

HARRISON TOWNSHIP
Board of Zoning Appeals
Monday, February 7, 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, February 7, 2018.

Those present:

Jerry Barnes
Patricia Larrick
Don Marlow
Steven Russell

Justin Riley Olszewski,
Zoning Administrator, Development Dept.

Not present:

Charles Waldron

APPROVAL OF THE MINUTES:

Mr. Don Marlow made a motion to approve the minutes dated January 8, 2018. Mr. Steven Russell seconded the motion. Motion carried and passed 4-0.

OLD BUSINESS:

None

NEW BUSINESS:

Case No. BZA-01-18

Case# BZA-01-18 was initiated by Cristine Hernandez, 927 Cumberland Ave., Dayton, OH 45406. The applicant is requesting a Conditional Use to Article 22, Section 2203(H) to allow a commercial recreational facility to be located within the "B-4" Commercial Service District. The property is located at 3651 Salem Ave., Dayton, OH 45406, Harrison Township, Montgomery County, Ohio.

Staff stated that the property is located on the northeast side of Salem Ave. across from Wheeler Ave. The surrounding zoning is "B-4" Business District. The surrounding land use is commercial or vacant land. Access to the property is off of Salem Ave. 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 site most recently operated as a restaurant.

Applicant is proposing to operate a "Haunted House" for the purposes of family entertainment during the hours of 5pm-Midnight for the period of September 13th through November 1st 2018.

Discussion:

There are two sections of the Zoning Resolution we must consider when entertaining a conditional use request for a automobile sales, lease, or rental; Section 2204(A-K) "Required Conditions" which enumerates the required conditions for the specific use in the "B-4" Business 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 "B-4" Business District that must be met in order to obtain a conditional use permit:

REQUIRED CONDITIONS

No zoning certificate shall be issued for a "B-4" use, until the applicant shall have certified to the zoning inspector that:

- 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 driveway space for waiting vehicles.

Condition not applicable

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

Applicant has stated the intended use is to be recreational

- 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.

Applicant must address this to the Board

- 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 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.

Site is pre-existing and appears to meet this requirement

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 non-deteriorating material.
3. Masonry wall.

Condition not applicable

G. 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

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.

Applicant must address this to the Board

I. The emission of smoke or other air pollutants shall not violate the standards and regulations of 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.

Applicant must address this to the Board

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.

Applicant must address this to the Board

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

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 with 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.

Applicant must address this to the Board

- 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 must address this to the Board

- 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.

Site is pre-existing and appears to meet these conditions

- 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 the Board take all information and testimony into consideration.

The applicant, Cristine Hernandez, 927 Cumberland Ave., was duly sworn and stated there will be no additional sales on the property other than ticket sales, noise will be limited to the inside, that she is building a jack-in-the box that will be on the outside of the facility, and that portable restrooms would be provided. She then stated that she has now included parking information in her "Welcome to Orientation" training booklet-copies of which she provided to the Board, and that she has contacted Dep. Statzer with the MCSO and they have agreed to provided service while she is in operation.

Ms. Hernandez indicated that she has created a traffic, parking, pedestrian safety plan as per the Board's request and that in order to maintain the safety plan, she will have a maximum of 1,440 total ticket sales per day. She then stated that there will be a traffic flow line drawn that will show the person in line what their current wait time before entering the facility will be. If the

participant does not want to stand in line for the allotted wait time, they have a limited ticket which would allow them to get back in line should they wish to step out and return. Ms. Hernandez also stated that she will designate a building/parking lot attendant as well as establish a drop off/pick up location on the right side of the building. She will also provide signage that would tell vehicles exiting the parking lot that left turn would not be permitted and that she has permission from local businesses to use their parking facilities as additional parking for her event. She then provided information of which local business that she'd been in contact with and their responses.

Ms. Hernandez says that although the building's current capacity will allow for 196 patrons, she will only allow 30 patrons max at a time inside the facility-six patrons every five minutes. Ms. Hernandez then stated, when asked by the Board, that she has 35 parking spaces at her location.

She then stated that depending on how this year goes, she would like to do the attraction again next year.

After some discussion, among Board members, Mr. Don Marlow made a motion to approve Case No. BZA-01-18 with conditions. Conditions being: approved parking plan to be submitted with Certificate Of Zoning Compliance, on-site security be provided, in operation from 9/13/18 through 11/1/18 only. Mr. Steven Russell seconded the motion. Motion carried and passed 4-0.

ADJOURNMENT:

There being no further business to discuss, Mr. Don Marlow made a motion to adjourn the meeting. Mr. Steven Russell seconded the motion. Motion carried and passed 4-0.

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