

**PAINESVILLE TOWNSHIP
BOARD OF ZONING APPEALS
MEETINGMINUTES
August 13, 2019**

Present: Tom Hill, Dave Lindrose, Randy VanBuren, Ken Sullivan and Dale Lewis
Absent: Dave Enzerra
Zoning Inspector: Rich Constantine
Legal Counsel: Matt Lallo

The Chairman, Tom Hill, called the meeting to order at 6:30 p.m. The Pledge of Allegiance was recited. A quorum was present. The Chairman requested that Legal Advisor Matt Lallo swear in the persons who were present to speak and intended to testify during the public hearings. All but one took the oath.

PUBLIC HEARINGS

19-BZA-24

Applicant Robert Wareham submitted an Application for a Variance for property located at 128 Ridgecrest (PPN 11A002B000140). The Variance request is to allow installation of approximately 60 lineal feet of eight (8) foot tall privacy fencing in violation of Section 6.13(B)(3) which requires that no fence exceed a height of six (6) feet in the R-1 zoning district which includes the subject property.

Chairman found no error of the Zoning Inspector for requiring this request.

Rhonda & Robert Wareham, applicant, stated they lived there for 27 years and the lot next to them had been vacant. It was recently purchased and it was graded higher than their lot.

The height of a 6 ft fence would not give them privacy. The 8 ft fence they are requesting will give them the privacy they desire. The next door neighbor, whose property is graded higher, is in favor of this request and submitted a letter.

Chairman asked if anyone was in favor or against. Hearing none he asked the board for a motion.

Dave Lindrosse made the motion to approve **Case 19-BZA-24** as submitted. Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.

Motion Carried.

Randy VanBuren moved to immediately journalize the decision. Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.

Motion carried

Case 19-BZA-25

Applicant USSI Global INC by J Kindred submitted a Conditional Use Application for property located at 1582 Mentor Ave (PPN 11A016A000090) The Conditional Use request is to allow a drive-thru in association with a restaurant as required by Section 22.02(E), 12.02(F) and 12.05(F). Drive-thru was originally established prior to the requirement of a CUP. The proposed current modifications to the

drive-thru configuration require the permit to be obtained. Chairman found no error of the Zoning Inspector for requiring this request.

Pablo Carmona, representative with McDonalds, stated they are wanting to update the menu board. He stated they are just replacing the current one with a new one.

Chairman asked if anyone was in favor or against? The Zoning Inspector commented the conditions should remain the same for the light pattern and volume. Mr. Carmona stated that the menu board would be lighter during the day and then after 4pm the light is lowered. The volume would stay the same.

Dave Lindrose made the motion to approve **Case 19-BZA-25** with the following conditions:

- 1) Conditions per drawing
- 2) 5 year term

Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.

Motion Carried.

Ken Sullivan moved to immediately journalize the decision. Dave Lindrose seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.

Motion carried

Case 19-BZA-26

Applicant MS Consultants submitted an Application for a Variance for property located at 2045 Mentor Ave (PPN 11A0140000110). The Variance request is to 1) Allow impervious surface percentage of 70.6% which exceeds maximum permissible of 70% as required by Section 22.04(D). 2) Allow forty nine (49) of the 108 parking spaces proposed at 18x9 ft dimensions in violation of the 20x9 ft minimum size required by Section 29.03, and 3) Allow the existing parking clearance of 9 feet on the right sideline which is in violation of Section 29.10(A) requirement for a minimum 10 foot sideline clearance for parking.

Chairman found no error of the Zoning Inspector for requiring this request.

Ted Gaus from MS Consultants stated they added interior landscaping but adding additional landscaping beyond that would decrease the amount of parking spaces desired by their client.

Chairman asked if anyone was in favor or against. Chairman asked if they considered adding compact car parking? Mr. Gaus stated they would be open to that. The Zoning Inspector commented that he does not find adding more signs helpful. Dale Lewis inquired on the vertical parking and not diagonal? The Zoning Inspector stated that the study done by an engineer considered a 45 -60 degree angle but they would lose more parking spots.

Ken Sullivan made the motion to approve **Case 19-BZA-26** as submitted. Dave Lindrose seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.

Motion Carried.

Randy Vanburen moved to immediately journalize the decision. Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.

Motion carried

Case 19-BZA-27

Applicant 1037 Riverside Drive LLC submitted an Application for a Variance for property located at 1037 Riverside Dr (PPN 11A018A000030). The Variance request is to allow construction of a 50x30 ft (1500 sq ft) addition onto the rear of the existing 4248 sq ft building which represents an increase of 35.31% of floor area for a building devoted to a non-conforming use in violation of Section 7.05 which limits such increase in floor area to a maximum of 10%.

Chairman found no error of the Zoning Inspector.

David Spaw, applicant, stated that he wanted to add a building to house a motor home which needs a certain height, length and width. David Lindrose asked if the main use at this property is storage. Mr. Spaw replied that the building is mainly used for storage but that it is also used for hobbies such as woodworking and metalworking. Hearing no other comments, the Chairman asked for a motion.

Ken Sullivan made the motion to approve **Case 19-BZA-27** as submitted. Dave Lindrose seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.

Motion Carried.

Randy Vanburen moved to immediately journalize the decision. Dave Lindrose seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.

Motion carried

Case 19-BZA-28

Applicant John Amato submitted an Application for a Variance for property located at 1041 Valewood Ct (PPN 11B065F000060). The Variance request is to allow construction of a 16'x24' detached garage with a side yard clearance of five (5) feet in violation of Section 14.03(A)(1) which requires a ten (10) foot side yard clearance.

Chairman found no error of the Zoning Inspector for requiring this request.

John Amato, applicant, stated that they are installing a pool in their backyard and would like to add a garage to hold supplies and storage. Applicant stated due to the shape of his lot if he were to maintain the 10 foot setback the garage would be in the center of his yard.

Harley DeLeon commented to the board that the Trustee's have submitted a request to the Zoning Commission to reduce the currently required 10 foot side and rear yard clearances to 5 feet..

Dave Lindrose made the motion to approve **Case 19-BZA-28** as submitted. Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.

Motion Carried.

Dave Lindrose moved to immediately journalize the decision. Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.

Motion carried

Regular meeting:

The Chairman called for attention to the minutes of the June 11, 2019 hearings and meetings and if anyone had any comments or corrections. Hearing none, the Chairman declared the minutes approved.

New Business:

1. Bloom Medicinals, 382 Blackbrook, CUP renewal 17-BZA-25, 8/14/19-8/13/24

Request is to renew CUP 17-BZA-25 effective Aug14, 2019 for a 5 year term expiring on 8/13/24 with an alteration in the hours of operation condition to allow new hours of 9am-7pm M-Sat and 10am-6pm on Sunday.

The Zoning Inspector stated this was a 2 year CUP but the location has only been in operation since early this year due to a delay in the State's medical marijuana program.. They are on the renewal asking for a 5 year term and to expand the hours of 9am -7pm Monday - Saturday and 10am-6pm on Sundays.

Steve Funk, attorney for Bloom Medicinals, stated that were here in October 2017. John Millwak GM of store stated they opened May 29, 2019. They requested the same hours the Illinois store operated on but 80% of the clients here are 55 and older and would like to come in earlier. Extending the hours on Sundays is giving their customers another option. Mr. Millwak stated that new customers stop in for 20-30 minutes and returning patients take about 15 minutes.

Dave Lindrose made the motion to renew the CUP for 5 years and the hours requested. Randy VanBuren seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye. Motion Carried.

2. Subway, 1464 Mentor, CUP renewal 10-BZA-05, 9/14-12-9/14/20

Requesting Renewal of CUP 10-BZA-05 to operate a drive-thru in conjunction with a permitted restaurant use for exp dated 9/14/21, 2013, 2016 and 2018. Conditions are the following:

- 1) The 3 southwest corner parking spaces shall be designated "compact cars only"
- 2) The curb on the western sideline shall be 12 inches in height as opposed to the 6 inch curb proposed

Ken Sullivan the Zoning Inspector if there have been any issues there. The Zoning Inspector stated no.

Ken Sullivan made a motion to renew the CUP as requested. Dave Lindrose seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye. Motion Carried.

3. Briar Rose Nurseries, 590 Blackbrook, 08-BZA-09, 12/14/18-12/13/23

Request is to renew CUP 08-BZA-09 for a 5 year term commencing on Dec.14, 2018 and explain on Dec.13, 2023. The use is described as a growing site for a wholesale landscape nursery with parking and service of vehicles and equip used exclusively within the prescribed business

Ken Sullivan made a motion to renew the CUP as requested. Randy VanBurne seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye. Motion Carried.

4. JJJ Properties (Allega), 1085 Bank, CUP renewal, 8/9/19-8/9/22

Request is for renewal of CUP 09-BZA-03 for surface mining activities for a three year period commencing on Aug. 9, 2019 and expiring on Aug. 9, 2022

Chairman commented that they haven't been operating. Ken Sullivan stated he hasn't seen anyone there for sometime. The Zoning Inspector stated that he ran a report and mailed an application to those on the report. This applicant sent the application along with the renewal fee.

Zoning Inspector stated that the renewal fee is \$100. If they choose not to renew then they would need a public hearing and that fee is \$450..

Dave Lindrose made the motion to renew the CUP as requested. Randy VanBuren seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.
Motion Carried.

5. Thomas 5 Limited (Wendy's), 1550 Mentor, CUP renewal, 7/9/19-7/8/24

Request is to renew the CUP 14-BZA-12 to operate a drive-thru window and provide outdoor dining in association with the permitted use as a restaurant from July 9, 2019 to July 8, 2024

Randy VanBurn made the motion to renew the CUP as requested. Ken Sullivan seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.
Motion Carried.

6. Truenorth Energy (Shell station), 1150 Bank, CUP renewal, 11/9/15-11/9/20

Request is for a renewal of CUP 10-BZA-07 effective November 9, 2015 for a 5 year term to expire November 9, 2020.

Ken Sullivan made a motion to renew the CUP as requested. Dave Lindrose seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.
Motion Carried.

7. Giant Eagle Get-Go Station, 1251 Mentor Ave, CUP renewal, 07/11/17-07/10/22

Request is for a renewal of CUP 12-BZA-06 effective 7/11/17 and expiring on July 10, 2022

Ken Sullivan made a motion to renew the CUP as requested. Randy VanBuren seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.
Motion Carried.

8. Dollar General, 1535 Madison Ave, CUP renewal, 08/14/18-08/13/23

Request is for renewal of Conditional Use Permit 13-BZA-08 effective 8/14/18 for a period of 5 years to expire on 8/13/23.

Harley DeLeon stated that this CUP that was issued for outdoor sales. This is the main consideration for this property, however she stated that it might be wise to reconsider the conditions as the property's appearance is lacking.

Ken Sullivan made a motion to continue the CUP. Randy VanBuren seconded.

Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye.

Motion Carried.

Chairman asked if there is anything on the agenda next month besides the continued CUP. Dave Lindrose asked about journalizing cases automatically. Matt Lallo stated they need to be separate motions. Chairman commented that it used to be a rare thing now it's consistently every case. Chairman brought up the issues with the elementary school and inquired if our legal attorney knew what was going on. Matt Lallo stated that the building is old and the school board is pushing back. The superintendent would like to sell it to Painesville Township.

Chairman stated that if nothing else comes forward should the board meet for the Renewal? Matt Lallo stated to vote to continue the renewal for the next time the board convenes.

Ken Sullivan moved to continue 13-BZA-08 for the next time the board convenes. Dave Lindrose seconded. Roll Call: Sullivan; Aye, Lindrose; Aye, Lewis; Aye, Van Buren; Aye, Chairman; Aye. Motion Carried.

Zoning Secretary, Lorrie Schuck, stated she will not be here next month.

There being no further New Business, the Chairman adjourned the meeting 7:25PM. Next meeting will be Tuesday, September 10, 2019.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tom Hill", written over a horizontal line.

Tom Hill, Chairman

A handwritten signature in blue ink, appearing to read "Lorrie Schuck", written over a horizontal line.

Lorrie Schuck, Secretary