

MINUTES
REYNOLDSBURG BOARD OF ZONING
AND BUILDING APPEALS
NOVEMBER 15, 2012
6:30 P.M.

A. CALL TO ORDER

1) ROLL CALL

Members Present	Mr. David Stoffel Mr. Patrick Feeney Mr. Anthony Rettke
Members Absent:	Mr. Norman Brusk
Others Present:	Mr. Aaron Domini

2) APPROVAL OF MINUTES OF OCTOBER 18, 2012

Chairman Rettke: Are there any changes or corrections to the minutes as submitted for October 18, 2012?

Mr. Domini: No changes.

Mr. Rettke: Okay. With that being said, they're approved.

3) APPROVAL OF AGENDA

Mr. Rettke: Any changes to the agenda as submitted?

Mr. Domini: No changes.

Mr. Rettke: Okay, no changes. We'll approve the agenda.

4) SWEARING IN OF SPEAKERS

Mr. Rettke: Do I have any speakers? Please stand up and we'll go ahead and swear you in. (Mr. Rettke administers the oath.) Before you speak we'll have you make sure you sign in and state your name and address.

Mr. Nicholas Keith: Nicholas Keith--

Mr. Rettke: Well, when we get there.

Mr. Keith: Oh, I'm sorry.

5) PUBLIC COMMENT

Mr. Rettke: Any Public Comment? (No response.) Seeing no public, I guess we'll move on to Item b, Unfinished Business.

B. UNFINISHED BUSINESS

Mr. Rettke: Is there any Unfinished Business?

Mr. Domini: No. No Unfinished Business today.

Mr. Rettke: Okay. We're moving on.

C. NEW BUSINESS

Mr. Rettke: Can you please read Special Exception use permit?

1. SPECIAL EXCEPTION USE PERMIT, 6563 E. LIVINGSTON AVE., REYNOLDSBURG, OHIO; CURRENT ZONING, CC; REQUESTING A SPECIAL EXCEPTION FOR AN EATING AND DRINKING ESTABLISHMENT. CONTACT: ANDRE BRYANT (#157800).

Mr. Domini: For the applicant, typically the format at this meeting is I'll go through the application with the Board, then they'll ask you to answer any questions they may have. Okay? Mr. Rettke, would you like me to go through the application?

Mr. Rettke: Yeah.

Mr. Domini: As the title reads, the applicants for the eating and drinking establishment in the CC District, which that would be a Special Exception in, as you know that stays with the applicant, not the property, so this new applicant will need to obtain this permit. Proposed establishment hours of operation will be from 11:00 A.M. to 10:00 P.M. Monday through Saturday and 11:00 A.M. to 10:00 P.M. Sunday. Obviously, as you know, you've looked at the packet, this is going to be the old Dairy Queen site. A couple of questions upon my review and then I have some recommendations at the end, was that there was no mention of the drive-thru, so I have some questions about the use of the drive-thru. I think that there are a couple of places where the applicant should work with the City to bring the property up to code, specifically on the landscaping around the parking areas which I think, on Item D upon our review which I'll talk about, would be something you will need to consider before you make that determination on the approval. The pole sign as it sits does not meet code. It's not 10 feet back from the right-of-way. It's on a corner, so there is some concern about that. I know it's been there awhile, but it's something else you might want to consider in your review. It is considered an abandoned sign. In order for the City to actually go through the process of removing an abandoned sign it calls for the Service

Director to be involved. Obviously, that's a problem for us right now, but it meets the test, so I'm bringing that to your attention.

Here's the property with the zoning 6563; you see it there on the corner. This would be the aerial of the property and I can flip back and forth to this as we go through the application. One of the things I'm going to talk about is the trash disposal, where that sits, how that's accessed, and there's obviously some concern as you're probably aware of the condition of that structure right now; it's not in good repair. It doesn't meet code, so if you're going to be using that, we will need to bring it up to code and I'll tell you how we can do that. There's a shot of the property and then I'll come back and forth between these as we go through on the application tonight. This is obviously looking to the south. This would be looking west on the property. This is looking southeast, so this would be the primary entrance off of Livingston. See that curb cut there and again the aerial.

These are the items that need to be turned in and I think from the dialogue that we've been having recently, I wanted to do something different and test something out so you guys tonight to see how this works. So these are the 10 items that need to be turned in with the application. Now these will be – you have before you as well this form which I developed and will go with the application so the applicant knows what 10 items need to be turned in. This was not implemented with this applicant, but they have most of these items turned in. One through seven, I believe, are complete and items 8 and 9 need some discussion. I think most of those narrative statements we can discuss with the applicant tonight, but we did not receive those. Any other information you think is appropriate, that's what our code allows for. The first one should say traffic impact analysis storm water impact or utility impact. I don't think any of these actually apply to this particular application.

My review of the application is that public parking – I did a parking analysis. They have 35 spaces and they're required to have 30. That was not an issue. Obviously, you have access at two different points to the property, so there's good access. I don't think there's any traffic concerns there. One of my concerns was for the perimeter landscaping and if you look at this shot here the way the parking parks out towards Livingston and they'll be operating late at night and the headlights are coming out that way. One of the reasons we require perimeter landscaping around parking areas is to shield the headlights and especially on the bend down there where you're kind of bending right out towards those coming westbound. That could be something that you want to discuss. The street trees – we like to install street trees for the canopy effect and the urban heat effect, so that might be something we would require on a new build. They don't exist here. I bring it to your attention.

Another issue that I had concern for was the dumpster enclosure. The applicant didn't state how that was going to be used. I have a picture here for you of that facility as it exists now. Obviously that's not in good repair. It doesn't have a gate on the front to conceal the dumpster enclosure, so that is something that will need to be brought up to code if this business is going to operate here.

Mr. Rettke: So the front is not facing the store, it's facing the—

Mr. Domini: It's facing the shopping center parking area, yes. So it was another item I picked up on my review. If the drive-thru is not going to be used from a traffic flow on the site, I think that we should remove the old drive-thru signage just to keep everybody who's navigating the site understanding that that's not a drive-thru anymore, avoid confusion. And I had some concern about the light poles, that those are going to be operating, because that does not meet our standard for overlay which requires those to be full cutoff fixtures and you'll see here that's not a full cutoff fixture. I don't think those lights have been in operation and, if they are, we need to know when they're going to be used, how they're going to be used and make sure they're not offensive to that residential property nearby.

So, as you can see, there are a number of things that I saw in my review. Here are the standards and requirements for our Special Exceptions. Item D, the proposed use shall be served adequately by public facilities and services. That was not a concern. What I had a concern for was Item C for the health, safety and moral welfare of those persons working, or residing in the neighborhood. Again, mostly from a traffic headlight standpoint, the lighting of the facility and, obviously, the other code issues that I brought up. That's all I have.

Mr. Rettke: If you guys would like to step forward and state your name and address, we'll go ahead and start discussing with you.

Mr. Nicholas Keith: Nicholas Keith, 5703 Ironwood Ct., Apt. D, Columbus OH 43229.

Jeffrey Andre Bryant: Jeffrey Andre Bryant, 3652 Brecknell Forrest Drive, Groveport OH 43085.

Mr. Rettke: Any comments, questions, concerns?

Mr. Feeney: Well, I think we've got a lot of questions. I believe we can go down the list. So you've got adequate parking and that's good. Are you going – one question – I don't want to jump around too much, but are you going to have a drive-thru or not?

Mr. Bryant: Yes, sir.

Mr. Feeney: Oh, you are going to have a drive-thru? Okay.

Mr. Bryant: I'm sorry about not putting that in.

Mr. Stoffel: Can we just, Aaron, go down these as you discussed them--

Mr. Domini: Sure.

Mr. Stoffel: --because I was scratching but I just want to make sure we hit them kind of in the order you did just so we can keep track of what we're doing.

Mr. Domini: Parking is not an issue. The next item I raised was the pole sign, location of the pole sign; it's not conforming. Wondering if the applicant's going to use the pole sign. When we have worked with new businesses or new developments, our goal is to bring signs back into conformance. So we don't allow pole signs anymore so you can't build that new, so wondering if you're going to use that and, if you are or if you aren't, would you be willing to take that down because it's something that the City has tried to get away from, from using or building in the city.

Mr. Bryant: If that would be a problem with us being permitted to use, to operate the restaurant, if Reynoldsburg wanted us to remove it we would remove it, but we would like to have the sign.

Mr. Domini: Are you planning on doing any wall signage on the building?

Mr. Bryant: Yes, sir.

Mr. Domini: Okay.

Mr. Bryant: I think I have that indicated in the submittal.

Mr. Stoffel: Yeah. The sign proposal calls for a three sign faces. Is that going to be a problem?

Mr. Domini: So all signage that you're going to propose goes through a different Board. It goes through the Design Review Board. This Board does not review anything design oriented, so whether it's construction style of the building, a sign that's not in the purview of this Board. This Board's really only purview is to make sure that the site functions safely and the business can function safely. Okay? So this signage will have to go through a different Board. And The reason I brought up the sign was for the safety concern primarily. So if you're going to use the sign, I guess we can check that one off the list, unless you guys would like to continue that discussion.

Mr. Feeney: Well, I think, on the signage that we have to review if there's too many signage or not enough signs, that's part of--

Mr. Domini: No, that's the purview of the Design Review Board.

Mr. Domini: Well, if there are too many square inches or square foot of sign then they have to get a variance, right? That would be it.

Mr. Domini: Yeah—

Mr. Rettke: I was thinking they're only allowed two signs.

Mr. Domini: You're allowed one per street frontage. You're allowed one monument sign and one wall sign. One wall sign per street frontage which I think that's what they have. They have one wall sign and one monument style, or pole sign in this case.

Mr. Rettke: But the proposal calls for three.

Mr. Domini: Where's the third?

(inaudible)

Mr. Domini: Forty-five (45) by 8 square feet, so that's okay. Would you like me to move on?

Mr. Rettke: Yeah.

Mr. Domini: The landscaping – so typically we require landscaping on the perimeter of all parking areas. I think this Board's pretty familiar with that piece of code. I believe the standard is for 36 inches at the time of installation. The reason we've done that in the past is because people have come in and put in Charley Brown shrubs which they'll pass the sniff test anymore and I think we changed the code to address that. So, that was one of my concerns and we'll let the applicant speak to that. And the reason we have that in the code is that the headlights for the people coming and going from the site, going in and out, do cause a safety problem for passersby. Have you worked with E.V. Bishoff to talk about any other onsite improvements? Are you going to do any landscaping or anything like that? Is that in your purview with them?

Mr. Bryant: I clearly understand your point when you talk about cars parking and lights – I mean, going out into the street when people are passing by, so that's an issue. We can put shrubberies, whatever you guys like, around the landscape. We'll do it. We'll work with E.V. Bishoff to get it done.

Mr. Domini: Let me ask you this question. Do you have a signed lease agreement with them already?

Mr. Bryant: Yes, sir.

Mr. Domini: Or is it pending the Board approval?

Mr. Bryant: No, it's already signed.

Mr. Domini: Typically, places like Plaza Properties, E.V. Bishoff, Casto, even the daycare which we recently reviewed, don't sign the lease until – it's contingent upon

zoning approval. So I'm a little disturbed that they didn't do that with this particular applicant. So you would be willing to install that landscaping--

Mr. Bryant: Yes.

Mr. Domini: --around the parking areas. And that would be where Livingston and I believe it's Briarcliff – Baldwin. Sorry, I knew it was a "B."

Mr. Rettke: And that would be installed every 36 inches?

Mr. Domini: It needs to be installed at a minimum of 36 inches and I would say that—

Mr. Rettke: From inlet to inlet.

Mr. Domini: Let's read that piece of the code for the record. "All parking lots shall provide perimeter landscaping. Parking lots shall have perimeter landscaping a minimum of 10 feet exclusive of overhang." That's for obviously new constructions, so we're not going to regulate that. "It shall consist of a continuous evergreen hedge, earthen mound or a combination thereof, as required to provide a continuous opaque screen a minimum of 36 inches in height within one year of installation." And then it goes on to say that "perimeter landscaping shall also contain of minimum of one deciduous tree per 50 linear feet of parking perimeter."

Mr. Rettke: And what section is that?

Mr. Domini: That's 1180.11. So in this particular case, since this site was planned decades ago, they do not meet this piece of the code, but I think it's our job to make sure that this is a safe use at the site. So I believe we can reference that section. It was passed in '03.

Mr. Stoffel: I think that, regardless of what happens with the sign and how that's all handled, that perimeter landscaping to screen headlights, I think, if very important. I think that has to be done. That's a no-compromise to me.

Mr. Bryant: Is that just on Livingston or is that continuing—

Mr. Keith: All the way around.

Mr. Stoffel: All that parking that heads toward the roadway, so which is basically—

Mr. Domini: You have to do it basically from this curb cut over here all the way around to the other curb cut.

Mr. Stoffel: You're just roughly counting – you're probably looking at – per code you're probably looking at three to four trees to put in there as well.

Mr. Domini: Would you like the applicant to install the trees?

Mr. Stoffel: Yeah, I think so. At least something-- I know it is an existing condition and I know it's a property that sat there for awhile, but there are certain things that I think we just can't compromise on. Basically, anything that has to do with safety and this would be one of them and the lighting. The other stuff, I think, is kind of up for discussion how we think that can be handled but, to me, the landscaping and the lighting and the handicap accessibility I would assume that's all right or have you checked into that? Those are three things off the top of my head that are really no compromise issues.

Mr. Domini: Any other members of the Board have thoughts on the landscaping issue?

Mr. Feeney: Well, I think the shrubs are. On the trees, I don't know the – you were talking about street trees, weren't you?

Mr. Stoffel: Deciduous.

Mr. Domini: We regulate interior lot landscaping for parking areas. It's your determination as a Board to make judgment call whether that applies to existing conditions or new builds.

Mr. Feeney: I think I like shrubs better than I do trees.

Mr. Stoffel: Yeah. I'm not as hard-set, hard and fast on the trees, because that isn't quite as much – it is, the trees aren't a safety issue, but proper landscaping around the perimeter is. And, again, it would've been great to have a landscaping plan to see what that looks like because that can be done a number of ways. I guess we'll kind of have to determine if they make a commitment to do that, if Aaron makes that judgment after this meeting, after having seen the landscape plan, I don't know.

Mr. Rettke: We can give them guidance. We want to see it 36 inches from perimeter to perimeter.

Mr. Domini: This is one of those—

Mr. Rettke: Is that going to be an issue with how close that parking is to the sidewalk there?

Mr. Domini: If the shrubs are installed?

Mr. Rettke: Yeah.

Mr. Domini: I don't think so.

Mr. Rettke: Along the site going out or—

Mr. Stoffel: That's a good 4 feet it would appear.

Mr. Feeney: That is a good point, coming out onto Livingston Avenue and turning right.

Mr. Rettke: Because you're talking 36 inches. That's slightly elevated.

Mr. Feeney: Turning left you're going to—

Mr. Rettke: So now you're looking at 4 or 5, about 4 feet.

Mr. Domini: Well, you'll be – if the hood of your car is out into that apron of the drive, you'll be in front of the bushes. Those bushes will be back a couple of feet behind you.

Mr. Stoffel: Yeah. I don't really think that would be a sight line issue.

Mr. Domini: I don't think so.

Mr. Rettke: If they're properly maintained it wouldn't. If that falls into neglect again and—

Mr. Feeney: If they start the bushes at the second parking spot they might give them just a – if you're pulling out and trying to turn to the left and you're trying to look at the oncoming traffic, pedestrians also. I don't know, It just gives you a little bit more--

Mr. Stoffel: Well, if they maintain 36 feet, I don't know how much we can govern that, but if we say that it's important to screen the headlights, but it's also important to maintain the sight line that the shrubs have to be maintained. I don't know if we could do that.

Mr. Domini: It's a code enforcement nightmare if we get into regulating the height that those bushes need to be. We just won't be able to regulate that. We just need to make sure that they're relatively mature, more than one year.

Mr. Rettke: I would opt for not going to that outlet. I'm not sure about the entrance/exit but I would hang it back some.

Mr. Domini: Okay.

Mr. Rettke: And maybe on that other side because it's about the same height, too isn't it – or the same depth back?

Mr. Stoffel: Yeah.

Mr. Feeney: Not a lot of grass strip there between—

Mr. Rettke: You do get a lot of kids walking before or after football games and stuff like that. People are known to cut through that parking lot to avoid the light.

Mr. Feeney: We could recommend the shrubbery for the parking – for the head-in parking to block the street and where it starts, let the City Engineer make that determination, let him get out there and take a look at the line of sight. I think there's a—

Mr. Domini: Sight triangle?

Mr. Feeney: Yeah, sight triangle, thank you, that he would be able to apply to this that we can't do and let him determine where the shrubbery starts.

Mr. Rettke: I know at the county we've had to do a lot of those recently cause it's become a bigger issue. So that was my concern.

Mr. Domini: The dumpster enclosure.

Mr. Rettke: Something has to be done, I'd say. What's the code say?

Mr. Domini: Well, let's ask the applicant if they had given that any consideration.

Mr. Keith: Yes, sir, I've built several restaurants from the ground up and I've always had my trash container enclosed, so that's definitely a must just to keep people out of it, keep the smell down and things of that nature, so it will be enclosed.

Mr. Domini: Will you be building a new enclosure or are you going to be improving that one?

Mr. Keith: We will improve that one.

Mr. Domini: Okay, that one will need a gate on the front of it.

Mr. Keith: Yes, sir.

Mr. Stoffel: Is a gate going to be sufficient to help that? I mean what's the rule between him taking down three sides and putting up new sides and not being a new build? There might be a fine line with the condition of that.

Mr. Rettke: Are you going to keep the dumpster in the same location, is that what you're saying?

Mr. Keith: Yes, sir.

Mr. Feeney: Is that accessible to the adjacent property?

Mr. Keith: No, they would have to come on the site.

Mr. Feeney: It just looks like from here that the one side is – I didn't know if that was the gate or it just fell down.

Mr. Keith: I think they had a gate up there previously. I think after they closed down somebody might have gotten it for scrap or something like that.

Mr. Feeney: So it would be a direct in from Livingston Avenue? I'm kind of curious how you're going to set that up.

Mr. Rettke: Yeah, it looks like you've got to hop a curb to get into it.

Mr. Feeney: Well, that's the way it was, but that's not the way he's going to have it.

Mr. Rettke: Are you going to have it accessible if you're going through the drive-thru?

Mr. Keith: Not coming through the drive-thru, but adjacent to the drive-thru.

Mr. Stoffel: Through the service lane to the shopping center.

Mr. Keith: Yeah.

Mr. Feeney: Okay, so the access – the door is going to be on the east side.

Mr. Rettke: West side.

Mr. Stoffel: It's going to be right where that opening's at now currently. They're just going to gate that in, cause we're looking south here.

Mr. Feeney: So where's the gate going to be? On the—

Mr. Keith: It's going to be where the opening is now.

Mr. Rettke: So it's going to be on the right-hand side.

Mr. Keith: Yeah.

Mr. Rettke: Is that of any—

Mr. Domini: It's really a poor place for a dumpster. My thought would be it would be best over here.

Mr. Stoffel: That's kind of why I brought up the question. What constitutes a percentage of that being replaced? If he's going to replace three of the existing sides and put on a gate, where's that fine line between he's doing a new build that should meet standards? Cause it doesn't look like the sides are barely held up anyway, that are there.

Mr. Domini: Actually in our code – and I think I misspoke – if it's accessed frequently, it does not need to be (inaudible). So he would not have to put a gate on it. I think that – I think that at the entryway into this shopping center, we don't want anybody passing by a dumpster.

Mr. Stoffel: Well, I don't think he can access it from the adjacent parking lot, cause that's the main entrance and exit into that shopping center and the truck's going to have to go perpendicular to the flow of the traffic to dump it. I mean I was thinking that if you have the door and the access – if you keep it at the same location, the best place to put the door would be on the east side so that you come in – I think you can get a truck in there. Again, I'm not a traffic engineer by any stretch of the imagination, but you'd be able to get a truck coming in to the – and be the opposite direction of the drive-thru traffic's going and come in and dump it and leave again. Then you don't have to worry about special permission from adjacent properties.

Mr. Rettke: It looks like there's a bailout there, too.

Mr. Stoffel: Yeah, from this property to the – going to the south it looks like, yeah. That or else put it directly behind the store between the back door and the – where those three parking spots are. You have five parking spots more than you need. I don't know how you reconfigure that. You might have the dumpster people take a look at it and see how they—

Mr. Rettke: Are the side walls for the dumpster, are those even high enough for code?

Mr. Domini: The code says that the average height of the screening fence or wall should be one foot more than the height of the enclosed structure. So if you're enclosing a dumpster, the fencing should be one foot above that.

Mr. Rettke: What is the condition of that existing – is it all rotten?

Mr. Keith: It's not in great shape, but we plan on – I'm real hard on cosmetics outside and things of that nature. I'm not going to have something out there that's a sore eye or anything like that. We will bring it up to code and make it as enclosed as possible because we really don't want customers getting out of their car and walking and smelling trash and things of that nature. It's not good for an eating establishment.

Mr. Domini: I think it's – the Board, I think it's pretty easy. We don't want a dump truck T-boning the main entry to the plaza, which is what's happening, so we're trying to correct that issue from the safety standpoint. I think we need to make a recommendation to the applicant on where to move it, but also have him dialogue with us here. This would be one location which I think makes a lot of sense.

Mr. Feeney: I think that's coming right off his dining room, on the back side of the dining room.

Mr. Stoffel: Yeah, there's the door right there.

Mr. Domini: What about over here?

Mr. Feeney: That's where I had mentioned.

Mr. Domini: Okay, cause that's also a loading area which makes sense that you can come right out the door and get rid of your trash. From another safety standpoint, you don't have the staff walking back and forth through the drive-thru and the building.

Mr. Stoffel: Yeah, I agree with that location on the west side of the building.

Mr. Rettke: So the only thing that we have that would be a new build, so it would just have to be one foot higher.

Mr. Feeney: Yeah. I like the location where it's at. I think it would work better there, cause I'm thinking a big dump truck's coming in and they're going to have to go in – they're going to have to back out to where people are going to try to go through the drive-thru. If we keep it where it's at, again there's that – the parking lot is continuous between the main shopping center parking lot and this right there alongside the drive-thru driveway, I think they'll be able to come in, get it and take off. I think that might be the safer place to put it.

Mr. Domini: Would it be better if the opening faces the south?

Mr. Feeney: Well, the only thing is he has those trees there and it does provide some shielding between the dumpster and the shopping center.

Mr. Domini: I'm just saying then that the truck comes in here and gets the trash from this side rather than trying to come across and T-bone the entryway.

Mr. Feeney: Well, you definitely don't want that.

Mr. Domini: Then as you come in—

Mr. Rettke: I think he's talking about moving in from the east side.

Mr. Domini: I'm talking about it and they would get it not from where it is now, but the south side.

Mr. Stoffel: Come back to that aerial, Aaron. Is that area between where the dumpster is and toward the drive-thru that you see in concrete? Is that intended to be a drive-thru area into the other parking lot that's access to and from? I mean that's — is that really even supposed to be acting that way? Do you see what I'm saying?

Mr. Rettke: Yeah, it's elevated.

Mr. Stoffel: Yeah, right in there. You just drive straight through, don't you?

Mr. Rettke: It's not meant for traffic to come through the drive-thru and go-- "Oh, shoot, I don't want to go here, I'll jump on over." So what if that access to the dumpster was facing the south/southeast so they could-- Could you could back to the aerial, Aaron? So that the dumpster comes in this way and accesses it here, cause there's no parking — there's not supposed to be access here, so the dumpster comes in off Baldwin, pulls straight in here and then exists however.

Mr. Feeney: And we're trying to save the tree if at all possible.

Mr. Rettke: That way it's easy access with the dumpster and it really doesn't affect the flow of traffic.

Mr. Domini: I don't think that affects the trees.

Mr. Rettke: No, that shouldn't affect the tree. You'd have to take that shrub out, but it's not going to affect the tree.

Mr. Domini: And it's actually nice, because it's shielded on most of the high traffic sides. How do you guys feel about that?

Mr. Keith: That means it'll remain where it is and we would just change the opening?

Mr. Rettke: Yeah, the opening would go on the east side, close off the west side, make sure it's one foot above the dumpster, and no gate is necessary.

Mr. Domini: You don't have to have the gate, but I'm not sure that'll cover the dumpster at that height. I guess I'm saying I think you're going to have to build a new dumpster enclosure.

Mr. Stoffel: Yeah, that's what it looks like, or at least higher panels.

Mr. Domini: Do you have any questions about that?

Mr. Keith: No, sir. If we wanted to put a gate on it, could we put a gate on it?

Mr. Rettke: Oh, yeah.

Mr. Keith: Okay, it's just not required.

Mr. Bryant: Now to build a gate there, we've got to get permits to build the gate?

Mr. Feeney: To enclose the west side?

Mr. Domini: No. I would be the one that issued the permit for that and I think that we'll just call this general maintenance. You're not relocating it. We want you to fix it up. If you're building a new enclosure on a new property then, yeah, we would require a permit.

So we talked about the dumpster. The other item was the existing drive-thru. It sounds like they're going to use that, so my comment about the flow of traffic in and around the site is not relevant. The last item I had was the lighting. I don't think we've seen lighting like this anywhere in the city as of recent. I'm sure back in the day when this was a Dairy Queen, late at night they wanted to light this thing up so everybody could see each other while they were eating ice cream. I think for the applicants, I know you don't see this lighting anymore unless you're in a used car lot or a baseball diamond. We have concern about you using that, so I guess the question would be are you going to use that lighting?

Mr. Keith: It would save us electric not using it. I think there's enough lighting around the perimeter of the building that's underneath the canopy running around. Those are dinosaur lights and I've tried to turn them on and they haven't even come on. Occasionally, if something – a special event or something like football night or something like that, if they worked and we could use them, it would be nice. If they were to be used it would be from sunset to closing.

Mr. Domini: Well, that's part of our concern.

Mr. Keith: On event nights.

Mr. Feeney: Don't we require parking lot lighting? Don't we require those parking lots to be lit to a certain level anyway?

Mr. Domini: We do. This is existing, non-conforming.

Mr. Stoffel: I think you'd have to have some lighting, but not that lighting.

Mr. Rettke: Is there just the two Aaron, or is there one over at the – towards the intersection near the big sign? There's just the two?

(Inaudible)

Mr. Feeney: Well, it looks like the posts are probably pretty good. You could probably take the lights off and find a fixture that could fit on there and it would give you three lights. It would have to meet our standards for cutoffs and such.

Mr. Domini: This is one of those times when you don't have the lease agreement with the owner, it would be one of the conditions, because it's a burden, a pretty big costly burden to put on them. Mr. Feeney, you know how expensive light fixtures are, especially commercial of this magnitude. I'll be frank, I don't think – I don't know what your budget is, but that would be very expensive and I would like to come to some other solution, because I think that's a make or break. I don't think he could do that. I think E.V. Bischoff should be responsible for the maintenance of those lights. It's their center and they're not buying, you're leasing, correct?

Mr. Keith: Yes, sir.

Mr. Stoffel: I would like to see those poles modified to meet code, because I mean that's a high profile corner. It's a nice piece of property.

Mr. Rettke: Do you have your lease agreement with E. V. Bischoff? Do you have any wiggle room in what they have to help you with or any of that kind of stuff?

Mr. Keith: Some temporary things, I don't believe – just equipment in the building and things of that nature. I never thought that I would have to come to a hearing because I've always kind of like built in Columbus and I knew I wasn't changing the use. When Aaron told me about the situation where when the place closes down it doesn't make a difference, you still have to come before the Board in Reynoldsburg. It kind of threw me for a loop. When I talked to Mr. Bischoff, he had no knowledge of it either, because he knew we wasn't changing the use of the property, so that's where he was on it. He said, "Well, you're not changing the use, so I'm not sure why they're making you come up front." I told him basically it's to keep different things from opening up after it closed that you guys might not want. I said even if it's a restaurant, you still have to go in front of the Board. (Inaudible) – required to put this contingent upon it, that zoning would be approved. Being in the restaurant business for years and years, I wasn't changing the use, but I'm in a different city, so I learned a valuable lesson.

Mr. Feeney: So we don't require parking lot lighting?

Mr. Domini: We do.

Mr. Feeney: We do.

Mr. Domini: Let me find that section of the code but, again, that's for new construction.

Mr. Feeney: I guess we could say that when you get around to putting parking lot lighting in that it has to meet cut-offs. They can't be the floodlights that are up there. So instead of redoing all your lighting, we could say "when you get around to getting lights out there, they have to meet our cut-offs." I mean that would be something we could work with. I would think you'd want some type of lights outside.

Mr. Stoffel: Yeah, I can't believe there's nothing that says – cause we considered it with Kindercare back behind Home Depot. (Inaudible) I'd say any business operating after dark it's a concern for the consumers, too.

Mr. Domini: Well, there was recently a lawsuit in the paper. Somebody was at Walgreen's or something and they have a minimum of 5 foot candles now, I believe. It's a lot of light for their retail across-the-board. I was working on some code the other day in Whitehall and that's – a lot of retailers won't even open up unless they have so many foot candles of lighting. So for this Board and the record, I don't want to create an unsafe situation over there by not allowing them to light up the property, so we need to find a balance here.

Mr. Feeney: So you tried to turn them on and they don't work?

Mr. Keith: Yeah, I've tried to. I've tried to turn them on.

Mr. Rettke: Well, that would be Bischoff's issue if they don't work. That would be his responsibility for those to be working.

Mr. Keith: I've got to know Mr. Bischoff pretty well. I think I've got a little wiggle room with him, to tell him about those lights and seeing what we can do to get some different lights installed.

Mr. Domini: Well, our recommendation would be that they're a full cut-off fixture, even if it's a shoebox fixture, which is what he has in the parking lot already. I'm trying to see – do you see where my cursor is right here? It's just a classic shoebox. That would be fine with me.

Mr. Feeney: Actually they look like floodlights, too.

Mr. Rettke: Can you go down the road a little bit?

Mr. Domini: These aren't. See where my cursor is? That's – see these?

Mr. Feeney: Yeah, those are cobras and those are floods.

Mr. Domini: We can make the recommendation that if the lights are replaced because they're non-operable, they can't be replaced with like – the same kind. They need to be replaced with a cut-off fixture.

Mr. Rettke: But if they work, where are we at? In a bad position, I think.

Mr. Domini: If they work, then, I mean, it's an existing condition.

Mr. Feeney: So these are – if they were working, we wouldn't tell him to take them down and put them back up again, correct?

Mr. Stoffel: We'd like them to.

Mr. Feeney: Well, we'd like them to, but I don't think we can require that. And it might be just a simple fuse that they aren't working.

Mr. Stoffel: Can we word it as long as they are working, they shall remain with the property; if for some reason they have to be replaced, they have to meet code?

Mr. Domini: Well, they'd have to meet code anyway. Well, let me put it this way: I don't think you're going to put those back up. I don't even know where you buy those anymore.

Mr. Feeney: If they – if there's a simple little piece of wire missing or something like that. But if they have to take the fixtures down because the ballasts are bad—

Mr. Domini: Well, one thing I think we could ask them to do is to direct them downward.

Mr. Rettke: And not to extend past the parking lot.

Mr. Stoffel: That's a good point.

Mr. Feeney: Yeah, I'm kind of also – I don't want to have a situation where it's a dangerous situation where there's no lights out there except for on the building. I'd like to see some lights out there for the parking lot, for the safety of the customers and yourself.

Mr. Domini: So here's, I think, where we're going: If they work, they need to be directed downward. See how these are projecting out? We want them to face down so that it's not broadcasting light. If, for whatever reason, they need to be replaced, they need to be replaced with a full cut-off fixture.

Mr. Stoffel: And I would modify that to say that there has to be lighting from dusk to closing. So that way, if they don't work, then they can't say, "Well, they don't work, I'm not going to use them."

Mr. Rettke: Is that something we can live with?

Mr. Keith: Yes, sir.

Mr. Rettke: So the only real thing I'm not clear on what direction we want to go is the sign. There wasn't much discussion on that. Leave it? Remove it?

Mr. Stoffel: Well, again, if it's a pre-existing condition and it meets the square footage, as much as I'd like to see it changed, I don't know if we can change it. I don't know if we have the ability to require that.

Mr. Domini: Not unless you think it's an issue of life, safety, morals.

Mr. Rettke: Naturally if it were disturbed in some sort of fashion or rusted at the base, they couldn't replace it anyway without coming to us.

Mr. Stoffel: As far as the makeup and what it looks like, that's all – that's a different group that determines that.

Mr. Domini: Right. So if you paint the exterior and you put up the signs, you make any other exterior modification of the building, it's in an overlay district in the city, that has to go before the Design Review Board. They review all signs, all exterior improvements to commercial structures, even painting. So a number of years ago, to give you the quick two-cent story on this, we passed a couple overlays because we wanted to try to bring properties like this back up to a standard which the city thought was appropriate to raise the level of quality. So now those type of improvements have to be approved.

Mr. Keith: If we wanted to – like the Dairy Queen roof is real faded red. If we wanted to redo it red, we'd have to come back?

Mr. Domini: If you want to paint it the same exact color, you could do that. We would really like you to paint it a different color.

Mr. Keith: Yeah, we would too, but – we wanted to do it gray.

Mr. Domini: That would be great. I'm sure you'd get accolades for that. It would just make it a little bit cleaner, fresher. It would be \$75.00. What I would recommend is you're going to have to get all your signs approved. When you come through with your signs, put the painting of the roof to gray and then if you want to do it, you can do it, so you don't have to come back for multiple applications.

Mr. Rettke: Might as well include the dumpster in there, cause you're going to throw paint on that right?

Mr. Keith: How long does that application stay in effect?

Mr. Rettke: Until you paint it again, right?

Mr. Keith: I mean like if we put in the application and we wait on painting the roof, how long—

Mr. Domini: I believe it's 12 months. I'll get you an answer. Any other items?

Mr. Rettke: The inside is a concern of mine. It appears you're building some new walls, so that would be subject to the Building Department.

Mr. Stoffel: Again, I'd want to make sure that the handicap accessibility was addressed, that that would be per code.

Mr. Keith: The ramp is already made and there's three additional spots.

Mr. Domini: One per ten, I think that meets code. Just make sure that it's striped and marked for handicap accessibility.

Mr. Keith: Do you have to have a placard up front for that or just on the ground?

Mr. Fenney: I think you have to have a placard in order to be enforced, but I don't know if we require that.

Mr. Domini: We don't require it in our code.

Mr. Feeney: So you can paint that as long as you paint the symbol on the ground, I think that's good, but a placard's always better.

Mr. Stoffel: I think if all those issues were addressed in how we asked to have them addressed and if that would meet Aaron's approval once he saw those corrections, I think I would be good with that. So are you looking for an approval for a vote?

Mr. Feeney: Well, we've probably got to condition it with the landscaping, the dumpster, and the lighting.

Mr. Rettke: Let's go over this one more time. I apologize. We want the landscaping to be 36" in height within one year, spacing to be determined by the City Engineer to address any potential line-of-sight with the entrance onto Baldwin or Livingston. The dumpster, the opening should face east with access through the rear exit towards the drive-thru, the location stays the same with the west side enclosed and

to be one foot above the dumpster. Lighting, it has to be lit from dusk to closing. The existing lighting, if it works, turned down, not a broadcast and, in the event they have to be replaced, they have to be full cut-offs, the fixture itself.

Mr. Keith: Is there a requirement like you don't want all three of them on or just two? How many lights are actually required in the parking lot?

Mr. Rettke: I hate to use the term sufficient, but—

Mr. Feeney: Yeah, well, I think—

Mr. Stoffel: I'm going to say I'd like to have all three of them turned down and all three working. Without you getting a study by a light engineer to get all the exacts, we would just be guessing, so there's three there, light them all up and turn them down, or tilt them down.

Mr. Feeney: We can't tell you how many lights to put out there, because there's so many lights on each one, but—

Mr. Rettke: Yeah, you don't know how bright these are.

Mr. Feeney: We might come over there and play football instead. And any information on the signage?

Mr. Rettke: What did we decide on the sign?

Mr. Feeney: For our position, we're going to allow them to keep the post tower sign. We're not going to make them take it down, but they have to go through Design Review Board anyway for the signage.

Mr. Keith: If you all approve the sign, can they come back and say we can't have the sign, or that's just the design of the sign?

Mr. Rettke: It's the design. Correct, Aaron? We determine the location placement, they determine what it looks like.

Mr. Domini: On new major site plans, but that's not what we're doing here. Oftentimes you won't even see the location of the sign for wall signs. Monument signs--

Mr. Rettke: Monument, I think that's what he's addressing. If we say yes to the post sign, can they say no later?

Mr. Domini: No, unless, for some reason, it doesn't meet their test. They're permitted to continue to use that sign.

Mr. Rettke: Is that agreeable?

Mr. Keith: Yes, sir.

Mr. Rettke: Okay, I move that we accept Item C-1, Special Exception Use Permit for 6563 E. Livingston Avenue, number 157800 with the following conditions: The post sign as it exists at the corner, we'll allow you to continue using that. Landscaping, there should be additional screening, subject to the City Engineer's report of where that should start and end along Livingston and Baldwin pertaining to line-of-sight issues, but it should be 36" in height within a year of maturity based on Section 1180-11. Another condition is the dumpster, we would like the opening facing east and the west side enclosed and the fencing has to be one foot above the top of the dumpster. Lighting, we would like the facility lit from dusk to closing and the existing lights are fine, but they need to be directed downward. In the event that they do not work, they need to be replaced and all existing lights must be lit.

Mr. Domini: I would ask that you strike the condition on the signage or any reference to that, please.

Mr. Rettke: So I will omit the signage. There's no condition on the signage.

Mr. Domini: It has nothing to do with this approval. Any signage that's proposed will have to meet the code.

Mr. Feeney: I'll second his motion.

(Mr. Domini called the roll. Mr. Stoffel voted "yes." Mr. Feeney voted "yes." Mr. Rettke voted "yes.")

Mr. Domini: The application is approved by the Board. While we're still on the record, this will go before City Council. City Council can choose to introduce this application if they feel like they want to review some other things associated with the application. If they do that, they have to do it when they receive the minutes back from us and then they have to introduce it by its next scheduled meeting. I'll give you this form. It says everything on here. Any signage has to go back through me and through the Design Review Board, as well as exterior modifications and I think you've already submitted plans to the Building Department. Then obviously you need to get occupancy and get all your permits through the Building Department. So Design Review and Building Department are the two key things and, just so you know, Council can still introduce this if they choose to do so. Occasionally that happens if there's questions that they have.

D. OTHER BUSINESS - None

E. ADJOURNMENT

The meeting was adjourned at 7:36 p.m.

Anthony Rettke, Chair

Aaron Domini, Acting Planning
Administrator

This document was transcribed by:
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