

HARRISON TOWNSHIP
Board of Zoning Appeals
Monday, January 9, 2017
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, January 9, 2017.

Those present:

Charles Waldron
Jerry Barnes
Patricia Larrick
Don Marlow
Steven Russell

Justin Riley Olszewski,
Zoning Administrator, Development Dept.

APPROVAL OF THE MINUTES:

Mr. Jerry Barnes made a motion to approve the minutes dated September 12, 2016. Ms. Patty Larrick seconded the motion. Motion carried and passed 3-0. Mr. Jerry Barnes made a motion to approve the minutes dated October 11, 2016. Ms. Patty Larrick seconded the motion. Motion carried and passed 4-0.

OLD BUSINESS:

None

NEW BUSINESS:

Case No. BZA-01-17

Case# BZA-01-17 was initiated by Yousef Samhan, 1614 N. Keowee St., Dayton, OH 45404. The applicant is requesting a Conditional Use under Article 21, Section 2103(C) to allow for an automobile service facility to be located within the "B-3" Business District. The property is located at 3900 N. Main St., Dayton, OH 45405, Harrison Township, Montgomery County, Ohio.

Staff stated that the property is located at 3900 N Main St. The property is located on the east side of North Main Street between Wampler Ave and Woodruff Ave. The property is currently zoned "B-3" Business District. The surrounding zoning is "B-3" Business District to the north and west, the corporation limit of the City of Dayton to the south, and "R-4" Single Family Residential to the east. The surrounding land use is commercial to the north, south, and west, and residential use to the east. Access to the property is off of N. Main St., Wampler Ave., and Woodruff Ave. The property was most recently used as a cell phone retail store and a video rental store before that. Article 4, Section 406.05 lists the general "Standards for Conditional Use." Article 21, Section 2104 lists required conditions for any use in "B-3" Business District

Staff then stated that there are two sections of the Zoning Resolution that must be considered when entertaining a conditional use request for an automobile sales, lease, or rental; Section 2104 “Required conditions in B-3 Business District” and Section 406, “Standards for Conditional Use.” Section 2104 enumerates the required conditions for any use in the “B-3” District while Section 406.05 spells out the general standards to consider for any conditional use application. The following is the list of required conditions in the “B-3” District that must be met in order to obtain a conditional use permit:

Required Conditions:

- A. The business activity will be conducted wholly within a completely enclosed building, except for automobile service stations. (No outdoor dismantling, wrecking, or storage of automotive vehicles, parts, or accessories, shall be permitted).
- B. The business establishment shall not offer goods, service, food, beverages or make sales directly to customers in automobiles, except for drive-in window for pick-up or delivery and which will be provided with adequate drive-way space on the premises for waiting vehicles.
- C. All business shall be of retail or service character.
- D. 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 to the public on the premises.

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 these standards.

- E. 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 plan contains no indication of light location, shading, or deflection. The site has one free standing pole light along N Main St., and several wall mounted lights on the north and west walls.

- F. 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 areas, the grounds shall be planted and landscaped.

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

- G. 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 (3) feet in height.
 2. A solid fence or a non-deteriorating material.
 3. Masonry wall.

Site currently contains no such screening but the submitted site plan indicates the applicant's intent to install a solid fence along the rear property line to meet this requirement, contingent upon approval of this use.

- H. No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of Article 44.
- I. No emission to 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.
- J. 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.
- K. 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.
- L. There will be vibrations which can be detected without the use of instruments at or beyond the lot lines.

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 these standards.

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 this 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.

The applicant will need to ensure all drainage plans are submitted and approved by the Montgomery County Engineer's Office.

- 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 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.

- 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 plan contains no indication of light location, shading, or deflection. The site has one free standing pole light along N Main St., and several wall mounted lights on the north and west walls.

- 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.

Site has previously existed and operated in a conforming manner to current zoning regulations, implementation of the previously mentioned screening requirement must also conform to current regulations.

- 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.

Staff then stated that they recommend the Board take all information and testimony into consideration.

The applicant, Yousef Samhan, 1614 N. Keowee St., was duly sworn and stated that he would like to open an automobile service facility at 3900 N Main St. Mr. Samhan stated that he will not be selling tires or doing body work on vehicles. Mr. Samhan then stated that he plans to have 2 or 3 bay doors in the front of the building.

Abed Oudeh, New Horizon Properties, 3000 Reading Road, was duly sworn and stated that Mr. Samhan is a certified mechanic and currently owns a car dealership on Keowee Street. Mr. Oudeh stated that they plan to place a fence along the back portion of the property and will be repairing the existing light on the front of the building.

The opponents being;

Barbara Weaks, 68 Wampler Avenue was duly sworn and stated that she is a property owner in the area and has some questions. Ms. Weaks would like to know if the business is bonded, where and how will they dispose of oil and flammable materials and would like to know how many people would be employed at this location.

After some discussion among Board members, Mr. Don Marlow made a motion to approve Case No. BZA-01-17 with the following conditions:

1. Allow for 2 (employee) parking spaces in the rear of the building.
2. Business hours 9:00 a.m. – 6:00 p.m.
3. No tire (new or used) sales.
4. Submit the building plan with bay doors to Montgomery County Building Regulations.

Mr. Steven Russell seconded the motion. Motion carried and passed 5-0.

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 5-0.

Respectfully submitted,

Harrison Township
Board of Zoning Appeals

Shonda Hill
Executive Secretary

Charles Waldron, President

Patricia Larrick, Vice President

Steven Russell

Jerry Barnes

Don Marlow

Attested as to Signatures,

Shonda Hill
Executive Secretary