



MINUTES

BOARD OF ZONING AND BUILDING APPEALS THURSDAY, AUGUST 17, 2017 6:30 PM

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

A. CALL TO ORDER

PRESENT: Rettke, Donovan, Darling
ABSENT: Linder, Armstead

2. APPROVAL OF MINUTES

1. Board of Zoning and Building Appeals – Regular Meeting – July 20, 2017

Minutes stand approved.

3. APPROVAL OF AGENDA

Agenda stands approved.

4. SWEARING IN OF SPEAKERS

Speakers for the evening sworn in by Mr. Rettke.

B. PUBLIC COMMENT

None.

C. UNFINISHED BUSINESS

Mr. Snowden: I have a number of special exception use permits that have been approved over the last few months and I'll be getting monthly reports to the board/council regarding what the status of those are.

D. NEW BUSINESS

1. 2051 Birchview Drive South; Application #179440; Applicant; Stephanie McCoy; Special Exception Use Permit

Mr. Snowden:

2051 Birchview Drive South - Elite Learning Center, LLC. - Special Exception Use Permit

Application: #179440 - Special Exception Use Permit

Location: Property is located on west side of Birchview Drive South, just south of Eastgreen Blvd.

Existing Zoning: AR-2 Multi-family Residence District

Request: Request for approval of a special exception use permit for a new childcare center.

Current Use: Vacant

Proposed Use: Childcare Center

Applicant: Stephanie McCoy

The applicant is requesting the Board review and approve a special exception use permit for a new childcare center.

The site is developed with an existing single-tenant commercial building that was designed as a childcare center from the ground up. To the south and east, the property borders multi-family dwellings also in the AR-2 district. To the west, the property abuts commercial properties that front onto Brice Road, including a hardware store (retail sales) and a hotel.

A special exception use permit for a childcare center was approved by the Board in 2016. Subsequently, the center never formally opened and cared for children. Since the use was not in operation for 6 months and the site has since been sold to a new owner/operator, a new special exception use permit is required.

The applicant resubmitted the site plan from the 2016 application. The site has an existing parking lot with approximately 6-7 spaces, as well as a drive-aisle that allows off-street drop-off. The existing configuration allows vehicles to enter and exit without changing direction. The parking lot was operated in this manner from 2011-2014 for a childcare center, and Staff is not aware of any issues generated during that period.

The site has an existing play area that is fenced with a 4FT chain-link fence. A previous applicant refurbished the play area in 2011. The interior classroom spaces have direct access to the play area through an exterior door. The occupants of the structure are not required to walk adjacent to vehicles or across any active drive-aisles to access the play area. No loading spaces where vehicles might idle are immediately adjacent to the play area. No transformers or other utility cabinets are located within the play area.

The applicant has an existing dumpster that is screened per the requirements of Chapter 1180. The dumpster is not in an area that is accessible to children within the structure or play area.

The Board should 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. Based on those standards, Staff recommends approval of the special exception use permit as submitted.

I do not see the applicant or another representative here, but I can tell you that they were notified of the meeting when they applied and they subsequently received a notification from Ms. Cornell from our development department.

Mr. Donovan: Has anybody there expressed anything about replacing all the playground equipment with updated and more modern type, unused equipment?

Mr. Snowden: Mr. Donovan, generally we haven't considered that specifically in approvals of this type, but chapter 1145 of the code allows the board to consider maintenance of the site generally when dealing with special exceptions. If the board wants to make that a condition

they are perfectly able. I don't have photographic evidence to provide to you at this time of what the current conditions are, but I will tell you that I think even if you didn't make it a condition I still think that the state regulators are going to investigate that because they investigate the site. There's a minimum size for the play area based on the number of children and there's a minimum safety standards that the whole complex has to meet in order to be certified by the state.

Mr. Donovan: Are these standards that are going to have to be met before they are allowed to even submit for a permit?

Mr. Snowden: Generally, I can issue the zoning certificate, but they cannot open and have the children enroll until they receive the certification from the state. I can issue the zoning certificate; typically I do unless there's a separate condition that they have not met. In the case of building occupancy through our building division typically they need building occupancy to provide that to the state regulators as one of the items in the check list for the state regulator. Typically that happens before that's done, but ultimately if they don't receive the state's sign off either they can't open regardless of whether I've issued zoning approval. That's a really great question. It's very unique to this type of use.

Mr. Rettke: I think this is the third time we've done this on this one. I think we established the first time that was built specifically for a daycare. I (inaudible) where they took another building and made it something else. I think it's more of a technicality. One thing I do want to ask. I was under the impression the change of ownership, change in anything like that, it's non-transferable regardless whether or not they operated or not. Why was that? It sounded like if they had operated they wouldn't be here today.

Mr. Snowden: It's possible. That's a great question Mr. Rettke. That was the way it was for a number of years. Let me give you just a brief history lesson because I've dug into this at length with our city attorney over the last several years. For a long time in the City of Reynoldsburg you had to have a use permit from the planning and zoning commission or what eventually became the board of zoning and building appeals in order to operate any business. Staff really couldn't approve any uses. There were special exception uses. There were permitted uses. They were still really all approved by the board. There were just a different set of standards each time. In a zoning code revision in 1999 they elected to allow the staff to approve the permitted uses, which is much more typical, and they stated that the special exception use permits would still be reviewed by the board and city council. There was a procedure for transfers, what they called a transfer in the code, in that 1999 zoning code. The procedure for transfer of special exception, basically said you have to get a new permit. That was causing a lot of problems for the folks in my position and here's why. Let's say I operate Eric's Cafe for 10 years and then Rick opens up Rick's Grill starting on Monday. The use is the same use. It's considered a different tenant. At that point a new special exception use permit was required. It was not reasonable to require that because to think folks are going to stop operating a business like that for 45 or 60 days under the old process. I worked with city council back in the end of 2015 and we passed a revision that said, if the use is the same use and the only change is a tenant, but the use is the same, staff can approve the transfer. The idea is that if I'm running Eric's Cafe all the way up to Friday

and Rick's going to open Rick's Grill on Monday, there's no changes to the parking requirements. There's no changes to any conditions that might have been originally approved by the board and city council. Staff could approve that as a transfer administratively. That's what the code says today. That is a change, a little bit. I don't really do that very often because of the nature of the use, but it has happened a couple times. There are some special stipulations and I can pull up the code section. One of the things that says is that the use must be in operation for 6 months before it's eligible for transfer. The idea is, I'm operating a business for 10 years and then Rick or my next tenant is going to pick it up and operate it for another 10 years. Not I'm going to come here into the BZBA, get approved for a special exception use, and then immediately hand that use off to my buddy who's actually going to operate the thing. That's not the point of it. You had to be in operation for at least 6 months to be eligible for the transfer. Secondly, it's only for the uses that are the same. If you have, for example, auto repair and you want to go auto services, that would be like tire shop or accessories, those are two different special exceptions in a lot of the city; therefore, you have to get a new special exception use permit. You can't go from daycare to restaurant as a special exception. You can only go within the same use. That's the process as it stands today.

Mr. Donovan: I have a conundrum for you Eric. (inaudible).

Mr. Snowden: Pardon me?

Mr. Donovan: Daycares in old Reynoldsburg.

Mr. Snowden: In our zoning code there's also a special stipulation that city council passed several years ago that said that the properties are fronting Main Street that's a prohibited use. Childcare centers a prohibited use. I have some issues with the way that section is written and I would like to revisit that, but I have not addressed that. Mr. Donovan if you think back to the issue we dealt with a number of years ago with the Main Street daycare that was in old Reynoldsburg, the difference is the one daycare had been closed for a period of 6 months, so it still wouldn't have been eligible. If the use has to be in continuous operation up until the permit is transferred. If it's closed for 6 months it's considered the use as stopped and then you'd have to get a new special exception or in this case the use never operated or was not in operation for at least 6 months; therefore, a new special exception is required. I know that's a lot. I can go over that at length. That is not in any way trying to reduce the value that review by this body brings because it brings a lot of protections and safe guards to these uses, but telling somebody who's been operating a business for 10 years and then somebody is going to operate the exact same business and all they're going to do is change the name and they're open continuously, to say, well, you've got to be closed for 60 days while we review a new special exception. That was unreasonable and that's why you gentleman and lady probably recall that we had a lot of non-compliance. We had people, oh, we're already operating. I took away one problem. It doesn't change the fact that these folks didn't actually operate and that's why they're back.

Mr. Rettke: That cleared it up because I caught that when you said that, so I didn't know when that had changed. I think in the very first when I approved this it was an all-night

childcare, but they're not.

Mr. Snowden: The original 2011 there was a 24 hour facility. The young lady who made the application back in October of last year, it was not a 24 hour facility and she had her business hours listed and I believe the business hours are the same. Let me get my copy.

Ms. Darling: She's the same one?

Mr. Snowden: No. The history of this is the 2011 applicant operated it; subsequently the young lady was operating lost her life and her mother applied in 2016 to begin operation. Decided she didn't want to and sold the property to Ms. McCoy, who's the applicant here, who is just a third party operator that operates other childcare centers. No relation to the first two operators.

Mr. Rettke: It's supposed to be 5 am to 7 pm.

Mr. Snowden: And the board does have the power to restrict hours. The fact that they've put the hours in here, to me, I don't look them as them being bound to those hours unless they're going to change them drastically. If they came back and said 24 hours, I think you could argue that that's a slight change of use from the standpoint of zoning.

Mr. Rettke: I know with that one we had issues with the lighting and didn't feel they were sufficient. I think we had talked about maybe enforcing that they had some improvements made, but I can't remember back that far. Like I said, in 2011 I think we determined that that was built specifically for that purpose. I have no further problems or questions.

Ms. Darling: Did you say 5 am?

Mr. Donovan: 5 am to 7 pm.

Ms. Darling: Do they have lighting out there? It will be dark?

Mr. Snowden: There's some under canopy lighting. The parking lot is not lit. That was not required at the time it was built by the zoning code or the development standards of the city. It's absolutely required today if it were to be built new from the ground up. We do have an AEP contract street lighting system in the area.

Ms. Darling: But this is the only.

Mr. Snowden: Correct that appears to be the only pole in the vicinity.

Ms. Darling: It's just not.

Mr. Snowden: It's not a lot.

Ms. Darling: If you're dropping your child off at 4:45 in the morning because you have to be

at work and they open their doors at 5 am then you can't see your child if you let them just get out of the car themselves and walk up to the front door. As a mom I have a problem with that.

Mr. Snowden: Ok. And these are the type of things as we've discussed many times where I can research this. I can have as much great information about the code. I can remind us what we've done before or what's come before us, but when the applicant doesn't attend the meeting how can I answer that question?

Ms. Darling: I have questions for the applicant themselves. Can we table it?

Mr. Snowden: That's absolutely your choice.

Ms. Darling: I just have too many questions for the applicant. Like lighting, like updates, like how many kids, do you feel like you're going to be overwhelmed, do you feel like you're going to be overrun with the space, things like that. Just because you have more than one daycare it can happen. Sorry.

Mr. Snowden: No need to apologize. You're a board member and that's why you're here. That's your responsibility as a board member. Just have to ask your chairman if he'll entertain a motion.

Ms. Darling: Do I just need a motion to table it?

Mr. Snowden: What you would do, you would say, I move to table this application to the next regular meeting of the board.

Ms. Darling: I move to table this application to the next regular meeting of the board.

Mr. Donovan: I second it.

Mr. Rettke: Moved and seconded. Can we have the roll call please.

Mr. Snowden: Thank you Mr. Chairman. Ms. Darling "Yes", Mr. Donovan "Yes", Mr. Rettke "Yes". This is tabled to the next regular meeting of the board, which will be September 21, 2017. I will contact the applicant via e-mail to state what the procedure's going to be and I may reach out to some of you, to the board via e-mail if folks want to provide comments. That way the applicant has something to respond to and they can come more prepared. I think that will help everybody. We'll deal with that on the September meeting.

RESULT:	TABLED [UNANIMOUS]	Next: 9/21/2017 6:30 PM
AYES:	Rettke, Donovan, Darling	
ABSENT:	Linder, Armstead	

2. Motion to approve item D2 for 2166 Baltimore Reynoldsburg Road, Application 179441 with the following condition that the proposed direction of travel for the aisle along the east side of the property be reversed, so that travel won't have that tight turn radius and it will reduce stacking space up to the discretion of the planning and zoning administrator regarding signage or directional markings.

Mr. Snowden:

2166 Baltimore-Reynoldsburg Road - Noodles & Co. - Special Exception Use Permit - Drive-Thru

Application:	#179441 - Special Exception Use Permit
Location:	Property is located on the east side of Baltimore-Reynoldsburg Road, south of Farmsbury Drive.
Existing Zoning:	CS Community Services District
Request:	Request for the Board to review and approve a special exception use permit for the addition of a drive-thru.
Current Use:	Eating and Drinking Establishment
Proposed Use:	Eating and Drinking Establishment w/ Drive-thru Service
Applicant:	Brittany Catania

The applicant is requesting the Board to review and approve a special exception use permit to add drive-thru service to an existing restaurant (eating and drinking establishment.)

The site is located on the east side of Baltimore-Reynoldsburg Road, just south of Farmsbury Drive. It consists of an existing single-tenant commercial building with patio seating, parking, and service structures.

Adjacent uses include commercial businesses in the CS Community Services District. Eating and drinking establishments, retail sales, small office, and auto services businesses are all present. Baltimore-Reynoldsburg Road/SR256 is designated a major arterial street by the thoroughfare plan.

The site was operated with drive-thru service for a previous tenant. A separate drive-thru lane and stacking spaces are still in place. The separated drive-thru lane is screened on the north side by a landscape island which will remain. Staff would like the applicant to clarify the proposed direction of travel for the aisle along the east side of the property. The proposed direction of travel creates a tight turning radius and reduces the stacking space. Staff proposes that this be reversed.

The applicant proposes to retain all existing parking and is not proposing to add any additional indoor or outdoor seating. Staff has no concerns.

The Board should 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. Based on those standards, Staff recommends approval of special exception use permit on the following condition: That the direction of travel of the eastern drive-aisle be reversed and the applicant provide reasonable signage or directional markings indicating the proper travel direction to the satisfaction of the Planning & Zoning Administrator.

Brittany Catania w/Red Architecture & Planning: 855 Grandview Ave, Suite 295, Columbus, Ohio 43215.

Mr. Rettke: Can you elaborate on Mr. Snowden's comments about the traffic flow and is that something agreeable to because I also concur with that?

Brittany Catania: I agree with that. That won't be a problem to change that direction. That was the information we had received from Noodles. Obviously their site plan had to have been wrong, but we can provide the signage too to make that clear which direction to go.

Mr. Rettke: Mr. Snowden, are you looking for just paint on the ground?

Mr. Snowden: Paint on the ground would be fine. Probably a do not enter sign at the drive there so folks aren't kind of short circuiting. If they're having trouble with way finding they may need to add a sign saying, pull around building for pick up window use or something. I've seen that in drive thru's. All of that's going to be small; under 6 sq ft type of signage will be fine. The applicant will need to provide a revised site plan when they submit for their zoning certificate. I think probably they were just looking at the shortest distance, but they probably didn't know the history, whoever sketched that out probably didn't know the history. If you look at the turning radius that's really the way it needs to function. If they're not going to remove any of the concrete or whatever. I'd be looking for paint on the ground or a couple small directional signage signs that are consistent with the buildings architecture.

Brittany Catania: Ok.

Mr. Rettke: There's not like pull up order here type of thing?

Brittany Catania: No, it's just for pick orders only. So, there won't be a lot of traffic probably coming through anyways.

Mr. Rettke: Was there any cause for additional signage that would be of concern?

Mr. Snowden: I think they're probably going to need; I don't want the board to be prescribing content because that's a dangerous road to go down. I think some sort of signage is needed at the entrance that's directional in nature indicating how it's going to operate so that folks don't pull down there looking for the squawk box to place their order.

Mr. Rettke: I meant in regards to like pick up window. Is that going to be an issue?

Mr. Snowden: Ms. Catania has already submitted a design review board application to actually open up the wall there in the window and what materials are going to be used and another gentleman that I've worked or has done work here within the city, I believe his name is Mr. Young, made a sign application for a comprehensive sign plan, so that's maybe something we can discuss at the design review board. I don't think that that's necessary in order to protect the operation of the use. I think it makes sense for them from a marketing standpoint, but I think what I really would be concerned about is people going the right way and they don't go the wrong way. That's what I really think is pertinent to this use permit. That will be reviewed as part of a total sign update. They're going to be replacing their ground sign out at the street and doing a number of other things. We can revisit that. Ms. Catania both of those are scheduled for our next, even though they were separate applications one was your application and one was for signage, I believe they're scheduled for our next September 7th DRB meeting. I'll put those on the agenda so that they're next to each other, so we can discuss in a group. I don't think that needs to be a condition in order for them to get approved, but I think don't going here, going here needs to be addressed. The condition that I wrote I would (inaudible).

Mr. Rettke: Any other discussion, questions, comments? I move that we approved item D2 for 2166 Baltimore Reynoldsburg Road, Application 179441 with the following condition that the proposed direction of travel for the aisle along the east side of the property be reversed, so that travel won't have that tight turn radius and it will reduce stacking space up to the discretion of the planning and zoning administrator regarding signage or directional markings.

Mr. Donovan: I second it.

Mr. Rettke: Moved and seconded. Can we have the roll call please?

Mr. Snowden: Thank you Mr. Rettke. Ms. Darling "Yes", Mr. Donovan "Yes", Mr. Rettke "Yes". Three votes in favor. The special exception use permit is approved by the board. Ms. Catania if you look starting on page 3 of the staff report under next steps, I've listed the remaining items that are going to need to happen although you've already applied for design review board and you've got that one knocked out. I will send this along to city council and I will provide you with all this information in writing. I would not expect a lot of concerns from city council, but either their office or myself will let you know if there are any.

Brittany Catania: Ok. Thank you.

RESULT:	APPROVED [UNANIMOUS]
AYES:	Rettke, Donovan, Darling
ABSENT:	Linder, Armstead

E. OTHER BUSINESS

None.

F. ADJOURNMENT

Mr. Rettke: Adjourned at 7:04 pm.

Chairman

Planning and Zoning Administrator