

**HARRISON TOWNSHIP**  
**Board of Zoning Appeals**  
**Monday, August 13, 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, August 13, 2018.

**Those present:**

Charles Waldron  
Patricia Larrick  
Don Marlow  
Steven Russell

Justin Riley Olszewski,  
Zoning Administrator, Development Dept.

**Not present:**

Jerry Barnes

**APPROVAL OF THE MINUTES:**

Approval of the minutes from the June 12, 2018 BZA meeting was tabled until the September 10, 2018 meeting.

**NEW BUSINESS**

**Case No. BZA-07-18**

Case# BZA-04-18 was initiated by Mr. Stephen Butler, on behalf of Giant Dayton, LLC, 2240 Dayton-Xenia Rd., Suite B, Beavercreek, OH 45434. The applicant is requesting a Variance to Article 43, Section 4301.04(D)(3) to reduce the required number of parking spaces from the required 49 to 29 spaces, Section 4301.01(3)(b) to locate a driveway in a side or rear yard adjacent to a Residential District, and Article 21, Section 2105 for a reduction in the required rear yard depth of 40' to 16'. The property is located at 5835 N. Main St., Harrison Township, Montgomery County, Ohio.

The property is located on the south corner of North Main St/SR-48 at Shiloh Springs Dr. The property is currently zoned "B-3" Business. The surrounding zoning is "B-3" Business to the north, east and west, and "R-2" Single Family Residential to the south. The surrounding land use is commercial to the north, east and west. The land use to the south is exempt cemetery. The site currently operates as a BP gas station with the applicant proposing the demolition of the existing structures, to be replaced by one larger structure with canopy, and pumps remaining in place.

Article 43, Section 4301.04(D)(3) lists the number of parking spaces required for an Automobile Mini Market/Gas Station: “One space for each 100 square feet of floor area, plus one space for each employee”. The applicant is proposing to redevelop the site into a new gas station/mini market building measuring approximately 5000 square feet in area. The applicant is proposing to have 29 parking spaces instead of the require 49 (4900 sq. ft./100=49) plus on space for each employee. Article 43, Section 4301.01(3)(b) states no driveway shall be located in a side or rear yard adjacent to a Residential District. The new building the applicant is proposing would place a drive-thru lane within the rear yard adjacent to the cemetery, and not any occupied single-family structures. Article 21, Section 2105 requires a rear yard depth of 40’ when adjacent to a Residential District. The existing building is at a legal, non-conforming 20’ depth.

**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.

**Recommendation:**

- This gas station is the only one in the 2.5 mile stretch of N. Main St/SR-48 between Turner Rd., and 7939 N. Main St. at Barrington Dr. in the City of Clayton
- There is a concrete retaining wall barrier, approximately 8’ in height between this property and the adjacent residential property, Shiloh Cemetery

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

The applicant, Stephen Butler, 2440 Dayton-Xenia Rd., was duly sworn and stated that because the industry is changing, there are quite a few gas stations undergoing modifications to have more of a convenience store aspect to better service the community. The applicant is proposing to take down the existing building and car wash and replace it with a bigger building with a more modern look and better services for the community. The proposed building will have a Quick Service Restaurant with a drive-thru window and the convenience store inside. He also stated that the typical users of these types of convenience stores are usually in and out in about 5 minutes and therefore he doesn’t think that the reduction in parking spaces will be an issue for a service with quick turnaround. Mr. Butler reiterated that this location is the only gas station within a two and a half mile radius and feels that this convenience store would be a benefit for the area. When asked about the car wash, Mr. Butler indicated that the car was would be demolished and the new proposed building will be for the restaurant and convenience store with a drive-thru window for

the restaurant. He also states that there are no curb cut changes. Mr. Butler confirms that convenience store will continue to sell lottery tickets and that there are no current plans to offer Keno. Mr. Butler states that they would not be opposed to working with ODOT if necessary to place Right Turn Only signs at the drive-thru exit onto N. Main St. and at this time, they do not have a specific restaurant that will occupy the Quick Service Restaurant.

Mr. Myron Lane, 22 Shiloh Springs Rd., was duly sworn and stated that he lives directly behind the BP station and has been there for the past 10 years. He has a concern with the amount of noise generated at the gas station at night in the past and presently and would like to know when is the projected date of the new building to be built. The applicant stated that, if approved, it would be several months before demolition would begin. Mr. Lane also inquired about the proposed hours of operation and if the drive-thru would be for beer and alcohol or just food. The applicant replied that store would be open 18 hours, 5:00 am until 11:00 pm. Mr. Lane then asked if this change would have any effect on the property values to which the Board replied that is determined by Montgomery County but an improvement to the facility should not hurt the property values.

Mrs. Lois Lane, 22 Shiloh Springs Rd., was duly sworn and said that with regards to the noise, when patrons are pumping their gas at night, they have the music up loud and suggested placing a sign regarding turning off radios when pumping gas. The Board stated that such a sign would have to be placed by the owner, however, it's up to the patrons to comply.

Mr. Lane asked if the restaurant would be a sit-down restaurant to which the applicant replied that it would be, with seating for 21. He then asked if the construction would affect parking in front of their home, to which the Board replied that it should not. Mrs. Lane asked about the vacant former Arby's location and wondered if there were plans for any other restaurant to go in that location to which the Board replied there is nothing currently planned to go in.

There being no others to speak on behalf or against, Ms. Larrick closed the public speaking portion of the hearing for Case No. BZA-07-18.

After some discussion among the Board members, Mr. Donald Marlow made a motion to approve Case No. BZA-07-18 with conditions. Condition being placing approved B3 barrier on Shiloh Springs Rd. Mr. Steven Russell seconded. Motion carried and passed 4-0.

#### **Case No. BZA-08-18**

Case# BZA-08-18 was initiated by Rebecca Green on behalf of Permit Solutions, Inc., 175 S. Third St., Suite 170, Columbus, OH 43215. The applicant is requesting a Variance to Article 41, Section 4105.01(C) (1) to allow for the placement of additional wall mounted identification signs. The property is located at 2450 Needmore Rd., Dayton OH 45414, Harrison Township, Montgomery County, Ohio.

Staff states that the property is located on the southwest corner of Wadsworth Ave. and Needmore Rd. The property is currently zoned “I-1” Industrial District. The surrounding zoning is “I-1” Industrial to the South, East, and west, and “OSI-1” Office/Service/Industrial to the North. The surrounding land use is commercial. The property currently operates as a restaurant and gas station/convenience store. Article 41, Section 4105.01(C)(1) states “Each business is permitted one [identification] sign attached to the building”. The applicant is proposing the placement of new and additional signage on all walls of the building. The new signage is part of a comprehensive remodeling of the restaurant in the township including an expansion of an extra drive-thru lane for which the township vacated a portion of Oak Grove Ave. The Board approved nearly identical variances for the Wendy’s restaurants in the township in BZA Cases 09-16 and 09-17.

### **Discussion and Alternatives**

The Board’s alternatives are as follows:

1. Approve the variance as requested: to allow the property to have all of the requested wall mounted signs
2. Deny the variance as requested

### **Recommendation:**

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

The applicant, Rebecca Green, on behalf of Permit Solutions, Inc., 175 S. Third St., Suite 170, Columbus, OH was duly sworn and stated that the Variance is being requested because of a refresh that is taking place at the gas station/McDonald’s on Needmore Rd. Part of the refresh would be addressing the circulation on the side by adding a side-by side drive-thru. She also stated that she did not believe they would need the additional vacated portion of Oak Grove Ave. In addition to the drive-thru, she will also be updating the exterior, ADA compliance for the parking lot, access to the building itself, ADA compliance in the restrooms, and a dining room refresh. Updating the look of this location would also include additional signage. Ms. Green stated that some of the current signage would remain. She also states that the square footage of the signs for the menu boards and the pre-browse boards would be reduced.

There being no other to speak on behalf or against, Ms. Larrick closed the public speaking portion of the hearing for BZA Case No. 08-18.

After some discussion among the Board members, Mr. Steven Russell made a motion to approve Case No. BZA-08-18. Mr. Don Marlow seconded the motion. Motion carried and passed 4-0.

**Revocation of BZA-10-06**

Staff is requesting the Board initiate the revocation of the Conditional Use granted in BZA-10-06, which was a Conditional Use for automobile sales, lease or rental, to be located at 2900 N. Dixie Dr., due to the Conditional Uses set forth in said case having only been partially complied with, both in the past and presently. Staff also states that the property owners have changed multiple times, they have not complied with the restrictions in the submitted plans up to/including striped parking/labeled parking, number of vehicles permitted on the property, and the omission of the 6ft. privacy fence. Staff then states a vote in the affirmative will initiate the revocation case which then be heard at the September 10, 2018 BZA Meeting at 7:00 pm.

After some discussion among the Board, Mr. Charlie Waldron made a motion to approve the Revocation of BZA-10-06. Ms. Patty Larrick seconded the motion. Motion carried and passed 4-0.

There being no other cases to be heard, Mr. Charlie Waldron made a motion to adjourn the meeting. Mr. Don Marlow seconded. Motion carried and passed 4-0.

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