the north. We can't affect or change anything that's happening to the north because it's just going to come down and surges, which is why the detention basin that they're building basically captures the water that's on the site that typically would just go right into the creek, is now going to be detained and released after the surges. So in all reality, this should be a vast improvement. I'm going to say that, they're not going to say they're going to put the liability on it, but it should be an improvement to what they're seeing right now just based on because they're going to be retaining the water that would normally be hitting directly into the creek. I know that they've done a huge amount of calculations and analysis. And those individuals with those degrees and those certifications will be reviewing them. If it doesn't hold water, no pun intended, it's going to be denied. But that's beyond this case. They go through a rigorous for the next three months, they're going to be reviewing plot grade utility maps. They're going to be reviewing building requirements. I think their timeline is they would like to get started sometime and in the March when the weather is starting to turn nice and things of that nature. But they've got a lot of work they still have yet to do even after this. But we're certainly going to hold them to every applicable standard that's out there, especially with the state of Ohio, our own and the EPA.

Mr. Rettke: Yeah, because the engineers are responsible for signing off on the design, you're liable.

Mr. Speroute: I also would add the school right now to the south right now has zero storm water facility. All that water that lands in the back of the school sheets to that creek as well. So by, not by design, but just by coincidence, a lot of that water is

going to end up in our pond, even though we're not capturing it just because of the way it grades. Right now, it's headed towards our pond. We're not going to divert it around our pond. We're going to have to accept it. Another reason it was built oversize.

Mr. Rettke: That was another question with the grading, if I remember correctly, a lot of that school property would gravitate towards.

Mr. Speroute: That's correct.

Mr. Rettke: You're not only doing your 10 acres, you're actually doing 10 acres plus the school. So let's talk about the exit of that pond, when it slowly releases it, it's going right to Blacklick and not coming towards the road.

Mr. Speroute: Yeah, in the drawings there, we have a storm water management plan. I don't know if we can get back. Can we get back to the drawings? I'm going to guess it is. It may be further down. But we're at 14 right now. A little bit further. There should be a grading. Oh, here, that's perfect. That's absolutely perfect. So, if you look at our storm water pond that's on their. I guess I lied a little bit ago, we are turning over a shovel of dirt in the floodway, but the floodplain, and it's the discharge pipe, so we'll need permission to do that. But that is going to be the structure that is on that pond will be designed to control the flow, obviously, and that will be discharged directly to the edge of black, like there's a Black Creek, Blacklick Creek. But it's not going to what I'm going to call probably deficient storm water management pipe that's in the back of the Briarcliff neighborhood. If you look down there, just move the mouse a little bit over to the left. There's a storm not right at the back of that lot. There's a pipe right there that heads down that property line to the southeast. It's got a big cage on the front of it. We're not putting any of our water into their storm system. We're going to discharge it directly to the creek.

Mr. Rettke: Are you collecting water that would normally go into there?

Mr. Speroute: Yeah, we are. I mean, it's the sheeting water that runs across the back of....

Mr. Rettke: So anything that would go back there won't.

Mr. Speroute: So, yeah, anything that touches the ground back there that normally wouldn't be directed towards the creek is going to go by default into that pipe.

Mr. Rettke: Yeah, you're not going to be draining in a subdivision, but you're driving everything at school and you're a lot into that collecting that you're slowly discharging it out. So you can't help the subdivision, basically, but you're going.

Mr. Speroute: No, but by default, we're going to be pulling some of that water out of that system.

Mr. Rettke: You're collecting it and saving that downhill. I think I'm fairly well covered. Did you have any questions on water?

Mr. Shook: I have questions on a myriad of issues, so I guess whenever you guys are ready, I'll get into.

Mr. Rettke: So another issue that was discussed was traffic, we had the traffic study done. You're talking seventy three units. Can you talk about the impact along Rosehill? So I know we we've got a lot of issues with Rosehill.

Mr. Speroute: I am not familiar with what was discussed in the traffic report. I know there was a traffic summary done, I don't believe was a traffic report based on actual traffic counts from a certain period. If I'm correct, we provided a summary.

Mr. Bowsher: It was technically called a traffic access study that was conducted and then a one page sort of summary and report and then also your transportation flow of how it was. One of the things that they wanted to do to alleviate some of the stress of the traffic was to put in that right in right out. I know Planning Commission had one point thought to potentially take that out, but it was destined to go ahead and stay in to alleviate some of that, especially it being so close to that light that was there. As you can see, this is their trip counts. If we felt like it was going to be an extra-large increase of troop counts onto the road, we would have required a full impact study to be done and it did not warn it.

Mr. Rettke: No, I would I would concur on a little bit about these values, so I'm not a professional. I'm a surveyor, so I can't speak to all that but we do deal with that, so. Any questions about traffic? I did appreciate the right in and ride out, I think that would help. Any other discussion?

Mr. Shook: First I'm going to address some of the storm water questions that I have and then get into the traffic one and then we can move on to a different topic. And then I have some procedural questions as well. You've had obviously, we can see from what you've presented here to the BZBA, you've had engineers working on your particular project and site design, obviously. Are you yourself an engineer?

Mr. Speroute: I am not.

Mr. Shook: Is anybody here who is an engineer to present testimony on behalf of this project?

Mr. Speroute: No.

Mr. Bowsher: No, but there was a planning commission.

Mr. Shook: I recall it. And obviously, as Mr. Bowsher alluded to earlier, he's not an

expert in this area, I'm not an expert in this area. I think one of the things that we would be looking for someone to say definitively to a reasonable degree of certainty, an expert in the area, that this particular development will not have an adverse impact on any of the surrounding properties. Can you say that?

Mr. Speroute: I think the report that we provided to the town today defines that to be determined and reviewed by the professionals.

Mr. Bowsher: I would concur to that.

Mr. Rettke: I would concur based on what you started off the meeting with, that we can't impact the floodway and by an engineer signing the sealing that report that is definitely confirmed.

Mr. Shook: Now, you had indicated that this particular project is going to be subdivided the portion of this project that encompasses the floodplain and the retention pond, who's going to retain title to that portion of the development?

Mr. Speroute: So we are open to options. We're open to suggestions. We would be inclined to provide that all to the town if the town indeed wanted that pond on their property.

Mr. Bowsher: I think he was talking about, is the HOA going to be.

Mr. Speroute: Oh, yes. I'm sorry. I'm sorry.

Mr. Shook: You're saying that. So are we talking about, we're talking about a condominium association?

Mr. Speroute: This is not a condominium. You're talking about townhomes. The homeowners association will be responsible for the plowing of the streets, the landscaping and any common elements. Common element being the mailboxes, the community light post and the common ground open space will say.

Mr. Shook: OK, is the HOA then going to be responsible for the in and out maintenance or is that going to be a dedicated public right away?

Mr. Speroute: There is nothing that is being built in here is as far as ingress and egress that will be built and dedicated to the town. It will all be private. One hundred percent.

Mr. Shook: OK, we've had some issues in the past. And, you know, you can kind of compare condo associations and homeowners associations and their responsibilities when it comes to common areas. Now, we have had some issues in the past in the city with in particular condo associations with projects that when they were originally built, looked good. But then over the years, as the condo association stopped having

as much participation from ownership, those common areas would deteriorate. You obviously, once you hand off this property to the new owners, can't guarantee that the homeowners association is going to be able to take that responsibility and have the funds necessary to maintain those common areas.

Mr. Speroute: That is correct.

Mr. Shook: I know you heard me ask an applicant earlier about working on property maintenance, understanding the city's focus on that. With this project, we're saying that that focus is going to be put on people who right now we could not identify.

Mr. Speroute: If one thing I would add, we will provide covenants and restrictive covenants and homeowner's association bylaws to the town for review and comment by any of the professionals that would like to make a comment about that. And we can do that. They will from day one, when the townhomes are sold, it will be funded. Johnnie, can you speak to that? What do we typically do with the homeowners?

Mr. Spagnolo: Inaudible

Mr. Shook: At some point, though, as certain percentage of the lots get sold and that's going to get transferred from the management company to the property owners themselves.

Mr. Spagnolo: Inaudible.

Mr. Shook: Correct, correct, the traffic issues, so you had talked about, I think, in your presentation and I think this was mentioned in somewhat of a vague way, that you didn't anticipate that they were going to be any visibility issues when it comes to ingress and egress out there from Rosehill Road.

Mr. Speroute: That's correct.

Mr. Shook: OK, you're aware of that up there, just north of this proposed development. There's a curve there.

Mr. Speroute: Yup.

Mr. Shook: Well, did you consider how that curve might impact visibility? And did you have an engineer also study what impact that might have on visibility?

Mr. Speroute: I did not. I'm a land surveyor, so it was measured and I believe it was in excess of six hundred feet on six hundred feet at twenty five or thirty five miles an hour. There is an adequate distance for turning in and out of this project. So I don't remember the exact number, but it was looked at and this was the best location on the site for site distance in either direction.

Mr. Shook: OK, with the two curb cuts there and the one has just a right turn exit and the other will have both a right and right and left. What is the distance between the two curb cuts where cars are going to be coming in and out?

Mr. Speroute: It's approximately one hundred feet.

Mr. Shook: Do you think that one hundred feet is a sufficient distance for, let's say, someone who's turning left on that northern curb cut coming out left, and then you have someone coming out right on the southern curb cut? Is that a sufficient distance to ensure safety for those vehicles?

Mr. Speroute: The interaction between those two vehicles, they would be in visibility of one another. So unfortunately, I can't speak to how they would interact with each other. But separation is usually in between the neighborhood of 75 to 150 fifty feet. We're in a little bit excess of that and I don't see that as being an issue.

Mr. Shook: Now, at planning commission, there was a discussion. I think one commissioner wanted to have a condition that you would have a hammerhead there at that top exit, correct?

Mr. Speroute: A hammerhead at the top exit? I think it was the southern exit.

Mr. Shook: Was it the southern exit?

Mr. Bowsher: It was the southern exit were the right and right out.

Mr. Shook: The one where it's closer to the school?

Mr. Furst: That was discussed. It was not a condition.

Mr. Shook: Correct. I remember that he wanted it as a condition and then I believe it was Commissioner Benner decided we would not do that. Is that correct? Well, the commission in general decided we would not do that. But Commissioner Benner specifically spoke out against that condition and then the commission agreed, correct?

Mr. Furst: I believe that's correct, yes.

Mr. Shook: With respect to the retention pond itself, so the spoils that are going to be removed from the retention pond, what are you planning to do with the spoils?

Mr. Speroute: It will be used as fill on site.

Mr. Shook: You're going to keep those on site?

Mr. Speroute: Our site by design right now is about twelve thousand yards short of

material, I believe. So we need that material in that pond to bring our site to grade.

Mr. Shook: OK, are you planning to test those foils for metals, hazardous chemicals or anything of that nature?

Mr. Speroute: I think it's required for the EPA.

Mr. Shook: For the entrances, have you determined whether those entrances are sufficient for a fire truck or a full sized fire truck with a ladder capable of accessing the development?

Mr. Speroute: I believe in the set there was a traffic circulation plan that had turning templates and radio identified on it.

Mr. Bowsher: There was, if you could, I think it's one up from this.

Mr. Rettke: Yeah, I think I saw it when I looked up.

Mr. Speroute: It's usually later in the set, I know that. That was analyzed. We'll bring it up on the screen, but it was sufficient. Now that was using I don't remember the footage. I want to say it was a forty two foot truck.

Mr. Shook: OK.

Mr. Speroute: Not sure what your apparatus is.

Mr. Shook: Did you have any communication with Truro Township fire department to determine the size of their apparatus?

Mr. Speroute: We did not.

Mr. Rettke: Truro Township would have a review of this, correct?

Mr. Bowsher: Yes, they would.

Mr. Speroute: It's all part of the process.

Mr. Rettke: So they'd have a chance to speak up of the radiuses weren't sufficient.

Mr. Bowsher: And a traffic engineer from EMH&T.

Mr. Shook: I think the next issue I have is just a procedural issue. So I think that answers all the questions I had about traffic and storm water.

Mr. Rettke: Any other comments, discussion?

Mr. Furst: I just have a generalized comment, I mean, one of the one of the items that we have to consider with a conditional use application is if the conditional use does in general fit within the zone or district that it's being proposed and I know that maybe to some homeowners, you know, something like this seems a little scary. But, you know, these are single family homes. Just because they don't have large yards, they're still single family homes, owner occupied and everything like that. So it's clear to me at least, that this is still in keeping with the character and use of the neighboring zone.

Mr. Rettke: We're correct that the south one already exists. So if they just build on the south one, we wouldn't even be here tonight, right? It's only to include that small acre and a half?

Mr. Bowsher: Three acres and the other one to the south I think its 10 acres in total. So the majority of the site is already zoned to allow this use. It's been approved. The condition from Planning Commission was also to approve the north section granted with this conditional use.

Mr. Shook: That kind of gets into my next issue, if I could. OK, so as part of the; and this is more of a question, I think, for our planning and zoning administrator and I apologize for not asking this sooner. I just happened to notice it. So this is going to be in our suburban residential zone and as a subdivided lot, these buildings, these townhomes will have their own various set back requirements, including a rear setback requirement. Is that correct? Emily?

Mr. Bowsher: No, because it is a private drive and not a public street.

Mr. Shook: I'm not talking about from the private drive, I'm talking about from adjacent properties. So, for example, in the suburban residential zone, we have a rear yard setback, minimum of 30 feet. We have a side yard setback, a minimum of eight feet. Now, I know the side yard setback is established here, but with respect to the town homes that are adjacent to the northern lot, can we say that those are 30 feet set back from those particular lot, from that lot?

Mr. Bowsher: I think there's a difference between a building on a plot of land that is on a public street that you're factoring and then also a part of a major site, planned development in between buildings on the same site.

Mr. Shook: Is there a difference?

Mr. Bowsher: There is. In fact, we call it out and a few cases and in different districts, including the Brice and Main District, where we call it out specifically in between buildings within the same development.

Mr. Shook: But in this particular district, is it called out, suburban residential?

Mr. Bowsher: I don't have my book in front of me.

Mr. Speroute: If it helps at all. If we don't meet the 30 foot requirement there, it can be met.

Mr. Shook: It can be met?

Mr. Speroute: Yes.

Mr. Shook: OK, thank you.

Mr. Rettke: Any additional concerns, comments, questions? Would you have any more?

Mr. Shook: Just a cleanup item, so the owner of the property is.

Mr. Speroute: Liana Goetz is the current owner of the property, two point ninety six acres to the north. This is the property that we're speaking of.

Mr. Shook: And you have permission to be her agent?

Mr. Speroute: We are under contract with her. Yes.

Mr. Shook: Thank you.

Mr. Furst: If I may, Mr. Chairman, I'd like to make a motion. I move that we accept this conditional application.

Ms. Barnhart: I'll second.

Mr. Rettke: Moved and seconded there any other discussion? Can we please call the roll?

Ms. Wheeler: Ms. Barnhart. Yes. Mr. Furst. Yes. Pastor Linder. Yes. Mr. Rettke. Yes.

E. OTHER BUSINESS

None

F. ADJOURNMENT

Chairman

Planning and Zoning Administrator

Minutes Acceptance: Minutes of Nov 19, 2020 6:30 PM (APPROVAL OF MINUTES)

CITY OF REYNOLDSBURG
 Department of Development
 Planning & Zoning Division
 7232 East Main Street
 Reynoldsburg, Ohio

App./Case#:

2020 5499

Date Submitted:

NOV 09 2020

Fee Amount:

350.-

**Section 1109
 BOARD OF ZONING & BUILDING APPEALS
 APPLICATION**

☒ Paid:

CK

I. PROPERTY INFORMATION

Property Address:

1792 Brice Road

Parcel ID#(s):

II. PROPERTY OWNER OF RECORD

Property Owner Name(s):

National Eagle LLC

Contact Email:

lily.neagle@outlook.com

Contact Phone Number:

614-828-7612

III. BUSINESS/TENANT INFORMATION (IF APPLICABLE)

Business Name:

Bright Futures Learning Center

Contact Name:

Brian Carter

Contact Phone Number:

312-835-4750

Contact Email:

bacar5097@gmail.com

Description of Use:

Childcare Center

IV. APPLICANT INFORMATION

Applicant Name:

Brian Carter/Bright Futures Learning Center

Applicant Address

221 Vine Street Columbus, OH 43215

Applicant Phone Number:

312-835-4750

Applicant Email:

bacar5097@gmail.com



Property Owner



Business Owner/Tenant



Contractor



Architect/Engineer

PROJECT INFORMATION

CHECK AND DESCRIBE IF APPLICABLE:

Variance (☐ Non-Residential (\$450) / ☐ Residential (\$100)):☒ Conditional Use Permit (\$350):☐ Other:

Please review the attached checklist and note the items you are responsible for submitting with this application. All required items must be submitted to the Planning & Zoning Administrator.

Applicant Signature:

Date:

11-9-20

By signing this application, I certify that I am the owner of the property or the owner's agent, and that the work is authorized with the full knowledge of the owner.

****OFFICE USE ONLY****

Additional Notes:

Zoning Information

Zoning District:

Innovation

- ☐ Historic District
☐ CC Overlay

Add'l Approvals Req'd

- ☐ Planning Commission
☐ Other:

BZBA Meeting

Date: 12/17/2020

- ☐ Approved as Submitted
☐ Approved w/ Conditions
☐ Tabled
☐ Denied

City Council Meeting

Date:

- ☐ No Action Taken
☐ Approved as Submitted
☐ Approved w/ Conditions
☐ Denied

P&Z Admin.: _____ Date: _____

Clerk of Council: _____ Date: _____

Attachment: App #2020-5499 (App #2020-5499, 1792 Brice Road, Brian Carter/Bright Futures Learning Center)

Attn: City of Reynoldsburg

Department of Development

11/6/2020

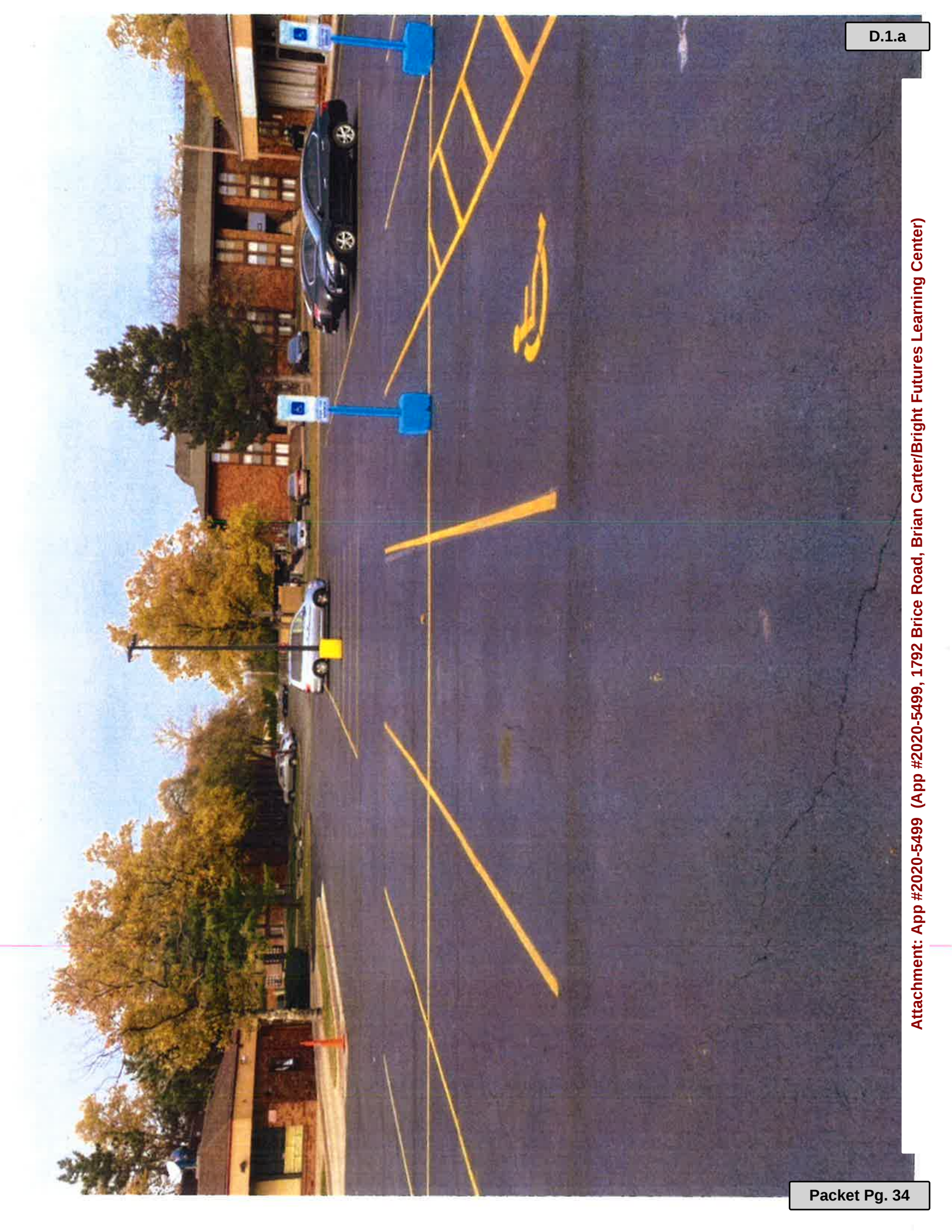
Brian Carter

Bright Futures Learning Center is requesting a conditional use permit for location 1792 Brice Road Reynoldsburg OH 43068. 1792 Brice Road is located in the Reynoldsburg zoning division of innovation. We (Bright Futures Learning Center) are seeking a conditional use permit to use 1792 Brice Road as a childcare facility. 1792 Brice Road was previously Dreamer's Lounge and operated as a Restaurant & Bar/Lounge. Dreamer's Lounge has since moved their operations to another location in central Ohio. Included in the lots adjacent to 1792 Brice Road is a hair salon, church, barber shop and thrift store. Directly across from 1792 Brice Road is a retail small grocery store. There is also approximately 45-50 parking spaces in front of location 1792 Brice Road.

Bright Futures Learning Center will operate as a childcare facility. The childcare center will employ 10-12 persons and will provide care for 40-45 children aged 12 weeks to 12 years old. The hours of operation will be 6am-6pm. Located directly behind the facility, our childcare facility will provide a fenced in outdoor play area. The playground area will be protected by concrete poles and concrete barriers for child safety. The indoor area of 1792 Brice road will be designed to meet the standards of the State of Ohio, City of Reynoldsburg and Ohio Job and Family Services. I have attached photos of the designated playground area, parking structure and proposed childcare facility.

Attachment: App #2020-5499 (App #2020-5499, 1792 Brice Road, Brian Carter/Bright Futures Learning Center)



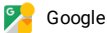




Google Maps Reynoldsburg, Ohio

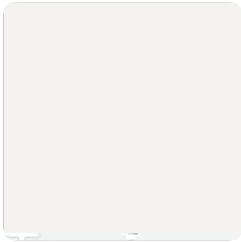


Image capture: Aug 2019 © 2020 Google



Google

Street View



Attachment: Reynoldsburg, Ohio - Google Maps (App #2020-5499, 1792 Brice Road, Brian Carter/Bright

December 7, 2020

Board of Zoning and Building Appeals
City of Reynoldsburg
7232 E. Main Street
Reynoldsburg, OH 43068

RE: 1792 Brice Road – Conditional Use #2020-5499
Staff Report

Board of Zoning and Building Appeals:

Below is the staff review of the above referenced application.

1. Project Summary

- a. The property is located at 1792 Brice Road and is within the Innovation (I) Zone.
- b. The applicant is requesting Board of Zoning and Building Appeals approval of a conditional use to operate a child daycare center that will service 40-45 children.

2. Zoning Review (Section 1103.23)

- a. 'Child Daycare - Center' is listed as a Conditional Use in the Innovation Zone. BZBA approval is at the discretion of the Zoning Administrator.
- b. The proposed use requires 1 parking space per employee plus 10 for visitors. The existing parking is sufficient.

3. Conditional Use Factors (Section 1109.15)

- a. The Board shall consider whether the proposed conditional use is consistent with the standards contained in Section 1109.15(D) of the Reynoldsburg zoning ordinance:
 - i. The Innovation Zone is intended to 'incorporate a mix of industrial and office uses that will facilitate the creation of economic centers.' While a child daycare center does not necessarily align with this intent, it is nonetheless listed as a conditional use and is consistent with existing development patterns. There are other daycare centers in the Innovation Zone, including one across the street at 1733 Brice Road (Kiddie Blossom). The essential character of the zone is unlikely to be changed.
 - ii. The proposed use will not adversely affect the use of adjacent property.
 - iii. The proposed use will not adversely affect the health, safety, morals, or welfare of persons residing or working in the neighborhood.

- iv. The proposed use is adequately served by existing public facilities and services.
- v. The proposed use will not impose a significant traffic burden greater than that of other permitted uses in the Innovation Zone (for example, 'Fitness Facility/Gym' or 'Indoor Enterprise').
- vi. The proposed use is in accord with the general objectives of the zoning ordinance, though not the specific objectives of the Innovation Zone.
- vii. The proposed use complies with the applicable provisions and standards of the zoning ordinance, including the Supplementary Use Conditions found in Section 1105.13(G). There are no gas stations within 150 feet of the parcel. The hours of operation will be 6am-6pm. The applicant will need to meet all applicable state licensing and Ohio building code standards, including for the proposed outdoor play area.
- viii. 'Child Daycare - Center' is listed as a Conditional Use in the Innovation Zone. The proposed business as described meets the definition of this use.

If you have any questions or comments, please feel free to contact us.

BARBARA T. GIANNOPOULOS ✱

247 N. Parkview Ave. Bexley, Ohio 43209

Mobile: 614.581.1234

E-mail: tambakis1900@yahoo.com

November 19th, 2020

RE: Notice of Violation

Barbara T. Giannopoulos
6669 Rocky Den Road
Reynoldsburg, Ohio 43068

Director: William Dorman
7232 E. Main Street
Reynoldsburg, Ohio

Dear Mr. Dorman,

I received a Notice of Violation for failure to register the above property as vacant.

I respect the community of my family and would never leave my family home vacant.

The house is occupied and is our second home. I grew up in this house and when my mother passed away I decided to keep the house for sentimental reasons. I do not have any intentions of selling the house at the present time.

We spend time at the house and the utilities (e.g. gas and electricity) have always been active. Only the water bill was adjusted but regular billing should have been reinstated.

Both the exterior and interior of the house are maintained. Also, the house has an active alarm system including exterior and interior cameras that are monitored at all times.

Please let me know if you need any additional information.

Sincerely,



Barbara T. Giannopoulos

Attachment: 6669 Rocky Den Road (Appeal, 6669 Rocky Den Road, Barbara Giannopoulos)



Notes Listing

Utility Account Notes: 17.31710-001 -
BARBARA GIANNOPOULOS

Date Descending

Run on 11/20/2020 01:41:20 PM

REC'D CALL FROM (O)	Emily R. George	11/12/2020 03:11:40 PM
BARBARA GIANNOPOULOS INHERITED THE HOME FROM HER DECEASED PARENTS, WANTS THE BILLING NAME TO BE HER NAME AND WANTS TO RE-START TRASH SERVICE		
ZERO USE OK	Debbie Siddell	01/29/2018 03:57:20 PM
HOME IS STILL VACANT PER DAUGHTER, BARBARA		
NO RESPONSE ON ZERO	Debbie Siddell	01/17/2018 12:30:43 PM
DID NOT GET A RESPONSE YET BUT AT THIS TIME I AM NOT GOING TO 40T AS CUST SENT A \$50 PAYMENT IN AUG SO IS AHEAD & STILL HAS CR BAL AT THIS TIME		
ZERO USE - MAILING DH 1/10/18	Debbie Siddell	01/10/2018 10:15:52 AM
IT HAS BEEN A WHILE SINCE WE CONFIRMED IF PROPERTY IS STILL VACANT - I'M MAILING A DH TO THE MAILING ADDR ON FILE WHICH I THINK IS THE DAUGHTER'S HOME TO HAVE HER CALL SO I CAN PUT AN UPDATE IN THE NOTES		
LOW/NO USAGES OK ON THIS ACCT	Jim Sayre	12/04/2015 12:46:57 PM
REPLACED METER & INSTALLED NEW MXU READ (494)		
LOW/NO USAGES OK ON THIS ACCT	Debbie Siddell	11/30/2015 03:42:43 PM
HOME IS VACANT CONFIRMED AGAIN ON 11/30/15 W/DAUGHTER - BOTH PARENTS PASSED AWAY		
CHECK METER & READ DEVICE	Debbie Siddell	11/30/2015 03:42:13 PM
WO#125430 12/2/15 - DAUGHTER, BARBARA GIANNOPOULAS CALLED ADVISED BOTH HER PARENTS HAVE PASSED & HOME IS STILL VACANT - SET APPT TO HAVE METER CHECKED & CHANGE OUT?? TO GET THE 40T BILLING REVISED		
40T - NO RESPONSE TO DH	Debbie Siddell	10/22/2015 11:30:59 AM
JUST WANT TO MAKE SURE PROPERTY IS STILL VACANT AS IN PREVIOUS NOTES - TRIED DH BUT NO RESPONSE & PH # WAS INVALID		
DH NO CONSUMPTION - NEED UPDATE	Debbie Siddell	07/20/2015 04:35:06 PM
DH TO CHECK AGAIN WITH CUSTOMER ON STATUS OF WHY NO CONSUMPTION - OLD NOTES SHOW 10/2014 (O) IN NURSING HOME - FCC WEBSITE SHOWS BARBARA GIANNOPOULOS AS (O) SINCE FEB 2010 - SEE IF ANYONE NOW LIVING IN HOME		
NO CONSUMPTION	Jim Sayre	10/17/2014 02:53:00 PM
(O) IN NURSING HOME		
Conversion	conversion	12/30/2010 09:58:19 AM

Attachment: 6669 Rocky Den Road (Appeal, 6669 Rocky Den Road, Barbara Giannopoulos)



Notes Listing

Utility Account Notes: 17.31710-001 -
BARBARA GIANNOPOULOS

Date Descending

Run on 11/20/2020 01:41:20 PM

MTR RDG CK IN 0324140 OUT 0323400 4/25/93,7/24/95 C/C IN HAS BEEN ILL AND BEEN AWAY FROM HOME SINCE MARCH SHE,WILL CALL WHEN SHE RETURNS HOME,2/13/97 3RD REQUEST FOR IN/OUT RDGS SENT VIA LETTER ON DH,2/14/97 LOW USAGE OK, NOT HOME YET, WILL CALL WHEN HOME TO SET APT FOR,12/15/99 DH SENT REQ. IN/OUT MTR RDG CK//2ND REQUEST,6/15/00 LETTER SENT VIA DH REQ. IN/OUT MTR RDG CK//3RD REQUEST,12/27/00 MRSS TAMBAKIS CALLED IS VERY ELDERLY, SAID SHE HAD WATER THAT,WAS RUNNING CONSTANTLY IN HER BATHTUB HAD CALLED A PLUMBER TO COME,AND FIX IT PLUMBER SAID HE NEEDED A SPECIAL TOOL TO FIX IT AND WOULD,BE BACK NEVER CAME BACK - MRS TAMBAKIS DOES NOT LIVE THERE - LIVES ,WITH DAUGHTER HER BILL IS CURRENT - JUST NOTING THIS AS IT WAS A VERY,STRANGE CONVERSATION - LG,WO#80210 3/ 12/02 T/OFF DEL BILL OWES \$51.45, NEIGHBOR TO PAY BILL, NO,ONE LIVES THERE, TRYING TO GET LETTER TO STOP REFUSE,3/19/02 GAVE GEORGE LETTER F

Conversion

conversion

12/30/2010 09:58:19 AM

(cont) ROM CUST TO STOP REFUSE,WO#802103/12/02**(O) SICK & STAYING W/DAUGHTER NEIGHBOR SD HE IS WATCHING OVER HOUSE*HE REQUEST THAT TRASH BILLING BE REMOVED**DID NOT SHUT,OFF NEIGHBOR SD HE WOULD PAY B4 SHUTTING OFF!!-LD,NEIGHBOR PAID 3/12/02,4/3/03 --IN OUT RDG CHECK-- NOT IMPORTANT AT THIS TIME, NO WATER BEING,USED, DO NOT SENT FOLLOW UP AT THIS TIME - JS,7/12/06 DID NOT DO IN & OUT PER NOTE #21 STILL NO USAGE,1/26/07 SENT DH FOR STATUS OF PROPERTY,1/29/07 ELMER EDWARDS CALLED-HE IS CARETAKER OF PROPERTY-MRS TAMBAKIS,IS IN NURSING HOME PART OF THE TIME & LIVING WITH HER DAUGHTER THE ,REST OF THE TIME-SHE IS STILL THE (O) OF THIS PROPERTY - LG,MR EDWARDS IS NEIGHBOR BELIEVE HIS ADDRESS IS 6647 ROCKY DEN HE IS IN,COMPUTER,10/28/09 NEED IN/OUT RDGS

Attachment: 6669 Rocky Den Road (Appeal, 6669 Rocky Den Road, Barbara Giannopoulos)

BARBARA T. GIANNOPOULOS

247 N. Parkview Ave. Bexley, Ohio 43209

Mobile: 614.581.1234

E-mail: tambakis1900@yahoo.comNovember 19th, 2020

RE: Notice of Violation

Barbara T. Giannopoulos
6669 Rocky Den Road
Reynoldsburg, Ohio 43068

Director: William Dorman
7232 E. Main Street
Reynoldsburg, Ohio

Dear Mr. Dorman,

I received a Notice of Violation for failure to register the above property as vacant.

I respect the community of my family and would never leave my family home vacant.

The house is occupied and is our second home. I grew up in this house and when my mother passed away I decided to keep the house for sentimental reasons. I do not have any intentions of selling the house at the present time.

We spend time at the house and the utilities (e.g. gas and electricity) have always been active. Only the water bill was adjusted but regular billing should have been reinstated.

Both the exterior and interior of the house are maintained. Also, the house has an active alarm system including exterior and interior cameras that are monitored at all times.

Please let me know if you need any additional information.

Sincerely,



Barbara T. Giannopoulos

Attachment: 6669 Rocky Den Road (Appeal, 6669 Rocky Den Road, Barbara Giannopoulos)

ORDINANCE NO. 39-2020**AN ORDINANCE TO ESTABLISH CHAPTER 1399, REGISTRATION OF VACANT PROPERTIES AS PART OF THE CODIFIED ORDINANCES OF THE CITY OF REYNOLDSBURG, OHIO**

WHEREAS, the City of Reynoldsburg recognizes that Chapter 1399 should be established to protect the public health, safety and welfare of the citizens and inhabitants of the City by preventing property deterioration and by establishing minimum standards governing the maintenance, appearance, and conditions of all residential and non-residential premises; to fix certain responsibilities and duties upon owners and occupants, and to fix penalties for violations of this Chapter,

WHEREAS, the City of Reynoldsburg finds a vacant property registration would ensure that the owners of vacant properties are known to the city and can be reached if necessary; and

WHEREAS, the City of Reynoldsburg desires to ensure that the owners of vacant properties are aware of the obligations of ownership under relevant codes and regulations; and

WHEREAS, the City of Reynoldsburg desires of to ensure the owners of vacant properties meet minimum standards of maintenance of vacant properties.

NOW, THEREFORE; BE IT ORDAINED BY THE COUNCIL OF THE CITY OF REYNOLDSBURG, OHIO, that:

SECTION 1. That Chapter 1399 shall be established and added to the Reynoldsburg Code of Ordinances to require registration of vacant property for the City of Reynoldsburg be and is hereby attached as Exhibit A.

SECTION 2. That upon adoption by Council, this Ordinance shall be in effect thirty days following the signature of the Mayor.

Passed this 27th day of May, 2020.

Leanora Jenkins
Leanora Jenkins, Council President

ATTEST: *Mollie Prasher*
Mollie Prasher, Clerk of Council

APPROVED: *Joseph Begeny*
Joseph Begeny, Mayor

DATE *5-26-2020*

Attachment: 39-2020 Vacant Property Registration (002) (Appeal, 6669 Rocky Den Road, Barbara Giannopoulos)

CHAPTER 1399

REGISTRATION OF VACANT PROPERTIES

§1399.01 Purpose

§1399.02 Definitions

§1399.03 Registration required

§1399.04 Designated Agent; Notice of service of process

§1399.05 Exemptions

§1399.06 Registration application form

§1399.07 Registration term and renewal

§1399.08 Vacant building plan

§1399.09 Rehabilitation plan required for re-occupancy

§1399.10 Inspections

§1399.11 Maintenance requirements

§1399.12 Security requirements

§1399.13 Fees

§1399.14 Notice of Violations

§1399.15 Appeals

§1399.16 Failure to Remediate

§1399.17 Validity

§1399.99 Penalties

§1399.01 Purpose

The purpose of this Chapter is to establish a program for identifying and registering vacant buildings. This registration is to be used as a tool to protect and preserve our neighborhoods from becoming blighted through the lack of adequate maintenance and security concerns at vacant structures. The City of Reynoldsburg believes the presence of vacant buildings can lead to neighborhood decline, create public nuisances, contribute to lower property values, and discourage potential buyers from purchasing a home or business in neighborhoods with vacant properties.

§1399.02 Definitions

For the purpose of this Chapter, certain words and phrases used in this Chapter are defined as follows:

- A. "Accessible property" means a property that is accessible through a compromised or breached gate, fence, wall, or other opening providing access.
- B. "Accessible structure" means a house, building or other structure that is unsecured or breached in such a way as to allow access to the interior space by unauthorized persons.
- C. "Appeal" means a written notice to be filed with the City Board of Zoning and Building Appeals ("the Board") challenging a Notice of Violation. Such appeal must be filed within 14 days of the date of the Notice of Violation.

- D. "Buyer" means any person, partnership, co-partnership, association, and corporation, fiduciary or other entity that agrees to transfer anything of value in consideration for the property.
- E. "City" means the City of Reynoldsburg.
- F. "Deed in lieu of foreclosure" means a recorded document that transfers ownership of a property from the mortgagor to the mortgagee.
- G. "Default" means the failure to fulfill a contractual obligation, whether monetary or conditional.
- H. "Designated City Official" means the Service Director or designee of the Service Director.
- I. "Designated Agent" means a business entity located in the State of Ohio or an individual person eighteen (18) years or older residing in the State of Ohio. The "Designated Agent" must have an address other than a post office box and shall be named by an owner as a secondary point of contact regarding the use or condition of land and the occupancy and physical condition of structures on a platted lot or parcel of land.
- J. "Distressed" means a property that is the subject of a pending foreclosure suit, has been foreclosed upon by the foreclosing entity, is set for sheriff's sale, has been sold at a sheriff's sale or has been conveyed to the mortgagee via a deed in lieu of foreclosure.
- K. "Evidence of vacancy" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe the property is vacant. Such conditions include, but are not limited to; significantly below standard utility usage, overgrown and or dead vegetation, graffiti or other defacement of buildings or structures, accumulation of newspapers circulars, flyers, and/or mail, vehicles, auto parts or materials, the absence of window coverings, such as curtains, blinds, and/or shutters, the absence of furnishings and/ or personal items consistent with habitation or occupations.
- L. "Foreclosing entity" means an entity holding a note secured by a mortgage, an entity holding a lien recorded with the Franklin, Licking, or Fairfield County Recorder's Office, a non- government entity that holds an interest in delinquent property taxes, an entity that takes property via a deed in lieu of foreclosure, an entity that has purchased a property from a sheriff's sale, a government entity that accepts property as a result of a government-insured mortgage or loan.

- M. "Foreclosure" means the process by which a foreclosing entity seeks a decree of foreclosure from the Franklin County, Fairfield County, or Licking County Common Pleas Court.
- N. "Mortgage" means an agreement between a mortgagor and a mortgagee by which a mortgagee retains an interest in real estate title as collateral for a loan. This definition applies to any and all subsequent mortgages, i.e., second mortgage, third mortgage, etc.
- O. "Mortgagee" means the person, partnership, co-partnership, association, corporation, lender, fiduciary or any other entity holding a mortgage on a property.
- P. "Mortgagor" means a borrower under a mortgage.
- Q. "Notice of Violation" means a notice issued by the Designated City Official to the owner of real property or to their designated agent that there has been a violation of a provision of this Chapter or any other applicable section of the Reynoldsburg City Code, ordinance, or regulation concerning vacant properties.
- R. "Owner" means any person who, alone or jointly or severally with others, shall have the legal or equitable title to a property, and shall include executors, administrators, trustees or guardians of the estate of the owner, and any purchaser or assignee under a certificate of sale pursuant to a mortgage foreclosure. The term "owner" shall also include partnerships and other unincorporated associations. Any individual owner, regardless of whether he or she shares ownership responsibility with any other person, any general partner of a partnership, and any officer of a corporation or unincorporated association, shall have direct and personal responsibility and liability for compliance with the provisions of this chapter.
- S. "Property" means any unimproved or improved real property or portion thereof, situated in the City including any house, building or other structures that may be located on the property regardless of condition.
- T. "Securing" means such measures as may be directed by the Designated City Official that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining or padlocking of gates, the repair or replacement of doors, windows, or other openings.
- U. "Vacant" means a house, building or other structure where no person or persons actually or currently conducts a lawfully licensed business, lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupants(s), or owner-occupant(s), or tenants(s).

1. A building shall be deemed vacant if it is unoccupied for a period of time over sixty (60) days and is:
 - a. Unsecured; or
 - b. Secured by other than normal means; or
 - c. An unsafe building as determined by the Code Enforcement Officer; or
 - d. Utilities have been disconnected; or
 - e. Has property maintenance violations under Chapter 1711 of the Reynoldsburg Codified Ordinances; or
 - f. In a mortgage status of abandonment (i.e. deceased or foreclosed); or
 - g. Abandoned by the property owner.
 2. A building shall be deemed vacant if it is legally occupied which shall include loitering and vagrancy; or
 3. A building shall be deemed vacant if it has not been used for its intended purpose for more than 180 days.
- V. "Secured by other than normal means" is defined as a building secured by means other than those used in the design of the building.
- W. "Unoccupied" is defined as a building which is not being used for the occupancy authorized by the owner. The term "unoccupied" shall only be applicable to multi-unit structures when more than half (1/2) of the units and/ or more than half (1/2) of the available space are not currently occupied by a tenant or tenants.
- X. "Unsecured" is defined as building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.

§1399.03 Registration required

- A. The owner of a vacant building shall register the building with the City of Reynoldsburg Designated City Official not later than ninety (90) days after any building in the City becomes a vacant or not later than thirty (30) days of being notified by a designated city official of the requirement to register based on evidence of vacancy, whichever event occurs first.
- B. For any abandoned real property subject to foreclosure that is located within the City of Reynoldsburg, the foreclosing entity shall register the abandoned property within thirty (30) days after the property becomes vacant when:
 1. The entity files a foreclosure action; or
 2. The entity accepts a deed in lieu of foreclosure; or
 3. The entity buys real property at a sheriff's sale or accepts property as result of a government-insured mortgage or loan.

- C. The Registration requirement of this Section shall be in full force and effect ninety (90) days after the effective date of this Chapter.

§1399.04 Designated agent; Notice of service of process

- A. Every owner of a vacant property or foreclosing entity of a vacant property shall designate an agent who resides in the State who shall be responsible for the vacant property and who may accept service of process and official notices on behalf of the owner or foreclosing entity. An official notice or service of process issued to a designated agent shall be deemed as served or delivered upon the owner of record.
- B. The Designated Agent shall reside or maintain a principal place of business within twenty-five (25) miles of the vacant property. The purpose of this requirement is to ensure a timely response to any Notice of Violation.

§1399.05 Exemptions

1. A building under active construction/ renovation and having a valid building permit(s) at the time of the initial inspection shall be exempt from the registration until the expiration of the longest-running currently active building permit.
2. A building that has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of ninety (90) days if the owner submits a request for exemption in writing to the Designated City Official. The request shall include the names and addresses of the owner or owners, and a statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.
3. A building that is for sale shall be exempted for a period of twelve (12) months from the start of the vacancy, provided that the owner submits proof to the Designated City Official of such listing and for-sale status.
4. Any owner of a vacant building may request an exemption from the provisions of this Chapter by filing a written application with the City who shall timely consider the same. In determining whether a request for exemption should be granted, the Designated City Official or designee shall consider the following:
 - a. The applicant's prior record as it pertains to Property Maintenance Code Violations.
 - b. The amount of vacant property the applicant currently has within the City of Reynoldsburg.
 - c. The length of time that the building for which the exemption is sought has been vacant.

- d. The Designated City Official shall approve with conditions, or reject the completed application for exemption within thirty (30) days of receiving it.

§1399.06 Registration application form

- A. Application for registration of vacant buildings shall be on forms provided by the Designated City Official and shall include, at a minimum, the following:
- (1) Address of the vacant property;
 - (2) Name, address, telephone, and e-mail address, if applicable, of an individual owner, sole proprietor or a corporate officer or business representative of a corporation, trust or other entity capable of holding title, or foreclosing entity, if applicable; and
 - (3) Name, address, telephone number, and e-mail address, if applicable, of the Designated Agent, who must be located in the State of Ohio; and
 - (4) Names and addresses of all known lien holders and all other parties with an ownership interest in the building.
 - (5) A Vacant Building Plan as describe in Section 1399.08 of this Chapter.
- B. No post office boxes shall be accepted as a legal address for purposes of this Chapter.
- C. Registrations shall be retained by the City as a public record and made available to any other City department or public entity upon request.
- D. Every person required to register a vacant building shall complete a new application upon amendment or change of any required information.
- E. Upon sale or transfer of the property, the previous owner shall provide the Designated City Official with the name and contact information of the new owner so that they may complete a new application for certificate of registration.
- F. The failure of the owner of the vacant building to obtain a deed for the property or to file the deed with the County Recorder shall not excuse the property owner from registering the property.

§1399.07 Registration term and renewal

- A. Registration shall remain valid for twelve (12) months from the approved registration date. Should the property remain vacant upon the expiration of the initial registration, the owner or foreclosing entity shall complete another application to re-register the

property and pay an escalating fee schedule as outlined in Section 1399.07 of this Chapter.

- B. If the building is to remain vacant after twelve (12) months, the owner or foreclosing entity shall submit, in writing, an explanation how the building will remain secure, along with the procedure that will be used to maintain the property, and the reasons why the building will be left vacant.
- C. Once a registered property is sold and the deed is transferred into a new owner's name, the new owner or foreclosing entity must submit in writing to have the property removed from the registry.

§1399.08 Vacant building plan

Upon registration of a vacant building, the owner shall also file a vacant building plan, which must contain one of the following:

- (1) If the building is to be demolished, a demolition plan that complies with the Ohio Building Code; or
- (2) If the building is to remain vacant, an explanation detailing how the building will remain secure, along with the procedure that will be used to maintain the property, and the reasons why the building will be left vacant.

§1399.09 Rehabilitation plan required for re-occupancy

If a vacant building is to be returned to the appropriate occupancy or use, the owner shall submit a rehabilitation plan for the building and grounds. The rehabilitation plan shall be completed not longer than twelve (12) months from the time permits are obtained, unless the Designated City Official or designee grants an extension upon receipt of a written request from the owner detailing the reasons for the extension. Any repairs, improvements or alteration to the property must comply with the applicable zoning, housing, historic, preservation, or building codes and the property must be secured during the rehabilitation.

§1399.10 Inspections

- A. Inspections shall be conducted on the premises upon presentation of proper credentials. Nothing in this chapter shall be construed to require an owner or foreclosing entity owner to consent to a warrantless inspection of a vacant building premises except as provided by law.

- B. Any exterior or interior common area, which is accessible to the public, of any vacant building may be inspected at any time.
- C. Interior inspections of vacant buildings may be performed at the request or consent of an owner or foreclosing entity.
- D. If the owner or foreclosing entity does not consent to the proposed inspection, the Designated City Official may appear before any judge in a court of competent jurisdiction and seek an administrative search warrant to allow an inspection. Any such application shall be made within ten (10) calendar days after the non-consent. The application for the warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection will be limited to a determination whether there are violations of the Ohio Residential Building Code, the Property Maintenance Code under Chapter 1711 of the City Ordinances of Reynoldsburg, or any other applicable law. The Court may consider any of the following factors along with such other matters as it deems pertinent in its decision as to whether a warrant shall be issued:
 - 1. Eyewitness account of a violation;
 - 2. Citizen complaints;
 - 3. Plain view violations;
 - 4. Violations apparent from city records;
 - 5. Property deterioration;
 - 6. Age of property;
 - 7. Nature of alleged violation;
 - 8. Condition of similar properties in the area;
 - 9. Documented violations on similar properties in the area;
 - 10. Passage of time since last inspection;
 - 11. Previous violations on the property.
- E. If a warrant is issued, no owner or foreclosing entity shall fail or neglect, upon presentation of a warrant, to properly permit entry therein by the code official or his/her duly authorized designee for the purpose of conducting an inspection and examination pursuant to this section and consistent with the terms of the warrant.
- F. No criminal or civil penalty under this Chapter shall attach solely by reason of the owner or foreclosing entity's refusal to consent to a full inspection.

1399.11 Maintenance requirements

While vacant properties are required to be registered with the City pursuant to this chapter, such properties are required to be maintained in accordance with Chapter 1385 and Chapter 1711 of the City of Reynoldsburg Codified Ordinances.

1399.12 Security requirements

Any structure on the premises of a registered vacant property is required to be maintained in a secure manner, so as not to be accessible to any unauthorized persons. Secure manner includes, but is not limited to:

1. Closure and locking of all windows, doors, and other openings that may allow access to the interior of a structure
2. In the case of damaged or broken doors, windows or other openings, they must be repaired properly within thirty (30) days of notification.
3. Boarding up a damaged or unsecure door, window or other openings may be permitted only to eliminate an immediate hazard, but not to exceed thirty (30) days.
4. Any property found to be unsecure must be secured within forty-eight (48) hours of notification.

1399.13 Fees

The fees described in this section are established in order to defray the costs to the City related to the health, safety, and economic impact of structures which remain vacant for long periods of time, including but not limited to administrative costs for registering and processing the vacant building owner registration form and for the costs incurred by the City in monitoring the vacant building. The annually increased fee amounts are reasonably related to the costs incurred by the City for demolition and hazard abatement or repairs to vacant buildings, as well as the continued administrative costs.

1. The owner of a vacant building shall pay an annual fee of two hundred dollars (\$200) for the first year the building remains vacant.
2. For every consecutive year that the building remains vacant, the annual registration fee shall be increased by two hundred dollars (\$200) over the previous year to a five (5) year maximum of one thousand dollars (\$1,000) to be used for the fifth and for all consecutive, subsequent years of vacancy.
3. The first annual fee shall be paid at the time the building is registered. If the fee is not paid, the amount owed shall be assessed against the owner and certified to the appropriate County Auditor as a lien against the property.
4. The fee shall be paid in full prior to the issuance of any building permits unless the property is granted an exemption.
5. All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant building. A lien may be placed on the property to collect delinquent fees.

§1399.14 Notice of Violations

- A. The Designated City Official, or his or her designee, shall have the power to enforce all provisions of this Chapter.

- B. The Designated City Official, or designee, shall have the responsibility to issue to the owner of a vacant property or an authorized agent of an owner of a vacant property a Notice of Violation of any part of this Chapter, the Property Maintenance Code provided in Chapter 1711, or any other applicable section of the City ordinances.
- C. The Notice of Violation shall include the applicable code section the owner is alleged to have violated, a brief statement of the factual basis for the alleged violation, and instructions to the owner of the right to appeal under Section 1399.15.

1399.15 Appeals

The Board of Zoning and Building Appeals (the “Board”) shall have jurisdiction to hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Designated City Official in the enforcement or administration of this chapter.

Any person affected by any Notice of Violation which has been issued in connection with the enforcement of any of the provisions of this Chapter may request and shall be granted a hearing on the matter by filing an appeal.

The person shall file, with the Clerk of City Council, an appeal with a written request for the hearing and shall set forth the name, address, and phone number of the appellant and a brief statement of the grounds for the hearing and appeal from any Notice of Violation of this Chapter. Requests shall be filed within 14 days of the date of the Notice of Violation. On receipt of the appeal, the Clerk of Council shall set a time and place for a hearing before the Board. The hearing shall be held within a reasonable time after a request has been filed. At the hearing, the appellant shall be given an opportunity to be heard and to show cause why the notice and order should be modified or dismissed, or why a variance should be granted. The failure of the appellant or his representative to appear and present his position at the hearing shall be grounds for dismissal of the request.

Any party entitled to appeal a decision of the Board may appeal to a court of competent jurisdiction.

§1399.16 Failure to Remediate

- A. If, after expiration of the time to file an appeal of a Notice of Violation or upon the affirmance by the Board and exhaustion of further appeals, the owner fails to remediate revision the violation, the Designated City Official shall have the power to issue a criminal or civil citation to the owner.
- B. Any citation issued under Section (A) shall be filed in the Reynoldsburg Mayor’s Court, in the Franklin County Municipal Court, Environmental Division, or in the appropriate county municipal or common pleas court which shall have jurisdiction over the address where the violation occurred.

§1399.17 Validity.

Should any section, clause, or paragraph of this chapter be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the Chapter as a whole or any part thereof other than the part declared invalid.

1399.99 Penalties

Whoever violates or fails to comply with any of the provisions of this Chapter, including the failure to register a vacant property pursuant to Section 1399.03, is guilty of an unclassified misdemeanor that shall be punishable by up to one thousand dollars (\$1000.00) in fines. Each separate violation shall constitute a separate offense, and a separate offense shall be deemed committed for each day a violation continues.