



MINUTES

**BOARD OF ZONING AND BUILDING APPEALS
THURSDAY, NOVEMBER 17, 2022 6:00 PM**

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

A. CALL TO ORDER

PRESENT: Linder, Furst, Bulls, Barnhart (6:23 AM)
ABSENT: Davis

2. APPROVAL OF MINUTES

1. Board of Zoning and Building Appeals – Regular Meeting – October 20, 2022

Minutes stand approved

3. APPROVAL OF AGENDA

Agenda stands approved

4. SWEARING IN OF SPEAKERS

Speakers for the evening sworn in by Mr. Furst.

B. PUBLIC COMMENT

None

C. NEW BUSINESS

1. Summit Road SW; Application 2022-5169; Applicant D.R. Horton (Rob Little);
Extension of Conditional Use Permit

Item was removed from agenda due to administrative approval.

RESULT: WITHDRAWN

2. 6493 E Main St; Application 2022-5432; Applicant Coughlin Investments; Variance Requested

Mr. Meyer read the staff report into the record.

Ms. Comac indicated that they had read the staff report and agree with the conditions to the change the verbiage and with the condition to come back with plans for approval. The application was originally approved for conditional use for the drive through before COVID and still have an LOI with Chipotle. Since the prior approval the city has passed a new zoning code, which rendered this building legal but non-conforming. Ms. Comac talked about how the team has taken the existing structure and how they plan to update it to make it the urban walk able feel that the code suggests if we were to draw the building towards the

street.

Mr. Furst asked for the applicant to address the specific variance factors.

Mr. Oney, architect for the project discussed that the building is in great shape and that it made sense to upgrade this building to the new uses. He described that when they got the approval in 2019 the board asked for them to make the appearance of the building look more like the Kroger and Wright Patt. With that they took away the arches and added brick and warm tones, mimicking the Kroger and that's the renderings that were submitted with the application. In order to make the site more urban and relating to the sidewalk pedestrian activity they put a 600 foot patio in the front of the building to pull it closer to the road. As far as the conditional use for the drive-thru, Mr. Oney pointed out the Wright Patt's four lanes and a kiosk. Mr. Oney said that post-COVID drive-thru are important for the success of the restaurants to do carry out and pickup.

Ms. Comac asked Mr. Oney if these additional steps from the 2019 approval were because the new code that is in place, specifically the design cues for the patio. Mr. Oney said that was correct in order to pull those elements to the street. Mr. Oney again confirmed that the building itself is all in good shape.

Ms. Comac indicated that on the west side of the property that there's really a zero setback making impractical to put any perimeter screen and still maintain the necessary drive agile. Mr. Oney stated the space is needed for the required circulation and parking. On the east side there's about three feet and they do have screening.

Mr. Smiley has been involved with this project from the first submission until now. The trees on the south side have been removed due to running electrical power lines underground and the access road that is planned to go in to service the Wright Patt. The road runs on both properties, not equally, but it took up all that space. Originally the plan had three parallel parking spaces that they took out to create the bypass lane to provide circulation. Mr. Smiley talked about the patio space pushing the building forward and how important parking has become as more people go through the drive-thru and sit in the parking lot and eat in the car versus going inside. Mr. Smiley did say that Chipotle is the intended user, but all the details haven't been worked out. Their intent is to design the building that if it isn't Chipotle, it is a similar use. They plan to use the existing monument sign. A lot of the design has gone into the rear access point over to the traffic light. All of this is conditioned upon them finalizing the agreement for that access point.

Ms. Comac asked Mr. Smiley if the bulk of the variances are necessitated by the fact that the building is already located here and the zoning code came in after. Mr. Smiley said he didn't compare the two, but they didn't have this many variances in the 2019 approval.

Mr. Smiley agreed that this is a prime commercial location and that the redevelopment is a huge investment that will help adjacent property owners. They do feel as this is a good adaptive reuse and it is their intent to keep mature street trees. Mr. Smiley said when they do their final landscaping plan that will be beefing up the shrubbery and keeping with the

overall design along the street.

Mr. Furst asked the applicant to talk about the alternate options they investigated in order to decrease the number of variances.

Ms. Comac said most of these variances are necessitated by the new code. The building being located where it is as a legal non-conforming structure creates a couple, but they are stuck with the current condition by virtue of government regulations. Ms. Comac pointed out that on the east side there's very little space where you have minimal head light screening, a code minimum parking space, code minimum drive aisle, reductions so they can provide the bypass lane, which is important to circulation and safety, and then it's the building. In order to use the site they need these variances on reduced sizes. The other challenge has been the rear access and coordinating with the properties to the south.

Mr. Smiley talked to how they tried to maintain the required parking, allowing the bypass lane on both sides of the building and relocated the dumpster to allow the rear access point. The constraints on the site and the fact that they are working with a preexisting structure created a lot of challenges and that's why they have requested these variances.

Ms. Comac told the board that the new zoning code precludes the use of the building without these variances. Any use of the building would require variances due to setback requirements. The applicant couldn't make use of the land without variances.

Mr. Furst: Given that your testimony has spoken to directly and indirectly a number of the factors listed in 109.13D for variance applications. I feel that your application does meet the factors as so listed and therefore I move that we accept this application with the variance conditions as listed in the staff report.

Ms. Barnhart: I'll second.

Ms. Barnhart. Yes. Ms. Bulls. Yes. Mr. Furst. Yes. Pastor Linder. Yes.

RESULT:	APPROVED [3 TO 0]
MOVER:	Alex Furst, Commissioner
SECONDER:	Amy Barnhart
AYES:	Linder, Furst, Barnhart
ABSENT:	Davis
AWAY:	Bulls

3. 6493 E Main St; Application 2022-5435; Applicant Coughlin Investments; Conditional Use

Mr. Meyer read the staff report and indicated this is the same property we just reviewed.

Ms. Comac asked Mr. Smiley to confirm that this use is in harmony with the other uses in the area and that it is better for the neighborhood to have less vacancies. He agreed. Ms. Comac asked if there were any issues with sewer, water or storm with this site. Mr. Smiley said no

issues.

Mr. Meyer wanted to point out that this has not been approved for items like engineering, storage, etc. That will come in the minor site plan process.

Ms. Comac asked if the site was serviced by central sewer and water. Mr. Meyer said that since it was an existing bar it is a reasonable assumption to make.

Ms. Comac asked if the city was seeing an uptick in the types of applications for the pickup and or drive thru. Mr. Meyer said we have seen a more recent uptick.

Mr. Smiley told the board that they previously worked with the power company and the adjacent property owners to run the transformer and lines underground and got rid of five poles.

Ms. Barnhart: I would like to make a motion that we approve the conditional use for this application.

Ms. Bulls: Second.

Mr. Meyer: I think attorneys Shook maybe like to have it say, conditional use for food service, quick serve, fast food with a drive thru. Would I be correct in that?

Mr. Shook: Yes, and in addition, cite the factors under section 1109.15d for conditional use.

Ms. Barnhart: What Mr. Shook said.

Mr. Furst: I'll allow it.

Ms. Barnhart. Yes. Ms. Bulls. Yes. Mr. Furst. Yes. Pastor Linder. Yes.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Amy Barnhart
SECONDER:	Olivia Bulls
AYES:	Linder, Furst, Bulls, Barnhart
ABSENT:	Davis

4. 7704 E. Main St; Application #2022-5413; Applicant Cliff Spruill; Request for Signage Variance

Mr. Meyer read the staff report into the record.

Mr. Spruill looked at being able to adjust where the sign is, because they found that the front of the porch is actually the edge of right away. Any place that they could put the sign in front of the building, was going to be in the right away. They worked with the city engineer to move the sign to the west and close to the edge of the porch to get them out of the sight triangle.

Mr. Furst: It seems to me that there's other remedies available here in the code other than a variance. Additional sign pipes such as a wall sign or a projecting sign, those are allowable in this district. There were those considered?

Mr. Spruill looked at a projecting sign, but it wouldn't be on the front, it would have to be on the sign and not visible in both directions. He told the board there isn't room for a wall mounted sign unless it was actually on the ground on the front porch. Mr. Furst asked if this was particular to this building and this site. Mr. Spruill said that the way it is constructed with the gable ends and different elevations it would limit the size of the sign.

Mr. Furst asked if we didn't grant this variance, or no signage at all would we be deprive the applicant of the beneficial use of the property that it would become non-viable? Mr. Spruill said it would be very difficult to draw attention to people driving without a sign.

Mr. Furst asked what the nature of this business is and Mr. Spruill said it is small retail. Mr. Furst and Mr. Spruill went back and forth discussing retail businesses in the area and ones that do and do not have monuments signs.

Mr. Furst told the applicant that in our code 1103.13D subsection nine states that the variance is not a matter of convenience when other remedies are available within provisions of this code.

The board and applicant had discussions regarding the right-of-way and that it comes up to the porch, indicating they couldn't do any type sign that protruded from the building. A wall mount or projected sign was the only option and that wasn't preferred based on visibility for the consumer.

Mr. Furst asked them to speak a little regarding the hardship or practical difficulty of sticking to the code.

The applicant said that without a visible sign it is going to reduce the amount of traffic. This area has called for an urban walk able atmosphere and the applicant feels that this sign will draw people in as a sign is a big part of identifying a building.

Mr. Furst asked if this property was purchased with the knowledge of this restriction. The applicant said, no. When the property was purchased it was in Truro Township. As the applicant went through the annexation process that's when they became aware the entire front of the property was right-of-way.

Mr. Meyer wanted to say that we can't confirm the exact dimensions of the right-of-way based on what was submitted as this wasn't recorded with the auditor at time of submission.

Mr. Furst explained how he is hesitant to take action without fully understanding the exact nature of the right-of-way. Mr. Furst is very familiar with the area and this building and none of the area buildings have a monument of this size so he asked for more information regarding the business that would necessitate a sign of this type.

Mr. Kurland (partner in the business) described that the site is surrounded by monument signs and that being a small business without a lot of resources to advertise, this sign is very important. Mr. Kurland said this sign is important to not only pedestrian traffic, but cars as well. He believes this would be a detriment to the business and a hit financially if the signage wasn't approved due to this being the greatest amount of visibility.

Mr. Furst asked if they would be amenable to using a red brick on the monument sign versus the grey color depicted in the illustration. Mr. Kurland said that they have done a lot of landscaping and it would match nicer this way. They would change it to red, if that is the condition, but would prefer the grey.

Mr. Kurland also described the lot and how it has many trees and they are trying to preserve as much as they can and this sign would be most functional when these trees are in bloom.

Ms. Barnhart asked about the other business in the area that have monument signs. All the properties on the North are still residents that don't have monument signs.

Mr. Shook asked Mr. Kurland about the possibility of a projecting sign and Mr. Kurland said the sign wouldn't be visible when the trees are in bloom. Mr. Shook asked for clarification because a projecting sign can project into the right of way with a hold harmless agreement with the city. A monument sign can't, but a projecting sign can. Mr. Shook asked for a little more clarity on why a monument sign was chosen over the other.

Mr. Spruill said they looked at how a projecting sign could be secured to the building and to attach a sign is going to create a heavy wind load, which would require additional racking and damage to the inside. The applicant said they took the sign limitations and figured the best structure that would be suitable and they came up with the monument sign as a way to accomplish all goals.

Mr. Furst asked to confirm that the nature of the structure and the intended use is very specific to this site and building necessitating the variance. Applicant said, yes.

Mr. Furst: Having considered the factors outlined in section 1109.13D for variance, I move that we accept this application with the conditions as described in the amended staff report.

Ms. Bulls: Second.

Ms. Barnhart. Yes. Ms. Bulls. Yes. Mr. Furst. Yes. Pastor Linder. Yes.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Alex Furst, Commissioner
SECONDER:	Olivia Bulls
AYES:	Linder, Furst, Bulls, Barnhart
ABSENT:	Davis

5. 9033 Ridgeline Dr; Application # 2022-5429; Applicant Jonathan Colby; Variance

Mr. Meyer read the staff report into the record.

Mr. Furst asked if the applicant had written documentation to tie into the neighbor’s fence. The applicant doesn't have written documentation and wasn't aware they needed it, but has no issue getting the documentation if necessary.

Mr. Furst said it is clear the detention pond is a hardship, he just wanted to make sure the detention pond was preexisting and not something that the applicant installed. The applicant confirmed it was preexisting.

The applicant was asked to confirm the fence is at the rear and the side, not front. The applicant confirmed. There will be a planned gate on the rear fence to access the retention area for maintenance.

Mr. Furst wanted to make sure that the fence wouldn't create any additional impediment on storm water. The applicant had a crew come and level the entire yard so the drainage is working correctly and will not impeded anything related to storm water.

Mr. Furst: Having considered these factors in 1109.13D, I move that we accept the application with the condition that there be a rear gate installed on the fence.

Ms. Barnhart: I'll second.

Ms. Barnhart. Yes. Ms. Bulls. Yes. Mr. Furst. Yes. Pastor Linder. Yes.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Alex Furst, Commissioner
SECONDER:	Amy Barnhart
AYES:	Linder, Furst, Bulls, Barnhart
ABSENT:	Davis

6. 1495 Jackson St; Application 2022-5391; Applicant Jordan Hall; Variance

Mr. Meyer read the staff report into the record.

Mr. Beathard: I'm Seeking the variance to push the property line back off the property near the garage. And that is purely for an access standpoint. I'm not sure if those pictures did a great job in depicting it, but that is a very narrow alley. And to use the garage as intended, being a two car garage, it's virtually impossible to get both those cars in there as it is. We

imagine with the fence we're cutting off some prime real estate to safely make access to our garage.

The plan looked as if the applicant was seeking a side yard variance as well, but the applicant stated the side yard fence will be built on the property line and no variance is requested there.

The garage doors will face Beech Alley with a man door on the north side of the garage and this fence will be placed to maintain access to both of the doors.

The applicant expressed their concern for the safety of the small children from the dogs since the middle school is next door. The applicant also agreed they would maintain the property beyond the fence line. The applicant does contend that the variance is necessary for the reasonable use of their land and that this does not grant special privilege.

Ms. Barnhart: I'd like to make a motion that we approve the rear property line set back consistent with 1109.13.

Pastor Linder: I'll second.

Ms. Barnhart. Yes. Ms. Bulls. Yes. Mr. Furst. Yes. Pastor Linder. Yes.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Amy Barnhart
SECONDER:	Robert Linder, Vice Chairman
AYES:	Linder, Furst, Bulls, Barnhart
ABSENT:	Davis

7. 1551 Truro Ave; Application #2022-5397; Variance

Mr. Meyer read the staff report into the record.

It was clarified they are asking for a height variance on the fence and not setback. Mr. Furst asked the applicant to describe the swell as it isn't visible on the overhead.

Mr. Pauley described that the swale differs one and a half to two feet along the property line to the north. He cited 1105.11 that provides a six foot height fence in the district on the side and rear yard. Due to the swale they are asking to somewhat level the fence to be consistent with the surrounding. A six foot fence exists on the south property that would remain and provide uniformity.

Mr. Furst offered other remedies such as, planting screening, filling in the swale, etc. that could be considered without the need of a variance.

Mr. Pauley believes the swale might be a function of drainage so he doesn't think filling it in would be the best option for their property or the adjacent properties. The fence was decided for uniformity since there's already a fence on the south end.

Mr. Furst asked if this was not granted if this would be depriving the client of the beneficial use of their property. Mr. Pauley explained that this property is recovery housing and they feel that this fence is important to surrounding property owners as well. Mr. Shook said that he is familiar with the facility and the opinions of the neighboring properties. Not only is the neighbor to the north supportive, they have asked for a taller fence. Mr. Shook explained that the facility requires additional exterior lighting for safety and the fence will help with buffering some of that light pollution. Mr. Furst said that in this case the fence is maintaining the value of the neighboring properties, whereas if it didn't exist it may diminish given the use.

Mr. Furst: Having considered the factors in section 1109.13, I'm adequately satisfied that we have met the factors for variance as listed there and therefore I move that we accept this application as submitted.

Ms. Barnhart: I'll second.

Ms. Barnhart. Yes. Ms. Bulls. Yes. Mr. Furst. Yes. Pastor Linder. Yes.

8. 6947 Wigwam Way; Application 2022-5421; Applicant Jacqueline Davis; Variance

Mr. Meyer read the staff report into the record.

The applicant agreed prior to the meeting that they agreed to remove the mesh material and will be all wood. The applicant isn't able to put it on the rear lot line due to the creek. The applicant agrees to put a gate on the rear fence to maintain the property.

Ms. Barnhart: I move that we accept the application as submitted, 1109.13D with the creek making it impossible to put up a fence. Also that the applicant use wood instead of mesh and that they include the rear gate to access the property line.

Mr. Furst: I second.

Ms. Barnhart. Yes. Ms. Bulls. Yes. Mr. Furst. Yes. Pastor Linder. Yes.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Amy Barnhart
SECONDER:	Alex Furst, Commissioner
AYES:	Linder, Furst, Bulls, Barnhart
ABSENT:	Davis

9. 1284 Brice Rd; Application 2022-5443; Applicant the Christian Missionary Alliance; Variance

Mr. Meyer read the staff report into the record.

Mr. Childs from The Alliance provided a brief overview on the project. The Alliance has moved 45 of their staff from Colorado to Reynoldsburg and hired an additional 40 here locally. They are currently in a building to the east of this site on a traditional basis. They

have hires American Structure Point as civil engineer and Korda is their MEP structural engineer. Additionally, they have bought three properties and in negotiations with a fourth. The new name for the site, Alliance Place, will have mixed use office, parking garage, hotel, a couple of restaurants and multifamily housing. They are currently asking for variances on the first phase. The first phase will be the parking garage, site work for the pads to be ready for building later and the first building, which will be mixed use, 130,000, four story building. This building will house a 600 seat event center. A four story office portion that will have nine retail spots on the first floor and a coffee shop which we will own and operate. They will also have a mailing and shipping business. 13 breakout meeting rooms on the first floor and second floor. Their offices on part of the second floor, the third floor and the fourth floor will be for whoever wants to lease professional office space.

Mr. Fay went through the slide show and described the variances that they are requesting, reduction of required loading spaces and required open space.

The code requires one loading space for 10,000 square feet, which on a building of this size would require 13 loading spaces. As they worked through the plan they determined that they only need one loading space to serve as a loading dock. The plan also provides two smaller 12x30 loading spaces in the southern parking area that they see as being used by retail users, so they fit a box truck type vehicle. These are the three spaces they are asking for the reduction in variance for, but sizing the southern parking lot to accommodate larger truck movements and the potential for fire truck movement. Additionally, they added a passenger loading drop off area that's intended to be sized to fit a coach type bus.

As far as the open space the comprehensive plan looks specifically at this site as a focus area and it calls out as intent for this district for the site is providing a mix of quality residential retail and integrated green space that creates a dynamic space and builds social and economic value. The zoning code for Brice Main District also identifies the intent as being to create compact, mixed use, walk able environments and intended to be more of an urban mixed use zone or transit oriented development. Mr. Fay pointed out on the slide show what 30% of the site looks like, which in their mind is a different character in what we're trying to achieve in this district.

In terms of usability Mr. Fay said that they have made a series program commitments and provided a memo supplementary to the application that they are accepting to. They don't intent for the outdoor space to be static. The space they have coming from the parking garage to the main entrance they plan to activate with games, activities, etc. The retail portion will benefit by planned patio seating.

Mr. Meyer: Rick commented that staff had request, and asked you for the open space variance. The staff has requested that a high quality urban planner design in a cohesive manner consistent with a qualitative element that will support and add value to this development and the community and to be intentional design and accessible to the public. There is a list on the second page of your packet laying out what they've committed to provide as part of that. Basically the intent of this, if the board would so choose to grant a variance, decrease in the amount of open space getting a commitment from the applicant that would be high quality program space. So while it's smaller, it would be programming open to the public. So that was the condition that we recommended. And the second page of the

report lays out what those commitments are, just for the clarification purposes.

Mr. Furst asked if they would be amenable to that. Mr. Childs said yes.

Mr. Furst agreed that with a development of this scale some of the minute restrictions may have not have fully foreseen especially because this is a phased development. Mr. Furst tried to picture all the required docks and how they could accomplish that and feels as if it would deprive them of the beneficial use of the space. Mr. Fay agreed.

Mr. Furst expressed how by having programmable space this will be an asset to the community and improve the value and use of the neighboring properties.

Ms. Barnhart had a question regarding the green space in front of the building. The tail end of the conversation was inaudible. Mr. Fay did say it wasn't going to be all "green", but rather hardscape, plantings, etc. Basically an active area.

Mr. Furst: It's very clear to me that this site is unique and it is certainly one that we want to see redeveloped and given that you put so much effort and intent clearly into meeting the general purpose and intent of our code here and to make it an asset and the community and kind of raise the entire value of the surrounding neighborhood. It's very clear that you're still trying to accomplish the intent of everything that we're trying to accomplish in the code, even if, ten loading spaces or 13 is maybe a bit excessive. Having consider those factors here in section 1109.13D, I do move that we accept this application with the conditions as outlined in the staff report.

Ms. Barnhart: I'll second.

Ms. Barnhart. Yes. Ms. Bulls. Yes. Mr. Furst. Yes. Pastor Linder. Yes.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Alex Furst, Commissioner
SECONDER:	Amy Barnhart
AYES:	Linder, Furst, Bulls, Barnhart
ABSENT:	Davis

10. 7366 E Bryden Rd; Application #2022-5362; Applicant Leah Taylor; Appeal

Mr. Furst swore the speakers in.

Mr. Meyer described the application and the denial decision letter. The applicant applied for a home occupation and the business described was classified as boarding/ kennel, which is not a permitted or conditional use in the Old Reynoldsburg District. The stated business hours of operation are 7am to 7pm Monday through Friday and 9am to noon on Saturday and Sunday. The house is 680 square feet and the intent would be to use the garage areas for part of the business as well as keeping dogs in a crate. The applicant asserted that the home occupation is incidental and subordinate to the use of the dwelling.

Mr. Meyer: Having review it, the city determined that the application did not meet the conditions of section 1105.13I, which says no person who is not a permanent resident should be employed in the home occupation. The home occupation should clearly be incidental and subordinate to the owning use. No more than 15% of the floor area or of all the buildings on the lot should be used and conduct of the occupation. There would be no change of appearance or sign. The home occupation shall not generate traffic and greater volumes than would be normally expected in a residential neighborhood and no equipment or process should be used that would create noise, vibration, glare, fumes, odors or electrical interference detectable to normal senses off the lot. So in reviewing it from that specifically would be visible evidence of the conduct of the home occupation, as evidenced by noise and odors generated by the home occupation, as well as by visual observation from neighbors.

Mr. Stewart stated that the applicant purchased the home June 2021 and began operating her business out of this address. She trains dogs during the day and keeps one dog overnight. August 2022 the applicant received a notice that she needed to get a home occupation permit. September 2nd, 2022 she submits the application for home occupancy. Mr. Stewart handed the board the letter of decision citing five factors as to why the application was denied.

Mr. Stewart pointed out that the board has the authority to grant an appeal if the true intent of the code has been incorrectly interpreted. He states that a boarding/ kennel is defined as a premises which five or more dogs over three months of age are, bred, boarded, or trained overnight. Mr. Stewart stated the application says one dog. Mr. Stewart stated there is not facts to support the observations of the neighbors that there is visible evidence of a home occupation.

Ms. Sigman, neighbor to the applicant stated that they have been asked to accommodate her business by not allowing their animals to run in their fenced yards while she trains vicious dogs on several occasions. Ms. Sigman says the applicant began to breed her dog and used a water hose and horn directed at neighbor dogs. Ms. Sigman stated dogs are being boarded overnight, more than one and they hear yelping, barking, and crying from inside the garage. She feels that this business creates an unsafe environment for residents, clients are blocking the sidewalks during school hours, forcing pedestrians into the road. Ms. Sigman states that the applicant has refused to comply with the city's cease and desist and the breeding that is going on is a big concern.

Mr. Stewart asked Ms. Sigman if she had been in the garage and she said yes, absolutely.

Mr. Shook asked Ms. Sigman to elaborate on the breeding activity she witnessed. Ms. Sigman was told that she planned to breed her dog, she intentionally breed her dog and kept one of the puppies. Ms. Sigman was able to go inside and see the puppies and she advertised online as a breeder. Ms. Sigman said it was nine puppies in early June 2022. Ms. Sigman couldn't recall how long she had the puppies and was selling them.

Ms. Sigman testified she believes the business has continued as she has continued to see dogs being dropped off and hears one in the garage now.

Ms. Sigman doesn't feel safe letting her dogs out at the same time training is going on based on her prior treatment to her dogs and fence is not 100% fixed or fenced and the dogs are not secure on her property while she trains them. Ms. Sigman stated she has been asked multiple

times to leave her dogs inside while she trains.

Mr. Steward stated that the applicant has agreed to make strides towards a better relationship with her neighbors. He stated one of her dogs did get pregnant, but that wasn't the intent and she is not a breeder, she is a dog trainer. The dogs that she did breed were sold within 8 to 12 weeks.

Ms. Bulls asked if there was any documentation that the puppies were sold less than 12 weeks. Mr. Steward said yes they have that documentation.

Mr. Shook asked for clarification on what the applicant was arguing. They confirmed the applicant is running a business out of the home. Mr. Shook told the board that she is not appealing the violation, she's appealing the denial of the permit.

Me. Steward believes the board should find that she is not operating a boarding/ kennel and should issue the permit.

Mr. Furst asked Mr. Steward to clarify the dates. The client began operating the premises June 20, 2021 and July 2021 she began using the premises as a dog training business.

Mr. Furst cited section 1105.13I that states that all occupations, even those not defined by the code, are required to submit an application. He notes that the application was received August 30th, 2022. Mr. Furst went on to cite section 1105 I, subsection six that states, prior to establishing a home occupation, the owner or occupant of the dwelling shall apply and receive approval for a zoning certificate from the Planning and Zoning Administrator. According to the timeline, this did not occur.

Mr. Furst read the following sections from the code

Home Occupations. The following regulations shall apply to the approval and operation of a home occupation as an accessory use in a dwelling:

i. No person who is not a permanent resident of the dwelling shall be employed in the home occupation; This appears to have been met.

ii. The home occupation shall be clearly incidental and subordinate to the dwelling use. No more than fifteen percent (15%) of the floor area of all buildings on the lot shall be used in the conduct of the home occupation; Mr. Furst didn't ask for square footage of the garage and asked to set this item aside.

iii. There shall be no change in the outside appearance of the dwelling or lot, or other visible evidence of the conduct of the home occupation. No sign is permitted. Mr. Furst agreed there is not sign, but due to the testimony from the neighbors it appears that visible evidence of the home occupation due to the exercise of dogs in the applicant's yard.

iv. The home occupation shall not generate traffic in greater volumes than would normally be expected in a residential neighborhood.

v. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. Mr. Furst says it is clear there is a creation of noise, perhaps fumes and odors.

vi. Prior to establishing a home occupation, the owner or occupant of the dwelling shall

apply and receive approval for a zoning certificate from the Planning and Zoning Administrator.

Mr. Steward explained that the applicant applied for the home occupation as soon as she realized it was needed and aware she should have done it sooner. The applicant feels is if the visible evidence is minimal and nothing different than you would see in any residential neighborhood. They feel that the dog barks are minimal and the applicant does a good job of cleaning up the yard.

Ms. Bulls asked Mr. Steward to again clarify what he was asking for. Mr. Steward wants two items. One, for the board to overturn the zoning inspectors determination that this is classified as a boarding/kennel use. And because it is not a kennel, she doesn't need a permit. The second is for the board to see that the applicant satisfies the five factors as a home occupation.

Mr. Furst wanted to clarify that the board is here to review if the application meets the definition of a home occupation.

Ms. Barnhart asked how many dogs and cats the applicant personally had. The applicant has two dogs and two cats. Ms. Barnhart indicated that by adding one dog as a trained animal they would be at the five animal mark and that qualifies as a kennel. Mr. Steward says the difference is that only one dog is being used as the home occupation.

Mr. Steward explained that they are aware this is a business being ran out of the home. They are disputing that they interpreted the business as a boarding/kennel.

Ms. Taylor talked about her interaction with the neighbors and how she did ask them to keep their dog into while she trained a specific dog that was nervous. This happen when there was a three foot high chain link fence diving them. Since then Ms. Taylor has installed a privacy fence where the previous chain link fence was.

Mr. Furst explained that there is still clear, visible evidence of the conduct of the home occupation that is not allowed per subsection three.

Mr. Furst notated the additional traffic this produces by the drop off and how this can be disruptive to neighbors. Also, that one or two dogs for the business isn't as much the issue as all the continuous volume and exchange of dogs.

Mr. Steward told the board that Ms. Taylor would be more than open to any restrictions the board placed on her.

Mr. Shook asked about the fence she had put up. It was told that the privacy fence is on the sides and a chain link is at the rear. Mr. Furst asked if they were to impose a full privacy fence on the entire yard if she would be able to do that without a request for a variance and she said she would. After further discussion the left fence is on the property line and the right fence is three feet off the property line. Mr. Shook asked if s fence permit was approved by our zoning department and the applicant said it was. The applicant erected the front of the

fence in May and the side was in September 2022. Mr. Furst told the applicant at minimum it seems as if there needs to be a privacy fence at the rear.

Mr. Shook brought up that code enforcement and the attorney's office would need to determine if the applicant is amenable to follow conditions set by the board. Ms. Taylor was issued a cease and desist to stop operating the business and the business continued. There's a fence that is three feet off the property line, which is non-conforming, that the board didn't review. Mr. Steward told Mr. Shook that the applicant is willing to comply with any orders or conditions.

Mr. Furst asked about a clear motion regarding no noise violations.

Ms. Barnhart asked if the property owner's pets counted towards the 5 dog limit. Mr. Shook told the board that we would need to be favorable towards the property owner and in this case it would be five dogs for business purposes.

Mr. Steward told the board that if the board wants to stipulate no breeding, Ms. Taylor will not breed her dog.

The board asked Ms. Taylor about the space she uses for the purposes of her business in the garage and home. They also discussed crate sizes and square footage regarding the home.

Mr. Furst: I do move that we sustain the appeal in part to permit a home occupancy occupation of dog training with the following conditions; construction of a maximum height, allowable under code privacy fence on the side and rear yard of the property. To be constructed no later than June 30th, 2023. With a maximum of two dogs allowed to be trained at any one time. That there would be no commercial breeding activity. And that there would be no convictions for noise ordinance violations or nuisance property maintenance code violations.

Ms. Barnhart: I'll second.

Ms. Barnhart. Yes. Ms. Bulls. No. Mr. Furst. Yes. Pastor Linder. Yes.

1.51.36

RESULT:	APPROVED [3 TO 1]
MOVER:	Alex Furst, Commissioner
SECONDER:	Amy Barnhart
AYES:	Linder, Furst, Barnhart
NAYS:	Bulls
ABSENT:	Davis

D. OTHER BUSINESS

None

E. ADJOURNMENT

Chairman

Planning and Zoning Administrator