

Board of Zoning Appeals

1 Conditional Use Application #CU-19-08

April 18, 2019

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4 **Conditional Use Application #CU-19-08, 401 East Powell Road LLC**, Requesting a Conditional Use from
5 Section 22.04(a) of the Orange Township Zoning Resolution, Section 14.07 (n) of Rezoning Case #17986 Green
6 Meadows Plaza and Section 14.07 (n) of Rezoning Case 15-0217 Green Meadows Plaza to allow the construction of
7 a monument style free standing sign in an area zoned Planned Commercial & Office (PC) District. The subject
8 property is located at 8940 Green Meadows Road, Lewis Center, OH 43035 and having permanent parcel number
9 #318-313-04-013-002.

10
11 Mr. Beard: The applicant has asked that the application be tabled until the May hearing in order to make corrections
12 and changes

13 **MOTION TO TABLE VARIANCE APPLICATION #-19-08**

14
15
16 Ms. Jordan made a motion to table Conditional Use Application #CU-19-08, 401 East Powell Road, until
17 the May 23, 2019 hearing of the Orange Township Board of Zoning Appeals; seconded by Mr. Oster.

18
19 Vote on Motion: Ms. Jordan-yes, Mr. Oster-yes, Mr. Shipley-yes, Mr. Trefz-yes, Mr. Miller-yes

20
21 Motion carried

22
23 Hearing continued with Conditional Use Application #CU-19-09

24
25 Minutes prepared by Cindy Davis, Zoning Secretary

26
27 On May 23, 2019, Ms. Jordan made a motion to approve the meeting minutes of the Orange Township
28 Board of Zoning Appeals for Conditional Use Application #CU-19-08, 401 East Powell Rd. LLC, dated
29 April 18, 2019, as written; seconded by Mr. Oster

30
31 Vote on motion: Ms. Jordan-yes, Mr. Oster-yes, Mr. Trefz-yes, Ms. Sundar-abstain, Mr. Miller-yes

32
33 Motion carried

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1 Conditional Use Application #CU-19-09

April 18, 2019

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4 **Conditional Use Application #CU-19-09, Tom Hebert**, Seeking a Conditional Use for a home occupation of
5 Section 7.04(a) of the Orange Township Zoning Resolution. The subject property is located at 6470 Dubois Road,
6 Lewis Center, OH 43035 and having permanent parcel number #318-220-04-016-000.

7
8 Mr. Beard presented the Staff Report and presentation. Site is located on the west side of Dubois Road which is a
9 dead end road that connects to Lewis Center Road across from Rail Timber Way. Applicant is proposing to use
10 approximately 3% of the residential home for an office utilized for computer work and paperwork, and 50% or less
11 of the accessory building for equipment for use in the business. North, south and east of the site is zoned Farm
12 Residential with single family houses; to the west is Planned Commercial and Office District with a vacant house.
13 As part of the application for the Conditional Use, there are 7 questions; the answers were provided in the
14 development plan as well as part of the application. We did receive a letter from some concerned residents which
15 was sent to us March 14. The application was received March 21; the answers to the questions were received
16 shortly thereafter.

17
18 Mr. McCarthy: Mr. Beard, are there currently any structures on that parcel?

19
20 Mr. Beard: They're almost complete with the buildings that were approved, the house and accessory building.

APPLICANT PRESENTATION/BOARD QUESTIONS & COMMENTS

21
22
23
24 Amy Hebert, 5430 Polar Drive, Tom Hebert, 5430 Polar Drive. We're the new owners of that home and
25 closed approximately 2 weeks ago.

26
27 Ms. Hebert: I think one of the main concerns is that there will be chemicals, pesticides and fertilizer
28 stored but there isn't. We purchase those from an offsite source and keep off premise. If that product is
29 going to be used during a job, which is just a fraction of what we do, that is loaded off premise and used
30 daily on the projects and that's it. So there is no storage, no signage, this is just my husband's self
31 employment attempt, it is no big commercial thing. In the accessory building we have 2 work vans; one
32 goes out in the morning and comes back in the evening. We just have a backup in case something goes
33 wrong with the other. Then there's the utility trailer that can be hooked on so if we're doing aeration or
34 using the spreader, that can be loaded on that. The accessory building has no other utilities to it other than
35 electric for lights. We have 1 friend who helps Monday thru Wednesday, so he would be coming about
36 7:00 a.m. and park in back by the building or in the building, and we have no customers; all we do are
37 individual residences and it's all off premises, there's nothing done other than the paperwork on our
38 premise. We do aeration and lawn seeding but there is some fertilization. We have a spreader, but there
39 was never any intention and there never will be to keep that in the accessory building. The building was
40 approved by zoning, the driveway's been approved, and if neighbors are curious of why we made it kind
41 of big, we'd like to sometime in the future own an RV and park it under roof rather than in the driveway
42 or along our house. We tried to make it look like part of the structure with coach lights and siding and a
43 regular shingle roof. Again, no traffic, no customers, no signage, no inventory such as pesticides or
44 fertilizers. There's no maintenance of the units other than washing the units on the outside, like anyone
45 would wash a car or truck. Also, we have 2 kids, the oldest is 13, so we're getting into those years of
46 driving and they may have a car when they get to be 16 or 17, it would be nice to have space to put that.
47 So other than that, it's just 2 work vans, a ride on spreader, a ride on aerator, 2 manual hand pushing
48 aerators, and 2 manual spreaders. The rest of it is just what anyone would have in their garage.

49
50 Mr. Miller: Where do you presently keep your equipment?

51
52 Mr. Hebert: I rent an office/garage in Berlin Township.

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53 Mr. Miller: Do you perform your own maintenance on the equipment?
54

55 Mr. Hebert: No, the maintenance on any of the equipment we presently, Tuffy does all of our brakes and
56 truck maintenance, and there's a company that does all of our repairs on Presidential Parkway.
57

58 Mr. McCarthy: As far as your employee, the only time he's on premise is when he's arriving in the
59 morning, I assume dropped off in the evening and drives home.
60

61 Mr. Hebert: Correct. That's the only vehicle that will be there on a part time basis.
62

63 Mr. McCarthy: You indicated you have 2 vans at this point and anticipate your children maybe getting
64 other vehicles, but your work vans, where would those be parked?
65

66 Ms. Hebert: In the accessory building.
67

PUBLIC COMMENT

68
69
70 Allison Young, 6440 Dubis Road, we have concerns of the storage of chemicals and having my son play
71 next door. I don't think the pictures do it justice as to how they have barn. I look out my bedroom window
72 and see the light from the barn which is on our front, side and back. Our other concern is the trailers that
73 have dug up my yard on the north side, going in and out, construction traffic. We still get trucks all the
74 way thru the yard. Another concern is doing business on the property in a residential neighborhood. I own
75 a business myself, we do home therapy, we also go to clients' homes throughout Delaware County. We
76 have a home office that's all virtual out of my home too, so if this gentleman is allowed to do this, then I
77 plan to build myself an extension, and I'll have therapists and clients from all over the County coming,
78 having therapy at my house. So if Orange Township allows him to have this kind of thing go on, then
79 myself as a business owner, I plan to do the same. But I don't want that, that's not why I'm here. When I
80 moved here, I moved for the privacy, and I don't want loud trucks, chemicals and the traffic going up and
81 down our road. We have a very small road; 2 cars can't even fit at the same time. So those are my
82 concerns. I'm the neighbor to the north so we're right on the corner of Lewis Center Road and Dubois.
83

84 Mr. Miller: Mr. Hebert, is the construction of your home and barn complete?
85

86 Mr. Hebert: All of the construction is done, the construction of the driveway is done. The only thing
87 we're waiting for is the final grade to be placed in the front. My landscaper ordered 10 yards of topsoil to
88 be delivered this week, it rained so it set it back a few days. Then finding a grader to grade the front.
89 When they put in the front walk, they rutted it; it was graded before by Schumaker Homes. There
90 shouldn't be any more construction traffic other than the grading and the soil to be dropped off, then that
91 will give me the capability to oversee that area and start planting trees and shrubs in the front.
92

93 Ms. Hebert: The leach field has to be done, but we have the temporary thing that's needed, but that's the
94 only thing they need to do but they can't until the ground dries out.
95

96 Mr. Miller: The construction traffic on the road that Ms. Young was addressing is that due to the
97 construction of the home and/or the out building or was it from anything else?
98

99 Ms. Hebert: I don't know what trucks are going in and out because it really is done other than the
100 landscape part of it, but if anyone has a problem with it, I would be filing a claim with the insurance
101 companies. We do have a flood light and our coach lights, there's light in the back but they're not on all
102 the time. If they were, someone accidentally left them on and I do apologize for that; we'll make sure
103 they're turned off but we don't have lights on all the time.

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104 Mr. Miller: The light in the back, is that downlighting or is it projected outward?
105

106 Ms. Hebert: It's pretty much down.
107

108 Mr. Hebert: There's 2 motion detector lights on the front of the auxiliary building that come on and
109 there's 2 off to the rear. A drive thru concept is much easier because when you turn around in a driveway
110 it's kind of tough at that juncture. There should be very little more construction, individuals driving in
111 there, and no chemicals will be stored on site; I believe that was an issue as far as my adjacent neighbors.
112 A lot of them claim they are a fire hazard; that's not true and no chemicals are even stored at our current
113 house on Polar Drive.
114

115 Ms. Hebert: And again, we don't have clients on our property at all, so there should be no more traffic
116 other than the one individual who comes on a part time basis.
117

118 Mr. Miller: You don't have a recent Google map picture, do you?
119

120 Mr. Beard: No.
121

122 Mr. Miller: The reason I asked was to see from a Google map type of scenario the driveway that's going
123 thru that out building that Mr. Hebert was referring to that's making a loop into the main driveway.
124

125 Mr. Oster: Is there a gravel pad behind it also?
126

127 Mr. Hebert: Yes.
128

129 Mr. Trefz: And which way does the path come...
130

131 Ms. Hebert: To the left.
132

133 Mr. Trefz: To the left as we're looking at it?
134

135 Ms. Hebert: In the picture, it's to the left.
136

137 Willard Ufferman, 6559 Dubois Road, Lewis Center: I have the the original application for the
138 subdivision, we built the very first house in the subdivision and there were covenants that stated that we
139 couldn't put any outbuildings in with foundations. Originally the farmer who owned this set it into the
140 development Westview Acres.
141

142 Mr. Oster: Mr. Beard, have you reviewed that document?
143

144 Mr. Beard: That's not a subdivision. It's considered Westview Acres but there's no rezoning that applies
145 to it and there are no covenants that are on file anywhere.
146

147 Mr. Miller: So there are no deed restrictions or covenants to the original?
148

149 Mr. Beard: It's all individual lots, it's not a subdivision, there's no rezoning, it's not a single family
150 planned residential, at least according to our records.
151

152 Mr. Ufferman: Another thing is you can't do farming on a 2.5 acre lot when you're supposed to have 5
153 acres and an outbuilding is something people from the community don't want, and to me, it is nothing but
154 a commercial endeavor. With the outbuilding and trucks going in and out day and night and toxic

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155 substances to put on the grass for different people being stored in the buildings and you can't put people
156 in an outside storage to do it, so there should be some covenants some place but I don't know where
157 they'd be. Originally there were no driveways, there was nothing but grass when we first built and the
158 Township had to improve that and we were allowed a turnaround instead of doing the 50' radius because
159 Mr. Ball said that's what was approved. I don't think some of the neighbors in our subdivision are in
160 favor of it because of the business part of it; it's nothing but commercial and you can't put a commercial
161 thing in a subdivision. This might have been the very first subdivision built in Orange Township; the only
162 other one I knew of at that time was down on Lazelle Road, and I don't see any sense in changing it.

163
164 Mr. Miller: Mr. Beard, this document does show that it was recorded with Delaware County Recorder as
165 a subdivision.

166
167 Mr. Beard: But the zoning is still Farm Residential; there's no covenants or deeds, that's just how it's
168 platted.

169
170 Mr. Ufferman: Originally it was a farming community and the fellow going in next to us to the east was
171 originally part of this owner's property and he had to divide it up into different acreage to get this
172 approved. Originally I worked with Mike from Zoning for 13 years and we would have called this a
173 commercial, and I think your Zoning Board messed up by giving them a permit to build.

174
175 Karl Kuehner, I have lived at 6490 Dubois Road since 2000. This is a quiet neighborhood, we all respect
176 each other and have a low key lifestyle. I'm here tonight to ask you to deny Mr. Hebert's request for a
177 home occupation at 6470 Dubois Road and there are multiple reasons why I feel this way. Our neighbors'
178 previous actions have shown a lack of respect for the neighborhood, and I'll give you a few examples. If
179 you look at the one photo I have with the dirt, you'll see their lawnmower got stuck in their yard. Without
180 my permission, they drove a truck into our yard to pull the mower out. Both the truck and lawnmower got
181 stuck in our front yard, it's a soggy area and they proceeded to drive thru our property line over 100',
182 creating large ruts along the way. In talking with them, they assured it would be fixed; it's been a year and
183 it hasn't been fixed, so that's my plan for this weekend, I've bought all my material. Also, while mowing
184 the lawn, they broke a pick on my fence, didn't tell me; one of my dogs escaped. Some girls found her on
185 the corner of 23 and Lewis Center Road, so she was found safe but I wanted to put that in to talk about the
186 character I'm seeing so far without even moving into the house. There's concern about traffic. What you
187 can't see in the pictures are the actual conditions. Dubois Road is 17' wide. The warehouse we're talking
188 about is 2000' which is larger than most of the houses on our street, so to say it's an eyesore on the
189 property is not a strong enough word. You can also see they typically park in the middle of the street.
190 That forces everyone to drive in everyone else's lawn, not only destroying the lawns but also scratching
191 our cars on the trees that are close to the street. I'm not sure why this happens when you have a driveway
192 that's 150' long. We've also seen destruction of property due to construction of the house; you can see
193 that on the one photo where the truck has been routinely driven into people's yards and creates deep ruts.
194 It doesn't look good for the subdivision. And I'm concerned about what's going to happen when this
195 commercial business goes in with their multiple trucks and trailers going in and out. I'm also concerned
196 about privacy, crime just like everyone else. In the past we've had conversations because of mowing the
197 lawn early on Saturdays. I work long hours and on Saturdays I sleep in in until at least 7:00. There's a
198 concern about the number of people that are going to be employed here. I know we've heard 2 people but
199 I also know they have 3 commercial vehicles, so to me, that math just doesn't add up. We are concerned
200 about chemical storage. In the past he's mentioned that, so there is a large concern about the chemical
201 storage; are they combustible, what is the hazard of these chemicals if something would happen? If you
202 look at the common pesticides used in lawns, 30 of the common ones, 16 are linked with cancer. One of
203 my dogs just passed away from cancer and I have another one that just got cancer, so just some things I
204 want to bring up so everyone understands. I'm concerned about the decrease in my property value. When
205 I try to sell my house in the future, I have a 2000 square foot barn blocking the view of my lawn, blocking

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206 the view of the rest of my neighbors. With all those things being said, I just want you to be aware of what
207 we're seeing and why you're seeing such a large group of people here that want to discuss this.

208
209 Beverly Wilson, 6445 Dubois Road, Lewis Center, Ohio, resident since 1988. Tagging on to what Woody
210 told you, very quiet, delightful street, and the only subdivision in the Olentangy area in 1988. We looked
211 far and wide and were very happy to see that for sale sign when we drove by, so while in a beautiful,
212 custom built home, very forward thinking, we thought we were set for life and I'm wondering what
213 Pandora's box we are opening with this rezoning. If we do rezone, can you assure me that when this
214 owner says I'm not going to do that and I'm not going to do that, but have we opened that doorway so the
215 next owner could? As others have said, we have a very quiet, cooperative neighborhood, and people care
216 about each other, and we don't want to start pushing that relationship out and just making it a business
217 proposition. Additionally, if Orange Township is considering changing the zoning status of 6470 Dubois
218 Road, has there been any discussion of widening the road and adding curbs? Already we're very patient
219 with one another, only 1 car can turn in, only 1 car can turn out. If one of us is leaving Dubois Road and
220 anyone wants to turn in from Lewis Center, they have to wait; there's not room enough for that as you can
221 see from the photos my neighbor brought you of the torn up side of the road, and that's our property that's
222 completely rutted and torn up and a muddy mess that backs up then on the road. So what are we going to
223 do about the road? It's just a narrow 17' wide road; there's no widening of it to keep them from falling in
224 our ditch when they try to turn right or turn in, so the ground is being pushed down around it and it's
225 creating a hazard, so if we're going to have business vehicles and equipment traveling on this road,
226 something is going to need to be done about it. Was this road built to withstand the increased weight
227 loads of business vehicles and equipment? It doesn't seem that was the intention when the road was built,
228 so I don't know it actually has the proper footing to carry the weight. And what is the effect to the other
229 properties where we've lived there quietly, peacefully, friendly if this zoning status changes? The lighting
230 kind of glares in my eyes. I was concerned when Kroger went in; that shopping center is all down-
231 lighting, very nicely done, it does not disturb us at all, but the lighting on that barn is just glaring, it's like
232 pointing at us. And one thing you can't see from that, that's a drive thru barn, so are they going to drive
233 vehicles thru and park them in the back? I just don't want our little friendly street to be destroyed.

234
235 Mr. Miller: One thing in regard to the road itself, this Board is strictly for zoning. You would have to take
236 up any possible widening or repair of the road with Orange Township officials, and not zoning.

237
238 Mr. Shipley: One other thing, there's no discussion of the change of zoning; it's a Conditional Use
239 Approval, not a zoning change; the zoning will remain the same.

240
241 Ms. Wilson: So that's not giving any other home owner the freedom to use that for commercial
242 property....

243
244 Mr. McCarthy: Unless it's made permanent thru the resolution of the Board, the Conditional Use expires
245 with the sale of the property, and a new owner would have to come in and go thru the same process.

246
247 John Edwards, 6499 Dubois Road, my parents moved in when I was 2 weeks old and bought the house
248 they originally built, so I've been around a long time and have seen a lot of things, and what I've seen
249 with this is the definition of a commercial business and we would not be here tonight had our concerns
250 not been addressed with Jeff Beard who contacted the property owner and started asking questions. This
251 business was going to happen behind everybody's back in Orange Township and he addressed this and
252 that's why we're here because this is the only outlet they have to try and get a home occupation which, in
253 my opinion, is solely based in your house or a building, not coming and going, so we don't need a
254 commercial business on this road that could have continual growth then it's going to be our problem to
255 deal with going forward. But my main point was the fact that this was going to happen without the
256 knowledge of anybody or there was going to be no permit asked for. He built this warehouse on his

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257 property and then you come in and try to get a home occupation permit. You have 12' drive thru doors; it
258 doesn't fit anywhere amongst our properties whatsoever; that has more square footage than my house and
259 this is straight across from my house which the property value is going to plummet. It's not a good
260 looking building, it's too big, it belongs in a commercial facility, period, and my main point was that this
261 was going to happen without the knowledge of anybody here except that Jeff Beard took it upon himself
262 and asked the questions of the property owner and we don't need people like that amongst us on this road.
263 I think we're going down a slippery slope for something like this to go on a dead end road that's not wide
264 enough for 2 cars to pass each other without putting tire tracks in each other's yard. There's ample
265 opportunities to put a business like that in a different building somewhere where it belongs; that's not it,
266 that's not even close and it's put us all on edge, it's got us all stressed out. It never should have been
267 approved. The fact that it was going to happen without the knowledge of Orange Township, this business
268 was going to move ahead, is a big fear of mine because I think any Conditional Use given is a blank piece
269 of paper because it's going to be a free for all once it happens. And you mention about chemical storage,
270 when the 2 vans are full of chemicals going in and out, that's where the chemicals are, they're in the vans.
271 We've seen these vans for 10 years parked on our road, spraying this field for 2 or 3 hours at a time, so
272 bad you had to close your windows because it smelled so bad. That's where the chemical storage is, in
273 these vans, so you're not getting the straight story. So any Conditional Use is going to be chaos. The
274 trustworthiness is out the window; we watched it.

275

276 Mark Korzenko, 170 Lewis Center Road, my backyard backs up against that building; I don't think you
277 realize how big it is, bigger than what we're standing in right here, and it's right in ours and the Young's
278 backyards and it's only 15' off the property line. The driveway he built comes in and turns at an angle, so
279 I'm going to get headlights every night when he comes in; there's no way to avoid it from the way he
280 comes in. I've got Kroger across the street, you guys came to me, you wanted to lower the hill down
281 when Kroger was being built because the mound was too high. You left the mound high in the back on
282 the other side of Kroger but you asked me to lower mine in front; I still catch headlights. Now you've
283 given me headlights in the back. I had Red's to deal with on the other side, I have Ohio Mulch there. I've
284 got the drivers from Ohio Mulch there all the time, I have the smoke when they blow; what else do you
285 want to hit me with? How much more can I take? What am I going to do when my property value drops;
286 are my taxes going to go down now? Are you going to guarantee that our taxes are going to go down or
287 are you going to turn our land commercial, because that's what you're really close to doing or a class
288 action, take your pick.

289

290 Ms. Hebert: We've owned the lot for 9 years, we've mowed the lawn all these years to keep it nice and
291 we never even knew there was an issue with it, no one ever brought that up, so I can't speak to that. I
292 don't know who is parking in the middle of the road. As far as the storage, you are correct, during the day
293 when it gets loaded in the morning, and these are work vehicles, they're not some big...

294

295 Mr. Oster: What kind of vans are they?

296

297 Mr. Hebert: It's a G30, 110 cargo van, a normal size van that you would see driving down the road. They
298 weigh no more than a normal pickup truck.

299

300 Ms. Hebert: And yes, we have 2 vans and we have a regular pickup truck.

301

302 Mr. Hebert: And that's for my personal usage.

303

304 Ms. Hebert: Tom has owned this business for over 5 years and it's only been him and right now we have
305 a friend who helps us 3 times a week, Tom had some surgery and it's a little harder so there are no plans
306 to have, it's kind of upsetting of being accused of something we're not trying to do. And yes, the
307 chemicals go into the vans off premises and used by Tom during the day, so when that van comes back,

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308 it's empty. As far as the spraying, it's no more than if you have Tru-Green or any of the other companies
309 spraying your lawn.

310

311 Mr. Ufferman: Then why do you put the signs out along the road?

312

313 Ms. Hebert: That's required.

314

315 Mr. Hebert: By the Department of Agriculture. Every time we give service with any type of pesticide or
316 even just a straight fertilizer that has to be posted by the Ohio Department of Agriculture. I place those
317 stakes every day on properties, we blow off all the driveways and sidewalks on all residential properties
318 so no residue is on non-targeted areas other than the lawn.

319

320 Ms. Hebert: We will check our lights again and they will all be down lights.

321

322 Mr. Miller: Are the lights there in the center flood lights?

323

324 Mr. Hebert: Correct; motion detector on flood lights.

325

326 Mr. Miller: Is there a guard around the light itself?

327

328 Mr. Hebert: Not that I know of. They've never been on when I've been there but I haven't been there
329 during the evening to motion activate the lighting either in the front or the back.

330

331 Ms. Hebert: We had all intentions of filling out the paperwork for a Conditional Use Permit, it's just that
332 we won't be moving until the end of May or middle of June and this is just a busy time for us, so this just
333 sped it up which is fine.

334

335 Mr. Hebert: I apologize if our mowing service, it was noted before by one of the residents that they come
336 at 7:00 in the morning. If you have pictures of your damaged fence, I can forward those to All Star Lawn
337 and Landscaping.

338

339 Mr. Kuehner: I have talked to them several times.

340

341 Mr. Hebert: If they had taken a picture of those and submitted them, I'm sure their insurer would pay for
342 this damage or they would pay out of pocket. I was unaware that that had happened. As far as the overall
343 use, I don't plan on storing any chemicals on site. A lot of my neighbors expressed a very big concern on
344 any type of chemical storage. No more chemicals are going to be stored on that site than anyone would
345 have yourself. One of my neighbors said they had sprayed the weeds one time a year, it approximately
346 takes anywhere from 45 minutes to an hour to spray an entire 2.35 acre; now that there's less space there,
347 it will probably take a lot lesser time to spray. I currently have a pesticide license with the Ohio
348 Department of Agriculture, the regulatory agency. The letter that I received stated that it was EPA
349 registered; that is incorrect, it's the Ohio Department of Agriculture. Most small business owners such as
350 myself buy product right down the street from Advanced Turf Solutions on Polaris Parkway. We buy
351 product in the morning, use it up during the day, so when our trucks come back, no product is on my
352 pickup truck we currently use on lawncare. If there's concern that I'm going to add additional traffic on
353 the road, I can tell my employee we can meet at our leased site which is in Berlin Township so therefore
354 no other vehicle will be coming or going. I usually leave for work at approximately 7:00 a.m. and come
355 home around 7:00 p.m.

356

357 Mr. McCarthy: What is the nature of your leased site in Berlin?

358

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359 Mr. Hebert: I leased that site approximately 2 years ago to park additional vehicles. At our current house,
360 it's only a 3 car garage and 2 would normally sit out and my pickup truck would sit in, and my full intent
361 with this project was to have the capability to have everything under roof so there wouldn't be an eyesore
362 of vehicles sitting out over night.

363

364 Mr. Miller: Is that in a public storage or a leased building?

365

366 Mr. Hebert: It's a leased commercial space.

367

368 Mr. McCarthy: Do you plan on continuing to lease it if this were to be approved?

369

370 Mr. Hebert: Yes. I pre-paid a lease with that vendor and I plan on re-upping that lease. It will give me the
371 capability, if you're telling me I can only drive 1 truck home and park it in either my residential site with
372 a 3 car bay or 1 vehicle in this site, that will be done. Trust me, I'm an Eagle Scout; my honor is at stake
373 here tonight plus I'm honored, military which ranks extremely high. My honor is at stake, my honesty is
374 at stake. I filled out all the paperwork and gave that to Jeff Beard, and I provided that verbatim, each of
375 you have a copy of that.

376

377 Ms. Wilson: There's no parking allowed on the west side of Dubois Road. All of the vehicles that have
378 been working on the house have been parking along the west side of the road, trenching my neighbors'
379 yards, and there is parking allowed in our pine trees beyond our property; when we have parties, that's
380 where all our guests park. But for some reason on the east side there's a sign posted, no parking on the
381 west side of the street, so that rule, and I'm assuming it's a rule because there's a sign posted, has been
382 broken and there's never been any thought to try and abide by the sign.

383

384 Mr. Korzenko: I moved here 30 years ago and I wanted to put a shed up. I went over to the building area
385 over by the Fire House where the zoning area was, and asked about putting a shed up. They told me I
386 couldn't put it in with a footing, not in that area, so why is there a footing now? It would be interesting to
387 find out how you put a building that big in a residential and make it thru the permit process. You don't
388 have an idea of how big it is; that picture means nothing. If you were broadside to it, you'd see how big it
389 is. It's 40' x 50', and I'm on the 50 side. It is huge; how did you let that happen? And the whole idea of
390 putting up a barn or commercial building and then say, can I use it; that's not the way to go. It should
391 have been up front, you can't put a building that big there, it's a full commercial. I wouldn't mind if it
392 was a garage but it's not, it's bigger than the building we're in right now. Put that in your back yard along
393 with Red's and Kroger and everything else. It should be taken down because it's got a footing under it.

394

395 Mr. Oster: Jeff, I'm to assume that this was allowed in this district?

396

397 Mr. Beard: I believe so.

398

399 Mr. Oster: Obviously it was permitted?

400

401 Mr. Beard: Yes.

402

403 Mr. Oster: Pulled a building permit?

404

405 Mr. Beard: Yes, it's in the setback, the County Building Department approved it. The Zoning Department
406 has not done final compliance on it yet. I know the residents were concerned with damage to the road and
407 the builder has spoken with the Roads Director and promised the road would be repaired if there's any
408 damage. When they're ready for final compliance, I will speak with the Roads Director and we will

Board of Zoning Appeals

409 inspect the road. If it's not fixed, they won't get final compliance until the road's repaired. As far as
410 damage in the yards, there's nothing Zoning can do about that; that's a civil matter.

411

412 Mr. Oster: I've got the same thing in my neighborhood with the construction on Old State; they just park
413 wherever, and that's just the way it is.

414

415 Audience Member: Since this is a business, on Saturday and Sunday is business going to be there and
416 working because when the busy season starts, it's non-stop so there will be constant traffic coming in and
417 out. If it's a landscaping business, there will be herbicides, there will be chemicals; there's no way there
418 can't be. So what do we expect on weekends? If it's 7:00 in the morning until dark, there's a landscaper
419 there until it gets dark? So what are we talking about on Saturday and Sunday; are there any restrictions?

420

421 Mr. Beard: Since this is a Conditional Use, the Board can put conditions on it and that could be something
422 they could take into consideration. If they want to put conditions on certain times on the weekends...

423

424 Mr. McCarthy: Actually the Courts have determined that the zoning authority does not have the right to
425 dictate business hours, so with that exception, Mr. Beard is right; conditions can be imposed to mitigate
426 impacts of the use on the neighborhood.

427

428 Matthew Young, 6440 Dubois Road, so if the building is not for commercial use, what is this building, it
429 only has 1 truck and that's it?

430

431 Mr. Oster: He said he has 2 trucks.

432

433 Mr. Young: And there's no recreational vehicles or what? Why do you need this huge barn for 2 trucks?

434

435 Mr. Oster: Because he can't use over 50% of the building, he can only use half this building under the
436 Conditional Use.

437

438 Mr. Young: So he's alright with that? He's only going to park 2 trucks in there?

439

440 Mr. Oster: We don't police it if that's what you're asking.

441

442 Mr. Young: So why have this big monstrosity of a building that's bigger than his house that he built
443 beside it if it's going to hold 2 trucks?

444

445 Mr. Oster: They built it large, they can only use 50% of the building....

446

447 Mr. Young: Including their house?

448

449 Mr. Oster: No, this building and they had the intention of possibly buying a motor home that can occupy
450 the other side.

451

452 Mr. Young: It's a huge building if only 2 trucks are going to be in there, and if we see more than 2 trucks
453 there, we're going to take pictures and video, and who do we send it to, police officers?

454

455 Mr. McCarthy: Send it to Mr. Beard in the Zoning Office.

456

457 Mr. Miller: If we put conditions on it if it's approved, whatever those conditions are, then it would be up
458 to the Zoning Enforcement, which would be Mr. Beard, if there's a report that "x" and "y" conditions
459 were attached to approval, then it's up to Zoning to enforce that.

Board of Zoning Appeals

460 Mr. Young: I'm just saying we've called Ohio Mulch about their blowing issues and called the EPA on
461 them and they go out there and say we can't do anything with them right now. And if we're going to have
462 another place that's going to have chemicals or lawn landscaping or mulch and if it causes more headache
463 than Ohio Mulch does, it's going to make our whole neighborhood into smoke and clouds.

464
465 Audience Member: When we're talking about enforcement, I have Ohio Mulch on one side, behind me is
466 the hot tub company, they removed the privacy fence that was part of the zoning 2 years ago. I've talked
467 to Jeff about this multiple times and I still haven't seen the privacy fence put back up. How do we get this
468 stuff enforced? Ohio Mulch blows so much dust and dirt over my house every night because of the way
469 their sweepers work. I'm just concerned if this happens, it won't be enforced.

470
471 Mr. Oster: I don't think this is a comparison to Ohio Mulch personally.

472
473 Audience Member: I've been here twice now and I know Ohio Mulch is a different subject, but I know
474 I've talked to Jeff about it and I haven't seen any improvement and it's very depressing to be a
475 homeowner in Orange Township right now.

476
477 Mr. Miller: Mr. McCarthy, if a business is blowing dust and debris into the residential area, would that be
478 a civil matter or would that be zoning?

479
480 Mr. McCarthy: It could be a civil matter. I'm trying to remember what the language is of the FR-1
481 District development standards.

482
483 Audience Member: Where they blow the dust, I have trees that have died. I had to cut down 26 trees. I
484 can't prove it's caused by that dust, I don't have pictures of it, but it literally looks like a dust bowl.

485
486 Mr. McCarthy: It could be civil matter as a trespass but you'd have to show that it was that trespass that
487 caused the injuries; you'd have to have an arborist or something come in.

488
489 Audience Member: I just want to talk about the enforcement.

490
491 Mr. Oster: All of Jeff's contact information is on our website.

492
493 Mr. Beard: And it should be on that post card mailed out.

494
495 Audience Member: I just hope after this evening that somehow most of the people on this road plays a
496 part in this, and I think we showed up and represented well and I think everyone understands what's
497 going on here and I hope that the little people in Orange Township mean something.

498
499 Ms. Hebert: We don't do landscaping like Ohio Mulch and we welcome the zoning commission members
500 or anyone over any time. Again, there's 2 vehicles, that's it.

501
502 Ms. Wilson: Am I understanding correctly that they're not going to bring the trailers on to Dubois and put
503 them in the building?

504
505 Ms. Hebert: There's 1 utility trailer, 2 vans, a ride on aerator, a ride on spreader, and 2 manual aerators
506 and 2 manual spreaders. Two of everything just in case one breaks, we have a back up. 1 person, 1 unit
507 vehicle point in and out.

508
509 Mr. Ufferman: Have you ever heard of fertilizer exploding? You could have that in your building.

510

Board of Zoning Appeals

511 Mr. Oster: They're not opening in their building.

512

513 Mr. Ufferman: If it's liquid.

514

515 Ms. Wilson: We really don't think it's going to be safe to have a truck or van pulling a landscaping trailer
516 from a 17' wide disintegrating road. The entrance won't allow for it, it's going to produce accidents,
517 there's no light at that intersection. I don't understand how anyone could pull a trailer out of there. When
518 I moved in I moved in from out of state, and our moving van said they couldn't pull in that road, there' no
519 way. We're going to go over "here" and you're going to have to rent another truck and load them off. But
520 it was awkward and that road has not changed since 1988 except it has chipped away a little narrower. I
521 do not see how a truck with a van on the back of it is going to navigate in and out of that little road.

522

523 Mr. Miller: Mr. Beard, based on 2 vans and a trailer, etc., would that not be more than 50% of the
524 building?

525

526 Mr. Beard: I don't know how long the trailers are or the width or the size of the vans; it's hard to calculate
527 that. It's a 2000 square foot accessory building.

528

529 Ms. Jordan: So they can go up to 1000 square feet of equipment, right?

530

531 Mr. Beard: Yes.

532

533 Mr. Oster: What's the size of your utility trailer?

534

535 Mr. Hebert: 14'.

536

537 Mr. Trefz: 8' x 14'?

538

539 Mr. Hebert: Correct.

540

541 Mr. Miller: Plus a tongue.

542

543 Mr. Oster: Are you able to park both vans and the trailer in one side of the building?

544

545 Mr. Hebert: I believe we can.

546

547 Mr. Miller: If it's a 14' trailer and probably a 3 to 3.5' tongue, the G30 van is 17'7", so you're looking at
548 everything pushing 40'; that's with one van and the trailer, not including the other van. And I'm going
549 strictly by length, not width, and I'm concerned about that. He wouldn't be able to get that second van on
550 the same side.

551

552 Mr. Trefz: He wouldn't have to.

553

554 Mr. Shipley: The way it reads it's 50% of the combined space.

555

556 Audience Member: I think he said there's also a spreader.

557

558 Mr. Oster: That's what he's hauling on the trailer.

559

560 Audience Member: And there's a pickup truck as well with decals on it.

561

Board of Zoning Appeals

562 Mr. Oster: He mentioned the decal on the truck; is it permanently installed on the truck?

563

564 Mr. Hebert: No, I just do that for advertising purposes. When I go out to give an estimate, I normally
565 drive my pickup truck, so a lot of people wonder who is parked in front of my house. It identifies
566 yourself; I do most of my sales work from my own personal vehicle which is my pickup truck.

567

568 Ms. Jordan: So it's a magnetic sign?

569

570 Mr. Hebert: Correct.

571

572 Ms. Jordan: And you park your pickup truck in the garage that's attached to the home?

573

574 Mr. Hebert: Correct.

575

MOTION TO DENY CONDITIONAL USE APPLICATION #CU-19-09

576

577
578 Mr. Miller made a motion, based on the residents' feedback and concerns with the road width, etc., to
579 deny Conditional Use Application #CU-19-09, Tom Hebert; seconded by Mr. Trefz.

580

581 Vote on Motion: Ms. Jordan-yes, Mr. Oster-yes, Mr. Shipley-yes, Mr. Trefz-yes, Mr. Miller-yes

582

583 Motion carried

584

585 Hearing continued with Variance Application #VA-19-10

586

587 Minutes prepared by Cindy Davis, Zoning Secretary

588

589 On May 23, 2019, Ms. Jordan made a motion to approve the meeting minutes of the Orange Township
590 Board of Zoning Appeals for Conditional Use Application #CU-19-09, Tom Hebert, dated April 18, 2019
591 with the following corrections:

592

- 593 • Line 115: the sentence should read, "...so there should be no more traffic...."
- 594 • Line 262: the sentence should read, "...and we don't need people like that amongst us on this
595 road...."
- 596 • Line 277: the sentence should read, "...and it's right in ours and the Young's...."
- 597 • Line 286: the sentence should read, "...are you gong to guarantee that our taxes are going to go
598 down...."
- 599 • Line 287: the sentence should read, "...or are you going to turn our land into commercial,
600 because that's what...."
- 601 • Line 373: the sentence should read, "plus, I'm honored, military...."
- 602 • Line 389: the sentence should read: "it's 40' x 50'"

603

604 Seconded by Mr. Oster

605

606 Vote on motion: Ms. Jordan-yes, Mr. Oster-yes, Mr. Trefz-yes, Ms. Sundar-abstain, Mr. Miller-yes

607

608 Motion carried

609

610

611

612

Board of Zoning Appeals

1 Application #'s VA-19-06, VA-19-07, CU-19-08,
2 CU-19-09, VA-19-10

April 18, 2019

LEGAL NOTICE

6 Notice is hereby given that the Orange Township Board of Zoning Appeals will hold a public hearing on Thursday,
7 April 18th, 2019, beginning at 6:30 p.m. to consider the following application/s:

9 **Variance Application #VA-19-06, Robert and Erin Fitzgerald,** Requesting an Area Variance from Rezoning
10 Case #12-0223 Sanctuary at the Lakes and Enclave at the Lakes to build a deck that will fail to meet the minimum
11 rear-yard setback. The subject property is located at 4736 Royal County Down Court, Westerville, OH 43082 and
12 having permanent parcel number #318-140-18-021-000.

14 **Variance Application #VA-19-07, 401 East Powell Road LLC,** Seeking Use and Area Variances from Sections
15 22.06 (c(3)), 22.06 (d), and 22.06 (e) of the Orange Township Zoning Resolution, Section 14.07 (n) of Rezoning
16 Case #17986 Green Meadows Plaza and Section 14.07 (n) of Rezoning Case 15-0217 Green Meadows Plaza for
17 proposed signage. The subject property is located at 8940 Green Meadows Road, Lewis Center, OH 43035 and
18 having permanent parcel number #318-313-04-013-002.

20 **Conditional Use Application #CU-19-08, 401 East Powell Road LLC,** Requesting a Conditional Use from
21 Section 22.04(a) of the Orange Township Zoning Resolution, Section 14.07 (n) of Rezoning Case #17986 Green
22 Meadows Plaza and Section 14.07 (n) of Rezoning Case 15-0217 Green Meadows Plaza to allow the construction of
23 a monument style free standing sign in an area zoned Planned Commercial & Office (PC) District. The subject
24 property is located at 8940 Green Meadows Road, Lewis Center, OH 43035 and having permanent parcel number
25 #318-313-04-013-002.

27 **Conditional Use Application #CU-19-09, Tom Hebert,** Seeking a Conditional Use for a home occupation of
28 Section 7.04(a) of the Orange Township Zoning Resolution. The subject property is located at 6470 Dubois Road,
29 Lewis Center, OH 43035 and having permanent parcel number #318-220-04-016-000.

31 **Variance Application #VA-19-10, F&M Lewis Center RE, LLC (Christian Cottrell),** Seeking a Use Variance
32 from section 22.03(h) of the Orange Township Zoning Resolution to allow a temporary sign to remain after
33 completion of construction. The subject property is located at 8875 Green Meadows Drive, Lewis Center, OH 43035
34 and having permanent parcel number #318-313-04-013-003.

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

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

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

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

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

52 *Please publish one time, on or before Monday, April 8, 2019 in The Delaware Gazette*

54 Mr. Oster called the meeting to order at 6:30 p.m.

56 A court reporter with Runfola Reporters administered the oath to all those wishing to speak.

Board of Zoning Appeals

57
58 Roll: Victoria Jordan, Rick Oster, Jerry Miller, Aaron Shipley, Kelvin Trefz

59
60 Township Officials also present: Michael McCarthy, Township Counsel
61 Jeff Beard, Zoning Enforcement Officer
62

63 **Variance Application #VA-19-06, Robert and Erin Fitzgerald,** Requesting an Area Variance from Rezoning
64 Case #12-0223 Sanctuary at the Lakes and Enclave at the Lakes to build a deck that will fail to meet the minimum
65 rear-yard setback. The subject property is located at 4736 Royal County Down Court, Westerville, OH 43082 and
66 having permanent parcel number #318-140-18-021-000.

67
68 Mr. Beard presented the Staff Report and presentation. Applicant is requesting a variance from Section
69 10.07 g) to allow construction of a deck that will fail to meet minimum 35' rear yard setback. Site is
70 located on southeast corner of Royal County Down Court. North, south, east and west are all Single
71 Family Planned Residential. A new exhibit was provided; they revised the deck so it will not be as big of
72 a variance as originally requested. The applicant is requesting to construct the deck at 32.5', so a variance
73 of 2.5' is required.

74
75 **APPLICANT PRESENTATION/BOARD QUESTIONS & COMMENTS**

76
77 Robert Fitzgerald, 4736 Royal County Down Court, Westerville, as mentioned, the deck has been revised
78 and only requires a variance of 2.5'; I think it's just one step of the deck. As you can see from the
79 pictures, there's still lots of room. I have 3 little kids, I still want the yard for them to play in. It's a walk
80 out to the deck, just comes out so there's absolutely no intention with anything with the trees or the
81 stream in the back or impeding on any of that, there's still plenty of room for yard and grass; it just kind
82 of fits the aesthetic look of the back of the house. I also have the builder here.

83
84 Aaron Larson, the only thing I would like to add is we didn't take away from the character of the
85 neighborhood at all. The neighborhood is basically suited for families and I think that's about it.

86
87 Mr. McCarthy: Mr. Fitzgerald, as Mr. Beard indicated, there has been a revised drawing submitted
88 indicating a 2.5' variance. Is it then your intent to proceed this evening on the basis of a request for a 2.5'
89 variance as opposed to the 8'?

90
91 Mr. Fitzgerald: Yes.

92
93 Mr. McCarthy: I just suggest to the Board in its motion to provide the fact it's a 2.5' variance if it is
94 approved. Mr. Fitzgerald, in some of the photos of your yard, it appears you may have a little bit of a
95 grade issue; is that true?

96
97 Mr. Fitzgerald: Yes, it definitely has a slope and the deck's going to come out on the top part. The side
98 part is where we're going to have 5:58, that flat area there

99
100 Mr. Larson: The elevations from M/I's standpoint I didn't dig out the lot, it's just leveled at that high but
101 once again the way the deck is ?? there's still plenty of??? I know Jeff was out taking pictures from the
102 end of the deck to the trees, to the woods. It's not like we're building it into the trees by any means there's
103 still plenty of open space as required. The elevation of the walkout, you can see the covered patio as well.
104 It's just aesthetically we're going to want the other from the deck and the deck isn't even the entire
105 length of the house; it's about ¾ of the length that comes over that covered patio and a little bump out
106 ??? the back of the house.

107

Board of Zoning Appeals

108 Mr. Miller: If my memory serves me, we had almost an identical scenario recently. My question is two-
109 fold; off the area where you have what appears to be a screened in porch or porch up on top; do you plan
110 on connecting that in any way?

111
112 Mr. Fitzgerald: Yes, so we have the screened in porch and on the far left side we have a screened in door
113 to walk out to the deck. And my neighbor 3 doors down has the exact same build as mine on the back of
114 their house; I know they went thru the process as well.

115
116 Mr. Oster: That's probably what he remembers.

117
118 Mr. Miller: What are your plans to put below the deck in that same area?

119
120 Mr. Fitzgerald: We're just going to have a paver patio.

121
122 Mr. Miller: A paver patio in lieu of a concrete patio?

123
124 Mr. Fitzgerald: Yes. And obviously with the elevation, we'll have a wall there to protect underneath the
125 deck.

126
127 Mr. Miller: Do you plan on having any type of exit or stairs to the right of the top?

128
129 Mr. Fitzgerald: No; that's actually what we've changed to the variance. Those steps came over to the right
130 and kind of crossed over that variance more and working with Aaron we shifted it, so we've moved the
131 steps over to the left side.

132
133 Mr. Oster: Because I think the other one had them coming down on his original side and they had an issue
134 with that also.

135
136 Mr. Fitzgerald: As it worked out, it's less of a variance request than before by several feet.

PUBLIC COMMENT

137
138
139
140 None

MOTION TO APPROVE VARIANCE APPLICATION #VA-19-06

141
142
143
144 Mr. Miller made a motion to approve Variance Application #VA-19-06, Robert and Erin Fitzgerald, with
145 the amendment of the setback to 2.5'; seconded by Mr. Oster.

146
147 Vote on Motion: Ms. Jordan=yes, Mr. Oster=yes, Mr. Shipley=yes, Mr. Trefz=yes, Mr. Miller=yes

148
149 Motion carried

150
151 Hearing continued with Variance Application #VA-19-07

152
153 Minutes prepared by Cindy Davis, Zoning Secretary

154
155 On May 23, 2019, Ms. Jordan made a motion to approve the meeting minutes of the Orange Township
156 Board of Zoning Appeals for Variance Application #VA-19-06, Robert & Erin Fitzgerald, dated April 18,
157 2019, as written; seconded by Mr. Oster

158

Board of Zoning Appeals

159 Vote on motion: Ms. Jordan-yes, Mr. Oster-yes, Mr. Trefz-yes, Ms. Sundar-abstain, Mr. Miller-yes

160

161 Motion carried

162

163

164

165

166

167

168

Board of Zoning Appeals

Variance Application #VA-19-07

April 18, 2019

Variance Application #VA-19-07, 401 East Powell Road LLC, Seeking Use and Area Variances from Sections 22.06 (c(3)), 22.06 (d), and 22.06 (e) of the Orange Township Zoning Resolution, Section 14.07 (n) of Rezoning Case #17986 Green Meadows Plaza and Section 14.07 (n) of Rezoning Case 15-0217 Green Meadows Plaza for proposed signage. The subject property is located at 8940 Green Meadows Road, Lewis Center, OH 43035 and having permanent parcel number #318-313-04-013-002.

Mr. Beard: The applicant has asked that the application be tabled until the May hearing in order to make corrections and changes

MOTION TO TABLE VARIANCE APPLICATION #VA-19-07

Mr. Miller made a motion to table Variance Application #VA-19-07, 401 East Powell Road, until the May 23, 2019 hearing of the Orange Township Board of Zoning Appeals; seconded by Mr. Oster.

Vote on Motion: Ms. Jordan-yes, Mr. Oster-yes, Mr. Shipley-yes, Mr. Trefz-yes, Mr. Miller-yes

Motion carried

Hearing continued with Conditional Use Application #CU-19-08

Minutes prepared by Cindy Davis, Zoning Secretary

On May 23, 2019, Ms. Jordan made a motion to approve the meeting minutes of the Orange Township Board of Zoning Appeals for Variance Application #VA-19-07, 401 East Powell Rd. LLC, dated April 18, 2019, as written; seconded by Mr. Oster

Vote on motion: Ms. Jordan-yes, Mr. Oster-yes, Mr. Trefz-yes, Ms. Sundar-abstain, Mr. Miller-yes

Motion carried

Board of Zoning Appeals

1 Application #VA-19-10

April 18, 2019

2
3 **Variance Application #VA-19-10, F&M Lewis Center RE, LLC (Christian Cottrell)**, Seeking a Use Variance
4 from section 22.03(h) of the Orange Township Zoning Resolution to allow a temporary sign to remain after
5 completion of construction. The subject property is located at 8875 Green Meadows Drive, Lewis Center, OH 43035
6 and having permanent parcel number #318-313-04-013-003.

7
8 Mr. McCarthy: Mr. Beard, have you had any indication from First & Main.

9
10 Mr. Beard: He said he would be here, he would bring all the pictures and stuff.

11
12 Mr. McCarthy: I would just advise the Board, the applicant bears the burden of proof in convincing you that all the
13 requirements and conditions have been met, and he is not here.

14
15 Mr. Oster: But we could do it because obviously they're wanting to just leave this and leave it permanent which it
16 can't be.

17
18 Ms. Jordan: Can we deny it without anyone being here?

19
20 Mr. Oster: I don't know why we couldn't. Is there a reason we couldn't?

21
22 Mr. McCarthy: Mr. Beard, do you have any feelings on that one way or the other?

23
24 Mr. Beard: He's been aware of it, we've been in communication about the date.

25
26 Mr. McCarthy: In that case, if the Board chooses to proceed, it was on the docket, it's being called based on the
27 information in the file, you either feel it does or doesn't warrant approval.

28
29 Mr. Beard presented the Staff Report and presentation. The site is located on the northeast corner of Powell Road
30 and Green Meadows Drive. The applicant would like the temporary sign to remain in place after construction for
31 advertisement purposes. To the north, south and east of the site is all Planned Industrial Districts; west is Planned
32 Commercial and Office District. The sign is 4' x 8' with two faces and a setback of 32' from Green Meadows Drive
33 and 52' from Powell Road.

34
35 Mr. McCarthy: As to the vacant portion of the lot, there's no construction going on there now?

36
37 Mr. Beard: No.

38
39 Mr. McCarthy: Have there been any permit applications?

40
41 Mr. Beard: No.

42
43 Mr. McCarthy: I want to remind the Board that the terms of the Use Variance should only be approved if there is no
44 viable economic use of that property without the variance. Mr. Beard, there appears to be an operating business
45 there?

46
47 Mr. Beard: Yes.

48
49 Mr. Shipley: That business was there and that sign was there while it was being built?

50
51 Mr. Beard: Yes, they do have a monument sign on the front of their location. We received one call from one of the
52 tenants to the east of the property asking if the applicant can have a sign out, why can't they, so they were against it.

53
54 Mr. Shipley: The sign served its purpose during construction, it was renewed twice, and it was a temporary sign.

55
56 Ms. Jordan: Looks like it was originally approved in 2015, renewed in 2016, 2017 and 2018.

Board of Zoning Appeals

57
58 Mr. McCarthy: Mr. Beard, did you find the sign in its current condition to be compliant with the requirements
59 applicable for that type of sign?
60

61 Mr. Beard: The last time it was renewed, they did reface the sign....

62
63 Mr. McCarthy: My point is if that sign were to be removed by them and when they did move forward and they
64 wished to re-erect it, you see no objection on the part of zoning assuming the location?
65

66 Mr. Beard: No.
67

68 Mr. Miller: I have a major concern in that they openly knew this was temporary signage. Even though they refaced
69 it, it did not become permanent signage and even though it's on their own land, it's not in front of where it should be
70 advertised. To compound that, I understand people can get sick or get in a car accident or whatever, but the
71 applicant's not even here, so we can't ask any questions and based on that, I make a motion to deny it.
72

APPLICANT PRESENTATION/BOARD QUESTIONS & COMMENTS

73
74
75 No representative for the applicant was present.
76

PUBLIC COMMENT

77
78
79 None
80

MOTION TO DENY VARIANCE APPLICATION #VA-19-10

81
82
83 Mr. Miller made a motion to deny Variance Application #VA-19-10, F&M Lewis Center RE, LLC (Christian
84 Cottrell; seconded by Mr. Oster.
85

86 Vote on Motion: Ms. Jordan-yes, Mr. Oster-yes, Mr. Shipley-yes, Mr. Trefz-yes, Mr. Miller-yes
87

88 Motion carried
89

90 Hearing adjourned at 7:50 p.m.
91

92 Minutes prepared by Cindy Davis, Zoning Secretary
93

94 On May 23, 2019, Ms. Jordan made a motion to approve the meeting minutes of the Orange Township
95 Board of Zoning Appeals for Variance Application #VA-19-10, F&M Lewis Center RE LLC, dated April
96 18, 2019 with the following corrections:
97

- 98 • Line 43: the sentence should read, "...the Use Variance should only be approved if there's no
99 viable use....."
- 100 • Line 54: the sentence should read, "...the sign served its purpose....."

101
102 Seconded by Mr. Oster
103

104 Vote on motion: Ms. Jordan-yes, Mr. Oster-yes, Mr. Trefz-yes, Ms. Sundar-abstain, Mr. Miller-yes
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106 Motion carried
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Board of Zoning Appeals

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