

Board of Zoning Appeals

CONDITIONAL USE APPLICATION # CU-20-01

February 20, 2020

LEGAL NOTICE

Notice is hereby given that the Orange Township Board of Zoning Appeals will hold a public hearing on Thursday, February 20, 2020, beginning at 6:00 p.m. to consider the following application/s:

Conditional Use Application #CU-20-01 DJAM Holdings LLC.,

Requesting a Conditional Use from Rezoning Application #2091, Campus at Hidden Ravines and the Orange Township Zoning Resolution to allow the construction of a monument sign in an area zoned Planned Commercial and Office (PC) District. The subject property is located at 25 Hidden Ravines Drive, Powell, OH 43065 and having parcel number 318-321-02-015-000.

The hearing will be held at the Orange Township Hall, 1680 East Orange Road, Lewis Center, Ohio, 43035.

The applications and plans are available for inspection for a period of at least 10 days prior to the hearing at the Orange Township Zoning Office, 1680 East Orange Road, Lewis Center, Ohio, 43035. Zoning Office hours are Monday through Friday, 8 a.m. to 4:30 p.m. except legal holidays.

Following this hearing the Board may have a meeting for general purposes to consider such business as may properly come before it including, but not limited to, consideration and/or approval of minutes, scheduling future hearing dates for this or other applications and like matters.

The person responsible for the publication of this notice is Jeff Beard, Orange Township Zoning Department.

***Rick Oster, Chairman
Jeff Beard, Orange Township Zoning Department***

Please publish one time, on or before Monday, February 10, 2020 in The Delaware Gazette

Mr. Oster called the meeting to order at 6:00 p.m.

Roll Call: Aaron Shipley, David Boyd, Rick Oster, Jerry Miller, Kelvin Trefz

Township Officials Also Present: Jeff Beard, Zoning Enforcement Officer

Mr. Beard presented the Staff Report and presentation. Applicant is requesting a conditional use to allow construction of a monument sign in an area zoned Planned Commercial and Office District. Subject property is located west of Columbus Pike. Surrounding the area to the north, south and west is Planned Commercial; to the east is 23. Total area of the sign shall be one square foot per linear foot of building frontage; not to exceed 80 square feet. As shown in Exhibit 1, each side of the sign totals approximately 38-1/2 square feet for a total sign area of approximately 77 square feet, calculated by multiplying the width of the sign, which is 7', by the height of the sign, which is 5-1/2'. The sign is a monument style freestanding sign. Maximum height will not exceed 8' above average grade; the proposed sign will be 7' 6" above grade. The sign is proposed to be setback 16' from the street right-of-way of Columbus Pike and approximately 35' from East Hidden Ravines Drive. According to the Resolution, the sign setback at this distance is permitted a maximum sign area of 40 square feet. The sign does not have more than two sides,

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48 and the display area of one side cannot exceed ½ of the total display area permitted. The top sign totals 8-
49 1/2 square feet and the bottom sign totals approximately 10 square feet for a total sign area of approxi-
50 mately 18-1/2 square feet. The proposed sign will have one color.

51

52 Mr. Oster: Ms. Sundar came in late; do we need her since we have an alternate?

53

54 Mr. Beard: She is not needed for this case but she can be part of the discussion on the legal later as part of
55 the meeting.

56

57 APPLICANT PRESENTATION/BOARD QUESTIONS & COMMENTS

58

59 A Court Reporter from Ruffle Reporters administered the oath to Mr. Moody

60

61 Ron Moody, DaNite Sign Company, 1640 Harmon Avenue, Columbus, Ohio 43223. Sean Clark was the
62 person working with you guys but he took on another opportunity, so I have taken his place as project
63 manager on this. I think it was pretty well spelled out by Jeff; all the details that are shown on the
64 engineering drawings.

65

66 Mr. Oster: Nothing new or different?

67

68 Mr. Moody: No.

69

70 Mr. Miller: Regarding the illumination, it states 3000 K LED flood lights. These flood lights will be in the
71 bush area?

72

73 Mr. Moody: Yes, in the ground.

74

75 Mr. Miller: It is critical that they be pointed at the sign and not above the sign, not only because of the
76 light pollution position that Orange Township has but it can blind you.

77

78 Mr. Oster: I did not see anything that clearly marked what kind of shrubbery or bushes that's going to be
79 around the lights. It's not spelled out, and I think that needs to be at an adequate height as far as so far off
80 the ground that semi-trucks and everything going up and down 23 from both directions won't be able to
81 see those lights.

82

83 Mr. Moody: Being with the sign company, we don't have anything to do with the shrubbery.

84

85 A Court Reporter from Ruffle Reporters administered the oath to Mr. Constanza.

86

87 Daniel Constanza, 25 Hidden Ravines Drive, Powell, Ohio 43065, we don't have any plans of doing any
88 shrubbery around that; the sign company just put that on there.

89

90 Mr. Oster: You mean as far as this picture?

91

92 Mr. Constanza: Correct.

93

94 Mr. Oster: And your layout doesn't lend any kind of shrubbery to hide exterior lighting?

95

96 Mr. Constanza: Is your preference to hide it?

97

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98 Mr. Oster: Absolutely. It can't be seen from cars going up and down 23 or we probably won't allow your
99 sign.

100
101 Mr. Constanza: That flood light is what you're saying?
102

103 Mr. Oster: Yes. You don't want that light in both directions since your sign is located in such a fashion
104 that both directions are going to have a light that you're going to shine on the surface either way, and I've
105 got a big concern with a lot of semis travelling 23 right there. They're a lot higher than a car and if you're
106 using external lighting instead of internal lighting, it's a distraction. Not necessarily blinding, just a
107 distraction where it catches their attention for a minute.

108
109 Mr. Miller: It'll also dress your sign up but the big thing is from a safety issue. Even if you have flood
110 lights that have the cone around them, as you're driving by, from the side, that light illuminates far
111 beyond the fixture itself and that's why the shrubbery. The bushes will actually help filter that light.

112
113 Mr. Oster: And that is in our Code, that it will be shielded. It doesn't exactly state how high it has to be
114 but it has to be shielded, so if you've got a light that's sticking a foot out of the ground, it's going to have
115 to be at least that high to start to shield that light.

116
117 Mr. Constanza: We can do that, that's not a problem.

118
119 Mr. Oster: But it's not in your application at all.
120

121 Mr. Miller: We can have you verbally amend it but it will have to be abided by and clear the zoning
122 enforcement. When they come out to check, it's got to be done. We're not trying to be hard against you;
123 it's safety.

124
125 Mr. Constanza: We can do that; that's not a problem.

126
127 Mr. Moody: The only reason that's not on there is because we don't handle landscaping as a sign
128 company.

129
130 Mr. Oster: Is lighting necessary? Are you going to have night time hours where you're going to want to
131 have that lit?

132
133 Mr. Constanza: Yes, especially since it gets dark at 5:00-5:30.
134

135 Mr. Miller: Then if you plan on putting flood lights in there that are going to be 1', you're going to have
136 to have bottle brushes, box woods or whatever that are going to be at least 1' to start with.

137
138 Mr. Oster: At least. Tall vehicles are always a concern, especially with this being directly on 23.
139

140 Mr. Moody: But that's something that you can do as noted, that we can make a note.

141
142 Mr. Oster: We can make a note.

143
144 Mr. Trefz: What about the wattage or the limits of the light also?

145
146 Mr. Miller: You have the temperature, but how bright of a light are you putting in?

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147 Mr. Moody: It's not really stated on there. If you want to claim some sort of limit. The problem is you can
148 go to any light bulb from any manufacturer and they have a zillion things and sometimes the lumens are
149 on one is not the same, so there's just so much.

150
151 Mr. Miller: How many flood lights are you anticipating?

152
153 Mr. Moody: I think we were thinking just one on each side.

154
155 Mr. Oster: It's all supposed to be spelled out in this application, where your shrubbery is going to be,
156 what kind of lights you're using, how many lights you're using.

157
158 Mr. Trefz: Even the fixtures.

159
160 Mr. Miller: Typically they'll list the model number or Acme Lighting or whatever.

161
162 Mr. Oster: And you pretty much have an application for no lighting even though you're wanting lighting.
163 Wanting and actually laying it out for us to see.

164
165 Mr. Moody: It doesn't actually call out the fixtures. I think it has listed the actual color temperature but
166 not the actual lumens level.

167
168 Mr. Oster: Yes, it does.

169
170 Mr. Miller: It would be good for a sign this size if you have a 60 watt, 3000 K bulb; that's more than
171 enough.

172
173 Mr. Constanza: And do you have a preference of flood versus spot?

174
175 Mr. Miller: Flood disburse it. One challenge you can run into is some of the flood lights if they're not
176 coned. Again, that's why we ask for a particular model number or an example of one, whereas a spot light
177 is focused.

178
179 Mr. Constanza: Is that something where we can just supply a model number or something or is there any
180 way we can put on some kind of note that says that it has to have that shield of some sort?

181
182 Mr. Miller: The flood lights do have the cone around the lighting perimeter and that helps dramatically
183 reduce outward of the light.

184
185 Mr. Trefz: It also depends on the distance back from the sign because if we want to shield, most of that
186 has to fall on the sign.

187
188 Mr. Oster: That's usually always in the plans, and you guys have none because what you're going to have
189 is your fixture and light that you're going to shine on each side of that sign and then you're going to have
190 the shrubbery that you're going to put all the way around it to shield that light from passer bys.

191
192 Mr. Trefz: Plus the blueprint would have the distance and the height.

193
194 Mr. Moody: I apologize. I'm just taking this job over and I'm kind of going with some of these details. Is
195 this something that you know that we were supplying those light fixtures or was an electrician doing that?

196
197 Mr. Constanza: I would say that the builder would do that; I don't know the answer to that.

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198 Mr. Moody: Is it in our scope? If it wasn't, then we would have to get something from them in order to
199 supply the landscape plan.

200
201 Mr. Miller: My experience with sign companies, you normally install the light.

202
203 Mr. Constanza: I would think so too.

204
205 Mr. Moody: We generally don't do primary wiring. When we hook up a sign, we're only allowed by
206 Code to hook up within 6' of sign, so that's why we don't do primary wiring. Occasionally we do if it's
207 putting in a flood light and it's near the sign. Any more there's not a whole lot of signage that's exterior
208 illuminated.

209
210 Mr. Oster: And that's what surprised me too because most of our stuff here is interior lit and then we tend
211 to hope that's not lit very long at night because we don't like the light pollution. So that was my question;
212 are you really going to need a night sign or how long is it going to be on?

213
214 Mr. Constanza: 9:00 would probably be the latest.

215
216 Mr. Moody: That would be a considerable amount of time past dark in the winter, so it definitely would
217 be helpful, even just for directing traffic that way.

218
219 Mr. Constanza: At this point are we being asked to come back with a landscape plan?

220
221 Mr. Miller: If you will verbally amend it and it's in our meeting notes that the shrubbery would be "x",
222 and I say "x" because if your flood light is going to be 1' above the ground in the base, then the shrubs
223 need to be at least 18" tall as a starting point, and if the 3000 K LED was in place along with a shielded
224 spot, then I think you're fine. That's my take and that's based on my 40 years sign experience.

225
226 Mr. Oster: Do you want to make a motion with those additions?

227
228 Mr. Trefz: Should we include the lumen limit?

229
230 Mr. Miller: The lumens are there but the wattage would have to be put in there.

231
232 **MOTION TO CONDITIONALLY APPROVE CONDITIONAL USE APPLICATION #CU-20-01**

233
234 Mr. Miller made a motion to conditionally approve Conditional Use Application #CU-20-01, DJAM
235 Holdings, LLC, with the following criteria:

- 236
237
- The lighting cannot exceed 3000 K
 - There would be a 60 watt maximum spot light and that spot light must be shielded
- 238
239

240 Mr. Constanza: To clarify, the flood light or spot light

241
242 Mr. Miller: For the size of your sign, a spot light will be more than enough because you're going to have
243 to have this back at least 3' to 4' from the base of the monument sign itself, so based on that, you'll have
244 more than enough light. Would you agree to those terms?

245
246 Mr. Constanza: Absolutely.

247

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- 248 • Landscaping must be around the perimeter of the sign and must be of box type or something of that
249 nature that will help filter the light, and must be at least 6” taller than the top of the light.

250

251 Mr. Oster: You can make it taller than that. All we’re trying to do is protect you and Orange Township
252 from any kind of peril where somebody says they were blinded by that light because there is a lot of truck
253 traffic on 23.

254

255 Mr. Miller: And you may want to mention that when you go back to DaNite that they have double
256 checked specs for lighting, shrubbery, etc.

257

258 Seconded by Mr. Trefz.

259

260 Vote on Motion: Mr. Oster-yes, Mr. Miller-yes, Mr. Shipley-yes, Mr. Trefz-yes, Mr. Boyd-yes
261 Motion carried

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APPROVAL OF MEETING MINUTES

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266 Mr. Miller made a motion to approve the meeting minutes of the Orange Township Board of Zoning
267 Appeals dated January 16, 2020 for Use Variance Application #VA-19-26,
268 Epcon Lewis Center, LLC with the following correction:

269

- 270 • In the header, change the year from 2019 to 2020

271

272 Seconded by Mr. Shipley

273

274 Vote on Motion: Mr. Oster-yes, Mr. Miller-yes, Mr. Shipley-yes, Mr. Trefz-yes, Mr. Boyd-yes
275 Motion carried

276

OTHER BUSINESS – DISCUSSION OF LEGAL REPRESENTATION AND USAGE MOVING FORWARD

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Mr. Beard provided a flow chart that will be used.

Mr. Miller: What happens if we have a legal question during the meeting?

Mr. Beard: If we think it’s going to be a contentious application, we’ll have legal counsel here of some type.

Mr. Miller: It doesn’t happen a great deal of times, but there are times when we have a legal question and it was answered on the spot.

Mr. Oster: I thought the same thing; that’s just a luxury that we’re not going to have any more because we’re going to have to request their presence, so like Mr. Beard said, it’s going to require probably his attention in going over the case and thinking that might be needed.

Mr. Miller: My concern is that it could, according to this, legal counsel will have approximately four weeks to provide comments, so you’re looking at 28 days and it’s a situation where a lot of times it’s a 30 day notice to get all that in place; that could be a challenge for that four week period.

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298 Mr. Beard: Typically the four weeks is when we receive the application, we'll review it; like our deadline
299 for March was today, so it's pretty much four weeks until the next hearing, so we would review the
300 applications that we have and if we have any legal questions, we'll seek first off the Prosecutor's Office
301 and then if we have to seek outside legal counsel, we will.

302

303 Mr. Miller: The Prosecutor's Office won't have hard copy drawings, etc., and that's one thing that Mr.
304 McCarthy was able to do, pick up on things by studying the drawings.

305

306 Mr. Beard: We can provide the Prosecutor's Office with the plans. This application we had today, this is
307 actually a second rendering that they sent because of that 80 square feet that's in the rezoning text. Their
308 original plan was an 8' monument sign and it was by 6', so it was over the 80 square feet and we were
309 trying to interpret the language of that, so we had to meet with the Prosecutor's Office to come up with
310 that. I believe their first rendering actually showed where the lighting was.

311

312 Mr. Oster: In the shrubbery?

313

314 Mr. Beard: I believe so. We overlooked that one when we got it because we got it later. So if we have
315 legal questions, we'll ask the Prosecutors and we can meet with them if we need to.

316

317 Mr. Oster: I've been on this Board long enough to know Mr. Beard does a great job in previewing all this
318 stuff and getting everything lined up for us. That wasn't done in years gone by, so I'm confident that he's
319 going to be looking and realizing when something is going to need some attention. And if not and we find
320 out later that we do, then we'll have to request them to look at it and it gets thrown into the next month.

321

322 Mr. Trefz: So it's four weeks from our meeting that we would make the request so it's back for the next
323 meeting. If we find it here....

324

325 Mr. Oster: If we find it here, it will roll into the next meeting.

326

327 Mr. Miller: And there won't be a charge to the applicant?

328

329 Mr. Beard: There will not be since it's something requested from us. Like the gas station that we had, we
330 knew that was going to be a heated debate, so for something like that, we'll have legal counsel here, either
331 the Prosecutor's Office or outside legal, depending on who we contract with.

332

333 Mr. Miller: I have to agree with Rick that the way the zoning is done today compared to three or four
334 years ago is night and day, and I applaud you all for that; you and Michele have done an outstanding job.

335

336 Mr. Beard: We're trying to make the transition as smooth as possible. I know our counterparts, Liberty
337 and Genoa, they do not have legal counsel present at any of their meetings.

338

339 Ms. Sundar: So four weeks from the hearing, what is the time that we have to check some information so
340 that we can't charge them?

341

342 Mr. Beard: No, we can't charge them but the Staff can table it. The tabling fee is when they ask to table it.

343

344 Ms. Sundar: So they would come back and we would set a new date?

345

346 Mr. Beard: Yes. Typically it would be the following month.

347

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348 Mr. Miller: What about potential hardships to the applicant? We have had people that have come in from
349 out of state, Home Depot as an example, if we table it to the following month, that could be a financial
350 hardship to them to have to resend people, etc.

351
352 Mr. Oster: I think if an issue arises that we have to do that, then they're just going to have to roll with it
353 because we have to do that; they can come back and see us again.

354
355 Mr. Trefz: I'm more worried about homeowners who are trying to get something done on a timeline. We
356 hit a legal snag and now they're put off a month. Now it's the rainy season or it's getting cold....

357
358 Mr. Miller: Or scheduling.

359
360 Mr. Trefz: I think that's just something we need to be aware of.

361
362 Mr. Oster: You are now and maybe it's not going to take them four weeks every time. Maybe they'll be
363 able to look at it a lot quicker.

364
365 Mr. Miller: Off the top of your head, Jeff, is it less than 5% that's tabled and rescheduled?

366
367 Mr. Beard: Yes, it's probably less than 5%. And that's something we'll try to do, a better job of making
368 sure everything is there. Sometimes we have previously had issues where all of a sudden we get a
369 question about something the day before and say can you have them provide this. It's a day and we have
370 to go with what they have.

371
372 Mr. Miller: When there have been meetings with the perspective applicant and Orange Township legal
373 had to be involved, would the Prosecutor stand in for that?

374
375 Mr. Beard: It would depend on what it entails.

376
377 Mr. Oster: Are you talking about like the gas station deal?

378
379 Mr. Trefz: Or Panera.

380
381 Mr. Miller: Panera, the church that needed almost an acre and it was donated to them, things of that
382 nature. It's not a lot but those things happen. Do you have the ability to make a quick phone call to the
383 Prosecutor's Office for advice if there is something that is brought up in a meeting that you can respond
384 quickly to the applicant?

385
386 Mr. Beard: I don't know; we'd have to talk to the Prosecutor's Office and see what their availability
387 would be.

388
389 Mr. Oster: I would figure most of those guys have gone home by the time we have our meeting at 6:00,
390 because that's what I thought too; is there someone you could contact and we just take a 10 minute break
391 and Jeff call somebody, but at this time of day, they're probably done.

392
393 Mr. Miller: How much experience does the Prosecutor's Office have in working with zoning? To me the
394 Prosecutor's Office is far more criminal and occasional domestic.

395
396 Mr. Beard: They have five Assistant Prosecutors that work with Townships in Delaware County, and we
397 are assigned to one. They deal with everything with the Township; our Parks Department, Fiscal Office,
398 HR and Administration contacts them. We contact them a lot when we have questions with our Zoning

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399 Code or anything, they interpret that. And they do attend some meetings, so if we need them, they'll come
400 if they can or send a representative, so they are definitely aware of zoning. The one we deal with just
401 presented at the Township Association Winter Conference and his topic was Zoning 101, and they are
402 definitely well versed in zoning.
403

404 Ms. Sundar: I think it would be good if we could find someone when we have an immediate question. I
405 understand there are things we can take care of, I know there are things that can wait for a while, but if
406 it's possible. I know what your situation is, but I'm just telling you that it would be nice if we could get
407 someone to quickly get answers to the applicants.
408

409 Mr. Beard: I can reach out to Liberty and Genoa and see how they handle things when they have legal
410 questions come up during their hearings. They don't have legal counsel at Trustee meetings, Zoning
411 Commission or BZA meetings; they have them very rarely at any of the meetings. I'll definitely reach out
412 to them and see how they handle that, then I'll reach out of the Prosecutor's Office and see what we can
413 do. I know we've met with the Prosecutor's Office, gone over this flow chart and adjusted some of it, so it
414 will be a work in progress but I believe it's definitely doable. This Board is well versed in things, is
415 knowledgeable and asks the questions and looks at the applications; I think you guys will be just fine
416 without the legal counsel. If you have questions about legal stuff or want to discuss anything more,
417 Michele said she is willing to sit down one-on-one with you as am I, so if you have any questions, feel
418 free to reach out to us. The one thing is we have one Board member position open for Ms. Jordan, so
419 we're looking to fill that when it comes up to the Trustees. Mr. Shipley has shown interest in it; we have
420 provided that to the Trustees, and we also had one person who had an application in, so I'm not sure when
421 that will be decided, so right now we have four full time members, so we'll have an alternate sit in until
422 we get another member.
423

424 Mr. Miller: Have the zoning maps been updated yet?
425

426 Mr. Beard: I do not know.
427

428 Mr. Trefz: And are we in a zoning re-write?
429

430 Mr. Beard: Not yet. We started a diagnostics review with Calfee Zoning; we actually received the 30 page
431 diagnostic report today, so we'll be going through that and it will be presented to the Boards once that
432 gets finalized and after that we'll look at doing the re-write.
433

434 Meeting adjourned at 6:45 p.m.
435

436 Minutes prepared by Cindy Davis, Zoning Secretary
437

438 On March 19, 2020, Mr. Miller made a motion to approve the minutes of the February 20, 2020 meeting
439 of the Orange Township Board of Zoning Appeals for Conditional Use Application #CU-20-01, DJAM
440 Holdings, LLC, with the following corrections:
441

- 442 • Line 70 – “tese” should read “these”
- 443 • Line 147 – correct the format so that the text aligns with the rest of the document
- 444 • Line 308 – “they” should read “we”
- 445 • Line 397 – “Assistance” should read “Assistant”
- 446 • Line 413 – “gotten” should read “gone over”
- 447 • Line 430 – “Caffee” should read “Calfee”
- 448

449 Seconded by Mr. Trefz

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450 Vote on Motion: Mr. Boyd-yes, Mr. Miller-yes, Mr. Shipley-yes, Mr. Trefz-yes
451 Motion carried
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453
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