

MINUTES
REYNOLDSBURG BOARD OF ZONING
AND BUILDING APPEALS
MAY 16, 2013
6:30 P.M.

A. CALL TO ORDER

1. ROLL CALL

Members Present:

Mr. David Stoffel
Ms. Michele Ray
Mr. Anthony Feeney
Ms. Bonnie Armintrout
Mr. Patrick Feeney
Mr. Aaron Domini

Members Absent:

Others Present:

2. APPROVAL OF MINUTES OF APRIL 18, 2013

Chairman Rettke: Are there any changes or additions to the minutes of April 18, 2013? (No response.) Hearing none, we'll approve those as submitted.

3. APPROVAL OF AGENDA

Mr. Rettke: Do we have any changes or corrections to the agenda as presented?

Mr. Domini: No.

4. SWEARING IN OF SPEAKERS

Mr. Rettke: If we can have anybody speaking before us tonight please stand and take the oath. (Mr. Rettke administers oath.) Just make sure you've signed in and before you speak give us your name and address.

5. PUBLIC COMMENT – None

A. UNFINISHED BUSINESS – None

B. NEW BUSINESS

Mr. Rettke: Moving on to New Business. Could you please read Item B1?

Mr. Domini: I will, Mr. Chairman, but I want to point out that there's technical difficulties. The projector is not projecting on the screen, so those in attendance can't see the Power Point, but the Board will have the Power Point

before them. So, if need be, we can maybe turn around one of those monitors. I'm not sure why we have that problem tonight.

1. VARIANCE APPLICATION, 7050 WHITE BUTTERFLY LANE, REYNOLDSBURG, OHIO; PRESENT ZONING R-3; REQUESTING A VARIANCE FROM SECTION 1175.06(a) OF THE REYNOLDSBURG ZONING CODE TO REDUCE THE REQUIRED 30'0" FRONT SETBACK TO A REQUESTED 26'0" FRONT SETBACK. CONTACT: GARY STRATFORD. (#159363)

Mr. Domini: For the Board, as a general overview, I think the item as listed in the agenda pretty much explains what the request is for. The existing site is R-3 and all adjacent properties to the east, west and south are also zoned R-3. The property to the rear is zoned AR-3, multi-family residential. There is the parcel as indicated on the map by the red star for those of you who need some orientation, and then an aerial view of the house. There's the front elevation. The applicant is requesting to install a handicap accessible ramp. I think we're familiar with seeing these types of requests at the Board level. Because of the slope of the ramp, I believe that the ramp needs to come out some to get the desired slope to the current sidewalk location. There is the site drawing as produced by the applicant. I'm going to go back to this real quick so you can follow my cursor. The proposal is to bring the ramp this way out and then back. So it's going to be at grade right up here on the porch, extend this way to come out and then swing back. The applicant did provide some character images that they submitted with their application for similar ramps within Reynoldsburg. Staff's interpretation is that the variance does present some hardship because of the need of the resident but, as always, we would ask the Board to consider the overall visual impact the ramp's going to have on the house and the surrounding properties. That's all I have, Mr. Chairman.

Mr. Rettke: Can we have the applicant come forward and answer any questions we might have?

Male: I have a question, too.

Mr. Rettke: On this issue or another issue?

Male: On this issue.

Mr. Domini: I think we'll let the applicant present and then take questions from the audience.

Mr. Rettke: What's your name and address?

Mr. Thomas Stratford: I am Thomas Stratford. I live in the Hebron area. I am the owner of the company. My son, Gary Stratford, manages this project.

Mr. Rettke: Any questions? (None.)

Mr. Stratford: I think my drawings are pretty clear on how we want to do this and you're exactly right, to get the 1:12 ratio, we need to make to make this ramp the length that it is in order to achieve that and that's ADA requirement.

Mr. Rettke: And you're not really going to remove anything except for landscaping?

Mr. Stratford: Correct.

Mr. Rettke: And you guys are fine with the character and make-up of the structure:

Mr. Stoffel: I'm fine with the character. I was just curious were they planning on any landscaping back in to replace what's been taken out to put around it, or do you know?

Mr. Stratford: I do not know that. They did not contract with us to do so. This is being paid for through the Medicare/Medicaid programs.

Mr. Rettke: Any mention of staining that to match the house, or treating it?

Mr. Stratford: There has not been any mention of that.

Mr. Rettke: Can you go back to the picture of the structure? Not that one, the place it's located in.

Mr. Stratford: Well, the other thing to consider is, it is made out of wood and we are not disturbing any of the concrete. We are setting it over that. So if the need does not exist in the future for that ramp, it can be taken out and everything could be put back as it is today.

Ms. Armintrout: So they didn't want to do concrete? Make it a pad and bring it out and down as a ramp out of concrete?

Mr. Stratford: Medicare/Medicaid would not pay for that. This is the only option they would consider.

Mr. Domini: Quite honestly, I think the temporary nature of it, as we've seen other applications, is nice because it can be returned to its original state.

Mr. Rettke: Sir, you had a comment? Can you come up and state your name and address?

Mr. James Seay: James Seay, S-e-a-y. I'm at 7044 White Butterfly. We woke up one morning and saw a sign in the yard and we all got together and said what's going on with this house in our neighborhood, with this sign with a variance going on. We wanted to know what is this variance in the first place. And now I understand it's going to be a handicap ramp. That's okay with me. I know that the lady beside me is handicap, so, hey, wonderful. She wants to get out of the house, I don't blame her. But that's all I wanted to know, what's going on with that house and who owns the house? Do you have any idea?

Mr. Stratford: I have a _____ I can show you, but I'm not—

Mr. Rettke: It says Sarah Harris on our application.

Mr. Seay: Sarah Harris owns that property, yes. I talked to Sarah Harris and she says she didn't know anything about this. Sarah Harris works at the bank down on Brice Road and I called her and she said she didn't know anything about it, so I don't know what's going on. I'm for the ramp. That good lady wants to get out of her house.

Mr. Rettke: Sure. And you saw the pictures of the potential of what it would look like?

Mr. Seay: Yeah, yeah.

Mr. Rettke: Thank you.

Mr. Stratford: We do not proceed with any projects, whether they are paid for by Medicare/Medicaid or private individuals without first going through the proper channels and, trust me, Medicare does not pay for anything that has not gone through the proper channels.

Mr. Rettke: Any other questions, concerns, comments? (No response.)

Mr. Domini: So I'm assuming that there's a tenant in the house and Ms. Harris is the primary owner and is renting the house?

Mr. Stratford: Yes, sir.

Mr. Rettke: Did you construct the one that was in the photos?

Mr. Stratford: Yes, we did.

Mr. Stoffel: I'll make a motion that we approve Item B1, Variance Application #159363.

Mr. Rettke: I'll second that.

Mr. Domini: May I make a recommendation to the Board that we just tie the approval of the variance to 1147.05 as a matter of procedure. On the second page of your Staff Report are basically our tests for the variance and we should always try to tie back our approval or denial of the variances to—

Mr. Rettke: Oh, so now we're adding that to all approvals or denials?

Mr. Domini: Well, it's been a good practice to make sure that we tie it back to those standards.

Mr. Rettke: Okay.

Mr. Domini: Mr. Chairman, would you like me to call the roll?

Mr. Rettke: Not yet. I want to go through the standards. (Mr. Rettke reading.) Okay, we've been moved and seconded. Go ahead and call the roll.

(Mr. Domini called the roll. Ms. Ray voted "yes." Mr. Rettke voted "Yes, I think it satisfies 1147.05." Ms. Armintrout voted "yes." Mr. Stoffel voted "yes.")

Mr. Domini: Motion passes. So you just need to proceed with any necessary building permits to complete the structure.

2. MAJOR SITE PLAN REVIEW APPLICATION, 1051 WAGGONER ROAD, REYNOLDSBURG, OHIO; PRESENT ZONING, S-1, SPECIAL; PRESENT USE, CHURCH; PROPOSED USE, CHURCH; PRESENT OWNER, THE CATHOLIC DIOCESE OF COLUMBUS. CONTACT: GEORGE SCHWEITZER P.E., GEOGRAPHICS, INC. (#159535).

Mr. Domini: This proposal is to extend the existing parking area at this church. The parking lot is currently stacked parking without drive aisles, which is a very interesting situation. The project will include restriping of the existing lot and then the addition of those lost spaces back through a parking extension of the existing parking lot. Here's the property location off of Waggoner. It's north of Main Street, the nearest cross street is Quarry Cliff Court. This is one of those situations I don't think you've ever seen before, a parking lot without the drive aisles. So they need to restrip this parking lot with drive aisles and they want to make up those lost spaces. Here's the proposed project. You can see the extension there on your left hand side, which is the western edge of the parking lot. The variance is to reduce the required setback-- I'm sorry. The request is for the major site plan, but we do need to consider the request to reduce the required setback. You have the authority to reduce that setback from 50' to 25'. Our code does allow us to do that, gives you basically the administrative approval to grant that request. Our code does state that significant hedgerow, 6' tall, should be installed if we're going down to 25' for a parking area of this type adjacent to a residential zoning district. So the parking expansion is roughly

34,000 square feet, existing spaces are 363 total. After the expansion, we're going to make up those lost spaces and add an additional nine spaces for 372. As noted here on the second bullet, if adequate landscaping is provided, the setback to the south of the parking lot against the AR-2 district can be reduced from 50 to 25'. We did note that the existing parking area does contain two landscape islands within the parking lot. The site plan that was submitted shows these islands as parking, but we recommended keeping them. I don't think this parking lot as proposed, the existing lot, would meet our code because we require significant internal parking lot landscaping which this currently does not have.

So it is the recommendation of Staff that the Board approval the proposed major site plan with the following conditions: That the applicant provide a drawing showing the method of screening to the south of the new parking lot against the residential district per 1175.08; that the applicant provide drawings showing the method of screening to the west and north of the new parking lot and that would be if deemed appropriate by the Board; and that the applicant saves as much of the existing tree islands as possible. If the applicant can meet those requests, Staff would support this proposed application. That's all I have, Mr. Chairman.

Mr. Rettke: George, are you the only one speaking on this? Come on up and state your name and address for the record.

Mr. George Schweitzer: Good evening. It's George Schweitzer, professional engineer, professional surveyor with Geographics. I'm here tonight on behalf of St. Pious X Catholic Church. Quite honestly we've had some discussions. We met with Matt Lambert in March and we met with, not Aaron, but I think your counterpart there at OHM and went through some things on this site plan. I would say I thought we were complete and had a good understanding. I got an email on May 6th basically stating that there was landscaping required along the south line and I got an email two minutes after that saying, "Oh, by the way, we found something else that there's landscaping required along the west and north side." I won't get locked on that right now, we just finished the discussion. There's 360-some odd spaces there now. They control that on events and Sundays with basically uniform police officers as far as entering and exiting. They've had trouble through the years with people who may have a pager or something goes off and they can't get out because they might be blocked in. So, obviously, their concept here is they want to add some paving basically to the west. It's all behind their building. It's an extension of their lot. And when it's all said and done with the restriping, they're going to gain approximately 10 spaces, but they will have the drive aisles and the ability to get in and out in a more conventional, proper type manner. So that's the purpose of the request for the major site plan is basically adding the pavement.

The concept of landscaping, what I'd like to do and I don't know if this was in the email I think Brian sent me, if you don't mind, I'd rather – I have a revision to this plan that I could pass out so you could take a look at what we're proposing. He suggested I bring one to the meeting in his email. If that's appropriate, I'd like to do that.

Mr. Rettke: Might as well.

Mr. Schweitzer: The first page is that color aerial and that's nothing more than a Google Earth picture of sort of what's out there now. But overlaying in yellow over top of that is their proposed – at least-- It may not be exactly what's on the plan, but that was their concept at the time it came to me. So, again, that's just pictorially where we are. The last page packet of the different plan sheets, the three pages of that are the reduced white sheets. The last three pages of that is really survey data. We did an extensive land survey there for the purposes of – well, for them at different times over the years in defining the property and then topographically to be able to, hopefully, work on a design for this project. But the key sheet is the first sheet of that package which shows the proposed revisions and I say "proposed revisions" meaning we're perfectly willing and think it's a good idea probably to provide the landscape screening along the south line there. We're showing hedgerows that I believe will meet the intent of the requirement along the new parking. The comment about providing screening to the west, which is to the rear, and to the north which is the other side, that speaks to the packet of pictures that you have that start off with a #1 in the right-hand corner and go on. And those kind of correlate back to that first page on the white sheet, because there's some numbers on there where those pictures were taken at. Now I realize it's summertime, so it's all going to look great. But the first two or three pictures in there show the south line where the landscaping is requested and that's where we're proposing to put it, I mean the hedgerow that's required there. Pictures 1, 2 and 3. And then if you correlate that back to our site plan you'll see – and we are proposing to do the proper landscape hedges. It's a lot of information, a lot of data, but back from the very first aerial you'll see there is a residence there, a building along that line and that'll help screen all that. Again, we think that's a very good idea. You can just make out the extent of it there beside what looks like existing basketball courts, but that's a residential structure, so the screening that's required there, that's where it would be, right in that area and, again, it's a good idea. We plan to do that.

If you go to – in the picture stack would be 5, 6 and 7, that's basically standing in the existing lot and looking to the west as far as what's there now. And to the west of that is their property. It's the athletic fields, it's a whole lot of trees and things that you get back in there. Rather than dwell on that, if you go to last two pictures which I think are 8 and 9, that's the property to the north, what's there now, and some of that shrubbery is actually even on our property. It's not just off-site and that's what's there. So I guess what I'm asking, I don't know the power of your Board, but what I'm hoping is that we can do landscaping

along the south line and not have to provide any to the west and to the north. I don't really think it's practical. I don't think it's-- Obviously I'm not up here to poor mouth anyone, but the church is trying to do this on a budget and we've already lost, I think, 8 spaces in the lot to accommodate these landscape islands. We don't mind doing it. I mean the concept is to gain spaces. It's costing us a few, but it's code so we didn't challenge that. But the landscaping part along the north and to the west, I guess we disagree with. So that's where we stand and I guess I'm here then to answer any questions about the whole project if there are any. So thank you.

Mr. Domini: Mr. Chairman, I think I can address the landscaping issues, if I may.

Mr. Rettke: Please do.

Mr. Domini: So our code does clearly state that if we do grant relief from the 50' setback abutting residential that there should be a continuous 6' high tall wall or continuous hedgerow, which is reasonable. I think the issue in question, and I think the Board needs to make an interpretation on this, is that our code also states that, in its strict interpretation, that all parking lots shall provide perimeter landscaping, I think that you're used to hearing with other applications, and that it should be a continuous hedge, evergreen trees, earthen mound with a minimum of 36" in height. That section is not germane to any one particular type of parking lot area. So we have not defined that specific to the CC district or the CS district. Now we are talking with the current administration about updating the code and for these reasons, because it's kind of a blanket standard. Looking back at this, I know you had talked with Justin, I could make the interpretation that the existing landscaping to the north and west could be considered as continuous hedge or buffer. Obviously there's no adjacent property there and that does screen the headlights and the other impacts the parking lot would have. That's why we have that standard. So I think that would be one way to make an interpretation that that continuous hedgerow may not necessarily – should be installed, because there's already continuous landscaping based on the existing trees that are there. I think the applicant stated he's willing to put that hedgerow in in the 25' setback area?

Mr. Schweitzer: Along the south, yeah.

Mr. Domini: So I don't think Staff would have any concern if they didn't put that hedgerow along the north or west, especially given how large that setback is in both of those directions. But Mr. Robbins was correct, strictly interpreting the code it should be installed.

Mr. Stoffel: How many spaces were taken up by those existing tree islands? Do you know? The ones that you're removing.

Mr. Schweitzer: Are you talking about here? (Speaking off mic.) There was a total of seven that we took out to accommodate those interior landscaping requirements.

Mr. Stoffel: So by putting the new ones in, that's basically a wash on the landscaping?

Mr. Schweitzer: As far as what was out there, there were two islands there before and the way that wants to lay out, they fall in the handicap area that needs to be paved and the other one, those islands are so narrow on the striping, that they really can't be preserved but, yeah, we are putting in seven other ones, so the equivalent of seven parking spaces. I'd make one last comment. The reason for the variance to the south is simply because we have to use the existing drive that's there and it's closer than what's allowed, so we're taking it and curving it over pretty quick and it will reverse curve to get it up to the 25, which is still half of the code, but it still meets the variance – falls within the parameters of the variance. So we're doing as much as we can do right there.

Mr. Rettke: What is located to the west and the north? It's just additional church property, right?

Mr. Domini: Directly to the north and west, yes. So the green space you have on there is church property. My concern is more for where we've got that bump-out and you go down to 15' in the setback, where you have the curve in the road there. The majority of that addition area you have 25'.

Mr. Schweitzer: The heavier dashed line, that is the existing pavement (speaking off mic – inaudible) –even to get that curve started. But, again, obviously that portion of the lot is existing at that stage.

Mr. Domini: What's the plant type, honey locust and taxus, arborvitae.

Mr. Schweitzer: Taxus or arborvitae on the hedges, yeah.

Mr. Stoffel: You're obviously relocating that power pole.

Mr. Schweitzer: Yeah, we haven't looked closely at the lighting yet (speaking off mic – inaudible). We might as well make it right and do all three of those so, yeah, those would be relocated; probably very close to where they are, but they would be relocated, yeah.

Mr. Domini: Have you or the church contacted any of those adjoining property owners regarding the project?

Mr. Schweitzer: I have not. I can't speak for the church. I'm working through more downtown than really through the church. I have a business

manager and a maintenance person at the church who I'm dealing with. I don't belong to that parish. I belong to St. Matthew. Again, I'm mostly working through the Diocese downtown on this capital improvement project.

Mr. Rettke: So what's the net count of new parking spaces? Are we staying exactly even?

Mr. Schweitzer: It's a net gain of 9 or 11. It's not much of a gain.

Mr. Rettke: I was hoping with this much work and effort, you'd have 20.

Mr. Schweitzer: Well, it's really more about the drive aisles quite honestly than it is anything else. It's just been not only burdensome, but also very costly. I mean they'll still need some officers directing out on the road, but not back in the lot as well.

Mr. Rettke: No one has an issue with lighting? (No response.)

Mr. Schweitzer: I would say there are four lights in the lot itself and then there's a bank of lights up on the second story of the school, I think three or four there that light the lot now. And those three would be relocated and probably be a fourth added on the same pole that would go to the west to get the bigger portion of the new lot there. That's what we have planned. I haven't gotten into the lighting yet. I want to make sure we can get the plan approved first.

Mr. Rettke: Any additional comments or questions of the Board?

Mr. Stoffel: I see the pavement was close to the property line and part of me looks at that and wants to say I'd like to see that 25' continued all the way through and bring that radius back in, because we are granting 25' for probably, I don't know, what is it? A hundred feet, but I guess this is still an improvement over—

Mr. Rettke: Nine or ten.

Mr. Stoffel: Yeah.

Mr. Schweitzer: Obviously something like that is your call. It's just a matter of trying to max out spaces with what we're trying to accomplish here.

Mr. Rettke: And that wouldn't require an additional variance you're saying?

Mr. Domini: Coming straight out in 25'?

Mr. Rettke: Yeah, going from 50 to 25, we have that power?

Mr. Domini: You have that power. You can grant it up to 50% reduction.

Mr. Rettke: But going to 15, is that—

Mr. Domini: Well, I read that 15's existing.

Mr. Rettke: Okay.

Mr. Stoffel: But there is actual new construction less than 25. Does that account for bringing it out of the existing nine? Whatever it takes to get into the 25?

Mr. Domini: I see the geometrics and the curve that they're trying to get to the 25.

Mr. Stoffel: I'm not trying to be nitpicky. I'm just wondering if we're allowed—

Mr. Domini: The way I read that, I think it generally complies. I think it generally meets the intent of our code of that 50% reduction. They're trying to tie back out. So I don't see that – I see them meeting the intent by going to the 25. I might still want to consider more landscaping in that particular area though, kind of tapering down to where the existing pavement is.

Mr. Rettke: I've got it right here. Yeah, they've got to start that further back.

Mr. Domini: Right in this area-- Can you see my cursor? If we can pump that area up with some more, maybe a double row or something.

Mr. Stoffel: Yeah, I think I'd like to see the proposed landscape go all way back to where they're tying into the existing. Wherever you begin new pavement along the south side, that's where I would like to see landscaping begin.

Mr. Rettke: Look at picture one. If you look at picture one, if that's where that's taken, there would be no screening on that. So as people come around there, those lights would be directly entering those structures.

Mr. Schweitzer: The screening we're proposing basically starts right at that basin and goes to the right.

Mr. Rettke: So if you're back here heading this way—

Mr. Schweitzer: Well, how about this? There's a driveway right there, we'll take that hedgerow over at least to the point where it's through that dry well.

Mr. Rettke: Which one, the one with the larger triangle just past the catch basin?

Mr. Schweitzer: From that point we'll go on to the east and we'll get past that next dry well, so that's another 35-40'.

Mr. Rettke: The one at 9-12? Oh, yeah, that would definitely work. Yeah, cause you're going at an oblique angle, too. And then that gets that at the 50' buffer.

Mr. Schweitzer: (Off mic – inaudible) I'd guess that to be another 40-50', something like that.

Mr. Rettke: Actually if we extend that 25' out, that's roughly about where that would hit.

Mr. Schweitzer: We could add additional hedge in there without a problem.

Mr. Rettke: Do you think a single's still okay through the bend or are you still of the opinion it needs a double there?

Mr. Domini: The minimum height that we typically put in is 36".

Mr. Schweitzer: We will likely do that with a combination of mounding as well as planting. We're going to have some extra dirt coming out of there anyway, so I'm thinking – doing mounding in there is pretty easy.

Mr. Domini: The plans state 4' height minimum and I'm assuming that's at the time of installation, so that would be acceptable to me. The only other item we do have to pay attention to or make note of in any kind of motion would be that the existing grassed area to the north and to the west and vegetation suffices to – or fulfills the obligation for that permanent landscaping.

Mr. Schweitzer: Say that again, Aaron.

Mr. Domini: Our code requires that you have continuous hedge around parking areas, minimum of 36" in height and it's not specific to any one district, so that would apply to this parking area by the pond. If you look at this aerial, in many ways it does have a continuous vegetation buffer, it's just set back farther from the parking area.

Mr. Rettke: And there's no requirement as far as setback or width. Any additional questions? (No response.) I move that we accept Item B-2, major site plan number 159535 with the revised drawings that were submitted here during the meeting, to include the additional hedgerow extending that to the second

double parking lines to get through the bend to satisfy 1175.08 and it also satisfies 1180.11 with the existing conditions of the site.

Ms. Ray: I'll second.

(Mr. Domini called the roll. Mr. Stoffel voted "yes." Ms. Armintrout voted "yes." Mr. Rettke voted "yes." Ms. Ray voted "yes.")

Mr. Domini: You just have to submit a zoning certificate with the amendment for the plans and you'll be good to go.

B. NEW BUSINESS

3. SPECIAL EXCEPTION USE PERMIT, 6748 E. MAIN ST., REYNOLDSBURG, OHIO; PRESENT ZONING CC; PRESENT OWNER'S NAME, PLAYTIME PRESCHOOL AND CHILDCARE; REQUESTING A SPECIAL EXCEPTION FOR A DAYCARE CENTER. CONTACT: KIM MIKANIK (#159544).

Mr. Domini: Here's the location of the proposed daycare. You'll be more familiar with this as the Marathon gas station and strip center. So that's the aerial of the property. I'm going to jump back and forth with this so you'll understand the application a little bit. Here's the proposed daycare. You can see it's noted there on the drawing. The existing car wash is here, gas station here, and they're proposing to take this space, just would be to the east of the gas station. Pizza Hut's – or Domino's is on the end cap. They are proposing an outdoor play area, which is always of special interest to the Board, in the back here. If you've read the Staff Report, Staff does have some major concerns about the application. One would be the compatibility of the daycare and the gas station from an environmental standpoint. Two would be the play area. We always require some kind of protection against the children from traffic. And the third would be the existing parking condition. After calculating the requirements for the other businesses on the property, the daycare would have access to only eight spaces, which would be taken up by the proposed staff, which does not leave any parking for the parents picking up and dropping off. When we applied our calculation to the proposed space using the .35 that we've been using, we come up with roughly 25-26 spaces required for the use and there would only be eight spaces left over after doing the parking analysis on the existing uses on that site. So, again, you have the pizza establishment taking up space as well as the gas station. So on reviewing the application and those particular items, we are not in support of the proposed application at this location. That's all I have, Mr. Chairman.

Mr. Rettke: If we could have the applicants please step forward, I know I have to swear one of you in. (Mr. Rettke administers oath.)

Mr. Todd Dillon: My name is Todd Dillon and I'm the owner's representative of GBS Reynoldsburg LLC, with offices at 6475 E. Main Street, Reynoldsburg, Ohio, Suite 136. I just wanted to kind of touch base on, first of all, the use and the location within the strip center and the gas station. We are a real estate development company and we have probably a dozen of these similar style of centers throughout the Greater Columbus area, north to Sawmill, south to Grove City, and three of our strip centers have this same scenario with gas and daycares in them. Actually the daycare user that we're negotiating to come into this space has a location at one of those centers, so they're expanding into another site.

Kind of the general use with childcare is that a student – a child will come with their parents and that parent will accompany them through the parking lot into the childcare facility. Secondly, in regards to kind of the peak uses is Domino's Pizza is a delivery only. There's no eat-in dining whatsoever and I couldn't tell you what percentage, but a majority of the business through Domino's is through delivery and there's little traffic on site from patrons. And then, thirdly, a lot of the in and out of the facility will be through the back door into the play area in regards to the children with teachers and that area will be completely screened from visibility from everything else and it's well separated from all the other uses on the facility. There's a large green space in the back of the building. And, finally, in regards to the parking requirements, as I'm sure you guys are well aware, there's no specific requirements within the zoning code for daycare. Our architect took the stance of basically looking at the zoning code for a school and applied those to our calculations and, to be honest with you, we just received the Staff Report today, so we were a little bit caught off guard with there being, I guess, an issue with overall parking on site. If you look at the plan that we submitted, what we're showing is an overall required parking count of 34 and the center's providing 41.

Mr. Rettke: Primary entrance, front or back?

Mr. Dillon: The students will enter through the front.

Mr. Rettke: Exit through the back to the playground?

Mr. Dillon: Correct. Yeah, part of the application is actually adding – cause each classroom needs a separate means of egress, so adding another egress point to the back of the building as well.

Mr. Rettke: I forgot about that, yeah. What was the number that you said again, the calculations that you used for what we think would be required for this daycare?

Mr. Domini: We've been using the EPA Urban Design Standards which is .35 spaces per habitant. We also referenced in the Staff Report the Franklin

County Code, which would be the default standard we would fall back onto, which the Staff Report noted requires, I believe one for every two spaces for the classroom, I believe it is, and one space for employee and they noted eight employees, so we came up with 14 spaces.

Mr. Rettke: What's the total volume of students you're proposing?

Mr. Dillon: The application showed 60, but after moving a little bit further with the drawings as shown on plan, the maximum number of students allowed in the space would be 47.

Mr. Stoffel: Well, I have concerns for the safety. There's really only one space at the entrance other than handicap, for drop-off. I mean you have the 10 there that are closer to Main Street, but they're crossing a traffic lane to get there. I understand that there's a couple there in front of Domino's, but those aren't guaranteed to be open for the daycare. And I also have concerns with it – I know you say there's been – you have others by a gas station, but I personally have concerns over the safety that close with the fueling islands being that close to where the drop-off would be. And, just based on the number that we've used in the past that Aaron mentioned, even if we didn't have Domino's, we wouldn't – right now on that site we wouldn't have the parking that we would typically want to see regardless of the gas station being in close proximity. So those are some concerns of mine.

Ms. Ray: I have a question. Is it possible, from the looks of it – which I didn't even know it existed behind the Marathon – is for a like a roundabout to drop off the students in the back?

Mr. Dillon: You know, to be completely honest with you, we didn't really pay much attention to parking requirements or changing anything up on site. I mean, honestly the site is not utilized very well and I think that we can do some things from a design standpoint that could, hopefully, alleviate some of the concerns. Yeah, to answer your question about a roundabout and things like that, I don't know specifically, but I know if you look at the – as far as increasing the parking found on site, that can definitely happen. I know that there could potentially be something where we could make the primary entrance in the rear of the building so there isn't that cross from a floor plan standpoint. Because if you look at the floor plan, that one entrance in the back of the building, the one closest to the Domino's, that doesn't go into a classroom. That just kind of goes into a common space, just shared space. I don't know as far as how the tenant could be held to something like that, but I'm sure that they would comply with – or they would acknowledge that they would make that rear entrance the primary entrance.

Ms. Ray: So where is this 6' high wood fence going?

Mr. Dillon: It's basically just – if you see that kind of dark line along the hatched green space there, it's basically following the sidewalk line all the way around. That's just basically utilizing the green space that's back there.

Ms. Ray: How big is it?

Mr. Dillon: That total area is 800 and some square feet.

Mr. Rettke: That's going to remain grass?

Mr. Dillon: No, the state requires it to be either mulch or some sort of rubberized pellets or something of that nature.

Ms. Ray: And when is the Marathon going to renovate their carwash?

Mr. Dillon: Honestly, that project's been put on hold. Basically the guts aren't even in the car wash to operate it right now.

Mr. Rettke: That was supposed to be a lube place, I think. We heard that about nine months ago or 11 months ago.

Mr. Dillon: It turned out to be too costly for the operator to dig out the pit and install the lift.

Mr. Rettke: That's what we figured. By the time they dug it out and tried to do everything they wanted to do.

Ms. Armintrout: And you say there's two or three of these around?

Mr. Dillon: Well, we own many centers around the area but, yeah, there's – on Stelzer just south of the Giant Eagle complex, Stelzer and Agler, there's a Sunoco and there's a daycare called Twinkle Star in there. Then over in Blacklick on Waggoner Road there's a Sunoco there as well—

Mr. Rettke: With a Flyer's Pizza?

Mr. Dillon: Yeah. There's a daycare in that strip. It's right at the end cap. It's actually 4500 square feet.

Ms. Ray: And they all enter through the front?

Mr. Dillon: Yeah.

Mr. Rettke: The Waggoner one's much more spread out and there's way more parking.

Mr. Dillon: Yeah.

Mr. Rettke: You know, my concern is the approach to the pumps. If the pumps were going the opposite direction, it may not be as bad, but you're coming off Main and then you've got to do an "S" to get into the pumps. The lady opens up the car door, the kid jumps out, if she goes 2-3 feet from that car we might have a problem. That's a concern because it appears very tight. You know, being an end cap with more parking down there away from the gas station may not be as bad. I mean you're looking at a couple issues here of the 1145.09: possible traffic impact due to lack of parking on Main Street and we definitely wouldn't want that.

Mr. Dillon: I guess I would ask the Commission to consider that that area in the rear there, it's basically never used. And if we could designate those spaces as childcare only and get the center to commit to using those spaces, I think that's – in my opinion – a really good solution to those concerns. And also, I mean in the evening hours there may be some issues with the Domino's, but at drop-off time Domino's isn't open.

Ms. Ray: I think I would like to see them being dropped off in the back and picked up in the back. I mean to me that would be the safest.

Mr. Dillon: I think it makes a lot of sense myself.

Ms. Ray: You've got a common area right there. You could designate "Drop off here" or do a roundabout where they've got somebody outside getting the child out of the car. I mean they do that at Rosehill Elementary right now. You drive through and you go through the half circle and you pick up your child that way and it keeps the flow going and you're not having to park, back out, or wait, or do whatever. If you had somebody doing something like that, that is a possibility. Plus you've got the common area there and use the front entrance as an emergency exit only. It needs to be locked anyway, right?

Mr. Dillon: Right.

Mr. Rettke: There's a couple issues with that. The rear I wouldn't be as objectionable to, but I can't go approve it based on speculation here. So that's not in your favor today. We'd have to have a revision here. I don't know. I'm looking at the standards. I wish we had a definitive parking standard, but that's up to our interpretation, I guess, if you will. Does it meet the safety, health, welfare of the general public and I don't know. This is a tough one. If that wasn't a car wash or a potential for being a car wash with loop around traffic, that would be a little easier I would think too, because that's encouraging cars to come around.

Mr. Dillon: If that use is not-- I know from the owner's standpoint that he would never put it back in. It's not feasible financially to operate them anymore. In the 80s they made money. That's how the business was built, but it doesn't operate like that anymore. I mean they don't exist, I mean the guts of it. So would we have to come in for an approval of a car wash in the future anyway if one wanted to be put in?

Mr. Domini: If you wanted to put a car wash back in that space?

Mr. Rettke: Well, it sat empty for so long, they'd have to, wouldn't they?

Mr. Dillon: And it was approved as a lube stop. I don't know if that supercedes the car wash.

Mr. Domini: I don't think we ever approved it as a quick lube.

Mr. Rettke: No, you know what? I don't think we ever approved it either. We were against it because they were repairing cars and there's no parking if I remember correctly. Parking was always an issue.

Mr. Dillon: I don't think I was part of that.

Mr. Rettke: He said he was going to repair cars, which requires storage and that was the big problem. It wasn't just the quick lube. The quick lube, they change oil. He was willing to do other repairs; not just change oil, out the door you go. He was going to do maybe an alternator. Potentially I think he said some sort of minor engine repair and that could require storing cars or having cars dropped off by tow truck overnight. That site just doesn't have parking. That's the biggest problem.

Mr. Dillon: What if we revised the space to basically create a vanilla shell in the space. We could enclose those openings with a storefront and then approve that overall plan through the BZBA as basically retail space.

Mr. Domini: The car wash? I don't know if that helps your application for the daycare.

Mr. Dillon: For parking, cause that was one of the concerns. I mean we're not going to—

Mr. Rettke: There are a bunch of concerns just with the overall layout and that's the hard part. This one's a hard sell.

Mr. Stoffel: And if we were to show that as just retail, then I'd have trouble saying, "Okay, that's retail. Where's the parking for that?"

Mr. Rettke: Yeah, that might inhibit your parking even more, because car washes have really no parking standard or assumed standard.

Mr. Domini: I was just looking for that and I don't think we have that standard either.

Mr. Rettke: I think that was the standard we had with the, you know, how did this place get by with so few parking spaces and I think it just started out as a gas station and then it kept growing and growing and got out of hand. We never got a good definitive answer on it.

Mr. Dillon: I know, the tanning – what used to be the tanning and then Domino's was an addition at some point.

Ms. Armintrout: Who owns the car wash?

Mr. Dillon: The property owners own the car wash.

Ms. Armintrout: Okay, so that's not part of Marathon or anything?

Mr. Dillon: No. There's no lease for the car wash.

Ms. Armintrout: Could it be a storage area or something like that that wouldn't require parking?

Mr. Rettke: Any other comments?

Mr. Stoffel: The only other alternative I'd see is if – but you don't have the space in the back to stripe any of that out and make it a one-way. It says it's 24' – it's a 24' lane now according to the plan here.

Mr. Rettke: Or parallel.

Mr. Stoffel: Parallel, you'd probably get—

Mr. Rettke: You'd get 5-6 more, but that's about it. You figure every three spaces would park one. One, two, three, four. You wouldn't want to go past the island.

Mr. Dillon: I mean I guess I would ask the Board—

Mr. Stoffel: Would handicap apply? Yeah, that would have to be handicap accessible.

Mr. Rettke: So there would have to be two-- I don't know, I think it's a tough sale going the other way too.

Mr. Dillon: I guess I would ask the Board if you guys could be okay with the whole rear entrance from a safety standpoint for the center and then I could get something done on letterhead from the operator in regards to that and we can take a crack at kind of looking at the parking layout and trying to meet the standards for parking. If you guys would be okay with that, I guess I would request this item be tabled until we can take a closer look at the parking.

Mr. Rettke: So you're requesting us to table it then?

Mr. Dillon: If you guys agree that we can alleviate the safety concerns by entering through the rear of the building.

Mr. Rettke: That may alleviate some of the concern, yes. All the concern? I don't exactly know. I can't guarantee that. The problem is that these employees-- How many are back there?

Mr. Stoffel: Thirteen.

Mr. Rettke: Thirteen. Probably three rooms, 30 kids, two for every 18 roughly, you're looking at four, five possibly—

Mr. Dillon: Just looking at this generically, this huge island there to the south and the rear to the south, essentially we can eat into that a little bit. I mean the idea with the one-way traffic around the back, we can minimize this drive aisle in front of Domino's, the two-way there, and we could probably pick up potentially two more spaces there. So we could potentially pick up four spaces by adding two down behind the building and two—

Mr. Rettke: Yeah, but I caution about doing too much in that parking lot, because that would go through a site review, wouldn't it? Where this is just a Special Exception, now you're starting to alter the characteristic of the—

Mr. Domini: If it's more than 5000 square feet, it's a major site plan review of the impervious surface; if it's less than 5000 it can be administrative. We have a minor site plan review process, but getting rid of any type of green space on this lot would be undesirable.

Mr. Dillon: But I think we can make up for that loss of green space if we can shrink the drive out to the north of the building there to make that a one-way. At least that's what I was getting at.

Mr. Domini: A one-way?

Mr. Dillon: Around the whole building, the back of the building.

Mr. Domini: So you'd have parallel parking back there?

Mr. Dillon: If we can manipulate this big island here and add two spaces here, then if we make this a one-way, potentially creep out here, so that would give us the four spaces that we're short.

Mr. Domini: There's 28 total required for the existing use. We counted 36 spaces existing. So if you have eight spaces for your employees, that would mean you'd need additional parking. So you'd have eight spaces for your employees, but what you're lacking is parking for the clients. If we went at two spaces per classroom with three classrooms, you'd need six spaces.

Ms. Ray: We'd need four more.

Mr. Domini: No, you would need six, cause he was at 28. You'd need 28 for the Domino's and the gas station. We counted 26 onsite. So there's a surplus of eight, which takes care of your employees, but that leaves you with no parking for the customers. So you'd need to make up those spaces.

Mr. Dillon: The six spaces, right?

Mr. Domini: That's going by two spaces per classroom.

Mr. Rettke: The Franklin County model, not the other model.

Mr. Domini: Franklin County requires one space per employee and two per classroom. That's a more lenient—

Mr. Rettke: Yeah, that's way lenient, cause if you're having 47 kids between 7-9 and 20 get dropped off at 7:20 to 7:30, that's 10 right there if you assume that they're dropping off multiples. That's the problem with daycare, high peak hour and low volume parking. I wish there was a statute—

Mr. Domini: In case that gas station also gets going. So I think if the Applicant's requesting us to table because they would like to study the parking situation—

Mr. Rettke: I would see what you could do with the parking, number one. The rear's probably, in my opinion, the better way to go; might be a little easier than having people dive bomb off of Main Street, run in there and get their smokes, whatever, gas, cause there's no curbside parking. The storefront parking is two spots, three spots total. So most of your clientele would be coming from that second row of parking right in that dive bomb area. Rear parking would probably be more favorable, I think. I'm not making any guarantees, but I know in these eyes it would be. Significant more spots if you could arrange it somehow would definitely help.

Mr. Stoffel: Yeah, I'd agree with that.

Mr. Rettke: Square footage-wise, what would be the option – is there an option to go in the car wash? Would that be feasible or doable?

Mr. Dillon: The way that the—

Mr. Rettke: It's just open? Okay. So you've already got drywall and—

Mr. Dillon: Yeah and the two restrooms that they're using, they're ADA and that's a significant amount of money right there.

Mr. Rettke: I just wanted to make sure if there was another option you had looked at. I mean I think it's going to be tough. Parking has gotten to be a big problem. We've kind of tried to recommend to Council to give us some firm standard on that.

Mr. Dillon: The other thing I think is many communities are now revising their parking code to reduce the required amount of parking. The City of Columbus in general has come out with new regulations.

Mr. Stoffel: Well, I would certainly look at it a little more favorably if the entrance was in the back, because in the front I can't have that. That's just a safety hazard to me. And with – although it's a carryout, Domino's does have employees and, again, that's just traffic moving in and out.

Mr. Dillon: I think it's a valid concern and something we can definitely look at.

Mr. Rettke: Yeah, mornings they don't, but then evenings then they got people going to _____, they've got people going to here and there or wherever, they've got the delivery driver trying to get out because he's got 30 minute delivery with traffic.

Mr. Dillon: Okay. So I guess I'm going to request the Board to table this item.

Mr. Rettke: I think we'll honor that. I move that we table Item B3, Special Exception Use Permit #159544.

Ms. Ray: Second.

(Mr. Domini called the roll. Mr. Stoffel voted "yes." Ms. Ray voted "yes." Mr. Rettke voted "yes." Ms. Armintrout voted "yes.")

Mr. Rettke: Work with Aaron. He knows what we want to see. That way you don't spin your wheels next time and then we find something.

C. OTHER BUSINESS

1. DISCUSSION OF ACTING PLANNING ADMINISTRATOR'S INTERPRETATION OF A PROPOSED USE LOCATED AT 6471 EAST MAIN STREET.

Mr. Domini: The item for discussion is there has been a request to put in a Castro Title Agency where the old Carquest was on Main Street and we've seen similar requests in the past, not on Main Street, and my interpretation of the establishment was that it was pawn brokering. And prior to any application being filed for a Special Exception for that business, for pawn brokering, and upon my ruling that it was, in fact, pawn brokering, I requested that the Board make a determination on that type of use and whether or not, in fact, you supported my assessment or not. That's one of the powers of the Board is to make a ruling if the Planning Administrator requests on specific uses. So I guess that's what I'm asking for the Board to be able to do today, specifically in your powers and duties under 1139.03(e) "Make interpretations upon request of the Zoning Officer or upon appeal from any property owner of the City of the meeting and application of the provisions and illustrations of the Zoning Code," and item 2 is, "Determination of the meanings or of the permitted uses and Special Exceptions as listed in the districts."

Our definition of pawn brokering, if I may pull that up. I believe the same applicant's here to talk about this item as well. The definition of pawn brokering, which is under 1131.02, Item L, is "booking, betting, operation of a scheme of chance, game of chance, or game of scheme of chance for profit or not for profit—" This also falls under the definition of gambling, bookmaking, betting, schemes and games of chance. We have one definition. "—for profit or not for profit by any person, charitable organization, religious organization, veteran's organization, volunteer firemen's organization, fraternal organization, volunteer rescue service organization, nonprofit medical organization, senior citizen's organization, or any other organizations." As used in the zoning code the phrase pawn brokering, "bookmaking, betting, scheme, game of chance does not include state lottery activities pursuant to Chapter 3770 of the Ohio Revised Code and bingo games licensed by the Ohio Attorney General pursuant to 2915 of the Ohio Revised Code." The definitions contained in the Reynoldsburg City Code of Ordinances, Section 5170 and of the Ohio Revised Code Section 2915.01 and 4727.01 are hereby incorporated by reference into the zoning code.

So my interpretation of this particular use, the reason I came to this conclusion was that the actual advertisement for the business on their website was using the word "pawn" in the title. The proposed use was actually title pawn, I believe, or cash for title, but title pawn was on the website, so I made the

interpretation it was pawn brokering, because that's how they are advertising themselves. I guess in my loose interpretation, any time you put something up and take cash in return with the expectation that you're going to buy it back, that's pawn brokering. I think the applicant's here to talk on the issue as well. I shouldn't say applicant because he's not an applicant yet, but I believe this gentleman also represents that property where this particular business was to go into. I'll also bring up that definition from the Ohio Revised Code which I think will be helpful for you as well.

Mr. Rettke: I was going to say put that up. You're representing both?

Mr. Todd Dillon: I'm Todd Dillon. I represent GBS Main LLC. We are the owners of the property at 6471 East Main Street and 6475 East Main Street, with our offices at 6475 East Main Street. So when we bought that complex, we bought it at a receivership and Carquest was in there and then it literally got swallowed by the Auto Zone that was built next door and they moved out.

Basically Title Max is a national company and they're just starting to move their presence into Ohio. They are – the web page does reference the title pawning and when I asked their real estate rep why it says that and he said, "In some states the same type of business is referenced as pawn titling," or whatever it says on the web page. In the State of Ohio it's not referenced as that. I guess just looking at 4727.01 pawn broker definition, this is in ORC and this is kind of what our interpretation is based off of is that "pawn broker means a person engaged in the business of lending money on deposit or pledges of personal property other than," and those are the key words, "securities, printed evidence of indebtedness, titles, deeds, or bills of sale." So it implicitly states that titles do not count as pawn brokering. They also sent a letter which states on their letterhead that they would not, you know, they are not pawn brokers as defined in ORC 4727.01. I can pass that out if you guys want a copy.

Mr. Rettke: Yeah, you might as well.

Mr. Stoffel: Aaron, you said on their site they used the term pawn?

Mr. Domini: They do, which was one reason I felt uncomfortable.

Mr. Dillon: Their business model – when they come into a community they will lease out a separate space, so if they ever have to repossess a vehicle, it's done offsite and typically a person is not bringing their vehicle in to be repossessed, and it's stored offsite at that leased location, so there's never any vehicle storage at the retail locations.

Mr. Rettke: So this is potentially going to be just a storefront where people walk in title in hand?

Mr. Dillon: I mean they consider it a financial office where they give loans.

Mr. Stoffel: Aaron, is that the same kind of business down there at Brice and Livingston, right there by Scotty's?

Mr. Domini: I'm not sure.

Mr. Dillon: Actually the Checksmart, which they don't do check cashing, they have a sign in their window that says "Title Loans Provided" or something like that.

Mr. Stoffel: I drove by there today and I can't remember exactly what it said up above, but it led me to believe that it was car title pawn brokering or something like that. Loans for car titles and I thought they used the terminology pawn broker. I could be wrong, but when I saw that today, I was just driving with my wife—

Mr. Dillon: I have a picture of the storefront.

Mr. Stoffel: The one I'm speaking of?

Mr. Dillon: The one right across the street. I think the one you're talking about is another Checksmart as well.

Ms. Ray: Do you mean Brice and Livingston?

Mr. Stoffel: Yeah, yeah.

Mr. Rettke: But you're saying there's one right across the street from where you're going to go?

Mr. Dillon: No, across the street from City Hall in one of the shopping centers. It's actually right across from _____.

Mr. Stoffel: I guess I'm curious why they would use the term pawn if – was that just a matter of convenience for that kind of terminology?

Mr. Domini: Different markets, I think, uses different legal definitions and, for whatever reason, it's attractive to the market.

Mr. Rettke: And not knowing or wanting to go into their details of how they conduct their business, I don't know that I can comment or determine that. I think that's a legal issue in my opinion.

Mr. Stoffel: Uh-huh, yeah, I'd agree.

Mr. Rettke: Yeah, title loans. I actually saw that down on another one outside the city.

Mr. Stoffel: I think that might be what was down at Brice and Livingston. I know I saw the term title and loans. I agree with Mr. Rettke that the use of pawn broker, I don't know if that's something we can determine if that's a legal issue. To me if they claim on the website that they're pawn brokers, that tells me that they can't be. So I don't know if that's just a matter of semantics or if that's something – I don't know if that's something that we can comment on.

Mr. Domini: You certainly can comment on it.

Mr. Rettke: But I don't have them here telling how they conduct their business. I can interpret the code, I guess, but the code's circular and goes back to the ORC and, in my opinion, that would be on the City Attorney's office. I think there's too much we don't know to judge the two by. Yes, if they use the term pawn brokering or pawn in their thing, it could fall under the city if they're taking it out against a title, that contradicts the ORC.

Mr. Domini: So if they took possession of the vehicle in exchange of the title, but they took possession of the vehicle, would you say—

Mr. Rettke: They just held the vehicle and didn't put a lien against the title?

Mr. Domini: Right, or that they repossess it.

Mr. Rettke: Or a promissory note.

Mr. Dillon: Well, a repossess is not – I mean, like you just said, pawning would be—

Mr. Rettke: They would have to have a claim to the title to repossess, correct?

Mr. Domini: I assume they'd put a lien on the car.

Mr. Rettke: That would have to be against his title.

Mr. Dillon: (several people talking) You'd have to have the title in your possession.

Mr. David Darby: I guess I'll chime in a little bit. My name's David Darby. I'm an attorney—

Mr. Rettke: Can you step to the mic so we can pick you up on our recording?

Mr. Darby: My name is David Darby. I'm an attorney with Cooperman Gillespie and we represent the property owner, GBS Main, and we had an opportunity to review the zoning code and also the Ohio Revised Code and I guess I heard one thing that led to a question I have is the zoning code uses the term pawn brokering. And based on my reading of the zoning code, the definition of pawn brokering as used by the zoning code is defined by ORC 4727.01. In other words, we're not talking about pawn brokering as ORC defines it and pawn brokering as the code. We're talking about the same definition.

Mr. Rettke: It's circular. One depends on the other. In my opinion, that's what I'm reading.

Mr. Darby: Okay. And Todd, based upon your knowledge and your interacting with this client, with this potential tenant, they don't operate under any other business model with the exception of a customer comes in wanting a loan and, as security for that loan, they present – they essentially permit the title max to take a security interest in the Certificate of Title and that's it. And essentially if the loan – if they need to foreclose on the loan then they're a lienholder on the title and they can repossess the car. So the only thing in this business model being pledged as a condition of lending money is the title, which is accepted from the definition of pawn broker according to the statute. And, again, this isn't a situation where– I've had other business models run by us in regard to locations closer to the casino where people can literally come and drop their car off and walk away with money. You know, this wouldn't be a scenario where it turns into a car lot. So it is sort of – it's more of a financial lending institution as opposed to your typical people coming in and actually dropping off property itself as security.

Mr. Dillon: The lease is signed as TMX Financial. I mean that's what the parent company is known as.

Mr. Darby: Are you able to bring up the website that shows how it's using the word pawn?

Mr. Domini: I can if you want me to.

Mr. Darby: If it's relevant, if not.

Mr. Domini: That's up to you. I typically don't like to bring up marketing collateral at the meetings, but if you want me to.

Mr. Darby: No, that's fine. I guess I believe it's there. I just didn't see it today. I looked at their website.

Mr. Dillon: It's right on the headline of the Google page.

Mr. Darby: Oh, is it? Okay.

Mr. Rettke: Like I said, we've got a hearsay thing where he's saying this is how they conduct business—

Mr. Dillon: But, yeah, the letter from their organization saying that our business is not being conducted like that and that's why—

Mr. Rettke: Well, I can say I don't speed in a letter too, but what good does that do me? I can provide an affidavit to the Reynoldsburg Police saying that you don't ever have to pull me over because I don't speed.

Mr. Dillon: I definitely understand what you're saying. I guess it's — there's ramifications though if they're lying about how they operate their business. And, honestly, we're just trying to go about this the right way.

Mr. Rettke: No, I don't blame you. Like I said, this is a tough call. I'm not an attorney and I don't want to be one here. I'm a surveyor/engineer and that's what I like to do.

Ms. Ray: Is it possible for Title Max to send more information or send a representative? I mean they obviously have somebody here that's going to run this store.

Mr. Dillon: This is their first location, so they haven't — they don't have anybody here yet. They're out of Savannah, Georgia.

Mr. Domini: Do they have Ohio locations?

Mr. Dillon: They have no Ohio locations so far.

Ms. Ray: What made them pick Reynoldsburg, Ohio?

Mr. Dillon: Supposedly they're going to take over the Ohio market.

Ms. Ray: And they're going to start in Reynoldsburg?

Mr. Dillon: I mean they're definitely knowledgeable of Reynoldsburg just from the conversations I've had with the real estate department.

Ms. Ray: Well, if they're interested, as far as I'm concerned of coming and starting a business here even in just Reynoldsburg or even in the State of Ohio, they either need to get a representative or send more information. This too long sentence from the administrative assistant and the real estate department is

not – to me would not be enough to say okay, yeah, sure. Do you know what I mean? I mean I understand there's title companies. I understand there's Checksmart companies. I understand you can walk in with a piece of paper that has your title and you can get money for it. I understand that but, to some degree, if they are trying to come into Ohio and they are asking you to represent them, both of you, right? Then they should have given you a little bit more information than what they have.

Mr. Dillon: For us, I mean it's pretty straight forward. I mean I don't think it necessarily is a legal representation. It's just, you know, this is what they do and by ORC they're not a pawn broker. I mean this is clear cut.

Ms. Ray: Correct, but we're going by what you're saying, not by what they're saying.

Mr. Rettke: Well, the letter says that they're not, but—

Ms. Ray: But do you see what I'm saying? I'm just saying I think if they're interested in coming into our town and into the State of Ohio, a little bit more information like a packet of information, you know, how long have they been in business, how many stores do they own? Do you see what I'm saying?

Mr. Rettke: Maybe some _____ of where they operate. What pawn brokering means there and how they operate. The whole thing to me boils down is we've got third parties telling us this is how they conduct business. They're taking it on a title, cause it all hinges on the word title, whether they're a pawn broker or not. Do they take the title? Do they file a memorandum on the title, a lien on the title with the BMV? Do they hold the title until you return the money? That would be more like pawn brokering to me, even though it's a piece of paper.

Mr. Darby: Well, I think – I would argue a title is a title and I think to take a security interest in a title, you would either hold possession of it or you stamp it and you register it. So that would be the two ways to get a security interest in a title and it's still—

Mr. Rettke: But you can't guarantee that's what they're doing?

Mr. Darby: I mean we know that's what they're doing. We're here to tell you that, but, you know—

Ms. Ray: They need to give us some more information.

Mr. Rettke: And it would help to know why they use the word pawn on their website as their organization. I think that would be the biggest question.

Mr. Stoffel: Yeah, that's my question. Is that a term that's just thrown out there that people that typically might use a pawn service, although they may not be doing what you're calling pawn brokering, but they use that term to attract people to their business. I get the impression that that's what they're doing, but I don't know that.

Mr. Rettke: Well, for a layman, I give you my title, I get some money and I'm going to have to pay you back.

Mr. Darby: I asked that question of them and it was in certain states their business is defined as that.

Mr. Rettke: Yeah, that's what I think it is, but that would go a long ways to appeasing him, I think, is to know per Georgia it's pawn brokering; per South Carolina where we own 10 businesses, it's called title lending; per Ohio, it falls exempt under here. Why that was on there. If I called myself a surveyor in Ohio, I have to have a license; or an engineer, I would have to have a license. I can't use those terms without that certification, same way with probably attorney at law. So if you're using the word pawn, pawn has a legal definition here that contradicts because they do do the title aspect. So I think we do have a good reason to say they are a pawn.

Mr. Dillon: We can go further and say the City of Reynoldsburg City Ordinance requires pawn brokers to obtain licenses and I have email correspondence that they would not be required obtain a pawn broker license from the city because they don't do that as a business.

Mr. Rettke: I mean that may go somewhere too, if the Ohio Attorney General says that they're not applicable for a license or required to get a license. I don't know. I don't know what you can do. You have four, five individuals here trying to make this determination while the lawyers sit around – no offense – and let us decide and then they're going to go attack us here or attack us there. I mean it's a hard spot for us in my opinion.

Mr. Domini: If the Board agrees with Staff's interpretation, I believe there is some relief for them to appeal to Council, let Council make the decision. 1139.04, Powers of Council on Appeals, that would be the next step if this Board—

Mr. Rettke: A few of the Council members are attorneys, so let them defer to it.

Mr. Domini: I believe our legal counsel had deferred to the Board as the first level of interpretation.

Mr. Rettke: Like I said, I really don't know one way or the other. I really don't. I think that would be the best course of action to say yes we agree with Staff's interpretation, let you go before the next level; appeal our decision to City Council, correct? That would be the next level. Let them make the final determination. There's more members, more experience, and then that brings in to legal counsel.

Mr. Stoffel: I'd agree with that.

Mr. Domini: I wish I could have provided a clear insight, but I would be doing the city a disservice to make that interpretation on behalf of the city when I'm not clear.

Mr. Rettke: It might be called passing the buck. How soon are they looking to come in?

Mr. Dillon: Well, the lease is signed.

Mr. Rettke: They're knocking on the door then. So what would it be 30 days after this before they could go to Council?

Mr. Domini: No, I don't think it's 30 days. I think Council has to introduce something in 30 days. "They shall appeal in writing to Council within 30 days of the date of refusal by the Board. Then the President of Council shall set a date for a hearing on the appeal and Council shall render a decision on the appeal within 30 days of the receipt of such written request." So if they write a request tomorrow, Council has to make a determination within 30 days of the receipt of the written request.

Mr. Rettke: Then they go to the next Council meeting or whatever.

Mr. Domini: Whenever the President sets that date.

Mr. Rettke: And it has to be within 30 days that they have to make a decision, correct?

Mr. Domini: Correct. They have to appeal in writing within 30 days and once they get the written request in Council, they have to—

Mr. Rettke: So you can appeal the first thing tomorrow morning and start the clock.

Mr. Darby: Does the Board have the ability or authority to issue a decision outside of this room in writing pursuant to a written resolution were we to provide additional information in the next—

Mr. Rettke: No, we'd have to have another meeting.

Mr. Domini: You would have to wait 30 days.

Mr. Darby: So either way we're looking at 30 days.

Mr. Domini: I think that it would be wise to have all that information when you go to Council, because they're going to want that information as well.

Mr. Rettke: I think you need to have the ifs, ands, whats, here's our – your know, not the industry secrets, but the main things on how the title's affected, to prove it's on the title and the title makes it exempt from the ORC definition of pawn brokering.

Mr. Darby: So did Checksmart go through this process as well?

Mr. Domini: Through the interpretation process?

Mr. Darby: Uh-huh.

Mr. Domini: No.

Mr. Rettke: That would be for Zoning Enforcement possibly, right?

Mr. Domini: Well, I think once there's a determination made by the city on this issue with exchange of titles, I think then we have different issues that we have to address, that becomes a legal nonconforming use all of a sudden if they're consistent with this interpretation. But the way the industry's changing so fast and within this industry of check cashing, cash for titles, I think that communities like Reynoldsburg are trying to understand how those types of establishments fit within our Code of Ordinances. I know from my experience working with other communities, they're dealing with similar issues. So that's why zoning codes are living breathing documents.

Mr. Rettke: Subject to interpretation.

Mr. Dillon: I understand you guys don't want to make a decision. I think it's pretty clear cut though. We're a family owned business that's had a tenant move out and affected us significantly financially. This is an opportunity for us to secure ourselves. I hope you understand that this affects us. This affects me personally as well as from a business standpoint.

Mr. Rettke: I think it could have other potentials too.

Mr. Dillon: We've tried. We've had that Marathon for lease for the tanning space for years with no biters. So we've tried.

Mr. Rettke: Do you want a formal vote or do you just want a straw vote?

Mr. Domini: That's a good question.

Mr. Rettke: It sounds like to appeal we'd have to have a vote saying—

Ms. Darby: And just so I know, what specifically is the issue because this is a discussion. It's not necessarily a vote or is it a vote to table. The issue is whether pawn broker is an item that requires special permission as a use. Otherwise this business is already conforming and it's really just by happenstance that we happen to be here tonight, because we've done all due diligence up until this point, making sure that it was conforming and the tenant has as well. They're a national business just entering into Ohio. So, at any rate, we've been through that. But I don't think the issue is before the Board whether to permit the use or not.

Mr. Rettke: No, does this meet the application of the definition that would require a Special Exemption, right?

Mr. Domini: Correct. If it doesn't – if your interpretation is that it is not pawn brokering, then they have to go through the normal procedure of opening a business which is certificate of occupancy and zoning certificate, design approvals for exterior improvements. If it is pawn brokering, then they have to go through the Special Exception process.

Mr. Rettke: But we're not affecting the site at this time. We're just giving you a heads-up that you would need this.

Mr. Darby: Would this issue be addressed and resolved at the zoning approval level? In other words, if you were to take a position tonight that this business does not meet the definition of pawn broker for purposes of this discussion only, and that we would run into the same issue with zoning, cause they're going to see it—

Mr. Rettke: We are zoning.

Mr. Darby: I guess are we there yet?

Mr. Domini: This is the Board of Zoning and Building Appeals. They deal with zoning and any building appeals in the City. The Planning Commission would never see this application, because they only deal with primarily code changes and district changes. Reynoldsburg's set up a little different. The zoning aspect of things are either going to be dealt with administratively. So if it's determined that it's not pawn brokering, then your zoning applications come through administratively, unless it's a special exception and then it's going to

come before the Board like the daycare. Things are a little different in Reynoldsburg, how the chain is set up.

Mr. Darby: Just so I'm clear, if we weren't here tonight and we're going through the normal procedure, at what point would this decision be made?

Mr. Domini: It would be made administratively.

Mr. Darby: And you essentially are at that point.

Mr. Domini: Correct. Mr. Chairman, I don't know if we call the roll on this item. If we don't call the roll, I don't know how you'd appeal a decision to Council, because—

Mr. Rettke: Ultimately it sounds like you've got the only decision, is it pawn brokering or not?

Mr. Domini: Are you passing the buck?

Mr. Rettke: Yeah.

Mr. Darby: If I could go one step further. You still have to apply for a Certificate of Occupancy, is that correct?

Mr. Dillon: It would be zoning compliance or site conformance.

Mr. Domini: You'd have to get a zoning certificate for the use at that location. You'd have to get a certificate of occupancy through the Building Department, but they won't issue that until you get your zoning certificate.

Mr. Darby: I guess what I would submit for that process which hasn't occurred yet, we're here early by happenstance because of a phone call about signs. Okay? We're not there yet and I would suggest that we be given an opportunity to submit additional evidence as has been requested to you to your satisfaction that this is a conforming use and if, at that point it's not, then put it up for a Special Exception and then we come and then we go through that process.

Mr. Dillon: We could still appeal.

Mr. Rettke: But now you have a heads-up as to what the arguments would be for Special Exception.

Mr. Domini: I think that's a good solution.

Mr. Darby: Does that work?

Mr. Domini: If you do need to appeal, we can appeal the application.

Mr. Rettke: And I think you will probably say it is pawn brokering and you'll get it back before us and he doesn't have to make the decision.

Mr. Darby: That's fine. You know, if we get another bite at the apple, so to speak, because procedurally we haven't submitted for zoning compliance yet. That hasn't happened. We're here just – we're here early and because this matter was brought up and put on the agenda—

Mr. Rettke: And that keeps us from doing this in six months when you finally get to that stage, or three months.

Mr. Darby: Right. So we could do that and provide more information, see if it works. If you're still not satisfied, then—

Mr. Domini: Have you talked with the city's legal counsel?

Mr. Darby: Not yet, have we? I haven't. Brian has?

Mr. Rettke: Please do. They want you to make the decision. Well, you know the burden you have. His reservations are our reservations.

Mr. Darby: Sure, I understand. Just because it says it, how do you know they're not going to move in and—

Mr. Rettke: Yeah, cause once they're in – it's like Checksmart. Try and shut them down doing it, it's a lot harder shutting them down than stopping them from doing it in the first place.

Mr. Domini: And with a complete application and information from Title Max—

Mr. Rettke: I don't want to know all their business, but mainly how that title's affected.

Mr. Domini: And legally if you support that with your arguments, then I have more to understand the application and more grounds to actually review something.

Mr. Darby: Yeah and there may very well be – there's been a lot of issues with Checksmart, the check cashing. There may very well be Attorney General opinions that would shed more light that we could submit in support.

Mr. Domini: Then we have something to defend our decision on. I hope you understand the situation that the City's in with this use.

Mr. Rettke: It's not against you or your company. It's just a tough sell. To me it's a legal issue. I can understand why the City Attorney doesn't want to get involved to defend it, but it would be nice if he just said, "No, it's not pawn brokering," or "yes, it is and we're not going to allow it."

Mr. Darby: Well, I'll do more research and submit it in line with the zoning compliance.

Mr. Rettke: If you said they were filing a promissory note on the title or there was a Memorandum of Title given, we're going to hold the title to give it back to the party, it's just like you're filing a loan against the car when you buy it from the dealer. It's not pawn brokering because the title's held. But just because I give you the title and not sign or notarize it, that's a lost title. I just go down to the Clerk and get a replacement title. There has to be some sort of transfer on it or something affecting that title filed. If it's filed with a government agency, the BMV, Clerk of Courts, something like that, I think it's a no-brainer because it is affecting the title of that vehicle and then I think your argument would be null and void – or our arguments. We wouldn't have one. Sorry we couldn't give you an answer.

2. ELECTION OF OFFICERS

Mr. Rettke: What's this about?

Mr. Domini: We need to elect some officers.

Mr. Rettke: We need officers?

Mr. Domini: I think you were elected Chairman. I don't believe we ever had a Vice Chairman elected.

Mr. Rettke: Oh, I thought we always did that in January.

Mr. Domini: I don't think we did that in January.

Mr. Rettke: Yeah, we did. That's how I got to be Chairman.

Mr. Domini: We don't have a record of the Vice Chairman.

Mr. Rettke: I thought Dave was Vice Chair and Pat was just sitting there. We left it as it was.

Mr. Domini: Can we just have a vote to keep it the way it is for the record?

Ms. Ray: I'll second that.

Mr. Stoffel: I'll make a motion that we nominate Tony for Chair.

Ms. Ray: I'll second it.

Mr. Domini: All in favor? (All voted "yes.") Is there a motion to nominate Mr. Stoffel for Vice Chair?

Mr. Rettke: I nominate Dave Stoffel as Vice Chair.

Mr. Domini: Is there a second?

Ms. Ray: I'll second.

Mr. Domini: All in favor? (All voted "yes.")

D. ADJOURNMENT

Meeting was adjourned at 8:44 p.m.

Anthony Rettke, Chair

Aaron Domini, Acting Planning Adm.

This document was transcribed by: Area East Secretarial Service 7668 Slate Ridge Blvd., Reynoldsburg OH 43068

