



MINUTES

BOARD OF ZONING AND BUILDING APPEALS THURSDAY, JUNE 15, 2017 6:30 PM

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

A. CALL TO ORDER

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

2. APPROVAL OF MINUTES

1. Board of Zoning and Building Appeals – Regular Meeting – May 18, 2017

Minutes stand approved.

3. APPROVAL OF AGENDA

Agenda stands approved.

4. SWEARING IN OF SPEAKERS

Speakers for the evening sworn in by Mr. Donovan.

B. PUBLIC COMMENT

None.

C. NEW BUSINESS

1. 1803 : #178097 1421 Rosehill Rd Variance - Motion to Table until next regular meeting.

1421 Rosehill Road - Farley Residence - Variance

Application: #178097 - Variance

Location: Property is located on the west side of Rosehill Road between E. Main Street and Bartlett Road.

Existing Zoning: R-3 Single Family Residence District

Request: The applicant is requesting the Board review and approve a variance from Section 1179.02 and Table 1179 of the Zoning Code, to reduce the number of required enclosed parking spaces from two (2) spaces to zero (0) spaces.

Current Use: Single-family Dwelling

Applicant: Kimberly Farley

The applicant is requesting the Board review and approve a variance from Section 1179.02 and Table 1179 of the Zoning Code, to reduce the number of required enclosed parking spaces from two (2) spaces to zero (0) spaces. This would allow the conversion of an existing enclosed garage to living space.

The site is an existing single family dwelling in the R-3 Single Family Residence District. All neighboring properties are single family dwellings on platted lots in the same zoning district.

The applicant has indicated to Staff verbally that they do not wish to proceed with the application. Staff requested that information in writing from the applicant but it has not been provided. Staff recommends tabling the application until the applicant formally withdraws. The Board should apply the standards for review of variances contained in Section 1147.05 of the Zoning Code and determine if the requested variance complies with those standards. Staff recommends the applicant be tabled to the next regular meeting of the Board.

RESULT:	TABLED [UNANIMOUS]
MOVER:	Richard Donovan, Vice Chairman
SECONDER:	Robert Linder, Board Member
AYES:	Linder, Donovan, Darling
ABSENT:	Rettke, Armstead

2. 1721 Brice Rd; Application #178161; Applicant Believers; Special Exception Use Permit-Semi-Public Use -Church

1721 Brice Road - Believer's Church - Special Exception Use Permit

Application: #178161 - Special Exception Use Permit

Location: Property is located on the west side of Brice Road, between Astor Avenue and Radekin Road.

Existing Zoning: CC Community Commerce District / CCO Community Commercial Overlay District

Request: Request for the Board to review and approve a special exception use permit for a new semi-public use in the CC Community Commerce District of the City.

Current Use: Vacant Space

Proposed Use: Semi-public Use

Applicant: Euel Kasaye

The applicant is requesting the Board to review and approve a special exception use permit for a new semi-public use within an existing multi-tenant commercial building in the CC Community Commerce District and CCO Community Commercial Overlay District of the City. The proposed semi-public use is the worship space for a church.

The site is located on the west side of Brice Rd just north of Livingston Avenue.

Adjacent uses include commercial businesses in the CC Community Commerce District. Other uses in the same shopping center include a pharmacy and carry-out (retail sales), hair stylist, nail salon and dog groomer (personal services), as well as some medical and business offices. To the north, the property is adjacent to a childcare facility across Astor Avenue. To the rear, the property abuts single and two family dwellings in the City of Columbus.

The parking requirement for a place of worship is 1 space for every 4 seats in the main worship space, which would mean the applicant would need to provide 25 parking spaces.

The applicant needs to indicate how many worshipers they plan to accommodate. This is typically dictated by the Building Code.

The applicant's application does not indicate any additional outside activities that might conflict with the loading areas or waste disposal functions that take place at the rear of the shopping center. The applicant should clarify that this information is accurate.

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.

Euel Kasaye (Applicant) - 7934 Oak Valley Rd, Reynoldsburg, Ohio.

Mr. Donovan - Will you have worship only on Sunday or do you have other nights that you plan on using this building?

Euel Kasaye - We're planning on having Wednesday evening services after 5:00 and on Sunday. Maximum would be 100 people. We currently have 56 people.

Mr. Snowden - Mr. Donovan, the space, for both of the special exception use permit applications tonight, what dictates what load that can bare is the building code. I've spoken with John, our chief building official. In this case, I don't see a reason that they will go over 100.

April Darling - Are you saying they can or they can't go over that amount?

Mr. Snowden - I don't have a clear idea because it's based on the building code. It's based on how the space is internally configured. Which I don't have knowledge of from their application. I only have knowledge of the site. Per the code they would have to have 300 people to max out the parking.

April Darling - Will that space accommodate 300 people?

Mr. Snowden - No.

Mr. Havener - In your description of services under # 2, it states, we would like to notify you that we would be adding events and service as deemed necessary by board members in the future. I'm questioning what type of events and services are you talking about there? I want a clarification due to the fact that we don't want any type of banquet facilities going on there.

Euel Kasaye - We are planning maybe a few additional Bible studies for a couple of hours. Maybe a Tuesday night from 7 - 9 or 6 - 8.

April Darling - So that would not be in the normal hours that were listed?

Euel Kasaye - Yes, it would be additional. If we do, we would notify and apply for those hours and see if we can do that, but currently we are going for Wednesdays and Sundays.

Mr. Snowden - The key here is to determine the line between what's an accessor use to the church and what constitutes a new use. As Dan was pointing out, a banquet facility, that's not necessarily something we would interpret as an accessor use. Small office, small meeting room of small groups at the church for religious purposes that we would interpret as an accessor use. The applicants welcome to call me to clarify that. They will not have to come get a new special exception unless they're changing the use to include something like that.

April Darling - You also have Wednesday and Saturday down. Is that correct?

Euel Kasaye - Saturday is going to be a prayer service.

April Darling - Sunday, Wednesday, Friday, and Saturday. He only mentioned Sunday and Wednesday.

Euel Kasaye - We are not doing that right away. As we get members and we grow. It's not really a big church. When we get people, I just left those days in case we grow we can accommodate people.

Mr. Snowden - As we discussed before, these are always difficult because the exact timing of these services can change based on the needs, but in this case I think we just need to take the high level view. Is this going to overwhelm the site and make it so the other cannot function and that the activity will be spilling over into neighboring lots, neighboring public streets. I think given the size of the space and my knowledge of the building, that would be difficult to have that many people there overwhelming the site to the point where it's a nuisance situation.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Richard Donovan, Vice Chairman
SECONDER:	April Darling, Board Member
AYES:	Linder, Donovan, Darling
ABSENT:	Rettke, Armstead

3. 1805 : #177987 1381 Brice Rd SEUP - Application Approved on condition that it only include the worship space portion of the application and not include the feeding and possible child care portion of the application.

1381 Brice Road - The House of Prayer Ministries - Special Exception Use Permit

Application: #177987 - Special Exception Use Permit

Location: Property is located on the west side of Brice Road, south of E. Main Street.

Existing Zoning: CC Community Commerce District / CCO Community Commercial Overlay District

Request: Request for the Board to review and approve a special exception use permit for a new semi-public use in the CC Community Commerce District of the City.

Current Use: Vacant Space

Proposed Use: Semi-public Use

Applicant: Arned Robinson

The applicant is requesting the Board to review and approve a special exception use permit for a new semi-public use within an existing multi-tenant commercial building in the CC Community Commerce District and CCO Community Commercial Overlay District of the City. The proposed semi-public use is the worship space for a church.

The site is located on the west side of Brice Rd just south of E. Main Street.

Adjacent uses include commercial businesses in the CC Community Commerce District. The other use in the same building is a hair and nail salon (personal services.) To the north, the property is adjacent to a childcare center. To the south, the property abuts a car sales lot.

The parking requirement for a place of worship is 1 space for every 4 seats in the main worship space, which would mean the applicant would need to provide 25 parking spaces. The applicant needs to indicate how many worshipers they plan to accommodate. This is typically dictated by the Building Code.

The applicant's application does not indicate any additional outside activities that might conflict with the loading areas or waste disposal functions that take place at the rear of the shopping center. The applicant should clarify that this information is accurate.

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.

Arned Robinson (Applicant) - 10 East Schrock Rd, #101, Westerville, Ohio 43081.

Mr. Donovan - Will you have the same hours as the other church has?

Arned Robinson - Wednesday, Bible study, Sunday, 10 am, no Sunday evening, and also a prayer meeting Tuesday, Thursday, somewhere in the week in the evening. Everything is always after 6:00. The salon closes at 6:00. We go in at about 7:00. The salon is not open on Sunday.

Mr. Linder - I'm not seeing the notes about Days Inn.

Mr. Havener - If you like at the House of Prayer Ministries.

Mr. Linder - But that's just a summer program?

Arned Robinson - Yes. It will stop in August. It's a summer to feed the children, so no child goes left hungry through the summer. That's totally separate from the main worship. Parents drop their children off, so there's no cars. Only 2 or 3 workers. That's at the Days Inn location.

Mr. Snowden - Will the youth program migrate over to this location or will it be staying at the Days Inn?

Arned Robinson - If we do it next year, summertime, it would be at our new location from 8 am - 12 noon. Just children, no adults, no cars.

April Darling - How many can you accommodate for the summer feeding program?

Arned Robinson - We're not sure what the building accommodations are, but we can go up to 75 children if the building code allows.

April Darling - My only concern is, is that right down the road we do summer feeding for the City of Reynoldsburg for the kids as well.

Arned Robinson - We can always work together.

Mr. Donovan - If you're going to move that over to your facility, how will the children get to the feeding because I don't think parents can be there all day long?

Arned Robinson - That's up to the parents. We just provide the feeding. The parent's have to drop them off and make arrangements to pick them up.

April Darling - Are you feeding from 8 am - 12 noon?

Arned Robinson - Yes, breakfast and lunch.

Mr. Donovan - What kind of functions will you have for them while they're in between meals?

Arned Robinson - Storytime, games, and maybe outside activities. If we were able to go on that long lot, it's like a small park, a grassy area there. We will have to talk to the property owner, Joe.

Mr. Donovan - I'm concerned with the children's safety.

Arned Robinson - This year is our first year trying it. If it doesn't work for us this year, then we probably won't do it next year.

Mr. Snowden - This is a situation where the main use is the semi-public use for the church and I think that the board will have to make a determination that the summer program is rising to the level as a child care use. This does not fit into specifically any use category that we have in the zoning code. So the board will have to make a determination about it and indicate if they think it's appropriate.

Mr. Havener - What does the high school with activities between feeding?

April Darling - The high school feeds from 10 am - 1 pm everyday. I do summer school at Slate Ridge where the kids actually come and sit in classes and we feed them breakfast and lunch everyday. We have different locations around Reynoldsburg at different schools that have summer school. Livingston Campus is open for any child who is 18 or under to come eat lunch. They have to eat on site. At the high school they can go outside and play on the field. My concern would be if they move up to that area for next year, how will you be able to keep the children safe in that specific spot? I'm not worried about the worshipping hours and parking, my concern is moving the feeding program up there.

Arned Robinson - Our church was asked if we would be a part of this and so this is just a pilot.

April Darling - I'm concerned about the summer feeding program and the kids safety out there. I know it's a pilot program don't get me wrong and I don't know if you're going to do it next year and like I said I'm all for approving the special exception but just with the exception of can we come back to that if that's the case if she moves it out there?

Mr. Snowden - There's more than one way here. You can approve it conditional on the summer feeding program not being at the location because it seems like everyone is comfortable with the worship space use and we can ask Mrs. Robinson. There may be some interest on city council to discuss that particular item. The board could approve it and give a written recommendation, in which I would write, but then I would send around to the members and we could forward to city council saying we recommend approval but we think council should look at this particular portion because it's a similar use and we just don't have any guidance in the code to help us make this interpretation. The board could approve this as a special exception, approve the worship space only and then in the event that Mrs. Robinson church did move forward it would be on them to contact me early next year and we would do another special exception.

Mr. Snowden - Here's what we will do. We'll have Mr. Donovan withdraw his motion and have Mr. Donovan make a new motion stating to approve the application on condition that the feeding program not be considered part of this use and this application. I would treat that as a new application. I would meet Mrs. Robinson and put it on my calendar that we will meet. Addressing Mrs. Robinson, Is that acceptable to you?

Arned Robinson - Yes, that's acceptable.

Mr. Donovan - I withdraw my previous call for having this passed and that the application be approved on condition that it only include the worship space portion of the application and not include the feeding and possible child care portion of the application.

Mr. Linder - What I've noticed to be the attitude of this board and the staff there's no overriding or underlying thought of this group that wants to ever restrict in any way accessory uses, but we do look at safety concerns, we do look at issues with another business meeting there and I do think that there was some valid reasons for pausing here, but it's not because there's anything about the way we do things here that has any lack of comfort with churches in the way that they conduct their business and minister to the community. As this unfolded that was a point that I felt like I wanted to affirm. You said it very well, this has to do with some specific things having to do with this site.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Richard Donovan, Vice Chairman
SECONDER:	April Darling, Board Member
AYES:	Linder, Donovan, Darling
ABSENT:	Rettke, Armstead

4. 1806 : #178154 6899 E Main St Administrative Appeal - Move to sustain the appeal of Mr. Romine, Item # 178154, and overrule the decision of the Planning & Zoning Administrator regarding section 1181.05E of the zoning code. Similar action shall constitute a violation of that section in the future.

Mr. Snowden - Applicant Shea Romine is making an administrative appeal from a decision of the staff. I received a complaint Friday, April 14, 2017 regarding a possible violation of section 1181.05E of the zoning code at 6899 E Main St, which is adjacent to Mr. Romine's business at 6895 E Main St. Upon investigation under the power that's conferred upon me by 1155.02 of the code I made the determination that no violation was existing for the reasons set forth in the memo dated May 2, 2017. I also notified Mr. Romine that he had the power to appeal that's under section 1155.06 of the zoning code to appeal that decision to the board, which Mr. Romine did and I received that appeal May 12, 2017 and got it scheduled. The powers of staff under 1155 and 1155.06 do indicate that staff is empowered to make interpretations of the code. That's inherent for two reasons, one is there's interpretation inherent in the enforcement of the code. Secondly, 1155.06 states that an appeal from staffs interpretation goes to the board. That's indicating that staff has the power to appeal. Mr. Romine's listed his thoughts of why he thinks my interpretation is incorrect. The board should use it's power under chapter 1139 to make a determination whether staff's position was correct. In this case the violation is no longer taking place. The trailer is gone. What

would happen in this case, if the board agreed with staff's position, nothing would happen. If the board disagrees with staff's position and said that I was incorrect and I should have written a violation, what would happen at that point would mean that in the event that this occurred again either at this location or anywhere else in the city I would be bound by that decision and I would have to write a violation at that point and enforce under chapter 1155. In the event that the board concurs with my decision, our city attorney has stated that Mr. Romine cannot appeal to city council under this. The board's decision from the standpoint of the city is final. Mr. Romine would be able to appeal to court under section 2509 of the Ohio revised code. My only comment that I didn't specifically state in the memo is that ultimately what we've got here is a private dispute and the city code is not really that great in dealing with two entities that don't like each other.

Shea Romine - 6895 E Main Street, Reynoldsburg. There was a trailer parked right outside of our business on another business property that was in my opinion a sign for another CPA firm. It was an ex-partner, that's what he said, a civil dispute. When I brought it to the attention I was first dismissed then given some different reasons of that my opinion did not match the code and that's when I asked for the memorandum to get the city's opinion. When I received the memorandum, to me, it did not match the code again. I don't know if we need to get into it if everyone's read my difference, but that the interpretation did not match the code and if the interpretation needs changed the city council should be the one changing it not an interpretation. That's the basis of my appeal.

Mr. Donovan - What do you expect to get out of this?

Shea Romine - Two things. One is to prevent it from happening again.

Mr. Donovan - What kind of a trailer was it?

Shea Romine - I presented a picture. I don't know.

Mr. Snowden - Did you received the photographs in your packet?

Mr. Donovan - I have nothing.

Shea Romine - That's his advertisement for his Whitehall business, out front of my business. So, you asked what do I want to get out of it, is so he can't do it again next tax season. My intent is nothing to happen now, but as you can see the appeal takes time, so I'd rather have it known, so as he said if you agree on my side and it happens, we don't have to go through this again.

April Darling - How close was it to your business when he put the trailer up?

Shea Romine - We actually share easement with Gene Johnsons, so it's literally on the easement. He would move it to the front onto Main Street during the weekends when code enforcement wasn't there and then move it back to the easement during the weekdays.

April Darling - So, it was out of spite?

Shea Romine - Absolutely. At first they asked him politely to move it. They declined. So, that's when I said I believe it's a code violation and made the appeal, but they denied it.

April Darling - If I read this correctly, they're not allowed to park a trailer with a sign that's advertising a business?

Mr. Snowden - In no way do I disagree that this is a problem. In no way do I disagree with Mr. Romine's statement that this was out of spite from some of the individuals. I don't disagree with any of that. The challenge here is enforcing this section in a legally defensible way. I cannot, and I pointed out that since this section was written, our sign code is ultimately based off a model sign code from a million years ago. In fact, I'm waiting for a new version of the sign code to come out of the same model sign code so I can review it because it's updated to deal with supreme court decisions and case law that comes out between each version. In this case, the way that the section is written really, in my view, makes it almost impossible for me to enforce. A couple reasons why, One is the fact that it's a business that's not located within the city, that's not located on that lot. The supreme court in *Read vs. Town of Gilbert* says that I cannot consider the content. *Read vs. Town of Gilbert* says if I look at the content of the signage to determine what regulations apply, I have made a first amendment violation. That's the first part. The second challenge deals with how we've enforced this section in the past. The section requires me to make a determination whether, what the code calls a legitimate business purpose. If I can't consider the content, how do I make a decision about whether it has a legitimate business purpose. How we have been able to get away with enforcing this section in the past has been if the signage is making the vehicle inoperable.

Shea Romine - My rebuttal is that if that was the intent it would be written for the BZBA with this precedent, why couldn't I park a semi-trailer on Main Street with whatever I want on it because I'm not appealing the verbage, I understand that's out of spite, that's not the appeal, but with that ruling we wouldn't need a sign on Main Street. Everyone could park a semi-trailer, which I went through BZBA when we put out sign up and it's this size, this color, this shape, and all that and I'm fine with that. But this allows me to get around it. I can just park a semi-trailer, put my business name, address and we won't have a sign on Main Street we'll have a bunch of semi-trailers. That's why I think the code addresses it by saying only if its used in day to day not legitimate business. The code says day to day.

April Darling - It also says in 1181.05 that prohibited signs, a sign attached to painted or replaced on motor vehicle or trailer. That's on a trailer. It shouldn't be there.

Mr. Snowden - I agree with that. My other response is that if that section would also apply to a bumper sticker, so if you have a bumper sticker on the vehicle I could write that as a violation of the section. It does not specify how small such signage would be. I have to go into interpretation mode. I have to try to do what's reasonable. Mr. Romine is saying that he disagrees that this is reasonable.

April Darling - So, you're asking us to prevent this from happening next tax season.

Shea Romine - Correct.

Mr. Snowden - What he's specifically asking you to do, per the code, and per your power under chapter 1139, is to say "Eric's interpretation and his non enforcement of this was incorrect." The board is empowered to make that decision.

Mr. Donovan - If it's illegal to have a sign like that on the side of a trailer and you purposely park it there for intent of causing problems then I've got to believe that we need to put a stop to that.

April Darling - Absolutely, because he has a business in Whitehall. What will we need to approve for this to stop?

Mr. Snowden - It's not going on anymore. Regardless, nothing is going to change this evening. What you would do is to make a motion to confirm the appeal of Mr. Romine and order the staff to write this as a violation in the future.

Pastor Linder - Will this impact the food trucks that park in their residential parking spaces at night?

Mr. Snowden - It could. That's not how I'm going to enforce it. Trying to regulate vehicles with zoning is very hard. I'm not saying I'm not willing to do it, I'm just saying it presents challenges. It's easy to regulate the vehicles when the use deals with vehicles, auto sales, auto repairs. What this is saying, if you put the signage on a vehicle, that constitutes a sign which then makes it subject to the ordinance. I'm not going to interpret it that way, so I don't think there's any danger of the board making that decision.

April Darling - Under the power given to the board by section 1139.03 I move to sustain the appeal of Mr. Shea Romine, item number 178154 and overrule the decision of the Planning and Zoning Administrator regarding section 1181.05E of the zoning code. Similar action shall constitute a violation of that section in the future.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	April Darling, Board Member
SECONDER:	Richard Donovan, Vice Chairman
AYES:	Linder, Donovan, Darling
ABSENT:	Rettke, Armstead

D. OTHER BUSINESS

E. ADJOURNMENT

Chairman



Planning and Zoning Administrator