



**MINUTES REGULAR MEETING
REYNOLDSBURG PLANNING & ZONING BOARD
September 5, 2024**

CALL TO ORDER

ROLL CALL

PRESENT: Furst, Barnhart, Benner, Kleckley, Ward, Brusk

ABSENT: Alabi

APPROVAL OF MINUTES

Planning & Zoning Board - Regular Meeting - July 18, 2024

Minutes stand approved.

Planning & Zoning Board - Regular Meeting - August 1, 2024

Minutes stand approved.

Planning & Zoning Board - Regular Meeting - August 15, 2024

Minutes stand approved.

APPROVAL OF AGENDA

Agenda stands approved.

SWEARING IN OF SPEAKERS

Speakers sworn in by Mr. Furst.

PUBLIC COMMENT

None

UNFINISHED BUSINESS

App# 2024-0462; 1371 Brice Road; Rynya Carey and Sarita Penn of Pathways

II Destiny Childcare Center, LLC; Conditional Use Application

Ms. Buathier read the staff report into the record.

Mr. Brusk expressed his concern to make sure the definition of a school childcare center includes a proper certified teacher on site.

Ms. Buathier said if the board determines this is a daycare center, this is not allowed in the BMD. If the board determines it qualifies as a school childcare center, then it is permitted.

Mr. Brusk explained that the staff needs to have proper qualifications to be determined a school.

Mr. Meyer explained that staff is looking for the board to determine the use. If it is a school daycare center, what determines the school portion?

Ms. Penn has been working with staff to address the parking issues. They plan to repave the lot and add two additional spots. Pathways to Destiny will be a licensed, chartered and nonpublic school licensed by the Ohio Department of Education. They have prepared the required ODE documents which include; written philosophy, a creative curriculum for preschool, infants and toddlers. The curriculum is fully compliant with the early learning and development standards, as well as the science and reading standards for the state of Ohio. They are also submitting a daily schedule and a parent and staff handbook. Effective January 2025, The Department of Child and Family Services will begin licensing preschools. In order for the applicant to submit the application to become a licensed, chartered, nonpublic school, they must provide building approval, fire inspections, and food licensing or exemptions. The applicant cannot and will not operate until they have received their license from the Ohio Department of Education.

Ms. Penn addressed having a licensed teacher at the school. Both applicants are in the process of receiving their Alternative Resident Educator license, which allows them to teach in Ohio. They will also be applying for a professional educator's license, which is good for five years. They would like to obtain both to ensure they meet ODE's director or lead teacher qualifications. Prior to receiving their qualifications, they will hire a licensed teacher to oversee the school.

Once zoning is approved, the applicant plans to submit a permit to put a fence around the playground, and the screening for the dumpster enclosure. The applicant did bring the materials if the board wanted to review them.

Their plan is to have a max of four teachers. Ms. Penn read The Ohio Administrative Code staff ratio to the board.

Mr. Furst asked if the applicant had any objections to the conditions that staff outlined. The applicant does not have any objections.

Mr. Furst explained that the board is to determine whether this is a school child daycare center or a daycare center. It is his understanding that the applicant is

pursuing certification as a licensed school, a full-time educational facility. It seems as if this would meet the definition of a school, especially since they will be employing licensed educators. It is necessary for the board to determine whether this is a school before they can consider whether it meets the conditional use guidelines.

Ms. Barnhart feels if the Ohio Department of Education is willing to certify this as a licensed school, it is not in the board's purview to go against it.

Mr. Brusk is concerned that it is not certified yet. He asked if the board could impose any restrictions to make sure certified teachers are onsite.

Ms. Penn explained that the Ohio administrative code requires a licensed teacher, so they would not be given the license without a licensed teacher on staff.

Mr. Shook confirmed that the applicant would not operate until they have the proper certification.

Mr. Furst asked what the timeline for the certification was. The applicant said that they can apply in November and after the paperwork is finalized and inspections are completed, they plan to open in February.

Mr. Furst asked if the applicant had any objections to adding the condition to the application to obtain the license before opening. The applicant does not have any objections because they have to get the license first.

Mr. Benner asked if the applicant was still willing to sign a lease and take the risk, with the hopes that they would get the licensing approved. The applicant has worked with the state before for the childcare center they currently have. They are confident they will pass and are willing to take the risk.

Mr. Benner asked how many kids they plan to have and how that affects staffing.

Ms. Penn said their goal is 40 children and that won't affect staffing because they can distribute the staff for different situations.

Mr. Benner is concerned that their original plan had the children walking through the parking lot to get to the play area. They have since updated their plan to add a barrier and the contractor is going to put lines on the walkway coming down the steps into the side yard. They are going to submit to zoning for a fence on the side leading to the playground.

Mr. Benner is not comfortable approving this based on multiple conditions, and he is not sure of the city's authority to check to ensure these things happen.

Mr. Meyer explained that the applicant could email staff the Department of Education certificate. The building department would not sign off on their occupancy until zoning is complete. We would require the proper documentation in order to approve on the zoning side.

Ms. Barnhart asked Mr. Shook if the board has clearly defined school childcare at this point. Mr. Shook explained they are setting a baseline with the specifics of this application that they need to be licensed by the Ohio Department of Education. This is what a future applicant could rely on upon attempting to interpret what is a school child daycare center.

Ms. Buathier explained the next steps, which include a new business permit. She also explained that the conditional use is only good for one year and the business must be running with all required documents by that time. A six-month extension can be granted, if requested.

Mr. Brusk asked if they could put on the condition that they have certified teachers and not the license to avoid any hold-up in the building process.

Mr. Shook explained that having a certified teacher on the premises does not make it a school. It just means that you have a certified teacher on premises. And so that that creates what I would consider to be, a definition of school daycare that is not clearly defined. So that does present a little bit of an issue, if that's what you want to do. I know we punted this to the board. Look at your code. You guys theoretically wrote it. So you get to interpret it the way that you want when it's vague. But that's something I would caution.

Mr. Furst asked if the board were to clearly define, via narration, and submit a vote for the definition of school child daycare center, if this would be sufficient. Mr. Shook said they could do it. It would be a version of agency rule-making.

Mr. Furst confirmed they are currently running a daycare center. Ms. Penn explained they are currently licensed by the state now as a childcare center, and they will be licensed as a school.

Ms. Barnhart agrees with the definition Mr. Furst gave and proposed a motion to accept that definition.

(A school child daycare center is a facility that is licensed by the state and operates in such a manner. As their primary purpose is education, for which they are licensed by the state, and that any child care services they provide are secondary to that educational purpose for which they are licensed by the state.)

Mr. Furst: I second.

Ms. Barnhart withdrew her motion as other board members still had questions.

Mr. Shook explained that he thinks the board isn't clear on what the wording for the definition is because it happened so quickly.

Mr. Brusk is asking if the board can provide a definition of a school daycare center that will allow the applicant to move forward with building permits.

Mr. Furst: Speaking of my interpretation of their application, their application and the information they present here. And, staff or Mr. Sheikh, please correct me if I'm wrong. They are held to the information they present here. So if they state that they are. And will not operate until they obtain certification from the state. I take that to mean that they will do exactly as they state. That being the case. I think, according to my interpretation of a school child daycare center, that if we were to restrict the definition to facilities which are licensed by the state as an educational facility, as a school. And that any child daycare services they provide are secondary to that educational purpose for which they're licensed by the state. I take that to mean that they are operating according to the use as school child daycare center, as I previously defined.

Ms. Barnhart explained that the Department of Education will require that they have those things in place, or they will not certify them.

Mr. Furst: I'm willing to restrict the definition of school child daycare center to only facilities that are licensed by the state as an educational facility, as a school.

However, you know, I also take the applicant's application to mean that they are working and will obtain that certification.

Mr. Shook: I do want to speak about this because I don't necessarily agree with my staff's interpretation on that. We have, on several occasions when it comes to conditional use permits, approved conditional use permits with conditions and, in some cases, numerous conditions. And we haven't, as far as I know, prohibited someone who received that from getting a building permit until they satisfied all the conditions. Because many of those conditions are dependent upon getting the building permit to meet the condition. So I'm confused by that.

Mr. Meyer: What I would say is we're okay. This would be a discussion with the building department, not with the planning department, if that's an interpretation that the city attorney is fine with and that is related to the building department. The planning team has no objection to that. It's really something that we're talking about what the building permit would or would not do. My team is not over the building department. So, if the city attorney says that that's sufficient, then that is fine from my team. That is what I would say.

Ms. Buathier: What I can speak to actually, Mr. Attorney, is that when we do have conditions like prior to the code changing with the major site plan or variances or even conditional uses, if they needed to provide something or revised plans, we made sure that we received those plans before we signed off on that conditional use, and then signed off on the new business or the new build or whatever it was, and then it moved on to building.

A zoning certificate can be issued with the conditions listed, but they can't commence the use until they meet the conditions.

Ms. Buathier said they can't get the zoning certificate until the conditions have been met.

Mr. Furst: It was not my intent to add an additional condition to staff's recommended conditions. I am satisfied, based on the applicant's testimony, that they will not operate until they are a licensed educational facility by the state. I do not see a conflict between us defining a school child daycare center as one that is licensed by the state, and not having an explicit condition in our motion that requires them to obtain such certification.

Mr. Shook: I think what you what you're trying to do is almost like a three-tiered approval process. It is to define school daycare center, then a motion that this meets school daycare center, then a motion to approve conditional use.

Mr. Furst: So let us then return to the definition of school child daycare center. In my mind, the definition is a facility that is licensed by the state of Ohio. As in school for educational purposes, in which that's their primary use, and that any child daycare center use would be secondary to the use in which they're licensed by the state.

Mr. Furst: I move that we accept the definition as described as the definition of school child daycare center.

Ms. Barnhart: I second.

RESULT:	Approved - Definition
MOVER:	Furst
SECONDER:	Barnhart
AYES:	Barnhart, Kleckley, Ward, Furst, Brusk
NAYS:	Benner

Mr. Furst: Now, I would like to determine if this application meets the definition of a school child daycare center, which we previously defined based on the applicant's testimony. I am convinced that they meet that definition, and therefore I move that this application be determined to be the use of a school - child daycare center, which we previously defined.

RESULT: **Approved - Land Use**
MOVER: Furst
SECONDER: Barnhart

AYES: Kleckley, Brusk, Furst, Ward, Barnhart
NAYS: Benner

Mr. Furst: Now we will determine, unless there's additional testimony from the applicants. No additional testimony. Are there any additional questions before we determine if they meet the conditional use factors as outlined in the code?

Ms. Ward asked about any buses in and out. Ms. Penn said they would not have any buses. The parents will provide all the transportation.

Mr. Furst: Are there any additional questions or comments from the board? Hearing none. I am satisfied that this application meets the conditional use factors outlined in 1109.13D of our code, and move that we accept this application as submitted with staff's recommendations as shown in your packet.

Ms. Barnhart: I second.

RESULT: **Approved - Conditional Use**
MOVER: Furst
SECONDER: Barnhart
AYES: Kleckley, Ward, Furst, Bruck, Barnhart
NAYS: Benner

NEW BUSINESS

App# 2024-0514; 976 Waggoner Rd; Abigail Curtis; Variance

Ms. Barnhart: Mr. Chairman, before you there is an email with the applicant asking to table this fence variance. There is an email from Marie Meeks, our planner. And it's my understanding that the applicant is not here today. They are requesting a table.

Mr. Furst: Understanding that the applicant is requesting that this item be tabled, I so moved. Do I have a second?

RESULT: Tabled
MOVER: Furst
SECONDER: Kleckley

AYES:	Benner, Ward, Furst, Kleckley, Barnhart, Brusk
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App# 2024-0540; 7365-7369 Livingston Ave; Jonathan Goldrath; Variance

Ms. Buathier read the staff report into the record.

Mr. Meyer, Mr. Shook, Lou Salvati, Chief Baker and Mayor Begeny went to their processing facility in Dayton and did a tour. They went over safety procedures and basic understanding of the facility to better understand procedures and how that will be followed in Reynoldsburg. Chief Baker was satisfied with the security procedures that are proposed at this site. They have minimal cash on hand and the cash is locked up and very controlled.

Mr. Miller discussed the variance. They put together a map showing the residential areas and 500-foot around that area. The 500-foot restriction from a residential area makes it impossible to have this facility in the city. One area it could be allowed is within one mile of other marijuana facilities, and that is restricted by the state.

The front door of this property will be approximately 420ft from the residential district to the south. Marijuana dispensaries is an appropriate conditional use in the code and in the community commercial district. However, due to the map and the 500-foot rule from a residential district, it makes it virtually impossible to place one within the city.

Mr. Brusk asked how the 500-foot is determined. Ms. Buathier explained this is the first this has been determined. Mr. Shook explained it is as the crow flies, unless otherwise specified.

Mr. Benner explained he doesn't feel that the issue is how the distance is measured, but that our code is so restrictive that they would not be allowed anywhere in Reynoldsburg.

Mr. Miller: The dispensary in Cleveland's parking lot is right next door to residential. It is a city rule, not part of the state rules. The state does prohibit 500ft from a school playground, a public playground, public park, a public library and a church. But I believe this was this residential restriction that was added in by the city.

Mr. Furst: I am satisfied, based on our discussions here, that a hardship is present, and this application meets the variance factors listed in our code, and I move for approval based on those findings.

Mr. Benner: I second.

RESULT:	Variance Approved
MOVER:	Furst
SECONDER:	Benner
AYES:	Barnhart, Benner, Brusk, Kleckley, Furst
NAYS:	Ward

App# 2024-0517; 7365-7369 Livingston Ave; Jonathan Goldrath; Conditional Use

Ms. Buathier read the staff report into the record.

Mr. Miller explained the history of his business and how the business is very clean and well regulated by the state. It will have a positive impact on the community and will not affect traffic patterns. No events can be held without asking for approval from the state. The Division of Cannabis Control comes out after the Occupancy is issued, and then they will be fully permitted. They ensure proper security all around the building. The product is stored in a vault and a small daily stock is brought out. When an individual enters, they go to a reception area to check in. You are then in a waiting area and, once eligible, take them through a door. The state does radon inventory counts and all inventory must match the facility will receive fines. All deliveries are in unmarked vans, per state regulations.

Mr. Brusk asked how many customers they get per hour. Mr. Miller said anywhere from zero to 50 or 100. It varies from hour to hour and day to day. They expect their hours to be 9 am to 9 pm, six days a week and 9am to 5pm on Sunday. Mr. Brusk is worried about the Livingston entrance and exit as it can be very congested.

Ms. Bauthier explained that if this conditional use is granted, the applicant will have to submit a major or minor site plan and engineering will look at that. Mr. Meyer did talk to engineering, and they said the business would likely increase traffic, but not cause a substantive effect on the system. This is a highly commercialized area where you would expect traffic.

Mr. Benner: I would move that we approve this conditional use, with the condition indicated in 3A II. The variance has already been approved, that the applicant submit and obtain an approved minor major site plan, etc..

Ms. Kleckley. I second.

RESULT:	Conditional Use Approved
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MOVER: Benner SECONDER: Kleckley AYES: Furst, Ward, Kleckley, Brusk, Benner, Barnhart
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OTHER BUSINESS

2025 Planning and Zoning Board Meetings

The calendar was given to the board to review for the next meeting.

ADJOURNMENT

Planning and Zoning Administrator

Chairman