

HARRISON TOWNSHIP
Board of Zoning Appeals
Monday, March 12, 2018
7:00 p.m.

The meeting of the Harrison Township Board of Zoning Appeals was called to order at 7:00 p.m. on Monday, March 12, 2018.

Those present:

Charles Waldron
Jerry Barnes
Patricia Larrick
Don Marlow
Steven Russell

Justin Riley Olszewski,
Zoning Administrator, Development Dept.

APPROVAL OF THE MINUTES:

Ms. Patricia Larrick made a motion to approve the minutes dated February 7, 2018. Mr. Steven Russell seconded the motion. Motion carried and passed 4-0.

OLD BUSINESS:

None

NEW BUSINESS:

Case No. BZA-08-17

Case# BZA-02-18 was initiated by Blair Diffenderfer, 1103 Taywood Rd. Dayton, OH 45322. The applicant is requesting a Conditional Use to Article 32, Section 3203(L) and Section 3204(A) to allow for a building supply/home improvement store with outdoor storage within the "CS-1" Commercial Service District. The property is located at 6305 N. Dixie Dr., Dayton, OH, 45414, Harrison Township, Montgomery County, Ohio.

Staff stated that the property is located at 6305 N. Dixie Dr. The property is located on the west side of N. Dixie Dr. north of Nomad Ave. The surrounding zoning is "CS-I" Commercial Service District. The surrounding land use is commercial. Access to the property is off of N. Dixie Dr. Article 4, Section 406.05 lists the general "Standards for Conditional Use." Article 32, Section 3204 (A-H) lists required conditions in the "CS-I" Commercial Service District. Applicant is proposing to operate a shed and accessory structure retail business with display models stored outdoors on the property.

DISCUSSION:

There are two sections of the Zoning Resolution we must consider when entertaining a conditional use request in the "CS-I" District. Section 3204(A-H) "Required Conditions" which enumerates the required conditions for the specific use in the "CS-I" Commercial Service District and Section 406, "Standards for Conditional Use" which enumerates the general standards to consider for any conditional use application.

The following is the list of required conditions in the "CS-I" District that must be met in order to obtain a conditional use permit: The Board's alternatives are as follows:

REQUIRED CONDITIONS:

In addition to other applicable requirements contained in this zoning resolution, the following standards shall apply to all uses within the C/S-I District:

- A. Outdoor Storage -Except as hereinafter specified all outdoor storage shall be prohibited.
Applicant is requesting an exemption from this requirement to allow for the outdoor storage of display models
- B. Business Activity Enclosed – All business activity shall be conducted wholly within a completely enclosed building.
Applicant must address this to the board
- C. Exterior Building Materials – The exterior building wall face oriented towards the front lot line shall be constructed with a minimum of fifty percent (50%) decorative brick or block, stone, wood/vinyl siding or similar building materials. No more fifty percent (50%) of the exterior building wall face oriented towards the front lot line shall be constructed with a metal sheeting or similar building materials.
Site and building are pre-existing and appears to meet this requirement
- D. Storage of flammable materials – The outdoor storage of flammable liquids, or of materials that produce flammable or explosive vapors or gases may be permitted when such storage is directly related to a permitted or conditionally permitted use, and when such storage meets all applicable state and local regulations.
Applicant must address this to the board

- E. Storm Water Control – All uses within the “C/S-1” District shall be provided with adequate drainage facilities and a storm water run-off control plan that meets the design requirements of the Montgomery County Engineer’s Office.
Site and building are pre-existing and appears to meet this requirement
- F. Lighting – Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon property located in any residential district or upon any public right-of way.
Site is surrounded by similar zoning and has a street light to the north of the access drive
- G. Residential Uses Prohibited – No building or structure shall be used for residential purposes, except that a watchman or custodian may reside on the premises.
Applicant must address this to the board
- H. Noise – No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44.
Applicant must address this to the board

Section 406.05: Standards for Conditional Use

The Board shall not grant a Conditional Use unless it shall, in each specific case, make specific findings of fact directly based upon the particular evidence presented to it, that support conclusion that:

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

Site is pre-existing and appears to meet these conditions

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

Site is pre-existing and appears to meet these conditions

- 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.

Site is pre-existing and appears to meet these conditions

- 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.

The applicant must address this to the Board if it applies

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

Requirement is not 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.

The Board must determine from the facts submitted with this case, by township staff and the applicant, in addition to any and all testimony given before the board if the proposed use meets this standard

- 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.

The Board must determine from the facts submitted with this case, by township staff and the applicant, in addition to any and all testimony given before the board if the proposed use meets this standard

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

The Board must determine from the facts submitted with this case, by township staff and the applicant, in addition to any and all testimony given before the board if the proposed use meets this standard

Recommendation:

Staff recommends that, if the board grants the exemption from 3204(A) to allow for outdoor storage, that conditions be included to specify and limit exactly which types of items may be stored outdoors. In addition, the building for the proposed use shares a parcel with 3 other structures and one other use, an insurance office. Staff recommends that, if the board grants the exemption, that it applies only to the use specified in this case and this building, and not to extend to any other operation or use on parcel ID E21-010-04-0035, 0037. Additionally, Staff recommends that Board take all information and testimony into consideration.

The applicant, Blair Diffenderfer, 1103 Taywood Rd., was duly sworn and states that he would like to open a storage shed sales lot. He then stated that there will be no building/constructing of the sheds taking place on the lot. The actual construction of the shed would take place in the purchaser's back yard. The sheds on the lot would be displays that customers can choose from and that the sheds would be the only thing stored on the lot. No other storage, trucks or other equipment would be stored the lot.

Mr. Diffenderfer states that they have been in business for 18 years and have an A+ rating with the Better Business Bureau. He anticipates there will be 12 models on the lot, ranging in size from 8 x 8 up to 12 x 16, and that they would be spaced 3 to 4 feet apart so people can walk around the perimeter of the sheds. Mr. Diffenderfer also stated that the sheds on display will be slightly elevated so as not to cause any drainage problems. He also states that he has two other locations in Montgomery County and one in Miami County. The location in Miami County would be the location that he would close and relocate to N. Dixie if approved. Lastly, Mr. Diffenderfer stated that at his Miamisburg lot, the police department has required him to lock the sheds at night due to transient problems and drug problems in that area. He asked the Board if he would be required to lock the doors of the sheds at night at the N. Dixie location. He was informed that it is not required, however, if he finds that problem happening on this site, it may be to his advantage to lock them.

Ms. Dora Fudge, 2003 Nomad Ave., was duly sworn and said there was a building across from her home that was recently torn down and that it was a constant transient, homeless people, and drug activity problem. She feels that if the sheds on Mr. Diffenderfer's lot are not locked at night, it would be a perfect opportunity for the same issues. She then asked the applicant if he would lock the sheds at night to which he replied that he would.

After some discussion among the Board members, Mr. Don Marlow made a motion to approve Case No. BZA-02-18 with conditions. Conditions being: only permitted to display 12 models on the lot, and that the exemption for outdoor storage apply only to this address and use, and not any other address that shares this parcel. Mr. Steven Russell seconded the motion. Motion carried and passed 5-0.

ADJOURNMENT:

There being no further business to discuss, Ms. Patricia Larrick made a motion to adjourn the meeting. Mr. Steven Russell seconded the motion. Motion carried and passed 5-0.

Respectfully submitted,

Harrison Township
Board of Zoning Appeals

Regina Moore
Administrative Assistant

Charles Waldron, President

Patricia Larrick, Vice President

Steven Russell

Jerry Barnes

Don Marlow

Attested as to Signatures,

Regina Moore
Administrative Assistant