



MINUTES

BOARD OF ZONING AND BUILDING APPEALS MONDAY, DECEMBER 12, 2016 6:30 PM

PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDSBURG, OH 43068

A. CALL TO ORDER

PRESENT: Linder, Donovan, Enfinger
ABSENT: Rettke

2. APPROVAL OF MINUTES

1. Board of Zoning and Building Appeals – Regular Meeting – November 17, 2016

Minutes stand approved.

3. APPROVAL OF AGENDA

Agenda stands approved

4. SWEARING IN OF SPEAKERS

Chairman Enfinger: Ladies and Gentlemen, if you do plan to speak tonight, we do record the meetings for the purpose of minutes, so, before you begin speaking, state your name and address for the record please, as well as please sign in before you leave this evening. If you do plan on speaking, please stand and raise your right hand. Do you swear or affirm that the testimony that you give tonight in front of the Board will be truthful? If so, please answer, "I do"? *(Three affirmations heard.)*

B. PUBLIC COMMENT

C. UNFINISHED BUSINESS

1. **1755 Lancaster Ave.; Application #175439; Applicant Edwin J. Williams, Jr.; Business Name: Offices of Dr. Gina Nichols; Variance from Section 1179.04(B)(4) of the Reynoldsburg City Code, to Permit a Parking Lot Within the Required Front Setback.**

Mr. Snowden: 1755 Lancaster Ave - Dr. Gina Nichols Medical Office Building. Application: #175439 - Variance. The property is located on the west side of Lancaster Avenue between John Street and Livingston Ave. The request for a variance from Section 1179.04(b)(4) of the Zoning Code to allow a parking lot with a required front setback. This application was tabled at the November meeting of the BZBA, and I was actually not present. In this case, what was revealed to me and upon review of the minutes, the Board was somewhat comfortable with the variance, but wanted to make sure that the applicant had a clear understanding of what their requirements would be in the event that there were to be additional public improvements made in the area. So, at the request of the Board, Director

Havener solicited from the applicant a letter, which you have received via email, and you have a copy in front of you. In the letter the applicant acknowledges those requirements. This was reviewed by our City Attorney, and he was comfortable that the applicant had a clear understanding of what those requirements are. That is my understanding of the concerns of the Board. So, the applicant has provided this letter as far as the review of the variance. No other details from my initial report have changed. With that, I will be happy to answer any questions that I can, or Dan will be happy to answer any questions regarding what has taken place since the last meeting.

Chairman Enfinger: Thank you Mr. Snowden. Mr. Williams, do you have anything to add to the letter this evening?

Mr. Williams: Edwin Williams, Ford Rd. I think we tried to succinctly cover all the things and address all the concerns, and got that to you on a timely manner. I think it is pretty clear what my clients understanding is. We even included that it would go beyond her and it would have to be something that the subsequent owner of the building would have to agree to as well, in terms of purchasing the building. We did not want it to die with her, so to speak.

Chairman Enfinger: Thank you, Sir. Are there any other comments or questions from the Board?

Pastor Linder: Just from the discussion earlier that was just referenced, do we know from our attorney that this has any real sense of staying power, as far as the ability to enforce?

Mr. Snowden: That is a great question. In conversations with our attorney, his view was that given the existing right-of-way and utility easements in the area, that the City was already covered. He felt that the letter did summarize accurately that the applicant understood the requirements. In his view, the letter wasn't specifically necessary in order to enforce these requirements, but the fact is that they are aware of it, we have it in documentation, it will reside in the variance file forever. In the event, as Mr. Williams said, that Dr. Nichols sells, or the property is carried on, that will remain there for informational purposes. He felt we were covered regardless.

Chairman Enfinger: Very good. Any other questions? Since there are none, I make a motion that we move to approve Application #175439.

(Vote)

Mr. Snowden: The variance to that section is approved. Mr. Williams the items that remain for you to complete the project are listed on page three of the Staff Report, and I will provide that to you in writing within the next couple of days. I will review the site plan, have our engineer look at it and make sure we are golden. Check with the Building Department and see if there are any other requirements. I don't know what the current status is but check with Mr. Paszke and his team to make sure that all remaining requirements are met so that Dr. Nichols can get her Certificate of Occupancy for the Building Department. Have a wonderful evening.

Mr. Williams: Fantastic, thank you so very much, you all went way above and beyond. Have a wonderful evening and a great holiday.

Mr. Havener: You too.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Aaron Enfinger, Vice Chairman
SECONDER:	Richard Donovan
AYES:	Linder, Donovan, Enfinger
ABSENT:	Rettke

D. NEW BUSINESS

1. **6563 E. Livingston Ave.; Application #175543; Applicant: Izzet Tullum; Business: the Red Apple Restaurant; Special Exception Use Permit - Eating and Drinking Establishment**

Mr. Snowden: Thank you Mr. Chairman and other Members of the Board, this is Application #175543 - Special Exception Use Permit. The property is located on the southwest corner of Livingston Avenue and Baldwin Road. Existing Zoning: CC - Community Commerce District / CC - Community Commercial Overlay. Request is for a special exception use permit for an eating or drinking establishment within an existing building. Current Use: Vacant. Applicant: Izzet Tulum. So, just to be clear, because we do not have our normal projection system with us this evening, this is commonly known as the old Livingston Avenue Dairy Queen. The property is located on the southwest corner there, directly in front of the Blacklick Plaza. We have reviewed a number of permits there, so I am pretty sure everyone is familiar with the location. To give you a little bit of history about this building, from my knowledge, it was built in the early 70's, according to our records, about the same time that the shopping center was developed. It operated continuously as a Dairy Queen, it closed, it has been a couple of other restaurants. Most recently it was a fried chicken fast food restaurant that closed, so the property owner is looking to lease to a new tenant. It has been vacant long enough that a new Special Exception Use Permit is required. It is within an existing commercial building. The previous fast food style restaurant had drive thru service. The adjacent shopping center is also zoned CC. I think everybody is familiar with the commercial businesses there. To the east, across Baldwin, the property abuts multi-family dwellings in the AR-2 zoning district. To the north, the property abuts a church in the S-1 district across Livingston Ave. Any commercial properties that front Livingston are within the Community Commercial Overlay. This is the very last property within the Overlay District. This site, given that it was operated as a Dairy Queen and fast food restaurant, with drive thru, is predominantly auto oriented. It has access from both Baldwin and Livingston, which is considered a major arterial, as designated by our Thoroughfare Plan. The applicant proposes to utilize the building for interior food service and does not propose drive-thru service. The site has direct access to both public streets and to the shopping center. The lack of drive-thru service will not cause vehicles to queue into the public street. Given they are not operating that, it is not a concern in this case. The applicant provided their plan which indicated a 3100SF building, per Chapter 1179, which means they need to have at least 31 dedicated parking spaces to meet the parking ratio of 1 to

100. In this case, they have 33 dedicated spaces. I reviewed my files about the shopping center immediately behind, and that shopping center is over-parked by our code by at least 15 to 20 spaces. It would be very unlikely that you would have all restaurant uses in the space behind it. I am comfortable that we have a good amount of parking. Even if the applicant utilized all the parking dedicated to them, the overflow into the shopping center is easily accommodated with what is existing. It has a mix of uses. When you have office that is only used during the day, that is a good tie over when you have restaurant uses which are used during the evening. So, that gives us some flexibility. I recommend the Board apply the standards for review of special exceptions contained in Section 1145.09 of the Zoning Code and determine if the proposed special exception complies with those standards. I am recommending approval of the special expectation use permit application on the condition listed there. In this case, since the drive thru is not going to be utilized, and that drive thru sign is not really in very good condition, I am recommending that the Board make it a condition that the applicant either remove that, or remove the faces and put in blank panels. The reason I am making that an issue is that I am concerned that it is something that may not be caught in the design review process because they might only be going for signage and a few other things. If they are not doing a full exterior modification, they may not be able to make sure that is taken care of. That is based on the ability of the Board to issue conditions for maintenance of the site under 1149.06 (g). I just wanted to reference what authority the condition would be made on. With that, I will turn things back over to our Chairman, Mr. Enfinger. I am happy to take any questions from our Board.

Chairman Enfinger: Thank you Mr. Snowden. Sir, can you step forward?

Mr. Tullum: 6563 East Livingston. I am actually speaker of the house for my father, since his English is broken. I am here to represent him and my family.

Chairman Enfinger: Very good and thank you for being here tonight. Can you tell us a little bit about what your plans are for the restaurant?

Mr. Tullum: We are planning to open an American restaurant. We moved to Ohio 5 years ago from New Jersey. So, we planned to bring a New Jersey style diner to Reynoldsburg, serving breakfast, lunch, and dinner from 6 am to 9 pm. All will be home made. We are not planning to serve any alcohol. It will be a family atmosphere diner. I'm not sure if any of you have ever visited New Jersey, you will see that there are a lot of diners there. My dad has been a cook for over 30 years. We are Turkish native. My father came here in 1993 or 94. He has been working his way up. He started as a dishwasher, then a cook, then a chef. So, he has enough knowledge and experience. I have been working in the restaurant for 10 years now, and I also go to Wright State University in Dayton, Ohio, and I am just basically helping him.

Chairman Enfinger: Very good. Do you currently own or operate a restaurant?

Mr. Tullum: We had a restaurant in Dayton, but the location was not good. We had a vacant hotel next to us, so even though our food was good, the people were afraid of the vacant building. We were not really successful but the main reason was that empty hotel. When

you see an empty, vacant hotel, you do not want to go to the restaurant.

Chairman Enfinger: We are excited that you want to open a restaurant there. That would be a great opportunity for you guys. A comment on the drive thru, you are not ever planning to open the drive thru?

Mr. Tullum: We are not planning to have a fast food, but here is what we can do since we have a drive thru. People can call and order ahead, and they can pick it up from the drive thru window, so they do not have to come in. But, if that is something you would not want us to do, we do not have to have it. But, since we have the window, we can use for that. As far as a fast food type where you go and order, we are not planning to do any of that.

Mr. Snowden: That was not clear to me in the application and it could be that I did not understand what the applicant was coming for. This was conveyed to me as more of a traditional sit down type of restaurant. My concern with the drive thru is the stacking, almost always. They have it, it is existing, it has decent circulation. If their proposal is to operate it in a manner where you do not actually place an order there, your stacking is going to be very minimal. It would be more like a call ahead with you coffee order and they will make it. In this case we would just want to amend the application to indicate that they are getting approved for a drive thru special exception as well. There is no reason why the Board could not approve that. In this case you would just want to state that you are approving the application as submitted and add the second special exception to it.

Mr. Donovan: Are you going to make sure that there is a stipulation in there to remove all facilities that make it look like there is a drive thru there.

Mr. Snowden: I was recommending that, if they were not going to be using that. In this case, if that is what they are doing, I would probably modify my condition to say that they need to have signage that is clear about how the drive thru is being used. I don't know how we are going to craft that. I do not want to stipulate sign content, but maybe we can put a condition that they put adequate signage. I do not have a problem if they want to amend that, given that they are here and we are going through the Special Exception review Process. We would just amend that, and they would send it on to City Council, and they would review both. What I would probably say in this case would be to make the motion to approve the application as submitted on the following condition, that the application also be approved for drive thru use as a special exception. And, that adequate signage be placed to my satisfaction. Does that make sense? So, you are approving as submitted, and then you are adding the stipulation that is actually for a second special exception. It is a little unorthodox, but when we are reviewing the application for Special Exception, what the Board is really deciding is that the Special Exception has met the standards that are listed there in 1145.09. So, if the Board, as a condition of approval, or an amendment to the application, states that they are approving that special exception as well, they are basically saying that these two special exceptions meet those standards and requirements. If he walked in the door, I would probably say, ok, let's go ahead and apply for both special exceptions at the same time, but in this case, I don't see a reason why we can no move forward with that. The big part is just documentation.

Chairman Enfinger: Could you explain some of the cooking equipment that you are going to use. Are you going to make many alterations to the facility, outside, or anything like that?

Mr. Tullum: We have already a plumber that did a gas line. We are going to use a grill, fryer, oven. Grill for eggs, omelets. Fryer for fries, fish, fried chicken tenders, wings.

Chairman Enfinger: So nothing necessarily outside. You will not have any cooking equipment outside at all? It will all be located inside?

Mr. Tullum: Inside, yes.

Chairman Enfinger: The ventilation system, that will be exposed on the outside, typical?

Mr. Tullum: We have a 6FT hood that needs to be serviced, and it will after we hopefully get approval. We are going to have that in working order. We are going to have our equipment under the hood.

Chairman Enfinger: Any additional questions from the Board?

Mr. Tullum: If you want more detail, I can. I just don't want to waste your time.

Chairman Enfinger: No. Some of the things we have to consider for this Board is, what is it on the outside of the building. Since the outside of the building, the back side which may face the back side of another building, or be hidden, is kind of exposed. That was the purpose of the question. As it stands now, it is fine. If you going to add any additional cooking equipment, some restaurants have smokers, they have different types of things that may have an impact outside or a lot of smoke that may impact people coming to the shopping center. That was the reason for the question, but if you are keeping it fairly standard and typical, and what it is there now, I think we are perfectly fine with that. I make a motion we move to approve Application #175543 as submitted with the condition that we are allowing for a pick up window and that the design of the signage will be approved by Staff.

(Vote)

Mr. Snowden: Sir, if you look on the Staff Report, and I will provide this to you in writing, on page 6 it indicates the things that remain for you to complete the Development Review Process. Let me highlight a couple of them now. One is, I will forward this application City Council, and they will determine if they are going to hold any additional hearings, and contact you. It would be similar to tonight, it would just be in front of City Council instead of the Board. (Two) I can not issue the Zoning Certificate, to approve your use at the site, until I hear from City Council. Also, any signage at the location needs to be approved by our Design Review Board. I am already receiving complaints that signage has been placed at your business without approval from our Design Review Board, myself, and our Building Department. I would definitely get ahold of your sign contractor, and get ahold of me this week so we can get the process started. You should have received a notice of violation for

our Code Compliance Officer. Number 4, I would contact our Building Division immediately, You have said several things that indicate that there may be a need for some building permits to be pulled, and or the work has already been done. I definitely would contact our Building Division very soon and make sure that their requirements are met so that you do not get too far down the path and get into a situation. I will provide that to you in writing at the address you provided on your application.

Mr. Tullum: Ok, my plumber already did.

Mr. Snowden: Did he pull the permit or did he do the work?

Mr. Tullum: He said he pulled the permit, and we are going to have inspection on Thursday.

Mr. Snowden: That sounds great.

Mr. Donovan: You said, "Red Apple" on your application, but there is a different name on here.

Mr. Tullum: I was going to say that but I forgot. My dad did not like the name. That was my idea, and he is the boss.

Mr. Snowden: What is the name?

Mr. Tullum: Arena. That was a very busy diner in New Jersey, and how my dad thinks is when you have a busy restaurant in New Jersey named Arena, when you put it in Reynoldsburg, it is going to be busy. I like Red Apple better, but he is the boss.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Aaron Enfinger, Vice Chairman
SECONDER:	Robert Linder
AYES:	Linder, Donovan, Enfinger
ABSENT:	Rettke

E. OTHER BUSINESS

Chairman Enfinger: Do we have any Other Business this evening?

Mr. Snowden: I just want to say that it has come to my attention that Mr. Enfinger is not going to be accepting an appointment, and his term is going to be expiring, and he may possibly be moving, and I would like to say thank you to Mr. Enfinger for his service on behalf of the Staff here. You have been a tremendous contributor and we are appreciative of all of our Board Members and we are appreciative of you, so thank you very much. It has been a pleasure to get to know you. *(Applause.)* And Gentlemen, to our other two members, a note from the Staff, we are aware that we are at skeleton strength with the three members on the Board. I have two applicants already, that have been forwarded to the Mayor's Office, and the Mayor is going to appoint one of those individuals to replace Ms. Wallace, and that will be a new term. Ms. Wallace's term is actually expiring at the end of this calendar year. And, we are going to forward

that. The second application, and any remaining applications we will forward to City Council. If you know of anyone who is looking to get involved, have them get in contact with me over the next couple of weeks and we can get them in the mix and City Council can choose from among several folks. That is all I have.

Mr. Enfinger: As Mr. Snowden said, I am no longer going to be on the Board and I really have enjoyed it. I thought that I took the responsibility very seriously and I hope I brought value. I have enjoyed meeting everybody and working with everyone at the City of Reynoldsburg and the residents. I have seriously enjoyed this so thank you to the folks on City Council for allowing me to do that.

F. ADJOURNMENT

Chairman



Planning Administrator