

MINUTES
REYNOLDSBURG BOARD OF ZONING
AND BUILDING APPEALS
APRIL 16, 2015
6:30 P.M.

A. CALL TO ORDER

1. ROLL CALL

Members Present: Mr. Aaron Enfinger
Mr. Rick Donovan
Ms. Libby Wallace
Mr. Anthony Rettke

Members Absent: Ms. Bonnie Armintrout

Others Present: Mr. Eric Snowden, Planning Adm.

2. APPROVAL OF THE MINUTES OF FEBRUARY 19, 2015

Chairman Rettke: Are there any changes or revisions to the minutes of February 19, 2015? (No response.) Hearing none, we'll approve those as submitted.

Are there any changes or revisions to the minutes of March 19, 2015?
(No response.) Hearing none, we'll approve those as submitted.

3. APPROVAL OF AGENDA

Mr. Rettke: Any changes to the agenda as submitted? (No response.)
Seeing or hearing none, we'll approve the agenda as submitted.

4. SWEARING IN OF SPEAKERS

Mr. Rettke: If we could please have the speakers stand and we'll swear you in. (Mr. Rettke administers oath.)

5. PUBLIC COMMENT

Mr. Rettke: Is there any public comment? Seeing a ghost town in the audience, we'll skip the public comment for now.

B. UNFINISHED BUSINESS

Mr. Rettke: Is there any Unfinished Business to come before the Board?

Mr. Snowden: No, Mr. Chairman.

C. NEW BUSINESS

Mr. Chairman: Can we please have a presentation of Item C1, Major Site Plan Review, 8915 East Broad Street, #168853.

1. **MAJOR SITE PLAN REVIEW, 8915 EAST BROAD STREET, REYNOLDSBURG, OHIO;** PRESENT ZONING, CC; PROPERTY OWNER, REYNOLDSBURG DG, LLC; REQUESTING REVIEW OF MAJOR SITE PLAN AMENDMENT FOR A RETAIL SALES BUSINESS. APPLICANT/CONTACT: MARK BUSH (#168853).

Mr. Snowden: Thank you, Mr. Chairman. Application for major site plan review, it's a revision of a previously approved major site plan. It's application #168853 for major site plan review. The property's located on the south side of East Broad Street, east of Summit Road. The existing zoning is CS, Community Services. The request is for review of a revised major site plan for a new retail building. Specifically it will be for a lighting plan that varies from the originally approved major site plan. Current use is retail sales. The application is Reynoldsburg DG, LLC, Mr. Mark Bush and his contact information is listed there. Mr. Horvath is the consultant to the developer.

The site is a previously approved commercial retail structure in the CS Community Services district of the city. Adjacent uses include a gasoline station in the CC district to the west, commercial retail uses in the City of Pataskala to the north and east, and residential uses to the south, also in the City of Pataskala.

The project received all required zoning approvals during 2014, which included a series of variances, a major site plan review approval, certificate of appropriateness, and the zoning certificate. The project had a plot grade utility plan review and building plan review approvals.

Back in January of 2015, it was brought to staff's attention by the electrical inspector for the Building Division, that there had been some deviation from the approved specifically building plans, but were also included in the zoning major site plan approval. Staff communicated-- It was specifically regarding the lighting plan. The inspector pointed out that one of the light poles in the parking lot area had moved. Specifically it was the pole on the original approval that was at the center of the double parking aisle. Staff contacted the construction manager who was on site, who stated that there were some engineering problems at the site with the storm water storage system and it would not support the weight of the light pole to be installed at the original location. Staff inquired to the rationale about doing this installation in the first place. The construction manager stated that this was a mistake by the engineering consultant. At staff's request a

new lighting plan was received in the files that's marked January 27, 2015. The staff reviewed this "as build" plan and found that not only had the one pole been relocated as stated by the Building Division's electrical inspector, that all exterior lighting poles had been moved and varied from the locations that they had been shown on the approved plans and the major site plan. The intensities had also been increased significantly. February of 2015, zoning staff contacted Mr. Horvath, representative of the engineering consultant, to discuss options and inform him the "as build" plan which is what we're called the submission of the plan we received, wasn't acceptable and staff could not approve that as a minor engineering deviation. For example, in the past, although it is not specifically prescribed in our code here in Reynoldsburg, it is prescribed in other codes, staff has allowed applicants to vary within a handful of feet from a specific location for an engineering reason. This could include soil issues, could include the fire inspector's review that something needs to be a little bit further than was caught in the major site plan review. It has been the policy of previous Planning Administrators that this was not to increase the sizes of anything. It was not to go in against any particular conditions that the Board had put on. So, for example, if the Board had made a special statement about a particular detail, that staff would not do an approval of that sort of thing as a minor engineering change. So it was staff's view that this had now gone above the level that staff could comfortably approve administratively as still meeting the intent of the Board's approved major site plan.

Beginning in March of 2015, zoning staff was notified by Code Compliance of the City of Reynoldsburg that a building mounted flood light had been installed on the southwest corner of the building. You can see that in the picture on your screen in front of you. This type of work would be considered a building modification and that would have required exterior change review by a new Certificate of Appropriateness from the Design Review Board in order to add something like that to the building exterior.

Staff received an application and materials – this was the 15th. Mr. Horvath, at staff's request, made a new application for major site plan review after the director and myself stated that this was something that needed to be addressed and that getting it approved by the Board would be the manner in which it was addressed.

At this point, staff also informed Mr. Horvath-- And let me be clear in this statement. Although staff has worked with Mr. Horvath, staff does not believe this is Mr. Horvath's fault. Simply naming him by name because he is the individual that staff worked with. I want to be clear about that. Staff did work very, very lightly with the construction manager and that's why his specific actions are not mentioned.

Mr. Horvath stated in the conversation he understood staff's request that the "as built" plan would not be acceptable in this way and that he was being

instructed by his client to proceed. So when we instructed-- Let me clear this up. We asked Mr. Horvath's assistance in providing a new lighting plan that addressed all these various concerns, the intensity, the location of the lights not being addressing one another in the parking structure. Mr. Horvath submitted his resubmittal, submitted the "as built" again with the addition of the building mounted floodlights. We contacted him to confirm that he wanted to carry forward to the Board, informing him that staff would not be supporting this particular plan. He told me at that time that this is what the client had requested him to do.

He also informed staff that it would have been the responsibility of the construction manager to coordinate the installation of the poles over the storm water system in the original design and that both systems could have been installed as originally proposed.

Just to give you an idea, here was the information that I received in the resubmittal for a new major site plan revision. I want to pull two details out there. Mr. Horvath stated conditions were encountered, O'Ryan Energy, who has been the energy consultant or the lighting plan consultant to Mr. Horvath's firm, stated that, "Well, the parking lot had already been paved." So it wasn't an engineering reason according to them.

That brings staff to the project responsibility. We're dealing with different entities here. We have a developer who owns the land and is overseeing the project. We've got an engineering consultant that works for the developer and subconsultants who work for them. We've got an onsite construction manager. From the standpoint of the city, at least from the standpoint of staff and the administration here, all portions – this is one project and all entities involved with the product need to be in compliance with plans that are submitted and approved. So staff is not comfortable with different groups within one project blaming one another for particular details of how things happen. Staff's view is that it's the entire project's responsibility to be in compliance and take care of these type of issues as they arise.

Additionally the project had a variety of "as built" changes that don't really have anything to do with engineering. They had to do more with building, including electrical plans, changes to exterior materials that had to be approved informally by the Design Review Board to keep the project on track, addition of a gas line without a plot grade utility and permits, deviations from electrical plans and specifically as they related to the outdoor lighting system of course, because the lighting system location of poles changed. As far as I am aware, these items have since been rectified with the Building Division; however, there were a series of these and this is one of them that specifically related to zoning.

In closing, I would just say that staff's view is that this is a self-created situation and, therefore, the Board, in staff's opinion, shouldn't accept a lower

quality “as built” plan. Staff would recommend the Board deny the request for site plan revision, require the applicant to submit a new lighting plan as more uniform coverage of light removes the building mounted floodlights. Staff would like to see lights that are in line with one another or with the parking lot features such as centerlines, aisle lanes. Such a plan should not exceed 30 foot candles at any location. The original plan staff reviewed and did not see it, the original proposed and approved lighting plan that came with the original major site plan approval did not have lighting beyond 20 foot candles in any location on the property that I’m aware of. Staff would like the Board’s permission to administratively approve the lighting plan at variance. Now it’s not a variance, it’s simply at variance with the original plan, with the original approved plans provided can meet these standards that staff has outlined. Staff would like the Board to require the applicant to do this within 30 days or else staff would like permission from the Board to proceed with the citation enforcement process of the zoning code.

Mr. Rettke: The first question I have is what’s the max that they can have? You said 30, is that the hard set number?

Mr. Snowden: My suggestion would be that no portion of the lighting on the site be over 30 foot candles.

Mr. Rettke: We don’t have that in code anywhere?

Mr. Snowden: We don’t. It’s simply a suggestion. And staff came to that number allowing a little bit of room, but looking at the original proposed plan that was submitted as part of the original major site plan, staff didn’t see anything on there under 20. Staff understands that, hey, you know the lighting locations, the poles are a little bit further from the center and you’re going to need some more intensity. In the proposed plan that Dan and I designed and sent in to the applicant, some of the areas had approximately 30 foot candles in it and there’s a copy of that over here if any of the Board members did not receive a copy. So that was simply a suggestion. Dollar General – we don’t have it prescribed in code other than at the lot lines. We don’t like to see more than one foot candle as we discussed many times in here, and I’m sure Mr. Horvath could elaborate, but it’s staff’s understanding that Dollar General requires two foot candles within the parking area in order to meet their requirements for a specific site.

Mr. Jacob Horvath: Jacob Horvath, Hurley & Stewart, 2800 S. 11th Street, Kalamazoo, Michigan, consultant for the applicant. Mr. Snowden did a very good job of summarizing all the actions over time her during construction. As everyone in the room I’m sure is aware, there’s often modifications or changes done in the field during construction after plans are approved. Mr. Snowden spoke about a number of those from gas and electrical connections and locations to numerous interior building electrical modifications, the site lighting which we’re discussing here today, as well as the storm water outlet

location. There were water mains, sanitary sewer utility conflicts identified in the field that weren't known ahead of time, so there were changes made to those. And, for one reason or another, the lighting changes have been perceived as a major change, so that's why we're here today, to discuss this lighting plan. I'm here on behalf of the current owner and developer to ask for approval of the plan as it meets all code requirements and is not in deviation of any code requirement that we are made aware of.

In order to give you a little bit of background, the original proposed plan (speaking off mic: I'm not sure you can see this very well or not, but the pole that was removed was in the middle of the parking lot there.)

Mr. Rettke: Do you have a red pen there? That might stand out a little bit more.

Mr. Horvath: So I can go ahead and circle. These are the locations of the original approved site lighting plan. So those are the pole locations that were originally approved. During construction, there were coordination issues, I guess I'll say, between installation of the storm water system and the site lighting plan. The storm water system, you may recall, is an underground detention system. It's buried underneath the parking lot. It's right in the middle of this parking lot area. That was installed prior to the light poles. The preferred way would be install the light poles prior to the storm water system to build it around it and then proceed. However the storm water system went in first and when they began construction of the light poles, the site lighting, that was brought to our attention. So we were requested to come up with a lighting plan, a solution, that would meet the Dollar General requirements by providing 2 foot candles in the middle of the parking lot, which is what they require. Really the intent for site lighting is to provide minimum lighting levels that ensures public safety and Dollar General's determined that 2 foot candles is what they want on their sites in the parking lots to ensure safety of the patrons.

So once we had a large detention system which is outlined right here (already installed) installation of a light pole in that location wasn't feasible without completely removing the underground detention system, reinstalling the light pole and then reinstalling the underground detention system. That's literally a six-figure number. That would have absolutely killed the project. So rather than doing that, we looked for a solution that would meet city code requirements which is not to exceed 0.5 foot candles at the residential property line to the south and also meet Dollar General requirements for 2 foot candles in the parking lot. So if you can think about how we're going to provide lighting interior parking with poles around the perimeter, these are the new pole locations here, here, here, here and here. They had to move, not significantly, in my opinion. (Speaking off mic – inaudible.) But in order to provide 2 foot candles in the middle now without a pole there, the intensity of the fixtures around the outside has to increase so it can cast light into the middle of the parking lot. So that's the reason for the

adjustment to the pole locations. It wasn't without reason. I guess I'm trying to explain the reason for that. So the site lighting engineer adjusted the fixtures, the intensities and the pole locations to provide 2 foot candles in the middle of the parking lot and, yet, not exceed 0.5 foot candles at the residential property line itself. So that's the justification for the design.

Mr. Rettke: The exhibit I have here, the one I have is the "as built" and the other one I have has the existing pole locations. Can you tell me what the numbers were run from, the original pole locations on this drawing? Is that the original pole locations?

Mr. Snowden: Mr. Chairman, you may be looking at the two plans of the same thing. The red markings are some suggestions that Dan and I made. There should have been an original drawing for that floating around.

Mr. Horvath: (Speaking off mic.) --show both what was originally approved as well as—

Mr. Rettke: But the numbers—

Mr. Horvath: Oh, I'm sorry, the actual foot candles. Those should match this.

Mr. Rettke: Those are the proposed or the actual? I just wanted to see what the change was.

Mr. Horvath: (Speaking off mic) --the same foot candles as this sheet which is what had been proposed.

As Mr. Snowden mentioned, we-- I've done my best to come up with a solution that would satisfy staff's request to provide reduced intensity in some locations. We requested a proposed layout that was provided by staff. We forwarded that on to the Lighting Engineer. The Lighting Engineer ran the photometrics and, while it did reduce the intensity underneath the fixtures, directly because of that, we had reduced foot candles in the middle of the parking lot. It was well below 2 foot candles in a number of areas. The tenant, Dollar General, is not going to accept that. The desire to provide greater distribution, the reality is we cannot provide less intensity around the perimeter and still get 2 foot candles in the middle. If we're going to create a more even distribution, we would have to increase the intensity surrounding the parking lot so it was a more even but higher distribution. We cannot lower intensity and provide even distribution that way without reducing the foot candles that are provided in the middle of the parking lot.

Mr. Donovan: When you guys were first doing this, the Chairman advised you that there are things out there that are probably not mapped and

things like that, like sewer lines, electric lines and things like that with the right-of-way being there. So you were forewarned on that part.

Mr. Horvath: Oh, we worked fully with Southwest Licking Sewer and Water Authority. The locations we identified. It was the elevations. Once we started digging, there was a water main that was 2-2.5 feet deep. So we thought we were going to be able to go over the top of the water main if it was buried below frost depth, but it was in direct conflict with our storm water outlet when we actually uncovered it and found it in sight.

Mr. Donovan: The second thing we said to you was that we were very emphatic about the lighting being correct for the surrounding neighbors, that they wouldn't have to feel like they were having to deal with a lot of extra lighting like that. Did anybody ever think of calling the City when they needed to change that and ask them then instead of waiting till it's over and done with and say, "Oh, by the way, we did this and now the parking lot's paved and we can't do anything about it except put lights on the roof"? It looks like a prison over there now.

Mr. Horvath: The lighting levels at the perimeter have not – specifically the residential to the south which—

Mr. Donovan: I fully appreciate that, but that was the whole purpose of the way the lighting was supposed to be laid out is to avoid all of that. And to me it looks like that pole was in the middle when your delivery trucks will be doing by. The one that you didn't put in, that you say is over the tank, the catch basin. This map looks like that the curvature coming off that street, that pole was right there by the driveway, at least by this drawing.

Mr. Horvath: The delivery vehicle pulls in here and then backs in this place and then pulls out. So the truck turning movements were not going to affect that pole, but I understand your concern.

Mr. Donovan: --that building on that lot and then you have to come up with all these ideas that come after the fact?

Mr. Enfinger: Again, this takes me back to my initial reticence to allow this, was that we were fitting 10 pounds of stuff into a 5 pound bag. Obviously this wouldn't be a problem if we didn't have to resolve the water drainage issues by burying it. You know, obviously it's easy to say hindsight's 50/50 with that but, again, this is absolutely something that's self-caused. We've been very generous up to this point with your client in allowing many variances and dealing with them. A moment ago you said that the plan that staff had submitted was unacceptable to Dollar General. At this point they need to start making concessions. If we, as a staff, feel like this is the best option for what we would like to see, it's time that they start reciprocating.

Mr. Horvath: You'd like to see parking lot light levels below what they consider to be safe?

Mr. Enfinger: Well, if staff feels like there are other considerations to be made as well, not only with that, but—

Mr. Horvath: We've done literally 11 different lighting revisions to try to come up with a distribution that is more even with reduced intensities around the perimeter, but the simple fact of the matter is without – in order to cast light into the middle of a parking lot, you need a certain intensity at the perimeter in order to provide that. So either we're going to not provide adequate light levels in the middle of the parking lot and reduce them on the exterior, or provide increased lighting levels on the exterior and provide increased lighting levels on the interior as well. I can assure you we've done numerous iterations here. We will look at any suggestion staff has. We, together, have not been able to come up with a solution that meets the safety requirements for the developer as well as—

Mr. Enfinger: Yeah, well, at this point I'm not extraordinarily concerned with what Dollar General's concerned about and what their standards are. Like I'm saying, we've given a lot for them. If this is what staff feels like is appropriate and in this small area here in the middle there's still enough light and it accomplishes all of the other things that we're trying to do, keeping aesthetics in line, getting rid of the floodlight off the top of the building, doing the things that we're wanting to do and we have to sacrifice a little bit of light there, it's time that Dollar General makes some concessions as well and meet us half way.

Mr. Horvath: I understand the position and I can understand the fact that the floodlight is a new lighting fixture that hasn't been seen before, but I honestly struggle to understand why the proposed plan is considered less aesthetically pleasing with the exception of the flood light, as far as pole locations than the previous. If you look at the comparison, they've shifted somewhat evenly. You know, there was one pole up close to the parking lot here (off mic – inaudible) – closer to provide greater light in the interior and this one's back a little bit just because of where the lighting would go. This pole's slid a little bit to the left some 14' or something like that. I guess I struggle to understand how these are considered gross changes to the aesthetic of the site.

Mr. Snowden: One other option that hasn't been brought up was that there was initially some resistance about adding a light fixture at the southwest corner of the property, which would be the southeast corner of the parking lot, because that would require the applicant to do some directional boring there. But staff would also like to point out that if the proposed plan that staff has proposed would be adopted, with the addition of a directional boring light on the southwest corner, that appears as if it would meet the lighting standards that the client is requesting. Is that a true statement, Mr. Horvath?

Mr. Horvath: I believe you're saying remove the floodlight and place a similar looking pole of light in that landscape area near the southwest corner.

Mr. Snowden: In addition to relocating the lights to the locations that staff requested on the provided proposed.

Mr. Horvath: Well, I guess at that point, the relocation wouldn't be necessary for adequate lighting levels.

Mr. Snowden: I understand what – yes, you're correct in that statement, but it was staff's view that the lights in their current locations are not as aesthetically pleasing as the original plan and we can debate the semantics of that, but that's staff's position. Then the second statement I think goes back to Mr. Enfinger's statement. It is self-caused and now the Board is being asked, on behalf of the citizens, to accept something that's not as good of an installation in the opinion of staff, as the initial plan.

Mr. Horvath: I understand the proposed lighting plan is not to the liking of staff, but we're not aware of any code violation.

Mr. Snowden: That's a true statement but, as you know, this body, this Board, approves these major site plans. So that's why if you go back to your initial comments about why is the lighting plan becoming an issue, well, the lighting plan's becoming an issue because it's one of the items that's approved through zoning. The underground storage system is not itself – its exact location is not itself approved through zoning. So that's why we're at this point now.

Mr. Horvath: I think aesthetics become very subjective, what is aesthetically pleasing to me may not be for you. It's my understanding that's the purpose of code and having requirements for such things as lighting intensity or pole spacing or things like that. And, without those, you're really subject to one's opinion.

Mr. Snowden: That's right. Then the opinion of this body was their initial approval of your initial plan. So when we change from that, that's why we're back here.

Mr. Dan Havener: (Speaking off mic.) One thing I wanted to point out too, there is no plans to have fixtures with lamp wattages of 250 and 400 watt fixtures. The latest plan you're looking at or the revised plan as submitted with the lighting adjustments as installed, there are two 1000 watt fixtures added to one pole, which was the relocated pole from the center of the lot to the perimeter and, to me, that's a very substantial change. What you're doing is you're creating what I would consider to be a hot spot within that overall parking lot lighting plan. _____ foot candles around that pole and that was one of the things that staff was not necessarily happy with the revised

plan also. I just wanted to bring that up. That was another thing that was basically taken upon by the developer to make a change from the 400 watt fixtures to 1000 watts per fixture, so you're jumping 600 watts per fixture.

Mr. Horvath: And the purpose for that, Dan, if I may, is to again provide the lighting necessary in the interior. If we were to keep those as 400 or smaller wattages, the 2 foot candles would not be there in the middle of the parking lot. There's a purpose there. They're more expensive fixtures. The developer, I can assure you, would not have used them if they didn't feel it was necessary to provide adequate light to the middle of the parking lot there.

Mr. Havener: My contention is had the developer come to the city to review the changes and the complications of the lighting plan at the time the problems came up, the staff and the developer could have worked together to reposition things at that time and resolve the matter _____ before the developer making these changes on their own accord without reviewing these changes with staff.

Mr. Enfinger: So from here, what are we looking at to have the originally approved plan be enforced?

Mr. Snowden: That's a good question. You know, with all due respect, Mr. Enfinger, I don't know that we can. If we did that, we'd be causing several hundred thousand dollars of issue to the developer, so we probably would be looking at a legal situation at that point. But, from the standpoint of enforcement, if the Board's position was – the Board's collective position was the original approved lighting plan is the plan that the Board stands by, the rationale from this would be now we have a plan that has been installed at variance with an approved major site plan that's not in zoning compliance. Staff could then issue a Notice of Violation which would no doubt be followed by a citation, which could probably have the applicant end up in Mayor's Court. As to what else could happen by then, I would have to consult with the City Attorney.

Ms. Wallace: So if we, just to clarify, if we vote to not approve the new lighting plan, can we have staff and the client continue to negotiate and then we would essentially put our trust in you to approve something that you know that we as a Board would agree to?

Mr. Snowden: We have several options. We could do that. That would be staff's suggestion for the Board to make that statement, given the parameters that the staff gave in the condition section. Essentially you just articulated what was staff's position. At the end of that process, if the applicant wasn't providing something within 30 days, staff would go to the notice and go to the citation and begin that process as I just described.

The Board could also table this and require the applicant to return in a month with a new plan and present it to the Board if the Board would like to see it. That would be acceptable as well. If the applicant is not able to meet that, but has something that is positive, staff could-- For example, if the applicant was not able -- if the Board gave some parameters for staff to approve a lighting plan and the applicant meets some but not all of those parameters with a new lighting plan that maybe staff could get behind or could at least say there was a step in the right direction, staff could require the applicant to return to the Board again at next month's meeting.

Ms. Wallace: Personally, I know there has to be some leeway, but going from 200 to 1000 watts, that's too much of a leeway in my opinion. Maybe adding a couple more light poles; do we really need to move the ones that already established? Can you add something, take the spotlight off? I'm fine with some leeway. You're the professionals or your staff is professional in that aspect; but knowing that we don't want to go to a 1000 watt bulb and all of the light poles—

Mr. Snowden: Ms. Wallace, my suggestion would be then for perhaps the Board members to take a few moments to discuss among themselves what they think the parameters should be. If they're comfortable with that-- It seemed like Mr. Enfinger may be supporting the original plan and, again, those decisions are up to the Board. Staff will accept the original plan and staff will accept a new plan within some parameters. If a new plan is going to be asked for, it needs to have some parameters, because we can't just say to the-- Given that we're dealing with aesthetics and we're not dealing with specific code prescription here, staff wouldn't be comfortable with the Board saying approve it based on how you like it. So I wouldn't be comfortable with that. I would suggest that the Board give some parameters for staff to work within that move it in a positive direction based on what we've talked about here tonight. That would be my suggestion.

Mr. Horvath: And if I may, just for informational purposes, the parameters proposed by staff of not to exceed 30 foot candles at any location, will not provide the 2 foot candles in the middle of parking lot without placement of a pole in the middle of the parking lot. That is the absolute reason for the higher intensities around the perimeter is to provide the intensity in the middle of the parking lot that's necessary without having to go to very significant costs of removing the storm water system, installing a light pole and reinstalling the storm water system.

Ms. Wallace: As opposed to just using a different kind of light pole? I'm a nurse, not an electrical engineer, so I mean rather than move everything, is there a way to add another aesthetically pleasing lighting to what you have established? My concern is I'm not going to notice if a pole is here or 18' down. I personally -- that doesn't bother me at all. What bothers me is the strength of the lighting because it is along a neighborhood. So, for me, if your pole is here or

here, I personally don't care about that. What I care is if you have 1,000 watts and it's glaring into somebody's living room window. That's my point.

Mr. Horvath: These are full cut-off light fixtures. So they have shields on all sides that direct that light down. That's the reason we provided the photometric plan here. If you look at any of the neighborhood parcels, the high intensity that does exist, and I agree it's very intense directly underneath this double fixture pole, but even as you get as far as 30-40' into the parking lot, it's already down to just barely 2 foot candles in some locations here. So by the time you get to the concrete line of the neighboring parcels, the light levels are essentially not – it's not affecting the neighboring parcels whatsoever. The only affect is that you have a high intensity area directly underneath the pole and it dissipates rather quickly because that light it shone directly down.

Ms. Wallace: And replacing that one big one with two smaller ones isn't an option?

Mr. Horvath: The poles were moved closer. There were no additional poles added. This pole was removed. There were none added and the poles that were further away from the parking lot moved closer so that they could get the light into the middle where that pole was removed. The inconvenience, if you will, of a very intense light is going to exist solely for the customers of this property. It's not going to affect neighboring traffic, pedestrians, public in general.

Mr. Enfinger: Why did Dollar General come up with the number of two? How did they come up with that number?

Mr. Horvath: It's – 1-1/2 to 2 is kind of a rule of thumb that we see throughout the industry. It's sole purpose, or primary purpose I should say, is to provide adequate light levels to ensure safety of patrons. Universities, large retail commercial corporations like this often establish their own set of criteria. As far as how they came up with that specifically, I'd have to get something from them on that. But it's not uncommon for institutions or large corporations like this to have their own set of standards that they want to see on all their sites.

Mr. Enfinger: Is there an enormous difference between one and two? Let me revise that. So is there a significant difference between one and one and a half?

Mr. Horvath: Well, I guess it depends on what significant is. It's another 150% of—

Mr. Enfinger: So my point is, if we're – if what staff has for us and we're looking at one foot candle in the center area and you're saying that standard is 1-1/2 to 2—

Mr. Horvath: The standard that we see, but for Dollar General, I mean that's across all of our client base.

Mr. Enfinger: I understand. It just seems like it could be something that they could live with, with the plan that staff has suggested.

Ms. Wallace: Or not have parking in that exact spot. I mean I don't know how many parking spots there are. Put an island there with a tree or something. I go to Dollar General and I've never been there when there's more than 5 or 6 cars there at a time. So how many parking spots are there total out there? Just a guesstimate's fine.

Mr. Horvath: Thirty, 32, something like that.

Ms. Wallace: I mean my thought would be to alleviate the parking where there's only one foot candle, put an island with a tree and some shrubbery and flowers there and then you don't have to have parking where there's only one foot candle, but the parking around the perimeter of the island would have the higher foot candle. I mean you're losing six parking spots might make a difference in the plan. If they're concerned about patrons parking in the lower lighting area, make there be no parking in the lower lighting area and put something else there. There's never 30 cars, I don't think, ever at Dollar General. I mean just a thought.

Mr. Horvath: I think they want a minimum of 30, I believe, is again what they look for.

Mr. Snowden: Ms. Wallace, the applicant would require additional parking variances to go any lower than they already have. They were varied for lower parking already. So they're below what code would require.

Ms. Wallace: Oh, okay.

Mr. Snowden: So it's not a terrible idea as far as sort of problem solving, but we'd be looking at going to get parking variances and then getting another site plan modification. So there's some practical difficulties with that.

Mr. Rettke: Does he have to go before Design Review Board?

Mr. Snowden: Depends on what our results are here. If any of the suggestions that I made, the answer is yes. Or, excuse me, no. The answer if he – if the Board approves the “as build plan” what's there, they will if the building mounted floodlights are maintained. If whatever resolution we come to through whatever this process is, if the building mounted floodlights are removed, they do not.

Mr. Rettke: Okay, cause they're in conformance with that.

Mr. Snowden: Correct. Right now they are not in conformance with their approved Certificate of Appropriateness, which is a whole other issue. And staff doesn't want to make a mountain out of a molehill, but it's just part of a system of things being done that weren't in compliance with plans by various key players. Again, not saying that we're holding Mr. Horvath personally accountable, but there were some issues in this project in general that could have been addressed with communication with staff and some that would still have been an issue. This is one of them, but there are some that could have been addressed.

Mr. Horvath: And I'd like to apologize, I guess, for the lack of communication here. We do 20-30 of these every year, two-thirds to three-quarters of them are built by the contractor that built this one here. And generally once it goes to construction, any changes, things like that, they're very much in communication with the inspectors and staff involved onsite during construction and literally they get us involved when they need our support for things like that. So certainly I want to apologize for not involving you earlier, but it was our understanding that it was being dealt with at the inspection level as the contractor was making changes. And, for what it's worth, as Mr. Snowden mentioned earlier, we do have approved plans from the Building Department. They are aware of the current lighting plan as it exists and as was submitted to the Board here today and they have approved that plan. We have a Certificate of Occupancy for the building. So, in the Building Department's eyes, the project is fully approved.

Mr. Havener: (Speaking off mic.) Just a couple of things. The Building Department do not-- They approve the plans that were submitted for building purposes. They did not necessarily approve the plan for the lighting purposes. That was clearly denoted by the incorporation of a letter from staff to the Building Department outlining that we still have contingencies that we're trying to work out with the applicant.

The other thing is the original site plan originally had five pole lights, five poles. The one that we ended up with, the plan now has four poles and, correct me if I'm wrong, Jacob, but I believe the staff drawing that was done and lighting level provided by your engineer, provided if you would go ahead and add a light pole to that southwest corner of the building pad would meet the two foot candle requirements. _____ to prove that, but in looking at foot candle levels in the center of the parking lot, if another pole were added to that location, I believe that _____.

Mr. Rettke: With the same lighting that's on the flood poles. You're just pushing is 18-20' closer to the parking, correct?

Mr. Horvath: Exactly.

Mr. Havener: Right.

Mr. Rettke: So that would increase your middle area where it's so deficient.

Mr. Horvath: We could provide a pole in this area. The floods on the building replace the pole there because remember by the time we got approval on this project it was fall and they were pushing to pave things before the plant shut down. They paved the parking lot, then they figured out this issue. So rather than having to excavate and remove freshly poured asphalt or incur the cost of directional drilling, it was preferred to put a floodlight on the building to provide the lighting in the middle as opposed to a pole light in that location.

Mr. Snowden: Just to be clear, the first revised set of plans or essentially what was the first "as built" plan, did not include that. That was added – that was a secondary addition.

Mr. Horvath: Did not include what? I'm sorry.

Mr. Snowden: The floodlight. The floodlight was a later addition.

Mr. Horvath: Okay, I guess I don't know what you're considering "first submission," because—

Mr. Snowden: Staff received notification from the electrical inspector in January and requested a new lighting plan – an updated lighting plan from Mr. Horvath. That was the first "as built" plan. That did not include floodlights and there were no floodlights on the building. The floodlights were added, in staff's estimation, approximately sometime in late February. Again, this was already after staff had contact with Mr. Horvath saying, "Hey, we have a problem with this." Again, project folks continued—

Mr. Horvath: That was a lighting plan that we provided? It came from us not the contractor?

Mr. Snowden: You provided me with one when I requested it initially, a revised plan. It did not include that and I'd be happy to show you in my office.

Mr. Horvath: There's so many iterations I've lost track.

Mr. Snowden: I know, you've been through a lot and that is a true statement. He has been through a 11 iterations of this plan.

Mr. Rettke: I know when I've driven past there, I don't shop there so I didn't stop, but it did look very dim in that center with the current lighting.

Mr. Horvath: Two foot candles is not real intense.

Ms. Wallace: So adding that one light at the corner would alleviate the low foot candle in the center of the parking lot? Is that what you're saying?

Mr. Horvath: It would replace the floodlight on the building essentially.

Mr. Rettke: Just move than 250' closer to the parking lot.

Mr. Horvath: No, I'm sorry, I'm talking about a pole light in this location.

Mr. Donovan: Yeah, right on the corner.

Mr. Snowden: I think the Chairman meant 250 watt fixture instead of 250'.

Mr. Donovan: Does that mean we can reduce the 1,000 illumination bulbs there?

Mr. Horvath: I don't know for certain. Possibly. We'd have to run that.

Mr. Rettke: Potentially because the 1000 foot is carrying over the majority of the parking lot.

Mr. Horvath: Potentially yes, but I'd hate to say for certain with running the numbers.

Mr. Donovan: My biggest problem with the whole thing is that nobody bothered to ask. They started changing things and nobody considered coming to the city and saying, "Hey, we're going to do this if it's okay." We were pretty emphatic about what we were expecting when you guys were here before.

Ms. Wallace: Do you guys want to come up with what are acceptable?

Mr. Rettke: Well, I guess we have three courses of action: Say no to the current. We can table it with suggestions, or we can turn it over to staff with guidelines.

Mr. Snowden: Mr. Chairman, I think, as usual, you have summarized it well.

Mr. Donovan: I like the third option.

Ms. Wallace: I think with the guidelines of not having the 1000 watts, adding an additional pole at that corner and removing the floodlight, if that gives close to the two candles in the middle, if they have to go down to 1.7 by just removing the floodlight and adding the pole, on Dollar General's part that needs

to be a concession. I understand one is pretty dim and the Chairman even said it looked dim. I mean adding the pole in the ground—

Mr. Rettke: Can you go back to the slide with the floodlight.

Mr. Horvath: You mentioned the site was pretty dim at night. Did you notice an alarming brightness?

Mr. Rettke: It just looked really dim when I was driving by.

Mr. Horvath: I guess I'd like to reiterate the fact that that's because the lighting levels—

Mr. Donovan: Are you talking about where that person's standing there on the corner?

Mr. Rettke: Yeah. It would actually be a little bit further out than that because of that island.

Mr. Donovan: How far away from the building are you talking about putting this pole? You're already talking about putting it to the side of the building.

Mr. Horvath: It would be probably 12-15' away from the building, away from the corner there.

Mr. Rettke: You can get it farther than that. Those are 18' stalls.

Mr. Horvath: We'd kind of want to center it. We wouldn't want to put it too close to the edge because the delivery vehicle goes through there, so we wouldn't want it potentially clipping that.

Ms. Wallace: I think with adding that and if staff works with that and it does the lighting that we need it to do, does that sound like—

Mr. Rettke: And that'll keep you out of DRB.

Mr. Snowden: Yeah, that's just a difficult situation. I mean generally speaking, the Design Review Board, since I have been associated with Reynoldsburg, and you all know my history, has not approved exposed rooftop mechanicals like that for anything.

Mr. Rettke: I can see why.

Ms. Wallace: They'll be getting rid of that and putting in a pole light.

Mr. Horvath: We're not opposed to that suggestion but, as I said, I'm not sure that would necessarily allow us to reduce the size of any of the other fixtures. It may. And still providing the 2 foot candles in the middle, it may, and we'll certainly be willing to look at that.

Ms. Wallace: You might have to give a little. If it's 1.8, it's 1.8.

Mr. Horvath: There is one location that it's 1.9, so they are reasonable. They approved the plan – Dollar General, that is. There's one location that's 1.9 right in the middle there.

Mr. Rettke: Yeah, you've got two spots that are 1.9.

Mr. Horvath: They understand getting close is reasonable, but when we get to 6 or 7 spaces that are below that level, that's when—

Mr. Enfinger: If you've done this 11 times, why haven't you tried that already, putting a light in that—

Mr. Horvath: We have. We have.

Mr. Enfinger: And did you do the photometrics plan on it?

Mr. Horvath: Yes, but I don't have it handy.

Mr. Snowden: Mr. Enfinger, let me clarify. Staff proposed this early in some of our discussions and Mr. Horvath stated that doing a directional bore there was too expensive.

Mr. Rettke: So if you move that there, where would the directional bore have to go?

Mr. Horvath: Well, that cost would be incurred. It wouldn't be avoidable.

Mr. Rettke: No, but I mean where would you have to directional bore to?

Mr. Horvath: Well, the entire lot is paved, so either they would just saw cut it and trench from one pole to this new location, or they would bore it.

Mr. Rettke: They couldn't go from the building out?

Mr. Horvath: No, I asked that.

Mr. Rettke: Cause they've got a light there anyway.

Mr. Horvath: You've got walk you've got to go under, too. So either way you're going to have to remove some pavement and replace it.

Mr. Rettke: That's one thing-- From where I stand, I don't like the politics that were involved in doing the changes without working with staff or bringing it to our attention, but another aspect to say, "We'll go back to the original and redo that. They're going to put a 12' saw cut through there and then they're going to put asphalt." That won't last five years. Then the parking lot -- most likely the parking lot's not going to last 10 anyway, but now you've got further complications. The site's going to look like -- the more you cut up the site after it's free poured all in one setting, the worst it's going to last. So I'd like to be kind of less intrusive, but I don't want to go all weird on them and say, "Go ahead and do what you've got."

Ms. Wallace: I definitely don't like the spotlight on the top of the building, but I also don't want to say you have to move every single light back to exactly where it was on the first plan. I mean, like I said, a pole here or a pole 10' down really, to me personally, doesn't -- I don't care. I think if we get it to 1.5 in the middle of the parking lot and it saves them three-quarters of a million dollars in renovations, then maybe they'll be willing to give in that aspect.

Mr. Rettke: And it's your opinion as the engineer that there's no possible way of putting a light pole right in the middle of the lot.

Mr. Horvath: There is, but the storm water system would have to be removed, the pole would have to be installed, and the storm water system would have to be reinstalled. They'd have to shut down the entire parking lot, close the store, spend probably at least a couple weeks--

Mr. Rettke: And that would cost millions of dollars, right?

Mr. Horvath: Well, it wouldn't be millions. It would be in the six figures, absolutely.

Mr. Havener: (Speaking off mic) Would not a vertical slab possibly been an option to install that light instead of going vertical or horizontal -- possibly go put that foundation that would hold that pole and that way you could have gone over the storm drain?

Mr. Donovan: Just make like a pedestal light.

Mr. Havener: (Speaking off mic) Instead of going vertical, down, for your light pole base, if you would have gone more with the horizontal type base and gone out and pour the base over the drain system, would that have not been an option possibly?

Mr. Horvath: I personally have never seen a pole like that, but I don't know that they don't exist.

Mr. Rettke: Yeah, like take four parking spots, pour it 12 inches deep.

Mr. Horvath: I think then I would be needing a variance for parking again. We're going to lose parking.

Mr. Rettke: Well, you can still park on it. It would have been part of your pavement.

Mr. Havener: (Speaking off mic) The concrete would have been part of your foundation.

Mr. Horvath: Oh, you're saying the pavement would actually be integral with the base. That's an interesting suggestion. I had not thought of that.

Mr. Rettke: You could lead the world in engineering.

Mr. Snowden: Mr. Chairman, if I could just direct the Board's attention back to the proposed plan that staff gave. We all have different views and ultimately it's the Board's decision. If you look on that plan, with the addition of a light placed at the southwest corner of the building as we've been discussing, and that plan would only require I believe two of the lights to be relocated. It may even be possible for only one of the lights to be relocated. And it didn't use any 1,000 watt fixtures in that particular iteration. So would the Board be comfortable with that plan amended to include the southwest corner? It doesn't include relocating every single light.

Mr. Rettke: You're talking the exhibit "Dollar General, Reynoldsburg, Ohio—"

Mr. Snowden: Correct, with the red ink, Mr. Chairman.

Mr. Rettke: When they ran that they used the floodlight on the building as opposed to moving that—

Mr. Snowden: To be honest, Mr. Chairman, you'd have to look on that what they ran. I don't even know that they ran the floodlight included in that.

Mr. Rettke: Oh, absolutely. Yeah, they had to.

Mr. Horvath: That's the reason it's there, to get the two in the middle.

Mr. Rettke: It's 20 there, 15, so you'd move all that back.

Mr. Horvath: What would be the desire for relocating?

Mr. Rettke: Just to get it off the building.

Ms. Wallace: Why would the other ones have to be moved?

Mr. Snowden: It was just staff's opinion that having them be in line with parking features was superior, but, again, it's up to the Board.

Mr. Rettke: Instead of surrounding it and trying to concentrate the light in, you're now making it more interior. The way staff has it, it's going down the parking stalls. So, see, it's more centralized than outside in.

Mr. Horvath: But these lights shine directly down. They don't broadcast out at any angle whatsoever.

Mr. Rettke: Well, you're increasing the intensity to get a further spread.

Mr. Hovath: Exactly.

Mr. Rettke: At least they didn't do what Dairy Queen did and put those big ones on angles. We'll give them that credit.

Mr. Horvath: Dollar General does not like those floodlights, I can assure you. They put them up there to solve the foot candle problem.

Ms. Wallace: I do like staff's recommendation that you just said before we went on talking here again, about adding the one on the corner, removing the floodlight.

Mr. Rettke: And it does cause a void right here in the center where we've already got a void, then it's a much more bigger void. But, again, if they would run it with that pole out here in the island, it may be increased. Is that 250 on the building, the floodlights?

Mr. Snowden: My reading is that they were each 250.

Mr. Horvath: They're each 400. Yes, 400 twin.

Mr. Snowden: And that wall pack is what?

Mr. Horvath: It's the same intensity as the wall packs.

Mr. Rettke: Okay, if we proceed with Item 3 basically saying no but work with staff, what kind of guidelines can we give them? We don't want the building mounted floodlights—

Mr. Snowden: I would suggest that the Board specifically prohibit the building mounted floodlight. I would suggest that the Board make a statement that they like the light near the southwest corner of the building – the addition of at least one light pole near the southwest corner of the building to replace the concept of the floodlight, but in a way that matches. I would suggest that the Board give us a timeline or require the applicant to return. Either a timeline 30 days to submit something to staff, or return to the Board.

Mr. Horvath: We would be in agreement with those terms.

Ms. Wallace: I think 30 days to staff. Staff knows what our issues are.

Mr. Donovan: We can work with them as they go along instead of waiting for a 30-day window and then all of a sudden this, this and this.

Ms. Wallace: I'm fine with the 30 days to staff.

Mr. Horvath: We can turn this around much quicker than 30 days.

Mr. Donovan: We're willing to work with you. We just want to be worked with, not ignored.

Mr. Horvath: Understood.

Mr. Snowden: Staff just likes to have a final end so that things don't continue in a cycle of back and forth.

Ms. Wallace: So 30 days to staff and then staff knows our views on this. I don't want to be punitive to them, even though we were—

Mr. Rettke: And I don't want to see the parking lot all cut up, cause, like I said, that isn't going to last. It'll just crack. It'll look like a mess here in 10 years or less, look like half the parking lots we've got.

Mr. Enfinger: Or our streets.

Mr. Rettke: Yeah. You read The Dispatch _____ why they're tearing up a street they just paved. What are those measurements it's reading, foot candles?

Mr. Snowden: I said 30, but Mr. Horvath stated that's going to be too low.

Mr. Horvath: We're going to have to rerun it. If you keep us at 30, I can almost guarantee it's not going to be able to get with the two in the middle of the lot.

Mr. Snowden: Another suggestion from staff would be that the Board just prohibit the 1,000 watt fixture. Just make a statement that it needs to be 400 or below.

Ms. Wallace: That's good.

Mr. Snowden: If it requires the applicant to put in additional poles in some cases, that would be part of that.

Ms. Wallace: I'd rather than them stick a pole somewhere with a lower watt bulb than have one big giant—

Mr. Rettke: When you're referring to the intensity, you've got 1,000 watts?

Mr. Horvath: The different wattage, yeah, wattage of fixtures. Exactly. Now eliminating – if this were to be approved with the stipulation of not being allowed to provide a 1,000 watt fixture, that may result in a foot candle-- I'm not saying 1.8, 1.7 things like that, but it may be significantly reduced.

Mr. Snowden: If you look at the plan that they ran from staff, it's only the area that's indicated in red and those were all-- Dan could help me out here, because Dan did the specific-- We've been through so many, who can keep track of them?

Mr. Horvath: I hope we can leave here and come up with one more and be done.

Ms. Wallace: Mr. Chairman, do we have our stipulations?

Mr. Havener: Looking at this drawing, if we left the lights as is here, the light as is here, place a pole here and make the _____ here that we were talking about. The range there is 1. It goes as low as 1. So if you add a pole there, that's going to bump it up. That's not going to be a problem. And if you-- What I was doing, if you notice here, these are the 2,000 watters, so we maintain the 2,000 watters, we just locate them out to here. So by putting the 1,000 watt, 1,000 watt, adding that, you'd be good.

Mr. Rettke: And he'll sign and seal it for you too.

Mr. Havener: Yep. I'd approve that hands down, not a problem.

Mr. Rettke: So we're going to take out that 400 maximum.

Mr. Horvath: I know my client, the developer, is trying to do – they want to avoid having to relocate poles and fixtures that they're already spent the cost of installing.

Mr. Rettke: I'm trying to do that, but I don't know that you can do that without—

Mr. Horvath: I think that we can come up with a very similar light distribution in the middle with a pole in this location. If not, come up to put two very close—

Mr. Rettke: The pole just had to be right there though. That was the bad part. You wouldn't be here if that pole could have got in. Now whether it was before it was paved or-- Okay, so conditions: No floodlight affixed to the building; propose a southwest corner light fixture to replace the floodlight; optimally reduce the foot candles to around 1,000 foot. Do we still want that or not? You're talking leaving that, so those are going to stay.

Mr. Havener: (Speaking off mic.) The two 2,000 watters could stay but be relocated. (Inaudible) They could probably get away with one 400 watt fixture, but then engineering site would tell us that.

Mr. Rettke: And submitted within 30 days for staff review.

Mr. Enfinger: Would there be any need for them to come back here?

Mr. Snowden: There wouldn't be if the Board doesn't want to require it. If the Board would like to see it, staff really doesn't have a problem with it.

Mr. Enfinger: Well, I was thinking at the 30-day window if it might need to come before us, it would need to be to you before that, so that he could get through the process of getting it resubmitted for the next meeting.

Mr. Snowden: Sure. Normally our application deadline for your meeting, this body's meeting is 25 days out, which would be like next week – a week and a half from now, but staff could vary that. If you want to just – you know, Mr. Enfinger, if you feel that this body needs to review the next plan, then the Board can simply give those suggestions, those stipulations and require them to return to the next meeting. It's up to this body.

Mr. Rettke: Thirty days is sufficient for you?

Mr. Horvath: Oh, absolutely. That's plenty of time.

Mr. Rettke: So we're not technically tabling this.

Ms. Wallace: We're just going to let staff make the decision?

Mr. Rettke: Yeah, vote on it with the following conditions.

Mr. Snowden: Technically you're going to be essentially approving it, but yeah. I'm going to suggest that the Board use the language "deny the revision" and then use the language "empower staff to do a review of the light plan given the stipulations." If the Board's using the language "approve" it makes it sound like the Board has any support for what they brought.

Mr. Rettke: We're going to deny the revision as submitted and we're going to empower staff to complete the review—

Mr. Snowden: "—and approve a light plan at variance with the previously approved major site plan."

Mr. Enfinger: So when we vote on this, do we say yes to denying it?

Mr. Rettke: Yes. The motion is going to be that we deny the revised-- Okay. Any other questions, concerns, comments? (No response.)

Mr. Snowden: Mr. Chairman, you can make the motion to approve and then everybody can vote no if that's the Board's position.

Mr. Rettke: But how do we give you power?

Ms. Wallace: That would be a separate motion, that we deny it as presented and then motion to blah, blah.

Mr. Rettke: I make a motion that we approve the major site plan review for 8915 East Broad Street, #168853.

Mr. Donovan: I second it.

(Mr. Snowden called the roll. Mr. Enfinger voted "no." Mr. Donovan voted "no." Ms. Wallace voted "no." Mr. Rettke voted "no.")

Mr. Enfinger: May I asked based on what grounds?

Mr. Snowden: Mr. Chairman, it would be-- Staff's statement would just simply be major site plan required.

Mr. Donovan: That's 1143.03(a)(1)?

Mr. Snowden: Right, which empowers this Board to review and approve them. Board members that section 1143.03(a)(1) empower this body to approve

the site plans. There are no specific standards for what the Board is required to approve. It's simply stated that the Board must approve them. Staff's interpretation has been that that is left to the Board's discretion on how they want to interpret the plans.

Mr. Rettke: So now we're going to make a motion regarding major site plan review at 8915 East Broad Street, #168853 to revise the proposed site plan submitted and denied before the Reynoldsburg Board of Zoning and Building Appeals to incorporate the following: No floodlight affixed on the building. We going to consider adding an additional light fixture at the southwest corner of the island of the building. We're going to consider staff's recommendation of moving two poles, reducing the 1000 watt along the westerly side of the facility to the northerly side, and adding another potential 1000 watt, and we're going to empower staff to complete the review and approve that variance lighting site plan that shall be submitted within 30 days to staff.

Ms. Wallace: I'll second that.

(Mr. Snowden called the roll. Mr. Enfinger voted "yes." Mr. Donovan voted "yes." Ms. Wallace voted "yes." Mr. Rettke voted "yes.")

2. **SECTION 1145.10 REVIEW;** DETERMINATION OF A SIMILAR USE REQUESTED FOR APPROVAL AS A SPECIAL EXCEPTION USE IN ALL DISTRICTS.

Mr. Snowden: Mr. Chairman, this is an interesting situation and this presentation will be more informational for the Board. Staff would like to request the Board's informal input into some situations and some requests that staff is getting. Staff has had several requests within the last several weeks, multiple requests, to permit, at least through zoning, food trucks in the City of Reynoldsburg. In the zoning code, there are no, absolutely no regulations that reference specifically what we now know as food trucks, or some communities call them generically "mobile food vendors." The situation that we're dealing with is not unlike the situation that the City of Columbus recently dealt with when they went through a process to regulate these types of vehicles. There's several fronts in which regulation is required or is done. One is health. These are inspected by the Boards of Health for the respective locations in which they will be operating. They are required, in some communities, to have a special permit and inspections from the Department of Public Safety. In Columbus that is a permit and a fire inspection that's done at the same location. In our community these would need to be inspected by the respective Fire Prevention Officer of our four fire districts, depending on where they were going to be located.

Mr. Rettke: That would get cumbersome to moving them, the whole intents and purpose.

Mr. Snowden: That's a great point, Mr. Chairman. That is a good point. In addition, obviously one of staff's main jobs is dealing with these through the zoning code and how do they meet our use regulations. These cannot be accessory uses, because the accessory use code states that the accessory uses are supposed to be for the benefit of the building occupants. Accessory uses would be, for example, like a residential structure has a garage in order to store the vehicles and other items for the residents that reside on that property.

These are essentially other businesses. The issue that comes forth is that they are temporary from the standpoint of they can move. However, they are – when located in one location permanently, they can take on the form of a permanent structure.

So in doing a review here, staff found an interesting part of our zoning code related to similar uses. This body can declare certain uses to be “similar uses.” Staff did want to point out and you can see it under the consideration sections in your staff report, that drive-in or outdoor services is a particular definition of our code that is already a special exception, but it's really geared towards what we know commonly as drive-thrus or what many folks of a certain generation knew as drive-ins, although there are a few of those around today. It doesn't really address the food station itself being able to be driven. In addition to that, if someone wanted to have their use declared similar to a certain use and staff could not permit it in any other use category, they would be required to apply for a special exception, go through the special exception process with this Board. In addition, there would be a separate City Council hearing where City Council would state whether they agreed with the use clarification. Then the applicant would have to return to the Board to actually work through the details of the special exception. So it's a unique procedure just for similar uses being declared through special exceptions. The interesting part of this is that the Board would be declaring that special exception to be a similar use and all uses that were that way would become similar uses permanently. For example, if one individual made an application for special exception, the Board declared that to be a similar use, City Council confirm that, all, for example in this case, food trucks could be from then on declared an outdoor drive-in use. So that's just one example.

The other way to address this would be for staff to come up with new definitions about where these could be. For example, that would require code amendments to new – to add definitions in the definition section of the zoning code and possible regulations in another location about where these would be located and so on. It would essentially be adding another permit that staff would have to review administratively typically. Staff could also regulate them through the temporary “special land use” section of the code, which is really geared toward things like fruit stands and tent sales. Temporary special land use is really focused on the event itself being temporary, not necessarily the vehicle involved. So, for example, by our definition the temporary special land use is

very much focused on length of stay of these particular uses. For example, 60 days for a produce stand, 7 days for a sidewalk sale and so on. Food trucks would want to be at a given location essentially permanently. They just wouldn't be at that location all the time. So you're going to have requests from food truck owners to be, "I want to be at Kroger on East Main Street every Wednesday between 10 and 2." We're going to be getting that type of request and we don't really have a way to address that right now through any regulation.

So, at this point, I would just be curious to see what the Board's opinion would be. If we went the code change route to really try to address this, or the Board could give staff an informal statement that basically says the Board doesn't feel they fit in with any use category that's existing and that would, essentially, prohibit them. So it's a complicated situation, because it's such a different use from anything that's anticipated in our code and staff would just like the Board's feedback on what they would like to see.

Ms. Wallace: Well, they are definitely the wave of the future and they've been around in big cities for decades literally. I have issues – a couple things – with permanent ones. The one on Brice Road that's in front of Screamin' Willie's, there's one on Main Street in Whitehall. There's a couple in Whitehall. I think when they're permanent they start to look trashy. I think the whole concept of food trucks is great. The fact that it's mobile and you know, "Oh, my gosh, Wednesday I'm going to get a Dane's Dog, and on Friday I can run up to this parking lot and get a crepe," or whatever. I think having them, but making them not have the ability to be in a permanently – where it stays there overnight, that there's picnic tables set up out front. The concept of the food truck is you pull in, you've got 4 hours to get up there and get your bratwurst and then they pull out. Then there might be a different truck there the next day. Or even have a location where there's electrical that would support these trucks. You know, have one in the Kroger parking lot, have one at Civic, have them at different locations throughout the city and you can schedule different food trucks at different times. You know, you have football games going on, you have soccer. At the soccer fields you have different areas where they could set them up and it would be a couple hour venture as opposed to somebody putting their truck up like it's been on Brice Road for decades probably.

Mr. Snowden: So in commercial districts for example, and I'm just going to throw out some options. You know, again, I talked about a special administrative permit. My other suggestion would be would the Board like to regulate these through the special exception procedure, an existing procedure. One of staff's concerns is staff doesn't want to create a constant special procedure for every single new type of use, because that's not really an efficient way to deal with this. So there are two sides to regulating this through the special exception. One would be the Board would approve each truck at a specific location. For example then you could regulate the hours and so forth of a specific vehicle at a specific location. Or we could have property owners get a special exception for food

trucks at a specific location on their property. So it could be different food trucks, but a specific location on their property would be where it was permitted. For example that wouldn't affect their parking, was a certain distance from the building. I've also had some communication from the Truro Township Fire Prevention Officer about some of his concerns for example. He doesn't want to see them at gasoline stations because they have propane and generators and he doesn't want to cause an explosion. I think we can all understand that line of thinking. So there's just a lot of different parts to this and specifically I'm thinking about the zoning side and how we're going to regulate the locations within private land.

Mr. Enfinger: Typically how is that handled in other municipalities? I would guess that the landowner would have ultimate say on whether the person could squat on their property or not.

Mr. Snowden: Absolutely. So these would be with landowner. You would have to have permission from the landowner, have the landowner or main tenant themselves get a special exception. That would be one example.

In Columbus they are permitted to be on private property in commercial districts that have an existing use. So, for example, if you have a gasoline station in Columbus or a carryout, you can have a food truck there if that carry out is open as an existing use. If the carryout is closed and the building is essentially vacant, no food trucks there has generally been their policy.

In addition, Columbus has a system of, because they're so large and so forth, they have a system of permitting, as I stated, of the actual vehicle and this isn't even really what I'm talking about. I'm talking about the use of these and where they are. Secondly, they also permit them to be on the street in some locations, which our right-of-way code would prohibit almost exclusively for them to be selling in a lot of locations at this moment. Now how does that affect the ice cream truck man? I don't know. Maybe that's something we want to address or that I can help public service address at some point, but that's even further out from what I'm talking about.

Mr. Enfinger: That's a completely mobile one there. So, in my opinion, it seems to be that it would be better for the city if the landowners, the property owners, were in complete control of that. They've got skin in the game as far as keeping their parking lots looking nice and neat and clean, orderly. They're the one ultimately that also would be in charge of getting the hookups for them, whether they would need electrical hookups, generators or what have you. They at least would make sure they monitor how the area's keep clean. You can easily have napkins and plates, all that kind of stuff blowing all over. It would seem that would be an advantageous way to go about it. And also limiting that it's not in front of an empty building, absolutely.

Ms. Wallace: I know Westerville has this cause my friend owns a food truck. He is contracted with Kroger's in Westerville. He schedules this day, this day, this day and he is in front of the Schrock and Route 3 Kroger's. I can – I mean that might be something to do, check with the City of Westerville how they regulate it because I know for a fact they do it because he goes there.

Mr. Snowden: And for example, Ms. Wallace, that's sort of the thing that we're talking about, or that I would point to and I think that's what Mr. Enfinger was talking about. When an applicant comes in and asks me that right now, someone comes in the Building Department counter right now and asks that question, I don't even have a specific answer to give them, because our code really doesn't address it at all. It doesn't specifically prohibit it, but it's such a different use than anything that's in our code if folks were to say, "Well, what part of the code says that?" Staff would have a hard time saying, because just nothing addresses this sort of thing.

Mr. Donovan: I would think you'd want to have permitting for those trucks and you might want to – instead of having them where they park wherever they feel like they should park, have commercial islands or whatever you want to call them, where certain parking lots in the city or certain parking areas and that's the only place they can set up.

Mr. Snowden: Would the Board consider – and staff isn't necessarily going to be running this program for these folks. Staff is trying to set up a system so when these folks do come in because we know they're there. I've got folks calling me saying they want to do this, I can tell them what to do to get in compliance that would take care of these secondary affects. For example, if a landowner or a tenant got permission through the special exception process – they would have to apply through the special exception process most likely, go through the details that this body goes through for all that, showing your parking, showing where things are laid out, providing a statement saying they have access to trash, providing a statement from the landowner saying that they're allowed to be there, committing to certain hours of operation and committing to take care of the secondary affects and so on. So that's kind of where I'm going with it, I suppose, and I guess I just wanted to see whether the Board would like to see it – declare it a similar use to the definition I gave, or if the Board would rather see staff write a specific regulation and regulate it through special exception. We're got a lot of options.

Mr. Rettke: I think that gets kind of dangerous by considering it a separate use, because I think the trailer that pulls up and sits there for five years could fall in there. So I hate to say it, staff needs to identify some of those potential problems we'd like to avoid by not just lumping it in a drive-in business.

Mr. Donovan: Yeah, make it a transient position.

Mr. Rettke: It almost has to be something like that, because then you get that trailer that sits right out in front of Screamin' Willie's that's been there for six years. They should have gotten a storefront in my opinion. If the business is that great that they can sit there day in and day out and it has normal business operations, I don't want that to happen here.

Ms. Wallace: No, that's why I say plug in for X number of hours. And rather than the Board having to sit through 30 different food trucks coming in here to get a permit, I would rather say, "Okay, if Kroger's is willing to have people, which Westerville Kroger's is, if Main Street Kroger's is willing to have a food truck, have them get a permit that's good for a year and then if you get a permit from the City of Reynoldsburg to have a food truck, these are your regulations that you have to follow. They can't be there overnight. There has to be specific hours. There have to be trash receptacles, things like that and then having the landowner apply and have it for five years, you're permitted to have a food truck that's temporary that has to be removed every night. That way we're not sitting through a hotdog cart.

Mr. Snowden: So, Ms. Wallace, could we accomplish that by doing a special exception for the individual site? So for example we did one special exception for Kroger on Main Street for a generic non-named grocery store on Main Street in our city, for a certain parameters and the Board could apply parameters that would regulate these issues there. But it's a hotdog truck on Monday and a pizza truck on Tuesday.

Mr. Rettke: That's a great idea. You've got to think of all the other scenarios where they buy an 8x8 shed from the Amish country and put it in there. It definitely has to be transient.

Ms. Wallace: I think it would be if we came up with that stipulation. And if you want to host a food truck, these are the regulations you have to follow. You apply for your permit. It's good for 3 years or whatever and if we, or anybody sees that now there's trash blowing everywhere, then the permit's revoked.

Mr. Enfinger: The special exceptions always come up every six months, right? They could.

Mr. Snowden: The Board can do whatever it wants. In fact that's something that Chairman Clemens is very much about. He likes the six-month reviews. The reason he started or folks started doing the six-month reviews is because for folks that had liquor permits with their special exception, there's some state law liquor control issues that deal with that, but the Board can do whatever they want. I mean the Board could put a time limit. The Board could say that the folks have to come back every year if that's what the Board wants, or five years. It's up to the Board. The Board could put conditions on it that it's revoked if certain things happen.

Mr. Rettke: It's just harder on you to track.

Mr. Snowden: It is, but this is very preliminary conversation. Some of these things we're talking about are possible code changes. Some of these things could be made in a policy statement of the Board which staff would draft and the Board members could review and edit and then staff could enforce that as an interpretation of the Board, especially initially. So it depends on how far—I think, based on what I'm hearing, is we're probably looking at adding a definition of mobile food vending because it's so much different than any definition we have in our code.

Ms. Wallace: I think it will bring business and traffic to our community, because there are certain ones – the pizza guy that was at the Tomato Festival, they only-- I said, "Where's your restaurant? I don't care how far I have to drive, I'm coming." They said, "Sorry, we're only out of our – we're mobile." So there's people that go, "Where is X pizza?" and they go to that city. And the lady that does the crepes, people go to her. I think it's a great idea. The first time you apply we do a six month review. If everything looks great, you're good for five years.

Mr. Rettke: Yeah, I certainly think it needs a twilight period.

Mr. Snowden: There's a running joke from our building official here, Mr. Sloda, you know, "Nothing's more permanent than temporary." When people say "This is temporary. We're only doing this a while." And that turns into a cycle of "we're only doing this for a while."

I appreciate the Board taking that time. Any members want to think about this, you're welcome to contact me. The code sort of prohibits the Board from being overly proactive with these sort of things, but that's why staff is trying to – I know that there are several people waiting in the wings that want to do that, so I wanted to touch base with the Board before we got any further so I know what parameters I'm operating within so I can bring forward a policy that folks can get behind.

Mr. Rettke: You may make it eligible – let's say I want to hold a ball tournament at Civic Park. That's becoming a good trend where they'll bring these guys in and they'll give you 15-20%. I haven't see a lot here, but like Berliner, people are kicking that around. I know South Carolina, there was a lot of food trucks there.

Mr. Snowden: I'm working on a code clarification right now that exempts anything that Recreation and Parks is permitting as a special event, where people have pulled permits to utilize the space from Recreation and Parks. I'm exempting that.

Mr. Rettke: Like the Tomato Festival, the Fourth of July—

Mr. Snowden: Exactly. Those are, in my opinion, and on several of our previous Planning Administrators, those are accessory uses to a park. A park is for special events among other things and that's a logical place. And this goes into a deeper discussion. For example special events at some of our grand openings, you know that's a one-time thing, or a church festival that's gone on for many years that's contained to the site, that's a community event that's accessory to that.

Mr. Rettke: We don't want to be too restrictive on that.

Mr. Snowden: Right, but on the other hand, if everybody in the city has a food truck in front of their business, then we have a secondary problem. So it's just finding that balance of where we can all be supportive. And I just wanted the Board to know that this is out there.

Ms. Wallace: If you want to talk to my friend that has the food truck, if you need that, just email me and I can give you a contact information just to see kind of how he's done it all these years. See if there's any tips or problems that he could say this would be better if Westerville did it this way. It would an inside view from the vendor's point of view.

Mr. Snowden: Many of the people who have contacted me have been residents of the city or immediate area saying, "I want to be here. I don't want to go downtown every day. I want to be here some of the time." That's why I'm trying to gear us up. I just think the perception has changed. It's not just one guy with a hotdog cart. Some of these folks have gone on to become well known chefs. It can continue to be an economic development tool. Folks can go from these food trucks to a brick and mortar site. That's what Late Nite Slice did down in the Short North. They started as a food truck popup and now they've got 4-5 locations. So that could be the type of thing I hope to cultivate.

And as we're winding down, Mr. Chairman, if I could just take one moment of personal privilege. The gentleman at the very back of the room if someone that I've been working very closely with down on Brice/Livingston and it's Officer Tim Kessler of the Reynoldsburg PD, although he's not wearing his uniform. I want to give him a shout out. He is the community liaison from the police department to the Brice/Livingston business owners and making a lot of positive progress down there on many fronts.

Officer Kessler: (Speaking off mic – inaudible. Talking about a vendor that set up in the area and there were no regulations which made things a lot more difficult. Speaking of the problems of permanent seating – invites undesirable people loitering. In general food trucks are a good idea, popping up everywhere, but definitely need to be regulated.)

Ms. Wallace: And crime-wise, too. If you have a temporary structure or it's a trailer and there's food in there, there's equipment, somebody might think there's still money in there. I mean you're just asking for crime to happen by having something sitting there.

Officer Kessler: (speaking off mic – inaudible. Set up in front of Century City, property owner started gouging him a little bit. Something about a contract with the property owner.)

Mr. Snowden: It would be for the most part. I mean we generally haven't asked folks that are just leasing space in a building to provide copies of their leases to do anything, whether it's zoning or special exceptions to get to the zoning certificate or whatever, but there are communities that do and I'd be willing to look into that. If you're a tenant of a space and you're going to be doing anything with zoning, some communities require a statement from the owner of the property saying, hey, they have permission to do whatever it is with zoning permits or whatever. So maybe that's something I can look into more. We wouldn't have a lot of concern with that. Our only goal would just be preventing abuses and problems. It's not necessarily our job as the City Administration, staff, or the Board to make sure that people are being fair to one another. We just want to prevent the secondary affects from bleeding over.

Mr. Donovan: If someone sets up permanently in an area like that and doesn't move, isn't there zoning requirements for different things that when you have a food establishment? Wouldn't that be all you would need to say that you can't stay here?

Mr. Snowden: It could be but, for example, they would need a zoning certificate from staff. Mr. Donovan, I understand what your question is so the next question is, "How can I get that certificate?" And the statement from staff in the past has been, "Well, you really can't," or "we don't know." And that's not just true of myself, that's true of previous Planning Administrators, although it never really was brought out publicly, because these things weren't becoming as prominent as they are and the community feeling towards was different at the time. Yeah, I understand what you're saying. Right now there's so little I don't even have – as Officer Kessler said, we don't even have a specific thing to tell them.

Mr. Donovan: Cause if you open a restaurant in Reynoldsburg, you've got to go through all kinds of gyrations.

Mr. Snowden: If you're in CC, as you know, you have to have a special exception permit. We can go through the process of identifying the zoning districts, identifying the locations and so on, but my goal is just to see how the Board felt about them, knowing that we're probably going to be seeing them regulated through some sort of process because I don't think the phone calls and

knocks on the door to do through within the city limits are going to abate any time soon.

Mr. Rettke: I wouldn't want to discourage it either. It's a good revenue.

Ms. Wallace: Jump in the bandwagon while it's hot.

Mr. Rettke: Well, we thank Officer Kessler for waiting us out.

D. OTHER BUSINESS – NONE

E. ADJOURNMENT

The meeting was adjourned at 8:24 p.m.

Anthony Rettke, Chair

Eric Snowden, Planning Admin.

This document was transcribed by:
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