

MINUTES

REYNOLDSBURG BOARD OF ZONING AND BUILDING APPEALS FEBRUARY 19, 2009 6:30 P.M.

A. CALL TO ORDER

1. ROLL CALL

Members Present:	Mr. Lucas Haire Mr. Duane White Mr. Chris Long Mr. Norman Brusk Mr. Patrick Feeney
Others Present:	Mr. Aaron Domini, Planning Administrator

2. APPROVAL OF MINUTES

Chairman Feeney: Are there any changes to the minutes? (No response.) If not, will stand approved as they are.

3. APPROVAL OF AGENDA

Mr. Feeney: The agenda stands, are there any changes?

Mr. Domini: No changes.

4. SWEARING IN OF SPEAKERS

(Mr. Feeney administers oath.)

5. PUBLIC COMMENT

Mr. Feeney: Is there anybody who wants to make a comment about anything other than what's going to be brought tonight, now's the time. (No response.) Hearing none, we'll move on.

B. UNFINISHED BUSINESS

Mr. Feeney: There is no Unfinished Business on the agenda, so we'll get right straight to Item C1, New Business. If you'll read that, please.

C. NEW BUSINESS

1. VARIANCE APPLICATION, 7410 E. MAIN STREET, REYNOLDSBURG, OHIO: REQUESTING A VARIANCE FROM SECTION 1181.05(e) OF THE REYNOLDSBURG PLANNING AND ZONING CODE TO ALLOW FOR A SIGN ILLUMINATED BY OR HAVING FLASHING OR MOVING LIGHTS OR OTHER INTERMITTENT ILLUMINATION. CONTACT: MALGORZATA MELENDREZ (41-ZV).

Mr. Feeney: Is someone here to speak on that?

Mr. Domini: Basically what's happened with this sign is that there is an LED sign in the storefront window at this location in which I've received a complaint on and contacted the owner regarding the sign, because it is non-conforming per Chapter 1181. I told the applicant in this the messaging needed to be static in order to be conforming or they may apply for a variance, at which point in time the applicant decided to apply for the variance. The sign still remains in the window and may or may not be scrolling. I think it was yesterday but, as indicated, I did inform the applicant that it needed to be in a static state. Otherwise, it was not conforming per Chapter 1181. It is non-conforming per 1181, but it is illegal non-conforming under the new historic overlay, but the standards in 1181 still apply here, so we would not be looking at the historical overlay in this case. I will note also that 1181.04(h) states that no window shall have more than one sign allowed per window and each sign shall not exceed one-fourth of the total window area. That's not something I've talked about with the applicant and it is not part of the variance application. But, as you'll see in the pictures that I'm going to show you, that currently that part of the code is not being met because there's more than one sign per window and that may be something else that's discussed as part of the application.

The property is right here at the corner of Main and Jackson. These pictures were taken yesterday. As you can see, the LED is in the window on the bottom left, and there is currently more than one sign in each of the windows. So that may also be something that's discussed, or I can address it with the applicant after the hearing tonight, depending on how the Board makes their determination. That's all I have. I want to just say, what was submitted as part of the application was for the LED, not for more than one sign per window.

Mr. Feeney: Is there more than one sign per window, is that in the historical district only?

Mr. Domini: It's listed in Chapter 1181, but it applies to all businesses.

Goshia Melendrez: My name is Goshia Melendrez and, yeah, I have waxing in the pictures and I purchased another neon because I was thinking it was very attractive which would bring, you know, more clients in Reynoldsburg. I was not aware of all – that I have to apply for an application because I saw some signs on Main Street which is, you know, confuse me of course and they still are on Main Street. I'm not the only

one. This gentleman called me and I applied for application and I'm asking you guys to approve the sign which I think is good for Reynoldsburg. I get people calling me and saying how nice it looks and it brings people to the business. That's all, you know. I'm just asking for you guys to help me to stay in business in Reynoldsburg. It's hard. I could put in a different message. The parking, people don't know. I have parking -- people can park in the back. I can put "Parking." I can say, "Thank you." This sign actually has a variety of options as far as different things which I don't want to put in because it may be too much, so I slow down the scrolling so it's not so, you know-- Anyway, I am not good at speaking in front of so many people. So I'm asking for, you know, for okaying the sign. I have another building next to this one. If that's too many of these neons, I can move some of them to another building, like the "Waxing" or "Facial." I have next building and this window don't have any neons on it except "Open" sign. So I heard then you said there is too many by another code, whatever you guys approve. I don't know all the rules and I'm trying to follow all the rules.

Mr. Brusk: Okay, yeah. When did you first put in that scrolling sign?

Ms. Melendrez: I purchased this scrolling probably a month ago, about, maybe six weeks, seven weeks. I bought the sign -- I was thinking that whoever sold this kind of sign knows the rules, you know. Then they will come to the City of Reynoldsburg and they will know then, okay, we can sell this sign here or we cannot. I paid quite a bit of money for it. I know it's my business. I invest so I can stay in business and bring people to Reynoldsburg and people come here all the time and say how nice it looks, it's attractive, it's elegant, and they really like it. And I know this is my business again, but it brings people to the City of Reynoldsburg on Main Street, which many businesses are suffering right now and I'm trying to stay in and bring more people. That's all I have to say.

Mr. Brusk: Would this have been an allowed sign prior to January 12th?

Mr. Domini: No.

Mr. Brusk: It wouldn't have allowed that?

Mr. Domini: Chapter 1181 always has had this provision here.

Mr. White: Right.

Mr. Domini: And so—

Mr. Feeney: Is that provision for the rolling sign?

Mr. Domini: Yeah, 1181.05(e) has always -- I'll read it for the record, but this is not in relation to the historical commercial overlay in any way.

Mr. Haire: I think it says it was passed in 2002.

Mr. White: That's the question I have, is why is it placed in your statement here that the sign that was installed and displayed prior to HCO which took effect on January 12, 2008, when really that provision doesn't really restrict the prohibitionist--

Mr. Domini: No.

Mr. White: --imposed by 1181.05.

Mr. Domini: I just wanted to state that as a fact in case if there's any confusion about the two standards. In 1181.05 it states that a prohibited sign is a sign illuminated by or having flashing or moving lights or other intermittent illumination.

Mr. Haire: Ms. Melendrez, I appreciate what you've done in Olde Reynoldsburg and purchasing the other building and repairing that, and I think you've made very nice improvements with what you've done there. Unfortunately, I don't think that this sign meets any of the standards for granting a variance. I can't see with your application where you've shown that you meet any of the standards as they're set forth in section 1147.05. I think this would grant you a special privilege that's not granted to others. I think it is a matter of convenience. You have other remedies available, you have other signage available that you can put there, so I don't see that this meets the standards for a variance as we have set forth in our code.

Mr. Brusk: I would like to comment that Walgreens, both on Main Street and on 256 have moving signs--

Ms. Melendrez: Can I say something?

Mr. Brusk: --and they may have been granted variances, so this is not totally unprecedented. Secondly, I'd like to point out that those signs are perpendicular to the street where drivers would see it and this one, the only time you could really notice the sign where it may be an interference to traffic is when you're stopped at the stoplight on Jackson. I think this should be considered in our deliberations.

Mr. White: I take exception to that statement from the fact this is located on Main Street, not on 256. And I drove up and down Main Street looking for signs that are illuminated in the stores and I could only locate one that actually had that type of -- at least the illumination that was there at, I think the Firestone location.

Mr. Brusk: On Main Street at the Brice Road, that sign is a moving illuminated sign. On 256 there is also a moving illuminated sign for Walgreens.

Mr. White: Okay.

Mr. Brusk: So there are two in the City.

Ms. Melendrez: That's also what's confusing because I mentioned Walgreens and also I know another one and, like I said, I just wanted other business who have existing signs like mine. They're a little smaller because they have simply smaller window and they cannot have big as mine because I have a little bit bigger window. But the jewelry place has, the meat place has. They have open signs which actually scrolls and I considered this as – this is also scrolling and blinking sign, open signs, moving and scrolling and have like blue and then it really scrolls often. It doesn't stay still. I will do whatever you guys decide.

Mr. Brusk: It's my opinion that, A, the signs do not interfere with traffic. I have not, you know-- Secondly, they are fairly amusing. I think you had little turkeys running across it—

Ms. Melendrez: I took this off. I was learning how to use it and then I asked my son to help me and he totally make it so bad and then when I get the phone call, and I am like, oh, my gosh, you know, this is too much. But it's so confusing because there's a remote controller and I was trying to just make it something and it shows so many. And like I said, this is great thing and so many people call me, say thank you for just the image. It's elegant, it's not something that looks bad. It looks good, it's attractive, it's elegant and it's inviting, it's elegant. And I get people call me some, you know, and I see everywhere, on Brice Road, I see on Main Street and everywhere around and I think if everybody else has something that's elegant it would bring more people here. Everything is dying here in Reynoldsburg.

Mr. Feeney: What can we do about the number of signs in the windows?

Ms. Melendrez: Numbers?

Mr. Feeney: Yeah, that you're supposed to only have one sign. Is that the—

Ms. Melendrez: I have another building.

Mr. Domini: They can be moved to a different window to be compliant but, you know, that's not part of what the request is today.

Mr. Feeney: No, it's not. I mean, they're all signs and if you take some of the signs out of the windows, you know. I do know – I was thinking about the meat store there, right next to Anthony Thomas, they have a scrolling sign—

Ms. Melendrez: And the jewelry place. The jewelry place got it exactly like mine except it's smaller and then the "Lottery" is blinking and then "Open" signs are blinking and I just – I didn't even know I cannot have this, let's put it this way. Vicks Pizza has it. And it's not something that's – I mean, like I said, I'll do whatever. If I have to change and take this down then—

Mr. White: I have many concerns. One of the concerns is, isn't there a restriction as to the – there's a sign that's in windows, the percentage of the sign that can take up the window itself? I mean, isn't there a restriction on that?

Mr. Long: 25%.

Mr. Domini: 25%.

Mr. White: And I'm wondering if these signs I see here on display are actually more than 25% of the window.

Ms. Melendrez: I have more windows. I have another building except the windows are small and I was thinking it looks attractive. It brings people to Reynoldsburg. I'm trying to stay in business, I mean.

Mr. Haire: I go back to this being a variance of convenience, because we're allowing the convenience to change the sign. It has the ability to be constant. And she can change the message everyday. You know, there's other options available that would fall within the code of not being moving, scrolling, that she can meet the code. So I see this as a matter of convenience in granting the variance, where it would not meet our 1147.05 standards of the variance.

Mr. Long: I agree with Mr. Haire on the fact that you literally could, once an hour on the hour, change your message.

Ms. Melendrez: I'm busy with clients, it's hard. And see, the sign, I can put a little bit more message, that's the thing. And the one sign I can – I used to have signs where I asked for somebody to make me, "Free hair cut." Another one was "Free Manicure." And they all stay in the window. That was not attractive. So I had extra cover over my windows with signs to bring clients. So I'm thinking, in this little scrolling elegant thing I can put specials, thank you and happy holidays, Merry Christmas, whatever, you know, Happy New Year and I can just put in one and just make scrolling very slow. So when the people wait at the light they can see it and they can read it and they can call me and they can come in. I mean, I am here in Reynoldsburg for 16 years and I had business before. It's hard and I know it's my business. I will be out of business because, you know, because I'm on my own.

Mr. Feeney: Well, is this – I mean, I think that's a good suggestion in coming with this programmable sign. I don't know much about signs, but if you can change the – instead of scrolling, if you can change your message without scrolling you can—

Ms. Melendrez: The thing is, the letters are either too small or they are too big. If I put big letters – I tried this – I cannot pick one message, because it's not big enough. If I put too small people cannot read it so I might as well-- You know, if I want to put one message and I try and put, you know, "Happy Holidays," it doesn't fit because it's either the letters are too big and you have just so many options with the size of the letters or

they are too small. And that way I feel like I purchased this sign and not knowing then it's another code here because I was considering this is another neon except a little bit more elegant. I think I—

Mr. White: I'm just stuck on the actual fact that this is a non-conforming use that was put in place when the code was in place. I'm looking at actual 1195.01 which reads in part -- pertinent parts to me -- it says, "It's the intent of the zoning code to permit non-conforming use to continue until they're removed, but not to encourage their survival. It's further the intent that the zoning code, that non-conformities not be enlarged or expanded or extended and overused as grounds for adding additional other structures or use are permitted elsewhere in the same district." What I see here is we have a non-conforming use that basically is really the intent, is simply contrary to the intent of the Council when they passed this particular ordinance. And I don't see any special reason for it to be allowed for an exception.

Mr. Long: Aaron, there have been variances granted for Walgreens?

Mr. Domini: I believe, when Walgreens, the entire plan was approved for the building and the signage at the same time, is that correct?

Mr. Haire: Yeah. It's my understanding that they were approved on the basis that they would display messages for the police department and things like that, if they wanted to do Amber Alerts and all those type of things since they're on the edges of the City. So that's just from reading the minutes when those were approved. I wasn't around then.

Mr. Long: And the other businesses in the City of Reynoldsburg that are currently displaying moving signs or, once again, it comes down to a code violation.

Mr. Haire: The only other I know that has a moving sign is the high school.

Mr. Long: Okay.

Mr. Brusk: And that one is a hazard.

Mr. Long: Yeah, it is because you can't see—

Mr. Domini: Virtually unreadable.

Mr. Long: --driving by.

Mr. Domini: I'm not trying to single out this applicant. The fact that the Board or any other sign comes to my attention, I will issue a correspondence to that owner and then we'll proceed the same way. And I don't drive around town looking for these signs, but this one happened to be at a prominent location there and a complaint was filed.

Mr. Haire: You received complaints about it?

Mr. Domini: I was notified about it. So it is my intention to treat everybody equally and if the Board or anybody in the City or anybody else who notifies me then I will issue a letter giving them 30 days or submit an application, which is kind of what transpired with this application.

Mr. Brusk: Who, may I ask, complained about this, and what was the complaint?

Mr. Domini: It was just an unidentified member of the city.

Mr. Haire: It was just a complaint that it was distracting.

Ms. Melendrez: And the—

Mr. Domini: I get complaints all the time and people choose not to tell me who they are.

Mr. Brusk: But that was what the complaint was, that it was distracting?

Mr. Domini: Yes.

Ms. Melendrez: That was when the turkey was on probably, when my son messed up. As soon as you involve kids, you're in trouble. Oh, well.

Mr. Domini: I don't believe this will be the last of these requests for variances on these intermittent illumination or scrolling signs that we'll see in the near future.

Mr. Haire: That's one of my concerns as well, is that these signs are becoming much less in cost now, so you're going to see a lot more businesses that want to put these types of signs in.

Mr. Feeney: Yeah. I think there are other businesses around that do have these types of signs, but I don't know if they're quite that large but I understand because (speaking off mic). Anybody else have any questions or comments? (No response.) If not, I'll accept a motion.

Mr. White: I move that application, Item C1, is not approved.

Mr. Long: Variance.

Mr. White: --variance number 41-ZV not be approved.

Mr. Haire: I'll second.

Mr. Feeney: Can I hear the roll, please.

(Mr. Domini called the roll. Mr. Long voted “no.” Mr. Brusk voted “yes.” Mr. Feeney voted “no.” Mr. Haire voted “no.” Mr. White voted “no.”)

Mr. Feeney: So it hasn’t passed.

Ms. Melendrez: It did pass?

Mr. Feeney: It did not pass. So you have an option of keeping the sign there but it’s not going to scroll.

Ms. Melendrez: Okay. Now, what about the other businesses?

Mr. Feeney: About the number of signs?

Ms. Melendrez: Because if I see, even Walgreens, I will not let go. I don’t care how big they are, it’s wrong and—

Mr. Haire: Please let Mr. Domini know.

Ms. Melendrez: Okay. So I will go prouder because that’s who I am.

Mr. Domini: My question would be—

Ms. Melendrez: I want to be treated fairly.

Mr. Brusk: There is another option you also have and that is to bring this before Council and ask for an ordinance that would change our current ordinances.

Mr. Haire: You also have the option of appealing this decision to City Council.

Mr. Feeney: Yeah, you can appeal to the City Council, you can come in front of City Council.

Ms. Melendrez: And again, it will be only based on emotions and not trying to – I mean—

Mr. Brusk: This was not based on emotions.

Ms. Melendrez: No? Okay.

Mr. Haire: Based on the code.

Ms. Melendrez: Okay.

Mr. Feeney: But you're welcome to go out and look through the City yourself and bring back what you find--

Ms. Melendrez: Okay.

Mr. Feeney: --and it's based on that.

Ms. Melendrez: Because, you know, I see so many people having the signs and—

Mr. Feeney: Sure.

Mr. White: Is there a certain time limit that she has to be aware of for applying for the appeal?

Mr. Brusk: You need to talk with Mr. Domini.

Mr. White: Yeah.

Ms. Melendrez: All right. Thank you.

Gentleman speaking off mic: Okay. In order for us to be in compliance we have to take – you can only have one sign per window.

Mr. Long: And it can only occupy up to 25% of the total area.

Mr. White: Right.

Gentleman off mic: So we're going to take down—

Mr. Feeney: Well, my question about that is, if those signs are put together to make it look like one sign as long as it doesn't take up 25%. Is that acceptable? I mean, if you pulled them together it's one sign.

Mr. Domini: The only way I would have to determine that is if I went inside to see—

Mr. Feeney: Right.

Mr. Domini: --how it's put together. Typically, if I look at a property and I make a determination on whether it's more than 25%, usually I can tell from the street view if it's 25%. So visibly, you know, if it's obvious that it's more than 25% over, if there are more than two signs I'll do something about it. So I don't – to answer your question, no, I don't go in and inspect each sign and I don't have a measuring tape but it's usually just my best guess.

Mr. Feeney: _____ together that would be considered a sign as long as it didn't cover over 25%, then you're fine.

Mr. Domini: I suppose, yes.

Mr. Feeney: But I'm looking at the "Waxing" and the "Facial."

Mr. Domini: If they're bolted together, I – basically I suppose it would be one sign.

Mr. Brusk: Or framed it.

Mr. Domini: Or framed it.

Mr. Feeney: You have some options there.

Gentleman off mic: _____ measuring tape and I'll see what the areas are-

Mr. Long: Yeah.

Ms. Melendrez: Now, I just take all of them down and go on Brice Road.

Mr. Melendrez??: --we just want to _____ stay there.

Mr. Brusk: Finally, we have also it can scroll sideways and it can scroll up.

Ms. Melendrez: (inaudible)

Mr. Domini: On the LED does the Board want that sign to remain static or come down?

Mr. Haire: It's up to the applicant.

Mr. Long: I'd say static, yeah. I mean, it's compliant if it's static.

Mr. White: I guess somebody should explain static, because there's so many seconds it has to--

Mr. Brusk: No, no, that means it stays the same.

Mr. White: _____ 15 minutes or—

Mr. Brusk: You can make changes on the sign _____.

Mr. Feeney: You could change the sign—

Mr. White: You could change the sign but not—

Mr. Feeney: --at least once a day. You want him to change it, is that _____?

Mr. Brusk: You can change it as many times as you want. You just can't have it scrolling.

Mr. Domini: I think as far as determining what's--

Mr. Melendrez: --because it's got a timer on it and I think we can set it for every 15 minutes, to set – have four messages and scroll for 15 minutes and then it goes off and the next one stays for 15 minutes, something like that.

Mr. Brusk: But it can't scroll.

Gentleman off mic: Well, it's not scrolling. It just changes. It goes to the next—

Mr. Haire: I don't think that will be any problem.

Mr. Long: No, you would be compliant, because it's not scrolling and it's not flashing.

Mr. Haire: It's not moving or flashing.

Mr. Long: No, it's not moving or flashing.

Gentleman: Okay, then, what we're going to do is we're going to go ahead and take the two signs and put them together and I'll make sure that it's less than 25% of the total area of the window. And then we're going to go ahead and take the other "Massage" out and we'll put it in the other window in front of – at your door.

Mr. Long: Thank you, sir.

Mr. White: Thank you.

Mr. Domini: You have my contact number? I'll give you a call tomorrow.

Mr. Feeney: All right. We'll go on to Item C2. If you'll read that one, please.

2. VARIANCE APPLICATION, 6821 E. MAIN STREET, REYNOLDSBURG, OHIO: REQUESTING A VARIANCE FROM SECTION 1171.08 OF THE REYNOLDSBURG CODE OF ORDINANCES TO ALLOW FOR OUTDOOR ITEMS FOR SALE WITHIN 25' OF THE PUBLIC RIGHT-OF-WAY LINE OF THE STREET. CONTACT: ROBERTSON, SKC HOLDINGS III, LLC (42-ZV).

Mr. Domini: This item I've been addressing for some time now and the reason it's been going on so long is because we did make some code changes and I didn't feel comfortable pushing the issue too much until this issue was resolved in terms of the code changes. Cars of Distinction is an auto sales business on Main Street. When they moved to this location, the owner-operator, as well as the agent who is before us, were notified of the restriction to park cars within the 25 feet of the public right-of-way line. I've written a total of two letters to the property owner and his or her agents addressing this issue. The first was to Mr. Johnson on July 8th. The second was to Mr. Robertson, the property owner, on August 6th. And both of those letters, I believe, are in your packet and it just stated the issue of non-compliance and asked them to become compliant. During this time, the issue was not resolved and the Development Department was initiating a code change to move this section of the code to the zoning code for the purposes of it being in the code to allow us to take action on these issues. After it was adopted it was ordinance 74-08. I issued another letter to the owner-operator of Cars of Distinction and that was on January 14th. Shortly thereafter we began the process to get the application in for this variance. This is Cars of Distinction on the corner of Hanson and Main, you can see. Previously I think that this site was used for automobile sales, the setback was enforced and, as you can see, the cars on the front there were set back from the brick wall. And I believe the history here, before I came, was that that spot was actually marked on premise and those cars were backed up to that line and that's why those cars are back away from the wall and angled like that. That's my assumption. These photos were submitted as part of the application. That top left image is Cars of Distinction as well as the bottom left. The other images were submitted by the applicant and his or her agent showing other properties where parking is up against the wall. I'll note that parking is permitted within that setback and the issue, again, is that these cars are for sale. So I will turn it over to the applicant at this time and let him address the Board.

Mr. Gene Johnson: Good evening. I'm Gene Johnson. I represent the owner of the real estate which is Joe Robertson. Many of you probably know he's our bond counsel that packaged the Streetscape program. He's also a real estate investor. I've worked with Aaron and Luke on this to try to achieve some reasonable agreement here. Do you have copies of the sketch I turned in showing how we have the lot lined up now?

Mr. Long: No, I don't believe we do.

Mr. White: No, I don't – yeah.

Mr. Long: Oh, yes. We don't have the lines on ours though.

Mr. White: I think that's in ____.

Mr. Johnson: I submitted nine copies of that.

Mr. White: I think that's in _____.

(several people speaking)

Mr. Long: Yeah, we don't have the parking spot lines in our packet.

Mr. Domini: Can I see that?

Mr. Haire: We can just pass it down.

Mr. Domini: Yeah, we can just pass it down.

Mr. Johnson: This sketch shows – with the lines on it shows how the cars are parked now which, to me, is a common sense and logical way to lay the lot out. It enables people to pull off of Main Street onto the lot, up to the building where the sales office is and then they can – they don't have to be backing and turning on the property. They can flow out to the southeast corner of the lot and exit onto Hentz. When this ownership took place they – the curb cuts were reduced. You probably remember when it used to be a Bonded or a Speedway gas station. I think there were four curb cuts there as a part of the whole Streetscape thing, reduced it to one curb cut on Main Street and one on Hentz, but that really causes you to want to lay it out the way we have shown it there. I think it's – I can't think of a better way to do it. Questions from—

Mr. Brusk: Yeah. I'm a little confused. Where would the cars – this overview – are these cars in compliance on the overview picture?

Mr. Haire: On Main Street they are.

Mr. Long: Yeah. They're in violation on Hentz.

Mr. Haire: Just some history on this. The car lot that's currently there, the operator of that lot is not the operator that was here when this picture was taken. It's a different operator. After a number of notices, the last operator did comply and did paint a line on the lot where the cars were allowed to be parked and at least tried to comply on a portion of the lot. I think if they comply to the 25 foot setback in this case that you have very little usable area to use this as a car lot.

Mr. Johnson: And that operator failed.

Mr. Haire: Right. When this went in, this building had been vacant for over two years and we granted a variance to allow parking within the 40-foot setback which was there at the time. That's a case I presented to this Board two years ago maybe?

Mr. Feeney: Yeah, and I was going to ask about that.

Mr. Haire: It was something over 40% of the lot could not be used with that 40-foot setback.

Mr. Feeney: Right.

Mr. Haire: But now we're talking a 25-foot setback and I don't know what that percentage would be. I have not calculated what that percentage would be if they couldn't use that 25%, but—

Mr. Feeney: Did we grant – we granted a variance for the setback.

Mr. Haire: For parking within the setback, but not for items for sale. That would be the difference. These are cars that are parked so it's still parking, but it's – the only distinction is that they're items for sale.

Mr. White: That's my concern is that we're talking about commodities, items that are for sale as opposed to people parking and leaving and, you know, exiting the area.

Mr. Long: Exactly. I think it's good that we have set rules about displaying merchandise. I've subscribed to that a hundred percent and then have the ability to grant a variance where we think, as a body, we think it's appropriate but I have a hard time with – I think it's splitting hairs when we talk about vehicles, whether they're vehicles for sale or vehicles parked. I have a problem with it.

Mr. Brusk: I don't have a problem with that for the same reason. I mean, cars parked, etc. One problem we do have is that once a variance is granted it runs with the property.

Mr. Long: Does it?

Mr. Brusk: Yes. And that becomes a major problem if this gets sold and becomes a general store.

Mr. Long: Sure. I agree with you.

Mr. Brusk: And then now, that variance says that they can put it all the way to the curb.

Mr. Long: And we would not want that and you don't want piles of peat moss or something out there. We don't – do a conditional variance?

Mr. Haire: I think that we can resolve that by doing a conditional variance, that this be for motor vehicles only.

Mr. White: I wonder—

Mr. Brusk: That was the question I wanted to--

Mr. White: I have a question with regard to the new ordinance. I looked in my packet of ordinances and I couldn't find the actual section that that was referred to. That's a new ordinance was apparently adopted sometime?

Mr. Haire: Late last year. I don't know what the ordinance number is.

Mr. Long: The ordinance was transferring responsibility for the enforcement of this from the police department to the code enforcement department.

Mr. Haire: So it was passed November 24, 2008, so it would have went into effect 30 days thereafter, so December 23rd.

Mr. White: What I'm trying to carry through is that we had a variance that we granted that was put in place to allow a parking within 40 feet of the setback line. So we gave that allowance to what, 25 feet? Is that what the eventual variance was granted, 25 feet from the -- I mean, what was the variance to be granted before when this issue came before us?

Mr. Haire: The variance granted before was to allow parking within the 40-feet front setback.

Mr. Feeney: It wasn't just for public parking, it was—

Mr. Haire: It was for public parking at that time, because the items for sale was in the traffic code which we did not have the authority to grant variances from the traffic code. This body does not.

Mr. Feeney: And that had nothing to do with this.

Mr. Haire: And now, I mean, that's why the ordinance went through and was changed is so that, for cases like this, or other cases where it's appropriate, a variance could be granted, because prior to that no variance could be granted.

Mr. White: The question I have was, is this non-conforming use, meaning that it's a use that was in effect before the ordinance went into effect, was in place before the ordinance?

Mr. Haire: I agree with that, but—

Mr. White: That's my question.

Mr. Haire: The challenge with that, Mr. White, is every time they move a car, does that constitute a new use because it's a new item for sale? And that's what I struggled with also when I looked into this packet. Is this a legal non-conforming or is it every time they put a new car in, does it have to comply?

Mr. White: Right.

Mr. Johnson: We certainly have no problem whatsoever with a conditional variance. I totally agree with our city having control so that if the ownership of this business or this real estate changed we wouldn't allow people piling picnic tables or piles of peat moss or something out there, but I really have a hard time dealing with it.

Mr. White: I can address it from a different point of view. I ran across another question I had with regard to the vehicles there. I noticed when I drove down there these vehicles are right close to the, I guess, in the restricted area or at least close to the sidewalk. But that, just like any car dealer, they have signs on them.

Mr. Johnson: Right.

Mr. White: Which raises the question for me, does it go into 1181.05(e) Prohibitions of Signs, number five, sign that's attached to – want to approve that it's a sign attached to, painted or placed on motor vehicles, trailers or other licensed or unlicensed vehicles or conveyances, self-propelled otherwise parked or used on any lot or which is visible from public right-of-way excepting an identification sign which is affixed to a vehicle regularly operated, pursuant to day-to-day business or an activity of enterprise. I just wonder if that – those vehicles are actually violating that prohibition.

Mr. Johnson: I would really question that. I mean, every car dealership new, for example, every new car you see has a – you can call it a sign or you can call it an invoice sticker, but there is one in every vehicle. I think that might be pushing the envelope a little bit, that theory.

Mr. Feeney: Do you know where the 25 foot line would be?

Mr. Haire: It lies about directly where the front of those cars are. They have physically painted, spray painted a line right there close to the curb.

Mr. Johnson: The problem is—

Mr. Brusk: That's probably where the 25 foot is on the concrete.

Mr. Domini: The parking stall is going to be about 20 feet deep and that's where the way bulb-out is around on the landscape island there, right here, so you have 20 feet to probably here.

Mr. Johnson: If you push the cars back, then you don't have the flow that I've shown on that drawing. You can't prospect – so the customers can't come in and then flow out to the southeast corner because there's just no space.

Mr. Long: What if you created that frontage on Main Street as your customer parking? It is now legal and you're able then to move cars that are for sale over closer

to the building. I mean, I look at the way everything is just hodge-podge painted all over, parked all around here.

Mr. Johnson: That is not a picture that represents the way it is now.

Mr. Long: I understand that, yeah, but I—

Mr. Johnson: There is no – it's very organized looking.

Mr. Long: Okay, but my point is, is if you move your customer parking up to the street side of it, you would not have any vehicles in violation as far as Main Street is concerned because they would be behind the setback.

Mr. Haire: I don't know that it can function that way. I mean the point, Mr. Long, you made about being hodge-podge is I think if we require them to be 25 feet we'd really see some hodge-podge parking to pack them in there. And that's what I worry about and then does that create more of a safety hazard than with the people in there. I know they had a safety hazard when they originally opened this and that's why you see those giant parking blocks, because they had people coming around the drive through there hitting cars and all kinds of things, so I worry about creating more of a safety hazard by doing that.

Mr. Domini: Does anybody know how the building -- when it was constructed, what it was constructed for?

Mr. Long: It was a gas station.

Mr. Brusk: It was a gas station.

Mr. Haire: I just – I look at 1147.05(c) that, you know, does this deprive the owner of a reasonable use of the land and I think that it might, because you cannot reasonably use this as – you cannot reasonably use the parking lot. I understand there's alternative uses for that type of property, but when they reconstructed this, I think the intent was that it was reconstructed to be a car lot.

Mr. Johnson: Mr. Robertson's invested a very substantial sum in renovation and overhauling of that building. It is now not an ugly old gas station building, but a very attractive and professional looking building, including putting a service bay at the back with a door that you don't see from the street. Keep in mind we have that – I'm a subscriber to the Streetscape concept. We have a brick wall all the way across the front of this so, you know, if you can – well, we have different pictures we had before. You can see, as you're driving by Main Street, you really don't even see anything except the roof of the vehicles.

Mr. Haire: Yeah, and that's _____.

Mr. White: I guess it's a practical matter. When I went down Main Street, I noticed during -- after business hours you have an open space there which you normally see cars that come and go for customer purposes that are not there when, you know, after hours. And I can understand the difficulty it may impose on a business like this, having the cars removed back, but that area is being used not only just for parking the cars there, it's being used for advertising. And we have restrictions on signage in those areas—

Mr. Johnson: Excuse me, what is being used for advertising?

Mr. White: Well, the vehicles. They're there to show that you're selling vehicles. That's basically what I see them doing, is being there. Especially, which I was trying to lead to, this one vehicle's elevated among the other—

Mr. Johnson: Right.

Mr. White: --over the other vehicles.

Mr. Johnson: That's largely due to the brick wall.

Mr. Haire: And, Mr. White, I think the intent of the code, because we allow automobile sales within that district, the intent of the code is to allow for that type of advertising. I mean, it's to allow for cars to be on display. I think that's the intent and when you go back to the variances, you know, the intent of the code is that this should be a car lot, or it can be a car lot.

Mr. White: I mean, that's when we granted the variance, basically is to -- I mean, where do you go to in the code to say that that is what we allowed that variance to be?

Mr. Haire: I'd go to 1147.05. The variance is in accord with the general purpose and intent of the regulations. In my opinion it is and that this creates a hardship and, in my opinion, it does. I mean, this creates a practical difficulty on this property owner and I understand that we don't want this to have much sales there in the future or anything like that. That's why I think, with a condition, it's reasonable to say that motor vehicles by an authorized dealer in the state of Ohio, because we also don't want this in the future to become a retail site where they put, you know, my neighbor has a car for sale, let him bring it down and put it in front with a sign on it. And when we drafted, or when I wrote this legislation, I wanted to put the exception for automobiles in there and I was quickly told that we don't want to do that because we don't want people setting their cars down in the K-Mart parking lot, lining them up in the front. And I agree. It's not appropriate for every location but for this location, because automobile sales are a permitted use, I think that was the intent of the code.

Mr. Feeney: Is this the only car lot on Main Street? I can't think of any other ones besides all the way out at Taylor.

Mr. Haire: The only one—

Mr. Johnson: There's a very nice one at Main and Taylor.

Mr. Feeney: Right. Main and Taylor—

Mr. Johnson: Yeah, the northeast corner.

Mr. Johnson: I don't know if that's in the City or not.

Mr. Feeney: It's not.

Mr. White: This district is what, commercial?

Mr. Haire: CS.

Mr. Feeney: Yeah.

Mr. White: CC, and so automobile sales is permitted use in that?

Mr. Haire: Community services, yes.

Mr. White: Services, okay.

Mr. Feeney: We're going -- they're asking to park cars all the way out to the stopping blocks out by the wall within the 25 foot. Is that what they're asking for?

Mr. Johnson: Right. And we're perfectly comfortable with any kind of conditional language we want to use in there.

Mr. Long: I've got a theoretical idea here. Can you remove the "For Sale" signs from the vehicles that are parked along the street?

Mr. Johnson: I think that's an unreasonable request, Mr. Long. I don't—

Mr. Long: It's a recognized automobile lot. You, theoretically then, would have nothing more than parked cars there, just the cars for sale.

Mr. Johnson: We could put -- I guess it would be not unreasonable possibly to say not have it on the windshield and put them on the side windows like every other dealership in the country, but I would much prefer to be able to leave-- The most effective means of merchandising, and believe me, I do car dealerships all over the country and the most effective means of merchandising vehicles today is to have a colorful oval that shows either the price, or better yet, the monthly payment, which is exactly what that very successful lot at Main and Taylor does which was just selected as the best dealership in the state of Ohio by their dealer's association. I think that -- in

fact, I sent them a very congratulatory letter for that. It is – you need something to catch the customer's eye and even the retail price isn't as effective as the monthly payment. Everybody buys cars, houses, everything else by the monthly payment.

Mr. Brusk: And I would assume that if you are allowed to have a automobile dealership of either new or used, that it is assumed that you're going to put something about that car on there and that wouldn't be – have any effect on signage. I think that that would be part of the vehicle and not part of the sign.

Mr. Long: I agree with that. My point is--

Mr. Johnson: Then why are we going through this?

Mr. Long: --that's what determines, at first glance, that that vehicle is for sale. It is an item for sale.

Mr. Brusk: No, but it would be an item for sale if it doesn't have a license plate on it, too.

Mr. Haire: I think everyone knows it's for – everyone knows it's for sale because that's a car lot. I mean, it's—

Mr. White: Right—

Mr. Brusk: Otherwise, you're going to sell your customers cars that come in.

Mr. White: I guess I still have this question as to the degree of advertising we assent to by allowing this type of use in this particular district. Are we saying that any kind of advertising is permitted for that vehicle, or are we saying that we can restrict the amount of advertising but allow the vehicles to be there?

Mr. Johnson: Mr. White, let me say – speak to that. I believe that we have worked very hard. I've been doing it for 35 years in this city, trying to have as good and clean in appearance in our retail establishments as possible for the whole 35 years I've lived here. This lot, as it's presently operated, is as passive and clean looking – it's way more so than many of our other approved retail establishments all along Main Street. I'm offended to think that we can't find a way to make this work on a conditional variance basis and anybody suggesting that we can't have some sort of a media, some sort of a print thing in a window on these vehicles to sell this product, it just boggles my mind. I've been a part of developing the CVS and the Walgreen drug stores along the street and probably 75% of the other businesses along Main Street and 256. I really strongly subscribe to our controls and do everything we can. When we do things like one of the tire stores that opened on 256, I helped – I contributed to insisting that we do that as a full brick wrap, all the way around. We didn't have anything on the books that way, but we insisted that that's what we wanted in this city. We do the same thing with all of our new development. When Mr. Robertson who, as I mentioned, was our bond

counsel for our City Streetscape, decided to purchase this thing, and I know him as a class guy with good taste and the money to do things right, and we had a hand in helping him figure out how to rehab this building and make it attractive. I believe if you look at this objectively, you park across the street and look at this operation compared with an awful lot of other approved and welcomed businesses, it's really passive. It is really non-garish, certainly not flamboyant at all.

Mr. Feeney: I'll agree with you on that. I think it is a very tasteful building and very tasteful sign and I think it looks nice. But I think what we can do is, if we do grant this variance and it is passed, we could state that the space would be as a car dealership only. I mean, I'd hate for the entire store—

Mr. Johnson: Exactly. I agree.

Mr. Feeney: --tires out front – at least we can make a variance that says that it's for the car dealership only.

Mr. Haire: Yeah. I'll make that motion if no one else has any discussion.

Mr. Johnson: And I would even go along if you wanted to add some additional language that says strictly vehicles. I mean, you know, it could be a car dealership that somehow stretched the, you know, went beyond that.

Mr. White: I just have a discussion. Okay, if we're going to grant an exception for car dealerships only and this car dealership leaves and another car dealer comes in, will we have the problem with the car dealer being outrageous in their advertising. So could we actually come to some kind of understanding as to the type of advertising that will be placed on the vehicles? Just, you know—

Mr. Johnson: Sure. We don't want to see, you know, big strings of pennants and balloons hanging and all that kind of stuff that you see in a lot of the Columbus area. Yeah, we'll work with you. We'll do whatever you want to do, but I think what we are doing we should be proud of what we have here.

Mr. Haire: We prohibit those types of signs in our codes. Anything that moves and makes motion or some of them put the things on the antennas and, you know, we won't allow that anywhere in our codes.

Mr. White: Some car dealerships put writing on their windows.

Mr. Haire: Yeah, and I think with that – the number that you referenced we can probably prohibit that, but what I see here is, you know, I think that's standard practice to put the one sheet in the window and then something hanging from the mirror. That's majority, the good car lots--

Mr. Brusk: Most of them have on the windshield an oval, you know, painted.

Mr. Haire: Yeah, sometimes they do have that, too.

Mr. Brusk: Yellow paint usually and the price, like you say, either the price of the vehicle or the monthly payment.

Mr. Johnson: Yeah. It's not paint though, it's a decal, then it peels off.

Mr. Brusk: Oh, is it?

Mr. Johnson: Yeah.

Mr. Brusk: Oh, I always thought—

Mr. Johnson: They're expensive, but they're worth the money because it works as far as merchandising.

Mr. Haire: They look nicer.

Mr. Brusk: That's what that one on Taylor has all those signs.

Mr. Johnson: Exactly.

Mr. Brusk: Right.

Mr. Johnson: And Richardson that owns that lot is a very good operator and I think he deserved the recognition he got here recently as being the best dealership in the state of Ohio. And, frankly, this one is patterned after that on a smaller scale.

Mr. Feeney: What do you think? Are we ready to make a motion?

Mr. Haire: Yeah. I'll move that we approve Item C2 variance 42-ZV with the condition that the variance be granted for motor vehicles only that are for sale by an authorized dealer in the state of Ohio.

Mr. Brusk: And the property is being used for exclusively that because otherwise the dealer could bring it into a lot that's not – you know what I'm saying?

Mr. Haire: Yeah.

Mr. : I mean, somebody could really go crazy and sold motorcycles or something.

Mr. Haire: Yeah. I'll leave my condition at motorized vehicles for sale by an authorized dealer in the state of Ohio.

Mr. Long: I'll second.

Mr. Feeney: Can we hear the roll, please.

(Mr. Domini called the roll. Mr. Brusk voted "yes." Mr. Feeney voted "yes." Mr. Haire voted "yes." Mr. White voted "yes." Mr. Long voted "yes.")

Mr. Johnson: Thank you, folks.

Mr. Feeney: Thank you. All right. Let's go on to Item C3, please.

3. SPECIAL EXCEPTION APPLICATION, 7858 ASTRA CIRCLE, REYNOLDSBURG, OHIO: PRESENT ZONING, RESIDENTIAL; PRESENT OWNER'S NAME, CHERYL HOUZE.; EXISTING USE, HOME/TYPE B DAYCARE UNDER SIX (6) CHILDREN; PROPOSED USE, HOME/TYPE A DAYCARE – TWELVE (12) AND UNDER CHILDREN. CONTACT: CHERYL HOUZE (7545-Z).

Mr. Domini: There's a little history with this application in that I've worked with Ms. (Hughes) – is it Hughes?

Ms. Cheryl Houze: (Applicant clarified pronunciation as "whose".)

Mr. Domini: Houze. I'm sorry.

Ms. Houze: Yeah, we have a history. I tried to buy a couple houses and it's not working out.

Mr. Domini: In fact, we looked for sometime for alternative locations as she was interested in purchasing property. She was not able to find something that worked for her and came back to me and submitted the application. Is that fair?

Ms. Houze: Well, no, the City kind of put the block on some of the things. The one I was going to purchase over here, Reynoldsburg-New Albany, the pink building. It was a flood zone, so I couldn't put a fence up so that vetoed me purchasing that one. Right here behind City Hall, right across from the dentist's office. And you know which one. I was actually all set and then I got a little – you can't put a fence up, it's a flood zone. So obviously, with children you have to have a fence. And there's been some other properties, too, with some issues.

Mr. Domini: Well, the history is that we – the applicant and I did explore opportunities to find a property to purchase for her operation. Currently the applicant's operating under a Child Day Care Home, Type B, and has a home occupation permit. It should be noted that anybody can operate a Type B without a license, however, a state license is required for more than six children. Also a license required for Type B's in which childcare is paid for with public funds. This applicant does, in fact, have a license through the state of Ohio which is in your applicant package.

Mr. Brusk: Now, it says five and you have six kids?

Ms. Houze: That's because my son's included as one so they do it five—

Mr. Brusk: Plus—

Ms. Houze: -- plus my son, so obviously—

Mr. Brusk: Now I understand.

Ms. Houze: Yeah. So it's technically six but until my son goes to first grade, then they'll change it to six; unless you approve me then it will be 12.

Mr. Domini: She is in R3 zoning district where Special Exceptions are permitted for State-licensed day care facility. I have had contact with the State of Ohio Jobs & Family Services and I gave you some correspondence that I had with the Chief concerning Type A childcare. And the question I had was what is the order of operation? Does the applicant need to have a license prior to coming to us, or does she need to have zoning approval and occupancy permits before she can be administered her license? And the answer I got was that she, in fact, needed to have an occupancy permit, at which point it was assumed that she had to have zoning approval to get that occupancy permit. So that's why she's before us with how to get that license, and correct me if I'm wrong—

Ms. Houze: No, you have to – they won't even send me the application unless I get zoning approved, which is understandable.

Mr. Domini: The only other question I had was whether or not this home would pass the litmus test for occupancy for 12 children. That's something that I had considered recently and I didn't have time to get the building official involved and the fire department, but it should be something that's considered by the Board if a recommendation is made. The occupancy as well is considered.

Mr. Brusk: In fact, that was my major question, was—

Ms. Houze: I'm sorry, I didn't understand the—

Mr. Brusk: The question that I had was, is your house acceptable for having 12 children?

Ms. Houze: Yeah. You have to have 35—

Mr. Brusk: Excuse me—

Ms. Houze: Oh, I'm sorry.

Mr. Brusk: I just want to finish this. The concern I had was the basement area which you said had two exits, one being the stairway, the other being a window.

Ms. Houze: --egress.

Mr. Brusk: I don't know if a window would meet that and I don't know whether or not the fire department would allow for it or the building department, so I do have that concern.

Ms. Houze: Okay. I have an egress window. It's already passed fire inspection. To be with the county, to be county certified, we go through a lot of things. My house has been in and out inspected. It's a special – I'm sure know what a egress window is. It goes out, it has to fit a fireman with all it's gear and I've had the fire department. I've been approved. I can't even be with the county without that already approved, which I'm – so, that's already been approved by the fire department or else I wouldn't even have my certificate with the county.

Mr. Feeney: So, really what we're doing here is discussing whether it's passed by the fire department, police department, that's another step, right? They have to have their inspections—

Ms. Houze: It's already been inspected. I already have that or else I wouldn't even have my certificate from the county. They have major requirements for us to even have children in our home through the county, so I've already had twice now because I've been doing this for a couple years now. The fire department's been out to my home twice now and it's already been approved through the fire department.

Mr. Domini: I only raised the issue based on the additional number of children. I'm sure the applicant has everything that's needed for her certificate based on Type B. It was the additional amount that I was wondering about, and that the Board should consider that, whatever the recommendation is that you make.

Mr. Long: The letter from the Chief basically states that in order to jump from a Type B to a Type A you then must be re-inspected by both the fire and the building department.

Ms. Houze: Correct.

Mr. Long: When is that scheduled or when is it going to be done.

Ms. Houze: I can't do anything until zoning is approved, so you're first. I can't—

Mr. Domini: She couldn't have the fire department and building department inspect it without our approval. That's not an issue. I think she's going through the logical steps to get her approval. Typically with any application you do building

inspection after approval from this Board. I just wanted the Board to be aware of that and if they can make any recommendation appropriate based on that approval if, in fact, they make a recommendation.

Ms. Houze: And, like I said, for the fire department, I've already been approved to do it, and it's not just in my basement, it would actually be one room upstairs. I've already been approved through the fire department to have children and it would be stupid of me to come and get this and pay \$250 without me knowing my square footage, because you have to have 35 square feet per child. So it would be not a very good business sense to get this approved and then not get approved for licensing. So I already know my square footage and what I'm allowed and I have plenty of room for 12 children. Not to say that I would actually have 12 children; most likely it's only going to be ten. I mean, I have a waiting list of other families who are begging me to do this. That's the only reason why I'm doing this. I have a very good program in my home. I'm not just a babysitter, you know. I'm working on a C.D.A. which is the Associate's for early childhood and, I mean, it's a small – you know, it's not a center, but it's just as good if not better than a center and it's still small enough to where you still have the family feel and, like I said, because of the requests that I have from several families that know me and know that I have a good program is why I'm requesting this really.

Mr. Feeney: Are you going to be adding two part-time positions?

Ms. Houze: Correct.

Mr. Feeney: Is that right?

Ms. Houze: Yes. And I actually will – one person is a lady who already works with me and another person, she actually has her teaching certificate, but that's – but, yes, I already have the two people part-time, yes, so would also employ two other people. And that is also a requirement for Type A. You have to have a helper because obviously – I don't know if you know the rules, but it's so many kids per person. So basically I'm actually going a step further. I'm going to hire a second – you just need to. When you have so many children and I have some programs, you just have to. That's just a good business decision.

Mr. White: You said – I guess I'm trying to understand how you operate and currently you operate with six kids and that's including one, your son.

Ms. Houze: Five and one is my son, makes six.

Mr. White: Okay. And what's the age range?

Ms. Houze: That I have currently or that I accept?

Ms. Houze: Well, currently and the ones you accept.

Mr. White: Okay. Currently one-year-olds; I have two one-year-olds and the other ones are two to three years old currently. But then there's, because with daycare I also do a second shift twice a week for parents that need that, so in the evenings I have a three-year-old and couple school-agers that come on Thursdays and sometimes Tuesdays.

Mr. White: Now, do you do this all yourself at this point in time or you indicate you—

Ms. Houze: My husband's there in the evenings but pretty much – well, no, two days a week right now I have a helper that comes in and helps, but hopefully we can expand her hours if I get more children and, on top of that, another.

Mr. White: Okay. Again, more or less just to understand what you do in your business.

Ms. Houze: Sure.

Mr. White: You mentioned the basement and you mentioned the upstairs.

Ms. Houze: Correct.

Mr. White: You use both of these areas to perform the business you're operating. Is that correct?

Ms. Houze: That's what I have in plan. I would like to separate the infants from the older group, have the infants upstairs and the toddlers downstairs. I'll have a teacher or person with the infants with myself or whoever downstairs with the program for the toddlers, and myself or another person which would come during lunchtime which just kind of helps with when you are doing lunch and getting things together so we have the children still doing something while another person comes in to get lunch together. It just makes the flow easier.

Mr. White: What would be the maximum number of children you have in your home at any one point in time during the day?

Ms. Houze: 12.

Mr. White: And when would that be?

Ms. Houze: I'm sorry?

Mr. White: When would that be?

Ms. Houze: To be honest, it would be during changes. Like I have some parents that pick up between 4:30 and 5 and then two days a week I have another

family that will drop off right after school which is about 4. So probably for about an hour or two I would have a total of 12, but most of the people are picked up no later than 6:30 and I do offer twice a week, 11, but I'm not having 12 children until 11.

Mr. White: Do you have parking space for the number of kids you—

Ms. Houze: Um-um. I, obviously my driveway, because we park in the garage. But I do not have houses across the street from me. In fact, I think it's the overflow for the church that's on Waggoner. But there are no houses across the street from me so there's that whole row of parking. In the second picture across the street, I mean, that whole – there're no houses right there.

Mr. Haire: As you continue to describe more and more it brings up more concerns for me that this is a business. I mean, you have multiple employees, you have multiple times during the day, you have pick-ups, drop-offs, multiple times you're operating, you're operating into the evening and, to me, it's completely inappropriate for a residential district. It doesn't meet the standard requirements for Special Exceptions. It's not in harmony with the character of the area. I appreciate that you went out and talked to your neighbors, but once we grant this it's there permanently until she chooses to leave and those neighbors might not be there permanently. Those neighbors may want to sell their homes at some point in the future and the other people that buy that home may not realize a daycare operates there until once they buy it. Because once you look into the house – I know if I'm trying to sell a house, I'm not going to say, "Well there's a business next door." So I do have some major concerns about this and in my opinion, it doesn't meet the requirements for a Special Exception and I can't support a business like this running out of a single family home.

Mr. Long: First of all, I'd like to say you're to be commended. The aspect of going out and starting a business and just as Mr. Haire mentioned here, that's the operative word to it. The difference between a hobby and a business is you're making money in a business. Yours is a successful business and one of the decisions to make as a business owner is when your business has grown to the point now that it needs to move. And taking your current business now and expanding it to the point takes it even more into a commercial environment. Now, I understand that you've been working in attempting to find adequate spots or something of that sort to be able to move a larger daycare facility in. But, likewise, I don't personally see that it fits the overall makeup of the neighborhood and it is now a full-blown business in and of itself and I'm concerned about traffic, concerned about things of that sort.

Ms. Houze: Okay, I've taken that in consideration. Most, though – I don't have people dropping off and picking up all hours of the day. I have certain rules that are in my contract that they – I have them spread out a certain way, because I am running a business and I am responsible for these children and I cannot answer the door every five and ten minutes. So I have very strict rules where most of the children are dropped off in the morning and then they are picked up certain times and I don't let them come all day long. I mean, that's just – I have children that I'm teaching and I – that's just –

you can't run a business like a daycare business. And I understand the concerns, but we're just talking a couple children, we're not talking about 50 children here. We're only – and I had to make a decision. Do I want to do a center where I have 50, 60 kids and the answer is no, I really don't. I just want to add, you know, a few more children and just keep it simple and still a family environment, a learning family environment. So, I mean, there are no – and that's why my neighbors have had no problems with this. I've been doing this for almost four years. They don't – they're not coming all times of the day because I have a program, I'm just not babysitting kids. I have a program just like a preschool where they come in during certain times and they pick up during certain times, so we are not having people being dropped off at all times of the day. I just – personally, I couldn't do that. You couldn't – I couldn't go to the door every five and ten minutes to answer for somebody to come, so there are not people dropping off at all times of the day.

Mr. Long: Actually my concern was the exact opposite, of a high-traffic period of time to where you have everybody showing up at one time that is designated to drop off and to pick up. It wasn't the amount of traffic over a period of time, it was the concentration in a short period of time.

Ms. Houze: And I have families over between 7 and 10:00 so that's – very seldom do I have more than two, maybe three parents dropping off at the same time. I have parents that work at the hospital, that drop off at – two parents that drop off at 7:30, one that drops off at 8:00 and also you have to remember, there's more than one child for one parent. I mean, I daycare somebody who – they have three children with me, so that's one car with three children. So we're not talking about 12 different vehicles, we're talking about one car with three kids. And another one that's – you know, I have a set of twins. So you're visualizing 12 different cars and chaos and most of the people don't even know I have a daycare, because when I went to my neighbors they said, "Really, you have – I did see kind of a few kids." And they're at work so they don't know but they didn't – I mean, I keep this very structured.

Mr. Haire: Ms. Houze, how many children, I mean, just your one brief paragraph there you've mentioned more than six children, so how many children are you actually babysitting right now? Is it six at one time, and that's the maximum, but you might have 18 or 20 clients?

Ms. Houze: No. I do two shifts.

Mr. Haire: You said three children, then you said twins, then you said another child, and then you said a three-year-old, and then you said a one-year-old.

Ms. Houze: I have a – yeah, I have the two one-year-olds that come between – about 7:30 and then I have a—

Mr. Haire: But just – I need this answered. How many children, how many current clients do you have, or children?

Ms. Houze: How many current clients do I have?

Mr. Haire: Yes.

Ms. Houze: I have eight.

Mr. Long: And how many children?

Ms. Houze: And how many children. I have eight children and—

Mr. Haire: So if we say 12 you could have 20? But just 12 would be there at one time?

Ms. Houze: No. I have eight children and I have six clients but, like I said, I do a second shift, so there's eight children on my roster. But I do a second shift and then I have part-time children also. So, you know, they come two days – I have one that – they're not all full time. So I have somebody who comes on Monday and Tuesday, I have a little girl that comes on Monday and Tuesday and then I have another person that comes just on Wednesday, so it just – it depends. And then I don't even have any cars because I have two children that get off – I have children that get off the special ed Graham -- the twins the come off on a school bus, so – and they're just in the afternoon.

Mr. Domini: I just want to mention that as the Board discusses the application and makes a recommendation that they try to be as specific to the 1145.09 as possible. In the staff reports I always put the standards and the conditions of approval, and it should be in your staff report attached. I think it's appropriate that the discussion and the recommendation are specific to that, to those conditions.

Mr. Long: 1145.06?

Mr. Haire: .09.

Mr. Long: Okay.

Mr. Domini: Just for the record it's 1145.09.

Mr. Feeney: So basically we're here to just approve whether it can be a daycare for up to twelve children?

Mr. Domini: Correct.

Mr. Feeney: And that's—

Mr. Brusk: At one time.

Mr. Feeney: At one time and if it fits the neighborhood, you feel it fits the neighborhood?

Mr. Long: It doesn't adversely affect the traffic.

Ms. Houze: I'm like the fourth house in from Waggoner. I'm not deep into my neighborhood and there are no houses across the street from me. If you look at the pictures, there's a house that sits on Waggoner and that whole strip off Astra at the beginning of – there's no houses there. Then there's not a house until like a couple houses down and then it goes up. So there aren't even any houses across the street from me. So I'm in the beginning of the neighborhood. We're not talking like far deep into the neighborhood.

Mr. Feeney: The house I'm looking at – do you have a fence?

Ms. Houze: I have – I do not have a fence around my whole property. There's a fence – my neighbor has a fence and then there's a fence behind me and then there's a fence over – one house over.

Mr. Brusk: But there is not an enclosed area?

Ms. Houze: No.

Mr. Brusk: The children could wander quite a distance.

Mr. Haire: Yes.

Ms. Houze: If nobody was watching them I guess, yeah. But I mean, we're, you know, I – pretty much there's only once and I've thought about that because, like I said, I know all my rules and regulations for that. I will be blocking off the one area with a temporary fence and then there is only one opened area, and they're not watching themselves. I mean, there's two to three adults out there watching them and there's only one general play area. So trust me, I already know the rules and regulations for the county to even get approved for Type A. Yeah, there is a fence. You can't see it because it's one of those, I don't know what you'd call them, the wired in the back of the property. Yeah. In the back where all those bushes are there is a fence that he has on his property that goes all, actually along his property. And then on the one side that there's a privacy fence and then it's actually two house – yeah, right there next to me there's a privacy fence and then on the other side there's a privacy fence but it's actually not the house directly next to me but the one over. So they'd have to run really fast without me seeing them get out, because there's really going to be only one way that if they were going to -- I run a tight ship, let me tell you. I'm pretty strict. They know.

Mr. White: Well, I'll tell you one of the concerns I have. Well, going specifically to the standards here and one of the things that I'm focusing on is C – 1145.09(c) which

talks about not adversely affecting the health, safety, morals, or welfare of the person so we're residing a working neighborhood. And I think you mentioned in your discussion here that you have a waiting list and I think you've also mentioned that currently there may be as much as – as many as eight kids that are under your supervision and I worry that if we were to grant this exception would that not expand beyond the limit of 12. Would there somehow be 14 or 15 other kids you would be taking care of.

Ms. Houze: Okay. You're a little confused with that. I have eight people on my roster, but I do a second shift so there's – after 6:30 on Thursdays I have three children from after school until 10:30 at night, so no. I know it's very confusing and – because I do two shifts so there are – and, let me tell you, I get inspected quite a bit, because not only am I with the county I'm also with Actions for Children who come inspect me every three months. There are never any more than what I'm allowed in my home.

Mr. White: Okay. Let me ask you this. When you say shift – let me just try to carry this out. On one particular day you could have a shift of maybe from 8:00 in the morning until maybe three in the afternoon, four kids.

Ms. Houze: Correct.

Mr. White: And later in the afternoon and later in that day you can have another shift of four kids from say 4:00 to 8:00 in the evening?

Ms. Houze: No, that's not correct.

Mr. White: What do you mean by shift, then?

Ms. Houze: I have to make sure, by county rules, that there's no more than six children, well five children actually because my son counts as one, at one time. So, meaning, I have to make sure that how my things are set up that I have to make sure those children are gone before my second shift comes in.

Mr. White: Well, then, how does that fit with my parameters I was trying to diagram is that you can have a certain number of kids at one particular time called a shift. And you can have another group of kids that same day, a different number, but still within the parameters of requirements of the state and whatever is imposed upon you, you can have those within that other shift.

Ms. Houze: Correct.

Mr. White: So you can have a total in one day currently of eight kids.

Ms. Houze: Correct. But no more than – we'll go by your standards, no more than four at a time. If you have four in one and four in the other, those other four are left.

Mr. White: Okay. So let me carry this on a little further. If we were to grant the exception and you were granted a license to have an A facility, you could have a total of what, 12 kids at one shift in the morning?

Ms. Houze: Um-um.

Mr. White: And then after that shift's over you can have another 12 kids in the evening.

Ms. Houze: Yes. Yes, I could but—

Mr. White: I mean, as before, basically saying you could—

Ms. Houze: Yeah. I guess you could, but I don't. I mean, I have a family too and I'm not having 12 children at nighttime.

Mr. Haire: But you'll still have employees.

Ms. Houze: Huh?

Mr. Haire: You also have employees.

Ms. Houze: Correct. I do have employees.

Mr. Haire: That's my concern.

Ms. Houze: Okay.

Mr. Haire: Is that you can still tend to your family and have another 12 children in the basement—

Ms. Houze: No.

Mr. Haire: --with your employees and then one of you decide you want to do a third shift for parents that work--

Ms. Houze: Well, you're only required – you're only allowed to have so many hours. Your business has to be closed down by county rules for, I think, it's six hours so – and that's – I'm not – that's just not – I'm not doing that.

Mr. Haire: The point I'm getting at is that it's a business to me. It's not something that should be located in a residence. It doesn't fit the character.

Mr. Feeney: (Off mic – inaudible)

Mr. Haire: And you probably do run a wonderful business. That's why you do have a waiting list and it's--

Ms. Houze: Yeah. And the thing is though, I mean, I understand you guys don't know what I do and how I run it, so obviously you don't know but—

Mr. Feeney: (Inaudible – off mic)

Ms. Houze: I mean, if there's something that we can do where I can – where we can do something where you can only have 12 kids up until a certain time, I'll be more than willing to do that. Like I said, I only stay open late twice a week and if I have to get rid of that shift, I guess I'll do that because it's only one family I do that for.

Mr. Feeney: And that was my only concern about the whole thing was the evening shift in that basically when you said the kids are being picked up at 11:00 at night. And I know parents have to work those hours—

Ms. Houze: Yeah.

Mr. Feeney: (off mic) _____ open these hours. And it's great to not have them sitting at home by themselves but then again, it would be from 7:00 in the morning until 11:00 at night and if we could limit the time I would be – that would definitely be an option.

Ms. Houze: And I could do that. I'm more than willing to do that. If you put a thing where – I don't know what you call it, but a disclaimer in there that you're going to only approve it from this time to this time, I'm totally okay with that.

Mr. Feeney: What would those times be?

Ms. Houze: I think what would be reasonable would be, because I do not open generally any earlier than 7:00, but 7:00 to 7:00 or 7:00 to – 7:00 to 7:00 would be fair, because I do have some parents that are 6:30 or 6:45 and if you're working on the other side of town, you know how Broad Street is and it could take you a half hour just to get down Broad Street. So I think 7:00 in the morning to 7:00 in the evening would be reasonable.

Mr. Long: I've got a question. How would we enforce that?

Mr. Feeney: (speaking off mic)

Mr. Domini: That would probably fall on my shoulders.

Mr. Long: You're going to be working some long hours.

Mr. Domini: Or Code Compliance. It would have to be self-enforcing. It would have to be probably complaint-driven, because I'm not going to be here at 7:00 P.M. watching. That's how it'll probably be handled.

Ms. Houze: Trust me, you can talk to my husband. He doesn't want kids there that late. He puts his foot down.

Mr. White: Just a question to the Board. If we were to grant an exception, would this be applicable solely to this person or would it be for anyone using that facility.

Mr. Haire: Yeah. It would run with the applicant.

Mr. White: Okay.

Mr. Haire: So if that was to change and someone else wanted to take over the daycare, they'd have to do a transfer of a Special Exception and come back before the Board again.

Mr. Feeney: Are there other questions from the Board? (No response.) Anyone make a motion? (No response.) I want to make a motion that we accept Item C3 with the stipulation that the hours of operation of 7:00 A.M. to 7:00 P.M. Monday through Friday.

Mr. Brusk: I'll second.

Mr. Feeney: Can I have the roll call, please.

(Mr. Domini called the roll. Mr. Long voted "no." Mr. Brusk, "Oh, I'm torn on this one. I'm going to vote yes on this one." Mr. Feeney voted "yes." Mr. Haire, "No, based on the fact that I don't think it meets the intent, the character of the area and the intent of the code and I think that it will adversely affect the adjacent property owners, so no." Mr. White, "No. I guess I agree with Mr. Haire that it doesn't reflect the nature of the residential area for the exception that it is being asked for so I vote no.)

Mr. Feeney: That was three "nos" and two "yeses," so it didn't pass. But, again, you also have the option of going in front of City Council.

Ms. Houze: Okay.

Mr. Feeney: You can take that to them.

Ms. Houze: Sure. And who do I speak to?

Mr. Domini: If that's something you want to do you can talk with me about it and I'll help you on that.

Mr. Feeney: (Off mic)

Mr. Brusk: Yes, but they don't have an option to appeal the variance as we said earlier.

Mr. Haire: They do have an option to appeal the variance.

Mr. Brusk: I'd say it was just the reverse.

Mr. Feeney: Then let's find out if you do or don't.

Mr. Brusk: I guarantee it's just the reverse.

Mr. Long: Cheryl?

Ms. Houze: Yes.

Mr. Long: Have you looked into any of the smaller commercial pieces that are available here in Reynoldsburg?

Ms. Houze: Here? Yes. I guess he likes me so much he wants me to spend some more time with him. Oh, yeah, we've-- This is my philosophy though. I do not want a commercial building where it's very cold. I still want a homey feeling and I wanted something small. So I've been looking into the homes, different homes in the Reynoldsburg area, because I want it to be small and I want it to be homey and comfortable with a learning atmosphere. There's a whole history behind this. My daughter was hurt over here in the LaPetite. Her arm was twisted out of socket when she was three years old, so that's when I started staying home and then it just became a thing. People are asking me to watch their kid and I got into it and so here I am now. So I, as a parent too, I do not like centers. We'll just leave it at that. And I wanted it to be something small. So I have looked at several properties here and, like I said, I was just about to purchase this one right on the side of you here off of Reynoldsburg-New Albany and it's in a flood zone, so you can't put a fence up, so that kind of vetoed that one. And you run into the same thing, because I want a home and resident. I'm not looking – I mean, I'm trying to look on the main thing, but I'm still having problems with the zoning issue. Or they're out of my range. If you go on a main road like Broad Street or Main Street, they want \$1 million for these properties. I mean, I'm not that – I hate to say this and I would never this to my colleagues, but I'm a glorified babysitter with, you know, I'm watching your children in a safe home with a learning environment. You know, I'm not your average daycare facility. I'm a center in a small – in my home.

Mr. Feeney: And you have an idea in your mind of what you feel is a center and you have an idea in your mind what would be a home environment.

Ms. Houze: Um-um. And I've looked.

Mr. Feeney: Is it – I was going to say, is it possible for you to take what you consider to be a home environment and put it in a center setting without it actually being a “center with cold walls, cold floor?”

Ms. Houze: No, because it’s a whole outlook. Like you guys were talking about signage and how things look. A center looks like a center. It’s cold, it’s not homey. A home is a home.

Mr. Feeney: Right.

Ms. Houze: And so that’s why I want it in a home and I kind of have a different concept of how I want it. So a center just won’t do what I want, because it’s a center. It’s a cold building. That’s just not what I want. I want a home, children to feel comfortable in a home environment and have that homey feeling, but they still learn and grow. I have a whole different—

Mr. Feeney: (speaking off mic)

Mr. Domini: Yes.

Mr. Haire: (speaking off mic)

Mr. Domini: 1139.

Ms. Houze: And so, what do I do? I call him in the – call somebody in the morning and—

Mr. Haire: (speaking off mic)

Mr. Domini: Yeah. You’ll submit in writing to Council and I’ll help you do that.

Ms. Houze: Okay. And is that an extra charge too?

Mr. Haire: (speaking off mic)

Ms. Houze: Well, let me tell you, \$250 is a lot of money for a small business like myself.

Mr. Long: Yeah.

Mr. Domini: I understand. It’s just basically a continuation, an appeal.

Ms. Houze: Okay. So can I – is that paperwork or is that something we can do through e-mail?

Mr. Domini: We'll work it out tomorrow or Monday. We'll find a time we can get together.

Ms. Houze: Okay. Awesome.

Mr. Domini: Okay?

Ms. Houze: Okay. Thank you.

Mr. Feeney: Thank you.

Mr. Long: Thank you.

Mr. Feeney: Okay, let's move on.

D. OTHER BUSINESS

Mr. Feeney: I see none on the agenda so we'll adjourn.

E. ADJOURNMENT

The meeting adjourned at _____ o'clock, p.m.

Patrick Feeney, Chair

Aaron Domini, Planning Administrator

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(Tape ends here.)