



MINUTES

BOARD OF ZONING AND BUILDING APPEALS THURSDAY, JULY 15, 2021 6:30 PM

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

A. CALL TO ORDER

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

2. APPROVAL OF MINUTES

Mr. Furst:: Yes, Ms. Wheeler, I submitted a number of changes. I think they were just transcription errors and then one of the speakers was misidentified. If those could be incorporated into the minutes, I'd appreciate that.

Minutes were updated with the corrections.

1. Board of Zoning and Building Appeals – Regular Meeting – May 20, 2021

3. APPROVAL OF AGENDA

Ms. Wheeler: Please remove item number 3, the applicant did come to a resolution with the attorney's office.

4. SWEARING IN OF SPEAKERS

Speakers for the evening sworn in by Mr. Rettke.

B. PUBLIC COMMENT

None

C. UNFINISHED BUSINESS

None

D. NEW BUSINESS

1. Application #2021-5305; Parcel ID 067-000086; Applicant Kareem Am; Conditional Use Permit (Sheetz)

Mr. Rettke: New business item D 1, application 2021-5305. Can we please have a presentation?

Ms. Wheeler: Thank you, Mr. Chair. This application is for conditional use, 2021-5305. This is for an out parcel at the shops at East Broad parcel id 067-000086. That is within the community commercial zone. I believe there's no certified address at this time yet. And the applicant is requesting approval of a conditional use for the construction of twenty four seven sheets convenience store on approximately two acres. The site is currently vacant. This particular use, retail convenience with

gasoline is listed as a conditional use in this zoning district and hence the reason we're here this evening. With that, if the applicants want to add any additional information, I will pull up the colored site plan as well that was submitted in support of the application.

Mr. Rettke: Come up to the podium, state your name and address for the record.

Mr. Amr: Hi, this is Kareem Amr and with Skilken Gold, real estate development. I have with me Kyle from Mannik and Smith Group. He is our engineer on this. I have Eric, our senior vice president at Skilken Gold and I also have Aaron Hensley, senior real estate site selector with Sheets.

Mr. Rettke: Would you like to elaborate on anything she said before the board might ask you some questions?

Mr. Amr: No, thank you, staff, for the introduction. We're here to answer any questions you may have.

Mr. Rettke: I'll turn it over to you guys. Mr. Furst.

Mr. Furst: Thank you, Mr. Chairman. So forgive me, I understand that a lot of the local residents in the market are quite excited to have you here, but I'm not terribly familiar with your business in particular. So if you could kind of give us a little general overview, maybe an average number of customers that you serve each day, maybe an estimate that you expect to serve in this location, and then anything that we might want to know about this particular site or your business model in general that might differ from kind of a typical gas station convenience store.

Mr. Amr: Absolutely. I'll invite Aaron up here to talk about the sort of operations

Mr. Rettke: If you would just state your name and address for the record, please.

Mr. Hensley: Sure. Aaron Hensley 630 Morrison Road, Suite 150, Gahanna, Ohio. We really don't release customer accounts, so I mean, it varies from site to site. I can tell you employee wise will have thirty to thirty five employees with about seven of those management payrolls about fifty five thousand a month. And our store manager makes about eighty four thousand a year with bonus. If you're not familiar Sheetz we are a privately held family company that's been in business since 1952. We operate over 615 stores in six states. I think we're up to about forty five in Ohio, most of those in northeast Ohio, currently. We're about to change that. We've got four open in the Columbus market now and we're looking to do 50 in the next five years or so and a few more after that. But that's kind of our goal right now is 50 in the next five years. We don't look at ourselves as a gas station that everybody puts us in we look at ourselves more of a convenience restaurant because our own proprietary food. All our foods made to order. It's ordered actually on a touch screen, just have this as a drive through the drive through to even touch screens so there's

nobody screaming back and forth, which shouldn't be a problem alone on broad Street there. But when you get into some of these neighborhoods, that's an issue, especially at night. We are 24/7 operation and like I said, convenience restaurant. It's our made the orders as we call it MTO's is what differentiates us from our competitors. So it's all made when you order how you want it. Twenty four hours a day, so if you want a bacon, egg and cheese biscuit at 3:00 in the afternoon, we'll do that for you if you want to, you know, a taco for breakfast or whatever it might be. Other than that, I mean, like I said, we're family owned, private company and we're here to say. Anybody have anything?

Mr. Rettke: No, I appreciate it, because I keep hearing about the food, but I've never been to one the South, but I never knows the food. Most of the time I'm just off to the exits enough to get gas and get back on.

Mr. Hensley: Of the four we've opened so far, everybody's noticed we have food plus a really good gas price.

Mr. Rettke: Any other discussion, comments, questions?

Mr. Furst: If there is no other, you know, discussion, Mr. Chair, I would like to make a motion based upon that conditional use factor set forth in Section 1109.15D and supplementary use conditions for gasoline stations set forth in Section 1105.13J. I, make a motion to approve this application number 2021-5305 for conditional use permit for the following use that is a retail convenience with gasoline.

Pastor Linder: I will second.

Mr. Rettke: That motion moved and seconded any further discussion? Hearing none, can we have the vote, please?

Ms. Wheeler: Mr. First. Yes. Pastor Linder. Yes. Mr. Rettke. Yes. The motion carries.

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

2. Application #2021-5285; 1922 Brice Road; Applicant Elena Saldana; Non-Residential Variance (Los Portales)

Mr. Rettke: We good to go, Emily. OK, well, I called this meeting back to order item D2 application 2021-5285. Can we please have a presentation?

Ms. Wheeler: Thank you, Mr. Chair, this application is for a non-residential zoning variance. This is at 1922 Brice Road and within the innovation zone, the applicant is requesting BZBA approval for a non-residential zoning variance to operate a dine-in restaurant, Los Portales, apologize if I'm pronouncing that incorrectly. This is within

approximately four thousand square foot tenant space. Food service, full service restaurant is not listed as a permitted or conditional use in the innovation zone. Hence the use variance would be required. I will put up on the screen. We actually have kind of a timeline of events related to this particular space. And then I would also note that the proposed restaurant use did receive a special exception use permit three times prior under our previous zoning code, prior to the most recent zoning code update. And with that, I believe the applicants here, if there are any additional questions.

Mr. Rettke: If you want to come on up, we probably need to swear you in, since you missed that portion. Do you solemnly swear or affirm that the testimony you're about to give is the truth, the whole truth and nothing but the truth?

Mr. Drown: Yes, sir.

Mr. Rettke: Thank you. If you could state your name and address for the record, both parties

Mr. Drown: I'm William Todd Drown, attorney at law from Coshocton, Ohio, and I represent the restaurant.

Ms. Saldana: Yes, my name is Maria Saldaña and I'm trying to open the restaurant, that 1922 Brice Rd.

Mr. Rettke: So I'll start, I guess. I spent a lot of time trying to figure out the timeline and why we're here.

Mr. Bowsher: That's a great question. I going to step in here. So we met with the applicant and their attorney, city attorney, to really to get to the bottom of this. This was a really great thing that Shelley Slota, our permit technician pulled together for us. Basically, what it comes down to is in the shortest, and I'm sure they can provide more context and details. But they currently operate a grocer to the Far East on the site. Because they have been to hire potentially a bad actor and an architect who gave them really bad plans that really were for the restaurant, Mamajuanas, which should have been open before. Ultimately, they've been paying a lease on this facility for much longer than we have established our new zoning code. With that being said, it's co-located next to the existing facility they already own and operate. They're looking at having a door that's in between shared access and they'd like to finally open. They certainly have had some troublesome times. I believe even the applicant's husband had certainly had a severe accident. He runs a roofing construction company and that delayed things even further. You can see based on the timeline that you can see on the screen, this has been trying to be open for quite some time and certainly was a restaurant previously. It has everything inside of it ready to go. There's minor changes that need to be made to have this open. So they're asking for this use variance because it's a very unique case. It's not a new applicant and it's just trying to come in. Of course, we don't allow this type of use

currently there. We worked and discussed this and felt that their best course of action, because they fit a lot of the needs and a lot of the hardships to get to this were to come to the BZBA and ask for this use variance. But after that, I'll allow you to elaborate a little bit further.

Mr. Drown: I wasn't the attorney when this started several years ago. I was just asked to come on board. They have a mutual friend who said, could you help them? They've been trying to open a restaurant for four years. I said, there's no way if someone's pursuing something zealously, how could it possibly take that long? And so eventually I came over to their current store, which is quite impressive, quite frankly. There's a large community of Latinos that congregate there. It's a very nice facility. And I said, OK, there has to be a reason. It can't be the City of Reynoldsburg. Reynoldsburg has lots of Hispanics that it's very, very diverse place. And within a few weeks I started asking, OK, now what is it that you did to this space? And they said, we did this, this and that. I said, well, wait a minute, with these plans over here. So you (inaudible) electrical changes. And so it wasn't too long till I ascertained that their Spanish is good for conversation and thing, but the technical stuff, when the architect they hired handed him the plans, they just assumed because he'd done the work for the previous restaurant that the plans were OK. So they submitted them. And it took me a while to convince them that those plans were not correct. And I'm an attorney. I don't I don't normally read architectural drawings for a living. I'm a solicitor for a village. I mainly do real estate and some criminal things. So this is even a little bit out of my element, to be quite honest with you. I met these people. I like them. Mr. Saldana has been the major breadwinner for a long time, he has a roofing company, and he took a tragic fall from a roof and fell into a hot pit of asphalt and it literally burned more than half of his body. And so that at least accounts for some of the delay. Some of it, I think they just didn't understand or thought the architect was going to do more to help move them along. And they certainly paid a lot of money to the architect. I wrote him a letter, told him what I thought about his architectural skills. He decided not to call me back and instead he redid the drawings that we needed that should have been done years ago. He got them done pretty, pretty fast and I think they're correct, as far as I know. We're really here at your mercy because they invested; there was some equipment that was left from the prior restaurant, but there's a lot of equipment that they've put in their kitchen wise. This is their dream. Quite frankly. When I learned that the zoning code had changed and it could no longer be a restaurant. Oh, my gosh, this couldn't be a worse collision of events because maybe we'll have to go after the architect. But, you know, nobody is going to have a million dollar policy for all the money and stuff that they have in this place. I'm happy to answer any questions that you have. This will be a very nice restaurant. This is not a normal. This is a Mexican seafood restaurant. That seafood will be the main thing that's served. You saw the pictures. I took the pictures, too, by the way, because I wasn't sure how else to get all this information to you. So I've become a photographer. I want you to see the size of the current facility and how they run it and how much stuff is there. And we just hope that you'll consider all of these factors. I think sometimes when English isn't your first language and their English is very good, but sometimes they pretend to,

not pretend. They feign understanding because they don't want to upset you. They don't want to they don't want to feel stupid. I think sometimes they don't quite understand everything. And the more technical things get, the less they understand. And they were absolutely flabbergasted after three years of having these plans into the City of Reynoldsburg that it was wrong, the address was wrong, that there was no electrical work that was done. There's no plumbing work that was done. There was no ceiling work that was done. And yet it was all of these plans. So it didn't take a; I'm not a lawyer that does this normally, but didn't take me too long to figure out what happened. I won't take up much more of your time. Lawyers can talk endlessly and say way too much, thank you very much.

Mr. Rettke: Thank you. I remember this one slightly, I think I do. So they came to us, they wanted a grocery store, basically, and the restaurant I know we talked about having the door between the two or the opening between the two because I think there's some discussion over that. We approved it. Right.

Unknown: Yes, sir.

Mr. Rettke: That was approved. Actually, I think it said 15.

Mr. Bowsher: Before Emily and I came on board.

Mr. Rettke: So why wouldn't that approval still be valid?

Mr. Bowsher: Because it's not been operating as one and so that's it. Then the problem with it is, you know, obviously it's already set to be there. Had the architect not have failed their client. I don't even think they would be here this evening.

Mr. Drown: And put the right address so that at least our applications would be under the proper address so we might be grandfathered that way. They just didn't know. It didn't take me very long. Again, this is not my area of expertise, but to figure out what the problem was.

Mr. Rettke: It's been a while for me, but I remember I was always confused which one was going to be the restaurant, which was going to be the grocery store.

Mr. Drown: Welcome to my world, too.

Mr. Rettke: Yeah, it was.

Mr. Leist: I remember there was a special wasn't there a special use application? That was made for that specific reason.

Mr. Bowsher: Yes.

Mr. Leist: And it expired,

Mr. Drown: But they didn't follow up and do the things that were necessary.

Mr. Bowsher: This has been some form of eating and drinking establishments since 2010.

Mr. Rettke: Yeah.

Mr. Furst: It was intended to be or it was?

Mr. Bowsher: It was.

Mr. Drown: It was already built out and everything.

Mr. Furst: Well but yeah. I mean I understand that Mr. Bowsher, you said it was not operating so that there was....

Mr. Bowsher: I think back in 2010 it was operating as the certificate of occupancy for Mamajuanas was issued. I believe it was operating then. It hasn't been since, when did you?

Mr. Drown: Fourteen I think.

Mr. Rettke: Yeah. My Mamajuana wasn't there very long if I remember right. But I think somebody made a run at that before they did because some of the work was already done. They just.....

Mr. Drown: There was a restaurant there before too. Yeah that's correct.

Mr. Bowsher: It's not on this sheet. I mean you could see what you're taking a look at on your screen is 2010 ones and then it looked like all about music restaurant after Mamajuanas. I don't know if that actually opened or not.

Mr. Rettke: I don't think that ever panned out.

Mr. Drown: The architect actually said that it had been a retail radio sales place which was all wrong. I mean, this always been a restaurant and he's the one that did the plans. It's just embarrassing all the way around. They've been paying rent since 2015. Yeah. And so that's patients. I mean, that's something I don't know if I could do that or would do that, but this is certainly their dream and that's why they've done it.

Mr. Rettke: So what triggered them to bring this up now? Did they come in for occupancy?

Mr. Bowsher: Yeah, they're ready to open. And of course, I think there was also

confusion. I think that's why their attorney got involved, because they weren't getting back what they were looking for because everything that was submitted was wrong.

Mr. Rettke: So you guys went out and noticed that it wasn't matching what you had on file and.

Mr. Bowsher: Yeah, wrong address and so that got corrected. Then we had a meeting to understand exactly what was going on. And we said this was the best course of action and it was something that I think the administration could get on board with understanding the they've had to deal with and understanding that it's currently as close to operational as you could possibly get.

Mr. Rettke: Yeah, it's just the patrons at this point, is what you're saying?

Mr. Drown: I'm going to walk them all the way to the end of the process, even if I'm not always sure because everybody in the city is very good to help.

Mr. Rettke: Anything else, Alex?

Mr. Furst: Mr. Chairman, thank you. So I have a number of questions here. There's a number of factors that you're aware of that we have to consider. In Section 1109.13D a couple of them here stuck out to me. It is very clear that there is a hardship, no doubt about that. That seems very clear in a number of the other factors are clearly met. But some of these here that I'm going to list are less clear to me that they're met or perhaps...

Mr. Drown: I wasn't sure if we had to meet every single one of them or just doing my best to try to.

Mr. Furst: Yeah. And you submitted quite a wealth of information, so if you could maybe bear with me and answer these a little more directly, I think that would help kind of distill the situation. So in the Factor, 1109.13D, subsection three says there exists special circumstances or conditions that do not generally apply to the property or other properties in the area. Could you kind of elaborate on that a little bit? What makes this unique, specifically?

Mr. Drown: Well, I would say the fact that it's already built out as a restaurant with the kitchen equipment and the fans that you have to have for a big kitchen and all the electrical stuff that you're required to have in the plumbing. And it's beautiful in the kitchen. If I had this kitchen in my house I would have it made so that that's part of it. I would say there's other restaurants in the immediate area. I don't know if I'm quite answering your question. The other thing I think is that the store next door, their store, is a place for Latinos to go. They always have the different soccer games on. There's lots of folks that come through there. And I think it could be a very nice sort of a continuation of what they're already doing because they sell produce from Latin America, fresh everything. So I guess I would just say it's because it's been

used that way in the past and it's already. Much of the kitchen stuff was already there when they agreed to rent it. But much of it they put in. I'm not sure if I do a very good job on that factor so.

Mr. Furst: Well, so I guess for lack of a better word, would you say it's clear that they're more or less inheriting a built out restaurant space. They're not starting from the ground up with just an empty unit.

Mr. Drown: Now, they certainly put a lot of their own equipment in big freezers and things. But yes, the infrastructure was already in place for a restaurant it was already designed for that and has been there for quite some time. I don't know if I addressed all of those things, but

Mr. Furst: No, I was just looking for a little more detail about it because it's not a permitted or conditional use. You know, if someone was to bring an application for a restaurant, that would probably just be flat out denied because it isn't permitted, but since, like you said, it was already built out, that seems like that's a unique circumstance here and there was the time factor involved. So I was just looking for a lot more detail on that.

Mr. Drown: And the fact that there's already a store next door that the theme and the cultural things sort of blend over into the store. The other thing is I actually read your plan. I've been involved in making some for some of my small villages. It seems to me having some upscale restaurants isn't such a bad thing. I know it's not your code that way, but the one thing that the Easton does so well, I think everyone's trying to do it in some fashion, is to be able to live and work and eat in a small space. So when I look down the road, I don't see a lot of high end restaurants in that part. And so and you've got some you've got some great plans for some residential improvements that go behind that. And this at least, is, I think, a kind of a destination to go that's upscale and so that I don't know if that fits in or not.

Mr. Furst: I think that makes some sense. I'm going to ask you this question. Feel free to answer. May have to have Mr. Leist chip in here. But to be clear, I'm quite sympathetic to the use case here, but this was the big sticking point for me. So on Section 1109.13D, subsection two says the variance will not permit the establishment of any use, which is not otherwise listed as permitted or conditional in the zone or district in which your property is situated. It seems to me that the variance here is asking for exactly that. And like I said, I am sympathetic to this this application. In a perfect world, I you know, I would vote for it now, but I can't get over this particular factor because it seems like it's what's being asked for.

Mr. Drown: I would say this, every time he put his zoning code in place here as a lawyer, you're always trying to prevent all the exceptions because eventually the exceptions eat away at the integrity of the whole. And the more of those you get a sort of uncontrolled code again and then everybody wants to go and do a new zoning code, etc. So you're trying to hold this down. I would say here the fact that

this has been approved several times before the fact that it was permitted or a special use in this area.

Mr. Bowsher: Several times over.

Mr. Drown: in the past makes this a unique application, because how many people can say that they were able to do it? It was approved multiple times, but there were intervening factors that kind of prevented it from opening. So it's not going to open holes in your zoning code where you're going to say, OK, now there's another restaurant that wants to come in here. Yeah, but did that restaurant start four years ago when they were able to do this? Did they have three prior approvals for their application? Was it already built out? So I think there's some things that prevent someone else from driving a truck through your code and that's what I think the purpose of that particular code section is.

Mr. Leist: Well, in my understanding, again, just to be clear, was that there was a special use that was permit the application that was made that expired. And from that time, the code has changed. As such, now we're looking at a variance. And so I know as Mr. Furst was asking, in terms of the uniqueness aspect of this application, that not only the fact that I think that he's indicated that this was already previously billed out as such, that that two is to some degree unique circumstance, that what might have otherwise been has since changed through no fault of the applicants. And that's for this board to determine does that necessarily constitute a hardship? Such that would allow this application to be approved.

Mr. Furst: Thank you, Mr. Leist. At least in my opinion, I feel like it does.

Pastor Linder: Just listening and not having all of the numbers, the way Mr. Furst does have become completely convinced that this would have never come to us had the things that happened to you by no choice of your own not transpire, and even understanding what you've been doing in the area and what you project to do seems like it's a very positive place to see the blend of not only a genuine hardship, but also someone who's demonstrated the ability to maximize an exception we might make. That's just the thought I have.

Mr. Rettke: One question I would have for staff, I know we run across this with daycares and stuff like that with a special exception use, that's a one-time run with that current owner. Correct? So is this variance going to be permanent where if they continue to make this investment and let's say her husband decides, you know what, I'm done, I'm burned out, tired, wants to sell it or we're going to be faced with the new owner coming up and saying, hey, can I operate a restaurant here, I'm facing the same scrutiny?

Ms. Wheeler: I can kind of take that so we have a nonconforming section of our code which would dictate how long a non-conforming use would be able to operate until a new user comes in with that same use and with the most recent revision of

our code, we change that to three months. So essentially, if they vacate this space, a new user would have three months to come in and continue using this space as a restaurant. Otherwise they would again need to seek a variance for that particular use.

Mr. Rettke: Yeah. And then if it's four months, they want to open up their door, then they have to go through the process and potentially could be denied, correct?

Mr. Bowsher: Correct.

Mr. Rettke: Can you help her appreciate that situation?

Mr. Drown: I will, that's a short time period that I know in the villages that I work, for example, they'll say if you have a trailer on a as a non performing use and if you take it off of the property for, say, six months and don't put one back, then you can't put it back. And six is what I typically see, three is pretty short. I certainly will convey that to them. I think to your point though, is what happens. And I think if the next restaurant, you know, comes in and there's continuity and there's no shut down or that sort of thing that they would get to continue, I think certainly. I think your code also allows you to put reasonable restrictions on this kind of an application, too. So I don't think that's something that you..

Mr. Rettke: That's usually my concern with the special use. You know, she's making a grand commitment here. If something were to happen where it would shut down, then that's a potential huge loss because made a significant investment.

Mr. Drown: For years, they've at this point, they really believe in their vision because they've certainly put their money where their mouth is. So I will convey that to them.

Mr. Rettke: No, we had a day care like that. Remember Main Street that. Yeah. Kind of went under and. I think she got in poor health, wanted to get out from underneath of it and in the historical district it says no daycare.

Mr. Drown: So I think any purchaser has to know, look, if you're buying this, you know, when we're handing it off to you, you have to get your ducks in a row. You have to get we have to get the liquor to get all that stuff transferred appropriately. So I'll start working on the next aspect of this once we get this park cleaned up. This was supposed to be a small little project for me to come up here from Coshocton and it's turned into something bigger. But I also believe in their vision. After I met them and I met the people in the store and their workers and what they're trying to do, I've become convinced that this is good for Reynoldsburg. And I've grown up in Licking County. This place has changed enormously.

Mr. Rettke: I didn't want to see them get in another situation where they're making a huge investment and there's a lot to lose.

Mr. Drown: because you saw the money that we figured that they had already. We were actually able to apply for some of the restaurant revitalization money, even though we didn't open. Some of our stuff, didn't qualify, but some did so.

Mr. Furst: Well, we do certainly hope that businesses are successful in Reynoldsburg, of course.

Mr. Drown: Especially in that corridor.

Mr. Furst: Yeah, especially. So I do have one question for Ms. Wheeler. Just for the purposes of Mr. Rettke scenario, you know, if there would be a non-conforming use with a different applicant there, you know, when does that timeline start and stop? You know, is it with like a certificate of occupancy or how is that determined? Or maybe that's for Mr. Leist.

Mr. Leist: To be to be frank and honest, I am not sure of that answer.

Mr. Furst: Fair enough.

Mr. Leist: Yeah, that would be something I'd have to get back to you on Mr. Furst.

Mr. Drown: I might be able to help. It would depend on how the new entity is taking over. Are they buying the stock and just continuing to operate or are they starting their own business, have to get their own liquor license permits in order. And then there's an agreement from the old owner with the new owner to share the liability on the liquor license for a while. I haven't seen too many where they come in and take the stock and just take over. They usually have their own company because they don't want the liabilities. I would say somewhere in that period. I'm not trying to answer for you. Being a lawyer for 25 years.

Mr. Leist: No, I mean, as the representative for the city at this point, I'm not sure that I necessarily have the answer. Although I appreciate the answer.

Mr. Furst: So then, Mr. Rettke, do I understand maybe that there's some concern about continuing a nonconforming use?

Mr. Rettke: There's none under my concern. It's more to lay it out so she knows that I can't just put it on a market and the next guy dilly-dally, or shut it down for a little while and I want to convey it three months, six months, we could always say no, this board could change the dynamic significantly. I mean, it could be close. I don't know how you guys are going to vote, but you could be one vote away and your whole nest egg is gone.

Mr. Drown: And of course, hopefully if I'm able to help them get this up and going, hopefully they'll hang on to me so maybe I'll be that person that reminds them of this.

Mr. Rettke: Yeah. That is just something that bothers me with the special exception or the one time use. Like some of the daycares we had, you know, one of the daycare centers explicitly built a daycare. But yet every time it changes ownership, it has come before us. And it's like, OK, at some point in time, one of these boards could say no and you just lost everything.

Mr. Drown: Zoning is one of your most powerful things that you have and it's very difficult for applicants to challenge in some way.

Mr. Rettke: Another concern, I don't know. Judging by that area, I don't know what the owner's intention is, but could that be redeveloped and that investment would be somewhat in jeopardy there, too. So as an attorney,

Mr. Drown: Are you saying the owner of the building?

Mr. Rettke: Yeah, the owner of a building could decide to do something else level it and move on.

Mr. Drown: I would say he's very happy with these folks because they've continued to pay it.

Mr. Rettke: But I know that facility struggled to retain tenants.

Mr. Drown: And it still is empty up through there. But I will tell you, that corridor has improved from 10 years ago or 15 from when I last was up through there. So I think it's going in the right direction. Hopefully, this will be a nice place that people can walk to and eat. And again, so I've actually eaten some of the food. Some of you may have had some. I wasn't sure how that would be viewed if we brought you in some. We really just want to show off what we could do. And I said, I don't think I'll say anything, but that's just a sample of what they plan to do.

Mr. Rettke: The other question I got, can you just explain the innovation zone again?

Mr. Bowsher: Yes.

Mr. Rettke: Give us a little brief on why it's not included as a special exception or a permitted use.

Mr. Bowsher: So during the comprehensive plan and the zoning code, the thought process of Brice Road was that most of the big box stores, chains, things of that nature, had moved to 256 where they currently reside and they're performing very well. But 256 was never going to come back to Brice Road. So the thought behind it was, is that you need to reinvent and revitalize the Brice Road corridor and it wasn't just going to be retail establishments and commercial that it needed to be a function

of where its location was, which was, you know, right off of 70, very close to 270 and created as a hub because of the employee base, happens to be the most densely populated area, especially to the east of there in the city. So the thought process was with the COTA park and ride as being the busiest park and ride outside of main Columbus, that if you created Job centers, light manufacturing, logistics spaces, industrial flex use type spaces, that then you would create an economic engine and impact for the community where people would have job areas where they could walk from the current housing stock and also get there from the COTA park and ride. So that was the thought process. It has lots of vacant big box facilities where those could be converted into a different type of use, less commercial, more industrial. And really reinvasion as what you would drive on Goodale Avenue, where you see distilleries popping up and furniture manufacturing, artisanal manufacturing, things of that nature and really being a job center as being so close. So we had have several conversations with the city of Columbus. And obviously our side is only going to be as great as their side is. And we hope that they put as much effort, time and attention as we have tried to over the years. We understand that there is still going to be a mixture of commercial that's going to stay there. There's going to be grandfathered in that that has done really well, but what we'd like to see over time is the combination of said parcels that we've discussed and to really see a different set of those types of uses in that area. It's a long term vision, a long term plan and the only way that we get that is to continue moving down that path. And I don't think we're ready to give up on that just quite yet. But we need to figure out a way on how we're going to revitalize that corridor. And we felt that was the best and most appropriate method moving forward.

Mr. Drown: I was kind of shocked that restaurant wasn't permitted in there. Especially something upscale because if you have all the residential behind it and you want people to be able to walk, you have to be able to walk to something. This certainly is some place that people would walk to. I'm not sure if they would. Maybe I disagree with the vision just a little bit, but I do so respectfully. I'm not sure they're going to walk to what's listed there. I guess, I don't know. This isn't my area of expertise either, so.

Mr. Bowsher: It's OK. Candidly, I agree with the hardships. So it's OK.

Mr. Drown: I don't want to offend anybody, I was shocked that there wasn't a restaurant. When someone told me that the zoning code had changed and a restaurant couldn't be there, I thought awww this couldn't get any worse. Oh, my gosh, you have to be kidding me that someone is not telling me the truth, this could not have happened.

Mr. Furst: Well, it does seem to me that the vision for the innovation zone, notwithstanding, that even if there is large, massive sea change of development there, that the people who live and work there might like a nice restaurant to go to. So, even though it's not explicitly called out as included in and kind of our vision of the innovation zone, it does still seem to fit with that general intent in my mind.

Mr. Rettke: So does that zone affect Popeye's and Subway and all that out front, too?

Mr. Bowsher: It does. And those are nonconforming uses, legal nonconforming.

Mr. Rettke: So if Popeye's were to shut down for three months, then somebody else would have to come to us again for that?

Mr. Bowsher: Correct

Mr. Rettke: I don't know if you jogged around it or; I couldn't remember

Mr. Bowsher: No, all of that there on the east side, up to Century City. Now there is other commercial uses, I know I talk about industrial, but Home Depot is a permitted use. The dental practice that just opened up and they took over the PNC Bank, permitted use.

Mr. Furst: The trucking company there.

Mr. Bowsher: The trucking company, all permitted uses. So all of those fit within the confines. So I think what we were looking for was a little bit more macing and really job placement areas. It even included commercial office space.

Pastor Linder: Mr. Chairman, I have a couple of questions that are very basic, should take long, and has to do with the operation. First of all, are you going to add employees separate from the market and about how many do you expect?

Mr. Drown: I thought I put it in one of the many pictures.

Pastor Linder: I see 10. I see the grocery employees.

Mr. Drown: We anticipate servers. I don't know what the estimate was. But my own estimation is you've got to have four or five folks that work that clean dishes. You've got to have you got a whole cook staff and we have a chef that has committed to us. So cooking staff. You have a wait staff. We have the folks that take you to your tables. I'm thinking conservatively, at least 20 decent paying jobs, to be honest with you.

Pastor Linder: Additionally?

Mr. Drown: Yes. And they've owned a restaurant before and they had a partner in with them. Like all businesses that they run their course. I mean, when you have a third partner, sometimes things don't go as smoothly as you'd like. So they have experience running it. So I'm going to say conservatively, at least 20.

Pastor Linder: Then just the second question, hours of operation is exactly the same as the market will then be different.

Mr. Drown: I don't know.

Ms. Saldana: It's going to be later.

Mr. Drown: Later, a little bit later, probably. What times the market opened?

Ms. Saldana: Nine to 10.

Mr. Drown: I don't imagine breakfast.

Mr. Rettke: Can you restate that? I can't hear it.

Ms. Saldana: Maybe from 11 to 12 or it depends on the liquor license as well.

Mr. Furst: Sure.

Mr. Drown: But it wouldn't be so the market is open many hours and I've been there on Saturdays and gotten there at noon and they're still there at 10:30 at night working in the market. I would expect normal dinner hours. I don't expect they'll have a breakfast service, but probably sometime in the afternoon they'll open and stay open till 10:00 or 11:00 at night or however late they're allowed to use the liquor license, I suppose.

Mr. Rettke: And the liquor license is obtained, right?

Mr. Drown: Yes, it's already been obtained. I just have to figure out

Mr. Rettke: I think we had that discussion with.

Mr. Drown: The address thing is so the liquor licenses say 1922-1924. Well, that's not really going to work because you can't store the stuff for 1924 and 1922. So I'm trying to explain all of that to everybody to and that's my next task.

Mr. Rettke: I think we had a discussion about somebody going over because at first I thought they maybe said they weren't going to get it, but we were concerned somebody could go buy it, bring it back over and sit down and we thought that be problematic.

Mr. Drown: There's so that my next job is to work. I've been working with the liquor folks. They didn't want to do anything at this point, changing the addresses until we got this process through because they have seen how long it's taken and they frankly want to know if we were just sitting on a license and not doing anything with it. I said, oh, no, I could give you the whole story or I give you the short version. And

they said, just come back in a few months and tell us. So, we have to straighten that out now, but they will not allow that's not going to be one permit for both. They're going to actually, when they get the permit that they need for the restaurant side, which they have, it will convert and it will drop out a couple of others that they won't need. They explained it to me, but they'll only be able to do certain things on one side and they'll not be able to mix or bring that alcohol back and forth.

Mr. Rettke: So, yeah, that's what we talk about with open door philosophy or door philosophy back when we approved it the first time. I think the hours were an issue, a concern, but I don't think originally they were talking maybe past midnight, but I can't recall that correctly. I know we did discuss that.

Mr. Drown: I don't see that happening during the week at all. I mean, I just don't. I know they've had some friends that do mariachis and some other things. So they plan to do some of that and they've done some of that on the on the grocery side already, which is, you know, so.

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

Mr. Furst: I have no other questions or concerns, but I do have a motion. So having considered and weighed the factors set forth in Section 1109.03D, I hereby move that we approve this application number 2021-5285 for a use variance in the innovation district. The address of the application is 1922 Brice Road and the variance is for the following use; food service, full service restaurant.

Pastor Linder: I second.

Mr. Rettke: So it's been moved and seconded, any further discussion comments? Hearing none, can we please have a vote?

Ms. Wheeler: Mr. Furst. Yes. Pastor Linder. Yes. Mr. Rettke. Yes. Motion carries.

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

3. Appeal; 6301 East Main Street (AAMCO Body Shop); Code Violation Appeal

Item was removed the applicant came to a resolution with the attorney's office.

E. OTHER BUSINESS

None

F. ADJOURNMENT

Chairman

Planning and Zoning Administrator