

**HARRISON TOWNSHIP**  
**Board of Zoning Appeals**  
**Monday, January 11, 2019**  
**7:00 p.m.**

The meeting of the Harrison Township Board of Zoning Appeals was called to order at 7:05 p.m. on Monday, January 11, 2019.

**Those present:**

Charles Waldron  
Patricia Larrick  
Don Marlow  
Steven Russell  
Jerry Barnes

Justin Riley Olszewski,  
Zoning Administrator, Development Dept.

**Not present:**

**APPROVAL OF THE MINUTES:**

Mrs. Larrick made a motion to approve the minutes from the Wednesday, December 12, 2018 BZA meeting. Mr. Steven Russell seconded. Motion carried and passed 5-0.

**OLD BUSINESS**

**Continuation of Case No. BZA-13-18**

Case# BZA-13-18 was initiated by Ayman Hamdan, 958 Patterson Rd., Dayton, OH 45419. The applicant is requesting a Conditional Use under Article 21, Section 2103(B) to allow an Automobile Full Service Station within the "B-3" Business District. The property is located at 4192 N. Main St., Dayton OH 45405, Harrison Township, Montgomery County, Ohio.

Staff stated that because neither the applicant nor his agent were present, and that the applicant had failed to submit the required documentation the board requested, that a motion could be made on the case. Mrs. Larrick made a motion to deny BZA Case #13-18. Mr. Russell seconded. Motion carried and passed 5-0.

**Continuation of Case No. BZA-10-18**

Case# BZA-10-18 was initiated by Steve Adams, 2641 Onaota Ave., Dayton, OH 45414. The applicant is requesting a Conditional Use to Article 22, Section 2203(M) to allow outdoor storage within the "B-4" Business District. The property is formerly located at 2101 Neva Dr., Dayton, OH 45414, Harrison Township, Montgomery County, Ohio.

Staff stated that neither the applicant nor his agent was present and that there had been new information submitted by the applicant from when it was tabled in September. Staff stated that a determination on the case could be made after the staff report has been given.

Staff entered the previous findings from the September 10<sup>th</sup> meeting on items 1 through 6. The property, at the time, consisted of combined parcels including E21-17303A0023 and 0029. The most recent valid Certificate of Zoning Compliance was issued for “Macs Swap Shop” (2013-0089), a second-hand or thrift retail operation which no longer appears to be in operation. The building for 2101 Neva exists on the parcel at E21-17303A-0001, which has a valid zoning certificate for “Adams Magic Mist Tan” and “Brownies Barbers”. Staff then states that at the September 10, 2018 meeting, the board granted the applicant time to combine parcels E21-17303A0030, 0001, 0029 & 0023, which the applicant has done. The county commission replatted the parcels into one single parcel with the street address of 3206 N. Dixie Dr. Article 4, Section 406-05 lists the general “Standards for Conditional Use”. Article 22, Section 2204(A-K) lists required conditions in the “B-4” Business District. The applicant is proposing to store salvage and other vehicles in associated with a legal, non-conforming permitted use at G & R Auto Sales 3206 N. Dixie Dr. Staff then stated, for clarification, that this Conditional Use application is for outdoor storage for the permitted use of the auto dealership only, and not any of the other tenants on the property.

### **Discussion**

As stated, the standards for the proposed use are set forth in Article 4, Section 406.05 and Article 22, Section 2204(A-K).

- A. Drive-in window for pick-up or delivery shall be located on and accessible only from the premises and shall be provided with adequate drive-way space for waiting vehicles.

### **Does not appear to be applicable**

- B. All business shall be of retail, service or recreational character.

**The existing legal non-conforming use as an automobile sales business appears to meet this requirement, the applicant will have to address the board in regards to how the requested outdoor storage will meet this requirement.**

- C. No manufacturing, processing, packaging, repair or treatment of goods shall be carried on, except when incidental or accessory to the performance of services or the sale of goods on the premises.

**The repair of vehicles and/or treatment of goods could be considered to be incidental to the current use.**

- D. Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon any property located in a Residential District or upon any public street.

**Site is pre-existing and appears to meet this requirement.**

- E. All premises shall be furnished with all-weather hard surface walks of a material such as bituminous or portland cement concrete, wood, tile, terrazzo or similar material, and, except for parking area, the grounds shall be planted and landscaped.

**The existing lot where vehicles are currently stored appears to be a mix asphalt in need of maintenance per the Exterior Property Maintenance Code, gravel, and grass plantings. If approved, the lot would have to be brought into compliance under current standards in order to be considered a conforming use.**

F. Where the property lines separate a Business District from a Residential District, a visual and mechanical barrier, a minimum of six (6) feet in height, shall be provided along the common lot line, which may consist of any of the following:

1. An evergreen hedge used with a chain link fence.  
Such hedge shall not be less than three feet in height.
2. A solid fence of a non-deteriorating material.
3. A Masonry wall.

**Property has a fence along Lodge Ave. and technically does not abut a residential district.**

G. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44.

H. No emission of toxic or noxious matter, which is injurious to human health comfort or enjoyment of life and property or to animal or plant life shall be permitted. Where such emissions could be produced as a result of accident or equipment malfunction, adequate safeguards considered suitable for safe operation in the business involved shall be taken.

I. The emission of smoke or other air pollutants shall not violate the standards and regulations or the Montgomery County Health Department. Dust and other types of air pollution borne by the wind shall be kept to a minimum by appropriate landscaping, paving, or other acceptable means.

J. There will be no emission of odors or odor-causing substances which can be detected without the use of instruments at or beyond the lot lines.

K. There will be no vibrations which can be detected without the use of instruments at or beyond the lot lines.

**The applicant will have to address to the board the feasibility of compliance with sections G-K**

**406.05**

A. The proposed Conditional Use will comply with all applicable regulations of this Resolution, including lot size requirements, development standards and use limitations.

**Site now appears to meet this requirement after the re-platting of the 4 parcels.**

- B. Adequate utility, drainage and other such necessary facilities have been or will be provided.

**Applicant will be required to submit a storm water control plan to the County Engineer's office for the surfacing requirements.**

- C. Adequate access roads or entrance and exit drives will be provided and will be so designed as to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys.

**Property is pre-existing and has access from 3 different public rights-of-way.**

- D. All necessary permits and license for the use and operation of the Conditional Use have been obtained, or evidence has been submitted that such permits are obtainable for the proposed Conditional Use on the subject property.

**Applicant will have to address this to the board if the dealership license issued for 3206 N. Dixie extends to the storage/salvage type use for which the outdoor storage use is being proposed.**

- E. All exterior lights for artificial open-air illumination are so shaded as to avoid casting direct light upon any property located in a Residential District.

**Does not appear to be applicable.**

- F. The location and size of the Conditional Use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

**Board must determine this from all facts and testimony given if the proposed use will meet this requirement.**

- G. The location, nature, and height of buildings, structures, walls and fences on the site and the nature and extent of landscaping and screening on the site shall be such that the use will not unreasonably hinder or discourage the appropriate development, use and enjoyment of adjacent land, buildings and structures.

**Board must determine this from all facts and testimony given if the proposed use will meet this requirement.**

- H. The Conditional Use desired will not adversely affect the public health, safety and morals.

**Board must determine this from all facts and testimony given if the proposed use will meet this requirement.**

Staff recommends that the Board take all of this information and testimony into consideration.

With no applicant present, and no one to speak in approval or opposition of the Conditional Use application, Mrs. Larrick made a motion to deny BZA Case #10-18. Mr. Don Marlow seconded. Motion carried and passed 5-0.

**NEW BUSINESS**

**Case No. BZA-01-19**

Case #BZA-01-19 was initiated by County Corp., 130 W. Second St., Suite 1420, Dayton, OH 45402. The applicant is requesting a Variance to Article 43, Section 4301.04(A)(3) to reduce the required number of parking spaces for a proposed multi-family dwelling from 2 per unit down to 1 per unit, for single bedroom occupancy. The property is located at 301 Forest Park Dr., Harrison Township, Montgomery County, Ohio.

Staff stated that the property is located on the northwest corner of Forest Park Dr. and Riverside Dr. The property is currently zoned “R-7” Multi-Family Residential. The surrounding zoning is “R-7” Multi-Family Residential. The site is a vacant lot that formerly had a multi-family dwelling on it. Article 43, Section 4301-04(A)(3) lists the number of parking spaces required for a Multi-Family Dwelling: “Two spaces for each unit, plus one space for each employee”. The applicant is proposing to redevelop the site into a new multi-family dwelling unit, comprised of senior housing single bedroom units as a part of the official Forest Park Partners Redevelopment Project. The applicant is proposing to have 66 parking spaces instead of the required 128 (64 units x 2 spaces per unit) plus one space for each employee.

**Discussion and Alternatives**

The Board’s alternatives are as follows:

1. Approve the Variance as requested and allow the modifications as stated to the development standards.
2. Deny the Variance as requested.

Staff states that the proposed redevelopment of vacant land has the full support of the Township Board of Trustees and staff is recommending approval of this variance.

The applicant, Mr. Adam Blake, 130 W. Second St., Dayton, Ohio, and Mr. Robert McCann, 3442 Newmark Dr., Miamisburg, Ohio were both duly sworn and stated that County Corp. is working with Oberer on this senior housing redevelopment project, and feel that the request is justified by the fact that all of the units in the community will have one bedroom and will be age restricted to the occupancy of seniors (ages 55 and up). They also feel there be no negative impact to the community or the adjacent property.

There being no further questions from the Board, and no one to speak in opposition of the requested Variance, Mr. Waldron closed the public speaking portion of the hearing. Mrs. Patty Larrick made a motion to approve BZA Case #01-19. Mr. Steven Russell seconded. Motion carried and passed 5-0.

There being no further business to discuss, Mr. Charles Waldron made a motion to adjourn the meeting. Mr. Don Marlow seconded. Motion carried and passed 5-0.

Respectfully submitted,

Harrison Township  
Board of Zoning Appeals

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Regina Moore  
Administrative Assistant

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Charles Waldron, President

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Patricia Larrick, Vice President

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Steven Russell

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Jerry Barnes

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Don Marlow

Attested as to Signatures,

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Regina Moore  
Administrative Assistant